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PROCEEDINGS AND DEBATES OF THE 102^d CONGRESS, FIRST SESSION

SENATE—*Friday, June 14, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*The Lord is my shepherd; I shall not want. * * * Yea, though I walk through the valley of the shadow of death, I will fear no evil: for thou art with me * * *.*—Psalm 23:1, 4.

Father in Heaven, we lift up to Thee Mrs. "K" and her loved ones at the loss of her beloved husband, John, who so faithfully served in the dining rooms of the Senate. May Thy peace and comfort fill the lives of the loved ones who mourn the loss of Mr. "K."

Eternal God, sovereign Lord of the universe and Ruler of the nations, we watched the parade last Saturday with great ambivalence—grateful for victory, saddened by the loss of those who fought and the continuing tragedy in Iraq. We praise and thank You for those who served in that war and for those who paid the last full measure of devotion, as well as those wounded, and their families. We pray especially for those who remain in the Middle East, for their families and their safe return.

And Father of mercies, we would not forget our hostages still being held in Lebanon: Terry Anderson, Thomas Sutherland, Joseph Cicippio, Edward Tracy, Alann Steen, Jesse Turner. Be with them in their need and bring comfort and peace to their families.

In His name who is incarnate love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 14, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of the proceedings has been approved?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. MITCHELL. Mr. President, for the information of the Members of the Senate, I want to review where we are on this bill and how we hope to proceed. First, I want to commend the managers of the bill, the distinguished Senator from New York and the Senator from Idaho [Mr. SYMMS] for their persistent effort to move this bill forward and for disposing of virtually all of the issues that relate to the bill, with the single large exception of the allocation formula. That remains the subject of dispute.

Last evening, I proposed to our colleagues an agreement, for which I sought unanimous consent, under which we would have debated and voted on the pending Byrd amendment, which deals with the allocation formula, today, that we would identify the remaining amendments, and would have debated and voted on them on Monday with a final vote on the bill on Monday evening.

Following consultation with some of his colleagues, the distinguished Republican leader advised me that he could not agree to that procedure, because he felt it was necessary to consult with a larger number of his Republican colleagues, and he requested the opportunity for a meeting to be held this morning.

I understand that the meeting was held between 10 and 11 this morning. I have not yet received a response, but I am hoping shortly to receive a response, and to see whether or not we can proceed as I proposed last night, or in some alternative fashion.

It remains my hope that we can complete action on this bill as soon as possible. As the Senators know, I have stated many times previously that we will proceed to the crime bill upon completion of this measure, and last night we obtained consent to do so. So these are both important measures on which we must act. I hope that we will be able to get an agreement to proceed to dispose of this matter as soon as possible, consistent with the opportunity for all Senators to carefully review the pending measure. As soon as I have the opportunity to consult with the acting Republican leader, I will be reporting to the full Senate on the schedule for the remainder of the day.

Mr. President, am I correct in my understanding that the pending measure is the Byrd second-degree amendment, as modified last evening?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. MITCHELL. I hope we are going to be able to get on that measure today, and we will be in a position to make an announcement of the schedule as soon as I am able to consult with our Republican colleagues.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is also reserved.

Mr. MOYNIHAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from New York.

Mr. MOYNIHAN. Mr. President, on repeated occasions in the course of this

• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

week's debate, I have described the surface transportation system in the United States today as suffering from public sector disease.

I do not know of any earlier use of this term, although I cannot doubt that some defunct political economist came up with it generations ago. In any event, the term needs definition.

By public sector disease I refer to an economic activity that is inefficient owing to the absence of an accurate pricing system.

I have tried to capture this in a sentence from the introductory statement to the committee report:

> Just as there is no such thing as a free good, there is no such thing as a freeway.

Public sector disease is to be seen most anywhere in the world. In general it may be stated that the larger the public sector in a particular economy, the more prevalent this disorder. Just because an activity is in the public sector, it does not follow that it will suffer from this disorder, but that is a necessary precondition.

The etiology of the disorder is simple, at least in the abstract. Once an economic activity starts up in the private sector or is incorporated into the public sector, resources begin to be allocated on the basis of political considerations rather than economic considerations. These need not always be wildly disparate calculuses, but they are rarely in close alignment. This pattern goes on without much evident disadvantage, but after a point the low rate of economic return begins to undermine the political interests that were intended to be served.

The symptomology of public sector disease is threefold.

First, a disastrous plunge in productivity. Thus, Dr. Boskin informs the committee:

> Output per hour in the Transportation sector broadly defined rose at only 0.2 percent annually from 1979 to 1988.

The 0.2 percent figure requires 350 years to double. This is, of course, a medieval growth rate, about the rate of growth of Western Europe from the millennium year of 1000 to 1350 A.D., when the region was on the cusp of the Renaissance, and left such economic stagnation behind. To which stagnation we have returned.

Second, we encounter huge disparities between the demand for the free good and the supply. Congestion is an example of this pattern. One of the first features of the Interstate System was the evident increase in congestion brought about by attempts to lessen or remove it. Thus in 1981, Meyer and Gomez-Ibanez:

> [T]he greatest disappointment with the interstate highway program * * * was that it did not seem to achieve its major objective of reducing traffic congestion.

A witness before our committee described congestion in terms of Soviet shopping.

> Our highway congestion has the same basic cause—although a more ready solution—as the long lines we see in news reports from the Soviet Union. Both reflect shortages induced by prices set too low. The price system, which we rely on to ration nearly all goods and services in our economy, is usually ignored in seeking solutions to highway congestion.

A third symptom is the seeming evanescence of vast public enterprise investment. How many times this week have we heard Senators refer to our brand new Interstate System as our crumbling Interstate System? Polish or Czech citizens would recognize the symptomology.

A further indicator of public sector disease is that the public sector entity responsible for the activity does not even know the price it is ignoring.

Hence, for one full week we have had Senators in a whirl of disbelief and confusion as they have tried to get the Department of Transportation to explain the allocation formulas in the current and past highway programs. Table pile on table; confusion abounds. There are dark hints of duplicity.

Nothing such. The Department of Transportation does not know the prices of its products because pricing has little, if anything, to do with its work. Its work is to allocate free goods as long as the illusion lasts.

It may be ending.

Mr. President, seeing no Senator seeking recognition, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, just a few months ago, I met with the distinguished assistant Republican leader, the Senator from Wyoming, Senator SIMPSON, and the Republican manager of the bill, Senator SYMMS, at which time they reported to me on the results of the meeting of Republican Senators this morning on the subject of the pending bill.

Senator SIMPSON advised me that he is unable at this time to agree to the unanimous-consent request which I suggested last evening under which the Senate would today debate and vote on the pending Byrd amendment and then would debate and vote on remaining amendments on Monday, with final disposition of the bill to occur on Monday evening.

In light of that, it will not be possible to complete action on the pending amendment today because, as we all know, under the rules, any Senator may prevent a vote from occurring by exercising his or her right to unlimited debate.

Accordingly, Mr. President, I have concluded that the most responsible course now under the circumstances which exist is to conclude our session now, for today, since we are not able to bring this matter to a conclusion today, to return to session early Monday afternoon, at which time the pending Byrd amendment would be debated, and I will attempt to bring that to a vote at or as close to 6 p.m. on Monday as possible.

Since I cannot get an agreement to that effect, to lock in a vote at that time, or at any time, I state this as my intention so that Senators can be aware of what we will try to do. Thereafter, it is my hope that we could dispose of other amendments and complete action on the bill on Monday evening or Tuesday if Monday proves to be infeasible.

I regret that we have not been able to complete action on the bill this week. I recognize that it is a large and complex measure affecting every State in very important and tangible ways. I hope very much that Senators who have a particular interest in the matter will be present on Monday to participate in the debate. This is a very important part of the bill, the allocation formula, and the pending amendment, of course, touches directly on that, and that Senators will permit us to bring this amendment to conclusion at or as close to the stated time as possible, that is, I repeat, at 6 p.m., if I am able to do so, or as close to that as possible under the circumstances.

Mr. President, I would like now to yield to the distinguished acting Republican leader and to either the Senator from New York or Idaho as they wish.

First, I ask the distinguished acting Republican leader to correct me if I have stated anything incorrectly with respect to our discussion and our plans for the future, and to comment in any regard that he wishes.

Mr. SIMPSON. Mr. President, I thank the majority leader.

He has worked in an extraordinarily diligent manner to try to resolve this terribly vexatious issue which we knew would confront us with regard to allocation and formula. I thank him for his extraordinary patience, and I particularly thank Senators MOYNIHAN and SYMMS for their absolute steadiness in presenting to this body, I think, a very reasonable bill, very well crafted.

But, nevertheless, we have some passionate observers of this legislation on our side of the aisle. We met this morning in conference and were unable to agree because of regional allocation struggles. A very spirited meeting, indeed, it was.

I think people are now becoming more alert to the fact that we are going to proceed, and I think the Senator is putting us on notice—I reassess that here—that all of our people on this side of the aisle should be on notice that the Senator is seeking to have that vote, in all likelihood there will be a vote, perhaps the Senator is seeking to connect it to the Byrd amendment.

But in any event, we are going to have to put our people on notice that there is very likely to be a vote after 6 p.m., and we will try and have in this manner protected our Members today and Monday. At some point in time that is impossible to do in totality.

So I just say that that is a correct assessment of the situation we discussed, and I do think that once the Byrd amendment is resolved, things will quickly fall in place with regard to the final passage of the bill.

I again thank the managers for their extraordinary effort.

Mr. SYMMS. Will the leader yield?

Mr. MITCHELL. I yield to the Senator from Idaho.

Mr. SYMMS. I thank the leader for yielding.

Mr. President, there has been a lot of effort made by this committee, by the majority leader, by Senator CHAFEE and Senator BURDICK, the chairman and ranking member of the committee, by Senator MOYNIHAN and myself, to bring this bill to passage today. We had hoped to accomplish it today which is the 100th day from when the President asked us to do it.

I think the record should clearly show that it is no fault of the majority leader or any of the other Senators I have mentioned that it did not happen. The problem is very simple and that is there is $110-plus billion to divide up, and that is a lot of money. There is a lot of passion involved in how it is divided up. We had tried very hard to come out with a program that makes it fair to all States. Some of the States do not feel the program is fair enough for them.

There are a lot of ways this could have been done, but we have now come to the efforts of the distinguished chairman of the Appropriations Committee, who has a system to try to put a little more equity back into the system and take care of those donor States.

I happen to think that the votes are probably here to pass that amendment. I may be wrong, but I think that is the case. Once that passes, then the bill will probably pass after some other Senators voice their approval or try some other amendments, which is certainly in order.

I would just like to say to my colleagues that once we go to conference with this bill, those donor States that are very concerned—and I have been on two of these conferences, or three I believe now since I have been in the Senate—the donor States are very well represented in the conference from the other body. And so if they do not get everything they want here, I can assure them we in the Senate think we are tough but we are nothing compared to the House people on this issue.

Senator MOYNIHAN has been there, and Senator SIMPSON has been there, and Senator MITCHELL and I were there before. And the distinguished occupant of the chair was one of those tough negotiators over there before and then came over here.

I caution all my colleagues, I hope they will look at this bill. There are a lot of very good things in this bill. The administration is very happy that we were able to accommodate them yesterday to put a National Highway System in the bill.

Due in large part to the efforts of Senator DURENBERGER, Senator BREAUX, and others, that is part of the bill now. So the bill has many very good facets to it.

All States will benefit from this bill, and our people will benefit from this bill by having improved transportation efficiency.

I hope Senators and their staffs will carefully look at what is being proposed by the committee and by Senator BYRD and the Appropriations Committee and those donor States that have been working. Carefully look at it and we will be able to come in here and vote on it Monday night.

It is my hope we can vote on the Byrd amendment on Monday. I do not see what can be gained by waiting until Tuesday, Wednesday, Thursday, or Friday. I think we will all be better off to vote on Monday and find out where the votes are. If the votes are there, it will be adopted. If they are not there, we can start working on a way to make it more equitable to the States.

There are other ways that can be done, I am sure. This is one way we came to. It will not be the last round, I assure all Senators. They will still have an opportunity, Mr. President, to get the input for their States.

Those of us on the committee will be trying to work with all the other Senators to see that each State is treated fairly.

I thank the leader for his efforts to get this bill passed today, but I think, due to the circumstances, it is just impossible, through no fault of his.

Mr. MITCHELL. I yield to the Senator from New York.

Mr. MOYNIHAN. Mr. President, I say to the leader, I simply do not want to repeat but absolutely endorse the observations of my comanager, my Republican friend, the Senator from Idaho, with simply one extension. Senator SYMMS asked that every Senator look at the legislation, look at this bill, the substance of which has not been touched on the floor. We have, we think, a large new initiative and that is why we came out of the committee 15 to 1, and not a single amendment on this floor has been directed to the substance of our Surface Transportation Act.

Even as they look at it, I would like to have them consider the alternative. The alternative is that there will be no bill. There is nothing in the Constitution that says we will have an interstate highway program or a Surface Transportation Act. From Thomas Jefferson in 1806, when the national road was established, to 1916, when Woodrow Wilson signed the Federal Aid Highway Act, we went 110 years with no highway program. We might have another 110-year pause ahead. Think.

Mr. MITCHELL. Mr. President, if no other Senator at this moment seeks recognition, I just want to repeat, so Senators will be aware of this, through their staffs if Senators are not present or listening, that it is my intention to try to bring the Byrd amendment to a vote at or as close to 6 p.m. on Monday as possible. I do not have an agreement, so I am not able to lock it in at this time; but that is my intention. Accordingly, as previously indicated, there will be no rollcall votes today.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent there be a period for morning business, with Senators permitted to speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BALTIC FREEDOM DAY, 1991

Mr. RIEGLE. Mr. President, today, June 14, 1991, marks the 50th anniversary of an event which typified the brutal Soviet occupation of the Baltic States—an illegal and immoral foreign domination which continues to this day, and whose victims number in the tens of thousands.

Fifty years ago, innocent Baltic men, women, and children were marched off to death camps in Siberia. Five months ago, unarmed Baltic citizens, seeking to protect their freely elected government, were crushed by Soviet tanks and armored personnel carriers, and brutalized by the feared Black Beret forces of the Soviet military.

Commenting on the January 13 atrocity, William Safire noted in his New York Times column the following day:

> The parallel to Hungary 1956 is inescapable. People filled with hope; an international crisis elsewhere; and the Red Army

tanks roll in to crush the freedom fighters. In this case, patriots armed only with sticks barricaded the doors of their television tower with furniture; a column of 30 tanks and armored vehicles crashed through with ease, rolling over brave bodies in the name of order and annexation.

Like the atrocities which the Soviets inflicted on the Balts half a century earlier, the horrors suffered by the victims of the January massacre in Vilnius demonstrate the continuing ruthlessness of a regime intent only on ensuring its own survival. Despite some cosmetic changes, the repression under which the Baltic people have lived for 50 years has not changed in any meaningful way. Although they have held free and open elections and have declared their independence, the Baltic people are still held tightly in the Soviet's grasp. Renewed military force has been Moscow's clearest response to the Baltic people's calls for peaceful negotiations.

Tragically, our Government has not applied the kind of pressure required to convince the Kremlin that it cannot expect to enjoy the benefits of U.S. assistance and cooperation while the illegal occupation of the Baltic States persists.

Mr. President, it is time to send the Soviet occupiers home. The Soviet leaders say they seek a new justice and a more peaceful world. If so, then let them show it by turning their tanks around and driving them back to Moscow. They should leave now, and let the wind of freedom again blow across the Baltic nations.

While the Baltic people are determined to pursue their dream of freedom with or without help from the West, the hard truth is that without the active support of the free nations of the world the fate of the Baltic people will continue to be a pawn in the Kremlin's struggle to hold together its crumbling empire.

On this, the 50th anniversary of the mass deportation to Siberia of the Baltic people, we must renew our commitment and determination to do everything we can to see that their freedom and independence is finally restored. To that end, I urge my colleagues to join me in cosponsoring Senate Joint Resolution 42, which I have introduced, that would prohibit United States economic assistance and benefits to the Soviets until they meet certain conditions, including withdrawing their military forces from Lithuania and engaging in good-faith negotiations with the Baltic people on the issue of their independence.

Mr. President, for half a century, the United States has refused to recognize the illegal Soviet annexation of the Baltic States. Today, however, our nonrecognition policy is simply not enough. We must do more.

On May 6, I introduced Senate Resolution 119, urging our Government to extend de facto recognition to the Government of the Republic of Lithuania. This reflects the Lithuanian people's desire and America's national interest. I invite all of my colleagues to join in support of this effort. Should similar requests come from the Latvian and Estonian people, I believe we should embrace those as well.

Mr. President, the Baltic people's long struggle for freedom has brought them to the moment of greatest hope and of maximum danger. Clearly, the stakes are high.

Our administration apparently believes that maintaining normal relations with the Soviet Union is more important than demonstrating our outrage at the continuing occupation of the Baltic States. What we need now is not more quiet diplomacy, but firm Western pressure to convince the Soviets that only by ending military intimidation and pusuing good-faith negotiations on Baltic independence can the Kremlin expect improved relations with the United States.

If we are true to our commitment to supporting democracy and freedom around the world, this could be the last year that Lithuania, Latvia, and Estonia mark Baltic Freedom Day under Soviet control.

BALTIC FREEDOM DAY

Mr. BYRD. Mr. President, on March 7 of this year the Senate passed House Joint Resolution 167 designating June 14 as "Baltic Freedom Day." We all know the sad history of how the three independent and democratic countries of Lithuania, Latvia, and Estonia were illegally annexed by the Soviet Union. This year, June 14 marks the 50th anniversary of the beginning of the forced deportations of thousands and thousands of Baltic citizens by the Soviet regime of Joseph Stalin. People were packed like cattle into rail cars and shipped off to labor camps where thousands lost their lives.

It was also 50 years ago that President Roosevelt inaugurated the United States policy of not recognizing the illegal Soviet occupation of the Baltic nations. During the five decades since the tragic events in 1940, the United States has steadfastly refused to recognize Soviet sovereignty over these three countries and we have loudly proclaimed our commitment to Baltic self-determination. Every U.S. President has reaffirmed this policy and the Congress has traditionally set aside this day to renew our call for Baltic independence. Now the brave people of those nations have started down the road to independence and we must continue to support their cause.

The events of the past year and half have given added significance to our observance. We have watched, with a great deal of apprehension, as the Soviet leadership has attempted to halt the fledgling Baltic independence movements by steadily escalating economic sanctions and political intimidation, culminating in the military crackdown of January 13, Bloody Sunday. On that day the tanks rolled through the streets of Vilnius and the soldiers opened fire leaving 700 peaceful demonstrators injured and resulting in 15 deaths.

I think it is appropriate that Baltic Freedom Day is June 14, which we also celebrate as National Flag Day. As we celebrate the flag that represents the freedom we enjoy, we must pause to remember those around the world that do not yet enjoy the same freedom. There are many places where liberty remains an unfilled hope. Unfortunately, the Baltic nations still fall into that category and we must not forget them. As we celebrate the freedom symbolized by our flag, let us reinforce our call for independence for the Baltic nations, and hope that this will be the last year that their dream of freedom and liberty remains unfulfilled. I commend the people of Baltic nations for their courage and dedication to the cause of freedom.

COMMEMORATING BALTIC FREEDOM DAY

Mr. SYMMS. Mr. President, for the past 10 years the House of Representatives and the Senate have passed legislation authorizing and requesting the President of the United States to declare June 14 as "Baltic Freedom Day." Yesterday, the President held a proclamation signing ceremony at the White House to delcare today, June 14, 1991, as "Baltic Freedom Day."

During the early years of Soviet occupation more than 600,000 prisoners were taken from the Baltic countries. Fifty years later the atrocities continue. As the United States prayed for a peaceful resolution to the Persian Gulf conflict, Soviet troops sent in tanks to Lithuania and Latvia killing and injuring hundreds of unarmed civilians. As we celebrate our success in restoring freedom to Kuwait, Soviet occupation still occurs in the Baltics.

I strongly support the Baltic Republics freedom from the forced occupation by the Soviet Union. The Soviet Union has repeatedly refused to follow the request of the United States that it begin negotiating a peaceful end to the occupation of the Baltic Republics. The Baltic Republics, which in 1990 reaffirmed independence from the Soviet Union, have not been allowed to pursue policies which would realize the intent of these declarations.

Mr. President, I am honored to be a cosponsor of the Baltic Freedom Day resolution. I look forward to the day that the Baltic Republics can finally become separate and independent nations.

BALTIC FREEDOM DAY

Mr. SIMON. Mr. President, June 14, 1991, marks the 10th anniversary of Baltic Freedom Day. Americans of Lithuanian, Latvian, and Estonian descent celebrate the courage and determination of their countrymen on this day, and I am proud to join with them. Their fight for independence began in 1940 when the Soviet Union illegally annexed these countries and continues today with their determination to be independent.

On June 14, 1941, the Soviet Union began mass deportations of Estonian, Latvian, and Lithuanian men, women, and children to Siberria. Today is the 50th anniversary of this tragic event and it reminds all Americans of the struggle of the Baltic people.

Today the oppression continues. In January, the Soviets began a brutal crackdown in the Baltic States. Only a month later Lithuania, Latvia, and Estonia bravely held referenda on independence. The citizens of each Baltic State produced large majorities in favor of autonomy. Even many ethnic Russians that live in these countries voted for independence.

The Soviet Union has yet to enter honest negotiations with the Baltic States. The brutal tactics of the Soviets will only continue to alienate them from the international community. From the blockade a year ago last spring to the violence this winter, it is clear the Soviet Union has not yet recognized the strength and fortitude of their Baltic neighbors.

However, this past week does provide renewed hope. The election of Boris Yeltsin as President of the Russian Republic should help the Baltic cause. Yeltsin favors negotiations with the Baltic States and will put pressure on the Soviet central government to go even further with reforms.

Mr. President, I have been a cosponsor of Baltic Freedom Day for several years and I feel that independence will be a part of today's generation of Lithuanians, Latvians, and Estonians. They have fought for 51 years against the Soviet occupation and freedom is within their grasp. I urge my colleagues and fellow Americans to remember the fight of these captive people and to honor them on Baltic Freedom Day.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,281st day that Terry Anderson has been held captive in Lebanon.

THE CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWRY

Mr. KOHL. Mr. President, I rise today as chair of the Union of Councils for Soviet Jewry Congressional Call to Conscience Vigil, along with my distinguished cochairs, Senators LAUTENBERG and GRASSLEY. I decided to cochair the Vigil this year because I believe that it is one of the most effective means by which we in Congress can focus attention on the plight of Soviet Jews.

Since 1985, Soviet society has changed dramatically. Glasnost permits all Soviets, including Jews, to express varying points of view and to openly worship in accordance with their religious beliefs. Perestroika for Soviet Jews has translated into an unprecedented number of permissions to emigrate. Over 213,000 Jews emigrated in 1990—a figure almost as high as the figure for all of the previous 12 years combined. And on May 20, 1991, the Soviet parliament passed its first law codifying a right of emigration. Though flawed, the law does represent a step in the right direction.

Everyone who has fought for the rights of Soviet Jews is thankful for this positive trend. Yet, it would be a grave mistake to presume that all of the obstacles faced by Soviet Jews have disappeared. The very same policies of glasnost that have led to open discussion and freedom of expression throughout Soviet society have also given rise to a new wave of anti-Semitism. Hate groups such as Pamyat have eagerly made use of this opportunity to spread their ugly agenda. Acts of violence and vandalism against Jews are not infrequent, and some Soviets are trying to blame the country's economic hardships on the Jews. Jews who remain in the Soviet Union feel a very real fear of persecution—even more than they did before the glasnost era.

Mr. President, it is because of this threatening atmosphere that we must persist in our efforts to get all Jews who wish to leave out of the Soviet Union. Unfortunately, the recent positive trends in emigration hide some disturbing realities, including an increasing number of new refusals and a law that leaves intact some of the very obstacles presently faced by those trying to emigrate.

First, I do believe that passage of an emigration law last month was a good first step. For years, the United States has been pressing the Soviet Union to pass an emigration law. None of us have yet had the opportunity to fully evaluate the one that was finally passed, or to see how it will be implemented. But I have learned enough about it to have concerns about some of the law's significant passages. For example, we already know that much of this law will not go in effect until January 1993. We also know that although the law sets a time limit of 5 years during which someone can be denied permission to emigrate on the basis of possession of state secrets, there is another clause which permits this time to be extended indefinitely. Moreover, the law codifies the practice of denying permission on the basis of having poor relatives; in other words, adults will still be required to submit affidavits from parents and ex-spouses renouncing any financial obligation. And many of the various appeals processes described in the new law would be carried out through commissions and judiciary bodies which do not presently exist. Obviously, Mr. President, there is still a long way to go before the right of free emigration is truly established in Soviet law.

Second, we cannot forget about the individual refuseniks who are still fighting for their freedom in the Soviet Union. Most of them have been denied permission to emigrate on the arbitrary basis of possessing state secrets or because they have been unable to obtain the necessary poor relative documentation. I would like to tell my colleagues about one such family, the Sorkins, that has suffered the consequences of this unjust policy.

Roman and Svetlana Sorkin applied for permission to emigrate to Israel with their three young children in 1988 and were refused because of Roman's former secret work. This refusal came despite the fact that Roman left this work in 1983 and signed an agreement not to leave the Soviet Union until 5 years had elapsed.

On December 2, 1988, the Sorkins were told that they had permission to leave. They quit their jobs, gave up their flat and were ready to depart, when suddenly Roman was told that their exit visas had been annulled. He was told that because he was a bearer of Soviet state secrets, he and his family could not leave the country until 1995. Then, in 1990, the Sorkins refiled their applications for emigration, and received a shocking response: Svetlana and the children could emigrate, but not Roman. Svetlana was forced to make an impossible choice between keeping her family together in the U.S.S.R. and subjecting her children to the menace of anti-Semitism, or tearing her family apart by taking the children to safety in Israel.

Despite feelings of isolation, depression and indignation, the Sorkins have persevered. They have decided to remain together in the Soviet Union, and they are studying their cultural heritage and Hebrew in preparation for the day when they can emigrate as a family to Israel. They can only wait until the day Soviet authorities decide to treat them with humanity and permit them to emigrate together.

Mr. President, the Sorkins' story is tragic, but not unique. There are many refuseniks who are arbitrarily being denied the right to emigrate, and the number of new refusals is growing. That is why I ask my colleagues to join me and Senators LAUTENBERG and GRASSLEY in the Congressional Call to

Conscience Vigil. By highlighting individual cases, we can let these Soviet Jews know that we in the Senate have not forgotten their plight. We will also reaffirm to Soviet authorities that we will not stop fighting on behalf of Soviet Jews until every one who wishes to leave has had the opportunity to do so. I hope my colleagues will join me in making sure that our voices continue to be heard.

Thank you, Mr. President.

CONGRESSIONAL CALL TO CONSCIENCE

Mr. LAUTENBERG. Mr. President, I rise today to urge my colleagues to participate in the Congressional Call to Conscience for Soviet Jews. Sponsored by the Union of Councils for Soviet Jews, the Call to Conscience has, in the past, been an extremely effective method for bringing attention to refuseniks who are struggling to emigrate from the Soviet Union. As a cochairman of this year's Call to Conscience, along with my other distinguished colleagues Senators KOHL and GRASSLEY, I want to encourage the Senate's continued attention to the plight of Soviet Jews refused the right to emigrate.

While there have been many changes in the Soviet Union over the past several years, there is still good reason to be concerned about Soviet Jewry. And although many Soviet Jews have been able to emigrate, many are still being denied this right, some of them for as long as 15 years. Because of the eased restrictions on emigration of Soviet Jews, it is easy to overlook these persistent injustices.

I have heard numerous tragic cases, each one is worse than the next. One case that stands out is that of Boris Zolotarevsky. Mr. Zolotarevsky has been trying to emigrate since May 1988. His application has been denied repeatedly because of secrecy. Vladimir Shimko, the Minister of Radio Industry, says he is a security risk because he previously developed adapters for use with computers. His work, which he did before 1980, was in no way secret. But because the computers had potential military applications, the Minister regards him as a security risk.

Mr. Zolotarevsky's family has been living in Haifa, Israel for some time. He would very much like to join his daughter, Vera, his mother, Tzivya, and his wife, Eda. Mr. Zolotarevsky is separated from his entire family and currently lives alone in the Soviet Union.

This case is not uncommon. This type of flagrant disregard for human rights cannot and should not be allowed to continue.

The Congressional Call to Conscience has brought to the forefront the cases of many long-term refuseniks. Their stories are heartbreaking and cruel. Mr. Gorbachev needs to know exactly what we think about his government's refusal to let all deserving Soviet Jews emigrate from the Soviet Union.

Mr. President, I ask my colleagues for their continued support in this endeavor and urge them to speak out on behalf of the unrestricted emigration of Soviet Jews.

CONGRESSIONAL CALL TO CONSCIENCE

Mr. GRASSLEY. Mr. President, today I am proud to commemorate the 15th anniversary of the Congressional Call to Conscience. Each week, through the Call to Conscience, Congress brings attention to Soviet refusenik cases in order to urge the Soviet Union to allow them freedom. It is my honor to serve as this year's sponsor, along with my colleagues, Senators KOHL and LAUTENBERG.

The year 1991 is shaping up as yet another historic year for the emigration of Soviet Jews. I am proud of the role Congress has played in making this exodus a reality. Over the years, our Government made the free emigration for Jews and other religious and ethnic minorities a condition precedent in our diplomatic and economic relations with the Soviet Union. Our efforts have helped make it possible for tens of thousands of Soviet Union Jews to emigrate to the United States and Israel.

Despite this momentous progress, glasnost has not become a reality for hundreds of refuseniks who are still being denied exit.

On May 20, the Supreme Soviet approved their long-awaited law on entry and exit. The law is a historic effort, but it unfortunately leaves several crucial issues unresolved.

First, the law will not go into effect until January 1, 1993. Second, it fails to adequately define what constitutes a state secret, which leaves this category open to broad and inconsistent interpretation. Though the law states that a citizen of the Soviet Union may be denied the right to leave the U.S.S.R. for no more than 5 years on secrecy grounds, the law also allows this term to be extended indefinitely. Finally, under the so-called poor relative clause, adults are still required to submit affidavits from parents renouncing any financial obligation. If applicants cannot obtain affidavits, the decision may be appealed to the courts, but there is no established appeals process.

Therefore, while we are witnessing dramatic changes, and we applaud the Soviet Government for these changes, we must continue to work until all those who seek freedom—until all refuseniks—are free.

I will kick off the Congressional Call to Conscience with the case of Roman Mironov, a refusenik from Kharov. Roman's wife, Victoria, and son emigrated to Israel last year. From Israel she contacted my office with a plea for hlep for her husband. She wrote:

> My husband is utterly devoted to me, our son, and my parents. We have always been a close and happy family, devoted to our home and religiously observant. Please do your utmost so that my husband will be allowed to join our family in Israel.

Though Victoria and their son were granted permission to emigrate to Israel last year, Roman was refused on state secret grounds until at least 1994.

Seven years ago Roman resigned as an aeronautics engineer at an aircraft plant in Kharov. At that time, he was forced to sign a statement that he would not leave the Soviet Union for 5 years.

Five years after he resigned, the family applied for permission to emigrate to Israel. Though only Victoria and their son were granted permission, Soviet officials informed the family that once Victoria and their son departed for Israel, Roman's application would be reviewed for the purpose of family reunification.

Two weeks after they departed for Israel, Roman's case was reviewed and the denial was confirmed.

Today, the family remains spearated. Roman still lives in Kharov, is unemployed, and is unable to find a job because of his exit application.

I call upon the Soviet Government to allow Roman Mironov to be reunited with his family in Israel. Just 2 days ago, President Bush approved additional agricultural credits to the Soviet Union, a move I strongly encouraged and support. Now I hope Soviets can send us a strong signal that their reforms will continue, by granting exit permission to Roman and all refuseniks.

Next week, my fellow sponsors and I will circulate a letter to our colleagues asking them to participate in the call to conscience. I thank them in advance for their continued commitment.

With our joint efforts, we can work toward the day when we no longer have refusenik cases to bring to the Senate floor.

NO CHANGE IN NICARAGUA

Mr. SYMMS. Mr. President, on April 12, an op-ed appeared in the Wall Street Journal entitled "A New Nicaragua Deserves a New Reputation." The piece was written by Antonio Lacayo, Minister of the Presidency of Nicaragua—a job equivalent to White House Chief of Staff. Mr. Lacayo also happens to be the son-in-law of President Violeta Chamorro.

Mr. Lacayo's op-ed skillfully omits any mention of the central issue among the Nicaraguan people today: The control of the Communist Sandinista Party over the Sandinista Army.

Mr. President, perhaps a word about Mr. Lacayo's background will explain his lack of disdain for the Communist

Sandinistas. Prior to 1979, when the Communists came to power in Nicaragua, Mr. Lacayo was an employee at a cottonseed oil factory, and had no known wealth.

After the Sandinista dictatorship nationalized most private enterprises, Mr. Lacayo apparently went into cotton, cooling oil, and chicken ventures on the basis of contracts and monopolies granted by the Marxist dictatorship. Between 1979 and 1990, in a period when private companies were nationalized by the Communists, and most other businessmen in Nicaragua lost their fortunes, Mr. Lacayo was able to amass great amounts of wealth. It is interesting to note that his first cousin, Osvaldo Lacayo, is a colonel on the general staff of the Sandinista army.

Mr. President, Mr. Lacayo also fails to recognize that last year's historic repudiation of the Communist Sanddinista government is due in large part to the sacrifices of tens of thousands of freedom fighters. The military leader of the freedom fighters—Enrique Bermudez—was assassinated in Managua, Nicaragua on February 16. Two months later, the so-called investigation is a sham, and is being run entirely by Sandinista thugs. Why is Mrs. Chamorro afraid to allow the FBI to go inside Nicaragua and work hand in hand with her investigators as President Cristiani has done in the case of the murdered Jesuits?

Mr. Lacayo claims that 1990 is "the year of pacification for Nicaragua." But he makes no mention of the dozens of Nicaraguan freedom fighters who were murdered in cold blood by members of the Sandinista military after they turned in their weapons and returned to civilian life. According to the independent Nicaraguan Permanent Human Rights Commission, there have been over 100 assassinations of freedom fighters and other opponents of Communist domination.

Mr. Lacayo says that not a single protester has been jailed. Has he already forgotten the much publicized arrest and torture of freedom fighter leader, Aristides Sanchez, on November 15, 1990? Mr. Sanchez' life was spared only after the Archbishop of Nicaragua, Cardinal Obando y Bravo intervened.

Mr. President, the U.S. State Department has already poured half a billion dollars of the U.S. taxpayers' money into a country that is still controlled by the Communist Sandinistas. Now the State Department is asking the American taxpayer to fork over 200 more million dollars.

The facts are the following: The Communist Sandinista Party still controls the Sandinista army. The general of the Sandinista army is Humberto Ortega—brother of former President, Daniel Ortega. The Nicaraguan Army is still legally called the Sandinista Popular Army. Nicaragua is still governed by the Sandinista Constitution of 1985. The Sandinista Joint Chiefs of Staff and all the top Sandinista commanders still retain power. Furthermore, the Sandinista intelligence apparatus has not been eliminated.

It is significant that the Sandinista Communists still continue to export revolution to their Communist allies in El Salavador—the FMLN. The Salavadoran Communist guerrillas apparently possess about 200 SAM-14 and SAM-16 surface-to-air-missiles—which they received with the assistance of the Sandinista Army. And the Sandinista-controlled government continues to permit the use of its territory for the FMLN terrorists' radio station, logistics center, and recreation center.

The Chamorro government has also failed to fulfill promises of the Nicaraguan people of privatization. With one exception, state-owned enterprises which the Sandinistas had seized from their rightful owners have not been returned. The exception is Coca-Cola which was returned to relatives of Antonio Lacayo. The farms and other properties that were confiscated illegally by the Sandinista regime have not been returned to their rightful owners.

Mr. President, a prominent Nicaraguan businessman—Roberto Arguello—wrote to the Wall Street Journal on June 5 to answer the editorial written by Antonio Lacayo. Mr. Arguello, president of the Nicaraguan American Bankers and Businessmen Association, says that nothing has changed in Nicaragua since President Chamorro came to power.

Mr. President, I ask unanimous consent that Mr. Arguello's letter to the Wall Street Journal be printed in the RECORD at the conclusion of my remarks.

Mr. President, there is little or no reason to continue to fund a Government controlled by Communist Sandinistas. U.S. money has done nothing but assure the Sandinistas they can continue to rule with impunity—and with the financial backing of the United States. Freedom may have a chance in Nicaragua if the State Department becomes as aggressive in addressing the Sandinista monopoly as it was in disarming and abandoning the freedom fighters.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, May 9, 1991]

HOW THE SANDINISTAS STILL RULE NICARAGUA

"A New Nicaragua Deserves a New Reputation" by Antonio Lacayo, minister of the presidency of Nicaragua (Americas, op-ed, April 12) needs clarification. Mr. Lacayo writes that Sen. Jesse Helms' claims that "former freedom fighters continue to be massacred and . . . political opponents continue to be intimidated, threatened, tortured and/or jailed without due process" and that "President Violeta Chamorro 'lacks the ability, perhaps even the will, to wrest power away from her predecessors'" are untrue. Mr. Lacayo rests his case on the fact Sen. Helms has never visited Nicaragua and therefore his claims are based on misperceptions. Mr. Lacayo even challenges Sen. Helms to go to Nicaragua to see the new Nicaragua under President Chamorro.

I hope Sen. Helms accepts the invitation. I have no doubt that once he tours the country he will be absolutely clear that it is the Sandinistas, and not President Chamorro, who control the army, the police, the air force, the navy, the secret police, the courts, most public cars, houses, factories, banks, and farms stolen and occuped by the Sandinistas during their decade of squandering Nicaraguas resources.

I suggest Mr. Lacayo personally should give the tour, which should include the tombs of the freedom fighters killed since President Chamorro's inauguration; the 800 businesses and thousands of arms confiscated by the Sandinistas that have not been returned to their rightful owners despite electoral promises; the thousands of homes confiscated from Nicaragua citizens from all walks of life. (President Chamorro has made a pact with the Sandinista leaders that they can keep homes they have occupied illegally for years, including million-dollar homes such as the one occupied by former President Daniel Ortega.)

I hope Mr. Lacayo takes Sen. Helms to the Public Registry of Properties. The senator will be shocked to learn that Nicaragua is the only country in this hemisphere other than Cuba where the transfer of title to properties can occur without the knowledge, consent or compensation of its rightful owners. This explains why there is no private investment, domestic or foreign, in Nicaragua, and why foreign banks are reluctant to finance projects.

The world needs to know that even though Mrs. Chamorro was elected democratically, there is no new Nicaragua under her leadership. Daniel Ortega is right when he says the Sandinistas continue to rule the country from below, and sometimes, I would dare to say, from above.

ROBERT J. ARGUELLO,
Founding President, Nicaragua American Bankers and Businessmen Association, Coconut Grove, FL.

FLAG DAY, JUNE 14, 1991: HONOR OLD GLORY—MAKE FLAG BURNING A FEDERAL CRIME

Mr. DOLE. Mr. President, today, June 14, Flag Day 1991—is a special day for America as we celebrate the triumphant return home of our Desert Storm heroes.

America is proud of its fighting men and women in uniform, and we are proud of the red, white, and blue banner under which these men and women risked their lives.

But, Mr. President, this year, Old Glory has been put at risk, not by the enemy in the Persian Gulf, but by the Supreme Court of the United States.

In not one, but two separate decisions last year, the Supreme Court turned its back on the American people, declaring that flag-burning was free speech protected under the first amendment to the Constitution.

I was appalled by these decisions, and I fought hard for a constitutional amendment that would give Old Glory the real protection she deserves.

I lost that battle last year, falling 9 votes short of the necessary 67 votes needed to pass a constitutional amendment in the Senate.

But I remain hopeful.

Last week, the Supreme Court decided to review a State court decision upholding a Minnesota statute that banned the act of cross-burning.

I applaud the Members of the Minnesota Legislature and the Minnesota Supreme Court who struck a blow for common sense when they said that racially motivated cross-burning has no place in America, and no place in the first amendment of our Constitution.

Now, with a new member on the bench, the Supreme Court has a golden opportunity to come back to America and correct its red, white, and blue blunder.

When reviewing the Minnesota cross-burning statute, the Supreme Court should take the next logical step and uphold the 48 State statutes—and the one Federal statute—that have made the act of flag desecration illegal.

Flag-burning, like cross-burning, is not speech. It's conduct—offensive, malicious conduct. And it should not be dignified by invoking our cherished first amendment freedoms.

TRIBUTE TO DAD

Mr. SARBANES. Mr. President, this Sunday we will celebrate Father's Day and as our thoughts turn to that occasion, I was deeply touched by an article by Lou Panos' "Tribute to Dad" which appeared in the current issue of the Baltimore Messenger.

Lou, one of Maryland's most distinguished and respected journalists and commentators, has captured in sensitive and eloquent language the thoughts of millions of daughters and sons as we reflect this weekend on the priceless inheritance we have received from our fathers. Lou's moving recollections of his father are those which many of us find familiar in our own lives.

Mr. President, I ask unanimous consent that Lou Panos' "Tribute to Dad" be printed in the RECORD at this point as a reminder of our fathers' "hard work, honesty and love of freedom" which enriches our lives today.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Baltimore Messenger, June 12, 1991]

TRIBUTE TO DAD

(By Lou Panos)

They called him George. He was not a famous or great man, but a good one, typical of the kind who throughout history have kindled friendships, stabilized governments and built civilizations simply by doing what is right, day after day, year after year throughout a lifetime.

He was among the millions who came to this country from other lands because they had to, most of them for economic or political reasons. He came as a boy of 14 from an impoverished village near Sparta after his mother died, and he joined his father, who had emigrated many years earlier. When he landed in this country, he did not speak its language, was unfamiliar with its customs and was less prepared to survive here than the astronauts half a century later were prepared to survive their landing on the moon.

But he became a model citizen. He started a restaurant business and devoted nearly every waking hour to it and to his family. Workdays of 16 and 18 hours were the norm six days a week. The seventh day was for worship in the morning, followed by a family outing, such as a visit to relatives in wintertime or a summertime picnic and swim at a Chesapeake beach.

PAY YOUR TAXES, EVEN IN HARD TIMES

He saw his purpose in life as clear and simple: Sustain your family, support your church, pay your taxes and, with whatever energy or resources remain, do some good. In hard times, his place in Lexington Market was a favorite stop for beggars, and a customer down on his luck could almost invariably count on him for a meal until the next payday, or the next, or the next. Sometimes, to one whose character he considered a bit shaky, he would present the meal as a gift instead of an obligation. That way, he explained, the recipient would be more likely to consider him a friend to be favored with future business instead of as a creditor to be ducked.

A relative or an old friend asking for help to get over a budget crunch often got it with one string attached: No one else was to be told about it.

George ran his business on two inviolable principles. One was the old maxim that the customer is always right. The other was that a business is entitled to a fair profit, but anything beyond that is legal larceny and something to be scorned. Obviously, he never grew rich in the usual, less important sense of the word. But at his death two decades ago, he owed nothing and much was owed him.

A VALUE FOR WHAT IS RIGHT

He laughed easily, led the family in song on long drives, and spoke in the same gentle voice to all, regardless of purse or station. He valued what was right over what was merely correct or even smart.

An adviser once chastised him for accurately reporting his sales tax collections. Others in the food business were less generous and were never questioned by the tax people, the adviser said, so why shouldn't he do the same?

"That's what I collected, and that's what I'll report," George said. "And when I put my head on that pillow tonight, I'll go right to sleep. That's worth more to me than any amount you can save me."

When the adviser persisted, George put it another way.

"This country has been good to me," he said, "and I believe that stealing from the government is like stealing from the church. I'm just thankful that I can make an honest living and pay my bills, including my taxes."

Once, after George refused to join a price-fixing conspiracy, a competitor who proposed the conspiracy threatened to rent a nearby vacant stall and wage a price war to drive George out of business. George thanked him for the warning, then rented the stall in self-defense and used it to start a little sideline business selling peanuts, just enough to pay the rent and neutralize the space. No hard feelings.

George's name is on no public monument. But especially at this time of the year, as in the case of so many fathers whose hard work, honesty and love of freedom enrich the lives of others, his monument shines in the memories of countless friends and relatives, including the son who wrote this.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar 183, Mike Hayden, to be Assistant Secretary for Fish and Wildlife, Department of the Interior; Calendar 184, Saundra Brown Armstrong, to be U.S. district judge; Calendar 185, Timothy K. Lewis, to be U.S. district judge; Calendar 186, William L. Osteen, Sr., to be U.S. district judge; Calendar 187, Alixe Reed Glen, to be an Assistant Secretary of Health and Human Services.

I further ask unanimous consent that the nominees be confirmed, en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table, en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF THE INTERIOR

Mike Hayden, of Kansas, to be Assistant Secretary for Fish and Wildlife, Department of the Interior.

THE JUDICIARY

Saundra Brown Armstrong, of California, to be U.S. district judge for the Northern District of California.

Timothy K. Lewis, of Pennsylvania, to be U.S. district judge for the Western District of Pennsylvania.

William L. Osteen, Sr., of North Carolina, to be U.S. district judge for the Middle District of North Carolina.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alixe Reed Glen, of the District of Columbia, to be an Assistant Secretary of Health and Human Services.

STATEMENTS ON THE NOMINATION OF MIKE HAYDEN

Mr. DOLE. Mr. President, on behalf of the people of Kansas, I am proud to speak in favor of a good friend, who, being exceptionally well qualified, has been nominated by the President of the United States to a senior position in the executive branch of the Government. I rise today on behalf of the one such citizen from the State of Kansas.

Mike Hayden was born and raised in the community of Atwood, in western Kansas. From childhood, working on his family's farm instilled in Mike a strong sense of conserving the natural treasures with which this great Nation was blessed. So strong were his desires to make a difference in protecting these resources that he earned a bachelor of science degree in wildlife conservation from Kansas State University in 1966.

Following college, Mike served his State and country for the first time. As an infantry platoon leader and company commander, Mike was awarded the Gallantry Cross, the Soldier's Medal for heroism, and the Bronze Star for his actions in Vietnam.

Following his return from military service, this decorated citizen taught as a graduate assistant at Fort Hays State University in Kansas while he earned a masters degree in biology.

Over the next 14 years, Mike Hayden served our State of Kansas for a second time, by being elected to the State house of representatives. He was elected by his colleagues to serve as speaker of the house in both of his last two terms.

Then, in 1987, Mike began his third type of service when he took the oath of office as Governor of Kansas. We are particularly pleased that he was the first Governor in the history of this State to be a professionally trained conservationist.

Governor Hayden has been the recipient of numerous awards, including being inducted in the Army's Officer Candidate School Hall of Fame, being twice named by the Kansas Wildlife Federation as Legislator of the Year and, while Governor, as Conservationist of the Year. He also received the President's award from the Nature Conservancy for initiating the Kansas Natural Historical Inventory.

Over the years, I have worked on a number of fish and wildlife issues with Governor Hayden. As an example, I would like to briefly mention just three. All three were either initiated or accomplished due mainly to the personal interest and intervention by Mike. To educate the public on issues confronting our fish and wildlife, Governor Hayden pushed for and received approval of Federal, State, local and private funds to construct the Wichita Environmental Education Center. This center, located in an urban area will attune the public to the need to be concerned about our fish and wildlife reources, management practices, and threats to these resources.

When a drought seriously threatened what is arguably the most important wetland for migratory birds in the Western Hemisphere—Cheyenne Bottoms—Mike pushed State and Federal agencies to work cooperatively to ensure this precious resource would be preserved.

And, Mike has been in the forefront in seeking support for fish and wildlife mitigation on the Missouri River by the U.S. Army Corps of Engineers.

Mr. President, Mike Hayden—Governor, legislator, and decorated soldier—is first and foremost a family man, an outdoorsman, and a conservationist dedicated to balance and common sense.

I have known and worked with him for more than 20 years, and can—without qualification—highly recommend him to my colleagues to serve as Assistant Secretary of the Interior for Fish, Wildlife and Parks.

Finally, I would like to inform my colleagues that both the Committee on Environment and Public Works and Energy and Natural Resources have held hearings on Governor Hayden and endorsed his nomination. Mike has visited with numerous Senators personally and will be accessible to Members of the Senate whenever needed.

Mr. President, Mike Hayden is an outstanding candidate for this position and I urge my colleagues to confirm him.

Mrs. KASSEBAUM. Mr. President, I am pleased to join with the members of both the Committee on Environment and Public Works and the Committee on Energy and Natural Resources to support the nomination of Mike Hayden as Assistant Secretary of the Department of the Interior for Fish and Wildlife and Parks.

I have known Mike Hayden for many of his 18 years in State government, first as a State representative, then as speaker of the Kansas House and, during the last 4 years, as Governor of the State of Kansas. Throughout the years, I have seen first hand his deep respect for the environment and his commitment to the wise use and conservation of our natural resources.

Growing up in rural Atwood, KS, Mike Hayden learned early the importance of caring for the land. An avid outdoorsman, he has carried these principles with him during his years in public service. As a legislator and Governor, he played a crucial role in preserving wetland habitat, reorganizing and enhancing the State's park and wildlife agencies, and establishing a permanent source of funding for the State's water plan.

These accomplishments have not gone unnoticed. Twice he was named Conservation Legislator of the Year by the Kansas Wildlife Federation. The Nature Conservancy has honored him with their prestigious President's Award for establishing and funding the Kansas Natural Heritage Inventory Program.

Once confirmed, Governor Hayden will face one of the most difficult jobs in the Federal Government. As our Nation's urban areas continue to grow, more and more pressure will be placed on our country's park system. At the same time, conflicting views have emerged regarding the management of our country's national forests, particularly those in the Pacific Northwest. I believe Governor Hayden will be able to bring a balanced view to the competing preservation and land-use interests.

I am fully confident that Mike Hayden will rise to meet the many challenges that await him at the Department of the Interior and will display the same commitment to excellence that has earned him the President's confidence. I urge my colleagues to support his nomination and look forward to working with him in the future to enhance our country's natural resources.

• Mr. WALLOP. Mr. President, on June 12, 1991, the Committee on Energy and Natural Resources favorably reported the nomination of Gov. Mike Hayden to be Assistant Secretary of the Interior for Fish and Wildlife and Parks by a vote of 19 to 0.

Governor Hayden is a very well-qualified candidate for this position. A trained wildlife biologist, he holds a bachelor of science degree in wildlife conservation and a master's degree in biology. Governor Hayden has received numerous awards for his achievements as a conservationist, including being twice name as Conservation Legislator for the Year by the Kansas Wildlife Federation. As a former Governor as well as a former State legislator, Governor Hayden is very familiar with the political process and has been recognized for his leadership capabilities.

Mr. President, I believe Governor Hayden will serve the Department of the Interior very ably, and I urge my colleagues to join me in supporting his confirmation as Assistant Secretary of the Interior for Fish and Wildlife and Parks.•

Mr. SYMMS. Mr. President, with respect to Calendar Order No. 183, Mike Hayden, I would like to add my personal congratulations to Mike Hayden who is a friend of mine and a former Governor of Kansas.

STATEMENT ON THE NOMINATION OF WILLIAM L. OSTEEN

Mr. SANFORD. Mr. President, today the Senate will consider the nomination of William L. Osteen, Esq., to serve as judge of the U.S. District Court for the Middle District of North Carolina.

I have known Bill Osteen for 30 years and have the highest regard for his integrity. In addition, his colleagues in the Greensboro Bar and the North Carolina legal profession around the State have informed me of the great esteem that they have for him.

I will not repeat Mr. Osteen's entire record of law practice and civic activities here today but suffice it to say he ably represents the State of North Carolina. Mr. Osteen is an attorney presently in private practice in North Carolina. He is the head of his own law firm in the city of Greensboro where he practices with his son.

Prior to the establishment of his own firm, Mr. Osteen served as U.S. attorney for the middle district of North Carolina under an appointment by President Nixon in 1969.

Mr. Osteen was educated in North Carolina. He received his undergraduate degree from Guilford College in Greensboro and his law degree from the University of North Carolina at Chapel Hill.

I am pleased to support the nomination of Bill Osteen to serve as Federal district court judge and I commend his nomination to my colleagues.

Thank you, Mr. President.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and a withdrawal received today are printed at the end of the Senate proceedings.)

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, June 14, 1991, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 111. Joint resolution marking the seventy-fifth anniversary of chartering by Act of Congress of the Boy Scouts of America.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HOLLINGS (for himself, Mr. KERRY, Mr. BREAUX, and Mr. STEVENS):

S. 1297. A bill to authorize appropriations for the Coast Guard for fiscal years 1992 and 1993, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SANFORD:

S. 1298. A bill to designate the facility of the United States Postal Service located on Highway 64 East in Hiddenite, North Carolina, as the "Zora Leah S. Thomas Post Office"; to the Committee on Governmental Affairs.

S. 1299. A bill to name the Post Office building located at 200 3d Street, S.W., in Taylorsville, North Carolina, as the "Clifford G. Watts Post Office"; to the Committee on Governmental Affairs.

By Mr. ROTH:

S. 1300. A bill to minimize the adverse effects on local communities caused by the closure of military installations; to the Committe on Armed Services.

By Mr. CRAIG:

S. 1301. A bill to establish grant programs and provide other forms of Federal assistance to pregnant women, children in need of adoptive families, and individuals and families adopting children, and for other purposes; to the Committee on Finance.

By Mr. SANFORD (for himself, Mr. FOWLER, Mr. THURMOND, and Mr. FORD):

S.J. Res. 162. Joint resolution to recognize and support the efforts of the National Committee for the Airborne Museum at Fort Bragg, North Carolina, and to encourage American awareness and participation in the development of this project in honor of all who have served in the airborne and special operations forces of the United States Army; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HOLLINGS (for himself, Mr. KERRY, Mr. BREAUX, and Mr. STEVENS):

S. 1297. A bill to authorize appropriations for the Coast Guard for fiscal years 1992 and 1993, and for other purposes; to the Committee on Commerce, Science, and Transportation.

COAST GUARD AUTHORIZATION ACT

● Mr. HOLLINGS. Mr. President, today I am introducing the Coast Guard Authorization Act of 1991. This bill provides the core authorizations for the Coast Guard for the next 2 fiscal years, 1992 and 1993. The authorization for operating expenses totals $2.57 billion each year, which reflects a modest increase of 8 percent from the fiscal year 1991 level.

As chairman of the Commerce Committee, I must admit that, from a budget standpoint, we are asking the Coast Guard to run a tight ship. When the service was first established in 1790, its mission was fairly straightforward—to prevent smuggling and collect tax revenues. Since that time, many new responsibilities have been added, including search and rescue, fisheries law enforcement, drug interdiction, aids to navigation, marine safety and marine environmental protection. The diversity of the Coast Guard's mission is apparent when one looks at its involvement in several recent highly publicized events. From the blockade of Iraq to the cleanup of the *Exxon Valdez*, the Coast Guard has been on the front line.

The authorization for capital funding in this bill totals $423 million for each of the next 2 fiscal years. Capital funding, of course, includes the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft. Specific programs that will be undertaken during the next 2 years include continuation of the 378-foot high endurance cutter rehabilitation program, acquisition of the remaining 110-foot Island class patrol boats, delivery of the last HH-60J—Jayhawk—helicopters, and replacement of our seagoing buoy tenders and 44-foot motor lifeboats.

The bill contains increased funding to provide affordable housing, medical care, training, family services, and recreational facilities for the men and women of the Coast Guard. In addition, it authorizes retired pay, which provides money to retired military personnel of the Coast Guard, the Coast Guard Reserve, and the former Lighthouse Service. Included in this authorization is $488 million for fiscal year 1992 and $519 million in fiscal year 1993.

Other funding authorizations in the bill cover research and development, bridge alteration, and environmental compliance and restoration. Authorizations are provided for end-of-year strengths of 39,559 military personnel for fiscal years 1992 and 1993. The bill also authorizes average military training loads for recruits and special training, flight training, professional training, and officer training.

This legislation also contains a number of provisions which amend existing law applicable to the Coast Guard. These provisions are as follows:

Authorize the Coast Guard to lease property to construct Air Station Charleston;

Establish a Coast Guard recycling program comparable to those operated by the Army, Navy, and Air Force;

Designate the John F. Limehouse Bridge as an obstruction to navigation;

Authorize the Coast Guard to lease or improve certain properties in Massachusetts for housing;

Amend the inland navigation rules to conform to the international regulations for preventing collisions at sea;

Call for a study to improve Coast Guard enforcement in national marine sanctuaries; and

Authorize the Coast Guard to convey Cape May Point Lighthouse to the State of New Jersey for use as a public historical center.

Before closing, I congratulate the men and women of the Coast Guard for their vital contribution to Desert Shield and Desert Storm. Mr. President, once again the Coast Guard has stepped forward when the Nation called. I ask my colleagues to join me in supporting this legislation.●

By Mr. SANFORD:

S. 1298. A bill to designate the facility of the U.S. Postal Service located on Highway 64 East in Hiddenite, NC, as the "Zora Leah S, Thomas Post Office"; to the Committee on Governmental Affairs.

S. 1299. A bill to name the Post Office building located at 200 3d Street, SW., in Taylorsville, NC, as the "Clifford G. Watts Post Office"; to the Committee on Governmental Affairs.

DESIGNATION OF CERTAIN POSTAL SERVICE FACILITIES

Mr. SANFORD. Mr. President, I rise today to submit two pieces of legislation to name the post offices in Hiddenite, NC, and Taylorsville, NC, the "Zora Leah S. Thomas Post Office" and the "Clifford G. Watts Post Office," respectively.

The late Mrs. Zora Leah S. Thomas was postmaster for an unprecedented 42 years. She was born just north of Hiddenite in Rocky Springs on August 15, 1907, to Hayne N. and Leah Lackey Sharpe and became a valued and active member of the Hiddenite community.

Thomas taught for 2 years before joining the post office as a clerk in Devember 1933. Less than 2 years later, she succeeded her father as postmaster. She is survived by her brother Mr. John Robert Sharpe and sister Mrs. J.H. Sauer.

The late Clifford G. Watts served as postmaster for 18 years. A graduate of UNC-Chapel Hill, and Alexander County chairman of the Moorehead Foundation Scholarship Committee, Wattes considered one of his hobbies to be talking high school students into going to UNC-Chapel Hill. He made it possible for many aspiring UNC students by finding job opportunities and financial aid for them.

Watts was a dedicated, hard-working man. He worked his way through college by washing dishes in the dining hall. His college football coach once said:

> If everyone worked as hard as Cliff, I wouldn't have to get on anyone for not hustling.

Mr. President, I am proud to have the opportunity to honor the families and memories of Zora Leah S. Thomas and Clifford G. Watts for their lifetimes of public service as well as honoring the cities of Hiddenite and Thomasville with the introduction of this legislation.

By Mr. ROTH:

S. 1300. A bill to minimize the adverse effects on local communities caused by the closure of military installations; to the Committee on Armed Services.

IMPACTED COMMUNITIES ASSISTANCE ACT

Mr. ROTH. Mr. President, soon, the Base Closing and Realignment Commission will recommend closing approximately four dozen military bases and installations across the country.

The people and communities that will be impacted by closing bases have every right to be concerned about the loss of jobs and economic activity. They have labored for decades, and often generations, to support our national security, and Congress ought not turn its back on them now that the cold war is coming to a close.

It is the duty of the Congress, Mr. President, to ensure that base closings cause minimal adverse economic impact. We have an obligation to assist the people who have served us by so willingly serving the men and women in our Armed Forces. Skilled and able-bodied citizens have become dependent upon Federal dollars, and, because of the bases, lost opportunities for economic growth. Congress ought to act to enable communities to readjust as painlessly as possible once their bases are closed, and this is the objective of my base conversion proposal that I am introducing today.

As the law stands now, after it has been determined that a military installation should be closed, the disposal process is slow, painful, and benefits no one. Financial savings remain largely theoretical, while the process is dragged out in legal and political arenas. The base is offered first to Federal agencies, then to States, and finally to local communities. Consequently, what was once a thriving army town, could end up as a Federal prison when a local community would rather use it as a trade school or airport.

The Roth base conversion proposal changes the current law by returning to the community the right to decide what happens to a closed base. It's simple yet effective. Under my proposal, the local community will have first choice on the ownership of a closed base. From the moment a base is selected for closure, the affected community will become an integral decisionmaker in how the base is to be disposed. When the closed installation is environmentally safe, it will be offered—free of charge—to the local community. If the local community does not want the property, it will be offered to the county government, then the State, then to other Federal agencies. This inverts the current system where other Federal agencies get first choice, and the affected community is at the bottom of the totem pole. If the property is then sold by the community within 10 years after it was conveyed, the community refunds 25 percent of the net proceeds to the U.S. Treasury.

Military facilities can represent significant assets for the people in adjoining communities. Once transferred to the local community, such real estate will gain and ever increase in value. While my proposal may not help in every instance, it provides a method for turning a potential loss into an economic opportunity and a potential problem into a win-win situation.

If Congress is to achieve positive results for everyone, communities must not be shutdown when bases are closed. Communities must have it in their power to determine the fate of their citizens. Communities must be in control of their destinies. Congress needs a method that turns base closings into an attractive opportunity for the impacted community. The bill that I am introducing today turns what could be a negative event into a constructive situation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1300

Be in enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Impacted Communities Assistance Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

The Congress finds that—

(1) the Department of Defense has been directed to reduce the size and cost of the military and this will require closing military installations;

(2) a military installation is a part of the infrastructure of the community in which it is located and there is a long standing symbiotic relationships between a military installation and the community;

(3) the people in an impacted community have made substantial, long term investments to support the military installation;

(4) the loss to an impacted community when a military installation is closed is substantial and the Congress wishes to mitigate the damage to the impacted community;

(5) an impacted community knows best the needs of the community and the best way to use available resources to meet these needs; and,

(6) unfettered ownership of the real property associated with a closed military installation at the earliest possible time can help offset the impact on a community which results when a military installation is closed.

Therefore, it is the purpose of this Act—

(1) to benefit the community impacted when a military installation is closed by authorizing the installation's real property to be conveyed to the impacted community as soon as possible after a decision to close the military installation; and,

(2) to provide an impacted community a resource which will aid in mitigating the loss incurred by the community following a decision to close a military installation and which may be used by the impacted community for industrial, commercial, residential, recreational, and other uses which the community decides are appropriate.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Secretary of a military department or the Secretary of Defense.

(2) The term "Administrator" means the Administrator of General Services.

(3) The term "local community" means the incorporated town, village, city, or similar entity of the State in which a military installation is located or, if the military installation is not located in an incorporated entity, the incorporated entity of the State that has authority under State law to annex the property on which the military installation is located.

SEC. 4. DISPOSITION OF PROPERTY.

(a) TRANSFER OF PROPERTY TO THE ADMINISTRATOR.—As soon as possible after the date on which (I) the Secretary of Defense closes a military installation, and (II) the Secretary of Defense renders the real property which is suitable for transfer, environmentally safe in a manner consistent with Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Administrator shall have jurisdiction over that part of the real property of the closed military installation which is suitable for transfer.

(b) PRIORITY FOR DISPOSITION.—(1) As soon as possible after assuming jurisdiction for property suitable for transfer, the Administrator shall offer title to the real property suitable for transfer to the local community concerned. Title to the property shall be offered subject to the conditions prescribed in this Act.

(2) If the local community concerned refuses the property, or fails to notify the Administrator of the community's acceptance of the property within six months after the date on which the Administrator notifies the community in writing of the availability of the property (and the conditions under which the property will be granted to the community), the Administrator shall offer the property to the county in which the military installation is located.

(3) If the county refuses the property, or fails to notify the Administrator of the county's acceptance of the property within three months after the date on which the Administrator notifies the county in writing of the availability of the property (and the conditions under which the property will be granted to the county), the Administrator shall offer the property to the State in which the military installation is located.

(4) If the State refuses the property, or fails to notify the Administrator of the State's acceptance of the property within 60 days after the date on which the Administrator notifies the State in writing of the availability of the property (and the conditions under which the property will be granted to the State), the Administrator shall offer the property to other departments and agencies of the Federal Government.

(5) If no department or agency of the Federal Government requests the property within 30 days after the date on which the notice of the availability of the property is published in the Federal Register, the Administrator shall dispose of the property to the highest responsible bidder.

(d) PROPERTY LOCATED IN MORE THAN ONE LOCAL COMMUNITY.—In any case in which a military installation referred to in subsection (a) is located in more than one local community, the property shall be offered to each of the communities and, if accepted by more than one community, shall be divided among the communities in such manner as may be specified by the laws of the State concerned.

(e) PROPERTY LOCATED IN MORE THAN ONE COUNTY.—In any case in which a military installation referred to in subsection (a) is located in more than one county of a State and the real property constituting the installation is not accepted by the local community concerned, that portion of the installation within each county shall be offered to that county.

(f) PROPERTY NOT SUITABLE FOR TRANSFER.—The Secretary of Defense or the Administrator may sever from the real property of a closed military installation that real property which is not suitable for transfer because of environmental concerns or for other good and valid reasons including but not limited to a finding by the President's Council on Environmental Quality that development of the severed property would destroy an environmental heritage.

(g) COOPERATION WITH LOCAL COMMUNITIES.—The Secretary of Defense and the Administrator shall assure that appropriate representatives of the local community are included as full partners in discussions and decisions concerning the disposition of a closed military installation.

SEC. 5. CONDITIONS.

(a) IN GENERAL.—Title to the real property referred to in section 4(a) may not be conveyed to a local community, county, or State unless the local community, county, or State, as the case may be, submits to the Administrator, in such manner as the Administrator may prescribe, a plan under which the local community agrees—

(1) that if the property is sold by the local community, county, or State, as the case may be, within 10 years after the date of the conveyance of the property to the local community, county, or State, to pay to the United States an amount equal to 25 percent of the proceeds from the sale of the property.

(2) to make available to the Comptroller General of the United States such information as may be necessary for the Comptroller General to carry out his duties under section 7; and

(3) to such other terms and conditions as the Administrator determines necessary to encourage the acceptance of the property suitable for transfer at the earliest possible date by the impacted community.

SEC. 6. FAILURE TO COMPLY WITH CONDITIONS.

If a local community, county, or State to which real property is conveyed pursuant to this Act fails to comply with any condition provided for in this Act, the Administrator, after providing written notice to the community, county, or State, as appropriate, may withhold from any payments otherwise payable to the community, county, or State under any Federal program, such amounts as may be necessary to comply with the conditions provided for in section 5(a)(1).

SEC. 7. REGULATIONS.

The Administrator shall prescribe such regulations as may be appropriate to carry out this Act. The regulations prescribed by the Administrator shall encourage the prompt implementation of this Act and facilitate transfer of property suitable for transfer to the impacted community.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

By Mr. CRAIG:

S. 1301. A bill to establish grant programs and provide other forms of Federal assistance to pregnant women, children in need of adoptive families, and individuals and families adopting children, and for other purposes; to the Committee on Finance.

OMNIBUS ADOPTION ACT

• Mr. CRAIG. Mr. President, I rise today to begin a campaign—one to make it easier for those seeking an alternative kind of parenthood.

The campaign begins just before Father's Day, with introduction of the Omnibus Adoption Act of 1991.

The goal of this legislation is simple: to help each of the persons involved in adoption by making it more available and more affordable. The Omnibus Adoption Act of 1991 offers assistance to children waiting to be adopted, pregnant women considering adoption, and individuals hoping to adopt a child.

As an adoptive father of three kids—the children of my wife, Suzanne—I know a little about the hardships associated with this method of becoming a parent—but only a little. I faced only a fraction of the cost, the wait, the suspense of most adoptive parents. But the experience left me intrigued, and I began studying the process.

I learned that a typical normal birth today costs less than $10,000. Adoption can cost upward of $15,000. And insurance rarely, if ever, covers any of the cost of adoption.

Families who give birth to a child receive tax benefits from their expenses. Families who adopt, don't.

Health insurance often covers babies born to insured families from birth. Adopted babies are usually covered only when the adoption becomes final. That's typically 18 months or longer after the adoptive parents assume financial responsibility for the child.

Just about every element of our society seems stacked against people who build their families through adoption, though often they have no other choice.

That atmosphere must be changed. The Omnibus Adoption Act of 1991 is designed to begin changing it.

The statistics show that adoption benefits everyone involved:

The child has a 90-percent chance of living with married parents—and a 54-percent chance of living in a home with a family income three times higher than the poverty level;

Young, unmarried women who make adoption plans for their babies are more likely to complete high school, less likely to live in poverty, and less likely to receive public assistance than single parents. They're also less likely to have a repeat pregnancy than teenagers who choose parenting or abortion.

Adoptive parents have the chance to build the families they long for.

If adoption is such an attractive option, why do so few young pregnant women choose it? It certainly is not because there aren't enough prospective parents: Estimates of the families waiting for adoption range from 1 to 2 million. Yet overall, only 6 percent of teenage mothers choose adoption for their babies. In the black community, the option is exercised by fewer than 1 percent.

Again, the answer lies partly with the system. Nearly 40 percent of pregnancy counselors do not include adoption as an option in their counseling. In addition, some 40 percent of the counselors had a 40-percent rate of uncertainty and inaccurate information about the process.

Many pregnancy counselors think adoption would be a good choice, but they assume young women wouldn't want to hear about it—so they don't mention it.

The Omnibus Adoption Act of 1991 wouldn't change all of this overnight—but it would make a start. Here is some of what it would do:

Establish a National Advisory Council on Adoption, to monitor the results of the new law, and to recommend changes to make it more effective;

Begin an education program, teaching people about the benefits of adoption and how to go about it;

Allow Federal employees to use sick leave for purposes relating to adoption of a child. Make expenses for maternal and prenatal care, paid for by a Federal employee adoptive parent, reimbursable;

Create a refundable tax credit for adoption expenses, up to $5,000 for incomes up to $60,000 with phase out of the credit from $60,000 to $100,000;

Provide rehabilitative grants for maternity facilities; and

Make recommendations to States for changes in their adoption laws.

Mr. President, as cochair of the Congressional Coalition on Adoption, I recently chaired a hearing on adoption legislation. At that hearing, it became apparent that there is widespread support for the Omnibus Adoption Act of 1991. Witnesses from around the Nation testified in favor of the bill and many more supporters were present at the hearing.

In addition, the bill is endorsed by the National Committee for Adoption, Catholic Charities USA, and Adoptive Families of America.

Finally, the Omnibus Adoption Act of 1991 has already been introduced in the House of Representatives, where it has bipartisan support from more than 80 Members of Congress.

I hope my Senate colleagues will agree that adoption is a loving option that has worked for countless individuals across the Nation, and join the campaign by cosponsoring the Omnibus Adoption Act of 1991.

Now is the time to show our support for all of these people and the many more who would like to become involved in adoption.

Mr. President, I ask unanimous consent that an article entitled "Adoption: Expanding the Options" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ADOPTION: EXPANDING THE OPTIONS

Just before Father's Day this year, I started a campaign to make it easier for those seeking an alternative kind of parenthood.

On June 14, I introduced the Omnibus Adoption Act of 1991. It's a bill designed to make adoption more available and more affordable to hopeful adoptive parents. If it's passed, it will provide some very happy benefits to the parents, help to single women in unplanned pregnancies, and benefits to society in general.

I'm very proud to have been named Senate Co-Chair of the Congressional Coalition on Adoption, an arm of the National Committee for Adoption.

As an adoptive father of three kids—the children of my wife, Suzanne—I know a little about the hardships associated with this method of becoming a parent—but only a little. I faced only a fraction of the cost, the wait, the suspense of most adoptive parents. But the experience left me intrigued, and I began studying the process.

I learned that a typical normal birth today costs less than $10,000. Adoption can cost upwards of $15,000. And insurance rarely, if ever, covers any of the cost of adoption.

Families who give birth to a child receive tax benefits from their expenses. Families who adopt, don't.

Health insurance often covers babies born to insured families from birth. Adopted babies are usually covered only when the adoption becomes final. That's typically 18 months or longer after the adoptive parents assume financial responsibility for the child.

Just about every element of our society seems stacked against people who build their families through adoption, though often they have no other choice.

That atmosphere must be changed. The Omnibus Adoption Act of 1991 is designed to begin changing it.

The statistics show that adoption benefits everyone involved:

The child has a 90 percent chance of living with married parents—and a 54 percent chance of living in a home with family income three times higher than the poverty level;

Young, unmarried women who make adoption plans for their babies are more likely to complete high school, less likely to live in poverty, and less likely to receive public assistance than single parents. They're also less likely to have a repeat pregnancy than teenagers who choose parenting or abortion;

Adoptive parents have the chance to build the families they long for.

If adoption is such an attractive option, why do so few young pregnant women choose it? It certainly is not because there aren't enough prospective parents: estimates of the families waiting to adopt range from one to two million. Yet overall, only six percent of teenage mothers choose adoption for their babies. In the black community, the option is taken by fewer than one percent.

Again, the answer lies partly with the system. Nearly 40 percent of pregnancy counselors do not include adoption as an option in their counseling. In addition, some 40 percent of the counselors had a 40 percent rate of uncertainty and inaccurate information about the process.

Many pregnancy counselors think adoption would be a good choice, but they assume young women wouldn't want to hear about it—so they don't mention it.

The Omnibus Adoption Act of 1991 wouldn't change all that overnight . . . but it would make a start. Here is some of what it would do:

Establish a National Advisory Council on Adoption, to monitor the results of the new law and to recommend changes to make it more effective;

Begin an education program, teaching people about the benefits of adoption and how to go about it.

Allow federal employees to use sick leave for purposes relating to adoption of a child. Make expenses for maternal and prenatal care, paid for by a federal employee adoptive parent, reimbursable (the adoption must be final before any reimbursement is made);

Create a refundable tax credit for adoption expenses, up to $5,000 for incomes up to $60,000, with phase-out of the credit from $60,000 to $100,000;

Provide rehabilitation grants for maternity facilities;

Make recommendations to States for changes in their adoption laws.

Most Americans don't favor abortion, whether or not they feel there should be laws against it. What better way to discourage abortion than to institute a climate that favors adoption?

For myself, I'd rather work to pass laws that help strong, healthy families come into being.•

By Mr. SANFORD (for himself, Mr. FOWLER, Mr. THURMOND, and Mr. FORD):

S.J. Res. 162. A joint resolution to recognize and support the efforts of the National Committee for the Airborne Museum at Fort Bragg, NC, and to encourage American awareness and participation in development of this project in honor of all who have served in the airborne and special operations forces of the U.S. Army; to the Committee on the Judiciary.

AIRBORNE MUSEUM AT FORT BRAGG

• Mr. SANFORD. Mr. President, the joint resolution I send to the desk is part of an effort to establish an Airborne Museum in Fort Bragg, NC, home of the airborne. Military parachute jumps from artillery observation ballons began at Fort Bragg in 1934, but it was during World War II that the post became, under the command of Maj. Gen. William C. Lee of Dunn, NC, the world's largest airborne training center.

World War II saw the development of the first American airborne and special operations units. All five World War II U.S. Army Airborne Divisions—the 82d, 101st, 11th, 13th, and 17th—were formed and trained at Fort Bragg. So too were a host of other specialized airborne infantry, artillery, engineer, and signal units, as well as the first African-American parachute battalion, the famous Triple Nickels—555th Parachute Infantry Battalion. Significantly, the Office of Strategic Services [OSS], the main World War II special operations force, recruited some of its members from these paratroop units. I was proud to be among those first American paratroopers as a member of the 517th Combat Infantry Regiment attached to the 82d Airborne Division.

Airborne units have been a vital asset of the U.S. military since World War II. Every major U.S. campaign since then was bolstered with American paratroopers. Today, we look to the Rapid Deployment Force and its airborne and special operation elements to go quickly to areas of conflict that threaten our interests or the interests of our allies. They are the first major U.S. ground forces called to take up arms as evident from Desert Storm and Desert Shield.

In Fort Bragg, the effort to establish the Airborne Museum is well underway. The president of the Airborne Museum Foundation is one of this country's most distinguished veterans, Gen. James J. Lindsay, U.S. Army retired. Many of you have worked with him during his tenure as commander, 82d Airborne Division; commander, XVIII Airborne Corps; and commander in chief of the U.S. Special Operations Command. After his outstanding military career, he retired to my home State of North Carolina where he is still a committed public servant.

The support for the museum comes from public and private sources. The Department of Defense has given its support as have numerous businesses in the private sector. The unique mission of the airborne is one worthy of showcasing. The tremendous contribution it has given in defense of our freedoms and liberties is worthy of our support of this project.●

ADDITIONAL COSPONSORS

S. 190

At the request of Mr. GRAHAM, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 190, a bill to amend 3104 of title 38, United States Code, to permit veterans who have a service-connected disability and who are retired members of the Armed Forces to receive compensation, without reduction, concurrently with retired pay reduced on the basis of the degree of the disability rating of such veteran.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 267

At the request of Mr. REID, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 353

At the request of Mr. JEFFORDS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 353, a bill to require the Director of the National Institute for Occupational Safety and Health to conduct a study of the prevalence and issues related to contamination of workers' homes with hazardous chemicals and substances transported from their workplace and to issue or report on regulations to prevent or mitigate the future contamination of workers' homes, and for other purposes.

S. 659

At the request of Mr. GRAHAM, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 659, a bill to suspend temporarily certain bars to the furnishing of veterans benefits to certain former spouses of veterans and to suspend temporarily a bar to the recognition of certain married children of veterans for veterans benefits purposes.

S. 803

At the request of Mr. REID, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 803, a bill to amend the Family Violence Prevention and Services Act to provide grants to States to fund State domestic violence coalitions, and for other purposes.

S. 1008

At the request of Mr. MCCONNELL, the names of the Senator from New York [Mr. D'AMATO], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 1008, a bill to require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice.

S. 1071

At the request of Mr. DECONCINI, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 1071, a bill to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans.

SENATE JOINT RESOLUTION 125

At the request of Mr. SIMON, the names of the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Joint Resolution 125, a joint resolution to designate October 1991 as "Polish American Heritage Month."

ADDITIONAL STATEMENTS

BALTIC FREEDOM DAY

● Mr. WALLOP. Mr. President, June 14 commemorates one decade of recognition of "Baltic Freedom Day." In this declaration, the Congress, the President, Americans across the Nation have said, we do not accept the Soviet incorporation of the three Baltic countries and, moreover, we recognize the right of the peoples of those three countries to have a culture and a history which is distinct and recognizable. Declaring this day as "Baltic Freedom Day" reiterates our refusal to recognize the illegal and brutal occupation of these three sovereign nations under the Molotov-Ribbentrop Pact some 50 years ago.

This June 14 also commemorates the 50th anniversary of mass deportations from the Baltic countries. On June 14, 1941, the Soviet Union began deporting large groups of Estonian, Latvian, and Lithuanian men, women, and children to Siberia. During this one night alone, more than 60,000 people were taken from their homes, separated from their families, and transported in cattle cars to the Siberian camps, where many of them died. During the early years of Soviet occupation more than 600,000 prisoners were taken from the Baltic States—50 years later the atrocities continue.

Which is why I find such irony in the President's proclamation of "Baltic Freedom Day" this year. In his approval of $1.5 billion in additional credit guarantees, Bush has reiterated his interest in helping one man, Gorbachev, rather than pressing him on Soviet failure to reform the economy. And when Red army soldiers and Interior Ministry squads are being used still against the Baltic governments and peoples, such hypocrisy is extremely distressing. Just recently, Soviet black berets—special Interior Ministry troops—have violently seized and destroyed at least 12 Lithuanian and Latvian Customs posts, injuring, degrading, and killing unarmed Baltic Customs officials. Still Gorbachev continues to claim no involvement. I must say, if he is lying, which I believe he is, he is part of the problem. If he claims it is beyond his control, then certainly he cannot be part of the solution. And if he is not in control, why are we giving him economic aid? In either scenario, it is at best foolish to put our political fate in this one man, at worst it is dangerous. And it comes at the expense of the democratically elected leaders and the freedom-seeking peoples of the Baltic States.

As the United States celebrates the victory of good over evil in the Persian Gulf, of restoring freedom to a sovereign nation, let us remember that none of us can be wholly free when some of us are enslaved. Soviet occupation troops remain in the Baltic States. And it shames this great country that we give succor and support to their oppressor.

Let me end by quoting the words of our President on Baltic Freedom Day 1 year ago today:

> [Recent reforms in the Soviet Union] are important steps, but justice demands that more be taken. Recent improvements in human rights practices by the ruling Communist officials are not complete, nor have they been institutionalized. The people of Lithuania, Latvia, and Estonia both demand and deserve lasting guarantees of their fundamental rights. The Government of the United States does not and will not recognize the unilateral incorporation by force of arms of the Baltic States into the Soviet Union.

Mr. President, I could not agree more. George Bush would do well to reflect on those words.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Carol J. Carmody, a member of the staff of Senator ERNEST HOLLINGS, to participate in a program in Paris and Toulouse, France, sponsored by the German Marshall Fund and the Franco-American Foundation, from June 30–July 5, 1991.

The committee has determined that participation by Ms. Carmody in the program in France, at the expense of the German Marshall Fund and the Franco-American Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Rick Lawson, a member of the staff of Senator DON NICKLES, to participate in a program in Paris and Toulouse, France, sponsored by the German Marshall Fund and the Franco-American Foundation, from June 30–July 5, 1991.

The committee has determined that participation by Mr. Lawson in the program in France, at the expense of the German Marshall Fund and the Franco-American Foundation, is in the interest of the Seante and the United States.

The select committee has received a request for a determination under rule 35 for Lizabeth Tankersley, a member of the staff of Senator JOSEPH BIDEN, to participate in a program in Paris and Toulouse, France, sponsored by the German Marshall Fund and the Franco-American Foundation, from June 30–July 5, 1991.

The committee has determined that participation by Ms. Tankersley in the program in France, at the expense of the German Marshall Fund and the Franco-American Foundation, is in the interest of the Senate and the United States.•

NATIONAL COMMISSION ON A LONGER SCHOOL YEAR ACT—CONFERENCE REPORT

Mr. MOYNIHAN. Mr. President, I submit a report of the committee of conference on S. 64 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 64) to provide for the establishment of a National Commission on a Longer School Year having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 12, 1991.)

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENDING INVITATION TO THE INTERNATIONAL OLYMPIC COMMITTEE

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 142, a concurrent resolution relating to the site of the 1998 winter Olympic games, just received from the House. I would surmise this has to do with Salt Lake City.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

> A concurrent resolution (H. Con. Res. 142) extending an invitation to the International Olympic Committee to hold the 1998 Winter Olympic Games in Salt Lake City, Utah, and pledging the cooperation and support of the Congress of the United States.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 142) was agreed to.

The preamble was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEMOCRATIC CAUCUS

Mr. FORD. Mr. President, the majority leader has asked me to announce that there will be a Democratic conference to discuss the highway bill on Monday, June 17, at 3:30 p.m. in room S. 207.

ORDERS FOR MONDAY

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 1 p.m. on Monday, June 17; that following the time for the two leaders there be a period for morning business with Senators permitted to speak therein for up to 5 minutes each, not to extend beyond 1:30 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR THE RECORD TO REMAIN OPEN

Mr. FORD. I further ask unanimous consent that the RECORD remain open until 2 p.m. today for statements and introductions of legislation; and that committees have until 2 p.m. to file any Legislative or Executive Calendar business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL MONDAY, JUNE 17, 1991 AT 1 P.M.

Mr. FORD. Mr. President, I see no Senator seeking recognition. I now ask unanimous consent that the Senate stand in recess until 1 p.m. on Monday under the previous order.

There being no objection, the Senate, at 11:53 a.m., recessed until Monday, June 17, 1991, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate June 14, 1991:

THE JUDICIARY

WILLIAM G. BASSLER, OF NEW JERSEY, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY VICE STANLEY S. BROTMAN, RETIRED.

MORTON A. BRODY, OF MAINE, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MAINE VICE A NEW POSITION CREATED BY PUBLIC LAW 101–650, APPROVED DECEMBER 1, 1990.

WILLIAM H. YOHN, JR., OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE JOHN P. FULLAM, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 14, 1991:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ALIXE REED GLEN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES.

DEPARTMENT OF THE INTERIOR

MIKE HAYDEN, OF KANSAS, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE, DEPARTMENT OF THE INTERIOR.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

THE JUDICIARY

SAUNDRA BROWN ARMSTRONG, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

TIMOTHY K. LEWIS, OF PENNSYLVANIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA.

WILLIAM L. OSTEEN, SR., OF NORTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF NORTH CAROLINA.

WITHDRAWAL

Executive message, transmitted by the President to the Senate on June 14, 1991, withdrawing from further Senate consideration the following nomination:

IN THE AIR FORCE

DAVID B. BAIRD, [redacted] FROM THE LIST OF OFFICERS PREVIOUSLY RECOMMENDED FOR RESERVE APPOINTMENT IN THE U.S. AIR FORCE, WHICH WAS SENT TO THE SENATE ON APRIL 9, 1991.

HOUSE OF REPRESENTATIVES—*Monday, June 17, 1991*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. GRAY].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 17, 1991.

I hereby designate the Honorable WILLIAM H. GRAY III, to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Put away from us all harshness and enmity, O God, and show us the way of compassion. May we judge each other with understanding and patience and tolerance and thus demonstrate the respect that is due all Your people. Help us to recognize that all harshness and ill will diminish the human spirit and show us instead the attributes of kindliness and true compassion. Bless all who seek Your guidance, O God, this day and every day. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Colorado [Mr. ALLARD] please come forward and lead the House in the Pledge of Allegiance.

Mr. ALLARD led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 142. Extending an invitation to the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, Utah, and pledging the cooperation and support of the Congress of the United States.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 64) entitled "An act to provide for the establishment of a National Commission on a Longer School Year, and for other purposes."

The message also announced that the Senate had passed a bill, a joint resolution, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 188. An act to amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of supervised release;

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month"; and

S. Con. Res. 46. Concurrent resolution extending an invitation to the International Olympic Committee to hold the 1998 winter Olympic games in Salt Lake City, Utah, and pledging the cooperation and support of the Congress of the United States.

The message also announced that, pursuant to Public Law 100-418, the Chair on behalf of the majority leader and the Republican leader, announces the appointment of the Honorable Bill Graves, as a representative from State or local government, to the Competitive Policy Council, vice the Honorable Mike Hayden, resigned.

THE HONORABLE ALBERT B. CHANDLER

(Mr. NATCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NATCHER. Mr. Speaker, one of Kentucky's most colorful figures in State and national Democratic politics died on Saturday, June 15, 1991, at his home in Versailles, KY. Former U.S. Senator A.B. Chandler was 92 years of age; was born in Corydon, KY, and got his nickname "Happy" because of his big smile and his ability to meet and like people. He was a man who could remember names better than any man I have ever met in politics and one that was right successful down through his career.

After graduating from the University of Kentucky Law School in 1924, he served in World War I and was admitted to the bar in 1925. He then entered politics and was elected to the State Senate as a Democrat from Versailles, Woodford County, KY. Next, he was elected Lieutenant Governor of Kentucky and served from 1931 to 1935 when he was elected Governor. During his tenure as Governor, he refinanced the State debt, reduced payrolls, and repealed an unpopular sales tax. In 1938, he ran against Senator Alben W. Barkley, the majority leader of the U.S. Senate but was not successful in the primary. When Kentucky's other Senator, M.M. Logan died in 1939, Happy Chandler resigned as Governor and was appointed to fill the vacancy. He then ran for reelection and won without any difficulty and served until 1945 when he resigned to become baseball commissioner. He succeeded Judge Kenesaw Mountain Landis. During his tenure as baseball commissioner he decided that it was time to do away with the color line in major league baseball and despite some pressure, he supported the Brooklyn Dodger's decision to bring Jackie Robinson into the major leagues in 1947.

Under Kentucky's constitution, a Governor is unable to succeed himself after a 4-year term. Happy Chandler decided to again run for Governor for a second term and was elected, serving from 1955 to 1959. Only four Governors have ever been elected Governor twice, and this is the assignment Happy Chandler always liked. In the year 1982, he was elected to the Baseball Hall of Fame in Cooperstown, NY. He was quite a showman and at the same time a good administrator.

Kentucky has lost an outstanding citizen and one of its most colorful figures of the 20th century.

He is survived by his lovely wife, Mildred Chandler, who lives in Versailles, KY, and four children. I extend to them my deepest sympathy and it was a pleasure for me to be in politics during the Chandler days and to know and to like Happy Chandler.

He will be buried in Versailles, Woodford County, KY.

A LEGEND OF 20TH CENTURY POLITICS—A.B. "HAPPY" CHANDLER OF KENTUCKY IS DEAD

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I am honored to follow the dean of the Kentucky delegation, Mr. NATCHER, in advising the House and the country of the death of one of the legends, one of the

□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

true titans, of Kentucky politics and national politics, A.B. "Happy" Chandler.

Mr. Speaker, Happy's career began, as the gentleman from Kentucky [Mr. NATCHER] said, well back into the 1920's, and actually his influence extended until this past Saturday, the day that he died at the age of 92. He served twice as our Governor, 1935 and 1955, a span of 20 years. He ran for various offices at different times, and was a U.S. Senator.

But, possibly, if one were to have asked Happy what his two greatest thrills were, one, I think, would have been that he, along with Branch Rickey of the old Brooklyn Dodgers, desegregated baseball by bringing in one of the great baseball players of all time, Jackie Robinson. I think the second thing Happy would have mentioned would have been his marriage to his wife, Mildred, who he fondly called "Mama" until the very end, which lasted over 66 years. His partner in life and his partner in death certainly would have been the other great achievement of his life.

Mr. Speaker, it is with great sadness that we extend condolences to Mrs. Chandler, to the four children, to the grandchildren, and great-grandchildren and to Kentucky for the passage from the national and the international stage of one of the great figures of 20th-century politics.

HATS OFF TO C.J. WOOLLEY—8 YEARS OLD

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, during the Persian Gulf war, Americans all over the country thought of ways that they could support our troops and also, importantly, the families of the troops left behind here in the United States. One of the most innovative, and I think interesting, of the programs to help the families of troops was started by a young man in my district, an 8-year-old schoolboy by the name of C.J. Woolley.

Mr. Speaker, C.J. Woolley started a program called Operation Mountain Love, and the goal was to raise $10,000 to support the families of those who were serving in the Persian Gulf. To date, they raised almost $8,000. The money is still coming in. The money is being disbursed to the families who need assistance and who needed that kind of support while their loved ones were serving us over in the gulf, and I think it is a wonderful, wonderful thing, particularly for someone as young as this young man, who is now going to be going into the third grade, to conceive of this, to get it off the ground and to raise that kind of money in a very small community in the mountain area of my district for the families of those who are serving our country. For his efforts he is one of the awardees of the Jefferson Award here in Washington.

He is with us today, Mr. Speaker, and perhaps you and my colleagues could recognize C.J. Woolley who is sitting with some other of my constituents up here in the gallery here. Our hats are off to my constituent, C.J. Woolley.

RTC LEGISLATION

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, as the House Banking Committee prepares to mark up the banking reform bill this week, I am introducing legislation today addressing the exorbitant amounts of money spent for legal fees by the Resolution Trust Corporation.

As we saw last week in testimony by the GAO, the RTC has "slipshop controls over the checks it issues, fails to properly award and monitor contracts, and has been unable to balance its own books."

The RTC and FDIC last year spent over $300 million of taxpayer money on private law firms involved in resolving failed financial institutions. Those legal fees will likely reach $750 million in 1991, as more and more banks and thrifts are hit by the economic recession and heavy real estate losses.

Only 10 law firms last year received $90 million, or 30 percent of all legal fees paid for work done at Government-controlled financial institutions. That's a small number of big-wig law firms getting awfully rich on the U.S. taxpayers.

I am introducing legislation today which imposes a cap of $1 million on legal fees the RTC or FDIC may pay to a single law firm over a 12-month period. Without a cap on legal fees, there is real potential for favoritism when doling out these lucrative contracts.

There is too much litigation encouraged by these outrageous fees. My bill will curb excessive litigation. It also requires the RTC to ensure the geographic distribution of legal contracts, and ensure that hourly rates paid to law firms under contract are minimized. When multimillion-dollar law firms are being paid with taxpayer dollars, it is imperative that the Government distribute the contracts on a fair and equitable basis. This kind of inequity compels me to offer this legislation today to encourage the Federal Government to distribute these legal contracts equitably.

□ 1210

THE REAL ISSUE—BANK FAILURES, NOT POLITICAL FEUDS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, why does the rift between Governor Wilder and Senator ROBB and the fact that the White House Chief of Staff, John Sununu, uses limousines to go to New York get more attention inside the beltway than the real problems happening outside the beltway.

Mr. Speaker, instead of getting concerned with Sununu making phone calls in a limousine, let us worry more about what he is saying. He is probably trying to scuttle the civil rights compromise by Republican Senators. That is what we should be worried about.

We should be worried about the scandalous situation that is happening with our banking crisis. The S&L disease is spreading with a vengeance to many, many more banks. The net cost of bank failures has escalated from $2.8 billion in 1989 to $6.5 billion in 1990 and is escalating to $15.9 billion for this year, virtually depleting the FDIC insurance fund to the point where taxpayer money may be needed to finance future failures.

Mr. Speaker, the FDIC is now saying that it is 440 banks that may go under instead of 340, and that $70 million is needed as a line of credit to stave off future bank failures.

Mr. Speaker, this is a scandal. The Congress and the White House must deal with this issue instead of worrying about political feuds and who uses what in a limousine.

Mr. Speaker, I would like to insert the attached article for the RECORD.

[From the Washington Post]

BOWSHER ON THE BANKS: THE WORST IS YET TO COME

(By Hobart Rowen)

In the three years ending this September, the cost of the bailout of failed savings and loans and banks will have hit a cool $172.3 billion, mostly for the S&Ls, according to the chief federal auditor, Comptroller General Charles A. Bowsher.

But the really bad news for the country is that the S&L disease is spreading with a vengeance to many more banks. The net cost of bank failures has escalated from $2.8 billion in 1989 to $6.5 billion in 1990, and an estimated $15.9 billion for this year, virtually depleting the Federal Deposit Insurance Corp.'s insurance fund to a point where taxpayer money may be needed to finance future failures. The latter figure is likely to be revised upward.

"The manufacturing and commercial problems that go with this recession aren't all that severe, but the banking crisis could be President Bush's Achilles' heel over the next 24-months." Bowsher said in an interview. The possibility of cascading bank failures is a time bomb that could not only send the economy into a new tailspin but also abort an easy Republican victory in 1992.

For months, federal regulators have publicly underestimated the severity of the banking crisis. Blame is placed on the stubborn recession, plus a depression in real estate—now spreading from the East Coast to California—exacerbated by the S&L crisis, which has dumped billions in bargain-basement real estate parcels on the market.

"What you can see here is that every two or three months, the trend is getting worse," Bowsher said. FDIC Chairman L. William Seidman was forced to admit that as many as 440 banks may fail this year and next, instead of 340, as he had initially forecast. That would boost the drain on what was a $20 billion FDIC insurance fund by $14 billion to $23 billion—wiping it out and leaving it in debt.

Thus, Seidman plans to seek a $70 billion line of credit from the Treasury to deal with existing and future bank failures. And that, Bowsher believes, will mark the beginning of a taxpayer bailout of the banks similar to that of the S&Ls, because the banks, contrary to Seidman's hopes and promises, won't be able to pay back all that is borrowed from the Treasury.

That's a dramatic shift in the outlook. Seidman's explanation for the turn of events is that the real estate recession is worse than the downturn in the rest of the economy. "Economic recovery hasn't showed up in banking," he told this reporter.

But the magnitude of the economic recession was fairly well assessed last fall—it was said to be mild. And it has been clear for a long time that the liquidation of S&L assets would clog the real estate market. Why, then, the escalation in bank failure estimates?

Some observers have wondered whether the daily dose of worse news about the banks represents an earlier coverup. Bowsher has no doubt that in 1988, "a lot of people felt there was a big hope the Reagan administration would be able to leave town and wouldn't have to deal with" the S&L problem.

He thinks "some of the people are now beginning to worry about the 1992 situation with the banks." And while he has no reason to believe there is a deliberate effort to distort the facts, he says, "I think there is a great reluctance to face up to the really bad news at any time, and when you get near elections, I think some people become even more reluctant."

It's hard to exaggerate the depth of the current banking problem: It ranges from bad to horrendous. What worries Bowsher most is that neither the banking industry nor the government is making a serious effort to assess its real dimensions.

Bowsher suggests that the industry, the Treasury, the Federal Reserve Board and the banking regulators are turning the other cheek. He contends there is no "realistic accounting" by major banks that provides a picture of their true financial condition.

When the government studies the records of failed banks, Bowsher said, "We've seen billions of dollars melt right off these balance sheets overnight. Now, we know that they haven't melted overnight, they haven't been written down properly." His point: Banks are carrying on their books billions in assets inflated beyond real market value. There has been almost an epidemic of bad loans for construction and commercial development, as new data released last week by Seidman demonstrated.

Not unexpectedly, some government officials challenged by the Bowsher analysis suggest that he is off target, or at best a worrywart, jumping to broad conclusions from fragmentary evidence. Seidman, an accountant himself, chalks it up to the natural caution of an auditor. "If I were an auditor, I would certainly want to be on record [on the possibility of a taxpayer bailout of the banks], but no one knows—it depends on future values, the future of the economy, and even Bowsher says he is not sure."

Other key Washington players are less charitable, charging that Bowsher is not as sophisticated about the banking world as they are. One who refused to be quoted insisted, in fact, that the banking crisis had bottomed out last October, and that there is no danger of any dramatic event touching off a systemic crisis.

What is uncontested, except halfheartedly by Seidman, is that at the end of 1991, the FDIC insurance fund, whose emblem once was proudly displayed on banks' front doors like a "Good Housekeeping" seal of approval, will have been wiped out—drained, nonexistent and in debt.

"We're kidding ourselves if we think that the taxpayer is not going to have to make some contribution" to the bank bailout, Bowsher told me. "How big, I don't have the faintest idea."

Seidman maintains a public posture of some optimism. "The good news is that the government stands behind the banks," Seidman said. "The bad news is that you [the taxpayers] stand behind the government."

LEGISLATION IMPOSING A CAP ON LEGAL FEES TO PRIVATE FIRMS

The SPEAKER pro tempore (Mr. GRAY). Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 5 minutes.

Mr. GLICKMAN. Mr. Speaker, the Resolution Trust Corporation [RTC] has an unprecedented dollar amount of assets under its control. Because the Corporation was created to resolve billions and billions of dollars worth of insolvent financial institutions, a close-to-impossible task, the Corporation is highly vulnerable to fraud, waste, and abuse. The General Accounting Office recently stated the RTC has "slipshod controls over the checks it issues, fails to properly award and monitor contracts, and has been unable to balance its own books."

I am introducing legislation today which imposes a cap of $1 million on legal fees the RTC or FDIC may pay to a single law firm over a 12-month period. It also requires the RTC to ensure the geographic distribution of legal contracts, and ensure that hourly rates paid to law firms under contract are minimized.

Mr. Speaker, the U.S. Government spent $300 million on private law firms working for the RTC and FDIC in 1990. Those legal fees will likely reach $750 million in 1991, as more and more banks and thrifts are hit by the economic recession and heavy real estate losses.

Over 950 law firms across the country have been approved to handle legal work, however, most of these firms receive none of it. In my own State of Kansas, law firms in 27 towns and cities have been approved to perform legal work for the RTC and FDIC. While 19 thrifts have been resolved in Kansas, only 9 Kansas towns have seen any of the work.

The FDIC has recognized that there is a problem with the distribution of legal contracts. They recently implemented a $2.5 million cap in which law firms may not accrue more than $2.5 million in legal fees for the FDIC or RTC over a 12-month period.

When multimillion-dollar law firms are being paid with taxpayer dollars, it is imperative that the Government distribute the contracts on a fair and equitable basis. Only 10 law firms received $90 million, or 30 percent of all legal fees paid for work done at Government-controlled financial institutions last year. This kind of inequity compels me to offer this legislation today to encourage the Federal Government to distribute these legal contracts equitably.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GLICKMAN) to revise and extend their remarks and include extraneous material:)

Mr. GLICKMAN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 60 minutes each day, on July 8, 9, 10, 11, 12, 15, 16, 17, 18, and 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GLICKMAN) and to include extraneous material:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. ACKERMAN.

Mr. OWENS of New York.

Mr. STARK.

Mr. SHARP.

Mr. ENGEL.

Mr. MOAKLEY.

Mr. SOLARZ.

Mr. HOCHBRUECKNER.

SENATE BILL, JOINT RESOLUTION, AND CONCURRENT RESOLUTION REFERRED

A bill and a joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 188. An act to amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of supervised release; to the Committee on the Judiciary.

S.J. Res. 159. Joint resolution to designate the month of June 1991, as "National Forest System Month"; to the Committee on Post Office and Civil Service.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ROSE, from the Committee on House Administration, reported that committee did on the following date present to the President, for his approval, a joint resolution of the House of the following title:

On June 13, 1991:

H.J. Res. 91. Joint resolution designating June 10 through 16, 1991, as "Pediatric AIDS Awareness Week."

ADJOURNMENT

Mr. GLICKMAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 15 minutes p.m.) the House adjourned until tomorrow, June 18, 1991, at 12 noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports and amended reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the fourth quarter of 1990 and the first quarter of 1991, in connection with official foreign travel are as follows:

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1990

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Steny H. Hoyer	11/18	11/20	France	750	150.00		(3)			750	150.00
Hon. Don Ritter	11/18	11/20	France	750	150.00		(3)			750	150.00
Mary Sue Hafner	11/18	11/20	France	750	150.00		(3)			750	150.00
Committee total					450.00						450.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Military aircraft.

STENY H. HOYER, Chairman, Jan. 31, 1991.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON RULES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 30, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. David Dreier	3/25	3/30	Bahrain and England				[3]4,796.00				4,796.00
Committee total							4,796.00				4,796.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Commercial transportation.

JOE MOAKLEY, Chairman, May 29, 1991.

REPORT OF EXPENDITURES FOR OFFICIAL TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPANDED BETWEEN OCT. 1 AND DEC. 31, 1990

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. E de la Garza	11/11	11/12	Spain		275.00						275.00
	11/12	11/15	Syria		606.00						606.00
	11/15	11/17	Saudia Arabia		199.00						199.00
	11/17	11/18	United Kingdom		291.00						291.00
Commercial transportation							6,600.00				6,600.00
Marshall Livingston	11/11	11/12	Spain		275.00						275.00
	11/12	11/15	Syria		606.00						606.00
	11/15	11/17	Saudia Arabia		199.00						199.00
	11/17	11/18	United Kingdom		873.00						873.00
Commercial transportation							2,350.00				2,350.00
Daniel Brinza	11/12	11/16	Switzerland		1,213.04						1,213.04
Commercial transportation							2,892.00				2,892.00
Lynn Gallagher	11/12	11/16	Switzerland		1,213.04						1,213.04
Commercial transportation							2,892.00				2,892.00
Heidi M. Pender	11/24	11/30	England		1,746.00						1,746.00
	11/30	12/2	Morocco		330.00						330.00
Daniel Brinza	11/30	12/8	Belgium		2,169.00						2,169.00
Commercial transportation							1,290.00				1,290.00
Anita Brown	11/30	12/8	Belgium		2,169.00						2,169.00
Laverne Hubert	11/30	12/8	Belgium		2,169.00						2,169.00
Allie Devine	11/30	12/8	Belgium		2,169.00						2,169.00
Commercial transportation							2,190.00				1,290.00
Lynn Gallagher	11/30	12/8	Belgium		2,169.00						2,169.00
Commercial transportation							1,290.00				1,290.00
Hon. Tom Lewis	11/30	12/2	Belgium		482.00						482.00
Commerical transportation					2,239.00						2,239.00
Hon. E de la Garza	12/5	12/8	Belgium		482.00						482.00
Hon. Ron Marlenee	12/5	12/8	Belgium		482.00						482.00
Hon. Robert F. Smith	12/5	12/8	Belgium		482.00						482.00
Marshall Livingston	12/5	12/8	Belgium		482.00						482.00
Hon. Mike Espy (incomplete)	11/8	11/10	Malta		276.00						
	11/10	11/11	Kenya		104.00						
Commercial transportation							2,442.00				
Committee total					23,700.08		21,046,00				41,924.08

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended. E de la GA

E de la GARZA, Chairman, Apr. 25, 1991.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON EDUCATION AND LABOR, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Hon. Thomas C. Sawyer	1/5	1/9	Luxembourg		1,024.25						1,024.25
Committee total					1,024.25						1,024.25

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM D. FORD, Chairman, Apr. 26, 1991.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON ENERGY AND COMMERCE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Ripley Forbes	1/8	1/19	Australia		1,847.88						1,847.88
Commercial airfare							5,300.00				5,300.00
In country airfare							195.81				195.81
Michael Hash	1/7	1/20	Australia		1,847.88						1,847.88
Commercial airfare							5,300.00				5,300.00
In country airfare							195.81				195.81
Melody Hughson	1/8	1/19	Australia		1,847.88						1,847.88
Commercial airfare							5,300.00				5,300.00
In country airfare							195.81				195.81
Karen Nelson	1/7	1/20	Australia		1,847.88						1,847.88
Commercial airfare							5,300.00				5,300.00
In country airfare							195.81				195.81
Lesley Russell	1/7	1/20	Australia		1,847.88						1,847.88
Commercial airfare							5,300.00				5,300.00
In country airfare							195.81				195.81
Rental car							252.71				252.71
Donald Shriber	1/7	1/20	Australia		1,847.88						1,847.88
Commercial airfare							5,300.00				5,300.00
In country airfare							195.81				195.81
Hon. Gerry Sikorski	1/4	1/8	Mexico		760.00						
Committee total					11,847.28		33,227.57				45,074.85

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent;/if U.S. currency is used, enter amount expended.

JOHN D. DINGELL, Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1991

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Melanie Barber	3/16	3/24	United Kingdom	422.41	[3]784.00		[4]3,734.00				
						163.60	[5]303.64				4,821.64
Donald J. Barry	3/24	3/30	Canada		[6]400.00		[7]1,042.58				1,442.58
Gina DeFerrari	3/22	3/30	Canada		[6]650.00		[7]1.042.58				1,692.58
Thomas O. Melius	3/22	3/30	Canada		[6]650.00		[7]1,042.58				1,692.58
Charles O. Moore	3/20	3/29	Switzerland	2,462.93	1,791.00		[7]3,246.00				5,037.00
George D. Pence	3/24	3/27	Canada		[6]400.00		[7]1,042.58				1,442.58
Committee total					4,675.00		11,453.96				16,128.96

[1] Per diem constitutes lodging and meals.

[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

[3] MIE rate issued in London.

[4] Airfare included hotel (package at reduced rates—advance from State Dept.)

[5] Ground transportation.

[6] Cash advance issued by State Department.

[7] Commercial airfare.

WALTER B. JONES, Chairman, May 24, 1991.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1568. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's fourth special impoundment message for fiscal year 1991, pursuant to 2 U.S.C. 685 (H. Doc. No. 102–101); to the Committee on Appropriations and ordered to be printed.

1569. A letter from the Acting Under Secretary of Defense (Acquisition), transmitting certification for the EA-6B, F/A-18, and Relocatable Over-the-Horizon Radar [ROTHR] Program, pursuant to 10 U.S.C. 2433(e)(2)(A); to the Committee on Armed Services.

1570. A letter from the Director of Defense (Administration and Management), transmitting the Department's report on the condition and operation of working capital funds for the fiscal year ending September 30, 1990, pursuant to 10 U.S.C. 2208(i); to the Committee on Armed Services.

1571. A letter from the Assistant Secretary of Defense for Legislative Affairs, transmitting a memorandum of justification for Presidential Determination 91-35, regarding drawdown of defense articles and services in Bangladesh, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on Foreign Affairs.

1572. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting its quarterly report concerning human rights activities in Ethiopia, covering the period January 15 to April 14, 1991, pursuant to Public Law 100-456, section 1310(c) (102 Stat. 2065); to the Committee on Foreign Affairs.

1573. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting notification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more to Saudi Arabia (Transmittal No. DTC-25-91), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

1574. A letter from the Secretary of Labor, transmitting the Department's third semiannual management report for the period October 1, 1990 through March 31, 1991; pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526); to the Committee on Government Operations.

1575. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title 18, United States Code, to protect keys, keyblanks, or keyways used in security applications by the Department of Defense; to the Committee on the Judiciary.

1576. A letter from the Administrator, General Services Administration, transmitting a copy of a prospectus for the Columbia Plaza Building, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1577. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the Coast Guard for fiscal year 1992 and 1993, and for other purposes, pursuant to 31 U.S.C. 1110; jointly, to the Committee on Merchant Marine and Fisheries and Armed Services.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STARK:

H.R. 2656. A bill to amend title XIX of the Social Security Act to assure appropriate coverage and payment for inpatient hospital services under the Medicaid Program; to the Committee on Energy and Commerce.

H.R. 2657. A bill to amend title XIX of the Social Security Act to provide that the amount paid for physicians' services under a State plan for medical assistance under such title may not be less than the amount paid for such services under the Medicare Program, and for other purposes; to the Committee on Energy and Commerce.

By Mr. FRANK of Massachusetts:

H.R. 2658. A bill to amend title 23, United States Code, to exempt any vehicle used by a unit of local government for the purpose of extinguishing fires from overall gross weight limitations generally applicable to vehicles using the Interstate System; to the Committee on Public Works and Transportation.

By Mr. GLICKMAN:

H.R. 2659. A bill to limit the amount that may be paid by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for legal services provided during any 12-month period by a law firm; to the Committee on Banking, Finance and Urban Affairs.

By Mr. YATES:

H.R. 2660. A bill entitled "Authorization of appropriations for the United States Holocaust Memorial Council"; jointly, to the Committees on House Administration, Interior and Insular Affairs, and Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

193. By the SPEAKER: Memorial of the Legislature of the State of Colorado, relative to health care costs; to the Committee on Energy and Commerce.

194. Also, memorial of the Legislature of the State of Hawaii, relative to the Civil Rights Act of 1991; jointly, to the Committees on Education and Labor and the Judiciary.

195. Also, memorial of the Legislature of the State of Colorado, relative to the Smithsonian Institution's National Air and Space Museum; jointly, to the Committees on House Administration and Public Works and Transportation.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 20: Mr. Richardson, Mr. Lehman of Florida, and Mr. Grandy.

H.R. 23: Mr. Serrano.

H.R. 68: Mr. Hefley, Mr. Hyde, Mr. Moody, Mr. Pallone, and Mr. Roybal.

H.R. 413: Mr. Tauzin, Mr. Schaefer, Mr. Holloway, Mr. Goodling, Mr. Skelton, Mr. Bilbray, Mr. Boehlert, Mr. Torres, and Mr. Oxley.

H.R. 565: Mr. Schaefer, Mr. Weber, Mr. Chapman, Mr. Espy, Mr. Jones of North Carolina, Mr. Quillen, Mr. Martin, Mr. Hunter, Mr. Manton, Mr. Solarz, Mr. Schiff, Mr. Rahall, and Ms. DeLauro.

H.R. 830: Mr. Brown and Mr. Gordon.

H.R. 951: Mr. Lewis of Florida, Mr. Shays, Mr. Studds, Mr. Brewster, and Mr. Broomfield.

H.R. 1226: Mr. Gibbons.

H.R. 1454: Mr. Torres and Mr. Richardson.

H.R. 1566: Mr. McMillan of North Carolina, Mr. Kostmayer, Mr. Wilson, and Mr. Roe.

H.R. 1751: Mrs. Lowey of New York.

H.R. 2027: Ms. Norton and Mr. Eckart.

H.R. 2081: Mr. Gingrich.

H.R. 2089: Mr. Hayes of Illinois and Mr. Espy.

H.R. 2199: Mrs. Lowey of New York and Mr. Goss.

H.R. 2235: Mr. Brewster.

H.R. 2237: Mr. Gilchrest, Mr. Leach, Mr. Rose, and Mr. Volkmer.

H.R. 2244: Mr. Ackerman, Mr. Wheat, Mr. Espy, Mr. Frank of Massachusetts, Mr. Dwyer of New Jersey, Mr. Conyers, Mr. Oberstar, Ms. Norton, and Ms. Collins of Michigan.

H.R. 2335: Ms. Kaptur.

H.R. 2452: Mr. Dwyer of New Jersey, Mr. Lipinski, Mr. Mineta, and Mr. Eckart.

H.R. 2488: Mr. Wolpe and Mr. Ackerman.

H.R. 2518: Mr. Jefferson and Mr. Hansen.

H.R. 2527: Mr. McGrath.

H.R. 2579: Mr. McCloskey.

H.R. 2584: Mr. Jefferson, Mr. Bacchus, and Mr. Espy.

H. Res. 168: Ms. Horton, Mr. Payne of New Jersey, Mr. Moakley, Mr. Frank of Massachusetts, Mr. Bacchus, Mr. Studds, Mr. Blaz, and Mr. Rangel.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

91. By the SPEAKER: Petition of the New York City Council, New York, NY, relative to consumer protection for subscribers of cable television services; to the Committee on Energy and Commerce.

92. Also, petition of the New York City Council, New York, NY, relative to the purchase of handguns; to the Committee on the Judiciary.

93. Also, petition of Municipal Police Employees Retirement System, Baton Rouge, LA, relative to overall contributions and benefits permitted under qualified public plans; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2622

By Mrs. JOHNSON of Connecticut:

—On page 12, line 24 of the bill, strike $3,606,124,000 and insert $3,574,874,000.

H.R. 2621

By Mr. DORGAN of North Dakota;

—On page 29, line 9, strike "$3,216,624,000", and insert "$3,141,000,000"

—On page 43, line 10, strike "$4,100,000,000", and insert "$4,025,000,000"

SENATE—*Monday, June 17, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 1 p.m., on the expiration of the recess, and was called to order by the Honorable MAX BAUCUS, a Senator from the State of Montana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray: Let us have a moment of silence for Senator BURNS and his staff. A young man on his staff was killed in a highway accident this weekend.

*Beware that thou forget not the Lord thy God * * *. Lest when thou hast eaten and art full, and hast built goodly houses, and dwelt therein; And when thy herds and thy flocks multiply, and thy silver and thy gold is multiplied, and all that thou hast is multiplied; Then thine heart be lifted up, and thou forget the Lord thy God * * *. And thou say in thine heart, My power and the might of mine hand hath gotten me this wealth * * * remember the Lord thy God: for it is he that giveth thee power to get wealth * * *. And it shall be, if thou do at all forget the Lord Thy God * * * ye shall surely perish. As the nations which the Lord destroyeth before your face, so shall ye perish* * * *.—Deuteronomy 8:11-20.

Eternal God, full of grace and mercy, this instruction of Moses which so influenced Abraham Lincoln reminds us of Jesus' words, "No man can serve two masters: for either he will hate the one, and love the other; or else he will hold to the one, and despise the other. Ye cannot serve God and mammon." (Matthew 6:24). Awaken us to the destructive force mammon, or money, has when it is first in our lives. In the past year we have witnessed its awful power to destroy in business, industry, the professions, and government.

Forgive us our naivete about the devastation wrought by money when we allow it to master us. Forgive us for the ease with which we dismiss God altogether or rank Him low in our priorities. Give us grace to heed the law of Moses and the wisdom of Jesus. And take seriously the God of our fathers. To the glory of God and the welfare of our Nation. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 17, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MAX BAUCUS, a Senator from the State of Montana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BAUCUS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

Mr. DOLE. Mr. President, I reserve the leaders' time on each side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOPE FOR LEBANON

Mr. DOLE. Mr. President, in early March, the distinguished majority leader, Senator MITCHELL, and I wrote a letter to President Bush concerning Lebanon. I ask unanimous consent to have printed in the RECORD at this point the text of that letter.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, March 1, 1991.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: The end of the war in the Persian Gulf will not end the problems and challenges of the Middle East and Gulf region. You have expressed your intention that the United States play a leading role in addressing the issues of the region. Secretary Baker already has described our principal concerns as regional security arrangements; arms proliferation; economic reconstruction; promoting peace among Israel, the Arab states and the Palestinians; and promoting U.S. energy independence.

As you continue the process of identifying American goals and priorities in the postwar Middle East, we urge you to devote serious attention to the nation of Lebanon, and the continuing need to do everything we can to enhance its sovereignty, independence and economic recovery.

The challenges are enormous. As a "front line" state in the war, Lebanon's economy has been severely disrupted by the international sanctions policy and the war. That disruption follows 15 years of war inside Lebanon, which has devastated the country.

Reconstruction of the country must be an important priority. It will not require extensive American assistance. The Lebanese and their neighbors can quickly restore the vitality and productivity of Lebanon's economy. But it will be important for the United States, the United Nations, and Arab institutions to do their part in helping to set Lebanon on the path of recovery.

Equally important, Lebanon has yet to regain its sovereignty and independence. We support the Taif Accords as a necessary first step toward lasting peace and stability in Lebanon. We welcome the reunification of Beirut and the tentative steps toward a broader peace. At the same time, we regret the bloodshed which preceded the current fragile peace, and deplore the expansion of Syria's control of Lebanon.

We are especially troubled that the expansion of Syrian authority occurred following Syria's decision to join the international coalition against Iraq and Secretary Baker's meeting with Syrian President Assad. It would be a terrible tragedy if Syria perceived that its cooperation in the war against Saddam Hussein gained it a "green light" for broader aggression in Lebanon. We believe it would be helpful for the Administration to clarify its policy toward Syrian actions in Lebanon in order to avoid possible future misunderstandings.

It would be short-sighted for the international community, as it focuses on Arab-Israeli relations and the questions of the Occupied Territories, to ignore the urgent need to restore full Lebanese control over all of its territory and secure the withdrawal of all foreign forces from that country.

We urge you to make Lebanon a central concern of American policy in the post-war period. We cannot achieve a "new regional order" in the Middle East if we exclude Lebanon.

Sincerely,

GEORGE D. MITCHELL.
ROBERT DOLE.

Mr. DOLE. The essence of that letter was our hope that the administration give high priority to Lebanon in our Middle East diplomacy; that we do everything possible to nurture the sovereignty and territorial integrity of Lebanon; that we make it clear to Syria that we would not trade off that goal in pursuit of other regional goals; and that we sympathetically consider Lebanon's need for both relief and reconstruction aid.

Last week, we received a reply from the President, and I want to share that, too, with the Senate. To that end, I ask that the text of the President's letter also be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, June 6, 1991.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am responding to your letter of March 1 expressing your hope that the Administration make Lebanon a foreign policy priority in the post-war period. I did not respond sooner because I wanted the situation to clarify somewhat in order that I could be more specific in my response.

Lebanon is indeed high on our Middle East foreign policy agenda, as I noted in my March 6 address to the Congress: "The quest for solutions to the problems in Lebanon * * * must go forward with new vigor and determination." Secretary Baker has discussed Lebanon at key stops on his Middle East tours, and he has met twice with Lebanese Foreign Minister Faris Bouez. We hope that Lebanon will agree to participate in any Middle East peace conference.

Let me explain the precepts which underlie U.S. policy toward Lebanon. The United States supports the unity, sovereignty, independence, and territorial integrity of Lebanon. We support the withdrawal of all non-Lebanese military forces from the country—Syrian, Israeli, and Iranian. We support the disarming and dissolution of all militias. We believe, as you stated in your letter, that the implementation of the Taif Agreement provides the best opportunity to achieve these goals, to promote peace, and to encourage national reconciliation.

I am encouraged by certain of the recent developments in Lebanon: there has been no factional fighting in over six months, boycotting Christian ministers have decided to join the cabinet, and the Lebanese Armed Forces have moved into South Lebanon and into territory north and east of Beirut previously held by militia forces. Major Christian, Druze, and Shia militias appear to be cooperating with the government's plan to disarm militias and expand government authority.

I, like you, am concerned that Syria not garner undue influence over Lebanon. Throughout the conflict in the Persian Gulf and Secretary Baker's discussions in the region, we have told the Syrians that we expect them to live up to the letter and the spirit of the Taif Agreement and to assist the Lebanese government to become more independent. We will work toward the end that Syrian actions in Lebanon will clearly be in the framework of normal relations between sovereign states. Syria must know that we firmly support Lebanon's independence, sovereignty and territorial integrity. We believe that the May 22 treaty between Lebanon and Syria must be measured against these principles and its consistency with the Taif Agreement. What will be key is how this treaty will be implemented, and we intend to watch that process closely.

As you suggest in your letter, economic development is an important next step for Lebanon. We have encouraged Lebanon's Arab friends and others such as the Japanese to assist. The Agency for International Development is currently reviewing our assistance program for Lebanon to see if its focus should be shifted away from relief toward reconstruction and development. We are also trying to assist the Lebanese government strengthen its central instruments through the release of non-lethal military equipment in Lebanon's Foreign Military Sales (FMS) pipeline, and through an International Military Education and Training (IMET) program. Although we have had to place the IMET program on hold due to Congressional objections, we would hope soon to be able to resume this valuable training. This particular program enables us to instill in Lebanese officers Western military precepts such as respect for law and civilian control of the military. This training will also enhance the government's ability to take independent action and implement its decisions.

I fully share your concern for Lebanon, torn for sixteen years by tragic conflict. I assure you that this Administration will continue to work to bring about enduring peace, prosperity, and independence for the people of Lebanon.

Sincerely,

GEORGE BUSH.

Mr. DOLE. Mr. President, I applaud President Bush's letter, and the very strong and effective policy on Lebanon that it describes.

As noted in the letter, and as most of us will recall, the President gave important place to Lebanon in his address to a joint session on March 6—saying, on that occasion: "The quest for solutions to the problems in Lebanon * * * must go forward with new vigor and determination."

As the President's letter demonstrates, the record of our diplomacy since indicates that he and his administration have made good on that pledge. Secretary Baker has made Lebanon a central item on his agenda, not only on his visits to Damascus, but throughout the region. We have told the Syrians firmly that we will not sacrifice our interests in Lebanon to other regional goals.

We have continued our strong support for the Taif accords, and encouraged the very important process of disarming the various militia which in the past have made a mockery of the concept of strong central government in Lebanon.

And we have begun to consider seriously Lebanon's aid needs—and asked some of our wealthy allies and friends to consider helping Lebanon, too.

Obviously, there is a long way to go in all these areas. In particular, Syria's motives and plans remain unclear; and the Syrian-Lebanese treaty to which the President refers raises more concerns and questions about Syrian intentions than it resolves. And the process of disarming militia, though underway with some success, won't be over until its over.

So we are still a long, long way from the restoration of real Lebanese sovereignty and territorial integrity. We will not be there until all the militia are disarmed, until all foreign and foreign-controlled forces are withdrawn or disbanded, and until the Lebanese central government and military establishes real control.

But things are on the right track—Lebanon is, and our policy toward Lebanon is. At long last, there are grounds for some hope.

So I commend the majority leader for his long-time and deep interest in this important issue, and I thank him for joining me in sending our letter to the President. And I commend the President for his persuasive reply and, far more, for the effective policy he and his administration have forged, and are implementing.

Mr. President, I reserve the remainder of my time.

SURFACE TRANSPORTATION EFFICIENCY ACT

Mr. MITCHELL. Mr. President, I thank the distinguished Republican leader for his comments about me. I want, if I might, at this time, to discuss with the distinguished Republican leader the status of the pending legislation, the surface transportation bill, which we have been attempting to proceed on for some days now.

As my colleague is aware, on Friday, the caucus of Republican Senators was held, following which I was advised by the acting Republican leader that no agreement could be obtained to have a vote Friday on the matter. I stated then, in response, that there was no alternative but to discontinue action on Friday, and return today with the hope and intention of proceeding to a vote on the pending amendment at or as close to 6 p.m. as possible.

I inquire of my colleague as to whether there has been any change in the situation since the colloquy I had with the acting Republican leader on Friday, in that regard.

Mr. DOLE. Mr. President, at about 10:30 this morning, we were given some additional numbers. The majority leader may recall that I suggested we take a look at the total effort—not just the gas tax but the total effort—going into highway construction, and those numbers have been made available.

We have made one suggestion, one suggested change, and we are waiting again for new numbers with that one suggested change, which should be available momentarily.

At that point, I would like to sit down with the majority leader and discuss how I believe this formula might be better than the pending Byrd proposal. There might be something that the distinguished chairman of the Appropriations Committee, the President pro tempore, might agree on himself.

So there has been that change. As soon as those numbers are available, I will contact the majority leader directly.

Mr. MITCHELL. Mr. President, I thank my colleague. As he is aware, I believe the change to a broader definition of effort in this context is appropriate. I have not seen the precise change. But I think, if we are going to reward States for effort, there ought to be the most precise measurement of effort possible that relates to the subject matter of the bill.

I just state that it remains my hope and intention that we can proceed to a vote on either the pending Byrd amendment or some matter in relation to the bill at or as close to 6 o'clock as possible. I have received calls from a number of Senators wanting to know what would occur, and I have had to tell them all, and state now to all those Senators who have called me directly but I am sure are concerned, that in the absence of an agreement, as every Senator knows, there is no way to assure that a vote will occur or, if one does occur, at what time, since any Senator has the ability under the rules to delay votes on any measure.

But it remains my hope and intention that we will be able to get either a specific unanimous-consent agreement or reach a point in the proceedings that we can have one or more votes this evening. I am not able to provide Senators any assurance in that regard since I do not have the capacity to do so absent consent, and we do not have consent yet. So I look forward to discussing the matter with my colleague.

Mr. DOLE. Mr. President, if the majority leader will yield further, I am also advised that at 2 o'clock the so-called donor States will be meeting to go over these newest numbers. That meeting will take place at 2 o'clock, as the majority leader has indicated. I have had a number of calls from Senators. Some say they cannot be here this evening, do not want to vote this evening. I have not been able to give them any promise either, as indicated by the majority leader. But we are in the process of doing a whip check on this side to see how many are available and at what time this evening they would be available.

I will pass that information on to the majority leader as soon as I have it.

Mr. MITCHELL. I thank my colleague.

As previously indicated, there will be a caucus of Democratic Senators at 3:30 p.m. today in S-207 in the Capitol for the purposes of explaining the substance of the current amendment and the various objects of disagreement that have arisen in the past several days and also to seek to obtain the ability to move forward to voting this evening and hopefully dispose of this bill in the near future. I wish to say, as I have said several previous times, when we finish this bill we will proceed to the comprehensive crime legislation, and I hope we get on that as soon as possible this week.

Mr. DOLE. If the majority leader will yield for one further comment, as the majority leader knows and I think he stated it on the floor before, once this formula is agreed to we are told, based on our conference on Friday, that it is pretty much over. If we can determine how to proceed on the so-called Byrd amendment, once that is disposed of, it seems to me the remainder will be fairly rapid.

Mr. MITCHELL. Some Senators have indicated an intention to offer other amendments, broad comprehensive amendments substituting one entire formula for that in the bill or that addressed by the Byrd amendment and amendments related thereto. But I think that the Republican leader is correct as to the major part of the bill. I expect some additional amendments and some additional time to deal with those amendments. I hope it will go as rapidly as possible because, as my previous statements indicated, I am anxious to proceed to disposition of this bill and go to the crime bill. I thank my colleague.

Mr. President, I reserve the remainder of my leader time.

Mr. DOLE. Mr. President, I still have leader time?

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senator has 10 minutes remaining.

ENOUGH IS ENOUGH

Mr. DOLE. Mr. President, this weekend the national news media had a carload of fun blasting the White House Chief of Staff for what they say is the latest example of improper travel by Mr. Sununu.

Today, I say, enough is enough.

As hard as the media are pressing to separate Mr. Sununu from his job, it just is not going to happen. The truth is, when you are Chief of Staff at the White House you do not lead a normal life. When you report directly to the President of the United States, you live a 24-hour-a-day commitment to a hot seat that few people could handle.

There is no privacy, little room for your family, and never any downtime when you are guaranteed nothing will happen. It is a huge sacrifice, and an even bigger responsibility. As recent events have dramatically demonstrated—from Panama to the Persian Gulf—dealing with national security emergencies is no 9-to-5 job.

When it is time to talk to President Bush, or the Cabinet, I do not want John Sununu on the telephone from the Trump Shuttle, the Amtrak Metroliner, or a nearby 7-11.

So let us give the White House some credit—it has been forthright and public in its review of Mr. Sununu's air travel. It has instituted reforms and ordered compensation where necessary. It is monitoring all travel requests, including auto travel.

Let us face it, we have all had our fun with John Sununu and his airplane trips. In fact, John even called me a few times to tell me the latest Sununu one-liners.

But enough is enough: This latest Sununu bashing is just piling on.

Mr. President, I reserve the remainder of my time.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business not to extend beyond the hour of 1:30 p.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Mr. DOLE. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that morning business be extended to the hour of 2:30, with Senators being permitted to speak therein for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONGRESSIONAL CALL TO CONSCIENCE

Mr. GRASSLEY. Mr. President, today I am proud to commemorate the 15th anniversary of the Congressional Call to Conscience. Each week, through the call to conscience, Congress brings attention to Soviet refusenik cases in order to urge the Soviet Union to allow them freedom. It is my honor to serve as Chairman of the Call to Conscience in the 102d Congress, along with my colleagues Senators KOHL and LAUTENBERG.

The year 1991 is shaping up as yet another historic year for the emigration of Soviet Jews. I am proud of the role Congress has played in making this exodus a reality. Over the years, our Government made the free emigration for Jews and other religious and ethnic minorities a condition precedent in our diplomatic and economic relations with the Soviet Union. Our efforts have helped make it possible for tens of thousands of Soviet Jews to emigrate to the United States and Israel.

Despite this momentous progress, galsnost has not become a reality for hundreds of refuseniks who are still being denied exit.

On May 20, the Supreme Soviet approved their long-awaited law on entry and exit. The law is a historic effort. Unfortunately it leaves several crucial issues unresolved.

First, the law will not go into effect until January 1, 1993. Second, it fails to adequately define what constitutes a state secret, which leaves this category open to broad and inconsistent interpretation. Though the law states that a citizen of the Soviet Union may be denied the right to leave the U.S.S.R. for no more than 5 years on secrecy grounds, the law also allows this term to be extended indefinitely. Finally, under the so-called poor relative clause, adults are still required to submit affidavits from parents renouncing any financial obligation. If applicants cannot obtain affidavits, the decision may be appealed to the courts, but there is no established appeals process.

Therefore, while we are witnessing dramatic changes, and we applaud the Soviet Government for these changes, we must continue to work until all those who seek freedom, until all refuseniks are free.

I will kick off the Congressional Call to Conscience with the case of Roman Mironov, a refusenik from Kharov. Roman's wife, Victoria, and son emigrated to Israel last year. From Israel she contacted my office with a plea for help for her husband. She wrote:

> My husband is utterly devoted to me, our son, and my parents. We have always been a close and happy family, devoted to our home and religiously observant. Please do your utmost so that my husband will be allowed to join our family in Israel.

Though Victoria and their son were granted permission to emigrate to Israel last year, Roman was refused on state secret grounds until at least 1994.

Seven years ago Roman resigned as an aeronautics engineer at an aircraft plant in Kharov. At that time, he was forced to sign a statement that he would not leave the Soviet Union for 5 years.

Five years after he resigned, the family applied for permission to emigrate to Israel. Though only Victoria and their son were granted permission, Soviet officials informed the family that once Victoria and their son departed for Israel, Roman's application would be reviewed for the purpose of family reunification.

Two weeks after they departed for Israel, Roman's case was reviewed and the denial was confirmed.

Today, the family remains separated. Roman still lives in Kharov, is unemployed, and is unable to find a job because of his exit application. I call upon the Soviet Government to allow Roman Mironov to be reunited with his family in Israel.

Just last week, President Bush approved additional agricultural credits to the Soviet Union, a move I strongly encouraged and supported. Now I hope the Soviets can send us a strong signal that their reforms will continue, by granting exit permission to Roman and all refuseniks.

This week, my fellow sponsors and I will circulate a letter to our colleagues asking them to participate in the Call to Conscience. I thank them in advance for their continued commitment.

With our joint efforts, we can work toward the day when we no longer have refusenik cases to bring to the Senate floor.

Mr. President, I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

STRATOSPHERIC OZONE DEPLETION AND GLOBAL CLIMATE CHANGE

Mr. BAUCUS. Mr. President, later this week the United States has a double opportunity to make a major commitment to protecting the health of our global environment and its inhabitants.

On June 19, the second session of the International Negotiating Committee for a Framework Convention on Climate Change of the U.N. General Assembly begins in Geneva. The goal of the assembled nations is to complete a climate change convention in time for signature at the U.N. Conference on Environment and Development next June.

At the same time in Nairobi, the contracting parties to the Montreal Protocol on Substances that Deplete the Ozone Layer, will meet to discuss amendments to strengthen the protocol.

For these negotiations to be successful, the United States must take a leadership role.

Mr. President, our atmosphere is facing a true global emergency.

The Earth's protective ozone layer is being eroded at an alarming rate by chlorofluorocarbons and similar manufactured substances, compounds used primarily as refrigerants, fire extinguishers and solvents.

Recent scientific data from the National Aeronautics and Space Administration shows that the ozone layer is being destroyed at a rate two to three times faster than previously thought. The ozone layer over the United States has already been depleted by 4 to 5 percent since 1978. That is more than double the rate predicted just a year ago.

Thinning of the ozone layer allows more high energy ultraviolet radiation to strike the Earth's surface, increasing the incidence of skin cancers and cataracts, and potentially suppressing the immune system. Increased ultraviolent radiation has also been shown to damage crops and marine life.

The Environmental Protection Agency predicts that the observed ozone depletion will lead to as many as 12 million more skin cancers and over 200,000 additional skin cancer deaths in the United States alone during the next 50 years.

But this is only part of the problem. Chlorofluorocarbons are also greenhouse gases. Together with carbon dioxide, methane, and nitrous oxides, these greenhouse gas emissions are warming our planet. Past emissions have already committed us to a temperature increase of 1.5 to 4.5 degrees Centrigrade. This is an unprecedented rate of warming, bringing the Earth to its warmest level in at least 150,000 years.

The anticipated environmental, economic, and health consequences of the greenhouse effect are even more severe and intractable than those of ozone depletion.

Despite this fact, emissions of the principal greenhouse gas, carbon dioxide, remain unchecked. The United States, with about 5 percent of the world's population, generates more than 20 percent of all manmade emissions of carbon dioxide. U.S. carbon dioxide emissions originate almost exclusively from burning oil and other fossil fuels.

Yet, while most of the developed countries of the world are seeking through an international protocol to stabilize or reduce greenhouse gas emissions, particularly carbon dioxide, the United States stands alone as unwilling to commit to fixed targets and dates for reduction. Internationally, the administration seeks an empty framework agreement. They just want to talk, not act.

Mr. President, it is time for the administration to take the domestic and international steps necessary to protect our planet.

Section 606 of the Clean Air Act amendments of 1990 requires that the Administrator of the Environmental Protection Agency implement an accelerated phaseout schedule for CFC's and other ozone depleting chemicals more rapidly than the year 2000 deadline of the Montreal protocol, if scientific information suggests an accelerated schedule is necessary to protect human health and the environment.

I say that 12 million more skin cancer cases are reason enough to accelerate the phaseout schedule for ozone depleting substances.

The European Community nations already support moving up the year 2000 phaseout deadline for chlorofluorocarbons to 1997. The Europeans are already doing it. The United States should do no less.

We must also consider restrictions on CFC substitutes now being developed that are still harmful—though less so than CFC's—to the ozone layer. It is clear from the rate and duration of the current ozone depletion, that our atmosphere cannot tolerate more abuse.

We must also provide timely assistance to developing countries so that they will have access to safe substitutes and eliminate production and use of CFC's well in advance of their 2010 deadline.

We can also take stronger steps to improve energy efficiency and conservation. By reducing our use of fossil fuels, we will emit less carbon dioxide.

Recent reports by the Office of Technology Assessment and the National Academy of Sciences have identified dozens of measures available to curb emissions of carbon dioxide and other greenhouse gases at a net savings or at low cost.

These measures would help—not hinder—American's economic competitiveness. How can we hope to compete with Japan and Germany, when our economy uses twice as much energy per unit of GNP as theirs do?

Mr. President, for the United States it is a question of leadership, a question of environmental protection, and also a question of survival. To protect the world we and our children will live in in the 21st century, we must make policy choices now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

THE JOURNAL

Mr. BUMPERS. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Journal of the proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 4:30 P.M.

Mr. BUMPERS. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until the hour of 4:30 p.m.

There being no objection, the Senate, at 3:31 p.m., recessed until 4:27 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. DASCHLE].

REMEMBERING "MR. K"—LONG-TIME SENATE FOOD DIRECTOR

Mr. DOLE. Mr. President, I rise today to pay tribute to a long-time Senate employee who passed away late last week. For 16 years, John Koutsoumpas served the Senate as the operations director of the Senate restaurant food service. If you did not know him by his full name, you certainly knew him as "Mr. K." Until he retired last October, Mr. K had a daunting task—planning and executing the many meals and the countless receptions that take place every day throughout the Capitol and the Russell, Dirksen, and Hart Buildings.

No matter how long you knew Mr. K, you knew how important he was to the functioning of this body. His hard work epitomized the loyalty, dedication, and sacrifice that are the hallmark of the talented people who work on the Hill. Let me also add, he knew how to serve up some good food, too. He was a good and decent man, and the entire Senate family feels this terrible loss.

Mr. President, I know my colleagues join me in sending our heartfelt sympathies to John's wife, Alice, whom we all know as a friendly and courteous Senate Doorkeeper outside the Republican Cloakroom, and to their two children.

BALTIC FREEDOM DAY

Mr. GARN. Mr. President, I wish to recognize Baltic Freedom Day, which was commemorated June 14, 1991. Fifty years ago, Soviet soldiers began mass deportations of Estonian, Latvian, and Lithuanian citizens to camps in Siberia. In 1 day alone, June 14, 1941, 60,000 Baltic men, women, and children were taken from their homes. Ultimately, more than 600,000 Baltic people were deported from their native countries and sent to the camps, where many of them died.

For the past 10 years, the Congress of the United States has passed legislation urging the President to declare June 14 as Baltic Freedom Day. I have cosponsored the legislation every year. On June 13, 1991, President George Bush signed a proclamation that accomplished this.

As our country celebrates the birth of freedom throughout much of the world, let us not forget the valiant effort of Baltic citizens today as they struggle for independence and liberty. Despite increased violence against the Baltics by Soviet soldiers, the people of the Baltic continue to display remarkable patience and fortitude in striving for self-determination.

I applaud President Bush and the Congress for commemorating this day, and will continue to support legislation promoting freedom for the Baltic people.

JOHN KOUTSOUMPAS

Mr. BINGAMAN. Mr. President, the Senate lost a dear friend when John Koutsoumpas died on Thursday. "Mr. K," operations director of the Senate restaurants for 16 years, was an integral part of what our Chaplain calls "the Senate family." He was an efficient, gracious, thoughtful man who served this institution well. Members of the Senate, their families, friends, and constituents all felt the touch of "Mr. K" in every meal and in every Capitol event that involved food. His kindness, courtesy, and concern were genuine, and he made everyone who came near feel special.

John Koutsoumpas will be remembered by all of us who recognized his devotion to the Senate and his friendship to its Members. His wife, Alice, herself an important part of the Senate family, is comforted, I hope, by the knowledge that "Mr. K" was widely admired and sincerely appreciated by all of us.

IF AND WHEN—A PERSONAL TESTAMENT TO PTSD

Mr. PELL. Mr. President, I would like to share with my colleagues some particularly moving poems written by Mr. Kenneth Sylvia of West Warwick, RI. Mr. Sylvia's poems are a personal testament to the complex feelings of a Vietnam veteran who suffers from post traumatic stress disorder [PTSD].

PTSD is a recognized and treatable disorder afflicting thousands of Vietnam veterans. Symptoms include recurring nightmares, anxiety, and panic attacks, as well as aggressive and sometimes violent behavior. While veterans do have access to professional help in their recovery efforts through the Readjustment Counseling/Vet Center Program, there remains a great unmet need among Vietnam veterans for medical treatment for PTSD.

We in Congress must do more to reach Vietnam veterans suffering from PTSD to let them know that help is available. And we must continue to improve and expand existing programs to help the victims of PTSD and ensure that the VA meets its responsibilities to these veterans. Mr. Sylvia uses his poems as an outreach tool to let Vietnam veterans know that others share their feelings. His message is one of hope—hope for a better life, free from the traumas of war.

I ask unanimous consent that the text of Mr. Sylvia's poems be printed in the RECORD.

There being no objection, the poems were ordered to be printed in the RECORD, as follows:

IF AND WHEN

If and when I regain my faith,
  And come to terms with my God;
Will it be alright for a soldier like me,
  To get comfort from his staff and his rod.

If and when my brothers reach out,
  Will there be someone to hear their cry;
Will the people all listen and extend a hand,
  Or will they just let them pass by.

Will the nightmares that haunt us keep coming back,
  To forever keep taking its toll;
Will the dreams of the past stay buried in time,
  And allow us some peace to grow old.

If and when I get back my confidence,
  My self-esteem and my pride;
Will it mean I won't have to live in the past,
  With a part of the truth that's a lie.

Will our country learn the lessons of the past,
  Of life, of love, and of war;
Or will they all have died in vain everlasting,
  Soldiers with a country no more.

If and when I ever come home,
  In heart and soul, and in mind;

I'll still feel the terrible loss.
Of the comrades that we left behind.

THEN AND NOW

Again, in turmoil and confusion . . .
Thoughts regress into an abyss
Alone in the darkness, sheltered
Desperately seeking the light,
The energy fades, the spirit weakens . . .
The soul, seeking flight falters,
Pondering its meaning of existence.
Drifting through dreams
A shattered hope responds,
To what end does these means arise?
What unmentioned seed has flowered
And given birth to this awakening
Of superficial feelings, overpowering
The senses, seeking reason,
Bearing no fruit, the flower grows,
Its beauty overwhelming, its source unsewn.
By what right shall I pluck it from its
Bosom, only to put to use that which shall fade again.

AMBUSH

We all geared-up just before dawn,
Yes we were going to step out;
Search & Destroy, Search & Destroy
That's what this missions about.

We walked to the air-strip and boarded the choppers.
We're going hunting for humans you see;
Some call them brothers, father or son,
But to us they are just called V.C.

We're sweeping the jungle from east to west,
A company is blocking you see;
When we make contact we'll force them to run,
Right into their enemy.

A shot ring out, a grenade goes off,
Flashes and smoke then another;
I hear a scream, a man's cry for help,
Yes, the V.C. have fallen a brother.

You crawl out and grab him to drag him to safety,
Each inch seems like a mile to me;
With help from a friend and the medic that's coming,
He may live if he has God's mercy.

I held his hand, a smile came to his face,
It doesn't look good I know;
And this young soldier has a wife and a kid,
And he just don't want to let go.

His shirt now ripped open, a bandage in place,
He says something about Viet-Cong;
And it's not over yet, cause he's going into shock;
And he knows now he won't live too long.

He beat on his chest, filled his lungs with his breath,
All as a last resort;
Another young man, a new K.I.A.,
For the company morning report.

TRIBUTE TO GEN. CARL E. VUONO

Mr. WARNER. Mr. President, the victory of Operation Desert Storm was not won in 100 hours. It was won over the past decade through foresight, dedication, and hard work by those entrusted to lead our Armed Forces. No one understands this better than the man I would like to pay tribute to today, Gen. Carl E. Vuono, the retiring Chief of Staff of the Army.

I have worked closely with General Vuono in my position on the Armed Services Committee throughout the last 4 years during his tenure as Army Chief of Staff. In fact, I introduced him to the committee at his confirmation hearing 4 years ago. I have always been impressed with his uncompromising professionalism; his competence in the art of war; his sense of responsibility for the Army and our soldiers; and his deep and abiding commitment to the Nation.

No single individual has contributed more than Carl Vuono to the revitalization of our Army—the Army that performed so well in Iraq and that has captured the pride and admiration of the American people. General Vuono so embodies the principles of service that we demand of our military leaders, I feel that it is my duty to call his extraordinary contributions to this Nation to the attention of this body.

General Vuono's career has spanned 34 years since he took his oath of office as a second lieutenant of field artillery at West Point in 1957. A dedicated field artilleryman, General Vuono has commanded troop units at all levels, led American soldiers in combat for 2 years in Vietnam, and, in the early 1980's, commanded the 8th Infantry Division in Germany, considered by many at that time to be the cutting edge of our combat power in NATO.

Among his many accomplishments, General Vuono is perhaps most known for his expertise and dedication in training soldiers. Throughout his career, he has been guided by what he describes as "the sacred responsibility of leadership"—"No soldier must ever die in the defense of this Nation because that soldier was not properly trained."

On the strength of that philosophy, General Vuono set in motion landmark doctrinal and training strategies, while serving in a series of key positions within the Army. His programs have produced soldiers, units, and leaders of unprecedented ability and readiness. In fact, since 1982, when he became the commander of the Army's Combined Arms Center at Fort Leavenworth, KS, through his current tenure as Army Chief of Staff that ends on June 21, Carl Vuono has been the guiding light for the revitalization of our Nation's Army.

It is no coincidence that the Army's airland battle doctrine was first published under General Vuono's tutelage. He clearly understood that a military force must have a credible fighting doctrine if it is to win in combat and if it is to develop an effective combat-ready fighting force. Airland battle doctrine, so-named in recognition of the inherent joint and combined nature of modern warfare, laid the groundwork a decade ago for victory in Desert Storm. From that doctrine evolved the leader development and training programs and the development of equipment, weapon systems, organizations, and tactics that were so successful in the desert.

Carl Vuono's legacy of a trained and ready total Army is etched not only in the sands of the Arabian Peninsula and the jungles of Panama, but in the minds of soldiers he has led, many of whom owe their lives to his uncompromising adherence to the highest standards of training, and readiness.

Several years ago, as we were beginning to envision a thaw in United States-Soviet relations, General Vuono saw change coming, even before the historic shift in national military strategy. He initiated a series of assessments that ultimately enabled him to set a course for the Army of the future that could be readily aligned with the changing strategy. What evolved was a far-reaching framework to prepare the Army for the next century.

General Vuono's vision for the future rests on shaping a versatile, deployable, and credible Army based on the solid foundation of what he describes as six enduring imperatives. These are the principles on which today's Army has been built and that will guide the Army of the future. They include, not surprisingly, a solid fighting doctrine; an appropriate mix of armored, light, and special operations forces; tough, realistic training; a continuously modernizing force; and a commitment to developing the next generation of Army leaders.

He also envisioned the need to significantly reduce the size of the Army to preserve its quality and readiness over the turbulent decade ahead and for the future. Those of us who deal regularly with defense issues fully appreciate the magnitude of such a decision for any service chief. Yet Carl Vuono had the fortitude to make such a sweeping decision, because of his commitment to preserve the finest Army possible. In testimony this spring before the Armed Services Committee he forcefully noted:

> We face a clear choice as we conclude Operation Desert Storm and resume the reshaping of the Army. We can maintain the standards of the Army of Desert Storm, or we can condemn our soldiers to the deadly futility of going into battle unprepared. [The Army believes] we have made the correct choices in our plans for the future by consciously choosing to preserve the quality, readiness, and warfighting competence of the Army at the expense of reducing it to the smallest level in half a century.

Last August, when America called on its Armed Forces to right a grievous wrong done to a country far from our shores, our Army responded with courage, compassion, and commitment. Deploying from the United States and Europe, and supported by its sister services and coalition partners, America's Army deterred further aggression, defended Saudi Arabia, and laid waste to the fourth largest Army in the world.

That is the final word on the capabilities of the Army today, and that is a fitting monument to the contributions of this man, my friend, Carl

Vuono. I know that his wife, Pat, and their children Kathy, Tim, and Jeff, have supported Carl throughout his career and are extremely proud of his accomplishments. General Vuono, on behalf of the Senate Armed Services Committee and the U.S. Senate, I salute you for the outstanding service that you have performed for this Nation.

TRIBUTE TO DR. AND MRS. JAMES S. BERNSTEIN ON THEIR 35TH ANNIVERSARY

Mr. LEAHY. Mr. President, the notion of public service and public involvement by private individuals is so essential to the survival of democracy that we must do all we can to recognize and encourage it. It becomes a pleasure as well as a duty to do so when such selfless service interests a happy and significant event.

I therefore take great pleasure in saluting an extraordinary couple, James and Barbara Bernstein, on the occasion of their 35th wedding anniversary. That they have been happily wed for 35 years is cause enough to celebrate, but when their 35 years together represent as well a mutual and continuing activism on behalf of peace and justice, it commands all our felicitations.

Jim Bernstein is a physician, a doctor of internal medicine who has served his patients and his profession for more than 30 years in Rockville Centre, NY. For nearly two decades, Barbara Bernstein has been director of the Nassau County chapter of the Civil Liberties Union, and for all of her active life, she has been a fighter for the underdog.

Back in 1960, while Jim was setting up practice and still finding enough time to serve in the American Jewish Committee's search for the means to racial harmony, Barbara was organizing and leading the fight to bring integration in housing to the suburbs.

When Allard Lowenstein came to Nassau County in 1968 to seek a congressional seat, the Bernsteins were in the forefront of his campaign, as well as his subsequent campaigns. More than that, they became sort of proxy parents in Lowenstein's "Children Crusade, turning their home into a sort of boarding house for the youngsters Al attracted from across the country. They housed literally dozens of young activists, including one future U.S. Congressman and one future California State Senator.

Jim has been increasingly active with the Physicians for Social Responsibility, recently serving as president of the Nassau County chapter, and Barbara's activities on behalf of civil liberties have deepened and matured.

Together, they have in 35 years achieved an extraordinary mosaic of social and community identity.

Lest we lost sight of the marital side of their union, it should be noted that it has been happy, fruitful, and productive. Jim and Barbara have been surrounded with many friends and a close family, and blessed with three children who themselves are carrying forward the tradition of service set forth by their parents. Elizabeth is completing her degree in clinical psychology in Boston, Eric is about to become an assistant U.S. attorney in the eastern district of New York, and Julie, I am delighted to say, is an aide in my office in Washington.

Please join me in saluting and congratulating Jim and Barbara Bernstein on their 35 happy and productive years together.

TRIBUTE TO THE LATE JOHN KOUTSOUMPAS

Mr. THURMOND. Mr. President, I rise today to pay tribute to Mr. John Koutsoumpas, who passed away on June 13. Mr. Koutsoumpas, the former assistant director of the Senate food service, was well known in these Halls for both his professional expertise and his personal warmth.

"Mr. K," as he was fondly known, was one of the most energetic individuals I have ever met. He was always on the move, making sure that the Senate food service ran smoothly and the special events were flawless. He inspired genuine affection among a legion of friends and admirers here on Capitol Hill, and he will be greatly missed.

Mr. President, as I walked into the funeral service for John Koutsoumpas this morning, I was struck by the many familiar faces in the pews. Interspersed with Mr. K's family was a veritable cross-section of the Senate—Senators, staffers, food service employees, and many others—all come to pay their last respects to this kind and gentle man who gave so much to the Senate.

As I mentioned in a tribute to him upon his retirement, Mr. K shared not only his professional skill but his family with the Senate. His lovely wife, Alice, is a Senate Doorkeeper and his daughter Melinda is a valued member of my Senate Judiciary Committee staff. His son Tom is in charge of Federal relations for the State of Indiana.

Mr. President, the Senate has lost a good friend in John Koutsoumpas, and we shall miss him. I would like to extend my deepest condolences to the entire Koutsoumpas family at this difficult time.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,284th day that Terry Anderson has been held captive in Lebanon.

RECESS UNTIL 5 P.M.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of South Dakota, asks unanimous consent that the Senate stand in recess until the hour of 5 p.m.

There being no objection, the Senate, at 4:27 p.m., recessed until 5 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BINGAMAN].

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SURFACE TRANSPORTATION EFFICIENCY ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1204) to amend title 23, United States Code, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Byrd amendment No. 295, to allot bonus apportionments based on the level of effort shown by each State.

(2) Byrd modified amendment No. 296 (to amendment No. 295), of a perfecting nature.

Mr. MITCHELL. Mr. President, I will, momentarily, make a statement regarding the pending bill, but before doing so, I will await the presence of the distinguished Republican leader.

Therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be permitted to proceed as if in morning business for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1305 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I have now had the opportunity to consult with the distinguished Republican leader, and prior to that consulted with the distinguished Senators from New York and Idaho, the managers of the bill, following a meeting of Senate Democrats this afternoon on the subject.

It has been my hope and intention that we could proceed to vote on the Byrd amendment this evening, the Byrd amendment being the pending amendment, and then proceed to what other amendments remain. I have been advised by several Senators there will be other amendments, although I think it is a widespread expectation that once that principal amendment is dealt with, the remainder will not take an inordinate length of time, because it remains my desire to dispose of the bill as soon as possible.

I would like, if I might, to request of my colleague, the distinguished Republican leader, if he is prepared to respond to our desire to proceed to vote on the amendment this evening, and to then dispose of the bill as soon thereafter as possible.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, let me indicate to the majority leader that certainly I think everybody would like to vote, finish this bill, and go on to the crime bill, as the majority leader outlined earlier. What has been initiated by some—I think on both sides—is to see if we could take a look at the total effort and see what impact that might have on the numbers across the board, and then hopefully sit down with the distinguished chairman of the Appropriations Committee and see if we could make a case with the chairman that that might be an appropriate modification.

Again, it is like it was last Thursday: The numbers are on the way, but they are not here; they are supposed to be here in 15 minutes; then we need to have staff get together; then the principals get together.

But I can assure the majority leader, there is nobody on this side who has been promised there would not be any votes. It is not that we are not prepared to vote, except this difference, I think, is fairly important to many Senators.

Once that is resolved either way, I hope we could have a vote on the Byrd amendment, modified or not modified, by noon tomorrow. Then I would agree with the distinguished managers of the bill that there may be other amendments, and it may consume some time. But for all practical purposes, the bill will be virtually finished.

If we cannot reach some agreement, there could be an amendment on the total effort following the vote on the Byrd amendment. I think the distinguished Senator from Florida, Senator GRAHAM, has at least one amendment, maybe two amendments. I do not know of any amendments on this side that require rollcall votes, but there may be on an amendment on the total effort.

I just do not see how we can vote this evening, having made that statement, not having an opportunity to take a look at the numbers.

Mr. MITCHELL. I thank my colleague.

Mr. President, I am, of course, disappointed, but I understand the circumstances which exist. It is my hope that we can proceed to dispose of this major amendment tomorrow, and then continue with the bill thereafter.

As every Senator knows, under the Senate rules, any Senator can prevent a vote from occurring by use of the right under the Senate rules of unlimited debate. So, absent an agreement, I am unable to bring this matter to a vote as I had hoped.

I will say to Senators that the previous schedule for this legislative period, which contemplated no votes beyond 7 p.m. on Tuesdays and Wednesdays, will, of necessity, be abrogated, and Senators should be prepared for votes well into the evenings, if necessary, throughout the remainder of this legislative period, prior to the next recess.

I hope that we can proceed tomorrow—unfortunately, I have said that on almost every legislative day for the past several days—to dispose of this matter. And I look forward to further discussions with the distinguished Republican leader and the managers in that regard.

Mr. President, I have no further comment at this time except to announce, in view of the colloquy which has just occurred, there will be no rollcall votes this evening. I apologize to those Senators who altered their schedules to return in anticipation of such votes, but I am sure they all understand that I cannot bring a matter to a vote by myself, much as I would wish to do so, and any Senator may prevent a vote from occurring.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 296, AS FURTHER MODIFIED

Mr. BYRD. Mr. President, earlier today the donor Senators met and came to an agreement among themselves. As I had indicated earlier, whatever the donor Senators wished to agree to by way of their own formula, as long as it does not transgress on the level of effort, then I have no problem with modifying my own amendment accordingly.

So I am prepared to modify my amendment to comport with what I have been told is the consensus agreed upon, or at least the approach agreed upon by a majority of the donor States.

My State is not a donor State, so I do not have any dog in that fight. So I am prepared to send this modification to the desk, and I do so.

The PRESIDING OFFICER. The Senator has the right to modify his own amendment. The amendment is so modified.

The amendment (No. 296), as further modified, is as follows:

In the amendment, strike out "of effort apportionment bonuses" and all that follows through "available until expended." and insert in lieu thereof the following:

OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years beginning with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall, subject to the availability of appropriations, make an apportionment to each State in which the rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title for each of fiscal years 1993, 1994, 1995, and 1996; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall, subject to the availability of appropriations, make a bonus apportionment to each State equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment made to any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposable income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate apportionments under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the apportionments to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 10 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.

"(g) Funds authorized to be appropriated for bonus apportionment under this section shall be available only for projects authorized under chapter 1 of this title, including provisions which provide contract authority as provided in chapter 1 of this title.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"Sec. 159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $390,500,000.

(B) For fiscal year 1994, $943,000,000.

(C) For fiscal year 1995, $1,138,500,000.

(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(c) ADDITIONAL DONOR STATE BONUS AMOUNTS.—(1) In addition to the amounts which are apportioned under title 23, United States Code, the Secretary of Transportation shall, in accordance with paragraph (2) and subject to the availability of appropriations, apportioned among the States an additional amount for each of the following fiscal years out of the Highway Trust Fund (other than the Mass Transit Account):

(A) For fiscal year 1993, $390,500,000.

(B) For fiscal year 1994, $943,000,000.

(C) For fiscal year 1995, $1,138,500,000.

(D) For fiscal year 1996, $1,638,500,000.

(2)(A) The additional amount provided under this subsection for a fiscal year shall be apportioned only after bonus apportionments under section 159 of title 23, United States Code, to the extent of their availability, have first been made to the States.

(B) The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring each successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

(C) The additional apportionment under this subsection shall be subject to the provisions of chapter 1 of title 23, United States Code, including provisions which provide contract authority.

(D) Additional amounts apportioned under this subsection shall be available for a fiscal year to the extent and in the amount provided in an appropriation Act.

(d) OBLIGATION LIMITATIONS.—

(1)(A) Notwithstanding section 104 of this Act for each of the fiscal years 1993, 1994, 1995 and 1996, the Secretary shall distribute, among the States, the limitations imposed by section 104(a) of this Act by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways (other than sums authorized for section 159 of title 23, United States Code and sums authorized by subsection (c) of this section) which are apportioned or allocated to each State for such fiscal year bear to the total of such sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to all the States for such fiscal year until 100 percent has been distributed.

(B) The Secretary shall distribute the limitation remaining after the distribution in subparagraph (A) among the States entitled to apportionments or allocations of sums authorized by section 159 of title 23, United States Code, and sums authorized by subsection (c) of this section, in the ratio which such apportionments and allocations for each such State bear to the total of such apportionments and allocations for all such States.

(2) Whenever the limitation made available for a fiscal year is insufficient to provide 100 percent of the distribution under paragraph (1)(B), then—

(A) 50 percent of such insufficient limitation shall be deducted from the limitation that would be received for section 159 of title 23, United States Code, and

(B) 50 percent of such insufficient limitation shall be deducted from the limitation that would be received under subsection (c) of this section.

(e) INAPPLICABILITY OF OBLIGATION LIMITATION TO EMERGENCY RELIEF.—Limitations in section 104 of this Act shall not apply to obligations for emergency relief pursuant to section 125 of title 23, United States Code.

(f) DEFINITION.—For purposes of this section, the term "State" has the meaning given to such term in section 101 of title 23, United States Code.

Mr. BYRD. Mr. President, I ask unanimous consent to insert in the RECORD immediately following my modification of my own amendment today, a table that includes the numbers representing the DOT figures for all of the States and the District of Columbia and the territories, et cetera, under S. 1204. It would include the figures in the proposed Bentsen minimum allocation bonus; it would include the figures for the level of effort bonus; the total bonus; and the totals for the various States under both the bill and the bonuses.

There being no objection, the data was ordered to be printed in the RECORD, as follows:

TECHNICAL ASSISTANCE FOR SENATOR BYRD INCLUDE BENTSEN MINIMUM ALLOCATION

States	S. 1204, fiscal years 1992–96	Byrd amendment			S. 1204 with Byrd amendment, fiscal years 1992–96
		Proposed Bentsen minimum allocation bonus, fiscal years 1992–96	Level of report bonus, fiscal years 1992–96	Total bonus, fiscal years 1992–96	
Alabama	1,504,654,492	169,923,475	0	169,923,475	1,674,577,967
Alaska	1,196,027,198	0	0	0	1,196,027,198
Arizona	1,292,190,845	2,288,261	47,929,483	50,217,744	1,342,408,589
Arkansas	1,011,244,769	0	144,279,759	144,279,759	1,155,524,528
California	7,883,682,609	959,356,766	0	959,356,766	8,843,039,375
Colorado	1,308,920,520	0	147,825,574	147,825,574	1,456,746,094
Connecticut	1,711,879,954	0	42,004,684	42,004,684	1,753,884,638
Delaware	381,725,597	0	11,441,261	11,441,261	393,166,858
District of Columbia	521,106,402	0	7,781,983	7,781,983	528,888,385
Florida	3,539,587,296	453,619,940	0	453,619,940	3,993,207,236
Georgia	2,539,021,018	328,671,299	0	328,671,299	2,867,692,317
Hawaii	528,050,776	0	0	0	528,050,776
Idaho	611,632,310	0	126,534,835	126,534,835	738,167,145
Illinois	3,068,751,823	164,102,600	86,780,273	250,882,873	3,319,634,696
Indiana	1,858,333,931	240,785,538	0	240,785,538	2,099,119,469
Iowa	1,131,418,198	0	158,138,681	158,138,681	1,289,556,879
Kansas	1,051,076,259	0	0	0	1,051,076,259
Kentucky	1,325,539,738	106,553,749	39,500,646	146,054,395	1,471,594,133
Louisiana	1,276,100,845	0	259,447,296	259,447,296	1,535,548,141
Maine	478,342,416	0	0	0	478,342,416
Maryland	1,575,307,244	34,790,362	34,951,077	69,741,439	1,645,048,683
Massachusetts	4,152,235,601	0	42,546,417	42,546,417	4,194,782,018
Michigan	2,342,454,292	273,643,698	0	273,643,698	2,616,097,990
Minnesota	1,419,495,328	0	89,410,725	89,410,725	1,508,906,053
Mississippi	947,512,203	0	188,574,346	188,574,346	1,136,086,549
Missouri	1,938,221,394	208,565,260	0	208,565,260	2,146,786,654
Montana	884,738,282	0	138,828,613	138,828,613	1,023,566,895
Nebraska	774,493,164	0	220,679,401	220,679,401	995,172,565
Nevada	599,131,985	0	11,185,876	11,185,876	610,317,861
New Hampshire	458,983,371	0	0	0	458,983,371
New Jersey	2,568,613,022	34,069,527	0	34,069,527	2,602,682,549
New Mexico	919,991,108	0	88,415,436	88,415,436	1,008,406,544
New York	4,867,369,527	0	0	0	4,867,369,527
North Carolina	2,160,181,762	0	404,712,347	404,712,347	2,564,894,109
North Dakota	554,996,995	0	46,870,284	46,870,284	601,867,279
Ohio	3,080,479,178	136,542,354	261,983,230	398,525,584	3,479,004,762
Oklahoma	1,225,207,299	4,344,500	110,320,099	114,664,599	1,339,871,898
Oregon	1,111,999,000	0	115,252,941	115,252,941	1,227,251,941

TECHNICAL ASSISTANCE FOR SENATOR BYRD INCLUDE BENTSEN MINIMUM ALLOCATION—Continued

States	S. 1204, fiscal years 1992–96	Byrd amendment			S. 1204 with Byrd amendment, fiscal years 1992–96
		Proposed Bentsen minimum allocation bonus, fiscal years 1992–96	Level of report bonus, fiscal years 1992–96	Total bonus, fiscal years 1992–96	
Pennsylvania	4,130,446,366	20,669,522	39,024,862	59,694,384	4,190,140,750
Rhode Island	525,769,954	0	99,262,389	99,262,389	625,032,343
South Carolina	1,198,431,572	89,685,230	67,525,038	157,210,268	1,355,641,840
South Dakota	634,021,313	0	62,911,359	62,911,359	696,932,672
Tennessee	1,756,836,242	0	245,077,165	245,077,165	2,001,913,407
Texas	5,312,212,704	660,555,647	0	660,555,647	5,972,768,351
Utah	738,607,345	0	123,371,570	123,371,570	861,978,915
Vermont	399,735,284	0	0	0	399,735,284
Virginia	1,960,834,192	220,232,894	14,460,762	234,693,656	2,195,527,848
Washington	1,838,411,461	0	189,322,266	189,322,266	2,027,733,727
West Virginia	915,148,626	0	222,560,972	222,560,972	1,137,709,598
Wisconsin	1,609,275,209	0	221,588,350	221,588,350	1,830,863,559
Wyoming	621,925,718	0	0	0	621,925,718
American Samoa	3,116,646	0	0	0	3,116,646
Guam	3,116,644	0	0	0	3,116,644
Puerto Rico	468,643,311	0	0	0	468,643,311
Northern Mariana	3,116,644	0	0	0	3,116,644
Virgin Islands	3,116,643	0	0	0	3,116,643
Territories	84,822,060	0	0	0	84,822,060
Total	88,008,285,685	4,108,400,622 4,110,000,000	4,110,500,000	8,218,900,622	96,227,186,307

TECHNICAL ASSISTANCE FOR SENATOR BYRD—FISCAL YEAR 1992 INCLUDE BENTSEN MINIMUM ALLOCATION

States	S. 1204, fiscal year 1992	Byrd amendment			S. 1204 with Byrd amendment, fiscal year 1992
		Proposed Bentsen minimums allocation bonus, fiscal year 1992	Level of effort bonus, fiscal year 1992	Total bonus, fiscal year 1992	
Alabama	258,802,726	0	0	0	258,802,726
Alaska	203,270,381	0	0	0	203,270,381
Arizona	239,269,497	0	0	0	239,269,497
Arkansas	180,719,604	0	0	0	180,719,604
California	1,449,899,114	0	0	0	1,449,899,114
Colorado	234,142,957	0	0	0	234,142,957
Connecticut	322,692,434	0	0	0	322,692,434
Delaware	64,911,432	0	0	0	64,911,432
District of Columbia	110,420,780	0	0	0	110,420,780
Florida	668,032,181	0	0	0	668,032,181
Georgia	467,858,175	0	0	0	467,858,175
Hawaii	119,490,907	0	0	0	119,490,907
Idaho	104,121,795	0	0	0	104,121,795
Illinois	527,003,090	0	0	0	527,003,090
Indiana	345,628,844	0	0	0	345,628,844
Iowa	191,291,858	0	0	0	191,291,858
Kansas	178,167,905	0	0	0	178,167,905
Kentucky	240,646,855	0	0	0	240,646,855
Louisiana	219,056,327	0	0	0	219,056,327
Maine	81,481,173	0	0	0	81,481,173
Maryland	329,506,797	0	0	0	329,506,797
Massachusetts	378,649,520	0	0	0	378,649,520
Michigan	421,727,890	0	0	0	421,727,890
Minnesota	255,392,109	0	0	0	255,392,109
Mississippi	172,622,334	0	0	0	172,622,334
Missouri	343,393,349	0	0	0	343,393,349
Montana	150,952,734	0	0	0	150,952,734
Nebraska	130,951,885	0	0	0	130,951,885
Nevada	102,362,011	0	0	0	102,362,011
New Hampshire	78,023,496	0	0	0	78,023,496
New Jersey	525,879,354	0	0	0	525,879,354
New Mexico	157,724,437	0	0	0	157,724,437
New York	869,538,706	0	0	0	869,538,706
North Carolina	398,864,260	0	0	0	398,864,260
North Dakota	94,027,089	0	0	0	94,027,089
Ohio	580,209,032	0	0	0	580,209,032
Oklahoma	226,685,103	0	0	0	226,685,103
Oregon	207,485,465	0	0	0	207,485,465
Pennsylvania	871,113,938	0	0	0	871,113,938
Rhode Island	99,715,646	0	0	0	99,715,646
South Carolina	199,858,369	0	0	0	199,858,369
South Dakota	107,655,469	0	0	0	107,655,469
Tennessee	321,562,755	0	0	0	321,562,755
Texas	995,136,305	0	0	0	995,136,305
Utah	126,257,488	0	0	0	126,257,488
Vermont	67,593,539	0	0	0	67,593,539
Virginia	393,580,211	0	0	0	393,580,211
Washington	397,236,718	0	0	0	397,236,718
West Virginia	155,536,226	0	0	0	155,536,226
Wisconsin	342,679,567	0	0	0	342,679,567
Wyoming	105,499,080	0	0	0	105,499,080
American Samoa	526,749	0	0	0	526,749
Guam	526,749	0	0	0	526,749
Puerto Rico	79,226,657	0	0	0	79,226,657
Northern Mariana	526,749	0	0	0	526,749
Virgin Islands	526,749	0	0	0	526,749
Territories	14,335,900	0	0	0	14,335,900
Total	15,909,998,470	0	0	0	15,909,998,470

TECHNICAL ASSISTANCE FOR SENATOR BYRD—FISCAL YEAR 1993 INCLUDE BENTSEN MINIMUM ALLOCATION

States	S. 1204, fiscal year 1993	Byrd amendment			S. 1204 with Byrd amendment, fiscal year 1993
		Proposed Bentsen minimum allocation bonus, fiscal year 1993	Level of effort bonus, fiscal year 1993	Total bonus, fiscal year 1993	
Alabama	275,866,920	17,898,959	0	17,898,959	293,765,879

TECHNICAL ASSISTANCE FOR SENATOR BYRD—FISCAL YEAR 1993 INCLUDE BENTSEN MINIMUM ALLOCATION—Continued

States	S. 1204, fiscal year 1993	Byrd amendment			S. 1204 with Byrd amendment, fiscal year 1993
		Proposed Bentsen minimum allocation bonus, fiscal year 1993	Level of effort bonus, fiscal year 1993	Total bonus, fiscal year 1993	
Alaska	212,100,141	0	0	0	212,100,141
Arizona	236,831,501	0	4,552,147	4,552,147	241,383,648
Arkansas	187,122,707	0	13,703,308	13,703,308	200,826,015
California	1,449,679,971	84,357,553	0	84,357,553	1,534,037,524
Colorado	235,235,311	0	14,039,217	14,039,217	249,274,528
Connecticut	325,655,262	0	4,087,057	4,087,057	329,742,319
Delaware	67,728,153	0	1,085,547	1,086,547	68,814,700
District of Columbia	95,804,562	0	739,134	739,134	97,543,696
Florida	646,936,037	43,020,210	0	43,020,210	689,956,247
Georgia	4661,612,643	31,340,256	0	31,340,256	497,952,899
Hawaii	98,814,120	0	0	0	98,814,120
Idaho	108,577,801	0	12,016,640	12,016,640	120,594,441
Illinois	548,368,105	22,846,790	8,241,402	31,088,192	579,456,297
Indiana	340,794,455	23,045,581	0	23,045,581	363,840,036
Iowa	199,911,497	0	15,019,545	15,019,545	214,931,042
Kansas	186,060,128	0	0	0	186,060,128
Kentucky	239,571,101	12,092,198	3,751,755	15,843,953	255,415,054
Louisiana	233,519,616	0	24,643,567	24,643,567	258,163,183
Maine	84,975,995	0	0	0	84,975,995
Maryland	293,662,046	0	3,319,458	3,319,458	296,981,504
Massachusetts	1,089,104,984	0	4,042,094	4,042,094	1,093,147,078
Michigan	428,019,491	27,300,706	0	27,300,706	455,320,197
Minnesota	255,126,291	0	8,491,513	8,491,513	263,617,804
Mississippi	169,248,196	0	17,910,343	17,910,343	187,158,539
Missouri	350,973,507	23,221,071	0	23,221,071	374,194,578
Montana	157,308,376	0	13,185,175	13,185,175	170,493,551
Nebraska	136,850,378	0	20,958,859	20,958,859	157,809,237
Nevada	106,651,281	0	1,062,286	1,062,286	107,713,567
New Hampshire	81,414,691	0	0	0	81,414,691
New Jersey	479,451,815	0	0	0	479,451,815
New Mexico	164,114,826	0	8,397,162	8,397,162	172,511,988
New York	899,614,192	0	0	0	899,614,192
North Carolina	396,777,904	0	38,435,987	38,435,987	435,213,891
North Dakota	98,196,571	0	4,451,137	4,451,137	102,647,708
Ohio	563,282,497	13,320,097	24,882,197	38,202,294	601,484,791
Oklahoma	222,595,255	0	10,478,258	10,478,258	233,073,513
Oregon	201,809,223	0	10,945,578	10,945,578	212,754,801
Pennsylvania	767,726,420	0	3,707,005	3,707,005	771,433,425
Rhode Island	102,559,114	0	9,426,547	9,426,547	111,985,661
South Carolina	224,967,350	8,438,796	6,412,815	14,851,611	239,818,961
South Dakota	112,347,785	0	5,974,717	5,974,717	118,322,502
Tennessee	312,897,254	0	23,277,849	23,277,849	336,175,103
Texas	967,578,810	65,253,528	0	65,253,528	1,032,832,338
Utah	131,536,073	0	11,717,591	11,717,591	143,253,664
Vermont	70,636,063	0	0	0	70,636,063
Virginia	355,106,595	17,414,472	1,373,543	18,788,015	373,894,610
Washington	342,602,258	0	17,983,193	17,983,193	360,585,451
West Virginia	162,306,862	0	21,141,505	21,141,505	183,448,367
Wisconsin	298,397,310	0	21,044,869	21,044,869	319,442,179
Wyoming	110,140,392	0	0	0	110,140,392
American Samoa	550,539	0	0	0	550,539
Guam	550,538	0	0	0	550,538
Puerto Rico	82,798,838	0	0	0	82,798,838
Northern Mariana	550,538	0	0	0	550,538
Virgin Islands	550,538	0	0	0	550,538
Territories	14,983,368	0	0	0	14,983,368
Total	16,394,154,195	389,550,217	390,550,000	780,050,217	17,174,204,412

TECHNICAL ASSISTANCE FOR SENATOR BYRD—FISCAL YEAR 1994 INCLUDE BENTSEN MINIMUM ALLOCATION

States	S. 1204, fiscal year 1994	Byrd amendment			S. 1204 with Byrd amendment, fiscal year 1993
		Proposed Bentsen minimum allocation bonus, fiscal year 1994	Level of effort bonus, fiscal year 1994	Total bonus, fiscal year 1994	
Alabama	290,586,718	42,774,661	0	42,774,661	333,461,379
Alaska	225,706,112	0	0	0	225,706,112
Arizona	248,901,975	0	10,992,646	10,992,646	259,894,621
Arkansas	197,154,301	0	33,092,114	33,092,114	230,246,415
California	1,527,287,676	214,038,681	0	214,038,681	1,741,326,357
Colorado	248,881,229	0	33,903,560	33,903,560	282,784,789
Connecticut	341,710,594	0	9,859,191	9,859,191	351,569,785
Delaware	72,071,858	0	2,623,915	2,623,915	74,695,773
District of Columbia	101,321,495	0	1,784,921	1,784,921	103,106,416
Florida	681,704,899	101,482,592	0	101,482,592	783,187,491
Georgia	491,696,649	73,542,789	0	73,542,789	565,239,438
Hawaii	103,260,174	0	0	0	103,260,174
Idaho	115,440,745	0	29,018,952	29,018,952	144,459,697
Illinois	581,329,132	56,524,583	19,902,374	76,426,957	657,756,089
Indiana	359,118,934	53,885,464	0	53,885,464	413,004,398
Iowa	213,210,967	0	36,270,667	36,270,667	249,481,634
Kansas	198,238,910	0	0	0	198,238,910
Kentucky	252,446,237	28,421,970	9,060,141	37,482,111	289,928,348
Louisiana	246,066,800	0	59,508,594	59,508,594	305,575,394
Maine	90,365,422	0	0	0	90,365,422
Maryland	306,928,307	0	8,016,044	8,016,044	314,944,351
Massachusetts	1,105,258,635	0	9,761,090	9,761,090	1,115,019,725
Michigan	451,001,276	65,844,659	0	65,844,659	516,845,935
Minnesota	270,034,873	0	20,506,333	20,506,333	290,541,206
Mississippi	178,326,455	0	43,251,478	43,251,478	221,577,993
Missouri	369,834,256	54,923,855	0	54,923,855	424,758,111
Montana	167,101,752	0	31,840,976	31,840,976	198,942,728
Nebraska	145,948,843	0	50,613,573	50,613,573	196,562,416
Nevada	113,263,622	0	2,565,334	2,565,334	115,828,956
New Hampshire	86,644,941	0	0	0	86,644,941
New Jersey	500,980,830	0	0	0	500,980,830
New Mexico	173,949,040	0	20,278,194	20,278,194	194,227,234
New York	946,027,511	0	0	0	946,027,511
North Carolina	418,077,581	0	92,816,470	92,816,470	510,894,051
North Dakota	104,623,452	0	10,749,163	10,749,163	115,372,615
Ohio	593,571,518	29,101,783	60,087,911	89,189,694	682,761,212

TECHNICAL ASSISTANCE FOR SENATOR BYRD—FISCAL YEAR 1994 INCLUDE BENTSEN MINIMUM ALLOCATION—Continued

States	S. 1204, fiscal year 1994	Byrd amendment			S. 1204 with Byrd amendment, fiscal year 1993
		Proposed Bentsen minimum allocation bonus, fiscal year 1994	Level of effort bonus, fiscal year 1994	Total bonus, fiscal year 1994	
Oklahoma	234,406,677	1,610,219	25,304,177	26,914,395	261,321,073
Oregon	212,771,948	0	26,432,691	26,432,691	239,204,639
Pennsylvania	802,630,061	0	8,951,775	8,951,775	811,581,836
Rhode Island	106,943,839	0	22,764,302	22,764,302	129,708,141
South Carolina	237,056,346	19,582,004	15,486,452	35,168,466	272,224,812
South Dakota	119,581,664	0	14,428,540	14,428,540	134,010,204
Tennessee	331,562,936	0	56,213,148	56,213,148	387,776,084
Texas	1,019,601,782	152,793,381	0	152,793,381	1,172,395,163
Utah	139,669,550	0	28,296,016	28,296,016	167,965,576
Vermont	75,329,798	0	0	0	75,329,798
Virginia	372,897,110	48,203,565	3,316,934	51,520,499	424,417,609
Washington	357,952,569	0	43,427,260	43,427,260	401,379,829
West Virginia	172,755,625	0	51,053,704	51,053,704	223,809,329
Wisconsin	312,519,399	0	50,821,350	50,821,350	363,340,749
Wyoming	117,297,491	0	0	0	117,297,491
American Samoa	587,188	0	0	0	587,188
Guam	587,188	0	0	0	587,188
Puerto Rico	88,306,526	0	0	0	88,306,526
Northern Mariana	587,188	0	0	0	587,188
Virgin Islands	587,188	0	0	0	587,188
Territories	15,980,813	0	0	0	15,980,813
Total	17,237,786,615	942,830,206	943,000,000	1,885,830,206	19,123,515,821

TECHNICAL ASSISTANCE FOR SENATOR BYRD—FISCAL YEAR 1995 INCLUDE BENTSEN MINIMUM ALLOCATION

States	S. 1204, fiscal year 1995	Byrd Amendment			S. 1204 with Byrd amendment, fiscal year 1995
		Proposed Bentsen minimum allocation bonus, fiscal year 1995	Level of effort bonus, fiscal year 1995	Total bonus, fiscal year 1995	
Alabama	316,532,642	51,658,794	0	51,658,794	368,191,436
Alaska	249,663,149	0	0	0	249,663,149
Arizona	271,050,498	0	13,272,505	13,272,505	284,323,003
Arkansas	214,669,924	0	39,954,912	39,954,912	254,624,836
California	1,662,895,090	259,790,699	0	259,790,699	1,922,685,789
Colorado	272,457,377	0	40,935,276	40,935,276	313,392,653
Connecticut	368,037,942	0	11,836,111	11,836,111	379,874,053
Delaware	79,642,156	0	3,168,167	3,168,167	82,810,323
District of Columbia	108,010,251	0	2,155,073	2,155,073	110,165,324
Florida	742,285,724	122,470,874	0	122,470,874	864,756,598
Georgia	535,391,501	88,717,719	0	88,717,719	624,109,220
Hawaii	109,325,987	0	0	0	109,325,987
Idaho	127,712,150	0	35,038,142	35,038,142	162,750,292
Illinois	638,776,783	63,454,315	24,030,397	87,484,712	726,261,495
Indiana	391,034,180	64,984,695	0	64,984,695	456,018,875
Iowa	236,386,348	0	43,792,698	43,792,698	280,179,046
Kansas	219,485,284	0	0	0	219,485,284
Kentucky	274,888,536	34,296,907	10,938,990	45,235,897	320,124,433
Louisiana	267,937,594	0	71,849,103	71,849,103	339,786,697
Maine	99,763,780	0	0	0	99,763,780
Maryland	326,876,638	0	9,678,570	9,678,570	336,555,208
Massachusetts	1,183,389,795	0	11,784,473	11,784,473	1,195,174,258
Michigan	491,092,176	79,583,350	0	79,583,350	570,675,526
Minnesota	295,446,317	0	24,759,377	24,759,377	320,205,694
Mississippi	194,189,964	0	52,221,191	52,221,191	246,411,155
Missouri	402,703,125	66,293,615	0	66,293,615	468,996,740
Montana	184,696,860	0	38,444,589	38,444,589	223,141,449
Nebraska	161,813,445	0	61,110,635	61,110,635	222,924,080
Nevada	124,934,928	0	3,097,439	3,097,439	128,032,367
New Hampshire	95,777,543	0	0	0	95,777,543
New Jersey	534,178,766	0	0	0	534,178,766
New Mexico	192,053,829	0	24,483,854	24,483,854	216,537,683
New York	1,026,896,115	0	0	0	1,026,896,115
North Carolina	455,273,881	0	112,068,160	112,068,160	567,342,041
North Dakota	115,958,289	0	12,978,742	12,978,742	128,937,031
Ohio	646,321,414	35,000,022	72,549,471	107,549,493	753,870,907
Oklahoma	255,251,919	2,734,281	30,551,507	33,285,788	288,537,707
Oregon	231,585,873	0	31,915,058	31,915,058	263,500,931
Pennsylvania	854,473,408	0	10,807,881	10,807,881	865,281,289
Rhode Island	114,585,793	0	27,486,183	27,486,183	142,071,975
South Carolina	258,125,576	23,752,981	18,698,515	42,451,496	300,577,072
South Dakota	132,464,476	0	17,421,101	17,421,101	149,885,577
Tennessee	364,113,277	0	67,870,136	67,870,136	431,983,413
Texas	1,110,217,266	184,283,048	0	184,283,048	1,294,500,314
Utah	153,969,028	0	34,164,324	34,164,324	188,133,352
Vermont	83,515,260	0	0	0	83,515,260
Virginia	403,702,925	60,913,108	4,004,741	64,917,849	468,620,774
Washington	380,571,107	0	52,431,920	52,431,920	433,003,027
West Virginia	190,995,536	0	61,639,013	61,639,013	252,634,549
Wisconsin	333,411,043	0	61,361,746	61,361,746	394,772,789
Wyoming	129,892,747	0	0	0	129,892,747
American Samoa	651,090	0	0	0	651,090
Guam	651,089	0	0	0	651,089
Puerto Rico	97,909,897	0	0	0	97,909,897
Northern Mariana	651,089	0	0	0	651,089
Virgin Islands	651,089	0	0	0	651,089
Territories	17,719,929	0	0	0	17,719,929
Total	18,732,659,398	1,137,934,408	1,138,500,000	2,276,434,408	21,009,093,806

TECHNICAL ASSISTANCE FOR SENATOR BYRD—FISCAL YEAR 1996 INCLUDE BENTSEN MINIMUM ALLOCATION

States	S. 1204 fiscal year 1996	Byrd amendment			S. 1204 with Byrd amendment fiscal year 1996
		Proposed Bentsen minimum allocation bonus fiscal year 1996	Level of effort bonus fiscal year 1996	Total bonus fiscal year 1996	
Alabama	362,765,486	57,591,061	0	57,591,061	420,356,547

TECHNICAL ASSISTANCE FOR SENATOR BYRD—FISCAL YEAR 1996 INCLUDE BENTSEN MINIMUM ALLOCATION—Continued

States	S. 1204 fiscal year 1996	Byrd amendment			S. 1204 with Byrd amendment fiscal year 1996
		Proposed Bentsen minimum allocation bonus fiscal year 1996	Level of effort bonus fiscal year 1996	Total bonus fiscal year 1996	
Alaska	305,287,415	0	0	0	305,287,415
Arizona	296,137,374	2,288,261	19,112,185	21,400,446	317,537,820
Arkansas	231,578,233	0	57,529,425	57,529,425	289,107,858
California	1,793,920,758	401,169,833	0	401,169,833	2,195,090,591
Colorado	318,203,646	0	58,947,521	58,947,521	377,151,167
Connecticut	353,783,722	0	16,222,325	16,222,325	370,006,047
Delaware	97,371,998	0	4,562,632	4,562,632	101,934,630
District of Columbia	104,549,314	0	3,102,855	3,102,855	107,652,169
Florida	800,628,455	186,646,264	0	186,646,264	987,274,719
Georgia	577,462,050	135,070,535	0	135,070,535	712,532,585
Hawaii	97,159,588	0	0	0	97,159,588
Idaho	155,779,819	0	50,461,101	50,461,101	206,240,920
Illinois	773,274,713	21,276,912	34,606,100	55,883,012	829,157,725
Indiana	421,757,518	98,869,798	0	98,869,798	520,627,316
Iowa	290,617,528	0	63,055,771	63,055,771	353,673,299
Kansas	269,124,032	0	0	0	269,124,032
Kentucky	317,987,009	31,742,674	15,749,760	47,492,434	365,479,443
Louisiana	309,520,508	0	103,446,032	103,446,032	412,966,540
Maine	121,756,046	0	0	0	121,756,046
Maryland	318,333,456	34,790,362	13,937,005	48,727,367	367,060,823
Massachusetts	395,832,667	0	16,958,760	16,958,760	412,791,427
Michigan	550,613,459	100,914,983	0	100,914,983	651,528,442
Minnesota	343,495,738	0	35,653,503	35,653,502	379,149,240
Mississippi	233,125,254	0	75,191,334	75,191,334	308,316,588
Missouri	471,317,157	64,126,719	0	64,126,719	535,443,876
Montana	224,678,560	0	55,357,873	55,357,873	280,036,433
Nebraska	198,928,613	0	87,996,334	87,996,334	286,924,947
Nevada	151,920,143	0	4,460,817	4,460,817	156,380,960
New Hampshire	117,122,700	0	0	0	117,122,700
New Jersey	528,122,257	34,069,527	0	34,069,527	562,191,784
New Mexico	232,148,976	0	35,256,226	35,256,226	267,405,202
New York	1,125,293,003	0	0	0	1,125,293,003
North Carolina	491,188,136	0	161,391,730	161,391,730	652,579,866
North Dakota	142,191,594	0	18,691,242	18,691,242	160,882,836
Ohio	697,094,717	59,120,452	104,463,651	163,584,103	860,678,820
Oklahoma	286,268,345	0	43,986,157	43,986,157	330,254,502
Oregon	258,346,491	0	45,959,614	45,959,614	304,306,105
Pennsylvania	834,502,539	20,669,522	15,558,201	36,227,723	870,730,262
Rhode Island	101,965,562	0	39,585,357	39,585,357	141,550,919
South Carolina	278,423,931	37,811,449	26,927,246	64,738,695	343,162,626
South Dakota	161,971,919	0	25,087,001	25,087,001	187,058,920
Tennessee	426,700,020	0	97,716,032	97,716,032	524,416,052
Texas	1,219,678,541	258,225,590	0	258,225,690	1,447,904,231
Utah	187,175,196	0	49,193,639	49,193,639	236,368,835
Vermont	102,660,624	0	0	0	102,660,624
Virginia	435,547,351	93,701,749	5,765,544	99,467,293	535,014,544
Washington	360,048,809	0	75,479,893	75,479,893	435,528,702
West Virginia	233,554,377	0	88,726,750	88,726,750	322,281,127
Wisconsin	322,267,890	0	88,360,385	88,360,385	410,628,275
Wyoming	159,096,008	0	0	0	159,096,008
American Samoa	801,080	0	0	0	801,080
Guam	801,080	0	0	0	801,080
Puerto Rico	120,401,393	0	0	0	120,401,393
Northern Mariana	801,080	0	0	0	801,080
Virgin Islands	801,079	0	0	0	801,079
Territories	21,802,050	0	0	0	21,802,050
Total	19,733,687,007	1,638,085,791	1,638,500,000	3,276,585,791	23,010,272,798

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, on behalf of the donor Senators—who were convened today by Senator BENTSEN and myself—I want to express appreciation to the distinguished chairman and my colleague from West Virginia for this modification.

I also want to convey my sincere appreciation to the majority leader for his leadership in recognizing the need to address the fairness issues raised by donor States. Senator BENTSEN who has a corporate memory of the formula issues dating back nearly a decade also deserves much credit for again taking up the cause of the donor States.

I think now there will be a growing support for the Byrd amendment as modified.

While providing some relief to donor States, I remain concerned that the Byrd amendment does not address the fundamental problems with the apportionment formula as provided in S. 1204.

I continue to believe that available data which more accurately reflects highway use, should be the criteria used in distributing highway funds.

A number of Senators, understandably, feel they must have a record vote on the amendment referred to as the FAST amendment at some point in time, recognizing, of course, that amendment will not prevail. The FAST amendment does represent the work product of over 2 years of effort by a very conscientious group of State transportation officials, with some dozen or more States across the United States.

But I thank my distinguished colleague from West Virginia.

Mr. BYRD. Mr. President, I thank my friend, the distinguished senior Senator from Virginia.

Mr. MOYNIHAN. Mr. President, I am sure I would express the views of my comanager here, the Senator from Idaho, that this is a very positive development. I wish to express appreciation to the Senator from West Virginia who has very ably pursued the interests of the States involved. I see possibly an extended day but I do not know why we cannot have this measure on its way to the House by tomorrow evening. I do not want to preclude the Senator from Idaho.

Mr. SYMMS. I say to my colleague, I concur. Looking at these numbers, all I can say is I hope they are accurate because it almost looks too good to be true.

Mr. MOYNIHAN. Will the Senator allow a complete diversion? One of those things you learn as a kid is that the longest word in the English dictionary is antidisestablishmentarianism. In fact, the longest word in the English dictionary is floccinaucinihilipilification. It was used in the House of Commons by a finance minister. It comes out of the Eaton Latin Grammar, and it is on the futility of making estimates. However, I once wrote a book review in the New Yorker Magazine which I entitled, "Floccinaucinihilipilificationism." If I could just get it a few more times used on the Senate floor as I have just done—I offer to tell our distinguished reporter that I will see that it is spelled correctly—the day may come when that will be the longest word in the English dictionary.

A distinction that will have been confirmed on this floor. I say it again, "floccinaucinihilipilificationism," the futility of making estimates on the subject of the accuracy of public data.

Mr. President, I yield the floor.

Mr. BYRD. Mr. President, may I say to the distinguished Senator from New York, I used that word on the Senate floor myself 2 or 3 years ago. I cannot remember just when or what the occasion was, but I used it on that occasion to indicate that whatever it was I was discussing it was something like a mere trifle or nothing really being of moment.

Mr. MOYNIHAN. Mr. President, no one surpasses the erudition or scholarship of our revered President pro tempore with respect to parliamentary comments. And having said what I said, I believe the Senator has referred to floccinaucinihilipilification, but did the Senator add the "ism?"

Mr. BYRD. No, I did not. That is something new.

Mr. MOYNIHAN. If I could just get help in that direction, it would complete our lexicology.

Mr. BYRD. Let us get our heads together.

Mr. MOYNIHAN. I yield the floor.

SOUTH BOSTON PIERS TRANSITWAY

Mr. KENNEDY. Mr. President, for the past 5 years the Massachusetts Bay Transportation Authority [MBTA] has been working with the city of Boston to extend transit services to the South Boston Piers area. This part of South Boston, which is currently isolated from Boston's transportation services, is projected to be the next area of Boston for significant development over the next 20 years. Just last week, the GSA announced that this area would be the site for Boston's new Federal courthouse facility.

Improved transit service is needed to ensure that the economic development strategy adopted for this area by the city of Boston and the Commonwealth of Massachusetts can be pursued while ensuring the preservation and improvement of transportation and environmental values.

After careful study and consideration, the MBTA has chosen to pursue a bus tunnel transitway to serve the South Boston Piers area. This approach has a number of advantages over competing transit strategies.

First, it can be built and expanded incrementally. The initial bus tunnel segment will alleviate the most critical surface congestion problems. As the area is developed further, additional tunnel segments can be constructed to meet growing transit ridership demand.

Second, the use of buses in tunnels with portals to the surface permits intermodal connections with Boston's commuter rail and Amtrak service, commuter and intercity bus service, and MBTA Red Line service at South Station. The transitway will also permit express bus service to Logan Airport via the Third Harbor Tunnel and other connections to the MBTA Orange and Green Lines.

Finally, the initial tunnel segment can be jointly constructed with a portion of the Central Artery project, at a cost saving of nearly 40 percent for the transitway. To that end, Mr. President, I would like to engage the manager of the bill in a brief colloquy.

Mr. President, would the Senator from California agree with me that this joint construction potential and the ability to save costs on both the transit and highway projects represents a unique opportunity that should not be lost?

Mr. CRANSTON. Yes, such a coordinated cost-saving endeavor is just the kind of activity that is encouraged under the highway and transit titles of this Surface Transportation Efficiency Act.

Mr. KENNEDY. And would the Senator from California further agree with me that UMTA should be urged to expedite its environmental review of the project in order to be able to issue a record of decision by late spring of 1992, so that joint construction with the central artery can proceed in the fall of 1992?

Mr. CRANSTON. Yes. I join the Senator in urging UMTA to expedite its review process and coordinate to the maximum extent possible with the Federal Highway Administration so that joint construction of the central artery project can proceed in a timely manner.

Mr. KENNEDY. I thank the Senator for his remarks and for his support, and commend him for his leadership on this critical transportation measure.

Mr. BURNS. Mr. President, I rise today to point out a discrepancy that has occurred due to the adoption of two separate amendments to S. 1204 during its floor consideration last week. On Wednesday, June 12, 1991, the Senate approved my amendment 299 to establish an education and training program. My amendment was a modification of language included in S. 610, the administration's highway bill. Then on Thursday, June 13, 1991, at the request of FHWA Administrator Dr. Larson, the committee included the administration's exact language on an education and training program, along with three other provisions, in its technical amendment 321. I believe that this action was an oversight and that the committee did not intend to supersede amendment 299. I would, therefore, urge the floor managers to support the full Burns amendment in the House/Senate conference.

My amendment differs from the administration's version as adopted by the Senate four ways: First, it requires FHWA to provide local officials information on pavement, bridge, and safety management systems; second, it adds a rural tourism and recreational travel component; third, it asks FHWA to designate 4 of the 48 State centers as Native American Centers to provide special services to tribal governments; and fourth, it authorizes $8 million per year from administrative funds to finance the rural and urban centers and provides a one-time $5 million authorization for fiscal year 1992 to develop training materials for the rural tourism and recreational travel component.

Let me explain further. In my amendment under "(b) grants and contracts," the Secretary is instructed to assist rural local transportation agencies to develop and expand their expertise in road and transportation areas, including pavement, bridge, and safety management systems; improve roads and bridges; and enhance programs for the movement of passengers and freight. The administration's provision does not include the pavement, bridge, and safety management systems requirement. Under S. 1204, States are expected to use these systems, establish a continuous statewide planning process, and consult with local officials in identifying a project list. The bill stops short of requiring State governments to develop strategic rural plans. Rural areas would benefit from FHWA and State center planning assistance. State and Federal transportation agencies should work with local officials to identify a core local road and bridge network system that impact State and national productivity and service delivery. That planning process may include a budgeting component or a State-local model such as that developed by Dr. Larson while he was the head of the Pennsylvania Department of Transportation. Dr. Larson divided the State's roads between commercial routes and an agri-access network. The local network was actually identified by local officials and businesses and disclosed that State spending priorities, especially for local bridges, were not the same.

This program could help the United States retool its 3.9 million mile road network by starting at the bottom up. The U.S. rural road network has not been reviewed by Congress since 1944 when it selected interstate routes and approved the secondary road system. In 1944, highway planners defined the basic economy as agricultural, natural resource extraction and manufacturing. Services were called nonbasic sectors of the economy, and were considered only as supporting activities to the basic sector. By 1955, the U.S. Department of Commerce projects that only 39 percent of all business activity will be directed at producing goods with the remaining 61 percent related to service delivery. Rural economies are more fragile and vulnerable to the effects of outside forces such as global competition and changes in the transportation system. The survival of these communities based on a service-oriented economy and a switch to natural attractions hinges on improved and continual access to the interregional highway grid and major rail carriers.

The rural tourism and recreational travel component is necessary to implement S. 1204's scenic and historic byways provisions, to encourage transportation enhancements that reflect community values, and to help States incorporate recreational travel and tourism into the continuous statewide planning process required under section 114. The 1991 USDOT national scenic byways study and inventory shows that 85 percent of the designated—33,975 miles—or potential scenic byways—16,194 miles—are on roads eligible for regular Federal grants. Further analysis show that 49.1 percent of the designated miles and 62.9 percent of the new routes are on roads serving small communities or managed by the U.S. Forest Service, the Bureau of Land Management, and the Bureau of Indian Affairs. USDOT recognized that these communities, as well as States, would require technical assistance in developing and implementing a scenic route program.

During discussions with USDOT, my staff was told that the most efficient vehicle to distribute information to local officials was the Rural Technical Assistance Program. That makes sense. As envisioned, FHWA would develop training material for rural centers compatible with the national scenic office and program responsibilities and goals.

The amendment also directs FHWA to designate 4 of the 48 State centers to provide special services for tribal governments. The Native American Centers would focus on rural tourism economic development, intergovernmental relations training and set up a "circuit-rider" program. To designate these centers, FHWA should issue a notice requesting nominations and comments on specific suggestions on program operation. The intergovernmental training material should be distributed on a nation-wide basis.

The Native American Centers are vital to the Senate floor amendment 343 that was approved at the request of the Select Committee on Indian Affairs. That amendment increased the authorization level for BIA roads from $150 million to $200 million over today's $80 million level and gives tribes 2 percent of the money to develop a tribal improvement plan. For historic, cultural, and institutional reasons, Indian and non-Indian governments lack an understanding of each others procedures and do not have a close working relationship. Hopefully, these centers will close the information gap so that governments can take full advantage of S. 1204's continuous statewide planning process and required consultation with local officials to maximize infrastructure spending to improve the economy.

A current effort by Fort Belknap Reservation and the Montana State Department of Transportation is an illustrative example of how S. 1204's tourism provisions could be implemented. Under a joint project, the State and tribe are building a rest area and adding a left-hand turn lane to pull traffic off adjacent U.S. Highway 2. A vehicular scenic and cultural tour loop and visitor services development are also underway. That development may include a Bureau of Land Management scenic or cultural route. In addition, non-Indian governments have shown an interest in working with Fort Belknap on a regional tourism economic development plan that will showcase Native American culture and disperse visitors throughout western Montana.

Finally, the last difference between my amendment and the committee amendment is that my amendment sets a annual $8 million authorization level for the education and training program. Dr. Larson seeks a statutory base for rural centers, which are not funded by a line item in FHWA's budget, and expansion to urban areas under 1,000,000 to fill an urban technology gap. OMB has denied FHWA's request in the past to increase program funding from $3.7 million to $6 million for rural centers and to provide urban centers. This addresses that problem. These funds are justified because as more centers have come on-line the grant amount has dropped from $125,000 per center to an estimated $90,000 per center for fiscal year 1992. The $8 million authorization would allow FHWA to increase rural center funding, expand services to native Americans and urban centers, and update training material. In addition, a one-time $5 million authorization is provided to develop the travel and tourism component.

I also want to be clear on one final point. I agreed to include the administration's expansion of the existing rural centers to provide urban services only after receiving assurance that the rural program would not be short changed. Since the rural centers are so well established, it should not be necessary to earmark urban and rural spending by statute. However, FHWA and OMB are expected to provide an increase for rural services commensurate with the overall program increase.

For the reasons stated above, I urge the floor managers to support my full amendment as originally adopted.

Mr. SPECTER. Mr. President, if there are no further comments on the highway bill, I have been on the floor the better part of an hour waiting to make some comments as if in morning business. I see all my colleagues deserting the premises, so at this time I ask unanimous consent that I may proceed for a period of up to 20 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

BASE CLOSURES

Mr. SPECTER. Mr. President, I have been looking for some time that I might speak without interrupting the Senate's other business concerning the matter of the base closure law and some really startling developments as they relate to the Philadelphia Navy Yard. When I make these comments, obviously as a Pennsylvania Senator, I am vitally concerned about what happens to an installation in my State, but I make the comments about the Philadelphia Navy Yard because of its established value to national defense.

We have just been through a traumatic experience in the gulf war where it is claimed that air power was the critical factor in our victory there. Much of the air power flew off aircraft carriers in the region, and those carriers, to a substantial extent, were rehabilitated under the Philadelphia Navy Yard's service life extension programs.

When the Congress passed the base closure procedures pursuant to a decision by the Congress with the executive to downsize the Department of Defense by some 25 percent over 5 years, there were specific provisions enacted to provide standards and basic fairness in the decisions which were to be made. I submit, Mr. President, that as a result of disclosures which have come to light earlier this month, the Department of the Navy has failed to disclose relevant information in what amounts to grossly inappropriate conduct. I would characterize it only in that manner at this point. The specifics will become clear as I outline precisely what has happened.

Mr. President, a starting point, although not really the beginning point, would be a letter which I sent to the Secretary of the Navy on April 19, 1991, where I asked for certain information which demonstrated that there had been a deviation from the base closure criteria.

Mr. President, I ask unanimous consent that the full text of that letter be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. I thank the Chair.

Mr. President, there was concern expressed by a number of us, both in the House and in the Senate, concerning what was happening with respect to the information provided by the Department of Defense. Then the General Accounting Office published a report on May 5, 1991 which has portions which are very pertinent to what we are considering at this moment. At page 46, the General Accounting Office said as follows:

Due to the limited documentation of its process, we also could not assess the reasonableness of the Navy's reocmmendation for closures. However, we reviewed and recalculated the Navy's ship berthing capacity analysis and found that excess capacity would remain even with the closure of the recommended bases.

The Navy's Base Structure Committee, which was charged with making base closure realignment recommendations, began its review of the Navy's basing structure in late January 1991. However, the committee did not fully explain its process to us until May 7, 1991, when it informed us that after review of data prepared by its working group the Base Structure Committee decided that much of its data were biased in favor of keeping bases open and were inadequate for an objective assessment of the Navy's basing needs.

I underscore, Mr. President, the GAO's conclusion that the data was "inadequate for an objective assessment of the Navy's basing needs."

Then at page 48 the General Accounting Office report specified three reasons that the Navy's process were inadequate.

First, due to a lack of supporting documentation, the GAO "could not determine the basis for the committee's military value ratings for Navy installations." Next the GAO found that in explanation committee members stated that "not all yellows are equal" and "not all greens are equal," which was the coding system. So the very basics of the Department of the Navy's conclusions were muddled. And, last, the GAO concluded, "although required by the Office of the Secretary of Defense policy guidance to develop and implement an internal control plan for its base structure reviews, the Navy did not assign responsibility for developing and implementing such a plan."

Mr. President, I ask unanimous consent that at the conclusion of my remarks the full text of pages 46 and 48 be included in the CONGRESSIONAL RECORD, which will save time in the presentation at this moment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SPECTER. I thank the Chair again.

Mr. President, I later wrote Secretary of Defense Cheney by letter dated May 17, 1991, because of a failure of the Department of the Navy to provide information, and this letter bears upon the sequence of events. So I ask unanimous consent at this point that the full text of the letter be printed at the conclusion of my remarks which will enable me to abbreviate the comments at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SPECTER. Mr. President, a report was made to me by Mr. Morrie Ruffin of my staff about his continuing efforts to secure information from the Department of the Navy, and his finding that the Navy may have made a calculation not to answer our request until May 24, 1991. The relevancy of that day is that the Base Closure Commission had scheduled a hearing for May 22, in Washington, and a hearing in Philadelphia for May 24. If I did not receive the information until May 24, it would be too late for me to use that information in the presentation of arguments. It is obviously an indispensable matter for due process to have the information to use in argumentation before the Base Closure Commission in objecting to the closure of the Philadelphia Navy Yard.

Mr. President, we could not receive a copy of that routing slip because the Navy refused to let Mr. Ruffin have it. This sequence is set forth in some detail in a memorandum from Mr. Morrie Ruffin to me dated May 15, 1991, where Mr. Ruffin pointed out "He then mentioned to me that he had a copy of a routing slip attached to the letter which gave a due date for the response of May 24, 1991." But when Mr. Ruffin asked for a copy of the transmittal memo it was refused.

Again my comments can be abbreviated by including this full memo at the conclusion of my remarks. So I ask unanimous consent that it be included at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. SPECTER. Mr. President, slightly out of sequence but relevant structurally, I later obtained a copy of this memorandum from former Secretary of the Navy Will Ball which shows conclusively that the Navy's intent to answer the inquiries of my letter of April 19, 1991, was to have a response on May 24, 1991, which as I have noted precluded my using the information in scheduled hearings on May 22d and May 24th. I ask unanimous consent that this routing slip be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 5.)

Mr. SPECTER. Mr. President, in the context of what was happening I was gravely concerned and decided to take this matter up directly with the Secretary of Defense. And there was fortuitously scheduled on May 21, a meeting of the Defense Appropriations Subcommittee where Secretary of Defense Cheney was scheduled to testify for his one appearance, which in the tradition of the Defense Appropriations Subcommittee is scheduled at the conclusion of the other hearings.

At that time, Mr. President, I raised the matter with the Secretary of Defense and handed him a letter, which is very brief, as follows:

DEAR DICK: I have decided to hand you this letter with the enclosed memo at today's hearing to be certain you get it forthwith. I am very, very concerned about the Navy's department routing slip which gives a due date of May 24th to my letter of April 19th, 1991, since the response would be too late for my presentation on the Philadelphia Navy yard at either the Washington hearing of May 22nd or the Philadelphia hearing of May 24th. I would appreciate your personal review of the situation and your prompt response with a copy to Secretary of the Navy Garrett.

Later that day, I received a one-page response from the Secretary of the Navy which on its face obviously was totally inadequate. So that the RECORD may be complete, Mr. President, I ask unanimous consent that the letter from Secretary Garrett to me dated May 21, 1991, together with an enclosed chart be included in the RECORD at the conclusion of my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 6.)

Mr. SPECTER. Mr. President, on the face of this record, when the Base Closure Commission had its hearing on May 22, 1991, where the evidence was conclusive that the Navy had deliberately withheld information until after the Base Closure Commission hearing on May 22, and did not plan to provide the information to me until May 24, I made a very strong charge which I think was totally supported by the facts: At the May 24 hearing with the Base Closure Commission, I said that the Navy was guilty of fraud, which is the intentional withholding of relevant material. That is a strong charge but I said that and I repeat it today, because I think the facts support it.

Later on May 22, the Base Closure Commission released two documents which supported the assertions I had made about the Navy's failure to reveal relevant documents. It is my conclusion that the Base Closure Commission had these prepared in advance but they fit hand in glove with the assertions, with the representations and arguments which I have made earlier.

One document, Mr. President, said that the Base Closure Commission found "gaps of information in the Navy process"; that the "staff learned that the Navy's BSC applied—that is the Navy's Base Structure Committee—a great deal of undocumented subjective judgment to a major Navy facility study"; that "despite general explanations of the process, the Commission is still unable to determine if the subjective judgment of the Navy's group was applied fairly and consistently to all bases in all categories in accordance with the force structure plan and the Department of Defense criteria mandated by law."

I ask unanimous consent that the full two-page text be included again at the conclusion of my floor statement today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 7.)

Mr. SPECTER. I thank the Chair.

Mr. President, then there was an additional document captioned "Chairman Courter today released the following statement"—and it specifies in part "On Monday of this week, members of the Commission staff met for 4½ hours with the Navy's base closure group in an effort to determine how their conclusions were reached."

Then he goes on to say, "The Navy group employed a great deal of subjective judgment in drawing up their list of recommendations for closure and alignment."

Further, Chairman Courter's statement said, "GAO and the commission staff have pointed to an alarming lack of information about the Navy's decisionmaking process."

Mr. President, following the May 22 hearing, where I concluded the Navy had engaged in fraud, and the Base Closure Commission itself had supported the conclusive fact that the Navy had not been as forthcoming with the materials as they should have been, many members of the Pennsylvania delegation and I then continued to try to find out precisely what the underlying facts were. We then had access to materials which were supposed to have been in the files of the Department of the Navy, which the Department of Navy had never given to us, and which supported the conclusion that the Philadelphia Navy Yard should remain open.

On June 4, 1991, Congressman WELDON and I met with Department of the Navy personnel and some staff from the Base Closure Commission and went through, in a very protracted meeting lasting almost 2 hours, our sense that the Navy had withheld specific information and that there was a document where a recommendation had been made by responsible naval personnel that the Philadelphia Navy Yard should be kept open.

I then returned, Mr. President, the next day, on June 5, late in the afternoon. The Senate was in session, and we were voting until close to 6 o'clock. I met on that day again with Navy personnel and, at that time, confronted them with a page from a document which had not been turned over to me, or others requesting information. Page 10 of the document, Mr. President, stated:

> Closure of the Philadelphia Naval Shipyard, without retention of the large carrier-capable docks, creates a shortfall in dry dock capability for emergent docking of aircraft carriers. The only other carrier capable drydock available on the East Coast under Navy control is at Norfolk Naval Shipyard.

And then the memorandum goes on to point out, "The cost of providing a dedicated dock under contract is considered prohibitive." The upshort of this memorandum, Mr. President, is a factual basis saying that the Philadelphia Navy Yard should remain open.

Mr. President, I ask unanimous consent that the full text of this be printed at the end of my floor statement.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

(See exhibit 8.)

Mr. SPECTER. After confronting the naval officials present at the meeting, they then gave me a report which contained that page and other pages, with a letter of transmittal dated 5 June 1991.

I emphasize and repeat that this was not given to me until after I had confronted them with the document and the page just referred to.

Mr. President, I ask unanimous consent that the cover letter from Admiral Lang to me dated June 5, 1991, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 9.)

Mr. SPECTER. Two key pages of a very voluminous document, which I am not including in the RECORD at this time because it is too voluminous, but one key page contains a percentage utilization at naval shipyard dry docks, which shows conclusively that there would be utilization way in excess of 70 percent, which is the standard the Navy has sought to comply with so there would be at least a 30-percent vacancy for emergencies.

I ask unanimous consent that this page be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 10.)

Mr. SPECTER. Here is the cover sheet specified in a letter from Admiral Claman, Commander of Naval Systems Command, Chief of Naval Operations, recommending option two, that the Philadelphia Naval Shipyard be left open.

I ask unanimous consent that the letter be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 11.)

Mr. SPECTER. Mr. President, it seems to me just astounding that, given the status of the law and the requirement that the Navy provide interested members of the Pennsylvania delegation, or other interested parties, including the Base Closure Commission, the Navy would in fact not make such documentation available.

That prompted me to write to the Secretary of Defense on June 6, 1991, asking for his immediate personal action. Let me read a couple of paragraphs:

> Dear Secretary of Defense Cheney, I urge your immediate personal action on serious wrongful conduct by Department of Navy personnel in withholding critical information favorable to the Philadelphia Navy Yard. We have now caught Navy personnel redhanded in concealing data which supports keeping the Philadelphia Naval Shipyard open.
>
> On June 4, 1991—

And then I recite the activities Congressman WELDON and I had undertaken, and I recite the critical documents, and then I conclude with the handwritten notation:

> Mr. Secretary, this is not evidence of a smoking gun. This is evidence of a firing gun.

Copies were sent to the Secretary of the Navy, relevant naval personnel, and members of the Pennsylvania and New Jersey delegations.

I ask unanimous consent that my letter of June 6, 1991, to Secretary Cheney, be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 12.)

Mr. SPECTER. I ask unanimous consent that my letter of the same date to the Defense Base Closure Commission also be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 13.)

Mr. SPECTER. Congressman WELDON, Mr. President, then supplemented these findings by locating additional data which favored keeping the Philadelphia Naval Shipyard open. And Congressman WELDON made those documents available to the Base Closure Commission by a letter dated June 13, 1991.

I ask unanimous consent that Congressman WELDON'S letter be printed in the RECORD following my floor statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 14.)

Mr. SPECTER. Congressman WELDON forwarded to the Base Closure Commission a memorandum from Admiral Hekman dated December 19, 1990, which said:

> While I realize that the Secretary has been briefed and has concurred with the proposal to mothball the Philadelphia Naval Shipyard, I strongly recommend that this decision be reconsidered.

Admiral Hekman went on to say that the Philadelphia Shipyard ought to be kept open.

I ask unanimous consent that Admiral Hekman's memo be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 15.)

Mr. SPECTER. Admiral Hekman submitted an additional memorandum dated March 15, 1991, where he says in part:

> I continue to take the position that retention of a credible repair capability at Philadelphia for naval shipyards homeported in the northeastern area is the most cost-effective solution.

I ask unanimous consent that Admiral Hekman's memorandum dated

March 15, 1991, be printed in the RECORD at the conclusion of my floor statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 16.)

Mr. SPECTER. Mr. President, the documentation by Admiral Hekman shows in addition to the concealment by the Department of the Navy facts and materials supportive of keeping the Philadelphia Navy Shipyard open. It shows, in addition, a prejudgment by the Department of the Navy that the Secretary had already made his mind up on December 19, 1990, without going through the procedures mandated by law, and that that decision remained in effect on March 15, 1991.

We are looking further into the specifics, of the legal requirement of due process, that the Philadelphia Navy Shipyard should have an opportunity to present those arguments without the prejudgment having been made by the Secretary of the Navy in what has been a bias all along for a nuclear Navy.

Mr. President, I have taken some time to outline what has occurred before the Base Closure Commission and what has occurred with the categorical refusal of the Department of the Navy to turn over to this Senator and other Members of Congress information which we had a right to in advance of the Commission arguments on May 22 and May 24.

At this juncture, the procedures followed by the Department of Defense and the Department of the Navy are fatally flawed. The only appropriate course at this juncture, which I have asked for in the letter to the Secretary of Defense, dated June 6, 1991, is to take the Philadelphia Navy Yard off the base closing list.

But there are issues here that go far beyond what is going to happen to any single installation. These are issues which touch the integrity of the Department of the Navy in failing to turn over documentation at the request of this Senator, and in a calculated way, scheduling the turnover of that information on May 24; and then in the failure to turn over documents which are supportive of keeping the Philadelphia Navy Yard open.

Mr. President, I had said to the Navy officials at the June 4 meeting that we are all on the same team; we are all working for the people of the United States of America. And if the facts support closing any particular installation, so be it. But it is inappropriate, wrongful, and unconscionable for the Department of the Navy to fail to turn over information to Members of Congress, Members of the Senate and Members of the House, that we have a right to see in formulating our own judgment as to whether the Navy shipyards should stay open, and in formulating our arguments to be presented to the Base Closure Commission.

This is a matter where I have not yet heard from the Secretary of Defense. This is a matter which may require action by the inspector general of the Department of Defense. But the people of the United States are entitled to answers as to how the Department of Defense is proceeding clearly in violation of the base closure law.

I make these facts available at this time so that my colleagues may have the availability of them, so that the Department of the Navy and the Department of Defense may see that we continue to press for this important information and ultimately for an accounting by the Department of the Navy and the Department of Defense for this grossly inappropriate conduct.

I thank the Chair.

I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, April 19, 1991.

HON. H. LAWRENCE GARRETT III,
Secretary, Department of the Navy, The Pentagon, Washington, DC.

DEAR SECRETARY GARRETT: Upon reviewing the "detailed analysis" that the Navy is using as justification for making its base closure recommendations, I am extremely concerned by what looks to be a significant deviation from the base closure criteria.

According to Navy documents, during a process called Phase I, all installations were to be evaluated against the first four OSD closure criteria (military value) developed by the Secretary of Defense. This was done. At the end of Phase I, the Base Structure Committee (BSC), the group charged with determining which Navy facilities should close, then excluded from further review those bases "that received an overall rating of 'green' after applying all four military value criteria." In the case of the naval shipyards, the only base that merited exclusions from further review on this basis was NSY Puget Sound.

One would therefore assume that if the Navy were strictly following the base closure criteria, as mandated by law, seven remaining shipyards should have been evaluated during Phase II. However, only one shipyard—Philadelphia—was evaluated during Phase II against the final four criteria. The five remaining nuclear shipyards and the one other conventional shipyard (none of which received an overall rating of "green") were summarily excluded from consideration for closure. This decision was based not on the eight criteria developed by the Secretary of Defense, but on criteria the Navy unilaterally and arbitrarily decided was more important.

According to Navy documents, the BSC excluded the six nuclear capable shipyards from further consideration because of the nuclear workload scheduled for the navy shipyards in the remainder of the century. The documents state that "this scheduling is based upon the best information available and takes into consideration the known force structure reductions."

If this information carried such weight that it allowed the Navy to supersede evaluation against the Secretary of Defense's final criteria, then it is imperative that this "workload" data be made available to Members of Congress, the Base Closure Commission, and the GAO. Accordingly, I hereby request that all documentation concerning both the nuclear and conventional workload for the naval shipyards for the remainder of the century immediately be made part of the public record.

Thank you for your attention to this matter.

My best.

Sincerely,

ARLENE SPECTER.

EXHIBIT 2

CHAPTER 4—THE NAVY'S BASE CLOSURE AND REALIGNMENT PROCESS AND ASSOCIATED RECOMMENDATIONS

We were unable to conduct an extensive review of the process the Navy used to recommend bases for closure or realignment, because the Navy did not adequately document its decision-making process or the results of its deliberations. In addition, the Navy did not establish an internal control plan to ensure the validity and accuracy of information used in its assessment as required by OSD.

Due to the limited documentation of its process, we also could not assess the reasonableness of the Navy's recommendations for closures. However, we reviewed and recalculated the Navy's ship berthing, capacity analysis and found that excess capacity would remain, even with the closure of recommended bases.

THE NAVY'S PROCESS AS DESCRIBED BY NAVY OFFICIALS

The Navy's Base Structure Committee, which was charged with making base closure and realignment recommendations, began its review of the Navy's basing structure in late January 1991. However, the Committee did not fully explain its process to us until May 7, 1991, when it informed us that after review of data prepared by its working group, the Base Structure Committee decided that much of the data were biased in favor of keeping bases open and were inadequate for an objective assessment of the Navy's basing needs. Its review, therefore, emphasized a series of briefings and meetings attended by Committee members, Navy and Marine Corps headquarters officials, and representatives of field activities. According to Committee members, decisions made during the process were sometimes made in the presence of everyone in the meetings and were clear to everyone in attendance. In other cases, the decisions were made by the Committee in closed executive sessions. Based on this review, the Committee proposed closure and realignment actions to the Secretary of the Navy on March 21, 1991.

We reviewed the charts that were used in the presentations to the Committee. These charts were generally in outline form. Our review of this information showed that presentations were organized by 23 Navy and 6 Marine Corps categories representing the various Navy functions and missions. For example, the category "naval stations" included bases that have deep water harbors and piers and serve as home bases for Navy surface ships and aircraft carriers. The category "naval air stations" included bases that have runways and hangars and serve as home bases for aircraft. Other categories included submarine bases, shipyards, aviation depots, supply centers/depots, Marine Corps bases, Marine Corps air stations, reserve centers, and RDT&E activities.

The Base Structure Committee told us that a capacity analysis was then discussed for each functional category, which compared the 1997 force structure facility requirements against the existing inventory.

Critical factors were identified for each category and served as units of measure for capacity. For example, pier space was used as the primary unit of measure for naval stations, and airfield apron and hangar space were used for naval air stations.

Of the eight categories of bases the Committee retained for further closure and realignment analysis, four were retained because the Base Structure Committee identified potential excess capacity: (1) naval stations, (2) naval air stations, (3) shipyards, and (4) Marine Corps air stations. Two other categories—the training and construction battalion centers categories—were retained for further analysis, because they showed potential excess capacity in segments of the overall categories. The medical category was also retained because of the link between medical facilities and major installations that were being evaluated for closure or realignment. Finally, the RDT&E category was retained for analysis based on a mandated requirement to reduce personnel by 20 percent.

A military value rating was then assigned by the Base Structure Committee to each base in all the categories being analyzed except for the medical category.[1] Committee members told us that they rated each installation using the first four DOD selection criteria, which addressed military value, and then they independently assigned each installation an overall color-coded rating.

Bases receiving an overall green rating were excluded from further study, according to Committee members. For example, in the naval stations category the bases receiving an overall green were Coronado, Guam, Ingleside, Little Creek, Mayport, Mobile, New York (Staten Island), Norfolk, Pascagoula, Pearl Harbor, Puget Sound/Everett, and San Diego. The Committee continued to evaluate bases that were given an overall rating of yellow or red. Additional bases were excluded from further review because of their unique assets, geographic location, strategic importance, or operational value, leaving 19 bases and the RDT&E category to be evalauted for closure.

Committee members told us they then performed a "quick estimate" cost-benefit analysis of each of the remaining bases to determine the feasibility of closing them. After makings its final decisions, a full COBRA analysis for those closure candidates was conducted. Local economic and environmental impact analyses were also done for the closure candidates.

The Committee proposed closing 11 bases and 10 RDT&E facilities. It also recommended that 1 base and 16 RDT&E facilities be realigned. In addition, three hospitals were proposed to be closed as a result of the Committee's decisions.

GAO'S VIEWS ON THE NAVY'S PROCESS

In addition to the limitations placed on our review by the lack of adequate documentation, we identified three problems with the Navy's process. First, due to the lack of supporting documentation, we could not determine the basis for the Committee's military value ratings for Navy installations. In late March, we received selected data given to the Committee by its Working Group. This information was provided to us, but we were not advised until May 7, 1991, that the Committee had decided that much of this data were biased in favor of keeping bases open. In mid-April, the Base Structure Committee provided us with four additional volumes of material that consisted primarily of briefing charts that were basically outlines of matters and data to be discussed, without any explanation or supporting data. Also, Committee members said they did not prepare minutes of their deliberations.

Second, we identified apparent inconsistencies within the Committee's internal rating process. For example, the Committee had given identical ratings to two naval stations on each of the first four DOD selection criteria but had assigned an overall rating of green to one and yellow to the other. Similarly, the Committee had assigned identical ratings to six naval air stations for the first four DOD selection criteria. Four bases were assigned an overall rating of yellow and two an overall rating of green. These inconsistencies are significant because any base given an overall rating of green, based on the first four DOD selection criteria, was excluded from further closure or realignment consideration. In explanation, Committee members stated that "not all yellows are equal" and "not all greens are equal." Since the Committee did not document these differences, we could not determine the rationale for its final decisions.

Lastly, although required by OSD policy guidance to develop and implement an internal control plan for its base structure reviews, the Navy did not assign responsibility for developing and implementing such a plan.

GAO'S VIEWS ON THE CLOSURE AND REALIGNMENT RECOMMENDATIONS

Because the Committee did not document the rationale for its decisions, we could not comment on the Committee's closure and realignment recommendations based on the process. As an alternative, we looked at ship berthing capacity of naval stations in comparison to the Force Structure Plan because naval stations are a major category of the Navy's facilities. Also, we have conducted prior work and have ongoing work related to homeporting needs. Data obtained from the Navy's Assistant Chief of Naval Operations (Surface Warfare) showed that the most appropriate indicator for naval station requirements is ship berthing capacity. An analysis of the capacity data showed the Navy will have excess capacity remaining if only the four recommended naval stations are closed.

The Navy's capacity analysis indicates an inventory of 257.6 thousand feet of berthing (KFB) at naval stations and a requirement of 174.2 KFB, leaving an excess of 83.4 KFB. This excess represents the capacity at naval stations worldwide and also includes some inadequate berthing space. In addition, 14.5 KFB of berthing space is available at facilities other than naval stations.

When we subtracted the 75.2 KFB identified with space associated with (1) overseas facilities, (2) recommended closures, and (3) inadequate berthing facilities, 22.7 KFB of excess berthing capacity remains (see table 4.1).

EXHIBIT 3

U.S. SENATE,
Washington, DC, May 17, 1991.

Hon. DICK CHENEY,
Secretary, Department of Defense,
Washington, DC.

DEAR MR. SECRETARY: On April 19, 1991, the enclosed letter was FAXed to Secretary Garrett requesting that "all documentation concerning both the nuclear and conventional workload for the naval shipyards for the remainder of the century immediately be made part of the public record." This information has not been provided either to my office, the General Accounting Office or the Base Closure Commission.

I requested that this information be made part of the public record because the Navy has not provided adequate analysis or supporting documentation to justify its decision to exclude from further review for possible closure all of its shipyards except for the Philadelphia Navy Shipyard. The Navy's decision process is described on page 8 of Tab C in the Navy's "Detailed Analysis" which states that these yards were excluded from review because of "unique" factors relating to the nuclear workload and the availability of drydocks on the West Coast.

At a presentation by the Navy to my staff on Monday, May 13, Navy staff from OP-431 asserted that the Philadelphia Shipyard should be closed based upon projected workload trends. How can any reasonable person analyze a closure recommendation made on this basis without detailed information about availabilities on all of the Navy's ships and the naval shipyard workloads?

Subsequent to the May 13 meeting my office received a computer printout which purports to be the depot level maintenance schedule from FY 1991. Unfortunately this document contains no information on future AEGIS work scheduled for public/private competition and also lacks the results of the April Scheduling Conference, the most recent representation of the Navy's workload.

After my staff informed Navy counsel on May 15, 1991, that we required more current and complete Navy data, they suggested that we provide them with a list of specific requests for documentation. The list follows:

(1) All information describing availabilities on all Navy vessels, including work scheduled for public/private competition, until the year 2010. This should allow for a more accurate view of the Navy's fleet composition after near-term submarine decommissionings. Since the Navy briefers at the May 13 meeting suggested that Philadelphia should be closed based on projected workload trends, we feel it is important to understand workload trends in the context of the fleets composition beyond the year 2000.

(2) List of changes made to the Navy's workload schedule as a result of the Scheduling conference.

(3) Explanation of why amphibious and auxiliary ships were scheduled to yards other than Philadelphia, and upon what criteria these decisions were based.

(4) Explanation of how the depot maintenance schedule reflects the Navy's projected operational requirements.

(5) Detailed explanation of the Amphibious and Aegis ships for which the Navy's workload is "increasing" as it is stated on page two of Tab C in the Navy's "Detailed Analysis."

As I'm sure you are aware, Section 2903(c)(4) of 10USC 2687, requires the Secretary of Defense to "make available to the Commission and the Comptroller General of the United States all information used by the Department in making its recommendations to the Commission for closures and realignments." The information I requested on April 19, 1991, is absolutely essential not only to understand the Navy's "exclusion" decisions, but to comprehend the Navy's evaluation of installations against the four military value criteria.

Accordingly, unless you can demonstrate to me otherwise, I intend to argue before the Base Closure Commission and inform the

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[1] Three hospitals were reviewed because three installations with hospitals were being considered for closure: Orlando Naval Training Center, Whidbey Island Naval Air Station, and Long Beach Naval Station.

President that the Navy has deliberately sought to avoid compliance with the 1990 Defense Base Closure and Realignment Act. Furthermore, I intend to request that based on the Navy's non-compliance its recommendations for closure should be dismissed.

I would appreciate a prompt reply.

Sincerely,

ARLEN SPECTER.

EXHIBIT 4

MEMORANDUM

To: Senator Specter.

From: Mr. Morrie Ruffin.

Date: May 15, 1991.

Re Status of 4/19/91 Request to Secretary Garrett for Additional Information on Navy's "Analysis."

Per your request, I have described the sequence of events pertaining to the Navy's "response" to your letter of 4/19/91. Attached is a copy of the 4/19 letter.

4/19/91—Your office FAXed a copy of the attached letter to Secretary Garrett. The letter requests that all documentation concerning both the conventional and nuclear workload at the naval shipyards for the remainder of the century immediately be made part of the public record. This request was made because the Navy's "detailed analysis" provides no justification for its decision to exclude *all* Navy shipyards from review for closure.

5/7/91—Having received no response to your letter and having confirmed that neither the Base Closure Commission nor the General Accounting Office had received any information subsequent to your letter, I called the Senate Navy Liaison office and inquired as to the status of the reply.

5/8/91—I received a call from a Mr. Fred Sterns in Assistant Secretary of the Navy for Installations Jackie Schafer's office. I informed Mr. Sterns that we wanted every piece of information available on the Navy's ship maintenance schedule (data on the maintenance schedule for every ship in the Navy). I also suggested that we wanted all other information that would allow the Navy to represent that to do the Navy's nuclear workload the six nuclear Yards should be excluded from review for possible closure. He informed me that this information would be "on your doorstep at 8:00 AM, Monday, May 13, 1991.

5/13/91—At 9:30 AM I received a call from Mr. Sterns where upon he stated that he believed he had everything we had asked for and asked when he could send it over. At 11:30 AM I met with a Mr. David Rolfe Herron from Schafer's office, and Capt. Thomas Williams and Ms. Mary MacKinnon from OP-431. At the meeting they presented me with the attached memo marked B. I asked them if they felt they had complied with the request made in your letter. They said yes. I then asked them if the memo represented "all documentation concerning both the nuclear. . ." (see highlighted portion of letter) They said no and promised to provide us with more information. I said we wanted it but that it was probably too late.

Following the meeting, I had a conversation with Mr. Herron.

I mentioned to Mr. Herron that he should inform Ms. Schafer that Senator Specter's office was not satisfied with their response to our request. He then mentioned to me that he was in a difficult position because the response to the April 19 did not appear to be a Navy priority. He then mentioned to me that he had a copy of a routine slip attached to the letter which gave a due date for the response of 5/24/91. (5/24 is the date of the regional hearings on PNSY and the last official opportunity for us to make our case before the Base Closure Commission.) I asked Mr. Herron if I could see a copy of the routine slip. He proceeded to remove from his folder a copy of your letter which appeared to have a routine slip attached to it with a due date of 5/24/91. I then asked Mr. Herron if I could borrow the routine slip for a minute whereupon a Mr. Lieban (also from Schafer's office) who had entered the reception area grabbed the letter back from Mr. Herron and quickly forced it into Mr. Herron's brief case. Mr. Liebman said something along these lines: "God knows, you can't have that."

5/14/91—In the morning I spoke with Wendy Pensinger, a staffer on the Base Closure Commission, and mentioned the incident with Mr. Herron. She took his name and the names of the two other individuals who accompanied him to our office. In the afternoon, Mr. Liebman delivered to our office a computer print out of the "ship availabilities at all of the Naval's shipyards." This document is also barely adequate in that it was outdated and did not include any of the AEGIS work which will be up for Public/Private competition.

5/15/91—Spoke with Captain Rice, the Executive Assistance to Ms. Schafer, and Jim Dykstra, the Deputy Assistant Secretary of Defense for Legislative Affairs, and reiterated our request for information.

EXHIBIT 5

AUTOMATED NAVY ROUTE SLIP

Primary Controlling Office SECNAVAD.

Classification of attachment: Unclassified.

From: Sen. Specter.

Date: 19 APR 91.

Date received: 23 APR 91.

To: SH.

Abstract: Documentation regarding closing of nuclear & conventional shipyards be made part of the public record.

CR1: Closure.

CR2: Shipyard.

CR3: Public

CR4: Documentation.

CR5: Phase I.

CR6: ABC.

Remarks Distribution: 1U006286.

DOC OUT TO: Sen.

Date: 24 MAY 91.

Due to: SECHAVAD.

Date: 10 MAY 91.

Control Center Primary Routing:

To: SECNAV.

PC: G.

EXHIBIT 6

DEPARTMENT OF THE NAVY,
Washington, DC, May 21, 1991.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter of April 19, 1991 regarding the Navy's recommendations for base closures.

During Phase I of the Navy's two-phase analytical procedure, Step Five called for the exclusion of facilities distinguished by such factors as unique assets, geography, strategic importance, or operational value. Because the nuclear workload toward the end of the decade includes such a large number of nuclear refuelings on submarines and cruisers, it was determined that the six nuclear-capable shipyards would be excluded from further review.

The Navy's Base Structure Committee evaluated each shipyard and assigned a color code, Green (favors keeping the installation open), Red (favors closure), or Yellow (potential candidate for closure if not sufficient "Red" installations to eliminate excess capacity). The Phase I rankings resulted in four shipyards having an overall rating of "yellow" Charleston, Long Beach, Philadelphia, and Portsmouth. Of these, the two nuclear-capable yards were eliminated as stated above and Long Beach, the other conventional shipyard, was excluded due primarily to the criticality of the large drydock at that facility. This drydock is designated as a backup dock for NIMITZ-class aircraft carriers and nuclear cruisers on the West Coast. Philadelphia Naval Shipyard then remained the only shipyard under consideration for closure.

My staff has been in contact with your Legislative Assistant, Mr. Edmund M. Ruffin, and has delivered to him additional documentation concerning both the nuclear and conventional workload for the naval shipyards for the remainder of the century.

As always, if I can be of any further assistance, please let me know.

Sincerely

H. LAWRENCE GARRETT III,
Secretary of the Navy.

EXHIBIT 7

[Defense Base Closure and Realignment Commission, May 22, 1991]

COMMISSION DEMANDS EXPLANATION OF NAVY BASE CLOSURE PROCESS

Chairman Courter today released the following statement: "Last week the General Accounting Office released a report on base closure and realignment. This document made it clear that the methodology designed by the Navy was sound. However, the GAO raised serious questions about the application of this methodology.

"On Monday of this week members of the Commission staff met for four and a half hours with the Navy's base closure group in an effort to determine how their conclusions were reached.

"During this meeting we learned that the Navy group employed a great deal of subjective judgment in drawing up their list of recommendations for closure and realignment. Nobody on the Commission can say yet whether the Navy's judgments were fairly and consistently applied, but we intend to find out.

"We have repeatedly sought clarification from senior Navy representatives. I have publicly asked for minutes, notes and any documentation that would give us an idea of how the service came up with its recommendations. What we have received is inadequate.

"The GAO and the Commission staff have pointed to an alarming lack of information about the Navy's decision-making process. Therefore, we are demanding from the Navy a detailed explanation of the process used to justify its recommendations for closure and realignment.

"On Monday we asked Navy representatives to prepare for the Commission a narrative account of their selection process. We have provided the base closure group with a detailed plan aimed at ensuring a thorough account of the Navy process. We hope the Navy will agree to this plan and comply with our rigorous schedule.

"The Commission is determined to follow the GAO's recommendations. If necessary, I will call a special hearing to learn more how the Navy's recommendations were reached.

"It's clear that the Navy maintains significant excess capacity. If Navy representatives cannot prove that their selection criteria were applied evenly, then the Commission is fully prepared to draw up a list of recommendations using methodology designed by the Navy and GAO application guidelines."

PROPOSED DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION COURSE OF ACTION ON DEPARTMENT OF NAVY BASE CLOSURE PROCESS

1. Due to gaps of information in the Navy process identified by both Commission staff and the General Accounting Office (GAO), staff of the Base Closure Commission (BCC) met with the Navy base closure group (the Base Structure Committee, or BSC) on Monday, May 20, 1991 to request detailed information on its process. During that meeting, staff learned that the Navy's BSC applied a great deal of undocumented, subjective judgment to a major Navy facilities study (the Vice Chief of Naval Operations, or VCNO study), as well as numerous briefings from field commanders. Despite general explanations of the process, the Commission is still unable to determine if the subjective judgment of the Navy's group was applied fairly and consistently to all bases in all categories in accordance with the Force Structure Plan and Department of Defense criteria mandated by law.

2. During its decision-making meetings, the BSC kept no minutes and in its written submittal to the Commission, only briefly explained why bases were on the list.

3. Therefore, the Commission proposes the following course of action. The Navy has pledged its cooperation, and we look forward to its acceptance of this course of action and conformity with the Commission's rigorous schedule.

The BSC must provide written explanations of its decisions, using the Vice Chief of Naval Operations (VCNO) working group study as a baseline. The VCNO working group studied options for base closures beginning in January 1990 and has rated each Navy installation against five weighted criteria called "major factors." The major factors are mission suitability, availability of facilities, quality of facilities, quality of life, and community support. Each rating is supported by verifiable quantitative and qualitative measures. This approach is similar to that used by the other Services. The VCNO study was a significant input to the BSC's decision-making process, which also included briefings from the Navy's major operational commands.

The BSC must provide an explanation of the relationship between the five VCNO major factors and the DoD criteria used by the BSC to rate each installation. Although the BSC used the VCNO study, the BSC translated its ratings to correspond with the military value criteria required by the DoD Federal Register notice. The Commission needs that translation between those two sets of rating criteria to determine the fairness and consistency of the BSC's rating process.

The BSC must provide explanations for the changes it made to the VCNO ratings. The BSC rated some installations differently than the VCNO study based on the briefings it received and its own military judgement. The Commission needs detailed, written explanations for each instance in which the BSC disagreed with the VCNO study's major factor ratings. The explanations must be explicit, verifiable, and, whenever possible, quantifiable.

The BSC must justify its overall installation ratings. The BSC used the military value DoD criteria to assign an overall rating for each Navy installation. The Commission staff needs detailed, written explanations for each of those ratings. Explanations must address how installations were compared with others in the same categories. Explanations must also address those installations excluded from further review based on geography, strategic importance, operational value, and other unique assets.

The BSC must provide the back-up data for the VCNO study. The data on which the VCNO study's ratings are based is needed to verify those ratings and to review the consistency of their application within installation categories. The Commission will provide the BSC with a list of the missing data.

The Commission will review the BSC responses. The information provided by the BSC in response to the above steps will allow the Commission staff to determine whether the BSC's decision methodology substantially deviated from the requirements of Title XXIX.

The Commission's staff will present options to the Commissioners for any changes to the Navy's list of base closures and realignments.

EXHIBIT 8

STRATEGIC AND OPERATIONAL CONSEQUENCES

Given the assumption that the Navy's carrier force will be predominantly or entirely nuclear powered in the next century, the work force and most facilities at Philadelphia Naval Shipyard must be considered excess to requirements. There are two east coast facilities capable of conducting all repairs (including nuclear repairs) to aircraft carriers: Norfolk Naval Shipyard and Newport News Shipbuilding and Dry Dock Company. These shipyards are located in the same local area, but the decrease in the threat of nuclear war with the Soviet Union has reduced the necessity for strategic geographical dispersion where sufficient capacity exists. The sunk costs of existing facilities at Philadelphia are significant, and the rare, if not unique, nature of the dry docks, make keeping the dry docks operable (if not operational) a necessity.

Closure of Philadelphia Naval Shipyard, without retention of the large carrier capable dry docks creates a shortfall in dry dock capability for emergent dockings of aircraft carriers. The only carrier capable dry dock available on the east coast, under Navy control is at Norfolk Naval Shipyard, and will be fully utilized. Without the dry docks available at Philadelphia, the only other dock capable of taking an emergent carrier docking is at Newport News Shipbuilding (NNSB). Exhibit C-7 illustrates this situation graphically. This dock is privately owned and its docking schedule is not controlled by the Navy. The cost to have NNSB provide a dedicated dock under contract is considered prohibitive. The only alternatives are to use the NNSB dock if available or to physically remove a ship already in dock at Norfolk Naval Shipyard if possible.

The closure departs from a long standing Navy strategic and operational requirement which provided for two Naval shipyards on each coast capable of docking and repairing aircraft carriers. The resultant demand for use of the remaining dock at Norfolk Naval Shipyard would have long term impact on the Navy's flexibility in workload assignments and will reduce the effectiveness of the shore establishment in supporting fleet operational and maintenance requirements. Retention of the Philadelphia drydocks provides backup capability for emergency situations.

The Propeller Facility consists of specialized equipment and 100 highly skilled management, engineering, programming, machine shop and foundry personnel. There is no comparable facility in terms of capacity or capability in the United States, in either the Public or Private sector.

The unique and necessary capabilities represented by NAVSSES as well as the increasing need for berthing for inactive ships mandate that NAVSSES and the NISMF detachment remain.

EXHIBIT 9

DEPARTMENT OF THE NAVY,
Washington, DC, June 5, 1991.

Senator ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: As requested during the 4 June 1991 meeting held in the Pentagon enclosures (1), (2) and (3) are submitted.

The COBRA Analysis that was presented to the Navy's Base Structure Committee on 29 March 1991 was based on enclosure (1), COBRA input data supplied on 26 March 1991 by the Naval Sea Systems Command (NAVSEA).

Enclosure (2) was received subsequent to the final COBRA analysis and the presentations to the Navy's Base Structure Committee.

Enclosure (3) reflects a summary of the differences between enclosures (1) and (2) submission.

In forwarding the revised COBRA data on 29 March, NAVSEA highlighted 2 of the options that had previously been discussed with the Base Structure Committee: Option One: Close and preserve Philadelphia Naval Shipyard; Option Two: Downsize Philadelphia to 1200 men.

The NAVSEA recommendation supported a low-risk approach to ship maintenance. OPNAV's assessment of the military requirement was that Option One provided sufficient capacity along with the rest of the public and private sector on the East Coast to satisfy any concern.

Very respectfully,

J.R. LANG,
Rear Admiral, U.S. Navy, Director, Ship's Maintenance and Modernization Division.

EXHIBIT 10

Dry dock utilization for FY-90 at all naval shipyards was in excess of 100% as shown in the table below. This is due to some special cases where there is more than one ship in the dry dock such as the special case of submarine inactivations where these ships can be worked in series without significant impact on operational requirements: or where a ship is in the same dry dock for greater than 10 months at a time, in the case of nuclear ship refuelings. In those latter cases, dry dock maintenance must be deferred until a subsequent period when the dry dock is vacant.

CAPACITY ANALYSIS

The projected utilization rates for the next three years are shown in Exhibits C-2 through C-5 and the table below. While the FY 90 and 91 rates reflect all work assigned in the shipyards, FY 92 through FY 99 projected usage do not.

NAVAL SHIPYARD DRYDOCKS PERCENTAGE UTILIZATION BY SHIPYARD MISSION CATEGORY

	Fiscal year—									
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999
SSN/CGN refueling	125.3	137.0	86.7	94.9	72.4	89.5	94.7	109.9	101.3	119.8
Large/CV/CVN capable	112.3	102.8	90.1	95.3	106.9	84.2	85.5	103.6	80.2	82.2
Other nuclear capable	139.7	130.0	103.7	83.7	85.4	65.3	75.0	79.7	86.9	94.2
Other	78.0	23.0	36.0	18.6	5.5	48.8	26.9	5.3	12.5	14.6

Dry dock #4, at the former Hunters Point Naval Shipyard in San Francisco, a large, CV/CVN capable dry dock, has been used for several years to dock emergent fleet work on the west coast. It will be decommissioned in FY 1991 when a large section of the former naval shipyard is leased to commercial interests in accordance with public law. Dry dock #2, at the Portsmouth Naval Shipyard, a nuclear refueling dry dock, will be unavailable during part of FY 1991 and all of FY 1992 while it undergoes modification.

Dry docks in naval shipyards fall into four categories based upon their contribution to the mission requirements which they satisfy: dry docks in which nuclear submarines or nuclear cruisers may be refueled; nuclear capable dry docks other than refueling dry docks or large dry docks capable of handling aircraft carriers; large, aircraft carrier capable dry docks; and other dry docks.

A primary critical mission of the naval shipyards is the refueling of nuclear submarines and nuclear cruisers. Critical to accomplishing this mission is the availability of nuclear refueling dry dock complexes. The projected utilization of the available complexes is shown on Exhibit C-2. Dry dock use can exceed available capacity due to the unique nature of nuclear submarine inactivations, when more than two submarines are in a dry dock at a time.

The usage of the navy dry docks capable of nuclear refueling operations is projected to remain high for the remainder of the century as nuclear submarines undergo refueling operations. While there may be some unused capacity from time to time, this extra capacity may in fact be unusable.

EXHIBIT 11

DEPARTMENT OF THE NAVY,
NAVAL SEA SYSTEMS COMMAND,
Washington, DC, March 29, 1991.

From: Commander, Naval Sea Systems Command.

To: Chief of Naval Operations (OP-43).

Subj: Base closure final documentation.

Encl: (1) Philadelphia Naval Shipyard—Option 1; (2) Philadelphia Naval Shipyard—Option 2; (3) TAB A Report Documentation—Naval Shipyards.

1. Enclosures (1) and (2) provide the COBRA options for the naval shipyards as requested on 28 March 1991. They are as follows:

a. Philadelphia Naval Shipyard—Option 1: Close and preserve Philadelphia Naval Shipyard in FY 93 after completing the USS *Constellation* (CV 64) SLEP and the USS *Forrestal* (CV 59) dry docking availability. Retain the propeller facility, the Navy Inactive Ship Maintenance Facility (NISMF) and the Naval Ship Systems Engineering Station (NAVSSES) in Philadelphia. Move the USS *John F. Kennedy* (CV 67) overhaul to Norfolk Naval Shipyard.

b. Philadelphia Naval Shipyard—Option 2. Commence realignment of Philadelphia Naval Shipyard in FY 93 and complete downsizing to approximately 1200 people in FY 95. Retain the propeller facility, the Navy Inactive Ship Maintenance Facility (NISMF) and the Naval Ship Systems Engineering Station (NAVSSES) in Philadelphia.

3. Enclosuure (3) provides the revised documentation for the above options.

4. We recommend that option 2 be approved for Philadelphia Naval Shipyard, i.e., that Philadelphia Naval Shipyard be drawn down to a small size activity in the mid 90's as workload declines in order to provide a government controlled CV dry dock site and ship repair capability for the north east.

J.S. CLAMAN,
Rear Admiral, USN.

EXHIBIT 12

U.S. SENATE,
Washington, DC, June 6, 1991.

Hon. DICK CHENEY,
Secretary of Defense, Department of Defense, the Pentagon, Washington, DC.

DEAR SECRETARY OF DEFENSE CHENEY: I urge your immediate, personal action on serious wrongful conduct by Department of the Navy personnel in withholding critical information favorable to the Philadelphia Navy Yard.

We have now caught Navy personnel "red-handed" in concealing data which supports keeping the Philadelphia Naval Shipyard open.

On June 4, 1991, Congressman Weldon and I met with Navy Department personnel and asked about a report, which we had heard about, favorable to the Philadelphia Naval Shipyard which Naval personnel denied existed. When I received a copy, or at least a part of that report yesterday, I asked for a followup meeting which was held yesterday at 6:00 p.m. at the Pentagon at which time I confronted Navy personnel with the document. At that point, I was handed what appears to be the same document with additional documents with a transmittal letter to me dated June 5.

This is only part of an incredible sequence of events involving false denials and withholding of documents. I know you do not have the time to get into the many, many facets of the Navy Department's wrongful conduct so I will limit this request to the two pages of the document which I enclose.

As you will note, the cover page states:

"We recommend that option 2 be approved for Philadelphia Naval Shipyard,[1] i.e., that Philadelphia Naval Shipyard be drawn down to a small size activity in the mid 90's as workload declines in order to provide a government controlled CV dry dock site and ship repair capability for the north east."

As you will further note, the second page specifies the underlying factual basis which is so favorable to the Philadelphia Naval Shipyard:

"Closure of Philadelphia Naval Shipyard, without retention of the large carrier capable dry docks creates a shortfall in dry dock capability for emergent dockings of aircraft carriers. The only carrier capable dry dock available on the east coast, under Navy control is at Norfolk Naval Shipyard, and will be fully utilized. Without the dry docks available at Philadelphia, the only other dock capable of taking an emergent carrier docking is at Newport News Shipbuilding (NNSB). Exhibit C-7 illustrates this situation graphically. This dock is privately owned and its docking schedule is not controlled by the Navy. The cost to have NNSB provide a dedicated dock under contract is considered prohibitive. The only alternatives are to use the NNSB dock if available or to physically remove a ship already in dock at Norfolk Naval Shipyard if possible.

"The closure departs from a long standing Navy strategic and operational requirement which provided for two Naval shipyards on each coast capable of docking and repairing aircraft carriers."

When I confronted Navy Department personnel with this material yesterday, Rear Admiral John S. Claman, Deputy Commander for Industrial and Facility Management, replied that this information was in documentation previously provided to my office. After further discussion, Ms. Mary O. MacKinnon, Deputy, Shipyard/Maintenance Policy (OP-431), conceded that the information was in fact not previously provided.

I ask for your personal explanation of this important matter.

After I had a letter hand-delivered to you at the May 22 Appropriations Defense Subcommittee hearing, you replied by letter dated May 24 that Secretary Garrett had responded to the outstanding questions. That was not done by Secretary Garrett's letter dated May 22, and, in fact, the pending questions have not been answered even though Assistant Secretary of the Navy for Installations & Environment Jackie Schafer handed me additional materials at the conclusion of yesterday's meeting.

Mr. Secretary, the Navy Department's integrity is at issue which goes far beyond the subject matter of base closing.

On this state of the record, in light of the Navy Department's failure to provide relevant information to allow for compliance with the terms of the Base Closure Act, it seems to me that the only appropriate course of action is for the Philadelphia Naval Shipyard to be removed from the base closure list, which I ask you to do forthwith.

Sincerely,

ARLEN SPECTER.

EXHIBIT 13

UNITED STATES SENATE,
Washington, DC, June 6, 1991.

The DEFENSE BASE CLOSURE COMMISSION,
Hon. JAMES A. COURTER, *Chairman.*
Hon. WILLIAM L. BALL III,
Hon. HOWARD D. CALLAWAY,
Hon. DUANE H. CASSIDY,
Hon. ARTHUR LEVITT, Jr.,
Hon. JAMES C. SMITH II,
Washington, DC.

GENTLEMEN: With this letter, I am enclosing for you a copy of my letter to Secretary Cheney of today. This is the tip of the iceberg and my staff and I shall be forwarding to you other information.

At this juncture, I do want to raise one other matter which arose at the June 4 meeting attended by staff from the Base Closing Commission, Navy Department personnel, Congressman Weldon and myself.

In the course of that meeting, we discussed the absence of hard data up to the present time for the Navy's decision to close the Philadelphia facilities notwithstanding your Commission's news releases of May 22. At that time, your staff members, Mr. Matt Behrmann, Mr. Paul Hirsch and Mr. Alex Yellon, advised that the Commission was still acquiring information; and, in addition, was seeking to determine whether the Navy consistently applied its subjective standards on other bases which might be a justification for the use of subjective interpretations on the Navy's decision to close the Philadelphia facilities.

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[1] Downsize, but keep open.

At that time, I raised the question as to whether it was possible realistically, to evaluate the consistency of subjective judgments. I respectfully submit that cannot be done.

If Secretary Cheney does not delete the Philadelphia facilities as called for in my letter to him today, I ask your Commission to delete the Philadelphia facilities from the base closure list since there cannot be an adequate factual basis, as a matter of law under the statute, when it is admitted by all parties that it was a subjective determination.

Sincerely,

ARLEN SPECTER.

EXHIBIT 14

HOUSE OF REPRESENTATIVES,
Washington, DC, June 13, 1991.

The DEFENSE BASE CLOSURE COMMISSION,
Hon. JAMES A. COURTER, *Chairman.*
Hon. WILLIAM L. BALL III,
Hon. HOWARD D. CALLAWAY,
Hon. DUANE H. CASSIDY,
Hon. ARTHUR LEVITT, Jr.,
Hon. JAMES C, SMITH II,
Washington, DC.

GENTLEMEN: Last week, I met with Admiral James Lang, Admiral John Claman and Members of your staff to request internal Navy documentation prepared during the base closure review process. In addition to other data, I requested all base closure correspondence from the recently retired Commander of the Naval Sea Systems Command, Admiral Peter Hekman. I would like to call to your immediate attention the enclosed memos which I received this afternoon.

As you can see, Admiral Hekman was aware that the Secretary of the Navy was considering a proposal to mothball the Philadelphia Naval Shipyard as early as December 19, 1990. In his memo to the Chief of Naval Operations (CNO), Admiral Hekman said it would be more prudent to downsize the Philadelphia Naval Shipyard than close it. He concluded that "a Navy industrial capability is required in the Philadelphia area to provide a safety valve when a private sector shipyard is unable to complete awarded ship work." This is precisely the argument I have made against the Navy's recommendation to rely on Newport News shipbuilding for emergent work.

One month before the Navy announced its recommendation to close PNSY, Admiral Hekman stated that retention of a downsized Yard is the most cost-effective solution. He specifically noted that retention would provide the fleet with a low-cost, reliable repair capability and help spread the cost of continued operations at the base. At a time when Admiral Hekman was fully aware of the five-year budget plan and proposed reductions he cautioned against and realignment of Philadelphia before FY95. He emphatically stated that realignment of PNSY in FY93 would cause "significant: perturbations to carrier overhauling yard assignments and could result in the East Coast CV overhauling on the West Coast."

I think these statements speak for themselves, and greatly overshadow the confusing, color-coded rating systems and data that the Navy has presented to date. I am troubled that the Navy would ignore this strong advice and question why it was not made available to the congressional delegation and the Commission before.

After reviewing Admiral Hekman's correspondence and the additional materials I have provided to you, I am confident that you will have all the documentation you need to remove Philadelphia Naval Shipyard from the base closure list.

Thank you for your consideration.

Sincerely,

CURT WELDON,
Member of Congress.

EXHIBIT 15

DEPARTMENT OF THE NAVY,
Washington, DC, December 19, 1990.

From: Commander, Naval Sea Systems Command.

To: Chief of Naval Operations (CF-04).

Subj: Realignment data for Philadelphia Naval Shipyard.

Ref: (a) COMNAVSEA ltr 5000 OPR: 07T3/T0373 Ser: 00/6224 of 20 Nov 10; (b) CINCLANTFLT ltr 4700 Ser N436/007378 of 14 Sep 90.

1. In reference (a), I provided information relative to the proposed realignment of Philadelphia Naval Shipyard, while maintaining the propeller shop and foundry, the Naval Ship Systems Engineering Station (NAVSSES) and the Naval Inactive Ship Maintenance Facility (NISMF). While I realize that the Secretary has been briefed and has concurred with the proposal to mothball Philadelphia Naval Shipyard, I strongly recommend that this decision be reconsidered. It is more prudent to downsize Philadelphia Naval Shipyard to approximately the size of a Ship Repair Facility (SRF) in order to support Navy ships in the New York and Earle homeport areas. In reference (b), CINCLANTFLT outlined the history of Atlantic Fleet depot maintenance problems with marginal ship repair contractors. A Navy industrial capability is required in the Philadelphia area to provide a safety valve when a private sector shipyard is unable to complete awarded ship work.

2. Further, recommend that the drawdown of Philadelphia Naval Shipyard to an SRF-size shipyard not be done until FY 95, as the shipyard is required to support scheduled workload until that time.

P.M. HEXMAN, Jr.

EXHIBIT 16

DEPARTMENT OF THE NAVY,
Washington, DC, March 15, 1991.

From: Commander, Naval Sea Systems Command.

To: Chief of Naval Operations (CF-04).

Subj: Realignment of Philadelphia Naval Shipyard.

Ref: (a) CNO ltr Ser: 431F/1U596599 of 11 Jan 91; (b) NAVSEA ltr Ser 00/6312 of 19 Dec 90.

1. In reference (a), you indicated that my recommendation that Philadelphia Naval Shipyard be downsized rather than closed was not accepted by the Base Closure/Realignment Advisory Committee. The fleet needs the capability of a naval shipyard to provide a credible repair capability able to service the Newport, Philadelphia, New York and Earle area, as well as to provide a source of repair when a private sector shipyard is unable to complete the assigned work in the areas, as stated in reference (b).

2. Under the closure option and in interest of clarification, the 30 people mentioned in reference (a) were an estimate of the number of people required to man the drydock in a mothball status. In addition to this, 255 people would be required to man the remaining facilities, 155 to provide residual facilities support and 100 to run the propeller shop and foundry. This compares with approximately 1,200 personnel under the "small repair capability" option: 135 residual facility support, 100 to run the propeller shop and approximately 945 to perform repair work for the fleet. Any required additional support for this facility would be from another larger naval shipyard such as Norfolk Naval shipyard.

3. I continue to take the position that retention of a credible repair capability at Philadelphia for naval ships homeported in the Northeast area is the most cost effective solution:

(1) It provides the fleet with low cost, reliable repair capability,

(2) It helps spread the effects of the costs to Navy Programs of the other repair facilities (foundry, utilities, etc.).

Further, the workload distribution for naval shipyards in the 90's supports full operations at Philadelphia through mid FY 95. As previously briefed, executing a realignment of Philadelphia Naval Shipyard in FY 93 will cause significant perturbations to carrier overhauling yard assignments and could result in an East Coast CV overhauling on the West Coast.

P.M. HEXMAN, Jr.

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF TREVOR HENDERSON

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 119, S. 249, regarding relief of Trevor Henderson.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 249) for the relief of Trevor Henderson.

The Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

S. 249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [That notwithstanding section 3702(b)(1) of title 31, United States Code, the Comptroller General shall pay the claim of Trevor Henderson for payment of a Survivor Benefit Plan annuity for the period December 1, 1973, through July 31, 1981.]

SECTION 1. PAYMENT OF CLAIM.

The Secretary of the Treasury shall pay, out of the Department of Defense Military Retirement Fund, to Trevor Henderson of Malvern, Iowa, the sum of $48,878.04. Such sum shall be in full satisfaction of any claim of Trevor Henderson for survivor annuity amounts payable under subchapter II of chapter 73 of title 10, United States Code, for the period beginning on December 1, 1973, and ending on July 31, 1981.

SEC. 2. LIMITATION ON AGENTS AND ATTORNEYS FEES.

It shall be unlawful for an amount that exceeds 10 percent of the sum described in section 1 to be paid to or received by an agent or attorney for any service rendered in connection with the benefits provided by this Act. Any person who violates this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 249), as amended, was passed as follows:

S. 249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAYMENT OF CLAIM.

The Secretary of the Treasury shall pay, out of the Department of Defense Military Retirement Fund, to Trevor Henderson of Malvern, Iowa, the sum of $48,878.04. Such sum shall be in full satisfaction of any claim of Trevor Henderson for survivor annuity amounts payable under subchapter II of chapter 73 of title 10, United States Code, for the period beginning on December 1, 1973, and ending on July 31, 1981.

SEC. 2. LIMITATION ON AGENTS AND ATTORNEYS FEES.

It shall be unlawful for an amount that exceeds 10 percent of the sum described in section 1 to be paid to or received by an agent or attorney for any service rendered in connection with the benefits provided by this Act. Any person who violates this section shall be guilty of an infraction and shall be subject to a fine in the amount provided in title 18, United States Code.

Mr. MITCHELL. I move to reconsider the vote by which the bill was passed and move to lay that motion on the table.

The motion to lay on the table was agreed to.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1012. A bill to authorize appropriations for the activities and programs of the National Highway Traffic Safety Administration, and for other purposes (Rept. No. 102–83).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCONNELL:

S. 1302. A bill to amend title 10, United States Code, to authorize the Secretary of the Army to award a combat armor badge to armor soldiers of the Army, and for other purposes; to the Committee on Armed Services.

By Mr. MITCHELL (for Mr. DECONCINI (for himself, Mr. D'AMATO, Mr. WARNER, Mr. HEFLIN, Mr. LIEBERMAN, and Ms. MIKULSKI)):

S. 1303. A bill to enhance the Federal Government's authority and ability to eliminate violent crime committed by outlaw gangs; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 1304. A bill to extend until January 1, 1995, the existing suspension of duty on certain piston engines; to the Committee on Finance.

By Mr. DOMENICI:

S. 1305. A bill to amend the Internal Revenue Code of 1986 to encourage consumer participation in energy efficiency, conservation and cost-effective demand-side management by excluding from gross income payments made by utilities to customers for purchasing qualified energy conservation appliances and for taking energy conservation measures, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 1306. A bill to amend title V of the Public Health Service Act to revise and extend certain programs, to restructure the Alcohol, Drug Abuse and Mental Health Administration, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. COATS:

S.J. Res. 163. Joint resolution designating the month of September 1991, as "National Gymnastics Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MACK:

S. Con. Res. 47. Concurrent resolution urging the provision of foreign assistance to support legislative development in Central America to strengthen democracy in the region; to the Committee on Foreign Relations.

By Mr. AKAKA (for himself, Mr. GLENN, and Mr. INOUYE):

S. Con. Res. 48. Concurrent resolution expressing the sense of the Congress regarding the awarding of contracts and subcontracts for the reconstruction of Kuwait; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL:

S. 1302. A bill to amend title 10, United States Code, to authorize the Secretary of the Army to award a combat armor badge to armor soldiers of the Army, and for other purposes; to the Committee on Armed Services.

COMBAT ARMOR BADGE

• Mr. MCCONNELL. Mr. President, the American and allied military campaign to rout Iraqi forces from Kuwait was a complete and total success. We owe this victory to brilliant leadership and the professionalism and dedication of all our service men and women.

Before discussing my bill, I think it is important to describe the contributions of armor forces to Operation Desert Storm. A brief summary in U.S. News & World Report provides a noteworthy account:

> This is how they [U.S. and allied forces] did it: The French 6th Armored Division, accompanied by a brigade of the U.S. 82nd Airborne, went farthest west while the "Screaming Eagles" of the U.S. 101st Airborne Division in three waves of Black Hawk assault helicopters flew nearly 170 miles through driving rain in pitch-black skies to the edge of the Euphrates between the towns of As Samawah and Nasiriya. * * * Saddam Hussein didn't know it yet, but his Republican Guard had already been cut off.
>
> And before he could react, the largest tank assault since World War II was about to begin, the massive M-1A1s of the 24th Mech in the lead. As the Army's heavy VII Corps, normally based in Germany, and the British 1st Armored Division crashed into the Iraqi defenses farther east, the 24th drove deep into Iraq to link up with the 101st Airborne. * * *
>
> For the Republican Guard, the only escape from the allies' massing tanks was across the land bridge at the city of Nasiriyah. Farther south, the banks of the Euphrates are bordered by vast marshes and broad expanses of standing water. For tanks, it was perfect killing ground. The 101st had established what the tacticians call an airhead at Nasiriyah, but it would be no match for the top-of-the-line Soviet-made T-72 tanks of the Republican Guard. To get to Nasiriyah, however, the Guard division had to travel nearly 160 miles to the west—not quite as far as the heavy allied tank divisions had come from the south.

In fact, the race wasn't even close. The battle was joined about 50 miles west of Basra. "A classic tank battle," Schwarzkopf called it. It began when tanks of the Republican Guards' Hammurabi Division encountered advance scouts of the U.S. Army's powerful 1st and 3rd Armored Divisions, which until very recently were the backbone of Western Europe's defense against a Soviet armored onslaught. The heavy hitting began almost immediately. In thick mud beneath a gathering dusk, roughly 800 American tanks squared off against nearly 300 of the Republican Guard's T-72s * * * the Iraqis never had a chance.

The bill I am introducing today simply bestows recognition upon Army armor soldiers who participate in combat. I ask my colleagues to reflect for a moment on the awards and badges offered to other U.S. troops who engage in combat. For those soldiers who participate in ground combat, a combat infantryman badge may be awarded. For servicemen in the Air Force Medical Service, or the Army and Navy Medical Departments, a combat medical badge exists. But what about armor soldiers, Mr. President? Shouldn't they be recognized for their unique skills and contributions in times of combat?

Armor soldiers are a special breed of warrior. Like infantrymen or field medical personnel, they are directly involved in close combat missions. According to the Department of the Army's Weapons Systems 1990, tanks are a primary ground combat weapons system for closing with and destroying enemy forces using mobility, firepower, and shock action. This has been repeatedly proven on the world's battlefields, including during the 100 hours of fighting in Operation Desert Storm.

I think it is only appropriate to take a moment to praise Fort Knox, KY—the home of armor—for its outstanding training of our armor personnel. The swift defeat of Iraqi forces is testament to the superb schooling our soldiers received at that installation. Commanding General Foley and the entire installation is deserving of our highest thanks and praise.

Let me also thank the many Armored Division Associations and former armor soldiers for their support of this bill. In particular, the tireless efforts of Mr. Charles Sutherland must be recognized.

Mr. President, I hope my colleagues will join me in supporting our armor soldiers, and in recognizing their contributions in times of combat.

I ask unanimous consent that a copy of a letter I sent to the Secretary of the Army be inserted into the RECORD, along with a copy of my bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1302

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds the following:

(1) The members of the Armed Forces of the United States who perform combat mission in armored vehicle crews play a vital part in protecting the national security interest of the United States.

(2) Such members have served with gallantry and distinction in many of the wars and other military conflicts fought by the Armed Forces of the United States, including the military campaign during the Persian Gulf War.

(3) All such personnel received their armored vehicle training at Fort Knox, Kentucky, the location of the Headquarters, United States Army Armor Center.

SEC. 2. AUTHORITY TO ISSUE COMBAT ARMOR BADGE.

(a) COMBAT ARMOR BADGE IN CASE OF MEMBERS OF THE ARMY.—Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3754. Combat armor badge

"(a) The Secretary of the Army may award combat armor badge of appropriate design to any armor soldier who was assigned or attached to an Army armored, cavalry, or reconnaissance unit while such was engaged in combat operations against an enemy force. The Secretary shall prescribe the conditions for award of the combat armor badge.

"(b) In this section, the term 'armor soldier' means of soldier trained and qualified to serve as a member of a crew of an armored vehicle.".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3753 the following:

"3754. Combat armor badge.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 shall take effect as of August 2, 1990.

U.S. SENATE,
Washington, DC, June 17, 1991.

Hon. MICHAEL STONE,
Secretary, Department of the Army, The Pentagon, Washington, DC.

DEAR SECRETARY STONE: This afternoon I introduced legislation providing for the establishment and award of an Armor Combat Tank Badge. I am enclosing a copy of my bill for your viewing.

The war to liberate Kuwait reaffirmed the necessity of armor forces on the world's battlefields. Engaged in the largest tank assault since World War II, U.S. and allied troops soundly defeated Saddam Hussein's war machine. Over 1,000 U.S. tanks and armor crews contributed to this impressive victory.

While the idea of an Armor Combat Tank Badge is not new, I think it is clear its time has come. For several years, Armor Division Associations in Kentucky—and nationwide—have expressed their hopes for the creation of such a badge. Our armor soldiers are a special breed of warrior, and I am certain this badge will provide them with the recognition they so rightly deserve.

I hope you will lend your support to my bill, and will join me in thanking all our armor soldiers.

Sincerely,

MITCH MCCONNELL,
U.S. Senator.•

By Mr. MITCHELL (for Mr. DECONCINI, for himself, Mr. D'AMATO, Mr. WARNER, Mr. HEFLIN, Mr. LIEBERMAN, and Ms. MIKULSKI):

S. 1303. A bill to enhance the Federal Government's authority and ability to eliminate violent crime committed by outlaw gangs; to the Committee on the Judiciary.

OUTLAW GANG CONTROL ACT

• Mr. DECONCINI. Mr. President, earlier in this Congress I introduced S. 339, the Outlaw Street and Motorcycle Gang Control Act of 1991. The bill I am introducing today, cosponsored by Senators D'AMATO, WARNER, HEFLIN, LIEBERMAN, and MIKULSKI, is a substitute for that measure. It was redrafted in order to clarify S. 339.

At the suggestion of the Phoenix Police Department, a definition of "outlaw gang" has been included in this substitute bill to better identify those outlaw gangs which fall within the scope of this act. This generic definition of "outlaw gang" eliminates the need to include categorical references to certain gangs. The reference to outlaw street and motorcycle gangs overlooked prison gangs whose members continue to maintain their gang affiliation and engage in criminal activity after release from prison. Moreover, the reference to motorcycle gangs generated concern that law-abiding motorcycle club members would be inadvertently targeted as outlaws.

The intent of the legislation remains the same: to provide the necessary tools to the Bureau of Alcohol, Tobacco and Firearms [ATF] to assist them in ridding our streets of violent gangs. This bill will severely limit gang members' ability to acquire firearms and explosives and, in turn, their ability to inflict terror and distribute drugs throughout the cities and communities of this Nation.

Gang members and the crimes they commit are growing at horrifying rates. Our Nation's major cities are overrun with gang-related violence. Gangs have taken over neighborhoods and turned them into war zones. The Los Angeles Police Department reports that from 1985 to 1988 the number of gangs and gang-related homicides increased 71 percent, and other major cities report record homicides attributable to gang violence.

The gang explosion is not limited to our major cities; mid-size cities and suburban areas face gang problems as well. It certainly exists in my home State, Arizona, where 110 drive-by shootings were reported in Tucson and Phoenix alone since January 1991. In addition, the Phoenix Police Department records indicate there are approximately 285 gangs, an increase of over 700 percent since the department began keeping records in 1978.

Gangs are recruiting young children with the lure of money, expensive clothes, powerful weapons, and the addiction of cocaine; the violence and terror of the street hardens our youths into criminals before they are old enough to attend high school—if they live that long. Gangs are expanding at alarming rates; in fact, Los Angeles authorities estimate that the area street gang population is approaching 100,000.

As these gangs expand, they seek out new territory, and new buyers for their drugs. Rival gangs battle each other, but the bloodshed is not limited to gang members. Their diplomacy is gunfire, and they do not care who receives their deadly message. Innocent, law-abiding citizens are caught in the middle of this violence; they are held firmly in the grasp of the gangs. Communities have lost control of their streets, their parks and playgrounds, and more importantly, control of their children. If they speak out, or attempt to interfere with a gang, they face the terror of deadly retaliation.

Gangs form for diverse purposes, ranging from the sole purpose of drug trafficking to basic survival on the streets. A gang profile beyond the major categories is difficult to describe, because gangs vary in so many ways. Memberships range from 4 to 5 members to thousands of members; gang members range in age from 10 years old and up. Some gangs, such as the Hell's Angels, are extremely organized, with a national organization and national leadership, while street gangs, such as the Bloods and Crips, are unsophisticated, with a structure that changes from day to day.

Mr. President, as you can clearly see, gang violence is an epidemic. Local law enforcement agencies are doing all they can do, but the simple fact is that they are outmanned and outgunned. The Outlaw Gang Control Act of 1991 combats the growing problem of the heavily armed outlaw gangs that have spread across this country by enhancing the enforcement power of the lead Federal agency in the antigang effort—the Bureau of Alcohol, Tobacco and Firearms. The bill establishes a national gang analysis center under the direction and control of ATF as a national repository for gang intelligence, which in turn will provide information to law enforcement and the public.

This bill empowers ATF with seizure and forfeiture authority of drugs, money, and other property involved in crimes relating to firearms and explosives. Presently ATF agents are only authorized to seize firearms and explosives. With this increased seizure power, ATF agents will no longer have to leave money and drugs in the hands of gangs. ATF will now be able to bankrupt the gangs.

The bill also toughens penalties for firearms violations. It creates a new offense punishable by a mandatory minimum 5-year prison term for stealing a firearm or explosive material. This legislation makes it unlawful for any person to transfer a firearm having "reasonable cause to believe" that it will be used to commit a crime of violence or drug trafficking. The bill further makes it unlawful to steal any firearm from a licensed dealer. These crucial amendments to the Firearm Act of the Criminal Code will thwart the efforts of gangs to elude authorities and escape prosecution for their heinous crimes of terror and violence.

Mr. President, this bill will not end the gang problem in this country, but it is a step in the right direction. Our city streets are rampant with tales of horror brought about by gang violence. Local law enforcement agencies are overwhelmed and the communities are helpless, crying out for help. That help is here—Federal assistance from the U.S. Government. Remember that gang violence is not isolated; it is a national problem, and it is exploding. Rapid Federal assistance is crucial to combat gangs and it can begin today with the Outlaw Gang Control Act of 1991.

Let there be no mistake about the purpose of this crucial legislation: To combat violent criminals who violate Federal firearms and explosives laws. This bill I offer today simply clarifies the purpose of S. 339. Law enforcement officers and law-abiding citizens in the communities across this Nation applaud this needed legislation. I would like to thank Gus Haag, and Wayne Curtin of the Motorcycle Riders Foundation for their support and assistance in improving this bill. I ask unanimous consent that the entire text of the bill I am submitting today and a section-by-section analysis be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Outlaw Gang Control Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) outlaw gangs pose an ever-increasing threat of violent crime;

(2) such gangs are a force that can be contained only through law enforcement efforts coordinated at the Federal level; and

(3) such gangs are a national epidemic, and they must be the subject of a national strategy for interdiction and control.

(b) Purpose.—It is the purpose of this Act to—

(1) combat gang-related violent crime through enhanced penalties and other provisions of law that control the illegal use of firearms and explosives;

(2) expand seizure and forfeiture authority of the Bureau of Alcohol, Tobacco and Firearms; and

(3) authorize the establishment of a National Center for Outlaw Gang Analysis.

SEC. 3. DEFINITION.

For the purposes of this Act, the term "outlaw gang" or "gang" means a criminal syndicate composed of 5 or more persons that is commonly known by a certain name or identifier that engages in or has as one of its purposes engaging in Federal felony offenses involving firearms, physical injury, or threats of physical injury.

TITLE I—ENHANCED PENALTIES FOR THE MISUSE OF FIREARMS AND EXPLOSIVES

SEC. 101. POSSESSION OF STOLEN FIREARMS AND EXPLOSIVES.

(a) Firearms.—Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "conceal".

(b) Explosives.—Section 842(h) of title 18, United States Code, is amended by inserting "possess," before "conceal".

SEC. 102. TRANSFER OF FIREARM TO COMMIT CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Section 924(h) of title 18, United States Code, is amended by inserting "or having reasonable cause to believe" after "knowing".

SEC. 103. PERIOD OF LIMITATION FOR VIOLATIONS OF THE NATIONAL FIREARM ACT.

(a) In General.—The first sentence of section 6531 of the Internal Revenue Code of 1986 (relating to periods of limitation on criminal prosecutions) is amended by inserting "shall be 5 years for offenses described in section 5861 (relating to firearms violations) and" after "the period of limitation".

(b) Effective Date.—The amendment made by this section shall apply to offenses committed after the date of enactment of this Act.

SEC. 104. RECEIPT OF FIREARMS BY NONRESIDENTS.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end thereof;

(2) in paragraph (8) by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive a firearm.".

SEC. 105. THEFT OF FIREARM OR EXPLOSIVE MATERIAL.

(a) Firearms.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever steals a firearm that is moving as, or is a part of, or that has moved in, interstate or foreign commerce shall be fined under this title and imprisoned for not less than 5 years or more than 10 years, or both.".

(b) Explosives.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever steals explosive material that is moving as, or is a part of, or that has moved in, interstate or foreign commerce shall be fined under this title and imprisoned for not less than 5 years or more than 10 years, or both.".

SEC. 106. POSSESSION OF FIREARM DURING COMMISSION OF A CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Section 924(c) of title 18, United States Code, is amended—

(1) by striking "uses or carries a firearm" and inserting "uses, carries, or possesses a firearm"; and

(2) by striking "used or carried" and inserting "used, carried, or possessed".

SEC. 107. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) Firearms.—Section 924 of title 18, United States Code, as amended by section 105(a), is amended by adding at the end thereof the following new subsection:

"(j) Whoever conspires to commit an offense under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 105(a), is amended by adding at the end thereof the following new subsection:

"(l) Whoever conspires to commit an offense under this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 108. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, as amended by section 107(a), is amended by adding at the end thereof the following new subsection:

"(k) Whoever steals a firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, as amended by section 107(b), is amended by adding at the end thereof the following new subsection:

"(m) Whoever steals explosive material from a licensed importer, licensed manufacturer, licensed dealer, or permittee shall be fined in accordance with this title, imprisoned not more than 10 years, or both.".

TITLE II—SEIZURE AND FORFEITURE

SEC. 201. EXPANDED AUTHORITY OF THE SECRETARY OF THE TREASURY.

(a) FIREARMS AND AMMUNITION.—Section 924(d) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) Any property (other than real property) subject to forfeiture under section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)), may be seized and forfeited in connection with an investigation of a violation of subsection (c) of this section, and all provisions of section 551 of the Controlled Substances Act shall apply to seizures and forfeitures under this paragraph.

"(B) For the purposes of subparagraph (A), the functions of the Attorney General under section 551 of the Controlled Substances Act with respect to the seizure, forfeiture, and disposition of property shall be carried out by the Secretary of the Treasury.".

(b) EXPLOSIVE MATERIALS.—Section 844(c) of title 18, United States Code, is amended to read as follows:

"(c)(1) The following shall be subject to forfeiture to the United States and their former owner shall have no property right in them:

"(A) Any explosive material that is involved, used, or intended to be used in connection with a violation of the provisions of this chapter or any rule or regulation promulgated thereunder or a violation of any criminal law of the United States.

"(B) Any real or personal property that is involved, used, or intended to be used in any manner or part in connection with a violation of subsection (d), (e), (f), (g), (h), or (i) of this section or of section 842(h).

"(C) Any real or personal property that constitutes or is derived from proceeds traceable to a violation of subsection (d), (e), (f), (g), (h), or (i) of this section or of section 842(h).

"(2) No property shall be forfeited under this subsection to the extent of the interest of an owner or lienholder by reason of a violation committed without the knowledge of that owner or lienholder.

"(3)(A) The Secretary may seize any property subject to civil forfeiture under this subsection—

"(i) upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over such property; or

"(ii) without such process when—

"(I) the seizure is pursuant to a lawful arrest or search;

"(II) the Secretary has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

"(III) the Secretary has probable cause to believe that the property is subject to civil forfeiture under this section.

"(B) Proceedings under paragraph (4) shall be instituted promptly in the case of a seizure pursuant to subparagraph (A)(ii) (II) or (III).

"(C) The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this subsection in the same manner as is provided for the issuance of a search warrant under the Federal Rules of Criminal Procedure.

"(4)(A) Subject to subparagraph (B), the law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition and transfer of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims shall apply to seizures and forfeitures incurred or alleged to have been incurred under this subsection, insofar as that law is applicable and is not inconsistent with this subsection.

"(B) In carrying out the law described in subparagraph (A) for the purposes of this subsection, such duties as are imposed on the customs officer or any other person with respect to the seizure and forfeiture of property under that law shall be performed with respect to seizures and forfeitures of property under this subsection by such officers, agents, or other persons as the Secretary designates for that purpose.

"(5) All right, title, and interest in property described in paragraph (1) shall vest in the United States upon commission of the violation that gives rise to forfeiture under this subsection.

"(6) The filing of an indictment alleging a violation of subsection (d), (e), (f), (g), (h), or (i) of section 842(h), or of State or local law that could have been charged under such Federal laws which is also related to a civil forfeiture proceeding under this subsection shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.".

TITLE III—FUNDS FOR UNDERCOVER PURCHASES

SEC. 301. RECOVERY AND REDEPOSIT OF UNDERCOVER FUNDS.

Section 3302 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Moneys expended from appropriations for the Bureau of Alcohol, Tobacco and Firearms for the purchase of alcohol, tobacco, firearms, and explosives for evidentiary purposes and subsequently recovered shall be reimbursed to the appropriation current at the time of deposit.".

TITLE IV—NATIONAL CENTER FOR OUTLAW GANG ANALYSIS

SEC. 401. ESTABLISHMENT OF CENTER.

(a) IN GENERAL.—There shall be established in the Bureau of Alcohol, Tobacco and Firearms a National Center for Outlaw Gang Analysis.

(b) PURPOSES.—The purposes of the Center shall be—

(1) to identify the outlaw gangs that engage in drug-related and other violent crime by—

(A) types of illegal activity;

(B) methods of operation; and

(C) geographic distribution;

(2) to gather intelligence on illegal activities undertaken by violent outlaw gangs from law enforcement sources;

(3) to increase public awareness of outlaw gang identification and threat to the public and to solicit information and evidence, under the assurance of confidentiality, from persons who possess information that may assist law enforcement investigations;

(4) to establish a national hotline for the public to report unlawful gang activity;

(5) to share intelligence information pertaining to illegal gang activity with the appropriate Federal, State, and local law enforcement and correction agencies;

(6) to conduct seminars and conferences for Federal, State, and local law enforcement and correction agencies and community leaders, to assist in identification of gang activities and methods to curtail and control such activities; and

(7) to publish an annual report that includes significant findings pertaining to—

(A) gang identification;

(B) incidence of gang use of explosive devices and firearms; and

(C) the results of Federal outlaw gang eradication efforts.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 402. AUTHORITY OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.

The Director of the Bureau of Alcohol, Tobacco and Firearms shall be responsible for providing—

(1) national oversight in the accumulation and dissemination of gang-related information; and

(2) coordination of gang-related investigations by Federal law enforcement agencies.

THE OUTLAW GANG CONTROL ACT OF 1991—SECTION-BY-SECTION ANALYSIS

Sec. 1.—Findings

Sec. 2.—Purpose

Sec. 3.—Definition

A definition of "outlaw gang" and "gang" is included to clarify those gangs which are subject to prosecution under this bill.

TITLE I—ENHANCED PENALTIES FOR THE MISUSE OF FIREARMS AND EXPLOSIVES

Sec. 101. Possession of stolen firearms and explosives

Current law makes it unlawful to ship, transport, or receive stolen firearms, or to receive, transport, ship, sell, or dispose of stolen explosives. The law does not make possession of a stolen weapon or explosive illegal. This legislation amends sections 922(j) and 842(h) of title 18, United States Code, making it unlawful for any person to possess stolen firearms or explosive materials if they know or have reason to know that the firearms or explosives were stolen.

Sec. 102. Transfer of a firearm to commit a crime of violence or a drug trafficking crime

This section will amend section 924(h) of title 18, United States Code, to make it unlawful for any person to transfer a firearm having "reasonable cause to believe" that it will be used to commit a crime of violence or drug trafficking crime. Current law provides that the transferor must know that the firearm will be used to commit such crimes.

This will greatly enhance law enforcement efforts to prevent gang members and other drug traffickers from acquiring firearms—the tools of their trade.

Sec. 103. Increase the statute of limitation for violations of the national firearms act

Presently the statute of limitations is three years for violations of the National Firearms Act (NFA), relating to machineguns, short-barreled rifles and shotguns, and destructive devices. This legislation will amend section 6531 of the Internal Revenue Code of 1986 (18 U.S.C. Sec. 6531) by increasing the statute of limitations from three years to five years for violations of the NFA, Section 5861 of the Internal Revenue Code of 1986 (18 U.S.C. Sec. 5861). This would be consistent with the statute of limitations for violations of the Gun Control Act, as amended, 18 U.S.C. Chapter 44.

Sec. 104. Receipt of firearms by non-residents

This section addresses the law enforcement problem posed by aliens legally in the United States, but not residing in any State, who acquire firearms from Federal firearms licensees by utilizing an intermediary. Having acquired firearms in this country, such aliens often smuggle the weapons out of the country. It is generally unlawful for any person to transfer a firearm to any other person who does not reside in the State in which the transferor resides. However, the alien's receipt of a firearm from a licensee or through an intermediary does not violate any specific portion of the Act. This legislation amends section 922(a) of title 18, United States Code, making it unlawful for any person, other than a licensed importer, manufacturer, licensed dealer, or licensed collector, who does not reside in any State, to purchase or otherwise receive firearms.

The section would not prohibit an alien lawfully conducting a firearms business in the United States from receiving firearms in the conduct of such business. Moreover, the amendment does not affect those aliens who legally import or bring firearms into the United States for legitimate purposes and would not preclude the lawful acquisition of firearms by aliens who have established residency in a State.

Sec. 105. Theft of firearms or explosives

This section further amends sections 844 and 924 of title 18, United States Code, by creating new offenses punishable by a mandatory minimum five-year prison term for stealing a firearm or explosive materials. Currently, sections 842(h) and 922(i) and (j) of title 18, United States Code, punish the transportation, receipt or disposition of firearms or explosive materials known to have been stolen. There is, however, no offense specifically directed at the theft of firearms or explosives.

Sec. 106. Possession of a firearm during the commission of a crime of violence or drug trafficking crime

This section is designed to broaden the prohibition in section 924(c) of title 18, United States Code, to reach persons who have a firearm available during the commission of certain crimes even if the firearm is not carried or used. Currently, section 924(c) punishes by a mandatory five-year prison term the carrying or use of a firearm during and in relation to the commission of a drug or violent felony. The proposed amendment is designed to cover any circumstance in which, for example, a drug trafficker has available a firearm during and in relation to his illegal drug activities. As under the existing provision, the Government will still be required to establish a relationship between the drug or violent offense and the defendant's possession of the firearm (for example, it would not include a gun kept exclusively in a club locker and used only for sporting purposes at the club), but the relationship or connection may be more attenuated than under current law and may apply to a firearm that is possessed by the defendant for potential employment in his illegal activities, even though it is not physically on his person or within reach and even though it is not proved to have been used or planned to be used during the offense.

Sec. 107. Firearms and explosives conspiracy

This section would add sections 844(l) and 924(j) to title 18, United States Code, to provide that the penalty for conspiring to violate the Federal firearms or explosives laws would be the same as the substantive offense. These amendments are similar to 21 U.S.C. Section 846 relating to conspiracies to violate the Federal drug laws.

Sec. 108. Theft of firearms or explosives from licensee

This section also amends sections 924 and 844 of title 18, United States Code, by adding that whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, or any explosive materials from a licensed importer, licensed manufacturer, or licensed dealer shall be imprisoned not more than ten years, fined, or both.

TITLE II—SEIZURE AND FORFEITURE

Sec. 201. Amendments to expand ATF seizure and forfeiture authority

This section amends section 924(d) of title 18, United States Code, to give the Bureau of Alcohol, Tobacco, and Firearms (ATF) the authority to seize and forfeit property (except real property) in connection with ATF's enforcement of section 924(c) of title 18, United States Code. Section 924(c) provides for mandatory penalties for the use or carrying of a firearm during and in relation to a drug trafficking crime. ATF's existing seizure and forfeiture authority under the Gun Control Act of 1968 is limited to firearms and ammunition. This legislation would allow ATF to seize and forfeit drugs, money, and other property involved in the underlying drug trafficking crime. Currently, ATF must either turn the property over to the Drug Enforcement Administration (DEA) or allow State or local agencies to dispose of the property. Requiring DEA to process forfeitures resulting from ATF investigations results in an administrative burden on DEA. Turning property over to State or local agencies means that the proceeds resulting from the disposition of the property are lost to the Federal Government. Both of these alternatives could be avoided if ATF's authority to seize and forfeit property involved in drug trafficking crimes is extended as proposed in the attached amendments.

This section would extend ATF's seizure and forfeiture authority to provide for the efficient forfeiture of property in connection with ATF's enforcement of section 924(c) of title 18, United States Code, and to insure that ATF will recover certain resources expended in their investigations.

TITLE III—FUNDS FOR UNDERCOVER PURCHASES

Sec. 301. Recovery and redeposit of undercover funds

This section amends section 3302 of title 31, United States Code, to allow ATF to redeposit money used to purchase alcohol, tobacco, firearms, and explosives for evidentiary purposes and subsequently recovered into its current appropriation rather than into the General fund. This amendment is similar to provisions in section 3056(a) of title 18, United States Code, and section 886(b) of title 21, United States Code, which enable the Secret Service to reimburse their current appropriation with money they expended for purchase of counterfeits and controlled substances and subsequently recovered.

TITLE IV—NATIONAL CENTER FOR OUTLAW GANG ANALYSIS

Sec. 401. Establishment of center

This section authorizes the necessary appropriations for the establishment of a National Center for Outlaw Gang Analysis under the direction and control of the Director of ATF. The purpose of this Center is to establish a national repository of information on outlaw gangs to assist State and local, and other Federal law enforcement and corrections agencies to obtain information on outlaw gangs. It is also the purpose of this Center to conduct a public awareness program to educate the public regarding gang identification and illegal activity so that the public can in turn report suspicious gang activities to the Center. Moreover, the Center will be responsible for publishing an annual report regarding gangs' use of explosive devices and firearms.

Sec. 402. Authority of ATF

This section directs that the Director of ATF will have the lead role over the collection and dissemination of gang-related intelligence and be responsible for the overall coordination of Federal investigations of outlaw gangs.•

By Mr. DURENBERGER:

S. 1304. A bill to extend until January 1, 1995, the existing suspension of duty on certain piston engines; to the Committee on Finance.

DUTY SUSPENSION FOR CERTAIN PISTON ENGINES

• Mr. DURENBERGER. Mr. President, today I am introducing legislation which would suspend the duty on two- and four-stroke gasoline engines used in snowmobiles, golf carts, and other recreational vehicles.

Before the United States adopted the harmonized system of tariff classifications, there was no duty imposed on these imported engines because for several years, there have been no domestic manufacturers offering these engines. However, in the transition to the harmonized system, these engines were reclassified into a new category which carries a 3.1-percent tariff. My amendment would suspend this duty until January 1, 1995.

Mr. President, when the harmonized system was adopted, it was never the intent of the Congress to raise tariffs on products that were not previously dutiable. In this instance, the HS system works to the disadvantage of domestic manufacturers and simply forces American companies to raise the price of their products and to be less competitive against foreign manufacturers of similar recreational vehicles. That makes no sense.

I would also note that unless this tariff is suspended, the duty imposed on imported engines will be higher—3.1 percent—than the duty that is imposed on the fully assembled imported product—1.5 percent.

Mr. President, I hope that my colleagues will join me in correcting a situation which has unintentionally eroded the competitiveness of an entire sector of American industry.●

By Mr. DOMENICI:

S. 1305. A bill to amend the Internal Revenue Code of 1986 to encourage consumer participation in energy efficiency, conservation, and cost-effective demand-side management by excluding from gross income payments made by utilities to customers for purchasing qualified energy conservation appliances and for taking energy conservation measures, and for other purposes; to the Committee on Finance.

CONSERVATION AND ENERGY EFFICIENT INVESTMENT ACT

Mr. DOMENICI. Mr. President, I am sending to the desk the Conservation and Energy Efficient Investment Act of 1991. This bill changes the tax treatment of certain conservation rebates. Many of you have seen ads in the local papers about conservation rebates. Buy a heat pump and get a $300 rebate or a credit on your utility bill. Buy your family a new stove and get $150 back.

While all the ads sound appealing, not all rebates are created equal. Not all rebates result in energy efficiency and conservation. Consequently, not all rebates should be treated equally under the Tax Code.

Some utility companies offer rebates as part of their demand management program to encourage consumers to purchase the most efficient appliances available in the marketplace. This encourages conservation. These are good programs and I believe tax policy should encourage them. My bill would provide a tax incentive for this type of rebate.

Other utility companies have promotional programs to get people to buy one type of appliance instead of another, with the objective of selling more energy. Our tax system should not favor that rebate species. My bill would not provide a tax incentive for this type of promotional rebate program.

It used to be that all conservation rebates were not taxed as income to the consumer.

That changed in February 1989, when the Internal Revenue Service issued a technical advice memorandum which held that cash payments to encourage the installation of alternative heating systems were gross income to the recipients. In other words, in addition to spending a lot of money on an appliance or piece of equipment in order to conserve energy, the customer who received a rebate must also pay tax on that rebate. This tax policy effectively reduces the size of the rebate and the customer's incentive to invest in energy saving equipment.

On June 11, 1991, the Internal Revenue Service issued a second opinion and reversed itself for certain electric nonrefundable rebates.

In my opinion, both rulings were half right and half wrong.

It is wrong to tax rebates on the most energy efficient equipment in the marketplace. It is wrong to penalize true conservation.

It is correct to tax rebates on equipment that result in greater energy consumption than necessary, especially in these tight budgetary times. My bill would correct the portion of the ruling that is misguided and restore a favorable treatment for true energy conservation rebates.

The Federal Government has developed minimum energy conservation standards for appliances. In addition, the Federal Trade Commission's Appliance Labeling Program already exists and could facilitate this targeted approach to energy conservation rebates. Under section 324 of the Energy Policy and Conservation Act of 1975, the disclosure of energy efficiency and the cost to operate various appliances is required. Labels are required for home heating and cooling systems, heat pumps, water heaters, freezers, and dishwashers. These are most of the same appliances that are the subject of rebate programs.

The labels are prominently displayed on each applicance and they are easy to understand. An additional line could be added to the label stating whether the appliance, if purchased in conjunction with a rebate program, would qualify for favorable income tax treatment.

Under this approach the public would be better informed, and the most energy efficient equipment would be an attractive choice for consumers. Everyone would benefit. The country would be pursuing an intelligent energy conservation and tax policy. The customer would get an immediate incentive to invest in a device that would save on energy and utility bills over the long run, and the utility would have the opportunity to reduce demand. In some cases, demand is reduced enough that the utility would not have to build an additional power plant. To them, construction is more expensive than conservation.

Representative BARBARA KENNELLY, Senator SYMMS, and others have introduced energy conservation rebate legislation. I appreciate all the work they have done on this issue. But some bills, and the recent IRS ruling only favor electric utilities. I believe this is a mistake.

My bill would apply to both electricity and natural gas because I think tax policy should encourage maximum energy conservation. To achieve that objective Congress should treat the two major competitors alike.

Electricity and natural gas are the two the principal energy sources for residential and commercial energy consumption. According to the Department of Energy, natural gas accounts for 44 percent of the direct consumption of energy and electricity accounts for 39 percent.

Consumer energy choices are particularly affected by promotional practices which alter initial costs of the appliance or equipment. Often a consumer will choose a cheaper, yet less efficient appliance even when the payback period from energy savings is less than 2 years. We do not want tax policy to affect costs which in turn would favor one source over another. It would result in both energy and economic inefficiency.

The bill also allows a favorable tax treatment for small cogeneration plants that some small businesses, schools, and hospitals could install.

This provision will add to the cost estimate for the bill, but I wanted to take the good conservation policy approach to encourage small businesses, schools, and hospitals to use cogeneration where, and when they have the opportunity.

The idea of favorable tax treatment for conservation rebates does not come from out of the blue. The historical exclusion of trade rebates and discounts from gross income is based on longstanding case law which supports the position that energy efficiency credits or payments represent an adjustment to the price of either the electricity or the equipment depending on the facts of the incentive program involved.

Yes, this bill would result in a small revenue loss to the Federal Government. Preliminary estimates are at least $500 million over 5 years. This is the estimate for the Kennelly bill prepared prior to the June 11, 1991, Internal Revenue technical advice memorandum. The Internal Revenue's action may significantly reduce the revenue estimate.

Regardless, the revenue loss would need to be offset under the new pay-as-you-go requirements of the Budget Enforcement Act.

I will be happy to work with the committee to find an offset, as well as to answer any questions and respond to comments you may have on this legislation.

By Mr. KENNEDY (for himself and Mr. HATCH):

S. 1306. A bill to amend title V of the Public Health Service Act to revise and extend certain programs, to restructure the Alcohol, Drug Abuse, and Mental Health Administration, and for other purposes; to the Committee on Labor and Human Resources.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION REORGANIZATION ACT OF 1991

Mr. KENNEDY. Mr. President, today I am joining Senator HATCH, the ranking member of the Committee on Labor and Human Resources, in introducing the ADAMHA Reorganization Act of 1991.

Mental illness and substance abuse are two of the most vexing public health problems confronting the United States. Their cost is staggering. In economic terms, these afflictions result in nearly $300 billion in lost productivity, medical expenditures, and social program outlays each year. The human costs of these epidemics—lost dreams, shattered lives and devastated families—are immeasurable.

ADAMHA is the agency within the Department of Health and Human Services responsible for our efforts to combat mental illness and substance abuse. ADAMHA has two separate, equally important, missions. It sponsors research on mental health and addiction issues, and it provides prevention and treatment services through a variety of grant programs.

Under current law, ADAMHA consists of our entities: the National Institute on Drug Abuse [NIDA], The National Institute on Alcohol Abuse and Alcoholism [NIAAA], the National Institute of Mental Health [NIMH], and the Office for Substance Abuse Prevention [OSAP]. A fifth entity, the Office for Treatment Improvement [OTI], was established by administrative authority. NIDA, NIAAA, and NIMH are primarily research institutes, although they conduct some service demonstration projects. OSAP and OTI are service-oriented agencies, although they engage in research and outcome evaluation with respect to their service programs, most of which are called research demonstration projects. This patchwork of authorities is largely a function of history; each of the entities in ADAMHA was created at a different time, and the structure has never been the subject of comprehensive congressional review.

Statutory authorization for the vitally important research and service programs assigned to ADAMHA is due to expire this year, and Senator HATCH and I view this reauthorization process as an opportunity to reexamine ADAMHA's structure. In this effort, we have worked closely with the Secretary of Health and Human Services, Dr. Louis Sullivan, and other administration officials responsible for mental health and substance abuse issues.

We have sought to determine if the dual mission that Congress has haphazardly assigned to ADAMHA is feasible. We have examined whether it is useful to ask a single agency to research the causes and the cures of a disease at the same time that it provides services to those suffering from the disease. We have compared the role of ADAMHA with the role of the National Institutes of Health [NIH], the entity within HHS responsible for all other fields of health research.

Our conclusion is that the present configuration of ADAMHA is not appropriate. Senator HATCH, Secretary Sullivan, and I believe that HHS could better fulfill its responsibilities in the fields of mental health and substance abuse if the research and service programs now administered by ADAMHA were separated. This bill accomplishes that goal by transferring the three ADAMHA research institutes to NIH and by reconstituting ADAMHA as ADAMHSA, the Alcohol, Drug Abuse, and Mental Health Services Administration.

It might seem logical to keep research and services under the same roof in order to facilitate "technology transfer," the process by which research findings are applied in the field. In practice, however, the research findings are applied in the field. In practice, however, the research and service enterprises are so different that they cannot be effectively administered in one agency. Researchers and service providers share a common goal, but they speak a different language and thrive in different professional cultures. Rather than collaboration between research and services, ADAMHA has been the setting for competition between these activities, a situation compounded by overlap and confusion with respect to the duties of the institutes and the agencies.

The advantages of reorganization are substantial, and both the research and services fields will benefit.

Mental health and substance abuse researchers will enjoy the prominence that derives from association with NIH. There is a dynamic interaction among the NIH institutes—a climate of scientific excellence that breeds cooperation and ingenuity. For too long, reseachers specializing in the fields of mental health and substance abuse have been second class citizens in the medical research community because their disciplines are not represented at NIH. There may have been a time, in the early stages of these disciplines, when such a separation was warranted, but recent breakthroughs in understanding the nature and origin of mental and addictive disorders confirm that the ADAMHA institutes deserve a place in the NIH.

The current structure has also perpetuated an unnecessary stigma. This country has been slow to recognize mental illness and substance abuse as diseases, but scientists have confirmed that they are. Yet we remain too quick to react unsympathetically when confronted with a mentally ill individual or a substance abuser. These illnesses often result in antisocial behavior, but instead of offering treatment opportunities, we place undue reliance on the civil commitment and criminal justice systems to remove the offensive condition from our midst, however temporarily.

The placement of NIDA, NIAAA, and NIMH alongside the National Cancer Institute, the National Institute of Diabetes, and the other NIH institutes will serve a vital symbolic function: Congress will be affirming the status of mental illness and substance abuse as diseases. We should bring the same degree of compassion and scientific discipline to bear upon mental illness and substance abuse as we bring to bear upon any other disease. The same principles of public health should govern.

Mental health and substance abuse service providers have as much cause to welcome this reorganization as their counterparts in research. For too long, the growth of Federal support for treatment and prevention of these afflictions has been stunted by the current patchwork of authorities. Congress has recognized a Federal role in filling the large gaps in existing State and local treatment and prevention networks, but the diverse missions of ADAMHA have caused these service programs to be implemented with an undue emphasis on research.

The transformation of ADAMHA into an agency with an unambiguous charter to support treatment and prevention services for the mentally ill and for substance abusers is an important development. The bill I am introducing today will authorize a broad array of programs to be administered by ADAMHSA. Some of these programs, like the High-Risk Youth Grant Program, exist in law now but are administered within the contraints of a research agenda. Others, like the Capacity Expansion Program, are new. All of these programs will benefit from the new structure, under which money appropriated by Congress for services will be used for services, and money appropriated for research will be used for research.

In fashioning this proposed reorganization, Senator HATCH, Secretary Sullivan, and I have been mindful of potential pitfalls. First, some have suggested that while NIH has developed a formidable reputation for sponsoring quality biomedical research, it has less experience in the behavioral sciences that anchor the research portfolios of NIAAA, NIDA, and NIMH. We have sought to address this concern in the bill by providing that the peer review processes currently utilitized by the three ADAMHA institutes are to be transferred with the institutes to NIH. We do not expect or intend that the receptivity of the institutes to behavioral research will be adversely affected by reorganization.

Similarly, the statutory authority to conduct services research, most of which would be characterized as behavioral research, is to be transferred with the research institutes. There are, however, existing ADAMHA programs which have been labeled as services research but which have come to be relied on by the field as services. These grant programs will remain in ADAMHSA.

Finally, while the research institutes are leaving ADAMHA, we recognize that it would be unwise to create a services agency that spent money without the authority to help determine which types of services work, and which work best. Our bill addresses this concern in two ways. First, ADAMHSA will have an independent obligation to evaluate the programs it funds. Second, there will still be substantial opportunities for collaboration between the research institutes and the Services Administration. Indeed, technology transfer may flourish more under reorganization than in the competitive climate of ADAMHA.

Reorganization is the most visible aspect of this legislation, but the bill has other important goals as well. The bill incorporates the Biden-Kennedy Pharmacotherapy Development Act, introduced as title III of S. 2649, a bill from the 101st Congress that did not become law. Senator BIDEN and I are proposing the creation of a medication development division within NIDA with broad authority to promote the development of antiaddiction medications, supported by a multiyear authorization of appropriations.

The bill makes significant changes in the Alcohol, Drug Abuse, and Mental Health Block Grant Program, which will be administered by the new Services Administration. Most notably, the legislation revises the formula by which funds appropriated under the block grant are apportioned among the States. Rural and smaller States have persuasively argued that the current formula overstates the extent to which substance abuse and mental illness are urban phenomena. The new formula, similar to the formula in S. 2649 that was endorsed unanimously by the Labor Committee, redresses the imbalance between urban and rural interests, but does so in a manner that will not cause an undue disruption of services in urban States. I am pleased that Senators HARKIN and HOLLINGS—two of the strongest advocates for a formula change—have indicated their support for the new formula I am proposing in this bill.

The bill also includes several improvements in the block grant program proposed by the Office of National Drug Control Policy. There will be improved accountability as a result of the Statewide Prevention and Treatment Plan initiative. Also, the maintenance of effort requirement in current law will be strengthened through greater specificity.

Our ability to treat, prevent and understand mental illness and substance abuse has grown significantly in recent years. I am confident that the bill we are introducing today will establish a framework for even greater advances in both research and services.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—ADMINISTRATION AND INSTITUTES

Subtitle A—Restructuring

Sec. 101. Restructuring.

"PART A—ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

"Subpart 1—Establishment and General Duties

"Sec. 501. Alcohol, Drug Abuse and Mental Health Services Administration.
"Sec. 502. General duties and activities with respect to substance abuse and mental health.

"Subpart 2—Substance Abuse Prevention and Treatment Programs and Mental Health Services

"Sec. 505. Substance abuse prevention and treatment projects for high risk youth.
"Sec. 506. Projects for reducing the incidence of substance abuse among pregnant and postpartum women.
"Sec. 507. Projects of national significance.
"Sec. 508. Grants for substance abuse treatment in state and local criminal justice systems.
"Sec. 509. Treatment and prevention training grants.
"Sec. 510. Substance abuse treatment capacity expansion program.
"Sec. 511. Other services programs.
"Sec. 512. Community partnership grants.
"Sec. 513. Establishment of grant program for demonstration projects.

"Subpart 3—Administrative Provisions

"Sec. 515. Advisory councils.
"Sec. 516. Peer review for service grants.
"Sec. 517. Applications.
"Sec. 518. Procedures for misconduct.
"Sec. 519. Experts and consultants.
"Sec. 520. Office for special populations.

Sec. 102. National Institutes.

"Subpart IV—National Institutes on Alcohol Abuse and Alcoholism, on Drug Abuse and of Mental Health

"CHAPTER 1—ESTABLISHMENT AND GENERAL DUTIES

"Sec. 486A. National Institute on Alcohol Abuse and Alcoholism.
"Sec. 486B. National Institute on Drug Abuse.
"Sec. 486C. National Institute of Mental Health.

"CHAPTER 2—RESEARCH PROGRAMS

"Sec. 486H. Mental health and substance abuse research.
"Sec. 486I. National mental health and substance abuse education programs.
"Sec. 486J. National substance abuse research centers.
"Sec. 486K. Medication development program.

Subtitle B—Miscellaneous Alcohol and Drug Abuse Provisions

Sec. 111. Miscellaneous alcohol and drug abuse provisions.

"PART C—MISCELLANEOUS PROVISIONS RELATING TO SUBSTANCE ABUSE AND MENTAL HEALTH

"Sec. 541. Technical assistance to state and local agencies.
"Sec. 542. Substance abuse among government and other employees.
"Sec. 543. Admission of substance abusers to private and public hospitals and outpatient facilities.
"Sec. 544. Confidentiality of records.
"Sec. 545. Data collection.
"Sec. 546. Research on public health emergencies.

Subtitle C—Transfer Provisions

Sec. 121. Transfers.
Sec. 122. Delegation and assignment.
Sec. 123. Transfer and allocations of appropriations and personnel.
Sec. 124. Incidental transfers.
Sec. 125. Effect on personnel.
Sec. 126. Savings provisions.
Sec. 127. Separability.
Sec. 128. Transition.
Sec. 129. References.

Subtitle D—Conforming Amendments

Sec. 131. Conforming amendments.
Sec. 132. Additional conforming amendments.

Subtitle E—Miscellaneous provisions

Sec. 141. Alternative sources of funding for certain grantees.
Sec. 142. Peer review.

TITLE II—REAUTHORIZATION AND IMPROVEMENT OF ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICE BLOCK GRANT PROGRAM

Sec. 201. Reauthorization of block grant.
Sec. 202. Revision of block grant formula.
Sec. 203. Use of unobligated funds by States.
Sec. 204. Revision of intravenous drug set-aside.
Sec. 205. Use of allotments.
Sec. 206. Maintenance of effort.
Sec. 207. Requirement of statewide substance abuse treatment plans.
Sec. 208. Technical amendment.

TITLE III—STUDIES

Sec. 301. Study on private sector development of pharmacotherapeutics.
Sec. 302. Study on medications review process reform.
Sec. 303. Sense of Congress.
Sec. 304. Report by the Institute on Medicine.
Sec. 305. Definition of serious mental illness.
Sec. 306. Provision of mental health services to individuals in correctional facilities.

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—ADMINISTRATION AND INSTITUTES

Subtitle A—Restructuring

SEC. 101. RESTRUCTURING.

Title V (42 U.S.C. 290aa et seq.) is amended—

(1) by redesignating parts C through E as parts B through D, respectively; and

(2) by striking out parts A and B and inserting in lieu thereof the following new part:

"PART A—ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

"Subpart 1—Establishment and General Duties

"SEC. 501. ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.

"(a) ESTABLISHMENT.—There is hereby established, as an agency of the Service, the Alcohol, Drug Abuse and Mental Health Services Administration.

"(b) ADMINISTRATOR, DEPUTY ADMINISTRATORS AND OTHER ENTITIES.—

"(1) ADMINISTRATOR.—The Alcohol, Drug Abuse and Mental Health Services Administration shall be headed by an Administrator (hereinafter in this title referred to as the 'Administrator') who shall be appointed by the President by and with the advice and consent of the Senate.

"(2) ASSOCIATE ADMINISTRATORS FOR SUBSTANCE ABUSE AND FOR MENTAL HEALTH.—The Administrator with the approval of the Secretary, shall appoint an Associate Administrator for Substance Abuse and an Associate Administrator for Mental Health and may employ and prescribe the functions of such other officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the Administration.

"(3) OTHER ENTITIES.—The Administrator with the approval of the Secretary, may establish and prescribe the functions of such offices and entities within the Administration as are necessary to administer the activities to be carried out through the Administration, including the establishment of an Office for Substance Abuse Prevention, an Office for Treatment Improvement and an Office for Mental Health Services.

"(c) OTHER SERVICES.—The Administrator may accept voluntary and uncompensated services.

"SEC. 502. GENERAL DUTIES AND ACTIVITIES WITH RESPECT TO SUBSTANCE ABUSE AND MENTAL HEALTH.

"(a) DEFINITION.—For purposes of this section, the term 'treatment and prevention services' means services that are designed to treat and prevent substance abuse and mental illness, and to promote mental health.

"(b) DUTIES.—The Administrator shall—

"(1) engage in activities that will support the provision of, and encourage others to provide, treatment and prevention services;

"(2) sponsor regional workshops on substance abuse, mental illness, and treatment and prevention services;

"(3) in collaboration with the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, develop and disseminate publications, documentary films and public service announcements on substance abuse, mental illness, and treatment and prevention services;

"(4) in cooperation with the Director of the Centers for Disease Control, develop educational materials to reduce the risks of acquired immune deficiency syndrome among intravenous drug abusers;

"(5) conduct training, technical assistance, data collection, and evaluation activities with respect to programs that provide treatment and prevention services;

"(6) collaborate with the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health to promote the study of the outcomes of treatment and prevention services in order to identify the manner in which such services can most effectively be provided;

"(7) collaborate with the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health to promote the dissemination and implementation of research findings that will improve the delivery and effectiveness of treatment and prevention services;

"(8) encourage the adoption of employee assistance programs and student assistance programs;

"(9) in consultation with the States, carry out activities to educate communities on the need for providing treatment and prevention services within such communities;

"(10) encourage public and private entities that provide health insurance to provide benefits for treatment and prevention services;

"(11) promote the increased integration of treatment and prevention services into the mainstream of the heath care system of the United States;

"(12) establish a clearinghouse for substance abuse and mental health information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, treatment and prevention service providers, and the general public;

"(13) carry out the provisions of the Protection and Advocacy of Mentally Ill Individuals Act (42 U.S.C. 10801 et seq.);

"(14) administer the block grant program authorized in section 1911, and the programs authorized in sections 1916B and 1924; and

"(15) carry out the programs established in sections 505 to 510C, and the program established in part D, and in administering such programs, assure that—

"(A) all grants that are awarded for the provision of services are subject to performance and outcome evaluation studies; and

"(B) all grants awarded to entities other than States are awarded only after consultation with the appropriate State agency.

"(c) GRANTS AND CONTRACTS.—The Administrator may make grants and enter into contracts and cooperative agreements in carrying out the activities described in subsection (b).

"(d) APPLICATIONS.—Applications for grants under this part shall be in such form, shall contain such information, and shall be submitted at such time as the Secretary may prescribe.

"(e) EQUITABLE DISTRIBUTION.—To the extent feasible, the Secretary in awarding grants under this part, shall award such grants in all regions of the United States, and shall ensure the distribution of grants under this part among urban and rural areas.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $150,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"Subpart 2—Substance Abuse Prevention and Treatment Programs and Mental Health Services

"SEC. 505. SUBSTANCE ABUSE PREVENTION AND TREATMENT PROJECTS FOR HIGH RISK YOUTH.

"(a) AUTHORITY.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities for projects to prevent and treat substance abuse among high risk youth.

"(b) PRIORITY.—

"(1) CHILDREN.—In making grants for substance abuse prevention projects under this section, the Secretary shall give priority to applications for projects directed at children of substance abusers, latchkey children, children at risk of abuse or neglect, preschool children eligible for services under the Head Start Act, children at risk of dropping out of school, children at risk of becoming adolescent parents, and children who do not attend school and who are at risk of being unemployed.

"(2) PROJECTS ADDRESSING CERTAIN RELATIONSHIPS.—In making grants for substance abuse treatment projects under this section, the Secretary shall give priority to projects which address the relationship between substance abuse and physical child abuse, sexual child abuse, emotional child abuse, dropping out of school, unemployment, delinquency, pregnancy, violence, suicide, or mental health problems.

"(3) COMMUNITY BASED ORGANIZATIONS.—In making grants under this section, the Secretary shall give priority to applications from community based organizations for projects with comprehensive coordinated services for the prevention or treatment of substance abuse by high risk youth that may be replicated.

"(c) APPLICATION.—In order to receive a grant for a project under this section for a fiscal year, a public or nonprofit private entity shall submit an application to the Secretary.

"(d) HIGH RISK YOUTH.—For purposes of this section, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a substance abuser, and who—

"(1) is identified as a child of a substance abuser;

"(2) is a victim of physical, sexual, or psychological abuse;

"(3) has dropped out of school;

"(4) has become pregnant;

"(5) is economically disadvantaged;

"(6) has committed a violent or delinquent act;

"(7) has experienced mental health problems;

"(8) has attempted suicide;

"(9) has experienced long-term physical pain due to injury; or

"(10) has experienced chronic failure in school.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $75,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"SEC. 506. PROJECTS FOR REDUCING THE INCIDENCE OF SUBSTANCE ABUSE AMONG PREGNANT AND POSTPARTUM WOMEN.

"(a) GRANTS.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities for the purpose of carrying out projects to provide to pregnant and postpartum women and their children prevention, education, and treatment services regarding substance abuse.

"(b) PRIORITY.—

"(1) IN GENERAL.—In making grants under subsection (a), the Secretary shall give priority to any qualified applicant that agrees to provide treatment services.

"(2) FURTHER PRIORITY.—

"(A) NUMBER OF SERVICES PROVIDED.—In the case of any applicant for a grant under subsection (a) that is receiving priority under paragraph (1), the Administrator shall give further priority to the applicant commensurate with the number of different services described in subparagraph (B) that will be provided through the applicant and commensurate with the quality of such services. For purposes of the preceding sentence, such services may be provided directly by the applicant or through arrangements with other public or nonprofit private entities.

"(B) SERVICES.—The services referred to in subparagraph (A) are—

"(i) outreach services in the community involved to identify women who are abusing alcohol or drugs and to encourage such women to undergo treatment for such abuse;

"(ii) primary health care, including prenatal and postpartum health care for women who are undergoing treatment for such abuse;

"(iii) for the children of such women, pediatric health care and comprehensive social services;

"(iv) child care, transportation, and other support services regarding such treatment, including, as appropriate, visits to the home of such women;

"(v) as appropriate, referrals to facilities for necessary hospital services;

"(vi) employment counseling;

"(vii) counseling on parenting skills and nutrition;

"(viii) appropriate follow-up services to assist in preventing relapses;

"(ix) case management services, including assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

"(x) reasonable efforts to preserve and support the family unit, including promoting the appropriate involvement of parents and others, and counseling the children of women receiving services pursuant to this subsection; and

"(xi) housing in the course of treatment under circumstances that permit the children of the women to reside with their mothers.

"(c) ACCESSIBILITY AND LANGUAGE CONTEXT.—The Administrator may not make a grant under subsection (a) unless the applicant for the grant agrees that the services provided pursuant to subsection (a)—

"(1) will be provided at locations accessible to low-income pregnant and postpartum women; and

"(2) will be provided in the language and the cultural context that is most appropriate.

"(d) HEALTH SERVICE COVERED BY STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT.—

"(1) REQUIREMENT.—Subject to paragraph (2), the Administrator may not make a grant under subsection (a) unless, in the case of any health service under subsection (b)(2)(B) that is covered by the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State in which the service will be provided—

"(A) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the applicant for the grant has entered into a contract with an entity under which the entity will provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER REGARDING PARTICIPATION AGREEMENTS.—

"(A) NO CHARGE OR REIMBURSEMENT.—In the case of an entity making an agreement under paragraph (1)(B) regarding the provision of health services under subsection (a), the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) DETERMINATION.—A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

"(e) IMPOSITION OF CHARGES.—The Administrator may not make a grant under subsection (a) unless the applicant for the grant agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income and resources of the woman involved; and

"(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(f) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Administrator may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than—

"(A) $1 for each $9 of Federal funds provided for the first year of payments under the grant; and

"(B) $1 for each $3 of Federal funds provided in any subsequent year of such payments.

"(2) TYPE OF CONTRIBUTION.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) LIMITATIONS AND WAIVER.—

"(1) LIMITATIONS.—The Administrator may not, except as provided in paragraph (2), make a grant under subsection (a) unless the applicant for the grant agrees that the grant will not be expended—

"(A) to provide inpatient services, except with respect to residential treatment for alcohol and drug abuse provided in settings other than hospitals;

"(B) to make cash payments to intended recipients of services under the program involved;

"(C) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment; or

"(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(2) WAIVER.—If the Administrator finds that the purpose of the program involved cannot otherwise be carried out, the Director may, with respect to an otherwise qualified grantee, waive the restriction established in paragraph (1)(C).

"(h) PAYMENTS.—The period during which payments are made by the Administrator under a grant under subsection (a) may not exceed 5 years, but the Administrator may renew the grant. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved to make the payments.

"(i) COLLABORATION WITH OTHER FEDERAL AGENCIES AND WITH STATES.—The Administrator shall collaborate with all other relevant Federal agencies on issues relating to maternal substance abuse, including the Bureaus of Maternal and Child Health and Health Resources Development, the Indian Health Service, the Bureau of Health Care Delivery and Assistance, and the Administration for Children and Families. Such collaboration may be accomplished through the establishment of interagency task forces, as appropriate. The Administration shall collaborate with the States to ensure that grants awarded under this section are coordinated with other treatment efforts undertaken within each State.

"(j) NONDISCRIMINATION.—The Secretary may not, in the awarding of grants under subsection (a), discriminate against applicants that propose or provide residential or outpatient treatment to substance abusing pregnant and postpartum women that receive treatment by order of a court or other appropriate public agency, subject to the availability of qualified applicants.

"(k) ANNUAL REPORTS.—The Administrator may not make a grant under subsection (a) unless the applicant for the grant agrees—

"(1) to include in the report the number of women served, the number of children served, the utilization rates, and the type and costs of services provided; and

"(3) to include in the report such other information as the Secretary determines to be appropriate; and

"(4) to prepare the report in such form, and to submit the report in such manner, as the Secretary determines to be necessary.

"(l) REPORT.—Not later than October 1, 1992 and every 2 years thereafter, the Administrator shall submit to the appropriate committees of Congress a report describing programs carried out pursuant to this section.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $75,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"SEC. 507. PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) GRANTS FOR TREATMENT IMPROVEMENT.—The Administrator shall award grants to public and nonprofit private entities for the purpose of establishing projects that will improve the provision of substance abuse treatment services.

"(b) NATURE OF PROJECTS.—Grants under subsection (a) may be awarded for—

"(1) projects that focus on providing treatment to adolescents, minorities, female addicts and their children, the residents of public housing projects, or substance abusers in rural areas;

"(2) projects that provide substance abuse treatment and vocational training in exchange for public service;

"(3) projects that provide treatment services and which are operated by public and nonprofit private entities receiving grants under section 329, 330 or 340;

"(4) 'treatment campus' projects that—

"(A) serve a significant number of individuals simultaneously;

"(B) provide residential, non-community based drug treatment;

"(C) provide patients with ancillary social services and referrals to community-based aftercare; and

"(D) provide services on a voluntary basis; or

"(5) projects to determine the long-term efficacy of the projects described in this section.

"(c) PREFERENCES IN MAKING GRANTS.—In awarding grants under subsection (a), the Administrator shall give preference to projects that—

"(1) demonstrate a comprehensive approach to the problems associated with substance abuse and provide evidence of broad community involvement and support; or

"(2) initiate and expand programs for the provision of treatment services (including renovation of facilities, but not construction) in localities in which, and among populations for which, there is a public health crisis as a result of the inadequate availability of such services and a substantial rate of substance abuse.

"(d) DURATION OF GRANTS.—Projects funded under subsection (a) shall be for a period of at least 3 years, but in no event to exceed 5 years, and may be renewed after competitive application.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"SEC. 508. GRANTS FOR SUBSTANCE ABUSE TREATMENT IN STATE AND LOCAL CRIMINAL JUSTICE SYSTEMS.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall establish a program to provide grants to public and nonprofit private entities that provide drug and alcohol treatment services to individuals under criminal justice supervision.

"(b) ELIGIBILITY.—In awarding grants under subsection (a), the Administrator shall ensure that the grants are reasonably distributed among—

"(1) projects that provide treatment services to individuals who are incarcerated in prisons, jails, or community correctional settings; and

"(2) projects that provide treatment services to individuals who are not incarcerated, but who are under criminal justice supervision because of their status as pretrial releasees, post-trial releasees, probationers, parolees, or supervised releasees.

"(c) PRIORITY.—In awarding grants under subsection (a), the Administrator shall give priority to programs commensurate with the extent to which such programs provide, directly or in conjunction with other public or private nonprofit entities, one or more of the following—

"(1) a continuum of offender management services as individuals enter, proceed through, and leave the criminal justice system, including identification and assessment, drug and alcohol treatment, pre-release counseling and pre-release referrals with respect to housing, employment and treatment;

"(2) comprehensive treatment services for juvenile offenders;

"(3) comprehensive treatment services for female offenders, including related services such as violence counseling, parenting and child development classes, and perinatal care;

"(4) outreach services to identify individuals under criminal justice supervision who would benefit from substance abuse treatment and to encourage such individuals to seek treatment; or

"(5) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"SEC. 509. TREATMENT AND PREVENTION TRAINING GRANTS.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall develop programs to increase the number of full-time substance abuse treatment and prevention providers and the number of health professionals providing treatment and prevention services as a component of primary health care. Such programs shall include the awarding of grants to appropriate public and nonprofit private entities, including agencies of State and local governments, hospitals, schools of medicine, schools of osteopathic medicine, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, and graduate programs in clinical psychology.

"(b) USE OF AMOUNTS.—Amounts awarded under subsection (a) shall be utilized to—

"(1) train individuals in the diagnosis, treatment and prevention of substance abuse; and

"(2) to develop appropriate curricula and materials for the training described in paragraph (1);

"(c) PRIORITY.—In awarding grants under subsection (a), the Administrator shall give priority to applicants that train full-time substance abuse treatment providers.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"SEC. 510. SUBSTANCE ABUSE TREATMENT CAPACITY EXPANSION PROGRAM.

"(a) CAPACITY EXPANSION PROJECTS.—

"(1) ESTABLISHMENT.—The Secretary, acting through the Administrator, shall award grants to States for the purpose of assisting such States to expand their substance abuse treatment capacity.

"(2) STATE ELIGIBILITY.—The Secretary shall award grants under paragraph (1) to States in which the demand for substance abuse treatment services exceeds the capacity of entities operating in those States to provide such services. In making such determination concerning demand, the Secretary shall consider indicators of capacity shortage, such as a high prevalence of substance abuse, waiting lists at treatment facilities within a State, and any other criteria that the Secretary determines are appropriate.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall develop criteria to assess the extent to which States are utilizing non-Federal funds to expand treatment capacity, and shall give priority to such States commensurate with the per capita expenditure of such funds.

"(4) IMPROVEMENTS TO PROPERTY.—Grants awarded under this section may not be used to purchase real property but may be used to renovate or improve property to make such property suitable for use as a treatment facility.

"(5) SUPPLEMENTATION OF FUNDING.—Projects funded under paragraph (1) shall supplement, not supplant, existing or planned substance abuse treatment services in a State.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $100,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) AVAILABILITY.—Funds appropriated in accordance with paragraph (1) shall remain available until expended.

"SEC. 511. OTHER SERVICES PROGRAMS.

"(a) AIDS OUTREACH GRANTS.—The Secretary, acting through the Administrator, may make grants to, or enter into contracts with, public and nonprofit private entities to support projects to carry out outreach activities to intravenous drug abusers with respect to preventing exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome and encouraging intravenous drug abusers to seek treatment for such abuse.

"(b) GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.—The Secretary, acting through the Administrator, may make grants to, and enter into contracts and cooperative agreements with, community-based public and private nonprofit entities for the purpose of developing and expanding mental health and substance abuse treatment services for homeless individuals. In carrying out this subsection, the Administrator shall consult with the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health.

"(c) TERM OF GRANT.—No entity may receive grants under subsection (a) or (b) for more than 5 years.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $150,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"SEC. 512. COMMUNITY PARTNERSHIP GRANTS.

"(a) GRANTS.—The Secretary, acting through the Administrator, may make grants to communities—

"(1) for the development of comprehensive long-term strategies for the prevention of substance abuse; and

"(2) to evaluate the success of different community approaches towards the prevention of substance abuse.

"(b) APPLICATION.—To be eligible to receive a grant under this section, a community shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $130,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"SEC. 513. ESTABLISHMENT OF GRANT PROGRAM FOR DEMONSTRATION PROJECTS.

"(a) Seriously Mentally Ill Individuals, and Children and Adolescents With Serious Emotional and Mental Disturbances.—

"(1) In general.—The Secretary, acting through the Administrator, may make grants to States, political subdivisions of States, and nonprofit private agencies for—

"(A) mental health services demonstration projects for the planning, coordination and improvement of community services (including outreach and consumer-run self-help services) for seriously mentally ill individuals and their families, seriously emotionally and mentally disturbed children and youth and their families, and seriously mentally ill homeless and elderly individuals;

"(B) demonstration projects for the prevention of youth suicide;

"(C) demonstration projects for the improvement of the recognition, assessment, treatment and clinical management of depressive disorders;

"(D) demonstration projects for programs to prevent the occurrence of sex offenses, and for the provision of treatment and psychological assistance to the victims of sex offenses; and

"(E) demonstration projects for programs to provide mental health services to victims of family violence.

"(2) Mental health services.—Mental health services provided under paragraph (1)(A) should encompass a range of delivery systems designed to permit individuals to receive treatment in the most therapeutically appropriate, least restrictive setting. Grants shall be awarded under such paragraph for—

"(A) demonstration programs concerning such services; and

"(B) systems improvements to assist States and local entities to develop appropriate comprehensive mental health systems for adults with serious long-term mental illness and children and adolescents with serious emotional and mental disturbance.

"(b) Individuals At Risk of Mental Illness.—

"(1) Grants.—The Secretary, acting through the Administrator, may make grants to States, political subdivisions of States, and private nonprofit agencies for prevention services demonstration projects for the provision of prevention services for individuals who, in the determination of the Secretary, are at risk of developing mental illness.

"(2) Types of demonstrations.—Demonstration projects under paragraph (1) may include—

"(A) prevention services for populations at risk of developing mental illness, particularly displaced workers, young children, and adolescents;

"(B) the development and dissemination of education materials;

"(C) the sponsoring of local, regional, or national workshops or conferences;

"(D) the conducting of training programs with respect to the provision of mental health services to individuals described in paragraph (1); and

"(E) the provision of technical assistance to providers of such services.

"(c) Limitation on Duration of Grant.—The Secretary may make a grant under subsection (a) or (b) for not more than five consecutive one-year periods.

"(d) Limitation on Administrative Expenses.—The Secretary may not make a grant under subsection (a) or (b) to an applicant unless the applicant agrees that not more than 10 percent of such a grant will be expended for administrative expenses.

"(e) Authorizations of Appropriations.—

"(1) In general.—For the purposes of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Rural areas.—Of the amounts appropriated pursuant to paragraph (1), the Secretary shall make available 15 percent for demonstration projects to carry out the purpose of this section in rural areas.

"Subpart 3—Administrative Provisions

"SEC. 515. ADVISORY COUNCIL.

"(a) Appointment.—

"(1) In general.—The Secretary acting through the Administrator, shall appoint one or more advisory councils for the Alcohol, Drug Abuse and Mental Health Services Administration (hereinafter referred to in this part as the 'Administration'). Such an advisory council shall advise, consult with, and make recommendations to the Administrator concerning matters relating to the activities carried out by and through the Administration and the policies respecting such activities.

"(2) Duties.—An advisory council appointed under paragraph (1)—

"(A)(i) shall review applications for grants and cooperative agreements for services or training and for which advisory council approval is required under section 516(c)(2), and recommend for approval applications for projects which show promise of improving the provision of treatment and prevention services; and

"(ii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Administration; and

"(B) may appoint subcommittees and convene workshops and conferences.

"(b) Composition.—

"(1) In general.—An advisory council appointed under subsection (a) shall consist of nonvoting ex officio members and not more than 12 members appointed by the Secretary.

"(2) Ex officio members.—The ex officio members of an advisory council shall consist of—

"(A) the Secretary and the Administrator (or the designees of such officers); and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) Appointment of members.—The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the fields of substance abuse and mental health treatment and prevention.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) Compensation and expenses.—Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on an advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of an advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) Term of Office.—

"(1) In general.—The term of office of an appointed member of an advisory council shall be 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office.

"(2) Reappointments.—A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office.

"(3) Vacancies.—If a vacancy occurs on an advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) Chairperson.—The chairperson of an advisory council shall be selected by the Secretary from among the members. The term of office of chairperson shall be 2 years.

"(e) Meetings.—An advisory council shall meet at the call of the chairperson or upon the request of the Administrator but at least 3 times each fiscal year. The location of the meetings of an advisory council shall be subject to the approval of the Administrator.

"(f) Administration.—The Administrator shall designate a member of the staff of the Administration to serve as the Executive secretary of an advisory council. The Administrator shall make available to an advisory council such staff, information, and other assistance as it may require to carry out its functions, and shall provide orientation and training for new members of an advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of an advisory council.

"SEC. 516. PEER REVIEW FOR SERVICES GRANTS.

"(a) Provision.—The Secretary, after consultation with the Administrator, shall by regulation require appropriate peer review of services grants, cooperative agreements, and contracts to be administered through the Administration.

"(b) Membership.—The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

"(c) Requirements Based on Amounts.—

"(1) Under $50,000.—If the direct cost of a grant, cooperative agreement, or contract to be made does not exceed $50,000, the Secretary may make such grant, cooperative agreement, or contract only if such grant, cooperative agreement, or contract is recommended after technical and scientific peer review required by regulations under subsections (a) and (b).

"(2) Over $50,000.—If the direct cost of a grant, cooperative agreement, or contract (described in subsection (a)) to be made exceeds $50,000, the Secretary may make such grant, cooperative agreement, or contract only if such grant, cooperative agreement, or contract is recommended—

"(A) after peer review required by regulations under subsections (a) and (b); and

"(B) by the advisory council established under section 515.

"SEC. 517. APPLICATIONS.

"Except as otherwise specifically provided, grants under this title may be made only to public and nonprofit private entities that prepare and submit to the administering entity an application for such grant that—

"(1) with respect to carrying out the purpose for which the assistance is to be provided, provides assurances of compliance satisfactory to the Secretary; and

"(2) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purpose of the program under which the application is submitted.

"SEC. 518. PROCEDURES FOR MISCONDUCT.

"The Administrator shall establish a process for the prompt and appropriate response to information regarding misconduct in connection with projects, to be administered by the Administrator, for which funds have been made available under this title. Such process shall include procedures for the receiving of reports of such information from recipients of funds under this title and taking appropriate action with respect to such misconduct and violations.

"SEC. 519. EXPERTS AND CONSULTANTS.

"(a) AUTHORITY TO OBTAIN.—The Administrator may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than 20 experts or consultants who have scientific or professional qualifications. Such experts and consultants shall be obtained for the Administration and each of the agencies of such.

"(b) COMPENSATION AND EXPENSES.—

"(1) IN GENERAL.—Experts and consultants whose services are obtained under subsection (a) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(2) AGREEMENTS.—Expenses specified in paragraph (1) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under subsection (a), unless and until the expert or consultant agrees in writing to complete the entire period of assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond the control of the expert or consultant that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in paragraph (1) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

"SEC. 520. OFFICE FOR SPECIAL POPULATIONS.

"(a) ESTABLISHMENT.—The Administrator shall establish, within the Administration, an Office for Special Populations.

"(b) DIRECTOR.—

"(1) DESIGNATION.—The Administrator shall designate a Director for Special Populations for the Office established under subsection (a).

"(2) DUTIES.—The Secretary, acting through the Director for Special Populations shall—

"(A) develop and coordinate policies and programs to assure increased emphasis on the needs of women, minority populations and the elderly with respect to substance abuse and mental health;

"(B) develop a plan to increase the provision of treatment and prevention services to women, minority populations and the elderly; and

"(C) support and develop programs designed to counteract discrimination against women, minority populations and the elderly in the fields of substance abuse and mental health services.

"(c) ANNUAL REPORT.—The Secretary shall periodically report to the appropriate committees of Congress concerning the actions taken by the Administrator under this section.".

SEC. 102. NATIONAL INSTITUTES.

(a) NATIONAL INSTITUTES OF HEALTH.—Section 401(b)(1) (42 U.S.C. 281(b)(1)) is amended by adding at the end thereof the following new subparagraphs:

"(N) The National Institute on Alcohol Abuse and Alcoholism.

"(O) The National Institute on Drug Abuse.

"(P) The National Institute of Mental Health.".

(b) ORGANIZATION.—Part E of title IV (42 U.S.C. 287 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart IV—National Institutes on Alcohol Abuse and Alcoholism, on Drug Abuse and of Mental Health

"CHAPTER 1—ESTABLISHMENT AND GENERAL DUTIES

"SEC. 486A. NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the National Institutes of Health the National Institute on Alcohol Abuse and Alcoholism (hereafter in this section referred to as the 'Institute') to administer the programs and authorities relating to alcohol abuse and alcoholism assigned to the Director of such Institute by this Act.

"(2) COMPREHENSIVE PROGRAMS.—The Director of the Institute shall develop and conduct a comprehensive research program on the cause, diagnosis, epidemiology, prevention and treatment of alcohol abuse and alcoholism, including services research. The Director of the Institute shall carry out the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) EMPLOYEES.—The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs to be carried out through the Institute, and may obtain the services of not more than 10 expert consultants in accordance with section 3109 of title 5, United States Code.

"(c) PARTICIPATION.—The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $200,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.

"SEC. 486B. NATIONAL INSTITUTE ON DRUG ABUSE.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the National Institutes of Health the National Institute on Drug Abuse (hereinafter in this section referred to as the 'Institute') to administer the programs and authorities relating to drug abuse assigned to the Director of such Institute by this Act.

"(2) COMPREHENSIVE PROGRAMS.—The Director of the Institute shall develop and conduct a comprehensive research program on the cause, diagnosis, epidemiology, prevention and treatment of drug abuse, including services research. The Director of the Institute shall carry out the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) EMPLOYEES.—The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute, and may obtain the services of not more than 10 expert consultants in accordance with section 3109 of title 5, United States Code.

"(c) PARTICIPATION.—The programs of the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $400,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.

"SEC. 486C. NATIONAL INSTITUTE OF MENTAL HEALTH.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the National Institutes of Health the National Institute of Mental Health (hereinafter in this part referred to as the 'Institute') to administer the programs and authorities of the Director with respect to mental health.

"(2) COMPREHENSIVE PROGRAM.—The Director of the Institute, shall develop and conduct a comprehensive research program on the cause, diagnosis, epidemiology, prevention and treatment of mental illness, including services research. The Director of the Institute shall carry out the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(3) PURPOSE.—The research program established under paragraph (2) shall be designed to further the treatment and prevention of mental illness, the promotion of mental health, and the study of the psychological, social and legal factors that influence behavior.

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) EMPLOYEES.—The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute, and may obtain the services of not more than 20 expert consultants in accordance with section 3109 of title 5, United States Code.

"(c) PARTICIPATION.—The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $600,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.

CHAPTER 2—RESEARCH PROGRAMS

"SEC. 486H. MENTAL HEALTH AND SUBSTANCE ABUSE RESEARCH.

"(a) IN GENERAL.—The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities for the conduct of, promotions of, coordination of, research, investigation, experiments, demonstrations, and studies relative to the cause, diagnosis, treatment, control, and prevention of mental illness and substance abuse.

"(b) AUTHORITY TO CARRY OUT ACTIVITIES.—In carrying out the programs described in subsection (a), the Secretary, acting through the Directors, is authorized to—

"(1) collect and disseminate through publications and other appropriate means (including the development of curriculum materials), information as to, and the practical application of, the research and other activities under the program;

"(2) make available research facilities of the Public Health Service to appropriate public authorities, and to health officials and scientists engaged in special study;

"(3) secure from time to time and for such periods as the Directors deems advisable, the assistance and advice of experts, scholars, and consultants;

"(4) promote the coordination of research programs conducted by the Directors, and similar programs conducted by other departments, agencies, organizations, and individuals, including all National Institutes of Health research activities which are or may be related to the problems of individuals suffering from substance abuse or those of their families or the impact of substance abuse on other health problems;

"(5) conduct an intramural program of biomedical, behavioral, epidemiological, and social research, including research into the most effective means of treatment and service delivery, and including research involving human subjects, which is—

"(A) located in an institution capable of providing all necessary medical care for such human subjects, including complete 24-hour medical diagnostic services by or under the supervision of physicians, acute and intensive medical care, including 24-hour emergency care, psychiatric care, and such other care as is determined to be necessary for individuals suffering from substance abuse; and

"(B) associated with an accredited medical or research training institution;

"(6) for purposes of study, admit and treat at institutions, hospitals, and stations of the Public Health Service, persons not otherwise eligible for such treatment;

"(7) provide to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical and other scientific research methods to experiments, studies, and surveys in health and medical fields;

"(8) enter into contracts under this subpart without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5); and

"(9) adopt such additional means as the Directors determines necessary or appropriate to carry out the purposes of this section.

"SEC. 486I. NATIONAL MENTAL HEALTH AND SUBSTANCE ABUSE EDUCATION PROGRAMS.

"The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, shall establish National Mental Health and Substance Abuse Education Programs for the purpose of—

(1) disseminating by publication and other appropriate means, information concerning improved methods of treating substance abusers and individuals with mental health problems and improved methods of assisting the families of such individuals; and

(2) supporting programs of training and education with respect to the causes, diagnosis, and treatment of, and research concerning, substance abuse and mental health problems.

"SEC. 486J. NATIONAL SUBSTANCE ABUSE RESEARCH CENTERS.

"(a) DESIGNATION.—The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, may designate National Substance Abuse Research Centers for the purpose of interdisciplinary research relating to substance abuse and other biomedical, behavioral, and social issues. No entity may be designated as a Center unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such manner and contain such information as the Secretary may reasonably require. The Secretary may not approve such an application unless—

"(1) the application contains or is supported by reasonable assurances that—

"(A) the applicant has the experience, or capability, to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on substance abuse and to provide coordination of such research among such disciplines;

"(B) the applicant has available to it sufficient facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan contained in the application,

"(C) the applicant has facilities and personnel to provide training in the prevention and treatment of substance abuse;

"(D) the applicant has the capacity to train predoctoral and postdoctoral students for careers in research on substance abuse;

"(E) the applicant has the capacity to conduct courses on substance abuse and research on substance abuse problems for undergraduate and graduate students, and medical and osteopathic, nursing, social work, and other specialized graduate students; and

"(F) the applicant has the capacity to conduct programs of continuing education in such medical, legal, and social service fields as the Secretary may require.

"(2) FIVE YEAR PLAN.—the application contains a detailed 5-year plan for research relating to substance abuse.

"(b) GRANTS.—The Secretary shall, under such conditions as the Secretary may reasonably require, make annual grants to Centers which have been designated under this section. No funds provided under a grant under this subsection may be used for the purchase of any land or the purchase, construction, preservation, or repair of any building. For the purposes of the preceding sentence, the term 'construction' has the meaning given that term by section 702(2).

"SEC. 486K. MEDICATION DEVELOPMENT PROGRAM.

"(a) ESTABLISHMENT.—There is established in National Institute on Drug Abuse a Medication Development Program through which the Director of such Institute shall—

"(1) conduct periodic meetings with the Commissioner of Food and Drugs to discuss measures that may facilitate the approval process of drug abuse treatments;

"(2) encourage and promote (through grants, contracts, international collaboration, or otherwise) expanded research programs, investigations, experiments, and studies, into the development of medications to treat drug and alcohol addiction and related mental disorders;

"(3) establish or provide for the establishment of research facilities;

"(4) report on the activities of other relevant agencies relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(5) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug and alcohol addiction and related mental disorders and collect, catalog, analyze, and disseminate through international channels, the results of such research;

"(6) directly or through grants, contracts, or cooperative agreements, support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug abuse and related mental disorders, including the use of training stipends, fellowships, and awards where appropriate; and

"(7) coordinate the activities conducted under this section with related activities conducted within the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, and shall consult with the Directors of such Institutes.

"(b) DUTIES OF DIRECTOR.—In carrying out the activities described in subsection (a), the Director—

"(1) shall collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) shall make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the program;

"(3) shall, in accordance with other provisions of Federal law, through grants, contracts, or cooperative agreements acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic centers, laboratories, and other necessary facilities and equipment, and such other property as the Director determines necessary to carry out the purposes of this subpart;

"(4) may accept voluntary and uncompensated services;

"(5) may accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(6) shall take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Administration and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(c) REPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—

"(1) IN GENERAL.—Not later than December 31, 1991, and each December 31 thereafter, the

Director shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the program assisted under this section.

"(2) INCORPORATION.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(d) REVIEW OF GRANTS.—The Director shall provide for the proper scientific review of all research grants, cooperative agreements, and contracts made or entered into under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section—

"(1) $70,000,000 for fiscal year 1992;

"(2) $85,000,000 for fiscal year 1993;

"(3) $100,000,000 for fiscal year 1994;

"(4) $110,000,000 for fiscal year 1995; and

"(5) $130,000,000 for each of the fiscal years 1996 through 2000.

"(f) DEFINITION.—As used in this section, the term 'pharmacotherapeutics' means medications used to treat the symptoms and disease of drug abuse, including medications to—

"(1) block the effects of abused drugs;

"(2) reduce the craving for abused drugs;

"(3) moderate or eliminate withdrawal symptoms;

"(4) block or reverse the toxic effect of abused drugs;

"(5) prevent, under certain conditions, the initiation of drug abuse; or

"(6) prevent relapse in persons who have been detoxified from abuse of drugs.".

Subtitle B—Miscellaneous Provisions

SEC. 111. MISCELLANEOUS PROVISIONS.

Part C (42 U.S.C. 290dd et seq.) (as redesignated by section 101(1)) is further amended to read as follows:

"PART C—MISCELLANEOUS PROVISIONS RELATING TO SUBSTANCE ABUSE AND MENTAL HEALTH

"SEC. 541. TECHNICAL ASSISTANCE TO STATE AND LOCAL AGENCIES.

"(a) AUTHORITY.—At the request of any State, the Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, shall, to the extent feasible, make available technical assistance for—

"(1) developing and improving systems for data collection;

"(2) program management, accountability, and evaluation;

"(3) certification, accreditation, or licensure of treatment facilities and personnel;

"(4) monitoring compliance by hospitals and other facilities with the requirements of section 543; and

"(5) improving the scope of health insurance coverage offered in the State relative to mental health and substance abuse.

"(b) COORDINATION.—Technical assistance provided under this section shall be provided in a manner which will improve coordination between activities supported under this title.

"(c) DUTIES OF ADMINISTRATOR.—In carrying out this section, the Administrator may—

"(1) provide technical assistance, including advice and consultation relating to local programs, technical and professional assistance, and, where deemed necessary, use of task forces of public officials or other persons assigned to work with State and local governments, to analyze and identify State and local problems and assist in the development of plans and programs to meet the problems so identified;

"(2) convene conferences of State, local, and Federal officials, and such other persons as the Administrator shall designate; and

"(3) draft and make available to State and local governments model legislation with respect to State and local substance abuse and mental health programs and activities.

"SEC. 542. SUBSTANCE ABUSE AMONG GOVERNMENT AND OTHER EMPLOYEES.

"(a) PROGRAMS AND SERVICES.—

"(1) DEVELOPMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, shall be responsible for fostering substance abuse prevention and treatment programs and services in State and local governments and in private industry.

"(2) MODEL PROGRAMS.—

"(A) IN GENERAL.—Consistent with the responsibilities described in paragraph (1), the Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

"(B) DISSEMINATION OF INFORMATION.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, shall disseminate information and materials relative to such model programs to the State agencies responsible for the administration of substance abuse prevention, treatment, and rehabilitation activities and shall, to the extent feasible provide technical assistance to such agencies as requested.

"(b) DEPRIVATION OF EMPLOYMENT.—

"(1) PROHIBITION.—No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the grounds of prior substance abuse.

"(2) APPLICATION.—This subsection shall not apply to employment in—

"(A) the Central Intelligence Agency;

"(B) the Federal Bureau of Investigation;

"(C) the National Security Agency;

"(D) any other department or agency of the Federal Government designated for purposes of national security by the President; or

"(E) in any position in any department or agency of the Federal Government, not referred to in subparagraphs (A) through (D), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

"(c) CONSTRUCTION.—This section shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

"SEC. 543. ADMISSION OF SUBSTANCE ABUSERS TO PRIVATE AND PUBLIC HOSPITALS AND OUTPATIENT FACILITIES.

"(a) NONDISCRIMINATION.—Substance abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their substance abuse, by any private or public general hospital, or outpatient facility (as defined in section 1633(6)) which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

"(b) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue regulations for the enforcement of the policy of subsection (a) with respect to the admission and treatment of substance abusers in hospitals and outpatient facilities which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital or outpatient facility subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital or outpatient facility receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital or outpatient facility.

"(2) DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs, acting through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this paragraph, the Secretary shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

"SEC. 544. CONFIDENTIALITY OF RECORDS.

"(a) REQUIREMENT.—Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b).

"(b) PERMITTED DISCLOSURE.—

"(1) CONSENT.—The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

"(2) METHOD FOR DISCLOSURE.—Whether or not the patient, with respect to whom any given record referred to in subsection (a) is maintained, gives written consent, the content of such record may be disclosed as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

"(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(c) USE OF RECORDS IN CRIMINAL PROCEEDINGS.—Except as authorized by a court order granted under subsection (b)(2)(C), no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

"(d) APPLICATION.—The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when such individual ceases to be a patient.

"(e) NONAPPLICABILITY.—The prohibitions of this section do not apply to any interchange of records—

"(1) within the Armed Forces or within those components of the Department of Veterans Affairs furnishing health care to veterans; or

"(2) between such components and the Armed Forces.

The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities.

"(f) PENALTIES.—Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

"(g) REGULATIONS.—Except as provided in subsection (h), the Secretary shall prescribe regulations to carry out the purposes of this section. Such regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

"(h) APPLICATION TO DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs, acting through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary of Health and Human Services under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this subsection, the Secretary of Veterans Affairs shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

"SEC. 545. DATA COLLECTION.

"(a) REQUIREMENT.—The Secretary, acting through the Administrator and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, as appropriate, shall collect data each year on the national incidence and prevalence of the various forms of mental illness and substance abuse.

"(b) MENTAL HEALTH.—With respect to the activities under subsection (a) relating to mental health, the Secretary shall ensure that such activities include, at a minimum, the collection of data on—

"(1) the number and variety of public and nonprofit private treatment programs;

"(2) the number and demographic characteristics of individuals receiving treatment through such programs;

"(3) the type of care received by such individuals; and

"(4) such other data as may be appropriate.

"(c) SUBSTANCE ABUSE.—

"(1) IN GENERAL.—With respect to the activities under subsection (a) relating to substance abuse, the Secretary shall ensure that such activities include, at a minimum, the collection of data on—

"(A) the number of individuals admitted to the emergency rooms of hospitals as a result of substance abuse;

"(B) the number of deaths occurring as a result of substance abuse;

"(C) the number and variety of public and private nonprofit treatment programs, including the number and type of patient slots available;

"(D) the number of individuals seeking treatment through such programs, the number and demographic characteristics of individuals receiving such treatment, the percentage of individuals who complete such programs, and, with respect to individuals receiving such treatment, the length of time between an individual's request for treatment and the commencement of treatment;

"(E) the number of such individuals who return for treatment after the completion of a prior treatment in such programs and the method of treatment utilized during the prior treatment;

"(F) the number of individuals receiving public assistance for such treatment programs;

"(G) the costs of the different types of treatment modalities for drug and alcohol abuse and the aggregate relative costs of each such treatment modality provided within a State in each fiscal year;

"(H) to the extent of available information, the number of individuals receiving treatment for alcohol or drug abuse who have private insurance coverage for the costs of such treatment;

"(I) the extent of substance abuse among high school students and among the general population; and

"(J) the number of alcohol and drug abuse counselors and other substance abuse treatment personnel employed in public and private treatment facilities.

"(2) SURVEYS.—Annual surveys shall be carried out in the collection of data under this section. Summaries and analyses of the data collected shall be made available to the public.

"(d) SPECIFIC STUDIES.—

"(1) IN GENERAL.—The Secretary shall award grants under this section on a competitive basis to qualified entities to support—

"(A) epidemiological studies of infants and the families of infants with fetal cocaine syndrome and fetal alcohol syndrome; and

"(B) longitudinal studies of infants and the families of infants afflicted with such syndromes.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to award grants under paragraph (1), $25,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(e) UNIFORM CRITERIA.—After consultation with the States and with appropriate national organizations, the Administrator and the Directors shall develop uniform criteria for the collection of data, using the best available technology, pursuant to this section.

"SEC. 546. PUBLIC HEALTH EMERGENCIES.

"(a) REQUIREMENTS.—If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of the Administration constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for services concerning such disease or disorder or proposals for contracts for such services;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such services;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new services relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) REPORT.—Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year if any actions were taken under such subsection in such fiscal year.".

Subtitle C—Transfer Provisions

SEC. 121. TRANSFERS.

(a) ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—Except as specifically provided otherwise in this Act or an amendment made by this Act, there are transferred to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration all service related functions which the Administrator of the Alcohol, Drug Abuse and Mental Health Administration exercised before the date of the enactment of this Act and all related functions of any officer or employee of the Alcohol, Drug Abuse and Mental Health Administration.

(b) NATIONAL INSTITUTES.—Except as specifically provided otherwise in this Act or an amendment made by this Act, there are transferred to the appropriate Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health all research related functions which the Administrator of the Alcohol, Drug

Abuse, and Mental Health Administration exercised before the date of the enactment of this Act and all related functions of any officer or employee of the Alcohol, Drug Abuse, and Mental Health Administration.

(c) ADEQUATE PERSONNEL AND RESOURCES.—The transfers required under this subtitle shall be effectuated in a manner that ensures that the National Institutes of Health have adequate personnel and resources to enable the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health and the Alcohol, Drug Abuse and Mental Health Services Administration to carry out their respective functions.

SEC. 122. DELEGATION AND ASSIGNMENT.

(a) ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—Except where otherwise expressly prohibited by law, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration may delegate any of the functions transferred to the Administrator by this subtitle and any function transferred or granted to the Administrator after the date of enactment of this Act to such officers and employees of the Alcohol, Drug Abuse and Mental Health Services Administration as the Administrator may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Administrator under this section or under any other provision of this subtitle shall relieve the Administrator of responsibility for the administration of such functions.

(b) NATIONAL INSTITUTES.—Except where otherwise expressly prohibited by law, the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health may delegate any of the functions transferred to the Directors by this subtitle and any function transferred or granted to the Directors after the date of enactment of this Act to such officers and employees of such Institutes as the Directors may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Directors under this section or under any other provision of this subtitle shall relieve the Directors of responsibility for the administration of such functions.

SEC. 123. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

(a) ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—Except as otherwise provided in the Public Health Service Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration by this subtitle, subject to section 1531 of title 31, United States Code, shall be transferred to the Alcohol, Drug Abuse and Mental Health Services Administration. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) NATIONAL INSTITUTES.—Except as otherwise provided in the Public Health Service Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred to the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by this subtitle, subject to section 1531 of title 31, United States Code, shall be transferred to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 124. INCIDENTAL TRANSFERS.

The Secretary of Health and Human Services is authorized to make such determinations as may be necessary with regard to the functions transferred by this subtitle, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subtitle and the Public Health Service Act. Such Secretary shall provide for the termination of the affairs of all entities terminated by this subtitle and for such further measures and dispositions as may be necessary to effectuate the purposes of this subtitle.

SEC. 125. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by this subtitle and the Public Health Service Act, the transfer pursuant to this subtitle of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this subtitle.

(b) EXECUTIVE SCHEDULE POSITIONS.—Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Alcohol, Drug Abuse and Mental Health Services Administration to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

SEC. 126. SAVINGS PROVISIONS.

(a) EFFECT ON PREVIOUS DETERMINATIONS.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this subtitle; and

(2) are in effect on the date of enactment of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President or the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, as appropriate, a court of competent jurisdiction, or by operation of law.

(b) CONTINUATION OF PROCEEDINGS.—

(1) IN GENERAL.—The provisions of this subtitle shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance pending on the date of enactment of this Act before the Department of Health and Human Services, which relates to the Alcohol, Drug Abuse and Mental Health Administration or the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health, or any office thereof with respect to functions transferred by this subtitle. Such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subtitle had not been enacted.

(2) REGULATIONS.—The Secretary of Health and Human Services is authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) EFFECT ON LEGAL ACTIONS.—Except as provided in subsection (e)—

(1) the provisions of this subtitle do not affect actions commenced prior to the date of enactment of this Act; and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) NO ABATEMENT OF ACTIONS OR PROCEEDINGS.—No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health and Human Services with respect to functions transferred by this subtitle shall abate by reason of the enactment of this Act. No cause of action by or against the Department of Health and Human Services with respect to functions transferred by this subtitle, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function transferred by this subtitle, or other proceedings may be asserted by or against the United States or the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) SUBSTITUTION.—If, before the date of enactment of this Act, the Department of Health and Human Services, or any officer thereof in the official capacity of such officer, is a party to an action, and under this subtitle any function of such Department, Office, or officer is transferred to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, then such action shall be continued with the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, as the case may be, substituted or added as a party.

(f) JUDICIAL REVIEW.—Orders and actions of the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health in the exercise of functions transferred to the Administrator or the Directors by this subtitle shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this subtitle shall apply to the exercise of such function by the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors.

SEC. 127. SEPARABILITY.

If a provision of this subtitle or its application to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

SEC. 128. TRANSITION.

With the consent of the Secretary of Health and Human Services, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health are authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Department with respect to functions transferred to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration and the Director of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by this subtitle; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this subtitle.

SEC. 129. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Alcohol, Drug Abuse and Mental Health Administration or to the Administrator of the Alcohol, Drug Abuse and Mental Health Administration shall be deemed to refer to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration.

Subtitle D—Conforming Amendments

SEC. 131. CONFORMING AMENDMENTS.

(a) TITLE V.—Title V is amended—

(1) in section 521 (42 U.S.C. 290cc-21), by striking "Director of the National Institute of Mental Health" and inserting in lieu thereof "Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration";

(2) in section 528 (42 U.S.C. 290cc-28)—

(A) by striking "the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse" and inserting in lieu thereof "and the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration" in subsection (a); and

(B) by striking "National Institute of Mental Health" and inserting in lieu thereof "Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration" in subsection (c);

(3) in section 530 (42 U.S.C. 290cc-30), by striking "the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse" and inserting in lieu thereof "and the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration"; and

(4) in section 561(a) (42 U.S.C. 290ff), by striking "National Institute of Drug Abuse" and inserting in lieu thereof "Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration".

(b) TITLE XIX.—Part B of title XIX (42 U.S.C. 300x et seq.) is amended in section 1911 (42 U.S.C. 300x) (as such section is amended by section 201) by adding at the end thereof the following new subsection:

"(c) The Secretary shall carry out this part through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration.";

(c) GENERAL PUBLIC HEALTH SERVICE ACT AMENDMENTS.—The Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 227 (42 U.S.C. 236)—

(A) by striking out ", and the the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (c)(2);

(B) by striking out ", the the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (c)(3);

(C) by striking out "and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (e); and

(D) by striking out "and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (e);

(2) in section 319(a) (42 U.S.C. 247d(a)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration";

(3) in section 487(a)(1) (42 U.S.C. 288(a)(1))—

(A) by striking out "and the Alcohol, Drug Abuse, and Mental Health Administration" in subparagraph (A)(i); and

(B) by striking out "or the Alcohol, Drug Abuse, and Mental Health Administration" in the matter immediately following subparagraph (B); and

(4) in section 489(a)(2) (42 U.S.C. 288b(a)(2)), by striking out "and institutes under the Alcohol, Drug Abuse, and Mental Health Administration".

(d) OTHER LAWS.—

(1) Section 4 of the Orphan Drug Amendments of 1985 (42 U.S.C. 236 note) is amended—

(A) in subsection (b), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration,";

(B) in subsection (c)—

(i) by striking out "the Alcohol, Drug Abuse, and Mental Health Administration," in the matter preceding paragraph (1); and

(ii) by striking out "the institutes of the Alcohol, Drug Abuse, and Mental Health Administration," in paragraph (7); and

(C) in subsection (d)—

(i) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) Four nonvoting members shall be appointed for the directors of the national research institutes of the National Institutes of Health which the Secretary determines are involved with rare diseases."; and

(ii) by striking out "or an institute of the Alcohol, Drug Abuse, and Mental Health Administration" in the matter immediately following paragraph (3).

(2) The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(A) in section 202(b)(1) (42 U.S.C. 3012(b)(1)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration";

(B) in section 301(b)(2) (42 U.S.C. 3021(b)(2)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration"; and

(C) in section 402(b) (42 U.S.C. 3030bb(b)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration".

(3) Section 116 of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10826) is amended by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration".

SEC. 132. ADDITIONAL CONFORMING AMENDMENTS.

(a) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health shall prepare and submit to the Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle to the Public Health Service Act or any other provision of law.

(b) SUBMISSION TO THE CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health shall submit the recommended legislation referred to under subsection (a).

Subtitle E—Miscellaneous Provisions

SEC. 141. ALTERNATIVE SOURCES OF FUNDING FOR CERTAIN GRANTEES.

The Secretary of Health and Human Services shall undertake diligent efforts to obtain alternative sources of Federal funds, including funds available under section 505, to provide assistance to grantees who have been receiving assistance under the community youth activity program established under section 3521 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11841).

SEC. 142. PEER REVIEW.

The peer review systems, advisory councils and scientific advisory committees utilized by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health prior to the transfer of such Institutes to the National Institute of Health shall be utilized by such Institutes after such transfer.

TITLE II—REAUTHORIZATION AND IMPROVEMENT OF ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICE BLOCK GRANT PROGRAM

SEC. 201. REAUTHORIZATION OF BLOCK GRANT.

Section 1911 (42 U.S.C. 300x) is amended to read as follows:

"SEC. 1911. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subpart, $1,500,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(b) TECHNICAL ASSISTANCE.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration may use not more than 5 percent of the amounts appropriated for a fiscal year pursuant to subsection (a) to carry out sections 1916B and 1921, and to monitor and evaluate expenditures pursuant to subsection (a).".

SEC. 202. REVISION OF BLOCK GRANT FORMULA.

(a) IN GENERAL.—Section 1912A of the Act (42 U.S.C. 300x-1a) is amended—

(1) in the formula specified in subsection (a)(4)(A)(ii)(II) by striking "N" and inserting "P";

(2) in subparagraphs (B) and (C) of subsection (a)(4), to read as follows:

"(B) For the purposes of clause (i) and the formula specified in clause (ii)(II), of subparagraph (A), the term 'P' means the product of the at-risk population percentage and the cost index of the State involved.

"(C)(i) Except as provided in clause (ii), for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'S' means the percentage of the most recent 3-year average of the total taxable resources of the State involved as compared to the most recent 3-year average of the taxable resources of all States, as determined by the Secretary of the Treasury.

"(ii) In the case of the District of Columbia, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'S' means the percentage of the most recent 3-year average of personal income in the District of Columbia as compared to the most recent 3-year average of personal income in all States, as reported by the Secretary of Commerce.";

(3) by striking subparagraphs (D) and (E) of subsection (a)(4);

(4) in subsection (b), to read as follows:

"(b)(1) Each State that received an allotment of $7,000,000 or less under this subpart in fiscal year 1989 shall receive a minimum allotment under this subpart in each fiscal year, which allotment shall be the greater of—

"(A) the amount determined in accordance with the formula described in subsection (a)(1); and

"(B) the amount determined in accordance with the following formula:

E (1 + 0.25 (R))

"(2) For the purpose of the formula specified in paragraph (1)(B)—

"(A) the term 'E' means the amount the State involved received under this subpart in fiscal year 1989; and

"(B) the term 'R' means the cumulative percentage by which the total amount appropriated pursuant to the authority of section 1911 has increased or decreased since fiscal year 1989.";

(5) in subsection (c)—

(A) in paragraph (2)(A), by inserting "or the amount such territory received in fiscal year 1989" after "100,000";

(B) by inserting the following flush sentence after clause (ii) of paragraph (1)(B):

"In the absence of reliable recent population data with respect to a given territory, the Secretary shall assume that the population of the territory has changed at the same rate as the population of the territories generally."; and

(C) by adding at the end the following new paragraph:

"(4) As used in this subsection, the term 'population' means the civilian population.";

(6) in subsection (g), to read as follows:

"(g)(1) Notwithstanding any other provision of law, no State shall receive an allotment under this section in fiscal year 1992 that is less than the allotment such State received under this section in fiscal year 1991.

"(2) Notwithstanding any other provision of law, in any fiscal year in which the total amount appropriated under 1911(a) increases by less than $200,000,000 as compared to the previous fiscal year, no State shall receive an allotment under this section in such fiscal year in an amount that exceeds the sum of—

"(A) the allotment such State received in such previous fiscal year; and

"(B) $20,000,000.

"(3) Notwithstanding any other provision of law, no State shall receive an allotment under this section in fiscal year 1993, or in subsequent fiscal years, that is less that 95 percent of the amount of the allotment that such State received under this section in the preceding fiscal year."; and

(7) by adding at the end the following new subsection:

"(j) As used in this section—

"(1)(A) The term 'at risk population percentage' means the sum of—

"(i) one-third of the percentage obtained by dividing the number of individuals in the State aged 25 through 64, by the number of individuals in all States aged 25 through 64;

"(ii) one-third of the percentage obtained by dividing the number of individuals in the State aged 18 through 24, by the number of individuals in all States aged 18 through 24; and

"(iii) one-third of the percentage obtained by dividing of the number of individuals in the State aged 25 through 44, by the number of individuals in all States aged 25 through 44.

"(B) In making the determination required in clause (ii) of subparagraph (A) the Secretary shall count twice the number of individuals aged 18 through 24 who reside in urban areas. If current data regarding the number of individuals aged 18 through 24 who reside in urban areas is not available for any fiscal year, then the Secretary shall estimate such number by multiplying the total population of each State as determined by the Secretary of Commerce for such year by the percentage obtained by dividing the number of individuals in the State aged 18 through 24 who reside in urban areas within the State, by the total number of individuals in the State. The Secretary shall make such determinations in accordance with the data available from the most recent decennial census.

"(2)(A) The term 'cost index' means the overall cost index for the State that appears in table 4 of the March 30, 1990 report entitled 'Adjusting the Alcohol, Drug Abuse and Mental Health Services Block Grant Allocations for Poverty Population and Cost of Service' prepared by the Health Economics Research, Inc. pursuant to a contract with the National Institute on Drug Abuse.

"(B) The Secretary shall, in consultation with the Comptroller General of the United States, update the cost index described in subparagraph (A) prior to making allotments under this section for fiscal year 1993 and at least once every 3 years thereafter as more current data becomes available. The Secretary may make reasonable refinements in the methodology used in constructing such cost index and may phase in such changes in the cost index as the Secretary determines to be appropriate.

"(3)(A) The term 'State' means, except as provided in subparagraph (B), each of the several States, the District of Columbia, and each of the territories of the United States.

"(B) As used in subsections (a), (b), (e), and (f), the term 'State' means each of the several States and the District of Columbia.

"(4) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

(b) REPORT ON ALLOTMENT FORMULA.—

(1) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Director of the Office of National Drug Control Policy, shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the statutory formula under which funds made available under section 1911 of the Public Health Service Act are allocated among the States and territories.

(2) CONTENTS.—The report required under paragraph (1) shall include—

(A) an assessment of the degree to which the formula allocates funds according to the respective needs of the States and territories;

(B) a review of relevant epidemiological research regarding the incidence of substance abuse and mental illness among various age groups and geographic regions of the country;

(C) the identification of factors not included in the formula that are reliable predictors of the incidence of substance abuse and mental illness;

(D) an assessment of the validity and relevance of factors currently included in the formula, such as age, urban population and cost; and

(E) any other information that the Secretary of Health and Human Services believes would contribute to a thorough assessment of the appropriateness of the current formula.

(3) CONSULTATION.—In preparing the report required under paragraph (1), the Secretary shall consult with the Comptroller General of the United States. The Comptroller General shall review the study after its transmittal to the committees described in para-

graph (1) and within three months make appropriate recommendations concerning such report to such committees.

SEC. 203. USE OF UNOBLIGATED FUNDS BY STATES.

Section 1914(a)(2) (42 U.S.C. 300x-2(a)(2)) is amended by adding at the end thereof the following new sentence: "Unobligated funds shall remain available to the State if the Secretary finds that said funds were obligated but subsequently rendered unobligated due to the State's diligence in carrying out the purposes of this subpart.".

SEC. 204. REVISION OF INTRAVENOUS DRUG SET-ASIDE.

Section 1916(c)(7)(B)(ii) of the Public Health Service Act (42 U.S.C. 300x-4(c)(7)(B)(ii)) is amended in the first sentence by striking "may" and inserting in lieu thereof "shall".

SEC. 205. USE OF ALLOTMENTS.

(a) SERIOUSLY MENTALLY ILL INDIVIDUALS.—Section 1915(a)(2) (42 U.S.C. 300x-3(a)(2)) is amended by striking out "chronically" each place that such occurs and inserting in lieu thereof "seriously".

(b) SERVICES FOR CERTAIN INDIVIDUALS.—Section 1915(a)(2)(D) (42 U.S.C. 300x-3(a)(2)(D)) is amended by inserting "(which may include mentally ill individuals in State and local correctional facilities)" after "populations".

(c) RENOVATION.—Section 1915(b)(3) (42 U.S.C. 300x-3(b)(3)) is amended—

(1) by striking "(other than minor remodeling)"; and

(2) by inserting ", except that the Secretary may authorize the use of funds for renovation that makes land or a building or other facility suitable for use under this part, including renovation to remove hazardous conditions or make the land, building, or facility accessible to disabled persons" after "equipment".

(d) SUBSTANCE ABUSERS IN JUSTICE SYSTEMS.—Section 1915(c)(1) (42 U.S.C. 300x-3(c)(1)) is amended—

(1) in subparagraph (B), by striking "and" after the semicolon at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) to develop, implement, and operate programs of treatment for adult and juvenile substance abusers in State and local criminal and juvenile justice systems, including treatment programs for individuals in prisons and jails and individuals on probation, parole, supervised release, and pretrial release.".

(e) PROHIBITION AGAINST CERTAIN PROGRAMS.—Section 1915(c)(2)(A) (42 U.S.C. 300x-3(c)(2)(A)) is amended to read as follows:

"(A) to carry out any program prohibited by section 256(b) of the Health Omnibus Programs Extension of 1988 (42 U.S.C. 300ee-5); or".

(f) ADMINISTRATIVE EXPENSES.—Section 1915(d) (42 U.S.C. 300x-3(d)) is amended to read as follows:

"(d) Of the amount paid to any State under section 1914 for a fiscal year, not more than 5 percent may be used for the administrative expenses of carrying out this subpart. In determining the percentage of the amount used for the administrative expenses, the Secretary shall not include reasonable expenses, as determined by the Secretary, incurred for the training of individuals as required under this subpart, including training required under plans submitted under section 1916B.".

(g) NONDISCRIMINATION.—Section 1915 (42 U.S.C. 300x-3) is amended by adding at the end thereof the following new subsection:

"(f) Substance abuse treatment facilities and mental health treatment facilities receiving assistance under this title may not discriminate against mentally ill substance abusers in the provision of services.".

SEC. 206. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—Paragraph (11) of section 1916(c) (42 U.S.C. 300x-4(c)(11)) is amended to read as follows:

"(11)(A) The State agrees to maintain State expenditures for alcohol and drug abuse services at a level that is not less than the level maintained by the State for such services during the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1914.

"(B) The State agrees to maintain State expenditures for community mental health services at a level that is not less than the level maintained by the State for such services during the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1914.".

(b) DUTIES OF COUNCIL.—Section 1916(e)(2) (42 U.S.C. 300x-4(e)(2)) is amended—

(1) in subparagraph (A), by striking out "and" at the end thereof;

(2) in subparagraph (B), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) to review and comment concerning the State plan required under section 1925, and at the request of the council, the State shall submit such comments to the Secretary together with such State plan.".

(c) WAIVER.—Section 1916 (42 U.S.C. 300x-4) is amended by adding at the end the following new subsection:

"(h) Upon the request of a State, the Secretary may waive a requirement established in subparagraph (A) or (B) of subsection (c)(11) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.".

SEC. 207. REQUIREMENT OF STATEWIDE SUBSTANCE ABUSE PREVENTION AND TREATMENT PLANS.

Subpart 1 of part B of title XIX (42 U.S.C. 300x et seq.) is amended by inserting after section 1916A the following new section:

"SEC. 1916B. STATEWIDE SUBSTANCE ABUSE PREVENTION AND TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive an allotment, in whole or in part, under section 1912A for fiscal year 1992 or a subsequent fiscal year, a State shall develop, implement, and submit as part of the application required by section 1916(a), a statewide Substance Abuse Prevention and Treatment Plan that shall contain—

"(1) the designation of a single State agency that shall formulate and implement the Statewide Substance Abuse Treatment Plan;

"(2) a description of the mechanism that shall be used to assess the needs for substance abuse prevention and treatment in localities throughout the State, including the presentation of relevant data;

"(3) a description of a statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(4) a description of needs- and performance-based criteria that shall be used to assist in the allocation of funds to substance abuse treatment facilities receiving assistance under this subpart;

"(5) a description of the mechanisms that shall be used to make funding allocations under this subpart;

"(6) a description of the actions that shall be taken to improve the referral of substance abusers to treatment facilities that offer the most appropriate treatment modality;

"(7) a description of the program of training that shall be implemented for employees of treatment facilities receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(8) a description of the plan that shall be implemented—

"(A) to coordinate substance abuse treatment facilities with other social, health, correctional and vocational services; and

"(B) to assure that individuals receiving substance abuse treatment also receive primary health care, directly or through arrangement with other entities;

"(9) with respect to female substance abusers—

"(A) an unduplicated count of the number of women served with funds set aside pursuant to section 1916(c)(14), the demographic characteristics of the women, the specific services offered to women, the average expenditure per woman for services funded under the set-aside, and the numerical objectives for new substance abuse treatment services for women; and

"(B) the strategy for providing, or linking with existing service provision entities, prenatal and postpartum health care for women undergoing such treatment, pediatric care for the infants of such women, child care, transportation and other support services that facilitate treatment, case management services, including assistance in establishing eligibility for public economic support, and employment counseling and other appropriate follow-up services to help prevent a relapse of alcohol or drug abuse;

"(10) a description of the plan that shall be implemented to expand drug treatment opportunities for individuals under criminal justice supervision;

"(11) a description of the plan that shall be implemented to expand drug treatment opportunities for homeless individuals;

"(12) a description of the plan that shall be implemented to expand and improve specialized services for individuals with substance abuse and coexisting mental disorders and to describe the actions to be taken to improve the organization and financing of services for individuals with coexisting substance abuse and mental disorders;

"(13) a description of the plan that shall be implemented to assist businesses, labor unions, and schools to establish employee assistance programs and student assistance programs;

"(14) a description of the steps taken to assure that each recipient of financial assistance pursuant to the provisions of this subpart shall not engage in discrimination on the basis of race, religion, color, national origin, gender, reproductive status, or handicap in the course of the activities assisted in whole or in part pursuant to the provisions of this subpart;

"(15) a description of the actions of the State to encourage treatment facilities to provide aftercare, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic contacts with the patient to monitor the progress of the patient and provide services or additional treatment as needed; and

"(16) a description of interim assistance that is available for individuals who apply for treatment, and who must wait for the availability of treatment opportunities.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to approve or disapprove, in whole or in part, such State plans and the implementation thereof, and to propose changes to such plans.

"(c) REGULATIONS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the States, shall issue regulations to carry out this section. Such regulations shall include, at a minimum, criteria for each area to be covered by the State plan prepared under subsection (a).

"(2) APPLICABILITY.—For fiscal year 1993 and subsequent fiscal years, no payment shall be made to a State from the allotment of the State under section 1912A unless such State has submitted, and the Secretary has approved, a plan in accordance with the regulations issued under paragraph (1), as determined by the Secretary, except that with respect to the performance criteria for treatment facilities described in subsection (a)(4), the regulations shall apply only for such fiscal years as the Secretary determines to be appropriate.

"(3) MONITORING.—The Secretary shall monitor the compliance of the State with the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(4) OTHER REGULATIONS.—Notwithstanding any other provision of law, any other rule or regulation that is inconsistent with this section (including the provisions of section 50(e) of part 96 of title 45 of the Code of Federal Regulations) shall not be enforced to the extent of such inconsistency.

"(d) SUBMISSION OF PROGRESS REPORTS.—Each State shall submit reports in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional requirements as the Secretary may from time to time find necessary to verify the accuracy of such reports.

"(e) WAIVER OF PLAN REQUIREMENT.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, except that such waiver shall not be granted unless the State implements an alternate treatment plan that fulfills the objectives of this section.".

SEC. 208. TECHNICAL AMENDMENT.

Section 1924(a) (42 U.S.C. 300x-10(a)) is amended by inserting ", acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration," after "The Secretary".

TITLE III—STUDIES

SEC. 301. STUDY ON PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS.

(a) IN GENERAL.—The Director of the National Institute on Drug Abuse shall prepare a report on the role of the private sector in the development of anti-addiction medications. Such report shall contain legislative proposals designed to encourage private sector development of anti-addiction medications.

(b) SUBMISSION.—The report described in subsection (a) shall be submitted to the appropriate committees of the Congress not later than 1 year after the date of enactment of this Act.

SEC. 302. STUDY ON MEDICATIONS REVIEW PROCESS REFORM.

(a) IN GENERAL.—The Commissioner of the Food and Drug Administration, in consultation with the Director of the National Institute on Drug Abuse, shall prepare a report on the process by which anti-addiction medications receive marketing approval from the Food and Drug Administration. Such report shall assess the feasibility of expediting the marketing approval process in a manner consistent with public safety.

(b) SUBMISSION.—The report described in subsection (a) shall be submitted to the appropriate committees of the Congress not later than 1 year after the date of enactment of this Act.

SEC. 303. SENSE OF CONGRESS.

It is the sense of Congress that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

(1) the development of a methadone alternative;

(2) the development of a long-acting narcotic antagonist;

(3) the development of a cocaine-blocking treatment;

(4) the development of a cocaine-blocker/narcotic antagonist treatment;

(5) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine;

(6) the development of medications to treat safely pregnant addicts and their fetuses; and

(7) the development of medications to treat the offspring of addicted mothers.

SEC. 304. REPORT BY THE INSTITUTE ON MEDICINE.

(a) PHARMACOTHERAPY REVIEW PANEL.—Not later than 120 days after the date of enactment of this Act, the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health shall establish a panel of independent experts in the field of pharmacotherapeutic treatment of drug addiction to assess the national strategy for developing such treatments and to make appropriate recommendations for the improvement of such strategy.

(b) REPORT.—Not later than January 1, 1993, the Institute of Medicine of the National Academy of Science shall prepare and submit, to the appropriate Committees of Congress, a report that sets forth—

(1) the recommendations of the panel established under subsection (a);

(2) the state of the scientific knowledge with respect to pharmacotherapeutic treatment of drug addiction;

(3) the assessment of the Institute of Medicine of the progress of the Nation toward the development of safe, efficacious pharmacological treatments for drug addiction; and

(4) any other information determined appropriate by the Institute of Medicine.

(c) AVAILABILITY.—The report prepared under subsection (b) shall be made available for use by the general public.

SEC. 305. DEFINITION OF SERIOUS MENTAL ILLNESS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall develop and submit to the appropriate committees of Congress a uniform definition of "serious mental illness".

SEC. 306. PROVISION OF MENTAL HEALTH SERVICES TO INDIVIDUALS IN CORRECTIONAL FACILITIES.

Not later than 1 year after the date of enactment of this Act, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, acting jointly with the Director of the National Institute for Mental Health, shall prepare and submit to the appropriate committees of Congress a report concerning the most effective methods for providing mental health services to individuals residing in correctional facilities, and the obstacles to providing such services.

By Mr. COATS:

S.J. Res. 163. Joint resolution designating the month of September 1991 as "National Gymnastics Month"; to the Committee on the Judiciary.

NATIONAL GYMNASTICS MONTH

• Mr. COATS. Mr. President, I rise today to introduce legislation designed to commemorate a special group of athletes. This September, 500 of the world's finest amateur athletes will gather in Indianapolis for the 1991 world gymnastics championships.

This event is held every 2 years, after and prior to the summer Olympic games. For the first time since 1979, the United States is fortunate enough to be the host of this prestigious event. I am especially proud that the capital of my home State of Indiana, the city of Indianapolis, will be the site of the championships from September 6 to September 15.

As a way to pay tribute to all of the foreign athletes that we welcome to our country, as well as our own fine, dedicated gymnasts from across the land, I introduce legislation to designate the month of September 1991 as "National Gymnastics Month." It is my hope that the exciting events and wholesome competition that will occur this September in Indianapolis will not only thrill the hearts of our Nation, and the world, but will also inspire all of us, especially our youth, to achieve great things.•

ADDITIONAL COSPONSORS

S. 239

At the request of Mr. SARBANES, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 239, a bill to authorize the Alpha Phi Alpha fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 323

At the request of Mr. CHAFEE, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 448

At the request of Mr. SYMMS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 512

At the request of Mr. ADAMS, the names of the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 512, a bill to authorize an additional $25,000,000 for the National Cancer Institute to conduct certain research on breast cancer, and for other purposes.

S. 756

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 756, a bill to amend title 17, United States Code, the copyright renewal provisions, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 790

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 790, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 843

At the request of Mr. BREAUX, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 843, a bill to amend title 46, United States Code, to repeal the requirement that the Secretary of Transportation collect a fee or charge for recreational vessels.

S. 845

At the request of Mr. LAUTENBERG, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 845, a bill to direct the Secretary of State to seek an agreement from the Arab countries to end certain passport and visa policies and for other purposes.

S. 868

At the request of Mr. CRANSTON, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 868, a bill to amend title 10, United States Code, and title 38, United States Code, to improve educational assistance benefits for members of the Selected Reserve of the Armed Forces who served on active duty during the Persian Gulf war, and for other purposes.

S. 914

At the request of Mr. GLENN, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 964

At the request of Mr. MCCAIN, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 964, a bill to establish a Social Security Notch Fairness Investigatory Commission.

S. 1093

At the request of Mr. BIDEN, the name of the Senator from Illinois [Mr. DIXON] was added as a cosponsor of S. 1093, a bill to establish a commission to study the feasibility, effect, and implications for United States foreign policy, of instituting a radio broadcasting service to the People's Republic of China to promote the dissemination of information and ideas to that nation, with particular emphasis on developments in China itself.

S. 1292

At the request of Mr. GLENN, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 1292, a bill to amend chapter 35 of title 5, United States Code, to provide notification for Federal employees subject to a reduction in force, and for other purposes.

SENATE JOINT RESOLUTION 74

At the request of Mr. LIEBERMAN, the names of the Senator from Nevada [Mr. BRYAN] and the Senator from Kentucky [Mr. FORD] were added as cosponsors of Senate Joint Resolution 74, a joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 95

At the request of Mr. PELL, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 95, a joint resolution designating October 1991 as "National Breast Cancer Awareness Week."

SENATE JOINT RESOLUTION 113

At the request of Mr. LAUTENBERG, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating the oak as the "National Arboreal Emblem."

SENATE JOINT RESOLUTION 121

At the request of Mr. DIXON, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 145

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week."

At the request of Mr. CRANSTON, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 145, supra.

SENATE CONCURRENT RESOLUTION 47—URGING ASSISTANCE TO SUPPORT LEGISLATIVE DEVELOPMENT IN CENTRAL AMERICA

Mr. MACK submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 47

Whereas Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama all have freely elected governments and freely elected legislatures for the first time in the history of Central America;

Whereas the democratic governments of Central America and Panama face numerous obstacles in undertaking their historic process of democratic development and consolidation;

Whereas independent and effective legislatures are an essential and integral element in democratic development;

Whereas the 57 member National Legislative Assembly of Costa Rica was elected on February 4, 1990;

Whereas the 84 member National Assembly of El Salvador was elected on March 10, 1991;

Whereas the 116 member National Congress of Guatemala was elected on November 11, 1990;

Whereas the 128 member National Congress of Honduras was elected on November 26, 1989;

Whereas the 92 member National Assembly of Nicaragua was elected on February 25, 1990;

Whereas the 67 member Legislative Assembly of Panama was elected on May 7, 1989, with supplementary elections held on January 27, 1991;

Whereas the 80 delegates to the Central American Parliament, proposed in the Esquipulas Declaration of Central American Presidents on May 25, 1986, have been elected from El Salvador, Guatemala, Honduras, and Nicaragua;

Whereas the Central American legislatures face economic, political, social, and institutional challenges in fulfilling their constitutional responsibilities;

Whereas the lack of equipment and resources poses an additional challenge for Central American legislatures in fulfilling their constitutional responsibilities; and

Whereas support for democratic development in Central America and Panama has been the central goal of United States foreign policy toward the region: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. SHORT TITLE.

This resolution may be cited as the "Inter-American Partners in Democracy Resolution".

SEC. 2. STRENGTHENING DEMOCRATIC LEGISLATURES IN CENTRAL AMERICA AND PANAMA.

It is the sense of the Congress that—

(1) the United States should seek to strengthen the democratic legislatures in Central America and Panama by using foreign assistance funds to provide equipment and training for those legislatures; and

(2) efforts to support legislatures in Central America and Panama should be coordinated with and otherwise involve appropriately qualified private and public sector experts.

Mr. MACK. Mr. President, the nations of Central America, once a subject of contentious debate in this body, are settling into the hard work of creating democracies. A region that not long ago was dominated by dictatorships now witnesses regular and free elections.

We have a natural tendency to focus on whatever trouble spots are in the headlines. When the spotlight moves, so does our attention. Yet it is often the case that more progress can be made—or opportunities lost—while the world's attention is averted. Now is the time when democracy will either take root or wither.

Mr. President, I am pleased to introduce in the Senate a concurrent resolution urging the provision of assistance to the democratic parliaments in Central America and Panama. These new elected legislatures need assistance to create the machinery of democracy. They need to be able to communicate with their constituencies and to oversee their governments.

I believe a small investment now can pay great dividends in the creation of a stable and prosperous region, and that freedom and growth in Central America is in the interest of the United States.

The resolution I introduce today was introduced in the House by Congressman PORTER GOSS and has broad bipartisan support. I invite my colleagues to cosponsor this resolution.

SENATE CONCURRENT RESOLUTION 48—RELATIVE TO THE AWARD OF CONTRACTS AND SUBCONTRACTS FOR THE RECONSTRUCTION OF KUWAIT

Mr. AKAKA submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 48

Whereas the Government of Kuwait officially announced on March 25, 1991, that it will ensure that small, disadvantaged, and minority businesses from the United States will be able to actively participate in the rebuilding of Kuwait;

Whereas large businesses and enterprises will most likely obtain contracts for the reconstruction of Kuwait because small, disadvantaged, minority-owned, and women-owned businesses face inherent difficulties in competing in foreign markets against larger, better capitalized businesses with experience in such markets, and in obtaining contracts from foreign governments;

Whereas officials from Kuwait and the United States believe that effectively competing for direct prime contracts with Kuwait would require small, disadvantaged, minority-owned, and women-owned businesses to form consortia;

Whereas forming such consortia may be difficult for these businesses to coordinate and establish and may be an impediment to their full participation in Kuwait's reconstruction;

Whereas subcontracting opportunites with large American businesses and enterprises with contracts for the reconstruction of Kuwait would greatly enhance small, disadvantaged, monority-owned and women-owned business participation in the reconstruction effort: Now, therefore, be it

Resolved by the Senate (The House of Representatives concurring), That is the sense of the Congress that the Government of Kuwait, Kuwaiti firms, the United States Government, and American businesses and enterprises should—

(1) encourage, to the maximum extent practicable, the participation of United States small, disadvantaged, minority-owned, and women-owned businesses in contracts and subcontracts for the rebuilding of Kuwait; and

(2) give preference to American small, disadvantaged, minority-owned, and women-owned businesses in the awarding of subcontracts for the rebuilding of Kuwait.

• Mr. AKAKA. Mr. President, on behalf of Senators GLENN, INOUYE, and myself, I am submitting a concurrent resolution which recognizes that American small firms are not at a disadvantage in competing for contracts to reconstruct Kuwait and calls on large American enterprises and the Governments of the United States amd Kuwait to encourage the participation of and to give preference to American small businesses, including disadvantaged, minority-owned, and women-owned businesses, in the competition for subcontracts for the rebuilding of Kuwait.

During a conference sponsored by Senator ROBERT DOLE and the Small Business Administration in May, business experts, as well as American and Kuwaiti officials, expressed their concerns that small American firms individually could not effectively compete for contracts against larger and better capitalized businesses with established experience in foreign markets. They estimated that it would cost a small firm about $240,000 to maintain a representative in Kuwait, and the additional costs of dispatching company officers to visit Kuwait would be prohibitively expensive for many small firms to bear. However, American small firms are able to make significant contributions in the rebuilding of Kuwait and the region. They can bring their unique and innovative talents and skills to this effort. It is small businesses which have developed much of the technological advances in the past decade, and have advanced America's entrepreneurial spirit. Small American firms have contributed by creating 75 percent of the new jobs in the last decade. The cumulative effort of these small firms can make an important impact on the future of Kuwait, the region, and the American business community at home.

The resolution I am introducing today expresses the wish of Congress that competitive, highly qualified and skilled, and committed small U.S. firms be accorded, to the maximum extent practicable, the opportunity to vie for subcontracts. The Kuwaiti Government declared on March 25 its support for the participation of American small firms, including disadvantaged and minority businesses to participate in the rebuilding of Kuwait. This resolution supplements Senator GLENN's resolution (S. Con. Res. 35) to provide support for American firms to fully participate in contracts for the rebuilding of Kuwait. Together, these two resolutions, if adopted, would express Congress' strong support for the American business community to participate in rebuilding Kuwait. The great majority of contracts and subcontracts should be awarded to American firms, to reflect not only America's economic and military support in the liberation of Kuwait, but primarily because American businesses provide the right mix of excellent service and high quality products to get the job done.•

AMENDMENTS SUBMITTED

SURFACE TRANSPORTATION EFFICIENCY ACT

LOTT AMENDMENT NO. 352

(Ordered to lie on the table.)

Mr. LOTT submitted an amendment intended to be proposed by him to the bill (S. 1204) to amend title 23, United States Code, and for other purposes, as follows:

On page 28, strike out lines 2 through 25.

On page 29, line 1, strike out "(c)" and insert in lieu thereof "(a)".

On page 29, line 8, strike out "(d)" and insert in lieu thereof "(b)".

On page 29, line 11 strike out "(e)" and insert in lieu thereof "(c)".

On page 29, line 21, strike out "(f)" and insert in lieu thereof "(d)".

Beginning on page 30, strike out line 20 and all that follows through line 4 on page 35.

ADDITIONAL STATEMENTS

TURKEY LOVERS' MONTH IN CALIFORNIA

• Mr. SEYMOUR. Mr. President, I would like to join California's Gov. Pete Wilson in recognition of the importance of the turkey industry to our State by proclaiming June 1991 as "Turkey Lovers' Month" in California. I would also like to join the Governor and congratulate the turkey industry for the contributions they make to consumers and to the commerce in our State.

California, long known as a national trend setter for healthy eating, is the State where more turkey is consumed per person than in any other State in the Union. In 1990, California's turkey per capita consumption totaled about 24 pounds. The Nation's 1989 average per capita consumption was approximately 18.2 pounds.

The turkey industry is one of the State's most important agricultural commodities. Not only did the State produce over 32 million turkeys in 1990, but it also generated an estimated $274 million in wholesale value.

The California turkey industry for over 50 years has been recognized for its preeminence in breeding, hatching, rearing, processing, and marketing of turkeys and turkey products throughout the United States and the world. California turkey and turkey products are noted for their superior quality, good nutrition, ease of preparation, and year-round availability.

The California turkey industry significantly contributes to the State's economy by expanding job opportunities and employing thousands of workers. These hard-working men and women help ensure the industry's vital role in the economy of the great State.

During the past decade the turkey industry has developed numerous innovative products to satisfy America's need for nutritious, convenient, and low-fat foods. I would like to join the National Turkey Federation and the California Poultry Federation in celebrating the success of the industry's growth during June, Turkey Lovers' Month, in California.•

THREE CHEERS FOR YELTSIN, GORBACHEV, AND THE RUSSIAN PEOPLE

• Mr. CRANSTON. Mr. President, the historic opportunity represented yesterday by the millions of Russian citizens who turned out in free and fair elections to choose their own Republic's leadership marks yet another giant step in the Soviet Union's quest for democratic institutions and practices and respect for the rule of law.

I congratulate the apparent winner of that contest, Boris Yeltsin, as well as all the Russian people for their marvelous demonstration of civic comity and spirit. I also congratulate President Mikhail Gorbachev for yet again another contribution to making his promises of glasnost and perestroika a reality for the Soviet people.•

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. on Tuesday, June 18; following the prayer, the Journal of proceedings be deemed approved to date and that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein, and with that time under the control of the majority leader or his designee; that on Tuesday, June 18, the Senate stand in recess from 12:30 p.m. until 2:15 p.m., in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I want again to express my disappointment at our inability to proceed on the surface transportation bill and to bring the pending amendment to a vote and the bill to final disposition. I regret if any Senators were inconvenienced today as a result of our inability to move forward on the bill. As I stated earlier, and as all Senators know, any one Senator or a group of Senators may prevent the vote from occurring under the Senate rules.

I want to say that I am going to continue my efforts to bring this bill to a conclusion as soon as possible, renewing that effort when the Senate returns to the bill at 10 o'clock tomorrow morning.

I want to repeat also what I said earlier, that Senators cannot anticipate adherence to the previously described schedule for this legislative period. I hoped that we could proceed through this 4-week period without having rollcall votes after 7 p.m. on Tuesdays and Wednesdays, but it is clear that will not now be possible. There will be votes if necessary at any time during the evenings Tuesdays, Wednesday, throughout the day on Friday, and Monday is possible. So, Senators should be aware of that as we attempt to complete action on the pending bill and then move to the comprehensive anticrime legislation.

The longer we take on this bill the later it will be that we take up the crime bill. So, those Senators who have an interest in the crime bill and in proceeding to it, should have an interest in proceeding to disposition of the pending bill.

RECESS UNTIL TOMORROW AT 9 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, under the previous order, until 9 a.m., on Tuesday, June 18, 1991.

There being no objection, the Senate, at 6:46 p.m., recessed until Tuesday, June 18, 1991, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 17, 1991:

THE JUDICIARY

DONALD L. GRAHAM, OF FLORIDA, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF FLORIDA VICE SIDNEY M. ARONOVITZ, RETIRED.

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 9335, FOR APPOINTMENT AS DEAN OF FACULTY, U.S. AIR FORCE ACADEMY, AND FOR APPOINTMENT TO THE GRADE OF BRIGADIER GENERAL WHILE SERVING IN THAT POSITION:

To be dean of faculty, U.S. Air Force Academy

To be brigadier general

COL. RUBEN A. CUBERO, [redacted] U.S. AIR FORCE.

EXTENSIONS OF REMARKS

A GOLDEN CELEBRATION FOR A GOLDEN COUPLE

HON. JOHN JOSEPH MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. MOAKLEY. Mr. Speaker, when Tip O'Neill served this body with such extraordinary distinction as Speaker of the House, he had one rule that smart Members never broke. You were allowed to disagree with him. You were allowed to argue with him. You were even allowed to vote against him.

But if you were smart, you never, never surprised him.

This past Saturday in Cambridge, MA, my wife Evelyn and I, along with a great number of Tip's family and friends, decided to break that longstanding rule and surprise Tip and Millie O'Neill on the occasion of their golden wedding anniversary.

I'm pleased to report that the Speaker forgave us immediately and joined wholeheartedly in the joyous celebration of MIllie's and his remarkable 50 years of love and respect and plain old good fun together.

The results of that 1941 union at St. John's Church in Cambridge were present fivefold in the form of their children—Rosemary, Tommy, Susan, Christopher, and Michael.

For these past five decades, Tip and Millie have been a winning team who have made us proud to be counted among their many friends in Boston, in Washington, and across the country. I'd like to take this opportunity to extend to them our congratulations today—their official 50th anniversary day—and our warmest wishes for many, many more years of love and happiness together.

MEANWHILE, THE MELTDOWN IN MOTOR CITY

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. FORD of Michigan. Mr. Speaker, my good friend and colleague, JOHN DINGELL, and I would like to bring to your attention an article written by Kevin Kearns which appeared in the June 16 edition of the Washington Post.

Mr. Kearns provides a clear picture of what lies ahead for the domestic auto industry if we do not change our current trade policy with Japan. All the improvements in quality and productivity accomplished by the Big Three will be for naught if they are not allowed to compete on a level playing field. We must put Japan on notice that we will no longer tolerate unfair trading practices that prohibit American products from reaching their shores. We must also ensure that Japanese transplants in the United States play by the same rules as the Big Three. If we do not take action soon, the U.S. auto industry will go the way of the dinosaurs. Mr. Speaker, I commend Mr. Kearns' article for your reading.

[From the Washington Post, June 16, 1991]

MEANWHILE, THE MELTDOWN IN MOTOR CITY—THIS TIME, AMERICA'S BIG THREE AUTOMAKERS MAY BE HEADED FOR THE SCRAP HEAP

(By Kevin L. Kearns)

America's automakers are reeling, and the results this time may be catastrophic. Despite dramatic increases in investment, R&D, training, productivity and quality in the last 10 years, the Big Three lost an incredible $4.7 billion in the last two quarters—a record loss. More hard times lie ahead, and some analysts believe there is a very real possibility that Chrysler and even Ford may fail and that the mighty General Motors could be critically wounded.

What now threatens the very existence of the Big Three is an unusually potent combination of cyclical and structural factors. Part of the problem is the current recession: The auto industry is always disproportionately affected by economic downturns (in the first quarter the unemployment rate reached 6.5 percent for the general economy but 16 percent in autos). But a very substantial part of the problem is structural. Even when the recession ends, the industry will be left facing this omnibus reality: an enormous worldwide excess of automaking capacity, most of it aimed at the rich U.S. market.

As sales have dropped, Detroit has been forced to respond with massive cuts in production. Yet as the Big Three retrenches, Japanese auto firms have viewed Detroit's difficulties as a period of great strategic opportunity. That's not surprising from rivals whose share of the U.S. market topped 30 percent this spring—and has almost tripled since 1978.

"So what?" ask many Americans. "Why should there be a government response? Poor quality and poor management are the real problems." In any case, that argument goes, the "transplants"—the new assembly plants built by Toyota, Honda and other Japanese producers in this country—will save us; they'll produce the cars America needs better and cheaper than the Big Three. And the transplants are becoming more "American" every day. There's really no difference between Toyota and General Motors.

Undoubtedly, past U.S. management and labor practices contributed substantially to the auto industry's decline; a forthcoming Brookings Institution study will point to a disturbing drop in brand loyalty to American cars and a corresponding rise in loyalty to Japanese brands.

But before punishing the Big Three for the lemons they sold in 1980, consider that the domestic product is vastly better than it was: The Big Three invested $70 billion in improving productivity and quality during the last decade. In 1981, the number of defects per U.S. vehicle was about four times the Japanese average. Today, the still-shrinking difference between the U.S. defect rate of 1.6 per car and the Japanese 1.2 per car is negligible. An extensive MIT study of the auto industry worldwide found that the top Big Three plant actually has fewer defects per car than the top plant in Japan. In addition, many industry analysts also believe that the value-to-price ratio of domestic cars substantially exceeds that of Japanese manufacturers.

The productivity of American-owned auto plants and their workers is also up significantly. According to another recent study, the four most productive auto facilities in America—and eight of the top 10—are Ford plants. Only two are Japanese transplants. American factories still trail plants in Japan in productivity, but here too the gap is narrowing. The conclusion is inescapable: Detroit got the message and is responding effectively to consumer needs.

It is worthwhile remembering that, unlike its Japanese rivals, Detroit achieved this without a closed home market that assured profits and without new plants subsidized by governments. The Big Three were also dealing with huge health and pension costs, the sky-high cost of capital and, in the early '80s, an exchange rate that crippled exports.

Consider also that the automobile industry employs 750,000 Americans directly in assembly and parts operations, plus millions more in related industries. In fact, automobiles account for 4.1 percent of GNP, an incredible chunk for a single industry. Transferring many of those jobs and much of that wealth-creating activity to foreign companies will have a devastating impact on America's economic future.

In addition, there remain the important linkages between the auto industry and other critical U.S. industries. Everyone knows that automobiles are huge consumers of steel, plastics, textiles, rubber and glass. But as cars have gone high tech, the auto industry has become the largest consumer of semiconductor chips and uses vast numbers of sophisticated machine tools, robots, computers and advanced materials. Thus the auto industry will increasingly serve as a more important market for the output of other key high-tech industries. Without Detroit, their future will also be at risk.

Won't transplants buy the same U.S. products as Detroit and, in that way, fill the same role? The evidence suggests otherwise:

The plants themselves were built largely by Japanese construction companies.

The machine tools and robots in the plants are imported from Japan.

High-paid jobs in management and R&D—those which potentially add most value to production—are retained in Japan.

The financial services associated with these plants were provided by Japanese banks and insurance companies.

Profits earned on the sales of the transplants are repatriated to Japan.

U.S. taxes paid by the Japanese auto companies and their Japanese suppliers are mysteriously far below amounts paid by equivalent U.S. firms.

The transplants have largely shunned American auto parts suppliers and have imported their own supplier networks from Japan.

The transplants have decreased significantly the number of auto jobs in America,

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

with perhaps as many as 175,000 workers displaced in the traditional industry from 1983 to 1989.

The siting and hiring practices of transplants indicate that they are reluctant to employ minorities and women.

Yet, the argument continues, haven't the transplants attained a U.S. content almost as high as the Big Three?

In fact, while Honda, the acknowledged leader in "Americanization," alleges a U.S. content well in excess of 70 percent, impartial studies refute that claim. A 1989 GAO report concludes that Japanese automakers have reached 50.5 percent local content, as compared to an average of 87.3 percent for the Big Three. The University of Michigan Transportation Research Institute conducted an independent case study of the Honda plant in Marysville, Ohio, and estimates a domestic content of at most 62 percent, but the authors cite factors that could make it lower. A Canadian newspaper recently reported that a still-in-process U.S. Customs Service investigation has estimated actual North American content at less than 50 percent.

To inflate their U.S. content, the transplants use questionable counting procedures: They include indirect costs that would be incurred whether or not manufacturing occurs here and arbitrarily counting parts imported from Japan as 100 percent American simply because they are purchased from a Japanese-owned supplier located here.

The transplants, in other words, are not American companies.

The Big Three today face enormous obstacles. Perhaps most worrisome are the market conditions skewed by Japan's economic system—in particular the interlocking business cartels known as keiretsu. The solution will require government-coordinated action.

A critical first step is simply to recognize that a significant structural problem exists. Vice President Quayle, during his recent trip to Tokyo, protested the Japanese government's continued protection of its automakers. In doing so, he became the rare administration official who will publicly say that the Japanese system of close government-business cooperation, closed home market and keiretsu distorts the global market to give Japanese manufacturers significant comparative advantages.

Thus, most Japanese auto manufacturers have been able to absorb the substantial losses associated with setting up shop here in pursuit of market share. This "patient capital" has brought the Japanese automakers to the verge of dominating an American industry.

And this is where the record losses of the last two quarters take their most serious toll. Since the Big Three are in financial distress, they cannot afford to make the range of investments in new products necessary to keep them fully competitive. At the same time, Japan is introducing an extraordinary proliferation of new models and options in the U.S. auto market, much faster than Detroit can match.

Meanwhile, worldwide production overcapacity—a result of deliberate Japanese overbuilding—is hammering Detroit. Big Three capacity has fallen from 15.6 million units in 1984 to 14.4 million in 1989. Industry analysts predict a further fall to 13.7 million units in 1991.

In spite of these cuts, worldwide excess capacity still runs at 8 million units—75 percent of which is targeted on the U.S. market. To make matters worse, the transplants continue to add capacity in ambitious increments: The number of cars and light trucks is set to rise from 1990's 2.54 million to 3.5 million by 1995. By adding to current levels of overcapacity, Japanese manufacturers can initiate fierce price competition—with the result that the Big Three will cede additional market share.

Whether the Japanese system is fair or not is irrelevant. Some believe Japan is too politically sensitive to seek the actual takeover of America's auto industry. The point nevertheless is that Japan's automakers are eager to increase significantly their hold here, and the current system favors that goal. So do such U.S. responses as an internal report prepared for the president by the Treasury Department (leaked to the Detroit News) that blamed automkakers' poor performance on myopic management. This is the same Treasury Department that in 1989, over U.S. Customs Service and Big Three objections (and counter to standard industry practice worldwide) reclassified imported light trucks as passenger cars, thus allowing Japanese automakers to save over $500 million yearly in U.S. import duties.

The prevailing economic wisdom within the administration contends that assisting Detroit would be unwarranted interference with the market mechanism. That response is certainly ideologically pure, but will it work? In searching for an answer to the same problems facing U.S. automakers, the European Community decided to place numerical limits on the market share of Japanese cars until European automakers are strong enough to compete. Such a drastic solution is debatable, but it underscores the immensity of the problem.

What can be done without resorting to heavy-handed government interference? A chief ingredient of any rescue plan is providing stable financial conditions for the auto industry: ensuring that sufficient capital is available to the Big Three, the parts makers and the suppliers; ensuring that the cost of the capital is not exorbitantly high and ensuring that exchange rates remain sufficiently stable for rational long-term planning.

In addition, transplants must behave like U.S. companies, which means that keiretsu practices, which violate U.S. law, have to stop at the water's edge. The federal government must make an all-out effort to investigate and end dumping, vertical price-fixing among assemblers and suppliers, tax avoidance through transfer pricing and a host of other practices outlawed here years ago. And the Commerce Department and Customs Service should conduct a joint audit with the Japanese companies in order to establish a program for bringing their domestic content close to the level of the Big Three.

At the same time, the Japanese need to open their domestic market to exports from the Big Three and U.S. parts makers, as well as European and Asian competitors. An immediate "affirmative action" program must be implemented so that U.S. cars, light trucks and parts receive reciprocal treatment in the Japanese market.

In return, the Big Three, the parts industry and American labor must publish their own action plans to pursue additional excellence in quality, productivity and price. Excessive executive compensation and overly generous clauses in union contracts are likewise fair game.

We can quibble about details, so long as we don't delay until irreparable damage has been done to domestic auto manufacturers and parts suppliers. If the problems are not addressed now with autos, we will be facing the same situation in five years with the computer and other flagship industries, but we will be in a much weaker position to respond effectively.

Today, it is Washington, not Detroit, that is afflicted by myopic management.

NORTH SHORE OPTIMIST CLUB "FRIEND OF THE YOUTH"

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the North Shore Optimist Club of Miami Beach for their work with the young people of the Miami area. This organization is performing one of the greatest services an organization can for its community—helping prepare young people for their future roles as good citizens.

The North Shore Optimist Club is a good example of the over 4,100 Optimist International Clubs throughout the United States and the world. An Optimist Club is a voluntary organization of civic-minded men and women who are organized for progressive thought and action in community service. Membership, which is by invitation only, is composed of citizens drawn from business, industry, agriculture, and the professions.

The purposes of Optimist International are to develop optimism as a philosophy of life; to promote an active interest in good government and civic affairs; to inspire respect for the law; to promote patriotism; to work for international accord and friendship among all people; and to aid and encourage the development of youth. An Optimist believes that the giving of one's self in service to others will advance the well-being of man, his community, and world.

The North Shore Optimist Club of Miami Beach is so dedicated to helping young people, that its motto is "Friend of the Youth." Among the activities this club sponsors for young people are sports activities, scholastic achievement awards, oratory contests, respect for law seminars, and bike safety events. It also sponsors Optimist Octagon Clubs in area high schools.

The 300-plus member North Shore Optimist Club meets weekly in the Harbor House in Bal Harbour, FL, for dinner and a social meeting.

I would like to take this opportunity to recognize President Eddie Morgan, President-Elect Julius Koperwas, Treasurer Emanuel Diamond, Father Ted Sherwood, Rabbi Marvin Rosen, Warren Katz, Harry Holtzman and the many other members of the North Shore Optimist Club of Miami Beach.

BRITISH HUMAN RIGHTS ABUSES IN NORTHERN IRELAND

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. OWENS of New York. Mr. Speaker, the London-based human rights monitoring group Amnesty International, released a report on

Friday, June 8, concerning human rights abuses committed by the British in Northern Ireland. Among ohter things, the report charges the British Government with covering up illegal action by security forces, unfair trials, ill treatment of Irish Republican Army suspects, unfair trials, misuse of national security to justify arrests, killings of suspects without warning, and allegedly falsifying evidence to lead to the conviction and long-term imprisonment of 17 people of Irish origin for terrorist bombings.

The United States, which was once a British colony, has modeled a great deal of its legal system on Britain's, and Britain prides itself as historically providing the foundation of western legal values. The behavior of the British in Northern Ireland thus flies in the face of everything Britain purports to stand for with respect to upholding basic human rights and the principles of democracy.

Mr. Speaker, I urge you and my colleagues in the Congress to condemn such human rights abuses, and persuade Britain to take whatever steps are necessary to bring about peace in Northern Ireland, including military personel withdrawal. I also urge President Bush to meet with Prime Minister Major and ohter high ranking British Government officials and ask that they launch peace initiatives to bring an end to this long and tragic conflict.

[From the Washington Post, June 8, 1991]

AMNESTY ACCUSES BRITAIN OF HUMAN RIGHTS ABUSES

(By Glenn Frankel)

LONDON, June, 7—Amnesty International today accused Britain of seriously undermining human rights, especially in Northern Ireland, and charged that the government frequently covers up illegal actions by security forces.

The London-based human rights organization outlined a long list of allegations—including ill-treatment of suspects, unfair trials, misuse of national security as justification for arrests, killings of suspects without warning, abuse of asylum seekers—in which it said the government had shown little regard for individual rights. And it said Britain's record on many of these issues had actually worsened in recent years despite the government's stated commitment to international treaties.

"This report outlines the persistent failure of the British government to deal with some of the most fundamental allegations that can be made when it comes to human rights," said Amnesty spokesman Robert Reoch.

The report's conclusions are likely to be embarassing for a society that depicts itself as the foundation of Western legal values and for a government whose officials often cite Amnesty's findings in their condemnations of Third World governments.

The government said it would examine the report in detail and promised a reply from Home Secretary Kenneth Baker. A Home Office spokeswoman said: "We don't accept at all its general conclusions. In some instances the report seeks to draw those conclusions from a small number of individual cases, and it is sometimes selective in its use of statistics and fact."

Several miscarriages of justice in mainland Britain have been exposed in recent months—including a case in which police and forensic experts allegedly falsified or distorted evidence leading to the convictions and long-term imprisonment of 17 people of Irish origin for terrorist bombings. These have led to the establishment of a royal commission charged with broadly reexamining the British criminal justice system. But Amnesty said it wants the mandate of the commission extended to include Northern Ireland.

British authorities in the province, which has undergone more than two decades of sectarian violence, have used anti-terrorism laws that Amnesty said offer fewer safeguards and more opportunities for abuse. "Steps that have been shown to prevent ill-treatment, like bringing suspects before a judge shortly after arrest and allowing lawyers to be present during interrogation, are not followed when people are arrested under anti-terrorist laws," said the report.

It said it wants an independent judicial review into all the alleged "shoot-to-kill" incidents since 1982 in which soldiers or police have shot suspects, many of them unarmed, often without warning.

"The organization found disturbing the evidence that police investigations may have been deliberately superficial in order to protect security force personnel," the report said.

The "shoot-to-kill" issue arose again this week when an undercover commando squad ambushed and killed three known IRA gunmen without apparent warning. Two of the men were armed and all three had long histories of involvement in IRA hit squads, according to police.

The report said rules on the use of lethal force by police and soldiers were inadequate and noted that the regulations themselves were secret documents. More than 300 people have died in disputed killings by security forces in the province since 1969, the report said, but it alleged that only 21 cases had been brought to trial and that only one soldier had been convicted of murder. The soldier in that case was sentenced to life imprisonment but released after two years and reinstated in the army, according to Amnesty.

The IRA's legal political wing, Sinn Fein, said the report demonstrated Britain's "systematic abuse of human rights." But the execution of an alleged police informer, whose body was found in Londonderry this morning, raised new questions about Sinn Fein's own commitment to human rights. One of those held for questioning was Hugh Brady, a Sinn Fein city councilman.

HONORING FLAG DAY

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. QUILLEN. Mr. Speaker, on Friday, June 14, we celebrated Flag Day—a special time for all Americans to reflect upon the important symbolism for which "Old Glory" stands. In honor of Flag Day, I'd like to share with my colleagues a poem written by my constitutent, Mr. L. Wayne Harless.

Wayne is an Army veteran who works for the Postal Service in my hometown of Kingsport, TN. Early in his career, one of his duties was to raise the American flag outside of the post office. On one occasion, Wayne was unsure if the flag should be raised because it was pouring down rain outside. His poem tells the story, and I ask that it be printed here.

A VETERAN'S TRIBUTE TO THE FLAG

(By L. Wayne Harless)

A young man, new
in a government job,
On a rainy day asked
an old veteran named Bob,
It's pouring outside,
and I just wonder why,
We should hoist up the Flag
to such a dismal sky?
Old Bob raised his head,
and a tear dimmed his eye.
He touched the lads shoulder,
and began with a sigh.
Son, Ol' Glory's flown
through the terror of war.
She's endured insurrection,
rank treason and more.
Civil strife and disorder
have threatened her hue,
But she's always survived,
this ol' red, white and blue.
She's been used as a bandage
where our wounded have bled.
She's been draped o'er the coffins
of our most valiant dead.
She stands in the cold
of the world's polar snow.
On a bleak, lifeless moon,
her colors still glow.
No desert's hot sand
nor blistering sun,
Could alter these colors
or cause them to run.
She strikes fear of death
down deep in the hearts
Of those who assay
to breach our ramparts.
She tops all the masts
of our great ships at sea,
And silently whispers,
"Don't tread on me!"
She represents freedom
to a world bound by sin.
To the homeless calls out,
"Welcome Good Friend!"
She's been through so much,
she's been tattered and torn.
But she's as rugged today
as the day she was born.
So, raise her up, son,
hoist her way up high!
A little rain won't hurt her,
let ol' Glory Fly!!

ASSURING EQUITABLE PAYMENT FOR HOSPITAL AND PHYSICIAN SERVICES UNDER THE MEDICAID PROGRAM

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. STARK. Mr. Speaker, I am today introducing legislation to assure equitable payment for hospital and physician services under the Medicaid Program.

The Medicaid Program is designed to assure access to needed health services by the poor. Unfortunately, hospital and physician reimbursement methodologies employed by most States are seriously jeopardizing that goal.

My bills will mandate that States pay hospitals and physicians no less than what Medicare would have paid for similar cases and services. To make this change easier for State to absorb, the bill provides for a 3-year transition to these higher rates. My bill also precludes States from imposing arbitrary limits on the length of time a Medicaid patient may stay in the hospital.

I am introducing these bills because of continuing problems with underreimbursement by Medicaid. For example, my own State of California continues to refuse to pay its fair share of hospital costs under the State's Medical Program. This finding was backed up by a recent report by the General Accounting Office [GAO]. Reports from the Physician Payment Review Commission and the American Academy of Pediatrics demonstrate that Medicaid physician reimbursement also is so low that access to physician services is seriously impaired in many States.

In the case of California's Medicaid Hospital Payment Program, a waiver was granted by the Reagan administration which allowed California to establish a process by which hospital payments are set through secret negotiations between each hospital and the State. This has allowed the State to set hospital payment levels in a totally arbitrary fashion.

This approach has led to disarray in the hospital delivery system in the State. Many hospitals report little or no increases in payment levels since initial contracts were signed in 1984. Analysis of the amounts paid by the Medicaid Program in California illustrate the problem. Although the HCFA market basket index for goods and services purchased by hospitals increased 21.4 percent between 1984 and 1989, California Medicaid payments have increased only 9.15 percent in the same period.

California, an affluent State with relatively high health care costs, now spends less per Medicaid recipient than do all but three other States. Undoubtedly the State's current budget crisis will promote further efforts to reduce Medicaid spending.

The GAO studied the relationship between Medicare and Medicaid hospital payments in three States, New York, California, and Ohio, for 20 selected diagnosis-related groups [DRG's]. In the three States Medicaid payments were between 8 and 14 percent lower than Medicare payments for the selected DRG's.

The Physician Payment Review Commission found that Medicaid physician fees were only 69 percent of Medicare's prevailing charge levels. Overall, 44 States reported problems with patients' access to physicians, particularly for obstetric and pediatric services, and for services in rural areas.

When State Medicaid directors were asked to rank factors that may contribute to low physician participation, 30 States cited low fees as being the most important factor. Studies have also shown that when physician fees are too low, beneficiaries are often forced to seek higher cost services in hospital outpatient departments or emergency rooms.

While low fees are recognized as a major problem, few States seem to be willing to do anything about it. For some services in some States, fees haven't been increased since the 1970's.

A further problem in Medicaid programs is that 11 States also impose arbitrary limits on inpatient hospital services under their Medicaid programs. Some of these States limit the number of days per hospital stay while others limit the number of hospital days covered per year.

The result is that reimbursement ceases for poor patients with no other means of paying for their hospital stay, whether the patient continues to need continued hospital care or not.

I am sure that no one believes that Medicaid coverage for hospital care should cease solely on an arbitrary limit, particularly when that limit can be as low as 12 days per year, as it is in the State of Alabama.

The Omnibus Reconciliation Act of 1990 prohibited this practice for babies under age 1 in any hospital and for children under 6 who receive services in a disproportionate share hospital; my bill would prohibit limitations on needed inpatient care for any reason other than medical necessity for all Medicaid beneficiaries.

My bill would preclude arbitrary hospital and physician payment policies. It would assure that providers are fairly paid. Most importantly, the bill will provide needed fiscal relief to hospitals, and will reward those physicians, who are providing care to the most vulnerable members of our society.

I believe strongly that hospital and physician reimbursement by public programs should be lean, but fair. What is not fair is to ask hospitals and physicians to shoulder uncompensated care costs for the poor our society can't or won't cover, and then shortchange them for the people that we do.

RESTRUCTURING POLAND'S BANK DEBT

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. NOWAK. Mr. Speaker, significant discussions will be held this week in Frankfurt, Germany, as the Government of Poland seeks to renegotiate the terms of the $11.1 billion it owes to commercial banks.

Flexibility by the banks in these negotiations that lead to an easing of Poland's debt burden would be another important step in boosting that nation's bold conversion from a centralized economy to a free market system.

A few months ago, the Paris Club of Government Creditors agreed to forgive half of Poland's $33 billion in official debt. The United States decided to forgive 70 percent of Poland's nearly $4 billion debt to this country.

We hope the commercial banks agree that similar flexibility will be not only in Poland's best interest but in the long-range interest of Europe and the international banking community.

We must help this bold Polish experiment succeed, so the concept can spread to other former Communist bloc nations in the region.

The success of Poland's conversion from communism to democracy will lead to further democratization, more political stability, and healthier economic conditions in Eastern Europe.

We hope the negotiations this week in Frankfurt will result in positive steps that further stimulate the Polish Government's efforts to rebuild its economy.

CAPT. FELIX J. VILLAVERDE "TOP GUN" ON THE DC-8

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize today Capt. Felix Villaverde, who was recently honored by the National Aeronautic Association, as the "top gun" in his class of airplane. As the top gun for the McDonnell Douglas DC-8, he holds more world records than any other pilot for this world famous commercial jetliner.

Over 30 years ago, Captain Villaverde came to this country with his parents from Castro's Cuba, with nothing more than the shirt on his back. As a young man, he worked two jobs in order to pay for his flying lessons to become a pilot. Eventually he attained his dream, becoming an airline captain. He also became a chief pilot for a major military contractor, and has now distinguished himself by rising to the top of his profession.

Like many other Cuban refugees, Captain Villaverde is very grateful to the United States for giving him the opportunity to live his dream. He knows that had he stayed in Cuba, he would have been unable to achieve his dream of becoming a pilot. Here in the United States he was afforded the opportunity which many of us take for granted, the opportunity to become the very best you can be. He believes that by winning so many world records in aviation, he is helping the United States maintain its No. 1 status in the field of aviation. It is his way of paying back his adopted country for giving him so much.

I also wish to commend Peter L. Foster, a constituent of mine, and a board member of the National Aeronautic Association, for bringing Captain Villaverde's achievements to my attention. Both he and his organization should be commended for recognizing Captain Villaverde's achievement of his American dream.

RECOGNITION OF BART McCARVILLE

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, today I would like to recognize a friend and Long Island constituent of mine, Bart J. McCarville, for his outstanding involvement in the retail automobile industry and the Greater New York Automobile Dealers Association [GNYADA].

On June 20, 1991, Bart McCarville will complete his 1-year tenure as president of the GNYADA. Mr. McCarville has been an effective spokesperson for his industry, lending his experience and knowledge to legislative leaders to further automobile programs. Through his commitment and dedication to the automobile industry for over 30 years, Mr. McCarville has gained the respect and admiration of his peers.

Mr. McCarville has previously been recognized for his outstanding efforts to the industry as a recipient of the Time Magazine Quality Dealer Award. He was 1 of only 66 dealers nationwide to receive this distinction.

Mr. Speaker, I am also honored to recognize Bart McCarville as an outstanding humanitarian as a strong advocate of voluntarism and civic duty, and a firm believer in the value of education. His commitment to community service is exceptional. I join the GNYADA and the rest of the Long Island community in applauding him for his efforts and wish him only the best in the future in all his endeavors. I'm delighted to call him my friend.

THE CONGRESS OF ITALIAN-AMERICAN ORGANIZATIONS, YONKERS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. ENGEL. Mr. Speaker, I rise today to acknowledge the 25th Anniversary of the Congress of Italian-American Organizations [CIAO] in Yonkers, NY.

For a quarter-century, the members of CIAO have combined a respect for their heritage with a commitment to their community and country. The results have been a long list of civic achievements, including the establishment of an earthquake relief fund, support for the building of a trade school in Italy, and a partnership with many local charities.

As the constitution of CIAO states:

> Through an intelligent and constant exercise of civic duties and rights, and obedience to the Constitution of the United States, we uphold and strengthen this republic.

Mr. Speaker, throughout our country their are many ethnic and cultural groups that enrich our Nation by reminding us of our heritage and working to improve the communities in which they function. In Yonkers, the Congress of Italian-American Organizations has provided this type of leadership for 25 years. I thank the members of CIAO on behalf of the community and wish them many more years of success.

H.R. 1527

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to announce my cosponsorship of H.R. 1527, the Telecommunications Equipment, Research and Manufacturing Competition Act of 1991. The thrust of this legislation is to amend the modified final judgment to allow telephone companies to become involved in the research and development and the manufacture of telecommunications equipment.

My support of this legislation is a result of a recognition that times have changed and that U.S. international competitiveness would be enhanced should the manufacturing restrictions be lifted from the Bell Operating Cos. In a world of increasing international markets—where foreign competition is in your own backyard—it does not make sense to maintain undue restrictions on domestic firms who promise great potential to develop and fund research in the telecommunications field. I've been most impressed with small manufacturing firms who have come to me in support of the bill, emphasizing the boon they see for future joint ventures as a result of this legislation.

Last year's merchandise trade deficit included an $800 million telecommunications deficit. Since 1984, the cumulative deficit in the telecommunications trade has been $15 billion. This translates into lost jobs and a loss in our edge in the telecommunications field. Lifting the manufacturing restrictions will free up significant capital and technical resources to bolster our domestic industry.

Obviously, those restrictions which have been incorporated in the bill remain contentious, but prudence advises caution here. The unique situation of the Bell Operating Cos. [BOC]—as regulated monopolies—demand that the new freedoms be coupled with safeguards. We need to ensure the detractors of this legislation that consumers will not end up paying higher telephone rates or that consumers will have less choice for telecommunications products as a result of this bill. We've seen a nondiscriminatory marketplace since divestiture, and we need to make sure it remains as such.

There is an obligation to the American public that the benefits which this legislation promises will not be tarnished by a lack of congressional foresight. For these reasons, self-dealing provisions need to be strong, and the domestic content provision must be retained. Without such provisions, those of us who support lifting the manufacturing restrictions will be open to the charge that we are aiding and abetting the flight of American manufacturing overseas. Clearly, this is not the intent of the legislation, and should not be the inadvertent result of enactment.

I look forward to working with Chairman MARKEY and the other members of the Subcommittee on Telecommunications and Finance in the coming months, and I am confident that we will be able to work out a legislative package which bolsters U.S. competitiveness while ensuring the continued quality service and reasonsable rates which the BOC's currently provide for the American consumer.

TRIBUTE TO EMPLOYEES AT SEQUOYAH

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mrs. LLOYD. Mr. Speaker, I would like to bring to the Nation's attention the recent continuous operation of the Sequoyah Nuclear Plant. Sequoyah is part of the Tennessee Valley Authority's power generation operations. In order to meet the needs of customers in the Tennessee Valley effectively and efficiently, it is extremely important to keep Sequoyah operating continuously. On June 5, 1991, Sequoyah Unit No. 1 reached the 100-day milestone and Unit No. 2 reached 151 days of continuous operation.

Sequoyah is a twin-unit pressurized water reactor with a capacity of almost 2,300 MWe when operating at peak power. This is significant in that it provides enough electricity to light a city the size of Chattanooga for a full year. In fact, the plant provided approximately 13 percent of the total TVA generation in 1990.

The environmental benefits of operating facilities like Sequoyah continuously are well known. For example, the electricity generated for the months of continuous operation would have required about 8 million barrels of oil, or 2 million tons of coal. Every kilowatt produced from nuclear power reduces the amount of coal TVA has to burn, and that reduces the amount of nitrous and sulfur oxides in the atmosphere.

The challenges in keeping a plant like Sequoyah operating at its maximum for months continually test the competence and creatively of the engineers and support personnel. Sequoyah employees not only successfully completed the continuous run, they also completed 2 million man-hours without a lost-time accident in the same period.

The completion of this two-unit, 100-day continuous run is a tribute to the hard working management and employees at Sequoyah. This is more evidence that nuclear power can be reliable and safe for the customers of the Tennessee Valley region.

KRISTINA TEW AND HER PAGE TURNER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, it is my pleasure to pay tribute to a very bright young lady, Kristina Tew. Eleven-year-old Kristina, a student at the Cushman School in Miami, is a very gifted pianist, but her talent in playing the piano is not why I am praising here today.

Out of 9,000 contestants, Kristina Tew took first place for the Weekly Reader National Inventive Thinking Contest. It started at school when her science teacher assigned the class a you-be-the-inventor project. Kristina, who practices for 2 hours every day, knew exactly what she was going to create, her own page-turner.

Now, while she plays the piano, she does not have to lift her hands from the keys. All she does is step on a switch which automatically turns the page for her. She simply keeps on playing.

I am very proud of Kristina. I encourage her, in the spirit of American ingenuity, to continue to ask herself, "How can I make this better?" I commend her for her true creativity and inventiveness. She is a model to her peers and now a model for the entire Nation.

A TRIBUTE TO SAL INGA: A MODERN HERO

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. SOLARZ. Mr. Speaker, I rise today to salute and honor a caring American and a true citizen who helps others in distress. In fact, today I am speaking of a lifesaver.

On April 22, 1991, Mr. Salvatore Inga was returning to his home in the Bensonhurst section of Brooklyn when he spotted a woman lying in an alleyway bleeding and nearly unconscious. No one else seemed to pay any attention to her.

Mr. Inga rushed to a local store and called 911 to ask for medical assistance. He then went back to the woman, covered her with his jacket, and kept talking to her to assure her that help was on the way.

Medical personnel allowed that Mr. Inga's quick action, especially covering her, more than likely saved her life.

You might wonder, as noble as these acts were, that people help other people in distress all the time and what's the difference here?

There is a difference. Mr. Inga, you see, is only 8 years old.

I've tried to reflect on what I would have done if, at the age of 8, the same thing had happened to me. I hope I would have done something, but I probably would have sought the help of an adult rather than taking direct action myself.

Sal Inga did the right thing, the caring thing, at a time when our newspapers are filled with examples of man's inhumanity to man. In honoring Sal Inga, of course, I also honor his parents, Laura and Joseph Inga. Right thinking, noble deeds, bravery, and honor in children are often the result of caring parents. In this case, Sal's parents deserve ample credit.

Since his sterling deed, Sal Inga has received many honors from his neighbors and his community. The greatest rewards, however, are ones that Sal can find within himself—the warmth of a caring and giving person, the intelligence to act decisively.

Mr. Speaker, I am proud to pay tribute to this fine young man and will use his example to look with hope to other young people—and all people—who find themselves in situations when they can act to save a life.

HONORING REV. TIMOTHY P. MITCHELL

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to take this opportunity to pay tribute to Rev. Timothy P. Mitchell of the Ebenezer Missionary Baptist Church of Flushing, Queens, in celebration of his 30th pastoral and 50th baptismal anniversary. Reverend Mitchell's leadership and commitment to the community will be honored on the 28th of June at the Astoria Manor, led by Rev. Dr. Warren H. Steward as the keynote speaker.

Reverend Mitchell has been a clarion voice and a strong soldier in our national and citywide struggle for legal and economic justice. He has offered aid and intervention to homeless men, women, and families and his social commitment has been directed to relief for the poor and general community improvement. He is not only a pillar of strength in promoting human rights in New York City but is a beacon of light for the African-American community and the Nation at large.

With the support of the members and community at large, Reverend Mitchell has initiated many human rights campaigns and sought to improve the quality of life of the most disadvantaged members. In addition to initiating the first Head Start Program in eastern Queens, expanding the senior citizen program housed in Ebenezer to 700 members, Reverend Mitchell has helped over 1,000 persons with housing problems, sponsored a free summer lunch program that has served over 1 million lunches, and placed over 5,000 youth in summer and other related programs.

Reverend Mitchell has served as president of the Sunday school and Baptist training union, of which he is presently president emeritus. He has also been prominent in promoting inter-racial understanding in his capacity as the chairman of the Commission for the Elimination of Racism for the Council of Churches of the city of New York, and served in various capacities in the freedom movement as an outgrowth of his activities with Dr. Martin Luther King, Jr., in the early 1960's.

As the founder of Ministers Against Narcotics, his group led the fight against heroin addiction in the 1970's and has devoted his energy in recent years in combating drug dealers and the devastating effects of drug abuse in the local community by confronting the dealers and users. His activities in aiding other marginalized members of the community has in recent years been marked by acting as an advocate for the homeless and was in this capacity integral in building the largest homeless women's shelter in New York City. He was instrumental in establishing SHARE Food Program, which assures nutritious food for all at the lowest possible prices.

Reverend Mitchell's accomplishments speak of a firm and multifaceted dedication to Ebenezer, Flushing, the Afro-American community, and human rights nationwide. Mr. Speaker, it is the people of Queens who on this day wish to thank and express respect to Reverend Mitchell on the occasion of his 30th pastoral and 50th baptismal anniversaries.

TRIBUTE TO NICK C. AND SOPHIA YACOVONE

HON. JAMES A. TRAFICANT JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Mr. and Mrs. Nick C. Yacovone of my 17th Congressional District of Ohio, who will be celebrating their 50th anniversary of marriage on June 28, 1991. Mr. and Mrs. Yacovone were married at St. John the Baptist Catholic Church in Campbell, OH.

The couple continued to live in Youngstown where they dedicated themselves to community and family for the next 50 years. Mr. Yacovone owned and operated Campbell Electric Co. after 3 years of service to the U.S. Navy. Mrs. Yacovone retired from work after becoming married in order to pursue her full-time job of raising the couple's three daughters: Jackie, Bonnie, and Denise. In addition to this, the couple is actively involved in St. Nicholas Byzantine Catholic Church Associations and the Knights of Columbus Council.

Although Mr. and Mrs. Yacovone are retired, their continued involvement in the community and five grandchildren, Jim, Kelly, Kristine, Jeff, and Dave, and one great-granddaughter, Anna, keep them busy. Nick and his wife spend their winter months in Florida enjoying swimming, tennis, and entertaining friends. During the summer, Nick still does consulting for Dematteo Electric.

Mr. Speaker, I would like to congratulate Nick and Sophia Yacovone on their 50 years of marriage. Their commitment to each other and to their community is exceptional. May their marriage continue to serve as a much-needed example of love and dedication to us all. I wish them many more years of happiness together, and I am honored to have two such wonderful people as members of my district.

OVERHAULING THE SOVIET ECONOMY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. RICHARDSON. Mr. Speaker, I would like to bring to my colleagues' attention the work of an outstanding group of American and Soviet researchers who are devising a plan for the massive overhaul for the Soviet economy.

We will be hearing a lot more from this group in the days ahead. Their plan, or at least parts of it, will likely be adopted by Soviet and United States Government leaders.

I am particularly pleased that one of the members of this exciting team working from Harvard University's John F. Kennedy School of Government is a constituent of mine, Elizabeth Sherwood of Santa Fe. I ask my colleagues to join me in saluting Elizabeth and her coworkers in their efforts to improve the Soviet economy. For more information about this joint United States-Soviet team, I call your attention to the following Washington Post article titled, "From Harvard, an Agenda for Soviets."

[From the Washington Post, June 14, 1991]

FROM HARVARD, AN AGENDA FOR SOVIETS

(By Steven Mufson)

CAMBRIDGE, MA.—On the wall of Elizabeth D. Sherwood's office at Harvard University's John F. Kennedy School of Government hangs a poster of Soviet President Mikhail S. Gorbachev in sunglasses. The poster, an ad for an Ohio store for glasses frames, says: "sunglasnost."

Sherwood, 31, is an associate director of a joint U.S.-Soviet team that is trying to get American and Soviet leaders to see the Soviet economy through a new set of lenses. This week, the Kennedy school team of economists and policy analysts put the finishing touches on what they call "The Grand Bargain," a plan for the massive overhaul for the Soviet economy—greased with massive Western assistance.

This is no ordinary academic exercise. It calls for $20 billion to $35 billion a year in Western loans and grants to the Soviet Union through the end of 1995—in conjunction with measures to transform the capital of communism to a free market. Gorbachev has encouraged the Soviet participants and awaits the plan, which will be released today. Depending on his response, the Kennedy school plan might set the agenda for the July economic summit in London, where Gorbachev wants to lay out new economic proposals and aid requests.

One of the plan's chief architects, Soviet economist Gregory Yavlinsky, yesterday met with senior White House officials to persuade them to look favorably on the plan. He will travel to Moscow this weekend to deliver it to Gorachev.

Gorbachev's interest and the big numbers in the Kennedy school plan have attracted attention and criticism from Washington policy makers and many Sovietologists. Vice President Dan Quayle joked that "Harvard has got more ideas out there than there are problems." President Bush called the sums of assistance envisioned "a hefty piece of change." And Marshall Goldman, an economist at Wellesley College and the Harvard Russian Studies Center, said the Grand Bargain would be more aptly called "the Grand Illusion."

But this group on the banks of the Charles River is not the usual bunch of intellectuals. Each one has government experience—ranging from a former Senate aide to a former Reagan arms negotiator. The plan's completion has been delayed because team members keep jetting off from their ivory towers to go to Jerusalem, Helsinki, Washington and other capitals to advise policy makers. Last week, while thousands of students gathered in Harvard Yard to receive degrees, the dozen American and Soviet planners were closeted in the nearly deserted Kennedy school tapping on laptop computers, swapping floppy disks and handing revised manuscripts to a battery of translators.

Because of the group's broad experience, Bush administration officials have paid more attention to it in private than they have in public. And the Kennedy school group hopes that sheer necessity will drive Gorbachev into adopting its proposals.

Yet the Americans involved for the most part are not experts on the Soviet Union, and that may be an advantage. Most Sovietologists are cynical about Moscow's intentions and hold out little hope for true economic reform. Moreover, one group member noted, Soviet experts "are experts on what is broken and not on how to fix it."

The project leader is Graham Allison, longtime dean of the Kennedy school who was an aide to President John F. Kennedy and wrote a widely used textbook on the Cuban missile crisis. For years, he studied the U.S.-Soviet nuclear-weapons relationship, based on what Kennedy called "the precarious rules of the status quo."

But with perestroika, or restructuring, the status quo unraveled and, with support from the Carnegie Corporation, Allison started the "Strengthening Democratic Institutions Project." Its mandate: to assist the transition to democracy, market economies and cooperative international relations in the Soviet Union and Eastern Europe.

The Kennedy school often is considered the home of the U.S. government-in-waiting, where academics and out-of-office politicians spend their exile while hoping for changes in their party's or their own personal, fortunes.

With an eye for out-of-work officials, Allison assembled a think tank for a Soviet government-in-waiting. Last year, he recruited Yavlinsky, coauthor of the radical 500-day economic reform plan that Gorbachev had just shelved. The discouraged Yavlinsky had resigned the same day he met Allison.

Allison also drafted Peter Blackwill, a career foreign service officer who was Reagan's ambassador at talks on reducing U.S. and Soviet conventional forces in Europe. Blackwill also served as Bush's senior adviser on the Soviet Union.

Another participant is Harvard economist Jeffrey Sachs, who has counseled the governments of Bolivia and Poland. Sachs has been a leading proponent of "shock therapy" for troubled economies, including rapid freeing of prices and currency regulations.

Sachs, on leave from Harvard, is working as a consultant with David Lipton, an economist who spent eight years at the International Monetary Fund. In the spring of 1990, Sachs and Lipton met with senior Soviet officials to urge swift economic changes.

The two maintain they are not unrealistic intellectuals lacking expertise on the Soviet Union. "I consider myself a clinical economist," Sachs said. "I like to have patients in my hand for daily treatments, for on-the-ground clinical work. We're specialists on that."

Massachusetts Institute of Technology economics professor Stanley Fischer also joined the group. Fischer, co-author of a standard macro-economics textbook and former consultant to the State Department on Israel's economy, was chief economist of the World Bank from 1988 until late 1990. He coordinated a report on the Soviet Union for the IMF, World Bank, Organization of Economic Cooperation and Development and the Group of Seven major industrial countries.

The report prescribed tough reform measures as a prerequisite for Western assistance. It warned the West not to waste money on a broken system.

When Fischer agreed to help Allison, he expected little to result. But now that Gorbachev again appears ready for radical economic changes, the Harvard project has taken on new life and urgency. Yavlinsky and a half dozen Soviet would-be policy makers, most of them close to Russian Federation President Boris Yeltsin, have spent five frantic weeks at the Kennedy school.

Nonetheless, many experts question the venture. Goldman said there is "no way" the Soviet economy can absorb the amount of aid the Kennedy school group envisions. He compares it to pouring gasoline into an engine that doesn't function.

Moreover, Goldman said, suggesting a master plan was "almost like falling victim to the idea that central planners can do everything." He said it would have the "pernicious" effect of discouraging smaller scale, more democratic reform efforts.

Finally, the plan is flawed because, he argues, "It still puts the focus on Gorbachev . . . yet he is discredited and has no ability to push it [economic reform] through."

Fischer insists the Harvard plan is tough-minded and realistic. He said critics have three misconceptions. First, "This is not money for promises. This is money for actions," he said. The Soviets would "get money only if they make changes and then only over a protracted period," Fischer said. He stresses that the West would be involved in drawing up new policies. "You are not asking someone to put $100 billion on the table and walk away," he said.

Second, Fischer said, "Not only should there be economic conditions, but political conditions and a political timetable—not to prop up this government, but to prop up a process of both democratic and economic reform."

Third, Fischer said, the Kremlin alone cannot transform the Soviet economy. "A Stalinist government could do it without aid," he said, but he warned that it will be hard to do while moving toward democracy.

THE EFFECT OF AIDS ON THE WORLD'S CHILDREN

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 17, 1991

Mr. DORGAN of North Dakota. Mr. Speaker, on Thursday, June 13, the Select Committee on Hunger held a hearing on the threat that the Acquired Immune Deficiency Syndrome poses to the developing world's children. I would like to share some of the facts that were brought to light during the hearing.

It may not be immediately apparent to some of us what AIDS has to do with hunger. But increasingly, AIDS has become a disease of the poorest and most vulnerable in our society. Often the poor don't have access to treatment, while widespread illiteracy places them beyond educational efforts to reduce their vulnerability.

AIDS is no longer a disease restricted to high-risk groups; its demography has shifted to include an increasing proportion of women and children. As the number of women infected with the virus increases, so too does the number of infants infected by perinatal transmission. The World Health Organization projects that the number of infants born with the human immunodeficiency virus will increase from 700,000 in 1990, to an estimated 8 to 10 million by the year 2000. Eighty percent of these HIV-infected infants will die before they reach their 5th birthday.

In sub-Saharan Africa, this translates to an increase in child mortality of somewhere between 20 and 43 percent. AIDS threatens to completely eliminate the worldwide gains we had hoped to make in infant and child survival in the next 10 years.

The effect of the AIDS pandemic extends beyond those infected with the virus. During the 1990's, the number of orphaned children in east and central Africa may reach 5 million. In Uganda, AIDS has already decimated the 20- to 45-year-old population; orphaned children and the elderly have been left to fend for themselves. Again, society's most vulnerable members are bearing the brunt of the epidemic.

International donors and the governments of developing countries cannot afford to wait any longer to include AIDS prevention in their primary health care efforts. If we wait, the HIV-infection and mortality statistics that we see for Africa may well be repeated in countries in Latin America and Asia.

In addition to the obvious suffering, the AIDS crisis has the potential to make poor countries poorer through the loss of human resources, and the staggering financial costs for both health care and aid to dependents.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 18, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 19

9:00 a.m.

Armed Services
Strategic Forces and Nuclear Deterrence Subcommittee
To resume hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the B-2 bomber program.
SR-222

Select on Indian Affairs
Business meeting, to markup S. 668, to authorize consolidated grants to Indian tribes to regulate environmental quality on Indian reservations; to be followed by hearings on S. 1057, to establish a permanent National Native American Advisory Commission, to remove restrictions regarding the reorganization of the Bureau of Indian Affairs.
SR-485

Special on Aging
To hold hearings to examine the ethics of health care rationing, focusing on the decisions that doctors, hospitals, and State program administrators are forced to make concerning how to allocate scarce health care resources.
SD-628

9:30 a.m.

Agriculture, Nutrition, and Forestry
To hold hearings to examine dairy supply management options.
SR-332

Commerce, Science, and Transportation
To hold hearings on S. 1034, authorizing funds for fiscal year 1992 for programs of the Technology Administration and the National Institute of Standards and Technology, Department of Commerce, and to examine developments in new basic technologies within the Department of Commerce.
SR-253

Governmental Affairs
To hold hearings to examine enforcement of the Environmental Protection Agency's environmental protection policy.
SD-342

Labor and Human Resources
Business meeting, to markup S. 55, to revise the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes, S. 911, to expand the availability of comprehensive primary and preventive care for pregnant women, infants and children and to provide grants for home-visiting services for at-risk families, and to provide Head Start services to all eligible children by 1994, S. 1088, to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information regarding such products be made public, and to consider other pending committee business.
SD-430

10:00 a.m.

Banking, Housing, and Urban Affairs
Consumer and Regulatory Affairs Subcommittee
To hold oversight hearings on real estate asset disposition activities of the Resolution Trust Corporation.
SD-538

Commerce, Science, and Transportation
To hold hearings in conjunction with the National Ocean Policy Study on S. 49, to establish an Ocean and Coastal Resources Enhancement Fund and a Coastal Zone Impact Assistance Fund, and to require the Secretary of Commerce to provide States and local governments with block grants from moneys in the Funds.
SR-385

Finance
To hold hearings on the President's recommendation that China continue to receive Most Favored Nation trade status.
SD-215

10:30 a.m.

Foreign Relations
European Affairs Subcommittee
To hold hearings to examine the future of the Soviet economy.
SD-419

1:30 p.m.

Agriculture, Nutrition, and Forestry
To continue hearings to examine dairy supply management options.
SR-332

Governmental Affairs
Government Information and Regulation Subcommittee
To hold hearings to examine difficulties in adjusting the Census.
SD-342

Joint Printing
To hold hearings on the technological future of the Government Printing Office.
B-318 Rayburn Building

2:00 p.m.

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee
To hold hearings on S. 933, to provide fair funds to consumers of natural gas who are found to have been overcharged.
SD-366

Judiciary
Courts and Administrative Practice Subcommittee
Business meeting, to markup pending legislation.
SD-226

Select on Intelligence
To hold closed hearings on intelligence matters.
SH-219

JUNE 20

9:00 a.m.

Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold hearings to examine the status of, and prospects for, the future of agriculturally-derived renewable fuels.
SR-332

Armed Services
To receive a briefing on the conduct of special operations during Operation Desert Shield/Desert Storm.
SR-222

9:15 a.m.

Small Business
Innovation, Technology and Productivity Subcommittee
To hold hearings on United States-Japan automobile parts trade.
SR-428-A

9:30 a.m.

Appropriations
Interior Subcommittee
To hold hearings on the wild horses and burros program of the Department of the Interior.
SD-116

Appropriations
Labor, Health and Human Services, Education Subcommittee
To hold hearings on the Department of Health and Human Services' childhood immunization program, focusing on problems relating to vaccine delivery.
SD-192

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings to review broadcasters' public interest obligations.
SR-253

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on implementation of section 404 of the Clean Water Act (P.L. 100-4).
SD-406

Labor and Human Resources
Aging Subcommittee
To hold hearings to examine issues relating to breast cancer.
SD-430

10:00 a.m.

Banking, Housing, and Urban Affairs
To hold hearings on streamlining the Resolution Trust Corporation.
SD-538

Finance
To continue hearings on the President's recommendation that China continue to receive Most Favored Nation trade status.
SD-215

Foreign Relations
To hold hearings on the nomination of J. Stapleton Roy, of Pennsylvania, to be Ambassador to the People's Republic of China.
SD-419

Judiciary
Technology and the Law Subcommittee
Business meeting, to markup S. 652, to allow the use of caller identification

devices where the caller can block receipt of individually identifying information.

SD-226

Labor and Human Resources

Labor Subcommittee

To hold hearings to examine executive retiree's risks of bankruptcy.

SD-628

1:30 p.m.

Governmental Affairs

Oversight of Government Management Subcommittee

To hold hearings to examine enforcement and administration of the Foreign Agents Registration Act (FARA).

SD-342

2:00 p.m.

Appropriations

District of Columbia Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for the District of Columbia school system.

SD-138

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To continue hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the Strategic Defense Initiative.

SR-222

Commerce, Science, and Transportation

To hold hearings on the nomination of Dennis A. Yao, of Pennsylvania, to be a Federal Trade Commissioner.

SR-253

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 477, to afford congressional recognition of the National Atomic Museum at Kirtland Air Force Base, Albuquerque, NM, as the official atomic museum of the U.S. Government under the aegis of the Department of Energy, S. 623, to direct the Secretary of the Interior to conduct a study of certain historic military forts in the State of New Mexico, S. 772, to revise title V of Public Law 96-550, designating the Chaco Culture Archaeological Protection Sites, S. 855, to revise the Korean War Veterans War Memorial Act, S. 867, to establish a commission in the Department of the Interior to provide compensation to individuals who lost land or mining claims to the U.S. government for the establishment of the White Sands Missile Range, and S. 1117, to establish the Bureau of Land Management Foundation.

SD-366

Environment and Public Works

Environmental Protection Subcommittee

To continue hearings on implementation of section 404 of the Clean Water Act (Public Law 100-4).

SD-406

Foreign Relations

To hold hearings on the nominations of William Harrison Courtney, of West Virginia, for the rank of Ambassador during his tenure of service as U.S. Commissioner for the Bilateral Consultative Commission established by the Threshold Test Ban Treaty (TTBT) and the Peaceful Nuclear Explosions Treaty (PNET), Lynn Marvin Hansen, of Colorado, for the rank of Ambassador during his tenure of service as U.S. Representative on the Conventional Armed Forces in Europe (CFE) Joint Consultative Group and to the Negotiations on Conventional Armed Forces in Europe (CFE), and Jane E. Becker, of the District of Columbia, to be U.S. Representative to the Vienna Office of the United Nations and Deputy Representative of the U.S. to the International Atomic Energy Agency, with the rank of Ambassador.

SD-419

Judiciary

To hold hearings on the nominations of Jane R. Roth, of Delaware, to be United States Circuit Judge for the Third Circuit, Sterling Johnson, Jr., to be United States District Judge for the Eastern District of New York, and Harvey E. Schlesinger and Ralph W. Nimmons, Jr., each to be a United States District Judge for the Middle District of Florida.

SD-226

JUNE 21

9:00 a.m.

Armed Services

Readiness, Sustainability and Support Subcommittee

To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the Defense Environmental Restoration Account and the service environmental compliance funds accounts.

SR-232-A

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study on S. 884, to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing, and related issues.

SR-253

JUNE 25

9:30 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on S. 1269, to require the Secretary of Energy to expedite the development of hydrogen derived from renewable energy sources as an alternative energy system for residential, industrial, utility, and motor vehicle use.

SD-366

2:00 p.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings to review revenues from additional radio spectrum allocations.

SR-253

2:30 p.m.

Foreign Relations

To hold hearings on the nominations of Mary Ann Casey, of Colorado, to be Ambassador to the Democratic and Popular Republic of Algeria, John Thomas McCarthy, of New York, to be Ambassador to the Republic of Tunisia, Robert H. Pelletreau, Jr., of Connecticut, to be Ambassador to the Arab Republic of Egypt, and Nicholas Platt, of the District of Columbia, to be Ambassador to the Islamic Republic of Pakistan.

SD-419

JUNE 26

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD-342

Veterans' Affairs

Business meeting, to mark up pending calendar business.

SR-418

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. 362, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama.

SR-485

JUNE 27

2:00 p.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on S. 979, to provide for strong Department of Energy support of research and development of technologies identified in the National Critical Technologies Report as critical to U.S. economic prosperity and national security.

SD-366

JULY 9

2:00 p.m.

Select on Indian Affairs

To hold oversight hearings on the Navajo-Hopi relocation program.

SR-485

JULY 10

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 471, to protect consumers by regulating certain providers of 900 telephone services, and S. 1166, to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call.

SR-253

2:00 p.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings to examine national tourism policy.

SR-253

JULY 11

9:30 a.m.

Select on Indian Affairs

To hold oversight hearings on employment on Indian reservations.

SR-485

JULY 15

2:00 p.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings to review the Department of Energy's role in math and science education.

SD-366

JULY 16

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for rail safety programs.

SR-253

JULY 17

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.

SR-485

JULY 23

9:30 a.m.

Rules and Administration

To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.

SR-301

2:00 p.m.

Energy and Natural Resources

To hold hearings on Senate Joint Resolutions 22 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.

SD-366

JULY 24

9:30 a.m.

Joint Printing

To resume hearings to examine the technological future of the Government Printing Office.

B-318 Rayburn Building

CANCELLATIONS

JUNE 18

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD-342

JUNE 19

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

JUNE 20

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on the Navajo-Hopi relocation program.

SR-485

POSTPONEMENTS

JUNE 19

10:00 a.m.

Environment and Public Works

Water Resources, Transportation, and Infrastructure Subcommittee

To hold hearings on S. 481, authorizing funds for research into the desalting of water and water reuse.

SD-406

2:00 p.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on proposed legislation authorizing funds for the Corporation for Public Broadcasting.

SR-253

SENATE—*Tuesday, June 18, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, Benedictine Brother Boniface McLain, of Conception Abbey in Conception, MO. Brother Boniface is the son of George "Irish" McLain, who is the Doorkeeper of the Senate.

PRAYER

The guest chaplain offered the following prayer:

Let us pray:

Lord of all creation, source and sustainer of life, be present in the hearts and minds of these Senators as they again convene for service to the Nation. May they be upheld in their duties by Your wisdom. May Your Spirit guide them along the lighted path of justice and truth remembering that ultimately it is You alone who are in charge of the nations.

May an attitude of love be present in this Chamber and in our land, love for You and for one another so that we really are good news to each other and to the world. And whether we succeed or fail at the task at hand nothing separates us from Your love if we are faithful. You are as present in time of distress as in time of peace.

And while these leaders seek private lives which uphold public virtue in carrying out their responsibilities of office, may they be sustained by Your grace and a light heart. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 18, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein, with the time to be under the control of the majority leader.

Mr. KENNEDY addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the majority leader's time be assigned to myself.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KENNEDY. I yield such time as I might use.

STAY THE COURSE ON SANCTIONS AGAINST SOUTH AFRICA

Mr. KENNEDY. Mr. President, South Africa's action yesterday in repealing another of its apartheid laws has renewed the debate on whether to lift the United States economic sanctions enacted in the Comprehensive Anti-Apartheid Act of 1986.

Reports have been circulating for many weeks that the administration is preparing to terminate the sanctions in order to reward the South African Government for the progress made so far. Some have suggested that the administration may even do so in an "August surprise," by lifting the sanctions in early August, as soon as Congress leaves for the summer recess.

In my view, such unilateral action by the administration would be premature and irresponsible on the merits, and an especially serious insult to Congress as well, because the statutory conditions for lifting the sanctions have clearly not been fulfilled.

Since 1986, the United States has been the world's leader in the fight against apartheid. We have provided much-needed support for those in South Africa struggling to bring human rights and dignity to the majority of their fellow citizens. We should not undermine their courageous efforts now. America should stay the course on sanctions, not abandon the course to apartheid.

In addition, especially on this issue, the White House has no right to act unilaterally, without the support of Congress, in taking such a far-reaching step as ending the sanctions. There is strong disagreement with the administration's interpretation of the statutory conditions. If the President persists in this course, the validity of his action may have to be settled in court.

But before President Bush creates such an unnecessary confrontation, he should pause and consider how the sanctions came into being. They were enacted by Congress over President Reagan's veto in 1986. Congress initiated the sanctions, and we fought hard to put them in place, against the strong opposition of the Reagan administration. We do not intend to sit quietly now, while President Bush perpetuates President Reagan's so-called policy of constructive engagement and prematurely revokes the sanctions.

The important progress taking place in South Africa gives all of us hope that apartheid is coming to an end. U.S. sanctions have played a critical and essential role in making that progress possible. Indeed, without the pressure of international sanctions, and particularly United States sanctions, the Government of South Africa would not have begun to take the steps necessary to dismantle apartheid.

President de Klerk deserves credit for the steps he has taken, and he deserves support against the hard-line defenders of apartheid. But he does not deserve to have sanctions lifted at this time.

Our goal should be to ensure the complete and irreversible dismantlement of apartheid, and to keep the United States in the forefront of international pressure for further progress in South Africa. Our policy of the past 5 years is clearly working. To end sanctions prematurely would be a serious setback to the results achieved so far.

At the same time, there is no justification for attempting to retain the sanctions now in place if the terms of the 1986 act are fulfilled. Section 311(a) of the statute enacting the sanctions laid down five conditions for their termination. Just as it would be wrong for the administration to lift the sanctions before the conditions have been fairly met, it would also be wrong for opponents of apartheid to shift the goal posts against the South African Government by imposing new requirements before sanctions can be lifted.

The five conditions in the act require the South African Government to take

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the following steps before sanctions can be lifted:

(1) Release all persons persecuted for their political beliefs or detained unduly without trial, and release Nelson Mandela from prison;

(2) Repeal the state of emergency and release all detainees held under it;

(3) End the ban on democratic political parties and permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and participate in the political process;

(4) Repeal the Group Areas Act and the Population Registration Act and institute "no other measures with the same purposes"; and

(5) Agree to enter into good faith negotiations with truly representative members of the black majority, without preconditions.

Under section 311(b) of the 1986 act, President Bush has the authority to suspend or modify any of the sanctions, if he reports to Congress that condition (1) has been met, that three out of the remaining four conditions have also been met, and that substantial progress had been made toward dismantling the system of apartheid and establishing a nonracial democracy. Congress would then have 30 days under expedited procedures to enact a joint resolution disapproving the administration's action. President Bush could veto such a resolution of disapproval, and Congress could then override the veto by a two-thirds vote.

So far so good. The 1986 act specifies a clear allocation of power between Congress and the President with respect to modifying or suspending one or more of the sanctions, in circumstances where four of the five conditions have been met. But the statute is silent with respect to the appropriate procedure for terminating the sanctions when all the conditions have been met.

The Bush administration apparently intends to take the position that it has the unilateral power to lift the sanctions when it unilaterally determines that all five conditions have been met.

I reject that position, and I urge Congress to reject it too. Congress must be involved in determining when the South African Government has fully met the five conditions in the law, and I urge the administration to begin serious consultations on this issue. If it fails to interpret these conditions fairly, we may be obliged to ask the courts to settle the issue.

I hope that the President will agree to an appropriate role for Congress, and will refrain any unilateral effort to terminate the sanctions and bypass the proper role of Congress, particularly some "August surprise" when Congress is in recess.

There is no dispute that condition (1) relating to the release of political prisoners has not been met. The Bush administration confirmed only yesterday that this condition had not been met. It is true that Nelson Mandela has been released. But that dramatic gesture cannot obscure the fact that large numbers of political prisoners are still being held or detained without trial, in violation of this condition.

Last week, the respected South African Human Rights Commission listed 972 political prisoners who remain in jail. Even the Government admits that nearly 300 of those cases must be reviewed. The other cases will not be resolved until the two sides agree on the definition of a political prisoner.

Over 200 prisoners have recently engaged in a hunger strike to protest their continued incarceration. An estimated 1,400 individuals currently face political trials—including over 300 charged with illegal gathering, picketing, marching, singing or dancing in the streets. Nineteen political prisoners are on death row. Last month alone, hundreds more were arrested for participating in illegal demonstrations.

So long as political prisoners continue to be held and South Africans continue to be arrested and tried for political acts, condition (1) will be unfulfilled.

With respect to conditions (2), (3), (4), and (5), the Bush administration has stated that the South African Government has already met them. The danger is that the administration will seize upon some further gesture by the South African Government on political prisoners under condition (1), declare that all the conditions have been met, and terminate the sanctions.

In fact, condition (2) is the only condition that has been fully met so far—repeal of the state of emergency and release of those detained under it. Even if all political prisoners are released, other conditions remain to be met.

Condition (3), which requires that South Africans of all races must be free to participate in the political process, has not been met. It is true that political freedom in South Africa has increased dramatically in the past year. The Government has proposed amendments to its internal security laws, but those amendments retain many of the current repressive powers. Detention without trial or charge, or without access to lawyers or family will still be permitted for up to 14 days, and the authorities have the right to extend that period even further.

Such incommunicado detention is the time when abuses are most likely to occur, including forced confessions, intimidation, torture, and even murder. Of the 73 individuals who have died while in the custody of the South African security forces since 1963, over half died within the first 14 days, and many died within the first 5 days.

In addition, the Government has maintained the right to ban some organizations and public gatherings. It has yet to repeal the Public Safety Act, under which it continues to declare areas of unrest throughout the nation and retains the power to declare states of emergency.

In the past year, the Government has declared numerous townships as areas of unrest. Fourteen are currently classified as such areas. These powers have been used more to curtail civil and human rights than to prevent violence. In fact, much of the violence to date has occurred despite the declaration of unrest areas.

At a minimum, the Government should repeal section 29 of the Internal Security Act, which permits the security forces to detain individuals without charge or trial or access to lawyers or family, and it should repeal the Public Safety Act to eliminate it as a basis for violations of basic human and civil rights.

In addition, the issue of the return of the 40,000 exiles has yet to be resolved. The Government continues to refuse to grant full indemnity to those seeking to return home. Returning exiles continue to be arrested. The Government has permitted the U.N. High Commissioner for Refugees to participate in the repatriation of the exiles, but the Government's reluctance to provide full access to returned exiles by the UNHCR and the lack of progress on indemnity has prevented the UNHCR from concluding an agreement to work for their return.

A year ago, the South African Government made a series of pledges as part of its effort to enter negotiations with the ANC. In two documents, called the Groote Schuur Minute of May 3, 1990 and the Pretoria Minute of August 6, 1990, the Government committed itself to taking several key steps before negotiations could begin. It committed itself to the release of political prisoners, and to indemnity for exiles who wished to return to South Africa by April 30, 1991. That deadline came and went without agreement on the definition of political prisoners, or guarantees that returning exiles will not face imprisonment.

There are international standards for the UNHCR, not only to help and assist in the repatriation of exiles, but also, under time-tested procedures, they also retain the ability to have followup, to get assurance of the conditions of the various detainees. That has happened worldwide, but the South African Government refuses to permit UNHCR to follow that particular procedure in South Africa. They are willing to take the cloak and the mantle of the UNHCR to demonstrate that they have some willingness in terms of dealing with the exiles, but the UNHCR would effectively have to leave them at the border. They cannot have the followup which is so essential in ensuring the returning exiles are fully protected as they return. This is especially important regarding South Africa where so many of the exiles have been in the vanguard of the movement to end apartheid, and the reason that some 40,000 of them are exiles is because of the fear of intimidation, torture, and even death, which had been a part of the process of apartheid for years.

In these "Minutes," the Government also agreed to review "security legislation and its application in order to ensure free political activity and with the view to introducing amending legislation at the next session of Parliament."

In this statement, the South African Government itself recognized the need to change its repressive security legislation so that political activity can be free. The United States should insist on no less a standard. So long as the Government fails to deal in good faith with all of these fundamental issues, South Africans will not be fully free to participate in the political process, and condition (3) will not be met.

With respect to condition (4), relating to the repeal of two key apartheid statutes, the South African Government has made important progress, but it is not yet clear that the condition has been met. The South African Parliament is to be commended for its repeal yesterday of the Population Registration Act, which requires all South Africans to register their race at birth and thus determines the rights to which they are entitled. But the repeal only applies to South Africans born after the repeal takes effect. The law passed yesterday explicitly states that, "The population register as compiled * * * shall remain in force and of effect until the repeal" of the South African Constitution. The South African Government suggested the timeframe of 1994–95. That means that for the time being, South African blacks will continue to live under the current race classifications. Only newborn babies will benefit from yesterday's action for the foreseeable future.

On June 5, the South African Parliament repealed the Group Areas Act and the related Land Acts of 1913 and 1936, and those repeals take effect on June 30. These acts, which use race to determine where South Africans are permitted to live, provided the legal basis for the expropriation of the land of 3.5 million blacks, and they relegate blacks to only 13 percent of South Africa's abundant land.

In repealing these acts, however, the Government is ambiguous about whether it plans to protect existing privilege created by the Group Areas Act. It has instituted in place of the Group Areas Act a new law to uphold "norms and standards" in neighborhoods—a policy which may well be used to continue racial exclusions.

Without consulting the black community, the Government rejected the principle of restitution of the land forcibly taken from millions of blacks. The Government also failed to consult with the black leadership when it put forth its new land policy. A good indication of the Government's intention to deal fairly and equitably with the land issue will be whether it decides in favor of or against the effort of the black farming community of Goedgevonden to return to its land in the Western Transvaal seized in 1948.

These issues call into question the commitment of the Government to eliminate race-based restrictions in South Africa. Unless and until that commitment becomes clear, the proviso of condition (4)—that the Government "institutes no other measures with the same purposes" as the Group Areas Act and the Population Registration Act—has not been met.

The final condition—condition (5)—has also not been met. It requires the South African Government to agree to enter into good faith negotiations with truly representative members of the black majority without preconditions. Both sides continue to characterize the discussions to date as "talks about talks," not negotiations—and even these limited talks are currently suspended because of the tragic violence now occurring. Critical issues have yet to be addressed in the talks, such as who sits at the negotiating table, how decisionmaking power will be distributed, and what issues are to be negotiated.

Whether good faith negotiations are underway is still an open question. It would be jumping the gun to assert that the currently suspended "talks about talks" meet the requirements of condition (5).

For all these reasons, it would be unacceptable for the Bush administration to attempt to lift the sanctions before there is full compliance with the statutory conditions. The nations of the European Community have acted prematurely to lift their own sanctions, but we should not follow suit. The United States has always led the fight against apartheid and we must not stop now.

In speaking at the recent heads of state meeting of the Organization of African States in Nigeria, Nelson Mandela urged that sanctions be maintained and chastised those nations who have moved "with indecent haste to lift sanctions." He stated that, "The fundamental national interests of every country * * * are best served by the speedy elimination of the system of apartheid, an objective whose realisation requires the continued use of the sanctions weapon until victory is achieved."

For three decades, Nelson Mandela has been the conscience of South Africa. We must not turn a deaf ear to his pleas at this critical juncture.

Standing firm now will also reassure the majority in South Africa that the United States is not abandoning them in the struggle to end apartheid. Having joined the struggle in 1986, we have a responsibility to stay the course now, and keep the pressure on until the goal of a new South Africa is achieved.

Finally, in addition to the critical issue of retaining the sanctions, we must also begin to consider other ways to encourage the progress we seek. Our efforts should emphasize three broad areas: launching negotiations to end apartheid, ensuring that American tax dollars do not subsidize apartheid, and reaching out to assist the victims of apartheid.

Our immediate concern should be to end the intense violence in black townships and in Natal province, which cost 3,700 lives last year and an estimated 1,000 this year. Black leaders such as Gatsha Buthelezi and Nelson Mandela have a responsibility to do more to control their followers. But let us be clear that the de Klerk government has the principal responsibility for law and order, and its actions have been seriously inadequate. Time and again this year, armed factions have entered townships areas and murdered scores of unarmed men, women, and children in locations where Government police were on patrol yet failed to intervene to stop the killing.

In Alexandra township earlier this spring, hundreds of Zulus—armed with spears, axes, and knives—entered the ANC-dominated township and brutally hacked to death 15 mourners and wounded 18 others attending the funeral of a slain ANC supporter. Fearing such a conflict, the residents had requested police protection, but adequate security was not provided. Rather than arresting the murderers, the Government escorted them back to their hostels. To date, no one has been prosecuted for this shocking massacre.

Recently, a retired South African army major charged that the military has been supplying weapons and covert assistance to inflame the violence. The major said that the South African defense force had distributed AK–47's to Inkatha members and was helping them setup cells in black townships to give greater influence to Inkatha.

The major also identified two army units, the Military Intelligence Institute and the Specialized Communications Operations, that have tried to manipulate politics in Namibia and now have a similar mission in South Africa. These allegations are consistent with reports by human rights observers of South Africa, and they should be fully investigated without delay by an independent and credible body.

The Government also refuses to dismantle single-sex hostels where hundreds of young black workers are forced to live far from their families. These dilapidated, dirty, overcrowded structures have been the source of much of the violence. Yet the Government still takes no action to address this inflammatory situation.

In addition, government security forces themselves have been implicated in much of the violence, yet no independent or credible investigations and prosecutions to end the abuses have taken place. The Government must also identify and remove from office those responsible for the culture of violence that permeates the South African security forces.

The Government must work more closely with local community leaders to prevent violence. It waited too long to include spears in its ban against carrying cultural weapons in areas of unrest, and only recently ordered such a ban under pressure from the ANC. The Government still refuses to institute a nationwide ban on the display of all weapons, especially the so-called traditional weapons used in much of the violence.

Second, we should make clear now, regardless of what happens to the sanctions, that the United States intends to go slow in extending credits or other U.S. economic aid to the apartheid government. Assistance from multilateral financial institutions, including the International Monetary Fund, should also be withheld, and the worldwide arms embargo should be maintained. As long as apartheid persists, economic aid and arms sales should remain off-limits to South Africa.

We should also make clear to the South African Government that we will not do business as usual with the apartheid regime. South African Government entities with which we resume commercial relations should be desegregated. The first South African Airways jet that lands in the United States should be operated by an integrated crew. The International Olympic Committee is insisting on progress on integrated sports teams and integrated organizational structures, before permitting South Africa to participate in the Olympic games. The United States Government should do no less in its own relations with South Africa.

Third, United States aid being channeled to South Africam blacks through private voluntary agencies should be increased from this year's level of $50 million. I intend to urge Congress to double the current level, with the increase allocated to housing, land acquisition, education, and health care for returning exiles and other victims of apartheid.

The vast majority of blacks in South Africa have seen their living conditions worsen in recent years. In education, $282 is spent for a black child, compared to $1,382 for a white child. The unemployment rate is 40 percent, and the illiteracy rate is 60 percent. Most blacks have little hope of finding jobs, even if they succeeded in overcoming the odds and successfully complete their education. Many are losing hope for a better life.

Although the U.N. High Commissioner for Refugees is attempting to arrange for the return of the 40,000 exiles, most of those who return will have neither a home nor a job when they get there. Blacks also continue to be confined to 13 percent of the land of their ancestors and lack the resources needed to take advantage of their newly granted right to purchase property throughout the country.

U.S. economic aid can make a modest difference now. But in the long run, once apartheid is ended and a new order is in place, the United States should take the lead in establishing a development bank for South Africa. That idea has already been welcomed by Nelson Mandela and a wide range of other South Africans. The bank would be similar to the European Bank for Reconstruction and Development, created by the Western European nations to assist the struggling economies of the newly free nations of Eastern Europe.

In sum, the steps taken in recent months hold great promise for South Africa. U.S. policy in the past 5 years has played a significant role in the achievements so far. Let us not abandon that role now, when we are closer than ever to the goal of a new South Africa for all the people of that nation.

Mr. President, just to review the various conditions and the status of these conditions, I have on this particular card the condition and also the status which I mentioned in my comments here on the floor of the Senate.

Condition one, release of all the persons persecuted for political beliefs or detained unduly without trial, and release Nelson Mandela. Mandela has been released but there are, according to the various human rights organizations, even according to the Bush administration, a number of political prisoners—human rights organizations list 972 political prisoners still being held. The administration has even admitted that there are a number, several hundred, of political prisoners.

So with regard to the status of that particular issue that condition has not been met.

The repeal of the state of emergency and release of all detainees held under it. This state of emergency applies to the actions that are being taken inside South Africa. That has been repealed, and those that have been detained have been released.

There has been some concern about the declaration of unrest areas which has been imposed at places where there has been local violence. Some charge that the Government is simply perpetuating the states of emergency under a different name. But I think a strong case probably can be made that the state of emergency has been lifted, and the essence of this condition has been met.

Third, to unban the democratic political parties, and to permit the free exercise by South Africans of all races of the right to form political parties and express political opinions. Certainly, there has been the unbanning of the ANC, even the Communist Party, and other political parties for all intents and purposes. But all South Africans are not free to participate in political process. Political prisoners must be freed if they are going to participate in the political process, and 40,000 exiles must be given indemnity to return, and allowed to return. The South African Government agreed to a general amnesty in Namibia and the process of reconciliation went forward with great success. But it still refuses to do so with respect to South African political prisoners and exiles.

And security laws need further repeal. I outline section 29 in the security laws which can be utilized and is being utilized to detain individuals incommunicado without the benefit of lawyers. Until these issues are resolved, this particular condition has not been met.

The fourth condition requires the repeal of the Group Areas Act and Population Registration Act, and that the Government institutes "no other measures with the same purpose." The acts have been repealed, but, as I mentioned, it has instituted other measures which are a source of concern. The "norms and standards" provision could be used to perpetuate residential restrictions and the racial classification system will remain in place until sometime off into the future. The Government estimates it will be in the mid 1990's. No one really knows when that will happen.

And what do those norms and standards really mean? I think there has to be a much greater clarification about how they are going to be implemented. I do not think it takes much of a political scientist to understand how they can, in effect, be implemented in such a way as to carry on the same kinds of repugnant policies that these two racist pieces of legislation imposed.

We hope there will certainly be a Constitution, and that the political process will move forward. But certainly while these restrictive measures remain, this condition has not been met.

Finally, the fifth condition requires the Government to agree to enter into good-faith negotiations with truly representative members of the black majority without preconditions. But the suspended "talks about talks" do not constitute an agreement to negotiate. The Government has yet to deal with many substantive issues. I think many of us believe that those issues are going to have to be resolved; the Government cannot simply agree to talk about it.

I think there has been at least a willingness by Mr. de Klerk to move forward. But you cannot have a movement toward the democratic process when you have the kinds of cycle of violence which I outlined in my comments and statements. I think the South African Government bears an important responsibility to provide adequate security, and to do the kinds of investigations necessary to get to the root cause of the crisis, especially where the security forces are implicated. The recent accusations that members of the South African security force have provided AK-47's to members of Inkatha and instigated violence must be fully investigated. To think that we are going to be able to get the kind of talks and negotiations moving forward without a resolution of the tragic issue of violence, is really quite unrealistic.

So finally, Mr. President, I want to again express my respect for the steps which have been taken to date by the Government of South Africa. I think they have been important and I think they have been impressive, but I do not think they have fulfilled the conditions which have been outlined in the legislation.

This legislation was fashioned by Congress over the opposition of the Reagan-Bush administration, over the veto of the Reagan-Bush administration, that believed in a continuation of constructive engagement. This Congress in a bipartisan way rejected that failed policy. The steps that have been taken by the United States as a leader of the free world, followed by other countries, have had an extraordinary impact in terms of the types of changes which have been made in South Africa.

All of us are filled with renewed hope that the new possibilities for a peaceful move toward the real building of democratic institutions, respect for human rights and individual rights, will be achieved. But any judgment and decision about whether these conditions have been met, given the historic position of the administration in the past, absolutely requires that the administration work with the Congress in making a final and ultimate judgment on this issue.

I urge the administration to do so. We are willing to work with the administration in seeking further progess being made, and that there be a just and final outcome for this policy.

Finally, we must not shift the conditions or shift the goal posts. I believe that such an effort would not be justified. We set those conditions and debated those conditions.

I think it is appropriate that we address what clearly was the intention of those of us who were involved in the fashioning and shaping of the legislation. That effort was done in a bipartisan way, with our good friends, Senator CRANSTON of California, Senator SIMON of Illinois, the chairman then of the Foreign Relations Committee, Senator LUGAR of Indiana, Senator KASSEBAUM, Senator BOREN, and a number of others.

So we are ready to work in a constructive and positive way to carry on what I think has been one of the important successes in American foreign policy, and that is, ensuring that we are going to permit the forces within South Africa to shape and fashion their own democratic institutions and their own path toward a democracy. But we outside of South Africa are not going to be a part of a continuation of aiding and assisting apartheid. That had been the result of American policy for too many years.

With the enactment of this legislation, the United States said, "No, we are not going to be part of it." With that declaration and the support of countries around the world, we have seen these important and dramatic changes. We say it is too early to alter that course. We ought to stay the course. I believe that is in the best interest of all of the people of the United States and the people of South Africa. In debating this issue, it is important to keep in mind the conditions contained in the Anti-Apartheid Act of 1986 for lifting the sanctions, and I ask unanimous consent that the table to which I have referred may be printed at the conclusion of my remarks.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Condition	Status
(1) Release all persons persecuted for political beliefs or detained unduly without trial and release Nelson Mandela.	Mandela released but 972 political prisoners still held.
(2) Repeal state of emergency and release of all detainees held under it.	Been met.
(3) Unban democratic political parties and permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and participate in political processes.	Political prisoners must be freed, exiles given indemnity to return, security laws need further repeal.
(4) Repeal Group Areas Act and Population Registration Act and institute "no other measures with the same purpose".	Acts repealed, but gov't has instituted other restrictions in their place.
(5) Agree to enter into good faith negotiations with truly representative members of the black majority without preconditions.	Suspended "talks about talks" do not constitute agreement.

Mr. KENNEDY. I yield the floor.

Mr. CRANSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from California.

Mr. CRANSTON. Mr. President, I want to thank my good friend and distinguished colleague from Massachusetts, Senator KENNEDY, for his leadership on this vitally important human issue, and for reserving time this morning so Senators may share their view on South Africa's progress in dismantling apartheid. I commend Senator KENNEDY for his unwavering leadership on this issue, and I commend the Senator from Illinois, Senator SIMON, the chairman of the African Affairs Subcommittee, for his leadership role, as well.

THE CASE FOR MAINTAINING SANCTIONS AGAINST SOUTH AFRICA

Mr. CRANSTON. Mr. President, during the past year, the world has seen unprecedented progress in the movement toward nonracial democracy in South Africa. Nelson Mandela and other political prisoners were released, opposition groups were unbanned, and President de Klerk has shown a willingness to talk directly with the leaders of the black majority. The de Klerk government has repealed the Group Areas Act, land acts, and, just yesterday, the Population Registration Act. At a glance, these reforms look promising, but examined carefully they indicate a pattern of two steps forward and then one back.

As framers of the sanctions legislation, Members of Congress must be involved in any decision to certify or to determine that any or all of the conditions for lifting sanctions have been met. Therefore, let us look closely at the degree of progress that the South African Government has made in fulfilling the law's conditions.

The world cheered in February 1990 when Nelson Mandela—the unbowed champion of the antiapartheid struggle—was released after 28 years of imprisonment. A number of other political prisoners were freed before and after Mr. Mandela's release. However, these very symbolic acts are diminished by the fact that, according to the U.N. High Commissioner for Refugees, 20,000 to 40,000 South Africans remain in exile without any clear picture of their future in South Africa.

Further, there is disagreement within South Africa on the definition of political prisoner. The Johannesburg-based, independent Human Rights Commission holds that over 1,500 political prisoners are still in detention. Earlier this month, South African Justice Minister Coetse announced 1,022 prisoner releases. At the same time, he claimed that the remainder were ineligible for release. Thus, the South African Government did not meet the April 30, 1991, deadline for the release of all political prisoners that it agreed to in the Pretoria Minute, the accord reached between the South African Government and the African National Congress on the release of political prisoners and the granting of indemnity.

Let us be clear at the outset that—until all exiles are allowed to return to their homeland without fear of incarceration, and until all political prisoners are released—part of the first requirement for lifting sanctions, the release of all persons persecuted for their political beliefs or detained unduly without trial, remains unsatisfied.

The de Klerk government has met the letter of the second condition of the sanctions law, by ending the state of emergency in South Africa. It is important to note, however, that the Government continues to impose the status of unrest areas on a number of black residential neighborhoods. This condition provides the same powers as under the state of emergency, and the ministry of law and order has announced recently that this will remain in force for another 3 months.

The South African Government no longer bans political parties. The African National Congress, the Pan Africanist Congress, the South African Communist Party, and the United Democratic Front are now allowed to meet in South Africa and to organize protests. Yet, the question remains as to whether the Government has truly guaranteed South Africans of all races the right to express political opinions and otherwise participate in the political process.

I believe strongly, as any American who loves our Bill of Rights must, that full participation in the political process occurs only when all citizens are able to freely exercise the right to vote. The South African Government must therefore remove any obstacle which prevents black South Africans from voting. A free political environment will not be secured until the ability to vote is guaranteed.

President de Klerk's record of two steps forward, then one back, is also clear in another area of concern. The Group Areas Act and four other land bills have been repealed, but, it appears that another measure—the Abolition of Racially Based Land Measures Act—has been implemented. This act maintains some of the worst aspects of these restrictive land provisions, one substituted for another.

This new measure maintains the status quo in white residential areas. It prohibits any change in existing "norms and standards" in these communities. Essentially, residents will be able to define their own "norms and standards" through local authorities that have the power to issue bylaws regarding the use, maintenance, and appearance of residential property. Although this measure prohibits reference to race, the "norms and standards" provision will grant powers to white residents that may be used to enforce the same policy of racial separation as upheld by the Group Areas Act of 1966.

The new law repeals the ban on the purchase of land in areas controlled by the white minority in South Africa. The extremely low income of the majority of black South Africans makes it unlikely, however, that many will be able to purchase land in these ostensibly newly accessible areas. Therefore, 87 percent of land in South Africa will remain in the possession of white South Africans. South Africa's new land policy does not address the rights of black people and communities who were forcibly removed from their land for the creation of land reserves for the white majority—forcibly removed and given no opportunity to come back.

The law requires that the South African Government not only repeal the Group Areas Act. It also states clearly that it must not institute any other measure for the same purposes. It is apparent that the "norms and standards" provision and the absence of reparations for forced removal have much of the same intent as the Group Areas Act.

The Population Registration Act was repealed yesterday in South Africa by an overwhelming vote. A new measure was approved by the South African Parliament that ends all new race classifications and removes race references that remained in other laws. However, people already classified will continue to be classified until a new constitution is adopted. The fourth condition in the sanctions law explicitly calls for the repeal of both the Group Areas Act and the Population Registration Act. It is obvious that these requirements will not be satisfied fully until a new constitution is negotiated.

The Comprehensive Anti-Apartheid Act also stipulates that the South African Government must agree to enter good faith negotiations with truly representative members of the black majority without preconditions. President de Klerk has expressed a clear interest in negotiations and has agreed to enter them in principle. However, the good faith of the South African Government continues to be questioned because of inconsistencies in its actions, most notably, its breaking of promises on the release of political prisoners and by its implemention of half measures of reform.

Further, a former South African military officer, Nico Basson, recently told a group of journalists, including a New York Times reporter, that the South African defense force has been supplying weapons and covert assistance to members of the Inkatha Freedom Party. According to Basson, weapons and other assistance have been used to attack and weaken the African National Congress by fighting its followers and inciting rivalries among blacks. These strong allegations cast additional doubt on the good faith of the de Klerk government.

Today, South Africa struggles with the question of the representative nature of its negotiating parties. President de Klerk insists that his Government must remain South Africa's legal authority until a new constitution is adopted. This position clearly sets a precondition to negotiations. On the other hand, South Africa's antiapartheid community demands that negotiators be elected representatives whose weight at the negotiating table be linked to their constituent strength. Given this disparity of views, it is premature to claim that negotiations are underway. The United Nations has presented South Africa with guidelines calling for an agreement on a mechanism for drafting a democratic constitution, and for the role of the international community. These guidelines also describe how democratic transition may unfold. An all-party conference in South Africa is scheduled for September. The success of this conference will indicate how soon genuine negotiations can begin.

Mr. President, when Congress began the Herculean task of drafting and passing legislation on South African sanctions, it did so to give voice and legislative meaning to American's repugnance of apartheid. We must not abandon that intention. We must not forget that it was the Reagan administration's abject failure to act justly on this issue that led the Congress to enact, by veto override, the Comprehensive Anti-Apartheid Act of 1986.

I have said many times in this Chamber that we, in the United States, are morally obligated to do our utmost to convince the South African Government to end its oppression of South Africa's black majority and to end the abhorrent system of apartheid. Sanctions have represented the U.S. commitment to ending apartheid. Maintaining these sanctions, until the conditions for withdrawal are fully complied with, reinforces our promise to the people of South Africa that the United States fully supports their struggle for freedom and democracy.

Mr. President, I am delighted that Senator PAUL SIMON, chairman of the subcommittee that deals with this part of the world in the Foreign Relations Committee and a leader in this effort regarding apartheid, is now on the floor and I know he will ask to speak.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Illinois.

Mr. SIMON. Mr. President, I do join my colleagues, Senator KENNEDY and Senator CRANSTON, in saying, first, we applaud the steps taken by President de Klerk and the Government of South Africa. There is no question—it is very, very encouraging.

If I may make an analogy. It is a little like the Berlin Wall coming down, and in the steps that have been taken with the release of Nelson Mandela and the signing and the passage yesterday by the parliament of the bill on population classification, we are very much encouraged. But just like when the Berlin Wall came down, there was a temporary euphoria. But a lot of problems remain.

So in South Africa today, there is great progress and we applaud the progress of the Government and the fine statement yesterday by President de Klerk. But there are significant problems that remain.

I think it is important that the United States not rush to suddenly taking off sanctions. My hope is that Congress and the administration can work together. I have been very much impressed by the work of Assistant Secretary of State Herman Cohen, better known as "Hank Cohen," on Africa and what has been done in Angola, and the efforts there are encouraging, and what is happening in Ethiopia. But South Africa is, beyond any question, the key to what is happening in that whole southern tier of countries.

It is extremely important that the United States stick to the letter of the law in terms of full compliance before sanctions are withdrawn. And even beyond that, my hope is that the Congress and the administration would work together closely before sanctions are withdrawn. It is a fine line that we have to draw.

We have to encourage the Government of South Africa and applaud what they have done and it is a whole series of things that they have done. President de Klerk has shown amazing courage. One of the encouraging things for me, frankly, personally, is that there is a respect on the part of President de Klerk for Nelson Mandela and on the part of Nelson Mandela for President de Klerk.

Mr. Buthelezi is in the country right now, and I and some others will be meeting with him this afternoon. My hope is that the pieces will fall together and fall together fairly quickly and that serious negotiations can commence soon. But my hope is, also, that the administration will go with some of what the U.S. Supreme Court said "with all due deliberate speed," and in the case of integration that meant very, very slowly.

I am not suggesting that we go with agonizing slowness as we did with desegregation of the schools. But I think we should not send any signals that the battle is over. It is a long way from over. Negotiations, I hope, will commence soon.

The other steps that are required under the sanctions law I hope will be taken and my hope is that the administration and the Congress can work together in a coordinated way to continue to send a signal to South Africa, yes, we applaud what you are doing; yes, some additional steps are needed; yes, we hope negotiations can get going; and we look forward to the day when we can work cooperatively with you and the other nations of the southern tier there in Africa to really developing that area of the world. Everyone is ahead when that happens.

But again I think a word of caution is in order at this point so that the administration does not rush into a policy change that is at this point a bit premature.

Mr. President, during the past year, South Africa has witnessed an unprecedented move toward nonracial democracy. Opposition groups have been unbanned, African National Congress leader Nelson Mandela has been released and talks have started between the African National Congress and the South African Government. Most recently, South African State President F.W. de Klerk has led the repeal of the Group Areas Act and the land acts. Just yesterday, the Population Registration Act was repealed by the South African Parliament.

Despite these promising moves, the situation in South Africa remains troubling. The issue of violence and the Government's response has become a central issue in the disruption of the talks. There are numerous credible reports that a "third force" is actively instigating, exploiting and exacerbating the violence. The African National Congress [ANC] and many other black South Africans believe that some people in the Government are involved. Recently, the New York Times reported allegations that the South African defense force has been involved in supporting and supplying weapons to antiapartheid opposition forces.

The Africa National Congress [ANC] has pulled out of the talks until the Government takes serious action to end the violence. The Government does have a responsibility to utilize its resources to halt this violence. It is unconscionable that a Government would allow hundreds of people to be slaughtered without bringing in Government resources to prevent ongoing killings.

The violence is indeed disturbing—hundreds have been killed, thousands wounded, and numerous communities have been terrorized by brutal attacks. The recent patterns of violence are just too similar to be haphazard events. We are concerned that the Government has been slow to adequately respond to this heinous campaign. It is critical to the reestablishment of the talks that the Government is perceived as placing a high priority on seriously addressing this situation.

We have viewed this ongoing violence with great distress. It is my view that in order to renew confidence in the current process, the authorities must adopt effective measures to end the recurring violence.

With regard to the Comprehensive Anti-Apartheid Act of 1986, there is a great deal of debate on whether the South Africans have met or will soon meet all of the conditions contained in the act.

The administration, is on record as claiming that at least four conditions have been met and that the Government is likely to meet all five conditions by the end of the parliament session. There is clearly some concern that while the conditions have been partially met, the full letter of the law has not and we should move with extreme caution in our decision to lift sanctions.

While political parties have been unbanned, all South Africans are not free to participate in the evolving political process. Demonstrations have been banned and political activities curtailed, especially in the homelands, directly under South African control.

Political prisoners remain in jail, and security legislation remains in place, creating the potential that those incarcerated may be joined by others. The South Africa Government has altered its early agreements on the definition of a political prisoner and the process by which individual cases would be examined. The Human Rights Commission, a credible South African organization maintains that close to 2,000 political prisoners remain. They have identified 972 political prisoners and expect up to 1,000 unidentified remain incarcerated. Today, a total of 160 prisoners are on a hunger strike. It is critical that they solve this issue, realizing that until all political prisoners have been released, the condition has not been fully met.

Political exiles, possibly numbering up to 40,000, are still languishing outside the country, many ready to return but not without guarantees that they will not be jailed. During the Namibian independence process in 1989, the South African Government permitted 44,000 Namibian exiles to return under an automatic and comprehensive indemnity characterized by a minimum of bureaucratic fuss. We encourage the South African Government to consider the adoption of this policy in South Africa to allow for easy return of exiles.

Congress has a clear history on the creation of comprehensive sanctions against South Africa. We continue to be concerned that we do not send the wrong signal to the people of South Africa and to Americans who are concerned with this issue. To this end, we urge the administration to be mindful of congressional concern. We hope and expect that the administration will continue its policy of consultation with Congress. Consultation will allow congressional input into any decision made.

I urge my colleagues and the administration to use caution in the lifting of sanctions. The timing is not right. The breakdown in the talks is real. We must be encouraging all parties to work toward creating a climate conducive to negotiations. Lifting of sanctions at this time is not the answer to getting the talks back on track.

Mr. President, I see the Senator from Maryland on the floor and I will yield the floor to him.

Mr. SARBANES. I thank my colleague for yielding.

Mr. President, I want to address briefly the steps which have taken place in South Africa and the path that lies ahead of us.

First of all, let me say that significant changes are underway in South Africa, and we welcome those changes. We commend all the parties that have been engaged in putting them into place.

The Congress passed, over a Presidential veto, the Comprehensive Anti-Apartheid Act of 1986. It is not easy to pass legislation over a Presidential veto, and that legislation reflected a very strong feeling in this country with respect to the apartheid system which has prevailed in South Africa, and to its total and complete unacceptability to anyone who has any concern for an understanding of basic human rights and human dignity.

I dare say that if most Americans could actually experience the workings of the apartheid system, the uproar and outrage in this county would be far, far greater than it in fact has been. People have had to be made to understand how this abhorrent system worked. Had they actually experienced it, I think most Americans would be absolutely horrified by the existence of such a system and what it represents.

To the credit of the de Klerk government, South Africa has been moving to lift the statutory framework of apartheid. I welcome that development and I urge its continuation.

The more specific question is whether sanctions should be lifted, and of course that is to a significant degree covered by the language of the Anti-Apartheid Act itself. As the repeals of apartheid laws take place, people are beginning to say "Well, apartheid is over and done with." Mr. President, it is not over and done with. Even the conditions in the statute are not over and done with.

Let me mention three very important items. First of all, the first condition of the Anti-Apartheid Act requires that all those who have been persecuted for their political beliefs be released from prison. This is a mandatory condition; it is one that must be met. It specifically mentions the release of Nelson Mandela, and that, in fact, has been done. However, the condition involves not only the release of Nelson Mandela, but the release of all persons persecuted for their political beliefs or detained unduly without trial. That has clearly not yet been accomplished.

Now, there is a significant difference between the number of political prisoners which the South African Government asserts remain to be dealt with and the number asserted by the ANC. I find it very difficult to explain the gap in their estimation of numbers. It seems to me the Government, which is, after all, the one holding and detaining these people, has a special burden and obligation to examine their situation and to move them out of prisons.

Yet they seem to have placed the burden on the ANC to address that issue. It is not quite clear to me why that should be the case when the Government is itself the detainer of these people who have been held for their political beliefs.

Second, another one of the conditions is to permit the free exercise by South Africans of all races of the right to form political parties, express political opinions, and otherwise participate in the political process.

Mr. President, there are tens of thousands of exiles who have not yet been permitted to return to South Africa. These are South Africans whom any of us would consider citizens of that country, although under the apartheid legislation they are denied the basic rights of citizenship simply because of their color. They are people who left the country, in many instances under threat of punishment, have resided abroad—some in this country, some in Europe, some elsewhere in Africa, and in other places in the world—and now wish to return to their country. Yet they have not been admitted back into South Africa with any assurance of their safety from arrest or Government harassment.

Many of these exiles represent the leadership of the elements in South Africa that were seeking to gain access to participation in the political and economic processes of that country. And while the U.N. High Commissioner has been involved in helping to make it possible for these people to return home, the U.N. High Commissioner has not been given authority by the South African Government to play the same role that the High Commissioner has played in comparable instances elsewhere in the world. Therefore, the reintegration of these people back into South African society has been delayed. Clearly, they should be allowed to come back in and participate in the political process.

The fact that the South African Government is still holding political prisoners presents an additional complication for those desiring to return from exile. In other words, there are two problems. First, the Government has failed to meet its own deadline of April 30, 1991, for the release of all political prisoners. Independent human rights commissions have estimated that significant numbers still remain as political prisoners, and have not yet been released from jail. Second, the condition on full participation cannot be considered to have been met until these tens of thousands of exiles—estimated now at about 40,000 to 50,000—are provided full indemnity and allowed to come back into the country.

Another one of the conditions in the statute calls for the repeal of the Group Areas Act and the Population Registration Act, and—just as importantly—that no other measure be instituted for the same purpose.

Mr. President, this is going to take some very careful examination because there is some reason for concern that while the Group Areas Act—the act that defines where people of different colors can live—was repealed, other legislation was put into place which may indirectly continue the system which the Group Areas Act had instituted in the first place. So the repeal of the Group Areas Act, while on its face a very welcome step, was accompanied by the passage of other legislation which may in practice allow the same situation to continue.

In particular, there is a very deep concern that no effort has been made to allow people to return to lands from which they were forcibly evicted under apartheid, laws, and that new legislation has been passed which will enable people to maintain the status quo despite the repeal of the Group Areas Act.

So, Mr. President, the caution I am sounding is that despite the steps that have been taken by the de Klerk government to repeal the legal framework of apartheid, we are still left with the fact that the practical situation has not yet met the conditions contained in the Anti-Apartheid Act.

As another example, the Population Registration Act has just been repealed, but only with respect to births yet to take place. The registration continues in existence for those who have already been registered.

Of course, the current constitutional system depends on such registration, since South Africa has a parliament for whites, a parliament for Indians, and a parliament for Coloreds, but no parliament whatsoever for Blacks—none at all, no participation whatever in the political process.

Moreover, there are many who believe the participation accorded to Indians and Coloreds under this scheme also represents no or very minimal participation in the political process. But the continuation of official racial classification for those who have already been registered, which is of course everyone except those yet to be born, means that the basic foundations of the Population Registration Act will remain in effect until a new constitution is put into place.

So in spite of the repeal of the Population Registration Act, its workings continue and will continue until a new constitution is put into place.

The fifth condition of the Anti-Apartheid Act is that the Government of South Africa "agrees to enter into good faith negotiations with truly representative members of the black majority without preconditions." These negotiations have been agreed to, in a sense, in the abstract. In other words, the South African Government has issued statements saying they intend to do this, that this is what they are trying to do. But a negotiating process has not yet been established that would in fact hold open the prospect of moving South Africa to a nonracial democracy.

There have been talks about talks, but they do not yet have in place a process for good-faith negotiations that would lead to a new constitution establishing a nonracial democracy in South Africa, which is stated objective of President de Klerk and of Nelson Mandela and of most of the other parties in South Africa.

So, Mr. President, while we welcome much of what is taking place, I think it is clear that the movement has not yet reached the point where it has met the conditions that are contained in the legislation. We need to sustain the pressure in order to help move this process forward.

I believe the sanctions have made a significant contribution in helping to bring about change in South Africa. We still need further change in South Africa, and thus I think we need to sustain this pressure in order to encourage even further progress—in order to ensure that a nonracial democracy is in fact, established in South Africa.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. EXON. Mr. President, I ask unanimous consent that morning business be extended to accommodate some remarks by the Senator from Nebraska.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

THE BANK BILL

Mr. EXON. Mr. President, I wish to bring to the attention of the Nation, the U.S. Senate and the House of Representatives a widely circulated news story that I suspect has been accurately reported in more than one of our daily newspapers.

I reference, Mr. President, a headline in the business section of this morning's Washington Post that has been widely circulated in the electronic media. The referenced article, Mr. President, says "Brady:"—Brady being the czar of the whole financial institution in the United States—"Brady: Bailout Possible if Bank Bill Fails."

The story goes on, and I thought one of the most interesting quotes that came out of all of this was the Secretary had this to say:

> Suggesting that Congress will be to blame if a bank bailout is needed, Brady told a group of reporters, "If we have a reasonable economy and a strong, comprehensive banking reform bill, I believe the banking industry will be able to take care of the problem without a taxpayer bailout."

Reading from the story:

> He stopped short of specifically saying that taxpayer funds would be needed, but, questioned repeatedly, he said the only hope of avoiding a resort to public funds for the banking system is passage of the administration's bank bill.

He goes on in the story to say that failure of the Congress to pass the administration's bill will be the fault, or the blame, of Congress for the mess of the commercial banking system.

I think it is about time for the Congress of the United States, Democrats and Republicans alike, to quit playing politics with the solvency of the banking system in the United States. We have witnessed, very clearly, a mismanagement of the fiscal affairs of this Nation under this administration that followed in the footsteps of the previous administration that sold the banking and financial systems of the United States down the tubes. I wonder how many of the people in the United States fully understand that.

Now this Secretary of the Treasury is saying that, unless we pass the administration's banking reform bill as it currently stands, the Congress will be blamed for any future bailouts that are necessary of the banking system.

History seems to repeat itself. I believe almost the same words were used a few years ago by the then Reagan administration Secretary of the Treasury, when he said unless we pass the S&L refinance and reform system, all would be lost, and we might have to go to taxpayer bailout of the savings and loan industry.

This is one Senator who bought into that, and I voted for reform in the S&L industry. I was led to believe by the statements made by the then executive branch of Government, which holds not only the responsibility for making the inspections to determine the solvency of our banking institutions, but has the direct responsibility to carry out any reforms that are necessary—they misled us. They led us down that golden road to a path of success, "If you just go along with our S&L bill."

We did, and look what happened: Absolute disaster in the savings and loan industry.

Now we have a Secretary of the Treasury who is setting up the Congress once again, trying to make the American people believe that if we do not endorse and embrace every part and every syllable of the so-called bank reform legislation advanced by the Secretary of the Treasury and the President, that unless we do that, then we will be to blame for any future taxpayer bailout of the banking industry.

At the same time, the Secretary of the Treasury, the czar of our whole financial empire—out of Wall Street, I might add, which makes him suspect—is saying that he does not know and cannot predict at this time how much taxpayer money will be necessary in the future to bail out the banking system. They cannot even tell us when they expect the present fund behind the banks will reach this point of no return, or zero.

Within the last week or 10 days, we have finally had the Secretary of the Treasury be honest with the American people—for the first time, I suggest, Mr. President—by coming up with more reasonable and startling figures on the amount of taxpayer money that is going to have to go in to bail out the savings and loan industry, which has been consistently—and, I charge, by premeditated planning—fooling the American public as to how much it is going to cost them for the mismanagement of our fiscal houses in the United States of America by the previous Reagan administration, and now by this Bush administration.

It is time, I suggest, Mr. President, for us to take a very detailed look at what is going on and what is not going on. As one Senator, I cannot and will not support this latest shenanigan by the Bush administration and pass their version of a bank reform act because it would do great violence to the stability of the relatively small-sized banks in the central part of these United States, including Nebraska.

Mr. President, I think we have another major problem brewing right here, and I think that the Senate and the American people should be notified and should understand exactly how they are being taken advantage of, once again, if you will, and at the same time the Secretary of the Treasury blatantly saying that, if we do not pass the administration's bank reform package, then it will be the Congress that will be to blame for the mess. Hogwash. We are not talking about finding fault, but it certainly does disturb this Senator when I see a former Member of this body, the Secretary of the Treasury, out of Wall Street, who knows well the operations of the U.S. Senate, taking the political course of already setting up the Congress to take the blame for the potential coming disaster.

Mr. President, I ask unanimous consent that at the conclusion of my remarks the entire article from the Tuesday, June 18, Washington Post be printed in the RECORD.

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. EXON. Mr. President, I certainly say at this time unless the Banking

Committees of the House and the Senate can get the Secretary of the Treasury, the main spokesman for the Bush administration on the financial soundness or lack thereof of our institutions, to come forth and give us an honest appraisal and to come forth with some meaningful changes, then I suggest that it might be appropriate—and I may well introduce at some later date or some sooner date a sense of the Senate, if you will, on the lack of faith in the ability of the present Secretary of the Treasury to perform his duties. After all, he was confirmed by this body, and I voted for him.

I thank the Chair, and I yield the floor.

EXHIBIT 1

[From the Washington Post, June 18, 1991]

BRADY: BAILOUT POSSIBLE IF BANK BILL FAILS

(By Jerry Knight and Susan Schmidt)

Treasury Secretary Nicholas F. Brady warned yesterday that taxpayers may have to bail out the banking system unless the nation's economy rebounds and Congress passes "a strong, comprehensive banking reform bill."

Brady's renewed effort on behalf of the administration's bank restructuring package is in response to increasing congressional concern that the costs of bank and savings and loan failures may be spinning out of control.

He stopped short of specifically saying that taxpayer funds would be needed, but, questioned repeatedly, he said the only hope of avoiding a resort to public funds for the banking system is passage of the administration's bank bill.

Suggesting that Congress will be to blame if a bank bailout is needed, Brady told a group of reporters, "If we have a reasonable economy and a strong, comprehensive banking reform bill, I believe the banking industry will be able to take care of the problem without a taxpayer bailout."

Bank failures to date already have nearly depleted the fund that insures deposits, and Federal Deposit Insurance Corp. Chairman L. William Seidman said he foresees another 300 bank failures by the end of next year, even if the recession ends soon.

The government's chief accountant, Comptroller General Charles A. Bowsher, also warned last week that if the pace of bank failures continues, taxpayer money will be needed to bolster the insurance fund, which now is made up of contributions by the banks themselves.

In addition, Bowsher said more taxpayer money will be needed for the cleanup of the nation's savings and loan industry, pushing the total tab for the thrift crisis toward an estimated $500 billion over 40 years, including interest.

House Banking Committee Chairman Henry B. Gonzalez (D-Tex.), Rep. John D. Dingell (D-Mich.), chairman of the Energy and Commerce Committee, and Rep. Edward J. Markey (D-N.Y.), chairman of the telecommunications and finance subcommittee, all have warned that the banking reform debate is becoming too complex to be completed by this fall, when more money will be needed for the thrift cleanup and the FDIC.

Gonzalez's committee is scheduled to resume work tomorrow on the administration's bill granting banks broad new powers, but prospects for its passage have dimmed because of new evidence that the administration's regulators can barely keep track of problems in the bank and thrift industries. In the past week, government officials have admitted they cannot predict how much bank failures will cost after next year, do not know with certainty when the FDIC will run out of money and cannot put a firm price tag on the S&L cleanup.

At the same time, the actions of banking regulatory agencies, generally among the nation's more respected governmental institutions, are being questioned.

The Federal Reserve Board has been caught up in the Bank of Credit and Commerce International scandal, with questions being raised about why the Fed allowed the Middle Eastern bank to secretly gain control of the First American banks in Washington. The Office of the Comptroller of the Currency has been criticized for failing to halt risky lending practices at Washington's Madison National Bank and at the Boston-based Bank of New England Corp. The Office of Thrift Supervision has come under fire for suggesting that weak thrifts should be kept open rather than closed. And the FDIC has faced sharp questioning because of its repeated revisions in estimates of the cost of bank failures.

While many of these developments are not directly related to the administration's bank reform bill—which is designed to restructure the banking industry and make it stronger—the threat of a bank bailout is beginning to dominate the debate over the proposal. The bill, which would allow banks to open branches nationwide and to expand into the securities and insurance businesses, also has a provision that would replenish the bank insurance fund with up to $70 billion to be borrowed from the Treasury and repaid by the banking industry.

Further complicating the course the banking bill must travel, Brady is expected to ask Congress next week for an additional $100 billion for the thrift cleanup—$50 billion to cover losses of failed S&Ls and another $50 billion to cover depositors' accounts until the assets of failed thrifts can be sold. Until now, the problems in the banking and savings and loan industries have been treated as separate issues, and one of the major changes that seems to be taking place in Congress is the linking of the two.

The $100 billion for the thrift cleanup and the $70 billion for banks adds up to "a big mountain to climb," said Senate Banking Committee Chairman Donald W. Riegle Jr. (D-Mich.). Noting that the administration originally told Congress $50 billion would be sufficient to clean up the S&L mess, Riegle said, "When you look at those numbers in reference to what they are asking for and what they projected, it's just stunning."

As for how much it might cost to rescue the banks, Riegle added, "No one is quite certain about how big it might get."

Riegle met privately last Thursday with Brady, President Bush and White House Chief of Staff John H. Sununu and cautioned them that "to get the approval of additional funding levels, there have to be improvements made" in the operations of the Resolution Trust Corp., the federal agency created to clean up the S&L industry.

The administration is willing to add RTC reforms to its banking legislation, but so far it has not come up with any specific plans, Brady said yesterday.

Repeatedly making the point that the legislation is essential to avoiding a taxpayer bailout for the banking system, Brady said that comparisons with the thrift crisis complicate prospects for the administration's banking plan.

"Any time you get into the subject of the S&L bailout, it is a subject that is extremely unpopular with the American people and especially so in Congress," he said.

Brady insisted the problems of the bank and thrift industries are much different because the banks are better regulated and are much stronger financially than the thrifts were. The similarity, he said, is that the problems in both industries were caused by bad loans that financed a massive overbuilding of commercial real estate.

"There is almost a one-to-one ratio between a lousy real estate market and a weak banking system," Brady said, and the banks' problems will not end until the real estate market improves.

There is no sign of that happening, FDIC Chairman Seidman said last week in his latest update on the health of the banking system.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

AN HONEST RESPONSE TO DISHONEST STATEMENTS

Mr. KERREY. Mr. President, I rise to commend the distinguished senior Senator from Nebraska for what I have come to know as an honest response to dishonest statements. I have known him for many years now, and of all the things that I admire him for, the one which I admire him the greatest is his willingness, in the face sometimes of considerable opposition, simply to say that something that is going on in our country just is not right, that it does not smell right, that it is wrong.

In this particular case, Mr. President, what the senior Senator from Nebraska has responded to is, in fact, a dishonest statement by the Secretary of the Treasury saying that Congress will be to blame if we do not pass the President's banking reform bill; we will be to blame for a taxpayer bailout of the FDIC.

Mr. President, almost everyone who has looked at the FDIC in the past 12 months has already concluded that it is likely that taxpayers will be called upon to make an injection of money in order to restore solvency to the bank insurance fund. Almost everyone who has looked at the FDIC has reached the conclusion that the forecasts for the solvency of the FDIC have been overly optimistic and that, though it is unlikely we will face a bailout on the scale of the savings and loan, it is likely that some taxpayer money will be required. For the Treasury Secretary to assert that that bailout is going to be connected with the speed with which we pass the President's bank legislation just is not true. It is not true, Mr. President.

The response, the emotional response, of the distinguished senior Senator from Nebraska, not just on behalf of taxpayers, Mr. President, which I believe to be the case, but on behalf of people who are borrowing money as well because, though the discount rate has been lowered in the past 15 months by the Federal marketing committee—the Federal Reserve has lowered the discount rate for banks in the United States of America—though that lowering has occurred, there is still a capital shortage for many Americans and not, Mr. President, just as a consequence of the lack of response by banks in lowering the prime interest rates in accordance with the discount rate. In fact, the prime would be 7.5 percent today had the banks responded to that lowering. Instead of responding to that lowering, they have used that margin to reduce some losses, particularly the larger banks have, they experienced as a consequence of bad loans that they made in the 1980's

What we already have is the Treasury Secretary allowing the banks to take advantage of this wider margin, not take advantage of it to lower interest rates to commercial borrowers and to home borrowers; rather than doing that, the Treasury Secretary has allowed them to use that margin to cover previous losses.

In addition to that, Mr. President, we saw recently that over 50 percent of Americans today would not be able to afford a home in the current market as a consequence of their flat and declining, in many cases, standard of living, as a consequence of the cost of houses, and as a consequence of the cost of money and the unavailability of capital.

What the distinguished senior Senator from Nebraska is responding to is not just a situation where the Treasury Secretary is trying to shift the burden of responsibility to Congress, he is not just responding to, at the very least, a misrepresentation of fact; he is responding to taxpayers' concern that their money is not being spent well; and, I believe, most important, he is responding to American borrowers who are unable to get affordable home loans, who are unable, as well, to get the money that they need for small and startup businesses, or unable to get the capital that they need to make productive investments.

Mr. President, again, I am very proud this morning that the distinguished senior Senator from Nebraska has responded in the way that he has. I think he not only engaged the Treasury Secretary in a manner he deserves to be engaged, but he has sounded a warning bell in the Congress that we simply are not going to vote every single time they send down a piece of legislation; that we are not simply going to roll over every time a new request comes for funding, and they will have at least a request for another $100 billion of cash from the taxpayers for the savings and loans and the banks come this fall; that we simply are not going to roll over every single time a request comes our way, because we see capital shortages and borrowers in our States that are in a great deal of difficulty and we see taxpayers angry at the way they have managed it thus far.

Mr. President, I yield the floor.

VOLUNTARY AGENCIES STATEMENT ON VIETNAM

Mr. KENNEDY. Mr. President, the office of the U.N. High Commissioner for Refugees recently sponsored a visit to Southeast Asia by a distinguished group of voluntary agencies—they call them nongovernmental organizations in the United Nations—to evaluate the progress in the implementation of the internationally, negotiated "Comprehensive Plan of Action" for Indochinese refugees.

They recently returned and issued a very thoughtful report on their observations and recommendations regarding the continuing question of how to deal with the flow of people from Vietnam. On the crucial question of repatriation, they found, for example:

> That contrary to prevalent understanding in their home countries of the United States, Canada and Australia, conditions in Vietnam are actually favorable for repatriation.

In addition, Mr. President, the delegation found that the motives for departing Vietnam were "for a variety of reasons but not political persecution"—which is the essential basis for deciding who is a refugee and who is not. And on repatriation to Vietnam, the delegation "heard no evidence to indicate that returnees suffer harassment, maltreatment, or discrimination on return."

The findings and observations of this delegation are all the more important because of its composition—representing some of the most distinguished leaders of the voluntary and church agencies long involved in the Indochina refugee program.

Mr. President, I commend to the attention of the Senate the important statement issued by this delegation, and ask that it be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

[From Monday, a weekly newsletter on refugee and immigration issues, Vol. 10, No. 12. June 10, 1991]

NGO'S SUPPORT PROGRESS FOR THE COMPREHENSIVE PLAN OF ACTION FOLLOWING UNHCR SPONSORED VISIT TO VIET NAM

A UNHCR sponsored group of Non-Governmental Organization (NGO) representatives visited Viet Nam and its environs May 14–21 in support of voluntary repatriation as proffered by the Comprehensive Plan of Action. CWS/IRP Director, Mr. Dale S. de Haan, led the NGO delegation of six, including Le Xuan Khoa, Indochina Resource Action Center, Burgess Carr, Episcopal Migration Ministries, Ralston Deffenbaugh, Lutheran Immigration and Refugee Service, Tom Clark, Canadian Interchurch Committee for Refugees, and Russell Rollason, Australian Council for Overseas Aid. The observers visited Bangkok, Hanoi, Hai Phong, the province of Quang Ninh and Ho Chi Minh City. Five members of the delegation visited refugee camps in Hong Kong, and Mr. de Haan visited the CWS/IRP administered Joint Voluntary Agency in Kuala Lumpur. The visitors spoke freely and frequently with returnees, interviewing over 60 repatriates without Government or UN officials present.

OBSERVATIONS

The NGO team assessed that contrary to prevalent understanding in their home countries of the United States, Canada and Australia, conditions in Viet Nam are actually favorable for repatriation. The delegation released a statement (see attached) citing progress towards a free and open Vietnamese society with rises in personal freedom in conjunction with private entrepreneurship and some economic buoyancy. There have been no reports of abuse of returnees upon return. The observers learned from voluntary returnees that they had originally fled for reasons other than political persecution. Observers concluded that the UNHCR, with the Socialist Republic of Viet Nam (SRV), is in good faith complying with the terms of the Memorandum of Understanding between SRV and the UNHCR, drawn in 1988, providing for the safe and dignified voluntary return of refugees from countries of first asylum.

RECOMMENDATIONS

NGO representatives lauded the UNHCR's dedicated efforts in carrying out the CPA. Recommendations were made for the overall effectiveness of the program which involved continued attention to the more efficient flow of information into and out of Viet Nam, as well as increased international efforts to integrate Viet Nam into the global economy. The need for timely delivery of funds promised by CPA-participating countries to returnees upon return was stressed. The Vietnamese government was asked to support returnees by not harming family leaders who initiated proceedings to return home and by prompt restoration of confiscated properties. The NGOs appreciated the trust and willingness of the Government of the Socialist Republic of Viet Nam to receive more interested visitors in support of a brighter future for Viet Nam and its people in the global community.

OBSERVATIONS AND COMMENTS FROM THE NON-GOVERNMENTAL ORGANIZATION VISIT TO VIET NAM, MAY 14–21, 1991

1. A team of six representatives from Non-Governmental Organizations in the USA, Canada and Australia visited Viet Nam from May 14–21, 1991 to assess the situation of people who have returned under the voluntary repatriation program established by the Comprehensive Plan of Action for Indochinese refugees.

The visit took place following the May 1991 meeting of the Steering Committee of the Comprehensive Plan of Action at which governments made a renewed and stronger commitment to the Plan.

The team visited Bangkok (Phanat Nikhom), Hanoi, Hai Phong, Hong Gai in the province of Quang Ninh and Ho Chi Minh City, with one going to visit Kuala Lumpur and four visiting the refugee camps in Hong Kong.

2. The team is grateful for the assistance provided by UNHCR for arranging our program; to the various Ministries of the Government of the Socialist Republic of Viet Nam for their hospitality and briefings and the Peoples Committees in Hanoi, Hai Phong, Quang Ninh and Ho Chi Minh City for

their hospitality and assistance. In particular, the team thanks all the returnees who spontaneously granted us interviews and answered our questions.

3. Those among the team who had visited Viet Nam previously remarked how they were surprised and impressed with the considerable progress the country was making toward becoming a more open society.

We sensed a strong desire amongst the people to see further progress towards a free and open society. Private entrepreneurship is vigorous and there is evidence of economic buoyancy that is nurturing the increase in personal freedom.

We experienced unhindered access to the people with whom we wished to talk and freedom to ask any questions with or without the presence of Government representatives. On several occasions we selected returnees and met with them without the presence of either Government or UNHCR officials.

4. *Departures*. In our conversations with the returnees we heard that people had left Viet Nam for a variety of reasons but not political persecution.

5. *Screening*. Most of the returnees we interviewed said they were not aware of the screening process before their departure. After learning of the screening process and conditions to be granted refugee status, many did not think that they had a sufficient claim to be "screened-in" and so chose to return to Viet Nam before screening.

6. *Returning*. In our interviews with returnees and discussions with a variety of sources (international NGO staff, diplomats, journalists, EC and UNHCR officials) we heard no evidence to indicate that returnees suffer harassment, maltreatment or discrimination on return.

We have concluded that UNHCR and SRV are in good faith complying with the terms of the Memorandum of Understanding between SRV and UNHCR (December 13, 1988) which provides for the voluntary return from countries of first asylum in conditions of safety and dignity.

The departure of several family groups or groups of close friends appear to have been organized by the head of the household or a "leader" within the group. In order to facilitate further voluntary return, it is important that no action be taken by Vietnamese authorities against such family/group based organizers of illegal departures who have no previous criminal record.

Similarly, voluntary return will be encouraged by consistent and generous restoration of confiscated property to returning, previous owners.

7. *Monitoring*. It is clear that there is an informal and effective network for communication in Viet Nam and with the international Vietnamese refugee community. News travels fast and travels with ease to all parts of the world.

Monitoring occurs in this context and must be seen in this context. Not all returnees are visited on a systematic and regular basis but rather on a random basis.

The increasing presence of international NGO staff in both urban and rural areas contributes to the increased flow of information and thus enhances the confidence in the monitoring process.

Given available resources, we are satisfied that UNHCR is adequately fulfilling its monitoring responsibilities in Viet Nam.

8. *Resources*. We regret that CPA donor governments have been slow in making their pledged contributions for 1991. The result is that returnees have had to wait for up to three months for their first quarterly payment of their return assistance. This is an unacceptable delay considering these people by-and-large return with nothing.

Payment to returnees must be made promptly or the process is put at risk. Donor governments, must ensure the necessary funds are available as required.

As numbers increase, it is incumbent on governments to make available the necessary resources to UNHCR in a timely manner to ensure all aspects of the Plan, including information, monitoring and screening payments, are adequately addressed.

We express appreciation for the speedy contribution from the US Government to the CPA, but urge the US Government to revise its policies to allow its contributions to be spent in Viet Nam.

9. *EC Assistance Program*. We were impressed with the sense of urgency the Program Director showed in discussions on progress made in implementing the EC program of assistance. We welcome the substantial NGO involvement in the implementation of the program.

We note in particular that 60% of available loan funds are for nonreturnees indicating that it is not necessary to leave Viet Nam and be returned in order to access these funds.

10. *Information and Communication*. Ready access to accurate information remains the critical need for effective implementation of the CPA. Rumors inspire people to leave, cause people to fear return and in some cases lead people to choose to return. Rumors hinder a speedy and fair process.

All interested parties must ensure that accurate and up-to-date information is more readily available. The communication procedures must be better organized. More resources and greater attention must be applied to this issue both in the camps in countries of asylum through counselling and other programs, as well as in Viet Nam and internationally.

11. *Orderly Departure Program (Family Reunion)*. We met the US Orderly Departure Program interview team in Ho Chi Minh City which has begun processing at an increased rate. Persons with close relatives in the US (and in similar programs for Australia, Canada and Europe) can seek to immigrate directly from Viet Nam. This program is increasingly becoming a viable alternative for eligible persons wishing to leave.

12. *Development*. At the heart of the human tragedy that has seen thousands of Vietnamese leave on unsafe boats in search of a better future is the combination of social, economic and political conditions in Viet Nam and the constraints stopping development assistance from the IMF, World Bank and major western donor governments. It is deeply regrettable that Viet Nam's participation in the global economy continues to be hampered because of difficulties in its bilateral relationship with the United States of America. Viet Nam needs and wants development assistance.

It is time to allow and encourage Viet Nam to participate fully in the international community with all the concomitant rights and responsibilities of states with progressive realization of human rights. We urge our NGO colleagues to support and advocate the necessary policy changes.

13. *Visits*. We note the openness of the Government of the Socialist Republic of Viet Nam to receive additional delegations, and we encourage other concerned individuals and groups to visit Viet Nam to experience the situation firsthand.

14. *Trust*. In conclusion, we wish to pay tribute to the UNHCR officials we met, responsible for the implementation of this program. We have been impressed by their dedication and integrity, in spite of the sometimes difficult circumstances in which they work.

We believe that further cooperation between UNHCR and NGOs will consolidate the trust the international community has placed in UNHCR.

Le Xuan Khoa, President, Indochina Resource Action Center, Washington

Burgess Carr, Executive Director, Episcopal Migration Ministries, New York

Dale de Haan, Executive Director, Immigration and Refugee Program, Church World Service, New York

Ralston Deffenbaugh, Executive Director, Lutheran Immigration and Refugee Service, New York

Tom Clark, Co-ordinator, Interchurch Committee for Refugees, Toronto

Russell Rollason, Executive Director, Australian Council for Overseas Adi, Canberra

HONG KONG, *May 23, 1991*.

TRIBUTE TO DR. WILLIAM O. FARBER

Mr. PRESSLER. Mr. President, I want to take this time to honor my undergraduate college mentor, Dr. William O. Farber. This University of South Dakota political science professor is best known for taking students who may lack direction and providing them with helpful encouragement. He has been a role model for myself and hundreds of other University of South Dakota students.

Dr. Farber established the Farber Student Internship Fund, which helps pay travel expenses for students to attend special seminars and to take part in overseas study trips, as well as other educational activities here in the United States. He has also written many books on the history of South Dakota government and is now working on his memoirs to be entitled "Footprints on the Prairie."

Mr. President, I ask unanimous consent that the Yankton Daily Press articles about Dr. Farber be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

RETIRED PROFESSOR STILL BUSY

(By Sue Ivey)

VERMILLION—For Dr. William O. Farber, advising students can begin over a plate of cookies in his living room and continue with a trip to London.

This University of South Dakota political science professor emeritus is well-known for taking bright students—especially bright students that may lack direction—under his wing. He provides the encouragement they need, says long time friend and colleague Dr. Loren Carlson.

NBC Nightly News' anchor and Yankton native Tom Brokaw, South Dakota Sen. Larry Pressler, USA Today founder Allen Neuharth of Gannett and CBS Sports' host Pat O'Brien are a few of Farber's more well-known students that consider him their mentor.

Farber, 80, official retired in 1976, but unofficially he says he'll keep working as long as his health allows.

Today he and Carlson are speaking with students at Boys State about South Dakota county government. They wrote the book on our state's government, literally. And now they're revising it for the fourth edition.

Farber came to USD after earning his doctorate at the University of Wisconsin in 1935 at the age of 25. Vermillion became his home and his students became his family.

Since retiring he continues to advise students, revise books, enjoy the Emeritus Club, write students letters of recommendation and spend a good deal of time going to their weddings, their children's christenings and still finds time to testify at committee hearings on state reapportionment in Pierre and administer the Farber Student Internship Fund.

His commitment to good government is at the center of it all.

"What art could be accomplished, what music could be accomplished, what science could be accomplished without good government? The first requirement for progress in civilization is good government."

VERMILLION.—Fifteen years after retiring from the University of South Dakota, Professor Emeritus William O. Farber is still setting fires under young political science majors.

Just two weeks ago, he invited a dozen to his home near campus—Farber Hall, it's called—to meet CBS sports host and his former student Pat O'Brien, who was being honored at spring graduation with an honorary Doctor of Laws degree.

"I think when you have people like that, there's no point in sharing them with faculty and administrators," Farber says. "The important thing is to get the students here to see these role models."

Farber himself has been a role model for USD students. He came to teach in Vermillion after earning his doctorate from the University of Wisconsin in 1935 and, although he was at first inclined to concentrate strictly on the subject matter, he was soon involved in the practical side of government and it has enriched his teaching.

He became administrator of the price control program for South Dakota in 1941, was a warrant officer in the U.S. Air Force during WWII, worked on the Regional Loyalty Board after the war, and became the first director for the state's Legislative Research Council from 1951–55.

He was a visiting professor at the University of Wisconsin, Northwestern University and Seoul National University in Korea, all the time serving as department head and mailing recorded lectures to USD.

Then he was minority counsel for the U.S. Senate Committee on National Policy Machinery, and from 1967–1970, secretary for the Committee on Education, Cultural Affairs and Information with the North Atlantic Assembly, helping at the request of Sen. Karl Mundt to set up a seminar on public administration that taught the principles of democracy to representatives from NATO countries.

He was a member of the State Constitutional Revision Commission, formed by Gov. Frank Farrar and spent 10 years as chairman of the Vermillion Planning Commission. He combined each of these responsibilities with his university teaching.

"He just is one of those guys who makes time," said friend and colleague Dr. Loren Carlson.

Farber knows leaders at every level of government and business, and that knowledge proved invaluable in providing connections and practical experience for his students.

For example, in 1969, Farber took O'Brien to a conference in the Soviet Union where he was one of a number of students who spoke about their countries. O'Brien talked about the youth protest movement of the 1960s.

"He has never forgotten this. It's opened his eyes to what he can do," Farber said.

This has been one of Farber's special gifts through the years and he continues to help students "without fanfare," Carlson said.

"I've taken a number of students with me on trips. What it does is to broaden their horizons and especially to see that it's not impossible for them to be part of a bigger picture," Farber said. "Suddenly they realize that they are not inferior in a competitive way, that they are equal, if not superior to many of the students from larger, Eastern schools. They realize that there are important positions they can occupy with proper training."

Part of his work is with the Farber Student Internship Fund, which was started in the 1970s. It helps pay for students to travel to special seminars and to take part in tours.

USD Foundation Director Ken Grover said the endowed fund now has more than $500,000 in contributions and provides about $25,000 per year to students. Ten students returned this week from a week-long trip to Washington, D.C. where they talked with congressmen and visited national institutions most had never before seen.

Another 20 students are in Great Britain for a study tour this month. The fund also helps students attend an annual model United Nations gathering with students from universities across the country and some attend the moot court competition in Des Moines, Iowa, as well.

In between attending weddings of former students and writing letters of recommendation, he has been revising the book, "Government of South Dakota," with Carlson. He testified at recent legislative committee hearing on reapportionment and received a certificate honoring him from the State Historical Society.

He has been writing an outline for his memoirs, to be entitled "Footprints On The Prairie," Here, too, a recent graduate of the University of Minnesota School of Law has volunteered his time to help Farber in compiling the 12 chapters that will detail his experiences.

Visitors find a box of recent correspondence to answer on Farber's workroom desk. He keeps a wastepaper basket under his mail slot to collect the many incoming letters and periodicals.

Still, this week he got a call from those organizing Boys State in Aberdeen, asking him to speak to some 600 boys on county government, Carlson said, Farber asked Carlson to go too.

"He just dropped everything. I went over there and he was sitting there with the computer, getting materials together," Carlson said.

"That's just typical of how things go."

TRIBUTE TO SENATOR JOHN HEINZ

Mr. LEAHY. Mr. President, John Heinz made his last floor statements here on March 21. Among them were praise for the concluded war effort, the President and returning troops; a discourse on consumer protection against criminal fraud; a treatise on the international computer chip war; and a study request to clarify aspects of tax law.

That was business.

I have wondered what our departed friend might have said had he known he was addressing us for the last time.

I have thought about this often since his untimely and tragic death. Senator Heinz has been eulogized by associates and friends who knew him far better than I.

But I knew Senator Heinz best, as I know most of my fellow Senators, through our association here in the U.S. Senate.

My solace in his passing was this small group of men and women, bound so closely by tradition, history, and public service.

And it came to me that John Heinz would have ended his Senate career with an expression of admiration for this institution, a sense of awe for having been given the honor to serve, and an expression of appreciation to the public who gave him the opportunity to serve.

And he would have flashed his famous smile—and told us to carry on.

Marcelle and I share the deepest sympathy for his wife, Teresa and the lovely children.

The institution endures, and grows stronger because of men and women like John Heinz. And it carries on, as he would wish. It was improved by his presence and diminished by his leaving.

FORMER SOUTH DAKOTA CONGRESSMAN BEN REIFEL

Mr. PRESSLER. Mr. President, my State of South Dakota lost one of its great leaders when Ben Reifel died last year. As the first Sioux Indian to be elected to the U.S. House of Representatives, he had a great impact on those who knew him and worked with him.

Last year, I introduced an amendment to the fiscal year 1991 Department of the Interior appropriations bill to rename the Cedar Pass Visitor Center in the Badlands National Park as the Ben Reifel Visitor Center. On May 11 of this year, the Badlands National Park in South Dakota hosted a Ben Reifel Day, which included the official dedication of the Ben Reifel Visitor Center.

When I introduced the amendment to rename the Cedar Pass Visitor Center in his honor, other Senators who had worked with Ben rose to pay tribute to his unimpeachable character and his distinguished career in the U.S. Congress. I was pleased that other Senators acknowledged the work of this great statesman from South Dakota.

Mr. President, I ask unanimous consent that an article by Ben Reifel's daughter, Loyce Reifel Anderson, from the June 5, 1991, Sisseton, SD, Courier be printed in the RECORD immediately following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Sisseton (SD) Courier, June 5, 1991]

CONGRESSMAN BEN REIFEL REMEMBERED BY DAUGHTER

(By Loyce Reifel Anderson)

Ever since I was first asked to say a few things about Dad several weeks ago, I have spent many hours reflecting on his life.

My father would be so pleased for this visitors' center to be named in his honor. The Badlands National Park was not only his favorite spot in South Dakota, but his favorite national park.

Basically he was not a complex person but a people person. He enjoyed fishing, hunting, going to the circus, visiting with people, watching the sunset and being in the Badlands during a thunderstorm and watching the sheet lightning. He believed in God, his country, his fellow men and himself. He worked hard trying to bring about changes from within and with dignity.

He was born in a log cabin at Cut Meat, the eldest of five boys, and raised by a devoted mother. She was born not long after the Battle of Little Big Horn and became a Christian at 12. He was also greatly influenced by his grandmother who lived with them. This grandmother, WeWela, was a member of Spotted Horse's Band of Lower Brule and belonged to the sub-band of Black Crown and Hollow Horn Bear. He told of going out on the prairie to help her dig for wild turnips, carrying their lunch in a flower sack; and before they ate, WeWela would give her offering to the Four Winds.

He was a school "dropout" until an interested teacher helped him to finish the seventh and eighth grades at the age of 16. Dad would tell us with a twinkle in his eyes that he got the highest mark in the county for his eighth grade exam. He was also the ONLY eighth grade graduate in the county that year!

He was always ready to try new things and new ideas. Probably the most challenging event was leaving home and the reservation at the age of 19 to attend "Aggie School" in Brookings. (Aggie School was a five-month boarding high school program designed for farm and ranch students where there were in high schools available and was part of the Land Grant College program).

This was his first time away from the reservation and his family—first train ride, going completely alone to a place he knew nothing about and to live in an all-white world. Although he later would have degrees from South Dakota State University and Harvard, he would always very proudly say, "I learned that in Aggie School!"

He was known as Ben by everyone, including me. In fact, it was when he was in the Army and had to be addressed by rank and last name only that I finally started calling him Dad because no one knew who Ben was. He was able to run for Congress using only his given name.

By the time he ran for that first primary election, he was only two years from retirement from the Bureau of Indian Affairs.

He once commented that he had lived one-third of the life of the United States. In those 83 years he walked many paths, always trying to make things better for his people and others.

Once when I was about eight months old, we took a trip a visit friends in Montana and to see Glacier and Yellowstone national parks. My mother never called it a vacation, as traveling with an infant over 50 years ago was not as easy as it is today. Pasteurized milk was not available in every community. As we neared Sheridan, WY, I was hungry, and with a crying infant Dad drove into town to find a grocery. What he found were signs saying, "no dogs or Indians allowed." My blond, green-eyed mother tried to keep me quiet till we found another community to shop in. Dad vowed never to stop in Sheridan again, but we did 20 years later when All American Indian Days Celebration was held there, and Dad was honored as the Outstanding American Indian of the year.

He went from lunch on the prairie to dinner at the White House. From spiffy new bib overalls and high-top tennis shoes ordered from Sears and Roebuck to attend and call at a community square dance to black tie dinners in Washington, D.C. He was most comfortable in his fishing clothes—and having the opportunity of teaching his three granddaughters the fine art of getting that worm on a hook and catching the "big one."

He bridged that generation gap that somehow only grandfathers can. These three young women learned about honor, trust and a deep respect for their heritage from him. They also learned the difference between a full house, a flush and a straight. And any story they felt Mom and Dad's ears shouldn't hear, they couldn't wait to tell their grandfather. At their weddings he gave the benediction in Lakota and was as nervous as the groom and as proud as their father.

He did not leave many material things, but a legacy rich with friends and deep family love and responsibility. Thank you for remembering him in this way—he would be so proud.

TRIBUTE TO A.B. "HAPPY" CHANDLER

Mr. FORD. Mr. President, as we conduct our business here today, a former Member of the Senate and one of Kentucky's must beloved sons, A.B. "Happy" Chandler, is being remembered and memorialized across our great State. It was with a great deal of sadness that I learned of the death of Happy this past Saturday, and I regret that my required presence in Washington does not allow me to personally pay my final respects to him.

Mr. President, there will never be another like Happy Chandler, who would have turned 93 years of age on July 14. He was a remarkable man that rose from the humblest beginnings to the halls of great power, while at the same time never forgetting a name, never forgetting a face or never forgetting his special rural Kentucky roots. Without a doubt, Happy is, and will always be, a Kentucky legend. He was a statesman, a showman, and an administrator, and above all was a fighter for the causes he believed were right.

A.B. "Happy' Chandler, was born on July 14, 1898, in Corydon, KY. He graduated from Transylvania College in 1921, and went on to earn his law degree from the University of Kentucky. He opened his law practice in Versailles at the young age of 26. He served Kentucky as State Senator, Lieutenant Governor, and two terms as Governor in 1935 and 1955. He was elected to this body in 1939 and served through 1945, when he resigned to take the position of Commissioner of Baseball. In 1982, he was elected to the Baseball Hall of Fame for his role in the integration of major league baseball.

Happy Chandler had a special hold on the citizens of Kentucky, unlike any public figure before him or since, Mr. President. To watch Happy give a speech to an overflow crowd of supporters was to watch a man who knew how to communicate to them and had the special gift of touching people's hearts. During today's ceremony in Kentucky, there will be no more fitting tribute to him than the playing of Happy's own special rendition of our beloved State song, "My Old Kentucky Home." It will serve as a lasting reminder of Happy's genuine affection and love of Kentucky and the special place he will always hold in the hearts of all Kentuckians.

My thoughts and prayer go out to Happy's lovely wife of 66 years, Mildred, affectionately known to Happy and all Kentuckians as "Mama," their children, grandchildren and great-grandchildren, and their extended family during this difficult time.

Happy Chandler was often fond of saying that he came a long way for a boy from the country who was dropping tobacco plants for 25 cents an hour. Yes, Happy, you did come a long way, and we are all better for having the distinct pleasure of having known you and having you touch our lives.

A TRIBUTE TO JAMES A. PARSONS

Mr. BURNS. Mr. President, as we complete debate on Federal highway legislation I want to add a personal note, that of the tragic death of one of my staff, Mr. James Parsons who was struck and killed by a hit-and-run motorist last Friday evening. He will be buried this coming Saturday.

Although what happened is a terrible tragedy and we will all miss James, my staff and I don't want to mourn his passing as much as we would like to celebrate his being here with us for at least a short time. James was only 24 years old when he died but he had already accomplished a great deal in that short time.

My association with James began on day one when he began the task of putting together a computer system for my office here in Washington and in our field offices in Montana. That system became a model for the U.S. Senate. We had faith in James because he was the kind of "can do" person that the Senate can't do without.

James had just completed his first year of law school at George Mason University where he studied at night. His goal was to be a lawyer and perhaps even a judge. I don't doubt that he would have achieved that goal or any other that he set out to achieve.

In Montana, we have an expression that we use when we agree to do something. In a State where a handshake is an agreement, the words "you bet" are its signature. To James the words "you bet" meant that he would deliver. He never failed me or the others around him. He delivered.

Will he be missed? You bet he will.

ADAMHA REORGANIZATION ACT

Mr. KENNEDY. Mr. President, yesterday Senator HATCH and I introduced S. 1306, the ADAMHA Reorganization Act of 1991. I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF S. 1306—THE ADAMHA REORGANIZATION ACT OF 1991

TITLE I

Title I reorganizes the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) by separating the research and service-related functions of the agency. The reorganization is accomplished by transferring the three ADAMHA research institutes—the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institute on Drug Abuse (NIDA) and the National Institute of Mental Health (NIMH)—to the National Institutes of Health (NIH). ADAMHA is then reconstituted as ADAMHSA, the Alcohol, Drug, Abuse and Mental Health Services Administration.

Subtitle A. Restructuring

Section 101. Restructuring:

This section restructures ADAMHA as ADAMHSA. Obsolete portions of Title V of the Public Health Services Act are deleted and replaced by provisions authorizing ADAMHSA. This section-by-section analysis will briefly describe each of the newly created sections of Title V.

"Subpart 1":

"Sec. 501" establishes the Services Administration and sets forth the duties of the Adminstrator, a Presidential appointee. There are to be Associate Administrators for Mental Health and Substance Abuse, respectively. The Administrator shall have authority to create agencies within the Administration, including an Office for Substance Abuse Prevention, and Office for Treatment Improvement, and an Office for Mental Health Services.

"Sec. 502" describes the activities of the Administrator that will support the provision of treatment and prevention services. The Administrator will collaborate with the Directors of the research institutes on matters of mutual concern. The Administrator will carry out all grant programs that support treatment and prevention services, including the block grant.

"Subpart 2" authorizes or reauthorizes a series of treatment and prevention programs:

"Sec. 505" reauthorizes the High Risk Youth Grant Program.

"Sec. 506" reauthorizes and improves the ancillary services of the Maternal Substance Abuse Grant Program.

"Sec. 507" reauthorizes and improves a program for Grants of National Significance.

"Sec. 508" authorizes a grant program for substance abuse treatment in criminal justice systems.

"Sec. 509" authorizes a program of treatment and prevention training grants.

"Sec. 510" authorizes the Substance Abuse Treatment Capacity Expansion Program.

"Sec. 511" authorizes AIDS outreach grants and grants for homeless individuals.

"Sec. 512" reauthorizes the Community Partnership Grant Program.

"Sec. 513" reauthorizes demonstration projects for support of community mental health services.

"Subpart 3" addresses administrative matters relevant to the Services Administration.

"Sec. 515" requires the appointment of one or more advisory councils for the Services Administration.

"Sec. 516" provides for peer review of services grants.

"Sec. 517" requires that applications for grants be made in a form prescribed by the Secretary and contain assurances of compliance satisfactory to the Secretary.

"Sec. 518" requires the Administrator to establish procedures for misconduct with respect to the funds expended by the Administration.

"Sec. 519" authorizes the Administrator to obtain the services of up to twenty experts or consultants in accordance with current law.

"Sec. 520" establishes an Office for Special Populations within the Administration to address the needs of women, minorities and the elderly with respect to treatment and prevention services.

Section 102: National Institutes.

This section establishes the three research institutes (NIAAA, NIDA and NIMH) within the National Institutes of Health. The section creates a new subpart IV in title IV of the Public Health Services Act.

"Chapter 1":

"Sec. 486A" establishes the National Institute on Alcohol Abuse and Alcoholism.

"Sec. 486B" establishes the National Institute on Drug Abuse.

"Sec. 486C" establishes the National Institute of Mental Health.

"Chapter 2";

"Sec. 486H" sets forth the research mission of the three institutes and describes the means by which research may be carried out, including the establishment of intramural programs.

"Sec. 486I" establishes National Mental Health and Substance Abuse Education Programs, to be carried out by the institutes, for the dissemination of research findings on these subjects.

"Sec. 486J" authorizes the establishment of National Substance Abuse Research Centers.

"Sec. 486K" establishes a Medications Development Program within NIDA to promote and encourage the development, approval and marketing of anti-addiction medications.

Subtitle B. Miscellaneous alcohol and drug abuse provisions

Section 111: Miscellaneous Provisions.

This section largely duplicates existing title V authority regarding miscellaneous substance abuse provisions. Certain provisions in current law apply identically to alcohol and drugs—these have been consolidated under the heading of substance abuse in the revised Title V.

"Sec. 541" authorizes the Secretary to provide technical assistance to state and local agencies with respect to the management of their treatment and prevention activities.

"Sec. 542" authorizes the Administrator to foster and encourage substance abuse treatment and prevention activities in government agencies and in private industry through the development of model programs and the dissemination of information. Subsection (b) of this section protects recovering substance abusers from employment discrimination, with certain enumerated exceptions.

"Sec. 543" protects substance abusers from discrimination in admission to hospitals and other facilities.

"Sec. 544" establishes the confidentiality of medical records regarding substance abuse. The circumstances under which confidentiality does not apply are set forth in subsection (b).

"Sec. 545" describes the duty of the Secretary to collect various data on substance abuse and mental health. The data that must be collected on mental health is set forth in subsection (b), and the data that must be collected on substance abuse is set forth in subsection (c). Some of the data collection activity to be undertaken pursuant to this section is properly within the realm of research and other activity is properly within the realm of services. Therefore, all of the data collection activity is assigned to the Secretary, who must act through the institute directors or the services administrator, as appropriate. Subsection (d) mandates certain studies pertaining to drug exposed infants.

"Sec. 546" authorizes the Secretary, acting through the Administrator to respond to public health emergencies with appropriate services. Parallel authority already exists in Title IV to enable the Secretary to respond to public health emergencies with appropriate research.

Subtitle C. Transfer provisions

This subtitle contains standard legislative language to address the practical and legal consequences of transferring the research institutes and reconstituting ADAMHA as ADAMHSA.

Section 121. Transfers. Services authority is transferred to the ADAMHSA Administrator, research authority is transferred to the three institute directors, and adequate personnel and resources during the transfer are required.

Section 122. Delegation and Assignment. Both the ADAMHSA Administrator and the institute directors are authorized to delegate authority as appropriate.

Section 123. Transfer and Allocation of Appropriations and Personnel. Appropriations and personnel utilized for research are transferred to NIH with the research institutes, and appropriations and personnel utilized for services are transferred to ADAMHSA.

Section 124. Incidental Transfers. The Secretary is authorized to make determinations and incidental transfers with respect to personnel, appropriations, etc.

Section 125. Effect on Personnel. Employees of ADAMHA are afforded specified protections from adverse consequences as a result of reorganization.

Section 126. Savings Provision. The status of previous ADAMHA determinations (*e.g.*, rules and regulations) and pending legal proceedings are set forth in this section.

Section 127. Separability. Invalid provisions of this subtitle do not invalidate the Act.

Section 128. Transition. The ADAMHSA Administrator and the institute directors are authorized to use HHS personnel to effect the reorganization.

Section 129. References. References to ADAMHA in law are deemed to apply to ADAMHSA.

Subtitle D. Conforming Amendments

Subtitle E. Miscellaneous Provisions

Section 141. Alternative Sources of Funding for Certain Grantees. The Secretary is required to make diligent efforts to find alternative sources of funding for programs receiving funding under the current Community Youth Program, which is not reauthorized. One possible source of funds is the High Risk Youth Grant Program.

Section 142. Peer Review. The same peer review systems, advisory councils and scientific advisory committees utilized by the three ADAMHA institutes are to be utilized by them after the transfer to NIH.

TITLE II

Title II reauthorizes and improves the Alcohol, Drug Abuse and Mental Health Services Block Grant Program. The block grant will be administered by the new Services Administration.

Section 201. Authorization of Appropriations. The block grant is authorized at $1.5 billion in FY92 and such sums for two fiscal years thereafter. Not more than 5% may be used by ADAMHSA for technical assistance, monitoring, evaluation and the state treatment plan requirement.

Section 202. Revision of Block Grant Formula. The formula by which block grant funds are apportioned among the states is revised in five signficant respects. The new formula:

(1) eliminates the urban weight component of the current formula but double-counts each state's population of urban 18–24 year olds to reflect the fact that drug abuse within this age group is twice as prevalent in urban areas;

(2) inserts in the formula a "cost of services" index, constrained to within 10% of the national average, that reflects the higher cost of providing services in urban areas;

(3) provides a small state minimum under which states that received $7 million or less in FY89 will receive no less than a percent increase equal to 25% of the cumulative percentage increase in the total block grant allocation since FY89;

(4) ensures that no state loses money between FY91 and FY92, and ensures that after FY92, no state may lose more than 5% of their block grant allocation in a single year;

(5) provides that no state may gain more than $20 million in a single year unless the total block grant appropriation increases by more than $200 million.

A chart at the end of this section-by-section analysis sets forth the impact of the new formula on each state, assuming funding increases.

Section 203. Use of Unobligated Funds by States. States are permitted to use unobligated funds in a subsequent fiscal year, if the funds were obligated but rendered unobligated due to the state's diligence in carrying out the purposes of the block grant program. Under current law, all unobligated funds revert to the U.S. Treasury.

Section 204. Revision of Intravenous Drug Set-Aside. The Secretary is required to grant a waiver from the 50% IV drug user set-aside if he makes a finding that the incidence of IV drug use in the state does not warrant the level of funding that would result from a 50% set-aside. Under current law, the Secretary "may" grant a waiver after making such a finding.

Section 205. Use of allotments. This section makes several changes in the provision describing the permissive use of block grant funds. The term "chronically mentally ill" is replaced by the current usage, "seriously mentally ill." The authority of states to use block grant funds for treating mentally ill individuals and substance abusers in correctional facilities is made explicit. The authority of states to use block grant funds for renovation of facilities, including the removal of hazardous conditions and providing for access to disabled persons, is broadened. The prohibition on programs is conformed to the prohibitions placed on funds expended under the Health Omnibus Programs Extension of 1988. Administrative expenses, except for training, are capped at 5%. Discrimination against the dually diagnosed (mentally ill substance abusers) is prohibited.

Section 206. Maintenance of Effort. States are required to maintain their own expenditures for substance abuse and mental health programs. Current law does not require that each component of ADMS expenditures be maintained.

Section 207. Requirement of Statewide Substance Abuse Prevention and Treatment Plans. To receive its block grant allotment, each state will be required to submit a statewide plan for expending the allotment. The required contents of the plan are set forth in detail.

TITLE III

Title III requires certain studies (and includes one Sense of Congress provision) relevant to various aspects of the Act. Sections 301 to 304 are part of the Biden/Kennedy Pharmacotherapy Development Act—Section 486K of the Public Health Services Act (as created within section 102 of this bill) authorizes a medications development program at NIDA, and the first four provisions of this title are related to that initiative.

Section 301. Study on Private Sector Development of Pharmacotherapeutics. Within one year, NIDA shall prepare a report on the role of the private sector in the development of anti-addiction medications.

Section 302. Study on Medications Review Process Reform. Within one year, the Food and Drug Administration, in consultation with NIDA, shall prepare a report on the process by which anti-addiction medications receive marketing approval from the FDA.

Section 303. Sense of Congress. This section sets forth the Sense of Congress with respect to the priorities of the Medications Development Division.

Section 304. Report by the Institute of Medicine. By January 1, 1993, the Institute of Medicine shall prepare a report on the nation's progress toward the development of safe, efficacious pharmacological treatments for addiction.

Section 305. Definition of Serious Mental Illness. Within one year, the Secretary shall develop a recommendation to Congress on a uniform definition of serious mental illness.

Section 306. Provision of Mental Health Services to Individuals in Correctional Facilities. Within one year, the ADAMHSA Administrator, acting jointly with the Director of NIMH, shall prepare a report on effective methods of and obstacles to providing mental health services to individuals in correctional facilities.

TABLE 1.—ADMS ALLOTMENTS: FISCAL YEARS 1988–91, S. 1306; FISCAL YEARS 1992–93, PROJECTED FUNDING INCREASED

State	Fiscal year—				S. 1306, fiscal year 1992	S. 1306, fiscal year 1993
	1988	1989	1990	1991		
Alabama	11,491,000	12,953,000	18,006,000	18,732,000	18,732,000	20,310,050
Alaska	2,604,000	2,734,000	2,734,000	2,734,000	3,211,737	3,296,582
Arizona	11,232,000	12,497,000	17,519,000	18,002,000	18,741,696	−20,817,227
Arkansas	7,746,000	7,000,000	8,380,000	8,417,000	9,282,042	10,309,973
California	64,804,000	87,351,000	140,169,000	151,410,000	171,410,000	191,410,000
Colorado	9,582,000	11,165,000	16,414,000	17,518,000	19,268,963	21,402,886
Connecticut	9,039,000	10,941,000	16,027,000	16,576,000	16,576,000	17,230,035
Delaware	1,859,000	2,125,000	3,073,000	3,213,000	3,420,673	3,799,492
District of Columbia	3,146,000	3,444,000	4,770,000	4,896,000	4,896,000	4,651,200
Florida	30,795,000	39,620,000	59,657,000	63,093,000	63,093,000	60,155,883
Georgia	15,113,000	15,837,000	23,701,000	24,845,000	27,792,521	30,870,378
Hawaii	3,408,000	4,095,000	5,827,000	6,078,000	6,813,226	7,567,750
Idaho	2,270,000	2,383,000	2,600,000	2,775,000	4,173,010	4,635,146
Illinois	25,806,000	35,699,000	57,509,000	62,486,000	66,725,816	74,115,303
Indiana	22,821,000	22,522,000	28,240,000	28,563,000	28,563,000	27,381,065
Iowa	4,319,000	4,809,000	7,804,000	8,633,000	10,931,179	12,141,742
Kansas	5,279,000	5,543,000	7,573,000	8,085,000	9,375,283	10,413,540
Kentucky	6,589,000	7,296,000	11,624,000	12,666,000	15,878,694	17,637,165
Louisiana	8,249,000	10,191,000	16,486,000	18,622,000	21,248,319	23,601,443
Maine	4,432,000	4,654,000	4,654,000	4,654,000	5,467,237	5,611,665
Maryland	8,081,000	12,085,000	21,314,000	23,275,000	25,637,467	28,476,664
Massachusetts	22,703,000	25,271,000	35,091,000	36,009,000	36,009,000	36,665,171
Michigan	21,342,000	27,271,000	43,130,000	46,271,000	49,686,041	55,188,474
Minnesota	7,493,000	9,134,000	15,173,000	16,590,000	20,051,488	22,272,071
Mississippi	6,527,000	6,853,000	7,972,000	8,326,000	10,840,574	12,041,103
Missouri	12,563,000	14,318,000	21,448,000	22,790,000	22,790,000	24,847,870
Montana	2,823,000	2,964,000	2,964,000	2,964,000	3,481,928	3,770,466
Nebraska	3,761,000	3,949,000	5,431,000	5,854,000	6,357,360	7,061,400
Nevada	3,584,000	3,890,000	5,404,000	5,656,000	6,979,919	7,752,903
New Hampshire	4,407,000	4,627,000	4,627,000	4,627,000	5,435,519	5,579,109
New Jersey	25,171,000	31,449,000	45,540,000	47,170,000	47,170,000	45,500,560
New Mexico	6,129,000	6,435,000	6,551,000	6,673,000	7,000,000	7,728,847
New York	54,627,000	65,794,000	98,111,000	103,643,000	103,643,000	107,217,707

49-059 O—95 Vol. 137 (Pt. 11) 4

TABLE 1.—ADMS ALLOTMENTS: FISCAL YEARS 1988–91, S. 1306; FISCAL YEARS 1992–93, PROJECTED FUNDING INCREASED—Continued

State	Fiscal year—				S. 1306, fiscal year 1992	S. 1306, fiscal year 1993
	1988	1989	1990	1991		
North Carolina	14,200,000	14,476,000	21,069,000	22,084,000	28,312,985	31,448,479
North Dakota	1,552,000	1,630,000	1,855,000	1,992,000	2,631,322	2,922,726
Ohio	29,904,000	36,561,000	53,413,000	56,647,000	56,647,000	56,318,550
Oklahoma	9,562,000	9,808,000	12,843,000	13,620,000	13,635,671	15,145,740
Oregon	7,881,000	8,111,000	11,818,000	12,584,000	15,216,472	16,901,606
Pennsylvania	32,746,000	39,746,000	58,481,000	61,799,000	61,799,000	64,570,560
Rhode Island	5,195,000	5,503,000	7,222,000	7,336,000	7,336,000	6,969,200
South Carolina	8,891,000	8,909,000	12,949,000	13,635,000	16,322,572	18,130,200
South Dakota	3,580,000	3,759,000	3,759,000	3,759,000	4,415,845	4,532,498
Tennessee	10,357,000	12,098,000	18,754,000	19,986,000	21,615,095	24,008,838
Texas	30,474,000	40,166,000	65,697,000	73,454,000	80,803,246	89,751,724
Utah	4,898,000	5,686,000	8,502,000	9,083,000	9,233,596	10,256,162
Vermont	3,731,000	3,918,000	3,918,000	3,918,000	4,602,629	4,724,216
Virginia	12,047,000	14,757,000	23,935,000	25,551,000	27,177,844	30,187,629
Washington	12,175,000	14,549,000	21,835,000	23,309,000	28,578,818	31,743,751
West Virginia	5,367,000	5,635,000	5,900,000	6,084,000	8,305,603	9,225,399
Wisconsin	8,462,000	10,338,000	17,451,000	19,186,000	21,139,124	23,480,157
Wyoming	1,224,000	1,285,000	1,285,000	1,285,000	2,277,436	2,529,649
State total	632,041,000	753,834,000	1,116,209,000	1,187,158,000	1,280,732,952	1,374,307,953

Mr. HATCH. Mr. President, yesterday, I was pleased to join with my colleague, Senator KENNEDY, as an original cosponsor of S. 1306, the Alcohol, Drug Abuse and Mental Health Administration Reorganization Act of 1991. I want to commend Senator KENNEDY for his willingness to work with me in developing a bipartisan bill that effectively reauthorizes many of the programs administered by ADAMHA.

Through combined education, interdiction, and treatment efforts by all levels of the public and private sector, we have seen some successes in the war on drugs. Recent studies by the National Institute on Drug Abuse [NIDA] have shown that casual use of all drugs declined last year among every age group. But, a significant proportion of our population is using illicit drugs and alcohol to excess. In fact, although casual use is declining, there is a more intense use of hard-core drugs by those who are addicted. For example, in 1988, an estimated 862,000 used cocaine once a week or more, compared with 647,000 in 1985. And, there are some reports that this number is grossly underestimated.

These statistics show that there is a need to focus more of our efforts on treatment services that are the only hope for heavy users to break these self-destructive behaviors. I am pleased that the legislation being introduced today will go a long way in ensuring improved research and better service delivery.

This legislation addresses a concern that many have had over the separation of the substance abuse and mental health programs from the mainstream health care system. As part of the reauthorization, we are proposing that the three research institutes currently at ADAMHA be transferred to the National Institutes of Health [NIH]. This includes the National Institute for Alcohol Abuse and Alcoholism [NIAAA], the National Institute for Drug Abuse [NIDA], and the National Institute for Mental Health [NIMH]. These institutes will remain intact and separate. They will keep the same authorities, and the existing peer review processes will remain the same.

ADAMHA will then become ADAMHSA, the Alcohol, Drug Abuse, and Mental Health Services Administration. The substance abuse service programs not moving to NIH will be the Office of Substance Abuse Prevention [OSAP] and the Office of Treatment Improvement [OTI]. A new Office of Mental Health Services will be created.

I am very excited about this change which will allow for enhancement of research capabilities as well as strengthened prevention and treatment services. It is crucial that substance abuse and mental health disorders be no longer separated from the mainstream health care system.

Other highlights of this legislation include improvements in the Alcohol, Drug Abuse, and Mental Health Services [ADMS] block grant. The integrity of the block grant will be maintained by the limited number of new categorical programs. And, I am pleased that under the new proposed block grant formula, Utah will be getting an increase of $200,000 if an additional $100 million is appropriated.

Also, included is a provision to require that States develop, submit, and implement a State treatment action plan that will show where they intend to focus their efforts. States must be held accountable for the hundreds of millions of dollars of Federal funds they receive for treatment services. This will ensure that Federal funds are being used to address national priorities such as treatment for adolescents, women, pregnant addicts, and drug users at risk of or suffering from HIV/AIDS.

This bill also includes recommendations made by President Bush and the Office of Drug Control Policy. Under their leadership, we have provided for drug treatment capacity expansion programs and maintenance of effort in the ADMS block grant by each State.

Mr. President, I urge all of my colleagues to support this important legislation. Senator KENNEDY and I have worked hard to develop a bill that best reflects the current thinking on the needs of those who are suffering from these serious addictions and mental health disorders. I urge you to support it.

TRIBUTE TO ROD DEARMENT

Mr. DURENBERGER. Mr. President, today marks the end of a chapter in the professional life of my friend Rod DeArment. He is stepping down from his position at the Labor Department, and he will be missed.

I toiled in the vineyard with Rod when he served as staff director of the Senate Finance Committee. He also served, well, Senator ROBERT DOLE as his chief of staff. He worked with Labor Secretaries Elizabeth Hanford Dole and Lynn Martin as the Deputy Secretary of Labor at a time when the Department was stepping up enforcement efforts of the Occupational Safety and Health Administration and of child labor laws.

Most recently, Rod's work involved him in the administration's efforts to gain "fast-track" status for the proposed North American Free Trade Agreement. He also had an interest in pension issues. Rod took the time to develop fellowship with others in the Department and to impress all with his very special spirit.

Rod DeArment is a young, talented man. After a short break, he will go on to practice law again. Or, he will return to public service. Whatever he decides to do, Rod will be successful, I am sure. I wish him Godspeed.

BALTIC FREEDOM DAY

Mr. D'AMATO. Mr. President, I rise today to pay tribute to the Baltic people in their quest for sovereignty from the Soviet Union. June 14, 1991, was the 15th anniversary of the first Baltic Freedom Day which commemorates the first Soviet deportation of Baltic citizens to Siberia. On the night of June 14, 1941, 60,000 Baltic citizens were deported from Lithuania, Latvia, and Estonia. This date has become a call for unity in the Baltics.

In recent months, Soviet crackdowns in the Baltics have taken lives and property and have dimmed hopes for the liberty that the citizens deserve. President Bush's proposed $1.5 billion in credit guarantees to the Soviet Union should be contingent on the granting of rights to the people of the Baltics. I would like to mark this anniversary of Baltic Freedom Day by calling for renewed support for the Baltic people and their calls for independence.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. BURDICK). Morning business is now closed.

SURFACE TRANSPORTATION EFFICIENCY ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 1204) to amend title 23, United States Code, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Byrd amendment No. 295, to allot bonus apportionments based on the level of effort shown by each State.

(2) Byrd further modified amendment No. 296 (to amendment No. 295), of a perfecting nature.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I rise with the large optimism that is perhaps warranted by the lovely prayer we had this morning from Brother Boniface McLain of the Conception Abbey in Missouri, to say that this day gives every prospect of seeing the conclusion of our labors on the Surface Transportation Efficiency Act of 1991.

The Senator from Idaho, my able and learned comanager and I, have been on the floor almost 2 weeks. We have had a lively discussion of the bill itself, which we think to be of large importance. It is the bill we said 4½ years ago would be coming, the first bill of the postinterstate era, an era that lasted from 1944 really to about 1994, literally, when we will have the last bit of pavement laid—a half century. It is a long era in the history of the world and it is a quarter of our history.

In the course of that time, a theme of our measure, Mr. President, a theme well-known to our revered chairman, who happens to be presiding, is that while we achieved a magnificent engineering feat in creating that transcontinental system, we spent much of the money disastrously. President Eisenhower very personally wanted to see this system built after his experience in an Army exercise in 1919, in which the problem was to assume the railroads had been destroyed by enemy action or sabotage, move a convoy of trucks from Fort Meade in Maryland to San Francisco. The trip took so long that Lieutenant Colonel Eisenhower reverted to his peacetime rank of captain before he reached the coast. He found that you could make 7 miles an hour and that was it, and that was not going to do. And under President Eisenhower, the Interstate System—it had been first proposed by President Roosevelt—became the National System of Interstate and Defense Highways. That defense priority warranted expenditures that would not necessarily be cost-effective just as transportation.

In any event we did it, and we spent most of the money in our cities. Not all of it was spent well; in fact, most of it was spent disastrously. As the Senator from Connecticut remarked in last week's debate, in the course of it we began to show some of the signs of a public sector that is working at minimal efficiency. Public sector goods are typically seen as free goods. Unless it is high levels of morale and supervision and interaction with the public—the way school boards, for example, provide schools—ideas of cost effectiveness and productivity begin to seep out of the system and you begin to have a disorder which I have described as public sector disease.

Public sector disease is a fairly widespread phenomenon. You cannot find any country in the world that does not have it somewhere. Where the economy is entirely in the public sector, you get Albania or the Soviet Union.

There are a number of features of public sector disease which we have never talked about systematically in the Senate, as far as I am aware. We are trying to do it for the first time here. We have been talking about it for 10 days. I have never seen the term in print yet, but we did get it on the MacNeil/Lehrer television show twice, so it may be out into the public. It will take about 10 years for an idea of this kind to make its way out. Ten years is not long. We have been around a long time. We will be here 10 years—not us individually perhaps, but the Senate will be. The specie aeternitas it is described in theology, but little less than eternity, let us hope.

The first characteristic of public sector disease is best shown by analogy: bronze disease. One of the symptoms that a diagnostician would look for first is a disastrous plunge in productivity. That is what functioning economies must find, growth in productivity.

The first thing we found when we asked our Chairman of the Council of Economic Advisers—our very distinguished and learned friend, Dr. Michael Boskin—about what is happening to productivity in transportation, he reported to us that "output per hour in the transportation sector broadly defined, rose by only 0.2 percent annually from 1979 to 1988." Mr. President, that means there has been no productivity. It takes 350 years for 0.2 percent to double itself. That is a medieval rate of growth, a rate of growth of the European economy say from the year 1000 to 1350. Productivity disappeared.

A second thing we encounter is huge disparities between demand for the free goods and supply. As far back as 1981, Professors Meyer and Gomez Ibancz observed that the Interstate Highway Program and the Urban Mass Transit Act of 1964 were supposed to end congestion. Yet there seems to be more congestion.

Indeed, a nice description was given us by Prof. Steven A. Morrison of Northeastern University, who said our highway congestion has the same basic cause, although a more ready solution, as the long lines in front of butcher shops we see in news reports from the Soviet Union. "Both reflect shortages induced by prices set too low." Low prices, meaning no supply comes to market and the great demand means you wait 3 hours to get into a sausage shop and there is no sausage when you get there.

A third symptom of public sector disease is the seeming inefficiency of vast public enterprise investment. Over and over we have heard on this floor about our crumbling infrastructure, a description of interstate routes that are rutted, ribboned. This system has a median age of 18 years. If it is crumbling already, it is because the people who built it did not have the necessary incentive to produce a product that would last. That is a disease. It is a disorder.

Finally, Mr. President, a further indicator of public sector disease is even the public sector entity responsible for the activity does not know the prices it is ignoring.

Hence the endless tables running around here of what is going on. Nobody downtown knows. The main function of the Department of Transportation—this would be predicted, I can say to you, sir—is to prevent entry of new modes of production into the existing system.

That is characteristic of the monopoly instincts of the public sector. We have heard that debate here. We are trying to break out of it with high-speed rail or mag-lev.

I see my friend from Rhode Island wants to speak. I want to therefore yield immediately.

But I want to make one point. The supply siders came to this floor and talked theory all the time. People thought it was fine. So I am going to do the same.

As a level of theory, you would have predicted that the creation of the Department of Transportation would put an end to all innovation in transportation technology. I would say that is exactly what happened.

Twenty-five years ago we created the Department of Transportation, and it has not permitted a new mode of transportation to enter our system since. That would be the characteristic activity of a situation where you have a large public sector that has begun to decline, and arrangements are made not to hide the decline, but to continue it.

Mr. President, that is enough for openers. It is going to be a good day. Before it is over we are going to have a bill, and none would be more responsible than the ranking member of our committee, the distinguished former Secretary of the Navy, former Governor of the State of Rhode Island, a man who has handled all of these things in his time, the very able and learned Senator from Rhode Island.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, first of all I want to thank the distinguished senior Senator from New York for those kind comments. As always, I want to pay tribute to him as the principal author, the guiding light, in connection with this surface transportation bill that is before us today.

Senator MOYNIHAN has done yeoman work. He has kept his eye on his objectives. This bill is an extraordinary achievement. It in essence really changes the course of direction that we have had on surface transportation from prior years.

This legislation says that the money does not all have to be spent on highways, that it can be spent on other methods of transportation. Indeed, up to half of the money can be spent in this discretionary fashion as the States so decide, whether it is for highways, whether it is for buses, or mass transit forms, subways, whatever it might be. That is really a very, very unique approach, something that we have been working for, for many years.

It is Senator MOYNIHAN that truly brought it to fruition, operating and working in conjunction with our distinguished chairman, Senator BURDICK, and, of course, Senator BAUCUS and myself have been there. But the laboring law and most credit has to go to the senior Senator from New York. I am very, very grateful to the leadership that he has given.

Mr. President, I would like to say that this is a very good bill. Some have quarreled over the spending. Well, just look. Let us look at the total bill. It provides, authorizes spending in excess of $110 billion over the next 5 years. This compares with the spending over the previous 5 years of $85 billion. So what we have here is a 30-percent increase Mr. President. Except for Head Start I do not know if there is a single program that we have dealt with in this legislature, in this Congress, in this Senate, that has seen the type of increase such as we have in this program of a 30-percent increase over prior years.

The current amendment before us, the amendment from the distinguished senior Senator, and our former leader, and the chairman of the Appropriations Committee, is the so-called Byrd amendment. This amendment would propose spending another $8.2 billion in the transportation program, raising the total to nearly $120 billion over the next 5 years. This would be more than a 40-percent increase over what we have had in the previous 5 years.

This money is labeled as "found money." It has been discovered. So now it can be spent, $8.2 billion in budget authority that conforms to the budget agreement within which we are operating. But the only thing it seems to me, Mr. President, that is that has been found is budget authority. The bill we have before us does not deal with outlays. This means that if and when this $8.2 billion is actually spent the additional outlays will have to also be found.

There are only two places to find it. First, the deficit that we are operating under can be increased. Now currently we are running a deficit in this country of $200 billion. There is not a Senator on the floor of this Senate that has not decried the size of these deficits—I, for one, and I am confident others likewise. That is one thing we can do—increase the deficit.

Another approach is to cut other programs to offset an increase in spending. In fiscal year 1993, the first year that this amendment would be applicable, the programs that would have to be cut in order to pay for this amendment would be those that fall under the so-called domestic discretionary cap. These might include health care, education, nutrition, housing, or environmental protection. In the following fiscal years after 1993, in other words starting with 1994 and beyond, all Federal programs would be vulnerable to cuts in order to pay for this spending. These include defense and foreign aid.

Mr. President, the question before the House it seems to me, this has not been touched on, everybody is delighted to have the increased amount of money available. But it seems to me the question before the House is do we really want to set up this competition between programs? Without the amendment we get a 30-percent increase in what we have for our highways. Do we really need an additional $8 billion that will have to come out of any number of areas that we call priority?

Some argue that the highway program is supported by user fees and that all the money collected from these fees should be spent on highway and mass transit projects. Since there is a balance in the highway trust fund, there is a perception out there that this balance is being hoarded to make the deficits that our country runs look smaller. In fact, the deficits are figured in the difference between receipts, money that comes in, and outlays, money that is spent.

Highway outlays exceeded highway user revenue. In other words, the amount we are spending from the trust fund exceeds the amount that has been brought into it, in almost every year in the past decade. These are expected to continue over the period 1990 to 1995.

What does all of this do? The net effect is to increase the deficit. In other words, Mr. President, we are spending more from the trust fund than we are taking in. So spending more of the balance in the trust fund would mean spending more from the fund than it receives in revenues, thus the budget deficit would increase by the amount of the additional outlays. I think everybody can understand that. That is not too complicated.

Mr. President, I think our attention should focus on the relative merits and funding levels of transportation. Do we want transportation, or do we want other spending programs? I think that is what we ought to consider. I do not think we ought to concentrate on the unspent balance in the trust fund.

Decisions on the benefits of transportation spending as with other Federal spending should be made on the basis of benefits to be gained from this spending.

Many feel that spending it on the highways is improving the infrastructure of the country, and is making us more competitive. It is a good way of spending this money. But I think we ought to weigh that against spending it on highways, or the negative effects of not spending it somewhere else as is going to arise in future years.

Let us just look at what $8.2 billion does. Divide $8.2 billion by the number of representative districts in the Nation, in my State there are two representative districts—New York, obviously far more, West Virginia, more, Nebraska, more. But you divide it by the 435, and it comes out to $18,850,000 in every representative district in the country. That is what $8.2 billion does.

If you divide the number of representative districts that we have, 435, into the $8.2 billion, it means that in every single representative district in the country, it amounts to $18,850,000. In every representative district in the country, that is, the States are now going to receive under the bill, as it came to the floor, 30 percent more for highways than they previously received. Do we want this additional money to go into highways, or are there other demands that should be met? Or should we just not spend it at all? That is a thought that ought to come before the House. What is wrong with saving some money once in a while?

Mr. President, in every study of competitiveness that has been made, whether it is the Young report or any of the other reports, our competitive position, vis-a-vis Japan and the other nations, in the top three items, invariably, two of those mentioned are the following: The size of the deficit in the United States and, thus, the resulting high interest rates that we run. That is one point. The other point is, the lack of educational skills that our people have. Every competitiveness report that comes up stresses the need for improved education in our Nation. In my State, it is clear that we could spend $18,850,000 in each representative district, of which we have two; namely, $37 million, in improving our school buildings and all kinds of educational pursuits.

Sure, we would like it for highways. Sure, we get something increased out of the amendment. But, Mr. President, it seems to me that we have to weigh our priorities.

Mr. President, I also want to point out that coming down the pike are unexpected expenditures. What is on the front page of today's paper? The Secretary of the Treasury says he anticipates there will have to be a bailout, additional money put in what? The FDIC. We have all been down this track before. They start talking about a little money. How much was it for the S&L's? Just a little to start with. And on and on it has gone. So I suspect that it might well be with the FDIC bailout.

So there are other unknown expenditures that come down the pike, whether it is Desert Storm, or an unexpected hurricane, or whatever it might be, or these problems with our banks and S&L's.

So, Mr. President, I hope everybody will give very careful thought to the proposal that is before us that we are going to vote on, probably before noon today, within 1 hour 15 minutes. If not, it will certainly be after the senatorial luncheons that will take place.

Mr. President, I think that it is wonderful to have more money for highways, and I point out that this bill we have before us gives that money—30 percent more. Now this amendment will give us additional to that $8.2 billion. But it does not come from the sky. It will come out of other programs somewhere down the line. That is the question that has to be before us, Mr. President. I hope everybody will give that extremely careful consideration at the time that we vote on the amendment of the distinguished Senator from West Virginia.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, the very distinguished Senator from Rhode Island has raised some important questions. He has said, essentially, that to spend money on highways may be taking it away from education or other more important programs.

I am not quoting him exactly. I hope I am not misrepresenting him or the thrust of the statement.

He also indicates that it might be better to just leave the money in the trust fund and let it go toward ameliorating the deficit. I would like to address my comments to these points, because they are floating around the Chamber and around the Halls, and as the distinguished Senator from New York, the very able Senator from New York—who, in my judgment, would have graced a Senate seat in any period of this Senate's history, and who would have been a credit to the Senate in any period of its history, including the First Congress. I have no problem in viewing him with Oliver Ellsworth, Maclay, Morris, and others. There and then I think he would have made a contribution.

I could see him even at the Constitutional Convention before that, or in the Continental Congress. I can see him in the Senate in 1820 when the compromise was reached, or in 1850, or in the Reconstruction Period. I think that he makes a major contribution to this Senate. I always enjoy listening to the senior Senator from New York speak. I always learn something.

He has referred to the numerous tables that are floating around the Hill. That is one of our problems. We have so many tables that we are all confused by the tables. Everybody calls downtown and gets the Federal Highway Administration to produce a table. We even produce tables ourselves. So as Irvin S. Cobb was reported to have said, "If I wanted to go crazy, I would do it in Washington, because it would not be noticed." In this city and this Chamber and the other Chamber and all over Washington, we are noted for things of that kind.

I intend to address my remarks to a broader perspective than just the points that have been raised by the distinguished Senator from Rhode Island. But suffice it to say this, on those points: "Thou shalt not muzzle the ox when he treadeth out the corn."

What I am saying is, with respect to leaving this money in the trust fund, we will be muzzling the ox when he treadeth out the corn. This money is to be spent on infrastructure—roads, and mass transit; that is why it is collected at the gas pump. That is why the money is collected. It is put into the Federal highway trust fund. It is not put into that trust fund for education, WIC, child nutrition, parks, or for U.S. forests. It is put into the Federal highway trust fund. It is not called the miscellaneous trust fund. It is called the highway trust fund. That is what it is there for—highways, bridges, mass transit.

So to leave it there, is to not use it, and is to muzzle the ox when he treadeth out the corn.

Infrastructure is the ox that treadeth out the corn. It enables this country to be more competitive, more productive. It strengthens the economy of the country.

With respect to other programs, such as education, I take no back seat to any Senator in recognizing the need to educate our citizenry.

Disraeli said "Upon the education of the people of this country the fate of this country depends." I say the same thing. The fate of our own country depends upon the education of our people.

Just throwing more money at education, however, is not going to educate our people, necessarily. But we do have to spend more money. There is not question about it.

Some other things I would advocate. But this is not the place for me to talk about them now. Nobody attaches a higher degree of importance to education than does this Senator from the mountain State of West Virginia.

But how are we going to find more dollars for education? If we let our infrastructure continue to unravel—and this is not to say the bill is not a good bill; this is not to say that it is deficient. It does go a long way.

I have only the highest admiration and the greatest respect for the very distinguished Senator from New York [Mr. MOYNIHAN] and the other members of that committee, and for their work done in producing this bill. If we do not build up the infrastructure of this country, we are not going to be able to compete in world markets. If we do not stimulate the economy, if we do not increase and accelerate our national growth, if we do not improve our Nation's productivity, then we are not going to be able to produce the money for the human needs of the country, for instance, the education of our young people.

Let us begin at the beginning. The Bible says "In the beginning." One cannot go any farther back than that. So, we begin at the beginning. Let us build the country.

Francis Bacon said there be three things which make a nation great and prosperous: a fertile soil, busy workshops, and easy conveyance for men and goods from place to place.

It will not do us very much good to have busy workshops if we cannot distribute the goods, the iron and the leather and the wood and the coal, once they are produced in those busy workplaces. It will not be long until those workshops will no longer be busy.

Distribution is one of our geographical problems, and roads are a major factor in distribution. Yes, we want to talk about priorities. I am for putting the money where our mouth is.

Mr. CHAFEE. I wonder if the distinguished Senator will yield for a question, because nobody knows more about the budgetary process than the distinguished senior Senator from West Virginia. And I have made a statement here which I believe is accurate, but I would appreciate it if the Senator will be kind enough to respond to see if my thesis is right.

Mr. BYRD. I may be able. I will try. I am glad to yield for that purpose.

Mr. CHAFEE. OK. Here is the problem as I see it. Under the Senator's amendment, in the first fiscal year, 1993, which is the first year the amendment will be applicable, the program would have to be cut in order to pay for this program and those programs.

Under the budgetary system we now have set up, in order to pay for this program, the cuts would have to be made under the so-called domestic discretionary cap. In other words, to get his extra money for his first payment out under the Byrd amendment, you have to get the money from someplace that is under the cap. Therefore you have to look around amongst health care, education, nutrition, housing environment, and so forth. I am just talking 1993 now.

Now, that is the problem of the Senator's amendment as I see it. I will not get into the question of the increase in the deficit, but I will just stick to that one question. Then I would follow up with what happens in the following fiscal years. But I will just stick with that first point right now.

Mr. BYRD. The Senator is saying in order to pay for the results of this amendment in 1993, the money would have to come out of other programs?

Mr. CHAFEE. Because of the cap situation. Unless, of course, the cap is changed. But that is not proposed in the amendment.

Mr. BYRD. The Senator is inaccurate in this. The amendment is within the budget resolution that the Congress has already adopted. And, as a matter of fact, the amendment does not meet the full-blown resolution as it affects Federal highways and infrastructure.

The Appropriations Committee will set the obligation limits and, in my judgment, they will not come out of education or other important programs. As I have already said, the money is put into the highway trust fund, and that is what we are talking about. Senators have been saying why do you not spend the money in the highway trust fund? That is what we are doing in this amendment.

May I say to the distinguished Senator, as the chairman of the Appropriations Committee I have not been niggardly in my allocations for education. I am in my third year as chairman. The first year, for fiscal year 1990, the allocation for the Labor-HHS Appropriations Subcommittee was $3.4 billion. I said to the appropriations subcommittee chairman of Labor-HHS, "Here is your allocation, and it is $3.4 billion above the President's request." Then the next year, fiscal year 1991, I said, "Your allocation this year will be $4.184 billion over the President." For the allocations I have just made for fiscal year 1992 I said to that subcommittee chairman: "Your allocation this year will be $3.16 billion over the President's request."

If there is any subcommittee among the 13 that has really come out better on 602(b) allocations than any other subcommittee, it is the Labor-HHS Appropriations Subcommittee.

Of course, I cannot allocate as much as I would like. We do not have all the money we need. But I have been very conscious of the needs of that subcommittee because when I went to the summit I did not just talk about roads, mass transit, railways, waterways, airports; I also talked about the human side of the infrastructure, the education of our young people and health services, law enforcement, and the like.

And so, in making the allocations to the various appropriations subcommittees, I have been very cognizant and conscious of the needs of the Labor-HHS Appropriations Subcommittee. On my own subcommittee, Interior, I cut it this year by over $700 million, $705 million. Why? In order that that money might go for infrastructure, human and physical.

Mr. CHAFEE. Mr. President, could I just say one thing?

Mr. BYRD. Yes.

Mr. CHAFEE. Mr. President, I do not think anybody here has supported education more than the chairman of the Appropriations Committee, the distinguished senior Senator from West Virginia. I think he knows that I was not suggesting that education would necessarily have to suffer under the amendment.

My point—and I am not going to belabor it. I think I have raised my points in the course of the questions and discussion, and I did not even get into the years beyond 1993, the years 1994 and 1995.

I thank the Chair, and I thank the distinguished Senator from West Virginia.

Mr. BYRD. Mr. President, I thank the distinguished Senator. May I say that highways will compete with all other programs each year, and the priorities and levels of funding for all programs will be set each year based first on the 602(a) allocation, in the budget resolution, and secondly, the 602(b) allocations, which I am able to parcel out among the various subcommittees of the Appropriations Committee.

But this amendment does not take money away from education or WIC or child nutrition or research or anything else.

Mr. SYMMS. Will the chairman yield for a question?

Mr. BYRD. Yes.

(Mr. LIEBERMAN assumed the chair.)

Mr. SYMMS. Mr. President, the question I pose to the chairman is—and I might first say, Mr. President, that I rise as one from this side of the aisle in support of his amendment. I might also say that there are some Senators who are saying that this should have been done in the committee. But I think the chairman knows that it could not be done in the committee, because we did not have the ceiling when we passed the bill through the Environment Committee. We put in every dollar that the budget resolution would allow us. Since then, those numbers have changed, and I think the chairman knows that.

But my question is this: All parts of the highway bill come under the obligation ceiling except for emergency relief funds, for obvious reasons, which are what could happen if there is a tragedy or a flood or something. You never know how much that will be.

The minimum allocation, I am told by our economists on the Budget Committee, with respect to the 5-year period of the Byrd amendment and this highway bill, that whether or not the minimum allocation is under the obligation ceiling, it is rather insignificant.

But the question to the chairman is: Do you believe, in terms of good policy for the overall budget, it would be advisable for us to amend the minimum allocation funds to put them under the obligation ceiling on highways also for longer-term planning?

Mr. BYRD. Mr. President, in response to the distinguished Senator's question—and it is a legitimate question—I do not feel that I, as a Senator who is not a member of the authorizing committee, I do not feel that I should attempt to suggest to the authorizing committee the answer to that question.

My amendment does not go to the bill. It only goes to the $8.2 billion that are not utilized up to the full limit of the budget resolution's authorization. So I do not want to get into discussions about what ought to be done to the bill itself. I do not feel that I am competent to do that. I am not a member of the committee, and I have not made a study of that. So I beg the Senator not to feel that I do not want to answer this question.

Mr. SYMMS. I thank the Senator.

Mr. MOYNIHAN. Mr. President, does the Senator from West Virginia have the floor?

Mr. BYRD. Yes, I do have the floor. I would be glad to yield to the Senator.

Mr. MOYNIHAN. May I just make the point that the budget conference report which contains the higher highway numbers was adopted after the committee reported the surface transportation bill. We would not have been allowed under the rules to provide more than was then available.

We looked to the President pro tempore and the chairman of the Committee on Appropriations to respond to the fact that there was more money available after our bill came to the floor, and he is now doing that.

Would it be inappropriate for me to say: Why does not the rest of the Senate respond as well by voting? I would like to vote for the Senator's amendment. And I see this old marine saying "Semper Fi."

Mr. SYMMS. Vote.

Mr. BYRD. I am ready to vote. I think it is important. But, Mr. President, in the first place, we do not have an agreed-upon hour to vote. There is no way we can force a vote except on a motion to table at this point. There has been no cloture invoked.

I was somewhat stimulated by the remarks and the very appropriate questions raised by the distinguished Senator from Rhode Island. But right now, Senators are waiting on various tables. And the distinguished Senator from New York has already made a good point, that there are too many tables already. But we are still waiting on some more tables. I am not waiting on any tables as far as my amendment is concerned, and the modification thereof.

But I think we need to take a look at why we are here. Why are we even discussing this matter? Well, we are discussing it because it is an extremely important matter, and second because the Senate should focus on it by virtue of the bill that is presently before the Senate. But in discussing it, I think it is important to discuss how we got here, also. The American people are entitled to know why we are focusing on this important matter. And I am so bold as to venture to say that they are in accord with us.

We all speak of the American people, and each of us claims to know where the heart of the American people lies, and each of us claims also to be swimming in the same direction of the American people and singing out of the same hymn book. The American people are asking why are we not doing more about our highways.

Therefore, let me, in attempting to get away from the simple details for the moment, and tables—we are immersed in tables; the Senate is awash in tables. Everybody has a table. Some have more tables than others. But let us just for a moment look at the broad picture, and try to get an understanding in the context of the Nation and its future. I hope to be able to make a few comments in that regard.

I am a great believer in history, and even on a highway bill, it seems to me that to look at a bit of history might be a good thing.

Cicero, who was one of the great orators in the Roman senate, said that one ought to be acquainted with the history of past events. "To be ignorant of what occurred before you were born is to remain a child, for what is the worth of human life if it is not woven into the life of our ancestors by the records of history?"

Herodotus, who was a great Greek historian who lived circa 484 B.C. to 424 B.C., spoke of the rise of the Persian empire. And he said that Darius I paid great heed to the roads of the empire. Herodotus said that the road connecting Babylon with Carchemish, with a spur down to Nineveh, was extended westward and southward to Egypt and that the road between Nineveh and Ecbatana was rebuilt, as was the road connecting Ecbatana with Sardis, with a spur down to Susa. There was a road running from Sardis to Smyrna, and Babylon was connected with a highway to the heart of Media.

So, Darius, who acquired his throne—according to Herodotus—by the neigh of a horse, believed in extending, improving, and rebuilding the roads of the Persian empire.

The Cathaginians and the Egyptians and the Etruscans built roads. The Romans were the truly great roadbuilders. They knew the importance of laying a solid base, and they knew how to spread a pavement on that base, a pavement of flat stones. They also knew that a road needed a crown, that it must be higher in the middle so that the water would drain, and they knew that there needed to be ditches alongside to carry the waters away.

So they built their roads. Most Senators have probably been on the Appian Way. The Appian Way was begun in 312 B.C. by Appius Claudius Caecus, and it extended 350 miles from Rome to Brundisium, an Adriatic seaport in southeast Apulia. Many of the old Roman roads and bridges are still standing. We can cross bridges in Rome that have been there hundreds of years, a thousand years and more. The Romans knew how to build their roads.

The British knew the importance of roadbuilding because any government—such as the British, the Roman empire—the government knew the importance of extending these highways into the uttermost parts of the empire so that they could move their armies quickly. That is important to us, too: national security. If we do not have highways and roads over which the big trucks and buses can run, we will not be in a very good position to respond to a challenge to our national security.

The Romans knew that and the British knew that. That is why the British extended the roads into the remote parts of India. Roads have always been important.

Hannibal said: "I will find a way or make one" in considering the passage of the Alps.

The other day I spoke of Napoleon, who said, "There shall be no Alps." And he built his perfect roads, climbing by graded galleries the most dangerous precipices, until he had opened all of Italy to Paris, as much as any other French city.

But not only were the Romans and the Persians interested in roads, they were interested in bridges. Xerxes knew the importance of bridges when he threw pontoon bridges across the Hellespont when he sought to make war on the various Greek cities. He entered Athens and burned the houses and temples.

He had those two pontoon bridges. And when he fought the battle at Salamis in 480 B.C., he lost that battle and he scurried back to those pontoon bridges, wanting to get across before his armies should be outmaneuvered and blocked from returning home. His bridges were important.

Our early colonial ancestors also knew the importance of roads and bridges. In 1811, the Old Cumberland Road was begun, called the National Road. Settlers who were moving by the thousands to the West. The Northwest Territory did not have good links to the East until they built the National Road through the mountains, to Wheeling, WV, and on westward to Vandalia, IL, and later to St. Louis, and I believe it goes now to Salt Lake City. I am not absolutely positive.

There is a monument to Henry Clay, standing on the highway near Wheeling, WV, out of respect for his services in getting Congress to appropriate moneys for the National Road.

Clay was the prime builder of the Whig Party. The Whig Party lasted, probably, less than 30 years, and it is not very well remembered in American history. It was one of the most unlucky parties in American history. It was able, from time to time, to control one or both Houses of the Congress, but it was only able to elect two Presidents, William Henry Harrison and Zachary Taylor, and both of them died very early in their terms.

So the party that could boast the giants, Clay, Calhoun, and Webster, was not able to elect any one of them to the Presidency, even though each of them prodigiously tried to become President.

But Clay fostered the "American System." Clay's "American System" stood for protective tariffs, a national bank, and Federal support of internal improvements. That is what we are talking about here, internal improvement: highways, bridges, waterways, airports—they did not have airports then, but internal improvements today encompass all of these.

So Clay's "American System" promoted internal improvements. The Nation has built our bridges and our highways so that, today, if we fly over the country, we will find a network of concrete and asphalt ribbons going in every direction from coast to coast.

Isaiah said:

> Prepare ye the way of the Lord, make straight in the desert a highway for our God.
>
> Every valley shall be exalted, and every mountain and hill shall be made low: and the crooked shall be made straight, and the rough places plain:

And the glory of the Lord shall be revealed, and all flesh shall see it together * * *

We Americans made the rough places smooth. We filled in the valleys. We have lowered the mountains and the hills. We have spanned the mighty rivers. We have crossed the Alleghenies, the Great Plains, the Rockies, and extended our great highway system from the Atlantic to the Pacific and from the Canadian border to the gulf.

We have fulfilled that prophecy of Isaiah. Webster, in his second speech on the Foot resolution—the resolution that was introduced by Samuel Foot of Connecticut, had to do with limitation on the sale of western public lands, and Hayne of South Carolina used that resolution to get into his discussion of the nullification doctrine. If Senators think that Robert Byrd is making a long speech, Webster spoke for 2 days in his second speech on the Foot resolution in January 1830.

Webster said this: When the mariner has been tossed for many days in thick weather, and on an unknown sea, he naturally avails himself of the first pause in the storm, the earliest glance of the sun, to take his latitude, and ascertain how far the elements have driven him from his true course. Let us imitate this prudence and, before we float farther on the waves of this debate, refer to the point from which we departed, that we may at least be able to conjecture where we now are.

So, like Webster, I will now pick up at the point where we departed, and that point was the budget summit. We are here today discussing a matter that has its roots in the budget summit of last year. That is one way of looking at it. It has deeper roots than that, as a matter of fact, but it also has its roots in the budget summit.

There are those who may say, what does Robert Byrd have to do with the highway bill? Why is he involved in it? He is not on the committee, and I full well know that. So I come with some trepidation into this arena. But I do know the importance of infrastructure to this country, and I know the Government has been shortchanging the country on its infrastructure in recent years.

I know that between 1981 and 1990, the budget grew from $678 billion to $1.574 trillion. And I know that that whole budget, in increasing from $678 billion to $1.574 trillion, increased by $896 billion, while the domestic discretionary spending portion of that budget grew only from $157 billion to $199 billion. That is what we have to work with this year, $199 billion. Domestic discretionary grew only $42 billion while the entire budget increased by $896 billion.

In other words, domestic discretionary grew 26 percent while the full budget grew 132 percent. That is what we are talking about right now, domestic discretionary spending—investing in ourselves, not in Israel, not in Egypt, not in the Soviet Union, not in Central America, not in South America, but in the United States of America.

Clay said, "I know no North, no South, no East, no West." That is what we are talking about here. Not the infrastructure of West Virginia only, but of the Nation.

Oh, they say, he is trying to get eveything he can for West Virginia. I would not be worth my salt if I did not attempt to represent the people of West Virginia, but I am also thinking of the Nation. Think of it! Domestic discretionary spending pays for our highways, our waterways, our airports, our education, our research, our parks, our war on crime, our law enforcement agencies, and so on was cut from 23.1 percent in 1981 of the total budget to 12.6 percent today. That is what I am talking about.

They may call me provincial if they wish. I do not care. It does not make any difference. As I believe I said earlier, if I wanted to go crazy, I would do it in Washington because it would not be noticed.

That is what I am talking about: Our country! At the summit, I made this plea and I have never deviated one centimeter from it. Napoleon would shorten a straight line. I have kept the straight line. I have tried to live up to the budget agreement. But at that summit, I stood for infrastructure, I stood for infrastructure, and I stood for infrastructure; physical and human, not just bridges and highways but also building our human potential in this country. That is why I am involved here in offering this amendment. There are $8.2 billion which, as the distinguished Senator from New York [Mr. MOYNIHAN] has already explained and the reasons for it, have not been utilized here.

I am still listening to the echoes from the summit. And I say let us use that $8.2 billion on infrastructure. It does not break the budget agreement. It does not bust the budget. Oh, someone says, maybe we can spend it on something else, let us wait, let us wait and determine our priorities.

What is more important than building the infrastructure? As Francis Bacon said, there be three ways which make a country great and prosperous. That may be just a little off. But he did say the three ways were, "a fertile soil, busy workshops, and easy conveyance for men and goods from place to place." He was later impeached and sent to the Tower, but not for saying that.

I am saying, let us put the money where the priority ought to be. If we do not keep our forges and our mills and our factories running, we are not going to have busy workplaces, and without adequate infrastructure, their products cannot be transported. We have to provide infrastructure in order to increase the Nation's productivity. Any company that does not invest in plant and equipment will soon go under, because it will not be able to compete. Plant and equipment will erode and become timeworn and the company will be forced out of business.

I have already demonstrated, by the figures I have used, that our country's plant and equipment are eroding and we are not repairing it. That plant and equipment is the infrastructure of the country. That is why I am here today talking about using $8.2 billion more for infrastructure.

Mr. President, I want more money for education. I am going to do everything I can, within the 602(a) allocation, to find moneys for education, but we only have so much money to go around. We will not have the money if we do not strengthen this country's economy and if we do not make this country more competitive. We have already seen our trade balances stultified. If we do not build up the infrastructure of this country, we cannot stimulate the economy, we will not be able to increase productivity. Think of it! I am told by the Department of Transportation that we waste—these statistics are a year or two old so they are perhaps much more graphic now—waste 1.38 billion gallons of gasoline annually because of traffic congestion and traffic tie ups and we waste 1.25 billion hours because of those same traffic tie ups.

If gasoline were only $1 a gallon, that would be $1.38 billion wasted annually. We are also talking about hours away from the shop, hours away from the factory, hours away from the office, hours that could be utilized to increase the productivity of our workers. As we increase productivity, we make ourselves more competitive. We are able to lower the prices of our goods and compete with other nations. We are able to put money then into other programs like education. But if we choke off this kind of infrastructure, we are also going to choke off education—and much more.

It reminds me of the parable of the sower who went out to sow his seed. Some of it fell by the wayside where it was trodden down and the fowls of the air devoured it. Some of it fell on a rock. And as it sprang up, it withered because it lacked moisture. Some of it fell among thorns. And the thorns sprang up with it and choked it. Some of it fell on good ground, where it sprang up and bore fruit a hundredfold. Luke says a hundredfold. I believe Matthew says a hundredfold, and sixtyfold, and thirtyfold, or some such.

This is money that is spent on good ground. It is not being spent on a rock, not falling by the wayside. It is not falling among thorns. It is being spent on good ground—money for highways, bridges, and to a certain extent mass transit.

That is the parable of the sower. That is the way I look at this money. Let us sow money where there is good ground, so it will bear fruit a hundredfold. It will put people to work in this country. I am told that $1 billion spent on construction results in 42,600 jobs, or something like it, spread across the entire sector during the first year.

We are talking about jobs for people who want to work. We are talking about making it possible to distribute the grain and the produce from the farms of this country to the seaports and the marketplaces; moving the products from the regions where they are produced to the regions where they will be consumed—build a greater country, prosperity, a better way of life. That is what is involved here.

This is just a little amount, $8.2 billion, compared with the amount provided in the entire bill. But I make my plea to the Senate to concentrate on this priority today so that we will have more money in the years to come to spend on the human needs of our people.

Perhaps Daniel Webster said it best in his oration delivered at the laying of the cornerstone of the Bunker Hill Monument in 1825 when he said, "Let us develop the resources of our land, call forth its powers, build up its institutions, promote all its great interests, and see whether we also, in our day and generation, may not perform something worthy to be remembered."

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I would like to thank the distinguished President pro tempore for those remarks, and I hope that the Senate will soon be ready to vote on the Byrd amendment. And I hope the Senate will vote for the Byrd amendment.

Just to inform the distinguished Senator from New York of the situation on this side of the aisle, Senator DOMENICI would like to speak for a few moments, and for a few minutes on the amendment. Senator BOND wants to speak for a very short period of time on the amendment. Senator DOLE has asked for 10 minutes to speak on the amendment. As far as I know, those are the only speakers.

I hope we will be able to vote on this before the lunch hour. I think it is important that we do so.

Mr. MOYNIHAN. Mr. President, let us do so, and let us do it in the incomparable spirit that the President pro tempore spoke. Let us, indeed, do something worthy of being remembered on this floor by the hour of 12:30. It is entirely within our grasp and ought to be done.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me first say to the distinguished chairman of the Appropriations Committee, former majority leader of the Senate, that I did not hear the entire speech. I heard a few moments of it in my office before I came to the floor. I heard the last 10 or 15 minutes. I would like to first thank him for his eloquence and for his advocacy of infrastructure for the United States, in particular roads and bridges and the like.

I would like to say to the Senate one of the shortcomings of the summit—I was a member, so I was privileged—was that Senators did not get to hear the distinguished senior Senator from West Virginia eloquently defend and insist that our country needed additional discretionary appropriations. It is the same defense he made today, except it was much longer and more detailed. And his defense was not only of infrastructure and highways, but the many things that we have assumed as national responsibilities that are being squeezed out in the discretionary programs of this country over the last 10 to 15 years.

I might add that from the standpoint of the Senator from New Mexico the only thing missing from the argument—and it was implicit but not direct—is that I think we have to, on the other side of the ledger, conclude that we have busied ourselves with entitlement programs beyond that which we can afford. The reason we do not have more discretionary accounts is because the entitlement programs of this land, and entitlement programs are those—the best way that I have found to explain it is that if a citizen of the United States does not receive the entitlement that is on the books of the land they can go to court, and a court will order the Treasury to pay them. That is an entitlement. You do not have to wait for anyone. They are automatic. They are voracious in their appetite and size. They are indeed what are squeezing out the discretionary accounts of this land.

I want to say to my friend, the chairman of the Appropriations Committee, I rise today because about 10 or 12 Senators on our side have directly asked me what is my best advice, and what are my best thoughts, as to whether or not the entire $8.2 billion that Senator BYRD is adding to the base bill will be available when the time comes for that money to be obligated. I am going to try in about 5 or 6 minutes to give my best analysis of whether or not that money is going to be available. And to do that, I have to go through a little bit of an explanation and a few basic charts.

First, I think everyone should know that in totals the President had asked for a total of $86.6 billion over the 5 years of this bill for the programs that we are talking about. The bill that came to the floor was $90.7 billion. The budget resolution had $98.8 billion.

So that in comparing items, let me call the bill that is on the floor the Moynihan-Symms bill.

It had $3.9 billion, over the 5 years, more than the President. The budget resolution had $12.2 billion more than the President, and the Senator BYRD amendment uses the entire $12.2.

It is interesting to note that if you look at the expenditure lines, the big expenditures under the Byrd amendment, those which are significantly in excess of either the President's or the Moynihan-Symms proposal, those occur in the 1994–94 cycle. The diferences are very small in 1993, and actually in 1992, they are negative, less than the President's, about $1.9 billion more in 1993, but substantially more in 1994, 1995 and, of course, 1996.

How much more? Well, in 1994 they are $3.3 billion more; in 1996, $3.8 billion more.

Where did the President get his numbers, and where did the budget resolution numbers come from, which are now being used by the distinguished Senator from West Virginia?

The President's numbers were the President's and OMB's best estimate of what we would spend in highway programs for the 5 years and be consistent with the ratio that highway expenditures had to the discretionary total in 1992 and 1993. In other words, they said, whatever the percent of the discretionary accounts are in 1992, which is currently before us, and 1993 in the budget estimates, that same ratio is what the President put in 1994 and 1995. Not so in 1996; he went higher in 1996. That becomes rather important, in my analysis and best estimate and judgment of where we will be in 1994 and 1995, when that time arises, if this bill in its entirety becomes law.

Mr. President, I ask unanimous consent that that budget and contract authority, Federal highways only, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUDGET AUTHORITY/CONTRACT AUTHORITY FEDERAL-AID HIGHWAYS ONLY

	Fiscal year—					Total
	1992	1993	1994	1995	1996	
CBO baseline	14.5	15	15.6	16.1	16.7	77.9
President's request	15.8	16.0	16.6	18.1	20.1	86.6
Moynihan EPW	15.2	17.1	18.0	19.6	20.6	90.7
Budget resolution (with allocated adjustment)	15.2	17.9	19.9	21.9	23.9	98.8
Moynihan compared to President	−.6	1.1	1.4	1.5	.5	3.9
Budget resolution compared to President	−.6	1.9	3.3	3.8	3.8	12.2
Byrd et al proposal compared to President	−.6	1.9	3.3	3.8	3.8	12.2

Source: Prepared by SBC Republican staff for informational purposes only; not to be used for official scorekeeping purposes or for determining budget act points of order. The 5 years, 1991–95. Fifty percent of this went into the highway trust fund ($12,500,000,000).

Mr. DOMENICI. Mr. President, the second point I make very quickly is that there are two activities that occur with reference to the expenditure of highway funds that are rather important to this debate.

First, there is contract authority, that is the obligational authority that we find in these bills. That is what occurs in the authorizing bill, so that everything we have heard about the Moynihan-Symms allocation, and what we have heard in the Byrd amendments with reference to dollars, is obligational authority. If those obligational authorities are in no way limited by the next item, that is very important. That next item is obligational limitation. If there is no change in those, contract authority will spend out automatically.

So that one would say the numbers that are in the Byrd amendment, which is added to the Moynihan-Symms bill—the total in there is contract authority. And if no one limits it, then it will spend out as everyone understands it here, and as the various charts indicate the States' participation in that money.

But there is a second event that occurs, and it is an important event, and it has become more important starting back about 10 or 11 years ago, and annually thereafter. The obligational limitation is set in the appropriations process. That obligational authority becomes the actual, absolute limitation for that year of the money that can be spent—no more—and exactly that amount gets distributed to the States under the legislation that underpins the contractual authority, which I have just explained.

In most of the years since 1980, the obligational limitation has been less than the contract authority. The appropriators have put an obligational limitation in, consistent with what either the President has asked for, or what they think the budget resolution and/or budget agreement needs.

So, technically speaking, there is no question that come 1993, 1994, and 1995, if the Appropriations Committees in the two bodies choose to put no obligational limitations and choose to put them extremely high, close to the amount in the Byrd amendment, added to the Symms-Moynihan bill, then we will all get what is in the bill. We will get the Moynihan-Symms base, and we will get the 4.1 to the donor States and 4.1 to the incentive States. They will all get their money.

But the question then is: Is that apt to happen, that the entire amount will be the obligational limitation in the appropriation process? Frankly, when people ask me if that will happen, I cannot say it will or will not. You know it will happen when the appropriators sit around in 1993, 1994, and 1995 and allocate the 6026 money. They will have a fixed amount of money to allocate in 1993, because we have already agreed on the amount. But in 1994 and 1995, there is not a fixed amount. In 1993, there is a fixed amount. In 1994 and 1995, there is not.

So what is apt to happen? Well, in 1994 and 1995, the summit agreement created a 3-year fixed targets for defense, discretionary, and foreign affairs. So there is a number for 1991, 1992, and 1993 for discretionary accounts. For the years 1994 and 1995, there is not. There is one target number, mandatory number, cap, for all of those, a sum total of domestic, foreign affairs, and defense. There is one number for the year 1994 and one number of the year 1995.

It will fall to the appropriators, absent a new agreement, and absent a change in our rules, to take out of that big number the amount for defense, the amount for discretionary, and the amount for foreign affairs.

I cannot predict whether or not we will be able to add $3.3 billion in 1994, $3.8 billion in 1995, which is the amount by which the Byrd amendment and the underlying amendment, all combined, the underlying bill, will exceed the President's recommendation. I do not know whether they will do it or not. I can give you a couple of ideas.

First, the combined highway bill, which I will call the allocation of 602(a) under the budget resolution, does an interesting thing; it significantly increases the highway funding program in the years 1994 and 1995. How much? My best arithmetic is that it goes up 22 percent, a total of 22.3 in BA; 17.3 percent in actual outlays. That is the sum total of those 2 years.

In other words, those two big pots of money I just described, which we are going to split into three parts, are only going up in their totality. I will tell you what they are going up: Within the highway money, a total of 22 percent and 17 percent, but the entire pot of money is only going up, year after year, 0.6 percent and 1 percent; 0.6 percent and 1 percent, meaning those very large amounts of discretionary money for defense, foreign assistance, and discretionary. There is one of those in 1994 with a number on it, and one in 1995 with a number on it. They are only going up in those years a total of 1 percent in outlays and 0.6 percent in budget authority. But the highway program will be going up 22 percent and 17 percent.

So it does seem to the Senator from New Mexico there will be a squeeze on in 1994 and 1995, and the squeeze will, in the opinion of the Senator from New Mexico, be one of two things: One, the defense of the Nation currently has caps for 1993, but it does not for 1994 and 1995. The Defense Department in all of their plans has a 5-year budget and they assume in 1994 and 1995 they are tolling right down on a line which gives them a cap number in 1994 and 1995.

Frankly, nobody misled them. The distinguished Senator from West Virginia did not mislead the Defense Department. They were told—I will be honest—I proposed a 5-year proposal with caps on all three for all 5 years.

Is that not right, I say to my friend from West Virginia?

Mr. BYRD. The Senator is right.

Mr. DOMENICI. In fact we had all the numbers there, the compromise was 3 years and 2 years without caps, without individual caps.

So one place the extra money can come from is from defense. I am not saying it has to, but it could.

The squeeze will be on. If it does not come from defense or it comes partially from defense, then the balance or all of this increase will come from what is commonly known as discretionary accounts.

Senators have taken the floor already, far more eloquent than I, and spoken to this issue.

We all know what discretionary domestic accounts are: everything from school lunch programs to National Institutes of Health, to all of the various cancer research, and to education. That is all domestic discretionary, and there is a third account and we should mention it. It could be squeezed also. It is the foreign assistance account. It is in there at a given fixed number in 1991, 1992, and 1993, but in 1994 and 1995 it is part of a very large accumulation of the 3 accounts.

So it seems to the Senator from New Mexico that indeed, if one wants to have a real debate and argument on priorities and wants highways to be in that priority debate, then they can support this amendment, they can support this bill, and come 1994 and 1995, the issue will be joined.

Repeating, it is not automatic. I mean the appropriators could decide on the obligational limitation to provide less than the full amount. I think everyone who understands this process will agree that is the case.

On the other hand, they could agree to set a very high obligational limitation. In fact, they could agree to one that will be exactly the contract authority we are talking about, annually, which will yield to the donor State—it would yield the Bensen plan. To the nondonor States—it will yield the Senator Byrd plan and all the States it would hold harmless by funding everything in the Moynihan-Symms plan, as I can understand it, before funding the bonus programs.

That is about as good as I can do it.

I would summarize by saying it is quite obvious if you do not add any money to the bill you will not have an argument in 1994, 1995, and 1996 about whether you want more money for highways because there will be no opportunity to have that. If you do add it to the bill, you are not assured you will get it.

As I understand it, the first part, you are assured of getting the Moynihan-

Symms money that will be first allocation, before money coming after that would be divided equally among the donor proposal of Senator BENTSEN and the incentive proposals in the bill of Senator BYRD'S.

As I understand it, that is the best I can do.

I do think everyone should know when the Senate adopted its budget resolution the first time through, since budget resolutions have been used as the justification for the $8.2 billion, the Senate did not adopt this allocation; it was not that big.

We went to conference with the House. They had found these numbers based on some expectation of new revenues from highway user fees, or the like, and they had much higher numbers which, as we are not debating, are not binding on anyone but permits you to go up to those levels, and that is what we are doing here today.

I have nothing further. I thank the Chair and thank Senator BYRD for his comments, and thank Senator SYMMS for yielding time to me.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from New Mexico for his comments.

Let me address some remarks to the Byrd amendment as further amended. I would have to make one correction to the comments of the Senator from New Mexico. He is quite right that we agreed to hold harmless all States insofar as the allocation of funds under the Moynihan bill. But as I understand our agreement we have been able to bring about with Senator BYRD, those of us from the donor States, the next application of the funds after the Moynihan funds, would be the $4.1 billion in the Byrd amendment for the level of effort States, based on States gasoline taxes, and disposable per capita personal income in the State. That would be applied next, and then you would have the extra $4.1 billion that goes to the donor States. That would be the third application of funds under the Byrd amendment.

The reason for doing it in this manner is to take care of the most egregious situations among the donor States, that the donor States with the lowest return on funds contributed be taken care of first after the application of the Byrd amendment. Those States would be brought up to a common level of return until you reach a point where you finally run out of funds. Then in accomplishing that, what we have been able to do with the Bentsen-Warner amendment to the Moynihan bill is to say no State will receive back less than 98 cents on the dollar for that amount of money they will contribute to the trust fund over the next 5 years.

This major change in funding level begins in fiscal year 1993, and there is no question but what we have to expend these additional funds.

Mr. President, I ask unanimous consent that a table showing 25-year totals of donor State bonus apportionments be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Donor State bonus apportionments under Bentsen revision to Byrd amendment

[5-year totals]	*Donor State bonus apportionment*
Alabama	$169,923,475
Alaska	0
Arizona	2,288,261
Arkansas	0
California	959,356,766
Colorado	0
Connecticut	0
Delaware	0
Florida	453,619,940
Georgia	328,671,299
Hawaii	0
Idaho	0
Illinois	164,102,600
Indiana	240,785,538
Iowa	0
Kansas	0
Kentucky	106,553,749
Louisiana	0
Maine	0
Maryland	34,790,362
Massachusetts	0
Michigan	273,643,698
Minnesota	0
Mississippi	0
Missouri	208,565,260
Montana	0
Nebraska	0
Nevada	0
New Hampshire	0
New Jersey	34,069,527
New Mexico	0
New York	0
North Carolina	0
North Dakota	0
Ohio	136,542,354
Oklahoma	4,344,500
Oregon	0
Pennsylvania	20,669,522
Rhode Island	0
South Carolina	89,685,230
South Dakota	0
Tennessee	0
Texas	660,555,647
Utah	0
Vermont	0
Virginia	220,232,894
Washington	0
West Virginia	0
Wisconsin	0
Wyoming	0
Total	4,108,400,622

Mr. BENTSEN. Mr. President, I believe we are quite correct in authorizing the extra $8.2 billion for highways and mass transit. We are looking at a deterioration of the highway and bridge system around the country where in some of the major cities today they are going out and buying buses that meet Third World specifications insofar as the axles, the undercarriage, the frame, because of the enormous potholes you will find in many of those cities.

We are looking at a situation where mass transit has not been able to meet the expanding demands for those services.

So these additional funds are needed both for mass transit and for highways and bridges in our country.

If we fail to do so, we will be affecting the productivity of America, of its industry, and America's workers. Untold wasted hours are spent every day by commuting workers and commercial transport trucks in snarled traffic in virtually every major American city.

I do not think the need for that extra $8.2 billion can be seriously contested. It makes no sense to refuse those funds when the demand for transportation improvements is so clear.

Let me further state I have been fighting this fight for a long time from the viewpoint of the donor States. I well understand and have long understood the need for some States to be donor States when you are trying to extend the interstate, trying to push it across Montana, Wyoming; States with sparse populations; climbing mountains, and crossing deserts. I understand that.

I understand we will continue to have donor States because we must continue to maintain highways in those types of situations. But the disparity of it has to be lessened.

This particular amendment and this bill does not address some of the problems and concerns we have for a formula that clearly needs to be updated. We think it is archaic and must be revised to reflect the current demand for transportation improvments. In fact, the present formula will not even reflect 1990 census data.

The formulas must be updated. We were able, with the consent of the manager of the bill, the distinguished Senator from New York, to have an amendment agreed to which would require a study by the General Accounting Office to try to bring this formula up to date and see that we establish greater equity in the application of it. That study will be available for us at the end of 3 years and hopefully can then be implemented at the end of this 5-year authorization period.

We have been down that road before insofar as the General Accounting Office study. But I want to forewarn my colleagues and my friends we, the donor States, are going to be doing everything we can to bring about a revision and an update of that formula. Hopefully, the information from the General Accounting Office will be of help to us. So I say this compromise is not a perfect solution; perfect solutions are rare when we are talking about reconciling opposing forces in the U.S. Senate.

But I want to say to my colleagues that I am going to support this compromise. I am sure there will be other formulations proposed at a later date, but I believe that from what we have been able to see in the repeated conferences we have had in developing the numbers to try to accomplish these objectives, I believe that Senator WARNER and I have represented a majority of the donor States. Not each and every one; obviously, they are not all going to vote for this. But I think a majority will. And I would like to see us move to an early conclusion and implementation of it, so we can move on.

Once again, I am appreciative of the cooperative efforts of my friend from New York and my friend from West Virginia as we work to bring about what I would have to say is a political solution, but for my own State, a donor State, it is a vast improvement over the current situation.

Mr. WARNER. Mr. President, I will take but a minute or 2 to first thank my distinguished colleague from Texas. It was indeed a pleasure and a learning experience to work by his side on this issue, for he has addressed this problem for many, many years in the U.S. Senate, having been on the subcommittee that dealt with this predecessor legislation some several years ago.

I also thank our distinguished colleague from West Virginia, together with Senator MITCHELL. They recognized the theme that I tried to strike from the very first day of this debate, joined by my good friend, the Senator from Missouri: The inequity among the donor States.

And I daresay, had it not been for the leadership shown by the Senator from West Virginia, the Senator from Maine, and the Senator from Texas, this Senate would not be now addressing in finality the highway legislation, for I and many other Senators would have exercised every single right that we had to see that there would have been equity between the donor and the donee States.

So the leadership has followed the better part of wisdom here, and I think, hopefully, I and others will be supporting the Byrd amendment in sufficient numbers.

Mr. BENTSEN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. BENTSEN. We have been fighting this fight a long time. I can recall my own State was receiving back about 54 cents on the dollar in 1982, when I led the fight on the Bentsen amendment, against the opposition of the administration, to put a minimum allocation in the law for the donor States.

I also note that my friend from New York included the 85 percent in his bill. I also note that the administration did not include a minimum allocation in its bill. What we have been able to do in this compromise is to improve on the 85 percent, not to our full satisfaction, but at least bringing us up to the position where no State, no donor State, from the amount of money that it contributes over the next 5 years, will receive back less than 98 cents on the dollar.

Are we spending down some of the surplus? Yes, we are. But you have $10 to $11 billion of surplus in the highway trust fund, and it is time that we address some of these concerns for our bridges and the deterioration of the highways of America.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Texas. Again, the amendment that he and I devised does provide for a certain measure of insurance, as I see it, in the future as the outyears begin to yield back to the donor States a more justifiable allocation of the moneys.

The Byrd amendment has broken the gridlock in the Senate, and I hope that the dollars that flow from it will break the gridlock in America's traffic.

Mr. BENTSEN. If I may, I would also like to recognize the distinguished Senator from Missouri [Mr. BOND] who has been untiring in his efforts to assist in correcting some of these problems for the donor States. Without his help, we could not have brought it off.

Mr. WARNER. Mr. President, I join in that. The Senator has been a solid supporter from the first.

The PRESIDING OFFICER (Mr. KERRY). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I simply would like to thank all, and join in this general observation that we have come usefully and with more dispatch than might have first appeared to a resolution of the problem for this cycle of the surface transportation program.

But I am sure the Senator from Texas would agree when I say we do provide for a GAO study on what must be a new formula. The committee was left anticipating that something would come from the Department of Transportation that would respond to this postinterstate era. Nothing did, excepting formulas, saying the more gas you use, the more money you get, period. So we have decided to stay with existing arrangements, one last time, perhaps, but no more.

Now we have improved that. The GAO will give us a proposal, but in the end, as the Senator from Texas would be the first to assert, the Congress will decide. And we hope to have a better set of data out of the Bureau of Transportation statistics by then, on which basis to make a better study not just of the allocation resources, but also how effectively they are spent.

It is the case, as the Senator says, that there are municipalities ordering buses to meet Third World road standards. That is absolutely true. But how can this new set of public works have dissipated and deteriorated so quickly if it was not badly built to begin with, and not well maintained? Then what else are these things than a symptom of a public-sector disease?

Mr. BENTSEN. Will the Senator yield?

Mr. MOYNIHAN. Yes, I yield.

Mr. BENTSEN. The Senator makes a very valid point, because we have not kept up with the research and development that the Europeans have done. Their highways do not develop the potholes as fas as ours do, or to the extent that ours do. They have roads that are much more durable than ours. They have taken massive steps forward insofar as building roads that meet far better specifications than our own, and we ought to learn about that and do more research in that department.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BYRD. Will the Senator from Missouri yield to me just briefly?

Mr. BOND. Mr. President, it is my high honor to yield to the chairman.

Mr. BYRD. He has been most patient. He has waited a long time to be recognized.

I want to make a modification to my amendment. But before I do that, let me thank Senator MOYNIHAN and Senator SYMMS for the leadership that they have demonstrated so very capably in bringing this bill to the floor and in speaking on it during consideration.

Let me thank also the distinguished chairman of the committee, Mr. BURDICK, for his untiring dedication to the building up of our highways and waterways, and the infrastructure of the country. I also wish to thank those Senators who spoke on behalf of the donor States.

My initial effort, I should explain, was in the interest of helping States that have put forth a special effort to deal with their infrastructure problems. So there were two parts to my amendment: The first part, which rewarded those States whose gasoline taxes were above the national average, the national average being 17.43 cents; and also the second part of my amendment was to reward them again, those States, based on their ability to pay or lack of ability to pay, and the additional efforts that they really were making in the light of their economies, in the light of their per capita disposable income.

So that a State which had a lower per capita disposable income than the national average, which is $14,303, has to come from below scratch, if I might use that word. It is harder for it to raise its gas taxes than for other States. The per capita disposable income, on the average, is must higher in the richer States, and they are better able to pay. So that was my approach.

And so my amendment in the first degree would take $5.4 billion of the $8.2 billion, and then I put a second-degree thereon which would have consumed $6.2 billion of the $8.2 billion.

And then it was that the majority leader and Senator BENSTEN, Senator MOYNIHAN, Senator WARNER, and others of us, sat down, and I was asked whether I would consider splitting the $8.2 billion. And in the interest of reasonableness—I would like to think I am a man of sweet reasonableness, and I do know that legislation is the art of compromise, so I said, well, yes, after I considered it, yes, instead of $6.2 billion or $5.4 billion, sure I will back away to $4.1, because it is all in the interest of the Nation. That is what we were talking about.

So I said, yes, I will be glad to split. And that is where we remain, that is where we stay today, 4.1/4.1.

But the donor States, I thought, made a good case, and certainly from the standpoint of fairness and logic, they were entitled to $4.1 billion of the $8.2 billion. What happened from there on was between and among them. I did not feel I had any business interjecting myself into that.

That brings me to the point. I have twice, I believe, modified the second-degree amendment, and I have done it each time at the request of the donors and in their interests, based on their discussions among themselves.

In the modification which I sent in yesterday, there was one change that needed to be in there, and the only change in that modification which I will now send to the desk is to ensure that the additional donor State bonus funds will remain available until expended. We have treated the extra effort, on the part of the formula, in such a manner, and it is only fair that the donor States be likewise treated. That was the intent of the modification of the amendment that I offered yesterday, but inadvertently that was left out, so I will now send a modification to the desk.

I say again for the record, the only change that is provided by this modification is to ensure that the different State donor bonus funds will remain available until expended. As I say, that was the intent of the amendment, so this is a technical change.

AMENDMENT NO. 296, AS FURTHER MODIFIED

Mr. BYRD. I send the modification to the desk.

The PRESIDING OFFICER. The Senator had the right to modify this amendment. The amendment as previously modified is hereby further modified.

The amendment, as further modified, is as follows:

In the amendment, strike out "of effort apportionment bonuses" and all that follows through "available until expended." and insert in lieu thereof the following:

OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years beginning with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall, subject to the availability of appropriations, make an apportionment to each State in which the rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title for each of fiscal years 1993, 1994, 1995, and 1996; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall, subject to the availability of appropriations, make a bonus apportionment to each State equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment made to any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposable income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate apportionments under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the apportionments to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.

"(g) Funds authorized to be appropriated for bonus apportionment under this section shall be available only for projects authorized under chapter 1 of this title, including provisions which provide contract authority.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"159. LEVEL OF EFFORT APPORTIONMENT BONUSES.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $390,500,000.
(B) For fiscal year 1994, $943,000,000.
(C) For fiscal year 1995, $1,138,500,000.
(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(c) ADDITIONAL DONOR STATE BONUS AMOUNTS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the payment of additional donor State bonus amounts the following amounts for the following fiscal years:

(A) For fiscal year 1993, $390,500,000.
(B) For fiscal year 1994, $943,000,000.
(C) For fiscal year 1995, $1,138,500,000.
(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3)(A) The additional amount provided under this subsection for a fiscal year shall be apportioned only after bonus apportionments under section 159 of title 23, United States Code, to the extent of their availability, have first been made to the States.

(B) The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

(C) The additional apportionment under this subsection shall be subject to the provisions of chapter 1 of title 23, United States Code, including provisions which provide contract authority.

(d) OBLIGATION LIMITATIONS.—(1)(A) Notwithstanding section 104 of this Act, for each of the fiscal years 1993, 1994, 1995 and 1996, the Secretary shall distribute among the States the limitations imposed by section 104(a) of this Act by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways (other than sums authorized for section 159 of title 23, United States Code and sums authorized by subsection (c) of this section) which are apportioned or allocated to each State for such fiscal year bear to the total of such sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to all the States for such fiscal year until 100 percent has been distributed.

(B) The Secretary shall distribute the limitation remaining after the distribution in subparagraph (A) among the States entitled to apportionments of sums authorized by section 159 of title 23, United States Code, and sums authorized by subsection (c) of this section, in the ratio which such apportionments and allocations for each such State bear to the total of such apportionments and allocations for all such States.

(2) Whenever the limitation made available for a fiscal year is insufficient to provide 100 percent of the distribution under paragraph (1)(B), then—

(A) 50 percent of such insufficient limitation shall be deducted from the limitation that would be received for section 159 of title 23, United States Code, and

(B) 50 percent of such insufficient limitation shall be deducted from the limitation that would be received under subsection (c) of this section.

(e) INAPPLICABILITY OF OBLIGATION LIMITATION TO EMERGENCY RELIEF.—Limitations in section 104 of this Act shall not apply to obligations for emergency relief pursuant to section 125 of title 23, United States Code.

(f) DEFINITION.—For purposes of this section, the term "State" has the meaning given to such term in section 101 of title 23, United States Code.

Mr. BYRD. I thank the Chair. I beg the Senator's indulgence, if I may yield to the Senator from Texas with the Senator from Missouri's rights being protected.

Mr. BENTSEN. I thank the distinguished Senator from Missouri and the Senator from West Virginia. Mine is only to comment that that is carrying out our agreement, and I am appreciative of that. What we had stated was the application of the funds, each of the $4.1 billion amounts, be applied equally and that they not lose that money if it was not expended in the fiscal year. So it complies with what the Senator is doing on his amendment. We appreciate the acceptance of the change.

Mr. BYRD. I thank the Senator, and I thank the distinguished Senator from Missouri for his kindness and his courtesy.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I begin by thanking the distinguished senior Senators from New York and Idaho for bringing a very farsighted bill to this floor. They have incorporated in the bill many concepts which may be of great use in the 21st century. They have also responded with good humor and patience as those of us in the donor States expressed concerns about particular parts of the bill. Some of our colleagues have even suggested that it is with too much enthusiasm and at too great a length that we have expressed those concerns. But I say a special thanks to Senator MOYNIHAN and Senator SYMMS for attempting to accommodate our interests.

We have spent many hours, not only on this floor but off this floor, as I am sure everyone is aware, trying to work out the details in this bill to meet some very pressing needs. As I have traveled around my State of Missouri, I have gone from Kansas City to Springfield on crowded two-lane highways, where four lanes are needed, and on to Sikeston, where there have been tremendous traffic jams, and in and out of St. Louis in similar conditions. I have seen first hand the need for better roads. I have seen areas where mass transit, which I support for metropolitan areas, would not be adequate—like I-61 to I-63, like I-70 to the border. People are vitally concerned because highways mean jobs, they mean convenience, and, most importantly, they mean safety for the traveling public.

It is for these reasons that we have engaged in such lengthy efforts on this bill. I want to join in thanking the distinguished senior Senator from Texas, my distinguished senior colleague from Virginia, and the majority leader for working to bring some equity to the donor States through our discussions.

Second, I endorse enthusiastically what Senator WARNER and Senator BENTSEN have just said. I will expand just 1 moment on what the Senator from Texas has said. That is, we in the donor States recognize that any fair formula is probably going to leave us as donor States. My State has been getting back only 80 cents on the dollar because the funding formula is based on factors that went into the highway formula back in early 1900's—1914, 1916—like the miles of postal roads. Those formulas are not applicable any more.

Senator BENTSEN has offered an amendment that would require the GAO to issue a report in 2 years on what factors should be considered for a fair funding formula. But even under the formulas that the donor States support, we recognize that States with very low population density may need more than they contribute to the fund. We recognize that, and that is part of our agreement.

What we really need, as I stated when we began this debate, was, No. 1, to spend the funds out of the trust fund because this Nation is being strangled by inadequate highways, by deteriorating roads and bridges in unsafe condition. We need more funding for bridges. The original Moynihan-Symms proposal achieved that. We need more flexibility so States can spend the money where they need it, and there are some flexibility provisions in this bill, although there are certain elements of it that I do not think are adequate and some provisions I would like to see removed.

Finally, and most importantly, we wanted a fair funding formula. We wanted to bring this 21st century highway bill, surface transportation bill, at least into the 1990's with regard to the formula. We have not been able to achieve that. I commend and thank the chairman of the Appropriations Committee, Senator BYRD for what he has accomplished. He has proposed a formula to spend down the trust fund, which achieves one of my chief objectives.

In further clarification of what my colleague from Texas has said, while the allocations of the additional $8.2 billion will go first to the level of effort provision, if the full $8.2 billion is not available in any year, the pot will be evenly split between the level-of-effort incentive portion and the Bentsen-Mitchell or rising-tide amendment, so that those two provisions will be treated equally. I think it is important that my colleagues understand that, and I thank the Senator from West Virginia for the modification, which takes care of the remaining problem we had with that bill.

With that, I say, while the formula is not what we wish, I hope my colleagues will vote for the proposal before us, the Byrd amendment, as modified. We, from the donor States, want an opportunity to vote on a funding formula after that. We are under no illusion that we will prevail in this body, but somewhere, sometime, somehow, we must have the opportunity to do so. And once we do that, I would urge that the Senate act on this measure, get it over to the other body, and get something back so we can work on it in conference. It is vitally important to this Nation, to our States, and to every citizen in every one of our States, that a surface transportation bill be signed into law by October 1 of this year.

I urge my colleagues to support the Byrd amendment now before us.

The PRESIDING OFFICER. The Senate minority leader.

Mr. DOLE. I know the Senator from New York and the Senator from Texas want to respond, but I will take just one moment. There is a meeting in the majority leader's office I should be attending with the distinguished chairman of the Appropriations Committee.

I want to make a point that, it seems to me, should be rather easily understood. Under the Byrd amendment there will be $4.1 billion that will be spent in fiscal years, 1993, 1994, 1995 and 1996 which reward States who show a commitment to spending more of their own money for road construction and maintenance than the national average. But there are a couple of big flaws in the Byrd amendment.

If we want to talk about fairness, talk about justice, talk about what we ought to be doing, talk about the general contractor support, we can talk about an amendment Senator MITCHELL and I—I think he will be joining me this afternoon—will be offering.

The Byrd amendment measures excise tax on gasoline to determine the test by the States. This creates two shortcomings. First, all States have to dedicate 100 percent to highways. Some use it for deficit reduction, some use it for wildlife, some use it for agriculture. A lot of it is used for nonhighway purposes, but it counts it anyway. It is not fair.

Second, most States use funds from sources other than gasoline taxes, as well as gas taxes, to fund highways. We ought to be looking at the total effort. How much does the State of Texas, Kansas, New York, Idaho, Missouri, whatever the State may be, put in their highways? Also Massachusetts, I might add. Is there anything in addition to excise tax on gasoline? There is in many States. Some have toll roads, as in New York; some have sales tax, as in Virginia. Other use registration, as in Kansas, excise tax, diesel tax, other taxes that go into highways, and it ought to be counted if you are talking about effort and not just some arbitrary figure.

What we are going to have is a lot of gaming going on. We are told if we raise the gas tax in Kansas we get Byrd money, if it ever comes about; we can raise our gas tax and lower other taxes to game the system. If that is what we want, everybody gaming a system, we are setting up an imitation for every State legislature to come back and, in effect, blow up this so-called amendment by gaming the system. Why should we not raise the gas tax in Kansas and lower every other tax if they are not going to count the other taxes even though they are used for building highways?

So I must say that some of us have a real problem with half of the package. We do not quarrel with the donor part of the package. We are quarreling with the other part of the package. We applaud the agreement even though we do not benefit from it in our State.

I just suggest it seems to me we ought to put some safeguards into this provision. We ought to have a formula that, in effect, counts all the money you put into highways. Why not? Who can argue against counting everything you put into highways and ought to discount all the excise tax on gasoline that is just for some other nonhighway purpose? It makes sense to me. That amendment will be offered later.

We would like to have the distinguished chairman of the Appropriations Committee modify this amendment to include this formula, and that is what the meeting is all about. So I will excuse myself and go to the meeting.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I wish the Republican leader well. Come back soon and we can have a Surface Transportation Act.

I want to thank the Senator from Missouri who has been a bulldog in this matter and properly so. He found no dispute from the Senator from Idaho or New York as regards the legitimacy of the claims. The question was the resources by which to meet them. I think we have done that.

In fact, the always-deft fiscal skills of the chairman of the Finance Committee, the Senator from Texas, who has—if anybody can claim this issue for his own, it is Senator BENTSEN who resolved it. We are going to go into a little more difficulty of trying to allocate State effort under the measures that are about to be voted on. We will have great difficulty doing this because of a lack of data. In the spirit of the Senators who brought supply-side economics to this floor 15 years ago, I have been trying to explain, as best I understand, the disorder of the public sector when they get out of sync.

The Department of Transportation has no information on this subject. It avoids information on this subject. If you started finding out how much is spent, we might start asking what do you get for it? We might start to say how can the most expensive public works program in history be crumbling in 15 years' time? Those Roman roads that Senator BYRD was talking about are still in use two millenia later. Two decades after sectors of the Interstate Highway System have come along, they have effectively been reduced, in many segments, to very poor conditions, and the Department of Transportation has presided over this and done nothing. It is a free good, so who cares what you get out of it. The whole object is to spend the free money. It is a consumption good rather than an investment. I think if there is one way to distinguish public sector disorder: it is when what ought to be investment money becomes "cut the ribbon, get through your term and what else in required?"

This has to do with the ability to delay gratification and all those things that grown up countries are supposed to be good at and seem to have trouble with.

AMENDMENT NO. 353

(Purpose: To authorize the States to enter into certain agreements and compacts relating to regional transportation problems)

Mr. MOYNIHAN. Mr. President, as we wait further word on final agreements with respect to the allocation resources, on behalf of myself and my ever-patient associate in this enterprise, Senator SYMMS, I send a committee amendment to the desk and ask for it's immediate consideration. These have been agreed to on both sides. I ask unanimous consent to temporarily set aside the Byrd amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 353.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . INTERSTATE TRANSPORTATION AGREEMENTS AND COMPACTS.

(a) CONSENT AND APPROVAL OF CONGRESS.—The consent and approval of Congress are hereby given to the several States to negotiate, enter into, and carry out agreements or compacts for the purpose of establishing policies and priorities, including allocation of funds, to resolve interstate highway and bridge problems of regional significance identified by metropolitan planning organizations.

(b) HIGHWAY TRUST FUND.—The highway and bridge projects identified in accordance with subsection (a) and included in agreements or compacts entered into pursuant to this section are eligible for funding from the Highway Account of the Highway Trust Fund.

On page 42, line 13 strike "not to exceed $5,000,000" and insert in lieu thereof "not to exceed $25,000,000".

At the appropriate place in the bill, insert the following:

SEC. . SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 E-W Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a), the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.

(c) LIMITATION ON ELIGIBILITY.—If, by October 1, 1993, or two years after the date of enactment of this Act, whichever is later, the Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I-94 E-W Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under sec-

tion 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(5) Funding Provisions for Substitute Projects.—Notwithstanding any other provision of law, the source of funding for any transit substitute projects approved under subsection (a) shall be the Mass Transit Account of the Highway Trust Fund. All other funding provisions for any approved substitute projects shall be as provided in section 103(e)(4) of title 23, United States Code.

(e) Transfer of Apportionments.—Wisconsin may transfer interstate construction apportionments to its National Highway System in amounts equal to or less than the costs for additional work on sections of the Interstate System that have built with Interstate construction funds and that are open to traffic as shown in the 1991 Interstate Cost Estimate.

Insert at the appropriate place in S. 1204:

SEC. . MONTANA-CANADA TRADE.

The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana. Provided that such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

On page 5, strike out lines 3 through 9 and insert in lieu thereof:

(3) Bridge Program.—For the Bridge Program $2,350,000,000 for fiscal year 1992, $2,440,000,000 for fiscal year 1993, $2,580,000,000 for fiscal year 1994, $2,820,000,000 for fiscal year 1995, and $3,230,000,000 for fiscal year 1996.

On page 6, strike out line 17 and insert in lieu thereof "$120,000,000 for each of fiscal years 1992,".

On page 37, between lines 17 and 18, insert the following:

(c) Rehabilitation.—Of the funds authorized to be appropriated pursuant to section 103(b)(7)(B) of this Act, an amount equal to $20,000,000 shall be available for each of fiscal years 1992, 1993, 1994, 1995, and 1996 for continued rehabilitation of federally owned highways under the Federal lands highway program of title 23, United States Code. Such funds shall remain available until expended.

On page 37, line 18, strike out "(c)" and insert in lieu thereof "(d)".

On page 4, between 2 and 3 insert the following:

"(c) The Secretary shall distribute copies of the Declaration of Policy contained in this section to each employee of the Federal Highway Administration, and shall ensure that such Declaration of Policy is posted in all offices of the Federal Highway Administration.".

Mr. BAUCUS. Mr. President, the State of Montana and the Province of Alberta, Canada, have entered into a draft memorandum of understanding that would lead to the development of a trade port at the town of Shelby, MT.

Shelby is located in north-central Montana, along Interstate 15, approximately 60 miles from the Canadian border. Under the agreement between Montana and Alberta, large Canadian trucks would travel only as far south as Shelby. At Shelby these trucks would be off-loaded onto the railroad or smaller trucks.

This is an important trade promotion and economic development project for the Shelby area. It will create over 100 badly needed jobs in Shelby.

Unfortunately, through what I believe to be an erroneous interpretation of 1982 Symms amendment and Montana's grandfather rights, the Federal Highway Administration has threatened to withhold Montana's highway funds if the State moves forward with the memorandum of understanding.

Mr. President, I ask unanimous consent that several pages of documentation describing the dispute between the State of Montana and the Federal Highway Administration be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Draft Memorandum of Understanding

The State of Montana hereinafter referred to as Montana and the Province of Alberta hereinafter referred to as Alberta.

Alberta and Montana: Recognize the need to facilitate the free flow of commerce between Montana and Alberta by commercial vehicles;

Wish to eliminate the inconveniences incurred by commercial vehicles because of differences in vehicle size and weight regulations between the two Parties;

Undertake this one year experiment to determine the economic impacts and the tolerance of the Montana highway system to increased vehicle weights; and

Will administer their respective statutes and regulations as hereinafter set forth:

MONTANA

Montana will, under section 61-10-121, MCA, issue special permits for vehicles to travel on Interstate 15 from the U.S.-Canadian border at Sweetgrass to Shelby at the following maximum axle weights.

Steering axle, 12,100 pounds (5,500 kg).

Tandem Drive axles, 37,500 pounds (17,000 kg).

Tridem axles—Axle spread: 94" (2.4m) to < 118" (3.0 meters) 46,300 (21,000 kg); 118" (3.0m) to < 141" (3.6m) 50,700 (23,000 kg); 141" (3.6m) to 146" (3.7m) 52,900 (24,000 kg).

Maximum gross weight: A-Train, 118,000 pounds (53,000 kg); B-Train 8 axle, 137,500 pounds (62,500 kg); B-Train 7 axle, 124,600 pounds (56,500 kg); Tractor/Semi, 102,500 pounds (46,000 kg).

On semi trailers with tridem axle trailer with at least 72" between the trailer axles: 12,100 pounds (5,500 kg); tandem drive axles 37,500 pounds (17,000 kg); Tridem trailer axles 52,900 pounds (24,000 kg).

Since these permits are for reducible loads, all carriers applying for special permits must obtain a restricted route permit and pay appropriate G.V.W. fees.

ALBERTA

Alberta will under section 20, MTA, issue special permits for existing A-trains operating at 82 feet (25 meters) overall length to access the fertilizer plants at Redwater, Medicine Hat and Carseland from the Montana/Alberta boundary at legal axle weights and a maximum gross vehicle weight of 118,000 pounds (53,500 kb).

Nothing in this Memorandum of Understanding waives registration fees, fuel taxes, permit fees, operating authority requirements or compliance to road ban restrictions of either party.

Upon request, Alberta or Montana shall provide the other with any information or documents necessary to verify the operations described in the Memorandum. Such information shall include notification of any legislative or regulatory changes which may affect the operations described herein.

Montana will allow the operations covered herein for a period of one year from the signatory date, unless severe damage to Montana highways is identified. If Montana determines that damages to its highway system are evident, Montana reserves the right to discontinue this agreement.

Either Alberta or Montana may discontinue the operations covered by the Memorandum by giving written notice to the other.

Such discontinuance shall be effective on the tenth (10th) day following the mailing date of such notice or any subsequent date agreed to.

Alberta and Montana shall proceed in accordance with the Memorandum of Understanding on a date agreed after the required internal formalities are completed.

Signed at —— this — day of ——, 1991.

For the State of Montana:

—— ——,
Governor.

For the Province of Alberta:

—— ——,
Premier.

Montana Department of Highways,
Helena, MT.

To: John Rothwell, Director of Highways.
From: James R. Beck, Administrator, Legal Services.
Date: April 9, 1991.
Subj: FHWA Memo.

I have reviewed the memorandum from Dean Carlson, Executive Director of the Federal Highway Administration, which was forwarded to you by Hank Honeywell, its Montana Division Administrator. The memo advises that the FHWA will withhold a portion of Montana's interstate apportionment if certain overweight permits are issued. The permits in question will be issued if the Memorandum of Understanding is entered into with the Province of Alberta. The FHWA advises that; in their opinion, the issuance of these permits will be in conflict with the provisions of 23 U.S.C Section 127.

The basic issue revolves around the correct interpretation of the "grandfather clause" contained in 23 U.S.C. Section 127. This section imposes restrictions on the weight and width of vehicles that can be operated on the Interstate System. Section 127 was originally enacted in 1956 and contains the following language: "This section shall not be construed to deny apportionment to any state allowing the operation within such state of any vehicles or combination thereof that could be lawfully operated within such state on July 1, 1956." This language in effect "grandfathered" in weights in excess of those authorized under Section 127. In Montana these heavier weights were allowed through the issuance of special permits.

The extent of the Department's authority to issue these special permits became a matter of controversy with not only the FHWA but also the trucking industry. Basically, the dispute with the FHWA centered around two issues:

(1) Should the grandfather clause contained in Section 127 be read to allow only those weights that were being operated on

the highways as of July 1, 1956 or should it be read to allow those weights that legally could have been operated as of that date, even though they were not actually being operated on the highways as of that date?

(2) The second question involved the issue of who made the final determination as to the extent of the weights allowed under the "grandfather" clause, the State or the FHWA?

In 1974 a trucking company brought a declaratory judgment action against the Department of Highways seeking an interpretation of the authority of the Department to issue special permits for weights in excess of those authorized by Section 127. The Montana Supreme Court issued an opinion defining the extent of the Department's authority to issue permits for excess weight. The FHWA was not happy with this opinion and does not agree with it; nevertheless, the Montana Department of Highways is bound by it.

This opinion and the dispute over the issuance of special permits was the subject of much communication with the FHWA between 1974 and 1982. In 1982 the Department contacted the office of Senator Baucus and expressed concern about the FHWA's position on the "grandfather clause." I believe that Senator Baucus was involved in the passage of an amendment to 23 U.S.C. Section 127. The amendment, introduced by Senator Symms of Idaho, revised the "grandfather clause" to read:

"This section shall not be construed to deny apportionment to any state allowing the operation within the state of any vehicles or combinations thereof *which the state determines* could be lawfully operated within such state on July 1, 1956. * * *"

The underlined language was inserted by the Environment and Public Works Committee according to Senator Symms. See 128 Congressional Record S14997.

In 1984 to FHWA issued a Final Rule on Truck Size and Weight in which they attempted to give themselves the final authority on determining the extent of the "grandfather clause." The Department wrote the office of Senator Baucus protesting that portion of the Final Rule. A copy of that letter is attached. The FHWA's then executive director wrote to Senator Symms and sent a copy of the letter to Senator Baucus. In this letter he states in part:

"As you know, the history of 'grandfather' interpretations has been long and controversial. We have attempted to interpret the amendment to Section 127 in a liberal but prudent manner in accord with our reading of legislative intent. In summary, those States, particularly in the Western United States, which have been issuing special permits for doubles and triples for weights in excess of 80,000 pounds, and which were doing so under authority of an opinion of the Attorney General or State Supreme Court (South Dakota and Montana) would be considered to be in compliance with 23 U.S.C. 172. This has been and remains a settled issue with us in these States and no further documentation is required nor would this issue be reopened in the future. Of particular significance to us in the use of Bridge Table B by these States, which does provide for proper axle numbers and spacing.* * *"

"Thus, *I would like to assure you that we have no inclination to overturn these existing practices, whether the States were in fact issuing such permits in 1956 or could have issued such permits in 1956.* We do, however, ask your support in the maintenance of our role with respect to the issuance of permits not conditioned upon Bridge Table B. We have diligently sought to conform to the letter of the law and to the spirit which led to the amendment and we feel we have succeeded in both establishing a proper Federal role and recognizing State determinations of State law." (Emphasis added)

It now appears that the FHWA is attemptiong to "reopen" the issue.

I believe that the Department should contact the office of Senator Baucus to advise him of the FHWA's memo and seek his assistance in this matter. If this is not successful and the FHWA withholds Montana's interstate apportionment, I would suggest that an action be initiated in Federal District Court to determination whether they have the legal authority to withhold these funds.

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
April 1, 1991.

Subject: Montana: Memorandum of understanding with Alberta concerning overweight vehicle operations.

From: Executive Director.

To: Mr. Louis N. MacDonald, Regional Federal Highway Administrator (HRA-08), Lakewood, CO.

This is in response to your February 26 memorandum concerning Montana's proposed Memorandum of Understanding (MOU) with the Province of Alberta. The MOU would allow overweight vehicles carrying divisible loads to operate under permit on I-15 between Sweetgrass on the U.S.-Canadian border and Shelby. The vehicles would use 37,500 pound tandems and 50,700 pound tridems, both of which exceed Federal axle or bridge formula limits. The gross weight of these vehicles would apparently be 138,000 pounds. You asked for my review and advice. You also questioned whether Montana could enter into the agreement without congressional approval.

This permit program, if implemented, would bring Montana into conflict with Federal law and would result in the withholding of Federal-aid funds to the State.

Chief Counsel Steve Wermcrantz has concluded that vehicles with the weights contemplated by the MOU exceed Montana's grandfather rights under 23 U.S.C. §127. We are aware that the Montana Supreme Court held exactly the opposite in *State ex rel. Dick Irvin, Inc.* v. *Anderson*, 525 P.2d 564 (1974), but we think the decision was incorrect on the critical point. The question of State law addressed in *Dick Irvin*—whether Montana had the authority to issue divisible load permits in 1956—is exclusively within the jurisdiction of that Court. The interpretation of Federal weight law, however, is primarily the responsibility of this agency, and ultimately of the Federal courts. *Dick Irvin* held that the grandfather clause allows a State to issue divisible load permits for vehicles far heavier than those allowed under permit in 1956. That was a fundamental misreading of Section 127. The grandfather clause was intended to freeze vehicle weights, including the weights of vehicles operating under permit, at the levels current in 1956. The Montana Supreme Court's interpretation of the grandfather clause would reverse the intent of Congress and enable the State to increase vehicle weights without limit. The Federal Highway Administration (FHWA) therefore rejects both *Dick Irvin*'s reasoning and its result.

Several other States are also considering the adoption of permit programs that would allow vehicles weighing 110,000 pounds or more to operate routinely on the Interstate. The rationale for these programs is invariably derived from the Montana case. If this problem is not addressed now, the 80,000 pound gross weight limit will in effect disappear.

Please inform Montana that the FHWA considers permit operations under the MOU to be in conflict with Section 127. If it proceeds with the program, the FHWA intends to withhold the State's Interstate construction apportionment on October 1.

The Assistant General Counsel for International Law has advised us informally that the MOU probably does not offend the Constitution.

E. DEAN CARLSON.

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
Washington, DC, October 3, 1984.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, DC.

DEAR SENATOR SYMMS: Thank you for the opportunity to review Mr. Darrell V. Manning's letter of September 12 to you concerning our recent interpretation of State "grandfather" rights under 23 U.S.C. 127. We have also reviewed Mr. Wicks' letter to Senator Baucus and a letter from Mr. Otis E. Winn to Senator Garn. We are forwarding this response to each of these Senators.

As you know, the history of "grandfather" interpretations has been long and controversial. We have attempted to interpret the amendment to Section 127 in a liberal but prudent manner in accord with our reading of legislative intent. In summary, those States, particularly in the Western United States, which have been issuing special permits for doubles and triples for weights in excess of 80,000 pounds, and which were doing so under authority of an opinion of the Attorney General or State Supreme Court (South Dakota and Montana) would be considered to be in compliance with 23 U.S.C. 127. This has been and remains a settled issue with us in these States and no further documentation is required nor would this issue be reopened in the future. Of particular significance to us is the use of Bridge Table B by these States, which does provide for proper axle numbers and spacing.

We do remain concerned with the issuance of permits, both up to and above 80,000 pounds which do not require the use of Bridge Table B. The increased frequency of loadings of such a magnitude can have disastrous implications for our pavements and bridges. In such cases, we do feel that the Congress has delegated to the Federal Highway Administration (FHWA), the task of ensuring that the safety and preservation of the Federal-aid systems remain intact. Thus, in States instituting new permit practices authorizing higher axle and gross weights we must remain involved to some extent to carry out the requirements of section 127.

I would again call your attention to the long history of FHWA support for the complete use of Bridge Table B. We recommended the lifting of the gross weight cap and use of Bridge Table B as early as 1965 (see H. Doc. 354, "Maximum Desirable Dimensions and Weights of Vehicles Operated on the Federal-Aid Systems)." We introduced legislation in 1969 and again in 1973; each time this legislation was rejected. We also discussed this proposal with the House and Senate staffs prior to the Surface Transportation Assistance Act of 1982 (STAA), but the proposal received an unfavorable reception.

Thus, I would like to assure you that we have no inclination to overturn these existing practices, whether the States were in fact issuing such permits in 1956 or could have issued such permits in 1956. We do, however, ask your support in the maintenance of our role with respect to the issuance of permits not conditioned upon Bridge Table B. We have diligently sought to conform to the letter of the law and to the spirit which led to the amendment and we feel we have succeeded in both establishing a proper Federal role and recognizing State determinations of State law.

I hope this information is of assistance to you.

Sincerely yours,

R.D. MORGAN,
Executive Director.

JULY 24, 1984.

Hon. MAX BAUCUS,
U.S. Senator,
Dirksen Office Building,
Washington, DC.

DEAR MAX: The Federal Highway Administration (FHWA) on June 5, 1984 issued a Final Rule on Truck Size and Weight. This is contained in Volume 49 of the Federal Register starting at Page 23302. This rule addresses a number of subjects; however, the Montana Department of Highways is primarily concerned with only one. This is the interpretation that FHWA has placed on the grandfather clause contained in 23 USC 107. This particular section was amended by the Surface Transportion Assistance Act of 1982 (STAA). As you may recall, the gradfather issue as controversial. Our understanding of its resolution is, first, the states determine the permitting weight, and secondly, the weights are grandfathered on the basis of what the states could have issued, not what they were issuing at that time.

The FHWA's interpretation is found in the Supplementary Information under the heading "Special Permits" and is on Page 23312. This interpretation appears to be considerably different than the one expressed in the Notice of Proposed Rulemaking. This is found in Volume 48 of the Federal Register at Page 41280. We did not comment on the issue of the grandfather clause becaue we were not aware of the FHWA's interpretation until the final rule was published. In addition, we did not dispute the FHWA's statement on the effect of the amendment to the grandfather clause which was contained in the Notice of Proposed Rulemaking.

It now appears that the FHWA has altered its position on the effect of this amendment. We feel that the position of the FHWA is not only contrary to the plain meaning of the language of the STAA, but also contrary to the legislative intent as indicated by the legislative history of the STAA. The fact that an agency would attempt to adopt an interpretation that is directly contrary to the language and purpose of an amendment is most disturbing.

In order to understand the concern we have, some background information is essential. Section 127 of Title 23, USC, imposes restrictions on the weight and width of vehicles that can be operated on the Interstate System. This was originally enacted in 1956 and contains the following language: "This section shall not be construed to deny apportionment to any state allowing the operation within such state of any vehicles or combination thereof that could be lawfully operated within such state on July 1, 1956." This language in effect "grandfathered" in weights in excess of those authorized under Section 127. In Montana these heavier weights were allowed through the issuance of special permits.

The extent of the Department's authority to issue these special permits became a matter of controversy with not only the FHWA but also the trucking industry. Basically, the dispute with the FHWA centered around two issues:

(1) Should the grandfather clause contained in Section 127 be read to allow only those weights that were being operated on the highways as of July 1, 1956 or should it be read to allow those weights that legally could have been operated as of that date, even though they were not actually being operated on the highways as of that date?

(2) The second question involved the issue of who made the final determination as to the extent of the weights allowed under the "grandfather" clause, the State or the FHWA?

In 1974 a trucking company brought a declaratory judgment action against the Department of Highways seeking an interpretation of the authority of the Department to issue special permits for weights in excess of those authorized by Section 127. The Montana Suprme Court issued an opinion defining the extent of the Department's authority to issue permits for excess weight. The FHWA was not happy with its opinion and does not agree with it; nevertheless, the Montana Department of Highways is bound by it.

This opinion and the dispute over the issuance of special permits was the subject of much communication with the FHWA between 1974 and 1982.

The Department of Highways, upon reading the provision of the Surface Transportation Act of 1982, thought that the subject had been put to rest as the result of language which amended the grandfather clause in Section 127. This language amended the grandfather clause so that it now reads: "This section shall not be construed to deny apportionment to any state allowing the operation within the state of any vehicles or combinations thereof which the state determines could be lawfully operated within such state on July 1, 1956 * * *" The underlined language was inserted by the Environment and Public Works Committee according to Senator Symms. See 128 Congressional Record S14997.

The FHWA on Page 23313 of the Federal Register states:

"The Congress, in enacting the STAA, attempted to clarify this issue and reduce conflict between the Federal and State governments by amending 23 U.S.C. 127 and placing the responsibility on the States to determine, as a matter of first impression, whether State law on July 1, 1956, provided for the issuance of special permits for divisable loads, and if so, the scope of the permits. However, the legislative history of the STAA addresses the issuance of special permits (see remarks of Sen. Symms, 138 Congressional Record S14997) and makes it clear that Congress did not intend to create exclusive State authority to make such determinations. The Secretary must be involved in this determination process and is responsible for reviewing State determinations that appear to be inconsistent with the requirements of 23 U.S.C. 127. Congress enumerated the States that are considered to have legitimate grandfather rights and also mentioned that the language added to Section 127 was not meant to provide new controversies over this authority."

The clear implication of this paragraph is that the FHWA will make the ultimate determination as to the extent of the State's permitting authority. To justify this, it is noted that the legislative history "makes it clear that Congress did not intend to create exclusive authority to make such determinations." That may be true but it is misleading—Congress did intend that the final determination would be made by the states."

The legislative history is very clear on this. The House version, which was not enacted, contained a subsection amending the language of the grandfather clause. In the House Report on P.L. 97-424 it was stated about this subsection:

"The new subsection also provides, however, that apportionments shall not be denied to States which allow the operation of vehicles which that State determines, in consultation with the Secretary, could have legally operated in the State on July 1, 1956, or in the case of overall gross weight of any group of two or more consecutive axles, on the date of enactment of the Federal-Aid Highway Act of 1974. Consultation with the Secretary is intended to ensure that the Federal investment in the Interstate System is safeguarded to the maximum extent practical."

A copy of this subsection is not available to the Department of Highways. However, it is obvious that it required "consultation with the Secretary" in the determination of what vehicles could legally be operated within a State on July 1, 1956.

The Senate amended the above language and in the Conference Report on P.L. 94-424 it is noted:

"The provision also clarifies the application of the "grandfather clauses" authorized by the Federal-Aid Highway Act of 1956 and the Federal-Aid Highway Amendments of 1975. Under this provision States will determine the weight of vehicles and classes of vehicles eligible under the grandfather provision as it applies to their State."

It is obvious that the ultimate determination as to the extent of the weights allowed under the grandfather clause resides solely with the State and that there is no requirement that the states consult with the "Secretary" or the FHWA in making that determination.

The FHWA states, in the latest rules, that the legislative history "makes it clear that Congress did not intend to create exclusive state authority to make such determinations." In support of this they seem to cite the remarks of Sen. Symms at 128 Congressional Record S14997. A reading of Sen. Symms does not support this position. Senator Symms recognized that the ultimate determination would be made by the state. He stated:

"This set of States are the only ones likely to qualify under the State determination process envisioned by the committee in adding the provision. FHWA is certainly encouraged to be actively involved in the state determination process."

Note the language that encourages the FHWA to be actively involved "in the State determination process." This does not mean that the FHWA is empowered to make its own determination but rather that the FHWA should participate in the state determination process, such as an Attorney General's opinion or a court case.

The FHWA in a similar vein is trying to adopt an interpretation of the grandfather clause which is contrary to the plain wording of the legislaton. So far as pertinent, the grandfather clause was amended to read: "* * * to any state allowing the operation within such state of any vehicles or combinations thereof which the state determines could be lawfully operated within the state on July 1, 1956 * * *"

The FHWA on Page 23313 of the Federal Register states:

"FHWA believes the authority to issue special permits for divisible loads in excess of 80,000 pounds represents a legitimate grandfather right under Section 127 only if the State was actually issuing such permits in 1956. Furthermore, this permit authority should only extend to those weights for which the permits were being issued at that time. Any other interpretation would allow the States to issue permits for loads that do excessive damage to highway pavements and bridges and would contravene the plain meaning of grandfather rights under Section 127."

The FHWA is taking the position that the extent of the State's permitting authority under the grandfather clause is determined by what permits were actually being issued on July 1, 1956. This is contrary to the plain wording of the statutes. The determination cannot be limited to what the states were actually permitting, but what the states, under their law, could have permitted on that date. This is borne out by the House Report to P.L. 97-424, which states:

"In incorporating amendments with respect to vehicle sizes and weights, the committee has taken care to preserve the authority of the States to continue to permit the operation of vehicles of such sizes and weights as could lawfully be operated on those highways of those states on July 1, 1956."

Congress was no doubt well aware of the difference between the term, "could lawfully be operated" and, "were lawfully operated." If Congress had intended the latter, they would have said so.

We believe that you should be made aware of the action being taken by the FHWA and its incorrect interpretation of the amendment to the grandfather clause. It would appear that the FHWA does not agree with the amendment, and therefore through the process of rulemaking, is attempting to thwart the will of Congress. We are requesting that you intercede in this matter to determine what the FHWA intent is on the rule, and to have the rule rescinded, or modified to comply with the original congressional intent. For your information there are 15 other states apparently being similarly affected, namely Nebraska, South Dakota, Oklahoma, Rhode Island, Idaho, Oregon, New Mexico, Utah, Nevada, Massachusetts, Louisiana, Michigan, Hawaii, Washington and Alaska.

Sincerely,

GARY J. WICKS,
Director of Highways.

Mr. BAUCUS. In closing, this will allow development of the Shelby Trade Port. It will spare the State of Montana from needless and expensive litigation.

Thank you.

Mr. KOHL. Mr. President, this amendment will provide Wisconsin the necessary flexibility to better meet its transportation needs in southeastern Wisconsin.

I ask unanimous consent that a letter written to the chairman of the transportation subcommittee of the Environment and Public Works Committee, Senator MOYNIHAN, by myself and Senator KASTEN which further explains the need for this amendment, be printed in the RECORD.

There being no objection the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, May 31, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR PAT: In anticipation of full Senate consideration of the Surface Transportation Efficiency Act of 1991, we would like to bring to your attention a matter of special concern to the State of Wisconsin.

During preparation of the 1991 Interstate Cost Estimate [ICE], the Federal Highway Administration agreed that $320.9 million in costs related to the I-94 East-West transitway project in Milwaukee and Waukesha counties had been inappropriately excluded from Wisconsin's ICE in 1981. Although Wisconsin has had no remaining Interstate completion costs since 1987, the 1991 ICE—submitted to Congress in February—showed Wisconsin with an estimated Federal share of funds required to complete the Interstate system of $265.18 million. This sequence of events has created circumstances that FHWA admits are unique in most respects.

FHWA has already agreed to restore these funds and no further action is required to establish Wisconsin's entitlement. However, because of the 10-year period since the costs were excluded by FHWA, the dormancy of the transitway project, and the sudden restoration of these funds, Wisconsin faces a very difficult task in trying to develop plans for the most appropriate use of these funds to be apportioned starting October 1, 1991.

It now appears that the transitway project is no longer the best solution to the growing congestion along the I-94 E-W corridor. Since Wisconsin will need several years to select projects and develop detailed plans before it is actually able to use these funds, we believe that the best solution from both a State and Federal perspective is to make the transitway project eligible as an Interstate substitution project. We have attached draft legislative language to that effect.

There are several justifications for making the transitway project eligible as an Interstate substitution project.

First, it is important to note that we are not proposing this in order to gain additional funds for Wisconsin. Rather, treating this as a substitution project permits a more manageable schedule for project development and fund distribution. This is critical to ensure that sound planning and decisionmaking occurs at each step of the process.

Second, strong local support now exists for construction of a light rail transit [LRT] system along this route instead of a transitway. Under existing law, the use of these funds for a transit project must be done under the auspices of an Interstate substitution project. As you may recall, there is precedent for this in the 1987 Surface Transportation Assistance Act, which permitted Oregon and California to construct a LRT line in lieu of HOV lanes that were part of the ICE in those states. It is also envisioned that a portion of these funds would be used for additional highway projects in the E-W corridor and on connecting routes in the region.

Third, Wisconsin is not in a position to be able to use these newly-restored Interstate funds in fiscal year 1992. It therefore makes little sense to tie up these funds on paper by apportioning them to Wisconsin when it is clear that other States could make better use of the funds in the near term. Massachusetts is in a similar position with regards to its ability to use Interstate funds, and FHWA has proposed language to specifically exclude them from apportionment calculations until the State is ready to use the funds. At such time as Wisconsin formally requests the substitution, its costs would be removed from the ICE, increasing the shares of other States. To ensure that no apportionments are received before that time, the language treats Wisconsin as a zero-cost State when Interstate apportionments are calculated.

Lastly, we feel that the Interstate substitution approach is the best method available to use these funds to achieve their original purpose: namely, to improve mobility in the I-94 E-W corridor. Absent the creation of an Interstate substitution project, other uses will have to be found for these funds that may not adequately serve the original intent of the transitway project.

We hope that we can enlist your support for this Interstate substitution project. Please let us know if, you or your staff need any additional information on the subject.

Best regards,

HERB KOHL.
BOB KASTEN.

Mr. KOHL. Mr. President, I thank the managers of the bill for their cooperation on this matter as their support for this amendment.

Mr. KASTEN. Mr. President, I rise as a cosponsor of this amendment which gives Wisconsin some necessary flexibility in the use of $341 million of highway funds to which we are already entitled. In 1991 during preparation of the interstate cost estimate [ICE], the Federal Highway Administration agreed that $320.9 million in costs related to the I-94 east-west transitway project in Milwaukee and Waukesha counties had been inappropriately excluded from Wisconsin's ICE in 1981.

The 1991 ICE—submitted to Congress in February—showed Wisconsin with an estimated Federal share of funds required to complete the Interstate System of $265.18 million, although Wisconsin has not had any remaining Interstate completion costs since 1987.

FHWA admitted that this is a unique set of circumstances and has agreed to restore these funds without further action to establish Wisconsin's entitlement. Unfortunately the transitway project these funds are allocated for has been dormant for 10 years, making it extremely difficult for Wisconsin to develop plans for their proper use by October 1, 1991.

Furthermore the 10-year dormancy has rendered the transitway project obsolete, as it no longer provides the best alternative for solving congestion problems along the I-94 east-west corridor. I believe the best solution from both a State and Federal perspective is to make the transitway project eligible as an interstate substitution project.

There are several justifications for this decision.

Most importantly, Wisconsin is not requesting any additional funding. Rather the substitution project simply provides us with the necessary time to draft a manageable and realistic schedule for project development and fund distribution.

Second the 10-year time lapse has changed the solution to the I-94 east-west corridor congestion problem. There is strong local support to construct a lightrail transit [LRT] system instead of the planned transitway. Under the existing law, the use of these funds for a transit project can only be accomplished under the auspices of an interstate substitution project.

Additional highway projects in the E-W corridor and on connecting routes in the region could also be funded with this money. The 1987 Surface Transportation Assistance Act permitted Oregon and California to build a LRT line instead of HOV lanes and serves as a precedent for our proposal.

Third, Wisconsin will need several years to draft plans for the best usage of these funds. It makes no sense to allocate these funds to Wisconsin when other States with more fully developed ideas could make better use of them. Wisconsin's costs would be removed from ICE, thus increasing the allotment of other States. To ensure that no apportionments are received before that time, the language treats Wisconsin as a zero-cost State when interstate apportionments are calculated.

Finally, the Interstate substitution method provides the best solution to improving transportation mobility in the I-94 E-W corridor. Without the Interstate substitution project I am proposing, plans will have to be devised that may not adequately serve the original intent of the transitway project. And without the flexibility this amendment provides, the money may not be directed to its best use.

I thank the managers of this bill for their cooperation and am pleased that this amendment is included in the Surface Transportation Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 353) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent that Senator BAUCUS be allowed to speak before we go into recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I thank the Senator from New York as well as the Senator from Idaho for their gracious willingness to delay the vote. I thank the Chair.

Mr. President, I rise today in support of the compromise amendment offered by the Senator from West Virginia, our distinguished President pro tempore. I will focus my remarks on the amendment's level of effort bonus provision.

But before I do, I would like to begin by saying that this amendment strikes a reasonable balance between the competing interests that have made debate over this bill so difficult.

Mr. President, it is time for all of us to put our regional differences aside and do what the President has asked us to do; that is, pass a surface transportation bill in about 100 days.

Like the Senator from West Virginia, I have long believed that the Federal highway funding formula should contain a level of effort provision.

Earlier this year Senator REID and I introduced S. 823 the Transportation Improvement Act of 1991. That legislation contained a level of effort bonus provision somewhat similar to that which the Senator from West Virginia has now proposed.

The level of effort provision in this amendment is good national public policy.

The amendment recognizes the Federal Government must encourage State investment in roads and bridges. First and foremost, we should help those States with limited means that make an extra effort to help themselves. That is good policy.

Make no mistake about it, this is an issue that is also critical to our national competitiveness. As the Senator from West Virginia has repeatedly recognized, this country must begin to invest in improving its infrastructure.

For instance, on August 5 of last year the Washington Post ran a piece on the troubled Soviet farm economy. The article cited "miserable country roads" as a major reason why the Soviets lost as much as 2 million tons of grain each day—lost to the Soviet Union because of miserable roads. Grain rots on the farms. And Soviet farm to market roads simply cannot carry enough commodities to support cities like Moscow or Leningrad.

Of course, our roads are not in the same state of disrepair as those in the Soviet Union. They are not. Yet any smart businessman or local planner knows that poor roads and bridges hamper economic development.

Moreover, at least one study shows that an investment in highways and other forms of infrastructure stimulate economic growth. According to a study conducted by Prof. David Aschauer, a former researcher from the Federal Reserve Bank in Chicago, a $1 increase in Federal infrastructure spending adds as much to this Nation's economic productivity as $4 in private business capital investment.

However, such investment must occur at all levels of government—Federal, State, and local. I say this because a full 80 percent of the total road and bridge spending in the United States occurs at the State and local level. By increasing spending at the Federal level, we have accomplished just 20 percent of what must be done.

Yet, unfortunately, when it comes to highway and bridge spending there is an enormous disparity between the States. For instance, in my home State of Montana we are taxing ourselves into the ground just to maintain our existing network of State and Federal aid roads. We are not a rich State. We lack a broad tax base.

But on a per capita basis the Federal Highway Administration estimates that Montanans pay $380 each person in direct and indirect highway taxes—the fifth highest overall State level effort in the Nation. Nationally the per capita level of highway spending is just $226, much higher in a State like mine with no resource base on which to raise more taxes.

Moreover, at 20 cents a gallon our State gasoline tax is among the highest in the Nation. We are tapped out. Unless the Federal Government begins to provide an incentive we cannot even begin to think about paying more. The level of effort provision in this amendment recognizes this fact.

For this reason, Mr. President, I urge adoption of the amendment. It is time to provide a fair incentive for the States to invest in this Nation's infrastructure.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to speak as in morning business for not more than 10 minutes.

Mr. HATFIELD. Reserving the right to object——

Mr. DOMENICI. I say to the distinguished chairman, the Senator from Florida is wishing to speak on the amendment.

Mr. LEAHY. I am sorry. I sought recognition. I did not realize there was somebody else out there.

Parliamentary inquiry, Mr. President: Who has the floor?

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I ask unanimous consent to be able to yield to the Senator from Florida without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I would like to talk about the environment in which we are about to consider the amendment offered by the Senator from West Virginia and the basic bill.

There has been a great deal made of the fact that transportation is a key part of our national effort to rebuild economic competitiveness. Of all the things that Government can do that will contribute in our democratic capitalist society to a stronger and more competitive American economy, the two principal areas of investment are education and transportation.

I believe that therefore it is important that we understand what the fundamental impact of this legislation that we are currently considering will be on our Nation's transportation system over its 5-year life expectancy.

To do that, let me share two sets of figures: One from the Federal Highway Administration that relates to the status of this legislation and our National Highway System; the second set from the American Public Transit Administration relative to the impact of this legislation on our public transit system.

According to the Federal Highway Administration, Mr. President, we today have an unmet need in our highways of $450 billion. That is in order to bring our highways up to a level of adequacy, we would have to spend $450 billion.

The Federal Highway Administration projects that over the next 5 years, as a function of the continued deterioration of our existing system, and the needs of a growing population and economy, we will add an additional $225 billion to our current unmet needs.

So if we did nothing and made no expenditures over the next 5 years, we would have a total unmet need in fiscal year 1996 of approximately $675 billion. We are not proposing to do nothing. We are going to be making an expenditure—although the numbers have been somewhat shifting, under this legislation, with the amendment that is currently before us and the amount of State funds which are anticipated to be drawn to this Federal program—of approximately $150 billion over the next 5 years.

The consequence, therefore, is that at the end of this 5-year period, we will, to the extent of approximately $75 billion, have a worse transportation system, a worse highway system than we do today. If anyone wishes to dispute those figures that we are about to pass a bill which guarantees that we are going to have a deterioration of America's highway system, I wish they would please stand and challenge those numbers, because to me that is a basic part of the environment, which this legislation must be considering. We are guaranteeing longer lines, and we are guaranteeing greater deterioration of our highways, a lesser contribution to our Nation's economy. And it is not just in highways.

The American Public Transit Administration, using the same analysis, estimates that today the estimate of backlog in our public transit is $25 billion. We will add to that number, over the next 5 years, an additional $26 billion for maintenance, modernization, and replacement of the existing system, and $24 billion of need for capacity expansion, or a total of $60 billion of additional needs added to the $25 billion that currently exists.

We are proposing to spend, under the public transit title of this bill, $17 billion in Federal funds and will draw $8 billion of State and local contribution, or a total of $25 billion.

So the consequence is that at the end of this process, we will have a $50 billion, rather than the current $25 billion, unmet need in our transit needs. So we are adding over $100 billion in the next 5 years to the backlog of our Nation's transportation system in highways and public transit. That is the basic environment within which this amendment, this legislation, must be considered.

The second issue of environment is the fact that America is moving. The distinguished Senator from New York has used extensively a line from the movie "Field of Dreams," which is, "If you build it, they will come." That movie is set in Iowa. That is where the cornfield was cut down, the baseball field was built, and the Chicago White Sox of 1919 returned, because it had been built and they came.

I am interested in Iowa, because in addition to being a beautiful, wonderful State in our Nation, it also happens to be a State that shares a lot of historical parallels with Florida. When Florida became a State in 1845, Iowa became a State also. We entered the Union together.

When we did, Iowa had a population of 192,000 souls. Florida had a population, in 1845, of 87,000 souls. By 1930, Iowa had grown to 2.471 million. Florida had grown to 1.468 million. Florida had five Members of Congress in 1930, and Iowa had nine. Today, in the 1990 census, the Iowa population is 2,887,000, and it will have 5 Members of Congress. Florida will have a population of 13,003,000 and will have 23 Members in the House of Representatives after the 1990 census is implemented.

Mr. President, why do I cite these figures from the line, "If you build it, they will come"? We did not build it, and they came. I can assure you that there were many reasons why 13 million Americans decided that they wanted to come to Florida. It was not the smell of asphalt. They came for a whole variety of reasons. And now it is America's responsibility to see that a basic part of the American system of serving Americans where Americans live—our transportation system—responds to that. They are there, and now we must respond in an equitable manner.

Later in this debate, I will talk about some of the concerns I have about the underlying legislation, the legislation introduced by the Senators from New York and Idaho, which I believe fails to take into account that second part of the basic environment, which is that America has moved; therefore, our concept of where transportation needs are must also move.

Let me turn, Mr. President, to the issue of the Byrd amendment. When I was in the State legislature, we used to consider the budget by taking up a piece of legislation that had some 1,200 items. The first item in that was always the salary of the Secretary of State. We would spend a considerable period of time debating whether the Secretary of State was worth $30,000, or $32,000, or $28,000, or some other figure, and after having exhausted that very philosophical debate, someone would say, "We have now had a full debate on the budget; let us go to a vote."

I have a sense of deja vu here. We have a tail, the tail of Byrd-Mitchell-Bentsen, an $8.2 billion tail. It is not an inexpensive tail, but it is a tail, because it is attached to a dog that is $105 billion dog.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. GRAHAM. Yes.

Mr. MOYNIHAN. Is the Senator not aware—as I know he is aware—that I have repeatedly asked if we could not refer to the bill as a donkey?

Mr. GRAHAM. I do not want to have any partnership by illusion, or otherwise, attached to this legislation. I do not want the symbol of Thomas Jefferson to be associated with an analogy which I think is so precise, because we have a dog, a $105 billion dog. It is an old dog, and we will talk about the age of this dog at a later point. I suggest that it is a relatively emaciating dog in terms of the distance that we want it to travel in meeting our transportation needs. But that is the dog.

What we are talking about here, and have been talking about for most of last week, has been the tail of the dog. Just like I do not want the salary of the Secretary of State in Florida to be defined as the totality of debate on the budget, I do not want the debate over the tail of Senator Byrd-Mitchell-Bentsen—no pejorative to any of those Senators or the tail itself—to be considered to be the debate on the transportation bill.

I have some concerns about the basic proposal of Senator BYRD. We are here allocating Federal money to meet Federal objectives. We are here to see that the mammoth investment that we have in our Federal Highway System, including the 40,000-plus miles of interstate, is properly maintained. We are here to see that the investment in our Nation's public transit systems, which have been largely built with Federal funds, is maintained. We are here to see that we can meet future needs, as the American population and the American economy grows.

(Mr. SIMON assumed the chair.)

Mr. GRAHAM. Those are what we are here about. Those, Mr. President, I suggest, have no relevance to the question of the amount of effort expended on State and county roads, which is where those funds derived through State gasoline taxes and other sources of funding which go into a State transportation program are directed.

The fact that one State has a different standard of expectation as to what its State or county system would be, the fact that one State, for instance, has less than it has to spend on areas such as law enforcement and therefore is allowed to spend more on transportation, those are not relevant to the question of what is our level of commitment to a National Highway System, and that is the issue which I believe is diverted by our focus on a formula that says we should distribute approximately 3 to 4 percent of our highway money based on your effort for your State and your county roads.

Second, even assuming you could accept the theory there was some appropriateness to that concept, as has been pointed out by several speakers earlier today, the idea of focusing on a single factor, the average rate of tax on gasoline, as being the sine qua non of a State's effort excludes a whole range of other ways in which States have met their transportation needs. It excludes diesel fuel, a very significant factor not only in terms of its dollar contribution but also as an indicator of one of the most serious sources of damage to our highways, which is truck traffic. It excludes license fees. It includes those States that apply an ad valorem tax against automobiles. It excludes those who use toll systems extensively. All of these are forms of citizen contributions toward their transportation system. They are all indicators of a State's particular effort.

I believe before we leave this matter we are going to have to address a more rational and more comprehensive standard of what is State effort.

Finally, Mr. President, I would suggest if we were to adopt this, what we would do is send out a message of encouragement to gaming the system.

It would not be a particularly bright legislature that would be required to figure out they would be better off lowering their license tag fees and increasing their gasoline tax in a proportional manner so the total income was maintained but to do so in the category that would draw down additional Federal funds.

So we are creating an incentive for States to take action that could be totally unjustified by any policy or tax standard just in order to be able to game the system where they would get the greatest amount of funds.

That, Mr. President, speaks to the first half of the amendment that is before us.

The second half is the minimum allocation. I am concerned that "minimum allocation" as a phrase is a misnomer. The fact is we have had a minimum allocation formula in the law for most of the last decade and theoretically that has indicated States would get back 85 percent of what they contribute.

In fact, for many States, including mine, the amount returned has been closer to 74 cents of what we have contributed. And the minimum allocation we are talking about in the future is also a misnomer.

In round numbers, Mr. President, we are proposing now to receive into the highway trust fund over the next 5 years approximately $81 billion. We are proposing to expend from the trust fund for highway purposes $96 billion. Where is the $15 billion difference? The $15 billion difference is we are spending down the highway trust fund and there is some interest earning on that fund.

What we are not doing is we are not going back and readjusting what the States' contributions will be both in terms of what they have already committed in past years and which has accumulated and earned interest and how much they are going to contribute over the next 5 years.

In the case of my State, we are going to be contributing in the first year, 1992, approximately 4.91 percent of the nationwide total. That percentage will grow over the 5-year period. But fixing at that 4.91, if that were applied to the $15 billion that is going to be added to the system beyond what will be contributed over the next 5 years, my State's contribution would be increased by approximately $680 million to $700 million. And it is on that figure, the real amount we contribute, what we contribute, that we have already paid at the office, and what we are going to contribute when the delivery man comes to our door each of the next 5 years that ought to be the standard by which we evaluate whether we are treating all of our States with a minimum level of adequacy.

The consequences of this approach, Mr. President, remind me of the end of a movie which I would recommend to my colleague, "Thelma and Louise." I do not want to tell the full story of a very interesting plot. But at the last scene, in very desperate circumstances, Thelma and Louise take action to remove themselves from their predicament, and the last scene of the movie shows them suspended over a canyon. I suggest we are going to have a transportation system which will be like that last scene in "Thelma and Louise," suspended over a canyon, suspended because we are going to be spending out at a level of $96 billion because we are using past accumulations as well as current receipts. But we are only going to be having funding coming into the trust fund at a level of $81 billion.

So we are guaranteeing to our colleagues in 1996 that not only are they going to have a worse transportation system, poorer roads, and more congestion, and a continued deterioration of our public transit system—we will guarantee that. But he will also guarantee they are going to be in one hell of a financial circumstance because of a mismatch at the level of expenditures and the level of revenues.

I believe this exposes us to the criticism of being at least disingenuous, or maybe even rising to the level of Mark Twain's observation that Congress was America's only indigenous criminal class. Whether we will rise to that level, I do not know, but I think we will be approaching it.

So, Mr. President, I believe we have very fundamental issues in terms of meeting our Nation's transportation requirements, doing so in a mobile society, that we need to begin to focus on the dog, not the tail.

I would hope before we adopt this tail that we would take into account the implications that it is going to have in terms of philosophy, of Federal and State transportation responsibilities, and where this is going to leave us in terms of the fiscal condition of our transportation program in 1996.

Mr. President, I would conclude with just one statement of concern raised by comments such as the Senator from New Mexico earlier today and that is those of us who are going to be buying the dog because they like the tail so much need to be made aware the dog has a fairly guaranteed kennel. The dog is going to be more or less assured it will be fully funded; the tail is going to be very much at risk.

Mr. President, I do not believe it is an appropriate transportation program that results in half of the States of the Nation—25 States are going to be in this minimum allocation category depending upon the good wishes of future Congresses to fully fund that tail, or their dog will be even more emaciated than the dog they have been living with for the last 5 years.

Mr. President, I appreciate the opportunity to share those observations. I look forward to the debate we are going to have on the dog which will give us a chance to discuss the policy bases and some of the alternative policies available to us in terms of the basic financing of our transportation system.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, while I recover from the shock of the Senator from Florida having given us the final scene from "Thelma and Louise" without a chance to see it, my distinguished colleague and neighbor from New York and the distinguished senior Senator from New York [Mr. MOYNIHAN] has asked if I would yield to him for 1 minute without losing my right to the floor, and I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, on the subject of the dog, I ask unanimous consent that an article by Prof. Charles Lave be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 10, 1991]

(By Charles Lave)

TRANSIT SUBSIDIES: THE HELP THAT FAILED

It's hard to remember now, but mass transit systems were once profitable businesses. Even as late as the mid-1960s, the average transit system earned enough to more than cover its operating costs. But the surplus was not enough to pay for replacing their aging equipment, so the federal government established a capital subsidy program in 1964. It was not to be a perpetual dole, only a one-shot intervention to provide new equipment. Advocates claimed the new equipment would decrease operating expenses, increase productivity and ensure the industry's financial future.

It didn't turn out like that. Instead, operating expenses began to increase sharply. So the capital subsidy program was extended, and then a program of operating subsidies was added as well. Today the average transit system requires an operating subsidy of more than 50 percent.

The administration proposes major changes in the subsidy programs to restore productivity. Before discussing this proposal and its likely effect, we must understand the causes of the industry's financial decline.

Why did our attempt to help make things worse? First, government subsidies reduced financial discipline. From labor's point of view, the industry now had a "sugar daddy," so workers demanded large salary increases and new work rules. And from management's point of view, federal subsidies reduced the need to bargain hard or take a strike—why not be nice guys if the feds will pick up the tab?

Second, many congressmen hitched their pet causes onto the transit funding engine. To help downtowns, transit managers were asked to run inefficient new services out into the suburbs. To help the poor, managers were asked to lower fares for all passengers. These are worthy causes, but they are not the essential mission of mass transit. They are not even things that mass transit can do well.

Third, we indirectly increased the industry's overhead expenses. Transit staffs were expanded to comply with federally mandated standards for planning and environmental assessment and to gather the extra information that the government now wanted.

The transit industry apologizes that its financial problems stem from political decisions beyond its control. Because of that political interference, we must be careful how we measure the industry's performance: Measures such as "passengers served" or "revenue earned" are unfair, because society forced the industry to put service in areas where there is little demand and to keep fares artificially cheap. So I will measure transit productivity as the "cost per bus-hour delivered." This measure is independent of the distorting effects of suburban service and low fares; it is even independent of the effects of traffic congestion. This measure answers the question: Regardless of whether the industry provides the right kinds of service, does it at least provide that service efficiently?

To judge the effects of federal subsidy programs on the industry's productivity, I analyzed the history of the 62 largest transit systems for the period before and after the subsidy programs began. The picture across transit systems was similar, so I will concentrate on the dozen largest ones. In 1964 it cost $21 to produce one hour of bus service; by 1985 that had risen to $47 per hour (in 1985 constant dollars). The cost of putting a bus-hour of service out onto the street had more than doubled. Some of the productivity decline came from increased use of labor: Bus-hours per employee fell 30 percent. Some came from greatly increased overhead: The proportion of costs devoted to administration doubled between 1980 and 1985. And some came from greatly increased salaries for transit employees: In the eight largest urban areas, public transit drivers now earn 31 percent more than unionized private-sector drivers.

Federal subsidies for transit capital projects have been as high as 100 percent. Cheap money encourages unnecessary actions such as replacing equipment long before it wears out—the average transit bus is now younger than the average private automobile. The administration proposes that transit operators pay at least half the cost of any new capital project.

The administration seeks to eliminate operating subsidies altogether. Most academic research has shown that operating subsidies decrease management's financial discipline: Why fight with labor over demands for increased pay and decreased work hours if someone else is going to pay the costs? Why struggle to hold down overhead expenses? It is significant that the threat to reduce federal operating subsidies, in the early 1980s, produced two important productivity-enhancing changes; contract services and part-time labor.

The proposed subsidy changes would be painful for the industry, but not disastrous. At almost all transit systems, rolling stock and buildings are now in relatively good shape, so the cuts are bearable. Asking transit operators to make a 50 percent co-payment on future capital projects will restore their incentive to use capital wisely.

The federal share of operating subsidies is only 7 percent. Cutting this to zero would unquestionably be painful, but it would not halt service, and it would give management the excuse it needs to make serious productivity-enhancing changes.

These are short-run pains, necessary for the long-run health of the patient. Since we cannot afford the current situation, we must do something to restore the industry's incentive to control costs. We must restore productivity, not just to cut government expenditures, but because it will eventually allow us to expand transit service.

An expansion of transit service would help reduce air pollution and congestion in many areas. It would increase mobility for the very old and the very young in most areas. But we cannot afford to expand services now; it's too expensive because of the drop in productivity created by past subsidy policies. To put this drop into perspective, if productivity had merely remained constant during the period since subsidies began, transit operating expenses would be low enough to erase most of the current financial deficit—without raising fares.

The changes proposed by the administration will create strong pressures to restore productivity. Conservatives should support this goal because it saves subsidy money. Liberals should support it because higher productivity will make it possible for us to afford what we need.

AMENDMENT NO. 356 TO AMENDMENT NO. 353

Mr. MOYNIHAN. Mr. President, inadvertently there was a mistake made in the previous committee amendment sent to the desk and adopted. I now ask unanimous consent to amend provisions already agreed to, in effect, with an amendment to amendment 353.

I send that to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, the amendment is so modified.

Mr. MOYNIHAN. Mr. President, I think this has to be an amendment to the amendment already adopted.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 356 to amendment No. 353.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2 of the amendment, in the new section of the bill entitled "Interstate Transportation Agreements and Compacts", strike subsection (b).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 356) to amendment No. 353 was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont has the floor.

Mr. LEAHY. I yield to the distinguished majority leader.

ORDER FOR RECESS UNTIL 2:45 P.M.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Vermont be permitted to address the Senate for 15 minutes, and that following the completion of his remarks the Senate stand in recess until the hour of 2:45 p.m. this afternoon.

The PRESIDING OFFICER. Is there objection? Without objection, the majority leader's request is granted.

FOREIGN AID TO THE SOVIET UNION

Mr. LEAHY. Mr. President, we have been discussing what we might do for the United States and its roads and bridges. And while we have this debate, we have ignored the fact that almost by fiat we are suddenly in the position, it appears, to be giving foreign aid to the Soviet Union.

I want to speak to the question of under what conditions we should be giving foreign aid, because I think we are making a dramatic mistake and one that we are going to regret for a very, very long time.

Even a year ago, this question would have seemed farfetched. But now, as chairman of the Agriculture Committee, I have to weigh the implication of the White House decision to provide $1½ billion in credits to the Soviet Union to buy food. This incidentally, is on top of the $1 billion we extended to them earlier this year.

And as chairman of the Foreign Operations Subcommittee, I have to weigh the very real possibility that the American taxpayer may soon be asked to provide direct foreign aid to the Soviet Union, a country whose credit rating is on a par with junk bonds and defaulting Third World debtor nations.

We are talking about a country, Mr. President, that spends billions of dollars to have submarines armed with nuclear missiles aimed at U.S. cities; that spends billions of dollars to keep the KGB operation worldwide, with much of that money being spent in a KGB espionage network here in the United States.

I am not suggesting the Soviets must unilaterally disarm. But why should the American people have to come up with billions of dollars in foreign aid for the Soviet Union so that they can save their money to pay for the KGB operations in downtown Washington and New York City, and Chicago, IL, and in California and everywhere else?

Why should we be giving them foreign aid dollars so that they might be able to pay for the nuclear submarines with nuclear missiles aimed at the United States?

In his decision to extend the $1½ billion in agriculture credits to Moscow, the President decided the Soviet Union could repay these loans. I do not know any private analysts on Wall Street or anywhere else who would agree with this assessment.

In fact, despite the law that we passed last year which says foreign policy considerations cannot influence a decision to grant agriculture credits to a foreign country, there is little question in anybody's mind that the President's decision was motivated by a desire to help Mikhail Gorbachev cope with his fast deteriorating political position.

And so the American taxpayer in Vermont or Illinois or any other State is the ultimate guarantor of these new credits to a very shakey borrower, and the Soviets are sliding deeper into external debt, which they are going to find very hard to pay.

When Agriculture Under Secretary Crowder briefed me upon his return from the U.S.S.R., he said that the Soviet agricultural problem was with processing and distribution. These are problems that need long-term repairs, not short fixes.

Now, the President has also agreed that Mikhail Gorbachev can come to the Group of Seven Summit in London. President Gorbachev is coming to London to stage a public relations spectacular. He wants to pressure Western leaders to agree to a $100 billion aid program to rescue the Soviet economy, which is now in collapse. The world's spotlight will be on London and the heat will be on the Group of Seven heads of government.

I think permitting President Gorbachev to crash the London summit is a mistake. One of the reasons it is a mistake is because the West has not yet agreed on a common policy toward aid for the Soviet Union.

Before our leaders tell the Soviets what we are willing to do to help, we ought to work out an understanding with our partners and allies about what kinds of economic and political reforms we will demand—and I use the word advisedly—as the price for aid on a scale Moscow must have. Before we send off a blank check, we ought to ask what we are going to get in return.

Instead, what is happening is we are slipping toward a huge direct-aid effort for the Soviets before we establish strict conditions which should be met. We should know exactly what changes must take place before $1 of our money goes to Moscow.

Mr. President, we know the cold war is over. But the Soviet Union is still controlled by the Communist Party. President Gorbachev has gone back and forth between reformers and hardliners several times already. We have no guarantee he will not swing back toward the army and the Communist Party just as soon as it is politically expedient, or even that he is still going to be in power at the end of this year, and many question whether he will be.

The occupied Baltic nations still live under Stanlinist repression. Political reform is stalled at the top, and democratization has shifted to the level of the Republics, not of the union. Very little progress has been made toward privatizing the economy and permitting market forces to operate.

And, lest we forget, the Soviet Union still has 25,000 nuclear warheads, 10,000 of them aimed at the United States. The Soviet Union still spends one-fifth of its gross national product on defense. We spend about one-twentieth. It still arms and subsidizes Cuba.

There are a lot of changes they ought to make there before they start receiving massive aid from the West. We have enormous leverage to push those changes if we would just use it. At a time when we cannot pay our own bills at home, when we cannot even do the things that need to be done here in the United States, why should we be sending more foreign aid to the Soviet Union without pushing for some changes, at the very least?

I think it is in the long-term interest of the West to help the Soviet Union to move toward democracy and a free market economy. I feel strongly about that, Mr. President. In fact, I cannot think of anything more conducive to a global stability than a peaceful end to Communist rule and a command economy. But that fundamental decision has not been made by the leadership in the Soviet Union. Only very tentative steps have been taken. They have made a lot of retreats. Until the Soviet leadership irreversibly commits itself to a market economy and democracy, we ought to keep our money here at home.

I might say that is true, Mr. President, not only about the Soviet Union, but many other countries. If we are going to give aid, we ought to at least ask that it advance U.S. interests. Too often, we send the money and hope that goodness and light will come out of it. And we know that that is not the way the world works.

If we are in a position where we are going to be constantly cutting every single program that benefits the people of the United States, then before we start sending money out in foreign aid to the Soviet Union or any other country, we ought to ask just what it is we get from it.

I do not think that is crass at all. I think that is being very, very realistic. And, especially before we send aid to the Soviet Union, we ought to at least ask what reforms have to come first. Or will we simply be subsidizing the KGB on the streets of Washington?

Mr. President, I yield the floor.

RECESS UNTIL 2:45 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess now until 2:45.

Thereupon, at 1:10 p.m., the Senate recessed until 2:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise with some confidence to say that it appears that all of the major debate has taken place on the amendment of the chairman of the Committee on Appropriations, our revered President pro tempore, Senator BYRD of West Virginia. I anticipate that we will proceed to vote presently.

I see the Senator from Florida is on the floor, and he was speaking with great force and conviction just a short while ago. He may want to resume that theme, although I believe the Senator from Florida means to offer an amendment later on the basic underlying formula; is that right?

Mr. GRAHAM. Mr. President, the Senator from New York is correct. As we discussed earlier, what we have been debating for the last week is the tail, to take an $8 billion additive which was not included in this legislation at the time it was reported by the Environment and Public Works Committee. What we have yet to debate is the dog, the $105 billion basic program which was the product of the committee and which will allocate better than 90 percent of the Nation's transportation funds for Federal purposes over the next 5 years.

It will be my intention when we complete action on the pending amendment, subject to, possibly, a further perfecting amendment on the Byrd amendment, as offered by the Republican leader, to then offer an alternative dog to the one that currently occupies the kennel, a dog which I think the Senate will find to be a happier dog and one with which we can live with greater comfort for the next 5 years.

Mr. MOYNIHAN. Mr. President, as my learned and experienced friend knows, I have several times expressed the wish that if we speak of Senator BYRD's measure as a tail, we might speak of the committee's bill as a donkey rather than a dog. That seems to be a matter beyond my control at this time.

The Senator from Montana would like to speak as in morning business, and I am sure we will want to hear him.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPORTING IDEAS TO CHINA

Mr. BAUCUS. Mr. President, at the center of the debate over United States-China policy are the concerns of all Americans about human rights. I rise today to express my concerns about human rights in China, and to advocate what I believe is the most hopeful course for promoting change.

HUMAN RIGHTS IN CHINA

Americans experienced the horror of the Tiananmen Square first person. Live television coverage brought the events of June 1989 into our living rooms. Who can forget the image of a young man blocking a column of moving tanks?

Unfortunately, oppression in China did not end 2 years ago. China has yet to account for the political prisoners of Tiananmen Square. Severe restrictions remain on rights that Americans consider basic: freedom of speech, freedom of assembly, freedom of religion.

During his visit to Washington last April, the Dalai Lama reported on China's past and continuing repression of the people of Tibet. We have evenheard credible reports that China is using prison labor to boost its exports.

Despite international condemnation, there is scant hint of political reform. The United States can no longer sit idly by as human rights abuses continue in China.

MFN—THE WRONG TOOL FOR THE JOB

At the same time, I do not believe we should link our human rights concerns to China's MFN trade status.

If I thought revoking MFN would promote human rights in China, I might support such action. But revoking MFN would sever our ties with the most progressive elements in China, and dramatically reduce our ability to promote change.

Congress tends to view China as a monolithic entity. In fact, as in the Soviet Union, there is tremendous tension between the central government in Beijing and the leadership of China's provinces. Along with China's students and intellectuals, the provincial leadership in China's southern provinces is a critical engine for reform.

Progressive provincial leaders have leverage because they generate a large percentage of the nation's wealth. It is estimated that non-state-controlled entities will produce one-half of China's industrial output this year.

Put simply, the bedrock of progressive China is trade with the West. Revoking MFN would cut the tie to the West, and undermine the very element we are trying to promote. At the same time, it would increase the power of Marxists in Beijing—the true target of our anger. Remember, the Marxists want to minimize contacts with the West. Revoking MFN gives them a U.S. scapegoat to promote their own agenda.

The greater the amount of trade between the United States and China, the greater the opportunities for promoting reform. Ideas are traded along with goods.

There are indications that those on the front lines in China—the students and intellectuals—do not favor a revocation of MFN.

Recent news reports and congressional testimony indicate considerable opposition to revocation of MFN among Chinese students and intellectuals. Other reports detail the tension between Beijing and the provincial governments.

I will ask unanimous consent that these articles and testimony be placed in the RECORD.

These Chinese discussed in these articles have in many cases put their lives on the line to advocate freedom. Many of them believe that trade with the United States is vital to reform efforts.

HONG KONG

Revoking MFN would undermine human rights in another way. In 1997, Hong Kong will rejoin China. A vibrant and free Hong Kong could provide a catalyst for change in China.

But revoking MFN would devastate Hong Kong. Hong Kong is dependent on United States-China trade. Some two-thirds of China's exports to the United States pass through Hong Kong. Revoking MFN for China could throw thousands of Hong Kong's citizens out of work overnight, and send the tiny island's economy into a tailspin.

Snuffing out one of the best hopes for future change is hardly the way to promote democratic reform and respect for human rights in China.

THE OTHER OPTIONS

Congress' decision about MFN would be more difficut if MFN were our only tool. But it is not. We have other alternatives.

This week, I am circulating for signatures a letter to the President in which I advocate strong, targeted action addressing all of our concerns with China, including human rights.

There are several actions that I believe could promote our human rights goals.

First, the administration could increase its efforts to enforce existing U.S. laws prohibiting the importation of goods produced by prison labor.

Second, the United States could renew its opposition to international loans to China. The United States could condition its support for these loans on human rights improvements in China.

Third, the United States could establish a Radio Free China. Our cold war experience with the Warsaw Pact taught us the power of radio for promoting ideas. Such a program in China could complement current United States broadcast efforts.

CONCLUSION

We in Congress have a duty to make responsible policy. We should not lash out in a hollow effort to feel good, when our actions harm innocent bystanders—here and abroad.

Like others in this body, I have grave concerns about China's treatment of its people. But trade relations are a critical bridge between the United States and China's most progressive elements. Let us not destroy this vital link just to make ourselves feel good. Instead, let us pursue a sensible policy that actually does good.

I ask unanimous consent that the article and testimony I earlier referred to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 15, 1991]

DESPITE RIGHTS ISSUE, CHINESE HOPE UNITED STATES TRADE STATUS STAYS

(By Nicholas D. Kristof)

BEIJING.—As a battle looms in Washington over whether to end normal trade relations with China, many Chinese are finding themselves reluctantly siding with their hard-line rulers in hoping that the status is maintained.

While they appreciate the concern for human rights in their country and hope that the debate will force the Government to become less repressive, some worry that a cutoff of so-called most-favored-nation status would hurt their standard of living, harm the most reformist segments of the economy and prompt the hard-liners to restrict contacts with the United States.

It is impossible to be sure of public opinion in so vast and tightly controlled a country as China. But in informal conversations with dozens of Chinese in several parts of the country over recent months, most of those who were aware of the issue did not favor American economic sanctions and hoped that most-favored-nations benefits would be extended.

President Bush's annual recommendation on whether to renew the preferential trade status for China is required by June 3. He is expected to favor renewal, and opponents in Congress are expected to introduce legislation to overturn the decision.

In their first breath, urban Chinese intellectuals typically tell their trusted American friends how much they detest their leadership. In their second breath, they express affection for the United States and inquire about getting visas. And in their third breath, they worry that harsh American sanctions would hurt the Chinese people rather than their leaders.

"If I were President Bush, I would extend most-favored-nation status to China," said Zhang Weiguo, a Shanghai dissident who was unusual only in that he was willing to have his name published. "The U.S. should support China's economic development and social exchanges."

Mr. Zhang's anti-Government credentials are not in doubt. He was arrested after the 1989 Tiananmen crackdown and spent 20 months in prison before being released earlier this year, still unrepentant and fuming at the Government.

Mr. Zhang said the best result would be for a tough battle over Chinese trade in Washington, ending in an extension for another year. Such a close call would encourage China to make concessions on human rights and would leave the issue open for another fight next year, he said.

"Every year it's discussed, and that's very good," Mr. Zhang said. "It puts new pressure on China each year."

A downgrading of American trade links with China would mean a large rise in the tariffs imposed on Chinese goods shipped to the United States, and would hurt its thriving export sector. The south of China, which has the most developed private economy in the country, would be particularly affected as would Hong Kong, through which Chinese goods usually pass for packaging or transshipment.

Many dissidents say they would like the United States and other countries to be even more outspoken in supporting Chinese human rights. Above all, they would like Prime Minister Li Peng and other hard-liners to lose "face." But they worry that economic sactions are the wrong method.

"People are very torn inside," said a university student in Beijing. "They want pressure on the Government to change its policies, and they want the leadership to eat bitterness. But on the other hand, they're afraid that if sanctions are imposed, it's the ordinary people who would suffer. So we want America to threaten sanctions to pressure China, but we don't want sanctions themselves."

PEASANTS SEEM LESS AWARE

Among Chinese peasants and workers, especially outside the capital there seems to be much less awareness of the issue of sanctions, as well as less anger at the Government. Consequently, many people do not have clearly formed ideas on the subject, but frequently seem vaguely opposed to any sanctions that might compound the economic difficulties of the last couple of years. And some wealthier people fear that sanctions would make it more difficult to buy foreign products.

"The fear is that if M.F.N. were cut off, the price of a pack of Marlboros would go up," said an entrepreneur.

[From the Washington Post, May 29, 1991]

CHINA LAUDS UNITED STATES MOVE ON TRADE STATUS; ACCOMPANYING RESTRICTIONS GET LOW-KEY CRITICISM

(By Lena H. Sun)

BEIJING, May 28, 1991.—The government today praised President Bush's decision to extend China's trading privileges for another year, reflecting widespread sentiment here that such a move would enhance prospects for economic reform and prevent collapse of relations.

Renewal of most-favored-nation status "is a realistic and wise decision for which the Chinese government would like to express its appreciation," a Foreign Ministry statement said.

A Chinese intellectual, when told of Bush's decision by a foreign reporter, said: "Let's have a drink to MFN. If it was taken away, we would not be able to meet and talk."

Bush's declaration to Yale graduates Monday that the only way to prompt change in China is to remain "engaged" with its leaders represents a view that is similar to that of many people here. For two months, while the battle over most-favored-nation status has been heating up in Washington, Chinese leaders and intellectuals have been closely monitoring the developments.

Chinese officials, from Premier Li Peng on down, have argued that cutting off the special trading status would not be wise and would not help China's reforms. The status allows Chinese products into the United States at the lowest level of tariffs. China runs a large trade surplus with the United States but had threatened to end commerce if the tariffs were raised.

Congress still could prevent extension of the trade privilege for China, but both houses must act within 90 days of Bush's formal notification of Congress. Bush, in turn, could veto that action.

Although some dissidents have said the United States can only keep its moral authority by conditioning renewal of the trade status on improved human-rights performance here—as many in Congress seek to do—some student activists are less certain, even many with friends still imprisoned for participating in the 1989 democracy movement.

"If the American Congress ties MFN approval to human rights in China, and this causes our government to totally break off economic relations, then more harm than good would be done," said a Beijing University student. "The United States must look at the long-term relationship. Without trade ties, the United States will have no influence here."

Many Chinese fear that withdrawal of most-favored-nation status would punish the wrong people: the markets-oriented coastal provinces where economic change has improved the standard of living, and reform-minded officials who are trying to work around the hard-line leadership.

If the trade status were withdrawn, these leaders could fall back on the centuries-old tradition of blaming foreign pressure for China's economic problems.

"Many students respect the United States stand on human rights but don't agree that economic blackmail should be used to bring about democracy in China," said a senior at the university.

Chinese officials are aware of strong sentiment in the U.S. Congress to deny the trade status unless there is verifiable human-rights improvement. But most Chinese officials, as well as Western analysts, say that although there appear to be sufficient votes in Congress to pass a joint resolution of disapproval, there is a widespread belief that Congress does not have the two-thirds majority in each house to override a Bush veto.

Nevertheless, perhaps in light of the pending congressional action, China issued a relatively mild reaction today to the administration's decision to block high-technology computer sales to China and ban American companies from participating in further satellite launches with China.

U.S. officials said Chinese shipment of M-11 ballistic missiles to Pakistan triggered Bush's decision to restrict the exports.

"We express our regret over this statement. It is known to all that the Chinese government has always adopted a serious, responsible and prudent position on international arms trade," the Foreign Ministry said.

Specifics of the export and satellite restrictions have not been made available, so the impact of the ban on Chinese programs is difficult to assess, Western diplomats said. But it appears likely that the ban on new satellite licenses to China will severely damage the country's fledgling commercial satellite program. Virtually all commercial satellites are made by American companies or contain key parts manufactured in the United States that must be licensed by Washington for export. "This just about derails the Chinese satellite program," said a diplomat.

Following the explosion of the Challenger in early 1986, U.S. shuttles stopped launching commercial satellites, giving China an opportunity to sell its launch services. In April 1990, China successfully launched AsiaSat, an American-made telecommunications satellite.

The Chinese, who have been able to undercut European and U.S. concerns by offering subsidized launch prices, have expected satellite launchings to bring the country tens of millions of dollars in foreign exchange while adding significantly to Beijing's international scientific prestige.

Some analysts said the more serious problems for Beijing would be the administration's ban on further sales of high-speed and high-capacity computers to China. The announcement affects 20 licenses pending for $30 million worth of sales.

What remains unclear, however, is whether the United States has asked for Japan's cooperation in blocking exports of the same technology to China, diplomats said.

"The satellite program is a prestige thing," one Western diplomat said. In addition, China has lost some bids for satellite launches and has had "problems performing to contract specifications," he said. But the computer ban is far more worrisome because of far-reaching implications for China's modernization program.

"If you're running a modern economy and military, you need the highest available technology to help you with everything from weather prediction to designing of various things," said one analyst. "This is not the kind of stuff you would be able to reverse-engineer from Hong Kong."

[From the Washington Post, June 2, 1991]

DISSIDENT STRUGGLE STILL ALIVE IN CHINA

(By Lena H. Sun)

BEIJING, June 1.—The democracy movement is still alive in China, despite two years of repression since the Tiananmen Square crackdown. But it survives in small, isolated groups that are attacked by Beijing whenever they surface.

It is their underground struggle, and Beijing's continuing effort to suppress it, that serve as the backdrop for the debate in Washington over President Bush's proposal to restore China's most-favored-nation (MFN) trading status. Members of Congress, many of whom say the move would send the wrong signal to Beijing, are urging the administration to link MFN to an improvement in China's human rights record.

In advance of Tuesday's anniversary of the June 4, 1989, crackdown on demonstrators at Tiananmen Square, the government reportedly is mobilizing extra police and imposing new security measures. And dissidents report they must resort to ever more clandestine measures in order to escape capture—and possible imprisonment—by government authorities.

A group in Shanghai, for example, had been planning for months to launch an underground pro-democracy publication. Its purpose was to publicize political concepts that are unpublishable in China's state-controlled media. Organizers assigned code names to members, commissioned articles, compiled a nationwide mailing list and bought a fax machine.

But days before the first issue of Luntan (Forum) was to appear this spring, their secret plans, including the formation of a private human rights organization were discovered by authorities. Police detained one student, a key member of the group, for questioning. He confessed to participating in the plan. Within days, authorities had confiscated the equipment, copies of the articles and the mailing list.

The student and another intellectual remain in jail. Nine others, including one of China's best-known dissidents, 72-year-old writer Wang Ruowang, were interrogated by police for more than 30 hours before being released.

"They have taken away everything, and everybody has to be very careful," said a member of the group, who spoke on condition of anonymity. Nevertheless, he and others expressed optimism about the future of their movement, despite the demonstrated ability of the hard-line Communist regime to crush most open dissent.

What is left appears to be scattered pockets of underground resistance and activities who have ostensibly rejoined the system while waiting for a changing of the old guard.

A secret police report titled Document No. 1, prepared early this year for top party officials, warned of the existence of numerous unnamed illegal organizations and underground publications. It also urged close monitoring of former activists, some of whom are now setting up or joining non-state enterprises to build an economic base for a possible future movement.

Although most of China's dissidents have been silenced, a few still criticize the government openly for its use of force in June 1989.

"Any government that uses their guns on their own people is criminal," said Hou Xiaotian, whose husband, Wang Juntao, has been sentenced to 13 years' imprisonment for advising student leaders. "People won't forget what happened, especially families where somebody died, where somebody was killed, where somebody was jailed. Especially these families, they will never forget June 4."

Despite continued widespread political repression, China's predominantly hard-line leaders are finding it more difficult to maintain their iron grip on political control without choking off economic dynamism needed for the country's survival.

Conservative ideologies view tight centralization of the economy as a key way of maximizing political control. But provinces that have benefited from the past decade of market-oriented reforms, particularly those in booming southern and coastal China, have successfully resisted pressure from Beijing's hard-liners.

As the state sector of the economy continues to decline, with two-thirds of the inefficient state-owned companies operating at a loss, central authorities have begun to recognize the need for pragmatic economic changes, anslysts said.

"In the economic field, they have been reducing the ideological content and taking more practical decisions," said a Western analyst.

The political landscape also shows signs of change.

The appointments this spring of two new vice premiers—former Shanghai mayor Zhu Rongji and technocrat Zou Jiahua—have injected new blood into the leadership. Both are seen as possible candidates to replace hard-line Premier Li Peng, whose television appearance declaring martial law in Beijing in 1989 added to his widespread unpopularity among Chinese.

Perhaps as significant a personnel change came today with the partial rehabilitation of three top officials considered close associates of former Communist Party chief Zhao Ziyang, who was ousted weeks after the army crackdown at Tiananmen Square. The three are Hu Qili, former Politburo standing committee member in charge of ideology; Yan Mingfu, onetime chief of the party's United Front Department, and Rui Xingwen, a dismissed member of the Central Committee secretariat.

All three lost their positions for providing key governmental support to the 1989 democracy movement, but today were appointed to vice-ministerial-level jobs.

The government announcement of their appointments, however, included no mention of Zhao, who has been under virtual house arrest since his ouster.

Observers here say the appointments could signal a softening of the party position on the June 4 crackdown.

"If these guys get put back in official positions, if I were Li Peng, I'd be very uncomfortable," said a Western diplomat.

Authorities have made clear, however, that for the moment they will tolerate no activities even remotely critical of the government or the party.

During the past year, dozens of students and intellectuals charged with committing counterrevolutionary crimes for playing leading roles in the 1989 uprising have been sentenced to up to 13 years' imprisonment.

But many Chinese say they do not believe these harsh sentences will go to full term. "We expect democratic movement leaders will remain in jail for five to six years at the most," said a friend of dissident Wang Juntao. "By that time, the democracy movement's verdict will be reversed, and it may be Li Peng who receives life imprisonment."

For the moment, authorities have used intimidation and a network of informants to crush dissent. Members of the underground reportedly are among the government's chief targets.

Two recent college graduates from Beijing were sentenced to 11- and 15-year jail terms in March for printing one issue of an underground political journal called Tieliu, or Iron Currents. No allegations of engaging in violent activity were brought against the two, but the Beijing Intermediate People's Court found their crimes to be "serious, their nature sinister, and the offense grave," according to court documents obtained by the human rights group Asia Watch.

Thousands of activists remain in jail or in prison camps. Others are still awaiting trial.

Interviews with others who have been freed and with student activists indicate that many former detainees are struggling simply to survive. Many have been fired from their jobs, expelled from the party or banished from the capital or their former places of residence. In some cases, the political pressure has led to divorce.

Some students detained after the crackdown for their leading roles in the movement have been expelled from school.

"China is keeping a really tight lid on everything right now," said an intellectual who was released from prison early this year. He draws a reduced salary and, because he is politically suspect, has been told he may no longer teach. "They know if they just open a crack, things will explode."

One of China's most articulate dissidents is Zhou Duo, a scholar who offers a doomsday picture of the country's immediate future.

Zhou was one of the four hunger strikers who negotiated the students' withdrawal from Tiananmen Square early on June 4.

Before the crackdown, Zhou held a research position in China's largest and most successful private electronics company.

But since his release from prison last year, he has been struggling to set up various private ventures, including a freshwater crab business and a tourist resort outside Beijing.

Zhou, one of the few intellectuals willing to be quoted in the Western press, recently predicted that China would be thrown into turmoil before a more democratic system of government could be established.

He has forecast widespread starvation, worker strikes and marches by peasants into the cities.

Short of the Communist Party's voluntarily transforming itself into a democratic socialist organization, Zhou said, "the only thing that can save China from chaos is a miracle."

[A Position Paper of the China Information Center, June 1991]

KEEPING CHINA'S DOORS OPEN: A CASE FOR RENEWAL OF CHINA'S MOST FAVORED NATION STATUS

We at the China Information Center believe that the extension of MFN will, on balance, serve the long-term interests of fostering democratic changes and promoting political openness in China. We arrived at this position based upon our understanding of current Chinese political and economic realities. The purpose of this report is to illustrate this understanding and support it with facts we have gathered from diverse sources.

The report is divided into four parts. The first part presents a view among the Chinese students in this country and among progressive, liberal, and reformist intellectuals in China that the United States should take a moderate policy stance on the issue of MFN. The second part deals with the impact the removal of MFN would have on the private and quasi-private sector of the Chinese economy and the political implications therein. The third part speculates about potential repercussions removal of MFN may have on the dynamics of Chinese politics. The fourth part discusses an alternative course of action.

PART I: CHINESE VIEWS ON MFN

There is evidence to suggest that the majority of the Chinese students in this country in fact do not favor revoking MFN status for China. According to an opinion poll conducted by the Independent Federation of Chinese Students and Scholars (IFCSS) last year, 20 percent of the Chinese students in this country think that IFCSS should lobby for an extension of MFN for China and 43 percent of the Chinese students think that IFCSS should not take any action. Only 37 percent of the Chinese students in the poll want the IFCSS to lobby against an extension of MFN for China. Recently, opinions gathered from the computer E-mail service reveal that among Chinese students in this country, there is a wide spectrum of opinions regarding the appropriateness of using MFN as a political and diplomatic instrument and, when it is so used, what kind of conditions should be attached. At the very least, Chinese students in this country are deeply divided on this issue and the impression, often conveyed in the media, that Chinese students in this country overwhelmingly support a revocation of MFN or attaching stringent conditions to it is simply incorrect.

Far more important in informing our positions on MFN, however, should be what progressive and pro-reform intellectuals and officials still in China think about the issue. After all, not only are they more able than us to make a sound judgment as to what is best for China and its people, it is they who will have to shoulder the brunt of the consequences of the decisions currently being debated here.

From our own sources as well as from the coverage in the American media, we can claim that it is a consensus view among the pro-reform and progressive intellectuals and officials in China that MFN should be extended and that China's increasing integration into the world economy holds the best hopes for greater political freedom and greater respect for human rights in China. Many fear that a continued deterioration of the Sino-American relationship will strengthen the position of Chinese hardliners and China's further isolation will make it more likely for the country to revert to the Orwellian world of the Cultural Revolution when the Chinese leadership could engage in political repression without international surveillance.

On the eve of the one-year anniversary of the Tiananmen Square Massacre last year, two Beijing University students were arrested for starting a petition urging Western governments to lift economic sanctions against China. Even Mr. Chen Ziming, one of the two most prominent intellectuals who exerted a profound intellectual influence on the student movement in 1989 and who suffered the ultimate punishment—13 years in jail—for his democratic ideals, supports MFN extension. According to our information, he recently suspended a hunger strike lest his hunger strike be used by the American government as a cause to remove MFN.[1]

It is quite important to point out here that although the debate on MFN status has become a sensitive and emotionally-charged issue, it should not blind us to the fact that there can be honest differences among honest individuals on this issue and that in a democracy, unlike under an authoritarian regime, differences in opinions and positions on any given issue are a natural order of things. Support for MFN extension can have a legitimate grounding in human rights considerations as opposition to such a position. The differences are not over eventual goals, but over the relative merits of different tactics and perceived costs of one course of action over another. These issues will be addressed in the rest of this report.

PART II: THE IMPACT OF MFN REMOVAL ON THE CHINESE PRIVATE ECONOMY

MFN removal will have a very serious detrimental effect on a sector of the Chinese economy that may prove to be an effective agent for future political changes in China. Specifically, we here refer to the private and quasi-private enterprises in China's coastal areas.

China's private and quasi-private enterprises—the latter category includes joint ventures and collective and rural firms—are a direct result of the Chinese economic reforms. Former Party General Secretary Zhao Ziyang had enthusiastically endorsed and supported the development of this non-state sector in an attempt to infuse competition and dynamism into the Chinese economy and to force state enterprises to perform efficiently. As a result, in recent years the private and quasi-private sector has grown rapidly, at an average annual rate of 21.9 percent in gross value of industrial output in real terms between 1980 and 1986.[2] As of the end of 1988, rural enterprises accounted for 24 percent of that year's gross industrial value and provided employment for 90 million people. Private firms employed another 24 million people.[3] This year, despite the dominance of the communist hardliners at the political helm in Beijing, China's private and quasi-private sector has quickly bounced back from a recession a year ago and is outperforming the state sector by a wide margin. According to The Economist, by the end of this year, the private and the quasi-private sector will account for more than half of China's industrial output.[4]

Compared with the state sector, the private and quasi-private sector is more dependent on overseas markets. According to a World Bank study of four representative counties, rural enterprises contributed over 50 percent of export procurement volume in these countries.[5] Rural industry is especially dependent on the markets under MFN protection, such as machinery and textiles. In 1987, rural industry produced 65 percent of Chinese textile exports and 70 percent of Chinese handicraft exports.[6] Thus removal of MFN will have an exceptionally serious impact on this sector of the Chinese economy.

The other reason that MFN removal will hurt the private and quasi-private sector disproportionately more than the state sector is a mechanism in socialist economies called "soft budget constraints." When the tariff schedule is adjusted upward in the United States, the Chinese government will continue to pump financial resources to support the state sector to maintain its export market shares, irrespective of the decline in profits. The private sector, on the other hand, faces "hard budget constraints" and does not get this kind of support. State's mobilization of resources to support the state sector generally has a crowding out effect on private enterprises. Bank credits, for example, will dry up for them. The hard-liners' effort to crack down on private and quasi-private enterprises would be made more effective if the overseas market was withdrawn from them. In short, MFN removal punishes the private and quasi-private sector disproportionately.

An argument has been made that since the central planning leadership in Beijing has taken measures to restrain the development of the private sector, removal of MFN will not have a significant impact. This argument ignores the fact that there are limits to which the central government can go in restraining private industry. As pointed out before, the non-state sector employs over 100 million people and furthermore its efficiency and its stellar performance have made the non-state sector the largest supplier of government revenue in some areas of China.[7] For both political, economic and purely practical reasons, the central government is not willing or able to phase out completely the non-state sector from the Chinese economy. Indeed the central leadership has softened its assault on the non-state sector for fear of urban riots provoked by increased unemployment.[8] In January 1990, the government set up the "China Rural Enterprise Association," whose honorary chairman, Bo Yibo, a known conservative, proclaimed that rural industry was an important invention of reforms.[9]

In addition, we should not overstate the Chinese leadership's ability to recentralize the Chinese economy and therefore should not confuse policy intentions and rhetoric with actual results. Many local leaders are still pro-reform and have worked to resist, explicitly or tacitly, central efforts to roll back many of the reform measures. In Hainan Province, for example, private business continue to develop even in the face of the central government's pressures to stamp them out.[10] Similarly, provincial leaders have sought to protect rural industry. For example, in December 1989, the Guizhou Provincial Party Secretary, Mr. Liu Zhenwei, declared that rural reform measures implemented since 1979 would not be changed. He specifically singled out rural enterprises as one of the continued development priorities for Guizhou Province.[11] Largely due to the efforts of the provincial leaders and the pro-reform officials within the central government, the central leadership has re-affirmed its commitment to the policies toward special economic zones and granted a set of privileges, similar to the ones currently enjoyed by the special economic zones, to Shanghai to develop its eastern zone. It will be a supreme historical irony that removing MFN plays into the hands of the central planners in Beijing by helping them accomplish what they have so far not been able to do administratively and politically on their own.

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[1] Foreign reporters in Beijing have also noted that those Chinese intellectuals who support open-door policies and oppose the government also are against economic sanctions. See, for example, Nicholas D. Kristof, "Despite Rights Issue, Chinese Hope U.S. Trade Status Stays," New York Times, May 1991. Last year, when the renewal of MFN came up, Chinese expressed similar desires. See Adi Ignatius, "Effect of Sanctions on China Is Debated," Asian Wall Street Journal, March 5, 1990.

[2] See William Byrd and Lin Qingsong, "China's Rural Industry: An Introduction," in William Byrd and Lin Qingsong (eds.) "China's Rural Industry: Structure, Development, and Reform," (New York: Oxford University Press, published for The World Bank, 1990), p. 14.

[3] "Rural Enterprises and the Private Economy: Rectification," China News Analysis, March 1, 1990, p. 1.

[4] "They couldn't keep it down," The Economist, June 1–7, 1991.

[5] Jan Svejnar and Josephine Woo, "Development Patterns in Four Counties," in Byrd and Lin (eds.), China's Rural Industry, p. 71–73.

[6] See "Chinese Rural Enterprise Almanac, 1978–1987," (Beijing: Agricultural Publishing House, 1989), pp. 317–319.

[7] In 1989, when the Beijing leadership tried to squeeze private enterprises, many local governments simply stopped functioning on account of reduced revenues and the increased need to bail out state enterprises. See "Who is Going to Contract out [China]," (Guangzhou: Flower City Publisher, 1990).

[8] Unemployment rose to 3.5 percent in January 1990 from 2 percent a year before. China Labor Daily, March 10, 1990.

[9] "Rural Enterprises," China News Analysis, March 1, 1990, pp. 2–3.

Demolition of China's burgeoning non-state sector will have long-term political implications for China. First, private entrepreneurs are probably one of the most ardent supporters of political moderation and stability achieved through democratic institutions. During 1989 pro-democracy movement, private businessmen donated large amounts of money to students and many of them risked their lives and considerable financial stakes by their participation in the movement. A private shopkeeper, Ms. Lu Jinghua, became a spokesperson for the Autonomous Union of Beijing Workers—an organization that had 20,000 members in support of the democracy movement.

Secondly, a political revolution per se is not, and should not be, the end in and of itself; the true end should be the transformation of the totalitarian system into a democratic one. But from the experiences of the Soviet Union and other East European countries, we know that a successful democratic transformation will ultimately depend on a very difficult process of converting a bureaucratically-controlled economy into a market economy. This conversion, in turn, depends on the strength of private entrepreneurship and the existence of a sizable private economy.

Centrally planned economies are not just distorted market economies; there specific behavioral habits and mentalities attached to them, that are anathema to basic principles of a market economy. They take a long time to shape and an even longer time to change. Indeed one of the most important reasons that China was successful in the agricultural reforms in the late 1970s was the presence of a residual private economy in the agricultural sector.[12] Precisely, many difficulties plaguing perestroika arise from the dominance of the central planning tradition and the 70-year stamping out of private entrepreneurship in the Soviet economy.[13]

If the path of political transformation is treacherous without the presence of a sizable private economy, it is downright impossible when people's real living standards are falling. Witness the plight of Gorbachev today. The newly-gained political rights and freedoms on the part of Russian people—a monumental achievement considering the short span of time—are simply brushed aside when bread disappears on the shelf and the specter of a military take-over is ever present on account of economic chaos. Extending MFN to China and trying to keep China's doors open offer us an unique opportunity to lay down economic conditions for a future political transformation in China.

PART III: THE IMPACT OF MFN REMOVAL ON LEADERSHIP DYNAMICS

We believe that revoking MFN status for China may shape leadership dynamics in China in ways determental to forces of political moderation and democratic aspirations. The reasons are as follows:

First, the current Chinese leadership is deeply divided both about the wisdom of the ways it handled last year's student protests as well as about the future direction in China. One of the most pronounced manifestations of this division is the lack of a definite resolution on Zhao Ziyang, the disgraced former Party General Secretary. At the Fourth Plenum of the Thirteenth Party Congress in June 1989, it was declared that the Party would "conduct an investigation" but, as far as we can ascertain, the issue has yet to be resolved and may await the Fourteenth Party Congress next year. It is unprecedented in Chinese politics to allow so much time to lapse without a definite verdict; in the past, judgement on a disgraced leader was quickly formed, usually in a matter of days, and was disseminated widely within the Chinese system to ensure compliance with new leaders and to avoid confusion about policy directions.

The division among the Chinese leaders has several sources. First, current leaders have vastly different political philosophies. The uneasy coalition they formed last June has no lasting unity. The so-called, "monolithic hard-liners' bloc" composed of the octogenarian leaders is a myth of the highest order. Deng Xiaoping and Wang Zhen, for example, are politically conservative but economically liberal (in relative terms), and Yang Shangkun, as far as we know, supported Zhao Ziyang's moderate approach toward the students as late as May 4, 1989. These differences with the political and economic conservatives such as Chen Yun, Li Peng and Yao Yilin will come to the fore sooner or later.

Secondly, there are different degrees of involvement in last year's decision to crack down on students among current leaders, Jiang Zemin and Li Ruihuan, for example, were not in Beijing at the time of the massacre and, according to the information we have gathered, they both have indicated their desire to keep some distance from the rest of the leadership, which had a direct hand in last year's repressions.

We have reasons to believe that Chinese politics has entered a particularly delicate phase at this juncture. After nearly two years of hibernation, the reformist faction within the Chinese leadership has quitely exerted its voice and authority in Chinese politics. In the last edition of this position paper, we predicted the rise of Shanghai's reformist mayor, Mr. Zhu Rongji, sometime early this year. This prediction was well confirmed by his elevation to the vice premiership at this year's National People's Congress (together with a pragmatic technocrat, Mr. Zuo Jiahua). A few weeks ago, three reformist officials—all of them close associates of Zhao Ziyang—purged in the wake of 1989 crackdown were reinstated to vice ministerial posts. Although these are small and incremental steps, they are signs of a turnaround in Chinese politics. It is likely that the kind of economic reforms which have improved material welfare of millions of Chinese people and, indeed, plowed seeds for 1989's democracy movement can be on the government agenda once again.

We believe that the best strategy at this time is not to apply undue external pressures on the Chinese leadership and not to take upon the system as a whole by using such a blunt instrument as MFN. Applying too much pressure at this time may in effect drive all the leaders into the same corner and unite an otherwise deeply divisive leadership. The hardliners could, for example, divert criticisms of their policies by blaming the current economic difficulties on Western economic sanctions. The Chinese government has a history of blaming its domestic problems on foreigners and this tactic has proven effective in uniting people behind its nationalistic appeals. In the early 1960s, Mao Zedong attributed large-sale famine and industrial decline, which resulted from his Great Leap Forward initiatives, to the pressures exerted by the Soviet Union and his political leadership survived the worst man-made economic disaster in Chinese history. We should try our best not to provide a convenient scapegoat for the difficulties and problems that the current leadership itself has inflicted on Chinese people.

Worse yet, removing MFN may strengthen the political positions of such hardliners as Chen Yun and Li Peng. In a position paper recently obtained by the China Information Center, He Xin, a top advisor to the Li Peng government, has called for an re-assessment of Sino-American relationship. According to He Xin, the strategic goal on the part of American policy makers from the very beginning of Sino-American rapprochement is to undermine the communist character of the Chinese regime. The primary instruments of such a policy goal, according to He Xin, are economic infiltration and, along with it, spread of Western values and ideas. The reason that these instruments can achieve their intended strategic objective, He Xin points out, is China's open-door policies. Indeed, there is every indication that Chinese hard-line leaders are trying to limit Sino-American ties. The Commission on Higher Education—a bastion of hard-line leaders among Chinese ministries—has issued a decree ordering limits on American and Chinese joint research projects.[14]

Reactionary hard-liners worldwide thrive on and crave for xenophobia and isolation, be it Chen Yun and Li Peng in China today or Hitler and Mussolini in inter-war Europe. (Incidentally, it would be reminded that removing MFN would subject China's export to tariffs laid down in the famous and infamous Smoot-Hawley act of 1930, that was a part of the tariff war responsible for fostering the rise of national socialism in Germany and

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[10] Nicholas Kristof, "Capitalist Spirit Lingers in Hainan," The New York Times, December 17, 1989, p. A16.

[11] Economic Reference News, January 24, 1990.

[12] Dwight Perkins, "Reforming China's Economic System," Journal of Economic Literature, #26, 1988.

[13] For a good description of this problem, see "Survey: Perestroika," The Economist, 28 April-4 May 1990.

[14] Daniel Southerland, "Beijing Puts Some Restrictions on Joint US-Sino Research," the Washington Post, May 18, 1991.

Italy after World War I.) Let's never forget the fact that Chinese people suffered the worst political repression and economic deprivation when the hard-line leaders were able to close China's doors completely. In April 1976, there was a crackdown on demonstrators that took place on the same spot as the one in 1989—Tiananmen Square. Unlike 1989, however, no Western camera was there to capture the ferocity of that crackdown. The difference is China's open door policy that was put in place in the late 1970s. Keeping China's doors open in general and extending MFNM in specific help check the ability of Chinese hard-liners to repress Chinese people at will and in seclusion—an ability the Chinese hard-line leaders have never stopped trying to reclaim.

The second reason that we urge MFN be retained for China is the potentially high costs, in political and human terms, of further isolating China. Cutting off our ties with the moderate faction of the Chinese leadership at this critical point (and the removal of MFN represents the most extreme of such an action) may have dangerous implications for the character of future changes in China.

One of the lasting legacies of the Tiananmen Square Massacre is the ever present possibility of bloodshed, violence and even political disintegration. This originates from two sources. First, the violent resolution of the Tiananmen events broke an institutionalized taboo that got formed in Chinese politics in the wake of the Cultural Revolution—that you do not drive the politically vanquished all the way to the wall. The fall of two previous party leaders, Hua Guofeng and Hu Yaobang, was relatively cushioned, gradual and civil. Both of them, while having lost their top party positions, retained Central Committee and Politburo memberships. This is not so with Zhao Ziyang. His fall was total, comparable in scale only to the political misfortunes of Deng Xiaoping during the Cultural Revolution; Zhao lost all of his positions except for his party membership. Character assassination techniques and trumped-up charges were used against him. There was even an attempt to try him as a counter-revolutionary. Chinese political life has become, once again, "nasty, brutish and short."

The second reason that future political changes in China may be costly is the breakdown of Chinese political institutions and the re-introduction of the military in the settlement of an intrinsically political issue.[15] As a result, the Chinese military, more than ever and more than the Chinese Communist Party itself, now plays an enhanced role in maintaining the political status quo. "Political power grows out of the barrel of a gun" has again become a credo in Chinese political values.

The militarization of Chinese politics, coupled with the deep factional strife that is unchecked by any institutional mechanisms, may make future changes in Chinese politics costly, especially in human terms. Given that, it should be our responsibility both to advance democratic goals in China as well as to minimize any possibility of a civil war. We believe that the only way in which the goals of democracy and non-violence can be compatible is to work and strengthen our ties with the moderate and the reformist faction to effect a gradual and peaceful transformation of Chinese politics rather than isolating China further.

No matter how small the probability of a civil war, to avoid violence and to work toward a peaceful transformation have to be one of our topmost concerns. We believe that this goal constitutes the strongest reason to support a continuation of ties with China, of which MFN is one of the most important components.

PART IV: AN AGENDA FOR ACTION

There are four options facing the United States on the issue of MFN for China: revocation, conditional revocation, conditional renewal or renewal. In this report, we have argued that revoking MFN would hurt the very economic and political forces those who are concerned about democracy and human rights wish to promote in China.

Conditional revocation and conditional renewal may have a similar impact because they may in effect be equivalents of a revocation. For one thing, as pointed out before, some of the Chinese hard-line leaders want to shut China's doors to the outside world and thus they may reject MFN upon the slightest provocation that there should be conditions. Furthermore, sweeping conditions may be written into the package that the Chinese government cannot realistically meet. Also certain conditions can be intrinsically subjective and very difficult to verify. This implies that there will be a great deal of uncertainty in future deliberations on MFN for China. Given this uncertainty, the business community may turn to other markets for sourcing or sale, rather than waiting for an outcome of an uncertain legislative process.

The other factor is simply the time that may be involved in regaining MFN for China. The political process involved in MFN deliberations is extremely lengthy and sophisticated China was granted MFN status six years after Senator Mansfield made the first proposal to extend MFN to China.[16] In the meantime, market shares, sourcing of products, and retail contacts, which all take a very long time and meticulous and patient efforts to establish, will be lost. To the extent that revocation of MFN, albeit temporarily, disrupts normal business activities, the attraction of MFN and indeed the value of MFN as a leverage will decrease with time. The net effect will be a significant reduction of American economic presence in China, which, as argued before, would not serve the long-term interests of democratic forces in China.

An additional factor is that with the passage of time, the terms of the political dialogue will change. Even if China's political climate changes in the future, it is quite possible that regaining MFN will not be automatic and will be made contingent upon a host of factors that have nothing to do with Chinese politics. In 1980, for example, granting of MFN faced domestic political pressures. The textile lobby conditioned its support for MFN on the Administration's restrictions on textile imports from China.[17] MFN is not a water valve that can be turned on and off at will.

Although we support renewal of MFN for China, we do recognize the fundamental dilemma between keeping China's doors open and sending an unmistakable signal to the Chinese leadership that their acts of repression entail specific costs to them. To deny the international legitimacy that the Chinese government does not deserve, Western governments, while keeping normal trade relations with China, should continue to be concerned with the human rights situation in China via political channels and international forums. We applaud the decision by President Bush to meet with Tibet's spiritual leader, Dalai Lama and we believe that the problems of intellectual property infringement and sales of nuclear items should be tackled separately from China's human rights situation and with measures directly aiming at them.

In addition, we propose the following measures whereby the American government and business community can show support for the forces of democracy in China without compromising normal business interactions. First, the American business community should refuse to do business with the Municipal Government of Beijing. The Municipal Government of Beijing, headed by Mayor Chen Xitong and Party Secretary Li Ximing, played a particularly active role both in providing justification for the crackdown and in executing the crackdown. The American business community should make explicit the reason why it does not want to conduct business with the Muncipal Government of Beijing.

Secondly, if the human rights situation of China fails to improve, there should be efforts to establish ethical guidelines, similar to the Sullivan Principles, on doing business in China. These guidelines, for example, can encourage business interactions with relatively liberal and progressive coastal provinces while discouraging business with the conservative municipal leadership in Beijing.

Thirdly, World Bank loans, in addition to satisfying "the basic human needs" test currently in place, can also be used as instruments to advance economic reforms in China. This requires, for example, converting some of the infrastructure loans to policy and institutional support loans, which make disbursement conditional upon such reform measures as price and enterprise reforms.

In conclusion, we at the China Information Center support a moderate policy approach toward China. The fundamental issue is twofold. First, should we stand by the faction within the Chinese leadership that advocates further openness and economic reforms or by the hard-line faction that wants to use every opportunity to close China's doors to the outside world? Second, should we use MFN as a leverage to extract concessions from the Li Peng government or as a source of long-term changes, principally in ideas and values, that will make the sustenance of the Li Peng-type regime more difficult?

We believe that the concessions that can be extracted from the current leadership in China are cosmetic rather than substantive in nature. Martial law in Beijing and in Tibet may be lifted but de facto police iron rule reigns supreme in both places. A few hundred prisoners may be released, but more can be arrested secretly. Furthermore, the publicity values of such conciliatory gestures will make the government in Beijing release prominent intellectuals while incarcerating or even executing anonymous workers in large numbers.

We at the China Information Center believe that a free and open market economy is fundamentally incompatible with the rigidities of communist ideology. There is a basic difference between China and South Africa. In South Africa, the economy of slavery is part and parcel of the apartheid system; in China the newly-gained economic freedoms of millions of people will slowly but surely transform the character of the regime. We should make every effort to ensure the openness and the dynamism of China's burgeoning market economy.

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[15] For an analysis on the relationship between the political leadership and the army since the mid-1960s, see You Ji and Ian Wilson, "Leadership Politics in the Chinese Party—Army State: the Fall of Zhao Ziyang." (Canberra: Strategic and Defense Studies Centre, The Australian National University, Working Paper #195, 1989), pp. 1–24.

[16] "The Way Ahead," China Business Review, January-February 1980, p. 14.

[17] "The Winding Road Toward MFN," China Business Review, November-December 1979, pp. 9–10.

We should not view trade and investment ties and cultural and scholarly exchanges with China strictly in dollar or project terms; more appropriately they are windows of opportunities for fostering seeds of future political evolution in China and for bringing about change in a peaceful manner. We should and must look beyond purely punitive measures or short-term policy benefits and take into account the long-term implications of our actions. This approach may not be emotionally satisfying and may even run counter to our intuitive moral senses, but an effective and intelligent policy must be based on an informed understanding of the current Chinese political and economic realities. Given our understanding of such realities, we at the China Information Center believe that MFN should be extended unconditionally and that using MFN to punish China is to use a wrong weapon against the wrong Chinese at an absolutely wrong time.

Mr. BAUCUS. Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, in the presence of the truly eminent former Secretary of Transportation, I am to be a little embarrassed for this body. We have a measure that generations from now will identify as important.

Here we are; we are ready to vote. We have debated for 10 days. This will be the seventh full day we have been on the bill properly. It took us 2 days of discussion to get that point. We have an agreement, if I can count, but I can be wrong.

We are not trying to reach any further agreements. The agreement has been reached. Why do we not vote?

One week ago, Senator BYRD offered his amendment. It has been modified to meet the wishes of different groups that were formed, in fluid arrangements over the last week. They were consummated this morning when Senator BYRD sent to the table the last of his perfecting amendments.

I see my persevering comanager on the floor. Without knowing in advance the answer to my question, may I ask the senior Senator from Idaho, is he ready to vote?

Mr. SYMMS. Mr. President, the Senator from Idaho could inform my leader that I am ready to vote now, but there are Members on my side who will be ready to vote at 4 p.m.

Mr. MOYNIHAN. Oh.

Mr. SYMMS. I am willing to set the time for a vote at 4 p.m., unless the leadership has some complaint about that.

Mr. MOYNIHAN. I see. Do I take it that there are some Senators who are necessarily absent, but will be here at 4? Let us vote at 4, then.

The President has a right to know that something will happen to his legislation.

Mr. SYMMS. It is 104 days now.

Mr. MOYNIHAN. Let us get it done in 104 and ask everybody to be good-humored about an extra 4 days.

We have been hearing so much about this subject, Mr. President, that I will take a moment to suggest that we are doing more than trying to renew for another 5 years a surface transportation act. We are trying to change the way in which the Government approaches this subject in the aftermath of the great half-century era of the Interstate Highway System. The system was authorized in 1944, vastly expedited by President Eisenhower and Congress in 1956, and, with this measure, we will pay out the last dollar of construction and substitution money in fiscal 1994. That is it, done.

Meantime, all across the Chamber we have been hearing how the system we just built is in ruin. The Senator from Texas spoke of municipalities buying buses built to Third World road standards, with axles that were meant to take holes and bumps, because of the poor surface conditions. One interpretation is that we have been neglecting our infrastructure.

Just as strong an implication could be that we did not do it right in the first place. That is what this bill is about. How can you have a crumbling infrastructure you just put $130 billion into, unless you thought the act of spending the money was the end of the process? The resources were a free good and once consumed, that was the end. They were not seen as an investment.

Senator BENTSEN remarked, after I made that comment, that, yes, we look up to find that the European roads are meeting much higher standards than ours, and lasting much longer. Senator BYRD was talking earlier about Roman roads and, indeed, there are portions of Roman roads that are still in use. They are paved now, but they are paved on that stone foundation. It is no surprise to learn that one group thinks we need to spend $700 billion, and another group thinks we should spend $200 billion. What we have is $105 billion. We can go on endlessly about spending more, and the unmet needs, but we are going to have $105 billion. We hope we have a piece of legislation that will get our money's worth out of it.

This is no small enterprise on which we are afoot, and if 4 o'clock is an agreeable time, we ought to set that time right now.

Well, Mr. President, we still cannot reach any agreement. We are going to dawdle here all afternoon and perhaps tomorrow. It is a mystery. Does the Senator from Idaho have any thoughts?

Mr. SYMMS. Mr. President, I do have a few thoughts that I would be happy to make, if the Senator is prepared to yield the floor.

Mr. MOYNIHAN. I yield the floor.

Mr. SYMMS. Mr. President, I thank my distinguished floor manager. I note his frustration and impatience, and I share that. I wish we could go to a vote now. In fact, I was willing to vote last Friday. I do think that a lot of progress has been made on the bill since last Thursday, when we first came to the point that some were ready to vote on the amendment. It has been improved. Every State will benefit from it.

There will be an opportunity now for those of us who have been asking for more dedication of the Nation's resources to infrastructure. This bill will make that possible. It is not clear, as Senator DOMENICI pointed out, whether every dollar of this will be spent, but without this amendment, we know that we will not have the opportunity to spend the money, fix the roads, improve transportation in this country. I have said this before many times. Much of what happens in Congress does absolutely nothing to improve the productivity and the competitiveness of the United States. One thing that is about to happen in Congress with the passage of this legislation—hopefully passage in the other body, and hopefully a successful conference and a signature by the President—is that we will set in motion the possibility of more efficient transportation for Americans in the future. Through the action here in Congress, it will improve our competitiveness to have made a statement and a dedication of policy toward improved infrastructure and transportation in this country.

One of the very important parts of this is that with the improvement of highways in the country, it will improve transportation for individual Americans. I know of no money, other than those dollars spent defending peace and freedom from a national standpoint, that is spent that individual Americans benefit more in personal liberties than the benefits of having good highways, where they can get in their automobiles and drive on their own schedule.

In addition to that, the trucking industry, which makes it possible to move the goods around the country that are so essential for a strong economy, will be able to improve its efficiencies with the maintenance of the Interstate System and the addition of those arterial highways to a primarily National Highway System, to where there will be a National Highway System larger than the current Interstate System, which will make transportation efficiencies better in the country.

Mr. President, over the course of the debate on S. 1204 there have been many statements made about the safety record of trucks and especially the safety record of the longer combination vehicles. I would just like to add a few comments to that to try to clarify and put that in perspective and set the record straight and will.

The truck safety picture is good and continues to show steady improvement. For the years 1979 to 1989, the Congressional Research Service has reported:

The number of fatal accident is down 18 percent;

The fatal accident rate is down 40 percent;

The number of truck related fatalities is down 18 percent; and

Truck mileage is up 36 percent.

The National Highway Traffic Safety Administration [NHTSA] released a study in May that confirmed the improving truck safety picture. This Federal safety agency said:

Heavy truck safety has improved dramatically over the past decade. The fatal crash involvement rate for medium/heavy trucks was 3.7 per 100 million vehicle miles of travel in 1988, an all-time low. Between 1977 and 1988, the fatal crash involvement rate for combination-unit trucks decreased 40 percent, while the rate for passenger vehicles—cars/light trucks and vans—decreased only 25 percent. The efforts of motor carriers and their drivers, coupled with expanded State-Federal programs to license commercial drivers and inspect vehicles at roadside, all seem to be having a positive effect.

The trucking industry has been a strong and early advocate of truck safety programs which include:

Creation of a single, classified commercial driver's license;

Expansion of the Motor Carrier Safety Assistance Programs, which has increased roadside truck inspections 1,000 percent to 1.6 million inspections a year;

Elimination of 20,000 commercial safety zones where trucks and drivers were allowed to run uninspected; and

Imposition of random, mandatory drug testing requirement for all truck drivers.

The safety record of longer combination vehicles [LCV's] has also been exemplary. The facts are very simple.

LCV's have been operating for 30 years, in 20 States. Because they are 40 percent more efficient, they mean lower prices and less pollution for America's consumers.

There have been 14 deaths in 9 triples-related accidents for the 9-year period of 1980 to 1988. While any fatality is a fatality too many, triples are certainly not a major cause of highway fatalities. In fact, there were no fatal triples-related accidents in 1982, 1983, 1984, 1985, or 1987. Although there are no reliable total mileage data for triples, four of the Nation's largest motor carriers reported triples mileage in 1990 in excess of 60,000,000 miles. That is an excellent record.

During the 8 years from 1980 to 1988, an average of 9 people per year died in accidents involving any kind of LCV's. That compares with an average of 616 people killed in railroad grade crossing accidents.

LCV's carry more cargo with fewer trucks, without increasing axle weight. They are less polluting and reduce congestion.

Last June, in a study requested by the Congress, the Transportation Research Board of the National Academy of Sciences recommended that trucks in excess of 80,000 pounds be allowed to operate under special permits in any State that wants them.

Mr. President, this bill will not allow that. It is grandfathered in so we will stay where we are with respect to these LCV's.

Mr. President, trucking companies are responsible citizens and are not going to put unsafe vehicles on the highway. Given our litigious society, if vehicles were unsafe, you could expect insurance companies to charge extra to cover LCV's. However, according to a leading insurer of trucking companies, the safety of LCV's is a nonissue as far as his insurance business is concerned. His company has no evidence of increased risk and sees no difference in liability exposure between single and multitrailer units. He charges the same premiums in many instances for both.

Mr. President, States that allow LCV's will be able to offer their citizens safe transportation at lower costs. States that allow these vehicles would be wise to retain them.

Mr. President, I want to say further just about safety overall with respect to this bill. This bill will make safer transportation for the American citizens of this country.

I would hope that my colleagues will support the Byrd amendment when it is voted on at 4 o'clock, if we get the order, and then I would hope that as to other amendments that Senators wish to offer we can give them a fair hearing and we can expeditiously deal with those amendments early this afternoon and come to final passage at an early hour this evening.

I think if all Senators on both sides will cooperate with the Senator from New York and myself, and the leaders, both Senators DOLE and MITCHELL, we can bring this bill to early passage yet today, and it would be a big step in the hurdle.

Once it is passed, I say to my colleagues, we are only halfway there because it will still have to go through the other body and conference and back to the floor and hopefully have a bill that the administration and President will be pleased to sign.

Mr. President, I see the majority leader is on his feet. I yield the floor.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the vote on the modified Byrd amendment, No. 296, occur at 4 p.m. today, and that the time between now and 4 p.m. be equally controlled and divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, my good friend, the distinguished manager, the Senator from Idaho, who has worked so diligently and so hard to move this bill forward and who deserves great credit along with Senator MOYNIHAN for their work on this, just said with respect to this vote that we could have voted last Friday and he did not know why we did not vote last Friday.

Mr. SYMMS. I know why we did not. I wanted to vote.

Mr. MITCHELL. The reason there was no vote last Friday is there was disagreement. The Republican Senators in the caucus then decided not to permit a vote to occur.

I know the Senator from Idaho did want to vote.

Mr. SYMMS. I wish to clarify this. I said this before on the floor, that the majority leader made every effort to pass this bill in the 100 days. I salute him for that.

Mr. MITCHELL. I appreciate that.

Mr. SYMMS. It was not because of lack of diligence or efforts on the part of the majority leader. We just simply had 97 Senators who had not studied the tables enough that they were prepared to vote.

Mr. MITCHELL. I thank my colleague and commend him again for the efforts of the managers of this bill.

There will now be this vote at 4 o'clock. Mr. President, the time is to be divided and controlled in the usual form.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, we have a moment between now and the time set for our vote. I wish to use it to——

The PRESIDING OFFICER. If the Senator will withhold, the time is equally divided between Senator BYRD, a proponent of the amendment, and a Senator who is an opponent to the amendment. That is the question now before the Chair. Who is the party?

Mr. MOYNIHAN. What was that? Was that the proposal? I thought it was the managers that would have control of the time.

The PRESIDING OFFICER. The request was that the time be divided in the usual form.

Mr. SYMMS. Senator DOMENICI would like some time.

The PRESIDING OFFICER. Anyone wishing to change that should ask unanimous consent.

Mr. MOYNIHAN. I ask unanimous consent that I might proceed for 10 minutes as on the bill in contrast to the amendment.

The PRESIDING OFFICER. The time will be divided as the Chair has already stated.

Is there objection.

Mr. SYMMS. Mr. President, reserving the right to object, how is the time divided?

The PRESIDING OFFICER. The question the Chair propounded to the managers of the bill is who is in opposition to the amendment of Senator BYRD? That person would control half the time.

Mr. MOYNIHAN. It is our hope and expectation that there will be no opposition.

I ask unanimous consent, Mr. President, that the time remaining be equally divided between the Senator from Idaho and the Senator from New York.

The PRESIDING OFFICER. Hearing no objection, that is the order.

The Senator from New York requested 10 minutes.

Mr. MOYNIHAN. Mr. President, the Senator will now speak to the end of his statement, if that is possible.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. MOYNIHAN. I said on repeated occasions I have talked about this subject of public sector disease.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. BYRD. Mr. President, I yield control of my time to the distinguished Senator from New York [Mr. MOYNIHAN].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. In the introductory statement to our bill, we tried to capture this theme when we said that just as there is no such thing as a free good, there is no such thing as a freeway. The term "freeway" is a metaphor for our attitude toward expenditure of these funds and toward the return on investment that we would hope to get from them, which is to say what is free imposes no restraints.

And we heard that over and again: How can we be at the end of the largest public works program in history and refer to those very same public works as crumbling? How can we have spent more than we have ever done in this area and find that we have not spent nearly enough? These are anomalies which require explanation.

We feel the explanation lies in this disorder which we choose to call public service disease.

It is very simple to identify. The symptoms are easily found. The cure if not the cause is easily found; that once an economic activity starts up in the public sector or is incorporated into the public sector, resources begin to be allocated on the basis of political considerations rather than economic ones.

There is nothing wrong with political considerations. It is just that they have a very uncertain relationship to economic outcomes, sometimes counterintuitive and frequently counterproductive.

Two different calculuses come into effect—political cost and benefit as against economic cost and benefit. These two can be coincidental, they can be proximate, or they can be wildly disparate. When they get to be wildly disparate, you begin to get situations that you see in State sectors of the economy all over the world.

You get a disastrous plunge in productivity. I have mentioned many times now that Dr. Boskin, the Chairman of the Council of Economic Advisers, tells us that output per man-hour in the transportation sector broadly defined rose by only 0.2 percent annually from 1979 to 1988. That is a medieval rate. You end up in just penury if you keep it up.

This is alongside productivity growth in the private sector that is absolutely spectacular. Durable goods manufacturing has been growing at 6 percent. I mentioned this point in a visit recently from the new president of the Xerox Corp., which was originally a Rochester, NY, firm, and is still very much in evidence in Rochester. He said, "Well, yes, we try to keep our productivity going up at 5 or 6 percent a year and have to or the Japanese will beat us."

That is an amazing rate. A generation of 6 percent productivity growth means an economy would be five times richer at the end of a generation than at the beginning, whereas it takes 350 years just to double under our transportation rate. And surface transportation is the infrastructure, the structure under the productive, the manufacturing and service-producing, goods-producing, goods and services producing factor.

The second feature is that there are huge disparities between demand for the free good and the supply. This pattern was revealed to us in the Soviet butcher shop where the prices are set so low no sausage comes to market and a block-and-a-half of people waiting to buy what does not exist because it is so cheap. The same pattern we see in congestion, which we have declared to be a pricing phenomenon. Space is free on the highway and more people will seek to use it then can be accommodated. The congestion is the long line.

Professors Meyer and Gomez-Ibanez pointed out to us that the greatest disappointment with the interstate highway program was that it did not seem to achieve its major objective of reducing traffic congestion. I am sure they would go on to say that in the manner in which it was managed, you could have predicted that. Professors Meyer and Gomez-Ibanez also pointed out that when congestion did not disappear in the aftermath of the suddenly accelerated Interstate System, we moved to the Urban Mass Transit Act of 1964. That was going to settle the problem and it did not. All it did was produce the same public sector phenomenon we have talked about for highways.

Some persons who hear our debate will have reason to think that there is some disposition to point out the shortcomings of highway outlays as against transit outlays by the Federal Government. Not at all. We are very much impressed by the work of Prof. Charles Lave of the University of California at Irvine, who points to the extraordinary drop in productivity in transit that followed the large induction of public funds.

There are patterns here, if only you could get the Department of Transportation to think about them. But, as I say, it is the nature of a public sector to conceal prices and costs.

We did not get our productivity figures from the Department of Transportation and, as Senators have said, there were a number of tables wheeling around this floor the last 10 days as we tried to get allocation percentages.

Knowing too much about these things is exactly what this public sector will not want to do. What they do do is maintain monopolies. This from the first writings of that great, incomparable economist, Joseph Schumpeter, who is beginning to be seen as a much more relevant economist for our times than John Maynard Keynes. He wrote before Keynes and is receiving his rewards afterward. Schumpeter, in his "Theory of Economic Development," written in the early years of the century, put great emphasis on innovation. Innovation is the dynamic of economies.

He spoke of the creative destruction of modern capitalism. That seems oxymoronic, the creative destruction, but that is what he meant, the moving along. Innovation comes along and, suddenly, what had been a useful arrangement previously is no longer useful. You have, in effect, destroyed it, but by adding something better.

The arrangements being destroyed, whatever they are—the handweaving, from the early appearance of looms and power looms down on into our time—will be resisted and people will find all manner of ways to do it. One good way is to get the Government to create a monopoly for you and keep innovations out.

This is all explained in a brilliant article by the Prof. Thomas K. McCraw at Harvard University in his article, "Schumpeter Ascending," in the American Scholar.

The pattern in transportation is very familiar. The last innovation in transportation in our century was the invention by Drs. Danby and Powell of magnetic levitation in 1964—an event on par with the Wright Brothers and Robert Fulton.

In 1965, the U.S. Department of Transportation was founded. You could practically say their main activity since 1965 was to see that nothing came of the invention of magnetic levitation. That is not unusual. That is what the guilds did in Europe when things like power looms came along.

Schumpeter told the tale of the poor fellow in Danzig who had invented a loom that would double, triple productivity, and the Danzig municipal council ordered him strangled.

Do you want to put housewives out of work? That is what the people smashing machinery in the early 19th century asked. It is understandable. But, if you let it go on too long, you stagnate. We are stagnating.

Some Senators, like the Presiding Officer from the extraordinarily innovative State of Nevada sees the uses of innovation.

But, in the main, you will not. If you get a government agency to help resist it for you, you can stagnate forever. And that is what we want to change. We do not want to hurt anybody. We just want to help the economy. When we say infrastructure, the Latin of infra meaning "under," this is what everything else rests on. Doing it right is not a mundane thing. If you do it right, it is brilliant.

We get a lot of derision for it. In the history of my State, nothing will ever equal the derision that was heaped on Governor Clinton for setting out what was called Clinton's Ditch, the Erie Canal. It changed the history of the world. It changed the history of Britain.

The British never thanked us for much. But after the Erie Canal was opened, wheat from western New York made its way across the canal, down the Hudson River to Liverpool, and suddenly you could feed people in Britain for half the cost that the landed gentry were charging for their wheat—which they called corn, and still do. In the end, before the rumpus was over, you had free importation of food, and Britain became an industrial nation—that was because of the Erie Canal.

Scotland ceased to be a foreign country, once railroads could get back and forth from London to Edinburgh. The west coast became part of our country when you began to be able to fly there in a half a day, rather than riding 6 days on the best railroads.

What we are trying to do is bring ourselves back into the competition. We were always right on the edge of technology.

The Senator from New York was in Canada yesterday at a meeting of the Canadian-United States Business Association, at Ontario-on-the-Lake, that wonderful town, the original capital of upper Canada, right on the banks of the Welland Ship Canal. An American-born gentleman named Merritt who was on the Canadian side in the War of 1812, had the inspiration that if you could build a canal to take ships from Lake Ontario up to Lake Erie and get by the falls, you could open up all that shipping down the St. Lawrence. It took a long time and a lot of Irishmen, but it was done. And then the seaway came after it. Those transportation innovations have changed so much.

Magnetic levitation was the inspiration of Dr. Gordon Danby, a Canadian-born nuclear engineer, while working at Brookhaven National Lab, where he still works with his very eminent associate, Dr. Powell. I said yesterday would it not be grand if that United States-Canadian collaboration could not see itself manifested by a magnetic levitation route that would connect the United States with Canada. A sort of north-south connection that would symbolize something of our free-trade agreement. I learned with great interest that the Canadian Parliament at this very moment is thinking about just that thing.

We have seen you can spend more money. The great, informed, devastatingly candid Senator from New Mexico told us earlier, in 1980 the budget of the U.S. Government was $590.9 billion and it grew in 11 years to $1.4 trillion. We have not a thing to show for it; not a thing. All we hear about, in the aftermath, is our crumbling infrastructure; our gaping needs. I would like to suggest a lot more precision. We might get considerably more output.

I see my friend from Idaho has risen, and I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I yield myself up to 1 minute.

Mr. President, I appreciate the comments that the Senator from New York has made with reference to what the Senator from New Mexico said earlier this morning that what has really grown in the Federal budget since 1980 is the entitlement spending. If only a small, minuscule amount of that money had been diverted into infrastructure, waterways, highways, sewer systems, water systems—in New York City, some of the water systems are older than my State.

Mr. MOYNIHAN. Some?

Mr. SYMMS. Most of them are older than my State. My State celebrated its 100th anniversary last year, 1990.

Mr. MOYNIHAN. Most.

Mr. SYMMS. So most of the water systems in New York City are over 100 years old. Some of them are 150, 200 years old, I suppose.

Mr. MOYNIHAN. 150.

Mr. SYMMS. 150 years old. But the point is that for a very small, minuscule amount of change in those formulas that go for entitlements, there could have been billions of dollars available to be spent on other programs which would have also had an indirect but positive impact of the very people who receive those entitlement benefits.

The Federal Government's money is mailed out in checks every month to citizens.

Mr. President, I yield up to 10 minutes to the distinguished Senator from New Mexico [Mr. DOMENICI].

The PRESIDING OFFICER. The Senator from New Mexico is recognized for up to 10 minutes.

Mr. DOMENICI. I thank my good friend, Senator SYMMS. I do not think I will use the 10 minutes.

I thought before the vote on the Byrd amendment, the Senator from New Mexico, having spent about 15 minutes this morning talking about the $8.2 billion, the subject matter of the Byrd amendment, both as to the donor States and the so-called incentive States, I spent time talking about the conditionality, the conditional nature of that; that it might not be available, and under what circumstances.

I think for those who wonder whether we have appropriately spent time on this matter or whether it has been something that is dilatory, it seems to the Senator from New Mexico that many more Senators understand the proposal before us today.

I think they understand the donor issue and the donor recompense that is in the Bentsen-Warner part of the Byrd bill. I think they understand Senator BYRD's effort to use half of that $8.2 billion as an incentive program. And I think they also understand that, indeed, we might not, in 1993–95 have sufficient resources to fully fund, and they understand the effect of not fully funding, as I understand it. I think most Senators now understand that. I believe that means the time was well spent.

Having said that, I think there is one remaining issue. Clearly, I do not have a formula to substitute for the formula that Senator ROBERT BYRD has in his amendment regarding the $4.2 billion that is under the incentive formula to States. I do not have a substitute formula. But I submit to the Senate that there is a better general formula, and I am going to state it generally. And then we will see how it evolves in the waning hours of this bill.

When I have a bill like this, a highway bill, that is coming up before the Senate, the Senator from New Mexico might handle it differently than others, but I generally ask a group of New Mexicans who are experts in the field to be an informal task force. About 2½ months ago, I asked some New Mexicans to do that. So they monitored the work of the Environment and Public Works Committee, and they monitored the President's bill in detail and informed the Senator from New Mexico how it might affect our State, and what they had to say about the pluses and minuses.

So when Senator BYRD's amendment came up, it was rather easy for me to send it out to New Mexico and ask them what they thought about it. Part of my task force are highway experts, those who are on the commission or those who are in the position of being experts under the highway commission in New Mexico. So they did analyze the Byrd formula. This is what they said.

I will ask that their issue paper be printed in the RECORD before we finish today. But this is their statement, and I ask my friends who manage the bill to listen to these words. They said:

> A truer measure of the efforts of the States—

That is what we are talking about in Senator BYRD's amendments, the efforts of States—

> A truer measure of the efforts of the States would be the per capita amount of non-Federal funds expended on roads and highways within each State.

It seems to the Senator from New Mexico that is the formula we ought to have. It has to be written up; it has to be put on paper by someone. But what it is saying is every year you spend x amount on highways and roads in the State of New York, the State of Idaho, and the State of New Mexico. Take out Federal money, and you have x minus Federal money. And then divide x by the number of people in the State, and you have a level of effort that they contend is better than what we have before us.

I concur wholeheartedly. There are a couple of other observations which they make which I will make, and then I will yield the floor.

We are talking about 6 years. During that 6 years, there is no question that States are going to adopt new gasoline taxes. It would be absolutely a miracle if a number of States did not adopt, after today, a number of gasoline taxes, because they are in need of more roadways and they want to pay for them. That means that the formula is variable.

So whatever you are counting on will change, because you surely cannot take away from the State of New York gasoline taxes adopted 2 years from now. That will be plugged into the formula, and the total amount will change. They make that point also, and I think that is a very good point.

The Senator from New Mexico does not believe that the formula in the Byrd amendment, as it applies to the incentive States or the effort States, is the best one. I think it should be improved upon. Whether we will do it later on today, or whether it happens later on in this evolving cycle of going to the House with their bill, I do not really know.

But I am going to repeat: I think the truer measure of the efforts of States would be the per capita amount, non-Federal funds expended on roads and highways within the boundaries of a State. And if that is what the distinguished Senator from Kansas has as his formula—and I think, from having heard him the other day, he was not speaking in general language, he was speaking of taxes, which taxes did not go to highways; there were gasoline taxes that did not go in some States; there are general taxes which do go in some States. And he had a variety of mixes. The end product should have been what goes into the roads.

If that is the case, we are getting much closer to the level of efforts. If that is his amendment, I compliment him for it, and I hope the Senate adopts it.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New Mexico ask unanimous consent that something be printed in the RECORD?

Mr. DOMENICI. Mr. President, I will not at this point. I will put it in near the final debate on the bill.

Mr. MOYNIHAN addressed the Chair.

Mr. SYMMS. I yield to the Senator 1 minute.

Mr. MOYNIHAN. Mr. President, I rise simply to agree with the group in New Mexico. A per capita effort is obviously a more desirable measure. I think it will take what we hope will be the Bureau of Labor Statistics a good 4 years to come up with it.

Mr. DOMENICI. I thank my friend from New York, and I do not think it would take that long. I do thank him.

Mr. MOYNIHAN. I was once Assistant Secretary of Labor for Policy Management and Research in charge of the Bureau of Labor Statistics. It took us 80 years to develop the unemployment rate. There were a lot of mathematics that had to be done first.

Mr. SYMMS. I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Republican leader is recognized for 5 minutes.

Mr. DOLE. Mr. President, I appreciate the statement just made by the distinguished Senator from New Mexico, and he is exactly right. That is the very amendment I intend to offer following the disposition of the Byrd amendment, whether it is adopted or defeated.

I think it is rather difficult for some of us to divide up $8.2 billion and get none of it in our States. I think if we did it the fair way, there is no question about it, my State would benefit. I want to make it clear why we think we ought to follow the prescription just outlined by the distinguished Senator from New Mexico.

There are no Republicans and no Democrats in this debate. We understand that. There are donor and donee States. If I get $100 more under this formula, I am for it.

We have States with large land areas and small populations, and States with large populations and small land areas. In short, there are winners and there are losers. This debate has been all about charts, and none of the charts mean anything.

I will get you a chart that will tell you anything. If you give us enough time, we will produce a chart. But the bottom line is how much money do I get under the so-called Byrd amendment? That is the bottom line. Nobody cares about the formula. And how much do I get under the Dole amendment?

Now I am trying to commit a great sin. I am trying to bring a good Government proposal to the debate. Heaven forbid. At the risk of ridicule, I am going to offer this amendment after disposition of the amendment by the Senator from West Virginia. You cannot rely on the charts. The numbers will change. And let us face it, the Senator from New Mexico is right. It is how much the States spend.

I believe that the Senator from West Virginia, the chairman of the Appropriations Committee, started off with a pretty good idea, sort of a base line. But the problem with that approach is twofold. I might add that my concerns are expressed by the Associated General Contractors of America, who say there are two loopholes in the Byrd amendment that ought to be closed. The first is that it does not reflect what States really spend. The State of Kansas, for example, spends a lot more than the gas tax for highways, and that ought to be counted. Nobody can stand up here and say you should not count all money we spent for highways. We are talking about level of effort. That is the first loophole. It is not counted under the Byrd amendment.

The second loophole is that many States do not use all their excise tax for highways. They use it for agriculture, deficit reduction. That ought to be counted, but that is not done: As long as you have the tax out there, we do not care what you do with it; we are going to count that as effort for highways.

That is ridiculous. That is precisely what the Associated General Contractors of America said. I ask unanimous consent to put their letter in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
Washington, DC, June 18, 1991.

Senator ROBERT DOLE,
U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: The Associated General Contractors of America supports your efforts to amend the highway reauthorization bill now pending before the Senate.

The amendment would correct two problems found with Senator Byrd's Level of Effort proposal.

Unlike the fuel tax collected at the federal level, many states divert significant amounts of the state fuel tax to general revenues or specific non-transportation programs.

States could also, under the Byrd provision, reduce certain state taxes, recapture that revenue through an increased gas tax, not dedicate those funds for transportation, and still receive the federal bonus based on having a high state fuel tax.

The Dole amendment closes those two loopholes, bases any federal bonus provision on state monies spent on highways, and still retains the integrity and goals of the Byrd provision.

Your efforts are greatly appreciated and supported.

Sincerely,
JAMES W. SUPICA, Sr.,
Legislative Action Committee Chairman.

Mr. DOLE. They did not say it was ridiculous. They just said it was not fair. So what can we do in my State? How can we get even? We raise the gas tax next year and lower the other taxes, and then we are in clover with all the other States, because our effort is more according to the amendment by the chairman of the Appropriations Committee. Or we start spending some of our excise tax on gasoline for other purposes and maybe raise money otherwise and still we are all right.

So, Mr. President, before we vote on this amendment, we had hoped we might get the distinguished chairman of the Appropriations Committee to modify his amendment to make it really reflect what I think every objective viewer, not somebody in there with a calculator trying to say how many dollars do I get, but every objective viewer, including the Associated General Contractors, including the Department of Transportation in New Mexico, and I bet every department of transportation in every State across the Nation is saying—you ought to have the real level of effort, not some arbitrary level of effort that is by gas taxes. The State of Virginia has a sales tax they put in highway construction. Many States have diesel taxes. They put that into highway construction. Many States have registration fees. They put that into highway construction, but that is not counted we are told. We cannot find the figures.

The figures are there. They can be put together in 24 hours or 36 hours.

So we want to game the system. I like half the Byrd amendment. I like the donor State, even though we do not benefit in my State. I do not find any fault with that. It is the other half. Should we vote for half the amendment and against half the amendment?

I hope when the time comes we could have a vote on what I consider to be equity and fairness and objectivity and not voting on charts and how much money do we get from a selfish standpoint. If we want to talk about level of effort, let us talk about the total level of effort, and we will make our case.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, do I have leader time left unused?

Mr. SYMMS. Mr. President, I believe I have some time I would be happy to yield to the majority leader.

The PRESIDING OFFICER. The majority leader has 10 minutes of time remaining from this morning.

Mr. MITCHELL. Will the Senator yield time?

Mr. SYMMS. I will be happy to yield my remaining time. What do I have, 3 or 4 minutes left?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. SYMMS. I will be happy to yield what time the majority leader needs.

Mr. MITCHELL. I thank my colleague.

Mr. President, I find the logic of the distinguished Republican leader persuasive with respect to the question of level of effort. I commend the distinguished chairman of the Appropriations Committee for the effort he has undertaken to try to bring this matter to a conclusion, and it is obvious that we are moving toward a conclusion in part as a result of his efforts.

But the rationale for that portion of the amendment that deals with State effort is that we should reward States that make an effort in expenditure of funds for highway construction and maintenance. The second half of that formula deals with the State's per capita income and suggests, rightly I believe, that their per capita income ought to be a factor in calculating that effort.

But I believe the Senator from Kansas has made a totally persuasive and compelling argument that if we are to measure effort, then we ought to measure effort as accurately as can possibly be measured. It is very clear that the gas tax, while one method of calculating effort, is in and of itself not the most accurate measurement. It is the most readily observable. That can be said for it.

But as the Senator from Kansas pointed out, if it is effort with respect to highway construction and maintenance, then funds derived by motor vehicle registration are as readily observable and that applies to the whole populus. Indeed, in most States you cannot legally operate your motor vehicle, therefore, you cannot buy gas and pay gas tax, until you meet the motor vehicle registration requirements. So that clearly is as applicable as the gasoline tax. It is as readily available and as precisely measurable. I believe the other factors that were mentioned by the distinguished Republican leader should be taken into account. For example, I am advised by some Senators that their States issue bonds for highway construction, dedicated for that sole purpose. If that is the case, that is of course readily measurable and a method of determining effort.

So while I commend the distinguished chairman of the Appropriations Committee for the effort he has undertaken that has carried us to this point, I believe that the suggestions of the distinguished Republican leader to improve the measuring effort, do provide a more accurate assessment of actual effort by States and I hope will ultimately be included in this process, either in the course of voting here in the Senate or in the House consideration or in the conference. This bill has a long way to go, as we all know, and we want to proceed with this first important step.

So, Mr. President, I merely want to conclude by again commending the chairman for the effort he has undertaken to bring us to this point, but also to associate myself with the remarks of the distinguished Republican leader and the suggestions he has made for improving this amendment.

Mr. SANFORD. Mr. President, I would like to say that I am very pleased to be voting for a highway amendment that brings to North Carolina over $400 million for fiscal years 1992-96. Such an increase in North Carolina's share of the Federal-aid highway program is long overdue. Over the past 40 years, the citizens of North Carolina have contributed more to the highway trust fund than they have received. The passage of this amendment will mark the first time the citizens of North Carolina will break even on their contributions.

The Byrd amendment raises some very valid points regarding a State's level of effort. For many years the State of North Carolina, because it has been treated so unfairly under the current allocation formula, has maintained a very strong level of effort. Our State gas tax is the fifth highest in the Nation, 22 cents. Balance this against that fact that our State has also one of the lowest per capita incomes and you will find that citizens of North Carolina have been carrying a heavier burden, and paying more than their fair share for adequate surface transportation programs. I support the level of effort proposal brought forward by Senator BYRD.

There has been quite a bit of discussion regarding formulas and changing them to reflect fair and equitable distribution. I am proud to have been one of the founders of a coalition formed to change the formula. North Carolina, in the past receiving only 75 cents to the dollar has carried the Nation's transportation burden for too long. However, it is becoming very clear to me that the Members of this body are not as serious as I am in seeing that a fair and equitable formula is reached.

I expressed my feelings on formulas to the Members of the Senate on a number of occasions since this debate began. I have cited GAO and AASHTO formula recommendations and have provided explanations for why such changes are important and necessary. Even the chairman of the Public Works Subcommittee confirmed the validity of my remarks. I am disappointed then that more serious consideration and discussions did not take place over an issue so crucial to 24 States. For this reason Senator BENTSEN and myself introduced an amendment which was adopted last week which tasked the GAO to study and recommend to Congress a formula for the allocation of Federal-aid highway funds so that the next surface transportation reauthorization debate and legislation will indeed see a change of the outdated and antiquated formula.

North Carolina expects to gain quite significantly from the Byrd amendment, and I feel confident that our coalition, although we were not successful in bringing forward a new and equitable formula, have been able to raise the issue most successfully. I am still committed to my efforts to change the formula and ensure them an equitable return for the citizens of North Carolina's dollars is received. The Byrd amendment does not address the fairness issue, however. I will continue to do so in the future.

Mr. ROCKEFELLER. Mr. President, today I am pleased to join Senator BYRD, the senior Senator from West Virginia, in offering an amendment to the Surface Transportation Efficiency Act of 1991. This amendment will improve the bill by providing additional funds from the trust fund to be used for construction and maintenance of our crumbling transportation infrastructure. This amendment will not shift funds from any category in the bill. The funding will come from the difference between the amount of funding provided by the bill and the amount of highway funding allowed for highway programs in the budget resolution. The Surface Transportation Efficiency Act does not use all of the funding available under the budget agreement. There is an $8.2 billion cushion.

Like many other States, my State of West Virginia has transportation needs that are well above the allocation that we receive from the U.S. Department of Transportation. To try to bridge this gap between what the Federal Government provides and our enormous need, West Virginia has levied one of the highest gas taxes in the Nation. The Byrd amendment will reward that effort by providing a bonus apportionment to those States that have a gas tax higher than 17.43 cents per gallon. This is the average national gasoline tax. Per capita income is also considered in apportioning the bonus.

This amendment is more than equitable. It rectifies what I believe to be an unfair situation that has existed for many years. West Virginia is not a wealthy State, but we have historically shouldered a substantial burden by raising funds for our transportation needs through a higher-than-average gasoline tax. It angers me to think that there are States that are financially better off than West Virginia with a gas tax of 15 cents per gallon compared to our 20 cents. Often these States are also receiving a much larger percentage of the highway trust fund allocation.

In West Virginia, our roads cost more to build than in many other parts of the Nation. Our mountainous terrain and severe climatic conditions make the cost of construction and maintenance much higher than average. Our Appalachian corridors, which are highways that link interstates, cost over $18 million per mile to construct. When this is compared to the $11 million per mile cost throughout the Appalachian region it is obvious why West Virginia needs every highway dollar that we can possibly shake loose.

For West Virginia and the rest of the Nation, accessible transportation is the keystone of economic development. Jobs are created as a result of highway construction. Between 1978 and 1988, 81 percent of all jobs in the Appalachian region were created in counties where there was a corridor and/or an interstate highway. Those States that have made a sacrifice by raising their gas tax have done so because they realize the benefit of an improved infrastructure.

Again, this is a fair and important amendment because it rewards those who have shouldered more than their fair share of the burden. It helps those that help themselves. Any State that wishes to participate may. All a State must do to be eligible for the bonus is raise the gas tax above the national average. Thirty-three States already have a gas tax above the national average. Those that have the highest tax will receive the largest bonus.

In addition to providing funds for transportation infrastructure, the amendment is an incentive to conserve fuel. I believe energy conservation and efficiency are vital objectives to ensuring a stronger, more secure nation.

I am proud to join the senior Senator from my State, Senator ROBERT C. BYRD, in proposing this amendment. His leadership on this transportation bill, an all legislative matters regarding our State of West Virginia, is without equal.

Mr. HEFLIN. I would like to ask my distinguished colleague from West Virginia an important question with regard to this local effort amendment. It is my understanding that the Federal Highway Administration currently includes petroleum product inspection fees in its calculation of base gas taxes. In calculating Alabama's gas tax for charts associated with this amendment, for example, the Federal Highway Administration added the 11 cents per gallon tax with the 2 cents per gallon petroleum product inspection fee to obtain the total Alabama gas tax, listed on the relevant charts as 13 cents per gallon. I ask the Senator from West Virginia if it is his intention that the Federal Highway Administration continue to include petroleum product inspection fees in its calculations of base gas taxes for purposes of allocating funds under this amendment?

Mr. BYRD. Yes, the Senator is correct. Petroleum product inspection fees would continue to be included in the calculation of each State's base gas tax by the Federal Highway Administration for the purposes of allocating funds under this amendment.

Mr. HEFLIN. I thank the Senator from West Virginia.

Mr. BURNS. Mr. President, the concept behind the Byrd amendment which passed today is that States with higher gas taxes and lower per capita incomes should receive a level of effort bonus under the Federal-aid highway program. The level of effort bonus was first proposed in legislation introduced by my colleague MAX BAUCUS, the senior Senator from Montana, of which I was an original cosponsor. I want to recognize Senator BAUCUS for his key role in making sure Montana gets its fair share of the highway trust fund. As this bill moves forward, we plan to continue to work together to protect our State's interests.

Just 10 days ago Secretary of Transportation Sam Skinner visited our State as a guest of Senator BAUCUS and myself. Secretary Skinner got a chance to see first hand why Montana with its thousands of miles of highway and low population needs a greater share of Federal highway money. It is our hope that when this bill finally makes its way to the President's desk that Secretary Skinner will remember his trip to the Big Sky country.

Mr. DURENBERGER. Mr. President, my colleague, Senator BYRD, has crafted an amendment which addresses the concerns of the donor States as well as recognizes those States with a high level of effort.

The Senate is, in the final analysis, a consensus institution. I regard this amendment as a necessary accommodation to get his bill passed, and I support it for that reason.

I am concerned of the budget implications that this provision will bring about. I say that, even though my State does better with the Byrd amendment. I understand that this amendment will place S. 1204 in excess of $20 billion over baseline. I don't believe this is a truly fair formula. Those are big problems. But I would rather have the bill before us with this amendment than no bill at all. It does directly aid the existing donor States and therefore solves one of the major obstacles that has threatened this bill.

Mr. President, my colleague from West Virginia is proposing that an additional $8.2 billion be split between donor States and States that impose gas taxes above the national average, and then the revenue would be adjusted to factor in the State's per capita income. States that have low per capita incomes and higher than average gas taxes will significantly benefit. Although Minnesota has a high gas tax, its per capita income is too high to ensure that it would get a very large increase under this formula. Minnesota will benefit from this amendment. According to the tables that were handed out, my State will get an increase of $108 million over 5 years. However, this is a formula that can be gamed since States can earn money by changing State laws and thus change the overall numbers.

I commend my colleague, Senator DOLE, for pursuing a more appropriate formula that measures a State's total effort. Minnesotans pay for highways through fuel taxes, vehicle licenses, drivers licenses, permit fees, investment income, and other fees. Minnesota only receives 55 percent of its dedicated highway funds from the fuel tax. No one can argue that these other dedicated funds, contributing 45 percent of highway dollars, are less of a measure of effort than a State's gas tax. Mr. President, if we are going to recognize each State's level of effort, I agree that we must look more closely at all the factors that should constitute that definition.

Although the highway trust fund has a high enough cash balance to finance this provision, it will compete against domestic discretionary programs in the out years. If we increase the amount for transportation, we must decrease the amount spent on other discretionary programs.

As we unfortunately do too often around here, we are enacting a present fix which carries with it a future problem. We are not going to do a future budget resolution here on this floor today, but we had better acknowledge and be ready to face the tough choices when they come.

Having said that, I urge my colleagues to vote for the amendment before us and move this important bill forward.

Mr. GLENN. Mr. President, I have spent the past weeks working closely with my colleagues from other donor States to develop a formula to provide Ohio and other donor States with a fair return on their contributions to the highway trust fund. I support the modified Byrd amendment which provides needed equity in the highway program.

The amendment before us bases funding on a State's gasoline tax rate and on personal per capita income. In addition, the amendment would increase the rate of return on dollars to the highway trust fund. This rate of return ensures that no donor State will receive less than a 98 percent return on its contribution. In the existing program, Ohio motorists received back only 80 cents in highway aid on the tax dollar paid in. Over the past 34 years, approximately $2.2 billion in Federal user taxes collected in Ohio have been spent improving roads in other States. Mr. President, the objectives of this amendment are long overdue for Ohio and other donor States.

Under this amendment Ohio's level of funding will increase by $398 million from the level contained in the Senate bill. These funds are critically needed in Ohio for roads and bridges which have deteriorated while Ohioans paid for construction of new facilities in other States.

Mr. President, I strongly support this amendment to bring equity to Ohio and the other donor States, and I urge my colleagues to join me in voting for its adoption.

Mr. LEVIN. Mr. President, I will vote for the amendment offered by Senators BYRD and BENTSEN because it takes a significant step toward correcting the unfairness that has characterized the highway trust fund formulas for many years. Under those formulas, my State of Michigan over the decades has paid far more into the trust fund in the form of gasoline taxes than it has gotten back in funds for surface transportation projects, such as highways. This situation is in spite of the fact that important road and highway projects in Michigan remain to be completed or are in need of repair.

Because of these needs and because of the unsatisfactory nature of the current formula, I worked closely with Senators MITCHELL, BENTSEN, WARNER, and others to modify the original Byrd proposal so that it included a provision which provided some measure of justice to those States—the donor States—which pay more into the highway trust fund in the form of gasoline taxes than they receive in the form of funds for surface transportation.

In particular, I worked to see that the level of effort portion of the Byrd amendment was calculated prior to the donor State bonus portion of the Byrd amendment. In addition, I believed that it was important that the donor States which received the lowest rate of return from the highway trust fund under the committee bill have their return raised before the donor States which were somewhat better off. The net effect of these two fine-tunings of the Byrd amendment that I worked for was to increase the funds that could go to Michigan by more than $79 million. These two changes contributed to an increase in Michigan's rate of return from the highway trust fund on the dollar to 99 cents, assuming the highway appropriation bill is fully funded. The average rate of return for Michigan over the past 5 years was 83 cents, and the rate of return under the bill as reported by the committee would have been 89 cents on the dollar.

Mr. President, I worked for this amendment because I am convinced that it was the best possible proposal that could be passed in the Senate from the perspective of the needs of my home State of Michigan—fairness to the donor States and the needs of the Nation.

Mr. MITCHELL. Mr. President, I believe all time has been used. Have the yeas and nays been requested on a vote?

The PRESIDING OFFICER. The yeas and nays have not been requested.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The time of 4 o'clock having arrived, the question is on agreeing to amendment 296, as modified, offered by the Senator from West Virginia [Mr. BYRD].

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 15 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I will be prepared to respond to some of the arguments that have been made by both Mr. DOLE and Mr. MITCHELL, but the time for the vote has arrived. I will save my remarks until the appropriate time when the amendment is before the Senate.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. CONRAD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 9, as follows:

[Rollcall vote No. 95 Leg.]

YEAS—89

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan

Bumpers
Burdick
Burns
Byrd
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—9

Chafee
Dixon
Graham
Jeffords
Mack
Roth
Rudman
Simon
Smith

NOT VOTING—2

DeConcini
Pryor

So the amendment (No. 296), as modified, was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 295, AS AMENDED

Mr. MITCHELL. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MITCHELL. Have the yeas and nays been ordered on the underlying Byrd first-degree amendment?

The PRESIDING OFFICER. They have.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the yeas and nays on this amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from West Virginia, as amended.

The amendment (No. 295) as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, I now ask unanimous consent that Senator GRAHAM of Florida be recognized to offer an amendment relating to the FAST formula; that there be 3 hours of debate on the amendment, with no amendment to the amendment in order; that when all time is used or yielded back, the Senate proceed to vote, without intervening action or debate on or in relation to the Graham amendment; that the time on the amendment be controlled as follows: 2 hours under the control of Senator GRAHAM; and 1 hour under the control of Senator MOYNIHAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, Senators are aware that there will be a vote on the Graham amendment 3 hours from now if all time is used, or earlier than that if any of the time is yielded back. So, there will be a vote approximately 7:25 or sooner if the time is not used on the Graham amendment. We will then be in position to assess what remaining amendments there are on the bill and how best to proceed from then.

I thank my colleagues for their cooperation.

The PRESIDING OFFICER. Under the previous order the Senator from Florida is recognized.

AMENDMENT NO. 357

(Purpose: To make improvements in Federal-aid highways, and for other purposes)

Mr. GRAHAM. Mr. President, for the past week plus, we have been debating the tail. We have just voted on the tail. I suspect that we will have at least one more vote on the tail. I suggest that we now turn our attention to the dog. The dog is the formula under which 90 percent plus of the Nation's transportation funds for the support, maintenance, and expansion of the Federal effort in transportation will be allocated.

We have before us, Mr. President, two very clear alternatives. One is offered by the Senator from New York and the Senator from Idaho. The other is offered by a consortium of State highway officials under the name Federal Aid Surface Transportation Act or acronymed FAST. It will be the allocation of highway funds under the FAST proposal that I will be submitting as an amendment to the pending legislation with the cosponsorship of Senators KOHL, LOTT, NUNN, SHELBY, COATS, MCCONNELL, MACK, PRYOR, and SANFORD.

Mr. President, to place this matter in some historic perspective, the basic approach for allocation of half of the money under Senator MOYNIHAN and Senator SYMMS' approach is to take the current allocation formulas, calculate what percentage they resulted in each State receiving as a proportion of the national total over the time period 1987 to 1991 with some adjustments, and then allocate a percentage to each State for the time period 1992 to 1996, which is to say that we are continuing forward for the next 5 years essentially the same basic allocation formula and process as we have used for the past 5 years.

In 1985, our former colleague, Senator Lawton Chiles, asked the Government Accounting Office to examine that formula, to determine what would be a more appropriate method for allocating Federal highway funds. The General Accounting Office submitted its report in March of 1986.

Mr. President, in that report, the GAO, in its executive summary, stated:

> The factors used in formulas to apportion highway funds should reflect the extent and usage of today's highway system. The factors used in the primary, secondary, and urban highway apportionment formulas—land area, population and postal mileage—are not closely related to today's highway system. These factors were chosen between 40 and 70 years ago on the basis of data available at that time. Other factors that better reflect highway activity are now available.

I conclude the quotation from the General Accounting Office report, Mr. President, to editorialize, that the bill that we have before us purports to do exactly what the GAO report criticized 5 years ago and, that is, we are carrying forward an antiquated formula of 40 to 70 years ago into the late 20th century.

What did GAO report? GAO reported and recommended that lane miles is a direct measure of the size of the road network and should be used to reflect the extent of the system to be preserved.

GAO went on to recommend that highway use can be measured by both vehicle miles traveled and motor fuel consumption. GAO recommended that we adopt a formula which uses factors which are relevant to today's highway system, for which data are available and which are direct measures of Federal interest relative to highways, such as assuring that our highway system is maintained, the enormous investment that we have made in our 850,000 miles of Federal aid highways, as well as our ability to meet the needs of an expanding population and economy.

As a result of that study, State highway officials began to meet to discuss how recommendations such as those of the General Accounting Office could be molded into legislation for consideration during this reauthorization of the Federal Surface Transportation Act.

This process began 4 years ago when State departments of transportation began to develop ideas on future surface transportation programs. There was a year-long information gathering phase, including public hearings in every State, Mr. President. Numerous meetings then occurred during which ideas were developed to set a new course for American transportation.

The organization which initiated this activity was the American Association of State Highway and Transportation Officials, an organization comprised of the departments of transportation of all 50 States. Extensive supporting documentation was developed, including a set of recommendations included in a report which was entitled "New Transportation Concepts for a New Century." These recommendations were approved by 48 of the 50 States at a meeting in late 1989. They represent the best ideas of the transportation professionals in this country.

What were those recommendations? They recommended that in lieu of the 40- to 70-year-old antiquated formula which the Federal Government was using and which is proposed to be used into the future, that, rather than that approach, two new principal programs be established: A categorical program serving a national highway system, one; and, two, a flexible system to address increasingly diverse and intermodal needs of the State.

Several of the State DOT's took these recommendations a step further by developing more specific funding formulas for these programs. And it is these recommendations, Mr. President, that I will soon be offering as an amendment.

Mr. President, I would like to talk a bit about the FAST proposal, and then contrast it to the provisions which are in the bill as reported by the committee. As indicated, the major recommendations of the FAST proposal are to restructure and consolidate Federal aid highway programs into two principal programs; A national highway and bridge system, and an urban and rural highway and bridge program.

It proposes to revise formulas by which Federal funds are apportioned to the State to more accurately reflect today's transportation needs and to provide greater equity for all States in the funding distribution. It would help States and local governments meet their distinctive needs more efficiently and effectively by giving them greater flexibility and control over their funds.

To turn first to the new national highway and bridge system, the FAST proposal purports, pursuant to the amendment which I have offered, to allocate to a National Highway System in fiscal year 1992 $6.6 billion. That will increase until 1996 when $9.8 billion will be committed to the National Highway System, which will include the 44,000 miles of our interstate system, plus an additional 110,000 to 140,000 miles of other Federal aid highways.

This system will be provided and will be comprised of existing urban and rural interstate highways, and an appropriate proportion of urban and rural principal arterial highways. The method to allocate the national highway funds to the States should reflect the national purposes of the National System. Both the extensiveness of the National System proportionate to the total statewide lane miles and the intensity of its use proportional to statewide travel should be recognized in the allocation system.

Recognition of its role in interstate commerce: Commercial truck traffic should be recognized, with the most effective measure being diesel fuel use.

Finally, the national highways allocation should recognize the total national urban costs are approximately twice as much as rural costs. Therefore, the formula under which the national highway funds will be allocated is based on three factors: Statewide lane miles, with one-ninth being rural lane miles, and two-ninths being urban lane miles; one-ninth based on statewide rural vehicle miles traveled and two-ninths being statewide urban vehicle miles traveled; and three-ninths based on statewide diesel fuel consumption. Those are the factors that would be utilized to allocate the funds for the National Highway System.

The second component of the National System will be an urban and rural highway bridge program. Federal highway responsibility is not limited to the National Highway System. Americans living in small cities and rural communities are also entitled to have an effective access to the National Highway System. Congestion on urban and suburban streets must be relieved. Those traveling to and from the National Highway System deserve reasonably consistent safety and quality standards throughout the Nation.

State and local resources to meet these needs are being severely stressed, and in many States constrained. Each State requires a distinctive mix of solutions to meet present and future transportation problems involving metropolitan congestion and rural access and air quality constraints.

The proposal for the Urban and Rural Highway and Bridge Program is to provide a funding to help States and local governments meet their unique transportation challenges in cost effective ways. Federal urban and rural highway and bridge funds could be used on any arterial or collector highway except those designated for the National Highway System.

National urban and rural highway funds should be allocated to the States in proportion to their percentage of the Federal highway trust fund contributions. To assure local governments a fair share of these fundings, each State shall allocate to non-State transportation facilities at least as much as allocated to the non-State facilities in 1991 from the Federal Aid Urban and Secondary Bridge Program.

Mr. President, the second component of the FAST Program, the Urban-Rural Road and Bridge Program, would receive the same funding each year as the national highways, that is $6.6 billion in fiscal year 1992, rising to $9.8 billion in fiscal year 1996.

The allocation formula for those parts of the Highway System off the National System would be based on the contribution that each State made toward the national trust fund.

The third issue is the issue of bridges. Routine bridge replacement should be funded as another element in the regular National Highway and Urban-Rural Highway and Bridge Program. Although bridges were singled out as a special national priority in previous Federal Highway Programs, and would be singled out again in the program as submitted by the Senators from New York and Idaho, the rationale for this unique treatment has decreased as States have used categorical funds to replace or rehabilitate the most seriously deficient bridges.

The proposal of FAST is to establish a national discretionary fund. That fund could be reached by States which had a bridge replacement cost in excess of either $20 million or a figure that would comprise more than 10 percent of that State's total Federal apportionments for that particular year. The proposal is to fund this discretionary bridge account in fiscal year 1992 at $230 million, rising to $440 million in fiscal year 1996.

Other features of the FAST proposal are an allocation of $1.8 billion each year for 5 years to those States which have uncompleted segments of the Interstate System to be completed. The FAST proposal also proposes to maintain and increase in some areas the current level of Federal participation in these programs. Interstate completion would continue at 90 percent; nontoll projects would be increased to 85 percent Federal participation, and toll projects would participate at a 35-percent level. There would be a 20-percent transferability available between the National Highway System and the Urban-Rural Road and Bridge Program.

We have talked a lot about the fact that we are in a new era, the postinterstate era. If we are in a new era, it is time for new thinking and new direction. The proposal we have from the committee carries the past into the future.

What is that baggage of the past that is being carried into the future? The proposal of the Senators from New York and Idaho purports to allocate half of the Nation's highway funds, up until the year 1996, on a formula which includes the 1916 number of postal miles and the 1980 census. Sixteen years after that census was taken, it proposes to continue to use factors which the GAO has stated to be nonrelevant to today's transportation needs, such as land area.

I believe this is the time for this Congress to begin to provide a transportation program which is responsive to America's needs. That need is particularly urgent because we are making an even more fundamental policy in this bill, and that is to disinvest in our Nation's Highway System. Let no one be misguided. Under the amendment which I have offered, as well as under the bill as sponsored and managed by the Senators from Idaho and New York, we will have a worse highway system in 1996 than we have today. There will be more congestion, there will be a lower standard of maintenance, there will be less service to our expanding economy and population under either approach because both approaches suffer from the basic deficiency of not providing a sufficient level of funding to meet our expected needs over the next 5 years, much less make a contribution toward reducing the current backlog of $450 billion of unmet highway needs.

We also need a formula which is as flexible as possible. The proposal of the Senators from Idaho and New York continues and, by the adoption of the Byrd amendment, even adds additional categorical slots through which money will be flowed. We have a specific formula for bridges, a specific formula for interstate maintenance, a specific formula for air quality and congestion, and now a specific formula for an incentive based on effort program.

The FAST proposal simplifies, by having basically two programs, a National Highway Program and a Urban-Rural Road and Bridge Program. It allows 20 percent flexibility between those two, so a specific State, if its needs were greater on the portions of the National Highway System which ran through the State, could allocate up to 20 percent of its urban-rural road and bridge funds to that purpose or vice versa.

There are some perverse results from the proposal of the Senators from Idaho and New York. I would like to point out one of those perverse results and ask if, during the course of the debate, the Senator from Idaho or the Senator from New York would provide us with the analysis that would give a policy explanation to these differences. I am speaking specifically to the allocation among the States which appear to be not based upon defensible policy grounds.

Under the proposal of the Senators from Idaho and New York, as an example, the State of Connecticut will receive, over the 5-year period, $1.711 billion. This is before any funds are added under the Byrd amendment. Under the provisions we are now debating—and I reiterate the amendment I offer will not alter or disturb the Byrd amendment which we have just adopted—but under the base bill, $1.711 billion will be allocated to Connecticut. That represents $1.71 for every dollar collected by the Federal highway trust fund from the State of Connecticut. The State of Alabama, on the other hand, will receive $1.504 billion, which represents 82 cents of what the citizens of Alabama and visitors will contribute to the trust fund.

Let us look at these two States, one of which gets more than twice the return as the other. Alabama had a population, in 1990, of 4,026,000. Connecticut has a population of 3,295,000. Yet Connecticut receives twice as much proportionate to the amount contributed as does Alabama.

Alabama has 51,705 square miles of land area; Connecticut, 5,018; more than a 10-to-1 ratio. Yet Connecticut will receive $1.711 billion; Alabama, $1.504 billion.

Taxes paid into the trust fund: Alabamans paid 2.9 percent of the fund, or, in the year 1990, $260 million; Connecticut $142 million. Yet Alabama will get back 82 cents, Connecticut $1.71.

Federal aid system mileage: Alabama has 21,982 miles to maintain with its $1.504 billion; Connecticut has 5,474 miles to maintain with its $1.711 billion.

Mr. President, there may be an explanation of those differences. I look forward to the sponsors of this proposal giving us the details that would justify those differences. I do not pick those States in any sense pejoratively. These numbers are the result of the formula which is before us, and our vote in favor of this formula will be a vote to ratify that allocation of funds.

Just one last item. Since ability to pay has been referred to as a relevant factor, and using, as one indicia of the ability to pay, Federal income revenue collections, Alabama, in 1986, paid $7.2 billion in Internal Revenue taxes; Connecticut, $17.7 billion. So, even though the population was substantially smaller, in terms of wealth, as indicated by income tax payments, the State of Connecticut was more than twice as wealthy as the State of Alabama.

Again, I call upon my colleagues to give us an explanation of that set of differentials.

The amendment which I will now send to the desk represents 4 years of work by the leading transportation professionals in this country; 4 years in which those men and women were looking to the future.

They were asking the question: What kind of transportation system does America need to have in order to begin to meet its needs in the future?

This plan is woefully deficient in terms of the total amount of dollars that are going to be expended, but that is a decision that was made elsewhere and for other purposes and which we all must live with. At least we ought to be spending what resources we have in a way that will best meet our Federal responsibilities.

I know that each of us is elected by the constituents of a specific State and clearly we have a major interest toward those citizens. But we also are U.S. Senators. We have a responsibility to what will best meet the needs of this Nation.

I am prepared to support programs that are in the national interest that are very unlikely to have any value to the State of Florida, such as major hydroelectric projects. I would also ask the consideration of my colleagues from elsewhere to some of the special concerns of our State, such as the large and growing number of refugees who are arriving each day in our State due to Federal immigration and refugee policy. I would also ask my colleagues to look with a national perspective on which of these bases of allocation of funds makes the most rational case for the future of America's transportation system.

I believe, as the General Accounting Office believes, and as the large majority of State highway officials believe, that it is the proposal of the Federal Aid Surface Transportation Act that best accomplishes that national objective.

Mr. President, I now send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM], for himself, Mr. KOHL, Mr. LOTT, Mr. NUNN, Mr. SHELBY, Mr. COATS, Mr. MCCONNELL, Mr. MACK, Mr. PRYOR, Mr. SANFORD and Mr. BOND, proposes an amendment numbered 357.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. The Chair advises the Senator from Florida he has used 27 minutes, and asks the Senator if he wants that charged to the amendment.

Mr. GRAHAM. The time used by the Senator from Florida should be charged against the 2 hours controlled by the Senator from Florida.

The PRESIDING OFFICER. Who yields time? If no one yields time, there will be time equally deducted from both sides.

Mr. MOYNIHAN. Mr. President, let me rise to make just some preliminary observations about the amendment of the Senator from Florida and to say, Mr. President, that our committee, the Committee on Environment and Public Works, very carefully examined this proposal and we rejected it. We rejected it by a 15 to 1 vote.

The allocation funding arrangements of the administration bill were based on the efforts that the American Association of Highway and Transportation Officials had very properly made. The principle here is that the more gasoline you consume, the more funds you get. It is, as some of us said at the time, an energy policy, not a transportation policy. We feel that is a wrong priority.

In 1973, the United States was importing about one-third of its oil. Most of it came from Canada. In the aftermath of OPEC price shock, things began to shift. We became better consumers of energy. In 1973, it took 27,000 Btu's to produce $1 of gross national product. We brought that down with improved energy efficiency to just over

20 in 1986. In a matter of 13 years, we cut the Btu's per dollar of gross national product by about a quarter and it has been flat ever since.

Maybe we did as much as we could, or forgot what we were doing, but we did bring it down. That was in response to price.

On the other hand, we continued to use more oil and to import more, and now most of what we import comes from Saudi Arabia. If the Saudis were to bring an amendment to this bill, I think they would bring this amendment; it says the more Saudi oil you purchase, the more resources you get.

But is that really the way we want to organize ourselves for the era ahead? I do not think so. The committee did not think so. We want to get more out of the gallon of gasoline and, if we possibly can, get more out of alternate energy sources.

We just cannot justify this. We have looked at it carefully.

Mr. GRAHAM. Will the Senator from New York yield?

Mr. MOYNIHAN. We could not find the basis, and on a 15 to 1 vote said no.

What we did say is we are going to have to think of a new allocation formula, and we are going to spend the next 5 years doing just that, and to try to produce a formula, which we will do, that will serve us for another generation. We are in a new era, and we need to have new bases. The old arrangements are, admittedly, biased by the needs of building an Interstate System. We continue to have the need of maintaining it. But I would have to say that the committee has already dealt with this matter and the Ambassador from Saudi Arabia is not on the floor but if he were he would be speaking in favor of the proposal.

Mr. SYMMS. Will the Senator yield me 2 minutes?

Mr. MOYNIHAN. I am happy to yield.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. SYMMS. The Senator from Florida asked a question about how the committee came up with this formula. What happens is always what happens in my experience on highway bills. This is the fourth time in my short time in the Senate that we have brought a highway bill through the Senate. The third time we were not successful in achieving a conference and we had to come back—I guess it was the second time. The third time we came back the next year to reach a conference and pass a bill.

Senators from Florida and Texas and other States are pushing for a formula that bases it more on population and use of roads. And the States like Montana and other States, the Dakotas and so forth, Idaho and others are pushing for a formula that is based on th size of the system. They have huge highway systems that are bridge States that connect the country together in the National Interstate and Defense Highway System, and it always comes down to the last day that we finally finalize it by people looking at the list and they say how much does my State get?

The way we came up with this, the interstate program, was based on an original 60 to 40 formula. It was amended to suit the needs of the more populous States to 55 to 45. That is road miles and passenger miles. So we still would be able to maintain an Interstate System in Montana. I use Montana as a good example because it has, I believe, the most interstate per capita of any State in the Nation, with some very difficult terrain, extremely hostile weather to the roads and it is a State that people like to drive through getting across from east to west.

After the 1982 formula, in which we had made some promises to accommodate States—and we accommodated the donor States by raising it to 95 percent, and I was chairman of the highway committee when that happened—to accommodate the other States like Texas and Florida and Virginia and others, then what happened we arrived at a formula through that year to achieve a balance with the House. The old revenue-sharing formula was brought into it. We finally got a bill passed then 5 years later that still carried some of that with it, that record for the current highway program.

The Senator from New York is quite correct. It was impossible to come up with an apportionment formula that would suit everyone and still maintain a National Highway System.

Now, I think what we have done is we have achieved a very good balance, but we must remember—and I tell my friend from Florida—this battle is not over yet, and his point of view will be very well represented in the other body because of the nature of the demographics of the House of Representatives compared to the Senate.

I certainly respect the right of the Senator to offer the amendment. It is a tenacious struggle to represent Florida, but I want to say that with now the compromise that has been achieved with the Byrd-Bentsen language added to the committee bill, the State of Florida has had a vast improvement over where it was.

The State of Florida is actually reaching a par level, I will just read it off here. Florida will be projected to pay $3,998,000,000 into the highway trust fund, and it is projected that Florida will get back $3,994,000,000, so they are right at a one dollar for one dollar level, which I think is where the Senator from Florida has tried to go.

So I would just say that if we accepted his amendment now, it would completely disrupt all of the work that has gone on for the past 2 to 3 years plus the last 2 or 3 weeks on the floor, and this Senator finds it impossible to accept that.

I am sympathetic with what the Senator is trying to do. I understand what the Senator is trying to do. But I think the compromise we have now achieved in the bill, as part of this bill, is going to treat the State of Florida much more fairly than the Senator from Florida had originally thought. To now go back and try to rewrite the formula I think is simply not acceptable and I would oppose and do oppose the amendment for that reason, and many other reasons which I will address later, and I reserve my time.

Mr. GRAHAM. Will the Senator from New York or Idaho yield for a question?

Mr. SYMMS. I will be happy to yield as long as we yield on the time of the Senator from Florida.

Mr. GRAHAM. I yield on my time. I have two comments and a question.

It is not a Florida formula, an individual State formula. It is adopted by a State highway coalition. Forty-eight out of 50 of those officials voted for the basic population regulations that undergird this proposal.

Mr. SYMMS. But not 48 out of 50 States; 48 out of 50 of the officials from the donor States.

Mr. GRAHAM. No, 48 out of 50 State highway officials voted for the policies which undergird this recommendation.

No. 2 is the false issue that this approach is going to be promoting fuel consumption. The fact is I think that the Senator from New York has confused this amendment with the administration's proposal. It is correct that the administration under its national highway program would have used motor fuel usage to allocate 70 percent, that would have been 70 percent of the allocation factor. That is not a factor in our national highway program. Our national highway program is one-third lane miles, one-third vehicle miles traveled, and one-third diesel fuel, I underscore diesel fuel used, and that it weights urban lane miles and urban vehicle miles traveled twice representing the greater cost of providing highways in an urban setting.

Third, the explanation for these bizarre allocations under the current law and proposed to be carried forward is always Montana.

The question I would like to ask the Senator from Idaho, let us now talk about Alabama. Let us take the sheet that we have of the division under the proposal in S. 1204. It indicates that Connecticut is receiving $1,711,879,954. This is as it left the committee without the changes that have been made by Senator BYRD. Does that number concide with what the Senator from Idaho understands?

Mr. SYMMS. I am sorry, I missed the question.

Mr. GRAHAM. The question is, Is the Senator understanding that the State of Connecticut will receive $1,711,879,954 over the period 1992 to 1996 under the proposal of S. 1204 as it came from the committee?

Mr. SYMMS. $1,900,000,000?

Mr. GRAHAM. $1,711,000,000.

Mr. SYMMS. Right, $1,700,000,000. That is correct.

Mr. GRAHAM. Now let us look at Alabama, which is $1,504,654,492. Is that what the Senator understands?

Mr. SYMMS. Correct.

Mr. GRAHAM. Will the Senator please explain to me—and I would like to use this as an opportunity to go into the specifics of the formula that is being carried forward from the past into the future—how you can have for a State which is 10 times as large, Alabama being 10 times the number of square miles as Connecticut; Alabama has a Federal-aid highway system which is five times the size of the Connecticut; Alabama has a population that is approximately 750,000 larger than Connecticut; Alabama is substantially a poorer State than Connecticut, a formula which results in that diverse allocation of funds?

Mr. SYMMS. The reason for the major part of the difference is that Connecticut's interstate system is not completed. They are going to get over a quarter of a billion to complete their interstate. Alabama's interstate system is completed short of about $45 or $50 million.

So this is over $200 million. That is about the difference in a nutshell.

Some Senators have come to me and said why is Massachusetts getting so much money? The same reason is the very expensive sections of the interstate that are not completed in those high property value States like Connecticut and Massachusetts are not completed. I think the distinguished Senator from New York said that for Connecticut it may be a substitution that was not completed; that is being paid out.

I would like to adjust one thing that was said. We have taken countless hours of testimony in the committee on this issue. I want to read a quote from 10 transportation officials from 10 different States where they made a statement to the committee. Let me quote what they said:

> We have seen comments that, under the current system for allocating highway funds, certain States are "donors" to the Federal highway program and others are "donees," as if those labels alone mean the program should be changed. We reject that terminology as overlooking the important fact that all citizens, both those in rural and metropolitan areas, are beneficiaries of a well-developed highway system stretching across our country. This basic concept must continue if we are to have a national highway and transportation system which serves national interests.
>
> Present law already significantly accommodates the so-called donor States with a minimum allocation program. S. 965 and S. 823 would continue a minimum allocation program. We have no objection to continuing the present 85 percent minimum allocation provisions of the highway program. We take this position even though most Federal programs have no minimum allocation provisions.
>
> Let us amplify by discussing the transit program. We believe that continued Federal support for transit is in the national interest, though most of the States joining in this statement do not participate significantly in that program. We believe the Nation would be adversely affected if urban congestion makes our metropolitan areas less productive. However, as a price for our agreement that there is a national interest in transit, we have not suggested—at least to this point—that there must be an 85 percent minimum allocation to each State of highway user taxes dedicated to transit.
>
> We understand that there may be interest on the part of some States in increasing the highway program's minimum allocation to 90 percent.

Which has already been done here on the floor indirectly through the additional funds that have been added in.

Let me continue the quote:

> Arguments for such a change apparently based on a premise that national money has to be spent in a State regardless of how well the expenditures related to a national purpose.
>
> We want to make clear that we would object to such proposals. Our States do not participate at all or at least not meaningfully in major Federal programs based in some of those States, such as the space program or the superconducting supercollider. And we have not to date pressed for a minimum allocation in those programs. The point is that there are reasons of national policy why there is a donor/donee relationship in the Federal Highway Program as well as other programs, and it is the role of the Federal Government to recognize and act upon national policy concerns.

Mr. President, it just happens that those 10 departments of transportation are all from the Western part of the United States, but I think it is very applicable to the same situation between down the eastern seaboard, the Southeastern part of the United States and New England. In any State that has not completed their interstate or are exchanging for a substitute, as in the case of Connecticut, it can skew and distort these figures for this projection period of this bill.

I think the Senator from Florida has unique situations in that State where the State is a rapidly growing State. But I believe that this language in this bill, the way it is now crafted, would treat Florida very fairly.

Mr. GRAHAM. Mr. President, I yield myself such time as is necessary.

It is just inexplicable to have a formula that treats States that are disparate in size, compactness, and wealth as Connecticut and Alabama in exactly the opposite way that anyone would reasonably assume they would be treated. I believe that treatment is primarily a function of the fact that we are using a formula which is fundamentally inappropriate to the 1990's. It is inappropriate, as the General Accounting Office has stated, to use a formula which relies on a census basis that will be 16 years out of date at the conclusion of this authorization period. It is inappropriate to use postal route mileage of 1916 as the basis of distributing funds in 1996.

Mr. President, the sop that has been extended to certain States over the past decade has been the sop of minimum allocation. Theoretically, that was supposed to be 85 percent. So the assumption was if we put in a dollar at least we would get 85 cents back. In fact, that has not been the case. The State of Florida has averaged over this past period not 85 cents but 74 cents return on every dollar and cent. The same is true of many other States.

Second, the suggestion has now been made that all States are going to get almost a dollar-for-dollar return. That is on its face not a mathematical possibility. You cannot have some States that get substantially more than a dollar back and others who get exactly a dollar back and nobody getting less than a dollar back. If we have done this, we ought to be able to quickly solve the Federal budget deficit problem.

How do we arrive at this magical arithmetic? The answer is very simple. Under this plan, under the Moynihan-Symms proposal, again excluding the Byrd amendment, we are going to be distributing substantially more money than we are collecting. Why? Because we have accumulated interest in the trust fund, and we have not fully spent down the trust fund over the last 5 years. So we are shipping out about $1.20 for every $1 that we are taking as new, fresh money into the highway trust fund.

With that kind of mathematics, it is not easy, or it is not difficult, to give some States a lot more than a dollar back and give most States close to their dollar back.

But, of course, that sum of money which represents the trust fund being spent down and the interest earning on the trust fund did not fall from the clouds. It came from the same place that the money from now until 1996 came from. It came from the motor fuel users of America who fill up their tanks and fill up their trucks to pay taxes into the Federal highway fund.

In the case of Florida, if you allocate that portion of interest earnings and accumulation in the trust fund which is going to be spent out over this period in the same way that our State is projected to be contributing to the fund, we will not be a dollar-for-dollar State. We will again be getting back about 85 to 86 cents on every dollar that we have in the fund.

Mr. President, again in this time when we are so fundamentally disinvesting in transportation and we are making the decision here today that we are going to preside over the gradual erosion of our Nation's transportation system, assuring that our children and grandchildren will have yet another debt to pay now, a debt to pay in terms of the deteriorated transportation system, let us not distribute funds, those that we have, on a formula which drags the 1916's into the 1996's.

The State highway officials have presented us with a plan, a road map. It is a road map which is consistent and inspired by the outline of direction suggested by our own General Accounting Office as the appropriate method for allocating Federal transportation funds.

Mr. President, I hope that we will avoid the mirage of mathematics and focus on a formula that adequately funds one of the Nation's most important systems, our National Highway System. The amendment which is at the desk, in my judgment, will best accomplish that objective.

The PRESIDING OFFICER (Mr. DASCHLE). Who yields time?

Mr. MOYNIHAN. Mr. President, two points, sir.

To be explicit, I did make a mistake earlier. I said the amendment was identical to the one which had been proposed by the administration that used fuel consumption as the metric whereby to determine allocation of resources. Not quite so. Seventy percent of the administration measure would have been based on fuel consumption; 66 percent of this proposal. It is a small difference, but I acknowledge that.

I wish to make a statement that the American Association of State Highway and Transportation Officials takes no position on this or any other amendment before us. They offer recommendations, and their advice is available to anybody who wishes it.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise in opposition to this amendment.

Mr. President, this amendment is about a lot more than a game of numbers. It is a lot more than making winners out of some States and losers out of others.

This amendment would make the Nation a loser. It would move our transportation policy backward, instead of forward.

When our Nation should be seeking energy conservation, this amendment would reward energy extravagance.

When our Nation should be seeking ways to clean the air, this amendment would reward States that pollute it.

Instead of getting people out of their cars or driving more fuel efficient cars, this amendment would reward States that drive more, and guzzle gas more.

This amendment would base allocations largely—66 percent—on fuel consumption. States would, effectively, be rewarded for using more fuel, and penalized for reducing consumption.

That is not a policy that we should be adopting here.

Transportation today consumes more than 60 percent of the oil used in this country. Any effort to reduce the consumption of foreign oil has to involve transportation.

But this amendment would only worsen the problem. The more people drive in a State, the more money the State gets.

But, if a State is successful in getting people out of their cars, into mass transit, or to share a ride with a neighbor—the State may get cleaner air, and less congestion—but, it would get less transportation funding.

We have to cut down on consumption by automobiles. Rewarding States for using more and more fuel and driving more and more distances is not going to contribute to that goal.

In the committee bill, we took a number of steps forward. The administration, like the proponents of the amendment before us, has proposed basing State allocations mostly on fuel consumption. We said no.

Having worked last year to reauthorize and strengthen the Clean Air Act, we said that this bill can play a part in improving environmental quality, and gave States the flexibility to meet their transportation needs most efficiently.

We setup a special pot of money to help areas with air quality problems implement measures to clean their air. In doing that, we provide an incentive to areas that reduce auto traffic.

But, this amendment would turn us in the other direction. It would be the wrong direction.

And it is not going to help our metropolitan areas improve their air quality.

By dedicating 50 percent of the funds to a national highway system, this amendment woud also gut a key provision of S. 1204: Its flexibility that flexibility is a key to helping States like New Jersey meet their transportation needs and their clean air goals. But the amendment would remove much of that flexibility.

That is why this amendment is inconsistent with the goals of this bill, and the goals we laid out in passing the Clean Air Act amendments last year.

As a matter of environmental policy, energy policy, transportation policy, and the integration of the three, I urge my colleagues to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be deducted equally from both sides.

Mr. MOYNIHAN. Mr. President, I do not wish to be in any way hectoring, but the managers agreed to a 2-to-1 division of the time on this amendment, anticipating that there would be many Senators wishing to speak in favor of the amendment, or having perhaps been led to think that. But no one has appeared save the Senator from Florida.

We would not like to see our time used up equally with those of the proponents of the amendment, such that we would end up with no time when they had an hour left. Not that it would make much difference. I do not know that the Chair can do anything about this, but it seems unfortunate.

Mr. President, I ask unanimous consent that time not used by either party be allocated 2 minutes to the amendment and 1 minute to the managers.

The PRESIDING OFFICER. Is there an objection? Hearing none, it is so ordered.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, not entirely in jest, may I suggest that the Senate is not in order. The silence is deafening. We are happy to hear debate. Why is the Senate being held for 3 hours when no one wishes to persuade anyone?

In any event, Mr. President, having this moment, may I ask there be printed in the RECORD a very thoughtful and persuasive letter from Mr. Kent C. Nelson, who is the chief executive officer of United Parcel Service, in which he says:

> When we at UPS talk about running "the tightest ship in the shipping business," that is not just an advertising slogan. With us it is a way of life! That is why UPS is not only the largest, but also the most efficient package delivery firm in the world.

He has some thoughts on this subject which I find entirely persuasive, not in every respect, but the spirit of the this letter is the spirit of our bill, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED PARCEL SERVICE,
May 24, 1991.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, 464 Senate Russell Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: It was a pleasure to talk with you about your bill, the Surface Transportation Efficiency Act of 1991. Our phone conversation caused me to review your bill, the Administration proposal and also the position of the American Trucking Association regarding your bill.

The principles we believe are important that will influence UPS's support of a highway bill are these:

1. Adequate funds must be developed over the long term to build and maintain a national integrated system that allows users to operate efficiently.
2. Highway funds should be raised through the user pay approach.
3. Tax monies raised from highway users should be spent on highways.

When we at UPS talk about running "the tightest ship in the shipping business" that is not just an advertising slogan. With us it is a way of life! That is why UPS is not only the largest, but also the most efficient package delivery firm in the world.

We would love to support a highway bill that would help all American companies operate more efficiently. We need good roads—with the right capacity—going to the right places in order to charge low rates. We need the flexibility to operate the right size vehicle—yes even larger vehicles—in appropriate areas consistent with safety. (You probably are aware that UPS has years of safe experience operating double and triple trailers on appropriate designated highways in many parts of the country.)

In short Senator Moynihan, there is much that we can agree on, and some that we cannot. The three principles that we outlined are very important to us. We greatly fear the parts of your bill that will divert badly needed highway funds to such areas as local commuter rail assistance. While such assistance may be needed, we believe it should come from a combination of users and general tax funds.

We look forward to working with you and your staff to achieve the most efficient transportation system possible to meet the needs of our great nation.

Sincerely,

KENT C. NELSON.

Mr. MOYNIHAN. Also I have a letter from Prof. John F. Kain, who was such a great help to the committee on this matter, reporting the view of the environmental defense fund, which we are not able to incorporate at this moment in our legislation but which we do take respectful notice of.

Mr. President, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JUNE 12, 1991.

Senator DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR PAT: Bill Roberts, Legislative Director of the Environmental Defense Fund, reached me in Jakarta this morning and asked me to contact you about the prohibition on tolls contained in the Moynihan Surface Transportation Efficiency Act of 1991 (S. 1204).

Roberts correctly points out that the language of the act, "Tolls may not be imposed on any existing free interstate highway," would seriously limit efforts to implement meaningful road pricing schemes for at least the next five years.

The Environmental Defense Fund has been urging your staff "to amend the bill to allow (but not require) tolls on Interstates if they are part of a congestion pricing program and if the program would be implemented in an area designated by EPA as a extreme, severe or serious nonattainment area under the Clean Air Act." This would permit the implementation of tolls on Interstates in about 25 large cities with serious air pollution problems.

The prohibition of tolls on urban Interstates seems to me to be highly inconsistent with the overall goals of your bill. I hope you will be willing to consider the amendment suggested by the Environmental Defense Fund.

If you or your staff has any need to contact me, my secretary, Kathy Warden, at 617-495-2185 knows how to reach me. My FAX number here in Jakarta is 6221 374 615.

Sincerely,

JOHN F. KAIN,
Professor of Economics.

Mr. MOYNIHAN. Mr. President, I shall suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the time will be counted proportionally against either side.

Mr. MOYNIHAN. Mr. President, I sugggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HARKIN). Without objection, it is so ordered.

Who yields time?

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from Virginia be yielded time by the Senator from Florida [Mr. GRAHAM].

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I have the privilege of serving on the committee and, indeed, the Subcommittee of Environment and Public Works which worked on the drafting of this bill. It was not a happy day for me when I had to cast the only dissenting vote.

Since that time I have worked with the distinguished Senator from Florida [Mr. GRAHAM]; the junior Senator from Florida [Mr. MACK]; and many others who have formed a group representing the interest of the donor States.

Early on in our work, we were given support by a group of State transportation officials, who, for the past 2 years, have linked themselves together under the title FAST. I was so impressed with that group in the long and arduous trail that they had worked for themselves over these 2 years that eventually I indicated that I would support, at an appropriate time, an amendment reflecting their interests. That amendment has now been laid before the Senate by my distinguished colleague from Florida [Mr. GRAHAM]. I wish to associate myself with the arguments that he has made today and with the objectives of his amendment.

Among those in the FAST organization is the secretary of transportation for the Commonwealth of Virginia, Mr. Millikin. He has given me steadfast advice throughout these many weeks that I have worked on this legislation, and I want to single him out today and accord him recognition and respect from this Senator for the contributions that he has made to the deliberations on this bill. He is joined by several in the office of the Governor of Virginia here in Washington, DC, who are the resident representatives of the Governor of Virginia, and he, together with other State transportation officials, brought together a large group of FAST representatives some several weeks ago, hosted by the office of the Governor of Virginia. There we had a free and open discussion on the merits of the FAST legislation.

So, in indicating my support for the objectives of the amendment of the Senator from Florida, I pay special recognition to my own secretary of transportation, a number of his subordinates, and to those highway and transportation officials across America who worked so diligently for these 2 years with the common purpose in mind to try to revise this formula, commonly referred to as the apportionment section of the bill, which we feel should be updated to reflect a more diversified series of bases for the calculations.

Mr. President, I rise in support of the FAST amendment.

As I have stated earlier in this debate, the FAST amendment is an alternative proposal which has a bipartisan coalition. It represents the collective efforts of 2 years of work by transportation officials in nearly 20 States. The Congress owes this group a lot of credit, particularly the Virginia Secretary of Transportation John Milliken.

As I predicted as early as the Environment and Public Works Committee markup of this bill, the floor debate would be the "battle of the charts." Certainly, after 6 days of deliberations, and countless charts prepared by the Federal Highway Administration, for every potential amendment my prediction has been proven.

The fundamental problem is inequity. The committee's bill, before amendments, perpetuates an inequitable allocation of Federal highway funds between the 50 States and the District of Columbia based on a formula largely that was drafted 40 to 70 years ago. The supporters of FAST do not expect, nor request, a 100-percent return; but we do seek an apportionment which closes the wide gap between donor and donee States. In one word—equity.

A second major problem is flexibility—flexibility is the power given to the States as to how their allocation is applied to their own priorities.

Mr. President, let me emphasize that this amendment also provides three guarantees to all States. They are:

First, there is a hold harmless provision based on 1991 apportionments. That means that no State will receive less than the apportionment it received in fiscal year 1991.

Second, there is a protection of one-half of 1 percent which guarantees each State a minimum of one-half or 1 percent of the total apportionments.

Third, there is a 90-percent minimum allocation.

The FAST amendment, embodies three principles as alternatives to sections of the committee bill.

First, the amendment retains a Federal partnership that has been the hallmark of national transportation policy since the outset of the Interstate Highway System in 1956.

And it does so by recognizing that our future national transportation system must link States with modern, well maintained corridors moving interstate commerce and people.

Second, the amendment gives the States maximum flexibility to deal with the particular needs that a State may have.

Third, in dividing up the money among the several States it follows what we believe should be the cardinal principle in the postinterstate era: "Put the money where the cars are." It offers a solution that is tied to the problem that many of our States face—urban and suburban congestion—gridlock.

It is gridlock that is ignored in the committee bill.

It is gridlock that causes a loss of $1.5 billion in productivity in the workplace, and $1.5 million in unnecessary gasoline consumption.

Let us get Americans moving again.

Let us get people moving on buses, by rail, and in cars.

FAST accomplishes this goal.

People sitting in gridlock day after day are the same people paying taxes into the highway trust fund.

They are the same people who must be served by this bill—but they are not.

The FAST amendment is simple and straight-forward. It is a two-part program consisting of a National Highway and Bridge Program, and an Urban and Rural Highway and Bridge Program equally divided 50 to 50 in terms of funding.

The amendment calls for the development of a national transportation system and earmarks half of the money going to any State for use on that system. The States, working with the Federal Highway Administration, would develop the actual system over the months to come. This can be new roads, or, more likely the designation of existing roads—roads which must be maintained to high standards.

There is a continuing need to provide for uniformity and connectivity to all parts of the Nation for interstate commerce and national defense, linking major population centers.

Importantly, when it comes to defining and meeting a transportation need in a corridor on the National System, maximum flexibility would be given to the State to meet that need in the most reasonable way.

The National Highway and Bridge System would provide that the Interstate System would be the cornerstone of the expanded system.

States would have the flexibility to designate other roads and bridges to be a part of the National Highway System and the U.S. Department of Transportation would certify the designations made, not by the Federal Government, but the States. That is flexibility.

That same type of flexibility exists in the other program under FAST. The Rural and Urban Highway and Bridge System would receive the other half of the funds. These funds can be used on any project except the most local roads at the discretion of the State.

To provide even greater flexibility, up to 20 percent of the funds in either of the two categories can be transferred to the other program to meet a State's needs.

The amendment provides for an 85-percent match from the Federal Government for both programs, making an important exception for the construction of high occupancy vehicle [HOV] lanes to help meet our clean air obligations. HOV lane funding would be a 90-percent match.

This amendment departs from the Federal aid surface transportation bill as introduced in one respect. The amendment provides for a new discretionary bridge program. It is intended to provide a source of funds to States for the replacement or rehabilitation of high-cost bridges. Specifically, high-cost bridges are defined as those costing over $20,000,000 or more than 10 percent of a State's annual apportionment.

I would like to emphasize that the other programs provided in S. 1204 would not be altered. My amendment does not change the Congestion Mitigation and Air Quality Program, it does not change the Interstate Completion and Substitution Program or other programs.

This amendment does provide for a more fair and equitable distribution of the highway trust fund among the 50 States. It recognizes that in the creation of a national transportation system there will be donor and donee States. That is the nature of a national system.

But, this amendment does say that with the completion of the Interstate System, the disparity between donor and donee does not have to be as great. This amendment is simply founded on the principles of fairness and equity.

I urge my colleagues to support this amendment to bring our Nation's transportation programs into the 21st century.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BUMPERS. Mr. President, I ask unanimous consent that the time be charged to the Senator from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I guess it was Sam Rayburn, I am not sure, who said one time, all politics is local. I have never seen a bill on the Senate floor where that was truer than it is now. Every Senator here is judging this legislation and the amendments thereto on the basis of how his State is going to fare.

I started out when this bill was first presented on the floor, indignant, outraged, and determined to do everything I could to redress the terrible inequity in the bill as far as my State was concerned. That is what Senators are paid $100,000 a year to do, to look out after their people. And when you look out after the people of Arkansas, you are saying I do not want my people discriminated against.

When it comes to discrimination, incidentally, it is an interesting phenomena, not deliberate, but it just so happens that every State in the old Confederacy takes a real shellacking because of the minimum allocation system under S. 1204. The reason for that is not because the North or the West is still trying to punish the South. The reason for that is because the allocation system under which this money is given does not take into consideration poverty, low incomes, and what-have-you.

The reason I voted for the Byrd amendment and the reason I will vote for final passage with the Byrd amendment now safely ensconced in the bill, is because it did two things that I thought were extremely relevant:

First, it takes into consideration a State which is making a strong effort to do something about its own highways with a gasoline tax. My State happens to have a higher than national average gasoline tax, so we profit handsomely under the Byrd amendment.

Second, the thing Senator BYRD did in his first amendment was to take into consideration per capita income, so that States like mine that are 46th and 47th in per capita income again benefit. So thanks to the Byrd amendment, the people of the great State of Arkansas are going to get $144 million more over the next 5 years than they were going to get under this original bill.

Over the past 34 years, the people of the State of Arkansas have given millions of dollars into the trust fund that has gone to other States. We did not like it. It still irritates me to even say it. Why in the name of all that is good and holy, is a State like Arkansas giving money to build highways, for example, in New York? I say this with the utmost respect for the State of New York.

I voted to bail New York City out, and I want you to know that was not the most popular vote back home that I ever cast in the U.S. Senate. I did it for a lot of good reasons, but that is beside the point. It just points out how flawed this allocation system is today.

It was designed to help States build their Interstate System. Highly meritorious. All the States understood that they had to help some of these other States build rather long Interstate Systems that they could not alone afford. But, so many millions from my State, $59½ million in 1989 alone from the 47th poorest State—maybe I should change that to say the fourth poorest State in the Nation.

Mr. President, you do not have to be a rocket scientist to know that there is something seriously wrong with a formula that would permit that.

Arkansas needs roads. Why do you think we have a gasoline tax higher than the national average? Because we believe that good roads are absolutely essential to economic development, and economic development and education are our primary goals in Arkansas.

In the last 5-year period, Mr. President, we gave $713 million to the trust fund which represents 1.4 percent of the total, and got back $582 million. That is a pretty healthy contribution from my State to all the other States in the Nation.

We got a nickel on each dollar for mass transit back. And so I started off in this bill supporting the proposition that Senator GRAHAM is now offering the Senate. I am probably not going to vote for him, simply because it will cost my State a lot of money. I voted for the Byrd amendment that will give my State $144 million more over the next 5 years, so here is a politician that has been bought and paid for. I am going to stick with that proposal, even though my respect and admiration for the Senator from Florida is unbounded. Because he, with this amendment, has put his finger precisely on the problem.

Think about using the 1980 census, which is totally outdated, through the year 1996. I may fare well under that formula, but everybody here knows there is something basically wrong with that. And the Interstate System is finished. Whatever rationale anybody could ever have used to justify for States like mine, and Virginia, and Florida, and Texas—paying massive sums into the trust fund, much greater sums than they got back, that rationale is over.

There has to be some kind of national system of highways because if there is not, then we might as well get the Federal Government out of the gasoline tax business and let the States have it all. You cannot justify a national gasoline tax, a Federal gasoline tax, unless there is some rationale for it. Otherwise, we should just let the State collect all the taxes and build highways where they please.

So, there are some things that have to be funded at the national level. Usually the way you get those things is what we call the carrot. In other words, we say here is a system—as we did in the case of the Interstate Highway System—and if you will build this system the way we have it laid out here, we will give you 90 cents of every dollar it costs you. Everybody jumped on that like a chicken after a June bug. We loved that 90 cents on the dollar from the Federal trust fund. But there has to be more equity in this than there has been in the past.

Here we are going to 1996 with the same formula we have been using that has cost the donor States so dearly. It is an anchronism, the allocation formula is out of date, it has no sane rationale.

So, as I said the other evening when I spoke on this subject, if I am here 5 years from now I will be standing right here at this desk. I have no intention of moving. I have been here for about 10 years. I like this seat. I can get to this door in a hurry when I want to leave.

Did you ever hear that great story about when the Puerto Ricans opened fire over in the House of Representatives? There was a Congressman from Alabama, and they tell me he weighed close to 300 pounds, and when the shooting started he jumped up from his seat and started waddling toward the door. Somebody said where are you going? He said I am going home to get my gun.

So, I like my seat, and if I am in this seat 5 years from now I am going to be standing right here, fighting like a saber-toothed tiger to change this allocation system we are going to be saddled with for the next 5 years, under this bill.

Mr. President, I will close my remarks by again paying my respects to the Senator from Florida, who has never wavered for an instant. I have sat in on meeting after meeting with him, and other Senators from the donor States, over the past week, or however long this bill has been up. Not one time has he bought into anything except changing this egregious allocation system. He deserves the praise of everybody here. He will not get enough votes to prevail and he will not get my vote, because my State would lose almost $100 million if I voted for this amendment right now. I cannot afford to do that. I would hate to go home and campaign on that one. Would my colleague not hate to do that?

So I will stick with the Byrd amendment. But I thank the Senator from Florida, who I personally believe knows about as much about this bill as anyone. There are three or four Senators in this body who really understand this complex issue and he is one of them. But I wanted to speak to express the concern I had as the Senator from Arkansas, for a State which has really been taking it on the chin for the past 34 years. I thank the Senator from Florida for his wise and sagacious comments, and his tenacity in sticking with what he really believed.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, the Senator from Florida is controlling the time.

I would like, before yielding to my colleague, to thank the Senator from Arkansas for his very eloquent and kind remarks.

I would indicate to all of my colleagues the amendment which I have offered deals exclusively with the formula in the bill as reported by the committee. It does not alter the amendment which we adopted earlier today, the Byrd-Bentsen amendment.

I would also point out the amendment which I have offered, the amendment developed by State highway transportation officials, contains a 90-percent minimum allocation within the basic program, the program we have the greatest expectation will actually become reality.

We are all aware of the degree of tenuousness which is associated with the Byrd-Bentsen amendment, which was added today. I have not looked at the specific numbers, but it would be difficult for me to comprehend that the combination of changing from the antiquated formula in the committee bill to the formula as recommended by most of the State highway administrations with a 90-percent minimum allocation, plus the Byrd-Bentsen amendment as adopted today, would not result in the State of Arkansas being treated as well, as fairly, as equitably, as the status quo.

But I urge the Senator to review that matter because I know how strongly he feels about the mistreatment over a long period of time of his State and his commitment to total fairness in the allocation of Federal highway funds.

With that said, I yield 10 minutes to my colleague from Florida.

Mr. MACK. I thank my colleague for yielding. Let me express my appreciation for the work he has done, and the ability of the two of us to work together for what we believe is the best interests of our State, and for that matter, our Nation.

I come into this debate from a perspective of looking out for my State's interests. A term I have used is "Florida's fair share." I really got into this by looking, a couple of years ago, at the return, on the dollars we received from Federal grants.

A group in Florida called Florida's Tax Watch had indicated Florida was 50th out of 50 States with respect to the dollars we received in Federal grants. I think it was about 62.5 cents they indicated we were getting back on grants by the different agencies. We looked into this and we found it was a population-based problem. That is, many of the agencies were using old census data.

For a State like Florida, that grows 33 percent in a decade, imagine the impact using 1980 census data will have on the disbursement of grants in 1988–89—using census data that is almost 10 years old.

I have looked at other areas such as Medicaid reimbursement. We have looked at a formula that has been put forward by the General Accounting Office, one they think would be a fairer formula for the distribution of Medicaid funds for the States. This means about $500 million a year, in additional reimbursement.

The point that I am trying to make is that the Highway Program is only one of a whole series of Federal expenditures in which my State comes up on the short end. To put that in perspective, I heard my colleague from Arkansas mention earlier that over the 34 years of the Highway Program, his State had contributed something like $400-plus million to other States.

To put that into perspective, in the last 5 years, Florida has paid almost $800 million. In the last 5 years alone, $800 million from Florida has gone to other States. In fact, in the last 2 years, that number amounts to about $600 to $650 million.

To get back to the population point for a moment, as I understand the formula that is in the bill, 15 percent of that allocation is based on population. Unfortunately, the figures that are going to be used for population for 1992, 1993, 1994, 1995, and 1996 are going to be based on 1980 census data. It is just blatantly unfair to a State like the State of Florida that is growing, as I said, by 33 percent in the last decade.

A point that I have made, both in hearings in the committee and on this floor before, but again, I think it is worth saying, is that everyone seems to understand that Florida is a fast-growing State. This does not understand that Florida is a big State geographically. The best way to make that case is to remind my colleagues, as I have said before, that it is almost as far from Key West, FL, to Pensacola, FL, as it is from Pensacola, FL, to Chicago.

I think it is important this information be understood because, if we do not take into consideration the number of miles—whether those are urban miles or rural miles—the number of lane miles, and the number of cars traveling across them, the total amount of money going to the State of Florida is, in fact, just not fair.

Most of my colleagues voted for the amendment we just voted on earlier. Frankly, I felt like we were being bribed with our own money. The $8.2 billion that everybody is talking about, as I understand it, is money already in the trust fund that has been contributed over the years that has not been spent. That is our money.

We were asked to agree to a formula that gave half of that money to the so-called Byrd States, based on what was perceived as a fair allocation based on a State's gasoline tax. But what about States that raise a tremendous amount of money from other resources, whether that is diesel fuel, license fees, or registration fees? There are many things happening in the State of Florida that are not being given credit for in the amendment that was just agreed to.

So again, I make the case that the amendment offered by the senior Senator from Florida, Senator GRAHAM, is asking for basic fairness. If I have heard the word "fair" over the last several years, if I have heard it once, I have heard it at least 1,000 times. If you want to have some basic fairness in this program, then the FAST proposal that has been offered by Senator GRAHAM, is the way that we should be going. It will, in fact, give credit to States like Florida that not only have large populations, but also have a tremendous amount of geography to cover.

So I encourage my colleagues to take a look at this. This is, again, a fair approach to allocate limited resources. I do not think there is any question in anyone's mind that the heart of this issue is what to do about this formula.

The amendment that was offered earlier was, frankly, a smokescreen. It was a diversionary tactic to get us to move away from the main discussion about fairness of the formula.

Again, I believe my colleagues ended up being bribed with their own money, and I suggest that the money is not going to be there. Over this 5-year period, there are going to be votes on the floor of the Senate about the appropriation of the $8.2 billion. I do not think it is going to come forward. I do not think it is going to be there. And if there is a choice in 1994, 1995, and 1996, it is going to be how much are you going to take out of defense to put into roads. In 1993, it is going to be how much are you going to take out of domestic programs in order to fund highways.

I again congratulate my colleague for offering this amendment. It is an amendment that should be agreed to, and I urge my colleagues to support it.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. SYMMS. Mr. President, I note that the Senator from Connecticut is here, and he wants to speak against the amendment. The Senator from Pennsylvania would like to speak on the highway bill.

I was going to inquire as to how much time Senator MOYNIHAN has left and how much time Senator GRAHAM has left.

The PRESIDING OFFICER. The Senator from Florida has 40½ minutes remaining, and the Senator from New York has 39 minutes remaining.

Mr. SYMMS. Forty minutes left, or 1 hour 40 minutes?

The PRESIDING OFFICER. Forty minutes left.

Mr. SYMMS. I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. On whose time?

Mr. SYMMS. I was going to inquire, would the Senator from Florida like to share 5 minutes of time with the Senator from Pennsylvania? He has other speakers, so I yield 10 minutes of Senator MOYNIHAN's time to the Senator from Pennsylvania. And following him, then, 10 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. If the Senator will withhold.

Mr. GRAHAM. Mr. President, as I understand it, the Senator from Pennsylvania is recognized for 10 minutes, and then the Senator from Connecticut. I ask unanimous consent that immediately after the Senator from Connecticut, the Senator from Mississippi be recognized for 10 minutes.

Mr. LOTT. That will be fine. I thank my colleague.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I thank my colleague from Idaho for yielding 10 minutes. I had sought this time, as I have awaited some floor time, to discuss a number of important highway projects in the Commonwealth of Pennsylvania.

I regret that we do not have more funds available in this bill to allow us to direct funds for these projects. The amendment which I had offered last week to take the highway trust funds off-budget was not adopted, which would have made some $12 billion more available.

Mr. President, there are many, many vital highway projects across the country, and I think it worthwhile to comment on just a few in Pennsylvania. I cannot cover them all of course, in the course of 10 minutes, which is available at the moment.

One is the Exton bypass, which I visited yesterday. Exton, PA, is a prime example of a suburban area which had overwhelming land development in the 1980's and is now suffering severe mobility problems. The Exton bypass would encompass some 5½ miles involved in U.S. Route 30 and U.S. Route 100 and U.S. Route 202.

The bypass would remove approximately 60 percent of the current traffic along the limited access which is in the highway. It is complete, virtually, as to all environmental and design work.

Representative DICK SCHULZE in the House has introduced H.R. 30 to authorize $87 million as a demonstration project in the 1991 highway bill to advance this very important project.

As I say, I visited the project yesterday and can personally attest, not only from yesterday's visit but from having been in the area on many occasions, to the tremendous bottleneck and the need for this important highway demonstration project.

Another very important project, Mr. President, is the Mon Valley Expressway. The 1987 highway bill established a pilot program to allow several States to blend Federal highway funds with toll revenues to develop new highway capacity. Under the pilot program, nine States were allowed to participate. Federal participation was limited to 35 percent of the project costs. The 1991 highway bill, as reported by the committee, expands on the 1987 language and allows all 50 States to participate. Federal participation was limited to 35 percent of project costs. The 1991 highway bill as reported by the Senate Environment and Public Works Committee expands on the 1987 language and allows all 50 States to participate.

In Pennsylvania, the Mon Valley Expressway was designated as the highway eligible to use Federal funds for construction as a toll facility. Consequently, cost of this economic development highway are large and the limit of 35 percent Federal share limits the State's ability to proceed with this important project.

I urge consideration of the value to toll financing and request that direct Federal funding be provided to the Mon Valley Expressway to demonstrate the toll financing and its economic development potential in economically depressed areas such as the Mon Valley of western Pennsylvania.

Another important program is Erie's east side sector, where Congressman Tom Ridge has taken the leading role as an extremely important link for the entire northeastern Pennsylvania. It represents a missing link in Erie's transportation system.

Currently, truck traffic which services the port terminals must travel through the central business districts or through east side residential neighborhoods. A 5-mile transportation sector between Interstate 90 and the Port of Erie is proposed in order to advance intermodal opportunities of the port and to relieve congestion there. The total project cost is estimated at some $77 million.

Another matter of enormous importance—and I might say, Mr. President, that I have been on the Mon Valley Expressway on many occasions. I can attest to that important project. I have also been on the east side connector and can personally attest to the importance of that project.

When it comes to ranking of these items, it is not the order of importance in which I articulate these matters because all are of extreme importance, all are of vital importance. But I now refer to U.S. Route 33 and a project where the lead has been taken by Congressman Ritter, which involves Interstate 78 and a demonstrated need for a connector between Route 22 and I–78 between Bethlehem and Easton, PA. This project proposes a 3.2-mile extension of the current Route 33, which will connect Route 22 and I–78, allowing motorists passable access to major east-west interstates, with the total project cost being estimated at some $77.5 million.

Again, I have been on that highway, and, as most Senators, perhaps all Senators traveling extensively through their States, have firsthand knowledge, perhaps too much knowledge, of the deficiencies in the highway system. I can attest to the need on Route 33.

Another matter of great importance, again a route which I have traveled on many occasions, is Route 219, which is a limited-access, four-lane highway which has a significant impact on the economy of western Pennsylvania. This major artery is one of the few transportation routes which flow north-south through Appalachia. A study by the New York and Pennsylvania Transportation Departments has disclosed that the extension of Route 219 north into New York would create thousands of jobs, and the completion of Route 219 in Somerset County would have a similar result.

Mr. President, another route of tremendous importance is Route 15, which is the only major north-south highway in the central region of the Commonwealth. Primary interest in the State has focused on approximately 152 miles from Harrisburg to the New York State line. In many respects the highway serves as an interstate without being a four-lane highway. Again, I speak from personal experience of having traveled that route and know intimately the great need for improvement there.

Mr. President, I have the statistics on the number of accidents during the reportable period from 1983 to 1986 on this particular link. There were 2,202 reported accidents resulting in 2,275 serious injuries and 113 fatalities. I believe that if you were to take a look at all of these projects and, really, projects across the country, Mr. President, there would be a demonstration of the tremendous number of accidents, injuries, and enormous economic loss in addition to time spent and damages resulting from the decrepit and insufficient infrastructure which exists in our country.

Mr. President, touching on just a few of the other highways, because my time is about to expire, the Lackawanna Industrial Highway is a proposed economic development throughway which would run from Interstate 81 to Carbondale in northern Lackawanna County. Another major highway need is Interstate 83 at Harrisburg with a proposed widening exiting the beltway around the city of Harrisburg.

Another in a long list of Pennsylvania necessary projects is the North Scranton Expressway, which is a proposed realignment of some 3,000 feet of the North Scranton Expressway in Lackawanna County to connect with a new Mulberry Street bridge.

Still another important project, Mr. President, is the Wysox Narrows, which is a proposed widening of U.S. Route 6 near Wysox Narrows, in Bradford County, PA. And again, Mr. President, I do not by this recital mean to express or articulate all of the needed highway projects which exist in my State. Really, these are only illustrative.

Again, I ask unanimous consent that there be an elaboration in the Congressional Record as to the description on each one.

There being no objection, the material was ordered to be printed in the Record, as follows:

List of Important Projects in Pennsylvania

Exton Bypass.—The Exton, PA, area is a prime example of a suburban area that had overwhelming land development in the 1980s and is now suffering from severe mobility problems. The 5.5 mile segment of U.S. Route 30 which passes through the heart of Exton is the weak link in this highway of national significance. Therefore, local leaders have proposed the Exton Bypass to complete the U.S. Route 30 Corridor by connecting the Coatesville-Downingtown Bypass to U.S. Route 202. The Bypass will remove 60 percent of the current traffic along limited access highway, traffic that is neither originating in the area nor destined to the area. All the environmental and design work is nearly complete. Representative Dick Schultz introduced H.R. 30 in the House of Representatives to authorize $87 million as a demonstration project in the 1991 Highway bill to advance this important project.

U.S. Route 33.—With the current construction of Interstate 78, local officials have demonstrated the need for a connector between Route 22 and I–78 between Bethlehem and Easton, Pennsylvania. The project would provide for a 3.2 mile extension of current Route 33 that will connect Route 22 with I–78, allowing motorists easy access to the major east-west interstates: I–80 and I–78. Total project cost is estimated at $77.5 million. Representative Ritter introduced H.R. 1540 in the House of Representatives to authorize this important highway connector.

Route 202 Highway-Transit Demonstration Project.—There exists a missing link between two on-going highway capacity projects in Pennsylvania along U.S. Route 202 between King of Prussia and Montgomeryville. The Montgomery County, Pennsylvania, Planning Commission has designated this section as the number one priority in the County. In addition, proposed is a park and ride station for SEPTA where Route 202 and SEPTA Lansdale Line cross in Lower Gwynedd Township. The proposal has the strong support of both the Planning Commission and SEPTA Officials. The Highway-Transit demonstration project is critically needed for improved travel and road safety in the region. The total cost of the highway and transit project are $30 million and $5 million respectively.

East Side Connector.—The East Side Connector Project is extremely important for entire Northeast Pennsylvania. It represents a missing link in Erie's transportation system. Currently, truck traffic which services the port terminals must travel through the central business district or through eastside residential neighborhoods. A five mile transportation connector between Interstate 90 and the Port of Erie is proposed by local leaders to advance the intermodal opportunities of the Port and to relieve congestion in the region. Proposed is a five mile link between Erie's east side terminus of the Bayfront Parkway southerly to Interstate 90 and U.S. Route 17. Total project cost is estimated at $77 million.

Route 219.—Completion of Route 219 as a limited access, four lane highway would have a significant impact on the economy of Western Pennsylvania. This major artery is one of few transportation routes which flow north-south through Appalachia. A study by the New York and Pennsylvania transportation departments reveals that a project to extend Route 219 into New York would create more than 10,000 jobs. The completion of Route 219 in Somerset County would have similar results.

Mon Valley Expressway.—In the 1987 Highway Bill established a pilot program to allow several states to blend federal highway funds with toll revenues to develop new highway capacity. Under the pilot program, nine states were allowed to participate. Federal participation was limited to 35 percent of project costs. The 1991 Highway Bill as reported by the Senate Environment and Public Works Committee expands on the 1987 language and allows all 50 states to participate. In Pennsylvania, the Mon Valley Expressway was designated as the highway eligible to use federal funds for construction as a toll facility. Consequently, cost of this economic development highway are large and the limit of 35 percent federal share limits the state's ability to proceed with this important project. Direct federal funding is needed for the Mon Valley Expressway to demonstrate the toll financing and its economic development potential in economically depressed areas such as the Mon Valley of Western Pennsylvania.

Route 15.—Route 15 is the only major north-south highway in the central region of the Commonwealth. Primary interest in the State has focused on approximately 152 miles from Harrisburg to the New York State line. In many respects the highway serves as an interstate, without it being a four-lane limited access highway. During the four year period from 1983–1986, between Harrisburg and New York State there were 2,202 reportable accidents resulting in 2,275 serious injuries and 113 fatalities.

Lackawanna Industrial Highway.—Proposed economic development highway that would run from Interstate 81 to Carbondale in northern Lackawanna County. Cost of the project is estimated at $150 million.

Interstate 83 at Harrisburg.—Proposed widening of exiting beltway around the city of Harrisburg. Cost of the project is estimated at $25 million.

North Scranton Expressway.—Proposed realignment of 3,000 feet of the North Scranton Expressway in Lackawanna County to connect with a new Mulberry Street Bridge. Estimated cost of $12 million.

Wysox Narrows.—Proposed widening of U.S. Route 6 near Wysox Borough in Bradford County, Pennsylvania. Widen one mile stretch of the road to help safety at the "Wysox Narrows." Cost of the project is estimated at $4 million.

Route 422.—Proposal for a bypass at Indiana, Pennsylvania, to reduce urban congestion. Proposal is for a 6 mile limited Access highway between Route 119 and Route 422 in Indiana County. Estimated project cost is $60 million.

Fox Chapel Road Project.—Proposed highway widening at Fox Chapel in Allegheny County for relief from urban congestion. Cost of the project are estimated at $1.5 million.

Mr. SPECTER. In conclusion, Mr. President, I think the items which I have mentioned just briefly as to my State could be replicated in each of the 50 States of the country. We do need more attention to our highways, and I have not begun to articulate the tremendous number of bridges which are in need of repair. I think the day will come when we will take the highway trust fund and the mass transit trust fund off budget because I think Americans are willing to pay for an improved highway system but are not willing to pay a gasoline tax or other taxes when the money goes in as an offset against the deficit, which is what is happening at the present time.

Again I thank my colleague from Idaho.

The PRESIDING OFFICER. Under the previous order, the Senator from Connecticut is recognized for a period not to exceed 10 minutes.

Mr. LIEBERMAN. Mr. President, I thank the chairman and ranking member.

I rise to strongly oppose the amendment of my colleague from Florida. I do so because I strongly support the underlying committee bill. We have spent a good part of the last couple of weeks in the debate on this bill focused on the funding element, but what distinguishes and I think elevates the underlying bill is that this not only deals with money and allocation of money but it has a vision, it has a plan about how that money should be spent. There is a danger in the understandable struggle that has been going on here in this Chamber for the last several days over who gets what that we will forget the central question the committee bill has raised is where does that go and how will it affect our Nation.

This amendment offered by our distinguished colleague from Florida directly undercuts some of the central premises of the committee bill. It builds its allocation formula on usage factors. It encourages the use of fuel when we should be discouraging the use of fuel, at least encouraging the conservation and efficient use of fuel. It will, in that sense, not only undercut our quest for energy independence, it will further degrade our environment. And in committing one-half of the funds allocated to the National Highway System, this amendment deals a body blow to the central principle of State control, of flexibility at the State level where more is known about the needs of the State, and taking it away from the dictates of the Federal Government including the dictates of this body and Congress itself.

So, Mr. President, I am going to oppose this amendment. But I wanted to take this opportunity to speak a little bit more about some of the premises underlying this amendment and the one offered a short while ago by our distinguished colleague and President pro tempore, the Senator from West Virginia [Mr. BYRD].

I voted for that amendment because I saw it as a way to move this bill along and get it adopted and to help the infrastructure needs of our country. But in the Graham amendment, and the Byrd amendment before it, there is a philosophy suggested that ought not to go unanswered. I would like to spend just a few moments now talking about the concept of minimum allocation and fiscal capacity and tax effort.

Much has been made about minimum allocation guaranteeing a State that it will have a fixed percentage of the money that it gives through gas taxes to the highway fund. I say that there are two basic problems with allocating funds in that way. First, that system ignores the true needs of individual States and the Nation as a whole. Second, it stands in stark contrast to how we allocate Federal money more generally across the board.

Mr. President, I want, at least rhetorically, to raise the suggestion that we ought to be consistent and consider not just gasoline taxes, if we are concerned about minimum allocation, but all Federal taxes. Those are, after all, user fees to fund general purposes of the Federal Government.

At present we allocate Federal spending for housing, social welfare, defense, agriculture and every other purpose of Government on the basis of perceived needs and the appropriateness of governmental support. That is a deliberative and, in many ways, a painful process. But after all, it seems to have served this Nation pretty well for over 200 years now.

Under this process, the one that prevails, my State of Connecticut, in a very direct way through its tax contribution to the Federal Government, provides 2.1 percent of the Department of Agriculture's funds. But to say the obvious, we receive no cotton price supports.

Should I then be asking for a minimum allocation of Agriculture money for the State of Connecticut?

Well, the northeast part of our country shoulders 27.8 percent of the burden of funding the Bureau of Reclamation. The bureau does not have a single bureau project subsidizing electricity. The Bureau of Reclamation operates only in the States west of the 100th meridian by statute. Parenthetically, maybe there is no coincidence here, 10 of the 11 Northeastern States have electricity rates that are substantially higher than the national average.

Should we be asking for some minimum allocation for these funds to the Northeast?

Consider, Mr. President, expenditures on education. If a minimum allocation based on tax burden were applied, States with low per capita incomes and consequently low tax burdens might not receive enough funding to administer programs like Head Start, for which they have an obvious and profound need.

Similarly, imagine if the funds available for low-income housing were allocated based on respective State's share of tax burden. There is no guarantee. In fact, there is some probability that would not be a decent response to need.

Mr. President, I cannot resist turning to what amounts to the single biggest regional transfer of wealth in American history. That is the savings and loan bailout. Between fiscal years 1988 and 1990 Federal resolution costs, as they are called, for State-chartered thrift institutions totaled $32.8 billion. Of that amount, the Federal Government spent $22.4 billion in just one State, Texas. That is 68 percent. Assuming conservatively that taxpayers end up footing 75 percent of the savings and loan bailout bill, Connecticut residents paid $518 million of the resolution costs I just mentioned. None of that money was returned to the State of Connecticut.

What if we imposed or asked for an 85-percent minimum allocation? I am pleased to say that we would receive over $440 million in Connecticut as a result of that program.

Mr. President, to suggest this is to suggest how ridiculous the proposal is and how fundamentally at odds it is with the fact that we are one Nation, one Nation that taxes and one Nation that responds to the Nation's needs without general application of minimum allocation concepts.

If you begin to take some of the donor States under the highway trust fund, and consider the amount of money that they give to the Federal Government and receive overall, not just highway funds, trust funds contribution, but overall, the numbers are startling. I am going to print the list of 15 of the donor States with what they would receive or how much less they would receive under this formula.

But let me just say in the aggregate, these 15 States' shares of allocable Federal expenditures overall exceeded their shares of the Nation's tax burden by an astonishing $290 billion between fiscal years 1981 and 1988, despite the fact that they are somewhat disadvantaged by the highway trust fund apportionments.

Of course that money has to come from somewhere. You will not be surprised to hear where it comes from. Let me list just a few. Between fiscal years 1981 and 1988, if the following States' share of allocable expenditures, Federal Government across the board, had been equal to their share of tax burden, New Jersey would have received $80 billion more; New York would have received almost $60 billion more; Minnesota, $12 billion more; my own State of Connecticut, would have received $7.7 billion more.

Mr. President, you can see why, if we are going to start talking in terms of minimum allocation, many of us in some of the general donor States to the Federal Government would be very happy to have an 85 percent or greater minimum allocation.

We abdicate responsibility as legislators if we determine that apportionments must equal tax payments, no more and no less. We do tremendous damage to the principles of federalism on which our country is based, to the notion that out of many we are one. That is why I will oppose this amendment, and I felt that the underlying premises in the Byrd amendment had to be responded to.

Mr. President, if I have a moment more, I want to deal very briefly with the question of per-capita income and fiscal capacity. The Byrd amendment rewarded certain fiscally strapped but high-tax-effort States with $4.1 billion in bonus applications over the life of the highway bill.

In doing so, while the amendment moved generally in the right direction, I think it relies on an inexact, inaccurate measure of such capacity. For the past 30 years, Mr. President, our own Advisory Commission on Intergovernmental Affairs has warned that per capita income is a poor indicator of fiscal capacity of the States to raise revenue. In March 1982 the ACIA adopted a resolution which said:

> The Commission finds that the use of a single index, resident per-capita income to measure fiscal capacity seriously misrepresents the actual ability of many governments to raise revenue.

The PRESIDING OFFICER. The Chair informs the Senator that the 10 minutes allocated to him have expired.

Mr. MOYNIHAN. How much time have we remaining, Mr. President?

The PRESIDING OFFICER. Eight and one-half minutes.

Mr. MOYNIHAN. I yield the Senator as much time as he requires.

Mr. LIEBERMAN. I thank the Senator from New York. I will try to be brief.

The flaw with per capita income as a surrogate for fiscal capacity is that it fails to take into account other revenue sources. For instance, there are some States that can impose a severance tax on coal or on oil. Of course the attractiveness to those States of those taxes is that the burden of paying them ultimately falls on the end user who is usually not a resident of that State. States like my own State of Connecticut, States like New York cannot impose a severance tax of this kind because we do not produce those kinds of resources.

Mr. President, ACIA, the Treasury Department and other organizations, both public and private, have devoted considerable resources and expertise to development of a fiscal capacity alternative to resident per capita income. There are many available. I cite them in my prepared statement. But I believe I may be mistaken on this, that only the alcohol, drug abuse, and mental health block grant [ADAMHA] uses anything other than resident per capita income as a measure of fiscal capacity.

Using this standard also fails to take into consideration regional differences in the cost of providing services. In an article entitled "Cost as a Factor in Federal Grant Allocations," Ray Whitman, a distinguished economist, argues that because costs vary significantly from State to State, a measure of the variability required to produce Government services ought to be included in grant formulas. I will include in my prepared statement, Mr. President, some examples of his thinking.

Robert Rafuse of the U.S. Department of the Treasury echoed those views when he said:

> A measure of revenue-raising ability alone is a seriously incomplete indicator of the overall ability of a State or local government to finance its service responsibilities.
>
> Only when revenue-raising capacity is related to the costs of the public service responsibilities of a Government can it be said that its general fiscal situation is accurately represented.

That is the end of that quote.

Mr. President, finally, resident per capita income also fails to take into account differences that are considerable in the cost of living. I know much has been made in this debate, by my friend from Florida particularly, of the high per capita income in my own State of Connecticut. Yes, it is true, people in Connecticut make more. But I can tell you that they also pay more, Mr. President, a good deal more.

The National Association of Home Builders rates housing markets in our State and the rest of the Northeast as among the highest in the country. The EIA [Energy Information Administration] reports that Connecticut has the highest energy prices of any State in the country. The Bureau of Labor Statistics says that the cost-of-living expenses in my State and the Northeast are the highest nationwide, except for Hawaii and Alaska. So to base these allocation formulas on resident per capita disposable income is just not a useful and realistic way to measure relative fiscal capacity.

Mr. President, these are some of the reasons why I wanted to speak out in the RECORD against some of the premises in the previous amendment we adopted, and why I feel so strongly that we should defeat the amendment offered by the Senator from Florida.

I yield the floor.

Mr. MOYNIHAN. Mr. President, if the Senator from Mississippi will allow me to proceed for a minute.

Mr. LOTT. Certainly.

Mr. MOYNIHAN. The Senator from Connecticut is rapidly becoming an ornament in this Chamber, and I have even to add to the very careful and thoughtful remarks. I am not sure I bring him good news, but later in this debate, we are going to enter a table of donor and donee States to cover all the programs involved.

We know that in collecting this data of the donor States of the Nation, first is New Jersey and second is Connecticut; fifth is New York. I want to say that there are Senators in this body who will wish the hour had not come when the distinctions donor-donee have become so much part of our rhetoric and the language of our debates, because this will not be the last time we hear those terms.

The PRESIDING OFFICER. Under the previous order, the Senator from Mississippi [Mr. LOTT] is recognized for a period not to exceed 10 minutes.

Mr. LOTT. Mr. President, I have found this legislation to be one of the most interesting bills that I have seen debated in the Senate in the past 2½ years. It is not a partisan issue. It is even hard to get a fix on how regional an issue it is. It really boils down to how well you do or how poorly you do under the formula, and the details of the bill that has been reported by the committee.

I think it really depends just on where you are from. If you are from Connecticut, you do well and you are for it. If you are from Mississippi, you do poorly and you are against it.

For the life of me, I do not understand why it is bad to have an amendment that says that 50 percent of a highway bill goes for highways. I mean, it seems to me that is the very minimum we should be doing.

So I rise to support the amendment of the Senator from Florida to have minimum allocations and to have levels of efforts considered. Certainly, that is something that should be in this kind of legislation.

I want to emphasize at this point that I am not put out with the committee that reported this legislation. They did the best they could. They were wrestling with a lot of extraneous details and bells and whistles that were added in committee. We are not protesting what they did. They protected their States, in most instances. But that is understandable, too.

But still, I think we have every right, once this legislation gets to the Senate, to try to make improvements and to try to make changes in it. I urge my colleagues to look at the fairness of this Graham amendment, because it deals with fundamental problems in the bill.

The major problem is the formula for allocation. How in the world can you defend a formula that continues to say that Mississippi, the poorest State in the Nation, is going to be a donor? This is a State with terrible highways, and a State that makes maximum effort. We are well above the national effort in trying to provide highways. Yet, we only get 80 cents on the dollar return of the money we put in the highway trust fund. There is no way that can be justified or defended. So this amendment would change the formula of allocation and make it fairer and make it deal with the problems of highways in this country.

It was interesting to me, as we came to realize that there were problems with this bill, that, voila, we came up with $8.2 billion. The money had been sitting over here somewhere and we had not found it, and all of a sudden there it was. We had a great debate about how to divide this up: $4.1 billion to the donor States and $4.1 billion to the States, based on the level of gasoline taxes and poverty.

That is fine. I voted for it, because my own State benefited from those additional funds. But I am very worried about it, because it still did not change the fundamental problem of the formula. Instead of it being assured of a formula that will be fair, and where my State would get at least 100 percent return of its money, we do not know for sure what we will get. It will still have to go through the appropriations process, and it still will have to be pitted at some point against other social programs and defense. It is a bet on the come. I have my doubts that we are going to get this money. So the way to fix this problem is to fix the formula, as Senator GRAHAM would do.

There is another problem with this legislation that really has sort of been lost in the shuffle, because there has been such a fight over the allocation; that is, the Federal matching ratios. The Graham amendment would improve the Federal-State matching ratios. It would keep the interstate completion funds at 90–10, 90 percent Federal, 10 percent State and local. Interstate maintenance would be 90–10, bridges at 85–15. Under the bill from the committee, the Moynihan bill, it is 90–10 for interstate, 80–20 for interstate maintenance, as I understand. It would be 75–25 for single occupancy, and 80–20 for all other.

I think that we should at least leave the Federal-State matching ratios at the existing levels. We should not be reducing that.

I know full well that the administration is saying that the State and local governments ought to put up more. Once again, I can tell you, if my own State has to come up with 25 percent matching for single occupancy, bridges, we are not going to be able to come up with that money. Therefore, our road situation, our bridge situation, will get even worse than it already is.

So I think, at a minimum, we should keep the existing formulas on Federal matching ratios. But the Graham amendment actually improves that by making the Federal matching ratio share 85–15 for bridges. This is a very important issue in States that are in a very bad situation economically already, having difficulty paying for just basics in their States that have to come up with a balanced budget under their own State constitution. So to increase the State matching ratio is a big mistake. The Graham amendment would deal with that problem.

So on every count, with emphasis on highways, on coming up with a fairer allocation formula, and on the Federal matching ratios, the Graham amendment improves this bill. I urge my colleagues in the Senate to support this amendment. Then we can have a bill that we can all truthfully support as a highway bill.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I yield myself 1 minute.

Mr. President, may I say to my friend from Mississippi that in matters of great concern, I would think to Mississippi as to New York, the present matching rates for primary roads, secondary roads, and urban roads is 25–75.

Under the committee bill that 25 percent that Mississippi must now pay for rural roads goes to 20. You have a lower match than you do now.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM].

Mr. GRAHAM. I yield 6 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I thank my good friend from Florida for the time, and I also commend him for his effort on achieving fairness in the Surface Transportation Act.

As I mentioned before on this floor, we have been through long and contentious sections because we believe this measure is vitally important to the citizens of this Nation and the citizens of our State.

I previously thanked the distinguished senior Senator from Virginia, Senator WARNER, Senator BENTSEN from Texas, and others. They, along with both Senators from Florida, my colleague from Mississippi who just spoke, and others, have fought for basic essential fairness in this vitally important legislation. I have made the point before—and I make it again—as I see the national needs that this bill must address, we must spend out funds that have been accumulated in the highway trust fund because we have great needs for our infrastructure. We lose money, we lose time, and we lose lives when we have inadequate roads, highways, bridges, and transportation.

Second, there must be flexibility, flexibility so each State with differing needs can spend the funds as they need to spend those funds to assure an adequate and safe transportation system.

Third, we must have money for bridges because bridges in disrepair pose great risks to those who travel over them. I do not have to remind people of the horror stories and the scare as we all saw the bridges collapsing in San Francisco from the earthquake.

Finally, and most important, we need a fair funding formula, a funding formula up to date, addressing the needs of today and tomorrow.

What is a fair formula? I think a fair formula is one which is based on use and need. This measure establishes a whole new list of factors which would put the money where the cars, the trucks, and the other vehicles traveling the roads are. These factors would include the number of vehicle miles traveled in a State, the number of State rural and urban lane miles, and the amount of diesel fuel purchased in the State. This is very similar to a use-and-need formula which I included in highway legislation I introduced earlier this year.

The Graham amendment also addresses the critical issue in our States of flexibility. It will allow States to transfer up to 20 percent of their highway money from one program to another. As differing needs emerge in differing States than money could be transferred. This would allow State's to put their money where the needs are, whether it be in bridges, as in my State, or in mass transit in other States.

I have previously expressed my concern over some of the aribitrary limitations continued in the underlying bill. I do not need to go into those other than to say I think those do limit flexibility, needed flexibility, and I think that the emphasis that this measure puts on maintaining a National Highway System, giving the States and the State decisionmakers the opportunity to allocate the money is vitally important.

The amendment before us would also retain the discretionary bridge program as a separate component, and I support that. Missouri has the dubious distinction of ranking second in the Nation in bad bridges, and we desperately need funding to address this critical problem. We have bad bridges because we have such high usage of our highways. We are a crossroad State—people going North and South come through Missouri; people going East and West travel through Missouri; and those who travel the roads and the highways in my State know how severe those problems are.

The underlying basic provision would also contain a hold-harmless provision so that no State will receive less than it did in 1991.

There has been talk also about who is a donor State and who is a donee State. I do not expect that a fair funding formula necessarily is going to take my State off of the donor State rolls. There are States in the West, particularly where there are great expanses, that need to have not only adequate highways built but maintained.

So I say that it is right that we have a factor in the formula such as miles of highways. I think there is a fair means of arriving at an equitable allocation. This is the formula developed by many of the State highway and transportation officers who have worked together to try to propose what would be a national formula.

We have heard many people talk about crafting a Surface Transportation Act for the nineties and the 21st century. I think that is a noble objective, and I want to support that objective. But why do we drag into that bill a dinosaur of a formula going back to 1916 as the basis of allocating highway funds? I am told that in 1916 the only maps available were U.S. postal maps and that is why miles of postal roads were put in. Surely, we have and we do have more accurate formulas now.

I am very pleased that ultimately we will have a GAO study. But I can tell you what the 1986 GAO said and that is that the formula then in existence and now being perpetuated in the underlying bill is outmoded. We must come up with a fair funding formula.

I cannot support this measure on final passage without a fair funding formula. I believe that we must look to the future, and I would hope that our colleagues in the other body would address the formula. I urge colleagues to support this amendment.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. What time does the Senator yield?

Mr. SYMMS. Five minutes.

The PRESIDING OFFICER. The Senator from South Dakota [Mr. PRESSLER] is recognized for 5 minutes.

Mr. PRESSLER. Mr. President, I thank my colleagues.

Mr. President, the Federal highway bill is always one of the classic struggles in Congress, as has been pointed out here so well. Time and time again, we in Congress debate the issue of how to best apportion highway funds to the various States. I come from the State of South Dakota, which has not been a donor State under most of the previous formulas. But there are a number of factors about South Dakota and similar States that must be taken into consideration. First of all, in South Dakota we have many miles of highway with a relatively low population. Although we have a population of approximately 700,000 people, over 2 million tourists per year come to our State.

Also my State of South Dakota does not have Amtrak service. I say that as one who has been supportive of Amtrak. Airline deregulation also has been especially hard on smaller cities and rural areas. Therefore, we rely on highways and roads more than other States that are blessed with Amtrak, federally subsidized railroads, or federally subsidized airports. Also, I wish to say with pride that my State has not been a recipient of S&L bailout funds, according to our calculations.

The point I am making is that the people of each State are able to make a number of arguments both pro and con, regarding the fairness of Federal programs. For example, my State has the highest voluntary repayment rate of Federal student loans of any State in the Nation. So I could continue to advocate the merits of my State or the demerits of another State. This debate is a classic form for the States here in the U.S. Senate. So I rise with great pride in pointing out many of the virtues of my State of South Dakota.

I am pleased that the Environment and Public Works Committee has produced, and is near passing a highway bill that is well balanced, visionary, and, most of all, fair.

The bill not only gives States the funds required to meet their unique transportation needs, but also gives them the flexibility to use these funds in the most efficient way possible. The members of the committee deserve our appreciation and congratulations on a job well done.

I know that members of the committee, particularly Senator MOYNIHAN and Senator SYMMS, have been at the middle of some very heated discussions both on and off the Senate floor. Their leadership in this debate will ensure the passage of this important legislation.

Mr. President, one of the most important aspects of the committee's transportation bill is that it retains the donor donee apportionment relationship. Senators from donor States argue this is an unfair relationship—that their States are being short-changed by this system. This assertion lacks a practical foundation.

My State of South Dakota has large, wide-open spaces with long stretches of highway. However, we have a relatively small population which must carry the primary burden of financing these long stretches of highways. In fact, South Dakotans pay $382 per capita on highways, while the national average is only $236. So it depends on whose statistics you look at in determining which States are paying the most.

My constituents pay more per capita than the national average, although we are classified as a "donee" State.

The level of effort made by South Dakotans on our highways is one of the highest in the Nation. Indeed, South Dakotans pull more than their own weight in financing our Nation's highways.

Mr. President, these long stretches of highway in South Dakota benefit all Americans. The effectiveness and efficiency of our overall national economy depend on them every day. The connecting highways in South Dakota and other Midwestern States are used to transport the products of east coast and west coast businesses, by tourists traveling the United States, and for various other purposes.

I look upon the highways in South Dakota and the Midwest as connective tissue, so to speak, used by people from across over country.

The key point is that our highways in South Dakota are used as connectors of the Nation, and do not exist just for the benefit of South Dakotans.

Some argue that the 85-percent minimum allocation funding formula is unfair. They say that they should not have to help pay for highways in South Dakota and other rural States.

Mr. President, the simple truth of this issue is that in receiving Federal program funds, some States win and some States lose. South Dakota traditionally receives more Federal dollars than it contributes to the highway trust fund. But this has been the exception, not the rule.

My State of South Dakota has contributed to many other Federal programs from which we receive little or no benefit. One only needs to look at the hundreds of failed savings and loan institutions in this country. That is not a South Dakota problem, but we have contributed to cleaning it up.

My point is that the scales even out on these things when we look to the big picture. All Americans benefit from having quality roads in South Dakota connecting the east and west coasts. Citizens of both rural and urban areas are the beneficiaries of the increased efficiency afforded by a well-developed National Highway System. We must continue with this national approach if we are to have a transportation system which truly serves national interests.

So I feel we must work together in developing a national highway bill, not a patchwork quilt made up of the needs of each individual State. The Environment and Public Works Committee has done a good job in this regard. I plan to vote for this highway bill, which is good for all of our States.

The PRESIDING OFFICER. The Chair informs the Senator from South Dakota that his time has expired.

Mr. MOYNIHAN. I thank the Senator from South Dakota for his very generous words.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. Mr. President, I yield up to 10 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. SANFORD. Mr. President, I am proud to support my distinguished colleague from Florida in his effort to put before this Senate an amendment that has been prepared thoughtfully and with the utmost concern for fairness.

I think the last two opponents to speak to this amendment have made the argument in favor of it. First of all, the distinguished Senator from South Dakota argued that his State needs more highway funds than other States. It is a sparsely populated State. It has a fairly large geographical area. All along we have expected to have the States that have greater population help those States with great land areas and less population.

But it makes the point that if we are going to decide State by State, plea by plea, Senator by Senator, what States have special problems, then we are not goint to find it possible to come to a fair solution that serves the best interests of all of the people of the Nation.

The Senator from Connecticut made the same arguments with the opposite facts or he is from a highly populated State, a State with small land area, and high income; just the opposite of South Dakota. And he made the case why they needed additional funds to be contributed from other States, because they could not, as in the case of South Dakota, quite take care of their situation.

We will never find a national solution if we are going to vote according to self-interest, State by State.

What I find disappointing in the work of the subcommittee is not so much that they have been unfair, but that they did not try. They well knew the old formula, based on old census figures, and antiquated factors such as postal miles was out of date. But they did not try to come up with a new formula that would have been fair and equitable to all States.

I think it would have been worth the effort to have tried to find a formula. Certainly no one will dispute the fact that an old formula does not fit a new situation.

My State, as I have indicated, has long been on the donor side. The North Carolina Secretary of Transportation participated in the deliberations that came up with the FAST formula which leaves North Carolina in the neighborhood of a 90 percent return on what was paid in. And I asked him: Why not go to 100? He said, "I think we have arrived at a fair formula," looking at the elements that ought to be looked at." North Carolina does not receive 100 percent return, but in the new fair formula, it achieves a better balance between contributions to the highway trust fund and receipts.

In this amendment offered by Senator GRAHAM, North Carolina will not fare as well as we would fare under the Byrd amendment that was adopted. On the other hand, in the long run the FAST formula is the most fair and proper way to allocate Federal-aid highway funding.

I have heard now two or three times, Mr. President, the argument that federalism cannot flourish if States are not going to care for one another. Certainly each State cannot have its own way. That is for certain, and that is most fundamental to a proper system of federalism.

But it is true different kinds of programs require different kinds of divisions of resources. New York certainly needs some of the social services beyond other States, and they get a fair proportion because it is based on the individual need in that individual State, and no one can complain about that too much.

Certainly, in the case of highways, we have to be concerned with one another, concerned with the national roads system, and I am. But I would like to think that we would, in observing federalism, in caring federalism, attempt to be fair with one another.

I think the committee, in its determination to get a bill to the floor as rapidly as possible, may simply have overlooked the factor of fairness, overlooked the need to bring the formula up to date, overlooked the need to bring the census figures up to the present. And so I hope, Mr. President, that we can revert to statesmanship and we can revert to fairness when we go into conference with the House.

It is my hope that the House will come up with a fair and equitable formula. This formula will be better than a formula that is decades old. It may not be a perfect one. But at least it will be worked out in a fair and equitable way. I support the FAST formula for that very reason—it is fair and equitable.

I think it is incumbent on us to be fair and to attempt to find a formula that treats every State as fairly as possible. It is not a question of getting all you can, but is a question of our finding a fair formula that best serves the nation.

The PRESIDING OFFICER (Mr. WELLSTONE). Who yields time?

Mr. GRAHAM. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Florida has 19½ minutes. The Senator from New York, 6½.

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I yield myself such time as is necessary.

This may be the conclusion of this debate. I would like to make a few points as our colleagues reach a decision as to how to vote.

The first of those is that we are dealing exclusively with the dog. The tail that we adopted earlier today, the amendment offered by Senator BYRD, is not affected by this amendment. Look at what your State will receive under the Byrd amendment. You will receive that irrespectve of whether the amendment before the Senate at this time is adopted or defeated.

Second, we have in the legislation before us a fundamentally warped formula. It is a dog which is deformed. In part, it is deformed out of age. An old dog has problems: It may become blind, halt; it may develop other illnesses and symptoms. And a formula which carries a 1916 postal route factor into a 1996 allocation formula is almost equally certain to have some imperfections and defects. A formula which purports to use the 1980 census as the basis for allocating funds in 1996, as incredible as that statement sounds, is certainly a formula that is going to have weaknesses.

What are some of the weaknesses of this formula? The most obvious one is that we have ended up with almost 40 percent of the States in America being minimum allocation States. That means that whatever the formula said was an appropriate level of funding, whatever the formula said was an appropriate allocation, whatever the formula was that was supposed to put States in a position where they could compete with their wit and wisdom, using money intelligently to achieve efficient, intelligent highways, has been essentially because the formula puts 40 percent of the States in the category that they just get the basic crumbs that are thrown out. They are not able to participate in all of these positive things that are going to occur.

As I said earlier on more than one occasion, this is happening in an environment were we are, in this Nation, disinvesting in transportation, disinvesting in our basic commitment to our highways and our public transit system.

We also have a worn and lumpy dog—program—because of the egregious mismatch between receipts and expenditures. We are going to have the Nation operating at a $96 billion program in 1996 with $81 billion of expenditures, each of those figures being for the 5 preceding years cumulative. We are almost assuring a major disruptive crisis in our Federal support for transportation just 5 years from now.

The amendment we have offered is the product of 4 years of head work by some of the ablest people in our Nation, by some of the people on whom our individual States have placed the responsibility for actually putting these dollars into useful transportation projects. They have recommended by an overwhelming majority that we adopt the program before us in the Federal aid surface transportation amendment.

The States appreciate the fact that this gives them maximum flexibility. We will have two basic Federal programs, a National Highway Program and an Urban-Rural Road and Bridge program. As opposed to the legislation that was reported by the committee, which has special categories for congestion, for air quality, special programs for interstate maintenance, special programs for bridges, and now a special program, which is not going to be disturbed by my amendment, but we have added another program, an incentive program to the States.

The amendment before us would give us the maximum degree of assurance that people at the local level who are most knowledgeable would be able to put the funds in the programs that would be of most benefit to their citizens as part of a National Highway System.

The most consistent criticism that has been made about our proposal is that it would, in some bizarre way, encourage fuel consumption because fuel consumption is a factor in the formula. Where is it a factor in the formula? One-third of the formula for distributing the National Highway System money is diesel fuel. Why do we use diesel fuel? Because that is the most direct proxy, as recommended by the General Accounting Office, as well as State highway officials, for truck traffic.

Why are we concerned about truck traffic? Because it is the trucks that inflict most of the damage to the highways. The formula from the committee gives no recognition to that special demand imposed on highways as a result of large-scale truck traffic, another example of its failure to relate to what is required for an intelligent allocation of Federal highway funds to the States.

This formula in no way is going to be causing States to put up billboards to advertise for people to use more fuel so they can get a larger share of Federal highway funds back into their State. To make such a proposition is patently absurd. The reason those factors are used is because they are relevant to what it is we are trying to do, to maintain our highway system.

The committee has given us an old, a tired, a battered dog, one that ought to be, in the best standards of humanity and consideration for animals, put gratefully to bed. Rising in its place should be a new dog, a new dog upon which the tail of the Senator from West Virginia will be afixed, which will direct us toward the 1990's and beyond in terms of matching relevant factors, relevant to highway maintenance and highway capacity, relevant to the relationship of the Federal Government and the States in meeting our common transportation needs, relevant in terms of adequately funding a National Highway System.

This new dog is a dog that can, together, give us comfort and support and leadership as we move toward the postinterstate era. That new dog is embodied in this amendment, and I urge its adoption.

If no one else wishes to speak, and if the floor managers are ready to yield back their time, I am prepared to yield back mine.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. The Senator from Montana wishes to speak?

The Senator yields 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MITCHELL. Mr. President, I wonder if I could ask if the Senator would permit me to request a unanimous-consent agreement regarding disposition of the bill beyond this amendment? Will the Senator yield?

Mr. BAUCUS. I yield.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, a vote will occur at approximately 7:25 this evening on the Graham amendment. That will be the last rollcall vote today. At 10 a.m., the Senate will take up the bill again and will turn to the Lott amendment, and there will be a vote on that at 10:15 a.m. tomorrow. I will repeat what I have been saying for several days. I hope and expect we can finish the bill tomorrow. I hope this time my statement proves to be accurate. I thank the managers again for their diligence and effort in this regard. I thank the Senator from Montana for yielding.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I rise in opposition to the amendment offered by the Senator from Florida.

As I have stated on this floor several times over the past week, I believe S. 1204 strikes a fair balance between the competing interests that have made debate on this legislation so difficult.

In addition, as the lead Senate author of last year's Clean Air Act, there is not a doubt in my mind S. 1204 in its current form will help communities throughout this Nation clean up their air.

This legislation does not base its allocation formula on fuel consumption or vehicle miles traveled. Furthermore, S. 1204 gives those States with automotive related air quality problems unprecedented flexibility to spend their highway dollars on mass transit or on highways.

Unfortunately, this amendment—the so-called FAST proposal—would largely allocate highway funds among the

States on the basis of fuel consumption and vehicle use.

This would set off an environmentally dangerous chain of events:

Under this amendment, the more fuel a State consumes, the more Federal highway money it would receive;

To keep these dollars flowing, local planners will build more highways. Gone would be S. 1204's current incentive for the States to establish mass transit, light rail, HOV lanes, and ridesharing programs. Expanding such programs is a necessity if we are to clean up the air in this Nation's most polluted cities; and

It logically follows that increased highway capacity means more auto-related air pollution—more cars mean more pollution.

In addition, I doubt the wisdom of encouraging fuel use at a time when we are developing a national energy strategy to reduce our reliance on imported oil.

Last year's Clean Air Act amendments require the States to take aggressive action to lower emissions from cars and trucks in our most polluted cities. These requirements encourage, and in some cases mandate, States to develop programs which will limit vehicle use.

Thus, if the Sentate adopts this amendment, we will penalize States for complying with the Clean Air Act.

We cannot let that happen. Last year, Congress and the President took bold action to clean up the air we breathe. Passage of this amendment would be one giant step backward for the environment and the public health.

In contrast, in its current form. S. 1204 puts this Nation on the course toward innovative new transportation and environmental policies. I urge my colleagues to stay that course.

Finally, Mr. President, I bring to my colleagues' attention a letter signed by the Environmental Defense Fund, the Sierra Club, and the National Wildlife Federation strongly opposing the FAST formula, for the reasons I have just indicated. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ENVIRONMENTAL DEFENSE FUND, SIERRA CLUB, NATIONAL WILDLIFE FEDERATION,
June 11, 1991.

Hon. MAX BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: As the principal Senate author of the Clean Air Act Amendments of 1990, we write to urge you to oppose efforts by a number of states, embodied in the so-called "FAST" proposal introduced as S. 1121, to build into the Surface Transportation Efficiency Act of 1991 a strong disincentive for states to comply with the Clean Air Act and reduce energy consumption.

Under the FAST proposal, state apportionments will be determined by fuel consumption and growth in vehicle use. This proposal would penalize states that use innovative transportation alternatives to increase vehicle occupancy, encourage shifts to other modes of travel, or implement requirements to comply with the Clean Air Act. The FAST proposal allocates funds if a state's fuel consumption increases or if a state's overall vehicle use increases.

As part of the Clean Air Act Amendments of 1990, which received overwhelming support in the Senate, many states who have urban areas with air that is unsafe to breathe are required to take steps to reduce or stop the growth in vehicle use. Each of these states must develop implementation plans to comply with these requirements.

Under the FAST apportionment formula, a state which does a better job of complying with the Clean Air Act requirements is penalized by a reduction in transportation funding, while a state which allows vehicle use to grow out of control is entitled to more funds.

By contrast, S. 1204—the Surface Transportation Efficiency Act of 1991 actually rewards states who comply with the Clean Air Act and successfully control the growth in vehicle use. As a result, S. 1204, if enacted, will complement the objectives of the Clean Air Act Amendments of 1990. The FAST proposal will undermine those objectives.

In addition, the FAST proposal allocates funds based on a state's consumption of diesel fuel. The more fuel a state consumes, the more money it receives. As the Congress and President struggle to develop a comprehensive energy strategy to encourage less reliance on imported oil and greater effort to conserve energy, it simply makes no sense to penalize a state which takes strong steps to control or lower fuel use.

Allocating funds among the states is a difficult and challenging task, but we believe that with enactment of the Clean Air Act Amendments of 1990 and the compelling need for a national energy strategy, the Senate must reject an allocation scheme that encourages vehicle use or fuel consumption.

Sincerely,

WILLIAM J. ROBERTS,
Environmental Defense Fund.
DAVID GARDINER,
Sierra Club.
SHARON NEWSOME,
National Wildlife Federation.

Mr. BAUCUS. I yield the floor.

Mr. MOYNIHAN. Mr. President, I simply thank the Senator from Montana, who could not be more explicit. If you are against the environment, you are for this measure; if you are for the Saudis, you are for this measure; but if you are for the bill that this committee has brought to this floor, you will be against this measure.

Mr. President, this new dog will not hunt. The Senator yields back his time.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. KOHL. Mr. President, as a cosponsor of the amendment being offered by the Senator from Florida, I want to begin by commending Senator GRAHAM for his leadership on this issue. Over the past few weeks, the Senator from Florida has impressed me with not only his exceptional understanding of this issue, but his tenacity. No Senator has been more forceful and more vocal in this formula fight than Senator GRAHAM, and I want to personally thank him for all of his hard work on behalf of all of us who represent donor States.

Mr. President, Wisconsin is a donor State. As I pointed out last week, my State gets back an average of 74 cents of every $1 dollar in Federal gas taxes we send to Washington. Since 1956, Wisconsin has contributed $1.15 billion more in Federal gas tax dollars than we've gotten back in Federal highway aid.

Now I don't begrudge our past generosity. But I see no reason, as I said last week, for continuing—as this bill does—an inequitable and archaic formula of allocating Federal highway dollars to States. Which is why I strongly support the amendment being offered by the Senator from Florida.

I suspect, unfortunately, that this amendment will not pass. I also suspect that this amendment will not garner as many votes as it would have had it been offered before the Byrd amendment. And that I find troubling—because there is considerable support in this body for the so-called FAST proposal.

I do not mean to belittle the efforts of the distinguished chairman of the Appropriations Committee. Indeed, the distinguished Senator from West Virginia is to be commended for his efforts to forge a compromise on the funding formula issue. But the Byrd amendment only corrects a little of the inequity, not the cause of the problem.

I voted for the Byrd amendment. I did so because it offers the State of Wisconsin the possibility of an additional $222 million over and above what the State would receive under S. 1204 without modification.

But, with all due respect to the Senator from West Virginia, the Byrd amendment does not solve the formula dispute. It merely attempts to dissolve it.

The Byrd amendment was the $8.2 billion solution. The Senator from West Virginia innovatively found an additional $8.2 billion in budget authority to use or provide additional funds to donor States. And those of us from donor States are certainly grateful for his efforts to assist us.

Yet we are now being asked to take our additional $8.2 billion and go home. We are being asked to ignore the remaining $88 billion in this bill that continues to be allocated unfairly. And this Senator is not prepared to do so.

Supporters of the bill argue that a State such as Wisconsin gets more than an even return on its dollar under the Moynihan bill as modified by the Byrd amendment. It does, if one measures it on a dollar in, dollar out basis. But one needs to consider the following point.

Over the next 5 years, approximately $81 billion in Federal gas tax receipts are likely to be deposited into the highway trust fund. Yet this bill authorizes $96 billion in Federal highway program spending over the same time period. If we were only authorizing $81 billion for Federal highway programs, then the fact that Wisconsin gets a dollar back for every dollar contributed would mean something. But it rings hollow when we are actually authorizing 18 percent more in spending than what is coming in over the same time period.

Mr. President, under the FAST proposal, the State of Wisconsin would receive an additional $235 million over and above what it would receive under the Moynihan bill without the Byrd amendment. If one was to add the additional funding provided under the Byrd amendment, Wisconsin would do even better—receiving an additional $457 million over the next 5 years.

Mr. President, let us be sure as we move toward a vote on this amendment that we don't mix apples and oranges. The Byrd amendment dealt with the allocation of an additional $8.2 billion pot of money. The Graham amendment deals with the allocation of the underlying $88 billion in authorized funding for Federal highway programs. In my mind, there is no debate here over which of the two amendments is more fair, more important, and more necessary.

I yield the floor.

IMPORTANCE TO WISCONSIN OF ENACTING A HIGHWAY BILL THAT CORRECTS PAST INEQUITIES

Mr. KASTEN. Mr. President, I rise today to speak on the importance to Wisconsin, and I believe the Nation, of enacting a surface transportation bill that corrects some of the technical formulas that determine the manner in which highway funds are distributed to the States. As has been pointed out by almost every speaker, and indeed by subcommittee Chairman MOYNIHAN during the debate on the last bill finally enacted in 1987—we have reached a watershed.

The last 35 years have focused on the designing and building of the fine Interstate System that now links all the regions of our country. Wisconsin has contributed to the development of this national system in a very significant way. Since 1956, Wisconsin taxpayers sent $1.15 billion more in transportation tax dollars to Washington than it has received back in Federal funds. We have been a chronic donor State, and the consideration of this surface transportation bill is the perfect time to reassess what our new outlook should be for the next 35 years.

Since 1956 we have received back 74 cents for each dollar paid into the Federal Government. This type of system cannot remain in effect. We were early participants in the highway program, building much of our system back when each dollar bought more road. We have 1 percent of the Nation's interstate mileage, 2 percent of the Nation's population, and about 2 percent of its land area. Yet we only have received back about 1 percent of the highway dollars expended. My State has been penalized for its wise and early investment strategy in regard to its roads and bridges.

The main concern that I have with the committee's formulas is the continuation of business as usual in regard to the funding formulas. It seems we have recognized the new postinterstate era that we are about to be entering in our statements, but not where it counts most—in the funding formulas. While we cannot undo the inequities of the past, there is certainly no reason to maintain them.

In fact the distinguished chairman of the subcommittee admitted that about the only thing recommending the formulas which are in the bill was the fact that they had been the ones in existence. I am aware of the effort to have a study help us determine how to better allocate these highway moneys in the future. However, why weren't we ready to adopt the new funding formulas in this first highway bill of the postinterstate era?

Together with the need for equity, Wisconsin is also pleased with the flexibility of the FAST proposal which is embodied in S. 1121 which was introduced by Senator WARNER and in the amendment now offered by the Senator from Florida [Mr. GRAHAM]. I am pleased to be cosponsor of S. 1121 and the current amendment and hope that the wisdom of this proposal is seen by the majority of my colleagues.

The flexibility of the Warner proposal is another feature that appeals to me and the Wisconsin Department of Transportation. I am proud that the Wisconsin DOT played an instrumental role in the development of this proposal. Under FAST the States are given the flexibility to address their own priorities, with appropriate Federal coordination, through a simpler programmatic structure. There is an ability to transfer up to 20 percent of the funds between the National Highway Program and the Urban and Rural Road and Bridge Program.

The structure of having separate programs is not necessary in my view. For example, Wisconsin early on saw the value of investing State money to address the problems with our bridges. We would like the flexibility of using our funds for bridges or roads as our needs dictate, not as our program structure dictates.

Finally, it is important to note that this amendment speaks to the $88 billion which is the heart of the highway program. We have already voted to adopt the equalization formulas of the Byrd-Mitchell-Bentsen proposal. We were trying to equalize the disproportionate amounts that the donor States received for the moneys they paid in.

I would hope that we might adopt the FAST proposal which would bring fairness to the underlying 90 percent of the moneys to be distributed, rather than focusing on just the last $8.2 billion which we found to equalize the burdens borne by the donor States under the old formulas of S. 1204.

I strongly urge the Senate to adopt this amendment to equalize the distribution formulas and not just live with the inequities of the past while waiting for one more GAO study.

Mr. GRAHAM. Mr. President, if no one else wishes to speak, just briefly I will speak.

No one is proposing that a State is going to be urging big trucks to come and operate over its highways inflicting the amount of damage which it takes 9,600 automobiles to create in order to put itself in a position that it can sell a little more diesel fuel. That is an absurd proposition.

We do not have in this legislation what the administration had, which is that 70 percent of the formula would be on motor fuel use. The only factor that we have in here that relates to consumption is one-third of the National Highway Act would be on diesel fuel, and the reason that we have diesel fuel is because that is the most relevant proxy to truck traffic, and truck traffic is the most relevant statement as to how much damage you are likely to be inflicting upon your highways, a totally rational position endorsed by the General Accounting Office, endorsed by the large majority of our State highway commissioners, and now trashed as our poor dog is just trying to emerge as a young, bright puppy from the kennel.

Mr. President, this is a serious matter. The question is: Are we going to go boldly into the 21st century behind our 1916 postal road system? Are we going to look boldly toward 1996 utilizing as our standard the 1980 census? If our friends who are so vehement in their opposition feel that we came upon, almost a century ago, the perfect formula, postal road miles for distributing Federal highway funds, then I assume that our sons, grandsons, daughters, and granddaughters, who will be here in the years in the future, will still be at the feet with appropriate Federal kennel rations before this old dog who we revere and wish to continue in service to the Nation.

I suggest it is time to adopt a new approach, an approach for the nineties, an approach that will meet the needs of our States, an approach that will provide equitable funds for all of our States with maximum flexibility for the citizens of a State, that community, to meet its needs.

I urge adoption of the amendment, Mr. President.

If the floor manager is prepared to yield back his time, I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Florida.

Mr. DOMENICI. I ask the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—41

Bentsen
Bond
Boren
Breaux
Bumpers
Coats
Cochran
Danforth
Dixon
Ford
Fowler
Glenn
Gore
Graham
Gramm
Hatfield
Heflin
Helms
Hollings
Johnston
Kasten
Kohl
Levin
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Nickles
Nunn
Packwood
Riegle
Robb
Sanford
Sasser
Seymour
Shelby
Simon
Thurmond
Warner

NAYS—57

Adams
Akaka
Baucus
Biden
Bingaman
Bradley
Brown
Bryan
Burdick
Burns
Byrd
Chafee
Cohen
Conrad
Craig
Cranston
D'Amato
Daschle
Dodd
Dole
Domenici
Durenberger
Exon
Garn
Gorton
Grassley
Harkin
Hatch
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Lieberman
Mikulski
Mitchell
Moynihan
Murkowski
Pell
Pressler
Reid
Rockefeller
Roth
Rudman
Sarbanes
Simpson
Smith
Specter
Stevens
Symms
Wallop
Wellstone
Wirth
Wofford

NOT VOTING—2

DeConcini
Pryor

So the amendment (No. 357) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERAL LANDS HIGHWAYS—AMENDMENT NO. 353

Mr. SARBANES. Mr. President, the amendment that Senator MIKULSKI and I are offering would set aside $100 million in additional funding for rehabilitation of federally owned parkways, including the Baltimore-Washington Parkway.

According to the Federal Highway Administration, there is a backlog of $1.5 billion in work needed to bring the 7,400-mile U.S. Park and Parkway network up to acceptable standards. One such parkway in the National Capital area—the Baltimore-Washington Parkway—is a vital transportation link between Baltimore and Washington for millions of commuters and tourists each year. A major portion of the highway is federally owned by the National Park Service. Congress recognized the need for improvements to the parkway and authorized funds for its reconstruction 15 years ago in the Federal Highway Act of 1970.

In 1984, the Federal Highway Administration completed an engineering study on the parkway and found that age and unanticipated heavy traffic volumes have contributed significantly to the deterioration of the roadway, its bridges, and interchanges. Between 1980 and 1986, average daily traffic increased a dramatic 25 percent on this major roadway, and the number has grown substantially since then. The highway now carries more than 75,000 vehicles per day—far above the volume anticipated when it was originally constructed in the early 1950's. The traffic congestion and poor condition of the roadway precipitate accident conditions. The Federal Highway Administration study identified a critical need for significant improvements to the mainline highway and interchanges to improve safety and traffic operations and restore the parkway to an acceptable level of performance.

Funding appropriated in the last 6 years under the existing authorization has enabled the Federal Highway Administration to undertake engineering and design work, initiate bridge and interchange construction, and make pavement repairs and safety improvements. To date, $75.3 million has been appropriated, exhausting the previous authorization.

New estimates prepared by the Federal Highway Administration in March of this year indicate the need for an additional $93.3 million to complete the rehabilitation of the federally owned portion of the Baltimore-Washington Parkway. This amendment would help provide the resources necessary to complete work on federally owned parkways such as the Baltimore-Washington Parkway.

Ms. MIKULSKI. Mr. President, I am glad to join my friend and colleague Senator SARBANES in offering this amendment to the Surface Transportation Act.

This amendment is great news for the more than 75,000 commuters who use the Baltimore-Washington Parkway every day.

This amendment addresses the day-to-day needs of these commuters. I know from personal experience how badly we need this amendment.

I take the Baltimore-Washington Parkway back and forth from my home in Baltimore to Capitol Hill every day the Senate is in session. And let me tell you, we need to get moving on its rehabilitation. The parkway today is an obstacle course of grade changes, lane closings, and lengthy delays. It is bad for my car's transmission and it is bad for my mental health. Almost every day at rush hour, the Baltimore-Washington Parkway becomes what I call a "rolling backup."

With the funds authorized under this amendment, the Federal Government will be able to smooth the potholes and fix the bridges—and in the process, make life a little better for the working men and women who need to use the Baltimore-Washington Parkway to get back and forth between their homes and their offices, shops, and industrial parks.

I thank the managers of the bill for accepting this amendment, and I urge its adoption by the Senate.

Mr. SARBANES. Mr. President, on behalf of the commuters of my State of Maryland, I want to thank the distinguished managers of the bill, Senator MOYNIHAN and Senator SYMMS, for their assistance with this very important amendment.

Senator MIKULSKI and I would like to address some questions to Senator MOYNIHAN concerning this amendment.

Is it accurate to state that the intention of this amendment is to provide funds for the ongoing rehabilitation of the Baltimore-Washington Parkway?

Mr. MOYNIHAN. Yes. The ongoing rehabilitation of the Baltimore-Washington Parkway is clearly eligible under this amendment. I understand the importance of the Baltimore-Washington Parkway as a major commuter route between the Baltimore metropolitan area and the Washington, DC, metropolitan area. It is critical that this rehabilitation continue, and that Federal funds be available to accomplish it. That is why I'm delighted to support this amendment.

Ms. MIKULSKI. As I understand it, Federal lands highway projects such as those contemplated in this amendment are 100 percent federally funded; is that correct?

Mr. MOYNIHAN. The Senator is correct. No State matching funds would be necessary to carry out ongoing rehabilitation of Federal lands highway projects under the Parks and Parkways Program.

Ms. MIKULSKI. I thank Senator MOYNIHAN, and congratulate him for his leadership on this important bill.

Mr. KOHL. Mr. President, I would like to point out for my colleagues a provision in this bill which is very important to the way we oversee our Nation's transportation system, and plan for its future. I had the pleasure of working with Senator MOYNIHAN to develop guidelines for a new Bureau of Transportation Statistics which we are creating with this legislation.

I believe that the new statistical agency we have created will provide policymakers and transportation officials with invaluable information about the quality of our highway system, the demand for different modes of transportation, and the research necessary to prepare for the 21st century.

The annual report, called for in this legislation, will provide an ongoing review of our current system and the information for planning the transportation system of the future. The study by the National Academy of Statistics will provide the necessary vision to assure that this statistical agency can anticipate the information needs of policymakers and administrators.

This bill is also sensitive to the need for protecting the confidentiality of those individuals or companies providing information for statistical purposes. There is a careful balance drawn here between protecting that confidentiality and maintaining open and public access to Government information.

Through working with the Federal statistical community I have learned that there are a number of provisions necessary for a strong and independent statistical agency. Those provisions are included in this bill.

This is a historic bill in many dimensions, not the least of those is the awareness of the need for good information to develop good policy. It has been my pleasure to work with Senator MOYNIHAN to make this happen, and I commend him for his excellent leadership in developing this bill.

Mr. RIEGLE. Mr. President, the outcome of the debate in the Senate in the past 2 weeks will go far in shaping the future of transportation in our Nation. We need a surface transportation bill that will meet the needs of tomorrow and provide a level of fairness for all States. A continuation of old Federal highway policy meets neither of these tests.

The transit piece of the reauthorization of the surface transportation act went through the Banking Committee and I worked to craft a policy that meets the needs of both urban and rural communities. I have already made a statement about that portion of this legislation. Now, I would like to speak about the highway portion of the bill.

Our Nation's economic strength is largely dependent on the quality of our infrastructure. Transportation represents a major component of our economic base; it accounts for about 17 percent of our GNP. Our roads, bridges, railroads, and airports must be in top shape in order to move workers to jobs and goods to markets.

Far too many years now, we as a nation have not invested enough in the quality of our infrastructure, creating enormous physical problems that hamper our Nation's ability to grow economically. In that late 1960's, net investment in public works in the United States was 2.3 percent of GNP; today it is less than one-half of 1 percent. Analysts draw a close connection between the quality of a State's or a nation's infrastructure and its economic productivity. Investment in public works increases productivity in the private sector by improving the ability to move goods and services efficiently. As our investment in public works has dipped, our economy's growth rate has slowed.

Our economic rivals understand the importance of investing in infrastructure. Last year, Japan spent 5.7 percent of their GNP on public works and Germany spent 3.7 percent of their output on physical infrastructure.

Before I share my concerns with the surface transportation reauthorization bill reported by the Environment and Public Works Committee, I would point out that it contains a number of positive attributes. For example, it contains provisions written by the Senator from New Jersey [Mr. LAUTENBERG] to encourage the development of intelligent vehicle highway systems.

IVHS research that is being done at the University of Michigan and at other places around the country promises to reduce traffic congestion, improve safety, and make our roads more efficient. Highway congestion costs us over $40 billion a year in extra fuel costs and lost time. IVHS technology can make travel more efficient by enabling cars and trucks to avoid delays and select the fastest routes. Since it will be difficult and expensive to build new roads connection urban and suburban areas, we need to look at innovative ways, such as IVHS, to reduce congestion.

I am also pleased that the bill contains provisions to meet key needs other areas. Funding to enable communities to improve air quality will help us preserve our environment for the next generation of Americans. Support to help implement the Americans with Disabilities Act is an important step forward in making our Nation accessible to all citizens.

Despite its good points, the original bill as reported by the committee was flawed by a defective funding formula that benefited a number of rural western States and a handful of northeastern States without addressing the transportation needs of the entire Nation. The legislation perpetuated a formula that wasn't appropriated 4 years ago, isn't appropriate now, and won't be appropriate in the future. A highway bill in this form would not benefit the citizens of Michigan and the majority of Americans who depend on safe, uncongested, and well-maintained highways.

Years ago, there was some logic to the idea that relatively greater funding was necessary to build interstates in big, rural States in the West. We all benefit from a country well-connected by highways. But hose highways have been completed and have been for some time. We now need to channel resources toward areas where the roads and bridges have been worn out by wear and tear from intensive use.

Our challenge in this highway bill is to maintain and improve the roads that have been worn by high-traffic volume and age. Sixty percent of U.S. roads are substandard and 40 percent of bridges are structurally deficient or functionally obsolete. We need to pass a highway bill that will address these problems effectively and equitably.

My State of Michigan is among a number of donor States that pay more in gas tax than they receive in highway construction and maintenance funding. These donor States contain the vast majority of citizens and generate the vast majority of economic output in this country. Highway use and congestion tends to be higher in these States than in States that receive more than they contribute. More funding should be allocated to these donor States.

My State of Michigan faces major challenges in the area of transportation over the next 5 years and beyond, but suffers from unfair distribution of Federal highway funding. At a time in which roads and bridges are crumbling in Michigan, its citizens send 15 cents on every gas tax dollar to other States. This inequity must be corrected.

A recent article in the Washington Post entitled "Cutting Corners on Maintenance in Michigan: Cash-Strapped Transportation Engineers Try To Shave Costs Without Sacrificing Safety," outlined the dilemma created by deteriorating roads and bridges and inadequate funding. Bridges in Michigan are not being repaired until they are falling apart. Over 40 percent of the local bridges in my State are inadequate and are in need of repair. But there isn't enough money available to take care of the problem.

The State government can't make up the difference; it doesn't adequately fund worthy road projects now. Human service budgets are being slashed and there is no room in the budget to pay for additional road work. Michigan citizens cannot afford to keep sending so much money to other States to fix their highway problems while their own needs are not being met.

I support the Byrd amendment. This proposal improves the original bill significantly by allocating greater funding to donor States, reducing the flow of tax dollars out of States like Michigan. While it does not address the underlying problems with the funding formula, it sets a common level of funding for the donor States.

The deck was stacked against the donor States. It has taken a great deal of work to craft this amendment that improves the bill and increases funding to my State and other States that pay more in gas taxes than they receive. I urge my colleagues to support the Byrd amendment.

Mr. MOYNIHAN. Mr. President, we come now to the end of our consideration of the Surface Transportation Act for the day. I believe that it can be said with confidence that the measure will be completed in the early afternoon tomorrow.

There are several amendments that are still to be offered. The very able Senator from Mississippi has one with which we will begin at 10 o'clock in the morning. The Republican leader has an amendment. We are not sure of any others, but they have a way of appearing. In any event, we expect to be to final passage early tomorrow.

I want to thank all Senators for their toughtfulness in the debate today. No one has raised his or her voice. Not everyone has been able to agree about every ratio and every correlation coefficient in these enterprises. But we have been surprisingly equitable about what those points were on which we could not agree.

The bill is intact. An apportionment formula is in place. There was a resounding victory of the proposal by our President pro tempore. I do not know how it can be described as victory; there was no opposition. But there was near unanimous support in that regard, and on the emphatic measure here, the decision on this vote, on the amendment of Senator GRAHAM. The bill is intact. The substance is in no way different than the measure that was reported from the Committee on Environment and Public Works, 15 to 1.

Thanks to the frugal habits of the chairman of the Committee on Appropriations, there is more money for this purpose. I think it will be well spent, and I think we are well on our way to sending this bill to the House.

Mr. SYMMS. Mr. President, I agree with the distinguished floor manager, and it looks to me like if we can get all Senators in tomorrow morning and start moving on these amendments—we have one committee amendment that has been cleared on both sides that takes care of several minor technical and other amendments in the bill. We have the Lott amendment, and there will be a Mack amendment dealing with the census.

And there may not be too many other amendments other than Senator DOLE's amendment on the test of how much States are actually contributing. Once that is settled, I see no reason we cannot go to final passage. I hope we would have this all done by very early in the afternoon, if not even in the morning.

Mr. MOYNIHAN. Mr. President, seeing no Senator wishing to comment, I ask unanimous consent to print several letters in support of the bill into the RECORD at this point.

These letters have been signed by:

The National League of Cities.

The National Conference of State Legislators.

The American Public Transit Association.

The National Association of Regional Councils.

The American Planning Association.

Northeast States for Coordinated Air Use Management.

South Coast Air Quality Management District.

The Surface Transportation Policy Project.

America's Coalition for Transit Now.

The National Trust for Historic Preservation.

Scenic America.

The Rails-to-Trails Conservancy.

The National Wildlife Federation.

The Environmental Defense Fund.

The Natural Resources Defense Council.

The Natural Resources Council of Maine.

1000 Friends of Oregon.

League of Conservation Voters.

Gov. Mario M. Cuomo of New York.

The New York City Chamber of Commerce/New York City Partnership.

The New York Metropolitan Transportation Council.

The Capitol Region Council of Governments (Hartford, CT).

The Chittenden County Metropolitan Planning Organization (Essex Junction, VT).

The Toledo Metropolitan Area Council of Governments.

Neighborhood Transportation Network (Minneapolis, MN).

National Growth Management Leadership Project (Portland, OR).

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL LEAGUE OF CITIES,
Washington, DC, May 20, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the cities and towns represented by the National League of Cities, I am writing to express our support for S. 965, the Surface Transportation Efficiency Act of 1991. Local officials believe your legislation would help ensure that federal transportation dollars are used most efficiently and productively by enhancing our nation's commerce centers and our economic vitality.

We are pleased to see the emphasis placed on flexibility for state and local officials in meeting mobility needs. We are also gratified at your recognition that local officials need to play a key role in transportation decision-making.

Specifically, NLC supports preservation and maintenance of the existing Interstate system as our national network of highways, the surface transportation program which separates the needs of urban and rural communities, a separate bridge program, federal matching requirements that are uniform across modes, targeted funding and increased local decision-making in planning and selecting projects within local jurisdictions, and the separate funding to meet congestion and Clean Air goals S. 965 would provide.

We also urge your support for one provision not included in S. 965, billboard reform. We endorse S. 593, the Visual Pollution Control Act, which would allow increased local discretion over sizing and removal of billboards.

Once again, thank you for your leadership in introducing such a far-reaching surface transportation proposal that we believe will help our nation achieve its mobility and environmental goals. We look forward to working with you to achieve Congressional approval of S. 965.

Sincerely,

SIDNEY BARTHELEMY,
President, Mayor, New Orleans.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, May 1, 1991.

Hon. DANIEL MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The National Conference of State Legislatures is very pleased that you have introduced S. 965, the Surface Transportation Efficiency Act of 1991. We find it conforms, in large part, to our official policy and addresses many of our objectives concerning flexibility, decisionmaking, responsiveness, and funding. Our support is tempered somewhat by concern about certain details of the legislation, but commend you nonetheless for the approach you have taken.

NCSL has longed called for increased state participation in transportation planning and programming. The current multitude of federal categorical programs has permitted the mere availability of funds to drive state transportation decisionmaking. The inclusion of the new Surface Transportation Program in your reauthorization package effectively expands the ranks of transportation stakeholders, and undoubtedly will shift traditional bases of power. Clearly, comprehensive and consensus planning is the hallmark of this legislation.

The restoration of the states as laboratories can only serve to move the nation's transportation network forward. The goals of the Interstate era will soon be accomplished, and a new state-federal partnership should be founded on progressive goals that recognize the importance of mobility and system efficiency. The national network is only as good as its weakest link, and under this proposal, states will be challenged to make infrastructure improvements which foster an interconnected system. To those critics who decry this proposal as a dismantling of a cohesive federal system, I would respond that a true federal system is the sum of its parts: the states.

You have obviously taken much care in recognizing and providing for the variances among the states. To have done so without generating an acrimonious debate over equitable distribution of federal funds is laudable. The proposal fulfills the commitment to complete the Interstate system and protects states without an adequate revenue base to fully maintain their portion. In those areas where demands are great to improve deficient bridges or where states face federal sanctions for clean air non-attainment, this proposal dedicates needed funding.

The legislation is indeed a bold step in the right direction. As S. 965 is examined by the

Senate, I urge you to take into consideration the following concerns:

(A) The proposed five-year total of $105 billion, while reflecting new budget constraints, does not adequately reduce the Highway Trust Fund surplus nor reclaim last year's five-cent gas tax increase.

(B) Much new authority is extended to non-governmental entities and local governments in the absence of needed clarification of the state role as final arbiter of statewide project priorities and designator of non-federal sources.

(C) In the interest of providing a national non-Interstate network of major arterials to improve commercial access to the Interstate system, the addition of a designated national system would be in order.

(D) The inclusion of a "reprogramming" mandate for state adoption of seatbelt and helmet laws establishes a dangerous precedent for further erosion of state flexibility.

Again, this legislation would allow states to tailor transportation programs to meet specific goals, demands and opportunities. The National Conference of State Legislature looks forward to further refinements to this innovative measure.

Sincerely,

JOHN L. MARTIN,
Speaker, Maine House of Representatives, President, NCSL.

AMERICAN PUBLIC
TRANSIT ASSOCIATION,
Washington, DC, May 2, 1991.

Hon. DANIEL P. MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, Hart Senate Office Building, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The American Public Transit Association wishes to express its support for the concepts embodied in S. 965, the federal surface transportation reauthorization bill.

The transit industry welcomes this proposal, which offers a framework for a new era in transportation policy and investment across the United States.

We are particularly supportive of the Surface Transportation and Congestion Mitigation and Air Quality Improvement Programs. These provisions will provide the flexibility to ensure that national investments in surface transportation also support other national goals, such as clean air, energy conservation and economic development.

S. 965 offers a much-needed restructuring and reorientation of the federal surface transportation program. We applaud your leadership on this legislation and look forward to working closely with you and your colleagues on the Senate Banking Committee to craft a fully-coordinated response to the Nation's surface transportation needs.

Sincerely,

JACK R. GILSTRAP,
Executive Vice President.

NATIONAL ASSOCIATION OF
REGIONAL COUNCILS,
Washington, DC, May 9, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, Dirksen Senate Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: The National Association of Regional Councils applauds your vision and leadership in introducing highway reauthorization legislation that establishes a fresh, new approach to meeting our nation's metropolitan and rural transportation needs. We fully support your concepts for restructuring the current federal-aid highway program to enable the states and local governments to respond to pressing mobility problems in both metropolitan and rural America.

Our association is the national organization which represents metropolitan planning organizations mandated under federal highway and transit statutes to perform metropolitan transportation planning and program management. Over the last four years local elected officials, who comprise the substantial majority of the governing boards of our member MPOs, have devoted considerable time to assessing and debating a possible future direction for the federal highway and mass transit programs. We collectively have determined that in order to respond more effectively to current and emerging transportation needs, the federal program had to be fundamentally restructured.

We believe the new federal program must be designed in the following manner:

To focus investments on integrated, multimodal approaches to reducing traffic congestion;

To provide sufficient flexibility to invest a broad range of highway, transit, and demand management strategies that will meet mobility needs while responding to environmental concerns such as air quality;

And, to enhance the role of local elected officials in project selection and programming decisions through a strengthened metropolitan planning and programming process. The process we envision would require the collaboration and concurrency of the states, the local governments and transit operators in making transportation investment decisions that respond to federal objectives and to state and regional mobility needs.

We offer our strong support of the Surface Transportation Efficiency Act of 1991, which incorporates the above features. We congratulate you and your colleagues on introducing a bill that offers a bold, new alternative to traditional, modal approaches to meeting mobility needs.

Sincerely,

JOHN A.F. MELTON,
President, National Association of Regional Councils.

T.J. "TED" HACKWORTH,
Chairman, Transportation Advocacy Group.

AMERICAN PLANNING ASSOCIATION,
Washington, DC, May 8, 1991.

Hon. DANIEL P. MOYNIHAN,
Russell Building,
Washington, DC.

DEAR SENATOR MOYNIHAN: On behalf of the 27,500 members of the American Planning Association, thank you for introducing S. 965, The Surface Transportation Efficiency Act of 1991. If enacted, this bill would be a major improvement over current law and the Administration's proposal.

We strongly support the flexibility S. 965 gives states and localities in deciding which mode of transportation best meets their mobility needs. By giving states and localities other options, this bill will allow them to develop a transportation system which also helps meet our national goals of economic competitiveness, energy efficiency and environmental quality.

We believe, however, that the planning provisions in S. 965 need some minor clarification in order to be truly effective. We are presently working with staff to address these concerns. We also feel that the inclusion of billboard reform provisions would be an important asset to S. 965.

On the other hand, we are concerned that the National Recreation Trails Act (Title II) was included. It seems to encourage the use of motor vehicles which could increase air pollution in environmentally sensitive areas.

Again, we thank you for introducing this significant legislation and for your leadership.

Sincerely,

CONNIE B. COOPER,
AICP President.

NORTHEAST STATES FOR COORDINATED AIR USE MANAGEMENT
(NESCAUM),
May 17, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: The Northeast States for Coordinated Air Use Management (NESCAUM) are writing to express our strong support for the "Surface Transportation Efficiency Act of 1991", S. 965, which you introduced on April 25, 1991 on behalf of Senators Burdick, Chafee, Lautenberg, and Symms.

NESCAUM is an interstate association of air quality control divisions in Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. All of our member states, with the exception of Vermont, are either partially or entirely designated as nonattainment areas for the federal criteria pollutant ozone. Most Northeast states also have one or more carbon monoxide nonattainment areas. This situation poses a potential public health threat to millions of residents of the region. Motor vehicles currently contribute approximately 50% of all hydrocarbons, 50% of all oxides of nitrogen, and 75% of carbon monoxide emitted in the Northeast.

As part of the effort to bring all areas of the Northeast into attainment with the National Ambient Air Quality Standards, the NESCAUM states will rely on a host of new programs to minimize emissions from motor vehicles including: (1) the design, manufacture and certification of cleaner new vehicles; (2) the use of less polluting gasoline; (3) the adoption of enhanced inspection and maintenance programs to ensure that in-use vehicles are performing to their design standards; and (4) transportation control measures aimed at reducing vehicle use. Even drastic reductions in emissions from individual vehicles will not be sufficient without strategies to control the increase in vehicle miles travelled. In the past, the rapid growth in automobile use has offset technology gains.

Recent computer modelling exercises for the Northeast transport cooridor suggest that attaining the ozone health standard throughout the region will be difficult even with the implementation of extremely aggressive control measures. The NESCAUM Directors regard the control of growth in vehicle trips and vehicle miles travelled as a key component of the overall strategy to bring all areas of the region into attainment with the National Ambient Air Quality Standards.

S. 965 presents a rational and environmentally sensitive approach to transportation planning in the U.S. which acknowledges the goals outlined in the Clean Air Act Amendments of 1990. NESCAUM supports the basic tenets promoted in S. 965, including the integration of long range transportation and air quality planning and the flexibility given to states to use transportation funds for either highway or mass transit programs.

NESCAUM strongly supports the $5 billion Congestion Mitigation and Air Quality Improvements Program proposed in Section 107 of the Bill. This program would fund projects capable of contributing to attainment of the NAAQS and would effectively eliminate funding for new roadway capacity, with the exception of high occupancy vehicle facilities where the add-on lanes would exclude single occupant vehicles during peak travel periods. Appropriations under this section would be apportioned according to the severity of the ozone design values, with additional funds allocated to carbon monoxide nonattainment areas. NESCAUM supports the population-based appropriation formula, with a severity factor, for allocating Congestion Mitigation and Air Quality Improvement funds. This process could, however, be strengthened by adopting the VMT Index Amendment proposed by the Environmental Defense Fund. Such a program would provide an economic incentive for states to control or reduce VMT, as required by the Clean Air Act Amendments of 1990.

The Northeast states petition the sponsors of S. 965 to add language to Sections 113 and 114 that would only permit those projects with a rasonable likelihood of being funded during the applicable planning period to be included in plans and programs.

NESCAUM proposes that language be added to S. 965 requiring an annual vehicle registration fee of $4.00, specifically earmarked to state and/or local air quality agencies to offset the cost of transportation and motor vehicle related activities required by this Bill and the Clean Air Act provisions. Although the proposed Bill does recognize and address the need for substantial funding to promote congestion mitigation and air quality improvements, the air quality control agencies in the Northeast are concerned that shrinking state budgets will leave them without sufficient funding to carry out the extensive transportation planning and implementation responsibilities that will be required to meet the ambitious goals of S. 965. See the attached model amendment for specific program format and language suggestions. While it is suggested that this fee be collected as part of the vehicle registration process, states should retain the flexibility to collect these fees through a variety of other mechanisms such as motor vehicle licenses or insurance policies.

While NESCAUM generally supports the equitable federal matching share provisions for all projects the Bill promotes, the Northeast states propose that preferential funding be provided for mass transit programs in nonattainment areas.

S. 965 would promote the integration of transportation and air quality planning, reinforcing the requirements contained in the Clean Air Act Amendments of 1990. The proposed Bill would also significantly reduce infrastructure investment in facilities that promote the proliferation of single occupant vehicle use in areas where such facilities contribute to air quality nonattainment problems. The NESCAUM Directors enthusiastically support the Bill and offer our assistance.

Sincerely,

EDWARD DAVIS,
NESCAUM Chairman.

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,
El Monte, CA, May 15, 1991.

Hon. QUENTIN N. BURDICK,
Chair, Senate Environment and Public Works Committee, Washington, DC.

DEAR SENATOR BURDICK: The South Coast Air Quality Management District congratulates you and your colleagues on the committee for the introduction of S. 965, which provides a bold new approach to addressing this country's transportation needs.

As you well know, the Clean Air Act Amendments of 1990 establish a link between improvements in transportation efficiency and improvements in air quality. We are heartened that S. 965 confirms this linkage with the creation of a flexible-funding program which allows states and localities to address the key national interests of transportation and energy efficiency, economic competitiveness and environmental quality.

In addition, we are pleased that you and the other co-sponsors of S. 965 have recognized the need to make addressing air quality issues a high priority in nonattainment areas by creating the Congestion Mitigation and Air Quality Improvement Program. This program will significantly improve our opportunities to implement programs which directly address the transportation needs in this, the nation's only extreme air quality nonattainment area, with environmentally sound approaches to our mobility needs.

While we strongly support the program structure and emphasis on efficiency, productivity, and air quality, there are certain provisions of S. 965 that we believe need clarification to ensure effective implementation and integration with the requirements of the Clean Air Act Amendments of 1990. We would like to work with you on these aspects of the bill in the coming weeks.

The South Coast Air Quality Management District commends you and offers our support for this legislation. We offer our cooperation and assistance to you as you continue to address the reauthorization of the Surface Transportation Assistance Act.

JAMES M. LENTS, PH.D.,
Executive Officer.

TRANSPORTATION COALITION PRAISES "INNOVATIVE" SENATE BILL

A bipartisan Senate leadership bill for highway funding, which departs from the Administration's proposal to create a new National Highway System, is an innovative and important step toward a transportation policy in the national interest, according to the Surface Transportation Policy Project (STPP).

"The Senate bill recognizes that local officials need to solve many different transportation problems, not just to build roads," said David Burwell, President of the Rails-to-trails Conservancy, a member of the STPP. "Rather than fund a national highway system more than three times the size of our current interstate system, as proposed by the Bush Administration, the Senate bill instead allows funding to be used for the many kinds of transportation that will best serve the nation's communities and its economy."

By dedicating funds to all forms of transportation, which under the Administration's proposal are dedicated just to highways, the Senate bill makes a fresh start and moves toward a transportation policy that would assure the national interests of energy efficiency, environmental quality, economic competitiveness, and enhanced communities, according to the STPP.

AMERICA'S COALITION
FOR TRANSIT NOW,
May 7, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: The undersigned members of America's Coalition for Transit NOW support the major concepts embraced in S. 965, the Surface Transportation Efficiency Act of 1991.

This bill establishes a new and important principle for our Nation's surface transportation system by permitting the use of traditional, federal "highway" funds to finance a broader range of transportation improvements, including transit and rail. The bill explicitly rejects a "more of the same" approach to surface transportation, and charts a future course that responds to a host of national concerns.

The bill will permit state and, in particular, local officials to exercise greater discretion in the use of federal highway funds to achieve national goals including clean air, energy conservation, economic development and congestion relief.

S. 965 offers a surface transportation policy that is equitable and responsive. With the transit legislation being developed by the Committee on Banking, Housing, and Urban Affairs, S. 965 offers the United States a transportation policy that can move our nation into the 21st century.

We urge your support of the important principles around which S. 965 was fashioned.

Sincerely,

ABB Traction Inc., A.B.P. Inc., ACUSON, Aetna Insurance Company, Alliance of American Insurers, Alliance for a Paving Moratorium, Alliance to Save Energy, Amalgamated Transit Union, AFL–CIO, American Chamber of Commerce Executives, American Institute of Architects, American Insurance Association, American Lung Association, American Pedestrian Association, American Planning Association, American Public Health Association, American Public Transit Association, Amphion Environmental, Inc., Angeles Corporation, Association for Commuter Transportation, Association for Public Transportation, Inc., ACORN-Association of Community, Atlantic Track and Turnout Co., AVX Corporation, Bay Area Council, Bearn Stearns & Co.

Building Owners and Management Association International, Cartwright & Goodwin, Inc., Catholic Golden Age, Central Hudson Gas & Electric Corporation, Chase Securities, Inc., Chemical Securities, Inc., Child Welfare League of America, Inc., Coach and Car Equipment Corporation, Community Transportation Association of America, Computer & Communication Industry Association, Consoer, Townsend & Associates, Inc., Conservation Foundation of DuPage County, Consumer Federation of America, DAMES & MOORE, Daniel, Mann, Johnson & Mendenhall, De Leuw, Cather & Company, Dean Witter Reynolds Inc., Del-Jen Inc., Deloitte & Touche, Delon Hampton & Associates, Chartered, Detroit Diesel Corporation, The Detroit Edison Company, Dillon, Read & Co., Inc., Disability Rights Education and Defense Fund, Dumont Electrical Inc.

Edison Electric Institute, Ehrlich Bober & Co., Inc., Electrack Division of EMJ/McFarland-Johnson Engineers, Inc., Fluor Daniel, Inc., Fredrick R. Harris, Inc., The First Boston Corporation, Gannett Fleming, Inc., GenCorp Polymer Products, General Electric, Gibbs & Hill, Inc., Goldman, Sachs & Co., Greater Philadelphia Chamber of Commerce, Greater Philadelphia First Corporation, Hawaiian Electric Company, Inc., High Speed Rail Association, Hewlett-Packard, Howard, Needles, Tammen & Bergendoff, Hughes Aircraft Company, ICF Kaiser Engineers, Inc., Indiana Transportation Association, Indianapolis Power & Light Company, Industrial Unions Department, AFL-CIO, Institute for Transportation & Development Policy, Institute for Urban Transportation, J.P. Morgan Securities.

J.W. Leas & Associates, The Keith Companies, Katherine McGuinness & Associates, Inc., KPMG Peat Marwick, Lazard Freres & Co., Lebenthal & Co., Inc., Lomarado Group, LS Transit Systems, Inc., Luminator, A MARK IV INDUSTRIES Company, Manufacturers Hanover Securities Corporation, Marin Rainbow Coalition, Marine Midland Banks, Inc., Merrill Lynch Capital Markets, Metropolitan Planning Council of Chicago, Midwest Bus Rebuilders, Corp., Morrison Knudsen Corporation, M.R. Beal & Company, National Association of Area Agencies on Aging, National Association of Counties, National Association of Families Caring for Elders, National Association of Industrial and Office Parks, National Association of Transit Consumer Organizations, National Association of Meal Programs, National Association of Nutrition and Aging Service Programs, National Association of Railroad Passengers.

National Association of Regional Councils, National Council of Senior Citizens, National Council on the Aging, National Easter Seal Society, National Growth Management Leadership Project, National Industries for the Severely Handicapped, National Interstate Insurance Agency, Inc., National Jobs with Peace Campaign, National League of Cities, National Multiple Sclerosis Society, National Rural Electric Cooperative Association, National Urban Coalition, National Urban League, National Womens Political Caucus, National Resources Defense Council, The Nettleship Group, New Flyer Industries, Ltd., New York Building Congress, New York Chamber of Commerce and Industry, New York City Partnership, Older Womens League, Organizations for Reform Now, Paine Webber Incorporated, Paralyzed Veterans of America, Parsons Brinckerhoff Quade & Douglas, Inc., Philadelphia Electric Company.

Portland General Corporation, The Promus Companies, Public Financial Management, Inc., Pryor, McClendon, Counts, & Co., Inc., Read Communications, Renew America, Ricon Corporation, Rides for Bay Area Commuters, Rocky Mountain Institute, Russell's Printing and Publishing, Shearson Lehman Brothers, Sierra Club, Simon & Company, Inc., Stone & Webster Engineering Corporation, The Stride Rite Corporation, Summit Communications, Transportation Communications Union, Transport Workers Union, AFL-CIO, Transportation Manufacturing Corporation, United Auto Workers, AFL-CIO, United Transportation Union, AFL-CIO, United States Conference of Mayors, Universal Coach Parts, Inc., Urban Engineers, Vapor Corporation, Western Insurance Information Services, Wisconsin Power and Light Company, WR Lazard Laidlaw & Mead, Inc.

MAY 8, 1991.

Hon. DANIEL P. MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR CHAIRMAN MOYNIHAN: We congratulate you and your colleagues on the Senate Environment and Public Works Committee for introducing a bold new approach to meeting our nation's transportation needs. S. 965 represents a dramatic improvement over current law and the Administration's most recent proposal for a new highway program.

By enabling the majority of funds to be spent on the best means of meeting transportation needs, rather than dedicating them just to highways as the Administration has proposed, S. 965 assures that states and localities are able to address the key national interests of transportation and energy efficiency, economic competitiveness, and environmental quality. This is the kind of national program we must have to stay competitive and at the same time maintain our quality of life.

While we strongly support the program structure and emphasis on efficiency, productivity, and air quality, there are certain provisions of S. 965 that we believe need clarification to ensure effective implementation. We also are concerned about the absence of the billboard reform provisions of S. 593 and the inclusion of Title II, which promotes motor vehicle use in environmentally sensitive areas. We would like to work with you on these aspects of the bill in the coming weeks.

Again, we offer you our sincere thanks for the leadership you have shown in introducing this important legislation.

Sincerely,

J. Jackson Walter, National Trust for Historic Preservation; David G. Burwell, Rails-to-Trails Conservancy; Keith A. Bartholomew, 1000 Friends of Oregon; Connie B. Cooper, American Planning Association; Janet S. Hathaway, Natural Resources Defense Council; John J. Bosley, National Association of Regional Councils; Sally G. Oldham, Scenic America; Sharon Newsome, National Wildlife Federation; William J. Roberts, Environmental Defense Fund; Bill Wilkinson, Bicycle Federation of America; Everett B. Carson, Natural Resources Council of Maine.

LEAGUE OF
CONSERVATION VOTERS,
Washington, DC, June 13, 1991.

HON. DANIEL PATRICK MOYNIHAN,
Chairman, Subcommittee on Water Resources, Transportation and Infrastructure, Committee on Environment and Public Works U.S. Senate Washington, DC.

DEAR CHAIRMAN MOYNIHAN: On behalf of the League of Conservation Voters, I am writing to urge you to strongly oppose adoption of the Breaux-Durenberger Amendment to S. 1204, the Surface Transportation Efficiency Act of 1991. This is the most important environmental amendment the Senate will consider during its deliberations of S. 1204, because it is the one amendment that will fundamentally undermine the flexibility states and localities need to shape their transportation systems to reduce air pollution, relieve congestion, and save energy.

This amendment will undermine the state and local flexibility embodied in S. 1204 by requiring that a substantial percentage of flexible funding be earmarked for an undefined National Highway System. The Committee on Environment and Public Works has wisely recommended that the Administration devote the next two years to study the development of this new Highway System. But, the Breaux-Durenberger Amendment will compel states and local governments to spend a substantial share of their funds on projects that may do little or nothing to address state and local transportation needs.

The essential strength of S. 1204 is that it gives states and localities the freedom and discretion to make transportation investment decisions. The Breaux-Durenberger Amendment will cut off that freedom and flexibility and force states and localities to fund a federal road system that will be developed by the federal government without public input, without criteria, and without Congressional review.

Many commentators, transportation experts, environmentalists and Senators have commended S. 1204 for its vision and innovation. The Breaux-Durenberger Amendment will convert S. 1204 into a traditional "highway" bill and hamper the ability of states and localities to meet their transportation needs.

Sincerely,

JIM MADDY,
Executive Director.

STATEMENT BY GOV. MARIO M. CUOMO

The highway bill introduced today by Senator Pat Moynihan demonstrates once again his superb leadership and expertise in developing sensible national legislation. The bill reaffirms the Federal commitment to America's highways, and appropriately acknowledges the necessity of both increased funding and essential improvements to our highway infrastructure.

This is more than just a simple highway bill. It is the blueprint which will propel our vital highway systems into the 21st Century.

Unlike the Administration's recent transportation proposal, Pat Moynihan's bill recognizes that sound Federal highway policy does not simply mean passing greater financial responsibility onto the states. State and local governments continue to outspend significantly the Federal Government for virtually every mode of transportation, and we will continue our substantial support. This new bill increases Federal funding, but appropriately refrains from mandating yet greater state matching requirements.

The Moynihan bill also wisely avoids divisive debate on new formulas for distribution of Federal funds because it provides increased funding to improve existing highways and bridges based on each state's historic share of highway funding. Thus, no state would receive an advantage at the expense of another state.

Enactment of this important legislation makes good sense not only from a national perspective, but from a New York perspective as well. The bill will provide New York with almost $4.5 billion over the next five years for the preservation and improvement of our highways and bridges. In addition, we will receive more than $100 million per year to address aggressively air quality and traffic congestion problems in the New York City metropolitan area and in most of our upstate cities. We are also assured of receiving our full share of the Westway trade-in.

The $90 billion Surface Transportation Efficiency Act of 1991 will provide New York with $1.3 billion more in Federal highway funding than we received over the previous five years.

The proposal offers greater flexibility in the use of Federal funds by allowing states to transfer monies between highway and mass transit accounts. This will enable states to target funds toward their most pressing transportation needs. The bill also provides greater latitude for the development of new potential sources of revenue for highway improvement.

Pat Moynihan demonstrated his usual foresight by including several important traffic safety provisions in his bill. It increases the Federal emphasis on rehabilitating and replacing deficient bridges and on maintenance and preservation of the existing Interstate Highway System. It protects both passengers and property by establishing national seat belt and motorcycle helmet programs similar to those already in place in New York.

With an eye toward the future, the Moynihan bill also provides funding to design, construct, and test a U.S.-developed magnetic levitation (Maglev) transportation system along Federal-aid highway rights-of-way. Maglev has the potential to become a major, efficient, and safe mode of transportation.

I applaud Pat Moynihan for developing and introducing landmark legislation which at once meets the highway rehabilitation needs of today and provides funding and flexibility through a variety of multi-modal measures to address the growing concerns of air quality and traffic congestion. It provides a prudent transition from the highway program that has served this State and Nation so well in the 20th Century to a program designed to meet the transportation needs of the future.

I offer my assistance and that of my Administration in working for the enactment of this important legislation.

NEW YORK CHAMBER OF COMMERCE,
NEW YORK CITY PARTNERSHIP,
New York, NY, May 20, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: I want to thank you, on behalf of the New York City Partnership and the New York Chamber of Commerce and Industry, for your leadership in introducing the Surface Transportation Efficiency Act of 1991. We believe your bill, in contrast to the Administration's proposal, will better enable states to achieve the important goals of economic development, congestion relief, clean air, and energy conservation.

Attached is a copy of the letter we sent to the members of the Environment and Public Works Committee urging them to support your bill.

We will continue to work with our members and in coalition with other organizations to ensure that this important legislation becomes law.

Sincerely,

RONALD K. SHELP, *President*
and Chief Executive Officer.

NEW YORK METROPOLITAN
TRANSPORTATION COUNCIL,
New York, NY, May 3, 1991.

Hon. DANIEL P. MOYNIHAN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing on behalf of the New York Metropolitan Transportation Council (MYMTC) to express our support for the Surface Transportation Efficiency Act of 1991. NYMTC is the Metropolitan Planning Organization (MPO) designated by the Governor for the New York Metropolitan region. Our MPO encompasses New York City, Long Island, and the lower Hudson Valley.

We want to commend you for your leadership in setting a new direction in federal support for transportation. You have taken the words in the USDOT's National Transportation Policy Statement and turned them into bold new legislation. We are particularly pleased with the section on metropolitan planning. It is very supportive of MPOs and provides the necessary funding to meet our expanded responsibilities contained in the bill.

We are hopeful that the Senate Committee on Banking, Housing, and Urban Affairs will produce a companion bill consistent with the major previsions of your bill, particularly in regard to a significant increase in transit planning funds for MPOs.

We look forward to working with you as your bill advances through the Committee and the full Senate.

Sincerely,

ROBERT J. BONDI,
NYMTC Co-Chairperson,
Putnam County Executive.

CAPITOL REGION
COUNCIL OF GOVERNMENTS,
Hartford, CT, April 26, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Sub-Committee on Water Resources and Infrastructure, Committee on Environment and Public Works, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing on behalf of the Capitol Region Council of Governments, the Metropolitan Planning Organization for Hartford, Connecticut, to express our strong support for your proposed Surface Transportation Efficiency Act of 1991.

This bill provides the overall policy and fiscal support direction that will allow for planning and implementation a truly integrated transportation system. The incorporation of the Clean Air Act, land use, energy and other concerns is essential as your bill recognizes.

Enactment of this landmark legislation will provide the infrastructure required to ensure the economic viability of the United States in the 21st Century. The Council of Governments will do all it can in supporting you and your efforts to ensure passage of this bill.

Sincerely,

DANA S. HANSON,
Executive Director.

CHITTENDEN COUNTY METROPOLITAN
PLANNING ORGANIZATION,
Essex Junction, VT, April 25, 1991.

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I understand that you will be introducing the "Surface Transportation Efficiency Act of 1991" at 2:30 p.m. today. I believe it is important that federal transportation legislation renew the strong federal-state-regional partnership in providing high quality transportation infrastructure to our nation. This can only be achieved by: 1. Maintaining a strong federal funding presence; 2. Creating balanced systems (highways and public transportation) that are coordinated with land use plans; and 3. Strengthening the urban transportation planning process as performed by metropolitan planning organizations.

Congratulations on developing a workable "common sense" approach to a national transportation program.

Sincerely,

CRAIG T. LEINER,
Transportation Director.

TOLEDO METROPOLITAN AREA
COUNCIL OF GOVERNMENTS,
Toledo, OH, April 26, 1991.

Senator HOWARD METZENBAUM,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR METZENBAUM: On Thursday, April 25, 1991 Senator Moynihan introduced the "Surface Transportation Efficiency Act of 1991". This Bill, which would replace the Administration's "Surface Transportation Act of 1991", would be very beneficial to our hard pressed urban areas.

The Administration and the Congress are proposing the most significant changes to the process by which the federal government is providing funding to the surface transportations system, both highways and mass transportation, since the creation of the Interstate System almost thirty years ago. In February the Administration released its proposed Surface Transportation Assistance Act of 1991. Although generally moving in the right direction, it certainly does not contain all of the necessary policy changes for the next century. In particular, the proposal misses its mark when it deals with managing the transportation problems in urban America.

When the federal government first became involvement in the surface transportation system in the early 1900s it was to solve issues which involved a major segment of its population, the rural population, by "getting the farmers out of the mud." Today the United States is primarily composed of urban centered metropolitan regions. Major modifications are needed to what is being proposed by the Administration to more adequately meet the needs of the majority of our population in the United States which now live in metropolitan areas.

We feel that the Moynihan Bill much more adequately addresses the issues of urban America. It does not put major resources into the National Highway System. It provides more funding for the urban system. It provides more funding and more responsibilities for local elected officials through the Metropolitan Planning Organizations (MPOs), such as TMACOG, to manage the urban problems: congestion and decaying bridges and streets.

We urge your support of this proposal.

Sincerely,

CALVIN M. LAKIN,
Executive Director.

NEIGHBORHOOD
TRANSPORTATION NETWORK,
Minneapolis, MN, May 16, 1991.

Re Surface Transportation Efficiency Act of 1991 (S. Bill 965).

Hon. DANIEL PATRICK MOYNIHAN,
U.S. Senate, Washington, DC

DEAR SENATOR MOYNIHAN: We applaud your sponsorship of S. Bill 965. The bill provides the vision necessary to enable this country's metropolitan areas to be competitive in a world economy that will face changing and challenging times in the 21st Century. It also provides the courage for this country to address our extreme dependence on automobiles. And it sets a stage that will allow us to come to grips with the heavy prices we are now paying for that dependence in the form of social and environmental consequences.

The Neighborhood Transportation Network is a coalition of community groups in Minneapolis who joined forces to address transportation. Our members represent 45,000 people who are concerned that our air quality does not meet Federal standards—yet the state highway department is striving to bring us Los Angeles-style freeways that will worsen our air quality. And the resulting decreases in transit services will increase unemployment throughout the region among people who depend on transit for their basic needs.

In the 1980s, we became the country's largest metropolitan area that does not have rail transit. We are the largest region that is totally dependent on streets and highways. We are the largest region that is completely vulnerable to fluctuations in the supply and pricing of fossil fuels, located in a State that has no fuel supply of its own.

Now is the time for action. A major fuel crisis will occur in the next 40 years, perhaps the next 20 years. The economic security of Minnesota and of the Twin Cities Metropolitan Area mandates that the highest priority be given to bringing us rail transit.

We urge your continued leadership in crafting the strongest, most environmentally-sensitive, transit-oriented Federal legislation possible. We need your leadership today.

Sincerely,

S. DORÉ MEAD,
President.

NATIONAL GROWTH
MANAGEMENT LEADERSHIP PROJECT,
Portland, OR, May 7, 1991.

Re the Surface Transportation Efficiency Act of 1991 (S. 965).

Hon. Daniel Patrick Moynihan,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: I am writing to congratulate you and your colleagues on the Environment and Public Works Committee for introducing S. 965, The Surface Transportation Efficiency Act of 1991, a bill that, if enacted, would establish a bold new approach to meeting the nation's transportation needs. The bill represents a substantial improvement over current law and the Administration's recent proposal for a new highway program.

By enabling the majority of funds to be spent on the best means of meeting transportation needs, rather than dedicating them just to highways as the Administration has proposed, S. 965 assures that states and localities are able to address the key national interests of transportation and energy efficiency, economic competitiveness, and environmental quality. This is the kind of national program we must have to stay competitive and at the same time maintain our quality of life.

The National Growth Management Leadership Project (NGMLP)[1] does have some concerns with certain details of the bill. For example, the section on transportation planning is not, in our opinion, adequate to assure that federally funded transportation projects are integrated with energy efficient land uses. If not corrected, this deficiency could lead to further waste of federal funds by squandering transportation capacity on energy-wasteful sprawl development. Attached is a list of several concepts that could be used to alleviate this program.

The planning provisions aside, the bill's creation of a "Surface Transportation Program" is a monumental improvement. Particularly impressive are the provisions assuring mode neutrality, proportional allocation within each state, and federal match incentives to promote alternatives to single occupancy automobile travel. These are precisely the types of program measures that are essential to providing sustainable, liveable communities across the nation. As the Committee has recognized, current transportation funding priorities are in dire need of adjustment. The Surface Transportation Program of S. 965 provides that adjustment.

NGMLP strongly supports S. 965's program structure and we offer our sincere thanks to you for the leadership you have shown in introducing this important legislation. We would be happy to work with you on possible improvements to the planning sections of the bill.

Very truly yours,

KEITH A. BARTHOLOMEW,
Staff Attorney.

TALKING POINTS—CENTRAL ARTERY

(1) The $2.55 billion for the Central Artery/Third Harbor Tunnel was contained in the Administration's highway reauthorization proposal, was included in the Moynihan bill under debate today, and was included in the Warner substitute bill as well.

(2) The project has had and continues to have broad bipartisan support, from the Bush Administration and the new Republican Weld Administration in Massachusetts to the former Dukakis Administration and Massachusetts' Democratic Congressional delegation.

(3) The state share of funds for the Central Artery/Third Harbor Tunnel was continued in a transportation bond issue passed by the Massachusetts legislature and recently signed into law by Governor Weld. The local funding is in place.

(4) The Federal Highway Administration recently issued its Record of Decision for the project, marking the successful completion of the administrative and environmental review process.

(5) The first major construction contract for the Third Harbor Tunnel, amounting to over $200 million for tunnel tube fabrication and installation, has been advertised for bid and will be awarded this fall. This project is well underway.

(6) The funds in this bill for Massachusetts are there because of a compromise reached in the 1987 Surface Transportation Reauthorization measure. That compromise, which was the result of long and hard work in the House-Senate conference committee, resulted in only a portion of the Central Artery project being eligible for Interstate Construction funding. It is only that portion which is represented by the funds in this bill. There is no reason to tamper with the 1987 compromise. Now the time has come to make good on the Congressional commitment made at that time.

(7) Along with projects in California and Hawaii, the I-90/93 project in Massachusetts represents the last major gap in the Interstate system. The language in this bill is necessary to ensure the efficient closure of this gap and the completion of the Interstate System.

(8) The money in this bill is equivalent to the amount that Massachusetts has lapsed to other states over the past ten years, when adjusted for inflation. In fact, over the past three years alone, Massachusetts has made available, through the Federal Highway Administration's administrative process, over $700 million for re-apportionment to other states. Now that this project is underway, it's Massachusetts' turn to receive the funds to which it is entitled.

CENTRAL ARTERY PROJECT FACTS

The Central Artery (I-93) is the most congested Interstate highway in America. If nothing is done, the region will have 14 hours a day of rush hour congestion.

The Central Artery is not a true Interstate highway. It was designed by the Commonwealth before the beginning of the Interstate program. It does not meet Interstate standards.

Massachusetts proposed to upgrade the Central Artery in 1975. Costs of the depression of the Central Artery were first put in the ICE by FHWA in 1976. These costs have been included in every ICE passed by Congress since 1976, including the 1981 ICE and the ICE passed in March 1984.

The 1987 highway reauthorization limited the portion of the project eligible for federal funds, and only those funds are contained in the present bill.

The project will eliminate the present untenable congestion of the Central Artery. It will eliminate twelve hours of traffic congestion. It will double the capacity of the Central Artery.

According to the AASHTO calculations of cost benefit, the traffic benefits, alone, of the project will save 184.2 million dollars per year. The annual rate of return on the project will be 7.4%. It will save 20.9 million hours of travel time savings per year, almost three times as high as any of the recently approved large Urban Interstate projects (I-105 in Los Angeles, I-478 in New York, I-90 in Seattle, I-10 in Phoenix and I-95 in Baltimore).

The project will employ 75,000 construction workers for the life of the project (7,500 full time jobs per year for the 10 years of construction).

MORNING BUSINESS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO A.B. "HAPPY" CHANDLER

Mr. THURMOND. Mr. President, I rise today to pay tribute to a great American and a good friend, Albert Benjamin "Happy" Chandler, who passed away on June 15. Happy Chandler was a man of character, compassion, and intellect, and his death is a great loss for both his native State of Kentucky and this Nation.

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[1] The NGMLP is a confederation of seventeen regional and statewide organizations promoting sound growth management throughout America. Representing more than 125,000 individuals, NGMLP members include organizations from California, Colorado, Florida, Georgia, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Jersey, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and Washington.

Happy Chandler was born in Corydon, KY, on July 14, 1898. He earned his undergraduate degree from Transylvania College and his law degree from the University of Kentucky, and served in the Army during World War I.

Happy was from a poor family and his parents separated when he was quite young. Although he attained great heights, he never forgot his humble beginnings and always remained a champion of the common man.

Even as a youngster, Happy made an impression with the positive outlook and upbeat personality that earned him his nickname. Throughout his long and colorful life, he pursued each goal he set with vigor and imagination. Although he is best known for his career in public service, he also practiced law, raised tobacco, and published a weekly newspaper with the same energy and commitment he brought to politics.

Happy Chandler's involvement in Kentucky politics spanned over a half century, and his skill and determination earned him a reputation as a tough opponent and a loyal friend. He served as a State senator, Lieutenant Governor, two-time Governor and U.S. Senator, always bringing his unique perspective to bear on the issues at hand. He also served as a Democratic national committeeman and as commissioner of baseball.

As Governor, he reorganized the State government of Kentucky, overhauling a bureaucracy which was mired in the arcane practices of another century. He was also responsible for the creation of the A.B. Chandler Medical Center at the University of Kentucky, an achievement of which he was justifiably proud.

A well-known fan of athletics, Happy became known as a champion of players' rights during his tenure as baseball commissioner. This did not earn him the gratitude of the owners, but did get him elected to the Baseball Hall of Fame in 1982.

Happy Chandler was a man of passionate beliefs. He was an old-school southern Democrat when it came to big government, believing that government should intrude as little as possible on the private lives of citizens. He was renowned as an orator of rare persuasion and talent, and people came from miles around to hear him speak—sometimes as much for entertainment as anything else. He was also known as a die-hard University of Kentucky fan, and his flamboyant demonstrations of support for Kentucky athletic teams were legendary.

Mr. President, Happy Chandler was a rugged individualist. He was a distinguished stateman, loyal friend, and devoted husband and father. He served Kentucky and this Nation with dedication, integrity, and patriotism and he will be greatly missed.

I would like to take this opportunity to extend my deepest condolences to his lovely wife, the former Mildred Watkins, his four children, and the rest of his fine family at this difficult time.

OUTDOOR ADVERTISING

Mr. HATCH. Mr. President, outdoor advertising is of great economic value to business in Utah and across our country. No other medium of advertising allows the businessperson the selectivity in reaching their clientele as does outdoor advertising. One display 5 miles on the approach side of a highway motel or restaurant will reach a much higher percentage of prospective customers than any other medium.

Outdoor advertising has the built-in ability to reach people while they are on the road to shopping, dining, vacationing, and most other consumer activities. With many shoppers, it is the last advertising they will experience before selecting their purchases.

Outdoor advertising is also superior in the field of brand or name recognition. Nowhere is this more evident than in the field of politics. Most successful politicians rely heavily on outdoor advertising. Here again, the medium's selectivity allows the person running for office to concentrate his message within strict limits. The message is not wasted on areas where it is not needed or heeded.

Proof of the economic value of outdoor advertising is demonstrated by the fact that last year, American businesses spent over $1 billion on outdoor advertising. American businesses are not noted for wasting money; they want results for their dollars, and they get it with outdoor advertising.

ELECTRONIC COMMUNICATIONS PRIVACY ACT

Mr. LEAHY. Mr. President, in 1986, Congress passed the Electronic Communications Privacy Act [ECPA], which updated the Federal wiretap statute to cover emerging technologies. In the 5 years since we passed ECPA, technology has continued to improve at a great pace. Developments in cordless phone technology, improved cellular systems, and caller-ID are examples of changes that demand our continued attention.

I have found that this area raises difficult questions—both in terms of policy and technology. Success depends on approaching these issues with full and accurate information about how the technologies actually work and what impact they will have on the public, the business community, and the Government. It is vital for industry and privacy advocates to work together with Congress to address these new technologies comprehensively. To that end, I convened a task force earlier this year to consider the privacy issues raised in the context of new technologies and to provide its opinions and recommendations to the Technology and the Law Subcommittee.

The task force spent many hours wrestling with the difficult issues arising in the context of new technologies. The final report of the privacy and technology task force is an excellent examination of radio-based technologies, out-of-band signaling, 800- and 900-number services, electronic mail, and government monitoring. I am very grateful to this group for providing not only their expertise, but their time and commitment to furthering our understanding of these issues.

We hear much about the American people becoming discouraged with the legislative process. The work of this task force shows not only that citizens care about the process, but that they are willing to take part in it. It is an extraordinary group and all of us are thankful that they took the time to get involved.

I would like to say a special thank you to John Podesta, who chaired the task force, and Leah Gurwitz, who worked with him to prepare the report. I am grateful to all of the dedicated members of the privacy and technology task force: David Johnson, Esq., Wilmer Cutler & Pickering; Ronald L. Plesser, Esq., Piper & Marbury; Mr. James Sylvester, director of infrastructure, Bell Atlantic; Mr. Elliot E. Maxwell, assistant vice president, policy and issues management, Pacific Telesis; Martina Bradford, Esq., vice president, Government affiars, AT&T; Marc Rotenberg, Esq., Computer Professionals for Social Responsibility; Prof. Glenn Smith, California Western School of Law; Janlori Goldman, Esq., American Civil Liberties Union; Jerry Berman, Esq., Information Technology Project of the American Civil Liberties Union; Mr. Thomas Mills, director of public affairs, New England Telephone—Vermont; Ms. Debra Berlyn, executive director, National Association of State Utility Consumer Advocates; P. Michael Nugent, Esq., associate general counsel and vice president, Citicorp/Citibank; Mr. Michael F. Cavanagh, executive director, Electronic Mail Association; John J. Byrne, Esq., Federal legislative counsel, American Bankers Association; and Mr. John Gilroy, executive director, Vermont Public Interest Research Group.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,285th day that Terry Anderson has been held captive in Lebanon.

WELCOMING THE POLISH-GERMAN TREATY

Mr. PELL. Mr. President, yesterday, Poland and Germany signed a comprehensive treaty that ushers in a new phase in relations between the two countries, and indeed, for all of Europe. The treaty puts to rest the disagreements that have plagued the two nations for generations. In the treaty, Poland and Germany pledge to abstain from using force; to establish the Oder-Neisse line as the definitive Polish-German border; and to guarantee minority rights. It is a historic event scarcely conceivable a few years ago.

I particularly welcome the treaty's unequivocal recognition of the Polish-German border. In the spring of 1990, with the prospect of German unification imminent, I was deeply concerned by the seeming reluctance of West German leaders to declare unambiguously their acceptance of the Polish-German border. At that time, with the cosponsorship of 15 of my colleagues, I submitted a resolution that would have linked United States support for a treaty on German unification to Germany's recognition that its current borders are legal, permanent, and unalterable.

The day after I submitted the resolution, Chancellor Kohl stated his intention to provide the essential assurances about the Polish-German border. He further proposed that the West German Bundestag and the new East German Parliament agree to an identical resolution on the border issue. It was widely reported that international pressure, including that generated by prospective action on my resolution, contributed to Chancellor Kohl's welcome and historic decision.

In October of last year, on the eve of German unification, the United States gave its advice and consent to the Treaty on the Final Settlement with Regard to Germany. In that treaty—signed by the two Germanys, France, Great Britain, the Soviet Union, and the United States—the two plus four—the united Germany pledged to confirm the existing border with Poland. In its consideration of the treaty, the Foreign Relations Committee "ascribed great importance to the fact that the treaty expressed a solemn confirmation and commitment that the borders of the united Germany shall be confined to the territory of the two German states and that the definitive nature of the borders of the united Germany is an essential element of the peaceful order in Europe."

Mr. President, in signing the treaty with Poland, Germany has fulfilled its obligations under the treaty to which we gave our advice and consent last fall. Together with Poland, Germany has made an important contribution to building a new Europe.

MESSAGES FROM THE HOUSE

At 4:31 p.m., a message from the House of Representatives, delivered by Mr. Hays, one if its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2608. An act making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 64. An act to authorize appropriations to establish a National Education Commission on Time and Learning and a National Council on Education Standards, and Testing, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2608. An act making appropriations for the Departments of Commerce, State, and Justice, the Judiciary, and related agencies for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-102. A resolution adopted by the Senate of the State of Michigan; to the Committee on Armed Services.

"SENATE RESOLUTION 152.

"A resolution honoring the National Guard and Reserves.

"Whereas, The members of this legislative body unite to honor the military forces of the United States, in conjunction with their coalition allies, who have successfully forced Iraq to give up its hold on the nation of Kuwait. We strongly urge the President, the Secretary of Defense, and the Congress to ensure that the post-war Michigan National Guard forces structure and equipping levels will reflect the outstanding job done by our troops in the Desert Shield/Desert Storm Operation and will assure their capability to meet federal constitutional responsibilities as part of the Total Force, and also to fulfill their responsibilities to the state as a civil and natural disaster response force; and

"Whereas, Michigan Army and Air National Guard and Reserve forces of the Army, Navy, Air Force, Marines, and Coast Guard have served valiantly alongside their active component counterparts in their courageous effort. These brave men and women can now return to their homes and families; and

"Whereas, We commend those employers, support groups, and all other citizens who have so generously and steadfastly supported these brave men and women while they were serving in the Gulf and who assisted in easing the burdens placed on their families and loved ones during their absence in the service of freedom; now, therefore, be it

"Resolved by the Senate, That we recognize the outstanding role that our National Guard and Reserve forces played in fulfilling their Desert Shield/Desert Storm mission as part of this nation's total force. We commend the President, the Secretary of Defense, the Service Secretaries and their staffs on the confidence that they placed in our troops and, we pledge the continued efforts of this state to provide capable National Guard forces fully committed to their Total Force role. We strongly urge the President, the Secretary of Defense, and the Congress to ensure that the post-war Michigan National Guard forces structure and equipping levels will reflect the outstanding job done by our troops in the Desert Shield/Desert Storm Operation and will assure their capability to meet federal constitutional responsibilities as part of the Total Force, and also to fulfill their responsibilities to the state as a civil and natural disaster response force; and be it further

"Resolved, That suitable copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of Defense, and each member of the Michigan congressional delegation, and the Michigan National Guard and Reserves."

POM-103. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Armed Services:

"JOINT RESOLUTION 29

"Be it resolved by the Legislature of the State of Alaska:

"Whereas the members of our Armed Forces were called upon to liberate Kuwait and defend Saudi Arabia and Israel from the aggression of Iraq; and

"Whereas many of the U.S. troops sent to the Persian Gulf were pulled away from civilian lives at great personal sacrifice; and

"Whereas many of our U.S. troops, including Sergeant David Douthit of Alaska, made the ultimate sacrifice by giving their lives while serving in the Middle East; and

"Whereas the Allied troops endured the uncertainties and hardships caused by separation from their loved ones for months while stationed in the harsh climate of the Middle Eastern desert under conditions that left them vulnerable to unpredictable missile attacks and terrorist activities; and

"Whereas the troops successfully performed their mission with great dispatch, exemplifying the high degree of dedication, professionalism, and training that underlies the technological and strategic superiority of our military strength;

"Be it resolved that the Alaska State Legislature:

"(1) commends the bravery of Alaska's military personnel, all the men and women who served in the Allied Forces in the Persian Gulf, and the civilians residing in the area; and

"(2) congratulates the Allied commanding officers for pursuing tactics that led to a speedy cease-fire to end the ground war with very little loss of American or other Allied troops' lives; and be it

"Further resolved that the legislature requests the Alaska Legislative Council to direct the Legislative Affairs Agency to send the following message to all returning Alaskans and persons stationed in Alaska who served in the U.S. military forces in the Persian Gulf conflict: 'The Alaska State Legislature thanks you heartily for your efforts in stopping Iraq's aggression, liberating Kuwait, and laying the foundation for a just and lasting peace in the Middle East. You deserve a hero's welcome.' "

POM-104. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Appropriations:

"HOUSE CONCURRENT RESOLUTION 117

"Whereas, in 1954 the people of Rongelap Atoll in the Marshall Islands were exposed to radioactive fallout from the United States "Bravo" nuclear weapons test, and within three days the people of Rongelap were removed from their ancestral homeland; and

"Whereas, these people returned three years later in 1957, after they were assured by U.S. scientists that Rongelap Atoll was once again safe; and

"Whereas, following their return, the people from Rongelap began to experience cancer and other health problems not previously experienced, notwithstanding U.S. assurances to the contrary; and

"Whereas, they concluded that these problems were caused by the radiation from the U.S. atmospheric nuclear weapons tests in the Marshall Islands; and

"Whereas, in 1985 the Rongelap people were again forced from their ancestral home because they feared for the safety of their children; and

"Whereas, this fear was generated by a U.S. Department of Energy report that suggested that their homeland was dangerously contaminated with radiation left by radioactive fallout; and

"Whereas, the United States Congress recognized the plight of the Rongelap people in 1985 and acknowledged an obligation to address it; and

"Whereas, Congress included a special provision within the Compact of Free Association (Compact) with the Marshall Islands enabling legislation that:

"(1) Mandated a review of the U.S. Department of Energy Report that had caused the people to flee Rongelap; and

"(2) Directed that an independent, comprehensive scientific study of Rongelap Atoll be undertaken if necessary to ensure its safety and habitability;

"and

"Whereas, after the initial study, questions still remain as to the safety and habitability of Rongelap Atoll, and further scientific study is now under consideration; and

"Whereas, it is essential that the plight of the Rongelap people, who remain exiled from their homeland, must not be forgotten as these studies are undertaken; and

"Whereas, since 1985 the Rongelap people have lived a life of hardship on a remote and desolate island; nevertheless, they face their day-to-day existence with courage, trusting that the United States will fulfill the commitment made to them in 1985 and that one day they will indeed be able to return home without fear; and

"Whereas, the Rongelap people have suffered life in exile for close to six years, yet no one can offer or promise with any certainty when, if ever, the Rongelap people will safely return home; and

"Whereas, as new and potentially lengthy scientific studies commence, the hardships of the Rongelap people must, first and foremost, be alleviated because this suffering, although courageous, people deserve no less; and

"Whereas, the United States stood for many years as the United Nations guardian and trustee of the freedom and independence the Marshall Islands now enjoy; and

"Whereas, there is little question that the people of Rongelap have, both individually and as a group, been adversely affected by the past U.S. atmospheric nuclear weapons testing program; and

"Whereas, to permit the Rongelap people to await an answer to their fate without assistance is morally wrong because this would deny them the rights and benefits to which they are entitled under the Compact; and

"Whereas, if the Compact is to serve the best interests of both the people of United States and the people of the Republic of the Marshall Islands, it must first and foremost serve the interests and protect the rights of those whose freedom and independence the Compact was designed to guarantee because the Compact cannot, nor will it ever, succeed in this endeavor if the people of Rongelap fail to find meaning within the scope of the Compact; and

"Whereas, this is a matter of humanitarian concern, and the Legislature seeks to ensure that the obligations to the people of the Marshall Islands, as those obligations have been set forth in the Compact, are guaranteed to the fullest extent; and

"Whereas, Hawaii's historical relationship with the people of these Pacific Islands commands no less; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the Senate concurring, that the Hawaii Congressional delegation be requested to secure without delay such funds as are necessary to ensure humanitarian assistance and relief to the People of Rongelap while they await the outcome of those studies that are undertaken pursuant to Section 103(i) of the Compact of Free Association; and

"Be it further resolved that the U.S. Congress immediately provide this humanitarian assistance to the Rongelap Atoll Local Government of the Republic of the Marshall Islands for the express purpose of improving the Rongelap people's current living conditions, meeting their special needs, and otherwise addressing the unique circumstances following the aftermath of U.S. atmospheric nuclear weapons testing; and

"Be it further resolved that certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Hawaii Congressional Delegation, President Amata Kabua of the Republic of the Marshall Islands, and Senator Jeton Anjain of the Republic of the Marshall Islands."

POM-105. A resolution adopted by the Legislature of the State of Michigan; to the Committee on Appropriations:

"SENATE RESOLUTION 84

"Whereas, there is a consensus among educators, business leaders, and policymakers that United States students are lagging far behind students of other industrialized nations in nearly every area of learning; and

"Whereas, it is also widely acknowledged that our country's future economic success and competitiveness are dependent upon a strong and productive educational system; and

"Whereas, the federal government contributes large sums of money to the states to fund welfare and other social programs, but contributes less than ten percent of the total funding necessary for educating our young people; and

"Whereas, the resources of the federal government would be better spent on educating our young people so that they can become productive members of our society, thereby relieving the demand for funds to be used to address problems caused by a deficient education system; now, therefore, be it

"Resolved by the Senate, That we hereby memorialize the United States Congress to appropriate more money to the states for K-12 education; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-106. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Appropriations:

"CONCURRENT RESOLUTION 3

"Whereas, Congress enacted the low-income home energy assistance program in 1981 to provide funds to low-income Americans to help them pay for the costs of energy to heat their homes; and

"Whereas, since 1986, the funding level for the program has been reduced by approximately $600 million to a level of $1.415 billion, while eligibility for the program has been expanded to include energy assistance for household cooling, resulting in financial hardship for many low-income Americans in cold-weather states; and

"Whereas, the secretary of health and human services has indicated, in a letter to the federal office of management and budget, his intention to reduce program funding by two-thirds, to $468 million for fiscal year 1992, and to concentrate operation of the program in the six New England states, New York, New Jersey, and Pennsylvania, where low-income residents are most likely to use fuel oil for home heating; and

"Whereas, sharply curtailing the funding and availability of program funds in states, like Minnesota, with harsh climates could result in life-threatening conditions for low-income persons; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that the President and Congress should resist efforts to reduce funding for the low-income home energy assistance program and to concentrate its operations in a few selected northeastern states, to the detriment of other cold-weather states like Minnesota.

"Be it further resolved that Congress should increase the appropriation to the low-income home energy assistance program to reflect the increasing cost of heating fuel and to anticipate events that could further affect its cost and supply.

"Be it further resolved that the President should support and sign into law legislation enacted by Congress increasing the appropriation to the low-income home energy assistance program and should disavow the efforts of his secretary of health and human services to curtail operations of the program in most of the country.

"Be it further resolved that the Secretary of State of Minnesota shall transmit copies of this resolution to the President of the United States, the President and the Secretary of the Senate of the United States, the Speaker and the Clerk of the House of Representatives of the United States, and to Minnesota's Senators and Representatives in Congress."

POM-107. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Armed Services:

"SENATE CONCURRENT RESOLUTION NO. 59

"Whereas, the closure of England Air Force Base would result in a serious negative impact on the economy of Rapides Parish and central Louisiana; and

"Whereas, the local community would need all assistance available to avoid as much as possible a very critical downturn in the local economy; and

"Whereas, a transfer of the physical properties to local authorities would aid in assisting economic development for the local and regional community to offset the negative impact resulting from a closure of the base.

"Therefore, be it resolved that the Legislature of Louisiana memorializes the Congress of the United States to transfer England Air Force Base to local authorities in the event that the base is closed.

"Be it further resolved that a copy of this Resolution be transmitted to the Secretary of the United States Senate and to the Clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation."

POM-108. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Armed Services:

"HOUSE RESOLUTION 106

"Whereas, pursuant to United Nations and Congressional authorizations, the United States led a coalition of 28 nations to implement the 12 UN resolutions calling on Iraq inter alia to withdraw from Kuwait; and,

"Whereas, General Norman Schwarzkopf planned and brilliantly directed Operation Desert Storm which ousted Iraq from Kuwait with an astoundingly small number of casualties; and,

"Whereas, Iraq has formally accepted all 12 UN resolutions and has begun implementing them by annulling its annexation of Kuwait and returning Allied prisoners and Kuwaiti civilian detainees; and,

"Whereas, the United States has long sought to promote a settlement of the Arab-Israeli conflict and succeeded, under President Jimmy Carter ten years ago, in bringing peace between Israel and Egypt; and,

"Whereas, in his speech to Congress on March 6, 1991, President George Bush pledged to work for peace and reconstruction in the Middle East; now therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that this body acclaim President George Bush for his decisive leadership, congratulate General Schwarzkopf for his brilliant generalship, and applaud the bravery and courage of all the men and women of all 28 nations for the complete success of Operation Desert Storm in carrying out the United Nations mandate; and reaffirm our support of United States policy for peace and reconstruction in the Middle East."

POM-109. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Armed Services:

"CONCURRENT RESOLUTION 1

"Whereas, the President of the United States, with the authorization of Congress, has ordered military action against Iraq in an effort to force Iraqi Armed Forces from occupied Kuwait; and

"Whereas, more than 500,000 men and women of the United States Armed Forces are now involved in armed conflict; and

"Whereas, 158,000 members of the Reserves and National Guard have been called to active duty since August 22, 1990, and approximately 2,400 from Minnesota have become involved in armed conflict; and

"Whereas, the citizens of Minnesota have great pride in the men and women of the United States Armed Forces and support them in their efforts; and

"Whereas, the citizens of Minnesota deeply appreciate the great personal sacrifices being made by our military personnel in the Persian Gulf and by their families and loved ones back home; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that it joins Congress in unequivocally supporting the men and women of our Armed Forces who are carrying out their missions with professional excellence, dedicated patriotism, and exemplary bravery.

"Be it further resolved that the Legislature supports the President in negotiating a peaceful settlement of the conflict.

"Be it further resolved that it calls upon all the parties to the conflict to minimize civilian casualties and to honor international law including the Geneva Convention on prisoners of war.

"Be it further resolved that the Legislature urges federal, state, and local government agencies, religious institutions, employers, schools, charitable organizations, and all our citizens to do all that is humanly possible to assist the families and loved ones of our Armed Forces members with all necessary and available support.

"Be it further resolved that the Legislature requests the Governor of the State of Minnesota to declare a day of prayer for peace and to ask all religious institutions to participate.

"Be it further resolved that the Legislature deplores the burning or disrespectful use of our National Flag and reaffirms its support for the Constitution and the Bill of Rights.

"Be it further resolved that the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, and Minnesota's Senators and Representatives in Congress."

POM-110. A resolution adopted by the Senate of the State of Michigan; to the Committee on Armed Services:

"SENATE RESOLUTION 146

"A resolution to memorialize the Congress of the United States and officials of the Pentagon to transfer the tanker unit of Wurtsmith Air Force Base to Selfridge Air National Guard Base if the Wurtsmith facility is closed.

"Whereas, United States Secretary of Defense Richard Cheney has included the Wurtsmith Air Force Base near Oscoda on a list of bases that the Pentagon is considering closing as a cost-saving measure. The Wurtsmith Air Force Base includes two main units, a squadron of B52 bombers and a squadron of KC135 refueling tankers; and

"Whereas, The closing of the Wurtsmith base would be a major loss for the state of Michigan. While we would hope that such a loss would not have to occur at all, if the Wurtsmith Air Force Base is closed, it would seem prudent from many points of view to locate the tanker aircraft within Michigan. There would likely be advantages in relocation costs to a facility reasonably close to Wurtsmith. In addition, the major loss in jobs and money would be softened considerably if Michigan could keep as much of the units as is possible; and

"Whereas, Selfridge Air National Guard Base in Macomb County offers an opportunity to maintain the tanker unit in this state. The capabilities of Selfridge would easily accommodate the addition of the tanker aircraft, while keeping some of the jobs and payroll loss from the base closing within this state; now, therefore, be it

"Resolved by the Senate, That the members of this legislative body hereby memorializes the Congress of the United States and the United States Department of Defense to consider relocating the tanker unit from Wurtsmith Air Force Base to Selfridge Air National Guard Base if the Wurtsmith facility is closed; and be if further

"Resolved, That a copy of this resolution be transmitted to officials of the United States Department of Defense, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congregational delegation."

POM-111. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT RESOLUTION 185

"Whereas, upon the annexation in 1899, the Republic of Hawaii ceded to the United States of America approximately 1,800,000 acres of land and other public property at no cost to the United States government; and

"Whereas, since the annexation, Congress had indicated in various measures that a special trust relationship exists between the public land ceded to the United States and the inhabitants of Hawaii; and

"Whereas, the Hawaiian Homes Commission Act, 1920, as amended, enacted in 1921 by the United States Congress provides for the rehabilitation of the native Hawaiian people through a government sponsored homesteading project; and

"Whereas, because of various restrictions and the exclusion of some of the best agricultural lands, the Act was significantly weakened, and the realization of the goals of the Act were severely handicapped due to the quality, characteristics, and location of the remaining lands; and

"Whereas, when Hawaii joined the Union as a state on August 21, 1959, the State accepted the terms of admission in the Admission Act which enabled the federal government to retain control of 409,555 acres of ceded land, including the island of Kaho'olawe and 237,048 acres of land used for national parks; and

"Whereas, the State received approximately 1,200,000 acres of ceded land from the United States, for five purposes stated in Section 5(f) of the Admission Act; and

"Whereas, the State entered into a compact with the United States to assume the duties of the management and disposition of the Hawaiian home lands; and

"Whereas, Act 395, the Native Hawaiian Trusts Judicial Relief Act was enacted in 1988 and Section 5 of the Act requires the Governor to present to the 1991 Legislature proposals to resolve controversies that occurred between August 21, 1959 and July 1, 1988; and

"Whereas, the Governor submitted such proposals in a report titled An Action Plan to Address Controversies Under the Hawaiian Home Lands Trust and the Public Land Trust in compliance with Section 5 of Act 395, Session Laws of Hawaii 1988; and

"Whereas, the Legislature finds that the action plan meets the intent of Section 5 of Act 395, Session Laws of Hawaii 1988; and

"Whereas, the action plan was reviewed and discussed in a series of public meetings at various sites across the State, including Hawaiian homestead and other communities with large Hawaiian and native Hawaiian populations, giving the beneficiaries of the trusts and others an opportunity to express their reactions to the plan and other concerns; and

"Whereas, the Legislature has held public hearings to allow further review and comment from beneficiaries and others about the action plan and related legislation; and

"Whereas, the Legislature continues to have concerns about the following issues:

"(1) A desire of beneficiaries for more input into the Commission's decisions resolving land claim disputes;

"(2) Beneficiaries' concern with restrictions placed on beneficiary access to Department of Hawaiian Home Lands water, the adequacy of water reservations for future development, acceleration of the water infrastructure construction schedule, and more information on rate basis;

"(3) A need for acceleration of subdivision infrastructure construction and more frequent progress reports on the master planned communities;

"(4) The concern of many beneficiaries that applications for homestead waiting lists are not handled in a consistent manner and that policies are not written and readily available for public inspection; and

"(5) The extent and nature of individual claims that may be brought as a result of breaches of trust under the Hawaiian Homes Commission Act, as well as the cost and appropriateness of specific remedies; now, therefore,

"Be it resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the House of Representatives concurring, that the Legislature accepts the Governor's action plan to address controversies under the Hawaiian Home Lands Trust and the Public Land Trust; provided that the following issues be addressed to strengthen the action plan, by amending the report to:

"(1) Forbid the implementation by the Hawaiian Homes Commission of proposed resolutions of land claim disputes without opportunity for public input including input from the trust beneficiaries; the Hawaiian Home Lands Claims Task Force should report to the 1992 Legislature on its work and accomplishments, recommendations for appropriation of funds, conveyance of additional lands to the Department of Hawaiian Home Lands, and other matters;

"(2) Require the Department of Hawaiian Home Lands to present a plan of action with the necessary budget requests to accelerate construction of water systems which ensure that beneficiaries have access to water in any location where water restrictions are preventing homesteading activities and that sufficient provisions are made for future water needs in new homestead communities; and

"(3) Require the state administration to pledge to authorize the sale of additional general obligation bonds to finance the design and construction of on-site and off-site improvements required as a prerequisite for subdivision and home construction for all lots awarded on an unimproved basis prior to 1991; and

"Be it further resolved that an interim legislative committee be created by appointments by the President of the Senate from the Senate Committee on Housing and Hawaiian Programs and Ways and Means, and by the Speaker of the House of Representatives from the House Committees on Water, Land Use and Hawaiian Affairs, and Finance, in consultation with the Office of Hawaiian Affairs, the Department of Hawaiian Home Lands, the Office of State Planning, and affected community groups to:

"(1) Explore land exchanges, transfers, and return of ceded lands to the Department of Hawaiian Home Lands or the Office of Hawaiian Affairs, or both;

"(2) Explore the issue of compensation for these land transfers, including the question of going beyond a value-for-value basis, the right of first refusal when lands are returned to the State, and the resulting impacts on the Hawaiian Home Lands Trust and the Public Land Trust;

"(3) Explore the possibility of allocating twenty per cent of revenues derived from August 1959 to June 15, 1980 to either the Hawaiian Home Lands Trust or to the Office of Hawaiian Affairs if the federal government is required to pay to the State all revenues from leases, rents, and revocable permits from federally-controlled ceded lands;

"(4) Prepare comprehensive legislation to implement the Governor's Action plan; and

"(5) Propose legislation which would implement the findings of the interim committee; and

"Be it further resolved that a claims review panel accept, investigate, and develop advisory opinions on the merit and possible compensation of each individual beneficiary claim arising as a result of breaches of trust under the Hawaiian Homes Commission Act that occurred between August 21, 1959 and July 1, 1988 in a report for discussion by the State Legislature; and

"Be it further resolved that the findings and recommendations of the interim legislative committee be presented for public hearing and discussion during the Regular Session of 1992; and

"Be it further resolved that certificated copies of this Concurrent, Resolution be transmitted to the Governor, the members of Hawaii's, congressional delegation, the commissioners of the Hawaiian Homes Commission, the trustees of the Office of Hawaiian Affairs, the Chairperson of the Hawaiian Homes Commission, the Director of the Office of State Planning, the President of the Senate, and the Speaker of the House of Representatives."

POM-112. A resolution adopted by the Legislature of the State of Hawaii; to the Committee on Energy and Natural Resources:

"SENATE RESOLUTION 192

"Whereas, the federal government has the power of eminent domain to take private property for public use; and

"Whereas, that power to deprive an individual of ownership of private property has been described as a power that can be used to terrorize and oppress the owner of property unless that power is kept in check by clear and specific limitations which are designed to protect the property rights of the individual; and

"Whereas, inherent in the reason for the power of eminent domain is the dedication of the property to the public use for which the property is condemned; and

"Whereas, if the property so condemned is no longer utilized or required for the public use initially intended under the condemnation, the reason for the condemnation no longer obtains; and

"Whereas, the original private landowners of such condemned properties should have a right to regain ownership of their properties which are no longer being used for the particular public use for which it was originally condemned under the federal government's eminent domain powers; now, therefore,

"Be it resolved by the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that it is the sense of this body that all lands originally condemned by the federal government for particular public uses and which are no longer used for such particular public uses should be returned to the original landowners on mutually acceptable terms and conditions with the federal government; and

"Be it further resolved that the Congress of the United States be and is hereby requested to fashion, consider, and enact appropriate legislation to provide for the return of lands originally condemned by the federal government for public uses and which are no longer used for such public uses to the original landowners on equitable terms, and compensation; and

Be it further resolved that certified copies of this Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and Hawaii's congressional delegation."

POM-113. A resolution adopted by the House of Representatives of the State of Florida; to the Committee on Energy and Natural Resources:

"HOUSE MEMORIAL 955

"Whereas, the use of domestic alternatives to oil in the nation's motor vehicles could reduce our nation's foreign trade deficit and relieve our dependence on foreign oil and foreign governments, and

"Whereas, alcohol fuels for motor vehicles can be produced from domestically grown crops, such as corn, sugar cane, beets, and wheat, as well as from inedible vegetable waste, and

"Whereas, the American farmer could grow crops for alcohol fuel on farmland currently withheld from production, saving tax dollars paid in government subsidies to farmers not to grow crops, and

"Whereas, the production of alcohol fuels is labor intensive and would provide employment for large numbers of American workers, and

"Whereas, the use of cleaner-burning alcohol fuels, rather than oil, in motor vehicles would result in reduced carbon monoxide and ozone emissions, thus reducing air pollution and protecting the environment, and

"Whereas, alcohol fuels are a renewable resource, in direct contrast to oil, which is a finite, nonrenewable resource: Now, therefore, be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States is hereby urged to take such action as may be necessary to initiate a comprehensive program to develop alcohol fuels and convert the nation's fuel economy from dependence on oil to the use of alcohol as the primary fuel for the nation's motor vehicles.

"Be it further resolved that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-114. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Environment and Public Works:

"SENATE JOINT RESOLUTION 91-26.

"Whereas, Legislation will be introduced in the One Hundred and Second Congress to reauthorize the "Resource Conservation and Recovery Act"; and

"Whereas, Through said legislation the Congress will determine whether the Environmental Protection Agency or the state governments will have the lead regulatory authority over mine wastes; and

"Whereas, In Colorado mining continues to produce almost one-half of one billion dollars worth of minerals annually and is a major source of employment in many rural areas; and

"Whereas, In Colorado it is understood that mine wastes differ dramatically from each other and from industrial, municipal, and hazardous wastes and should be regulated by state experts knowledgeable in mine specific wastes; and

"Whereas, In Colorado the state regulates all mining operations and requires extensive reclamation of all permitted mines through the "Mined Land Reclamation Act of 1976" which recognizes that handling and disposal of mine wastes must be based on site specific factors; and

"Whereas, In Colorado mining operations are also regulated by the "Water Quality Control Act", which includes surface water, ground water, and storm water controls, and the "Air Quality Control Act", and numerous other state environmental programs; and

"Whereas, In Colorado, the General Assembly is concerned about the unnecessary duplication and growth of federal requirements and the increase in bureaucratic entanglements even though the state is responding adequately to protect the public health and welfare and the environment; and

"Whereas, In Colorado the General Assembly through various environmental statutes has recognized the need to balance economic development with environmental protection in order to assure continued mineral production along with sound environmental practices; and

"Whereas, In Colorado the General Assembly opposes the establishment of federal mandates which may be imposed upon the state without funding and without considering the costs to the state; and

"Whereas, In Colorado the Governor and the General Assembly believe that permitting authority over mine waste should remain with the state agencies and not be usurped by the Environmental Protection Authority; and

"Whereas, The Environmental Protection Agency should only be given authority to develop guidelines, set minimum program requirements, and review programs and permits but not have authority to issue or deny permits if they comply with the approved state mine waste programs; now, therefore,

Be It Resolved by the Senate of the Fifty-eighth General Assembly of the State of Colorado, the House of Representatives concurring herein:

"That the Colorado General Assembly hereby urges the Congress of the United States to adopt a provision in the "Resource Conservation and Recovery Act" that allows the states to continue to have the permitting authority and to maintain control of the regulation of mine wastes and that any changes in programs under the "Resource Conservation and Recovery Act" should establish a state based approach for protection of public health and the environment taking into account site specific, waste specific, and waste management specific practices that are currently in use.

"*Be It Further Resolved,* That copies of this resolution be sent to the President of the United States Senate, the Speaker of the United States House of Representatives, Members of the Senate Committee on Environment and Public Works, Members of the House Committee on Energy and Commerce, to each member of the Colorado Congressional delegation, to the Energy and Environment and Executive Committees of the National Conference of State Legislatures, the Executive Committee of the Western Legislative Conference, and the Executive Committee of the Western Governors Association."

POM-115. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on Environment and Public Works:

"JOINT RESOLUTION NO. 16

"Be it resolved by the Legislature of the State of Alaska:

"Whereas the construction and maintenance of an adequate highway system is vital to the economic health of the states and the nation; and

"Whereas the principle of relying on user fees held in a trust fund to finance the federal highway program has been recognized as a sound one by the Congress; and

"Whereas, as a response to the federal deficit, the Congress enacted a five-cent motor fuels tax increase, of which half was earmarked for the federal highway trust fund with one-half cent designated for transit projects, and this increase is scheduled to expire in 1995; and

"Whereas the Congress has for too long been holding back the highway trust fund money from its intended use in order to make it appear that the federal budget deficit is not as large as it actually is; and

"Whereas the money in the highway trust fund is sorely needed by the states for their highway systems; and

"Whereas the unique nature of Alaska's transportation needs has been recognized through an exemption in current federal law that allows the state to transfer funds between categories designated under the federal highway system; and

"Whereas the federal aid highway program is due to expire in September 1991; be it

"*Resolved,* That the Alaska State Legislature urgently calls upon the Congress to make federal highway trust fund money available immediately to the states for obligation in fiscal year 1991, or, in the alternative, requests that the states be repaid in later years for using state money for projects that should be financed by federal trust fund money; and be it further

"*Resolved,* That the five-cent motor fuels tax be continued beyond 1995 and that the entire amount be earmarked for highway purposes; and be it further

"*Resolved,* That when the Federal Surface Transportation Assistance Act is extended, it should retain the same matching requirements and allocation formula for distributing money to the states that are used in the current Act and the same exemption that allows Alaska to transfer funds between categories designated under the federal highway system; and be it further

"*Resolved,* That the Alaska Marine Highway System should be considered to be a part of the national highway system for purposes of federal transportation assistance."

POM-116. A resolution adopted by the New Jersey State Federation of Women's Clubs opposing legislation which would increase the size and weight of trucks on America's highways; to the Committee on Environment and Public Works.

POM-117. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Environment and Public Works.

"SENATE JOINT RESOLUTION NO. 6

"Whereas, Approximately 95 million acres of wetlands currently exist in the lower 48 states of this nation; and

"Whereas, The federal policy toward those wetlands has been reversed in the past few years; and

"Whereas, The regulatory policies of several federal governmental agencies affect land determined to fall within the definition of "wetland"; and

"Whereas, Several differing definitions of the term "wetland" have been adopted by those agencies; and

"Whereas, Many Nevadans are adversely affected by the overlapping of these inconsistent and occasionally incomplete definitions; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the Nevada Legislature hereby urges the Congress of the United States to adopt legislation that will provide a universal definition of the term "wetland" generally applicable to all federal laws and regulations referring to wetlands and the related issues; and be it further

"*Resolved,* That the definition so adopted should specify that "wetland" means a naturally occurring area of predominantly hydric soils that presently support hydrophytic vegetation not common to cultivated land or farming practices; and be if further

"*Resolved,* That for the purposes of the "wetland" definition the phrase "hydric soil" should be defined to mean soil which is consistently wet enough to maintain an anaerobic condition that supports primarily hydrophytic vegetation, and "hydrophytic vegetation" should be defined to mean plants that grow in water or in soils which are made deficient of oxygen because of excessive water content and are generally considered to be a swamp or bog; and be it further

"*Resolved,* That the definition of "wetland" should specifically exclude land previously converted to farming as well as small acreages below a stated size; and be it further

"*Resolved,* That the definition of "wetland" should also specifically exclude areas created artificially by irrigation that would no longer meet the definition of "wetland" if the irrigation ceased, unless the artificial wetland was created specifically to replace a natural wetland no longer regulated as such because of that replacement; and be it further

"*Resolved,* That the Congressional approach to a wetlands program should protect private property rights as defined in federal Executive Order No. 12630, including water rights; and be it further

"*Resolved,* That the Congressional approach to a wetlands program should not consider farming practices such as leveling the land, regardless of the method used, as "dredge and fill" operations subject to regulation; and be it further

"*Resolved,* That the Congressional approach to a wetlands program should recognize that unique conditions exist in each state which require flexibility in the application of the federal policy toward wetlands of "no net loss"; and be it further

"*Resolved,* That a copy of this resolution be transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved,* That this resolution becomes effective upon passage and approval."

POM-118. A resolution adopted by the Board of Supervisors of the County of Los

Angeles, California, supporting legislation relative to free trade between the United States and Mexico, the Committee on Finance.

POM-119. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Finance.

"HOUSE JOINT RESOLUTION 91-1034

"Whereas, It is in the best interests of the United States, Mexico, and Canada to negotiate and enact a North American Free Trade Agreement ("NAFTA"), since such an agreement would provide the United States with an historically unprecedented opportunity to stabilize trading relationships with Mexico; and

"Whereas, Although a NAFTA could cause job losses in certain sectors of the United States economy, the additional trade between the United States, Mexico, and Canada, as a result of a NAFTA, would increase significantly employment opportunities in the United States; and

"Whereas, The value of 1989 Mexican exports to the United States was thirty-five billion dollars and the value of 1989 United States exports to Mexico was thirty billion dollars, making Mexico the number three trading partner of the United States and the United States the number one trading partner of Mexico; and

"Whereas, The Colorado economy and the people of Colorado may benefit greatly through the enactment of a NAFTA and the increased trade with Mexico, particularly in the areas of agriculture, high tech industry, and environmental technology; and

"Whereas, By providing a ready source of technology and technological expertise to an emerging Mexican market, the United States would enhance its relations with its neighbor to the south and thereby present a tremendous market opportunity for United States, Canadian, and Mexican businesses; and

"Whereas, The government and the people of Mexico are deeply concerned about adverse environmental conditions that may exist in Mexico, and President Salinas de Gortari, on behalf of Mexico, has made environmental concerns a national priority; and

"Whereas, The government and people of Mexico will be more able to ameliorate any adverse environmental conditions that may exist if a NAFTA is enacted as a result of increased prosperity in Mexico, Canada, and the United States and

"Whereas, The United States and Mexico are addressing any adverse environmental conditions that may exist along the two thousand mile contiguous border between the two countries through various border alliances and institutions; and

"Whereas, The government and people of Mexico are reaching out to the government and people of the United States to provide, through a NAFTA, the largest and the most prosperous economic trading area in the world; now, therefore,

"Be It Resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"(1) That the General Assembly requests Congress to respond in an affirmative manner by supporting the extension of fast-track authority and allowing the negotiation of a NAFTA;

"(2) That the General Assembly of the State of Colorado urges the Colorado congressional delegation to the United States Congress to support the fast-track authority allowing the negotiation of a NAFTA;

"(3) That the General Assembly of the State of Colorado encourages Congress to consider impact assistance for training workers who may lose their jobs as a direct result of a NAFTA to prepare them for the jobs to be created by the implementation of a NAFTA; and

"(4) That the General Assembly of the State of Colorado urges the United States and Mexico to continue to jointly address and ameliorate any adverse environmental conditions that may exist along the countries' joint border."

POM-120. A concurrent resolution adopted by the Legislature of the State of South Carolina; to the Committee on Finance:

"CONCURRENT RESOLUTION

"Whereas, more than fifty percent of the people in rural counties have not graduated from high school; and

"Whereas, in rural areas the number of citizens living in the poverty range is from eleven to more than thirty-two percent; and

"Whereas, up to thirty-three percent of the population is under thirteeen years of age in these areas; and

"Whereas, up to twelve and five-tenths percent of the people in rural counties are over sixty-five years of age; and

"Whereas, as a result of the poverty, lower educational levels, and ages of the rural residents, incidences of chronic diseases and general health problems are more prevalent; and

"Whereas, Medicare is a federally-funded program created to care for persons sixty-five years and older; and

"Whereas, Medicare has not kept up with hospital inflation rates; and

"Whereas, while all hospitals face losses created by Medicare payments, the problem is exacerbated in rural hospitals which are paid an average of thirty to forty percent less than urban counterparts for similar cases; and

"Whereas, this underfunding has significantly impacted budgets of rural hospitals. Now, therefore: be it

"*Resolved by the Senate, the House of Representatives concurring:*

"That the members of the General Assembly memoralize Congress to make federally-funded medical payments equalized for equal treatment at all medical facilities eligible for these payments so as to encourage more doctors to practice medicine in rural areas in South Carolina."

POM-121. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Finance:

SENATE RESOLUTION NO. 38

"Whereas, liquefied petroleum gas (LPG) for automotive use is a non-toxic, non-corrosive, lead-free, hydrocarbon fuel that is capable of delivering consistent vehicle performance with clean, smooth combustion under all driving conditions; and

"Whereas, the technology exists to affordably convert engines from gasoline to "dual fuel" or "LPG-only" systems, with data from Australia indicating that LPG conversion is a sound proposition for motorists who drive more than 19,000 miles a year or who retain their vehicles for four or five years; and

"Whereas, data from Australia also indicate that the initial cost of standard installation for an LPG system can be recouped in less than fifteen months with approximately 19,000 miles of driving a year, and that LPG-powered vehicles are equally safe, if not safer overall, than vehicles with gasoline systems; and

"Whereas, although LPG operation involves some loss of power as compared to gasoline operation, the difference between the two is minimal and barely noticeable except under extreme engine load, and because LPG vaporizes completely before it enters the engine, its use results in a smoother application of power across the range of engine operating conditions; and

"Whereas, although LPG produces less energy output than gasoline on a gallon for gallon basis and requires up to twenty per cent more fuel by volume to travel a given distance, data from Australia indicate that for every six dollars worth of LPG used, a person must use ten dollars worth of gasoline to travel the same distance; and

"Whereas, with growing concerns about the long-term environmental and health effects of air pollution, the ongoing war in the Persian Gulf and the destruction of that region's oil producing capacity, and the ever present danger of catastrophic oil spills, the conversion of automobiles from gasoline to "dual-fuel" or "LPG only" systems should be encouraged; now, therefore, be it

Resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, That the Congress of the United States is respectfully requested to provide tax credits to motorists to encourage the conversion of automobiles from gasoline to liquefied petroleum gas."

POM-122. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Finance:

SENATE JOINT RESOLUTION NO. 9

"Whereas, America's senior citizens have voiced concern over the future of their Social Security benefits; and

"Whereas, Approximately 90 percent of the senior citizens who receive Social Security benefits have yearly earnings in the low to middle income range; and

"Whereas, It has been suggested that a reduction in Social Security benefits is a means to balance the budget; and

"Whereas, Because of the increasing national debt and budget deficit, Congress has found it necessary to use surpluses from the Social Security Trust Fund to limit the amount of the deficit; and

"Whereas, To ensure that adequate Social Security benefits are available for the future generations, proper management of the Social Security Trust Fund is of utmost importance; now, therefore, be it

"Resolved by the Senate and Assembly of the State of Nevada, jointly, That Congress is hereby urged to deposit all money in the Social Security Trust Fund into an independent trust fund; and be it further

"Resolved, That Congress is hereby urged not to use surpluses from the Social Security Trust Fund to limit the amount of the budget deficit; and be it further

"Resolved, That copies of this resolution be transmitted by the Secretary of the Senate to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"Resolved, That this resolution becomes effective upon passage and approval."

POM—123. A resolution adopted by the Municipal Police Employees' Retirement System favoring legislation to changes to provisions of the tax code relative to overall contributions and benefits; to the Committee on Finance.

POM–124. A resolution adopted by the House of Representatives of the State of Illinois to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 142

"Whereas, The centrally controlled government in Belgrade, Yugoslavia, has held a strong arm rule over the democratically inclined State of Croatia since the end of World War II; and

"Whereas, The ethnic, political and economic suppression that Belgrade has exercised over Croatia is finally being challenged; and

"Whereas, Croatia has been fighting and continues to fight for freedom and democracy, and the people of Croatia has been fighting and continues to fight for freedom and democracy, and the people of Croatia have recently elected a democratic government that has a chance to give them the democracy and self-determination that they have long sought; and

"Whereas, The movement for democratic reform and self-determination in Croatia must be supported by the United States of America, thus putting an end to years of totalitarian rule; and

"Whereas, The Croatian State, which along with the State of Slovenia, is seeking emancipation from the communist controlled central government in Belgrade, needs and deserves whatever moral, financial and political support we can lend at this difficult time; therefore, be it

"Resolved, by the House of Representatives of the Eighty-Seventh General Assembly of the State of Illinois, That we join with the Croatian-American community in urging President Bush and the United States Congress to support the people of Croatia and their elected government in their fight for freedom and democracy."

POM–125. A concurrent resolution adopted by the Legislature of the State of Hawaii; to the Committee on Foreign Relations:

HOUSE CONCURRENT RESOLUTION NO. 187

"Whereas, the 1990s will likely bring in the Asian-Pacific arena further major transformations in the structure of society, advances in science and technology and continued growth in regional business and trade, trends already reshaping the industrial structure of the Pacific Rim and the trading patterns and relations among nations; and

"Whereas, the high rates of economic growth and investment in recent years within the region and the emergency of Japan as a financial and technological power have fueled the belief that the Asian-Pacific region will become the central driving force for new technology development and economic growth in the twenty-first century; and

"Whereas, Asian countries of the Pacific Rim believe that the United States's commitment to Asian-Pacific economic cooperation is vital because the United States provides a bridge between the Atlantic and the Pacific; and

"Whereas, Hawaii, by virtue of its unique geopolitical position and cultural and ethnic links with the nations of the Asian-Pacific region, is in a prime position to become a crossroads for mutual cooperation and understanding in this emerging Pacific community; and

"Whereas, Hawaii is becoming a center for diplomatic and international cooperation, including having served as the venue of activities, including the negotiations resulting in the Compact of Free Association, the Pacific Islands Conference of leaders from the region, the first United States-Pacific Nations Summit called by President George Bush, and a symposium on United States-Asia/Pacific security strategy; and

"Whereas, Hawaii is already host to significant international conferences (both official and quasi-official) and trade shows, a trend that can be harnessed to increase opportunities for Hawaii business, government, and academic communities, including tourism; and

"Whereas, Honolulu has emerged as a significant airline hub, with more than two dozen international airlines providing service through Hawaii; and

"Whereas, Honolulu has a telecommunication network that is especially significant given its strategic time zone midway in the Pacific Basin; and

"Whereas, Hawaii has in place institutions with superior resources and experts that act as an international center for east-west research, education, and training, including expertise in Asian-Pacific and Polynesian development issues at the University of Hawaii, the East-West Center, and the Bishop Museum, and expertise in foreign policy issues at the private, nongovernmental Pacific Forum/CSIS; and

"Whereas, the School of Hawaiian, Asian and Pacific Studies at the University of Hawaii has taken steps to establish foreign service training programs for both United States and international students; and

"Whereas, Hawaii is the site of full-time consulates of Australia, France, Japan, South Korea, and the Philippines; twenty-six honorary consuls; forty sister relations; and Pacific Island area offices including American Samoa, Guam, Western Samoa, Tonga, the Cook Islands, the Republic of the Marshall Islands, the Commonwealth of the Northern Marianas, the Federated States of Micronesia, and the Republic of Palau; and

"Whereas, the Pacific Basin Development Council, a jointly supported regional organization that focuses on issues of common concern, directed by the governors of the American Flag Pacific Islands (Hawaii, Guam, the Northern Marianas, and American Samoa) is headquartered in Hawaii; and

"Whereas, the Office of International Relations, working with the United States Departments of State, Commerce, and Interior, has begun efforts to establish Hawaii as a clearinghouse for information in international activities, has developed contacts with foreign government representatives, and has been increasingly focusing on international trade issues, working with the United States Departments of Interior and State on these and other international issues of concern to Hawaii; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the Senate concurring, that the President of the United States, the United States Secretary of State, the United States Secretary of Commerce, and the United States Secretary of the Interior are urged to recommend Hawaii as the site of the United States-Pacific Nations Joint Commercial Commission headquarters."

POM–126. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Foreign Relations:

"HOUSE RESOLUTION NO. 422

"Whereas, the United States of America organized and led a coalition of 28 nations and freed Kuwait from Iraqi occupation pursuant to United Nations and Congressional authorization; and,

"Whereas, following the cease-fire, Saddam Hussein has crushed the Shiite rebellion in South Iraq and is now wreaking his vengeance on the Kurdish population in the North; and,

"Whereas, one to two million Kurdish refugees are fleeing from Saddam Hussein's wrath which was exemplified in his use of gas on the Kurds a few years ago; and,

"Whereas, the United States Government is responding with a massive airlift of food, blankets and medicine to the refugees who are starving and dying in the cold; and,

"Whereas, the United States Government has proclaimed a buffer zone north of the 38th parallel in North Iraq to prevent Saddam Hussein from attacking the Kurdish population; and,

"Whereas, the United States has traditionally followed a foreign policy based on democratic and humanitarian principles in the twentieth century, beginning with Secretary of State John Hay's Open Door Policy in 1900, continuing with President Woodrow Wilson's Fourteen Points of 1918 ("self-determination"), and culminating in President Franklin D. Roosevelt's Four Freedoms of 1941 ("freedom of speech and worship, and freedom from want and fear"); and,

"Whereas, Prime Minister Winston Churchill and President Franklin D. Roosevelt in their crusade against Adolf Hitler proclaimed the Atlantic Charter in 1941; and,

"Whereas, President George Bush, in organizing and leading the coalition to free Kuwait, has called Saddam Hussein a "Hitler" and urged the Iraqi people to get rid of Saddam Hussein; and,

"Whereas, Secretary of State James Baker is leading an effort to bring peace between Israel and her Arab neighbors; and, between Israeli and Palestinians; now therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that the United States of America live up to its democratic and humanitarian rights, recognize the human and civil rights of the many millions of Kurds in Iraq, organize and lead the work to help the Kurds gain their physical and spiritual security in the North Iraqi homeland where they have lived for millenia; and,

"Be it further resolved, that the House ask Her Britannic Majesty's Government to acknowledge the human and civil rights of the many millions of Kurds and cooperate with the United States government to bring peace and security to the Kurds in particular and the region in general; and,

"Be it further resolved that the House call on the United Nations to accept responsibility for the tragic situation of the aftermath of the war to liberate Kuwait and act expeditiously, as it did in authorizing the use of force to implement its resolutions, to help the Kurds; and,

"Be it further resolved that the House call upon the coalition partners and the world community to help Turkey and Iran to cope with the overwhelming numbers of Kurdish refugees clamoring for haven in their territories."

POM–127. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Foreign Relations:

"RESOLUTION NO. 2

"Whereas, on April 12, 1973, the United States Department of Defense publicly stated that there was "no evidence" of live American POWs in Southeast Asia; and

"Whereas, the public statement was given nine days after Pathet Lao leaders declared on April 3, 1973, that Laotian communist forces did, in fact, have live American prisoners of war in their control; and

"Whereas, no POWs held by the Laotian government and military forces were ever released; and

"Whereas, there have been more than 11,700 live sighting reports received by the Department of Defense since 1973 and, after detailed analysis, the Department of Defense admits there are a number of "unresolved" and "discrepancy" cases; and

"Whereas, in October 1990, the United States Senate Foreign Relations Committee released an "Interim Report on the Southeast Asian POW/MIA Issue" that concluded that United States military and civilian personnel were held against their will in Southeast Asia, despite earlier public statements by the Department of Defense that there was "no evidence" of live POWs, and that information available to the United States government does not rule out the probability that United States citizens are still held in Southeast Asia; and

"Whereas, the Senate Interim Report states that congressional inquiries into the POW/MIA issue have been hampered by information that was concealed from committee members, or were "misinterpreted or manipulated" in government files; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that it requests the Congress of the United States to continue funding of this investigation that is vital to resolving the POW/MIA issue in Southeast Asia."

POM-128. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Foreign Relations:

RESOLUTION NO. 6

"Whereas, the Baltic Republics of Latvia, Lithuania, and Estonia were independent democratic republics, fully recognized by the United States of America and the world community before being annexed forcefully by the Soviet Union in 1940; and

"Whereas, the United States never recognized the forcible annexation of the Baltic Republics and has always supported their right to self-determination; and

"Whereas, the Soviet troops and the black berets, in full battle gear, attacked and killed the unarmed civilians who had erected concrete barricades and flocked by the thousands to protect their parliament and official buildings in the Baltic Republics; and

"Whereas, the Soviet actions in Latvia, Lithuania, and Estonia are in direct violation of the Helsinki Final Act, the United Nations Charter, and other international documents guaranteeing human rights and self-determination of all people; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that Congress should condemn the brutal violence and intimidation by Soviet forces in the Baltic Republics and should call on President Gorbachev to cease immediately the use of force against the people and the democratically elected governments of Latvia, Lithuania, and Estonia, and enter into meaningful negotiations with the democratically elected leaders of Latvia, Lithuania, and Estonia for the purposes of establishing the formal recognition of the independent Baltic Republics.

"Be it further resolved that Minnesota's concern lies with the Baltic Republics due to the large number of Minnesotans who are of Latvian, Lithuanian, and Estonian heritage."

POM-129. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Governmental Affairs:

ASSEMBLY JOINT RESOLUTION NO. 18

"Whereas, More than 2,000 Americans are still classified as missing-in-action or as prisoners-of-war as a result of the Vietnam Conflict; and

"Whereas, Although it has been 18 years since all of the American prisoners-of-war were supposedly released from Indochina, there is much evidence to the contrary; and

"Whereas, Among that evidence are over 10,000 reports compiled by the Defense Intelligence Agency since 1975 and the information contained in the October 29, 1990, Interim Report on the Southeast Asian POW/MIA issue released by the United States Senate Committee on Foreign Relations; and

"Whereas, The reports compiled by the Defense Intelligence Agency are classifed as "Top Secret" and are unavailable to the public and even to the members of the families of those Americans still missing; and

"Whereas, H.R. 1147 of the 102d Congress 1st Session (1991), would direct each federal agency to disclose the information it possesses concerning any United States personnel classified as a prisoner-of-war or missing-in-action after 1940; and

"Whereas, The bill contains sufficient provisions to ensure that our national security is not breached and to preserve the privacy of the family members of those Americans who are still missing; and

"Whereas, The soldiers who serve this country deserve the same loyalty from their fellow countrymen as we expected from them when they were deployed; now, therefore, be it

"*Resolved, by the assembly and Senate of the State of Nevada, jointly*, That the members of the Nevada Legislature urge Congress to enact H.R. 1147 of the 102d Congress, 1st Session (1991); and be it further

"*Resolved*, That copies of this resolution be prepared and transmitted by the Chief Clerk of the Assembly to the Vice President of the United States as presiding officer of the Senate, the Speaker of the House of Representatives and each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM-130. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Govermental Affairs:

HOUSE JOINT RESOLUTION 91-1023

"Whereas, There are more than 88,000 American service personnel missing in action from World War II, the Korean Conflict, and the Vietnam War, without a complete or satisfactory resolution of their status taking place in any instance; and

"Whereas, Evidence has continued to mount over the years that American military personnel are being held against their will in Southeast Asia after the end of the conflict in that region, including evidence of more than 11,000 live sighting reports received by the Department of Defense since 1973, and such evidence is supported by facts such as the statements made by Laotian leaders in April, 1973, that they did in fact then have live American prisoners of war under their control who were never released; and

"Whereas, In October, 1990, the minority staff of the United States Senate Committee on Foreign Relations released an "Interim Report on the Southeast Asian POW/MIA Issue", which concluded that United States military and civilian personnel were held against their will in Southeast Asia after April, 1973, despite earlier public statements by the Department of Defense on April 12, 1973, that there was "no evidence" of live prisoners of war, statements which were contrary to information then available to the United States government; and

"Whereas, The Interim Report states that Congressional inquiries into the POW/MIA issue have been hampered by relevant information being concealed from congressional members, or being "misinterpreted or manipulated" in government files; and

"Whereas, Although the Department of Defense has taken the public stance since 1973 that there was "no evidence" of live American prisoners of war in Southeast Asia, after detailed analysis of growing evidence, the Department of Defense admits there are a number of "discrepancy" and "unresolved" cases; and

"Whereas, The "POW/MIA Truth Bill", now awaiting consideration before the United States Congress, would direct the heads of federal government agencies and departments to disclose relevant information, including live sighting reports, concerning those unreturned United States service personnel who were originally classified as prisoners of war or missing in action from World War II, the Korean Conflict, the Vietnam War, and if necessary, the Persian Gulf War; and

"Whereas, This bill would prevent disclosure of the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas, A resolution was submitted to the United States Senate on March 14, 1991, asking that a Senate Select Committee on POW/MIA Affairs be formed, which would formally put the United States Senate on record as giving the POW/MIA issue a higher national priority than the executive branch has assigned to it for nearly a decade; and

"Whereas, Once established, a Select Committee would give institutional life in the Congress to the investigation presently underway by the minority staff of the Senate Committee on Foreign relations, whose significant findings have so effectively laid the groundwork and set the standards for subsequent efforts in this area; and

"Whereas, The "POW/MIA Truth Bill" and the resolution to establish a Senate Select Committee on POW/MIA Affairs would set in motion the processes by which the fullest possible accounting of all POW's and MIA's could be achieved, thus satisfying to the greatest extent possible the families of missing service personnel who have waited for such a long time for such an accounting, as well as satisfying the nation as a whole; now, therefore,

"Be it resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"That the General Assembly of the State of Colorado urges the Congress of the United States to enact the "POW/MIA Truth Bill" into law and to resolve to establish a Senate Select Committee on POW/MIA Affairs, in order to further the cause and facilitation of the disclosure of information and the ongoing investigation of such information concerning American service personnel being held prisoner or missing in action from World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War; be it further

"*Resolved*, That the General Assembly of the State of Colorado urges the President of the United States to bring to bear the full force, power, and influence of the President's office and cabinet in the active support of the passage and implementation of the "POW/MIA Truth Bill", and in the active support of the passage and implementation of the resolution to establish a Senate Select Committee on POW/MIA affairs, thereby demonstrating the higher national priority which the executive branch assigns to furthering the cause and facilitation of the disclosure of information and the ongoing investigation of such information concerning American service personnel being held prisoner or missing in action from World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War."

POM-131. A petition from citizens of Concord, New Hampshire opposing statehood for the District of Columbia; to the Committee on Governmental Affairs.

POM-132. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on Governmental Affairs:

"HOUSE JOINT RESOLUTION 91-1023

"Whereas, There are more than 88,000 American service personnel missing in action from World War II, the Korean Conflict, and the Vietnam War, without a complete or satisfactory resolution of their status taking place in any instance; and

"Whereas, Evidence has continued to mount over the years that American military personnel are being held against their will in Southeast Asia after the end of the conflict in that region, including evidence of more than 11,000 live sighting reports received by the Department of Defense since 1973, and such evidence is supported by facts such as the statements made by Laotian leaders in April, 1973, that they did in fact then have live American prisoners of war under their control who were never released; and

"Whereas, In October, 1990, the minority staff of the United States Senate Committee on Foreign Relations released an "Interim Report on the Southeast Asian POW/MIA Issue", which concluded that United States military and civilian personnel were held against their will in Southeast Asia after April, 1973, despite earlier public statements by the Department of Defense on April 12, 1973, that there was "no evidence" of live prisoners of war, statements which were contrary to information then available to the United States government; and

"Whereas, The Interim Report states that Congressional inquiries into the POW/MIA issue have been hampered by relevant information being concealed from congressional members, or being "misinterpreted or manipulated" in government files; and

"Whereas, Although the Department of Defense has taken the public stance since 1973 that there was "no evidence" of live American prisoners of war in Southeast Asia, after detailed analysis of growing evidence, the Department of Defense admits there are a number of "discrepancy" and "unresolved" cases; and

"Whereas, The "POW/MIA Truth Bill", now awaiting consideration before the United States Congress, would direct the heads of federal government agencies and departments to disclose relevant information, including live sighting reports, concerning those unreturned United States service personnel who were originally classified as prisoners of war or missing in action from World War II, the Korean Conflict, the Vietnam War, and if necessary, the Persian Gulf War; and

"Whereas, This bill would prevent disclosure of the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas, A resolution was submitted to the United States Senate on March 14, 1991, asking that a Senate Select Committee on POW/MIA Affairs be formed, which would formally put the United States Senate on record as giving the POW/MIA issue a higher national priority than the executive branch has assigned to it for nearly a decade; and

"Whereas, Once established, a Select Committee would give institutional life in the Congress to the investigation presently underway by the minority staff of the Senate Committee on Foreign Relations, whose significant findings have so effectively laid the groundwork and set the standards for subsequent efforts in this area; and

"Whereas, The "POW/MIA Truth Bill" and the resolution to establish a Senate Select Committee on POW/MIA Affairs would set in motion the processes by which the fullest possible accounting of all POW's and MIA's could be achieved, thus satisfying to the greatest extent possible the families of missing service personnel who have waited for such a long time for such an accounting, as well as satisfying the nation as a whole; now, therefore,

"Be it resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein: I21"That the General Assembly of the State of Colorado urges the Congress of the United States to enact the "POW/MIA Truth Bill" into law and to resolve to establish a Senate Select Committee on POW/MIA Affairs, in order to further the cause and facilitation of the disclosure of information and the ongoing investigation of such information concerning American service personnel being held prisoner or missing in action from World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War.

"Be it further resolved, That the General Assembly of the State of Colorado urges the President of the United States to bring to bear the full force, power, and influence of the President's office and cabinet in the active support of the passage and implementation of the "POW/MIA Truth Bill", and in the active support of the passage and implementation of the resolution to establish a Senate Select Committee on POW/MIA Affairs, thereby demonstrating the higher national priority which the executive branch assigns to furthering the cause and facilitation of the disclosure of information and the ongoing investigation of such information concerning American service personnel being held prisoner or missing in action from World War II, the Korean Conflict, the Vietnam War, and the Persian Gulf War."

POM-133. A resolution adopted by the Legislature of the State of Florida; to the Committee on Governmental Affairs:

"HOUSE MEMORIAL NO. 2517

"Whereas, the United States Government has records and information pertaining to United States personnel listed as prisoners of war or missing in action from World War II, the Korean Conflict, and the Vietnam Conflict, and

"Whereas, disclosure of information related to such persons would allow the government of a nation proud of its democratic heritage to no longer keep secret from the public facts necessary to achieve long overdue introspection and final catharsis regarding World War II, the Korean Conflict, and the Vietnam Conflict, and

"Whereas, disclosure would permit this nation to better examine its past and provide more complete and accurate facts upon which future policy can be developed, and

"Whereas, disclosure would allow generations recalling World War II, the Korean Conflict, and the Vietnam Conflict to honor those brave Americans who suffered and may continue to suffer for the freedom that all Americans now enjoy, and

"Whereas, disclosure would make all generations appreciate the ultimate sacrifices that Americans have made in the name of democracy and would teach these generations that Americans place a higher value on the freedom for all than they place on their own lives, and

"Whereas, disclosure might also benefit surviving prisoners of war by compelling their captors to set them free, and

"Whereas, House Resolution 1147 accomplishes disclosure and the goals stated herein while protecting national security by safeguarding information concerning sources and protecting the privacy of affected families, Now, therefore,

"Be it resolved by the Legislature of the State of Florida: That the Congress of the United States is requested to pass House Resolution 1147."

POM-134. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on Governmental Affairs:

"RESOLUTION NO. 5

"Whereas, there are more than 88,000 American service personnel missing in action from World War II, Korea, and Vietnam; and

"Whereas, recent information has been released regarding American service personnel being held against their will after World War II, Korea, and Vietnam; and

"Whereas, the United States Senate Foreign Relations Committee released an interim report in October 1990 that concluded that American service personnel were held in Southeast Asia after the end of the Vietnam War and that information available to the United States government does not rule out the probability that American service personnel are still being held in Southeast Asia; and

"Whereas, the POW/MIA truth bill, would direct the heads of the federal government agencies and departments to disclose information concerning the United States service personnel classified as prisoners of war or missing in action from World War II, Korea, and Vietnam; and

"Whereas, this bill would censor out the sources and methods used to collect the live sighting reports, thus protecting national security; and

"Whereas, the families of these missing service personnel need and deserve the opportunity to have access to the information concerning the status of their loved ones after these many years; now, therefore,

"Be it resolved by the Legislature of the State of Minnesota that it urges the Congress of the United States to begin immediate committee hearings and requests action on the POW/MIA truth bill."

POM-135. A joint resolution adopted by the Legislature of the State of Colorado; to the Committee on the Judiciary:

HOUSE JOINT RESOLUTION 91-1033

"Whereas, The right of free expression is part of the foundation of the United States Constitution, although the courts have drawn very careful limits on expression in specific instances as legitimate means of maintaining public safety and decency, as well as orderly and productive public debate; and

"Whereas, Certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others; and

"Whereas, There are symbols of our national unity such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas, The American Flag to this day is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults; and

"Whereas, It is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes of a proper station under law and decency; now, therefore,

"Be it resolved by the House of Representatives of the Fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:

"That the General Assembly hereby petitions the Congress of the United States to propose an amendment to the Constitution of the United States which would forbid physical desecration of the United States flag, and to submit such amendment to the state legislatures for ratification."

POM-136. A joint resolution adopted by the Legislature of the State of Alaska; to the Committee on the Judiciary:

"JOINT RESOLUTION NO. 16

"Whereas three out of four women in the United States will be victims of at least one violent crime during their lifetimes; and

"Whereas the most serious crimes against women are rising at a significantly faster rate than the rate of total crime, and rape rates have risen nearly four times as fast as the total crime rate during the past decade; and

"Whereas in the United States between 3,000,000 and 4,000,000 women are beaten each year and a woman is beaten by her spouse or partner every 18 seconds; and

"Whereas from 1974 to 1987 the national rate of assaults against young women jumped by 48 percent, while for men of the same age group it decreased by 12 percent; and

"Whereas the rape rate in the state is one and one-half times the national rate; and

"Whereas the state's domestic violence and sexual assault programs have seen a 23 percent increase in the number of victims of domestic violence and sexual assault and a 44 percent increase in shelter nights in the past three years; and

"Whereas last year alone there was a 27 percent increase in domestic violence cases brought before the district courts of the state; and

"Whereas on January 14, 1991, S. 15, the Violence Against Women Act of 1991, was introduced into the United States Senate to combat violence and crimes against women on streets and in homes; and

"Whereas S. 15 is a comprehensive bill to address domestic violence and provides national leadership and funding for increased efforts by prosecutors, police, public safety departments, shelters, and rape crisis centers to provide effective prevention, intervention, and response to this growing national problem; and

"Whereas on February 21, 1991, S. 472, a bill that in part addresses the problem of domestic violence was introduced into the United States Senate to improve the reporting of sexual assaults at school campuses, fund education grants to reduce domestic violence and to create a national task force on violence against women.

"Be it resolved that the Alaska State Legislature declares its support for prompt action by the United States Congress to enact comprehensive legislation to combat domestic and other violence against women, and urges the United States Congress to enact legislation encompassing the best and most enlightened provisions of both S. 15 and Sec. 201 and Secs. 241-272 of S. 472 in order to combat the growing national problem of violence against women."

POM-137. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary:

"CONCURRENT RESOLUTION NO. 2

"Whereas, although the right of free expression is part of the foundation of the United States Constitution, very carefully drawn limits on expression in specific instances have long been recognized as a legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate; and

"Whereas, certain actions, although related to a person's right to freedom of expression, interfere with public peace, public decency, and the rights of expression and sacred values of others; and

"Whereas, there are symbols of our national soul such as the Washington Monument, the United States Capitol Building, and memorials to our greatest leaders, which are the property of every American and are therefore worthy of protection from desecration and dishonor; and

"Whereas, the American flag is still an honorable and worthy banner of a nation which is thankful for its strengths, committed to curing its faults, and remains the destination of millions of immigrants who are attracted by the American ideal; and

"Whereas, the law, as interpreted by the United States Supreme Court, no longer accords the "Stars and Stripes" the reverence, respect, and dignity befitting the banner of this most noble experiment of a nation-state; and

"Whereas, it is only fitting that people everywhere lend their voices to a forceful call for the American flag to be restored to a proper station under law and decency.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to propose an amendment to the United States Constitution, for ratification by the states, specifying that congress and the states shall have the power to prohibit the physical desecration of the flag of the United States."

POM-138. A resolution adopted by the Unicameral Legislature of the State of Nebraska; to the Committee on the Judiciary:

"RESOLUTION NO. 194

"Whereas, the business of insurance is currently regulated almost entirely by the states; and

"Whereas, the various states, due to their size, economy, and generally dissimilar needs, require individualized regulation; and

"Whereas, under the existing regulatory system Nebraska's Director of Insurance has responsibilities to regulate the activities of insurers licensed to transact business in this state; and

"Whereas, the regulatory responsibilities of the director include issuing certificates of authority to transact business in this state, examining insurers for solvency, regulating unfair trade practices and unfair claims settlement practices, licensing and disciplining agents and brokers, and providing information and assistance to the public; and

"Whereas, the federal McCarran-Ferguson Act leaves the regulation of the business of insurance to the states; and

"Whereas, the system of state regulation of the insurance industry has proven to be responsive and effective in its protection of each state's residents; and

"Whereas, organizations such as the National Conference of Insurance Legislators, the National Conference of State Legislatures, and the National Association of Insurance Commissioners work cooperatively with state legislatures and state insurance commissioners to address common needs and problems; and

"Whereas, H.R. 9 and S. 430 which are being considered by the Congress would repeal essential provisions of the McCarran-Ferguson Act; and

"Whereas, H.R. 9 and S. 430 would result in federal bureaucracies usurping much of the regulatory authority of the director and the policymaking authority of the Legislature.

"Now, therefore, be it resolved by the members of the ninety-second Legislature of Nebraska, first session:

"1. That the Legislature hereby respectfully urges the Congress of the United States to reject H.R. 9 and S. 430 or any similar legislation which would infringe upon the authority of Nebraska and every other state to be the principal regulators of insurance companies.

"2. That official copies of this resolution be prepared and forwarded to the Speaker of the House of Representatives and President of the Senate of the Congress of the United States and to all members of the Nebraska delegation to the Congress of the United States."

POM-139. A resolution adopted by the County of Suffolk, New York Legislature urging passage of the "Brady" handgun control bill; to the Committee on the Judiciary.

POM-140. A resolution adopted by the Senate of the State of Illinois; to the Committee on the Judiciary.

"SENATE RESOLUTION NO. 318

"Whereas, The business of insurance is currently regulated almost entirely by the states; and

"Whereas, Under existing state and federal law, the Director of the Illinois Department of Insurance has the responsibility to regulate the activities of approximately 1,800 insurance companies conducting business in Illinois, as well as the activities of many thousands of agents and brokers; and

"Whereas, Those regulatory responsibilities include fraud prevention, fiscal examinations, licensing, investigation of complaints and enforcement against violators; and

"Whereas, This system of state regulation of the insurance industry has proven to be an effective protection for the public, especially when compared to federal efforts at the regulation of financial institutions, such as the savings and loan industry; and

"Whereas, The insurers regulated by the State generate annual premiums of $21,318,142,560; and

"Whereas, Partial operation of the Department of Insurance is funded by fees and assessments levied on insurers with support from the General Revenue Fund; and

"Whereas, Additionally, insurers annually pay a Gross Premium Tax to the State's General Revenue Fund which in the 1990-91 Fiscal Year is estimated to exceed $161.8 million, a revenue source exceeded in size only by the Personal Income, Corporation, and Sales and Use Taxes; and

"Whereas, The federal McCarran-Ferguson Act delegates responsibility for insurance regulation to the states, so long as they provide consumer protection from price-fixing and other unfair business practices which Illinois law currently provides; and

"Whereas, H.R. 9 and S. 430 which are being considered by the United States Congress would be unnecessary, duplicative and possibly conflicting as they relate to insurers doing business in Illinois; and

"Whereas, H.R. 9 and S. 430 would prohibit certain practices which insurers now use to control insurance costs; and

"Whereas, H.R. 9 and S. 430 would result in federal bureaucracies usurping much of the authority of the Director of the Illinois Department of Insurance and the General Assembly of the State of Illinois; therefore, be it

"Resolved, by the Senate of the eighty-seventh General Assembly of the State of Illinois, that we memorialize the President and the Congress of the United States to reject H.R. 9 and S. 430 or any similar legislation which would infringe on the authority of Illinois and each other state, to be the principal regulator of insurers."

POM-141. A resolution adopted by the Senate of the State of Illinois; to the Committee on the Judiciary:

"HOUSE RESOLUTION NO. 496

"Whereas, The business of insurance is currently regulated almost entirely by the States; and

"Whereas, Under existing State and federal law the Director of the Illinois Department of Insurance has the responsibility to regulate the activities of approximately 1,800 insurance companies conducting business in Illinois, as well as the activities of many thousands of agents and brokers; and

"Whereas, Those regulatory responsibilities include fraud prevention, fiscal examinations, licensing, investigation of complaints, and enforcement actions against violators; and

"Whereas, This system of state regulation of the insurance industry has proven to be an effective protection for the public, especially when compared to federal efforts at the regulation of financial institutions, such as the savings and loan industry; and

"Whereas, The insurers regulated by the State generate annual premiums of $21,318,142,560; and

"Whereas, Partial operation of the Department of Insurance is funded by fees and assessments levied on insurers with support from the General Revenue Fund; and

"Whereas, Additionally, insurers annually pay a gross premium tax to the State's General Revenue Fund which, in the 1990-91 Fiscal year, is estimated to exceed $161.8 million, a revenue source exceeded in size only by the personal income, corporation, and sales and use taxes; and

"Whereas, The federal McCarran-Ferguson Act delegates responsibility for insurance regulation to the states, so long as they provide consumer protection from price fixing and other unfair business practices which Illinois law currently provides; and

"Whereas, Application of federal antitrust laws pursuant to H.R. 9 and S. 430, which are being considered by the United State's Congress, would be unnecessary, duplicative and possibly conflicting as they relate to insurers doing business in Illinois; and

"Whereas, H.R. 9 and S. 430 would prohibit certain practices which insurers now use to control insurance costs; and

"Whereas, H.R. 9 and S. 430 would result in federal bureaucracies usurping much of the authority of the Director of the Illinois Department of Insurance and the General Assembly of the State of Illinois; therefore, be it

"Resolved, by the House of Representatives of the eighty-seventh General Assembly of the State of Illinois, that we memorialize the President and the Congress of the United States to reject H.R. 9 and S. 430 or any similar legislation which would infringe on the authority of Illinois and each other state, to be the principal regulator of insurers."

POM-142. A resolution adopted by the City Council of Seattle, Washington urging passage of the "Brady Bill" calling for a seven day waiting period prior to the purchase of a handgun; to the Committee on the Judiciary.

POM-143. A resolution adopted by the Senate of the State of Hawaii; to the Committee on the Judiciary.

SENATE RESOLUTION 120

"Whereas, the people of the State of Hawaii come from diverse ethnic and national backgrounds and live in harmony because of mutual respect and the Aloha spirit; and

"Whereas, the history of our State shows that the road to harmony requires elimination of practices which foster discrimination in all areas of life; and

"Whereas, the 1988 Legislature, in creating the Hawaii Civil Rights Commission, declared that "the practice of discrimination because of race, color, religion, age, sex, marital status, national origin, ancestry, or handicapped status in employment, housing, or public accommodations is against public policy"; and

"Whereas, Congress is presently considering H.R. 1, the Civil Rights Act of 1991, which is intended to restore civil rights protections which were dramatically limited by recent Supreme Court decisions and to strengthen existing protections and remedies available under federal civil rights laws in order to provide more effective deterrence and adequate compensation for victims of discrimination; and

"Whereas, persons suffering from employment discrimination need the protection of strong laws at both the state and federal levels in order to ensure that factors unrelated to job performance are not considered in employment decisions; and

"Whereas, enforcement of strong state laws against discrimination may be impeded by federal cases which changed the burden of proof from that established in earlier precedents and created procedural roadblocks which may allow discriminatory practices to continue; and

"Whereas, the promise of equality embodied in our Constitution and the Declaration of Independence needs to be clearly stated in our laws guaranteeing civil rights protection to all persons; now, therefore,

"Be it resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that the Senate expresses its strongest support for the passage of the Civil Rights Act of 1991."

POM-144. A concurrent resolution adopted by the Legislature of the State of Minnesota; to the Committee on the Judiciary:

"RESOLUTION NO. 4

"Whereas, on February 13, 1991, the Canadian immigration service imposed new entry permit rules for crossing the International Border from Lake of the Woods to Pigeon River; and

"Whereas, the new permits are difficult to obtain, limited in scope, extremely burdensome in practice, and of no apparent use for ordinary purposes of border control; and

"Whereas, open input by citizens of both the United States and Canada was not solicited; and

"Whereas, the new rules put an impossible economic burden on thousands of people whose livelihoods depend on reasonable access to the lakes and forests of the boundary area; and

"Whereas, the history of the Canada-United States border in Minnesota has been one of cooperation and accommodation; and

"Whereas, the great wilderness along the border has a matchless value for the people of the two countries that can only be enjoyed as a whole and will be destroyed by any effort to make it into two isolated parts; and

"Whereas, this border does not resemble other international frontiers and has always been administered for the mutual advantage of all concerned people of both countries; and

"Whereas, it is difficult even to understand what the purpose of these disruptive new rules could be; and

"Whereas, it is the confident hope of the people of Minnesota that their friends in Canada will quickly correct this uncharacteristic new situation: Now, Therefore,

"Be it resolved that the appropriate federal officials of both Canada and the United States immediately begin a dialogue to the mutual benefit and satisfaction of the citizens of both countries to resolve differences and restrictions to travel and freedom of passage, especially as they relate to remote areas of the United States/Canada border between the province of Ontario and the state of Minnesota that have been imposed by policy, regulation, or law by the governments of both countries.

"Be it further resolved that state and provincial officials have direct input into the dialogue, discussion, and negotiation which takes place relating to this matter."

POM-145. A resolution adopted by the Arkansas General Assembly Joint Interim Committee on Insurance and Commerce opposing legislation which would infringe upon the authority of the State to regulate insurers; to the Committee on the Judiciary.

POM-146. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Veterans' Affairs.

"ASSEMBLY RESOLUTION NO. 213

"Whereas, The intent of the federal Soldiers' and Sailors' Civil Relief Act of 1940 is to assist military personnel called to active duty by protecting them and their families from the economic hardships which may accompany the call to active duty; and

"Whereas, The current provisions of the federal Soldiers' and Sailors' Civil Relief Act of 1940 are outdated and do not provide adequate protection to military families from these hardships; and

"Whereas, The United States House of Representatives recently passed legislation to amend the Soldiers' and Sailors' Civil Relief Act of 1940 to update and modernize its provisions to reflect the problems and economic hardships faced by members of the National Guard and the Reserves who have been called to active duty in Operation "Desert Storm"; and

"Whereas, The proposed amendments to the Soldiers' and Sailors' Civil Relief Act of 1940 would (1) prevent the eviction of the family of a person serving in the armed forces if the monthly rent is less than $1,200; (2) guarantee reinstatement of private health insurance for military personnel returning to civilian life; (3) guarantee the right of military reservists to return to civilian employment; (4) requires courts to suspend legal proceedings at the request of a person on active duty; and (5) suspend the requirement for doctors to pay premiums on private medical malpractice insurance while they are serving in the armed forces; and

"Whereas, Similar legislation is presently being considered for passage in the United States Senate and there is an urgent need for this legislation to gain final approval as quickly as possible; now, therefore,

"Be it resolved *by the General Assembly of the State of New Jersey:*

"1. This House memorializes the United States Congress to adopt legislation to update and modernize the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 in order to provide assistance to members of the National Guard and the Reserves who have been called to active duty in Operation "Desert Storm" and to their families.

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk thereof, shall be transmitted to the President of the Senate, the Speaker of the House of Representatives, the members of Congress elected from this State and Adjutant General Vito Morgano."

POM-147. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Veterans' Affairs:

HOUSE RESOLUTION 82

"Whereas, the General Accounting Office (GAO) in a recent report to the Congress of the United States made a proposal to require a direct performance of duty relationship for the awarding of service-connected disability compensation; and

"Whereas, the White House invited comments of the Secretary of Veterans Affairs on its fiscal year 1991 budget passback, including a direct performance of military duty requirement for disability compensation as previously recommended by the GAO; and

"Whereas, the Secretary of Veterans Affairs appointed a compensation reform committee with a goal to reduce costs within the Department of Veterans Affairs (DVA) using the GAO report and its proposals as a guide; and

"Whereas, the compensation reform committee, in addition to requiring direct performance of duty relationship to exist in making a determination of service connection for compensation, went much further in its report concluding that a severe cutting of eligibility and restriction of current benefits would ultimately cut costs within the DVA; and

"Whereas, the DVA is charged with serving as veterans' advocates, and champions for their entitlements in the White House and in the Congress; and

"Whereas, the action undertaken by the Secretary of Veterans Affairs and his committee on compensation reform were conducted in a closed environment, without public scrutiny; and

"Whereas, any attempt to reduce federal deficits in any department at the expense of those gallant men and women who served their country and left service honorably suffering the wounds and diseases of war; and

"Whereas, the recommendations of the compensation reform committee would also severely injure the survivors of those men and women who served their country; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that the President of the United States and the United States Congress are urged to oppose benefit-cutting proposals made to the Department of Veterans Affairs as a cost-reduction measure."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1106. A bill to amend the Individuals with Disabilities Education Act to strengthen such Act, and for other purposes (Rept. No. 102–84).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROCKEFELLER:

S. 1307. A bill to extend the suspension of duty on certain chemicals; to the Committee on Finance.

S. 1308. A bill to suspend temporarily the duty on certain heterocyclic compounds; to the Committee on Finance.

S. 1309. A bill to suspend temporarily the duty on UV–1084 light stabilizer; to the Committee on Finance.

S. 1310. A bill to extend until January 1, 1995, the suspension of duty on certain carbodiimides; to the Committee on Finance.

S. 1311. A bill to suspend temporarily the duty on certain carbodiimide masterbatches; to the Committee on Finance.

S. 1312. A bill to suspend temporarily the duty on octadecyl isocyanate; to the Committee on Finance.

By Mr. BIDEN (for himself, Mr. BAUCUS, Mr. PRYOR, Mr. HARKIN, Mr. BUMPERS, Mr. CONRAD, Mr. DASCHLE, Mr. LEAHY, Mr. HEFLIN, Mr. FOWLER, and Mr. BRYAN):

S. 1313. A bill to improve crime and drug control in rural areas, and for other purposes; to the Committee on the Judiciary.

By Mr. BOREN:

S. 1314. A bill to amend the Internal Revenue Code of 1986 to provide for fair treatment of small property and casualty insurance companies; to the Committee on Finance.

By Mr. MCCAIN (for himself and Mr. INOUYE, and Mr. COCHRAN):

S. 1315. A bill to transfer administrative consideration of applications for Federal recognition of an Indian tribe to an independent commission, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. THURMOND:

S. 1316. A bill to amend title 28, United States code, with respect to the admissibility in evidence of foreign records of regularly conducted activity; to the Committee on the Judiciary.

By Mr. PELL:

S. 1317. A bill to authorize appropriations for defense economic adjustment assistance; to the Committee on Armed Services.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, and Mr. JEFFORDS):

S. 1318. A bill to amend the Solid Waste Disposal Act so as to protect the environment from discarded beverage containers; to reduce solid waste and the cost in connection with the disposal of such waste through recycling; and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1319. A bill to provide for the establishment in Hawaii of a Department of Veterans Affairs post-traumatic stress disorder treatment program; to the Committee on Veterans' Affairs.

By Mr. KOHL:

S. 1320. A bill to amend section 924 of title 18, United States Code, to make it a Federal crime to steal a firearm or explosives in interstate or foreign commerce; to the Committee on the Judiciary.

By Mr. KERRY:

S. 1321. A bill for the relief of Michael Houtmeyers; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. BROWN, and Mr. KOHL):

S. 1322. A bill to amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse; to the Committee on the Judiciary.

By Mr. GORE:

S.J. Res. 164. A joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BIDEN (for himself, Mr. BAUCUS, Mr. PRYOR, Mr. HARKIN, Mr. BUMPERS, Mr. CONRAD, Mr. DASCHLE, Mr. LEAHY, Mr. HEFLIN, Mr. FOWLER, and Mr. BRYAN):

S. 1313. A bill to improve crime and drug control in rural areas, and for other purposes; to the Committee on the Judiciary.

RURAL CRIME AND DRUG CONTROL ACT

• Mr. BIDEN. Mr. President, I rise today to introduce the Rural Crime and Drug Control Act of 1991.

Violent crime, drug dealing, hardcore addiction—Mr. President, to many Americans, these seem to be the problems of our large cities. However, the most recent data just in from rural America tells a vastly different, and disturbing, story. America's rural towns, villages, and small communities are suffering a plague of violent crime, drug trafficking and drug abuse.

The latest crime figures show that the violent crime toll is growing faster in rural America than in large urban States; faster in the rural States than in even America's largest cities. A report—"Rising Casualties: Violent Crime & Drugs in Rural America"—I release today, documents rural America's skyrocketing criminal violence—murders, rapes, robberies, and violent attacks are growing at an astonishing pace.

The bad news does not, unfortunately, stop there. The latest figures from rural, America clearly outline the grim shadow cast by the rural drug epidemic—for the number of drug addicts seeking treatment is on the rise. In fact, these reports indicate that need for drug treatment in rural America is rising more than 50 percent faster than in America's largest and most urban States.

These and other hard data confirm what rural law enforcement officers, local officials, and citizens have been reporting from the past few years—the crime problem in rural America is in the midst of a fundamental change, a change for the worse. As never before, drugs and violent crime have extended their death grip into our rural heartland. For example:

Most rural States suffered greater increases in violent crime over the past year than did New York City;

About one-half of all rural States saw violent crime rise faster than did California;

Today, rural high school seniors are more than twice as likely to abuse the methamphetamine "ice" than there peers in urban high schools; and

Rural law enforcement officers are increasingly faced with the same challengers as their big city colleagues: Drug traffickers, drug and gang-involved juveniles and criminals armed with military-style assault weapons.

Plainly, rural America needs relief from the growing epidemic of violent crime and drug trafficking that has literally exploded in these once quiet communities. Despite the mounting severity of violence and hard-core addiction in rural America, the administration continues to focus on suburbia and the casual use of drugs among its residents.

In fact, the administration has consistently fought congressional initiatives that could help reverse the alarming rise of rural crime and drug abuse—opposing efforts to boost the number of DEA agents in rural areas, efforts to boost Federal aid to rural law enforcement agencies, and efforts to expand training opportunities for rural police officers.

The latest information from rural America tells us that our worst fears of a few years ago are coming true—Congress must take immediate action and the administration must cease its footdragging.

Today, Mr. President, I introduce with several of my Senate colleagues the Rural Crime & Drug Control Act of 1991—legislation which sets out a comprehensive, all-fronts attack on the violent crime and drug trafficking already proven to be devastating rural America. The act includes many initiatives I have developed; as well as several provisions authored by my Senate colleagues. Two of these, Senators MAX BAUCUS and DAVID PRYOR, deserve special mention for their work on the rural drug treatment and drug prevention programs included in this legislation.

Among the specific proposals which will bolster the Nation's fight against drug traffickers and violent criminals plaguing rural America are:

Additional resources for rural law enforcement officials on the front lines of the anticrime, antidrug effort;

Increased penalties for trafficking the methamphetamine, "ice";

More Federal agents and other special Federal efforts—including rural drug task forces—to support law enforcement in rural America;

Special programs to increase the availability of drug treatment in rural America; and

Special efforts to develop and implement drug prevention programs for rural communities.

If we move quickly, and adopt these proposals, we can preserve the small towns of America and prevent them from mirroring the crime problems of their big-city neighbors. With a commitment to Federal and local law enforcement and drug treatment and education programs, the dangerous trends of rising rural violence can be reversed. We can prevent the decay of our inner city streets from spreading onto the backroads of America.

I ask unanimous consent that a letter from Senator PRYOR appear in the RECORD immediately following my statement.

I also ask unanimous consent that a full copy of the bill appear in the RECORD immediately following Senator PRYOR's letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC.

Hon. JOSEPH R. BIDEN,
Chairman, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.

DEAR JOE: I was pleased to learn that you intend to introduce the "Rural Crime and Drug Control Act of 1991", which includes several provisions relating to rural law enforcement and rural substance abuse treatment and prevention that were authored by me, along with Senators Baucus, Bumpers, Conrad, and Hardin. As I am continuing my recovery from a recent heart attack, I am sorry that I am unable to join you today.

Based upon your support in the 101st Congress for "The Drug-Free Rural America Act", "The Rural Drug Treatment Act", and "The Rural Drug Information Clearinghouse and Education Act", sponsored by Senator Baucus and myself, I know you share my deep concern about the ever growing drug crisis facing rural America. I applaud your continuing commitment to this important issue, and strongly support the "Rural Crime and Drug Control Act of 1991".

As you know, last year, the General Accounting Office reported the total substance abuse rates in rural states "are about as high" as in nonrural states. Moreover, it found that arrest rates for substance abuse violations in rural counties are virtually identical to those in nonrural counties.

In addition to these chilling statistics, I frequently hear from law enforcement officers in my home state of Arkansas, who inform me that the drug problem in our rural areas continues to grow. For example, police officers have seen Los Angeles street gang members walking the streets of several southern Arkansas communities. As noted by the General Accounting Office, 71% of persons entering Arkansas prisons reported having substance abuse problems, and 57% of all Arkansas inmates reported being under the influence of drugs or alcohol at the time they committed their crimes.

Contrary to conventional wisdom, the drug problem is not confined to the inner cities of our nation's metropolitan areas, but is also ravaging small communities throughout rural America. "The Rural Crime and Drug Control Act of 1991" recognizes this crucial fact and addresses the problem in a constructive and comprehensive manner.

First, as you know, this bill would reduce the supply of drugs in rural areas by beefing up federal anti-drug efforts in rural communities, by authorizing an additional $30 million for federal support of state and local rural law enforcement agencies, and by providing specialized training for rural law enforcement officers at the Federal Law Enforcement Training Center. Second, it would reduce the demand for illegal drugs in rural communities by authorizing $25 million in federal grants for treatment and prevention facilities serving those areas and by establishing a federal clearinghouse project for collecting and disseminating information regarding rural substance abuse treatment and prevention programs. Third, it begins to address the growing problem of environmental damage caused by rural, clandestine drug labs.

In conclusion, I praise you for introducing the "Rural Crime and Drug Control Act of 1991" and look forward to working with you on this important issue, as soon as I complete my recovery and return full-time to my duties in the Senate.

Sincerely,

DAVID PRYOR.

S. 1313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Crime and Drug Control Act of 1991".

TITLE I—FIGHTING DRUG TRAFFICKING IN RURAL AREAS

SEC. 101. AUTHORIZATIONS FOR RURAL LAW ENFORCEMENT AGENCIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new paragraph:

"(7) There are authorized to be appropriated $50,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994 to carry out part O of this title.".

(b) AMENDMENT TO BASE ALLOCATION.—Section 1501(a)(2)(A) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "$100,000" and inserting in lieu thereof "$250,000".

SEC. 102. RURAL DRUG ENFORCEMENT TASK FORCES.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Governors, mayors, and chief executive officers of State and local law enforcement agencies, shall establish a Rural Drug Enforcement Task Force in each of the Federal judicial districts which encompass significant rural lands.

(b) TASK FORCE MEMBERSHIP.—The task forces established under subsection (a) shall be chaired by the United States Attorney for the respective Federal judicial district. The task forces shall include representatives from—

(1) State and local law enforcement agencies;

(2) the Drug Enforcement Administration;

(3) the Federal Bureau of Investigation;

(4) the Immigration and Naturalization Service; and

(5) law enforcement officers from the United States Park Police, United States Forest Service and Bureau of Land Management, and such other Federal law enforcement agencies as the Attorney General may direct.

SEC. 103. CROSS-DESIGNATION OF FEDERAL OFFICERS.

The Attorney General shall cross-designate up to 100 law enforcement officers from each of the agencies specified under section 102(b)(5) with jurisdiction to enforce the provisions of the Controlled Substances Act on non-Federal lands to the extent necessary to effect the purposes of this title.

SEC. 104. RURAL DRUG ENFORCEMENT TRAINING.

(a) SPECIALIZED TRAINING FOR RURAL OFFICERS.—The Director of the Federal Law Enforcement Training Center shall develop a specialized course of instruction devoted to training law enforcement officers from rural agencies in the investigation of drug trafficking and related crimes.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 in each of the fiscal years 1992, 1993, and 1994 to carry out the purposes of subsection (a).

TITLE II—FEDERAL LAW ENFORCEMENT AGENCIES

SEC. 201. AUTHORIZATION FOR FEDERAL LAW ENFORCEMENT AGENCIES.

There is authorized to be appropriated for fiscal year 1992, in addition to any other appropriations for the Drug Enforcement Administration, $45,000,000 to hire, equip and train not less than 350 agents and necessary support personnel to expand DEA investigations and operations against drug trafficking organizations in rural areas.

TITLE III—INCREASING PENALTIES FOR CERTAIN DRUG TRAFFICKING OFFENSES

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Ice Enforcement Act of 1991".

SEC. 302. STRENGTHENING FEDERAL PENALTIES.

(a) LARGE AMOUNT.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (vii) by striking "or" at the end thereof;

(2) by inserting "or" at the end of clause (viii); and

(3) by adding at the end thereof the following new clause:

"(ix) 25 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

(b) SMALLER AMOUNT.—Section 401(b)(1)(B) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(B)) is amended as follows:

(1) at the end of clause (vii) by striking "or";

(2) by inserting at the end of clause (viii) the word "or"; and

(3) by adding at the end thereof the following new clause:

"(ix) 5 grams or more of methamphetamine, its salts, isomers, and salts of its isomers, that is 80 percent pure and crystalline in form.".

TITLE IV—RURAL DRUG TREATMENT

SEC. 401. RURAL SUBSTANCE ABUSE TREATMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end thereof the following new section:

"SEC. 509H. RURAL SUBSTANCE ABUSE TREATMENT.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall establish a program to provide grants to hospitals, community health centers, migrant health centers, health entities of Indian tribes and tribal organizations (as defined in section 1913(b)(5)), and other appropriate entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse treatment services.

"(b) REQUIREMENTS.—To receive a grant under this section a hospital, community health center, or treatment facility shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) operate, or have a plan to operate, an approved substance abuse treatment program;

"(3) agree to coordinate the project assisted under this section with substance abuse treatment activities within the State and local agencies responsible for substance abuse treatment; and

"(4) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State agencies that are responsible for substance abuse treatment may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) projects sponsored by rural hospitals that are qualified to receive rural health care transition grants as provided for in section 4005(e) of the Omnibus Budget Reconciliation Act of 1987;

"(2) projects serving nonmetropolitan areas that establish links and coordinate activities between hospitals, community health centers, community mental health centers, and substance abuse treatment centers; and

"(3) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under subsection (a) shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least one project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992, 1993, and 1994.".

TITLE V—RURAL DRUG PREVENTION

SEC. 501. RURAL SUBSTANCE ABUSE PREVENTION.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 401, is amended by adding at the end thereof the following new section:

"SEC. 509I. RURAL SUBSTANCE ABUSE PREVENTION.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities that serve nonmetropolitan areas to assist such entities in developing and implementing projects that provide, or expand the availability of, substance abuse prevention services.

"(b) REQUIREMENTS.—To receive a grant under this section an entity shall—

"(1) serve a nonmetropolitan area or have a substance abuse treatment program that is designed to serve a nonmetropolitan area;

"(2) agree to coordinate the project assisted under this section with substance abuse prevention activities within the State and local agencies responsible for substance abuse prevention; and

"(3) prepare and submit an application in accordance with subsection (c).

"(c) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section an entity shall submit an application to the Administrator at such time, in such manner, and containing such information as the Administrator shall require.

"(2) COORDINATED APPLICATIONS.—State or local agencies that are responsible for substance abuse prevention may submit coordinated grant applications on behalf of entities that are eligible for grants pursuant to subsection (b).

"(d) SPECIAL CONSIDERATION.—In awarding grants under this section the Administrator shall give priority to—

"(1) applications from community based organizations with experience serving nonmetropolitan areas;

"(2) projects that are designed to serve areas that have no available existing treatment facilities.

"(e) DURATION.—Grants awarded under this section shall be for a period not to exceed 3 years, except that the Administrator may establish a procedure for renewal of grants under subsection (a).

"(f) GEOGRAPHIC DISTRIBUTION.—To the extent practicable, the Administrator shall provide grants to fund at least 1 project in each State.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $25,000,000 for each of the fiscal years 1992, 1993, and 1994.".

SEC. 502. CLEARINGHOUSE PROGRAM.

Section 509 of the Public Health Service Act (42 U.S.C. 290aa-7) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period at the end thereof and inserting a semicolon; and

(3) by adding at the end thereof the following new paragraphs—

"(5) gather information pertaining to rural drug abuse treatment and education projects funded by the Administrator and other such projects throughout the United States; and

"(6) disseminate such information to rural hospitals, community health centers, community mental health centers, treatment facilities, community organizations, and other interested persons.".

TITLE VI—RURAL LAND RECOVERY ACT

SEC. 601. DIRECTOR OF RURAL LAND RECOVERY.

Each of the task forces established under section 102(a) shall include one Director of Rural Land Recovery whose duties shall include the coordination of all activities described in section 102.

SEC. 602. PROSECUTION OF CLANDESTINE LABORATORY OPERATORS.

(a) Inclusion of Indictments of Additional Counts for Violation of Environmental Law.—State and Federal prosecutors, when bringing charges against the operators of clandestine methamphetamine and other dangerous drug laboratories shall, to the fullest extent possible, include, in addition to drug-related counts, counts involving infringements of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) or any other environmental protection Act, including—

(1) illegal disposal of hazardous waste; and

(2) knowing endangerment of the environment.

(b) Suits for Environmental and Health-Related Damages.—State and Federal prosecutors and private citizens may bring suit against the operators of clandestine methamphetamine and other dangerous drug laboratories for environmental and health-related damages caused by the operators in their manufacture of illicit substances.•

• Mr. HARKIN. Mr. President, I am proud to join with Senator BIDEN in introducing the Rural Crime and Drug Control Act of 1991. I am grateful to my colleague from Delaware, Senator BIDEN, for his continual concern about the drug problem confronting rural America.

Mr. President, last year I joined with several of my colleagues in requesting a GAO study to determine the extent of the drug problem in rural America. The GAO study, released in September 1990, concluded that "Drug problems are no different in the country than in the city." Today, the Senate Judiciary Committee's majority staff report indicates that the drug problem in rural America is getting worse. In many areas it is increasing faster than in our Naton's big cities. According to the committee's report, violent crime rose faster in "thirteen of fifteen rural States than it did in New York City."

In Iowa, violent crime increased by 8.5 percent in 1990 as compared to a 3-percent increase in New York City. Despite this crisis confronting our communities, the administration has failed to recognize the drug crisis confronting our communities and has opposed efforts to increase the number of DEA agents in rural areas.

Jamaican drug dealers and Mexican black tar heroin can now be found on the streets of Sioux City, IA. Yet, despite numerous requests from my office and other legislators representing the tristate area, for at least one full time DEA agent, the administraton has consistently refused to provide a DEA agent for Siouxland. Mr. President, the administration's drug strategy may have missed rural America but the drug dealers haven't.

Mr. President, people in rural America have worked hard to cultivate a good quality of life. They have worked hard to make their communities a place to raise a family, a safe place, a decent place, but drug dealers are planting the seed of destruction and are wreaking havoc on small towns and rural communities all over America; 1 out of every 10 hardcore cocaine addicts now lives in rural States.

Rural America needs an action plan. Our law enforcement officers in rural areas need the means to fight back. We have a problem and we have an opportunity to pull together, take back our towns and streets from drug dealers. The drug epidemic sweeping across the plains of Iowa and other rural areas can be stopped. We need concentrated action and a plan that moves us forward. The Rural Crime and Drug Control Act of 1991 moves us forward.

This bill provides $45 million to hire 350 agents and support personnel to expand law enforcement operations against drug trafficking in rural areas. It establishes rural drug enforcement task forces in Federal districts with rural areas. The bill also provides $50 million in aid to State and local law enforcement officials in rural areas. Mr. President, our law enforcement officers need these resources. The challenge and risks they face are the same as in big cities. Drug dealers with assault weapons and juvenile drug gangs place police officers lives in danger the same in Sioux City as they do in New York City.

Mr. President, the bill being introduced today also accounts for the special needs facing our communities in the area of drug treatment and prevention by devoting $50 million to address these problems. Drug treatment and prevention programs all over America are overburdened. Yet, in many rural areas such programs do not even exist. This at a time when according to the Senate Judiciary Committee's report, the need for drug treatment in rural America is "rising more than 50 percent faster than in America's largest and most urban states." Doctors, health care facilities, and rural clinics are in need of personnel and unless we take action the problem only becomes worse.

We can win back our communities. We must win back our communities and we must fight back. The Federal Government has a role to play with the States and local communities and private citizens. It is a question of priorities and the determination to defend our homes from a threat that is right down the street, not halfway around the world.•

• Mr. FOWLER. Mr. President, I rise today to give my support to the Rural Crime and Drug Control Act offered by the chairman of the Judiciary Committee.

When the average American thinks of crime, an image of a dark alley in a large city may flash in his mind. However, recent data tells us that violent crime is growing faster in rural America than in our nation's largest cities.

The small towns we used to know, where most people did not bother to lock their doors at night, are quickly disappearing. Instead, violent crime has become a sadly familiar fact of life. Drug abuse is increasingly common—with crack, ice and all the latest deadly concoctions and designer drugs readily available. Major drug traffickers are operating in our poorest, remotest rural areas, corrupting and undermining those communities.

The problems of rural America, in general, are too often overlooked. But we cannot afford to overlook the torment visited on our small towns and countryside by the rural crimewave of the last decade. That is why I heartily commend my colleague, the Senator from Delaware, for having the wisdom to include this provision in his crime bill.

By passing this legislation, we commit ourselves to preserving our small towns. This new pledge to our rural communities will enable us to stem the rising crime rate.

In order to fight crime, we need money and well-trained manpower. And that is what our rural communities are most lacking.

This legislation attacks rural crime on three fronts. The first is on the Federal level. It provides $45 million to hire 350 DEA agents directed specifically to target rural drug trafficking. Thus, it provides money to get to the heart of our rural drug problem.

On the State and local law enforcement level, this act provides $50 million to law enforcement officers in rural areas. In addition, it provides funding so that these officers will be well-trained and able to handle this new responsibility.

This legislation also concentrates on the critical area of drug prevention and treatment. It funds programs which will enhance antidrug awareness and disseminate information to rural citizens who may lack ready access to treatment programs, telling them where they can turn for help.

I believe that this legislation, combined with the comprehensive crime bill which will soon come before the Senate, will equip our law enforcement officers with the tools they need to combat violent crime in our rural areas. It will give local citizens and local communities the boost they need to combat this epidemic.

It is easy to talk about crime and law enforcement. However, the time for simply talking is long gone. This bill provides the resources and makes the commitment to fight crime everywhere in our Nation.●

By Mr. BOREN:

S. 1314. A bill to amend the Internal Revenue Code of 1986 to provide for fair treatment of small property and casualty insurance companies; to the Committee on Finance.

SMALL PROPERTY AND CASUALTY INSURANCE COMPANY EQUITY ACT

● Mr. BOREN. Mr. President, today I am introducing a bill to address the inequity that exists regarding the current tax treatment of small property and casualty insurance companies.

Current law provides small life insurance companies, defined as those with assets of less than $500 million, with a tax deduction of 60 percent of the company's first $3 million in income, reduced by 15 percent of the excess income over $3 million. The deduction then phases out at an income level of $15 million.

Unfortunately, the Internal Revenue Code does not provide small property and casualty insurers with the same treatment. This inequity hampers small property and casualty companies in their attempt to compete for capital with small life and larger property and casualty insurers.

In addition, small property and casualty companies saw their tax burden significantly increased by several provisions in the so-called Tax Reform Act of 1986, especially those provisions dealing with the discounting of loss reserves and the tax on increases in unearned premium liabilities. The 1986 act estimated an increased 5-year tax burden of $7.5 billion from this industry. Instead, the Treasury has collected $12.2 billion as a result of the 1986 changes.

The legislation I am introducing today simply provides small property and casualty companies with the same deduction allowed for small life companies. The bill allows for a deduction of 60 percent of the first $3 million of a company's income, reduced by 15 percent of the income in excess of $3 million. This bill would also provide the same phase-out as the existing provision for life companies.

Mr. President, our economy needs small property and casualty insurers. These companies provide increased competition within the insurance industry. Many of these small insurers are specialty writers, providing coverage to markets that are ignored by many of the major companies.

Unfortunately, the current tax situation limits small property and casualty companies to raise the capital they need in order to survive and grow. This legislation will help level the field with respect to capital formation by providing equitable treatment to these insurers.

Mr. President, I urge my colleagues to join me in support of this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Small Property and Casualty Insurance Company Equity Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. SMALL COMPANY DEDUCTION.

(a) IN GENERAL.—Section 832(c) (relating to deductions allowed) is amended by striking "and" at the end of paragraph (12), by striking the period at the end of paragraph (13) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(14) the small insurance company deduction allowed by subsection (h)."

(b) DETERMINATION OF DEDUCTION.—Section 832 (relating to insurance company taxable income) is amended by adding at the end thereof the following new subsection:

"(h) SMALL INSURANCE COMPANY DEDUCTION.—In the case of taxable years beginning after December 31, 1991—

"(1) IN GENERAL.—There shall be allowed as a deduction for the taxable year 60 percent of so much of the tentative taxable income for such taxable year as does not exceed $3,000,000 (hereafter in this subsection referred to as the 'small insurance company deduction').

"(2) PHASEOUT BETWEEN $3,000,000 AND $15,000,000.—The amount of the small insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by 15 percent of so much of the tentative taxable income for such taxable year as exceeds $3,000,000.

"(3) SMALL INSURANCE COMPANY DEDUCTION NOT ALLOWABLE TO COMPANY WITH ASSETS OF $500,000,000 OR MORE.—

"(A) IN GENERAL.—The small insurance company deduction shall not be allowed for any taxable year to any insurance company which, at the close of such taxable year, has assets equal to or greater than $500,000,000.

"(B) ASSETS.—For purposes of this paragraph, the term 'assets' means all assets of the company

"(C) VALUATION OF ASSETS.—For purposes of this paragraph, the amount attributable to—

"(i) real property and stock shall be the fair market value thereof, and

"(ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

"(D) SPECIAL RULE FOR INTERESTS IN PARTNERSHIPS AND TRUSTS.—For purposes of this paragraph—

"(i) an interest in a partnership or trust shall not be treated as an asset of the company, but

"(ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

"(4) TENTATIVE TAXABLE INCOME.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'tentative taxable income' means taxable income determined without regard to the small insurance company deduction.

"(B) EXCLUSION OF ITEMS ATTRIBUTABLE TO NONINSURANCE BUSINESSES.—The amount of the tentative taxable income for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

"(C) NONINSURANCE BUSINESSES.—

"(i) IN GENERAL.—The term 'noninsurance business' means any activity which is not an insurance business.

"(ii) CERTAIN ACTIVITIES TREATED AS INSURANCE BUSINESSES.—For purposes of clause (i), any activity which is not an insurance business shall be treated as an insurance business if—

"(I) it is of a type traditionally carried on by insurance companies for investment purposes, but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or

"(II) it involves the performance of administrative services in connection with plans providing property or casualty insurance benefits.

"(iii) LIMITATION OF AMOUNT OF LOSS FROM NONINSURANCE BUSINESS WHICH MAY OFFSET INCOME FROM INSURANCE BUSINESS.—In computing the taxable income of any insurance company subject to tax imposed by section 831, any loss from a noninsurance business shall be limited under the principles of section 1503(c).

"(5) SPECIAL RULE FOR CONTROLLED GROUPS.—

"(A) SMALL INSURANCE COMPANY DEDUCTION DETERMINED ON CONTROLLED GROUP BASIS.—For purposes of this subsection—

"(i) all insurance companies which are members of the same controlled group shall be treated as 1 insurance company, and

"(ii) any small insurance company deduction determined with respect to such group shall be allocated among the insurance companies which are members of such group in proportion to their respective tentative taxable incomes.

"(B) NONINSURANCE MEMBERS INCLUDED FOR ASSET TEST.—For purposes of paragraph (3), all members of the same controlled group (whether or not insurance companies) shall be treated as 1 company.

"(C) CONTROLLED GROUP.—For purposes of this paragraph, the term 'controlled group' means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

"(D) ADJUSTMENTS TO PREVENT EXCESS DETRIMENT OR BENEFIT.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this paragraph to prevent any excess detriment or benefit (whether from year-to-year or otherwise) arising from the application of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.●

By Mr. MCCAIN (for himself, Mr. INOUYE, and Mr. COCHRAN):

S. 1315. A bill to transfer administrative consideration of applications for

Federal recognition of an Indian tribe to an independent commission, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1991

• Mr. McCAIN. Mr. President, I rise today to introduce the Indian Federal Recognition Administrative Procedures Act of 1991. I am pleased to be joined by Senators INOUYE and COCHRAN as cosponsors of this important legislation. From the earliest times, the Congress has acted to recognize the unique Government-to-Government relationship with the tribes. In the recognition of an Indian group we are recognizing the formal political relationship between the tribe and the Federal Government. There are, and always have been, some Indian tribes which have not been recognized by the Federal Government. This lack of recognition does not alter the fact of the existence of the tribe; it merely means that there is no formal political relationship between the tribe and the Federal Government.

Over the years, our courts have ruled that recognition, while solely within the authority of the Congress, may also be conferred through actions of the executive branch. Both the President and the Secretary of the Interior have historically acted in ways which the courts have found to constitute recognition of Indian tribes. Regulations specifically establish criteria and procedures for the recognition of Indian tribes. Since 1978, tribal groups have filed 126 petitions for recognition. The branch of acknowledgment and research of the Bureau of Indian Affairs has acted on 20 of these petitions. Of this number, 12 petitioners were denied recognition and 8 were granted recognition. During this same period, the Congress recognized five other petitioners through legislation.

In 1978, 1983, 1988, and 1989 the Select Committee on Indian Affairs held oversight hearings on the Federal recognition process. At each of these hearings the record has clearly shown that the process is not working properly. The current administrative process for Federal recognition of certain Indian groups is a very costly and protracted one. There needs to be consistency and fairness in the Federal recognition process, which has too often been characterized by inconsistency and the lack of fairness. The administrative recognition process is hindered by a lack of staff and resources needed to fairly and promptly review all petitions. The annual cost to the Federal Government is estimated at $450,000.

The record from our previous hearings reveals a clear need for the Congress to address the problems affecting the recognition process. I believe that the bill which I am introducing today will go a long way toward resolving the problems which have plagued both petitioners and the Department of the Interior over the years. This bill is not an attempt to rewrite the existing body of laws that apply to the recognition process. It incorporates the Secretary's existing recognition criteria. By doing so, the bill avoids the need to reevaluate prior decisions of the Department and the need for tribal groups to file new petitions.

The Indian Federal Recognition Administrative Procedures Act provides for the creation of the Commission on Indian Recognition. The Commission will be comprised of three members appointed by the President. The Commission on Indian Recognition shall review petitions submitted by Indian groups for Federal recognition. In addition, the Commission can hold hearings and take testimony on petitions for Federal recognition. The bill provides realistic timelines to guide the Commission in the review and decision process. Some petitioners have waited 10 or more years for even a cursory review by the BIA. This bill requires the Commission to complete an initial review within 12 months from the date of the filing of the petition. It further requires the Commission to make a proposed finding on the petition within 1 year from the date that active consideration of the petition has begun.

To ensure fairness, the bill provides for appeals of adverse decisions to the Department's office of hearings and appeals. Final decisions on appeal are subject to further review in the Federal courts. To ensure promptness, the bill authorizes increased funding for the Department. The present annual funding level of $450,000 would be increased to $1.5 million. In addition, all petitions would be processed on a first-come first-served basis to avoid arbitrary decisions about the priority for processing applications. To assist petitioners in the preparation and filing of their petitions, the Administration on Native Americans of the Department of Health and Human Services is authorized to provide up to $500,000 per year in grants to unrecognized tribal groups.

This bill will also provide finality for both the petitioners and the Department. The Department has had a process for recognizing Indian tribes, in one form or another, since the 1930's. Great uncertainty has existed about when or how this process might be concluded. I believe that it is in the interest of all parties to establish a clear deadline for the completion of the administrative Federal recognition process. Accordingly, the bill requires all interested tribal groups to file their petitions within 6 years of the date of enactment. The Commission is required to complete action on all petitions within the established timelines.

Mr. President, I ask unanimous consent that the full text of the Indian Federal Recognition Administrative Procedures Act of 1991 and the section-by-section summary be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Federal Recognition Administrative Procedures Act of 1991".

PURPOSES

SEC. 2. The purposes of this Act are to—

(1) establish an administrative procedure for the recognition of the existence of certain Indian tribes;

(2) extend to Indian groups the protection, services, and benefits available from the Federal Government pursuant to the Federal trust responsibility;

(3) extend to Indian groups the immunities and privileges available to federally recognized Indian tribes as well as the responsibilities and obligations of such Indian tribes;

(4) ensure that the special government-to-government relationship between the United States and Indian tribes has a consistent legal and historical basis;

(5) provide clear and consistent standards of administrative review of recognition petitions for Indian groups; and

(6) expedite the administrative review process by providing definitive timelines for review and adequate resources to process recognition petitions.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Secretary" means the Secretary of the Interior or a representative designated by the Secretary of the Interior.

(2) The term "Commission" means the independent commission established under section 4.

(3) The term "Department" means the Department of the Interior.

(4) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(5) The term "area office" means an area office of the Bureau of Indian Affairs.

(6) The term "Indian tribe" means any Indian entity that—

(A) is located within any of the States of the United States; and

(B) is recognized by the Secretary of the Interior to be an Indian tribe.

(7) The term "Indian group" means any Indian entity that—

(A) is located within any of the States of the United States; and

(B) is not recognized by the Secretary of the Interior to be an Indian tribe.

(8) The term "petitioner" means any entity which has submitted, or submits, a petition to the Secretary requesting recognition that the entity is an Indian tribe.

(9) The term "autonomous" means having its own tribal council, internal process, or other organizational mechanism which the Indian group has used as its own means of making decisions independent of the control of any other Indian governing entity, and in using such term for purposes of this Act, such term must be understood in the context of the culture and social organization of that Indian group.

(10) The term "member of an Indian group" means an individual who—

(A) is recognized by an Indian group as meeting its membership criteria;

(B) consents to being listed as a member of that group; and

(C) is not a member of any Indian tribe.

(11) The term "member of an Indian tribe" means an individual who—

(A) meets the membership requirements of the Indian tribe, as set forth in its governing document or recognized collectively by those persons comprising the governing body of the Indian tribe, and

(B) has continuously maintained tribal relations with the tribe, or is listed on the tribal rolls of that Indian tribe as a member, if such rolls are maintained.

(12) The term "historical" means dating back to the earliest documented contact between—

(A) the aboriginal Indian group from which the petitioners descended, and

(B) citizens or officials of the United States, colonial or territorial governments, or if relevant, citizens and officials of foreign governments from which the United States acquired territory.

(13) The term "continuous" means, with respect to any Indian group, extending from generation to generation throughout the Indian group's history essentially without interruption.

(14) The term "indigenous" means native to the area that constitutes the continental United States in that at least part of the group's aboriginal range extended into what is now the area that constitutes the continental United States.

(15) The term "community" means any people living within such a reasonable proximity as to allow group interaction and maintenance of tribal relations.

(16) The term "other party" means any affected person or organization other than the petitioner who submits comments or evidence in support of, or in opposition to, a petition.

(17) The term "petition" means a petition submitted to the Commission under section 5(a)(1) or transferred to the Commission under section 5(a)(3).

(18) The term "treaty" means any treaty—

(A) negotiated and ratified by the United States with, or on behalf of, any Indian group,

(B) made by any sovereign with, or on behalf of, any Indian group, whereby the United States acquired territory by purchase or cession, or

(C) negotiated by the United States with, or on behalf of, any Indian group in California, whether or not the treaty was subsequently ratified.

COMMISSION ON INDIAN RECOGNITION

SEC. 4. (a)(1) There is established, as an independent commission, the "Commission on Indian Recognition".

(2)(A) The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

(B) No more than 2 members of the Commission may be members of the same political party.

(C) The Commission shall hold its first meeting no later than 30 days after the date on which all members of the Commission have been appointed and confirmed by the Senate.

(D) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

(E) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(F) In making appointments to the Commission, the President shall give careful consideration to—

(i) recommendations received from Indian tribes, and

(ii) individuals who have a background in Indian law or policy, anthropology, genealogy, or history.

(3) At the time appointments are made under paragraph (2)(A), the President shall designate one of such appointees as chairman of the Commission.

(4) Two members of the Commission shall constitute a quorum for the transaction of business.

(5) The Commission may adopt such rules (consistent with the provisions of this Act) as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(b)(1)(A) Each member of the Commission not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the executive Schedule under section 5316 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties authorized by the Commission.

(B) Except as provided in subparagraph (C), a member of the Commission who is otherwise an officer or employee of the United States Government shall serve on the Commission without additional compensation, but such service shall be without interruption or loss of civil service status or privilege.

(C) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission while away from home or their regular place of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(2) The principal office of the Commission shall be in the District of Columbia.

(c) The Commission shall carry out the duties assigned to the Commission by this Act, and shall meet the requirements imposed on the Commission by this Act.

(d)(1) Subject to such rules and regulations as may be adopted by the Commission, the chairman of the Commission is authorized to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the chairman deems advisable to assist in the performance of the duties of the Commission, at a rate not to exceed a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(B) procure, as authorized by section 3109(b) of title 5, United States Code, temporary and intermitent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(2) The Commission is authorized—

(A) to hold such hearings and sit and act at such times,

(B) to take such testimony,

(C) to have such printing and binding done,

(D) subject to the availability of funds, to enter into such contracts and other arrangements,

(E) to make such expenditures, and

(F) to take such other actions,

as the Commission may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(3) The provisions of the Federal Advisory Committee Act shall not apply to the Commission established under this section.

(4)(A) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this Act, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman of the Commission.

(B) Upon the request of the chairman of the Commission, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(C) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) The Commission shall cease to exist on the date that is 60 days after the date on which the Commission publishes in the Federal Register the last determination the Commission is required to make under section 8(b) with respect to petitions filed under section 5(a). All records, documents, and materials of the Commission, prior to its termination, shall be transferred by the Commission to the National Archives and Records Administration.

PETITIONS FOR RECOGNITION

SEC. 5. (a)(1) Any Indian group that is indigenous (including any Indian group whose relationship with the Federal Government was terminated by law) may submit to the Commission, during the 72-month period beginning on the date of enactment of this Act, a petition requesting that the Commission recognize that the Indian group is an Indian tribe.

(2) The provisions of this Act do not apply to the following groups or entities, which shall not be eligible for recognition under this Act—

(A) Indian tribes, organized bands, pueblos, communities, and Alaska Native entities which are already recognized by the Secretary as eligible to receive services from the Bureau;

(B) splinter groups, political factions, communities, or groups of any character which separate from the main body of an Indian tribe that, at the time of such separation, is recognized as being an Indian tribe by the Secretary, unless it can be clearly established that the group, faction, or community has functioned throughout history until the date of such petition as an autonomous Indian tribal entity; and

(C) groups, or successors in interest of groups, that prior to the date of enactment of this Act, have petitioned for, and been denied or refused, recognition as an Indian tribe under regulations prescribed by the Secretary.

(3) No later than 30 days after the date on which all of the members of the Commission have been appointed and confirmed by the Senate, the Secretary shall transfer to the Commission all petitions pending before the Department that request the Secretary, or the Federal Government, to recognize or acknowledge an Indian group as an Indian tribe. On the date of such transfer, the Secretary and the Department shall cease to have any authority to recognize or acknowledge, on behalf of the Federal Government, any Indian group as an Indian tribe. Petitions transferred to the Commission under this paragraph shall, for purposes of this Act, be considered as having been submitted to the Commission as of the date of such transfer.

(b) Any petition submitted under subsection (a) by an Indian group shall be in a form which clearly indicates that it is a petition requesting the Commission to recognize that the Indian group is an Indian tribe and shall contain each of the following:

(1) A statement of facts establishing that the petitioner has been identified from historical times until the present, on a substantially continuous basis, as Indian, except that a petitioner shall not be considered as having failed to satisfy any requirement of this subsection merely because of fluctuations of tribal activity during various years. Evidence which can be offered to demonstrate Indian identity of the petitioner on a substantially continuous basis shall include one or more of the following:

(A) Repeated identification of the petitioner as Indian by Federal authorities.

(B) Longstanding relationships of the petitioner with State governments based on identification of the petitioner as Indian.

(C) Repeated dealings of the petitioner with a county, parish, or other local government in a relationship based on the Indian identity of the petitioner.

(D) Repeated identification of the petitioner as an Indian entity be records in courthouses, churches, or schools.

(E) Repeated identification of the petitioner as an Indian entity by anthropologists, historians, or other scholars.

(F) Repeated identification of the petitioner as an Indian entity in newspapers and books.

(G) Repeated identification of the petitioner as an Indian entity by, and dealings of the petitioner as an Indian entity with, Indian tribes or recognized national Indian organizations.

(2) Evidence that—

(A) a substantial portion of the membership of the petitioner lives in a community viewed as Indian and distinct from other populations in the area, and

(B) members of the petitioner are descendants of an Indian group or groups which historically inhabited a specific area.

(3) A statement of facts which establishes that the petitioner has maintained tribal political influence or other authority over its members as an autonomous entity from historical times until the present.

(4) A copy of the present governing document of the petitioner describing in full the membership criteria of the petitioner and the procedures through which the petitioner currently governs its affairs and members.

(5) A list of all current members of the petitioner and their current addresses and a copy of each available former list of members based on the petitioner's own defined criteria. The membership must consist of individuals who have established descendancy from an Indian group which existed historically or from historical Indian groups which combined and functioned as a single autonomous entity. Evidence of tribal membership required by the Commission includes (but is not limited to)—

(A) descendancy rolls prepared by the Secretary for the petitioner for purposes of distributing claims money, providing allotments, or other purposes;

(B) State, Federal, or other official records or evidence identifying present members of the petitioner, or ancestors of present members of the petitioner, as being an Indian descendant and a member of the petitioner;

(C) church, school, and other similar enrollment records indicating membership in the petitioner;

(D) affidavits of recognition by tribal elders, leaders, or the tribal governing body as being an Indian descendant of the Indian group and a member of the petitioner; and

(E) other records or evidence identifying the person as a member of the petitioner.

NOTICE OF RECEIPT OF PETITION

SEC. 6. (a) Within 30 days after a petition is submitted or transferred to the Commission under section 5(a), the Commission shall send an acknowledgment of receipt in writing to the petitioner and shall have published in the Federal Register a notice of such receipt, including the name, location, and mailing address of the petitioner and such other information that will identify the entity submitting the petition and the date the petition was received by the Commission. The notice shall also indicate where a copy of the petition may be examined.

(b) The Commission shall also notify, in writing, the Governor and attorney general of, and each recognized Indian tribe within, any State in which a petitioner resides.

(c) The Commission shall publish the notice of receipt of the petition in a major newspaper of general circulation in the town or city nearest the location of the petitioner. The notice will include, in addition to the information described in subsection (a), notice of opportunity for other parties to submit factual or legal arguments in support of, or in opposition to, the petition. Such submissions shall be provided to the petitioner upon receipt by the Commission. The petitioner shall be provided an opportunity to respond to such submissions prior to a determination on the petition by the Commission.

PROCESSING THE PETITION

SEC. 7. (a)(1) Upon receipt of a petition, the Commission shall conduct a review to determine whether the petitioner is entitled to be recognized as an Indian tribe.

(2) The review conducted under paragraph (1) shall include consideration of the petition, supporting evidence, and the factual statements contained in the petition.

(3) The Commission may also initiate other research for any purposes relative to analyzing the petitioner's status and may consider any evidence which may be submitted by other parties.

(b) Prior to actual consideration of the petition and by no later than the date that is 12 months after the date on which the petition is submitted or transferred to the Commision, the Commission shall notify the petitioner of any obvious deficiencies, or significant omissions, that are apparent upon an initial review of the petition and provide the petitioner with an opportunity to withdraw the petition for further work or to submit additional information or a clarification.

(c)(1) Except as otherwise provided in this subsection, petitions shall be considered on a first come, first served basis, determined by the date of the original filing of the petition with the Commission, or the Department of the Interior if the petition is one transferred to the Commission pursuant to section 5(a). The Commission shall establish a priority register including those petitions pending before the Department of the Interior on the date of enactment of this Act.

(2) Petitions that are submitted to the Commission by Indian groups whose relationship with the Federal Government was terminated by law or by Indian groups that were parties to treaties—

(A) shall receive priority consideration over petitions submitted by any other Indian groups, and

(B) shall be considered on an expedite basis.

(d) The Commission shall provide the petitioner and other parties submitting comments on the petition notice of the date on which the petition comes under active consideration.

(e) A petitioner may, at its option and upon written request, withdraw its petition prior to publication in the Federal Register by the Commission of proposed findings under section 8(a) and may, if it so desires, resubmit a new petition. A petitioner shall not lose its priority date by withdrawing and resubmitting its petitions, but the time periods provided in section 8(a) shall begin to run upon active consideration of the resubmitted petition.

PROPOSED FINDINGS AND DETERMINATION

SEC. 8. (a)(1) Within 1 year after notifying the petitioner under section 7(d) that active consideration of the petition has begun, the Commission shall make a proposed finding on the petition and shall publish the proposed finding in the Federal Register.

(2) The Commission may delay making proposed findings on a petition under paragraph (1) for 180 days upon a showing of good cause by the petitioner.

(3) In addition to the proposed findings, the Commission shall prepare a report on each petition which summarizes the evidence for the proposed findings. Copies of such report shall be available to the petitioner and to other parties upon request.

(4) Upon publication of the proposed findings under paragraph (1), any individual or organization wishing to challenge the proposed findings shall have a response period of 120 days to present factual or legal arguments and evidence to rebut the evidence upon which the proposed findings are based.

(b)(1) After consideration of any written arguments and evidence submitted to rebut the proposed findings made under subsection (a)(1), the Commission shall make a determination of whether the petitioner is recognized by the Federal Government to be an Indian tribe. Except as otherwise provided by this Act, the determination shall be considered to be a determination on such recognition by the Federal Government, and shall be treated as a determination on such recognition by the Secretary, for all purposes of law.

(2) By no later than the date that is 60 days after the close of the 120-day response period described in subsection (a)(4), the Commission shall—

(A) make a determination of whether the petitioner is a federally recognized Indian tribe;

(B) publish a summary of the determination in the Federal Register; and

(C) deliver a copy of the determination and summary to the petitioner.

(3) Any determination made under paragraph (1) shall become effective on the date that is 60 days after the date on which the summary of the determination is published under paragraph (2).

(c) In making the proposed findings and determinations under this section with respect to any petition, the Commission shall recognize the petitioner as an Indian tribe if the petition meets all the requirements of section 5(b). The Commission shall not make such findings or determination of recognition of the petitioner if such requirements have not been met by the petitioner.

(d) If the Commission determines under subsection (b)(1) that the petitioner should not be recognized by the Federal Government to be an Indian tribe, the Commission shall analyze and forward to the petitioner other options, if any, under which application for services and other benefits of the Bureau may be made.

(e) A determination by the Commission that an Indian group is recognized by the Federal Government as an Indian tribe shall not—

(1) have the effect of depriving or diminishing the right of any other Indian tribe to govern its reservation as such reservation existed prior to the recognition of such Indian group.

(2) have the effect of depriving or diminishing any property right held in trust or recognized by the United States for such other Indian tribe prior to the recognition of such Indian group, or

(3) have the effect of depriving or diminishing any previously or independently existing claim by a petitioner to any such property right held in trust by the United States for such other Indian tribe prior to the recognition of such Indian group.

APPEALS

SEC. 9. (a) By no later than 60 days after the date on which the summary of the determination of the Commission with respect to a petition is published under section 8(b), the petitioner, or any other party, may appeal the determination to the United States Court of Appeals for the District of Columbia Circuit.

(b) The prevailing parties in the appeal described in subsection (a) shall be eligible for an award of attorney fees and costs under the provisions of section 504 of title 5, United States Code, or section 2412 of title 28 of such Code, as the case may be.

IMPLEMENTATION OF DECISIONS

SEC. 10. (a) Upon recognition by the Commission that the petitioner is an Indian tribe, the Indian tribe shall be eligible for the services and benefits from the Federal Government that are available to other federally recognized Indian tribes and entitled to the privileges and immunities available to other federally recognized Indian tribes by virtue of their status as Indian tribes with a government-to-government relationship with the United States, as well as having the responsibilities and obligations of such Indian tribes. Such recognition shall subject the Indian tribes to the same authority of Congress and the United States to which other federally recognized tribes are subject.

(b) While the Indian tribes that are newly recognized under this Act shall be eligible for benefits and services, recognition of the Indian tribe under this Act will not create an entitlement to existing programs of the Bureau. Such programs shall become available upon appropriation of funds by law. Requests for appropriations shall follow a determination of the needs of the newly recognized Indian tribe.

(c) Within 6 months after an Indian tribe is recognized under this Act, the appropriate area offices of the Bureau of Indian Affairs and the Indian Health Service shall consult and develop in cooperation with the Indian tribe, and forward to the respective Secretary, a determination of the needs of the Indian tribe and a recommended budget required to serve the newly recognized Indian tribe. The recommended budget will be considered along with other recommendations by the appropriate Secretary in the usual budget-request process.

LIST OF RECOGNIZED INDIAN TRIBES

SEC. 11. By no later than the date that is 90 days after the date of the enactment of this Act, and annually thereafter, the Secretary shall publish in the Federal Register an up-to-date list of all Indian tribes which are recognized by the Federal Government and receiving services from the Bureau.

ACTIONS BY PETITIONERS FOR ENFORCEMENT

SEC. 12. Any petitioner may bring an action in the district court of the United States for the district in which the petitioner resides, or the United States District Court for the District of Columbia, to enforce the provisions of this Act, including any time limitations within which actions are required to be taken, or decisions made, under this Act and the district court shall issue such orders (including writs of mandamus) as may be necessary to enforce the provisions of this Act.

REGULATIONS

SEC. 13. The Commission is authorized to prescribe such regulations as may be necessary to carry out the provisions and purposes of this Act. All such regulations must be published in accordance with the provisions of title 5, United States Code.

GUIDELINES AND ADVICE

SEC. 14. (a) No later than 90 days after the date of enactment of this Act, the Commission shall make available suggested guidelines for the format of petitions, including general suggestions and guidelines on where and how to research required information, but such examples shall not preclude the use of any other format.

(b) The Commission, upon request, is authorized to provide suggestions and advice to any petitioner for his research into the petitioner's historical background and Indian identity. The Commission shall not be responsible for the actual research on behalf of the petitioner.

ASSISTANCE TO PETITIONERS

SEC. 15. (a)(1) The Commissioner of the Administration for Native Americans of the Department of Health and Human Services may award grants to Indian groups seeking Federal recognition to enable the Indian groups to—

(A) conduct the research necessary to substantiate petitions under this Act, and

(B) prepare documentation necessary for the submission of a petition under this Act.

(2) The grants made under this subsection shall be in addition to any other grants the Commissioner of the Administration for Native Americans is authorized to provide under any other provision of law.

(b) Grants provided under subsection (a) shall be awarded competitively based on objective criteria prescribed in regulations promulgated by the Commissioner of the Administration for Native Americans.

SECTION-BY-SECTION SUMMARY ANALYSIS OF THE INDIAN FEDERAL RECOGNITION ADMINISTRATIVE PROCEDURES ACT OF 1991

SECTION 1

Section 1 cites the short title of the Act as the "Indian Federal Recognition Administrative Procedures Act of 1991."

SECTION 2

Section 2 sets out the purposes of the Act.

SECTION 3

Section 3 of this bill sets out the definitions used in the Act.

SECTION 4

Section 4 of this bill provides that there will be established the "Commission on Indian Recognition" as an independent commission. The Commission shall have three members who shall be appointed by the President with the advice and consent of the Senate. The Commission shall hold its first meeting no later than 30 days after the date on which all members have been appointed and confirmed by the Senate.

This section provides that the President shall give careful consideration to recommendations from Indian tribes and individuals who have a background in Indian law or policy, anthropology, genealogy or history. The President shall designate one appointee as the Chairman of the Commission and two members shall constitute a quorum for the transaction of business.

Subsection (b) of this section provides that each member of the Commission not employed by the Federal government shall receive compensation at a rate equal to the daily equivalent of the annual rate of pay for level V of the Executive Schedule under section 5316 of title 5, U.S.C. for each day the member is engaged in the performance of duties authorized by the Commission. This subsection provides that employees or officers of the Federal government shall serve without additional compensation except for reimbursement of travel and per diem expenses incurred during performance of their duties. Finally, this subsection provides that the principal office of the Commission shall be in Washington, D.C.

Subsection (c) provides that the Commission shall carry out the duties and meet the requirements imposed by this Act.

Subsection (d) provides that Chairman is authorized to appoint, terminate and fix compensation for an Executive Director of the Commission and such other personnel as deemed advisable. The chairman is also authorized to procure temporary and intermittent services to the same extent as is authorized by law for other agencies.

This subsection also provides that the Commission is authorized to hold hearings, to take testimony, to administer oaths or affirmations to witnesses and to enter into contracts or other arrangements as the Commission may deem advisable. The provisions of the Federal Advisory Commission Act shall not apply to the Commission on Indian Recognition.

Subsection (d) authorizes the Commission to secure information from any agency, department or instrumentality of the Federal government as it may require for the purposes of this Act. Each agency, department, or instrumentality of the Federal government is authorized and directed to furnish such information to the extent permitted by law. The Chairman of the Commission may request the use of any facilities, services or personnel of an agency, department or instrumentality of the Federal government to assist in the Commission in carrying out its duties under this section.

Subsection (e) of this section provides that the Commission shall cease to exist on the date that is 60 days after the date on which the Commission publishes in the Federal Register the last determination on petitions required under section 5(a) of the Act. All records, documents and materials shall be transferred by the Commission to the National Archives and Records Administration.

SECTION 5

Section 5 provides that any Indian group, including a terminated Indian tribe, may submit to the Commission a petition requesting that the Commission recognize that the Indian group is an Indian tribe. A recognition petition submitted under this Act must be submitted during the 72 month period beginning on the date of enactment of this Act. This section provides that the provisions of this Act shall not apply to Indian tribes or Alaska Native entities which are already federally recognized, splinter groups or political factions which have separated from the main body of a federally recognized Indian tribe, of groups or successors in interest of groups which have petitioned for Federal recognition and been denied.

This section also provides that no later than 30 days after the date on which all members have been appointed or confirmed by the Senate, the Secretary shall transfer to the Commission all petitions for Federal recognition pending before the Department of the Interior. On the date of the transfer, the Secretary shall cease to have any authority to recognize or acknowledge on behalf of the Federal government any Indian group as an Indian tribe. Petitions transferred to the Commission shall be considered as having been submitted to the Commission as of the date of such transfer.

Subsection (b) of this section provides that a petition submitted to the Commission on Indian Recognition shall contain a statement of facts establishing that the petitioner has been identified from historical times to the present, on a substantially continuous basis, as Indian. A petitioner shall not be considered as having failed to satisfy any requirement of this subsection merely because of fluctuations in tribal activity during various years. A petition for Federal recognition shall contain evidence that a substantial portion of the membership of the petitioner lives in a community viewed as Indian and distinct from other populations and that members of the petitioner are descendants of an Indian group which historically inhabited a specific area.

The petition submitted under this section shall include a statement of facts which establishes that the petitioner has maintained tribal political influence over its members as an autonomous entity from historical times to the present. The petition shall also include a copy of the governing document of the petitioner and a list of all current members of the petitioner.

SECTION 6

Section 6 provides that within 30 days of receipt of a petition the Commission shall send an acknowledgement of receipt to the petitioner and have published in the Federal Register a notice of such receipt. The Commission shall also notify in writing the Governor and attorney general of, and each recognized Indian tribe within, any state in which a petitioner resides. The Commission shall also publish a notice of receipt in a major newspaper of general circulation in the town or city nearest the location of the petitioner. This notice will also provide notice of opportunity for other parties to submit factual or legal arguments in support of, or opposition to, the petitions. Copies of such submissions shall be provided to the petitioner upon receipt. Petitioner shall have an opportunity to respond to such submissions prior to a Commission determination on the petition.

SECTION 7

Section 7 provides that upon receipt of a petition, the Commission shall conduct a review of the petition, including any supporting evidence, to determine whether the petitioner is entitled to be recognized as an Indian tribe. The Commission may initiate research to assist in the analysis of the petition and supporting documentation. Prior to actual consideration of the petition and by no later than the date that is 12 months after the date the Commission receives the petition, the Commission shall notify the petitioner of any obvious deficiencies or significant omissions that are apparent upon initial review of the petition. The petitioner may withdraw the petition or submit additional information.

Subsection (c) of this section provides that petitions shall be considered on a first come, first served basis which is determined by the date of original filing of the petition with the Commission. The Commission shall establish a priority register of all petitions including those petitions pending before the Department of the Interior. Petitions submitted by groups that were terminated by law or groups that were parties to treaties shall receive priority consideration over all other petitions and shall be considered on an expedited basis.

Subsection (d) of this section states that the Commission shall notify the petitioner and other interested parties of the date on which the petition comes under active consideration.

Subsection (e) of this section provides that a petitioner may withdraw its petition prior to publication of the Commission's proposed findings and may resubmit a new petition. A petitioner shall not lose its priority date by withdrawing and resubmitting its petition but the time period will begin to run upon active consideration of the resubmitted petition.

SECTION 8

Section 8 provides that the Commission shall make a proposed finding on the petition within one year of the notice of active consideration. The proposed finding shall be published in the Federal Register. Upon a showing of good cause by the petitioner, the Commission may delay making a proposed finding for 180 days. The Commission shall prepare a report which summarizes the evidence to support each proposed finding. Copies of the report shall be available to the petitioner and to other parties upon request. Any party may submit a legal or factual challenge to the proposed findings within 120 days of their publication.

Subsection (b) of this section provides that the Commission shall make a determination of whether the petitioner should be recognized by the Federal government to be an Indian tribe after consideration of all written arguments and evidence submitted to the Commission. The Commission shall make a determination of whether the petitioner is a federally recognized Indian tribe and publish a summary of such determination in the Federal Register within 60 days after the close of the 120 day response period under subsection (a)(4). The determination made under this subsection shall become effective on the date that is 60 days after the summary is published in the Federal Register.

Subsection (c) of this section states that the Commission shall recognize the petitioner as an Indian tribe if the petition meets all the requirements under section 5(b).

Subsection (d) provides that if the Commission determines that the petitioner should not be recognized to be an Indian tribe, then the Commission shall analyze and forward to the petitioner other options for services or benefits from the Bureau of Indian Affairs.

Subsection (e) provides that a determination by the Commission that an Indian group is recognized as an Indian tribe shall not have the effect of depriving or diminishing: (1) the right of any other Indian tribe to govern its reservation as such reservation existed prior to the recognition of the group; (2) any property right held in trust or recognized by the U.S. for an Indian tribe prior to the recognition of the Indian group; (3) any previously or independently existing claim by a petitioner to any such property right held in trust by the U.S. for another Indian tribe prior to the recognition of the Indian group.

SECTION 9

Section 9 states that no later than 60 days after the date on which the summary of the determination of the Commission on the petition for recognition is published, the petitioner, or any other party, may appeal the determination to the United States Court of Appeals for the District of Columbia. The prevailing parties in the appeal shall be eligible for an award of attorneys fees and costs under the provisions of section 504 of title 5 or section 2412 of title 28 of the U.S.C. as the case may be.

SECTION 10

Section 10 provides that upon recognition by the Commission that the petitioner is an Indian tribe, the Indian tribe shall be eligible for services and benefits from the Federal government. The Indian tribes shall have the same responsibilities and obligations as other federally recognized Indian tribes Programs and services provided by the Bureau of Indian Affairs shall be provided to the newly recognized Indian tribe when funds have been appropriated for such programs. Requests for appropriations shall follow a determination of the needs of the newly recognized Indian tribe.

Finally, this section provides that within 6 months after an Indian tribe is recognized under this Act, the area offices of the Bureau of Indian Affairs and the Indian Health Service shall consult and develop in cooperation with the Indian tribe a determination of needs and a recommended budget. The needs determination and recommended budget shall be forwarded to each Secretary for their consideration.

SECTION 11

Section 11 provides that within 90 days of enactment of this Act and anually thereafter, the Secretary shall publish in the Federal register an up-to-date list of all Indian tribes which are recognized by the Federal government and receiving services from the Bureau.

SECTION 12

Section 12 provides that any petitioner may bring an action in Federal District Court to enforce the provisions of this Act including any time limitations established under this Act and the District Court shall issue such orders as may be necessary to enforce the provisions of this Act.

SECTION 13

Section 13 authorizes the Commission to prescribe such regulations as may be necessary to carry out the provisions and purposes of this Act.

SECTION 14

Section 14 provides that within 90 days of enactment of this Act, the Commission shall make available suggested guidelines for the format of petitions including suggestions on research required in the documentation of a petition for Federal recognition. This section also provides that the Commission may provide advice and technical assistance to a petitioner in documenting the historical background and Indian identity of the Indian group. It further provides that the Commission shall not be responsible for actual research on behalf of the petitioner.

SECTION 15

Section 15 provides that the Commissioner of the Administration for Native Americans may award grants to Indian groups seeking Federal recognition. Grants may be used to conduct research necessary to substantiate petitions for Federal recognition and to prepare documentation necessary for the submission of a petition for Federal recognition. The Commissioner shall award grants on a competitive basis pursuant to objective criteria established by regulation.

SECTION 16

Section 16 provides that there shall be authorized to be appropriated for the Commission on Indian Recognition $1,500,000 for each fiscal year 1992 through 2004 to carry out the purposes of this Act. This section provides that there shall be authorized to be appropriated for the Administration for Native Americans $500,000 for each fiscal year 1992 through 2004 to carry out the purposes of section 15 of the Act.●

By Mr. THURMOND (by request):

S. 1316. A bill to amend title 38, United States Code, with respect to the admissibility in evidence of foreign records of regularly conducted activity; to the Committee on the Judiciary.

FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY

Mr. THURMOND. Mr. President, I rise today to introduce a bill, at the administration's request, that will facilitate the introduction of foreign business records into evidence in Federal civil proceedings. This section is analogous to title 18, section 3505 of the United States Code, which applies to the introduction of foreign business records into evidence in Federal criminal proceedings.

The hearsay rule does not allow statements by persons who are not present at a trial to be admitted into evidence. The bill I am introducing today will add another exception to the hearsay rule for foreign business records. This exception is based on the business record exception, one of the hearsay exceptions currently found in the Federal Rules of Evidence. This exception allows a business record that is a hearsay statement to be admitted into evidence if it possesses sufficient guarantees of its truth to justify the absence at trial of the person who made the hearsay statement.

The foreign business record exception would allow foreign business records to be admitted into evidence if the records fulfill certain certification requirements, thereby facilitating the introduction of a foreign business record while providing safeguards for its authenticity. This exception currently exists for foreign business records in Federal criminal proceedings, and the Justice Department's experience with this procedure has been extremely favorable.

Mr. President, this legislation will provide a useful exception to the hearsay rule. I urge my colleagues to support this legislation and I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FOREIGN RECORDS OF REGULARLY CONDUCTED ACTIVITY.

(a) AMENDMENT TO TITLE 28.—Chapter 115 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1747. Foreign Records of Regularly Conducted Activity

"(a)(1) In a civil proceeding in a court of the United States, including the United States Claims Court and the United States Tax Court, a foreign record of regularly conducted activity, or a copy of such record, shall not be excluded as made by the opposing party and determined by the court before trial. Failure by a party to file such motion before trial shall constitute a waiver of objection to such record or duplicate, but evidence by the hearsay rule if a foreign certification attests that—

"(A) such record was made, at or near the time of the occurrence of the matters set forth, by (or from information transmitted by) a person with knowledge of those matters;

"(B) such record was kept in the course of a regularly conducted business activity;

"(C) the business activity made such a record as a regular practice; and

"(D) if such record is not the original, such record is a duplicate of the original;

unless the source of information or the method or circumstances of preparation indicate lack of trustworthiness.

"(2) A foreign certification under this section shall authenticate such record or duplicate.

"(b) As soon as practicable after a responsive pleading has been filed, a party intending to offer in evidence under this section a foreign record of regularly conducted activity shall provide written notice of that intention to each other party. A motion opposing admission in evidence of such record shall be section 1746 the following item: "1747. Foreign records of regularly conducted activity.".

SEC. 2. EFFECTIVE DATE.

The amendments made by Section 1 are effective on the date of enactment of this Act.

By Mr. PELL:

S. 1317. A bill to authorize appropriations for defense economic adjustment assistance; to the Committee on Armed Services.

ECONOMIC ADJUSTMENT ASSISTANCE AUTHORIZATION ACT

Mr. PELL. Mr. President, I am introducing a bill to remove the fiscal year restrictions from the Defense Economic Adjustment, Diversification, Conversion and Stabilization Act of 1990, which was enacted as part of the National Defense Authorization Act for fiscal year 1991.

My bill would authorize further funding in future fiscal years for the programs authorized by that act, namely community economic adjustment assistance through the Economic Development Administration of the Department of Commerce, and adjustment assistance, training, and employment services for employees through the Department of Labor.

As the author of S. 2097, the Defense Diversification and Adjustment Act in the 101st Congress, parts of which were enacted in the fiscal year 1991 Defense authorization bill, I have a special interest in seeing that these programs are assured of continuity in coming years when the impact of decreased defense spending will almost certainly become increasingly severe.

I am very pleased that the Department of Defense has now agreed, after some delay, to transfer the funds authorized and appropriated for these programs in fiscal year 1991, namely $150 million to the Labor Department and $50 million to the Department of Commerce. I note that these funds are to remain available until expended, by terms of the authorization bill, and until September 30, 1993, by terms of the appropriation bill.

While it is too early to estimate the rate of depletion of these funds, it is possible that they may be quickly obligated due to the continuing reduction in defense spending and particularly as a result of possible implementation of the pending proposals for closure and realignment of military bases.

For these reasons, it seems prudent to continue the authorizations on an open-ended basis for fiscal years after 1991 so that Congress will be free to appropriate such sums as may be necessary to help cushion these continuing blows to the defense-based sectors of the economy.

I am pleased to note that my bill is identical to H.R. 2366 which was introduced on May 15 by Congresswoman MARY ROSE OAKAR, who shares my great concern about the need to provide adjustment assistance to those who through no fault of their own find their livelihood threatened by macrochanges in national budget priorities.

My own concern stems from the vulnerability of defense contractors who make up a substantial portion of the economic base of my State. Already, the Electric Boat Division of General Dynamics, builder of Seawolf and Tri-dent submarines and the largest private sector employer in the State, has indicated that it will be forced to cut its work force of 22,000 in half by 1997, even assuming construction rates of one new submarine a year. Raytheon's Submarine Signal Division, located in Portsmouth, RI, has laid off 30 percent of its work force in the last year, and an associated community of high-technology contractors, mostly small businesses, also has been hard-hit. And in the areaof base closures, it appears that the civilian work force of the Naval Construction Battalion Center, better known as the Seabees, will be out of work with the proposed shutdown of that facility.

The State of Rhode Island is mounting a statewide effort to deal with these dislocations. The State's Office of Strategic Planning has launched a statewide economic adjustment planning project, hopefully to be funded in part by a Federal grant from the Department of Defense Office of Economic Adjustment, for which application is pending.

An important related development is a job creation demonstration project proposed by the Economic Innovation Center of Middletown, RI, and designed especially to assist the adjustment of workers in the high technology contracting community. An application is now pending with the U.S. Department of Labor for support of this project from the funding provided by the economic adjustment provisions of the defense authorization and appropriation bills for fiscal year 1991.

I cite these local circumstances to show that even in the Nation's smallest State, vigorous efforts are under way to lay claim on the State's fair share of the Federal adjustment assistance funds now currently available. Our efforts are surely magnified nationwide with intensity which will increase as the impact of base closures and reduced contracts sinks in. It only makes sense to extend the authorization for these programs now to give assurance that the Federal Government will keep faith with those who need help in adjusting to a new world order.

By Mr. HATFIELD (for himself, Mr. PACKWOOD, and Mr. JEFFORDS):

S. 1318. A bill to amend the Solid Waste Disposal Act so as to protect the environment from discarded beverage containers; to reduce solid waste and the cost in connection with the disposal of such waste through recycling; and for other purposes; to the Committee on Commerce, Science, and Transportation.

NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT

Mr. HATFIELD. Mr. President, I am pleased to rise today to introduce the National Beverage Container Recycling and Reuse Act. I am joined in this effort by my colleague from Oregon, Senator PACKWOOD, and my colleague from Vermont, Senator JEFFORDS.

As Congress undertakes the reauthorization of the Resource Conservation and Recovery Act [RCRA], recycling will no doubt emerge as one of the most effective tools in addressing the solid waste crisis. I know the sad irony of overflowing landfills on one hand, and diminishing resources on the other is not lost on my colleagues, and I am encouraged by indications that our constituents are losing patience with this irony as well.

In 1971, during my first term as a U.S. Senator, Oregon passed the Nation's first beverage container deposit law, which required a 5 cent deposit on each beverage container, redeemable upon return to the grocer. I have been a proponent of a Federal deposit law ever since. I believed then, and still believe now, that the proliferation of throwaway containers is a repugnant reminder of society's wanton depletion of energy resources and the continued idolization of convenience.

As someone who grew up during the Great Depression, I am constantly reminded of the throwaway ethic that has emerged so prominently in this country. In this regard, Oregon's deposit system serves a much greater role than merely cleaning up littered highways, saving energy and resources or reducing the waste flowing into our teeming landfills. The bottle bill acts as a tutor. It is a constant reminder of the conservation ethic that is an essential component of any plan to see this country out of its various crises. Each time a consumer returns a can for deposit, the conservation ethic is reaffirmed, and hopefully the consumer will then reapply this ethic in other areas.

The legislation that Senators PACKWOOD and JEFFORDS and I introduce today modernizes the approach taken by the States that have enacted deposit laws. The bill is modeled in part on elements of laws passed in California, Vermont, Maine, and of course Oregon, and addresses many of the industry concerns that have stalled this bill in the past. One of our principle goals is to encourage, through private enterprise, the development of a more efficient and comprehensive recycling infrastructure. Just as infrastructure is a vital part of our Nation's transportation system, infrastructure is also one of the most important components of a successful recycling program. Our bill encourages the various uses of unclaimed consumer deposits for this purpose. At the proper time, we do intend to offer the bill as an amendment to the RCRA reauthorization bill.

One of the concerns about this legislation is that it is incompatible with curbside recycling. As was recently reinforced before the Environment and Public Works Subcommittee on Environmental Protection by Fred Hansen, Director of Oregon Department of Environmental Quality, States that have working deposit systems are experiencing greater success by pairing a deposit system with a curbside system. They are diverting more waste from the landfills and spending less per ton doing it. Oregon has seen a significant expansion of curbside programs that work effectively in tandem with Oregon's bottle bill.

The GAO report commissioned by Senator JEFFORDS, Congressman HENRY and myself indicates that curbside systems and deposit systems are compatible. I have also recently become aware of a study by officials in the city of Cincinnati that indicates a dual deposit/curbside approach would divert 60 percent more waste from the landfill than the current curbside program alone.

Mr. President, now more than ever, we need programs with the popular support and effectiveness of the bottle bill. We need to put higher priorities on reducing waste, conserving energy and changing our throwaway mentality. There are many demonstrated benefits to a deposit approach and I hope my colleagues consider this legislation carefully.

Mr. PACKWOOD. Mr. President, I rise today as a cosponsor of the National Beverage Container Reuse and Recycling Act of 1991. Since the 93d Congress—1973–74—after Oregon adopted the Nation's first bottle bill, I have cosponsored legislation for a national program.

I recently received a letter from a 14-year-old Boy Scout from Troop 530, in Tualatin, OR, who addressed the lack of a national recycling program. Listen to what Gary Crockett of Tualatin had to say:

> Dear Senator Packwood, I am a Boy Scout working on my citizenship-in-the-nation merit badge. I am writing to you concerning a national bottle bill. I think having a nationwide bottle recycling campaign would save a lot of natural resources used in producing more and more cans and bottles. The bottle return system works very well here in Oregon, and I'm sure it works just as well in States like California, Iowa, Maine, Vermont, and Michigan. It's very simple to operate. Take your cans and bottles to the grocery store and return them for a refund of a deposit you paid when you purchased the beverage. It is inexpensive to recycle the cans and bottles, and will help save the environment at the same time. It would increase space in landfills and would save glass and aluminum. I feel a national bottle bill would work well and would be good for our country's environment. I would enjoy hearing your opinion on this subject.

Well, Gary, I couldn't have said it any better. My opinion on this should be clear in my support today for this new and innovative approach for beverage container recycling.

A recent General Accounting Office report to Congress stated that 70 percent of Americans also support a deposit system. A national bottle bill is one part of a comprehensive recycling legislative solution and one that doesn't have to have all sorts of layers of Federal bureaucracy.

The bill is simple. It exempts States that have at least a 70-percent recycling rate for beverage containers or exempts those States that establish a program that substantially meets the bill's requirements within the next 2 years.

Mr. President, I hope this legislation brings forth a strong recycling incentive from all 50 States, and that this bill will be a guideline for the entire country to participate in a uniform beverage container recycling system.

Not only would this help the Nation environmentally, but it would also positively affect the Nation's health care system as well. A startling figure came out of a Massachusetts study after the adoption of its State bottle bill. The number of children who had to be taken to hospital emergency rooms for stitches because of injuries from discarded beverage containers went down over 60 percent the year after the Massachusetts bottle bill became law. The medical study concluded that the decrease was brought about by the State's new bottle bill.

Mr. President, this beverage container reuse and recycling legislation saves energy and natural resources, endorses national environmental goals, addresses cost containment, and insures our children's health and well-being and I ask my colleagues for their support of this legislation.

By Mr. AKAKA (for himself and Mr. INOUYE):

S. 1319. A bill to provide for the establishment in Hawaii of a Department of Veterans Affairs post-traumatic stress disorder treatment program; to the Committee on Veterans' Affairs.

POST-TRAUMATIC STRESS DISORDER TREATMENT CENTER IN HAWII

• Mr. AKAKA. Mr. President, for myself and Senator INOUYE, I am today introducing legislation that would authorize the establishment of a facility in Hawaii that would comprehensively address the needs of veterans and active duty soldiers in the Pacific basin who suffer from post-traumatic stress disorder [PTSD] or other war-related disorders.

The Pacific Center for PTSD and War-Related Disorders would offer education and training programs and conduct scientific and program evaluation research on PTSD and war-related disorders with a special focus on investigating variations in these conditions which may be influenced by culture, ethnicity, gender, and other psychosocial variables. The center would provide a comprehensive response to the problems of Pacific area veterans suffering from PTSD and other war-related mental health disorders. Most importantly, the Pacific center would offer specialized inpatient treatment for those suffering from severe cases of PTSD. The organization would also undertake the Asian-Pacific component of the ongoing Matsunaga minority PTSD study. The Pacific center would coordinate and integrate all PTSD-related activities undertaken by VA, Tripler Army Medical Center, the University of Hawaii, the State Department of Health, and other health-care related entities.

Mr. President, I recently returned from a factfinding visit this spring to the big island of Hawaii, which may have the highest rates of PTSD incidence and prevalence among veterans in the Nation. I personally met with veterans who have serious cases of the disorder, many of whom live in the most primitive of conditions and who are unable because of their condition to hold jobs, afford decent housing, or have normal human relations with other members of their community. National media coverage, including a "20/20" segment that was aired last Friday and a February 11 Time magazine article, may have made some of my colleagues aware of the extent of the problems faced by this unfortunate population.

The veterans with whom I met had many complaints about their treatment by VA personnel, especially in the area of adjudication for PTSD compensation benefits. However, I was particularly struck by their lack of access to specialized psychiatric inpatient care for their condition. Their problems are shared to one degree or another by all veterans in Hawaii and throughout the Pacific region.

In Hawaii, medical and mental health professionals who treated Vietnam war veterans from ethnocultural minority groups indicate that both the extent and the severity of PTSD among these groups represent an important challenge for service providers. Many members of these ethnocultural groups are not receiving needed care because of cross-cultural difficulties regarding communication, diagnostic procedures, clinical assessment, and appropriate treatment alternatives.

Currently, Hawaii veterans have only a limited range of PTSD care in the State. Veterans with milder forms of the disorder are essentially treated on an outpatient basis, utilizing services provided through the various clinics and vet centers located throughout the State. Veterans with more serious cases are referred to the general psychiatric ward at Tripler Army Medical Center, which lacks the extended, specialized care that a unit dedicated to PTSD treatment can provide, and whose military setting dissuades many veterans from presenting themselves for treatment. Indeed, the entire VA health care system in Hawaii is geared only for short-term crisis management of PTSD, not for intensive treatment of the disorder. This despite the fact that Hawaii has a proud tradition of military service. As a matter of record, the 50th State has the highest number of veterans per capita of any State in the Nation.

Those veterans who are deemed to require indepth care are referred to VA's specialized PTSD treatment facilities at Menlo Park, CA, or American Lake, WA, thousands of miles distant. However, aside from a 2- to 3-month waiting period for admittance, veterans fortunate enough to be accepted in these programs must leave their family and community support groups behind, which are often key factors in recovery. Family members who wish to join them are forced to give up jobs, friends, and homes and also must bear the cost of relocation. Additionally, testimony gathered by the Senate Veterans' Affairs Committee in two separate Hawaii field hearings shows that Hawaii veterans may be subject to racial harassment by other veterans in the mainland programs—for example, being called gooks because of their Asian-Pacific heritage—that exacerbates their conditions. Knowing the obstacles that they encounter on the mainland, Hawaii veterans in desperate need of treatment often choose to forgo care at these facilities. Finally preliminary evidence indicates that PTSD and other disorders have an ethnocultural component, and thus may require the development of radically new methods to identify and treat the condition—methods that are not available at either Menlo Park or American Lake.

Writing in the fall 1990 issue of the Clinical Newsletter of the National Center for PTSD, Doctors Marsella, Chemtob, and Hamada provided a summary to what is known about the impact of culture on PTSC. An excerpt from their article follows:

> At a recent meeting of the National Center for PTSD, attention was directed to the needs of ethnocultural minority veterans suffering from PTSD. The National Vietnam Veterans Readjustment Study (NVVRS 1988) reported significantly higher rates of PTSD among Hispanics and Blacks. Unfortunately, the study did not include findings from any cross-cultural or transcultural research. Those attending the meeting at the Center concluded that understanding and treating PTSD veterans from ethnocultural minority groups requires more specialized knowledge about ethnocultural variations in the nature, experience, and care of PTSD than is currently available.
>
> We have identified four factors which may have predisposed ethnocultural minorities to additional risk and vulnerability under battlefield conditions. First, ethnocultural minorities were subject to racial stereotyping, ridicule, and inequitable treatment. Second, they were asked to fight a non-white people on behalf of a country which many of them considered racist. Third, the Vietnamese enemies often reminded soldiers of color of their own non-white status, increasing guilt and conflicts. Fourth, ethnocultural minorities' personality temperaments were often

different from those preferred by the military. Lower military social status and ambivalent feelings towards the white-dominated military may have acted in concert to increase minorities' risk of and vulnerability to stress.

In addition, many ethnocultural minority traditions idealize the masculine role and encourage endurance and silence in the face of distress rather than complaining about problems. Many ethnocultural minority veterans felt complaining to the Veterans Administration about PTSD-related problems would make them feel shame and humiliation. This was compounded by the reluctance of many ethnocultural minority veterans to pursue assistance from the Veterans Administration because of their distrust of the white-dominated institutions. Lastly, ethnocultural minorities are reluctant to seek assistance because of language and communication differences. Frequently, they speak street or pidgin English dialects which are difficult to understand. In some instances, English may be their second language. It should be noted that communications difficulties also apply to a spectrum of non-verbal and paraverbal ethnocultural differences which are non-redundant communication channels.

While there has been only limited research on variations in PTSD among ethnocultural minority veterans, considerable anecdotal experience has been accumulated at Department of Veterans Affairs clinics and hospitals across the country (e.g., Abueq, 1990, Hamada, Chemtob, Sautner & Sato, 1988). In addition, there is an extensive body of published research regarding cultural determinants of psychopathology and psychotherapy that bear directly upon the needs of ethnocultural minority veterans with PTSD. This research addresses virtually all aspects of psychopathology and psychotherapy that are relevant to PTSD. This includes the ethnocentricism and bias associated with current psychiatric and psychological knowledge regarding: (a) standards of normality and abnormality; (b) expression, course, diagnosis, classification, clinical assessment, and outcome of mental disorders; and (c) cultural appropriateness of various therapy procedures and techniques (e.g., Kleinman & Good, 1985; Marsella 1980; Marsella & Kameoka, 1989; Marsella & White, 1984).

There has been considerable research demonstrating ethnocultural variations in the expression and manifestation of certain anxiety and depressive disorders (op. cit.). This research has shown that individuals from non-Western cultural traditions often fail to present classical symptoms of these disorders and are misdiagnosed as suffering from somatic disorders. Thus, it is quite possible that ethnocultural minority veterans suffering from PTSD and related disorders may be wrongly diagnosed and inappropriately treated. This problem requires developing clinical assessment procedures which are sensitive to ethnocultural variations in the expression of PTSD. Clinical assessment of PTSD relies on a battery of psychological and psychiatric tests and interviews. Many questions used in clinical tests and interviews, however, are inappropriate in content for assessing ethnocultural minorities and thus do not accurately index problems that may be present. Many of the tests and interviews are based on norms which do not include ethnocultural minority group reference data. Yet, these norms are being used as the standards for evaluating ethnocultural minorities.

Every ethnocultural tradition has therapy forms which seek to resocialize patients according to expected and preferred standards of behavior. In addition, every culture uses therapy forms consistent with its own view of the nature and cause of disease and of the procedures presumed necessary to reestablish normal functioning. Thus, all aspects of therapy and counseling reflect cultural influences. This includes (a) the patient's conception of the nature/cause of his disorder; (b) the patient's expectations of therapy and of the therapist; (c) the patient's definition of the "ill" role; (d) the patient's motivation to comply with therapy; and (e) the patient's personal/social resources and skills.

In response to the gradual recognition of ethnocultural variations in both therapy process and outcome, the field of cross-cultural psychotherapy and counseling has gained increased popularity (e.g., Marsella & Pederson, 1982; Pederson, Draguns, Lone & Trimble, 1988). Some authors have raised serious ethical questions about the implications of therapists conducting therapy with patients from different ethnocultural backgrounds. In recent years, there have been efforts to introduce indigenous healers and non-Western alternatives into Western clinical settings. These therapies differ from traditional Western "talk" psychotherapies in that they frequently involve strong spiritual, tactile, and family components. There can be no doubt about their effectiveness. Many of them have been in use for centuries. Increasingly, clinics and hospitals are beginning to work collaboratively with indigenous healers in providing care to ethnocultural minority group members who are still heavily identified with traditional cultures.

Mr. President, it is precisely the need to develop and evaluate new methods of treating veterans from different ethnic and cultural backgrounds that is one of most important reasons underpinning the Pacific center initiative. As some in this Chamber may be aware, Senator INOUYE and I helped fund an ongoing study initiated by my predecessor, the late Spark Matsunaga, to examine the incidence and prevalence of PTSD in those minority populations—including Native Americans, Alaska Natives, and Asian-Pacific Islanders—that were overlooked in the seminal National Vietnam Veterans Readjustment Study, which was completed 2½ years ago. The "Matsunaga Study" is at an initial design stage, and the center would serve as an ideal, cost-effective infrastructure for carrying out the Asian-Pacific component of the undertaking.

In short, Mr. President, the apparent high incidence and prevalence of PTSD in Hawaii, the lack of the full range of PTSD treatment—particularly the lack of specialized inpatient care—in the islands, and the pressing need to explore new methods to better treat veterans from minority cultures could all be addressed in one degree or another by the establishment of the Pacific center.

However, there are some who would say that the Pacific center is unnecessary given VA's plans to establish Hawaii's first and only VA medical center. My reply is threefold: First, the hospital will not become operational until at least late 1997 and thus will not meet the immediate, pressing need to assist PTSD-afflicted veterans in Hawaii. Second, and more importantly, current plans for the facility do not include a specialized PTSD inpatient capacity, only general psychiatric services similar to what is now being offered through Tripler. Since the VA hospital will be located on Tripler grounds, the same veterans who refuse to present themselves at Tripler because of that facility's military associations also will likely refuse to frequent the VA medical center. Third, the Pacific center will provide a major opportunity to develop an affiliation with the University of Hawaii, bringing to bear its considerable expertise in ethnocultural aspects of health on veterans health-care programs. This is why it is vitally important that we establish the Pacific center: It fills a glaring gap in current VA plans for veterans in Hawaii and the Pacific region.

In closing, let me restate what I envision for the Pacific Center for PTSD and war-related disorders. I see it primarily as a treatment center for veterans and active duty soldiers who suffer from PTSD or similar disorders throughout the Pacific Basin. I see the center not only as just another specialized inpatient facility, but as a unique center of excellence that will gather the best, most innovative minds concerning PTSD, particularly as the disorder affects veterans from various ethnic and cultural backgrounds. The fact that Hawaii's climate and topography already attract veterans with the syndrome in inordinate numbers makes Hawaii the ideal location for these types of activity.

Thank you, Mr. President. I believe that the potential contributions that the Pacific center can make to our understanding and treatment of PTSD is fully consistent with Congress' and VA's newfound attention to this serious health care issue.

Mr. President, I ask unanimous consent that my bill and a copy of the Time magazine article to which I referred earlier be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF A POST-TRAUMATIC STRESS DISORDER TREATMENT PROGRAM IN HAWAII.

(a) ESTABLISHMENT.—Chapter 73 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—MISCELLANEOUS PROGRAMS

"§ 7381. Post-traumatic stress disorder treatment facility in Hawaii

"(a) The Secretary shall establish in Hawaii a post-traumatic stress disorder diagnosis and treatment facility to be known as the "Pacific Center for Post-Traumatic Stress Disorder and War-Related Disorders". Activities shall be conducted at the facility in accordance with this section.

"(b)(1) The Secretary shall ensure, to the maximum extent practicable, that activities relating to post-traumatic stress disorder shall be carried out at the facility as follows:

"(A) The provision of inpatient care services and comprehensive outpatient care services relating to the disorder to the following individuals suffering from post-traumatic stress disorder who live in the Pacific jurisdiction of the Department:

"(i) Veterans.

"(ii) Members of the Armed Forces on active duty, pursuant to a memorandum of understanding which the Secretary shall enter into with the Secretary of Defense.

"(B) The provision of education and training programs relating to the disorder for health care and human service professionals located in Hawaii and the Pacific basin, with an emphasis in the coverage of such programs on the manifestations of the disorder among individuals who are members of ethnic minorities.

"(C) The conduct of scientific research relating to the disorder and other war-related mental health disorders, including research relating to (i) the access of individuals who are members of ethnic minorities to diagnosis and treatment of such disorders in facilities of the Department, and (ii) the effectiveness of such diagnosis and treatment for such individuals.

"(D) The coordination of activities in Hawaii relating to research and treatment of the disorder that are conducted pursuant to programs affiliated with the Department of Defense, the Department of Veterans Affairs, institutions of higher education, State or local entities, or community entities and organizations.

"(E) The collection and dissemination of information relating to the diagnosis and treatment of (i) post-traumatic stress disorder, (ii) war-related mental health disorders, and (iii) mental health problems related to natural or man-made disasters.

"(2) The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for the cost of providing care services to the members referred to in paragraph (1)(A)(ii).

"(3) For the purposes of this subsection, the term 'facility of the Department' has the meaning given such term in section 601(4) of this title.

"(c) In providing for the conduct of the activities of the facility under subsection (b), the Secretary shall ensure that special emphasis is given to investigating the relationship between post-traumatic stress disorder and the various cultural, ethnic, gender, and other psychological and social characteristics of persons who suffer from the disorder.".

"(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7368 the following new items:

"SUBCHAPTER V—MISCELLANEOUS PROGRAMS

"7381. Post-traumatic stress disorder treatment facility in Hawaii.".

LOST IN AMERICA—FOR VIETNAM VETS HUNKERED DOWN IN THE JUNGLES OF HAWAII, THE WAR NEVER CAME TO AN END

(By Paul A. Witteman)

Outside, the rain is beating a relentless riff that is familiar to anyone who has lived through a monsoon in Southeast Asia. Inside the Army-issue tent in a clearing at the jungle's edge, Nash A. Miller, a onetime helicopter door gunner and crew chief, is changing into a dry pair of camouflage fatigues. As his two watchdogs prowl silently, Miller, nicknamed "Nam" (his initials), recounts his tale with a small, innocent smile. It begins at a firebase in the badlands west of Kontum, near the Vietnam-Cambodia border, in the summer of 1970.

As Miller's gunship, a ponderous Huey "hog," was taking on a fresh load of rockets and grenades, a Soviet-made 122-mm shell exploded several yards away in a lethal burst of metal. Fragments shredded his pants, embedding themselves in his legs. One shard burned its way into his throat. After the field surgeon in Pleiku extracted a chunk close to his jugular vein, an opening the size of a quarter remained in his neck. "I was fascinated by the hole," he says, rubbing the scar. "When I looked in the mirrow, I could see my Adam's apple."

Two decades later, Miller is still on intimate terms with the war. "For years, I've slept with my left hand on my Bible and my right hand on my .45," he says. But the particular piece of tropical rain forest that Miller inhabits is a long way from the Ho Chi Minh Trail. Miller's base camp hunkers down on some hardscrabble red dirt several miles outside the village of Pahoa on the Big Island of Hawaii. In touch and smell, as well as sight, it is the closest to Vietnam that one can get within the U.S. "I will never live anywhere else," Miller declares. "The jungle is my home."

Today, as Americans once again hear reports of U.S. soldiers taken prisoner of war or missing in action, many are reminded that not everyone lost in the last big conflict has been accounted for. The government of Vietnam last month continued to return the remains of U.S. fightingmen who lost their lives there. Lobbyists go on pressing for the location of other MIAs (surprisingly, many Americans still believe there are U.S. soldiers behind held captive somewhere in the jungles of Indochina). Much less attention has focused on another group of "lost" warriors: those combat veterans who, like Miller, disappeared into the jungle after they got home.

Most of the "bush vets," as they've come to be known, prefer it that way, having chosen to shun virtually all human contact. Many returned home only fleetingly before retreating into tropical solitude. "My family thinks I'm an MIA in the U.S.A.," says Glen Hayne, 44, who made it back to Oakland in February 1968, after a tour full of fire fights and body bags with the Tenth Cavalry, only to drift to Mexico and then Hawaii. He supported himself by growing the powerful local variety of marijuana known as pakalolo but, after a recent crackdown by drug agents, has switched to fishing. Patrick Barnett (not his real name), on the other hand, who is originally from Honolulu, lived for years under trees and bushes in the Waipio Valley, subsisting primarily on breadfruit, mangoes and bananas. "My first 14 years on this island were spent in hiding," says Barnett, who is stooped, almost toothless and looks decades older than his 41 years.

By some estimates, there are several hundred Vietnam veterans living on the mountainous and sparsely settled Big Island, as well as clusters in such diverse places as the Pacific Northwest and the backwoods of Maine. An accurate count is tough to come by. "You don't have to move very far up slope to get out of sight," says Stephen Staten, a psychiatrist who began counseling bush vets at a Veterans Administration clinic in Kona 16 months ago. No one is looking too closely either, since some of the bush vets are armed, unpredictable and have set booby traps around their camps. "There are veterans in the bush who are beyond help," says Michael Cowan, who in 1987 helped found V.F.W. Post 3874 in Kona. "I hate to say this, but the authorities need to go in, drop nets over them, confiscate their weapons and put them in straitjackets."

Cowan, a Silver- and multiple Bronze-Star winner who guided artillery and air strikes in Vietnam, ought to know. He self-destructed when he went home to Oklahoma. His marriage failed, he was dismissed from the Army, and he spent four years in a mental hospital after being arrested for his role in a shooting incident. In 1983 he hit the beach in Hawaii, a burned out case who washed windows for beers and scrounged in dumpsters for food. In 1985, 12 years after his last combat action, Cowan was given a medical explanation for his troubles: post-traumatic stress disorder.

PTSD is the modern term for what used to be called battle fatigue or shell shock. A congressional study in 1988 found that about 479,000 of the nation's 3.5 million or so Vietnam vets are afflicted with serious cases; an additional 350,000 display more moderate symptoms. PTSD is a state of extreme arousal caused by the virtual nonstop release of adrenaline and other similar substances into the bloodstream. When cars backfire, PTSD patients generally hit the dirt. The sound of helicopter rotor blades causes some to conceal themselves in trees. A baby's cry can invoke instant rage. Put in nonclinical terms, says psychiatrist Staten, the symptoms of PTSD are "like experiencing one's most threatening nightmares." A recent medical study found that the adrenaline levels of PTSD sufferers remain higher during hospital treatment than those of manic-depressives and paranoid schizophrenics.

In Vietnam, PTSD was often caused by the prolonged stress of trying to survive an ambush or a fire fight. Bill Ralph developed his case riding shotgun on fuel trucks engaged in night resupply missions. For seven of the 18 years he has lived in Hawaii, Ralph occupied an 8-ft. by 12-ft. hilltop shack. If a stranger approached, Ralph would slip into the jungle, his knife at the ready. "I didn't even know I was sick," he says. "I just thought I was a little different."

At the Kona clinic, Staten has been working to coax Ralph and a handful of others out of desperate isolation. Some of the men have formed a self-help group. At meetings of the new Hawaii Veterans Association, in the town of Captain Cook, they begin to make peace with the demons that haunt them, by discovering that others are haunted as well.

They also nurture communal outrage at the bureaucracy of the Veterans Administration, that latter day Viet Cong, for making benefits difficult to obtain. Adrian Yurong, 45, who served about a year and a half with the 25th Infantry Division near the Viet Cong stronghold of Cu Chi, has been denied benefits because his job description shows he was a radar operator. Yurong, now known simply as Nano, was pressed into service, he says, as an infantryman throughout his tour. The VA grants that he has PTSD but says he must have contracted it elsewhere. Such arguments enrage V.F.W. activist Cowan. "When you first go to the VA, you are denied benefits. Fifty percent of the vets don't go back. The second time you are denied, you lose another 25%," he says. "You must be willing to put up with total bullshit to get help," says Cowan, who fears that his own disability payments may be threatened by his activism.

Samuel A. Tiano, director of the regional VA office in Honolulu until a recent transfer, says dismissingly of the bush vets, "Some of these people would live this way if they had not been to Vietnam. We have some who are always wanting this and wanting that." But such service requests, says Tiano's boss, Edward Derwinski, the Secretary of Veterans Affairs, are exactly what the veterans should be making. Says he: "The customer is always right." Derwinski, whose department has been embarrassed by recent reports of negligence at VA hospitals, concedes that his bureaucracy has not always acted compassionately. "We have had a communications gap with Vietnam veterans. It is not a perfect situation."

Staten is trying to rectify that. In the process of helping the bush vets, he has learned that theirs is a well-traveled path. When Roman Legionnaires returned from war, they were encouraged to settle in rural areas where they could decompress quietly. Japanese literature tells of samurai retiring to tend the "perfect garden." For many of these men, the island of Hawaii is that perfect garden, or as Staten calls it, the "gentle jungle." Says Cowan: "It is like a sanctuary. I trust my emotions and feelings here."

Some bush vets have been drawn to the jungle, subconsciously seeking what therapists call "belated mastery." They want control over an environment that once terrified them. Says former Green Beret Lee Burkins, who has lived in Hawaii for 11 years; "I didn't plan to go back to the jungle to taste my fears. I wanted to achieve inner peace. But I kept looking for a foot, a pair of eyes or a gun muzzle. I had to tell myself not to worry about that anymore."

Not surprisingly, these veterans have strong feelings about the potential human consequences of America's latest war. After decades of suffering, they have a message for the future veterans of Operation Desert Storm. "There are occupational hazards in fighting a war," says, Burkins. "They are costly." Cowan adds a sobering caveat: "If a nation is going to suit up its young men and send them to war, it should be prepared to take care of them afterward." In the case of Hawaii's bush vets, that care has been long overdue.●

● Mr. INOUYE. Mr. President, I rise today to introduce, together with the junior Senator from Hawaii, a measure to authorize the establishment of the Pacific Center for Post-Traumatic Stress Disorder and War-Related Disorders.

The center would study variations in PTSD to ensure the successful diagnosis and treatment of Asian-American, American-Pacific Islander, and native American, including native Hawaiian, veterans in a culturally sensitive manner. In fiscal year 1991, the Congress appropriated funds at our request to study the incidence and prevalence of PTSD among these minority populations which were omitted in the national Vietnam veterans readjustment study. This center would serve as an appropriate place to test and implement the results and recommendations of this national study. Initial findings indicate that specialized treatments are needed because of cross-cultural differences in communication, clinical assessments, and appropriate treatment alternatives. Pilot treatment protocols would be developed and utilized to treat these minority veterans.

There is an urgent need for such a center in Hawaii, and in particular on the Island of Hawaii, which may very well have the highest number per capita of Vietnam era veterans suffering from PTSD. An alarmingly significant number have chosen to leave their families and jobs to return to the primitive conditions of Vietnam in the mountains of Hawaii. They relocate to Hawaii to live in a climate and topography similar to that of Vietnam. In doing so, they return to relive the nightmare which has been haunting them for over a decade.

Mr. President, in the February 11, 1991, edition of Time magazine, there appeared an article entitled "Lost in America," which graphically described the tragic lives of Vietnam veterans, termed "bush vets," living in the jungle, or bush, on the Island of Hawaii. On Friday, June 14, 1991, "20/20" aired a very similar segment on the bush veterans in Hawaii. In the wake of the returning U.S. heroes of Operation Desert Storm, Hawaii is receiving national attention as a haven for America's lost heroes.

These forgotten veterans—once brave soldiers who upon their return from a war America wanted to forget—were made the scapegoats for our United States policy in Vietnam. There were no welcome home parades, no yellow ribbons, and no American flags waving. Rather, they came home in the darkness of night, only to be ridiculed and humiliated in the light of day. Many veterans in the jungles of Hawaii, traumatized by what they were forced to endure in Vietnam, were pushed over the edge by the boos and jeers of the American people. It is, indeed, a sad commentary that these veterans would prefer an environment that reminds them of the horrors of war. Tragically, mainstream America—which ridiculed their willingness to sacrifice their lives and cheapened the lives of comrades who made the supreme sacrifice for this Nation—may have been more of a horror.

These national stories spotlighting Hawaii are both tragic and illuminating. Both focused on the lack of specialized psychological services for Vietnam veterans in Hawaii. Treatment is limited to crisis management on an outpatient basis through VA clinics and vet centers throughout the State. Veterans with serious PTSD problems are referred to the psychiatric ward at the Tripler Army Medical Center in Honolulu. However, as it is not the mission of an Army hospital, it lacks the targeted, long-term care that PTSD treatment requires. Additionally, its military setting discourages many from seeking treatment.

Moreover, in some cases, veterans are referred to the VA's PTSD treatment facilities at Menlo Park, CA, or American Lake, WA, thousands of miles from Hawaii. In addition to the 2 to 3-month waiting period, there are two primary reasons which result in very few Hawaii veterans seeking help in these facilities. First, the relocation of the veteran means that ties with family members, friends, and community-based support groups are severed. Such support is imperative to a healthy recovery. Second, there are veterans who fled to Hawaii to relive Vietnam and have no desire to return to once again place themselves in a setting they no longer feel a part of.

Mr. President, for these reasons, I believe that a specialized center on the Island of Hawaii is critically needed. We must turn our policy around and bring the treatment to the Veterans. The Pacific Center for Post-Traumatic Stress Disorder and War-Related Disorders will develop educational, training, counseling, and program evaluation research based on PTSD data collected and will establish a specialized inpatient treatment protocol for application at the center to assist veterans in need.

Mr. President, with the triumphant return of the Persian Gulf veterans, I believe that America is finally coming home. Only then is there hope that our PTSD Vietnam veterans may also return home. From this most recent war, I hope Americans have learned, that regardless of the our individual beliefs about the propriety of U.S. involvement in a war, we must not blame and lash out at our troops for that involvement. Their willingness to sacrifice their lives for this Nation deserves only our admiration and respect.

I believe that this lesson was learned—unfortunately at the expense of the many PTSD inflicted Vietnam veterans suffering in silence today. They continue to be tormented with shrapnel in their hearts and in their minds. I hope and pray that the coming home of the gulf war veterans and the establishment of this center will help the healing process and will allow our lost heroes to find the strength, through specialized PTSD treatments, to leave the jungles of Hawaii and come home.●

By Mr. KOHL:

S. 1320. A bill to amend section 924 of title 18, United States Code, to make it a Federal crime to steal a firearm or explosives in interstate or foreign commerce; to the Committee on the Judiciary.

FIREARMS THEFT ACT

● Mr. KOHL. Mr. President, I rise to introduce legislation that is long overdue: The Firearms Theft Act of 1991. This bill creates Federal penalties of up to 5 years imprisonment and fines of up to $5,000, for anyone stealing firearms or explosive materials.

The violent crime rate in our Nation is rising at an alarming rate. Every day police face automatic gun fire on our city streets. Drive-by shootings by gang members have become commonplace. Every 19 seconds there is a violent crime committed in the United States. Mr. President, the Senate has no time to delay.

The sad truth is that no State or city is immune from this scourge. Last year, 155 murders were committed in my home city of Milwaukee, a 37 percent increase over 1989. The youngest of these murder victims were less than 1 week old. And recently Newsweek labeled Milwaukee one of the new murder capitals of the country.

In both major metroplitan areas and small rural communities, the rates of murder, assault with a deadly weapon, and drug related crimes are skyrocketing. Based on figures for the first part of 1991, it seems that the crime rates are increasing, not slowing down.

Mr. President, stolen firearms figure prominently in many of the most heinous crimes. Last month the Washington Post reported that over an 8 month period, 18 gun shops were robbed in the District of Columbia vicinity. Approximately 600 firearms were stolen. Some of these weapons were traced to Washington area crack houses just a few hours after they were stolen from a Maryland gun shop—and at least one was used in the murder of a Washington man. We can only imagine the nefarious purposes for which the others were utilized.

These are not isolated incidents. The Justice Department has informed the Judiciary Committee that approximately 20,000 stolen guns are reported each month. Combine this with the fact that five out six criminals receive their guns from the black market, and we have the makings of a national crisis.

My bill will directly assist Federal law enforcement agencies in halting these acts of thievery an reducing the number of guns available on the streets. Like the gun-free school zones law I authored last year, this proposal provides an additional tool to a prosecutor's arsenal, so that they can convict the persistent offenders who profit from violence in our communities.

Mr. President, I urge my colleagues to support this legislation, and ask unanimous consent that the bill be printed in the RECORD at this time. I also ask that an article from the Washington Post be printed in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THEFT OF FIREARM OR EXPLOSIVE MATERIAL.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Whoever steals a firearm that is moving as, or is a part of, that has moved in, interstate or foreign commerce shall be fined under this title and imprisoned for not more than 5 years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever steals explosive material that is moving as, or is a part of, or that has moved in, interstate or foreign commerce shall be fined under this title and imprisoned for not more than 5 years, or both.".

AREA'S GUN STORE THEFTS SOAR WITH DEMAND FOR FIREPOWER

[From the Washington Post, May 23, 1991]

(By Pierre Thomas and Michael York)

Federal agents and police from Maryland and Virginia are investigating a series of recent burglaries from gun stores throughout the region in which hundreds of firearms have been stolen, some of which were later confiscated on the streets of the District.

In the last eight months, 18 gun shops have been broken into and about 600 firearms, worth up to $500,000 on the illegal gun market, have been stolen. Federal and local officials said the thefts are evidence of an alarming trend that underscores criminals' demand for firepower.

Many of the burglaries appear to have been committed by the same group, law enforcement officials said. Several police sources said as many as 10 of the burglaries may be related.

In some cases, the guns have been transported to New York and other cities. Many of the stolen firearms were brought into the District within hours. Guns from one Wheaton store, Guns Unlimited, have been recovered in arrests or searches in each of the District's four quadrants, and from five of the city's seven police districts.

"These criminals are willing to do just about anything to get to guns," said Margaret Moore, who oversees agents from the U.S. Bureau of Alcohol, Tobacco and Firearms who are assigned to ACES II, a federal-local effort targeting illicit gun dealing. "You are probably talking about more violent individuals, people going to great lengths not to be traced to the weapons. [In these types of thefts], you would likely have orders before you steal and distribute."

"There is an almost insatiable market for firearms in this area," said David C. Troy, the special-agent-in-charge of the bureau's Washington district office. "This rash of thefts indicates that. Those guns are on the street somewhere right now."

According to Troy, the burglars have taken all kinds of firearms, from revolvers to assault rifles to semiautomatic pistols to fully automatic machine guns. Troy who has supervised federal firearms investigators in Los Angeles and Philadelphia, said he has never seen this many gun shop thefts in the same region in such a short time.

"They have taken a potpourri of weapons," he said. "This is an unusual situation. It indicates a rash of thefts that we have not seen here in recent years."

Handgun possession is illegal in the District, except for those bought before September 1976 and registered before February 1977. Residents of Maryland and Virginia can buy handguns at stores in their states.

The bureau is working with local law enforcement agencies in an attempt to coordinate information and establish patterns of criminal activity.

About 31 firearms have been recovered, about half of them in the District and most of the others in Prince George's and Montgomery counties.

The Guns Unlimited break-in in Wheaton is an example. On Oct. 18, thieves broke through the wall of an adjoining store, gained entry and made off with 56 handguns, 10 long guns and two fully automatic machine guns. A short time later, D.C. police and federal agents raiding a crack house found about 12 firearms from that theft. Guns from the same store have been found in Northwest, Northeast, Southwest and Southeast Washington.

On New Year's Eve, thieves in a stolen four-wheel-drive Toyota truck smashed through the barred front window of a College Park store, Schelin Gun Shop, and fled with nearly $11,000 worth of weapons, mostly military-style semiautomatic assault rifles—10 handguns and five assault rifles.

There was a similar break-in in Hanover County, VA., near Richmond. On April 24, thieves drove a stolen flatbed truck through a cinder-block wall of the Green Top Sporting Goods store about 4:45 a.m and stole 159 semiautomatic pistols and revolvers. When a sheriff's deputy arrived six minutes after the store alarm went off, the thieves were gone and there was a 3-by-3 foot hole in the store.

Less than 24 hours later, police responding to a report of a shooting in Southeast Washington found a man shot in the neck and 10 guns from the Hanover heist, law enforcement sources said.

The theft from the Green Top gun shop "had to be professional," said Cecil Hopkins, chairman of the firm that owns the store. "The place had been thoroughly cased. I think the people behind this are in the drug business . . . . Before, [burglary attempts] had been pretty amateurish."

Hopkins said the burglars got inside even though his store is virtual "vault."

Jack Killorin, the bureau's chief of public affairs, said most of the gun shops have "pretty good security because most have considerable value in firearms."

"It's not a failure on the part of the gun dealers," Killorin said. "It's more indicative of how bad some of these people want guns." Gun store owners "need to know that they have to worry not only about people coming into their stores to misrepresent themselves to get guns, but also about people willing literally to drive through their back wall."

Thefts of guns during house burglaries have been common across the nation for years, and thefts from gun stores elsewhere are not unknown. In February, the owner of a San Diego gun shop was slain during a robbery attempt, according to published reports. In less than a year, more than 100 firearms were stolen in six store burglaries in the Grand Junction and Rifle areas of Colorado.

Federal authorities do not collect information on the numbers of gun shop thefts nationally because the burglary of a gun store is not a federal crime. Killorin said the Bush administration's new crime package would make such a burglary a federal violation.

One gun store owner won't wait for a new law. Ken Bingham, owner of Ken's Gun Room in Owings, Md., said he is going to sell his store because of a March 6 theft there. The thieves entered through an adjacent business that didn't have a burglar alarm and stole 32 firearms.

The adjacent store put in a burglar alarm later, but the problems didn't cease. Less than a month later, Bingham's store was broken into again. This time thieves smashed through a rear wall. They took 21 more handguns.

The store, he said, was the fulfillment of "a dream." But, he said, "an honest business can't make it . . . . I am tired of this foolishness."●

By Mr. LEAHY (for himself, Mr. BROWN, and Mr. KOHL):

S. 1322. A bill to amend title 18 of the United States Code to clarify and expand legal prohibitions against computer abuse; to the Committee on the Judiciary.

COMPUTER ABUSE AMENDMENTS ACT

Mr. LEAHY. Mr. President, I am pleased to introduce the Computer Abuse Amendments Act of 1991 with Senator BROWN and Senator KOHL.

The free flow of information is vital to our competitiveness as a nation. Innovations in computer technology create new opportunities for improving the flow of information and advancing America's economic future, but they also create new opportunities for abuse by those who seek to undermine our computer systems. The maintenance of the security and integrity of computer systems has become increasingly critical to interstate and foreign commerce, communications, education, technology and national security.

The National Research Council [NRC] recently published a major study, "Computers at Risk: Safe Computing in the Information Age." The study finds that we risk computer breaches that could cause economic disaster and even threaten human life. The NRC study points out:

> Tomorrow's terrorist may be able to do more damage with a keyboard than with a bomb. To date, we have been remarkably lucky. * * * Unfortunately, there is reason to believe that our luck will soon run out. Thus far we have relied on the absence of malicious people who are both capable and motivated. We can no longer do so.

The NRC study underscores the need for immediate action to protect our computer systems. In the 101st Congress, the Senate responded to the threat posed by new techniques for creating and transmitting malicious programs and codes by unanimously passing the computer abuse bill I introduced with Senators Humphrey and KOHL. The bill was not considered by the House of Representatives in the last Congress, so I now join with Senators BROWN and KOHL in reintroducing the bill.

This legislation is the product of over 2 years of work by the Subcommittee on Technology and the Law. It deals with new technologies and newly discovered forms of computer abuse. An alarming number of new techniques—computer viruses, worms and Trojan horses—can be used to enter computers secretly. Their simple names belie their insidious nature. Thousands of virus attacks have been reported and hundreds of different viruses have been identified. Hidden programs can destroy or alter data. For example, a Michigan hospital reported that its patient information had been scrambled or altered by a virus that came with a vendor's image display system. Hidden programs can also hopelessly clog computer networks, as we saw in the INTERNET worm of November 1988.

Other computer incidents, using the same kinds of programs, have been inadvertent. For example, in December 1989, the Vermont State computer network froze. It was impossible to sign on to the system. Rather than a virus or sabotage, it turned out to be a security device in the form of a "time bomb," built into the system's hardware to deter outside access. The manufacturer of the software had failed to inform the State that a special code would be triggered after a given date, locking out access through normal channels. It was a nuisance to be sure, but certainly without criminal intent.

The subcommittee held a hearing on May 15, 1989, to explore the threat to computers and the information stored in them posed by new forms of computer abuse. We heard testimony from FBI Director William Sessions, who stressed the seriousness of the threat posed by computer viruses and other techniques.

The subcommittee also heard testimony from Dr. Clifford Stoll, an astrophysicist at the Harvard-Smithsonian Center for Astrophysics. He testified that many researchers throughout the United States were prevented from using their computers for 2 days as a result of a worm that was introduced onto the INTERNET computer network in November 1988. While managing the computer system at the Lawrence Berkeley Laboratory, Dr. Stoll caught a West German spy using computer networks to try to gain access to military information.

As a prosecutor for more than 8 years in Vermont, I learned that the best deterrent to crime was the threat of swift apprehension, conviction, and punishment. Whether the offense is murder, drunk driving, or computer crime, we need clear laws to bring offenders to justice. Trespassing, breaking and entering, vandalism, and stealing are against the law. They have always been against the law because they are contrary to the values and principles that society holds dear. That has not changed and will not change.

In crafting this legislation we have been mindful of the need to balance clear punishment for destructive conduct with the need to encourage legitimate experimentation and the free flow of information. As witnesses testified in both the computer virus hearings and the subcommittee's March 16, 1988 hearing on information and competitiveness, the open exchange of information is crucial to scientific development and the growth of new industries. We cannot unduly inhibit that inquisitive 13-year-old who, if left to experiment today, may tomorrow develop the telecommunications or computer technology to lead the United States into the 21st century. He or she requests our future and our best hope to remain a technologically competitive nation.

Mr. President, this bill clarifies the intent standards, the actions prohibited, and the jurisdiction of the current Computer Fraud and Abuse Act [CFAA], 18 U.S.C. section 1030. Under the current statute, prosecution of computer abuse crimes must be predicted upon the violator's gaining, unauthorized access to the affected Federal interest computers. However, computer abusers have developed an arsenal of new techniques which result in the replication and transmission of destructive programs or codes that inflict damage upon remote computers to which the violator never gained access in the commonly understood sense of that term. The new subsection of the CFAA created by this bill places the focus on harmful intent and resultant harm, rather than on the technical concept of computer "access."

The bill makes it a felony intentionally to cause harm to a computer or the information stored in it by transmitting a computer program or code—including destructive computer viruses—without the knowledge and authorization of the person responsible for the computer attacked. This is broader than existing law, which prohibits "intentionally access[ing] a Federal interest computer without authorization," if that causes damage.

This legislation recognizes that some computer incidents are not malicious, or even intentional, and they are treated differently. The bill creates a parallel misdemeanor for knowingly transmitting a computer program with reckless disregard of a substantial and unjustifiable risk that the transmission will cause harm. The standard for recklessness is taken from the Model Penal Code. This provision will give prosecutors and juries greater flexibility to get convictions for destructive conduct.

The bill creates a new, civil remedy for those harmed by violations of the CFAA. This would boost the deterrence of the statute by allowing aggrieved individuals to obtain relief.

The bill expands the jurisdiction of the CFAA. It would cover all computers involved in interstate commerce, not just Federal interest computers, as the current law does. This is appropriate because of the interstate nature of computer networks. American society is increasingly dependent on computer networks that span State and national boundaries. The potential for abuse of computer networks knows no boundaries. The bill addresses this threat by expanding the jurisdiction of the CFAA to the full extent of the powers of Congress under the commerce clause of the U.S. Constitution, article I, section 8.

Mr. President, it is important to update the CFAA to stay abreast of rapid changes in computer technology and computer abuse techniques. The Computer Abuse Amendments Act of 1991 has been drafted and revised on the basis of careful reviews of issues raised in the Subcommittee on Technology and the Law's hearings, and with the benefit of consultation with computer experts. At the hearing of the Subcommittee on Technology and the Law on July 31, 1990, Deputy Assistant Attorney General Mark Richard testified that this bill "* * * provides a useful improvement over and clarification of, the scope of existing law." The bill has been broadly supported by the computer industry and computer users. In the 101st Congress, the bill was unanimously reported by the Judiciary Committee and unanimously passed by the Senate.

Mr. President, I want to thank Senators BROWN and KOHL for joining with me in reintroducing this bill in the 102d Congress. I look forward to working with them on this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Abuse Amendments Act of 1991".

SEC. 2. AMENDMENTS TO THE COMPUTER FRAUD AND ABUSE ACT.

(a) PROHIBITION.—Section 1030(a)(5) of title 18, United States Code, is amended to read as follows:

"(5)(A) through means of or in a manner affecting a computer used in interstate commerce or communications, knowingly causes the transmission of a program, information, code, or command to a computer or computer system if—

"(i) the person causing the transmission intends that such transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data, or program; or

"(II) withhold or deny, or cause the withholding or denial, of the use of a computer, computer services, system or network, information, data or program; and

"(ii) the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals; or

"(B) through means of or in a manner affecting a computer used in interstate commerce or communication, knowingly causes the transmission of a program, information, code, or command to a computer or computer system—

"(i) with reckless disregard of a substantial and unjustifiable risk that the transmission will—

"(I) damage, or cause damage to, a computer, computer system, network, information, data or program; or

"(II) withhold or deny or cause the withholding or denial of the use of a computer, computer services, system, network, information, data or program; and

"(ii) if the transmission of the harmful component of the program, information, code, or command—

"(I) occurred without the knowledge and authorization of the persons or entities who own or are responsible for the computer system receiving the program, information, code, or command; and

"(II)(aa) causes loss or damage to one or more other persons of a value aggregating $1,000 or more during any 1-year period; or

"(bb) modifies or impairs, or potentially modifies or impairs, the medical examination, medical diagnosis, medical treatment, or medical care of one or more individuals;".

(b) PENALTY.—Section 1030(c) of title 18, United States Code is amended—

(1) in paragraph (2)(B) by striking "and" after the semicolon;

(2) in paragraph (3)(A) by inserting "(A)" after "(a)(5)"; and

(3) in paragraph (3)(A) by striking the period at the end thereof and inserting "; and"; and

(4) by adding at the end thereof the following:

"(4) a fine under this title or imprisonment for not more than 1 year, or both, in the case of an offense under subsection (a)(5)(B).".

(c) CIVIL ACTION.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Any person who suffers damage or loss by reason of a violation of the section, other than a violation of subsection (a)(5)(B), may maintain a civil action against the violator to obtain compensatory damages and injunctive relief or other equitable relief. Damages for violations of any subsection other than subsection (a)(5)(A)(ii)(II)(bb) or (a)(5)(B)(ii)(II)(bb) are limited to economic damages. No action may be brought under this subsection unless such action is begun within 2 years of the date of the act complained of or the date of the discovery of the damage.".

(d) REPORTING REQUIREMENTS.—Section 1030 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Attorney General shall report to the Congress annually, during the first 3 years following the date of the enactment of this subsection, concerning prosecutions under section 1030(a)(5) of title 18, United States Code.".

(e) DEFINITION.—Section 1030(e)(1) of title 18, United States Code, is amended by striking ", but such term does not include an automated typewriter or typesetter, a portable hand held calculator, or other similar device".

(f) PROHIBITION.—Section 1030(a)(3) of title 18, United States Code, is amended by inserting "adversely" before "affects the use of the Government's operation of such computer".

Mr. BROWN. Mr. President, I rise today to join Senators LEAHY and KOHL in support of passage of S. 1322, the Computer Abuse Amendments Act of 1991. As ranking member of the Subcommittee on Technology and the Law of the Senate Judiciary Committee, and as an original cosponsor of S. 1322, I urge the Senate to pass this legislation.

S. 1322 represents the culmination of the efforts of the Subcommittee on Technology and the Law to clarify and strengthen the existing Federal law dealing with computer abuse crimes. The current measure under consideration is identical to S. 2476, the Computer Abuse Amendments Act of 1990, which passed the Senate by unanimous consent in the last Congress.

This bill has the support of computer manufacturers and the software industry. Both groups believe S. 1322 strikes the proper balance between the need for strong laws against computer abuse and the need to promote the free flow of information across computer information networks. The Department of Justice has stated that the bill is an improvement over existing Federal laws.

During the past decade, computer information networks have become an integral part of communications in modern society. Technological advances in the development of computer networks have enabled network users in different States and even different countries to communicate and exchange information. Computer networks now provide vital links for the exchange of financial information, scientific research data, and national security information. Unfortunately, the rapid technological advances that have led to the proliferation of computer information networks also have provided computer criminals with additional opportunities to introduce harmful computer worms and viruses into computer systems.

Despite the rapid technological advances in the computer manufacturing and software industries, computer security technology has not been able to keep pace with the spread of new computer abuse techniques. The existing Federal law governing computer abuse, the Computer Fraud and Abuse Act of 1986 [CFAA], has not been able to deal effectively with the new forms of computer viruses and worms which have emerged in the past 5 years.

With the number of microcomputers used in the workplace expected to increase from 10 to 34 million in the next 3 years, computer crime will become a much bigger concern for businessmen and law enforcement officials. A recent study by the accounting firm of Ernst & Whinney, cited in the National Institute of Justice Journal, estimated that computer crime now causes between $3 and $5 billion in damages each year. Three-quarters of the law enforcement officers responding to a National Institute of Justice survey identified computer crime as an issue likely to take up a significant part of their workload in the future.

S. 1322 amends the CFAA and brings Federal computer crime statutes up to date with recent advances in computer technology and computer abuse techniques. The CFAA had created a felony violation for gaining unauthorized access to a computer used either by or for the Federal Government. This definition of a felony violation allowed computer criminals who were able to introduce harmful computer viruses into an information network without illegally accessing a computer to escape prosecution. S. 1322 closes this loophole by making the main element of a felony violation under the CFAA the malicious intent of a perpetrator in transmitting a computer worm or virus designed to damage or disable a computer network.

The bill also expands the scope of criminal offenses under the CFAA to include incidents of computer abuse which do not rise to the level of a felony violation. S. 1322 creates a misdemeanor violation for transmitting a computer program with reckless disregard for the potentially harmful effects of the program on other computers.

In recognition of ever-increasing numbers of computer information networks, the bill expands the scope of statutory protection against computer abuse to cover all computers used in interstate commerce or communications, not just computers used by or for the Federal Government.

S. 1322 also creates a civil cause of action for victims of felony computer abuse violations under the CFAA. The civil remedy will be limited to recovery for economic loss or damages resulting directly from the felony violation. The addition of a civil cause of action to the CFAA will strengthen the existing Federal law and provide an effective deterrent against computer abuse activities.

Passage of this legislation will serve to continue to promote the rapid growth of computer information networks, while at the same time updating Federal computer crime laws to take into account the new varieties of computer abuse techniques. S. 1322 will help clarify and strengthen the laws that are so essential to protect the computer information networks on which so many people now depend.

By Mr. GORE:

S.J. Res. 164. Joint resolution designating the weeks of October 27, 1991, through November 2, 1991, and October 11, 1992, through October 17, 1992, each separately as "National Job Skills Week"; to the Committee on the Judiciary.

NATIONAL JOB SKILLS WEEK

• Mr. GORE. Mr. President, today I am introducing a joint resolution to designate as "National Job Skills Week," the week of October 27, 1991, through November 2, 1991, and the week of October 11, 1992, through October 17, 1992.

We all know that technological achievements play a prominent role in advancing the U.S. economy. But we realize, too, that workers can be the greatest power driving economic growth. Our Nation is strongly challenged now by international economic competition to develop this masterful work force.

Mr. President, I am introducing this resolution to help us meet that challenge.

National Job Skills Week focuses national attention on the changing needs of employers and workers. It raises the profile of private and public job-training efforts. And it promotes thorough examinations of promising technological and managerial developments.

The nature of work and workplaces is evolving more rapidly than ever before. Every day we hear of technological and administrative advances that can expand our ability to compete in the global marketplace. But to use effectively those new technologies and to function efficiently with new styles of management, American companies need trained, responsible, and versatile workers. Yet even as highly skilled workers are in demand, the Nation's pool of competent entry-level workers in declining, and many of those now in the work force are limited to skills that soon will be obsolete.

Mr. President, I'm sure we all agree that a well-trained, responsible work force is fundamental to America retaining its longstanding economic leadership worldwide. I believe our education, training, and business communities have the capacity to give us this much-needed work force and in turn to give us an even higher standard of living than we presently enjoy. But I believe, too, that citizens can hasten work force improvements by taking time to learn more about technological and training developments in their companies and in their communities. For this crucial purpose, then, I ask my colleagues' support of National Job Skills Week.

For the past 5 years, I have sponsored—and Congress and the President have approved—resolutions to designate a National Job Skills Week. I trust our efforts on this matter will be equally successful this year.•

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. PRESSLER, the names of the Senator from Illinois [Mr. SIMON], the Senator from Kentucky [Mr. MCCONNELL], the Senator from North Dakota [Mr. BURDICK], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of S. 98, a bill to amend the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.

S. 141

At the request of Mr. DASCHLE, the names of the Senator from Connecticut [Mr. DODD] and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 239

At the request of Mr. SARBANES, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 280

At the request of Mr. SASSER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of nondeposit liabilities in the deposit insurance assessment base, to require the FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

S. 284

At the request of Mr. BRADLEY, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 297

At the request of Mr. HEFLIN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 297, a bill requiring that the United States Postal Service study and report to Congress on ways to encourage mailers of second-class and third-class mail matter to use recycled paper.

S. 377

At the request of Mrs. KASSEBAUM, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 377, a bill to amend the International Air Transportation Competition Act of 1979.

S. 448

At the request of Mr. SYMMS, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 480

At the request of Mrs. KASSEBAUM, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 480, a bill to amend the Public Health Service Act to provide grants to States for the creation or enhancement of systems for the air transport of rural victims of medical emergencies, and for other purposes.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 596

At the request of Mr. MITCHELL, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 596, a bill to provide that Federal facilities meet Federal and State environmental laws and requirements and to clarify that such facilities must comply with such environmental laws and requirements.

S. 722

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 722, a bill to amend the Internal Revenue Code of 1986 with respect to the requirement that an S corporation have only one class of stock.

S. 790

At the request of Mr. DECONCINI, the name of the Senator from Illinois [Mr. DIXON] was withdrawn as a cosponsor of S. 790, a bill to amend the antitrust laws in order to preserve and promote wholesale and retail competition in the retail gasoline market.

S. 827

At the request of Mr. SHELBY, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 827, a bill to credit time spent in the Cadet Nurse Corps during World War II as creditable for Federal civil service retirement purposes for certain annuitants and certain other individuals not covered under Public Law 99-638.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of one-dollar coins.

S. 866

At the request of Mr. BREAUX, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 874

At the request of Mr. DECONCINI, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 874, a bill to amend the Public Health Service Act to establish a demonstration program to allow drug-addicted mothers to reside in drug abuse treatment facilities with their children, and to offer such mothers new behavior and education skills which can help prevent substance abuse in subsequent generations, and for other purposes.

S. 882

At the request of Mr. SARBANES, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 882, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to mandate a 4-year grant cycle and to require adequate notice of the success or failure of grant applications.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale drift net fishing.

S. 895

At the request of Mr. PRESSLER, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 895, a bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffer from Alzheimer's disease or related organic brain disorders.

S. 1008

At the request of Mr. MCCONNELL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1008, a bill to require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice.

S. 1084

At the request of Mr. MITCHELL, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1084, a bill to deny the People's Republic of China nondiscriminatory (most-favored-nation) trade treatment.

S. 1091

At the request of Mr. ADAMS, the names of the Senator from Hawaii [Mr. AKAKA], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1091, a bill to require that certain information relating to nursing home nurse aides and home health care aides be collected by the National Center for Health Statistics and the Bureau of Labor Statistics, and for other purposes.

S. 1111

At the request of Mr. MITCHELL, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1111, a bill to protect the public from health risks from radiation exposure from low-level radioactive waste, and for other purposes.

S. 1151

At the request of Mr. CRAIG, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1151, a bill to restore an enforceable Federal death penalty, to curb the abuse of habeas corpus, to reform the exclusionary rule, to combat criminal violence involving firearms, to protect witnesses and other participants in the criminal justice system from violence and intimidation, to address the problem of gangs and serious juvenile offenders, to combat terrorism, to combat sexual violence and child abuse, to provide for drug testing of offenders in the criminal justice process, to secure the right of victims and defendants to equal justice without regard to race or color, to enhance the rights of crime victims, and for other purposes.

S. 1157

At the request of Mr. DASCHLE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1157, a bill to amend the Internal Revenue Code of 1986 to allow the energy investment credit for solar energy and geothermal property against the entire regular tax and the alternative minimum tax.

S. 1170

At the request of Mr. DURENBERGER, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1170, a bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with local law enforcement officials of the State for 10 years after release from prison, parole, or supervision.

S. 1263

At the request of Mr. DIXON, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1263, a bill to amend title 18, of the United States Code to punish as a Federal criminal offense the acts of international parental child kidnaping.

S. 1281

At the request of Mr. RIEGLE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1281, a bill to provide for immediate delivery of U.S. Savings Bonds available to the public at the point of purchase.

S. 1301

At the request of Mr. CRAIG, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 1301, a bill to establish grant programs and provide other forms of Federal assistance to pregnant women, children in need of adoptive families, and individuals and families adopting children, and for other purposes.

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the names of the Senator from Louisiana [Mr. BREAUX], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 121

At the request of Mr. DECONCINI, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of Senate Joint Resolution 121, a joint resolution designating September 12, 1991, as "National D.A.R.E. Day."

SENATE JOINT RESOLUTION 124

At the request of Mr. BRADLEY, the names of the Senator from Delaware [Mr. BIDEN], the Senator from Michigan [Mr. LEVIN], the Senator from Rhode Island [Mr. PELL], the Senator from California [Mr. SEYMOUR], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 124, a joint resolution to designate "National Visiting Nurse Associations Week" for 1992.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. DODD, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Idaho [Mr. CRAIG], the Senator from Maine [Mr. MITCHELL], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Washington [Mr. ADAMS], the Senator from Massachusetts [Mr. KERRY], the Senator from Virginia [Mr. ROBB], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Concurrent Resolution 43, a concurrent resolution concerning the emancipation of the Baha'i community of Iran.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

AMENDMENT NO. 295

At the request of Mr. GRASSLEY, his name was added as a cosponsor of amendment No. 295 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of amendment No. 295 proposed to S. 1204, supra.

AMENDMENT NO. 296

At the request of Mr. GRASSLEY, his name was added as a cosponsor of amendment No. 296 proposed to S. 1204, an original bill to amend title 23, United States Code, and for other purposes.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of amendment No. 296 proposed to S. 1204, supra.

AMENDMENTS SUBMITTED

SURFACE TRANSPORTATION EFFICIENCY ACT

MOYNIHAN AMENDMENT NO. 353

Mr. MOYNIHAN proposed an amendment to the bill (S. 1204) to amend title 23, United States Code, and for other purposes, as follows:

At the appropriate place in the bill, insert the following:

SEC. . INTERSTATE TRANSPORTATION AGREEMENTS AND COMPACTS.

(a) CONSENT AND APPROVAL OF CONGRESS.—The consent and approval of Congress are hereby given to the several States to negotiate, enter into, and carry out agreements or compacts for the purpose of establishing policies and priorities, including allocation of funds, to resolve interstate highway and bridge problems of regional significance identified by metropolitan planning organizations.

(b) HIGHWAY TRUST FUND.—The highway and bridge projects identified in accordance with subsection (a) and included in agreements or compacts entered into pursuant to this section are eligible for funding from the Highway Account of the Highway Trust Fund.

CONGESTION PRICING PILOT PROGRAM

On page 42, line 13 strike "not to exceed $5,000,000" and insert in lieu thereof "not to exceed $25,000,000".

At the appropriate place in the bill, insert the following:

SEC. —. SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 E-W Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a), the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.

(c) LIMITATION OF ELIGIBILITY.—If, by October 1, 1993, or two years after the date of enactment of this Act, whichever is later, the Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I-94 E-W Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under section 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(5) FUNDING PROVISIONS FOR SUBSTITUTE PROJECTS.—Notwithstanding any other provision of law, the source of funding for any transit substitute projects approved under subsection (a) shall be the Mass Transit Account of the Highway Trust Fund. All other funding provisions for any approved substitute projects shall be as provided in section 103(e)(4) of title 23, United States Code.

(e) TRANSFER OF APPORTIONMENTS.—Wisconsin may transfer interstate construction apportionments to its National Highway System in amounts equal to or less than the costs for additional work on sections of the interstate System that have been built with interstate construction funds and that are open to traffic as shown in the 1991 interstate cost estimate.

Insert at the appropriate place in S. 1204:

SEC.—. MONTANA-CANADA TRADE.

The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada regarding truck transportation between Canada and Shelby, Montana. Provided that such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

On page 5, strike out lines 3 through 9 and insert in lieu thereof:

(3) BRIDGE PROGRAM.—For the Bridge Program $2,350,000,000 for fiscal year 1992, $2,440,000,000 for fiscal year 1993, $2,580,000,000 for fiscal year 1994, $2,820,000,000 for fiscal year 1995, and $3,230,000,000 for fiscal year 1996.

On page 6, strike out line 17 and insert in lieu thereof "$120,000,000 for each of fiscal years 1992,".

On page 37, between lines 17 and 18, insert the following:

(c) REHABILITATION.—Of the funds authorized to be appropriated pursuant to section 103(b)(7)(B) of this Act, an amount equal to $20,000,000 shall be available for each of fiscal years 1992, 1993, 1994, 1995, and 1996 for continued rehabilitation of Federally-owned highways under the Federal lands highway program of title 23, United States Code. Such funds shall remain available until expended.

On page 37, line 18, strike out "(c)" and insert in lieu thereof "(d)".

On page 4, between lines 2 and 3 insert the following:

"(c) The Secretary shall distribute copies of the Declaration of Policy contained in this section to each employee of the Federal Highway Administration, and shall ensure that such Declaration of Policy is posted in all offices of the Federal Highway Administration.".

VIOLENT CRIME CONTROL ACT OF 1991

GRAHAM AMENDMENTS NOS. 354 AND 355

(Ordered to lie on the table.)

Mr. GRAHAM submitted two amendments intended to be proposed by him to the bill (S. 1241) to control and reduce violent crime, as follows:

AMENDMENT NO. 354

At the appropriate place, add the following:

SEC. 107. RACIAL AND ETHNIC BIAS STUDY GRANTS.

(a) FINDINGS.—The Congress finds that—

(1) equality under law is tested most profoundly by whether a legal system tolerates race playing a role in the criminal justice system; and

(2) States should examine their criminal justice systems in order to ensure that racial and ethnic bias has no part in such criminal justice systems.

(b) AUTHORIZATION OF GRANT PROGRAM.—

(1) IN GENERAL.—The Attorney General, through the Bureau of Justice Assistance, is authorized to make grants to States that have established by State law or by the court of last resort a plan for analyzing the role of race in that State's criminal justice system. Such plan shall include recommendations designed to correct any findings that racial and ethnic bias plays such a role.

(2) CRITERIA FOR GRANTS.—Grants under this subsection shall be awarded based upon criteria established by the Attorney General. In establishing the criteria, the Attorney General shall take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

(3) REPORTS BY STATES.—Recipients of grants under this subsection shall report the findings and recommendations of studies funded by grants under this subsection to the Congress within reasonable time limits established by the Attorney General.

(4) REIMBURSEMENT OF STATES.—Grants may be made to reimburse States for work started prior to the date of enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out the provisions of this section.

AMENDMENT NO. 355

Strike section 207 of the bill.

SURFACE TRANSPORTATION EFFICIENCY ACT

MOYNIHAN AMENDMENT NO. 356

Mr. MOYNIHAN proposed an amendment to amendment No. 353 proposed by him to the bill S. 1204, supra, as follows:

On page 2 of the amendment, in the new section of the bill entitled "Interstate Transportation Agreements and Compacts.", strike subsection (b).

GRAHAM (AND OTHERS) AMENDMENT NO. 357

Mr. GRAHAM (for himself, Mr. ROTH, Mr. LOTT, Mr. NUNN, Mr. SHELBY, Mr. COATS, Mr. MCCONNELL, Mr. MACK, Mr. PRYOR, Mr. SANFORD, and Mr. BOND) proposed an amendment to the bill S. 1204, supra, as follows:

Beginning on page 12, strike section 105 of the bill and insert the following new section:

SEC. 105. UNOBLIGATED BALANCES.

Unobligated balances of funds apportioned or allocated to a State under title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991, except that—

(1) unobligated balances of primary and Interstate 4R funds may be transferred to the National Highway and Bridge System;

(2) other unobligated balances may be transferred to the Urban and Rural Highway and Bridge Program;

(3) transferred funds are subject to the law, regulations, policies and procedures relating to the category to which transferred;

(4) transfers will be allowed on a one time per year basis; and

(5) this section does not apply to unobligated balances of interstate construction or interstate substitution funds.

Beginning on page 12, strike section 106 of the bill, and insert the following new sections:

SEC. 106. NATIONAL HIGHWAY AND BRIDGE SYSTEM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 160. NATIONAL HIGHWAY AND BRIDGE SYSTEM.

"(a) FINDINGS.—The Congress hereby finds and declares the following:

"(1) National resources should be focused upon the important goals of preserving the Nation's investment in its interstate systems and insuring that these systems continue to support actively interstate commerce, national defense, and linkage of major urban areas.

"(2) Broad national defense, economic, safety, and international policy goals are advanced by efficient transportation system which ensure free movement of people, goods, and information.

"(3) National transportation investments should increasingly encourage domestic and international commerce and trade.

"(4) Based on congressionally established national transportation policy and objectives, a new Federal high priority highway network, a national highway and bridge system should be designated from the most vital elements of the current network.

"(b) ESTABLISHMENT.—(1) The Secretary shall establish the National Highway and Bridge System—

"(A) to provide an interconnected system of principal arterial routes which will serve major population centers, ports, airports and international border crossings;

"(B) to meet national defense requirements; and

"(C) to serve interstate and interregional travel.

The National Highway and Bridge System shall consist of all designated Interstate highways on the date of the establishment of the program, an appropriate portion of the rural and urban principal arterial routes, including toll facilities, and national defense highways.

"(2) In addition other routes which meet the following criteria shall be eligible for inclusion:

"(A) Nationally significant truck routes.

"(B) Routes that provide nationally significant commodities with access to markets.

"(C) Access points to significant national parks, international border crossings, ports and airports, and major regions in the States.

"(3) Facilities that will provide logical connection between major population centers and the national highway and bridge system.

"(4) Major urban corridors.

"(c) DESIGNATION.—Each State, in consultation with regional and local officials, shall designate the national highway and bridge system, with the approval of the Secretary. The National Highway and Bridge System shall be based on a functional reclassification of roads and streets in each State. The system should be designated by September 30, 1992, and shall be designated by not later than September 30, 1993, in accordance with guidelines issued by the Secretary. Such guidelines shall provide for an equitable allocation of mileage among the States. For fiscal year 1992 and, if necessary, fiscal year 1993, States may use National Highway and Bridge Program funds for the purposes of funding the preliminary National Highway and Bridge System designated by the State and approved by the Secretary as of September 30, 1991.

"(d) REVIEW.—The Secretary shall establish criteria for reviewing projects to be funded as part of the National Highway and Bridge System. The criteria shall define eligible projects to include rehabilitation, resurfacing, restoration, capacity expansion, operational improvement, safety, and new highway construction. The criteria shall ensure, as a first priority for the use of available funds, the adequate preservation and protection of investments made in the Interstate highways in each State, and the provision of suitable traveling quality by the Interstate highways. The criteria shall permit funding in urbanized areas to be used to improve highway and transit systems, in any case where there is a showing that the improvement will provide an increase in the level of service within the corridor of the National Highway and Bridge System. The criteria shall also permit the use of such funds for projects for access to ports, airports, international border crossings and other major travel destinations.

"(e) FEDERAL SHARE.—Notwithstanding any other provision of this title, the Federal share payable for a project under this section for the construction of high occupancy vehicle lanes (as described in section 102(d) of this title) shall not exceed 90 percent of the cost of the project.

"(f) DISCHARGE OF RESPONSIBILITIES.—(1) Upon the request of any State, the Secretary may discharge responsibilities under this title relating to any National Highway and Bridge System project that—

"(A) meets the categorical exclusion criteria (as defined in section 771 of title 23, Code of Federal Regulations, as in effect on the date of the enactment of the Surface Transportation and Efficiency Act of 1991); and

"(B) has an estimated cost of construction of less than $5,000,000,

by accepting a certification by the State transportation or highway department that any such project will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System project.

"(2) Upon the request of any State, the Secretary may discharge responsibilities under this title relating to any National Highway and Bridge System that—

"(A) meets the categorical exclusion criteria (as defined in in section 771 of title 23, Code of Federal Regulations);

"(B) has an estimated cost of construction of $5,000,000 or more; and

"(C) is selected in accordance with criteria established by the Secretary,

by accepting a certification by the State transportation or highway department that any such project will be developed, let to contract and constructed in the same manner as other National Highway and Bridge System projects.

"(g) PROCEDURES AFTER FISCAL YEAR 1995.—Beginning with fiscal year 1996, the Secretary shall discharge responsibilities for the National Highway and Bridge System projects described in subsection (c)(1) of this section by the certification process described in this section. The Secretary shall, beginning with fiscal year 1996, rescind project approval if a satisfactory certification is not presented by the State.".

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—For the National Highway and Bridge Program—

"(i) 1/9 in the ratio which the rural lane miles in each State bears to those of all States;

"(ii) 1/9 in the ratio which rural vehicle miles traveled in each State bears to those of all States;

"(iii) 2/9 in the ratio which the urban lane miles in each State bears to those of all States;

"(iv) 2/9 in the ratio which the urban vehicle miles traveled in each State bears to those of all States; and

"(v) 3/9 in the ratio which diesel fuel consumed in each State bears to that consumed in all States.

"(B) MINIMUM APPORTIONMENT.—No State shall receive less than ½ of 1 percent of each year's apportionment.

"(C) TRANSFER TO URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—A State may transfer up to 20 percent of its annual National Highway and Bridge System program apportionment to the urban and rural highway and bridge program of the State if the Governor of the State and the Secretary agree that adequate Interstate System conditions exist.";

(2) by striking "upon the Federal-aid systems" and inserting "upon the National Highway and Bridge System, the Urban and Rural Highway and Bridge Program, and the Congestion Mitigation and Air Quality Improvement Program";

(3) by striking "paragraphs (4) and (5)" and inserting "subparagraph (5)(A)"; and

(4) by striking "and sections 118(c) and 307(d)" and inserting "and section 307".

SEC. 106A. URBAN AND RURAL HIGHWAY BRIDGE PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"SEC. 161. URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish an urban and rural highway and bridge program to provide a category of funds that minimizes Federal requirements, and to provide flexibility in the use of available funds for either highway or transit projects. The urban and rural highway and bridge program shall consist of all public highways (including bridges) functionally classified as arterials, urban collectors, and rural collectors (other than those designated as part National Highway and Bridge System), and shall also include bridges on any public road. Each State, in cooperation with regional and local agencies of the State, shall establish guidelines for implementing the program under this section. The guidelines shall—

"(1) include criteria for setting priorities and encouraging regional intermodal solutions, where appropriate;

"(2) ensure that administrative costs are minimized through simplification of processes and application of controls that ensure accountability for funds and projects;

"(3) ensure that each agency has flexibility to use funds for solutions to transportation problems that bring about a most efficient increase in mobility and best address regional and local land use, air quality, and economic development issues.

"(b) ELIGIBLE HIGHWAYS.—Highway projects may be funded on public roads (except any road on the National Highway and Bridge System, any road functionally classified as local, or any road functionally classified as rural minor collector). Part of a State's annual urban and rural highway and bridge program apportionment may be extended for highway safety improvements, bridge replacement or rehabilitation, or eliminating rail-highway crossing hazards on public roads functionally classified as local or as rural minor collector.

"(c) ELIGIBLE PROJECTS.—Eligible projects under this section shall include construction, operational improvements, highway safety improvements, highway research and development, transportation planning, capital transit projects (such as the construction, reconstruction, and improvement of fixed rail facilities, including purchase of rolling stock for fixed rail), the purchase of buses and support facilities, capital projects to improve access and coordination between intercity and rural bus service, technology transfer projects, startup costs for traffic management and control projects, bicycle and pedestrian projects, projects to develop and improve scenic byways, projects to enhance rural and urban accessibility and mobility, the acquisition of outdoor advertising signs and the sites, removal or screening of junkyards, carpool projects, fringe and corridor parking projects, the construction of exclusive or preferential high occupancy vehicle lanes, landscaping, scenic enhancement and rest area projects, and projects that create, conserve or enhance wetlands.

"(d) REQUIREMENTS.—

"(1) COMPLIANCE WITH STATE REQUIREMENTS.—Projects under this section must be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

"(2) COMPLIANCE WITH FEDERAL REQUIREMENTS.—

"(A) IN GENERAL.—Each State with a project under this section shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the Single Audit Act of 1984 (31 U.S.C. 7501 through 7507), the Civil Rights Act of 1964, the Clean Air Act (42 U.S.C. 7401 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.), the applicable requirements of this title and other applicable Federal laws, regulations, and Executive orders.

"(B) DELEGATIONS.—In lieu of applying the Federal environmental review procedures otherwise applicable under the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.) the Secretary may, under regulations, provide for the approval of projects by recipients of assistance under this section. Such recipients, pursuant to the requirements of this paragraph, may assume all of the responsibilities for environmental review, decision making, and action described in the National Environmental Policy Act, and other provisions of law that would apply to the Secretary if the projects were undertaken as Federal projects. The Secretary shall issue regulations to carry out this paragraph only after consultation with the Council on Environmental Quality.

"(C) CERTIFICATION.—Each State or other recipient assuming responsibilities on the part of the Secretary pursuant to subparagraph (B) shall submit an annual certification under the regulations authorized by subparagraph (B). The certification shall—

"(i) be in a form acceptable to the Secretary,

"(ii) be executed by the chief executive officer or other officer of the recipient of assistance under this section qualified under the regulations authorized by subparagraph (B),

"(iii) specify that the recipient of assistance under this section will fully carry out its responsibilities as described under the regulations authorized by subparagraph (B),

"(iv) specify that the certifying officer—

"(I) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and each provision of law specified in regulations issued by the Secretary (to the extent that the provisions of such Act, or other provisions of law apply under the regulations authorized by subparagraph (A) or (B)); and

"(II) is authorized and consents on behalf of the recipient of assistance under this section and the certifying officer to accept the jurisdiction of the Federal courts for the purpose of enforcement of the certifying officer's responsibilities; and

"(v) agree that the Secretary's approval of any certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other provisions of laws the regulations of the Secretary specify insofar as the responsibilities relate to the approval of projects by recipients under this section.

"(3) BRIDGE INSPECTION AND INVENTORY SYSTEM.—Each State that conducts a project under this section must have an ongoing bridge inspection and inventory system.

"(4) CONSULTATION.—In any case where a tribe has jurisdiction or is affected by a project under this section, consultation with local officials and Indian tribal officials shall be required.

"(5) DISTRIBUTION OF FUNDS.—In cooperation with local units of government each State shall develop a method to distribute apportionments within the State under this section fairly and equitably to rural areas, urban areas and urbanized areas with a population greater than 250,000.

"(6) COMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with provisions of this section, the Secretary shall notify the State that, if the State or local government fails to take corrective action within 120 days after the receipt of the notification, the Secretary may withhold payments under this section until the Secretary is satisfied that appropriate corrective action has been taken.

"(e) OBLIGATION OF FUNDS AND METHOD OF PAYMENT.—

"(1) OBLIGATION OF FUNDS.—The Governor of each State shall certify prior to the first day of each fiscal year that the State will meet all the requirements of subsection (e). The Governor shall notify the Secretary of the amount of obligations expected to be incurred for urban and rural highway and bridge program projects. The State may subsequently request adjustment to the obligation amounts during the fiscal year. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the urban and rural highway and bridge funds expected to be obligated by the State in that fiscal year.

"(2) METHODS OF PAYMENT.—The Secretary shall make payments to a State (or other recipient) for costs incurred with respect to a program conducted pursuant to this section. Such payments shall not exceed the Federal share of costs incurred as of the date the State requests payment.

"(f) REVIEW AND REPORT.—The Secretary may conduct reviews of State procedures and projects. The States shall report annually to the Secretary in accordance with guidelines established by the Secretary on the use of funds administered under this section.".

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended by inserting the following paragraph in an appropriate place:

"(3) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—

"(A) APPORTIONMENT FORMULA.—The funds authorized to be appropriated for the urban and rural highway and bridge program shall be apportioned in the ratio of attributable tax payments to the highway account of the Highway Trust Fund, attributable to the highway users of each State. No State shall receive less than ½ of 1 percent of each years apportionment.

"(B) TRANSFER TO NATIONAL HIGHWAY AND BRIDGE PROGRAM.—A State may transfer up to 20 percent of its annual urban and rural highway and bridge program apportionment to the national highway and bridge program of the State.".

At the appropriate place in the bill, insert the following new section:

SEC.—. FEDERAL SHARE PAYABLE.

Section 120(a) of title 23, United States Code, is amended to read as follows:

"(a) NATIONAL HIGHWAY AND BRIDGE PROGRAM AND URBAN AND RURAL HIGHWAY BRIDGE PROGRAM PROJECTS.—(1) Except as provided in paragraph (2) and in section 129 the Federal share payable on account of any national highway and bridge and urban or rural highway and bridge program project—

"(A) shall not exceed 85 percent of the cost of the project (except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved), exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands in the State, the Federal share may be increased by a percentage of the remaining costs equal to the percentage that the area of such lands in the State, is of its total area); or

"(B) shall not exceed 85 percent of the costs of the project (except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share may be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in the State is of its total area, except that the Federal share payable on any project in a State under subparagraph (A) or (B) shall not exceed 90 percent of the cost of the project.

"(2) In any case where a State elects to have the Federal share provided pursuant to paragraph (1)(B), the Governor of the State must enter into an agreement with the Secretary (for a period of not less than 1 year). As part of the agreement the State shall agree to use such funds solely for highway construction purposes (other than paying the State share of the projects approved under this title) during the period covered by the agreement the difference between amount of the State share of such State (as provided in paragraph (1)(B)) and an amount determined pursuant to paragraph (1)(A) that represents the amount that such State would have received had the State elected pursuant to paragraph (1)(A) to pay the share under such subparagraph.".

Beginning on page 28, strike section 108 and insert the following new section:

SEC. 108. DISCRETIONARY BRIDGE PROGRAM.

Section 144 of title 23, United States Code, is amended to read as follows:

"SEC. 144. DISCRETIONARY BRIDGE PROGRAM.

"(a) PURPOSE.—Congress finds and declares it to be in the vital interest of the Nation that a discretionary bridge replacement and rehabilitation program be established to enable States and Federal agencies to replace and rehabilitate high cost highway bridges over waterways, other topographical barriers, other highways, or railroads when the State or Federal agencies and the Secretary find—

"(1) that a bridge is important;

"(2) that the bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence;

"(3) that the bridge poses a safety hazard to highway users;

"(4) that the replacement or rehabilitation of the bridge would minimize disruptions, delays, and costs to users; or

"(5) that the replacement or rehabilitation of the bridge would provide more efficient routes for emergency services.

"(b) INVENTORY; ASSESSMENT; IMPROVEMENT CATEGORY; COST.—The Secretary, in consultation with the States, shall—

"(1) inventory all highway bridges on public roads that are bridges over waterways, other topographical barriers, other highways, and railroads;

"(2) assess each bridge from the standpoint of safety and adequacy to serve traffic; and

"(3) based on the assessment described in paragraph (2), assign each bridge to one of the following improvement categories:

"(A) REPLACEMENT.

"(B) REHABILITATION.

"(c) APPROVAL OF FEDERAL PARTICIPATION.—In approving projects under this section, the Secretary shall give consideration to projects that will remove from service bridges most in danger of failure. For bridges on the National Highway and Bridge System, the Secretary may approve Federal participation where a determination as to need, type of improvement and timing have been established through a bridge management system approved by the Secretary. On other public roads the Secretary may approve Federal participation if the agency with jurisdiction over the bridge has a bridge inspection and inventory program that meets the requirements of the National Bridge Inspection Standards (NBIS).

"(d) ELIGIBLE ACTIVITIES.—

"(1) HIGH PRIORITY DEFICIENCIES.—Discretionary Bridge Program funds may be used to correct normally ineligible safety related bridge deficiencies that have been identified as high priority by the Secretary. A State shall submit a strategy, work plan and timetable for approval by the Secretary before bridge funds can be used to correct deficiencies. Removal of deficiencies identified as high priority by the Secretary is mandatory for any bridge improved under the discretionary bridge program.

(2) REPLACEMENT AND REHABILITATION.—Discretionary Bridge Program funds may be used for replacement and rehabilitation.

"(e) ALLOCATION.—Amounts available for the discretionary bridge program shall be allocated to States at the discretion of the Secretary. For projects for bridges—

"(1) with a replacement or rehabilitation cost of $20,000,000 or more; or

"(2) with respect to which more than 10 percent of a State's annual Federal highway apportionment is expended.

"(f) TOLL BRIDGE ASSESSMENT.—Applications for funding under the Discretionary Bridge Program must include a comprehensive assessment of—

"(1) the feasibility of constructing a toll bridge; and

"(2) the option of using combinations of funds other than Discretionary Bridge Program funds.

"(g) SELECTION OF PROJECTS.—In selecting projects for the Discretionary Bridge Program the Secretary shall consider—

"(1) the bridge rating factor which includes, but is not limited to serviceability, safety, essentiality for public use, traffic volume, and cost;

"(2) whether the bridge is closed to traffic or has severe load limits;

"(3) the need for equitable nationwide distribution of funds;

"(4) the need to continue or complete projects already begun with discretionary funds; and

"(5) other factors that the Secretary deems appropriate.

"(h) OBLIGATION AND ADMINISTRATION OF PROJECTS.—Discretionary bridge projects on the National Highway and Bridge System shall be obligated and administered under National Highway Program procedures. Bridge projects on public roads not on the National Highway and Bridge System shall be obligated and administered under urban and rural highway and bridge program procedures.

"(i) THE GENERAL BRIDGE ACT OF 1946.—Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of the General Bridge Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if the bridge is over waters—

"(1) that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(2) that are—

"(A) not tidal waters; or

"(B) if tidal waters, are used only by recreational boating, fishing, and other small vessels less than 21 feet in length.

"(j) REHABILITATE DEFINED.—As used in this section the term 'rehabilitate' in any of its forms means major work necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.

"(k) FEDERAL SHARE PAYABLE.—The Federal share payable on account of a project under this section shall not exceed 85 percent of the cost of the project.".

On page 4, strike lines 16 through 22 and insert the following new paragraph:

(1) NATIONAL HIGHWAY AND BRIDGE PROGRAM.—For the National Highway and Bridge Program $6,000,000,000 for fiscal year 1992, $6,250,000,000 for fiscal year 1993, $6,650,000,000 for fiscal year 1994, $7,365,000,000 for fiscal year 1995 and $9,060,000,000 for fiscal year 1996.

On page 5, strike lines 3 through 8 and insert the following new paragraphs:

(3) URBAN AND RURAL HIGHWAY AND BRIDGE PROGRAM.—For the Urban and Rural Highway and Bridge Program $6,000,000,000 for fiscal year 1992, $6,250,000,000 for fiscal year 1993, $6,650,000,000 for fiscal year 1994, $7,365,000,000 for fiscal year 1995 and $9,060,000,000 for fiscal year 1996.

(4) DISCRETIONARY BRIDGE PROGRAM.—For the Discretionary Bridge Program $230,000,000 for fiscal year 1992, $280,000,000 for fiscal year 1993, $330,000,000 for fiscal year 1994, $380,000,000 for fiscal year 1995, and $440,000,000 for fiscal year 1996.

On page 5, line 17, strike "(5)" and insert "(6)".

On page 6, line 1, strike "(6)" and insert "(7)".

On page 6, line 9, strike "(7)" and insert "(8)".

On page 6, line 19, strike "(8)" and insert "(9)".

On page 6, line 23, strike "(9)" and insert "(10)".

On page 7, line 4, strike "(10)" and insert "(11)".

On page 7, line 12, strike "(11)" and insert "(12)".

On page 7, line 18, strike "(12)" and insert "(13)".

On page 8, line 10, strike "(13)" and insert "(14)".

On page 12, beginning on line 19, strike "Surface Transportation Program" and all that follows through the period on line 20 and insert "National Highway and Bridge Program or for the Urban and Rural Highway and Bridge Program as if the funds had been apportioned for the programs.".

Beginning on page 30, strike section 109 and insert the following new section:

SEC. 109. MAINTENANCE.

Section 116 of title 23, United States Code is amended to read as follows:

"§ 116. Maintenance

"(a) DUTY TO MAINTAIN.—It shall be the duty of the State transportation or highway department to maintain, or cause to be maintained, any project on the National Highway and Bridge System constructed with the aid of Federal funds under this title or under the provisions of prior Acts. Each State shall use sums needed from its National Highway and Bridge Program apportionment to ensure adequate maintenance of the Interstate System. If the Secretary finds that a State is not adequately maintaining the Interstate System, the Secretary will require the State to program amounts from its National Highway and Bridge Program apportionments to bring the Interstate System up to adequate condition and keep it in that condition. The State's obligation to the United States to maintain a project shall cease when it no longer constitutes a part of the National Highway and Bridge System.

"(b) STATE AGREEMENTS WITH LOCAL OFFICIALS.—In any State where the State transportation or highway department is without legal authority to maintain a project within a municipality or within an Indian reservation, the transportation or highway department shall enter into a formal agreement for its maintenance with the appropriate officials of the municipality or Indian tribe.

"(c) WITHHOLDING PROJECT APPROVAL.—If at any time the Secretary shall find that any project on the National Highway and Bridge System constructed under this title, or constructed under the provisions of prior highway Acts, is not being properly maintained, the Secretary shall call that fact to the attention of the State transportation or highway department. If, within 90 days after receipt of the notice, the project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State in which the project is located, whichever the Secretary deems most appropriate, until the project shall have been put in proper condition of maintenance.".

On page 34, line 21, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

Beginning on page 34, strike line 23 and all that follows through page 35, line 4.

On page 53, line 10, strike "section 133(c)(2)" and insert "the Urban and Rural Highway Bridge Program".

On page 57, strike lines 14 through 18.

On page 57, line 19, strike "(c)" and insert "(b)".

On page 58, line 3, strike "(d)" and insert "(c)".

On page 71, beginning on line 4, strike "Surface Transportation Program project" and insert "National Highway and Bridge Program project, Urban and Rural Highway and Bridge Program project."

On page 74, beginning on line 1, strike "Except as provided" and all that follows through "Transportation Program" on line 3 and insert "Projects".

On page 79, line 10, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 84, beginning on line 17, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 96, strike lines 6 through 17.

On page 96, line 22, strike " "metropolitan area" ".

On page 97, strike lines 22 and 23.

On page 103, beginning on line 20, strike "Surface Transportation Program" and insert "Urban and Rural Highway and Bridge Program".

On page 104, strike lines 14 and 15 and insert the following new subparagraph:

(A) Subsection (a) is amended by striking "section 117 of this title" and inserting in lieu thereof "for the Urban and Rural Highway and Bridge Program".

On page 105, strike lines 16 through 21 and insert the following new subparagraph:

(A) Subsection (a) is amended—

(1) by striking "located on a Federal-aid system" and inserting in lieu thereof "constructed under this chapter"; and

(2) by striking "in section 117 of this title" and inserting in lieu thereof "for the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program".

On page 106, line 3, strike "SURFACE TRANSPORTATION PROGRAM" and insert "URBAN AND RURAL HIGHWAY BRIDGE PROGRAM".

On page 106, line 8, strike "section 104(b)(1)" and insert "the Urban and Rural Highway and Bridge Program".

On page 106, line 10, strike "AND PRIMARY" and insert "AND NATIONAL HIGHWAY AND BRIDGE PROGRAM".

On page 110, beginning on line 14, strike "Surface Transportation Program" and insert "National Highway and Bridge Program, Urban and Rural Highway and Bridge Program".

On page 112, beginning on line 19, strike "Federal-aid primary" and insert "National Highway and Bridge".

On page 111, line 7, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 111, strike lines 11 through 17 and insert the following new paragraph:

(22) Section 217 is amended by striking in each of the 2 places it appears "in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title" and inserting in lieu thereof in each place "for the National Highway and Bridge Program and the Urban and Rural Highway and Bridge Program".

On page 112, lines 9 and 14, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 112, beginning on line 20, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 122, line 7, strike "or device," the first place it appears.

On page 124, line 2, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 126, line 3, strike "Surface Transportation Program" and insert "National Highway and Bridge Program".

On page 126, lines 8 and 12, insert an ending quotation mark before the period.

On page 123, line 18, strike "set forth in section 120(a)" and insert "85 percent".

At the appropriate places in the bill, conform the analysis and the section numbers of title 23, United States Code, to the foregoing and following amendments.

At the appropriate place in the bill, insert the following new sections:

SEC.—. ELIMINATION of I—R4 PROGRAM.

(a) IN GENERAL.—Section 104(b)(5) of title 23, United States Code is amended by striking subparagraph (B).

(b) CROSS-REFERENCES.—Notwithstanding any other provision of law, any reference to subparagraph (B) section 104(b)(5) of title 23 of the United States Code shall have no force or effect.

(c) Interstate System Resurfacing.—Title 23 of the United States Code is amended by striking section 119.

(d) Cross-References.—Notwithstanding any other provision of law, any reference to section 119 of title 23, United States Code, shall have no force or effect.

SEC.—. MINIMUM ALLOCATION.

(a) 90 Percent Minimum Allocation.—Subsection (a)(3)(A) of section 157 of title 23, United States Code, is amended to read as follows:

"(A) General rule.—In each fiscal year, on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that the total of apportionments and minimum allocation for each State in each such fiscal year shall not be less than 90 per centum of the percentage of estimated tax payments into the Highway Account of the Highway Trust Fund, attributable to highway users in the State (in the latest year for which such data are available) of total apportionments in each such fiscal year and allocations for the prior year (except allocations for emergency relief, forest highways, Indian reservation roads, parkways and park roads, nonconstruction safety grants authorized by sections 402, 406, and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982).".

(b) Hold Harmless.—Subsection (f) is added to section 157 of title 23, United States Code to read as follows:

"(f) Hold Harmless.—In each fiscal year the Secretary shall allocate among the States amounts sufficient to ensure that each State's total apportionment from the Highway Account of the Highway Trust Fund for the year is not less than that made during the 1991 fiscal year (excluding any interstate construction funds in excess of fiscal year 1992 one-half percent minimum, interstate substitution, and amounts for demonstration or discretionary funding programs or projects.".

(c) Conforming Amendments.—

(1) Subsection (b) of section 157 of title 23, United States Code is amended by striking "primary, secondary, interstate, urban, bridge replacement and rehabilitation, hazard eliminations, and rail-highway crossings" and inserting in lieu thereof, "Interstate, National Highway and Bridge Program and Urban and Rural Highway and Bridge Program".

(2) Subsection (d) of said section is amended by striking "section 154(f) or 158(a) of this title or any other provision" and inserting in lieu thereof "a".

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation will be holding an oversight hearing on the grain quality title of the 1990 farm bill. The hearing will be on Wednesday, June 25, 1991, at 2:30 p.m. in SR–332.

For further information please contact Ray Dobert of the subcommittee staff at 224–2321.

Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation will be holding an oversight hearing on the research title of the 1990 farm bill. The hearing will be on Thursday, July 9, 1991, at 9 a.m. in SR–332.

For further information please contact Ray Dobert of the subcommittee staff at 224–2321.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, June 18, beginning at 9:30 a.m., to conduct a hearing on RCRA interstate transportation of waste.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, June 18, 1991, at 10 a.m. The committee will hold a full committee hearing on lender liability for environmental cleanup costs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet on Tuesday, June 18, 1991, at 9:30 a.m., to receive testimony on the issue of the utilization of women in the military services, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992–93.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Tuesday, June 18, 1991, at 2 p.m., to receive testimony on current issues associated with sustaining and enhancing the Nation's industrial base as it supports the national security, in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992–93.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, June 18, 1991, at 10 a.m. to conduct a hearing on the nominations of David Mullins to be Vice Chairman of the Board of Governors of the Federal Reserve System; and Constance Harriman, to be a member of the Board of Directors of the Export-Import Bank.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 18, 1991, to receive testimony on S. 1029, a bill to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study, be authorized to meet during the session of the Senate on June 18, 1991, at 10 a.m. on weather service modernization.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHEMICAL ARMS DISPOSAL: HOW SAFE WILL IT BE?

• **Mr. SIMON.** Mr. President, recently, the Chicago Tribune had an article on chemical arms disposal written by David Evans that I may have missed in other newspapers. I think what it says is extremely important.

The article suggests serious problems in the disposal of chemical arms that this Nation and other nations have consumed.

I welcome the move that halts chemical arms production.

But the problems of disposal also suggest that we should be very careful before we create certain arms, that we create long-term problems in the process.

I ask to insert the chemical arms disposal story into the Record at this point.

The article follows:

Chemical Arms Disposal: How Safe Will It Be?

(By David Evans)

Washington.—America's chemical weapon disposal program is plagued with technical problems and fierce opposition from local groups who fear that toxic gases will spew from the stacks of the incinerators being built to eliminate these "pesticides for people."

The Army is under the gun to dispose of its stockpile of some 30,000 tons of chemical weapons. Congress required that the U.S. unilaterally destroy its aging stocks by 1997 and President Bush wants to sign a chemical disarmament treaty by May 1992 that will require all nations to eliminate their chemical stockpiles within 10 years.

The Army plans to build a complex of incinerators in states where the U.S. weapons are stored, as well as on Johnston Island in the Pacific, where about 300,000 chemical shells and rockets await disposal. Army officials say the disposal plan is intended to avoid the risks of transporting the weapons, many of which are badly corroded, to distant cremation sites.

Eliminating these chemicals, is a dangerous and formidable engineering challenge. The nerve agents in the arsenals to the U.S., the Soviet Union and Iraq are extraordinarily toxic. A drop the size of this "o" on the skin is enough to kill.

Residents of areas where the incinerators will be built are deeply suspicious of Army assurances that the plants will be environmentally safe.

(More than 1,500 people turned out for a meeting April 25 in Richmond, Ky., to protest the Army's plan to build an incinerator at the Lexington-Blue Grass Army Depot to destroy 500 tons of mustard and nerve munitions stored there.

"Everybody from the governor down to the local dogcatcher is totally opposed to building an incinerator 10,000 feet from a grade school with 800 kids," said Peter Hile, a leader of a local group opposing the incinerator. "It's totally unacceptable. If we agreed to get rid of all our nukes, we wouldn't spread the uranium into the environment."

Hile pointed out that according to the Army's own studies, taking no action and leaving the munitions in their bunkers for 25 years, poses "a lower risk than removal or incineration at this site."

However, in a draft of a chemical weapons treaty, the U.S. and the Soviet Union have agreed in principle to eliminate their chemical stockpiles by the end of this century. The Soviets report they have 50,000 tons of weapons.

And under the United Nations cease-fire accord in the recent Persian Gulf war, Iraq's chemical arsenal—estimated at 1,000 tons—must be eliminated before the end of this year.

The U.S. military may have the only disposal technology that is immediately available: advanced incinerators with robotic machinery designed to slice or drill holes in bombs, rockets and shells, suck out the chemical agents, burn the contents and sterlize the metal cases in banks of incinerators.

The technology has obvious application for disposing of the Soviet and Iraqi chemical arsenals. Neither nation has comparable technology at hand. According to sources, the Soviets considered, then dropped, the idea of destroying their chemical weapons in an underground nuclear test.

However, the Army's program has been plagued with technical glitches and soaring cost overruns.

Last month, Susan Livingstone, assistant secretary of the Army for installations and environment, told Congress the cost estimate for the program was $6.5 billion—more than double the $3.2 billion she reported in 1990.

The disposal cost is now around $200,000 a ton. Charles Baronian, deputy director of the Johnston Island incinerator, said at this price it will cost about 10 times more to dispose of these weapons than it did to produce them.

In addition, it has taken months longer than expected to complete test burns at Johnston Island, where the first full-scale incinerator has been built.

The project manager's daily reports from last August through September outlined a discouraging list of glitches: "Burners difficult to light . . . [chemical] agent feed lines broken . . . ram feeder sticks in full extended position . . . rocket punch machine not punching holes [to drain the chemical] . . . agent leak detected in observation corridor . . . general shutdown after the discovery of EPA violation."

Baronian conceded that the problems were "very depressing for an engineer." Fixes installed last December have since boosted the rate at which chemical rockets were sliced, drained and incinerated from 4 per hour to 11. The goal is a destruction rate of 24 per hour, and further test runs will take until March 1992.

Opponents of the Army's mechanically intensive process cite these problems as reasons for looking at alternatives to incinerators.

Sebia Hawkins, co-director of Greenpeace's Pacific Campaign, argues that with a little more effort, better technologies could be developed, possibly some that would use enzymes in a biodegradation process, comparable to "odor eaters" for chemical weapons.

"All the alternatives [to incineration] we've looked at can be done at equal or less cost in a closed system," Hawkins said. "We don't want toxic emissions released to the environment."

While waiting for these environmentally superior methods to reach full-scale application, Hawkins said, the existing stocks of chemical weapons could be placed in storage containers, rather like hermetically sealed time capsules, to await the day of disposal.

This approach conflicts with the U.S.-Soviet disposal timetable. For this reason, Greenpeace's stance is opposed by arms control advocates, who prefer using the best available method now for eliminating chemical weapons.

Lee Feinstein, an expert at the Arms Control Association, said: "The issue is, What's the best method to limit the damage and risks? Keeping them around leaves open the remote possibility that they can be used again. We think thse weapons should be destroyed now to avoid a bigger problem in the future."

Rep. Martin Lancaster (D-N.C.) also disagrees with Greenpeace. A member of the Armed Services Committee, Lancaster is one of four congressional observers to the chemical weapons talks with the Soviets.

"With biodegradation, you might be able to destroy a little bit, but you still end up with hazardous waste," he said.

Lancaster has visited the Johnston Island incinerator and is confident that "the technical problems will work themselves out."

"I frankly think we haven't accelerated the destruction because we didn't want to get ahead of the Soviets. They haven't appropriated a single ruble for destruction facilities," he said.

Lancaster suggested that "we ought to sell our [incinerator] technology to the Soviets. It can't be turned to hostile purposes." Indeed, the draft treaty with the Soviets promises U.S. technical assistance for disposal.

"We are not going to build an incinerator in Kentucky until the Johnston Island facility is safe," Lancaster said.

As an incentive to building all eight incinerators, he suggested, "it would be cheaper if we built two, one on each coast." This alternative, Lancaster said, would alleviate some of the public opposition and would still minimize the risk of transporting the chemicals.

The Iraqis' chemical arsenal will be the first to be eliminated completely. A UN disarmament expert, speaking on condition of anonymity, said building a special incinerator in Iraq and running it with a UN team is "one of several options being looked at."

Locating the incinerator in Iraq would emulate the U.S. strategy to minimize transportation risks.

Regarding the risk of toxic emissions out the stacks, the UN expert said, "That may not be any more hazardous than the sulfur emissions pouring out of all those burning oil wells in Kuwait."•

TRIBUTE TO FRANK SAIN, LAS VEGAS, NV

• Mr. BRYAN. Mr. President, I rise today to commemorate the work of one of Nevada's most outstanding citizens. Mr. Frank Sain, executive director of the Las Vegas Convention and Visitors Authority, is retiring July 1, 1991, after 10 years of dedicated service to Nevada. Without a doubt, his hard work and diligence will be difficult to replace.

The Las Vegas Convention and Visitors Authority was founded in 1957 by a small group of entrepreneurs who envisioned southern Nevada as a booming area for conventioning business men and women and tourists. Although southern Nevada was an underdeveloped area in the 1950's, the Nevada State Assembly provided funding to build the Las Vegas Convention Center and to set up the Las Vegas Visitors Authority. These undertakings were meant to encourage more businesses to bring their annual conventions to the West, thus, bringing a new influx of business to the tourism industry. Since its inception, the convention center has grown to new heights with $100 million in expansion and renovation projects in the last decade. The convention center has a $45 million expansion plan this year. Frank Sain has been a crucial part of this progress.

Frank Sain has done much to boost tourism in Nevada, the State's primary industry. He has been a driving force for Las Vegas' economic growth. Conventions and meetings added over $1.1 billion to the Las Vegas economy in 1989. In fact, due to increased tourism, Las Vegas is one of the fastest growing metropolitan areas in the country and was the destination of more than 20 million people in 1990, double the number in 1980. These accomplishments can be in large part accredited to Mr. Sain.

Mr. President, business is booming in Nevada. Frank Sain has helped make Las Vegas a city of prosperity by showing its continuing potential for growth. He has given his time, hard work and conviction to the economic future of Las Vegas, and I am pleased to have this opportunity to express my gratitude for all he has done.•

A NEW WORLD ORDER?

• Mr. SIMON. Mr. President, one of the most thoughtful, balanced, and insightful public officials in my years in public life is former Secretary of State Cyrus Vance.

Recently, a friend of mine, Ted Van Dyk, sent me a copy of Cyrus Vance's address to the Fletcher School of Law and Diplomacy at Tufts University. It was delivered there last month.

Its title is: "A New World Order?"

I ask to insert it at the end of these remarks.

There are several things in his speech that are worth noting.

He calls for regional political offices of the United Nations. He says:

> Imagine for a moment what might have been possible had the U.N. possessed the capacity to head off or avert Iraq's aggression.
>
> In this connection, Prime Minister Ingvar Carlsson's Stockholm Initiative recommends, among other things, the establishment of a global emergency system with the United Nations.
>
> Under this proposal, which I enthusiastically support, permanent U.N. political offices would be established in key places, such as India/Pakistan, South Korea/North Korea, Iraq/Kuwait, and Iran, to provide early-warning of potential aggression. But that, alone, would be inadequate. The U.N. also marked forces that are available on the call of the Security Council—to intervene, forcibly if necessary, when the Security Council so determines.

This suggestion seems to me to be eminently sensible. We must not only put out wars of aggression when they occur, we must do more to prevent the wars of aggression from occurring in the first place.

In another point in his remarks he says:

> We must also recognize that debt service continues to consume a major share of developing country resources.

He might have included the United States in that characterization, but we have to be very careful that we do not encourage excessive borrowing by developing nations. When we encourage that, ultimately, you end up with a transfer of wealth from the poor country to the richer country, and from poor people to wealthy people. If all of the nonwealthy countries in the world did not have their heavy debts, their ability to revive their economies would be substantial, and that would help our economy.

In this connection, Cyrus Vance says:

> The common thread that links these complex and intersecting factors is evident: No nation can resolve all its own problems without the help of other nations. Common actio is essential.

Secretary Vance urges us to pay attention to world poverty. He says:

> The United Nations estimates that one billion people—one-fifth of the world population—now live in extreme poverty. Yet the World Bank estimates that with sufficient investment, this number could be reduced by almost half by the end of the decade.
>
> Such an effort would require that all nations commit themselves to simple and discrete targets.
>
> The worldwide cost of meeting key social-development targets is estimated at $20 billion annually—the cost, if you will, of sustaining the recent Persian Gulf war for a fortnight.

After World War II, under the Marshall plan, the United States spent 2.9 percent of its gross national product [GNP] in helping the poor beyond our borders. We now spend less than one-fifth of 1 percent of our GNP on helping the poor beyond our borders. Why? After World War II, the Schmidt's could say to the Members of the House and Senate, "What are you doing to help my relatives in Germany?" The Zagnelli's would say to their Members of Congress, "What are you doing to help my relatives in Italy."?

But now the people who need help live in places like Bangladesh, and no one comes up to us asking us to help their relatives.

The political sex appeal has gone out of assistance to the poor, both at home and abroad, but it is shortsighted of us to fail to recognize the need.

He urges that we pay attention to population growth, and who can fail to recognize that need, but we do fail to recognize that need in our policies.

Finally, he mentions the population effect on our environment:

> More than half of Africa's arable land is at risk of becoming desert. One-third of Asia's and one-fifth of Latin America's land is in the same state. We know of the environmental catastrophe which exists in the Soviet Union and in much of Eastern and Central Europe.

In this connection, the legislation that I have pending that calls for greater research in finding inexpensive ways of converting salt water to fresh water must receive the attention of this Congress. I am pleased to have bipartisan support, but we need to act. The world's population is growing, and out water supplies are not growing. We live on less than one-half of 1 percent of the world's water, yet countries that are desperately in need of water live right on the ocean.

But I am now taking off on my own thoughts after reading the excellent remarks of Cyrus Vance.

I urge my colleagues to read his remarks which follow. I ask that his remarks be inserted into the RECORD at this point.

The remarks follow:

A NEW WORLD ORDER?

(Remarks by Cyrus Vance)

The two and one-half years since 1989 will unquestionably be remembered as a time when unprecedented and unexpected events took place at every turn. And, in the wake of those events, it will be remembered that literally dozens of people began offering definitions of something called "a new world order." A number of them seem to have in mind only enhanced military security.

For my part, I am convinced that a "new world order" cannot be confined to questions of military security, or based on notions of the United States as world arbiter.

In that spirit and recognizing that the new world situation encourages us to look for solutions that would have been previously impossible, let me offer a few ambitious suggestions.

A new world order, I believe, should be structured along the general lines of the recent Stockholm Initiative to meet the following imperatives:

International peace and security;

Sustained economic development;

Curbing uncontrolled population growth and environmental degradation;

Fostering democracy and human rights; and

Strengthening international institutions.

INTERNATIONAL PEACE AND SECURITY

The first and primary imperative of a new world order must be the maintenance of peace and security on both a global and regional scale.

Although the Cold War may be over, and no immediate major conflict seems likely to engage the United States, we need look no further than the nightly television network news to recognize that national, ethnic, religious, economic and other conflicts—both across and inside present national borders—posed potential threats to peace and security.

Beyond maintaining appropriate military capabilities, we should begin our search for peace and greater security by strengthening the mandate and the capabilities of the institution that has the widest and most potentially-effective reach—the United States.

The UN's collective security potential was at least partially demonstrated during the Gulf crisis. After Iraq's invasion of Kuwait, nations working within the UN framework impressively and effectively applied an unprecedented policy of embargo and containment. And, when the war ended, there was no choice but to turn to the United Nations to provide long-term stability and humanitarian aid.

Yet, with new thinking in mind, imagine for a moment what might ahve been possible had the UN possessed the capacity to head off or avert Iraq's aggression.

In this connection, Prime Minister Ingvar Carlsson's Stockholm Initiative recommends, among other things, the establishment of a global emergency system within the United Nations.

Under this proposal, which I enthusiastically support, permanent UN political offices would be established in key places, such as India/Pakistan, South Korea/North Korea, Iraq/Kuwait, and Iran, to provide early-warning of potential aggression. But that, alone, would be inadequate. the UN also needs its own collective security forces—by which I mean earmarked forces that are available on the call of the Security Council—to intervene, forcibly if necessary, when the Security Council so determines.

To make the global emergency system effective, the Secretary-General should be granted greater leeway to deploy the organization's diplomatic, monitoring, and dispute-resolution capabilities whenever requested by a member state.

Returning to the Gulf crisis, a UN with such capacity and authority could have posted intermediary forces on the Iraq-Kuwait border, could have facilitated peaceful discussion of the two countries' border disputes, and could have signaled that Iraqi aggression would trigger a collective response by the world community.

But the United Nations cannot be everywhere. To keep the peace, we also need to modernize regional security arrangements, particularly in volatile areas like the Middle East and South Asia, where no effective regional institutions now exist.

The Conference on Security and Cooperation in Europe—known as CSCE—has facilitated to a major degree the post Cold War thaw which has taken place in Eastern and Central Europe. NATO, of course, was the Western shield which kept a fragile situation stable until a thaw could take place. But it was CSCE, through treaties and confidence-building measures, which helped the West, the Soviets, and the Warsaw Pact countries work their way through an essentially peaceful transition to democracy and free-market economies.

In the wake of the Gulf war, this model should be considered for the Middle East. Obviously, on one level, a regional conference would discuss Arab-Israeli relations and the issue of a Palestinian homeland. But, on another level, affected nations both inside and outside the region could tackle a broader range of issues, including regional security arrangements, human rights, environmental degradation, economic cooperation, and restraints on all kinds of weapons.

As to the latter, there is a crying need to rid the Middle East of weapons of mass destruction and methods of delivery as soon as possible, but the limitation of conventional arms exports to the Middle East must also be addressed as an item of top priority.

Here at home, we regard it as quite normal that we should be beginning a major military build-down. With the presently fading Soviet threat, we are beginning to reduce strategic weapons and other expenditures and to reallocate the resources to domestic priorities. Yet, in the Middle East and much of the rest of the world, arms sales continue only slightly abated. Unfortunately, we and other arms-exporting nations persist in viewing such buildups as commercial opportunities rather than potential threats to regional and, as we have recently seen, our own security. We urgently need a convention limiting the sale of conventional arms, especially in the Middle East.

SUSTAINED ECONOMIC DEVELOPMENT

Correspondingly, peace and development will be served if a prospective new world order includes a recommitment to international economic cooperation and increased development assistance.

Both the United States and other countries have had recent bouts of protectionist flu as economic pressures and changing world trading patterns have endangered the previous worldwide consensus on access to good and money.

President Kennedy, when he signed the historic Trade Expansion Act of 1962, remarked that "a rising tide lifts all boats." The premise remains true but, sadly, its support is less widespread than one would hope.

The General Agreement on Tariffs and Trade needs to be reinforced, not weakened, as seems to be the drift today. When the International Monetary Fund and World Bank were created at Bretton Woods, the GATT was seen as the global trade organization which could accommodate the interests of both developed and developing countries while holding back the protectionist and mercantilist forces which were so destructive in the past. But protectionist forces now seem unfortunately to be gaining strength, rather than waning.

The GATT, World Bank, IMF and UNCTAD (the UN Trade Development organization) all are important global institutions. They are complemented by regional trade and financial entities ranging from the European Community to the Asian, African and Latin American development banks and, now, the new European Bank for Reconstruction and Development.

Over the past several years, fresh regional groups have taken on new life. That is good. But, it would be tragic for all of us if this were to end up dividing the world into European, Asian, and North American economic blocs pitted against each other, while leaving the world's poor nations on the outside looking in.

Have-not nations cannot prosper absent a free and open international economic and financial environment. But such an environment alone will not ensure sustained growth. No viable new world order can be based on a trickle-down theory.

We must not forget, however, that the history of the past 40 years has been replete with surprising economic-success stories. The development process, once begun, takes on a dynamic momentum that carries it forward at a self-sustaining rate. Certain interrelated factors can be identified as reasons for success.

Investments in human capital through better education, health, population planning, and training.

Investments in infrastructure and industry which have the long-term prospect of bringing success in international markets.

Development of domestic agricultural production, distribution, and processing.

By the same token, we have learned that grandiose projects such as dams, superhighways, steel mills and modern airport complexes often do not make sense unless they are part of sound, overall plans for sustainable economic development.

We must face the dual realities that slow growth in both developed and developing nations illustrates a down side of interdependence, namely that slow growth in each decreases demand for products of the other. Similarly, we must also recognize that debt service continues to consume a major share of developing country resources. Even resource-rich but heavily indebted potential powerhouses such as Brazil and Mexico will do well in the next decade not to lose ground. And it is evident that these issues are severely aggravated by problems of population, environment and refugees.

The common thread that links these complex and intersecting factors is evident: No nation can resolve all its own problems without the help of other nations. Common action is essential.

We have learned from hard experience that multilateral global action is the only way we can achieve widespread sustainable growth and expanding investment.

The United Nations estimates that one billion people—one-fifth of the world population—now live in extreme poverty. Yet the World Bank estimates that with sufficient investment, this number could be reduced by almost half by the end of the decade.

Such an effort would require that all nations commit themselves to simple and discrete targets.

The worldwide cost of meeting key social-development targets is estimated at $20 billion annually—the cost, if you will, of sustaining the recent Persian Gulf war for a fortnight.

It is all a question of priorities: do we care enough to make a similar investment in the future of humanity?

The long-cited target for development assistance is that each industrialized country provide seven-tenths of one percent of its GNP to international development. With slow world growth, this will be hard to achieve. As we know, a heavily indebted developing world will be hard pressed to borrow enough money or generate enough wealth internally unless direct assistance is forthcoming and spent wisely. This is a reality we cannot avoid.

CONFRONTING CRITICAL GLOBAL ISSUES

There are two commanding and sensitive issues which both rich and poor must confront if a successful new world order is to emerge. I am talking, of course, about population and environment. The relevance of these subjects has recently been graphically and tragically demonstrated, once again, in Bangladesh. But Bangladesh, although particularly heartwrenching, is not unique.

As to population, as nations develop, birth rates invariably recede—another reason why promoting economic development is in our long-term interest. Nonetheless, longstanding religious and social pressures will continue to make it difficult to curb population growth.

It is sobering to realize that, if current projections hold, the 1990s will produce the largest generation yet born—with some 1.5 billion children entering an already-crowded world.

Population growth, by definition, tends to reduce standards of living except in nations which enjoy remarkable economic growth. Population growth also adds to environmental pressure—most directly, in areas where new deserts are created as forests are destroyed to provide land for cultivation. Such growth encourages exploitation of children, migrants, and others in the workplace. It pits neighboring countries against each other as they feel the others' population pressures.

It will take political courage, but leaders of both developed and developing nations must commit themselves to population planning programs as an integral part of their plans for economic development. A good place to start would be for the United States to renew its funding of the UN Fund for Population Activities.

In contrast to population, the related issue of environment is on everyone's mind. But the question remains: Is the United States willing to invest the political and financial capital required?

In the rush to development humanity has already done irreversible damage to the planet. And both developed and developing nations are to blame.

More than half of Africa's arable land is at risk of becoming desert. One-third of Asia's and one-fifth of Latin America's land is in the same state. We know of the environmental catastrophe which exists in the Soviet Union and in much of Eastern and Central Europe.

We are aware, however, that further damage can be checked and some of the prior damage reversed, if we muster the political will to act.

One pattern of future progress is to be found in ideas such as Debt-for-Environment swaps, in which host countries receive debt relief in return for protecting vital environmental resources. The new Global Environment Facility created by the UN and World Bank, and the private International Foundation for the Survival and Development of Humanity, created three years ago, have helped to raise public consciousness and to offer practical alternatives. One is that environmental impact assessments be built into economic development plans at both national and international levels.

Issues of global warming and ozone depletion, already high on the international agenda, must not be shunned or postponed simply because they are politically difficult. To come to grips with these challenges the nations of the Northern Hemisphere alone will need to reduce emissions of carbon dioxide from the combustion of oil, coal, and other fossil fuels by perhaps 50 percent in the next 25 years or so. And we must eliminate the use of CFCs and halons on a far more rapid and comprehensive scale.

The scope of the problem is illustrated by the stark fact that if just four industrializing countries, India, Brazil, China, and Indonesia, were to increase their use of CFCs and halons up to the limit now permitted under the 1987 Montreal Protocol, the annual release of CFCs would increase by 40 percent rather than diminish.

Let us hope that next year, at the landmark UN Conference on Environment and Development, the participants will move from rhetoric to action. And let us hope the United States will take the lead.

FOSTERING DEMOCRACY AND HUMAN RIGHTS

There is another issue which is all to often ignored. It is the erroneous belief that the internal affairs of other nations are not a proper subject for state-to-state discourse, and that internal events in other countries, such as human rights violations, are not our concern. I strongly disagree.

Although our options may at times be limited in dealing with such questions, we should never stop trying to apply diplomatic, economic, and political pressures that will help the human family continue its passage toward a more open, more democratic, and freer life.

Lech Walesa and Vaclav Havel, among others, would endorse that view. So would the black citizens of South Africa and other nations where international support and pressure is helping to bring about change. So would citizens of China, still awaiting the day when their time, too, will come.

Those countries which have attempted to create economic development in a totalitarian framework have found it does not work. The human spirit, liberated, is capable of productivity and achievement undreamed of under the deadening hand of conformist control. Just as we have seen that economic and social policy steps are necessary for development, we have also seen that political steps contribute to development—the establishment of constitutional government, the rule of law, accountability of governmental officials, openness, and respect for human rights.

Regarding the rule of law, I am encouraged by the current work of the "Permanent 5" members of the Security Council on an agreement to submit certain international disputes to the International Court of Justice. Such an agreement is one of several ways governments could commit themselves to respect international law and accept the jurisdiction of the World Court.

Moreover, I believe that, just as the United Nations should establish early-warning mechanisms to foresee and, if possible, forestall military conflict between nations, the UN should strengthen its machinery for monitoring and bringing pressure to bear on violations of political and human rights.

And, just as direct intervention should be an option for the UN in a military crisis, so should it be in situations where humanity is in crisis.

The past two and one-half years have been tumultuous. But they have demonstrated that the tide of history is not running in the wrong direction. Although often beyond our control, it is currently flowing toward openness and freedom of the individual—concepts that lie at the heart of much Western thought and certainly of our own American Revolution.

In the decade of 1980s, we have seen in our own country the common good often subordinated to a selfish search for individual gain. I hope and believe your generation can and will reverse this in the decade that lies ahead.

In the 1940s, the international community held historic summits in San Francisco and Bretton Woods which helped establish a basis for a more enlightened world order. The Stockholm Initiative, to which I have referred earlier, proposes that a comparable World Summit on Global Governance should be called to address the unprecedented challenges and opportunities which confront us today.

Such a Global Summit, which must be carefully prepared through a process of consultation and negotiation among the participants, would, I suspect, lead not only the United States but most nations to the realization that it is incumbent on us to modernize present structures of cooperation—and to create new or modified institutions where needed. I refer particularly to the United Nations, which needs to be modernized, streamlined, and strengthened to meet the tasks that face it. This will require a number of changes such as broadening the authority of the Secretary-General, and overhauling the UN financial system.

This morning, I have suggested several other structural changes which would be steps on the road to greater international peace and security . . . to shared and sustainable economic development . . . to curbing uncontrolled population growth and environmental degradation . . . to fostering democracy and human rights . . . and to creating a world order in which both law and justice become the norm, rather than the exception.

We have today an unparalleled chance to define the future. Let us seize the time.●

WORLD DIABETES DAY

● Mr. LUGAR. Mr. President, I rise today to bring to the attention of my colleagues "World Diabetes Day," which is being celebrated on June 27, 1991. Growing concern among national health officials about the rising toll of diabetes throughout the world led the International Diabetes Federation [IDF] and the World Health Organization [WHO] to proclaim this day.

An estimated 120 million people suffer from diabetes. Diabetes and diabetes-related ailments are the third leading cause of death in the United States. The Centers for Disease Control [CDC] reported that 37,138 deaths in 1988 were directly attributable to diabetes. The CDC recognizes that diabetes complications can also result in death—putting the actual toll for related deaths at closer to 156,000.

What is truly unfortunate is that early diagnosis and treatment of diabetes would prevent many of these deaths. The technology exists, but there is a need for greater availability of the latest treatments and for greater awareness. The goal of "World Diabetes Day" is to share this information and to help people identify and control their diabetes at the earliest stages.

In conjunction with the IDF's 14th Congress, being held in Washington from June 23-28, the IDF and WHO are mounting an historic week of diabetes-related events. Included will be scientific presentations by renowned diabetes experts, international and national health ministers, and well-known public figures who enjoy exciting lives despite their diabetes.

The Congress is expected to be attended by over 8,000 people from 120 countries. The Secretary of Health and Human Services, Louis Sullivan, plans to participate, and the results of a Gallup Poll on diabetes will be released.

Boehringer Mannheim Corp., a leading health care company based in Indiana, has joined with its sister company in Germany, Boehringer Mannheim GmbH, in generously underwriting significant portions of the costs associated with this educational effort. I commend the thousands of individuals who work for Boehringer Mannheim in the United States and throughout the world for their work toward helping others to lead better lives.

Mr. President, I hope that my colleagues will join me in supporting the activities associated with "World Diabetes Day," thereby increasing public awareness of the multinational efforts being made to fight this disease.●

POOR CHILDREN, IMPOVERISHED NATION

● Mr. SIMON. Mr. President, the Chicago Tribune had two related editorials on Sunday, June 9, 1991.

The first of these was titled, "Poor Children, Impoverished Nation." It calls on the Nation to lift our children out of poverty.

Closely related to it is an editorial titled, "Investing in Early Intervention." It calls on the State of Illinois to do more in early childhood education. And while its editorial is directed to the State legislature, that editorial could just as well be directed to the Federal Government.

We have to do much better. The evidence is just overwhelming that early intervention saves lives, saves money, and is an investment in the future of our country.

I ask that both editorials be printed in the RECORD.

The editorials follow:

[From the Chicago Tribune, June 9, 1991]

POOR CHILDREN, IMPOVERISHED NATION

One out of every five American children lives in poverty.

It's a disgraceful statistic, especially so because children—those 18 and under—are more likely to be poor now than any other age group in the nation.

And it's disheartening that the proportion of children in poverty swelled during the nation's longest period of peacetime economic growth and despite a variety of efforts to address the problem.

Children inevitably share the lot of their parents, and such phenomena as the growth in single-parent families, drug use and the social isolation of urban and rural ghettoes have certainly contributed to the growth in child poverty.

But society has a special obligation to children and cannot write them off simply because their parents are in trouble. It also has a special interest in ensuring that its next generations are sufficiently educated and healthy to guarantee the nation's future strength.

If there is some popular indifference to the condition of poor children, it may be due in part to a widespread perception that poor children are of a singular type and environment—minorities in fatherless, innercity, welfare homes. The Children's Defense Fund, a lobbying group, has dissected this generalization in a new analysis of data on poverty among children and found it wanting:

Location? The majority of poor children live outside cities: 3 of every 10 live in suburbs; more than one-quarter live in rural areas.

Race or origin? Two of every five children in poverty—41 percent—are non-Hispanic whites; Hispanics account for 21 percent and blacks 35 percent.

Employment? One of five has a parent who works full time; nearly two-thirds live in a family where someone works at least part-time.

Parents? Two of five live in married-couple families.

Family size? Nearly two-thirds of poor families with children have just one or two kids.

As for the most prominent icon of poverty, the study uses government data and definitions to determine that the black, innercity, welfare child in a fatherless home represents only 1 of every 10 poor American children.

Still, it remains that black children, children of any race in fatherless families, those with the youngest parents and those whose parents did not finish high school are most likely to be poor.

Whatever the circumstance, the critical question is whether this nation can afford to keep raising new and larger generations of poor children.

Forty percent of the nation's poor are under age 18—a total of more than 12 million children. Inadequate education, nutrition and development opportunities for such vast numbers of children signal dangerous and costly consequences ahead.

The Reagan administration insisted that improving the overall economy would help people throughout the social system. "A rising tide lifts all boats,' Ronald Reagan said.

Some boats rose. The 1989 poverty rate for all Americans was the lowest in the decade: 12.8 percent.

But it didn't happen for children. From 1979 to 1989, while the gross national product grew by more than one-fifth, child poverty expanded at the same pace, after dramatically lessening in the 1960s and leveling off in the 1970s.

Now, at least, discussion about poor children is again coming to the forefront, with a number of proposals for further action developing on and off Capitol Hill. Many of them—such as expanded medical insurance, more day care and others—would be expensive and controversial. But some ought to win almost universal approval.

The Earned Income Tax Credit, which puts more money into the pockets of low-wage workers with children, could be further improved to bring the nation closer to the point where no one who works full-time would have an income below the poverty level. That fact—that a parent can work full-time and still be in poverty—is one of the most distressing aspects of the child poverty dilemma.

On another front, a 1988 federal law established some provisions for collecting child support from absent parents. But more than half of the child support owed via state and federal collection programs still goes unpaid.

A stricter system with penalties and improved enforcement needs to be developed. Government cannot legislate values and tradition, but it can make sure that parents cannot dismiss their obligations and that aid programs do not encourage family breakup.

Job training opportunities also must be assured. Abundant new jobs are being created every day, but they require higher levels of skill than the industrial jobs of yesterday. The best way for a parent in a poor household to increase the family income is to get a better job, and that means improving work skills.

The ongoing effort to improve the quality of schools, and to provide incentives for teens to say in school, can do much to prevent future poverty if real improvement is achieved. Preschool programs such as Head Start, early-childhood nutrition assistance and preventive-health plans have also proved effective for the children who get to participate.

None of these initiatives would completely eradicate poverty among children. But this wealthy nation cannot afford to give up the effort to alleviate it.

INVESTING IN EARLY INTERVENTION

The sooner children with developmental problems get help, the more likely they are to grow up healthy and normal. Moreover, the earlier the intervention comes, the fewer resources it takes and the less it costs. Those facts are well established.

Last week, the Illinois House took a small step toward making early help available for the state's babies and toddlers with developmental problems. By an almost unanimous vote, it passed the commendable Early Intervention Services System Act, which would set up a new interagency system to provide and coordinate services for vulnerable, high-risk youngsters under 3 years of age.

But, regrettably, it is only a token victory. The House did not provide any money for the early intervention effort. It merely set up a framework that can be used when the financially hard-pressed state of Illinois can find some funding. The Senate is expected to use the same tactic of appearing to be helpful by passing new legislation without providing the money it would cost to make it reality.

Advocates of early intervention say it would be better to have the program on the lawbooks than not, that even without funding the legislation would be a necessary first step, that approving the idea now would make legislators more comfortable about paying for the services in the future. There is also a possibility of getting some startup money from the state Department of Education.

But without money, a new law is small comfort to the families of babies and toddlers rapidly growing past the age when early intervention would make the most successful difference in their lives.

When in the future might money be available to pay for what is essentially a new entitlement program if it is also passed by the Senate and signed by Gov. Edgar? The outlook isn't promising. Even if the income tax surtax is made permanent, it will be difficult to stretch revenues to cover existing entitlements and necessary expenses.

Further, supporters of the early-intervention act aren't eager to talk about what the ultimate cost of the services is likely to be. They propose phasing it in over five years, with first-year costs of about $6 million and bills of about $15 million annually in new state spending for the rest of the startup period.

But ultimately, it's estimated that about 56,400 Illinois children younger than age 3 would be eligible for the services, which would average $4,000 per youngster per year. That would make the annual total tab about $225 million. Of that sum, the states would pay $92 million, the federal government $131 million and local government and private foundations and charities $2 million.

Once fully in place, this would be a huge new financial commitment for a state that's scrambling to pay its current bills and facing lawsuits that may result in big additional spending for Medicaid, the schools and other services for children.

What justifies the new program are two facts. It could make an enormous, permanent improvement in the lives of children born with developmental problems. And, in the long run, it would save the state far more than it would cost by reducing the need for subsequent special education and medical services and by preventing a big range of expensive social problems.•

PRECARIOUS ECONOMIC CONDITION OF THE "BIG THREE"

• Mr. BENTSEN. Mr. President, I rise to call the Senate's attention to an important article that appeared in Sunday's Washington Post, and I ask that a full copy of that article be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENTSEN. In that article, Kevin Kearns, director of the automotive project at the Economic Strategy Institute, dramatically sets out the precarious economic condition of the Big Three U.S. auto makers. And while General Motors, Chrysler, and Ford sharply reduce their production, Japanese auto firms see new opportunities to increase their share of the American market, which already exceeds 30 percent.

There is no question that some American-made cars just were not up to the quality of the foreign competition. Beginning in the late seventies, it became chic to buy foreign; out-of-style to buy American.

But the U.S. auto industry has come a long way in recent years. Productivity is way up, product defects way down. Today, the Big Three are turning out cars that stand up to those made by anyone, anywhere. Quality and value have become realized objectives in much of the American automobile industry.

It's time Americans recognized these achievements and encouraged such results by buying more American cars.

The competition is tough and the playing fields hardly equal. As Kearns points out, American automakers do not have the luxury of a closed home market, free of competition from imports. They face higher costs of capital than their foreign competitors. They are paying more in United States taxes than the Japanese transplant operations that some herald as the salvation for our declining domestic production. And, perhaps most seriously, they must try to rejuvenate their operations while competing with deep pocket companies that reap the benefits of Japan's keiretsu system of interlocking business cartels.

Japanese transplants do provide American jobs. But let's not kid ourselves: they are far from the equivalent of American-owned auto companies. Their plants and the machines that run them were made largely with Japanese products. Their profits are returned to the Japanese economy. They buy their supplies and utilize the services mainly of Japanese firms. And a recently completed Customs Service investigation reveals that at least one major Japanese automaker is not using nearly as much North American content at its plant here as it has been claiming.

The implications of the continued loss of production by the Big Three are disastrous. Autos represent more than 4 percent of our total GNP. The loss of auto production translates into losses for a long list of other key American industries, including steel, glass, and textiles—all industries themselves under siege today from sometimes-unfair foreign competition.

Fortunately, people finally are beginning to recognize just how much really is at stake, not just in auto production but also in all of those important supporting industries.

The answer, as Kearns correctly points out, is not more Government interference. But it also is not more of the benign indifference that characterized our economic policies for much of the 1980's. The Federal Government does have an important role to play. Our financial policies will dictate whether the Big Three and related industries have adequate capital to make new investments. Our trade policies will determine whether our automakers are able to sell in foreign markets, and whether the pervasive keiretsu networks will continue to distort the economic playing field through price-fixing and other unfair arrangements. And how well we enforce our tax laws and customs regulations will decide whether foreign automakers also must play according to the rules of the game.

Mr. President, those are some awfully tough policy challenges. With the right leadership, I am confident we can meet them. Without it, we will continue to see our basic industrial building blocks erode in the years ahead.

EXHIBIT 1

MEANWHILE, THE MELTDOWN IN MOTOR CITY

(By Kevin L. Kearns)

America's automakers are reeling, and the results this time may be catastrophic. Despite dramatic increases in investment, R&D, training, productivity and quality in the last 10 years, the Big Three lost an incredible $4.7 billion in the last two quarters—a record loss. More hard times lie ahead, and some analysts believe there is a very real possibility that Chrysler and even Ford may fail and that the mighty General Motors could be critically wounded.

What now threatens the very existence of the Big Three is an unusually potent combination of cyclical and structural factors. Part of the problem is the current recession: The auto industry is always disproportionately affected by economic downturns (in the first quarter the unemployment rate reached 6.5 percent for the general economy but 16 percent in autos). But a very substantial part of the problem is structural. Even when the recession ends, the industry will be left facing this ominous reality: an enormous worldwide excess of automaking capacity, most of it aimed at the rich U.S. market.

As sales have dropped, Detroit has been forced to respond with massive cuts in production. Yet as the Big Three retrenches, Japanese auto firms have viewed Detroit's difficulties as a period of great strategic opportunity. That's not surprising from rivals whose share of the U.S. market topped 30 percent this spring—and has almost tripled since 1978.

"So what?" ask many Americans. "Why should there be a government response? Poor quality and poor management are the real problems." In any case, that argument goes, the "transplants"—the new assembly plants built by Toyota, Honda and other Japanese producers in this country—will save us; they'll produce the cars America needs better and cheaper than the Big Three. And the transplants are becoming more "American" every day. There's really no difference between Toyota and General Motors.

Undoubtedly, past U.S. management and labor practices contributed substantially to the auto industry's decline; a forthcoming Brookings Institution study will point to a disturbing drop in brand loyalty to American cars and a corresponding rise in loyalty to Japanese brands.

But before punishing the Big Three for the lemons they sold in 1980, consider that the domestic product is vastly better than it was: The Big Three invested $170 billion in improving productivity and quality during the last decade. In 1981, the number of defects per U.S. vehicle was about four times the Japanese average. Today, the still-shrinking difference between the U.S. defect rate of 1.6 per car and the Japanese 1.2 per car is negligible. An extensive MIT study of the auto industry worldwide found that the top Big Three plant actually has fewer defects per car than the top plant in Japan. In addition, many industry analysts also believe that the value-to-price ratio of domestic cars substantially exceeds that of Japanese manufacturers.

The productivity of American-owned auto plants and their workers is also up significantly. According to another recent study, the four most productive auto facilities in America—and eight of the top 10—are Ford plants. Only two are Japanese transplants. American factories still trail plants in Japan in productivity, but here too the gap is narrowing. The conclusion is inescapable: Detroit got the message and is responding effectively to consumer needs.

It is worthwhile remembering that, unlike its Japanese rivals, Detroit achieved this without a closed home market that assured profits and without new plants subsidized by governments. The Big Three were also dealing with huge health and pension costs, the sky-high cost of capital and, in the early '80s, an exchange rate that crippled exports.

Consider also that the automobile industry employs 750,000 Americans directly in assembly and parts operations, plus millions more in related industries. In fact, automobiles account for 4.1 percent of GNP, an incredible chunk for a single industry. Transferring many of those jobs and much of that wealth-creating activity to foreign companies will have a devastating impact on America's economic future.

In addition, there remain the important linkages between the auto industry and other critical U.S. industries. Everyone knows that automobiles are huge consumers of steel, plastics, textiles, rubber and glass. But as cars have gone high tech, the auto industry has become the largest consumer of semiconductor chips and uses vast numbers of sophisticated machine tools, robots, computers and advanced materials. Thus the auto industry will increasingly serve as a more important market for the output of other key high-tech industries. Without Detroit, their future will also be at risk.

Won't transplants buy the same U.S. products as Detroit and, in that way, fill the same role? The evidence suggests otherwise:

The plants themselves were built largely by Japanese construction companies.

The machine tools and robots in the plants are imported from Japan.

High-paid jobs in management and R&D—those which potentially add most value to production—are retained in Japan.

The financial services associated with these plants were provided by Japanese banks and insurance companies.

Profits earned on the sales of the transplants are repatriated to Japan.

U.S. taxes paid by the Japanese auto companies and their Japanese suppliers are mysteriously far below amounts paid by equivalent U.S. firms.

The transplants have largely shunned American auto parts suppliers and have imported their own supplier networks from Japan.

The transplants have decreased significantly the number of auto jobs in America, with perhaps as many as 175,000 workers displaced in the traditional industry from 1983 to 1989.

The siting and hiring practices of transplants indicate that they are reluctant to employ minorities and women.

Yet, the argument continues, haven't the transplants attained a U.S. content almost as high as the Big Three?

In fact, while Honda, the acknowledged leader in "Americanization," alleges a U.S. content well in excess of 70 percent, impartial studies refute that claim. A 1989 GAO report concludes that Japanese automakers have reached 50.5 percent local content, as compared to an average of 87.3 percent for the Big Three. The University of Michigan Transportation Research Institute conducted an independent care study of the Honda plant in Maryville, Ohio, and estimates a domestic content of at most 62 percent, but the authors cite factors that could make it lower. A Canadian newspaper recently reported that a still-in-process U.S. Customs Service investigation has estimated actual North American content at less than 50 percent.

To inflate their U.S. content, the transplants use qustionable counting procedures: They include indirect costs that would be incurred whether or not manufacturing occurs here and arbitrarily counting parts imported from Japan as 100 percent American simply because they are purchased from a Japanese-owned supplier located here.

The transplants, in other words, are not American companies.

The Big Three today face enormous obstacles. Perhaps most worrisome are the market conditions skewed by Japan's economic system—in particular the interlocking business cartels known as keiretsu. The solution will require government-coordinated action.

A critical first step is simply to recognize that a significant structural problem exists. Vice President Quayle, during his recent trip to Tokyo, protested the Japanese government's continued protection of its automakers. In doing so, he became the rare administration official who will publicly say that the Japanese system of close government-business cooperation, closed home market and keiretsu distorts the global market to give Japanese manufacturers significant comparative advantages.

Thus, most Japanese auto manufacturers have been able to absorb the substantial losses associated with setting up shop here in pursuit of market share. This "patient capital" has brought the Japanese automakers to the verge of dominating an American industry.

And this is where the record losses of the last two quarters take their most serious toll. Since the Big Three are in financial distress, they cannot afford to make the range of investments in new products necessary to keep them fully competitive. At the same time, Japan is introducing an extraordinary proliferation of new models and options in the U.S. auto market, much faster than Detroit can match.

Meanwhile, worldwide production overcapacity—a result of deliberate Japanese overbuilding—is hammering Detroit. Big Three capacity has fallen from 15.6 million units in 1984 to 14.4 million in 1989. Industry analysts predict a further fall to 13.7 million units in 1991.

In spite of these cuts, worldwide excess capacity still runs at 8 million units—75 percent of which is targeted on the U.S. market. To make matters worse, the transplants continue to add capacity in ambitious increments: The number of cars and light trucks is set to rise from 1990's 2.54 million to 3.5 million by 1995. By adding to current levels of overcapacity, Japanese manufacturers can initiate fierce price competition—with the result that the Big Three will cede additional market share.

Whether the Japanese system is fair or not is irrelevant. Some believe Japan is too politically sensitive to seek the actual takeover of America's auto industry. The point nevertheless is that Japan's automakers are eager to increase significantly their hold here, and the current system favors that goal. So do such U.S. responses as an internal report prepared for the president by the Treasury Department (leaked to the Detroit News) that blamed automakers' poor performance on myopic management. This is the same Treasury Department that in 1989, over U.S. Customs Service and Big Three objections (and counter to standard industry practice worldwide) reclassified imported light trucks as passenger cars, thus allowing Japanese automakers to save over $500 million yearly in U.S. import duties.

The prevailing economic wisdom within the administration contends that assisting Detroit would be unwarranted interference with the market mechanism. That response is certainly ideologically pure, but will it work? In searching for an answer to the same problems facing U.S. automakers, the European Community decided to place numerical limits on the market share of Japanese cars until European automakers are strong enough to compete. Such a drastic solution is debatable, but it underscores the immensity of the problem.

What can be done without resorting to heavy-handed government interference? A chief ingredient of any rescue plan is providing stable financial conditions for the auto industry: ensuring that sufficient capital is available to the Big Three, the parts makers and the suppliers; ensuring that the cost of the capital is not exorbitantly high and ensuring that exchange rates remain sufficiently stable for rational long-term planning.

In addition, transplants must behave like U.S. companies, which means that *keiretsu* practices, which violate U.S. law, have to stop at the water's edge. The federal government must make an all-out effort to investigate and end dumping, vertical price-fixing among assemblers and suppliers, tax avoidance through transfer pricing and a host of other practices outlawed here years ago. And the Commerce Department and Customs Service should conduct a joint audit with the Japanese companies in order to establish a program for bringing their domestic content close to the level of the Big Three.

At the same time, the Japanese need to open their domestic market to exports from the Big Three and U.S. parts makers, as well as European and Asian competitors. An immediate "affirmative action" program must be implemented so that U.S. cars, light trucks and parts receive reciprocal treatment in the Japanese market.

In return, the Big Three, the parts industry and American labor must publish their own action plans to pursue additional excellence in quality, productivity and price. Excessive executive compensation and overly generous clauses in union contracts are likewise fair game.

We can quibble about details, so long as we don't delay until irreparable damage has been done to domestic auto manufacturers and parts suppliers. If the problems are not addressed now with autos, we will be facing the same situation in five years with the computer and other flagship industries, but we will be in a much weaker position to respond effectively.

Today, it is Washington, not Detroit, that is afflicted by myopic management.•

UNIVERSITY OF MAINE EXPANDS—IN BULGARIA

• Mr. SIMON. Mr. President, I was pleased to see a story in the Chicago tribune, written by Dusko Doder that the University of Maine has started an American university in Bulgaria.

The American universities in Cairo, Lebanon, and Turkey have all made significant contributions to the areas that they have served.

I hope there are some practical ways that we can encourage the University of Maine in this endeavor.

I would add that I hope we can encourage the development of an American university somewhere south of the Sahara in Africa, and an American university in Armenia, one of the Soviet Union Republics.

Each of these American universities, the one already developing in Bulgaria, and the ones that should be developed in Africa and Armenia, could contribute a great deal.

I commend the leaders of the University of Maine.

I ask that the Chicago Tribune article by Dusko Doder be printed in the RECORD.

The article follows:

[From the Chicago Tribune]

UNIVERSITY OF MAINE EXPANDS—IN BULGARIA

(By Dusko Doder)

BLAGOEVGRAD, BULGARIA.—Once the most faithful of Kremlin allies, Bulgaria is fast becoming the most America-loving country in Eastern Europe. People are clamoring for American movies, music, market economies and, now, education.

The last is soon going to be offered in a big way. Assisted by the University of Maine, the first American liberal arts college in Eastern Europe is to open its doors this fall in this provincial town near the Macedonian border.

The college will occupy the marble-and-glass former headquarters of the Communist Party, which dominates the town. Faculty members now being recruited will be offered accommodations in no less ironic a place: a spacious, three-story hunting lodge built for Todor Zhivkov, the Communist dictator of Bulgaria for 35 years until his ouster in 1989.

Zhivkov had homes and lodges built throughout the country to be used if he visited. He visited Blagoevgrad only once.

Soon, local officials hope, the university will be the institution that most influences life in the town. Many Bulgarians hope it will mark the resumption of strong American ties of all types with this Balkan country.

Some other U.S. universities have links with east European universities, but this would be the first completely American university, according to George Prohasky, director of the Open Society Fund in Sofia, the capital, which is providing part of the funding.

This fund was set up by George Soros, a Hungarian-born American businessman to further American-style freedom of intellectual inquiry—what he calls "the concept of an open society . . . that transcends frontiers."

In addition to Bulgaria, Soros has created similar foundations in Hungary, Poland, Czechoslovakia, Romania and Soviet Union.

The American University of Blagoevgard is hardly off the drawing boards, but already 1,600 people have signed up for the English and entrance tests.

Dale Lick, president of the University of Maine, visited Blagoevgrad last November, saw the buildings and "from that point on it has taken on a life of its own," according to an American closely involved with the project.

Lick had been interested in Bulgaria since his university began accepting students from that country.

A detailed plan was drawn up last winter by William Higdon, former president of Graceland College in Lamoni, Iowa, and a specialist in Third World education. Five University of Maine administrators came here in March to complete the planning.

Though initial funding is being provided by Soros through the foundation and the buildings are being provided by the town of Blagoevgrad, the university wants to raise additional money in the United States.

A modest opening is envisaged—just some 250 students this fall, with the number increasing to around 1,000 over four years. The aim is for 70 percent of the students to be Bulgarian, 10 percent from the U.S. and 20 percent from other countries.

The president of the university is to be an American, but no one has been named. Initially, most of the staff will be American, though eventually it will be half-American and half-Bulgarian. Prospective students will have to pass tough entrance exams.

The curriculum has not been worked out fully, but Stefan Chernokolev, the university's project director, said it would be "basically a liberal arts college with about 10 majors including various business courses, sociology, political science, American studies, Balkan studies, history and computer sciences."

Students also will be required to pay substantial charges for tuition and board—a new concept for Bulgarians. Though the amount hasn't been decided yet, Chernokolev said it will not be less than 10,000 leva, or about a year's wages for the average Bulgarian.

Despite the stringent entry requirements, the telephone has been ringing off the hook in the now-empty offices of Blagoevgrad's former Communist Party officials. Lyudmil Georgeyev, the university's local coordinator, said prospective students are phoning from all over the country.

"How they get the number I don't know," he said as he padded across the thick carpeting of the vast office once occupied by the local party chief.

U.S. Ambassador Kenneth Hill said there is an "enormous desire in Bulgaria to have American schools." Many Bulgarians, he said, still remember with nostalgia the pre-Communist days when there were several American high schools and colleges in the country. The most prestigious was the American College of Sofia, which the Communist government shut down in 1947.

Last summer a reception was held in Sofia for former graduates of American schools, many of which were started by missionaries.

"There were women in their 60s and 70s with tears in their eyes who said it was the first time they had spoken English in 40 years," said an American diplomat who attended the reception.●

1991 UTAH HUNTER EDUCATION CHAMPIONSHIP

● Mr. HATCH. Mr. President, I rise to recognize the 1991 Utah Hunter Education Championship competition that was held in Vernal, UT, on May 4, 1991. This competition provided young people between the ages of 12 and 18, the opportunity to exhibit their gun hunting and education skills and to further develop those skills.

The competition included rifle and shotgun shooting, archery, outdoor firearms handling, wildlife identification, and a general knowledge in resonsible hunting, wildlife management, survival, and first aid. The top contenders in this competition at the Hunter Education Invitational Challenge in July 1991, at the National Rifle Association's Wittington Center in Raton, NM. As you can see, Mr. President, these young people will likely be the future forerunners in wildlife conservation and management.

Mr. President, the State of Utah is recognized as having the most outstanding hunter education program on the North American continent because of their dedicated staff of volunteer instructors. It is the goal of the Utah Hunters Education Association to have an organization dedicated to educating the young people of Utah to become safe and ethical sportsmen. Their program consists of not only sending instructors to the far corners of the State but also to the densely populated areas. In addition, they have a program to educate disabled individuals so that they too may enjoy the same privileges as the members of this organization.

Mr. President, it is organizations such as this that we in the U.S. Senate should consider funding. As we are greatly concerned in promoting safety for the citizens of the United States, responsible organizations like the Utah Hunters Education Association deserve to be commended for their actions to teach gun safety and management. I applaud them for their efforts.●

A CREATIVE PRISON PROJECT

● Mr. SIMON. Mr. President, I would like to pay tribute to the inmates and staff of Vienna Correctional Center, to Southeastern Illinois College, and to the agencies contributing to their initiative in setting up and running an ethanol plant at the correctional center. I would also like to share with you their story. Their innovation and optimism reminds us that there are better ways to use both the human and environmental resources of our Nation.

Ethanol is a renewable fuel that can be added to gasoline to reduce the amount of carbon monoxide released into the air. By producing ethanol, the inmates at Vienna are making available a product that can help our Nation's cities meet the air quality requirements of the 1990 Clean Air Act.

Those associated with this project are not only contributing to antipollution efforts, they are also demonstrating that the production of ethanol can be integrated with the creation of greenhouses and with the production of feed for livestock. I ask that an article detailing the recent honors awarded to the project at the Vienna Correctional Center from the Southern Illinoisan be printed in the RECORD.

The article follows:

VIENNA CORRECTIONAL CENTER HONORED—INMATE-RUN ETHANOL PLANT CITED BY JUDGES

(By Phil Brinkman)

The Agricultural Research Project at Vienna Correctional Center is being honored by a national environmental group in Washington D.C. today for its inmate-run ethanol plant.

Renew America honored the project for producing a clean, renewable energy source that can be blended with gasoline for use in the state's car fleet. The center is the only recipient of the award for renewable energy projects. Altogether, awards were granted in 20 categories.

"This is an integrated system," Renew America Executive Director Tina Hobson said of the Vienna project. "It appealed to the group (judges) because it not only was conserving natural resources, but it was also productive for the human beings involved."

Ethanol is produced at the plant by fermenting grain crops. When the fermentation is complete and the liquid fuel is removed, the remaining organic matter is used as feed for livestock, ranging from beef and dairy cattle to poultry, catfish and freshwater shrimp.

The plant includes a greenhouse to take advantage of the excess heat produced in the manufacture of ethanol. Carbon dioxide produced during the fermentation process is circulated back into the greenhouse to stimulate growth. A 1,200-head cattle feeding operation also is planned to use the grain byproduct.

The operation is run entirely by inmates with help from Southeastern Illinois College near Harrisburg. Twenty-six state, federal and local agencies have contributed to the development of the project through financial or technical assistance.

Renew America issued the awards in conjunction with the National Environmental Awards Council, a coalition of 28 leading national environmental organizations. The project will be included in the Environmental Success Index, a 150-page directory that organizers say is the only comprehensive list of successful environmental projects nationwide.

Hobson said the directory is designed to provide individuals, public interest groups, industry and policy makers with access to a broad range of creative and effective environmental programs in their state.

"You read a story in a newspaper and you think, 'Gee, that's a good idea,' but then you lose it," Hobson said. "We're a center for those good ideas."●

BRAZIL'S PRESIDENT COLLOR BRINGS MESSAGE OF REFORM, PROGRESS

● Mr. CRANSTON. Mr. President, this morning I, along with many of my colleagues, met with Brazilian President Fernando Collor deMello.

For the last year and a half, President Collor has served as the Chief Executive of Latin America's most populous and most economically important country, a nation whose strategic cooperation with the United States reaches back to World War II and the fight against facism in Europe.

President Collor is the first President of Brazil to be chosen by direct elections in nearly three decades. He has been a strong and consistent advocate of free-market reforms, a sane nuclear energy policy and environmental protection. He deserves our support and our help.

Before he arrived, I—together with seven of my colleagues—sent a letter to President Bush, asking him to urge President Collor to establish territorial boundaries for the Yanomami Indians as a means of assuring their survival and of giving legal protection to the Amazon Rain Forest.

We also urged the President to ask President Collor to help ease deforestation pressures in the Amazon—the world's "green lung"—by abolishing fiscal incentives for environmentally destructive cattle ranching and agribusiness in the region.

This morning I brought the issue directly to President Collor. He understood and was well aware of the plight of the Yanomami. I hope that the subsidies given to Amazon ranchers and agribusiness interests will be diverted by this Government to areas that need them the most, such as Brazil's impoverished northeast.

I also brought up the issue of nuclear energy. United States policymakers have long looked at Brazil's nuclear policy, which included efforts to make an atom bomb, with a jaundiced eye.

Brazil has refused to sign the 1968 treaty on nonproliferation of nuclear weapons, which would give the International Atomic Energy Agency the right to inspect its nuclear installations.

And, although Brazil signed and ratified the Treaty of Tlatelolco, which seeks to make Latin America a nuclear-free zone, it has not waived the entry-into-force requirement. Traditionally, Brazil's view is that such treaties are an attempt by the nuclear club members to exclude it from the club.

Despite this, President Collor has taken several steps to bring Brazil's position closer to that of the international community.

And, just this morning, he assured us that his Government will continue to cooperate internationally. He said he was aware of the need to regulate the use by former nuclear industry employees of their expertise in other countries.

President Collor evidenced great determination on the nuclear issue. He deserves not only our praise, but also our commercial and technological help, as he redirects Brazilian know-how in this area to exclusively peaceful means.

And, finally, Mr. President, I would like to say a word about United States-Brazilian relations in the counternarcotics area.

There has been growing concern in the United States about Brazil's role as a transshipment point for narcotics and as a supplier of precursor chemicals.

The escalation of the Andean drug war has caused narco traffickers to shift their shipping routes through Brazil's immense and largely unguarded borders.

There is also evidence that drug producers from Colombia, Peru, and Bolivia have used Brazilian territory as a safe haven from their own countries' security forces.

The administration appears to be pushing the idea, as they have in other South American countries, that the Brazilian military ought to take a more active counternarcotics role.

The military, for its part, have sought to escape such a function, arguing that—under Brazil's constitution—antinarcotics efforts form part of the Federal Police's functions.

On balance, and keeping in mind the horrible precedents being established by military involvement in places like Bolivia and Colombia, I think the Brazilian position is the more correct one.

If the administration wants to increase antinarcotics efforts with Brazil, I believe it would be wise for them to leave the delicate issue of civil-military relations for the Brazilians to resolve. And to channel United States support through the agency designed to receive it—the Brazilian Federal Police.

Mr. President, I ask that the letter I referred to earlier in my remarks be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, June 14, 1991.

Hon. GEORGE BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing you today to urge you to include the plight of the Yanomami people in your discussions next week with Brazilian President Fernando Collor de Mello.

As you know, the Brazilian government has committed itself to undertaking major environmental policy reforms for the Amazon region. Since his inauguration, President Collor has given unprecedented attention to environmental issues. However, much remains to be done and this unfinished agenda is of vital concern to both our nations.

In particular, the demarcation of the Yanomami people's land rights is a critical test of the Brazilian government's willingness to live up to its commitments on the environment and human rights in the Amazon region.

Some 9.4 million hectares of pristine rain forest—home to nearly 10,000 Yanomami people—have been recognized by Brazil's federal courts as guaranteed to its original inhabitants by that country's Constitution. However, an invasion by gold and tin miners into the region has threatened the physical survival of the largest isolated indigenous group in the Americas. Disease, mercury pollution and siltation of watersheds are some of the worst manifestations of this unhappy clash between cultures.

Internationally recognized environmental and human rights groups say that the legal demarcation of the Yanomami territory fulfills the minimal necessary condition for protecting their physical survival. It is essential that President Collor ensure that entire, continuous Yanomami area be legally demarcated immediately.

Similarly, we believe the Brazilian government ought to be doing more to abolish the fiscal incentives and subsidies for cattle ranching and agribusiness in the Amazon. Such steps would help ease deforestation pressures in the region and would help create a level playing field for environmentally sustainable activities.

And, finally, we urge you to include the agenda the chronic rural violence which has resulted in the murders of hundreds of small holders and peasants in the last five years. If the Brazilian government does not stop large landowners from causing the murder of rural activists seeking sustainable livelihoods for the rural poor and the defense of Indian lands, it will also be clearly incapable of preventing them from destroying the forests.

In making these suggestions, we would again underscore our support for, and appreciation of, the many steps President Collor has already undertaken in the environmental area. However, the overwhelming pressure faced by the Amazon forests, and the people who call them home, is too great not to importune the Brazilian president for immediate action.

Sincerely,
Alan Cranston, Edward M. Kennedy, Paul Wellstone, Dennis DeConcini, Daniel Patrick Moynihan, Albert Gore, Jr., Tom Harkin, Tim Wirth.•

FORGIVING POLAND'S COMMERCIAL DEBT

• Mr. SIMON. Mr. President, recently the Paris Club agreed to forgive a minimum of 50 percent of Poland's $33 billion debt to Western governments. Thanks in large part to pressure from Congress, the U.S. Government took the lead in these talks and pressed hard for significant debt reduction. We are going to go beyond the 50 percent figure and will forgive 70 percent of Poland's debt to us, a move that ought to encourage other creditor governments to go further than the Paris Club agreement. The relief is expected to really help the Polish economy move from its current difficult situation to a prospering free market economy.

Today and tomorrow, June 18 and 19, the London Club is meeting in Frankfurt, Germany to decide on whether and how much to forgive of Poland's debt to commercial banks. Poland owes about $12 billion to commercial banks. I urge the commercial banks to show the same wisdom and flexibility displayed by the Paris Club and provide some breathing space to allow the bold reforms in Poland, which are the most far-reaching economic reforms underway anywhere in the world today, to succeed. Now that official debt has been halved, many potential investors are taking a fresh look at Poland. The signal that many Western investors are waiting for, commercial debt relief, will doubtless spur this much-needed investment.

Mr. President, the Polish reform program is exciting and holds great promise for a genuine economic breakthrough. We are all familiar with the great strides toward democracy already taken in Poland. We are perhaps less familiar with the progress already made in the economic sphere:

Poland now has a fully convertible currency and a liberalized trade system;

Inflation has been radically reduced;

A hard currency trade surplus of $3.8 billion was achieved in 1990, far better than anyone had predicted;

Food and consumer goods are now widely available, in part because prices have risen to market-clearing levels while wages have been controlled;

A stock exchange opened in April, the first one since World War II, and independence for the central bank in credit policy;

An ambitious privatization program has begun, aided in part by the Polish-American Enterprise Fund, and has already made some headway in privatizing Poland's 8,000 state-owned enterprises;

Cuts in state subsidies to industry and state enterprises;

Legislative changes necessary to promote the growth of the private sector.

These preliminary results are encouraging, even though there is a short-term price. Unemployment is now at 7.7 percent, as output has fallen. The fall in production is compounded by the loss of the Soviet and East German markets at preferential terms; the Soviets now charge world prices for energy, which clearly hurts. The cost of inputs other than energy has also risen, often substantially. It is clear that 1991 will be a hard year, even with the reduction in Poland's official debt burden.

Mr. President, I am confident that the Poles will use commercial debt relief wisely to further their march toward a free and open economy. The Polish Government has already suggested a plan to the Paris Club governments to reduce their officially-held debt by another 10 percent in a debt-for-nature swap, which would apply another $3 billion to cleaning up the overpolluted Polish environment. It seems to me that the commercial banks ought to consider this kind of swap, and other innovative arrangements, as a sound financial investment in a country that offers such great potential. I hope the Western commercial bankers will agree and work out a fair and equitable plan on debt reduction.●

BUDGET SCOREKEEPING REPORT

● Mr. SASSER. Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327.0 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 17, 1991.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1991 and is current through June 14, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S.Con.Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 11, 1991, the President has signed into law H.R. 2251, Emergency Supplemental for Humanitarian Assistance (P.L. 102-55). This action does not affect the current law estimates of budget authority, outlays or revenues.

Sincerely,

ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG. 1ST SESS. AS OF JUNE 14, 1991

[In billions of dollars]

	Revised on-budget aggregates [1]	Current level [2]	Current level +/− aggregates
On-budget:			
Budget Authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−.4
Revenues			
1991	805.4	805.4	(3)
1991–95	4,690.3	4,690.3	(3)
Maximum deficit amount	327.0	326.6	−.4
Direct loan obligation	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,405.9	−739.1
Off-budget:			
Social Security outlays:			
1991	234.2	234.2	
1991–95	1,284.4	1,284.4	
Social Security revenues:			
1991	303.1	303.1	
1991–95	1,736.3	1,736.3	

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508).

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; $.1 billion in budget authority and $.2 billion in outlays for debt forgiveness for Egypt and Poland; and $.2 billion in budget authority and outlays for Internal Revenue Service funding above the June 1990 baseline level. Current level outlays include a $1.1 billion savings for the Bank Insurance Fund that the committee attributes to the Omnibus Budget Reconciliation Act (Public Law 101–508), and revenues include the Office of Management and Budget's estimate of $3.0 billion for the Internal Revenue Service provision in the Treasury-Postal Service appropriations bill (Public Law 101–509). The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

Less than $50,000,000.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG. 1ST SESS. SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS JUNE 14, 1991

[In billions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			834,910
Permanent appropriations	725,105	633,016	
Other legislation	664,057	676,371	
Offsetting receipts	−210,616	−210,616	
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session:			
Extending IRS deadline for Desert Storm troops (H.R. 4, Public Law 102–2)			−1
Veterans' education, employment and training amendments (H.R. 180, Public Law 102–16)	2	2	
Dire emergency supplemental appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher education technical amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB Domestic Discretionary sequester	−2	−1	
Emergency supplemental for humanitarian assistance (H.R. 2251, Public Law 102–55)	(1)		
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	
VI. Economic and technical assumption used by Committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

[1] Less than $500,000.

Note.—Numbers may not add due to rounding.●

SOME STRAIGHT DOPE ON THE ANDEAN DRUG WAR

● Mr. CRANSTON. Mr. President, recently the Washington Office on Latin America [WOLA] issued a briefing paper on developments in the Andean drug war.

Unfortunately, not enough attention appears to be given to administration policy there—as wrong-headed an approach as could be found anywhere.

A single statistic in the WOLA report might serve to cause us to pay more attention—military assistance to Colombia and Bolivia jumped from less than $5 million in fiscal year 1988 to more than $140 million in fiscal year 1990, with military aid to these two countries exceeding all that given the governments of Central America that year.

As I have said before on this floor, our Andean policy is a tragedy waiting to happen. This latest WOLA report gives us a framework to ponder what is going wrong, and what might be done now.

I ask that the report, "Going to the Source: Results and Prospects for the

War on Drugs in the Andres," be printed in the RECORD.

The report follows:

GOING TO THE SOURCE: RESULTS AND PROSPECTS FOR THE WAR ON DRUGS IN THE ANDES

SUMMARY

The U.S. continues to face serious problems of drug abuse and drug-related violence for which there are no quick or easy solutions. However, the administration's "Andean strategy," which targets the cocaine supply coming from source countries, is not working. And overwhelming evidence exists that it cannot succeed.

Furthermore, in pursuing this strategy, the U.S. has trained and equipped forces engaged in widespread, egregious violations of human rights, strengthened militaries at the expense of fragile civilian rule, and threatened to spark armed resistance in Bolivia and fuel guerrilla movements in Peru. If the military component of the Andean strategy proceeds as planned, it is likely to have more serious negative consequences on human rights, democratization, and internal stability in the Andean region.

U.S. problems of drug use must ultimately be solved at home. The U.S. should redirect funding to reduce the demand for drugs in the U.S., and to meet development needs and offer debt relief in the region.

Such a shift in resources would use antinarcotics monies more effectively and would facilitate a more balanced foreign policy toward the Andes—one in which U.S. interests in human rights and democratization are not sacrificed to an unworkable source-country drug policy.

I. THE ANDEAN STRATEGY

The "Andean strategy" is the centerpiece of the administration's international drug policy. Announced in September 1989, the strategy is part of an overall effort to reduce cocaine supply in the U.S. by 60% by 1999, and includes eradication, low-level interdiction at the processing and trafficking stages, and efforts targeting high-level cartel leaders. Although the strategy proposes significant amounts of economic assistance as part of the five-year, $2.2 billion "Andean Initiative", it marks a sharp shift toward militarization:

(1) For the first time, U.S. antinarcotics policy views Andean militaries as essential to source-country efforts. U.S. military officials admit that the strategy endorses an internal security mission for Andean militaries which is denied the U.S. military under law because it would jeopardize U.S. democracy.

(2) The Andean strategy calls for a dramatic increase in U.S. military involvement in source-countries. Coincident with the announcement of the Andean strategy, Secretary of Defense Cheney upgraded the counternarcotics mission to a "high priority national security mission" for the Pentagon. He directed key commands, including the U.S. Southern Command (SouthCom) with responsibility for Central and South America, to draw up antinarcotics plans.

(3) Under the Andean strategy, economic and military aid are conditioned on host-country "performance," including involvement of Andean militaries in the drug war. Although Congress has mandated significant economic assistance the Andean Initiative called for only military aid and for FY 1990. In practice the administration has withheld economic and military assistance pending each Andean government assent to military participation in drug enforcement.

II. IMPLEMENTING THE ANDEAN STRATEGY: THE FIRST YEAR-AND-A-HALF

Three tendencies marked the first year-and-a-half of the Andean strategy: (1) the expansion of the U.S. military role, (2) the formal agreement of all three Andean governments to military participation in the drug war; (3) a sharp increase in security assistance following bilateral accords.

1. Expansion of the U.S. Military Role

As planned, in the first year-and-a-half of the Andean Stragegy, the U.S. military's role in the drug war has expanded dramatically:

In 1990 SouthCom's then-commander, Gen. Maxwell Thurman, ordered his commanders to make the anti-drug mission their "number one priority," and drugs remains the command's top priority.

While the direct U.S. troop presence in the Andes is only a few hundred, (the number is classified), this presence reportedly rose through 1990 and early 1991. With the recent U.S.-Peru bilateral accord, U.S. troop levels in that country are likely to rise over the next year.

SouthCom's anti-drug budget rose from $230 million in FY1990 to over $430 in FY1991.

The Persian Gulf War had little effect on training and security assistance activities "on the ground" in the Andes. The Pentagon diverted some of its most sophisticated equipment to the Gulf, including AWACS planes and some in-country radar, which had been used mainly for air and sea interdiction.

2. Formal Agreement from Andean Governments

Since late 1989, all three Andean governments have formally agreed to an expanded military role in the drug war.

Peru: After almost a year of negotiations, the Fujimori government signed a bilateral anti-drug accord with the United States in May 1991. In the accord, the two governments agreed to sign three annexes governing military, police, and economic assistance by the end of 1991. The U.S. proposal for the military annex includes the training of six strike battalions and refurbishing of twenty A-37 airplanes.

Boliva: Under intense U.S. pressure, the government signed an accord in May 1990 agreeing to expand military participation in the drug war. Since then the air force and navy participation in narcotics-support roles increased. However, the Paz Zamora government delayed inclusion of the army in antinarcotics operations for almost a year. In April 1991, the first of 112 Green Berets arrived in Bolivia to begin training the army.

Colombia: In 1989 the Colombian government agreed to a greater role for its armed forces in antinarcotics, and since then the U.S. has provided antinarcotics advice and training to the armed forces and the police.

3. Military and Economic Assistance

Following the bilateral accords, U.S. military assistance to the Andean nations shot up. Economic assistance, which has also increased, consists overwhelmingly of balance of payments support, not assistance for development projects.

Military assistance, including drawdown equipment, to Colombia and Bolivia jumped from less than $5 million in FY1988 to over $140 million in FY1990. Military aid to these two countries exceeded that to all of Central America in FY1990. Over $141 million was requested in military assistance for Colombia, Bolivia and Peru for FY1992.

Over $313 million was requested in economic aid for the three Andean countries in FY1992. However, 88% of that aid will be economic support funds (ESF), of which more than 85% will be for balance of payments support, rather than development projects.

The administration has requested only $22.5 million for Bolivia and $15.7 million for Peru in development assistance for FY1992, a decrease from FY1990 levels for both countries.

III. WILL THE ANDEAN STRATEGY WORK?

A. Results to Date

Thus far, the Andean Strategy has failed to achieve its goals. While cocaine use in the United States appears to have declined in 1990, indications are that supply has increased. The administration's main supply-side goals are to reduce cocaine supply by 60% within 10 years, and by 15% within two years. Since those goals were set in 1989, DEA agents report that production in South America increased in 1990 by 28%. Recently revised statistics of the State Department indicate that net coca leaf production in the Andean region—where U.S. efforts have been overwhelmingly focused—actually increased last year. According to those same figures, eradication efforts in 1990 destroyed only 4% of total production in the Andes, and none in the world's largest producer, Peru.

B. An Unworkable Strategy

Substantial evidence has been presented by Congressional and other sources that the Andean strategy cannot succeed because it ignores two fundamental realities in the region. First, Andean governments do not have the political will to pursue the drug war. They have shown disinterest or outright opposition to the military thrust of the Andean Strategy. Corruption is rampant within Andean governmental forces, and counterinsurgency is the top priority for the Colombian and Peruvian militaries.

Second, the Andean strategy ignores the market logic of the cocaine trade. In what's known as the "balloon effect," squeezing production and trafficking in one place simply forces operations to shift elsewhere. And even successful repression of supply would have little effect on the ultimate price, and thus the demand, of cocaine on U.S. streets.

1. Lack of Political Will

Despite having reached bilateral and multilateral accords with the United States, Andean governments have generally opposed the military thrust of the Andean strategy. One Member of the House Foreign Affairs Committee, based on meeting with the ambassadors of all three countries, reported that, "the governments of these countries have asked the United States not to provide this level of military assistance."

Peru: In negotiating the bilateral accord, Peruvian officials had resisted the U.S. proposal, which its ambassador termed a "military solution," favoring more socio-economic assistance for alternative crop development. However, U.S. law requires the U.S. to vote against any multilateral loans to Peru in international financial institutions if the government is not cooperating with the U.S. anti-drug efforts. The "stick" of legal sanctions and the "carrot" of desperately-needed foreign aid led President Fujimori to accept the military component in May 1991.

Bolivia: As in Peru, the Paz Zamora administration has resisted army involvement in antinarcotics. Even after the May 1990 accord, the Paz Zamora government delayed inclusion of the army in antinarcotics operations for almost a year. When U.S. training of the army began in April 1991 after a year-long delay, protests erupted from labor groups, opposition parties, and the Catholic church.

Colombia: Current events are likely to strain Colombia's cooperation with U.S. anti-drug efforts. Colombia has never actively sought military aid, and has offered to forego *all* foreign assistance in exchange for trade benefits. In late 1990, President Gaviria offered not to extradite and to reduce sentences for drug traffickers who turned themselves in and confessed to one drug-related crime. In addition, the Constituent Assembly, meeting from February to July 1991, is likely to ban extradition. Privately U.S. officials acknowledge that these developments are a big blow to the administration's antinarcotics strategy.

Corruption

Corruption is rampant within Andean military and security forces. Andean officials retain working alliances with drug traffickers in all three countries, largely because of the unrivalled rewards offered by traffickers.

SouthCom's Special Forces commander stated in February 1991 that there is "unbelievable corruption" among Peruvian state forces, and that "we know as a fact that the Army gets payments for letting traffickers use airstrips."

In two separate incidents during the second week of March 1990, Peruvian military personnel fired upon police units traveling in U.S.-owned helicopters.

In late 1989, the office of Colombia's Attorney General was investigating 4,200 cases of corruption by police and some 1,700 involving the armed forces.

According to the Washington Post, Colombian law enforcement officials confirmed in May 1991 that the three Ochoa brothers, who surrendered under the government policy of immunity from extradition to the United States and reduced prison sentences, continue to run "one of the largest narcotics networks in Latin America from a special prison . . . outside Medellin."

In March 1991, the Minister of the Interior and the recently-appointed head of Bolivia's anti-drug police resigned amid charges that they were involved in drug trafficking. The latter had been appointed by President Paz Zamora despite his well-known service in the cocaine-trafficking García Meza military regime of the early 1980s.

In April 1991, the Bolivian government announced that due to alleged corruption it would completely reorganize the "UMOPAR" antinarcotics police, replacing many of the officers. This unit has been the main recipient of U.S. training in the Andes, and the recent action signals the failure of four years of U.S. Special Forces training.

Conflicting Military Priorities

Both the armed forces and the police of the Andean region have long opposed an expanded military role in antinarcotics activities. Although the militaries of Colombia, Peru, and Bolivia welcome U.S. security assistance, any antinarcotics aid will undoubtedly be used for other missions of higher priority for the Andean armed forces. Counterinsurgency, viewed by Andean militaries as independent of the drug war, is chief among these other missions.

In Peru, where the Bush administration openly advocates using antinarcotics assistance for counterinsurgency efforts against the Shining Path, the military has been hostile to the anti-drug mission, impeding police operations in areas under their control. As then-commander of the Upper Huallaga Valley told WOLA in 1990, "If we attack drug trafficking, we will convert the local population into our enemy . . . Instead of one enemy, the Shining Path, we will have three: the Shining Path, the local population who will then support the Shining Path, and the drug traffickers who will then provide resources to the Shining Path."

In Colombia, the armed forces have faced armed insurgencies for 25 years and have failed to suppress a recent guerrilla offensive. High-ranking military officials have stated that $38.5 of $40.3 million in U.S. counternarcotics military aid for FY 1990 was to be used for an unrelated counterinsurgency operation. Although the military registered more drug confiscations and arrests in 1990 than in 1989, its priority continues to be fighting the FARC and the ELN guerrillas.

In Bolivia, the army has been reluctant to get involved in antinarcotics activities. At the same time that U.S. troops were preparing to fly to Bolivia to begin training the Bolivian army, SouthCom's top Special Forces commander told WOLA that for counternarcotics efforts to work in Bolivia, the armed forces "must have the intent to become successful, and I don't think they do."

2. The Market Logic of the Cocaine Industry

Even if Andean governments could carry out effective antinarcotics programs, U.S. cocaine use would not be significantly affected because of the flawed logic of U.S. antidrug policy. The Andean strategy assumes the following links between supply-side efforts and U.S. demand: (A) that supply-side efforts will reduce the availability of cocaine to U.S. consumers, and (B) that disruption of production and trafficking will drive up the price to the consumer, reducing demand.

This logic ignores two fundamental economic realities of cocaine trafficking: (1) that effective repression of production and trafficking in one locale will simply shift it to another, and (2) that even successful disruption of production and trafficking can have only very marginal influence on the final price of cocaine to the consumer.

The "Balloon Effect"

Even if current Andean suppression efforts are successful, DEA officials acknowledge that production is likely to simply spread to other countries. This dispersion, called the "balloon effect," (i.e., squeezing in one place produces expansion into others), has already occurred in the Andes.

In response to the crackdown in Colombia in late 1989 and early 1990, cocaine trafficking and production has increased in Brazil, Bolivia, Venezuela, and Ecuador according to the DEA. Cocaine trafficking continues through these countries and Argentina, Uruguay, Paraguay and Panama. Without suppressing production throughout the hemisphere, antinarcotics efforts are useless.

The Small Impact of Source-County Efforts on Demand

In testimony before Congress in early 1991, RAND corporation economist Peter Reuter stated that, "Source country programs, whether they be crop eradication, crop substitution or refinery destruction, hold negligible prospect for reducing American cocaine consumption in the long-run." Reuter's analysis shows that:

Coca leaf farmers receive less than 1% of the final retail price of cocaine.

Earnings of cocaine exporters and smugglers comprise less than 15% of the final price.

Because over 85% of cocaine profits are made outside the source countries, source-country efforts will not drive up the retail price in the U.S. enough to significantly reduce cocaine consumption. According to this analysis, even if interdiction efforts were able to stop the extremely unlikely figure of 50% of cocaine shipments from Colombia, the retail price of cocaine in the United States would rise by less than 3%. No one has presented data to refute Reuter's analysis.

IV. THE NEGATIVE CONSEQUENCES OF THE ANDEAN STRATEGY

The Andean strategy is not only unworkable but directly harmful to U.S. interests in the region. U.S. narcotics-related aid is directly contributing to counterinsurgency campaigns characterized by widespread and systematic human rights violations in Colombia and Peru. As the militarization of the drug war proceeds in 1991, U.S. policy is likely to exacerbate those abuses. The Andean strategy is also undermining civilan control of powerful militaries and cementing their impunity from prosecution for human rights violations. Ironically, the strategy appears to have already contributed to the Shining Path guerrillas recruitment in Peru, and poses the serious danger of sparking armed unrest in Bolivia's volatile Chapare coca-growing region.

A. Human Rights

U.S. antinarcotics training, assistance, and equipment is going to military and police forces in Colombia and Peru which engage in systematic human rights abuses including disappearances, torture, and extrajudicial executions. In Bolivia, government human rights violations, disturbingly reminiscent of previous dictatorships, increased last year.

Peru: Peru's civil war is a source of systematic and flagrant human rights abuses on both sides. Peruvian military and police forces are among the worst violators of human rights in the hemisphere. The 1990 State Department human rights report describes Peru's counterinsurgency campaign as one of "widespread and egregious human rights violations." The report notes "widespread credible reports of summary executions, arbitrary detentions, and torture and rape by the military, as well as less frequent reports of such abuses by the police." Rape by members of the security forces is reported to be so frequent that "such abuse can be considered common practice, condoned—or at least ignored—by the military leadership." For the fourth consecutive year, the United Nations Commission on Human Rights declared Peru the country with the most reported cases of disappearances in the world.

Colombia: While the sources of violence in Colombia are multiple and complex, statesanctioned political violence is widespread. The State Department reports that in 1990 Colombian security forces were responsible for "extrajudicial executions, torture, and massacres" against leftist politicans, human rights monitors, and labor and peasant leaders. Colombian human rights groups have documented the use of U.S.-furnished A–37 airplanes to bomb civilan populations as part of counterinsurgency operations. Right-wing paramilitary groups continue to work closely with the military and police in carrying out political killings and disappearances.

Bolivia: While of a far lesser scale than in Peru or Colombia, state-sanctioned human rights violations in Bolivia resurged late last year. In 1990, the State Department documented cases of extrajudicial executions of detainees, as well as torture and cruelty by police and army intelligence units. These abuses are more widespread than in previous years, and some Bolivian prisoners have been used as slaves, beaten, tortured, and murdered.

U.S. antinarcotics policy contributes to human rights violations in a number of ways:

U.S. equipment and training is being used directly for Colombia's counterinsurgency campaign, characterized by consistent human rights violations against civilians. Colombia's fleet of A-37's, all of which were sold or given to Colombia by the U.S., has been used to bomb civilian populations. The link with counterinsurgency will be even more explicit in support to Peru's military.

U.S. military aid represents a vote of confidence in the military despite its human rights record.

Military aid will augment the institutional strength of the armed forces, decreasing the chances that civilian rulers will take them on and press for accountability for human rights violations.

B. Civilian Control of the Military

Congress has included provisions in the International Narcotics Control Act of 1990 and in the Defense Authorization Act of 1990 aimed at ensuring that U.S. antinarcotics assistance does not undermine the fragile civilian governments in the Andes. While military coups continue to be unlikely at the present time, military influence has increased in Peru and Bolivia, and the high levels of military assistance to Colombia threaten to cement impunity for human rights violations there.

In Peru, the increase in military autonomy is clearest. Since taking office in July 1990, President Fujimori has ceded great policy-making roles to the military. He has declared additional provinces "emergency zones," placing all civilian authorities under military control. These zones, in which human rights abuses are most concentrated, now, cover 42% of the national territory. Fujimori has also named active-duty officers to head the Interior Ministry and the Defense Ministry. Not a single military officer has been convicted for a human rights violation.

In Bolivia, according to one Bolivian government official, U.S. pressure to involve the armed forces in the war on drugs has already eroded the authority of Paz Zamora's government vis-a-vis the military. Although Bolivia does not face insurgencies like those in Colombia and Peru, the country has a longer history of military rule. The country has had 188 military coups in 166 years of independence, and most recently the brutal "cocaine regime" of Gen. Garcia Meza (1980–1981) dramatized the extent of the military's corruption and its tendency for political intervention.

Despite Colombia's history of civilian rule, the Colombian armed forces maintain great authority from civilian control. Colombia is the only country in South America whose police are institutionally part of the Defense Ministry. All military personnel are immune from prosecution in civilian courts for human rights violations. The military has acquired almost complete control over counterinsurgency policy in strategy in recent years.

C. Internal Political Stability

In Peru and Bolivia, the involvement of the army in drug-related law enforcement activities is extremely unpopular because of concerns that the military will abuse its expanded authority. The destabilizing effect of U.S. troops is of special concern. Peruvian analysts claim that, as peasants seek protecton from coca suppression programs, support for the Shining Path has increased. Growing nationalist resentment of the U.S. presence and influence could also help the guerrillas. Referring to U.S. anti-drug assistance, one high-ranking Peruvian military officer said, "It will allow Sendero to wave the nationalist banner and win legitimacy."

In Bolivia, militarization is occurring in a prticularly explosive situation. Sectors throughout Bolivia fear that army involvement will lead to political unrest. The Chapare coca-growing region is the most politically volatile in the country, and the coca growers the best organized workers where few profitable alternatives exist.

V. TOWARD AN ALTERNATIVE POLICY

One official of the U.S. Southern Command summed up his opinion of the drug war as of early 1991; "There's an increasing sense that this is a 'holding action'. We're not stopping durg supply because it moves. And we could never get the resources to shut down the whole hemisphere. The evidence is that we haven't affected price or supply. Is this the way we want to spend U.S. dollars? I think not."

Rather than sinking millions of dollars into expanding an unworkable strategy to the entire hemisphere, Congress should heed the expert testimony presented before it. The Defense Department has repeatedly told Congress that the Pentagon's role cannot be the decisive one in the war on drugs. Ultimately, this country's drug abuse problem must be solved at home.

Yet for the past three years the administration's National Drug Control Strategy has maintained a roughly 70/30 ratio in favor of supply control measures. Shifting resources to the demand side will be more effective in solving the problems of drug abuse and drug-related violence.

It will also remove a major factor undermining human rights, democratization, and political stability in the Andes. U.S. antinarcotics aid is now contributing to counterinsurgency campaigns characterized by abhorrent human rights violations—torture, murder, and bombing of civilian populations. By strengthening abusive and politicized Andean armed forces, that aid will further erode weak civilian rule.

Shifting away from military assistance will allow the United States to pursue a more balanced foreign policy in the hemisphere. Latin American governments are focused on improving economic performance and strengthening civilian rule. They have requested trade concessions and debt relief. Rather than militarizing anti-drug efforts throughout the region, the U.S. is in a position to repsond to their requests, to spend its antinarcotics monies more effectively, and to promote U.S. interests in human rights and democratization simultaneously.•

TRADING WITH JAPAN

• Mr. SIMON. Mr. President, I want to speak briefly today on the issue of United States-Japanese trade.

Recently, two accounts came to my attention which illustrate some problems which businesses in Illinois have experienced when exploring export opportunities in Japan.

In April 1989, an alfalfa marketing company based in Bushnell, IL, began to explore export opportunities for alfalfa with subsidiaries of the Mitsubishi Corp. An agreement was reached for a trial shipment of alfalfa from western Illinois to be donated to Japan. In exchange for the alfalfa, the Japanese subsidiary agreed to provide certain information on the condition of the alfalfa during the shipment to Japan, and upon its arrival.

The company encountered a number of problems after the alfalfa was shipped. The information on the alfalfa was provided by the Japanese a year later, and only after numerous requests. In addition, conflicting reports were given to the company about the condition of the alfalfa on arrival. One acount said the alfalfa arrived in a moldy condition. The company tried to continue a dialog, but eventually concluded that it was useless to try to establish a working relationship with the Japanese.

A second example involves the Canfield Co., an extremely successful soda bottling company in Chicago. The Canfield Co. sent free samples—100 cases of soda—to a Japanese company that showed interest in marketing Canfield products. The cases of soda were never delivered. Instead, they were stopped at the Japanese border and shipped back to the Canfield Co. Customs officials stated that the soda was returned because it contained ingredients which were barred from entry in Japan. Japanese customs officials have not yet provided the Canfield Co. with a list of the illegal ingredients in the soda.

I am dismayed by these two accounts. In town meetings across Illinois, my constituents bring up these types of unfair trading practices. I can understand why many working men and women do not really believe in free trade and its economic benefits. Free trade must provide a level playing field, free of the types of practices which are detailed in these two accounts. I urge my colleagues to read this material, and consider it carefully.

I ask that a story published in the Chicago Sun-Times regarding the Canfield Co. be printed in the RECORD.

The article follows:

CANFIELD SEES INTERNATIONAL BUSINESS FIZZ

The other day, 2,400 cans of pop arrived from Japan at the offices of the Canfield company on the South Side.

It was by way of being the end of a story. To start at the beginning, Alan Canfield, the energetic and creative leader of the Canfield family soft-drink company, had decided some weeks earlier to make another effort at cracking the Japanese market. He had located a Japanese company that indicated an interest in trying to sell Canfield products to the Japanese.

Accordingly, he had shipped his Japanese contact samples of Canfield beverages. He was serious. He didn't send a couple of cans but, 100 cases, 24 cans per case—the same 2,400 cans that arrived at the Canfield offices last week after making a 6,000-mile trip from Chicago to Tokyo and back. Japanese customs had treated the crate as if it contained heroin or some other substance calculated to infect Japan's culture. They dispatched the cases homeward, stamped the equivalent of "return to sender."

"Japan is unbelievable," Alan Canfield says, adding philosophically, "I guess we are just not smart enough to figure out how to get into that market."

On inquiry, Canfield was told that "ingredients" in the drinks were barred from entry into Japan. Canfield, astonished, asked for a list of the prohibited ingredients, but never got an answer.

Consul Ko Kodaira at the Japanese consulate in Chicago said Wednesday, "We are contacting Tokyo immediately to explore this matter."

Oh well, there's the rest of the globe.

Ten years ago, the Canfield company was considered "just" another regional bottler or should it be canner. Long since, however, it has burst out of the Midwest. Now Canfield products are found in all 50 states. Further, it bottles product in Canada, Ireland, England, Belgium and Amsterdam.

From the U.K. and Amsterdam, it ships to Belgium and Germany. It ships to Caribbean points from Miami and to Wake Island from Los Angeles.

This week, a gentleman armed with a bank draft will visit Alan and Art Canfield in their offices on East 89th Place to talk about producing one of the company's very new drinks in Poland. It's Uptown, a lemon-lime flavor in the Sprite/7 Up category but featuring a no-salt claim.

Assuming everything goes as planned, Poland will be the seventh country on Canfield's list of substantial foreign markets.

Wake Island needs a little explanation. Alan Canfield spent some time on the island before shipping out to Korea when he served as a private and then a corporal in the Army from 1960 through 1962. The company now does a good business with the military, and its distributor on Wake sells to other Pacific outposts.

The company sells its own versions of the cola drinks and specializes in finding profitable niches. For years, it has held the Midwest franchise for Canada Dry and Sunkist drinks.

Brand new on the shelves is a Sunkist lemonade "with just a touch of carbonation." The company's staff of chemists succeeded a few years back in conquering chocolate, and its carbonated chocolate fudge drink is a winner. Then there's Hubba Hubba, the flavor borrowed from Wrigley and Wrigley's bubble gum. And aimed successfully here and abroad at the gum's young market.

The company can make mistakes. Years back, the French representatives of Perrier asked the firm to act as a distributor here. Alan Canfield isn't 100 percent sure why the opportunity was turned down, but he's now happy with the outcome. Canfield's own entry in the field, Natural Seltzer, now has 68 percent of the market in the Midwest. And it has a good "still" water in the French Evian.

There's more ahead for this family owned, Chicago company.

"We're looking at Saudi Arabia now," Alan Canfield says. And the research department is working on what Canfield calls an "energy" drink that would compete with the phenomenon of Gatorade.

The talk of new products and adventures in foreign lands is very young, especially for a company that has been in business for 65 years and is dominated by one family. "I've never been to an annual meeting of the company," Alan says, That's because the dinner table conversations can suffice.

Alan, 50, thinks he's a vice president while his older brother, Arthur, 52, is president. Their father, also Arthur, keeps up with developments at age 75. Then there are Alan's two sons, Alan and Andrew, in their 20s, and Arthur's daughter, Kathleen, 24. All three are now out there selling Canfield products.•

RESPONSE TO BROADCASTING TO CHINA ACT

• Mr. BIDEN. Mr. President, last month I introduced legislation entitled the Broadcasting to China Act (S. 1093), legislation designed to pave the way for a new initiative in U.S. foreign policy: The support of radio broadcasting to the People's Republic of China of information about developments within that immensely large and troubled nation.

The legislation takes the first step in this initiative by establishing a commission to examine the feasibility, and the costs and benefits, of such a radio service, which would be modeled on two existing radio facilities of proven merit: Radio Free Europe and Radio Liberty.

For over 40 years, Radio Free Europe and Radio Liberty have disseminated news and information to the Soviet Union and Eastern Europe about developments in that region, helping to spread the message of freedom across the Iron Curtain. Through four tortured decades in the lives of those nations, these broadcasts heartened dissidents from Berlin to Bucharest and across the Soviet Union, inspiring hope and courage among those suffering under Communist tyranny.

Those radios helped maintain the flame of freedom in an era of darkness.

More recently, Radio Marti has provided accurate information to the people of Cuba, where the flow of news has been carefully restricted by a dictator who fears the truth. Radio Marti is a testament to our determination to promote the spread of information and ideas to those living under the rule of despots.

Mr. President, China's severe restriction on the flow of information is an unchallenged fact. Since coming to power in 1949, the Communist leadership in Beijing has maintained tight control over the dissemination of news, telling the Chinese people only what it wants them to hear.

This policy continues today. The State Department's annual report on human rights practices describes current Chinese policy clearly: "The Chinese Government maintains television and radio broadcasting under strict party and government control * * * continues to jam most Chinese-language broadcasts of the Voice of America and British Broadcasting Corporation."

These restrictions represent a denial of a fundamental right enshrined in article 19 of the Universal Declaration of Human Rights, which affirms that all people have the "right to seek, receive and impart information and ideas through any media and regardless of frontiers."

These restrictions are a repugnant manifestation of the communist idea—now fully discredited around the globle—that the party and the state must control not only the lives of the people, but their every thought as well.

Unfortunately, the Bush administration continues to believe that the United States must maintain close ties with the leadership in Beijing. I believe strongly that another channel of communication is more important, with the people of China. The democratic ideal is alive in China, and we should not shrink from encouraging those who embody it.

Currently, the Voice of America plays an important role in filling the information gap in China with nearly 20 hours of daily radio broadcasting. But this broadcasting focuses on international events rather than developments within China itself.

The service contemplated by this legislation could provide a critical complement to current Voice of America broadcasting, emphasizing not only Chinese events but also developments in neighboring states in east Asia, especially those where democracy is slowly taking root, such as the Philippines, South Korea, and Taiwan.

This legislation would create a temporary commission comprise of experts on China and on international broadcasting. The commission would have 6 months to review the many issues involved in expanding United States broadcasting to China and to present its recommendations. A similar procedure, I would point out, was followed in the early 1980's, when a commission established by President Reagan examined the question of radio broadcasting to Cuba.

Last week the foreign relations committee approved the "Broadcasting to China Act as a part of a comprehensive legislative package governing the State Department and foreign aid.

I was also pleased to note that last week deputy Secretary of State Eagleburger declared that the administration will not oppose the establishment of the Commission envisaged by this legislation.

The co-sponsorship of this initiative now includes Senators HATCH, PELL, HELMS, SARBANES, CRANSTON, DODD, KERRY, and DIXON. I urge my other colleagues to join in support of the Broadcasting to China Act.

Mr. President, I ask that there appear in the RECORD at this point the text of this legislation, along with a letter from the president of the Independent Federation of Chinese Students and Scholars and an editorial from the Washington Post, both of which express strong endorsement of this initiative.

The material follows:

S. 1093

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Broadcasting to China Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) according to the annual human rights report issued by the Department of State for 1990, the Government of the People's Republic of China maintains television and radio broadcasting "under strict party and government control" and "continues to jam most Chinese-language broadcasts of the Voice of America and the British Broadcasting Corporation";

(2) fundamental to long-standing United States foreign policy has been support for the right of all people to "seek, receive and impart information and ideas through any media and regardless of frontiers" as affirmed in Article 19 of the Universal Declaration of Human Rights.

(3) pursuant to this policy, the United States has for decades actively supported the dissemination of accurate information and the promotion of democratic ideals among citizens in countries of critical importance to United States interests;

(4) prominent in the implementation of this policy has been support for Radio Free Europe, Radio Liberty, and Radio Marti, which have broadcast accurate and timely information to the oppressed people of Eastern Europe, the Soviet Union, and Cuba, respectively, about events occurring in those countries;

(5) the introduction of similar radio broadcasting to the People's Republic of China could complement existing Voice of America programming by increasing the dissemination to the Chinese people of accurate information and ideas relating to developments in China itself; and

(6) such broadcasting to the People's Republic of China, conducted in accordance with the highest professional standards, would serve the goals of United States foreign policy by promoting freedom in mainland China.

SEC. 3. COMMISSION ON BROADCASTING TO THE PEOPLE'S REPUBLIC OF CHINA.

(a) ESTABLISHMENT.—There is established a Commission on Broadcasting to the People's Republic of China (hereafter in this Act referred to as the "Commission") which shall be an independent commission in the executive branch.

(b) MEMBERSHIP.—The Commission shall be composed of 11 members from among citizens of the United States, who shall within 45 days of the enactment of this Act be appointed in the following manner:

(1) The President shall appoint 3 members of the Commission.

(2) The Speaker of the House of Representatives shall appoint 2 members of the Commission.

(3) The Majority Leader of the Senate shall appoint 2 members of the Commission.

(4) The Minority Leader of the House of Representatives shall appoint 2 members of the Commission.

(5) The Minority Leader of the Senate shall appoint 2 members of the Commission.

(c) CHAIRMAN.—The President, in consultation with the congressional leaders referred to in subsection (b), shall designate 1 of the members to be the Chairman.

(d) QUORUM.—A quorum, consisting of at least 6 members, is required for the transaction of business.

(e) VACANCIES.—Any vacancy in the membership of the commission shall be filled in the same manner as the original appointment was made.

SEC. 4. FUNCTIONS.

(a) PURPOSE.—The Commission shall examine the feasibility, effect, and implications for United States foreign policy, of instituting a radio broadcasting service to the People's Republic of China to promote the dissemination of information and ideas to that nation, with particular emphasis on developments in China itself.

(b) SPECIFIC ISSUES TO BE EXAMINED.—The Commission shall examine all issues related to instituting such a service, including—

(1) program content;

(2) staffing and legal structure;

(3) transmitter and headquarters requirements;

(4) costs; and

(5) expected effect on developments within China and on Sino-American relations.

(c) METHODOLOGY.—The Commission shall conduct studies, inquires, hearings, and meetings as it deem necessary.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commission shall submit to the President, the Speaker of the House of Representatives, and the President of the Senate a report describing its activities in carrying out the purpose of subsection (a) and including recommendations regarding the issues of subsection (b).

SEC. 5. ADMINISTRATION.

(a) COMPENSATION AND TRAVEL EXPENSES.—

(1) Members of the Commission—

(A) except as provided in paragraph (2), shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(B) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) Any member of the Commission who is an officer or employee of the United States shall not be paid compensation for services performed as a member of the Commission.

(b) SUPPORT FROM EXECUTIVE AND LEGISLATIVE BRANCHES.—

(1) EXECUTIVE AGENCIES.—Executive agencies shall, to the extent the President deems appropriate and as permitted by law, provide the Commission with appropriate information, advice, and assistance.

(2) CONGRESSIONAL COMMITTEES.—Congressional committees shall, as deemed appropriate by their chairmen, provide appropriate information, advice, and assistance to the Commission.

(c) EXPENSES.—Expenses of the Commission shall be paid from funds available to the Department of State.

SEC. 6. TERMINATION.

The Commission shall terminate upon submission of the report described in section 4.

[From the Washington Post, June 11, 1991]

TUNING UP RADIO FREE CHINA

Congress has inserted a welcome new element into the China debate—a proposal to study setting up a radio to broadcast to Communist China the sort of material bearing on internal affairs that totalitarian governments normally restrict. "Radio Free China" would follow the example of Radio Free Europe and similar stations that have won deserved credit for helping to open other closed Communist societies over the years. These radios differ from the official Voice of America, which deals mostly with news from the United States and abroad, in their attempt to take on the role of an absent domestic free press. Radio Free China is a good idea that should have been put into effect decades ago.

The Chinese authorities, needless to say, dissent. No doubt they realize that the new radio, by providing a means to inform a broad Chinese public of things now known only on a local and fragmentary basis or not at all, would tend to weaken their fiercely guarded monopoly on information; it would make it harder for them to wield power. Beijing's way of conveying its disapproval is not so much to argue against the proposal in terms like these. It is to vaguely threaten that the new station will spoil "the overall interests of U.S.-China relations." By this formulation China's aging and out-of-touch Communist rulers apparently mean their own political convenience.

Scarcely less out of touch, the American government has given the Radio Free China proposal a cold shoulder. It sees it as a further congressional intrusion into Mr. Bush's strangely coveted personal domination of China policy and, specifically, as a further complication in the raging debate over renewal of "most-favored-nation" trading status for Beijing. It is not just unfortunate but grotesque to see the Bush administration's reluctance to stand up to the Chinese leadership on the radio issue. President Bush is undermining the national interest, which is to encourage basic human rights in China by a tested and otherwise widely accepted method of communication. Radio is the ultimate democratic instrument: Each listener decides for himself whether to tune in. That the president of the United States should be denying Chinese citizens this choice is astounding.

INDEPENDENT FEDERATION OF CHINESE STUDENTS AND SCHOLARS (IFCSS),
Washington, DC, June 3, 1991.

Hon. JOSEPH R. BIDEN, Jr.,
U.S. Senator, Washington, DC.

DEAR SENATOR BIDEN: We are grateful to you for taking the initiative in promoting free radio broadcast to China through the introduction of the China Broadcasting Bill. On behalf of the Chinese students and scholars in the U.S., we would like to extend our appreciation and express our support and endorsement of this bill.

Radio broadcast is critical to the dissemination of accurate and necessary information, particularly in China, where all mass media is under tight control and often used as a mere mouthpiece for government rhetoric. We believe that the freedom of access to information is a crucial step toward the democratization of the current political structure in China. In this respect VOA has proven to be both effective and essential in providing the Chinese people with an awareness of global developments. Our concern remains, however, that the citizens of China are being suffocated by an ignorance of what is happening within their own country.

The people of China have only fleeting access to the annals of freedom. In order for them to find the courage and perseverance to triumph over oppression, truth must be given full passage. Only an unabridged

knowledge of both international and domestic occurrences can provide for the citizens of China real verity, their only assurance to freedom, while at the same time paralyze the corrupt and decomposing legacy of communism.

We understand the risks that may be involved in establishing free radio broadcasting to China, particularly as it would threaten our government in it's attempt to exercise tyrannical control. However, we remain committed to our struggle and strive to offer encouragement to our people in China. We believe that this would best be accomplished through the establishment of free radio broadcasting to China, a crucial resource for accurate and complete information transmission to arm the people of China in their battle toward freedom.

We thank you so much for your commitment to life and liberty in our country and offer you our complete support.

With best regards,

XINGYU CHEN,
***President.*•**

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request which would put us back on this bill tomorrow morning with the Senator from Mississippi [Mr. LOTT] to be recognized to offer an amendment and a vote on that to occur at 10:15 in the morning. This has been discussed with the Senator from Mississippi; the managers, Senator MOYNIHAN and Senator SYMMS; and the distinguished Republican leader. I believe there is not objection to this.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. on Wednesday, June 19; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that at 10 a.m., the Senate resume consideration of S. 1204 and that Senator LOTT be recognized to offer an amendment regarding non-Federal matching ratios, on which there will be 15 minutes of debate equally divided and controlled in the usual form on the amendment with no amendment to the amendment to be in order; that when the time is used or yielded back on the Lott amendment, the Senate, without any intervening action or debate, proceed to vote on or in relation to the Lott amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to now request the yeas and nays on the Lott amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. I now ask for the yeas and nays on the Lott amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. MOYNIHAN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until the hour of 10 a.m., Wednesday, June 19, 1991.

There being no objection, the Senate, at 7:52 p.m., recessed until Wednesday, June 19, 1991, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, June 18, 1991*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Every person longs for fulfillment in their lives and we are grateful when we can be with those we love and respect in our communities and in our families. We especially remember those who do not share in these gifts and who are denied for all sorts of reasons the basic human relationships that we hold dear. We pray, gracious God, for those separated from their families and their communities, that they will sense our concern and the grace that You freely give. As the peoples of the world share in common hopes, may the hostages and all other captives endure their separation and find peace in Your presence and in Your grace and finally know the joy of homecoming with those they love. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. FAZIO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FAZIO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 281, nays 102, answered "present" 1, not voting 47, as follows:

[Roll No. 156]

YEAS—281

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Barton
Beilenson
Bennett
Berman
Bevill
Bonior
Borski
Boucher
Boxer
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Hyde
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (GA)
Lipinski
Livingston
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Morella
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Oakar
Oberstar
Obey
Olin
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schulze
Schumer
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—102

Allard
Armey
Baker
Ballenger
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Clay
Coble
Coleman (MO)
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Edwards (OK)
Fawell
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Gunderson
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Holloway
Inhofe
Ireland
Jacobs
James
Kolbe
Kyl
Lagomarsino
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Marlenee
McCandless
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Nussle
Packard
Paxon
Ravenel
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Solomon
Stokes
Stump
Sundquist
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Taylor (NC)

NOT VOTING—47

Archer
AuCoin
Bateman
Bilbray
Brewster
Brooks
Chandler
Clinger
Coughlin
Dingell
English
Fields
Foglietta
Gaydos
Gray
Hopkins
Hubbard
Hunter
Jefferson
Jenkins
Kaptur
Kostmayer
Leach
Lehman (FL)
Levine (CA)
Lloyd
Machtley
Martin
Matsui
McDade
McEwen
McGrath
Mollohan
Morrison
Mrazek
Nowak
Porter
Pursell
Ramstad
Roukema
Sanders
Serrano
Sharp
Shaw
Smith (TX)
Spence
Stearns

□ 1226

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Indiana [Mr. VISCLOSKY] come forward and lead the House in the Pledge of Allegiance.

Mr. VISCLOSKY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC.
June 17, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I am in receipt of a letter from Mr. John W. Cloonan, Director of Elections stating that the unofficial returns of a special election held on June 4, 1991, for First Congressional District of the Commonwealth of Massachusetts were as follows: John W. Olver, (Democrat), 70,022 votes, Steven D. Pierce, (Republican), 68,052 votes, Patrick J. Armstrong, (Independent), 1,859 votes, Thomas Boynton, (Unenrolled), 250 votes, and Dennis M. Kelly, (Pro-Democracy Reform), 880 votes. These totals did not include a small number of overseas absentee ballots, which Massachusetts law allows to be received and counted until ten days after the election.

With great respect I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

SWEARING IN OF THE HONORABLE JOHN W. OLVER OF MASSACHUSETTS, AS A MEMBER OF THE HOUSE

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the gentleman from Massachusetts, Mr. JOHN W. OLVER, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with regard to his election.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER. Will the Member-elect from the First District of Massachusetts, the Honorable JOHN W. OLVER, come forward?

Mr. OLVER appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are now a Member of the Congress of the United States.

□ 1230

WELCOME TO THE HONORABLE JOHN OLVER

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I rise to introduce to this Chamber and to this body the newest Member of Congress the Honorable JOHN OLVER of Massachusetts' First District. The towns and cities of Massachusetts' First District—Pittsfield, Amherst, Holyoke, and Northampton—have a rich and noble tradition of sending men of integrity, ability, and knowledge to Washington to represent them in this historic institution we all love. JOHN OLVER is a man in and of that tradition.

A distinguished member of Massachusetts' State Senate representing the Amherst area since 1972, Congressman OLVER has spent the better part of the past 20 years tending to the varied needs of his senate district. He has represented each of them to the best of his ability—which is unlimited—and has become a paramount force in the State legislature on their behalf. He responds to the details of his constituents needs with the same attention, devotion, and commitment that he developed during his academic career at MIT. His rigorous training as a chemist has given him a rather unique framework from which to approach and analyze problems. His career as a professor of chemistry at the University of Massachusetts at Amherst has earned him plaudits from students, faculty, peers, and administration alike. He is the consummate academician, ready and willing to look at difficult scenarios from every conceivable point of view in the hopes that untried solutions could emanate as a consequence.

JOHN OLVER will bring competency, decency, honesty, and brilliance to this delegation and this institution. As was the case with our great friend and former colleague, the late Hon. Silvio O. Conte, the First District of Massachusetts will continue to be represented by a man of character, warmth, and inherent decency. As dean of the Massachusetts delegation, I welcome JOHN to the Congress and I look forward to working with him closely as we address the needs of the Commonwealth of Massachusetts and the Nation as we approach the 21st century.

A WORKHORSE FOR THE CAUSES WE ALL CARE ABOUT

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, I thank you very much, and now I can say, my fellow colleagues.

Standing before you as a duly sworn Member of the U.S. Congress is the fulfillment of a long-held dream for me. I am truly honored and deeply humbled to be part of this body where so much of the most important business of the country is conducted.

I am also honored that my constituents chose me to follow Silvio Conte. I often said during the campaign that Silvio Conte had very large shoes to fill, and I do not presume to be able to fill those shoes. I merely intend to follow in his footsteps.

This is a particularly gratifying moment for me, because so much of my family is able to be here with me. My wife, whose support has been absolutely unflagging during this past campaign, my mother, my wife's mother, my daughter, our brothers and sister and other members of our extended family are here with me today, and I am very grateful for their presence here. I am also honored by the presence of a good many of my supporters who made the trip from western Massachusetts by car and bus and plane. I really very much appreciate their taking the time to be with me in this very special moment for me.

During my campaign, I made a promise to my supporters that I would be a workhorse for the causes that we all care about, and it is a promise that I intend to keep.

I am eager to work with all of you in this Chamber on improving American education and creating jobs and providing an affordable health-care system for Americans.

So thank you very much. It is a great honor.

BUSH POLICY FAILURES

(Mr. VISCLOSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VISCLOSKY. Mr. Speaker, President George Bush has finally turned his attention to working Americans.

He wants the IRS to audit more of them.

President George Bush believes that good policy is having the IRS audit more working families in place of auditing millionaires.

Could somebody please explain this to me?

Mr. Speaker, everybody should pay their fair share of taxes—no one group should pay the tab for another.

If we have determined that random IRS audits are necessary, every taxpayer should be equally considered for an audit.

It is appalling that President George Bush wants to skew the IRS audits.

Besides, we all know who has the cash to tax—and it's not the working family of four trying to send two kids to college.

Once again, the privileged are preferred over working Americans—at the expense of the Federal Treasury.

Mr. Speaker, while John Sununu takes the White House limo to a stamp auction in New York, working Americans take the bus to their IRS audits.

FEDERAL PRISON INDUSTRIES UNFAIR COMPETITION FOR SMALL BUSINESS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, I have been concerned for some time about the devastating effect unfair competition can have on America's small businesses. In particular, I have been keeping an eye on the nonprofit Federal Prison Industries and its quasi-governmental arm, Unicor.

Congress granted Unicor a Federal procurement preference several years ago, in order to provide a market for small items produced by prisoners as part of their rehabilitation.

Unicor is using that preference in ways that go far beyond our original intent. And it is putting legitimate small companies out of business and their employees out of work. Some rehabilitation programs, for example, Unicor has used its preference to take away all the Federal contracts of a small glove manufacturer in New York. Countless other small firms have had similar experiences when Unicor entered their markets, as well.

We must act now to stop further abuse of Unicor's Federal procurement preference.

Join me in asking the Judiciary Committee to look into the commercial activities of Unicor and Federal Prison Industries.

My colleagues, it is easy to say that you're for small business. But it's how you vote that really counts.

WHITE HOUSE BUDGET OFFICE KILLED ROBIN HOOD

(Mr. DOWNEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY. Mr. Speaker, Robin Hood is dead and the White House Budget Office killed him.

Not only have the rich gotten richer over the last 10 years, but the poor have gotten poorer, and the middle class have gotten nothing. When it comes to tax policy, the Reagan-Bush administration has advocated and seen enacted, lower taxes on the rich and higher taxes on the middle class. Now, to add insult to this equity injury, we learned recently that over the last 10 years, rich taxpayers have been subject to fewer tax audits than middle and lower income individuals.

To make matters worse, the White House Budget Office recently pressed the IRS to concentrate on auditing lower income taxpayers rather than wealthier individuals and businesses.

By systematically slashing the IRS budget request to examine wealthy individuals and businesses, this Republican administration not only wants lower taxes on the rich, they apparently don't even mind if they don't pay the money they do owe—Republican economics—of the rich, for the rich, by the rich.

It is time to get the sheriff of Nottingham out of the White House Budget Office.

ROBIN HOOD IS BACK

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Well, thank you for that fine applause.

I want you to know Robin Hood is back, and he is going to be back today, and the first amendment up when we come back to the foreign aid bill will be my amendment to cut at least $2 billion out of the foreign aid pipeline.

You know, this bill is for some $25 billion, but GAO has told us that there is a pipeline going back as far as 10 years, $8.8 billion, and all I am asking is we cut about $2 billion out of that pipeline.

The bureaucrats are putting so much money into this pipeline that they cannot spend it fast enough on the other side, at a time that we are cutting back on our own people, on Medicare, agriculture, seniors, education, right down the line. I am asking the Members to stand with me on this and cut back.

It is about time we start taking care of our people and our problems for a change.

A TAX-COLLECTION NIGHTMARE

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, I had a terrible nightmare last night. I dreamt that the IRS had come to the Office of Management and Budget and asked them for $75 million or so to better be able to go after taxpayers who had not paid their full and due taxes, and the Office of Management and Budget cut that request to practically nothing but said, "We are not going to give you the money, but we have got a simple way for you to take the money we are giving you and turn it into a real winner. Go after the poor and the middleclass taxpayers on the delinquencies and on the ones that do not pay, because when you send them a letter or you threaten them, they pay right up. The rich folks, they get lawyers. It takes a long time. But if you want to convert this small amount of money we are giving you into big bucks, go after them."

Mr. Speaker, I will tell you, I woke up very, very, very thankful that that was only a nightmare. The only problem was this morning I read in the Wall Street Journal that it was not a nightmare at all. IRS asked for $76 million for delinquent taxpayers and to ferret out people who had not paid their rightful taxes, and they are told that they are only going to get 5 or 6, but they should go after the poor and middle class, because they respond immediately to letters and will pay up.

This is absurd, absolutely absurd. Once again, we are seeing exactly what is going to happen: Do not go after the rich, do not go after the wealthy, go after those that scare easily, the ones that cannot protect themselves, the ones that do not have the capability to pay for lawyers to fight the ogre IRS, the poor and the middle class.

That is what is running the country. That is what is running the White House. That is what is running the administration.

Vote for the amendment today to stop this folly.

THE LUXURY TAX

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, John Marshall once very wisely said that the power to tax involves the power to destroy, and if recent tax policy is any indication, Congress is well on its way to destroying otherwise productive sectors of our economy.

The American people—through the Constitution—entrusted this body with the power to tax. In return, Congress repeatedly comes up with taxes that not only lose money, but wipe out thousands of jobs and deprive the Treasury of millions of income dollars in the process.

Clearly, we are moving in the wrong direction with tax policies that unfairly single out specific industries. The examples are all around us—from the boat user fee that attempts to cut the deficit on the backs of recreational boaters, to the misnamed and ill-advised luxury tax which has, despite the rhetoric of its proponents, only managed to put thousands of middleclass workers in the unemployment line. Despite the majority's big windup and powerful swing aimed at socking it to the rich, all we managed to do was hit ourselves with a devastating punch to the midsection.

It is time to repeal the luxury taxes or rename them to sock-it-to-the-working-people taxes.

□ 1240

FREE RIDE FOR SOME—MORE TAXES ON MORE

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, it seems today there are indeed two Americas: One in recession where work and jobs are tough to find and proud families are scraping to make ends meet. What does the White House do? They discovered middle-income America, and they sent the tax collectors out after them.

That is right, the White House ordered the IRS audit middle-class tax families instead of the rich. While we discover that half of the rich, who do not even bother to file their returns, never even get a second look from the IRS.

Then there is another America that is out of touch. In this one, the times are so good that the White House Chief of Staff can take a limousine, paid for by the same middle-class taxpayers, and collect something else—rare stamps. A ride on the back of the taxpayer to buy some rare stamps. One of the stamps, we are told, was a 5 cent bearing the picture of Benjamin Franklin on it, old Mr. frugal Franklin. There was old Ben, who observed that "Remember that time is money," and, "A penny saved is a penny earned."

Whose time, Mr. Speaker, and indeed, whose money? Why go after the pennies of the middle class, Mr. Speaker, while the millionaires and White House staffers get a free ride? This is an America that even Mr. Franklin would not recognize.

SOVIET AID TO CUBA MUST END

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute.)

Ms. ROS-LEHTINEN. Mr. Speaker, not only should the termination of Soviet aid to Cuba be an issue discussed at the superpower summit, but it must be a precondition to any kind of United States assistance to the Soviet Union.

Taxpayers would be shocked if they knew that their hard earned dollars might go to Cuba to help finance neighborhood spies which report on community activities or be used to torture and murder many political prisoners.

If Mr. Gorbachev wishes to continue perestroika and glasnost, as he claims, then he should save his Government anywhere from $4.5 to $7 billion annually by terminating all aid to Cuba. We must not even consider any assistance to the Soviets while they continue to finance the subjugation of millions of Cubans.

Then maybe Cuba can feel the same winds of change which have liberated many other Communist countries. Then, finally, the 31-year nightmare in Cuba will end.

PICK CHERRIES WHERE CHERRIES GROW

(Mr. SKAGGS asked and was given permission to address the House for 1 minute.)

Mr. SKAGGS. Mr. Speaker, this country fought a revolution 200 years ago over the principle of no taxation without representation. The Bush administration evidently wants to turn that on its head and offer the wealthy a policy of representation without taxation. At least that's the way I read its effort earlier this spring to push IRS to audit more middle-income taxpayers and take it easy on those making over $100,000. Can you believe it?

A noted political adviser said it best about 15 years ago: "You go pick cherries where cherries grow." Fortunately, IRS Commissioner Fred Goldberg understands that axiom as it applies to underreported taxes. He told the White House to back off while he concentrated IRS' efforts where they're likely to be most effective—"going after the big guys who aren't paying their fair share."

Today, we'll have a welcome chance to reinforce Commissioner Goldberg's good instincts about tax fairness and sound tax enforcement policy. The tax fairness amendment being offered to the Treasury, Postal Appropriations bill by messrs. GEPHARDT, OBEY, PICKLE, and DORGAN will properly direct IRS to apply its resources where they'll do the most good: Examining the returns of high-income people—the folks who've enjoyed such preferential tax treatment during the eighties and who, historically, have been the ones most susceptible to major audit discrepancies.

In the process, we'll have taken the objective of basic tax fairness—which we tried so hard last year to put back into tax law and policy—and put it to work as well in the administration of our tax system. Now that makes sense.

TRIBUTE TO "HAPPY" CHANDLER

(Mr. BUNNING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUNNING. Mr. Speaker, I rise to pay tribute to a great American—a great Kentuckian and a great man—Albert Benjamin Chandler—who we knew as "Happy" Chandler.

Among other things Happy Chandler was twice Governor of Kentucky, a U.S. Senator from Kentucky, and the commissioner of professional baseball, making him one of the best known Kentuckians of our time.

What made Happy Chandler great? His greatness was illustrated best for me by his decision, as baseball commissioner, to break the color barrier and allow Jackie Robinson to play. It was 1947.

Fifteen of the sixteen owners were not thrilled with the idea.

But Happy Chandler did what he thought was right and said, "He would just have to answer to his Maker" for the decision. That is the way he made decisions throughout his life—by doing what he thought was right. And now that he has passed on and is answering to his Maker, I am confident that he is finding that his Maker was indeed very proud of the way Happy Chandler lived his life and made his decisions.

□ 1250

ANOTHER BOXING INJURY

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, boxing enthusiasts witnessed yet another injury in the ring this past weekend—an injury that could have been avoided had tougher safety standards been in place.

Kid Akeem Anifowoshe collapsed just after the referee announced he lost to International Boxing Federation junior bantamweight champion Robert Quiroga. Anifowoshe required surgery to relieve pressure on his brain—he's now in critical condition. Quiroga received a gash over his left eye. Trainers said the two boxers' use of small six-ounce gloves contributed to the injuries.

I am pleased to learn that IBF president Robert Lee has begun an investigation into the title bout to determine if these lighter gloves should be banned.

In my view a major overhaul of professional boxing is needed including the establishment of minimum health and safety standards. Boxing thus far has been unable and unwilling to regulate itself. This lack of self-policing is threatening the sport and endangering the lives of the athletes.

If sport officials will not act to protect boxing, Congress ought to. I am preparing legislation that would require States to comply with minimum health and safety standards and sport participants would be required to abide by strict conflict of interest provisions so that a manager would not also be promoting the fight.

Had my safety standards been in place this past weekend, these two boxers might not have been so seriously injured.

INTRODUCTION OF ABUNDANT WATER ACT

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, although the current drought may have precipitated an immediate crisis, California and the Western States face a long-term water allocation problem caused by the absence of secure property rights and a functioning market in water.

Essentially, the United States has employed a Soviet-style centralized bureaucracy to distribute water resources. Bureaucratic hurdles inhibit farmers from selling or leasing their water to other users. Since water does not have an off-the-farm value to farmers, western farmers use irrigated water extravagantly and do not invest in water-saving technology. Eighty percent of all California farms use primitive flood irrigation techniques.

Creating secure, enforceable, and freely transferable water rights would allow water markets to evolve. Farmers could then employ proven water conservation techniques and sell their surplus to other users. Dr. Glen Hoffman, chairman of the agricultural engineering department at the University of Nebraska, thinks a water market would produce farm water savings to between 20 and 25 percent.

Water markets would produce a number of environmental benefits as well. Nature and sports groups could acquire water rights to maintain instream flow to environmentally sensitive areas. Water markets would reduce soil leaching and salinization problems associated with flood irrigation on agricultural land.

The concept of water markets have been endorsed by a wide variety of experts across the political spectrum including Terry Anderson of the Political Economy Research Center, Dennis Avery of the Hudson Institute, and Thomas Graff of the Environmental Defense Fund.

The time to act is now. I am introducing today the Abundant Water Act to create secure property rights and a functioning market in water. I urge its speedy adoption.

THE SUNUNU TAXPAYER RIDE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, from the Sununu shuttle to the Sununu taxi, John Sununu will not be denied; but since military jets have brought John so much heat, John simply decided to take his car and his driver to New York to buy postage stamps. That is right, and when asked about it, John said, "Hey, that's no big deal."

And listen to what the White House said. They said that it is OK, because whenever John Sununu is in his car it is like being in his office.

Wow, it is completely evident to me, Mr. Speaker, that even when John Sununu is sleeping, he is sleeping on the job in an assortment of offices all over the country at taxpayers' expense. Think about it.

HEALTH SPAS FOR IRS EMPLOYEES

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the arrogance of some within the Federal bureaucracy is amazing. I have said this before, but everyday I find out anew how true this is.

This past Friday it was reported that the IRS had purchased $700 health spa memberships for 125 of its employees. I realize that the IRS is holy and sacrosanct and no one is supposed to criticize them, but this is ridiculous.

The Washington Times in its report on this said these employees could already walk 1,200 yards, or roughly 6 blocks, to a free Government gym, but the IRS was afraid this might have caused their employees to sweat.

Actually, if these employees were working hard, as they would have to in the private sector, they would not have time to exercise on the job anyway.

Barnard Unger with the GAO pointed out that other IRS employees all across this country will want this type of benefit now, too.

Mr. Speaker, I want to commend Congressman SCOTT KLUG of Wisconsin for uncovering this abuse of the taxpayer's money. If Federal employees want private club memberships, they should pay for them themselves. A Government that is over $4 trillion in debt should not be spending money in this way, no matter how elitist and powerful the IRS has become.

BRING THE 438TH MILITARY POLICE UNIT HOME

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, we are all very proud of the contributions that have been made by the regular military forces in the recently passed gulf crisis, and we have exhibited those feelings of love and affection and we will do so again on July 4. But, we have a very special feeling for the special sacrifices made by the Reserve Forces and by the National Guard.

One of those units is the 438th Military Police Unit, which trains at the Buechel Armory in eastern Louisville. They along with the other Reserves and National Guard left their jobs, left the classrooms, left their families willingly, went to the desert, and did their job.

Mr. Speaker, the estimated time of departure from the gulf has been changed from May for the 438th to September after the July 4 celebrations, and now there is a big question mark when the 438th will return.

Mr. Speaker, it does seem to me that the job in the gulf is now done and the Reserves and the National Guard and the 438th ought to be sent back home to pick up the threads of their life. If there is a military purpose or a security purpose or some geopolitical purpose in keeping our forces in the gulf, let it be done by the regular forces; but Mr. Speaker, we must bring our Reserves and our National Guard back home for those Fourth of July celebrations.

CONGRESS NEEDS TO ACT TO PROTECT THE PATRIOT

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, the Patriot missile was critical in the defense of Israel and Saudi Arabia during Operation Desert Storm. Americans cheered every time a Patriot knocked down an Iraqi Scud missile, but the cheering no longer may be for an American missile made on American soil. The next generation Patriot is slated to be built in Germany, or licensed in Japan.

The American people and the 2,000 Raytheon workers stand to be the big losers should this transfer of Patriot technology be carried out. This will mean that the only assembly line of the only ground-to-air missile plant in the United States no longer will be operational.

Why is it that only our friendly allies, Germany and Japan, can produce the American missile? Is this what our treaties and policies have forced us to do? Is this the final outgrowth of the terms of interoperability and interchangeability, that printed on the side of American Patriots will be "Made In Germany" or "Made In Japan"?

I believe this country needs "Made In America" Patriots, and I am preparing a resolution for the Congress to request just that.

I hope my colleagues will join me on this resolution which will outline the steps needed to continue to provide Patriot missiles made in the USA.

PRIORITIES IN THE FOREIGN AID BILL

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, as we debate the foreign aid bill, we must look at that legislation and see to it that those priorities of where we spend the taxpayers' money overseas is in order. I believe it is not.

There is no question that a country like Israel is deserving of foreign aid, a country that is surrounded by countries who do not even recognize its right to exist, a country that has stood like a rock in the shifting sands in the Middle East. As the Scud missile killed innocent people, they turned to the United States and followed our guidance.

☐ 1300

However, Mr. Speaker, are the priorities really in line in this balance? Should we be giving millions of dollars to countries who never support us in the United Nations, when today, when my colleagues came to work in this Capitol, they saw people sleeping on the streets a block from the Nation's Capital? We see senior citizens being pushed out of nursing homes, we see rural hospitals closing, we see education deteriorating, and we see highways crumbling. Mr. Speaker, I think it is important that, as we debate the foreign aid bill, we see to it that those priorities are indeed in line.

LAY DOWN YOUR GUN AND I'LL GIVE YOU A GLASS OF WATER

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, if a bank robber entered a bank, and put a pistol to the teller's temple, and said, "Give me your money," and while he or she is attempting to secure the money, he observes that the battered wife and children are behind him, and finally he says, "You know it's awful hot in here, and I haven't had anything to eat for several days, and, while I've got this gun to your temple, why don't you give me a little lunch, and why don't you fix me something to drink," and the family is back there pleading with him, "Don't do this; this fellow is going to collapse under his own weight right here," any bank teller in the world would know what to do in a situation like that: say, "You lay down your gun, son, and I'll get you a glass of water, but until then I'm not cooperating with you."

Only in diplomatic circles would a nation that has 20,000 nuclear warheads aimed at American cities, asking for food and grain, that we would not say first, "Why don't you discontinue targeting American cities, and then we'll think about sending you money and food?"

So, Mr. Speaker, I have an amendment up this afternoon that says very simply that. We do not send aid to the Soviet Union unless they discontinue a $6 billion aid to the Cuban, Fidel Castro, dictator, until they allow freedom for the democracies in Estonia, Latvia, and Lithuania and allow free elections, and, until they discontinue their modernization program of their intercontinental ballistic missiles that have one purpose on Earth, and that is to destroy America. I ask for my colleagues' support.

CONDITIONS FOR LENDING MONEY TO THE SOVIET UNION

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I was going to get up this morning and talk about the AIDS conference that is going on in Florence right now telling us that 40 million people will be infected with the HIV virus, and 10 million people will have died by the turn of the century. But I will save those remarks for tomorrow because I want to follow up on what the gentleman from Ohio [Mr. McEWEN] said a few moments ago and add one name: Raoul Wallenberg.

When the Soviet Union reopens the investigation of this amazing hero, now an honorary American citizen, that honor shared with only one other person in all of our two centuries and 15 years of history, and that is Winston Churchill; when Raoul Wallenberg's fate is identified, then we should consider lending money to the Soviet Union.

Mr. Speaker, most of us do want to help that large transcontinental country come out of the horror of 73 years of Communist rule but we cannot do it as long as their missiles are pointed at us, and not until the mysteries of the gulag camps of Siberia are open to public inspection.

Raoul Wallenberg is known to have been alive from 1947 to 1949 in a Soviet gulag. The minute those secret records were opened up, we found that he was alive 4 years after being taken prisoner in Budapest, Hungary. Then the KGB again slammed the door on the investigation and said, "File closed. There is nothing more to be learned on this case."

When we learn all of what happened to that honorary American citizen then we can consider lending money to the Soviet Union. But not before, and not until the 20,000 missiles targeted at our cities are turned off.

MORE 100-DAY CHALLENGES

(Mr. ANDREWS of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of New Jersey. Mr. Speaker, last week the President of the United States chastised the Members of this body for what we have not done over the last 100 days. Yesterday in my district in New Jersey he heard some things that have happened in the last 100 days.

Mr. Speaker, in the last 100 days 163,000 Americans have lost their jobs. In the last 100 days, for the first time in our history more cars bought in this country remain overseas than in this country, 51 percent. In the last 100 days 1,200 banks failed.

What has not happened in the last 100 days? We have not heard one word from the administration about tax relief for middle-class people. We have not heard one word from this administration in the last 100 days about a program to put people back to work. I do not know if it is going to happen in the next 100 days or the 100 days after that, but it ought to happen, Mr. Speaker.

Mr. Speaker, the leadership of this Congress, the leadership of that administration, should work together to end this recession. If our people are good enough to go over to war, then they are good enough to go back to work, and in the next 100 days let us get down to work in making that happen here.

MOVING TOWARD ELIMINATION OF SANCTIONS ON SOUTH AFRICA

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I rise simply to extend congratulations to F.W. de Klerk and the Government of South Africa for the bold and decisive action which came to the forefront yesterday. We are witnessing an end to the reprehensible policy of apartheid.

Mr. Speaker, we have watched this struggle over the years. The U.S. Government has imposed sanctions on South Africa, but South Africa clearly has the potential of being a great and trusted and very important ally of the United States, and this step in eliminating apartheid will help us reestablish those ties.

There are a couple of things that do need to take place though as we move toward the elimination of sanctions. First, the release of all political prisoners; and, second, the opportunity for blacks to have the right to vote. I hope very much that we will see success in those areas so that we can renew relations with this very important nation.

THE MOST DANGEROUS CRIMINALS IN AMERICA

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, we still need a crime bill which will allow us to more effectively investigate, indict, and convict the most dangerous criminals in America. Criminals in banks and other financial institutions are the most dangerous and damaging criminals in America. We know that the S&L criminals will cost us no less than $500 billion for a bailout.

Now finally even L.W. Seidman, the most notorious, systematic liar in Washington, has finally confessed that the commercial banks will need more than $45 billion this year to just start a new bailout of commercial banks.

The looting of American taxpayers is running rampant and getting worse every day. The insurance companies are coming behind that. The taxpayers will have to bail them out.

Mr. Speaker, these criminals are stealing from Medicare, they are stealing from aid to Medicare, they are stealing from health care. We need a crime bill to stop the looting of the American taxpayers. We need a crime bill to lock up the million-dollar thieves. We need a crime bill to stop the most neglected, but the most dangerous, criminals in America.

TREASURY-POSTAL APPROPRIATION

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, today we take up the Treasury-Postal appropriations bill. I urge my colleagues to support this legislation. It offers full funding for revenue foregone, which is vital to nonprofit organizations, such as the American Federation for the Blind and Boy Scouts of America, rural newspapers and educational materials.

For reasons which defy logic, the President has proposed slashing revenue foregone. Such a proposal flies in the face of his, and his predecessors, avowed goal of promoting volunteerism. It is similar to saying you want to reduce the murder and mayhem of handgun violence while opposing the Brady bill. It is, unfortunately, fully consistent with a philosophy of saying one thing while doing the opposite.

This appropriation also is noticeable by what is missing: language to ensure that Federal employees get an adequate pay raise. Without waking any sleeping dogs that are lying around this city, I wish to congratulate the President and Congress for not engaging in its yearly battle on this subject. Maybe the gulf war, which showcased the loyalty and dedication of Federal employees and their representative organizations, has finally stilled bureaucrat bashing, which had reared its ugly head in recent times.

Finally, I wish to acknowledge the leadership of some of my colleagues who want to spend adequate resources to fight cheating on IRS returns by the rich. It's bad enough that white collar criminals who steal pension funds and sell junk bonds often end up in country club penal facilities, but please, let's not have IRS aid and abet this travesty.

TEN THOUSAND BOAT BUILDERS OUT OF WORK

(Mr. MACHTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACHTLEY. Mr. Speaker, I rise today to spend 1 minute on a subject which may have an eternal effect on an industry in my State and, I think, across the country, and that is the luxury tax which this Congress imposed on boat builders in the last session.

Mr. Speaker, we thought we would raise $3 million of additional tax, but in fact we have shot a hole right through the blue-collar workers' pocketbook who are manufacturing these vessels. In my State alone we have lost 1,400 jobs. It is estimated nationally that 10,000 jobs have been lost. We have lost $30 million of additional tax revenue because of these lost jobs.

□ 1310

It is my hope that this Congress will rethink this policy. Instead of hitting the wealthy and raising taxes, we missed, and hit the working person. People who are going to buy these vessels are going overseas. They are going to buy these vessels in foreign countries. We will see an industry, which has made this country competitive, lost forever.

Mr. Speaker, I respectfully request Members to re think this issue, to rethink this tax, and to rethink whether it is important that we have a boating industry in this country.

OUT-OF-STATE GARBAGE DOES NOT BELONG IN UTAH

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, I am introducing legislation today to address the inequities in the Nation's growing interstate traffic in garbage. Garbage is a universal problem—everybody's got it and nobody wants it.

It would seem obvious that States should be responsible for their own trash. But that does not always happen. Garbage is often sent on long out-of-State journeys, ultimately to be dumped in States where landfill space is more plentiful and disposal fees are cheaper.

In addition to its patent unfairness, the interstate waste trade discourages genuine resource conservation efforts such as waste minimization and recycling. This points up the good that could come of the NIMBY [not-in-my-backyard] reaction. If States lose the option of shipping garbage cheaply to distant disposal sites, they will have stronger incentives to recycle and to reduce their waste streams—end results which the Federal Government should encourage.

My bill would allow individual States to decide for themselves whether out-of-State garbage is economically desirable or environmentally unacceptable. If this legislation is enacted, States would be able to prohibit the disposal or incineration within their borders of out-of-State garbage. States would also be able to charge differential fees based on the origin of waste. Fees would be structured to diminish the economic incentives that often lead to waste exports. This approach parallels similar legislation which I introduced earlier this year specifically to address hazardous wastes.

The fears expressed have, until now, been directed at waste imports from other States. The potential for the waste trade appears limitless—in Utah, economically opportunistic landfill operators are now soliciting trash from Canada. My bill would give States not only the right to prohibit garbage from other States, it also confers the explicit right to prohibit similar waste imports from other countries. This brand of international exploitation, which we associate with Third World countries, must not be allowed to gain a foothold here in the United States.

Recent events in Utah underscore the necessity for these measures. In the face of legal decisions which reach as high as the U.S. Supreme Court, Utah regulators have been forced to conclude that they cannot bar the disposal of out-of-State garbage in our landfills. Unless Congress acts, the people of Utah and numerous other States which share our predicament will have no choice but to live with others' trash.

Defenseless States should not become dumping grounds for those States which have dodged the tough decisions to site their own landfills and incinerators. For the sake of environmental sanity, as well as in the name of fairness, it is time to level the garbage playing field.

TRIBUTE TO PRESIDENT BORIS YELTSIN

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, I rise to welcome President Boris Yeltsin, who will be landing at Andrews Air Force Base in less than 2 hours, arriving for the first Russian-American summit in which both heads of state have been freely elected.

Mr. Speaker, now that the Russian people have been able to freely choose their own leadership for the first time in their history, it is time for the Communists in the Kremlin to allow the Russians and the people in the rest of the Soviet empire to do the same thing for the central government. Most people do not understand that Mr. Gorbachev has never been elected by anybody.

Last week, by adopting my amendment, this House of Representatives established a historic policy. We have decided that, whenever feasible, United States aid will not be channeled through the Communist Soviet central government, but through democratically elected republic governments, like the Russian Federation.

Let us give President Yeltsin the recognition that is due the freely elected leader of a sovereign republic, and let us make sure he knows that we stand with him and the Russian people against the unelected regime of Mikhail, the little clique.

From now on, let us resolve that until the Soviet Communists allow free and fair elections union wide, that no aid, whether it be cash, agricultural credits, technical assistance, or whatever else, will go to the central government.

Mr. Speaker, I ask that we stand together and welcome President Yeltsin to the United States.

LAW ENFORCEMENT RESPONSIBILITIES ACT

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, as this country knows, we are witnessing communities torn apart by the scourges of drug abuse and violent crime. To fight this wave of crime, many law enforcement organizations across the country are moving toward community-based policing and are putting their police officers back on the beat, where they are most effective. In Alexandria, VA, we initiated this type of community-based police program, and saw our crime rate in previously drug-infested neighborhoods decreased by as much as 90 percent.

To achieve these types of results, we must reorganize the structure of our law enforcement organizations. No longer can we rely on a top-down management which depends on paramilitary style orders originating from an unseen management. Cops today must be part social worker and part umpire. They must be given the training necessary to be able to act responsibly and independently.

The Law Enforcement Responsibility Act I introduced last week encourages the development of this new breed of professional, accountable, community-oriented police officer, and encourages law enforcement agencies to seek accreditation. It establishes a standard procedure for citizens filing complaints against a police officer, and it establishes a bill of rights for officers facing grievance procedures.

Mr. Speaker, if we are to win this war on drugs and against crime, then we must ensure that our soldiers on the frontline are given the tools necessary for success.

I urge Members to join me in the effort and cosponsor H.R. 2537, the Law Enforcement Responsibility Act of 1991.

SAVE $2 BILLION TODAY WITH ROTH AMENDMENT

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, the House will vote today on the Roth amendment to cut waste from foreign aid programs.

A new GAO report uncovered nearly $9 billion in foreign aid funds that have been sitting unspent for up to 10 years.

The Roth amendment cuts the pipeline down to 3 years, and provides two important exceptions: for long-term construction and for unforseen project delays.

The bottom line is, the Roth amendment saves $2 billion that GAO says is clearly excess.

Let's prevent this waste—vote for the Roth amendment.

PRESIDENT'S BANKING BILL COULD SUCKER PUNCH TAXPAYERS

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, Treasury Secretary Brady is using taxpayer fears to ram a bill through Congress that may actually hurt the taxpayer. He tells us that the only hope of avoiding a taxpayer bailout of the banks is to pass his and the President's banking bill.

What he does not say is that the bill could sucker punch the taxpayer down the road. It would allow corporations to own banks, creating arrogant economic behemoths beyond the reach of taxpayer accountability, and it would allow giant banks to invade small towns and wire local deposits to Wall Street.

Mr. Speaker, Secretary Brady's tactics come straight from the George Bush playbook. It seems these days that the key to any White House strategy is to blame the Congress and exploit taxpayer fears in order to score points for the high and mighty. They did it with the civil rights bill, and now they are doing it with banking. The winners are the rich and powerful, and the losers are everyone else.

Mr. Speaker, no one denies that we have got to squarely face the problems of the banks, and do it now. Ducking them will only make the costs bigger and more costly to taxpayers. Let us face it, the banking system does need reform, but the American people should not be fooled by the latest White House scheme. Reform could well increase, not decrease, taxpayer risk. It is our job to see the truth about the Bush banking bill is flushed out. If the White House will not watch out for the taxpayers, then we should.

FORCE JAPANESE COMPANIES TO PLAY FAIRLY

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, there are newspaper reports, a report on a Customs Service investigation, that Honda Motors may be flouting the requirements of the United States-Canada Trade Agreement, the part that relates to 50 percent North American content, to the tune of $20 million.

From these reports, it also appears that Honda may be dumping cars in the United States, and buying just a few cents' or dollars' worth of parts when they build an engine assembly in Ohio.

I want to ask this: How many warning flags must be administration see before they understand there is a storm? The United States auto industry has lost billions in the last quarter, while the Japanese share of the United States market continues to grow.

The administration must not let this opportunity slip. Broaden the investigation. Tell the FTC to start taking their keiretsu investigation seriously, put a stop to Japanese dumping, force the Japanese to open their protected auto markets, and craft a rule of origin for United States-Mexico that ensures the Japanese and others will not skirt United States law.

A recent University of Michigan study predicts the current $10 billion U.S. parts deficit will increase to $22 billion over the next few years.

Mr. Speaker, it is time to reverse this trend, and to force Japanese companies to play fairly.

□ 1320

TAX BURDEN ON MIDDLE CLASS AMERICANS NOT FAIR

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. DeLAURO. Mr. Speaker, middle-class Americans have been suffering long enough under the heavy burden of a tax system that asks them to pay more than their fair share.

Now, to add insult to injury, the administration wants the IRS to focus its tax audits on these same hardworking middle-class taxpayers—those who are struggling to pay their heating bills, meet the rising costs of health care and college tuition, and put food on the table.

Something's wrong. Instead of focusing our tax collection efforts on those who have the most to hide, we go after middle-class taxpayers. Instead of looking for major tax fraud, we try to squeeze another $40 from those struggling the most.

It's much easier to send out an audit to Mr. and Mrs. Smith of Main Street than it is to march into the headquarters of a large corporation and ask to see their books. Mr. and Mrs. Smith don't have teams of accountants and lawyers to protect them. But this policy is not fair to the middle class. It's misguided, and it's not smart.

This is another example of the philosophy that has guided tax policy in this country for too many years. Raise taxes on the middle class, make sure they pay every dime, but turn the other cheek as large corporations and top earners get away with bank-breaking tax fraud, or hire teams of accountants to find loopholes in our tax system.

Mr. Speaker, it's time that the Federal Government stops waging war on middle-income Americans. We are wasting our time and resources. It's time for us to stand up for what is right. It's time for us to say no to the "soak the middle class" policies of the last decade.

Middle-class Americans need tax relief, not tax audits.

BALTIC NATIONS SEEK OBSERVER STATUS AT CSCE

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HOYER. Mr. Speaker, I have just received word of an unfortunate development at the Berlin Foreign Ministers meeting of the Conference on Security and Cooperation on Europe, the CSCE.

As we know, the three Baltic Nations of Estonia, Latvia, and Lithuania are seeking observer status at the Conference on Security and Cooperation in Europe, and representatives of the democratically elected governments of these nations are in Berlin to press their case with the Foreign Ministers of the CSCE States.

However the Soviet Government has brought along it's own representatives of three Baltic, Moscow-platform Communist parties and national salvation committees, who no doubt will be attempting to tell anyone who will listen to them that the official Baltic representatives do not represent the real interests of the Baltic peoples, and that the Baltic peoples do not really want independence from the center, notwithstanding overwhelming approval of referenda to the contrary.

Mr. Speaker, this tactic which has a long history in Soviet strategy must not be allowed to succeed. Backed by bayonets, the Bolsheviks used it after the Revolution, during Stalin's takeover of the Baltics in 1940, and after World War II in Eastern Europe.

It must now work this time. The whole world, including the Soviet people, now knows the truth about the Hitler-Stalin Pact of 1939, and we've seen how Soviet Army and Black Berets have been sent in to repress even through violence, peaceful Baltic demonstrators who want nothing more than to be free.

It is time for President Gorbachev to let the Baltic peoples go.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1992

Ms. SLAUGHTER of New York. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 176 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 176

Resolved, That during consideration of the bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes, all points of order against the following provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived: beginning on page 8, line 1 through page 10, line 3; beginning on page 11, lines 1 through 10; and beginning on page 27, lines 11 through 16. It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, and all points of order against said amendment for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. Debate on said amendment and all amendments thereto shall not exceed one hour.

The SPEAKER pro tempore (Mr. VISCLOSKY). The gentlewoman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield the customary 30 minutes of debate time to the gentleman from California [Mr. DREIER], and pending that, I yield myself such time as I may consume.

The SPEAKER. During consideration of this resolution, all time yielded is for the purpose of debate only.

Ms. SLAUGHTER of New York. Mr. Speaker, House Resolution 176 is the rule providing for the consideration of H.R. 2622, making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President and certain independent agencies for the fiscal year 1992.

Since general appropriations bills are privileged, the legislation will be considered under the normal legislative process for consideration of appropriations bills. The time devoted to general debate will be determined by a unanimous-consent request. The bill will be open to amendment under the 5-minute rule. Any amendment which does not violate the rules of the House will be in order.

The rule waives clause 2 of rule XXI, prohibiting unauthorized appropriations or legislative provisions in general appropriations bills, against specified provisions of the bill. These waivers are required because authorization bills have not yet been enacted for the U.S. Customs Service, the U.S. Mint, and the Federal Elections Commission.

In addition, the rule makes it in order to consider the amendment printed in the report accompanying this rule to be offered by Representatives GEPHARDT, OBEY, and DORGAN. Debate on the amendment and all amendments thereto shall not exceed 1 hour. The rule waives all points of order against the amendment for failure to comply with the provisions of clause 2 of rule XXI.

Mr. Speaker, H.R. 2622 authorizes $19.75 billion in fiscal year 1992 for the activities of the Treasury Department, the Executive Office of the United States, and certain independent agencies, as well as payments into the Postal Fund of the United States Postal Service. This rule will allow full and fair debate on the provisions of this important bill. I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this legislation.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to House Resolution 176, and will be asking my colleagues to vote down the previous question on this rule so that I might offer an amendment to protect the Roybal-Traficant taxpayers' protection provision contained in section 531 of H.R. 2622.

Mr. Speaker, this rule waives clause 2 of rule XXI against three unauthorized provisions in H.R. 2622, the Treasury, Postal Service appropriations bill for fiscal year 1992. In addition to protecting those provisions, this rule also protects an amendment by the distinguished majority leader, Mr. GEPHARDT, against a point of order since it is a legislative provision in violation of clause 2, rule XXI.

That amendment would direct the IRS to transfer the difference between this year's and last year's funding for the information reporting program to the examination of the tax returns of high-income and high-asset taxpayers.

Mr. Speaker, as a new member this year on the Rules Committee, I must confess that I am still trying to figure out what rules or guidelines the Rules Committee uses to arrive at its procedural decisions.

How does the Rules Committee determine such things as what amendments to make in order and what amendments not to allow; or what legislative provisions in appropriations bills to protect and what provisions not to protect? And I must further confess that after the committee finished its work on this rule, I was just as confused and puzzled as ever as to how the Rules Committee decision process works.

And no matter how much we on the minority side try to use our persuasive powers and superior logic to change their minds, it becomes apparent that they have seen another light and cannot be influenced to deviate 1 inch from the path of that guiding beacon.

Mr. Speaker, in the case of this rule, the Rules Committee specifically rejected two amendments we offered to the rule—both of which, ironically, were supported by the chairman of the Treasury, Postal Appropriations Subcommittee, Mr. ROYBAL. And both amendments to the rule were designed to protect provisions already in the bill.

One of those provisions was a clause 2, rule XXI waiver for section 531 of the bill which is entitled "Investigation of Internal Revenue Service Alleged Abuse of Taxpayers' Rights." A request for the waiver by Mr. SOLOMON was turned down by a 3 to 5 party-line vote.

This provision was put in the bill by the subcommittee chairman, Mr. ROYBAL, and is nearly identical to a bill which the gentleman from Ohio [Mr. TRAFICANT] has had pending before the Ways and Means Committee for two Congresses now. Both of these gentlemen asked for the necessary waiver. And yet they were turned down after a last-minute letter arrived from the chairman of the Ways and Means Committee objecting to the waiver.

Mr. Speaker, again I am puzzled. We never did have a letter from the chairman of the Ways and Means Committee supporting the waiver for the Gephardt amendment, and yet that received the full blessing and protection of the Rules Committee, even though Mr. GEPHARDT didn't bother to show up in support of his amendment. Instead, he sent a pinch hitter, the gentleman from Wisconsin [Mr. OBEY], who apparently knew the right pitch.

Mr. Speaker, I happen to think that if we are going to make one amendment in order, both deserve to be heard and voted on by this House. The amendment made in order by this rule is couched as an "us versus them" class warfare measure; while the provision in this bill not protected by this rule is couched as a taxpayers' bill of rights to protect all Americans, regardless of income level, from IRS abuse.

I would like to think that the Rules Committee and majority leadership would have a little more sympathy for the taxpayers of every income level who may suffer from abuse or harassment from the IRS. I don't think any of us were sent here to represent just the rich or just the poor constituents.

By the same token, I would hope the Rules Committee would have the same approach to Members of this House rather than just representing selected committee chairmen or majority leadership representatives.

In all fairness, Mr. Speaker, I would like to congratulate Chairman MOAKLEY for his efforts in obtaining a commitment from Chairman ROSTENKOWSKI to hold hearings on the legislation calling for an investigation of alleged IRS abuses.

However, again, if we are going to make one legislative amendment in order relating to the IRS and its enforcement approach, why shouldn't we also protect an even better provision already in the bill. Is the Rules Committee saying by this rule that more efforts should be expended to go after the big guy but that we shouldn't lift a finger to protect the little guy? I hope we haven't come to such an unbalanced view of the world.

That's why I urge my colleagues to vote down the previous question on this rule so that I can offer an amendment to protect the Roybal-Traficant taxpayers' protection provision now in the bill. This is aimed at protecting all Americans—low income, middle income, and high income—against IRS abuse.

STATEMENT OF ADMINISTRATION POLICY

[H.R. 2622—Treasury, Postal Service and General Government Appropriations Bill, FY 1992]

This Statement of Administration Policy expresses the Administration's views on the Treasury, Postal Service and General Government Appropriations Bill, FY 1992, as reported by the Committee.

The Administration strongly supports a bipartisan amendment that is expected to be offered by Representatives Conyers and Horton. This amendment would strike language contained in the Committee-reported bill barring the use of funds appropriated in this act for the implementation of the Chief Financial Officers Act of 1990 (CFOs Act). The CFOs Act addresses long-standing Congressional and Administration concerns about serious financial management deficiencies in the Federal Government.

In passing the CFOs Act (by a voice vote without dissent) the Congress found that "[b]illions of dollars * * * lost each year through fraud, waste, abuse, and mismanagement * * * could be significantly decreased by improved management." As a remedy, the Act (1) strengthens management capacilities; (2) provides for improved accounting systems, financial management, and internal controls to assure reliable information and deterrence of fraud, waste, and abuse; and (3) provides for reliable financial information, useful to Congress and the Executive Branch in financing, managing, and evaluating Federal programs. Implementation of the CFOs Act is essential to good government.

The Administration has serious concerns about a number of funding provisions contained in the bill:

IRS Tax System Modernization. The Administration opposes delaying the obligation of $492 million in funding for Tax System Modernization (TSM) and other projects until September 30, 1992. This is a clear scorekeeping gimmick that would derail key TSM projects and postpone TSM benefits—reduced taxpayer burden, increased revenue, and lower operating costs. The delay would actually result in higher total TSM costs.

Financial Management Service. The Administration strongly opposes Committee action that would require the Social Security Trust Funds to pay directly to FMS the full cost of mailing beneficiary checks. This is a scoring technique that seeks to mask the spending increase that it would enable. It is inconsistent with the Budget Enforcement Act of 1990 and, accordingly, would have to be scored as domestic discretionary spending.

Federal Bureau of Prisons. The Committee would underfund the President's request for the Federal Bureau of Prisons by providing only a $10 million transfer from the Office of National Drug Control Policy (ONDCP) Special Forfeiture Fund rather than the requested $46 million. The National Drug Control Strategy identifies the spending of $46 million on prison construction as one of the Administration's drug control strategy priorities for FY 1992. Currently, 41 states are under court order to release convicted criminals because of either a lack of available prisons space or the need to improve conditions.

Postal Service Revenue Forgone Appropriation. The Administration opposes the Committee's decision to increase the payment of the Postal Service for revenue forgone from the requested $183 million to $649 million. This action would permit current abuses of the postal rate subsidy to continue.

The Administration has no objection to the Gephardt-Obey amendment that may be offered concerning Internal Revenue Service tax law enforcement.

On the basis of OMB's initial scoring, the Administration finds that the bill is within the House 602(b) budget authority allocation but exceeds the outlay allocation by $223 million. In aggregate, the House 602(b) allocations are consistent with the statutory spending limits enacted in the Budget Enforcement Act.

Additional Administration concerns with the bill are discussed in the attachment.

ADDITIONAL CONCERNS—TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FISCAL YEAR 1992

MAJOR PROVISIONS OPPOSED BY THE ADMINISTRATION

A. Funding Levels

Department of the Treasury

Financial Management Service. The Administration strongly opposes Committee action that would require the Social Security Trust Funds to pay directly to FMS the full cost of mailing beneficiary checks. This is a scoring technique that seeks to mask the spending increase that it would enable. It is inconsistent with the Budget Enforcement Act of 1990, and, accordingly, would have to be scored as domestic discretionary spending. The Administration prefers the current arrangement in which the Social Security Trust Funds pay the General Fund for labor and reconciliation services, because it permits more direct Executive and Congressional oversight of government mail management practices.

Internal Revenue Service—Information Systems. The bill delays obligation of $492 million until September 30, 1992, with at least $432 million of the delay borne by Tax System Modernization (TSM) projects. This action would seriously delay TSM and would postpone procurements that are essential to maintaining current processing systems. Specifically:

The resulting delay in implementing TSM would derail projects and postpone the system's benefits—i.e., reduced taxpayer burden, increased revenue, and lower operating costs. Delays in project schedules would result in higher total TSM costs.

Delays in procurements to maintain and modernize current systems would place those systems at significant risk of failure, with consequent jeopardy to a successful filing season as well as to automated enforcement functions.

Because the delay would affect at least 88 percent of the TSM budget, IRS would likely be forced to furlough some of the almost 1,700 employees engaged in TSM projects.

Delaying the availability of $492 million would not reduce outlays by anything approaching the $394 million projected by the Committee. The IRS would most likely delay procurement obligations that already have a low outlay rate. Remaining expenditures, primarily salary and benefits, have high outlay rates. Consequently, the outlay rate for the balance of the appropriation not subject to the Committee's proposed delay is estimated to be 90 percent, rather than the 66.5 percent rate associated with the entire account. Thus, FY 1992 outlays would be reduced by only $138 million.

By use of a transfer, the bill increases funds for Tax System Modernization (TSM) from $427 million to $492 million without changing the overall funding level for the Information Systems appropriation. This $65 million transfer to TSM would come at the cost of initiatives to maintain current processing capability. These initiatives are necessary to avoid breakdowns during the filing season.

Tax Law Enforcement. The Committee reduced tax law enforcement by $26 million. This would result in 513 fewer staff years being added to the Collection Program for accounts receivable work, with the consequent loss of about $500 million in collections over five years if the reduction were to be permanent. This reduction would undermine the Administration's efforts to improve IRS accounts receivable, which has been identified as one of the Federal government's High Risk areas.

U.S. Customs Service; Salaries and Expenses. The Committee level for Customs' S&E account incorporates a reduction of $35.3 million below the President's request, partially offset by a $21 million transfer from the ONDCP Special Forfeiture Fund. The potential effects of this reduction include: The elimination of an initiative that is intended to remedy Customs internal controls problems, and the reduction or elimination of a $7 million initiative to provide additional staffing for Customs Commercial Services.

Bureau of Alcohol, Tobacco, and Firearms. The bill directs the ONDCP's Special Forfeiture Fund to transfer $15 million to ATF "for drug-related expenses." The Committee has fully funded the President's request, and additional funding is unnecessary. Furthermore if used to fund staffing increases, the additional funding would have to be incorporated into the funding base to avoid disruptive staffing cuts in future years. This would require correspondingly higher outyear appropriations.

Treasury; Office of Inspector General. The Committee's $5 million reduction would eliminate all Office of Inspector General (OIG) proposed initiatives for FY 1992. The cut would reduce the number of audits and investigations the OIG would perform and preclude the OIG from meeting its three-year review cycle of internal investigations of Treasury law enforcement Bureaus.

Office of National Drug Control Policy (ONDCP). The purpose of the Office of National Drug Control Policy's (ONDCP) Special Forfeiture Fund is to provide resources for priorities identified in the National Drug Control Strategy. For FY 1992, those priorities have been identified as prison construction ($46 million) and drug treatment capacity expansion ($31 million). The Committee has provided the full amount requested for the Special Forfeiture Fund ($77 million) but has identified a different set of priorities. While $31 million is provided for treatment expansion, only $10 million is provided for prison construction. Without the transfer of the additional $36 million, the Federal Bureau of Prisons (BOP) would not be able to expand detention space to address the ever-increasing number of individuals arrested for violating Federal drug control and other laws. The $10 million level for BOP is inconsistent with report language accompanying the Commerce, Justice, State Committee bill. The report notes that the transfer of the entire $46 million is assumed in the mark for the BOP Buildings and facilities account.

Payment to Postal Service Revenue Forgone Fund. The Committee increased the payment for revenue forgone from a request of $183 million to $649 million. This increased funding would allow current abuses of the postal rate subsidy to continue at an increased level.

General Services Administration

Federal Buildings Fund. The President requested $444 million for construction of new headquarters offices of the Department of Transportation (DOT) in Washington, D.C. The Committee would provide only $239 million. This level of funding is inadequate to construct the facilities. While providing inadequate funding for the DOT project, the bill includes funds for a number of new construction projects that are not priority needs at this time. The Administration urges the Committee to delete funding for nine projects not contained in the President's request and to restore the funds for DOT headquarters to enable this project to proceed as scheduled.

Office of Personnel Management (OPM); Office of the Inspector General. The Committee would appropriate $3.1 million in general funds for OPM's Office of the Inspector General, compared to the President's Budget request of $4.1 million. The Committee is urged to provide the level of resources requested in the Budget.

B. Language Provisions

The Administration seriously objects to a number of provisions which purport to condition the President's authority, and the authority of affected Executive branch officials, to use funds otherwise appropriated by this bill on the approval of various committees of the House of Representatives and the Senate. These provisions constitute legislative vetoes of the kind declared unconstitutional by the Supreme Court in *INS* v. *Chadha*, 462 U.S. 919 (1983). If these provisions are not deleted, the U.S. Department of Justice would interpret them as having no force and effect, and make case-by-case determinations to determine whether the grant of authority in question is severable from the unconstitutional condition. See *Alaska Airlines, Inc.* v. *Brock*, 480 U.S. 678, 684–87 (1987).

The affected provisions are:

Title I—p. 14, lines 12–17; p. 15, lines 10–14; and p. 17, lines 7–11.

Title IV—p. 29, lines 8–14; p. 31, lines 20–25; p. 32, lines 7–8; p. 35, lines 11–15; p. 37, lines 3–5; p. 43, lines 8–14; and p. 50, lines 19–20.

Title V—section 501.

Title VI—sections 614 and 618.

Title I of the bill contains several provisions that limit the ability of the Office of Management and Budget to perform certain review functions (e.g., the prohibition on using funds for review of agricultural marketing orders). These provisions raise constitutional concerns because they impair the President's ability to supervise the Executive branch.

Department of the Treasury

Bureau of Alcohol, Tobacco, and Firearms. The Administration objects to the earmarking of funds for activities in support of the Federal Alcohol Administration Act. This would reduce the Bureau's flexibility in carrying out its mission. The bill requires a staffing floor of 4,073 FTEs. Staffing floors reduce needed flexibility; and without the ONDCP transfer mentioned above, to which the Administration objects, reaching this staffing floor in FY 1992 would be impossible.

U.S. Customs Service: Salaries and Expenses. Section 525 of the General Provisions would provide unnecessary protection to the Front Royal Customs port of entry. The language of this section would require Customs to keep this port open even if the benefits of keeping it open would not justify the expense. This language should be deleted.

Section 613 of the General Provisions imposes unnecessary restrictions on Customs ability to plan for or implement any cost-saving consolidation or centralization activities. This kind of micro-management does not promote optimization of services, nor does it facilitate management efficiencies.

Bureau of the Public Debt. Language of the Committee bill would unduly restrict the Executive Branch's ability to manage the Bureau's move to the Parkersburg, West Virginia facility by prohibiting Treasury from separating those employees who will not accept reassignment outside the Washington metropolitan area. The Administration supports the Committee's objective of assisting affected employees through a transition period. However, this can most appropriately be accomplished by deleting the bill language and allowing the Bureau to plan how best to provide the transition services specified in the report accompanying the Committee bill.

National Oceanic and Atmospheric Administration (NOAA). The Administration opposes the Committee's report language directing OMB to transfer review of NOAA programs from the Economics and Government to the Natural Resources, Energy and Science program areas of OMB. The President should have discretion to organize the OMB without Congressional interference. Appropriate scientific and technological review of NOAA is dependent upon the examiners themselves, not the division within which the examiners reside. Separating review of NOAA from the remainder of the Department of Commerce would create serious management complications without any benefit in terms of improved evaluation.

Office of Personnel Management (OPM)

Section 517 would prohibit OPM from closing or consolidating executive seminar centers. The Administration objects to this provision because it would prevent OPM from exercising its managerial discretion in deciding how best to use its training resources.

Section 528 would prohibit the use of funds to reduce the rank or rate of pay of a career appointee in the SES upon reassignment or transfer. The Administration objects to this provision because it would restrict flexibility in managing senior executive personnel effectively and efficiently.

Salaries and Expenses. The bill requires that OPM spend not less than $400,000 for Federal health promotion and disease prevention programs for Federal employees. While this is a worthy program, the mandated funding level is unwarranted. Funding this program beyond the level actually needed could result in funds being diverted from higher-priority functions.

Other

President's Commission on Executive Exchange. Language limiting entertainment expenses of the Commission is no longer necessary. This commission has been abolished, pursuant to Executive Order 12760 (signed May 2, 1991).

Section 619. Section 619 would require any agency to procure any product or service for the FTS2000 project through GSA. This proposed legal requirement is unnecessarily restrictive and could slow down current, continuing agency procurement outside of GSA.

Implementation of the FTS2000 project would certainly be forestalled. Furthermore, the language would give GSA literal control of the FTS2000 project and would restrict any innovative ideas that the agencies have in implementing FTS2000.

Official Residence of the Vice President. As currently drafted, the language for the Official Residence of the Vice President does not reflect the changes proposed in the FY 1992 Budget. Those changes would delete the following four words: "maintenance, repair and alteration," and in their place inserting the word "operation." This editorial change was proposed to reflect the fact that the Navy is resuming its role as landlord for the Residence and the associated grounds, including the responsibility for maintenance and renovation of the structure.

TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FISCAL YEAR 1992

[In millions of dollars]

Major programs	Fiscal year 1991 enacted		President's request		House Committee		House difference from			
							Enacted		Request	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
DOMESTIC DISCRETIONARY										
Executive Office of the President:										
Office of Management and Budget	48	48	53	53	50	50	2	2	−3	−3
Office of Nat. Drug Control Policy	105	94	69	78	69	78	−36	−16	−0	−0
Other	86	85	87	85	86	83	0	−2	−2	−2
Total, EXOP	239	227	210	216	206	212	−33	−16	−5	−4
Department of the Treasury:										
Financial Management Services [1]	219	231	234	231	229	235	11	4	−4	4
BATF	306	302	317	314	332	327	26	26	15	13
U.S. Customs	1,282	1,264	1,401	1,399	1,375	1,376	93	113	−26	−22
Internal Revenue Service	6,111	5,993	6,733	6,562	6,707	6,400	596	406	−26	−162
U.S. Secret Service	407	406	475	457	475	457	69	52		0
Other	420	429	439	435	432	429	12	−0	−8	−6
Total, Department of the Treasury	8,744	8,626	9,600	9,399	9,550	9,225	806	600	−49	−173
General Services Administration:										
Federal buildings fund	1,870	655	233	626	117	603	−1,752	−52	−116	−23
Other	183	248	192	240	199	239	16	−9	7	−1
Total, GSA	2,053	903	425	866	317	842	−1,736	−61	−109	−24
Legislative Branch	32	32	33	33	33	33	1	1		0
Office of Personnel Management	119	195	123	205	120	203	1	8	−3	−2
Postal Service	473	473	183	183	649	649	177	177	467	467
All other [2]	−11	316	79	344	43	341	54	24	−36	−4
Total domestic discietionary	11,648	10,771	10,653	11,246	10,918	11,505	−730	734	265	259

[1] Includes scoring adjustment for change in sources of FMS funding.

[2] Includes adjustment to be consistent with committee scoring of GSA Federal Buildings Fund.

Note.—Detail may not add to totals due to rounding.

	Budget authority	Outlays
602(b) allocation:		
Domestic discretionary	10,750	11,100
IRS adjustment	172	169
Adjusted 602(b) allocation	10,922	11,269

CBO ESTIMATES COMPARED TO OMB ESTIMATES TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, Fiscal Year 1992

[In millions of dollars]

	House Committee	
	Budget authority	Outlays
CBO Estimate, domestic, discretionary spending [1]	10,922	11,270
Department of the Treasury:		
Working capital fund		−0.500
Office of the Secretary, salaries and expenses		−.946
Office of the Secretary, International affairs		−.074
Office of the Secretary, Office of the Inspector General		−.104
Financial Management Service	−4.400	3.184
Bureau of ATF, salaries and expenses		.015
Bureau of ATF, transfer S&E		.003
U.S. Customs Service, salaries and expenses		.003
U.S. Customs Service, O&M, air interdiction		−32.022
U.S. Customs Service, customs forfeiture fund		.001
U.S. Customs Service, small airports		−.007
U.S. Mint, salaries and expenses		.193
U.S. Mint, expansion and improvements		−.005
Bureau of the Public Debt, Administering the Public Debt		−4.708
IRS, Administration and management		.112
IRS, Processing tax returns and assistance		4.440
IRS, Information system		80.272
U.S. Secret Service, salaries and expenses		−6.294
Total, Department of the Treasury	−4.400	43.533

CBO ESTIMATES COMPARED TO OMB ESTIMATES TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, Fiscal Year 1992—Continued

[In millions of dollars]

	House Committee	
	Budget authority	Outlays
Executive Office of President:		
Office of Administration, salaries and expenses		−3.981
White House Office, salaries and expenses		−.002
Executive Residence at the White House, operating expense		.651
Official Residence of the Vice President, operating expenses		−.039
Special Assistance to the President, salaries and expenses		.007
Office of Policy Development, salaries and expenses		.010
National Critical Materials Council, salaries and expenses		.035
National Security Council, salaries and expenses		.025
Office of Management and Budget, salaries and expenses		−.037
Office of Federal Procurement Policy		.001
Office of National Drug Control Policy, S&E		−4.093
Total, Executive Office of the President		−7.423
Department of Health and Human Service:		
Alcohol, Drug Abuse, and Mental Health		−11.470
Total, Department of Health and Human Service		−11.470
General Services Administration:		
Federal buildings fund		91.059
Information Resources Management Services, operating expenses		2.108
Office of Inspector General		−.235
Allowances and office staff for former Presidents		−.026
Federal supply service		−1.046
Federal Property Resources Activities, operating expenses		−.075

CBO ESTIMATES COMPARED TO OMB ESTIMATES TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, Fiscal Year 1992—Continued

[In millions of dollars]

	House Committee	
	Budget authority	Outlays
Real property relocation		−4.653
General Activities, General management and administration		−5.526
Total, General Services Administration		81.606
Other independent Agencies:		
Administrative Conference of the United States		.014
adivisory Commission on Intergovernmental Relations	0.003	
Advisory Commission on Federal Pay		−.008
Committee for Purchase from the Blind		−.012
Federal Election Commission		−.125
National Archives and Records Administration		−3.365
Office of Government Ethics		.025
Merit Systems Protection Board		−.460
Office of Special Counsel		−.078
Federal Labor Relations Authority		−.166
U.S. Tax Court		−.291
Total, Other Independent Agencies		−3.881
Office of Personnel Management:		
Salaries and expenses		−.101
Office of Inspector General		−.046
Total, Office of Personnel Management		−.147
Adjustment for CBO scoring of supplemental		3.240
Budget resolution adjustment		129.000
Total adjustments	−4.400	234,478
OMB estimate, domestic discretionary spending	10,918	11,505

	Budget authority	Outlays
602(b) allocation:		
Domestic discretionary	10,750	11,100
IRS adjustment	172	169
Adjusted 602(b) allocation	10,922	11,269

[1] Based on CBO bill run dated June 12, 1991. For comparability purposes, the IRS adjustment was removed from CBO scoring of the bill.

Note.—Detail may not add to totals due to rounding.

□ 1330

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of the rule providing for consideration of H.R. 2622, the Treasury-Postal appropriations bill.

I understand the concerns about points of order which have been preserved against certain provisions in the bill but I believe that the Committee on Ways and Means has been responsive to the proponent of the provisions relating to taxpayer rights. In fact, the Subcommittee on Oversight of the Committee on Ways and means has scheduled a hearing on taxpayer rights and has already invited the gentleman to appear at the hearing.

I believe the Oversight Subcommittee of the Committee on Ways and Means is the appropriate forum for considering issues related to IRS treatment of taxpayers. This rule preserves regular order, properly protecting the ability of committees to consider matters within their jurisdiction.

I urge my colleagues to support the rule.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, did the gentleman request the waiver for the other IRS provision which is going to be offered in amendment form during the consideration of this bill?

Mr. ROSTENKOWSKI. The gentleman who has objected to the Traficant proposal, it was in the bill, and, therefore, I was aware of the fact that this was objectionable to the Committee on Ways and Means member. I had no idea that the Gephardt amendment was going to be agreed to in the Committee on Rules.

Mr. WALKER. If the gentleman will yield further, is the gentleman willing to support the waiver for the Gephardt amendment in this bill?

Mr. ROSTENKOWSKI. That is a judgment that the House will make.

Mr. WALKER. But that is the issue that the gentleman from California has raised is that we have granted a waiver in this rule so when the gentleman supports the rule it seems to me he is supporting the waiver granted to the Gephardt amendment that also goes to an issue that probably ought to be heard in the Committee on Ways and Means before we vote on it in this form.

Mr. ROSTENKOWSKI. After having had the Gephardt amendment made in order, it is the intention of the chairman of the Committee on Ways and Means to support the rule.

Mr. WALKER. I thank the chairman.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished ranking member of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the effort of the distinguished member of the Committee on Rules, the gentleman from California [Mr. DREIER], to defeat the previous question on this rule so that we can amend the rule to protect the American taxpayers against possible harassment and possible abuse by the IRS.

Mr. Speaker, I am just as puzzled as the gentleman from California was as to why the Committee on Rules would protect an amendment to increase auditing of the rich but would not protect the provision already in the bill which would protect all taxpayers from abuse, rich and poor alike.

You know, when the Declaration of Independence was written some 215 years ago next month, as a matter of fact, one of the repeated injuries and usurpations its author complained about was that the King had, "erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance."

Mr. Speaker, I would not for a moment want to compare our present Government, its bureaucracy, and its many fine civil servants to the administration of King George III. But the fact is there are cases that we frequently hear about, especially if we play the ombudsman role as I do when I go home every single weekend, cases of bureaucratic abuse and harassment of American taxpayers. Unfortunately the IRS seems to be mentioned the most in this regard, probably because it is charged will collecting something very near and dear to our hearts, our hard-earned tax dollars.

Even if you are in the 28-percent tax bracket, and you pay a 15-percent Social Security tax, and in New York State another 7 percent, pretty soon you have more than 50 percent of your income and wages going to one level of government or another.

We have all heard our share of real-life horror stories of constituents hounded, pressured, and pursued, often when they have committed no wrong at all. I understand that the agency has undertaken a really concerted effort to correct and eliminate such practices and such abuses, and for that I think the IRS is to be commended. In fact, section 531, which we are trying to protect by an amendment to this rule right now, recognizes that ongoing effort and calls on the IRS to report back to this Congress in 6 months after enactment on the progress being made in this program to prevent abuses of taxpayers' rights.

In addition, the section would establish a monitoring group in the IRS to evaluate the effectiveness of this program and, finally, it would require the General Accounting Office to also evaluate the effectiveness of the program and report back to this Congress.

Mr. Speaker, I commend the gentleman from Ohio [Mr. TRAFICANT], poised over there, who is the author of the bill on which this section is based.

□ 1340

I especially want to commend the chairman and the ranking Republican on the subcommittee, the gentleman from California [Mr. ROYBAL] on the other side of the aisle and the gentleman from Virginia [Mr. WOLF] on our side of the aisle for including this provision in the bill.

Mr. Speaker, we in this House have a very special responsibility when it comes to tax matters, since we of the House originate tax legislation. We also have a corresponding responsibility to conduct continuing oversight of the agency charged with collecting tax revenues to ensure that the system is both efficient and fair to the American people. To deny this taxpayers' bill of rights, this section in this bill, would be a crime against every taxpayer in this country.

Therefore, Mr. Speaker, let Members give our constituents the protection and fair shake this provision would help ensure. Let Members vote down the previous question that is going to be moved in a minute, and for the Dreier amendment to the rule which will afford that protection. All we want to do is the same thing this rule is doing for the gentleman from Missouri [Mr. GEPHARDT], and that is waive the rule so that we could have this language stay in the bill. I do not think there is one person in this House that would vote against it if it were a bill on the floor right now, not one. But it will be knocked down on a point of order unless we defeat the previous question.

Members, please come on this floor and vote down the previous question.

Mr. DREIER of California. Mr. Speaker, when I joined the Committee on Rules I did not think that I would be fighting on behalf of the rights of Members of the majority party; however, I am happy and proud to yield such time as he may consume to the author of this measure, which was incorporated in the bill, and unfortunately has been knocked out, the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I appreciate the gentleman yielding. I also appreciate the comments of the gentleman from New York [Mr. SOLOMON], and I appreciate the efforts of the gentleman from Pennsylvania [Mr. WALKER]. I have been here many times voting against your initiatives, and these gentlemen have voted against mine. However, I feel very good today that the minority has a look at the situation that I think the House should be addressing today.

I am a firm believer that all persons should be treated alike, even if it is like dogs, all persons should be treated alike.

Let me give Members a little background, because I am not sure we will prevail in defeating the previous question. Last year I was able to get the committee to accept language that would produce a program within the IRS that would call for a program that the IRS would have to institute to make sure that they go over the taxpayer bill of rights and ensure that every effort is taken, every measure is taken so that the taxpayers are not abused, intimidated, or scared to death.

The Committee on Rules graciously allowed my amendment and protected it from a point of order. The Committee on Ways and Means did not challenge it, and it was passed. It went to conference, and the truth is, the IRS did not want that language, and the IRS in conference was able to get the shakers and bakers behind the scenes and strike it out. What I have done, I have gone back to the committee and I have spent a good year trying to do it the right way, and the committee, regardless of the internal squabbles of staff who really do not want this, the leadership of that committee put it in the bill and asked the Committee on Rules to protect it from a point of order.

Now comes the Committee on Ways and Means, and I do not knock any person for it. I am certainly not going to take off on any other amendments, but let me say this. The Gephardt-Obey amendment is fine with me except for one thing. That chairman and that committee knew nothing about that amendment. It was brought cold turkey before that committee. It was a blatant use of power, and asked the Committee on Rules to protect it from a point of order and they did. Meanwhile, they overlooked someone who has about had it. Now, I do not know what the final outcome will be. I think the gentleman from New York [Mr. SOLOMON] explained my humble language which says that if the IRS said last year they did not need Traficant language in the law because they already have that program, then all my language says is that there be a report, and a monitoring group set in place to ensure that that service is being delivered.

Finally, let the General Accounting Office go in and look at it and report to the Congress and say, "Every measure is being taken to try and protect the American taxpayers from overzealous abuse by some IRS agents." That is good law. That is good language. I appreciate the fact that the minority has tried to give me a helping hand with that. To all of the Members of the leadership who are saying, what are we going to do on this bill, there is not a great chairman in the House and no one on the minority side who I have more respect for than the gentleman from Virginia [Mr. WOLF], the gentleman from New Mexico [Mr. SKEEN], and the Members on the floor here today, but I am going to protect my rights within the rule on the Treasury bill. I am going to protect my rights under the rules on the Treasury bill, and I want section 531 made into law.

I am very honored by the fact that the gentleman has given me this opportunity to speak, first of all, the gentleman from California [Mr. DREIER], and I thank the gentleman very much for his support.

Mr. DREIER of California. Mr. Speaker, I would like to thank my friend for his fine statement and say that we are here to protect the rights of every single Member of this House. Usually we have to simply protect the rights of the minority; clearly in this measure, it was incorporated in the bill. To have it knocked out is very unfair, and for the Congress to have an "us versus them" kind of package come here and be considered by this House, and not allow the gentleman's provision which clearly would ensure that taxpayers at all income levels would have the right to be protected is, I think, a real tragedy.

Mr. SPEAKER. I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, let me say so that those Members not on the floor right now will understand, that there is going to be a vote on the previous question. If the previous question is voted down, if Members come into this Chamber and vote no, a majority of the Members vote no, it simply means that a waiver will then be allowed to permit the taxpayers' bill of rights to stay in the bill. This is not an amendment that is going to be offered. This is simply to allow the language that is in the bill now to stay there and not be knocked out on a point of order. It is as simple as that.

I certainly expect every Member to come over to the House and have a unanimous vote to let the gentleman's language stay in the bill on behalf of the taxpayers of this Nation.

Mr. DRIER of California. Mr. Speaker, that is a very good point. We are constantly saying let the committee process work. The committee process worked here and the subcommittee under the jurisdiction of the Committee on Appropriations had this measure in here. All we are attempting to do is ensure that it has the right to stay in that measure.

Mr. Speaker, I yield 3 minutes to my friend, the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I take a couple of minutes here, hopefully that the gentleman from California would respond to a couple of questions. Some Members who are not in the Committee on Rules, when all of a sudden this amendment from the majority leadership appeared almost miraculously, are a little puzzled by the language.

If I read the language, it is pretty ill-defined as to what is meant there. Can the gentleman tell me, before the Committee on Rules, who are the "rich" that we are now going to have the IRS harass?

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, that is something that is very perplexing to all Members because this proposal is very vague. We do not know, exactly, what the determination is.

Mr. WALKER. Could it be the upper 25 percent of the population?

Mr. DREIER of California. If the gentleman will yield, it could be almost anything.

Mr. WALKER. The upper 25 percent of the population means nearly anybody making over $25,000 a year is going to be now specifically harassed by the IRS.

Let me ask the gentleman, are Members of Congress included in this provision?

Mr. DREIER of California. Would they fall in the upper 25 percent?

Mr. WALKER. They certainly would, sure; sure they would.

Mr. DREIER of California. If they would fall in the upper 25 percent, I suspect they would be included.

Mr. WALKER. Let me ask the gentleman this, if someone won the lottery in Pennsylvania, was a lucky guy, and he had never made a dime in his life. He went out and won the lottery, would the majority leader's provision have him harassed by the IRS?

Mr. DREIER of California. Certainly in the first year he would fall as a high-income individual, and certainly thereafter if he invested wisely he would be in high assets.

Mr. WALKER. What about if he played a few games in taxes in years past when he made only $3,000 or $4,000 a year, could they go back and harass him for back taxes and all kinds of things, based on the fact that he has just won the lottery?

Mr. DREIER of California. Based on the performance we have seen from the

IRS, I would be surprised if they did not.

Mr. WALKER. None of this is defined in the amendment.

So, it is an open-ended harassment of taxpayers by the IRS that the gentleman from Missouri gave no definition for.

Mr. DREIER of California. The gentleman is correct.

Mr. WALKER. That is right, the gentleman from Missouri did not show up at the committee, did he, the author of the amendment was not there, so we do not know what he meant by the language. The language is so badly defined, the "rich" could be the upper 50 percent of the taxpayers.

Mr. DREIER of California. No guidance whatsoever. The IRS, from what I have seen in the past, runs roughshod over the taxpayer, and I expect this would expand the opportunity more.

Mr. WALKER. We remember the gentleman from Missouri [Mr. GEPHARDT] bringing to the floor in the last session of Congress his so-called luxury tax amendment that was always supposed to go after the rich. It had the unintended consequence of throwing, literally, thousands of blue collar workers out of jobs. I hope that the gentleman has thought through this amendment a little more carefully, and it will not have the unintended consequence of sicking the IRS on about 25 percent of the American working people.

It appears to me as though the language says almost nothing. I am very worried about what we are about to do, and the Committee on Rules granted a waiver.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to my friend, the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, when I hear the gentleman from Pennsylvania [Mr. WALKER], I get confused sometimes. Who is running the IRS? Who is in charge of the IRS? I get confused as to which party it is.

Mr. DREIER of California. If the gentleman will yield, I suspect that there are many people in the gentleman's district who work for and probably run the Internal Revenue Service.

Mr. HOYER. Is the President in charge? Is the President responsible for running this Government?

Mr. DREIER of California. If the gentleman will continue to yield, yes, the President is responsible for those items which fall under the rubric of the executive branch.

Mr. HOYER. Is the IRS not in the executive branch? Is that the contention?

Mr. DREIER of California. I agree with my friend.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, the gentleman from Maryland is raising an interesting point. We are mandating the IRS to do something, something that does not make sense, because it is ill-defined, and we in Congress are telling the IRS to do this whether the IRS thinks it is a good idea or not.

□ 1350

So it does not matter who runs the IRS in an administrative sense. We are putting a mandate on them, and it seems to me it is an open-ended enough of a mandate that the IRS could end up with 25 percent of the American people being harassed because of action we took here in the House. It is stupid.

Mr. DREIER of California. Mr. Speaker, to clarify a number of these items, I yield 3 minutes to the gentleman from Virginia [Mr. WOLF], the very distinguished ranking member of the subcommittee.

Mr. WOLF. Mr. Chairman, I thank the gentleman from California for yielding me this time.

Mr. Chairman, if you are going to allow the Gephardt language to be offered, then you clearly ought to allow the Traficant language, because it is a protection. It reinforces taxpayers' rights.

The second point I want to make, and I do not know what the body will do on the Gephardt language, but Members really ought to ask themselves, is this an echo of ages past when other administrations improperly directed the IRS to go after people?

Now, I had my staff check, and since the amendment loosely defines it, who are the high-income and high-asset people? I think, frankly anyone who owes taxes ought to pay and the IRS ought to treat everyone fairly.

Who are the high-asset people? Publishers of newspapers, athletes. The average salary for a basketball player is $1 million, for baseball players $850,000, for football players $355,000. Michael Jordan of the Chicago Bulls and Patrick Ewing of Georgetown earn over $3 million a year, so clearly this amendment would go after them.

Also you have the situation of baseball pitchers Roger Clemens of the Boston Red Sox, who makes $5 million per season, and Los Angeles Dodgers outfielder Darryl Strawberry recently signed a 5-year $20.25 million pact.

Also you have high-income labor leaders, movie stars; you have the situation of Barbra Streisand, Robert Redford.

If you want to go after any one group, and I think everyone ought to pay their fair taxes, I think what the gentleman from Ohio [Mr. TRAFICANT] is trying to do is protect the taxpayer at every level, and I think it is a fair and appropriate thing to do. It does give some balance to the process.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the chairman of the Rules Committee.

Mr. MOAKLEY. Mr. Speaker, I was upstairs conducting a hearing and that is why I was not here when the matter of the Traficant amendment came up.

The question is, why was not the Traficant language in the bill not made in order? The Traficant language which is included in the bill is subject to a point of order because it violates clause 2 of rule XXI, which does not allow legislative authorizing provisions in an appropriations bill.

Now, Mr. Speaker, it has been a longstanding tradition for the Rules Committee to defer to the committee of jurisdiction when there is a problem with the provisions in a particular piece of legislation that is not within the jurisdiction of the committee making the request before the Rules Committee. The Rules Committee encourages the authorizing and appropriating committees to work very closely in the areas of common interest in making the request of the Rules Committee.

In this particular instance, Mr. Speaker, the chairman of the Ways and Means Committee expressed his opposition to waiving points of order against the section of the bill because it is an issue that is directly within the jurisdiction of the Committee on Ways and Means. Nearly identical legislation introduced by the gentleman from Ohio [Mr. TRAFICANT] is currently pending in the Ways and Means Committee.

Chairman ROSTENKOWSKI, after I adjourned the committee, I called the chairman on the phone and asked if he had any plans to hear the Traficant bill. He assured me that the bill will be heard in July and he guaranteed that the gentleman from Ohio [Mr. TRAFICANT] would be invited there to testify.

So I feel that would take care of the gentleman from Ohio [Mr. TRAFICANT].

I think in all fairness that the language in the Traficant bill is not bad language, but the problem is that if we are going to take requests that trot all over committee jurisdiction, the committee would be in shambles around here.

I know that we have very difficult times on these turf decisions, but in fairness to the gentleman from Ohio [Mr. TRAFICANT], I adjourned the committee, called the chairman of the Committee on Ways and Means and said that there are many Members who like the language that the gentleman from Ohio [Mr. TRAFICANT] is talking about. He assured me that the pending legislation before his committee will be heard in July and the gentleman from Ohio [Mr. TRAFICANT] will be heard, and I felt that was fair enough.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MOAKLEY. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, how does that all fit with the Gephardt amendment, now that the waiver has been granted?

Mr. MOAKLEY. The chairman had no objection to the Gephardt provision.

Mr. WALKER. The chairman said on the floor just a few minutes ago that he did not know anything about Gephardt.

Mr. MOAKLEY. Well, as the gentleman well knows, I say to the gentleman from Pennsylvania [Mr. WALKER] that whenever any chairman has any objection to any part of any rule, we either get a call or we get a letter from him. We got a letter against the Traficant language. We got no language against Gephardt, and when we checked we found there was no objection.

Mr. WALKER. Well, Mr. Speaker, if the gentleman will yield further, the point is that the gentleman from Illinois told me just a few minutes ago on the floor that he knew nothing about the Gephardt amendment, and yet the committee seems to have gone ahead and taken action without checking with the gentleman from Illinois on that item within his jurisdiction.

Mr. MOAKLEY. Well, the actuality is that the call I made to Chairman ROSTENKOWSKI was a long distance call. He was not in town that day. We did check with his committee and the committee said there was no objection to the Gephardt language.

Mr. WALKER. So the staff made the decision for the House on this?

Mr. MOAKLEY. Well, I do not say the staff. We have to believe that the chief staffer represents the chairman's position. If he cannot be physically before us, we have to rely on somebody. We rely on the chief staff person.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Ms. SLAUGHTER of New York. Mr. Speaker, let me make one point; the administration has no objection to the Gephardt-Obey-Dorgan amendment.

Mr. Speaker, I yield 4 minutes to the gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think this is an amendment that most Members would want to be for, because the General Accounting Office has found that the Internal Revenue Service in the past has had a policy of only auditing, primarily focusing their audits on middle-income and lower-income taxpayers.

When this policy was brought forward and brought to the public's attention through the GAO report, the IRS testified before the Congress through Commissioner Goldberg that they wanted to change that policy and were going to audit higher income taxpayers as well as middle-income taxpayers.

The reason I bring the amendment is that there were expressions from other Members of the executive branch, including the Office of Management and Budget, saying that they did not want the policy of the IRS to change, that they wanted to concentrate the audits on middle-income taxpayers because the idea was that is where most of the money comes from.

I think all of us want the same thing. We want to make sure that the GAO report is carried out. We want to make sure that the IRS carries through on its own expressed desire. We want to make sure there is no backsliding on this issue, that we stay with the program as announced, and we want to make sure that any additional funds, which is precisely what the amendment says on the information reporting program, are not used in ways that will be contrary to that GAO report.

There has been some debate here about the so-called taxpayer rights' legislation, which I support and I think most of our Members also support. I would hope that the Ways and Means Committee will bring those recommendations forward at the earliest possible moment, that we will debate them both in the committee and on the floor.

□ 1400

I think we need to address those issues. I will certainly work with any Member who wants to try to get those provisions into the law. We certainly need them, have needed them, and will need them in the future, and we ought to make sure that they are in the law as quickly as possible.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, there is a little bit of confusion about the gentleman's amendment, at least on my part, because the language is so imprecise. Who do we mean when we say high-income or high-asset taxpayers? Whom does the gentleman intend to cover by that?

Mr. GEPHARDT. The GAO said people $100,000 of income and above.

Mr. WALKER. So for the purposes of legislative history, the gentleman means people of income of $100,000 of income and above.

Mr. GEPHARDT. I would be happy with that, but I really believe that you would want to leave this to the IRS to make that determination. They seem comfortable and the GAO seems comfortable with that definition, and I am confortable with that definition. But it may be they want to go a little higher or a little lower than that.

Mr. WALKER. Mr. Speaker, that leaves us pretty imprecise. The gentleman has said it may be $100,000 but they might go higher and they might go lower. I mean how much lower is a little lower? Can they go down to $30,000, as an example? What is the real nature of this amendment?

I am not certain if we are clear, even after the author of the amendment has brought it before us, that this may not be used as a technique for harassing a broad base of taxpayers in this country. And I would hope—I would be glad to yield to the gentleman.

Mr. GEPHARDT. Please understand no one is trying to encourage the harassment of anybody. What we are trying to do is to see that the audit procedure of the IRS is done on some fair basis. The understanding of the GAO report was that people, by their definition, of higher income levels were simply not being audited, that the policy of the IRS was to only audit people below that amount.

Mr. WALKER. I thank the gentleman for his point. Some of us today are a little suspicious of GAO reports too, because we found that they tend to be loaded for political purposes. But that is another issue for another time.

Mr. GEPHARDT. If the gentleman will yield, the IRS accepted the GAO report, admitted that that is what they were doing, and said they wanted to adopt a new policy. I simply want to make sure that that policy is adopted.

Mr. WALKER. What the gentleman is doing then is suggesting that IRS is not going to do that and so he comes with an amendment that essentially mandates a certain procedure upon them. This gentleman simply has concerns because the gentleman well knows we mandated the luxury tax here a couple of months or several months ago in an effort to try to go after the rich, and found out that what it did was hit blue-collar workers all over the country. I would suggest we do not want to make that same kind of mistake again.

Mr. GEPHARDT. I know you voted for that luxury tax, and I think it was the right policy, and perhaps the recession——

Mr. WALKER. This gentleman did not vote for it. I am sorry the gentleman did.

Mr. GEPHARDT. If the gentleman will yield, we may give you another chance to vote for that luxury tax.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to comment on the information that the gentleman from Missouri provided. It concerns me greatly to hear this $100,000 level. I wonder, does this mean a couple who earns $100,000, lives in New York City, has four children in college, meeting those expenses there is categorized with a single person who earns $100,000 lives in Iowa?

I would like to say, in all fairness to Chairman MOAKLEY, as I said in my opening statement, he clearly has bent over backwards in an attempt to accommodate, and he did leave the room to make this call to try to bring about some kind of agreement with Chairman ROSTENKOWSKI. I congratulate him for that. I simply think we need to do everything we can to ensure that the rights of another member of the majority are protected here, Mr. TRAFICANT. That is the reason I am going to urge a "no" vote on the previous question.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to reiterate that the administration understands and support the Gephardt amendment, and has no objection to it in any case.

Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. I thank the gentlewoman for the time.

Mr. Speaker, I simply take this time to say that I am somewhat amused by the perplexed attitude on the part of the two previous speakers. They suggest that they do not know if they believe the GAO. I wonder if they would believe the Wall Street Journal's account of what happened.

The Gephardt amendment is very simple. In contrast to what the White House OMB instructions are, which said to the IRS, "Whatever additional funds you get, audit middle-class people," this language simply says, "Forget those instructions, and no matter what future pressure you might get, make sure that whatever additional funds the IRS gets will be used to audit high-income taxpayers."

I think the question is clear. The question is simply whose side are you on? I think what we are saying is, "For a change let us be on the side of middle-class taxpayers."

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. DREIER of California. I thank the gentleman for yielding.

Mr. Speaker, I think it is very clear what we are trying to say, we believe that the measure which has been offered by the gentleman from Ohio [Mr. TRAFICANT] clearly addresses the concern of taxpayers at all levels. He has had this provision pending before the past two Congresses, and it seems to me that this is an opportunity to bring it forward as this committee proceeds.

Mr. OBEY. Reclaiming my time, I am not referring to the gentleman from Ohio [Mr. TRAFICANT]. I am referring to the comments made by the gentleman from Pennsylvania [Mr. WALKER] who indicated that he was confused about what high-income taxpayers were going to be and the other speaker who indicated that he did not know whether this was going to apply to somebody who made $100,000 in New York or in the Midwest.

My attitude would simply be that, any time, it is better to have IRS focus on people who are making $100,000 a year or more and corporations, rather than going after people making $30,000 a year. That is the spirit of the amendment.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Maryland.

Mr. HOYER. I thank the gentleman for yielding.

Mr. Speaker, consistent with what the gentleman from Wisconsin just said, let me quote, in response to a question that I put to him, the Commissioner Goldberg, an appointee of the administration, President Bush's executive department: "In 1981 we examined about 7 percent of the taxpayers who had more than $100,000 in Schedule C. This year we will audit 3 percent," 10 years later. In other words, what has happened with the wealthiest Americans, talking about harassment, 3 percent is certainly not harassment of auditing if they are paying their fair share. While the focus, as the gentleman from Wisconsin has said, at White House direction has been on middle-income taxpayers, we have cut more than 100 percent, cut in half, the audits on the richest Americans.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, we just got treated to a totally phony number that comes out of the administration, and it is still a phony number. That is that you have literally thousands more taxpayers making over $100,000 a year in 1991 than you did in 1981. So 3 percent of that number is probably a lot more taxpayers than you had in 1981; comparing the percentage of people making over $100,000 ignores the fact that $100,000 is being made by a lot more people than it was 10 years ago.

So I mean what a phony figure to throw forward to support language that is ill-defined to begin with.

I would hope that we are going to examine this a lot more closely and maybe have a hearing on it before we go ahead with that kind of nonsense.

Mr. DREIER of California. Mr. Speaker, how much time is remaining?

The SPEAKER pro tempore (Mr. VISCLOSKY). The gentleman from California [Mr. DREIER] has 5 minutes remaining, and the gentlewoman from New York [Ms. SLAUGHTER] has 15 minutes remaining.

Mr. DREIER of California. Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I have no further requests for time, and if the gentleman from California has more, I would like for him to take it on his time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume. I do so to simply explain that this entire debate that we have been having centering around the Gephardt proposal really is not the issue here in our call to vote down the previous question. I argued that if we are going to make one legislative amendment in order relating to the Internal Revenue Service and its enforcement approach, it seems to me we should simply protect a measure which is already in the bill. That is all we are trying to say here.

We want to protect a measure that the gentleman from Ohio, Mr. TRAFICANT, has included with Chairman ROYBAL and Mr. WOLF, the ranking member, and we see that as a measure which protects taxpayers at all levels.

All I plan to do, when we defeat the previous question here, is to offer that as an amendment so that we can assure that the measure is protected.

So I urge my colleagues to vote down the previous question so that we can move ahead with this amendment and maintain this provision which was kept in the bill.

Mr. MCEWEN. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from Ohio.

Mr. MCEWEN. I thank the gentleman for yielding.

Mr. Speaker, in order to better understand the clarification of the vote here: A "no" vote is an expression of support for the taxpayers bill of rights. The taxpayers bill of rights will not be on the floor unless we vote "no" here. A "yes" vote is a vote to deny the taxpayers bill of rights being presented to the House.

Mr. DREIER of California. The gentleman is absolutely right, and I hope my colleagues will recognize that when we cast the vote on the previous question.

□ 1410

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for yielding.

In response to the comment of my friend from Pennsylvania, let me quote him another figure: Audits. Numbers of audits that have been conducted have gone down 22 percent. Actual numbers, not percentages, all those people the gentleman talks about. Actual audits are down, and we are conducting only 80 percent of the audits, and I am sure the gentleman likes that, perhaps. But Cal Tech says, a study by Cal Tech, not GAO, said that that may be costing us as much as $45 billion for people who owe taxes who are not paying them.

Now let me tell my colleagues who gets it in the neck. Not the wealthiest who have the accountants, not the wealthiest who have tax shelters, not the wealthiest Americans who can avoid taxation. The average middle American has got to pick up that bill for $45 billion, or, as has been happening, we have borrowed the money to fund Government, and it is the average grandchild, an average child who is having put on his back incredible debt because so many very wealthy people are not paying their fair share. That is what the amendment of the gentleman from Missouri [Mr. GEPHARDT] is about.

Now I am a member of the committee and supported the inclusion of the amendment of the gentleman from Ohio [Mr. TRAFICANT], so we understand I am not talking about apples, nor oranges.

Mr. DREIER of California. Mr. Speaker, will the gentleman yield?

Mr. HOYER. Mr. Speaker, I yield to the gentleman from California unlike my friend who did not yield to me.

Mr. DREIER of California. Mr. Speaker, we were just running out of time on our side, and, Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER], my friend.

Mr. HOYER. Mr. Speaker, I appreciate that and yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman from Maryland [Mr. HOYER] for yielding.

If the gentleman is a proponent of the amendment of the gentleman from Ohio [Mr. TRAFICANT], then he clearly would be one of those who would join in defeating the previous question on the measure so we can incorporate that into the bill.

Mr. HOYER. Mr. Speaker, is that a question or rhetorical observation?

Mr. DREIER of California. Mr. Speaker, if the gentleman would like to respond to either, he is certainly welcome.

Mr. HOYER. Mr. Speaker, I would be glad to respond.

I am going to support the rule, as I am sure the gentleman was convinced clearly here, so the American public understands. What we have is a jurisdictional problem. We all know that. The Committee on Ways and Means has jurisdiction over this particular issue. They do not like the Committee on Appropriations transgressing on their jurisdiction. They are not unlike almost every other committee, whether it is the Committee on Appropriations, the Committee on Ways and Means or other authorizing committees.

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield on that point, it seems to me the jurisdiction for the amendment of the gentleman from Missouri [Mr. GEPHARDT] would also be a question here as it relates to this bill.

Mr. HOYER. I think the gentleman from California [Mr. DREIER] is correct and, had the chairman objected, I think the amendment of the gentleman from Missouri [Mr. GEPHARDT] would not be around. But the chairman did not.

Now we can question that judgment, but it is a jurisdictional question.

Let me say——

Mr. DREIER of California [continuing]. Based on what he said here on the floor——

The SPEAKER pro tempore (Mr. VISCLOSKY). The time of the gentleman from Maryland [Mr. HOYER] has expired.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield to the gentleman from Maryland an additional minute.

Mr. HOYER. Mr. Speaker, let me say to the gentleman from California [Mr. DREIER] and all the Members that I do not think there is a Member in this House that does not want to see hopefully a fair tax process. As a member of the committee, the efforts of the gentleman from Ohio [Mr. TRAFICANT] I have supported. We did some last year. I want my colleagues to know that I intend to continue to support this. I think Mr. Goldberg, I am convinced, who I think is doing a good job by the way; I want to make it clear from a partisan standpoint. I think Commissioner Goldberg is doing an outstanding job. We have less complaints about IRS this year than we had 2 years ago, but the fact of the matter is it is not in order. We are going to deal with that, but that is not to say we are going to forget about the amendment of the gentleman from Ohio [Mr. TRAFICANT]. We are going to push for Commissioner Goldberg to perform on it. I think he is going to do it. It is good policy.

Mr. DREIER of California. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, with reference to the amendment of the gentleman from Missouri [Mr. GEPHARDT] I hasten to say that this is no ordinary amendment. The distinguished majority leader is not one to pass up an opportunity to bash the bloated bondholders, the economic royalists, or what that great icon of the Democratic Party, F.D.R., used to call them—from his estate in Hyde Park—malefactors of great wealth.

Now some, more cynical than myself, might assume this amendment classifies wealthy people by definition as more dishonest than the rest of us, and those unacquainted with the niceties of political nuance might conclude an estrangement exists between the party of the people and the rich and famous, but that would be totally wrong. The Democrats now hold their conclaves with the landed gentry in Middleburg, VA, the hunt country. Greenbrier no longer measures up, and, far from being alienated from the well-to-do, they flutter to Hollywood like moths around a flame to cluster around Barbra Streisand's pool at $5,000-a-plate dinners and where they have the rare opportunity to clear their foreign policy with Whoopi Goldberg.

Now some large Democratic donors might view the gentleman's amendment as rank ingratitude. I prefer to assign this amendment as just another volley in the perpetual class struggle, sort of a shot across the bow of those luxury yachts they have targeted for extinction. But if the authors want to bite the hand that feeds their party so sumptuously, I say, "More power to them."

Mr. DREIER of California. Mr. Speaker, I yield myself the balance of our time.

Mr. Speaker, let me just say with the closing minute that the gentleman from Illinois [Mr. HYDE] raises some very fascinating points, but that really is not the issue we are considering right now. We are considering whether or not we will incorporate the amendment of the gentleman from Ohio [Mr. TRAFICANT] here, or allow it to remain in the bill itself. So that we can do that, I urge a no vote on the previous question.

Mr. Speaker, I yield back the balance of my time.

Ms. SLAUGHTER of New York. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Ms. SLAUGHTER of New York. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 252, nays 162, not voting 18, as follows:

[Roll No. 157]

YEAS—252

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
Bacchus
Beilenson
Bennett
Berman
Bevill
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English

Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Hutto
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—162

Allard
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Snowe
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—18

AuCoin
Bilbray
Chandler
Chapman
Clinger
Hopkins
Hubbard
Johnson (TX)
Levine (CA)
Lloyd
Martinez
McDade
Mollohan
Mrazek
Roukema
Serrano
Smith (TX)
Spence

□ 1440

Mr. SMITH of Iowa changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. VISCLOSKY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DREIER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 253, nays 163, not voting 16, as follows:

[Roll No. 158]

YEAS—253

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
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NAYS—163

Allard
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Archer
Armey
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Barrett
Barton
Bateman
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Bilirakis
Bliley
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Edwards (OK)
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Rohrabacher
Ros-Lehtinen
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Santorum
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Smith (NJ)
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Taylor (NC)
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Vander Jagt
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Young (AK)
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NOT VOTING—16

AuCoin
Bilbray
Chandler
Clinger
Dymally
Hopkins
Hubbard
Levine (CA)
Lloyd
McDade
Mollohan
Mrazek
Roukema
Serrano
Smith (TX)
Spence

□ 1457

Mr. NEAL of Massachusetts changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROYBAL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain independent agencies, for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Virginia [Mr. WOLF] and myself.

The SPEAKER pro tempore (Mr. VISCLOSKY). Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. ROYBAL].

The motion was agreed to.

□ 1459

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2622, with Mr. STUDDS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from California [Mr. ROYBAL] will be recognized for 30 minutes, and the gentleman from Virginia [Mr. WOLF] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. ROYBAL].

□ 1500

Mr. ROYBAL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Appropriations Committee presents a bill for your consideration today that provides $19.7 billion in recommended appropriations for 1992 for both mandatory and discretionary items. The bill before you is $241 million under the budget estimates; and $1.2 billion under 1991; the bill is exactly at the level provided in the 602(b) allocation for discretionary budget authority; and $5 million under the 602(b) allocation for budget outlays.

The departmental amounts for new budget authority are:

For the Treasury Department, $9.5 billion, a reduction of $126 million below the estimates and $746 million over 1991;

For the Postal Service, $649 million for revenue forgone, the exact amount of the Budget request from the Postal Service necessary to maintain current rates for nonprofit mailers—known as revenue forgone—and an increase of $177 million above 1991. The committee also funded the mandatory payment to the employees compensation fund at the $141 million level requested by the administration;

For the Executive Office of the President, $284 million, a reduction of $5 million below the budget request and an increase of $4 million above 1991;

For independent agencies covered by this bill—such as GSA, the Office of Personnel Management, the Tax Court, and others—$9.3 billion, a reduction of $111 million below the estimates, and a reduction of $2.1 billion below 1991.

The bill before you recommends funding for most of the agencies at the levels requested in the President's Budget, as set forth in the report accompanying this bill. Because of the very low 602(b) allocation that our subcommittee received, we were not able to fund any of the many requests for grants that we received. We were also forced to make other reductions in accounts that we would have liked to fund at a much higher level.

I commend the ranking minority member, Mr. WOLF, for the great job that he has done, and I appreciate the conscientious and faithful service of all the members of the subcommittee. Mr. WHITTEN, Mr. HOYER, Mr. SKAGGS, Ms. PELOSI, Mr. YATES, Mr. EARLY, Mr. MCDADE, Mr. WOLF, Mr. LIGHTFOOT, and Mr. ROGERS have all been highly supportive of the bill now before you.

Mr. Chairman, this is a good bill and a fair bill. I urge the support of all Members.

Mr. WOLF. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to commend the chairman of this subcommittee, Mr. ROYBAL, who led the subcommittee through comprehensive hearings, a well-run subcommittee markup, and one of the fastest full committee markups that I can recall. As the new ranking member of the subcommittee, I want to thank the gentleman from California [Mr. ROYBAL] for his leadership, and especially for the spirit of bipartisanship that he promotes on the subcommittee. I also want to thank the other members of the committee, who have each added to the crafting of this measure.

The end result of the work of the subcommittee is that we bring to the floor today a good bill. The measure before the House, H.R. 2622, appropriates new budget authority of $19,747,595,000, a reduction of $240,965,000 below the President's budget request. The measure stays within the limits of the Budget Enforcement Act of last year, and is below the House 602(b) allocation for budget authority. This amount is also approximately $1.17 billion below the amount appropriated last year in the fiscal year 1991 act. Because of stringent budget constraints, the committee was not able to address all of the items that should be funded. But the measure does strike a chord for spending restraint, while directing limited resources to critical needs.

This measure funds Federal agencies that are very important to the American public. There is something in the bill that every Member of this body can support. Within the Treasury Department, several of the agencies—such as the Customs Service, the Internal Revenue Service, and the Bureau of Alcohol, Tobacco, and Firearms—produce revenue to fund the operation of the Federal Government. This measure would allow those agencies to continue to carry out important law enforcement and revenue collection activities. One problem that I hope we can work out as we move toward conference is the delayed funding for the IRS' tax system modernizatin efforts. I am hopeful that we will be able to come up with funds for this program, which will provide benefits in terms of assistance to taxpayers and increased revenue collection.

The funds included would allow the Customs Service to maintain its role in facilitating trade, which is critical to the competitiveness of U.S. industry. The report that accompanies the bill also sends a very strong message to the People's Republic of China that the Customs Service will aggressively enforce the law and prohibit the importation of products made with forced prison and slave labor.

We know, Mr. Chairman, for a fact that slave labor is used in China to make products that are exported to the West, and this bill sends a very strong message to the People's Republic of China and the Customs Service that this must end.

The bill does not include any funds in GSA's budget for private grants, which have been included in the past. This year there were requests for appropriations for private grants in excess of $170 million. Many of these requests came from universities and hospitals that are involved in very beneficial work. And many of these projects had the support of valued Members of this body. But budget constraints required that the subcommittee not fund any of these projects.

The bill also includes language that would allow the Internal Revenue Service to conduct a pilot program that would provide incentives for employees to develop ways to save the Federal Government money. Employees would be eligible for bonuses under the program, and the bulk of the savings would reduce the Federal deficit. The measure also fully funds the critical mission of the Secret Service.

The measure includes full funding for the revenue foregone appropriation to the U.S. Postal Service, which will provide for the continued support of preferred-rate mailers. This level of funding will prevent nonprofit religious, educational, and philanthropic organizations from having to fully absorb recent postal rate increases in their limited budgets.

The measure generally grants, except for some reductions made at full committee, the President's request for the agencies that comprise the Executive Office of the President, so that these agencies can continue their support roles to the President. It also provides funds to the General Services Administration to support that agency's efforts to constuct, maintain, and modernize Federal facilitates. In addition, the bill contains a provision that encourages the General Services Administration to promote energy efficiency and recycling efforts in Federal facilities.

Mr. Chairman, I want to publicly commend the gentleman from California [Mr. ROYBAL], the committee chairman, again for the wisdom and for the "profiles in courage" stance he took, holding forth and saying, "Good projects, wish we could, but we don't have the money, and so we can't."

This is an historic action that has taken place with the bill.

In short, the committee had to make some tough choices, but this is a good bill. It funds important Federal efforts in law enforcement and managing Federal funds, facilitates trade and constructing and maintaining Federal facilities as well as many other important government operations.

Again, I want to thank Chairman ROYBAL for his leadership when he turned down all his grants. That is leadership. The easy thing is to say yes, and the gentleman from California [Mr. ROYBAL] was able to say no.

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I am happy to yield to the gentleman from Kentucky.

Mr. ROGERS. Let me say, Mr. Chairman, as a new member of the subcommittee how much I respect the ranking member, the gentleman from Virginia [Mr. WOLF] and Chairman ROYBAL, especially during this markup when as the ranking member has said, a very difficult choice had to be made. The gentleman from Virginia and the chairman of the subcommittee stood right up there and made the decision, and we all joined in. A tough decision, but it had to be done in the name of fiscal integrity, and I appreciate it very much.

Mr. WOLF. Mr. Chairman, I thank the gentleman very much.

If I could add a little addendum to the "profiles in courage," I think the gentleman from California [Mr. ROYBAL] ought to get a couple pages, because I have not really seen this done around here for a very, very long while.

I also want to thank the other subcommittee members and the staff who made this process run smoothly.

□ 1510

Special recognition should go to Tex Gunnels, Bill Smith, who are as fine a professional staff as any who are in the House. Also, Evan Corcoran from my staff who worked very, very hard on this issue.

Finally, Mr. Chairman, I want to thank Tim Shea, who has been a friend and a valuable resource to the minority members and all the members of the subcommittee and was a highly faithful employee for our beloved former colleague Silvio Conte for many, many years.

I understand Tim will be moving on to bigger and better things, and we are going to miss him in every sense of the word. Tim, you have done an outstanding job, and perhaps you may want to come back as a Member, because you know as much as any Member of the House.

We are going to miss you.

Mr. Chairman, in closing I urge all Members to support H.R. 2622.

Mr. Chairman, I reserve the balance of my time.

Mr. ROYBAL. Mr. Chairman, it gives me great pleasure to yield 2 minutes to one of the most important members of the subcommittee. It so happens he is also chairman of the full Committee on Appropriations.

Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. I thank the chairman for yielding.

Mr. Chairman, I am a member of this subcommittee.

May I say at this time to my good friends, the gentleman from California [Mr. ROYBAL], and the gentleman from Virginia [Mr. WOLF], and to my other colleagues on the subcommittee, that they have done a good job. I would like to point out that this bill includes important funding for the U.S. Customs Service's work on drug interdiction, the Internal Revenue Service, the U.S. Secret Service, the Postal Service fund to continue support for charitable education and benevolent organization mailings, and the Federal buildings fund.

Mr. Chairman, the Committee on Appropriations has held the total of appropriation bills $180,800,000,000 below the recommendations of the Presidents since 1945. The money in this bill is important. This is a fine bill, and I compliment the chairman and the ranking member and the other members of this subcommittee.

Mr. Chairman, I urge adoption of the bill.

Mr. WOLF. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa [Mr. LIGHTFOOT].

Mr. LIGHTFOOT. I thank the gentleman for yielding.

Mr. Chairman, being new to the Committee on Appropriations and to the Treasury, Postal Subcommittee, I would like to voice my support for this bill and the outstanding efforts of our chairman and ranking member. As Chairman ROYBAL expressed early on, the bill is well within all of the guidelines as far as budgetary constraints are concerned. Both he and Mr. WOLF talked about the constraints that came into place.

Mr. Chairman, as a member of this House who has always prided himself on being a fiscal conservative, it is a pleasure for me to support this package so enthusiastically when the first thing we do is not spend money. That certainly fits in with my philosophy. But it was done in a very fair and a very evenhanded way.

It was, quite frankly, a business decision that was made. There were a lot of good grant proposals, including one that I had in, but when they looked at them, the money was not there and the decision was made that we should not pay for things we do not have money for.

I think that is a step, a very fine step, in the right direction, and I hope that the rest of the House follows this subcommittee's lead on all the appropriation packages and it would not be too long before we get this deficit thing under control.

It was a difficult decision, as has been stated before. But again, due to the strong leadership of Chairman ROYBAL and the gentleman from Virginia [Mr. WOLF], we were able to make those cuts where they needed to be made.

In addition, I would like to call to everyone's attention there is also some excellent language in the bill inserted by our friend, the gentleman from Virginia [Mr. WOLF], that may be called a family-friendly legislation program for Federal employees.

I share my colleague from Virginia's view that the Federal Government should be a model for private employers in encouraging the development of family-friendly employees policies and programs. Programs such as flexitime, flexiplace, leave-sharing, child care, and adoption leave. I think they all help to improve the quality of life for families of Federal employees as well as help boost the productivity of Federal employees.

I commend my ranking member for his efforts in this particular area and look forward to working with him in the future to see that all Federal agencies hopefully are on the bandwagon, so to speak, with respect to profamily policies.

I think it is just good business, good for the Government, good for the country, and it is certainly good for all of our hard-working Federal employees.

I am also pleased to note that in the bill we have the full funding request of $649 million for postal revenue forgone. This funding is critical to many charitable and nonprofit organizations and also of key importance to rural newspapers because without this funds foregone program they would be facing an increase in subscription rates. Right now that is something that although it may seem to be a small part of a person's budget, if you add that on to the people of rural America, it is more than they can stand.

Finally, I want my other colleagues on the subcommittee to know that I enjoyed working with them, and I urge my colleagues to support this whistle-clean appropriations bill.

Mr. ROYBAL. Mr. Chairman, it is indeed a pleasure for me to yield 2 minutes to another very important Member of the House of Representatives, the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 2622, the Treasury, Postal Service, and General Government appropriations bill.

This is my first time through the appropriations process as the full committee chairman of an authorizing committee although there often can be tension between the authorizers and the appropriators, I want my colleagues to know that has not been the case with the Post Office and Civil Service Committee and the Subcommittee on Treasury, Postal Service, and General Government.

It has been a pleasure to work with Chairman ROYBAL and the subcommittee, and I am truly appreciative of the Chairman's efforts to protect this committee's jurisdictional interests with respect to various legislative matters.

I am particularly pleased the committee has been able to accommodate full funding for revenue forgone. Full funding will enable charities, churches, rural newspapers, and others who benefit from the subsidy to avoid the devastating postal rate increases which would have been required under the President's budget.

The bill does contain two legislative provisions which, for jurisdictional reasons, the Committee on Post Office and Civil Service must object to. Points of order will be offered to those at the appropriate time. Of course, I will support Chairman ROYBAL should it become necessary to ward off additional postal service or civil service legislative proposals. Those proposals should be considered by the authorizing committee.

This, however, is a good bill. It deserves our support. I urge my colleagues to vote for it.

Mr. WOLF. Mr. Chairman, I yield 7 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I rise in support of the bill and would like to make a short statement and then to engage in a colloquy with the gentleman from California [Mr. ROYBAL] and the gentleman from Virginia [Mr. WOLF].

Mr. Chairman, I speak today to reflect the widespread congressional concern over the Internal Revenue Service program that is forcing millions of small businesses to abandon pensions plans and thereby compromising people's opportunity to assure their own retirement security, and wasting valuable resources in the process. I had intended to offer an amendment today to strike funding for the program, but in view of very recent changes at the IRS, I will proceed with this statement.

Mr. Chairman, the small plan audit program now underway at the IRS is a systematic review of over 12,000 small pension plans put in place by people for themselves and their workers. These audits started in 1989 and, as outrageous as it may seem, retroactively applied new arbitrary actuarial assumptions, with virtually no discretion for field agents, to thousands of small business pension plans. It is worth noting that if these same assumptions had been applied to America's large plans, similar problems could have been created.

During the 1980's, pension plan administrators relied on a 1984 IRS guidance document when making assumptions about retirement ages and expected interest earnings in pension accounts. In other words, when businesses put pension plans in place, they were obliged to make two key assumptions so that their actuaries could determine the level of investment necessary to provide retirement security.

First, they had to choose the interest rate they expected to earn in their accounts. A reasonable range was widely considered to be somewhere between 5 and 7 percent. The 1984 guidance suggested a 5 to 6 percent range so, consequently, when IRS retroactively applied 8 percent when Government itself was assuming 6.6 percent growth in the military retirement fund and 6.5 percent in the civil service fund—small business people were outraged.

☐ 1520

Second, business owners had to assume a specific retirement age. Many chose age 55, which was consistent with IRS guidance, actuarially sound, and—most important of all—was reasonable. But, alas, under the audit program, the IRS now retroactively says, "sorry, you were supposed to choose age 65 for retirement."

Mr. Chairman, this small business audit program is an abomination. By applying standards that quite dramatically differed from their own guidances it shatters confidence in government and makes a mockery of fairness in the Tax Code. By squandering valuable resources, it limits those available to examine plans that may become liabilities of the Pension Benefit Guaranty Corporation. Should IRS pursue cases where deductions were taken that clearly violated published guidance? Of course, and I hope they do go after those who were clearly unreasonable in their assumptions for their own gain.

In correspondence I have exchanged with the IRS on this subject since March 1990—and which I will offer for inclusion in the RECORD when the committee rises—I have repeatedly been told that, "IRS will be reasonable." Mr. Chairman, retroactively applying 1989 standards to tax returns from 1986, 1987, and 1988 is inherently unreasonable and a gross miscarriage of justice.

If I may engage in a colloquy with the chairman and ranking member of the Treasury-Postal Appropriations Subcommittee, I would like to ascertain their view of the small plan audit program and the committee's intent on this matter.

Mr. ROYBAL. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, I thank the gentlewoman from Connecticut [Mrs. JOHNSON] for her contribution and appreciate her focusing our attention on this situation, as sunshine in government is surely a powerful disinfectant.

I share the gentlelady's concern about the retroactive nature of the assumptions imputed in these audits and agree that the IRS should reassess its position. It is my understanding that the Service currently is considering the impact the small plan audit program has had and intends to relax its harsh stand at 8 percent and age 65 retirement for the remainder of its audits. I encourage them to do so before additional taxpayers are hurt.

Mrs. JOHNSON. Mr. Chairman, early in this program, IRS officials promised to look at the facts and circumstances of each and every pension plan audited, yet they have mindlessly insisted on the assumption of 8 percent interest rates and age 65 retirement despite overwhelming evidence that other assumptions are reasonable and actuarily sound. In view of the IRS position and the fact that over 25 of the audits have now been consolidated in a lawsuit before the Tax Court, might it be appropriate for the Service to suspend the audit program until the court has ruled?

Mr. ROYBAL. The gentlelady makes a compelling point and I hope the Service will suspend the small plan audit program until the judicial process has run its course.

Mrs. JOHNSON of Connecticut. I thank the chairman for his support and now yield to the gentleman from Virginia [Mr. WOLF] the ranking member of the subcommittee.

Mr. WOLF. I commend the gentlelady on her efforts on behalf of small business and wish to associate myself with her remarks. The IRS has a difficult task in collecting taxes and hardly enhances its standing with the taxpaying public by retroactively applying standards promulgated years after pension plans were put in place. I congratulate the gentlelady and appreciate her perseverance.

Mrs. JOHNSON of Connecticut. I thank the gentleman from California [Mr. ROYBAL]. I offer my correspondence with the IRS for inclusion in the RECORD.

HOUSE OF REPRESENTATIVES,
Washington, DC, May 21, 1991.

Mr. JOHN E. BURKE,
Assistant Commissioner Employee Plans and Exempt Organizations, Department of the Treasury, Internal Revenue Service, Room 3408, Washington, DC.

DEAR MR. BURKE: I appreciated your response to my February 6, 1991, letter to Commissioner Goldberg concerning the manner in which the Service is conducting the small plan actuarial audit program and was particularly interested in what appears to be your eagerness to receive the findings of the Tax Court in pending cases and that "[you] are exploring ways to reach an appropriate administrative conclusion in a majority of the cases."

As you undoubtedly are aware, the first Tax Court cases concerning the audit issues will not commence until January 1992. It is therefore unlikely that any Tax Court decisions will be forthcoming before 1993 or that appeals will be resolved before 1994 or later. In view of the prolonged period before these judicial determinations, I am deeply concerned about reports that the Service has not made any substantive changes to the audit program and has failed to notify IRS field personnel of its intent to do so.

The intense congressional interest in this matter should indicate to you the breadth of public concern over administration of the audit program and the poor reflection current IRS audit procedures are casting on the reasonableness and fairness of what should be a respected arm of government. I hope you will apprise me of forthcoming positive changes in the small plan actuarial audit program and look forward to hearing from you by June 15, 1991.

Very truly yours,
NANCY L. JOHNSON,
Member of Congress.

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE,
Washington, DC, April 3, 1991.

Hon. NANCY JOHNSON,
House of Representatives
Washington, DC.

DEAR MS. JOHNSON: Thank you for your letter of February 6, 1991, to Commissioner Goldberg concerning our defined benefit plan examination program. Commissioner Goldberg asked that I reply to your inquiries because of my responsibilities in the pension area. Your inquiry raised some important actuarial issues as well as concerns with the overall balance of our audit programs.

After assuming the position of Assistant Commissioner in mid-January 1991, I reviewed many aspects of our actuarial examinations. That review included consultations with representatives from organizations such as the American Society of Pension Actuaries (ASPA).

While there are convincing indications of the need for the IRS to have initiated the actuarial examination program, I also believe it can now be brought to a conclusion. In fact, during my meeting with the ASPA representatives, I mentioned the number of examinations in this area has been scaled back from 18,000 to less than 12,000. This was done after we found fewer cases of abuse than originally anticipated. Over 80% of the sponsors of these plans have been contacted. By the end of this year, we hope to have completed the program.

Your letter raised a question on the reasons for our actuarial audits. Specifically, you suggested that based on our revenue projections, you thought the Service was primarily motivated by the dollars. Simply stated, I am certain that is not the case. Our primary purpose was to identify and close down a significant tax abuse area.

Some of the differences that you cite between the Service and some members of the practitioner community will be resolved through pending litigation. Ten test cases have been selected by a Tax Court judge who has taken responsibility for deciding these issues and we expect the cases to come to trial later this year. We are confident that the positions we have taken are sound and we are eager to receive the court's findings. However, we are also eager to come to closure with plan sponsors and taxpayers who choose to do so. Therefore, we are exploring ways to reach an appropriate administrative conclusion in a majority of cases.

I share your concern that the Service allocate its limited employee plan resources effectively. I believe the steps we are taking will adequately address your concerns in this regard. Once again, thank you for your interest and suggestions. I will keep you apprised of our efforts to complete this program in an appropriate manner.

Sincerely,
JOHN E. BURKE.

HOUSE OF REPRESENTATIVES,
Washington, DC, February 6, 1991.

Hon. FRED T. GOLDBERG,
Commissioner, Internal Revenue Service, Washington, DC.

DEAR COMMISSIONER GOLDBERG: I have received a number of complaints from my constituents about the arbitrary approach of the Internal Revenue Service regarding the determination of the reasonableness of actuarial assumptions under the current actuarial audit program for small defined benefit plans. As a result of these complaints, I wrote a letter on March 12, 1990, to Assistant Commissioner, Employee Plans and Exempt Organizations, Robert I. Brauer asking several questions about this program.

Ultimately, I sent Mr. Brauer three letters soliciting information. Copies of these letters and Mr. Brauer's responses are enclosed for your reference. After closely examining Mr. Brauer's responses and other information available, I have concluded that the IRS has indeed adopted an arbitrary approach to the determination of the reasonableness of actuarial assumptions under the small plan audit program, and that this approach is a revenue driven effort which is inconsistent with prior guidance from the IRS. I also find that this program is directed solely against small pension plans despite the fact that the actuarial assumptions in many large plans would be challenged if the same standards were applied.

The small plan audit program is fostering the impression that any small employer who maintains a pension plan exposes himself to a significant risk of retroactive attack from the IRS. This is certainly not conducive to expanding coverage in the small plan area, where the need for expansion is most acute.

SMALL PLAN/LARGE PLAN DICHOTOMY

The oft repeated justification given by the IRS that they are directing their audit efforts against the small plans because they have, on average, much higher per participant contributions than large plans, is disingenuous. By their nature, small plans have higher per participant contributions than large plans because there is a larger percentage of management and professional employees. Also, small employers frequently establish a pension plan long after the company is established and have a shorter period to fund the benefits. The total tax deduction for a large plan would typically greatly exceed the total tax deduction for a small plan.

MIRZA CASE—INTEREST RATE ASSUMPTION

In our correspondence, Mr. Brauer cites the Mirza case as a basis for the current IRS position with respect to the interest rate and retirement age assumptions in small defined benefit plans. The Mirza case did not address the retirement age issue at all. In fact, the IRS accepted the retirement age assumption of 55 in that case. The primary issue in the Mirza case was the use of an accelerated unit credit funding method to bunch deductions in the first year of the plan.

This case also incidentally involved the issue of the interest rate assumption in a plan lacking experience. The IRS imposed, and the Court approved, an eight percent interest rate assumption in Mirza, at a time when the long term Treasury rates were yielding twelve percent or more. Thus, the IRS accepted as reasonable an interest assumption at least four percent lower than the prevaling long term Treasury rate.

While the Mirza case provides precedent for challenges by the IRS to funding methods which bunch deductions in the first year of the plan, it does not provide any basis for the current position of the IRS with respect to the interest rate and retirement age assumptions.

IMPOSITION OF ASSUMPTIONS

Mr. Brauer has always stressed that the current program is merely an expansion of prior audit activity. I do not believe this position accurately reflects the situation. The memorandum of November 29, 1989, dramatically altered the approach of the IRS to the audit of actuarial assumptions and contradicted prior published guidelines. As you are aware, this document directed IRS field agents auditing small plans to challenge interest rate assumptions below eight percent and retirement age assumptions below age 65. I am sure that you will agree that the terminology of that memo left the field agents virtually no discretion to accept any assumptions not in accord with the prescribed standards.

I have been provided with a copy of CPE Technical Topics for 1990, an Employee Plans training manual. In the chapter entitled Lesson 5—Actuarial Audit Update, the Retirement Age section on page 5-5 states in part that:

"For purposes of the actuarial examination program, a (somewhat arbitrary) definition of reasonableness has been adopted: retirement ages of 65 or more are reasonable."

This terminology certainly provides additional evidence as to the arbitrary approach of the IRS regarding the imposition of assumptions under the current small plan audit program.

After the existence and basic nature of the November 29, 1989, memo became known to the public, the IRS wrote another memorandum to field agents (dated January 19, 1990) ostensibly providing some flexibility in the audit program by allowing deviations from the prescribed assumptions, if approval is obtained from one of four National Office actuaries. It is unrealistic to believe that field agents, who are under pressure to close cases, and who clearly understand the position of the National Office actuaries with respect to acceptable assumptions from the terminology of the November 29th memo, are going to make the effort to seek National Office approval for exceptions from prescribed assumptions in any significant number of cases. Nor is it realistic to believe that deviations from the prescribed standards will be approved in any significant percentage of cases in which the agents seek such approval in view of the fact that the November 29 memorandum to field agents was created on the basis of input from the Pension Actuarial Division of the National Office in which these four actuaries are employed.

The American Society of Pension Actuaries (ASPA) has made available several documents obtained from the IRS through Freedom of Information Act requests, one of which is a letter from the FOI/Privacy Section dated March 2, 1990. This letter states in part: "In response to your request, we have located no documents originating in the Employee Plans Technical and Actuarial Division, the Employee Plans and Exempt Organizations Operations Division or the Employee Benefits and Exempt Organizations Division of the Chief Counsel's Office relating to the purpose, legality or appropriateness of the positions adopted in the memorandum dated November 29, 1989 . . ."

The above statement certainly presents additional evidence of the arbitrariness of the IRS's approach in this matter.

In a letter to me dated May 1, 1990, Mr. Brauer stated that of the first 600 cases closed, IRS agents allowed interest rates of less than eight percent in thirty percent of cases and retirement ages of less than 65 in twenty percent of cases. This statement was made in an attempt to show that the eight percent interest rate and age 65 retirement age assumptions are not being arbitrarily imposed. However, even if these statistics were accepted at face value, they would still demonstrate that the IRS has imposed the minimum age 65 retirement assumption in eighty percent of the cases, and the minimum eight percent interest assumption in seventy percent of the cases.

Mr. Dan Rosa, Special Assistant to Mr. Brauer, stated in a letter dated May 4, 1990, in response to an inquiry from ASPA, that: "We do not have information available in our files that separates closings of examinations by date of closing nor do we know when the decision on the appropriate assumptions was made."

This means that the IRS does not know which of these cases were processed pursuant to the instructions in the November 29th memo and which were processed before that memorandum became effective. Furthermore, Mr. Rosa stated that the IRS does not know which of these cases involve funding method challenges, akin to the Mirza case, where the interest and retirement age assumptions are likely to be of little or no consequence.

I also have been provided with a copy of a letter from another actuarial organization, the American Academy of Actuaries, dated May 11, 1990, and addressed to Thomas Terry, Benefits Tax Counsel with the Office of Tax Legislative Counsel, U.S. Department of the Treasury. This letter outlines their concerns regarding the imposition of retirement age and interest rate assumptions under the small plan audit program. A copy of this letter is attached for your reference.

INTEREST RATE ASSUMPTION

The IRS currently is trying to retroactively disavow its own Actuarial Audit Guidelines, which have been in effect since 1984. I find this a very disturbing and highly questionable administrative practice. I understand that the Guidelines were discussed at numerous public meetings from 1984 through 1989 and practitioners correctly believed that they had a right to rely on them. I have been provided with a copy of a letter to the Honorable J.J. Pickle dated October 21, 1985, in which Mr. Brauer (then Acting Assistant Commissioner) clearly stated that the Actuarial Audit Guidelines would be applied not only prospectively, but also retroactively, since these Guidelines were consistent with prior IRS positions.

The Actuarial Audit Guidelines relate to plans having a minimum of three years' experience, and provide that an interest rate assumption shall be deemed reasonable if the actual experience of the plan is within four percent of the assumption. The similarity between the four percent corridor under the Guidelines with respect to plans having experience and the four percent corridor under the Mirza case with respect to plans lacking experience appears obvious. I have been provided with a transcript of the taped comments made by Mr. Ira Cohen, then the head of the Division of Technical and Actuarial Services, at a presentation at the Enrolled Actuaries Meeting in 1986, in which the similarity is explicitly recognized. In discussing the interest rate assumption deemed reasonable by the IRS in plans lacking experience, when long term Treasuries were yielding at least twelve percent, he stated the following: "One approach would be to go twelve percent. On the other hand, I indicated before that we do not want to be just totally superimposing judgement. We want to leave a range and on the Guidelines we came up with a four percent range and I've explained how we came about that range. Therefore, if we allowed when there is experience a four percent variation, we subtracted the four percent from the twelve percent which is what the expectation [is] and came up with eight. And that is basically the approach we used dealing with the interest rate."

Given the fact that the Actuarial Audit Guidelines have been outstanding since 1984, and that practitioners certainly had every reason to believe that assumptions conforming to the standards described therein would be deemed reasonable, I believe the IRS must accept interest rate assumptions that fall within the corridor established in the Guidelines. Furthermore, the precedent clearly has been established to accept interest assumptions within four percent of the long term Treasury rate during the relevant plan year for plans lacking the experience to fall within the Guidelines. The IRS should confine its challenges to interest rate assumptions to those cases falling outside the four percent corridor.

RETIREMENT AGE ASSUMPTION

It appears to me that the central issue in determining the reasonableness of a retirement age assumption is the probability that an individual will commence receiving benefits when available. "Retirement" in the sense of total withdrawal from the workforce has never been a pre-condition to receiving a pension benefit. The strong tendency to take a retirement benefit within a short period of time after it first becomes available is evidenced by the fact that under the Civil Service Retirement System well over eighty percent of the individuals who at age 55 have 30 years of federal service, have retired by age 60. Only about three percent remain at age 65. It should also be noted that this tendency for government employees to retire rapidly once a pension benefit becomes available has intensified in recent years. I am reasonably confident that a significant number of these "retired" Federal workers continue gainful employment in some capacity.

I have also been made aware that the Pension Benefit Guaranty Corporation (PBGC) regulations on expected retirement age (which are contained in the valuation of plan benefits in single employer plans regulations), approved by the Secretrary of the Treasury, recognize the strong tendency for plan participants to elect to receive promptly a retirement benefit once available.

In determining the reasonableness of a retirement age assumption, the strong tendency to elect to receive a retirement benefit once available certainly should be considered. A July 1985 report to Congress from the General Accounting Office (GAO) indiated that age 62 was the median retirement age for individuals receiving a pension benefit. Of course, 62 is the age of eligibility for Social Security benefits, and it is apparent that the availability of a pension benefit is a primary factor in determining when people retire.

The following factors should also be considered in determining the reasonableness of a retirement age assumption:

1. Age 55 has been accepted legislatively in a number of contexts as an appropriate retirement age. For example until 1987, the IRC Section 415 limit was not reduced below $75,000 for retirement at age 55 or greater. Amounts accrued through 1986 were grandfathered. It is also noted that retirement annuity benefits commencing at age 55 are exempt from the ten percent early distribution excise tax.

2. In enacting the Employee Retirement Income Security Act of 1974 (ERISA), Congress intended that the Enrolled Actuary should use his or her professional judgment in determining appropriate actuarial assumptions. The House Ways and Means Committee noted at the time of enacting IRC Section 412(c)(3), which relates to the reasonableness of actuarial assumptions, that: "Your Committee recognizes that frequently there is a range of actuarial assumptions which may be appropriate for determining costs of a defined benefit pension plan, and

the choice of the appropriate assumptions is very much a matter of judgment." H.R. Rep. No. 93-779, 93rd Cong., 2nd Sess., 94 (1974).

Furthermore, although Congress expected the IRS to challenge actuarial assumptions on audit, Congress stipulated that: "Unless the assumptions are substantially unreasonable, it is contemplated that generally the Service will not require a change of assumptions to be made effective for years prior to the year in whch the audit is made" (Emphasis added). H.R. Reps. No. 93-779, 93rd Cong. 2nd Sess., 94 (1974).

Given the fact that available evidence indicates that age 62 is the median retirement age, it appears that retirement age assumptions of at least age 62 should not be challenged. Furthermore, given the statutory responsibility of the Enrolled Acturary to assure adequate funding, the well established tendency of plan participants to commence receiving retirement plan benefits promptly after they become available, and the recognition of age 55 as a normal retirement age both statutorily and in practice, I do not believe that any retirement age assumption of 55 or greater should be reversed retroactively. The IRS should be liberal in accepting a broad range of evidence to establish the reasonableness of a retirement age of at least 55 on a prospective basis.

If the IRS believes it is desirable to preclude the receipt of pension benefits before age 65, it should make a legislative proposal to that effect.

CONCLUSION

On June 13, 1990, the GAO testified before the Subcommittee on Oversight of the Ways and Means Committee and stated the following with respect to the small plan actuarial audit program: "Although IRS's special emphasis on small overfunded defined benefit plans is expected to produce significant revenues, using resources for this effort limits those available to examine plans that may become liabilities of the PBGC. This raises a question regarding the inherent conflict between IRS's major missions. While revenue-raising initiatives should not be discouraged, IRS should determine how to better allocate its limited ERISA enforcement resources to also ensure that participants' benefits are protected and thus reduce the risk of plans becoming liabilities to PBGC."

Constraining the small plan audit program in the manner I have suggested is not only necessary from the aspect of fairness, but also would effectuate a more appropriate resource allocation as suggested by the GAO. I feel very strongly about this matter and, unless the small plan actuarial audit program is substantially constrained administratively, I fully expect the Ways and Means Committee, with my strong support, to address the matter legislatively.

Thank you for your prompt attention to my concern and please do not hesitate to contact me or my Legislative Director, Ronald Lefrancois, on 225-4476 if you or your staff need additional information or wish to discuss this matter in person.

With best wishes,

Very truly yours,

NANCY L. JOHNSON,
Member of Congress.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, October 3, 1990.

Hon. NANCY JOHNSON,
House of Representatives, Washington, DC.

DEAR MS. JOHNSON: Thank you for your letter of August 20, 1990, concerning my earlier responses regarding our defined benefit plan examination program. I regret that I was unable to respond by September 4.

Your first question concerns statements made in my earlier letters regarding the revenue estimates prepared for this program. As I indicated in my letter of August 8, in early November 1989, Mr. Rosa developed a single model to produce budget estimates for this program. That model continued to be used through January 1990 as additional information was requested by internal users and by the Department of the Treasury. The December 8, 1989, revision that you obtained pursuant to an FOIA lawsuit is one of those revisions. As I stated in my last letter, the model is independent of any interest rate or retirement age assumptions, which was the question posed in your first letter dated March 12, 1990.

Regarding your follow-up question on statements made at the 1986 Enrolled Actuaries meeting, I feel that these issues will soon be litigated in the courts and, although statements made at such meetings are often extemporaneous and do not give reliance, I expect such statements will be presented during litigation. I believe the Courts to be the proper forum for further discussion of this issue. I hope this letter is responsive to your concerns.

Sincerely,

ROBERT I. BRAUER.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 20, 1990.

Mr. ROBERT I. BRAUER, *Assistant Commissioner,*
Employee Plans and Exempt Organizations, Internal Revenue Service, Washington, DC.

DEAR MR. BRAUER: Thank you for your August 8 letter in response to mine of July 10. Though I very much appreciate your continued willingness to discuss the many important issues regarding the small plan audit program, I remain concerned over apparent discrepancies between your letters and other documents.

First, you asserted in your May 1, 1990, letter to me [and reiterated in your subsequent letter of August 8] that the revenue estimates for the small plan actuarial audit program were formulated "prior to and independent of" that November 29, 1989, memorandum to field agents. Your August 8 letter refers to a "model" formulated in early November 1989, which remained in use through January 1990. No details are provided with respect to the operation of this model, but it appears the final revenue estimates were derived from this model prior to the November 29 memorandum.

I recently obtained a copy of a document released pursuant to an F.O.I.A. lawsuit concerning the background documents to the estimate that states the audit program would generate additional revenues of $666 million in Fiscal Years 1990 and 1991. Please note on the enclosed copy that this document is marked "Revised 12/8/89." Please explain how the revenue estimates could have been finalized prior to the issuance of the November 29 memorandum to field agents in view of the existence of a document that indicates that revisions were made as of December 8, 1989.

Second, your August 8 letter denies that the IRS utilized a four percent safe harbor corridor for plans lacking experience [i.e., an interest assumption was deemed reasonable if within four percent of the prevailing long-term Treasury rate]. I referred in my letter of July 10 to statements made by Mr. Ira Cohen at the 1986 Enrolled Actuaries meeting, which you indicated you reviewed. In reference to the interest assumption for plans lacking experience when long-term Treasuries were yielding at least 12 percent, Mr. Cohen's precise statement, recorded on audio tape, was as follows:

One approach would be to go to 12 percent. On the other hand, I indicated before that we do not want to be just totally superimposing judgment. We want to leave a range and on the Guidelines we came up with a four percent range and I've explained how we came about that range. Therefore, if we allowed when there is experience a four percent variation, we subtracted the four percent from the 12 percent which is what the expectation [is] and came up with eight. And that is basically the approach we used dealing with the interest rate.

Would you kindly explain specifically how your position is reconcilable with Mr. Cohen's statement?

I appreciate your prompt attention to my concerns and look forward to hearing from you by September 4, 1990.

Very truly yours,

NANCY L. JOHNSON,
Member of Congress.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, August 8, 1990.

Hon. NANCY JOHNSON,
House of Representatives, Washington, DC.

DEAR MS. JOHNSON: Thank you for your letter of July 10, 1990, concerning my earlier response regarding our defined benefit plan examination program. I regret that I was unable to respond by July 23.

Your first question concerns the statement I made in my earlier letter regarding the revenue estimates prepared for this program. It may help to repeat your original questions on this matter: "What percentage of dollars in the revenue estimates are assumed to be derived from the application of the 8% interest rate and age 65 assumptions? In what percentage of the cases to be audited do the revenue estimates assume that these assumptions will be applied?"

My response to those questions was: "The revenue estimates for this program were not based on assumptions of interest rate and retirement ages. They were developed prior to and independent of the issuance of our guidelines."

As you point out, Mr. Rosa of my staff has indicated that he was involved in preparing budget documents on this program between November 1989 and January 1990. In early November 1989, he developed a single model to produce budget estimates for this program. That model continued to be used through January 1990 as additional information was requested by internal users and by the Department of the Treasury. The model is independent of any interest rate or retirement age assumptions.

Regarding your follow-up questions on the actuarial audit guidelines, this issue has been raised in litigation pending before the Tax Court. We look forward to the Court's consideration of this issue. In response to your questions concerning the statements at the 1986 Enrolled Actuaries Meeting, our review of the meeting's official transcripts shows that the Service's position on plan assumptions was fully understood. Articles published during that time period also show that practitioners were well aware of our position. I am enclosing a copy of one of several newsletters from that time reviewing our position.

In response to your questions on the Technical Advice Memoranda, many, but not all, of the plans had limited investment experience; eight were in their first year. Four plans had been in place for at least three years. One (a Plan Year 1982 case) even used Worksheet III of the Audit Guidelines to argue that the interest rate was acceptable according to the guidelines; that argument was rejected then as well. The interest rates applied in these cases had nothing to do with the guidelines or a "4% corridor rule". The actual earnings in these cases ranged from 9% to 23% and long-term government bond rates during this period ranged from 9% to 16%; in every case 8% was used by the Service. Clearly, a "4% rule" was not in effect.

Implicit in the "4% rule" argument is that the Service will allow a 4% deviation from an interest rate that it feels is likely to recur. That is, if an 8% rate is reasonable now and is likely to be reasonable in the future, then actuaries may freely use any percentage between 4% and 12%. That has never been the Service's position and clearly it was not the position taken in the Technical Advice Memoranda. As stated in several of the memoranda, the reason for adjusting the interest rate to 8% had nothing to do with a formula:

"It is recognized that the assumed interest rate generally applies to a longer period than the duration of investments (e.g. bonds) made in the early plan years, and the historically long-term yields have not always been as high as they were in the early 1980's. While such consideration might properly lead an actuary to reduce his interest assumption to somewhat less than the 10% yield rates available at the time, the reduction all the way to the 5% that was finally adopted was not reasonable."

Also, "Note that section 1.412(b)-(1)(h)(1) of the (proposed) regulations states that the determination of whether actuarial assumptions are reasonable is generally based on the experience under the plan, unless it is established that past experience is not likely to recur and thus is not a good indication of future experience."

As you can see, the application of an 8% interest rate by the Service was not the result of a "4% rule". The analysis of these cases clearly shows that the Service recognized that the earnings in the late 1970's and early 1980's were not sustainable over a long period and, therefore, used a lower rate. It did not recognize a sustainable rate and then allow a 4% deviation.

I hope this is responsive to your concerns and regret again my inability to get back to you by July 23.

Sincerely,

ROBERT I. BRAUER.

IRS TAKES AIM AT ASSUMPTIONS IN RICH DOCTOR PENSION PLANS

(By Mel J. Massey, Jr. J.D., C.L.U., Advanced Underwriting Consultants)

Last year, at an enrolled actuaries meeting a spokesman from the National IRS office warned those present that the Service was taking a critical look at unwarranted assumptions used by actuaries to increase deductible contributions to defined benefit plans. The spokesman stated that age 55 retirement can be an unreasonable assumption. For example, statistics show that doctors retire at age 65 or even later. The spokesman further stated that plans would be in trouble although previously approved with a normal retirement age of 55.

FACTS OF THE CASE

Apparently, the first taxpayer to feel the fury of the IRS was a Wilshire Boulevard, Los Angeles, doctor whose plan was the subject of a Technical Advance Memorandum (TAM), published as Private Letter Ruling 8552001 on August 13, 1985.

The issue in question was the pension deductions for this corporation's 1981–82 tax year. The doctor was age 34; the plan, in which he was the only participant, was three years old.

In its cost calculations, the enrolled actually assumed the entry age normal cost method with an entry age of 25; and used interest rates of 5½% pre-retirement and 5% post-retirement, and the IAM '71 mortality table with 3% annual increases in cost of living. It also assumed a joint and survivor annuity and the participant would retire at age 55.

To purchase the doctor's pension of $136,425 per year at age 55 (the maximum pension permitted under Code section 415 in that year), the actuary calculated a minimum contribution of $51,230 and a maximum contribution of $89,522. The doctor contributed the maximum for the year and claimed a $100,472 deduction on his tax return; he also had a money-purchase pension plan.

THE RULING

A TAM is an opinion letter written by the IRS National Office in answer to a request from an IRS district agent seeking guidance in examining a taxpayer's return. In PLR 8552001, the IRS held the actuarial assumptions were unreasonable and the deduction not allowable.

The TAM attacked five assumptions. First, the assumption of 5½% interest for the pre-retirement period was unrealistically low. While investing the pension contributions conservatively, the pension trustee earned 11.75% in the first year of investment experience and over 10% in the following years. The code requires actuarial assumptions be reasonable in the aggregate, taking into account the experience of the plan and reasonable expectations. While this pension trust may not always earn more than 10% on its investments, the IRS view was that at least 8% be used. Such rate would provide some degree of conservation without being unrealistically low.

Secondly, the IRS found the 5% interest assumption for the post-retirement benefit to be too low. Such interest assumption is only acceptable for funding purposes if the plan benefit was a single life annuity with optional lump sum equivalent using 5% interest. The plan benefit is a joint and survivor annuity; a more reasonable rate would be 8%.

Thirdly, while the use of the entry age normal cost method is all right, the arbitrary selection of 25 as the entry age is not. The entry age must be the actual or average entry age; here, the doctor, the only participant, was age 31 when the plan was established.

Fourthly, in the absence of any evidence that the majority of individuals, or a majority of practitioners in the taxpayer's profession retire at age 55, it's unreasonable to use this age for funding purposes. In recalculating the pension cost the IRS used age 65. The only support for the actuary's use of age 55 was the statement that the doctor firmly intended to retire at age 55. The IRS found the statement self-serving.

Finally, the law does not permit a pension actually to anticipate in its contribution calculations annual cost-of-living increases in the dollar limitation of Code section 415. Thus, in its recalculation, the IRS used no adjustment for cost of living.

The TAM did not state what the IRS deemed the reasonable pension cost based on the assumptions it would allow. One actuary estimated this cost to be between $18,000 and $20,000.

"WHAT NOW BROWN COW"

It's apparent the doctor's corporation will have an additional $89,522 of income for the 1981–82 tax year. Add to this sum, the additional income taxable in the three years following once those years are reviewed, plus the earnings on the excess contributions. The doctor will have additional taxable income in excess of $400,000.

The frightening aspect of this ruling is that actuaries have for years used assumptions like those in the present case pump up contributions for corporations that could afford them. Fortunately, these "max" plans represent less than 10% of the pension and profit-sharing market.

HOUSE OF REPRESENTATIVES,
Washington, DC, July 10, 1990.

Mr. ROBERT I. BRAUER,
Assistant Commissioner, Employee Plans and Exempt Organizations, Internal Revenue Service, Washington, DC.

DEAR MR. BRAUER: I am concerned about the accuracy or completeness of some of the statements made to me in your letter of May 1, 1990, which responded to my inquiry of March 12, 1990, concerning the small plan actuarial audit program.

Specifically, your letter responds to my questions about the connection between the revenue estimates from the small plan audits [total of $666 million for FY '90 and FY '91] and the interest rate and retirement age assumptions set forth in the IRS memorandum of November 29, 1989, by stating: "The revenue estimates for the program were not based on assumptions of interest rate and retirement ages. They were developed prior to and independent of the issuance of our guidelines."

In an affidavit submitted to the U.S. District Court for the District of Columbia on May 21, 1990, in connection with an FOIA lawsuit brought by the American Society of Pension Actuaries for the budget documents relating to the $666 million revenue estimate, your Special Assistant, Dan Rosa, said: "Between November 1989 and January 1990 I was involved in preparing the 12 budget documents at issue in this case. These documents were prepared for the purpose of recommending to the Department of Treasury and OMB estimates of revenue that would be generated by the actuarial examination initiative. This initiative is aimed at increasing taxpayer compliance by correcting abuses that occur when defined benefit plans claim deductions based on inappropriate actuarial assumptions."

Would you please explain how the revenue estimates could have been formulated prior to November 29, 1989, if Mr. Rosa was still working on them through January 1990?

Further, in response to my question regarding the Actuarial Audit Guidelines, you stated that the "Guidelines are simply management tools designed to assist field personnel in allocating and utilizing resources." Is it true that the Guidelines were publicly discussed at numerous practitioner meetings, and thus led practitioners to believe that the standards contained therein represented the IRS position with respect to the reasonableness of actuarial assumptions?

You also referred to 15 technical advice memoranda relating to issues involved in the small plan actuarial audit program. Is it true that each of these cases lacked sufficient years of experience to fall within the purview of the Guidelines and the interest rate applied by the IRS in each of these cases was at least 4% less than the long-term Treasury bond rate prevailing during the applicable plan year? It is my understanding that this policy of allowing 4% less than the prevailing long-term Treasury rate with respect to plans lacking experience was explicitly spelled out by Mr. Ira Cohen in 1986 at the Enrolled Actuaries meeting. As I understand the situation, Mr. Cohen, who at that time was the Director, Employee Plans Actuarial and Technical Division, analogized the acceptable 4% deviation from the Treasury rate for plans lacking experience to the 4% variation allowed in the Guidelines between the interest assumption and actual experience.

As you are aware, the small plan actuarial audit program is affecting thousands of defined benefit plan sponsors nationwide. As I am also sure you are aware, Congress is considering legislation concerning this matter so I would appreciate your prompt response to my inquiries, but in no event later than July 23, 1990.

Very truly yours,

NANCY L. JOHNSON,
Member of Congress.

INTERNAL REVENUE SERVICE,
Washington, DC, May 1, 1990.

Hon. NANCY L. JOHNSON,
House of Representatives,
Washington, DC.

DEAR MS. JOHNSON: Thank you for your letter of March 12, 1990, regarding our defined benefit plan examination program. I apologize for the delay in our response. Before addressing your specific questions, I would like to provide you with some details about this program.

The Service does have a program underway that has as its basis a longstanding effort to address what the Service considers to be improper tax practices in the case of a relatively small number of defined benefit plans. Specifically, the Service is questioning the use of unreasonable actuarial assumptions to fund defined benefit plans. As you know, contributions to these plans are tax deductible. By utilizing unreasonable assumptions, such as unreasonably low interest rates or retirement ages, employers can make excessive deductions. Such deductions may come to hundreds of thousands of dollars annually per plan.

Our research shows that over 98 percent of plans reporting over $100,000 in contributions per participant (that segment of plans that tends to employ actuarial assumptions of the sort that are coming into question) are in the 1–5 participant plan sector. In those few situations in past years where we have found a large plan employing questionable actuarial assumptions of this sort, we have taken steps to correct the problem—that is, we disallow deductions where appropriate. We plan to examine approximately 18,000 plans over a three year period. During that timeframe, there were over a half million returns filed by defined benefit plans with 1–5 participants.

The average contribution per participant to a defined benefit plan is less than $5,000. In the approximately 500 cases which our agents have completed examining to date, the average annual pension deduction claimed was $215,000, with eleven individuals claiming over $600,000 in annual pension deductions and forty-eight others claiming over $300,000. In these cases, the average adjustment recommended by the agent was $194,000.

Our experience thus far shows that over two-thirds of our cases involve plans of doctors and lawyers; the rest consists of other such highly paid professionals as advertising and real estate executives. Most of these plans have been designed by the pension consultant or actuary to benefit only the highly paid professional and not his or her employees.

We have been performing examinations of this kind for at least seven years. By 1987, a number of suits were in the courts. In 1988, we identified the small plan actuarial area as a special emphasis examination program in order to deal on a larger scale with these issues. In the summer of 1988, the United States District Court for the Central District of Illinois decided in the Service's favor in a case called Mirza v. IRS. The Seventh Circuit Court of Appeals affirmed this decision unanimously in August 1989. The court held that an employer must base his funding assumptions on "experience and reasonable expectations". Among other things, the plan in Mirza utilized a 5% assumption at a time when safe investments were yielding 12% or more. In Mirza, the appellate court disallowed $510,000 in deductions claimed for the one year in question (1980).

The Service's position with respect to the reasonableness of actuarial assumptions is that they are determined on the facts and circumstances of the particular case. This was the position that the Service took in Mirza and it continues to be our position.

In addition to the Mirza case, we have over 30 cases in litigation on these issues. Every case that has been completed has been resolved on terms highly favorable to the government. Fifteen Tax Court cases that were on the docket for trial last month in California were recently settled for an average of 90% of the claimed deficiency. Of the 20 court cases now resolved, $3.2 million has been disallowed, an average of $160,000 per case. I point this out because there have been claims that the Mirza case was an aberration and that the Service lacks legal authority for its position. Clearly these figures belie those claims.

The Service's program was expanded late in 1989. The expansion was based on the convergence of three events: (1) the appeals court decision in Mirza, (2) our developing the ability to identify with some precision the filers who are claiming the largest deductions for contributions to these plans (thereby indicating the possibility that questionable actuarial assumptions may be used), and (3) our developing computer programs which enhance the skills of our agents to conduct audits of those plans. The program has been identified as one of the Service's Management Initiatives and is included as such as in the President's 1991 budget.

I want to emphasize that the Service would conduct this program even if it were not identified separately in the budget. As indicated by the significance of the disallowed deductions in the Mirza case and in the cases that have been settled to date, we would be remiss if we did not vigorously pursue those issues.

The November 29 memorandum issued to our regional offices (which advises field agents to challenge interest rates below 8% and retirement age assumptions of less than 65) was written as a guidepost to our field agents to help ensure that a consistent approach was being employed in the treatment of a complicated area with a proven need for review, and to provide a mechanism for separating clearly allowable deductions from others. Those instructions were clarified by instructions issued on January 19 setting out procedures to allow deviations from an 8% interest rate and retirement age of 65 if warranted by the facts and circumstances of individual cases. These procedures provide a method for a field agent to consult with a National Office actuary about the adjustment of assumptions in particular cases. Such consultations are frequent. While we firmly believe in the integrity of our overall position, we intend to be judicious and flexible in enforcing it.

In response to your specific questions:

1. Have the November 29 and January 19 memorandums been rescinded?

As I indicated earlier, the November 29 memorandum was clarified by the January 19 memorandum. There continues to be a need for this guidance. Our field agents are not actuaries—the need for a consistent procedure to deal with these complicated issues continues to exist. Making our National Office actuaries a part of the process ensures that the decisions are fair to the taxpayer and meet the Service's responsibility to test the reasonableness of the assumptions used in cases that are examined.

2. How will flexibility be provided?

As indicated earlier, the guidelines were written as a guidepost to our field agents to help ensure that a consistent approach was being employed in the treatment of a complicated area with a proven need for review, and to provide a mechanism for separating clearly allowable deductions from others. If the assumptions in the plan differ from the guidelines, taxpayers and their representatives are given the opportunity to present the facts and circumstances used to derive the assumptions in question. If our agents feel, as they often do, that the information warrants deviations from the guidelines or if our agents are unsure if the information is relevant in supporting the claims for different assumptions, they have been instructed to contact a National Office actuary. These actuaries are not the same officials who formulated the assumptions in our guidelines. They are professional actuaries who have been instructed to base their decisions on the facts and circumstances of each case; they have not been instructed to adhere to the general guidelines provided to our field agents who are not actuaries. In areas of the country where this program has been underway for some time, agents have developed sufficient experience from their referral discussions with our actuaries to allow deviations supported by the facts and circumstances without consulting the National Office.

In addition to the opportunities available to present the facts and circumstances to our agents, taxpayers and their representatives are free to request technical advice from the National Office if they feel their positions have not been fairly or correctly evaluated.

3. In what percentage of audit cases have deviations been permitted from the 8% interest rate and age 65 assumptions since November 29, 1989?

We do not have information available that separates closings of examinations by date of closing nor do we know when the decision on the appropriate assumptions was made. (This date may be much earlier than the closing date of a case.) However, we do know that of the first 600 cases closed to date (many of these closed after the issuance of our guidelines), our agents allowed interest rates of less than 8% in 30% of cases and retirement ages of less than 65 in 20% of cases.

4. What percentage of dollars in the revenue estimates are assumed to be derived from the application of the 8% interest and

age 65 retirement assumptions? In what percentage of the cases to be audited do the revenue estimates assume that these assumptions will be applied?

The revenue estimates for this program were not based on assumptions of interest rate and retirement ages. They were developed prior to and independent of the issuance of our guidelines. We did not use nor do we have an estimate of the number of cases that will be closed with any specific assumptions.

5. Why are the assumptions described in the November 29, 1989, memorandum made applicable only to small plans?

As I described earlier, this program focuses on plans with 1–5 participants because our analysis shows that over 98% of plans reporting over $100,000 in contributions per participant (that segment of plans that tends to employ actuarial assumptions of the sort that are coming into question) are in this group. In those few situations in past years where we found a large plan employing questionable actuarial assumptions of this sort, we have taken steps to correct the problem—that is, we disallow deductions where appropriate. We have programs underway to examine the very small number of plans with more than 5 participants that have been identified using the same criteria used to select plans for this program.

6. Why is Worksheet III of the Actuarial Audit Guidelines inapplicable to small plans? Was it intended that the November 29 memorandum rescind its applicability? Where and when was a public announcement made that the Worksheet is not applicable to small plans?

Audit guidelines serve the purpose of providing our agents general rules for identifying and addressing certain violations and to assist in the development of audit issues where no specific area of concern has previously been identified. They do not preclude a more focussed and complete examination of issues. On the basis of our analysis of the facts and circumstances of these types of cases, it became apparent that many of the actuarial practices were leading to excessive tax deductions. Once we had a better understanding of these practices, specific processes were developed to address them. The Service would be remiss if it allowed general guidelines with no force of law to prevent the development of examination efforts directed at clear areas of abuse.

It may be helpful to put the audit guidelines into their proper perspective. Guidelines are simply management tools designed to assist field personnel in allocating and utilizing resources. They have no force of law. As the guidelines themselves state:

"It is expected that the guidelines and worksheets will *help* the examining specialist decide on what areas to concentrate and when to utilize the various worksheets with respect to particular plans. However, the (guidelines), worksheets and explanations, *do not* cover every problem that could arise under the minimum funding standard or deductible limits, and the specialist is *in no way limited* to raising questions relating to only those problems identified," (emphasis added.)

As an example of the Service's developing procedures to deal with specific areas of concern, shortly after the audit guidelines were put into the Internal Revenue Manual, the Service issued fifteen technical advice memorandums that dealt precisely with the same issues covered in this program. These memorandums provided focused analyses of the practices at issue. They encompassed the same interest rate, retirement age, and section 415 issues as are covered in the current program. We will be happy to provide copies of these documents, which were widely circulated and discussed by Service officials at practitioner meetings.

In closing, I have instructed our agents to judge each case on its own merits, based on its own facts and circumstances. In addition to the opportunities available to taxpayers and practitioners to present the facts and circumstances of their cases, I have offered publicly to review personally any case closed by one of my field offices where the facts and circumstances approach I have outlined was not observed. The program is designed so that only 18,000 plans are examined out of a universe of over a half million. I believe our approach is reasoned, flexible, and of appropriate scope.

Sincerely,

ROBERT I. BRAUER.

HOUSE OF REPRESENTATIVES

Washington, DC, March 12, 1990.

Mr. ROBERT I. BRAUER,

Assistant Commissioner, Employee Plans and Exempt Organizations, Internal Revenue Service, Washington, DC.

DEAR MR. BRAUER: As a member of the House Committee on Ways and Means, I have received a number of inquiries from my Connecticut constituents about the small defined benefit plan actuarial audit program currently being conducted by the Internal Revenue Service. My constituents and I believe that this program singles out small employers for possibly abusive treatment by IRS personnel and would appreciate your prompt response to the following questions:

1. The February 14, 1990, Wall Street Journal referred to your comments about the flexibility of the IRS in this area and the need to evaluate each audit on its merits. Do these comments mean that the November 29, 1989, IRS memorandum, as modified on January 19, 1990, to the Assistant Regional Commissioners [Examination] from the Acting Director of Employee Plans Operations Division has been rescinded?

2. If not, how will flexibility be provided under a program that prescribes the acceptable interest and retirement age assumptions, and allows deviations from these prescribed assumptions by field agents only after receiving approval from the same officials who formulated the assumptions?

3. In what percentage of the audit cases have deviations been permitted from the 8% interest and age 65 assumptions since November 29, 1989?

4. What percentage of dollars in the revenue estimates [$64 million in 1990, $602 million in 1991] are assumed to be derived from the application of the 8% interest and age 65 retirement assumptions? In what percentage of the cases to be audited do the revenue estimates assume that these assumptions will be applied? Please provide all relevant background documents that clarify how these revenue estimates were calculated.

5. Why are the assumptions described in the November 29, 1989, memorandum made applicable only to small plans? Why would not these same prescribed assumptions apply to large single employer plans and multi-employer plans?

6. Professional pension practitioners have informed me that field agents have told them that Worksheet III of the Actuarial Audit Guidelines is inapplicable to small plans. Is this accurate? If so, on what basis has the determination been made that this Worksheet is inapplicable to small plans? Was it intended that the November 29 memorandum rescind its applicability? If not, where and when was a public announcement made that the Worksheet is not applicable to small plans?

As I am sure you are aware, the Ways and Means Oversight Subcommittee has been asked to conduct a hearing on the IRS administration of the pension laws, specifically including an examination of the small audit program. Since I became aware of your recent meeting with Ways and Means staff regarding this matter only recently, I would appreciate having your responses to my questions by April 2, 1990, in order to properly evaluate the complaints I have received about this program and the advisability of such a hearing. Thank you in advance for your attention to my concerns.

Very truly yours,

NANCY L. JOHNSON,

Member of Congress.

Mr. Chairman, I thank the gentleman from Virginia [Mr. WOLF] for his support.

Mr. WOLF. Mr. Chairman, will the gentlewoman yield?

Mrs. JOHNSON of Connecticut. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I want to commend the gentlewoman from Connecticut [Mrs. JOHNSON] on her efforts on behalf of small business, and I appreciate and support her remarks. The IRS has a difficult task in collecting taxes and heartily enhances its standing with the taxpaying public by applying standards promulgated years after pension plans were put in place. I congratulate the gentlewoman, and it is proof again that perseverance pays off, and it has paid off, and she has done it.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I thank the gentleman from Virginia [Mr. WOLF] and the gentleman from California [Mr. ROYBAL].

Mr. KYL. Mr. Chairman, I rise to associate myself with the comments by the gentlewoman from Connecticut [Mrs. JOHNSON]. We have got to bring to a halt one of the more unfair, short-sighted enforcement efforts by the IRS: its "small plan audit program."

For the last year-and-a-half, the IRS has targeted the small pension plans that thousands of small business people around the country have established for themselves and their employees.

The problem is, the IRS is attempting to use arbitrary new criteria for making interest rate and retirement age assumptions, and attempting to apply those criteria retroactively, despite the fact that the plans were in compliance with the guidelines that the IRS itself had established and which had been in effect since 1984.

Mr. Chairman, not only is the IRS' effort egregious because it establishes new standards for these plans retroactively, but its new guidelines have been developed without the benefit of any public comment or congressional involvement.

If left unchecked, the IRS' audit program will penalize people who were in compliance with IRS' own guidelines until the Service changed them without notice. The program will discourage small businesses from establishing new pension plans, or cause them to abandon their existing plans. None of those results is acceptable.

Mr. Chairman, none of us would challenge a legitimate enforcement effort by the IRS. Those who deliberately chose unrealistic interest rate and retirement age assumptions to reduce their tax liability ought to be audited and penalized.

But what the IRS is attempting to do through its small plan audit program is penalize those who not only made a good faith effort to comply but who were in compliance with the guidelines that the IRS had in place. That is unfair. It is wrong. And it must come to an end.

I join with Congresswoman JOHNSON in urging that this program be brought to a halt.

Mr. ROYBAL. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN of Texas. Mr. Chairman, I rise to engage in a colloquy with the chairman of the subcommittee.

I also take this opportunity to recognize his leadership in bringing this bill to the floor.

I would like to bring to the chairman's attention a study released last week by the General Accounting Office [GAO]. In light of the proposed North American Free-Trade Agreement [NAFTA], Senator LLOYD BENTSEN requested a study on the adequacy of infrastructure along the United States-Mexico border and its capacity to handle increased commercial activities. The report's results are not surprising to those of us from border districts: They highlighted the slow processing of commercial traffic, inadequate facilities and staffing levels for current traffic, and poor roads and highways in both Mexico and the United States.

Aside from these important issues, what I find most striking is the report's information on the distribution of funds under the Southern Border Capital Improvement Program. Congress authorized the program in fiscal year 1988 and has appropriated $357 million through fiscal year 1991 for the renovation, replacement, and construction of processing and inspection facilities in the four customs districts on the U.S. side of the border.

According to the GAO report, the Laredo district processed 46 percent of all United States-Mexico trade along the southwest border and received $122.4 million, or 34 percent of Capital Improvement Program funds; the Nogales district processed almost 10 percent of our bilateral trade and received 11 percent of the funds; the San Diego district processed only 13 percent of the trade and received 35 percent of the funds; and the El Paso district, which experienced an 88 percent increase in northbound commercial cargo truck traffic—the greatest increase of all the districts—processed 17 percent of bilateral trade and received a mere 14 percent of the funds. I am concerned that the funds did not go to districts in proportion to the level of commercial activities and may not have taken into account the significant increases in cargo truck traffic some border crossings have experienced.

With negotiations underway on NAFTA and the increase in commercial traffic that will result along our southern border, I would appreciate working with the chairman to ensure that future projects and personnel are funded on a more equitable basis and are planned with our long-term interest in mind.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Texas. I yield to the gentleman from Califonia.

Mr. ROYBAL. Mr. Chairman, I would like to assure the gentleman from Texas [Mr. COLEMAN] that we will do everything we possibly can on the part of the committee to work with him to do everything that is possible to assure those ends.

Mr. COLEMAN of Texas. Mr. Chairman, I thank the gentleman from California [Mr. ROYBAL] very much and thank him for the time.

Mr. WOLF. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Mr. Chairman, there is tremendous pressure from the Federal bureaucracy to increase spending all across the board. At the same time that there is so much pressure to increase spending there is little or no incentive for or pressure on Federal bureaucrats to hold spending down. This makes it almost unheard of for an appropriations bill today to increase spending.

As others have pointed out, this bill calls for a $1.2 billion decrease from last year. There are some problems or disappointments. For example, the IRS received a 10-percent increase over last year. That agency is not doing nearly enough or doing its fair share to hold down costs.

However, Mr. Chairman, overall this is a good bill, a tight bill, a conservative bill. As a frequent critic of wasteful Federal spending, I would like to give credit where credit is due. the members of this subcommittee have done a good job on this bill and have indeed accomplished something extremely rare in Washington today: A decrease in spending from last year.

□ 1530

Mr. Chairman, I urge support for this bill. It is one which does what the taxpayers want.

Mr. ROYBAL. Mr. Chairman, it is a pleasure to yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 2622, the Treasury, Postal Service, and General Government appropriations bill for fiscal year 1992. This is the seventh of the 13 annual appropriations bills to be considered by the House.

Mr. Chairman, I want to commend the chairman of the subcommittee and the ranking member, both of whom did a very good job in adhering to the limits that were established by both the budget agreement and the budget resolution.

The bill provides $10.75 billion in discretionary budget authority, and $11.093 billion in discretionary outlays, which is identical to the level of domestic discretionary budget authority and $7 billion below the domestic discretionary outlays as set by the 602(b) spending subdivision for this subcommittee.

This involved, like other subcommittees, some very tough choices. The committee decided it would focus largely on three areas, one being the IRS, to try to expand their provisions. They did not go as high as the President, and they did not go as low as the budget, but came out somewhere in between, which I think is a responsible position.

They also adhered to the revenue foregone Postal subsidy provision. That obviously then put constrictions on other areas in the budget.

They also managed to provide additional funds for crime and drug enforcement, which was an area that we emphasized in the budget as well.

They also provided, I might remind Members, for a reduction of $1.6 billion in the Federal building funds, which was included in the budget resolution.

Mr. Chairman, all in all, they did a very good job in meeting the limits within the budget resolution, but also tried to focus on the priorities they have within the subcommittee. I want to commend them, and urge Members to support this bill.*ERR08*

I rise in support of H.R. 2622, the Treasury, Postal Service, and General Government appropriations bill for fiscal year 1992. This is the seventh of the 13 annual appropriations bills to be considered by the House.

The bill provides $10.750 billion in discretionary budget authority and $11.093 billion in discretionary outlays, which is identical to the level of domestic discretionary budget authority and $7 million below the domestic discretionary outlays as set by the 602(b) spending subdivision for this subcommittee.

As chairman of the Budget Committee, I will continue to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each appropriations measure compares to the 602(b) subdivisions.

I look forward to working with the appropriations committee on its remaining bills.*ERR08*

FACT SHEET—H.R. 2622, TREASURY, POSTAL SERVICE AND GENERAL GOVERNMENT APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102–109)

The House Appropriations Committee reported the Treasury, Postal Service and General Government Appropriations Bill for Fiscal Year 1992 on Wednesday, June 12, 1991. Floor consideration of this bill is scheduled for Tuesday, June 18, 1991, subject to a rule being adopted.

COMPARISON TO THE 602(B) SUBDIVISION

The bill, as reported, provides $10,750 million of discretionary budget authority, the same as the Appropriations 602(b) subdivision for this subcommittee. The bill is $7 million under the subdivision total for estimated discretionary outlays. A comparison of the bill with the funding subdivisiions follows:

COMPARISON TO DOMESTIC SPENDING ALLOCATION

[In millions of dollars]

			Appropriation Committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	0	BA	0	BA	0
Discretionary	10,750	11,093	10,750	11,100		−7
Mandatory[1]	8,937	9,839	8,937	9,839		
Total	19,687	20,932	19,687	20,939		−7

[1] Conforms to the Budget Resolution estimates for existing law.

BA—New budget authority; 0—Estimated outlays.

Following are major program highlights for the Treasury, Postal Service and General Government Appropriations Bill for fiscal year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Treasury Department:		
Internal Revenue Service	6,707	5,417
Customs Service	1,354	1,153
U.S. Secret Service	475	399
Financial Management Service	189	159
Bureau of Public Debt	192	163
Bureau of Alcohol, Tobacco, and Firearms	317	279
Payment to the Postal Service Fund	649	649
Other Agencies:		
Executive Office of the President	284	207
Federal Buildings Fund limitation	(4,131)	
GSA management and Administration	31	5
National Archives and Records Administration	152	122
Office of Personnel Management S&E	117	109
Government Payment for Health Benefits (mandatory)	2,504	2,504
Payment to the Civil Service Retirement Fund (mandatory)	6,079	6,079

The House Appropriations Committee reported the Committee's subdivision of budget authority and outlays in House Report 102-81. These subdivisions are consistent with the allocation of spending responsibility to House committee contained in House Report 102-69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for fiscal Year 1992, as adopted by the Congress on May 22, 1991.

Mr. ROYBAL. Mr. Chairman, I yield 5 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise today to support the good work of Chairman ROYBAL and the ranking minority member, FRANK WOLF, who have put together a bill which this House can fully support.

This bill is fiscally responsible. It fully meets its 602(b) allocations for both budget authority and budget obligations. It is $1.167 billion below the fiscal year 1991 appropriation and it is $241 million below the President's budget request for fiscal year 1992.

And though the subcommittee had to make some very tough choices to deliver a bill that met these rigorous fiscal standards, the subcommittee protected some critically important programs that were not requested by the President.

For example, the President proposed eliminating 256 positions from the Bureau of Alcohol, Tobacco and Firearms' alcohol compliance function. This would have meant less testing and inspections of alcohol for compliance with safety standards. We all can recall the imported wines tainted with antifreeze that BATF uncovered 2 years ago—a cut of these staff could mean that such wines would slip by into the marketplace.

The President also proposed cutting the firearms compliance unit of BATF and reducing the armed career criminal program by $634,000. This program reduces illegal trafficking of firearms and allows for the speedy identification and arrest of violence prone criminals who use firearms.

The committee rejected these cuts and restored funding necessary to allow these important functions to continue.

The committee was required to make cuts in certain agencies to remain within budget ceilings. For example, a cut of $35 million was required for the Customs Service. But Customs does receive an increase of $88 million over fiscal year 1991, and the drug fighting portion of the Customs budget has been fully protected.

For the Internal Revenue Service, the committee for the most part was able to fully fund the President's request, except that a $26 million reduction had to be made within the tax law enforcement account to stay within budget caps.

An account of concern to every Member in this House is the "revenue foregone account" with the U.S. Postal Service. This account allows for schools, libraries, charitable organizations and rural newspapers to mail at reduced rates in order to conserve their precious dollars for services. Though the President only requested a small portion of this program (182 M), his budget would have meant significant cost increases to all of these services, forcing many into a position where they might not be able to continue their service. The committee rejected these cuts and fully funded this account, providing $649 million to sustain this program at current service levels.

Finally, the bill provides for many other critically important programs. For example, this bill fully provides for the Secret Service, the National Security Council, the White House Office, the Office of Personnel Management, the General Services Administration, the National Archives, and a myriad of other small Government agencies.

As my good friend, Chairman NATCHER often says, "I tell you this frankly, this is a good bill." Support Chairman ROYBAL and the bill the subcommittee brings before you today.*ERR08*

Ms. PELOSI. Mr. Chairman, I rise in strong support of H.R. 2622, the fiscal year 1992 appropriations bill for Treasury, Postal Service, and General Government. I commend the chairman of the subcommittee, Congressman ROYBAL, and the ranking member, Mr. WOLF, for their leadership in bringing this bill to the floor. The subcommittee staff also deserves special recognition for its tireless efforts on behalf of the bill.

Despite the severe budgetary constraints faced by the subcommittee this year, H.R. 2622 provides adequate funding for a number of agencies and programs of vital interest to the American people. Drug interdiction efforts of the Customs Service and the Bureau of Alcohol, Tobacco and Firearms, and the activities of the Office of Drug Control Policy are funded in this bill.

Mr. Chairman, passage of this bill is essential for the collection of Government revenues necessary to reduce the budget deficit. For, although it is an appropriations bill, H.R. 2622 funds revenue-producing agencies of the Government such as Customs and the Internal Revenue Service [IRS].

As chair of the Congressional Working Group on China, I am particularly pleased that, under the leadership of Congressman WOLF, a provision was included in the report that will require Customs to enforce strictly the prohibition against the importation of forced labor goods from China. These goods are allegedly being exported to the United States in direct violation of the 1930 Tariff Act. Some of the products are being produced by imprisoned prodemocracy students. The export of these goods is not illegal and immoral, but it forces American workers to compete against slave labor. I am therefore very pleased that this provision was included.

Again, Mr. Chairman, I want to commend Chairman ROYBAL and the subcommittee for their excellent work on this important legislation. I urge my colleagues to join me in supporting H.R. 2622.

Mr. OLVER. Mr. Chairman, I rise today to urge my colleagues to support two items contained within this appropriations bill which are of deep concern to my district and which received the caring attention of the late Congressman Conte.

Western Massachusetts is blessed with many gifts—bountiful natural resources, the greatest education system in the world, and a rural community spirit surpassed by no district in the Nation.

But unfortunately western Massachusetts is often bypassed by the fruits of Federal support. That is, in part, the reason Silvio Conte worked for several years with his colleagues in the Massachusetts delegation to reorganize two Federal offices within Massachusetts to ensure access to the far corners of the State.

This legislation contains a carefully constructed compromise to move the U.S. Fish and Wildlife Office from urban eastern Massachusetts to the western part of the State and closer to the heart of fish and wildlife concerns of the Northeast.

This legislation also contains another carefully constructed compromise to move a part of the National Archives Office from the Boston area to Pittsfield—a move that will allow researchers across the State opportunities to utilize the full services of this institution.

Following Sil Conte's death, these projects were brought to fruition through the kindness and generosity of the chairman, Mr. ROYBAL, the ranking member, Mr. MCDADE, and the entire Massachusetts delegation; the people of western Massachusetts and I owe them all our heartfelt thanks. Both projects will create many new jobs in my district and will help combat the high unemployment and economic erosion that plagues the area.

Congressman Silvio Conte was a fighter for causes—his first and foremost cause was the people of western Massachusetts. I am humbled by the challenge of carrying on his legacy. I stand before this body today and ask for the support of my colleagues on these two important projects begun by Silvio Conte, which deserve to be completed in his name and in his honor.

Mr. RAHALL. Mr. Chairman, I rise today in strong support of the Treasury, Postal, and General Government appropriations bill for fiscal year 1992. Most Americans have little idea of how important this annual piece of legislation is to their lives.

This bill contains several important provisions that will directly impact nearly all charitable organizations and the lives of those people they seek to assist. I commend the Appropriations Committee for rejecting the repeated calls to slash revenue forgone subsidies. From the moment the President sent his budget up to Capitol Hill my office received numerous requests to oppose the drastic cuts proposed in the funding of revenue forgone. When the budget resolution was passed I was deeply troubled by the inclusion, while less draconian, of cuts in this area. The committee has brought to us a bill which rejects both sets of cuts and actually increases the fiscal year 1992 appropriation by $179 million over last years levels. This brings the total funding up to the U.S. Postal Service full request of $649 million next year.

If the proposed reduction had been allowed to stand, charitable organizations, political advocacy groups, nonprofit organizations, libraries, and colleges, would have found it impossible to continue their important activities due to prohibitive costs. The loss of these important subsidies would mean that more money, otherwise spent on programs and activities, would be used for costly mailings. In today's information society the ability to communicate is everything. We must assure organizations which play such important roles in their communities that they will be able to continue serving those in need. I again commend the committee and thank them for their attention in this matter.

I would like to draw attention to some other important aspects of this years funding bill for the Department of Treasury, Postal Service, and General Government. The committee has continued a general provision that prohibits the use of funds to weaken the enforcement of the 1930 Tariff Act regarding to the authority to bar the importation of goods made with prison labor. The continued reports of the People's Republic of China using prisoners to manufacture products for export is an insult to every American who is out of work. After the bloody crackdown of the prodemocracy movement in 1989 the use of forced labor stands as a blatant insult to the sensibilities of all Americans.

Another aspect of this bill that often goes unnoticed by many people, but is important nonetheless, is the appropriation for the Committee for Purchase From the Blind and Other Severely Handicapped. This organization promotes employment opportunities and adjustments for the blind and others with severe handicaps. The committee's function is extremely important in the integration of America's blind citizens into broader society.

The bill also continues to provide important benefits for all Federal employees. Civil servants will continue to be able to use sick leave for the adoption of a child. Blood marrow donation is encouraged by allowing an employee of the Government to be granted up to 7 days of administrative leave without a reduction in pay. And perhaps the most potentially far reaching aspect of this bill in regard to Federal employees is the directive from OPM to survey Federal agencies to assess the use of profamily employee programs. The ensuing report will help all of us better evaluate important initiatives such as child-eldercare, flextime, and leave sharing, allowing us to make important policy changes to help attract and retain a competent Federal work force.

Finally, I would like to address an issue that received lots of media attention both here in Washington and back in West Virginia, the move of the Bureau of Public Debt to West Virginia. The committee has included language to assure that no individual will be forced to relocate to the new facility in order to retain employment at the same pay grade. For those employees who chose to move, the bill directs OPM to reimburse them for the cost of relocation.

In conclusion I wish to commend the chairman of both the subcommittee and the full committee for bring us a good bill that we should all be able to support.*ERR08*

Mr. WOLF. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ROYBAL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 2622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $2,330,000, to remain available until expended, for systems modernization requirements; not to exceed $490,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $67,500,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Departmental Offices, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; not to exceed $73,000 for official reception and representation expenses; not to exceed $2,487,000, to remain available until expended, for systems modernization requirements; $32,794,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, hire of passenger motor vehicles; not to exceed $2,000,000 for official travel expenses; not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury; $22,710,000.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; not to exceed $3,000 for official reception and representation expenses; $18,055,000, of which not to exceed $945,000 shall remain available until expended, for development of FinCEN's intelligence information systems.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifty-two for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $7,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized to accept gifts: *Provided further,* That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further*, That the Director of the Federal Law Enforcement Training Center shall annually present an award to be accompanied by a gift of intrinsic value to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, to be funded by donations received through the Center's gift authority; $39,245,000.

Acquisition, Construction, Improvements, and Related Expenses

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $5,359,000, to remain available until expended.

Financial Management Service

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $189,195,000, of which not to exceed $10,794,000, shall remain available until expended for systems modernization initiatives: *Provided*, That notwithstanding any other provision of law, hereafter the Financial Management Service shall be fully and directly reimbursed from the Social Security Trust Funds for the costs it incurs in processing Social Security Trust Funds benefit payments, including but not limited to, payment preparation, postage, and account reconciliation.

Bureau of Alcohol, Tobacco, and Firearms

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $10,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $316,796,000, of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1992, and, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided*, That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further*, That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further*, That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further*, That this provision shall not preclude ATF from assisting the International Civil Aviation Organization in the development of a detection agent for explosives or from enforcing any legislation implementing the Convention on the Marking of Plastic and Sheet Explosives for the Purpose of Detection: *Provided further*, That funds made available under this Act shall be used to achieve a minimum level of 4,073 full-time equivalent positions for fiscal year 1992, of which no fewer than 1,037 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program.

United States Customs Service

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; not to exceed $20,000 for official reception and representation expenses; funds for additional positions for the San Francisco, California, the Baltimore, Maryland, and Port Huron, Michigan Customs Districts, and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,226,514,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, not to exceed $4,000,000, to remain available until expended, for research, and not to exceed $3,500,000, to remain available until expended, for renovation and expansion of the Canine Enforcement Training Center: *Provided*, That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further*, That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further*, That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further*, That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further*, That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1992: *Provided further*, That not less than $500,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

Operation and Maintenance, Air Interdiction Program

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $109,432,000, to remain available until expended: *Provided*, That no aircraft or other related equipment shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1992.

Customs Forfeiture Fund

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $15,000,000, as authorized by Public Law 100–690, as amended by Public Laws 101–382 and 101–508; to be derived from deposits in the Fund.

Customs Services at Small Airports

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $2,981,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98–573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

United States Mint

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $53,806,000, including amounts for purchase and maintenance of uniforms not to exceed $285 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties; and, of which, $1,335,000 shall remain available until expended for expansion and improvements.

Bureau of the Public Debt

Administering the Public Debt

For necessary expenses connected with any public-debt issues of the United States; $192,270,000.

Internal Revenue Service

Administration and Management

For necessary expenses of the Internal Revenue Service, not otherwise provided for; executive direction, management services, and internal audit and security; including purchase (not to exceed 125 for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $144,503,000, of which not to exceed $25,000 for official reception and representation expenses; and of which not to exceed $500,000 shall remain available until expended for research.

Processing Tax Returns and Assistance

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; statistics of income; providing assistance to taxpayers; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,661,298,000, of which $3,000,000 shall be for the Tax Counseling for the Elderly Program, no amount of which shall be available for IRS administrative costs.

Tax Law Enforcement

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; the purchase (not to exceed 451, for replacement only, for police-type use), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $3,606,124,000: *Provided*, That additional amounts above fiscal year 1991 levels for international tax enforcement shall be used for the establishment and operation of a task force comprised of senior Internal Revenue Service Attorneys, accountants, and economists dedicated to enforcement activities related to United States subsidiaries of foreign-controlled corporations that are in noncompliance with the Internal Revenue Code.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

□ 1540

The CHAIRMAN. The Clerk will report the amendment.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Chairman, the Committee on Rules made an amendment in order to be offered by Representative GEPHARDT of Missouri. The other names are listed here or their designee.

I am sorry. I withdraw my parliamentary inquiry.

Mr. TRAFICANT. Mr. Chairman, further parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. TRAFICANT. To what title is the Gephardt amendment germane?

The CHAIRMAN. The amendment is on page 13, line 7.

Mr. TRAFICANT. Of title I?

The CHAIRMAN. That is correct.

Mr. TRAFICANT. Has the Chair asked if there were any objections to title I? Points of order?

The CHAIRMAN. The Chair will inform the gentleman that the bill is being read by paragraph and points of order are in order when those paragraphs are read.

Mr. TRAFICANT. Then would it not be a fact then that the amendment so being proposed here by the gentleman from Wisconsin [Mr. OBEY] would then be subject to being called at the appropriate time at the reading of that relevant matter on page 13?

The CHAIRMAN. The Clerk is about to report the amendment offered by the gentleman from Wisconsin.

Mr. TRAFICANT. Further parliamentary inquiry; is the Chair saying that all of that up to page 13 then is not eligible to be stricken under a point of order?

The CHAIRMAN. The gentleman is correct.

Mr. TRAFICANT. Then I object and I ask that sections of title I be now reviewed before page 13 and the offering of the Gephardt amendment. And I raise a point of order as such that the amendment not be——

The CHAIRMAN. The Chair will inform the gentleman that points of order must be made as individual paragraphs are read, unless by unanimous consent the bill is reopened for consideration of points of order.

Mr. TRAFICANT. Mr. Chairman, a further parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. The Chair is saying the bill has been read up to page 13, up to and including the section dealing with tax law enforcement?

The CHAIRMAN. The gentleman is correct.

Mr. TRAFICANT. So that there would be no points of order now that would be relevant to any of that material prior to that section?

The CHAIRMAN. The gentleman is correct.

Mr. TRAFICANT. But there would be points of order that could be relevant to any of that material subsequent to that section?

The CHAIRMAN. The gentleman is correct.

Mr. TRAFICANT. But there would be points of order eligible for any part subsequent thereto which would include on page 13, line 8, information systems; is that correct?

The CHAIRMAN. The gentleman is correct. As paragraphs are read, points of order would be in order.

The Clerk will report the amendment offered by the gentleman from Wisconsin.

The Clerk read as follows:

Amendment offered by Mr. OBEY: Page 13, line 7, insert before the period the following: : *Provided further*, That additional amounts above fiscal year 1991 levels for the information reporting program shall be used instead for the examination of the tax returns of high-income and high-asset taxpayers

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WALKER. Mr. Chairman, I make a point of order against the amendment of the gentleman from Wisconsin on grounds that it violates clause 5(b) of House rule XXI and ask to be heard on my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WALKER. Mr. Chairman, clause 5(b) of rule XXI states at the relevant part that, and I quote:

> No amendment in the House or proposed by the Senate carrying a tax or tariff measure [shall] be in order during the consideration of a bill or joint resolution reported by a committee not having that jurisdiction.

The proposed amendment would transfer the increased funds in the bill over last year's appropriation for the Information Reporting Program to be used instead for the examination of the tax returns of high-income and high-asset taxpayers.

It is my contention, Mr. Chairman, that under the precedents surrounding clause 5(b) of rule XXI, this amendment constitutes a tax measure to a bill not reported by the committee having jurisdiction over tax measures—the House Ways and Means Committee.

In this regard, I cite the footnote at section 846(b) of the House Rules and Manual for the 101st Congress, and I quote:

> In determining whether a limitation in a general appropriation bill constitutes a tax or tariff measure proscribed by this clause, the Chair will consider argument as to the certainty of impact on revenue collections and tax status or liability.

That particular reference was to a point of order raised on August 1, 1986, against a provision in a Treasury, Postal Service appropriations bill to prohibit the use of funds in the bill to implement certain specified Treasury regulations. Those regulations required taxpayers to maintain detailed information to substantiate the deductibility of certain expenses on their tax returns.

In that instance, the Chairman of the Committee of the Whole, Mr. BEILENSON, upheld the point of order. The Chair observed that without those regulations, taxpayers as well as the IRS would have no guidance. And while new regulations could be promulgated, there would be a necessary delay in doing so, and this would, and I quote, "necessarily result in a direct loss of revenue to the Federal Treasury."

The Chair concluded that the progression of decisions under clause 5(b), rule XXI, support the proposition that a provision constitutes a tax or tariff measure, and again I quote the Chair:

> Where it can be conclusively shown that the imposition of the restriction on IRS funding for the fiscal year will effectively and inevitably either preclude the IRS from collecting revenues otherwise due and owing under provisions of the Internal Revenue Code or require collection of revenue not legally due and owing.

Mr. Chairman, while the pending amendment is not a limitation amendment, and instead shifts funds from one tax law enforcement activity to another, namely, from the Information Reporting Program to the Examination Program, the same standard and test can be applied to determine whether this constitutes a tax measure.

And that test is whether the enactment of the amendment would, to again quote from the 1986 ruling, "change tax status or liability by the inevitable effect on the ability of the IRS to collect revenues." It is my contention that this amendment would have that inevitable effect.

Mr. Chairman, any time you shift some $13 million from one activity of tax law enforcement to another, you are bound to affect the ability of the IRS to collect revenues, and the tax liability of individual taxpayers. In this case the $13 million is being transferred from the Information Reporting Program to the examination of high-income, high-asset taxpayers' returns.

Mr. Chairman, it is my contention that shifting that $13 million from the Information Reporting Program to audits will result a lesser return in revenue collections in the short-term. I base this on the testimony of IRS Commissioner Goldberg before the House Appropriations Subcommittee on

Treasury, Postal Service and General Government on March 5, 1991. Quoting from page 834 of the printed hearings:

> So what we have done is we have dramatically cut the audit of individuals and have replaced that audit with computer generated notes which is a much more efficient way of doing business and a lot less intrusive. * * * so, what happens if you are interested in short-term revenue yield, let us put the bucks in the bank this year. It is really easy to do more computer-generated notices to taxpayers who are doing it pretty right to begin with. In the short term, you are going to get more dollars out.

Mr. Chairman, Commissioner Goldberg did go on to testify that "In the long run, if you were willing to make the investment in building back audit coverage of large companies and folks making $100,000 to $200,000 a year, * * * you are going to get more money that way." And he added that would be more healthy and fairer.

But all we are concerned with in this point of order is whether shifting funds from the information matching system to audits will be a revenue gainer or loser in fiscal 1992. And the testimony of the IRS commissioner is that keeping that money in the Information Reporting System is more efficient and will yield a larger revenue return.

Finally, Mr. Chairman, while I think I have provided ample proof that this amendment will deprive the IRS of net revenues it would otherwise receive in the coming fiscal year, under parliamentary practice, the burden of proof is on the proponent of the amendment to show that the amendment does not violate the rule. In other words, it is up to the gentleman from Missouri to prove that his amendment will not "inevitably preclude the IRS from collecting revenues otherwise due and owing under the provision of the Internal Revenue Code."

I therefore urge that my point of order be sustained.

The CHAIRMAN. The proponent of the amendment is entitled to be recognized on the point of order.

Mr. OBEY. Mr. Chairman, it is hard for me to respond to the point of order of the gentleman from Pennsylvania with a straight face, but I will try. The fact is that to suggest that this proposal is a revenue proposal would be, if followed to its logical conclusion, to suggest that any effort whatsoever to provide law enforcement would in fact be a tax measure because it might result in the imposition of fines.

This is not a tax measure. This is an anticrime measure, and I would suggest that under section 5(b), rule XXI, that that portion of the rule book makes it quite clear that the gentleman is stretching it quite a bit to suggest that there is any demonstrated impact on revenues by this amendment.

There is no way to ascertain whether an audit of a taxpayer will or will not result in increased revenue or lowered revenue to the Treasury of the United States. And to suggest otherwise, I think, would be to suggest that this subcommittee could take virtually no action which would impact the rules of the IRS or any other agency that either audits or imposes fines.

□ 1550

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I just wanted to add that the rule protects this amendment. The rule states as follows:

> It shall be in order to consider the amendment printed in the report of the Committee on Rules accompanying this resolution, and all points of order against said amendment for failure to comply with the provisions of clause 2 of rule XI are hereby waived.

I ask the Chair to rule on it.

Mr. WALKER. Mr. Chairman, may I be heard further on the point of order?

The CHAIRMAN. The gentleman from Pennsylvania may be heard further.

Mr. WALKER. I thank the Chair.

First of all, my point of order does not relate to clause 2 of rule XI. I am making my point of order based upon clause 5(b) of rule XXI.

Mr. Chairman, in my point of order I quoted directly from the testimony of IRS Commissioner Fred Goldberg this year before the House Subcommittee on Treasury, Postal Service and General Government in which he asserted that "computer generated notes is a much more efficient way of doing business" than the audit, and that "in the short term you are going to get more dollars out."

So, therefore, it does become a measure relating to tax revenue unlike what the gentleman is saying that it is strictly a crime measure.

Lest there be any confusion that what he, Commissioner Goldberg, was talking about was the information reporting system, let me quote directly from page 1062 of those printed hearings from the IRS budget submission to the committee, and I quote:

> The information reporting program, also known as the information returns program (IRP), is a computerized correspondence compliance program. Through this program, the Internal Revenue Service matches information returns, such as interest, dividend, and wage statements, with related tax returns. * * * In the case of underreported income or overreported deductions, taxpayers are contacted to verify facts and amounts in question prior to assessing additional tax or refunding excess credits.

That same submission, at page 1040, describes examination as follows:

> Examination audits taxpayers' financial records to verify reported income and deductions, to uncover unreported income, and to validate exemptions, deductions and credits.

In short, Mr. Chairman, examination is audits, and the information reporting program in the document matching and computerized taxpayer contact system.

Finally, Mr. Chairman, I would quote from section 835 of the House Rules and Manual relating to points of order on appropriations bills:

> If the amendments is susceptible to more than one interpretation, it is incumbent upon the proponent to show that it is not in violation of the rule.

Moreover, it might be advisable here to apply the principle used for germaneness points of order, since clause 5(b) of rule XXI is very similar. To quote from section 594 of the manual:

> The burden of proof is on the proponent of the amendment to establish its germaneness, and where an amendment is equally susceptible to more than one interpretation, one of which will render it not germane, the Chair will rule it out of order.

I would submit in conclusion, Mr. Chairman, that even if the proponent were able to claim that his amendment is a revenue gainer rather than a net revenue loser, the existence of clear evidence to the contrary should compel the Chair to rule against the amendment on grounds that it is susceptible to more than one interpretation.

The CHAIRMAN. Does the gentleman from Ohio [Mr. TRAFICANT] wish to be heard on the point of order?

Mr. TRAFICANT. Mr. Chairman, I do.

Mr. Chairman, I believe that the Committee on Rules was appropriate in protecting the amendment from clause 2, rule XI, but I believe, in concert with the gentleman from Pennsylvania, this particular language does violate a separate and different clause as well, that being that which was cited by the gentleman from Pennsylvania, clause 5, rule XXI.

In that regard, it is not protected for that citation violation under 521, and should either be sent back to the committee for a rereading or should be stricken by the Chair.

The CHAIRMAN (Mr. STUDDS). The Chair is prepared to rule.

Whether greater scrutiny of certain tax returns will, by the use of funds contained in this bill will, in fact, lead to a loss or a gain in tax liability and in tax collection is a matter of conjecture as was pointed out by the gentleman from Wisconsin [Mr. OBEY].

The amendment itself goes only to funding in the bill. It does not necessarily result in a loss or gain of revenues, as was shown to be the case in the arguments on the points of order cited by the gentleman from Pennsylvania.

The test here is certainty and inevitability of such a tax gain or loss, and just to complete the record, the gentleman from Pennsylvania cited a ruling by Chairman BEILENSON on August 1, 1986.

Let the Chair read fully from that paragraph:

> A limitation on the availability of funds for the Internal Revenue Service otherwise

in order under clause 2(c), rule XXI may still be construed as a tax measure in violation of clause 5(b), rule XXI where it can be shown that the imposition of the restriction on IRS funding for the fiscal year will effectively and inevitably—

And I underline the words "effectively and inevitably,"—

preclude the IRS from collecting revenues otherwise due and owing by law or require collection of revenue not legally due or owing.

Absent a showing of inevitable or absolutely inevitable certain effects, the test is not met with respect to funding restrictions on annual appropriation bills and the point of order is overruled.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WALKER. The Chair did not refer to the rulings, however, where it is clear that the Chair is prepared to sustain points of order where the amendment is equally susceptible to more than one interpretation which clearly this particular amendment is. I did not hear the Chair rule on the point of order that I raised in that regard.

The CHAIRMAN. The Chair will simply remind and repeat to the gentleman that in this line of precedent on funding restrictions on appropriation bills the test of inevitability of a tax increase or decrease is consistent through all the precedents. For that reason, again, the Chair rules the point of order out of order.

Under the rule, debate on this amendment and all amendments thereto shall not exceed 1 hour.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY] for 5 minutes.

Mr. OBEY. Mr. Chairman, let me say at the outset that I am offering this amendment on behalf of the majority leader, the gentleman from Missouri [Mr. GEPHARDT], and others.

I have to say that I find it extraordinary the lengths to which Members of the House are apparently willing to go in order to try to keep this amendment from even being considered.

The purpose of this amendment is to simply respond to a newspaper story which first appeared in that most ultimate of all conservative Republican house organs, the Wall Street Journal, on March 21 of this year. The headline reads, "White House Urges IRS To Focus on Audits on Lower Income Taxpayers, Agency Says."

What the story goes on to tell is that the White House Office of Management and Budget told the IRS that they ought to focus their review processes on middle-income taxpayers and low-income taxpayers, shifting their focus from high-income taxpayers and corporations. The IRS properly resisted that suggestion, and the IRS Commissioner, in testimony so avidly quoted by the gentleman from Pennsylvania just a moment ago, the IRS Commissioner said that working men and women are in substantial compliance with the tax laws of the United States. The administration then responded by requesting $20 million less for high-income field audits.

This amendment is to make clear that the increased funds provided will be used to focus additional reviews and audits on corporations and on high-income taxpayers.

The fact is that the examination rate for corporations is down 50 percent from a decade ago. The examination rate for high-income taxpayers is down 52 percent from a decade ago, and yet middle-income people are being audited at about the same rate.

The GAO indicated in its review that 40,000 people with incomes of more than $100,000 did not even file tax returns, and that almost 50 percent of all high-income nonfilers escaped IRS investigations altogether.

It seems to me, therefore, that the logic of this amendment is clear, and it ought to be adopted without controversy.

□ 1600

Especially when we consider that since 1980, the wealthiest 1 percent of people in this society have effectively seen their incomes double from $330,000 to over $500,000 while the average worker, the average male worker at the median level of income in this country, with half earning more and half earning less, that average worker has seen his real income declined by $2,000 over that same period.

Certainly that result is unfair enough without adding an additional burden to the middle class—namely, an unfair emphasis in audits on the part of the IRS, being directed by the White House. I think the IRS was correct to resist that effort on the part of the White House. We want to make certain that we nail into the law protections for the IRS so that the White House will not again ask them to go on a diversionary expedition to basically hit middle class taxpayers rather than going where the dollars are.

It seems to me that this boils down to the very simple question: Whose side are Members on? If Members are on the side of middle-class taxpayers, Members vote for this amendment; if Members are on the side of the high rollers in this society, Members vote against it. It is that simple.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Let me begin by saying, one, if OMB did what was said that they did, it was wrong. I want to publicly condemn it on the floor today, certainly on behalf of myself and I know most Members of this body would agree. Second, I want to commend Commissioner Goldberg for resisting and, as the gentleman from Maryland [Mr. HOYER] made the comment, Mr. Goldberg is doing an outstanding job. Third, it would be my intent to tell Members that the administration has no problem with this amendment. If we are looking for a raging debate to keep Members away from their families tonight, and this place frankly does keep Members away from their family, then we can keep going 1 more hour.

Also, I would accept the amendment, but I want to make it clear that I think the body, since we are a lawmaking body, should understand and perhaps the amendment should be changed as to where we go for it and take the amendment, but I accept the amendment. The first thing is programmatic. I think the RECORD should reflect this amendment would take the issue requested by the President this year for the Information Reporting Program, [IRP], and transfer it to the examination program. Specifically, it would take away $13 million from IRP, a proposed increase which is just above the level of inflation, and transfer that $1.6 billion, 31,000 FTE examination program. Information provided me by the Treasury Department indicates that the IRP program which would have a fiscal year 1992 level of 3,956 FTE's under the bill as currently drafted is already being reduced by 148 FTE's due to productivity gains. This amendment as drafted would cause the additional reduction of 250 staff-years for this program.

The authors of this amendment might not think that this a bad thing to transfer funds from the small IRP Program to the larger Examination Program, as a policy choice, because there seems to be an assumption that the IRP goes after low-income taxpayers. However, I think in fairness that the RECORD should reflect that the IRP generates reports on discrepancies on tax returns that involve such tax issues as interests, dividends, capital gains, and mortgage interest deductions. The IRP is an income-blind program. It is an automated blind program that generally focuses on the types of issues that this amendment targets, higher income taxpayers who typically file returns which involve interests, dividends, and capital gains. So I am not sure that this amendment, by taking money away from the IRP, would result in what the authors want.

Having said that, just for the RECORD to clarify, because if we are writing laws we really do not want to do something that all Members are not for, I want to again state that the administration has no opposition to this amendment. On behalf of this side of the aisle, I accept the amendment.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words. No person has had any real concern about the nature of the amendment itself. The question around here has always been about the process. That is what I want to go back to.

The gentleman from Wisconsin found it amusing that we would take a look at the process used and in the course of the rules debated earlier, and in the course of my point of order, we looked at the process, because in all honesty there is a certain amount of arrogance that suggests we ought to go out and legislate in this matter within appropriation bills.

The gentleman seems to have no concern whatsoever about doing it on this bill, but then tomorrow is going to bring Members a bill out of his committee in which he will not allow the Members the ability to strike as funding if he has his way in the Committee on Rules.

What I am suggesting is that we ought not allow the ability to control the process here to get in the way of our better judgment. There is nothing wrong with the substance of this amendment. I would suggest it is a very poorly drafted amendment, because it does not define the terms in any way, shape or form.

Earlier today the gentleman from Missouri, the author of the amendment, could not tell me exactly whether the funding level would come down to define high-level taxpayers—somewhere around $100,000. I suggest when we are doing these kinds of things and dealing with IRS policy and telling the IRS to go and target a specific group of taxpayers, we ought to be very, very careful about what it is we are doing.

In this particular case, I think the amendment was drafted more for political purposes than with the careful intention of assuring we have an appropriate policy. That is not a good way to legislate. It is particularly not a good way to legislate when we run roughshod over the processes of the House that are supposed to protect all Members in order to get something like this done.

Then, our side was disturbed about the fact that while this particular set of tax principles was given a particular waiver, the taxpayer's bill of rights was not given the same kind of waiver, and so the real protection that existed for middle-income taxpayers was left unprotected in the bill, and likely will be stricken later on on a point of order. That would be a real shame. That would be the real travesty against middle-income taxpayers. I would hope it would not be done, but in this particular case, this amendment should be approved.

Mr. GEPHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment I offer today—with the cosponsorship of our colleagues Mr. OBEY, Mr. PICKLE and Mr. DORGAN—prohibits the use of additional funding by the IRS to target low- and middle-income taxpayers.

The amendment calls for any increased funding to be used to examine high-income/high-asset taxpayers.

The policy stated by the amendment should be common sense. But, unfortunately, common sense has not been all that common at the executive branch when it comes to tax policy.

In March, the Wall Street Journal reported that the "White House Urged IRS to Focus Audits On Lower-Income Payers."

The article indicated that the Office of Management and Budget wanted to increase its audits of low- and middle-income taxpayers. IRS Commissioner Fred Goldberg, Jr., told the House Ways and Means Oversight Subcommittee that he wasn't going to do it.

In testimony before the Oversight Subcommittee, Commissioner Goldberg reported that working men and women are substantially in compliance with our Nation's tax laws and pay their fair share.

Our amendment supports IRS efforts. It simply says that when the IRS allocates new resources, they should be used to audit high-income/high-asset taxpayers. There is every reason for the Congress of the United States to endorse these efforts.

From 1980–90, the examination rate for corporations dropped 50 percent, partnerships dropped 50 percent, and upper income individuals dropped 52 percent.

Over the same period, the IRS continued to examine working men and women at approximately the same level.

In March, the General Accounting Office investigated the treatment by the IRS of taxpayers with income over $100,000. Their study showed that the IRS does not fully investigate high-income nonfilers. Indeed, almost 50 percent of all high-income nonfilers escape investigation by the IRS.

For some in this Chamber, and elsewhere, this kind of bias against the middle-income taxpayer represents business as usual.

They want to repeal the luxury tax, they want to cut the capital gains tax, they want to eliminate working people from student loans, and they want to penalize the elderly poor who qualify for Medicare but cannot afford their premiums.

I understand that point of view, I don't share it, and I don't think it makes good policy for the United States.

I do not believe that our system of tax compliance should have one set of rules for the working people of the United States, the people who pay their taxes, and a looser set of rules for the people who can afford to pay but who may be shirking their burden.

If you want the middle-class to be audited by the IRS but want the rich to get off easy, you can oppose the amendment. But if you want to support the little guy, and support an even-handed system of tax justice for rich and powerful taxpayers as well as for the middle-class, we would be happy if you would join us in supporting the amendment.

□ 1610

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just say first of all I intend if this comes to a vote to vote for this. I think that our side will be virtually unanimous.

We certainly agree with the distinguished majority leader that it is useful for the middle class to be recognized and for the middle class to have an IRS which is more interested in protecting their wallets and auditing very large corporations than going after the middle class; however, I just want to say that one of the interests the middle class has is controlling Federal spending, and another interest the middle class has is cutting out waste in government.

If I might, I just want to make clear what is going to happen for the next couple days. I am going to ask my colleagues on this side of the aisle to do every procedural step we can, to insist on every point of order we can, and to communicate that the rule which just came out of the Rules Committee a few minutes ago is an absolute assault on the middle class. It absolutely eliminates every individual Member on either side of this aisle from an opportunity on the foreign aid appropriations bill to cut out waste in spending.

Now, I am convinced that the majority leader and the Democratic leadership which developed this afternoon's amendment on behalf of the middle class is going to want to help us defeat the rule tomorrow to allow any individual Member, Democrat or Republican, liberal or conservative, to offer any cutting amendment they want to on this appropriation bill.

I think as a matter of procedural fairness for the House, it is my understanding from the Rules Committee, from our staff, that it is virtually without precedent to limit the right of Members to offer motions to strike on appropriations bills. I think it strikes at the very heart of the representative nature of the House for the majority to decide artificially to protect this particular bill.

I cannot see how you can go to the middle class and say you want to help them, but by the way, you are absolutely protecting billions of dollars from any right of an individual Member to offer an amendment.

So we are for the next few days, until the majority decides to change its position, we are going to do every single thing we can to insist on the right of individual Members to be protected in cutting spending.

I cannot imagine from a middle-class, balanced budget, cutting waste standpoint anything which would be more vivid and more dramatic than to have the Democratic majority, which says it wants to represent the middle class and is trying in this IRS amendment to represent the middle class, to protect waste in these large bills and block the individual Members.

So if Members are inconvenienced for the next few days, there is a very easy way to stop that. I would urge the Democratic leadership to allow us to avoid the kind of confusion we are going to have by simply agreeing to pull the rule and rewrite it to allow Members to offer motions to strike.

Mr. TRAFICANT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think anybody in this House is going to oppose this amendment, because this amendment is going to sell good around the country. It looks good and in all reality it can be good. I am not questioning the intent or the integrity of the sponsors; but let me tell you what, for every one of those so-called rich people that you are going to be turning the IRS on, they are going to have a battery of attorneys, a battery of accountants, and they are going to fare very well in this process; but what this House is failng to do at this point, in my opinion, by being selective with the rule and being selective in the way we legislate, if you will, on appropriation bills, we still have not addressed the broad range of overall taxpayer abuse problems which basically affects the middle income guy and the smaller income guy and women in this country, and I think that is the hypocrisy.

There is nobody in this House who is against this particular language, but just remember this. Every time that IRS agent calls that guy that has all that money, he calls all his attorneys and his accountants and they work it out, many times for 1 dollar for every 10.

But what we are failing to do as a Congress is we still continue to leave vulnerable and exposed those individuals who do not have the financial wherewithal to protect their own interests under the Tax Code.

This is not knocking any Republican administration. This has occurred with Democrats and Republicans. It has happened with an IRS agency that Congress has not provided enough oversight for, and everybody in this House knows it.

So Mr. Chairman, I am going to support this amendment, but I think it is time that we take a look at the overall needs of the average worker, and by looking at the needs of the average worker, you provide some basic taxpayer protection. They are the ones who need it. They do not have the money for the attorneys. They do not have the accountants.

Mr. PENNY. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I simply take this time to respond to the comments of the gentleman from Georgia concerning the rule on the Foreign Operations bill.

The unprecedented rule to which the gentleman refers in fact has three previous precedents in this House. In 4 of the last 5 years, the identical bill has been handled in just the way that the Rules Committee handled this bill, in very large part because we are trying to do a very difficult thing, which is to pass an appropriations bill concurrently with the passage of the authorization bill.

We are trying to confine most of the legislative arguments to the authorization bill, and we are trying to reach accommodation with the administration on very sensitive issues, such as El Salvador.

Very frankly, most of the amendments to the bill about which I was worried would have come from the Democratic side of the aisle tomorrow, because among other things we are arranging, for the convenience of the administration, to delay any further votes on El Salvador until after Labor Day, to give the administration an opportunity to try to work the peace process in that country.

We also in that way prevent any precipitous amendments on other countries, such as Guatemala.

I would further make the point that to my knowledge every single Republican—well, let me back up. The Rules Committee noticed last week their intention to provide just such a rule. They explicitly informed the gentleman from Georgia of that fact on the floor. My understanding is, and I would point out that under that notice given by the Rules Committee, every single Republican who offered an amendment was guaranteed that that amendment would be considered. The only Republican amendment that I know was dropped was that of the gentleman from New York [Mr. GREEN], who specifically told me that he only wanted his amendment considered if in fact another amendment came from the pro-life side of the issue, and since it did not, he did not choose to offer an amendment; so I fail to see how any Member has been injured.

In fact, the majority here is doing the same thing the minority is doing on the foreign operations bill. We are largely providing appropriations for items that the administration wants, and it seems to me that we can hardly be faulted here for doing that.

I dare say that the administration has gotten 99 and 44/100ths percent of what it wanted, and I dare say that there is not a single Republican amendment that was offered that was not allowed to be considered tomorrow.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield to clarify two things?

The CHAIRMAN. The gentleman from Minnesota has the time.

Mr. PENNY. Mr. Chairman, I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Chairman, I just want to make two points.

First of all, I believe it is fair to say that the distinguished chairman was not joined by his ranking member in requesting this rule; is that correct?

Mr. OBEY. Mr. Chairman, if the gentleman will yield, I was not joined for the last 5 years by the ranking Republican. That does not belie the fact that we have had this same rule for 4 of the last 5 years.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield further?

Mr. PENNY. I yield to the gentleman from Georgia.

Mr. GINGRICH. I will just point out, Mr. Chairman, that the gentleman from Wisconsin should be on the floor defending the rule. As I understand the rule, it reads, for example, that Mr. VOLKMER has a specific amendment which was in the RECORD, and then reads Obey substitute.

Mr. EDWARDS has three amendments which were in the RECORD. Then it says Obey substitute to each Edwards amendment.

So that the only person who did not have to print their amendments in the RECORD was the distinguished gentleman from Wisconsin. If I could get a deal like that from the Rules Committee, I would favor it too.

☐ 1620

Mr. OBEY. Let me simply suggest this is not at all rare to allow subcommittee chairmen to substitute amendments to amendments offered. As you know, it is physically impossible to prepare amendments to amendments that have not been drafted yet. So we have no way of drafting those amendments until after the others have been filed.

Mr. GINGRICH. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Georgia.

Mr. GINGRICH. I thank the gentleman for yielding.

In the 97th Congress, no restrictive rule; 98th Congress, no restrictive rule on any regular appropriation bill; 99th Congress, 1 restrictive rule; 100th Congress, 1 restrictive rule which permitted 18 amendments; 101st Congress, 1 restrictive rule which permitted 11 amendments.

All I am suggesting is that when every amendment gets to be trumped by one Member whose amendments we have not seen, it is a little one-sided.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. PENNY] has expired.

(By unanimous consent Mr. PENNY was allowed to proceed for 1 additional minute.)

Mr. PENNY. I yield further to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, nothing the gentleman has said denies the fact that in 4 of the last 5 years we have had virtually the same rule. The rule operates principally for the convenience of a Republican administration with which I am trying to cooperate. When the day comes that a Democratic chairman is criticized for working cooperatively with a Republican administration to protect their prerogatives, largely, then I think we have reached a very strange state indeed in this Chamber.

Mr. DORGAN of North Dakota. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I shall not take the full 5 minutes, but I did want to say that as a former tax administrator who has been involved in audit enforcements, this is not a minor, technical, or insignificant issue, as some have suggested.

The question of how we enforce our tax laws—against whom, and with what kind of fairness—is very important. I do not believe that we ought to micromanage on the floor of the House. I support Commissioner Goldberg. I think he is trying to do a very good job under very difficult circumstances. He is trying to use limited resources to cover virtually unlimited needs to enforce our tax laws.

But there are some quirky people in town who apparently feel the best approach to enforcement is to increase our enforcement efforts against low- and middle-income people. They feel that's the best use of our money.

These people are apparently the same people who said to the IRS, when they requested $35 million more for compliance and enforcement plans to try to respond to significant tax avoidance among high-income people, that "We are going to cut those amounts by 80 percent. We do not want you to examine returns in this area of tax enforcement."

So it is perfectly appropriate, in fact I think necessary and important, for us when we send this money to say, "You know, you ought to look for money where money is," as the old saying goes. If you take a look at where the tax avoidance is in this country, it is not with low- and middle-income taxpayers or wage earners. The bulk of the evidence tells us that low- and middle-income workers in this country faithfully pay their taxes and always have.

On the other hand, if you take a look at audit rates on the largest corporations in the country in the past decade, they have decreased dramatically. Yet the tax-gap reports tell us how much is left out there falling through the cracks, and you will find almost $16 billion is not collected from corporations with over $100 million a year or more.

Well, that is where we ought to devote some of our resources. This amendment is very simple and absolutely correct. It says when you have additional resources let's not use them to significantly enhance the audit and enforcement efforts against those middle-income and low-income people who are already complying with the tax laws and faithfully pay their taxes. Let's use it to get those who are slothful and who decide they are not going to participate and who do not want to comply with the tax laws. It's time to get them to become full-fledged American taxpayers and pay us what they owe.

Once we do that, we will have done something significant for all the rest of the taxpayers in this country. That is what this amendment is all about. It is not about politics or anything else. It is not that enforcement of tax laws is insignifcant. But when people suggest we move in the wrong direction and begin significant audits against low- and middle-income people and ignore moving resources to the upper-income people where the tax compliance problems and tax enforcement problems exist, then they are wrong and we have a right to speak to that on the floor of the House. This is what this amendment does.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words and rise in strong support of the Gephardt amendment. Much has been said about it. I would reiterate that I think Commissioner Goldberg is trying to respond to a problem that exists, that this amendment speaks to. I would like to quote from pages 775 and 776 of his testimony which I think is exactly on point on this amendment.

Reading parts of it, he is referring to the high-volume program of contact through mail, computer operations, which is generally, as he points out, best suited to relatively perfunctory returns. That is, returns which do not have, necessarily, a lot of special items contained in them. He says this: "If you compare the declines with individuals to the declines for partnerships, large businesses, large corporations, large Schedule C filers, it is dramatic." He goes on to say: "I think the next chart tells the story." He says: "Overall, for individuals, nonbusiness individuals, if you look at what we are doing in 1991, including adding business coverage over all individuals, nonbusiness individuals have the same amount of dealings with us as they had 10 years ago, the same percent." In other words, the average guy still has the same interface with the IRS. Some have referred to it as harassment. In some cases that is perhaps correct. None of us would condone such activity.

However, for the most part, what it is, as the gentleman from North Dakota was saying, in an attempt to make sure that our system operates fairly and that all taxpayers pay their fair share. He goes on to say: "We have, however, a 27-percent decline in audit coverage for businesses with over $100 million in assets." In other words, our largest corporations which have the most money and probably the most tax liability we see a significant, by over a quarter decline in their audit coverage.

Quite obviously, the message that says that, "We are not going to check on you if you are a big-timer. But if you are a little-timer, we are going to stay after you just as we have."

He goes on to say: "A 53-percent decline, over half, in audit coverage for individuals with over $100,000 income," the income level for which the majority leader speaks, and then a 51-percent decline in audit coverage on partnerships. Now, quoting Commissioner Goldberg, he said, "The system is out of whack."

Now, I do not know what the Wall Street Journal article was based upon, per se, but if in fact there was a direction from the White House to the IRS to diminish the audit coverage on the wealthiest Americans who are doing the best in America, in fact that the Government and our system is serving the most, while continuing it on the average on the average American guy trying to struggle and make ends meet, then in fact Commissioner Goldberg is absolutely correct, the system is out of whack.

The majority leader's amendment attempts to put the system a little back on the track.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is clear that over the past decade the administration has sought to rely on working men and women as an easy source for needed revenue. The administration's strategy is: why bother expending valuable IRS resources to dig through the complex books and records of large corporations and high income people, when, for the price of a postage stamp, IRS notices can be mailed out to lower- and middle-income taxpayers asking for $15 or $50 in additional taxes.

The bottom line is that hitting wage earners on discrepancies in salaries and interest that they report on their tax returns is a heck of a lot easier than sorting through aggressive corporate tax positions, complicated partnership accounting issues, and potential litigation. The amendment before us is intended to change this strategy and tell the administration that we don't intend to let the big boys alone anymore.

The Ways and Means Committee's Subcommittee on Oversight, which I chair, held a hearing March 20, 1991 on the Internal Revenue Service's fiscal year 1992 budget. The facts revealed during that hearing speak for themselves.

The Commissioner of the IRS testified that from 1981 through 1990, the audit rate for corporations dropped by 50 percent, the audit rate for partnerships dropped by 50 percent, and the audit rate for upper income individuals dropped by 52 percent. In contrast, the audit rate for working men and women did not change. They are typically audited by mail under the Information Reporting Program when an IRS computer finds a mismatch.

In 1991, wage earners will be audited at a rate of 5.5 percent under IRS's audit-by-mail program. This is higher than the 3.5 percent audit rate for corporations, much higher than the .9-percent audit rate for partnerships, and the 3.7-percent audit rate for upper income individuals.

The administration requested, during fiscal year 1992, that the IRS increase its reliance on audits of working men and women, and shift away from audits of high-income and high-asset taxpayers. In order to get more revenues in more quickly, IRS could send out additional IRS tax notices to working individual taxpayers. This would bring money in faster and avoid the more time consuming and complex audits of high-income individuals and corporations.

The IRS Commissioner objected to this request believing that it did not represent good tax policy and simply was intended to be an easy short-term revenue source. He noted that working men and women are substantially compliant with our tax laws and pay their fair share. IRS Commissioner Goldberg testified that he felt strongly it is the IRS's job to also go after the big guys who are not paying their fair share.

In the end, the Commissioner was able to rebuff the administration's proposal to shift the examination program further toward individuals audited by mail. However, the administration did not propose the funding for high-income and high-asset examination that the Commissioner and the Treasury requested.

The IRS Commissioner had the gumption to take a strong stand and he should be applauded for that stand. Today, the Congress has an opportunity to show its support for the Commissioner's position and for what is good and fair tax and fiscal policy.

Briefly, this amendment provides that the portion of the increase in tax law enforcement over fiscal year 1991 levels that would be allocated to audits by mail or the Information Returns Program, should instead be used for examination of high-income and high-asset taxpayers. We are not targeting taxpayers, but saying that the IRS should spend money wisely by examining those taxpayers that the Commissioner reported were not paying their fair share.

Mr. Chairman, there are some who would indicate that this is a partisan amendment. I disagree. I suggest that it is good tax policy in its best sense. It represents the opinion of this administration's own tax Commissioner who objected to continued focus on low-income taxpayers. The Commissioner took the position that it was bad tax policy to do this and suggested exactly what we are suggesting here today.

IRS ought to be spending money to audit the big boys as well as the little fellows. This ought to be our tax policy, not Republican policy or Democratic policy, but nonpartisan standard policy. I would like, at this time, to submit for the RECORD a copy of IRS Commissioner Goldberg's statement before the Oversight Subcommittee which I believe provides the background for this amendment and the reasons why the amendment should be supported on a nonpartisan basis.

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Mr. Chairman, I insert for the RECORD the following:

SUMMARY STATEMENT OF FRED T. GOLDBERG, JR., COMMISSIONER OF INTERNAL REVENUE

Mr. Chairman and members of the subcommittee: I appreciate the opportunity to appear before this subcommittee today to discuss the 1991 filing season and our fiscal year 1992 budget. Testifying with me are Mike Murphy, Deputy Commissioner; John Johnson, Chief Financial Officer; Dave Blattner, Chief Operations Officer; and Hank Philcox, Chief Information Officer. Also with us today are other IRS executives who will be available to answer any questions you might have.

Mr. Chairman, I have two straightforward and encouraging messages to deliver:

The filing season is going exceptionally well.

The President's FY 1992 budget request:

Fully funds existing levels of activities,

Funds the FY 1992 increment of systems modernization, and,

Provides for a modest growth in our compliance activities.

I. 1991 FILING SEASON HIGHLIGHTS

Mr. Chairman, I believe the statistics in every aspect of our operations tell the story. Here are the facts compared to last year at this time:

A. Service Centers

Taxpayers are filing at about the same rate again this year; we are processing returns and issuing refunds on or ahead of schedule. Particularly noteworthy are the increase in electronically filed returns and the widespread use of the simplified form 1040A by elderly taxpayers for the first time this year (data through March 9, 1990 and March 8, 1991):

CHART 1.—INDIVIDUAL INCOME TAX RETURNS FILED

[In millions]

	1990	1991	Percent change
Electronically filed returns	3.3	5.9	81.3
Form 1040	19.6	17.7	−9.5
Form 1040A	10.4	11.4	9.2
Form 1040EZ	11.6	10.1	−12.7
1040A filed by taxpayers with pension income	....	1.0	N/A

As we all know, many "little things" go wrong each filing season—equipment failures, software glitches, misdirected computer tapes, telecommunications failures, and the like. While these problems are inevitable, the object is to minimize their impact on taxpayers. So far, our success in this regard has been nothing short of remarkable. These run the gamut from the electronic transmission of returns to recover from computer tapes that a courier misdirected, to the rerouting of taxpayer service traffic when the telephone company's transmission lines went down. We have served the taxpaying public quite well this year.

The only cloud on the horizon is that the challenge of maintaining our antiquated hardware and software grows more daunting and costly each year. We are living on the edge in this regard—thanks to the skills of our workforce, we have averted disaster to date. But we are racing against time, Mr. Chairman, in our efforts to modernize our system.

One of the most striking aspect of our processing efforts has been the continued improvement in quality. The following chart illustrates the point.

CHART 2.—SERVICE CENTER INVENTORIES AND RECEIPTS AS OF MAR. 8, 1991 ADJUSTMENTS, UNPOSTABLES, AND UNIDENTIFIED REMITTANCES

	Percent	Number
Adjustments (IMF/BMF):		
Change in inventory	−16.7	−69,500
Change in receipts	−16.8	−310,600
Unpostables:		
Change in inventory	−28.9	−95,800
Change in receipts	−20.0	−235,700
Unidentified remittances:		
Change in inventory	−12.5	−1,800
Change in receipts	−11.9	−1,300

This translates directly into cost savings for the government. Of greater importance, it represents a dramatic reduction in burden on the taxpaying public.

B. Taxpayer Service

We are seeing continued improvement in taxpayer service once again this year.

CHART 3.—CUMULATIVE RESULTS THROUGH THE FIRST FULL WEEK IN MARCH

	1989	1990	1991
Cumulative accuracy rate (percent)	[1]62.8	76.2	81.3
Level of service (percent)	83.7	71.0	74.3
Teletax—Refund (millions)	8.2	3.3	8.3
Technical recorded tax information (millions)	1.6	1.7	2.0

[1] End of filing season cumulative rate.

With respect to our accuracy rates, two points are worth noting. First, we are seeing significant improvements throughout the country this year. While a number of specific call sites are having some continued difficulty, six of seven regions are now over 80% on a cumulative basis, and more than 18% of our call sites are over 85% on a cumulative basis.

The second point relates to the expert system that we tested in Boston last year, and are currently testing in Boston, Philadelphia, Dallas and Los Angles. While the results this year are mixed, we remain convinced that expert systems hold great promise for the future. At the same time, however, it is clear that our investments in training and the like are paying off quite handsomely in all of our call sites. We plan to continue testing expert systems next year, and it will be several more years before we know how to make best use of this technology in our taxpayer service efforts.

C. Forms Distribution

As with our other activities, forms distribution is going quite well this year. To date we have filled 11.2 million requests for forms in addition to the 96.7 million tax packages we mailed to individuals at the beginning of the filing season. Other positive indicators are:*ERR08*

Chart 4.—Forms distribution key indicators (through March 9, 1991)

	1991
Critical returns on back order	0
Average turn around time	[1]1
Average time, door-to-door	[2]11
Accuracy rates, forms distribution, centralized forms distribution sites	95.9

[1] Day.

[2] Days.*ERR08*

Once again, in an operation this size, "little things" are certain to go wrong. We are threfore particularly pleased with the GAO's assessment that employees in our walk-in sites are familiar with procedures for ordering forms and are making an extra effort to be helpful.

Mr. Chairman, our filing seasons succeed because our citizens and preparers make it a success. Beyond that, four other reasons behind our achievements this year are:

(1) No last minute law changes with 1990 effective dates;

(2) Tax systems modernization projects that are now up and running;

(3) Strategic planning and our continued pursuit of quality;

(4) The dedication, abilities and hard work of our employees.

Those within our control will continue to enhance tax administration in the years ahead; I only hope we have learned our lesson with the respect to the first.

I am particularly proud of these accomplishments in light of the many complicated assignments our employees undertook in handling the special tax situations associated with Operation Desert Storm. The procedures extending the time to file, and helping those who wanted to file, as well as the procedures to stop notices and refund offsets reflect our commitment to ease the burden of the brave men and women serving in the gulf, and their families.

II. FY 1992 BUDGET

Mr. Chairman, I will limit my remarks to three aspects of our proposed FY 1992 budget:

A. *Truth in Budgeting*

A most significant aspect of our proposed budget is its candor. We will spend the money we are requesting in the manner we have described. Last year, I devoted much of my testimony before this subcommittee to a candid assessment of the budget problems we faced during 1989 and 1990. In part, the difficulties were attributable to our own shortcomings, unforseen circumstances and abrupt changes in direction. In part, however, the problem also resulted from unfunded mandatory costs, and erratic financing. Tax administration, and the taxpayers we serve, paid the price. We took draconian measures to live within our means—a two-year hiring freeze in most enforcement programs; shortchanging our employees on training and tools to do their jobs; and program cuts in taxpayer service.

Our FY 1991 budget was a step in the right direction—a bridge to a new era. I reported that we hoped to address a shortfall of $100-$150 million through productivity gains and program cuts. With the support of both Treasury and OMB, and the help of this committee and others in Congress, we have addressed these shortfalls.

Mr. Chairman, this data clearly demonstrates the progress we have made and are making. Our concerted efforts over the past two years are paying dividends. The IRS will now spend its money as advertised. We will be able to produce the results the Congress expects for the money it appropriates.

I testified last year that we had faced chronic shortfalls in the areas of training, travel, support and supplies, space renovations, and computer systems. These were shortfalls between what you and your colleagues thought we should spend, and what we in fact spent in these categories. These gaps are being closed with steps taken in 1991 and with the proposed FY 1992 budget.

The FY 1991 budget turned the corner; the FY 1992 budget takes a measurable step forward. The funding problems we experienced in the past have undoubtedly left their mark, but we are now moving in the right direction.

Equally important, the FY 1992 proposed budget:

Fully funds pay increases;

Reflects anticipated increases in support costs;

Brings FY 1992 program objectives and financial resources into balance; and

Reflects projected savings from investments in new information systems.

By fully funding costs associated with our existing level of activities as well as the program increases, we can continue to administer the Nation's tax laws and effectively manage our resources. It will enable us to:

Deliver another successful filing season next year.

Maintain our enforcement efforts and avoid a hiring freeze that wastes tax dollars and forfeits hundreds of millions of dollars in revenue.

Invest in the training and tools necessary for our employees to do their jobs properly.

Invest in our existing information systems to continue current operations, replace obsolete equipment and make necessary enhancements as we move to a modernized system.

The administration and Congress have been supportive of our efforts to incorporate truth in the budgeting process. The FY 1992 proposed budget takes us well down that road.

B. *Tax Systems Modernization*

Our proposed FY 1992 budget will fund the next installment in our long term effort to modernize our systems. Without question, tax systems modernization (TSM) is the key to the future of tax administration. TSM is the vehicle that will permit us to dramatically reduce the burden on taxpayers, enhance voluntary compliance with our tax laws, and generate quality-driven productivity gains throughout the IRS.

In my written statement, I highlight the progress we are making and the benefits that TSM has generated and will generate in the years ahead. For purposes of my testimony this morning, I will limit myself to the following:

First, the most significant long-term accomplishment during the past year has been completion of our draft design master plan. This plan runs to over a thousand pages and includes:

An overview of future IRS automated systems;

Description of projects and procurements required to accomplish TSM;

A master schedule showing when features will be available;

A timetable for installing new equipment and for removal of old components;

Costs and benefits, including reduced burden on taxpayers.

We are now reviewing the plan with internal IRS users and a variety of outside stakeholders (Treasury, OMB, GAO, National Academy of Sciences). Most of these groups were involved in developing the plan. We plan to complete the reviews and revise the plan, as appropriate, later this spring. I want to emphasize that the design master plan is not static. While the fundamentals of the plan are in place, various aspects of it are certain to evolve as we learn from experience and respond to external factors, such as tax law changes and emerging technologies.

Second, while TSM is a costly, difficult and long-term endeavor, the investment we have made to date is already paying substantial dividends. Following are TSM projects that are now up and running:

Electronic filing;

Electronic transmission of electronically filed returns;

Our so-called on-line entity system, which allows service center employees to directly access certain taxpayer identifying data (name, address and Social Security number);

Automated underreporter inventory and correspondence tracking system.

Without question, these efforts have saved us millions of dollars. They are a primary reason why we are enjoying the filing season we have enjoyed to date. Above all, they have already benefitted millions of our citizens—taxpayers who have received their refunds more rapidly, taxpayers who have avoided the hassles of our adjustments and unpostables inventory, taxpayers who have not received needless notices and correspondence from the IRS.

Mr. Chairman, I remain convinced that we can indeed transform tax administration during the 1990's. TSM, coupled with fundamental changes in the way we do business, holds the key to the future. We are on the right road; the FY 1992 budget funds the next phase of that journey.

C. *Modest growth in our compliance activities*

The proposed FY 1992 budget reflects sustained growth in our compliance activities. This approach is essential if we are to maintain voluntary compliance; properly plan our programs; and effectively recruit, train, and house new employees. It also increases inspection staffing, restoring levels in this all-important function to those recommended by the General Accounting Office.

1. Criminal investigation; employee plans and exempt organizations. Our special agents are generally recognized as the best in the business in fighting financial crimes. In recent years, they have made a major contribution to the war on drugs and the Government's efforts to combat money laundering and organized crime. Unfortunately, resources devoted to traditional criminal tax enforcement activities declined dramatically during the 1980's. The budget takes a long overdue step in the right direction by calling for a modest increase in special agents for use in this area.

The budget also calls for modest growth in our employee plans and exempt organization function to handle increased determination cases. Additionally, within our current resources, increasing our efforts to assure that pension plans comply with applicable funding requirements is of particular importance—to employees, and to the government as guarantor of pension benefits.

2. Collection: A substantial portion of the proposed increase is devoted to our collection function. If we include accrued interest and penalties and currently not collectible accounts, and before an allowance for doubtful accounts, the accounts receivable inventory is pushing $100 billion. It is clear that we can do a much better job of managing our

receivables. I believe we are not making progress on this front. At the same time, however, it is also clear that we must increase staffing as proposed.

3. Examination: The budget calls for a modest increase in our field examination activities. I would like to spend a moment on this particular item, Mr. Chairman, because I believe it is of great importance. Thanks to wage withholding and the development of our information reporting programs during the past decade, the plain fact is that working men and women of this country are substantially compliant with our Nation's tax laws. To an overwhelming extent, they do indeed pay their fair share. To the extent they do not, our high-volume information matching programs and our correspondence and office audit programs can make appropriate adjustments.

Unfortunately, these high-volume programs cannot be adapted to sophisticated business and corporate taxpayers. The result has been a dramatic decline in audit coverage in these areas over the past decade. The data speaks for itself.

CHART 9.—AUDIT COVERAGE AND UNDERREPORTER CONTACTS 1981–91 (PROJECTED)

[In percent]

	1981	1990	1991
All corporations	5.1	2.6	3.5
Large corporations (over $100M in assets)	80.5	59.1	73.1
Partnerships	1.6	0.8	0.9
Upper income individuals (business gross receipts over $100,000)	7.1	3.4	3.7
Nonbusiness individual	1.7	0.7	0.8
Underreporter notices	2.4	2.3	3.9
Nonbusiness individual audit coverage plus contracts, (including IRP)	4.6	3.6	5.5

CHART 10.—CHANGE IN STAFF YEARS APPLIED AND RETURNS FILED FISCAL YEAR 1981 THROUGH FISCAL YEAR 1991 (PROJECTED)

[In percent]

	Staff years	Returns filed
Total	+2	+22
Individual (non-business)	−20	+21
Large corporations and businesses	+41	+78
Partnerships	−45	+16

The increase in field examination staffing for FY 1991 and the proposed increase for FY 1992 will not restore audit coverage to adequate levels, but they are steps in the right direction.

III. DELIVERING THE PROMISE

Mr. Chairman, last year, we committed to the Congress that IRS would generate $9.4 billion in additional revenue collections over the FY 1991–1995 period through no-cost management improvements in the way we do business and investments in additional compliance staff.

When we made our projections more than 15 months ago, we estimated that the management initiatives would generate $2.5 billion during FY 1991, and $3.6 billion through FY 1995. At this point, two are ahead of schedule, two are more or less on target, and one is running behind. Overall, I believe we will meet our FY 1991 objective and will surpass our goal for the entire five year period. Of equal importance, I am confident that we are achieving our management objectives and are doing a better job of running the agency.

The second part of our commitment was to produce additional revenue from expanding our compliance program staffing, principally in examination and collection. Our ability to deliver on these resource initiatives depends on two factors—the staff we hire, and the yields generated by our enforcement programs.

With respect to staffing, Mr. Chairman, we have made substantial progress and are confident that we will have all additional employees in place during FY 1991. Even more important, our field executives are unanimous in the view that we are hiring top quality employees across the board. While there are a number of reasons for this encouraging development, I believe the pay reform legislation that you and your colleagues enacted last year has played a major role. Tax administration, and the American public, will benefit for years to come.

The results of our enforcement efforts to date are equally encouraging. Our accounts receivable collected per staff year are up 20 percent over 1989 and 10 percent over FY 1990. In the examination program, tax recommended per staff year for individual income tax returns is up 67 percent over FY 1989 and 29 percent over FY 1990. Corporate recommendations per staff year show even more improvement.

Quite simply, Mr. Chairman, we are hiring and retaining the people we need, they are being properly funded in the budget, and they are performing better than expected. The bottom line is quite encouraging—we remain confident that we will deliver the promised revenue, and that others will be able to verify our performance.

Mr. Chairman, I've focused on the management and resource initiatives because they are a matter of particular interest to the subcommittee. While they reflect the progress we are making, they are a modest part of the overall picture. We will provide for the record a document which describes management actions and accomplishments towards achieving our strategic business plan objectives.

CONCLUSION

I know we are making progress and we will continue building a healthy, responsive tax administration system for the country's taxpayers. I appreciate the important role this committee has played in ensuring effective and fair tax administration, as well as the support you have shown over the years.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 411, noes 1, not voting 20, as follows:

[Roll No. 159]

AYES—411

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer

Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—1

Crane

NOT VOTING—20

AuCoin
Bilbray
Clinger
Derrick
Dwyer
Dymally
Gray
Hopkins
Hubbard
LaFalce
Levine (CA)
Lloyd
McDade
McGrath
Mrazek
Oberstar
Roukema
Serrano
Smith (TX)
Spence

□ 1653

Mr. CUNNINGHAM and Mr. CAMPBELL of California changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including: returns processing and services; compliance and enforcement; program support; and tax systems modernization; and for the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,294,713,000, of which not less than $492,000,000 shall remain available until expended for tax systems modernization, and of which not to exceed $60,000,000 shall remain available until expended for other systems development projects: *Provided*, That of the amounts authorized to remain available until expended $492,000,000 shall not be obligated prior to September 30, 1992, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further*, That of the $492,000,000 provided for tax systems modernization up to $15,000,000 may be available until expended for the establishment of a federally funded research and development center and may be utilized to conduct and evaluate market surveys, develop and evaluate requests for proposals, and assist with systems engineering, technical evaluations, and independent technical reviews in conjunction with tax systems modernization.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order.

I raise a point of order under clause 2, rule XXI for that language starting on page 13, line 20, with the word "provided" through page 14, line 1, ending with the word "change," and a further point of order commencing on page 14, line 1, with the words "provided further" and ending with line 9, the word "modernization" for constituting legislation on an appropriations bill.

The CHAIRMAN. Does the gentleman from California desire to be heard?

Mr. ROYBAL. Mr. Chairman, I concede the point of order, and I have an amendment at the desk.

The CHAIRMAN. Let the Chair first inquire of the gentleman from Ohio whether he confines his points of order to those provisions as cited or whether he seeks to strike the entire paragraph in which they stand?

Mr. TRAFICANT. I would leave my language specifically to the language that I had specified.

The CHAIRMAN. Solely to the language to which this point of order referred. The point of order is conceded and sustained and those provisions are stricken.

The Chair will advise the gentleman from California [Mr. ROYBAL] that the only language stricken by the point of order was the language specifically cited in the point of order. The remainder of the paragraph remains. The only language stricken is that beginning with the provision on line 20 of page 13 through the rest of the paragraph.

The Clerk will read.

The Clerk read as follows:

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation upon advance approval of the House and Senate Committees on Appropriations.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order against the administrative provision—Internal Revenue Service commencing on page 14, line 12, through line 17, concluding with the word "appropriations."

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN (Mr. STUDDS). The point of order is conceded and sustained. The section is stricken.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: On page 14, line 10 insert:

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

Mr. ROYBAL. Mr. Chairman, what this amendment actually does is exclude the language in the paragraph that was subject to a point of order. All the rest of the language then would remain.

Mr. TRAFICANT. Mr. Chairman, reserving my right to object.

The CHAIRMAN. The Chair will inform the gentleman from Ohio that it is too late to interpose a point of order. The debate has begun.

The question is on the amendment offered by the gentleman from California [Mr. ROYBAL].

The question was taken.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 411, noes 0, not voting 21, as follows:

[Roll No. 160]

AYES—411

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson

Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—0

NOT VOTING—21

AuCoin
Bilbray
DeFazio
Dwyer
Engel
Gray
Hopkins
Hubbard
Levine (CA)
Lloyd
Matsui
McDade
Mrazek
Nagle
Oberstar
Pursell
Roberts
Roukema
Serrano
Smith (TX)
Spence

□ 1726

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by state and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided*, That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations, in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $75,423,000 of which $2,500,000 shall remain available until expended for renovations at the temporary official residence of the Vice President and $1,600,000 to remain available until expended for renovations of the New York Field Office; and of which not to exceed $300,000 shall be made available for the protection at the one nongovernmental property designated by the President of the United States under provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note).

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman I object and make a point of order against those provisions contained on page 14, line 20, and continuing through on page 15 through line 25 and continuing therefore further on page 16 through line 8, on the grounds that it violates clause 2, rule XXI of the House.

The CHAIRMAN. The Chair will inquire of the gentleman from Ohio what specific provisions in that paragraph the gentleman is objecting to.

Mr. TRAFICANT. Mr. Chairman, I object to every bit of the language as constituting legislation.

Mr. Chairman, I will wait for the ruling, but I would reserve a point of order against the remainder of that section.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN (Mr. STUDDS). The gentleman from California concedes the point of order. The point of order is sustained based upon the evaluation of legislative language in the paragraph and the paragraph is stricken.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

Mr. TRAFICANT. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: On page 14 line 18 insert:

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; not to exceed $12,500 for official reception and representation expenses; $475,423,000.

The CHAIRMAN. Does the gentleman from Ohio insist on his point of order? The gentleman is protected.

Mr. TRAFICANT. Mr. Chairman, I will wait and hear the statement of the gentleman from California.

Mr. ROYBAL. Mr. Chairman, I will not take the 5 minutes, because all this amendment does is specifically exclude the language in the paragraph that was subject to a point of order. Therefore, we are agreeing to the point of order, but the rest of the paragraph remains that is in proper form.

The CHAIRMAN. Does the gentleman from Ohio insist on his point of order?

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, is this to assume then that 95 percent of this section is being removed for having constituted legislation on an appropriation bill, or did I hear the words wrong?

Is that the entire substance of the amendment, or did it in fact encompass parts that were not read?

The CHAIRMAN. The entire amendment has just been read, and the Chair would not attempt to characterize it for the gentleman.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio wish to insist on his point of order against the amendment?

Mr. TRAFICANT. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state it.

□ 1730

Mr. TRAFICANT. Mr. Chairman, I still believe unless that whole section and the elements thereto involving the Secret Service have been authorized by a duly standing authorization committee of the House that no such appropriation should be made and it thus still constitutes violation of clause 2 of rule XXI.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order just made?

Mr. ROYBAL. Mr. Chairman, on this point of order I would like to begin by citing Deschler-Brown Procedure in the House, chapter 25, section 5.7, which states, in part:

> Section 5.7. The failure of Congress to enact into law separate legislation specifically authorizing appropriations for existing programs does not necessarily render appropriations for those programs subject to a point of order, where more generally existing law authorizes appropriations for such programs. Thus a program in a general appropriation bill purportedly containing some funds not yet specifically authorized by separate legislation was held not to violate rule XXI, clause 2 where it was shown that all of the funds in the paragraph were authorized by more general provisions of law currently applicable to the programs in question.

This is specifically authorized by 18 U.S.C. 3056.

The CHAIRMAN. Has the gentleman concluded? The Chair is prepared to rule.

As pointed out by the gentleman from California, the existence of the U.S. Secret Service is authorized by law and consequently the language is valid and the point of order is overruled.

The question is on the amendment offered by the gentleman from California [Mr. ROYBAL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 412, noes 0, not voting 20, as follows:

[Roll No. 161]

AYES—412

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—0

NOT VOTING—20

AuCoin
Bentley
Bilbray
Dwyer
Gray
Hertel
Hopkins
Hubbard
Kaptur
Levine (CA)
Lloyd
McDade
Mrazek
Neal (NC)
Oberstar
Serrano
Slattery
Smith (TX)
Spence
Weiss

□ 1752

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

> SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I cite clause 2, rule XXI, for having this section constituting legislation on an appropriation bill.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded, it is sustained, and the paragraph is stricken.

The Clerk will read.

The Clerk read as follows:

> SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the International Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, section 102 constitutes a violation of clause 2, rule XXI, for having caused legislation on an appropriation bill.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard?

Mr. ROYBAL. Mr. Chairman, I yield the point of order, but would like to point out to the gentleman from Ohio [Mr. TRAFICANT] that he has just stricken a very important provision that in fact protects taxpayers.

The CHAIRMAN. The point of order is conceded and sustained, and the paragraph is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. No such transfer may increase or decrease any appropriation in this Act by more than 2 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, section 103 constitutes a violation of clause 2, rule XXI, of the House.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is sustained and the paragraph is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 104. Of the funds appropriated in this or any other Act to the Internal Revenue Service, amounts attributable to efficiency savings for fiscal year 1992 as estimated by the Commissioner shall be withheld from obligation unless the estimated savings are not achieved: *Provided*, That 50 per centum of the actual efficiency savings shall lapse or be deposited into miscellaneous receipts of the Treasury with the exception of amounts in special or trust funds, which shall remain in such funds and be available in accordance with and to the extent permitted by law: *Provided further*, That notwithstanding any fiscal year limitations on the availability of appropriations, the remainder of the actual efficiency savings shall be made available in fiscal year 1993 for cash awards to IRS employees, as authorized by sections 4501-4505 of title 5, United States Code, and for future efficiency improvements to carry out those purposes authorized by law: *Provided further*, That none of the funds shall be made available for the program without the advance approval of the House and Senate Appropriations Committees.

AMENDMENT OFFERED BY MR. ROGERS

Mr. ROGERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROGERS: Page 18, after line 6, insert the following new section:

SEC. 105. No amount provided by this Act may be used to implement or enforce the amendment made by section 7631(a) of Public Law 101-239 (103 Stat. 2378) with respect to remuneration paid to any employee described in section 13(a)(6) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(6)).

Mr. ROGERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ROGERS. Mr. Chairman, this amendment requires no funds, but instead is designed to clarify that the lowest paid farmworkers, who are not now covered under the minimum wage laws, will not be subject to Federal income tax withholding requirements.

Mr. Chairman, Congress has historically exempted farmworkers from the Federal income tax withholding requirements because of the migratory nature of agriculture labor. But, more importantly, Mr. Chairman, Congress has exempted farm labor from withholding because these workers simply do not make enough to owe any taxes.

But in 1989, when Congress passed the 1,000-page omnibus budget reconciliation bill, it required that farmers begin withholding income tax from farm workers' wages regardless of circumstances. That provision entangles our small family farmers with bureaucratic redtape, when they cannot afford CPA's and lawyers to untangle it.

The greater injustice is to the low-income farmworkers. These Americans do not make enough money to owe any taxes, and, yet, this law requires that 15 percent of their pay be withheld until April 15 of the next year. The Government is unjustly enriched all year by the sweat of those least able to bear any burden, least of all this unjust burden.

Mr. Chairman, even more sadly, most of these people will not fight for a refund of this unjustly withheld pay, meaning the U.S. Government will keep this bounty from the poorest, even though it was never owed.

I do not want to operate our Government of so-called equal justice under the law on those types of moneys, and I do not believe Members of Congress do either.

Mr. Chairman, the purpose of this amendment is to highlight this issue, and provide a measure or relief to those at the bottom of the economic ladder. If a farmer is exempt by law from paying minimum wage because his is a small family farm, he and his part-time workers would be exempt from withholding. Although we have been unable to find anyone so far who can say for sure, my opinion is that there would be no legitimate tax revenues lost to the Government, because these people will not owe taxes anyway.

Mr. Chairman, I will not challenge the chairman of the Committee on Ways and Means' point of order, it is so raised, but it is my hope that the Committee on Ways and Means will examine the impact of the 1989 tax law on farmworkers who are not covered under the minimum wage law requirements.

Mr. DE LA GARZA Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman from Kentucky. And, I would like to commend him for bringing this issue before the House. I believe that the farmworker is suffering as a result of the politics of deficit reduction. I would hope that a way can be found to remove this additional burden from the back of the farmworker.

For so long and for good reason the farmworker was exempted from the income tax withholding requirements of the Internal Revenue Code. Wages of farmworkers are generally so low that few of them can be expected to incur a Federal tax liability. For this reason, requiring withholding from their wages imposes an unjustified hardship.

America's farmworkers are a crucial link in the U.S. agricultural production system and I believe that the whole issue of mandatory withholding of their wages is deserving of further consideration by the Ways and Means Committee. I would respectfully urge my colleagues on that committee to consider the effect that the provisions of the 1989 reconciliation legislation requirement has had on farm labor.

□ 1800

I would respectfully urge my colleagues on that committee to consider the effect the provisions of the 1989 reconciliation legislation requirement has had on the farmworkers.

Mr. ROSTENKOWSKI. Mr. Chairman, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from Illinois, chairman of the full Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Chairman, it is my understanding that the gentleman has offered the amendment but intends to withdraw the amendment, as I understand it, and under that understanding, I am not going to make a point of order against it.

Mr. ROGERS. Mr. Chairman, I am prepared to withdraw the amendment. I know it violates the rule of the House prohibiting legislation on an appropriations bill. However, I would hope, and I offer the amendment for the sole purpose of raising this issue on the radar screen of the Committee on Ways and Means and particularly the chairman.

Mr. ROSTENKOWSKI. Mr. Chairman, let me point out that while it is true that employers must consider income tax withholding when wages paid to an employee exceed $150, under the current law employees may claim an exemption from all income tax withholdings if they anticipate that they have no tax liability for the year. In addition, withholding from wages begins only at income levels where the employee is likely to actually have a tax liability at the end of the year.

I have instructed the staff of the Committee on Ways and Means to review this situation in order to determine if the law and its implementation are working as intended.

Mr. ROGERS. Mr. Chairman, I think the chairman of the Committee on Ways and Means for his words. I would hope that the committee would be able to perhaps insert this provision in any legislation that might be moving through the committee this year, technical corrections to the tax bill, and if such a bill does make its way through, I would hope the chairman could assure me that it would be considered.

Mr. ROSTENKOWSKI. The committee will certainly review the gentleman's request.

Mr. ROGERS. I thank the chairman of the Committee on Ways and Means very much.

Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

The Clerk will read.

The Clerk read as follows:

This title may be cited as the "Treasury Department Appropriations Act, 1992".

TITLE II

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $649,301,000: *Provided*, That mail for overseas voting and mail for the blind shall continue to be free: *Provided further*, That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further*, That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further*, That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1992.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $40,575,000.

This title may be cited as the "Postal Service Appropriations Act, 1992".

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided*, That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further*, That none of the funds made available for official expenses shall be considered as taxable to the President.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Page 19, line 8, commencing with "provided" through line 24, for violating clause 2, rule XXI of the House rules.

The CHAIRMAN. I assume the gentleman means to begin on line 18; is that correct,

Mr. TRAFICANT. Line 18 with the word "provided."

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The point of order is conceded, sustained, and the two provisos are stricken.

The Clerk will read.

The Clerk read as follows:

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $23,010,000 including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $34,885,000.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. That language on page 20, commencing at line 9 and proceeding through line 19 for violating clause 2, rule XXI of House rules.

The CHAIRMAN. Let me inquire of the gentleman from Ohio, does his point of order go to the entirety of that paragraph?

Mr. TRAFICANT. Yes, it does.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, we have been going over the language that has already been read. That refers to section 5.7, which I offer in defense of our position with regard to the matter before us.

This has to do with Public Law 95-570, 105 (d) and section (g).

The CHAIRMAN. The Chair reads the paragraph as being entirely with reference to as authorized with the possible exceptioin of the "not to exceed" provision beginning on line 17.

Does the gentleman from California wish to comment on those last three lines?

Mr. ROYBAL. Mr. Chairman, I think we have conceded that portion of it. The portion that we have conceded is on line 17, which reads "not to exceed $20,000 for official entertainment expenses to be available for allocation within the Executive Office of the President." That we concede to be in the point of order.

The CHAIRMAN. Does the gentleman from Ohio, in light of what has just been said, insist on his point of order against the entire paragraph?

Mr. TRAFICANT. I will only insist upon that language contained on line 17 through 19 commencing with "not to exceed."

The CHAIRMAN. That point of order is conceded but the Chair is constrained, upon it having been brought to his attention, to point out section 105, paragraph (d) of title III of the United States Code wherein the official entertainment expenses for allocatioin within the Executive Office of the President is authorized. And consequently, the point of order is overruled.

The Clerk will read.

The Clerk read as follows:

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $8,362,000, of which $1,100,000 for the repair of the face of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I object commencing on page 21, line 1, with the words "of which," proceeding through line 4, page 21, for violation of clause 2, rule XXI.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, we concede the point of order from line 1 on page 21.

Mr. Chairman, we concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained against the language beginning on page 21, line 1, "of which," through the end of the paragraph.

The language is stricken.

The Clerk will read.

The Clerk read as follows:

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $324,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order to this section commencing on page 21, line 7 and continuing through line 16 for violation of clause 2, rule XXI of the House rules.

☐ 1810

Mr. ROYBAL. Mr. Chairman, since the entire paragraph is under consideration at this time, I concede the point of order.

The CHAIRMAN. The Chair sustains the point of order against the paragraph because of the proviso beginning on line 13. The point of order is sustained.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. ROYBAL: On page 21 line 5 insert:

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, $324,000.

Mr. TRAFICANT. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Ohio reserves a point of order. Does the gentleman wish to insist on it now, or does he wish to reserve it?

Mr. ROYBAL. Mr. Chairman, I concede that point of order on the——

The CHAIRMAN. The Chair will inquire whether or not the gentleman from Ohio will insist on the point of order.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I will continue to insist on the point of order on the section as reread and redrafted.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. That it does violate clause 2 of rule XXI in its newly worded form.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I would like to cite Public Law 93-346, 95-570, and 106(b)(2). We agree, of course, that the matter on line 13, from line 13 to line 16, is what I believe the gentleman wants to have stricken. If that is the case, we will concede that. But definitely we would defend keeping the balance of that paragraph in.

The CHAIRMAN. Does the gentleman from Ohio wish to be heard further on the point of order?

Mr. TRAFICANT. Yes, Mr. Chairman. I would like the Chair to rule as well on that language contained on lines 7 through line 13 including $324,000 as well as the concession of the following. I still insist upon a ruling on the first six lines of that section.

The CHAIRMAN. The Chair is prepared to rule. The Chair would point out to the gentleman from Ohio that the words "to be accounted for solely on a certificate" do not appear in the amendment. The remainder of the amendment goes to funds of the official residence of the Vice President which is authorized by law in title 3 U.S.C. 106(b) and, therefore, the point of order is overruled.

The Chair recognizes the gentleman from California [Mr. ROYBAL] for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. TRAFICANT. Is the Chair saying then that on line 13 starting with the word "provided" and through line 16 has been stricken and the chairman has agreed to that, and the Chair has ruled on that?

The CHAIRMAN. That was the gentleman's original point of order which was conceded and sustained.

Mr. TRAFICANT. I have no objection and reserve no objection to the amendment of the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. ROYBAL] for 5 minutes.

Mr. ROYBAL. Mr. Chairman, if the gentleman has no objection, there is no use to continue to debate it. I think the gentleman knows the amendment specifically excludes the language in the paragraph that was subject to the point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROYBAL].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KYL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 397, noes 15, not voting 20, as follows:

[Roll No. 162]

AYES—397

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)

Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—15

Applegate
Bennett
Jacobs
Murphy
Penny
Sarpalius
Savage
Schroeder
Smith (IA)
Stenholm
Taylor (MS)
Traficant
Traxler
Waters
Williams

NOT VOTING—20

AuCoin
Bilbray
Clay
Dwyer
Fazio
Gray
Hopkins
Hubbard
Lehman (FL)
Levine (CA)
Lloyd
McDade
Mrazek
Oberstar
Schumer
Serrano
Smith (TX)
Spence
Wise
Wylie

□ 1838

Messrs. SARPALIUS, APPLEGATE, BENNETT, TRAFICANT and SAVAGE changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WEISS. Mr. Chairman, for all I was within earshot, one might say a heartbeat away, I inadvertently missed the vote on rollcall No. 161, thereby ruining my perfect voting record for the day.

I ask that the RECORD reflect the fact that had I not inadvertently missed that vote, I would have voted "aye."

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,932,000.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PENNY:
Page 21, line 25, strike "$2,932,000" and insert "$2,905,000".

Mr. PENNY. Mr. Chairman, I rise to offer this amendment that would reduce the special assistance to the President's account contained in the bill, which is the account that funds various activities carried on by the Vice President. The cut would be $27,000.

□ 1840

That is the estimated cost of the Vice President's recent 2-day golfing vacation in Augusta, GA. The $27,000 figure, first computed by the Associated Press and carried in major papers around the country, is an estimate, but probably on the low side. When the costs of detailing 14 Secret Service agents, providing transportation by Air Force planes, and other expenses is added together, the total expense of this golfing weekend is surely to be greater than $27,000.

But the $27,000 figure is the best estimate we have. The Vice President's staff refuses to make public the total cost to the taxpayers of this trip to Georgia. The only official word from the Vice President's office is to deny the Associated Press cost estimate.

Mr. Chairman, you and other Members may not be aware of it, but the Vice President's travel is broken into two categories: "Political," which is reimbursed, and "other" whose costs are not reimbursed to the Treasury. Now, the Vice President does engage in a lot of official travel and it is not my intention to critize Vice President QUAYLES'S legitimate travels. My concern is that the Vice President feels the taxpayers should shoulder the expense of paying for his golf vacations. This is wrong. Even poor John Sununu is now reimbursing the Treasury for his trips to the dentist. Why should the Vice President's private travels be any different?

I'm not suggesting the Vice President travel commercial. Nor am I suggesting that the Vice President underwrite Secret Service expenses. What I am suggesting is that the Vice President should be held accountable—as are all other Government officials—for their use of taxpayers funds.

In a time of tight budgets and denied services, with a crumbling physical and social infrastructure, with cities declaring bankruptcy, banks failing, and taxes going up, the Vice President should not be touring the Nation's golf courses. The message is wrong, Mr. Chairman. And as the Branch responsible for ultimately funding these adventures, we must speak. Even with a cut of $27,000 as I am proposing today, the Vice President's budget is going from $2.58 to $2.9 million, an increase of nearly 15 percent.

And while $27,000 may not seem like a lot of money, it is enough to provide 36 children with 1 year of chapter 1 compensatory education services; it is enough to provide 18,000 free school lunches; it is enough to provide preventative health care for 90 children. The funds expended to pay for the Vice President's golfing weekend would be enough to provide 10 college students a maximum Pell Grant Award or to provide 28 students full College Work Study Awards this year.

In a tight budget, golf trips at taxpayers' expense are intolerable. The Vice President should not be golfing for birdies when Congress is struggling to make par with the budget. Let us send the signal to the Vice President today to police his private travel, or to at least reimburse the Treasury for some part of the expense.

I urge adoption of the amendment.

Mr. ROYBAL. Mr. Chairman, the committee accepts the gentleman's amendment.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words and to make a statement with respect to this amendment.

Mr. Chairman, this is a small personnel-intensive account, and it is likely that the cut proposed in the amendment will actually come out of equipment.

Second, there has been a lot of interest in the travel of the Executive Branch, and I want to make sure that Members appreciate the context of the travel of the Vice President.

Because of his official duties, the Vice President frequently travels throughout the United States and around the world, and for this travel he is required to use military aircraft for two basic reasons for this travel. One, to insure the Vice President's personal security, he receives 24-hour-a-day, 365-days-per-year protection by the U.S. Secret Service. It would be impossible for the Secret Service to protect the Vice President if he were required to take commercial flights. And in addition, there would be risks to the security of other air travelers if the Vice President took commercial flights because even the Secret Service could not insure his safety or their safety.

The second reason the Vice President must take military aircraft involves national security. The potential that a domestic or international event could escalate to a conflict in minutes requires the Vice President to have secure transportation and communication in the air just as when he travels on the ground. This necessitates military travel.

There are many other points, but let me just make one or two.

I understand what Mr. PENNY is trying to do, and I am sympathetic in some respects. The way to deal with this issue is not to go after an account like this.

First of all, it is the wrong account. Let us set up a commission, have former Speakers, former GAO comptrollers, to look at this general question.

A couple of other points: How would the Vice President travel to go to his children's graduation? How would he go if someone in his family died? How would he get there?

Mr. Chairman, I urge Members, as they think about this amendment, to remember that it is very easy to beat up on the Vice President, and it is very easy to beat up on the White House. Mr. Chairman, when people throw stones, generally stones are thrown back.

I would hope that in the spirit of reconciliation, if you will, there could be an opportunity for a commission to look at this, for the Congress to look at it, working in cooperation with the Vice President's office and with the President's office, and that this amendment would be withdrawn.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Minnesota.

Mr. PENNY. I thank the gentleman for yielding.

Mr. Chairman, my first question would be for verification: Is it in fact true that this particular account in this bill is increased by 15-percent as compared to last year's funding level?

Mr. WOLF. The gentleman is correct. But the Vice President's use of this aircraft, if you really wanted to strike at it would have to come out of the Department of Defense appropriations.

Mr. PENNY. If the gentleman would yield further, that is part of the problem with the Vice President's travel. It is spread around in several areas. There is Secret Service protection, there is the Air Force providing the plane for those trips, those types of trips. There is really no one place that you can go to amend it.

Since this is a 15-percent increase and this cut is not going to have a dramatic effect on the Vice President's travel arrangements under this provision, I think it would be appropriate to accept it if for no other reason than for symbolic purposes, to send a message that when a trip is strictly for pleasure—and no one has disputed that this trip was only for golf, no business was conducted, no family emergencies occurred, no graduations occurred, no funerals occurred—it is strictly for pleasure, we should send a message to the Vice President that he should not be spending taxpayers' money for that purpose.

Mr. WOLF. Mr. Chairman, we can send a message several ways. One, we can send a letter. I would be willing to sign a letter with the gentleman on the issue. I think sending a letter would really be a better way of sending the message.

Second, none of us would feel very comfortable if this amendment were to pass and we were to drive a person such that they are put in the situation whereby they are assassinated. If the gentleman wants to work with me on a letter to the IRS I would sign the letter with him.

I understand what he is trying to say. But I do not know that this way is the way to go.

Also, in fairness to the situation, perhaps the amendment could be withdrawn. The point has been made.

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe that there are levels of pettiness below which the Congress should not sink. And there come times—maybe some disagree, but I believe that there is a level below which we should not go.

One of those is to understand why we protect our national leaders. It is not because of who they are, it is because of the position that they hold. And the reason that they protect them is for our interests because they hold specific secrets that, were they to be kidnaped or were their children to be kidnaped, that it is a disservice to the American public.

Therefore, it is in our best interest that they be protected.

Now, the purpose of discussion is not where they go; they might go home at night, they might go to a ballgame with their children. The question is whether or not we protect them during that time.

To say we will make a person chosen by our 50 States to be our Vice President or President of the United States because certain Members of Congress disapprove of their activities at any particular moment because under their value system they are not significant, thereby they should make themselves vulnerable to attack, is an absurdity.

In fact, it is disrespectful to the office and it is disrespectful to the American people who expect us to behave in a better manner.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Virginia.

Mr. WOLF. I thank the gentleman for yielding.

Mr. Chairman, the increase in this account is not in travel; it is in personnel compensation and benefits. And the people who work for the Vice President have the right to have Blue Cross, Blue Shield, overtime.

☐ 1850

Second, the bulk of it also is in rental payments to GSA, and I think the gentleman from Ohio [Mr. McEWEN] makes a very good point. None of us would feel very good if we were to put this individual into a situation whereby he was assassinated.

I think the point has been made, the gentleman from Ohio [Mr. McEWEN] has made an excellent point, and I think the amendment ought to be withdrawn.

Mr. McEWEN. If I may say, the reason that we do this is in our best interest. We do it for the benefit of America.

Now, assuming the Secretary of State were to be kidnaped or diverted, or assuming that the wife of the Vice President, who may be on her way to a shopping trip of all things, is kidnaped, it still costs the American Government and the Secret Service extreme time and money in order to retrieve her. That is the reason that they travel in secure communications. That is the reason they travel, regardless of what the goal was to get there or come back. It may be a vacation, it may be to play golf. Regardless of what the goal is, it is in America's best interest to allow them to be protected, and it is also demeaning to insinuate otherwise.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, I also want to tell the Members, and I think the gentleman from California [Mr. ROYBAL] can attest to this, the committee had a classified secret briefing with regard to the situations that are going on. It would be, I think, inappropriate to do this now, and I hope and I agree with the gentleman here that this is not a very good amendment.

The point has been made. I think it could be withdrawn, and we can move on.

Mr. McEWEN. Mr. Chairman, all of us have the capacity to make cute statements at times. Sometimes they are not in our best interest in the long run.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, having worked in the White House, these people, the Vice President and the President of the United States, work very hard. They work very long hours, and I have seen no evidence that the Vice President has been abusing the fact that he has transportation provided by the public. One golf trip does not mean that he is abusing that.

Obviously we go on trips for recreational purposes, and we are permitted to buy our own ticket, and we do not have to worry about Secret Service agents.

I have not seen the Vice President fly on numerous occasions to numerous golf games. The Vice President, just like anyone else, deserves at least a few recreational trips during the year.

Mr. McEWEN. Mr. Chairman, I would say to the gentleman from California

[Mr. ROHRABACHER] the reason that we protect the families regardless of their destination, it is in our best interest that we do so, and it is our responsibility that we do so.

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. McEWEN. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I simply mention to the gentleman from Ohio [Mr. McEWEN] that I think he has missed the point. I have not objected to Secret Service protection for the President or the Vice President. What I have objected to is a trip to go up to Georgia and play golf instead of staying here in town and playing golf. But I am talking about the propriety.

Mr. McEWEN. Mr. Chairman, if I may reclaim my time, it is the responsibility of the President and the Vice President to travel when they travel whether to go home at night or whether to get up in the morning. They have to be protected, and when the children, when the children of the first families travel, regardless of where they are going; they could be going to ride on a roller coaster; they have to be protected all of the time, and to single out an opportunity, to say this is a time in which he played golf, therefore how many of us get free travel to go play golf, is a nice cute little statement, but it is unbecoming this body.

Some may ask, "Why do you need 75 policemen protecting you on the floor of the House? Are you at risk?"

The truth of the matter is we are, and it is in our best interest to not have to deal with that risk.

Now back in the days of Richard Nixon, when they had two or three guards as Vice President, he sat over there in the Vice President's office, and he drove home. Those were different back in those days. Today they need to be protected all the time, and it is our responsibility to see that they are.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. ROHRABACHER. I yield to the gentleman from Virginia.

Mr. WOLF. Two last points.

Mr. Chairman, it is my belief and understanding, and I may be wrong, that the $27,000 includes money used for Secret Service. He really does not have any other choice.

Second, my sense is that, if he were given the opportunity, he would rather be able to fly on another airline and have the privacy and no one recognize him and not be a danger. So, part of the money involved here is also Secret Service protection, which under the law he has to have.

Mr. ROHRABACHER. Mr. Chairman, I would just add that I do not think we have to suggest that the Vice President or President of the United States not be able to take one recreational trip while they are President or Vice President of the United States. If there is evidence that they are abusing this privilege, then let us talk about it. I have seen no evidence that DAN QUAYLE is overly abusing this privilege.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had agreed to accept this amendment in order to avoid long debate. But it appears that the Members of this House are with their best voice eager to debate any little thing that comes up.

I agree with the gentleman from Virginia [Mr. WOLF] that this is an amendment that perhaps was necessary, but the point has been made. I think that the message has already reached the White House, and whatever we do here I think would be superfluous even if the gentleman's amendment is actually voted on by the entire membership of this House.

I would like to address my remarks to the maker of the motion. Since the point has already been made, I, too, believe that it would be proper for that motion to be withdrawn at this time. I can assure the gentleman from Minnesota [Mr. PENNY] that we in the committee will do everything we possibly can to get that message in writing to the Vice President himself. I will sign the letter, the gentleman from Virginia [Mr. WOLF] will sign it, we will sign it with the gentleman, and this will be an official message from the subcommittee of the House of Representatives to the Vice President of the United States. Maybe he has overlooked this entire matter, but we can very well call his attention to it, remind him that it may not look entirely proper and that we hope that it does not happen in the future.

Mr. Chairman, I hope that the gentleman from Minnesota [Mr. PENNY] then withdraws with that condition that we will do everything we possibly can in an official way to deliver this message in writing to the Vice President.

Mr. PENNY. Mr. Chairman, I ask unanimous consent, with the understanding of the gentleman from Virginia [Mr. WOLF] and the gentleman from California [Mr. ROYBAL] that they will cosign that letter, to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The amendment is withdrawn, and the Clerk will read.

The Clerk read as follows:

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $3,345,000 of which not to exceed $1,000 may be for official reception and representation expenses.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, under clause 2, rule XXI, that language existing in the beginning on line 5 with the words "of which" and continuing through line 6, that is in fact in violation of House rules.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, again I concede the point of order on those specific lines, but the rest of the paragraph is protected by title 15, United States Code, section 1023(f).

The CHAIRMAN. The point of order is conceded and sustained, and the language on page 22, line 5, beginning at "which not" to proceed through the end of the paragraph is stricken.

The Clerk will read.

The Clerk read as follows:

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,701,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $235,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $6,145,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $50,470,000, of which not to exceed $5,000,000, shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided*, That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further*, That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further*, That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs; *Provided further*, That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further*, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 105, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, my point of order goes specifically to that language that begins on page 23 immediately following $50,470,000 with the word "of" and continuing on line 2 through line 25 on page 23, and continuing on page 24, line 1 through line 9 inclusive, for violation of clause 2, rule XXI, legislating on appropriation bills.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The Chair is prepared to rule.

Based upon the inclusion of the proviso on line 21, which refers to funds in other acts, the point of order is sustained, and the language in question beginning on line 1 of page 23 through page 24, line 9 is stricken.

□ 1900

The Clerk will read:

The Clerk read as follows:

Office of Federal Procurement Policy

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $3,058,000.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, the section on the Office of Federal Procurement Policy violates clause 2, rule XXI, constituting legislation in an appropriation bill.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, the committee contends that this language is protected by Public Law 96-83.

The CHAIRMAN. The Chair is prepared to rule. These expenditures are authorized by law as cited by the gentleman from California and in the language in question, and the point of order is overruled.

The Clerk will read.

The Clerk read as follows:

Office of National Drug Control Policy

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100-690; not to exceed $8,000 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $69,122,000, of which $1,000,000 shall support the Counternarcotics Technology Assessment Center and shall be available for transfer to other Federal Agencies and Departments and shall be available until expended; and, of which $50,000,000 shall be available for drug control activities which are consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas and shall be transferred to Federal agencies and departments for implementing approved strategies and shall be obligated by the end of fiscal year 1992: *Provided*, That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order, commencing on page 25, line 10, with the word "provided" and continuing down through line 13.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, the committee concedes the point of order.

The CHAIRMAN. The Chair will inquire if the point of order is directed soley at that final proviso?

Mr. TRAFICANT. Mr. Chairman, it is.

The CHAIRMAN. The point of order is conceded and sustained, and the language in the proviso in question is stricken.

The Clerk will read.

The Clerk read as follows:

Special Forfeiture Fund

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 100-690, $77,000,000 to be derived from deposits in the Special Forfeiture Fund; of which $10,000,000 shall be transferred to the Bureau of Prisons for prison construction; and of which $31,000,000 shall be transferred to the Alcohol, Drug Abuse, and Mental Health Administration for drug treatment capacity expansion; and of which $21,000,000 shall be transferred to the United States Customs Service (Salaries and expenses) for drug related activities, and of which $15,000,000 shall be transferred to the Bureau of Alcohol, Tobacco, and Firearms (Salaries and expenses), for drug related expenses.

Unanticipated Needs

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1992".

TITLE IV

INDEPENDENT AGENCIES

Administrative Conference of the United States

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $2,227,000.

Advisory Commission on Intergovernmental Relations

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); $1,330,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order to that section, commencing on line 25, page 26, immediately following $1,300,000 with the words, "and additional amounts not to exceed $200,000," and continuing on page 27 through line 3.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, the committee concedes the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The language in question beginning on page 26, line 25, is stricken.

The Clerk will read.

The Clerk read as follows:

Committee for Purchase From the Blind and Other Severely Handicapped

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28; $1,293,000.

Federal Election Commission

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $18,808,000, of which not to exceed $5,000 shall be available for reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of Federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of Federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of $4,131,346,000 of which (1) not to exceed $371,416,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

California:

Menlo Park, United States Geological Survey Office Laboratory Buildings, escalation, $11,047,000

Monterey, Federal Building and U.S. Courthouse, $1,900,000

Orange County, Courthouse, $250,000 District of Columbia:

Department of Transportation Headquarters Building, $239,000,000: *Provided*, That such funds shall be obligated only upon the advance approval of the House and Senate Committees on Appropriations and the House Committee on Public Works and Transportation and Senate Committee on Environment and Public Works.

POINT OF ORDER

Mr. TRAFICANT (during the reading). Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I bring a point of order to that section commencing on page 29, line 9, starting with the word "provided," and continuing down through line 14.

The CHAIRMAN. The Chair will advise the gentleman that under the precedents on this bill inasmuch as each of the items beginning on line 24, page 28, constitutes a separate paragraph the way the bill is constructed, he will need to wait until the paragraph in question is read. The point of order is premature.

The Clerk will read.

The Clerk read through page 29, line 14.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I make a point of order that page 29, line 8, Department of Transportation Headquarters Building, $239,000,000, violates clause 2, rule XXI.

The CHAIRMAN. Does the gentleman mean to include the proviso beginning on line 9 or not?

Mr. TRAFICANT. Mr. Chairman, I do include the proviso.

The CHAIRMAN. The point of order goes to the entire paragraph, beginning on line 8.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained; the paragraph is stricken.

The Clerk will read.

The Clerk read as follows:

Georgia:

Atlanta, Center for Disease Control, $5,000,000

Florida:

Fort Myers, Federal Building and U.S. Courthouse, $977,000

Tallahassee, U.S. Courthouse Annex, $3,764,000

Indiana:

Hammond, Courthouse and Federal Building, $5,000,000

Maryland:

Prince George's County, U.S. Courthouse, $10,747,000

Massachusetts:

Boston, Thomas P. O'Neill Federal Building, claim, $3,100,000

Minnesota:

Minneapolis, Federal Building and U.S. Courthouse, $19,000,000

Missouri:

St. Louis, Federal Building and U.S. Courthouse, $30,000,000

Nevada:

Reno, C. Clifton Young Federal Building, United States Courthouse Annex, $307,000

North Carolina:

Asheville, Courthouse and Federal Building (construction), $25,300,000

Tennessee:

Knoxville, Courthouse, $2,500,000

United States Virgin Islands:

Charlotte Amalie, Saint Thomas, U.S. Courthouse Annex, $8,524,000

Nonprospectus Construction Projects, $5,000,000

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I raise now a point of order starting on page 31, line 1, with the word "provided," and continue it down to and including line 15, up to "in other such projects."

The CHAIRMAN. What is the point of order of the gentleman?

Mr. TRAFICANT. Mr. Chairman, I further reserve the right to object to other elements within that section, and wait for a ruling on this section.

The CHAIRMAN. First let the Clerk read that paragraph.

The Clerk read as follows:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further*, That all funds for direct construction projects shall expire on September 30, 1993, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further*, That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects: *Provided further*, That to the extent that savings can be effected in other Federal Buildings Fund activities, the GSA shall seek reprogramming of up to $16,200,000 to supplement funds previously authorized and appropriated for the NOAA laboratory, Boulder, Colorado, subject to the approval of the House and Senate Committees on Appropriations according to existing reprogramming procedures: *Provided further*, That such funds will be obligated only upon the advance approval of the House Committee on Public Works and Transportation; (2) not to exceed $569,251,000 which shall remain available until expended, for repairs and alterations: *Provided further*, That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows: except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount:

POINT OF ORDER

The CHAIRMAN. Does the Chair understand that the point of order of the gentleman from Ohio [Mr. TRAFICANT] is directed solely to page 31, lines 1 through 15?

Mr. TRAFICANT. Mr. Chairman, the first part of that is line 1 through line 15, including and up to "in other such projects."

Then I want to reserve a point of order commencing later on on that page. I am prepared to object to those other items now, if it would be the will of the Chair.

The CHAIRMAN. It would be appropriate for the gentleman to make any and all points of order he may have against that paragraph at this time.

Mr. TRAFICANT. Mr. Chairman, in addition to that, commencing on line 22, with the words, "provided further," and continuing on, until page 32, line 8.

The CHAIRMAN. The Chair understands the point of order of the gentleman from Ohio to go to the entirety of the paragraph beginning on page 31, line 1. Is that correct?

Mr. TRAFICANT. Mr. Chairman, all except line 15, "provided further," through line 22, " provided further." That section, with Federal building funds activities, I do not strike.

The CHAIRMAN. The gentleman will state his point of order, now that he has designated it.

Mr. TRAFICANT. Mr. Chairman, under clause 2, rule XXI of House rules, for constituting legislation in an appropriation bill.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, the committee concedes the point of order.

The CHAIRMAN. The committee concedes the point of order, the point of order is sustained, and the language in question is stricken, but the proviso on lines 15 through 22 of page 31 remains in the bill.

The Clerk will read.

The Clerk read as follows:

Repairs and Alterations:

California:

Pasadena, Court of Appeals and Federal Building, $9,218,000

Sacramento, Federal Building, 801 I Street, $9,529,000

Santa Rosa, John F. Shaw Federal Building, $1,583,000

Connecticut:

Hartford, William R. Cotter Federal Building, $3,814,000

District of Columbia:

Federal Building 10A, $16,527,000

Herbert Clark Hoover Department of Commerce Building, $3,857,000

Housing and Urban Development Building, $5,365,000

Justice Building, $7,495,000

New Executive Office Building, $8,083,000

Old Executive Office Building, $19,000,000

Wilbur J. Cohen Federal Building, $15,000,000

Illinois:

Chicago, John C. Kluczynski Federal Building, $20,335,000

Kentucky:

Louisville, Federal Building, $15,470,000

Maryland:

Baltimore, Edward A. Garmatz Federal Building U.S. Courthouse, $6,311,000

Massachusetts:

Boston, John Fitzgerald Kennedy Federal Building and Government Center (phase 2), $36,800,000

Worcester, Harold D. Donahue Federal Building and United States Courthouse, $14,000,000

Missouri:

Kansas City, Federal Office Building, $5,256,000

Montana:

Billings, Federal Building U.S. Courthouse, $1,919,000

New Mexico:

Albuquerque, Dennis Chavez Federal Building and U.S. Courthouse, $3,846,000

New York:

Brooklyn, Emanuel Celler Federal Building and U.S. Courthouse (phase 1), $8,729,000

Buffalo, Michael J. Dillon Memorial United States Courthouse, $5,962,000

New York, Alexander Hamilton Custom House (phase 1), $20,273,000

New York, Jacob K. Javits Federal Building, $11,955,000

Ohio:

Cincinnati, John Weld Peck Federal Building, $2,537,000

Columbus, Federal Building and U.S. Courthouse, $3,348,000

Pennsylvania:

Philadelphia, Robert N.C. Nix, Sr., Federal Building and United States Post Office, $10,000,000

Scranton, Federal Building and U.S. Courthouse, $2,600,000

Texas:

Austin, IRS, Department of Veterans Affairs, Treasury Complex, $11,366,000

Galveston, Post Office and U.S. Courthouse, $3,310,000

Houston, Bob Casey Federal Building and U.S. Courthouse, $7,222,000

San Antonio, Federal Building, $4,084,000

Utah:

Salt Lake City, Frank E. Moss U.S. Courthouse, $,4872,000

Salt Lake City, Wallace F. Bennett Federal Building, $3,254,000

Minor Repairs and Alterations, $266,331,000: *Provided*, That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That all funds for repairs and alterations prospectus projects shall expire on September 30, 1993, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $144,587,000 for installment acquisition payments including payments on purchase contracts; (4) not to exceed $1,655,900,000 for rental of space; (5) not to exceed $1,107,372,000 for real property operations of which $7,000,000 shall remain available until expended for the relocation of the National Science Foundation headquarters to northern Virginia to be reimbursed in equal amounts over a period of four years, beginning in fiscal year 1993, by the National Science Foundation; (6) not to exceed $139,748,000 for program direction and centralized services; and (7) not to exceed $143,072,000 for design and construction services which shall remain available under expended: *Provided further*, That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be Federally owned buildings: *Provided further*, That none of the funds available to the General Services Administration, except for the Center for Disease Control Building, Atlanta, Georgia, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further*, That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further*, That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further*, That revenues and collections and any other sums accruing to this Fund during fiscal year 1992 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $4,131,346,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

□ 1910

POINT OF ORDER

Mr. TRAXLER. Mr. Chairman, I rise on a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAXLER. On page 35, line 24, I contend that all after the word "operations" up to the semicolon on page 36 of line 4 violates clause 2, rule XXI, constitutes legislation on an appropriations bill.

The CHAIRMAN. Does the Chair understand correctly, the gentleman's point of order begins on page 35, line 24 with the last word therein and goes through the last word on page 36, line 4?

Mr. TRAXLER. Mr. Chairman, my contention is that on page 35, line 24, all after the word "operations" up to the semicolon on page 36, line 4.

The CHAIRMAN. The Chair understands.

Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

Are there other points of order against this paragraph?

Mr. WOLF. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. First of all, the Chair will repeat his inquiry. Are there other points of order against this paragraph?

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have other points of order against this paragraph.

The CHAIRMAN. The gentleman will state them.

Mr. TRAFICANT. Proceeding on page 35, line 11, and continuing down through that language which was struck by Chairman TRAXLER and continuing on page 36, commencing on line 5 and continuing through all of page 36 and commencing on page 37, carrying through all of page 37, for violation of House clause 2, rule XXI.

The CHAIRMAN. Does this gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The language in question is stricken.

Mr. WOLF. Mr. Chairman, I have an amendment at the desk and ask unanimous consent the amendment be considered as read.

Mr. CHAIRMAN. The Chair will simply repeat his understanding for the RECORD that the entire paragraph has now been stricken by the combined points of order. The Chair would inform the gentleman from Virginia that his understanding of his amendment is that it is based on an assumption that there is still a paragraph with money in it left to amend.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: Page 35, line 11, insert:

"Minor Repairs and Alterations, $266,331,000. (3) not to exceed $144,587,000 for installment acquisition payments including payments on purchase contracts; (4) not to exceed $1,655,900,000 for rental of space; (5) not to exceed $1,107,372,000 for real property operations of which $7,000,000 shall be available for the relocation of the National Science Foundation headquarters; (6) not to exceed $139,748,000 for program direction and centralized services; and (7) not to exceed $143,072,000 for design and construction services which shall remain available until expended: *Provided further*, That revenues and collections accruing to this Fund during fiscal year 1992 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $4,131,346,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.".

Mr. TRAFICANT. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Ohio reserves a point of order.

Mr. ROYBAL. Mr. Chairman, I will just say that this amendment restores the appropriation stricken by the point of order, but this amendment specifically excludes the language in the paragraph that was subject to the point of order.

Do not forget that I did, in fact, concede, but this language does in fact restore some of the language.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio insist on his point of order?

Mr. TRAFICANT. Mr. Chairman, I do.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. No. 1, I am under the impression that the entire section and paragraph entirely have been stricken and now we resurrect different terms which have hit us so fast, without being able to read them, but let me say this, each and every one of these appropriations carries along with it a designated duty which calls upon someone within those divisions to in fact perform a duty and a task. That means it should be subject to an authorizing committee's action. It is not, and it thus continues to violate rule XXI, clause 2.

I object to any of that language that is in fact subject to that rule.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. ROYBAL. What has to be considered in this particular instance is that the language that was restored is actually protected by 40 United States Code 4490(f). It is definitely in order.

The CHAIRMAN. Does the gentleman from Michigan desire to be heard on the point or order?

Mr. TRAFICANT. I do, Mr. Chairman. It seems to me that there is nothing to be amended. I think the gentleman's point of order that was made earlier and my point of order struck the entire chapter. I mean, we are looking at a black hole. I do not think we can construct on nothing.

The CHAIRMAN. The Chair would observe that the amendment currently offered by the gentleman from California restores the overall sum of some $266 million for minor repairs and alterations, which the Chair believes is authorized by law.

The Chair would inquire of the gentleman from Ohio whether he is directing or intends to direct attention to any other language of the amendment which he believes would be unauthorized legislation?

□ 1920

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. TRAFICANT. Mr. Chairman, the gentleman from Ohio is under the impression that you upheld a point of order against all of this language for having violated clause 2, rule XXI. The Chair is now ruling and saying that parts of that which the Chair had previously stricken now are in fact in order.

The CHAIRMAN. The Chair will advise the gentleman that under the original point of order, if any portion of the paragraph was subject to a point of order, the entire paragraph would fall at the gentleman's insistence, as it did.

POINTS OF ORDER

Mr. TRAFICANT. Mr. Chairman, then immediately following line 11, page 35, $266,331,000, starting with the word "Provided," I make a point of order to strike all of that language which constitutes legislation in an appropriation bill and is subject to the clause and the ruled cited.

The CHAIRMAN. The Chair would say to the gentleman that the original text is no longer pending. What is before the House is the amendment currently offered by the gentleman from California. The Chair inquired of the gentleman making the point of order whether any language in the amendment now pending strikes him as legislation in an appropriation bill.

Mr. TRAFICANT. All of that following $266,331,000 which carries conditions which are found on line 11, page 35, commencing with the last word "Provided."

The CHAIRMAN. The Chair will advise the gentleman that that language does not appear in the gentleman's amendment. That proviso is not included in the amendment now pending.

Mr. TRAFICANT. Is there any language subsequent to the $266 million which is in there? That is what I am objecting to. I am not objecting to the $266 million appropriation. I am objecting to some of those other provisions attached to it and the conditions on that money.

The CHAIRMAN. Without objection, the Clerk will rereport the pending amendment slowly.

There was no objection.

The Clerk reread the amendment.

The CHAIRMAN. The gentleman making the point of order has heard the amendment reread in its entirety. Does he wish to direct the attention of the Chair to any particular portion thereof?

Mr. TRAFICANT. That section which states "Provided further" and contains additional language subject to a duty to be imposed, that duty to be imposed clearly constitutes a violation of House rules on an appropriation bill.

The CHAIRMAN. Does the gentleman from Michigan [Mr. TRAXLER] desire to be heard further?

Mr. TRAXLER. Mr. Chairman, I wish to be protected on a point of order on the language "of which $7 million shall remain available until expended for the relocation of the National Science Foundation headquarters."

The CHAIRMAN. The Chair will advise the gentleman that the words "until expended" do not appear in the amendment now pending.

Mr. TRAXLER. Please forgive me. I do not have a copy of the amendment. I am using my memory. I raise a point of order against the $7 million and the language which accompanies it for the relocation of the National Science Foundation. If I had a copy of the amendment, I could be more specific.

The CHAIRMAN. The Chair will rule that a prospectus for this project, submitted pursuant to law, has been approved by the Committee on Public Works and Transportation, dated October 13, 1988, and that the reference to northern Virginia and reimbursement language which was in the bill is not in the amendment, and the Chair will overrule that point of order.

With respect to the last point of order raised by the gentleman from Ohio, does the gentleman from Ohio [Mr. TRAFICANT] wish to be heard further on this point?

Mr. TRAFICANT. Yes. I do. I would like a copy of the amendment so that I might see it and be able to make a decision predicated on something I might be able to think of rather than to ascertain from the air.

Reserving my right to a point of order, Mr. Chairman, I object to all language contained in the amendment following $266,331,000 and, furthermore, also object to the final section following the words "Provided further, the revenues and collections accruing to this fund," et cetera.

The CHAIRMAN. The Chair would inquire of the gentleman from California if he would like to direct his attention for a moment to the last part of the point of order which is the final proviso.

Mr. ROYBAL. On what page is that, may I ask?

The CHAIRMAN. It is the last section of the gentleman's amendment. "Provided further." In the original bill, it is the language appearing on page 37, line 17, and thereafter.

Mr. ROYBAL. Mr. Chairman, on line 17, page 37, that reads, "Provided further, that revenues and collections and any other sum accruing to this fund during fiscal year 1992, excluding reimbursement under section" so and so was actually authorized by the Federal Property and Administration Service. I think there is an authorization in that particular section.

The CHAIRMAN. Does the gentleman from Ohio wish to be heard further?

Mr. TRAFICANT. Mr. Chairman, page 3 of the chairman's amendment clearly strikes several words, and now the chairman is citing page 37, line 17 verbatim. I raised a point of order, and had prevailed, on page 37 commencing with line 17 through 23. Is the chairman's language the same, or has it been in fact changed by the amendment on page 3 of this amendment submitted to the desk?

The CHAIRMAN. The Chair is prepared to rule.

The gentleman has heard and has a copy of the pending amendment.

The language cited at the last sentence of the amendment beginning "Provided further, the revenues and collections and any other sums accruing to this fund," is authorized by existing law, and the Chair will read from title 40, United States Code, section 490, as cited, incidentally, in the amendment itself: "Moneys deposited into the fund shall be available for expenditure for real property management and related activities in such amounts as are specified in annual appropriations acts without regard to fiscal year limitations."

□ 1930

This is the existing statutory authorization. The language is authorized to be included in an appropriation bill by the law cited, and the point of order is overruled.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. In the chairman's amendment, page 3, it reinstates lines 17 through 23, but scratches the words "and any other sums."

Is the chairman saying that "and any other sums" is also now approved even though it was stricken in that amendment? What amendment are we dealing with?

The CHAIRMAN. The gentleman has answered his own question. The gentleman has a copy of that amendment. The words do not appear.

Mr. TRAFICANT. The amendment I have, Mr. Chairman, without debating it, strikes those words "and any other sums."

The CHAIRMAN. That is correct. Those words do not appear in the amendment.

The amendment has been held in order.

Does the gentleman from California [Mr. ROYBAL] wish to be heard on his amendment?

The gentleman is recognized for 5 minutes.

Mr. ROYBAL. Mr. Chairman, I think that the matter is clear at this point. I do not wish to pursue it any further.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROYBAL].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilitization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $54,605,000.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, under clause 2, rule XXI for that language on page 38, line 3, through line 10.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, we will concede a point of order. We have an amendment at the desk.

Mr. TRAFICANT. Mr. Chairman, reserving the right to object to maintain a point of order.

The CHAIRMAN. Does the gentleman from California wish to be heard further on the point of order?

Mr. ROYBAL. Mr. Chairman, again, I will have to cite various points that have been done before, but we will do it again. I think this matter is authorized under 40 U.S.C. 481, 482, and 483. It is also noted that it is under 40 U.S.C., 251–260. So the matter is clearly authorized.

The CHAIRMAN. The Chair is prepared to rule.

For reasons noted by the gentleman from California, the contents of this paragraph for the Federal Supply Service appear all to be authorized by law. There appeared to be no legislative provisions therein, and the point of order is overruled.

The Clerk will read.

The Clerk read as follows:

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property, including services as authorized by 5 U.S.C. 3109; $14,227,000, to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, $16,000,000 to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided*, That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further*, That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property: *Provided further*, That $3,770,000 of the amount shall be made available to the National Archives and Records Administration to pay expenses related to the establishment and relocation of the National Long Term Records Center (which shall be known hereafter as the "Silvio O. Conte National Records Center"), authorized and directed by Public Law 101–509.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided, for Policy Direction, Board of Contract Appeals, and accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109, $31,421,000: *Provided*, That this appropriation shall be available for general administrative and staff support services, subject to reimbursement by the applicable organization or agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code: *Provided further*, That this account shall be available for personnel and associated costs in support of Congressional District and Senate State offices without reimbursement from these offices: *Provided further*, That not to exceed $5,000 shall be available for official reception and representation expenses.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Page 40, commencing with line 22 and the word "provided" carrying on through page 41 through line 7 constitutes a violation of House rules, clause 2, rule XXI.

The CHAIRMAN. Does the gentleman from California [Mr. ROYAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained and the three provisos in the paragraph under general management and administration are stricken.

The Clerk will read.

The Clerk read as follows:

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $46,014,000.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I rise to a point of order to this section.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, it violates clause 2, rule XXI, line 10 through line 17 that it, in fact, poses some duties in tasks which take it beyond the normal scope of appropriation jurisdiction.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, again, I would like to call attention to the fact that this is already authorized. It is authorized by 40 U.S.C. 47, 471 and authorized by section 8 and 15 by Public Law 95-507. It is also authorized by Public Law 89-369, Title 8. All these citations clearly indicate it is authorized.

The CHAIRMAN. The Chair would appreciate the attention of the gentleman from California.

It appears to the Chair that the provisions of the paragraph are clearly authorized by law up until line 15, and the Chair would inquire of the gentleman from California whether he can cite authorization in law for the Executive order cited in lines 15 through 17?

Mr. ROYBAL. Mr. Chairman, no, we cannot.

The CHAIRMAN. Does the gentleman from Ohio confine his point of order to those lines?

Mr. TRAFICANT. Mr. Chairman, I so do.

The CHAIRMAN. In that case, the point of order is conceded and sustained. Those lines are stricken and the Clerk will delete page 41, line 15, beginning with the words "and for," going through line 17 up to the appropriation amount.

The Chair would say the appropriation amount itself would remain in the paragraph, but the language in between is stricken.

The Clerk will read.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $34,994,000, of which not to exceed $2,400,000 shall remain available until expended for procurement and installment of an automation program in support of audits and investigations: *Provided*, That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further*, That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state the point of order.

Mr. TRAFICANT. Mr. Chairman, commencing on line 21, page 41, immediately following $34,994,000 with the words "of which," and continuing down through line 25 on page 41, and continuing further on page 42 through and including line 6 for violating clause 2, rule XXI of the House.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

Mr. CHAIRMAN. It is conceded and sustained. The language is stricken.

The Clerk will read.

The Clerk read as follows:

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $2,129,000: *Provided*, That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order to section 1.

The CHAIRMAN. The gentleman will state the point of order.

Mr. TRAFICANT. Clause 2, rule XXI, line 17 through 22 inclusive, page 42.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained, and the section is stricken.

PARLIAMENTARY INQUIRY

Mr. JACOBS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. JACOBS. At present, we are on line 17, did I hear?

The CHAIRMAN. Lines 17 through 22 of page 42 have just fallen on a point of order.

Mr. JACOBS. Mr. Chairman, what about the——

Mr. ROYBAL. Regular order, Mr. Chairman, I think we are already past that section.

The CHAIRMAN. The Chair is responding to the parliamentary inquiry on the part of the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, the parliamentary inquiry is whether the preceding section, the allowances for the former Presidents, has been read?

The CHAIRMAN. Yes, it has.

The Clerk will read.

The Clerk read as follows:

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The Clerk will read.

The Clerk read as follows:

SEC. 3. Not to exceed 2 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 3 for violation of House rules under clause 2, rule XXI.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained, and the section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1992 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

□ 1940

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, section 4 violates clause 2, rule XXI, from line 8 through 14, inclusive.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 5. (a) Nothwithstanding any other provision of law, agencies are hereafter authorized to make rent payments to the General Services Administration for lease space relating to expansion needs of the agency and General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Rental of Space activity of the Federal Buildings Fund. Such payments are to be at the commercial equivalent rates specified by section 201(j) of the Federal Property and Administrative Service Act of 1949, as amended (40 U.S.C. 490(j)) and are to be deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

(b) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purpose of subsection (a).

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, I make a point of order against section 5, commencing on line 15, page 43, through page 44, line 6, for violation of clause 2, rule XXI of the House rules.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the pont of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken, and the Clerk will read

The Clerk read as follows:

SEC. 6. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, a point of order.

The CHAIRMAN. The Clerk will state it.

Mr. TRAFICANT. Mr. Chairman, I raise a point of order under clause 2, rule XXI, against section 6.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken, and the Clerk will read.

The Clerk read as follows:

SEC. 7. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, I make a point of order citing clause 2, rule XXI, against section 7 of this title.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. the section is stricken, and the Clerk will read.

The Clerk read as follows:

SEC. 8. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97-258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided*, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 8, which constitutes a violation of clause 2, rule XXI of the House.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken, and the Clerk will read.

The Clerk read as follows:

SEC. 9. The Administrator of General Services is directed to coordinate its requirements for office and other space to house Government activities by utilizing assets of the Resolution Trust Corporation and its receivers and conservators.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, I cite clause 2, rule XXI, as a point of order against section 9 of title 4 of the bill.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken, and the Clerk will read.

The Clerk read as follows:

SEC. 10. Notwithstanding any other provision of law, the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), is authorized to receive any revenues, collections, or other income received during fiscal year 1992 in the form of rebates, cash incentives or otherwise, related to energy savings, all of which shall remain in the Fund until expended, and remain available for Federal energy management improvement programs as may be authorized by law or as may be deemed appropriate by the Administrator of General Services. The General Services Administration is authorized to use such funds, in addition to amounts received as New Obligational Authority, in such activity or activities of the Fund as may be necessary. The General Services Administration is authorized to: receive amounts from the sale of materials for recycling, all of which shall remain in the Fund until expended, and shall remain available for Federal energy management improvement programs, for further source reduction and recycling programs, and for child day care or other Federal employee benefit programs to encourage employees to participate in recycling programs; receive amounts from concessionaires' fees, all of which shall remain in the Fund until expended, and shall remain available for programs which promote energy conservation in food service facilities and equipment; *Provided*, That no later than 8 months after the enactment of this Act the Administrator of General Services shall report to Congress on the progress toward meeting the energy performance and recycling goals established in Public Law 100-615 and Executive Order 12759, and shall submit legislation to implement the recommendations of the Administrator or appropriate measures that would assist Federal agencies in meeting or exceeding these goals.

POINT OF ORDER

Mr. DINGELL. Mr. Chairman, I just rose for the purpose of reserving a point of order on section 10, page 45, line 12. Have we reached that point yet, Mr. Chairman?

The CHAIRMAN. The Chair will advise the gentleman that the point of order must be made and can not be reserved at this time. This is the appropriate time, and in fact the only time to make such a point of order.

Mr. DINGELL. Mr. Chairman, I raise a point of order regarding section 10 which appears at page 45, line 12 through line 20 on page 46 of H.R. 2622 as reported and I insist on my point of order.

Mr. Chairman, section 10 authorizes the use of revenues, collections, and other income related to energy savings for Federal energy management improvement programs authorized by law or as may be deemed appropriate by the General Services Administration. These funds, which can come from rebates, cash incentives, or otherwise are all related to energy savings and are matters of concern to this committee. This section also relates to amounts received from the sale of materials for recycling and indicates that these amounts will also remain available for these Federal energy management improvement programs as well as for recycling programs, for child daycare and other Federal employee benefit programs to encourage employees to participate in recycling.

Mr. Chairman, this section is legislation in an appropriations bill in violation of clause 2 of rule XXI which prohibits such legislation. I would, therefore, respectfully request that my point of order be sustained.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order raised by the gentleman from Michigan?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken, and the Clerk will read.

The Clerk read as follows:

SEC. 11. Nothwithstanding any other provision of law, the General Services Administration shall pay from funds made available to GSA in the Real Property Relocation account, not to exceed $8,000,000, for expenses related to the relocation of the U.S. Fish and Wildlife Service regional office authorized and directed by Public Law 101-136.

SEC. 12. The Administrator of GSA is authorized to accept property from the State of Maryland at no cost for the purpose of constructing a computer facility for the Bureau of the Census and to begin preliminary design work on such a facility. GSA is directed to submit to the appropriate authorizing and appropriations committees of the Congress an evaluation of need and prospectus for this project no later than August 23, 1991.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $152,143,000, of which $5,400,000 for allocations and grants for historical publication and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, this section violates clause 2, rule XXI of the House, because it imposes other than appropriations certain tasks and duties which clearly fall within the jurisdiction of the authorizing committees; thus, it constitutes legislation on an appropriation bill.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point or order?

Mr. ROYBAL. Mr. Chairman, I thought we had already started to read the National Archives.

The CHAIRMAN. The Chair would advise the gentleman that the point of order is made against that paragraph on page 47, lines 11 through 20.

□ 1950

Mr. ROYBAL. Mr. Chairman, we concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The paragraph is stricken.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: On page 47 line 11 insert:

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $152,143,000, of which $5,400,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended.

Mr. TRAFICANT. Mr. Chairman, I reserve my right to a point of order.

The CHAIRMAN. Does the gentleman from Ohio [Mr. TRAFICANT] insist on his point of order?

Mr. TRAFICANT. I do insist on that language.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, that language immediately following, the very last five words, "shall remain available until expended."

The CHAIRMAN. The Chair advises the gentleman that language does not appear in the amendment as offered.

Mr. TRAFICANT. I do not insist on a point of order.

The CHAIRMAN. The gentleman from California [Mr. ROYBAL] is recognized for 5 minutes.

Mr. ROYBAL. Mr. Chairman, my understanding is that he is not insisting on the point of order on just a section of this paragraph.

The CHAIRMAN. The gentleman is recognized for 5 minutes in support of his amendment.

Mr. ROYBAL. Mr. Chairman, the amendment in question of the section in question is really authorized by law. We go back again to the United States Code, 44, 2108, and also section 3303. So the matter in question is actually authorized by the law itself.

The CHAIRMAN. The Chair will point out to the gentleman that the point of order has been withdrawn. Does the gentleman wish to be heard on behalf of this amendment?

Mr. ROYBAL. What we are doing then is just restoring what we had before. The amendment that I have at present specifically excludes the language in the paragraph that was subject to a point of order. And that is what that amendment actually does.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, I am under the impression, without having seen the amendment, that the Chair had advised me that the last five words of this particular section were removed by the chairman.

The CHAIRMAN. The gentleman is correct. The amendment does not contain those words "shall remain available until expended".

The question is on the amendment offered by the gentleman from California [Mr. ROYBAL].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100-598, and the Ethics Reform Act of 1989, Public Law 101-194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses; $6,303,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnal Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor-vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended: *Provided*, That notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences, to be held in several locations throughout the United States in 1992. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $116,893,000, and of which not less than $400,000 nor more than $1,000,000 shall be made available for the establishment of Federal health promotion and disease prevention programs for Federal employees; and in addition $80,057,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnal Management in the amounts determined by the Office of Personnel Management without regard to other statutes, including direct procurement of health benefits printing, for the retirement and insurance programs: *Provided further*, That amounts authorized to be transferred from the appropriate trust funds for implementation of the Federal Employees' Retirement System automated recordkeeping system in this or prior Acts, may be transferred at any time the Office of Personnal Management deems appropriate: *Provided*, That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further*, That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1992, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission: *Provided further*, That no later than eight months after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit, together with appropriate legislation to implement the recommendations of the Director, a report to Congress which surveys the use of work and family programs for Federal employees, and makes recommendations on appropriate measures to enhance the effectiveness of these programs, and to increase the number of employees participating.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, commencing on page 48 with line 10 and continuing on page 49 through and including line 25 and continuing on page 50 through and including all thereafter through line 25.

I cite such point of order for violation of clause 2, rule XXI, which constitutes in this section here legislating on an appropriation bill.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

The paragraph is stricken.

Mr. WOLF. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentleman wish to be heard on the point of order?

Mr. WOLF. Yes. Mr. Chairman, is the gentleman striking on page 50 the Office of Personnel Management study?

The CHAIRMAN. The language in question in the point of order runs to the entirety of the section beginning on page 48, line 7, through page 50, line 25.

Mr. WOLF. I thank the Chairman.

The CHAIRMAN. The point of order is conceded and sustained.

The paragraph in question is stricken.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL:

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor-vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended: $116,893,000, and in addition $80,057,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes, including direct procurement of health benefits printing, for the retirement and insurance programs: *Provided further*, That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose:

Mr. TRAFICANT. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] reserves a point of order.

Mr. TRAFICANT. Yes, I do, and I would like a copy of this amendment since it is so lengthy.

The CHAIRMAN. The gentleman reserves a point of order. A copy of the amendment will be provided to him.

Mr. ROYBAL. Mr. Chairman, this is another of those amendments that just restores the appropriation stricken by the point of order.

This amendment, as all the others, specifically excludes the language in the paragraph that was subject to the point of order. That is exactly what it does and nothing more.

Mr. TRAFICANT. Mr. Chairman, reserving and continuing my reservation of a point of order.

The CHAIRMAN. The Chair will advise the gentleman that he can still retain his reservation of a point of order if he moves to strike the last word and be recognized for 5 minutes while we are getting the copy.

Mr. TRAFICANT. I certainly do.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. TRAFICANT. I do not mean to belabor the House on this.

I had a little amendment. I worked with the committee for 2 years. The committee put it in the bill, and a committee of the House said they were going to strike my language although they were going to let other language in and let other poeple legislate. I want to say to the House that you may be upset with what I am doing but maybe the House should recognize that most of the bill we have been discussing has been stricken as constituting legislation. Now, if you are on a legislating committee around here, you might as well not show up for work if you let this happen. And when you do have an opportunity to get the chairman and the ranking vice chairman from the other side, who mean well and who try to do things right, it gets frustrating. And so I hope noboby is upset by the matter.

POINT OF ORDER

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. TRAFICANT. Mr. Chairman, I insist on that section on page 3, "provided further that no part of this appropriation shall be available," et cetera.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] desire to be heard?

Mr. ROYBAL. Mr. Chairman, the gentleman is making reference to the amendment itself.

Mr. TRAFICANT. Page 3 of the amendment, line 3, commencing with "provided further" and following down through line 7 and inclusive of the words "or any successor unit of like purpose."

Mr. ROYBAL. I do not have any copy of the amendment before me, Mr. Chairman.

The CHAIRMAN. The Chair will advise the gentleman from California that the language against which the point of order is directed appears in the original text of the original bill on page 50, lines 3 through 7.

Mr. ROYBAL. In that event, Mr. Chairman, we will concede, concede the amendment.

The CHAIRMAN. The gentleman from California concedes that the language in the provision question is in the form of a limitation and an appropriate subject for a point of order at this point, since the bill has not been read in its entirety.

Mr. TRAFICANT. Mr. Chairman, I do insist on that language so cited on page 3 of the chairman's amendment, commencing on line 3 and including line 7, that it be stricken for violation of clause 2, rule XXI of the House.

The CHAIRMAN. The point has been conceded. The entire amendment, therefore, is subject to the point of order and is ruled out of order. The point of order is sustained. The amendment is out of order.

The Clerk will read.

The Clerk read as follows:

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles: $3,118,000; and in addition, not to exceed $6,375,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, I raise a point of order on this language commencing on page 51, line 4, through and including line 14, with the word "general," that in fact it does constitute more than straight appropriation and there is legislation therein, thus violating clause 2 of rule XXI of the House.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The paragraph is stricken.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: On page 51, line 1 insert:

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles: $3,118,000; and in addition, not to exceed $6,375,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management.

Mr. TRAFICANT. Mr. Chairman, reserving a point or order, I would like to see this amendment.

The CHAIRMAN. The gentleman from Ohio reserves a point of order.

The gentleman from California is recognized for 5 minutes in support of his amendment.

Mr. ROYBAL. Mr. Chairman, again this amendment restores the appropriation stricken by the point of order. Then we go back to the fact that this amendment specifically excludes the language in the paragraph that was subject to the point of order. I think the matter is quite clear and that we can proceed.

POINT OF ORDER

The CHAIRMAN. Does the gentleman insist on his point of order?

Mr. TRAFICANT. Mr. Chairman, I do insist on my point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I maintain that even though there are appropriations in this section, those appropriations carry along with them the expressed intent of legislation that should have emanated from an authorizing committee and thus the Appropriations Committee is certainly on grounds to appropriate the funds for that which has been authorized, and I thus insist on my point of order and ask it to be stricken.

The CHAIRMAN. Does the gentleman from California desire to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, again going back to the law itself, I think it is already authorized by law under the Inspector Generals Act, 95–452.

The CHAIRMAN. The Chair is prepared to rule.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, if we are going to have amendments which basically change much of the language that we are reviewing, I will then be requiring to have copies of those amendments. I will not insist on one on this section. But if that is to be the case, I want to make sure that I understand what we are voting on here.

The CHAIRMAN. The Chair will observe that he has been protecting the Member by allowing him to reserve points of order until copies of amendments have been furnished him. And he will intend to continue to do that.

The Chair is prepared to rule on this point of order.

For the reasons stated by the gentleman from California, the Office of Inspector General is authorized by law. The point of order is overruled.

PARLIAMENTARY INQUIRY

Mr. TRAFICANT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TRAFICANT. Mr. Chairman, since I did not see the amendment, there was substantive language that was stricken by the chairman's amendment, and I do not know what that language was, and I would like to see it.

Am I to understand that after this language had been stricken, the Chair thus now maintains that that language satisfies the removal of the legislative language?

The CHAIRMAN. The Chair has just ruled that the appropriation for the Inspector General is authorized. The gentleman from Ohio has not made a more specific point of order.

The question is on the amendment offered by the gentleman from California [Mr. ROYBAL].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $2,503,535,000, to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, $14,249,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $6,078,686,000: *Provided*, That annuities authorized by the Act of May 29, 1944, as amended and the Act of August 19, 1950, as amended (33 U.S.C. 771–75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, cost for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire or passenger motor vehicles, and direct procurement of survey printing, $23,361,000, together with not to exceed $1,850,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), and the Whistleblower Protection Act of 1989 (Public Law 101–12), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $7,789,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $20,769,000: *Provided*, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

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POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Page 54, line 4, commencing with the word "provided," and continuing down and including through line 9.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard?

Mr. ROYBAL. Mr. Chairman, I think it states in the bill itself, after "provided" it says that public members of the Federal Service Impasses Panel may be paid travel expenses in per diem in lieu of subsistence as authorized by law. It says 5 U.S.C. 5703. It is right in the bill.

The CHAIRMAN. Does the gentleman from Ohio [Mr. TRAFICANT] wish to be heard further?

Mr. TRAFICANT. I do.

The CHAIRMAN. The gentleman is recognized.

Mr. TRAFICANT. Mr. Chairman, from line 7 the language states for persons employed intermittently in the Government service and thus compensation is authorized, stating that that is within the jurisdiction of an authorizing committee, and it violates clause 2, rule XXI.

The CHAIRMAN (Mr. STUDDS). The Chair is prepared to rule. He will read from title 5 U.S.C., section 7119, paragraph 4.

The panel may appoint an executive director and any other individuals that it may from time to time find necessary for the proper performance of its duties. Each member of the panel who is not an employee as defined in section 2005 of this title is entitled to pay at a rate with the daily equivalent of a maximum annual rate of basic pay currently paid under the general schedule for each day he is engaged in performance of official business of the panel, including travel time, is entitled to travel expenses as provided under section 5703 of this title.

The Chair believes that the language in the bill is consistent with existing authorizing law and overrules the point of order.

The Clerk will read.

The Clerk read as follows:

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $33,050,000: *Provided*, That travel expenses of the judges shall be paid upon the written certificate of the judge.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, on lines 14 through 15, in fact, I raise a point of order to all of that section commencing with line 12 through line 15.

Under clause 2 of rule XXI it violates House rules for having legislation on an appropriations bill.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

The section is stricken.

AMENDMENT OFFERED BY MR. ROYBAL

Mr. ROYBAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROYBAL: On page 54 line 10 insert:

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $33,050,000.

Mr. TRAFICANT. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] reserves a point of order, and the gentleman from California [Mr. ROYBAL] is recognized for 5 minutes in support of the amendment.

Mr. ROYBAL. Mr. Chairman, this is again another one of those particular items that restores the appropriation stricken by the point of order. This amendment specifically excludes the language in the paragraph that was subject to the point of order.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Ohio [Mr. TRAFICANT] insist on his point of order?

Mr. TRAFICANT. Mr. Chairman, am I to assume, after having read it, that the words on line 14 starting with "provided" through line 15 "judge" have been stricken and that the Chair is only dealing with the language from line 12 through 14, 33 million 50 thousand?

Mr. ROYBAL. The gentleman from Ohio is correct.

Mr. TRAFICANT. Mr. Chairman, I do still insist upon a point of order and want to make sure that that is authorized.

The CHAIRMAN. The Chair will observe that the U.S. Tax Court is established in law and the appropriations are, therefore, authorized and overrules the point of order.

The question is on the amendment offered by the gentleman from California [Mr. ROYBAL].

The amendment was agreed to:

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

This title may be cited as the "Independent Agencies Appropriations Act, 1992"

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that section 501 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 501 of title 5 commencing on line 20, page 54, and continuing through page 55, line 10.

I so move, under clause 2, rule XXI of the House that 501 be stricken even though there is much merit because it is in fact legislating on a appropriation bill and constitutes same.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that section 502 be considered as read, and printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 502 notwithstanding its merit. In fact it constitutes legislation on an appropriation bill.

Mr. ROYBAL. Mr. Chairman, I would like to remind the gentleman from Ohio [Mr. TRAFICANT] that every one of the sections that he has stricken, that they all have merit, all of them, absolutely all of them, but I do concede the point of order on section 502.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

Mr. TRAFICANT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, these all have a tremendous amount of merit. But they did not come from a legislating committee, and all that has to be done is take it to the legislating committee, and pass the law, and then the Committee on Appropriations can tell us how much money they have. I do not want to strike any money for anybody. All I want is 531 in the bill. But if everyone else can legislate on this bill, which will be about three pages long when we are done, then that I have no objection to.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to just very briefly answer the gentleman that just spoke. He seems to believe at this moment that he is protecting all the prerogatives of the legislative committee. That may be so. But the real reason he is doing what he is doing now, imposing upon the time of every Member of this House, doing what has not been done in the House of Representatives since I have been here at least, and that has been the last 30 years. The truth of the matter is that the gentleman is just angry over the fact that language which he requested and that I included in the bill with regard to Internal Revenue Service and language that I defended before the Committee on Rules, doing everything I possibly could do to put it in order and have it included in the bill. It was not done, and because of that he is raising a point of order on every section of this bill.

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I hope the gentleman enjoys it. I hope he is having a real good time. But I would like to tell the gentleman from Ohio [Mr. TRAFICANT] that the subject matters that he is now raising a point of order on has been traditionally not protected by a rule, but are matters that this committee itself has for a long time brought to this floor, with no one actually raising points of order on the little things that may be meaningless insofar as an individual Member may be concerned, but are important in the operation of the Government.

Mr. Chairman, again I hope that in the future something like this does not happen.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. Mr. Chairman, I am not going to yield to anyone. The reason I am not going to yield to the gentleman from Ohio [Mr. TRAFICANT] is because I did once, and that was enough.

Mr. Chairman, I think the thing that has to be done now is to try to proceed in getting this bill through in an orderly fashion, so we can put it in order when we go to conference with the Senate. It just appears that we are unable to function with this kind of behavior on the part of a Member of this House. As long as we are unable to function properly, something else, of course, will have to be done.

Mr. Chairman, I am sorry that I even have to get up to say anything of this kind, but, nevertheless, I feel that it has gone on a little bit too far.

Mr. WOLF. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman from Virginia.

Mr. WOLF. Mr. Chairman, let me just say at the outset, I want the gentleman from Ohio [Mr. TRAFICANT] to know that even in the committee there was some doubt, in our committee. And the gentleman from California [Mr. ROYBAL] argued very effectively and insisted that the language be in. I supported the gentleman from Ohio on the previous question, and, frankly, I think the amendment of the gentleman should have been made in order. Given the opportunity, I will support it.

Maybe in a kind of spirit of reconciliation, and sort of as a last time, maybe it can stop about where it is. A lot of Members want to go home. I know the gentleman has made a good point. I think a lot of Members will never forget the point. I understand how the gentleman feels. But the gentleman from California [Mr. ROYBAL] did support the gentleman in every possible way.

Now I think, if maybe it were to end, that would be perhaps a good thing.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided*, That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therof.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I have a point of order to section 503.

The CHAIRMAN. The gentleman will state his point of order.

Mr. TRAFICANT. Mr. Chairman, that language constitutes legislation on an appropriations bill, in violation of clause 2, rule XXI, and I ask it be stricken.

Mr. ROYBAL. Mr. Chairman, this is a limitation, and should not be subject to a point of order.

The CHAIRMAN (Mr. STUDDS). The Chair is prepared to rule. The language is in the form of a limitation on expenditure of funds contained in the bill, and, as such, is proper. The point of order is overruled.

The Clerk will read.

The Clerk read as follows:

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6–104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided*, That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92–28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 510. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 511. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 512. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, Marana, Arizona, and Artesia, New Mexico, out of the Treasury Department.

SEC. 513. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 514. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 515. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 516. The provision of section 515 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 517. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 518. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 519. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1992.

SEC. 520. (a) Notwithstanding any other provision of law, during fiscal year 1992, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1992 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1992, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 521. None of the funds appropriated or otherwise made available to the Department of the Treasury by this or any other Act shall be obligated or expended to contract out positions in, or downgrade the position classifications of, members of the United States Mint Police Force and the Bureau of Engraving and Printing Police Force, or for studying the feasibility of contracting out such positions.

SEC. 522. The Office of Personnel Management may, during the fiscal year ending September 30, 1992, accept donations of supplies, services, and equipment for the Federal Executive Institute, the Federal Quality Institute, and Executive Seminar Centers for the enhancement of the morale and educational experience of attendees.

SEC. 523. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 524. The United States Secret Service may, during the fiscal year ending September 30, 1992, accept donations of money to off-set costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

SEC. 525. None of the funds made available by this Act may be used to withdraw the designation of the Virginia Inland Port at Front Royal, Virginia, as a United States Customs Service port of entry.

SEC. 526. None of the funds made available to the Postal Service by this Act shall be used to transfer mail processing capabilities from the Las Cruces, New Mexico postal facility, and that every effort will be made by the Postal Service to recognize the rapid rate of population growth in Las Cruces and to automate the Las Cruces, New Mexico postal facility in order that mail processing can be expedited and handled in Las Cruces.

SEC. 527. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

SEC. 528. None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the SES upon reassignment or transfer.

SEC. 529. No funds in this Act may be used to award a Federal agency lease in the Omaha, Nebraska—Council Bluffs, Iowa, geographical area, which do not meet the following criteria:

Any Federal agency which leases commercial space in the Omaha, Nebraska—Council Bluffs, Iowa, geographical area, when entering into new leases, shall give preference to space available meeting standard government lease criteria, which is offered at the lowest cost per square foot within the geographical area, provided it also meets the occupying agency's mission requirement.

SEC. 530. (a) None of the funds appropriated by this Act may, with respect to an individual employed by the Bureau of the Public Debt in the Washington Metropolitan Region on April 10, 1991, be used to separate, reduce the grade or pay of, or carry out any other adverse personnel action against such individual for declining to accept a directed reassignment to a position outside such region, or to accompany a position outside of such region, pursuant to a transfer of any of such Bureau's operations or functions to Parkerburg, West Virginia.

(b) Subsection (a) shall not apply with respect to any individual who, on or after the date of enactment of this Act, declines an offer of another position in the Department of the Treasury which is of at least equal seniority, status, and pay, and which is within the Washington Metropolitan Region.

SEC. 531. INVESTIGATION OF INTERNAL REVENUE SERVICE ALLEGED ABUSE OF TAXPAYERS' RIGHTS.

(a) RESPONSIBILITIES OF INTERNAL REVENUE SERVICE.—

(1) REPORT.—Not later than the date six months after the date of the enactment of this Act, the Commissioner of the Internal Revenue Service shall submit a report to the Congress on—

(A) the structure of its program to prevent abuses of taxpayers' rights by the Internal Revenue Service,

(B) the level of the implementation of such program, and

(C) an analysis of the effectiveness of such program and the evidence on the basis of which such analysis is made.

(2) MONITORING GROUP.—The Commissioner of the Internal Revenue Service shall establish a group of individuals with the responsibility to monitor and evaluate the effectiveness of the program referred to in paragraph (1).

(b) INVESTIGATION BY GENERAL ACCOUNTING OFFICE.—

(1) IN GENERAL.—The Comptroller General shall conduct an assessment and evaluation of the implementation and effectiveness of the program of the Internal Revenue Service to prevent abuses of taxpayers.

(2) REPORT.—Not later than the date one year after the date of the enactment of this Act the Comptroller General shall submit to the Congress a report on the investigation conducted under paragraph (1), together with such recommendations as he may deem advisable.

Mr. ROYBAL (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title V of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Are there any points of order against the remainder of title V?

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Chairman, I make a point of order against title V, section 531, of H.R. 2622, on the grounds that it violates clause 2 of rule XXI of the rules of the House of Representatives as legislating on an appropriations bill.

The CHAIRMAN. Does the gentleman from California [Mr. ROYBAL] wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. Does any Member wish to be heard on the point of order?

Mr. TRAFICANT. Mr. Chairman, I am very disappointed that the chairman has struck the language. He said he would. I guess he did.

Mr. Chairman, for 6½ years I tried to come to the Committee on Ways and Means. I came there one time. I was the last Member to be heard. There was one Democrat and one Republican. They were talking to staff.

Mr. Chairman, the gentleman has allowed other people to legislate on this bill. This clearly calls for a report, and this should not have been objected to by the Committee on Ways and Means.

Mr. Chairman, let me say this: the gentleman did not object last year, it was passed on the House floor as a special amendment, and given a waiver by the Committee on Rules. When it got to conference, the IRS said, "We don't want the Traficant language. We are already doing that."

Mr. Chairman, all we asked for this time is a report to make sure that they are in fact doing that.

Mr. Chairman, I would like to ask the gentleman from Illinois [Mr. ROSTENKOWSKI] to withdraw his point of order. I would thus vacate all points of order and unanimous consents that I have against this bill. I think it is fair, it does not intrude upon any legislation, and it is prudent. We have been working on this for 2 years, and I went through the chairman to do it.

Mr. Chairman, I am asking the gentleman from Illinois [Mr. ROSTENKOWSKI] to withdraw his point of order, and I will withdraw my points of order and unanimous-consent requests to any and all parts of this bill, which clearly have indicated a tremendous amount of legislation.

The CHAIRMAN. Does the gentleman from Illinois [Mr. ROSTENKOWSKI] insist upon his point of order?

Mr. ROSTENKOWSKI. Mr. Chairman, I insist upon my point of order.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

If not, the point of order is conceded and sustained for the reason stated. The section is stricken.

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Are there any further points of order to the remainder of title V?

AMENDMENT OFFERED BY MR. WOLF

Mr. WOLF. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WOLF: At the end of title V, insert the following new section:

SEC. 532. No later than eight months after the date of enactment of this Act, the Director of the Office of Personnel Management shall submit, together with appropriate legislation to implement the recommendations of the Director, a report to Congress which surveys the use of work and family programs for Federal employees, and makes recommendations on appropriate measures to enhance the effectiveness of these programs, and to increase the number of employees participating.

Mr. WOLF. Mr. Chairman, this is an amendment for OPM which requires them to do a report based on the family-friendly programs that have been implemented, such as child care and leave sharing. Leave sharing is where if an individual is dying of cancer, perhaps has a very serious illness and they run out of vacation time and sick leave, the other Federal employees can donate time to them. This idea first came about through Chairman BILL LEHMAN of Florida.

The others are flexi-time, where Federal employees can decide, they may want to come in at 6 o'clock in the morning or at 9:30 so there is someone home with the children before they go to school in the morning or at the end of the day.

Flexi-place, whereby they can elect in certain jobs to work at home with computers and fax machines. The amendment just calls for a report. This is all in the law, to make sure that every Federal agency, some are doing a very good job, others are not doing as well, this is just to make sure that it is being applied across the board.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia [Mr. WOLF].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $7,100 except station wagons for which the maximum shall be $8,100: *Provided*, That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further*, That the limits set forth in this section may be exceeded by not more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further*, That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101-549 over the cost of comparable conventionally fueled vehicles.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 601, lines 16 through 25, commencing on page 69, line 1 through line 9, for violation of clause 2, rule XXI, legislating on an appropriations bill.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, the committee concedes section 601.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 602, citing clause 2, rule XXI.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided*, That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further*, That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further*, That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further*, That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order to section 603 including all language, page 69, line 16 through 25, commencing on page 70, all of page 70, and the first two lines of page 71 for violation of clause 2, rule XXI of the House.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against all of section 604 which constitutes legislating language on an appropriations bill, clearly in deference to the House rules.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The language of the section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided*, That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 605 citing clause 2, rule XXI of the House.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order citing clause 2, rule XXI of the House against section 606.

Mr. CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

Mr. CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided*, That such credits received as exchange allowances or proceeds of sales or personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I cite clause 2, rule XXI and raise a point of order against all of section 607.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

Mr. CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 608. No part of any appropriation contained in this or any other Act shall be available for interagency financing or boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I cite clause 2, rule XXI against section 608 and ask that it be stricken.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

Mr. CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 609. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as the property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended

(62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I cite clause 2, rule XXI against the entire section of 609.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 610 None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order citing clause 2, rule XXI against all of section 610.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 611. No part of any appropriation contained in, or funds made available by, this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 611 for violating House clause 2, rule XXI.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 612. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1992, or September 30, 1993, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 612 of the Treasury, Postal Service, and General Government Appropriations Act, 1991, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 612; and

(2) during the period consisting of the remainder, if any, of fiscal year 1992, and that portion of fiscal year 1993, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1993, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1992, under section 5303 of title 5, United States Code.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1991, shall be determined under regulations prescribed by the Office of Personnel Management.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1991, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1991.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I cite clause 2, rule XXI against all of section 612, commencing at page 74, line 13 and continuing through page 77, line 5.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section in its entirety with all of its paragraphs is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 613. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order citing clause 2, rule XXI against section 613.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. Because the point of order is conceded, it is sustained.

The Clerk will read.

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The Clerk read as follows:

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I make a point of order against section 614 citing clause 2, rule XXI of the House.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 615. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

SEC. 616. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Fed-

eral Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I make a point of order against section 616, all of it, as constituting legislation in an appropriation bill and cite clause 2, rule XXI.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section, in its entirety, is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 617. No funds appropriated in this or any other Act for fiscal year 1992 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement does not contain the following provisions:

"These restrictions are consistent with and do not supersede conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling."

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I make a point of order against section 617 for being legislation on an appropriation bill which is outside the rules of the House.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 618. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I make a point of order against section 618 for violating clause 2, rule XXI of the House.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 619. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 619 for being in violation of clause 2, rule XXI of the House.

Mr. ROYBAL. Mr. Chairman, I concede the point or order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 620. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1992 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 621. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) specify in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 621 in its entirety for legislating in an appropriation bill.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 622. Notwithstanding section 1346 of title 31, United States Code, or section 607 of this Act, funds made available for fiscal year 1992 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 622 as being in violation of clause 2, rule XXI.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 623. Notwithstanding any provisions of this Act or any other Act, during the fiscal year ending September 30, 1992, any department, division, bureau, or office participating in the Federal Flexiplace Project may use funds appropriated in this or any other Act to install telephone lines, necessary equipment, and pay monthly charges, in any private residence or private apartment: *Provided*, That the head of the department, division, bureau, or office certifies that adquate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against section 623 in its entirety for constituting legislation in an appropriation bill in violation of the House rules.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 624. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that section 624 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

POINT OF ORDER

Mr. TRAFICANT. Mr. Chairman, I raise a point of order against all of section 624, commencing on page 83, line 20, and continuing down through all of page 84.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section, in its entirety, is stricken.

The Clerk will read.

The Clerk read as follows:

SEC. 625. Notwithstanding any other provision of law, sick leave provided by section 6307 of title 5, United States Code, may be approved for purposes related to the adoption of a child in order to test the feasibility of this concept during fiscal year 1992.

POINT OR ORDER

Mr. ACKERMAN. Mr. Chairman, I raise a point of order against language contained in section 625 on page 85 of the bill.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ACKERMAN. Mr. Chairman, I raise a point of order against the language in that such language constitutes legislation in an appropriation bill, thus violating clause 2, rule XXI.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

The section is stricken.

Does the gentleman from Virginia [Mr. WOLF] wish to be heard on the point of order?

Mr. WOLF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do wish to be heard, and I would like to ask the gentleman from New York what this language does.

I think the House ought to know what we are doing tonight. We put language in which has been enacted before which would allow individuals in the Federal Government to use their sick leave for adoption. There are so many kids who want to be adopted and so many people who want to adopt.

Right now, if you are pregnant you can use your sick leave to have a child, and we want to establish parity. If you will look at all the pictures of those youngsters in Romania who people just want to adopt and throughout this country, I would just urge the gentleman to withdraw this. I am not very confident that he will, but that if he would not, if he could promise to get this out by the end of the year, because the regulations did not come out until January, and we have parents who are now in the process of looking for a child, and if this bill is not passed, they will be very hurt.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I am happy to yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, the gentleman's goal is absolutely laudable. I am in full agreement with him. However, this is not the appropriate vehicle to accomplish that.

Let me assure the gentleman that we will move very expeditiously, as early as in the next 5 minutes, to try to remedy the situation.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 626. Notwithstanding any other provision of law, an employee in or under an executive agency may be granted leave without loss of or reduction in pay, leave to which otherwise entitled, credit for time or service, or performance or efficiency rating, for the time, not to exceed seven days in any calendar year, necessary in order to permit such employee to serve as a bone marrow or other organ donor, to test the feasibility of this concept during fiscal year 1992.

POINT OF ORDER

Mr. ACKERMAN. Mr. Chairman, I raise a point of order against the language contained in section 626 on page 85 of the bill. I raise this point of order against the language on the ground that such language in an appropriation bill thus violates clause 2, rule XXI.

Mr. ROYBAL. Mr. Chairman, I concede the point of order.

The CHAIRMAN. The point of order is conceded and sustained. The section is stricken.

□ 2040

Mrs. BYRON. Mr. Chairman, I move to strike the requisite number of words. I will be asking the gentleman from New York [Mr. ACKERMAN] if he will engage in a colloquy.

Each year, the bone marrow and organ transplants give thousands of people a chance to beat the odds against a fatal illness, and the hope is very great. Unfortunately, the likelihood of finding the right donor at the right time is not always realistic. The gentleman from Virginia [Mr. WOLF] and I have joined together in trying to increase those odds. We worked together on this provision in hopes that more than the 3 million Federal employees will be able to participate in the donor program.

I think we have seen that about 2.8 percent of our work force are Federal employees. So those that would qualify could equally become donors. It would probably be very small, maybe under 10 bone marrow donors per year, but I think for the 10 lives that would be saved, there is no way to put a price on that.

I would hope that as the gentleman did with section 625, I could get the same kind of consideration, to move this legislation in a different manner, extremely quickly.

Mr. ACKERMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. BYRON. I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, likewise, the intentions of the gentlewoman from Maryland are absolutely to be congratulated. I concur with those intentions, and I applaud the gentlewoman for the wonderful work that has been done for Federal employees.

I think with less than 5 minutes up, let me invite both the gentlewoman from Maryland and the gentleman from Virginia to join with me in a vehicle that we will submit right now as clean legislation, and we will try to rush this through the committee as quickly as possible.

Mrs. BYRON. Mr. Chairman, I thank the gentleman for his consideration and his quick action.

Mr. ACKERMAN. If the gentlewoman will continue to yield, we are dropping it in the hopper now.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 627. Notwithstanding any other provision of law, a Federal employing agency shall make the deposit from existing appropriations into the Federal Employees Compensation Account of the Unemployment Trust Fund, as required by section 8509 of title 5, United States Code, not later than thirty days after the Department of Labor has billed the agency for the amount to be deposited.

SEC. 628. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97-258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided*, That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

SEC. 629. No part of any appropriation contained in this Act shall be used to implement the provisions of Public Law 101-576.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 86, strike lines 10 through 12.

Mr. CONYERS. Mr. Chairman, this amendment seeks to delete language in section 629 of the bill that would prohibit the use of funds to implement the Chief Financial Officers Act of 1990. The Chief Financial Officers Act is legislation this body and the other body passed last November without dissent, and which the President later signed.

Mr. Chairman, the Chief Financial Officer's Act is critical to establishing a front-line defense against fraud, waste, and abuse. It was passed in response to the gross abuse of taxpayer's dollars resulting from the HUD scandal, and because of numerous other examples of executive branch mismanagement uncovered by the Committee on Government Operations and other committees of the House.

The HUD scandal was not simply the result of political cronyism, which bred malfeasance and misfeasance. The embezzlement and other wrongdoing went undetected because financial management systems and practices were obsolete, and information wasn't timely or reliable.

We know too well that the HUD scandal was not an isolated incident. Right now there are 106 Government programs on a high-risk list with the potential for hundreds of billions of dollars in losses. Many of these programs have poor accounting systems, ineffective financial management operations, limited audits, and inadequate reporting to the Congress. The CFO's Act would help correct these problems.

Our financial management systems are antiquated and need to be brought into the modern age. We have over 400 accounting systems that don't relate to each other. The left hand doesn't know what the right hand is doing. The result: We often don't know how much we are spending or losing, in too many government programs.

HIGHLIGHTS OF THE ACT

The CFO's Act is designed to prevent future HUD horror stories. It does three basic things. First, it forces the Office of Management and Budget and agency leadership to prevent abuse of taxpayer dollars and be more accountable to the Congress about how money is being spent. It does this by creating a new Office of Federal Financial Management at OMB—headed by a controller—who will work with agencies to modernize their financial management operations. Someone at the top needs to be held accountable. The U.S. Government is a $1.4 trillion enterprise. We can't afford not to have a controller minding the store.

Second, the act creates 23 statutory chief financial officers at major agencies; 16 of whom are Presidentially appointed and Senate confirmed. They will be experienced financial managers, committed to safeguarding taxpayer dollars from abuse.

Third, the act requires that financial statements be prepared and audits conducted of Government programs that are of a businesslike nature, in order to identify fraud, waste, and abuse. These financial statements and audits will reveal the vulnerabilities we face and the administration's plans for correcting them.

The CFO's Act is an auditing mechanism that this Congress, the GAO, and the inspectors general need in order to identify problems up-front so future losses can be prevented. It is a fundamental oversight tool that we have lacked. Comptroller General Bowsher of the GAO has called the CFO's Act the most important financial management reform in the last 40 years. The inspectors general community and a broad coalition of citizens groups have struck up a loud chorus in support of the act. Mr. Chairman, I have received numerous letters in recent weeks from the inspectors general and Assistant Secretaries as testament to that support.

Mr. Chairman, let's consider a few examples of how the CFO's Act can make a difference.

Audited financial statements required by the act would have served as a red light warning about impending losses in the student loan program. In 1991, it is estimated we will have $2.7 billion in defaults alone.

We are losing billions of dollars a year in other loan programs. Reporting requirements in the CFO's Act will more clearly identify the extent of these losses, and determine how much money needs to be set-aside to cover those losses.

The Justice Department will be better able to develop a comprehensive strategy for collecting $6.5 billion in delinquent debt that agencies have referred to it for legal action.

The CFO's Act will help the IRS to develop solid information on the collectibility of its $64 billion in accounts receivable.

Mine operators who don't pay what they owe to the black lung disability fund will be more easily identified—and made to pay.

In testimony last week before the Employment and Housing Subcommittee of Goverment Operations, which is chaired by the distinguished gentleman from California [Mr. LANTOS], the GAO gave extensive testimony on the limited progress made at cleaning up the mess at HUD since 1990. The GAO said:

> HUD is only in the initial stages of correcting underlying, department-wide weaknesses of inadequate information and financial management systems, including computerized systems; weak internal controls; inappropriate organization structure; and insufficient staffing. Until these issues are adequately addressed, HUD's corrective actions for individual programs, no matter how extensive, will still leave the Department susceptible to future fraud, waste, abuse, and mismanagement.

Mr. Chairman, a HUD chief financial officer was only recently appointed in January 1991, to correct these deficiencies. The action of the Appropriations Committee jeopardizes this effort.

APPROPRIATIONS COMMITTEE ACTION

Mr. Chairman, I want to offer a word of praise for the distinguished chairman of the Appropriations Committee, the member of Mississippi [Mr. WHITTEN]. He works long and tirelessly for the people of his district and State, and of this country.

He and I have had several conversations about the funding prohibition we are discussing here today. I understand where he is coming from. Like myself, he has had his battles with the White House and with Mr. Darman, the OMB director, about matters under the jurisdiction of the Appropriations Committee. I appreciate his efforts on behalf of all of us in the legislative branch to preserve our power and see to it that the careful balance that exists between us and the executive branch be maintained.

The distinguished chairman has suggested that we the Governmentwide coordinating function for the CFO be placed in the Department of the Treasury. The Committee on Government Operations gave this considerable analysis when preparing the bill. The hearing record is testament to that. However, in the end the weight of evidence suggested to the Committee that the CFO coordinating function belonged at OMB, which is management central for the executive branch.

The CFO needs to be at OMB to assure consistency in financial reporting an integration of management functions. Financial management is an inextricable part of overall management; over one-third of the Government's high-risk areas involve financial management. The cures involve integrated management solutions—personnel, procurement, financial, systems. OMB's management functions have always included both general and financial management.

Further, separate from the CFO's Act, OMB currently issues accounting standards and financial management circulars. Finally, OMB acts on behalf of the President in these areas and has, since 1987 (prior to the passage of the CFO's Act), chaired the executive branch's financial management council.

Mr. Chairman, I would be the last to grant OMB new power it could abuse. I've been fighting the agency for the last 2 years over its gutting of agency health, safety, and environmental regulations. But this isn't the same situation. An frankly, I can't in good conscience on the one hand regularly criticize the executive branch for the rampant fraud, waste, and abuse we see, and on the other hand not give it a reasonable tool to prevent such problems.

The CFO's Act is designed to do what I know the chairman of the Appropriations Committee wants—provide accurate, reliable and timely information from the executive branch about how taxpayers money is being spent. I can assure his committee it will have no impact on the appropriations process or on the powers of the committee. And if some problems should arise, if for some unforeseen reason OMB can wield new powers—and abuse those powers—I commit to the chairman here today that I shall work with him to clip the wings of OMB. But I don't believe it can happen.

Mr. Chairman, I want to clarify a misunderstanding about whether this amendment will cost any new money. It won't. The administration asked for a total of $105 million to implement the CFO's Act. Two-thirds of that money would have gone to the inspectors general to conduct audits; one-third would have gone to the agencies to upgrade information systems and prepare financial statements to Congress so we know what's happening with taxpayer money. Only about 1 percent of the new money—$1.5 million—would have gone to OMB to add staff so they could see that the act is successfully implemented Governmentwide.

I believe the administration's request should have been funded. It is penny wise and pound foolish to not fund the CFO's Act, as surely as it is an error not to fund Head Start or other investment programs that pay for themselves many times over in future savings. In this mistaken era of appropriations caps and pay-as-you-go budgeting the best way to spend money is to save money—by identifying executive branch mismanagement.

But we aren't debating new money today, because no new money has been put in the bill to implement the act. We are debating whether agencies should be able to exercise their statutory authority and spend existing funds to carry out an act of Congress. No new money. No offsets. We're just saying let the agency do what it can do—what it must do—given existing resources.

Mr. Chairman, I believe the prohibition contained in the Treasury, Postal appropriations bill—and in the five other appropriations bills that have passed this body in recent weeks, and the seven others soon to be before us—results from a fundamental misunderstanding of the act.

Quite simply the CFO's Act is a nonpartisan piece of legislation. It has the wholehearted support of Comptroller General Bowsher of the GAO, the inspectors general, the agencies, the administration, and a broad cross-section of public and private organizations. I urge my colleagues to support the amendment. And if this amendment should pass I hope that the wishes of this body will be respected in the remaining bills as well that have yet to come before this body.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a critical vote. The Conyers-Horton amendment presents this body with the chance to take an effective, meaningful stand against waste, fraud, and abuse.

We passed the Chief Financial Officers Act last fall without dissent, with the goal of empowering the agencies to bring accurate information and rational decisionmaking to their financial management. This appropriations bill, like others before it, includes language prohibiting the expenditure of funds to implement the CFO's Act. Why Congress would want to do this is difficult to understand.

Certainly, no one could argue that financial management in the Federal Government is in good shape. There are 106 critical agency programs on a high-risk list. There are over 450 different accounting systems in the executive branch, and they have developed without regard to each other, so that the Government resembles a financial management Tower of Babel. And I do not need to remind this body of the HUD scandal, the savings and loan mess, and the other embarrassing examples of what happens when the Government stops paying attention to financial management.

The CFO's Act seeks to streamline and improve Federal Government financial management. It requires the installation of CFO's and deputy CFO's in the 14 Cabinet departments and the 9 largest agencies; outlines requirements for creating and implementing financial management systems; mandates the preparation and audit of financial statements; and makes OMB more effective and responsive to Congress by creating a management deputy and a new Office of Federal Financial Management. The act, if implemented, will inject accurate information and discipline into the management of the $1.4 trillion enterprise of Government. It was developed through over 5 years of congressional hearings, investigations, and hard thinking.

Comptroller General Charles Bowsher recently called the CFO's Act "the most comprehensive financial management reform package in 40 years." It also has the support of the entire inspectors general community; the agencies themselves; the administration; public sector groups such as the National Governors' Association and the National Association of State Auditors, Comptrollers and Treasurers; and private sector groups interested in seeing that the Federal Government manages its finances well. The chorus of support for this act and this amendment is very loud and insistent. Congress ignores it only at its peril.

Mr. Chairman, this amendment involves no new money. It merely frees the affected agencies to use existing funding to implement the CFO's Act. I urge this body not to let the arbitrary attempt to gut the act succeed in this appropriations bill or in any others. Please support the Conyers-Horton amendment.

□ 2050

Mr. CONYERS. Mr. Chairman will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I should pay the appropriate commendations to the ranking member of the Government Operations Committee. He is the only member there with more seniority than myself. He served with the former chairman, the gentleman from Texas [Mr. BROOKS] for many years.

I want to say that it was the gentleman from New York who helped us reform the old DioGuardi Chief Financial Officers Act, which gave us a modern bill that I was able to go on and bring together.

The gentleman did a great job, I say to the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Chairman, I want to commend the gentleman, and I want to point out again this was a bipartisan effort, not only by the chairman and myself, but also by our committee. It was brought to the floor, it was passed unanimously by voice vote and was passed unanimously in the Senate.

Mr. Chairman, I urge support for the Conyers-Horton amendment.

Mr. COLEMAN of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise reluctantly in opposition to the Conyers-Horton amendment, because as I understood section 629 in this particular subcommittee legislation of the Treasury, Postal Service Appropriations bill, as a member of the Appropriations Committee it was explained to me that section 629 was, in fact, put in there so that we could delay its enforcement until such time as we had an opportunity to modify it. The reason for the modification, I spoke to the gentleman from New York [Mr. HORTON] earlier, and I appreciate his efforts. I am not opposed, as a matter of fact, to the concept of the chief financial officers. I think those of us who have watched recent news accounts of the problems in many of the agencies in this and the last administration can appreciate why the gentleman from New York [Mr. HORTON] would suggest that we needed to have a Chief Financial Officers Act; but in my view there is already accountability. There ought to be accountability on the part of the American people for what went on at HUD. There ought to be accountability in every one of these agencies that has a Secretary.

I think the President and the past President owe this country an explanation for some of the shenanigans and goings on and many indictments that have been handed down as a result of what has gone on in the past concerning dollars and concerning kickbacks and the rest of it; but I quite honestly do not believe that it is necessary for us to put this new bureaucratic layer on top of another one, particularly when you are going to place it at OMB.

Of all the groups you could have picked, I cannot imagine, at least from my standpoint, one that would have been worse.

Let me just say to you that I am afraid what this Act will do as it is currently written will just given another lever, another hammer to the OMB to control the various departments and agencies. Broad power is given here to the OMB to intrude beyond financial management into other management and policies areas of Cabinet departments. That is what we have Cabinet departments and secretaries for. Yes, they are the ones who are accountable.

Now we are being told that for some reason we are unable as citizens of this country to hold them accountable. I think that is wrong.

Certainly those Cabinet officers are not elected, but the President appointed them, and I think that is where the accountability ought to be.

I just do not think that we need another OMB filter. You know, they do a lot of things in that Office of Management and Budget, and one of them is they want to make sure that the Congress only gets the information that they approve.

You know, previously Congress has had to deal with this same problem. I had the honor to serve with both the gentleman from Michigan [Mr. CONYERS] and the gentleman from New York [Mr. HORTON] as a member of the Government Operations Committee some years ago.

We, as a matter of fact, when confronted with a similar example of constant OMB interference in the management of one government agency, the Congress responded by passing the Department of Veterans Affairs Act in 1988.

I just have to say to you that I think that what the CFO Act does is valid, because it does attempt at a high level to place in various departments those who would have authority for financial management; but my fear is that with OMB they will go beyond that and that they would in fact get into policymaking, particularly for those under the supervision of the OMB.

OMB directly and indirectly, I am afraid, could at least make the attempt to try to encase its control over the decisions of Congress. The Congress relies on timely information from each of the Departments that we want to put OMB in charge of. The recent sequester experience with OMB shows how it uses its authority without sometimes any regard for the Congress.

They think the CFO Act should be modified, and as a matter of fact that is what section 629 only attempts to do, that is to provide the opportunity to give us that chance to modify that particular Act.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment.

The 1990 Chief Financial Officers Act is one of the most significant management reform initiatives passed by the Congress in years. Its timing could not be better. The scandal at HUD, the incredible problems associated with the savings and loan crisis, and the more than 100 Federal programs identified by OMB and different inspectors general as high risk in terms of potential taxpayer liability, all point to the need for better, more accurate, and more timely financial information, as well as more effective and accountable financial management.

The CFO's Act meets these needs. The act establishes mechanisms to consolidate into a single, comprehensible set of accounting standards the more than 450 such standards and systems now operating across the Federal bureaucracy.

It requires that financial statements be prepared in a timely manner and that these statements be audited under the direction of the respective inspectors general of the covered agencies and departments.

Chief Financial Officers and Deputy CFO's will replace the uncoordinated and too-often unaccountable financial management organizations that now exist in the covered agencies and departments. Organization plans of the different departments have already been submitted for review to OMB, and these plans have been shared with Congress.

Progress is underway. The deadlines required by the act are being met by the agencies and departments, and by OMB as well. The response to the act has been and remains enthusiastic. The private sector is behind the act 100 percent. So is the Comptroller General of the United States. The National Association of Governors and the National Association of State Auditors, Comptrollers, and Treasurers are strongly supportive. And to quote just one inspector general, James Richards, who serves as the IG for the Department of Justice:

> Managers at all government levels must have adequate accounting systems so that agencies can prepare their budgets and produce useful annual financial statements that will withstand audit scrutiny and improve the effectiveness and efficiency of Federal programs. The implementation of the Chief Financial Officers Act of 1990 will accomplish these important objectives.

The legislation before us contains language prohibiting the implementation of this act. This amendment removes that prohibition. I urge my colleagues to support the amendment here and in any other appropriations measure that might require a similar amendment.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I do not believe any group in this Congress comes close to our Committee on Appropriations in trying to hold the line on spending. Since 1945 our committee has held the total of appropriation bills $180 billion below the recommendations of the Presidents.

I certainly can appreciate what our friends who are sponsoring this amendment have in mind. I support your goals. Let me tell you this: All the things, the wrong doings and financial management problems, that you are talking about are in the executive branch. The Congress can appropriate money and they can write the law. But the regulations are written downtown in the executive branch, and the administration of the law is in the executive branch.

I say that with the record that we have, you make a mistake in your earnest desire and in your need to do what you are talking about by tying the hands of the one group that has held the lines. That is the Committee on Appropriations.

What I am fearful of, and I can prove it has already happened, is how the Office of Management and Budget will abuse the authority in the CFO Act. In the recent supplemental bill that we had, the Congressional Budget Office agreed we were $24 million below the ceiling. The General Accounting Office said we were $24 million below. But the Office of Management and Budget said no, they are wrong.

So OMB brought it to us. We pointed out two mistakes they made. They readily agreed they had made mistakes in arithmetic. So, what did they do? They sequestered thirteen ten-thousandths of 1 percent across the board in the face of the contrary opinions in the Congressional Budget Office, in the General Accounting Office, and in the Congress. And after we had counseled with them.

What does the CFO's Act tell each department to do? "Complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget." Now I am pround of my record as a Member of Congress, I am proud of our committee. We are a bipartisan committee. We have to help every district in this country that we have a chance to, Republican and Democrat.

We have over 7,300 requests from our colleagues here, and we try to look after them. Now the authors of the amendment say "nobody voted against the CFO's Act". It was 12:30 in the morning when the Senate amendments were adopted. It was in a group of 20 suspensions when it passed the House and there was not a voice raised against it. There was not one for it either. But, there must have been two because the presiding officer said it passed.

The CFO Act would interfere with us looking after you and the country itself. I say again it is a mistake. I also will say that we tried to work something out on this matter. When we found out there was some opposition, I took out the phrase that extended it to the entire government so it is only 1 year for the agencies in this bill. That was to give the committee of jurisdiction a chance to tell us what you are going to do to address our concerns and how you are going to do it and then let you do it.

Now my good friend from New York says we will not use one new dollar. But it will take $100 million that you got us to give to you previously for other things.

No effort has been made to finance this separately. If we were to go along with the amendment, you would be voting to cut existing programs that we worked so hard to protect and to stay within the budget. In effect, you cut existing programs $100 million and not one of you know where that cut would apply.

So I am asking you, back your Committee on Appropriations. Let us give our Committee on Government Operations a chance to get their ducks in a row and tell us what they are going to do and how they are going to do it. Up to now there was no debate on this matter, no vote on it. It passed at 12:30 in the morning. But that is all right. The objective is good. I am for it. I hope the objectives will be accomplished. But the way our committee works, we have been able to hold things down, we deal directly with budget officers in the departments. We have done a good job. So I am asking you to stay with the committee.

It does not mean you are turning the CFO Act down, but it lets us go ahead for a year, and then we will work it out.

Let me repeat again, your problems, the wrong doings and financial problems, are in the administration, not in the Committee on Appropriations. We do not run the executive branch, we just provide the money, and you provide the law.

Stay with your committee here. We will cooperate, and my friend will tell you that I offered to agree to anything that would reach what we are talking about. I believe he will agree with that.

May I say that both the sponsors here I consider friends. I agree with what they are trying to do. I just hate to see more problems created, more than they have hopes of correcting.

I hope you will vote against the amendment and support your Committee on Appropriations.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment to restore funding for the Chief Financial Officers Act of 1990. I appreciate the concerns of and have the greatest respect for the distinguished gentleman from Mississippi [Mr. WHITTEN].

I am opposed and have always been opposed to needless bureaucracy. As a former member of the Committee on Appropriations, the distinguished Committee on Appropriations, I know well the many fights that have to be fought to eliminate waste, fraud, and abuse of the taxpayers' money. Time and time again we were down here in the well, particularly on our old HEW appropriations bill, offering amendments to that effect.

My colleagues may recall in the seventies we established inspectors general for each department. I do not think anyone disputes the wisdom of that action, as it resulted in substantial savings.

The Chief Financial Officers Act of 1990 represents another element in the effort to better manage our Government. This act, if properly funded, will modernize the Government's financial management structure that is now composed of outdated and conflicting accounting systems.

Improving our financial management systems means saving millions of dollars in the Guaranteed Student Loan Program, it means improving the quality of loans administered by the FHA, it means helping the Justice Department collect millions in delinquent debts. The Chief Financial Officers Act makes possible a more efficient and less wasteful Federal Government.

In this era of crushing deficits with a citizenry that demands more Government services and less taxes, the Federal Government must make the most of our tax dollars.

The Chief Financial Officers Act will make that possible and it deserves the support of my colleagues who approved it unanimously last year.

I will include with my remarks a letter that I received just today from the distinguished Comptroller General of the United States, in which he said that he supports what Mr. CONYERS and Mr. HORTON are attempting to do by way of this amendment.

Specifically, he says:

> I strongly supported the CFO Act at the time it was enacted, and continue to believe that achievement of its objectives are important to improved financial management. I have long been concerned about the poor condition of our financial management systems, processes and reporting, and believe that fundamental changes such as those provided for in the CFO Act are needed. My recent testimony on June 7 before the Senate Committee on Governmental Affairs sets forth my detailed views regarding the government's financial management shortcomings.
>
> Sincerely yours,
>
> CHARLES A. BOWSHER.

Mr. Chairman, I would urge my colleagues to support this amendment in the interest of improved financial management throughout the departments of our Federal Government.

The letter referred to is as follows:

> COMPTROLLER GENERAL
> OF THE UNITED STATES,
> *Washington, DC, June 18, 1991.*
>
> Hon. ROBERT H. MICHEL,
> *Republican Leader, House of Representatives.*
>
> DEAR MR. MICHEL: This is in reference to the Conyers-Horton amendment that would remove a prohibition from the Treasury Postal Service, and General Government Appropriations Bill against using funds to implement the Chief Financial Officers Act of 1990. I strongly supported the CFO Act at the time it was enacted and continue to believe that achievement of its objectives are important to improved financial management.
>
> I have long been concerned about the poor condition of our financial management systems, processes and reporting and believe that fundamental changes, such as those provided for in the CFO Act, are needed. My recent testimony on June 7 before the Senate Committee on Governmental Affairs set forth my detailed views regarding the government's financial management shortcomings.
>
> Sincerely yours,
>
> CHARLES A. BOWSHER,
> *Comptroller General of the United States.*

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, I understand that the intent of the amendment is to strike out the language in section 629. But if that is stricken out, then money can be used for the Chief Financial Officers Act in this coming year, fiscal year 1992. The real purpose of section 629 is to delay implementation of this act.

□ 2110

The reason for that is that we still do not know just how much it is going to cost. We do not know just how it is going to fit into the entire bureaucracy. For an example, we know, if it happened without any real planning, it will only establish another layer of bureaucracy, and we have too many now. We already have the inspectors general in each department.

Mr. Chairman, it seems to me that should be sufficient, but, on top of that, we also have the Office of Management and Budget. Now they screen every request for funds, every piece of legislation. They screen everything that is done by the House and the Senate.

But what worries me the most is the fact that they still do not know what estimate is the correct estimate as to cost. We have heard right along it is going to cost $100 million, that it is going to be spread across the 23 agencies. Some tell me that is not correct. It is going to cost more. Well, what worries me is the fact that it is going to cost more.

We this year in this committee, for an example, were restricted to a funding level under 602(b) that was minimal. We did the very best that we could. Now, if we were to face the same situation next year, then we again would not have the money for funding.

What I am saying is that this amendment, while it is a desirable thing on the surface, we still do not know enough about it to really make a decision at this time. I believe that leaving the language in will just delay the implementation of the act so we can examine it throughout the next year, look at it very carefully and then include it if it is meritorious, and I believe that it will be, but meritorious, and I believe that it will be, but meritorious at the end of that time, and, until we have that information I think the language we have in the bill should not be stricken.

Mr. KLUG. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment of the gentleman from Michigan [Mr. CONYERS].

Mr. Chairman, I had the opportunity just last Friday to share with the press a little piece of the puzzle of why I think we need a chief financial officer. It turns out the Internal Revenue Service at this moment and a pro of help with my colleagues on the Committee on Government Operations has uncovered that the IRS is planning to buy a number of its employees perhaps more than 125 memberships in private health clubs in the Washington, DC area at a cost of $650 apiece when there is a gym in the basement of the IRS headquarters less than a half mile away on the other side of the Mall and easily accessible by just one short ride on the Washington Metro system.

One little example, I think, of a systematic problem we have here in Congress and in Washington with the inability to watch how our tax dollars get spent is the Graves Commission, as my colleagues know, that more than a decade ago pointed to a chief financial officer as one of the major ways we could begin to get abuse, and waste and fraud under control in the Federal Government.

As the gentleman from New York [Mr. HORTON] pointed out, and the gentleman from Michigan [Mr. CONYERS], there are a number of conflicting accounting systems used in the Federal Government. In fact, if my colleagues take a look at the IRS, where this latest scam is taking place, they will discover that the IRS itself uses a number of in-house accounting systems, all of which conflict with one another. But when the IRS goes out to take a look at a business or an individual, they expect that individual or that business to use standardized accounting procedures, but not in the Federal Government, and, if it is good enough for the private sector and if the private sector uses it to cut waste, it is good enough to be used right here in the Federal Government.

Mr. Chairman, this should not be a battle about turf, and it should not be a battle about who watches the dimes and nickels. We all should be concerned about how we cut out these kinds of abuses and this kind of fraud, and I say to the gentleman from Mississippi [Mr. WHITTEN] with all due respect, "It's not easy for any of us to stand up and take up an argument with you, and it's even more difficult for a freshman Member, but I feel passionately that the House last time out overwhelmingly passed this for a chief financial officer, and, taking the lead from Mr. HORTON and Mr. CONYERS, I think it's time the House passed it again."

Mr. Chairman, I urge the House to support the amendment and to remove the prohibition on finally establishing a chief financial officer.

Mr. PENNY. Mr. Chairman, I rise in support of the amendment offered by our colleagues, the gentleman from Michigan [Mr. CONYERS] and the gentleman from New York [Mr. HORTON], to strike the language in the bill that will prohibit the use of funds to implement the Chief Financial Officers Act. This law authorized the establishment of chief financial officers in 22 departments and agencies of the executive branch in order to centralize financial reporting and oversee financial activities in these Federal agencies.

On October 15, 1990 the House debated and passed by voice vote the Chief Financial Officers Act. In presenting the legislation to the House, the gentleman from Michigan [Mr. CONYERS] said:

> The Chief Financial Officers Act is perhaps the most important legislation this Congress can pass to rein in the massive fraud, waste, abuse and mismanagement draining the Federal Treasury and undermining public confidence in government.

Less than 2 weeks ago we had members of the Committee on Appropriations here on the floor defending the Government Accounting Office from budget cuts. They argued quite persuasively that it was penny-wise and pound-foolish to reduce funding for an agency so successful at rooting out waste and saving the taxpayers billions of dollars. I agreed with their arguments then. The Chief Financial Officers Act with a chief financial officer in each agency can help us to perform a similar purpose. That is why I feel the language in the committee-reported bill is penny-wise and pound-foolish and should be stricken.

Mr. Chairman, I say to my colleagues, "If you want to stop the mismanagement of the financial resources of the Nation, I believe you should support the Conyers-Horton amendment, and I urge a yes vote."

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. PENNY. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I guess my major question is, and I think the gentleman from New York [Mr. HORTON] attempted to explain it earlier: How is it going to be organized? Why does it have to be at OMB, for example? Why not the Department of the Treasury?

Mr. PENNY. Mr. Chairman, with this amendment here we are restoring the chief financial officer in the agencies in this bill only. We are allowing the agencies in this bill only. The gentleman is talking about the Chief Financial Officers Act itself and how it lodges this responsibility down at OMB. I do not know of another agency right now that has overall management authority as to where it would be more appropriate to place this. I think we could give it there if they do not use it appropriately. We can come back and deal with that question next year.

Mr. COLEMAN of Texas. Mr. Chairman, if the gentleman will further yield, I would only say there are a number of us that think that OMB having that authority is a mistake, that in fact the Department of the Treasury would be a more appropriate agency than the Office of Management and Budget. I think that perhaps the gentleman from New York [Mr. HORTON] would like to explain why he picked OMB, but I have to just say to my colleague that my biggest problem, quite honestly, is the fact it has to be at OMB. I think the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN], pointed out a minute ago the biggest problem is that OMB wants its confrontation with GAO and the confrontation with the other agencies that also attempt to make decisions about the budget. Now we are going to put them in charge of management?

Mr. Chairman, I have got to be honest with my colleagues. That I think is the biggest fear a lot of us have.

Mr. PENNY. Mr. Chairman, reclaiming my time, I do understand that the main concern of the chairman and others on the committee is the lodging of this authority with OMB.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. PENNY. Mr. Chairman, I yield to the gentleman from New York to further respond to that.

Mr. HORTON. Mr. Chairman, I thank the gentleman from Minnesota [Mr. PENNY] for yielding, and basically a lot of thought went into where to locate this Office of Chief Financial Officers. It was suggested that it be put in Treasury, but we did not put it in Treasury because Treasury does not have the wide authority that OMB has, and we felt that because Treasury, just like HUD, or HHS, or one of the other departments, we felt that the Office of Management and Budget is the place to put it.

As a matter of fact, Mr. Chairman, it used to be the Bureau of the Budget, and some years back we created an Office of Management and Budget, and one of the problems we have had is that most of the time in the Office of Management and Budget all the attention has been given to the budget. Now what we are trying to do is emphasize the management part of OMB. This Congress many years ago established the Office of Management and Budget, and that is the appropriate place to put it.

I would say this to the gentleman, "If it doesn't work, I'm sure the chairman of the committee and I will have hearings, and we'll determine whether or not it's working."

□ 2120

But it gives a chance. What you are trying to do now is gut it.

Mr. PENNY. Mr. Chairman, if I may reclaim my time, again, I think the key point to remember here is that OMB has general authority to develop the President's budget, and we know wide-reaching authority to oversee requests from departments and agencies in the implementation of the appropriation bills that we enact here.

But what we are talking about here is a separate kind of function. It is simply a bookkeeping-accounting function, to get some uniformity in the way we keep our records, from one department to the other.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. PENNY] has expired.

(At the request of Mr. COLEMAN of Texas, Mr. PENNY was allowed to proceed for 1 additional minute.)

Mr. PENNY. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I think that is the real issue that the gentleman from New York [Mr. HORTON] also misunderstands. He says we are going to gut it. The fact that the Committee on Appropriations elected not to fund that legislation does not mean any such thing. What it actually means is that there is an attempt on the part of the Committee on Appropriations to work out an agreement about how best to modify the act, so we are not placing one level of bureaucracy on another.

Mr. Chairman, let me just correct what the gentleman from Minnesota [Mr. PENNY] said in the well. It is not simply unifying accounting procedures. If we wanted to do that, we could pass a bill to do that. That is not difficult. In fact, an executive order from the President of the United States could do that. We do not need a bill to have accounting done all the same in all of the different agencies in the U.S. Government and in the administration.

Mr. Chairman, I would just ask the gentleman to reconsider his position in support of this particular amendment. I think that the Committee on Appropriations, particularly the Subcommittee on Treasury-Postal Service-General Government, did the right thing in suggesting that on this issue, this is a Treasury issue, not one for the Office of Management and Budget.

Mr. McCANDLESS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I understand where Members are coming from over here, because nine-tenths of the time, I am with you. The spending of money does not usually produce much in terms of good management in Government, and I say that reluctantly, as a political science major.

However, as a member of the Committee on Government Operations, I would like to draw a few analogies here, if I may.

Have you ever seen a well-organized corporation that did not have an auditor-controller? Probably not. I have not seen one.

As that agency grows larger and the responsibilities of the financial part of that agency grow larger, the auditor-controller, who has the responsibility of the nuts and bolts on a day-to-day basis, to allocate the funds properly as they were budgeted by the directing body, finds himself unable to handle the larger and more complex issues. So you end up with a vice president of finance, who goes out and works in that area to bring the necessary resources back to that corporation for purposes of investments, and so on and so forth.

But that auditor-controller is still there. The auditor-controller is saying to those in management positions, this is what the governing body of that corporation decided to do in terms of a budget, and you down here in this area of research and development, you have reached a point now where in 8 months you have spent 10 months of what it is we have allocated for that purpose. And you can go on and on and on.

Mr. Chairman, my perception here is that even though we may be looking at this as a layer on top of a layer, we are looking here at an auditor-controller who takes these budgets in these major areas of the Executive Branch and reviews them. As those months pass, that financial officer-auditor-controller says to management, hey, fellows, over here. This is not going right, i.e., HUD and all of the other organizations where we have had the horror stories relative to the mismanagement of funds, because we did not have a focal point by which those funds could be on a line item-by-line item basis reviewed within the framework of that organization.

Mr. Chairman, a Member talked earlier about the Inspector General. Yes, the Inspector General is absolutely necessary, but the Inspector General is after the fact. What we are saying here is, based upon the experiences of the Committee on Government Operations, at least during my time on the committee, we need to have somebody on board who can take care of things during the fact, and, therefore, minimize the horror stories of the Inspector General, the GAO, and all of the other reviewing officers who are involved in the governmental system, bring it forth to the Congress, and we, in turn, then have to in some way or another find solutions.

Mr. Chairman, the Committee on Government Operations has found a solution to what I consider to be a very plausible parallel in private industry, where if you do not make a buck, you do not exist, the auditor-controller.

Mr. TRAXLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment. I have the deepest affection for the makers of the amendment. They are very fine gentlemen. They seek the same result I do. The problem is they are using the wrong agency.

Mr. Chairman, we on the Committee on Appropriations live virtually every day with OMB. Let me tell you on my side of the aisle, there is not a more partisan individual in this administration than the director of OMB. Increasing his power and influence over the agencies through the direct appointment of CFO's, in my judgment, is very destructive to the very purposes that you purport this act will solve.

Mr. Chairman, let me tell Members what the Comptroller General said before the Committee on Government Operations when he testified in September of 1990: "The CFO must have adequate personnel and other resources to plan and direct the financial management improvement program." * * * we are all for that. "Chairman CONYERS' and Representative HORTON'S bills each provide an Office of Federal Financial Management in OMB to assist the CFO. Concern over the adequacy of resources for financial management functions was one reason for my earlier opposition to placing the CFO in OMB. The question in my view is whether over the long-term OMB will provide this new office with adequate staff and other resources in order to keep OMB's size to a minimum."

Now, this is the Comptroller General of the United States, who goes on to say, "To deal with that concern, which realistically I believe will continue to be a problem at OMB, I prefer the establishment of an Office of Federal Financial Management in the Department of Treasury. This office would provide technical assistance to the agencies, monitor agencies' activities, and assist the CFO. It would give the CFO access to additional staff resources for planning and controlling the financial management improvements, while at the same time leaving the day-to-day financial management functions in Treasury. Treasury already has lead responsibility for agency financial management systems improvements, credit management, debt collection and cash management."

Mr. Chairman, it is not that I oppose this act, but I want to say, any administration could do 90 percent of what this act does by existing law, if it chose to. But you created a new law, and you put it in OMB to administer.

Mr. Chairman, I can live with the new law. It seems a waste, I think you are squandering dollars, but I guess waste and abuse may take place as a result of laws that Congress passes—but what you are doing is putting it in the wrong agency. That is what we strenuously object to.

This is another level of OMB control of the various departments and agencies. We do not need another OMB filter. That is what you are doing.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I am pleased to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I would like to point out a couple of things to my valued colleague from Michigan [Mr. TRAXLER], a real leader on the Committee on Appropriations with whom we work together. First of all, what the gentleman said of the Comptroller General, Mr. Bowsher, is correct. But he went on to put the qualifications under which he would accept this chief financial officer legislation in the Office of Management and Budget. I am going to read that into the RECORD, because it is very specific.

Bowsher said in his testimony before the committee:

> Because OMB has shown a recent willingness to tackle the challenge of financial management reform and has indicated it is serious about this, I would accept the CFO being in OMB as an alternative, subject to the following essential conditions.
>
> 1. The CFO must be legislatively established * * *
>
> 2. The person selected must be qualified in terms of financial management education and practical experience * * *
>
> 3. The CFO must be equal in rank to the head of the budget side of OMB, have a sufficiently high organizational stature to command authority and respect throughout government, and have continuity * * *
>
> 4. The CFO must have adequate personnel and other resources to plan and direct the financial management improvement program.

These are all good conditions that I agreed with and I think a reading of the bill will find that Mr. Bowsher's concerns have been satisfied.

First, the CFO position is legislatively established; the position and even the entire structure is not at the discretion of any President.

Second, the CFO's Act creates a new deputy director for management position at OMB that is on the same par as the deputy director for budget, as the comptroller recommended. Further, the act creates a new controller position immediately under the deputy director who shall possess, and I quote, "demonstrated ability and practical experience in accounting, financial management, and financial systems; and extensive practical experience in financial management in large governmental or business entities." Now I know that meets the stringent criteria desired by the Comptroller General.

Lastly, is the point made by the comptroller about the need for resources. I regret to say that the Appropriations Committee has decided not to grant any money for implementing this Act—to OMB, Treasury or any other agency. OMB requested about $1.5 million to hire 23 new staff to carry out the coordinating functions envisioned by this Act. Unfortunately this request was not granted by the Committee.

Finally, let me say one last thing about OMB and Treasury. The CFO's Act preserves the role of both entities. OMB is to provide the government-wide coordinating role of financial management policies and practices—a role it had before the CFO's Act existed. The bill also preserves Treasury's operational responsibility for managing credit, cash collection and debt. These are basic line functions; they are not policy setting activities.

WHY PLACE THE CFO AT OMB RATHER THAN TREASURY

OMB is management central for the executive branch. It is responsible for ensuring adequate management of all Federal agencies on behalf of the President. It has had this authority since 1921 when the Bureau of the Budget was first created.

Treasury lacks the ability to get governmentwide policy. It is one of 14 departments and numerous agencies. In this regard it is no different than the Department of Health and Human Services or the Environmental Protection Agency.

OMB has the power to get the job done. Budgetary decisions are key to improving financial management—money is needed for new systems, people, and to make agencies take this agenda seriously.

Treasury also has no control over the President's budget. It lacks the ability to make sure that the President's budget provides resources to ensure management improvements.

Central coordination at OMB is necessary to assure consistency in financial reporting and integration of other management functions.

Treasury only deals with financial matters. OMB deals with a wide range of management issues. Financial management and general management need to be integrated, which only OMB can do.

Financial management is an inextricable part of overall management; over one-third of the Government's high-risk areas involve financial management. The cures involve integrated management solutions—linking personnel with procurement matters, financial management, and systems development. OMB's management functions have always included both general and financial management.

Under other authority separate from the CFO's Act, OMB currently issues accounting standards and financial management circulars.

OMB acts on behalf of the President in these areas and has, since 1987—prior to the passage of the CFO's Act—chaired the executive branch's financial management council.

The distinguished minority leader just read a letter. I am sure the Comptroller General would not be flopping all over the place.

The M in OMB was put in there under the Reorganization Act of 1970 for management purposes. That is why we located it here. Treasury is a line department that does not have the ability to set governmentwide policy.

□ 2130

This was not out of my affection for the Director of OMB. I think I have a longer list of grievances with him that are unresolved than the gentleman does. The gentleman would be surprised, but the fact of the matter is that if we are going to really make this work, we have got to put it where the clout is. It is not in Treasury. Mr. Bowsher concedes this, if we establish the chief financial officer legislatively. And that is, I say to the gentleman from Michigan, my distinguished colleague, that is what we have done in this act.

We sent the bill to the Committee on Appropriations. We got back zero response. I had no idea that my dear esteemed leader, the chariman of this committee, had any objection to this matter whatsoever, or we would have made every attempt to correct it, until we began our negotiations. So I hope that the gentleman will accept the fact that we did not inadvertently or recklessly place this with OMB. It is the only way we are going to have it work.

Mr. TRAXLER. In my judgment, the reasons that I had given the gentleman earlier still stand. I appreciate his comments.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. TRAXLER was allowed to proceed for 2 additional minutes.)

Mr. TRAXLER. Mr. Chairman, I believe the act must be modified to move the functions into the Treasury Department, and everyone that I know of supports the principles in the non-OMB provisions of the CFO Act. We like them in many respects. We think they could have been done without the act, but that is a different issue.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, is the gentleman aware that there is no money involved in this bill?

Mr. TRAXLER. How is the gentleman going to pay the CFO's?

Mr. CONYERS. Mr. Chairman, if the gentleman will continue to yield, if he would examine this bill, there is not one dime of new money involved. I want to make that point clear. What we are talking about is preventing the departments from using any of their existing moneys. There is not one nickel involved.

Is the gentleman aware of that fact?

What we are arguing about is whether or not we will be preventing the department from even beginning to move forward.

Mr. TRAXLER. We will talk about that at another time. One cannot hire people without paying them.

Let me just simply state that section 629, which is in the bill, only seeks to postpone the implementation of the CFO Act until, in our judgment, there is an opportunity to modify it. All we want the gentleman to do is put it in Treasury. That is all we ask. Enhanced accounting procedures and necessary auditing could be best implemented there. Centralized accounting control should be located in the Department of Treasury—the agency most concerned with accounting for the government is Treasury.

The Treasury Secretary—now this is the key point in our judgment—has many fewer axes to grind on policy issues of other departments and has a vested interest in accurate accounting principles. I ask my colleagues to turn down this amendment and to support at a later time the efforts on the part of the chairman to amend the act and transfer it to Treasury.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(On request of Mr. WHITTEN, and by unanimous consent, Mr. TRAXLER was allowed to proceed for 5 additional minutes.)

Mr. WHITTEN. Mr. Chairman, will the gentleman yield?

Mr. TRAXLER. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Chairman, I do this to try to explain what is involved here. Involved here is not what the gentleman from Michigan [Mr. CONYERS] is talking about. Involved here is turning over the operations of the Democratic Congress to OMB, which is as partisan as any group in the Government that I know of. The gentleman from Michigan [Mr. CONYERS] is turning it over to OMB, and he says there is not a new dollar in there. There is $100 million taken away from somebody else that we worked for months trying to look after your districts. What I want to say is, it is not what we think they may do. It is what we know they will do.

We had an argument in the recent supplemental appropriations bill. I tried to work it out with the OMB. We thought we had worked it out, but instead of that, listen to this, they had a sequestration of thirteen ten-thousandths of 1 percent. It cost thousands and thousands of dollars to do. With that record, we are asking you not to turn the CFO Act over to the OMB.

Now, Mr. MILLER, before the present director tried to run the Congress but did not have the support of the President, this Director wants to and has the support of the President. Honestly, you are turning over the operations of this Congress, not just our committee but everything else. There is not a new dollar in here, but there is $100 million taken away from existing projects if we do not stop implementation of the CFO Act now.

The other side, let me say this to my friend, I sat down with the opponents of this limitation and asked the CFO Act to be delayed until next year. And I think he will admit they do not have any regulations. They do not have any idea yet how it will work. They have not had a chance to figure it out. So I say, stand by your committee. We will work with you, trying to reach what you are trying to reach. But do not turn it over to the folks who got a sequestor of thirteen ten-thousandths of 1 percent. How are you going to talk to somebody that will do that? You cannot.

And I say again, stand by your committee and let us have a chance to work with you.

I think both of our friends here would believe that I tried to work with the gentlemen. I have made suggestions, and as we come here tonight, I have not received a response to my suggestions yet, but I guess this amendment speaks for itself. But the gentleman knows I will live up to what I said, and I want to help him to control the executive branch where the problems happen. Do not strangle us in a way that will hurt you worse than what you are trying to solve.

Mr. JAMES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment coauthored by the gentleman from Michigan [Mr. CONYERS] and the gentleman from New York [Mr. HORTON].

It is high time that we proceed with needed improvements in the financial management of the major departments and agencies of this Nation's Government.

Mr. Chairman, the adventures of Robin HUD several years ago underscored just how vulnerable the Government is to fraud. Remedial action was essential and Congress responded by adopting the CFO Act late last year.

At that time, it was recognized that it would take a while to fully implement this piece of legislation.

But what shouldn't take a moment more than necessary is appropriating the money so that these people can get down to work.

Yet here we are, confronted by bill language prohibiting the use of funds to implement the Chief Financial Officers Act.

The reason for this language, as I understand it, is that some question the role the Office of Management and Budget [OMB] might play in administering the act.

Everyone supports the antifraud objectives of the Chief Financial Officers Act.

But some apparently fear that through the Chief Financial Officers Act, OMB might tell the White House about wasteful spending that should be cut out.

I think that's precisely what the American taxpayers want the President and this Congress to do. They want us to stop fraud; and they want us to cut out waste, too.

With the Federal budget deficit approaching $400 billion, the taxpayers deserve no less. And they deserve it without delay.

Mr. Chairman, the price of delay is the risk of disaster. Absent the strict financial controls envisioned by the CFO Act, a recurrence of multimillion-dollar financial scandal is not just possible but all too likely.

Today's critics had their chance to make their case during the 5 years the CFO Act was in the making. Since they didn't, the CFO Act should be given the chance to deliver on it's promise.

Mr. Chairman, the choice before us is as clear as the will to proceed with these financial reforms is necessary. I urge my colleagues to support the Conyers-Horton amendment and ask unanimous consent to revise and extend my remarks.

Mr. CARPER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. PAYNE of Virginia. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Virginia.

Mr. PAYNE of Virginia. Mr. Chairman, with utmost respect for Chairman WHITTEN and for the Committee on Appropriations, I rise in support of the Conyers-Horton amendment to the Treasury, Postal appropriations bill.

In the 1950's, the Government agencies were on the cutting edge in management systems; now, after decades of neglect, we're in the Ice Age. Government agencies lack the systems necessary to measure revenues and expenses, track inventory, analyze productivity, and increase efficiency. They are generally unable to provide the cost-benefit analyses necessary to evaluate Government programs. In other words, we cannot find out which programs work and which ones don't, because we cannot get the needed financial data.

The Chief Financial Officers Act seeks to do something about this problem. Each agency will have a CFO who will be responsible for setting and implementing accounting policy for the agency; they will assist in giving an overall vision of where each agency is going. In addition, agencies will conduct annual audits and will develop and implement plans to upgrade financial systems.

With utmost respect for Chairman WHITTEN and the Appropriations Committees, I must say as a former businessman, I have often told constituents that we need to apply sound business practices to Government. Last fall, during a series of meetings on ways to reduce Government waste, GAO officials stated the CFO Act was perhaps the most significant act in 40 years in terms of Federal Government accountability. I saw in it a step toward doing the kind of cost-benefit analysis which I have long believed the Government should do more of. Also, this does not give any new authority to OMB. As a result, I sent a "Dear Colleague" letter to all congressional offices and gathered a bipartisan group of 40 Members to sign a letter to President Bush. This year, this bipartisan group has continued to monitor implementation of the CFO Act. In a February meeting, OMB and GAO officials briefed us on progress made to date. We were in the process of doing another round of monitoring when the recent controversy broke out.

We should not allow Government agencies to terminate implementation of this important legislation. In this era of fiscal austerity, we need the kind of oversight which the CFO Act can give. If you want to enable the Government to better account for taxpayers' money, give the CFO Act your full support. Vote for the Conyers-Horton amendment.

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. CARPER. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, today I rise in strong support of the Conyers-Horton amendment to restore funding to implement the Chief Financial Officers Act of 1990.

The American taxpayers do not have confidence in our financial stewardship. They believe the Federal Government is poorly managed. They are correct. The Federal Government is operating without the financial safeguards necessary to assure governmental efficiency and prevent waste.

The past decade has featured continuing breakdowns in Federal financial management: Cost overruns and procurement fraud for weapons systems have rocked the Pentagon and cost the taxpayers billions; failed savings and loan institutions have shattered consumer confidence, weakened our economy and cost the taxpayers hundreds of billions; the HUD scandal has disgraced an administration and its cost is still unfolding; and just yesterday, we discovered that more than 2 million elderly are paying for Medicare benefits which the law says should be free. These blunders and escapades have destroyed public confidence. The answer to this chaos is better financial management. Stated simply, the time has come to put our financial house in order.

The Chief Financial Officers Act provides clear and concise direction to the executive branch to clean up or clear out. We must put modern financial systems in place. Taxpayers will not tolerate more waste, fraud, and abuse. For too many years the Comptroller General and the GAO was the lone voice in the wilderness calling out for good business management of our Federal Government. The CFO is a strong, bipartisan response to that warning.

The timing of the CFO is long overdue. We have a $3.4 trillion national debt; we are spending $265 billion each year on interest on the national debt; the Federal Government is responsible for another $6 trillion in loans and loan guarantees; and the price tag of the S&L and banking crises continue to spiral upward.

The Federal financial management system is in complete disrepair. Now is the time for fundamental change. Implementing the Chief Financial Officers Act is part of the answer. It will help us put the M back in the OMB.

Mr. CARPER. Mr. Chairman, almost everything has been said about this amendment. There are a couple points I want to reiterate tonight before we vote.

One, the Committee on Appropriations of the House is not on trial because of this legislation or this debate.

☐ 2140

There is no question or no dispute that the Committee on Appropriations of the House has done its job. You bring in appropriation bills within the budget constraints that we have adopted; this year, in particular, you bring them in in a timely fashion.

One of the opponents of this amendment has suggested that a reason for voting against it is because the administration has the power already to do what this legislation requires them to do. Well, damn it, if they have the power, why have they not used it? This legislation says, "We want you to use this power. We want you to manage the Government. We want you to manage our finances."

I serve on the Housing Subcommittee. A number of you do as well. Some of you serve with the gentleman from California [Mr. LANTOS] on the Housing Subcommittee of the Committee on Government Operations.

I am sick and tired of hearing about Robin HUD's. I am sick and tired of hearing about tens of millions of our dollars wasted and going into the pockets of insiders instead of helping people get decent housing.

I want some accountability from this administration. We want OMB to do its job, and that includes managing the finances of our country.

This debate should have taken place last year. My regret is that it did not.

We can now do again to reaffirm what we should have done and send a loud and clear message not to the appropriators but, doggone it, to the executive branch of our Government.

I urge a vote in support of the Conyers-Horton amendment. I am happy to be a part of it.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will just take a couple of moments.

This legislation is not designed to usurp the authority of the Committee on Appropriations. That is not the purpose of this. The purpose of this legislation is to get back to what we passed last year.

Last year we passed legislation creating the position of the Chief Financial Officer. The Committee on Appropriations in each appropriation bill has tried to rescind that law by saying that they would not appropriate the money to pay for it.

The fact of the matter is the Congress of the United States spoke very loudly and very clearly last year when both Houses passed this legislation almost unanimously, so the will of the Congress has been expressed.

This is not a turf battle. This is a battle over sound management practices that should be conducted by this Government.

I would just say that anybody who knows anything about the private sector and about the free enterprise system knows that you have to have a chief financial officer to make sure there is no waste, fraud, or abuse, and we need that same practice applied to the Federal Government, and we need it now.

Mr. UPTON. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Michigan.

Mr. UPTON. Mr. Chairman, I rise in support of the amendment.

The projected deficit for 1991 is going to exceed $300 billion. Fiscal year 1992 doesn't look a whole lot better. Many of us have stood here on the House floor trying to do something about it. We've spoken out against wasteful spending, voted to eliminate unnecessary programs, and debated spending priorities—yet the deficit remains, putting more and more pressure on how we spend the taxpayers' dollar.

If we are to successfully achieve the legitimate functions of government—from national defense to Head Start—we must ensure every dollar we spend goes where we direct it.

There's no question Federal agencies lose millions of dollars through waste, fraud, and abuse. These are funds that simply go down the drain. With more and more constraints on our spending, and the increasing voices of those who cry out for our help, we can't afford to waste one red cent. Clearly, poor financial management must become a thing of the past. The Chief Financial Officers Act we passed last year will help do it.

Unfortunately, this appropriations bill would prohibit funds from being used to implement the act. It would halt Congress' desire to improve financial management and prevent us from ensuring the money we spend does what we want. The restrictions in this bill must be removed.

The Chief Financial Officers Act will improve accounting systems and enhance financial management. It will strengthen internal controls and provide financial information useful to Congress and the executive branch. Indeed, the executive branch has begun to implement it: several chief financial officers are already in place and more are in the pipeline.

Mr. Chairman, we pinpointed the problem and passed legislation to help solve it. How can we explain to the American people why we aren't funding it? They are sick of scandals. They expect accountability. This is a way to give it to them.

I would hope that we are all against fraud and abuse. Well, let us quit talking about it and vote to end fraud and abuse.

I strongly urge my colleagues to vote yes and eliminate the provision barring funds for this purpose.

Mr. GRADISON. Mr. Chairman, I rise today in strong support of this amendment. The chief financial officer legislation is essential to improving the financial management of the U.S. Government. We can never afford to waste any of our resources, but this is especially true now, in a period of strict spending discipline. The Congress overwhelmingly approved this legislation last year as one means of gaining better control over Government spending. We should delay no longer in putting our words into practice.

I appreciate Chairman WHITTEN'S concern about adding unnecessary layers of bureaucracy between the Congress and executive branch agencies. However, the need for greater coordination of Federal financial information and the improved accessibility of congressional committees to such information will far outweigh any incremental increase that may occur in the Federal bureaucracy.

The Federal Government currently has more than 450 different and largely incompatible accounting systems. As a result, it is virtually impossible to obtain standardized financial information across the Government. Lack of standard financial reports makes the oversight job of the Congress exceedingly difficult and enables wasteful practices to exist undetected. The CFO Act, by establishing a mechanism for enhancing internal control and performance monitoring, will allow agencies to get more bang for their buck.

The act creates a chief financial officer position in each of the 16 Cabinet Departments and the 7 largest independent agencies. It requires the agencies to restructure their financial operations to reduce waste and duplication. The purpose of the act is to inject accurate financial information and discipline in the management of the multi-billion-dollar enterprise of Government—providing managers with tools to make more effective resource allocations.

The chief financial officer is an important complement to the agency inspectors general. The IG ferrets out waste, fraud, and abuse in agency operations. The CFO develops systems and procedures to prevent waste, fraud, and abuse from occurring in the first place. Further, where waste, fraud, or abuse have occurred, good financial management practices make it easier to identify.

How many Members have spoken out against waste, fraud, and abuse in Government programs? The CFO Act was intended to strike directly at the heart of this problem by strengthening financial control. Weak financial management has facilitated, if not contributed to, much of the waste, fraud, and abuse that we have seen. The Congress can no longer limit itself only to providing funds—we have an obligation to see that those funds are well spent.

All of my colleagues who at one time or another have decried waste, fraud, and abuse in Government should vote for this amendment.

Mr. SISISKY. Mr. Chairman, I rise today in strong support of the Conyers-Horton amendment.

American taxpayers are tired of seeing their hard-earned tax dollars sucked into a black hole. In fact, polls suggest that Americans believe the Federal Government wastes as much as one half of the money it collects. And this is no surprise. After witnessing scandal after scandal at several Federal agencies, citizens are beginning to wonder if their Government has any control over how their money is spent.

Last year we made a bold attempt to change this by unanimously passing the Chief Financial Officers Act of 1990. Its passage will help us to show taxpayers what they're getting for their money and give policymakers the tools to see if their goals are being accomplished.

This act seeks to install sound financial management within Federal agencies. It brings their accounting systems into the 20th century, and it requires them to publish independently audited financial statements each year. In essence, it holds the Federal Government to the same standards of accountability that is expected of American business.

The Chief Financial Officers Act also promises to be a vital tool for deficit reduction. Over the next few years, our spending choices will become tougher. We will have to weigh and measure many worthy programs to decide what works and what doesn't. This act can provide us with valuable information on the results of Federal spending so that we can make prudent decisions.

It is unfortunate that the bill seeks to deny us this important opportunity to improve financial accountability and control at a time when it is sorely needed.

Mr. Chairman, I ask for a "yes" vote on this amendment to restore funding for the Chief Financial Officers Act. Let's start providing American taxpayers with some assurance that their hard-earned dollars are properly accounted for.

Mr. PORTER. Mr. Chairman, for almost a decade now, the Congress has been attempting to reduce spending by curtailing Government waste. The momentum began under President Reagan with the Federal Managers' Financial Integrity Act of 1982 and the Grace Commission Report recommendations. Now, almost a decade and several GAO evaluations later, we are redebating legislation that we passed by voice vote in the 101st Congress.

Mr. Chairman, a decade of debates and evaluations is enough. It's time to get our fiscal house in order. Implementation of the Chief Financial Officers Act will reduce the possibility of scandals such as those that occurred at HUD; it will establish a measure of accountability in the spending of American tax dollars; and it will create a gravely needed process for tracking revenues, procurement, assets, and expenditures by executive branch agencies. The time for the implementation of Public Law 101–576 has come Mr. Chairman and, as a member of the congressional Grace caucus, I urge my colleagues not to turn back the clock.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. CONYERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 341, noes 52, not voting 39, as follows:

[Roll No. 163]

AYES—341

Ackerman
Allard
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Clement
Clinger
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dickinson
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Dymally
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Evans
Fawell
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Goss
Gradison
Grandy
Green

Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Kanjorski
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Luken
Machtley
Manton
Markey
Marlenee
Martinez
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Moody
Moorhead
Morella
Morrison
Murphy
Myers
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Olin
Olver
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Peterson (MN)
Petri
Pickett
Porter
Poshard
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torres
Torricelli
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

NOES—52

Abercrombie
Alexander
Andrews (NJ)
Atkins
Bevill
Brooks
Bryant
Carr
Chapman
Coleman (TX)
Coyne
DeFazio
Dicks
Durbin
Early
Edwards (TX)
Espy
Fascell
Fazio
Hefner
Hoyer
Jefferson
Jontz
Kaptur
Kolter
Kopetski
Laughlin
Lowey (NY)
McCloskey
McHugh
Mollohan
Montgomery
Murtha
Nagle
Natcher
Obey
Ortiz
Parker
Pelosi
Perkins
Pickle
Price
Roybal
Sabo
Skaggs
Smith (IA)
Taylor (MS)
Thomas (GA)
Thornton
Traxler
Visclosky
Whitten

NOT VOTING—39

AuCoin
Bilbray
Boucher
Clay
Dingell
Dixon
Dwyer
Gaydos
Gilchrest
Gordon
Gray
Hopkins
Hubbard
Ireland
Jones (NC)
Lehman (FL)
Levine (CA)
Lloyd
Martin
Matsui
McDade
Molinari
Moran
Mrazek
Neal (NC)
Oberstar
Orton
Paxon
Peterson (FL)
Rogers
Schumer
Serrano
Smith (FL)
Smith (TX)
Spence
Weldon
Williams
Yates
Young (AK)

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Mr. ATKINS changed his vote from "aye" to "no."

Mr. DERRICK and Mr. VOLKMER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MORAN. Mr. Speaker, during rollcall vote No. 163 on H.R. 2622 I was unavoidably detained. Had I been present I would have voted "aye."

The CHAIRMAN. Are there additional amendments to the bill?

If not, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1992".

Mr. ROYBAL. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the Chair, Mr. STUDDS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2622) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. MILLER of Ohio. I am, in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MILLER of Ohio moves to recommit the bill, H.R. 2622, to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 349, nays 48, not voting 35, as follows:

[Roll No. 164]

YEAS—349

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hutto
Hyde
Inhofe
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter

Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (FL)
Zeliff

NAYS—48

Archer
Armey
Barton
Bunning
Burton
Combest
Cox (CA)
Crane
Dannemeyer
Dickinson
Doolittle
Dornan (CA)
Dreier
Fields
Gallegly
Gekas
Goss
Hancock
Hansen
Hefley
Henry
Hunter
Jacobs
Kasich
Kyl
Lagomarsino
Lewis (FL)
Marlenee
McEwen
Miller (OH)
Moorhead
Neal (NC)
Oxley
Packard
Pallone
Petri
Roberts
Rohrabacher
Roth
Santorum
Schaefer
Sensenbrenner
Shays
Shuster
Slattery
Stump
Walker
Zimmer

NOT VOTING—35

AuCoin
Berman
Bilbray
Boucher
Clay
Dingell
Dwyer
Gaydos
Gilchrest
Gray
Hopkins
Hubbard
Ireland
Jones (NC)
Lehman (FL)
Levine (CA)
Lloyd
Martin
Matsui
McDade
Molinari
Mrazek
Oberstar
Orton
Paxon
Rogers
Schumer
Serrano
Smith (TX)
Spence
Torres
Weldon
Williams
Yates
Young (AK)

□ 2223

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SCHUMER. Mr. Speaker, because I was unavoidably called away to my district, I missed three votes before the House. I missed the votes on the Roybal and Conyers amendments, and the vote on final passage of the bill. Had I been present for these votes I would have voted "yes" for each one.

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 2622, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1992

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2622, the Clerk be authorized to correct section numbers, punctuation and cross references, and to make such other technical and conforming changes as may be necessary.

The SPEAKER pro tempore. (Mr. ROEMER). Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. ROYBAL. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 2622, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. WELDON. Mr. Speaker, due to a death in the family, I was called away from Washington. In that time, I missed several votes on H.R. 2622. Had I been present, I would have voted in the following manner on these questions:

Rollcall 163, "aye."
Rollcall 164, "aye."

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during roll call vote No. 164. Had I been present on the House floor I would have cast my vote as follows:

Roll No. 164, "yea" on passage of H.R. 2622, the Treasury, Postal Service and General Government Appropriations Act.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER DURING CONSIDERATION OF H.R. 2621, FOREIGN OPERATIONS APPROPRIATIONS, 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–115) on the resolution (H. Res. 177) waiving certain points of order during consideration of the bill (H.R. 2621) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING MODIFICATION OF AMENDMENT IN H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991

Mr. LAGOMARSINO. Mr. Speaker, I ask unanimous consent that the amendment on page 384 of H.R. 2508 that I offered and was adopted in the Committee of the Whole on June 13, 1991, as amended by the amendment offered by Mr. KOSTMAYER of Pennsylvania, be modified in accordance with the language at the desk.

Mr. KOSTMAYER. Mr. Speaker, reserving the right to object, I will not object, but simply rise to say that I have talked to the gentleman from California [Mr. LAGOMARSINO] and also with the gentleman from New York [Mr. SOLARZ] and the gentleman from Texas [Mr. WILSON], all of whom were involved in this. There are no problems. These are merely technical changes, as the gentleman from California [Mr. LAGOMARSINO] has indicated.

Mr. LAGOMARSINO. Mr. Speaker, if the gentleman will yield, this change, drafted by legislative counsel, makes technical corrections to clear up certain technical problems and ambiguities that were created when the original amendment was amended.

The changes reinforce the intent of Congress that in order for India to receive assistance from the United States, it must receive a certification that it has not added additional nuclear devices after September 30, 1991.

Our intent is not to penalize India, but to hold it to a higher nonproliferation standard.

Under the rules of the House, this is the only way that the technical corrections can be made at this time. The changes have been cleared by the minority and the majority, including Mr. SOLARZ and Mr. KOSTMAYER.

Mr. KOSTMAYER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the modified text will be printed in the RECORD.

The text of the amendment as modified is as follows:

Amendment offered by Mr. LAGOMARSINO, as amended: Page 384, after line 14, insert the following:

"SEC. 5505. ASSISTANCE FOR INDIA.

"No assistance shall be furnished to India and no military equipment or technology shall be sold or transferred to India, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology sold or transferred, that India has not developed any additional nuclear explosive devices after September 30, 1991, and that the proposed United States assistance program will reduce significantly the risk that India will develop additional nuclear explosive devices."

Page 384, line 15, strike out "5505" and insert in lieu thereof "5506".

Page 498, line 23 strike out "5506" and insert in lieu thereof "5507"; line 24, strike out "5505" and insert in lieu thereof "5506"; page 499, line 1, strike out "5506" and insert in lieu thereof "5507"; and line 8, strike out "5505" and insert in lieu thereof "5506".

□ 2230

COMPETITIVENESS IN ALL INCREASINGLY GLOBAL ECONOMY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. MCMILLAN] is recognized for 5 minutes.

Mr. MCMILLAN of North Carolina. Mr. Speaker, I was impressed with recent testimony before the Committee on Ways and Means on U.S. competitiveness in an increasingly global economy.

I am pleased to submit it, in its entirety for the RECORD.

STATEMENT BY THE HONORABLE ROBERT H. MICHEL, REPUBLICAN LEADER, U.S. HOUSE OF REPRESENTATIVES, BEFORE THE COMMITTEE ON WAYS AND MEANS, JUNE 4, 1991

The subject of economic competitiveness is so broad that one can probably define it to cover just about any subject.

In a general sense, though, I think that what we most often think about when using this term is describing our nation as part of an emerging global economy.

Can we compete? Do we have the will to compete?

The rhetoric of gloom and doom has in recent years dominated discussions of our ability to compete.

All too often, the United States has been described as the sick man of global competitiveness, crippled with innumerable economic ills.

But we are coming back. Nowhere is this more evident than in looking at the March trade figures, where our trade deficit has dropped to $4 billion, the lowest deficit since June of 1983.

And then there is a letter we received last week from the President of the National Association of Manufacturers talking about the renaissance of manufacturing in the United States. President Jasinowski points out that manufacturing has grown from 20 to 23 percent of GNP, that manufacturing productivity has grown at a 36 percent annual rate over the past decade, faster than most every other country, and that manufacturing exports have grown at a 15 percent rate during the last five years.

In this same vein, the Washington Post ran a story two weeks ago headlined "U.S. Firms Stage Competitive Revival", in which it describes how numerous companies have turned themsevles around in an effort to become more competitive, including Caterpillar in my own district.

Let me pause here and offer a concrete example of what I mean by the will to compete.

Caterpillar Corporation worked with a company named Wrayco to reengineer a fuel tank to make the tank significantly lighter. The lighter tank no longer made it necessary to have the large, expensive vises to hold in place the old model. The capital investment in the plant was reduced and the price of the tank lowered from $5,000 to $950. Efforts by private companies to improve products is the bottom line to making our country more competitive in global markets.

In the great world of macro-economics, such a change may appear insignificant. But that's the way economies compete: by the gradual, incremental, continuous improvement of specific tools, parts, and processes. Get the details right and the big picture will develop.

Even the auto industry has made progress, despite its current economic difficulties. American auto manufcturers are producing more fuel-efficient, higher-quality cars than at any time in history, and as soon as the public realizes this, I think sales will react accordingly.

And then we have the mainstays, American agriculture and high technology, which continue to set world standards for achievement. As someone who represents a agricultural district, I know from experience that American farmers are the standard of excellence for the world.

So, we have reason to be optimistic about the present and the future. We can't let optimism substitute for hard work. But, we are moving in the right direction. And we are accomplishing this without any grand, governmentally prescribed "industrial policy," in which the government somehow tries to "govern" us into a more competitive position.

Five-year plans never worked in the Soviet Union, and industrial policy would not work in the United States. When it comes to the subtle workings of the economy, a central government lacks both the information and the ingenuity to control fast-moving free market transactions.

What the Federal Government can do best is create an atmosphere in which the genius of American workers and businesses can operate freely, unencumbered by burdensome regulation, excessive mandates, unfair trade restrictions, or unproductive tax policy.

In this regard, there are a number of steps the Federal Government can take:

(1) pursue macro-economic policies which will reduce the cost of capital. This must include full implementation of the 1990 Budget Agreement placing the Federal deficit on a downward trend, cutting the capital gains tax rate and encouraging an increased savings rate.

(2) maximize the Federal investment in basic research through the appropriations process and extend the research and experimentation (R&E) tax credit to encourage technological innovation.

The R&E tax credit rewards those companies engaged in research and experimentation on unproven technologies.

Technological innovation is important for three reasons:

It provides economic benefits from the sale of new products and services;

It provides new ways of delivering services; and

It can lead to new processes which make production more efficient and provide better quality goods at lower costs.

It is well documented that technological advances are responsible for up to one-half of our economic growth.

Technological advancement creates new industries, new jobs, and is the principal reason for long-term economic growth and increases in our standard of living.

For these reasons, I strongly support extension of the R&E tax credit. In fact, I have been working on a bill which has as one element a one-year extension of the R&E tax credit, as well as a one-year extension of R&E expense allocation rules.

The bill further provides special tax treatment to U.S. companies which donate old and surplus equipment to emerging democracies in Eastern Europe. The purpose of this provision is two-fold:

to provide some much-needed aid for private companies in those struggling democracies during these times of a shrinking foreign aid budget; and

to encourage U.S. companies to retool and upgrade older equiment in order to become more competitive in global markets.

I propose to pay for the R&E tax credit extension and special tax treatment for companies donating property to emerging Eastern European democracies by denying deduction of losses by acquirers of savings and loan institutions if those losses have been reimbursed by the government and by disallowing losses from certain debt pool exchanges.

(3) undertake the following legal reforms: remove antitrust disincentives facing U.S. companies that want to conduct joint R&D and joint production in critical technologies, thereby allowing the costs of R&D and production to be spread among several entities; reduce the burden of product liability costs; and enact the Industrial Design Protection Act which would extend patent protection to original and distinctive industrial designs, thus preventing unauthorized copying and insuring the ability of our industries to better compete.

(4) limit unnecessary regulation—last year the government generated more than 5.3 billion hours of paper work at a cost to the economy of $185 billion. I support the work of the President's Council on Competitiveness which reviews government regulations to ensure that they are cost effective and minimize the burdens on the economy. Further we should carefully study the mandates we are placing on private business which will add to the cost of doing business. Two bills come to mind—the Family Medical Leave Act and the Striker Replacement bill—which add burdensome requirements that will affect the competitiveness of many businesses.

(5) implement the President's education reform proposals to provide businesses with the kind of skilled and motivated workforce required by modern manufacturing and high-tech systems. The President's strategy set forth in the "America 2000 Education in Excellence Act" is designed to foster excellence in education and help the Nation attain the National Education Goals by the year 2000. The strategy has four parts: it calls for improvement of today's schools; invention of

new schools to meet the demands of the next centry; continuing education for all; and commitment from communities so that they can become places where learning can take place.

(6) enact banking industry reforms. Old laws designed to assure strong banks have led to impediments which do not allow banks to adjust to changing market circumstances. This has led to an increasingly uncompetitive and fragile banking system in the U.S.

(7) urge U.S. companies to take a long-term view, to improve the quaity of products and services, and to speed up the commercialization of new technologies. The example I offered earlier concerning Caterpillar Corporation comes to mind.

(8) liberalize export controls, where possible, for new trading partners in Eastern Europe, and in a more limited capacity, the Soviet Union.

(9) aggressively promote free trade by working to open new markets overseas and expand markets next door. The recent approval of fast track procedures will enable us to effectively continue our efforts in this regard. We should continue to encourage expansion of imports by Japan; enforce anti-dumping and countervailing duty laws and fight for intellectual property rights around the world.

When discussing global competitiveness, another form of competitiveness comes to mind—the competitiveness between two philosophies. One philosophy calls for further government regulation of markets, proposes an "industrial policy" where the government is involved in choosing winners and losers and espouses protectionist policies. The other philosophy, which I speak for today, recognizes that free and open markets, not subject to overregualtion, will allow the genius of the American people to once again establish the United States as a world class competitor in the global market.

EXTENSION OF FERC-ISSUED LICENSE DEADLINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, today I am introducing a bill that would allow the Federal Energy Regulatory Commission [FERC] to extend the deadlines in FERC-issued licenses for the development of hydroelectric capacity on two existing dams on the Arkansas River. My colleague from Arkansas, Mr. ANTHONY, is joining me as an original cosponsor of this legislation.

The bill we are submitting today will allow FERC to extend key deadlines in Arkansas Electric Cooperative Corporation's [AECC] licenses for projects at Lock and Dam Nos. 2 and 3 on the Arkansas River.

For both of these projects, the Arkansas Electric Cooperative Corporation is required to purchase necessary property by October 15, 1991, a deadline that will be virtually impossible to meet.

For several years, AECC has been diligently pursuing the installation of hydroelectric generation on four existing dams on the Arkansas River.

Construction on the Clyde T. Ellis Hydroelectric Generating Station at Lock and Dam No. 13 was started in August, 1985, and commercial operation began on December 8, 1988. Immediately thereafter, AECC began to work toward the installation of an $85 million hydro project at Lock and Dam No. 9. Commercial operation is anticipated by October 1993.

AECC has displayed good faith in meeting the existing deadlines in FERC-issued licenses for these two projects. With respect to the two remaining licenses that are the subject of this legislation, AECC simply needs additional time to complete the projects.

The extensions we are proposing are very reasonable. AECC will have varying lengths of time to purchase property and begin construction, but ultimately will have only a 1-year extension for completing the project at Dam No. 2 (License #3033) and a 3-year extension for completing the project at Dam No. 3 (License #3034).

In the previous FERC proceedings concerning these licenses, there has never been an objection filed and FERC has consistently found that development will result in no significant long-term environmental impact. In fact, the installation of hydroelectric capacity on existing dams like these has an environmental plus because it produces energy with no sulfur dioxide, carbon monoxide, or other polluting emissions.

Mr. Speaker, I am aware of no controversy regarding these licenses. By allowing FERC to extend the relevant deadlines if it is deemed to be in the public interest, this legislation will help ensure an adequate supply of power to customers in southeast Arkansas. On these grounds, I urge the speedy enactment of this bill.

CONGRESSIONAL ADVISORY COMMISSION ON AMATEUR BOXING AND FEDERAL PROFESSIONAL BOXING PROHIBITION ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I am reintroducing a bill today that I first introduced in 1984 to ban professional boxing and to establish a congressional advisory commission on amateur boxing. Incident after tragic incident occurs, bringing pain and sorrow to families of men who are injured or killed in this violent so-called sport, and it is far past time for Congress to do something about it. After all, boxing is not really a sport—it is an industry that capitalizes on the prurient display of brutality and human degradation. There is no sport involved when the goal and determining factor in all too many fights is the rendering of the opponent physically defenseless.

For many years, I have watched as young men, mostly black or Hispanic, mostly poor, uneducated and without trade or employment, have been recruited, trained, and encouraged to fight their way out of poverty into the world of boxing. Boxing is their salvation, they are told—it is their road out of the ghetto. Boxing supposedly gives them a reason to stay out of trouble, to have a purpose in life, a future respect. I have watched all this—and listened—and I am impelled now to act. This past weekend in my hometown of San Antonio, two boxers fought—both finished the fight—and both ended up in the hospital. One fell into a coma, from which he has awakened, but he is still in critical condition from swelling of his brain. There is no telling what condition he will be in for the rest of his life because of what happened this past weekend. Those appalled by the bloody display in San Antonio are calling for better equipment—heavier gloves, for instance—but boxing has been around for ages and, consequently, punch-drunk boxers have been around for ages, too. If heavier gloves and more intense medical attention during a fight can turn these beastly displays into "sport," then why haven't they been required by now? The truth is that there is money to be made from the lack of controls, from the bloody thirst for excitement, and no sufficient amount of regulation will ever be imposed or be effective as long as more excitement—translated "more blood"—equals more money.

My bill bans only professional boxing in order to remove the illusory incentives of a professional boxing career. For amateur boxing, my bill would establish a congressional advisory commission. This commission would study amateur boxing and its present regulations, determine the sufficiency of the current safeguards, and make recommendations for future action to be taken to protect the health and potential of America's young boxers. I recognize that amateur boxing provides some limited opportunities fo young men, but prolonged participation in boxing clearly has proven to have harmful effects on the health of fighters. With some safeguards, amateur boxing can be a positive experience—but only if the boxing is carried on with strict safety regulations and for only a short period of time.

But professional boxing is another matter. What kind of opportunities are provided these young men through professional boxing? The opportunities I see all involve violence, personal injury, and massive exploitation. The very goal of a boxer in the ring is to render his opponent unconscious—to fight until only one fighter remains standing. Boxing is a simplistic display of one man's physical prowess prevailing over his opponent's.

But even the victor must share an element of physical defeat, for by the very act of knocking this opponent senseless, he too endures physical abuse. One fighter may prevail over the other, but neither prevails over the limitations of the human body.

Repeated blows to the fighter's head are the most direct means to victory for a boxer—professional boxers are paid to hit and be hit. But just as a boxer is paid, he also pays dearly in return for the sometimes silent but ever present injuries his brain suffers. The American Medical Association has studied the prolonged effects of boxing on a fighter's brain, and has reached the same conclusion as I have—that professional boxing should be banned. Every professional boxer suffers some degree of brain damage—every one. Some of the damage is minimal; some is readily evident; and some does not manifest itself for years, all the while keeping its dreadful consequences hidden from the knowledge of the boxer. We all know the familiar stereotype of the has-been Palooka, the shambling wrecks of fighters who took one, or a thousand, too many punches.

If boxing provides such wondership opportunities, as I am told, then why aren't young men from all walks of life recruited for the sport? Why are educational opportunities, mainstream employment, and long-term beneficial opportunities saved for some of America's youth while boxing and other violent sports seek participants from America's poorer corners? I find it appalling to think that at the expense of a real future—a future of health, of learning, of meaningful work—young men devote their early years to training to become fighters at the expense of their education and time to learn a trade or profession.

Young men are exploited by the boxing profession—the promise of fame and riches is flashed in their eyes so they are blinded to the realities of a fighter's life—a life where few are famous, few are wealthy, but all risk their health. We all know that for every Sugar Ray Leonard or Muhammed Ali there are 1,000 Kims, 10,000 punched-out wrecks. We look in fear at young boxers, wondering how soon it will be until the effects of their boxing careers render their quick minds and sparkling eyes as muddled and dull as Ali's. How long can we continue to encourage young men to become boxers, when we know beyond a doubt that the medical experts are right—that the probability is that these young men whom we admire so much in the ring will some day become as inarticulate and incoherent as the great Ali? For a youngster from a poor neighborhood who has few material possessions, his health may be all he has. Boxing will likely take his health and almost certainly give him nothing in return. How much better it would be to allow him to keep his health and develop his mind and his abilities. How much better it would be to develop his mind than to render it useless through fighting.

Once professional boxing is made illegal, amateur fighters will have no incentive to pursue boxing in lieu of their education and training. There will be illusions of making a living from boxing. Since there will be no monetary rewards from boxing, a boxer's career will be relatively short, and the damage to his health, particularly with the use of safety equipment and stringent safety regulations, will be minimal.

I think we owe all of America's youth equal opportunities for a solid education and useful, financial satisfying employment. It is our responsibility. Each young man has the right to his health, and we owe each young man an education and future—a road out of poverty that does not dead end in boxing, but a mainstream of education and training that leads to a healthy and secure future.

LEAVE OF ABSENCE

Mr. BILBRAY (at the request of Mr. GEPHARDT), for today, on account of death in family.

Mr. SERRANO (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of official business.

Mrs. LLOYD (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WALKER) to revise and extend their remarks and include extraneous material:)

Mr. McEWEN, for 5 minutes, today.

Mr. DeLAY, for 60 minutes each day, on July 9, 10, and 11.

Mr. McMILLAN of North Carolina, for 5 minutes, today.

(The following Members (at the request of Ms. DeLAURO) to revise and extend their remarks and include extraneous material:)

Mr. BACCHUS, for 5 minutes, today and on June 18.

Mr. ALEXANDER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Ms. OAKAR, for 60 minutes, on July 9.

Mr. FRANK of Massachusetts, for 60 minutes each day, on June 20, 21, and 24.

Mr. RUSSO, for 60 minutes each day, on June 25, 26, and 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DORNAN of California, immediately following Mr. McEWEN during 1-minute speeches.

Mr. KYL, immediately following the remarks of Mrs. JOHNSON of Connecticut on IRS Small Pension Auditing Program on H.R. 2622 in the Committee of the Whole today.

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. HENRY.
Mr. SOLOMON in three instances.
Mr. GEKAS.
Mr. BUNNING.
Mr. SHUSTER.
Mr. BALLENGER.
Mr. DOOLITTLE.
Mr. CAMP.
Mr. DORNAN of California.
Mr. McEWEN.
Mr. ROHRABACHER.
Mr. ARMEY.
Mr. HERGER.
Mr. GILMAN in two instances.
Mr. LAGOMARSINO.
Mr. YOUNG of Florida.
Mr. BENTLEY in four instances.

(The following Members (at the request of Ms. DeLAURO) and to include extraneous matter:)

Mr. NEAL of Massachusetts.
Mr. YATRON in two instances.
Mr. PENNY.
Mr. ANDREWS of Maine.
Mr. RAHALL in two instances.
Mr. CARR.
Mr. WOLPE.
Mrs. LOWEY of New York.
Mr. MILLER of California.
Mr. AuCOIN in two instances.
Mr. FEIGHAN in three instances.
Mr. MATSUI.
Mr. ROE in two instances.
Mr. SWETT.
Mr. SISISKY.
Mr. MURTHA.
Mr. REED.
Mr. ACKERMAN.
Mr. COLEMAN of Texas.
Mr. LEVINE of California.
Mr. STARK.
Mr. DOWNEY.
Mr. VENTO.
Mr. OBERSTAR.
Mr. SKELTON.
Mr. DURBIN.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 64. An act to authorize appropriations to establish a National Education Commission on Time and Learning and a National Council on Education Standards and Testing, and for other purposes.

ADJOURNMENT

Ms. DeLAURO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 32 minutes p.m.) The House adjourned until tomorrow, Wednesday, June 19, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1578. A letter from the Chairperson, National Council on Disability, transmitting the Council's annual report covering the period from October 1, 1988 through September 30, 1990, pursuant to 29 U.S.C. 781(b); to the Committee on Education and Labor.

1579. A letter from the Director, Defense Security Assistance Agency, transmitting an addendum to the listing of all outstanding Letters of Offer to sell any major defense equipment for $1 million or more as of March 31, 1991; and addendum to the listing of all Letters of Offer that were accepted, as of March 31, 1991, pursuant to 22 U.S.C. 2776(a); to the Committee on Foreign Affairs.

1580. A letter from the Secretary of Veterans Affairs, transmitting the semiannual report of the inspector general for the period October 1, 1990 through March 31, 1991, and the Department's management report on actions taken in response to audit recommendations, pursuant to Public Law 95-452, section 5(b) (102 Stat. 2526, 2640); to the Committee on Government Operations.

1581. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend provisions of the Bankruptcy Code governing the powers of a bankruptcy court and the effect of automatic stays as they relate to certain multifamily liens insured or held by the Secretary of Housing and Urban Development of the Secretary of Agriculture, and for other purposes; to the Committee on the Judiciary.

1582. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the authority to recall members of the Coast Guard Ready Reserve to active duty for emergency augmentation of regular forces; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 531. A bill to establish procedures to improve the allocation and assignment to the electromagnetic spectrum, and for other purposes; with an amendment (Rept. 102–113). Referred to the Committee of the Whole House on the State of the Union.

Mr. HALL of Ohio: Committee on Rules. House Resolution 177. Resolution waiving certain points of order during consideration of the bill (H.R. 2621) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102–115). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 429. A bill to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, WY; with amendments; referred to the Committee on Agriculture and to the Committee on Merchant Marine and Fisheries for a period ending not later than June 18, 1991, for consideration of such provisions of the amendments as fall within the jurisdiction of those committees pursuant to clause 1(a) and 1(n) of rule X, respectively (Rept. 102–114, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BRUCE (for himself, Mr. TOWNS, Mr. ACKERMAN, Mr. LANCASTER, Mr. MOODY, Mrs. JOHNSON of Connecticut, Mr. DURBIN, Mr. COSTELLO, and Mr. BOUCHER):

H.R. 2661. A bill to amend the Public Health Service Act to expand the availability of comprehensive primary and preventative care for pregnant women, infants, and children; to the Committee on Energy and Commerce.

By Mr. CARR:

H.R. 2662. A bill to amend the Internal Revenue Code of 1986 to increase to 100 percent the amount of health insurance costs which may be deducted by self-employed individuals and to make such deduction permanent; to the Committee on Ways and Means.

By Mr. COOPER (for himself, Mr. SYNAR, Mr. STUDDS, Mr. MARKEY, and Mr. BOEHLERT):

H.R. 2663. A bill to amend the Clean Air Act to require the offset of certain greenhouse gas emissions and for other purposes; to the Committee on Energy and Commerce.

By Mr. DANNEMEYER:

H.R. 2664. A bill to amend the Internal Revenue Code of 1986 to clarify the exclusion from gross for amounts received by a policyholder from a State on account of the insolvency of an insurance company; to the Committee on Ways and Means.

By Mr. GEKAS (for himself and Mr. HUGHES):

H.R. 2665. A bill to establish a U.S. Marshals Association; to the Committee on the Judiciary.

By Mr. GEPHARDT (for himself, Mr. FAZIO, and Mr. WISE):

H.R. 2666. A bill to provide for the energy security of the United States; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. GONZALEZ:

H.R. 2667. A bill to establish the Congressional Advisory Commission on Amateur Boxing and to amend title 18, United States Code, to prohibit the participation in and promotion of professional boxing; jointly, to the Committees on Education and Labor, Energy and Commerce, and the Judiciary.

By Mr. HAYES of Illinois (for himself and Mr. YOUNG of Alaska):

H.R. 2668. A bill to amend title 39, United States Code, to provide for the use, without charge, by State voter registration authorities of available post office space for the purpose of making voter registration forms publicly available; to the Committee on Post Office and Civil Service.

H.R. 2669. A bill to amend title 39, United States Code, to provide that the U.S. Postal Service give voter registration forms along with change-of-address forms, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. DREIER of California (for himself and Mr. RIGGS):

H.R. 2670. A bill to amend the Solid Waste Disposal Act to regulate ash from municipal solid waste incinerators as a hazardous waste; to the Committee on Energy and Commerce.

By Mr. OWENS of Utah:

H.R. 2671. A bill to amend the Solid Waste Disposal Act to authorize each State to prohibit the importation of solid waste into the State for incineration or disposal; to the Committee on Energy and Commerce.

By Mr. ROE:

H.R. 2672. A bill to award a congressional gold medal to Secretary of Defense Richard B. Cheney; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SISISKY (for himself, Mr. ALLARD, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALEXANDER, Mr. ANDERSON, Mr. ANDREWS of Maine, Mr. ANDREWS of New Jersey, Mr. APPLEGATE, Mr. ARCHER, Mr. ASPIN, Mr. AUCOIN, Mr. BACCHUS, Mr. BAKER, Mr. BALLENGER, Mr. BARRETT, Mr. BATEMAN, Mr. BENNETT, Mrs. BENTLEY, Mr. BEREUTER, Mr. BEVILL, Mr. BILBRAY, Mr. BLAZ, Mr. BLILEY, Mr. BOEHLERT, Mr. BOEHNER, Mr. BONIOR, Mr. BORSKI, Mr. BOUCHER, Mrs. BOXER, Mr. BREWSTER, Mr. BROOKS, Mr. BROOMFIELD, Mr. BROWDER, Mr. BRUCE, Mr. BRYANT, Mr. BUNNING, Mr. BUSTAMANTE, Mrs. BYRON, Mr. CALLAHAN, Mr. CAMP, Mr. CAMPBELL of Colorado, Mr. CARDIN, Mr. CARPER, Mr. CLEMENT, Mr. CLINGER, Mr. COBLE, Mr. COLEMAN of Missouri, Mr. COSTELLO, Mr. COUGHLIN, Mr. COX of California, Mr. CRAMER, Mr. CUNNINGHAM, Mr. DANNEMEYER, Mr. DAVIS, Mr. DE LA GARZA, Mr. DE LUGO, Mr. DEFAZIO, Mr. DELAY, Mr. DERRICK, Mr. DICKINSON, Mr. DICKS, Mr. DINGELL, Mr. DONNELLY, Mr. DOOLITTLE, Mr. DORNAN of California, Mr. DURBIN, Mr. DWYER of New Jersey, Mr. DYMALLY, Mr. ECKART, Mr. EDWARDS of Texas, Mr. EMERSON, Mr. ENGLISH, Mr. ERDREICH, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. FASCELL, Mr. FAWELL, Mr. FAZIO, Mr. FEIGHAN, Mr. FIELDS, Mr. FISH, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FROST, Mr. FUSTER, Mr. GALLEGLY, Mr. GALLO, Mr. GAYDOS, Mr. GEKAS, Mr. GEREN of Texas, Mr. GILCHREST, Mr. GILLMOR, Mr. GILMAN, Mr. GOODLING, Mr. GOSS, Mr. GRAY, Mr. GUARINI, Mr. GUNDERSON, Mr. HAMMERSCHMIDT, Mr. HANCOCK, Mr. HANSEN, Mr. HARRIS, Mr. HASTERT, Mr. HATCHER, Mr. HAYES of Louisiana, Mr. HEFLEY, Mr. HEFNER, Mr. HENRY, Mr. HERGER, Mr. HERTEL, Mr. HOBSON, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOUGHTON, Mr. HUBBARD, Mr. HUCKABY, Mr. HUGHES, Mr. HUNTER, Mr. HUTTO, Mr. HYDE, Mr. INHOFE, Mr. IRELAND, Mr. JAMES, Mr. JEFFERSON, Mr. JENKINS, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Mr. JONES of North Carolina, Ms. KAPTUR, Mr. KASICH, Mr. KENNEDY, Mr. KILDEE, Mr. KLUG, Mr. KOLBE, Mr. KOPETSKI, Mr. KOSTMAYER, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LANTOS, Mr. LAROCCO, Mr. LAUGHLIN, Mr. LEACH, Mr. LEHMAN of Florida, Mr. LENT, Mr. LEWIS of Florida, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. LIVINGSTON, Ms. LONG, Mrs. LOWEY of New York, Mr. MACHTLEY, Mr. MANTON, Mr. MARLENEE, Mr. MARTIN, Mr. MAVROULES, Mr. MAZZOLI, Mr. MCCRERY, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mrs. MEYERS of Kansas, Mr. MILLER of Washington, Mr. MINETA, Mrs. MINK, Mr. MORAN, Mrs. MORELLA, Mr. NICHOLS, Ms. NORTON, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. OLIN, Mr. ORTIZ, Mr. ORTON, Mr. OWENS of Utah, Mr. OWENS of New York, Mr. OXLEY, Mr. PACKARD, Mr. PALLONE, Mr. PANETTA, Mr. PAXON, Mr. PAYNE of New Jersey, Mr. PAYNE of Virginia, Ms. PELOSI, Mr. PENNY, Mr. PETERSON of Florida, Mr. PICKETT, Mr. POSHARD, Mr. PRICE, Mr. QUILLEN, Mr. RAMSTAD, Mr. RANGEL, Mr. RAVENEL, Mr. RAY, Mr. REED, Mr. REGULA, Mr. RHODES, Mr. RIGGS, Mr. RINALDO, Mr. RITTER, Mr. ROBERTS, Mr. ROE, Mr. ROEMER, Mr. ROHRABACHER, Mr. ROWLAND, Mr. ROYBAL, Mr. SABO, Mr. SANGMEISTER, Mr. SANTORUM, Mr. SARPALIUS, Mr. SAVAGE, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHEUER, Mrs. SCHROEDER, Mr. SCHUMER, Mr. SENSENBRENNER, Mr. SHAW, Mr. SHAYS, Mr. SKELTON, Mr. SLAUGHTER of Virginia, Mr. SMITH of Oregon, Mr. SMITH of Florida, Ms. SNOWE, Mr. SOLARZ, Mr. STALLINGS, Mr. STARK, Mr. STUDDS, Mr. SUNDQUIST, Mr. TAUZIN, Mr. TAYLOR of Mississippi, Mr. THOMAS of Wyoming, Mr. TRAFICANT, Mr. TRAXLER, Mrs. UNSOELD, Mr. UPTON, Mr. VALENTINE, Mr. VANDER JAGT, Mrs. VUCANOVICH, Mr. WALSH, Mr. WASHINGTON, Ms. WATERS, Mr. WEBER, Mr. WEISS, Mr. WILSON, Mr. WISE, Mr. WOLF, Mr. WOLPE, Mr. WYDEN, Mr. YATES, Mr. YATRON, Mr. YOUNG of Alaska, Mr. YOUNG of Florida, Mr. ZELIFF, and Mr. ZIMMER):

H.R. 2673. A bill to require the Secretary of the Treasury to mint coins in commemoration of James Madison and the Bill of Rights; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SLATTERY:

H.R. 2674. A bill to ensure adequate disclosure of information regarding yields of savings vehicles; jointly, to the Committees on Banking, Finance and Urban Affairs and Energy and Commerce.

By Mr. ACKERMAN (for himself, Mr. HOYER, Mr. WOLF, Mrs. BYRON, and Mr. YOUNG of Florida):

H.R. 2675. A bill to amend title 5, United States Code, to provide for the granting of leave to Federal employees wishing to serve as bone-marrow or organ donors, and to allow Federal employees to use sick leave for purposes relating to the adoption of a child; to the Committee on Post Office and Civil Service.

By Mr. DORNAN of California (for himself, Mr. KENNEDY, Mr. HYDE, Mr. MCEWEN, and Mr. LEWIS of Georgia):

H.R. 2676. A bill to provide educational assistance to law enforcement personnel and to increase the number of police officers; to the Committee on the Judiciary.

By Mr. ALEXANDER (for himself and Mr. ANTHONY):

H.R. 2677. A bill to authorize extensions of time limitations in certain FERC-issued licenses; to the Committee on Energy and Commerce.

By Mr. DURBIN (for himself, Mr. MILLER of California, Mrs. MORELLA, and Mrs. SCHROEDER):

H.R. 2678. A bill to amend the Public Health Services Act to establish a program of grants for providing alcohol and drug abuse residential treatment services to pregnant and postpartum women and their children; to the Committee on Energy and Commerce.

By Mr. HENRY (for himself, Mr. WALKER, Mr. LEWIS of Florida, and Mr. BOEHLERT):

H.R. 2679. A bill to enhance basic science research in automotive technology to increase U.S. competitiveness internationally, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. TORRICELLI:

H.R. 2680. A bill to impose adequate standards for lead content of water dispensed for human consumption in elementary and secondary schools as a condition of receiving certain Federal financial assistance; to the Committee on Education and Labor.

H.R. 2681. A bill to establish a Universal National Service under which citizens who are 18 through 25 years of age will perform 1 year of either civilian or military service to the United States; jointly, to the Committee on Armed Services, Education and Labor, and Foreign Affairs.

By Mr. VENTO (for himself, Mr. ANNUNZIO, Mr. KLECZKA, Mr. COX of Illinois, Mr. BEVILL, Mr. LEHMAN of California, Mr. SABO, Mr. GLICKMAN, Mr. JONTZ, and Mr. DE LUGO):

H.R. 2682. A bill to abolish the Oversight Board of the Resolution Trust Corporation, provide for the management and operation of the Resolution Trust Corporation independently of the Federal Deposit Insurance Corporation, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DE LA GARZA:

H.J. Res. 272. Joint resolution to proclaim March 20, 1992 as "National Agriculture Day"; to the Committee on Post Office and Civil Service.

By Mr. HAMILTON:

H.J. Res. 273. Joint resolution designating the month of September 1991, as "National Gymnastics Month"; to the Committee on Post Office and Civil Service.

By Mr. LANTOS (for himself, Mr. CALLAHAN, Mr. CLEMENT, Mr. CRAMER, Mr. HORTON, Mr. MCMILLEN of Maryland, Mr. MANTON, and Mr. SERRANO):

H.J. Res. 274. Joint resolution to designate the week of September 13 through 19, 1991, as "National Ballroom Dance Week"; to the Committee on Post Office and Civil Service.

By Mr. MONTGOMERY:

H.J. Res. 275. Joint resolution to designate the week beginning August 25, 1991, as "National Convenience Store Appreciation Week"; to the Committee on Post Office and Civil Service.

By Mr. LAGOMARSINO (for himself and Mr. VENTO):

H.J. Res. 276. Joint resolution to designate "National Parks Week"; to the Committee on Post Office and Civil Service.

By Mr. GEKAS:

H. Con. Res. 167. Concurrent resolution expressing the sense of the Congress relating to withholding of remedial action funds by the President under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Energy and Commerce.

By Mr. PENNY:

H. Con. Res. 168. Concurrent resolution expressing the sense of the Congress that a portion of Iraq's frozen assets be released to UNICEF for the sole purpose of providing medical and humanitarian assistance to Iraqi citizens; to the Committee on Foreign Affairs.

By Mr. RITTER (for himself, Mr. STENHOLM, and Mr. ROHRABACHER):

H. Con. Res. 169. Concurrent resolution to commend Boris Nikolaevich Yeltsin, President-elect of the Russian Republic, for his leadership on behalf of democratic, pluralistic, and free-market principles; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MARKEY introduced a bill (H.R. 2683) for the relief of Michael Houtmeyers; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 14: Mr. COSTELLO, Mr. HORTON, Mr. FALEOMAVAEGA, and Mr. GRAY.

H.R. 46: Mr. FRANK of Massachusetts.

H.R. 213: Mr. FRANK of Massachusetts, Mr. LIPINSKI, Mr. ANNUNZIO, Mr. EVANS, Mr. PALLONE, Mr. MCCLOSKEY, Mr. HORTON, Mr. DEFAZIO, and Mr. OBERSTAR.

H.R. 252: Mr. SHAW.

H.R. 303: Mr. HAYES of Louisiana.

H.R. 392: Mr. WISE, Mr. JACOBS, Mr. DERRICK, Mr. HOAGLAND, Mr. NAGLE, and Mr. DE LUGO.

H.R. 543: Mr. ENGEL.

H.R. 548: Mr. RAMSTAD, Mr. ENGLE, and Mr. MFUME.

H.R. 722: Mr. WILLIAMS.

H.R. 723: Mr. WILLIAMS.

H.R. 747: Mr. ARCHER Mr. JONES of North Carolina, Mr. YATRON, Mr. BORSKI Mr. GILMAN, Mr. WOLPE, Mr. LEACH, Mr. TALLON, Mr. JOHNSON of South Dakota, and Mr. NUSSLE.

H.R. 776: Mr. REED.

H.R. 780: Mrs. MORELLA.

H.R. 781: Mr. HUTTO.

H.R. 791: Mr. BUSTAMANTE.

H.R. 799: Mr. BORSKI.

H.R. 801: Mr. BORSKI.

H.R. 802: Mr. BORSKI.

H.R. 803: Mr. BORSKI.

H.R. 846: Mr. GONZALEZ, Mrs. BOXER, and Mr. HUTTO.

H.R. 930: Mrs. MEYERS of Kansas.

H.R. 931: Mr. FISH, Mrs. MEYERS of Kansas, Mr. JOHNSON of South Dakota, Mr. DEFAZIO, and Mr. NEAL of Massachusetts.

H.R. 945: Mr. PARKER, Mr. NICHOLS, Mr. SISISKY, Mr. OWENS of Utah, Mr. EMERSON, Mr. MFUME, Mr. VALENTINE, Ms. NORTON, Mr. STENHOLM, Mr. CLAY, and Mr. DREIER of California.

H.R. 978: Mr. ENGLISH, Mr. AUCOIN, and Mr. HENRY.

H.R. 997: Mrs. BOXER.

H.R. 1077: Mr. OXLEY and Mr. ALLARD.

H.R. 1089: Mr. BATEMAN.

H.R. 1107: Mr. BENNETT, Mr. NATCHER, Mr. PETERSON of Minnesota, Mr. SISISKY, Mr. MARTINEZ, and Mr. NAGLE.

H.R. 1156: Mr. SKAGGS, Mr. JONES of Georgia, Mr. FOGLIETTA, Mr. HUGHES, Mrs. MORELLA, Mr. EVANS, and Mr. LANCASTER.

H.R. 1184: Mr. PETERSON of Florida and Mr. HAYES of Louisiana.

H.R. 1201: Ms. NORTON.

H.R. 1212: Mr. OWENS of Utah, Mr. MACHTLEY, Mr. ENGEL, Mr. TOWNS, Ms. DELAURO, Mr. WALSH, Mr. JEFFERSON, Mr. LANCASTER, Mr. FEIGHAN, and Mr. JONTZ.

H.R. 1213: Mr. MACHTLEY, Mr. ENGEL, Mr. TOWNS, Ms. DELAURO, Mr. WALSH, Mr. JEFFERSON, Mr. LANCASTER, Mr. FEIGHAN, Mr. LEWIS of Georgia, Mr. JONTZ, Mr. KLUG, and Mr. MOODY.

H.R. 1325: Mr. HATCHER, Mr. LANCASTER, Mr. LIGHTFOOT, and Mr. DAVIS.

H.R. 1330: Mr. LIPINSKI, Mr. CONDIT, Mr. MCMILLAN of North Carolina, Mr. BROOMFIELD, Mr. MICHEL, Mr. WYLIE, Mr. HORTON, Mr. ORTON, Mr. JONES of North Carolina, Mr. CAMPBELL of Colorado, and Mr. HUTTO.

H.R. 1346: Mr. JACOBS and Mr. PETERSON of Florida.

H.R. 1356: Mrs. MEYERS of Kansas, Mr. HEFLEY, Mr. HANCOCK, Ms. MOLINARI, Mr. DUNCAN, Mr. YOUNG of Alaska, Mr. DAVIS, Mr. BOEHNER, and Mr. ESPY.

H.R. 1360: Mrs. KENNELLY.

H.R. 1389: Mr. SOLARZ, Mr. TOWNS, Mr. DEFAZIO, and Mr. GOSS.

H.R. 1392: Mr. ECKART

H.R. 1406: Mr. DEFAZIO, Mr. LAROCCO, Mr. RAHALL, Mr. SOLOMON, Mr. BUNNING, Mr. BENNETT, Mr. JONES of North Carolina, Mr. BARNARD, Mr. SHUSTER, Mr. WELDON, Mr. KOLBE, Mr. JONTZ, Mr. MCEWEN, Mr. RIGGS, Mrs. COLLINS of Michigan, and Mr. MORAN.

H.R. 1429: Mr. FISH.

H.R. 1473: Mr. HEFLEY, Mr. NUSSLE, and Mr. MOORHEAD.

H.R. 1527: Mr. OWENS of New York, Mr. MCMILLEN of Maryland, Mr. MCDERMOTT, Mr. TAYLOR of North Carolina, Ms. NORTON, and Mr. OWENS of Utah.

H.R. 1601: Mr. HUGHES and Mr. MCCLOSKEY.

H.R. 1635: Mr. SWETT.

H.R. 1669: Mr. BERMAN and Mr. SANDERS.

H.R. 1691: Mrs. COLLINS of Illinois, Mr. JOHNSON of South Dakota, Mr. TAUZIN, Mr. SHAW, Mr. SANDERS, Mr. PANETTA, Mr. GOSS, Mr. SWIFT, Mr. WYLIE, Mr. JEFFERSON, Mr. ANNUNZIO, Mrs. VUCANOVICH, Mr. ENGLISH, and Mr. HANCOCK.

H.R. 1703: Mr. MRAZEK, Mr. EVANS, and Mr. DYMALLY.

H.R. 1752: Mr. JOHNSON of South Dakota, Mr. MCHUGH, Mr. HUGHES, Mr. HEFNER, Mr. KANJORSKI, Ms. SNOWE, and Mr. ROE.

H.R. 1809: Mr. KANJORSKI, Mrs. PATTERSON, Mr. ERDREICH, Mr. BOEHNER, Mr. RANGEL, Mrs. LOWEY of New York, Mr. ROHRABACHER, Mr. RIGGS, Mr. NICHOLS, and Mr. EMERSON.

H.R. 1898: Mr. COLEMAN of Texas, Mr. DYMALLY, Mr. FROST, Mr. MRAZEK, Mr. PARKER, Mr. RAHALL, and Mr. YOUNG of Alaska.

H.R. 2001: Mr. COBLE, Mr. MACHTLEY, Mr. CONDIT, and Mr. PRICE.

H.R. 2018: Mrs. MINK, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. DEFAZIO, Mr. YATES, Mr. ROE, Mr. FROST, Ms. NORTON, Mr. DWYER of New Jersey, Mr. BEREUTER, Mr. HUCKABY, Mr. WILSON, Mr. MCGRATH, Mrs. JOHNSON of Connecticut, Mr. BACCHUS, and Mr. LEWIS of Georgia.

H.R. 2019: Mrs. MINK, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. DEFAZIO, Mr. YATES, Mr. ROE, Mr. FROST, Ms. NORTON, Mr. DWYER of New Jersey, Mr. HUCKABY, Mr. ACKERMAN, Mrs. UNSOELD, Mr. BACCHUS, and Mr. LEWIS of Georgia.

H.R. 2020: Mrs. MINK, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. DEFAZIO, Mr. YATES, Mr. ROE, Mr. FROST, Ms. NORTON, Mr. DWYER of New Jersey, Mr. BEREUTER, Mr. HUCKABY, Mr. WILSON, Mrs. UNSOELD, Mr. THOMAS of Wyoming, Mr. BACCHUS, and Mr. LEWIS of Georgia.

H.R. 2021: Mrs. MINK, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. DEFAZIO, Mr. YATES, Mr. ROE, Mr. FROST, Ms. NORTON, Mr. DWYER of New Jersey, Mr. BEREUTER, Mr. WILSON, Mr. MCGRATH, Mrs. JOHNSON of Connecticut, Mr. ACKERMAN, Mrs. UNSOELD, Mr. BORSKI, Mr. BACCHUS, and Mr. LEWIS of Georgia.

H.R. 2022: Mrs. MINK, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. DEFAZIO, Mr. YATES, Mr. ROE, Mr. FROST, Ms. NORTON, Mr. DWYER of New Jersey, Mr. ACKERMAN, Mr. LEVINE of California, Mr. JOHNSTON of Florida, Mr. BEREUTER, Mr. WILSON, Mr. MCGRATH, Mrs. JOHNSON of Connecticut, Mr. BACCHUS and Mr. LEWIS of Georgia.

H.R. 2023: Mrs. MINK, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. DEFAZIO, Mr. YATES, Mr. ROE, Mr. FROST, Ms. NORTON, Mr. DWYER of New Jersey, Mr. ACKERMAN, Mr. BACCHUS, and Mr. LEWIS of Georgia.

H.R. 2024: Mrs. MINK, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. DEFAZIO, Mr. YATES, Mr. ROE, Mr. FROST, Ms. NORTON, Mr. DWYER of New Jersey, Mr. MCGRATH, Mrs. UNSOELD, Mr. ACKERMAN, Mr. HAMMERSCHMIDT, Mr. JOHNSTON of Florida, Mr. BACCHUS, and Mr. LEWIS of Georgia.

H.R. 2025: Mrs. MINK, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. DEFAZIO, Mr. YATES, Mr. ROE, Mr. FROST, Ms. NORTON, Mr. DWYER of New Jersey, Mr. WILSON, Mr. ACKERMAN, Mr. BACCHUS, and Mr. LEWIS of Georgia.

H.R. 2026: Mrs. MINK, Mr. FRANK of Massachusetts, Mr. MCNULTY, Mr. OWENS of Utah, Mr. JEFFERSON, Mr. DEFAZIO, Mr. YATES, Mr. ROE, Mr. FROST, Ms. NORTON, Mr. DWYER of New Jersey, Mr. BEREUTER, Mr. WILSON, Mr. ACKERMAN, Mr. BORSKI, Mr. BACCHUS, and Mr. LEWIS of Georgia.

H.R. 2029: Mr. JONTZ and Mr. BROWN.

H.R. 2056: Mr. GAYDOS.

H.R. 2106: Mr. BOUCHER, Mr. HORTON, Mr. WHEAT, Mr. HAYES of Illinois, Mr. PETERSON of Florida, Mr. LEVINE of California, Mr. CONYERS, Mr. MCCLOSKEY, Mr. HUGHES, Ms. NORTON, Mr. ROSE, Mr. LANCASTER, and Mr. ROE.

H.R. 2115: Mr. ESPY, Mr. ZIMMER, and Mr. RIGGS.

H.R. 2152: Mr. GILLMOR.

H.R. 2201: Mr. OWENS of Utah.

H.R. 2235: Mr. WEBER.

H.R. 2248: Mr. MARLENEE.

H.R. 2270: Mr. HOYER and Ms. NORTON.

H.R. 2280: Mr. MCCLOSKEY.

H.R. 2333: Mr. SOLOMON, Mr. JONTZ, Mr. GUNDERSON, Mr. WILLIAMS, and Mr. SHUSTER.

H.R. 2336: Mr. DICKINSON, Mr. KLUG, Mrs. BOXER, and Mr. MILLER of California.

H.R. 2354: Mr. JOHNSTON of Florida, Mr. PERKINS, Mr. FOGLIETTA, Mr. ECKART, and Mr. WHEAT.

H.R. 2368: Mr. DEFAZIO, Mr. WILLIAMS, Mr. LEHMAN of California, Mr. MARLENEE, and Mrs. VUCANOVICH.

H.R. 2374: Mr. MURPHY, Mr. FALEOMAVAEGA, Mr. ABERCROMBIE, and Mr. YATES.

H.R. 2380: Mr. THOMAS of Wyoming.

H.R. 2386: Mr. EVANS.

H.R. 2393: Mr. PALLONE and Mr. LANCASTER.

H.R. 2394: Mr. PALLONE and Mr. LANCASTER.

H.R. 2405: Mr. BRYANT and Mr. FEIGHAN.

H.R. 2406: Mr. ESPY.

H.R. 2489: Mr. ACKERMAN.

H.R. 2515: Mr. MORAN, Mr. HOCHBRUECKNER, Mr. GIBBONS, Ms. SNOWE, Mr. BATEMAN, and Ms. NORTON.

H.R. 2542: Mr. LEVINE of California, Mr. FORD of Michigan, Mr. ACKERMAN, and Mr. GOSS.

H.R. 2560: Mr. BROWN.

H.R. 2566: Mr. BARNARD, Mr. BREWSTER, Mr. JENKINS, Mr. LANCASTER, and Mr. RAY.

H.R. 2572: Mr. ANTHONY.

H.R. 2578: Mr. VISCLOSKY.

H.R. 2579: Mr. WEBER.

H.R. 2584: Mr. RANGEL and Mr. CRAMER.

H.R. 2598: Mr. QUILLEN, Mr. NICHOLS, Mr. KASICH, Mr. SLAUGHTER of Virginia, Mr. STEARNS, and Mr. GOSS.

H.R. 2604: Mr. HORTON, Mr. BOEHNER, Mr. DANNEMEYER, Mr. DOOLITTLE, Mr. GILCHREST, and Mr. GALLO.

H.R. 2645: Mr. JACOBS, Mr. CLAY, Mr. FROST, Mr. HORTON, Mrs. KENNELLY, Mr. KOPETSKI, and Mr. BACCHUS.

H.J. Res. 67: Mr. DURBIN, Mr. TORRICELLI, Mr. BEVILL, Mr. HARRIS, Mr. RAVENEL, and Mr. MACHTLEY.

H.J. Res. 107: Mr. UPTON, Mr. WILSON, Mr. GORDON, Mr. MFUME, Mr. HOCHBRUECKNER, Mr. SAWYER, and Mr. NAGLE.

H.J. Res. 125: Mr. RIGGS, Mr. GUARINI, Mr. MORRISON, Mr. MILLER of California, Mr. PAYNE of Virginia, Mr. RANGEL, Mrs. MEYERS of Kansas, Mr. MCNULTY, Mr. LEVINE of California, Mr. MAVROULES, Mr. BUSTAMANTE, Mr. CARPER, Mr. DYMALLY, Mr. ALEXANDER, Mr. PURSELL, Mr. DE LA GARZA, Mr. LEWIS of Florida, Mr. MCCLOSKEY, Mr. PALLONE, Mr. RHODES, Mr. ROSE, Mr. SMITH of Oregon, Mr. FLAKE, Mr. YOUNG of Alaska, Mr. NATCHER, Mr. YATES, Mr. EVANS, Mr. VENTO, Mr. HALL of Ohio, Mr. PICKETT, Mr. KILDEE, Ms. NORTON, Mr. STOKES, Mr. HERTEL, and Mr. LEVIN of Michigan.

H.J. Res. 183: Ms. WATERS, Mr. KASICH, Mr. LANTOS, Mr. LOWERY of California, Mr. ANNUNZIO, Mr. PARKER, Mr. SAWYER, Mr. SAXTON, Mr. STALLINGS, Mr. BACCHUS, Mr. BREWSTER, Mr. DYMALLY, Mr. BRYANT, Mr. STAGGERS, Mr. TAYLOR of Mississippi, Mr. WILSON, Mr. SMITH of New Jersey, Ms. SNOWE, Mr. WISE, Mr. HERTEL, Mr. MINETA, Mr. SHARP, Mr. MCCLOSKEY, Mr. FROST, Mr. HOBSON, Mr. JOHNSON of South Dakota, Mr. BERMAN, Mr. GRAY, Mr. STOKES, Mr. KANJORSKI, Mr. LAROCCO, Mr. HATCHER, Mr. PURSELL, Mr. ORTON, Mr. PALLONE, Mr. PICKETT, Mr. MARTINEZ, Mr. MILLER of Washington, Mr. SLATTERY, Mr. BRUCE, Ms. SLAUGHTER of New York, Mr. BURTON of Indiana, Mr. WYDEN, Mr. SHAW, Mr. RANGEL, Mr. TANNER, Mr. ABERCROMBIE, Ms. HORN, Mrs. JOHNSON of Connecticut, Mr. CLAY, Mr. EMERSON, Mr. BATEMAN, Mr. BEREUTER, Mr. MCHUGH, Mr. APPLEGATE, Mr. SANGMEISTER, Mr. SARPALIUS, Mr. GEJDENSON, Mr. LEWIS of Georgia, Mr. ROEMER, Mr. OBERSTAR, and Mr. YATES.

H.J. Res. 191: Mr. BROWDER, Mr. SANGMEISTER, Mr. DAVIS, Ms. HORN, Mr. COYNE, Mrs. LOWEY of New York, Mr. DARDEN, Mr. ECKART, and Mr. DOOLITTLE.

H.J. Res. 217: Mr. JONES of Georgia, Mr. VOLKMER, Mr. FISH, Mr. JEFFERSON, Mr. ORTIZ, Mr. DIXON, Mrs. COLLINS of Michigan, and Mrs. VUCANOVICH.

H.J. Res. 229: Mr. WEBER, Mr. CONYERS, Mrs. LOWEY of New York, Mr. LEVIN of Michigan, Mr. FUSTER, Mr. DELLUMS, Mrs. MORELLA, and Mr. BERMAN.

H.J. Res. 252: Mr. WOLF, Mrs. MORELLA, Mr. LAGOMARSINO, Mrs. VUCANOVICH, Mr. PURSELL, Mr. MCGRATH, Mrs. JOHNSON of Connecticut, Mr. WALSH, Mrs. ROUKEMA, Mr. GRADISON, Mr. CLEMENT, Mr. ESPY, Mr. RANGEL, Mr. SERRANO, Mr. FUSTER, Mr. PETERSON of Florida, Mr. LEVIN of Michigan, Ms. NORTON, Mr. OWENS of Utah, Mr. HUGHES, Mr. DWYER of New Jersey, and Mr. MORAN.

H. Con. Res. 79: Mr. WISE.

H. Con. Res. 111: Mr. JONTZ, Mrs. BYRON, and Mr. JONES of Georgia.

H. Res. 131: Mrs. BOXER.

H. Res. 141: Mr. KOLBE.

H. Res. 167: Mr. ANDERSON, Mrs. UNSOELD, Mr. SCHEUER, Mr. JONES of Georgia, Mr. HUGHES, Mrs. COLLINS of Michigan, Mr. VALENTINE, Mr. BARNARD, Mr. KLUG, Mr. CONYERS, and Mr. SISISKY.

EXTENSIONS OF REMARKS

THE ENERGY SECURITY AND PRICE STABILITY ACT

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. GEPHARDT. Mr. Speaker, today I am introducing the Energy Security and Price Stability Act to establish a greater degree of domestic price stability, enacted through a floor price for oil of $20 per barrel.

Once again, the United States faces the challenge of reducing the Nation's growing vulnerability to use of the oil weapon. American families, who have seen three oil crises in two decades, who have sent sons and daughters to the gulf twice in just 4 years, rightly question why we have allowed ourselves to become so vulnerable.

Our central security problem has always been how to reduce our reliance on low cost—but potentially high priced—oil supplies from the Middle East. In good times, the market is drawn irresistibly to Middle East supplies. But, as the war and strife in the Middle East have continued to demonstrate, crises in that region can stop the flow at any time, throwing the world economy into a tailspin.

The energy security of our country is a critical component of our national security. When we lose control of our economic security, we lose control of our economic future. If we are to safeguard our Nation's economic strength and freedom of action in foreign policy, the United States needs secure energy sources. That is what an energy security policy in the national interest is all about.

During the 1970's, our country took important steps to reduce our vulnerability. However maligned by two generations of Republican advertising agency executives, Jimmy Carter was more faithful to America's national interest than his movie actor and oil-man free marketeering successors. He understood the critical role energy plays in modern economies. And so, under his leadership, we took important steps to reduce our vulnerability. He decontrolled oil prices. He increased support of conservation and alternative energy sources. And we began to fill the strategic petroleum reserve to provide our economy with back-up supplies.

But in the 1980's and 1990's, the Reagan and Bush administrations forfeited many of these gains. Needed investments were neglected. Domestic energy production was allowed to fall steeply. The Republicans have slashed our conservation programs, allowing our economy's gains in energy efficiency to come to an end. Last summer, the Bush administration threatened to veto congressional attempts to strengthen the strategic petroleum reserve and better protect consumers from price shocks. Then, when the crisis came, and in spite of the fact that we already were in a recession, the President hesitated to use the reserve, our best weapon to dampen price increases. This initial failure to respond cost consumers up to $40 billion in higher oil prices—and contributed to an overall economic loss estimated as high as $200 billion.

Oil imports have surged, and last year's import bill topped $60 billion. Yet the administration's proposed energy strategy, while it makes great claims, sidesteps the most fundamental issue: the need for a greater degree of price stability. As such it lacks the ability to attain its goals. Erratic price swings have prevented us from maintaining a clear and credible focus on our long-run objectives and undermined many of our investments in fuel efficiency, additional production and the use of new fuels. The administration's failure to guard against the future cycle of price shock and price bust virtually guarantee that our economy will remain vulnerable.

The security and long-term economic interests of our country demand that we do better. Our current policies and patterns of energy use, established in the decades when America was self-sufficient in oil, now pose increased risks to our economic security. Our vulnerability forces us to make defense expenditures larger than needed. It constrains our freedom of action in foreign policy. Continuing price volatility exposes our economy to periodic bouts of boom and bust, jeopardizing our control of our economic future.

America needs an energy policy that stands up for American interests—not one that binds us or compels us to act on behalf of others. If we are to retain our freedom of action in foreign policy, if we are to retain control of our economy, we need an energy policy that reduces the security, economic and environmental risks posed by our rising oil vulnerability.

There is no free lunch. America needs to invest in energy security. And we will not achieve the level of investment we need unless we look at the incentives facing consumers—and the issue of price. During the 1980's falling gasoline prices defeated progress on fuel efficiency. If we do not address this issue, another price crash could simply set us back again. I believe we need to take action to reduce price volatility and restore a measure of stability that will benefit both consumers and producers.

The Energy Security and Price Stability Act helps accomplish this. It stabilizes energy prices through enactment of a floor price for oil. Establishing a floor price for oil will help encourage conservation and prevent a backsliding in energy consumption. And by bringing stability to energy markets, it would encourage investments in the development of alternative fuels and in the discovery of new oil supplies, particularly the recovery of additional oil from existing fields.

This legislation also establishes a trust fund, so that any receipts received are used for investments in energy security, including efficiency, home weatherization, and the development of alternative sources of energy or the enlargement of our strategic oil stocks.

In particular, this legislation contemplates the enlargement of the strategic petroleum reserve to the 1.5 billion barrel level to better protect consumers against future price spikes. It also contemplates a regional product reserve containing up to 40 million barrels. But generally, this legislation would collect funds when oil prices are low—the most advantageous time to acquire oil for the reserve and the best time to plan for the day when energy will be more expensive.

It is estimated that the stability provided by a price floor could result in a 30-percent increase in domestic drilling. A stable price also will create incentives for significant new investments in enhanced oil and gas recovery and could increase lower 48 production by 1 million barrels per day beyond the levels in the President's plan. It also may add up to 200,000 barrels per day of production in Alaska—without risking the environment in the Arctic Refuge.

As we move to stabilize prices, we should ensure that our energy policy seek closer cooperation with hemispheric allies like Mexico and Venezuela. For example, Venezuela possesses reserves of heavy oil that rival in size those of Saudi Arabia. Yet in part because its debt-burdened economy has limited domestic production, its production is less than one-third of ours. Venezuela could double its production to 5 million barrels or more per day with new investment, investments that United States companies can help provide.

We should encourage these countries to develop their resources. My legislation therefore authorizes the President to waive substantially any floor price adjustment surcharges imposed under this act on Western Hemisphere production, provided he reports to Congress that this is likely to produce energy security benefits and promote economic and political cooperation between the United States and its allies and create opportunities for U.S. firms.

This bill is not a complete answer to our energy problems. But I am confident that a policy of greater price stability can give our economy more security—consumers greater protection against price spikes and energy producers greater protection against price crashes. Our economy can be made more resilient. With a stronger strategic reserve and a floor price, we can take an important step to enhance our security and restore stability to our economy:

ENERGY SECURITY AND PRICE STABILITY ACT OF 1991

Section 1: Short title.

Section 2: Findings.

The Congress finds that

Volatile pricing has impaired domestic energy production during the 1980s. Since 1985 oil production has fallen twenty-one percent, from approximately 9 million barrels per day

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to approximately 7.3 million barrels per day, a decline of almost 20 percent;

Annual energy efficiency gains, which had been averaging over 2 percent in energy expended per dollar of output, have been undermined, and overall oil consumption has increased by over 1 million barrels per day;

Petroleum and petroleum product imports have increased by sixty percent since 1985, to over eight and one-half million barrels per day prior to August, 1990, and at that level account for approximately half of U.S. consumption;

Imports from insecure regions of the world have risen five fold since 1985, from less than 500,000 barrels per day to more than 2,800,000 barrels per day in July 1990, and are projected to continue to increase in the future;

Events following the invasion of Kuwait produced economic damage and jeopardized the national security of the United States, and this damage resulted materially from the failure of the United States to have an effective energy security policy, to have an adequate Strategic Petroleum Reserve and promptly use it, to maintain a core domestic production capacity and to pursue energy efficiency as a national goal; and

An additional duty on petroleum imports will help achieve the market stability necessary to stimulate needed investments in energy efficiency and new energy sources and may provide additional revenues for such investments and for the Strategic Petroleum Reserve.

Section 3: Floor price for domestic oil.

Establishes a floor price for domestic crude oil, accomplished through enactment of a contingent, variable tariff on imported petroleum and petroleum products. This contingent surcharge, determined monthly, is equal to the excess, if any, of $20.00 over the average West Texas intermediate crude oil price of the previous 30-day period. For product imports the assessment is 110% of the assessment on crude.

Definition of crude oil: Subheading 2709 of the Harmonized Tariff Schedule.

Definition of product: Any product listed under subheading 2710 of the Harmonized Tariff Schedule, including distillate and residual fuel oils, motor fuels, kerosene, napthas, and lubricating oils.

Section 4: Energy Security Investment Fund.

Creates an Energy Security Investment Fund from the revenues generated by any collections. This fund shall be used to provide funding for conservation purposes and enhancement of the Strategic Petroleum Reserve. Funds will be made available, subject to authorization and appropriation, for the following purposes:

(1) Acquisition of petroleum to fill the Strategic Petroleum Reserve up to a level of 1.5 billion barrels of petroleum and 40 million barrels of product;

(2) Acquisition of petroleum products for storage. The Secretary of the Treasury shall calculate the revenues that resulted from imposition of the assessment on home heating oil. These funds shall be available for acquisition of petroleum products and storage capacity, particularly for home heating oil in regions particularly dependent upon heating oil. If the Secretary of Energy determines that the product reserve contains 40 million barrels, these funds shall be dedicated to conservation programs in regions particularly dependent upon heating oil.

(3) Low income home weatherization;

(4) Promotion of energy efficiency and the commericialization of energy efficient technologies and those based on the use of environmentally-sound, domestically-produced fuels, and

(5) The enhancement of domestic oil and gas recovery.

Section 5: Cooperation with hemispheric allies to enhance energy security.

The President, initially and in any fiscal year, may waive any duties imposed under this Act on oil produced by western countries, provided he certifies to Congress that doing so would—

(1) enhance the energy security of the United States and make available additional energy supplies;

(2) promote economic and political cooperation with these countries, and

(3) such cooperation offers the prospect of increased economic opportunities for U.S. firms.

The waiver may be made on amounts up to the annualized average levels that prevailed during the last six months of 1990. The President may also provide such access for oil produced as a result of the development of new production capacity.

Requires the President to report to the Congress on the ways in which the countries of the Western Hemisphere can cooperate in matters regarding energy production and conservation. The Report shall contain recommendations on how to expand petroleum production and methods (including credit assistance) by which the United States could assist these countries increase the production of petroleum.

A TRIBUTE TO DORIS ANDERSEN

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. AUCOIN. Mr. Speaker, I rise today to recognize an outstanding Oregonian, Doris Andersen. Honored by her peers, Doris was selected last fall as the 1990 Realtor of the Year by the Oregon Association of Realtors and was singled out in this June 1991 article in Oregon Business magazine as an Oregon business leader who defines the word "success." Working with her on issues vital to maintaining the dream of home ownership in this country, I am fortunate to come to know her as a friend. I ask that my colleagues join me in congratulating Doris Anderson on her achievements and commending her contributions to her family, community, and profession.

The article follows:

A STATEWIDE REALTOR

(By Brian White)

During a 23-year career selling residential real estate, Doris Andersen has managed to juggle more than a few pressing priorities.

She's handled those priorities quite well, thank you.

Andersen, selected last fall as 1990 Realtor of the Year by the Oregon Association of Realtors, has managed to stay atop a fiercely competitive, up-and-down field while maintaining her family and community roots.

Active for many years in the Portland-area residential real estate scene, Andersen now resides in the small southwestern Oregon community of Shady Cove with her husband DeLaire. She's sales manager for the Ashland headquarters office of Van Vleet & Associates Inc., supervising 12 real estate agents. In Portland, she was the first woman to serve as president of the Portland Board of Realtors (1982). She later became president of the 9,000-member Oregon Association of Realtors and regional vice president of the National Association of Realtors.

Aside from her impressive professional dossier, Andersen has managed to help raise seven children, conduct motivational and educational seminars, and participate in volunteer work with such organizations as the Oregon Commission for the Blind.

"The balance in her life is absolutely phenomenal," says Ruby Brockett, owner-broker of Brockett Real Estate in Eugene and a 1986 Oregon Realtor of the Year winner. "She's been active in professional circles while enriching young people's lives, and is always willing to help others. She's a very caring, sharing person."

Andersen, who prefers to list her age as "sixty-plus," entered the real estate field in 1968. Her husband already had his real estate broker's license and "talked me into it," says Andersen. With a house full of kids the work was to be, of course, part-time.

"I geared my schedule so I could still be involved in trips to the orthodontist, PTA meetings and Little League," Andersen recalls. "That meant I did a lot of weekend and evening work at home. For the first few years I thought it was a part-time job, but I was really working more hours than full-time agents."

In Rose City, Andersen specialized in residential properties in the Portland Heights and West Hills areas. Andersen and a partner ran Portco Properties for a number of years before she launched her own firm, Doris Andersen & Associates.

Early on she became active in a slew of real estate industry groups and has become something of an expert on issues facing realtors across the state and nation. For seven years she's been on the board of the National Association of Realtors, attending legislative conferences and keeping Oregon realtors and legislators abreast of key housing issues.

Andersen moved into the southwest Oregon real estate market "by chance," via her husband's work.

The couple moved to Ashland in 1986 and eventually settled in Shady Cove. Andersen continued to operate her business but by this time had become more involved with realty industry issues. She cut back on her successful sales work to concentrate on motivational speaking seminars and educational endeavors. Her stint as regional vice president for the National Association of Realtors took her on the road to Alaska, Montana, Idaho, Washington, and throughout Oregon, and Andersen served as a liaison between state and national realtors associations. She remains active in the Salem-based Oregon Association of Realtors, helping staff members there deal with inquiries from special interest groups and the media.

Last January Andersen relinquished control of her business to her husband, who sold his other business. At Van Vleet, Andersen's job is to train, guide, and inspire real estate agents.

In the early 1990s, at least, the Ashland-area residential real estate market is lively, as many California retirees seek bucolic properties. "And Ashland is a college town with quite a cultural community. It really has beckoned them," says Andersen.

In her newly adopted Jackson County surroundings she plans to build on her educational and community service.

After all, there's more to a real estate career than selling real estate.

TRIBUTE TO NORMAN ADAM

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. YATRON. Mr. Speaker, I rise today with great pride to honor a man by the name of Norman E. Adam of Maxatawny Township, PA, for his tremendous courage and heroism. I am pleased to come before the House today to tell you about this man's incredible actions.

On the morning of Monday, May 27, 1991, Jeffrey Sharp was flying a plane over Maxatawny Township when it suddenly nose-dived and crashed in a field near the home of Norman Adam. Mr. Adam ran to the scene of the accident as soon as he saw the plane go down. When he arrived, he quickly surveyed the situation and found that the pilot had broken both his legs in the crash yet was still desperately trying to crawl away from the flaming wreckage. With the helpless Sharp writhing in pain and in flames, Mr. Adam immediately began his heroics. He threw soil onto Sharp to put out the fire and thoughtfully dialed 911 on the nearest phone to call in assistance. To stave off further trauma, Mr. Adam stayed with Jeffrey Sharp, keeping him calm and cool until emergency personnel arrived. Norman Adam's bravery and selfless compassion for his fellow man was vital in saving Jeffrey Sharp's life. Citizens everywhere should attempt to emulate these heroic traits, as Mr. Adam has provided a shining example for all of us to respect and follow.

Mr. Speaker, it is indeed a great honor to rise before you and my colleagues here in the House of Representatives today to acknowledge this great deed performed by Norman Adam. Mr. Adam's actions went above and beyond the normal call of duty, and I am sure you will join me in offering congratulations to Norman Adam for his dedication to humanity.

PANCYPRIAN ASSOCIATION OF AMERICA AWARDS 1991 FREEDOM AWARD TO GEORGE E. PARASKEVAIDES

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. FEIGHAN. Mr. Speaker, George E. Paraskevaides, O.B.E. was honored on May 18, 1991, by the Pancyprian Association of America. George Paraskevaides' dedication to the service of others, his profound belief in human values, and his proud commitment to his Cypriot heritage made him truly deserving of the Pancyprian Association's 1991 Freedom Award.

Soon after his birth in 1916, George Paraskevaides moved with his family from Athens to Cyprus, where he excelled in his studies at the Pancyprian Gymnasium of Nicosia. He completed his formal education in architecture at the Milan Polytechnic, Italy, upon the outbreak of World War II. Despite the minimal construction activity carried out in Cyprus during the war, George Paraskevaides formed the contracting and civil engineering firm Joannou & Paraskevaides, in association with Mr. Stelios Joannou. Today, Joannou & Paraskevaides is the leading contracting company in Cyprus, with approximately 30 subsidiaries and associated companies.

The technical management skills of George Paraskevaides have also served to propel his international building and engineering contracting company to become one of the leading companies in the Mideast and the world, with over 20,000 personnel and nearly $1.5 billion in annual contracts. Mr. Paraskevaides' diversity may be seen in his establishment of numerous enterprises in several different countries, such as the Ledra Marriott and Intercontinental Athenaeum in Athens. He has served on the boards of many organizations, companies, and banks.

The wonder of his illustrious career is further magnified by Mr. Paraskevaides dedication to the service of others. He has continuously demonstrated his care for his fellow citizens through his financial aid for medical treatment, his promotion of Cypriot culture, and his establishment of the International Sports Center in Cyprus. The George and Thelma Paraskevaides Foundation has formed links with Shriners Hospital in Springfield, MA, and Children's Heart Fund Hospital in Minneapolis and has provided numerous scholarships for less fortunate Cypriots. Mr. Paraskevaides founded the Cyprus Kidney Association, the Surgical and Transplant Foundation and, most recently, the Cyprus Heart Association.

Mr. Paraskevaides has received several prestigious honors from sources throughout the world, including the Order of the British Empire (O.B.E.) by Queen Elizabeth II, the Order of Oman III, Class Civil by Sultan Qaboos of Oman, the Rotary Foundation Medal, and the Medal of Merit of the Lions International Club of Nicosia, the St. Paul's Medal by the Greek Orthodox Archbishop of North and South America, and the St. Marcus Medal by the Pontifice. He is an honorary citizen of Nicosia and received the Golden Apple Award from Mayor Edward Koch, of New York. He was awarded the Aristotelian Award by the Greek-American Organization AHEPA, the Person of the Year for 1986 by the Hellenic-American Neighborhood Action Committee, and Distinguished Hellene Award by the Hellenic Medical Society of New York. Together, Thelma and George Paraskevaides were awarded the Great Benefactor Decoration of the Society of Cypriot Studies in recognition of their philanthropic and cultural service.

Mr. Paraskevaides has often been offered highest official positions in Cyprus but has continuously refused them because of his belief that he can better serve his country through his business associates and his international relations. His idea that his Cypriot employees overseas constitute ambassadors of their country is a lesson for all of us interested in fostering international cooperation and good will. And it is our fervent hope that the message they bring about Cyprus will educate more people and help to create an atmosphere that will soon end the tragic division of that beautiful island.

It is with great pleasure that I congratulate George Paraskevaides and the Pancyprian Association of America for awarding him the 1991 Freedom Award.

HISTORIC WATERFORD, NY, TO CELEBRATE 175TH ANNIVERSARY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. SOLOMON. Mr. Speaker, among the many communities in upstate New York which I have the privilege of representing is one which is proudly commemorating the 175th anniversary of its town government, the town of Waterford.

Actually, this anniversary is a little deceptive in terms of telling the full story of Waterford's history, which dates back to the very earliest days of America. Indeed, the town was actually the nothernmost point of Henry Hudson's explorations in 1609, and received its first development of American commerce, helping to give birth to the American industrial revolution and lying at the gateway to New York's great Erie and Champlain canal system.

Through all of these years, Waterford has always been an active and ready part of every facet of our Nation's history, including the proud participation of its citizens in every struggle for liberty from the American Revolution to Operation Desert Storm. Indeed, the timing of this celebration, which focused on a parade and festival on June 15, couldn't have been more appropriate. It was a well-attended event, and I was proud to be the guest speaker.

I ask my colleagues to join me in congratulating the town of Waterford on this special anniversary, and in thanking the citizens of that historic community for all of their past and continuing contributions to our Nation's freedom, prosperity, and greatness.

UNITED STATES FIRM OUTPACES JAPAN RIVALS

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. AuCOIN. Mr. Speaker, I bring to my colleague's attention to an article that appeared in the June 14, 1991, edition of the Wall Street Journal. At a time when the technological competitiveness of U.S. firms is in doubt, it is heartening to read about an American company fighting to regain a market lost to international competitors.

Founded in 1946 by two Oregonians, Howard Vollum and Jack Murdock, Tektronix now employs 7,000 in Oregon and another 5,000 worldwide. After suffering severe business setbacks in the late 1980's, the company is making a comeback to again be a premier technology leader in the electronics industry.

The challenges Tektronix faces highlight the need for the U.S. Government and the private sector to work together in developing coherent policies to ensure U.S. leadership in the development, use and commercialization of technology. Competitors in Japan and other major industrialized countries are benefiting from their government's systematic pursuit of leadership in critical technologies. By raising the priority given to technology and competitiveness in our R&D, tax, trade, and regulatory policies, we can help American firms regain their competitive edge.

[From the Wall Street Journal, June 14, 1991]

COLOR PRINTER GIVES TEKTRONIX JUMP ON CANON

(By G. Pascal Zachary)

A U.S. company has leapfrogged Canon, a Japanese electronics giant, in the burgeoning field of color printing on plain paper.

Tektronix Inc., a company based in Beaverton, Ore., that is best-known for its electronic instruments, plans to introduce a printer on Monday that uses a new type of ink and promises high-quality prints on plain paper—and many other materials ranging from cardboard to tissues. The printer, which carries a list price of $9,995 and will be available in July, uses a solid, wax-based ink that is safer and easier to handle than coventional printer inks.

Today, high-quality color printers are mainly used by graphic artists to prepare packaging and advertisements. They are a rarity in business offices, where black-and-white printers are as common as telephones and faxes. Besides being expensive, today's sophisticated color printers require messy inks and special paper.

Some analysts think the shift to ordinary paper could ignite demand for color printers, transforming office documents in the process.

"Plain paper is really the key for the office market to take off," says Donna Wheatley, a marketing director at Data-products Inc., Woodland Hills, Calif., which plans to introduce a solid-ink printer later this year. InfoCorp estimates unit sales of the printers should double by 1995 to nearly 100,000.

The emergence of a U.S. company at the forefront of color printing is something of a surprise. Computer printing is one of a number of high-tech niches pioneered by U.S. companies but best exploited by the Japanese. Hewlett-Packard Co., the biggest name in computer printing, dominates the estimated $4 billion a year market for high-end laser printers, but the guts, or "engines," of Hewlett-Packard's machines come from Canon. Canon also supplies the "engines" for Apple's big-selling family of laser printers.

Canon wants to gain the same sway over the color printer market as it holds over the black-and-white market. So far, however, the company offers only a combination plain-paper printer-copier whose list price starts at $22,500. And the output of these laser printers is considered less sharp and vivid than pages produced by Tektronix's printer.

But it isn't clear how long Tektronix can hold onto the lead. On the minus side: Tektronix's printer is slow, taking several minutes to produce a single full-color page.

COMPETITORS' PLANS

Competitors hope to do better. Canon says it will show a new color printer at the Comdex computer show this fall that may be comparably priced. It won't say when it will ship the product, which is expected to use a laser engine. Meanwhile, Dataprod-ucts Inc., a Japanese-controlled company, promises to deliver a plain-paper color printer later this year for less than $10,000.

The printer from Dataproducts will also use solid ink. Dataproducts holds a patent on aspects of solid ink, purchased from a former unit of Exxon, which first developed the ink. While Tektronix acknowledges licensing this technology, the company says its own technology is home grown and that it struck a deal with Dataproducts only to pre-empt a legal action.

The crucial innovation embedded in its printer, Tektronix says, involves its own proprietary method of converting solid ink into a liquid using heat, shoving it through the printer onto the page and fusing it back into a solid by applying 3,000 pounds of pressure to the page.

"This is a significant piece of American technology," says Edward Pullen, an InfoCorp analyst. He says the technology is "scalable," meaning the basic design is simple enough that it should result in color printers priced below $3,000 by the mid-1990s.

MARKETING SAVVY

Whether Tektronix succeeds in bringing color printing into the mainstream of office life, however, also depends on its marketing savvy, a knack Tektronix didn't display much in the 1980s, when its sales stagnated. "Certainly, this technology has the potential to become pervasive, but that depends on how quickly Tektronix can bring the price down and improve the speed of its printer," says Angele Boyd, an analyst at International Data Corp.

Ms. Boyd notes that for color documents to really catch on, computer software must be adapted to take advantage of the capability.

In the end, Tektronix could become another U.S. company that has pioneered a technology only to have a Japanese concern—Dataproducts, for instance—capitalize on the innovation.

There is even a chance that Hewlett-Packard will improve its home-grown inkjet technique so that its low-end color printers will be able to satisfy quality demands. Hewlett-Packard and others sell color printers for less than $1,500, but these machines still require special clay-coated paper to prevent colors from losing definition and vividness.

RAHALL EXPRESSES HIS APPRECIATION FOR THE GIBRAN MEMORIAL

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. RAHALL. Mr. Speaker, on Friday, May 24, 1991, President Bush dedicated the Kahlil Gibran Memorial Garden, which is located in the 3100 block of Massachusetts Avenue, across from the British Embassy. The Memorial Garden is composed of 2 acres of trees, a host of plants, a green lawn, and a fountain.

Kahlil Gibran was a mystical poet of Arab and Lebanese descent, who lived most of his life in the United States, where he died in 1931. He worked in great cities in the United States and the Middle East; therefore, the memorial includes architectural designs from Western and Arab cultures.

Because I am a Lebanese-American, this memorial has a special meaning to me. I am pleased that it was created for Gibran, a man who is a popular poet among Americans. Gibran is a good example of what Arab-Americans and Lebanese-Americans have contributed to the United States.

I feel what is even more poignant, that the dedication was made in the aftermath of the Persian Gulf war. Because of the war and various problems we have had in previous years with the Middle East, many people tend to characterize the Arab world as the leader of dissension. But this characterization is not true. We had and still are having conflicts with certain leaders in the Middle East, but not with the entire Arab world. The majority of the Arab people want peace. Even President Bush stated, "Gibran sought a kinder, gentler world".

Also, the Gibran Memorial only cost $1 million, which is a modest amount when compared to other proposed expenditures for upcoming memorials. We should take this example into consideration when making plans for new memorials, because it is not the amount that is spent which makes a memorial great, but the person whom it honors.

TRIBUTE TO NICOLE DAVIS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. YATRON. Mr. Speaker, I rise before you today with great pride to recognize the achievements of a young lady by the name of Nicole Davis from Pottsville, PA. Although only 11 years old, this sixth grade student at the D.H.H. Lengel Middle School has done an exceptional job for both her community and State as a member of the Drug Abuse Resistance Education [DARE] Program.

Nicole, the daughter of Henry and Judith Davis, Pottsville, will be the sole representative of her State at the graduation ceremonies of this very prestigious program, which will take place on Wednesday, June 19, 1991, in Washington, DC. Despite her youth, she has become an active and important participant in our country's war on drugs with her selection to this very competitive program. The leadership that Miss Davis has displayed at such a young age provides an excellent example for all of us to recognize and appreciate, and I am sure that she will continue to take the initiative in her community by performing services as significant as those accomplished by DARE.

Mr. Speaker, it is indeed a tremendous honor for me to familiarize you and the rest of my colleagues here in the House of Representatives with the outstanding accomplishments of Nicole Davis. Her work in the fight to cure our country's drug problem has been extraordinary, and I hope you will join me in offering Miss Davis congratulations as she graduates from the Drug Abuse Resistance Education Program and wishing her continued success in the future.

WILLIAM EATON—AN ENTREPRENEUR

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. FEIGHAN. Mr. Speaker, Mr. William Eaton was a prominent entrepreneur in Greater Cleveland. Under his leadership, the Knall Beverage Co. prospered and thrived as one of the few remaining Greater Cleveland beverage firms. He was a great salesman, promoter, and was proud of the fact that he knew all of the tavern owners and people at the breweries.

Bill Eaton was a graduate from old West High School. During World War II, he was a B–24 bomber pilot. After the war, he graduated from Western Reserve University and also became involved in his wife's family beverage business.

Mr. Eaton was very active in community affairs in addition to his business activities in the beverage industry. In the late 1940's, he served a term as commander of an American Legion post. Although he was not a singer, Mr. Eaton was on the board of directors of the West Shore Chorale. He was also a volunteer at St. John and West Shore Hospitals and donated time to help elderly people fill out tax forms for the Internal Revenue Service.

Mr. Speaker, that's not all. He was a member of the Western Reserve Kennel Club, competed in Kerry Blue terriers, and belonged to the Cleveland Yachting Club. Mr. Eaton was also a Mason and taught Sunday school at Bethany English Lutheran Church.

If one looks at the contribution Bill has made to his community and to his neighbors, and if we measure his accomplishments against how he has affected the lives of so many people, he will surely be missed.

FEDERAL SUBSIDIES FLOW TO RURAL PHONE FIRMS THAT HAVE LOTS OF CASH

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. SOLOMON. Mr. Speaker, once again the American taxpayer is footing the bill for a Federal program that has lost its original reason for being. I am talking about the Rural Electrification Administration.

In 1949, the REA was given a mission to spread telephone service to the scarcely populated hinterlands where it did not pay for the big companies to go. Through REA loans, at taxpayer subsidized interest rates of 2 percent and 5 percent, small local telephone companies have been able to provide service to the most desolate outreaches of the country.

Unfortunately, there is no discretion on who is able to receive these loans. For example, telecommunications giant GTE Corp. borrowed $42 million from the REA for one of its subsidiaries even though they ended up with $431 million in cash on hand after paying $1.1 billion in 1990 dividends. Meanwhile a small company in Flatrock, IL had to wait another year to receive a $428,400 loan because the REA ran out of 1990 funds.

The list of companies getting rich while using taxpayer subsidized REA loans is growing. Last year, $163 million in REA loans, almost half the total, were captured by just five companies, including four listed on the New York Stock Exchange.

I am not calling for the dismantling of the REA, but enough is enough. The American taxpayer should not have to subsidize businesses that reap huge profits on their investments while saving on the REA low interest borrowing costs.

We need to revamp the REA and set conditions on just who is allowed to use these funds and stop the abuses that are going on.

[From the Wall Street Journal, May 23, 1991]

FEDERAL SUBSIDIES FLOW TO RURAL PHONE FIRMS THAT HAVE LOTS OF CASH

(By Bruce Ingersoll)

Back in 1949, when two-thirds of the nation's farmers didn't even have a handcrank telephone on a party line, Congress gave the Rural Electrification Administration a new mission: Using subsidized loans, spread phone service into the thinly populated hinterlands where it didn't pay for big companies to go.

Dell Telephone Cooperative Inc., an REA borrower in remote West Texas, is still "struggling," its manager says, to keep 772 customers in 10,500 square miles of "cactus, rattlesnakes and scorpions" in touch with the Information Age. To hear June Barker, its assistant manager, tell it, though, she has a bigger challenge; how to invest the little co-op's mounting pile of cash—$5.8 million, at last report.

"I was trying to keep it local, but there weren't enough banks. Now I have two stockbrokers, good ones," she says. Result: While still paying off $13.9 million in REA loans at taxpayer subsidized interest rates of 2% and 5%. Dell Telephone is ringing up big bucks on high-interest brokered deposits and mutual funds.

MANY FLUSH FIRMS

Scores of nonprofit co-ops and family-owned telephone companies in rural areas are similarly flush with cash. In addition to the subsidy program, they are benefiting from a modern system of pooling telephone-network access charges and long-distance toll revenues. Many are diversifying into lucrative sidelines, including cable-television and cellular-telephone franchises. One go-go cooperative even considered a plunge into Texas banking.

Lured by the riches, big telephone holding companies are swallowing up many of their plump little country cousins. In the past three years, they have taken over more than 50 phone companies—and happily taken on their low-interest REA debts while going back for more. Last year, $183 million in REA telephone loans, almost half the total, were captured by just five companies, including four listed on the New York Stock Exchange.

Telecommunications giant GTE Corp., for example, borrowed $42 million at 5% interest for its Micronesian subsidiary in the South Pacific—even though GTE wound up with $431 million in cash on hand after paying out $1.1 billion in 1990 dividends. The other big borrowers: Alltel Corp., Century Telephone Enterprises Inc., Telephone & Data Systems Inc. and Pacifi-Corp. Meantime, the two-employee Flat Rock Mutual Telephone Co. in Flat Rock, Ill., had to wait another year for its $128,000 loan, as did other small systems because the REA ran out of 1990 funds.

MEANS TEST RESCINDED

For many years, the REA had what amounted to a means test, denying of limiting loans to companies and co-ops that had excessive "general funds." But in 1987, industry lobbyists prevailed on Congress to rescind the policy, forbidding the REA to differentiate between the rich and the poor. Result: Holding-company borrowing surged to last year's $183 million from just $21 million in 1967.

"It's first come, first served," says Robert Peters, the REA's top telephone lender. "If you're a company with unlimited resources, you normally can get your requests in a lot quicker than a Ma-and-Pa type operation." And REA Administrator Gary Byrne says the agency hasn't any choice: "By law, we can't treat a GTE subsidiary or an Alltel subsidiary any differently than a small rural cooperative out in northeastern Montana."

Bush administration officials decry the subsidization of big holding companies and other affluent borrowers as "distorting" the original phone mission of the REA, which was created in 1935 to bring electric power to the American outback. Some critics also say the electric subsidies are no longer needed, particularly in once-rural suburbanized areas. At the very least, administration officials argue, that REA money should be meted out on the basis of need, with most of it going to small fry in rural backwaters that can't obtain credit elsewhere. But efforts to reinstate the old phone policy have failed to win support in Congress.

A major reason, according to former Agriculture Department official Robert Richards: "No one was willing to go toe to toe with [Rep.] Glenn English." The Oklahoma Democrat, a power on the House Agriculture and Government Operations committees, has received thousands of dollars in campaign contributions from telephone political-action committees over the years. Rep. English argues that administration efforts to curtail lending to wealthy companies and co-ops is a subterfuge for gutting a program that it can't kill outright. He calls REA Administrator Byrne "a wolf in sheep's clothing."

Growing competition for credit, coupled with shrinking pots of loan dollars, is splitting the REA's 1,000 telephone borrowers into the have-a-lots and the have-nots. Most small borrowers favor banishing big holding companies from the loan program and subjecting cash-rich co-ops and independents to strict eligibility tests. "It wasn't the intent of Congress to help them make bales of money, and that's been forgotten by some people, including friends of mine," asserts Clifton Guffey, manager of Wilkes Telephone Membership Corp., a co-op in Millers Creek, N.C.

But the four rural telephone groups, despite differences in their members' interests, have closed ranks against the administration's assault on "profane profits" at many REA borrowers. John O'Neal, a National Rural Telecom Association lobbyist, accuses administraiton "bomb-throwers" of trying to conjure up "perceptions of abuse in a program that has an impeccable record, unmarred by a single loan default. Holding-company units, he adds, aren't getting "a disproportionate share" of the loans and shouldn't be discriminated against because of their percentage.

After four decades and $9 billion in direct and guaranteed loans, the communications landscape has changed drastically. All but a few deserts and mountain hollows have been hooked up to the realm of touchtone phones, fax machines and computer modems. Moreover, scores of rural companies and co-ops have grown and prospered as suburbs, resorts and retirement communities entered their areas.

Big Borrowers

[Principal amount owed on Rural Electrification Administration loans by telephone holding companies, in millions[1]]

Contel[2]	$211
Alitel	206
Telephone & Data Systems	199
PacifiCorp	88
G-Tec	87
Century Telephone Enterprises	69
Rochester Telephone	45
Citizens Utilities	42
GTE	40

[1] As of Jan. 31, 1991.

[2] Acquired by GTE in March.

Source: Rural Electrification Administration.

[From the Wall Street Journal, May 23, 1991]

Open Line: Subsidies Flow to Rural Phone Firms With Ample Cash; Big Companies Often Benefit

But even low-density phone systems are thriving. Under industry pooling arrangements, systems with the fewest customers per line mile can tap the pools for the fattest revenue shares because they have the highest per-customer costs. A rich revenue stream doesn't deter them from tapping the REA till, though.

In West Texas, Dell Telephone borrowed $703,000 at 5% interest two years ago to bring radio-telephone service to an isolated reach of the Rio Grande Valley. One new customer: a 103-year-old woman rancher. At the time, Dell had a hoard of $5.6 million in cash—$7,200 per customer.

UNUSUAL FIGURES

How does Dell do it, serving a desert domain bigger than Vermont and charging residential customers only $19.40 a month for local service? "We get money out of the pools and use that to invest and keep struggling along," says Dale Flach, its manager. For every $1 in local-service revenue, Dell gets $22 in network-access and long-distance toll revenue. (Typically in the boondocks, it's $4 long-distance for every $1 local.) "They could give local service away free!" an REA official exclaims.

Nonetheless, Mr. Flach insists Dell isn't ready to be weaned from subsidized credit. "It's desolate out here. If I'm going to put in new service," he says, "I'm going to have to borrow more money from REA."

Other REA borrowers sound a similar theme. "We're grass-roots America," says Lyndell "Pete" Hurt, general manager of Craw-Kan Telephone Cooperative Inc., of Girard, Kan. "We operate in a depressed area [along the Missouri border]. We just want to get our fair share of the crumbs from Southwestern Bell and AT&T."

Some crumbs. After dickering with big carriers over access charges and toll revenues, the little co-op wound up 1990 with $14.2 million in cash and investments, including $7.4 million in banks and thrift institutions from New York to Butte, Mont., to Santa Barbara, Calif. "Those S&Ls have been paying good returns," exults Mr. Hurt.

TEXAS-SIZE AMBITIONS

Few REA borrowers can match Guadalupe Valley Telephone Cooperative Inc., which still owes the government $5.4 million, for entrepreneurial verve and grandiose ambition. It has flourished without raising its local rate of $7.25 a month in 18 years, as commuters from growing San Antonio moved into the goat pastures and live-oak groves in the central-Texas Hill Country.

Toll revenues have so enriched Guadalupe that its money managers must be on guard—against making too much money on investments. Otherwise, Guadalupe might, as a co-op, lose its tax-exempt status. At year end, its portfolio included $5.5 million in mortgage-backed securities and $3.4 million in bank deposits. To hold down taxable income, the managers put $6.7 million in tax-free bonds and stashed another $3.1 million in noninterest-bearing checking accounts.

Tax considerations, however, don't stifle entrepreneurial impulses at Guadalupe's posh headquarters on a hillside outside New Braunfels. The latest plan: Take over a failed $210 million savings and loan, cherry-pick its real-estate assets and leave the duds to the government. "Everything in the world revolves around finances," says Guadalupe's personable president, Kenneth Brannies. "I think it's a good time to get involved."

George Pratt, deputy REA administrator, offers another view: "They had $19 million burning a hole in their pocket." The notion of an REA borrower becoming a money lender irritates agency officials, though they can't forbid it. Federal bank regulators can, however, as Mr. Brannies discovered. Undaunted, he is lobbying for repeal of a law barring corporations from owning large stakes in banks or thrifts.

Meanwhile, Guadalupe's board has a fallback plan: share the wealth with its 15,000 member-customers as never before. Last year, it doled out $3 million in so-called patronage credits; one customer with multiple access lines reaped an $8,000 windfall. This year will bring a $4.5 million bonanza, which averages out to $300 per customer, more than enough to cover the basic monthly rate. Some people who seldom call long-distance will dial for free.

SHARP PROFIT GAINS

Many telecommunications holding companies are faring as well as Guadalupe, partly because their newly acquired subsidiaries remain eligible for REA credit under a once-a-borrower, always-a-borrower ruling. The last half of the 1980s was a period of booming profits for holding companies, an REA analysis shows. Century Telephone's profits shot up 117% between 1985 and 1989, and Telephone & Data Systems posted a 93% increase. Thanks to REA subsidies, the holding companies, administration officials contend, are draining dollars out of rural America while saving on borrowing costs. In 1989 alone, the companies collected $439 million in dividends from their rural subsidiaries. GTE's Contel Corp. unit took $70 million out of a large California subsidiary.

"For every dollar we send to Main Street, these holding companies take $2.40 [in dividends] back to Wall Street," REA administrator Bryne complains.

Holding-company officials deny converting REA dollars into dividends: they say they're using them to improve service without big rate increases. "It's our obligation to provide telephone service at the lowest possible cost," says Anthony Hamilton, a RTE spokesman. "Therefore, we utilize REA loans wherever the circumstances justify."

So far this fiscal year, big holding companies already have applied for half the money in the $364 million REA loan pot, which is $51 million smaller than in fiscal 1990. Most of the money is for direct loans at 5%—appreciably less than the government's own borrowing cost. Companies also can seek guaranteed loans at 8.5% interest, but nobody does. "They refuse to take guaranteed money," the REA's Mr. Pratt says. "Would you at 8.5% when you can get direct loans at 5%? They can wait until their turn comes in the queue."

But while many smaller REA borrowers clamor to restrict the big and the rich, some people abhor the notion of a means test—and denounce any ban on holding-company borrowing. "There's no reason why rural customers of Century should be discriminated against," asserts Stewart Ewing, chief financial officer for Century, based in Monroe, La., which led all borrowers last year with $82.6 million. "The cost of 10 miles of cable is the same for Century as it is for anybody else."

The REA-loan beneficiaries aren't the borrowers but the customers, adds the United States Telephone Association, the big companies' lobby. Recently, the USTA, a powerful ally of the rural phone lobbies, entertained lawmakers and top aides at the tony Virginia Gold Cup steeplechase, pouring out the champagne beneath a sundappled tent after the running of the U.S. Telephone Cup race.

One suggested compromise that some holding companies may be willing to accept: Dispense with the once-a-borrower, always-a-borrower rule and go back to the original REA guideline: Funds can be borrowed only to serve a community with a population of less than 1,500.

"We should be considered ahead of the big boys, simply because of our limited [profit] margins," says Benjamin Vigil, manager of La Jicarita Rural Telephone Cooperative, which serves Mora County, N.M., one of the nation's poorest regions. "REA stands for rural," he says. "It isn't being run as it was meant to be."

HONORING LT. COL. ED HIESTAND, USAF RESERVES

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. McEWEN. Mr. Speaker, I rise today to recognize and honor the outstanding service of Lt. Col. Ed Hiestand, USAF Reserves, a navigator of the highly effective C–130 transport planes with the 907th Tactical Airlift Group.

Colonel Hiestand, a tremendous asset to the U.S. Air Force who has served for the past 28 years, was activated to full-time active duty status on January 21 of this year. The transport planes of the 907th Tactical Airlift Group were needed to accomplish the historic movement of American troops, equipment, and supplies to the Persian Gulf.

The airlift accomplishments of our Air Force during Operation Desert Shield and Desert Storm are unparalleled in military history, playing a vital role in allowing the American Armed Forces to utterly dominate the fourth largest military in the world. Colonel Hiestand has earned our heartfelt thanks for contributing his invaluable skills to the 907th TAG and helping the Air Force accomplish this logistical miracle.

Mr. Speaker, I have the pleasure of considering Ed Hiestand a friend. Along with his service to the country, Ed is a proud father and devoted husband. Ed and his wife, Helen Hiestand, have been leading members of the First United Methodist Church in Hillsboro, OH, for years. His two children, Joe and Janis, have each followed in their father's footsteps, becoming proud members of the Armed Forces Reserves.

Colonel Hiestand's devotion and loyalty to our country can be seen in his distinguished Air Force career. 1990 and 1991 were not Colonel Hiestand's first years of service to America during wartime. Like many servicemen who took part in Operation Desert Storm, he proudly and honorably served his country during the Vietnam war. He spent 6½ years on active duty as an electronic war officer, and flew on a number of rotations in Southeast Asia during the Vietnam war.

After completing his active duty service in 1970, he entered the reserves and became a navigator of C–123's in the Buckeye Wing of Clinton County. Due to the introduction of the new C–130's in 1981, Colonel Hiestand was required to learn an entirely new navigation system. His significant peacetime service included running a rotation out of Panama and making Embassy runs out of Howard Air Force Base.

During wartime, Colonel Hiestand has served the United States with distinction and valor. During peacetime, he has personified the vigilant professionalism that protects the freedom and values the American people hold so dear.

Mr. Speaker, Colonel Hiestand's contributions to the Air Force will continue to benefit the Nation well into the 21st century. As the 907th Tactical Airlift Group is one of the last reserve outfits to leave the Persian Gulf, I'm sure my colleagues join me in commending and thanking Ed Hiestand and the 907th for their service to America, and their dedication to the principles of freedom and democracy.

CHEMICAL FIRMS FIND THAT IT PAYS TO REDUCE POLLUTION AT SOURCE

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. WOLPE. Mr. Speaker, I commend to my colleagues the following article on waste reduction which appeared in last week's Wall Street Journal.

Wall Street Journal reporter Scott McMurray's article highlights the private sector's discovery of the win-win strategy of reducing pollution at the source: It's good for business and good for the environment.

Source reduction—by cutting material and energy costs, curbing pollution and making operations more efficient—makes good economic sense for all enterprises, but particularly for the 10 companies producing over 25 percent of the 5.7 billion pounds of U.S.-generated toxins.

As costs of waste disposal and cleanup increase, it is critical that we shift the focus from pollution control to preventing the creation of pollution in the first place. As Congress begins the RCRA debate, I urge my colleagues to consider the significant advantages of a greater emphasis on incentives for source reduction.

[From the Wall Street Journal, June 11, 1991]

CHEMICAL FIRMS FIND THAT IT PAYS TO REDUCE POLLUTION AT SOURCE—BY ALTERING PROCESS TO YIELD LESS WASTE, THEY MAKE PRODUCTION MORE EFFICIENT—DOW REUSES A TOXIC SOLVENT

(By Scott McMurray)

The chemical industry's record on the environment has been a sorry one. Despite tougher regulation and pressure from public interest groups, it still accounts for nearly half of all the toxic pollution produced in the U.S.

Yet lately, a new force has been driving the industry to clean up its act: economics.

In a major shift, chemical companies are viewing waste not as an unavoidable result of the manufacturing process, but as a measure of its efficiency. The more unusable byproducts a process creates, the less efficient it is—and the more economic incentive there is for making it better.

That's what Du Pont Co. discovered at its Beaumont, Texas, plant, which makes products for plastics and paint. For years, the facility had been spewing out a staggering 110 million pounds of waste annually. Du Pont engineers argued that reduction the pollution would be too expensive.

NOT WASTE AFTER ALL

But when they took a second look last year, they found just the opposite was true. By adjusting the production process to use less on one raw material, they were able to slash the plant's waste by two-thirds. Yields went up and costs went down. The savings: $1 million a year.

"When I heard about it, I just said: 'That's amazing,'" says Edgar Woolard, Du Pont's chairman and chief executive officer. He says the company now even sees waste reduction as a way to achieve a competitive advantage.

Environmentalists heartily support this view. Slashing toxic waste production "is very similar to energy conservation in the 1970s: There is a potential for massive savings," says David Roe, a lawyer with the Environmental Defense Fund.

The entire chemical industry, says Environmental Protection Agency administrator William Reilly, is "getting religion" about the benefits of cutting wastes.

Other industries, from semiconductor makers in Silicon Valley to metal processing companies across the Rust Belt, are also beginning to focus on toxic waste reduction as a way to cut costs, curb pollution and make operations more efficient. But it's the chemical industry that has the most to gain from waste reduction savings simply because it churns out so much.

According to the EPA, in 1989, the last year for which figures are available, the industry produced nearly half of the 5.7 billion pounds of toxins generated nationwide and tracked by the EPA. Chemical company officials say that, since then, the proportion has stayed roughly the same, though the total amount of toxins released in the country is believed to have declined. Some environmentalists have argued, however, that the EPA significantly understates the total amount of toxins discharged into the environment.

A BIGGER PICTURE

Richard Mahoney, Monsanto Co.'s chairmand and chief executive officer, estimates that there is $125 million worth of material that currently isn't recovered from the waste that leaves the company's plants. What's more, other costs associated with waste are rising. They include processing, disposal and cleanup, not to mention lawsuits and government fines when those jobs don't get done right.

Dow Chemical Co., for instance, recently spent $30 million building a waste incinerator and dump to handle toxic materials at its plant site in Midland, Mich. And, earlier this year, Monsanto paid the state of Massachusetts $1 million to settle claims that its Everett, Mass., plant didn't report certain waste-water discharges. It paid another $192,000 to a trust fund that supports the cleanup of Boston harbor. Last year, it forked over $27 million to clean other sites. At year end, it had an accrued liability of $120 million on its balance sheet to cover certain future cleanup costs.

Chemical companies, however, might have made substanital cuts in toxic emissions sooner had they recognized some of the potential economic advantages, such as lower materials costs. "One of the differences is that we're now putting some of our best people into this area," says Robert Luft, Du Pont's senior vice president. "When you do that, you can start making some fast progress."

THE LEGACY OF BHOPAL

In the past, chemical companies used to focus merely on complying with federal and state pollution laws for specific chemicals or plants. They didn't pay much attention to the aggregate amount of waste they produced each year, or the future liability it represented. Waste disposal costs were low, and the typical approach to pollution often was the dilution solution: Dilute wastes in massive amounts of air up a smokestack or water out the end of a sewer pipe. More-permanent solutions were unattractive. They almost always involved adding equipment, which meant higher costs, and, thus, intense corporate resistance.

That began to change after the deaths of more than 3,800 people in Bhopal, India, following the release of a cloud of toxic gas at a Union Carbide Corp. subsidiary in 1984. The disaster led to U.S. legislation in 1986 directing the EPA to compile and publicize a survey of toxic emissions, which put pressure on big polluters to do more than just meet minimum government standards.

In the process, companies began to discover economic advantages, as well. Some came from increasing production efficiency, while others came from finding other uses for some of the byproducts. Along the way, companies began to conclude that pollution was a sign of a bad manufacturing system. "When you make a lot of waste you know you don't have control of your operation," says Mr. Woolard, Du Pont's chairman.

Dow Chemical has been applying the same philosophy to its operations. For example, it estimates that, by recycling a toxic solvent used to make its Verdict herbicide, it is now saving about $3 million a year, and halving the amount of solvent going out the door as waste.

At its Plaquemine facility near Baton Rouge, LA., Dow spent $15 million on waste reduction projects last year that it says have already saved $18 million in toxic waste disposal and raw material costs. The company promotes these projects internally with the acronym WRAP: Waste Reduction Always Pays.

Monsanto says that is nylon fibers plant in Pensacola, Fla., has cut its toxic air emissions by about 90% since 1987, and saved a few million dollars a year in raw materials expense. The plant is capturing a toxic solvent in a mineral-oil bath before it escapes up a smokestack. It then recycles the solvent back into the production process. The mineral oil isn't wasted either: It is returned to the plant, where it captures more solvent.

CAPTURING A CARCINOGEN

Monsanto says, it's Sauget, Ill., plant, across the Mississippi River from company headquarters outside St. Louis, cut its air and water emissions of PDCB, a carcinogenic chemical used in making mothballs, by 90%, or one million pounds. The company cooled the plant's waste vapor and captured the crystallized chemical for reuse before it was emitted. Loading the product directly into tank cars under sealed conditions cut vapor emissions even further.

In some cases, the industry is constructing new plants that incorporate the latest waste reduction technology. A new Du Pont herbicide plant, near Dunkirk, France, is expected to produce 90% less pollution than an existing facility. Among other things, it will distill and recyle solvents.

In other cases, chemical companies are tying together production processes at different plant sites to cut waste and save on raw material costs. Last fall, a Du Pont plant in Mobile, Ala., that makes herbicides and insecticides began tapping into the waste stream leaving the plant, pulling out solvents and titanium byproduct that it used to incinerate. The solvents get recycled into the plant's own operations, while the titanium is treated and shipped to a Du Pont plant in DeLisle, Miss., where it is used to make paint pigments. By integrating production this way, the Mobile plant cut its annual toxic emissions by about 25 million pounds, nearly 20%.

GETTING ALONG

Besides cutting costs, these waste reduction programs help companies earn public good will, as well as meet demands from regulators and environmentalists. Arco Chemical Co. is using several waste reduction processes to meet the stiff environmental standards that apply to the expansion of its Channelview, Texas, propylene oxide plant just east of Houston. The Arco Chemical plant, where 17 workers died in an explosion last July, is in an area of back-to-back oil and chemical plants that parallels the ship channel leading to the Gulf of Mexico.

"Roll down your car window and the aroma will knock you over," is how George Smith, of the Sierra Club's Houston chapter, describes the area.

The environmental group feared Arco Chemical's plant expansion would fill the air with an excessive amount of benzene, so it threatened to put the plan through a lengthy public hearing process. In response, Arco Chemical agreed to install a distillation process to recover benzene from liquid waste at the plant. The process keeps much of the benzene from reaching the plant's water treatment unit, where it could partially evaporate into the air before decomposing.

As it turns out, the added cost of the distillation process is largely offset by savings from the benzene that's recycled, says John Evans, environmental superintendent for the plant. And when all waste processes are in place, including catalytic converters that break down hydrocarbons before they go up the smokestack, the expanded facility will emit substantially fewer toxic chemicals than the original plant, even though production will have increased 200%, Mr. Evans says.

Environmentalists say the chemical industry still has a long way to go before it gets unqualified praise. But chemical companies contend that both regulators and the public will continue to see a substantial reduction in their output of toxic wastes. Monsanto, Dow and Du Pont all say their emissions have declined by between 30% and 50% in the past four years. They add that the numbers will continue to drop in the years ahead. The EPA is providing additional incentive: Last month, the agency proposed extending the deadline for required pollution controls at plant sites if companies speed up voluntarily cuts in their emissions.

Even though some of the short-term costs for the new waste reduction programs have been high—more than $200 million a year at the largest chemical companies—Monsanto's Mr. Mahoney says it is money well spent. "Our initiative and commitments to environmental protection will, over the long term, make us more efficient, more cost effective and more competitive," he predicts.

THE TOXIC TOP 10 U.S. COMPANIES RANKED BY THE AMOUNT OF TOXIC WASTE PRODUCED BY THEIR VARIOUS FACILITIES [1]

Company	Facilities	Toxic waste (in millions of pounds)
Du Pont	85	348.40
Monsanto	33	293.83
American Cyanamid	29	202.09
BP America	18	123.66
Renco Group	2	119.08
3M	51	106.04
Vulcan Materials	2	93.15
General Motors	133	87.87
Eastman Kodak	23	79.48
Phelps Dodge	19	77.42

[1] 1989 figures (latest available).

Source: Environmental Protection Agency.

PRESIDENT BUSH'S REMARKS AT STEALTH DAY

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. DORNAN of California. Mr. Speaker, I would like to share with you President Bush's outstanding remarks on the F-117 and B-2 bomber. He delivered these remarks on June 11, 1991, to the distinguished visitors to "Stealth Day" at Andrews Air Force Base.

Every President since Harry S. Truman has dealt with the critical issue of nuclear deterrence. President Bush continues this awesome resonsibility which is embodied in the Strategic Air Command. We must not lose sight that the primary mission of the Strategic Air Command is deterrence—conventional as well as nuclear. The Soviet Union, with its robust strategic program and massive array of air defense systems, still represents the primary strategic threat to the United States. East-West tensions have abated for the time being, but we must remain vigilant and ensure an effective deterrent.

The age of the current United States bomber fleet and the continued improvement of Soviet and regional defenses make bomber modernization even more imperative. The B-2 is the ideal choice. The B-2's long range, large payload, efficiency, and revolutionary stealth technology will allow it to penetrate heavily defended areas to reach its target. Compared to its value and the unsatisfactory alternatives, the B-2 is worth the cost.

I urge you to take the time to read the President's outstanding statement and support this important defense program:

REMARKS BY PRESIDENT GEORGE BUSH

Thank you all very much. And I hope everybody's enjoyed this tour as much as I have. And first, let me pay my respects to the men and women of the US Air Force. I was telling General McPeak and the Secretary that I am always so impressed by you all's dedication, certainly service, and I'm just delighted to be here with those that have made this exhibition possible from the research stage and right on up to now. I want to salute Dick Cheney, of course, our leader—one of our leaders. Bob Dole is with us today. Don Rice, of course, our Secretary. General McPeak, you've heard me speak about him. And members of the Senate who took the time to come out here today, our chairman, Sam Nunn, and others. And I'm just delighted you all are here.

Senator Warner, Senator Nunn, and the members of the committee have been strong supporters of stealth technology, even before the first prototype F-117 in 1977. And we've now seen the promise of stealth fulfilled with the remarkable success of the F-117 in Desert Storm. The F-117 carried a revolution in warfare on its wings over Baghdad. And these remarkable aircraft flew only about 2 percent of the combat sorties, but struck over 40 percent of the strategic targets. The success of the 117 is a tribute to those men and women who could see, even in the '70s, the potential of stealth, the need for stealth, and had the strength and perseverance to see it through.

Among those who deserve special credit for this accomplishment are the members of this committee who gave that plane, the F-117, their strong and continuous support. And there now is no question stealth works. And it's been proven in combat, and it broke the Iraqis' back and it saved precious American lives. It flew hundreds of sorties through the most heavily defended areas without a scratch.

And the B-2 takes the next generation of stealth and applies it to a strategic bomber. This leap in technology will make a unique contribution to nuclear deterrence and will deliver the enhanced conventional capability that F-117 pilots say they'd most like to have—more range, more payload. The B-2 has five to six times the range and 10 times the payload, 10 times the payload of the F-117.

Some claim they don't understand the mission of the B-2. Well, let me try to clear it up. The mission of the B-2 is deterrence, nuclear deterrence, conventional deterrence, a deterrence all across the spectrum. And with the smaller forces and budgets that we're looking at in the '90s, that's the kind of flexibility and value that America needs. We need the B-2 bomber. We cannot allow the House actions that would terminate this vital program to stand.

Partners with the B-2 in deterrence are the new Cruise missiles that also embody stealth technology, and they will provide a cost-effective way to keep some of older bombers viable and they add a unique capability to even our modern systems. No student of the Gulf War can doubt how combination of Cruise missiles and manned aircraft can overwhelm an enemy's air defenses.

And finally, Desert Storm should have made the importance of control of the air crystal clear to all. Air superiority—air superiority enabled the allied forces, air and surface, to operate with an effectiveness that amazed the world, and thank God, to operate with allied casualties as low as possible.

Today's generation of fighters drove the Iraqi Air Force from the skies. The F-22 that we see here, the prototype of the next air superiority fighter, combines stealth and maneuverability in a way that ensure the American forces in the next century will be able to count on control of the air. Stealth has really brought a revolution to air power. It is a leap in technology. It comes from American genius and ingenuity. It works and it's needed.

And it's an edge that can help guarantee our security in the ever more complex world that we will face in the future, and it's an edge that I want to give our country, and an edge that America's fighting men and women deserve to have should they ever be called on again. I'll fight for Stealth and I will fight for the B-2, and I appeal to the leaders here today and to others in the Congress to step up to the challenge and give it full support and full funding this year.

And I want to thank you again, everybody from the Senate that took the time to come out here today, and for those that are committed, let me tell you, please let us know what we can do, because this is priority, not simply to the administration, but in my view, to the country.

Thank you all very much for taking the time to join us. (Applause.)

CALIFORNIA WATER POLICY

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. MILLER of California. Mr. Speaker, as many of us know, the State of California is in the middle of one of the worst droughts in the State's 150-year history. There are many ways in which we can work together to solve the problem that knows no district or constituent boundaries. Something that I and others of the California delegation have been working on is reforming the water policy that governs the State in order to better use the precious and limited quantities of the resource that we have.

I would like to take this opportunity to share with my colleagues an article from the June 1991 issue of the California Republic. This article points to some of the challenging problems California faces with water supplies. This articles also shows solutions that will possibly create more efficient water use. Experimentation such as the University of California at Riverside's breeding of water-thrifty grain is the type of project that allows us to adapt to the changing times and bring about a more conservation-minded solution to the problem. I encourage my colleagues to keep the following article in mind when they think of the solutions to reform the policies that control California's, as well as our Nation's, water.

[From the California Republic, June 1991]

DRY UP!

(By Mark Thompson)

California wheat could learn a few things from some distant cousins growing in a field on the outskirts of Riverside. The scrappy crops at a University of California agricultural experiment station are primitive strains grown for millennia by farmers in the hostile terrain of Iranian Baluchistan. Agronomists at UC Riverside are trying to breed some of their water-thrifty ways back into high-yielding modern varieties that have long since forgotten the art of producing grain with little water.

Don't look for Baluchi wheats to sweep across the Central Valley any time soon. The varieties in the experimental plot still need work. A commercially viable cultivar instilled with the ancient genetic wisdom is many plant generations away. Yet for now, work on the wheat isn't even funded, its last grant having recently run out. As for farmers, most haven't even begun to consider that their crops might need an overhaul. They scoff at the notion that if they lose their cheap water, they could find salvation in the likes of primitive wheat.

They may be in for a surprise. It is increasingly evident that the California agricultural establishment will have to relearn how to make do with less water. Today's farming practices are products of the revolution in pumping technology that began a century ago, and the completion of massive dams and aqueducts after World War II, when it became a matter of faith that modern technology could conjure endless supplies of water for a pittance. Perry Stout, director of the Kearney Foundation of Soil Science at UC Davis, was one apostle of this way of thinking. On a trip to India's Ganges Valley in the 1960s, he recommended building "a nuclear-power agro-industrial complex" that would make fresh water from the sea and nutrients for the soil. This "marriage of agricultural technology and atomic power would turn the valley of the Ganges into a rival of the lush San Joaquin Valley of California," Stout proclaimed.

It is not clear whether Stout believed the peasants of the Ganges plain would enjoy such prosperity that they could shoulder the costs of such a system. But it is clear that while California farmers have been extremely productive—generating a $17 billion harvest, including half of the nation's fruits, nuts and vegetables, each year—they haven't come close to paying their share of water's true costs. Farmers take from 80-85 percent of California's developed water supply. Yet to date they have paid for only 5 percent of the federal Central Valley Project, while city dwellers pay up to 50 times more for their water.

So far, urban legislators have been willing to indulge agriculture with the illusion of cheap water because of an "enormous reservoir of good feelings and nostalgia for farmers," says Assemblyman Phil Isenberg, a Democrat from Sacramento and a leading advocate of water policy reform. But the mounting cost of drought in the cities is rapidly changing psychologies. For the $680 billion off-farm economy, water shortages could be costly indeed. According to a recent survey, major manufacturers would lose $8 billion in just the first year after a 30 percent cutback in their water supply, with ripple effects provoking even more devastation thereafter.

Two bills in the U.S. Congress would start nudging farmers off the dole. One, sponsored by Rep. George Miller, D-Martinez, would pervent farmers from receiving federal subsidies for both their crops and their water; it breezed through the House Interior Committee May 1 on a 38-2 vote. Sen. Bill Bradley, D-New Jersey, is in the midst of hearings on another more sweeping reform bill that gives a green light to sales on Central Valley Project water, as long as 25 percent of the proceeds is devoted to repairing environmental damage.

To hear spokesmen for the agricultural establishment tell it, an urban raid on farm water will spell doom for California farmers, and for all the farm dependent towns in the state's vast agricultural valleys. But while it is true that farmers are instinctively tradition-bound—disinclined to dump crops this year that paid their bills in the last—they surely are more flexible than the doomsayers think. The cities will not need that much of their water to begin with. A reasonably enterprising farmer could find ways to deal with that. Plenty of available crops produce more valuable harvests on less water than cotton, alfalfa, rice or pasture land: graps, for example. Or farmers could switch to winter vegetables instead of low-value, summer commodity crops. Or they could simply check to see that their fields need it before they apply more water, something remarkably few farmers have done to date. All it will take to kick start these new crops and new practices is a change in a century's worth of policies that have made water seem so much cheaper than it actually is.

Going into the fifth year of drought, saving water remained among the least of California farmer's concerns. And how can you blame them? The commodity has been so cheap and so abundant for so long that farmers would be fools to spend much on new equipment—or risk everything on a new crop—just to reduce consumption. "Farmers are business people. They like to make a profit," explains Blaine Hanson, an irrigation specialist with the Cooperative Extension Service, a UC program offering technical advice to farmers. "Right now, if you implement water conservation, it will actually cost you more money than you'll realize from saving water."

The relative lack of interest in saving water is reflected in the research budget of the state university's Division of Agriculture and Natural Resources, Henry Vaux Jr., director of the UC Water Resources Center, the office that serves as a clearinghouse for all water conservation research in the UC system, estimates that no more than 15 percent of the university's agricultural research budget is spent on water conservation; that would mean less than $12 million of the UC experiment station's $79 million budget is spent on learning how to save water. Water conservation projects get much smaller contributions from a number of special units within the division, such as the Sustainable Agriculture Research and Education Program, which has dealt out a total of about $1.5 million in grants over the past 4½ years. Federal agencies, such as the U.S. Department of Agriculture and the U.S. Geological Survey, chip in a few million dollars more in California each year.

The budget levels seem penny-wise and pound-foolish in light of the $640 million that Richard Howitt, an agricultural economist at UC Davis, says the agricultural economy stands to lose this year for lack of water—and his prediction is by far the rosiest of loss estimates, with others going as high as $2 billion for the year. Yet funding for water conservation is going down. "We're getting killed this year," says Vaux, whose center will have to absorb a second successive 5 percent budget cut.

That water conservation research gets such seemingly short shrift has never troubled California's farmers. They have been happy to see the focus on problems for more vital to their livelihoods; beating back the latest aphid or weevil, harvesting tomatoes with the least amount of labor, getting the cotton out of the fields before it rains. "Most California farmers have established conservation measures," insists Bob L. Vice, president of the California Farm Bureau Federation. Indeed, some recent advances *have* saved water. But that has usually been an unintended side-effect.

For example, most rice farmers in California now plant a semi-dwarf variety that is ready for harvest up to one month earlier than strains used before. That saves a month's worth of water. But of much greater interest to the farmers is the new varieties' 20-percent higher yield. One quarter of all rice farmers in the Sacramento Valley also have recently installed tailwater recovery systems to clean and recycle field water. This saves too, but has nothing to do with why farmers have gone to the trouble and expense; they were simply complying with regulations prompted by outcries a decade ago from downstream Sacramento residents about the noxious odor of their tapwater. Keeping the water on their fields longer gives the offending herbicide time to dissipate.

Some farmers across the state also are installing costly networks of pipes and drip lines, replacing the leaky earthen ditches that still are the most popular means of moving water around California farms. The most progressive farmers also use soil-moisture sensors, estimates of the evaporation rate available by phone from UC Davis, and computers to crunch the data. The information frees them from the old expedient of irrigating by the calendar whether their fields need it or not. These systems also save large amounts of water. But farmers are far more impressed with the drop in their utility bill.

Neal Johnson, an almond and citrus grower near Reedley, described his results with a sensor-monitored drip system in a recent article in *California Farmer* magazine. He cut his electric bill by a third and his water consumption by nearly a quarter. "I used to water every other week. Now I might go every week, but for only 12 hours, rather than 24. That lets me irrigate during non-peak hours, and when you're talking an electric bill of $15,000 a year, that's a huge savings," Johnson said. "I never realized how much you can overwater."

While soaring electricity rates are pushing farmers to use more efficient irrigation techniques, a sharp hike in water rates should prompt many others to do the same. But can farmers adjust quickly enough to survive?

"They're probably more prepared scientifically and economically than they are emotionally," says Assemblyman Isenberg. Adjusting to expensive water "requires shift in mindset." Assemblyman Jim Costa, a Democrat from Fresno and a vocal defender of California agriculture, disagrees. He insists farmers will need more than a new attitude to survive with any less water than they now get. "Some of these farmers can't switch crops so easily. They can't just grow anything in their soil," Costa asserts. "I think it's simpleton thinking to say we can just take a percentage of agriculture's water, give it to the cities and it will solve all our water problems. This would cause tremendous disruption."

California agriculture has weathered big changes in crop patterns many times before, Isenberg says. Before rice farmers moved into Glen and Colusa Counties in the Sacramento Valley, for example, wheat held sway. "Rice farmers drove the wheat farmers out of business," Isenberg says. "I bet the wheat farmers then said the same thing rice farmers are saying now: you'll destroy the economy, the world will come to an end, people will die in the streets in the big cities because they can't buy any bread. And of course none of that happened."

It is certainly in the best interest of cities to help farmers change their habits. Defraying the cost to farmers of installing new equipment will expand the supply of available water in the state without new multibillion dollar aqueducts and dams.

Pacific Gas & Electric, the utility serving much of the state's agricultural heartland in the Central Valley and the Sacramento River Delta, is pioneering energy conservation subsidy programs that water agencies could adapt. Farmers are consuming soaring amounts of electricity to pump water from aquifers that are sinking deeper by the day. Yet PG&E wants to hold down demand so that it won't have to build more power plants. So last year, the utility began offering farmers a rebate to reimburse them for part of the cost of replacing ditches with pipes. Seven hundred miles of pipe qualified for the subsidy last year. This year, PG&E is paying for a drip irrigation trial on a tomato farm outside of Davis. If the farmer saves water, thus energy as well, the utility may offer rebates for drip lines in the future.

The State Water Bank represents the most promising big step towards injecting market forces into the farm-water system. This spring the bank paid $125 an acre-foot to farmers who signed over a share of their water. The bank amassed 800,000 acre-feet before it stopped buying more. That water, the equivalent of a full year's supply for the city of Los Angeles, is now available for sale to cities and to other farmers who are happy to pay a good price to water orchards and high-value crops.

These trades seem like a fair deal, but farmers have been staunch opponents of water marketing schemes. Instead, the farm establishment is banking on big-time precipitation during the next rainy season to turn city heads away from all thoughts about farm water. "The issue of how much water farmers use is only an issue during a drought year," suggests Mary-Ann Warmerdam, natural resources director for the California Farm Bureau Federation.

In fact, the state's existing water collection system would be stretched to its limits even with no drought. And the cities aren't going to pay to capture more. Urban taxpayers won't serve as "quiet doormats" for rich farmers anymore, as Democratic Assemblyman Richard Katz, of Los Angeles, recently put it. "The thing that would really force farmers to change is another year of drought," says Isenberg. "Then you would see major changes in the way water is used in this state. And that would benefit both cities and agriculture in the long run."

Giles Waines, a UC Riverside agronomist who is working with the wheat from Baluchistan, hopes to see some more immediate benefits from the continuing drought. Now, some grant-making agency might pay attention to his proposal for further research on drought-tolerant wheat. Farmers, too, might see the wisdom of the ancient strains' water-thrifty ways. A bit more drought might make them see the light. "We all react to an outside stimulus," says Waines. "Farmers will do what they want to do until they have to change."

CONGRESSIONAL SALUTE GIVEN TO JEREMIAH DEMATTEO, WORLD WAR II VETERAN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. SOLOMON. Mr. Speaker, as you know I like to give recognition to vetarans who have served their country so unselfishly and who often have incredible stories to tell. Such is the case today with Jeremiah DeMatteo of Saratoga Springs, NY.

Private First Class DeMatteo was serving with Company G, 310th Battery, 78th "Lightning" Division of the U.S. Army when the Battle of the Bulge began. On December 18, 1944, his unit was engaged with enemy forces, suffering many casualties. The Germans surrounded and captured Mr. DeMatteo's outfit, marched them to a railroad siding 4 or 5 miles away in heavy snow and loaded them into freight cars.

Mr. DeMatteo and the other prisoners were taken to Stalag 12A just east of Berlin and remained there until liberated the following May 2, by the arriving Russian forces. Several days later, the Russians returned them to United States forces. They were then transported to American hospital ships at LeHarve, France. Aboard that ship they received their first shaves, showers, hot meals, and physicals since their capture.

Then it was back home to the States to be discharged.

Mr. DeMatteo also served in the Battle of St.-Lo in northern France, central Europe, and the Rhineland. He was awarded the Combat Infrantryman Badge, European Theatre Ribbon with Four Battle Stars, American Theatre, and Victory Medals.

After the war, Mr. DeMatteo worked for 30 years as an ironworker, foreman, general foreman, and superintendent on various construction projects in the Capital District, Glens Falls, and Saratoga areas. He was active in Albany Local 12, Ironworkers Union, in Albany.

He and his wife Alice have 3 daughters and a son, 10 grandchildren and 2 great-grandchildren. He has lived in Saratoga all his life.

Mr. Speaker, there are many stories like this, stories of good, patriotic men and women who serve their country, work hard, and raise families. They form the backbone of this great country of ours.

And so, I would ask all Members to join me in saluting Jeremiah DeMatteo of Saratoga Springs, whom I am very proud to represent.

SALUTE TO HERBERT O. REID, SR.

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. CLAY. Mr. Speaker, I would like to insert for the RECORD, an article paying tribute to a longtime political and civil rights activist that appeared in the June 15, 1991, edition of the Washington Post. Herbert O. Reid, Sr.

was a former acting dean and constitutional law professor at Howard University Law School. Mr. Reid participated in several landmark civil rights cases that helped dismantle racial segregation in public facilities.

[From the Washington Post, June 15, 1991]

HERBERT O. REID, LAWYER, KEY ADVISER TO BARRY, DIES—EX-HOWARD PROFESSOR NOTED FOR RIGHTS CASES

(By Bart Barnes)

Herbert O. Reid Sr., 75, legal counsel and key adviser to former D.C. mayor Marion Barry and a former acting dean and constitutional law professor at Howard University law school, died of cancer yesterday at George Washington University Hospital.

Reid also was a leading civil rights lawyer who participated in several landmark cases that helped dismantle racial segregation in public facilities. Those included the 1954 Brown v. Board of Education case in which the Supreme Court declared segregation in the nation's public schools to be unconstitutional.

He helped argue then-Rep. Adam Clayton Powell's case against his 1967 exclusion from the House of Representatives, winning a 1969 ruling from the Supreme Court that the barring of the Harlem Democrat from the House was unconstitutional because he met all legal requirements for the post and had been duly elected.

But in recent years, Reid was best known as a major player in the Barry administration and the mayor's foremost personal trouble-shooter. The two men met during the 1965 civil rights demonstrations in Selma, Ala., and they became close friends when Barry came to Washington as an organizer for the Student Nonviolent Coordinating Committee soon after.

"I guess it's a son-teacher relationship," Reid once said. "The one thing that's always been very exciting about Marion is that he's interesting. We share a tremendous enthusiasm that life can get better . . . . Marion was one of the few young civil rights activists who had some tolerance for the advice of those over 40."

As an influential figure in Barry's inner circle, Reid served as point man for the mayor in several sensitive areas. He was acting corporation counsel from 1989 until Barry's final term as mayor ended in January.

As the mayor's personal counsel, he looked after Barry's interests during investigations that led to the convictions of high-ranking and mid-level D.C. government employees, including former deputy mayor Ivanhoe Donaldson, of crimes related to their official duties.

In this role Reid often clashed with the U.S. Attorney's Office, angrily accusing prosecutors of leaking to the news media information derogatory to the mayor. But he did not represent the mayor in his trial last summer on drug charges. That defense was handled by R. Kenneth Mundy.

Yesterday, Barry described Reid as "a brilliant lawyer and an unsung hero of the civil rights and human rights movement. This community and a lot of us who were close to Herb will miss him."

Reid, who lived in Washington, was born in Wilson, N.C., and graduated from Howard University. He served in the Army during World War II and received a law degree from Harvard University law school. He joined the law faculty at Howard in 1947, and held an endowed chair there as the Charles Hamilton Houston distinguished professor of law. He was acting dean of the law school from 1972 to 1974. He retired from the Howard faculty in 1988.

His years at Howard covered a period in which top black law students came to be aggressively recruited by the nation's prestigious mainstream law schools, which previously had been cool toward the admission of minorities and women. He was acting dean during a time of student protests and a boycott that followed an increase in failing grades. In the face of this development, Reid insisted that Howard should continue to maintain high academic standards, despite the loss of some top-ranking students who might otherwise have enrolled at Howard.

In the late 1950s, one of his law students at Howard was a young Army veteran of the Korean War from Richmond named L. Douglas Wilder, now governor of Virginia. Once, when Wilder showed up for class hung over from a night on the town, Reid called him aside.

"You've got a good mind, but I'm going to fail your little ass," the professor said. "You're lazy, you're not productive, and you're not going to cut it."

Thereafter, Wilder buckled down and passed all his courses including Reid's.

While on the Howard faculty, Reid also was special counsel for the NAACP. In this capacity he took on a variety of civil rights cases that included defending the rights of poor tenants to improve their living conditions through rent strikes and the defense of seven persons arrested in a 1966 White House sit-in to protest racial injustices in Selma. He served on a private commission that investigated relations between the nation's police department and the Black Panther Party during the early 1970s.

Reid also serve on the board of trustees of the University of the District of Columbia. In this role he undertook the defense in 1985 of then-UDC President Robert L. Green, who was under fire for misuse of university funds for travel, consulting and sending flowers to personal friends. Green eventually resigned.

Reid's marriage to Ann Thompson Reid ended in divorce.

Survivors include his companion, M.L. Carstarphen, and a daughter, Carlene Reid Funn, both of Washington; and a grandchild. A son, Herbert O. Reid Jr., died last month.

MATERNAL AND EARLY CHILDHOOD HEALTH CARE ACT OF 1991

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. BRUCE. Mr. Speaker, many Members of this body talk about investing in our future, whether through infrastructure development, big science projects or better education. We often forget, however, that one of the best ways to invest in our future is to invest in prenatal care and infant health care. I rise today to introduce the Maternal and Early Childhood Health Care Act of 1991, which will help pregnant women and small children in medically underserved areas gain better access to health care. I am joined by my distinguished colleague Congressman ED TOWNS, in introduction of the legislation as a companion to legislation introduced by Senator KENNEDY.

Thirty-seven million Americans have no health insurance and one-third of them are children. More than 53 million insured Americans are underinsured, and 14 million women of child-bearing age are uninsured for obstetrical care.

In 1955, there were only five countries with better infant mortality rates than the United States. Today, with access to health care deteriorating, the United States ranks 21st in infant mortality.

In 1989, 33 million Americans were living in designated health manpower shortage areas, half in rural and half in urban areas.

This year, the President's budget includes funding for the implementation of a "healthy start" program, which would establish a new program to improve access to health care for pregnant women and children. This program would essentially take money away from already existing programs which have proven to be effective and implement a new program.

The Maternal and Early Childhood Health Care Act of 1991 will incorporate the President's request for funding into existing programs by making available grants for community and migrant health centers in medically underserved areas. The legislation would authorize funds for the development of new comprehensive prenatal, perinatal, and early childhood health programs in medically underserved areas where such programs do not exist. The funds would also be used for expanding the capacity of services provided for pregnant women and children up to the age of 3 in medically underserved areas where community and migrant health centers are currently operating comprehensive perinatal care programs. Services would also be developed for homeless individuals.

These programs would be designed to provide coordinated health care and support services to pregnant women and young children to increase positive birth outcomes, reduce infant mortality, and support healthy child development.

Since their beginning, community and migrant health centers have provided comprehensive health care to millions of low-income and medically underserved children and their families. Sixty percent have families below 100 percent of the Federal poverty level; most patients have incomes below 200 percent of the Federal poverty level. Nearly 50 percent are uninsured and more than 50 percent of homeless persons are served by these health centers. In 1987, Congress responded to an increase in the number of poor and uninsured families with children, a decrease in available obstetricians, and eroding maternal and infant health care by appropriating funds to establish the Comprehensive Perinatal and Early Childhood Programs.

In the first year of operation, health centers served 1 out of every 30 women who gave birth that year. Forty-five thousand low-income infants received better care, providing significant savings in health care, education, and other programs these children would have required if given poor perinatal care. As a result of these programs, 47 percent of the health centers served additional patients, 58 percent added new services, and 66 percent reported the availability of more health personnel.

These programs have gotten off to a good start. The first report, however, determined that an expansion of funding was needed to be able to fill the needs facing millions of low-income pregnant women and infants.

The bill also includes funding for vaccines for the health department of each State or large city that is operating an immunization program. Grants would also be available to provide immunizations for vaccine preventable diseases to children under 2 who reside in communities whose population includes a significant number of low-income individuals. This will increase the capacity of public health departments to deliver vaccines and facilitate outreach activities to improve the percentage of fully immunized children.

We know that measles was a very serious disease back in the 1940's. What many people do not know is that measles cases are on the rise and that the children in medically underserved areas are suffering the most. This must not be tolerated.

The Maternal and Early Childhood Health Care Act of 1991 is medically and fiscally sound. It provides for healthier infants, who become healthier, better-educated adults.

H. CARL McCALL: AT THE HEAD OF THE CLASS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. RANGEL. Mr. Speaker, I call the attention of my colleagues in the House to a rare and special man from New York, my good friend and colleague, Carl McCall. Last week, teachers and children in New York woke up to a particularly pleasing and hopeful piece of news: Mr. McCall had been appointed by Mayor David Dinkins to the city's board of education.

Mr. McCall will bring a needed shot in the arm to the board of education and its 900,000 public school children. He is known throughout New York as a firm and decisive leader keenly interested in the future of the city's children.

The board of education will become only the latest entry in a long record of distinguished service. Mr. McCall has previously served as a New York State senator, a member of the American mission to the United Nations under President Carter, and the director of the New York City Council Against Poverty.

Local educators and political leaders throughout New York have hailed Mr. McCall's nomination. Bronx Borough president Fernando Ferrer has called it "a first-rate appointment" and Manhattan Borough president Ruth Messinger praised Mr. McCall as "a spectacular choice."

Mr. Speaker, I invite my colleagues to read the attached New York Times article, "Grass-Roots Minister of Education," and to join me and the rest of New York in welcoming Mr. McCall to the board of education.

[From the New York Times, June 12, 1991]

A GRASS-ROOTS MINISTER OF EDUCATION: H. CARL McCALL

(By Joseph Berger)

H. Carl McCall, Mayor David N. Dinkins' candidate for president of the Board of Education, once taught for six months in a Boston high school, and the experience, he said, soured him on a career in teaching.

Even his hiring, he recalls, was disillusioning. A recruitment official took one look at his tall frame, and without checking his credentials, said: "You're just what we need at Jamaica Plain High School. You're big and you can keep order."

"It says a lot about a system and how they look at kids," Mr. McCall said in an interview today, laughing at the recollection. "I hope the New York City system is better.

Mr. McCall has spent most of his career as a politician and banker in New York. Still, his ability to keep order may be just what the Mayor wants in a board whose unruliness has sometimes embarrassed him and whose members were about to depose the president he had orginally chosen, Dr. Gwendolyn C. Baker.

COMPETITION FOR THE JOB

The Mayor's first test is whether he can turn his appointment of the 54-year-old Mr. McCall to the board into an accession to the presidency July 2. Ninfa Segarra, the board's Bronx representative, has disclosed her intention to seek the job.

In that contest, Mr. McCall will be able to help his own cause, given his long history, often at Mr. Dinkins' side, in the fray of both New York City and New York State politics.

Mr. McCall, one of six children in a welfare family, is now a vice president for governmental relations at Citibank, a job he will keep while he manages the theoretically part-time, $15,000-a-year board post ($20,000 if he wins the presidency). His job at the bank is to explain its position on financial regulation to legislators and municipal officials, many of whom are former colleagues. Making the case for the school board's policies, and its efforts to halt the shrinking of its budget, would be a change of content, not technique.

If elected, Mr. McCall would become the third black president of the school board. He was a state senator from 1974 to 1979, representing the relatively liberal West Side of Manhattan and Harlem. He was a member of the American mission to the United Nations under President Carter, and then ran unsuccessfully for lieutenant governor in 1982.

KNOWS GRASS-ROOTS POLITICS

Unlike Dr. Baker, Mr. McCall knows politics from the grass roots. He wistfully tells how he and Mr. Dinkins, then a Manhattan district leader, spent Saturdays registering Harlem residents to vote. Every signature had to be observed by a Democrat and Republican, so Mr. Dinkins and he gathered up a wizened Republican whose name they do not remember and sat him by their side so he could certify the signing of Democrats.

As a result of the experience, he successfully worked for registration by mail.

While Mr. McCall's career, in contrast to Dr. Baker's, has not been primarily in education, officials on the staff of Schools Chancellor Joseph A. Fernandez were pleased with the clout Mr. McCall would give a board that has struck some politicians as well-meaning but sometimes amateurish.

"He's a smart guy, he's got good political senses, lots of friends, and he commands the respect of the board," said one top official who spoke on the condition of anonymity. "He would be clearly a leader. He's got a pedigree."

FELT BENEFITS OF SCHOOL

Mr. McCall, a sometime tennis partner of the Mayor's, was born October 17, 1936 in the Roxbury section of Boston. His father left home when he was 9 and his mother, Carolesa, raised the six children with help from "a lot of caring people" in a local United Church of Christ parish.

"When I went to school it was clear that those people who were going to school were doing one thing and those who didn't were doing something else," Mr. McCall said.

The benefits of staying in school are a lesson he feels the school system needs to get across forcefully to its legions of dropouts.

ORDAINED AS MINISTER

With some help from his Sunday school teacher, Mr. McCall was admitted to Dartmouth on an academic scholarship. After graduation, he attended Andover Newton Theological School and was ordained as a minister in the United Church of Christ.

His ministry took him into mission work with the poor in New York City; he never held a pulpit. Boston, he implies, was not then a place for a young black man to get ahead.

In New York, Mr. McCall quickly immersed himself in the administration of Mayor John V. Lindsay and became head of the New York City Council Against Poverty, a training ground for many black officials.

Mr. McCall is married to Dr. Joyce F. Brown, a vice chancellor for urban affairs at the City University of New York. He has a daughter, Marci, 24, from an earlier marriage.

He says he chose to send her to such private schools as Bank Street and New Lincoln because "I was in a position to have that choice." He adds that he feels better about the public schools now than when she was growning up.

TRIBUTE TO JOEL McDONALD

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. OBERSTAR. Mr. Speaker, it is a pleasure for me to rise today in honor of a remarkable young man from my hometown of Chisholm, MN. His name is Joel McDonald, and he has recently been named Mr. Basketball in Minnesota, an honor bestowed upon the best male high school basketball player in the State.

Joel's basketball accomplishments are legendary. Starting with his first varsity game as an eighth grader for the Chisholm Bluestreaks, Joel dominated basketball in northern Minnesota as no one ever has. During his career, Joel scored 3,292 points, breaking the all-time State boys' scoring record set by Norm Grow of Foley High School in 1958. This year he averaged 40 points per game as Chisholm finished the year with 29 wins and one loss. He capped his phenomenal career by leading the Bluestreaks to the 1991 Minnesota Class A State championship, giving his father Bob McDonald his third State title as Chisholm's head basketball coach.

Although his accomplishments on the court are unprecedented, Joel McDonald is more than simply one of the greatest basketball players in the history of Minnesota. Despite his grueling athletic schedule, Joel has maintained an A average with a difficult courseload. Through years of hard work and dedication, he has shown that difficult goals can be achieved in the classroom as well as on the basketball court.

More important than anything else, Joel is known by everyone acquainted with him as an outstanding young person who others throughout northern Minnesota look up to as a positive role model. It is with the greatest pride and adulation that I stand here today to extend my congratulations and appreciation to Joel McDonald of Chisholm High School, Minnesota's Mr. Basketball for 1991.

ILL WIND IS BLOWING FROM FRANCE

HON. RICHARD K. ARMEY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. ARMEY. Mr. Speaker, at a time when freedom is in the air across the globe, even behind the once impenetrable Iron Curtain, an ill wind is blowing from, of all places, France, our Nation's original ally in our quest for freedom.

Yet today, in France, the Honorable Jean Pierre Bequet, a Socialist member of the National Assembly, has introduced a bill to establish absolute state control over voluntary civic associations which receive contributions from the general public.

And, unfortunately, all the indications show that this bill, due to the backing of the Socialist government, has a real chance of passing.

Among its onerous stipulations, this Socialist proposal mandates that these associations submit to the government, in advance, their plan of action for each and every fundraising project.

However, such stipulation could easily turn into mandatory prior government approval for any drive soliciting voluntary contributions from the public.

The state would require separate accounts for each specific project and audit them to enforce its edict that not a single cent given in response to a specific appeal be used for any other purpose no matter how directly related.

This big brother bill being pushed by the Socialists constitutes a nearly total nationalization of what are not the free associations of the French people and the demise of two of the fundamental freedoms of the French citizen, the right of the people to assemble peaceably, and, of course, their freedom of speech.

Mr. Speaker, as I noted at the outset, it is particularly disturbing that just as the former satellites of the Communist bloc are looking to the West as a model of liberty, such a sorry example would be given by the French Government. Especially so, when this same Government has just celebrated the bicentennial of the Declaration of the Rights of Man.

For all these reasons, the elected representatives of the French people in voting on this antidemocratic measure should reject resoundingly its abusive abridgment of their legitimate right as free men.

RESOLUTION TO RECOGNIZE THE 75TH ANNIVERSARY OF THE NATIONAL PARK SERVICE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. LAGOMARSINO. Mr. Speaker, it gives me great pleasure to introduce today along with my colleague and esteemed chairman of the National Parks and Public Lands Subcommittee Mr. VENTO, a resolution recognizing the 75th anniversary of the National Park Service.

As a long time supporter and advocate for our national parks, I am pleased to be able to participate in the celebration of this great American institution. Although the agency which we are celebrating with this resolution is just 75 years old, national parks themselves are an idea the American people brought to the world 119 years ago. Since the American people first endorsed the concept of national parks at Yellowstone, over 100 other countries have implemented park programs based on this model.

America's park program continues to be recognized as a world leader. Our park professionals are frequently called upon to lend assistance to such internationally important sites as the Taj Mahal and the great wildlife parks of Africa.

When established in 1916, the Park System consisted of 33 areas, primarily large and spectacular landscapes in the American west. Since those early years, the Park Service has evolved to include 357 different units. Responsibilities of the agency now range from large natural areas such as Yellowstone and Grand Canyon, to urban and non-urban recreational areas and such cultural sites as Independence Hall and the Washington Monument. This diversity of park areas has become woven into the cultural fabric of the American people. Since the early part of this century when President Theodore Roosevelt proclaimed the Grand Canyon as the one great sight that every American should see. Units of the National Park System have become the number one destination for American vacationers. Last year parks recorded about 265 million visitors.

When the Park Service was established in 1916, the agency was given a dual mission of resource protection and providing for visitor use. Different interests promoting each of these sometimes competing missions have been attempting to define the direction of the agency since that time.

While reflecting on the accomplishments during the first 75 years of the National Park System, we cannot help but examine the challenges of the future. The future of our parks will be determined by how we are able to answer two fundamental questions: First, how NPS manages and protects parks already in the Park System and second, what additional responsibilities and resources the agency will be charged with protecting.

I look forward in this diamond anniversary year of the National Park Service to beginning to address these important questions. I hope that all members will join with the chairman and myself in supporting this resolution and working to answer these questions which will decide the future of this American institution.

CHOICE OF LIBERTY AND DEMOCRACY

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. DELAY. Mr. Speaker, last Saturday, June 15, 1991, Russian citizens announced to the world their choice of liberty and democracy by electing Boris Nikolaevich Yeltsin, President of the Russian Republic.

We, as American citizens, should look at this election as a new hope for all peoples currently under the government called the Soviet Union.

The Russians have claimed their right to private property, to free enterprise, to civil liberty—rights that we claimed more than 200 years ago as we battled another imperialist government.

We looked for support then, which we received. We should offer support now. Let's demonstrate our love of freedom for all peoples by showing our support for the newly elected Russian President, Boris Yeltsin.

Mr. Speaker, I submit for the record a copy of a letter I have sent to President-elect Yeltsin, congratulating him and offering my encouragement and support for Russia's fledgling democracy.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 18, 1991.

HON. BORIS N. YELTSIN,
President-Elect, Russian Soviet Federated Socialist Republic.

DEAR MR. YELTSIN: The recent developments in the Russian Republic and the Soviet Union generally, including your election, have given hope to many of us here that the Russian people will at last have a government worthy of them. After centuries of authoritarian rule, freedom and democracy finally appear to be gaining strength in Russia.

My purpose in writing to you is very straightforward. First, I wish to congratulate you for responding to the demands of the people for democracy and free market reform. You have repeatedly and courageously defied pressure from the central government, a pressure to sell out the Russian people and abandon their freedom.

I am certain that influence will continue and, perhaps, intensify. I urge you to resist such pressure and, instead, remain sensitive to popular appeals. Above all, remain steadfast in cultivating political and economic freedom for your people.

I greatly admire your courage, your persistence, and your vision for the future of Russia. Two hundred years of democracy and a free market economy have brought America peace, plenty, and—perhaps most precious—individual liberties.

My earnest desire is for you and your people to enjoy the same, and I am one American who stands ready to assist and support you in this historic effort.

Sincerely,

TOM DELAY,
Member of Congress.

A TRIBUTE TO THE 1176TH U.S. ARMY TRANSPORTATION UNIT

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mrs. BENTLEY. Mr. Speaker, it is with great respect and admiration that I recognize the 1176th U.S. Army Transportation Terminal Unit, of Baltimore, MD, for their hard work and dedication in support of Operation Desert Storm.

The 1176th Reserve Transportation Unit was activated on August 27, 1990, when our involment in the Persian Gulf was called Operation Desert Shield, and they still are working today. The unit has been working grueling hours, usually in excess of 12 hours a day, and only receive about one weekend a month to return home and visit family. With this in consideration, I am pleased to say that they have been tentatively scheduled for deactivation on June 30. I am certain their family and friends are very pleased to learn that their loved ones will be coming home.

The role of this unit is of utmost importance and was vital to the success of Operation Desert Storm. It is the responsibility of this unit to supervise the loading, and now the unloading, of ships carrying a wide variety of military hardware and supplies. The unit's responsibilities include the creation of stow plans, documentation, safety, and security of the cargo. They coordinate work with stevedore operations, account for all cargo, provide legal support, and perform contracting and administration functions. What makes the unit even more unique is that it has no counterpart in the active military.

Since August 1990, the members of the 1176th have worked feverishly to support Operation Desert Storm and hold the distinction of being the longest serving Reserve unit in the United States. I am also proud to say that, this year, the Army ranked the 1176th the No. 1 Reserve transportation unit out of 14 similar units across the United States.

Comprised of teachers, lawyers, and other civilian occupations, the men and women of this Reserve unit have performed remarkably and are a credit to their training. This unit of approximately 80 members, primarily from Maryland, Virginia, Pennsylvania, and the District of Columbia, is bringing its monumental task to a close. The members' awesome responsibility serves to highlight the importance of adequate sealift capability, of which I have been a strong advocate.

Unless we can move men and material quickly and safely in large quantities, we can never support a protracted conflict. Our military sealift ability is the first step and foundation for any military involvement. We cannot neglect the importance of sealift capability.

As we fast approach the Fourth of July and anticipate the celebrations and parades, we should be mindful of the sacrifices others have made on behalf of our freedom. While we rejoice in the return of our troops from the Persian Gulf, I ask that we also remember those who have fallen in the line of duty, as they deserve our utmost respect. We should also be thankful for those who made such a stunning victory possible, the families and loved ones of servicemen, those who are still in the Persian Gulf, and those who, like the 1176th still are working to bring the tons of equipment and supplies home.

Mr. Speaker, my fellow collegues, I am proud to recognize the 1176th U.S. Army Reserve Transportation Unit. I look forward to the unit's return and welcome its members. They have served our Nation well, and I ask you to join me in paying tribute to these fine individuals.

BILL WOODS' OFFICE GOT TOO BIG

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. PICKLE. Mr. Speaker, years ago I worked alongside Bill Woods when he was a dynamic member of the Austin American Statesman. He was a very respected and recognized journalist, and a good friend.

Bill left the newspaper because it was getting too big, and he took a position with the new State Department of Public Welfare in 1969, which is now called the Texas Department of Human Services. Now he is retiring from that office because it has become too big.

Recently, the Austin American Statesman submitted a special article about Mr. Woods, and I am pleased to insert it in the RECORD.

COMPLEX MAZE AT DHS EVEN AWES SPOKESMAN

(By Mike Ward)

With its webwork of programs, the Texas Department of Human Services is the kind of place that drives Capitol budget-writers crazy and makes lawmakers see red.

Even its own board members sometimes can't translate the official double-speak in its $4 billion operations. Now, the agency's public relations guy for 22 years, William "Bill" Woods—the person responsible for making this mammoth state bureaucracy comprehensible to the average Texan—is retiring.

And guess what?

Woods, 62, says the place almost has become too complex for him.

"When I first came here, there was a one-page monthly statistical report that summarized everything—how many clients came on, how many went off, what the agency was doing," Woods said.

"Now that would take hundreds of pages. I really don't understand how they manage the complexity of this agency anymore," he said. "It amazes me."

At a time when the Legislature is considering breaking up DHS into smaller agencies, to lessen its complexity and improve its management, Woods' words may find sympathetic ears at the statehouse.

As Sen. Chet Brooks, D-Pasadene, summed it up at a recent hearing: "Complex is too simple a word" for DHS.

Woods became the agency's first public information officer in 1969, when it was called the State Department of Public Welfare and had fewer than 4,000 employees—one-fifth the number it has now.

"The place needs someone who can tell people what it does," Woods said he was told when hired to work for then-Commissioner Burton Hackney. "Up until that time it had been an agency known primarily for old-age pensions."

It was new territory for Woods, a longtime newspaperman and the son of a newspaperman. "Hell, I'd never even heard of the agency myself," he said.

Then-managing editor of the Midland Reporter-Telegram, Woods had worked previously as city editor and a reporter at the Austin American-Statesman. It was there, while covering Austin City Hall in the 1950s, that he was credited with naming Town Lake.

When Woods joined the welfare agency, there were four assistance programs. Now there are dozens. Back then, its entire headquarters staff was housed in a portion of the Reagan State Office Building; its central offices now fill three office towers covering more than a city block.

The bureaucracy was blossoming. By the early 1970s, federal programs enabled the agency to add a prescription medicine and child protective programs. Medicaid and Medicare were greatly expanded. Food stamps were offered in all 254 counties. Welfare eligibility and health programs grew.

"The board meetings used to be simple meetings—discussion about specific policies, who needed to be helped, how we could do it," Woods said. "But as the programs grew, things got more and more complex. One program was added on to another, one rule changed here and another added there, until it grew slowly to where we are today."

Like others, Woods believes that the complexity of the agency—most of it through federal rules and mandates—is its worst enemy. That has become especially true at the Legislature, which has become increasingly short-tempered with the labyrinthine programs and constant demand for a bigger budget.

Mike Jones, 32, who is replacing Woods as DHS public information director, agrees. It will take years to learn the programs, he said.

"There may be other agencies that are more politically sensitive, but I don't know of any more complex," said Jones, who spent seven years at the Texas Department of Agriculture before joining DHS.

One example, from a recent board meeting agenda: "Redetermination of cost-finding methodology and reimbursement rate structure."

Translation: Nursing home payments may be changed.

As one of his last chores at DHS, Woods has been working for several months to compile the agency's history. To be published later this year, it's now 827 pages thick and, like its namesakes, growing.

Woods, known for his trademark pipe and affable manner, is to be feted today at a DHS reception. He will officially retire from the $48,000-a-year position at the end of the month, taking with him the old, black Royal manual typewriter that sits in a corner of his office—the mark of a simpler, bygone era.

"Not only can I not name all the programs that the agency has now, I can't think of anyone who could tell me that," Woods said.

"When I started, I could count them all on one hand."

THE EXPORT OF CALIFORNIA ALMONDS TO THE SOVIET UNION

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. HERGER. Mr. Speaker, the President has recently extended $1.5 billion of credit through the GSM-102 Program to the Soviet Union, which has been an important customer of agricultural products. This credit extension will enable it to continue making purchases of agricultural commodities from the United States.

Mr. Speaker, California almonds have long enjoyed a good market in the Soviet Union. The U.S.S.R. is presently planning to purchase almonds for shipment later this year so that they may be available for the Christmas trade. I support this trade between our two countries.

Blue Diamond, the major almond exporter in California, has often told me of the successful relationship it has with the Soviet Union. I support and encourage this.

NEW MEXICO SCHOOL WINS DOE CONTEST

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. RICHARDSON. Mr. Speaker, it gives me great pleasure to advise my colleagues that a small elementary school in my district has won the Department of Energy's National Poster Contest. The 12 students attend Las Conchas Dam Elementary School, a 1-room schoolhouse in rural northeastern New Mexico near Las Vegas, NM.

I ask my colleagues to join me in congratulating these outstanding young people for creating the winning poster in a nationwide contest promoting our Nation's energy strategy. I am most proud of these students—they deserve our unconditional support and congratulations. I invite my colleagues to read more about them in the following release provided by the Los Alamos National Laboratory.

NEW MEXICO STUDENTS WIN DEPARTMENT OF ENERGY NATIONAL CONTEST

LOS ALAMOS, NM, June 6, 1991.—Twelve elementary school students from a one-room schoolhouse in rural northeastern New Mexico were recently honored at Los Alamos National Laboratory for winning the Department of Energy's National Poster Contest.

The students, kindergartners through sixth graders from Las Conchas Dam Elementary near Las Vegas, came to the Laboratory May 30 to receive individual medals and certificates signed by Energy Secretary James Watkins.

Nevada Grassi, the only fourth grader at Las Conchas Elementary said, "We're usually not even put in contests, so winning this one was pretty neat."

"The kids were very excited and surprised to win," said Sue Gabbert, who teaches at the school. "I don't think they really expected it since we're such a small school."

The winning poster, titled "Stepping Into a Better World," depicts alternative energy sources less harmful to the environment than traditional sources. For example, it showed electric and solar cars as alternative transportation sources and hydro- and wind-powered devices as alternatives to electricity. The students also targeted recycling and energy research as important for the country's future.

"This brings a nice end to the school year," said John Foley, the Laboratory's Director of Human Resources. "We at the Lab are most impressed with the energy alternatives the students came up with. That's what DOE is all about—coming up with ways to provide energy that protect the environment and the people in it."

The students developed the concept for the poster from a brochure that explains President Bush's views about the National Energy Strategy. Although this brochure was somewhat advanced for elementary school students, Gabbert explained the information on a level the students could understand and spent a week covering the material.

DOE laboratories from around the country sent out the brochures and information about the poster contest. The theme for the contest was "Building a National Energy Strategy for Our Earth" and was held in conjunction with National Science and Technology Week. Los Alamos National Laboratory's Educational Outreach Group sponsored a preliminary contest with schools from northern New Mexico and the final judging of the posters was held March 26 in Washington, D.C.

While the children at Las Conchas Dam Elementary will not have their poster returned to them, they can feel good in knowing that it will be on permanent display in the DOE Forrestal Building in Washington, D.C.

"I was really surprised we won," said Jamie Jenkins, a fifth grader. "We're really a little school."

Gabbert said that she didn't think winning the contest really sunk in until the kids came to the ceremony in Los Alamos. She added that the Laboratory is very helpful in providing interesting and current science material for her classes.

"The kids really enjoy all of the science information that I get from Los Alamos. Winning this national contest is a way of giving something back," Gabbert said.

Los Alamos National Laboratory is a multidisciplinary research organization which applies science and technology to problems of national security ranging from defense to energy research. It is operated by the University of California for the Department of Energy.

FORCED PRISON LABOR IN THE PEOPLE'S REPUBLIC OF CHINA

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. SWETT. Mr. Speaker, today the congressional human rights caucus held a hearing on a most distressing and important topic—forced prison labor in the People's Republic of China. It has been only a few weeks since the anniversary of Tiananmen Square, yet once again we must focus our attention on the wrongdoings of the People's Republic of China. This time it is on the products being made by forced prison labor in China that are making their way into this country. These allegations, made in the Asian Watch report, deserve serious investigation, and if true, those products are not only enriching a totalitarian regime, but could be depriving many of our own citizens of gainful employment.

Not only does our country have a trade deficit of $15 billion; not only are our own textile and shoe industries in a critical state; but our own legislation, in particular the McKinley Act, which dates back to over a century ago, explicitly states that no product that is the result of forced labor should be traded in the U.S. marketplace.

It is disgraceful that we should openly engage in the trade of products fashioned by an imprisoned an labor force made up, in part, of those who were at the forefront of the struggle for democracy just a little over 2 years ago.

I recognize that not all of those engaged in the production of these products are political dissidents. But many are. Do we really want products made from the forced labor of imprisoned Chinese patriots to be sold in the United States to improve the balance of payments of a regime whose human rights policies we abhor? I think not.

Nor does the argument stop here. Mr. Speaker, any student of economics can tell you that cheap labor, or free labor, is a great way to cut costs, and if the costs are low enough, you can undersell any competitor who must pay fair labor costs. Given the fact that our shoe and textile industries are so fragile, and given the fact that shoes and textiles make up a considerable bulk of these Chinese products, I would argue that sales of these products clearly constitute unfair trade practices.

Therefore, Mr. Speaker, I urge my colleagues to support the investigation of the allegations that products from forced prison labor have found their way into our marketplace. We owe it to workers in our own country. As a nation founded on the concept of freedom and human rights, we owe it to ourselves. And we owe it to the brave activists who, 2 years ago paid the final price for freedom and democracy. Furthermore, I believe the results of our inquiry should weigh heavily in the balance as we later take up the issue of extending most-favored-nation status to this country.

HEROES BEHIND THE LINES

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize two very special men who gave the ultimate sacrifice in the service of their country as part of Operation Desert Storm although in the United States of America.

On March 15, 1991, Norman Barcase and John Zielenski tragically lost their lives in an explosion at a munitions-testing facility at Aberdeen Proving Grounds. Hard working and dedicated to their jobs, Norman and John worked here at home while Operation Desert Storm raged a half a world away. The importance of their jobs was highlighted by the success of Operation Desert Storm. The men and women of our Armed Forces depend heavily upon the work of men like Norman and John. In fact, their lives depend upon it. Thanks to testing facilities such as Aberdeen Proving Grounds, our troops use equipment and munitions with the confidence that it has been thoroughly tested before it is used in combat.

Although John and Norman did not lose their lives on the frontlines in a foreign land, they fell in service to their country. They are, indeed, heroes who gave their lives to the country they loved and served.

There is no doubt that they will be sorely missed by all those whose lives they touched. I have had the pleasure of meeting Norman and feel deeply for the two daughters he left behind. Likewise, John was a loving father and husband whose absence will always be felt.

As we fast approach the Fourth of July and anticipate the festivities and parades, I ask that, while we celebrate our freedom, we take time to remember those who have made such a celebration possible. Our Nation is truly blessed with individuals such as Norman and John. While some, unfortunately, define a hero as a warrior or legendary leader, I consider men such as Norman and John as the most accurate definition of a hero. Dedicated to their families, jobs, and country, they personify what makes America great.

Mr. Speaker, my fellow colleagues, it is with great respect and admiration that I recognize John Zielenski and Norman Barcase. It was with great remorse and sorrow that I learned of the accident that cut their lives short. We need not look very far from our own communities to find heroes who quitely contribute so much to our lives and to our Nation.

BAKER'S FALLACIOUS LOGIC

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. LEVINE of California. Mr. Speaker, an outstanding editorial in the New Republic, June 17, 1991, highlights Secretary Baker's erroneous assumptions regarding the peace process—that Israeli settlement policy in the West Bank and Gaza is the impediment to the peace process. Such fallacious logic will not lead to peace in the Middle East and will only embolden the Arab States to continue their belligerency and rejectionist policies toward Israel.

Such statements by the Secretary erode the confidence of our only democratic ally in the region and consequently, undermine the peace process when it is at an extremely delicate and sensitive stage.

I strongly urge my colleagues to review this insightful analysis of Secretary Baker's dangerous conclusions regarding the peace process.

[From the New Republic, June 17, 1991]

THE BAKER FALLACY

Apparently Secretary of State James Baker no longer believes that the building of settlements by Israelis in the occupied territories is the biggest "obstacle to peace" in the Middle East. He had dolorously informed the House Foreign Affairs subcommittee of this on May 23, but on the very next day, stung by criticism, he judiciously confided to a member of the Senate Appropriations subcommittee that "there are other obstacles that are every bit as big."

This quintessential—and hasty—Baker positioning should not, however, be taken seriously as an index of what in the deep recesses of his mind he really thinks about the tangled conflict between Arabs and Jews. His May 23 statement was not, after all, his first churlish comment against Israel, but just one in a long series of outbursts that more accurately reflect his settled convictions on this historic dispute. Coming to his job without really knowing anything in particular about the region, it is these preconceptions that have dominated his diplomacy ever since.

Take the questions of the settlements. We have never thought that Jewish habitations in thickly populated Arab areas are politically wise or even strategically necessary. But the enlightened orthodoxy in this country that no Jews should be permitted to live among the Palestinian Arabs is a strained conceit. Would the same people be arguing that Palestinian Arabs be similarly banned from living in Israel? The settlements are, to be sure, an annoyance, even an affront—to the Arabs and to Mr. Baker. But it is absurd to believe that their existence is the linchpin to progress in the region, and that if they were to disappear tomorrow, all problems would be easier to solve.

"Nothing has made my job of finding Arab and Palestinian partners in Israel more difficult [than the settlements]," claimed Secretary Baker. Nothing. Is he suggesting that in the absence of settlements, the finding of such partners would be a simpler task? Does he believe that merely because Israel has increased the Jewish population in the territories from 5 percent to 6 percent of the total, otherwise eager Arab negotiators are suddenly reluctant to come forward? If anything, the opposite is the case: the trauma wrought upon these political interlocutors by Jewish mobile homes dotting the landscape should heighten their eagerness for a deal, spur them to come forward sooner rather than later in order to put an end to their peril.

The truth is, of course, that these would-be interlocutors would rather let Washington negotiate the settlements away for them, without the exacting and reciprocal concessions that face-to-face peace talks with Israel require. For Mr. Baker, the settlements are a convenient alibi for his failure to produce any Arabs at all for serious negotiations. Indeed, the settlements are for him an indispensable hypothesis. Without the settlements to point to, he would have to accept the grimmer truth: that the Gulf states—Saudi Arabia and Kuwait in particular—are still unwilling to break the taboo against sitting down with representatives of a Jewish state to hash out anything, let alone a regional peace. Mr. Baker is left with the unelevating task of insisting that an observer delegated from the Gulf Cooperative Council to talk about the environment or water scarcity at some future conference is the moral equivalent of the House of Saud negotiating peace with Israel. At best he would have to accept that Saudis have little incentive to offend their Muslim fundamentalists by dealing with Israel in order to win something for the Palestinians about whom, especially after the Gulf war, the kingdom cares a fig.

Messrs. Baker and Bush, of course, are no novices in misreading the Middle East. The two of them were long convinced of Saddam Hussein's moderation, before their August surprise of last year. In fact, the secretary seemed to think that Saddam was amenable to reason right up until January 15. Undeterred by his calamitous misreadings, Mr. Baker now ignores—and our emissary in Beirut has been complicit in—Hafez Assad's recent de facto absorption of Lebanon into Syria. Mr. Baker shows no understanding of Israel's concern about Assad's still ravenous appetite, or of the Israelis' consequent reluctance to restore the ridges above the Galilee to Assad's control.

And in all this—especially on the matter of those stiff-necked Israelis—Mr. Baker knows he has the sympathetic but undiscerning ear of the president. That is why this slow learner—or rather willful innocent—at State condones every Arab excuse for holding back from his negotiations, but constructs Israel's reasons, and Israel's alone, as obstructionist.

Once not so long ago, James Baker was said to have forsworn the endless shuttle diplomacy through which Henry Kissinger carried the antagonists past the impasse after the Yom Kippur War. George Shultz, slightly green at the beginning, also tried to see through the contrived ambiguities of regional politics to what is possible, and what is not. Both of Mr. Baker's predecessors finally had a firm grasp of the intrinsic limits of politics in the Middle East. Not so Mr. Baker himself, who wants to impose his own vision on the protagonists, come what may.

Of course, his vision really asks nothing of the Arab states. They are beneficiaries in his scenario—and it is a screenplay in which the Israelis will understandably refuse star billing. They do not expect that the hatred for Jews in the Arab world will be excised by diplomacy. But they will insist that diplomacy actually recognizes this hatred as a fact of life that makes it more than imprudent for Israel to make itself vulnerable. In the meantime, every skewed and petulant reproach of Israel by Mr. Baker only enhances the power of the growing minority in that country which takes this hatred as an excuse to do everything that exacerbates it.

THE POSTAL SERVICE VOTER REGISTRATION FACILITATION ACTS OF 1991

HON. CHARLES A. HAYES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. HAYES of Illinois. Mr. Speaker, Representative DON YOUNG and I today, introduced two bills which shall comprise the Postal Service Voter Registration Facilitation Acts of 1991. The bills would expand the role of the Federal Government in efforts to increase voter registration, and therefore, voter turnout. The first bill provides that the U.S. Postal Service shall make available space at post offices for the State voter registration authorities to place voter registration forms for the public. The second bill provides that a voter registration form be given to each postal patron to whom a change-of-address form is given.

The United States chronically experiences one of the lowest records of voter participation among the industrialized countries. The national voter turnout has been steadily declining since 1964 in both Presidential and non-Presidential election years. In 1990, a non-Presidential election year, 34.4 percent of the national voting age population voted. In 1988, a Presidential election year, 50.15 percent of the Nation's voting age population voted. These figures are distressing. If one-half, and sometimes more than one-half of the people do not vote, then the meaning of our mandate is called into question.

A valid argument, frequently used, is that some people, by not voting, exercise their right to free choice. In order for this argument to be meaningful, every individual who does not vote must at least be registered. This would clarify whether these people are in fact choosing not to vote, or whether they are simply unable to register. The fact is that voter registration has remained steady at about 70 percent of the voting age population. This percentage is unsatisfactory. The Federal Government must pursue this problem and implement measures which strive to achieve voter registration figures as close to 100 percent as possible.

Voter registration should be facilitated in order to ensure that each and every individual of voting age has a reasonable opportunity to register. This can be accomplished effectively by making voter registration forms available at U.S. post offices, which can be found in every town and corner of our great Nation. There are between 30,000 and 40,000 post offices in the United States. Individuals can easily locate the post office which is in his or her area.

A second reason for establishing the post office as a location for voter registration forms is consistency. Much of the confusion and frustration which some people experience in connection with registering can be resolved by informing everyone that the forms may be obtained at the post office.

RELEASE IRAQI ASSETS FOR MEDICAL ASSISTANCE

HON. TIMOTHY J. PENNY

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. PENNY. Mr. Speaker, medical personnel from the United States recently visited the war-devastated hospitals of Iraq. The conditions they found there are truly horrifying. A medical team from Harvard that visited Iraq in April estimated that 170,000 children will die of gastrointestinal disease complicated by malnutrition before summer's end. A group of Arab-American physicians who also visited the country have determined dysentery to be the No. 1 killer in Iraq at this time. Related diseases such as typhoid fever and cholera, all the result of consuming contaminated food and water, are an even greater threat than malnutrition. The ability of medical personnel to combat these conditions has also been hampered, if not made virtually impossible.

The principal victims of disease and malnutrition are the most vulnerable of the society—the Iraqi children. These children have no source of help or healing. Since many of the country's resources have been destroyed and its assets remain frozen, Iraq's ability to respond to its own children is terribly limited.

In response to this crisis, I am proposing the following course of action: That a portion of Iraq's frozen assets be released to UNICEF for the sole purpose of providing medical and humanitarian assistance to Iraqi citizens. UNICEF control over the funds would ensure that the medical and public health needs of the civilian population, especially the children, would be met. If the Iraqi Government wishes to use these assets to help their country's children, then they must agree to U.N. oversight and control. The following is the concurrent resolution:

CONCURRENT RESOLUTION

Whereas medical teams from the United States have reported conditions in Iraq to be a "public health catastrophe";

Whereas widespread and severe malnutrition currently exist in Iraq due to an acute food shortage that, if not relieved, could become a famine;

Whereas infant and child mortality are expected to double, and if conditions remain unchanged, at least another 170,000 Iraqi children under age five will die this year in addition to the 55,000 who have already died;

Whereas cholera, dysentery, typhoid and gastroenteritis are at epidemic proportions and incidence of all forms of water-borne diseases will increase during the summer months;

Whereas the Iraqi health care system is operating at a fraction of its former capacity;

Whereas basic infrastructure necessary to meet public health needs—water purification, sewage treatment and electrical power—has been substantially reduced;

Whereas the condition of the children of Iraq are an international humanitarian concern that must be addressed immediately: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring),

That it is the sense of the Congress that the United States should ask the United Nations to release through UNICEF a portion of Iraq's frozen assets for the sole purpose of providing medical and humanitarian assistance to the Iraqi people, particularly children, with release of the funds contingent on Iraqi government acceptance of United Nations' oversight and control.

TRIBUTE TO FRANCIS "HAWK" CONNERY A MAN FOR ALL SEASONS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, it is with great pride that I pay tribute to Francis "Hawk" Connery, a man who has dedicated his life to the molding of literally thousands of student athletes at Cathedral High School. For the past five decades, Hawk has set an example of dedication and inspiration, and I ask my colleagues to join with me in recognizing his many achievements here today.

In 1952, Hawk Connery returned to his alma mater, Cathedral High School, to begin a dual career as both a teacher and a coach. He introduced cross country, soccer, and track to Cathedral, coached varsity basketball, and taught social studies and driver's education. During his tenure he led the Panthers to numerous city titles including 5 consecutive years as basketball champions, 3 years as track champs, and 1 year as city soccer champs.

Although he continued to coach at Cathedral through the 1966 soccer season, he left the school in 1964 and went to Commerce where he taught English, world history, and geography until his retirement in 1980. He returned to Cathedral in 1978 as an assistant track coach, and he has remained with the sports program ever since.

Mr. Speaker, while Hawk Connery's name has now become synonymous with coaching, during his years at Cathedral, he enjoyed a reputation as a gifted athlete. A member of the class of 1930, Hawk played the outfield for Coach Billy Wise's first championship baseball team in 1929. His talent and natural ability caught the attention of sportswriter George Springer who said the young man moved like a flyhawk. Hence, he earned the nickname that stayed with him for a lifetime.

Hawk Connery's philosophy has always been a model of simplicity: Work hard—play fair—do your best; win with humility and lose with grace.

These are the ideals which he instilled in his athletes, and these are the values which have carried these young men and women into positions of leadership in law, medicine, business, and the religious life.

Mr. Speaker, I would like to take this opportunity to extend a well deserved thank you to Coach Francis "Hawk" Connery, and to say that I feel privileged to represent him in the U.S. Congress.

BOY SCOUTS OF AMERICA, BALTIMORE AREA COUNCIL, PRESENT DISTINGUISHED CITIZEN AWARDS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mrs. BENTLEY. Mr. Speaker, I rise today to recognize two very special men who will be honored by the Boy Scouts of America, Baltimore Area Council, with the Distinguished Citizen Award.

Tomorrow evening, I will have the honor and pleasure of attending the award ceremony honoring Mr. William H. Cowie, Jr., and Mr. George V. McGowan. Each year, the Distinguished Citizen Award is presented by the Baltimore Area Council to those "extraordinary community leaders in recognition of their outstanding contributions to improve the quality of life in metropolitan Baltimore and who best exemplify the precepts found in the Scout Oath and Law." I had the privilege of being so honored in 1989.

Retired president and chief executive officer of Signet Bank/Maryland, William Cowie Jr. is a graduate of Power Memorial Academy in New York, University of Pennsylvania's Wharton School, and the Harvard Business School's Advanced Management Program. During the early 1950's he served in the U.S. Marine Corps. Mr. Cowie is on the board of directors and is a member of numerous professional and civic organizations.

Mr. George V. McGowan is currently chairman of the board and chief executive officer of the Baltimore Gas & Electric Co. Mr. McGowan is a graduate of the Baltimore Polytechnic Institute and the Universtiy of Maryland where he obtained a degree in mechanical engineering. He served as a Major in the U.S. Army during the early 1960's and is also involved in a variety of professional and civic organizations literally too numerous to list.

Aside from their obvious professional success, the most impressive characteristic I find with Mr. McGowan and Mr. Cowie is their sense of commitment and dedication to the community and their fellow man. I truly believe that success cannot be measured by only professional or academic achievements.

Unfortunately, it is all too easy to judge individuals by their material or monetary wealth. However, individuals such as Mr. McGowan and Mr. Cowie have demonstrated many more desirable traits than simple material possessions. What they have demonstrated is a wealth of character and spirit. They have shown that success carries more than a professional connotation.

Indeed, these are two very special men who personify the very characteristics that have made this Nation great. Likewise, I can think of no other organization which better represents these characteristics than the Boy Scouts of America. The Boy Scouts of America play a vital and important role in laying down a foundation of honor, duty, and integrity for countless young men throughout the country.

I cannot help but be reminded of American statesman John C. Calhoun when he described the people and formation of the New England colonies. Mr. Calhoun spoke of the insurmountable difficulties the colonies faced. However, he continued to say that their strength could be found in the "high moral and intellectual qualities of the Pilgrims: their faith, piety, and confident trust in a superintending Providence; their stern virtues; their patriotic love of liberty and order; their devotion to learning; and their indomitable courage and perseverance. These are the causes which surmounted every obstacle, and which have led to such mighty results."

There are no doubts that John C. Calhoun recognized the traits that brought this Nation from its humble beginnings and I see the very same traits in men such as George McGowan and William Cowie, Jr. They share a strong commitment: not only to their work, but to their community, Nation, and fellow man. Thanks to their efforts, not only has the Boy Scouts of America benefited, but our Nation has as well.

Mr. Speaker, my fellow colleagues, again, it is with great respect and admiration that I commend George V. McGowan and William H. Cowie, Jr. upon being honored with the Distinguished Citizen Award. May they have continued success and happiness in the years ahead.

HONORING OLD GLORY

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. YOUNG of Florida. Mr. Speaker, Flag Day has been established by Congress as an annual national observance to honor the stars and stripes, our banner of freedom and liberty.

The American flag has flown over our Nation during some of our greatest moments, but none more triumphant than the swift and complete allied victory in Operation Desert Storm. Our pride in the skill and professionalism of our troops has stirred a renewed sense of patriotism throughout our country and is reflected in the tremendous number of American flags that now fly daily over homes and businesses representing the dedication and honor of the American people to the ideals upon which our country was founded and to which we continue to be devoted. This rejuvenation of pride in our flag is borne of the pride and respect we feel for the men and women of our Armed Forces who performed so gallantly in the Persian Gulf so that another sovereign nation might enjoy the fruits of freedom.

As a member of the House, I have had the privilege to have thousands of American flags flown over our Nation's Capitol and they now adorn the streets of Pinellas County, FL, which I represent. The same sense of pride and patriotism which wells up inside those who raise the American flag over their homes and businesses each morning also generates a sense of security for people in all corners of the world. For many peoples of oppressed lands, the sight of the American flag in their homeland has represented a symbol of their new found freedom and liberty. We will forever remember the sight of the Kuwaiti people rejoicing as American troops, flying the American flag, triumphantly entered a newly liberated Kuwait City and hoisted the flag over the American Embassy. As has happened so many times throughout the past 200 years, another nation has been set free from war and oppression and the confirmation of that freedom has been the hoisting of an American flag.

Throughout our Nation, ceremonies will be held to commemorate Flag Day, and I reflect with pride on the many occasions that I have participated in these events. In fact, it was on this day 10 years ago that I had the pleasure to take part in the raising of the stars and stripes at the dedication ceremony of a beautiful flag pole in Belleair Bluffs. It is upon this pole that the American flag flies high above the community and is a landmark for thousands of boaters passing along the Intercoastal Waterway.

As I stood and watched the flag waving in the breeze that day and listened to the national anthem, I remembered and gave thanks, as I do now each time I drive by it, for all the Americans who fought the gallant fight and paid the ultimate price in order that others might know what it means to be free.

The American flag will forever stand for freedom and liberty. It provides a sense of strength and security not only for Americans, but for the people of every nation where it flies over an American Embassy or military facility. It represents America's commitment to this generation and all future generations that we are the world's peacemaker and peacekeeper. There is no grander symbol anywhere and it is most appropriate that we take this special time today to pay tribute to its beauty and meaning.

VETERANS ARE PATRIOTS, NOT GRIPERS

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. SKELTON. Mr. Speaker, this past Friday, I had the opportunity to speak at the State convention of Missouri Veterans of Foreign Wars in Kansas City. This was indeed an honor and I felt that I was with an exceptional group of Americans, all of whom served honorably in the foreign wars of our country.

I mention this, Mr. Speaker, because while there with the Missouri Veterans of Foreign Wars, I felt that I was truly with a distinguished group of American patriots. My remarks were on our national defense. The comments that I received from members after my speech were positive.

I mention my experience with these Missouri veterans because of the recent testimony before the House Budget Committee of Edward Derwinski, Secretary of Veterans Affairs. In his testimony concerning veterans, Secretary Derwinski said, "What you hear from them are the gripers. You will never hear from the satisfied person." This statement couples with other negative comments about veterans' organizations and leaders, were improper, and I take issue with them.

Through the years, I've found that working with veterans' organizations, such as the VFW, has been a positive experience, whether attempting to help a needy veteran or whether discussing the national security of our future.

May I remind those who hear me today that it was the VFW and other veterans' organizations who kept patriotism alive during the dark days of the Vietnam conflict. I find the VFW and its companion organizations looking out for the veterans who were willing to give the last full measure of devotion to their country. I find that they have a continuing interest in the national security of our country and that patriotism is their byword—not gripes.

Soon, the VFW and other veterans' groups will have an influx of a new generation of veterans—veterans of Operation Desert Shield and Desert Storm. All Americans know how well these men and women performed in the Middle East—magnificently—are these young troops to be called gripers too?

Let's recognize our veterans for what they are—Americans who have served our country ably and honorably. In a word, I call them patriots, not gripers.

ANDREW R. GASPAR ATTAINS RANK OF EAGLE SCOUT

HON. THOMAS H. ANDREWS

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. ANDREWS of Maine. Mr. Speaker, it is with great pride that I rise today to salute a distinguished young man from my district who will be attaining the noteworthy rank of Eagle Scout in the Boy Scouts of America this month. His name is Andrew R. Gaspar and he resides in North Berwick with his family.

To earn this prestigious award takes a commitment to excellence that demonstrates the outstanding nature of this young man. Less than 2 percent of Boy Scouts ever achieve this award. To earn this award a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required to be in areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, awareness of safety, environmental science, and first aid.

A Boy Scout must demonstrate an increasing level of leadership by holding specific youth leadership positions in his patrol and/or troop. He must also show an ability to participate in increasingly more responsible service projects. Andrew has admirably demonstrated each of these criteria.

Andrew has held the positions of patrol leader, assistant senior patrol leader, and senior patrol leader. He was elected to the Order of the Arrow in 1989 and earned the Arrow of Light Award when he was in Cub Pack 312.

For his Eagle Scout project, Andrew constructed a train for the children's room of the D.A. Hurd Library of North Berwick. This train has already proven to be beneficial—it is well built and has delighted the children as a receptacle for their books.

As a Scout, Andrew has always been an active participant, whether in camping activities, shows, or other scouting functions. He has also been an involved student. He is currently a junior at Noble High School, where he is a member of the National Honor Society and the math team. And where he has demonstrated his athletic ability as well, as a cross-country runner and junior varsity basketball player.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout Andrew Gaspar. In turn, we must also salute the Boy Scouts of America for establishing the Eagle Scout Award and the character building criteria its recipients must meet. It is a real chance for young boys to gain a sense of accomplishment and develop a feeling of responsibility to their communities, which in turn gives them a base upon which to build their adult aspirations.

I am proud to have Andrew R. Gaspar in my representative district and add my voice to the family and friends who will be saluting him this month.

TRIBUTE TO GEMMA HOSKINS

HON. HELEN DELICH BENTLEY

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mrs. BENTLEY. Mr. Speaker, today I rise to salute Mrs. Gemma Hoskins, a teacher, for her outstanding efforts in the field of education. Mrs. Hoskins recently was recognized as "Teacher of the Year" in the Harford County school system.

Mrs. Hoskins, a fifth-grade teacher at Jarrettsville Elementary School in Jarrettsville, MD, is a product of Catholic education and a teaching veteran of 17 years.

Her commitment to teaching our young is invaluable. At a time when Americans are beginning to realize the importance of a good basic education, Mrs. Hoskins stands as a model for all teachers. Her teaching philosophy should be utilized not just for my district but throughout the entire Nation. Mrs. Hoskins is exemplary as a teacher-citizen model for the President's Education 2000 Program and his 1,000 Points of Light.

Mrs. Hoskins' philosophy is basic in principle but essential for learning excellence—to make learning fun.

"Children have to feel comfortable to be able to learn," Mrs. Hoskins said.

Her style is a mixture of traditional and modern teaching methods. Mrs. Hoskins' gift for giving time, love, and respect to her students is a quality from the timeless basic principles of all great teacher's. The unorthodox ways she uses to involve her students in practical situations and lessons are a revelation that needs no large sums of money—just the commitment and talent of the true teacher.

Mrs. Hoskins' children went to the school board to have Jarrettsville declared the first smoke-free school in Harford County, and, in turn, they learned well a lesson on the democratic process.

Besides teaching, Mrs. Hoskins is a volunteer with the Harford Spouse Abuse Center Help-Line, spending her spare time answering calls from grieving victims. She also is involved in the Big Brother/Sister program. Volunteering represents another act Mrs. Hoskins believes is a vital teaching tool for everyone.

Mr. Speaker, as you can see, Mrs. Gemma Hoskins is a rare individual whose contributions have made a difference in the community and in the lives of her students. At a time when this country is beginning to realize once more just how important a strong educational system is to America's future, we can pray that more educators and citizens of Mrs. Hoskins caliber come to the fore. For this reason I ask my colleagues to pay tribute to Gemma Hoskins.

SALUTE TO MICHAEL C. RUDOLPH, OF WAYNE, NJ, WINNER OF THE ROTARY CLUB'S PAUL HARRIS FELLOW AWARD

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. ROE. Mr. Speaker, it is my distinct pleasure to take this opportunity to pay tribute to yet another man of exceptional abilities, who has a history of public service to the citizens of the Eighth Congressional District in New Jersey. Mr. Michael C. Rudolph, recipient of the 1991 Wayne Rotary Paul Harris Fellow Award.

The Rotary, an organization of business and professional men and women, is united worldwide to provide humanitarian services. Mr. Michael C. Rudolph, of Wayne, NJ, will be honored for his great service and volunteer work within this organization. The Paul Harris Fellow Award is the highest honor a Rotarian can achieve. Considering the scope of community service that Rotary Clubs provide around the world, I am certain that you, Mr. Speaker, and our colleagues will agree that the honor being accorded Mr. Rudolph is one of the greatest magnitude.

Mr. Speaker, Mr. Rudolph's extraordinary skills and abilities were evident as he suggested the pledge of some $150,000 to the Polio-Plus program. The Rotary program was set up to help eliminate polio in the world by their 100th anniversary, the year 2005, in cooperation with the international health agencies in the immunization of all the world's children. This large pledge suggested by Mr. Rudolph made Wayne Rotary's pledge the highest in their Rotary district. The ability to raise these funds was generated by the TV charity auction directed under Mr. Rudolph's great efforts. The Rotary was able to raise not only the moneys for the Polio-Plus program but to help raise additional money for the Foundation for the Handicapped.

His commitment to the Rotary and the service of others is obvious by the extent of his accomplishments. I know that his wife, Pina, will be especially proud of all he has achieved, as will the rest of his family, his children Jonathan, Steven, Deborah, Kim, and Stacey, and his many friends and colleagues.

Mr. Speaker, Michael Rudolph was born in Passaic, NJ, and attended local schools in Passaic. A graduate of the New York University School of Commerce, he received a bachelor of science degree in banking and finance. He later attended the New York University School of Law and served as a clerk to Nicolas Martini, the prominent Passaic attorney. After passing the New Jersey Bar examination he began working for the attorney general of New Jersey and was soon appointed as the deputy attorney general under Attorney General Arthur J. Sills in February 1965.

He later opened his own successful law practice on a part-time basis in Clifton, NJ. This lead to his leaving the attorney general's office and his joining of several law firms where he specialized in labor relations after continued studies at New York University.

His numerous memberships and affiliations include the Foundation for the Handicapped, Temple Beth Tikvah, the Passaic County Bar Association, the Passaic County Legal Aid Society, the United Way, and of course, the Wayne Rotary Club which he joined in 1983. He has served many important roles in the Wayne Rotary including secretary, vice president, and his most notable interest as chairman of the Wayne Rotary's TV Auction Committee.

Mr. Speaker, it is clear that Michael C. Rudolph has continued to strive for excellence regardless of his field of endeavor, whether it be as a member of the Rotary Club or a citizen of New Jersey. He has served an important role model and influence on the members of the Wayne Rotary and has truly made his community and State, and our Nation a better place to live.

INTRODUCTION OF THE CARBON-DIOXIDE OFFSETS POLICY EFFICIENCY ACT [COPE] DEALING WITH GLOBAL WARMING

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. COOPER. Mr. Speaker, the legislation that Representatives MIKE SYNAR, GERRY STUDDS, ED MARKEY, and SHERWOOD BOEHLERT, and I are introducing today is an innovative, cost-effective, free-market way to limit CO_2 and other greenhouse gas emissions. The recent National Academy of Sciences report on global warming did not specifically endorse our approach, but its emphasis on mitigation of global warming by using gradual, comprehensive, low-cost, incentive-based measures fits very well indeed with our approach.

We introduced an earlier version of this bill at the end of the last Congress. We have made several important refinements to the legislation. We would like to urge our colleagues to take a serious look at cosponsoring this bill because we feel that it is the cheapest, most reasonable step that we can take to slow global warming.

If you care about global warming, and you should, this may be our best chance to mitigate a major environmental problem before it becomes a disaster. As the NAS said, "[G]reenhouse warming poses a potential threat sufficient to merit prompt responses."

We would like to gratefully acknowledge the help of Dr. Daniel Dudek at the environmental defense fund in both formulating and refining this legislation.

THE LEGISLATION

Everyone wants to have jobs without pollution, economic growth without global warming; the question is how best to reconcile these seemingly conflicting interests. Since almost all fossil fuel combustion adds to CO_2 emissions, how do you make sure that new combustion resulting from economic growth does not add to the heavy burden of CO_2 gases that we have alrady placed in our atmosphere?

Not many Americans realize that we are adding 6.14 tons of CO_2 to our atmosphere per person every year in America as a result of our electrical generating, refining, transportation, and manufacturing processes.

This man-made burden to our atmosphere is not the inevitable result of progress; it is the result of wasting carbon. In Japan, for example, comparable emissions are only 2.5 tons per person, or less than half of our emissions. These are 1988 figures from the Organization for Economic Cooperation and Development, as quoted in the Washington Post of October 24, 1990.

The first step is to slow or halt the growth of our emissions, at least on a per capita basis. Japan has indicated that within the next 10 years it will freeze its CO_2 emissions at 1990 levels, only allowing for population growth. This is an ambitious program for a nation that could have followed our example and doubled its pollution beore thinking of controlling it. Apparently Japan is planning to have an industrial policy that relies heavily on nuclear power, mass transit, and other means of reducing their per capita tonnage emissions. Japan seems to be relying on a centralized, command-and-control approach to the problem.

Our legislation begins to brake U.S. CO_2 emissions growth by requiring new large sources of CO_2 to find offsets to their emissions before they increase net pollution. Put more simply, we are asking large industries to do some environmental good for every bid of environmental harm that they are intending to cause. We don't necessarily ask industry to clean up after itself, but at least after some other industry. It is the environmental equivalent of pay-as-you-go budget legislation.

This is very different from command-and-control regulation such as is practiced in Japan or even under our older environmental laws. It is also very different from the tax approach discussed below, which allows some industry discretion but which lacks the flexibility of this approach. Under our bill, Government sets broad parameters but industry is free to operate within those parameters. This approach is encouraged by the 1990 Occasional Paper of the Brookings Institution entitled, "Controlling the Greenhouse Effect: Five Global Regimes Compared" by Epstein and Gupta. It also seems popular with the editorial staff of the Wall Street Journal as evidenced by their June 6, 1991, editorial entitled "Pollution's Progress."

HOW TRADING WORKS

It is helpful to think of industry as divided into two groups, although many individual firms will actually fall into both categories. One group needs to be able to build new factories, burn more fossil fuel, and emit more CO_2. The other group is able to reduce its carbon dioxide emissions, it just hasn't bothered to or been allowed to yet. Perhaps this second group is already improved with incentives. Or it could even begin to take CO_2 out of the atmosphere by planting trees that soak up CO_2 in photosynthesis.

Our proposal allows both groups to do business with each other, for their own good and for the good of the Nation and the planet. A new industry could offset its pollution by giving older industry an incentive to clean up its act. In this way the older industry can also perhaps become a growth industry by using its great unrecognized and unused resource, the capacity to reduce CO_2 emissions. Their balance sheets will contain a new marketable asset.

The possibilities for tradeoffs are almost endless. Industries which need to burn more carbon can work with industries that can:

First, switch to low-carbon fuel—for example oil or natural gas,

Second, burn high-carbon fuel more efficiently—clean coal technology, or

Third, use less fuel period—conservation, plant retirement, et cetera.

Sometimes huge offsets are available from industries that could reduce their CFC or methane emissions, gases which are many times worse for our atmosphere than simple CO_2. Some estimates indicate that the amount of CFC's which are already contained in rigid foams such as home insulation are the equivalent of 800 million tons of CO_2. These CFC's must be destroyed and not discharged to the atmosphere; they will be if people have an incentive to do so.

Other offsets are available from industries that can improve on current Government efficiency standards—such as CAFE or NAECA for automobiles and appliances—and yet have no commercial incentive to do so. Once they win their Government label they have nothing to sell to most of their customrs in a more advanced product. This offset bill would give them something valuable to sell, and thus a powerful incentive to produce these super-advanced products.

Still more offsets are available from cogeneration facilities, nuclear and hydro plants, and other types of energy technology.

Finally, forest preservation and reforestation are additional ways that net CO_2 emissions can be reliably offset. Trees are a wonderful sink of CO_2 in addition to their many other benefits.

The only Government role in all this is to keep the trading honest. The Federal Government should set guidelines for the States so that they can tell how much new CO_2 is really going to be emitted from a new plant and, therefore, how much of an offset is required. The Government should also be able to tell whether the offset is real, not just a temporary or illusory decrease.

No Government bureaucrat, whether in Washington or in a State capital, will be able to impose a rigid cleanup technology on new industry. Industry itself will come up with the imaginative and cost-effective solutions. Sometimes the offset may be preserving a neighboring forest; sometimes the forest may be across the Nation. Ultimately, that forest may be in a distant country, such as the Guatemalan forest that was recently planted by an enterprising Connecticut utility. It has now made plans for a second international forest. Since the environmental benefits are worldwide, the market for offsets is worldwide; the only administrative problem is verifying compliance in another sovereign nation.

THE BOTTOM LINE

The fundamental principle of the legislation is that current industry is not paying the full cost of its pollution when it sells its products. That cost is imposed on world climate, and we all end up suffering. Economists call that hidden cost an externality and it is hard to quantify and trace. The anwer is not simply to penalize industry, however, since we depend on it for jobs and products. The anwer is to encourage industry to find ways to reduce CO_2, ways that they haven't implemented yet. Using this approach, value is discovered in unlikely but deserving places. The hidden cost of pollution is no longer hidden; it is no longer externalized; it is offset by simultaneous reductions in kind.

There are many advantages of this approach over simply taxing CO_2 emissions, which is superficially appealing and which also seems to be a free-market reform.

One advantage is that the price of the offset is not fixed as it is with a tax. An offset is not a rigid and bureaucratic tax formula which tries to approximate the cost of marginal environmental damage and which may be affordable to some industries but not to others. The price of these offsets is determined by the ingenuity of both the buyer and seller of the offsets.

A further advantage is that Government's hunger for revenue is not a factor with offsets as it is with taxes; industry is paying for pollution reduction and only for pollution reduction.

Another advantage of offsets over taxes is that the behavior of both the buyer and seller of offsets is altered, not just the behavior of the excise taxpayer. Why not have everyone involved with CO_2 contribute to a solution?

And the environmental benefit is exact because you are dealing in the proper currency: CO_2 reductions, not dollars and cents. You don't need to worry about undertaxing or overtaxing the polluting source.

Finally, a tax on CO_2 is really a tax on growth whereas an offset system is more like a tax on inefficiency. Since it is almost impossible for Government to measure and tax inefficiency, it is handy for industry to expose and reduce it for us by means of the offset mechanism.

In short, this is a type of regulation which is still fairly new in the environmental area but which seems to provide multiple benefits. A version of it is being tried in the acid rain title of the recently passed Clean Air Act. The Energy Daily reports on June 7, 1991, very favorable results from an Electric Power Research Institute study of the cost savings of the acid rain trading system. To be sure there are flaws in the approach. Industry sometimes prefers the certainty of bureaucratic regulation to having to dig up offsets somewhere around the country, especially when long-term projects are involved. Conversely, environmentalists want the certainty of real CO_2 reductions, with a minimum of gaming by industry.

The theory is very powerful, however, and I believe it is worth giving it a try. To fall back on old-fashioned command-and-control regulation for a global problem of this magnitude could mean wasting tens of billions of dollars. To tax CO_2 emissions begins solving only half the problem and in a crude and cumbersome way. The better plan is to require offsets, as this legislation does, so that everyone is involved in the search for the cheapest, most efficient, most reliable solution to the problems.

I urge my colleagues to take a look at this legislation and to consider cosponsoring this new type of environmental approach in the 102d Congress.

BANKAMERICA TAKES STEPS TO HELP SAVE RAIN FORESTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. STARK. Mr. Speaker, I want to commend BankAmerica Corp. for being a leader among lending institutions in working to solve the deforestation problem. BankAmerica Corp. was the first lending institution to announce that they will forgive outstanding loans to debtor nations providing those nations would use the amount forgiven to fund efforts to conserve rain forests. On June 11, 1991, BankAmerica Corp. announced that they will forgive up to $6 million in loans to Latin American countries. Debt payments will instead be made to the World Wildlife Fund, Conservation International, and the Smithsonian Institution. These institutions would use the money to fund activities that conserve rain forests.

Mr. Speaker, BankAmerica's action is an important step. Often, countries where large areas of rain forests are destroyed every year are heavily indebted nations that exploit their rain forests to pay debt owed to international banks. Debt forgiveness will help ease the tremendous economic pressure that leads them to condone activities that destroy their rain forests.

The depletion of rain forests affects all of us. Tropical rain forests are home to over half ot the world's plant and animal species. Over 1,400 plants having anticancer properties can only be found in rain forests. Furthermore, the primary ingredients of over 25 percent of medical drugs are found in rain forest plants.

Biological diversity is important in preserving viable ecosystems. Due to the interdependence of various microorganisms, plants, and animals, the loss of certain habitat through deforestation would result in a series of extinctions of species, thus further damaging the delicate balance of the affected ecosystems. The existence of organisms in tropical forests known to be very useful to humankind depends on appropriate environments created by biological diversity.

Deforestation also contributes to the greenhouse effect. Smoke from burning forests emits 2.8 billion metric tons of carbon dioxide into the atmosphere annually. Eighty-two percent of this comes from 11 countries, all of which are Third World debtor countries.

Mr. Speaker, we must try to stop the destruction of our world's precious rain forests. The actions of BankAmerica are a significant step in this direction.

TRIBUTE TO ART PRICE

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. MURTHA. Mr. Speaker, this Saturday, the community of Nanty Glo, PA, will turn out to honor one of western Pennsylvania's finest citizens. I am proud to call Art Price a longtime friend, and I plan to join with many citizens of our area to salute him on his many years of service to the community.

Art has been the mayor of Nanty Glo since 1970, and his work for the people of Nanty Glo in the last 21 years has made this town a better place to live. I know that I have worked closely with Mayor Price, and there is no stronger advocate for his community than he. But his terms as mayor barely scratch the surface of Art's work for the people of Nanty Glo and the United States.

Art served as the post commander of American Legion Post 619, was the senior vice commander of the Nanty Glo VFW, served on the Nanty Glo Borough Council, and was the president of the Cambria County Boroughs Association just for starters. His work as a teacher's aide at Woodvale school for exceptional children is remembered by many former students and parents in the area. And his military record in World War II and the Korean conflict shows his strong sense of partriotism as a proud marine.

Mr. Speaker, there are so many local officials around our great Nation who work very hard to keep small communities functioning in these days of tight budgets and economic difficulties. Among these many hard-working people, some stand out as shining examples to other public officials. Art Price is one of the standouts. I've benefited by his friendship and advice, and I'm pleased to be a part of the salute to this very worthy man.

JAMES MADISON AND THE BILL OF RIGHTS

HON. NORMAN SISISKY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. SISISKY. Mr. Speaker, this year we honor the bicentennial anniversary of the ratification of the Bill of Rights. James Madison, the Nation's fourth President, was the principal author of the Bill of Rights. For 200 years, these first 10 amendments have withstood time's scrutiny and remain the cornerstone of basic human rights and liberties in this country.

In honor of James Madison and the Bill of Rights, I ask that you join in cosponsoring the James Madison-Bicentennial of the Bill of Rights Commemorative Coin Act which I have introduced today. This legislation, coauthored by Mr. ALLARD of Colorado, directs the Secretary of the Treasury to mint coins to honor and commemorate James Madison for his authorship of the Bill or Rights.

This legislation provides for gold and silver coins to be issued by the U.S. Mint in 1993. This minting program will be operated at no net cost to the Federal Government, and the sale price of the coins will include a surcharge to be paid to the James Madison Memorial Fellowship Foundation.

The James Madison Memorial Fellowship Foundation was established by Congress as part of the bicentennial commemoration of the U.S. Constitution. This federally sponsored program will award fellowships nationwide to outstanding graduate students preparing to becoming secondary school teachers in the fields of American history and government, and to experienced high school teachers seeking to strengthen their knowledge in the same area. Madison fellows will agree to teach full time in secondary schools for at least 1 year for each year of assistance. In their teaching, they will emphasize the U.S. Constitution.

Along with Mr. ALLARD, I hope that you will join us in support of this appropriate and worthwhile commemoration of James Madison and the Bill of Rights. The Madison Fellowship Program fosters greater awareness and understanding of the rights and responsibilities of citizens under the Constitution, particularly among educators and students. We strongly believe that this program which emphasizes the Constitution and higher education is deserving of our support.

DAVID E. SANDERSON HONORED

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. REED. Mr. Speaker, I rise today to salute a distinguished young man from Rhode Island who has attained the rank of Eagle Scout in the Boy Scouts of America. He is David E. Sanderson of Troop 28 in Providence, and he is honored this week for his noteworthy achievement.

Not every young American who joins the Boy Scouts earns the prestigious Eagle Scout Award. In fact, only 2.5 percent of all Boy Scouts do. To earn the award, a Boy Scout must fulfill requirements in the areas of leadership, service, and outdoor skills. He must earn 21 merit badges, 11 of which are required from areas such as citizenship in the community, citizenship in the Nation, citizenship in the world, safety, environmental science, and first aid.

As he progresses through the Boy Scout ranks, a Scout must demonstrate participation in increasingly more responsible service projects. He must also demonstrate leadership skills by holding one or more specific youth leadership positions in his patrol and/or troop. These young men have distinguished themselves in accordance with these criteria.

For his Eagle Scout project, David Sanderson led a group of Scouts in planting crops for the South Side Community Land Trust in the center of Providence.

Mr. Speaker, I ask you and my colleagues to join me in saluting Eagle Scout David Sanderson. In turn, we must duly recognize the Boy Scouts of America for establishing the Eagle Scout Award and the strenuous criteria its aspirants must meet. This program has through its 80 years honed and enhanced the leadership skills and commitment to public service of many outstanding Americans, two dozen of whom now serve in the House.

It is my sincere belief that David Sanderson will continue his public service and in so doing will further distinguish himself and consequently better his community. I am proud that David Sanderson undertook his Scout activity in my representative district, and I join friends, colleagues, and family who this week salute him.

IN HONOR OF THE ROSA GUERRERO INTERNATIONAL BALLET FOLKLORICO

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. COLEMAN of Texas. Mr. Speaker, I would like to take this opportunity to thank the Kennedy Center for the Performing Arts for inviting the Rosa Guerrero International Ballet Folklorico to perform at a sold-out presentation at the Center's Texas Festival Sunday night. Yesterday El Paso's ambassador of the Mexican-American borderland brought a piece of fiesta to Capitol Hill.

Mr. Speaker, Rosa Guerrero and her Ballet Folklorico demonstrate some of the best the Mexican culture has to offer in the world of folk dance and music. The Ballet Folklorico was begun by Mrs. Guerrero in 1974 as a medium enabling El Pasoans to rediscover their identity and find self-esteem and pride.

During its 17-year history, the group has danced its way across both the United States and Mexico.

This year, while the United States and Mexico are opening talks on trade, Rosa Guerrero is dancing across the border, demonstrating the multicultural diversity of music and dance which can unite people of all nationalities and interests.

Mr. Speaker, I ask that all Members of this House join me in honoring the Rosa Guerrero International Ballet Folklorico to our Nation's Capital.

MORT RYWECK, LIFELONG CHAMPION OF HUMAN RIGHTS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. VENTO. Mr. Speaker, this month, June 1991, Mort Ryweck will be retiring as the executive director of the Jewish Community Council Anti-Defamation League of Minnesota and the Dakotas. For the past 17 years he has served with distinction as an organizer and adviser to many in our community. I want to personally thank Mort for his dedication, patience, and determination. He has indeed excelled in this key role.

Minnesotans are justly proud of the progress that our community has made over the past years, often contributing national leadership on the questions of human rights. Mort Ryweck, to his credit, is a lifelong leader with a quiet passion for human rights who didn't let us in Minnesota rest on our past achievements. Rather, he challenged us to go further to remember and look at our traditions, but to remain responsive to new challenges.

Today as he retires rather than discuss a long list of personal accomplishments which would be justifiable, he prefers to point a path to the future. What better statement to characterize his lifelong service.

The following article by Neal Gendler is submitted for the RECORD and a further elaboration of Mort Ryweck's views.

CHIPPING AWAY AT HATE—MORT RYWECK RETIRING, BUT WON'T GIVE UP FIGHTING BIGOTRY

(By Neal Gendler)

Three decades of fighting bigotry have not destroyed Mort Ryweck's optimism, but they've left him a little discouraged.

Ryweck, retiring this month as executive director of the Jewish Community Council Anti-Defamation League of Minnesota and the Dakotas, laments the worldwide surge in ethnic strife anti-Semitism and racism. "It's disillusioning," he said. "I've been in this work most of my life * * * being of an optimistic bent. I thought there'd certainly be great improvement in the world."

But Ryweck sees the opposite occurring abroad: ethnic and economic competition within nations, old hatreds flaring with the lifting of repression in Eastern Europe, and a disinclination to acknowledge such problems except among groups that organize not to promote harmony but to achieve their ends at the expense of others.

"It's disheartening that the veneer of civilization is so thin," he said. In the United States, "we are not immune from this contagion of hate," he said. "We're going through a period of regression."

He expects racism and anti-Semitism to continue growing as the population changes and the economy slips: People having a hard time competing often look for someone to blame.

But he is optimistic about the long-term outlook in the United States, where there's recognition of racial and ethnic problems and inequities, and where government, civic, service, religious and labor organizations with millions of members are committed to making democracy work.

The human-relations climate in Minnesota and the Twin Cities is better than in most of the country, he said. Problems aren't as acute, and more people of goodwill run more programs that seek to improve relations. About three dozen anti-Semitic incidents are reported to his office annually, but he considers most fringe acts that aren't a barometer of community relations.

"Relations between Jews and Christians have been improving significantly," he said, "It's mainly the result of churches taking a look at the implications of the Holocaust, taking a look at their own teachings."

By the time he arrived in Minnesota in 1975, the bigotry that had brought Minneapolis its anti-Semitic reputation had subsided. No longer was there widespread exclusion of Jews from social clubs and businesses, even the American Automobile Association. Ryweck encouraged more improvement through public appearances, meetings, negotiations, speakers, and visibility at events.

Still, he said, "There's a stubborn manifestation of anti-Semitism that has not changed."

Ryweck came to Minneapolis when the local Jewish Community Relations Council and the B'nai B'rith Anti-Defamation League were the first in the nation to merge. He is a New Yorker who has always been concerned about bigotry.

He graduated from New York University in 1951 with a degree in journalism, and went into business selling insurance.

In 1958, he and four others in the U.S. peace movement—led by civil rights pioneer Bayard Rustin—spent three weeks on the Finnish-Soviet border trying to get into the Soviet Union to protest nuclear tests.

They finally realized that they weren't going to get visas, so they mailed letters to 300 leading Soviet scientists. Then Ryweck decided to phone Soviet Premier Nikita Khruschev. "The group thought I was crazy," he said. "In retrospect, they were right, but you had to give it a try." He reached a surprised secretary in Khrushchev's office, but was put on hold until he gave up.

He decided business wasn't for him and went to work for the Anti-Defamation League in Milwaukee in 1960. He later directed the Chicago-area group opposing the nuclear arms race, and worked for the American Jewish Committee in Chicago and St. Louis. He was active in the civil rights movement, taking part in the march from Selma to Montgomery, Ala., and other demonstrations.

Today, he serves on the boards of the Minnesota Interreligious Committee, the Joint Religious Legislative Coalition and the Minneapolis NAACP, and is coordinator of the Minnesota Coalition to Celebrate Our Differences, a sponsor of the World of Difference prejudice-reduction project.

For all his intergroup work, "he doesn't shy away from the Jewish agenda," said Marcia Yugend, president of the agency in the mid-1970s and associate director for Ryweck from 1978 to 1989. "Sometimes that agenda is difficult; anti-Semitism is nasty and scary, and he never seemed afraid * * *

"Mort was the kind of a guy who, if he saw a fight on the street, he'd try to break it up," she said. "Most of us would be afraid."

But Ryweck says he's not foolish.

On one trip to a meeting in rural Minnesota at which he suspected members of the right-wing extremist group Posse Comitatus were present, he stopped to have lunch across the street from where the meeting was in progress. "I was very conspicuous. . . . When I walked into the lunch place, everyone turned around to look me over. They decided I was not from the town, so I decided not to attend the meeting."

But he often responded to speakers he found bigoted or inaccurate, or stepped in to defuse tensions.

Ryweck has "moved the dialogue on interfaith action in significant ways," said the Rev. James Habiger, executive director of the Minnesota Catholic Conference. The two have worked together in organizations and brought the 10th National Workshop on Christian-Jewish Relations to Minneapolis in 1987. "He has the head, the heart and the hands of a friend—a friend of those who have need," Habiger said.

Ryweck's friendships are sincere and enduring.

Yugend said that when Ryweck was honored May 28, at the agency's annual meeting, many of the 300-some people present were from his Kenwood neighborhood. He and his wife, Rosemarie, "are enormously hospitable people," Yugend said. "They always have guests from out of town," often foreign students.

Ryweck also has used hospitality to ease ethnic tensions; his agency found host families for out-of-town or foreign guests. During a farm economy crisis a few years ago, some agitators blamed Jews, and Ryweck launched a two-front response: He had Jewish families put up about 30 farmers in town for a conference and arranged for a public dialogue between farmers and Jews.

Ryweck is a very strong advocate for justice," said the Rev. Tom Van Leer, co-chairman of the Twin Cities Human Rights Coalition that Ryweck helped create eight years ago. The coalition helps victims of hate crimes and organizes pubic condemnation, as it did last year in mobilizing civil and religious leadership to condemn vandalization of the Islamic Center in Fridley. He and Van Leer also have visited hate-crime victims.

Ryweck considers bringing a World of Difference to Minnesota his most significant accomplishment. In little more than a year, it has trained more than 3,600 teachers and reached hundreds of thousands through TV and newspaper features.

He also considers important his commissioning the oral history that became Rhoda Lewin's book "Witnesses to the Holocaust." It presents experiences of concentration camp survivors and liberators in their own words, personalizing "the ultimate form of bigotry, genocide" so people better understand its enormity and what can happen when people fail to respond to the growth of hatred.

THE 40TH ANNIVERSARY OF GOSHEN'S TROTTING HORSE MUSEUM AND HALL OF FAME OF THE TROTTER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. GILMAN. Mr. Speaker, I rise today to pay tribute to the Trotting Horse Museum and the Hall of Fame of the Trotter, in Goshen, NY, as it celebrates its 40th anniversary. Forty years ago the Nation's oldest sport was without either a museum to store its historic relics or a hall to honor its heroes. Cooperstown had been established in 1929 to honor the sport of baseball. However, baseball is not our Nation's oldest sport. The first baseball game was played in 1845. Yet, the historic track, in Goshen, NY, was built for trotting races in 1838, 1 year after Martin Van Buren had been inaugurated as our Nation's eighth President.

A number of distinguished gentlemen took issue with this injustice, including E. Roland Harriman, son of the founder of the Union Pacific Railroad, Lawrence Sheppard, honorary life president of the U.S. Trotters Association, and Elbridge Gerry, a descendent of the former Vice President and signer of the Constitution by the same name. They were joined in their endeavors by William H. Cane, owner of the Good Time Stable and promoter of the Hambletonian Stakes from 1930 until 1956. The Hambletonian Stakes is trotting's premier race, and it was named after the father of the American trotter, Hambletonian. When I say father, I mean that quite literally. Hambletonian was a horse which raced but once in its life. However, Hambletonian was visited by over 1,900 mares and managed to produce 1,331 foals. Today, virtually every racing trotter can claim Hambletonian as a great-great-grandparent.

In 1949, the Trotting Horse Museum received a charter from the New York State Board of Regents, and 2 years later the Independent Republican, Goshen's weekly newspaper, announced the sale of the Good Time Stable for the purpose of converting it into a museum, describing the building as:

> A Goshen landmark, a historical two story stone and stucco structure * * * of English architecture, containing ten huge box stalls, a large carriage room, a harness and furnace room, an office and a spacious and attractive entrance way.

Exhibits were housed in the stalls, hay chutes, and lofts in an effort to preserve the stable atmosphere. According to Mr. Gerry,

> In the beginning, everybody went to the attic and what they didn't want they gave to the new Trotting Horse Museum.

Since that time the museum has expanded and grown substantially. In 1953, a hall of immortals was established and its first six members inducted—all horses. In 1960, the first addition to the building was constructed to house the museum's large collection of Currier and Ives paintings. Twelve years later another addition was built to house exhibits of members elected to the hall of fame by the U.S. Harness Writers' Association. In 1980, there was a third addition to house a reproduction of the interior of the clubhouse at the Goshen historic track. Finally, the museum was expanded to accommodate one of the most extensive libraries of harness racing in the world.

Today the museum is managed by an outstanding, dedicated staff. I have had the pleasure of knowing and working with the museum's director, Phil Pines, for many years. He is a kind, caring man, as well as a brilliant administrator. Phil has been associated with the museum since its early days, and was appointed director in 1963. He is ably assisted by a highly competent museum staff: Walter Latzko, Gail Cunard, Alice Lockland, and Michele Mulchany. The dedication of these men and women has made the Trotters Museum the success it is today.

Mr. Speaker, I invite our colleagues to join in saluting the Trotters Museum upon its 40th anniversary. Trotting is distinctively an American sport, invented in the United States and until only recently raced exclusively in this country. The descendants of Hambletonian have left us with a purely American horse, the Standardbred. The historic track at Goshen became the Nation's first regional national historic landmark related to sport. The Trotting Museum in Goshen, NY, has helped to share this facet of America with thousands of visitors for the past 40 years, and we can only wish that it will continue to grow and progress as it honors trotting racing in the years ahead.

OLDER AMERICANS ACT OUTREACH PROGRAMS MUST BE PRESERVED

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. DOWNEY. Mr. Speaker, I rise today to oppose President Bush's proposal to eliminate the Older Americans Act outreach programs for Medicaid, SSI, and Food Stamps. When the President first sent his proposal for the Older Americans Act to you last month, Mr. Speaker, I said that the elimination of these programs was wrong. Now, we have new evidence that shows just how mean-spirited that proposal is.

Earlier this week, Families USA Foundation revealed that more than half of the elderly Americans living in poverty are paying for

Medicare benefits they are entitled to receive free of charge. It is an outrage that some of the most vulnerable members of our society are not getting benefits they are entitled to simply because they do not know about them. Unfortunately, this is only the latest example of a pattern of neglect that has relegated outreach programs to the bureaucratic closet.

The irony, Mr. Speaker, is that we know how critically important outreach is to the success of a program. If people don't know about a program or a benefit, how can they participate? As we learned at a 1989 hearing of the Subcommittee on Human Services I held on SSI outreach, effective outreach programs exist. The problem is that the Bush administration remains unwilling to make the necessary commitment.

This cavalier attitude is reflected in the administration's proposal to eliminate the outreach programs of the Older Americans Act, including the Medicaid outreach program. As chairman of the Subcommittee on Human Services of the Select Committee on Aging, I will continue, in light of the latest evidence of neglect, to fight to retain the outreach programs in the current reauthorization of the Older Americans Act.

NATIONAL PARK SERVICE 75TH ANNIVERSARY RESOLUTION

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. VENTO. Mr. Speaker, on August 25, 1991, the National Park Service will be 75 years old. Consider how much this country has changed in the past three-quarters of a century. The National Park Service has also changed: It has evolved into caring for a rich and diverse system of natural, cultural and recreational units. It provides international leadership in parks, and assists many States and localities with their parks as well.

The American idea of setting aside lands as parks is older than the National Park Service. Yellowstone dates to 1872; Hot Springs to 1840. Several other national parks are more than a century old. But without the National Park Service—the people who care for these parks—we would not have the national park system we know today. The National Park Service is a major contributor to our evolving understanding of this place we call America. It also plays a leadership role in historic preservation through its responsibilities for the national register of historic places. It deals with wild and scenic rivers, historic trails and a variety of other resources.

Today the National Park Service has responsibility for 357 units of the national park system. Some of these park units are quite well known, some park units are not, but all park units protect parts of our heritage. The National Park Service, as well as the parks themselves have grown up together. Today we are interested in ecological protection as well as scenic beauty; in historical accuracy as well as hero worship. The National Park Service's 75th anniversary is an opportunity to reexamine the condition of both the National Park Service and the national park system and to re-dedicate ourselves to ensure that both flourish for the next 75 years.

The image of the park ranger, dressed in grey and green and wearing the classic hat embodies our respect for the work of the National Park Service. The reality of the National Park Service is much more diverse than the traditional mindset. In this anniversary year we should both honor the accomplishments of the National Park Service and challenge it to live up to the leadership ideals present at its creation in 1916.

Few people realize how much the work of the dedicated professional at the National Park Service has over the years enriched our lives and our Nation. Many of the places most treasured nationally—and internationally—are under the stewardship of the National Park Service. We have often heard of Yellowstone, Yosemite, Independence, Mesa Verde, Grand Canyon, the Everglades and the Statue of Liberty. The Park System includes many, many more parks—including Cape Hatteras National Seashore, Lyndon B. Johnson National Historic Park, Voyageurs National Park, Hovenweep National Monument, Crater Lake National Park, and Gettysburg National Military Park. These parks reflect our Nation's natural and historical diversity.

Mr. Speaker, Mr. LAGOMARSINO, myself and others, on a bipartisan basis, are introducing today a resolution that seeks to recognize both the men and women of the National Park Service and the 357 areas in the national park system on the diamond anniversary. This is an opportunity to recognize both, and to give our recognition to the National Park Service for the good job the park service has been doing. It is our hope and expectation that the National Park Service will serve us as well in the future.

DEDICATED FIRE CHIEF THOMAS TOLMAN RETIRES

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. LEVINE of California. Mr. Speaker, it is with great pleasure that I rise today to ask my colleagues in the U.S. House of Representatives to salute a brave and dedicated friend of mine and the seaside community of Santa Monica, Fire Chief Thomas Tolman as he retires this July 2, after 12 years of outstanding service.

Born in Santa Monica, he moved to Venice with his family when he was 4 years old. He graduated from Venice High School where he was a star football player. He received an athletic scholarship from the University of Southern California and also attended Santa Monica College, Bakersfield College, and Loyola Marymount College.

Thomas Tolman married Mary Gravante on September 7, 1947. Throughout the years, they have made their home in the Venice and Santa Monica areas. They have 4 children, Tom, Gerry, Tim and Traci, and 6 grandchildren.

His career in the fire service started in 1955 when he joined the Los Angeles City Fire Department. During this 23-year career he was promoted through the ranks of engineer, captain, and battalion chief to the position of assistant fire chief. His assignment as assistant fire chief included the fire prevention and rescue section, training section, arson and fire investigation section, and employee relations officer.

Thomas Tolman was appointed fire chief of the Santa Monica Fire Department on March 5, 1979. Chief Tolman was instrumental in getting the Santa Monica city sprinkler ordinance and the smoke detector ordinance adopted. He established an automatic aid plan with the Los Angeles City Fire Department and raised the Santa Monica Fire Department's ISO rating from class 3 to class 2. He is responsible for the creation of Fire Station No. 5. He added three paramedic ambulances and hired the first female firefighter. He implemented an apparatus replacement program. This program upgraded the level of fire and rescue protection through the use of state-of-the-art equipment. An example of this program is the aircraft crash truck, which was purchased and refurbished last year. By expanding the staff he improved the overall service capability of the department. This increased the fire and paramedic protection level, as well as the fire prevention awareness of the citizens of Santa Monica. Some of the new positions include: An additional battalion chief, three civilian fire prevention inspectors, a civilian fire protection engineer, arson investigator, public education specialist, and administrative analyst. Perhaps the most important recent additions were three additional firefighter/paramedic squards. He directed the creation of the drill manual, Driver's Certification Program, EMT training and certification, trench rescue, critical incident stress debriefing, and a voluntary multilingual course. This development of the Santa Monica Fire Department training program shows his concern for the welfare of his staff.

Though he is leaving the department, his legacy continues, as shown by the Communication Center upgrade which is now in progress. Chief Tolman has also urged that Santa Monica create a new disaster preparedness division. The goal of this unit is to increase the level of community and city employee preparedness, in order to reduce and quickly recover from the effects of a large disaster.

Throughout his career, Tom Tolman has been involved in his community. He started out in his early days as a coach of Pop Warner football and Little League baseball. He served on many boards and committees including the Santa Monica YMCA advisory board and the Red Cross board. Currently, he is a member of the Rotary Club and Santa Monica College advisory board. He has shown and continues to show his concern and dedication in making our community a better place to live.

TRIBUTE TO DR. CARL C. BACCUS FOR 35 YEARS OF DISTINGUISHED COMMUNITY SERVICE

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. DYMALLY. Mr. Speaker, I rise to honor Dr. Carl C. Baccus, president/founder of the Concerned Citizen's Community Involvement and minister of the Southside Church of Christ in Los Angeles.

For the last 35 years, Dr. Baccus has been a community leader of the highest magnitude. In his role as founder and president of the CCCI, Dr. Baccus has led the organization into many meaningful directions to include: The New Focus Children's Center, a day care center and Christian school; in addition to educational programs New Focus offers a free nutrition program and cultural enrichment. In 1981, the first annual Baccus Scholarship Award was presented to needy students. Since that time, over $40,000 has been awarded to deserving youth as encouragement to continue their education at all levels.

Mr. Speaker, for 35 years Dr. Baccus has served as the minister of the Southside Church of Christ in Los Angeles. Under the leadership of Dr. Baccus, the congregation of Southside has grown to well over 1,000 members. The church currently inhabits a 2-story facility, seats 800 people in the auditorium, has a library, nursery, and a dining area.

In theological circles, Dr. Baccus is revered because of his outstanding sermons and knowledge of the Bible. This prominence is underscored by the fact he was recently appointed as an elder of his congregation.

The message of Dr. Baccus has international appeal. He is heard weekly on Radio Africa which covers East and West Africa. Additionally, he speaks weekly on the Caribbean Beacon radio broadcast.

Dr. Baccus attended Pepperdine University in Los Angeles and received his master's and doctorate degrees from California Graduate School of Theology in Glendale, CA.

He has authored three books, "Let Freedom Ring Through Christ" in 1976; "I Can Tell The World About This" in 1982; and "The Way of Salvation" in 1989. He is married to the former Geraldine Harrell of Mt. Clements, MI and they have three children: Valerie, Sonia, and Christopher.

Dr. Baccus is an asset to the Los Angeles community and to the State of California. May God continue to bless him and his congregation.

INCINERATOR ASH DISPOSAL ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. DREIER of California. Mr. Speaker, last year during consideration of the Clean Air Act amendments, the Senate tried to regulate incinerator ash as a special waste and exempt it from hazardous classification under the Resource Conservation and Recovery Act [RCRA]. At that time, I and several of my colleagues wrote to the House conferees to request that this provision be removed. The compromise language ultimately passed by Congress and signed by President Bush did not include this measure. Today, I rise to introduce legislation, H.R. 2670, to categorize municipal incinerator ash as a hazardous waste.

When garbage is burned, certain toxic materials, particularly metals, are concentrated in the ash that results from the burning. If the ash is deposited in a landfill, those toxic materials can contaminate ground water or surface water supplies by leaching from the ash. Research data has shown how incinerator ash has failed the standard procedure toxicity [EP tox] test with alarming frequency.

For every three tons of trash that is burned, one ton of ash is produced. Of this, approximately 10 percent is fly ash, the most dangerous ash collected by emission collection systems, and 90 percent is bottom ash, the residue left after combustion. EP tox results show that 100 percent of all fly ash samples, 38 percent of all bottom ash samples, and 47 percent of all combined ash samples fail this important test for metal contamination. EP tox results also show disturbing amounts of contamination by other substances.

Opponents will use three arguments to say incinerator ash should not go to hazardous waste landfills. First, because municipal waste is exempt from a hazardous waste classification under RCRA, then the ash should also be exempt. However, incineration produces new highly toxic substances and concentrates heavy metals that more easily affect the environment with the increased surface area of small particles.

Second, because many incinerators send ash to monofills, a special type of landfill, where it won't come in contact with regular trash leachate, the EP tox is not valid. However, even when testing the ash with water, toxic levels of lead still leach out.

Third, as argued in last year's Senate language, incinerator ash should be regulated as a special waste instead of a hazardous waste. This acknowledges that incinerator ash is more than non-hazardous, but refuses to call the toxic material what it really is: hazardous waste.

There are 450 municipal waste incinerators at 200 sites nationwide. This number is expected to increase by 150 incinerators at 60 new sites in the next few years, and the percentage of the total waste stream incinerated is likely to double. I believe we must take necessary precautions to make sure this waste alternative is completely safe.

Some may call this legislation anti-incinerator. However, this is not an anti-incinerator bill. I recognize that municipal waste incinerators offer an alternative to landfilling. Instead, this bill simply ensures that incinerator ash will be properly disposed of without threatening public health or the environment. I encourage all my colleagues to cosponsor H.R. 2670, this important legislation.

GLOBAL WARMING: A RESPONSE

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. STUDDS. Mr. Speaker, today I am pleased to join my colleagues, Representatives MIKE SYNAR and JIM COOPER, in introducing the CO_2 Offsets Policy Efficiency Act of 1991 [COPE]. This measure will go a long way toward reducing emissions of carbon dioxide, the greenhouse gas that is the principal contributor to global warming.

This past April, the National Academy of Sciences issued a report entitled "Policy Implications of Greenhouse Warming." It noted that the atmospheric concentration of carbon dioxide in 1990 was 25 percent higher than it was before the Industrial Revolution and is increasing at about half a percent a year.

Current scientific models project that at this rate, global average temperature could increase between 3.4 and 9.4 degrees Fahrenheit. The report observed that if the higher projections proved to be accurate, "substantial responses would be needed, and the stresses on this planet and its inhabitants would be serious. It is against this backdrop that prudent, necessarily international, plans should be made and actions undertaken."

The report recommended a number of mitigation measures that could be implemented to reduce or offset emissions of greenhouse gases. Last week, the Mitigation Panel issued a detailed report listing the range of policy interventions that might be employed. Among them were economic incentives, including tradable credits. The bill we are introducing today adopts this approach.

Under COPE, new sources—including those repowered after 1995—that emit at least 100,000 tons annually of carbon dioxide would be required to purchase and deposit in the National CO_2 Offset Bank—administered by the Environmental Protection Agency—sufficient CO_2 credits to match their annual CO_2 emissions. Units that failed to deposit sufficient credits would be subject to a $250 per ton penalty.

COPE establishes a number of sources of carbon dioxide credits. Because the goal of COPE is to encourage voluntary greenhouse gas emission reductions that would not otherwise occur, credit cannot be given for any action that is otherwise required under any Federal law.

Sources of credits that can be sold include the following:

First, stationary sources that switch from oil or coal to natural gas would be granted credits equal to the difference between what carbon dioxide emissions would have been without the switch and what they are after. Motor vehicle manufacturers would be entitled to credits for switching from gasoline to less carbon-intensive fuels such as compressed natural gas.

Second, the carbon dioxide fixing behavior of trees—which directly remove CO_2 from the atmosphere—can generate CO_2 credits. COPE allows for CO_2 credits for three separate activities: The first is the planting of new forests on land that has not been forested for over 30 years and which is not part of a normal reforesting operations. The second is for improved management practices that improve CO_2 fixation rates. Finally, the preservation of old growth or ancient forests is given CO_2 credit equal to the difference between the CO_2 emissions resulting from the harvest of the old growth and the CO_2 stored in the replacement forest.

Third, auto manufacturers could earn CO_2 credits which they could sell into the market by exceeding the corporate average fuel economy performance minimums.

Fourth, appliance manufacturers who produce appliances with efficiency greater than their 1990 efficiency levels would be eligible to apply for credits.

Fifth, energy efficiency investments, designated by EPA as carbon dioxide reduction measures, would be entilted to credits. Such demand-side programs have enormous potential to reduce CO_2 emissions.

Sixth, credits would be made available for the capture and recovery of methane gases from coalbeds, landfills, and wastewater treatment facilities.

Seventh, cogeneration units in replacement of old industrial boilers would receive credit to the extent that they reduced carbon dioxide emissions.

Eighth, destroyed quantities of chlorofluorocarbons [CFC's]—a major greenhouse gas—would be awarded an equal number of carbon dioxide credits.

Ninth, power producers would receive credits for more efficient generating technology and for replacing fossil-fueled generating stations with renewable energy sources.

According to data compiled by the environmental defense fund, carbon dioxide emissions could be reduced in the utility sector—which accounts for one-third of U.S. CO_2 emissions—from 22 to 32 percent by the year 2005 if provisions of this bill are implemented.

Mr. Speaker, the United States represents 5 percent of the world's population yet emits more than 20 percent of the world's carbon dioxide derived from the combustion of fossil fuels. We have an obligation to undertake measures to reduce these emissions and this bill is an important step in that direction.

This bill allows industry the flexibility to choose the technology and displacement measures appropriate for individual circumstances while making substantial reductions in greenhouse gas emissions. I urge my colleagues to support this important legislation.

TRIBUTE FOR THE REDEDICATION OF THE JOE VIDEC PARK

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. CAMP. Mr. Speaker, I rise today in honor of the rededication of the Joe Videc Park in Harrietta, MI. The people of Harrietta are to be commended for their efforts in establishing this park.

In 1972, the village of Harrietta purchased two lots from Edna Cole. The next year the lots became a roadside park. Playground equipment was added next along with trees and shrubs. On July 6, 1991, the park will be rededicated as the Joe Videc Park.

Mr. Speaker, it is with a great sense of pride that I recognize the people of Harrietta, MI, for their outstanding efforts to improve their community. This park is a fine example of the commitment the people of Harrietta have for their village.

UNSUNG HEROES OF THE GULF WAR

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. ROHRABACHER. Mr. Speaker, this month, Washington, DC, was the site of an awesome victory parade for the heroes of Desert Storm. All branches of our military took part in an incredible display of pride and patriotism. Over 1 million Americans participated in this effort to honor our Desert Storm veterans. It was certainly a great day to be an American.

The effort of our troops during the gulf war cannot be understated. The troops displayed grit, guts and gallantry in the face of the fourth largest army on Earth. Their efforts will never be forgotten; their courage will long be emulated.

But there is another group of patriots whose support of the gulf war was critical to its success and whose effort sometimes goes unnoticed. I am talking about the spouses of our troops who served in the Persian Gulf. General Schwarzkopf paid tribute in his speech in this Chamber to these brave people who accept the hardship that comes from choosing "to love a solider, sailor, airman, or marine."

It is often impossible to perform a job away from home without the support of family. America should not forget the support and courage these spouses showed. They played a critical role in America's war effort.

On Thursday, July 4, the Republican Party of Orange County will hold a picnic to honor these unsung heroes. A spouse representing each branch of the service will be honored.

Representing the Army spouses will be Sonia L. Limas, the wife of Capt. Francais X. Limas who is a member of the California National Guard. Lori Walker of Huntington Beach will represent the Navy wives. Her husband is senior CPO Michael Walker. The Air Force will be respresented by Kim Skibinski, the wife of Capt. Edward Skibinski who is stationed at Norton Air Force Base. Wendy McCarthy, who is the wife of Capt. Richard McCarthy, will represent the Marines. The Coast Guard will have Leueen Goetz as their representative, the wife of Lt. Comdr. Bob Goetz of Lakewood.

I know my colleagues join me in saluting these brave Americans and the other spouses throughout the country who made a major contribution to the war effort by holding down the homefront.

ENCOURAGE BORIS YELTSIN

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. DOOLITTLE. Mr. Speaker, the United States of America, in its short lifetime, has known private property, private enterprise, and private individual lives. Compared with other First World nations, it has been relatively free of tyranny.

The Republic of Russia has not been so lucky.

Russia, in its long history, has always had to be on the defense, constantly guarding against invasion or revolution. Russian citizens have always been trapped under an imperialistic rule, and finally, in 1917, were thrown under the worst imperialism of all—communism.

Mr. Speaker, these people have never known the "blessing of liberty" which Americans hold so close to heart. This is why I must encourage my colleagues to pledge unconditional support to the independence and privatization of Russia and to President-elect Boris Yeltsin who is Russia's first best chance at gaining those goals.

ANDREW KNALL—A DISTINGUISHED CLEVELANDER

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. FEIGHAN. Mr. Speaker, I want to bring to your attention the recent passing of a distinguished constituent, community leader, and one of greater Cleveland's most respected businessmen, Mr. Andrew Knall.

Andy Knall was born in August 1901, in a small Saxon village in Austria-Hungary. In 1921, he came to America with a few pennies in his pocket and took his first job driving a team of horses, delivering near beer on Cleveland's West Side. During Prohibition, he worked as a plumber. When Prohibition ended, he joined his brother-in-law in the Daniels Beer Distributing Co.

In 1934, Andy and his wife, Anne, started the Knall Beverage Distributing Co. He was fond of saying, "We started the business with $35 and an old truck." Because of Cleveland's rich ethnic heritage and mixture of nationalities from all over the world, his ability to speak five languages helped him prosper in business during the company's formative years. Of the 11 breweries and 37 beer distributors competing in Cleveland after Prohibition, only Knall Beverage and 4 other distributors now remain. Today, Knall Beverage is one of the largest beer distributors in Ohio. After Mr. Knall's retirement in 1976, his son, Robert, headed the company as president and CEO.

During his career, Mr. Knall served as a director and officer in the Ohio Beer Wholesalers Association and was instrumental in writing some of Ohio's liquor laws. He was a charter member of the Teamsters Local 293, and for 70 years belonged to the West Side

Saxonheim and Eintract Harmonia. For many years, he was an active member of the Grotto and Al Koran Shrine. He was a fishing and hunting enthusiast, and though he only began golfing at age 70, he had two holes in one, and in 1988 he was selected his club champ in Florida. In 1990, he and his wife celebrated their 65th wedding anniversary.

Mr. Speaker, I want to express my appreciation to Anne Knall and the other members of Mr. Knall's family for the contribution this distinguished gentleman and businessman has made to his community. The people of greater Cleveland will miss this fine citizen.

HUMAN RIGHTS ABUSES IN NORTHERN IRELAND MUST END

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mrs. LOWEY of New York. Mr. Speaker, I rise to draw the attention of my colleagues to a recent report by Amnesty International on human rights abuses in Northern Ireland.

This report reemphasizes deep concerns of all of us who are troubled by the violence in Northern Ireland. Amnesty International has outlined a long list of allegations including ill treatment of suspects, unfair trials, illegal arrests, and killing of suspects without warning by British soldiers, and the abuse of those who have sought asylum. Sadly, this is not the first time that evidence has shown that the British Government has been violating human rights in Northern Ireland.

It is important that Amnesty International's report of these abuses by a modern nation which has claims to adhere to a long tradition of judicial rights be taken seriously. Amnesty International should be all the more believable to the British Government which has used its findings in its own condemnations of practices by certain Third World governments. It is incumbent upon that Government to bring an end to this.

I urge all of my colleagues to examine this report so that more attention will be focused on the human rights abuses which are occurring in Northern Ireland.

YELTSIN'S VICTORY: POLITICAL METAMORPHOSIS

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. BALLENGER. Mr. Speaker, Boris Nikolaevich Yeltsin has had a political metamorphosis perhaps unmatched in recent history: He has gone from being a disgraced Communist Party functionary who had been drummed out of the inner circle, to the President-elect of the Soviet Union's largest republic. Along the way he has become an able campaigner, a challenge to the status quo, and an ardent anti-Communist. He has espoused free-market economics and, most importantly, he had championed the right to private property.

President-elect Yeltsin, by obtaining 60 percent of the popular vote, has served notice that not only is an alternative leader viable, but an alternative system as well. Without perestroika, a Boris Yeltsin would not be possible. Without a U.S. determination to maintain powerful defenses and the strategic defense initiative, Mikhail Gorbachev would not have invented perestroika. I think, Mr. Speaker, that the election of Boris Yeltsin has taken us one more major step along the road the Reagan initiatives have opened. We should encourage Mr. Yeltsin to press as vigorously as possible those reforms he will have to make to introduce a free-market system in the Russian Republic, and, by example, the rest of what is now the Soviet Union.

HAIL TO THE WINNERS, FROM GRANDVILLE JUNIOR HIGH

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. HENRY. Mr. Speaker, I rise today in tribute to some bright young Americans who I'm proud to say are from my district in the State of Michigan.

On May 18, 1991, at the National Science Olympiad in Kansas City, MO, the team from Grandville Junior High School, in Grandville, MI, captured first place in its division.

In all, 47 teams from 38 States competed in the Science Olympiad, which is a showcase for talented, hardworking young minds. Twenty-three events ranging from computer programming, to bridge building, to anatomy, challenging the student-competitors' abilities, discipline, and teamwork.

How fitting it is, in this day of national concern for American education, that we honor our young people who excel with their intellect. They are our hope for the future.

Mr. Speaker, all who compete in the Science Olympiad are winners, but you can understand why I am so pleased to tell you the names of the following young people, the winners from Grandville Junior High.

Ken Alfano, Kyle Conner, Tom Gort, Josh Levy, Sarah Kuipers, Jaclyn Ornee, Chad Pechumer, Kerri Price, Jon Rooze, Robert Shire, Ben Smith, Amy Thompson, John Tower, Marie Vanderheide, Mike VanOpstall, Wendy VanPutten, Kevin Vreugdenhil, Jody Waters, and Mike Werkema. Coaches: Bill Gibson, Michael Palazzolo, and Paul Lowell.

THATCHER ON GORBACHEV

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. SHUSTER. Mr. Speaker, I would like call to the House's attention an excellent speech delivered by former Prime Minister Margaret Thatcher during her March visit here. As always, Mrs. Thatcher is notable for the grand historical sweep of her vision. She has always known where she wanted to go, where she wanted the West to go, and how and why we should get there. She dissects the philosophy of ideas and the impact of ideas on recent history. It is a sobering reminder that, in domestic as well as foreign policy, societies flourish or perish because of what they value and what they think, which translates directly into what they do and what they accomplish.

She discusses issues that are, and will remain, central to our own national debate over policy and mission: How to deal with Gorbachev; the pivotal importance of America in the future world order; and the continuing role of NATO.

Therefore, I submit with the strongest recommendation this speech, entitled "Can We Do Business With Mr. Gorbachev?" as published in the Reserve Officers Association June 1991 issue of The Officer.

CAN WE DO BUSINESS WITH MR. GORBACHEV?

(By Honorable Margaret Thatcher)

We have before us today the opportunities created by two great victories: President Reagan's victory over communism in the Cold War and President Bush's victory over aggression in the Gulf.

Both those victories were hard-won. They required courage, the vision to see what was possible when others could not, and the persistence to fight through to a full and final conclusion.

Very few leaders possess that combination of qualities. But in the Gulf war, President Bush has showed leadership of the very highest order.

He built a grand coalition of 28 allies; he assembled overwhelming force from around the world; he gave full backing to a brilliant military concept which produced one of the greatest feats of arms with the fewest casualties in history; and he helped lay the foundations of future stability in the region. We can truly say, as [Prime Minister William] Pitt said in 1804:

"Amid the wreck and misery of nations, it is our just exaltation that we have continued superior to all that ambition or that despotism could effect; and our still higher exaltation ought to be that we provide not only for our own safety but hold out a prospect for nations now bending under the iron yoke of tyranny of what the exertions of a free people can effect."

But that victory was not won solely in the last six months. It was the culmination of a decade's achievement:

The military buildup of the 1980s.

The recovery of America's and the West's self-confidence.

The technological advance that created the Patriot missile and the Apache attack helicopter.

And the revival of our economies that made these miracles possible.

Someone once said that "the past is another country—they do things differently there." It is difficult today to conjure up the despairing and defeatist atmosphere of the post-Vietnam '70s. But in those days, the West was on the decline and on the defensive.

Our defenses were neglected. The Soviet Union steadily reinforced its military superiority.

Our allies felt abandoned. They felt they could no longer rely on a hedonistic West. We coined the cynical joke: "Lose a country, gain a restaurant."

In the battle of ideas, we had all but ceased to aim at furthering freedom and had settled for containing communism.

This political weakness only mirrored deeper weaknesses in our societies. Every such crisis is ultimately a crisis of the spirit.

We knew we had lost time, lost nerve and lost ground.

So, as the '80s began, we in the United States and Britain set out in a new direction.

We wrestled with the challenge of reviving our economies.

We rebuilt our shattered defenses.

We faced up to the threat of a Soviet empire at the peak of its military might, made still more dangerous by knowledge of its own economic weakness and social fragility.

We made it clear that arms control would proceed on the basis of genuine equality of weaponry between East and West—or not at all. The Soviet Union built up its SS-22s. We deployed cruise and Pershing missiles. The result—the first every agreement to reduce nuclear weapons.

When the Soviet Union said that Germany could only be united if it left NATO, President Bush and I stayed firm. The result—a reunified Germany fully within NATO.

At home we liberated enterprise and cut taxes, producing higher living standards, more jobs and the spread of ownership.

Capitalism made our people prosperous at home and enabled us to feed the hungry abroad. Socialism by contrast, proved the road to poverty and serfdom.

As Eastern Europe emerges from the darkness, the truth is now fully known, and told even by communists:

Behind statistics boasting of bumper crops, food rotted.

As economic-growth rates roared on paper, people queued for hours to buy goods that a Western supermarket couldn't even give away.

As five-year plan followed five-year plan, command economies turned out products that no one wanted to buy and created an environment in which no one wanted to live.

But the world was strangely reluctant to observe these facts.

A World Bank report praised the Romanian economy for achieving high rates of growth from the early '50s on. A perceptive economist calculated backward from the current Romanian living standards to show that if these figures had been accurate, the Romanian people would have all been dead in 1950.

Since then, the life has drained out of communism entirely. And with it, the heart went out of socialism.

Make no mistake. These communist regimes were not some unfortunate aberration, some historical deviation from a socialist ideal. They were the ultimate expression, unconstrained by democratic and electoral pressures, of what socialism is all about:

State ownership at the expense of private property.

Government control at the expense of individual enterprise.

The pursuit of equality at the expense of opportunity for all.

In short, the state was everything and the individual nothing.

I freely acknowledge that socialists and statists often begin by finding injustices and wanting to remove them. But they go on to the notion that only state ownership and state regulation can solve such problems. You can only believe that by ignoring the lessons of history, the lessons of politics and the lessons of economics. After the experience of this century and the testimony of Eastern Europe, intellectual irresponsibility on this scale is also moral irresponsibility.

We knew that communism was spirtually bankrupt, and we said so. We knew that the Stalinist system would always produce misery and tyranny but could never produce prosperity, and we said so.

We knew that "captive nations" under communism wanted and deserved to be free, and we said so. We even dared use the phrase "captive nations."

And the more we told the truth, the more we restored our own peoples' self-confidence and the hopes of those still living under tyranny.

In the decade of the '80s, Western values were placed in the crucible and they emerged with greater purity and strength. So much of the credit goes to President Reagan. Of him it can be said, as [19th-century British Prime Minister George] Canning said of Pitt, he was the "pilot that weathered the storm."

The world owes him an enormous debt and it saddens me that there are some who refuse to acknowledge his achievements.

For the whole world changed:

The Cold War was won without a shot being fired.

Eastern Europe regained its freedom; its people elected democratic governments and they announced their intention to leave the Warsaw Pact.

The Berlin Wall came down, and Germany was reunfied within NATO; she and Japan, the vanquished nations in the Second World War, prospered mightily and ironically became the creditors in the new world of peace.

A weakened Soviet Union was compelled by the West's economic and military competition to reform itself; a new, more realistic and clearsighted leadership came to the top.

Glasnost was launched, perestroika was started and we saw the beginnings of democratic politics.

As the Soviet Union abandoned its revolutionary role in the world, the United Nations became a more effective forum for active diplomacy.

And the United States once again became the pre-eminent power in the world.

These are great and for the most part beneficial changes. They have been confirmed by the progress of the Gulf war in which America led, Britain and France have helped militarily, together with many Arab nations; Germany and Japan have contributed financially, the United Nations has given its blessing, and the Soviet Union, while pursuing her own diplomatic course at times, never quite departed from the UN resolutions she had originally supported.

A new world means new problems and the need for new approaches. How do we deal with the crisis in the Soviet Union? How do we reshape NATO in the post-Cold War world? How do we preserve and strengthen the economic foundations of the Western alliance? How do we defend Western interests, elsewhere and extend stability beyond the West in the aftermath of the Gulf War? In my view, we shall tackle all of these problems more effectively, as we won the Gulf War, by the testing policy of Western unity, based on the firm U.S. leadership of sovereign nations in alliance.

But not every change in recent months has been for the better.

In the Soviet Union there is accumulating evidence that progress toward reform has been slowed, possibly halted. Dark forces of reaction are on the rise. At such a time, it is vital that all those committed to reform should not falter. No doubt some reformers never expected reform to extend to multiparty democracy and a free economy.

"But no man can fix the boundaries of the march of a nation." And divisions among reformers now would only hand victory to the hard-liners, whom I, at least, refuse to call conservatives. The Soviet people have not gone so far to have the prize of freedom and genuine democracy wrested from their grasp.

But the task of reforming and liberalizing the Soviet Union is a far more difficult one than any of us had supposed a few years ago.

How do you persuade people brainwashed by egalitarian propaganda that inequities are the side-effect of rising prosperity for all? How do you tell them that higher living standards can only be attained at the short-term price of higher unemployment? And how do you do any of this while the demoted bureaucrats, the discredited politicans and all those who flourished under totalitarian mediocrity are out to undermine everything you do?

I am often asked: Can we still do business with Mr. Gorbachev?

We should not underestimate the future reforming zeal of a man who allowed Eastern Europe to grasp its freedom; who has begun the withdrawal of Soviet troops; accepted arms reduction for the first time; and cut support for communist insurgencies across the world. We have to go on doing business with him. In the same way, he has to do business with the democratic reformers if he is to succeed.

The pessimists among you will perhaps reply that the Soviet leader embarked on reform so as not to be left behind by the military buildup and economic progress of the West in the 1980s. I am the last person—or maybe the second to the last person—to deny that these played a major role in Mr. Gorbachev's calculations. We had an economy driven by information technology: he had an economy fueled by vodka!

And the very realism that prompted these reforms will persuade him to step up liberalization, if he can, when the present slowing of perestroika pushes the Soviet economy further into crisis, as it must.

Perhaps it does not really matter whether the optimists or the pessimists are right. Because optimism and pessimism dictate the same policy. If Mr. Gorbachev remains a reformer at heart, as I believe, he will privately welcome Western pressure for reform and employ it against the hard-liners. If he himself has succumbed to the hard-liners, as others believe, the West's pressure will push him too in the direction of reform.

So what kind of reform should we be seeking for these people who have rejected a false ideology but have not yet learned the ways of freedom?

It is fashionable in some circles to argue for credits for the Soviet Union. But to give large credits to fill shops will not help to build the necessary structures of liberty; they would be dissipated quickly, leaving an increasing burden of debt.

Any assistance to the Soviet Union must, therefore, be granted only in response to practical economic reforms. Helping the present structures will only keep reform at bay. We must instead encourage the dispersal of power from Moscow to the republics. Five Soviet republics are now negotiating for such a dispersal of power—let us hope those negotiations succeed.

Second, we have to stress to the Soviets just how essential private property is to freedom. History teaches that human rights will not long survive without property rights; nor will prosperity be achieved without them.

Nor is freedom secure without independent courts and a rule of law. Here we have experience and knowledge totally denied to people who have grown up in a totalitarian system. Perhaps we should consider extending the know-how funds for the Soviet Union to go towards developing an independent judiciary.

We must also draw the Soviet Union closer to the institutions of the international trading and payments system. Associating the Soviet economy more closely with these will, over time, help to transform that economy internally. Their rules will help promote sound money, competition and genuine trade. No economy will prosper if it is strangled by regulations and bureaucrats.

So, let us say to Mr. Gorbachev that he can count on our help when he makes reforms. But the reverse of this is that any evidence of a return to repression must prompt from the West a swift and effective response. The constant raising of human rights cases in the Soviet Union over many years, especially since the Helsinki accords, did undoubtedly have an effect—we must remember that lesson and act upon it.

In particular, we cannot overlook or condone the disgraceful abuses of those rights which we have seen in the Baltic States. These states were seized by the Soviet Union not by law but by fraud and violence. That seizure has never been regarded as legal by the West. We fully support the right of the Baltic States to determine their own future. We must make it clear to the Soviet Union that it is not a question of whether they will be free—but only of when they will be free. And they will be free.

There are signs that the Soviet Union is failing to fulfill either the letter or the spirit of the terms of the treaty for reduction of conventional forces in Europe, signed in Paris. And there are signs of pressure by the Soviet military to reassert its position.

Moreover, the re-emergence of tension and uncertainty on Europe's eastern border ought to remind NATO's Continental European members both that international dangers can rarely be predicted and that sustained commitment is necessary to deal with them.

We must never forget that it is NATO—because it is strong defense which underpins that peace with freedom and justice that we in the West enjoy and now have the opportunity to extend to others.

NATO has been uniquely successful in maintaining liberty. It is not just a military alliance but an alliance in defense of a way of life. NATO must not be discarded.

It is in the interests of Europe that the United States should continue to play that dominant role in NATO to which we have become accustomed. Indeed, as was demonstrated in the Gulf, for the assistance that Britain and other powers gave, only one nation has the power to defend freedom and security in the world today. That is and for the foreseeable future [will] remain the United States.

The pursuit of a new defense role for the countries of Europe is much discussed. It is certainly true that, within NATO, the European countries should make a greater contribution.

The European countries should also be prepared to take a more active military role in response to events outside NATO's present area. Germany's interpretation of its constitution has so far prevented it making a military contribution. But a full commitment to the defense of international freedom and stability requires risking life as well as treasure.

NATO has been a great success. We should be wary of creating new institutions to replace or complement its unique and indispensable role. Perhaps the most extraordinary suggestion yet to come out of Brussels is that the disunity and halfheartedness of most European nations during the Gulf crisis demonstrate the need for a united European foreign and defense policy. A new structure, even if it were necessary, can never be a substitute for will.

Any arrangements which denied Britain and France sovereign control of their foreign and military commitments, especially determining these vital questions by a majority vote, would almost certainly have excluded Anglo-French forces from the Gulf—or at least long delayed their arrival and limited their number. In those grim early days after Iraq's invasion, America would have been left to stand alone. And it is far from certain that, even if after prolonged deliberations, the European Community would have contributed military assistance. The methods of compromise which underpin such decisions would almost certainly have left Europe on the sidelines.

For many years, successive American governments believed that progress toward a United States of Europe would relieve America of the burden of defending freedom. That hope, alas, turned out to be greatly exaggerated. Moreover, this kind of geopolitical grand strategy should be regarded with the greatest skepticism.

If a European superstate were to be forged, it would almost certainly develop interests and attitudes at variance with those of America. We would thereby move from a stable international order with the United States in the lead to a more dangerous world of new competing power blocs. This would be in no one's interest, least of all America's.

So NATO must remain the principal defense organization of the West. Instead of seeking to supplant it, we should aim to adapt and extend it to meet the challenges of the post-Cold War world.

Our first step should be to enlarge its political role. This great trans-Atlantic partnership should not confine itself to matters of defense but should extend its discussions into other political and economic areas. This would be of benefit to countries on both sides of the Atlantic.

Second, those Eastern European countries which have left the Warsaw Pact should be given a new, special status in NATO—something short of full membership but well beyond mere observer status. Perhaps France has pointed the way in this respect. Such a new status could be an added source of stability in a traditionally unstable area and reassure these countries in troubled times. Even in periods of warmer relations, you can have a chilly spell.

Third, I believe that NATO's role should be extended to threats which are out-of-area. When I addressed the NATO Council at Turnberry last June, I warned that: "There is no guarantee that threats to our security will stop at some imaginary line. . . . With the spread of sophisticated weapons and of military technology to areas like the Middle East, potential threats to NATO territory may originate from outside Europe."

Within two months, Saddam Hussein had invaded Kuwait. Fortunately, although there was no coordinated NATO response, several NATO nations acted vigorously to ensure that aggression did not pay.

Saddam Hussein has been defeated.

But Iraq is not alone in acquiring the technology and power to turn regional conflict into global crisis. Defense Secretary Richard Cheney has reminded us that:

"By the year 2000, more than two dozen developing nations will have ballistic missiles, 15 of those countries will have the scientific skills to make their own, and half of them either have or are near to getting nuclear capability as well. Thirty countries will have chemical weapons and 10 will be able to deploy biological weapons."

This means that the NATO countries under America's leadership must be in a position to deter aggression by these countries and, if it occurs, to make a swift and devastating response.

Strong defense will continue to be necessary—and costly. For technology does not stand still. It was the Coalition's technological superiority which, with the courage of our fighting men, enabled us to defeat the world's fourth-largest army after just four days of ground war. For myself, I believe we must keep up the rate of technological advance which gave us the Patriot missile and which will give us SDI [the Strategic Defense Initiative].

All too often after wars, democracies rush to cut back defense and increase domestic public spending. The end of the Cold War led to a similar reaction. It is time to consider whether the plans to reduce spending on defense should be revised. Resolve is not enough; you must have the military capability, too.

Perhaps, the single most important point to be made today is that the only real peace dividend is, quite simply, peace. Our generation has enjoyed it because of the investment of billions of dollars and pounds in defense.

So the first way to ensure that freedom prevails is to defend it—principally through NATO.

Whether it is in Europe or the wider world, we have to know clearly what we should expect from international institutions. The Gulf War posed a sudden, dramatic challenge to the international community. Indeed, "The Gulf" was hardly on our agenda until the sudden invasion of Kuwait on 2 August last year. Yet, since then, the Gulf has dominated all else.

The war is now over and we are working to build a secure and lasting peace. It is precisely the right time both to look again at the issues which have so long divided the peoples of the Middle East and to take stock of the future role of the United Nations.

It is not for others to come up with precise formulas for solving the problems of the Middle East. Agreement will only come from painstaking and persistent negotiation between the peoples involved. An international conference could play a part in this—not to arbitrate, but its members could provide advice on the preparation of an agenda, the development of proposals, the framing of security agreements and the course of diplomacy.

I believe that six items among others should be on our agenda for peace in the Middle East:

First, the Gulf must be protected as an international seaway. Our navies will have to stay there and those from the European countries must take a bigger and more prominent share of the duty.

Second, military equipment and supplies may need to be prepositioned in the area, both to deter further aggression and to enable the rapid deployment of Western troops should that deterrent fail.

Third, arrangements must be made to safeguard the security of Kuwait. For who will be prepared to invest the enormous sums required to rebuild Kuwait, unless security is properly guaranteed? I believe a United Nations force policing a demilitarized zone would be right for this purpose.

Fourth, there is the question of biological, chemical and nuclear weapons. We must be satisfied by observation that Iraq's have been destroyed. We should have sanctions against supplying them with equipment that could be used for that purpose. And Iraq's territory must be open to rigorous inspection to ensure that production has not begun again.

Fifth, countries which engage in aggressive war cannot expect to be allowed freely and quickly to build up their military strength. We must take steps to ensure that the advanced weapons of war are withheld from Iraq, which has, twice in 10 years, invaded the territory of neighboring Islamic states.

Finally, there is the Palestinian question, so long encased in suspicion and hostility. It can only be tackled by direct negotiation with the representatives of the Palestinian people. But those leaders who supported Saddam Hussein do not come to seek equity with clean hands. One favorable development is that the Soviet Union is now playing a very different role than in the past. So some of the fears that a Palestinian state—even though part of a confederation with Jordan—would be prey to communist subversion, have receded. But we can well understand Israel's concern for secure borders and indeed the concern of all states in the area for a system of regional security.

The United Nations was tested by the crisis in the Gulf. And it came through with an enhanced reputation. The permanent members of the UN Security Council worked together for the first time since 1945 to defeat aggression—and not for one resolution but for 12.

But the UN resolutions had to be enforced by the actions and commitment of individual countries—both America and her NATO allies and the other Arab countries of the region which saw their interests threatened by Saddam Hussein's aggression. This combination of international authority by the United Nations and enforcement by the United States and other sovereign countries may well prove to be the best model for future contingencies.

A UN armed force, operating under the instructions of a UN committee representing the interests of opposed countries, would be paralyzed and helpless.

The counterpart to increased United Nations authority is for all of its members to take seriously their obligations under the charter. It is no good individual states condemning abuses of human rights abroad if they do not practice freedom at home.

There can be no better time or place to consider the future of our nations than here—at the heart of the Free World. The role of practical statesmen in any age is to create or adapt political structures for prosperity and peace.

But true statesmanship in a free country must be measured by more than that. It requires an unswerving commitment to make the sovereignty of justice prevail. It requires an ability to inspire others with the rightness of a cause. It requires strong arms and great hearts.

We look to America for these things. And we do not look in vain.

After victory in the Cold War and in the Gulf, we face a still nobler, still more challenging task—to advance the regin of freedom and free enterprise throughout the world. It is now, more than ever, America's destiny supported by her faithful friends—and no friends are truer than her friends in Britain—to press ahead with that endeavor.

In the words of President Abraham Lincoln:

"Let us strive on to finish the work we are in."

ONE HUNDRED PERCENT HEALTH INSURANCE DEDUCTION FOR SELF-EMPLOYED INDIVIDUALS

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. CARR. Mr. Speaker, today I have introduced legislation to amend the Internal Revenue Code of 1986 to increase to 100 percent the amount of health insurance costs which may be deducted by self-employed individuals and to make such deduction permanent. Currently in the United States, a self-employed individual is allowed only to deduct 25 percent of their health insurance expenditure.

I have enormous respect for any American who possesses the talent and the dedication to operate their own business. Rising health insurance costs have impacted negatively on the self-employed and their families, raising the percentage of their income paid to keep adequate health insurance coverage. Persons employed by the Government and large corporations usually receive excellent health benefits not realizing the enormous cost that they would otherwise have to pay. Many of the self-employed are small business owners and farmers. These are two of the most important sectors in our economy and these two occupations truly represent the American dream—to be your own boss and to make money. I believe my legislation will help the self-employed in this country to continue to grow and turn profits. Our country should do everything in its power to promote this vital part of our economy and culture.

Mr. Speaker, I thank you for the opportunity to insert my remarks for the RECORD. I sincerely hope that, as rising health care costs continue to gain attention, my colleagues will support this legislation giving a tax break to self-employed Americans.

TRIBUTE TO CRIME FIGHTERS

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. ACKERMAN. Mr. Speaker, I would like to recognize the exceptional efforts of seven individuals in the battle against crime. The Forest Hills Citizens on Patrol, a community volunteer organization, on June 20, will honor Sgt. Thomas P. Paccione, and police Officers Vincent Parry, Gerald Pappas, and Danny Calemine, of the New York City Transit Authority Police Department and Eric Crumbley, and Steven Haynes of the 112th precinct of the New York City Police Department, as well as private citizen Rey Whitehorn. Mr. Speaker, these citizens deserve the praise of the U.S. House of Representatives both for their tireless efforts to keep their locality safe and for the spirit of community which their work inspires.

The valorous actions of police Officers Paccione, Calemine, Pappas, and Parry in apprehending six suspects in a double homicide case brought these officers the special recognition of the Forest Hills Citizens on Patrol. While assigned to robbery detail in the Borough of Queens, these officers heard numerous shots fired. Upon investigation the officers found four victims of a shooting, two of whom subsequently died and one who is not expected to live. The officers pursued vehicles fleeing from the scene, and despite the danger, eventually apprehended six suspects, without firing a shot.

The composure and restraint with which these officers acted is indicative of their distinguished careers in public service. Sgt. Thomas Paccione has served 17 years on the police force, and was promoted to the position of sergeant in 1985. He has been the recipient of commendations for meritous police duty, a unit citation, a letter of merit, and commendable letter. As an invaluable member of his department and the city wide task force, Sergeant Paccione has provided an excellent role model for this subordinates and has made an exemplary contribution to community safety.

Police Officer Vincent Parry, appointed to the force in 1973, has had a distinguished career which has earned him numerous commendations. Officer Parry, through concientious work and meticulous professionalism, has proven to be a tremendous asset to the city wide task force and transit police department.

Officer Gerald Pappas joined the force nearly 6 years ago. A vigorous worker, Officer Pappas is a reliable and exemplary member of his department and the city wide task force.

Officer Danny Calemine, since his appointment in 1986, has proven to be a highly productive and dedicated officer. Officer Calemine has continually strived to help the city wide task force achieve its goals. These four officers will be awarded the FHCOP Crime Stopper of the Month Award, as well as a proclamation from the city council.

The Forest Hills Citizens on Patrol also will recognize the extraordinary efforts of Police Officers Eric Crumbley and Steven Haynes in investigating the Forest Hills rapist case. Crumbley and Haynes were the arresting officers of a suspect believed to be responsible for vicious attacks on at least five women. Police Officer Crumbley has served 4 years on the job, during which he received numerous department recognitions. In recognition of the rape arrest, Crumbley was awarded the Police Benevolent Association Cop of the Month Award, a letter of commendation from the police commissioner and a certificate of merit from the New York State Senate. Officer Haynes, also a 4-year veteran of the department, has had a similarly distinguished career. The valor of these officers merits commendation not only from their community and their locality but also from the House of Representatives.

Rey Whitehorn has for 15 years been patroling his Queens neighborhood, armed only with a telephone and camera. Mr. Whitehorn makes his living as a freelance photographer, and generously contributes his spare time for the benefit of the community. Rey Whitehorn has been instrumental in the apprehension of numerous criminals, and has been an invaluable asset in setting up other community patrols. He is a shining example of dedication to public service; as proof of this, several of Mr. Whitehorn's sons have followed him into community service. For his persistent and valiant efforts for the common good, the U.S. House of Representatives owes Mr. Whitehorn the greatest respect and the warmest praise.

All of the aforementioned officers have proven themselves laudable in the line of professional duty through exemplary service to ensure public safety. It is my great pleasure to also recognize Rey Whitehorn, a man committed to the ideal that it is the duty of every citizen to protect their community.

Mr. Speaker, I ask my colleagues in the House of Representatives to join the Forest Hills Citizens on Patrol in saluting these brave individuals who exemplify a rare fortitude which is the very foundation of this Nation's greatness.

BORIS YELTSIN

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. BUNNING. Mr. Speaker, I rise today to point out that these are historic times. Glasnost and perestroika have had results never anticipated by President Gorbachev—there has emerged a genuine, grassroots, hard-campaigning alternative in the person of Boris Yeltsin, the new President-elect of the Russian Republic. While Russia—and I mean Russia in its historic, cultural sense, not as an inaccurate synonym for the Soviet Union—has had its share of historic tragedy, there is a good chance that its luck may be changing.

The election of a free-enterprise, prodemocracy reformed Communist as President of the Russian Republic is a hopeful sign. President-elect Yeltsin gives every indication that he does not want to perpetuate the Soviet Empire. He appears to favor independence or, at least, autonomy, for the national republics, which can only bode well for the Baltic States, Armenia, and Georgia.

Russia's size the economic potential will no doubt provide Moscow with leadership among the republics and other national groupings within the present Soviet Union. Mr. Yeltsin shows great promise and personifies the historic chance to bring democratic principles into practice and thereby lead his country into the 21st century. President-elect Yeltsin, welcome. We wish you well.

"STATE ECONOMIC DEVELOPMENT CASE STUDIES: RECENT CHANGES"

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. GEKAS. Mr. Speaker, I along with three of my colleagues on the Northeast-Midwest Congressional Coalition, Congressman JOHN LAFALCE, Congressman GEORGE SANGMEISTER, and Congressman GUY VANDER JAGT, last week released a book entitled "State Economic Development Case Studies: Recent Changes."

This publication is the latest in a series of books tracking the progress of State economic development initiatives. I wanted to take just a moment today to bring this publication to the attention of my colleagues.

The book reviews 75 of the 83 stated programs originally profiled in two earlier books produced by the coalition. Four of the programs reviewed operate in my home State of Pennsylvania. The Pennsylvania Small Business Incubator Program has provided needed financial support to growing businesses. The Ben Franklin Partnership has played an important role in fostering technological development across the State. The organization known as PENNTAP has brought State universities' technical services closer to clients who need them. The Pennsylvania Business Infrastructure Development Program has applied economic assistance directly where it was needed to improve the State's infrastructure.

Many of the programs reviewed in the studies were originally devised to help businesses cope with the 1982 recession. As many States are once again facing difficult economic situations, the updated information in this book continues to be a vital resource to Members and their constituents.

This book is designed to be a source of basic data to help spur economic development at both State and local levels. The case studies contained in the book serve as useful models for attracting jobs and investment in a variety of communities.

I strongly encourage my collelagues from Northeastern and Midwestern States to take advantage of the information contained in this book.

PROVIDE RESIDENTIAL SUBSTANCE ABUSE TREATMENT FOR PREGNANT WOMEN

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. DURBIN. Mr. Speaker, today I am introducing legislation, along with Mr. MILLER of California, Mrs. MORELLA, and Mrs. SCHROEDER, that will provide new hope for addicted pregnant women and drug-exposed infants by establishing a grant program to provide drug and alcohol treatment to pregnant and postpartum women and their children.

Our legislation grows out of the realization that pregnant women are among those least likely to be able to obtain comprehensive, residential drug and alcohol treatment. Because of our failure to make such treatment available, the drug epidemic is filling our Nation's hospital nurseries with babies who are born addicted.

We are becoming increasingly aware of the human and financial magnitude of this tragic problem. Nationwide, 375,000 babies are born each year who were exposed to illegal drugs before birth—1 out of every 10 newborns.

The annual cost of hospital treatment for drug-exposed newborns is alarming; $178 million in California in 1988, $121 million in Maryland in 1989, and several billion dollars each year for the Nation as a whole.

In addition to these immediate hospital costs, we face even greater additional costs for foster care, special education, and other social services these children need as they grow up. The Health and Human Services Office of the inspector general surveyed just eight major cities and estimated that, for the 9,000 drug-affected infants born in those cities in 1989, our Nation will pay $500 million in hospital and foster care costs during their first 5 years of life. The financial toll rises to $1.5 billion if they are given the comprehensive special education services they will need to prepare them for school. The rest of the Nation faces similar costs, and the cost is repeated each year with a new group of drug-exposed newborns.

We can reduce these costs substantially if we ensure that pregnant women have access to effective substance abuse treatment programs. For many addicted pregnant women, the only effective treatment is a comprehensive program in a residential setting that provides counseling, child care, room and board, and other services. This type of residential program provides the necessary support system to allow the women to focus on their recovery.

Furthermore, this type of program can be highly cost effective. The Institute of Medicine found that the clients of longer term residential treatment programs stop virtually all illicit drug taking and other criminal behavior while in residence, and demonstrate lower drug use and criminal activity and greater social productivity after discharge than they did before admission and than other individuals who did not receive similar treatment.

These programs are also cheaper than the alternative. While the lifetime cost of caring for a drug-exposed, low-birthweight baby can reach $400,000, the cost of comprehensive residential treatment to prevent the damage is $20,000 or less.

Tragically, pregnant women are among those least likely to be able to obtain comprehensive residential treatment. Very few such programs are available to pregnant women, and waiting lists are long, leaving many women who need and want treatment with nowhere to turn. For example, two-thirds of the hospitals surveyed in 1989 by the Select Committee on Children, Youth, and Families reported that they had no place to refer pregnant addicts for treatment.

More than half of the 78 treatment programs surveyed in New York City excluded all pregnant women and two-thirds refused those on Medicaid. Only 16 percent served pregnant women addicted to crack, and none of those were residential programs. Of the programs that did accept pregnant women, less than half provided or arranged for prenatal care and only two made provisions for the clients' children. Similarly, only 18 percent of California's 366 publicly funded drug treatment programs treat women and only 4 percent can accommodate their children.

Our legislation, the Alcohol and Drug Abuse Residential Treatment Grants Act of 1991, would address the shortage of residential treatment options for pregnant women by establishing a grant program with the following features:

Grants would be made available to public and nonprofit private entities to provide residential substance abuse treatment services to pregnant and post partum women and their children, and, at the option of a treatment facility, other parents and their children.

This grant program would be authorized at a funding level of $50 million in 1992, $100 million in 1993, and such sums as necessary in 1994–96.

Facilities receiving grants under this legislation would be required to provide a comprehensive set of services known to be important components of effective women's drug and alcohol treatment programs. Those services include: Counseling and treatment based on an individualized treatment plan; therapeutic child care of counseling for the children of individuals in treatment; parenting skills training; HIV prevention education; room and board; and assistance in obtaining educational, vocational, health, and other social services necessary to sustain recovery.

In order to ensure that clients receive quality services and personalized attention, eligible facilities would be limited in size to 40 beds or modular units of no more than 40 beds. Substance abuse treatment experts consider small size to be a key to the success of a residential treatment program. Larger facilities could request a waiver from this requirement if they could demonstrate equivalent or greater therapeutic benefit at a lower cost.

This legislation can dramatically reduce the financial and human costs associated with maternal addiction. Every day that we delay in addressing this issue, more drug and alcohol-affected infants are born, many permanently damaged by fetal exposure to these substances. The cost of this legislation is far less than the cost of health care, foster care, special education, juvenile justice, and other social services associated with perinatal drug exposure. We cannot afford not to act to provide these vital services.

Mr. Speaker, I introduced legislation earlier this year to provide residential treatment to addicted pregnant women through the Medicaid Program. That legislation has attracted more than 70 cosponsors, but this year's budget rules have complicated its potential for enactment. Therefore, I urge my colleagues to sign on as cosponsors of the Alcohol and Drug Abuse Residential Treatment Grants Act of 1991 and join me in working for its passage.

A SALUTE TO BRIG. GEN. CHARLES E. ST. ARNAUD

HON. H. MARTIN LANCASTER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 18, 1991

Mr. LANCASTER. Mr. Speaker, I rise today to pay tribute to Brig. Gen. Charles E. St. Arnaud, Commander of the U.S. Army Troop Support Agency. General St. Arnaud will soon retire from the Army having completed almost 35 years of distinguished service.

Born in Aurora, IL, on January 16, 1939, Gen. Chuck St. Arnaud was commissioned a second lieutenant in 1959 upon completion of officer candidate school. In over three decades of service, General St. Arnaud excelled in a wide variety of important command and staff positions culminating in his assignment to his current position in September 1989.

Throughout his assignment as Commander of the U.S. Army Troop Support Agency, General St. Arnaud excelled in making a significant contribution to the readiness of our Armed Forces. His expertise and leadership proved to be invaluable assets to our collective efforts to protect and improve the commissionary privilege.

Military commissaries are regarded as one of the most important aspects of the Nation's efforts to enhance the quality of life for military members and their families. Every day millions of soldiers and their families stationed throughout the world depend upon the vast commissary network to support their day-to-day needs. Those soldiers and their families have surely benefited from General Arnaud's stewardship of the U.S. Army troop support agency. Indeed, General Arnaud's achievements have left the commissary system substantially improved to meet tomorrow's challenges. For his efforts, the Army, and the American people, owe General Arnaud a tremendous debt of gratitude.

I know I speak for my colleagues in the Congress and for the people of our great Nation when I express sincere appreciation for the dedicated service General St. Arnaud has offered our Nation. I speak for all of us, too, in extending the very best wishes for continued success to General St. Arnaud, his wife, Carol, and their children, Jenifer and Jon.

SENATE—*Wednesday, June 19, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed be God, even the Father of our Lord Jesus Christ, the Father of mercies, and the God of all comfort; Who comforteth us in all our tribulation, that we may be able to comfort them which are in any trouble, by the comfort wherewith we ourselves are comforted of God.—II Corinthians 1:3,4.

God of all comfort, our hearts join with those of Senator BURNS and his staff in the loss of James Parsons, a brilliant young man, killed in a tragic highway accident last Friday evening on his way to see his parents in New Jersey. We pray that Thou wilt fill their hearts with Your comfort and peace. We remember James' family who, in their grief, find no answers to the question, "Why?". You alone can respond to that profound need in their lives, and we pray for Your comfort to satisfy that need.

In this large Senate family, Father, there are many who are hurting, and most of us are unaware. There are those who are ill, some seriously; some who struggle at their tasks, finding office relationships difficult. Some face the battle with alcohol, in themselves, their spouse or another family member. Many are frustrated, possessed by a sense of futility. There are some for whom life has become meaningless. Gracious Father, for all our hurting friends we pray. Help each of us to be sensitive to the needs of others and wisely respond when the needy need us. May the love of God fill our hearts so that whatever the situation, lonely, hurting people really experience love.

We pray in His name who is incarnate love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 19, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable J. ROBERT KERREY, a Senator from the State of Nebraska, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KERREY thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

SURFACE TRANSPORTATION EFFICIENCY ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 1204, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1204) to amend title 23, United States Code, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Mississippi [Mr. LOTT] is recognized to offer an amendment.

Mr. LOTT. Thank you, Mr. President.

AMENDMENT NO. 358

(Purpose: To eliminate language which lowers the Federal share payable for certain projects)

Mr. LOTT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 358.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 4, insert "pursuant to section 144 of title 23, United States Code" after "gram".

On page 5, line 11, insert "pursuant to section 119 of title 23, United States Code" after "Highways".

On page 28, strike out lines 2 through 25.

On page 29, line 1, strike out "(c)" and insert in lieu thereof "(a)".

On page 29, line 8, strike out "(d)" and insert in lieu thereof "(b)".

On page 29, line 11, strike out "(e)" and insert in lieu thereof "(c)".

On page 29, line 21, strike out "(f)" and insert in lieu thereof "(d)".

Begining on page 30, strike out line 20 and all that follows through line 4 on page 35.

Mr. LOTT. Mr. President, I would like to inquire first about the division of time.

The ACTING PRESIDENT pro tempore. The time on this amendment will be 15 minutes, equally divided and controlled in the usual form.

Mr. LOTT. Mr. President, let me start off by explaining basically what this amendment would do. It seeks to bring the Federal matching ratios for interstate maintenance and bridges back to current law, which would mean that interstate maintenance would be 90–10, and bridges, all bridges, would be 80–20.

Mr. President, the States are struggling under ever increasing loads already. Many programs that the States have primary responsibility for are increasing in costs. The States are trying to improve themselves in areas as diverse as education, health care, and Medicaid.

We in the Congress and in Washington, for several years now, have been shifting more and more responsibility and costs for our programs back to the States. And there has been a lot of debate about that. I personally have voted many times to shift some of those responsibilities and costs back to the State and local level.

All that is fine, up to a point. Some of the programs that we have run and funded from Washington for several years truly are State and local in nature, and they should be held responsible and they should bear the costs for those programs. But in this bill, we are talking about the Federal highway bill, we are talking about interstate highways and interstate maintenance and bridges.

One of the important things about this bill is the support that we do provide for bridges. Bridges are extremely expensive. I know in my own State, we have the need for some bridges. One of them is $35 million; another $50 million; another $55 million; very expensive items which are expensive to build and they are expensive to maintain. So it is very important that we not shift more of the burden for these highways, these Federal highways, these interstate highways, back to the States.

We are, in effect, saying, "Look; we will build these interstate highways,

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

but you are going to have to bear an even greater responsibility for maintaining them as they deteriorate and need repair."

But the intent of this amendment, I want to emphasize, is only to keep the current law. I am not trying to lower the States' share. I am not trying to show preference to one region over another. And I recognize and fully acknowledge that the committee members in the committee bill came up with a formula that is more favorable to the States with regard to some of the rural highways, the off Interstate Highway System, and that is great. I commend them for it. I do not deal with this. My amendment only effects these two areas where the burden is going up.

The amendment would not change any other ratios except for interstate maintenance and bridges. It would produce a Federal matching average of approximately 81 percent for the entire bill, which is only slightly lower than current law, an average of 83 percent. The Moynihan bill produces a Federal matching average of approximately 79 percent.

Now, you might say you are only talking about 2 or 3 percent; what is the big deal? When you are talking of hundreds of millions of dollars, in fact, billions of dollars, it makes a lot of difference. And the poor States, the rural States, are not able to come up with 25 percent matching, in many instances, of these $30 and $40 million projects.

I think that this question of Federal matching ratios has kind of been lost in the debate because we got so tangled up over the formula of allocation, and that is understandable. But if you talk to your Governors, if you talk to your State highway commissioners, they will tell you this is a very important item. In fact, they would probably tell you it is one of the two most important items in this legislation: The allocation formula and the Federal matching share.

Some people will say, well, the administration is opposed to this; the administration has come up with legislation that would raise the States' share. I know that. I fully understand that, and I try, whenever possible, to support the administration when they make recommendations for legislation.

But this is much more important than one branch of the Government saying: We have to have it. It is much more important than partisanship. This is a question of the ability of people to be able to build and maintain roads and bridges for safety, for development, for opportunity to move around the State.

And let me emphasize again, there are many sections in this bill that I think really work to the disadvantage of rural poor States.

My amendment would amend a section in the bill, section 108, with regard to the bridge program. This is section 108(a)(f), line 4. It says:

> The Federal share payable for any project undertaken under this subsection shall be 80 per centum, except for any costs attributable to the expansion of the capacity of any bridge or the construction of any new bridge where such new capacity or new bridge is primarily available to single occupant vehicles.

Mr. President, in most States, that is every bridge. Only where you have car pools and mass transit would it not affect you. So what is happening here is a State like my State would be forced to have to come up with the higher share of funds.

I ask unanimous consent, Mr. President, that a "Comparison of Federal Matching Ratios" of the various bills and amendments be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMPARISON OF FEDERAL MATCHING RATIOS—SURFACE TRANSPORTATION EFFICIENCY ACT

	Interstate completion	Interstate maintenance	Bridges
Current law	90/10	90/10	80/20
Lott	90/10	90/10	80/20
Administration bill	90/10	90/10	75/25
Moynihan (S. 1204)	90/10	80/20	[1] 75/25 [2] 80/20
Graham	90/10	90/10	85/15

[1] Single occupancy.
[2] All other.

Mr. LOTT. The current law on interstate completion is 90–10. I would keep that at 90–10. The Moynihan bill would keep it at 90–10. But interstate maintenance in current law is 90–10; the Moynihan bill, S. 1204, would drop that to 80–20. The State would have to come up with 20 percent.

For bridges, the current law is 80–20. I would keep it at 80–20. S. 1204 would make it 75–25 for single occupancy, which is every bridge in a lot of States, and 80–20 for all others.

I think it is fundamentally a question of fairness or even the ability to repair these bridges or build bridges. Out of all the Federal Government's responsibilities, I think a primary responsibility is the Interstate Highway System.

So I urge my colleagues to take a close look at this amendment. It is not a lot of money from the Federal standpoint, but it is a lot of money, and it is important money, for States like my own State that have a high gasoline tax, low income, and an inadequate highway system. We are paying a tremendous share of our revenues coming into the State in Mississippi already for highways. We have an 18-cent State gasoline tax. In my own home area we add another, I believe it is, 4 cents for seawall protection and the road along the seawall. So we are talking about as much as 22 cents for State gasoline tax. And then we have Federal tax on top of that of 14 cents. We are doing all we can do. Without a fair Federal-State ratio, we will not be able to provide the interstate maintenance and bridge maintenance we so desperately need.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I have great respect for the Senator from Mississippi, as he knows; we have discussed this. But, to put this in perspective of where we are with Senator MOYNIHAN and myself on this bill, we started out with an administration that told the committee they would guarantee us a veto if we did not have a 60–40 ratio. There is some merit in what the administration wants to do. I think they want a lever so more States and more local entities participate in the funding of the transportation system of the country and decentralize it from Washington, DC. That is a view I know my good friend from Mississippi shares, that we should decentralize all this authority.

We made a compromise. But I can tell my colleagues the administration has contacted me this morning, and the Lott amendment is totally anathema to the Department of Transportation, the Federal Highway Administration, and to the President. So I urge my colleagues to support a tabling motion that will be offered by Senator MOYNIHAN and myself very soon, at 10:15.

Senator DOLE and Senator BYRD—if Senators have noticed—Senator BYRD offered an amendment that has been accepted that pays a reward to States for their participation. This helps with the general theory of a higher match because it rewards States that put in a better participation.

Senator DOLE is going to come in and make an attempt to modify the Byrd amendment or to amend it to make what he thinks is a more fair distribution, based on a level of effort made by States. In my opinion, we should resolve this through the aspects of the Dole-Byrd, some compromise, something in between—we do not know how it will come out with respect to the conference—and not accept this amendment at this time. This bill generally is 80–20, and in certain instances 75–25. The interstate construction still is the 90–10.

I think it is a good compromise, and I ask my colleagues, with all due respect to my good friend from Mississippi, to vote to support the committee in a tabling motion that we will make shortly.

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, we feel, as managers of the legislation before us, that we have a responsibility to the Senate as well as to the committee which sends us here with a bill reported 15 to 1. We understood the reasons the administration wanted to leverage more money by having a more nearly equal contribution ratio. Indeed, up until 1965, all Federal highway moneys were 50-50. We went to the extraordinary 90-10 to build the Interstate and Defense Highway System. It was not a very scientific thing. One of the participants in the decisions is recorded as having said that we had a gut feeling that would get the job done, and they were not wrong. At 90-10, who can say no?

But 90-10 is a formula, we said over and again in this debate, for treating these moneys as free goods. Free goods are always wasted. We are talking productivity here.

I read to my despair in one of our newspapers this morning that our bill emphasized repairs. No, it does not. We are talking about productivity; we are talking about cost effectiveness; we are talking about trying to find some way to get principles of competitive choice. And the last way to do it is to go back to the notion that this is all free money. If you want less investment in infrastructure, here is your way to do it. Whereas the Federal moneys would have been matched at 20 percent under our bill, at 10 the aggregate drops about 50 percent.

I just cannot support this. I do hope Senators will understand why, while this might seem attractive, the whole thrust of our legislation is to say otherwise.

Mr. SYMMS. I think, Mr. President, if the Senator will yield, it also makes it so that those State engineers are more sensitive to the decisions that are made because there is a little bit more of the State money in it.

Mr. MOYNIHAN. Yes.

Mr. SYMMS. It is not a whole lot more, but there is a little more commitment, enough to make a difference in their thinking so they do not build some of the white sidewalls and some of the expensive, unnecessary adornments along the road, thinking the Federal Government is paying for it anyway.

Mr. MOYNIHAN. That is our theory, Mr. President, about why productivity disappeared from this sector of the economy. Because there was no reward for productivity; the money was free.

Mr. SYMMS. The Senator is correct.

Mr. MOYNIHAN. Mr. President, I do not want to delay. With respect to the amendment of our friend from Mississippi, I move to table the measure. The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. Did the Senator ask for the yeas and nays on the motion to table?

Mr. SYMMS. The yeas and nays were ordered. So we ask for the yeas and nays on the motion to table.

The ACTING PRESIDENT pro tempore. The yeas and nays have been ordered on the amendment, not the motion to table.

Mr. SYMMS. On the motion to table, Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. There being no further debate, the question is on agreeing to the motion of the Senator from New York. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 53, nays 44, as follows:

[Rollcall Vote No. 97 Leg.]

YEAS—53

Adams
Akaka
Baucus
Bentsen
Biden
Bradley
Brown
Burdick
Byrd
Chafee
Craig
Cranston
D'Amato
Dixon
Dodd
Domenici
Durenberger
Exon
Fowler
Garn
Gorton
Gramm
Harkin
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Pell
Pressler
Reid
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Simon
Simpson
Smith
Stevens
Symms
Wallop
Wellstone
Wirth

NAYS—44

Bingaman
Bond
Boren
Breaux
Bryan
Bumpers
Burns
Coats
Cochran
Cohen
Conrad
Danforth
Daschle
Dole
Ford
Glenn
Gore
Graham
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Johnston
Kassebaum
Kasten
Levin
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Packwood
Riegle
Robb
Sasser
Seymour
Shelby
Specter
Thurmond
Warner
Wofford

NOT VOTING—3

DeConcini
Nunn
Pryor

So the motion to lay on the table the amendment (No. 358) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will come to order.

Mr. MOYNIHAN. Mr. President, we are now in the final hours of our deliberation, and I do not mean to extend them.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from New York.

Mr. MOYNIHAN. Mr. President, we are now in the closing hours of our deliberations. I expect we will be through before long. I do not mean to prolong that process. But at the risk of being repetitive, and sometimes there is no alternative to being repetitive, may I point out that just now, by the narrowest of margins, we refused to accept a measure which went absolutely against the spirit of this legislation.

And could we have order, Mr. President?

The ACTING PRESIDENT pro tempore. The Senate will come to order.

Mr. MOYNIHAN. Had we adopted this measure, Mr. President, there would have been no honorable course but to have the bill recommitted, it was so absolutely at odds with the spirit of this legislation.

My comanager, Senator SYMMS, said that the President would surely veto the measure. He had been told it would be vetoed. And it would have been right. This was a return to free money, which is exactly the disease that has produced our present situation.

At least 15 Senators came to me on the floor and said: My highway department has just called to say vote for this. Of course, they did. How can you say no to free moneys? Yet, it is our job to do that. Do not blame the highway departments. For 30 years or 35 years, they have lived on 90-10 moneys with no responsibility, no accountability. Productivity died and quality dropped off.

But the arrangements went on. The moneys flowed, and that became the end of the system, just to get the Federal money. What you did with it did not make any difference. And here my comanager nods in resigned agreement.

Has no one heard anything we have said? Has no one read the principles of the legislation? They are upright, on one page, and very simple. It was a very close thing—53 votes. I hope the highway departments are hearing us. I wish that Secretary Skinner and Dr. Larson were here. But they are necessarily absent. They could explain this matter.

We survived, and we will go on with the rest of the day. I thank, once again, my stalwart companion from the Rocky Mountains.

The Senator from Florida is going to offer an amendment, which we look forward to.

AMENDMENT NO. 359

(Purpose: To provide for the utilization of the most current census data in certain laws related to the environment and public works)

Mr. MACK. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for himself, Mr. GRAHAM, Mr. SANFORD, and Mr. HELMS, proposes an amendment numbered 359.

Mr. MACK. I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 22, after line 21, insert the following: "*Provided*, That the Secretary shall use estimates prepared by the Secretary of Commerce to determine the population figures of the individual States for the fiscal years 1987, 1988, 1989, 1990, and 1991: *And provided further*, That those estimates shall be used to distribute apportionments under this section.".

Mr. MACK. Mr. President, I can share the frustration expressed by the Senator from New York about whether anybody has heard anything that has been said, in the sense that the amendment that I am offering today, along with Senator GRAHAM of Florida, Senator SANFORD, and Senator HELMS, deals with a population issue. This is an issue that I have talked about over and over and over again. I suggest that before this session of Congress is complete, I will probably talk about it over and over again.

The issue has to do with basic fairness. As I understand the present legislation that is before us, the so-called underlying formula has a portion of that formula which is based on population, and it is that roughly 15 percent of the allocation of dollars will be based on population census information.

The troubling part about it is that we are using 1980 census information to make a determination about how funds will be divided up between 1992 and 1996. Let me say again, so that everyone understands. I am talking about the fact that 1980 census information will be used in allocating highway resources, not in 1982 or 1984 or 1986 or 1988. But that 1980 census information will be used to calculate how we will divvy up highway funds in 1992, 1993, 1994, 1995, and 1996.

I just make the charge that that is just blatantly unfair. The charge is going to be made that I am going to try to change the formula. I am not trying to change the formula at all—although I would love to see it changed.

What this amendment does is say if you are going to use the formula which was identified, the formula that was used for 1986 through 1991, it is only fair you use current census data in that formula.

Why does it make a big difference to me? Why does it make a big difference to my State and to the people of the State of Florida? I will tell you why. In 1980, there were 9,700,000 people living in the State of Florida. In 1990, there were 12,937,000. In 1991, it is estimated to be at 13,261,000 people.

Mr. President, I once again contend that basic fairness would say that if you are going to have a formula in which there is going to be consideration for population data, we should use the most current census data available. And that data is, in fact, available. I ask that we use it in 1992, 1993, 1994, 1995, and 1996.

There is also going to be a charge that there is going to be a massive transfer of resources from one State to another. Well, we ran some figures based on 1990 only, and if you use 1990 for that 5-year period as an average, we can only come up with a transfer from State to State totaling, for all 50 States, approximately $80 million. Eight million out of roughly a $120 billion, 5-year highway program. This is not a massive amount of money. What we are asking here is just for some basic fairness, and to use updated census information that is already available.

So again, Mr. President, I ask that my colleagues support this amendment. It is straightforward; it does not undermine the basic formula. It merely says that if you have chosen to use a formula in which there is population as a part of that equation, you should use current census information to do that.

Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. Mr. President, I find myself in an unusual position this morning of standing on the floor opposing amendments from two of my comrades in arms on most issues: The distinguished Senator from Mississippi, and now the distinguished Senator from Florida.

Just to bring everybody up to date on how this was arrived at, the committee decided in coming out with the formula that we would try to hold harmless all States and give States basically as much as they had been getting. No matter how this was decided, no matter what method was used, someone is always going to be unhappy with the highway formula.

The Senator from Florida brought two amendments in to deal with this issue. The committee accepted part of his amendment, which deals with population internally in the State, and with the MPO's, and that will be accepted in the committee amendment.

So he has gained already; he has gotten half a loaf, and it will be part of this bill. But I think what all Senators need to recognize is that we now generally have an idea where we are with the bill. The bill has been before the Senate for nearly 2 weeks now. We had the bill in the committee with the Federal Highway Administration pounding out all kinds of numbers.

But with respect to the Mack census-data amendment, if we change this now, there are no tables regarding the effect on apportionments. We do not have a table on population changes in the eighties. Thirteen States either lost population or gained population at a rate lower than the national average, which is 9.8 percent. There may be certain evidence regarding which States win and which States lose under the Mack amendment. We do not know that, but my guess would be that the 13 States will lose money if the Mack amendment is adopted.

The reason we did not change the basic formula from the past in this bill is that it always turns out the way Senators vote, they vote based on what their State gets. The bottom line is how much money do they get. We have seen that on the last two amendments. Senators walked on the floor on the Lott amendment—they know that the President is probably right on his leverage position with respect to trying to encourage more State participation, more county participation, more city participation, more people participation in funding the crumbling infrastucture. The President wants to lever them to do it. Senators know that. They say, yes, he is probably right in policy. But somebody calls from the home State and says, in this one amendment that was offered, in this case the Lott amendment, our State would tend to get x number of dollars more. I hope you will vote for it. They pay no attention to the principle; they simply vote on the way the numbers look. As Senator MOYNIHAN said, we have already lost what the thrust of what we are trying to do with this bill is, to improve productivity, improve efficiencies in transportation in this country.

So I think we have spent a week and half, as I say, haggling over the distribution of funds, and, if Members adopt this motion by the Senator from Florida—I cannot support it because it has so much uncertainty; I do not know what it will do. So at the appropriate time—I do not want to cut off any debate—it is my intention, on behalf of myself and Senator MOYNIHAN, to offer a motion to table this. This will totally disrupt what we have done.

Before I do that, I want to say, to my best guess and the best guess of the committee staff, the following States will lose money if the Mack census amendment is adopted and becomes part of the bill: Alabama, Arkansas, Connecticut, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, West Virginia, Wisconsin, and Wyoming. That is the best estimate I can give the Senate.

Does the Senator have more debate he wants to do? I do not want to cut him off in any way.

Mr. MACK. Mr. President, I wish to make a few remarks.

Mr. SYMMS. I yield the floor, Mr. President.

Mr. MACK. Mr. President, I just want to make a few remarks in response to the Senator from Idaho.

First, the Senator just read a list of those States he believes will be losers if my amendment were to be agreed to. I take the approach of saying that any State that experienced growth during the past 10 years, and there are 40 States, regardless of how small that growth might be, if they do not support this amendment, the growth in population in their State is not going to be taken into consideration in the basic formula. So I ask Senators to think twice if you heard the name of your State called out on that list that was just read by the Senator from Idaho.

Mr. SYMMS. Mr. President, will the Senator yield on that point?

Mr. MACK. I am glad to yield.

Mr. SYMMS. Forty States grew, but they grew less than the national average.

Mr. MACK. I did not say they did not.

Mr. SYMMS. Many grew less than the national average. The ones I mentioned either grew less than the national average—the national average was almost 10 percent in the country. Any State that grew 5 or 6 percent, in my opinion, if they accept the Senator's amendment, would tend to fall below the national average, and they would lose funds.

Mr. MACK. I understand the point the Senator is making. I am merely making the point, and I think the Senator will have to agree with this, that, clearly, if this amendment is not accepted, any State, regardless of the amount of growth they experienced, that growth will not be taken into consideration under the formula that is being used. I do not argue the point the Senator has made.

In addition, with respect to the amendment that was previously defeated but came relatively close to passage, it makes sense that the Senate almost adopted the amendment. Why would any of us go back home and ask our States to put up more money to gain matching dollars when we are not getting back what we put into the fund? I think is a clear recognition of the reason the amendment was almost adopted. It is another indication of the unfairness of this formula. It was bad enough for the last 5 years, but to now have to operate for the next 5 years with a formula, that clearly does not take into effect population increase, let alone the number of highways built in the State. Florida for example, is the second State in the Nation with respect to its commitment to highways when you count in all the factors, not just gasoline tax, diesel fuel. What about licensing fees, what about registration fees, and so forth?

So, again, I make the argument, while I appreciate the committee's accepting the other amendment I offered, this amendment clearly goes to the allocation of scarce resources. It is a question of fairness, it is a question of whether you are going to use current census data and whether you are going to use 1980 census data to make a decision about the allocation of resources in 1996. The information is available, and I would encourage the Senate to use it.

I yield the floor.

Mr. SANFORD. Mr. President, I am very pleased to be a cosponsor of the Mack-Graham amendment which authorizes the use of the 1990 census figures when distributing base apportionments for Federal-aid Highway Programs under the Surface Transportation Efficiency Act.

The very idea that without the acceptance of this amendment we would be allocating Federal highway funds based upon the 1980 census data is not only alarming but illogical. The population of my home State of North Carolina increased by nearly 13 percent in the 1980 decade. To even consider not adjusting the current formulas to reflect such an extreme growth is absurd.

Without this amendment we will be using the 1980 census in allocating highway resources until 1996. The growth rate for my State is expected to continue to grow into the 1990 decade. We cannot be tied to not only an outdated formula, but also outdated census figures in allocating highway funds. Where is the logic or the fairness in this practice?

I urge my colleagues to support our efforts to change the current formula to at least reflect the current census data. As a State's population grows, so too does its transportation needs and its highway maintenance needs. It makes good sense and good policy to ensure that the legislation we pass will utilize the most recent census information. To ignore growth and change in setting long term transportation policy is wrong, and to support maintaining the 1980 census on the basis that your State fares better under an old census figure is like wishing you could turn back time and live in the past. We must move forward with this legislation, we must ready ourselves for future progress and growth.

I hope that the good sense of this body prevails and that my fellow colleagues will support this amendment.

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition?

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho [Mr. SYMMS] is recognized.

Mr. SYMMS. Mr. President, if there are no other Senators seeking recognition, on behalf of myself and Senator MOYNIHAN, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I renew my request for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Idaho to lay on the table the amendment of the Senator from Florida. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 63, nays 35, as follows:

[Rollcall Vote No. 98 Leg.]

YEAS—63

Adams
Baucus
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cohen
Conrad
Craig
D'Amato
Danforth
Daschle
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Glenn
Gore
Grassley
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
McConnell
Metzenbaum
Mikulski
Moynihan
Nickles
Packwood
Pell
Pressler
Riegle
Rockefeller
Sasser
Shelby
Simon
Simpson
Specter
Symms
Wallop
Wellstone
Wofford

NAYS—35

Akaka
Bentsen
Biden
Bingaman
Brown
Bryan
Cochran
Cranston
Dole
Fowler
Garn
Gorton
Graham
Gramm
Hatch
Helms
Hollings
Lott
Mack
McCain
Mitchell
Murkowski
Nunn
Reid
Robb
Roth
Rudman
Sanford
Sarbanes

Seymour Stevens Warner
Smith Thurmond Wirth

NOT VOTING—2

DeConcini Pryor

So the motion to lay on the table the amendment (No. 359) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 360

Mr. MOYNIHAN. Mr. President, we are approaching third reading, and we have a committee amendment which I will send to the desk on behalf of the managers of the bill, the Senator from Idaho and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York, [Mr. MOYNIHAN], for himself and Mr. SYMMS, proposes an amendment numbered 360.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . NATIONAL POLICY FOR INFRASTRUCTURE REUSE.

(a)(1) STUDY AND REPORT.—(1) Section 307 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) Not later than 12 months after the date of the enactment of the Surface Transportation Efficiency Act of 1991, the Secretary shall conduct a study of methods of facilitating the reuse of industrial manufacturing facilities.

"(2) In conducting the study described in paragraph (1), the Secretary shall consult with the heads of such departments and agencies of the Federal Government as the Secretary determines to be appropriate to ascertain regulatory, technical and other problems or constraints associated with the reuse of industrial manufacturing facilities.

"(3) Upon completion of the study described in paragraph (1), the Secretary shall submit a report to the appropriate committees of Congress on the findings of the study, including a summary of any information submitted to the Secretary by the head of a department or agency pursuant to paragraph (2).

"(4) For fiscal year 1992, an amount not to exceed $200,000 shall be taken out of the administration and research funds authorized by section 104 of this title for the purpose of carrying out the provisions of this subsection.".

(2) Section 104 of title 23, United States Code, is amended by striking "authorized by subsections (a) and (b) of section 307" and inserting "authorized by subsections (a), (b), and (g) of section 307".

On page 49, lines 18 through 25, strike "All provisions" and everything that follows and insert in lieu thereof "Sums".

On page 37 of the bill, at the end of section 111, add the following new subsection:

"(e) INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions.".

At page 25, line 13 add a new paragraph (4) as follows:

"(4) pursuant to this subsection projects which research, develop and test technologies to control highway related emissions which contribute to the nonattainment of any ambient air quality standard or the impairment of visibility within an urbanized area within the state shall be deemed to be eligible projects."

At page 57, line 7 add a new paragraph (6) as follows:

"(6)(a) The Secretary in cooperation with other appropriate federal agencies, the Governors of Arizona, California, New Mexico and Texas, and the appropriate representatives of the Republic of Mexico, shall assess the need for transportation infrastructure to facilitate trade between the United States and Mexico. Within 18 months following the date of the enactment of this Act, the Secretary shall report to Congress and the Governors of Arizona, California, New Mexico and Texas on such transportation infrastructure needs and the associated costs."

(b) The Secretary in cooperation with other appropriate federal agencies, the Governors of Maine, New Hampshire, Vermont, New York, Michigan, Minnesota, North Dakota, Montana, Idaho, Washington, and Alaska and the appropriate representatives from Canada, shall assess the need for transportation infrastructure to facilitate trade between the United States and Canada. Within 18 months following the date of the enactment of this Act of the Secretary shall report to Congress and the Governors of Maine, New Hampshire, Vermont, New York, Michigan, Minnesota, North Dakota, Montana, Idaho, Washington, and Alaska on such transportation infrastructure needs and the associated costs.

On page 19, between lines 17 and 18, insert the following:

"(c) For purposes of paragraph (1)(A)(i) and paragraph (6) of subsection (b), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

On page 22, between lines 21 and 22, insert the following:

"(D) For purposes of subparagraph (C), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

On page 26, line 3, before the period insert the following: ": *Provided further*, That the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

On page 51, between lines 15 and 16, insert the following:

"(h) For purposes of subsections (b) and (e), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

On page 77, line 2, before the quotation marks, insert the following: "For purposes of this subsection, the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

Insert at the appropriate place in title I:

SEC. . DECLARATION OF NONNAVIGABILITY OF PORTION OF HUDSON RIVER, NEW YORK.

(a) DECLARATION OF NONNAVIGABILITY.—

(1) IN GENERAL.—Subjection to subsections (b), (c) and (d), the area described in paragraph (2) is declared to be nonnavigable waters of the United States.

(2) AREA DESCRIBED.—The area referred to in paragraph (1) is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York).

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918,003 west 9806,753:

(1) Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44′-20″ east, having a radius of 390.00 feet and a central angle of 22°-05′-50″, 150.41 feet to a point of tangency;

(2) Thence north 71°-38′-30″ east, 42.70 feet;

(3) Thence south 11°-05′-40″ east, 33.45 feet;

(4) Thence south 78°-54′-20″ west, 0.50 feet;

(5) Thence south 11°-05′-40″ east, 2.50 feet;

(6) Thence north 78°-54′-20″ east, 0.50, feet;

(7) Thence south 11°-05′-40″ east, 42.40 feet to a point of curvature;

(8) Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 18°-37′40″, 83.85 feet to a point of compound curvature;

(9) Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°-39′-00″, 101.19 feet to another point of compound curvature;

(10) Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°-32′-03″, 97.89 feet to a point of curve intersection;

(11) Thence south 13°-16′57″ east, 50.86 feet to a point of curve intersection;

(12) Thence westerly, on the arc of a circle curving to the left, whose radius bears north 13°-16′-57″ west, having a radius of 6.00 feet and a central angle of 180°-32′-31″, 18.91 feet to a point of curve intersection;

(13) Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°-37′-11″ east, having a radius of 313.40 feet and a central angle of 4°-55′-26″, 26.93 feet to a point of curve intersection;

(14) Thence south 70°-41′-48″ west, 36.60 feet;

(15) Thence north 13°-45′-00″ west, 42.87 feet;

(16) Thence south 76°-15′-00″ west, 15.00 feet;

(17) Thence south 13°-45′-00″ east, 44.33 feet;

(18) Thence south 70°-41′-45″ west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936;

(19) Thence north 63°-08′-48″ west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein;

(20) Thence north 81°-08′-00″ west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet;

The following three courses being along the lines of George Sollan Park as shown on map prepared by the city of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B.P.C. Development Corp.

(21) Thence north 77°-35′-20″ east, 231.35 feet;

(22) Thence north 12°-24′-40″ west, 33.82 feet;

(23) Thence north 54°-49′-00″ east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941;

(24) Thence north 12°-24′-40″ west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.28 feet to the point or place of beginning.

(b) DETERMINATION OF PUBLIC INTEREST.—The declaration made in subsection (a)(1) shall not take effect if the Secretary of the Army (acting through the Chief of Engineers), using reasonable discretion, finds—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project, and

(2) after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed project is not in the public interest.

(c) LIMITATION ON APPLICABILITY OF DECLARATION.—

(1) AFFECTED AREA.—The declaration made in subsection (a)(1) shall apply only to those portions of the area described in subsection (a)(2) which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) APPLICATION OF OTHER LAWS.—Notwithstanding subsection (a)(1), all activities conducted in the area described in subsection (a)(2) are subject to all Federal statutes and regulations which may otherwise be applicable to such activities, including as may be applicable:

(A) sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401, 403), commonly known as the River and Harbors Appropriation Act of 1899,

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1254), and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) EXPIRATION DATE.—The declaration made in subsection (a)(1) shall expire—

(1) on the date which is 6 years after the date of enactment of this Act if work on the proposed project to be performed in the area described in subsection

(a)(2) is not commenced before that date, and

(2) on the date which is 20 years after the date of the enactment of this Act, for any portion of the area described in subsection (a)(2) which on that date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(e) PROPOSED PROJECT DEFINED.—For purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

(1) the structure located in the area described in subsection (a)(2) and commonly referred to as Pier A; and

(2) the area surrounding that structure.

On page 162, add after line 9 the following new part:

PART D—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

SEC. 161. RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION.

Section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended by inserting "and the Rural Electrification Administration" after "Tennessee Valley Authority".

On page 3, insert immediately after the matter before line 1 the following:

PART D—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

Sec. 161. Relocation assistance regulations relating to the Rural Electrification Administration.

Mr. MOYNIHAN. Mr. President, in the manner of committee amendments, these have been agreed. We are prepared to make a full explanation if anybody would like.

First is a technical amendment to the Commerce Committee title to correct budgetary problems. All Senators do know that we have a bill that merges the work of the Committee on Environment and Public Works and the Committees on Commerce and Banking.

The second amendment is a study regarding the further beneficial reuse of industrial facilities which Mr. JEFFORDS offers on behalf of the Northeast-Midwest Senate Coalition.

A third amendment ensures that Indian reservation roads that provide access to postsecondary educational institutions are eligible for Federal funds, as indeed they ought be.

A fourth amendment ensures research and development expenses are eligible under the congestion mitigation and air quality improvement program. Research is exactly what we are after. How do we solve this problem we obviously have created in our cities? If it were simple, it would have gone away by now.

A fifth amendment provides for the study of the need of transportation infrastructure to facilitate trade between the United States, Canada, and Mexico.

A sixth amendment will ensure the 1990 census data be used in determining the population of States in metropolitan areas.

There is also a declaration of nonnavigability in lower Manhattan harbor, a technical amendment by the Corps of Engineers, and an amendment cleared by the Governmental Affairs Committee regarding the Uniform Relocation Assistance Act and rural electrical cooperatives.

Mr. NUNN. Will the Senator yield for a brief question? Is the REA amendment in there?

Mr. MOYNIHAN. Yes.

Mr. NUNN. I thank the managers for agreeing to that amendment.

Mr. President, I rise to support a committee amendment cosponsored by Senators FORD and FOWLER that would provide an exemption to title III of the Uniform Relocation Act of 1970 for the Nation's rural electric and telephone cooperatives.

In 1987, Congress passed, as an amendment to the highway reauthorization, amendments to the Uniform Relocation Act to ensure that all programs funded by Federal dollars followed the same rules in acquiring property from individual property owners. Although the rural cooperatives have no record of disputes with property owners or of the kind of property acquisition practices that the Uniform Act is intended to prevent, the Department of Transportation interpreted the statute in such a way as to bring the co-ops' activities under the regulation of the act.

Under the Uniform Relocation Act regulations issued in 1989, the rural electric cooperatives must undertake a number of notification and appraisal procedures which will impose a substantial financial burden on what are nonprofit organizations. According to estimates from several co-ops in the State of Georgia, implementation of these regulations could run as high as $500,000 in the first year.

If we had been contacted by landowners who had suffered abuses by rural electric co-op property acquisition policies the need to include the co-ops under the Uniform Act regulations would be clear. As it stands however, their inclusion represents unnecessary regulation.

It should also be observed that the treatment of the rural electric cooperatives is unique under the Uniform Relocation Act. Other public utilities are not required to observe these regulations and an exemption identical to the one we are proposing is already in effect for the Tennessee Valley Authority. Our amendment simply extends the same exemption to the co-ops.

As a member and customer of an electric cooperative in Georgia, I can testify to the good relations those organizations maintain with their communities. I ask my colleagues to support this important relief measure for the Nation's electric co-ops.

Mr. JEFFORDS. Mr. President, in my home State of Vermont, manufacturing jobs are scarce. Vermont is also in the middle of a recession, so the remaining jobs we have are even more valuable. Recently, one Vermont town had the opportunity to add more jobs to their community. A wooden toy manufacturer wanted to locate in their community. A building suitable for his operation already existed. This building formerly housed a scientific equipment company.

Unfortunately, these jobs were not to be. The previous occupant contaminated part of the building and grounds. The prospective buyer wanted to buy the facility, but also wanted to ensure that he would not be liable for the past contamination. While I understand that procedures do exist to provide a new owner with a shield from liability, these procedures are seldom used. When used, they involved lengthy negotiations and studies. The prospective manufacturer did not have the time or the money for this. He located elsewhere.

It seems to me, Mr. President, that our current policies represent a scorched earth philosophy. Rather than reuse existing manufacturing sites, we move on to develop new ground, new plants which require more roads, more highways, in short, more development. Meanwhile, the old plants fall to the ground in disrepair, and workers are left unemployed in their hometowns without the money to move to the new factories. The existing infrastructure should be considered a national resource, not a national waste. We should think of industrial reuse as an opportunity for recyling and waste reduction.

I thank my colleagues for including my request for a study of this problem in a package of amendments. This study will start us looking at this problem. While there are environmental constraints to reuse, I believe there are also other constraints which need to be identified and addressed. The study should accomplish this goal. The Secretary of Transportation should be a neutral party and thus an excellent choice to examine this problem. The Secretary can also use this study to address how we can reduce the need for new highways, new infrastructure by reusing our existing infrastructure. Again, I thank my colleagues for their support.

Mr. MACK. Mr. President, today I am offering an amendment to authorize the use of the most recent census data when distributing funds under S. 1204.

I have identified four programs in the committee bill whose financial impact is determined by a State's population. Currently, the census data used to distribute these funds would only be based on the 1990 census. My amendment would ensure the use of the most current data available to distribute these funds between fiscal year 1992 and fiscal year 1996.

My amendment authorizes the Secretary of Transportation to use updated census information when calculating funds in these four provisions of the Surface Transportation Efficiency Act.

The first program my amendment addresses is the Surface Transportation Program, which designates two types of nonattainment regions in each State according to population size. This distinction is made by determining which regions contain areas with populations of 250,000 or greater and urbanized area populations of 50,000 that are in nonattainment for ozone or carbon monoxide.

Another section deals with the distribution of funds under the new Congestion Mitigation and Air Quality Improvement Program. For this program, funds will be apportioned to States based on their nonattainment area population. Similarly, the establishment of an Energy Conservation, Mitigation, and Clean Air Bonus Program uses population figures in its efforts to reward those States which effectively manage growth.

The establishment of metropolitan planning organizations in urbanized areas is another provision in S. 1204 where updated census data is needed. In this section, transportation planning and metropolitan area boundaries would be more accurately determined by using the estimates proposed in my amendment.

Last, in the section dealing with program efficiencies, the Secretary is authorized to permit the highway department of a city of over 1 million people to perform the duties of the State highway department for projects undertaken within the city.

I urge my colleagues to support this amendment which simply seeks to use current census data so that highway funds are fairly distributed.

Mr. McCAIN. Mr. President, I want to thank the Senator from New York and the Senator from Idaho for their hard work and leadership on this vital legislation.

Our Nation demands efficient and dependable transportation systems. Mobility keeps our economic engines turning in high gear, enhances our national defense capabilities and, most importantly, provides the American people with the opportunity to enjoy the freedoms we hold so dear.

While no bill is perfect, this legislation will enable us to maintain and improve our highway systems and to meet the demands of the postinterstate era with greater efficiency. I thank the managers for their diligence and commitment.

Mr. President, I have two amendments to this legislation which I believe have been cleared by both sides. I would like to take this opportunity to describe them briefly.

The first amendment seeks to provide States with greater flexibility under the Congestion Mitigation and Air Quality Improvement Program authorized by the commitee bill.

Specifically, the amendment enables States to use funds allocated under the program to research, develop, and test technologies to control highway related pollution sources. Last year's debate on the Clean Air Act underscored the dramatic link between our transportaion sector and the urban air quality problems which plague cities across the country.

My amendment will make funds available to develop new solutions to carbon monoxide, ozone, and particulate pollution caused by inadequate vehicle, road, and traffic control systems. Today's investments in research and development will result in cleaner air and better modes of transportation for tomorrow. Clearly States should have the discretion to make such research investments under the Air Quality Improvement Program.

In addition, the amendment will enable States to address the urban brown cloud syndrome.

I come from a very beautiful State, Mr. President. Unfortunately in the Phoenix and Tucson areas, the major population centers in Arizona, that beauty is marred by a haze of pollution which shrouds the urban skyline known as the brown cloud.

Interestingly, the brown cloud does not necessarily violate any national ambient air quality standards, including the standard for particulate matter referred to as P-M-TEN. Nevertheless it is a chronic problem of great concern to the people of Arizona, and one we are determined to solve.

Recently, the Arizona Department of Environmental Quality completed a $1 million study to determine the makeup of the brown cloud. The study found that "typically more than 50 percent, as much as 90 percent, of the urban haze in the Phoenix and Tucson areas is caused by vehicular activities."

Auto and diesel truck tailpipe emissions, dust from paved and unpaved roads, rubber particles from tires and brake pad fragments all contribute to the problem.

The amendment will enable Arizona and States which face similar circumstances to develop and demonstrate new and creative solutions to visibility problems, not just carbon monoxide and ozone nonattainment. Such solutions might include improved road construction methods and materials, more effective highway applications to control dust and advanced auto and diesel truck emission control technologies.

Hopefully, with the help of the funding provided under this legislation we can find the means to replace brown clouds with blue skies.

My second amendment, Mr. President, has been worked out with the distinguished Senator from New York. It will require the Secretary of Transportation to assess the need for transportation infrastructure to facilitate trade between the United States and Mexico and the United States and Canada.

As my colleagues know, we are involved in intense negotiations to bring about a free trade agreement with our neighbors to the South. If an agreement is successfully concluded, we can look forward to the benefits of increased trade between the United States and Mexico. Just as we are enjoying improved trade with our Canadian neighbors following the pact signed in 1987.

Increased economic activity is certain to place growing demand on the transportation systems and other infrastructure along our international boundaries. Planning is essential if we are to accommodate and facilitate the increased flow of international commerce in a safe and efficient manner.

The amendment requires the Secretary of Transportation to conduct a needs assessment and cost analysis of border transportation infrastructure. The Secretary will conduct this work in cooperation with other Federal agencies, the Governors of the border States, and the appropriate Mexican officials.

A final report detailing the findings of the assessment will be submitted to Congress and the border States within 18 months after enactment of this legislation. This report will serve as a project and budget planning document for Federal agencies, as well as the border States, counties and municipalities.

It is my hope that Mexican and Canadian authorities will participate fully in this process so that improvements and preparations can be made on both sides of the border. This will enable our nations to fully enjoy the benefits of increased trade and closer relations. I am pleased to have developed this amendment in cooperation with Senator MOYNIHAN, and I thank him for his contribution.

These are modest but, I believe, important amendments, and I urge their adoption.

Again, I thank the managers of the bill, and I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, the manager of the bill explained the amendments. We have cleared all of them on this side.

Mr. President, if there is no further debate, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 360) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SYMMS. Mr. President, we have now reached the point, as the distinguished floor manager said, where we think all amendments—except for one amendment Senator DOLE has been talking about offering and one amendment I think Senator HELMS wants to come to the floor and discuss, or possibly offer an amendment with respect to portions of the interstate. I do not know if either of those amendments are actually going to be offered.

But I believe we have reached a point where we are, as the floor manager said, actually ready to go to third reading.

In my opinion, we will have passed a bill when we do go to third reading, and assuming Senators to vote for the bill, that is a very good solid bill that has maintained its framework from when it left the committee. It gives great flexibility for the State departments of transportation throughout the country; it addresses some of the major concerns the President had in his State of the Union Message 105 days ago.

We have amended our committee bill to include a national highway system, which was very important to the President. We have encouraged more State participation in this bill through the formulas in the bill. It did not go as far as the Secretary of Transportation asked for in the beginning, but it did make a step in the direction of more State participation, which brings better leverage on Federal dollars that are spent.

Also, the Byrd-Dole—if I can say it that way—position of asking for more rewards to States that make a better effort is already included in this bill, and I think it will be further considered when we go to conference with the other body.

I think all in all it is an excellent bill.

I might also mention to my colleagues the amendment this Senator offered with respect to private property is something that had a very good vote on the floor. It is an issue that has become very volatile throughout the country. There is enormous support for that amendment in the bill, and I thank my colleagues for their support.

Mr. President, I want to thank all of my colleagues, but particularly the majority leader and the Republican leader and the chairman and ranking member of the committee, Senators BURDICK and CHAFEE.

I just note, Mr. President, our distinguished chairman of the Environment and Public Works Committee, Senator BURDICK, is celebrating his birthday today, so I can think of no finer present than to pass this bill.

Mr. MOYNIHAN. Will the Senator yield?

Mr. SYMMS. I will be happy to yield on that.

Mr. MOYNIHAN. Is the Senator aware that the senior Senator from North Dakota has decreed he does not any longer have birthdays? This is an honorary birthday.

Mr. SYMMS. It is an honorary birthday, and I can say this sure beats the alternative to him not having birthdays.

I want to pay special thanks to the senior Senator from New York [Mr. MOYNIHAN] for his tireless efforts on this bill and his willingness to work out formulas that recognize the wide differences in the States. Many people say how can a Senator from Idaho and a Senator from New York agree on a bill. The reason for it is I think both of us have great confidence in the States to make the decisions of how best to spend their transportation dollars, their highway dollars, to improve deficiencies.

Mr. President, I have had many friends in town over the years that I have been on this committee, from ARPA, from Associated General Contractors, the Lime Institute, the Stone Association, and others—the Asphalt Institute, the Cement Association—who are very interested in highway legislation and have expressed concerns about the potential for diversion of funds in this bill to light rail systems or to rail systems.

I point out to my colleagues one thing I think will happen—it is not ever mentioned, but the Banking Committee section of this bill also has the same flexibility that conforms with the language that is in the highway section of the bill. They made it the same as we did, where funds can be transferred into some highway uses if that is the way States choose to use them. It is true there will be less funds available because most of those transit funds go to States that have big transit authorities. But the potential is there.

I also say to my colleagues who are concerned about this, and my friends in the associations—and I thank those organizations I named for their help in getting this legislation to where it is. Even though there has been some lukewarm support from some of those associations, they have been very helpful with the adoption of amendments. They have been very helpful in bringing about the National Highway System that is in this bill.

I see the distinguished Presiding Officer, who comes from the State of Virginia. I point out to my colleagues that the HOV lanes on the Shirley Highway carry more traffic on them than any major rail transit system in the United States except for the New York Transit Authority. That is an astounding fact.

In my judgment, for those people who are the road builders of the country, who are concerned that maybe some of their highway funds will be diverted to rail systems, I think the rubber-tired solution, as it is called, is stacking up very well to what has happened in northern Virginia. It is happening in Houston, TX.

There is not any guarantee of just how these funds will be spent, that is true. But in my judgment, that is exactly what the people in my State—Kermit Kiebert and Hugh Lydston and others in the State Department of Transportation in Idaho—have been asking for, more flexibility so they can decide how best to spend these funds now that the interstate system is completed.

That is essentially what the Senator from New York has said over and over and over on the floor. We are giving the States flexibility. I see no reason why any Senator should fear giving States flexibility. If we have any confidence in the people we represent—and obviously we have enough confidence in them that they have given us the opportunity to represent them. We think they must have sound judgment.

I believe that in my State or in the State of New York or in the State of

Texas and other States, given the flexibility, we will recognize the market value of the wasted time of people sitting in gridlock, in traffic congestion. We also recognize in the program efficiencies of this bill that many departments of transportation have the capability to reduce the paperwork and redtape. It is all in this bill. I think this is a bill of which people can be very proud.

There are a couple of problems in this bill, as far as I am concerned. One of these problems—and I have talked about this with my distinguished leader on the floor—are the MPO's. The committee started out with a 50,000 population group for MPO's. We raised it in the committee to 250,000. There is substantial support in the other body to raise that number somewhat higher.

The major cities in the country, like New York City, Los Angeles, and other large metropolitan areas, have very substantial engineering capability to handle some of those transportation difficulties. It becomes more questionable, I think, in the smaller sized cities, where the States have the ability through the State departments of transportation to take care of those problems.

I think we can still look at this and work on it, and maybe try to come to even more accommodation with some of the concerns expressed by some of our colleagues.

I want to say thank you to all of the Senators, and I hope we will be able to bring this bill to passage very shortly today.

Mr. GRAHAM addressed the Chair.

Mr. SYMMS. I will be happy to yield to my friend for a question.

Mr. GRAHAM. I have been listening to the Senator's statement for the last few minutes. Does the Senator disagree with the position of the Federal Highway Administration that we currently have an unfunded backlog of maintenance and capacities needs in our Federal aid highway system of $450 billion?

Mr. SYMMS. I would have to say to the Senator I do not have the figures right here, but I think there are large unmet needs yet to be dealt with in this country.

Without this bill, we are way worse off, I would say to my colleague, than we are with this bill.

Mr. GRAHAM. Does the Senator disagree with the Federal Highway Administration's statement that over the next 5 years, we will add to that inventory of needs $225 billion?

Mr. SYMMS. That may be the case. I do not have the numbers here. But there are large unmet transit and transportation needs in the country, yes.

Mr. GRAHAM. Will the Senator agree that the sum of those numbers is $650 billion of unmet highway needs on the Federal aid highway system itself in the year 1996, assuming we do nothing between now and 1996?

Mr. SYMMS. If we do nothing, it might even be worse than that.

Mr. GRAHAM. Second, what is the proposed level of expenditure under this bill?

Mr. SYMMS. The proposed level of expenditure, Mr. President, I might say is, I believe, $110 billion.

Mr. President, I continue——

Mr. GRAHAM. Can I finish the question?

The PRESIDING OFFICER. The Chair would remind Senators to direct comments through the Chair.

Mr. SYMMS. Mr. President, I will yield to the Senator for one more question. I do want to complete my statement.

Mr. GRAHAM. If we are going to be spending $110 billion of Federal funds, and if that will draw down approximately another $40 billion of required State matching, that is $150 billion, which would indicate that our unmet needs at the end of the 5-year period would be $525 billion, as opposed to the $450 billion that we have today.

Will the Senator, therefore, not agree that rather than this bill advancing our Nation's highway system and achieving the goals of efficiency and rate of service, in fact the system will be $75 billion worse off in 1996 than it is today?

Mr. SYMMS. What I would say is compared to what?

Mr. President, I might just continue my remarks. I appreciate what the Senator from Florida is saying, essentially, and I have heard him say it on the floor that at the end of the 5-year cycle of this bill, at the rate we are going, the roads will be in worse condition than they are today. That may well be the case, but compared to what?

If we expend no effort and pass not this bill nor any other bill, and just return the money back to the general fund of the Treasury, and continue to expand the bureaucracy and the welfare state in this country, to strangle small business then we will be worse off. If we do go ahead and spend the money that we are allocating and trying to get the matchup in the States, we will actually be better off than we would be if we do nothing.

So I think it is a question of whether the glass is half empty or half full. There will never be enough money to satisfy the cost estimates that highway engineers will use to fix the roads.

In my own State, the State legislature funded, Mr. President, a study a couple of years ago which concluded that we have $7 billion of unmet highway needs in the State of Idaho alone over the next 10 years—7 billion dollars' worth. For a small State of 1 million population, and the seventh largest State in the Union geographically, with huge mountains and rivers and difficult terrain to build highways, this is an enormous problem. All we can do is the best we can, spending as much money as we can get the public to be willing to appropriate for improving those transportation problems.

To not move forward would, I think, be a travesty to the people of this country. For those of us who are in leadership, I think it would be a travesty if we do not move forward with legislation and work with the other body to try to get a solution to this, to work with the administration and come out with some kind of a compromise, and move forward to try to solve these transportation problems in the country.

We will never solve them, but I would only say to my colleagues who may be critical of this legislation, first, they should ask the question, compared to what? Compared to doing nothing? This is a huge step. This is the biggest spending bill ever passed through the U.S. Senate to improve the Nation's transportation problems. It is the biggest single bill we have ever passed. We are making a big commitment.

I am told that the other body is going to come in with some $25 billion, a substantial increase over what our bill is. I do not know how this will come out. I know one thing; that when this Senator gets the opportunity, and we will, and we go before the Senate Finance Committee to put the other part of this bill together, which at some point in the next 2 or 3 years must be done, this Senator will offer a motion to take the 2½ cents that Congress, in its wisdom, last year put in the general fund and put it back in the transportation trust funds so that the money will be there.

The Senator from Florida makes the point that we are still underfunding the infrastructure. I do not disagree with the Senator from Florida, but I also say that I do not believe that either of the two Senators from Florida will come before the Senate and suggest that what we should do is freeze the cost-of-living adjustments for all those millions of Floridians that are on Social Security and transfer that money into the highways. That is what we are talking about.

During the period of the eighties, as the infrastructure has been underfunded, one portion of the budget that has grown exponentially is the entitlements. We spend more money every year on transfer payments where we take the money from one worker who earns it and send it out to someone else who is on the receiving end of the benefits than at any other time in our history.

So our budgets have become disproportionately reduced in capital expenditures. We have reduced capital expenditures on highways, on water systems, on military, on all kinds of infrastructure. We have reduced the procurement budgets as a portion of the rest of the money we spend. We have increased the spending that we send out on individual payments, out to individual Americans, with respect to what is called entitlement programs.

Mr. President, I have been going on about this for a long time. Basically, what we have here is an excellent bill. I urge my colleagues' support of the bill. I hope that the majority leader and the minority leader and the distinguished chairman of the Appropriations Committee, the President pro tempore, come to some kind of an agreement so that we can fuse their amendments together, or whatever, and get this bill passed before we start unwinding it over here on the Senate floor; and pass the bill so we can be able to go to the other body and say, "Here is our bill from the Senate. You give us your bill and we will sit down at conference and try to work out something," and not forget the people down at the other end of Pennsylvania Avenue; to try to recognize some of the directions the President has asked us to go; and, have a bill that we will be able to get signed this year, and get on with the problem so we will not fall further behind.

But in the process, Mr. President, I thank all the Senators and my distinguished friend from New York. I would like to also thank the staff, including Roy Kienitz, Rob Connor, Andrew Samet, Mike Weiss, Kathy Ruffalo; my own staff, Jean Lauver, Steve Shimberg, Angela Plott, and Trent Clark, and, also, George Shoener from the majority side, and my own staff, as I said. Without them, this would have been a much, much more difficult task to get this bill this far. I want to give them all a debt of gratitude on both sides of the aisle. They have been very helpful. I have had many Senators, I would say to the staff, come to me and thank me and Senator MOYNIHAN for the willingness of this staff to cooperate with the other Senators to try to iron out their problems.

If there are any other Senators that wish to do anything in this bill, we are getting close to final passage.

I yield the floor, Mr. President.

(NOTE.—The following occurred later in the proceedings and, by unanimous consent, appears at this point in the RECORD.)

VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENT

Mr. MITCHELL. Mr. President, and Members of the Senate, I am honored to have this third opportunity to welcome on behalf of the entire Senate a distinguished delegation from the European Parliament.

Led by Chairman Geoffrey Hoon from the United Kingdom, Mrs. Hiltrud Breyer from Germany, and Mr. Philippe Herzog from France, the 24-member delegation is here to meet with Members of Congress and other American officials to discuss matters of mutual concern.

Their visit is part of a longstanding tradition of exchanges between our two legislative bodies, a tradition that represents the deep ties, mutual respect, and commonality of interest between Europe and the United States.

Europe today is a continent of exciting developments—the integration of a single market by 1992, and the continued progress toward consolidating democracy in the formerly Communist nations. These changes auger well not only for the future of the continent, but for the global community as a whole.

For the United States in particular, these hopeful developments warrant our ever closer attention and involvement to ensure the expansion of economic ties with our European partners and to help smooth Eastern Europe's challenging transition toward democracy.

The dialog between the United States Congress and the European Parliament plays a meaningful role in helping to achieve these objectives. It is a mutually beneficial exchange that reinforces our common purpose of maintaining close ties and advancing our common interests.

Mr. President, I ask unanimous consent that a list of the members of the European Parliament delegation here present be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

EUROPEAN PARLIAMENT DELEGATION FOR RELATIONS WITH THE UNITED STATES

[List of members—25]

	Party	Country	Committees
Mr Geoffrey Hoon, Chairman.	SOC	United Kingdom	Legal/Rules.
Mrs Hiltrud Breyer, 1st Vice-Chairman.	Greens	Germany	Energy.
Mr Philippe Herzog, 2nd Vice-Chairman.	LU	France	Economic.
Mrs Mary Banotti	EPP	Ireland	Environment/Youth & Culture.
Mr Jean-Paul Benoit.	SOC	France	External Economic Relations.
Lord Bethell	ED	United Kingdom	Political Affairs.
Mr Elmer Brok	EPP	Germany	Social Affairs.
Mr Bryan Cassidy	ED	United Kingdom	Economic/Petitions.
Mr Artur da Cuhna Oliveira.	SOC	Portugal	Regional Policy.
Ms Teresa Domingo-Segarra.	LU	Spain	Agriculture/Women's Rights.
Mr Gene Fitzgerald	RDE	Ireland	Regional Policy.
Mr Gerardo Gaibisso.	EPP	Italy	Environment.
Mr Ernest Glinne	SOC	Belgium	Social Affairs.
Ms Annemarie Goedmakers.	SOC	Netherlands	Budgets.
Mr Lyndon H.A. Harrison.	SOC	United Kingdom	Regional Policy/Rules.
Mrs Maria Magnani Noya.	SOC	Italy	External Economic Relations.
Mr Jean Penders	EPP	Netherlands	Political Affairs.
Mr Ioannis Pesmazoglou.	EPP	Greece	Political Affairs.
Mr Luis Planas Puchades.	SOC	Spain	Political Affairs.
Mr Hans-Gert Poettering.	EPP	Germany	Political Affairs.
Mr Gerhard Schmid.	SOC	Germany	Environment.
Mr Jacques Tauran	ER	France	Transport & Tourism.
Mr Josep Verde I Aldea.	SOC	Spain	Political Affairs.
Mr Rudiger von Wechmar.	LDR	Germany	Institutional.

Note.—Also participating: Mr Luigi Colajanni, Chairman of the Group for the European Unitarian Left (Italy).

Abbreviations: SOC—Socialist Group. EPP—European People's Party (Christian-Democratic Group). LDR—Liberal, Democratic and Reformist Group. ED—European Democratic Group. EUL—European Unitarian Left. EDA—European Democratic Alliance. ER—European Right. LU—Left Unity.

RECESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that the Senate stand in recess for 5 minutes to allow my colleagues to join me in greeting our European friends.

Let us welcome our colleagues from the European Parliament. [Applause.]

There being no objection, the Senate, at 12:24 p.m., recessed until 12:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GORE].

Mr. MITCHELL. I thank those of my colleagues who were able to be present to greet our guests, and simply conclude by thanking our guests for their presence. We look forward to our continuing dialog with them to advance our aims.

Mr. MOYNIHAN. Mr. President, I say as our guests depart how pleasant it was to see so many friends we met last year in Lake Chautauqua. It is a pleasant thing to have you here. But if you came to more agreeable places than Washington, we could come to see you.

Mr. HELMS. Mr. President, I join in welcoming our friends and bidding them farewell.

It is nice to have you with us.

(Conclusion of later proceedings.)

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I want to make a couple of comments. One is we ought to have a fundamental level of honesty of what we are doing to America as a result of this bill. This is not a partisan statement. I am looking at a statement from the Democratic Policy Committee for the week of June 10 through June 14 which was recently distributed to our offices. It summarizes the Surface Transportation Efficiency Act of 1991 and states that this bill, which is a major component of the Democratic agenda, will get America moving again. It will "spur economic growth by rebuilding America's infrastructure."

On one of the Sunday morning talk shows, I believe it was David Brinkley, last Sunday, John Sununu appeared representing the administration. He was asked: "Mr. Sununu, in reference to the criticism that the administration does not have a domestic policy, what is the administration's position relative to rebuilding America's infrastructure?"

His answer was, "Our program is the Surface Transportation Act."

So both parties are representing that this legislation will rebuild America's transportation infrastructure and, by rebuilding America's infrastructure, will make us more economically competitive.

Mr. President, that is absolutely, uncategorically not the consequence of this bill. Quite to the contrary, the fundamental effect of this bill is that American's highways, America's public transit systems will be worse off in 1996 than they are today. In neither of those areas are we proposing to make a sufficient investment even to stay current with the sagging backlog of needs.

If the people who rode from northern Virginia into the District of Columbia today felt that they were in an intolerable gridlock, if the people who rode from St. Petersburg to the Tampa Airport this morning thought that it had taken 20 minutes longer than it should have, if people like them across America were concerned as to what happened to them this morning, be assured that it will be worse 5 years from now as a result of the level of funding that we are about to propose.

I would like to commend the President and his administration. Last fall he recognized the fact that we were disinvesting in our transportation system and advocated a 12-cent gasoline tax, not the 5 cents that was finally passed. It happens that that last 7 cents applied over the next 5 years is about what would be required in order to reach a balanced transportation budget, defining "balance" as being that budget required to avoid any further slippage in our Nation's transportation system.

So, Mr. President, whatever you feel about the terms of this bill, whatever you feel about the great result for a particular State or the sadness of its impact on another State, on a nationwide basis, as the U.S. Senators concerned with the U.S. transportation policy, the basic policy that we are making is a policy of disinvesting in our transportation system, a policy which also states that we are disinvesting in one of the two most fundamental public components to a smaller American economy.

I think that that is where the issue should have been joined rather than on the details of allocation. I believe at least, if we did not join that issue, that we ought to clearly indicate the limitations of what we are about to do.

Thank you.

Mr. MOYNIHAN. Mr. President, may I just join with the Senator from Forida, who is a valued member of our committee, in agreeing with him, but asking if we could not use this quiet moment we have here to recall the terms on which the committee sent this measure to the floor.

There is an introductory statement, which was not a casual one I hope, in which we tried to set this forward. We said in the years since the 1987 act, the Subcommittee on Water Resources, Transportation Infrastructure has held extensive hearings on the transportation needs of this new period and the constraints on those needs.

We say one of these constraints that will be discussed is budgetary. "The U.S. Government for the present and foreseeable future cannot and will not embark on the topic enterprises that came with such seeming ease to Roosevelt and Eisenhower. We have spent our money on other things and are now much in debt, and there you are." We went on to say this imposes two realities to us. The first reality is "with the completion of the interstate system and cutbacks, in the case of transit, the United States has entered a period of general disinvestment in infrastructure." Right there on page 5. We know it, and we do not like it. But we cite it.

Then we say, "a second reality that emerged from our hearings is that the level of Federal investment in infrastructure generally, and in surface transportation specifically, is not likely to rise at any time soon. Rescuing America's 'crumbling infrastructure' has become part of the imagery of American political discourse."

The Senator cited the policy commitment statement as part of our imagery. "For the moment, however, the Federal deficit is a reality and a restraint. Just as engineers live in a world of precision measurement, prudent risk, and the understanding that decisions must be based on what is, rather than on what might be, so legislation concerning public works must be equally realistic."

We then went on to say, "Certainly a case can be made for greatly expanded investment in infrastructure. It is probably still not widely understood just how far we have wandered from our traditional, industrious, improving ways."

Here is a passage I feel very strongly about: "During the early 1980's, as an example, the mighty and ancient United States Army Corps of Engineers designed and supervised more construction in Saudi Arabia than in the United States. In the course of this foreign adventure we built, among other things, 46 mosques. Excellent as a limited exercise, but even mosque building can be carried to excess."

That, sir, is why we called this Surface Transportation Efficiency Act. That is why we said productivity is our goal. I just want to say to the Senator that we do not have any disagreement on the facts, but we had to deal with our constraints.

Mr. SYMMS. Will the Senator yield?

Mr. MOYNIHAN. Yes.

Mr. SYMMS. Mr. President, the Senator from North Carolina has made his way over here. He has a tight time schedule and had an issue he wanted to raise.

Mr. GRAHAM. Mr. President, I just respond briefly that I believe inadequate attention has been given to those paragraphs that the Senator has read and, therefore, an impression has been received by the chief of staff of the President of the United States, and the policy council of the democratic U.S. Senate, two groups that should have some concern and some ability to influence, that we are doing that which we are not doing. We are not, in fact, passing an infrastructure recovery plan; we are not contributing to America's economic strength by this. To the contrary, we are presiding over the decline of the American transportation system.

Second, within that context, with as few resources as we have, we ought to be targeting those resources, in my opinion, in a much more precise way to how to achieve the objectives of efficiency.

I did an analysis of one of the major interstates in my State that would be a candidate for every one of the highway efficiency measures that this bill talks about—signage, entrance control, HOV lanes, all of those items. Frankly, with the amount of dollars that is going to go to my State, it is not going to be a matter that we are not smart enough or committed enough to want to take advantage of that; it is going to be the fact that we are so deprived, financially, that we are not going to be able to take those kinds of initiatives. And so the prospect of greater efficiency in productivity is ephemeral without the resources to make it happen.

So, my concern is that we just state to the American people what it is we are doing, be candid about its implications, be prepared to point to it when we ask next why did America continue to slip in its international economic position, as another example of why we did it, and move on. But let us just not fly under colors that give to the chief of staff of the President, and to our own Democratic Policy Committee, a false impression of what we are fundamentally about.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I have an amendment prepared, which I may or may not offer. Before I begin, let me engage in a little bit of historical reflection.

Every 5 years, we have a highway bill around this place. My thoughts go back to 1983, when I raised some questions about that 1983 bill, which was widely advertised in the press and elsewhere as merely a 5-cents-a-gallon gasoline tax increase. That's the way it was referred to in the media repeatedly.

Well, I just happened to read that bill particularly, when it came back from conference. You could have written a 5-cents-a-gallon gasoline tax increase on one line on one piece of paper. But I vow to you, Mr. President, that conference document was a foot thick, and I recall that, late that night, I wanted to know what was in this hefty pile of paper that had come back from conference.

I asked one of the pages to do me the favor of going out to the photocopy machine and make me a copy of the conference report. When I got it, I put in a quorum call and I said, I want to read this tonight.

The next day, I began to pursue an effort to try to make sense of this bill, because it was not a highway funding bill; it was a Christmas tree. The State of Massachusetts, for example—and I have nothing against Massachusetts—well, I have a few things against Massachusetts—benefited tremendously under the bill because it was a Tip O'Neill Christmas party.

I remember standing on this floor, and I had seven, eight, colleagues standing with me. But the administration, which had originally opposed that 1983 bill, was suddently supporting the acceleration of the passage of this conference report. It was a total reversal of position because, at the beginning, Ronald Reagan had said, it would take a palace coup for me to sign this bill."

I recall the President's calling me on a telephone in the Cloakroom and saying, "Jesse, I wish you would let this bill go on through."

I said "Mr. President, I cannot do it in good faith and, besides, I recall your saying, sir, that it would take a palace coup for you to be in a position of signing the bill. What I want to know, Mr. President, is when did the coup occur?"

So I went on—I shall not go into details—but finally one after another of the Senators who had joined with me in opposing the administration—for one reason or another, they departed and I was left alone.

Of course, I was defeated—which is all right. It is not a novelty around this place to be defeated on matters in which I participate.

I will never forget, Mr. President, a headline in the Washington Post on the front page—and bear in mind this was 1983—I recall the headline because I have it framed on the wall in my office. It says "Jesse Helms Has a Problem: He is destined for defeat in '84."

Somehow along the way, the people of North Carolina understood instinctively what I was trying to do and this fellow who was "destined for defeat" was not defeated in 1984 nor was he defeated in 1990.

On this 1991 bill we have had so many meetings we've had clusters of Senators gathering here and gathering there, and being handed a maze of statistics which were hard to decipher. We had many discussions. I remember Senator GRAHAM from Florida making an awful lot of sense in these meetings. He had the same problems that I have with this legislation.

As I have said, I have studied this bill as best I could, along with my associates. One thing became crystal clear and that was that there was at least one provision—more than that actually—providing exorbitant amounts of money to be set aside under the interstate construction program section of the bill.

And where, Mr. President, do you reckon that money goes? It goes to the State of Massachusetts. In fact, out of a total of $7.2 billion provided under the interstate construction program for the next 5 years, the State of Massachusetts gets $2.55 billion, about one-third of all the money for the entire country for interstate construction.

I find this exceedingly interesting, if not dismaying, particularly since I have not heard one syllable of discussion from anybody, the authors of the bill, or anybody else, about what appears to me to be an aberration in the interstate construction program. Bear in mind those figures, a $7.2 billion total for the interstate construction program over the next 5 years and $2.55 billion of that goes to just one State.

Mr. President, I know the hour is late in terms of going to a third reading of this bill, but I think the record ought to be made clear about my apprehension regarding some aspects of it. I do not want to impose on the managers of the bill, but I need some explanations from them for the record. Maybe I will then understand it. But right now I do not. And a number of other Senators have indicated to me that they do not understand it.

I wonder if the managers of the bill will indulge me by responding to some inquiries about the central artery and harbor tunnel project in Boston funded in this bill? First, I seem to recall that in 1987 the Reagan administration's highway bill contained some so-called rehabilitation and maintenance funds for part of this project in Boston.

Can either of the managers tell me whether this entire project, both the harbor tunnel, and the peripheral street improvements augmenting the central artery depression, was included in the Reagan administration's 1987 highway bill as an interstate construction project? Was it or was it not?

Mr. SYMMS. If the Senator will yield, I think the answer to that is, yes.

Mr. HELMS. I do yield for the purpose of answering the question.

Mr. SYMMS. I think the answer is, yes, I believe.

Mr. HELMS. It is my recollection that it was not, and therefore, I believe that the only reason we are stuck with the enormous construction costs of so much of this one project in one State in this bill is because we failed to sustain President Reagan's veto of the 1987 highway bill. Is that correct, or is it not?

Mr. SYMMS. Mr. President, I would say the answer to that is, no; that that was not at issue. What was at issue with President Reagan were demonstration projects.

Mr. HELMS. All right. Is the Senator sure about his answer?

Mr. SYMMS. To answer that, if my recollection is correct, the interstate cost estimate going back to 1982 included the completion of these controversial projects in Massachusetts.

Mr. HELMS. The entire Boston project was included?

Mr. SYMMS. Entirely. And if I could just state it and then, Mr. President, I ask unanimous consent to print my entire statement in the RECORD for the Senators' information on how this has all come about.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Mr. President, it is controversial; the Senator is quite right. It will continue to be controversial. But most of the interstate in this country was built on a 90-10 formula and I would say, Mr. President, that my first experience to recognize what the interstate did to this country was when I was a young lieutenant in 1960 and was assigned from Quantico, VA, to Pensacola, FL. It was difficult for a driver to drive to the South. You could not get there in less than 2 days. Trucks were backed up. There were traffic jams, poor roads, and congestion.

In this Senator's opinion, the building of the Interstate System did more for the Sun Belt and South and the West, my part of the country, than anything else that the Federal Government has done in a long time to help us develop our States. Most of that was built with Federal money, through North Carolina, through South Carolina, through Georgia; 10 percent was paid for by the States.

This Boston project is going to cost $4.7 billion to complete according to the 1989 ICE. The State of Massachusetts is putting up $1.87 billion. So they have put up a much higher proportion than other places. And there is a long record of what happened.

There are two projects—a tunnel to the airport and then a downtown project. And through the evolution of the downtown project, it was decided that it would be more efficient to have it built underground. The Federal Highway Administration said they would not pay for that.

So, through negotiations in 1986 with then Federal Highway Administrator Ray Barnhart, our committee and the transit people in Massachusetts came to a compromise where the State of

Massachusetts would put up, I believe it was, $800 million to pay for the depression of this artery. The tunnel under Boston harbor was considered inadequate at the beginning of the Interstate Program, and it was determined that a four-lane tunnel was needed because of the service to Logan International Airport.

For any of you who have ever been to Boston, you will readily see that the tunnel under the harbor is needed. That was never in controversy, the part to the airport. The controversial portion is the depression of the central artery underneath the city.

Before the Senator has the floor—and before I yield back—I want to say that I am very, very pleased that the Washington Post was incorrect about the Senator's reelection in 1984 and again in 1990. And I certainly appreciate the Senator's concern for the taxpayers and for the country.

But I do believe that if the Senator examines the record of this, he will find that the interstate spending on this bill on the Massachusetts project is no different in Massachusetts than it is in the controversial expensive project in California, the Century Freeway, which will be completed in this bill or those sections of interstate. I think there is one in North Carolina some 99 million dollars' worth that will be completed in the bill.

We are coming to the end of the Interstate System and this happens to be one of the most expensive pieces of highway ever built. But, to not build it, we would have to go back and repeal a section of what has already been agreed to, voted for by Congress, and I just do not think it is practical.

I hope the Senator would not offer the amendment, because then we will have to go back and have amendments on all the other interstates, whether or not we should complete them. I think in general, the Interstate and Defense Highway System has been one of the best Federal projects we have ever seen in terms of opening up commerce, industry, and opportunity and personal freedom for Americans.

Mr. HELMS. Will the Senator yield?

Mr. SYMMS. The Senator has the floor.

Mr. HELMS. The Senator is saying things that are not in dispute. We all recognize the importance of the Interstate System.

Mr. President, I may be correcting an error Senator SYMMS did not make. But if I understood him correctly, he stated that the central artery portion of the Boston Harbor project was in the Reagan bill. I submit that it was not in the Reagan bill. But the RECORD will show whether I misunderstood him or not.

If I did misunderstand him, I apologize to him.

Furthermore, I gathered from what he said that there is a contradiction between his understanding and mine about the bill.

The lower Federal match ratio the Senator from Idaho mentions results only if you count the entire cost of the project, including the federally ineligible parts, as being the amount of money the Federal Government has agreed to match. It may be insignificant in terms to some people, but it means something to me because it involves billions of dollars of the taxpayers' money.

If I can resume my questioning, I ask the Senator—or either manager of the bill—if we approve this $2.55 billion in interstate construction funds for one State, one project, now in this bill, to build the Boston Harbor Tunnel and the six-lane seaport access road, do the managers of the bill have any indication that the State of Massachusetts will later seek future additional Federal funding for the $1 billion additional cost of putting the existing six-lane downtown expressway underground—a project that is currently ineligible for Federal interstate construction funds?

Mr. SYMMS. Mr. President, it is my understanding—the Senator from Massachusetts may want to speak on this—but it is my understanding that the point Senator HELMS is making is this.

First, the Massachusetts project was on the ICE in 1982, the interstate cost estimate. The dispute was whether as part of completing the interstate, Massachusetts could sink the central artery. This is controversial. It has been a dispute. And the Reagan administration said, no, we will not put up Federal funds to sink the artery. You will be allowed to have the money you are entitled to for the completion of the interstate, but not money to sink the artery.

The compromise that was agreed to was that the State of Massachusetts would come up with the extra money needed for the underground interstate. I think that $800 million of State funds was the number Massachusetts came up with to put into the project. That is what the dispute has been about.

I do not know whether I can answer the question whether Massachusetts will come in and ask for more money. But if they do, they will not be entitled to it.

It is my view this will be the last highway bill that goes through that will have interstate construction dollars in it, because this bill completes the interstate.

Mr. MOYNIHAN. Mr. President, might I seek recognition to agree?

The PRESIDING OFFICER. The floor is under the control of the Senator from North Carolina.

Mr. HELMS. I will be glad to yield to the Senator.

Mr. MOYNIHAN. I simply wanted to agree with the statement of my comanager: This is the end of the interstate construction era. The last.

Mr. HELMS. Then this is the last time, at least for that project, that the taxpayers in 49 States are going to be milked to benefit one State? Is that what the Senator is saying?

Mr. SYMMS. Yes, that is correct, Mr. President. But we could turn right around and say the taxpayers of 49 States were milked to build the road that goes from eastern Idaho to the Oregon border. It is the same thing. We built an Interstate and Defense Highway System throughout the country. Because of the extremely high costs of the most congested areas, most of the rest of the roads got built.

The taxpayers from 49 States are going to be milked to pay for the last; the taxpayers from 50 States are going to be milked to spend the last $99 million in North Carolina.

The State of North Carolina has been a donor State; some States have not. The State of Virginia, for example, is a donor State now, but over the cost of the Federal Highway Program, since 1959, Virginia has returned back to the State $1.27 for every $1 the Virginia taxpayers have put in.

Mr. HELMS. The Senator means the Federal Government has returned to Virginia; he said Virginia had returned.

Mr. SYMMS. In other words, the taxpayers of Virginia had paid in $1 of Federal gas taxes for highway construction, and they received back $1.27 over the life of the program.

There are two major interstate construction programs left: Century Freeway in Los Angeles, and the Boston Central Artery and harbor tunnel projects.

I think the Senator from North Carolina would agree, if he went to Boston, that it is in the best interests of the whole Northeastern part of the United States to build a four-lane road to the airport so people can get to and from the international airport in Boston.

That was agreed to by the Reagan administration, that it would be a good investment to complete the road. Because the city grew so much from 1957, when they originally planned a two-lane road on that interstate, it was upgraded to four lanes.

The controversial part, which will be somewhat explained in more detail in the report I will put in the RECORD, is very controversial. It is the Central Artery project in Boston, which was put back in the 1982 ICE, and at that time the Federal Highway Administration refused to pay the extra cost to sink the artery and build the interstate under the city.

Then there was a big compromise. Massachusetts will be coming up with $1.87 billion out of a $4.7 billion project based on the 1989 ICE, which is around 20 to 22 percent. That is a higher percentage of State funding than the rest of the country for most of the interstate, where not over 10 percent of the funds are State funds.

It may not be completely perfect, but that is the agreement that has been made. And I see no choice, as a member of the committee, to complete the project. Then people will be able to drive on up to Maine and have the same privileges they have when they drive through Washington, DC. They can follow the beltway, and up to Baltimore or Richmond, whichever way they are going, as the road was designed to do.

Mr. HELMS. Mr. President, I think the Senator understands, and I hope other Senators will understand, the point of my question. How do we justify to the other 49 States this inordinately expensive project in Massachusetts, when it is agreed, as I understand it, and if I read the Boston Globe and other newspapers correctly—in the decision, Boston's decision, to depress, as they put it, the downtown expressway, which will increase the expressway's capacity only from six lanes to eight lanes? Does the Senator see what I am talking about? Increasing six lanes to eight lanes, at this enormous cost?

That is what the other 49 States are looking at. Believe me, I am not the only Senator who feels this way about it. I may be the only Senator who will stand up here and inquire about it. But I think the record ought to be complete. That is the reason I am putting the Senator through this questioning which may be an ordeal for him.

The claim has been made, I will say to the Senator, that the completion of the Boston Harbor Tunnel project alone will relieve the congestion on the existing six-lane expressway. What bothers me, as I have already indicated is that all this money is going to increase it just two lanes, to make it eight lanes. It is hard for me to accept, even from my friend from Idaho, his suggestion that this is a cost-effective use of Federal funds.

But it is a fait accompli; I understand that. I have been watching these highway bills for some years. I got into a heap of trouble in 1983 because I tried to watch a little too closely when that Christmas tree barreled into the Senate from the conference. I will never forget that, but that is neither here nor there.

However, since the downtown expressway will be increased from six to eight lanes, once it is put underground at an enormous cost, is it not reasonable to assume that the depression of the central artery is more of a highway beautification project than a really needed highway expansion?

Mr. KERRY. Will the Senator be willing to yield for a question?

Mr. HELMS. I will in a minute. I want to accommodate my friend. The only way to make legislative history is to deal on the floor with the managers of the bill. For this part of it, I prefer to do that. As a matter of fact, I will then turn over the floor to the two Massachusetts Senators.

Mr. SYMMS. Mr. President, if I can answer the Senator's question, what we are doing in the committee bill is fulfilling an obligation that was agreed to in 1987.

Mr. HELMS. It does not make it right, Senator.

Mr. SYMMS. I understand that. Let me add this. The portion of the artery which is underground is being paid for by the taxpayers of Massachusetts, and that is why it is not a 90-10 project; it is more like a 78-22 project; $800 million depresses the artery. If it makes it a beautification project, if one wants to call it that, one might do that, but that is being paid for by Massachusetts. What we are paying for with completion of this project and the interstate is a result of 25 or 30 years of monetary inflation, which has increased the cost of highway projects, so that the first highway projects that were built back in the fifties and sixties and the early seventies are much less expensive than the last ones. And also, those controversial projects, whether it has been big congestion in the big cities, have cost more money because the real estate costs more money.

Boston has the inconvenience of traffic going through there every day. They have the problem of trying to bring in the construction crews to work while they are trying to move this massive amount of traffic of people going to work. It is a very difficult, very costly program.

The only other alternative would be to just say we are not going to keep the commitment that was made in the agreement between Congress and the administration and close down the projects. There is one section in my State on Interstate 90 that is just being finished now. It is not open yet, but they are completing it. I would hate to stop that now and not have that completed.

The Senator from North Carolina may well be right, but I think one could make the argument, Mr. President, that maybe the Federal Government should not have built the interstate, if one wants to make that argument. I happen to be one who thinks the interstate, on the whole, is one of the best things that has happened in this country. It opened up the West; it opened up the Sun Belt. It has created enormous opportunities, and personal freedom is expanded by a good road system in the country because people can get in their automobile, drive, and go there.

Mr. HELMS. I have the greatest respect for my friend from Idaho, but he is getting off the beaten path of the point we are talking about. It is a given that everybody thinks the Interstate System is great. I like it in my State and you like it in yours. We are down to the nitty-gritty in my inquiry. One-third of the Interstate construction money in this bill goes to one State.

Mr. SYMMS. That is because the project was not completed.

Mr. HELMS. For whatever reason, for whatever reason—I am not pinning the mistake on the Senator from Idaho or Pat Moynihan or anybody else. I am just trying to revive a historic statement, "I have no light to guide me except the light of the past."

I hope that, if we have another highway bill, it will be a little more accommodating to 49 States and a little less accommodating to one State. That is all I am trying to say. I am seeking to make this clear through legislative history.

I will go down to lunch with the Senator and let him tell me how great the Interstate Highway System is. I have not disputed that. It is good for Idaho; it is good for all. But the question is how did we get into this tangle in the first place? I will remind him that I said earlier that Ronald Reagan, at the outset in 1983, said it would require a coup for him to sign the 1983 bill. Then he suddenly became an advocate of it. I asked him when the coup occurred?

Anyway, since the Boston project would create 15,000 new construction jobs in Boston, I ask either of the managers, is it not a fact that the program is being touted in Massachusetts by official spokesmen as a "jobs program?" Is that not correct?

Mr. SYMMS. Mr. President, I say to the Senator it probably is, but the reason it is touted as a jobs program is because the people who tout it as a jobs program have never read "Human Action" by Ludwig Von Mises. Had they read "Human Action," they would know that building highways is not a jobs program. You have never heard this Senator take the floor, not in 1982, not in 1987, not in 1991, and say this is a jobs program. It is not. It is a highway program.

Mr. HELMS. I do not want to offend my friend. I have read "Human Action." I know about Ludwig Von Mises.

Mr. SYMMS. Ludwig Von Mises would say you can build that tunnel.

Mr. HELMS. But that has nothing to do with what we are talking about. I asked you, are they touting this——

Mr. SYMMS. Yes, they are touting it, but that does not make it right.

Mr. HELMS. That is the answer to my question.

Mr. SYMMS. It is a highway project; it is not a jobs bill. If you did not spend the $2.5——

The PRESIDING OFFICER. The Senate will come to order. The Senator from North Carolina has the floor.

Mr. SYMMS. If the Senator will yield, I will just say——

Mr. HELMS. I have not yielded yet.

Mr. SYMMS. In Boston, they can spend it on building airplanes or something.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. Mr. President, let me inquire of the Senator from Idaho. If I am going to offend him by asking these questions, I am going to retire from the Chamber.

Mr. SYMMS. The Senator from Idaho is happy to answer the questions. I am not offended.

Mr. HELMS. If it gets too hot, tell me, because we have been friends too long, OK?

Mr. SYMMS. I understand that.

Mr. HELMS. And I am getting to the end of it. Do either of the managers have any indication that Massachusetts will seek Federal assistance to help pay the $4.8 billion cost of mass transit and environmental improvements Massachusetts promised the Boston project's environmental opponents in order to get the environmentalists support for this project, which will cost, by the way, a total of $5.5 billion?

Mr. SYMMS. I have no indication that they will.

Mr. HELMS. What would be your reaction if they did?

Mr. SYMMS. I would oppose it.

Mr. HELMS. Pardon me?

Mr. SYMMS. If they ask for more, I would oppose it.

Mr. HELMS. Now we are getting somewhere, Mr. President. That is exactly what I want for legislative history. How about the Senator from New York, would he feel the same way about it?

Mr. MOYNIHAN. May I say to my dear friend, I missed the question and I would like the Senator to just repeat it.

Mr. HELMS. The point I am making is that Massachusetts' officials promised the environmentalists, who opposed this project in the first place—you know they did—that Massachusetts would make $4.8 billion in mass transit and environmental improvements if the environmentalists would stop opposing the Central Artery and Tunnel project. What I want to know is, if Massachusetts seeks Federal assistance to help pay for these promised mass transit and environmental improvements, is the Senator going to be opposed to it?

Mr. SYMMS. Mr. President, I would only support what they are eligible for. As a matter of fact, I believe right now the Sierra Club has them under lawsuit trying to block this project.

Mr. HELMS. That may put some of us in a position of being in bed with the Sierra Club. I have never been in that position before.

Are the mangers of the bill aware that after promising these improvements, Massachusetts then exempted significant parts of the Boston project from having to comply with the State's wetlands and waterways protection laws?

Is that a fact?

Mr. SYMMS. I do not know the answer to that.

Mr. HELMS. I will tell the Senator that they did.

Mr. SYMMS. The Senator may well know.

Mr. HELMS. Yes. Just two more questions and then we can go to lunch as friends.

Can the managers tell me what the original cost estimate was for this project in 1983, which was about 8 or 9 years ago, and how much that original cost grew between 1983 and 1987, and what the most recent total cost estimate is?

Mr. SYMMS. Mr. President, the answer to that is the cost estimate that I had before 1987 was $1.3 billion. It went up to $3.3 billion after the 1987 Highway Act. Now it is up to $5.4 billion in 1991 ICE.

Mr. HELMS. Five point four billion is correct. I am just making the record.

Mr. SYMMS. The 1991 estimate is 5.4, the 1989 is 4.7.

Mr. HELMS. This is the final one. Is either or both of the managers willing to make any assuring comments to the rest of the States that the Federal Government will not be responsible for future increases in the cost of the Boston project above and beyond the $2.55 billion in this bill? Is this the end of it?

Mr. SYMMS. Not for any interstate construction costs, I certainly will not. That would be outside of what is in our bill. And I think that the Senator from New York and I have tried to make it clear to all our colleagues that this is the last interstate construction bill we can foresee to come before the Congress short of Congress passing a new Interstate Highway Construction Program. But on this subject, this finishes it and I think that is the understanding.

Mr. HELMS. This is it?

Mr. SYMMS. This is it.

Mr. HELMS. Mr. President, I have made the legislative history that I wanted to make and now I will yield the floor so that Senators from Massachusetts can have at me a little bit.

I thank the Chair. I yield the floor.

EXHIBIT 1

INTERSTATE SYSTEM COMPLETION—BOSTON CENTRAL ARTERY/THIRD HARBOR TUNNEL

BACKGROUND AND PROJECT SCOPE

Before 1987 Highway Act: operational improvements to existing Central Artery (I-93) and construction of a 2-lane tunnel (I-90) to Logan Airport.

After 1987 Highway Act: construction of I-90 as a 4-lane toll tunnel and reconstruction of I-93 with new depressed section (High to Causeway Streets) defined as ineligible for Interstate construction funds.

CURRENT STATUS AND SCHEDULE

Approximately $274 million has been obligated; $164 million for preliminary engineering and environmental studies and $110 million for right-of-way acquisition. Some $145 million of this amount has been expended with 50 percent expended on engineering and 50 percent on right-of-way work.

Two supplemental Environmental Impact Statements have been developed. The final EIS signed by the State, for the Haul Road has been submitted for approval by the Federal Highway Administration. The draft Supplemental EIS for the entire project was made available for public comment on May 18, 1990. The comment period closes August 22. Public hearings are scheduled for June 21. The final supplemental EIS for the entire project is anticipated by the end of 1990.

Further requests for authorizations to proceed are expected in the next several months. Requests for $135 million for management, engineering, and environmental activities and final design are anticipated. Some $20 million in added authorizations for right-of-way acquisition are also anticipated.

The Spectacle Island disposal site in Boston Harbor is the preferred alternative site for disposal of some 13½ million cubic yards of excess materials. No final agreement has been reached with the Corps of Engineers or the EPA concerning permit actions. The Corps has requested the consideration of alternative land sites for the disposal. Obtaining necessary permits may take several months after the final supplemental EIS has been approved.

The project appears technically feasible, although extremely complex, due to maintaining traffic and utilities while mitigating environmental and historical impacts.

An optimistic engineering and construction schedule will require 9 years of concentrated effort.

The Sierra Club recently filed a complaint in State court that would require the State to obtain a permit from the State Air Quality Agency before proceeding with construction of the tunnel ventilation buildings. No hearing date is set, but the State is prepared to litigate.

COST-EVALUATION AND PROJECTION

TABLE SHOWING COST EVALUATION

[In billions of dollars]

	Pre-1987 act	Post 1987 act	1989 interstate cost estimate
Interstate construction funds	1.18	2.26	2.83
Other Federal-aid and State funds	.13	1.06	1.87
Total	1.31	3.32	4.70

The bulk of the ultimate cost will remain to be obligated after the existing Highway Act expires (10/1/91).

This project will represent the major cost (over 40% of the U.S. total) of completing the Interstate System in the Highway Reauthorization Bill; while some 25 States will have remaining Interstate projects, most are relatively small.

Based on the 1989 Interstate Cost Estimate (ICE) the nationwide Interstate completion shortfall is $3.2 billion (Federal funds) including $1.2 billion in Massachusetts.

BOSTON CENTRAL ARTERY/THIRD HARBOR TUNNEL

BACKGROUND AND PROJECT SCOPE

The Central Artery (I-93) and the existing tunnels (Sumner and Callahan) in Boston are heavily congested, have substandard geometrics, and need considerable work. The Central Artery/Third Harbor Tunnel (CA/THT) projects would completely reconstruct I-93 from the Southeast Expressway, through the city core, to the I-93/US-1 interchange just north of the Charles River. I-90 will be extended from its east terminus at I-93 to an interchange with US-1A at Logan International Airport.

These projects, except for the portion of I-93 between High Street and Causeway Street, were made eligible for Interstate construction funds by the 1987 Surface Transportation and Uniform Relocation Assistance Act.

The 1991 Interstate Cost Estimate (ICE) submitted to the Congress included $3.870 billion in eligible costs, an increase of $716 million above the 1989 ICE.

CURRENT STATUS

Approximately $765 million has been obligated; $378 million for preliminary engineering and environmental studies, $111 million for right-of-way acquisition, and $276 million for construction.

Two supplemental EISs have been approved. One covers the South Boston Haul Road, a mitigation measure to keep trucks hauling construction materials for the Third Harbor Tunnel off South Boston streets and the second covers the I-90/I-93 projects. A Record of Decision (ROD) for the I-90/I-93 project was approved on May 10, 1991, and publicly announced by the Governor on May 13. The ROD for the Haul Road was previously approved.

The Sierra Club filed suit in Federal District Court under the Clean Air Act, on March 25, 1991. At issue are ventilation buildings on I-90 and I-93.

The city of Cambridge, the Committee for Regional Transportation, and others have filed notices of intent to sue under State environmental requirements. One specific issue motivating the city is Scheme Z, the design alternative selected for crossing the Charles River.

On December 19, 1990, the Conservation Law Foundation (CLF) and the Massachusetts DPW signed a Memorandum of Understanding (MOU) of "Traffic and Air Quality Mitigation" for the CA/THT project.

The agreement to which FHWA is not a party, calls for $1 billion for transit, HOV, rail, parking, and other measures to reduce traffic in the Boston area and improve air quality.

The costs would not be a CA/THT project responsibility, but the Founation and the Massachusetts DPW wanted the FHWA to incorporate the agreement into the ROD and grant conditions.

The FHWA did not agree to do so because the work proposed in the agreement is not project related. While FHWA is not opposed to the specific measures called for, in the agreement, the FHWA will not make the privately negotiated agreement a project responsibility. The agreement is far beyond the scope of the project, imposes unwarranted responsibilities on the FHWA; appears to violate the planning process, some NEPA requirements (such as public hearings and evaluation of impacts) and other provisions of law; and would be difficult and unwieldy, if not impossible, to enforce.

The matter of the MOU is expected to remain controversial.

Design activities are continuing on all portions of the Central Artery/Third Harbor Tunnel.

Subaqueous I-90 tunnel is being designed and is scheduled to go to construction this summer.

The preliminary design at the 100 scale is almost complete and the final design is underway elsewhere on the I-90/I-93 projects.

Massachusetts has a substantial amount of Interstate construction funds available ($1.41 billion as of April 30, 1991). If final design of all I-90 construction projects were expedited to accelerate construction of these projects, I-90 could be opened as early as 1994.

Completion of both projects is not expected until near the year 2000.

The PRESIDING OFFICER. The senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I want to express appreciation to the managers of the bill for their very eloquent and accurate responses to the questions involving a particular construction measure that affects not just Massachusetts but the country. It affects all of our regions. They have responded to the questions that have been raised, and I am grateful to them for their understanding of the importance of the completion of this particular element in the Interstate System.

The funds contained in this bill for Massachusetts are for the Interstate 90 and Interstate 93 project in Boston, also known as the central artery and third harbor tunnel project.

Along with the H-3 project in Hawaii and ongoing projects in California, this project in Massachusetts addresses one of the last remaining significant gaps in the Interstate Highway System.

The completion of the Interstate System is one of the highest priorities and objectives of this highway bill. Closing these remaining gaps is essential to the integrity of the overall system, and there is no justification for denying these funds.

This project is of great importance to the entire New England region. The central artery—I-93—is the most congested and dangerous interstate highway segment in America. Ever since the days of the Ford administration in 1975, the Federal Highway Administration has included this project in its maps and cost estimates for the Interstate System.

The plans include two basic features—widening approximately 4 miles of Interstate 93 through the center of Boston, and building a third harbor tunnel to Logan Airport as part of Interstate 90.

Interstate 93 is one of the primary north-south interstate routes through New England, starting south of Boston in Massachusetts, running north through New Hampshire, and terminating in northern Vermont. It is also the principal route for traveling from Logan Airport to New Hampshire and Vermont.

Interstate 93 is a major commercial thoroughfare between southern and northern New England. But the current congestion results in bumper-to-bumper traffic for nearly 10 hours a day. This congestion is responsible for adding hundreds of millions of dollars annually to the cost of transportation in New England, as well as contributing to lower air quality.

The American Association of State Highway and Transportation Officials estimates that the central artery will save at least 21 million hours of travel time a year, almost three times as much as any of the recently approved large urban interstate projects—I-105 in Los Angeles, I-478 in New York, I-90 in Seattle, I-10 in Phoenix, and I-95 in Baltimore.

The other portion of the project, the third harbor tunnel, involves the completion of the eastern end of Interstate 90, which crosses the country from Seattle and becomes the Massachusetts Turnpike into Boston. Under this project, the turnpike will be extended to Logan Airport, with a connection from the airport to Route 1A north to New Hampshire and Maine along the New England coast.

Anyone who has sat in the two existing harbor tunnels in an effort to get to or from Logan Airport knows the need for an additional tunnel.

A new tunnel is long overdue to meet the needs of the large numbers of business and other visitors who use Logan Airport. It will also serve as an essential commercial link between New England's primary regional and international airport and the rest of the New England economy.

The provision for Massachusetts that is being challenged by the Senator from North Carolina was part of the Bush administration's highway proposal. It was part of the bill reported out by the Committee on Environment and Public Works, and it was also part of the proposal by the Senator from Virginia [Mr. WARNER].

As this broad bipartisan support indicates, there is widespread recognition of the importance of this project to the completion of the Interstate System.

The funds contained in this bill are not a bailout, or a special favor for Massachusetts. They represent funds that have been carried on the interstate cost estimate for this project for more than a decade.

Over the past 10 years, Massachusetts has been working on the design, planning, and organization of this massive project. During that time, Massachusetts has made available to other States, through the Federal Highway Administration's administrative process, funds that with inflation amount to nearly $2.5 billion.

In the last 5 years alone, Massachusetts has made available for reallocation among the States over $1 billion originally earmarked for Massachusetts.

What we are talking about here is a significant part of the Interstate System that has been on the drawing board for many years, and which is finally about to be completed.

Now, after many years of waiting and planning, this project is under way. The Federal Highway Administration issued its record of decision for the project, marking the completion of administrative and environmental review, about 6 weeks ago.

Shortly thereafter, the first major construction contract—for the third harbor tunnel, involving $200 million for tunnel tube fabrication and installation—was put out for bid and will be awarded this fall. Excavation work has already begun on the project.

The remaining controversies—and in a project of this size there have been many—are being resolved. The State is developing an alternative design for crossing the Charles River, and is vigorously pursuing mass transit and other initiatives to address environmental concerns. I have every confidence that this project will proceed as scheduled.

The funds challenged by the Senator from North Carolina are in this bill because of a compromise reached in the 1987 highway reauthorization statute. Section 138 of that law provided for upgrading Interstate 93 and completing the Interstate 90 gap to Logan Airport.

As a matter of compromise, Massachusetts and the Congress agreed that the cost of the High Street to Causeway Street segment, amounting to about 4,500 feet of roadway with a cost of $1 billion, out of a total $5 billion, would not be eligible for interstate construction funding.

Under the terms of the compromise, Massachusetts will cover roughly 30 percent of the overall project costs out of State and noninterstate funds. It is the balance contained in that congressional compromise that is the subject of the bill before us today and that the Senator from North Carolina proposes to undo.

This compromise was designed to provide for the construction of this remaining interstate gap as quickly and efficiently as possible.

The premise of construction of the Interstate Highway System has always been that as each part of the system was ready, it would be built.

Now we are down to a relatively few remaining miles, but we still have an obligation to honor the commitments that have been made, and to see that the Interstate System is completed.

This project is clearly needed. This stretch of road in Boston has almost four times the national average of accidents, and many, many times the national average of delays, for equivalent urban highways. It is a menace to highway safety, and a serious regional transportation bottleneck.

The project has been on the books for years. The question is whether the Federal Government intends to honor the commitments and keep the promises it has made throughout these years. I urge my colleagues to vote with the committee, vote with the administration, and vote for the completion of the Interstate Highway System—and vote against this amendment.

Very briefly, Mr. President, I want to point out, since the point has been made by the Senator from North Carolina, the justification for the kinds of expenditures that are being included in this legislation. Over the past 10 years Massachusetts has made available to other States about $1.4 billion in interstate construction funds. After accounting for inflation, this amounts to more than the $2.55 billion for the central artery and tunnel project contained in the bill. That is according to the Federal Highway Administrator.

In other words, over the period of the last 10 years when other projects, including projects in North Carolina and all over this Nation were on track, and while the completion of the third harbor tunnel and also the artery was in the planning stage and we were dealing with some of the complex issues of title and acquiring rights of way, the resources that otherwise would have been allocated to Massachusetts were being made available to other parts of the country. When you consider inflation, you find out what was actually turned back by the State of Massachusetts is in excess of what is being invested in this particular project now.

Mr. President, I am not going to take the time of the Senate to make the case that this is the most important and significant bottleneck in all of the Interstate System throughout the country. That has been documented.

I am not going to make the case that there are four times as many accidents within this confined area in Boston than any other part of the country. That has been documented.

I am not going to make the case in terms of the amount of time that is lost each day, some 12 hours a day for those who are utilizing this particular roadway. It is projected to be 17 hours a day by the year 2000, more than any other bottleneck in the country. That has been documented.

I am not going to make the case about completing the chain that links Spokane, WA, with Boston from the East to the West or the chain that comes up from Miami to the Canadian border. They both run through this particular area, which is the most congested and dangerous intersection of the country. That was understood by President Ford going back to 1975, and it has been understood since that time.

So I welcome the comments that have been made by the Senator from North Carolina and the excellent responses which have been given by the Senators from both New York and Idaho.

The final point I would like to make, Mr. President, and I wish my friend from North Carolina were here, is when those 18-wheelers come on out of North Carolina up I-95 ready to sell all those tobacco products to Maine, New Hampshire, and Vermont, I do not think they ought to have to wait in Boston for 10 or 11 hours. If my good friend from North Carolina wants, he may come with me and sit in one of those 18-wheelers, packed to the top with tons of tobacco, cigarettes, headed for Maine or New Hampshire and Vermont. They should not have to wait that long.

I think I am speaking for every one of those tobacco farmers down in North Carolina when I say we want to be able to get their product on the road and we want to get it delivered and delivered on time to all those people up there in the northern tier of States.

If sometime my friend from North Carolina wants, he may join me in one of those 18-wheelers as we go through Boston—First we will have the opportunity to take the central artery. Imagine what this will look like in 5 or 6 years and the rapidity with which all of those trucks in commerce that are coming from North Carolina are able to get through.

So, Mr. President, I appreciate the responses that have been given. This is not just an issue for Boston. As this map indicates, what we are arguing about is the passage into Boston, around Boston, all the way up to the Canadian border: What we are talking about is separating that traffic from other traffic that goes on to Vermont and New Hampshire.

We are burdened; our community is burdened; our city is burdened; our State is burdened. But we welcome the cooperation that has been given to us by members of the appropriate committees in support of this project. There is no intention of coming back for additional resources. That has been the commitment of the State. The State is floating the bonds in order to complete its part of the measure and the legislation has been signed into law recently by our Governor. The various kinds of environmental challenges are being dealt with in a responsible way. There is every expectation that this project will be moving a head on time. Already, Mr. President, the early stirrings of this project are taking place in terms of the initial diggings.

So we look forward to welcoming all of our colleagues from north, south, east, and west to visit Boston, visit New England, visit the northern tier of States on some of the finest interstate highways this country has ever produced.

I thank my colleagues and express my appreciation to them.

Mr. KERRY. Mr. President, I thank my colleague for his comments. I just express some jealousy; all the time I have worked with him, he has never offered me a ride in an 18-wheeler. This is a significant step. I want my colleague from North Carolina to understand the depth of my colleague's support because he was willing to incur the wrath of the nonsmoking lobby. Here he is promoting getting the tobacco up to New Hampshire faster in behalf of this effort, and I think the Senator from North Carolina ought to appreciate that. I hope my colleague does not suffer.

Mr. President, I am not going to take too long either, but I would like to thank the distinguished Senator from Idaho for his answers which have accurately reflected the history here. I would like to answer a couple of questions, and I wish my colleague from North Carolina were still here.

I had wanted to ask him a question because I am not sure to the degree to which he is aware that this project is not a new project. It does not represent $2.5 billion from scratch that is about to be spent but it represents a project that has been ongoing now for a number of years, a project where there is already a hole in the ground, where there is a significant amount of construction, enormous amount of design that has been undertaken, and significant hundreds of millions of dollars that have already been spent and already been committed in an effort to complete it.

I point out to my colleague from North Carolina that this is not somehow a special assignment for Federal funds to Massachusetts. It is not different from what any other State in the Union has already gotten. It just happen that Massachusetts is the last in line, along with California and Hawaii. Those projects also are in this bill and those projects also represent a completion of the Interstate Highway System.

My colleague from North Carolina said, why did not this happen in 1983? It did not happen in 1983 because it was not designed at that point in time. It was only under the design process then. The early comments had not then been made but it was included from the first year that I arrived here in 1985 and each year succeeding that it has been included in the interstate cost estimate.

So this has always been an anticipated cost which is now finally reaching the moment of expenditure. In each year it has been part of the Highway Transportation Act.

Moreover, in Senator WARNER's bill, substitute, in the Moynihan bill, and in the Bush administration bill, this project was included precisely as it is at this moment.

So it has received broad bipartisan support and I think it would be inappropriate at this point in time to try to upset the 1987 compromise that created this.

Moreover—let me share with my colleague from North Carolina who I hope is listening perhaps in the cloakroom—the first major construction contract for this has already been issued, $200 million construction contract, for the tunnel tube fabrication and installation for the tunnel. That is going to be awarded this fall. The bid is out.

In addition, there is some $300 million that has been made available, $328 million in the interstate highway construction funds already for this project.

But the most important point that I would make to my colleague from North Carolina—he says why is it that there is a $2.6 billion pot suddenly? Why is it being spent now?

I would call to my colleague's attention the fact that the money in this bill is equivalent to the amount that Massachusetts has lapsed to other States over the last 10 years because this project was not ready to go forward. So Massachusetts has been paying in year after year the very battle we have had for the last few days over formula on the floor of the Senate. We have been a donor State. Now is our moment to become a donee State and that should not be questioned.

The amount in this bill is exactly equivalent to the amount of money that has lapsed to other States over the past 10 years when adjusted for inflation. In fact over the past 3 years alone, Massachusetts has made available through the Federal Highway Administration process over $700 million that has gone to other States and been used by those States.

Mr. President, I do not think I need to pick up more than the senior Senator has done on the importance of this project or the history of it.

I thank the distinguished managers of the bill for their help and for their support.

One final comment: Massachusetts reserves the right, just like any other State in the Union, to come back to the Congress for discretionary funds for which we have a right to apply and we reserve the right through the Federal process to apply for any additional funds which may be available through the Federal highway process.

But the Senator from Idaho is correct that this is the end of the interstate highway allocation process, and we do not, obviously, have an ability to augment that at a subsequent point in time.

Mr. SYMMS. Would the Senator agree with me that we all owe a debt of thanks to our distinguished and able senior Senator from North Carolina for not offering the amendment that he had proposed?

Mr. KERRY. I absolutely agree with that. I had a conversation with him this morning. He told me at that time he would not offer that amendment. I am grateful to him for being willing not to do that. I think that is in the best spirit of this. I know he wanted to create a legislative record. He has done so. I just want to make sure from my perspective that that legislative record is complete.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that a letter from Mr. Gene McCormick, the very able Deputy Administrator of the Federal Highway Administration who is here with us today, with an analysis of amendment 357 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
Washington, DC, June 19, 1991.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate, Washington, DC.

DEAR SENATOR MOYNIHAN: Pursuant to our conversation this morning, please find below my analysis of the relationship between the apportionment formulas in the Graham Amendment No. 357 offered to S. 1204 yesterday and motor fuel consumption.

Within the Graham Amendment, the apportionments of the National Highway and Bridge System Program and of the Urban and Rural and Highway and Bridge Program are equal.

Within the National Highway and Bridge System Program the apportionment is based on the following:

One-ninth each in the ratio which the rural lane miles and rural vehicle miles traveled in each State bears to those of all States;

Two-ninths each in the ratio which the urban lane miles and urban vehicle miles traveled in each State bears to those of all States; and

Three-ninths in the ratio which diesel fuel consumed in each State bears to that consumed in all States.

As a result, three-ninths of this program's funds are apportioned according to vehicle miles traveled, which is directly related to fuel consumption, and three-ninths are directly related to diesel fuel consumption.

Within the Graham Amendment, the Urban and Rural Highway and Bridge System Program funds are apportioned according to the ratio of attributable tax payments to the Highway Trust Fund.

In combination, therefore, about five-sixths of the apportionments from the two major apportioned programs in the Graham Amendment are related to motor fuel consumption.

Sincerely yours,

GENE MCCORMICK,
Deputy Administrator.

GLENWOOD CANYON PROJECT

Mr. WIRTH. It has come to my attention that the Colorado Department of Highways has experienced cost increases and overruns in the amount of $20.50 million for construction of I–70 through Glenwood Canyon. Consequently, the department is seeking additional Federal highway funds to accommodate this additional cost. I ask the distinguished senior Senator from New York, the floor manager of the Surface Transportation Efficiency Act of 1991, Senator MOYNIHAN, if there is a way to address this problem?

Mr. MOYNIHAN. S. 1204 includes a provision that the interstate construction funds shall remain available for obligation until the end of the fiscal year in which they are apportioned. Therefore, there is a possibility that some of these interstate funds could lapse. Based on discussions with the Federal Highway Administration, previous experience shows about $100 to $200 million in interstate funds would lapse in any given fiscal year. The administration would consider these funds to be discretionary and would allocate these funds to those States that have experienced cost increases since the preparation of the 1991 interstate cost estimate and are to be used on eligible projects. The Glenwood Canyon project in Colorado meets these criteria and should be a high priority.

Mr. WIRTH. I thank the Senator for his assistance.

TRANSPORTATION PROJECTS IN LOUISIANA

Mr. BREAUX. I would like to take this time to engage in a discussion on the highway bill with Senator MOYNIHAN. Am I correct in stating that S. 1204 as amended contains no authorizations for special projects, such as demonstration projects?

Mr. MOYNIHAN. Yes, that is correct.

Mr. BREAUX. Under the committee bill Louisiana receives a higher level of funding from which the State can finance transportation projects.

Mr. MOYNIHAN. Yes, this bill provides Louisiana more dollars from the Federal highway trust fund.

Mr. BREAUX. Several of my constituents have contacted me in support of specific transportation projects. Since there are no highway demonstration projects or special projects in S. 1204 as amended, I would like to identify a few of these transportation projects and clarify whether they would be eligible for funding under the Surface Transportation Program or any other program of your bill.

First, the upgrade of U.S. Highway 71, from Kansas City to Shreveport, from a two-lane to a four-lane controlled access highway. This project is also referred to as the I-49 extension. U.S. Highway 71 has had a high number of accidents and it is believed that a four-lane expansion would make the road safer.

Second, the expansion of Highway 28, between Alexandria and Leesville, from a two-lane to four-lane highway. This highway links Fort Polk and England Air Force Base.

Third, the widening of Louisiana Avenue from two to five lanes. The primary entrance to Fort Polk is Louisiana Avenue, which leaves U.S. 171 and extends approximately 3 miles eastward to the entrance of Fort Polk.

Fourth, the construction of frontage roads long I-10 for 6 miles between Ambassador Caffery Parkway and Louisiana Avenue in Lafayette. I-10 suffers from traffic congestion, much of which is caused by local trips. The construction of frontage roads would relieve the congestion due to local trips.

Fifth, the construction of a new pontoon bridge over Bayou D'Inde and reconstruction of Prater Road and Pete Manena Road. The Prater Road pontoon bridge will provide additional access from I-10 to the Rose Bluff area, which is one of the largest industrial areas in Calcasieu Parish.

Sixth, the construction of a four-lane highway connecting the Louisiana/Mississippi border to I-49 in Alexandria. A good deal of this project would consist of expanding LA-10, a State principal highway, from two lanes to four lanes. In other areas, new roads would have to be built. This project would also consist of constructing a four-lane highway from New Roads to Alexandria, a good deal of which could be done by expanding LA-1, a State principal highway. These highways would be connected by the State's new Mississippi River bridge.

Seventh, the construction of a replacement bridge over the Gulf Intercoastal Way. The current Louisa bridge is old and due to the location of the bridge support pilings and the low height of the bridge, several shipping accidents have occurred. The Gulf Intercoastal Way is heavily traveled by transport ships and for safety reasons the bridge should be replaced.

Eighth, extend the Ambassador Caffery Parkway north and south. By extending this primary through-city parkway in Lafayette, an inner loop would be completed. This would allow by-pass routes to alleviate congestion in the area.

Ninth, modify an Interstate 10 overpass to improve drainage over the waterway. The way in which the current overpass was constructed interferes with existing drainage culverts. This has led to flooding and traffic congestion.

Mr. MOYNIHAN. Under S. 1204, as amended, should a State elect to fund its portion of these projects, these projects could be eligible for Federal funds under the Surface Transportation Program or other programs in the bill.

Mr. BREAUX. I express my thanks to Senator MOYNIHAN for participating in this discussion with me.

Mr. MOYNIHAN. Mr. President, I would like to take this opportunity, as my friend has already done, to thank the staff of our committee who are not at the end of their tether, but they have really been through a very hard 2 weeks of night and day work.

I thank the committee staff: David Strauss, Michael Weiss, Roy Kienitz, Kathy Ruffalo, and also Mr. George Schoener, who has been over here from Federal highways, for helping us a lot.

I also thank the minority staff: Jean Lauver and Steve Shimberg. And also our own Rob Connor, and Tim Bernstein, Mark Kadesh, Jay Messer and Andrew Samet.

And I thank the comparable threesome: Taylor Bowlden, Angela Plott, and Trent Clerk from Senator SYMMS' staff who have brought us this far.

So while we have been quite willing to put our own reputations for accuracy in their hands, they have, I would like to think, enhanced them as a consequence. The work of such people is so easily misunderstood because we see them during the day and then we go home. They stay. It is a remarkable achievement that this legislation has come this far. It has come very far, sir, and we are ready to vote. We are ready for third reading. We are ready for final passage.

I see our friend from Alaska is here, and he has a chart which is always illuminating. If he would like to tell us more about it, I am sure we would be very interested to hear. After that, I do hope we can just finish this measure.

The President asked that it be done in 100 days. Well, here we are at 105. Let us get on with it.

Mr. President, I yield the floor.

Mr. STEVENS. Will the Senator yield?

Mr. President, I have no desire to hold up third reading. Is that the case? Are we in third reading yet?

Mr. MOYNIHAN. I regret to say to the Senate no, we are not. We ought to be. Our work is done. The work is done. But there remains some mysterious difficulty which I hope will be resolved, but it has not been. So we are happy to hear from the Senator from Alaska, as we always are.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I want to make it very plain this Senator does not wish to hold up final passage of the bill. I want to make some comments on the matter of philosophy and policy before the Senate finally votes.

I want to start off first by expressing I think the gratitude of all of us to Senators MOYNIHAN and SYMMS for their hard work on this bill. They have crafted a piece of legislation which obviously meets the overwhelming support of the Senate, and they are entitled to great credit for that.

In spite of their work, however, in reconciling the competing interests of the various States, it is my feeling that this final bill that we are going to vote on now which will set the stage for entering the 21st century is not the kind of bill, not the kind of law, we need to address the needs of the country going into the next century.

I want to particularly call the attention of the Senate to the concept of donor-donee relationship that has been raised here in the debate on this bill.

While I am not sure the managers of the bill would agree, it is my judgment we have once again incorporated into the highway philosophy the donor-donee concept; the theory of the formula really is based on that concept. It is that concept that I find fault with.

I want to say I understand the argument advanced by the Senators from the donor States. They argue that each State should get back from the highway fund the money they pay into it. If our predecessors in the Senate had used that theory with regard to use of taxpayers' funds to construct roads, we would not have any roads west of the Alleghenies.

As a matter of fact, if we examine the Constitution, we will see that the Congress has the duty to provide post offices and post roads. We have been woefully short on that constitutional responsibility, as far as the West is concerned.

Many areas of the West, and particularly my State, are not really connected to the Interstate Highway System, and yet, as we have just heard, this bill, when finished, will terminate the Interstate Highway System allocation of funds.

Alaska does not even have any interstate highways, although, strangely enough, Hawaii does. We had to go to a device of declaring that some noninterstate highways could be put into the formula, in order to have some assistance in building what amounts to highways of the kind the American public is used to finding throughout the south 48 States.

This bill—and I congratulate the Senator from New York and the Senator from Idaho for it—adopts the status quo as a base. I think, in doing so, they have avoided a great deal of controversy in this last bill, dealing with the Interstate Highway System. A series of amendments now add money and divide them between the donor and donee States in a way entirely unrelated to the base and to the formulas built into the base.

As a Senator from the West, I would like to recall that the formula was originally devised in order to compensate for the fact that the Federal Government and the taxpayers own so much of the West. The formula really gave a tilt toward the federally owned States. In my State, for instance, the Federal Government still owns over 80 percent of the land. If that was a private taxpayer, if there was a private base out there, there would be moneys to help contribute to the extension of the highway system. That has not been possible.

There is nothing like a private enterprise base in the West, compared to the East, primarily because of the continued domination of the Federal Government of the ownership of land west of the Mississippi.

The result of this bill is an inward looking bill. It focuses on what is there on the base and says you can improve and maintain that base, and you have greater flexibility in using your moneys. Again, I congratulate the Senator from New York for that. But there is no concept of being able to expand the highway system into totally unserved areas. It is these underdeveloped areas I wanted to draw the Senate's attention to. We are looking to those areas for our recreation, for new housing areas, and for a new resource base. But we have done nothing to deal with the transportation needs. I think in the next century Americans will pay for that neglect.

It is my judgment that we ought to have built into this a concept of trying to find some way to extend the current highway system. We can declare that the map of the Interstate Highway System, as originally prepared, is completed. It is. When this bill is completed, it is my understanding it will be. That did not include anything in Alaska, and very little in Hawaii, and it did not include many of the areas of the West that are still owned by the Federal Government. What the system really does is penalize the West.

Again, I am not criticizing the Senators from New York and Idaho. I think they have done very well building on this system and completing that system.

But the rural Western States can contribute less to the highway fund, because they have fewer roads; and because they contribute less to the highway fund, it means they will get less in the future. So they cannot have more roads, unless we go back to the Constitution and recognize the needs of the Constitution and the foresight of our forefathers, when they said Congress has the duty to provide post roads.

That is one of the things I want to make the Senate aware of. We are not receiving funds basically because of two things. We do not contribute much into the system and the Federal Government owns all this land of ours.

I have superimposed my State on this map of what we call the "south 48." If you look at it, it touches the east coast and it goes beyond the west coast. It is up above Duluth, and it would, in effect, come down to the level of New Orleans. That is a large area, one-fifth of the size of the United States.

Those red marks in the center and a few roads out here at Nome represent the entire highway system of an area three times the size of Texas.

What is the reason? The reason is that we developed an airline system, an air system. We decided it is not possible to get moneys out of this system now. So we have had a highway system, and we have gone out into the extremes of my State by air. We only have 12,000 miles of road. Texas has 300,000 miles of road.

As a matter of fact, if this State of mine had the same amount of roads as the average of any area in the south 48, as large as it is, it would have 800,000 miles of roads. It has 12,000 miles. It has those few roads because of the impact of the highway allocation system.

We have constantly gone against the concept of recognizing the Federal Government's responsibility to build roads in the areas claimed by it, dominated by it, and as a matter of fact, set aside by it.

Seventy percent of the national parks are in my State; 85 percent of the wildlife refuges; and 60 percent of the wilderness acreage. Those are all owned by the Federal Government and set aside for the Federal Government, and they are not putting up one dime to build the highways through those areas. They look to the amount that is allocated for the State of Alaska to build roads in the non-Federal areas to build the roads in the Federal areas.

This bill would say if you want any roads through the Forest Service, military reservations, parks areas, take it out of the money allocated to the State of Alaska. Theoretically, that should be to build roads in the areas not owned by the largest landowner.

In our State, 70 percent of the towns, villages, and cities can be reached only by air. That is what brings me to my feet today. The Federal Government is now constricting because of, again, a budget consideration, the number of flight service stations in our State. They are going to be collapsed down to three in the whole State. A State the size of Alaska will have only three flight service stations left.

Weather stations are also going to be collapsed down to only three. In other words, the system that we use to travel, the airline system, the air highway system, is collapsing at the same time the highway bill has come to an end, and it is not going to provide any access by land.

The Federal Aviation Administration and National Weather Service were before our Commerce Committee yesterday and said: "We are going to study it." We are becoming a cannot-do Nation. I always thought we were a can-do Nation. There must be some way to solve the transportation problems of the largest area of the United States in terms of a State, and that is the State of Alaska.

We know we have vast oil resources, and the time will come when they will open up. There is no highway access, really, to those. We will get there by air. We could get there by land if Congress saw fit to give us the money to build the roads.

Now, what do we have? We have the opening of the tremendous challenge of the gentleman who is setting in S. 207 right now, the new President-elect of the Russian Federal Republic, Mr. Yeltsin. His dominance extends all the way eastward into the Soviet far-eastern Siberia, right across from my State.

I have had people just this past week come to ask me whether we could find some way to build the railroad connection up through Alaska—there is a railroad into Canada, up by northern Canada—to build it so we could go across the Bering Straits into Siberia, the Soviet far east, all the way to London by railroad.

We are not going to do that. The Federal Government gave up. They were going to sell our railroad and take it to South America until the Congress listened to me and passed a law that allowed the State of Alaska to buy it. We now operate it as a tourist railroad for the basic supply of the interior of Alaska. No railroad connection, no road connection, except through Canada.

The Alaska highway is going to celebrate its 50th anniversary next year.

The Senator from New York was kind enough to accept the amendment. If some States do not use their money, we may be able to go back and improve the portion of the highway that is used by Americans to cross Canada and come to Alaska from the south 48. That road, Mr. President, was built with military funds.

The only connection to my State ever made by highway funds was made with military dollars. Some feel that is the way we should get money now. I thank the Senator for giving the discretion to the Secretary of Transportation to upgrade that road and keep the Canadians from closing it.

In the RECORD of the debate on this bill is a letter from the Canadian Ambassador that says Canada, unfortunately, must notify us that it will close the Alcan Highway unless the American Government keeps its commitment to improve and maintain the Alcan through Canada and the rural portion of Canada, used primarily by American citizens. It was an agreement we made in 1977, and have never yet kept.

Now I think we are witnessing the balkanization of the lower 48 States. I was one who sat up in the gallery and listened to the debate on Alaska statehood and Hawaii statehood, and I am proud of that period of my life.

But I have to tell the Senate, I never envisioned that having become States, Alaska and Hawaii would come into the 21st century with the feeling of having been cutoff from the rest of the Government, cutoff from the other States. And yet, that is what is happening now.

It is not the fault of this committee. It is the fault of the philosophy of the Congress as a whole. We lost the concept of expansion west, expansion north, of trying to build the kinds of roads that are necessary to maintain our total infrastructure.

My problem is this: The Postal Service now tells us that it can no longer pay the subsidy that is required to carry mail in Alaska by air. We have had to call it to the attention of the Postal Service that there are no roads; you cannot have surface transportation. They say: It does not matter; we are not going to pay the subsidy of transporting your mail by air.

This bill pays the subsidy of transporting mail by surface throughout the United States. But it will not pay it in Alaska, and it will not pay it in Hawaii. The real thing I am trying to call the attention of the Senate to is that we fought for statehood; we thought we were equal when we came into the Union.

But now I am saying to my friend, are we really part of this Union? Have we been totally forgotten? Should the Postal Service say: No, we cannot accept the subsidy concept for transporting your mail by air when there are no roads for surface transportation? Should the highway people say: No, it costs too much money to build highways in Alaska, so we are terminating the entire State highway system, even though it never got to Alaska and it never will?

I think the economic future of the West, in particular, is extremely important as we enter the 21st century. The 21st century, Mr. President, will be the century of the Pacific. It will be developing the relationships between our great Nation and the Russian Nation, and the Soviet Union as a whole, if it survives, and the people of China, of the Philippines, of Thailand, of Singapore, of Korea, of Japan, and of all of those emerging nations.

But the future of our economy is in introducing into those areas our technology, our know-how, our ability to go west. That is the future of this country in the 21st century. This bill stops the highway system at our 48 State borders. It is done, and this bill in my opinion, together with the actions planned by the FAA, the Weather Service, and the Post Office, means that Alaska goes backward as the rest of the country goes forward.

I think we have to have the ability to adapt to the changing world. I think we should have the ability to develop the great resources of my State. I think we have to have some way to further the impetus of the free-trade agreement.

Remember, this bill, except for my amendment, which again, the Senator from New York kindly adopted, does not envision reaching out through Canada, reaching through Mexico, to develop the connections that might not be available for our system.

The Senator from Massachusetts was just talking about the 16-wheelers running north. They can run a lot farther north than they do now if they have some roads, and they can run south into Mexico. Before we are into the next century, we will be helping our neighbor to the south to build better roads, so we may have better commerce and exchange with them.

This bill does not envision that. I think the focus of the surface transportation bill should have been on 50 States. And above all, I would urge the Senate to go back and read the Constitution. How can we have post offices and post roads if we stop the concept of expansion of our road system?

It may not matter much to many people what happens in Alaska, but by one vote in this Senate, we decided not too long ago to develop a pipeline to carry Alaska's North Slope oil to markets. That was a tied vote, until it was broken by the Vice President, Spiro Agnew.

The net result of that action is that over 17 years, 25 percent of the crude oil in the United States has come through that one pipeline. It has benefited the rest of the country a great deal more than it has benefited by State. We have stimulated the economy of America in the development of just one small area up at Prudhoe Bay.

I say to the Senate that the demands of our Nation require a unified 50-State policy for transportation. And somehow or other, these dichotomies on the failure of the weather system, the FAA, the Post Office, and now, the highway system say to me the needs of my State have to be corrected, unfortunately. The Senator from New York crafted a bill that can pass, and it will pass, and he is to be credited with that.

The next time around, the Senate is going to face, I believe, a demand from the western federally owned States for a system that extends this road base that exists in the East and in the South and the Southwest, north through the Rocky Mountain States, through some of the Pacific Coast States: Oregon, Washington, and up into my State. I think that is necessary.

I wish to be able to tell the Postal Service: You do not have to pay a subsidy; we do not have to have your subsidy. We will just use the road systems.

We cannot do that. This bill, unfortunately, leaves a great hole in the total fabric of the relationship between my State and the Union. I am saddened by that, Mr. President, and I am saddened that the current budget considerations are such that even my great friends cannot help us out of this dilemma.

Mr. MOYNIHAN. Mr. President, before the Senator from Alaska has to leave the floor, I wish to thank him for a careful exposition of the very special and important problems that are not addressed in this legislation. I think in the next 5-year cycle we must give some very careful thought to that and, to the degree I am involved, we will. And I can guess the Senator from Idaho would do the same. I thank the Senator from Alaska.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I would like to associate myself with the words spoken by the distinguished Senator from Alaska. It seems that we get up and we talk a lot about the States in the West and the unique problems that we have.

In visiting with Mr. Yeltsin this morning and getting some ideas from him where he thinks that that country is going, if it is going anywhere, we all get to look back a little bit in history. There is a country that last year set all kinds of records in food production, yet they have a starving population. He, himself, admitted this morning that 30 percent or 33 percent of their total food production will be lost after harvest because they cannot move it, they cannot process it, and they cannot distribute it.

All we have to do is look around at some of our areas here in this country and we see a deteriorating infrastructure. Now, if there is a purpose of government, it is maintaining a transportation infrastructure. States on their own just will not go out and build the kind of highways to handle the equipment that we have to move our people and, yes, our commerce. They just will not do that.

Also, another failure of the U.S.S.R. could be they never did have a national bank, they never did have a national currency. It kept them from doing business. Now they are broke and they are hungry and they are coming to the rest of the world for help because they have real reform on their hands. But it will take a long time for those reforms to be reflected in the standard of living in their own country.

This particular piece of legislation, probably the biggest that we will consider this year, has more effect on this country than any other piece of legislation that is being worked on and debated in this body.

I want to thank Senator SYMMS and Senator MOYNIHAN and their staffs for their time and their effort in crafting a bill that not only takes care of what we believe is important, but also addresses the needs, I think, in each and every State. We have to remember that in this body, yes, we represent the State of Montana, we represent the States of Idaho and New York, but basically we are representing a nation here, and we have to be U.S. Senators one time to make sure that this is a union, a republic of States that are so dependent on each other for commerce, security, and just to make a living, and the living standard of every living American. What they have done here has been outstanding.

The concept behind the Byrd amendment, which is included in this bill, that States like Montana with higher gas taxes and lower per capita incomes should receive a level-of-effort bonus under the Federal Aid Highway Program is one that I support. The level-of-effort bonus was first proposed in legislation by my colleague, Senator BAUCUS, the senior Senator from Montana, of which I was an initial cosponsor. I want to recognize the work that he and his staff have done on this bill because they have been the key in making sure that the West, not just Montana, but the West, receives their fair share of that trust fund. As this bill moves forward, we plan to continue to work together to protect the West and Montana's interests.

In most cases, we have large land areas to cover and a small population from which to draw funding. Currently, Montana spends about $354 on its highways for every State resident, placing it ninth among the States in per capita spending on our highways and our transportation. So I am very supportive of the flexibility that was put into this bill. And I think Senator MOYNIHAN was a primary crafter of this flexibility to give the States an opportunity to put that money where it is mostly needed.

In the State of Montana, when the interstate system was built, we deferred a lot of moneys that were to go into our primary arterial highways, our secondary roads, the farm-to-market roads, deferred those dollars to build an interstate. But we also made an agreement with the citizens of Montana that, as soon as that interstate is built, we are going to start taking care of your roads. This gives us the flexibility to do that. That is why it is important to us that we have that flexibility, because now we have deteriorating farm-to-market roads, and that has to be done.

In addition, the leeway that this bill gives States in setting standards for secondary roads is a major step forward, in my opinion. This provision alone will benefit rural States that will be able to stretch their highway dollars further because they will not have to meet costly Federal standards.

I am an old county commissioner. With these Federal dollars that come into a country, we could go out and build a road or plan for a road, and then all at once we look at Federal standards in order to qualify for these matching dollars. Sometimes the cost of that 1 mile of road would go up four times. We just did not have the money. We just did not have the money. So what happens? We do not build the road or we do not maintain the road. We do not widen it or maybe put in some safety features that the road needs. Nonetheless, these standards will let us extend some of those roads in the areas and maintain them where they have never been before.

Bridges. I do not know the number of bridges, but it has to be done. And that also applies to that area of this legislation, too.

Included in this bill are a number of pieces of legislation introduced to promote rural tourism. I want to thank the managers of this bill for accepting those amendments, because tourism in the 48 States becomes more and more important. People want to see the West. We currently have a lot of traffic that pays no taxes in the State of Montana because we do not have a sales tax. So you folks that are looking in on television today, you do not have to pay a sales tax in Montana, so you can go up there and vacation this summer. We need the money. Also go up there and ski in the wintertime. We have some of the great mountains.

But nonetheless, this allows us in tourism to meld some Federal funds with some private foundation funds for the promotion of tourism and especially to attract some of our foreign visitors to this country into the interiors of the country and to show what the country is really all about. A little extra moneys to maintain roads around public and public lands, parks, this type of thing, because that infrastructure is falling apart now. You ought to see the road in Yellowstone Park. They need a little work there, too, and so does the road outside the park looking to there.

This legislation does all that. I am appreciative to the managers and this body, for accepting those provisions I had introduced in legislation and now are in this particular piece of legislation. We must have an adequate infrastructure on which we can build our rural tourism economy and a forum with which to promote rural areas like Montana and the American West.

I want to go back to make one more point, how important this is and why the words of Senator STEVENS of Alaska are important.

In the lower 48 States there is only one palladium mine. It happens to be in Montana.

You say, palladium? We do not hear about that little resource very much; what does it do? Well, it is the primary ingredient in catalytic converters.

If we disregard what the Senator from Alaska says, who has those minerals, and especially strategic minerals, and we do not give him a system by which we can extract and process them, we will be just like our friends in the U.S.S.R., having all of those resources and no capability to take advantage of them for the standard of living of our own people in all of the United States of America. I do not think we want this country to get in that position. I do not think we want to get so parochial that we will overlook one part, or one segment of our economy over another.

Yes, we have special problems in the West, because we have few people and a large land area. In fact you can draw a straight line from Eureka, MT, to Alzeda, MT, and it is further than it is from Chicago to Washington, DC.

In a Lear, that does not take that long; on horseback it takes a little longer. But that is what we talk about, when we move product. We move enough timber out of the State of Montana to build 150,000 homes; 16 billion hamburgers—we move a lot of things over that road. And it is important to the rest of the Nation.

As Alabama is important, and what they produce, we market everywhere. We have a marvelous distribution system. No one in this country sees a hungry day because of a closed grocery store or an empty one, because we have a marvelous system that is mobile—we can make things move.

So I applaud and thank the managers of this bill because I think under the circumstances they have done yeomen work and they are to be congratulated for it. And I support it.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, before the Senator from Montana is necessarily off to other matters, may I thank him on behalf of Senator SYMMS and myself. He could not be more generous or more accurate, in my view. Our day began with the meeting with the newly elected President of the Republic of Russia, Mr. Boris Yeltsin, who is very welcome in the Capitol. One ought not let this day go by without comparing the life that the Soviet system has produced for its people, and the American system for ours.

One of the principle concerns that Mr. Yeltsin has—he said this morning—is that upward of a third of their agricultural produce spoils before it gets to market. It is harvested but not eaten.

As Senator BURNS said so well, one thing you never see in the United States is an empty store, and that has a great deal to do with the people who provision it. That is what this bill is about. We thank the Senator very much and appreciate his support.

Now, Mr. President, once again standing here, our revered chairman is on hand——

The PRESIDING OFFICER. Is there further debate?

Mr. MOYNIHAN. Is there further debate? Mr. President, no one appears. We do not urge anyone. We have had our debate. We cast our vote. We are ready to go to third reading and final passage and move on with the business of the Senate.

We have been here all morning. We have not done a thing since 10 o'clock. Mr. Yeltsin and his companions would begin to wonder whether this democratic system is all that effective.

It never was meant to be efficient but there was meant to be a point where some things get decided and we are ready. I feel I should move to third reading. I do not do so, out of an arrangement which suits us all. We have persons whose responsibility that is. But I see my friend and companion through all this. Perhaps he has a better idea.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I would say I do not have a better idea than the Senator from New York. I would only say my observation of what goes on in the Senate is that the American people probably get better Government than they deserve, because what we have is most of the Senate in another room with the President of Russia. It is impossible to have a conversation to explain the situation to the two leaders. I have tried to express my concern to Senator MITCHELL and Senator DOLE, that if they would let us go ahead and pass the bill then, if Senator DOLE wishes to offer a motion to instruct the conferees it would be in order and we would have this behind us and he could do that.

But, there seems to be a snag between the President pro tempore and the Senator from Kansas, as to whether they agree on the procedure for this motion. And I have to say to my colleague from New York, under the circumstances, unless one of those leaders want to leave the room in there we cannot do anything other than risk some later retribution from the leaders if we go to third reading, because Senator MITCHELL told me they are not quite ready yet.

Mr. MOYNIHAN. We do not want to deprive any Senator of an opportunity to do something important. But the word "retribution" has been abolished in Siberia. Perhaps not on Capitol Hill. Perhaps we should entertain the thought.

Mr. SYMMS. I hope no other Senator will offer any other amendment.

Mr. MOYNIHAN. No other amendments. We have had a good time here during the 10 days on this bill; We have spent evenings, as the Presiding Officer will attest, saying anybody who has an amendment come forth, please.

Now, no more amendments. Let us reach agreement and do the country's business.

Mr. President, I yield the floor and suggest the absence of a quroum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I take this time to publicly acknowledge and sincerely thank a group of individuals from my State who served as members of a New Mexico Highway Task Force that I established. These dedicated people contributed their time and effort while advising me on highway legislation. The group included: Lou Medrano, chief highway administrator for the New Mexico State Highway Department; Elmore Dean, executive assistant of the State Highway Department; Quentin Ford of the State Highway Commission; Patricia Lundstrom, executive director of Northwest New Mexico Council of Governments; Albert Pierce, executive director of Middle Rio Grande Council of Governments; H.J. "Doc" Weiler, chairman of New Mexico Highway Users Conference; J.R. Hale, president of Associated Contractors of New Mexico; Paul D. Barnes, Curry County commissioner; and Dave Tsosi and Ed Hall representing the Navajo Nation. I should also like to recognize the contribution and cooperation of Rueben Thomas, division administrator of the Federal Highway Administration and the Honorable Dan Silva, chairman of the New Mexico State House Transportation Committee. I would like to express my sincere gratitude toward these fine individuals for their dedicated and diligent efforts. Their advice and counsel was invaluable to me as we considered this legislation.

THE UNIFORM RELOCATION ACT

Mr. NUNN. Mr. President, I rise to support a committee amendment to the highway bill that would provide an exemption to title III of the Uniform Relocation Act of 1970 for the Nation's rural electric and telephone cooperatives.

In 1987, Congress passed, as an amendment to the highway reauthorization, amendments to the Uniform Relocation Act to ensure that all programs funded by Federal dollars followed the same rules in acquiring property from individual property owners. Although the rural cooperatives have no record of disputes with property owners or of the kind of property acquisition practices that the Uniform Act is intended to prevent, the Department of Transportation interpreted the statute in such a way as to bring the co-ops activities under the regulation of the act.

Under the Uniform Relocation Act regulations issued in 1989, the rural electric cooperatives must undertake a number of notification and appraisal procedures which will impose a substantial financial burden on what are nonprofit organizations. According to estimates from several co-ops in the State of Georgia, implementation of these regulations could run as high as $500,000 in the first year.

Our amendment would make it clear that the provisions of the Uniform Relocation Act would apply to rural electric cooperatives only with respect to relocation assistance and not to the routine acquisition of easements and rights-of-ways.

Mr. FORD. If the Senator would yield, I might add that nationwide, the National Rural Electric Cooperative Association estimates that the initial cost of compliance could be as high as $138 million. I do not think anyone involved in drafting the 1987 amendments intended to impose a cost like this.

If the Senator would yield further for a question, is it his understanding that the rural electric cooperatives are the only electric utility companies covered by the Uniform Relocation Act?

Mr. NUNN. That is correct. In fact, the Tennessee Valley Authority already has an exemption under the act providing that only the relocation assistance provisions of the act apply. Our amendment simply extends the same exemption to the co-ops.

Because of the urgency of this matter we are trying to take care of this problem as part of the highway bill. It should be pointed out, however, that the Governmental Affairs Committee is the committee of jurisdiction over the Uniform Relocation Act. Neither Senator FORD nor I have any intention to disturb in any way the jurisdiction of the Government Affairs Committee.

To make this point absolutely clear, I would ask the Senator from New York and the Senator from Idaho if it is also their understanding that the Governmental Affairs Committee retains jurisdiction over the Uniform Relocation Act.

Mr. MOYNIHAN. I would say to the Senator from Georgia and the Senator from Kentucky that it is my understanding that the inclusion of this amendment in the bill in no way disturbs the jurisdiction of the Governmental Affairs Committee. It is my intention to request that when we go to conference on this bill Governmental Affairs Committee representatives be included on the Uniform Act provisions just as they were in 1987.

Mr. SYMMS. That's also the understanding of the Senator from Idaho.

Mr. NUNN. I thank the Senators. I also thank the leadership of the Governmental Affairs Committee for their cooperation in this matter.

Mr. GLENN. As the chairman of the Committee on Governmental Affairs, I want to ensure that the record is clear as the Senate moves to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act [Uniform Relocation Act] on the surface transportation bill that it in no way alters the jurisdiction of the Governmental Affairs Committee regarding the act.

I have included in my floor statement accompanying this amendment an outline of the legislative history that asserts the jurisdiction of the Governmental Affairs Committee on this matter.

When the Uniform Relocation Act amendments were included in the surface transportation bill in 1987, those changes had been the subject of Governmental Affairs hearings and committee action. The amendment being offered at this time has not had that same consideration; however, I recognize that several Senators feel that immediate action should be taken on the exemption from title III of the act requested by the rural electric and telephone cooperatives, which are financially assisted by the Rural Electrification Administration [REA].

Therefore, as we move to consider the amendment at this time, I want to reiterate that it is with the full knowledge and agreement that this in no way sets a precedent to preclude the jurisdiction of the Governmental Affairs Committee over the Uniform Relocation Act in the future. In particular, I look forward to the Governmental Affairs Committee's participation as conferees on this provision of S. 1204, as was done in the conference on the 1987 surface transportation bill.

Mr. ROTH. As the ranking minority member of the Committee on Governmental Affairs, I want to join in support of Chairman GLENN's comments clarifying the jurisdiction of the Governmental Affairs Committee over the Uniform Relocation Act. I believe it is important to have a clear understanding on this, and I am pleased this colloquy is mutual agreement.

Mr. GLENN. Mr. President, I support the amendment to the Uniform Relocation Assistance and Real Property Acquisition Policies Act—the Uniform Act—as a floor amendment to S. 1204, the Surface Transportation Efficiency Act of 1991. This amendment was first proposed by the National Rural Electric Cooperative Association and the National Telephone Cooperative Association and is intended to exempt their members statutorily from compliance with title III of the Uniform Act, which governs real property acquisition practices.

The Governmental Affairs Committee, which I chair, is the committee of jurisdiction over the Uniform Act, which was enacted in 1970. The legislative record shows that in the 97th, 98th, and 99th Congresses, following public hearings in the Subcommittee on Intergovernmental Relations chaired by then Chairman DURENBERGER, the Governmental Affairs Committee secured passage of comprehensive amendments to the act, which did not become law.

In Februrary 1987 Senator DURENBERGER attached an amendment to the 1987 surface transportation bill on the Senate floor, stating at that time:

> Because of the early action on the highway legislation in this Congress, we have not referred this amendment to the Governmental Affairs Committee this time. But action in this form—a floor amendment to the highway bill directly—is not intended to disturb in any way the jurisdiction of the Governmental Affairs Committee over these matters. We thank the leadership of that Committee for its assistance in allowing us to handle the matter expeditiously and early in this Congress.

The 1987 highway bill was enacted following a conference which included Governmental Affairs Committee Senators SASSER, LEVIN, and Heinz as conferees on the Uniform Act amendments.

The legislative history shows that the focus of the 1987 amendments was to ensure that all Federal agencies and federally assisted programs followed the same rules in dealing with the individual property owners when acquiring property or displacing persons from their property and relocating them. This includes the rural electric and telephone cooperative associations assisted by discounted loans from the Rural Electrification Administration [REA]. The Tennessee Valley Authority [TVA], was specifically exempted from certain of the act's requirements as part of the 1987 amendments.

The legislative history also shows that a major focus of the 1987 amendments was on the displacement and relocation aspects of the Uniform Act in title II. There was clear consensus that the expanded coverage of the act in 1987 was intended to cover "the displacing activities of private development corporations and public utilities where displacement occurs as a result of a federally funded program or project." The rural cooperative represent that they mainly acquire rights of way and easements, without displacing the property owner. Thus, this amendment would continue to subject the rural cooperative funded by REA to the regulations and procedures which apply to relocation assistance under the act's title II and title I.

The uniform requirements for acquiring real property—including rights of way and easements—are in title III. Therefore, when rural cooperatives negotiate for rights of way or easements, currently the law and regulations require:

First, notify the property owner of their interest in acquiring the property.

Second, appraise the property before negotiations are initiated and invite the owner to accompany the appraiser.

Third, make a written offer to the owner to acquire the property for the full amount believed to be just compensation.

Fourth, give the owner a written statement of the basis for the offer of just compensation.

If negotiations break down, then the rural cooperatives can exercise the power of eminent domain through a condemnation proceeding.

The Department of Transportation is the lead agency for Uniform Act implementations, and wrote regulations in 1989 which specifically exempted certain types of transactions from the requirements of the Uniform Act:

First, voluntary transactions, and

Second, acquisition of easement or right-of-way as a condition of membership in the cooperative.

In addition, appraisals are not required if the property is donated, or the value of the easement or right-of-way is estimated by the co-op to be less than $2,500.

In February 1990 the National Rural Electric Cooperative Association adopted a resolution at its annual meeting urging Congress to enact legislation to exempt electric membership cooperatives from the Uniform Act, on the grounds that "due to their use of Federal loans, (rural cooperatives) are the only sector of the electric industry which must go through a series of costly and time-consuming procedures where the acquisition of real property is concerned."

The rural electric cooperatives have provided the following additional information to the committee in support of the proposed exemption of REA borrowers from the requirements of title III of the Uniform Act:

First, the 1987 expansion of Uniform Act requirements to cover all federally assisted projects only covers rural electric cooperatives, and not investor-owned and municipally owned utilities, their competitors in the electric industry.

Second, the Tennessee Valley Authority was exempted from the Uniform Acts real property acquisition requirements (title III) as part of the 1987 amendments. TVA is the Government-owned corporation with a self-financing electirc power program. As such, it is the wholesale power supplier for many local municipal and cooperative electric systems serving customers in seven States. It also supplies power to several Federal installations and industries.

Third, in the great majority of cases, the rural electric cooperatives acquire easements and rights of way, not the land itself—unlike highway departments, for example. In general, these are uncomplicated acquisitions.

For these reasons, I support the amendment offered on the floor today which would exempt the Rural Electrification Administration from the requirements of the Uniform Act's title III—thus putting REA in the same position as TVA. I continue to support the basic policy and purpose of the Uniform Act, which subjects all other Federal agencies and recipients of Federal financial assistance to the act's regulations.

Should this amendment be adopted by the Senate, I would request of the floor manager that, as in 1987, Governmental Affairs Committee members be appointed as conferees on those provisions of S. 1204 involving the Uniform Act.

GRAHAM AMENDMENT NO. 357

Mr. DURENBERGER. Mr. President, yesterday I voted against an amendment offered by the distinguished Senator from Florida [Mr. GRAHAM]. The Senator had a good objective behind his amendment, but the way he tried to reach it did more harm than good.

Like a lot of Senators, I am not entirely pleased with the formula which allocates funds to the States not on what their need is but based on what they have spent in the last 5 years. Senator GRAHAM has replaced that with another formula, but I cannot support this amendment because a portion of the formula focuses on tax contributions derived from motor fuel tax revenues.

Mr. President, 20 States, including Minnesota, would be severely penalized if we adopted a highway funding formula that emphasizes motor fuel tax revenues. The reason these States would be penalized is because all of them provide incentives that encourage the use of alternative fuels, including ethanol produced from America's farmers.

For more than a decade, we in Congress have tried to help break our dependence on foreign oil by encouraging alternative fuels such as ethanol. The ethanol market not only serves as an important outlet for our Nation's grain producers, but also plays a vital role in helping many areas of the country meet clean air standards. Because of the importance of encouraging the further development of the ethanol industry, Congress provides a 6-cent-per-gallon tax exemption for ethanol fuels.

Mr. President, it is clear that if we adopt a highway funding formula based on motor fuel tax collections, we would be working at cross-purposes with our national goals of energy independence and clean air because those States that have not encouraged alternative fuels would be the largest gainers.

Forty-four States currently use ethanol in gasoline blends, thereby displacing almost 42 million barrels of oil annually. In addition, last year's Clean Air Act, of which I was a principal author, will help to achieve a reduction of carbon monoxide and ozone depletion in nonattainment areas throughout the country, and that will be achieved by encouraging use of more alternative fuels like ethanol.

Mr. President, it just does not make sense to penalize States that are at the forefront of the alternative fuel market. It points America in exactly the wrong direction as far as clean air and energy independence. For that reason, I voted against the amendment.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 361

(Purpose: To indicate the sense of the Senate about the section on gasoline taxes as it relates to state effort)

Mr. SYMMS. Mr. President, I send an amendment to the desk on behalf of Senator DOLE and Senator MITCHELL, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Idaho [Mr. SYMMS], for Mr. DOLE (for himself and Mr. MITCHELL), proposes an amendment numbered 361.

Mr. SYMMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

It is the sense of the Senate that the conferees on this bill should consider section 159 of title 23, United States Code as it appears in amendment No. 295 as amended so as to determine each State's total apportionments under section 159 of title 23, United States Code, in a way that reflects each State's total effort for highways as described in amendment No. 334, and including each State's ability to finance its total effort for highways, as measured by its per capita disposable income as compared to the average state per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

Mr. SYMMS. Mr. President, starting from this point on in the amendment, this is language that was added by the distinguished President pro tempore and agreed to by him, the entire amendment, with this included.

I will read that part.

* * * including each State's ability to finance its total effort for highways, as measured by its per capita disposable income as compared to the average State per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

The President pro tempore, the majority leader, and the minority leader agreed on that. That was the President pro tempore's language that I read.

Mr. President, I must defer the debate. I think we can accept the amendment. I think, as a conferee on the bill, we certainly will look at and pay attention to what the leadership is asking and what the sense-of-the-Senate amendment calls for.

Mr. MOYNIHAN. Mr. President, I would like very much to repeat and to confirm the statement by the comanager; that we will, indeed, as conferees, pay close heed to this counsel.

Mr. President, if there is no further discussion, I urge adoption of the amendment.

Mr. McCAIN. Mr. President, I rise in strong support of the pending amendment. At issue is how we will allocate nearly $4.1 billion in highway and transportation moneys. The Senate has voted to distribute that money to States based on the local level of effort to fund highways and transportation infrastructure.

Unless the bill is changed, however, that effort will be measured solely by the size of a State's gas tax. Such a formula, Mr. President, is patently unfair. Many States such as Arizona fund transportation infrastructure from sources other than State gas tax revenues. In my State, for instance, we raise large sums of highway money with bonds and through special sales taxes. The bill as it is currently written would completely ignore those efforts. It seems to me that if we are to allocate money based on level of effort at the State level we should look at the total effort, not just the size of the State gas tax.

My colleagues should also consider whether it would be responsible public policy to encourage States to raise gas taxes, and use the revenue for nontransportation purposes, in order to leverage additional Federal transportation moneys.

Yes, Mr. President, this amendment means millions of dollars to my State in highway and transportation revenues which we desperately need; but this amendment is also about fairness, equity, and common sense. Again, I strongly urge my colleagues to adopt this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 361) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

ORDER OF PROCEDURE

Mr. RIEGLE. Mr. President, may I ask if it is appropriate to set aside the matter for a moment to make a statement on another issue related to the banking problems?

If there is no objection to doing so, I would like to make a statement of about 10 minutes in length on what issue.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. RIEGLE. I thank the Chair. I thank my colleagues.

THE BANKING INDUSTRY

Mr. RIEGLE. Mr. President, a number of people are asking about the condition of the banking system in light of many of the news stories that have been running. So I take the floor now to give a comprehensive assessment of the situation as it exists today from my vantage point, serving as I do as chairman of the Senate Banking Committee.

So I am rising to address one of the most urgent matters on the domestic agenda, the massive and growing problems within our financial system, and the urgent need to shore up the bank insurance fund to prevent its insolvency and a potentially vast taxpayer bailout.

The June 18 edition of the Washington Post reports that Treasury Secretary Brady has suggested that the only way to avoid a taxpayer bailout of the bank insurance fund is to adopt the administration's entire deregulation package of expanded bank powers.

It should be known that the sweeping package includes: One, eliminating the historical separation of banking and commerce; two, eliminating the separation of investment banking and commercial banking, three, allowing banks to get into the insurance business; four, transferring the regulatory authority to a new Treasury bureau; five, eliminating restrictions on interstate branching by banks; and six, providing additional authority for the Federal Deposit Insurance Corporation to borrow in the name of the American taxpayers an estimated $75 billion to cover expected future bank failures that can now not be financed by a nearly insolvent bank insurance fund.

Regardless of the merits of the individual elements of that package, any suggestion that the adoption of the administration's broad proposal will provide an immediate cure for the banking industry or rebuild the bank insurance fund is highly misleading and inaccurate.

Clearly, I believe that deposit insurance reform and recapitalization of the bank insurance fund must be top legislative priorities here in the Senate, and my Senate Banking Committee colleagues and I are now crafting a full legislative package that deals with those issues and related issues.

Looking to the future, strong deposit insurance reforms are crucial if we are to prevent future banking industry problems from ever again growing to the size of today's problems.

But just as clearly, the administration's banking package, S. 173, if adopted today in its entirety, would not resolve today's accumulated problems in the banking system. The administration's plan cannot and will not transform bad loans currently on bank balance sheets into good loans. That plan will not revive and restore to health the banks that are currently unprofitable and economically insolvent, nor will it transform the negative balance of the bank insurance fund to a positive balance. These massive existing problems simply are not susceptible to being erased by a legislative package.

After 22 days of extensive public hearings with the foremost banking experts in our country on the condition of the banking industry and on the problems of our bank insurance fund and need for reforming our system, it is clear that the troubled condition in the banking industry was a long time in the making and will take a long time to resolve. There is no quick and painless remedy available here, and the scale of the existing problems means a long, difficult and painful road ahead. Moreover, if the economy does not strengthen measurably, we could face a banking problem of engulfing magnitude, and we should have no illusions about the grave dangers inherent in that situation.

Let me briefly review the current condition of the banking industry and the current condition of the bank insurance fund.

We must face the prospect that the banking industry today presents two starkly contrasting pictures, one positive and one very negative. On the one hand, the vast majority of banks in this country are healthy, well capitalized, and profitable. The CBO testified on January 29 of this year:

> Almost 11,000 of the 13,000 banks had equity-to-asset ratios of more than 6 percent and reported positive net income. These banks accounted for nearly half of the industry's assets and show every sign of being able to survive the recession we believe is currently under way.

On the other hand, the negative banking industry perspective is that of many deeply troubled and insolvent banks that tend to be very large in size and are experiencing severe problems in their bloated commercial real estate loan portfolios. The General Accounting Office has looked at these large troubled banks and all other banks identified as problem institutions by the regulators. On April 26, just 2 months ago, the Comptroller General testified as follows on the condition of the bank insurance fund:

> We believe that the fund balance is actually significantly lower than the level presented in the unaudited statements. We reached these tentative conclusions after reviewing the financial condition of 368 banks. Collectively these banks have $1.8 trillion in assets, which is about one-half of the industry total. We believe that about 71 of these banks, with total assets of about $69 billion, are already insolvent.

As this analysis shows, even though these severely troubled banks are limited in number, the potential problems created by their insolvency is vast and has overwhelmed the resources of the deposit insurance fund. More ominously, the CBO has testified that the problems at the largest banks are continuing to grow even larger. No one today can accurately predict the full extent of this financial exposure to our system, and the risk to the American taxpayers, who stand, of course, behind the Federal Deposit Insurance System.

So, in effect, we have two quite different banking industries: one composed of a vast number of healthy well-run banks, the other composed of a smaller number of very large, severely troubled banks. But clearly the problems of the large banks are so severe as to cause the BIF to become insolvent, and that is the consensus view of the Government watchdogs at the GAO and CBO, and of the leading analysts in the private sector.

As I have said before, it is not clear exactly how big the problem is today or will become in the future. Even the GAO, with its highly skilled analysts and full access to banking industry data, has problems in identifying with certainty the magnitude of the losses that will confront us.

In that same April 26 hearing, just 2 months ago, the Comptroller General stated:

> The early warning system provided by bank call reports is seriously flawed. Because FDIC consistently found that the failed banks we reviewed overstated their asset values, there is no doubt that some banks operating today have underreserved for nonperforming assets.

Then, on March 12, of this year, we had a panel of academic experts testify about the condition of the banking industry and various proposals to reform the system. One of the points they made was that the information being provided by the banks and by the regulators served to mask the true extent of the problems. Historical cost accounting does not enable the banks or their regulators to fully know the current condition of the banks. It offers a perverse meaning to a comment made by SEC Chairman Richard Breeden last year, when he said maybe we should begin bank balance sheets with a formal disclaimer that reads, "Once upon a time," and so forth, in that vein.

What caused the problem for the unhealthy segment of the banking industry? On February 21 of this year, we had a panel of noted banking analysts testify before the Banking Committee. On that day, they told the committee that the banking industry was suffering, along with the rest of the economy, from the huge and excessive buildup in debt over the past decade.

Under the direct eye of the Federal bank regulators, many large banks exploded into real estate lending during the 1980's. Sixty-two percent of all new bank lending in the past 6 years has been for commercial real estate. Today, commercial real estate loans are almost 25 percent of total bank loans. This explosion of high-risk lending is the root of the current crisis—where a glut of commercial real estate has caused huge drops in asset value—wiping out countless billions of dollars of bank loans in these investments.

When the 1980's started, commercial office vacancy rates were at normal levels by historical standards, namely, between 3 and 4 percent. Today, the nationwide vacancy rate for office space approaches 20 percent.

When the banking analysts testified on February 21, Carol Berger, a veteran bank analyst with 16 years experience, said:

> You can make the case that banks are going to have to charge off * * * 33 percent of their total real estate loans * * * which is roughly equivalent to all of their equity and reserves. So it could be a very massive problem.

The banking industry currently has reported capital of $235 billion. So what this particular analyst has indicated is that the banking industry may have a problem on its hands that is in the range of $200 billion or more, which would be an amount of losses that is roughly equal to all remaining bank capital.

It is important to review briefly the history of bank powers. When national banks were created, they were forbidden to make commercial real estate loans, and that prohibition continued for decades. Many years ago, when banks were finally allowed to make such loans, the rules at that time required developers to put some of their own equity into these projects to provide a necessary margin of safety. Those investment rules were further relaxed in the 1970's and 1980's. Bill Seidman, FDIC Chairman, testified that the majority of the problem loans that he has now had to deal with are problem commercial real estate loans that would have been illegal 10 years ago and which now have become the principal cause of today's banking system difficulties.

Thus the problems of today, namely the insolvency of the bank insurance fund and the weakness of the largest banks, have been directly tied by the Chairman of the FDIC to earlier deregulation efforts that allowed national banks to expand into a new activity with a new risk profile that has in one short decade imperiled the entire banking system.

It is well to consider this unfortunate history when the Secretary of Treasury now tells us that unless we immediately adopt additional measures to let banks expand to new business activities, that the banking system might be plunged into a crisis.

THE CONDITION OF THE BIF

Let me just briefly comment on the condition of the bank insurance fund.

On April 26, 1991, the GAO concluded it was "highly probable" that the BIF would be insolvent by the end of this year. Since that time, others have increased their estimates of the losses and the magnitude of the pending insolvency of the BIF. The Congress saw this problem coming last year and we originated and enacted a bill that gave the FDIC the ability to increase BIF reserves by raising bank deposit insurance premiums and allowing BIF to borrow money for working capital purposes from the Federal Financing Bank. This law now on the books gave the FDIC the complete authority to charge the banking industry insurance premium rates at whatever level was necessary to restore the insurance fund to solvency.

The banking industry's representatives have repeatedly told the committee that the industry fully expects to pay for its own problems, and the administration has now proposed $75 billion of Federal borrowing from the U.S. taxpayers to handle the bank insurance fund problem.

The administration claims that the banks would, over a period of several years, eventually repay the $75 billion that the bank insurance fund would borrow from the taxpayer. The Comptroller General, and others, have expressed extreme skepticism about the banks ability to repay this $75 billion loan. The $75 billion is composed of $25 billion for actual bank losses, and $50 billion for working capital to finance the Government's holding assets from failed banks until the assets can be sold.

Chairman Seidman has stated that he believes the direct losses for the BIF will most likely be $23.1 billion for 1991 and 1992. Yet, in contrast to that, noted private economists Barth, Litan, and Brumbaugh have estimated that the BIF losses could be as much as $63 billion. No one knows the true size of what these losses may prove to be.

Whatever the true magnitude of these losses, they are already imbedded in our bank's balance sheets. Legislation cannot turn water into wine and no legislation—not my bill, not the administration's bill, not anybody's—can restore value to assets the marketplace has now written down to much lower levels. The glut of commercial office space has caused rents for office space to decline, in some places as much as 50 percent, and legislation cannot change that.

CONCLUSION

Let me now conclude:

Expansion of bank activities and expansion of ownership of banks may result in some increased profitability and higher bank capital, but these goals would only be accomplished over the long run, and it would only be an incremental improvement. One of the leading bankers of our time, John Medlin of First Wachovia Corp. has stated that the profits to be made by the banking industry in the proposed new activities are, in his words, "lunch money." When Mr. Medlin testified in front of our committee last month, he stated that "I would not be one of those who would be passionate in having the full package of powers proposed in the more expansive of the proposals." So there is a serious question as to the inherent profitability of new bank powers and the level of risk associated with these proposed activities and they cannot be remotely seen as a cure-all for the huge problems that have accumulated.

So Congress must carefully analyze the administration's proposal in light of the current situation we face and the past circumstances that have brought us to this point. For myself, like Mr. Medlin, I do not believe that new activities or breaching the barrier between commerce and banking will significantly increase the profitability of banks or begin to fill in the canyon of losses that have already accumulated in the banking industry. These proposals simply cannot provide a sudden explosion of new profits that will repair the massive capital losses that have been incurred by many large banks. To suggest otherwise is simply to try to deflect attention from the real problems—imbedded loan losses, abuse of regulatory discretion, and an insolvent insurance fund. These unfortunately are the real issues, and they must be dealt with directly and as promptly as possible.

I thank my colleagues for their courtesy in allowing me to make this statement at this time.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Surface Transportation Efficiency Act, that we are going to be voting on shortly or at least I hope we will be voting on shortly, after discussion and further study of it, clarification as a result of amendments and as a result of debate, is a very good piece of legislation that will move the United States into the post-Interstate Highway System era. I am pleased to be able to vote for this innovative, creative piece of legislation.

The bill authorizes funding to meet the transportation needs of our country as we approach the end of this century. The bill provides flexibility to the States to decide how to best meet these needs.

There are certain parts of the bill with which I am especially pleased; and I wish to discuss three of those:

The first is the formulas. I said at the beginning of this discussion that many of us thought formulas would be the No. 1 fight during consideration of the highway bill, and events have proved those of us who said that very correct. The battle was to insure that each Senator's home State get its fair share.

Mr. President, in my estimation, and in the estimation of the many experts I have been working with from the Iowa Department of Transportation, the State of Iowa has been dealt with fairly under the formulas contained in this legislation.

The second is in reference to the National Highway System. The idea of a National Highway System is critical to maintain the integrity of an efficient transportation system throughout the United States. This bill provides 20 percent of the Surface Transportation Program funds for the National Highway System. I was pleased to be a cosponsor of the amendment which provided for this very important system and I think keeps or makes it certain that the White House will not veto this legislation.

The third and last specific point that I want to make is with regard to a minor part of the bill but important to an agricultural State like mine of Iowa, and that deals with some amendments to the commercial drivers license. An amendment that I cosponsored was adopted that would waive Federal commercial drivers license requirements for vehicles used to transport farm supplies from the farm retailer to the farm and for vehicles used in custom harvesting. This will provide much needed relief to farm communities across the Nation, including my home State of Iowa.

The last provision deals with what we refer to in the Midwest as the Avenue of the Saints.

This bill is very good news for those of us in the Midwest who are supporting a highway that runs from St. Louis, MO, to St. Paul, MN. There are other like avenues that are considered real possibilities between other major cities of the United States. But this legislation opens a way for this highway to be completed. The Surface Transportation Program gives enormous discretion to States and metropolitan planning organizations to make transportation decisions. The Iowa Department of Transportation and Iowa Governor Terry Branstad have publicly stated that the Avenue of the Saints is the No. 1 transportation project for the State of Iowa. This legislation will allow our State to proceed, along with the States of Missouri and Minnesota, in the completion of this project because they will have the discretion to allocate the needed moneys to make the Avenue of the Saints a reality.

The adoption of the National Highway System, of which the Avenue of the Saints is part, gives even more focus to this important highway corridor.

There is one issue, Mr. President, that was debated during the consideration of this bill that really should not have consumed the time of the U.S. Senate. And that was the issue of the renaming of the interstate routes around the Quad Cities in the States of Iowa and Illinois. This was a parochial concern that should be decided by the local parties involved or by a process that has been in place for the last 5 years.

It is my understanding that there may be attempts on the part of some of our colleagues in the House of Representatives to address this issue in their version of the surface transportation legislation. I would note that the U.S. Senate expressed its opinion very strongly on the question. By a vote of 72 ayes to 26 nays, the Senate convincingly pronounced that it is not the role of the U.S. Congress to be the arbiter in these local disputes. It is my expectation and hope that the Senate conferees will strive to uphold the Senate's strongly held position on the local matters.

In closing, I wish to compliment the chairman and ranking member of the full committee, Senators BURDICK and CHAFEE, and the chairman and ranking member of the subcommittee, Senators MOYNIHAN and SYMMS. They have produced a fine bill which I will be happy to support.

I yield the floor.

Mr. MOYNIHAN. Mr. President, speaking on behalf of Senators SYMMS any myself—and he can speak for himself—I thank the Senator from Iowa for his very thoughtful comments and his very substantive comments as well.

Mr. SYMMS. I thank the Senator.

Mr. DOLE. Mr. President, first, I want to thank the distinguished Senator from New Jersey for letting me proceed for a couple of minutes because we have another meeting.

I wanted to thank the mangers of the bill for accepting the amendment that I offered, along with the distinguished majority leader, Senator MITCHELL, which has to do with total effort and the fact that it would be considered by the conferees.

And I thank the chairman of the Appropriations Committee, Senator BYRD, for including additional language in what we had initially proposed. I think it reflects what we would like to determine between now and the time we go to conference. What do we mean? Should we include just gasoline tax?

I will make the argument very quickly. Many States do not use all their gasoline tax for highway construction or maintenance. Many States, including the States I think of everybody on this floor, have additional taxes—toll roads in New York, which is, in effect, a tax. In the State of Kansas we have additional taxes, not gas taxes but other taxes, and sources of revenue that are used for highway construction and maintenance. I do not believe anybody can argue with a straight face that we should not consider the total effort. It should not be just the gas tax. And I also have examples in my statement.

I will just give you one example. Maryland, Oklahoma, Pennsylvania, and Vermont send a part of the money raised by the gasoline taxes to their general funds for use in other programs. Yet under the so-called Byrd amendment, these States are rewarded. They receive so-called reward money. In addition, Iowa, Nevada, Oregon, and Wisconsin give part of their gas taxes to parks and recreation, but they get rewarded under the so-called Byrd proposal.

So the point I wanted to make and what I wanted the record to indicate is that a lot of gas tax money—I do not care what the level of the gas tax is, what the State level is—if it is used for something other than highway construction or maintenance, it should not be counted. It ought to be discounted.

We have money being used for arts, flood control, ports, aeronautics, agriculture, emergency reserves, and wildlife. They are all good programs, but they are not highway construction or maintenance. And so I want to have the record reflect that.

I am pleased to be joined by the distinguished majority leader.

If we are going to be fair with all States—all States—then we want to look at the total effort each State makes with State revenues on highway construction or maintenance. I do not believe anybody can argue that that is not fair.

So I again thank the managers of the bill for accepting the sense-of-the-Senate amendment, and I would certainly hope that when this matter goes to conference, it will have another opportunity, and we will have an opportunity on the House side and we are going to work with a number of our colleagues on the House side to make certain they consider total effort. It is very important. Anything else, in my view, would not pass the fairness test.

Mr. MOYNIHAN. Mr. President, I thank the Republican leader. Once again he has been a voice of reason and harmony.

We would be finished with this bill now save for the fact that there are apparently some amendments for what purpose we do not fully understand. But you may be sure we will be mindful of this matter in conference. We have said that before and I say it again to the Senator now.

Mr. BRADLEY. Mr. President, I ask unanimous consent to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 27TH ANNIVERSARY OF THE 1964 CIVIL RIGHTS ACT

Mr. BRADLEY. Mr. President, today is the 27th anniversary of the passage of the 1964 Civil Rights Act. I can think of no better time to make a few comments on how bankrupt this administration's moral leadership is on the issue of race relations in our country.

Mr. President, I was an intern here in Washington that summer of 1964, and sat in the gallery, right up there in the corner, as the Senate voted overwhelmingly for the passage of the civil rights bill. President Johnson called it "a challenge to all America to transform the command of our laws into the customs of our land."

I remember thinking that this was an example of what government can do that is good and that America was a better place because of that bill. I remember watching some Republicans use their opposition to the bill as the beginning of their so-called southern strategy that election year. And I remember Lyndon Johnson giving a fiery speech of support for the act in New Orleans that fall.

William Manchester writes that Johnson ended that speech in New Orleans by telling of how, when Sam Rayburn first came to the Congress, he had a long talk with an ailing southern Senator who said he wished he felt well enough to take one more trip home.

"I would like to go back down there and make them one more Democratic speech," Johnson quoted the Senator as saying. "I just feel I've got one more in me. Poor old State, they haven't heard a real Democratic speech in 30 years. All they ever hear at election time is nigra, nigra, nigra". The audience gasped, recovered, and gave him a 5-minute standing ovation.

I think of 1964 and I feel that today, in 1991, people have not heard a real Republican speech in over a quarter century. All they ever hear at election time is Willie Horton, Willie Horton, Willie Horton or quotas, quotas, quotas. But the message from the Republican Party is the same just as it was from the memory of Sam Rayburn's Senator. And it is an outrage.

It is an outrage because it was a Republican President, Abraham Lincoln, who asked us to appeal to the better angels of our nature. And many in his party—not all, but many—have instead chosen the calculated pursuit of votes to perpetuate their powers by dividing us along racial lines. It may be smart, short-term politics, but it is destructive to our future and we will all pay for it.

Over the coming weeks, the 1991 Civil Rights Act will come before the Senate. As we consider it, let us remember the courage of those who were here in 1964, the courage of those in both parties who chose moral leadership over racial politics.

Moral leadership, at this critical time, requires that this body and, even more important, our President rise above partisan, divisive politics and unite this country as one nation under God, indivisible, with liberty—liberty—and justice—justice—for all.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I know that I, for one would wish to accord myself with those remarks, having listened to the Senator from New Jersey with great heed and great agreement.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

Mr. MOYNIHAN. Mr. President, there does not appear to be any other Senator seeking to offer an amendment. Senators must know that we will move to third reading of the bill. That is our responsibility. We are sitting here and getting toward our second week, and I would like to ask the floor staff—if they would not be recognizant of the fact that we have no amendments being offered and we would like to go to third reading.

Mr. SYMMS. Mr. President, if the Senator would yield, I know of no other amendments on this side that will be offered. We are prepared to go to third reading. So I think once we get the clearance of the floor staff we are ready to go.

Mr. MOYNIHAN. I would simply say that in our case the Senator from Florida [Mr. GRAHAM] has indicated he has amendments but he has left the floor without any instruction to us.

If he does not return, we would just as soon he let us proceed.

Yesterday we discussed at some length this question of donor and donee States; yesterday, the day before, the day before, the night and the evening and the morning before that.

I have taken the liberty of producing a table of the overall ranking of States by donor and donee status. This is based on the special report of the Tax Foundation called "Federal Tax Burden by State 1991," and "Federal Expenditures by State for Fiscal 1990," from the Economic and Statistics Administration, of the Bureau of the Census.

There is no way to avoid the extraordinary difference between what States have put in overall and what they get out.

I said more than once, if we begin to think about Federal expenditures in this way, then the words "donor" and "donee" will have not been heard for the last time on this Senate floor. It is something I regret. Not that we should not be cognizant of it, in one particular program or the other. But it militates against a sense of the rich complexity of our Federal-State relations, and makes for simplification. It makes for vulgarized judgments about local as against national interests.

Mr. President, we have discussed at great length the fact that the flow of funds into and out of the highway trust fund is not balanced for each State. Some States contribute more to the trust fund than they receive—the so-called donor States—and some receive more than they contribute. As such the highway program is like all Federal programs. But let us not look at this program in a vacuum.

For the past 15 years I have made a study of the Federal Fisc, the balance of payments between the States and the Federal Government. Not surprisingly, I have found that our Federal policies create so-called winners and losers. That is, States that run surpluses and States that run deficits with the Federal Government. In fiscal year 1990, 28 States ran a surplus; 22 suffered a balance-of-payments deficit. Mr. President, over the last decade and a half I have noted large regional disparities in this balance-of-payments calculation. The Middle Atlantic States, which include New York, New Jersey, and Pennsylvania, continue to run the largest balance-of-payments deficit. While the States in the South and West continue, on balance, to run surpluses. New York, it should be noted, has the worst balance-of-payments deficit with the Federal Government. A deficit of over $21 billion.

Mr. President, it is not surprising that the Fisc is not in balance for each State. That is neither a practical nor efficient goal. But the persistence of regional disparities is troubling.

During this debate over the surface transportation bill too much time has been spent on the allocation formula. We are trying to create a transportation program for the next century—an important and a critical task. But if we must debate this, let us do so in context of the overall Fisc.

Mr. President, I ask unanimous consent that a table from my upcoming Fisc report listing the balance of payments for each State be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATES PER CAPITA BALANCE OF PAYMENTS—FISCAL YEAR 1990

[In millions of dollars]

State	Expenditure	Burden	State balance	Per capita balance	Per capita rank
DONOR STATES					
New Jersey	$28,322	$47,543	($19,221)	($2,487)	50
Connecticut	14,739	21,348	6,609	2,011	49
Delaware ...	2,149	3,403	1,254	1,883	48
New Hampshire	3,559	5,466	1,907	1,719	47
Ilinois	36,696	54,247	17,551	1,535	46
New York ..	70,493	91,683	21,190	1,178	45
Michigan ...	29,205	38,880	9,675	1,041	44
Nevada	4,144	5,363	1,219	1,014	43
Wisconsin ..	14,928	18,770	3,842	785	42
Minnesota .	15,073	18,151	3,078	704	41
Vermont	1,772	2,166	394	700	40
California ..	115,802	136,442	20,640	694	39
Indiana	16,915	20,111	3,196	576	38
Ohio	37,920	42,077	4,157	383	37
Pennsylvania	45,424	49,915	4,491	378	36
Georgia	21,149	23,514	2,365	365	35
North Carolina	20,172	22,586	2,414	364	34
Massachusetts	29,778	31,455	1,677	279	33
Texas	58,237	62,704	4,467	236	32
Oregon	9,826	10,416	590	208	31
Florida	51,359	53,834	2,475	191	30
Rhode Island	4,318	4,435	117	116	29
DONEE STATES					
Washington	20,149	20,111	38	8	28
Kansas	9,538	9,488	50	20	27
Iowa	9,962	9,901	61	22	26
Nebraska ..	6,092	5,672	420	266	25
Tennessee .	18,049	16,707	1,342	275	24
Wyoming ...	1,855	1,650	205	452	23
Colorado ...	14,586	13,098	1,488	452	22
Maine	4,925	4,331	594	483	21
Oklahoma ..	11,804	10,107	1,697	540	20
Arkansas ...	8,250	6,807	1,443	614	19
Alaska	3,227	2,888	339	617	18
Louisiana ..	15,116	12,479	2,637	625	17
Hawaii	5,461	4,744	717	647	16
Kentucky ...	13,524	11,138	2,386	647	15
Arizona	15,072	12,479	2,593	708	14
Maryland ...	27,118	23,617	3,501	732	13
Idaho	3,888	2,991	897	891	12
West Virginia	6,609	4,950	1,659	925	11
Sourh Carolina	13,664	10,313	3,351	961	10
Missouri	24,258	19,285	4,973	972	9
South Dakota	2,863	2,166	697	1,002	8
Utah	6,511	4,744	1,767	1,026	7
Montana ...	3,345	2,475	870	1,089	6
Alabama ...	17,261	12,273	4,988	1,235	5
North Dakota	2,910	2,063	847	1,327	4
Mississippi	10,066	6,188	3,878	1,507	3
Virginia	36,346	26,401	9,945	1,607	2
Mew Mexico	8,640	4,435	4,205	2,776	1

Sources: "Federal Tax Burden by State 1991." Special Report of the Tax Foundation, March 1991. "Federal Expenditures by State for Fiscal Year 1990." Economics and Statistics Administration, Bureau of the Census, U.S. Department of Commerce.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I support what the distinguished Senator from New York just said, and repeat that I have been instructed by the Republican leader, the Republican side of the aisle has cleared all amendments. We are prepared to go to third reading.

Before I give back the floor I want to say I have discussed the issue I brought before the Senate the other day when the Byrd amendment was being discussed—that is the obligation ceiling with respect to minimum allocation funds—with both Chairman SASSER and ranking member DOMENICI of the Budget Committee, of which I am a member.

I believe sooner or later this committee and the Budget Committee need to recognize, as the donor-donee State issue continues to be debated and the minimum allocation has been raised up to 85 percent—and it could be raised even further—it will be important that at some point the Senate amend the act so all these funds and all these States are treated equally so as to have a minimum allocation in the overall obligation ceiling in order to have a fair, even distribution of those funds.

Since the inception of the minimum allocation program, which we accepted—and this happened when I was chairman of this committee in 1982 and it has been unique within the Federal Aid Highway Program—the minimum allocation funds can be used on any highway project. The funds have been exempt from the obligation limitation which control spending for almost all other accounts of the highway program. Only minimum allocation and emergency relief funds.

I think that is an issue. I just want the record to show we recognize under the current bill that all States are held harmless. I think there is no problem for this 5 years, but this does need to be addressed.

I talked to Chairman SASSER about it this morning. He agreed he would look at this carefully, and it could even be looked at next year when the budget resolution comes up, to make it fair for all States.

I said this morning—and the Senator from New York and I discussed this—this may be the last national highway bill that passes. If we get this one passed. Because constantly, as States become more sensitive and the hometown politics become more sensitive to how much bacon everybody brings home, it could be we will reach a point where all we can do is just do like the old revenue sharing program, send all the money back home and not have a national highway program.

That would be regrettable, in my view, because we would end up with numerous charges and fees and tolls and what-have-you to drive across State borders. But it could happen if we cannot continue to recognize there is a great virtue and value in a national highway program so all Americans can enjoy the benefits of good roads in all States.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like completely to agree with the Senator from Idaho, who has been standing guard with me here for a long time.

We may get this bill and we may not. As this fragmentation goes on, we may never get a bill again. The only thing on which I disagree with the Senator—and I think if he thought about it he would not necessarily disagree with me—is that he says the money will go back, as in the form of revenue sharing. I do not think that money will ever leave Washington. It will stay right here.

Mr. SYMMS. Mr. President, that may well be the case. But I meant in the next 5-year cycle. I agree with the Senator from New York, if this bill does not pass, there will just be a big balloon in all the other myriad of programs and the highways and infrastructure would suffer enormously. But I am looking down the road 5 years. This struggle is becoming more difficult for each bill we have had, from 1982 to 1986, 1987——

Mr. MOYNIHAN. I have been here since 1977.

Mr. SYMMS. It is getting harder, not easier, in this body to get a bill through.

I hope there will be no other amendments.

Mr. MOYNIHAN. Mr. President, sharing that hope, I ask unanimous consent to have printed in the RECORD at this point a letter from the mayor of the city of New York. It has to do with a provision in the committee amendment adopted earlier.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE CITY OF NEW YORK,
New York, NY, June 19, 1991.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR: I write to ask your assistance in obtaining a declaration of non-navigability for Pier A just north of Battery Park City. This has been the subject of discussions between your staff, representatives of the New York City Public Development Corporation and Deputy Mayor Barbara Fife.

This declaration is necessary in order to allow the City of New York to advance its goal of rehabilitating this historic pier, and to ensure public access to the waterfront in an area that is the hub for several national historic landmarks and monuments.

For ten years the City has had a vision of transforming this derelict and dilapidated pier—built in 1886—into a significant public place. The declaration is necessary to put the City and the developer, who was selected through a public process, in a position to obtain financing for the project.

Pier A, when renovated, will be one of the most outstanding public places on the waterfront. It will include restaurants, a Harbor Park Visitors Center which is funded by New York State, transient docking facilities and a public walkway along the pier which will bring New Yorkers, other Americans and visitors from abroad to a sweeping view of New York Harbor and its great national monuments, the Statue of Liberty and Ellis Island.

I feel that it is in the public interest to make this wonderful possibility a reality and hope you will be able to assist us.

Sincerely,

DAVID N. DINKINS,
Mayor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I rise for purposes of offering an amendment. Before doing so I would like to raise some concerns about the sense-of-the-Senate amendment which we adopted while most of us were off the floor.

I was assuming we would have an amendment offered by the Senator from Kansas [Mr. DOLE], to deal with the issue of the appropriate measure of effort, whether it should be gasoline alone, as is in the amendment that was adopted, or whether it should be a broader representation.

I gather what we are doing in lieu of that, and maybe one of the managers could comment as to whether I am correct, is we have adopted a sense of the Senate to our own conferees that they should consider the Byrd amendment to be modified so as to reflect each State's total effort for highways as described in amendment No. 334, which was an amendment offered on June 13, of a study of State level of effort, which study is to include income from fuel taxes, toll revenues including bridge and ferry tolls, sales taxes, general fund appropriations, property taxes, bonds and administrative fees, taxes on commercial vehicles, and other appropriate State and local revenue sources; that we are to take all of those into account; and also per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

I might say I find some humor in this amendment because last night we were battered with the accusation that if we included those kinds of factors, such as the amount of fuel consumed, particularly diesel fuel, that represented a retreat from our energy security, that we were turning the world over to the OPEC, and we were about to enter an environmental chamber of horrors.

And now today we have an amendment which is expanding a previously adopted amendment, indicating that most of those are appropriate factors. I note that just for the RECORD, Mr. President.

But my concern is that in the original amendment as developed by Senator DOLE and Senator MITCHELL, when that was put into columns of allocation, the effect was that States like the Presiding Officer's and mine, who thought we did not have a dog in that fight because we were not getting any money anyway, and it could be a pure matter of policy, what we found out is that we did have a dog in that fight because by changing who the beneficiaries were under the level of effort formula, we changed the playing field for the application of minimum allocation. And the effect was that the donor States became significant losers; we had to make further donations.

So I guess my question to the managers is: "Are they going to interpret this sense of the Senate as a directive that they must adopt a set of calculations that changes the donor-donee relationship in such a way that the donors get to contribute even more toward the donee States' highway system?"

I wonder if one of the managers will comment as to how they interpret this sense-of-the-Senate resolution that we just adopted, and as conferees, knowing that they both will be conferees, will they consider themselves to be so guided?

Mr. SYMMS. Mr. President, will the Senator yield for an answer?

Mr. GRAHAM. I yield.

Mr. SYMMS. The Republican leader and the majority leader have offered a sense-of-the-Senate resolution which asks that the conferees should consider, and then the President pro tempore amended it off the floor, so it is included in their amendments to read:

> * * * each State's ability to finance its total effort for highways, as measured by its per capita disposable income as compared to the average State per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

The charts they ran last night when they were considering having this as an amendment would have added $70 million to Florida's apportionment if their amendment had been agreed to. That is their estimate.

I am not the author of the amendment. The majority leader and the Republican leader are not on the floor to defend the question. But I am doing the best I can to answer the question of the Senator.

Mr. GRAHAM. As I understand the numbers, and I have just received them, and I will use for purposes of example the State of the Presiding Officer, a State which has long donated substantial funds—his State is a State that does not participate—excuse me. I strike that statement, because the Senator from North Carolina does, in fact, participate under the allocation of incentive funds.

Mr. SYMMS. Will the Senator yield? Maybe I can elaborate on that answer a little bit.

Mr. President, I think what I am trying to say is that is one assumption. This sense of the Senate does not pin the committee down or the conferees down to any particular assumption or formula. But we can assume many things have many formulas.

All I can say is, as one who will be a conferee on this, that we will try to look out for all States in the country the best we can to see that there is a fair and equitable apportionment of the funds.

The Senator from Florida has made it very clear that he does not believe, as his colleague from Florida has stated, also, that the apportionment formula treats Florida as fairly as they believe they should be treated. I respect that. I recognize they feel that way. We will try to do nothing in the Senate that would end up having them treated any worse than they are being treated. Or at least they will be treated as well as, I should say, as they are treated in this bill. I think that is what the conferees will try to do.

I do not see that the sense-of-the-Senate resolution offered by Senator DOLE and Senator MITCHELL says anything other than the fact that Senators should consider a State's effort, and I referred to it earlier this morning before this was agreed to as the Byrd-Dole position.

Senator BYRD made it clear he wanted to try to reward States that had a higher level of effort fixing their roads than other States. That is the general statement. I see the distinguished President pro tempore is on the floor. He wanted to reward the States who made a higher level of effort to fix their roads and infrastructure, considering also their level of per capita income.

It is clearly stated in this sense-of-the-Senate resolution, which I just read, in the Byrd language that is added to the Dole-Mitchell language. But it is sense-of-the-Senate language, I say to my colleague.

Mr. GRAHAM. What concerns me is how the conferees are going to take this demand that they have just received. It says:

> It is the sense of the Senate that the conferees on this bill should consider section 159 of title 23, United States Code, as it appears in amendment 295—

The Byrd amendment—

> as amended so as to determine each State's total apportionments under section 159 of title 23 U.S.C. in a way that reflects each

State's total effort for highways as described in Amendment No. 334.

Here is amendment 334. Amendment 334, which was adopted on the 13th of June, states, and it is a study of a level of effort amendment; what should be studied. What should be studied is income for fuel taxes, toll revenues, including bridges, ferry tolls, sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and other appropriate State and local revenue sources, as the Director of the Bureau deems appropriate.

So I assume that in lieu of the single factor of gasoline, which was in the Byrd amendment, that now we have adopted the list of items which are in Amendment 334.

If that is not correct, could someone explain what this language means?

Mr. BYRD. Will the Senator yield?

Mr. GRAHAM. Yes.

Mr. BYRD. Mr. President, the Byrd amendment had two parts to its gasoline tax element. One dealt with the gasoline tax of a particular State and whether it was above or below the average gasoline tax paid throughout the country; namely, 17.43 cents. But it also tied in the element of per capita disposable income so that the two factors together would assure States that were making an effort, of the totality of the effort, which would include the per capita disposable income. Some States are richer than others, and those that are not as rich are really making a more supreme effort, on balance, if they do so in light of the fact their per capita disposable income is lower than the national average, which is $14,303.

Let me get right to the point of the Senator's question. A sense-of-the-Senate resolution is not legally binding. It is nothing more than advisory in nature. It expresses a sense of the Senate. It can be totally disregarded. Even if this were an instruction to Senate conferees—which it is not—Senate conferees are not bound to obey the instructions of the Senate in that regard.

It asks the conferees, or it says that they should "consider." That is all it does. It is a sense of the Senate which can be totally disregarded. I am not talking just about this particular resolution, but any sense-of-the-Senate resolution can be totally disregarded. It has no binding effect whatsoever legally or otherwise.

Even if it were an instruction, even if someone moved to instruct the conferees of the Senate, which motion would be open to amendment in two degrees, the conferees could go to the conference and throw those instructions on the floor and say the heck with them.

They are not bound to listen to the Senate's instructions. They might be inclined to consider them, as I think they ought to. They ought to consider them. But having considered them, they might say, well, we have considered them and that is it.

So if the Senator is concerned about the sense-of-the-Senate resolution, my response on that point will stand in the RECORD in explanation of any sense-of-the-Senate resolution. My explanation with respect to instructions to conferees—which are not included here—will stand in the RECORD as covering all instructions to conferees by the Senate at any time.

Mr. SYMMS. Mr. President, if the Senator will yield.

Mr. GRAHAM. If I could just comment maybe in the nature of a further question, and then I will yield to either the Senator from West Virginia or the Senator from Idaho, the language "should consider" is not a general statement that the conferees should take this into account. What the language is, is it should consider the Byrd amendment, as amended. In other words, they go to conference with the Byrd amendment, which should be considered to have been amended.

Mr. BYRD. It was amended. The Byrd amendment was amended.

Mr. GRAHAM. But "so as to determine each State's total portion under section 159 in a way that reflects each State's total effort for highways as described in amendment 334." The Senate never voted to amend the Byrd amendment in a manner consistent with the set of items contained in amendment 334. We never amended the gasoline only provision to include total revenues, including fuel taxes, bridge and ferry tolls, sales taxes, general fund appropriations, et cetera. And the consequence of sending our conferees to the conference with a directive that they should consider——

Mr. BYRD. It is not directing. It does not direct the conferees to do anything.

Mr. GRAHAM. Could we consider this to be a nullity? What is the meaning of having adopted this sense of the Senate?

Mr. BYRD. I have just explained it. It does not direct them. Read it.

Mr. GRAHAM. It says it is the sense of the Senate that the conferees on this bill should consider section 159 as amended.

Mr. BYRD. Right. That is not a directive. There is a great deal of difference in the word "consider" and the word "direct", and even if the word "direct" were in this sense-of-the-Senate resolution, it would not bind the Senate conferees.

Mr. GRAHAM. It is the opinion of the sponsor of the underlying amendment that this is a nullity? It means a substantial amount of money. For instance, the Presiding Officer's State under the amendment as it was voted on in the Senate, as opposed to the language that this sense of the Senate seems to require the conferees to consider, means a difference to the State of North Carolina of $163 million. So if this is a nullity, if it is just a statement of good feelings, a means of not offering a specific amendment, then let us describe it as such and have the understanding that the managers who will be leading the Senate conference will so consider it.

Mr. SYMMS. If the Senator will yield, let me make an attempt at that.

Mr. President, the way I will look at this as a conferee is that I will consider the language in the sense-of-the-Senate resolution that is principally authored by the majority leader, by the minority leader, and by the distinguished President pro tempore and chairman of the Appropriations Committee. Now, Senators are going to consider this language. That is what they are going to do, consider it.

No. 2, as a Member of the Senate, I would have to say that no Floridian should feel that the Senator from Florida has not made his level best effort, along with his able colleague, Senator MACK, to make a case for the State of Florida. I believe the Senator is ahead right now with those of us who will be conferees, that we have heard the Senator very loud and clear for 10 days. I do not know what more Senators can say. But I would implore and appeal to my colleague that we understand his concern. His colleague has made a similar case. The President pro tempore has added language to the Dole amendment, which is a sense of the Senate which says we should consider. We will consider it. I repeat, we will consider what the distinguished President pro tempore, the distinguished majority leader, and the distinguished minority leader have said to us. We are not bound by anything. But we also are not going to go to conference and ignore the very able case that the Senator from Florida and others, Senator WARNER and Senator BENTSEN, have made with respect to minimum allocation States. We understand that. That is the way the conference process works.

I think the Senator is ahead right now is what I am telling him. I think that we should move this bill. It is time now to go ahead with the bill, go to third reading, agree to a time certain that we can vote on this, as soon as possible, and be done with it. The Senator's interests and his State's interests will be well served by that. He has made a very able case. No Floridian should ever say that BOB GRAHAM and CONNIE MACK did not make the case for the State of Florida on the floor of the Senate. I think my colleagues will agree with that.

Mr. GRAHAM. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. GRAHAM. I am going to take those words as reassurance that we are not, by a casually adopted sense of the Senate, about to change relationships that were the subject of a week or more of intense negotiations. I am pleased that the Senator from West Virginia as well as the managers of the bill have made comments to that effect.

AMENDMENT NO. 362

(Purpose: To increase the obligation ceilings contained in S. 1204 to match the increased funding approved in the Byrd amendment)

Mr. GRAHAM. Mr. President, I am now ready to offer an amendment which goes to the relationship between the amendment as offered by the Senator from West Virginia, our Senate President pro tempore, and the basic bill as it came from the committee. I and others have used the analogy of the tail and the dog. We had the dog that came out of the committee, a bulldog without a tail, and since that dog has been here, we have added a long Irish setter's tail to this bulldog. We have, however, not completely integrated the Irish setter's tail onto the bulldog because we have continued to carry over some of the concepts of the original bill into our new tailed dog.

One of those that concerns me is the obligation ceiling. On page 8 of the bill as reported by committee, line 16, we have section 104, which is the general obligation ceiling, which states: "Notwithstanding any other provision of law, the total of all obligations for Federal aid highway programs shall not exceed," and then a number is stipulated in each year from 1992 to 1996, inclusive. Those numbers reflect the level of expected spending under the bill as it was reported by the committee. Since that time we have added approximately $8.2 billion to the total level of spending. So I would propose that, in recognition of that and to maintain consistency, we amend those obligation ceilings in the 4 affected years, that is, in fiscal years 1993 through 1996, to reflect the balance that would be required to fund the amendment of Senator BYRD as well as the base bill as reported by the committee.

To that end, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes as amendment numbered 362.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 21, strike "$15,940,000,000" and insert "$16,721,000,000".

On page 8, line 22, strike "$16,840,000,000" and insert "$18,726,000,000".

On page 8, line 23, strike "$18,410,000,000" and insert "$20,687,000,000".

On page 8, line 24, strike "$20,190,000,000" and insert "$23,467,000,000".

Mr. GRAHAM. Mr. President, I will withhold any further comment until later. The basic purpose of this amendment is to amend the obligation ceilings to be consistent with the new level of appropriation as has been authorized by virtue of the amendment previously adopted by the President pro tempore.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I will not detain the Senate more than a very few minutes.

First, let me be sure that the distinguished Senator from Florida, Mr. GRAHAM, understands the meaning of the words in the sense-of-the-Senate resolution—the words "amendment No. 295 as amended." Let me explain this way.

I offered an amendment in the first degree, and a second-degree amendment which was modified a number of times, and then was agreed upon as modified, by rollcall vote. That was the second-degree amendment. Although technically not being a substitute, in essence it really had the effect of being a substitute for the first-degree amendment, and virtually wiped it out. But there still remained the parliamentary necessity of voting on the first-degree amendment as amended by the second-degree amendment. The yeas or nays were vitiated by the majority leader, and we did it by a voice vote.

So we agreed to the Byrd amendment as amended. That was the Byrd amendment No. 1, as amended by the Byrd amendment as modified, No. 2. So that is what those words mean, if they were giving the Senator any problem.

Mr. GRAHAM. Will the Senator yield for a brief question?

Mr. BYRD. Absolutely.

Mr. GRAHAM. Would the sentence read as the Senator from West Virginia thinks it should read if there were commas inserted after the "No. 295" and after the word "amended," so that that was clearly related back to amendment No. 295, and not intended to start a new thought?

Mr. BYRD. I would have no objection to a comma after the word "amended", No. 295 as amended, comma. But I do not think a comma would be needed after the number 295. I do not think a comma following 295 is required. But in any event, even without the commas, I think the language is perfectly clear. If anybody has any doubt, they can read what I have just said. That is precisely the case.

As to changing the obligation ceilings, I would also point out that the Appropriations Committee will decide what obligation ceilings it can meet, based on the outlays that will be available.

The Appropriations Committee may not be able to reach these figures, even as they are presently set forth in the bill. The Senate Appropriations Committee may not be able to meet them because the outlays simply may not be available. That often happens.

As far as I am concerned, I do not particularly recommend that we adopt this amendment, although I do not think it will make any difference one way or the other because in any event the outlays, in the final analysis, are going to govern the Appropriations Committee's decisions and actions in this respect.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I think the distinguished chairman of the Appropriations Committee has really explained it correctly. I do not know for sure whether there is any opposition from the ranking member on our committee and the other members of the committee on our side.

This came to us. This is the first I have seen it. I think in effect this has no impact. I think that is essentially what the Senator from West Virginia has said. It has zero impact on the bill. For some they may look upon it, and, say, well it raises the obligation limitation. I would prefer if we did not offer any more amendments, and not have any more amendments on the bill at this late hour. But I guess I would like to note the absence of a quorum, and then consult with the leadership to be sure that they agree with my analysis of this. Then we may have no objection to it.

Mr. BYRD. I suggest we go ahead and accept the amendment. As I have already explained it, if the outlays are not there, we will not be able to meet those ceilings. We will not even be able to meet the obligation ceilings that are in this bill if the outlays are not forthcoming. But in the event the outlays are there over the next 4 years, a higher ceiling, as far as this Senator is concerned, would be all right. I just have some difficulty in believing that we are going to be able to reach those ceilings.

Mr. SYMMS. Mr. President, in view of the fact it has no budgetary impact—is what the Senator from West Virginia is actually stating, unless we have the money—it will not be appropriated, it will have no impact, and does not disrupt anything. I guess there is no opposition to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 362) was agreed to.

Mr. GRAHAM. Mr. President, as I indicated earlier, my purpose is to try to make the shepherd's tail a firmer part of our bulldog's body. We have just taken maybe a symbolic, but I think more than symbolic, step to that objective because at least we are not concluding action on this bill with a statement that the maximum amount that can be expended is less than would be necessary in order to fully meet our commitments under both the Moynihan-Symms provision as it came from committee, and the Byrd amendment, as amended, which we have added on the floor.

Now the numbers provide to us the latitude to fully—now, Mr. President, I am clearly moving to a more serious and substantive matter. That is that I want to obliterate this distinction between the tail and the dog, and the comments made by the Senator from West Virginia make my case; that is, the high degree of apprehension, concern, as to whether we are going to be able to fully fund this program.

The way the bill is currently structured, the dog is fully fed. The dog for instance in the year 1996 will get $20.2 billion fully fed under the program before the tail, which in that year will be approximately $3.3 billion, gets the least morsel.

So those States that have a lot riding on that tail, who are particularly the minimum allocation States, almost 40 percent of the States in the Nation, are subject to having their expectations as well as their tail cut off.

So, Mr. President, I have an amendment which would graft, in the firmest possible way, the tail to the dog. It is an amendment which alters language that is currently in the bill that states that the funding under the Byrd amendment would be in a separate and secondary category, and that the funding in the base bill would be fed fully first.

The change necessary to accomplish this is really a three-word change. At section 159(d)(1)(A) of the Byrd amendment, the language appears that funding will occur other than for the Byrd amendment. I would strike the words, "other than," and insert the word, "including", which would then place the Byrd language in parity with the balance of the bill.

The consequence of that, Mr. President, is that if we do not have $23.1 billion for the program in fiscal year 1996, every part of the dog is going to have to suffer—the nose will suffer, the ears will suffer, the feet, as well as the tail. They will all suffer on a proportionate basis. Therefore, those States that have the vast majority of their Federal highway funds in the front end of the dog will be treated the same way as those of us who have a disproportionate amount of our highways at the rear of the dog.

Mr. President, I have discussed this matter with the Parliamentarian. It is possible to offer this amendment. It will require a rather extensive amendment, many hundreds of words, as opposed to three words, in order to accomplish that fact.

I am going to ask unanimous consent to be able to offer the short form amendment, which I would be pleased, before offering, to distribute to the managers. If I can get agreement to offer this in this short form version, I will do so. If not, I will offer it in the longer version.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Florida yield the floor?

Mr. GRAHAM. No, but I will yield to the Senator from New York for any questions or comments.

Mr. MOYNIHAN. Mr. President, I have no comment.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be able to offer the amendment in the form which I now send to the desk.

Mr. MOYNIHAN. Reserving the right to object, Mr. President, I object.

The PRESIDING OFFICER. The Senator from New York has raised objection. The objection is heard.

Mr. GRAHAM. Then, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, while we are working this out—and I want the Senator from Florida to know that I am doing this—a question arose yesterday on this business of the dog. The Senator was going to change the way in which the funds were allocated on the basis of the FAST program, if he will recall. On repeated occasions, the Senator from Florida assured the Senate that consumption of petroleum only related to one-third of the outlays provided in that measure.

He said:

> We do not have in this legislation what the administration had, which is that 70 percent of the formula would be on motor fuel use. The only factor that we have in here that relates to consumption is one-third * * *

Again, I am trying to speak to the difficulties of this. He said, responding to comments that it was higher:

> The most consistent criticism that has been made about our proposal is that it would, in some bizarre way, encourage fuel consumption because fuel consumption is a factor in the formula. Where is it a factor in the formula? One-third of the formula for distributing the National Highway System money is diesel fuel.

And that is it.

Later referring to this question as a false issue, he said:

> The fact is I think that the Senator from New York has confused this amendment with the administration's proposal. It is correct that the administration under its national highway program would have used motor fuel usage to allocate 70 percent, that would have been 70 percent of the allocation factor. That is not a factor in our national highway program. Our national highway program is * * * one-third diesel * * *

And again, that third term arises.

I want to be clear that nobody is in any way to blame when the confusion arises, because we have such a weak basic data set here. This is all new to so many people.

But, sir, I have a letter here from Gene McCormick, the Deputy Administrator of the Federal Highway Administration, who is the one official in town of the Department of Transportation, and he says, "Pursuant to our conversation"—I called him this morning and said, "What is it? I cannot leave it unresolved that I said one thing and the Senator from Florida said another thing." I believe the Senator from Florida felt that this had been a misrepresentation on the part of the manager of the bill.

So, Mr. McCormick writes:

> Pursaunt to our conversation this morning, please find below my analysis of the relationship between the apportionment formulas in the Graham amendment No. 357 offered to S. 1204 yesterday and motor fuel consumption.

I will not go through the endless detail as I could.

"In combination, therefore, about five-sixths of the apportionments from two major apportioned programs in the Graham amendment are related to motor fuel consumption," which would be 83 percent.

This was done in the spirit that we have of saying that to the Federal Highway Administration, "You be the arbiters here."

Mr. GRAHAM. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

First, I ask unanimous consent that these be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
Washington, DC, June 19, 1991.

Hon. DANIEL P. MOYNIHAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MOYNIHAN: Pursuant to our conversation this morning, please find below my analysis of the relationship between the apportionment formulas in the Graham Amendment #357 offered to S. 1204 yesterday and motor fuel consumption.

Within the Graham Amendment, the apportionments of the National Highway and Bridge System Program and of the Urban and Rural and Highway and Bridge Program are equal.

Within the National Highway and Bridge System Program the apportionment is based on the following:

One-ninth each in the ratio which the rural lane miles and rural vehicle miles traveled in each State bears to those of all States;

Two-ninths each in the ratio which the urban lane miles and urban vehicle miles traveled in each State bears to those of all States; and

Three-ninths in the ratio which diesel fuel consumed in each State bears to that consumed in all States.

As a result, three-ninths of this program's funds are apportioned according to vehicle miles traveled, which is directly related to fuel consumption, and three-ninths are directly related to diesel fuel consumption.

Within the Graham Amendment, the Urban and Rural Highway and Bridge System Program funds are apportioned according to the ratio of attributable tax payments to the Highway Trust Fund.

In combination, therefore, about five-sixths of the apportionments from the two major apportioned programs in the Graham Amendment are related to motor fuel consumption.

Sincerely yours,

GENE MCCORMICK,
Deputy Administrator.

[From the CONGRESSIONAL RECORD, June 18, 1991]

Mr. GRAHAM. No. 2 is the false issue that this approach is going to be promoting fuel consumption. The fact is I think that the Senator from New York has confused this amendment with the administration's proposal. It is correct that the administration under its national highway program would have used motor fuel usage to allocate 70 percent, that would have been 70 percent of the allocation factor. That is not a factor in our national highway program. Our national highway program is one-third lane miles, one-third vehicle miles traveled, and one-third diesel fuel, I underscore diesel fuel used, and that it weights urban lane miles and urban vehicle miles traveled twice representing the greater cost of providing highways in an urban setting.

* * * * *

Mr. GRAHAM. The most consistent criticism that has been made about our proposal is that it would, in some bizarre way, encourage fuel consumption because fuel consumption is a factor in the formula. Where is it a factor in the formula? One-third of the formula for distributing the National Highway System money is diesel fuel. Why do we use diesel fuel? Because that is the most direct proxy, as recommended by the General Accounting Office, as well as State highway officials, for truck traffic.

* * * * *

Mr. GRAHAM. We do not have in this legislation what the administration had, which is that 70 percent of the formula would be on motor fuel use. The only factor that we have in here that relates to consumption is one-third of the National Highway Act would be on diesel fuel, and the reason that we have diesel fuel is because that is the most relevant proxy to truck traffic . . .

Mr. MOYNIHAN. There will be one little factual matter that will be resolved before we are through.

The PRESIDING OFFICER. Does the Senator from New York yield the floor?

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. First, I reject the basic premise upon which this fact is offered, the premise that because you use a factor which relates most directly to highway usage—and clearly one of those factors is the amount of fuel purchased—the only purpose of purchasing the fuel being to drive your car or drive your truck and, therefore, if you are trying to assess how much use is being made of the highways one of the clearest ways to do it, other than have a legion of counters out at every corner clicking off the mileage by vehicle, is to calculate the amount of fuel consumed within that particular jurisdiction.

I would imagine the Senator's State of New York—I know my State of Florida—allocates funds to its cities and counties with a factor of the amount of fuel consumed within that local jurisdiction as a factor.

Mr. MOYNIHAN. We do not.

Mr. GRAHAM. New York may be aberrant and may not do so.

Mr. MOYNIHAN. Does the Senator mean in returning State gasoline funds?

Mr. GRAHAM. Returning State gasoline funds.

It is a formula which the General Accounting Office recognized and recommended and which the State highways officials recognized and recommended.

The assumption of some of those who have discussed this in a negative way is it creates the perverse incentive that a State would want to go out and put up big billboards that say "drive your heavy trucks across my highways so you will buy more diesel fuel within my State."

The fact is, one large truck does as much damage to the highways as 9,600 standard passenger vehicles. So a State would have to be engaging in something approaching lunancy to be advocating more trucks in order to get more diesel fuel, since it is those very trucks which are contributing primarily toward the maintenance problems of the bridges and the highways.

So I start with the premise that this is a totally fatuous argument that there is a relationship between States' incentive to encourage more consumption and the use of that consumption as a relevant rational factor in attempting to assess highway maintenance and needs.

Having said that, the amendment I offered last night, which is the amendment called the Federal Aid Surface Transportation Act, or FAST, an amendment developed by State highway officials—it was not developed within the beltway, so I guess that means it is suspect: it cannot be wise if we did not do it, somebody else had an idea, somebody else knew something—and was a rational way to meet a national transportation need. They should not have been so presumptious, but they were.

What was their formula? They divided the funds after having provided for the completion of the Interstate System into essentially two accounts. One was a national highway account which would provide the funding for almost 4,000 miles of interstate, plus an additional amount to bring the National Highway System up to a range of 150,000 to 180,000 miles.

How would funds be allocated in order to maintain and expand the capacity of that National Highway System? One-third would be on lane miles, the number of miles you actually have out there that people are using. That would seem to be a rational factor. One-third is on vehicle miles traveled, another rational factor. The other one-third, which the proposal of the Senator from New York does not touch—and we can have a debate as to whether it is appropriate—is diesel fuel.

One-third of the allocation of the funds for the National Highway System would be on the amount of diesel fuel sold within your State. Why is that factor there? Because diesel fuel is the best proxy available for the amount of commercial truck traffic which has all those implications to the Highway System that I have just alluded to.

So it is, in my opinion, a rational factor. It is a factor which is not going to encourage States to put up those big billboards and say: "Bring your Kenworths here; we want to sell you more diesel fuel." It is a formula that would assist us in allocating funds to the 50 States, the District of Columbia, and Puerto Rico in somewhat of a rational formula.

The other half of the funds under this proposal is the urban rural road and bridge program. It is intended to allow the States to meet their needs on the remainder of its highway system. We currently have approximately 850,000 miles of Federal aid highway in America. We are going to put roughly one-sixth of that on the National Highway System. This would allow you to use the balance of this money, an equal amount on the other five-sixths of what is now the Federal-aid Highway System.

How do we propose to allocate that? We propose to do it in relationship to your contributions to the highway trust fund. You are a State that sells a lot of tires, on which there is a Federal tax that goes into the Federal highway trust fund. If you sell diesel fuel, gasoline, other things upon which there is a Federal tax that goes into the trust fund, you get back whatever your contribution was on the assumption that there is a relationship between what you contribute in those things that are used on the Highway System and what you get back in terms of your ability to support that five-sixth of the Federal-aid Highway System that would no longer be on National Highway System.

In lieu of that formula, if you think it is rational everything in the world has to be compared with an alternative, everything has to be judged not just absolutely but also relatively. So what we are proposing is as the alternative to that.

Here is what we are going to do. We are going to take the formula by which funds were distributed from 1987 to

1991, calculate how much funds each State got under that formula. Then we are going to subtract various items that are intended to eliminate abnormalities. One of those, for instance, is interstate construction.

If you happen to be a State like mine—and I had been parochial—which was relatively late in completing its Interstate System, one of the largest projects that has been under construction during this period has been Highway 595 in Broward County, FL.

If you happen to be one of those States which has been dumping a disproportionate amount of Federal funds into completing the interstate, you are going to have a bigger than normal subtract factor. But that is the way the formula works.

After you arrive at this amount that you are credited for 1987 to 1991, then you get the same percentage in 1992 to 1996 as you got in that previous 5-year period.

You can say that sounds pretty fair, you get for the next 5 years what you got for the last 5 years with these adjustments.

Let us go back and let us look at what was the formula by which we distributed this money from 1987 to 1991 and let us ask which is more rational, the formula I just described, which focuses on factors that relate directly to highway usage, relate directly to the type of impact various types of users are likely to have on the system. Here is the formula that distributed the money from 1987 to 1991 and will be used to distribute the money from 1992 to 1996.

We are going to use them on Interstate 4-R. We distributed money based on lane miles and vehicle miles traveled. That sounds fairly rational.

For the primary road system we did it on the area of the State. So if you happen to be a big State like Alaska, you got a big factor in terms of your allocation of those primary funds regardless of whether there were vehicles that were out there in proportional numbers to use.

We did it on postal route mileage, a 1916 factor. We took the number of postal miles in 1916 and we are going to use those to distribute Federal funds in 1996.

For the secondary roads we again used area and we used population. What population are we going to use, Mr. President?

Are we going to use the population of the census of 1990? We are talking about fiscal years 1992 to 1996, so we are certainly going to use the 1990 census, if not some even more current adjustment. But, no; that is not what we are going to use. We are going to use the 1980 census.

Mr. President, I know that you share my sense of shock and appall at the very fact that we would tell the American people that in 1996 we are going to be distributing over $20 billion of their money based on a 1980 census. Under the urban provision, the only factor in the current law and the one that we are carrying forward is urban population. So again we will be riveting in the 1980 urban population for purposes of distribution in 1996.

And under bridges, we have cost of deficient bridges, which means that those States that had the worst bridge situation and the highest cost to fix their bridges get a reward, a big bonus. And that is what we have been doing over the past 5 years is rewarding exactly those States. Some States, Mr. President, have gotten two and three times more for their bridge program than they contributed to the fund because they had allowed their bridges to deteriorate. I do not think that is the right kind of incentive.

Now, if the senior Senator from New York, the manager of this bill, wants to debate the relative rationality, fairness, equity, and just plain common sense of the FAST approach as developed by State highway officials outside the beltway as against this approach that says the way to allocate money is the 1916 postal route number and a 1980 census number, I will stay here until we hear John Philip Sousa strike up "Stars and Stripes Forever" on the Fourth of July.

I would look forward with great anticipation and expectation of humor, literature, great eloquence, but very few numbers to support the principle that the approach that is recommended by the committee is a more sensible way to assess national highway needs than that which is recommended by most of the States' highway leadership.

So, Mr. President, with that response, I suggest the absence of a quorum. When I return, I intend to offer, in some form, the amendment that I discussed a few moments ago.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Madam President, I ask unanimous consent that Senator GRAHAM of Florida be recognized to offer an amendment regarding parity between the funds allocated under S. 1204 and the Byrd amendment No. 296, as modified; that there be 2 hours for debate on that amendment, 90 minutes under the control of Senator GRAHAM and 30 minutes under the control of Senator MOYNIHAN; that upon the completion of the debate on that amendment it be laid aside and Senator GRAHAM of Florida be recognized to offer an amendment regarding parity between maintenance and capacity enhancement; that there be 1 hour for debate on that amendment, 45 minutes under the control of Senator GRAHAM and 15 minutes under the control of Senator MOYNIHAN; that the amendments be in order notwithstanding the fact they may be amending previously amended language; that no second-degree amendments or amendments to possible language proposed to be stricken be in order; that if and only if both of these two amendments are tabled or defeated than no further amendments or motions to recommit be in order to the bill; and that upon the tabling or defeat of the second Graham amendment, if both amendments are tabled or defeated, the Senate, without any intervening action or debate, proceed to third reading and final passage of the bill; and that upon completion of all debate the Senate vote on or in relation to the first Graham amendment, that vote to be followed without any intervening action with a vote on or in relation to the second Graham amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader?

Without objection, it is so ordered.

Mr. MITCHELL. Madam President, if I might now state for the information of Senators, at approximately 7:35 there will be at least two votes, one on each of the two Graham amendments. If both of those amendments are tabled or defeated, then immediately following the tabling or defeat of the second of the two amendments the Senate will vote on final passage of the bill. If either or both of those amendments are not tabled or are passed, then the bill will be open for further amendment and we will continue in deliberation on the bill.

Therefore, to accommodate their schedules, Senators should be aware that at approximately 7:35, or 3 hours from now, there will be at least two rollcall votes on or in relation to the Graham amendments and possibly three rollcall votes, the latter to include final passage in the event of two Graham amendments are tabled or defeated.

Madam President, I thank my colleagues, the Senator from Florida, the distinguished manager, the Senator from New York, and the Senator from Idaho.

Mr. SYMMS. Madam President, may we ask for the yeas and nays on final passage? I have had Senators ask that, just so it is ordered.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair recognizes Senator GRAHAM of Florida.

AMENDMENT NO. 363

(Purpose: To provide a proportionate distribution of Federal highway obligation authority among all programs authorized under S. 1204)

Mr. GRAHAM. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 363.

On page 6 of amendment No. 295 (as amended) on line 8, in section (d)(1)(A), strike the words "other than" and insert instead "including".

The PRESIDING OFFICER. The Senator may proceed. Under the agreement, the Senator has 90 minutes and the opponents have 30 minutes.

Mr. GRAHAM. Madam President, the purpose of the amendment I have just sent to the desk is to bring the Byrd amendment, as adopted during the consideration of this legislation, into a parity position with the formulas for distribution that were contained in the Moynihan-Symms provisions as the bill was reported from committee.

We are proposing to distribute through this legislation a total of approximately $113 billion in surface transportation funds over the time period 1992 to 1996. As the bill came out of committee, we were distributing $105 billion. That additional $8 billion was added by the Byrd amendment on the floor.

As that language is currently constructed, the Byrd amendment is secondary to full funding of the basic bill; that is to say, the basic bill would have to be funded 100 percent before any funds were available for the Byrd amendment.

Senator BYRD earlier this afternoon agreed to, and the Senate adopted, an amendment which raised the obligation levels in the base bill to reflect the levels necessitated by the Byrd amendment.

For instance, in the original bill, the obligation ceiling for 1996, the last year this legislation was funded, was approximately $20.2 billion. The Byrd amendment added $3.3 billion. So we amended that $20.2 billion up to a total of $23.5 billion to reflect the fact we have authorized through the Byrd amendment that additional level of spending.

The amendment I am now offering would further knit the Byrd amendment and the basic bill together by providing that should there be something less than the full amount available to be distributed it would be a proportionate reduction from all of the programs in this legislation.

That contrast, as I indicated, to the current provision, which is to fully fund the base bill, and only after you have fully funded the base bill does any money go to the Byrd amendment.

So in 1996, for instance, if the Congress were to appropriate $20.2 billion for transportation, all of that $20.2 billion would go into the formulas of the Moynihan-Symms bill. Zero would go to the Byrd provision. If we appropriated $21.2, 100 percent, or $20.2 would go into the base bill, and that last $1 billion would go to the Byrd provision, divided equally between the incentive portion and the minimum States allocation. That is the way the bill is now.

What I would provide is if, in 1996, for instance, we appropriated $21.2, that all of the programs in surface transportation would be treated in parity.

Why is this important, Mr. President? It is important because the basis upon which approximately 40 percent of the States of the Nation are going to be given some degree of equity under this legislation is that they will receive this enhanced minimum allocation through the Byrd amendment.

For instance, Mr. President, in the case of the Presiding Officer's State, over this period, the State of Illinois would receive $164 million in the Byrd amendment, as minimum allocation, bringing Illinois up to some higher level of equity.

If, however, the current bill stays in its form, and if the Byrd amendment is not fully funded, then Illinois will take a very serious reduction in its expected $164 million. I do not know the numbers as well for the Presiding Officer's State as I do for my own, but I know that because of another feature, which is that the Byrd amendment is very heavily backloaded, no Byrd money is expended in fiscal year 1992. It is all expended in 1993, 1994, 1995, and 1996.

In 1993, for instance, the total of the Byrd amendment is approximately $780 million. That is what the Byrd amendment is worth in 1993. But 4 years later, in 1996, the Byrd amendment is $3.3 billion.

In my State, Mr. President, that means that of all the highway funds that we are going to receive in fiscal year 1996, about 20 to 30 percent of them will be the Byrd amendment minimum allocation provision. And that same high level of dependence on the Byrd amendment is going to be true for other donor States, such as the State of the Presiding Officer.

My question is: If we are trying to fund a national transportation system, having already voted for the Byrd amendment as an appropriate part of that system, and having recognized that there should be some minimum level of funding that all States can depend upon and plan upon, why should we not bring the Byrd amendment up to equal dignity with everything else that we are going to be funding in this transportation bill?

Politically, the effect of that is going to be that in 1996, there will be 50 States and 100 Senators who will have an interest in the level of funding of the transportation bill, because everybody is going to be equally affected by any shortfalls.

Conversely, if we have the structure that is in the bill now, and the base bill, the Moynihan-Symms provision, gets fully funded, and the Byrd bill can get zero funding, we are going to have only essentially the donor States, approximately 40 percent of the States in the Nation, who are going to have an active interest in getting that last $3.3 billion into the transportation program.

So I think both in terms of fairness, treating everybody equally, in terms of rationality, we have said that we believe that the principles of the Byrd amendment are an appropriate part of the national transportation system. And in terms of assessing the likelihood that what we have all voted for will in fact become reality, I am strongly of the opinion, Mr. President, that we should adopt this amendment, make the Byrd amendment have the same structure as any other distribution formula within this bill.

And then we can go back home, whether it is to Springfield or to Tallahassee, and say with greater assurance that this is what you can expect, citizens; this is what your transportation department can anticipate and plan for over the next 5 years.

Without this amendment, I believe there is a very high degree of vulnerability as to whether those representations of a minimum allocation to every State will become reality.

Thank you, Mr. President.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Florida yields the floor.

Who yields time?

If no time is yielded by either side, the time will be deducted proportionately between the proponents and the opponents.

May the Chair clarify, it is the intention of the Chair to deduct the time on the basis of the distribution of time, so that the proponents or advocates of the amendment will be having their time reduced in a 3-to-1 ratio to the opponents, because of the 90–30 time distribution. I want that clearly understood by the proponents.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Idaho.

Mr. SYMMS. Mr. President, it is my understanding that the proponent of the amendment is prepared to yield back his time and then we can go on the next amendment.

Mr. President, I will speak to this amendment very briefly, and then I shall yield back the time that is reserved for Senator MOYNIHAN and myself.

This amendment, if adopted, would fundamentally undercut the hold-harmless provisions that the majority leader and the minority leader and

Senator BYRD worked out with respect to the Byrd amendment, so it would completely change the apportionment formula. In some cases States would be greatly harmed, in other cases they may not be harmed, but it is possible that even some of the donor States could lose money under this amendment under the original formula of the bill where they are guaranteed the 85-percent minimum.

Second, Mr. President, if this amendment were adopted, then the agreement would be off. There would be no vote at 7:30 or earlier.

I might say to my colleagues who are watching this, as we start yielding this time back, Senators should look to their clocks and the staffs should look to the clocks and see how much time we yield off and start deducting it from 7:30, because we will be moving closer to a time to vote unless there is some reason the leadership will not be able to vote earlier.

But having said that, it is my understanding that Senator MOYNIHAN and I will have 15 minutes on the next amendment and I will reserve that time until we discuss it with the leadership.

I have just been informed that the distinguished President pro tempore would like to speak in opposition to this amendment, so I need to reserve some time for him.

The PRESIDING OFFICER. Will the Senator from Idaho and the Senator from Florida inform the Chair as to how much time has just been yielded back from the unanimous consent agreement?

Mr. SYMMS. At this point, I would say, Mr. President, that no time has been yielded back. I might inquire of the Chair: How much time remains on each side?

The PRESIDING OFFICER. If no time has been yielded back, it is my understanding, if we agree to one amendment——

Mr. SYMMS. No amendment has been agreed to.

The PRESIDING OFFICER. I meant set-aside one amendment for discussion, that the time had been yielded back. But since that is not the case, the Senator from Florida has 69 minutes remaining and the Senator from Idaho has 21 minutes remaining.

The Chair is clear. I thank both Senators. No time has been yielded back off the agreement and as it stands, as of now, we are under the unanimous consent agreement.

Mr. SYMMS. Mr. President, there must be some error. At the time we started out with a 3-to-1 ratio. The opposition has used very little time and the clock has been running supposedly on a 3-to-1 ratio and the proponents spoke only briefly, maybe 5 minutes or more. So we should be closer to a 3-to-1 ratio of time left over.

The PRESIDING OFFICER. I thank the Senator and have instructed the clerk to go from the new math to the old math. I am confident we will straighten that out momentarily.

Mr. SYMMS. I have been advised that Senator MITCHELL, Senator DOLE, and Senator BYRD would like 5 minutes each to speak in opposition to the pending Graham amendment, and maybe we should keep 5 minutes for Senator MOYNIHAN if he needs it.

Mr. President, I might just suggest to the distinguished author of the amendment that maybe he could just start talking on the second amendment. He has a lot of time here now. It will not matter at the end and we will not have to lay an amendment aside that way.

The PRESIDING OFFICER. Let us get our clock right here.

The Chair understands a mistake was made. The original agreement was 90 minutes for the Senator from Florida, 30 minutes for the Senators from Idaho and New York. We will work that out. In the meantime, the Chair recognizes the Senator from Florida.

Mr. GRAHAM. Mr. President, I ask unanimous consent to lay aside the first amendment for purposes of commencing debate on the second amendment, reserving what time is remaining on the first amendment for use when we return to it.

In explanation, there were three, possibly four, persons who have indicated a desire, as hard as it is to believe, to speak in opposition to the amendment I have offered.

The PRESIDING OFFICER. Is there an objection to laying aside the first amendment?

Mr. SYMMS. If the Senator will just withhold that for a moment. What I urge him to do is go ahead and start speaking about the second amendment because he has a 3-to-1 ratio of time and I think the distinguished President pro tempore may be on the way to the floor to speak in opposition to the first amendment. Rather than laying it aside, he can start speaking on the second amendment as though we had done so.

Mr. GRAHAM. Mr. President, the reason I am reluctant to do that is because I think the first amendment is likely to engender more debate than the second. I do not want to be using up my first-amendment time on my second-amendment discussion. So I prefer to lay the first amendment aside and take up the second amendment.

Mr. SYMMS. Mr. President, as long as it is understood by the Presiding Officer there will be 5 minutes reserved for Senator BYRD, 5 minutes for Senator MITCHELL, 5 minutes for Senator DOLE, and 5 minutes for the managers on the first amendment, we would have no objection to temporarily laying it aside and going to the second amendment.

The PRESIDING OFFICER. The Chair says to the Senator from Idaho, under that agreement, the Chair cannot make that decision. The time is controlled by the Senator from Idaho or his designee.

Mr. SYMMS. That is fine, if I reserve my 20 minutes that I have on the first amendment, understanding that we can temporarily set the first amendment aside and go to the second amendment.

The PRESIDING OFFICER. It is the understanding of the Chair, I say to all the participants, that the allotted time, 90 minutes for the Senator from Florida, 30 minutes for the Senator from Idaho, is not divided by amendments. And, therefore, there should be sufficient time under the request that had been made for any and all parties who wish to speak to speak.

Mr. SYMMS. I make a further parliamentary inquiry, Mr. President. It is my understanding there are two amendments: The first amendment has 90 minutes and 30 minutes set aside; the second amendment has 45 minutes and 15, or 1 hour set aside. There were 3 hours to start with. As long as it is understood here we keep the time running on a 3-to-1 ratio with 3 hours of total time on the two amendments, I do not think there is a problem. But I want to reserve some time for the opposition. I am not prepared to yield any time back at this point until we can yield all time back and go to a vote.

The PRESIDING OFFICER. The Senator is correct. The Chair agrees time will be running, taking time off proportionately.

Mr. SYMMS. I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. My original purpose was to ask unanimous consent to set aside the first amendment for purposes of taking up the second amendment; during the course of the debate on the second amendment, to have the time stayed on the first amendment. Is that——

The PRESIDING OFFICER. The Chair understands the request, but it will require—is there an objection?

Mr. GRAHAM. I ask unanimous consent we set aside the first amendment, staying the time of the first amendment for purposes of taking up the second amendment.

Mr. SYMMS. No objection.

The PRESIDING OFFICER. There is no objection. The request is granted.

AMENDMENT NO. 364

(Purpose: To provide a proportionate distribution of federal highway obligation authority among all programs authorized under S. 1204)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 364.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 106. SURFACE TRANSPORTATION PROGRAM.

Strike lines 14 through 25, page 23, and insert:

Transportation Program funds"; and by striking "75" in two places and inserting instead "80".

SEC. 108. BRIDGE PROGRAM.

Insert a period after "80 per centum" on line 5, page 28 and strike the remainder of lines 5 through 25, page 28.

Mr. GRAHAM. Mr. President, this is a very straightforward amendment. Under the current law, there are various proportions of Federal-State sharing of Federal aid highway construction and rehabilitation. For instance, the basic interstate program is 90 percent Federal, 10 percent State; the primary, secondary and urban program is 75 percent Federal, 25 percent State; and the bridge program, 80 percent Federal, 20 percent State.

In all those categories, there is no further distinction made between expenditures on maintenance, reconstruction, rehabilitation and the additional capacity.

Under the bill as submitted by the committee, such a distinction is made. For surface transportation programs, the basic part of the bill under which approximately half of the Federal money is allocated, if you use the funds for maintenance or rehabilitation, you can match, at 80 percent Federal, 20 percent State. However, if you use your money for capacity enhancement, it is 75 percent Federal, 25 percent State.

I underscore, this amendment has nothing to do with changing the allocations among States. We are talking here in terms of a State which has its allotment as generated by the formulas on which we have spent so much time over the past several days. We have been discussing that State's flexibility of using that for maintenance and rehabilitation as opposed to new capacity addition.

The argument is made we should discriminate against new capacity because we do not want to encourage the construction of new highways; that new highways are a bad public policy; that we should be encouraging other forms of transportation expenditures. In some ways that has an appeal. If you were in a State that essentially was a stable State, in terms of its population and economy, and you were then challenged to make the decision as to how should you shape your future in terms of allocation of funds, maybe a State would reach the judgment that it was in its best interests to concentrate on preserving the highway system that it currently has, using its funds through a different pattern of expenditure. But that is not the circumstance for a significant number of States in this Nation.

My State of Florida every day receives almost 900 people. In the last 10 years, in excess of 3 million Americans have made the decision to also be Floridians. They came for a variety of reasons: some came seeking freedom; some came seeking better economic opportunities; some came seeking a quality of life in retirement. But, for whatever reason, they came.

I can assure the Presiding Officer that zero percent of the people who came to Florida came because they liked the smell of asphalt; because they were attracted by the desire to look at, feel, and see new highways under construction.

The highways have been constructed in order to meet their needs, not to induce them to come in the first instance.

To me, Mr. President, if we are trying to pass a bill which talks about efficiency and talks about flexibility and talks about treating States fairly and giving to States greater control over their destiny, then to have a Federal formula that says growth States are going to be discriminated against because they will not be able to meet the inherent expected demands for transportation services on the highways of those States that are growing because they will have a discriminatory allocation formula, I believe that all of those laudable premises begin to crumble.

So, Mr. President, my amendment is a straightforward one. It essentially returns to the philosophy of the current law and that is, there should not be such discrimination against a State which elects to use its own Federal allocation for new capacity additions as well as using it for maintenance.

Mr. President, we are so disinvesting in America's transportation system under this legislation, we are leaving such enormous needs in the maintenance of the existing system, as well as the additional capacity for growth in all of our States, but particularly in those States experiencing unusual accelerations in population and economic growth, that this is just an additional thorn in the side of our efforts to secure a rational balance of a national surface transportation system.

Mr. President, I urge the adoption of this, I think, very rational and appropriate amendment, particularly on behalf of those States who have the responsibility of meeting the needs of Americans who have elected to become citizens of those growth States.

Thank you, Mr. President.

The PRESIDING OFFICER. As stated before, if no one yields time, the time will run proportionately, deducted from both sides.

The Chair, in his capacity as a Senator from the State of Georgia, suggests the absence of a quorum. The clerk will call the role.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. LIEBERMAN). Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, in an effort to try to move this to as early a conclusion as possible, I am prepared on the amendment No. 2 to the amendment that is currently before us to yield back all but 15 minutes of the time remaining to me; and on the amendment No. 1, which is the amendment that has been laid aside, to yield back all but 20 minutes on amendment No. 1, if the proponents of the bill, the opponents of these amendments, will yield back a proportionate amount as an inducement for those who have indicated they wish to speak to come and do so.

Maybe if we yield back time, they shall come.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I see my distinguished colleague from New York is back on the floor, the floor manager. I do not mean to speak on his behalf.

Mr. MOYNIHAN. Do.

Mr. SYMMS. When the Senator was off the floor, we had agreed that all we need on this side is 5 minutes for Senator BYRD, 5 minutes for Senator DOLE, 5 minutes for Senator MITCHELL, and 5 minutes for the two managers of the bill, and we are willing to yield back all the rest of our time.

But we do need to reserve that much time. And they need—those Senators—if they are within earshot, to be allowed that time to speak on the bill. Then we are ready to go to a vote. It will be the intention of the managers of the bill to move to table the first Graham amendment first, and the second Graham amendment second, and go to final passage.

Mr. MOYNIHAN. Does the Senator want to help us with the calculations? How much time would he want us to yield? Or we are prepared to yield all but that time.

Mr. SYMMS. We are prepared to yield all the time but that. We would make the unanimous-consent agreement to reserve that much time, I would think.

Mr. GRAHAM. I am prepared to yield back all but 15 minutes on the second amendment; 20 minutes on the first amendment. I understand the Senators want a total of 20 minutes on the first amendment.

Mr. MOYNIHAN. Twenty-five.

Mr. SYMMS. Twenty-five minutes total time is all we need for both amendments.

Mr. GRAHAM. Both amendments. I ask unanimous consent that the——

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. MOYNIHAN. Mr. President, perhaps the assistant floor manager would make the unanimous-consent request.

Mr. FOWLER. I thank the distinguished chairman of the committee. Let me make sure that I understood the request of the Senator from Florida and the Senator from Idaho.

My understanding is that further need for debate on both amendments would be 60 minutes; 15 minutes reserved for the Senator from Florida for the second amendment, and 20 minutes for the Senator from Florida for the third amendment.

Mr. GRAHAM. First amendment.

Mr. FOWLER. First amendment, and that a total of 25 minutes be reserved for the Senator from Idaho and the Senator from New York, which would include 5 minutes for Senator MITCHELL, 5 minutes for Senator DOLE, 5 minutes for——

Mr. SYMMS. Or thereabouts. We will have it all in a block. Those Senators requested time. That is our expectation. They have requested 5 minutes each, and if we reserve that much time, that is all we should need.

Mr. FOWLER. Mr. President, I ask unanimous consent that the agreement be modified; that all time under all amendments be considered at an end at 6:45; that the time will be proportioned 15 minutes to the Senator from Florida for his amendment No. 2; 20 minutes for the Senator from Florida for his amendment No. 1; and that 25 to 30 minutes remaining time be reserved for the chairman of the committee, Mr. MOYNIHAN, and Mr. SYMMS, the Senator from Idaho, that time not to exceed 30 minutes, at which time all time under the agreement will be deemed to have concluded and that the votes will occur beginning at 6:45 seriatim under the rules of the previous agreement of the majority leader.

The PRESIDING OFFICER. Is there objection? Hearing none, that will be the order.

Mr. FOWLER. I thank all Senators for their cooperation.

The PRESIDING OFFICER. Who yields time?

Who yields time?

If no one yields time, time will run from both sides proportionately.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent that I be allowed to speak for 10 minutes as in morning business, with 3 minutes to be charged to the Senator from Idaho and 7 minutes to the second amendment that has been offered by the Senator from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICA'S PATIENTS ARE PATIENT NO LONGER

Mr. KERREY. Mr. President, this morning's newspapers carried some good news for a change, and it is good news that will affect 74 million Americans. The papers reported that the Blue Cross/Blue Shield Association has offered to provide insurance for periodic tests to detect cancer, heart disease, and other diseases, even for subscribers who have no symptoms of illness.

Mr. President, it is important to point out that Blue Cross/Blue Shield's actions will obviously not affect those who have no insurance. It will not affect those 35 million Americans who are uninsured, and it will only affect those Americans who have insurance whose employers will offer this preventive care.

The story is good news because only 41 percent of insured adults are not covered for preventive exams; only 20 percent of the women who should be getting routine mammography currently do so. It is good news, because Blue Cross/Blue Shield is the Nation's largest private health insurer, which means this action will benefit the Blues' 73 million subscribers, and it may also benefit all the subscribers of other insurers, who will very likely follow the Blues' lead. It is good news because, as Dr. Paul Griner, chair of the board of regents of the American College of Physicians noted in the New York Times this morning, the extra spending for these tests should result in "'improved productivity of employees, greater longevity, and improved quality of life' for millions of Americans."

So upon reading this story, Mr. President, I decided simply to come to the floor today and congratulate the Blue Cross/Blue Shield Association and its new president, Bernard Tresnowski, for this act of corporate statesmanship, or as the Times quite correctly described it, an act of "enlightened self-interest."

That was my first reaction, Mr. President. I must confess, however, that as the day has progressed, I have had second and third reactions to this story as well. For as impressed as I am with Blue Cross/Blue Shield's action, I feel my anger welling up about a system of financing health care that gave us long, deadly decades of inaction.

All of us, Mr. President, know friends, and some relatives as well, who have had diseases detected too late for treatment to be of any benefit. There is great sadness, knowing that for a relatively small amount of money and a relatively small amount of effort, the detection could have prevented the tragedy of early death.

After all, Mr. President, this policy change is not a result of some recent scientific finding. The fact that early testing can save lives is not something that came out of the National Institutes of Health a few weeks ago. We have not just discovered that we can raise the effectiveness of treatment and lower its cost if we succeed in getting an early diagnosis of breast cancer, or cervical cancer, or coronary artery disease.

No, we have known that for some time. Indeed, while it is good news that Blue Cross/Blue Shield has now formulated guidelines on what preventive tests Americans should have, a task force presented a similar set of guidelines to Health and Human Services Secretary Louis Sullivan over 2 years ago. And so the question comes to mind: Why is our health care system just now responding to that information?

The reason, Mr. President, is that we have a system of financing health care that provides all the wrong incentives if our public policy goals include, as they do, preventing disease, controlling cost, and improving the quality of people's lives.

Tempted as I am to do so, I find it hard to fault Blue Cross/Blue Shield for not having taken this action earlier. I am a businessman myself, Mr. President, and so I know that insurers, like all good businesses, must serve the bottom line. And for all its merits, early testing has very little to recommend itself to the bottom line of a private insurance company.

There is a problem with testing, you see. It adds to an insurer's costs. But the benefits of any given test may not show up for years. For healthy people whose tests forever come back negative, there are, in a sense, no benefits. And worst of all, from a business perspective, if a subscriber switches insurance companies, insurance company B may reap the benefits of a test paid for by insurance company A. That is why insurance companies have not opted to cover preventive tests, even though doing so only requires charging subscribers what Blue Cross/Blue Shield now describes as a nominal amount of about $7.50 a month.

In that light, the statement about Blue Cross/Blue Shield acting out of enlightened self-interest looks very different. It suggests, accurately, that no fee-for-service insurer would ever pay for testing out of pure economic self-interest. Which is about as definitive proof as you could ever ask for that the incentives of our system of financing health care are at direct odds with the health care goals of the American public.

The American public believes we must stop the explosion of health care costs that is taking too much money out of our paychecks, our savings, our public budgets, and our corporate profits. Yet our system of financing health care has no incentives to provide cost-saving services like testing.

The American public believes every one of our citizens deserves to have a basic level of health care coverage. Yet our system of financing health care gives insurers every incentive to skim the healthiest patients and dump those with high health risks onto the rolls of Medicaid or into the ranks of the uninsured.

The American public believes that health insurance should cover those services and procedures that the public wants and needs. But as a representative of the health insurance industry was quoted this morning in the Times as saying: "Major employers call the shots. They decide what benefits to include * * *.

Mr. President, we have a choice in this country about the future of our health care system. It is not the choice White House Chief of Staff, John Sununu, has recently suggested by way of excusing the President's failure to offer any kind of health care reform program. Mr. Sununu has suggested our choice is one between free enterprise health care or socialized medicine. Mr. Sununu's motto seems to be: "Socialized transport, yes; socialized medicine, no."

But Mr. Sununu has it wrong. Our real choice is whether we will have a system of financing health care that is responsive to public goals or one that is not. Our choice is whether we will have a system that is cost effective or just costly. Our choice is whether the first priority of our system of financing medical care will be public health or private wealth.

Mr. President, Blue Cross/Blue Shield is to be applauded for its initiative. But there is little to applaud in a system of financing health care that makes us wait helplessly for insurers to do what we have known for years they should do. The Blues have taken a laudable step. But how long will we have to wait for other insurers to follow suit? How long will we have to wait before insurers exempt testing and other preventive services from deductibles and copayments that deter people from using them? How long will we have to wait for these same tests to be made available to the millions who do not happen to be covered by private insurance?

Mr. President, I think most of us are tired of waiting. I think America's patients are patient no longer. I think it is time we enacted the comprehensive reform we need rather than waiting for whatever incremental improvements we get.

Mr. President, I thank the distinguished Senator from Idaho and the distinguished Senator from Florida for yielding me this time.

Mr. President, I ask unanimous consent that the New York Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 19, 1991]

BIG INSURER OFFERS MEDICAL SCREENING AS PART OF POLICY

(By Robert Pear)

WASHINGTON, June 18.—In a departure from longstanding practice in the health insurance industry, which has emphasized the treatment and cure of disease without paying for much preventive care, Blue Cross and Blue Shield offered today to provide insurance for periodic tests to detect medical problems in people with no symptoms of an ailment.

The Blue Cross and Blue Shield Association issued guidelines for a lifetime schedule of medical tests to detect adult diseases, including cancer and heart disease, and said it would offer coverage for these services. The United States Public Health Service expressed support for the guidelines.

Other private insurers have expressed a willingness to cover preventive services and are expected to use the guidelines.

AN ECONOMIC INVESTMENT

The screening tests would add to overall national spending on health care at a time when the soaring costs of medicine have prompted a flurry of proposals in Congress for fundamental change in the nation's health-care system. But the concern about cost usually focuses on exotic high-technology procedures, not on simple screening tests, and Blue Cross officials described the coverage of preventive care as an investment that would yield economic gains, including higher productivity for workers.

The new coverage is envisioned as an expansion of existing policies. Blue Cross said it could cover the costs of insurance for preventive and screening services by charging additional premiums of about $90 a year for a family and $36 a year for an individual.

GROWING PUBLIC DEMAND

The guidelines come in response to a nationwide consensus of health policy experts that insurers should cover more preventive services. That idea is backed not only by the Public Health Service but by the 70,000-member American College of Physicians. The college developed the guidelines over several years in cooperation with the Blue Cross and Blue Shield system, which is the nation's largest private health insurer, covering 73 million Americans.

Health economists suggested that Blue Cross was also motivated by a sense of enlightened self-interest, because there appears to be a growing demand among employers and consumers for insurance to cover screening and preventive care, including health education and counseling to stop smoking.

The screening schedule specifies who should be tested when for high blood pressure, heart disease, cholesterol, diabetes, thyroid problems, osteoporosis and cancer of the breast, colon, cervix and lung.

Equally important, the guidelines say certain techniques, like exercise stress testing and tests for thyroid disease, are not recommended as routine screening procedures for people with no symptoms.

Dr. Paul F. Griner, chairman of the board of regents of the American College of Physicians, said that screening—the search for specific health problems in a person who has no known signs or symptoms—"has enormous medical value in finding disease early, when it can be treated most successfully and most economically.

In the last year, many private insurers have quietly cut back coverage of small groups of beneficiaries on which they say they have lost money. But Pam Kelch, a spokeswoman for Blue Cross and Blue Shield, said the medical tests included in the new benefits package would not be used to screen out people found to have costly diseases or high risk of developing such illnesses.

Bernard R. Tresnowski, president of Blue Cross and Blue Shield, said the group's 73 local plans around the country could offer coverage of the recommended screening tests for "a nominal amount" about $7.50 a month for a family whose insurance coverage now typically costs $200 to $300 a month.

Dr. David M. Eddy, professor of health policy management at Duke University, who edited the guidelines, estimated that national spending on health care would increase by $2 billion to $3 billion a year if all adults complied with the screening recommendation.

"IMPROVED PRODUCTIVITY"

But Dr. Griner said the extra spending would result in "improved productivity of employees, greater longevity and improved quality of life" for millions of people. The United States spends more than $660 billion a year on health care, and the amount has doubled in the last eight years.

The guidelines are not rigid standards, but doctors who ignored them could expose themselves to an increased risk of lawsuits for failure to detect cancer or other diseases.

Dr. Griner, who is also the chief executive officer of Strong Memorial Hospital in Rochester, said that 80 percent of the women who should be getting routine mammography were not receiving it.

To detect breast cancer, the guidelines say that women 40 years old and over should receive an annual examination of the breasts by a doctor or a specially trained nurse. In addition, the guidelines recommend annual mammography for women 40 and older who have a personal history of breast cancer or have a sister or mother with the disease. For women with no such history or risk, the guidelines call for annual mammograms starting at age 50.

Under the model benefit package for preventive services, Blue Cross would not pay for routine physical examinations, but would cover many procedures commonly performed in such examinations.

The 73 independent nonprofit Blue Cross and Blue Shield plans will be strongly encouraged but not required to offer the additional coverage. They operate 89 health maintenance organizations providing care for 4.6 million people. Routine exams and screening tests are already included in the services of such prepaid group plans. The new coverage is being offered to people who receive health care through traditional fee-for-service arrangements.

Joel E. Miller, director of professional services for the Health Insurance Association of America, which represents more than 300 commercial insurers, said some of them were beginning to offer similar benefits. But he said: "Major employers call the shots. They decide what benefits to include in their health insurance packages. There needs to be a marketing and education campaign to convince employers that these benefits should be included."

Medicare, the Federal health insurance program for the elderly, is slowly adding coverage for a few selected screening tests, like mammograms. Medicaid, the Federal-state program for poor people, already covers screening for many children and coverage of other services generally depends on state decisions.

Dr. J. Michael McGinnis, Deputy Assistant Secretary of Health and Human Services, hailed today's announcement by Blue Cross and the College of Physicians. "Historically, lack of financing has been a barrier to the delivery of clinical preventive services," he said. "A recent survey of insurance coverage for preventive services revealed that overall only 41 percent of insured adults were covered for preventive exams, and only 69 percent of preventive diagnostic tests were covered by these insurance policies."

Dr. McGinnis said the move by Blue Cross illustrates a growing recognition that preventive services must play a more prominent role in health care. "They are no longer to be considered distant cousins of diagnostic and curative services," he said.

The guidelines address these diseases, among others:

Cervical cancer. A Pap smear is recommended every three years, beginning at the age of 20, for women who have an average risk of cervical cancer, and every one to two years for women at high risk.

Colon-Rectal cancer. Annual screening for blood in the stool is recommended for people 50 and older. Examination of the colon with a fiber-optic tube known as a sigmoidoscope is recommended every three to five years for people 50 and over.

Coronary artery disease. Cholesterol tests are recommended at least once in early adulthood and then at intervals of about five years.

High blood pressure. Screening is recommended every one or two years for adults with blood pressure below 140/85. People with higher blood pressure should be checked annually.

Dr. McGinnis said that the development of a model package of benefits by Blue Cross was a significant step, but only a beginning.

SURFACE TRANSPORTATION EFFICIENCY ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

Mr. SYMMS. Mr. President, I ask unanimous consent that the time be counted on a 3-to-1 proportional basis.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

AMENDMENT NO. 364

Mr. DURENBERGER. Mr. President, I wish to take approximately 3 minutes on the amendment, and I understand the managers of the bill will yield time.

Mr. MOYNIHAN. I happy to yield that time.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 3 minutes charged to the Senator from New York.

Mr. DURENBERGER. Mr. President, it has been a long and difficult journey to this point. The managers of the bill, the distinguished Senator from New York [Mr. MOYNIHAN] and the senior Senator from Idaho [Mr. SYMMS] deserve much credit for their tireless efforts in moving this bill forward. The President of the United States, President George Bush, also deserves credit for laying out an excellent blueprint for the Senate to work from, and for doing his part to keep us within budget and on schedule. This bill, a work product of many hands, will help move America into a new century.

As a Minnesota Senator, I have been ably assisted in this bill by Gov. Arne Carlson and his Transportation Commissioner John Riley. Dozens of ideas that came to me from MN/DOT are now part of this bill. Minnesota and America will profit from this mutually beneficial cooperation between two levels of government. Minnesota's preference, and my own, was the President's original bill, but through detailed communication and hard work, we have made this a workable bill for the transportation needs of Minnesotans. This special relationship, which has benefited me and my State on the last two surface transportation bills to come before this body, will continue into the future.

Mr. President, this is the most important transportation legislation that has been considered in the Senate since the Congress authorized the construction of the Interstate Highway System during the administration of President Dwight Eisenhower. Today we look back at the visionary creators of the Interstate System with admiration and respect, and I stand here today, Mr. President, to predict that generations will view the authors of this legislation, and particularly my colleague from New York and my colleague from Idaho, with that same, if not even greater, esteem, for this legislation will serve as the foundation for this Nation's transportation network well into the next century.

With the Interstate System nearing completion, we now must turn to upgrading and maintaining the quality of the entire arterial network of highways and feeder routes that serve to move people and commerce in unparalleled efficiency. This legislation will enable the Federal Government to target those key highways that fit within the contours of the National System, while providing States and localities unprecedented flexibility in meeting local transportation needs.

Mr. President, I am pleased to have participated in what is a step toward ensuring that Congress accomplishes a timely reauthorization of the highway program. I commend the committee leadership for accomplishing the difficult task of drafting a bill that is responsive to a variety of interests.

The origin and maintenance of transportation systems are dependent on the Government. Government intervention is needed to design feasible routes, to cover the expense of building public highways, and to develop harbors and waterways. Adequate transportation is needed to create national unity.

In this respect, I commend the leadership for producing a true surface transportation bill. I support the increase in flexibility to apply highway trust funds for multimodal uses. I am pleased that my amendment for a National Highway System was accepted by the Senate. The National Highway System will offer a focus and a defined Federal role in any surface transportation program. It is appropriate to ensure that a minimal portion of the highway trust fund be spent on the rehabilitation of highways which are most critical to interstate travel and commerce. I trust that such miles designated by the States and the Secretary will reflect both a national purpose and individual State priorities.

The Interstate System has been the major accomplishment of the partnership between the Federal Government and the States in the Federal-aid highway program. It has changed the way we travel and improved our ability to move goods in interstate commerce. But it was planned more than 40 years ago. New population and production centers have since grown up, and our travel patterns have changed. The National Highway System will reflect those changes. We cannot rely solely on a system designed primarily in the 1940's to carry us into the 21st century.

The administration is to be commended for proposing a National Highway System and having worked with the States over the last couple of years to create an illustrative map. Secretary Skinner, Tom Larson, Administrator of the Federal Highway Administration and their staffs also deserve credit for working with the Senate to find a program that could be responsive to all States. I look forward to 1993 when the final National Highway System emerges and is reported back to this body of Government. In the meantime, my amendment providing for a National Highway System and designating an interim NHS will ensure a necessary foundation to maintain the existing system we have been in since 1806 when Thomas Jefferson signed the first Federal highway program into law.

SPENDING PRIORITIES

I regret that S. 1204 continues to favor maintenance of the highway system over highway construction. I am extremely supportive of compliance with the Clean Air Act. However, I believe that in the spirit of flexibility it should be left up to the State and local governments to make decisions unique to their areas. For example, Minnesota has expended many dollars and years in responsibly planning its portion of the Federal Interstate. Those plans have included the knowledge that extra lanes would be needed in certain corridors. After all those years of planning, S. 1204 penalizes my State for needing capacity improvements.

Also, the Surface Transportation Efficiency Act favors urbanized areas at the expense of rural areas. Spending is directed based on population rather than transportation needs or needs based factors. In a bill that promotes flexibility, this is an attempt by the Federal Government to micromanage transportation allocation and investment decisions. Historically, Minnesota has been successful in assuring that funds are equally distributed between rural and urban areas. It concerns me that we, the Federal Government, are stepping in to tell them where to distribute those funds. However, it is my continuing belief that the funds should be distributed fairly and equitably between metropolitan and nonmetropolitan areas.

Furthermore, I am extremely concerned that a discretionary bridge program for high cost bridges is absent. it is disturbing to think that Minnesota will receive $23.5 million in fiscal year 1992 under the Bridge Program in S. 1204, yet it will not be enough to meet the State's needs. At face value, $23.5 million appears to be adequate funding. However, in comparison with State needs totaling $100 million per year, $60 million for state trunk highway bridges and $40 million for local bridges, I am concerned that high cost bridges will be put on hold to better accommodate less expensive bridge projects. For example, Minnesota is currently working on a bridge which will cost over $50 million. Obviously, the State portion of that one bridge is going to consume a large portion of the annual bridge allocation. Considering the current state of repair our Nation's bridges are in, I don't think it's wise to force States into an all or nothing situation.

A discretionary bridge account would allow budget buster bridges to compete on a national basis for Federal funds in addition to the State's total annual allocation. Almost every State has benefited from the discretionary bridge program since its inception. New York heads the list having received over $327 million. My State has received a mere $50 million. However, the point is that one bridge doesn't have to drain the system and thus dictate State choices. I believe we should return the discretionary bridge program to the surface transportation program.

RURAL TRANSPORTATION

This surface transportation program addresses the transportation needs of rural America. The statewide distribution formula ensures that rural areas receive fair and equitable access to funds. My amendment for a National Highway System incorporated in this bill provides rural access to local, regional, and national markets with the inclusion of the principal arterials system.

As the population in rural America ages and as we see increasing consolidation of public institutions like schools and medical facilities, rural transit systems are becoming a necessity. This bill gives those programs both funding and flexibility. It doubles the funding level for section 18 transit funds designated for nonurban areas that can be spent on both capital and operating costs. The bill also allows for a significantly higher amount of funds eligible for transfer from the highway trust fund account for transit capital costs.

AMERICANS WITH DISABILITIES ACT

The bill increases flexibility among existing transit programs to allow rural transit entities to address the specific needs of their service area especially in regards to compliance with the transportation portion of the Americans With Disabilities Act which I am proud to have been the chief Republican coauthor of last year. Capital discretionary funds can be used to meet the requirements of ADA. In addition, equipment purchased under the elderly and handicapped program will be allowed to be leased to public transit entities. I have included specific committee report language that ensures flexibility in use of Surface Transportation Program funds for capital expenses incurred in meeting the Federal goal to make mass transit accessible to people with disabilities.

MINNESOTA PROJECTS

As a member of the Senate Finance Committee, I had the privilege of being involved in the crafting of the landmark 1982 Surface Transportation Assistance Act. Among the provisions of interest to Minnesota was an authorization of the Third Avenue North distributor project, which consisted of three parking garages and associated ramps, bus bays, and pedestrian walkways all linked into Minnesota Interstate HOV lanes. In addition, Congress approved an increase in the ethanol exemption which was extremely advantageous for Minnesota farmers and the environment.

Excited at the opportunity to be directly involved in the setting of national transportation policy, in 1983 I sought and obtained a seat on the Senate Environment and Public Works Committee. Over the course of the next 3 years I met with constituents, county commissioners, and others with an interest in improving our Nation's infrastructure in an effort to craft a national transportation policy to guide our Nation. While the Surface Transportation Assistance and Uniform Relocation Assistance Act of 1987 was not entirely reflective of what constituted sound public policy, it did address pressing national and Minnesota needs. Specifically, I was pleased to initiate an authorization for the Bloomington Ferry Bridge replacement project, and working with Minnesota's House delegation members, a new interchange on I–35 near Pine City, a railroad grade separation project near Moorhead, and numerous other improvement projects in Minnesota. Needless to say, Congressmen JIM OBERSTAR and Arlan Stangeland played key roles in making these projects realities.

Currently, my State has a number of projects needing Federal funds of which the Bloomington Ferry Bridge is the highest priority. It was awarded money through the discretionary bridge program last year. However, without the continuation of this program, construction plans are on hold. In addition to this bridge project, there are a number of highway projects in Minnesota seeking Federal funding.

Highway 610 in the Twin Cities is in need of $43 million between 1992–94 for the design and construction of a four lane freeway connecting two interstates. The need for this program was established over 20 years ago and maintains strong local support. The design would utilize the highway corridor for a high voltage power line corridor, cold weather pavement, and utilize a storm water runoff to recharge a depleted underground water aquifer. Also, it would offer a unique opportunity to work within an intermodal transportation system and promote IVHS technology, not to mention the effect of the surrounding economy.

Highway 212 in Minnesota is also in need of $11 million to ensure completion of this project that has been a goal of State and local officials since 1953. This project would provide southwestern Minnesota with a four-lane road. Currently, it is the only region of my State not connected to the Twin Cities by a four-lane road. The present congestion, safety, and access problems would be addressed by the completion of this project.

Also, Blue Earth County in Minnesota has requested Federal funds to initiate a 10-mile segment connecting two highways which are identified on the administration's illustrative map of a National Highway System. This project would spur economic and social benefits in the region, as well as aid in congestion, air pollution, and energy consumption for the southeastern area of Minnesota.

In addition to the projects I have discussed, there are others that I and my Minnesota colleagues will be pursuing to secure the authorization of funds in the final surface transportation package. I would like to see a portion of the increased budget authority used for both a discretionary bridge program and specific projects important to our States. At least these programs would place the States in competition to fund those that are important on the national scene, as opposed to programs that will only benefit a few States under specific circumstances.

SAFETY

Likewise, I am concerned that S. 1204 as reported failed to articulate a Federal purpose in safety. It is my belief that we as lawmakers should provide safe roads for the public. I am pleased that the leadership incorporated my provisions to include a standard to define where pavement markings are necessary and to establish a minimum maintenance level of retroreflectivity—level of brightness reflected back to the driver when a light hits it—for pavement markings and signs. This will provide a safer driving environment and be especially beneficial to older drivers.

Unfortunately, I feel that S. 1204 as reported abandoned safety initiatives by grouping them in a large pot of eligible projects. Although, the many eligible projects are worthy of Federal funds, I feel a greater priority is needed for safety. We have completed the Interstate System, but we have not completed our goal of providing safer roads. I thank my colleagues for supporting my amendment retaining the Hazard Elimination Program. This is crucial to ensuring that hazards continue to be located and repaired. Also, my amendment makes hazard elimination projects eligible under the seat belt and helmet safety provision at 100 percent Federal funding. I look forward to addressing the need for funding this and the Rail-Highway Grade Crossing Program at a later time.

The Rail-Highway Grade Crossing Program is imperative to ensuring that drivers are protected. Highway-railroad motor vehicle accidents at public crossings decreased 54 percent between 1975–90. This demonstrates a strong success record for this particular program.

The result of neglecting safety programs can be interpreted as outright long-term care health costs and lost productivity of an injured individual and of the major care giver which typically is a family member. Approximately one-third—3.5 million in 1987—of the long-term care population is under age 65, most of whom live in the community. It is crucial to realize that these programs strive to prevent unnecessary death and injury by locating and repairing hazardous situations.

Minnesota currently has 5,413 rail-highway grade crossings; 95 percent of those are on local roads—county State aid roads, city streets, municipal State aid highways and streets—and 5 percent are located on trunk highways. This is significant when you consider that some States with dedicated transportation funding sources, including Minnesota, are limited by State constitutions to spend such funds only on trunk highways. This means that 95 percent of grade crossing matches in Minnesota must be met by small local governments. At this level the difference between a 10 or a 20 percent match is substantial. For example, a $100,000 signal system would cost a local community of a few hundred people $10,000 under the current program and increase to $20,000 under S. 1204. This would consume the greater part of their annual budget.

In the current biennium, Minnesota has $6.9 million in Federal money obligated for railroad grade safety improvements. This includes projects to improve surfaces and add warning devices. The State will pursue 97 crossing improvements with this money.

Most grade crossings are in rural areas where large scale separation is not an affordable option. Cities typically choose to construct bridges to eliminate crossings all together. In addition, trains typically travel at nonscheduled intervals and at faster speeds—79 m.p.h. in comparison with in-city travel at 15–30 m.p.h.—in rural areas.

Minnesota continues to have a great need for a rail-highway grade crossing program. In the State, 65 percent of rail-highway grade crossings have cross bucks only, 13 percent have stop signs, and 23 percent have active signals. Although Minnesota has one of the lowest fatality rates in the country, it is experiencing an upward trend in serious train-vehicle accidents. A good share of accidents are alcohol related and involve vehicles running into trains as opposed to attempts to outrun trains. This leads one to believe that the primary cause is a lack of effective warning devices. In 1978, Minnesota saw 390 train-vehicle accidents. In 1989, this number decreased to 130 accidents. However, the number of fatalities has climbed upward from 4 in 1987 to 17 in 1990.

The decrease in accidents can be attributed to strong public education campaigns which have made drivers aware of grade crossing dangers. Unfortunately, drivers are becoming complacent. Furthermore, rail abandonments have encouraged this complacency.

Currently, MN/DOT is undertaking a pilot program to apply retroreflective material to crossbucks on both sides of the track. This would create a strobe light appearance to motorists when a train is in the crossing and the headlights hit between train cars. Hopefully such innovations will encourage other States to seriously examine ways to address train-vehicle deaths.

SAFETY BELTS AND MOTORCYCLE HELMETS

Mr. President, the goals of section 122 in the Surface Transportation Efficiency Act are laudable—the reduction of the number of fatalities and crippling injuries which occur on our Nation's roadways. In 1989, over 45,000 lives were lost in motor vehicle accidents and over 3 million people were injured. The consequences of these deaths and injuries cost our country approximately $74 billion each year. These losses are generated by a combination of lost lives, productivity, medical and rehabilitation expenses, and insurance and litigation costs.

The proponents of the safety belt and helmet provisions expect that this legislation will significantly reduce those losses which befall unbelted motorists and unhelmeted motorcyclists. The intent is to provide "a carrot and stick" mechanism of manipulating the disbursement of Federal highway funds in order to coerce States into adopting mandatory seat belt and helmet laws.

I believe there is merit in using Federal funds for highway safety research, to encourage States to improve traffic safety via greater education efforts, and by stimulating innovative programs designed to reduce the number of high risk motorists. However, I have serious reservations about using Federal "blackmail" to force States into enacting mandatory seat belt and motorcycle helmet laws. The only reason I did not offer an amendment to strike this provision from the bill was that it provides Federal funds at 100 percent Federal share for safety projects if a State has not passed both seat belt and helmet laws. As I have stated before, this bill lacks a clear Federal role in safety. Unfortunately, this provision is the only source of strong Federal support for safety projects at the State level.

The record in Minnesota seems to contradict the evidence that mandatory helmet laws are the best way to increase traffic safety of motorcyclists. During the period, 1968–77, when Minnesota had a mandatory traffic safety law, fatalities per 10,000 registered vehicles went up every year. In contrast, during subsequent years in which Minnesota has not required adult operators and passengers to wear helmets, the fatality rate has plummeted and is now at an all-time low.

Why did this occur? I believe that Minnesota motorcyclists and lawmakers realized that there is no substitute for continued ongoing traffic safety education and tough licensing provisions. Minnesota motorcyclists encouraged the State legislature to enact tough licensing standards. They have also implemented comprehensive rider education programs and public awareness programs which have won national recognition and served as a model which other States have emulated.

The Minnesota Motorcycle Riders Association and ABATE of Minnesota implemented "Dial-A-Ride," a program utilizing volunteers to keep impaired riders off the road. It offers a workable alternative by transporting an impaired rider and his bike to his home or to a motel, if needed. The program operates from May 1 to October 21, the primary season to operate a motorcycle in Minnesota. The program has widely distributed posters that prominently display the phone number to call to use its service.

In closing, I would like to encourage my colleagues to closely examine why Minnesota has been able to drastically lower the fatality rate of its motorists to one of the lowest in the Nation. I think they will find it is because Minnesotans know that there is no panacea or easy fix. Minnesotans know that it takes persistent effort in a broad array of traffic safety initiatives to significantly reduce roadway fatalities.

Minnesota motorists and motorcyclists have shown that they have a strong commitment to improving traffic safety. They have requested, supported, and prodded the Minnesota Legislature to honestly and competently meet their demands for safer roadways. They do it because in Minnesota good behavior is rewarded—not because someone in Washington said that they "had to do it."

Mr. President, I would caution that reliance on Federal mandates to traffic safety, such as those embodied in S. 1204, may be counter-productive in the long run. I have little doubt that it will stir up considerable resentment and provoke strong protest. It seems to me that a wiser course of action would be to enlist cooperative support and to harness the creative energies of concerned citizens to work together with the goal of decreasing the number of serious traffic accidents. Consequently, I believe that this legislation needs to be refocused to solicit teamwork, rather than provoke conflict between government and citizens, both of whom share a common goal of improved traffic safety.

RECREATIONAL TRAILS

Mr. President, as former chairman of the Hennepin County Parks and Reserve District, and as former chairman of the Metropolitan Parks and Open Space Commission in my State of Minnesota, I have considerable experience in the recreational trails business. Unfortunately, Mr. President, of late it seems increasingly difficult for my interest in my State's recreational trails to be coincidental with my commitment to the environment.

Mr. President, my State has a significant number of trails—trails that are enjoyed by various groups of sports enthusiasts. I have long believed that it is important for all of these groups to be fairly represented in funding and access questions regarding their right to trails. I believe that the compromise reached on the National Recreational Trails Act accomplishes that.

Mr. President, I believe that when considering all our States' trail needs, it is important to continue to build a partnership between the States and the Federal Government. I believe that this package strengthens this relationship, as well as takes important steps toward increasing flexibility in trails funding needs.

VISUAL POLLUTION CONTROL

Mr. President, I have many times before stood here and articulated my support of devolution. I do not support unnecessary Federal Government intrusion in State issues.

This section of the Surface Transportation Efficiency Act of 1991 basically was intended to do two things: First, it would have allowed States to decide if they want to remove nonconforming billboards. Second, it would have allowed States to decide how they want to compensate billboard owners when removing nonconforming billboards.

Current law dictates that States must remove nonconforming billboards. Obviously, that hasn't been very successful. There are still a large number of nonconforming billboards. Nonconforming does not mean illegal. Therefore, the Federal Government should not dictate that they come down.

The Federal Government should not require the States to pay more in the way of "just compensation" than the fifth amendment requires. Yet the cash compensation requirement in existing law does just that. It is the State's zoning that makes a billboard nonconforming rather than conforming. Under this bill, it is the State that will decide if it wants a nonconforming billboard to be removed. The State law should and will determine how the billboard owner will be compensated. That brings me to the second major aspect that was included in the highway bill before it was struck out during floor debate.

S. 1204 merely eliminated the withholding of highway funds from States that choose to remove billboards with amortization. In addition, this bill provides adequate funding to States to provide cash compensation, if they so choose. It is my understanding that several States' constitutions approve of amortization and use it to eliminate other types of nonconforming land uses. Some of the uses include junkyards, trailer parks, grocery stores, dog kennels, auto storage, and trash balers. The amortization periods in these cases ranged from 1–7 years. Also, several States are opposed to the concept of amortization and their respective State constitutions articulate that oppostion.

Opponents to this bill argue that amortization is unconstitutional under the United States Constitution. But, the legislative branch of government is not here to decide the constitutionality of anything. If a constitutional right is being violated by State law, the aggrieved party has a remedy in the courts.

While Congress should probably not waste its time and effort passing laws that are clearly unconstitutional, private citizens do not need a Federal statute to protect a constitutional right. They can protect their own rights through the legal system, because the courts will not allow the States to take a person's property in violation of the fifth amendment. I regret that this highway bill once again does not address the concerns of visual pollution.

INTELLIGENT VEHICLE HIGHWAY SYSTEMS [IVHS]

Finally, I am pleased that the intelligent Vehicle-Highway Systems Act offered by Senator LAUTENBERG and myself has been incorporated into S. 1204. I especially thank Senators MOYNIHAN and LAUTENBERG for their strong support of the promotion and application of this technology.

IVHS has four important benefits. It optimizes our transportation resources by moving more people per road and tax dollar. Our roads will be safer because congestion and accidents can and will be prevented. We will be more productive because workers will spend less of their workday on the freeway. And finally, a more efficient highway system means fewer gallons of gasoline burned and fewer tons of air pollutants to deal with. This puts technology to work for the people. Minnesota is already a national leader in highway technology through its Guidestar Program. I am thrilled that the Federal Government is ready to commit resources to advance the implementation of this technology.

In order to one day fully realize the benefits this technology has to offer our travelers, we must first commit ourselves in the advancement of the technology, its practical use in field testing, and an evaluation process that allows us to learn the benefits and any possible drawbacks before major deployment decisions are made.

As we finish building our Interstate System, we find that we can no longer build our way out of congestion. However, the technology currently exists in the area of Intelligent Vehicle-Highway Systems that can contribute substantially to reducing congestion, while promoting increased safety and capacity, environmental concerns, and air quality. Therefore, Senator LAUTENBERG and I introduced legislation which would insure adequate funding for research, development, and testing of IVHS technology.

Currently, the United States lags far behind Europe and Japan in its efforts. It will take substantial investment to match those initiatives and begin to realize the safety and efficiency benefits of IVHS in this country.

Minnesota has already taken a bold step forward to play a leading role in the implementation of IVHS technology with its Guidestar Program. The goals of the Guidestar Program are utilize advanced technology to combat growing congestion and to improve safety on all Guidestar corridors. Minnesota has been successfully using advanced technology in traffic management programs for several years. The results of these efforts show accident reductions of 30 percent and speed increases of 25 percent for specific freeways. Overall, Minnesota has had the lowest fatality rate in the Nation for several years and will continue to promote a further reduction in Minnesota fatalities with new Guidestar initiatives. Because of Minnesota's commitment to IVHS technology, the country will reap the rewards of studying a complete application of IVHS technology in a metropolitan area within the next few years.

Real-life implementation is the key to realizing how we can all benefit from IVHS technology. To best achieve well-informed decisions in the future application of this technology, we must encourage and facilitate more projects such as Minnesota's Guidestar Program. Therefore, a clear Federal role is imperative to ensure that an integrated system ultimately emerges.

MAGNETIC LEVITATION TRAVEL

Mr. President, from my first days in this body, I have been intrigued by the potential for the use of magnetic field technology to create trains which exceed our current expectations by several orders of magnitude. Because Japan and Europe have implemented this technology, most people don't know that this idea was originated by Americans in the 1960's. Minnesota is considering a future mag-lev connection between the Twin Cities and Chicago. I am gratified that because of the leadership of Senator MOYNIHAN, this promising technology will become a reality by 1996 with a 30-mile prototype system.

CONCLUSION

Mr. President, a coordinated, efficient, and future-oriented transportation system is one of the cornerstones of our economic strength. The electron may travel 186,000 miles in a second, but moving goods and people across the surface of this planet will continue to be a national priority.

The Federal Government must be more than a cashier in surface transportation, receiving gas taxes and doling them back to the States. The National Government should pursue national purposes on behalf of all Americans:

A National Highway System which serves all highways users whether they are in Mankato, MN; Miami, FL; or Barstow, CA;

Using technology to bring us the highway of the future which move more people and goods more quickly, cleanly, and safely than we can even imagine today.

Making safety our No. 1 priority, by funding lifesaving improvements before regular construction or maintenance.

I am proud to have improved this bill in all three respects and believe we have a bill we can send on to our colleagues in the House with enthusiasm.

Economic vitality is a key to many of the freedoms and values we cherish. This bill will help America into a new century.

Mr. MOYNIHAN. Mr. President, we thank our colleague. If I might be so bold, the day may come when they name it for DAVID DURENBERGER.

Mr. DURENBERGER. Mr. President, I thank my colleague from New York. I yield the floor.

Mr. MITCHELL. Mr. President, I ask the distinguished manager whether he would yield to me time to speak in opposition to the pending amendment.

Mr. MOYNIHAN. Of course. We yield the majority leader such time as he requires.

Mr. MITCHELL. Mr. President, I urge my colleagues to reject the amendment offered by my colleague from Florida, Senator GRAHAM. The word "fairness" has been used repeatedly during this debate. But with all due respect, Mr. President, if this amendment is adopted, the greatest unfairness yet to have been suggested with respect to this bill will be caused; not by intention, because I know and respect my colleague and know he would not intentionally cause unfairness. But that would be the effect.

Permit me to explain that.

Mr. President, when this bill was reported out of committee to the Senate floor it provided for the allocation of $88 billion for highway construction maintenance over a 5-year period. That was the amount in the Senate budget resolution. As a result of the fact that the Senate receded to the House in the conference, there became available an additional $8.2 billion for distribution.

Much of the discussion and debate that has occurred in the nearly 2 weeks we have been on this bill has been over how to allocate the additional $8.2 billion. The original proposal would have taken $5.4 billion of it and allocated it under a formula which reflects the amount of gas tax and per capita income in each State and left $2.8 billion to be distributed to the so-called donor States to try to accommodate their concern over what they regarded as insufficient allocations under the regular formula.

One of those donor States is Florida. And as the Senator from Florida knows, at several meetings, I urged the amount to be allocated of the $8.2 billion devoted to donor States should be increased to half of $8.2 billion; so that of the $8.2 billion allocated, half under the formula that deals with gas tax and per capita income and half allocated to donor States as they choose. That was done.

Under the combination of those 2 formulas, 42 States received increases out of the additional $8.2 billion; 8 States received nothing out of the additonal $8.2 billion. Three of the eight States are Kansas, represented by the distinguished Republican leader; New York, represented by the manager of the bill; and Maine, which I represent.

We accepted that for two reasons. First, because we felt our States were reasonably fairly treated under the basic formula. And we understood that the $8.2 billion cushion was to go toward accommodating the concerns of those States who did not feel they were as fairly treated under the basic formula. Second, in a spirit of compromise, in an effort to move this bill forward; all of us in leadership positions and having a responsibility to the institution as a whole and to the Nation as a whole to move legislation forward.

Mr. President, this amendment, if adopted, would say if the additional $8.2 billion is not fully available during the 5-year period, then the eight States which receive nothing of the additional $8.2 billion should then receive a cut below the amount they would otherwise receive under the basic bill.

Mr. President, I submit that is unfair. That produces the result that no one could want or intend. That says that 8 States, which alone among the 50 receive no additional funds from the $8.2 billion so-called cushion will, if the full $8.2 billion is for some reason not available during that period, have to take cuts so others will receive a higher proportion out of the cushion.

I do not appeal to anyone's parochial interest in this. I appeal to everyone's sense of fairness. It is one thing to ask a relatively small number of Senators to accept a formula that provides their States with no portion of the additional funds. And it was difficult to accept. But I will speak for myself. I did so because, again, I felt our State was fairly treated under the basic formula.

But now, to say that in this circumstance, our State should actually receive a cut below that which they would have received under the basic bill, I think is just simply downright unfair. And I hope that Senators will join in defeating this amendment.

I would like to make one final point, Mr. President, as Senators think about this. Even if a State receives extra funds out of the $8.2 billion allocation, either through the formula that relates to gas tax and per capita income or minimum allocation or both, if this amendment is passed that State could still receive a net reduction in funds, because it effectively does away with the hold-harmless provision that is in the bill.

The reason that could happen is simple. If a State does not receive as much back from the $8.2 billion in additional funds as it loses if a reduction occurs in the obligation ceiling to accommodate the full $8.2 billion, then even States that would otherwise appear to be gaining funds will be net losers if this amendment is adopted. The hold-harmless does not just protect the 8 States, it protects all 50 States, including the 42 that receive benefits under the additional funding.

That obviously would not apply to all of the 42. Those which receive very large sums out of the $8.2 billion would not run much of a risk. But those who receive relatively moderate amounts run the risk that if the hold-harmless is gone, it is gone for them, too.

So I say to Senators, if they do not want to heed the appeal of just fairness, as I hope they will, that they will consider their own self-interest. They may well be representing a State whose funds will be cut if this amendment is adopted, and if the eventuality to which the Senator's amendment addresses itself does occur.

So, Mr. President, I thank my colleagues for their attention. We hope to finish this bill soon, and I hope our colleagues will join in tabling this amendment.

One final consideration: Under the unanimous-consent agreement, if this amendment is tabled and defeated and the second Graham one is, we finish the bill tonight. If this amendment is agreed to, Mr. President, we are going to see a lot more formulas, and a lot more votes on this floor, because this will have created a situation that is simply not acceptable to many of us; certainly myself.

I will let the Republican leader and the distinguished manager and others speak for themselves.

I thank my colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, we yield the Republican leader such time as he requires, such as is available.

Mr. DOLE. How much time would that be?

The PRESIDING OFFICER. That is 6 minutes and 5 seconds.

Mr. DOLE. That will be more than enough, Mr. President. First, I want to subscribe to the argument just made by the distinguished majority leader. And then, second, to what he said at the end of his statement.

If this amendment should be adopted, then we are just beginning to work on the highway bill.

Mr. MOYNIHAN. No.

Mr. DOLE. I have learned a few things in the last few days, and one is charts are charts, and we can get plenty of them. I have worked with the distinguished majority leader and the distinguished chairman of the Committee on Appropriations to try to draw up a fair formula for dividing the level of effort, $4.1 billion pool contained in the Byrd amendment.

I learned an important fact: That any Sentor can get any kind of chart. We can sort of cook the books. If we give the right information to the people downtown, they will give us the right numbers—or the wrong numbers. I want to just review, sort of, the arithmetic.

Under the formula of the chairman of the Appropriations Committee, 33 States received a part of the $8.2 billion total; in other words, he had 66 votes. My original formula gave more money to only 18 States, so I only had 36 votes. I was 30 short.

However, with the able assistance of an overworked master of numbers at the Federal Highway Administration, we found a way to change this formula, and by this morning I had 54 votes and the distinguished chairman of the Appropriations Committee had 46 votes.

Mr. BYRD. I do not believe that.

Mr. DOLE. He probably had more. All right; that is what the numbers said. I threw in another few, just knowing the chairman of the Appropriations Committee had been working very diligently. And he had my vote yesterday, too.

But the point I would make is it is not how many numbers or how many votes. The charts can be made. And, as I recall, we were told at the outset of this highway bill we just found $8.2 billion lying under a rug somewhere. I do not know where it was. It is free money and we ought to spend it on highways.

I have been all over the building, and I cannot find quite where the money was hidden. But I did notice that my State did not get one dime of all this free money. I think the Senator from Maine noticed the same thing. So we began to ask questions. If it is not free money, if there really was not a rug that big, then do not take any more from the zero States, which is what I understand the amendment of the distinguished Senator from Florida would do. And let me commend him for his tenacity.

We pleaded: Do not make us less than zero. So we adopted a hold-harmless provision. It would be pretty hard to get less than zero. We were not willing to accept less than zero.

As I recall, the distinguished Senator from Florida was at least present during those negotiations. I did not know of any objection to that suggestion. I do not think the amendment was debated at length on the floor. It was adopted. Now we want to go back and come up with some more charts.

Again, I do not fault the Senator from Florida. Certainly, he has that right.

Let me say, the reason we did not pursue the so-called Dole amendment this morning on total effort—well, there were a couple of reasons. First, although I had the numbers, I was not certain I had the votes. I have dealt with the distinguished Senator from West Virginia before, and he is a very accurate counter. Always just give him a few because of who he is, I would throw in a few votes. So I would have to go back and get some more numbers.

I did not think 46 to 54 was enough of a margin, so I wanted to go back and at least have a 2-to-1 margin. Then even with the normal erosion you would normally get from the chairman of the Appropriations Committee, I could still eke out a victory.

But it seemed to me the best course to follow was to just suggest, as we did in the sense-of-the-Senate resolution, that the conferees consider total effort plus a couple of additions made by the distinguished chairman of the Appropriations Committee. That is why I think it is good to point out, if this amendment is adopted, we are all going to go back to the charts again. We will draw up another chart. Somebody will have another amendment. For those Senators who are looking just at the dollars, they may decide this is a little better amendment than the last one. And this could go on for some time.

It seemed to me this morning we finally had to bring this to a halt. I know the managers have been trying to do that for several days. I think they were correct. I think the Senator from West Virginia was. As I said yesterday, I agreed with half of his amendment. It was just the other half I did not agree with. I voted for the half I agreed with. There was not any chance to vote against the half I did not agree with.

I suggest we ought to dispose of this amendment or be prepared for a lot of discussion and a lot more debate, and a number of more amendments. I think many of us are prepared to do that. We think we have had our debate.

I commend the managers. I commend the Senator from Florida for, as I said, his tenacity and willingness to stick with it. But it seems to me we have reached the point we ought to move on; we ought to pass this bill and go on to the crime bill yet this evening or sometime tomorrow morning.

Mr. MOYNIHAN. Mr. President, how much time have we remaining?

The PRESIDING OFFICER. The Senator from New York should be made aware that the time allocated under the time agreement, allocated to him, has expired.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent we might allow 5 minutes for the Senator from West Virginia to speak to this matter.

The PRESIDING OFFICER. Is there objection?

No objection being heard, the request of the Senator from New York for an additional 5 minutes for the Senator from West Virginia is agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New York [Mr. MOYNIHAN] for arranging for me to have this time.

I am opposed to this amendment. I am not 98 percent opposed. I am not 99-percent opposed. I am 100-percent opposed.

I recognize the right of the distinguished Senator from Florida to offer the amendment. I admire him for his tenacity. I congratulate him for his efforts to amend the bill to his liking.

I have to say to the Senator that, as the Senator who led the fight at the summit—I do not think anybody on this floor will challenge that statement here on the floor or off the floor; I would daresay the Members of the House who were present at the summit will agree—I led the fight for infrastructure, and with the support of some of my colleagues on both sides of the Hill, we carried that fight. We did not get everything we wanted, but we got a lot more than the administration representatives were at first prepared to give. The stakes in this matter are as high for me as they are for the Senator from Florida. I am as dedicated to the infrastructure of this country as is any man or woman living in this country.

I also realize, as a former majority leader of this Senate, that there has to be compromise. I recognize the need to move on to other legislation. In that spirit, I have tried to guide myself throughout. In the initial negotiations that took place concerning my original amendment, or amendments, I was asked by the majority leader to come to his office. When I reached the office, there were other Senators there: Senator BENTSEN; Senator MOYNIHAN was there; Senator BURDICK, I believe, was there. Certainly they were among other Senators who were there. But there were Senators from the donor States there. My State is not a donor State.

The amendments that I first offered, as has already been explained here, did not deal with the donor States' problem. That does not need any further explanation. But when I heard the case of the donor States, as related by Senator BENTSEN, Senator WARNER, and others, I immediately recognized that something needed to be done. I felt that my amendment benefited 33 States. I felt that I could probably get 66 votes or more, or even if less, certainly a majority. But I also recognized the fact that the donor States were willing to make a fight. I heard Senator WARNER say, "We will fight on the beaches, we will fight in the air, we will fight here, we will fight there," and I think JOHN WARNER meant that. Just for purely practical, political reasons, I recognized the need to modify my amendment.

But on the basis of fairness, which goes deeper with me, on the basis of fairness and reasonableness, I saw the justice of their case. Having lived now close to 74 years, I have reached certain conclusions in my life long before this. One is, you have to give and take in this life; you cannot have it all your way. And having worked 22 years in the leadership in this Senate, I long ago learned that one has to take into consideration the needs of his colleagues. I adopted that spirit as we discussed these matters. The majority leader, having called the meeting, asked me to consider splitting the $8.2 billion. I said, let me think about that.

The PRESIDING OFFICER. The Chair informs the Senator from West Virginia that the 5 minutes heretofore requested has expired.

Mr. MOYNIHAN. I ask unanimous consent 2 additional minutes be allowed.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has the floor.

Mr. BYRD. I said I cannot hold this piece of paper up right now and accept it. I need to study it. I will certainly study it. I came back and said, OK, we split.

Then the next request was on the basis that we protect the States, that we guarantee to those States which are in the bill and which were not benefited by these two amendments, the donor amendment and the level-of-effort amendment, that they be held harmless. And that was a fair request. So I agreed to include that.

The Senator from Florida has explained his amendment. I would like to say that the level-of-effort program is just as important to my State as the donor program is to Florida. I will make every effort to provide as high an obligation ceiling as possible when the transportation appropriations bills are considered.

As I stated this morning, no one can provide guarantees as to what the funding levels might be in future years. We do not know what the economy and other factors are going to be like. The level-of-effort program is on the same footing as the additional donor State program. As the Senator from Florida knows, if sufficient obligational authority is not provided to fully fund each of these programs in future years, a proportionate reduction will be made in both. I have as much at stake, as I have said, in seeing that they are funded as does the Senator from Florida. But I know of no way to provide a guarantee as to what a future obligational ceiling will be.

The Senator knows my strong commitment to infrastructure. And he knows that it is very important to me and that I believe it is very important to the Nation. While I understand the concerns of the Senator from Florida, I oppose his amendment. The hold-harmless provision is the underpinning of the amendment which I offered. It is the underpinning. Because not all States benefit from my amendment, it was agreed among the negotiators that the hold-harmless provision is a critical element of the amendment. If this provision were to be amended, then the Senator from Florida must know that he will threaten to take down the entire amendment and the entire agreement.

Mr. President, I urge Senators to oppose this amendment. If it is agreed to, we will not finish this bill this week; we will not finish this bill next week, and we will be back on it after the July 4 break, and I do not know when or whether we will finish action on the bill.

But we need to get on with the bill. We have two appropriations bills on the calendar right now that are important to all the States. The energy and water appropriations bill certainly is. The other is the legislative appropriations bill. They are both important bills.

I was talking to the majority leader earlier today and expressed the hope—I know his problems in scheduling—I expressed the hope that we will get those appropriation bills passed before the July 4 break. But if this amendment carries, we will not get them passed, and the Senator from Florida will be bringing down this bill, and I will nickname him Sampson in the future if he brings down the temple crashing around our ears. He does it, of course, not with the intention of killing the bill, but that would be the effect.

I hope that Senators will vote the amendment down by a vote to table it. I urge Senators to vote to table it. Hear me. If this amendment were to carry, the agreement is broken, the underpinning is gone, and the Senate will go home for the break without having passed this bill.

The PRESIDING OFFICER. The time allocated has expired. The Senator from Florida is recognized. Senator GRAHAM has 17 minutes left.

Mr. GRAHAM. Mr. President, am I correct the time for the opponents of the amendments has expired?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAHAM. Mr. President, I would like to take a few moments to close on my amendment, but before I do so I would like to extend my appreciation to some people who have been very helpful to me and to this process over the past several weeks.

First, Miss Juliana Walsh of my staff and Mr. Mike Niedhart, who is a student at the University of South Florida, who has been working as an intern specifically on the transportation issue. Also, Mr. President, three representatives of the Florida Department of Transportation who have been assigned at the direction of our Secretary of Transportation, Mr. Ben Watts: Mr. Doug Callaway, Mr. David Lee, and Mr. Bill Taylor. I would like to express my appreciation to all of them, although I wish to absolve them from any of the responsibility for the dire, even biblical, consequences which may happen should this idea be of sufficient merit to justify a majority vote by the Senate. I am really quite surprised that this idea is considered to be of such moment. To me it is relatively modest and straightforward.

What the current structure of our Surface Transportation Act has become is a dog which arrived here weighing $105 billion, a dog that we will call donkey. It is still a dog, but the manager of this bill, the senior Senator from New York, wishes to refer to it as a donkey. This dog arrived at $105 billion. It was a dog that many of us found very distasteful because it was carrying forward into 1996 many of the very features that had caused us to be so irritated, to find so many fleas for the many years in which it has existed. We scratched and we found that in this $105 billion dog was the 1980 census to be used through the year 1996 as a factor in the distribution of Federal funds. I know the Presiding Officer would find that a difficult fact to explain to the citizens of the State.

We also found, as we scratched this dog, that we were using the 1916—1916, that is not a mistake, Mr. President—postal road formula as another significant factor in the allocation of Federal funds through the year 1996. So that many of us were disturbed about this.

Frankly, we were also disturbed because we looked back over the past many years, and in the case of States like North Carolina for 30 or 40 years they had been very significant donors, that is, they had shipped large amounts of money to Washington and received significantly less in return. We thought this would be the time—new departure, new direction, new post-interstate era—that we would have a formula which would reflect some new reality and fairness. We were disappointed with the dog.

So the dog came to the Senate floor. Some of us thought, let us change the dog. Let us offer some amendments that will be within this $105 billion and make this dog more attractive.

We did not find much receptivity. We have had a hard time getting anybody who would come to the kennel and talk to us about changing the dog. But then someone came forward with the idea, hey, let us put a tail on this dog. This old, mangy critter, old and blind in one eye, let us make it look better by putting on a fancy tail. And it was not an inexpensive tail either. It was a tail that was going to cost $8.2 billion. Not very many people have seen tails of that quality. And so that was going to be hung onto the dog in order to make the overall animal balanced.

The tail was divided in half. The right half of the tail was to be distributed based on a concept of State effort and poverty. If you had more and you had less, you received more Federal funds. The other half of the tail was to be distributed to those States that have over the years and under this bill been donor States, that is, they have shipped money. Not to make us whole, Mr. President. We would like to ask for that, but that is not going to happen. But at least let us have some minimum expectation. That was what the second half of the tail was all about.

But a funny thing happened in the process of putting this tail and dog together. That is, instead of having a good plastic surgeon who could fully secure the tail to the dog, we found that we had an amateur.

That word "amateur" is inappropriate because it assumes that the person did not know what he was doing. In fact, it was rather skillful, it was pure professional, but his job was somewhat like the children's game where you are blindfolded and you have a tail and you go stick it on the dog, which we will call donkey. And so it was just stuck on like velcro. It was not, as with the plastic surgeon, fully attached.

And so that is where we are today. Should we bring in the plastic surgeon, which this amendment will do, and fully attach the tail to the dog or should we continue to have the velcro tail?

Why should we bring in the plastic surgeon? I would suggest the following reasons. One, no State loses under this amendment if we fund the program as fully as we have said we are going to fund the program. When over 90 Senators voted for Senator BYRD's amendment, they did so in the expectation that we would have the full amount, we would have the dog and we would have the fancy tail. And what we want to do is assure the fullest support not only tonight but through 1996 for a national transportation program as an important part of meeting our infrastructure needs. We ought to have everybody wanting to be part of fully funding that program. That is exactly what this amendment will do. Every State will get exactly, to the penny, what they have expected if every State comes together. This amendment says when we all get the full amount of money, we will all get individually what we want.

The bill itself says that if we get less than the full amount of money, there are going to be some of us dogs who are not going to get very much porridge at all if this dog eats porridge.

Second, fairness becomes a function of looking at the animal. Clearly, the $105 billion dog that came from the committee was not a fair dog. It had tremendous mistakes. It had 40 percent of the States in the Nation, more than 40 percent in fact, in the minimum allocation category. That is to say, they did not even get what was considered to be the basic diet. They had to get a special supplement to be brought up to basic adequacy. It is hard to argue that a formula that puts 40 percent of the States in America in a minimum allocation pool is a very fair formula for distribution.

I would like to suggest this. If any one of those States, any one of those eight States that did not participate in the amendment of the Senator from West Virginia would like to change positions with the State of Florida, we will be glad to take their position. We will take their position after they get zero money under the amendment of the Senator from West Virginia.

I do not see very many coming forward and suggesting that they would like to make that trade.

Mr. BYRD. I would certainly be happy to exchange West Virginia's money for Florida's money.

Mr. GRAHAM. If we could on a proportional basis. If we could on the basis——

Mr. BYRD. That is an addendum.

Mr. GRAHAM. Of a contribution——

Mr. BYRD. Now he is adding a codicil.

Mr. GRAHAM. If we could on the basis of contribution, we would be happy to undertake the same dollars in an attempt to meet the needs of our folks that the Senator is going to provide, very appropriately, for the citizens of West Virginia.

Finally, Mr. President, we are going to put a lot of our States at very great risk. I see the Senator from Illinois has just arrived on the floor. I happened to have run a calculation for the State of Illinois. Illinois is going to receive, if the Byrd amendment is fully funded, $164 million over the 5-year period from the minimum allocation portion of the Byrd amendment.

That $164 million will represent more than 5 percent of all the transportation funds that the State of Illinois would get in the next 5 years. So the State of Illinois will be at significant risk if the Byrd amendment is not fully funded. Illinois is not in as bad a shape as its neighbor Indiana which has 11.4 percent of its total highway funds represented by the minimum allocation funds in the Byrd amendment.

So we have a significant number of States with a very high proportion of their total transportation funds at risk unless we can assure that everybody gets their expectation by fully funding the legislation.

The Moynihan-Symms dog and Senator BYRD's beautiful tail, that is all that my first amendment seeks to do. It is just fundamental fairness, the United States of America united toward the common goal of fully funding Senator BYRD's amendment.

I do not want to see anyone pull that Velcro tail away from our dog which I fear will be a very great temptation particularly when we get to 1996 when we are going to be distributing $3.3 billion, and, of that, $2.8 billion will go out in that 1 year alone. There will be tremendous political pressure to use that $3.3 billion for some other purpose than seeing that these relatively few, 40 percent, of the donor States that have that little bit of Ken-L-Ration necessary to sustain their transportation well-being.

Mr. President, that concludes my comments on amendment No. 1.

Just to briefly mention amendment No. 2 which no one has spoken to, so I assume it is accepted, and I would——

Mr. BYRD. Mr. President, will the Senator yield on amendment No. 1?

Mr. GRAHAM. I yield. Mr. President; how much time do I have?

The PRESIDING OFFICER. The Senator has 4 minutes 30 seconds.

Mr. GRAHAM. I would like to reserve my 4 minutes 30 seconds for some brief comments on amendment No. 2. With that, I ask unanimous consent for that. I will yield.

The PRESIDING OFFICER. If there is no objection to the unanimous-consent request——

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

If there is no objection, the unanimous-consent agreement propounded by the Senator from Florida is agreed to, and the——

Mr. SYMMS. Reserving the right to object. I will not object, but we have had some requests that we do not allow this to be extended much longer than the time that is allotted. If we are not talking about yielding for more than 1 minute, I do not think there is any objection. If we go beyond that, we will object.

Mr. BYRD. Mr. President, I thank the Senator for his willingness to yield. I do not have any question.

Mr. GRAHAM. Mr. President, the second amendment, on which there has been absolutely no comment, and I will say should have no effect in terms of causing this bill to be open for other amendments because it relates strictly to what happens within a State rather than the allocation among States.

What this says is that we would essentially maintain the status quo in terms of a State's flexibility to use its funds as between maintenance and new capacity. Under the current law, a State can use its highway funds and its bridge funds interchangeably between maintaining an existing facility or building a new facility as it deems is most appropriate to its needs.

Under this bill, for the first time, there will be a distinction. You will get 80 percent Federal participation, or to put it another way, a State would have to come up with 20 percent in order to draw down 80 percent for maintenance. But a State would have to come up with 25 percent to draw down 75 percent if it is a new capacity addition.

Frankly, for States like mine, growth States that have the need to be able to provide transportation for folks from West Virginia, Illinois, New Jersey, New York, and Idaho who are coming, that is very serious, and I think the policy takes an irrational position. It has absolutely no effect on allocation among the States. It is strictly a matter of should a State which has the need to provide new capacity, additional lanes, of a highway or to build a new bridge in order to serve an expanding population, should they be discouraged from doing that, because they would get a less advantageous match. More State funds would be required in order to draw down the same amount of Federal funds.

No one has spoken against that amendment. I hope that indicates that there will be a receptivity to that amendment which is internal to States, in terms of their ability to access the Federal funds. It will not add $1 to what a State has available to it from the Federal Government. It will just affect the ability of the State to access for maintenance as opposed to accessing for new capacity.

Those are the two amendments, Mr. President.

If no one else wishes to speak, I am prepared to yield back the remainder of my time.

Mr. LEVIN. Mr. President, I have received assurances from Chairman BYRD that he will work hard and to the very best of his ability for full funding of this bill for its 5-year duration, including the Byrd-Bentsen amendment. Those assurances of the distinguished chairman are more valuable than the passage of an amendment which may or may not survive conference, and I thank him for them.

Mr. BYRD. I was happy to provide those assurances to Senator LEVIN, because that is my intent. I also commend Senator LEVIN for the strong and successful efforts he made, along with Senators BENTSEN, WARNER, METZENBAUM, BOND, and others on behalf of those States such as Michigan which have contributed more over the years to the highway trust fund than they have received back.

Mr. President, I thank the distinguished Senator, and I want to express appreciation for his contribution to the effort. He has discussed in the course of our debate these matters with me a number of times, and always was very interested in what the impact would be on his State of Michigan. I found him to be understanding, highly dedicated to his own State, and to the interests of the Nation. I wish to thank him very much.

Mr. LEVIN. Mr. President, over the past days, Senators from the donor and donee States have worked hard and in good faith to try to reach an agreement which would allow us to reauthorize the highway program and to provide some greater measure of fairness to the donor States. I believe that the Byrd-Mitchell-Bentsen amendment passed yesterday represents such an agreement.

For my State of Michigan it means a substantial improvement in the rate of return from the highway trust fund if the program is fully funded. Whereas over the past 5 years Michigan has averaged 83 cents on the dollar, the bill in its current form would raise that to 99 cents on the dollar, if fully funded.

The Graham amendment, if approved, could result in the collapse of this effort to achieve a greater measure of fairness. It's been made clear during the debate by the chairman of the Appropriations Committee and others that the adoption of this amendment would result in a filibuster against the entire bill. That would not be to the benefit of States like Michigan for which the status quo is unacceptable.

In addition, under the terms of the Byrd-Mitchell-Bentsen amendment itself, there is a good chance that the highway bill will be fully funded because both donor and donee States benefit from that amendment. Key to full funding is the support of the chairman of the Appropriations Committee, and I put faith in his representations to me that he will do his best to fully fund the entire highway bill, including the Byrd-Bentsen amendment, which substantially benefits not only the State of Michigan, but the State of West Virginia as well.

I will, therefore, vote to table the Graham amendment.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, on behalf of Senators MITCHELL, DOLE, BYRD, SYMMS, and MOYNIHAN, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York to lay on the table the amendment of the Senator from Florida.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER (Mr. KOHL). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 81, nays 17, as follows:

[Rollcall Vote No. 99 Leg.]

YEAS—81

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Garn
Gore
Gorton
Grassley
Harkin
Hatch
Hatfield
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain

McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Packwood
Pell
Pressler
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Seymour
Simon
Simpson
Smith
Specter
Stevens
Symms
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—17

Fowler
Glenn
Graham
Gramm
Heflin
Helms
Hollings
Kasten
Kohl
Mack
Metzenbaum
Nickles
Nunn
Robb
Sanford
Shelby
Thurmond

NOT VOTING—2

DeConcini
Pryor

So the motion to lay on the table the amendment (No. 363) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, the majority leader is seeking recognition, and we need order.

The PRESIDING OFFICER. Order in the Senate.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the next vote be a 10-minute vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, the Senator from Florida has proposed cutting the State matching share for projects that expand highway capacity from 25 percent to 20 percent, which is the same percentage as the maintenance and rehabilitation projects.

There are serious problems with this proposal. First, the Federal Highway Administration strongly opposes it. FHWA is concerned about stretching available Federal funds for a larger number of projects, and this amendment would move in the opposite direction.

Second, the committee bill is simply continuing the existing matching ratios that are in current law for the great bulk of Federal-aid road projects. The committee bill funds the remaining pieces of the Interstate System at a 90–10 Federal-State ratio, the same ratio as has prevailed for decades. And the rest of the road system—our primary, secondary, and urban systems—are now funded at 75–25, the same percentage as proposed by the committee. The proposed amendment would change that ratio; it is not a return to existing law, it is change in it.

Finally, the committee made a judgment based on the fact that we have a huge problem with deteriorating roads in the United States. The Office of Technology Assessment tells us that half our noninterstate roads are deteriorating or deteriorated. Half. We have a huge Federal investment in that system. The committee decided to give States a modest incentive to maintain our existing roads by upping the maintenance and rehabilitation percentage to an 80–20 ratio. It was the right policy decision. We see the Nation's infrastructure rotting around us. It is a major long-term detriment to our national economy and competitiveness. For too long Federal transportation policy has ignored the needs of maintenance and rehabilitation; it is time to change that policy. The committee bill attempts to do just that. It deserves our support.

AMENDMENT NO. 364

Mr. MOYNIHAN. Mr. President, on behalf of Senators MITCHELL, DOLE, BYRD, SYMMS, and MOYNIHAN, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York to lay on the table the amendment of the Senator from Florida.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—72

Adams
Akaka
Baucus
Bentsen
Biden
Boren
Bradley
Breaux
Brown
Burdick
Burns
Byrd
Chafee
Cochran
Conrad
Craig
Cranston
D'Amato
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Harkin
Hatch
Hatfield
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Pell
Pressler
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Simon
Simpson
Smith
Specter
Stevens
Symms
Wallop
Wellstone
Wirth
Wofford

NAYS—26

Bingaman
Bond
Bryan
Bumpers
Coats
Cohen
Danforth
Ford
Fowler
Graham
Heflin
Helms
Hollings
Kasten
Lugar
Mack
McConnell
Nunn
Packwood
Reid
Robb
Sanford
Seymour
Shelby
Thurmond
Warner

NOT VOTING—2

DeConcini
Pryor

So the motion to lay on the table the amendment (No. 364) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRIBUTE TO MANAGERS OF THE BILL: SENIOR SENATOR FROM NEW YORK, SENATOR MOYNIHAN, AND SENIOR SENATOR FROM IDAHO, SENATOR SYMMS

Mr. DOLE. This has been a long, trying 2 weeks, but through it all, they managed the bill with good humor, fairness, and a steady hand. This is a complicated bill that sets a revolutionary course for our Nation's transportation policy. The headlines and votes may have been about money and dividing the pie among the 50 States, but this bill is much more significant than many people realize. We owe a large debt of gratitude to Senators SYMMS, MOYNIHAN, CHAFEE, and BURDICK for getting us to this point.

LEVEL OF EFFORT/HIGHWAY SPENDING

Mr. MITCHELL. Mr. President, looking at a State's overall level of effort on highway spending is important if a fair and equitable formula to allocate bonus money is to be contained in any conference report on this legislation.

As my colleague the minority leader has already mentioned, the gas tax alone is not always indicative of a State's effort. Some States choose to appropriate State spending for highways, others raise funds for highways from sales taxes or vehicle registration, as well as trucking fees.

In fact, some States use their gas taxes for other purposes: Reducing the State deficit or other spending not related to highways. Therefore, I believe that looking at total State effort on behalf of highway funding is a better measure than simply the gas tax alone in conjunction with per capita income.

Another reservation that I have about the Byrd formula adopted by this Chamber yesterday is that States may easily game the outcome. The formula awards high gas tax levels, but does not require that the gas tax be used for highway spending.

Therefore, a State could increase its gas tax to trigger the bonus funds and reduce other taxes so that the net amount of money raised would be the same. In fact, funding on highways could even decline.

For Maine, about 20 percent of the funds spent for highways are derived from vehicle registration costs. Less than half of the State's funding comes from gas taxes.

It is important for the conferees to find an appropriate measure reflecting total State effort on a per capita basis so that one State's efforts can be compared to another State's efforts and that the overall level of effort by the State be rewarded.

Mr. DOLE. Mr. President, I am proud to say that we have made an important step toward enacting a key piece of the President's domestic agenda today. March 16, President Bush gave the Congress a challenge: Enact needed highway legislation in 100 days. While we are a bit short of sending a final product to the President's desk for his signature, I am proud to say the Senate has met this challenge in good faith.

With the enactment of this vitally important legislation, the Nation will move dramatically forward to meet current and future needs with regard to our transportation system.

I believe this legislation provides the necessary elements for a broad national consensus: Fairness, flexibility, and adequate funding.

FAIRNESS

States, and particularly my State of Kansas, come much closer to receiving a fair distribution of funds. In the past we have seen a wide disparity between so-called donor and donee States. This bill narrows this gap. The bill also recognizes the needs of both rural and urban areas. Particular care and attention has been paid to each of the 50 States who have a wide variety of needs and different approaches to achieving their own goals.

FLEXIBILITY

A key element in the bill is a reduction in the number of categories for project funding. I am particularly pleased by this. Under the legislation, the four new, simplified categories will provide greater resources and flexibility for States like Kansas to bring resources to bear on unique State problems. And, because of my amendment, one key element of this bill is the flexibility it provides to the Kansas Department of Transportation to shift funds to higher priority categories, giving Kansas more say in how we meet our own particular needs without having them dictated from Washington.

In Kansas, this will be particularly helpful. Recently enacted State highway construction legislation will be effectively supplemented by the flexible funding portions of this bill.

FUNDING

The highway bill also reflects a new commitment to adequate funding of highway programs. Overall 5-year spending under the bill will be nearly $93 billion. For Kansas this means just over $1 billion. Kansans will receive $178 million in fiscal year 1992, up from $135 million in fiscal year 1991. Over the 5-year period, Kansans will receive $1.05 for every Kansas tax dollar spent—a vast improvement over the 1987 highway bill where Kansans received $688 million over 5 years and slightly over 85 cents on the dollar. I think Kansans will agree this is a major improvement over previous years, and increases Kansas highway funding significantly, representing a direct and tangible benefit for Kansas taxpayers.

NATIONAL HIGHWAY SYSTEM

Mr. President, I am also extremely pleased that the President's National Highway System concept is included in the bill. As my colleagues know, the National Highway System is an important step toward focusing the Federal investment on a select, integrated network which will ensure a productive and nationally efficient system. In Kansas, this will initially include roughly several thousand miles of roadway that will be a part of the National Highway System.

KANSAS AMENDMENTS

Mr. President, in addition, Kansas should benefit from several amendments I sponsored and were included in the bill.

COMMERCIAL DRIVERS LICENSE

Under this legislation, Kansas farmers, custom harvesters, retail farm supply vehicle drivers, and livestock feed drivers will be relieved of needless Washington redtape imposed by commercial drivers license requirements that, if left in effect, threaten agricultural producers with increased transportation costs and other impediments to production. This is the third time the Senate has passed this waiver in the past 2 years. It is my sincere hope that the House will act expeditiously to include this language as well.

HOMEBOUND MEALS

I am also pleased that another amendment of mine was adopted that will be of great benefit to Kansans who are homebound and receive meal service. Homebound meal service providers will be able to coordinate on a regular basis with section 18 service providers. This flexible cooperation agreement should be a great improvement in service for homebound meal recipients in Kansas and will make more efficient use of vehicles used for other transportation purposes.

ETHANOL

Mr. President, the Senate has also adopted another amendment of mine that should serve to eliminate a marketing practice that is of concern to me and that could effectively take ethanol-blended gasoline out of the marketplace.

I recently learned that a major oil company, that has a pipeline running through Kansas, was unfairly taking advantage of an Environmental Protection Agency standard that precludes adding ethanol to gasoline that already contains two percent MTBE. This marketing practice effectively prevents ethanol from competing with other gasoline and gasoline blends.

I contacted representatives of the American Petroleum Institute to see if this problem could be worked out without legislation. Unfortunately, we were told that API was not in a position to do anything, therefore making this amendment necessary.

This amendment simply says that if oil companies want to include MTBE in gasoline that is shipped within the common carrier pipeline network, they must blend enough MTBE to be in full compliance with the Clean Air Act.

Mr. President, Congress intended that the Clean Air Act provide incentives and requirements that will produce a variety of competing alternative fuels in the domestic market. Once you mix MTBE into gasoline, you cannot add other clean fuel blends such as ethanol. It is important for American domestic energy security, and for the American farmer and taxpayer, that ethanol blended gasoline be allowed to compete in the clean fuels marketplace in the United States.

LEVEL OF EFFORT BONUS

Mr. President, two important amendments of mine were included in the Senate version of the highway bill that effectively meet the President's goals that States should spend more of their own resources on their own highways. My approach has been to find ways to give States incentives to do more themselves with their own resources to finance their highway programs.

LEVEL OF EFFORT STUDY

Three months after the final highway bill is enacted, my amendment will require the Secretary of Transportation and the Director of the Bureau of Transportation Statistics to undertake a comprehensive study of the most appropriate and accurate way to calculate State level of effort in funding surface transportation programs.

The distinguished chairman of the Appropriations Committee has already made an important contribution with his amendment to the highway bill. Indeed States that pay more themselves should get credit for it. I believe that this study will further improve upon this important policy goal.

DOLE-MITCHELL LEVEL OF EFFORT AMENDMENT

In addition, Mr. President, to further improve upon the concept under the Byrd approach, the distinguished majority leader and myself offered, and the Senate accepted, an amendment that directs the Senate conferees to consider each States total effort for highways within the bridge program, interstate maintenance program, and surface transportation program before final passage of the bill.

Mr. President, at the heart of the so-called level of effort debate is a lot of statistical information, endless charts and constantly changing ways to calculate State highway financing contributions. My approach has been simple: First, let's see what States actually contribute to their State highway spending programs from all sources. The earlier approach had been to tie level of effort bonuses only to State gasoline tax revenues. However, the flaw here was twofold.

Since States utilize a variety of different sources of revenue to finance highway programs, and Kansas is no exception, State gasoline taxes make up only a portion of what we spend on highways. To limit the level of effort to gasoline taxes alone penalizes States that have a broad-based State highway financing program, and invites gaming of the system through artificial increases in State gasoline tax revenues to take advantage of the Federal bonus program with no guarantee that the State will have dedicated these gas tax revenues to their own highway programs.

Second, it is well documented that many States use gasoline tax revenues for other important State spending priorities such as agriculture, environment, aeronautics, wildlife preservation, and many other categories. In order to calculate the true level of effort that a State is making toward highway spending and reward it appropriately, we need to know where State gas tax revenues are actually being spent and make this a part of the calculation.

CONCLUSION

Mr. President, I believe this is a good legislative package. I urge my colleagues to support the bill.

AMENDMENT NO. 333

Mr. SIMPSON. Mr. President, on Thursday, June 13, this body adopted without discussion, an amendment to S. 1204. Amendment No. 333 imposes a clean gasoline requirement upon U.S. refiners who transport gasoline products in common carrier pipelines.

The amendment was accepted by unanimous consent while I was not present on the floor. Upon closer scrutiny, I have some serious concerns that I would like to place on the record. I would like to reserve the opportunity to discuss the matter in more detail with the sponsors of the amendment. I have no reason at all to believe that the intent of the amendment was not in the best interests of our domestic refining industry. But I am very concerned about how the amendment would impact this industry, and the American consumer, upon its implementation.

It is my understanding that the amendment would severely restrict the types of gasoline allowed in common carrier pipelines to the following formulation: those that can be used as blend stock for waivered fuel or fuel additives; or legally waivered fuel or fuel additives. Gasohol is the only fuel which qualifies under these restrictions. Although I do appreciate the importance of gasohol as an alternative fuel, MTBE-blended gasoline is equally as important and under this amendment I am very concerned that it possibly could be interpreted to specifically disallow MTBE or other oxygenates—other than ethanol—to be added as a fuel blend to a product, later to be carried by a common carrier pipeline.

MTBE is often used to meet the requirements of the Clean Air Act for reformulated gasoline or oxygenated gasoline for CO nonattainment areas. This amendment could well prohibit the transport by common carrier of gasoline blended with MTBE or other oxygenates, reducing movement of product to transport by truck or the alternative of adding the blend at the terminal. I am informed by refiners that the restrictions that this could cause could ultimately be so severe that gasoline shortages could occur. I have no doubt whatever that this is surely not the intention of the amendment's authors, but it may surely be a result of this amendment if changes are not made.

We fought this similar battle in the Clean Air Act. I know there is room for compromise here, while still meeting all of the environmental standards that we have set up for ourselves. As a continued detailed assessment of the impact of this amendment is determined, I would wish to reserve the right to revisit this issue in conference if it is not resolved prior to that time.

THE NATIONAL RECREATIONAL TRAILS TRUST FUND ACT

Mr. SEYMOUR. Mr. President, as written, the National Recreational Trails Trust Fund Act would provide that the moneys returned to various States be administered by an existing recreational trail committee. If a State has two such committees with similar charters, is it your intention that these moneys be administered by the existing body within a State which already has spending jurisdiction over State gas tax revenues from nonhighway recreational use.

Mr. SYMMS. The Senator's interpretation of the intent of the legislation is fully accurate.

Mr. SASSER. Mr. President, I wish to take a few moments to offer some observations about the surface transportation reauthorization legislation that is presently before the Senate. I have listened very carefully to the remarks of many of may colleagues on this subject. While we may have varying points of view about what should be in the final bill, I think we all agree that it is important that we pass a bill.

Mr. President, I view this reauthorization process as both a unique opportunity and critical challenge. The Interstate System is close to completion. Our first concern will necessarily be to improve and maintain the Federal investment in the 43,000 mile interstate network. Yet, we can now begin to broaden our transportation perspective with a view towards future transportation needs of the year 2000, it is absolutely imperative that we, in this reauthorization bill, take a very careful assessment of the state of America's infrastructure today, in 1991.

There have been various studies and estimates relating to the state of this Nation's annual infrastructure needs. Including the entire infrastructure stock, those needs are well in excess of $40 billion annually just to maintain the current system.

That is the challenge that is before us. While we will certainly look ahead to critical research and innovative technology, such as the intelligent vehicle highway system, we must, nonetheless, face the realities of the roads and bridges and mass transit systems throughout the Nation and in our individual States as they exist today.

Mr. President, although we in Tennessee are very proud of our cities, Tennessee is a primarily rural State. We are a donor State. Since 1957, Tennessee has contributed some $4.9 billion into the highway trust fund. In fiscal year 1989, Tennessee contributed $337 million into the highway trust fund. Tennessee's return on that contribution was 74 cents on the dollar. In addition, Tennessee presently has one of the highest gas taxes in the Nation at 21 cents.

The Tennessee Department of Transportation estimates that Tennessee will need some $12 billion over the next 10–20 years just to maintain the current system. Currently, the State department of transportation spends $180 million annually just to maintain our roads.

However, Mr. President, much work remains to be done. Tennessee's most critical need is to increase capacity on the primary system. In 1986, Tennessee undertook an ambitious road program. Based upon that program, 387 miles remain to be constructed.

It is important, therefore, that the flexibility of States to address their individual problems must be recognized in reauthorizing surface transportation legislation. It is important that the bill we are about to adopt will indeed provide that degree of flexibility that State and local governments must have if we are to turn the tide on the deterioration of our vital national infrastructure.

Mr. President, I had hoped that we might have made more fundamental changes in the donor State situation. However, the Byrd amendment does, at least, attempt to restore some degree of equity to the situation faced by Tennessee and other donor States. Equally important, the Byrd amendment, which was overwhelmingly adopted, recognizes the special effort that Tennessee and other States with high gas taxes have taken to address their individual transportation needs.

At the beginning of my remarks, I stated that approval of this particular reauthorization bill provides this Nation with a unique opportunity and a critical challenge. Above all, I believe that this reauthorization bill will set the framework for the future. The degree to which we meet that future challenge of providing safe, efficient, and innovative transportation alternatives will depend vitally upon the transportation decisions that will be made over the next 5 years as a result of this reauthorization bill. In that larger sense, Mr. President, our work has just begun.

Mr. SIMPSON. I rise today in support of the bill. I commend the herculean efforts of Senators MOYNIHAN, SYMMS, BURDICK, and CHAFEE to bring to the full Senate this sound and reasonable bill. I also want to thank the always patient majority leader and our fine Republican leader for their excellent work on this legislation.

Congress will not have succeeded in presenting the bill to the President within the 100-day goal, and that is regrettable. I urge the House to act expeditiously. It has not been an easy or smooth road to bring this bill to final passage in the Senate. There are many tough surface transportation policy questions which have been addressed by the authors of this bill in a positive, progressive, and thoughtful manner.

This is always an interesting piece of legislation. It is the kind of bill which requires us to be members of a national legislature, looking after the interests of our national infrastructure. All of us realize the challenges we face. Prior to bringing this bill to the floor, members of the Environment Committee carefully studied our transportation policy and our national needs as we approach the 21st century: What efficiencies can be derived by different modes of transportation? What are the best means to improve productivity? What impacts will our decisions have on GNP and trade? We all came to this debate with the full intention of addressing these important concerns critical to our Nation's future. The way we do our work on this bill is a weighty, national responsibility. This $120 billion legislation will fund and guide the direction of this Nation's surface transportation activities for the next 5 years.

But in the last few days of this bill's consideration, the debate became very parochial. We are all here, in part, to represent the needs of our States. We have all battled it out since last Thursday over a new pot of $8.2 billion that may or may not eventually be appropriated for highway projects. It has been somewhat unpleasant and frustrating at times.

But what we have finally settled on is a good bill. I don't want us to lose sight of that. It would authorize $90 billion for highways, and perhaps another $8.2 billion, over the next 5 years. It spends $20 billion on mass transit needs. This is very adequate to meet the needs of all affected States; 46 of 50 States receive a significant increase in funding over the average amounts they received in the last 5 years. The bill provides important flexibility for all States to meet their own unique needs. If they have urban congestion problems, moneys can be spent on important relief techniques. If an area suffers from pollution and noncompliance with the Clean Air Act, moneys are available to address and help rectify those problems. If a State has lots of wide open spaces and plenty of miles of highways that need to be maintained—moneys are available. States which have bridges which are in disrepair are able to use their moneys to fix these bridges or build new ones. The bill recognizes the mass transit needs of some States. Mass transit is a foreign concept in Wyoming unless you're talking about the spring hauling of cattle up to their summer pastures. However, I won't argue for 1 minute that urbanized areas are not in desperate need of funds to meet their unique needs, and I am pleased that this bill provides that funding.

I am pleased at the way this bill appropriately reflects our national surface transportation policy. I also want to express my statisfaction at how Wyoming is treated in this bill. We receive $602 million over the next 5 years, which is a 44-percent increase in funding over the previous 5 years. The bill contains an important provision for Wyoming which permanently increases our truck weight allowance in order to keep us competitive with all our surrounding States. Without this provision, we would lose companies, jobs, and revenues. The bill grants valuable planning authority to our State officials, and directs funding to the upkeep and maintenance of our highway system—a system which will be determined by our State officials. It includes an increase in moneys for important road and transportation projects on public lands, including national parks, forests, and Bureau of Land Management properties.

There are some controversial provisions which affect important industries in very different ways. Wyoming will most certainly experience a conflict between our railroad and trucking industries. But controversies and compromises are an anticipated component of the legislative process.

I have heard the concerns of my colleagues from the States who pay more into the highway trust fund than they receive. These States are facing increasing needs to meet high growth, and I can appreciate the efforts of their Senators. I also fully understand the needs of colleagues from States such as mine who receive more money out of the trust fund than they put in. If we in Wyoming, with a total population of 453,588, were limited to receiving only the amount of money we contributed—I can assure you we would have some very, very poor roads for you folks to use when you come out to see the Grand Tetons and Yellowstone National Park. We all have legitimate concerns and pressing needs. But we are not 50 separate countries, self-contained and isolated. We are 50 very interconnected, very interdependent States which share commerce, trade, and tourism. Our surface transportation policy could not survive if we did not recognize this interdependence in this legislation.

This bill does not leave one area of the country underfunded. To the contrary, it is a good, fair, generous and appropriate bill. It reflects a balanced recognition that each State has unique problems, and that our national highways must be maintained and supported. This bill isn't perfect. I've never seen one that was. It is very sound, and I urge my colleagues to support it.

I do want to thank Senator MOYNIHAN for his wisdom and his continual dedication to the improvement of this Nation's infrastructure. On his staff, I specifically thank Roy Kienitz, Rob Connor and Andrew Samet for their long hours and assistance to me and to my staff. I thank Senator SYMMS for his dogged determination and commonsense and urging others to rise above parochial interests and pursue a balanced national transportation policy. His staff members, Taylor, Bowlden, Angela Plott, and Trent Clark also have my deep appreciation. Senators BURDICK and CHAFEE have diligently watched over the process and have been such a great help to us all. I thank Mike Weiss and David Strauss of Senator BURDICK'S staff, and Jean Lauver and Steve Shimberg with Senator CHAFEE. A very capable bunch. And to my fine "staffer" Laurie Goodman who really earned her spurs on this one. She did splendid work for me. To her and to all * * * a job well done.

Mr. LIEBERMAN. Mr. President, as we come—at last—to the vote on final passage of S. 1204, the Surface Transportation Efficiency Act, I want to focus again on why I believe this bill will be so constructive for America's future.

Before I do so, let me extend my thanks to the staff of the Environment and Public Works Committee and the personal staff of the floor managers who have done an outstanding job throughout this process. In particular, I would like to thank: Roy Kienitz, Andrew Samet, Rob Connor, Mike Weiss, Jean Lauver, George Shaner, Nadine Hamilton, and Taylor Bowlden. Their efforts have been truly monumental and represent the best in public service.

Let me now turn to the legislation.

First, S. 1204 places a strong new emphasis on maintaining the highway system we have now built. According to a recent Office of Technology Assessment study, one-third of the Nation's noninterstate highways are in deteriorated or deteriorating condition. Approximately half of our bridges are structurally deficient or functionally obsolete. The bill addresses these problems directly by creating a funding incentive for maintenance over new construction to assure that our maintenance priorities are addressed. In doing so, it reverses the existing procedure. The bill assures that our huge investment in the Interstate System will be protected by a separate interstate maintenance and rehabilitation program funded at more than $14 billion over the next 5 years. And there is a major new bridge rehabilitation program with substantial additional funding totaling over $13 billion over the next 5 years.

Second, S. 1204 allows the States substantial flexibility in tackling their own transportation problems as they see them. The current highway laws limit this flexibility; the new bill opens up new options for the States. Over half of the funds in this bill—over $45 billion—will be available to the States in a new surface transportation flexible funding program. States will be able to set their own priorities here, whether it is building new roads, funding mass transit programs or constructing high occupancy vehicle lanes.

Third, S. 1204 provides for much closer coordination between our efforts to tackle clean air and conserve our energy and our efforts to move our people. Unfortunately, these programs in past decades have often been working at cross purposes. This bill requires that transportation and clean air planning come together. And it creates a new congestion mitigation and air quality improvement program that will provide $5 billion in funding for transportation solutions to these problems. My State has severe air pollution problems and this new program will be of substantial assistance to us. The bill also creates a new transportation enhancement program that will enable us to use our road programs to promote scenic highways and historic preservation.

Fourth, S. 1204 unifies the Federal and local matching shares for all but one of the components of the highway program. The Federal Government will pay 80 percent of the cost of transportation programs and the States will pay 20 percent. In the past, the matches varied greatly, skewing State transportation priorities based on the match the States had to put up. This new approach will allow States to set their own priorities based on need.

Fifth, S. 1204 will put people to work building and maintaining bridges and roads and constructing mass transit systems and equipment. And, once those roads and bridges and systems are built or improved, it will put more people to work in the businesses that will always grow when infrastructure is improved. S. 1204 is one of the most effective things this Congress can do to help America out of recession and onto the higher road of long-term economic growth.

Overall, this is a remarkable bill. It takes major new steps toward making our highway network more user friendly. It attempts to assure that the huge Federal investment in our highways is protected by placing a new emphasis on maintenance and rehabilitation. It provides new initiatives for urban congestion relief. It promotes greater compatibility between our transportation system and environmental needs. And it will create hundreds of thousands of jobs.

I am also pleased to say that this bill is helpful to Connecticut in its efforts to continue to improve its transportation system. The following chart indicates Connecticut's share of the program under the proposed administration bill, under S. 965 and S. 1204, as well as our State's apportionments during the past 5 years.

CONNECTICUT'S SHARE OF HIGHWAY APPORTIONMENTS UNDER S. 610 (THE ADMINISTRATION BILL), S. 965 (THE MOYNIHAN-SYMMS BILL AS INTRODUCED), AND S. 1204 (THE MOYNIHAN-SYMMS BILL AS REPORTED BY COMMITTEE AS AMENDED AT SEC. 106(b))

[In millions of dollars unless noted]

	Fiscal year—					Total (billions)
	1992	1993	1994	1995	1996	
S. 610, the administration bill	214.8	210.7	16.0	230.9	213.4	1.08
S. 965 (the Moynihan-Symms bill as introduced)	294.6	297.5	312.0	336.7	332.0	1.57
S. 1204 (the Moynihan-Symms bill as amended at sec. 106(b) and reported by committee)	322.6	325.6	341.7	368.0	353.7	....
Plus additional funds from Byrd amendment	0	4.0	9.8	11.8	16.2	....
Total	322.6	329.6	351.5	379.8	369.9	1.75
From fiscal year 1987–91 under the previous highway legislation[1]	273.2	281.3	265.0	321.8	345.5	1.48

[1] FHWA, "Highway Statistics" issued in years 1986–89, from tables FA–4; 1991 data from FHWA, "Table T–1991" provided to the Environment and Public Works Committee. Note: tables do not include one-time only discretionary awards to state to meet special needs.

Source of data: Federal Highway Administration data provided to the Environment and Public Committee unless otherwise noted.

S. 1204 is good for Connecticut and every other State. I urge my colleagues to support it.

Mr. DODD. Mr. President, I rise in support of S. 1204, the Surface Transportation Efficiency Act and thank my colleagues Senators BURDICK, CHAFEE, MOYNIHAN, SYMMS, CRANSTON, D'AMATO, and BYRD for their tireless efforts in bringing the highway and transit portions together in such a way that provides for greater flexibility and increased funding.

Mr. President, at the beginning of this process Congress was faced with a unique opportunity to fashion and shape transportation policy so that it assists this Nation in achieving the very important goals of mobility, congestion management, facilitation of economic growth, energy conservation, and environmental protection. I believe that we have made the first step in accomplishing that goal.

Mr. President, while I am still concerned that the bill may encourage the view that the most important Federal interest is the Interstate System and that there appears to be a shift of authority and control over the transportation programs from State transportation agencies to metropolitan planning organizations, these concerns are not fatal.

It is my hope, however, that we all understand that the National Highway System extends beyond the interstate network. There are bridges and roads that are not considered a part of the National Highway System, in mine and other States, that are crumbling and in desperate need of repair, yet, may be ignored.

These sections of our system of roads also need attention if we are to maintain and promote economic efficiency, increase productivity and be competitive in the global economy. Based on these factors alone Mr. President, it is clear to me that we need a Federal aid system which goes beyond the traditional notion of the Interstate System.

Laying aside these concerns, I support this bill because it makes a significant first step in a number of key areas and addresses many of the concerns that I have expressed over the years.

First, it increases the level of funding for transportation to $118 billion. This represents a 13-percent increase in funding over President Bush's highway proposal.

This means more than $323 million a year will flow into Connecticut under the highway program and more than $27 million a year for transit. At a time when cities like Bridgeport, New Haven, and Hartford are struggling to secure financing to continue providing the most basic services, this new funding will provide a welcome shot in the arm.

Second, we have taken a significant first step toward ensuring that our crumbling roads and bridges as well as our rail systems are maintained. S. 1204 as drafted combines increased flexibility and funding in such a way that assists in the accomplishment of vital transportation goals.

Third, the bill takes a significant step toward meeting the new demands and challenges of the recently passed Clean Air and Americans With Disabilities Acts.

Fourth, transferability between highway and transit modes, equalization of the Federal match requirements and funding flexibility are important elements of a sensible transportation policy that promotes Connecticut's, indeed, the Nation's, environmental and energy conservation goals. S. 1204 provides for all three which in my opinion allows Connecticut a large degree of discretion and flexibility in determining where and how to spend scarce Federal dollars in a manner which will promote our clean air, congestion management, and energy conservation goals.

Fifth, the transit portion of S. 1204 creates formula programs which, in turn, create predictable streams of financing for projects. This enables States and localities to better plan, implement, manage, and operate transit projects. For Connecticut this means adequate funding levels each year to carry on basic services. We will no longer have to compete against other States for scarce resources. This guaranteed a funding stream of at least $27 million a year for the next 5 years will assist the State to fund bus programs for the elderly and physically challenged and provide rail and other transit service for the citizens of Connecticut.

Mr. President, I would be remiss if I did not give you some sense of how important this bill is to Connecticut.

Mr. President, Connecticut is unique in that it is one of the few States that actually owns a part of the rail system running through it. More specifically Connecticut owns a section of the Northeast corridor which, as you know, carries everything from people to produce up and down the entire Eastern United States. The section of track that we own is old and very difficult to maintain and operate. S. 1204's new and improved Rail Modernization Program will be an invaluable tool in helping Connecticut maintain this section of track.

Finally, Mr. President I am pleased that we have chosen not to accept the administration's provisions restricting operating assistance for small systems. Recently in Bridgeport, CT, I held a hearing on the UMTA portion of S. 1204. When panelists were asked about the effect that the administration's changes in operating assistance would have on smaller urban areas, there was overwhelming agreement that for these systems, operating assistance may compose up to 80 percent of their budgets and that acceptance of those provisions, would, in time, force smaller jurisdictions to raise fares or cut services as their deficits mount.

Mr. President I was warned that the result would certainly be that the physically challenged, elderly and middle income persons would not have access to the most basic services. I am pleased that we did not let this happen.

And finally Mr. President, I am pleased that we could produce a bill that will truly assist us in accomplishing our energy and environmental conservation goals.

Mr. KOHL. Mr. President, as we move toward completion of this bill, let me make a couple of final observations about the bill, and about the first of the two Graham amendments in particular.

First, I want to commend the managers of the bill for bringing to the floor a bill that makes so many sensible changes in our Federal transportation policy—in flexibility, in transit, in planning. While I wish those sensible changes had been broadened to include a sensible revision in the way Federal funds are allocated to States, the managers of the bill have certainly given those of us from donor States a fair chance to be heard on this issue.

Second, I would also like to take a moment to complement the efforts of the Senator from Florida [Mr. GRAHAM]. No Senator has been more forceful and more vocal in this formula fight than Senator GRAHAM. As one who represents a donor State, I want to thank the Senator from Florida for all of his work on behalf of his State, my State, and all the donor States.

Mr. President, I support the first of the two Graham amendments. From a donor State's perspective, the Byrd amendment—while providing us with the possibility of additional funds over the life of this bill—offers us no assurances. Wisconsin is protected under the Byrd amendment only to the degree that appropriations for it are made available. While I have tremendous respect for the distinguished chairman of the Appropriations Committee, and believe that he will do all he can to fully fund this level of appropriations, there are simply too many competing demands before the Appropriations Committee for any of us to take that for granted.

Furthermore, Mr. President, the level of benefits to donor States under the Byrd amendment could change significantly from year to year. Many donor States now benefit under the level of effort portion of the Byrd amendment. But, if States race to increase their gas tax, that may not continue to be the case. Should we find ourselves in a situation where fewer donor States benefit under the level of effort provision, more donor States will have to be taken care of under the allocation portion of the Byrd amendment—meaning that each donor State would receive less money as a result.

Mr. President, I would love to go back to Wisconsin and assure people that the Byrd amendment will bring an additional $222 million to the State over the next 5 years. But I cannot say that in good faith because of all the variables involved.

The amendment being offered by the Senator from Florida attempts to give donor States a greater degree of assurance that the Byrd provision will be funded. It does not require that the Byrd amendment be fully funded. It simply ensures that there will be funds made available for the Byrd amendment. Given that the Byrd amendment benefits donor and donee States alike, I find the amendment extremely fair indeed.

Mr. President, several of my colleagues have indicated that if the amendment offered by the Senator from Florida is adopted, then there will be many more amendments offered on this bill. I can only say that I would welcome that event. From the perspective of a donor State, there is plenty of room for improvement on this bill.

I yield the floor.

Mr. SANFORD. Mr. President, I rise somewhat hesitantly to express my support for final passage of S. 1204, the Surface Transportation Efficiency Act of 1991. I hesitate because I believe the bill is not quite ready for passage, it is not complete as it does not include a fair and equitable formula, or at the very least language authorizing the use of 1990 census figures in distributing highway funds. The failure of the Senate to include a fair formula in this highway bill is regretable.

Before debate began, a number of other Senators and I from donor States formed a coalition whose purpose was to change the current highway funding formula to one which would reflect highway use and maintenance needs. Our coalition threw our support behind the Federal-aid surface transportation [FAST] bill and the funding formula contained in that bill. Using such factors as vehicle miles traveled, diesel fuel consumption, and lane miles, we would focus our formula on a State's needs in the Federal-Aid Highway Program. States within the Amercian Association of State Highway and Transportation Officials [AASHTO] devised the formula based upon formula factors that were recommended by AASHTO. These same factors were also recommended by the General Accounting Office in its report on highway funding in 1986.

Our coalition's initiative was not solely to bring back more money to our States, although that would indeed happen. Our main concern was to see that a formula that was fair and equitable in its distribution was adopted. Under the FAST formula my State of North Carolina would remain a donor State, but it would rise from receiving 73 cents on the dollar to receiving 95 cents on the dollar.

It became clear during the debate on the bill that the donee States did not want an equitable formula. The donee States currently receive more than their fair share of the highway trust fund and they recognize that any change of the status quo will prohibit them from benefiting from the tax paid in from other States. As the arguments rose from the opposing sides, we saw equity pitted against greed. States trying to get a fair share of their contribution ran counter to other States not willing to share their excess receipts.

Mr. President, I must say that I am disappointed in our inability to address properly the formula problem. The points I made during my statements on the floor regarding a fair formula were undisputed by the chairman of the Transportation Subcommittee. Yet, the managers of the bill would not enter into good faith negotiations on a formula.

This bill does include new language establishing a level of effort bonus program for States which have a higher than the national average gas tax. The State's gas tax is balanced against the State's per capita income. For States like North Carolina, which has the fifth highest gas tax and a per capita income far below the national average, this level of effort bonus will provide us with an additional $400 million over the next 5 years. This is an idea that I have been supportive of since I came to the Senate and I was happy that I was able to vote on this issue. I am somewhat skeptical, however, as to whether the extra moneys authorized for this program will actually be appropriated. As the language was drafted, the donee States saw to it to include a hold harmless provision which essentially would not allow any funding to go into this new program until all of the current programs were funded. So, if there's any leftover highway money at the end of each fiscal year, the level of effort program will get its funding. I do not feel that that is a very responsible way to handle funding such a progressive new program.

Although I am disappointed that a new formula is not included in this legislation, I am pleased about the fact that an amendment I drafted authorizing the GAO to study the highway funding formula was agreed to. In 3 years, the GAO is to deliver to Congress their recommendations on a fair formula. This formula should form the basis of the 1996 highway reauthorization debate. I will see to it at that time that this formula debate is carried forward and that equity prevails.

I would like to urge my colleagues to consider very carefully the issues of fairness and equity that I and other members of the FAST coalition brought to the floor. As this bill moves to conference with the House, I will again be asking support for a fair and equitable formula. The vote on the Graham amendment on the FAST formula proved that there is considerable support for an equitable formula in the Senate. It is my intent to keep pushing for fairness until it is achieved.

Mr. GLENN. Mr. President, I rise today to support final passage of S. 1204, the Surface Transportation Efficiency Act of 1991.

Mr. President, I opposed the original version of this legislation as reported from committee. Without the modifying amendments adopted on the floor, I would have voted against it. During the past few weeks, I have attended numerous meetings and worked many hours to achieve equity for Ohio in the allocation of highway dollars. Without changes in the way Federal transportation funds are distributed, the States with the worst problems will continue to have the least money available to rectify those problems.

I strongly supported and voted for passage of Senator BYRD's amendment to distribute unspent money from the highway trust fund. This amendment will allow Ohio taxpayers for the first time to receive a dollar-for-dollar return on highway dollars sent to Washington. For too many years, Ohioans have carried the burden of paying high gas taxes, subsidizing new construction in other States, while transportation needs go unmet in our own State.

Mr. President, although Senator BYRD's amendment will provide equity for donor States by spending out money from the highway trust fund, the basic formulas underlying the apportionment of highway funds remain unchanged in the reauthorization bill. These outdated and unfair formulas resulted in Ohio receiving about 80 cents of each highway tax dollar for many years.

Mr. President, three decades ago, when the Federal Highway Program was initiated, it was necessary for our national commerce, transportation, and defense needs for certain wealthier States to contribute to interstate construction in larger, less populated States. For these reasons, formulas were established to support this construction, which was in the national interest. Now, however, the National Interstate System is some 98 percent completed; yet, the bill reported by the committee retains the same antiquated formulas. Unfortunately, the amendment to revise these formulas was not successful; however, I and my colleagues representing the donor States will continue to work toward this objective.

The Surface Transportation Efficiency Act is a far-reaching and forward looking measure. For the first time, greater flexibility and increased local input in the allocation of Federal transportation funds will be allowed. This flexibility will enable my State to direct these funds to mass transit and rail needs as well as other transportation projects. As a long time supporter of mass transit, I am pleased that Cleveland, Toledo, Columbus, and other cities in Ohio can now target Federal funds to their greatest transportation needs.

Mr. President, this legislation also contains provisions controlling the expansion of the use of longer and heavier combination vehicles. A very large number of Ohioans have contacted me to express their fears about sharing the highway with these vehicles, and I support the inclusion of the limitation in this bill.

Although I believe greater progress could have been made, I am satisfied that the bill as modified is a positive step. Therefore, I support the passage of S. 1204 and urge my colleagues to join me in voting for it.

Mr. KERREY. Mr. President, today I want to express my support for the Surface Transportation Efficiency Act of 1991. I also want to commend Senator MOYNIHAN, who has crafted an innovative solution to address our country's transportation infrastructure problems. His solution recognizes that the various regions of the country have differing needs and problems. Each State and qualifying metropolitan area will be granted a large degree of flexibility in the expenditure of its highway funds. As a former Governor, I appreciate the fact that each State's Governor will have a strong voice in setting the transportation priorities within his or her State. This approach frees us from fixed programs that do not have the flexibility to respond to changing needs.

This bill is of great value to all States because of the continuing importance of highways and byways to our Nation's economy and to everyday life. However, this legislation is at the same time more than just a highway bill, as it accommodates the diversity of transportation needs in a postinterstate construction era. Highways will continue to be an important part of such a system, particularly in Nebraska and other rural areas, but this bill also addresses mass transit, rail, magnetic levitation, and other innovative alternatives.

Listening to the debate this week, I have heard many Senators either criticize or praise the distribution formulas in this legislation. Every State would like to receive more. I know Nebraska would like to see more highway funds because our State has great needs. However, we also have to recognize that there is no perfect balance if at the same time we want to guarantee a national transportation infrastructure. Therefore, I want to commend the committee on its efforts to balance scarce resources.

I look forward to working with Senator EXON, Nebraska's Governor Nelson and others in the State to implement a transportation program that meets Nebraska's changing and growing needs.

RECYCLING ABANDONED MANUFACTURING FACILITIES

Mr. MOYNIHAN. Mr. President, I am pleased to cosponsor this amendment offered by the committee on behalf of the junior Senator from Vermont. The amendment requires the Department of Transportation to conduct a 1-year study on the obstacles to and the plausibility of reusing abandoned manufacturing facilities and sites.

From steel mills in the Monongahela Valley and textile mills in New England and the Old South to machine shops along the Great Lakes and mining operations in the West, abandoned manufacturing facilities represent wasted resources and diminished communities. But they could underpin regional economic rebirth.

In most instances, these facilities are linked already to the necessary transportation infrastructure. Reusing them will reduce industrial sprawl and the need for new, expensive infrastructure projects.

Mr. President, it so happens that Senator JEFFORDS and I are cochairman of the Northeast-Midwest Senate Coalition. The amendment we are offering dovetails with efforts the nonpartisan, nonprofit Northeast-Midwest Institute has undertaken to research and promote industrial reuse. The institute convened a conference on the subject just last Friday, June 14, in Chicago. It is an exciting project, with important ramifications for our older, Frost Belt States, but for the rest of the Nation, as well.

Charles Bartsch and Carol Andress, two senior policy analysts at the Northeast-Midwest Institute, have written two particularly cogent articles about the promises and problems of industrial reuse for the Northeast-Midwest Economic Review. I ask unanimous consent that the articles, "Recycling Buildings" and "Common Ground" be printed in the RECORD following my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

RECYCLING BUILDINGS

(By Carol Andress, Charles Bartsch, and Lynn Bock)

In many of the nation's older cities, both large and small, countless aging industrial and manufacturing structures sit virtually abandoned. They offer vivid testimony to the many economic changes that have taken place in our technologies and world markets. The situation is particularly visible within the major "rust belt" manufacturing concentrations like Cleveland's and Chicago's industrial waterways, Pittsburgh's Monongahela Valley, New England's old textile centers and Ohio's factory towns—Akron, Lima and Youngstown—each with their closed steel mills, machine shops, refineries, chemical plants and factories.

In addition to their historical and architectural value, many of these buildings and complexes embody resources that could be recycled. These structures have the potential to house today's emerging technologies and manufacturing methods, restoring not only the building and its environment but also the jobs and vitality of the community that surrounds them.

This point is an important one, Communiites were built around these once thriving industrial sites because people's economic security depended on the jobs created by them; reusing them could provide an anchor for efforts to bring back economic vitality to these areas.

The reuse potential of older, outmoded industrial complexes, however, involves much more than simply the physical problems of historic preservation. The issues that influence the reuse of industrial buildings are very complex. In addition to the exceedingly difficult technical, physical and economic problems of retrofitting older buildings to house new processes, there are very serious environmental difficulties. Refineries, factories and other heavy industrial uses—especially those that began operating in the early part of the century—were not gentle on the land. In fact, these operations often resulted in toxic contamination of the surrounding air, water and land.

Addressing this decades-old contamination presents unique problems and uncertainties that further complicate restoration efforts. The extent of environmental contamination is often unknown, making it difficult to estimate the resources and time needed for cleanup. Additional costs and delays resulting from cleanup and regulatory procedures can significantly reduce the attractiveness of a site or structure. Undefined risks and potential liabilities associated with environmental contamination also make lenders unwilling to finance projects. Furthermore, contaminated sites often carry a negative public image that can be difficult to change, causing problems even after restoration when the property is sold or leased.

These obsolete and rusting hulks also send a not-too-subtle message of failure. Industrial and business developers see dereliction and despair. Local officials and civic leaders, often oblivious to the possibilities, see the challenges as too great, Better to bulldoze or, as is most often the case, forget these unused complexes and build elsewhere. This attitude supports industrial sprawl and leaves communities with visible images of economic and physical decay. It also encourages abandonment of important historic and physical resources and, most importantly, allows environmental contamination to continue unchecked.

The circumstances in influencing industrial site conversions and reuse have changed substantially—and often for the worse—in recent years. Because so little literature now exists that takes these changes into consideration, policymakers and practitioners have a great need for a solid research effort to reflect the new realities of industrial property reuse.

A number of areas require research and analysis:

The magnitude of the problem. The difficulties with reusing old industrial sites have already been defined in broad terms, but it needs to be determined how widespread they are, the costs they would entail and to what extent the economic development potential of older industrial facilities is impeded by those difficulties. This research would document the magnitude of the problems and the implications for the environmental and economic vitality of "rust belt" communities.

The most serious obstacles to reuse. Although each project will probably encounter its own unique problems, most rehabilitation efforts face many of the same difficulties. These might include:

Environmental dilemmas of workplace cleanup—including those which affect project financing and marketability;

Lack of clearly specified procedure for assessing risks and prescribing a definitive course of action for cleanup;

Lenthy, complicated and poorly coordinated processes for environmental review and cleanup certification;

Facility adaptation and siting obstacles that deter the introduction of new technologies or operations to old buildings.

Developers and financiers contend that these problems unnecessarily increase the amount of time and cost of a cleanup, and make reuse of older industrial sites less economically feasible. In addition, these problems have forced a growing number of jurisdictions to re-evaluate their role as economic development catalyst in older neighborhoods formerly dominated by manufacturing concerns. Real or suspected environmental problems—and their accompanying risks and liabilities—have made local leaders reluctant to proceed with many redevelopment projects.

Examples of successful industrial reuse projects. This research would analyze state and local initiatives that may have been tapped, how adaptive reuse of facilities was planned and carried out, how compliance with regulatory processes and reviews was achieved, how difficulties in the actual cleanup were overcome, the types of marketing strategies that best served the project, and other factors. These examples could serve as useful models for other jurisdictions.

The problems associated with industrial reuse are daunting, and solutions will be diverse and complex. These might include:

Devising a rational environmental review process with clearly defined steps and timetables that could win acceptance by government and the public—one which could help turn environmental risks and unknowns into certainties;

Adopting tax code or other incentives—especially those linked to the property rather than the owner—that would encourage cleanup of older, contaminated facilities and new investment in them;

Adopting initiatives to reduce lenders' risk or exposure;

Encouraging consistency in cleanup standards; and

Providing government agencies with the necessary resources to build capacity to carry out their mission in a responsible and timely manner and work constructively with private developers, the public and local government in their efforts to spark reuse of old industrial structures.

The federal government has an important role to play in addressing this issue, the Community Development Block Grant program could be part of its answer. The program is the best and most useful source of federal funding to encourage the renovation of older and historically significant structures. CDBG resources can be used to finance the rehabilitation of privately owned buildings and sites, covering specific costs related to labor, materials and construction or renovation. They also can pay for services such as counseling, preparation of work specifications, loan processing and inspections. Therefore, block grant funds are particularly well-suited to the "new generation" of industrial site reuse projects, which require a much stronger focus on environmental concerns. The wide range of eligible uses and the ability to use CDBG funds for grants, loans, loan guarantees and technical assistance makes the program a highly versatile way to stimulate private investments.

Clearly, using CDBG resources to spur the development of deteriorated, often contaminated sites would be appropriate. In addition to creating new economic opportunities for low- and moderate-income and economically disadvantaged persons, such a use would help eliminate blight by helping correct conditions detrimental to public health and safety.

In order to contribute to a better understanding of this complex issue, draw public attention to the problem, and develop broad-based support for its resolution, the Northeast-Midwest Institute plans to conduct research, hold a conference, and issue reports and related materials to a wide audience. The project will explore potential solutions such as financial and tax incentives to stimulate private investment, programs to address cleanup issues, processes that turn environmental risks into certainties, and economic development strategies that incorporate existing physical assets to promote community revitalization.

The conference will bring together preservationists, state and local economic and industrial development officials, private-sector facilities and siting managers, financiers, real estate agents, developers and brokers, owners of obsolete or derelict facilities (corporations, lending institutions, governmental bodies), community development corporations, labor unions, planners, environmentalists, elected officials and other public policymakers.

A successful and well-publicized conference will go a long way toward gaining public attention and awareness of this issue. But more is needed. Consequently, the Institute envisions this project—the conference, the research that leads up to it, the publications and news media attention that comes out of it—as part of a longer range strategy to encourage policies and initiatives that deal constructively with environmental, financial, and preservation problems that inhibit industrial reuse.

COMMON GROUND

(By Charles Bartsch and Carol Andress)

Across the United States, cities and towns of all sizes are sprinkled—and sometimes deluged—with abandoned industrial sites, reminders of the changing nature of national and regional economies. Factories, mills and machine shops that once housed thriving operations lie underused or empty.

Returning these sites to productive use does more than create jobs and tax revenues; it produces social, environmental, and aesthetic benefits.

But despite the redevelopment potential of these sites and the desire to get on with the task, serious obstacles impede progress. Chief among these is environmental contamination of the land and buildings on these sites. Uncertainties about the costs of cleanup, liabilities and the means to identify and remove contamination, coupled with declining public-sector support for development programs, dissuade many developers from undertaking cleanup and renovation. Recent judicial rulings about the extent of liabilities further cloud the situation.

In many situations, though, public and private leaders can frame strategies to make sure that the benefits of reuse outweigh the problems. To further that process, the Northeast-Midwest Institute is convening a "New Life for Old Buildings" conference in Chicago.

The conference is designed to inform businesses and communities on how these difficulties can be overcome in an economically viable manner that brings long-term benefits to the community and the environment. In bringing together diverse vantage points on this issue, the Institute hopes to draw attention to the connections among economic development, environmental restoration and site preservation.

The actual number of underused or abandoned industrial complexes is difficult to tally. The problems that typically plague these facilities, such as structural deterioration and environmental contamination, are virtually impossible to quantify and compare. What is certain, however, is that communities that allow such properties to remain inactive lose the tax revenue and jobs generated by thriving operations and suffer from continued contamination.

Developers have converted industrial complexes from San Francisco to Boston to Akron into hotels, retail centers, museums and festival markets. In Jersey City, N.J., for example, developers saved the Dixon/Ticonderoga pencil factory, giving it new life as an apartment complex.

However, the economic future of site reuse cannot depend solely on residential or commercial adaptations; a "boutiquing" strategy is not the best base on which to revive a local economy. Ideally, some of today's emerging technologies and manufacturing enterprises could be accommodated in older facilities, bringing back jobs and providing the resources needed to restore the buildings and property.

Older facilities in inner cities can provide affordable space for new and small enterprises that cannot pay for space in newly constructed suburban business parks or high-rent commercial areas. Some old factory sites have been successfully revamped as small-business incubators. Large, often architecturally significant structures can become anchors for other redevelopment efforts.

For example, the New Jersey Economic Development Authority redeveloped a 106-acre tract in Elizabeth, site of Singer's largest sewing machine factory. After cleanup and improvements to the structures, the property was subdivided and sold. The site now houses nine new companies employing over 1,500 persons.

FACTORS INHIBITING REUSE

It is well known that factories, steel mills and other industrial facilities pollute the land, water and air; they have for decades. What is new is public awareness of the health and environmental risks and recognition that pollutants must be cleaned up.

The existence of serious contamination at many sites and a trend toward stricter environmental laws deters efforts to reuse old industrial sites. Under the Comprehensive Environmental Response, Compensation, and Liability Act—the Superfund law—enacted in 1980, present owners are responsible for the costs of cleanup even if they did not cause the pollution. Because of these liabilities, prospective purchasers usually require that the property be cleaned up before they buy or lease it. Unfortunately, cleanup is rarely easy or inexpensive, and it triggers a web of technical and legal tangles.

Cleanup adds to the costs of the redevelopment project—depending on the extent and type of contamination, sometimes millions of dollars. Cleanup also requires time, delaying project completion by months and even years.

Nevertheless, the contamination must be addressed. However, well-intentioned developers face a host of uncertainties that complicate clean-up efforts.

UNCERTAIN LIABILITIES

Uncertainty about environmental liabilities also affects a firm's ability to secure financing for a project. At issue is the extent to which lenders, as potential owners or operators of a facility, are liable for the costs of cleanup should they assume title through foreclosure.

Concerns about the impact of lender liabilities on real estate transactions and loans to small businesses have prompted recent congressional proposals to broaden the CERCLA exemptions for lenders. According to testimony in support of these proposals, liabilities are affecting both loans for purchase of potentially polluted property and investment in businesses that may occupy the site in the future. Companies that buy reclaimed factories are finding it nearly impossible to obtain financing if their only collateral is the property itself.

However, making the lender liable in some instances serves a valuable role in ensuring that contamination is identified and cleaned up and that borrowers stay clean. The lender's stick is quick and direct: If the property is not cleaned, no money is loaned. An exemption that is too broad may encourage bad lending practices and discourage private-sector cleanups. Clarification of liabilities, rather than exemption, may be sufficient to calm lenders' fears.

Testifying before Congress, Environmental Protection Agency officials have emphasized that the agency does not want "to discourage unduly the redevelopment of old industrial property." EPA recognizes that CERCLA liability needs to be "as certain and predictable as possible."

To that end, EPA has drafted guidance for lenders on the definition of "participation in management." It remains to be seen whether the guidance, currently undergoing review by the Office of Management and Budget, sufficiently balances lenders' concerns with the need to ensure adequate cleanup.

UNCERTAIN PROCESS

There is considerable confusion among public and private leaders over the process for identifying and cleaning up contamination. In fact, the process gets more complicated every year as environmental laws are amended, regulations are modified, and courts reinterpret their applications. As one leading economic development official recently noted, most projects formerly did not involve lawyers until settlement; now the lawyer is often the first person on site.

Investors, public-sector development officials and project developers also are nervous about the lack of guidance on how to protect themselves from liabilities. Prospective owners may protect themselves under the "innocent landowner defense" added to CERCLA by Congress in 1986. To demonstrate their innocence, a property owner (or in the case of a lender, a potential property owner) must conduct "all appropriate inquiry" prior to acquiring the property. To date, however, neither EPA nor the courts has established guidelines that define "all appropriate inquiry." Instead, EPA has stated it will determine what is appropriate on a case-by-case basis.

Developers also fear that even when they clean a property to today's standards, they have no assurance it is enough; what is considered clean today may not be tomorrow. During the last 10 years, environmental laws have been enacted and amended and standards imposed, only to be changed in light of new pollution detection technologies and health concerns.

Such uncertainties affect cost projections for a site. New requirements could force developers to revise their cleanup plans midstream in the project. New detection systems could lead to discovery of previously unknown contamination that developers, as current owners, would be required to clean up.

Underused or abandoned industrial facilities are a national concern. They can be found everywhere—in the nation's "rustbelt," southern textile and manufacturing centers, and mining centers in the West. They are evidence of significant changes in technology and world markets.

Writing in "Urban Land," real estate investor Robert Sheridan writes that "old factories offer significant investment opportunities" and that "reuse of the best from the past" can be economically worthwhile. But if industrial site reuse is to succeed in achieving its full potential as an economic recovery and growth initiative, then a national strategy for reuse must be framed that addresses investor and developer concerns in a way that is environmentally responsible.

No community benefits when entangled liabilities for a site actually allow contamination to worsen by preventing cleanup and reuse. No business or worker benefits when lender fears thwart investment in facility modernization or cleanup. No local, state or regional economy gains when sites remain dormant, existing infrastructure goes unused and nearby neighborhoods suffer from ongoing distress.

The increasing interplay between the economic and environmental arenas is emerging as one of the most prominent development issues of the 1990s. The obstacles to revitalizing old industrial facilities are formidable, but not insurmountable. The benefits can be considerable.

Mr. JEFFORDS. Mr. President, I rise at the present time to make one important point about my support for S. 1204, and to ask Senator MOYNIHAN whether he would be willing to respond to a question about the intent of this legislation.

Mr. President, as this body well knows, the Nation presently faces a challenge of great magnitude, a challenge that must be met in order to preserve for future generations the tangible evidence of the greatest conflict ever waged on American soil and arguably the most important, most defining event in American history—the Civil War. At the present time the sites where some of the great battles of this war were fought are virtually disappearing under housing developments, industrial parks, office complexes, and highways. For example, just 30 minutes from this Capitol, the site where the Battle of Chantilly was waged in late summer, 1862, and where two heroic Union generals, Philip Kearny and Isaac Stevens, fell, today lies buried beneath row upon row of townhouses. Similar fates have met the sites of the battles of Selma in Alabama, Peachtree Creek in Georgia, Franklin in Tennessee, Rich Mountain in West Virginia, and many others.

Perhaps more importantly, even a greater number of battlefields are today endangered by development. For example, on rolling land not 2 hours southwest of this Capitol, the site of the most significant cavalry battle of the war, at Brandy Station, now lies threatened by planned development in the form of housing and an industrial park. This is so, despite the fact that this battlefield has been designated as eligible for listing on the National Register of Historic Sites. The sites of several battles in the lower Shenandoah Valley face a similar threat, as do many others.

In recognition of the threat facing these important sites, the Congress last year created the Civil War Sites Advisory Commission and charged it with the responsibility of identifying threatened Civil War sites and assisting in developing a national policy to save these endangered places for the benefit of future generations. The members of the panel have recently been appointed and are ready to begin their work.

Nevertheless, the march of development continues, in many cases with the aid of highway funds allocated to the States by the Federal Government. In these cases, funds provided through the Federal Highway Assistance Act—to build new roads into undeveloped areas, and to widen those extant to carry additional traffic—encourages this development and in many cases makes it possible. So, the truth is, on one hand the Nation has recognized that these historic sites must be preserved, while on the other it has encouraged their demise through the Federal Highway Assistance Act. This conflict must end.

To this end, it is my belief and understanding that the metropolitan and statewide planning processes required under S. 1204 include, as a core element, consideration of the impact of any potential or proposed highway projects on the Civil War battlefield sites that are listed or eligible for listing on the National Register of Historic Places.

By this I mean more than the cases where a highway is actually planned to run across such a battlefield—in such instances section 4(f) of the act already provides that that highway may not be built unless there is no feasible or prudent alternative to doing so. Instead, I refer to cases where the highway project may or may not be located on the battlefield site, but may be expected to encourage, increase, or accelerate development on that site, and where that development is of such a nature or magnitude that it may cause a significant loss or destruction of the historic qualities of that site. It is these sites that need and deserve protection from the effects of highway development, and it is these sites that should not be destroyed with the assistance of Federal highway funds.

Based on these concerns, I would like to ask the distinguished floor manager the following questions: Is it correct that the intent of this bill is to foster coordinated, comprehensive metropolitan and statewide planning processes, and such plans, as developed, should expressly include consideration of the overall social, economic and environmental effects of transportation decisions?

Mr. MOYNIHAN. Yes. Deliberate, comprehensive planning is to be an important part of transportation policies.

Mr. JEFFORDS. If such effects include, for example, the potential to encourage, increase, or accelerate development on nearby Civil War battlefields, should the planning process consider alternatives which would minimize adverse development effects similar to environmental reviews under the National Environmental Policy Act [NEPA]?

Mr. MOYNIHAN. The State planning process should reveal all aspects of specific transportation initiatives so that all parties have a full understanding of the implications of their choices.

Mr. JEFFORDS. It is the Senator's feeling that the Secretary shall consider the sufficiency of such planning in determining whether States and local governments are in compliance with the act?

Mr. MOYNIHAN. The Secretary of Transportation is indeed required to assure that each metropolitan planning organization is carrying out its responsibilities under the act.

Mr. JEFFORDS. I thank the distinguished floor manager.

Mr. BIDEN. When the 102d Congress convened in January, extending and rewriting Federal highway programs was high on the legislative agenda. With today's passage of the bill, the Senate keeps with the wishes of many States that highway legislation not become bogged down, as has happened in years past, at a tremendous cost of transportation planning.

The public knows the highway bill for the funding it provides for construction and maintenance of the massive interstate road system. But under the leadership of Senator MOYNIHAN, the Senate really never considered what could strictly be called a highway bill. Instead, the focus, rightly in my view, shifted from highway pavement to the people driving on it. Much more attention will be paid to improving the means by which our Nation moves about, not just on longer trips that take us onto the Interstate System, but also on our daily trips on primary and secondary highways.

The shift in focus was evident from the start. In 1987, the highway bill was termed the Surface Transportation Act. The title of the bill before the Senate this year adds one word—efficiency—but that one addition represents the transition that the Senate is supporting through this bill.

For decades, effective highway transportation meant building enough lanes to stay ahead of the numbers of cars that wanted to clog them. But we have passed the point of diminishing returns on that approach. In parts of Delaware, other Northeast States, and even portions of the West, we have reached the limit of benefits that highway lane additions can provide. New concrete is increasingly difficult to find room for, is increasingly expensive, and has too often proven to have a short lifespan of effectiveness.

We have found that commuters abhor a vacuum on the highway, and they will rush to fill them when they appear. Construction of ever wider highways too often means only broader and more impressive traffic jams, not relief from them.

As the details of this bill make clear, we must find ways to move our citizens more efficiently, and that demands flexibility. There is no single answer to traffic and transportation problems; solutions that work for one area of Delaware will not work in other parts of the State. Variance in solutions among the States is even greater. No Federal legislation could hope to establish a fixed formula that would work for all.

The bill before us attempts to balance those conflicting interests, and a dozen others. Tremendous discretion is granted to each of the States, yet limits are included so our national system of interconnected highways remains intact and effective. Highway expansion can be funded in those areas where it is truly needed, but incentives for States to make more effective use of existing resources are included. One fundamental purpose of the bill is to make car travel—the largest single source of air pollution in the country—more comfortable, but it also has strong provisions that reflect requirements of the Clean Air Act amendments passed last year.

As we moved toward debate on this bill, the defining event, signaling the need for a break from past policies, is the impending completion of the 44,000-mile Interstate Highway System. While that event could be viewed simply as a turning point from construction to maintenance, it also parallels a development on the local level I described earlier—the recognition that new lanes have to be viewed as a declining solution to traffic problems.

The difficulty of reorienting a program as massive as the highway program proved to be of secondary difficulty to allocating the funds to put the new approach to work. It was this fight that threatened to turn our National Highway System into 50 highway systems that simply abut each other. Flexibility is important, but it cannot make up for the overall shortage of funds that States feel they are victims of. Indeed, every State is truly short of highway funds. However, retreat to a balkanized funding system is not the way to assure a strong National Highway System.

We in Delaware are well aware of the costs of a good transportation system. Last year, one of the most discussed issues in my State was the need to construct a new bridge over the Chesapeake and Delaware Canal near the town of St. Georges. This bridge is the main connector for north-south traffic in the State and the Delmarva Peninsula. Replacing the St. Georges Bridge is estimated to cost $115 million.

This was Delaware's advance example of the cost of a good, reliable transportation system. The $115 million of the St. Georges Bridge represents 2 years of total Federal highway funding for Delaware. But as large as this single cost is, the issue cannot be ignored. The cost of inaction is much higher.

Because of certain long-held responsibilities of the Federal Government, Delawareans will not be faced with the choice of economic strangulation of the southern portion of the State or a huge financial burden to build a new bridge. But in many less obvious ways, that choice is one faced by Delaware and every other State each year. Transportation planners must either seek expanded funds to invest in improved transportation conditions or certain sectors of the economy will suffer delays and deteriorating conditions. Too often, there is not enough to fend off economic harm.

Our Nation's transportation needs are astounding. Highway system requirements are measured not in billions or tens of billions of dollars, but nearly half a trillion dollars in maintenance expenses over the next decade and a half.

This bill calls for over $110 billion in highway spending during the next 5 years. The figure is huge, but it is only one-third of what Federal officials estimate is needed during that time. But as Delaware recognized with the St. Georges Bridge, inaction is no solution.

For the result of inaction is immobility. As an example, Americans spend over 2 billion hours stuck in traffic every year. To put that total in more practical terms, it is wasted time for salesmen, truckers, repairmen, delivery vehicles, and hundreds of other types of workers across the Nation. Those delays cost our Nation over $35 billion annually in lost productivity.

So when talk turns to the monstrous size of the 1991 Surface Transportation Efficiency Act—and the numbers truly are imposing—it must be kept in mind that no one believes they approach what our Nation needs. This bill increases the flexibility of how transportation funds can be spent, but that flexibility cannot fill the chasm between resources and demands.

Reconciling the conflict between costs and benefits of transportation programs may well prove to be the next big hurdle to clear in maintaining our transportation infrastructure system. The public is conscious of the role of good transportation in everyday life, yet appears unable to connect that to the broader perspective of the cost of the program and the inescapable need to maintain a good transportation system. That is why many may be stunned by the size of this program, yet frustrated by traffic tieups, potholed roads, and detours.

I commend the Senator from New York for his leadership in reforming Federal highway and transportation programs to reflect changing conditions and the lessons we have learned from earlier programs. I hope we can continue the pace of action on this important bill so Delaware, like every other State, can start to plan with confidence its future efforts to fix traffic problems.

Mr. McCONNELL. Mr. President, when I spoke on the highway bill last Wednesday, I indicated my reluctance to support a bill that was inherently unfair to donor States like Kentucky. However, with the adoption of the Byrd-Mitchell-Bentsen compromise amendment, which I strongly supported, this legislation now provides my State with additional highway funding.

With the new funding allocations and the changes that have been made in the bill over the last couple of days, I believe that I can now support this bill. It is estimated that Kentucky, over the life of this legislation, will be able to receive an additional $147 million and by 1996 will be getting back $1 for every dollar contributed to the trust fund because of the bonus apportionment.

However, I would like to make it clear that I am very concerned that we still have the same flawed allocation formulas. The Byrd-Mitchell-Bentsen compromise simply gives donor States a bonus which will raise funding to a more equitable level. For this reason, I voted yesterday for Senator GRAHAM's FAST amendment which would have changed the funding formulas in the Moynihan bill. Although this amendment was defeated by a vote of 57 to 41, I believe this sends a strong message to the House of Representatives that a number of States are concerned about the old formulas.

In closing, I will vote for this bill warts and all. While the basic problem for donor States still exists, I am pleased that Kentucky will be receiving a more reasonable return on its tax dollars. It is my hope that, when the Senate goes into conference with the House, changes will be made to make the highway bill even stronger for our entire country. I will closely monitor the highway bill as it moves through Congress and will reserve the right to reconsider my position if the final product is not a balanced bill for Kentucky and the Nation.

Mr. MACK. Mr. President, this fight is over fair share. During this week and the last, the Senate has been working on a nearly $120 billion transportation package. We will reauthorize our surface transportation programs for another 5 years and embark on the beginning of the postinterstate era.

Yet while we start a new chapter in American transportation, we are not completely leaving the past. We will be allocating the majority of this nearly $120 billion through outdated means. Formulas that were partially written before the construction of our Interstate System will allocate billions over the next five years. Formulas that many of my colleagues here agree, do not fairly apportion funds from the highway trust fund. This is why I must cast my vote in opposition to final passage of the Surface Transportation Efficiency Act of 1991.

Florida is one of the leading donor States. Between 1986 and 1990, Florida contributed $788 million more than it received from the highway trust fund. $788 Million! According to the Florida Department of Transportation, our average return on each dollar contributed fell to an all-time low in 1990 of 53 cents. Florida's average return since the inception of the highway trust fund in 1956 is 80 cents per dollar contributed. Floridians had been hoping the highway roberry of the last 35 years would be corrected during this reauthorization.

The Senate has failed in this respect. We had an opportunity to create a new funding formula. An equitable formula. A fair formula for all 50 States. Yet we are taking the easy way out by not addressing the issue of a new formula.

Instead, we will allocate funds by taking the average return to each State from 1987 through 1991 and use it as a base for distributing funds for 1992 through 1996. According to the Senate Environment and Public Works Committee, Florida has the lowest average return for the 5-year period used as a base in the committee's bill. Florida's return ranks 50th, at 77 cents per dollar contributed.

We will be legislating the status quo, perpetuating our outdated allocation formulas for another five years. By doing this, we guarantee to be revisiting this issue once again in 1996.

The fight is over Florida's fair share. It is wrong to expect Florida taxpayers to foot the bill for highway needs of other States when we have our priorities. Thousands of people are moving to Florida every week to live in our sunshine and admire our State's natural beauty. Yet, the Federal bureaucracy refuses to understand that we need to improve our highways to keep pace with our tremendous growth.

The Byrd amendment does not correct the current situation. While it may placate some of the donor States, it will not solve the current problems in the formula system. The Byrd amendment, as in the Moynihan bill, only delays the Senate from tackling the donor State issue. The Byrd amendment only bribes us with our own money, using gas tax dollars as leverage for adoption of the amendment.

In summary, the Byrd level of effort amendment: First, fails to recognize the total level of effort being expended in each State; and second, fails to recognize the increasingly complex State transportation financing mechanisms now in place.

The minimum allocation compromise which has been added to the Byrd amendment does not address the formula question at all. Simply adding $4.1 billion to minimum allocation States does not solve the fundamental problem at hand. I am skeptical of this paper promise to Florida and other States. No one can guarantee that most of the money authorized for fiscal years 1995 and 1996 will be available.

The Byrd amendment guarantees we will once again be at this problem, with the same battle lines drawn, at the next reauthorization of our transportation programs.

The best acknowledgement of the failure of the present system is the need for the minimum allocation system. Over $1 billion is distributed annually under the 85 percent minimum allocation system to make up for the current failure in our distribution formula. Minimum allocation could be abolished entirely if a fairer formula was adopted.

We had the opportunity to vote on a new and more equitable funding formula. The FAST [Federal-aid surface transportation] proposal, as every member of the Senate knows, will provide for a more equitable return for all States based on modern factors such as lane miles, vehicle miles traveled, and diesel fuel use. By eliminating the use of rural postal miles and intercity mail route mileage in the current highway formula, we can legislate a fair formula, equitable to all fifty States.

Forty-one Senators voted for FAST last night. Forty-one Senators, through their vote, said they wanted a fairer formula to distribute highway funds.

FAST would have provided a new formula to distribute funds on a more equitable basis, using the extensiveness of our highways (lane miles), the intensity of use of our highways (vehicle miles traveled), and commercial truck travel (diesel consumption) as the primary formula for the distribution of highway funds.

The Moynihan bill, through its 5-year average return for each State from the highway trust fund from 1987 to 1991, does not address the need to create a new and more equitable formula. FAST created this needed formula.

Once FAST had been defeated, I offered an amendment to S. 1204 to authorize the use of the most recent census data when distributing base apportionments of the Surface Transportation Efficiency Act.

Under S. 1204, each State's base apportionments in accordance with the Surface Transportation Program would be equal to the State's average return from 1987–1991. But due to a quirk in the law, we would essentially be distributing funds to States through fiscal year 1996 based on those States' population in 1980.

According to the Federal Highway Administration, 15 percent of current highway formulas are based on population figures. These population figures are from the decennial census only, and are only updated every 10 years. Using population estimates prepared every 2 years by the Census Bureau, we can be more accurate in allocating highway funds than by only using decennial census data.

My amendment simply would have ordered the Secretary of Transportation to use the 1988 estimates and 1990 census to determine the population of States for the base years 1987–91 and use that information when distributing base apportionments.

The amendment did not change the proposed distribution formula. It merely allocated funding to the States to take into account demographic changes which are already estimated by the Census Bureau every 2 years. Approximately $80 million would be affected under my amendment, a very small amount when compared to the nearly $120 billion authorized in the bill.

My amendment to S. 1204 was one of fairness. Thirty-four Senators joined me in favor of the amendment, but 63 voted to prevent current census data from being used to distribute funds under the Moynihan bill.

Mr. President, the Senate has failed here tonight. We could have corrected the inequities of the present system. The Senate chose not to act. I can only hope the House will not run from this responsibility and will act to change our outdated highway funding formulas. If the House does not act, I will urge the President to veto the transportation bill when it reaches his desk.

Mr. SEYMOUR. Mr. President, it has been almost two full weeks since the majority leader brought S. 1204, the Surface Transportation Efficiency Act, to the floor. I rise today to lend some of my observations to this debate, and to discuss my views from a California perspective.

But first, Mr. President, I want to recognize the managers of the bill, Senators MOYNIHAN and SYMMS, and Senators BURDICK and CHAFEE, the distinguished chairman and ranking member of the Environment and Public Works Committee, for their hard work and dedication to our Nation's transportation infrastructure. Having observed the proceedings on this Floor over the past several days, I permit myself to say that they and the Senate leadership have been faced with the herculean task of sheparding this bill through the Senate, and they are owed great credit for their perserverance and effort to balance our Nation's transportation needs.

The bill before us addresses a broad range of issues vital to the health of our Nation's transportation and economic infrastructure, and integrates a much-needed flexibility to the process.

Mr. President, anyone who has observed this debate has witnessed the emergence of a common theme: our Nation's transportation policy stands at a crossroads.

The work this Nation set out to accomplish when President Eisenhower called for the creation of an interstate highway system is largely completed. This program, the genesis of our modern transportation system, stretches across our Nation's landscape uniting a vast network of roads and bridges, linking our States and communities, our international borders and ports of entry, and our centers of commerce.

With this task—this first phase—completed, we now undertake the next phase in the process: making the current system work to its maximum potential. Let's start moving people, but not just across State lines or over vast distances. Rather, we must focus our attention and priorities to the growing needs of congested communities, and put the choice of how we are going to address these problems back into the hands of the local decisionmakers, the States and local governments.

I know that every member in this Chamber has had the opportunity at least once in his or her Senate career to visit California. Our gridlock is legend, and I am sure many members have had the opportunity to experience it firsthand. We see it daily right here in the Nation's Capital. In California, our work force spends a growing portion of their day in traffic, hindering productivity and contributing to decreasing air quality. During peak hours, some 6,000 miles of California's main roads are at a virtual standstill. And this situation is repeated in numerous States. No major urban center is immune from gridlock and its associated consequences.

The time is ripe for a new focus in our transportation policy, and the bill before us takes America down that road. I applaud the very substantive effort that has been made here to produce a bill that will help us put a dent in gridlock, and get the tools to move people into the hands of the people that can make the best decisions. The flexibility S. 1204 provides to the States and local planners will be instrumental to helping California address its growing transportation needs.

However, Mr. President, the new focus contemplated in this bill falls short of providing new and sensitive direction in the distribution of transportation dollars. Instead, the bill relies on an underlying formula which was implemented for the purposes of constructing the interstate system.

I am disappointed this bill to change California's role as a donor State. As a nation-State of 30 million residents and growing—we grew by some 26 percent during the 1980's—California can ill-afford a funding formula that will allow current allocation policies to continue.

Absent the Byrd language, S. 2104 makes no progress in this area. That is why I voted for the Byrd-Mitchell-Bentsen compromise. It promises to California—should it be fully funded—up to $959 million over the lifetime of this bill. California sorely needs this funding assistance, and I am sure of Senator BYRD's commitment to seeing that this aspect of the bill receives full funding during the appropriations process.

I and other Senators representing the donor States would have preferred a wholesale departure from the committee's funding formulas. In my view, any serious attempt to take the country into the postinterstate phase must implement a postinterstate funding formula. If we are serious about changing the face of transportation policy, we must close the gap between donor States and recipient States and move toward a more equitable allocation of funding.

I share the very deep concerns our esteemed colleagues Senator BENTSEN, WARNER, GRAHAM, and BOND and others have expressed during the past few days. As a donor State, California has contributed some $5.2 billion more into the trust fund than we have received back. In the period from 1988 to 89, we contributed more than $400 million to recipient States.

In short, Californians are seeing one-way traffic in funding, and that traffic is leaving our State.

Mr. President, California recognizes its National responsibility. As a large State, we are prepared to lend a helping hand to the smaller, less populous States. Every donor State would prefer a dollar-for-dollar return, but this is an unrealistic expectation. We do not contest this fact. But the time has come to give us back a larger portion of our contributions so that we and the other donor States can indeed move into the postinterstate era and take care of our infrastructure problems back home.

We only ask for our fair share. Given Chairman BYRD'S leadership, I anticipate additional funds that California and the donor States so desperately need will be forthcoming in the outyears.

It makes no sense that those States where the growth rates are highest and congestion is the worst must continue to be held hostage to such a large imbalance in funding.

Quite simply, Mr. President, the donor States have sounded out the message that the status quo is no longer acceptable. The fact that the Graham amendment secured 41 votes is ample evidence of this. Our needs are too great. And these needs will go wanting if we cannot expect a more fair and equitable funding formula.

We have made progress during this debate, and it can be said that the Senate has worked its will. But I sincerely hope our colleagues in the House will employ a more equitable formula so that a final conference agreement will indeed build upon the progress made by the donor States during this debate.

A NEW ROAD IN TRANSPORTATION POLICY

Mr. LAUTENBERG. Mr. President, I rise in strong support of the passage of the Surface Transportation Efficiency Act of 1991.

In doing so, I want to again commend the leadership of my good friend from New York, Senator MOYNIHAN. By shepherding this bill through the committee and now through consideration by the full Senate, he has accomplished a monumental task. It has been with the leadership and assistance of our distinguished committee chairman, Senator BURDICK, that this has been possible. I also want to give credit to the Republican manager, Senator SYMMS for his efforts, and to Senator CHAFEE, the committee's ranking minority member.

This is legislation that we can all be proud of. It is no mere extension of the same old highway bills that this Nation has seen for the last 35 years. It is innovative. It is creative. And, it is responsive to the diverse needs of every region of this country.

As I said when we took up consideraton of the legislation 2 weeks ago, the cornerstone of the bill is its flexibility. That flexibility is essential if we are going to give States the tools they need to address their transportation needs, and meet national goals. I say that because, if there is one thing that is becoming more and more evident over the course of developing the concepts behind this legislation, its that local actions and national goals are inextricably linked.

Providing better mass transit in New Jersey is not just for the benefit of Newark, Trenton, Camden, or the Hudson waterfront. It helps improve the productivity of a vast work force. It helps our State, and our region, work toward compliance with clean air goals. Those are national goals and, the Nation benefits when we achieve them. But we must achieve them on the local level.

NATIONAL HIGHWAY SYSTEM

One change made to this bill during floor consideration is the addition of a set-aside of funding for a national highway system. I had some concerns about this, because it is, on its face, contradictory to the underlying flexibility of this bill. I take a back seat to no one in supporting an efficient, well-maintained system of roads for our Nation. We need a national system of roads.

Whether we give it a name or not, there effectively is and will be a national highway system. That is because every State, every region, has a vital economic interest in maintaining a core system of highways.

And, in the bill reported by the committee, we had already accounted for this; $14 billion is set aside for maintenance of the Interstate System, the backbone of any national highway system. Beyond that, we would have left it up to the States to maintain their crucial roads.

Now, some fear that States will run amok with new found authority, this flexibility. They fear that primary roads will be neglected. But, Mr. President, that is just not a realistic fear. Even in a State like New Jersey, where more transit is needed, the State will not—and it realistically cannot—ignore these major arteries, upon which so much of its economy is based.

So, Mr. President, I would say that, in effect, we already do have, and will continue to have, a national highway system. But, to have set aside a major share of the surface transportation program [STP] funds, as some proposed with the administration's encouragement, for a system to be designated at some point in the future by the Department of Transportation, would have flown in the face of the most progressive policy aspect of this bill: its flexibility, and in turn, the ability of States to use that flexibility to most effectively meet their transportation needs.

It is ironic: time after time, we hear the administration call for less big Government. "Let the States decide," they say. "States know best what they need," they say.

Well, in this bill, we agree. We would let State and local governments have the choice, the flexibility to use their funds as they see fit. And now, the administration does not seem to trust the States anymore. It wants to make the decisions here in Washington, not out in the States.

Well, I am ready to trust New Jersey. The other members of our committee trust their States. And, this trust, this flexibility, is at the core of our bill.

Our bill recognizes that transportation needs around the country are different: Idaho is different from New York; North Dakota is different from New Jersey. Well, even northern New Jersey is different from southern New Jersey.

The flexibility in our bill is the key to addressing those differences. Requiring a substantial set-aside of the STP would significantly reduce that flexibility. It would take away the flexibility that is so desperately needed by States like New Jersey to meet its clean air goals; goals that the President endorsed just last year.

I could not support that. If we are going to give States flexibility, and I think all of us here want to, we need to give them enough flexibility to let them do the job that needs doing.

The proposal ultimately adopted by the Senate, which sets aside 17.5 percent of STP funds, retains that flexibility, while meeting concerns that States would ignore their principal arterials. It does not undermine the goals of this bill.

LONGER COMBINATION VEHICLES

I am also pleased to note that the Senate adopted an amendment by Senator EXON and myself freezing the allowable lengths of longer combination vehicles, or LCV's. This amendment complements the provision I sponsored in the committee-reported bill freezing the use of LCV's, based on weight.

With these two provisions, we have closed off any more interstates to LCV's. If this amendment becomes law, and I believe that there is strong support for it in the House, the average driver in New Jersey, Connecticut, Maryland, and the many other States not now allowing LCV's, will not have to face the prospect of sharing the road with a truck weighing 70 tons and measuring well over 100 feet long.

INTELLIGENT VEHICLE AND HIGHWAY SYSTEMS

As I noted in my opening statement, this bill also contains my legislation to authorize a comprehensive Federal program on intelligent vehicle-highway systems [IVHS]. As borne out by a recent GAO report, I believe that IVHS holds tremendous promise for easing traffic congestion, and associated problems. As I have discussed here on the floor with the distinguished manager, it can help to significantly improve the productivity of our highway systems. And, it can add capacity to our existing systems, without having to pour more concrete. I am pleased that the Senate is approving my IVHS provision, and am pleased at the prospect of seeing IVHS incorporated as an integral part of our Nation's surface transportation systems.

Mr. President, there are two other provisions in the Environment and Public Works Committee portion of this bill that I sponsored, and want to note here.

NON-FEDERAL TOLL FACILITIES

First, section 123 allows States to be credited with expenditures on non-Federal toll facilities in meeting their Federal match requirements.

A number of States have constructed, without Federal assistance, transportation facilities that contribute significantly to the Nation's interstate commerce network. Although these facilities, such as the New Jersey Turnpike, are essential to interstate commerce, funds committed to build, maintain, or improve such facilities are currently not considered as part of a State's non-Federal capital spending for matching share requirements. Revenues generated for capital purposes through tolls or the fare box on those facilities may, in some cases, exceed the revenues generated by the State through its motor fuel taxes. In the case of New Jersey, the State raises approximately $425 million annually in tolls on its three major toll roads: the New Jersey Turnpike, the Garden State Parkway, and the Atlantic City Expressway.

This section would, in an effort to promote innovative financing of infrastructure improvements, allow States to use that spending in meeting non-Federal match requirements. It would not make additional Federal funds, above those for which the State would otherwise be eligible, available; the intent is to take into account more of a State's non-Federal transportation efforts than has to date been recognized, and allow States like New Jersey to make more effective, coordinated use of its resources.

PEDESTRIAN PARKS BRIDGES

The second provision is a less far reaching, but important change in current law. It amends the definition of a "park road," to include a pedestrian bridge. The reason for doing this is to allow such a bridge, that would connect the newly renovated Ellis Island Immigration Museum with Liberty State Park in Jersey City, NJ, to be funded under the Federal Parks Road Program. Under the current program, the Federal Highway Administration does not normally allow pedestrian bridges to be funded with this money. But, in this case, there is no alternative means of reaching Ellis Island, except by ferry. That system has, to date, been too expensive and too inconvenient to adequately serve the many Americans who want to revisit their heritage at Ellis Island. With this provision, a pedestrian bridge could be built with Federal funding.

Mr. President, this bill now also contains titles from the Commerce Committee and Banking Committee. I would like to make note of a few provisions in those titles.

DRUNK DRIVING

Over the years, I have worked with my colleagues on the Commerce Committee on important highway safety legislation. A focus of my efforts has been on combating drunk driving. We have made significant progress in that battle. But, more than 20,000 people continue to die each year in alcohol-related crashes. We have to do more to curb that senseless slaughter on our highways.

The Commerce Committee reported, as part of its contribution to its package, legislation to reauthorize and modify the section 410 program, which I authored in 1988. This program can have significant, lasting impacts on our national efforts to reduce drunk driving. Among the changes the Committee made to the program was to take into account the actual performance of a State in reducing drunk driving when awarding incentive grants. I sought this change, and support its inclusion. It represents an important advance that may help keep States like New Jersey heading in the right direction in fighting drunk driving.

MASS TRANSIT

Mr. President, I also want to commend Senator CRANSTON and his colleagues on the Banking Committee for their efforts to bring before this body a strong transit bill.

States like New Jersey depend on transit. It is an absolutely essential component of our transportation network.

We need to not only maintain, but also expand, our transit systems. Unfortunately, current policies of the Urban Mass Transportation Administration [UMTA] have actively discouraged the development of more transit capacity. The combination of the flexibility of the highway title of this bill and the changes contained in the transit title will help change this.

Among the major hurdles that areas seeking to build new transit systems have faced has been an UMTA policy of allowing only one new start per corridor. I do not believe that this is a wise policy. And, for the last few years, as chairman of the Transportation Appropriations Subcommittee, I have included a provision in the annual transportation bill to prevent UMTA from formalizing that policy into regulation. This has enabled two important projects in New Jersey to get underway: One that will connect Newark International Airport with downtown Newark and Elizabeth, NJ; and another to provide needed transit along the Hudson River waterfront. I am pleased to note that the Banking Committee included a comparable provision in the bill we are approving here today.

The transit title also makes other important changes in the criteria used to evaluate transit new starts. These changes would mean that more realistic factors are used in considering new systems. They will help level the field between transit and roads. A key provision would exempt new starts from burdensome administrative reviews when the projects are needed to carry out State implementation plans to meet clean air goals. This is essential for New Jersey, which finds itself in nonattainment of clean air standards, and will look to transit to help come into compliance.

SENIORS AND DISABLED TRANSPORTATION

This legislation also includes several provisions that were included in a bill I introduced earlier in the 102d Congress designed to improve transportation for senior citizens and disabled Americans.

When I introduced S. 1067, the Elderly and Handicapped Transportation Act, I noted that the section 16(B)(2) program, which provides capital funds for specialized transit to nonprofit organizations who provide transportation to seniors and the disabled, was underfunded and needed to be expanded. I think that members of the Banking Committee also recognized that the $35 million ceiling, that existed for the last 5 years, was creating situations where over 50 percent of the applicants for section 16(B)(2) were denied. This was the case for nonprofit organizations in New Jersey.

The transit title of this bill would almost double the amount of funds available under the section 16(B)(2) program for nonprofits to receive vehicles. While my bill called for higher authorization levels, I applaud the committee's effort to increase the program. This legislation also allows nonprofits to lease their vehicles to public agencies while they are not being used, in order to offset the rising costs of operating section 16(B)(2) vehicles. This was also a component of my legislation.

This new legislation will finally address a growing problem in our country. This problem is the lack of adequate transportation services for our Nation's senior citizens and disabled persons. While this program has been capped over the last 5 years, the need for such services has grown dramatically, especially among our senior citizens. The number of people over 60 years old will greatly increase over the next 20 years. Over half of all seniors in a recent Gallup Poll cited the lack of transportation services as a major obstacle in obtaining medical care. Mr. President, this legislation will allow our Nation's seniors and disabled access to vital social services.

In conclusion, Mr. President, in the package before us, we have a comprehensive surface transportation bill. It is a plan that can take this country through the 1990's and beyond, into the next century. I urge my colleagues to support it.

Mr. JEFFORDS. Mr. President, I wish to express my strong support for S. 1204, the Surface Transportation Efficiency Act of 1991. The leadership of the Environment and Public Works Committee—Senators BURDICK, CHAFEE, MOYNIHAN, and SYMMS—deserve credit for having devised a creative and effective program to address our changing transportation needs.

This bill provides more Federal money to address our pressing transportation infrastructure demands. It provides States greater flexibility to decide the best use of such funds, and it sets fair and reasonable matching formulas. Of particular interest to Vermont, the bill provides additional funds for bridges, including rural bridges.

In addition, the bill includes important new initiatives in mass transit, vehicle safety, and infrastructure preservation. As its title infers, it relies on the more efficient use of our existing system rather than increasing the size of the system. While Americans will continue to cherish the solitary pleasures of their automobile, this bill encourages HOV [high occupancy vehicle] lanes, buses, trains, and bikeways.

As expected, our floor debate has focused on funding formulas and how we will choose to divide gasoline tax revenues dedicated to the highway trust fund. It is important to realize that this bill spends the maximum amount of money available, consistent with current trust fund surpluses, projected receipts, and overall budget cap agreements.

As with other Federal programs, there will be States that fare better than others. But it is the integrity of the National System that is important. Money is one issue—and it will be settled in the end. Policy is another matter, and in this regard S. 1204 takes great strides.

Mr. President, this bill overhauls the current transportation category system to give States greater flexibility in programming transportation funds. This is appropriate; Vermont's transportation needs are as different from those of California as night is to day. Each State has different needs; each should have flexibility to choose its devices to satisfy these needs.

There are certain national objectives to be kept in mind, however. We depend on our transportation system to move people between destinations, whether it be for work or play. We also depend on this system to move goods to market, for the benefit of producers and consumers. From the beginning of this debate, the administration and Congress have agreed that all available Federal transportation funds, within the constraints of last year's budget agreement, should be spent for transportation purposes.

S. 1024 contains many policy changes that encourage the development of a safer and more efficient surface transportation system. For example, I support provisions of the bill to freeze the current size limits on large trucks. It is not at all clear that these vehicles pay their share of highway taxes. In adddition, I have concerns about the safety and environmental implications related to congestion and air pollution. While I respect and appreciate the people in the trucking industry, I am not convinced that bigger trucks are in the best interest of Vermont's truckers and note the opposition of the Teamsters Union.

On another matter, I was disappointed with the deletion of provisions related to visual pollution control—billboards. I continue to believe that this issue is misunderstood. Courts have consistently supported the constitutionality of the use of amortization to compensate billboard owners for the removal of nonconforming billboards. On the policy side, I support a moratorium on new billboards along Federal highways, and do not believe that we should clear-cut trees in order to preserve the vista of a billboard.

Be that as it may, the Senate voted to delete the billboard control section. I hope my friends in the House of Representatives will fare better. Vermont, having banned such signs 20 years ago, continues to provide a haven for those seeking refuge from the cornicopia of commerce lining our roads.

The comprehensive planning provisions of the bill are also a very important component. Many people, when they think of planning, refer to big cities, interstate loops, and interconnecting rail and air facilities. This bill builds upon requirements of current law requiring metropolitan areas above 50,000 in population to undertake careful planning operations. Such plans must be particularly mindful of the recently passed Clean Air Act amendments, so that transportation policies will be coordinated with efforts to reduce air pollution.

Equally important, the bill strengthens requirements for States to undertake statewide planning processes, including consideration for rural areas. For States such as Vermont, with changing rural populations, thoughtful transportation planning in these areas is an important consideration. I am pleased that an amendment by Senator LEAHY and myself was accepted, which specifically requires involvement of locally elected officials in the State planning process. The bill also allows State planning funds to be distributed to localities, as the States deem appropriate.

While roads and bridges constitute the primary means of travel, the bill also commits funds for transportation enhancement activities which include a broad range of uses. Safety programs are an important component, including education programs, rescue efforts and rail-highway grade crossings. These are vital functions, for which the bill sets no specific minimums or maximum funding. I would hope that States move to increase, rather than decrease, funding levels in these important areas.

The bill recognizes that trucks and cars are not the only way to get between points A and B. S. 1204 provides an opportunity to fund projects to serve the world's most popular form of transportation—the human-powered bicycle. Greenways and bikepaths are defined as transportation enhancement activities and are included for funding under the bill. Vermont has made good use of past funds—Federal, State and private—and I support these efforts. Greenways and bikepaths provide opportunities for transportation and recreation in both urban and rural areas, and I hope that State and urban planning processes will fully appreciate such benefits.

In Vermont, for instance, our Trails and Greenways Council assists localities in designing and funding these linear parks, with the hope of interconnecting communities throughout the State. From the lakeside city of Burlington, to the mountainside town of Stowe, bikepaths and greenways are used and enjoyed by both residents and visitors alike.

Other permissible uses of funds, within certain constraints, include carpool projects, scenic and historic easements, removal of billboards, preservation of historic structures, archaeological planning, and mitigation of water pollution due to highway runoffs.

Part B of the bill establishes a "national recreational trails trust fund," into which gas tax receipts from nonhighway users will flow. Through State recreational trails advisory committees, these funds will then be available for State recreational trails. The program encourages cooperation between hikers and bikers, skiers and snowmobilers, walkers and runners.

I want to thank Senator SYMMS for the hard work that he has invested in making this program workable for all concerned. The Trails Act returns nonhighway funds to nonhighway uses, and fosters cooperation between users. The needs are great, and this dedicated trust fund, in addition to other existing funding mechanisms, will help to fulfill them.

But the bulk of the money provided by the bill, as it should, will be used toward our growing national transportation needs. In Vermont, as with other States, that equates to roads and bridges.

This bill provides $105 billion in funding over the next 5 years for transportation purposes. Recognizing the fiscal difficulty States are facing, the bill sets matching ratios that will enable these States to use these Federal funds, without undo risk of losing spending authority because of an inability to raise comparable State revenues.

Earlier this year, I met with various Vermont State officials, who expressed a consistent transportation need: bridges, including scores of rural bridges. This bill allows an amount up to 35 percent to be available for use on any public bridge identified in the State bridge management system. Additional amounts may also be provided for bridges from the Surface Transportation Program.

Many of our rural bridges are critical to our State economy and way of life. Meanwhile, many are located in areas in which the citizens are unable to afford the total cost of extreme rehabilitations or replacement. This bill, with its higher funding amounts and greater flexibility, provides an opportunity to address these critical bridge needs.

Mr. President, once again I congratulate the leaders of the Environment and Public Works Committee for their efforts in developing this creative and Comprehensive Transportation Program.

Surface transportation is an important part of our American way of life. We've come to enjoy our freedoms, but we've also recognized our limitations. This bill puts us on the road toward greater opportunities.

Mr. MITCHELL. Mr. President, during the last 10 days, in fact, over the last month, but particularly during the last 10 days, a number of individuals at the Federal Highway Administration have worked endlessly, throughout the night and through a number of weekends, to ensure that Members of the U.S. Senate had the information they requested.

All of us have heard numerous references to charts that have been produced by the Federal Highway Administration. The charts and tables, the legislative language, and the general information provided by these individuals at the Federal Highway Administration have been prepared in an efficient and accurate manner.

I would like to take a moment and express my appreciation for the efforts put forth by: Bud Wright, Jack Basso, Bruce Swinford, Patty McAleer, Debra Johnson, Susan Lauffer, Jim Wiese, Frank Calhoun, Kathy Collins, as well as the efforts by Galen Reaser and Gene McCormick to ensure that all requests were fulfilled and coordinated.

This has been a long 2 weeks, but it would have been longer had these individuals not been so ready and willing to work a significant number of extra hours.

HAPPY BIRTHDAY, SENATOR BURDICK

Mr. MITCHELL. Mr. President, if I may have the attention of the Senate, one happy result of the fact that it took nearly 2 weeks to complete this bill is that we are about to pass it on the day that is also the birthday of the distinguished chairman of the full committee, our beloved colleague, QUENTIN BURDICK.

[Applause, Senators rising.]

Mr. MITCHELL. Mr. President, the vote that will now occur is the most tangible evidence of the respect of our distinguished colleague by the Members of this body.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Certainly.

ORDER OF PROCEDURE

Mr. DOLE. I have had a number of inquiries on the program for tomorrow. A number of Members on this side wonder whether there might be any opportunity to take up the energy and water appropriations bill tomorrow. Is that possible?

Mr. MITCHELL. Mr. President, I will certainly consider that. But as my colleague knows, the President has made a number of statements in the past several weeks criticizing us for not taking up and passing the crime bill.

I have been trying very hard to get to the crime bill. Of course, were I to accede to that request of your colleagues, why, then, it would further delay action on the crime bill; thereby, I fear, inducing another speech from the President.

Mr. DOLE. If I can assure my colleague there will be no more speeches from the President?

Mr. CHAFEE. Ever?

Mr. DOLE. Not ever, no.

Mr. MITCHELL. Then that is something we can talk about and I would be pleased to consider that, Mr. President.

The PRESIDING OFFICER. If there be no further debate, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] is necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 91, nays 7, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—91

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Harkin
Hatch
Hatfield
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wirth
Wofford

NAYS—7

Bond
Graham
Heflin
Kasten
Kohl
Mack
Roth

NOT VOTING—2

DeConcini
Pryor

So, the bill (S. 1204), as amended, was passed.

(The text of S. 1204, the Surface Transportation Efficiency Act, will appear in a future edition of the RECORD.)

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE LAST SOVIET TROOPS LEAVING HUNGARY

Mr. DODD. Mr. President, I rise to ask for special recognition to take note of a historic occasion. Today, the last occupying Soviet troops left the territory of the Republic of Hungary.

Mr. President, I belong to the generation that has had as one of its earliest memories of world events the Hungarian Revolution of 1956. I was but a young man of 12, but I recall the awe, the admiration, and ultimately the horror with which the American people watched the life and death struggle of a small nation against a foreign oppressor 25 times its size.

It is a historic fact that before the Soviets, Hungary was also occupied by Nazi Germany, so it is the first time in more than 47 years, almost half a century, that Hungary has no foreign occupying forces on its territory.

I am sure all of my colleagues join me in rejoicing over this event. I also take this opportunity to send my best wishes to the people of Hungary for their efforts to preserve freedom, to solidify their democratic system and to achieve long deserved economic prosperity.

Mr. President, Hungary is experiencing some hard times as it converts its economy to a free-market system. I visited that country on two occasions, and I was always impressed by the talent, industry, and spirited nature of the people of that Nation. I trust that with the assistance of their friends, including the people of the United States, Hungarians will find the patience and fortitude they need to complete their historic road to join the ranks of free and prosperous nations.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, first, let me commend my friend from Connecticut for remembering the very critical day, which is now a period which is hopefully passing into history.

He, like I, was raised very much a part of the Hungarian Revolution in 1956. We cheered those freedom fighters and, we, in Michigan, as a matter of fact, received thousands of those freedom fighters, those who were able to escape. Those who were left there were, in effect, prisoners.

Over the years, many of us around the world have helped to do everything we possibly could to bring about the freedom of Hungary. That freedom has now been achieved. I think it is remarkable, and it is also important that my friend do what he did here this evening, which is to remember these events.

Mr. DODD. I thank my colleague for that point.

I happened to turn 47 a couple weeks ago. Two weeks after my birthday, 47 years ago, the Nazis occupied Hungary. Today, the last Soviet troops left. It is a remarkable event and probably will not be terribly well noted in too many places but an historic event of significant proportions.

I thank my colleague from Michigan.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. I thank the Chair.

(The remarks of Mr. CRANSTON pertaining to the introduction of Senate Joint Resolution 165 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EQUITY ANALYSIS OF 1990 FARM LEGISLATION

Mr. DOLE. Mr. President, the Department of Agriculture has recently completed an equity analysis of 1990 farm legislation. Specifically, the report analyzes the impact which the Food, Agriculture, Conservation, and Trade Act of 1990 and the Omnibus Budget Reconciliation Act of 1990 will have upon farmers on a commodity by commodity basis. Several quantitative measures are used to compare changes in relative support among commodities. I ask unanimous consent that the entire text of the report be included in the RECORD following my remarks.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

EQUITY ANALYSIS OF 1990 FARM LEGISLATION

SUMMARY

Concern with differing levels of government support was an issue raised in the Senate-passed version of the 1990 Farm Bill. This paper assesses how commodity program changes required by the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990 and the Omnibus Budget Reconciliation Act of 1990 affect relative levels of support among commodities.

Several quantitative measures are presented with some being more dependent than others on future farm program parameters, commodity prices, program participation, and acreage adjustments in response to changes in market returns and farm programs. The following measures are used to compare changes in relative support among commodities:

Government payments or support per unit of production,

Gross farm income,

Commodity Credit Corporation (CCC) outlays, and

An aggregate measure of government support.

These measures are estimated for each commodity sector or market and not for an individual farm.

Estimates of farm income, CCC outlays, and government payments under the 1990

FACT Act and the Reconciliation Act are based on the Department's forecasts for the President's FY 1992 Budget. These forecasts were based on future supply, demand, and price prospects as estimated in November 1990.

To evaluate the effects of legislative changes in farm programs, the forecasts of farm income, government payments, CCC outlays, and other farm sector variables were projected assuming continuation of the 1985 Farm Bill and then compared with projections under the 1990 FACT Act and Reconciliation Act. Extension of the 1985 Farm Bill is not straightforward, however. A case in point is whether continuation of the 1985 Farm Bill means that the minimum support price for manufacturing milk is frozen at the 1990 level or allowed to decline by $0.50 per hundredweight if projected purchases exceed 5 billion pounds. The attached analysis assumes that further reductions in the minimum support price would be permitted under extension of the 1985 Farm Bill.

The 1990 FACT Act greatly increased farmers' planting flexibility. At this stage, it is impossible to know how farmers and markets will react to this increased flexibility. Any projections of acreage shifts would be extremely uncertain. In addition, increased flexibility could provide benefits to some groups of farmers in one year and others in another year, depending on how relative market returns for various crops change from one year to the next. For these reasons, this analysis does not attempt to estimate how the evaluation measures will change in response to the increased planting flexibility provided by the 1990 FACT Act.

The measures used to evaluate the fairness and equity of the 1990 FACT Act and Omnibus Reconciliation Act generally support the following conclusions:

The level of support declined the most for corn, sorghum, upland cotton, and wheat. The level of support declined significantly but to a lesser extent for rice as the new legislation did not affect marketing loan payments.

Most measures indicate that the level of support for soybeans did not change dramatically under the 1990 FACT Act and Reconciliation Act. Normally, loan rates are up and the level of support could rise significantly if prices fall below the minimum effective loan rate established by the 1990 FACT Act. However, the incomes of traditional soybean producers could fall if the new legislation leads to a sizeable increase in soybean acreage.

The level of support did not change significantly for oats, sugar, peanuts, tobacco, and wool and mohair.

The level of support rose moderately for barley.

The level of support increased significantly for milk and honey.

The 1990 FACT Act increased the level of support to producers of minor oilseeds. However, insufficient data exists for quantifying these impacts.

Measures of fairness and equity are highly sensitive to a wide variety of assumptions. In addition, the measures presented in the following paper are by no means exhaustive. Alternative measures and assumptions could possibly yield different interpretations of the fairness and equity of the 1990 FACT Act and Omnibus Reconciliation Act.

This paper assesses how commodity program changes required by the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 FACT Act) and the Omnibus Budget Reconciliation Act of 1990 (1990 Reconciliation act) affect relative levels of support among commodities. Concern with differing levels of support was an issue raised in the Senate-passed version of the Farm Bill, which included a sense-of-the-Senate resolution stating:

"* * * it is the sense of the Senate that the budget process unfairly penalizes producers of commodities supported primarily by Treasury payments relative to producers of commodities supported primarily by consumers.

Further, it is the sense of the Senate that whatever outlay reductions required by the budget process for Treasury payment supported commodities should be shared equitably between such commodities. In addition, there should be equitable reductions in support mechanisms for commodities supported by consumers relative to Treasury supported payment commodities."

There are numerous measures that could be used to evaluate equity among commodities. Different measures could lead to different conclusions regarding equity. This analysis uses alternative measures to evaluate the 1990 acts during the life of the 1990 FACT Act, 1991–1995. Quantification of each evaluation measure depends on many assumptions. These assumptions include how the 1990 FACT Act will be administered over the next 5 years (for example, acreage reduction levels), program participation rates, what crops farmers will plant on flexible acres, commodity prices, competitor response to U.S. market developments, and so on. Any such assumptions are subject to error, and changes in them could alter conclusions regarding changes in relative support among commodities.

Measures contingent on projections of the future compound the difficulty of assessing the fairness and equity of the 1990 FACT Act and Reconciliation Act. For that reason, several quantitative measures are presented in this analysis with some being more dependent on future farm programs, prices, participation levels, and acreage shifts than others. The following evaluation measures are used to estimate the effects of program changes on a commodity sector or market:

Government payments or support per unit of production,

Gross farm income,

Commodity Credit Corporation (CCC) outlays, and

In aggregate measure of government support.

The evaluation measures are calculated for corn, sorghum, barley, oats, wheat, upland cotton, rice, soybeans, sugar, peanuts, tobacco, honey, wool and mohair, and dairy. Lack of data prevented determining these same measures for minor oilseeds.

Prior to the 1990 FACT Act, price support loans for minor oilseeds were not available. The 1990 FACT Act mandated marketing loans for minor oilseeds. This provision will likely have a positive impact on minor oilseed production and producer incomes, while raising farm program outlays.

In the analysis that follows, the combined effects of the 1990 FACT Act and Reconciliation Act are estimated by comparing changes in the above evaluation measures. Estimates of farm income, CCC outlays, and government payments under the 1990 FACT Act and the Reconciliation Act are based on the Department's forecasts for the President's FY 1992 Budget. These forecasts were based on future supply, demand, and price prospects as estimated in November 1990.

To evaluate the effects of legislative changes in farm programs, the forecasts of farm income, government payments, CCC outlays, and other farm sector variables were projected assuming continuation of the 1985 Farm Bill and then compared with the projections under the 1990 FACT Act and Reconciliation Act. Extension of the 1985 Farm Bill is not straightforward, however. A case in point is whether continuation of the 1985 Farm Bill means that the support price for manufacturing milk is frozen or allowed to decline by $0.50 per hundredweight if projected purchases exceed 5 billion pounds. In this analysis, it is assumed that extension of the 1985 Farm Bill would permit further reductions in the support price. It is further assumed that commodity export programs, such as the Export Enhancement Program (EEP), PL. 480, and credit programs would not be substantially different under the 1990 FACT Act and Reconciliation Act and extension of the 1985 Farm Bill.

The 1990 FACT Act greatly increased farmers' planting flexibility. At this stage, it is impossible to know how farmers and markets will react to this increased flexibility. In addition, increased flexibility could provide benefits to some groups of farmers in one year and others in another year, depending on how relative market returns for various crops change from one year to the next. For these reasons, this analysis does not attempt to estimate how the evaluation measures will change in response to the increased planting flexibility provided by the 1990 FACT Act.

In the discussion that follows on each evaluation measure, the term "1990 Farm Bill" is used to cover the combined provisions of both the FACT Act and the Omnibus Reconciliation Act.

Measure 1—Government payments per acre: One measure of equity and fairness is the change in government payments onder the 1990 Acts. Under the 1985 Farm Bill, barley deficiency payment rates were based on the average price of all barley. The 1990 Acts determines deficiency payment rates based on the price of feed barley alone, effectively raising deficiency payments to barley producers. The mandated assessment on malting barley producers, the reduction in payment acres, and the adjustment in the 5-month price used to compute deficiency payments are insufficient to offset the payment increase. No reduction in oats payments occurs after the 1993/94 marketing year, because market prices are expected to exceed the target price.

For nonprogram crops, honey, wool and mohair, and dairy this measure is estimated by taking the change in the support price or payment rate for each community under the 1990 Farm Bill. These estimates include adjustments for producer assessments. Higher support prices more than offset producer assessments under the 1990 Farm Bill for soybeans, honey, and milk, raising the per unit level of government support for these commodities. Producer assessments result in a slight reduction in the level of government support for tobacco, wool and mohair, and peanuts. There was no significant change in the level of government support to sugar producers under the 1990 Farm Bill.

Measure 2—Gross farm income: A second measure of equity and fairness is the effect of the 1990 Farm Bill on gross farm income for the commodity (market receipts plus government payments). Table 2 indicates that for corn, sorghum, rice, upland cotton, and wheat the 1990 Farm Bill is expected to reduce gross farm incomes by 3–5 percent, while the 1990 Farm Bill is expected to have no impact on oat producers' incomes and a positive impact on barley producers' incomes. The gross income of barley producers increase, because of the change in the method of computing barley deficiency payments under the 1990 Farm Bill. The incomes of oats producers are not likely to be significantly affected by the 1990 Farm Bill, since market prices are expected to be near the target price and the 1990 Farm Bill requires that the acreage reduction program (ARP) for oats be set at zero.

The 1990 Farm Bill could have quite different impacts on the gross incomes of soybean producers depending on how farmers react to the planting flexibility provisions of the 1990 Farm Bill. If there is very little shift of acreage into soybeans, soybean producers' incomes could drop less than 1 percent under the 1990 Farm Bill. But, if soybean acreage increases dramatically, greater reductions in soybean producers' incomes could occur.

The 1990 Farm Bill is expected to have little to no impact on the gross incomes of sugar, peanut, wool and mohair, and tobacco producers. For these commodities, the 1990 Farm Bill imposed assessments, but either these assessments do not directly apply to producers or the assessment levels are not large enough to significantly affect the incomes of these producers.

The 1990 Farm Bill is expected to substantially increase the gross incomes of honey and dairy producers. The 1990 Farm Bill established the minimum support price for manufacturing milk at $10.10 per hundredweight, while extension of the 1985 Farm Bill would have mandated annual reductions of $0.50 per hundredweight if projected purchases exceed 5 billion pounds milk equivalent. Under the 1990 Farm Bill, the support level for honey was frozen at the 1990 level of 53.8 cents per pound, while extension of the 1985 Farm Bill would have allowed annual reductions of up to 5 percent per year. For both of these commodities, the 1990 Farm Bill mandated producer assessments, but these assessments are projected to be more than offset by higher support levels, causing the gross incomes of these producers to be higher under the 1990 Farm Bill.

Measure 3—CCC outlays: A third measure of equity and fairness is the effect of the 1990 Farm Bill on net CCC outlays for income and price support and related activities. Table 3 indicates that CCC outlays are 20–30 percent lower each year for corn, sorghum, upland cotton, and wheat under the 1990 Farm Bill, compared with an extension of the 1985 Act. Rice outlays do not drop as much (15 percent lower) because the 1990 Farm Bill did not affect marketing loan payments. On the other hand, barley outlays increase in all years and oats outlays remain unchanged by the 1990 Farm Bill. Barley outlays increase, because the 1990 Farm Bill determines deficiency payment rates based on the price of feed barley alone, rather than all barley. The 1990 Farm Bill is not expected to change outlays significantly for oats, since prices are forecast to be near the target price and the 1990 Farm Bill requires that the ARP for oats be set at zero.

Assessments imposed on marketings of sugar, peanuts, and tobacco by the 1990 Farm Bill will result in government receipts that more than exceed projected outlays for those commodities under continuation of the 1985 Farm Bill. Generally, outlays for those crops have been near zero or negative in some years. Assessments lead to a slight reduction in outlays for wool and mohair.

Outlays for honey and dairy increase sharply under the 1990 Farm Bill despite assessments. For both dairy and honey, the large increase in outlays is due to the increase in the level of support expected under the 1990 Farm Bill, compared with a continuation of the 1985 Act.

Soybean outlays are projected to decline under the 1990 Farm Bill. The 1990 Farm Bill increased the minimum soybean loan rate from $4.50 to $5.02 and imposed a 2-percent origination fee on soybean 9-month loans. In addition, the 1990 Farm Bill mandated a marketing loan program for soybeans. World market prices are projected to exceed the minimum soybean loan rate of $5.02 per bushel and, therefore, no marketing loan payments are projected. However, past experience indicates that the soybean market is extremely volatile and the possibility of large payments in the future cannot be ruled out. If world soybean prices decline sufficiently, the 1990 Farm Bill will lead to higher soybean outlays than under extension of the 1985 Farm Bill.

Measure 4—An aggregate measure of support: CCC outlay changes as a measure of equity and fairness fail to consider that some commodities are supported through direct payments while others are supported through support prices and import controls. Table 4 provides estimates of the proportion of gross income that is due to government programs under the 1985 Farm Bill and 1990 Farm Bill. For program crops, wool and mohair, and honey, this table gives estimates of the proportion of gross farm income accounted for by direct payments (including Conservation Reserve Program payments), or direct payments divided by total gross income. For commodities that are supported through internal support prices and import controls, such as sugar, peanuts, and dairy, government program support is determined by multiplying total marketings by the difference between the projected U.S. price and the projected world price and dividing the result by total gross income. No attempt was made to estimate the effects of export programs, such as the EEP on the level of direct payments or farm income.

The level of support provided under the 1990 Farm Bill declines for most program crops. Exceptions include barley and oats. The level of support provided to barley producers increases under the 1990 Farm Bill, again, because of the change in the method used to compute deficiency payments. The level of support to rice producers declines about 10 percent, but remains near 40 percent under the 1990 Farm Bill, the highest level of support provided to a program crop followed by wheat. The lowest level of support provided to a program crop is upland cotton with slightly over 10 percent of gross farm income coming from direct payments.

For nonprogram crops, honey, and dairy, the level of support under the 1990 Farm Bill either changes little or increases. The proportion of farm income accounted for by government programs declines less than 1 percent for peanuts, wool and mohair, and sugar and is projected to be near 60 percent for wool and mohair, over 50 percent for sugar, and about 45 percent for peanuts under the 1990 Farm Bill. The 1990 Farm Bill raised support prices for milk and honey, causing the level of support provided to these commodities to increase. About 10 percent of honey producers' incomes and about 20 percent of dairy producers' income are projected to come from government programs under the 1990 Farm Bill.

Government programs are not expected to account for a significant portion of the incomes of soybean producers. However, past experience indicates that market conditions are extremely volatile and, therefore, it is very likely that over the life of the 1990 Farm Bill some government support will be provided to these producers.

The aggregate measure of support for tobacco is set at zero under both the 1985 Farm Bill and 1990 Farm Bill. Under both bills, no import controls exist and producer assessments are authorized to offset the cost of supporting tobacco prices.

General conclusions: Several measures are presented to illustrate the equity and fairness of the 1990 legislation. These measures include estimates of the effects of the 1990 FACT Act and Reconciliation Act on the level of support per unit of production, gross farm income, CCC outlays, and aggregate support for selected commodities. Relative to the 1985 Farm Bill, this analysis supports the following conclusions regarding the 1990 legislation:

The level of support declined the most for corn, sorghum, upland cotton, and wheat. The level of support also declined significantly for rice but to a lesser extent, as the 1990 legislation did not affect marketing loan payments.

Most measures indicate that the level of support for soybeans did not change dramatically under the 1900 FACT Act. The level of support could raise significantly if prices fall below the minimum effective loan rate established by the 1990 FACT Act. However, the incomes of traditional soybean producers could fall if the 1990 FACT Act leads to a sizeable increase in soybean acreage.

The level of support did not change significantly for oats, sugar, peanuts, tobacco, and wool and mohair.

The level of support rose moderately for barley.

The level of support increased signficantly for milk and honey.

The 1990 FACT Act increased the level of support to producers of minor oilseeds. However, insufficient data exists for quantifying these impacts.

This analysis depends on a large number of assumptions and forecasts. Future forecasts of commodities prices and outlays have in the past been quite inaccurate. Farm program provisions under the 1990 FACT Act and Reconciliation Act and under continuation of the 1985 Farm Bill are very different and are subject to wide interpretation. In addtition, it is unclear how farmers and markets will react to the increased planting flexibility provided by the 1990 FACT Act, which this analysis does not attempt to capture. Alternative measures and assumptions could possibly yield different interpretations of the fairness and equity of the 1990 FACT Act and Reconciliation Act.

TABLE 1.—ESTIMATED CHANGE IN DIRECT PAYMENTS OR LEVEL OF GOVERNMENT SUPPORT

Commodity	Marketing years—					Average 1991–95
	1991–92	1992–93	1993–94	1994–95	1995–96	
	dollars per acre					
Corn	−10	−9	−9	−13	−12	−11
	[1] −16.2	−16.2	−15.8	−29.5	−31.3	−21.8
Sorghum	−5	−5	−5	−6	−6	−5
	−16.2	−16.2	−15.8	−26.1	−27.5	−20.4
Barley	2	1	1	1	1	1
	16.6	7.8	13.3	10.9	16.8	13.1
Oats	−1	−1	0	0	0	−1
	−10.5	−10.5	−10.5	....	....	−6.3
Wheat	−6	−10	−8	−10	−10	−9
	−12.5	−19.4	−17.1	−23.1	−22.7	−19.0
Upland cotton	−9	−12	−12	−12	−11	−11
	−15.8	−16.7	−17.6	−17.6	−17.1	−17.0
Rice	−28	−27	−27	−26	−25	−27
	−12.6	−11.6	−11.7	−11.5	−11.2	−11.7
Soybeans	14	14	14	14	15	14
	9.3	9.3	9.3	9.3	9.3	9.3
Sugar	0	0	0	0	0	0
	0	0	0	0	0	0
Peanuts	−3	−3	−3	−3	−4	−3
	−0.5	−0.5	−0.5	−0.5	−0.5	−0.5
Tobacco	−16	−16	−17	−17	−17	−17
	−0.5	−0.5	−0.5	−0.5	−0.5	−0.5
	Dollars per hundredweight					
Honey	2	5	7	9	11	7
	3.9	9.3	15.1	21.1	27.5	15.4
Wool and mohair	−2	−2	−2	−2	−2	−2
	−1.0	−1.0	−1.0	−1.0	−1.0	−1.0
Dairy[2]	.33	.77	.86	1.19	1.36	.90
	3.4	8.3	9.5	13.6	15.8	10.1

[1] Percent change.
[2] Marketing years 1990–91, 1991–92, 1992–93, 1993–94, and 1994–95, respectively.

TABLE 2.—ESTIMATED CHANGE IN GROSS FARM INCOME

[In millions of dollars]

Commodity	Marketing years—					Total 1991–95
	1991–92	1992–93	1993–94	1994–95	1995–96	
Corn	−688	−726	−687	−895	−762	−3,758
	−[1]3.1	−3.2	−3.0	−3.8	−3.2	−3.3
Sorghum	−66	−69	−63	−75	−58	−331
	−3.8	−3.8	−3.4	−4.0	−3.1	−3.6
Barley	17	7	11	7	8	50
	1.6	0.6	1.0	0.6	0.7	0.9
Oats	0	0	0	0	0	0
	0	0	0	0	0	0
Wheat	−326	−602	−497	−642	−674	−2,741
	−3.6	−6.4	−5.2	−6.5	−6.6	−5.7
Upland cotton	−121	−191	−180	−160	−168	−820
	−1.9	−3.1	−2.9	−2.6	−2.6	−2.6
Rice	−121	−109	−107	−105	−104	−546
	−5.8	−5.4	−5.3	−5.1	−4.9	−5.3
Soybeans	−91	−116	−101	−99	−82	−489
	−0.8	−0.9	−0.8	−0.8	−0.6	−0.8
Sugar	0	0	0	0	0	0
	0	0	0	0	0	0
Peanuts	−6	−6	−6	−7	−7	−32
	−0.4	−0.4	−0.4	−0.4	−0.4	−0.4
Honey	4	9	13	12	11	49
	3.8	8.4	13.1	12.0	10.6	9.6
Wool and mohair	−2	−2	−2	−2	−2	−10
	−0.6	−0.6	−0.6	−0.6	−0.6	−0.6
Tobacco	−12	−12	−13	−13	−13	−60
	−0.4	−0.4	−0.4	−0.4	−0.4	−0.4
Dairy[2]	445	860	1,137	1,617	1,938	5,997
	2.7	5.3	7.1	10.2	12.2	7.5

[1] Percent change.
[2] Marketing years 1990–91, 1991–92, 1992–93, 1993–94, and 1994–95, respectively.

TABLE 3.—ESTIMATED CHANGE IN CCC OUTLAYS

Commodity	Marketing years—					Total 1991–95
	1991–92	1992–93	1993–94	1994–95	1995–96	
	Million dollars					
Corn	−598	−597	−679	−921	−767	−3,562
	[1] −18.3	−18.8	−20.5	−34.9	−35.6	−25.6
Sorghum	−58	−57	−62	−77	−59	−313
	−18.6	−19.1	−20.4	−30.8	−31.2	−24.0
Barley	17	7	11	7	8	50
	16.6	7.8	13.3	10.9	16.8	13.1
Oats	0	0	0	0	0	0
	0	0	0	0	0	0
Wheat	−279	−609	−532	−657	−687	−2,764
	−10.0	−20.5	−19.3	−25.1	−25.3	−20.0
Upland cotton	−146	−231	−193	−151	−176	−897
	−14.7	−25.3	−23.6	−21.6	−22.6	−21.6
Rice	−138	−129	−125	−124	−123	−639
	−14.8	−15.1	−14.9	−14.7	−14.4	−14.8
Soybeans	4	−16	−25	−25	−6	−68
	(2)	....	....	....	....	....
Sugar	−26	−27	−28	−28	−28	−137
	(2)	....	....	....	....	....

TABLE 3.—ESTIMATED CHANGE IN CCC OUTLAYS

Commodity	Marketing years— 1991–92	1992–93	1993–94	1994–95	1995–96	Total 1991–95
Peanuts	−11	−12	−12	−13	−13	−61
	−144.9	−307.8	−302.4	−293.2	−270.0	−263.7
Honey	4	9	13	13	12	51
	16.9	52.1	115.0	116.5	115.1	83.1
Wool and mohair	−2	−2	−2	−2	−2	−10
	−1.0	−1.0	−1.0	−1.0	−1.0	−1.0
Tobacco	−24	−25	−25	−26	−27	−127
	(2)	....	....	....	....	....
Dairy[3]	29	50	113	185	324	701
	4.6	14.6	31.9	65.0	198.2	62.9

[1] Percent change.

[2] Percentage change not computed because baseline level of CCC outlays projected to be zero or negative.

[3] Marketing years 1990–91, 1991–92, 1992–93, 1993–94, and 1994–95, respectively.

TABLE 4.—PROPORTION OF GROSS INCOME DERIVED FROM GOVERNMENT PROGRAMS

[Aggregate measure of support]

Commodity	Marketing years— 1991–92	1992–93	1993–94	1994–95	1995–96	Average 1991–95
	Percent					
Corn:						
1990 farm bill	13.2	12.9	12.9	9.0	7.2	11.0
1985 farm bill	15.9	15.5	15.5	12.5	10.1	13.9
Difference	−17.0	−16.8	−16.8	−28.0	−28.7	−20.9
Sorghum:						
1990 farm bill	21.5	20.5	19.7	15.8	13.8	18.3
1985 farm bill	24.5	23.6	22.5	19.2	16.6	21.3
Difference	−12.1	−13.1	−12.4	−17.7	−16.9	−14.1
Barley:						
1990 farm bill	22.7	21.9	20.4	18.2	16.6	20.0
1985 farm bill	21.5	21.4	19.6	17.7	16.1	19.3
Difference	−5.6	−2.3	−4.1	−2.8	−3.1	−3.6
Oats:						
1990 farm bill	16.4	16.0	15.9	14.3	14.9	15.5
1985 farm bill	16.4	16.0	15.9	14.3	14.9	15.5
Difference	0	0	0	0	0	0
Wheat:						
1990 farm bill	34.5	33.0	31.3	27.8	27.4	30.8
1985 farm bill	36.9	37.6	35.2	32.7	32.3	34.9
Difference	−6.5	−12.2	−11.1	−15.0	−15.2	−11.7
Upland cotton:						
1990 farm bill	10.2	11.8	10.6	10.1	10.2	10.6
1985 farm bill	12.0	14.8	13.5	12.5	12.8	13.1
Difference	−15.0	−20.3	−21.5	−19.2	−20.3	−19.1
Rice:						
1990 farm bill	40.6	38.2	37.5	36.9	36.3	37.9
1985 farm bill	44.9	42.6	41.7	41.0	40.3	42.1
Difference	−9.6	−10.3	−10.1	−10.0	−9.9	−10.0
Soybeans:						
1990 farm bill	1.0	1.1	1.2	1.4	1.5	1.2
1985 farm bill	1.3	1.4	1.5	1.6	1.7	1.5
Difference	−23.1	−21.4	−20.0	−12.5	−11.8	−17.8
Sugar:[1]						
1990 farm bill	55.0	55.0	54.0	53.0	52.0	53.8
1985 farm bill	55.0	55.0	54.0	53.0	52.0	53.8
Difference	0	0	0	0	0	0
Peanuts:[1]						
1990 farm bill	35.7	45.2	44.9	45.5	45.2	43.3
1985 farm bill	35.9	45.5	45.2	45.8	45.8	43.6
Difference	−0.8	−0.5	−0.6	−0.6	−0.6	−0.6
Honey:						
1990 farm bill	16.3	12.5	11.3	10.4	9.6	12.0
1985 farm bill	13.3	5.0	0	0	0	3.7
Difference	22.6	150.0	....	....	....	324.3
Wool and Mohair:						
1990 farm bill	61.5	61.4	60.2	59.3	58.8	60.2
1985 farm bill	61.7	61.6	60.4	59.5	59.0	60.4
Difference	−0.4	−0.4	−0.4	−0.4	−0.4	−0.4
Tobacco:						
1990 farm bill	0	0	0	0	0	0
1985 farm bill	0	0	0	0	0	0
Difference	....	....	....	....	....	....
Dairy:[2,3]						
1990 farm bill	20.7	20.5	20.6	20.3	20.5	20.5
1985 farm bill	18.6	16.0	14.4	11.5	11.1	14.3
Difference	11.3	28.1	43.1	76.5	84.7	43.4

[1] U.S. farm price set equal to projected world price.

[2] U.S. price for manufacturing milk set equal to projected world price.

[3] Marketing years 1990–91, 1991–92, 1992–93, 1993–94, and 1994–95, respectively.

DEFENSE AND SPACE TALKS

Mr. DOLE. Mr. President, arms control is back in the headlines. Problems related to the conventional forces in Europe treaty [CFE] appear to have been resolved—making way for ratification—and the START negotiations are back on the front burner.

In my view, comprehensive agreements like the INF Treaty and the CFE Treaty are important and have their place. But, I also believe that in the area of arms control there are other initiatives and confidence and security-building measures [CSBM's] that can play a very useful role, particularly in promoting stability between the United States and the Soviet Union.

A good example of such initiatives can be seen in the defense and space talks [DST], where our chief negotiator, Ambassador Dave Smith, has been working on an accord on predictability measures. The purpose of the U.S. proposed predictability measures accord is to increase openness in each side's efforts and programs related to strategic ballistic missile defense—in order to reduce suspicion and avert future technological surprise. While the U.S. strategic defense initiative [SDI] is conducted very openly, Soviet strategic defense activities are still shrouded in secrecy.

I would like to bring to the Senate's attention an article written by Ambassador Smith, published in Jane's Defence Weekly, which discusses United States negotiating efforts to build on Soviet acceptance of several United States predictability concepts, such as annual data exchanges, experts' meetings and observations of field tests.

I ask unanimous consent that Ambassador Smith's article be placed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Jane's Defence Weekly, June 1, 1991]

Towards a New Openness

Technology has helped the outside world peer over the high wall of secrecy which has surrounded the Soviet Union. In the realm of arms control, satellites and other national technical means (NTMs) have played a vital role in monitoring agreements such as the 1987 Intermediate-range Nuclear Forces (INF) Treaty. Such NTMs will also be indispensable for verifying the Conventional Forces in Europe Treaty signed last year, and the future Strategic Arms Reduction Treaty.

The Super Powers have found considerable value in confidence building measures (CBMs) which enhance security through greater military openness and better communications and understanding.

In 1955 U.S. Secretary of State John Foster Dulles summed up the challenge of disarmament. He doubted it could work with a powerful but untrusted country such as the Soviet Union. Yet, Dulles observed, respect for world opinion required disarmament efforts. Through the post-war era, U.S. and other Western arms negotiators have been trying to meet the challenge by seeking sound, verifiable and durable accords.

U.S.-Soviet CBMs started under President John Kennedy. The 1962 Cuban missile crisis emphasized the value of prompt communications between U.S. and Soviet leaders, and led to the establishment of the hotline between them.

The 1971 Accidents Measures Agreement provides for immediate notice of accidental or unauthorized use of nuclear weapons and for detection of unidentified objects which could create a risk of nuclear war.

The 1973 Agreement on the Prevention of Nuclear War obliges consultations any time that relations between countries appear to involve the risk of nuclear war.

In 1987 the Nuclear Risk Reduction Centres were set up. The centres trade real-time data between Washington and Moscow to implement the INF Treaty and other accords.

The 1988 Ballistic Missile Launch Notification Agreement mandates prior notice of any test launch of a strategic ballistic missile.

Multilateral confidence-building took a major step forward with the 1986 Stockholm Document on Confidence and Security Building Measures in Europe. Advance notification and observation of certain military exercises, forecasts of such events and on-site inspections substituted openness and understanding for the suspicion of earlier years.

Since 1986, the nations that comprise the Conference on Security and Cooperation in Europe (CSCE) have improved and added to the Stockholm Document. At the November summit in Paris they endorsed the Vienna Document of 1990, which superseded Stockholm. New CBMs were added, such as military information exchange, risk reduction and conflict prevention. Increased military-to-military contacts were also accepted.

In the Geneva Defense and Space Talks, an offshoot of the CSCE talks, which have since 1985 focused on the future of the 1972 Anti-Ballistic Missile (ABM) Treaty and space-based defenses, the USA seeks to expand on all of these gains—through an accord on wide-ranging predictability measures. Our goal is to reduce suspicion and avert future technological surprise. This would be achieved by opening an early and wide window into each country's programs in the field of strategic ballistic missile defense.

The U.S. Strategic Defense Initiative (SDI) is already conducted very openly. In contrast, extensive comparable Soviet activities remain shrouded but we believe an opportunity lies before us.

Three years ago the Soviets accepted several U.S. predictability concepts such as annual data exchanges, meetings of experts and observations of field tests.

In December 1989, at Secretary of State James Baker's invitation, Soviet scientists visited two U.S. laboratories engaged in SDI research. Soon after, the Soviets accepted our idea for a 'visits to laboratories' predictability measure.

Momentum on predictability measures should be maintained. However, we are concerned about the hidden meaning of a new pamphlet. Openness and Espionage, written by the Deputy Chairman of the Soviet State Technical Commission, Maj Gen Nikolay Brusnitsyn. This tract may be preparing public ground for a renewed digging-in of Soviet heels.

At first glance, Brusnitsyn supports a climate of improved U.S.-Soviet relations. He says that military openness by itself builds confidence and lessens chances of overestimating the other side's potential. But Brusnitsyn also makes clear that he does not believe in the intrinsic value of openness and espionage belongs more to the 1955 world described by Dulles.

First, Brusnitsyn reduces confidence-building to verifying specific provisions of agreements. NTMs are sufficient for this, he says. Second, beyond NTMs, only a narrow exchange of data would be justified. It would exclude data on weapons characteristics, the structure of deployed forces, and the concentration of arms in a military theatre. Indeed, Brunsitsyn alleges, any exchange beyond what is stipulated by an accord would constitute "intelligence gathering". Had it been Soviet policy in 1986, the Brusnitsyn doctrine would have prevented conclusion of the Stockholm Document. We hope such 'old thinking' does not overtake efforts to gain agreement on defence and space predictability measures in 1991.

At the UN last September former Soviet Foreign Minister Shevardnadze, called for wide-ranging CBMs and cooperative security structures. We are convinced that greater Soviet openness can open a pathway toward achieving these worthwhile goals.

THE HIV RESEARCH PROGRAM IN THE DEPARTMENT OF THE ARMY

Mr. STEVENS. Mr. President, the AIDS epidemic has garnered much in terms of headlines. I would like to call the attention of the Senate to the work that the Department of the Army has been doing for 5 years. That work started here in the Senate when we initiated the money to put the Department of the Army to work to carry out its historical role in innovation. They had dealt with malaria, with development of gamma globulin, and other very serious problems in the medical field.

But since its inception, the Army's HIV research program has focused on the development of the vaccines for the prevention against and treatment of HIV infection. There is a high degree of cooperation between the Army's program and that of the Department of Health and Human Services, and the Army's focus on basic research has enabled HHS to diversify its efforts.

Since fiscal year 1988, the Army's budget for AIDS research totalling nearly $150 million, has funded a safety and immunization study of an HIV envelope-derived protein product—gp160—in volunteers with early HIV infection.

The findings of the Army study indicate that the concept of vaccine therapy is a feasible strategy to pursue in the treatment of early-stage HIV infection. The vaccine appears to have no side effects other than occasional tenderness, swelling, or hardening under the skin at the site of inoculation. In light of these promising results, Army scientists at the Walter Reed Army Institute of Research have initiated further evaluation to assess the clinical efficacy of the vaccine.

I ask unanimous consent to have printed in the Record the New England Journal of Medicine article of June 13, 1991, which publishes the results of the Army's work.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New England Journal of Medicine, June 13, 1991]

A Phase I Evaluation of the Safety and Immunogenicity of Vaccination With Recombinant GP160 in Patients With Early Human Immunodeficiency Virus Infection

(By Robert R. Redfield, M.D., Deborah L. Birx, M.D., Nzeera Ketter, M.D., Edmund Tramont, M.D., Victoria Polonis, Ph.D., Charles Davis, M.D., John F. Brundage, M.D., Gale Smith, Ph.D., Steven Johnson, M.D., Arnold Fowler, Ph.D., Thomas Wierzba, M.S., Avigdor Shafferman, Ph.D., Franklin Volvovitz, Charles Oster, M.D., Donald S. Burke, M.D., and the Military Medical Consortium for Applied Retroviral Research)

ABSTRACT

Background.—Despite multiple antiviral humoral and cellular immune responses, infection with the human immunodeficiency virus (HIV) results in a progressively debilitating disease. We hypothesized that a more effective immune response could be generated by post-infection vaccination with HIV-specific antigens.

Methods.—We performed a phase I trial of the safety and immunogenicity of a vaccine prepared from molecularly cloned envelope protein, gp160, in 30 volunteer subjects with HIV infection in Walter Reed stage 1 or 2. The vaccine was administered either on days 0, 30, and 120 or on days 0, 30, 60, 120, 150, and 180. HIV-specific humoral and cellular im-

mune responses were measured; local and systemic reactions to vaccination, including general measures of immune function, were monitored.

Results.—In 19 of the 30 subjects both humoral and cellular immunity to HIV envelope proteins increased in response to vaccination with gp160. Seroconversion to selected envelope epitopes was observed, as were new T-cell proliferative responses to gp160. Response was associated with the CD4 cell count determined before vaccination (13 of 16 subjects [81 percent] with >600 cells per milliliter responded, as compared with 6 of 14 [43 percent] with ≤600 cells per milliliter; P = 0.07) and with the number of injections administered (87 percent of subjects randomly assigned to receive six injections responded, as compared with 40 percent of those assigned to three injections; P = 0.02). Local reactions at the site of injection were mild. There were no adverse systemic reactions, including diminution of general in vitro or in vivo cellular immune function. After 10 months of follow-up, the mean CD4 count had not decreased in the 19 subjects who responded, but it had decreased by 7.3 percent in the 11 who did not respond.

Infection with human immunodeficiency virus type 1 (HIV) causes chronic progressive immunologic dysfunction.[1,2] Although the precise mechanisms of HIV-induced immune defects remain to be elucidated, the development of immunologic dysfunction as a result of HIV infection is well documented.[1–8] Longitudinal studies of HIV-infected cohorts have demonstrated a predictable rate of decline in the CD4 cell count and a relation between the CD4 cell count and survival.[3,4,9–12] Accordingly, HIV infection can be clinically classified into distinct prognostic stages on the basis of increasing degrees of immunologic dysfunction.[13]

Conclusions.—This gp160 vaccine is safe and immunogenic in volunteer patients with early HIV infection. Although it is too early to know whether this approach will be clinically useful, further scientific and therapeutic evaluation of HIV-specific vaccine therapy is warranted. Similar vaccines may prove to be effective for other chronic infections. (N Engl J Med 1991; 324: 1677–84.)

Immune responses to HIV antigens are elicited during natural infection, and these may be important in regulating viral replication. Both humoral mechanisms (i.e., neutralization antibody, viral-receptor—blocking antibody, and antibody-dependent cytotoxicity) and cellular mechanisms (i.e., natural-killer-cell activity, HIV antigen—specific T-cell proliferative responses, and cytotoxic T-cell responses) have been reported.[14-26] Yet, despite these immune responses, HIV infection results in a progressive, debilitating disease of the immune system. The burden of HIV in vivo has been shown to increase in the later stages of infection[21-23]; some investigators have deduced that this is a consequence of viral-directed events such as changes in viral regulatory proteins or changes in viral cytopathogenicity.[24,25]

An alternative hypothesis is that both the prolonged clinical course of HIV infection and the progressive increase in the expression of HIV in vivo in the late stages of disease may be direct consequences of the effectiveness of the immune response to HIV in its early stages.[26-28] In short, as the antiviral immunity gradually weakens, poor control of in vivo viral replication results.[28] To test this hypothesis, we explored the possibility of augmenting HIV-specific immunity in infected persons by active immunization with an HIV-protein product, gp160. This product has recently been shown to be safe and immunogenic in healthy adults without HIV infection.[29] The objective of the present phase I trial was to evaluate the safety and immunogenicity of active immunization with recombinant gp160 in volunteers with early HIV infection and to determine the feasibility of using this intervention to modify the immune response to HIV in subjects with chronic infection.

METHODS

A more detailed description of our methods is available from the National Auxiliary Publications Service.*

Selection of Subjects

Thirty volunteer subjects with HIV infection were recruited from among Department of Defense health care beneficiaries. The nature of the trial was explained in detail to each subject, and written informed consent was obtained. Only seropositive patients in an early stage of HIV infection, defined as Walter Reed stage 1 or 2 (a CD4 cell count of not less than 400 per milliliter for more than three months, with or without lymphadenopathy),[13] were eligible for enrollment. The subjects also had to be between 18 and 50 years old, have a normal complete blood count, have no evidence of end-organ disease, have not abused alcohol or drugs over the preceding 12 months, and have not received antiretroviral or immunomodulatory drugs. All the subjects underwent a two-month base-line evaluation before randomization. None received any antiretroviral or immunomodulatory drug during the trial.

Vaccine Product and Immunization Schedule

The test vaccine was a noninfectious subunit glycoprotein derived from human T-cell lymphotropic virus Type III, gp160 VaxSyn HIV-1, MicroGeneSys, Meriden, Conn.), a baculovirus-expressed recombinant protein produced in the cells of lepidopteran insects, biochemically purified, and adsorbed to aluminum phosphate for final formulation.[29] Three doses of gp160 were used: 40, 160, and 640 μg. Both the 40-μg and 160-μg doses were injected in a volume of 1 ml; the 640-μg dose was given as 320 μg per milliliter in a volume of 2 ml.

The 30 subjects were assigned to six vaccination groups of 5 subjects each. Two immunization schedules were investigated: schedule A, with vaccination on days 0, 30, and 120, and scheudle B, with vaccination on days 0, 30, 60, 120, 150, and 180. Three of the six groups received different doses of vaccine accoding to schedule A, and the other three groups received different doses according to schedule B (Table 1). All vaccinations were administered by intramuscular injections into the deltoid muscle. The duration of the trial was 10 months—i.e., a 2-month base-line evaluation and an 8-month follow-up evaluation after the initial vaccination.

Assessment of Safety

Each subject was interviewed and examined on days 0, 1, 2, 3, 15, and 30 after each injection. They were asked whether they had had fever, chills, nausea, vomiting, arthralgia, myalgia, malaise, urticaria, wheezing, dizziness, or headache and were examined for local reactions at the site of injection, including erythema, swelling, itching, pain and tenderness, skin discoloration, skin breakdown, any change in regional lymphadenopathy, any change in the function of the extremity into which the vaccine had been injected, and the formation of any subcutaneous nodules at the site of injection. The complete blood count, serum biochemical determinations, coagulation-profile assessment, and urinalysis were performed monthly.

In vitro cellular immune function was assessed by determining the T-cell phenotype (total-lymphoycite, GD4 cell, and CD8 cell phenotypes)[30,31] and the T-cell proliferative response to mitogens (pokeweed and concavalin A) and control antigens (*Candida albicans* and tetanus).[31] In vitro cellular immune function was assessed by skin testing for delayed hypersensitivity to control antigens (mumps, tetanus toxoids, *C. albicans*, and trichophyton).

Quantitative viral culture of peripheral-blood mononuclear cells and plasma,[22] DNA polymerase-chain-reaction testing,[32] and measurements of serum p24 antigen levels were performed to monitor the HIV viral load in vivo.

Assessment of Immunogenicity

Antibodies directed against whole HIV proteins were measured with both recombinant viral gene products gp160, p66, and p24 (MicroGeneSys) and whole viral lysate of prototype HIV strain MN by dot blotting and Western blotting techniques.[33] Antibody responses to specific envelope epitopes were also measured (Table 2).

Neutralization activity was measured against three prototype HIV isolates (IIIB, RF, and MN) in a syncytium inhibition assay.[47] HIV-specific cellural responses were measured by standard lymphocyte-proliferation-essay techniques with use of gp160, p24, and baculoviral-expression-system control protein.[31] A detailed description of the methods of assessing safety and immunogenicity is available elsewhere.*

Definition of Response

The subjects were classified as responding to vaccination if they had a reproducible selective increase in both a cellular and a humoral immune response against HIV envelope-specific epitopes that was temporally associated with the series of vaccinations. Vaccine-induced humoral immunity was indicated by seroconversion to HIV envelope-specific epitopes, a secondary booster immune response to envelope-specific epitopes, or both. Vaccine-induced cellular immunity was indicated by the development of a new, reproducible, temporally associated proliferative response to gp160.

Subjects with neither a humoral nor a cellural proliferative response, or only a humoral or only a cellular proliferative response, to gp160 epitopes or HIV envelope epitopes were classified as not having resonded to the vaccination.

TABLE 1—IMMUNIZATION SCHEDULE

Schedule and group no.	Study day					
	0	30	60	120	150	180
µg of gp 1601ml						
Schedule A:						
1	40	40	......	40	......	......
3	160	160	......	160	......	
5	640	640	......	640	......	
Schedule B:						
2	40	40	40	160	160	160
4	160	160	160	640	640	640

Footnotes at end of article.

*See NAPS document no. 04868 for eight pages of supplementary material. Order from NAPS c/o Microfiche Publications, P.O. Box 3513, Grand Central Station, New York, NY 10163-3513. Remit in advance (in U.S. funds only) $7.75 for photocopies or $4 for microfiche. Outside the U.S. and Canada add postage of $4.50 ($1.50 for microfiche postage). There is an invoicing charge of $15 on orders not prepaid. This charge includes purchase order.

TABLE 1—IMMUNIZATION SCHEDULE—Continued

Schedule and group no.	Study day					
	0	30	60	120	150	180
6	640	640	640	640	640	640

Statistical Analysis

Proportions were compared by Fisher's exact test (two-sided). Changes in cellular immune responses were summarized as the magnitude of changes (fold change) in the lymphocyte-stimulation index. The fold change for each subject was calculated by dividing the mean of the values for the index that were measured after the last vaccination by the mean of the values for the index at base line. Differences between subgroups in cellular immune responses were assessed by comparing the distributions of fold changes by the Wilcoxon rank-sum test. Changes in the number of CD4 T lymphocytes were compared between subgroups of subjects and with the change expected on the basis of experience with the natural history of HIV infection. Comparisons between subgroups were based on the mean of the percent changes in CD4 cell counts at the end of the follow-up period, as compared with the means at base line. At each time point, the number of CD4 T lymphocytes was calculated as the mean of seven values (the median was determined according to the time point).

RESULTS

Demographic and Base-Line Clinical Characteristics

Twenty-six of the 30 subjects were men, and 4 were women. Fourteen were non-Hispanic whites, 13 were black, and 3 were Hispanic. Their mean age was 29 years (range, 18 to 49). At enrollment 8 subjects had HIV infection in Walter Reed stage 1, and 22 had infection in stage 2. The base-line mean CD4 cell count was 668 per milliliter (range, 388 to 1639). The mean time between initial diagnosis and study entry was 24 months (range, 3 to 49).

Vaccine-Induced Humoral Responses

All 30 subjects completed the 340-day trial. Nineteen (63 percent) had a vaccine-induced augmentation of both HIV gp160-specific humoral and cellular immune responses and thus were classified as "vaccine responders." Of the 11 subjects classified as "nonresponders," 4 had only a humoral or a cellular immune response and 7 had no detectable response; all 7 without a response had received only three doses of vaccine (schedule A). No subject had changes in antibody binding to HIV polymerase (p66) or structural (p26) gene products or to the non-HIV control antigen tetanus. No antibody to the baculoviral lepidopteran-cell control protein developed in any subject.

Increases in the level of envelope antibody (gp160) were detected in 13 subjects on Western blotting with the whole-virus lysate HIV-MN. These changes were related to the immunization schedule. Three of 15 subjects (20 percent) assigned to schedule A and 10 of 15 (67 percent) assigned to schedule B had an increase in the level of antibody to envelope proteins (P=0.025 by Fisher's exact test, two-tailed). All 13 subjects also seroconverted to specific envelope epitopes. Conversely, of the 10 subjects who did not sero-convert to any envelope-specific epitope, none had an increase in envelope-antibody levels on Western blotting. The remaining seven subjects who seroconverted to specific envelope epitopes had no change in whole-virus envelope antibody on Western blotting. No changes in antibody directed against non-HIV envelope proteins were observed in any subject.

Fourteen of 15 subjects (93 percent) assigned to schedule B (six doses) had an increase in total gp160 antibody, as opposed to only 7 of 15 (47 percent) assigned to schedule A (three doses) (P=0.01 by Fisher's exact test, two-tailed) (Table 2). The range of the prevalence of 11 of the 12 gp160-specific epitopes selected for study (Table 2), from before to after vaccination, was as follows: epitope 49, 27 to 70 percent; epitope 88, 28 to 52 percent; epitope 106, 50 to 87 percent; epitope 241, 0 to 14 percent; epitope 254, 0 to 13 percent epitope 300, 47 to 77 percent; epitope 308, 42 to 69 percent; epitope 342, 0 to 27 percent; epitope 422, 3 to 10 percent; epitope 448C, 73 to 87 percent; and epitope 735, 17 to 33 percent (Fig. 1). Vaccine-induced seroconversion was noted to all the specific epitopes, except epitope 582 (Table 2). Antibodies (seroconversion) directed against epitopes 241, 254, and 342 were detected only after vaccination (Table 2).

Secondary immune responses to epitopes 88, 106, 300, 308, 448C, and 582 were elicited (Table 2). The prevalence of antibody directed against epitope 582 was 100 percent before vaccination, and only one subject (3 percent) had a secondary immune response.

The pattern of vaccine-induced HIV antibody to envelope epitopes was variable (Table 2). Primary antibody responses (seroconversion) to at least one epitope occurred in 20 subjects—14 of 15 assigned to schedule B and 6 of 15 assigned to schedule A (P=0.005 by Fisher's exact test, two-tailed). Furthermore, of all the epitopes studied, subjects assigned to schedule A serconverted to only 15 of 110 (14 percent) of the potential epitopes to which they had no antibodies before vaccination, whereas subjects assigned to schedule B seroconverted to 60 of 129 potential epitopes (47 percent) (P<0.0001 by Fisher's exact test, two-tailed). Seroconversion to three or more envelope epitopes occurred in 9 subjects (60 percent) assigned to schedule B but in only 2 (13 percent) of those assigned to schedule A (P=0.02 by Fisher's exact test, two-tailed).

[Charts and table 2 are not reproducible in this article for the Record.]

Serum neutralization activity against three distinct strains (HIV-IIB, HIV-MN, and HIV-RF) was determined on days 0, 90, and 195 in seven subjects. Four of five responders had increasing neutralizing activity to one or more isolates, as compared with neither of two nonresponders. Furthermore, the responders as a group, unlike the nonresponders, had an increase in the percentage of inhibition at a given dilution of serum required to inhibit syncytium formation against each prototype isolate tested.

Vaccine-induced Cellular Responses

In 21 of 30 subjects (70 percent), a new T-cell proliferative response to gp160 developed after vaccination (Table 2). Figure 2 shows the time course of proliferative responses to gp160, p24, and a baculovirus control protein in four typical vaccine responders. In all subjects, the gp160-induced proliferation increased, in that the mean lymphocyte-stimulation index rose from 3 at base line to 10 (a value calculated from the mean of four values determined after the last immunization). In contract, no change was noted in the proliferative responses directed against HIV p24 protein or the control baculorvirus protein. Vaccine-induced changes in the mean lymphocyte-stimulation index for all subjects, for subjects grouped according to degree of response, and for subjects grouped according to immunization schedule are shown in Figure 3. The change in proliferative response to gp160 in the vaccine responders was significantly different from that in the nonresponders (P<0.001 by Wilcoxon test, onetailed). The proliferative responses induced by the six injections of gp160 according to schedule B were greater than those induced by the three injections according to schedule A (Fig. 3) (P<0.10 by Wilcoxon test, one-tailed).

Nineteen of the 21 subjects who had proliferative responses to gp160 also had a humoral response (the 19 responders). The maximal mean lymphocyte-stimulation index observed among all 19 responders in response to gp160 was 50.1. However, in each responder the index was variable (range of peak values, 3 to 171) (Table 2), as was the temporal relation between vaccination and the magnitude and duration of the cellular responses to gp160 (Fig. 2).

Predictors of Immune Responsiveness

Despite the limited size of the sample in this trial, several factors were demonstrated to be associated with vaccine-induced immunogenicity. Six of 15 (40 percent) of the subjects assigned to schedule A responded, as compared with 13 of 15 (87 percent) of those assigned to schedule B (P = 0.02 by Fisher's exact test, two-tailed) (Table 2). Of the 16 subjects with a mean base-line CD4 count greater than 600 per milliliter, 13 (81 percent) were responders, as opposed to 6 of 14 (43 percent) whose mean CD4 count at entry was 600 or fewer cells per milliliter (P = 0.07 by Fisher's exact test, two-tailed). Multiple immunizations improved immunogenicity, even among patients with base-line CD4 counts of 600 or fewer cells per milliliter; five of six subjects with such counts assigned to schedule B (six injections) were responders, as compared with only one of eight assigned to schedule A (three injections) (P = 0.03 by Fisher's exact test, two-tailed; Table 3).

Toxicity

No evidence of systemic toxicity was observed, but local reactions were noted in 87 percent of the subjects (13 in each vaccination group). These reactions included induration, tenderness, and transient subcutaneous nodule formation at the injection site; an increase in regional adenopathy was rarely noted. No subject refused a booster injection. No difference in the frequency of local reactions was observed in relation to primary immunization, booster injection, or vaccine dosage.

No evidence of an adverse effect on the immune system was demonstrated, as measured in vitro by mitogen-specific and antigen-specific proliferative responses, in vivo by responses to delayed-hypersensitivity skin testing, or by acceleration of quantitative CD4 cell depletion. At base line the mean CD4 cell count was 716 in the responders and 605 in the nonresponders; from study day 180 to day 240 the mean count was 714 and 561, respectively. During the course of the 240-day trial, the net change in the mean CD4 cell count among the responders was a decrease of 0.2 percent, whereas among the nonresponders it was a decrease of 7.3 percent (Fig. 4). Vaccine-induced immunogenicity to HIV was not associated with evidence of an accelerated decline in the CD4 count of any subject throughout the entire course of the trial.

TABLE 3.—IMMUNE RESPONSIVENESS TO VACCINATION, ACCORDING TO IMMUNIZATION SCHEDULE AND BASE-LINE CD4 COUNT.

Schedule and CD4 count	All subjects number	Responders		Nonresponders	
		Number	Percent	Number	Percent
Schedule A:					
>600	7	5	71	2	29
500–600	5	1	20	4	80
<500	3	0	....	3	100
Subtotal	15	6	40	9	60
Schedule B:					
>600	9	8	89	1	11
500–600	2	2	100	0	....
<500	4	3	75	1	25
Subtotal	15	13	87	2	13
Total	30	19	63	11	37

To assess the possibility of increased HIV replication and viral load in the subjects as a consequence of vaccination, in vivo viral activity was measured by quantitative cultures of the virus in plasma and peripheral-blood mononuclear cells, by the polymerase-chain-reaction testing of DNA from peripheral-blood mononuclear cells, and as serum levels of p24 antigen. Assay by quantitative culture and the polymerase chain reaction demonstrated no changes during this trial. Serum p24 antigen was undetectable in all subjects.

DISCUSSION

The therapeutic use of vaccines was introduced by Pasteur in the 19th century for the treatment of acute rabies infection, but the value of this approach in the treatment of other infections has not been extensively explored. Although there are other examples of postinfection modification of viral-specific immunity (for example, after exposure to hepatitis A or B), there are no well-documented studies in humans that have demonstrated the feasibility of this approach in the setting of an established or chronic viral infection. Even in animals the only suggestion that such an approach is feasible is limited to a single investigation of herpes simplex in guinea pigs.[48]

The present study demonstrates the feasibility of virus-specific immune modification by active immunization after infection. Specifically, a gp160 vaccine derived from an HIV envelope gene augmented host-directed viral-specific humoral and cellular responses in 19 of 30 persons with early HIV infection. The definition of vaccination response that we chose—i.e., the requirement that a response be both humoral and cellular—was arbitrary but highly restrictive in the light of the scientific objective of this trial to assess the feasibility of postinfection immunization, and in the absence of support for this concept in studies of other chronic viral infections.

By qualitative and quantitative measurement of distinct antibody responses to specific HIV epitopes in natural infection as opposed to postinfection immunization, vaccine-induced humoral immunogenicity in already infected persons wad documented in 70 percent of the subjects. Although gross analysis of whole viral proteins by the Western blotting technique was helpful, characterization of humoral response by mapping of distinct epitopes proved to be a more sensitive method of assessing immunogenicity. Seroconversion to specific envelope epitopes occurred in 20 subjects (19 vaccine responders and 1 nonresponder) (Table 2). In addition, seroconversion associated only with vaccination (conversion to epitopes 241, 254, and 342) occurred in 10 subjects. This variation in humoral responses to the gp160 vaccine, as characterized by epitope mapping, will permit prospective cause-and-effect analysis of specific antibody responses and presents unique opportunities to characterize potential immunoregulatory mechanisms not elicited during a natural infection.

Although the relevance of serum neutralizing activity in vivo is unknown at present, the observation of increased neutralizing activity against disparate strains of HIV (IIIB, RF, and MN) in four of five responders suggests that postinfection immunization induced changes in functional antibody. This vaccine-induced increase in serum neutralization capacity against distinct strains of HIV will potentially aid in the definition of group-specific neutralization epitopes.

A proliferative response to HIV envelope proteins rarely occurs in natural HIV infection (data not shown). After immunization with gp160, however, specific T-cell proliferative responses were documented in 21 (70 percent) of the subjects. The reason for this difference is unclear. One possibility is that the new proliferative response may be directed against an envelope epitope (or epitopes) unique to the vaccine (as a result of the methods of vaccine production or antigen processing in vivo). Alternatively, the protein used in the proliferation assay may not stimulate primary T-cell proliferative responses against homologous wild-type envelopes of natural virus. We have recently obtained additional evidence that vaccination may boost the host cellular immune response: in selected responders to vaccination, HIV-IIIB type—specific cytotoxic T-cell responses were induced after booster immunization (data not shown).

The factors responsible for immunoresponsiveness to vaccination in HIV-infected persons remain to be clarified. Even in early HIV infection, individual patients respond suboptimally to a variety of vaccines, as compared with matched controls.[49] This hyporesponsiveness has been related to early B-cell dysregulation and T-cell dysfunction.[31,50] In the present trial, immunoresponsiveness to vaccination was associated with the base-line CD4 cell count, a finding consistent with the hypothesis that the immunologic status of a host is an important determinant of responsiveness. However, the immunization schedule within specific T-cell-count intervals (Table 3) also influenced responsiveness: schedule B (six injections) was superior. Indeed, the decreased response observed in the subjects with lower CD4 cell counts could be improved by an increased number of vaccinations, which suggests that further modifications in the dosage, regimen, adjuvant treatments, or formulation may improve host immunoresponsiveness.

Although questions have been raised about the safety of active immunization of HIV-infected persons with HIV-specific vaccine products,[51] there was no evidence of immune-specific toxicity. Quantitative cultures, DNA polymerase-chain-reaction assays, and serum antigen assays did not document any evidence of increased HIV load in vivo. Moreover, an excellent in vivo surrogate marker of HIV replication—the rate of decline in the CD4 cell count—was favorably influenced among the subjects, especially those classified as responders, in whom the decrease in the mean CD4 count was 0.2 percent, as compared with 7.3 percent in nonresponders. These data demonstrate that postinfection immune responsiveness was not associated with an increase in CD4 cell destruction, but perhaps rather with decreased replication of HIV in vivo. A more direct measurement of in vivo active expression of virus—RNA-transcript analysis—is under development.[52]

An open, unblinded, phase I trial is not designed to provide conclusive information about therapeutic efficacy. Thus, the ability to respond to gp160 with either a primary or a secondary immune response may have been restricted to a subgroup of patients who had less severe B-cell or T-cell dysfunction. The difference observed between the base-line mean CD4 counts of responders and those of nonresponders (716 and 605 cells per milliliter, respectively) and the overall poor response of subjects with CD4 counts of 600 cells or fewer per milliliter at entry support this possibility. However, because of the grim prognosis of patients with this infection, we believe it was important to explore potential clinical benefits. Thus, we retrospectively compared changes in the subjects' mean CD4 cell counts according to treatment group (vaccination schedules) with expected changes observed during untreated infections, using a data base on the natural history of HIV infection in a cohort of patients from the U.S. Army. Ten patients from this cohort were matched for age, ethnic group, and base-line CD4 cell count with each subject. The mean CD4 count decreased by 8.7 percent in this historical reference group, decreased by 7.2 percent in subjects assigned to schedule A, and increased by 0.6 percent in subjects assigned to schedule B. Although preliminary, these results are encouraging. Direct evidence of therapeutic benefit must await the completion of phase II studies of clinical efficacy.

In the light of these results, the scientific and therapeutic importance of HIV-specific immunization warrants further investigation. Postinfection vaccination should serve as a powerful tool to further the understanding of HIV immunoregulation and, if proved clinically relevant, would provide an alternative strategy for treatment. This approach may also prove useful in defining a protective immune response (or responses) relevant to the prophylactic use of vaccines.

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From the Department of Retroviral Research (R.R.R., D.L.B., V.P.) and the Division of Retrovirology (D.S.B.), Walter Reed Army Institute of Research (E.T.), Rockville, Md.; the Division of Preventive Medicine, Walter Reed Army Institute of Research, Washington, D.C. (J.F.B.); the Infectious Disease Service, Department of Medicine, Walter Reed Army Medical Center, Washington, D.C. (C.D., S.J., C.O.); the Henry M. Jackson Foundation for the Advancement of Military Medicine, Rockville, Md. (N.K., T.W.); SRA Technologies, Inc., Rockville, Md. (A.F.); the Department of Biochemistry, Israel Institute of Biological Research, Ness-Ziona, Israel (A.S.); and MicroGeneSys, Inc., Meriden, Conn. (G.S., F.V.). Address reprint requests to Dr. Redfield at the Department of Retroviral Research, Walter Reed Army Institute of Research, 13 Taft Ct., Rockville, MD 20850.

The opinions or assertions contained herein are the private views of the authors and are not to be construed as official or as reflecting the views of the Department of the Army or the Department of Defense.

EDITORIAL OPPOSING SECRET TRIALS

Mr. CRANSTON. Mr. President, the Senate will very shortly proceed to consideration of the crime bill. One of the proposals included in the administration's crime bill would create a tribunal which could conduct secret trials and use secret evidence leading to the deportation of resident aliens.

Mr. President, our entire judicial system is predicated on the ability of the accused to know what evidence has been charged against him, and to have an opportunity to respond to that evidence. To accept the administration's proposal is contrary to our basic constitutional principles.

In today's Washington Post an excellent editorial outlines this troubling legislation. I ask unanimous consent that the editorial be placed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 19, 1991]

SECRET TRIALS

The Senate is about to consider a terrible proposal that would allow the government to hold secret trials leading to the deportation of certain noncitizens. It will come up as part of an assorted crime package moving to the floor this week. On the agenda are two crime bills, one supported by Sen. Joseph Biden and the Democrats, the other the administration's proposal sponsored by Sen. Strom Thurmond. Because the major features of both bills—the death penalty, habeas corpus revisions and changes in the exclusionary rule—have been considered in both houses recently, the Senate Judiciary Committee held only three perfunctory hearings this year—one on habeas, another on rural crime and a third to hear Attorney General Dick Thornburgh.

Incredibly, no hearings were held on the deportation proposal, which is new this year. Moreover, because the committee didn't even vote on these bills but simply sent both to the floor without recommendation, there is not even a committee report that evaluates this section of the president's bill.

The proposal is directed against aliens the government believes are engaged in "terrorist activity". It applies to all noncitizens, even those who have entered legally, lived here for decades and have children and other close relatives who are citizens. The bill uses a definition of "terrorist activity" that is broad and includes raising money for or urging others to join "terrorist organizations," though it does not define the latter term. That is a political decision left to the government, and presumably it could include groups such as Kurdish nationalists, Afghan rebels, Sikh separatists and the IRA. Spokesmen for the PLO are singled out in the statute as engaging in terrorist activity.

The administration bill would allow the Justice Department to go to a secret court and get an order for a special proceeding to deport such people. Targeted individuals would have no notice of this hearing and no opportunity to attend or be represented. They could be arrested and detained as soon as this petition was filed. At the special proceeding that followed, the government could present secret evidence—outside the presence of the alien and his lawyer—and could even withhold a summary of that evidence from the accused. Theoretically, appeals would be allowed, but again, the evidence used at the trial could be kept under seal and the appeal argued in secret.

Does this sound like a proceeding in an American court? It is a nightmare that could allow the worst kind of injustice. Though not a criminal trial, a deportation hearing involves severe penalties and must afford due process. There is not much that is good in either of the crime bills coming up for consideration—gun control is the exception—but this blueprint for a kangaroo court stands out. It is hard to see how anyone with any respect for the American idea of justice could support it.

COL. WILLIAM K. MERRILL

Mr. SYMMS. Mr. President, I should like to bring to the attention of my distinguished colleagues an Army officer from my State of Idaho, Col. William K. Merrill. Colonel Merrill retires from the Army on June 30. This will be both a sad and joyful day for the Army. Sad because it is losing Colonel Merrill and joyful in celebration of his 40 years of outstanding service.

During the last 25 years, Bill Merrill has been assigned to Army headquarters in Washington where he has been Chief of Military Policies and Equal Opportunity to 7 Secretaries of the Army, 10 Assistant Secretaries, and 8 Chiefs of Staff of the Army. He is an institution, and rightly so. In support of our soldier constituents he has often been the haven of last resort for assisting soldiers, and frequently formulated new policies or fine tuned existing policies to personally assist in solving a particular problem. His humanitarian, compassionate, and commonsense approach to personnel problems is renowned both within and outside the Army. It was he who invented the Army's slogan to "Put the person in personnel." He did just that!

In his 40 years of active duty, Colonel Merrill has commanded an antiaircraft battery at Camp Hanford, WA; served as chief of special intelligence teams in Frankfurt and Berlin, Germany; and commanded various activities at Fort Ord, CA, Fort Riley, KS, Fort Bliss, TX, Fort Bragg, NC, Fort Lee, VA, and Fort Leavenworth, KS.

Truly dedicated to his country, he enlisted in the Marine Corps in World War II, leaving his college studies in Idaho "for a duller day" as Robert Service wrote. His Marine Corps service was anything but dull—it took him throughout the Pacific theater of operations and to the Battles of Tarawa, the Gilbert Islands, Saipan, and Iwo Jima. He returned unscathed to college in Idaho, and on obtaining his degree enlisted in the Army for Officer Candidate School. He was subsequently commissioned an officer in the United States Army on May 5, 1951, and later served in Vietnam.

Colonel Merrill has received the Distinguished Service Medal, four awards of the Legion of Merit, the Bronze Star Medal, two awards of the Air Medal, the Army Commendation Medal, and numerous service and campaign awards. Highly decorated for service in war and peace this soldier has been recognized throughout his military career as a giant of a man—physically and spiritually. The Army has been greatly enriched by his selfless, faithful, and outstanding service.

Colonel Merrill may now deservedly rest on his laurels and enjoy the company of his lovely wife, Alice Voskuhl Merrill, and their children, Junja J. Merrill, and Merrille A. Burns. We wish him happiness and success in all his future undertakings. As Idahoans we proudly salute our native son, Col. William K. Merrill.

IN MEMORY OF DR. HOWARD A. SPORCK

Mr. ROCKEFELLER. Mr. President, I rise to take a moment to pay tribute to a very special West Virginian, Dr. Howard A. Sporck, who recently passed away.

Dr. Sporck was a dedicated physician and caring community leader in Wellsburg, WV, for over 45 years. He established a small clinic and served people in Brooke County based on their medical needs rather than their ability to pay. He also worked for the local Brooke County Health Department and served as the county coroner. He cared deeply about the health and well-being of everyone in his community.

At a time when many people think about retiring and enjoying themselves, Dr. Sporck continued to work. He was a tireless advocate for improved community health care, and was proud that his town of Wellsburg was involved in the Bayer Wellness Campaign, a community-wide initiative designed to promote greater awareness of health care and wellness.

In addition to his medical practice, Dr. Sporck also gave of his time and talents to the community in many other ways. He served on the Brooke County School Board for many years and worked to establish a consolidated high school because he wanted to expand the curriculum and opportunities for local student. Dr. Sporck understood that communities must invest in education and he was willing to become a local leader for such a worthy cause.

Dr. Howard A. Sporck was a generous man who fought throughout his life to make his community a better place. The people of Brooke County were well served by this caring man.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,286th day that Terry Anderson has been held captive in Lebanon.

TRIBUTE TO NANCY HOWE

Mr. LEAHY. Mr. President, the rate at which U.S. wetlands are destroyed is alarming to many of us, including Vermont wildlife artist and duck hunter, Nancy Howe. She is the first woman and Vermonter ever to win top honors in the Federal duck stamp competition. Her design will be used on the 1991-92 Federal Duck Stamp.

The Duck Stamp Program, initiated by the Department of the Interior, helps compensate for the destruction of wetlands and the depletion of wetland wildlife and resources. Revenues from the duck stamps and prints, amounting to over $400 million since the program began in 1934, have been used to preserve almost 4 million acres of prime wetland habitat under the National Refuge System.

In addition to painting, Nancy raises two children and operates a sheep farm with her husband. In a year's time, Nancy holds the honor of winning three major national art awards, including first place in the Federal duck stamp competition. Out of her concern for wildlife, Nancy has promised $5 from each print to wetland preservation.

It is an honor to Nancy and the State of Vermont that her depiction of the King Eiders was chosen to represent the diminishing wetlands in this country and the plight of wetland wildlife.

The Fish and Wildlife Service of the Department of the Interior anticipate the national issuing of the Federal duck stamp on Monday, July 1. In East Dorset, VT, this commemorative day will mark a ceremony in honor of Nancy Howe hosted by the U.S. Post Office.

All of us in Vermont are proud of Nancy Howe.

PREVENTIVE HEALTH CARE SHOULD BE AVAILABLE TO ALL

Mr. HARKIN. Mr. President, today it was announced that Blue Cross/Blue Shield will recommend that its plans, which provide insurance to nearly 100 million Americans, offer periodic preventive and screening services as part of basic coverage for healthy adults. I rise to commend this enlightened decision. This forward-looking initiative incorporates guidelines developed through the leadership of the American College of Physicians and is in keeping with the Surgeon General's goals for disease prevention and health promotion for the year 2000.

The gradual shift from costly, high-technology interventions to commonsense prevention services is a welcome step in the effort to contain the Nation's annual health care bill and to improve the quality of life of all Americans. Today's announcement represents an important philosophical and practical breakthrough which I have been vigorously promoting. Every American should have access to critical preventive health care. Preventive services should be covered under every health plan, public and private, and I call upon other insurance carriers, including Federal programs, to offer and build upon these important services.

Last year a significant preventive benefit, regular screening mammography services for women 65 years or older, was added to the Medicare Program. This will save many women from premature death and disfiguring surgery. The Breast Cancer Screening Act of 1991—S. 508—which I recently introduced, would extend Medicare's coverage of mammography screening to all women age 50 to 64 lacking such coverage. The newly recommended mammography coverage by Blue Cross/Blue Shield would similarly provide this preventive service to healthy female beneficiaries starting at age 50.

While the Blue Cross/Blue Shield prevention initiative is an important and welcome step in the right direction, the journey toward putting prevention first in our health care system has only begun. The recommended preventive services are only recommendations. To be effective the newly authorized preventive services must be accepted by employer health insurance plans as additional benefits for their employees. Those without private insurance need coverage. In addition, physicians and other health care providers must incorporate the recommended preventive services into the routine care of healthy patients and provide the critical education and counseling to make these services meaningful.

The newly recommended preventive services are presently restricted to healthy adults. Preventive services for children or pregnant women have not yet been adopted despite the overwhelming evidence supporting disease prevention and health promotion in these groups. The adverse consequences of inadequate immunization programs, nutrition, and lead screening can no longer be ignored. In addition, adequate attention has been devoted to the prevention of disabilities and injuries, especially in children and persons with disabilities, has yet to be paid. Older Americans also have much to gain through the availability of appropriate prevention services, education, and counseling.

Disease prevention and health promotion must be the centerpiece of any fundamental health care reform. To this end, I have introduced the prevention first legislative package—S. 504–S. 510. Increased support of biomedical and outcome research is part of the solution for expanding the scope of preventable illness and disability. By now putting prevention first among our health care priorities, we will not only save lives and money but also improve the quality of life.

APPOINTMENT ON BEHALF OF THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair announces, on behalf of the Republican leader, pursuant to Public Law 101-509, his appointment of Dr. Donald R. McCoy, of Kansas, to the Advisory Committee on the Records of Congress.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ENROLLED BILL SIGNED

The Acting President pro tempore (Mr. KERREY) announced that on today, June 19, 1991, he had signed the following enrolled bill:

S. 64. An act to authorize appropriations to establish a National Education Commission on Time and Learning and a National Council on Education Standards and Testing, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, June 19, 1991, he had presented to the President of the United States the following enrolled bill:

S. 64. An act to authorize appropriations to establish a National Education Commission on Time and Learning and a National Council on Education Standards and Testing, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted.

By Mr. BOREN, from the Select Committee on Intelligence, without amendment:

S. 1325: An original bill to authorize appropriations for fiscal year 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. No. 102-85).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Robert Michael Guttman, of the District of Columbia, to be an Assistant Secretary of Labor.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

Donald Jay Yockey, of California, to be Under Secretary of Defense for Acquisition; and

Nancy Patricia Dorn, of Texas, to be an Assistant Secretary of the Army.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. NUNN. Mr. President, from the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing again.

*Gen. Carl E. Vuono, USA, to be placed on the retired list in the grade of general (Reference No. 287)

*Gen. Gordon R. Sulivan, USA, for appointment as Chief of Staff of the Army and reappointment to the grade of general (Reference No. 288)

*Lt. Gen. Richard G. Graves, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 328)

*Maj. Gen. Horace G. Taylor, USA to be lieutenant general (Reference No. 329)

*Vice Adm. Jimmy Pappas, USN to be placed on the retired list in the grade of vice admiral (Reference No. 330)

**In the Army there is one appointment as permanent professor at the United States Military Academy (Colonel Charles F. Brower IV) (Reference No. 331)

*Vice Adm. Raymond P. Ilg, USN to be placed on the retired list in the grade of vice admiral (Reference No. 337)

*Rear Adm. Kenneth C. Malley, USN to be vice admiral (Reference No. 338)

**In the Army Reserve there are 25 promotions to the grade of colonel and below (list begins with Daniel P. Burns) (Reference No. 348)

**In the Army Reserve there are 20 appointments to the grade of lieutenant colonel (list begins with Michael H. Chema) (Reference No. 349)

*Lt. Gen. Norman H. Smith, USMC, to be placed on the retired list in the grade of lieutenant general (Reference No. 357)

*Lt. Gen. Dennis J. Reimer, USA to be Vice Chief of Staff of the Army and to be General (Reference No. 372)

*Lt. Gen. James E. Thompson, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 373)

*Maj. Gen. J. H. Binford Peay III, USA to be lieutenant general and to be Senior Army Member of the Military Staff Committee of the United Nations (Reference No. 374)

**In the Army there are 10 promotions to the grade of colonel and below (list begins with Larry S. Merck) (Reference No. 377)

**In the Army there are 614 promotions to the grade of colonel (list begins with Thomas L. Abbenante) (Reference No. 378)

**In the Army there are 2,233 promotions to the grade of major (list begins with Daniel F. Abahazy) (Reference No. 379)

**In the Naval Reserve there are 648 promotions to the grade of commander (list begins with Edward L. Abner) (Reference No. 381)

**In the Navy there are 637 promotions to the grade of commander (list begins with Richard John Ackermann) (Reference No. 382)

*Lt. Gen. Thomas N. Griffin, Jr., USA to be placed on the retired list in the grade of lieutenant general (Reference No. 384)

*Maj. Gen. Joseph S. Laposata, USA, to be lieutenant general (Reference No. 386)

**In the Army there are 20 promotions to the grade of colonel (list begins with John D. Altenburg) (Reference No. 395)

**In the Army there are 42 promotions to the grade of major (list begins with Ronny Berry) (Reference No. 396)

Total: 4,263.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of May 6, May 15, June 3, and June 11, 1991 at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LIEBERMAN (for himself and Mr. CHAFEE):

S. 1323. A bill to amend the Clean Air Act to require the offset of certain greenhouse gas emissions and for other purposes; to the Committee on Environment and Public Works.

By Mr. METZENBAUM:

S. 1324. A bill to amend the Public Health Service Act to generate accurate data necessary for continued maintenance of food safety and public health standards and to protect employees who report food safety violations, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOREN, from the Select Committee on Intelligence:

S. 1325. An original bill to authorize appropriations for fiscal year 1991 for intelligence activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; placed on the calendar.

By Mr. BUMPERS (for himself, Mr. AKAKA, Mr. BINGAMAN, and Mr. BURDICK):

S. 1326. A bill to provide a national program for improving the quality of instruction in the humanities in public and private elementary and secondary schools; to the Committee on Labor and Human Resources.

By Mr. BINGAMAN (for himself, Mr. NUNN, Mr. HOLLINGS, Mr. GORE, Mr. MITCHELL, Mr. WIRTH, Mr. KENNEDY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. DIXON, Mr. LEVIN, Mr. DODD, Mr. SHELBY, Mr. DASCHLE, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 1327. A bill to provide for a coordinated Federal program that will enhance the national security and economic competitiveness of the United States by ensuring continued United States technological leadership in the development and application of national critical technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BINGAMAN (for himself, Mr. HOLLINGS, Mr. NUNN, Mr. GORE, Mr. WIRTH, Mr. KENNEDY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. DIXON, Mr. LEVIN, Mr. DODD, Mr. SHELBY, Mr. DASCHLE, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 1328. A bill to enhance the national security and economic competitiveness of the United States by providing for increased Federal Government support for the development and deployment of advanced manufacturing technology and the training of manufacturing managers and engineers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. GORE, Mr. BINGAMAN, Mr. NUNN, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. DIXON, Mr. LEVIN, Mr. DODD, Mr. SHELBY, Mr. DASCHLE, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 1329. A bill to strengthen Federal strategy for the development and deployment of critical advanced technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. GORE, Mr. BINGAMAN, Mr. NUNN, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. DIXON, Mr. LEVIN, Mr. DODD, Mr. SHELBY, Mr. DASCHLE, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 1330. A bill to enhance the productivity, quality, and competitiveness of United States industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NUNN (for himself, Mr. BINGAMAN, Mr. BYRD, Mr. WARNER, Mr. COATS, Mr. GORE, Mr. THURMOND, Mr. WIRTH, Mr. MCCAIN, Mr. DIXON, Mr. HOLLINGS, Mr. DOMENICI, Mr. HATFIELD, Mr. SMITH, Mr. EXON, Mr. SHELBY, Mr. BUMPERS, Mr. DECONCINI, Mr. GLENN, Mr. LIEBERMAN, Mr. LEVIN, and Mr. KENNEDY):

S. 1331. A bill to require the Secretary of Defense to establish a grant program for the improvement of undergraduate and graduate manufacturing engineering education at institutions of higher education in the United States; to the Committee on Armed Services.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, Mr. SYMMS, Mr. HOLLINGS, Mr. SHELBY, Mr. HARKIN, Mr. WALLOP, Mr. PRESSLER, Mr. SIMPSON, Mr. BOND, Mr. SANFORD, Mr. MCCAIN, and Mr. CHAFEE):

S. 1332. A bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the medicare program; to the Committee on Finance.

By Mr. SASSER (for himself, Mr. JOHNSTON, Mr. HATCH, Mr. DASCHLE, Mr. PRESSLER, Mr. PRYOR, Mr. D'AMATO, Mr. HOLLINGS, and Mr. LEVIN):

S. 1333. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the Administrator of General Services to make available for humanitarian relief purposes any nonlethal surplus personal property, and for other purposes; to the Committee on Governmental Affairs.

By Mr. FOWLER:

S. 1334. A bill to provide for the full recovery of the Federal Government's costs of selling timber on national forest lands, to require site-specific identification of national forest lands that are not economically suitable for timber harvesting, to remove that land from the suitable timber base and make associated adjustments in the allowable sale quantity, to assist in the economic transition of timber-dependent communities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRANSTON (for himself and Mr. PELL):

S.J. Res. 165. A joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 APACHE attack helicopters; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LIEBERMAN (for himself and Mr. CHAFEE):

S. 1323. A bill to amend the Clean Air Act to require the offset of certain greenhouse gas emissions, and for other purposes; to the Committee on Environment and Public Works.

CO_2 OFFSETS POLICY EFFICIENCY ACT

• Mr. LIEBERMAN. Mr. President, I am pleased to introduce along with my colleague Senator CHAFEE, the Carbon Dioxide Offsets Efficiency Act of 1991, legislation which applies a market based approach to curb the growth of U.S. carbon dioxide emissions that contribute to global warming.

The legislation builds on the cost-effective, economic incentives approach adopted in the acid rain program of the new Clean Air Act, which was strongly endorsed by President Bush. The bill creates market incentives for wide variety of sources to reduce carbon dioxide emissions and receive credit for those reductions. Credits could take a variety of forms, including planting trees, adopting energy efficiency programs, switching to fuels which are less carbon intensive or replacing units with renewable or clean energy sources such as solar, wind, or fuel cells. These credits could be sold or transferred to new plants that will be required to compensate for their new carbon dioxide emissions by acquiring offset credits. Potential offset suppliers and purchasers are left free to determine which of the options are economically attractive; the industry itself will come up with imaginative and cost-effective solutions.

Carbon dioxide is, everyone agrees, a dangerous greenhouse gas. It accounts for 55 percent of the gases that contribute to global warming. The United States, with about 5 percent of the world's population, generates more than 20 percent of all manmade emissions of carbon dioxide.

A recent report by the Congressional Office of Technology concludes that present carbon diozide levels are already higher than an any time in the past 160,000 years. The National Academy of Sciences in its report, "Policy Implications of Global Warming; notes that the atmospheric concentration of carbon dioxide has increased 25 percent during the last century and is currently increasing at about 0.5 percent per year.

There is widespread agreement among scientists that in the absence of dramatic actions, the levels of carbon dioxide will continue to rise dramatically. The International Panel on Climate Change, comprised of scientists from countries around the world, and the U.S. Environmental Protection Agency, have concluded that an immediate 60 to 80 percent reduction in CO_2 emissions is necessary to stabilize concentrations at current levels, in addition to significant reductions in other greenhouse gases.

The testimony of scientific experts clearly indicates that it is time for us to act on this problem. The recent report by the National Academy of Sciences states: "Despite the great uncertainties, greenhouse warming is a potential threat sufficient to justify action now." The OTA report concludes:

> We cannot yet predict the magnitude of climatic effects from greenhouse gas emissions with accuracy. But it is clear that the decision to limit emissions cannot await the time when the full impacts are evident. The lag time between emissions of the gases and their full impact is on the order of decades to centuries; so too is the time needed to reverse any effects. Today's emissions thus commit the planet to changes well into the 21st century.

OTA warns that without any action, carbon dioxide emissions will likely rise 50 percent over 1987 levels in 25 years.

EPA has estimated that carbon dioxide emissions from the utility industry alone could increase by 29 percent by 1995, 50 percent by 2000 and 80 percent by 2005 over 1980 levels if we continue to do business as usual.

Despite these warnings, this administration remains adamantly opposed to any policy for setting specific carbon dioxide emission reduction goals either as part of the international negotiating process. The administration also has not joined other industrialized countries in making unilateral commitments to stabilize or reduce carbon dioxide outside of the United Nations negotiating process. Austria, Australia, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, New Zealand, Norway, Sweden, and the United Kingdom have all unilaterally adopted carbon dioxide stabilization or reduction goals. The administration's justifications for not committing to specific targets has been that it lacks sufficient information regarding the costs and benefits of such a commitment. To me, the costs and benefits are very clear. The cost is a polluted environment that would destroy our way of living and the benefit is a clean global environment for generations to come. As Prime Minister Brundtland of Norway has stated:

> The importance of climate change may be greater and more drastic than any challenge mankind has faced, with the exception of nuclear war.

The positive news from both the National Academy of Sciences and the Office of Technology Assessment is that there are cost-effective measures which can be taken now to address the growth in carbon dioxide emissions. According to the National Academy of Sciences, the United States could reduce its greenhouse gas emissions by between 10 and 40 percent of current levels at very low cost or net benefit by adopting measures such as building energy efficiency, reforestation, appliance efficiency programs.

The legislation I am introducing today takes a modest step forward on the road toward curbing emissions growth in carbon dioxide from the utility and very large industrial sectors. It proposes a flexible system that would require new electric utility plants, a limited number of other utilities, and large industrial sources to make up for the additional carbon dioxide which will be emitted by their new plants by obtaining carbon dioxide offsets. Specifically, the legislation would require new stationary sources that had the potential to emit at least 100,000 tons of carbon dioxide annually to compensate for their emissions by securing offset reductions. In addition, sources repowered after January 1995, would be considered new sources for the purposes of this program. Existing utility sources that reach 65 years of age also would be subject to the offset requirements, commencing in the year 2005. Few existing U.S. powerplants would be subject to this provision anytime soon because the average age of powerplants is 29 years.

The bill establishes a number of alternatives for the production of carbon dioxide credits that could be used to satisfy the offset requirement. Essentially, the bill uses the forces of the free market to encourage businesses to reduce their emissions of carbon dioxide by giving them credits which they can sell to other businesses that build large sources of CO_2 emissions. The bill credits emission reductions that would not have otherwise occurred but which, for the most part, the National Academy of Sciences has concluded can be done at low cost or net benefit. For example, appliance manufacturers who produce appliances with efficiencies greater than their 1990 efficiency levels would be eligible to apply for credits. This bill would give these manufacturers something valuable to sell and thus give them a powerful incentive to produce these efficient products. Energy efficiency programs would be eligible for credits. Automobile manufacturers whose corporate average fuel economy exceeded the requirements of the law would be eligible for receiving credits. Other sources of offsets include: forest preservation or reforestation; switching to a low carbon fuel, such as natural gas; and replacing fossil fuel generating plants with renewable and clean sources of energy such as wind, solar, and fuel cells.

The bill also takes a comprehensive approach to global warming because reductions in other greenhouse gases can be converted into carbon dioxide equivalent credits. By adopting this strategy, other environmental priorities such as protecting the ozone layer can also be served.

For example, the bill allows credits for programs which capture methane from coalbeds, landfills, or sewage treatment plants. This is an important provision because methane is one of the most potent contributors to global warming. Per molecule, methane is about 25 times more effective in trapping heat than carbon dioxide. Methane concentrations have approximately doubled over the past two centuries and are currently higher than at any time during the last 160,000 years. Without action to reduce emissions, EPA projects that annual worldwide methane emissions will increase by about 10 to 30 percent by the year 2025. Landfill emissions around the world account for 5 to 18 percent of all methane emissions.

The amount of credits allowed for both methane capture programs and reductions in other greenhouse gases will take into account the differential radiative activity and atmospheric lifetime of these pollutants as compared to carbon dioxide.

The mechanics of the offset program are straightforward. The bill requires new sources to acquire, as a condition of receiving an operating permit, sufficient carbon dioxide credits to compensate for the expected carbon dioxide emissions in the first year of operation. Every year thereafter, the unit would be required to deposit with EPA sufficient carbon dioxide credits to match their annual carbon dioxide emissions.

To facilitate market development and ease the burden of new sources in finding sufficient credits, EPA would be required to establish a national carbon dioxide offset bank. In addition, EPA would establish regulations governing the certification of carbon dioxide credits for those sources seeking to supply the credits. EPA must also establish guidelines for State agencies to assume responsibility for the certification programs. States developing programs in conformity with these guidelines would assume responsibility for certifying CO_2 credits from sources within the State. In this case, EPA would reserve the right to review within 90 days any certification made under a State program prior to the deposit of those credits into the National Offset Bank.

Mr. President, some utilities already have committed themselves to programs either equivalent to or more stringent than this legislation. Applied Energy Services which has one facility in Connecticut and is constructing another, has adopted as corporate policy the offsetting of all new CO_2 emissions from their projects. AES already has put this policy into effect by planting trees in a Guatemala forest to offset CO_2 emissions from one of its plants in Connecticut.

The president and chief executive of Arizona Public Service Co., Mark DeMichele, who serves as chairman of the Edison Electric Institute's Steering Committee on Global Climate Change has written to Congressman COOPER, the chief House sponsor of this legislation: "While I cannot speak for the entire electric utility industry, in concept, I wholeheartedly support the proposed legislation."

Last month, Mayor Bradley of Los Angeles announced that the Los Angeles Department of Water Power and the Southern California Edison Co., had pledged to reduce carbon dioxide emissions by 20 percent by the year 2010 with at least half of those reductions to be achieved by the year 2000. According to the mayor, this program would actually reduce carbon dioxide emissions by more than 40 percent when compared with the projected levels.

In announcing this commitment, the chairman of Southern California Edison stated:

> Taking prudent, reasonable economical steps to reduce CO_2 emissions is warranted by current scientific understanding of the potential for global warming. Our actions are consistent with the recent policy recommendations of the National Academy of Sciences and we believe they make good environmental, scientific and business sense.

Mr. President, that statement sums up the fundamental basis for this legislation: we can take reasonable, economical steps to curb the growth of CO_2 emissions.

I ask unanimous consent that the full text of the legislation and a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "CO_2 Offsets Policy Efficiency Act of 1991."

SEC. 2. FINDINGS.

The Congress finds that:

(1) The United States has 5 percent of the world's population and yet consumes more than 20 percent of the world's fossil fuels and emits more than 20 percent of the world's CO_2 derived from the combustion of fossil fuels.

(2) The United States consumes fossil fuels on a per capita basis at four times the worldwide average and more than twice the per capita average in many other highly industrialized countries.

(3) High rates of energy consumption in the United States contribute to urban smog, acid rain, oil spills, and other environmental pollution problems.

(4) Creating administrative mechanisms which require fossil fuel users to take account of the environmental consequences of their actions will balance the continued use of these critical energy resources with reductions in the environmental damages that they cause.

(5) Administrative mechanisms that facilitate CO_2 offset transactions will create incentives for technological innovation reducing further society's energy and environmental costs.

(6) By providing incentives for energy users to use energy more efficiently, the United States can improve its economic productivity, enhance its international competitiveness, reduce its trade deficit and reduce its dependence on foreign oil.

(7) Establishing a CO_2 offsets policy would encourage electric utilities to consider their emissions of CO_2 when making futue demand and supply-side decisions to meet their future capacity requirements.

(8) A Federal policy to take advantage of opportunities to offset greenhouse gas emissions would ensure that the United States can reduce its emissions of greenhouse gases while continuing to utilize coal, its most abundant domestic energy resource, which is essential to the Nation's long-range energy, economic, and national security.

(9) A Federal CO_2 offset policy offers the opportunity for the United States to begin to address the global climate change with the least-cost, market-based strategy which allows every industry the flexibility to choose the technology and displacement methods most appropriate for its individual circumstance.

SEC. 3. CONTROL OF GREENHOUSE GASES.

The Clean Air Act is amended by adding the following new title at the end thereof:

TITLE VII—CONTROL OF GREENHOUSE GASES

"SEC. 701. DEFINITIONS.

"As used in this title—

"(1) The term 'major CO_2 source' means any stationary source of CO_2 which emits or has the potential to emit 100,000 tons or more per year of CO$_2$.

"(2) The term 'new major CO$_2$ source' means any major CO$_2$ source the construction or modification of which commences on or after a date eighteen months after the enactment of this title.

"(3) The term 'commence', 'modification' and 'construction' shall have the same meaning as such terms have when used in section 111, except that the term 'modification' shall also include any major CO$_2$ source which is repowered on or after January 1, 1995 or any existing utility CO$_2$ source which, on or after January 1, 2005, will have been in operation for a period of not less than 65 years.

"(4) The term 'permitting authority' means the authority established under this title to issue operating permits for major CO$_2$ sources.

"SEC. 702. OFFSET CREDITS REQUIREMENT.

"(a) CO$_2$ Offset Requirement.—No new major CO$_2$ source may operate during any period after the date 36 months after the date of enactment of this title unless the owner or operator of the source has obtained, and is in compliance with, a permit issued under this title. Such permit shall require the owner or operator to demonstrate to the permitting authority possession of certified CO$_2$ credits equal to the CO$_2$ emissions expected to occur between the commencement of operations of the source and December 31 of the year in which operations begin. The permit shall, for each subsequent calendar year, require the owner or operator to deposit by December 31 of such year sufficient certified CO$_2$ credits into the National CO$_2$ Offset Bank established under section 705 to compensate for that year's CO$_2$ emissions. All new major CO$_2$ sources shall obtain certified CO$_2$ credits only in the manner described in section 703.

"(b) Trees.—A new major CO$_2$ source that uses as a fuel trees that are replaced through replanting and that have not been grown as a CO$_2$ offset under section 703(b)(2) of this Act is not required to obtain CO$_2$ credits for the CO$_2$ emissions from the combustion of such trees.

"(c) Violations.—

"(1) Excess emissions penalty.—The owner or operator of any new major CO$_2$ source subject to this title that emits CO$_2$, as measured pursuant to regulations promulgated under section 704 of this Act, for any calendar year in excess of the CO$_2$ offset credits the owner or operator deposited for the source for that calendar year shall be liable for the payment of an excess emissions penalty. That penalty shall be calculated on the basis of the number of tons emitted in excess of the source's CO$_2$ offset credits the owner or operator deposited for the source for that year multiplied by $250. Any such penalty shall be due and payable without demand to the Administrator as provided in regulations to be issued by the Administrator by no later than 18 months after the date of enactment of this title. Any such payment shall be deposited in the United States Treasury pursuant to 31 U.S.C. 3302. Any penalty due and payable under this subsection shall not diminish the liability of the source's owner or operator for any fine, penalty or assessment against the unit for the same violation under any other section of this Act.

"(2) Excess emissions offset.—The owner or operator of any new major CO$_2$ source that emits CO$_2$ during any calendar year in excess of the certified CO$_2$ credits deposited by the source shall be liable to offset the excess emissions by an equal tonnage amount in the following calendar year.

"(3) Penalty adjustment.—The Administrator shall, by regulation, adjust the penalty specified in paragraph (1) for inflation, based on the Consumer Price Index, on the date of enactment of this title and annually thereafter.

"(4) Prohibition.—It shall be unlawful for the owner or operator of any new major CO$_2$ source liable for a penalty and offset under this subsection to fail to pay the penalty under paragrph (1) or to offset excess emissions as required by paragraph (2).

"SEC. 703. CERTIFICATION OF OFFSETS

"(a) EPA Regulations.—The Administrator shall, not later than 18 months after the date of enactment of this title, promulgate regulations establishing procedures for the certification of CO$_2$ offset credits. Such regulations shall authorize a permitting authority to certify as a CO$_2$ offset credit any CO$_2$ reduction if the person providing such reduction or the person purchasing such offset credit establishes to the satisfaction of the permitting authority that such reduction complies with the requirements of regulations under subsection (b). In the event that the permitting authority is a State agency operating under an EPA-approved program in accordance with section 704(b), the Administrator shall retain for the 90-day period following the receipt of such certification the authority to review such State certifications prior to deposit in the National CO$_2$ Offset Bank established under section 705.

"(b) Eligible CO$_2$ Offset Credits—

"(1) Fuel switching.—The Administrator shall, not later than 18 months after the date of enactment of this title, promulgate regulations concerning the certification, on an annual basis, of CO$_2$ emission reductions by sources subject to the requirements of title IV of this Act, to the extent such reductions occur from switching to less carbon intensive fuels following the enactment of this paragraph. Such regulations shall establish procedures for calculating fuel use, in mmBtus, and the number of pounds of CO$_2$ emitted per mmBtu for the fuel or, in the case of a mix of fuels, the weighted average amount of CO$_2$ emitted per mmBtu, for the year in which the switch occurs and for the year preceding the switch in fuels. For purposes of determining the CO$_2$ emitted per mmBtu for each fuel or mix of fuels, such regulations shall take into account the application of technological controls which reduce the amount of CO$_2$ emitted from the combustion of such fuels. For purposes of this paragraph, the calculation of the number of pounds of CO$_2$ emitted per mmBtu for the year prior to the year in which the switch occurs shall not exceed the average amount emitted during the five year period preceding the switch in fuels. CO$_2$ offset credits may be awarded under this paragraph only for reductions measured by (A) calculating the difference between the number of pounds of CO$_2$ per mmBtu of the fuel or, in the case of a mix of fuels, the weighted average amount of CO$_2$ per mmBtu, in the year prior to the switch and in the year in which the switch occurs, and (B) multiplying the amount in subparagraph (A) by the total number of mmBtus consumed by the source in the year in which the switch occurs, divided by 2000.

"(2) Forests.—The Administrator shall, in consultation with the Secretary of Agriculture and the Secretary of the Interior, promulgate regulations not later than 30 months after the date of enactment of this title establishing regional average annual per acre CO$_2$ fixation rates by tree species, evaluated over a 100 year period. These rates shall be adjusted, by region, to account differing land productivity and precipitation, and for CO$_2$ emissions caused by reasonably anticipated loss of tree growth due to fire and other causes. In addition, these regulations should consider and prescribe the conditions under which public lands may be leased for the purpose of producing CO$_2$ offsets. CO$_2$ offset credits may be certified, on an annual basis, as follows—

"(A) New forests.—Tree growth on lands which have not experienced significant tree growth for the 30 year period prior to 1990 shall be eligible for CO$_2$ offset credits equal to the applicable regional average annual per acre fixation rate multiplied by the number of acres planted as offsets, provided that the acres planted as offsets have a recorded easement assigned to the Administrator which ensures that such acreage will not be cut for at least 100 years from the date such acreage is certified as CO$_2$ offset credits.

"(B) Forest management.—Tree growth on lands which have experienced significant tree growth during the 30 year period prior to 1990 shall be eligible for CO$_2$ offset credits equal to the difference between the average annual per acre fixation rate of the new tree growth and the regional average annual per acre fixation rate of the prior tree growth, multiplied by the number of acres planted for offset credits. Such credits shall be eligible provided that the acres identified as offsets have a recorded easement assigned to the Administrator which ensures that such acreage will not be cut for at least 100 years from the date such acreage is certified as CO$_2$ offset credits.

"(C) Old growth forests.—As part of the regulations promulgated under this paragraph, the Administrator shall promulgate sequestration values associated with the preservation of old growth forests. Such forests shall be eligible for total CO$_2$ offset credits equal to the difference between the average expected sequestration value of such forests and the average expected sequestration value of new forest in the same region during a 100 year period. The average expected sequestration value during a 100 year period shall be determined by adding the expected sequestration values for each year in the 100 year period and dividing by 100. For purposes of the preceding sentence, expected sequestration values shall account for CO$_2$ emissions from tree loss due to fire and other natural causes. Such credits shall only be eligible if the acres identified as offsets have a recorded easement assigned to the Administrator which ensures that such acreage will not be cut for at least 100 years from the date such acreage is certified as CO$_2$ offset credits. CO$_2$ offset credits shall be issued in equal annual increments for the period of the easement.

"(D) Easements.—Easements under this paragraph shall provide, at a minimum, that clear cutting, harvesting or other methods of destruction of trees, bushes, and understory shall be prohibited, except that the Administrator, in consultation with the Secretary of Health and Human Services, may authorize the cutting of individual trees, including the Pacific Yew tree, if the Administrator has determined that cutting such trees will contribute significantly to the protection of human health.

"(E) Definition.—For purposes of this paragraph, the term 'old growth forests' means any significant tract of public or private forest land which can be harvested under Federal, State, or local laws; and which is referred to as "Old Growth" in the document Interim Definitions for Old-Growth Douglas-Fir and Mixed-Conifer Forests in the Pacific Northwest and California (1986), developed by the Old-Growth Definition Task Force of the Forest Service, United States Department of Agriculture Forest Service, Pacific Northwest Research Station Research Note PNW–447.

"(3) CAFE.—The Administrator shall, in consultation with the Secretary of Energy, promulgate rules not later than 24 months after the date of enactment of this title concerning the certification of CO_2 credits from new vehicle fleet fuel efficiency improvements. CO_2 offset credits may be certified only for corporate average fuel efficiency (CAFE) improvements beyond those actually achieved by the source from sales during 1990 and shall not include efficiency improvements which are banked for future use by the manufacturer under other provisions of federal law. In no event shall CO_2 offset credits be certified for efficiency improvements required by any provision of Federal law. For purposes of this certification, the Administrator shall develop and employ an assessment of the statistical lifetime and use of vehicles proposed for CO_2 offsets. The number of CO_2 offset credits certified shall be based on the normal expected lifetime and use of the vehicles sold.

"(4) APPLIANCE EFFICIENCY.—Not later than 24 months after the date of enactment of this title, the Administrator, in consultation with the Secretary of Energy, shall promulgate regulations concerning the certification of CO_2 credits from appliance efficiency improvements. CO_2 offset credits may be issued only for efficiency improvements beyond those actually achieved by the source from sales during 1990. In no event shall CO_2 offset credits be issued for efficiency improvements required by any provisions of Federal law. Such certification procedures shall include adjustments to extra energy efficiency improvements to reflect the national proportion of household electricity derived from fossil fuels. In addition, the number of CO_2 credits certified shall be estimated on the basis of the normal expected lifetime and use of the appliance.

"(5) ENERGY CONSERVATION.—Not later than 24 months after the date of enactment of this title the Administrator, in consultation with the Secretary of Energy, shall promulgate regulations concerning the certification of CO_2 credits for energy conservation investments. Such regulations shall include a list of energy conservation measures eligible for CO_2 credits and shall indicate the amount of CO_2 emissions avoided by and CO_2 credits allowed for each measure. The Administrator shall determine the amount of CO_2 emissions avoided based on the average CO_2 emissions reported under section 821 of the Clean Air Act Amendments of 1990 in the State in which the energy conservation investment was made. The Administrator shall revise the determination in the previous sentence each year to reflect changes in CO_2 emissions reported in subsequent years under section 821 of the Clean Air Act Amendments of 1990. Energy conservation measures which are exclusively informational or educational in nature shall not be eligible for CO_2 credits. Energy conservation measures which increase the efficiency of appliances shall not be eligible for credit under this paragraph. The number of credits granted shall be adjusted by the national proportion of electricity generated by fossil fuels for the region in which the conservation investment is made. The Administrator shall publish and periodically update a listing of approved conservation options and their CO_2 credit yields.

"(6) METHANE RECOVERY.—Not later than 24 months after the date of enactment of this title, the Administration shall promulgate regulations concerning the certification of CO_2 equivalent credits from the capture and use of methane from coalbeds, municipal landfills, wastewater treatment facilities and sewage sludge facilities. The credits certified shall reflect both the differential radiative activity and atmospheric lifetime of methane compared to CO_2 as well as the CO_2 produced as a result of its ultimate combustion. The CO_2 equivalence of methane shall be established in accordance with section 703(c).

"(7) COGENERATION FACILITIES.—Not later than 24 months after the date of enactment of this title, the Administrator shall promulgate regulations concerning the certification of CO_2 credits created by the construction and operation of cogeneration facilities that replace existing industrial boilers or other thermal power not produced by cogeneration, provided that emissions of CO_2 from such cogeneration facilities shall be subject to the offset requirements of section 702. Credits for any given year shall be determined by calculating the following amounts—

(A) the emissions from the boiler being replaced in a baseline year to be determined by the Administrator, expressed in tons of CO_2, multiplied by the total steam output in the year for which credit is to be given and divided by the total steam output of the boiler being replaced in the baseline year,

(B) the kilowatt hours of electricity generated in that year by the cogeneration facility multiplied by the average emissions rate expressed in pounds of CO_2 per kilowatt hour of either the system or utility that the industrial facility bought electricity from in the baseline year, divided by 2000.

(C) the total pounds of CO_2 emitted in that year by the cogeneration facility, divided by 2000.

Certified CO_2 offset credits under this paragraph shall equal the sum of (A) and (B) minus (C).

"(8) CHLOROFLUOROCARBONS (CFCS).—The Administrator shall promulgate regulations not later than 12 months after the date of enactment of this title concerning the certification of CO_2 equivalent credits for the capture and destruction of chlorofluorocarbons (CFCs) in the United States and in other nations. In no event shall the Administrator certify CO_2 equivalent credits for the capture and destruction of CFCs obtained in the United States until the Administrator has determined, pursuant to the review required by section 603(e) of this Act, that alternative systems and products to manufacture and operate appliances without class II substances are commercially available. The CO_2 equivalence of all CFCs shall be established in accordance with section 703(c).

"(9) ALTERNATIVE FUEL VEHICLES.—Within 12 months of the date of enactment of this title, the Administrator shall establish regulations identifying the CO_2 credits for the manufacturer of alternative fuel vehicles which use less carbon intensive fuels than gasoline powered vehicles, as determined by the Administrator. No vehicle may be eligible for credit unless it operates using a single fuel.

"(10) REPLACEMENT AND REPOWERING OF UTILITY SOURCES.—Not later than 24 months after the date of enactment of this title, the Administrator shall promulgate regulations concerning the certification of CO_2 credits for utility sources that achieve more efficient heat rates through the repowering or replacement of an existing unit, including the use of fuel cell technology, provided that emissions of CO_2 from such sources shall be subject to the offset requirements of section 702. Such regulations shall establish criteria to determine the heat rate of the unit, expressed in mmBtus per kilowatt hour, in a baseline year to be determined by the Administrator. Credits for any given year shall be determined as follows—

"(A) if the kilowatt hours generated by the new or repowered unit in that year are greater than or equal to the kilowatt hours generated by the old unit in the baseline year, CO_2 credits shall be determined by calculating the tons of CO_2 emitted in the baseline year and subtracting from that amount the tons of CO_2 determined by multiplying (i) the tons of CO_2 emitted in the baseline year and (ii) the ratio of the heat rate of the new or repowered unit to the heat rate of the old unit in the baseline year.

"(B) if the kilowatt hours generated by the new or repowered unit in that year are less than the kilowatt hours generated in the baseline year, CO_2 credits shall be determined by multiplying (i) the tons of CO_2 emitted by the new or repowered unit in that year and (ii) the ratio of the heat rate of the old unit in the baseline year to the heat rate of the new or repowered unit and subtracting from that product the tons of CO_2 emitted by the new or repowered unit in that year.

"(11) REPLACEMENT OF UTILITY SOURCES WITH RENEWABLE ENERGY SOURCES.—Not later than 24 months after the date of enactment of this title, the Administrator shall promulgate regulations concerning the certification of CO_2 credits for renewable energy sources that replace existing utility sources which emit CO_2. Credits for any given year shall be determined based on the amount of CO_2 emissions from the existing utility source which is replaced. No credits may be certified under this paragraph unless it can be demonstrated that the renewable energy source replaces a specific, identifiable existing utility source. For purposes of this paragraph, the term "renewable energy" means energy derived from biomass, solar, geothermal, wind or fuel cell technology as identified by the Administrator in consultation with the Secretary of Energy. Incidental CO_2 emissions associated with the use of these renewable energy technologies shall be subtracted from any CO_2 offsets credit which may be certified under this paragraph, as determined by the Administrator.

"(12) OTHER CREDIT SOURCES.—In no case shall CO_2 offset sources be limited to those explicitly defined by regulation under this section. Potential offset sources should be allowed to demonstrate to the satisfaction of the Administrator after notice and comment that such sources should be certified according to the intent of this program. The Administrator shall establish a baseline for each source of CO_2 offsets or category of such sources subject to certification requirements under this paragraph. Such baselines shall be set according to the actual performance of such sources or categories of sources during the baseline year specified by the Administrator. Offset sources explicitly credited by regulation shall be allowed to demonstrate to the satisfaction of the Administrator after notice and comment that technical progress or other innovation has improved the efficiency of the CO_2 offset producing process. Except for paragraph (8), regulations promulgated under this subsection shall be construed to apply only to CO_2 offset credits obtained within the United States unless the Administrator has promulgated regulations to ensure that CO$_2$ offset credits not obtained within the United States will comply with all the requirements of this title to the same extent as CO$_2$ offset credits obtained within the United States.

"(13) REPOWERING.—In no case shall certification be granted for a utility shutdown for the purposes of repowering or refurbishing an existing facility.

"(14) EXPEDITED CERTIFICATION.—The Administrator may promulgate regulations under this section providing for expedited certification of CO$_2$ credits. If such regulations are promulgated, the Administrator shall establish a requirement that, for purposes of section 702, a new major source of CO$_2$ shall obtain more than one ton of CO$_2$ offset credits certified pursuant to this paragraph for each ton emitted by such source. In determining the additional CO$_2$ offset credits required under the preceding sentence, the Administrator shall take into account the additional uncertainties in certification under such expedited procedures compared with certification under the other regulations of this section.

"(15) OTHER AUTHORITY.—

"(A) FEDERAL AUTHORITY.—In no case shall certification be granted for greenhouse gas reductions which are required under any other provision of this Act or other authority of Federal law.

"(B) STATE AUTHORITY.—Nothing in this title shall preclude or deny the right of any State or any political subdivision thereof to disallow the certification of any CO$_2$ offset credit, if, in the sole discretion of such State or political subdivision, such certification is determined to be inconsistent with the law, regulations or policies of such State or political subdivision. In no event shall a State certify CO$_2$ offset credits which do not meet the requirements of this section. Not later than 18 months after the date of enactment of this title, the Administrator shall promulgate procedures for States and political subdivisions thereof to identify CO$_2$ offset credits that will be disallowed. Such regulations shall establish reasonable time limits during which states must make determinations under this paragraph.

"(c) GREENHOUSE GAS CREDITS.—The regulations under subsection (b) shall provide that a reduction in any air pollutant (including methane and N$_2$O) which the Administrator determines to contribute to global warming may be certified as a CO$_2$ offset credit if such reduction satisfies the criteria of subsection (b), except that the amount of such credit may be reduced or increased based on radiative differences and atmospheric lifetime to reflect the relative global warming potential of such air pollutants. The Administrator shall consult with the Administrators of the National Oceanic and Atmospheric Administration and the National Aeronautic and Space Administration concerning the determination of CO$_2$ equivalents for all CFCs regulated by the Montreal Protocol to control substances that deplete Stratospheric Ozone and for all other greenhouse gases including but not limited to N$_2$O and methane.

"SEC. 704. PERMIT PROGRAMS

"(a) REGULATIONS.—The Administrator shall promulgate within 18 months after the date of the enactment of this title, regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include each of the following:

"(1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion the completeness of applications.

"(2) Monitoring and reporting requirements.

"(3) Requirements for adequate personnel and funding to administer the program.

"(4) A requirement that the permitting authority have adequate authority to—

"(A) issue permits and assure compliance by all sources required to have a permit under this title with each applicable standard, regulation or requirement under this title;

"(B) issue permits for a fixed term;

"(C) terminate, modify, or revoke and reissue permits for cause;

"(D) enforce permits, the requirement to obtain a permit, including authority to recover civil penalties for permit violations; and;

"(E) collect the annual CO$_2$ offsets from affected sources for deposit with the Environmental Protection Agency to facilitate CO$_2$ credit certification and tracking.

"(5) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete, for processing such applications, for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications, renewals, or revisions, and including an opportunity for judicial review in State court of the final permit action by the applicant, any person who participated in the public comment process, and any other person who could obtain judicial review of that action under applicable law.

"(b) SUBMISSION AND APPROVAL.—(1) The Governor of each State shall develop and submit to the Administrator a permit program under State or local law or under an interstate compact meeting the requirements of this title. Not later than 1 year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program.

"(2) If the Governor does not submit a program as required under paragraph (1) or if the Administrator disapproves a program submitted by the Governor under paragraph (1), in whole or in part, the Administrator shall promulgate, administer, and enforce a program under this title for that State.

"(c) SUSPENSION.—The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may, in such notice, retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce federally issued permits under this title until they are replaced by a permit issued by a permitting program. Nothing in this subsection should be construed to limit the Administrator's ability to enforce permits issued by a State.

"(d) CONDITIONS.—Each permit issued under this title shall include an enforceable requirement that the permittee submit to the permitting authority, no less often than every 12 months, the results of any required monitoring, and such other conditions as are necessary to assure that the permittee has not emitted CO$_2$ in excess of the CO$_2$ emission offset credits held by the permittee.

"(e) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING—Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulation under subsection (b). Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

"SEC. 705. NATIONAL CO$_2$ OFFSET BANK.

"(a) EPA REGULATIONS.—

"(1) NATIONAL CO$_2$ OFFSET BANK.—With 12 months of enactment of this title, the Administrator shall publish regulations creating a National CO$_2$ Offset Bank for the purpose of ensuring adequate supplies of CO$_2$ offsets and to create procedures for the tracking and retirement of used CO$_2$ credits. At a minimum, these regulations must require the identification of the owners of CO$_2$ offset credits, their addresses, the tonnages available, and the source of the CO$_2$ credit. These regulations may require depositors to identify a minimum asking price.

"(2) CO$_2$ OFFSET CERTIFICATE ISSUANCE.—Upon notification by the owner of a certified offset of a transfer of ownership of the offset, the Administator shall debit the account of the seller in the National Offset Bank and credit the account of the purchaser. The Administrator, if requested by the purchaser, will issue certificates of CO$_2$ credit equal to the purchase quantity and make such withdrawal from the bank within 60 days of receipt of such request.

"(b) EPA OVERSIGHT.—In exercising its certification review authority under section 703, the Administrator shall act within 90 days to decertify any CO$_2$ credit submitted for banking in accordance with the generic certification rules promulgated in accordance with section 703.

"(c) PUBLIC LISTING OF CREDITS.—The Administrator shall make available to the public on a continuous basis the contents of the National CO$_2$ Offset Bank to include but not be limited to the names and addresses of the owners of available CO$_2$ credits, the associated tonnages, sources of the CO$_2$ credits, and minimum asking prices if required.

"(d) DEBITS.—Allowances deposited with the Administrator by permitting authorities or permitted sources in compliance with CO$_2$ offset requirements established in section 702 shall be debited from the accounts of registered certified credit owners listed in the National CO$_2$ Offset Bank.

SECTION-BY-SECTION ANALYSIS OF THE CARBON DIOXIDE OFFSETS POLICY EFFICIENCY ACT OF 1991

Sec. 1.—The Act may be cited as the CO$_2$ Offsets Policy Efficiency Act of 1991.

Sec. 2.—Findings.—The Congress finds that the United States has 5 percent of the world's population and yet consumes more than 20 percent of the world's fossil fuels and emits more than 20 percent of the world's carbon dioxide derived from combustion of fossil fuels. A Federal carbon dioxide offset policy offers the opportunity for the United States to begin to address the global climate change with the least-cost, market-based strategy which allows every industry the flexibility to choose the approach to obtaining offsets which is most appropriate for its individual circumstance.

Sec. 3.—Control of Greenhouse Gases.

Requires new stationary sources that have the potential to emit at least 100,000 tons of CO$_2$ annually to compensate for their CO$_2$ emissions by securing offsetting greenhouse gas reductions. In addition, sources repowered after January 1, 1995, would be considered new sources subject to offset requirements. Existing utilities would gradually enter the offsets program as they turn 65 years old, but this provision does not commence until 2005.

Requires new sources to acquire, as a condition for receiving an operating permit, sufficient CO_2 credits to compensate for expected CO_2 emissions in the first year of operation. Every year thereafter, the unit would be required to deposit with EPA sufficient CO_2 credits to match their annual CO_2 emissions. The unit's annual CO_2 emissions would be monitored and reported under the CO_2 monitoring requirements of the Clean Air Act of 1990. Units that fail to deposit sufficient CO_2 credits would be subject to a $250 per ton penalty. In addition, the exceedance would have to be compensated by an excess emission offset within the next calendar year.

EPA is required to promulgate regulations governing the certification of CO_2 credits for the supply of sources and guidelines for State agencies to assume responsibility for the certification program. If the permitting authority is an authorized State agency, the Administrator shall retain the right to review the State certification for a period of 90 days following the State certification.

Establishes a number of ways that firms could obtain CO_2 credits for meeting the offset requirements including:

1. Fuel switching.—Fuel conversions by stationary sources to fuels which are less carbon intensive fuels such as natural gas would be granted credits equal to the difference between what CO_2 emissions would have been without the switch and what they are after the switch.

2. Trees.—Planting trees on land that has not been forested for over 30 years and which is not part of a normal reforesting operation can generate CO_2 credits. Improved management practices and the preservation of old growth or ancient forests are also eligible for CO_2 credits. In each of these cases, landowners must sign 100-year easements in order to guarantee that the CO_2 benefits are provided.

3. Cafe.—Automobile manufacturers could obtain offset credits for achieving corporate average fuel efficiency improvements beyond those actually achieved by the manufacturers from sales during 1990 and which are not banked for future use by the manufacturer under other provisions of Federal law.

4. Appliance efficiency.—Appliance manufacturers can obtain credits for achieving efficiencies greater than their 1990 efficiency levels. The number of CO_2 credits certified shall be estimated on the basis of the normal expected lifetime and use of the appliance.

5. Energy efficiency.—Energy efficiency programs would be eligible for CO_2 credits.

6. Methane capture.—Credits are available for capturing methane from coalbeds, municipal landfills, wastewater treatment facilities, and sewage sludge facilities. The credits shall reflect both the differential radiative activity and atmospheric lifetime of methane compared to CO_2.

7. Cogeneration.—Credits are available for replacing an existing industrial boiler with a cogeneration unit; the credits would reflect both the efficiency gain produced by replacing the old boiler and the gain in producing power.

8. CFCs.—Credits would be available for the capture and destruction of chlorofluorocarbons in the United States and worldwide. In the United States, credits are not available until safe alternative chemicals are commercially available.

9. Alternative fuels.—Mobile source fuel switches to less carbon intensive fuels would receive CO_2 credits. For example, compressed natural gas vehicles would receive credits equal to the difference between the current corporate average fuel economy standard in CO_2 terms and the CO_2 produced by the CNG vehicles.

These credits would be computed and awarded to the vehicle manufacturer for the expected lifetime CO_2 emissions reductions from that vehicle.

10. Increased efficiency of plants.—Utility sources which achieve more efficient heat rates through the repowering or replacement of an existing unit can receive credits. These credits would be calculated annually by adjusting the CO_2 emissions from the new facility by the efficiency improvement of the new unit.

11. Renewable resources.—Renewable and clean energy sources, including solar, wind, fuels cell technology can generate credits when they replace existing fossil fueled source.

12. Other credits.—Other credit sources can be identified and developed providing they meet the requirements of EPA's certification program.

The Administrator may promulgate regulations providing for expedited certification of CO_2 credits. If such regulations are promulgated, the Administrator shall establish a requirement that the source shall obtain credits at greater than a 1:1 value.

Credits shall not be granted for reductions which are required under any other provision of Federal law.

States shall have the prerogative of determining whether CO_2 reductions required by State law or regulation should be granted credits.

The regulations promulgated by EPA shall provide that a reduction in a pollutant which contributes to global warming may be certified as a CO_2 offset credit, except that the amount of such credit may be reduced or increased based on radiative difference and atmospheric lifetime to reflect the relative global warming potential of such air pollutants.

EPA must promulgate regulations establishing the minimum elements of a permit program to be administered by a State.

EPA is required to promulgate regulations establishing a National CO_2 Offset Bank to ensure adequate supplies of CO_2 offsets and to create procedures for the tracking and retirement of used CO_2 credits.●

By Mr. METZENBAUM:

S. 1324. A bill to amend the Public Health Service Act to generate accurate data necessary for continued maintenance of food safety and public health standards and to protect employees who report food safety violations, and for other purposes; to the Committee on Labor and Human Resources.

POULTRY CONSUMER PROTECTION ACT

Mr. METZENBAUM. Mr. President, I rise today to introduce the Poultry Consumer Protection Act of 1991. This bill is intended to be a beginning, a first step in what I feel should be a wholesale revision of U.S. poultry regulation.

This bill requires that the Secretary of Health and Human Services complete a detailed study on the sources and levels of bacterial contamination in our food supply, particularly in raw poultry. In addition, the bill would protect poultry industry workers who come forward with information that contributes to the study. This bill will begin to address growing evidence of a food safety crisis in the poultry industry. Eighty percent of raw poultry—or more—has been found contaminated.

I would note parenthetically that there is also a well-documented worker safety crisis in the poultry industry, which I hope to address in the future.

Mr. President, the Department of Agriculture seems to have forgotten the true purpose of food inspection.

I must confess some confusion as to exactly why the mission of food inspection is given to USDA. The Agriculture Department's role is to promote farm sales—and our farmers certainly need all the help they can get these days.

But how can we trust an agency charged with promoting food sales to be tough about food inspection?

Mr. President, in my view, the risk inherent in this conflict of interests has manifested itself in our poultry supply today. The USDA has delegated poultry safety to the poultry industry itself under the innocuous sounding "streamlined inspection system".

How are consumers supposed to trust the word of the poultry industry—whose main job is to sell more chickens?

Mr. President, the streamlined inspection system, or SIS, has made a mockery of the USDA "seal of approval." Today, it is not the Government that guarantees the safety of poultry, but the poultry industry itself. Who elected the poultry industry? To whom are they responsible? To the balance sheet, that's who—not to consumers.

Mr. President, the SIS concept was tried in the beef industry—and it was a flop. In fact, ranchers were so concerned about SIS destroying consumer confidence in the safety of beef that they urged USDA not to expand the SIS—Cattle Pilot Program beyond its experimental phase.

I was pleased that the chairman of the Senate Agriculture Committee, PATRICK LEAHY, joined me in writing to Secretary of Agriculture Edward Madigan, to urge that the SIS—Cattle Pilot Programs not be expanded. It is now my understanding that the SIS—Cattle Program will, indeed, be withdrawn and I ask unanimous consent that a copy of my letter be printed at the conclusion of my remarks. If the SIS concept flopped for beef, why is USDA letting it continue for poultry?

Mr. President, SIS evinces an attitude problem at the USDA. To me it indicates an arrogance about this agency's responsibility to consumers. The SIS program is not simply a case of lax inspection. The SIS concept demonstrates a laissez faire approach to inspection, by the Government, at a time when inspection should be growing even more intrusive, even more hands on. The unfortunate truth is that no amount of old fashioned, visual inspection will detect the new threat from bacterial contamination. But that is no reason to be trusting visual inspection to poultry producers themselves. The USDA should be stepping up visual inspection while developing new techniques to detect salmonella, campylobacter, and other bacteria. Instead USDA entrusts the old-fashioned inspection program to poultry producers themselves, and tries to tell us that the new problem of bacterial contamination is really no problem at all.

Mr. President, I should note that there has been an on-again, off-again effort by the USDA to develop bacterial testing techniques. The program is called Hazard Analysis and Critical Control Point [HACCP—hay-sip]. Through the HACCP Program, the Department suggests to poultry producers new methods for limiting bacterial contamination.

Suggests? Suggestions don't satisfy me, and they shouldn't satisfy the American consumer. I want real enforcement of real regulations, and I want it now.

The CDC estimates that 4 million Americans annually are sickened by food-borne salmonella bacteria, and 2,000 Americans die from it. The cost in medical bills and lost work time is over $2 billion, according to USDA research. Epidemiologists agree that the single most common way for consumers to come in contact with salmonella today is through raw poultry.

Mr. President, American consumers eat an average of 85 pounds of poultry and poultry products each year—an incredible quantity. This is truly an issue that touches the lives of each and every one of us. Poultry is touted as a low-fat, high protein alternative to other, less-healthy meats. As consumers turn toward poultry to improve their health, I worry that poultry may be turning against consumers.

Mr. President, in any industry, when consumer demand rises sharply, production processes must change in order to meet that new demand. In the past, such changes in production methods have resulted in remarkable improvements in output and efficiency. This is exactly what has happened in the poultry industry. Poultry operations today produce a 50 percent larger bird, using 15 percent less feed, in 20 percent less time than they did 20 years ago. Half the number of birds are lost to disease and death today than in 1968. I think that this is an example of what can be "done right" by American industrial innovators.

But as we have seen time and time again in the past, the innovation of output is often way ahead of innovation in safety—the safety of the product, and the safety of the workers by whom it is produced.

Mr. President, I regret that the poultry industry is following this tragic industrial pattern. The industry has put its energy and its money behind research, and it has come up with bigger and better birds. But the safety of its product and working conditions in which it is produced have lagged far, far behind. A chicken may be twice as plump for much less feed than 20 years ago, but reports indicate that the same chicken carries 4 times as much bacteria than 20 years ago.

Mr. President, I am glad that poultry is popular with consumers; I am glad that poultry prices have remained relatively low over the years.

I am also glad that small-time poultry entrepreneurs, like one in Canton, OH, are doing all they can to keep their product clean, using competition to keep the chicken giants more honest.

But I am angry that the poultry industry conglomerates—and the Department of Agriculture officials charged with regulating it—pretend that no problems exist. If you believe the poultry industry, chicken is as clean as it needs to be. And if a chicken here and there is contaminated, well, then it is the consumer's problem to avoid getting sick from it.

Is chicken as clean as it needs to be? Is getting sick the consumer's problem? I say no. And it's time that the USDA put it's foot down, and say no as well.

Mr. President, no such tough talk has come from the Department of Agriculture. The Federal Government began inspecting meat in 1906, and poultry after World War II. The reason for Government inspection of food was as simple then as it is now: The safety of our food supply is just too important to entrust to the private sector. Impartial Government officials are supposed to be the only ones who can faithfully guarantee the wholesomeness of our foods.

Mr. President, today 4 companies produce 41 percent of all poultry. Twenty companies produce 79 percent.

When you have so few operations producing so much of America's total output, regulators should get tougher. USDA is doing just the opposite.

Mr. President, the time has come for USDA's food safety and Inspection Service [FSIS] to junk the streamlined inspection service, and to go full stream ahead on bacterial testing research. The alternative, at the very least, is to stop using a USDA label to certify wholesomeness, when USDA lets someone else do the inspecting. If USDA insists on delegating its responsibility to industry, the consumer should at least know about it.

I ask unanimous consent that a copy of my bill be printed at the conclusion of my remarks, along with a number of articles on poultry production, as follows: The Atlanta Journal-Constitution, May 26, and June 2, 1991, The Arkansas Democrat, April 21, 22, 23, 24 and 25, 1991, Time, November 26, 1990, the Wall St. Journal, November 16, 1990, and the Atlantic, November, 1990.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Poultry Consumer Protection Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) United States consumers are entitled to a safe supply of food;

(2) it is the responsibility of United States food producers to deliver products, whether raw or processed, that require no more than reasonable and proper care by private and commercial consumers in order to maintain the wholesomeness of the products;

(3) it is the responsibility of the Federal Government to ensure basic standards of food safety, and to identify and report sources of food contamination;

(4) United States consumers are making poultry an increasingly large part of their diets;

(5) poultry has been recognized as a high protein alternative to foods with higher fat content;

(6) evidence suggests that poultry transmits certain microbiological pathogens in greater quantity than other popular parts of the diet of persons in the United States;

(7) consumers should be responsible for reasonable, proper precautions in the preparation of foods;

(8) it is the responsibility of food producers to maintain standards of wholesomeness that require no more than reasonable, proper care by consumers in order to avoid sickness;

(9) the level of poultry-borne microbiological pathogenic contamination has surpassed the level at which reasonable, proper care by consumers can consistently mitigate the risk of sickness;

(10) the use of increased processing line speeds by the poultry industry makes it impossible for inspectors to complete appropriate inspection of poultry products and increases health risks to consumers; and

(11) the continued increasing public demand for poultry requires that appropriate steps be taken to secure the safety of poultry supplies.

(b) PURPOSES.—The purposes of this Act are—

(1) to generate accurate data necessary for continued maintenance of food safety and public health standards;

(2) to provide current, scientifically sound information regarding health risks to the United States consumer resulting from changes in levels of microbiological pathogenic contamination in the food supply of the Nation, including health risks resulting from changes in food consumption and production patterns in the United States; and

(3) to facilitate public and private disclosure of information in order that the public health may be maintained.

SEC. 3. REPORT AND EMPLOYEE PROTECTION.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following new sections:

"SEC. 1708. MICROBIOLOGICAL PATHOGENIC CONTAMINATION STUDY.

"(a) Definitions.—As used in this section:

"(1) Federal public health agency.—The term 'Federal public health agency' means an independent establishment that has public health responsibilities.

"(2) Independent establishment.—The term 'independent establishment' has the meaning given the term in section 104 of title 5, United States Code.

"(3) Inordinately.—The term 'inordinately' means, with respect to incidence of human infection or death, any incidence statistically greater than the incidence predicted by appropriate current food safety data, as determined by the Secretary.

"(4) Microbiological pathogenic contamination.—The term 'microbiological pathogenic contamination' includes the presence of the salmonella group of bacteria and campylobacter jejuni.

"(b) Study.—

"(1) In general.—The Secretary shall conduct a study regarding the incidence of human infection resulting from microbiological pathogenic contamination of the United States food supply.

"(2) Subjects.—In conducting the study described in paragraph (1), the Secretary shall—

"(A) collect current data regarding human infection or death resulting from microbiological pathogenic contamination.

"(B) evaluate sources of microbiological pathogenic contamination in the United States food supply;

"(C) evaluate the relationship between—

"(i) changing patterns of food consumption; and

"(ii) the spread of microbiological pathogenic contamination;

"(D) assess progress in achieving use of reliable laboratory testing methods as the measure of microbiological pathogenic contamination in the United States food supply, including progress in achieving the 1987 National Academy of Sciences recommendations regarding domestically produced poultry and poultry products;

"(E) assess the most scientifically efficient means to limit microbiological pathogenic contamination of the United States food supply;

"(F) identify geographic concentrations or patterns of human infection and death resulting from microbiological pathogenic contamination borne by the United States food supply;

"(G) identify sources of microbiological pathogenic contamination that result in human infection or death in cases in which the human infection or death occur in an inordinately large geographic concentration;

"(H) determine the level at which microbiological pathogenic contaminants in the United States food supply do not pose a significant threat of human illness sufficient to cause incapacity or require professional medical care for identifiable population groups, including groups such as infants, elderly persons, and persons with compromised immune systems; and

"(I) identify the most common ways in which consumers come into contact with microbiological pathogenic contamination in the United States food supply.

"(c) Report.—

"(1) Initial report.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the findings of the Secretary based on the study described in subsection (b), and recommendations for decreasing the microbiological pathogenic contamination in the United States food supply.

"(2) Subsequent reports.—Not later than 12 months after the date of the presentation of the initial report described in paragraph (1), and annually thereafter, the Secretary shall submit a report to the committees described in paragraph (1) containing an update of the information contained in the initial report.

"(d) Agreements.—The Secretary may enter into agreements with other organizations and Federal public health agencies to carry out this section.

"(e) Detail of Federal Employees.—On the request of the Secretary, the heads of other pertinent Federal public health agencies shall provide, without reimbursement, any of the personnel of the agencies to the Department as the Secretary determines to be necessary to carry out this section. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(f) Technical Assistance.—On the request of the Secretary, the heads of other pertinent Federal public health agencies shall provide, without reimbursement, such technical assistance and administrative support services to the Department as the Secretary determines to be necessary to carry out this section.

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1992 and each of the subsequent fiscal years.

"SEC. 1709. EMPLOYEE PROTECTION.

"(a) Definitions.—As used in this section:

"(1) Employee.—The term 'employee' means an employee of an employer.

"(2) Employer.—The term 'employer' means a person engaged in a business affecting interstate commerce.

"(b) Disclosure and Participation in Proceedings.—No person shall discharge or discipline an employee, or in any other manner discriminate against an employee with respect to the compensation, or the terms, conditions, or privileges of employment, of the employee, because the employee (or a person acting in accordance with a request of the employee)—

"(1) discloses information that the employee reasonably believes will assist completion of the study described in section 1708(b); or

"(2) testifies or is about to testify in any proceeding relating to completion of the study described in section 1708(b).

"(c) Process.—In a case involving discharge, discipline, or discrimination under subsection (b), the process, procedures, and remedies shall be governed by the applicable provisions of section 405 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2305), except that, in determining whether a violation of subsection (b) has occurred in such a case, the standard of proof that is used by the Merit Systems Protection Board in proceedings under section 1221 of title 5, United States Code, as described in paragraphs (1) and (2) of subsection (e) of such section, shall be employed".

U.S. Senate,
Committee on Environment and
Public Works,
Washington, DC, May 31, 1991.
Edward Madigan,
Secretary of Agriculture, Department of Agriculture, Washington, DC.

Dear Secretary Madigan: We are writing to urge that you withdraw the Streamlined Inspection System—Cattle (SIS-C) proposed rule, and discontinue the SIS-C pilot programs which have been in operation since 1985.

It is our understanding that you have taken the future of SIS-C under review. In our opinion, the dismal results of SIS programs generally offer little basis for continuation of SIS-C. Food safety experts and beef producers alike are concerned that the low public regard for SIS quality assurance could result in damage to beef marketing efforts, and further erode public confidence in the safety of America's food supply. A September, 1990 report by the National Academy of Sciences echoed these concerns, emphasizing the absence of sound scientific or empirical foundations for the streamlined inspection concept.

The "crisis of confidence" resulting from SIS-C has been articulated by firms ranging from the giant Iowa Beef Products to small producers represented by the Western Organization of Resource Councils and the Dakota Resource Council. The N.A.S. concluded that SIS-C largely bypasses recommendations it has promulgated three times since 1985 regarding scientifically sound modernization of U.S. food inspection. It is no wonder that SIS is a source of grief to those who know best, American agriculture producers.

Mr. Secretary, application of the SIS concept to industry operations has raised a number of questions which must be answered before SIS is expanded further. We support the Department of Agriculture's mission to improve the safety and marketability of U.S. agricultural products. Consequently, we are at a loss to see how Streamlined Inspection System—Cattle advances either of these objectives.

We look forward to working with you on this pressing food safety problem.

Very sincerely yours,
Howard M. Metzenbaum,
U.S. Senator.
Patrick J. Leahy,
U.S. Senator.

[From the Atlanta (GA) Journal-Constitution, May 26, 1991]

Chicken: How Safe?—Part 1

(By Scott Bronstein)

Three columns of chickens, dangling by their feet, speed into the ear-splitting din of a cool, dank warehouse—a maze of birds in dizzy, mechanized motion.

The lines of bobbing broilers coil around half a dozen machines that eviscerate the fryers and thread past the rare human worker who, wearing a hairnet, cotton smock and black rubber boots, reaches out to snip with scissors at the occasional bird the machines miss.

It is an automated cascade triggered by consumers seeking low-cost, low-cholesterol fare in record numbers. And it carries a hidden price: contamination.

The U.S. Department of Agriculture, responsible for ensuring that poultry products are wholesome, is failing so completely that the distinctive USDA seal of approval today no longer guarantees that chicken is safe to eat, said more than six dozen USDA inspectors at the nation's largest poultry plants.

Every week throughout the South, millions of chickens leaking yellow pus, stained by green feces, contaminated by harmful bacteria, or marred by lung and heart infections, cancerous tumors or skin conditions are shipped for sale to consumers, instead of being condemned and destroyed, the USDA inspectors said. Consumer advocates, federal veterinarians, former USDA scientists and congressional experts also describe a poultry production system swamped by success and out of control.

"You know the USDA seal of approval we put on the chicken? Well, it means nothing now. It's meaningless," said Gail Duncan, an inspector at the Trussville, Ala., plant owned by Atlanta-based Gold Kist Inc., the nation's third-largest poultry company.

Senior USDA officals call Mrs. Duncan, a 42-year-old mother of two who has been a federal poultry inspector for nine years, and hundreds of inspectors like her the consumer's "first line of defense" on poultry processing lines. She has become so concerned that chicken is no longer wholesome she has not served it to her own family for a year. Five dozen inspectors said they also were so concerned that they no longer eat chicken.

"Chickens we would routinely condemn 10 years ago are now getting right through to the consumer," said Mrs. Duncan. "What's so bad is the people are paying taxes for us to do this job and we can't do it. We are not being allowed to protect the consumer."

In all, The Atlanta Journal-Constitution interviewed 84 federal poultry inspectors from 37 processing plants in Georgia, Arkansas, Alabama, North Carolina and Mississippi—about 5 percent of all USDA inspectors monitoring poultry quality in the South. Included were inspectors at plants operated by the eight largest poultry companies in the United States. Among the findings:

Thousands of birds contaminated or stained with feces are shipped every day instead of being condemned, 81 inspectors said.

Thousands of diseased birds pass from processing lines to stores every day, 75 inspectors said.

Thousands of contaminated birds are salvaged by cutting away visibly diseased meat and selling the rest—much of which is also diseased—as chicken parts, 70 inspectors said.

Maggots, especially in summer months, often infest cutting and processing machinery, 47 inspectors said.

"Last summer, they were bringing plastic tubs into the plant and they had maggots crawling all over them," said Susan Ridgway, 42, an inspector at the ConAgra plant in Dalton, Ga. "These tubs would have been loaded up with chicken parts if we hadn't caught it. It happens all the time."

USDA scientists, industry experts and consumer advocates say that millions of birds leave plants every week contaminated by the unseen bacteria that cause serious food poisoning.

To meet spiraling demand, chickens today are slaughtered and processed by high-speed automated machinery. By their design, the automated lines spread bacteria and contamination, industry experts say.

While the demand for chicken has soared in recent years, so has the incidence of food poisoning caused by two powerful bacteria that often infect poultry: salmonella and campylobacter.

Millions of people become ill every year after eating food contaminated with salmonella or campylobacter—and several thousand die as a result, most of them elderly, children, or people with a weakened immune system, the U.S. Centers for Disease Control estimates.

Reported individual cases of food poisoning caused just by salmonella jumped 116 percent in the last two decades. Up to half of the salmonella cases are caused by tainted chicken, the CDC estimates. As many as 70 percent of the campylobacter cases come from poultry, USDA scientists say.

Poultry processors strongly defend their products.

Industry officials are keenly aware that it would be economic suicide to ignore quality control. Consumer confidence is the keystone of their sucess.

"We do not put out a product that is unwholesome. We simply would not do that," said Dr. James Whitmore, vice president for research and quality assurance at Tyson Foods Inc., the nation's largest poultry processor.

Paul G. Brower, a spokesman for Gold Kist, agreed. "We spend a great deal of time and money and hire poeple who are very thoroughly trained in quality control to be sure that we produce, process and market a safe, sanitary, wholseome product."

Industry executives and USDA officials point out that today less than one-half of 1 percent of the chickens are condemned for detectable disease, down from 10 percent several decades ago. They concede that at least one-third of their processed chicken is contaminated with salmonella and other bacteria. But they think the CDC is simply wrong in estimating that millions are getting food poisoning from chicken.

It would cost far too much to produce cleaner chicken, industry officials said, and they believe that consumers would be reluctant to pay the price. Thanks to an intensive investment in high-speed processing machinery, chicken is today the cheapest meat consumers can buy. In fact, a whole chicken actually cost less today per pound than 40 years ago.

Poultry processors could produce chickens completely free of bacteria by irradiating them, but consumers appear to be more frightened of this technique than by the threat of bacteria.

Industry officials say that as long as consumers thoroughly cook poultry, however, there is no danger of food poisoning.

"The chicken is without a doubt wholesome and healthy—as long as it's cooked properly," said Dr. Kenneth N. May, a spokesman for the industry's trade group, the National Broiler Council.

Poultry companies and the USDA, in effect, today increasingly depend on consumers to protect themselves—despite a federal food inspection system that costs taxpayers $417 million a year. What inspectors miss at the processing plant must be caught in the kitchen.

Even trained federal inspectors can often miss the subtle signs that might indicate any of a dozen diseases. And, without a microscope, it is impossible for anyone to tell whether chickens are covered with bacteria.

The most vigilant consumer cannot control the preparation of chicken in restaurant kitchens, which cook about 40 percent of the chicken produced today. Some 25,000 fast-food outlets have added chicken to their menus since 1977.

It is equally difficult for anyone to obtain a firsthand look at how plants process poultry.

Of the nation's 15 leading poultry processors, only Gold Kist and Seaboard Farms allowed a reporter to tour a processing plant. On the day of the tours, workers and inspectors seemed to follow proper procedures to ensure that only wholesome chicken was shipped.

Four USDA-approved commercial testing laboratories in the Southeast refused to conduct poultry salmonella and campylobacter contamination tests for the Journal-Constitution. Brian Shelton, lab manager for Pathogen Control Associates, echoed other lab managers when he explained why: "I would expect an extremely high percentage of the chickens would test positive. Our poultry industry clients wouldn't like that."

Growing health hazards posed by chicken are the byproduct of the industry's dizzying success and widespread government deregulation of poultry processing, critics believe.

Commercial chickens are raised in crowded "grow-out houses" and slaughtered at high speed by automated machinery—both of which can increase contamination, they say. By law, each bird must be inspected—but the lines move so fast that thorough examination is all but impossible, inspectors say.

Now the Agriculture Department has plans to allow production lines, which have already doubled or tripled their speed, to move even faster.

Without the money to hire more inspectors to meet the increased workload, the government is turning an increasing share of the safety responsibilities over to the industry.

"They're inspecting more and more chickens, with fewer and fewer people. And the lines run faster and faster, and salmonella contamination is growing greater and greater," said Carol Tucker Foreman, assistant secretary for food and consumer services under President Carter. Ms. Foreman now is a consumer advocate in Washington.

No government or regulatory testing for bacteria is regularly done at any U.S. poultry plant today. Scientists don't have enough test data to even know how few bacteria it takes to make someone sick, so regulators have no idea where to set a safe limit.

Three times in the past five years, the National Academy of Sciences urged regular testing for the bacteria that cause food poisoning. To ensure consumer safety, the academy also recommended changes in the slaughter and processing. The suggestions were largely ignored by USDA, according to academy reports.

Congressional attempts to improve regulatory enforcement have also met with little success. When legislation was introduced in the U.S. Senate four years ago to strengthen poultry inspection, the bill never made it out of committee. It was the last significant congressional effort at change.

Pacing the increased demand for chicken, millions of birds go whirring down conveyor lines daily in slaughter houses in Georgia and other Southeastern states. Georgia, Alabama and Arkansas produce half the chicken Americans eat and much of the chicken eaten around the world.

As the speed of the lines increases, there are too few federal inspectors to ensure that poultry products are free of disease and contamination, USDA inspectors, congressional experts and consumer advocates said.

The number of USDA meat and poultry inspectors has dropped 7.5 percent, from 7,758 inspectors in 1975 to 7,174 today. In that same period, the number of chickens produced in the United States and requiring federal inspection jumped 100 percent.

Hundreds of vacant poultry inspector positions have gone unfilled for lack of funding. The Southeast has the most acute shortage, with 217 of 1,816 positions unfilled last month.

USDA officials say they have handled staff shortages by relaxing the inspection standards and by turning inspection over to the companies.

"We don't do all the product checks we should be doing," said Dr. James D. Willis, Southeast regional director of the USDA's Food Safety and Inspection Service. "Sometimes we have to sacrifice those because of staff shortages."

Rotten meat is easy to spot. But the question of microbiological safety of chicken is a far more urgent problem. Microscopic bacteria like salmonella occur naturally on chickens and, though not harmful to them, can be deadly to humans.

Many scientists believe the salmonella contamination rate has doubled in 20 years. Up to 80 percent of the chicken coming from poultry plants is contaminated with salmonella, according to an unreleased 1989 USDA draft report in which analysts tested 1,500 carcasses at five large Southeastern poultry plants. That compares with about 10 percent for beef or pork.

The presence in chicken of campylobacter bacteria is higher still. Although not as well-known as salmonella, the bacteria are thought to cause twice as much food poisoning.

Dr. Norman J. Stern, a USDA microbiologist in Athens and an authority on campylobacter, recently found 98 percent of the ready-to-eat store-bought chickens he tested in Athens contaminated with the bug.

"The average chicken you buy today in any store has enough campylobacter on it to make 1,000 people very sick," he said. But, he added, "nobody eats raw chicken, so nobody gets those doses.

Ralph George, 54, an on-line inspector at the ConAgra plant in Dalton, like many inspectors feels trapped between the speeding lines and the need to protect the consumer.

"I'm ashamed to even let people know I'm a USDA inspector. There are thousands of diseased and unwholesome birds going right on down the lines that we can't catch."

TODAY, IF YOU BLOW THE WHISTLE, YOU ARE IN TROUBLE

INSPECTORS SAY BOSSES, PLANTS PRESSURE THEM

(By Scott Bronstein)

ELLIJAY, GA.—In the clanking, hissing, rumbling roar of the Gold Kist processing plant, William R. Freeman, 58, stares eight hours a day at a speeding current of raw pink chicken carcasses.

The 25-year veteran inspector and grandfather of three is trained to check for a dozen different diseases in every bird. They pass in front of him every two seconds for eight hours. Hundreds of times every shift, an inspector may be forced to stop the processing line to reject a contaminated carcass.

Like scores of USDA inspectors across the poultry belt, Mr. Freeman says thousands of birds leave plants daily that should be condemned. Mr. Freeman also says there's little he can do about it.

"The oath I took to be an inspector said if I ever saw anything wrong, like a problem with a bad product, I was supposed to report it," said Mr. Freeman. "But today I can't report anything. Today, if you blow the whistle, you're in trouble with the inspection service. I feel the oath I took is violated every day I work by the program we have."

The Atlanta Journal-Constitution interviewed 84 federal poultry inspectors. Forty-eight of them, including Mr. Freeman, who work at two dozen different plants say they are routinely cursed, rebuked and harassed by company officials or by their own government supervisors when they halt speeding production lines to scrutinize spoiled or diseased meat.

The inspectors say clashes with the poultry companies are common, and many believe their ability to ensure the quality of commercial poultry is compromised daily.

Industry officials say the inspectors are wrong. "It's simply not true," said Paul G. Brower, spokesman for Gold Kist. "The inspectors are never treated that way. They are not ever abused or harassed or treated badly in any other way."

Lester Crawford, who oversees all meat inspection in the country as head of the USDA's Food Safety and Inspection Service, said the poultry inspection system works "better than ever."

When asked about the complaints heard in interviews, he said: "All our work force isn't completely happy. But the employees who think there are problems are small in number."

Dr. Crawford said the inspectors are "derelict" if they allow contaminated or diseased chicken to leave a plant. "They also have their responsibility to stop the line, and I've always backed them on that." he said.

Scores of inspectors, however, said the department does not back them when they try to stop the lines.

Barbara Hitt, 39, a seven-year inspector at the Marshall Durbin plant in Jasper, Ala., said there is pressure today on inspectors to do their job less thoroughly.

"It used to be that if it had severe contamination, you condemned that sucker," Mrs. Hitt, a widow whose USDA paycheck supports a daughter at home, said. "But nowadays my own supervising inspector says, 'There can be no more bad birds on your tally. You've had too many.'"

Sixty miles across the state, at the Gold Kist plant in Boaz, Charles S. Painter, 30, a five-year inspector, describes a similar problem: "My supervisor drags me off the line regularly because the company complains that I've pulled too many bad birds. I'm being told to let them go by so the company's production quotas can be met."

Last summer, Jetty Mincey, an on-line inspector at the Canton, Ga., plant operated by Seaboard Farms, had her name posted on the wall at work with other inspectors, she said. "It listed every time when we stopped the line. There have been times we've had to stop the line 500 times for bad birds during a shift at night. And they'd have every one marked down on their papers. They try to make us feel bad for doing our jobs," she said.

Steve Bass, general manager of Seaboard's Canton operation, said he was "unsure" whether such a list was ever posted.

Inspectors' morale is at an all-time low, say USDA veterans such as Doris Pursley, 43. She left her job cutting chicken meat 11 years ago to become an inspector because protecting the consumer appealed to her and seemed a way to do "some good" in the industry.

Today Ms. Pursley and many inspectors like her are frustrated and bitter. "I know for a fact that now I'm far less able to protect the consumer than I once could," said Ms. Pursley.

In the fast-growing area of "further processing," where items such as chicken nuggets, patties, cut-up parts or cooked products are made, a single inspector can be responsible for watching over processing at up to six plants, often miles apart.

When processing inspector Wanda C. Craig, 35, arrived early at one of five North Georgia plants she was monitoring several weeks ago, she found workers mixing 60-pound boxes of rotten meat in with good meat to make chicken patties, she said.

"It had already turned green and had a real bad odor," said Ms. Craig, who has been an inspector for more than 14 years. "It had defintely gone bad. I had to condemn all of it—huge 60-pound boxes of skins. This plant had been mixing that bad meat right in with the good. Had I not come in, it would have been put through the grinder and gone out to the public.

"Sometimes we can only get into each plant for 10 minutes, so you can imagine what kind of inspection they're getting. I know there are things going on when we're not there that shouldn't be," she said.

Most inspectors earn $25,000 to $33,000 a year. Six weeks of training is the principal requirement for the job.

Most inspectors belong to the federal union of meat inspectors, thus having some job protection that gives them some freedom to speak their concerns—although many still insisted on anonymity.

Federal veterinarians who supervise the inspectors do not have a union or the same protection as the inspectors. But they also have concerns about poultry inspection, according to Dr. Edward L. Meaning, executive vice president of the National Association of Federal Veterinarians. He said most poultry plant veterinarians belong to the group.

"There are many vets concerned about the line speeds and about the fecal contamination that may ensue from that. Their concern is one of wanting more data," he said.

"The biggest human threat is not from the bad, condemnable birds that get through. The main threat is from the 70-plus percent of the carcasses with pathogens that can make humans very sick," he said.

In the past, friction between the plant employees and federal inspectors was common, said Dr. James D. Willis, Southeast regional director of the USDA's Food Safety and Inspection Service.

That's no longer true, he said: "We work with the industry today. They now do a lot of the product checks, and we monitor them. . . . The inspectors are not doing as much as they used to do. Now, the plant does much of the inspection for us."

That's just the problem, say many inspectors. The USDA today "serves" the poultry industry rather than consumers, they believe. "The USDA has completely relaxed the inspection service over the years," says Douglas Terry, 64, a 30-year inspector at the Peterson Industries Inc. plant in Decatur, Ark.

Dr. Menning sharply criticizes the USDA's increasing push to hand inspection to companies that have "a financial interest" in meeting quotas.

For Wilmer L. Williams, 48 an inspector for 11 years at the ConAgra plant in Enterprise Ala., there is no question inspection is compromised. "The plants don't watch the chickens as closely as we do," he said.

"Let's be honest. The plant people are not going to slow down the lines for something they find wrong. How often do you hear of a highway patrolman giving himself a ticket for speeding? It just don't happen."

A DAY TO FORGET: MOST SICK I HAVE EVEN BEEN

(By Scott Bronstein)

Mike Quinn, a 40-year old heart surgery nurse at Piedmont Hospital, was barbecuing chicken for his children in the back yard of his Stone Mountain home. He licked from his fingers some barbecue sauce that had touched the raw chicken.

That was his mistake.

Twelve hours later, Mr. Quinn was convulsed by cramps and diarrhea so severe that he lost 10 pounds in 48 hours.

At least 2 million people were poisoned last year by salmonella bacteria and up to 2,000 died, scientists at the U.S. Centers for Disease-Control estimate. And at least twice as many people were poisoned by little-known bacteria called campylobacter, they believe. In both groups, they say, up to half got sick eating chicken.

Mike Quinn was one of them.

Doctors at Piedmont Hospital's emergency room diagnosed food poisoning caused by campylobacter. The microscopic one-cell organisms left his colon raw and bleeding. "The bacteria had just eaten it up. Stripped inside out," Mr. Quinn said. He was hospitalized for five days last November. He still has not completely recovered.

In all, the USDA estimates that salmonella and campylobacter infections cost more than $2 billion a year in medical expenses, lost productivity, product recalls and related costs.

"The fact that poultry consumption and the number of salmonella cases are rising at similar rates doesn't prove correlation," said the CDC's Morris Potter. "But I do think it is a cause for great concern."

The elderly, the very young, and those with a depressed immune system are particularly vulnerable to food poisoning, say medical experts like Dr. Potter.

Some people find it hard to believe that chicken can be so dangerous.

Deborah Croney, 41 was one of 130 people who got sick from salmonella last September after eating a chicken barbecue dinner at the Seymour Apple Festival, 30 miles from Springfield, Mo. A half-dozen, like Ms. Croney, were hospitalized.

"I had a really hard time accepting that it was the chicken. I couldn't hardly believe it," she said. "This was the most sick I've ever been. I felt like I might die."

USDA EASES UP ON PLANTS SIX TIMES IN 15 YEARS

(By Scott Bronstein)

Six times in 15 years, the U.S. Department of Agriculture changed its procedures in ways that weakened the poultry inspection system.

Mandatory inspection of all chickens began in 1957, after the Poultry Products Inspection Act was approved by Congress.

That law was broadened a decade later with the Wholesome Poultry Product Act.

In 1977, the USDA allowed companies to rinse, rather than cut out, chicken contaminated with fecal matter.

The companies, petitioned for the change when they discovered that their new machinery ruptured intestines and spilled fecal matter into the bird carcasses, say consumer advocates.

In the late 1970s many plants were allowed to develop "salvage" lines, where meat believed unaffected by disease or contamination was trimmed from chicken carcases and sold to consumers as cut-up parts or processed meat.

In 1984, the department allowed plants to raise production-line speeds and take on some inspection duties. They were allowed to trim bruises, broken bones or other bad parts marked by inspectors without an inspector watching the trim operation.

A year later, the department no longer allowed its online inspectors to slow the lines. Now only supervisors have the authority.

And production lines in some plants were allowed to speed up again in 1986.

During the last four years the USDA has been experimenting with a pilot program in a Puerto Rican plant, allowing company employees to do even more inspection.

Printed on virtually every package of chicken available for purchase by consumers today is a small blue circular seal that reads: "Inspected for wholesomeness by the USDA, U.S. Department of Agriculture.

For 33 years, the government seal has assured consumers that the raw chicken they purchase has met rigid inspections mandated by Congress.

It is the only way consumers have to tell if the chicken they eat is safe.

"That stamp meant the chicken was safe to eat for the consumer, that they could trust it," said Dr. Robert B. Mericle, a supervisor for poultry inspection in the Midwest from 1952 to 1969 and one of the nation's authorities on the subject.

"It meant the chicken was processed under sanitary conditions, and that each bird was inspected by a government worker to see if it was free from disease."

Beef, veal, lamb and pork producers has to start using the stamp in 1906 after Congress enacted the Meat Inspection Act, spurred by Upton Sinclair's expose to the red-meat packing industry.

But more than 50 years passed before Congress, in 1957 decided to regulate poultry as well. It approved the Poultry Products Inspection Act that year at the urging of poultry processors themselves—many of whom were competing against a few firms that voluntarily allowed inspection in their plants.

The seal had first appeared on chicken in the early 1920s, when several companies began allowing voluntary inspections so their canned chicken products could be stamped, assuring consumers of product purity.

Accompanying the seal of approval on most chickens is a crest-shaped seal stamped "Grade A." A separate division of the USDA, outside the food inspection service, gives chickens this additional mark if they are visibly "perfect" birds free of such defects as bruises, feathers or discoloration.

POULTRY INSPECTION: WEAKENING THE STANDARDS

Important events since poultry inspection began, leading to increased line speeds and companies doing more of the inspection. Each chicken represents 10 birds per minute per inspector.

1957: Poultry Products Inspection Act passed. Inspectors look at 16 birds per minute.

1978: "Modified Traditional" inspection begins. Now inspectors watch 22 birds per minute.

1984: U.S. Department of Agriculture allows companies to adopt "New Line Speed." Inspectors now watch 30 birds per minute.

1986: "Streamlined Inspection System" cuts number of inspectors by a third at some plants. Inspectors now watch 35 birds per minute.

1991: USDA is experimenting with faster line speeds to test effects on contamination.

Source: USDA officials, inspectors.

HIGH-TECH PLANTS CHURN OUT BIRDS—BUT ADD TO RISK

(By Scott Bronstein)

Within a few years, industry officials hope to automate poultry processing almost completely. Consumer activists and scientists warn that the chicken produced by such plants may—by their design—be more contaminated than ever.

Modern chicken slaughter and processing are a testimony to the high technology of the late 20th century, a product of millions of dollars of research money engaging the best minds at universities across the South. Their engineering expertise created sprawling factories where 200,000 chickens a day enter one end and pallets of family-sized ready-to-buy packages of filleted breasts leave at the other end.

"The poultry industry has enjoyed a technical revolution over the last two decades, analogous to the invention of the cotton gin in the 19th century," said Thomas Devine, legal director of the Government Accountability Project, a consumer advocacy group in Washington, D.C.

"The problem is that with the new mechanization there's a lot more contamination that routinely occurs, and no one is doing anything about it," he said.

A QUICK RIDE

Nearly every large company now has "integrated" operations, meaning that it typically runs in one location all aspects of processing, from the feed mill to the rendering mill, to the hatcheries, to the slaughterhouse, processing and packaging areas.

Chickens begin their ride through a slaughterhouse by brushing up against an electrically charged metal grate carrying about 18 volts of electricity. This stuns the birds.

Then, at the rate of about 140 birds per minute, their throats are cut by a circular 8-inch rotating blade that severs their main artery.

As the carcasses move onto the processing line, critics say, contamination caused by the automated machinery begins. One recent USDA study found that just over half the chickens at one Puerto Rican processing plant were contaminated with salmonella bacteria going in, but three-fourths were contaminated coming out.

DANGER POINTS

USDA scientists and consumer experts say the problem areas include:

Dirty water. Chickens are soaked in 40-foot tanks to loosen their feathers. The steaming hot water quickly becomes a thick, brackish, bubbling soup filled with debris from the feathers. The water, usually about 135 degrees, is not hot enough to kill bacteria. Salmonella and other bacteria survive to contaminate other birds.

Bacterial mist. The wet feathers are beaten loose by thousands of 4- to 6-inch rubberized spinning "fingers." They contaminate the birds by spreading bacteria, dirt and fecal matter on the feathers, directly and also through a sort of "bacterial aerosol." The fingers can also beat germs deep into the chickens' skin.

Ruptured birds. The birds are eviscerated by machine. Because no two chickens are alike and the machines are so precise, intestines are often ruptured when mechanically "drawn" or removed from birds, causing fecal contamination.

The wash process. More than a decade ago the USDA allowed companies to begin washing birds one time with a mild chlorine rinse instead of trimming out fecal contamination. But USDA scientists have shown that, even after 40 washings without chlorine, bacteria cannot be completely removed.

Cross-contamination. Chickens are cooled for processing in a large communal bath known as the "chill tank." Large enough to handle up to 5,000 birds at once, the tanks mix clean chickens with dirty ones. Dr. Huda S. Lillard, a USDA microbiologist in Athens, published a study showing the number of birds with salmonella more than doubled after immersion in the chill tank. She says the tank is where contamination is most likely to occur.

"None of the new changes brought into the production process were designed to reduce the level of bacterial contamination. They were always designed to increase production levels," said Rod Leonard, who served as federal administrator for meat and poultry inspection under President Johnson.

"The effect all these changes have on the quality of the poultry, its wholesomeness, is they raise the level of contamination," said Mr. Leonard, now a consumer advocate at the Community Nutrition Institute, a group based in Washington, D.C., that does policy analysis in food, nutrition and agriculture.

Automation has become the rule in most slaughterhouses. In 1967 a slaughter operation typically required about 100 employees. Today, only 35 employees are needed. The rest is done by machine, according to Lamar Rice of Stork Gamco Inc., one of the leading poultry machine manufacturers in the country. In 24 years, 14 of 22 different jobs formerly done manually have been automated, he said.

"I believe that within two to five years this industry will be 95 percent automated," said Harold Ford, executive vice president of Southeastern Poultry and Egg Association.

"A TERRIBLE THING TO DO"

It was in 1977 that the industry persuaded USDA to allow the washing of contaminated birds, instead of requiring that they be trimmed. Today, the official directly responsible for that decision regrets it.

"It turned out be a terrible thing to do," says Carol Tucker Foreman, a consumer advocate who was assistant secretary for food and consumer services under President Carter.

"By allowing the companies to wash instead of cut meat away we created a financial incentive for them to be sloppy in the evisceration of birds." she said. "We took away one of the incentives to run clean, safe lines."

A WELL-BRED BIRD BEGINS IN THE LAB

(By Scott Bronstein)

Poultry experts are breeding a better bird. William P. Roenigk, an economist with the National Broiler Council, jokingly calls it the "Dolly Parton chicken."

Consumers mostly favor white over dark meat, and chicken breeders are developing birds with larger breasts to oblige. The industry has redirected millions of dollars of its profits back into research to develop heavier, healthier chickens for delivery to tables in record time.

Today, thanks to genetic selection, vitamins, growth hormones, antibiotics and myriad other advances, the industry typically get a 5.15-pound broiler after 46 days. Ninety-five percent commonly survive, according to Dr. William A. Rishell, vice president and director of research and development at Arbor Acres Farm in Glastonbury, Conn.

Broiler body weight has increased by 1.65 pounds since 1968—in broilers that are 10 days younger and using 15 percent less feed, he said. And the number of birds dying before they are ready for market has been cut to half the 1968 level.

Sone chicken diseases have been eradicated. Marek's disease, a poultry disease similar to cancer, was eliminated in the 1970s. As a result, the industry has saved around $3 billion in 20 years since, said Mr. Roenigk.

That's only the beginning.

Studies are under way to genetically select broilers that are more immune to bacteria such as salmonella and campylobacter and a variety of diseases. For example, Dr. Norman J. Stern, a microbiologist for the USDA's Agricultral Research Service in Athens, is trying to breed chickens that are less susceptible to campylobacter. Resistant birds, however, won't stop contamination caused by processing.

Industry officials also say that eventually they will be able to achieve full-weight chickens in just over one month—and that chicken will contain less fat.

Today, a whole chicken carcass might contain about 16 percent fat. Breeders think they can get that down to 10 percent.

HOW CHICKENS GET TO YOUR TABLE

1. EGG

Contamination can begin in the egg because the hen that lays it may be contaminated. Eggs are laid in breeder farm houses, each sheltering 9,000 females and 900 males for high productivity. About 85 percent of the hens lay one egg a day every day of their lives. Each day, the eggs are collected and sent to the hatchery.

2. HATCHERY

250,000 eggs per day; 90,000 per incubator; 18 days to incubate; 25 eggs per basket; 5 baskets deep; 6 days to hatch; 50,000 hatch per day.

Throwing room. To keep up with the hundreds of thousands of chicks that hatch each day, workers in this room literally scoop up large handfuls of chicks every second, throwing them several feet through the air onto conveyor belts.

The fluffy yellow chicks, no bigger than baseballs, are inoculated, in some plants debeaked (beaks blunted on hot plate to reduce danger), and transported to grow-out houses.

3. GROW-OUT HOUSES

23,000 birds per house, 6 weeks to grow.

Chickens are caught manually, at night, by a 5-person crew. All 23,000 chickens can usually be caught and caged in under three hours.

22–26 birds per cage.

4. SLAUGHTERHOUSE

(a) Chickens are dumped from their cages onto a conveyor belt; (b) workers hang the birds upside down by hooking both feet into moving shackles at about one bird per second; (c) the chickens are sprayed with water and stunned by an 18-volt electric shock; (d) a mechanized blade draws a quick, long slash across each chicken's neck and blood begins pouring onto the floor and into drains; (e) after the blood has drained, the birds are dragged through a tank of scalding water to loosen their feathers; (f) the feather-removing machine pummels the dripping and dirty feathers off the carcasses. The feathers drop in soggy piles to the ground and are swept away in a refuse drain; (g) machines and workers sever the birds' heads and open their body cavities, laying the guts in a pile; (h) USDA on-line inspectors check every bird for a dozen different diseases, tumors and infection, as well as for feces and gall contamination. They have 1 to 2 seconds per bird; (i) infections are sucked out with a vacuum cleaner, and skin tumors, unless two or more are found, are removed and the chicken is salvaged; (j) after inspection, the viscera are cut from the chickens and they are given several last washes and further trims; and (k) the chickens are sent to the chill tank, where as many as 5,000 may be cooled in a water bath at one time.

5. PROCESSING

(a) Chickens are weighed, graded by size, and cut up, packaged whole or prepared for specially packaged food items; and (b) dozens of workers stand side by side, making the same cuts or slices in each carcass as it passes by at a rate of one every few seconds.

Poultry plants produced 25.5 billion pounds of chicken meat in 1990. For every person in the United States, there were 24 broilers slaughtered and inspected last year.

Figures are for a typical industrialized broiler operation and will vary from plant to plant. Source: U.S. Department of Agriculture. Gold Kist and Seaboard Farms.

FRESH EGGS TAKEN OFF MANY MENUS

Salmonella contamination is so pervasive that often it is even inside the eggs chickens lay. Today, some of the nation's leading restaurants, hotels and airlines—worried about food poisoning—are breaking their fresh egg habit and are using pasteurized, packaged liquefied eggs instead.

And beginning July 1, Georgia will lead the nation with new refrigeration laws for eggs.

Under a state law enacted this year, eggs must be refrigerated by handlers at an ambient temperature not to exceed 45 degrees Fahrenheit from the time they are gathered until they are served at restaurants or in institutions. It prohibits grocers from storing them in unrefrigerated aisle displays.

BACTERIA: THE HIDDEN HAZARD

Two types of bacteria are the most common cause of food poisoning:

Salmonella

A hardy bacterium that can live up to six months on a kitchen cutting board; occurs naturally on chicken, but often causes them no harm. In the human intestine, however, it can cause constant diarrhea, abdominal cramps, nausea, and even death in those with a weak immune system.

Campylobacter jejuni

A newly discovered one-cell organism which is thought to cause twice as much food-borne illness as salmonella.

BREEDING A HEALTHIER CHICKEN

USDA researchers are trying to breed campylobacter-resistant chickens at the Department of Poultry Science at Auburn University.

SALMONELLA ON THE RISE

Number of sporadic or single cases of salmonella infections reported annually. The CDC estimates only 1 percent to 5 percent of the actual number of cases are reported. The CDC also estimates that up to half of sporadic cases are derived from poultry.

DID YOU KNOW?

Chickens have keen hearing and sight, but they have only 24 taste buds compared with 9,000 for humans. Chickens have a poor sense of smell.

THE PRICE OF CHEAP CHICKEN

In all, 84 federal poultry inspectors were interviewed at 37 processing plants in five states, including plants operated by the eight largest poultry companies in the United States.

Contamination

Thousands of birds tainted or stained with feces, which a decade ago would have been condemned, are now rinsed and sold daily, 81 inspectors said.

"Would you want to go out to a pasture with a chicken, cut him up, then drop him into a fresh manure pile and eat him? That's what the product is like coming from chicken plants today."—Pat Godfrey, 44, an inspector at Tyson's Springdale, Ark., plant.

Disease

Thousands of diseased birds pass from processing lines to stores every day, 75 inspectors said. Many chickens have pus seeping from their body cavities. Others with cancerous tumors often get through, 69 inspectors said.

"I've had bad air sac birds that had yellow pus visibly coming out of their insides, and I was told to save the breast meat off them and even save the second joint of the wing. You might get those breasts today at a store in a package of breast fillets. And you might get the other part in a pack of buffalo wings."—Ronnie Sarratt, 40, an inspector at the Tyson plant in Gadsden, Ala.

Salvage

Poultry plants today often "salvage" meat, cutting away visibly diseased or contaminated sections and selling the rest as packaged wings, legs or breasts, 70 inspectors said.

"Practically every bird now, no matter how bad, is salvaged. This meat is not wholesome, I would not want to eat it. I would never, in my wildest dreams, buy cut-up parts at a store today."—Richard Simmons, 51, an inspector at ConAgra's Gainesville plant.

[From the Atlanta Journal the Atlanta Constitution, June 2, 1991]

CHICKEN: AT WHAT COST?—PART 2

FOR WORKERS, PRICE CAN BE HIGH—PAIN, CRIPPLED HANDS

(By Scott Bronstein)

GAINESVILLE, GA.—Every seven seconds for eight hours a day, Maria Reyes picks up a 10-pound bag full of quartered chicken legs and twists it closed with both hands. Then, with a deft circling motion, she seals it with a clasp in her right hand—about 80 pounds every minute, 4,800 pounds every hour, 19 tons of chicken every day.

By the end of her week at the Mar-Jac poultry plant in Gainesville, the self-proclaimed Chicken Capital of the World, the pain shoots up both of her arms and a 2-inch-long knot rises along her right wrist. She wears a splint. Her sister, Ana-Maria, 46, who fills and seals giblet bags, has had a similar knot on her right wrist for more than a year.

"It hurts when I sweep, or try to hold things, even when I do the dishes," said Miss Reyes, 35. Her sister chimed in, "I can't raise my arm above my head because it hurts so badly. My daughter has to help me put on my hairnet each morning."

To keep pace on poultry production lines moving twice as fast as a decade ago, the human components of the highly automated poultry processing machinery, such as Miss Reyes, her sister, and her niece, Ana-Isabel, must move their arms in quick staccato fashion to slice, wrap, cut, and, on occasion, rip apart raw chicken with their hands.

The repetitive motions often cause what are called repeated trauma disorders. They range from simple tendinitis in the wrists or shoulders to carpal tunnel syndrome, which can leave a worker virtually crippled, requiring corrective surgery.

Thousands of poultry workers across Georgia and other poultry states have required carpal tunnel surgery as a result of damage to nerves and tendons in wrists or hands. About 5 percent of the injuries result in permanent disabilities, federal safety officials said.

No one today can be sure exactly how many poultry workers are being injured because the Occupational Safety and Health Administration (OSHA) does not regularly monitor repeated trauma cases or accidents involving knives, saws or other machinery.

But repetitive motion injuries have in the last few years become the most common occupational illness in the United States. Today, more than half of all reported occupational illnesses involve repeated trauma, say officials at the U.S. Department of Labor. And poultry plant workers are injured through repeated trauma more often than workers in any other U.S. industry except redmeat packing.

Industry officials acknowledge the high number of worker hand and arm injuries, but the solution for many companies is to eliminate the jobs through greater automation—with the likely result that bacterial contamination of chicken caused by such machinery will get worse.

"We're well aware of the problem. And we don't have an answer for it yet," said Harold Ford, excecutive vice president for the Southeastern Poultry and Egg Association.

"We're trying to be responsive. We don't want our employees to suffer working for us," said Mr. Ford. "We're reaching the point, because of worker complaints and insurance problems and the OSHA on our backs, that we have no choice but to look for more automation that can replace the poeple in the plants. That means you'll have more people in these rural communities unemployed. Many are not skilled, and they're not going to be able to go out and get other jobs overnight."

Each morning across the U.S. poulty belt—in Arkansas, Mississippi, Alabama, Georgia and North Carolina—tens of thousands of workers report to poultry processing lines. In the Gainesville area, where Miss Reyes works, the work force is predominantly Mexican. Elsewhere in Georgia, in cities such as Buena Vista, Athens, Macon and Carrollton, and in other poultry belt states poultry workers are mostly black.

Whatever their race or national origin, however, the workers are overwhelmingly female and according to physicians, particularly susceptible to repeated trauma injuries.

Miss Reyes, her sister and niece are among the 12,000 Mexican workers who labor in Gainesville area poultry plants. Dressed in cotton smocks, hairnets and rubber boots, they join other shift workers streaming before dawn from the two-room cottages and cramped trailers of Gainesville's "Little Mexico." About one-third are in the United States illegally, workers themselves estimate.

From some Mexican villages, like Maria Reyes's hometown of Cinco de Febrero in the state of Durango, almost two-thirds of the population has moved to Gainesville in the past seven years. She crossed the border into the United States two years ago, unable to speak English—and the $6-an-hour poultry job was the only work she could find. In Mexico, she operated a word processor for the government.

While many of the injured American poultry workers try to seek help from state workers' compensation boards, or even at times through the courts, most Mexicans cannot even complain about working conditions.

They worry that if they do, they could jeopardize their jobs and their continued presence in the United States. A quick call to immigration authorities could settle a labor dispute at many plants.

Teodoro Maus, the Mexican consul in Atlanta, finds conditions in the poultry industry disheartening. "It's tragic—these people come here to work, and they'll work 20 hours a day under the worst conditions with little complaint, because they feel they have no choice," he said. "What's worse is that there are companies willing to take advantage of these people, have them working under these horrible conditions, knowing they will never speak up."

Looking down at her swollen hands at the end of the week, Maria Reyes grows silent for a moment. Then she says quietly through an interpreter, "I feel like I'm trapped. I cannot get a better job because even though I have skills, I don't speak the language. If I complain, they send me home without pay, and then I have nothing."

Her sister nods in agreement: "We rarely complain at work. We can lose our job. Or worse, they send us back to Mexico."

Hand and wrist injuries have been well-documented at a few poultry plants in recent years. Federal safety officials say the injury rate is alarming:

One in five poultry workers has been seriously injured in the hands, wrists or shoulders, many requiring surgery, National Institute for Occupational Safety and Health (NIOSH) experts say.

Poultry processing and slaughtering had an average of 15 percent more repeated trauma injuries in 1989 than the motor vehicle assembly industry and 118 percent more than shipbuilding.

An estimated one in three poultry plant workers today suffers severe pain in the arms, wrists or shoulders, according to Thomas Hales, a medical epidemiologist at NIOSH.

Poultry processing was ranked the 24th most hazardous U.S. industry in 1989, out of 697 ranked by the Bureau of Labor Statistics, for injuries and illnesses causing lost work time. It was worse than coal mining, auto manufacturing and construction.

"This is a huge problem throughout the poultry industry," said Dr. Hales, who has helped design studies on workers in several poultry plants, including the Cargill Inc. plant in Buena Vista and a Perdue Farms plant in North Carolina." I would say one-third of the workers on production lines throughout the poultry industry today are suffering from repetitive trauma disorders."

Georgia legislators are studying a bill introduced this year to change state workers' compensation laws. In part, it would make it harder for poultry workers with repeated trauma injuries, like carpal tunnel syndrome, to qualify for compensation, say workers' comp attorneys.

The bill's chief author, Rep. Jim Griffin (D-Tunnel Hill), said he is unsure how it would affect carpal tunnel cases, but said the measure is designed to save the state money. "I think a big problem with workers' compensation today is that it's paying for things it shouldn't pay for. That's what we need to fix."

Poultry processing workers, who average $6.90 an hour, are among the lowest-paid workers in the United States, labor statistics show. Poultry processing pays its workers the lowest wages of all food manufacturing industries in the country.

In Georgia in 1990, the average weekly pretax wage for poultry workers, $314.78, was significantly lower that that of manufacturing and construction workers.

While many Mexican workers in Gainesville do not complain because they fear deportation, poultry workers in other towns—many of them single mothers—say simply they cannot afford to risk the regular pay.

Alice Denise Fletcher, 32, cut breast meat from chickens on the processing line at the Choctaw Maid Farms plant in Carthage, Miss., for a decade. The single mother earned about $5 an hour to pay the bills and feed her three children.

Every other second of every minute she worked on the processing line, she grabbed a chicken with her left hand, and with a quick twisting motion sliced the breast meat away from the bird with a * * * chickens every day.

In 1988, Ms. Fletcher's right wrist began to hurt so much she had difficulty holding her knife. The company sent her to a doctor, who gave her medication and took her off the line for one day. Then the pain began again.

"It got worse, and they never would let me go to the doctor after the first time," she says today. After a few months she could scarcely use her hand at all. A personal physician in Jackson offered an independent diagnosis: severe carpal tunnel syndrome. In 1989 and 1990, she underwent surgery on her right wrist a total of three times.

Today she assembles lamps at a workshop for the handicapped in Kosciusko, Miss. She gets paid $1.50 an hour and now gets food stamps.

"I blame the chicken plant for injuring me. I ain't going to be able to use my hands the same way ever again," she said.

Ricky Rayborn, human resources director at the plant, would not address Ms. Fletcher's case. "We operate a safe plant, and we do everything we can to prevent injuries," he said. "When an injury does take place, we make sure the injured workers are taken care of through proper medical procedures and medical personnel."

In interviews, more than 40 injured workers from a dozen different poultry plants said they were discouraged or even prevented from seeing doctors when they complained of pain.

They said they had to complain as many as half a dozen times over a month or more before plant nurses allowed them to see a company doctor.

In spite of notes from doctors, some were fired after they were injured, according to workers' compensation attorneys. In some cases, workers said, company doctors told them nothing was wrong. When they sought a second opinion, they learned from other physicians that they had been severely injured, often requiring surgery.

"If you don't intervene and remove these workers and treat their injuries, and you progress to the carpal tunnel stage, then these can be disabling injuries," said Dr. Hales. "They can be irreversible in some of these workers."

David H. Moskowitz, a workers' compensation lawyer in Decatur who has represented more than 75 injured poultry workers in South Georgia, said he often has to fight with companies before they will allow injured workers to see company doctors.

"It's like something you'd imagine out of the Soviet Union," he said. "It's hard to believe someone injured in the course of employment should have to go through this much turmoil just to get appropriate medical treatment in a democratic society."

Linda C. Cromer, an organizer with the Retail, Wholesale and Department Store Union, which represents about 10 plants across the poultry belt, says the industry "has reached a crisis situation."

"Processors have proven they will not willingly make these jobs more safe," she said.

In 1989, the Empire Kosher Foods poultry plant in Mifflintown, Pa., was fined $1.36 million by OSHA for "knowingly and willfully" exposing workers to cumulative trauma injuries. It was the first such fine in the country—but not the last.

That same year, Cargill's plant in Buena Vista was fined $242,000 and also cited for "knowingly and willfully" injuring about half its workers.

The plants—and other fined later—contested the government action. In some cases, settlements are still pending. But empire Kosher Foods, Cargill and other companies have started new safety programs as a result of government pressure.

But many critics say the speed of production lines is the major reason for the continuing high rate of injuries. The lines have not been slowed.

Some plants rotate workers in an effort to reduce injuries, but many workers say they still experience pain.

For Ann Moultry, 47, and others like her, the poultry plants are often the best work they can find.

"It's true, it's a good-paying job. And those are hard to find around here," she said. For seven years she has been grading and hanging 41 chickens a minute at the Southland Broilers Inc. plant in Enterprise, Ala. Last year, she was diagnosed with carpal tunnel syndrome and udnerwent surgery on both wrists. She can now do only light work at the plant.

"At times I can't even wring a bath rag out," she said. "The strength just leaves my hands."

"I KEEP THINKING . . . THAT SHE'LL COME WALKING IN THE DOOR"

(By Scott Bronstein)

GAINESVILLE, GA.—Graciela Gonzalez was about to take a break from sorting chicken breasts at the Dutch Quality House plant that Wednesday night.

She removed her hairnet and hung up her white apron. Friends beckoned her to hurry so she could get the full 10 minutes' break time.

Before leaving her station, she knelt to retrieve some scraps of chicken that had fallen to the floor beneath the "shaker," a vibrating steel machine that sorts frozen chicken breasts.

As she leaned under the machine, her long black hair was swept into the moving parts overhead. She had time to scream only once. As the mechanism drew her head up, a rotating steel shaft struck her skull. She was pronounced dead at the hospital.

Graciela Gonzalez lived, worked and—on Feb. 27, 1991—died in Gainesville, Ga. But to this day, she has never officially existed in the eyes of either her employer or the United States of America. She was never really here.

Mrs. Gonzalez was an undocumented immigrant. The name on the false documents she carried was Rosa Marie Charles.

She is one of the thousands who have come here from small Mexican towns. They are workers on whom Georgia's poultry industry increasingly has come to depend. They are also workers who have little leverage to complain about product quality or working conditions or anything, because—like Mrs. Gonzalez—in the eyes of this country many of them don't really exist.

Officials with Dutch Quality took the body of Mrs. Gonzalez, a 26-year-old mother of two, to Memorial Park Funedral home in Gainesville. Attendants were unsure how to label the corpse. "When you have two or three different names you're dealing with, it's pretty confusing," said funeral home manager Marion Merck. "To be honest, we've been confused from this since it started."

TWO COUNTRIES, TWO FUNERALS

Mr. Merck, contacted the Mexican consulutate's office in Atlanta for help, and a funeral service was arranged in Gainesville. Nearly 150 Mexican workers, along with company officials, came to pay their respects to the woman whose real name most never knew.

As soon as the service was over, family members took her children and whisked Mrs. Gonzalez's body off to her Mexican hometown. Within a week of her death, she was buried with a Mass and wake in Salvatierra. It cost her family about $1,500.

Mrs. Gonzalez's two daughters, Isela, 4, and Jennifer, 11 months, still do not know their mother is dead. Asked where her mother is, Isela says simply, "She is working."

"We haven't been able to tell them yet," said Samuel Gantes, Mrs. Gonzalez's husband, looking down at his daughters playing in the family's small blue house in "Little Mexico" on the south side of Gainesville.

Officials at Dutch Quality offered to pay for the family to fly the body to Mexico. But relatives who accompanied the body, also undocumented workers, then found themselves trapped on the other side of the border. To return to homes and jobs in Gainesville, they waded back across the Rio Grande to Texas, where immigration agents arrested them and sent them back to Mexico.

Just before dawn a week later, they waded across at Matamoros, picked up the daughters, who had been driven back into the United States by a legal family member, and drove to Gainesville. The group got back to Georgia five weeks after Mrs. Gonzalez's death.

MOTHER OF ALL OF US

Mrs. Gonzalez's dream of a better life took form two years ago when she left Salvatierra in the state of Guanajuato and waded quietly and illegally over the U.S. border, carrying Isela in her arms.

On the U.S. side of the river, Mrs. Gonzalez acquired a fake Social Security card, a false birth certificate, and her $6-per-hour job at the poulty plant in Gainesville. Soon after arriving she gave birth to her second daughter, Jennifer, in Gainesville.

Nobody knows just how many men and women like her are living in the cramped cottages and trailer homes of Gainesville's "Little Mexico." But in the last decade, a steady stream of workers has traveled from Mexico to Georgia's poultry plants.

Mexican workers in Georgia today come primarily from the states of Jalisco, Durango and Guanajuato. A few key towns, like Cinco de Febrero in Durango, have had as many as two-thirds of the working population make the pilgrimage to Gainesville. Some came legally. Many did not.

Mrs. Gonzalez was her family's pathfinder. Her brothers Jaime and Alfonzo and her sister Edelia, who are also undocumented, say they followed her to Gainesville, where all of them found jobs in poultry plants. Mrs. Gonzalez had been pooling all their income, saving for a down payment on a house for the family. Four more brothers and sisters were planning to come.

She was also the one who sent money home to their parents, Alfonzo and Luz Maria, in Mexico.

"She was the mother of all of us. She ran all the finances. She made all the decisions," said Jaime, 28. "I still can't believe it. I keep thinking she'll be coming in any minute. That she'll come walking in the door. She was the woman of the house, the core of the family," he said, holding back tears.

"With her gone, we don't know what we're doing anymore. No one has been able to put their ideas in order," he said.

"She came from Mexico with the hope of doing something," said Mr. Gantes. "Mexico is so poor. She was working to make something of herself in life. Something better. She wanted the best things for our daughters."

WE ALWAYS LIVE IN FEAR

Company officials say they want to help the family.

"We have been working with [her] family to provide for their needs," said Elton Maddox, general manager of the plant. "We will do everything we can to help them in their time of need."

As of now, no formal benefits package has been given to the family. State law grants workers' compensation to undocumented workers or, in the case of death, to family members in the United States. But many Mexicans in Gainesville don't know this—or are too afraid to seek aid.

"As undocumented workers, it's difficult for us at a time like this. We have less rights," said Jaime. "We always live in fear the company might report us, or send immigration after us."

Low-cost Changes In The Line Help Workers, Company

(By Scott Bronstein)

Canton, GA.—Seaboard Farms, the nation's eighth-largest poultry company and the second-leading poultry farm based in Georgia, has taken an industry lead in adopting measures to keep its workers safer.

One result seems to be a more loyal work force.

"Whenever we had a problem with workers who were in pain, we tried to get the machine fit the person, instead of asking the person to fit the machine," said David R. Bleth, a safety expert who formerly worked at Seaboard and the man directly responsible for designing most of the company's recent changes.

In most plants the turnover of on-line employees can be as high as 300 percent a year. The turnover this past year at Seaboard was about 70 percent, three times lower than several years ago—at a plant where the work force jumped from 400 to 800 in the last decade to handle increased processing of chicken.

At Seaboard, as at many other plants, whole areas of the line where workers have manually removed much of the meat from carcasses are being automated or redesigned to reduce the potential for worker injuries.

SIMPLE—AND EFFECTIVE

But Seaboard has gone a step further. The company hired three full-time industrial engineers specializing in workplace safety and instituted "complaint" sessions for workers to air what bothered them physically about their jobs. The engineers listened, then made changes. They were simple and inexpensive. But more than anything, they were effective.

Among them:

Leaning posts, or resting platforms resembling tilted stools, were custom-designed and installed throughout the plant's slaughterhouse. Now, workers who once stood all day can rest their weight on a support post. Cost: $15,000.

Hydraulic lifts—to raise and lower work stations or counters in the slaughter plant where workers handle chickens—were installed in several areas. Now, employees can personally adjust the area where they work, in some cases avoiding the need to bend to what had been uncomfortably low positions. Cost: $6,500.

The "wheels" where chicken wings are placed to be cut up on a machine were redesigned to bring them closer to workers. Now, they no longer need to extend their reach far out over the machine as they place the wings. Cost: $800.

The counters over which workers had to lift chicks in the chick room were tilted. Now, workers who had complained about pain in their left shoulders need not reach up as they place the just-inoculated chicks in trays to be sent to grow-out houses. Cost: $700.

Conveyor belts where frozen chicken breasts once stacked up, waiting for workers to grab them, now flow into chutes that end in plastic bags. Workers need only close the bags, instead of also having to reach up and grab the meat. Cost: $40,000.

Automatic tool-sharpening boxes, more common in the industry today, have been placed throughout the processing area. Now, workers who need sharper tools no longer have to rely on fellow workers assigned to come around to sharpen the blades.

"THIS IS THE FUTURE"

Seaboard officials say the changes have paid for themselves and resulted in a more productive work force. They eventually will be made at all Seaboard plants.

"We feel we have to make these kinds of changes," said Steve Bass, general manager of Seaboard's Canton plant. "If the changes mean someone doesn't get hurt, it's worth our while."

In an industry where competition is fierce and any solution to the growing number of worker injuries is highly valued, Seaboard's changes have not gone unnoticed.

"This is the future, right here," said J. Craig Wyvill, program director for Georgia Tech's agricultural technology research program, which works closely with the poultry industry to improve safety and efficiency.

"The poultry companies today are starting to learn that they have to take responsibility for the plant and the workers inside it," Mr. Wyvill said.

There's A Catch to Catching Birds: It's Hazardous to the Health

(By Scott Bronstein)

Ellijay, GA.—Overhead lights switch off, faint red lights switch on, and in the dim hue Steve Crawford, 26, wades into a white sea of 25,000 chickens. Bending over, he sweeps his right hand under a chicken, grabs its scaly foot between his fingers, then grabs another the same way.

He stands and switches the two birds to his left hand, shoving them between the pinkie and ring fingers. He bends again, grabs two more, rises, and slides them between the next two fingers. Within a few seconds he has 10 chickens hanging by their feet, wedged between the fingers on his left hand. He bends again to grab three more birds between the knuckles of his right hand.

Mr. Crawford walks over to a freezer-sized metal cage and throws them into one of 15 small compartments. Seven other Seaboard Farms "catchers" work with him in the 400-foot-long chicken house.

Every night, thousands of chicken catchers like Mr. Crawford fan out in the nation's grow-out houses and begin their nightlong harvest, seizing chickens by their feet.

Virtually every chicken eaten in the United States today has been caught manually by the 8,000-odd chicken catchers like Mr. Crawford, who perform one of the most difficult—and perhaps most hazardous—jobs in the entire industry.

The unusually high levels of organic dust and bacterial endotoxins in the air in chicken houses present "an acute health hazard and should be reduced," according to a federal study published in the American Journal of Industrial Medicine in February.

Catching is also one of the industry's truly backbreaking jobs. By the time his eight-hour shift ends at 3 a.m., Mr. Crawford and the other catchers will each have grabbed about 5,000 chickens; to do that, they must bend over some 2,000 times a night.

The fleshy part of the catchers' fingers, where rings would normally rest, look like thick, squashed cigars, covered with calluses and knots. They are hard and scaly to the touch, very much like the thousands of scaly chicken feet that are wedged between them each and every night.

But more than anything, chicken-catching is a hazard to the catchers' lungs. Air in the chicken houses is thick with the stench of ammonia and feces, making it difficult to breathe. The litter the chickens walk on traps ammonia and other gases, as well as organic dust that contains excrement, insect parts, microorganisms and microbial toxins.

Of catchers surveyed for the federal study, 86 percent reported at least one acute respiratory symptom, with as many as one-third suffering chronic severe shortness of breath, coughing, wheezing or eye irritation. The study also showed that catchers suffer significantly higher rates of chronic phlegm and wheezing than non-exposed blue-collar workers.

With "continued exposure," they may risk chronic lung disease, the researchers warned. They urged further research into long-term effects.

The industry has long sought to automate the job, but machines used to gather the chickens often bruised or mangled them. No machine could match the ability of men and women to grab the birds only by the scaly part of their feet, avoiding the tender, easily bruised legs.

The catchers are paid relatively well for the industry—about $350 per week—and many stay on the job a long time. David Shirley, 26, who works in a crew with Mr. Crawford, has been a catcher for 15 years. "I was in school when I started," he said. "It's all I've ever done."

Mexican Workers Take Up the Slack in Poultry Plants

(By Scott Bronstein)

When federal immigration authorities raided a half-dozen Georgia poultry plants in March, they said the mass arrests of undocumented workers, deportations and indictments would open up 500 jobs for Americans.

Two months later, more than 300 undocumented workers have been deported to Mexico, a dozen indicted on charges of using false documents, and the jobs have been filled—by still more Mexican workers, some of whom immigration officials believe may also be illegal.

"We did not fill all those jobs with local people," said Steve Bass, general manager of the Seaboard Farms plant in Canton, where nearly 100 undocumented workers were arrested during the raids.

"Some of the jobs were filled with Anglos, but many were with Hispanics again. The thing is, those jobs would not have been available to the Hispanics in the first place if people around here had taken them. But they often won't take them," Mr. Bass said.

The poultry processing jobs are among the lowest paid and most hazardous manufacturing jobs in the United States. Many companies in the industry, which is moving to eliminate as many production line jobs as possible through automation, have little incentive to improve pay or working conditions. Others, under the spur of federal citations and fines, are taking measures to improve conditions.

Under the new Immigration Act passed by Congress in 1986, the U.S. Immigration and Naturalization Service has the authority to impose stiff fines against employers who knowingly employ undocumented workers. The last raid was conducted on March 27. None of the companies have been charged so far.

In the two years since the law went into effect, at least 50 other Georgia companies have been fined in excess of $1.5 million for employing undocumented workers, said Neil Jacobs, assistant director of the INS in Atlanta. But none of them were poultry plants, he said.

"For us to charge a company for hiring these people, we'd have to prove the company knew their documentation was fraudulent. It's very difficult to do."

"IT WAS EASY TO GET WORK"

Some Mexican workers arrested in recent raids said the chicken plants asked them for little identification before they were hired.

Berta Barajas-Garcia, 21, was among those arrested in a raid at the Cagle's Inc. poultry processing plant in Atlanta in February. She told INS agents she was asked for a Social Security number when she applied. She made one up.

Ms. Barajas waded across a river near Tijuana at 2 a.m., Nov. 2, 1989, and came straight to Georgia to seek work at Cagle's. She had heard the company frequently hired undocumented Mexicans. At the plant, she weighed 10-pound bags of chicken breasts eight hours a day for a year, until her arrest.

"Cagle's didn't ask me for anything else. They didn't ask me to show any real documentation," said Ms. Barajas during an interview with INS agents before she was deported back to Mexico. "It was easy to get work at Cagle's without papers."

The same was true for Antonia Ramirez-Luna, 21, who crossed the border into Brownsville, Texas, about midnight on Feb. 21 of last year. When she applied at Cagle's, she, too, was asked only for a Social Security card, she said. "I borrowed one from somebody," she said in an interview with INS agents.

Other arrested workers offered similar stories.

FAKE IDS FOR UNDERAGE BOYS

Some of the poultry plants, such as Zartic Inc. in Rome, had unknowingly violated state labor laws by hiring boys—undocumented Mexicans not old enough to work, authorities said.

"We did find youngsters underage working at the poultry plants," said Mr. Jacobs of the INS. But, he explained, the companies cannot be charged because the workers had fake documents that disguised their age.

"All the youngsters had fraudulent documentation raising their age," he said.

Within 48 hours, the Mexicans were flown to Texas and marched across the border. But many had been in the United States before and said they planned to return soon.

"Many Mexicans, even those who are legally here, are living in fear now," said Flexi Cosme, the director of Hispanic social services at St. Michael's Roman Catholic Church in Gainesville. "They are worried because INS has singled them out. Many of them are afraid that just by being Hispanic, they are in jeopardy or might be discriminated against."

Graciela Gonzalez was a human cog in the automated production lines that feed America's appetite for cheap chicken. She died mangled by a high-speed machine that sorts frozen chicken fillets in a Gainesville poultry plant. Her children still don't know she is dead. Their father tells them she is at work.

Daily, poultry workers risk illness or injury on the production lines. Steve Crawford in Ellijay damages his lungs breathing the fog of organic dust and bacterial endotoxins inside the chichen houses where he works. Priscilla Aldrich in Elberton, Elizabeth Burke in Macon, Eula Moses in Cusseta, and Willie Sue Morelock in Canton now have crippled hands and wrists caused by poultry jobs.

The industry employs thousands of people in small towns throughout the South. The workers are predominantly women. Their work is more hazardous and pays less than coal mining or construction.

Industry officials acknowledge the injuries. They look to eliminate them by eliminating the jobs through even greater automation, with the likely result that contamination of chicken caused by such machinery will become more severe.

Mrs. Gonzalez was 26 when she died—one of thousands of undocumented Mexican workers in Gainsville who work in poultry plants. For them, to complain about working conditions is not only to risk losing their job, but also to court deportation. When hundreds are arrested and deported, hundreds more take their place.

In Gainsville—the Chicken Capital of the World—false papers and the fear of immigration agents are part of daily life. And if, like Mrs. Gonzalez, the immigrants are killed on the job, the employers may not even know their names.

READERS ASK: "WHAT ARE WE SUPPOSED TO DO?"

(After last Sunday's publication of Part 1 of this project, many readers called reporter Scott Bronstein with further questions. Highlights of those—and Mr. Bronstein's responses:)

Q: "We can't eat shellfish because of pollution. We can't eat beef, because it's high in cholesterol. And now we find chicken, which we've been living on, is no good. What are we supposed to do?"—Patty Rubin, east Cobb.

A: Prepare poultry carefully. At a minimum, raw chicken should be stored so drippings from the package do not come into contact with other foods. After cutting or handling meat, thoroughly clean cutting board, knife, counter and hands with hot soapy water. Always cook chicken very thoroughly, ideally so that inside of meat reaches a temperature of 170–180 degrees Fahrenheit.

Q: "Where do we go to buy clean chicken? I have a chicken I bought Saturday, and I can't even cook it. Were some companies cleaner than others?"—Pat Cannon, Smyrna.

A: USDA inspectors interviewed at 37 processing plants, including the eight largest U.S. poultry processors, described the same problems and did not indicate that any company was any better or any worse than others.

Q: "It's an outrage. And I blame the federal government. Millions of people have been getting ill from chickens, and the government isn't doing anything about it. We deserve better."—Andre Maison, Snellville.

A: Consumer advocates in Washington agree. They say consumers should demand a congressional investigation of poultry inspection. They say the government must create a standard for how much bacteria is unsafe, then must require that chicken be tested for microbiological pathogens before sale. They also say federal employees—not the companies—should do the inspections.

Q: "It's terrible the inspectors can't do their jobs. I have to say I'd much rather pay a higher price for the food I buy to be sure that I'm putting safe food on the table. Are turkeys safer than chickens?"—Sylvia Overcast, Atlanta.

A: Consumer advocates say that turkey processing plants have similar inspection systems and have similar problems.

Q: "We all want to know if kosher chicken is any safer."—Betty Skoke, Atlanta.

A: Consumer advocates say that kosher chicken, as well as free-range chicken, stands a good chance of being freer of dangerous bacterial contamination.

Q: "I was wondering, just how safe is beef and pork?"—Ken Rogers, Atlanta.

A: USDA tests show that up to 10 percent of red meat tested is contaminated with salmonella bacteria, which can cause food poisoning, compared with up to 80 percent of chicken. Red meat is higher in cholesterol than chicken.

Q: "One inspector suggested we not buy "cut-up parts." But is the purchase of a whole chicken any safer?"—James J. Macie, Jonesboro.

A: Industry studies show that cut-up parts are becoming increasingly popular with consumers, but in interviews 70 USDA inspectors said many of the cut-up parts come from "salvage" operations and may be diseased or unwholesome. Most inspectors who still eat chicken said they prefer to buy whole chickens.

ABOUT THIS REPORT

This special report was researched and written over four months by Scott Bronstein and photographed by Michael A. Schwarz. The project was supervised and edited by Robert Lee Hotz and copyedited by Sharon Bailey. Graphics were designed by Duffy Dolan. Pages were designed by Jay Scott and Phil Gast.

Mr. Bronstein, 33, joined The Atlanta Journal-Constitution in 1987. Earlier, he worked at The New York Times and Agence France-Presse in Paris. He received a master's degree from the Columbia University Graduate School of Journalism. Mr. Schwarz, 33, has been a photographer at the newspapers since 1987. He was chosen by Life magazine as one of the country's outstanding young photographers that year.

WHERE TO WRITE

Sen. Wyche Fowler Jr. (D-Ga.), Member, Senate Agriculture, Nutrition and Forestry Committee, 204 Russell Senate Office Building, Washington, DC 20510–1003, phone: (202) 224–3643.

Rep. Charles Hatcher (D-Ga.), Member, House Agriculture Committee, 2434 Rayburn House Office Building, Washington, DC 20515–1002, phone: (202) 225–3631.

Sen. Howard M. Metzenbaum (D-Ohio), Active in consumer legislation, 140 Russell Senate Office Building, Washington, DC 20510–3502, phone: (202) 224–2315.

Sen. Patrick J. Leahy (D-Vt.), Chairman, Senate Agriculture, Nutrition and Forestry

Committee, 433 Russell Senate Office Building, Washington, DC 20510–4502, phone: (202) 224–4242.

Locally: Georgia Department of Agriculture, Tommy Irvin, commissioner, 19 Martin Luther King Jr. Drive, Atlanta, Ga. 30334, phone: (404) 656–3685.

HOW TO PROPERLY COOK CHICKEN

Raw chicken should be stored so drippings from the package do not come into contact with other foods, especially fresh vegetables or fruits. After cutting and handling meat, thoroughly clean cutting board, knife, counter and hands with hot soapy water before touching any other food.

Always cook chicken to internal temperature of 170–180 degrees Fahrenheit.

ROASTING, BROILING, STEWING, FRYING

Visual signs meat is safe: Juices run clear; meat is not pink, but it is very tender; leg moves freely in socket of whole bird.

GRILLING

Special precautions: Carry chicken outside to grill only just before cooking; only cook amount to be eaten. Meat shouldn't sit out in sun; coals should be hot, covered with gray ash; partial cooking in oven or microwave must only be done just before grilling. A second, clean plate should be used to remove meat afterward; on a grill, food often looks well-done on outside, yet is undercooked inside.

Visual signs meat is safe: Make cut in meat to be sure it is well-done; juices run clear; meat is not pink.

MICROWAVE

Cooking instructions: Cover the dish; rotate the dish several times during cooking; check internal temperatures in several places after cooking; cooking times vary depending on wattage of oven.

SPECIAL HOTLINE

If you have any questions about the safety of the chicken you buy, call the USDA hotline: 1–800–535–4555—Source: U.S. Department of Agriculture.

CONSUMER INFORMATION

Several consumer groups have been active in lobbying for stricter poultry inspection and other changes to enhance the safety of food products.

Public Citizen Health Research Group, (Ralph Nader group), Gerald Kuester, 7th Floor, 2000 P St. NW., Washington, DC 20036, phone: (202) 872–0320.

Foreman and Heidepriem, Carol Tucker Foreman, 1112 16th St. NW., Suite 750, Washington, DC 20036, phone: (202) 822–8060.

Community Nutrition Institute, Rod Leonard, 2001 S. St. NW., Suite 530, Washington, DC 20009, phone: (202) 462–4700.

Government Accountability Project, Christy Law, 25 E St. NW., Suite 700, Washington, DC 20001, phone: (202) 347–0460.

"My Hands Just Don't Work No More"

(By Scott Bronstein)

Eula Moses of Cusseta is back at work, four months after surgery for carpal tunnel syndrome, at the Cargill Inc. plant in Buena Vista. For four years, she trimmed meat from chicken carcasses, every three seconds grabbing a chicken with her left hand and scissoring away meat with her right. Last fall her left hand began hurting badly. A plant nurse prescribed hot packs, ice packs and pain relievers as treatment of the pain. Eventually, her thumb and three fingers went numb. Dr. Colin McKenzie in Columbus operated in January; the company paid. A company spokesman said Cargill tries "to be sensitive and responsive" to carpal tunnel syndrome. Mrs. Moses, 30, went on workers' compensation, and her income dropped from $214 to $142 a week while her husband, Charlie, recovering from a broken ankle, was getting $106.67 in workers' compensation. With two young sons, $150 in rent, and $800 a month in bills for groceries, utilities and a car loan, money has been tight. Now, she's back at work, deboning thighs at the rate of about 1,200 an hour, 9,600 a day, 48,000 a week. And her hands are beginning to hurt again. "If I could get a job somewhere else, I would. But right now, I'm stuck here."

Pricilla Aldrich pulled slippery, raw chicken skin from carcasses with her bare hands every six seconds during four years on the line at the Seaboard Farms plant in Elberton. She made $158 per week. Her hands were in constant pain. "I couldn't open a can, I couldn't even turn a mustard jar," she said. Supervisors switched her to another job on the line, placing wings into a cutting machine every few seconds. Her hands got worse. Dr. Jim Roderique (at left) eventually diagnosed carpal tunnel syndrome, and in January of this year he operated on both hands. Disabled, Ms. Aldrich had to quit; she says the company paid her a settlement of $20,000. Seaboard officials won't comment on the case other than to say she "voluntarily resigned." A mother of five, Ms. Aldrich says she stayed as long as she did because she needed the job so badly. "I forced myself to stay there. This was the only job around here, and I had no way to pay the rent. Being so desperate, you got all these kids, you have to feed them." She hopes to find new work. "But there's not many jobs around here. And who wants to hire a 43-year-old woman with screwed-up hands?"

Elizabeth Burke's left hand went numb after just six months of pulling skin on a poultry processing line. "Sometimes when you would touch it, it would feel like electricity was shooting through it and up into my arms," she said. After diagnosing carpal tunnel, Dr. Charles L. Ridley Jr. of Macon operated in late January. Today Ms. Burke says she can still barely move her thumb. Before the surgery, the sturdy production worker made $180 a week at the Cagle's Inc. plant in Macon. On workers' cmpensation, she receives $146. Ms. Burke, 45, a single mother of three teenagers thinks the poultry work ruined her hands. The company declined to comment. "The chicken plant has no sympathy for people," says Ms. Burke. "All they care about is the production of their birds. They treat their chicken better than they do their workers."

Willie Sue Morelock of Canton knew she was in trouble 18 months ago when she began dropping things. She had worked in North Georgia chicken plants since the age of 12. But on the verge of retirement, she found she could not longer hold scissors to cut chicken. She couldn't lift corn bread in a frying pan at home. She dropped so many glasses she bought plasticware instead. For a number of years she had trimmed chicken breasts at Tip Top Poultry Inc. in Marietta, at $5.25 an hour. Doctors said nerves in both wrists had been "crushed flat." They told her without surgery she'd lose all use of her hands permanently. "There I was trying to make a living, using my hands. And then I'm losing the use of them on account of it." The company paid for surgery on both hands last year. But today she still has trouble. "My hands just don't work no more. I'd have to say I'm crippled, really." And, at 59, she's jobless. "At my age, what other job can I do? Who will hire me?" she asks. Tip Top won't discuss her case because it is "still pending."

[From the Arkansas Democrat, Apr. 21, 1991]

Consumers Have Bone To Pick on Product Safety

(By Jane Fullerton)

Poultry consumers face a massive public health threat triggered by the relaxation of federal regulations and industry standards, critics contend and studies show.

Up to 76 percent of raw chickens in grocery stores may be infected with salimonella and other harmful bacteria that contribute to hundreds of deaths and millions of illnesses annually, government studies document.

The final product is no different than if you took a bird . . . stuck it in the toilet and then ate it," said Gerald Kuester, a former U.S. Department of Agriculture microbiologist.

Industry and government officials adamantly defend the safety and quality of poultry, bristling at charges the products may be harmful.

"We sort of feel it's a shame that we get such a black eye because we do such a great job," said Dr. Ken May, former head of Holly Farms' chicken operations and now a consultant to the National Broiler Council, a Washington-based industry association.

Health officials, consumer advocates and industry critics contend the bacterial problem has taken on staggering proportions and threatens to grow. That affects not only the consumers who have chosen poultry as the nation's favorite meat, but the industry that pumps almost $2 billion and more than 85,000 jobs into Arkansas' economy.

Industry executives and government officials recognize that the potential for a bacterial problem exists but they contend the problem is overstated. They assert proper handling and thorough cooking are the only certain ways to eliminate the health threat.

Critics charge the USDA continues to downplay connections between its relaxed poultry inspection regulations and increased poultry bacterial contamination. They say the agency has disregarded not only consumer advocates and health officials, but censored its own studies highlighting the problems.

Officially, the USDA acknowledges more than a third of the chickens that reach consumers are contaminated with salmonella, a bacteria that can cause not only common diarrhea, but serious illness and even death.

However, unpublished government studies obtained by the Arkansas Democrat from a former USDA scientist show poultry plants contaminate from 58 percent to 76 percent of chickens with salmonella bacteria during processing. Some USDA inspectors have claimed the contamination rate could be as high as 90 percent.

Federal inspectors, who guard the quality of the nation's food supply, contend they are frequently harassed by poultry companies' management and questioned by their own government bosses. They say they have little chance to examine the sometimes pus-filled and tumor-ridden birds as they speed by on processing lines at rates as high as 91 birds a minute.

And the inspectors charge USDA health regulations are violated routinely throughout the industry, including in Arkansas processing plants.

Critics contend this outdated inspection system, which has changed little since the 1960s, includes few safeguards to prevent contamination from bacteria, feces or filth.

But industry and USDA officials staunchly defend the nation's food supply—and particularly poultry products—as the safest in the world.

"Meat and poultry is the most inspected food in the world, bar none," said Jim Greene, a spokesman for the USDA's Food Safety and Inspection Service. "The meat and poultry industry is the most regulated industry in the country.

Mark Simmons, chief executive officer of Simmons Industries, said the industry works to keep its plants clean and its products wholesome. Simmons' company, based in Siloam Springs (Benton County), has been a frequent target of criticism.

The majority of the people in the industry are concerned about the quality of the product and want our customers to have confidence in it," he said.

FLAWS REVEALED

A five-month investigation by the Democrat has found:

The nationwide number of food poisoning cases grows each year, with 47,812 cases of salmonella reported to the national Centers for Disease Control in 1989.

That represents a 41.8 percent increase from 1980 and a 116.4 percent leap from 1970. Health officials estimate the actual number of salmonella cases reaches up to 4 million a year.

In 1987, 105 salmonellosis deaths were reported to the CDC. Health officials estimate the actual number of deaths to be between 1,000 and 2,000 each year.

New evidence suggests salmonella and other food poisoning is particularly threatening to people with depressed immune systems and can actually trigger the onset of AIDS in an HIV-positive person.

Several studies show bacterial contamination in raw poultry remains greater than the USDA's officially acknowledged rate of 35 percent. That rate increases as the birds move through the processing system, the studies also show.

The National Academy of Sciences lent credibility to industry detractors when it criticized the poultry inspection system as outdated, calling for significant changes to focus on preventing rather than merely detecting bacterial contamination.

"(T)he weight of the evidence suggests that the current program is not effectively protecting the public health," the Academy said in a 1987 report. 'Major changes are required in the poultry inspection system if public health is to be protected."

A lax USDA attitude toward inspection in the 1980s allowed such problems to intensify, critics believe. They point to a 1981 comment by Robert Bartlett, an official with the agency's Food Safety and Inspection Service, as signaling the onset of a decade of deregulation:

"The political climate is such that the special interest groups supporting the meat and poultry industry have won and now have the ear of Washington. They 'paid their dues' and are now in the driver's seat."

During the 1970s and 1980s, the USDA implemented two significant changes in poultry processing that critics say contribute to the bacteria problem: faster processing line speeds and washing feces-contaminated birds rather than trimming or condemning them.

A USDA plan to remove much of the responsibility for poultry inspection from the federal government and place it with the companies was shelved a few years ago. But critics contend a new Agriculture Department plan, currently under study, is the first step toward allowing the industry to regulate itself.

Meanwhile, Kuester, poultry inspectors, plant workers, consumer advocates, health officials, scientists and others say the bacteria problems are increasing, threatening to kill and sicken even more consumers.

"Within the scientific community, poultry contamination is recognized as the major food safety problem."

After leaving the Agriculture Department, Kuester began working with Ralph Nader's consumer watchdog group, Public Citizen.

OFFICIALS DEFEND QUALITY

Ultimately, critics contend the poultry industry—crucial to the economy of Arkansas, the nation's No. 1 poultry producer—could be threatened by a consumer backlash.

Industry and government officials repeatedly assert they are doing all they reasonably can to ensure a safe product. They claim the charges come from dissatisfied labor groups, alarmist consumer advocates and disgruntled inspectors fearful of losing their jobs if the inspection system is changed.

They contend the poultry industry delivers one of the world's safest, cleanest and healthiest food supplies—and at a low price.

"The industry is very aware of consumers," said Ken May of the National Broiler Council. "Of all the agricultural products produced in the United States, the poultry industry is the most aware of consumer concern."

Salmonella is not a major problem if poultry products are handled and cooked correctly, Dr. Michael Rosenstein, director of veterinary and technical services for Hudson Foods Inc. told the Democrat earlier. He also said there is not widespread consumer demand for a cleaner product.

"My own personal opinion is that the human species has lived with salmonella for millennia," Rosentein said. I just can't get real excited about the poultry industry getting rid of salmonella. . . . If you handle the product right, you don't have anything to worry about."

John Tyson, vice chairman for operations of the Springdale-based poultry giant. Tyson Foods Inc., contends the bacteria issue has been blown out of proportion.

"We set standards higher than the USDA regulations," he said. "There are some places where it's almost like a medical environment. It's hard to get it any cleaner.

"Everybody in the food industry works their rears off to make sure we have the safest food chain in the world."

A CONTAMINATED SYSTEM

Critics maintain the bacterial problems are spread throughout the poultry producing and processing system.

Although bacteria can be present on any poultry product—such as turkeys, Cornish game hens or ducks—much of the criticism and most of this report focused on the broiler chicken industry.

For some chickens, salmonella contamination occurs before they reach the plant. Estimates vary for the number of chickens with salmonella present in their systems when they enter a processing plant, although bacteria are present on the skin and feathers of most birds.

But when they leave those plants, the number of salmonella-contaminated birds has leaped. Officially, the USDA acknowledges at least 35 percent of the birds reaching consumers are tainted with bacteria.

Even the USDA confirms that bacterial contamination multiplies significantly in the processing plant.

"Cross-contamination is always a problem on any slaughter line," says Jim Greene, the USDA spokesman.

PLANT CONDITIONS VARY

The tales from the processing plant told by government inspectors and plant workers could turn even the strongest of stomachs. Their stories evoke images of "The Jungle," Upton Sinclair's controversial account of turn-of-the-century meatpacking.

These stories are not isolated. Dozens of plant workers and government inspectors from Arkansas to North Carolina describe similar conditions wherever they work.

From 1987 to 1990, the Government Accountability Project, a Washington-based government watchdog and whistleblower advocate, presented sworn statements to Congress from 150 federal inspectors and plant workers in more than a dozen states representing most of the major poultry companies.

More than two dozen inspectors and workers recounted their experiences for the Democrat. Many of them did not want their names used because they fear recrimination from the USDA or their employers.

These accounts are representative of the problems described for the Democrat. No particular company was cited as uniformly good or bad. Several sources noted that conditions vary from plant to plant, even within a company.

The people describe from first-hand experience instances of birds being allowed to pass inspection that were infected with cancerous tumors and scabs, oozing with pus, tainted with manure, dead when they arrived at the plant, or picked up from dirty floors.

Others say the plants where they work are clean and the chickens are wholesome.

MORE STORIES

Stories from the Tyson plant in Rogers cropped up repeatedly. That plant processes what is referred to as "light fowl," egg-laying hens past their prime. The meat is cooked and used for diced products such as dumplings and soup.

Estes M. Philpott, who retired in November after more than 30 years as an inspector, worked at plants throughout Northwest Arkansas.

Of the Tyson plant at Rogers he says: "That's the biggest garbage of them all."

Another Arkansas inspector who has worked at that plant said the federal inspectors joke among themselves that "any self-respecting dog wouldn't eat this."

Tyson officials point out that comparisons between the birds processed at Rogers for use in diced products and the top-quality broilers processed elsewhere for retail sale are not fair.

"From the nutritional and food safety aspect, they're just as clean and wholesome as broilers," said Ellis Brunston, Tyson's corporate director of technical services. "But aesthetically-wise, that's not the same quality meat."

Brunton, who oversees the company's quality assurance laboratories, pointed out the hens are heavier and older than broilers which are bred specifically to produce high-quality meat.

"We're really talking about apples and oranges," he said. "It's like comparing a dairy cow versus a relatively young steer."

Estes Philpott, the retired inspector, also cited an incident that occurred Nov. 23, 1990, at the Simmons Industries plant in Siloam Springs when a load of chickens infected with the respiratory disease air sacculitis arrived.

As Philpott was sorting the sick birds, he said the plant's chief inspector told him not to condemn any. But Philpott said he condemned more than 915 birds from an estimated 80,000. Each of the other five inspectors also condemned dozens of birds.

Many plants use "lung guns" to suck the infection from the lungs and salvage such birds. But Philpott and other inspectors say the infection is not limited to the lungs, but that pus and material that "looks like phlegm" spreads throughout the bird's body.

"That's one of the worst things people can eat," Philpott said.

He stopped eating chicken about 15 years ago.

MAGGOTS FOUND

A former worker at the Tyson plant in Neosho, Mo., described what happened when another worker found maggots on a chicken being processed. The plant processes chicken for products such as soups and stews.

The worker recalled a plant supervisor arriving. The manager picked the maggots off the bird and flicked them from his hand.

The chicken continued along the processing line.

"He didn't make no effort to check the meat," the worker said.

The former Tyson worker no longer eats chicken. "Once I seen how their quality control was, I don't eat their product anymore."

Ellis Brunton, the Tyson offficial, reacted to the Neosho story with shocked disbelief.

"That's just not a likely scenario. I don't think that would happen," he said. "You can probably get all kinds of horror stories from any company."

Brunton pointed out that such practices are not in the company's best interests.

"We try to stick to our business of providing a safe product that consumers can have a lot of faith in," he said. "Our whole reputation is based on that. Food safety—that's the foundation you build on."

A worker at a former Holly Farms processing plant in Wilkesboro, N.C. said quality has decreased since Tyson bought the company nearly two years ago.

The worker said supervisors with Tyson have become more concerned about keeping the number of condemmed chickens low, to the extent they put rejected chickens back on the processing line.

"Our quality has went to zilch since (Tyson) took over," the worker said.

OTHERS DEFEND PLANTS

In addition to stories about the birds, these workers and inspectors also describe plants infested with roaches, flies and maggots. They tell of floors, from which chickens are retrieved, covered with manure, urine, chewing tobacco, dirt and other filth. They explain how condensation from rusting pipes drops on the birds along with peeling plant and metal shavings.

However, others interviewed say the plants in which they work are as clean as possible, given the messy business they conduct.

"I think we have a really nice plant in comparison with what some of the others are supposed to be like," said a worker at the Peterson Industries plant in Decatur (Benton County).

Sam Shrum worked at the Simmons Industries plant in Southwest City, Mo., for three years ending in November 1989. In addition to that plant, the company operates two processing plants in Siloam Springs and one in Jay, Okla.

The Missouri plant was placed under an intensified federal regulatory program in 1987 following revelations about plant conditions and USDA violations.

In a sworn affidavit filed with the Government Accountability Project, Shrum described the conditions at the Missouri plant—after the company successfully completed the intensified inspection program.

Shrum said the company did not regularly clean the chill tank where chickens are cooled in a common bath after processing. "Blood, grease, fecal contamination, oil, fat, feed, pus and mucus falls into it all the time," he said.

He went on to describe the plant's insect problems.

"When I left, the bugs often were out of control," he said. "Maggots came out of the walls and swarmed into the kill room. We'd spray the walls to try and keep the numbers down."

Officials with Simmons have steadfastly rejected such allegations, saying the company has been unfairly portrayed. Mark Simmons calls some of the charges against his company "damn lies."

During a March tour of the Southwest City plant by a Democrat reporter and photographer, none of the conditions described in Shrum's affidavit were apparent.

No maggots were visible in the kill room or elsewhere. The water in the chill tanks had the reddish tint of blood from the chicken carcasses.

A federal inspector working there also defended the plant's cleanliness: "I have never seen a cockroach in that plant. They have an excellent sanitation program."

The inspector said the USDA's intensified inspection program helped ease tensions between the government inspectors and the plant management.

"It scared them enough that they started listening to the USDA then," the inspector said. "Before, they hadn't. It was just a constant battle."

Although much attention focused on Simmons' Missouri plant, those familiar with the industry contend it is no different than most plants. They believe USDA officials made Simmons a scapegoat to shift attention from other plants.

LESS THAN 2 SECONDS

The inspectors' chief complaint is the rapid speeds at which the birds move on the processing lines.

The USDA line systems allow birds to move at rates of 70 to 91 per minute with two or three federal inspectors examining them. That gives inspectors less than two second to examine each chicken.

For instance, at Simmons' Missouri plant, the processing lines move at 91 birds a minute with three inspectors examining every third bird.

When it comes down to it, you're still talking about 30 to 35 birds a minute," said Jim Greene of the USDA's inspection service.

Virtually every federal inspector, plant worker, consumer advocate or health official interviewed cited the fast line speeds as contributing to the high rates of bacterial contamination.

The chickens simply move too quickly for the inspectors to see evidence of disease or bacterial contamination, they contend.

"Less than two seconds per bird doesn't give you too much time," said Ethel Reed of Siloam Springs, a retired inspector.

In 1986, an Arkansas chapter of the American Federation of Government Employees surveyed its members on poultry inspection issues. More than 75 percent of the 103 USDA inspectors responding said they felt line speeds were to fast.

Company employees agree with the inspectors that rapid line speeds hinder spotting bad chickens.

"Our main problem up here is the lines move so fast we can't do our jobs," said a worker at the Peterson Industrial plant in Decatur.

But industry and USDA officials dispute criticism of the fast line speeds. the systems were thoroughly tested for effectiveness before implementation. Green said.

"None of these programs are entered into haphazardly." he said.

In addition, Greene said the chief inspector of each plant has the authority to stop or slow the lines if something is wrong. Lower level inspectors have the authority to stop the line for emergencies, but cannot slow it.

OTHER PROBLEMS

But federal inspectors say the system doesn't always work that way.

In the survey of Arkansas inspectors, 61.2 percent said regional or national USDA supervisors had overturned the chief inspector's decisions that were unfavorable to the company, such as whether to pass or condemn birds.

The survey also found:

74.8 percent said they were asked to pass birds they previously would have condemned.

57.3 percent said they had been harassed by plant management.

60.2 percent said plant workers removed USDA tags indicating birds to be retained or rejected, a criminal violation.

"Behind our backs, yes, it goes on. It sure does," said an inspector who has worked at Hudson Foods and Simmons plants. "If it wasn't for inspectors, you wouldn't know what you were eating."

SELF-REGULATION?

Despite such stories, a USDA plan in the 1980s called for eventually shifting inspection duties from federal inspectors to the poultry processing companies. Although this self-regulation plan ultimately was rejected, critics contend that mindset remains.

"What do you think the industry is going to do if they have total control?" one inspector, who has worked at Simmons and Hudson plants, asked. "They're going to pick stuff up off the floor, sell stuff that's contaminated.

"They are there to make a profit. The USDA inspection service is there to make sure they produce a quality, wholesome product," he said. "Those are two conflicting ideas—one is to make money; one is to ensure quality. That's where the rub is."

But the industry contends it could be hurt worse if it did not ensure the highest possible product.

John Tyson sums up his company's position on food safety succinctly: "We put our name on it."

Tyson Foods, as well as several other companies, offers an unqualified guarantee for customer satisfaction on all its products.

"That's where we feel comfortable that we're doing our best to ensure food quality," he said. "It's Don Tyson's personal guarantee."

PROBLEMS CONFIRMED

Government studies support contentions of problems in the U.S. poultry production and processing system.

In 1987, the USDA began studying the correlation between increased line speeds and bacteria contamination rates at a Puerto Rico processing plant.

The agency has never released its findings and the study is still continuing. But a censored preliminary report documents a 24 percent increase in salmonella contamination rates after the firds are processed—to a 76 percent contamination rate coming out of the chill tank.

Former USDA microbiologist Gerald Kuester analyzed the results of that study. In his report he outlined up to 50 points during processing where bacterial contamination could occur. He ended his paper with a recommendation of placing warning labels on packages to alert consumers to the dangers they face if chicken is not handled carefully and cooked properly.

Kuester said he was told by his USDA superiors the report could not be published "because the industry won't like it."

Kuester's report never was published. A comparison with his original draft shows that what was published was a watered-down version without the call for warning labels.

Following that incident Kuester said he was forced out of the job he held for 10 years with the Agriculture Department.

"They didn't want to hear it," Kuester said. "They didn't want to deal with my recommendations."

Jim Greene, the USDA spokesman, disputes the salmonella contamination rate cited by Kuester.

"We dispute it because we have no solid data that shows the contamination rate was that high," he said.

The USDA plans to release some findings from the Puerto Rico study within a year, Greene said. "Then those numbers can be picked by everybody."

A 1988 USDA study of five processing plants in the Southeast found contamination levels of 58 percent—before the chickens went into the chill tank, where further cross-contamination can occur.

That study has never been published.

Another USDA study showed washing—even 40 times—does not control or remove bacteria.

Another USDA study found the rate of salmonella contamination increases by as much as 28 percent in the chill tanks, where birds are cooled after processing.

TESTING PRIMITIVE

Underlying the criticism of poultry processing is the fact that today's system for inspecting poultry—as well as the systems for inspecting other meats—relies primarily on the senses of sight, smell and touch rather than scientific testing to determine bacterial contamination.

Critics of the present system—including two former Agriculture Department officials who oversaw the inspection service—believe the inspection system must catch up with the industry's technological advances and consumers' skyrocketing demand.

One problem is that today's tests for bacterial contamination take several days. By the time the results are known, the poultry has been shipped and, perhaps, eaten.

Arkansas native Carol Tucker Foreman is a former U.S. assistant agriculture secretary who oversaw the inspection system during the Carter Administration. She also is the sister of Lt. Gov. Jim Guy Tucker.

"I think the inspection system needs to be updated so that it deals with present-day problems and present-day strategies," she said.

Foreman's assertions are echoed by Rodney Leonard, who oversaw the inspection system during the Johnson Administration and now heads the Community Nutrition Institute in Washington.

These critics have even suggested dismantling the inspection system and reorganizing it under consumer control. Since the Reagan administration, the inspection system has been overseen by the assistant agriculture secretary whose other primary responsibility is marketing.

NEW APPROACH

A 1987 report by the National Academy of Sciences also criticized the poultry inspection system as outdated. Although the report stopped short of advocating abandoning the traditional bird-by-bird inspection system, it said that system should be supplemented by random sampling for bacterial and chemical contamination.

"(T)he committee believes that the present system of inspection provides little opportunity to detect or control the most significant health risks associated with broiler chickens," the report stated.

Dr. Morris Potter, a veterinarian specializing in public health for the Centers for Disease Control, was a member of the committee that issued that report.

"We have to get the outsides off and the insides out without contaminating the whole bird, and we haven't done that," he said. "We almost purposely pound feces into their skin so as many people as possible get sick."

The USDA is now studying an approach outlined in the Academy's report. The plan calls for identifying and eliminating trouble spots in poultry production and processing.

Ellis Brunton, Tyson's quality assurance chief, said the company has begun to implement some aspects of the new approach in its plants.

"I think it is the wave of the future," Brunton said. "I know there are some people that oppose that, but I think it makes scientific sense."

But critics contend the USDA plan is a step toward letting companies regulate themselves. They fear it could increase, not decrease, the number of contaminated birds reaching consumers as federal inspectors move into an oversight role, rather than a hands-on role.

STILL AT RISK

In short, evidence indicates consumers may put their health at risk when they make poultry a part of their diet. Critics say that risk will remain until consumers force the poultry industry and the Agriculture Department to produce chickens with less bacterial contamination.

"If consumers want it, industry will produce it," said Morris Potter of the federal Centers for Disease Control. "So far, consumers haven't said, 'We want lower salmonella rates.'"

One Arkansas inspector agreed: "I don't think people are really aware of the potential danger. They don't know what's going on."

But consumers have become aware of salmonella and the problems associated with it. In 1988 comments at a poultry processors' workshop in Minneapolis, the head of USDA's Food Safety and Inspection Service acknowledged poultry is a "significant vehicle of food-borne bacterial poisoning."

"Neither industry nor government can ignore the concerns that are being expressed," Dr. Lester Crawford said. "The American people now know how to pronounce salmonella, and they associate it with poultry. We have to ask ourselves honestly if, in light of current knowledge, these concerns are not justified."

In the long run, Leonard believes lack of consumer confidence in the safety and quality of poultry could halt the increased consumption of poultry and the increased profits of the multibillion dollar industry.

"If the poultry industry becomes identified as a source of contaminated and high-risk foods, that will eventually show up in the marketplace," Leonard said.

The poultry industry also has considered that possibility.

"From an economic standpoint, we want our products to be safe," said Ken May of the National Broiler Council.

Despite their strong positions, the critics insist they don't want to put the poultry industry out of business; they just want to improve its product.

"The industry has responsibility to make sure they produce the cleanest product possible," said Leonard. "To do otherwise is simply to be so dominated by greed, that they're indifferent to the conditions they're creating.

"With that kind of mentality, the only thing they're going to understand is that they'll be hurt in the pocket-book if they don't take some responsibility for the health and safety of American consumers."

Carol Tucker Foreman praises the poultry industry's innovation. That's why she believes the industry can solve its problems—if it chooses.

"When I was growing up in Arkansas, we used to raise chickens in the backyard," she said. "Now we have this fascinating industry that can do anything it wants.

"So the only conclusion is that they don't want to clean it up. I believe this industry can do anything it wants."

[From the Arkansas Democrat, Apr. 21, 1991]

Poultry Industry: Success at a Price

(By Jane Fullerton)

The poultry industry—the backbone of Arkansas' economy and a model of agricultural efficiency—has grown from a backyard hobby to a corporate conglomerate in just a few decades.

Fifty-five years have passed since John Tyson, poultry pioneer and patriarch, hauled his first load of chickens from Springdale to Chicago.

He earned $265.

Since then the $15 billion poultry industry has been nurtured along by the likes of John's son, Don Tyson, as well as James Hudson, Bo Pilgrim and Frank Perdue, visionary capitalists who took a Depression-era campaign slogan—a chicken in every pot—to heart with a vengeance.

In Arkansas, poultry and egg production generate nearly $2 billion in revenue every year. Politicians often mention that one of every 12 Arkansans depends on the industry for a livelihood.

Few people dispute the poultry industry's financial success or the state's economic benefits. But some people contend such gains come with a high price tag.

Critics say the price is paid by:

Poultry consumers, who risk their health at the dinner table as the increase in salmonella cases parallels the increase in poultry consumption.

Plant workers, who earn among the lowest wages in manufacturing industries and have some of the highest risks of job-related injury.

Contract farmers, who risk their long-term financial security by mortgaging their homes for short-term production contracts with poultry companies.

Ultimately, critics contend, the price may be paid by the poultry industry, which risks losing consumer confidence and corporate profits.

The industry critics who spoke with the Arkansas Democrat include former U.S. Agriculture Department officials, current and former USDA poultry inspectors, health officials, consumer advocates, farm and labor leaders, political observers, and poultry workers and farmers.

It is ironic that at the same time unprecedented technological progress has catapulted poultry production and processing into the 21st century, words from a previous era like "slavery" and "serf" punctuate the tales told by plant workers and contract farmers.

In this report, the Democrat will examine the poultry industry from production to processing to consumption. It will look at how the industry affects consumers, farmers, workers, taxpayers and politicians.

In researching this report, the Democrat interviewed more than 100 people associated with the poultry industry in Arkansas, in Washington and across the country. The Democrat also examined thousands of pages of studies, reports and documents pertaining to the industry.

[From the Arkansas Democrat, Apr. 21, 1991]

FASTER PROCESSING; MORE CONTAMINATED BIRDS?

(By Jane Fullerton)

The live chickens, leaving a trail of white feathers, arrive about a dozen to each 3.5-square-foot cage loaded on tractor-trailer rigs.

Fresh from the farm, they are ready to journey through the processing plant—beginning as chickens, ending as ready-to-cook fryers or ready-to-eat products.

The life of today's disease-resistant, feed-efficient, genetically-engineered broiler chicken lasts just nine weeks from egg to McNugget.

This account of the inner workings of a processing plant is based on observations from visits to poultry plants. In March, an Arkansas Democrat reporter and photographer toured two Simmons Industries processing plants, one in Siloam Springs (Benton County) and one in Southwest City, Mo.

Although Simmons' Missouri plant was the target of criticism in a 1987 segment on CBS television's 60 Minutes, the tour was intended only to provide an overall impression of how a poultry processing plant works.

This account also is based on descriptions from industry observers, plant workers and federal inspectors as well as information from the U.S. Department of Agriculture, the National Broiler Council and the National Academy of Sciences.

After forklifts unload the birds, conveyor belts carry them into an eerily dim room. With lighting designed to calm the disoriented animals, they are hung in shackles by their feet on the kill line. The chickens are stunned with an electric shock, then their necks are slit with a device similar to a circular saw.

Once the chickens have been slaughtered, they are dipped in a scald tank. The water, 125 to 140 degrees Fahrenheit, loosens the feathers.

Dirty birds—covered with manure, salmonella, parasites and feed—mix with clean birds. When they are dipped in the scald tank, the contamination from even a single bird can spread to the others. USDA studies have shown the hot water kills some, but not all, bacteria.

Former USDA microbiologist Gerald Kuester and other critics have called for separating the birds before they are processed, slaughtering clean ones first and dirty ones last.

"Until USDA requires a critical control point to check poultry for salmonella before slaughter, the rest of the process will be a guessing game," Kuester said.

Ellis Brunton, corporate director of technical services who oversees Tyson Foods' quality assurance programs, said researchers have investigated flock separation. But such a measure might not justify the work required.

"It sure will not eliminate salmonella," he said. "The overall effect would be * * *

POUNDING PLUCKERS

Next, the chickens move to the picking machine, where thousands of rubber "fingers" pummel the birds to remove their feathers. Here critics contend the picking equipment spreads contamination among the birds while it pounds the dirt, feces, bacteria and other contamination into the skin and meat.

Kuester and other critics advocate steaming to loosen and remove the feathers, a proactice used in some European plants. But such a move is not favored by the industry because the process can leave the birds discolored and the skin burned.

The USDA defends the American technique in its literature:

"In the 1960s, the defeathering systems were first criticized as a possible contamination source. However, the only existing alternative is hand plucking of feathers—a time-consuming, labor-intensive alternative that would greatly raise the cost of poultry and is not proven to be more effective . . . in reducing bacterial contamination."

After the feathers are removed, the heads and feet are cut off. Workers rehang the birds on the processing line, which carries them to the eviscerating room.

EVISCERATION

Here the birds' internal organs are removed. Depending on the size of the birds, workers reach into the body cavity to revmove the organs by hand or, most commonly, mechanize equipment pulls the organs out.

The automated equipment first approved in the early 1970s, coupled with line speeds that zip the chickens through processing plants at speeds up to 91 birds a minute, has allowed the industry to push its production past six billion birds a year.

Simmons, the 18th largest broiler company, processes 1.9 million chickens a week. Its Missouri plant processes 830,000 birds every week.

Tyson Foods Inc., the world's largest poultry processor, slaughters 24.5 million birds a week.

The machines tend to rip the flesh and tear the intestines, say consumer advocates, federal inspectors and plant workers. The intestinal contents, frequently contaminated with salmonella and campylobacter bacteria, spill on the carcass. Then the machines can spread the contamination to subsequent birds.

"By contamination, I am specifically referring to fecal matter, worm eggs, parasites and undigested food," Albert Midoux, a retired federal inspector in Northwest Arkansas and southwest Missouri, said in a sworn statement presented to Congress.

Ellis Brunton of Tyson acknowledged the equipment can rupture a bird's internal organs. But he said, and the USDA agrees, such problems can be minimized by adjusting the equipment, sizing the birds and training the work * * *

ON THE LINE

At the next stage, USDA poultry inspectors examine the birds, ensuring they are fit for human consumption by looking for signs of disease, defect or contamination.

This step allows poultry companies to sell their products stamped with the USDA inspection seal—trusted by consumers as a symbol of quality since 1957.

The inspectors work alongside company employees who trim problem areas from the chicken carcasses at the inspectors' direction. The plant workers also look for cosmetic defects.

But the inspectors contend they don't have time to adequately examine the birds. And the plant workers say they don't have time to do their jobs, including preparing the chickens for the inspectors to view.

The chickens whiz past the inspectors and workers at rates of 70 to 91 birds a minute. Such speeds are faster than the approximately 50-birds-a-minute rates used by the industry until new USDA systems started in the late 1970s and early 1980s.

With two or three inspectors per processing line, the system allows between 1 and 1.5 seconds to look at each bird. As a result, the inspectors say—and the plant workers agree—more contaminated and diseased chickens are allowed to reach consumers.

But USDA and industry officials say the number of birds each inspector must scrutinize has remained constant since the 1960s—about 35 birds a minute. When inspection began in 1957, each inspector examined 17 to 20 birds a minute.

"I don't think we really have imposed more risk," said Ellis Brunton of Tyson. "I say that from our own testing as well as USDA testing."

There is no established scientific link between faster line speeds and increasing salmonella contamination.

In a 1987 report on poultry inspection, The National Academy of Sciences said although current evidence indicates faster line speeds may not increase contamination, more studies are needed to determine the impact on public health.

However, the Academy's report also said, "It appears that little attempt has been made to evaluate inspection methods and line speeds with regard to fecal contamination, microbiological quality and public health impact."

In addition to the faster line speeds, the number of inspection personnel has not kept pace with the pounds of poultry to be inspected.

A December 1990 report by the federal government's General Accounting Office found the USDA's inspection service had 6 percent fewer staff members in 1989 than in 1980 as well as 3 percent less funding.

TYPICAL FUNCTIONS OF AN INTEGRATED BROILER FIRM

1. Breeder hens and males are purchased from primary breeder companies as day-old chicks. When these hens lay eggs, the production process begins.

2. The eggs are taken to a hatchery. They are cleaned, checked and incubated, hatching on the 21st day. Within hours, the chicks are checked and vaccinated.

3. The young birds are moved to grow-out houses, where more than 99 percent of broilers are grown under contracts between a farmer and a company. The environment in a typical 16,000-square-foot house is carefully controlled for proper heat and ventilation. The 20,000 birds receive sustenance from automatic feeders and waters. It takes about 6.5 weeks for the birds to reach a typical market weight of 4.3 pounds.

4. When the birds reach market weight, the company sends catching crews and trucks to load and transport the broilers to the processing plant. Here, the birds are slaughtered, processed and made into market-ready products. Only 18 percent of broilers leave the plant as whole birds.

5. About 56 percent of broilers are sold as cut-up chicken or selected parts. About 26 percent are further processed into such items as nuggets, entrees, battered and cooked chicken, or other convenience products.

6. Fresh chicken can reach the retail meat counter the day following processing. Most

chicken arrives within three days of processing. The "sell-by" date on each package is usually seven to 10 days from processing.

7. In 1989, U.S. consumers ate an average of 68.6 pounds of chicken per capita. By 1995, the National Broiler Council projects that figure will rise to 87 pounds, with a total for all poultry of 110 pounds—nearly half of all meat consumed.

8. Left-over chicken parts, including heads, feet and feathers, are processed into chicken, pet and livestock feed. However, some waste—such as dead birds, chicken litter, sludge and waste water—is created during chicken production and processing.

9. The feed mill supplies feed to chicken farms, completing the cycle by using the excess chicken parts to provide the feed needed to grow more chickens.

[From the Arkansas Democrat, Apr. 21, 1991]

Proposals for Ensuring Clean Carcasses Vary

(By Jane Fullerton)

As salmonella cases and poultry consumption continue to increase, industry observers cite several options to reduce or stop bacterial contamination on poultry.

These suggestions come from both industry supporters and detractors. They range from irradiation to warning labels to simply separating clean birds from dirty birds before processing.

However, many of the proposed solutions would require changes in poultry processing that could result in higher prices for chicken at the grocery store.

"If we increase the price of food 5 percent, (low income people) are going to have to eat 5 percent less," said Dr. Morris Potter, a veterinarian with the federal Centers for Disease Control, who has studied the poultry industry for the National Academy of Sciences.

"We don't want to harm the nutrition of the nation's poorest people as we try to make the food supply safer for the rest of us."

Although the price tag would vary, industry officials agree cost would be a crucial consideration in modifying the methods or equipment used to slaughter and process the birds.

Some consumer advocates say any cost increase would be nominal—a few pennies per pound.

"The wholesale price of poultry might go up 10 percent—4 to 6 cents a pound," said Rodney Leonard, a former assistant secretary with the U.S. Department of Agriculture, now with the Community Nutrition Institute in Washington.

"That's not a major cost increase compared to the cost of beef."

In addition to changes in plant technology and processing procedures, these are among the suggestions being discussed for reducing bacterial contamination on poultry products:

IRRADIATION

One of the most effective methods for eliminating bacteria on poultry products is exposure to radiation.

The controversial technique was approved in 1990 for use on poultry products. It also is approved for use on other food products including pork, fresh fruit and vegetables, wheat and flour, nuts, spices and teas.

Proponents contend that if consumers want a bacteria-free food supply, irradiation is the answer. But opponents contend not enough is known about the long-term health effect of irradiation and the toxins the process may produce.

Regardless of the debate about irradiation's safety, the poultry industry is not likely to employ a technique that comes with so many questions and worries so many consumers.

"We have never seriously considered it," said Ellis Brunton, corporate director of technical services for Tyson Foods Inc. "I just don't think consumers or Tyson are ready for that, and I think I speak for the entire industry."

Researchers at the University of Arkansas, funded by the USDA, are studying a method of passing mild electrical charges through water in which raw chicken is soaking.

The procedure has been shown to kill salmonella and other bacteria in the water. The researchers also are working on ways to kill the bacteria on the birds' skin. If the procedure can be successfully adapted, it could be used to reduce or eliminate cross-contamination during processing.

The researchers, Dr. Carl Griffis and Dr. Michael Slavik, have applied for a patent for their procedure.

"This project has the potential for a major impact on the industry," said Griffis.

COMPETITIVE EXCLUSION

Under this theory, "good" bacteria are introduced into the chicken so there is no room left for "bad" bacteria, such as salmonella. The concept is being studied by the USDA and others in the poultry industry.

Researchers are studying several ways to introduce the beneficial bacteria: injecting it into the egg or adding it to the feed within a few days of hatching or within two weeks of slaughter.

Of all the possible methods for reducing bacterial contamination now being researched and discussed, Brunton said this one showed the most promise.

"There's good evidence to show it looks like a possibility," he said, although it remains in the research stage.

WARNING LABELS

Just as cigarettes and alcohol carry health warnings, some consumer advocates favor placing similar warning labels on chicken.

Such a label would go beyond advising consumers of proper handling techniques by outlining the health risks associated with poultry products if those guidelines are not followed carefully.

Gerald Kuester, a former USDA microbiologist who studied bacterial contamination of poultry, has been an outspoken proponent of warning labels. He contends the USDA censored his calls for labels because they were deleted from a report prior to publication.

However, other industry critics believe warning labels are an ineffective way to inform consumers. Potter said people may not understand, accept or react to the warning.

"If we label chickens as hazardous, people will say, 'Oh, hell, there's nothing safe to eat,' and ignore all warning labels," Potter said.

Industry officials hold a similar view. While they oppose warning labels, they point to consumer education programs undertaken by groups such as the USDA and the National Broiler Council.

About 70 percent of raw, retail poultry products now carry labels explaining how to handle and cook poultry, May said.

"We take the positive view and say here is how to handle the product. We are not real excited about putting a warning on. As an industry, we do not think it's necessary."

[From the Arkansas Democrat, Apr. 22, 1991]

Day 2: Risk to Health—Poultry Blamed for Health Problems

(By Jane Fullerton)

As the nation's appetite for poulty increases, critics point to an alarming array of health problems, ranging from a few days of nausea to life-threatening infection, caused by bacteria commonly found on poultry.

The increase in health problems, critics believe, not only threatens consumers, but the health of the poultry industry—Arkansas' largest industry and leading employer.

Ultimately, critics contend concern about the long-term health effects of bacteria related illnesses may leave the poultry industry vulnerable to consumer backlash. That could affect Arkansas, the nation's leading poultry producer.

Government and industry officials contend the health risk is exaggerated. Poultry products are perfectly safe, they say, if handled properly and cooked thoroughly.

But health researchers and industry critics point to these staggering statistics about salmonella:

It sickens up to 4 million Americans annually.

It kills up to 2,000 people each year.

It may hasten the onset of AIDS.

It is particularly threatening to infants and the elderly, groups vulnerable to illness.

It can cause short-term problems such as diarrhea or long-term problems such as arthritis.

It has been documented on 35 to 76 percent of chickens tested.

In addition, studies show campylobacter, another bacterium that causes many of the same health problems as salmonella, occurred in up to 83 percent of chickens tested from grocery stores. Nearly half the reported cases of campylobacter have been linked to poultry.

Several additional types of bacteria sometimes found on chicken can cause other problems, ranging from spontaneous abortions to meningitis. One of these bacteria has a higher death rate than botulism.

And new evidence indicates bacteria associated with food poisoning may hasten the onset of AIDS.

Food poisoning caused by salmonella and other bacteria can occur when eating raw or undercooked poultry and egg products, as well as other food products of animal origin. It also can occur when bacteria are transferred from the poultry to another surface, such as a kitchen counter.

Poultry industry officials downplay such problems, saying they can be controlled by conscientious consumers. While they acknowledge the potential for bacterial problems exists, officials contend the health threat can be eliminated through proper handling and cooking procedures.

"All you have to do, like your mother told you, is cook the dadgum thing," said John Tyson, vice chairman of operations for Springdale-based Tyson Foods. "Then the problem is solved."

INCREASES PARALLEL

But health reseachers and industry critics believe the jump in food-borne illness cases mirrors the increase in poultry consumption.

Salmonella reports rose 41.8 percent during the 1980s and leaped 116.4 percent between 1970 and 1989, according to the Centers for Disease Control in Atlanta.

Meanwhile, poultry consumption grew at a nearly identical rate of 41 percent during the 1980s. The per-capita amount of poultry eaten climbed from 17 pounds in 1940 to more than 85 pounds in 1989.

"The combination of chicken consumption increasing and salmonella cases increasing translates in my mind to a reasonable conclusion that contamination on chicken meat is a public health concern," said Dr. Morris Potter, a public health veterinarian with the CDC who served on a National Academy of Sciences committee examining the poultry inspection system.

Additionally, unpublished government studies have shown salmonella to be present in up to 76 percent of chickens after processing. The U.S. Agriculture Department officially says 35 percent of raw chicken is tainted with the bacteria, although no bacteria are allowed on cooked products.

Government and industry officials point out that salmonella is found throughout the environment—on people, on animals, in the soil, in the water, virtually everywhere.

Don Allen, executive vice president of the Arkansas Poultry Federation, said the salmonelaa issue has been blown out of proportion.

"There's not a lot of people that know anyone who's had salmonella poisoning," he said.

"We were raised on chicken and eggs," Allen said of his family. "Everyday I eat two eggs or more. I'd hate to think of how much chicken I've eaten. And none of us have ever had salmonella poisoning."

But industry critics and health officials warn the poultry industry could be hit hard if consumers realize the potential health threat of salmonella and other bacteria.

They note the consumer reaction to what health officials view as the less-threatening problem of food toxins. The consumer uproar about alar in apples led to a government ban on it use.

Compounding the situation is the projected growth of some of the populations most susceptible to the effects of food-borne illness—the elderly and those with immune deficiencies. Consequently, health officials believe the problem will grow.

"People for years have thought of it as a bellyache. It clearly is more than that," said Carol Tucker Foreman, a cosumer advocate and former U.S. assistant agriculture secretary in charge of meat and poultry inspection. The Arkansas native is the sister of Lt. Gov. Jim Guy Tucker.

CASES UNDERREPORTED

Salmonella is a bacteria common throughout the environment. The National Broiler Council, a Washington-based industry association, points out salmonella can be found in soil and water, as well as in the intestines and on the skin of humans, animals and birds. The bacteria's prevalence makes it difficult to pinpoint the source of salmonella or the number of cases attributable to poultry. But the National Academy of Sciences, in a 1987 report on poultry inspection, said "numerous epidemiological studies document a major role for broiler chickens as a vehicle for salmonellosis in humans."

The number of cases of salmonella—which first emerged as a public health problem in the 1940s—has grown steadily since the Centers for Disease Control began compiling national figures in 1960. That reflects the nation's appetite for poultry, which also has inceased steadily since the 1940s.

In 1960, there were 6,929 reported cases of salmonellosis, excluding the strain that causes typhoid fever. That figure grew to 22,096 cases in 1970 and to 33,715 cases in 1980. For 1989, the most recent statistics available, CDC reported 47,812.

What those figures don't reveal is the true number of salmonella infections. Health officials estimate the salmonella cases reported to the CDC represent about 1 to 5 percent of actual cases.

CDC officials estimate 800,000 to 4 million people contract salmonellosis each year. Most cases are neither diagnosed nor reported, they say.

While many people get sick because of salmonella, a few die.

In 1978, there were 79 deaths attributed to salmonellosis. By 1987, the most recent year for which statistics are available, the number of deaths had increased by 32.9 percent to 105.

However, health officials believe the number of salmonella deaths is greatly underreported. The CDC estimates the actual number of salmonella deaths to be between 1,000 and 2,000 each year, primarily striking the elderly and infants.

CAMPYLOBACTER RISK

In addition to salmonella, health officials are concerned about the rising incidence of campylobacter infections, first isolated in humans in 1972. Like salmonella, campylobacter primarily causes diarrhea, but can lead to more serious health problems.

The most recent CDC data covers the five-year period from 1982 to 1986. With 11 states participating in 1982, there were 4,031 campylobacter cases reported to the CDC. By 1986, 39 states reported 10,021 cases.

CDC officials report most campylobacter cases are related to raw or undercooked poultry. CDC studies found handling raw poultry, as well as eating poultry, was a risk factor.

The National Academy of the Sciences' report said studies of chickens in grocery stores found campylobacter on 12.5 to 82.9 percent of chickens tested.

Campylobacter "has been found at many points during slaughter and processing, and a signficant proportion of the broiler chicken carcasses available for retail sale carry the microorganism," the report said.

"Epidemiological studies suggest that at least 48 percent of campylobacter cases are attributable to chicken."

For persons with immune deficiencies, food-borne illness poses a serious health threat. As more people live longer with AIDS, "food-borne agents will play a greater role in the premature termination of life," the FDA's Douglas Archer said at a February 1990 meeting of the American Association for the Advancement of Science.

"There is reason to believe that infections with bacterial and viral agents, including some associated with food, may actually hasten the progression of HIV infection to AIDS," he said.

Archer noted the Department of Health and Human Services has a goal by the year 2000 to decrease the incidence of four food-borne bacteria—salmonella, campylobacter, listeria and E. coli. All four are found on poultry products.

BACTERIA AND TOXINS

The problems associated with common bacteria pose a more serious health threat to the American public than the problems associated with toxins, pesticides or chemicals in their food, said the CDC's Morris Potter.

For instance, Potter said, when consumers believed alar in apples threatened their health, they stopped buying those apples and grocery stores started selling alar-free apples.

Ultimately, the Environmental Protection Agency banned the use of alar.

Issues like alar elicit a greater response from the public because they represent an unknown health risk, Potter said. Diarrhea, on the other hand, is something people are familiar with.

"I think there are all kinds of reasons why people should be more concerned about salmonella as compared with toxins," he said. "We can show them bodies of people injured by plain ol' bacteria. But it's hard to show them damage from eating alar apples."

Rodney Leonard agreed. He is a former Agriculture Department official who oversaw the inspection system and now heads the Community Nutrition Institute in Washington.

People will take the issue of bacteria-contaminated food more seriously when they realize the ramifications for their health, Leonard said.

"Once the middle class realizes if they have food poisoning, they may end up with arthritis or some other problem," he said, "they're going to turn on this with a vengeance."

POULTRY FACTS

In 1962, 4.361 billion pounds of broiler chickens were slaughtered, with 15.2 percent cut-up and 2.0 percent further processed. In 1987, 15.502 billion pounds of broilers were processed, with 56.8 percent cut-up and 22.1 percent further processed.

In 1960, 79.8 percent of broiler chickens were produced in the South. By 1989, the South's share grew to 87.4 percent.

The leading poultry and egg producing states are: Alabama, Arkansas, California, Delaware, Georgia, Maryland, Mississippi, North Carolina, Pennsylvania, Texas and Virginia.

In 1988, Arkansas farmers could produce 4-pound broiler chickens in six weeks on less than 2 pounds of feed per pound of live weight. In 1935, it took 16 weeks to produce a 2.9 pound broiler, and 4.5 pounds of feed per pound of live weight were needed.

Broiler chicken production increased from 34 million in 1934 to about 6 billion in 1990. Output increased in all but five of the past 50 years, with significant increases since 1975.

More broilers currently are produced in a single day than the entire annual output in 1930.

The number of U.S. farms producing broiler and other meat-type chickens dropped from 42,185 in 1959 to 27,645 in 1987. At the same time, output rose from 1.4 billion birds in 1959 to 4.4 billion in 1987.

Farms raising at least 100,000 birds increased from 2,254 in 1959 to 14,473 in 1987. Those farms captured 93 percent of total sales in 1987.

Poultry housing units are becoming increasingly automated and climate-controlled. Such housing improvements—combined with better breeding, feeding and disease-control—have cut broiler chicken production time by two weeks in the past 10 years.

A typical broiler chicken house is roughly 40 feet by 400 feet, or about 16,000 square feet, containing 20,000 birds.

In 1960, there were 286 firms selling commercially raised chickens to retailers. In 1989, there were 48.

In 1960, the 20 largest companies controlled 47 percent of the industry's output. In 1990, the 20 largest companies had 79.3 percent of the market, while the eight largest had 56.6 percent. The four largest companies—Tyson Foods Inc., ConAgra Inc., Gold Kist Inc. and Perdue Farms Inc.—produced 41.2 percent of the chicken sold in the United States.

In 1989, Arkansas' cash receipts from poultry and eggs totaled $1,888,624,000—accounting for 12.6 percent of the nation's total poultry recipts.

In Arkansas, that accounts for 46.9 percent of the state's total farm receipts. Of that total, 78 percent comes from broiler chickens, 12 percent from eggs, 9 percent from turkeys and 1 percent from chickens other than broilers.

POULTRY INSPECTION IN THE UNITED STATES

1906: The Meat Inspection Act is passed.

The law followed the uproar over Upton Sinclair's expose on the meatpacking industry, The Jungle. It did not cover poultry inspection.

1926: The Federal Poultry Inspection Service is established.

The voluntary inspection program, begun in the New York City area, was designed to help localities in their inspection programs.

1957: The Poultry Products Inspection Act is enacted.

It was the first federal law mandating poultry inspection and covered products destined for interstate commerce. The law called for inspection of birds before and after slaughter, inspection of plant facilities and inspection of imported products.

1968: The Wholesome Poultry Products Act is passed.

If amended the 1957 law to require inspection for virtually all poultry sold to consumers, including products not covered under the previous law.

The law did not make significant changes in the poultry inspection process. A 1987 study by the National Academy of Sciences reported no major changes have been made in poultry inspection laws since 1968, despite the more than tripling of the pounds of poultry inspected.

1989: The U.S. Department of Agriculture withdraws plans for a revamped poultry inspection system.

The "Discretionary Inspection" proposal would have required amending the federal laws that mandate every bird to USDA inspected. The self-regulating plan would have turned over much inspection responsibility to the poultry industry, with federal inspectors overseeing the process. It also would have allowed line speeds up to 182 birds a minute—twice as fast as current speeds.

1989: In October, the USDA announces plans to implement a new approach to poultry and meat inspection, the "Hazard Analysis and Critical Control Point System."

A two-year study of the plan begins, including public hearings, workshops, testing and evaluation.

1991: The USDA continues studying the new inspection program.

Following the study, which is more than half complete, the USDA plans to implement the program in poultry and meat plants during the next several years.

The poultry industry praises the program as the basis for a more scientifically sound processing and inspection system. But industry critics and consumer advocates fear the program may result in less regulation of the meat and poultry industries.

[From the Arkansas Democrat, Apr. 22, 1991]

Care in Cooking Reduces Possibility of Food Poisoning

(By Jane Fullerton)

While the feathers fly about the safety of the nation's poultry supply, consumers may reduce their risk of contracting bacteria-related illnesses with thorough washing and cooking practices.

Most health officials agree consumers can help protect themselves from salmonella, campylobacter and other bacteria by taking common-sense steps when preparing poultry: thorough washing of hands and utensils will reduce the possibility of cross-contamination, while thorough cooking will kill the bacteria.

However, some consumer advocates question the adequacy of washing as a means of getting rid of salmonella from raw poulty. They point to a Dutch study, among others, showing this practice had virtually no impact on salmonella transferred to other surfaces during cooking preparation.

Critics contend much of the poultry processed in the United States is contaminated with salmonella or campylobacter—bacteria that can induce illness and, in rare cases, death.

The U.S. Department of Agriculture acknowledges more than a third of poultry is contaminated with salmonella, but unpublished USDA studies put the figure as high as 76 percent.

The National Academy of Sciences reports studies showing campylobacter on up to 82.9 percent of chicken in grocery stores. Poultry has been cited as causing nearly half of all reported campylobacter cases.

COMMON MISTAKES

In an April 1990 memorandum, officials with the federal Centers for Disease Control listed the three most frequent problems contributing to food-borne illnesses, such as from salmonella and campylobacter. They are:

Eating raw or undercooked food from animal sources.

Contaminating other foods with the juices or drippings from raw meat, poulty, shellfish or eggs.

Leaving potentially contaminated foods for extended periods of time at temperatures that permit bacteria to grow.

Read and follow label instructions to "keep refrigerated" or "use by" a certain date.

If in doubt, throw it out.

For further information on food safety, contact the USDA's Meat and Poultry Hotline at 1-800-535-4555. A USDA home economist will answer questions Monday through Friday from 9 a.m. to 3 p.m. CST.

However, taking these precautions may not be enough, poultry industry critics contend.

Rodney Leonard, who oversaw the Agriculture Department's inspection service during the Johnson Administration, acknowledged poultry can not be completely free of bacteria.

But the industry could take steps to reduce bacteria, said Leonard, who now heads the Community Nutrition Institute in Washington.

"To prepare poultry, you have to take almost the same precautions as a surgeon has to take to prepare for surgery," he said. "And even then you can't really protect yourself."

Leonard cited a 1978 Dutch study showing that efforts to destroy salmonella by washing were not effective. The study found salmonella had transferred throughout the kitchen—to the counters, the sink, the cutting board, the salt shaker, the door handle.

"What it shows is that there is no safe way to prepare poultry," he said.

Department of Agriculture studies also have found washing—even 40 times—does not adequately remove bacteria from birds during processing.

Meanwhile, studies have shown campylobacter also can spread throughout the kitchen during food preparation.

In addition, the National Academy of Sciences reports campylobacter illness has been caused simply by handling raw chicken.

Leonard previously told consumers to follow safe cooking and handling procedures, but his advice has changed.

"Don't eat poultry," he said. "That's the only way you're ever going to convince the industry to take steps to make sure the American food supply is as clean as possible."

The National Broiler Council points out salmonella is found on other raw meat products and is widely prevalent in the environment:

"Today's poultry is safer and more wholesome than it has ever been, and our nation's food supply is the most abundant and least expensive in the world."

Such assurances offer no comfort to Leonard, who has given up on the meat.

"I love it," he said, "But I won't eat it".

The National Broiler Council agrees with that assessment. "By cooking foods properly and exercising good food handling practices, the consumer can eliminate the potential for any problem that may arise from the presence of salmonella in raw food products," the Washington-based industry group states in guidelines for handling poultry products.

LOWERING THE RISK

These steps are encouraged when handling raw poultry products, whether chicken, turkey, or other fowl:

Thoroughly wash the raw bird.

Poultry should be cooked well-done, not medium or rare, to an internal temperature of 180 degrees Fahrenheit. Use a meat thermometer to check the temperature. When poultry is cooked properly, the meat should not be pink and its juice should be clear, not pink.

Wash everything that comes in contact with the raw poultry—your hands, the cutting board, the knife, other utensils, counter tops. Use hot, soapy water. You also may want to use a diluted chlorine solution.

Consider using separate cutting boards for meats and vegetables. Some studies show salmonella can live for up to six months on a wooden cutting board. Or cover your cutting board and counters with a protective covering like waxed paper, which can be discarded after use.

Use caution to ensure the raw bird does not come in contact with other foods in the grocery bag, in the refrigerator or on the counter. Thoroughly wash any foods that might have touched the poultry.

If cooked poultry is not eaten immediately, it should be stored either hot, between 165 and 212 degrees Fahrenheit, or in the refrigerator at 40 degrees Fahrenheit or below. Cooked poultry should not be left at room temperature for more than two hours.

Do not defrost poultry at room temperature. Thaw it in the refrigerator or in cold water. It also can be defrosted in a microwave oven, following the manufacturer's guidelines.

NUTRITIONAL COMPOSITION OF CHICKEN

Cut	Protein		Calories		Total fat		Cholesterol		Sodium		Iron	
	Grams	Percent	Amount	Percent	Grams	Percent	Milligram	Percent	Milligram	Percent	Milligram	Percent
Whole	23	51	134	7	4.1	6	76	25	73	2	1.0	6
Breast	24	53	116	6	1.5	2	72	24	63	2	.9	5
Wing	23	51	147	7	5.6	8	72	24	78	2	1.0	6
Drumstick	23	51	131	7	3.8	6	79	26	81	2	1.1	6
Thigh	21	47	152	8	6.7	10	81	27	75	2	1.1	6

All figures are for a 3-ounce, baked, skinless serving.

[From the Arkansas Democrat, Apr. 22, 1991]

SALMONELLA STRIKES U.S. WALLETS

(By Jane Fullerton)

As salmonella and campylobacter infections affect millions of Americans, the resulting economic effect totals more than $2 billion annually.

U.S. Department of Agriculture studies estimate society's cost from salmonella and campylobacter—from all sources—to be more than $1 billion each every year.

Tanya Roberts, an agricultural economist with the USDA in Washington, reached the figures by calculating a wide range of costs of individuals, the food industry and health agencies.

Her figures include salmonella and camplylobacter from all sources, not just poultry.

Roberts' research showed the total annual cost for salmonella cases ranged from $983 million to $1.36 billion. She found the average cost of a salmonella case to be $700.

For campylobacter, the result was slightly higher with an estimated annual cost of $1.47 billion.

To calculate the costs, Roberts took into account such factors as: medical costs, income or productivity loss, pain and suffering, leisure time costs, child care costs and travel costs.

She also considered public health costs for disease surveilliance, outbreak investigation and cleanup.

However, the figure excludes several costs which could be significant. They include chronic health problems, lowered productivity of poultry before slaughter and legal liabilities for food-borne illness.

POULTRY FACTS

Arkansas ranks first in the nation in broiler chicken production, fourth in turkey production and sixth in egg production.

Per capita consumption of all poultry increased from 17 pounds in 1940 to 85.3 pounds in 1989. It may reach 110 pounds by 1995, while chicken consumption alone could hit 95 pounds by 2000.

As a percentage of total meat consumption, poultry increased from 11 percent in 1940 to 34 percent in 1989, with a corresponding decrease in red meat (beef, pork, lamb and veal) as a percentage of total consumption.

Broiler chicken output, under population growth assumptions, would have to increase nearly 10 percent from 1987 to 2000 simply to maintain the current per capita consumption level. A 4 percent annual increase in consumption suggests a need for more than 70 percent production expansion by 2000.

The amount of broiler chicken meat condemned by USDA Inspectors grew from 2.7 percent in 1965 to 4.0 percent in 1970, then declined to 1.8 percent in 1987. Lower condemnation rates resulted in higher percentage yields during the 1980s than during the 1970s.

Per capita consumer expenditures for poultry have more than quadrupled during the past 30 years, from $14.84 in 1955 to $63.85 in 1986.

Consumers can now buy chicken for less than half of what they paid 30 years ago if prices are adjusted for inflation. The adjusted price has gone from 68.8 cents a pound in 1955 to 22.9 cents in 1987.

In 1988, the average price per pound for chicken was 85 cents. For choice beef the price was $2.55, while pork cost $1.83.

During the past 30 years, consumers have responded to a 10 percent decline in the real price (adjusted for inflation) of retail chicken with a 13-percent increase in per capita consumption.

About 50 percent of chickens reach consumers, through grocery stores. Restaurants market more than 40 percent. The rest are exported or used for pet food.

About 25,000 nonpoultry fast food outlets have added chicken to their menus since 1977.

In 1962, more than 80 percent of chickens were sold whole. Another 15 percent were sold as cut-up parts. Less than 2 percent were further processed into prepared products—cooked, deboned, filleted, ground, smoked or formed into a product such as patties or nuggets.

By 1990, about 18 percent of chickens were sold as whole birds. Cut-up parts increased to 56 percent, while 26 percent were further processed.

The volume of cut-up chicken parts increased tenfold after 1962. The volume of further-processed chicken products expanded even faster, growing from 87 million pounds in 1962 to nearly 2.4 billion pounds in 1985. That represents a 27-fold increase in 23 years.

Nationwide, cash receipts from poultry and eggs totaled more than $15 billion in 1989.

[From the Arkansas Democrat, Apr. 23, 1991]

PROCESSING TASKS TAKE PAINFUL TOLL

(By Jane Fullerton)

When Betty Smith comes home after eight hours of trimming the cuts and bruises from chicken carcasses, she tends her own injuries.

Smith's hands and arms ache, numbed from repeating thousands of motions every day while working in a Northwest Arkansas poultry plant.

To ease the pain, she soaks her hands and arms in hot vinegar or alcohol. Then she rubs them with medicated ointment and wraps them in cloth bandages for the night.

Despite such meticulous care, when she awakens for another day on a chicken processing line, her hands remain swollen from the previous day's work.

Smith's story is becoming increasingly common among the tens of thousands of workers in poultry plants in Arkansas—the nation's leading poultry state—as well as plants across the country.

Injuries like hers, as well as other problems, are on the rise:

More than one of every five poultry plant workers—22.8 percent—suffer on-the-job injuries, according to the U.S. Department of Labor's Bureau of Labor Statistics.

Working in a poultry plant ranks as the 28th most dangerous occupation in the nation for job-related injuries and illnesses. That tops jobs in mining, farming and construction.

In Arkansas, the state Workers' Compensation Commission ranks food manufacturing—which includes the sizable fields of poultry slaughtering and processing—as the state's most hazardous industry. It's a distinction the food industry has maintained for at least the last decade.

The Occupational Safety and Health Administration has cited at least six poultry companies nationwide for employee safety violations since 1989.

For repetitive motion disorders, like those experienced by Betty Smith, the poultry industry trails only the meatpacking industry in the number of injured workers.

Like many other poultry plant workers, Smith puts up with this for a simple reason: She needs the job.

Because she fears losing her job with Peterson Industries in Decatur (Benton County), Smith did not want her real name used.

Despite their dangerous jobs, workers like Smith—who spend their days performing nasty tasks like pulling intestines from wet chicken carcasses—are rewarded with one of the smallest paychecks in the food manufacturing industry.

The Labor Department recently showed poultry workers earned an average of $6.87 an hour. That was the lowest among meat products workers, who averaged $8.02. All food manufacturing workers averaged $9.77 an hour.

Statistics also show poultry workers aren't sharing in the industry's financial prosperity and remarkable growth.

The retail price for chicken has risen twice as fast as the wages paid to poultry workers, according to a 1989 report on the poultry industry by the Institute for Southern Studies, a non-profit North Carolina public policy organization.

The report showed poultry workers in 1960 received 2.6 cents of the 43 cents a pound chicken brought at the grocery store.

By 1980, the retail price jumped 40.3 percent to 72 cents a pound, but the workers' share increased only 21.2 percent to 3.3 cents.

But the industry contends it provides jobs and opportunities the workers might not find elsewhere.

"I think we're able to offer an opportunity to folks to come in and have a permanent job and grow with the company and accumulate a capital base," said John Tyson, vice chairman of operations for Tyson Foods. "We give folks a chance to get some things in life that some other industries don't."

HAZARDOUS JOB

Industry critics compare the poultry workers' situation to another era.

"Plant workers are treated like slave labor," said a federal poultry inspector who has worked in several Arkansas processing plants.

"They're like indentured servants," added Debbie Berkowitz, director of health and safety for the United Food and Commercial Workers Union in Washington.

Betty Smith agreed: "They don't treat the people all that well."

But she will continue trimming the carcasses and wrapping her arms because, "Everybody right now needs their jobs."

After more than a decade at the Peterson plant, performing virtually every task on the processing line, the job Smith fears losing pays $6.20 an hour.

For such wages, poultry plant workers remain on their feet for eight hours a day, with few breaks, as chickens fly past them at rates topping 90 birds a minute.

The duties of their decidedly unglamorous jobs include slitting open the birds' bodies from the anus to the breast and yanking out the intestines.

The temperatures in the plants vary from the extreme heat of the scald tanks and cooking ovens to the extreme cold of the chill tanks and freezer units.

The hazards of such work are many, ranging from minor finger cuts to irritating skin rashes to chronic hearing loss.

And a growing number of poultry plant workers are experiencing the often permanent and disabling injuries associated with repeating the motions of their jobs more than 10,000 times a day.

"Every person that works in a poultry plant ought to have a front seat in heaven right next to God because they've been through hell on Earth," said Benny Dollar, president of United Food and Commercial Workers Local 425 in Little Rock.

INDUSTRY REPLIES

The poultry industry is sensitive to such criticism.

Industry leaders acknowledge the business they run includes certain hazards for workers. But, they contend, they do all they can to ensure a safe working environment.

Such practices are not only in the workers' best interest, but theirs as well, they point out. Healthy workers are more productive—and more profitable.

"The industry has been very responsive and worked very hard," said Dr. Ken May, former head of Holly Farms' chicken division and now a consultant to the National Broiler Council, a Washington-based industry advocate.

"I think it's safe now, but the industry is working to make it safer," he said. "They're not going to abuse employees because they need them. They're part of the family."

Aubrey Cuzick, a group vice president for one of Tyson Foods' four poultry divisions, agreed.

Employees, he said, are vital not only to the productivity, but the profitability of the company. He noted that Tyson, for instance, thanked its hourly employees with across-the-board 3 percent bonuses last year.

MOTION DISORDERS

Health officials, industry critics and the workers themselves believe the primary problem faced by poultry workers is the repetitive nature of their jobs. The repeated motions caused by cutting, slicing or trimming with knives and scissors can leave them with permanent and sometimes crippling disorders.

Repetitive motion problems—disorders such as carpal tunnel syndrome, tendonitis and tenosynovitis—strike not only poultry workers, but other assembly line workers who repeat the motions of their jobs quickly and frequently.

Poultry workers often repeat their tasks in less than 30 seconds, which adds up to hundreds or thousands of motions a day.

Other workers whose jobs put them at risk for repetitive motion problems include those who use computer keyboards, such as telephone operators, newspaper workers and data entry personnel.

The problems occur when muscles swell in the arms, wrists, hands or fingers, exerting pressure on the enclosed nerves. The result can be numbness, tingling or soreness with the eventual loss of dexterity of gripping ability if left untreated.

NUMBER OF CASES GROWS

The U.S. Labor Department reports repetitive motion disorders are the fastest growing category of job-related illness. The poultry processing industry has the second highest rate of cases.

In 1988, the industry reported 307.0 cases per 10,000 workers, according to the federal Bureau of Labor Statistics. By 1989, that number had grown to 527.7 cases.

In Arkansas, repetitive trauma disorders accounted for 65.8 percent of job-related illnesses in 1989, according to the Workers' Compensation Commission. That was an increase from 59.9 percent the previous year.

Although reporting has improved, some industry critics and health officials believe the actual number of cases may be higher because not all cases are diagnosed or reported.

"In general, it's a significant problem. In almost every industry, its there," said Tom Cochran, an ergonomist with the Occupational Safety and Health Administration in Washington. "In the poultry industry, there are high incidence rates of it."

Ergonomics is the science that seeks to adapt working conditions to suit workers. Cochran, one of three ergonomists at OSHA, has toured several poultry plants.

A former worker at Tyson's plant in Dardanelle (Yell County) began to notice the symptoms about four months after she started. She eventually saw a company-approved doctor who recommended wrist braces and light duty.

"It helps," she said of the lighter work detail. "But it don't make it go away. You go back to using the scissors, and it comes right back."

A worker at a Tyson plant—formerly Holly Farms—in Wilkesboro, N.C., had surgery on both hands for carpal tunnel syndrome, the most serious of several conditions caused by repeated trauma.

"I was back on the lines about 45 minutes after they finished with me," she said. "When I had to pull the fat and cut the wings, it hurt because I felt like I might be pulling my stitches."

A worker at the Peterson plant in Decatur said when he saw a doctor, who was approved by the company, he told her not to work so hard.

"When you get it, you try to pick something up with your hands," she explained. "You can't hold it. Your muscles just give out on you."

Betty Smith, another Peterson worker, said she and other workers are reluctant to seek medical help for their repetitive motion disorders because they fear reprisal or job loss.

"If you see a doctor, then you're on that list," she explained. "They know everybody that complains."

INDUSTRY TRIES TO HELP

Poultry industry officials say the industry is addressing the problem of cumulative trauma disorders in several ways.

Workers who report problems to their plant nurse, many of whom are not registered nurses, receive treatments such as:

Soaking their hands or arms in hot wax or in ice;

Pain killers, such as aspirin or ibuprofen;

Vitamins, such as B6 or B12;

Wrapping their hands or wrists in cloth bandages;

Using braces to prevent their wrists from bending.

If the problem persists, workers may be referred to a company-approved doctor. In addition to those treatments, they may receive steroid injections or undergo surgery.

Some plants also have begun rotating workers among jobs and conducting warm-up or strengthening exercises.

"We put a lot of emphasis and we're spending lots of dollars" on repetitive trauma problems, said Aubrey Cuzick, the Tyson vice president. "We really have come a long way on ergonomics."

However, both OSHA's Tom Cochran and the UFCW's Debbie Berkowitz criticized many of those treatments as ineffective.

In addition to the treatments, Cuzick said, Tyson has been actively working to reduce the number of repetitive trauma problems among its workers. At its plants in Green Forest and Berryville (both in Carroll County), for instance, the company is considering using electric knives to reduce the workers' motions.

During the company's recent stockholders' meeting, Tyson awarded its $5,000 "Grand Idea" prize to a worker from the plant in Waldron (Scott County) who redesigned a tool to reduce the repetitive motions needed to do the job.

But a worker at a former Holly Farms plant in Wilkesboro, N.C., who has had surgery on both hands for carpal tunnel syndrome, offered her own solution.

"If they prevented the mess, they wouldn't have to contend with it," she said.

LINE SPEED PROBLEM

The UFCW's Debbie Berkowitz contends repetitive trauma problems could be alleviated through simple measures: slower processing line speeds coupled with more and longer breaks.

She also advocates allowing workers to adjust their position and height to reduce strain as well as redesigning tools so they require less strain to use.

"In all the plants, the lines have speeded up, and there are fewer workers," Berkowitz said. "These people are doing too much work."

Tom Cochran, the OSHA ergonomist, offered a similar assessment.

"The real solution is to engineer the problems out," he said. "Reduce the repetitions, reduce the force and reduce the awkward postures."

Accomplishing that, he said, could mean slower lines or more workers.

"A lot of it is brought on by just pushing workers harder and harder and harder." he said.

In its industry report, the Institute for Southern Studies found poultry worker productivity increased 50 percent faster than productivity in other manufacturing plants.

The study showed that in 1960, each poultry worker produced an average of 50 pounds per hour. In 1987, each worker produced 138 pounds, a 176 percent increase.

In addition to repetitive trauma disorders, poultry workers face other hazards. Industry workers and observers cite these:

Cuts from the knives and scissors that are integral to the jobs.

One Arkansas worker needed stitches twice after cutting her fingers. "I have kind of missed the chicken liver a time or two," she said.

Other workers have lost fingers and arms to the blades and saws used to process poultry.

Exposure to temperature extremes.

Workers, who often wear thermal underwear year-round, say they have seen cases of hypothermia brought on by the cold temperatures.

A former Arkansas worker said she recently quit her job primarily because of the cold temperatures.

"I've seen it go down to right at freezing," she said. "They're supposed to keep it 50 degrees, but they don't keep it anywhere near there."

Dave Cochran, the OSHA ergonomist, noted cold temperatures also contribute to repetitive trauma disorders.

Constant wet conditions.

The wet conditions create slippery floors and compound problems from the cold temperatures.

Exposure to chemicals used during processing and refrigeration, including chlorine, ammonia and carbon dioxide.

One worker described the condensation that can form and drip on workers as well as chickens from overhead ammonia pipes.

"It just scares me knowing it's overhead," she said.

Exposure to the birds and their blood can cause skin problems, such as rashes and warts.

One Arkansas worker recounted the rash she had between her fingers: "Chicken itch, that's what they call it. It's real red, and it's irritating."

Exposure to high noise levels.

Repeated exposure to high noise levels can cause hearing loss.

COMPLAINTS OF ABUSE

Besides health and safety problems, poultry plant workers in Arkansas and elsewhere say they have been treated poorly by plant management.

Among the instances they cite:

Workers have been denied restroom breaks.

Because they work on a continuous processing line, workers cannot leave without someone taking their place. As a result, several workers recounted seeing others urinate on themselves.

"I've been refused bathroom privileges," said a worker who witnessed a woman urinate on herself. "But I never would let it get to that point. I'm too stubborn. I would've walked off the line."

Workers often see their breaks evaporate.

According to workers, observers and managers, most plants offer two unpaid 30-minute breaks per eight-hour shift. Workers usually receive one other 10-minute break.

They also are to receive emergency breaks when needed. But some workers say they have been refused emergency breaks, which are given at the discretion of the supervisor.

Company officials say that if an employee needs to leave the processing line for an emergency, they will accommodate the worker.

One woman, whose duties include filling in while workers take their breaks, said workers at her Arkansas plant are allowed about six to 10 minutes.

"If they need emergency breaks, we see to it they get it," she said.

Workers have fainted or become ill when they were not allowed to leave the processing line.

HORROR STORIES

Some of the most graphic accounts come from workers at Perdue Farms plants in North Carolina. The Maryland-based company is the nation's fourth largest poultry processor.

One former Perdue worker submitted a sworn affidavit to Congress on Nov. 16, 1989, recounting instances where workers had vomited on the processing line, urinated on themselves, lost fingers to processing equipment or were sexually harassed.

In her affidavit, Donna Bazemore, now an organizer with the Center For Women's Economic Alternatives in Ahoskie, NC., also related this experience:

"Another time a woman who had been complaining of headaches wasn't allowed to leave the line. She passed out and died right there on the line, or maybe she hit her head when she fell. I don't know.

Perdue officials were quick to reply. They sent their own statement to Congress, along with two sworn affidavits from company officials rebutting specific incidents cited by Bazemore.

They called Bazemore's charges "scurrilous," as well as "misleading, false and exceptionally damaging to the high quality standards and reputation maintained by Perdue Farms."

The Goverment Accountability Project, a Washington-based government watchdog and whistleblower advocate, supplied five additional affidavits to support Bazemore's charges of unsanitary conditions and worker abuses. Two of those affidavits came from Agriculture Department inspectors who worked at the plant with Bazemore.

In a sworn affidavit filed in January 1990, plant worker Marion White recounted her experiences with Perdue since 1987. She described her problems with carpal tunnel syndrome that led to surgery. At age 33, she said she has lost much use of her right hand.

White said she had been denied restroom breaks. "As a result, I've messed myself and the floor up sometimes. Lots of girls have, but few like to admit it. It's so horrible."

White also explained why she continued working under conditions she characterized as "modern slavery."

"Since many single mothers like myself can't support our families on the minimum wage jobs that are the only other choice, and we don't want to go on welfare, we do what we're told. That's the rule. You can't defend yourself, let alone the public health."

BELOW-AVERAGE PAY

Compounding the health and safety risks faced by poultry plant workers are the wages they earn.

Poultry industry critics and observers contend it is not coincidental the industry is centered in the South, with plants frequently located in economically depressed, rural areas.

In Arkansas, the hourly wages paid to poultry workers fell below the state's average hourly manufacturing wage of $8.26 in 1989. That figure was well below the national average of $10.47.

In its 1990 industry directory, the Arkansas Industrial Development Council reported the average earnings of the state's food manufacturing workers at $6.53 an hour.

A more specific breakdown that would provide an average hourly wage for the poultry industry is not available from the state. However, recent national figures show poultry workers earned from $6.69 to $6.87 an hour.

"They prey on those people who have to work under those conditions," said Bruce Blevins, an official with a North Carolina Teamsters union striking several former Holly Farms plants * * * Benny Dollar noted many residents in poultry producing areas who have higher levels of education do not work in the processing plants.

"If there were both jobs in the area, they would take them," he said. "They're not working in those poultry plants because they want to."

Some workers agreed with that assessment.

"It's not fun," said one Arkansas worker. "I'm there for the pay. I'm there to make money, or I wouldn't be there at all."

The Little Rock-based Women's Project spent six months in 1989 researching the state's poultry industry and talking with plant workers.

"Because plants are located in economically depressed areas, there is always a constant supply of low-income people eager for work; consequently, the plants maintain an economic stranglehold on the area and manage to place any requirements they wish on workers," the group said in a report not previously released in Arkansas.

"The $5 an hour they pay, while little more than subsistence wages, are accepted by local workers because job opportunities of any kind are so few."

The comment of one worker who spoke with the Arkansas Democrat paralleled what the Women's Project found: "For the area we live in, our pay rate is about as good as any job for the education we have."

INDUSTRY OFFERS JOBS

The poultry industry has a different viewpoint. Industry leaders emphasize they offer competitive wages and plentiful jobs in areas that otherwise might not have either.

"We've been able to go in . . . and stabilize an economic area," said John Tyson. "It's the subtle stabilization of an agricultural area."

Politicans in Arkansas frequently recite the industry statistic that one of every 12 members of the state's work force depends on the poultry industry for a job.

In Arkansas, 84,000 people are directly employed in the poultry industry with an annual payroll of approximately $1.3 billion, according to the Arkansas Poultry Federation.

Tyson Foods is the state's largest employer. Five other poultry companies also are among the state's 30 largest employers.

With related businesses, family members and contract farmers included, the poultry federation estimates more than 200,000 Arkansans—about 8.5 percent of the state's population—depend on the poultry industry for their livelihood.

However, the industry also has an unusually high turnover rate. At Tyson's Green Forest plant, for instance, the 1990 turnover rate was 92 percent, said Aubrey Cuzick.

According to the Arkansas Poultry Federation, the average poultry company employee in Arkansas earns "in excess of $17,500," before taxes, including benefits such as health insurance.

For the first six months of 1990, the latest figures available, the state Employment Security Division found poultry workers earned an average $300.50 a week, or $15,626 a year, before taxes. For 1989, the weekly figure was $296.24.

The poultry federation also says more than 4,000 new poultry industry jobs have been created in the past year. Don Allen, the federation's executive vice president, pointed to four construction projects currently under way that will add 2,000 new jobs.

Further, the poultry federation states in its literature, "More and more of them are higher-paying jobs, requiring some college, or college degrees, and offering greater opportunities for young Arkansans than has been the case in the past."

In addition, eight of the top 10 poultry producing counties in Arkansas fall in the lowest half of county unemployment rankings. Benton and Washington counties, the top two poultry producers, have the lowest unemployment rates in the state with 3.1 percent and 3.3 percent, respectively, according to Employment Security Division figures for November 1990.

"There's not a rural person in this area that's not positively impacted by the poultry industry," said Mark Simmons, chief executive officer of Simmons Industries, based in Siloam Springs (Benton County).

The UFCW's Benny Dollar acknowledged the employment statistics. But, he contends, if the poultry industry weren't supplying those jobs, somebody else would.

"If it wasn't here, there would be another industry that didn't maim and lame people," he said.

Some industry critics contend wages and working conditions could be better if more poultry workers were represented by unions.

In its report, the Institute for Southern Studies found fewer than a fourth of poultry workers are unionized.

In Arkansas, the UFCW has waged battles in several plants and lost several certification votes. Currently, the UFCW represents workers in about a dozen plants.

The poultry industry generally has opposed unions among its workers.

For instance, a 1983 dispute between workers at Tyson's plant in Nashville (Howard County) and the UFCW culminated with union pickets outside McDonald's restaurants. That plant is a major supplier of Chicken McNuggets.

McDonald's threatened to stop using Tyson as a supplier, while Tyson threatened to lay off workers if the pickets didn't stop. Ultimately, Tyson retained the McDonald's contract, but more than 225 workers were laid off.

In a separate incident, when Tyson purchased Holly Farms in July 1989, negotiations were under way with the Teamsters Local 391 representing long-haul truck drivers at the Wilkesboro, N.C., plant.

On Oct. 1, 1989, the union went on strike against seven plants in North Carolina, Virginia and Texas. Nearly a dozen union members attended Tyson's stockholders' meeting in February, passing out handbills and seeking negotiations.

Meanwhile, the union has called for a boycott of all Tyson and Holly Farms products.

Tyson is only one of several poultry companies that discourage unions.

"We don't think we need a third party to commnicate between workers," said Mark Simmons. "We go to the trouble to communicate well enough to handle our problems—and do that well enough to not need the interference of a third party."

According to the Institute for Southern Studies report, Frank Perdue, president of Maryland-based Perdue Farms also has resisted unions.

The group's report said Perdue once turned to the Mafia to help open new markets during a union boycott of his products. Perdue recounted his experience in a 1985 deposition to the President Commission on Organized Crime.

LIMITED CHOICES

Fear of losing their jobs is common among Arkansas' poultry plant workers. As a result, many are unwilling to talk about the problems they experience, either publicly or anonymously.

Many speak of their jobs with a tone of resignation.

"I'm not unhappy with my job," said a 14-year veteran of two Arkansas plants. "I just keep thinking I could be better."

A former worker at Tyson's plant in Waldon expressed the feelings of many workers who spoke with the Democrat.

"It wouldn't been all right, but every day it get faster," she said. "Every day they demand more out of you for the same amount of money."

When she felt the conditions were too damaging to her health, she choose to leave. But, she said, many others don't have that choice: "There's a lot of people that can't get out of there."

LOWERING RISK IN COOKING POULTRY

These steps are encouraged when handling raw poultry products. For further information, contact the USDA's Meat and Poultry Hotline at 1-800-535-4555. The phone is answered from 9 am. to 3 p.m, CDT on weekdays.

Thoroughly wash all types of raw poultry.

Cook well-done to an internal temperature of 180 degrees (meat should not be pink).

Use hot, soapy water to wash everything that comes in contact with raw poultry (hands, counter tops, utensils, etc.)

Use separate cutting boards for meat and vegetables (salmonella can live six months on a wooden cutting board).

Keep raw poultry from contact with other foods in grocery bag, refrigerator or counter.

Store cooked poultry either hot (165–212 degrees Fahrenheit) or cold (below 40 degrees). Do not leave at room temperature for more than two hours.

Thaw in refrigerator, cold water or microwave, not at room temperature.

Follow "keep refrigerated" or "use by" certain date labels.

If in doubt, throw it out.

[From the Arkansas Democrat, Apr. 24, 1991]

Day 4: Risk To Farmers—Farmers Describe Barely Scratching Out a Living

(By Jane Fullerton)

For nearly a quarter-century, Mary Jones raised chickens for Tyson Foods.

In 1989 the Howard County woman lost her poultry contract—and her livelihood—when she could not afford the $30,000 in equipment improvements required by the company.

Now the widow subsists on a $317 monthly Social Security check.

Jones is among the contract farmers serving Arkansas' poultry companies who contend they are locked into an impoverished system reminiscent of the Middle Ages and locked out of the industry's prosperity as it catapults toward the 21st century.

Rather than being tied to their land like the serfs of another era, some contract poultry farmers say they are indentured through short-term contracts, long-term debts and sub-minimum wages.

To grow birds for a poultry company in Arkansas, or elsewhere, farmers must be willing to:

Invest tens of thousands of dollars in state-of-the-art automated chicken houses and equipment, often by mortgaging their homes or farms.

Sign a contract with the company that guarantees them only one flock of birds at a time, about two months' worth.

Expect pay that sometimes amounts to less than the $4.25 hourly minimum wage.

"I'm losing several thousand dollars a year," said a Tyson farmer. "Some growers say that they make a little bit. But nobody's making enough to live on."

And if they complain about the low wages or try organizing an association, the farmers contend the companies will simply cut them off. That would leave the farmers saddled with empty chicken houses and massive debts.

The growers' fears are based on the knowledge that several companies—including Springdale-based Tyson Foods Inc., El Dorado-based ConAgra Inc. and Cargill Inc., which has Arkansas operations—have been accused of wrongdoing involving their contract growers.

The federal government accused Tyson, in the 1960s, and Cargill, in the 1980s, of blacklisting growers and terminating their contracts for organizing producers' associations.

ConAgra recently lost one lawsuit and settled two others out of court for falsifying poultry weights and terminating contracts. A jury awarded growers $17 million in damages in one case.

In addition, at least two families currently are suing Arkansas companies—ConAgra and Peterson Industries of Decatur (Benton County)—for what they contend are unfair practices.

Meanwhile, the contract system rewards the poultry companies with consistent profits and the consumer with inexpensive poultry.

The industry contends the contract system amply rewards growers with guaranteed paychecks and bonus incentives—and some growers agree.

Poultry company officials dispute the assessment of disgruntled farmers, saying the occupation offers good financial opportunities in an unstable agricultural economy.

Growers would only be let go as a last resort, company officials say, and only for a justifiable reason.

Industry officials say the contract system provides a grower with a steady paycheck protected from market uncertainties, while the company absorbs the cost of the birds and accepts the fluctuations of the marketplace.

Additionally, industry officials point out the most efficient growers are rewarded with bonuses.

Dr. Ken May formerly headed Holly Farms' chicken operations and now serves as a consultant to the National Broiler Council, a Washington-based industry association.

May says the contract system has allowed farmers to build better homes and live better lifestyles. The difference is apparent, he says, in his home state of North Carolina as well as other poultry states, including Arkansas.

"What contracts did for farmers is it gave them a guaranteed income," he said. "They know if they put chickens in, they'll get paid."

FEAR OF RETRIBUTION

While the industry says farmers can earn a good living—some estimates indicate each house can earn a net profit of about $20,000 annually—some farmers say they earn much less.

One ConAgra grower borrowed $210,000 to build two chicken houses. Now he doubts he'll be able to repay his 10-year loan.

"I'm right on the verge of losing it," he said. "I don't see how we can sit here and work for nothing for 10 years. I just hope we can hold it together."

When Mary Jones lost her contract after her husband died, she worried about making ends meet.

"I didn't know how I was going to make it," she said. "I don't have as much money as I used to have. But you can get by on less when you have to."

Like most of the growers interviewed by the Arkansas Democrat, Jones did not want her real name used. Many farmers say they fear retribution from the poultry companies.

One who will talk is Frank Corley of Nashville (Howard County), who has grown chickens for Tyson for nine years.

"There's people throughout the state that are having it tough," he said. "But, man, they wouldn't tell you they was having it tough because they'd be scared they was gonna get cut off."

A former oil field worker, Corley finds himself a point man for a fledgling Southwest Arkansas group advocating reforms in the contract system. The Contract Poultry Growers Association and its 200 dues-paying members from Arkansas and surrounding states hope to make changes that will benefit poultry growers and poultry companies.

Previous efforts to organize such groups in Arkansas, dating back 30 years, met with little, if any, success. All of the companies involved refused to deal with the groups, none of which remain active.

"Our basic position is we deal with a grower on an individual basis," said Aubrey Cuzick, a group vice president who oversees one of Tyson's production divisions.

"NOT SHARING BONANZA"

The companies contend changes in the contract system are unnecessary because farmers can earn a good living by raising chickens and turkeys on contract.

Don Allen, of executive vice president of the Arkansas Poultry Federation, said his organization is not directly involved with contract growers.

But, he added, "If it was as bad as some of those folks say it is, I don't think they'd keep building (poultry) houses."

John Tyson, vice chairman of operations for Tyson Foods, said the contract agreement offers growers an opportunity few people have.

"They get that pleasure of being on the farm and living a lifestyle that's fast disappearing in America today," he said. "These folks get to enjoy a unique lifestyle that a lot of us would like to have."

But many growers say their lives are far from idylic. In addition to daily problems, they also are concerned about further concentration in an industry domninated by a handful of powerful companies.

"Fewer and fewer companies have more control over the poultry business," said a 20-year grower from El Dorado. "The more control they have, they can do us any way they want to.

"We're not sharing in the bonanza of the chicken business, and that's bad."

A study by the Texas Agriculture Department, released in January 1990, reached a similar conclusion. "Although the grower makes a substantial capital invesment and takes most of the risk, he or she is not sharing in the success of the industry."

Meanwhile, poultry farmers and industry observers say the poultry industry's contract farming system will continue spreading to other agriculture areas such as crops, cattle, and hogs.

While that may mean higher profits for companies and lower prices for consumers, some believe it may mean the end of a way of life for American farmers.

"That's a rather foreboding kind of development," said the Rev. David Ostendorf, director of Prairie Fire, a rural advocacy group based in Iowa.

At an hourly rate based on a 40-hour week, the Tyson growers in Texas earned $6.97 an hour, while the Pilgrim growers made 84 cents an hour.

But a study by the Rural Advancement Fund in North Carolina found many growers across the country say their pay is closer to $2,000 per house per year. That would put the hourly rate at $2.88—well below the $4.25 minimum wage.

ARKANSANS' EARNINGS

Arkansas growers cite earnings similar to those in the Texas study. They produce settlement sheets and expense listings showing earnings such as:

$919.26 for four chicken houses for eight weeks, after mortgage payments on the $250,000 investment. That figures to $2.87 an hour, based on a 40-hour week.

When $1,600 for operating expenses was deducted, that farmer lost nearly $700.

$567.79 for two houses for eight weeks. Although the mortgage payments had been deducted, other expenses remained to be paid. That figures to $1.77 an hour.

Rob Robinson, the grower association's president, summed up the situation as the group's members see it.

"The main problem we're looking at is profitability, or being able to make a living, which apparently we're not doing," he said.

But Cuzick pointed out the industry also operates on a low margin of return. He calculated that with 4.7 billion pounds of chickens, Tyson's 1990 net income of $120 million translates to a return of 2.5 cents a pound.

Cuzick noted $45 million of that profit went to bonuses for the Tyson employees and growers. Every farmer received a 4.5 percent bonus, he said.

Vice Chairman John Tyson noted top growers earn more than the average price. "You don't hear the growers getting the bonuses complaining."

COMPANIES PROFIT

While many growers complain about low pay, the polutry corporations and their stockholders enjoy record earnings.

Net sales for Pilgrim's Pride—the fifth largest poultry processor—rose from $297 million to $506 million between 1984 and 1988. Stock holder equity rose by 197 percent.

Pilgrim's 1990 sales were $724.2 million.

Stockholder equity for Tyson grew by 305 percent during the same period. From 1988 to 1990, stockholder equity nearly doubled to just under $663 million.

Tyson's average return to investers of 58.27 percent for the 1976–86 period was the highest 10-year average in American business.

This disparity troubles poultry farmers.

"The end result is the ones making the money is the ones that never sees the bird or the chicken meat either one," said one Tyson grower from Nashville.

But the growers say their concers are not with the companies profit margins. They are quick to point out their livelihood depends on those companies making money.

"I don't care for them making millions," said a former grower for Peterson Industries in Decatur. "I just wish they'd let us make a living."

BIG INVESTMENT

Poultry growers also are concerned about the capital investment required to obtain a contract from a poulty company.

While they must take out 10-year to 20-year loans to build $65,000 chicken houses, they are guaranteed only one batch of chickens at a time. In addition, the companies frequently require growers to make costly adjustments or additions to their equipment.

For instance, Tyson's Nashville manager notified growers in a June 26, 1990, letter about requirements for the number and spacing of ventilation fans in each chicken house.

"Deadlines for meeting these requirements will be May 1, 1991," the letter stated. "Fans will be available through the Company with cost of fans being held out of settlement checks."

Although Aubrey Cuzick said he wasn't surprised growers had been told such changes are mandatory, he said it wasn't Tyson's policy to hand down ultimatums.

But growers contend the constant changes make it difficult for them to stay in the black. They also say the requirements shift with local management and often are arbitrary.

One grower cited recent additions to his three chicken houses: $26,000 to add feeding systems and $11,000 to replace watering systems.

Such changes are not necessary to produce top-quality chickens, said another grower.

"That chicken will drink water out of a green cup just as well as it will out of a yellow cup. I can put a dish pan in the chicken house, and I'll raise you a chicken. . . . They're telling me I have to buy a Cadillac."

But company efficials say updating and adjusting equipment allows growers to better produce chickens.

"We make recommendations that are based on our experience that this is a better way to do it," said Cuzick.

If growers don't follow the company's recommendations, they say they'll lose their contracts.

BROILERS MARKETED IN ARKANSAS BY COUNTY, 1989 (THOUSANDS)

Washington: 123,627, Benton: 80,549, Polk: 51,035, Howard: 47,646, Sevier: 47,076, Yell: 44,825, Madison: 41,925, Hempstead: 40,050.

Carroll: 32,524, Pope: 29,919, Cleburne: 28,573, Pike: 26,612, Scott: 24,550, Logan: 21,621, Johnson: 21,587, Conway: 20,097, Stone: 20,051.

Crawford, 18,450, Union: 18,383, Lafayette: 15,876, Cleveland: 15,834, Miller: 15,243, Franklin: 14,016, Perry: 13,874, Montgomery: 13,643, Columbia: 10,650.

Lincoln: 9,843, Sebastian: 9,824, Nevada: 8,796, Independence: 8,772, Izard: 8,529, Boone: 7,680, Bradley: 6,847, Van Buren: 5,988, Little River: 4,520, Ouachita: 3,612, Grant: 2,568, Jefferson: 2,568, White: 2,473, Clark: 2,275, Pulaski: 1,712, Drew: 1,712, sharp: 1,206, Baxter: 1,057, Lonoke: 856, Dallas: 428, Desha: 428, Faulkner: 119, Searcy: 67.

Source: Cooperative Extension Service.

[From the Arkansas Democrat, Apr. 24, 1991]

FEAR OF LOSING CONTRACTS KEEPS FARMERS QUIET

Although some poultry farmers believe they are victims of an unfair contract system, they generally remain quiet in the belief poultry companies will sever their contracts if they complain.

That fear is rooted in the reality that several companies—including Tyson Foods Inc., ConAgra Inc., Cargill Inc. and Peterson Industries Inc.—have been accused of wrongdoing that ranges from misweighing birds to blacklisting growers to terminating contracts.

Several poultry growers in Arkansas and elsewhere have sought recourse through the judicial system for what they believe are unfair practices.

An Arkansas family and an Oklahoma family who contracted with an Arkansas company filed lawsuits after their contracts were severed.

At least three similar lawsuits in other states were successful. All of the cases involve companies based in Arkansas or with operations in Arkansas.

In the two lawsuits involving families contracting with Arkansas companies:

An Oklahoma couple who grew chickens for Peterson Industries filed suit March 12 in federal court in Tulsa, Okla.

Glen and Sue Hurt, who live in Delaware County in Northeast Oklahoma, charge Peterson with breach of contract, fraud, and malicious and negligent actions. They are seeking more than $50,000 in compensatory damages and more than $50,000 in punitive damages.

The Hurts grew chickens for Peterson since the early 1970s. The company severed the contract March 28, 1989, after a two-year series of events that included diseased chickens and collapsed growing houses.

The couple raised breeding hens for Peterson, based in Decatur (Benton County). The company is a leading genetic researcher and supplier of poultry breeding stock.

A Union County couple sued ConAgra when they were cut off in 1989 after nine years with the company.

Louia and Vencill Cogburn of Huttig are seeking more than $160,000 in damages to offset the debt they incurred, said their attorney, James Madison Baker of Hamburg (Ashley County). They raised chickens for the company's El Dorado-based poultry division.

Baker said the case, which could come to trial by summer, could affect other growers and companies.

"This thing has got some far-reaching implications," he said.

FLORIDA CASE

In a Florida case, the 11th U.S. Circuit Court of Appeals in Atlanta upheld a preliminary injunction in January against Cargill. The Minnesota-based agriculture conglomerate has been accused of terminating a contract because the grower initiated a lawsuit alleging the company used fraudulent practices.

Two separate lawsuits evolved after growers suspected Cargill of underweighing their birds. In 1988, Cargill admitted it had mistakenly used false weights for 10 to 14 months at its Jacksonville, Fla., plant. The company repaid growers $300,000.

But Arthur Gaskins and 38 other members of the Northeast Florida Broiler Growers' Association thought the misweighing was more widespread and cost them more money. In March 1989, they filed suit alleging Cargill systematically used fraudulent practices to underpay them during a 10-year period.

As a result of that suit, Cargill cut off Gaskins' contract after 17 years as a grower for the company. Cargill officials have said Gaskins was dropped because he spoke to the media and made negative comments about the company. The U.S. departments of agriculture and justice have sided with Gaskins in the suit, saying Cargill's actions violated the federal Packers and Stockyards Act.

The two lawsuits now have been consolidated. The preliminary injunction upheld earlier this year means Cargill must continue doing business with Gaskins until his suit is settled. But neither suit has been heard in court, and no date has been set for a jury trial.

The federal court ruling upheld the lower court finding that the growers would likely succeed in their lawsuit. It charges Cargill with racketeering, extortion, obstruction of justice, mail fraud, wire fraud and violations of federal agricultural statutes.

James Grippando, one of the Miami attorneys repesenting the poultry growers, said the precedent-setting federal court ruling had ramifications for the entire poultry industry because it indicated poultry companies must show an economic reason to terminate a grower's contract.

"Processors take the position that they can terminate these people anytime," Grippando said.

"This ruling says the federal statute imposes on them obligations beyond what they've written into their contracts," he said. "That's good news for poultry growers across the country."

In Alabama, a jury found ConAgra guilty of fraud and breach of contract in November 1989. It awarded 268 growers $4.55 million in damages for lost income and $9.1 million in punitive damages. With interest, the judgment totals more than $17 million and continues to grow.

ConAgra has appealed the verdict. The 11th Circuit Court heard oral arguments in the appeal Monday.

The case began in 1982 with five growers suing because they said their contracts had been improperly terminated. That case was settled out of court in 1988. The terms of the agreement were not disclosed.

The case eventually grew to include charges of misweighed birds and breached contracts, so the court separated it into two lawsuits. That second suit is the one that is pending.

In Louisiana, ConAgra settled out of court in January 1990 with six growers whose contracts were terminated. Like the previous Alabama settlement, terms of the agreement remain secret.

Six growers began the case in 1983. They argued they had become "locked into a feudal serf production system" that left them with few rights and the company with vast power, a poultry growers' newsletter reported.

TYSON CASE IN 1960S

Officials with companies such as Tyson adamantly deny such wrongdoing occurs.

"I have to say, I think we treat our growers better than anybody in the industry," Jim Blair, Tyson's general counsel, told the Arkansas Democrat earlier. "If any of them are unhappy with us, that's news to me, and I do try to stay on top of that.

"All these things you have read in the papers, the lawsuits in Florida against other companies, this kind of thing just does not go on in Tyson Foods. It never has. It never will."

But Tyson, represented by Blair when he was a private attorney in Springdale, was found guilty by the federal government of practices similar to those of Cargill.

The company fought a 1968 U.S. Department of Agriculture administrative ruling that accused Tyson and two other firms of blacklisting, harassing and terminating Northwest Arkansas poultry growers in 1962 who had formed a growers' association.

The U.S. Secretary of Agriculture issued a cease and desist order Jan. 23, 1968, against Tyson, Arkansas Valley Industries (later acquired by Tyson) and Ralston Purina Co. for their actions in conjunction with the Northwest Poultry Growers Association.

The order said, in part, "Respondents are ordered to cease and desist from * * * entering into agreement or cooperating with others to boycott, blacklist, harass, etc., any poultry producer."

That order, however, was overturned July 30, 1969, in federal court. The 8th U.S. Circuit Court of Appeals at St. Louis ruled the USDA had no jurisdiction in the case.

Testimony during hearings into the 1968 case revealed Don Tyson, then executive vice president and now chairman of the company, told poultry growers he would not "tolerate" their organization. He said company officials would "attend meetings and take down names."

Evidence during the investigation indicated Tyson Foods compiled and circulated a list of growers who were leaders of the association.

Those growers, Don Tyson was quoted in the ruling as saying, "would find they would have a little hard way to go."

[From Time magazine Nov. 26, 1990]

THE DANGERS OF FOUL FOWL; AS POULTRY'S POPULARITY GROWS, THE SCOURGE OF SALMONELLA SPREADS

(By David Bjerklie)

When Americans sit down to their Thanksgiving turkey this week, some uninvited guests could turn a nice meal into a miserable occasion. If the big bird is not thoroughly cooked, it could pass on bacteria that cause fever, stomach cramps, vomiting, diarrhea—all the classic symptoms of food poisoning. Often the culprit is salmonella, a nasty microbe that, despite industry and government inspections, lurks in perhaps * * * all poultry sold in the U.S.

Salmonella poisoning has been around for a long time, but the number of reported cases has surged, form 33,700 in 1980 to 47,800 last year. Those figures represent only a small fraction of the problem, since most cases, while unpleasant, pass quickly and go unreported. Experts believe that each year as many as 4 million Americans have a bout with salmonella. Occasionally the infection is serious enough to require hospitalization, and it can lead to arthritis, neurological problems and even death. The elderly, AIDS suffers and others with weakened immune systems are especially vulnerable to the disease, which claims 2,000 lives annually.

One reason for the spread of salmonella, ironically, is Americans' determination to guard their health. In the quest to keep cholesterol levels down, people are turning more often to low-fat poultry: annual per capita consumption of chicken alone has risen from 40 lbs. in 1970 to more than 70 lbs. this year. Unfortunately, mass-production techniques make many poultry farms and plants prime breeding grounds for salmonella. Different strains of the bacteria can contaminate eggs as well as meat. (Raw cow's milk can also be tainted, but beef is less of a problem than poultry because the slaughtering process is cleaner.)

Chickens typically travel a filthy path from the farm through the slaughterhouse. Stuffed 10 or 12 to a cage on the truck to the processing plant, they eat one another's germ-laden excrement and spread it on their feathers and skin. At the plant, the birds move rapidly along a disassembly line where they are killed, dropped in scalding water, mechanically defeathered and eviscerated, and chilled in huge water tanks that usually become contaminated. "This is really no different than putting these birds in your toilet," contends Gerald Kuester, a microbiologist with the Public Citizen advocacy group.

Poultry producers are trying to deal with the situation. They put chlorine in the chilling tanks, and they are experimenting with other chemicals in hopes of finding one that is more effective against salmonella. Irradiation could wipe out the bacteria, but it would be costly and consumer acceptance might be low, since many people mistakenly believe that zapping food with radiation makes it dangerous to eat. The visual inspections carried out routinely in the plants can weed out obviously diseased chickens, but the contamination is usually invisible. A panel of experts convened by the government may recommend soon that the Department of Agriculture develop better tests to detect salmonella.

For now, the best safeguard is to clean up kitchen techniques in homes and restaurants. The basic instructions: cook poultry until the juices run clear, and thoroughly wash hands and food preparation surfaces as well as all plates and utensils that come into contact with raw poultry. Dane Bernard, director of microbiology at the National Food Processors Association, asserts that proper handling by cooks could reduce the number of salmonella infections at least 75. Caution is the key. Warns Joseph Madden of the Food and Drug administrations microbiology division: "The consumer should assume that any poultry product has bacteria on it."

[From the Wall Street Journal, Nov. 16, 1990]

FOWL PROCESS: FASTER SLAUGHTER LINES ARE CONTAMINATING MUCH U.S. POULTRY

(By Bruce Ingersoll)

LEWISTON, NC.—The chickens hurtle down the high-speed line, jiggling along at 91 birds a minute, all as plump and yellow as Frank Perdue could want.

The birds have been stunned, killed, bled, beheaded, plucked, eviscerated and government-inspected here at Perdue Farms Inc. In the automated flurry of pounding off feathers and pulling out intestines, some have become contaminated with feces. Then, all the carcasses take a plunge, one after another, into the chiller, a huge refrigerated tank of water used to cool thousands of chickens an hour.

But the chiller produces an unintended side effect: It is one of several points on poultry slaughter lines where clean birds pick up salmonella and other disease-causing bacteria from contaminated chickens. "Birds that bathe together get contaminated together," says Thomas Devine, a leader of a consumer coalition seeking tighter regulation of the $18-billion poultry industry.

A NEW THREAT

Cross-contamination is the curse of processors nationwide who strive to transform barnyard fowl into safe, high-quality food. By putting their lines on fast-forward, processors are meeting the boom in poultry demand—safely, they argue. But a growing chorus of scientists, consumer advocates and federal inspectors contend the process is undercutting food safety. Increasingly, these critics are linking high-speed chicken processing—and cuts in federal oversight—to a nationwide rise in foodborne disease rates.

Just as the problem is getting more public attention, health officials are finding new reasons to sound alarms over poultry industry practices. An obscure bacterium called campylobacter has emerged in the last few years as the No. 1 known cause of gastroenteritis in the U.S., according to the Centers for Disease Control, and researchers have found the bug sometimes contaminates as much as 90% of market-ready chicken and turkey.

The scientific consensus is that salmonella, by comparison, contaminates about 60% of chicken on the market, up from about 37% in the late 1970s. The result: Contaminated poultry is blamed for as many as 1.5 million campylobacter cases annually—roughly three times the number of cases of salmonellosis.

KILLED IN THE KITCHEN?

Industry officials strongly defend the safety of poultry. "We can't afford to make our customers sick," says Kenneth May, a poultry scientist and consultant to the National Broiler Council. Birds raised "in a natural environment do have microorganisms on them. It just doesn't normally cause a problem. The thing we've got going for us is that people cook the stuff," which, done properly, kills bacteria.

But consumer advocates contend underregulation is as much a problem as undercooking. They say the Agriculture Department never should have allowed major processors to speed up their slaughter lines to rates of 70 to 91 chickens a minute from the high 50s a decade ago without a commensurate increase in inspection. Instead, the agency reduced the number of federal inspectors on each line under its so-called streamlined inspection system, relying heavily on company employees to catch processing defects.

"A better name for it would be streamlined infection system," asserts Mr. Devine of the Government Accountability Project, a whistleblower group based in Washington.

The parade of poultry double-timing past inspectors at Perdue's Lewiston complex, and at other companies nationwide, moves so fast an inspector has just two seconds to scrutinize each carcass, inside and out, for fecal matter, tumors and other signs of disease. "After a while, it gets to be a blur," says one inspector.

Some poultry inspectors contend the Agriculture Department erred in deputizing processors to inspect themselves, and insist the practice can lead to reduced vigilance. Last year, for example, David Carney, a Cleveland-based inspector, found a Kralis Brothers Foods Inc. plant in Mentone, Ind., was shipping thousands of chickens contaminated on the outside with buckwheat kernels that had been in the birds' crops before slaughter. Many of the birds also had broken bones and blood clots. Two months ago, he says he caught nine birds with "flagrant defects" that Kralis had missed. Some birds were scabby or had clumps of unplucked feathers. "The USDA seal of inspection doesn't mean much," Mr. Carney asserts. "These birds should never have gotten out the door."

"If we shipped product like that, I don't think we'd have any customers," responds plant manager Woodford Johnson, who denies the incidents occurred. "Our quality is higher than USDA standards."

There is growing clamor from consumer groups for slowing down line speeds, at least to the point where the eviscerating machines aren't rupturing intestines and splattering fecal matter about. "As long as you have an epidemic of foodborne illness, why not take conservative steps to protect the public," says Carol Tucker Foreman, a consumer lobbyist and former Agriculture Department official who recommends condemning every bird that has punctured intestines.

The industry rejects the idea of throttling back, as does the government. "If you cut the line speed in half, there's no evidence you would change the [bacteria] level," says Mr. May. Agriculture Department officials contend it would be too costly and impractical to reinstate the inspection procedures of the late 1970s. Instead, they plan to ask processors to make some voluntary changes in their slaughter operations to reduce contamination. Perdue Farms and some others are well ahead of the regulators on one innovation: adding chlorine to the chill water.

Given the risks of food-poisoning, however, critics of streamlined inspection question the wisdom of putting companies on what amounts to an honor system. For the elderly and infants particularly, a campylobacter or salmonella infection can be fatal. The two infections are estimated to cause 500 deaths a year in the U.S., and both can lead to a form of arthritis and other chronic diseases. What's more, campylobacter sometimes results in colitis and appears to be linked to Guillain-Barre syndrome, a neurological disorder that can cause fatal respiratory paralysis. Even without such complications, a bout with campylobacter can produce painful diarrhea and abdominal cramps.

But in a videotape distributed by the National Broiler Council, Lester Crawford, administrator of the Agriculture Department's Food Safety and Inspection Service, plays down poultry's role in transmitting disease. While acknowledging occasional problems with mishandled chicken and turkey salad, he insists that "food poisoning from intact poultry products is rare."

Whatever the case, disease-causing bacteria sometimes contaminate a large percentage of the birds shipped to consumers. Studies show that even if only a few birds are infected upon arriving at the slaughterhouse, uninfected birds can become similarly tainted as they run the gauntlet of modern poultry processing. The inspection service, in a study at a Puerto Rico plant, found 57 percent of the plucked chickens coming in contaminated but 76 percent going out the door infected.

Fecal cross-contamination can occur when flocks gather in the unloading sheds; when they are soaked in scalding water to loosen their feathers; and when they are hustled through a row of automatic feather pickers that pummel them with rubber "fingers." The pounding not only expels feces but drives bacteria into skin creases and feather follicles, say inspectors and microbiologists. Further cross-contamination can occur if the eviscerating machine, which pulls out intestines with a mechanical hand, isn't properly adjusted.

Lately at its Lewiston complex, Perdue has been running flocks of five- to six-pound birds through machinery that is optimally designed for 3½-pound broilers. The feather pickers have "been beating them to death, tearing up the skin," says one federal inspector. "Some birds got stuck [in the eviscerator] and really messed things up." Perdue calls the problem "highly unusual" and says it can be corrected by readjusting the machines.

Typically, in such a situation inspectors condemn grossly contaminated birds, while plant workers trim or wash the fecal matter off the rest. "Hopefully, it gets all trimmed off," says the inspector. "I'd be lying if I said it did." As for washing birds, government researcher Huda Lillard found the measure to be futile. After rinsing a chicken carcass 40 times, she still could detect bacteria clinging to it.

Processors wouldn't have been able to rev up their lines if the inspection service in 1978 hadn't started allowing companies to wash, instead of tediously trim, contaminated birds. Relying solely on manual trimming was just too slow. "I'm responsible for that little travesty," says Ms. Foreman, who oversaw the agency during the Carter administration. "I never should have approved washing." She says she was misinformed by a government study involving only 180 birds from one plant that purported to show that washing worked.

Last year, the inspection service, under pressure from inspectors, decided to do a follow-up of the 1975 study, this time looking at 1,500 birds at five large plants in the Southeastern broiler belt. An unpublished draft report shows a startling 26% to 79% of washed birds contaminated with salmonella, depending on the plant, and 25% to 80% of unwashed birds tainted. Even though the washed poultry had a higher average contamination rate, researchers concluded that the washing policy is still justified.

Meanwhile, in a survey of 50 brandname broilers distributed by several processors in Athens, Ga., government researcher Norman Stern found 90% to be contaminated with campylobacter, ranging from a couple of cells to one million. For some people, as few as 100 to 500 cells can be an infectious dose. "People don't eat raw chicken," says Mr. Stern. "But the problem is, one drop of [chicken] blood dripping on lettuce could contain 1,000 to 10,000 organisms."

Food safety specialists and researchers say consumers shouldn't expect the impossible of poultry processors: an absolutely sterile product. Instead, they should do their part at home by thoroughly cooking poultry and washing utensils that have touched it.

Perdue Farms, meanwhile, insists its own campaign to reduce bacteria levels on its products is paying off in longer shelf life. "Retailers continue to tell us that our shelf life is 1½ days longer than our competitors', a good indication that we're reducing the bacterial load," says Clay Silas, laboratory director for the Salisbury, Md., company.

Growers shipping birds to the Lewiston plant, for example, are required to stop feeding their flocks in advance of slaughter so the birds' intestines aren't full. In the plant, which can process 400,000 birds a day, throat-cutting knives and other equipment are constantly sprayed, while every bird is washed inside and out by a high-pressure washer before going into the chiller.

A lot of the bird-to-bird contamination occurs, research shows, when the birds take their last communal dip together in the chiller. "Even if you chlorinate the chill water, it's still like soaking birds in a toilet," asserts Gerald Kuester, a former government microbiologist. Industry officials say processing may spread bacteria from bird to bird but it also dilutes the overall dose level. But Mr. Kuester says consumers shouldn't be heartened by that calculation. Even if birds emerge from the chiller carrying very low levels of campylobacter and salmonella, the organisms can multiply when poultry is thawed at room temperature, he says.

Some companies in Europe chill their birds with blasts of cold air to avoid cross-contamination. U.S. companies consider air-chilling too slow and costly. But critics say the industry has another reason for sticking to water chillers. "Federal regulations allow each carcass to soak up as much as 8 percent water," says Edward Menning, an official of the National Association of Federal Veterinarians. "This enables the sale of hundreds of thousands of gallons of water at poultry meat prices—a profit the industry is unwilling to forgo."

[From Atlantic Magazine, November 1990]

Public Health: Dirty Chicken

Americans are eating more poultry these days, because they think it's good for them. With one third the saturated fat of lean beef, chicken seems the cleaner, safer food. Poultry is also cheap: it is one of the few products whose prices in constant dollars have steadily decreased since the 1950s. This year Americans will eat more than ninety pounds per person, almost double the amount of poultry they ate in 1970 and more than the amount of beef they consume.

In the past few years, however, a less healthful side to poultry has emerged. While poultry production and consumption in the United States has risen sharply, public attention has been drawn to high rates of poultry contamination by disease-bearing microorganisms, especially salmonella. A pathogenic bacterium abundant in nature, particularly in animal feces, salmonella causes everything from mild diarrhea, fever, and flu-like symptoms to death. In 1985 the U.S. Department of Agriculture announced that 35 percent of chicken carcasses were contaminated with salmonella. Last year USDA tests of five processing plants in the Southeast, the leading poultry-producing region, found salmonella levels of 57.5 percent.

Whether or not poultry contamination is on the rise is debated; scientists say, however, that it definitely is not going down. What is certainly rising is the number of people getting sick from salmonella—one current estimate is 2 to 4 million Americans a year. The actual number is not known, because most people who suffer from salmonellois—and, indeed, most food-borne illness—never know what hit them. Contaminated food often looks and tastes fine. Food-borne bacteria frequently multiply in the body for one to seven days before they reach levels high enough to cause illness. According to Douglas Archer, the deputy director of the Food and Drug Administration's Center for Food Safety and Applied Nutrition, about two or three percent of the people suffering severe diarrheal illness, such as one gets from salmonella, develop reactive arthritis within weeks. A smaller number of people come down with inflammation of various tissues, neurological problems, or other diseases, some of which can be fatal. In fact, Archer says, 2,000 Americans die of salmonella poisoning each year—mainly the very old, the immuno-compromised, and the very young. Although the number of cases of salmonellosis that can be traced to poultry is unknown, Dr. Robert Tauxe, a specialist in enteric diseases says that CDC surveys indicate that poultry is a significant source.

Scientists are tracking another pathogenic bacterium, Campylobacter jejuni, which causes similar gastrointestinal symptoms, sometimes with bloody stools. Clinicians have been able to culture Campylobacter from fecal specimens only since the late 1970s. Once they were able to detect it, they discovered that Campylobacter might be responsible for at least as many cases of food-borne illness as salmonella. Over half of the sporadic outbreaks of campylobacteriosis have been attributed to poultry. Indeed, samples of poultry contamination indicate Campylobacter levels similar to or higher than those of salmonella.

If the 1980s were the decade of cholesterol and fat, the 1990s will be the decade of food-borne infectious disease, Archer says. With the rise in immuno-deficient and elderly populations, more people will die from contaminated food. When mishandled or undercooked, poultry, Archer says, poses a great threat.

Why is poultry so dirty? Unfortunately, the very technology that has made poultry plentiful and cheap has also increased the spread of disease-bearing bacteria.

Over the past twenty-five years there has been a revolution in the slaughter and processing practices for meat and poultry—indeed, in the entire system of raising animals to slaughter-weight quickly and cheaply. The poultry industry has grown from an annual volume of 2.1 billion birds in 1964 to more than 6 billion birds today. The Expansion has been made possible by intensive farming practices, which concentrate animals in huge warehouses; sophisticated systems of temperature, feed, and water controls; genetic selection of the biggest and hardiest birds; the regular use of antibiotics, which speed the birds' rate of growth (just how is not understood) and enable them to withstand stressful growing conditions; and a highly advanced understanding of poultry nutrition. Innovations like these have decreased the time it takes to grow a three-pound chicken from four months in 1940 to just six weeks today. Volume has also been boosted by automatic slaughtering plants that whiz 21 million chickens a day through the process at speeds up to ninety-one birds a minutes, as machines beat off feathers and pluck out entrails. While the technological advances have been remarkable, they have unfortunately been made without regard to controlling microbial contamination.

Contamination begins, poultry scientists say, in the egg, where a tiny percentage of unhatched chicks carry pathogens from their mothers. In the crowded "grow-out" house, more birds are contaminated by contact with other chickens, wild brids, rodents, the feed, and the buildings themselves.

Contamination begins in earnest, however, during the trip from farm to slaughterhouse. Here poultry undergo the greatest stress of their short lives and at the same time are squeezed together, facilitating the spread of bacteria. "By the time chickens leave the farm," says Nelson Cox, a microbiologist at the USDA's Agricultural Research Service, in Athens, Georgia, "only one to three percent have salmonella in their intestines, although most have it on their skin and feathers. But this expodes to twenty to twenty-five percent in transport, because the birds are deprived of feed for twelve hours, jammed into little coops—about ten to twelve birds per three-and-a-half-foot-square coop—and they're eating each other's fecal matter throughout the trip."

At the slaughterhouse the level of contamination skyrockets. By the time chickens leave the slaughterhouse, Cox says, "the contamination levels can be upwards of seventy percent."

After having their throats slit, chickens are dipped into a tank of scalding water to loosen the feathers, which are softened with mud and feces from life at the farm. Occasionally a bird will still be breathing and will inhale the filthy water, drawing bacteria into its system. The hot water also opens its pores, allowing more bacteria to enter the skin. Then defeathering machines, with rubber fingers the size of a man's thumb, beat the bird carcasses to knock off the feathers. If there are scabs, scales, or tears on the skin, the machines may pound contamination into the skin; they also press feces out of the animal. The machines themselves create an aerosol mist of bacteria as they work, contaminating surrounding birds. Automatic eviscerating machines compound the problem. They remove the intestines of each bird at high speed, often breaking open the viscera and spilling the contents—including feces—over the bird. Finally, the birds are dropped into a large chill tank, where their temperature is quickly reduced to 40°F. Chilling curbs microbial growth, but tanks allow feces to wash from one bird to another. (The scalding tanks have the same drawback.)

Chlorine is often added to the water in order to limit the bacteria spread, but a number of foreign countries, including Canada, won't buy birds that have been soaked in chlorinated water, so chlorine is not always used. Chlorine can react with organic materials, such as chicken skin, and produce chloramines, which are carcinogenic; the hazard to people is far from established, however. Although chlorine does reduce the level of pathogens in the water, Gerald Kuester, a microbiologist who researched poultry slaughter when he worked at the USDA, says that is is ineffective in killing the bacteria on a carcass, because it is neutralized by animal protein. "The chlorine is quickly bound to any organic matter," says Kuester, who now works for Public Citizen, "and never gets to the bacteria."

Chlorinated or no, birds from chill tanks can be very dirty, "At the beginning of the day the chill-tank water is clear and clean," one inspector says. "But as the day goes on, it becomes murky, dirty-brownish, and bloody." By the end of the day, when the tank is drained, the bottom may be a foot deep in filth.

Kuester said that washing—the industry's method for cleaning off soiled carcasses—doesn't remove the bacteria either, because they can cling tightly to the skin. Washing serves only to remove the evidence; the contamination remains. Thorough cooking does kill the bacteria, but while a bird is raw, it is often loaded with pathogens. "At the end of the line the birds are no cleaner than if they been dipped in dirty toilet," Kuester says. "They may have been washed, but the germs are still there." Using machines to wash away feces was illegal until 1977. That year the USDA Food Safety and Quality Service (Now the Food Safety and Quality Service, under Carol Tucker Foreman, began to allow it. Foreman, who left the USDA in 1981, now regrets her decision, explaining that she was persuaded by industry, her staff, and one study—later shown to be flawed—that found washing to be effective at removing bacteria. She has since become an outspoken critic of the washing policy.

The rate of bacterial contamination in red meat is much lower than it is in poultry—more like four percent—but similar problems exist in processing red meat. "All of these animals have pathogens on their skin and in their intestinal tracts," say Morris Potter, a veterinarian in the Division of Bacterial Diseases at the CDC. "And the problem of getting the outsides off and the insides out without contaminating the rest of the carcass has not been solved." Dehiding veal and beef creates much the same bacterial spray that defeathering machines do, say Potter. The high speed at which the operation takes place can worsen the problem.

The main reason steaks are less contaminated than broilers, Potter says, is that the skin, which is the most highly contaminated part of the animal, has been removed. It ends up hanging in your closet or shoe rack, while chicken skin ends up on your plate. Processed meats such as turkey roll, sliced roast beef, and hamburger are often as bacteria-ridden as chicken. Having been cut up and mixed about, the meat has had more opportunities to be contaminated. If one piece of beef headed for the meat grinder is contaminated with salmonella, every hamburger that emerges from the grinder will also be contaminated. Perhaps this is why a 1986 survey by the New York City Department of Consumer Affairs showed that one in six samples of hamburger meat and more than half of all cooked roast beef found in the city's supermarkets, delicatessens, and butcher shops was contaminated with some type of pathogenic bacteria. The researchers also found pathogens in more than half of the raw chicken breasts they checked.

Industry spokespeople say that bacterial contamination is inevitable in any foodstuff and that normal hygienic precautions will protect consumers. They argue that the public has been mistakenly led to believe that absolute purity is a feasible goal. "The basic name of the game here is that anything is going to have microorganisms, I don't care if it's a tomato or turkey," say Mahlon Burnette, a nutritional biochemist and spokesperson for the National Broiler Council.

Burnette says that the high rate of bacterial contamination in chickens is a natural phenomenon, and he believes that the high-speed technology—the mechanical eviscerators, the fast-moving lines, and the water baths—doesn't cause any extra contamination. "Mechanical eviscerators didn't come into the industry before 1976," he says, "whereas these statistics existed before." But the consumer advocate Rod Leonard, who was the director of the food inspection service in the Johnson Administration, argues that contamination levels have increased from 29 percent in the late 1960s to 35 percent in 1985, with recent scattered tests indicating a level between 50 and 75 percent. Leonard, who is now the director of the Community Nutrition Institute, in Washington, agrees that we will never have a bacteria-free food supply. "The body can handle natural amounts," he says. "The problem is that we're overwhelming every normal defense mechanism." Burnette argues that the numbers are irrelevant. "Since you don't know which animals are contaminated," he says, "you should always use care in handling and cooking them."

Most experts would agree with Burnette that careless consumer handling of raw meat and poultry is at least as much responsible for the current outbreak of food-borne illness as the food itself. All agree that consumers should adopt more stringent sanitary routines. According to the USDA's Meat and Poultry Hotline (800–535–4555), consumers should cook beef, veal, lamb, and poultry to a minimum internal temperature of 160° F. For those without a meat thermometer, poultry is safe when the juices run clear and the meat is no longer pink. Foods cooked in microwave ovens, which sometimes have "cold spots" where heat doesn't penetrate, should be stirred or rotated during cooking. (Cooking foods in a covered dish creates a hot, wet atmosphere that helps kill bacteria.) Precooked foods bought from restaurants, gourmet shops, or supermarkets, which might sit at room temperature before being sold or on the trip home, should be reheated thoroughly. Consumers are advised never to touch cooked food with the plate or knife that was used when the product was raw without washing it first, and also never to thaw frozen meats at room temperature, because microbes, which easily survive freezing, will multiply into the millions.

Consumer advocates, however, feel that too much of a burden is being placed on the consumer to clean up an inexcusably filthy product. Some also argue that the safe handling of poultry is almost impossible for consumers. A 1978 study of sixty Dutch families' dinner practices, conducted at Agricultural University in the Netherlands, found that after dinner was prepared, bacteria from chickens had spread all over the kitchen—to door and tap handles, salt shakers, and spice jars. Even after conscientious washing and rinsing, live bacteria remained on tables, cutting boards, dish cloths, and sinks. "The meat practically has to be handled the way a surgeon handles an organ before transplant," says Amy Karas, who directed the New York City Department of Consumer Affairs study of meat and poultry. After working on the study, she stopped bringing meat home. "It's too much of a problem to handle it safely," she says.

After handling raw meat or poultry, advises Paul Blake, M.D., the chief of enteric diseases at the CDC, consumers should scrub everything they have touched in warm soapy water: utensils, pots, cutting boards, drawer handles, sinks, countertops, the phone, the baby. Skin must be washed for at least twenty seconds to kill bacteria. Salmonella can live up to six months on a wooden cutting board, so it's best to switch to a plastic one, which can be sterilized in the dishwasher. For those who insist on wood, a mild bleach solution is effective in killing bacteria.

Do restaurants follow such stringent procedures? They are supposed to, says an official of the FDA, which trains state and local health inspectors in how to monitor retail food establishments. However, restaurants are inspected only a few times a year, and inspectors observe food preparation practices only if they happen to drop by at mealtimes. High employee turnover in the low-skill, low-pay preparation positions also raises questions about consistency in safety practices. Most chains and large establishments have stringent handling procedures of their own, knowing that an outbreak of disease traced to one of their restaurants would devastate business, and they cook chicken to a high internal temperature.

Precooked and packaged foods sold in supermarkets, such as chicken frankfurters and turkey roll, are inspected by one of 200 "compliance officers" from the USDA, who visit processing plants daily. Samples are periodically sent to one of five regional laboratories across the country. Because it takes seven or more days to transport and grow bacterial cultures, the sampled food usually has gone to supermarkets by the time the USDA sees the results. If the sample shows bacteria, the agency initiates a recall. During the first eight months of this year the USDA issued thirteen recalls, involving an infinitesimal percentage of all precooked food sold in that period.

While USDA and industry representatives say that the contamination problem and the many resulting illnesses and deaths would be avoided if people handled food more carefully, they are reluctant to require warning labels on the food. Lester Crawford, the chief of the FSIS, says that the agency has a vigorous consumer-education program involving the distribution of thousands of publications and news releases, public-service announcements on television and radio, education programs in schools, and the Meat and Poultry Hotline. These efforts are inadequate, says Ellen Haas, the executive director of Public Voice for Food and Health Policy, a nonprofit research and advocacy group. "Brochures or advertisements cannot adequately substitue for a package label that the consumer will see right before he or she prepares and cooks poultry," Haas said in 1987 before a congressional committee. The USDA allows companies to put instructions for safe food handling on poultry packaging, and many have done so. But the labels do not say that the food may cause illness if the instructions aren't followed.

Even if the technology of modern farming, slaughtering, and processing practices were found to be safe in principle, actual practices are sometimes not. "I can tell you stories that would make your hair stand up," says Manford Parker, a retired USDA inspector who worked in meat and poultry plants for eighteen years. He is one of 125 inspectors across the country who have told the Government Accountability Project, a nonprofit watchdog group, in signed affidavits, of seeing diseased or wormy giblets, hearts, and livers; paint chips and metal shavings falling on the meat; roaches everywhere; toilets containing human excrement overflowing onto floors where chickens were sometimes dropped; chicken-processing equipment that was covered with rotting meat and that was left uncleaned for days; chickens that were already dead before the slaughtering process (a sign of serious disease); and rat infestation so severe that one worker would drive rather than walk across an alleyway out of fear of being attacked.

Are the popular name-brand chickens, like Tyson, Holly Farms, and Perdue, cleaner? Since none of these companies would allow me to tour any of their plants, I must rely on the reports of others. Perdue prides itself on its clean, healthful image. Yet in November of last year Donna Bazemore, an activist for workers' rights who had worked at a Perdue plant in Robersonville, North Carolina, submitted testimony to a House education and labor subcommittee that "the floors regularly are covered with grease, fat, sand, and roaches," along with spit, chewed tobacco, snuff, and feces. Chickens regularly fall off the line and into all the muck on the floor, she reported, and supervisors put the contaminated fowl right back on the line, where they are processed for human consumption. Bazemore also described abusive treatment of employees; macabre working conditions under which strenuous work and insufficient breaks cause employees to vomit, faint, and urinate on themselves or on the floor; insufficient safeguards that result in lost fingers and occasionally in lost limbs; and company policies that are unsympathetic to resulting employee injuries and illnesses.

Perdue Farms immediately issued a statement to the subcommittee denying Bazemore's accusations, calling her testimony misleading and false, and inviting committee members to inspect any Perude plants at any time. In carefully worded sworn statements two Perdue vice-presidents (one already retired) said that their processing plants meet USDA inspection rules and regulations, that workers do not put chickens that have failed inspection back on the line behind inspectors' backs, that they treat their employees as "participants in the business," and that the company has an array of policies whose purpose is to honor and safeguard its employees. Lester Crawford also submitted a letter stating that a USDA inspection conducted after the testimony found "no evidence of the kind of gross violations of Federal inspection rules and regulations described in the * * * testimony." Crawford also pointed out that Bazemore's testimony was based not entirely on her own experience but in part on that of other workers. However, another former Perdue employee and two USDA inspectors who had worked at the Robersonville plant later submitted affidavits to the subcommittee supporting Bazemore's testimony with more lurid stories of filth and abuse at the plant, accounts that they said were based on their own observations. When I asked a Perdue spokesperson to comment on the episode, he said, "It simply does not make sense that a company like Perdue could demand a premium price for its product if it were produced from such horrific conditions."

If violations like the ones described by Bazemore and other workers and inspectors are in fact occurring, what have the USDA inspectors been doing all this time? The USDA places more than 7,400 inspectors, 1,200 of them trained veterinarians, in meat and poultry processing plants to check carcasses as they ride along the assembly line where they are cleaned and cut up. The inspectors were originally placed in meat-packing plants in 1906, when Congress passed the Federal Meat Inspection Act after Upton Sinclair's book The Jungle shocked the nation with its accounts of filth and worker death in the Chicago slaughterhouses. In 1957 the Poultry Products Inspection Act brought poultry under the same inspection system. After the original law was passed, no meat could be sold in interstate and foreign commerce without the USDA inspector's stamp of approval. To earn the stamp, each piece of meat was examined by a USDA inspector who would take a good look as it moved down the line. Although the inspection rules were complex, what they amounted to was that if the meat showed signs of disease or filth, no stamp. Consumers felt safe knowing that no meat would reach them unless it contained that stamp of approval. In the early 1980s, however, inspectors complained that things had changed.

After the Reagan Administration took office, in 1980, the speed at which poultry moved down the assembly line was allowed to more than double. In the 1970s, inspectors say, the line speed was about thirty-five birds a minute. If something caught an inspector's eye, he could stop the line to take a closer look at a potentially diseased or contaminated bird. The maximum rate allowed is ninety-one birds a minute, and now many inspectors say that they can't see much of anything. Even if an inspector is able to find a defect on a bird, the new "streamlined inspection system" (SIS), implemented in 1986, may not allow him to do much about it. If the violation involves what under SIS is considered an aesthetic rather than a public-health problem, the inspector must wait for plant employees to clean up the problem. Some inspectors say that many of the violations said to be aesthetic—such as oil, rust, feathers, and lesions on skin—are in fact dangerous.

There is a backup system, Food Safety Inspection Service officials point out. The inspectors take a sample of ten birds per line twice per eight-hour shift to estimate the level of contamination. If violations exceed a certain threshold, the whole group of birds on the line flunks, opening the possibility that every bird on it will be reviewed.

This may be good in theory, consumer groups say, but not in practice. In the first place, they say, the sample is too small to be representative of the lot. At the Gold 'N' Plump broiler plant in Coldspring, Minnesota, for example, inspectors take four samples of ten birds each out of about 62,500 slaughtered every eight hours. Elementary statistics dictates that ten out of 15,000 is nowwhere near a valid sample size. Second, although a day's slaughter may contain birds from as many as ten different suppliers, the sample may be drawn from just one supplier's birds. If the sample passes, the other nine suppliers' birds are approved too, even though they may have been raised under vastly different conditions. Administration officials counter that plant employees are also taking samples—ten birds per line per hour, with government inspectors checking their paperwork. However, the resulting sample size remains small, and the question is raised as to whether industry self-inspection is a fair substitute for government inspection if a government stamp is to be given at the end of the process.

Some inspectors say that no matter who performs the sample inspection, the USDA standards for examining a lot permit it to receive a perfect score even though it may be full of violations. Two sores or two abscesses on a bird do not count: it must have three of any one, and even then the bird passes—the abscesses and sores are trimmed off. One cancer tumor is also allowed, and is trimmed off (as far as is known, cancer in poultry is not transmissible to people). "It's almost impossible to flunk a lot," says Dave Carney, an inspector and a union representative from Salem, Ohio. "Under SIS you can easily pass a lot of birds that are full of feathers, fecal contamination, blood clots, skin blisters, and abscesses." Air sacculitis, an infection of the respiratory system which can produce pus around the lungs, is allowed if it isn't too advanced. Isn't such a condition an indication that the whole bird is sick? "It's got to be systemic," one veterinairan inspector says, "but I'm not allowed to say so."

Even if a sample does flunk, that does not automatically trigger a full-scale examination. First the company gets to inspect a new sample of its own, and to choose the birds it wants to examine. If the company's results are not consistent with the USDA findings, Carney says, nothing happens.

When I asked a USDA administrator about these charges, he claimed that inspectors are in fact allowed to use their own judgment: "These decisions are made by people who are trained to know the difference between a tumor that is superficial and one that is systemic. There are no absolutes." Lester Crawford, the FSIS chief, agrees: "The inspector is sovereign. He may slow down the line, he may stop the line, he may close the plant" if he believes there is a public health threat.

Many inspectors, however, say that they are often reprimanded by USDA higher-ups when they flunk too many birds or stop the line to inspect more closely. When plant managers complain to USDA officials about inspectors' decisions, the inspectors say, the officials often rule in favor of the plants. Inspectors also charge that they are sometimes punished by the USDA for trying to enforce the law. One says, "Inspectors who try to enforce the law are reprimanded, hounded, transferred." Crawford says, "That would be a felony, and we would not tolerate that. We don't have the right to over-rule the inspectors."

As for inspectors' stories of widespread violations in meat and poultry plants, "only about five percent are committing violations," Crawford says. "The vast majority are in compliance with our regulations." Indeed, not all inspectors are unhappy. Ron Farrell, a veterinarian inspector at three Ohio meat and poultry plants, says that he has never had a problem with the plants, the USDA policies, or the line speeds during his year and a half with the FSIS. Meat and poultry industry spokespeople say that inspectors' complaints are exaggerated in response to the recent modernization of the system, which will make inspectors less important. In 1985 the National Academy of Sciences issued a report characterizing the USDA inspection as old-fashioned and unscientific. Having inspectors examine each animal's carcass, the report said, was insufficient, because most contamination that is transmitted to people cannot be seen with the naked eye; the product should be laboratory-tested at key points during the slaughtering process. The report advised that more use should be made of statistical sampling techniques and recommended that a system for reducing microbiological contamination be instituted at critical points during the process.

USDA officials say that they acted on these recommendations when they streamlined the system, implementing sampling procedures and limiting the duties of inspectors. They also say that they are trying to get the plants themselves to be more active in the process, in order to move from government inspection toward industry quality control. The unhappy inspectors are telling the public about filth and negligence in the plants. USDA and industry spokespeople claim, because they want to return to the old system, in which inspectors had more power and discretion.

It may be true that the inspection system needed to be modernized, but that is not what the USDA has done, consumer advocates say. What they've done," Rod Leonard, at the Community Nutrition Institute, says, "is to dismantle the inspection system without putting a new one in its place. Sampling ten birds per line is hardly what one would call scientifically based statistical sampling. Washing away feces is not modernizing, if the microorganisms remain."

Crawford says that the FSIS is not dismantling the inspection system, only making it more efficient. in addition to removing unnecessary steps, he says, the agency is trying to develop a system to control microbiological contamination during slaughter, as recommended by the NAS report. He points to a project in Puerto Rico, where scientists are studying the life cycle of salmonella to determine how it can be controlled during breeding, growth, and slaughter. From this research, Crawford says, regulations will be issued within the next two years. He also points to a committee he chairs that is "considering the wisdom" of setting threshold limits on bacteria in seafood, meat, and poultry products.

The USDA is, at the same time, working to streamline the inspection of cattle. The new system will cut back inspectors' duties, allowing a dramatic increase in the pace at which cattle move through the slaughtering process—the USDA forecasts a 40 percent increase in industry productivity. USDA spokespeople do not say that the new system will reduce product contamination, only that it will improve inspector efficiency.

Can most of the industry be trusted to ensure the quality of its own product, with reduced responsibility for USDA inspectors? USDA spokespeople say yes. Yet a 1981 Government Accounting Office study of sixty-two meat and poultry slaughtering plants found that 26 percent were not meeting FSIS standards. Months later few plants had improved. The GAO concluded that neither the plants nor the USDA showed much interest in complying with federal sanitation standards.

Furthermore, 1981 was not the last time proultry processors were caught committing violations and the USDA failed to take appropriate action. In 1987 an employee of a Simmons Industries poultry plant in Southwest City, Missouri, admitted before CBVS's 60 Minutes television cameras that he had removed "retain" tags from thousands of contaminated chickens and sent the birds on their way for general consumption. Another employee and several inspectors who worked at the plant reported that this violation was only one of many that Simmons and other plants were committing every day. Following the broadcast the USDA responded to the public outcry by announcing that the plant would be inspected more intensely, with surprise visits, to ensure that it had improved. However, in an affidavit filed with the U.S. Department of Labor last spring a former Simmons employee, Sam Shrum, said that the USDA's get-tough policy was a sham. "We always had from one to two weeks' notice for all the 'surprise' visits and we knew what was going to be checked," Shrum said. After the 60 Minutes broadcast the USDA included a different Simmons Industries plant in a special pilot project in company self-inspection—a project that the USDA claimed was available only to plants with exemplary records.

The chief of inspection has always been in an awkward position," says Carol Foreman, who was an assistant secretary of agriculture under President Jimmy Carter. The chief of inspection, whose job is to police an industry, reports to the Secretary of Agriculture, whose job is to support the industry. Under Reagan the chief's position became even more awkward. The inspection services were moved from a consumer division of the USDA to a division whose other functions include marketing. Robert Bartlett, the chief of the program-review branch of the FSIS, a unit that monitors inspection practices, described the new attitude in a 1981 staff meeting:

> The political climate is such that the special interest groups supporting the meat and poultry industry have won and now have the ear of Washington. They "paid their dues" and are now in the driver's seat. * * * The consumer base has disintegrated. We must be versatile and adjust to this new challenge.

What can be done to improve sanitation at poultry plants? "We have to stop the bacteria at the very beginning of the process, before the animals are born—or at the very end, just before delivery to the supermarkets," says Nelson Cox, the Agricultural Research Service microbiologist, who works with a team of other scientists. Some possible approaches include:

Food irradiation. Zapping packaged poultry with nuclear radiation kills most bacteria. Although irradiation for poultry was recently approved by the Food and Drug Administration (as irradiation for fruits and vegetables and a number of other foods has been), the poultry industry has no immediate plans for using the technology, because of widespread consumer fear that the process is unsafe. The industry also worries that the added cost would lower demand.

Irradiation works by splitting molecular chemical bonds with high-energy beams. When enough bonds are split in salmonella and other contaminating bacteria, the bacteria are killed. The problem is in the formation of free radicals, which set off a multitude of chemical reactions in the food and create new molecules called radiolytic products. Whether the radiolytic products are safe is contested, with disputed studies raising doubts about long-term safety. In any case, for now, neither the public nor the poultry industry wants to use irradiation to solve the samonella problem.

Banning animal parts in feed. In this country mixing feathers, intestines, guts, and heads—the dirtiest parts of the carcass—into feed is a routine practice, and it is thought to be a major source of contamination. (Some European governments discourge it.) The bacteria are generally cooked away before the parts are added to the feed, but, Cox notes, the rush to produce tons of feed daily results in some recontaminated feed; the trucks that deliver the raw chicken parts to the feed mill, for example, are seldom cleaned before they carry away the cooked feed. However, Cox says, there is a serious obstacle to banning the leftover chicken parts from feed: "What else are we going to do with the three million tons of it that producers generate each year?"

Cleaner technology. As replacements for scald tanks and rubber defeathering fingers, Cox and his colleagues have been examining mist scalders that blow hot steam on the birds to loosen the feathers. These mist scalders are so effective, Cox says, "that when the birds emerge, you can almost blow the feathers off with your mouth." Unfortunately, the scalders discolor the birds' skin, making the technology unattractive to processors.

"Competitive exclusion." As Cox explains this technique, "You load up the animal's gut with beneficial bacteria that take up all the parking spaces." As a result, human-disease-causing bacteria can't infect the animal. He and his colleague are studying the benefits of competitive exclusion. "We punch a hole in the egg and drop the bacteria culture in just before the chick hatches. It's born with the intestinal tract of an adult chicken—a superchick." Cox thinks that this method, along with chemically cleaning nests to prevent contamination of eggshells, may be the answer. Currently no large-scale American producer is using competitive exclusion. Some smaller ones are, although their method is cruder and, Cox says, less effective than the one the USDA is developing.

In an attempt to find a healthier chicken, many consumers have turned to free-range chicken. Consumers in the Los Angeles area can buy Rocky Range chicken, which is raised out doors under roomier-than-usual conditions, given some sunshine, and not given antibiotics or other growth-stimulating chemicals (although the chickens are still dipped in common water tanks and defeathered with rubber fingers). Although these chickens taste much better than their mass-produced counterparts, a recent Los Angeles Times survey found a small sample to have the same rates of salmonella as the commercial brands when bought out of supermarket meat cases.

Another alternative pursued by consumers is kosher poultry, which is slaughtered in accordance with Jewish dietary laws. The laws attempt to make the slaughter humane, and also require diseased birds to be culled and all traces of blood to be removed from healthy carcasses. The result is a more labor-intensive process and greater attention to detail.

Kosher birds move more slowly along the assembly line, allowing inspectors more time to spot defects. The slower process, together with manual throat-slitting, ensures that the animals stop breathing before they enter water tanks. Therefore they won't inhale the feces-filled water that would contaminate their insides. (They also won't suffer.) Every bird is inspected twice—by a USDA inspector and by a rabbi. No hot water is used, only cold water, so the pores do not open up to let in bacteria. Often when a bird shows signes of disease, the whole bird is rejected, rather than just the diseased parts. Kosher chickens also are not routinely fed low doses of antibiotics, and are given about two to three weeks longer to grow than mass-produced chickens. But they cost two to three times as much.

The USDA and industry spokes-people say they are doing everything possible. Others argue, however, that more progress could easily be made. "It's amazing what can be accomplished when the priorities are there," Carol Foreman says. When she was the chief of inspection, she says, "we decided that if a plant ended up on a chronic-problem list, we would publish its name." If that didn't work, the plant would be denied inspection services, a move that would in effect put it out of business. "As soon as we publicly announced our intentions, around 1979, the number of chronic-problem plants dropped remarkably."

Foreman admits that the technology needed for high-speed yet safe production may not yet exist. But she believes that the industry will create it if pubic pressure, and government regulations, require it. "This is the most creative industry I've seen, she says. "It can make one pound of meat out of something less than two pounds of feed. They have taken what used to be a backyard operation and made it into one of the most sophisticated industries in the world. And they say, 'We can't get the germs off the food!' What they're really saying is, 'We don't share your priorities.' "—Gene Bruce

By Mr. BUMPERS (for himself, Mr. AKAKA, Mr. BINGAMAN, and Mr. BURDICK):

S. 1326. A bill to provide a national program for improving the quality of instruction in the humanities in public and private elementary and secondary schools; to the Committee on Labor and Human Resources.

HUMANITIES EXCELLENCE AND TEACHER TRAINING ACT

• Mr. BUMPERS. Mr. President, I rise today to introduce legislation which I feel very deeply about. I believe this is the Congress that will make major strides in improving the recruitment, preparation, retraining, and retention of teachers in American classrooms, and I hope to play a role in the debate on the appropriate role for the Federal Government to play in the professional development of American teachers. I believe the Federal Government must take a strong leadership role in recruiting new teachers and keeping good teachers in the classroom.

I am an original cosponsor of S. 329, the National Teacher Act of 1991, which was introduced by Senator PELL early in this session. That legislation proposes a comprehensive program for improving the recruitment and retention of teachers. I am particularly interested in one title of that legislation, which would authorize national teacher academies to provide continuing training opportunities for classroom teachers. I am pleased that one of the activities the academies will be sponsoring is summer institutes for teachers.

I commend President Bush for initiating an important dialog with his education reform package aimed at making schools more accountable and preparing students for school achievement, but I have a number of reservations about the President's education package, including concerns about the modest Federal role he proposes, reservations about the choice concept, and questions about whether the package would really help those schools and students who are at highest risk of school failure. Despite my reservations about this package, I am pleased that President Bush has also recognized the need for continuing education of classroom teachers by including Governors' academies for teachers in five core academic subjects.

While the approach of S. 329 is more comprehensive than the legislation I propose, I am still very committed to the program I am introducing today. It is slightly different in focus than the teacher training efforts of the National Teacher Act, and the slight differences are important enough that it should be separately introduced. My legislation goes back to the basics by emphasizing the role of classroom teachers in revitalizing American education.

I want to take a few minutes to present a history of the bill which I call "The Humanities Education Bill." When I read the "Nation at Risk" report in 1983, my reaction was similar to that of my colleagues: Dismay that our students were performing so poorly and that our educational system was so troubled. The dozens of major national reports on education and the report cards issued since the "Nation at Risk" report have done little to allay my fears about American education.

I am shocked, for example, to learn that 75 percent of 11th graders surveyed could not even place Abraham Lincoln's Presidential terms within the period between 1860 and 1889; that four-fifths of the students did not know what the Reconstruction period was; and that 70 percent of students did not know what the Reformation was.

More recently, I read about the weak reading and writing skills of students. Almost 6 of 10 students at age 17 cannot read at a level of difficulty equivalent to newspaper editorials, and about three-quarters of 11th graders can't write a persuasive letter to their Senators. These statistics don't even begin to cover other crises facing our schools, including the fact that in many areas more students drop out of high school than finish—or that thousands of students who do graduate from high school are illiterate.

These statistics do capture some of the changes that are occurring in the schools. Many students do not come to the classroom prepared to learn, and teachers are confronted with an array of problems that could never have been imagined when I was on the school board back in the 1960's.

The crises in the schools have led educators to suggest a broad range of solutions, including innovative concepts like school-based management and teacher effectiveness training. I support broad-based approaches to the problems in American education, but I must admit that my primary response to the crisis in American education—to the crises in rural schools as well as inner city schools—has been the reaction of both a small town school board member and former Governor.

I believe we have to build from the foundation of the American educational system: The classroom teacher. The quickest and simplest way to improve American schools is to keep good teachers in the classroom and improve their skills and knowledge and to recruit highly qualified and motivated teachers. There is obviously a need for competitive salaries for teachers, more minority teachers, and more fully qualified math and science teachers. But I believed in 1983, and I still believe today that much more can be done to help those teachers already in the work force.

I didn't have to look far in 1983 to find a model of teacher training that was a proven success and which could be easily replicated. In the summer of 1983 I read a short article in Time magazine about a summer seminar program for secondary school teachers of the humanities. Teachers chosen for the program were given stipends to go to college campuses during summer months, where they enrolled in rigorous academic courses taught by college professors. The aspect of the program that struck me most was the enthusiasm expressed by the teachers who were fortunate enough to participate in the seminars.

The teachers lauded the program for its intellectual rigor and for the recognition it gave them and their profession. One teacher said, "It's easy to build a wall around yourself and teach students a certain way year after year. I think we'll all go home much better teachers because our excitement about the material will be communicated to the kids." Another said, "In this program high school teachers are recognized as having scholarly interests." No stronger endorsement could have been given the summer seminars than those given by the teachers.

This program, funded and administered by the National Endowment for the Humanities, allowed a select few teachers to go to college campuses for 6-week summer seminars. The seminar topics in that first summer of the program at the University of Texas included Homer's "The Iliad" and "The Odyssey"; Virgil's "Aeneid"; Shakespeare; Alexis de Tocqueville; and Tolstoy's "War and Peace." Almost 2,300 teachers applied for the 225 places available in the first year of the program.

As a member of the Appropriations Committee, I have sought to expand the NEH-sponsored program by increasing the Agency's funding for teacher training. And I want to take this opportunity to applaud Lynne Cheney, chairman of the NEH, for her willingness to administer an expanded program to serve more teachers.

In fiscal year 1991, with a substantial budget increase, the NEH will fund about 65 seminars for 975 teachers. And the NEH has requested an increase in funding, to $4.965 million, to fund about 70 seminars for 1,020 teachers in fiscal year 1992. I am very pleased that the NEH has willingly and enthusiastically overseen the expansion of the program of seminars, all the while maintaining a very high level of instruction. However, I am impatient about even this level of funding because the NEH seminars can reach only a tiny fraction of the teachers who would benefit from them.

For the last several Congresses I have introduced a bill to establish a comprehensive program of summer seminars in the humanities for elementary and secondary school teachers. The bill is important because it builds on the successful NEH model and because it opens the seminars to all teachers. I will talk about that aspect of the legislation in just a few moments.

Under my bill, the Secretary of Education would be authorized to make grants to colleges, universities, community colleges, and junior colleges to conduct summer humanities institutes for elementary and secondary school teachers. The grants to institutions would include funds for tuition, fees, administration, living expenses, and stipends for participants. The institutes would be restricted to topics in the humanities, including both modern and classical language, literature, history and philosophy, and language arts and social sciences. The bill would guarantee that, if funding reached a certain minimum level, each State would have at lest one institute. The sponsors of the seminars would be required to involve classroom teachers in the planning and development of the seminars.

When I first introduced this legislation in the 98th Congress, only humanities teachers were allowed to participate in the seminars. I thought the seminars were a way to improve teachers' mastery of their subjects, and that they should be limited to those who taught the subjects. Since then, however, I have changed its focus to open the seminars to all teachers, not just teachers of the humanities. I realize that this approach goes against the tide—that most teacher training efforts stress improving a teacher's subject matter skills or skills in her field. However, I believe that a mathematics teacher and his or her students could also benefit if the teacher knows something about the American Revolution, or has spent a summer reading Shakespeare. All students benefit if they share some knowledge of what makes us human. My program will not teach a math teacher more math, but it might make a math teacher a better teacher.

It's also important to remember that it's the humanities which teach us to read, to write, and to communicate with others clearly. The jobs of the 21st century will require strong reading and writing skills, and minimizing the importance of the humanities will weaken Americans students' ability to compete internationally. In a memorandum to his undergraduate students at Harvard University, Prof. Robert Reich advised,

> The intellectual equipment needed for the job of the future is an ability to define problems, quickly assimilate relevant data, conceptualize and reorganize the information, make deductive and inductive leaps with it, ask hard questions about it, discuss findings with colleagues, work collaboratively to find solutions, and then convince others. To the extent [these sorts of skills] can be found in universities at all, they're more likely to be found in subjects such as history, literature, philosophy, and anthropology—in which students can witness how others have grappled for centuries with the challenge of living good and productive lives.

It's also important to recognize the vital link between learning about our democracy and participating in it. In 1986, only 19 percent of 18- to 20-year-olds voted; in 1988, a Presidential election year when we would expect more Americans to vote, only about 36 percent of 18- to 25-year-olds voted. Young people in this country are cavalier about the privilege of voting because they are ignorant of our history and how we became a democracy. Young people generally lack insight into the struggles leading up to the Revolutionary War; the history of the Civil War; the sacrifices of their grandparents during the Second World War; or the struggles—domestic and international—caused by the war in Vietnam. An historian recently commented, "Our citizens are in danger of becoming amnesiacs if you maintain that history is collective memory." I fear that young Americans are already amnesiac about the responsibilities of citizenship—the importance of each man and woman voting whenever he or she has that opportunity. Thomas Jefferson, in justifying the inclusion of the study of history in his plan for education, said

> History, by apprising them of the past, will enable them to judge of the future; it will avail them of the experience of other times and other nations; it will qualify them as judges of the actions and designs of men; it will enable them to know ambition under every disguise it may assume; and knowing it, to defeat its views.

Nothing else matters—not rising SAT scores, more science majors, or even increased international competitiveness—if our young people cannot carry on the ideals of democracy.

I feel as strongly about accountability in education as any of my colleagues. I will confess, however, that my bill will probably be criticized because it is not sufficiently targeted; because it won't pay off in the short term to train a math teacher in Shakespeare or a science teacher in how the Constitution was written. I don't think the results of the seminars I propose will be easily quantifiable, at least not in the short run. But I am convinced that these seminars will make an immediate difference in the lives of teachers and will finally make a difference in the quality of education of American students.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Humanities Excellence and Teacher Training Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) it is in the national interest to have citizens who are broadly educated, and it is in the national interest of our Nation's schools to prepare young people for active participation in community life and a democratic society, both of which are not possible without knowledge and understanding of the humanities;

(2) studies in the humanities are essential to ensure that our Nation's children acquire the necessary conceptual and analytical skills and have an appreciation for the traditions and values of Western and non-Western cultures; and

(3) it is necessary to improve the quality of instruction in the humanities, and it is not possible to accomplish this goal unless our Nation's teachers have the necessary background and training in the humanities.

(b) PURPOSE.—It is the purpose of this Act to authorize a national program for improving the quality of education by making grants to institutions of higher education or consortia thereof to enable such institutions or consortia to establish and operate teacher institutes for the enhancement of the humanities knowledge of private and public elementary and secondary school teachers.

SEC. 3. PROGRAM ESTABLISHED.

(a) IN GENERAL.—The Secretary shall make grants to institutions of higher education or consortia thereof having an application approved under subsection (b), to enable such institutions or consortia to conduct summer humanities training institutes for the professional development of public and private elementary and secondary school teachers.

(b) AWARD BASIS.—

(1) IN GENERAL.—Grants made pursuant to this section shall be awarded on a competitive basis as measured by the excellence of the program proposed in the application submitted pursuant to section 4, taking into consideration such elements as library resources, faculty achievement, and humanities learning facilities.

(2) SPECIAL RULE.—If the amount appropriated pursuant to the authority of section 6 is greater than $10,000,000 in any fiscal year, the Secretary shall award at least one grant in accordance with the provisions of this Act to an institution of higher education in each State.

(c) USE OF GRANT.—Grants awarded under this Act shall be used for—

(1) the costs associated with enrollment in an institute, including tuition, fees, and living expenses;

(2) a stipend for institute participants; and

(3) the costs of establishing and operating an institute.

(d) EQUITABLE DISTRIBUTION OF GRANTS.—In making grants under this section the

United States shall ensure, to the maximum extent consistent with the purpose of this Act, an equitable distribution of institutes assisted under this Act among States and within States.

SEC. 4. APPLICATION.

(a) IN GENERAL.—Any institution of higher education or consortium thereof desiring to receive a grant under this Act shall submit an application to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may reasonably require.

(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

(1) contain a description of the proposed program of instruction, and the extent to which eligible classroom teacher participants will be involved in the planning and design of the institute;

(2) contain an estimate of the number of teachers to attend the institute, and describe the selection procedures;

(3) describe the nature and location of existing facilities to be used in the operation of the institute;

(4) specify the teaching and administrative staff for the institute, including the involvement of faculty from both the humanities and education disciplines and elementary and secondary school teachers;

(5) specify the academic credit, if any, to be awarded for the completion of the course of study to be offered at the institute;

(6) provide a schedule of stipends to be paid to teacher participants in the institute, including—

(A) an allowance for subsistence and other expenses for teachers attending the institute; and

(B) a stipend for participating in the seminar; and

(7) contain assurances that there will be no duplication of Federal assistance provided to institute participants; and

(8) provide adequate assurances that teachers from a State who wish to participate in an institute's activities will be selected on the basis of—

(A) recommendations from a principal or other supervisory official ; or

(B) a demonstrated interest in the humanities discipline or disciplines studied at the institute.

(c) SPECIAL RULE.—No grants shall be made or contracts entered into under this Act except to such extent, or in such amounts, as may be provided in the appropriation Acts.

SEC. 5. DEFINITIONS.

For the purposes of this Act—

(1) the term "humanities" means both modern and classical languages, literature, history, philosophy, and language arts, and social studies;

(2) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965;

(3) the term "Secretary" means the Secretary of Education;

(4) the term "State" means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau (until the Compact of Free Association is ratified); and

(5) the term "State educational agency" has the same meaning given such term by section 1471(23) of the Elementary and Secondary Education Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $50,000,000 for fiscal year 1992, $60,000,000 for fiscal year 1993, and $70,000,000 for fiscal year 1994 to carry out the provisions of this Act.•

By Mr. BINGAMAN (for himself, Mr. NUNN, Mr. HOLLINGS, Mr. GORE, Mr. MITCHELL, Mr. WIRTH, Mr. KENNEDY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. DIXON, Mr. LEVIN, Mr. DODD, Mr. SHELBY, Mr. DASCHLE, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 1327. A bill to provide for a coordinated Federal program that will enhance the national security and economic competitiveness of the United States by ensuring continued U.S. technological leadership in the development and application of national critical technologies; to the Committee on Commerce, Science, and Transportation.

NATIONAL CRITICAL TECHNOLOGIES ACT

• Mr. BINGAMAN. Mr. President, today I am introducing the National Critical Technologies Act of 1991. This bill is part of a package of five bills Senator HOLLINGS, Senator NUNN, Senator GORE, and I are introducing to maintain U.S. technological leadership and improve the competitiveness of our manufacturing sector. We are pleased to be joined by a number of our colleagues as original cosponsors of this legislation, including Senators MITCHELL, WIRTH, ROCKEFELLER, KENNEDY, MIKULSKI, DIXON, LEVIN, DODD, SHELBY, DASCHLE, LIEBERMAN, and RIEGLE.

The bills represent a joint effort by a group of us on the Armed Services and Commerce Committees to respond to the adverse trends in our technological and manufacturing competitiveness, trends that have been documented in numerous recent Government and private sector reports.

It has been a pleasure to work with Senators HOLLINGS, NUNN, and GORE on this package of legislation. We all realize that if we are going to make progress in reversing our declining competitiveness, the Armed Services and Commerce Committees need to work together. We hope our example will carry over to the executive branch as well. DOD and the civilian agencies must work together, because technologies and manufacturing capabilities we are trying to foster in this package of legislation are critical both to our national security and to our economic well-being.

There is a broad and international consensus on which generic technologies are driving economic growth, and Japan, Europe, and other foreign governments are systematically pursuing leadership in these critical technologies. Many of these same technologies are vital to future weapons systems. A recent report from the private sector Council on Competitiveness entitled "Gaining New Ground" warned that the U.S. position in many critical technologies is slipping and, in some cases, has been lost altogether. The council concluded that, "unless the nation acts immediately to promote its position in critical generic technologies, U.S. competitiveness will erode further, with disastrous consequences for American jobs, economic growth and national security." This act and Senator HOLLINGS' companion bill, the Technology Strategy Act of 1991, both of which build on legislation we have enacted over the last 5 years, are designed to help stem that decline in U.S. technological leadership.

U.S. TECHNOLOGICAL DECLINE

Technology is the future. But for the first time, America's premier place in that future seems in doubt. The country that developed the computer, tamed the atom, and explored the moon is losing one technology-based industry after another to foreign competition. The country that pioneered mass production, machine tools and industrial robots now invests less in plant and equipment than Japan, with a GNP only 60 percent that of ours.

American stores are filled with products invented in the United States but no longer produced here. The ubiquitous video cassette recorder is just one. Although an American company—Ampex Corp.—pioneered the technology, 95 percent of the world's VCR's are now built by Japanese producers. The same story can be told of many other products: televisions, audio tape recorders, cassette disks, liquid crystal display technology, silicon wafers. The list goes on.

In other technologies that the United States pioneered, we are now a distant follower: numerically controlled machine tools, robotics, optoelectronics, and memory chips. Many experts believe that the American computer and software industries are following the same downward trend.

Ironically, the United States remains strong in science, and American firms continue to make most of the world's major technological breakthroughs. But our inability to follow through allows Japan and other rivals to produce the commercial products the world wants. Although the United States still holds key markets, Japanese firms on average can turn technology into new products and processes both more quickly and more cheaply than United States firms.

OBSOLETE FEDERAL POLICY

The strength of U.S. industry in science is due in good part to Federal policy: Following World War II, the Federal Government mapped out a technology course for itself that we continue to follow today. Drawing on the historical thesis of manifest destiny—that America defined itself by constantly pushing out to the frontiers—post-war policymakers such as Vannevar Bush argued that the frontiers of science offered another way for the country to define itself. The resulting policy was twofold: support for basic science, and for mission-oriented technology development—primarily defense technology.

That approach, aimed at cultivating the technological frontier, has been extremely successful in many respects. The United States has an unparalleled university research system, a vast pool of scientific talent, and a flexible and efficient government structure for funding cutting-edge research. America leads the world in most areas of basic research: physics, chemistry, astronomy, microbiology, and biochemistry.

America's science policy was well-suited to the postwar era, when U.S. industry overwhelmingly dominated world markets, and it ushered in a period of phenomenal scientific achievement. But three major changes have rendered that approach less effective in an era of strong international competition.

Foreign rivals: The most important change has been the emergence of foreign firms with the ability to adopt and refine technologies developed elsewhere, something we were very good at prior to World War II. The United States has made most of the major breakthroughs in electronics, and yet Japan increasingly dominates that industry. How? Largely by licensing or reverse-engineering our technology, and then developing it into products that are higher-quality and cheaper than anything made in the United States.

The inevitable ease with which technological discoveries can be imitated has taken away much of the advantage once enjoyed by American firms with a new invention. Now, the greatest competitive advantage lies not with those who make the original discovery, but with those who perfect its manufacture.

Technology policy abroad recognizes this reality. Japan focuses on training large numbers of engineers, promoting investment in plant and advanced manufacturing equipment, speeding technology diffusion through cooperative R&D, and assisting small and medium-sized manufacturers through a public network of 170 manufacturing extension centers. Similarly, Germany has an elaborate system of vocational education, a network of applied research and technology transfer centers, and a well developed system of industrial standardization—all designed to promote engineering and manufacturing excellence.

By contrast, our own technology policy cultivates the scientific frontier, largely ignoring downstream issues of engineering and manufacturing. But at what cost? Michael Dertouzos, the chairman of MIT's Commission on Industrial Productivity, recently summed it up. He said, "[in the U.S.] we value creativity and innovativeness, and we don't value production. But the money is not in invention, it's in production." Others have pointed to a publish or perish culture in this country which contrasts to a patent or perish culture in Japan.

Fewer Defense "spinoffs": In addition to basic science, the United States could once rely on applied research on technologies important to the Department of Defense and other mission agencies to yield important civilian applications. For many years, military and space R&D spawned emerging technologies such as computers, semiconductors, and jet-propelled aircraft. DOD was by far the largest market for these technologies in their initial stages. DARPA, in particular, supported leading-edge R&D in dual-use technologies from advanced materials to electronics computing that yielded enormous benefits to the civilian economy. Similarly, the Office of Naval Research and the corresponding offices in the Army and Air Force supported a broad range of research in fields as diverse as economics and aeronautics.

Over the past 20 years, however, defense R&D has been less effective at fostering commercial technology development. First of all, DOD narrowed its vision as an R&D agency at the time of the Vietnam War. As a result of the Mansfield amendment to the fiscal year 1970 Defense Authorization Act, which directed DOD to concentrate on research with direct defense applications, DOD withdrew from supporting many areas, particularly in our universities. Unfortunately, this was a divorce sought by both parties at the time. While the Mansfield amendment was soon repealed, its legacy has lasted. DOD support of technology base R&D has diminished from over 20 percent of its overall research budget in the late 1960's to less than 10 pecent today. In real terms the DOD technology base did not grow in the 1980's while the rest of the research budget, devoted to the development of specific weapons systems, rapidly increased.

In a sense our legislation represents a call on DOD to again broaden its horizons, to recognize that our national security is inextricably linked to the health of our industrial sector, especially at a time when DOD is no longer the dominant customer of high technology products it once was.

Experts agree that the much larger and more dynamic commerical marketplace will increasingly drive the strategic technologies of the future. We will see every more spin-ons to the defense sector in the years ahead and we should be fostering the integration of our civilian and military sectors, not fighting the integration as much of our current defense acquisition system does. And because may U.S. industries critical to national defense have been severely hurt by foreign competition, the Pentagon now finds itself dependent on foreign suppliers for technologies such as electronics components, semiconductor manufacturing equipment, and machine tools. In short, American industry's competitiveness problem has become a genuine threat to national security.

Foreign technology Development: There has been a third major change. Foreign rivals, having out-manufactured us using our own technological breakthroughs are increasingly developing their own. And because both their governments and industry direct their effort almost entirely to the core generic technologies driving economic growth, their investments in that area now exceed our own.

The contrast with Japan is striking to me. Japan is now spending—at the current exchange rate—about $85 billion annually on R&D. About $70 billion of that comes from Japanese industry, almost the same as American industry invests from its own resources despite the far greater size of our economy. About $14 billion is invested by the Japanese Government in civilian R&D and much of this is very closely coupled with the needs of Japan's private sector. We, as a government, spend about the same fraction of GNP on civilian R&D, but unfortunately with much less coupling to private sector needs and much more emphasis on what the Council on Competitiveness has termed national prestige projects. Finally, the Japanese spend less than $1 billion annually on defense R&D, far less than the $40 billion we invest in DOD and DOE weapons research.

One can see a similar, but somewhat less pronounced pattern in European private and public R&D investments. But with these R&D spending patterns we should not be surprised to see technological innovation accelerating abroad. And these patterns suggest that any American effort to meet the foreign technological challenge must involve industry as well as Government. Both are currently underinvesting in long-term research in core generic technologies in comparison with our competitors abroad.

There is strong agreement about what these core technologies are: improvements in advanced materials, electronics and information systems, and engineering and manufacturing are driving innovation and growth in every industry. The National Critical Technologies Panel, a White-House chaired Government-industry committee, issued its first report in April. The 22 generic technologies that the panel identified as critical to future economic prosperity and national security are virtually identical to those identified by the Council on Competitiveness, the Department of Commerce, the Department of Defense, and other United States and foreign technolgy organizations. Most of these critical technologies are not dramatic breakthroughs, such as high temperature superconductivity, but rather incrementally evolving technologies such as materials processing and flexible manufacturing.

There is also widespread agreement that the United States is losing ground in many of these technologies—irreversibly so in some cases—because of American industry's relative weakness in turning laboratory technology into commercial products and processes quickly and cheaply. The Council on Competitiveness' recent report says it well:

> Leadership in technology is closely linked to leadership in commercial markets * * *. Our national technology priorities must address this marketplace reality.

In contrast to Japan and Europe, the United States has not systematically supported precompetitive research in critical generic technologies. We have done so only to the extent such research coincides with the needs of our mission agencies. In agriculture, in health, in aeronautics, our system generally works. But unfortunately it produces large gaps.

The fundamental problem is rooted in a mistaken application of laissez-faire doctrine to technology policy. Adam Smith himself recognized that in the case of technologies and industries important to national security, nations could not afford to rely solely upon the invisible hand.

Technology is different from commodities like oil. No country has a natural advantage when it comes to computer chips and superconducting alloys. It must be created—through generous support for R&D that is too risky for industry to undertake alone. And that means a direct role for government.

It does not mean government picking winners and losers among individual companies. The critical generic technologies have largely chosen themselves. The question for this Nation is how to ensure that American firms are among the global competitors. That involves providing the necessary infrastructure for American industry in a rational and coordinated approach.

Of the leading industrial countries, the United States alone still fails to provide systematic, coherent support for precompetitive technology development. As market share for U.S. producers continues to shrink, it is time to reexamine our approach.

NATIONAL CRITICAL TECHNOLOGIES ACT OF 1991

The National Critical Technologies Act of 1991 is designed to bolster our country's technology position in four broad ways.

Technology management: First, the act provides for the coordinated management of Federal activities in critical technologies, with direct industry input into that management process. Under the act, the Office of Science and Technology Policy (OSTP)—in close consultation with industry advisory committees—would develop a strategic "roadmap" for each critical technology or set of related critical technologies identified by the National Critical Technologies Panel. Each roadmap would represent a national strategy for maintaining or regaining a leadership position in the development of that technology. The administration's high-performance computing plan—developed at Senator GORE's initiative and the only crosscutting technology plan yet produced by the current interagency process—represents a model for other technology roadmaps required by this act. My understanding is the administration agrees and is already at work on similar plans for advanced materials, biotechnology and manufacturing.

The act also charges OSTP with coordinating technology development activities within the Federal Government, and—in cooperation with industry—periodically evaluating the progress made toward meeting the goals of the roadmap. In short, the act sets up a framework for improved technology management both across Federal agencies and between government and industry.

Technology development: Second, the bill expands the industry-driven component of our Federal research and development effort in critical technologies, to increase its relevance for commercial applications. The act requires the mission agencies, including DOD's Defense Advanced Research Projects Agency (DARPA), to establish "partnerships" with industry to conduct generic, precompetitive R&D. Industry would take the lead in most of these efforts and contribute half the cost. Last year Congress appropriated $50 million to DARPA to fund industry consortia doing R&D in precompetitive technologies. DARPA has indicated it plans to use that money to support partnerships in six areas—optoelectronics, static random access memory chips, superconducting electronics, ceramic fibers, scalable computer systems, and linguistic data processing. All of these are areas selected by DOD and OSTP as critical to the Nation in the long run. The administration eliminated fiscal year 1992 funding for this important program, however. This act reinstates the program and authorizes $100 million for DARPA to expand it. The bill also authorizes $110 million—up from $35 million in fiscal year 1991—for the Department of Commerce's Advanced Technology Program, which supports industry-led projects to develop precompetitive technology. The total authorization for these R&D partnerships is $480 million.

The rationale for these authorizations is straightforward. Just as the Federal Government supports basic research, it must bear part of the burden of exploring risky industrial technologies, which often provide large public benefits but only small private returns. The partnership approach serves to direct public funds to areas that industry itself thinks will have the highest payoffs, but where the benefits would be difficult for individual firms to capture. The partnership approach also guarantees competition in applying technology to meet the needs of the marketplace since partnerships involve at least two and preferably more firms in the precompetitive research.

Technology application: Third, the act supports regional critical technology application centers to help U.S. firms commercialize and apply critical technologies more rapidly and less expensively. Organized around the geographic concentrations of firms that exist in nearly all States—such as autos in Detroit, metalcasting in Birmingham, or electronics in Phoenix—CTAC's will address the "technology infrastructure" needs of firms in the same industry and geographic region. This infrastructure, which is typically lacking for all but the largest U.S. firms, includes (generic) applied R&D and a range of shared technology services: equipment testbed and scale-up facilities, prototype test and development, technical assistance in design and management, market monitoring services, quality testing and standard certification, and education and training. By drawing together firms from complementary sectors, this infrastructure will also strengthen member firms through closer linkages to their customer and supplier firms—a major strength of the Japanese production system.

In keeping with the goal of enhanced technology commercialization and application, industry members will direct the CTAC and provide 40 percent of the cost. State and university participants will contribute another 30 percent. Federal funds will cover the remaining share, not to exceed 30 percent, for a maximum of 6 years.

CTAC's will be selected competitively through a process prescribed by the Secretary of Defense, working closely with the Secretary of Commerce. Selection criteria include the potential contribution of a CTAC to the ability of member firms to compete nationally and internationally, and—as a measure of that likely contribution—the degree of involvement by industry. Where possible, Federal funds will go to sustain or enhance existing programs, rather than to create new ones.

Although some of the building blocks already exist, CTAC's nevertheless address an important need that is currently not being met. About half of the $500 million that States now spend on technology programs goes to industry-university centers—often called "centers of excellence." These centers are indeed excellent, but most of them are university-dominated and the emphasis is on fundamental research. Industry participants are primarily large firms, and their involvement is generally quite limited. In short, most industry-university centers have enhanced our existing strength in breakthrough innovation but done little to improve commercialization and application—that is, follow through.

The States have developed isolated programs to enhance technology follow through. But those efforts lack sufficient scale and scope, often focusing on a particular need—say, for seed capital or incubators—rather than the range of impediments to technology commercialization and application.

Successful models do exist. Most notable in this country are Ohio's Thomas Edison Centers, designed to enhance the State's existing strengths in materials, manufacturing, and biotechnology. There are nine centers, located where industry and related university activity are concentrated—polymers in Akron, materials technology in Dayton, industrial systems in Toledo, et cetera. The Edison Centers are diverse, but what distinguishes them, overall, is the strong level of industry involvement, and the resulting emphasis on technology application. For example, the Edison Welding Institute in Columbus is operated by its 228 industrial members. The institute conducts research both in-house and through Ohio State University, delivers customized education and training services, and provides engineering services and other assistance with technology application.

Europe provides useful models as well. With a relatively small—pre-1992—domestic market, European firms long ago faced the need to sell in world markets. As a result, Europe has developed a sophisticated set of programs for providing a technology infrastructure, particularly for small and medium sized firms. Programs in Germany, northern Italy, Denmark and elsewhere are remarkably parallel in both their structure—decentralized, sector-based programs that are industry-driven—and their focus—on applied R&D and a comprehensive set of technology services related to product design, market monitoring, education and training, and problem-solving.

Michael Porter's recent book, "The Competitive Advantage of Nations," stresses the regional character of technology development: firms in particular industries tend to cluster geographically—with their customer and supplier firms and with firms in related sectors. Porter says that what makes these geographically concentrated industries competitive has little to do with natural endowment and much to do with public and private investment in specialized factors of production. Critical technology application centers, like the Edison Centers and European programs, provide a way for government and industry to make those much needed investments.

Foreign technology monitoring: Finally, the National Critical Technologies Act expands efforts by U.S. industry and government to monitor and exploit foreign technology advances. Currently, American firms are slow to learn of and adopt technological advances made outside the United States, in contrast to Japan, where government and industry are both organized for global scanning.

The act provides matching funds for industry associations and professional societies to establish an office in Asia or Europe to monitor developments in one or more critical technologies. In addition to disseminating information on foreign advances in R&D and technology application, these offices would identify opportunities for technology transfer and joint ventures involving U.S. firms. This provision is, in part, an effort to encourage U.S. industry associations to be more aggressive in promoting technology transfer and commercialization.

The act also provides for coordination of scanning activities within the Federal Government, by establishing a central clearinghouse in the Department of Commerce for foreign commercial technology monitoring and assessment, and a second clearinghouse in DOD for foreign defense technology monitoring and assessment. Although many Federal agencies routinely collect and disseminate information on foreign technology, the current process is both duplicative and incomplete.

Conclusion: The rationale for the National Critical Technologies Act and Senator HOLLINGS' companion bill, the Federal Technology Strategy Act, can be summed up in a paragraph from the Council on Competitiveness' recent report, "Gaining New Ground":

> The American people and its leaders have too readily assumed that preeminence in science automatically confers technological leadership and commercial success as well. It does not. America assumed that government support for science would be adequate to provide for technology. It is not. In too many sectors, America took technology for granted. Today, the nation is paying the price for that complacency.

The solution to our competitive problems is not to divert resources from science and thereby risk losing our longstanding advantage. But if the United States is to regain its leadership in technology, the Federal Government must step in at other key points where private markets cannot or do not function: in exploring long-term, high-risk industrial R&D at precompetitive stages; in developing the infrastructure of generic R&D and shared services that supports technology application in particular geographic regions; and in monitoring foreign advances in technology development. Like basic research, these are activities that often provide large benefits to society but only small returns to individual firms.

But although limited Federal support is justified, it must be provided in close partnership with industry. Industry involvement in technology development is necessary in order to direct public funds to high-risk areas that industry itself thinks will have the highest payoffs. Similarly, government's role in technology application and foreign technology monitoring is to complement private resources, so as to gain the greatest leverage for Federal funds and to ensure that government dollars do not displace private dollars.

There is precedent for this kind of government-industry cooperation. In 1915, U.S. aviation enthusiasts warned that Europeans would be the first to commercialize the Wright Brothers' invention. At President Teddy Roosevelt's urging, Congress created the National Advisory Committee on Aeronautics, NASA's predecessor, which gave a huge boost to civil aviation. Among other things, NACA provided large wind tunnels that none of the struggling aircraft companies could afford.

More recently, SEMATECH has demonstrated the benefits of a government-industry partnership to develop generic commercial technology. One of SEMATECH's accomplishments has been to strengthen significantly our domestic semiconductor equipment industry. As evidence of that, Motorola's new chip production plant in Austin, TX, will have 80 percent United States equipment; when the plans for the plant were drawn up several years, they called for 80 percent Japanese equipment.

Unfortunately, government-industry partnerships such as NACA and SEMATECH are the exception rather than the rule. Our current national policies and priorities do not routinely or adequately address the commercial technology challenge facing the United States. That in turn poses a risk to national security.

The National Critical Technologies Act of 1991 and the Federal Technology Strategy Act of 1991 provide a framework for addressing this dual challenge. And they do so with sensitivity to the essential role of private markets. The alternative is further technological erosion, with significant damage to jobs, economic growth, and national defense.

Mr. President, I ask unanimous consent that the text of the National Critical Technologies Act appear at the end of my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "National Critical Technologies Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purposes.
Sec. 5. Definitions.

TITLE I—FEDERAL MANAGEMENT OF NATIONAL CRITICAL TECHNOLOGIES

Sec. 101. Requirement for biennial multiyear national critical technology strategic road maps.
Sec. 102. Submission of initial road maps.

TITLE II—FEDERAL SUPPORT FOR DEVELOPMENT OF CRITICAL TECHNOLOGIES

PART A—DEPARTMENT OF DEFENSE

Sec. 201. Critical Technologies Research and Development Partnerships.
Sec. 202. Cooperative agreements and other transactions relating to advanced research projects.
Sec. 203. Independent research and development.
Sec. 204. Authorization of appropriations.

PART B—OTHER DEPARTMENTS AND AGENCIES

Sec. 221. Department of Commerce Advanced Technology Program.
Sec. 222. Department of Energy Critical Technology Partnerships.
Sec. 223. National Aeronautics and Space Administration Critical Technology Partnerships.
Sec. 224. Department of Health and Human Services National Critical Technology Partnerships.

PART C—ADMINISTRATIVE PROVISIONS RELATING TO CRITICAL TECHNOLOGY PARTNERSHIPS

Sec. 231. Lead institution.
Sec. 232. Partnership proposals.
Sec. 233. Selection of Partnerships.
Sec. 234. Protection of information.
Sec. 235. Other assistance to Partnerships.

PART D—ADDITIONAL DEFINITIONS

Sec. 241. Definitions.

TITLE III—CRITICAL TECHNOLOGY APPLICATION CENTERS

Sec. 301. Assistance for critical technology application centers.
Sec. 302. Authorization of appropriations.

TITLE IV—FOREIGN TECHNOLOGY MONITORING AND ASSESSMENT

Sec. 401. Findings.
Sec. 402. Purposes.
Sec. 403. Coordination of the foreign science and technology information activities of the Federal Government.
Sec. 404. Clearinghouse of Foreign Commercial Technology Monitoring and Assessment.
Sec. 405. Overseas Foreign Critical Technology Monitoring and Assessment Grant Program.
Sec. 406. Clearinghouse of Foreign Defense Technology Monitoring and Assessment.
Sec. 407. Utilization of National Science Foundation Foreign Technology Evaluation Program.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) It is essential that the United States remain at least competitive in the development and application of technologies that are critical to national security or economic prosperity, as identified by the National Critical Technologies Panel established pursuant to section 601 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6681).

(2) Despite continued United States leadership in science, the United States is experiencing an erosion of market share and a loss of leadership in numerous critical technologies.

(3) The enormous amount being expended by the Federal Government for research and development, including approximately $75,000,000,000 in fiscal year 1992, is not being managed effectively to ensure that sufficient progress is made in the development and application of national critical technologies.

(4) As United States industry is the primary decisionmaker regarding whether and how technology is to be applied, it is necessary for United States industry to be able effectively to influence the allocation of Federal Government spending on research and development of national critical technologies.

(5) The Federal Government must rely increasingly on the civilian technology and industrial base to meet the national security needs of the United States (notwithstanding that the current Department of Defense acquisition process imposes significant obstacles to the ability of that department of the Federal Government to meet such needs through reliance on that base).

(6) The need for such reliance on the civilian technology and industrial base results principally from the growing convergence of military and commercial technologies and from the increasing tendency for such technologies to be applied to serve the much larger and more vibrant commercial marketplace before being applied to meet military needs.

(7) As a result of the growing accessibility of the basic factors of production in global markets, an industry's ability to compete internationally is increasingly determined by its possession of or access to specialized resources and capabilities.

(8) Because firms in a particular industry tend to concentrate geographically, the international competitiveness of that industry can be enhanced by encouraging the ready availability of necessary specialized resources and capabilities in the region where the industry is located.

(9) Limited Federal Government action to encourage the development of such locally based resources and capabilities is necessary when the private market will not or cannot independently make the investments or take other actions necessary to develop such resources and capabilities.

SEC. 4. PURPOSES.

The purposes of this Act are as follows:

(1) To increase Federal Government support for efforts to identify, manage, develop, and apply national critical technologies.

(2) To provide for an appropriate Federal role in the development of each national critical technology and for the coordination of Federal Government activities contributing to the development of each such technology.

(3) To encourage research and development of the national critical technologies through research contracts, research partnerships, and other cooperative agreements entered into by United States industry with the Department of Defense, the Department of Commerce, the Department of Energy, the National Aeronautics and Space Administration, and the Department of Health and Human Services.

(4) To promote the development and sustainment of the international competitiveness of industries in various regions of the United States through the establishment of regional Critical Technology Application Centers that assist the industries in such regions to use one or more national critical technologies for commercial purposes.

(5) To facilitate the coordination of monitoring and assessment of foreign activities in national critical technologies and the dissemination of information on such activities to interested parties in the Federal Government, United States industry, and other interested groups.

SEC. 5. DEFINITIONS.

In this Act:

(1) The terms "Federal laboratory" and "laboratory" have the meaning given the term "laboratory" in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

(2) The term "critical technology" means—

(A) a national critical technology;

(B) an emerging technology; and

(C) a defense critical technology.

(3) The term "national critical technology" means a technology that—

(A) appears on the list of national critical technologies contained in a biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

(B) has not been expressly deleted from such list by such a report subsequently submitted to Congress by the President.

(4) The term "emerging technology" means a technology that—

(A) appears on an emerging technologies list submitted to Congress by the Secretary of Commerce; and

(B) has not been expressly deleted from such list by an emerging technologies list subsequently submitted to Congress by the Secretary.

(5) The term "defense critical technology" means a technology that—

(A) appears on the list of critical technologies contained in an annual defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2508 of title 10, United States Code; and

(B) has not been expressly deleted from such list by such a plan subsequently submitted to Congress by the Secretary.

(6) The term "dual-use critical technology" means a critical technology that has military applications and nonmilitary commercial applications.

(7) The term "defense-specific critical technology" means a defense critical technology that is used solely for military purposes and is unlikely to have any foreseeable nonmilitary commercial applications.

(8) The term "commercial critical technology" means a critical technology that is not a defense-specific critical technology.

TITLE I—FEDERAL MANAGEMENT OF NATIONAL CRITICAL TECHNOLOGIES

SEC. 101. REQUIREMENT FOR BIENNIAL MULTIYEAR NATIONAL CRITICAL TECHNOLOGY STRATEGIC ROAD MAPS.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—NATIONAL CRITICAL TECHNOLOGY STRATEGIC ROAD MAPS

"REQUIREMENT FOR STRATEGIC ROAD MAPS

"SEC. 701. (a) The President, acting through the Federal Coordinating Council for Science, Engineering, and Technology, shall develop, issue, and submit to Congress, at least once every two years, a multiyear strategic road map for each national critical technology (hereafter in this title referred to as a 'national critical technology strategic road map' or 'strategic road map').

"(b) Each strategic road map shall cover at least the four fiscal years following the fiscal year in which the strategic road map is submitted to Congress and may cover more than one national critical technology.

"(c) In developing a strategic road map, the Council shall consult with appropriate representatives of United States industry interested in the national critical technology or technologies covered by the strategic road map and with the appropriate national critical technologies advisory committee established pursuant to section 703.

"CONTENT OF STRATEGIC ROAD MAP

"SEC. 702. (a) Each national critical technology strategic road map shall—

"(1) provide an assessment of the current strengths and weaknesses in the national capability of the United States to develop and apply the technology or technologies covered by the strategic road map and the sources of such strengths and weaknesses, including an assessment of the current activities of United States industry, institutions of higher education in the United States, the Federal Government, and State and local governments which enhance or hinder the development and application of such technology or technologies;

"(2) in light of such assessment, provide guidance for the conduct and coordination of the activities of the Federal Government that are directed toward enhancing the development or application of the national critical technology or technologies covered by the strategic road map;

"(3) specify the goals and priorities of such activities;

"(4) provide guidance for the appropriate roles of each department and agency of the Federal Government, United States industry, and institutions of higher education in the United States in implementing the strategic road map; and

"(5) provide guidance for increasing access to foreign sources of the technology or technologies covered by the strategic road map through international cooperation.

"(b) Each national critical technology strategic road map shall identify the joint actions that are feasible and desirable for departments and agencies of the Federal Government to take—

"(1) to ensure that the results of federally funded and federally conducted research and development of the national critical technology or technologies covered by the strategic road map are appropriately disseminated to United States industry;

"(2) to encourage and enhance the use of such results by United States industry; and

"(3) to provide for the education and training of personnel engaged in research and development of such national critical technology or technologies.

"(c) Each national critical technology strategic road map for a national critical technology or technologies (other than the first strategic road map covering such technology or technologies) shall include a discussion of the achievements of the activities conducted pursuant to the preceding strategic road map issued pursuant to section 701. The discussion shall include—

"(1) an analysis of the progress made toward achieving the goals and objectives of the strategic road map;

"(2) a summary of the budgets of the departments and agencies of the Federal Government for research and development of such national critical technology or technologies for the first two fiscal years covered by such preceding strategic road map; and

"(3) any additional actions or recommendations for legislation necessary to carry out the provisions of this title and the provisions of such strategic road map.

"NATIONAL CRITICAL TECHNOLOGIES ADVISORY COMMITTEES

"SEC. 703. (a) The Director of the Office of Science and Technology Policy shall establish one or more national critical technologies advisory committees to ensure that expert advice on each national critical technology is available to the Federal Coordinating Council for Science, Engineering, and Technology for the purposes of carrying out the responsibilities of the Council under this title.

"(b) Each such advisory committee shall consist of members appointed by the Director from among representatives of United States industry, members of industry associations, representatives of labor organizations in the United States, members of professional and technical societies in the United States, and other persons who are qualified to provide the Council with advice and assistance in the development of one or more national critical technology strategic road maps.

"(c) The Director shall designate a member of each advisory committee to serve as the chairman of the advisory committee.

"(d) Each advisory committee shall, for each national critical technology within the purview of such committee, provide the Council with its independent assessment of—

"(1) the goals and priorities for the development and applications of that national critical technology, including an assessment of the extent to which the achievement of such goals and priorities will ensure continued United States leadership in that technology;

"(2) the specific programs and activities that the Federal Government must conduct as complements to the activities of United States industry in order to accomplish such goals and priorities;

"(3) the progress made in implementing the national critical technology strategic road map for that technology;

"(4) any need to revise such strategic road map;

"(5) the balance between the components of the strategic road map; and

"(6) any other issues identified by the Director.

"(e) A national critical technologies advisory committee shall assist in the development of, and shall review, the first national critical technology strategic road map for each national critical technology within the purview of such advisory committee before that strategic road map is submitted to Congress. With regard to that strategic road map, the advisory committee shall provide the Council with its independent assessment of the matters described in paragraphs (1), (2), (4), (5), and (6) of subsection (d).

"RESPONSIBILITIES OF THE COUNCIL

"SEC. 704. The Federal Coordinating Council for Science, Engineering, and Technology shall—

"(1) serve as the lead organization within the Federal Government responsible for—

"(A) the development of each national critical technology strategic road map; and

"(B) the interagency coordination of the Federal Government activities conducted pursuant to such road map;

"(2) report to the President on a biennial basis on any recommended changes in departmental or agency responsibilities that are necessary for better implementation of the strategic road map;

"(3) each year before the submission of the budget to Congress pursuant to section 1105 of title 31, United States Code, review the budget concerning the consistency of the budget with each national critical technology strategic road map and make the results of that review available to appropriate officials within the Executive Office of the President; and

"(4) in carrying out its responsibilities under this title—

"(A) obtain analyses and assessments from the Critical Technologies Institute established by section 822 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 6686), as appropriate; and

"(B) consider any reports of and studies conducted by (i) departments and agencies within the executive branch, (ii) Congress, (iii) the National Research Council, (iv) industry associations, or (v) other persons and organizations.

"DEFINITIONS

"SEC. 705. In this title, the term 'national critical technology' means a technology that—

"(1) appears on the list of national critical technologies contained in a biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

"(2) has not been expressly deleted from such list by such a report subsequently submitted to Congress by the President.".

SEC. 102. SUBMISSION OF INITIAL ROAD MAPS.

(a) SCHEDULE FOR SUBMISSION.—The President shall establish a schedule for the submission of the initial national critical technology strategic road maps to Congress at regular intervals between the date of the enactment of this Act and October 1, 1996. The schedule shall provide for the submission of at least three such strategic road maps not later than a date within one year after the date of the enactment of this Act.

(b) REQUIREMENT TO COMPLY WITH SCHEDULE.—The President shall submit each initial national critical technology strategic road map to Congress not later than the earlier of the submission date specified for such strategic road map in the schedule established pursuant to subsection (a) or the date on which the strategic road map is completed.

(c) REFERENCE TO NATIONAL CRITICAL TECHNOLOGY STRATEGIC ROAD MAPS.—The national critical technology strategic road maps referred to in subsections (a) and (b) are the national critical technology strategic road maps required by section 701 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (as added by section 101).

TITLE II—FEDERAL SUPPORT FOR DEVELOPMENT OF CRITICAL TECHNOLOGIES

PART A—DEPARTMENT OF DEFENSE

SEC. 201. CRITICAL TECHNOLOGIES RESEARCH AND DEVELOPMENT PARTNERSHIPS.

(a) DEPARTMENT OF DEFENSE GENERIC, PRECOMPETITIVE TECHNOLOGY DEVELOP-

MENT.—(1) The Secretary of Defense shall enter into cooperative arrangements with entities referred to in subsection (c) in order to encourage and provide for research and development of dual-use critical technologies identified in the annual defense critical technologies plan referred to in section 5(5)(A). Each such arrangement shall be known as a "Defense Dual-Use Technology Partnership".

(2) The Secretary shall enter into as many Partnerships as the Secretary determines necessary in order to ensure the conduct of a significant level of research and development on the critical technologies referred to in paragraph (1).

(b) Authority To Delegate to DARPA and the Secretaries of the Military Departments.—The Secretary may act through the Defense Advanced Research Projects Agency or the Secretary of a military department in entering into a Partnership arrangement under this section.

(c) Partnership Participants.—Each Partnership shall be composed of participants from two or more eligible firms and may include one or more Federal laboratories, institutions of higher education, agencies of State governments, and any other participants that the Secretary considers appropriate.

SEC. 202. COOPERATIVE AGREEMENTS AND OTHER TRANSACTIONS RELATING TO ADVANCED RESEARCH PROJECTS.

(a) Broadening of Authority.—Section 2371 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting "or a military department" after "Defense Advanced Research Projects Agency"; and

(B) by inserting before the period at the end the following: "and may authorize the Secretary of the military department concerned to enter into such agreements and other transactions"; and

(2) in subsection (b)(1), by striking out "by the Secretary".

(b) Authority Made Permanent.—Subsection (g) of section 2371 of such title is repealed.

SEC. 203. INDEPENDENT RESEARCH AND DEVELOPMENT.

Section 2372(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (5) as subsection (e); and

(2) by inserting after paragraph (4) the following new paragraphs:

"(5)(A) The maximum amount of the costs provided for in an agreement pursuant to paragraph (2)(A) shall not apply to the exempt portion of any costs referred to in subparagraph (B) that are incurred by the person entering into that agreement with the Secretary of Defense. The exempt portion of such costs is the amount equal to 10 percent of such maximum amount.

"(B) Subparagraph (A) applies to costs that are attributable to the participation by such person in one or more critical technology research and development consortia that—

"(i) involve business firms described in paragraph (6); and

"(ii) engage in research and development activities referred to in subsection (c)(3).

"(6) A business firm referred to in paragraph (5)(B)(i) means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is in United States citizens or is a company or other business entity that is owned by a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.".

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated to the Department of Defense to carry out section 201 for each of fiscal years 1992 and 1993, as follows:

(1) For the Defense Advanced Research Projects Agency, $100,000,000.

(2) For the Department of the Air Force, $40,000,000.

(3) For the Department of the Navy, $20,000,000.

(4) For the Department of the Army, $10,000,000.

PART B—OTHER DEPARTMENTS AND AGENCIES

SEC. 221. DEPARTMENT OF COMMERCE ADVANCED TECHNOLOGY PROGRAM.

(a) Support for Research and Development of National Critical Technologies.—The Secretary of Commerce shall continue to support the research and development activities of United States industry and joint ventures relating to the development of commercially useful products and services associated with applications of national critical technologies.

(b) Delegation to Director of the National Institute of Standards and Technology.—The Secretary shall carry out this section through the Director of the National Institute of Standards and Technology acting under the Advanced Technology Program established pursuant to section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n).

(c) Authorization of Appropriations.—Funds are hereby authorized to be appropriated to the Department of Commerce to carry out this section as follows:

(1) For fiscal year 1992, $110,000,000.

(2) For fiscal year 1993, $135,000,000.

SEC. 222. DEPARTMENT OF ENERGY CRITICAL TECHNOLOGY PARTNERSHIPS.

(a) Establishment of Partnerships.—(1) The Secretary of Energy shall enter into cooperative arrangements with entities referred to in subsection (b) in order to encourage and provide for the conduct of research and development of critical technologies selected by the Secretary. Each such arrangement shall be known as a "Department of Energy Critical Technology Partnership".

(2) The Secretary shall enter into as many Partnerships as the Secretary determines necessary in order to ensure the conduct of a significant level of research and development on the critical technologies referred to in paragraph (1).

(b) Partnership Participants.—Each Partnership shall be composed of participants from two or more eligible firms and one or more laboratories of the Department of Energy and may include institutions of higher education in the United States, other departments and agencies of the Federal Government, agencies of State governments, and any other participants that the Secretary considers appropriate.

(c) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for the Department of Energy for each of fiscal years 1992 and 1993 to carry out this section as follows:

(1) For atomic energy defense activities, $50,000,000.

(2) For energy research activities, $50,000,000.

SEC. 223. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION CRITICAL TECHNOLOGY PARTNERSHIPS.

(a) Establishment of Partnerships.—(1) The Administrator of the National Aeronautics and Space Administration shall enter into cooperative arrangements with entities referred to in subsection (b) in order to encourage and provide for the conduct of research and development of critical technologies selected by the Administrator. Each such arrangement shall be known as a "NASA Critical Technology Partnership".

(2) The Administrator shall enter into as many Partnerships as the Administrator determines necessary in order to ensure the conduct of a significant level of research and development of the critical technologies referred to in paragraph (1).

(b) Partnership Participants.—Each Partnership shall be composed of participants from two or more eligible firms and one or more laboratories of the National Aeronautics and Space Administration and may include institutions of higher education in the United States, other departments and agencies of the Federal Government, agencies of State governments, and any other participants that the Administrator considers appropriate.

(c) Authorization of Appropriations.—There is hereby authorized to be appropriated to the National Aeronautics and Space Administration $50,000,000 for each of fiscal years 1992 and 1993 to carry out this section.

SEC. 224. DEPARTMENT OF HEALTH AND HUMAN SERVICES NATIONAL CRITICAL TECHNOLOGY PARTNERSHIPS.

(a) Establishment of Partnerships.—(1) The Secretary of Health and Human Services shall enter into cooperative arrangements with entities referred to in subsection (b) in order to encourage and provide for the conduct of research and development of critical technologies selected by the Secretary. Each such arrangement shall be known as a "Department of Health and Human Services Critical Technology Partnership".

(2) The Secretary shall enter into as many Partnerships as the Secretary determines necessary in order to ensure the conduct of a significant level of research and development on the critical technologies referred to in paragraph (1).

(b) Partnership Participants.—Each Partnership shall be composed of participants from two or more eligible firms and may include one or more Federal laboratories, institutions of higher education, agencies of State governments, and any other participants that the Secretary considers appropriate.

(c) Delegation to the Director of the National Institutes of Health.—The Secretary shall act through the Director of the National Institutes of Health in carrying out this section.

(d) Authorization of Appropriations.—There is hereby authorized to be appropriated to the Department of Health and Human Services $50,000,000 for each of fiscal years 1992 and 1993 to carry out this section.

PART C—ADMINISTRATIVE PROVISIONS RELATING TO CRITICAL TECHNOLOGY PARTNERSHIPS

SEC. 231. LEAD INSTITUTION.

The participants in each Partnership shall designate a lead institution for the Partnership. The lead institution shall direct the activities of the Partnership.

SEC. 232. PARTNERSHIP PROPOSALS.

(a) SUBMISSION OF PROPOSALS.—Each proposal for the establishment of a Partnership by the Secretary of Defense, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, or the Secretary of Health and Human Services, as the case may be, shall be submitted to such official by the lead institution acting on behalf of the proposed participants in the Partnership.

(b) CONTENT OF PROPOSALS.—Each such proposal shall include the following:

(1) Goals and objectives that are consistent with the purposes for which the Partnership may be established.

(2) A research and development plan to achieve such goals and objectives.

(3) Evidence of the expertise of the Partnership participants in developing and using each critical technology that is to be a focus of the research and development activities of the Partnership.

(4) Provisions for the transfer of technology developed by the Partnership, including provisions for transfer through exchange of personnel among the participants in the Partnership.

(5) Evidence of the commitment of eligible firms to participate in the Partnership, including a description of how personnel, equipment, facilities, and expertise of such firms will be used in the planning, conducting, and monitoring of the technology transfer activities of the Partnership and other Partnership activities.

(6) The demonstration of financial commitment required by subsection (c).

(c) COST-SHARING REQUIREMENTS.—(1) Each Partnership proposal shall demonstrate a financial commitment of the non-Federal Government participants to contribute at least 50 percent of the total cost of the Partnership activities. Within the total contribution to be made pursuant to such commitment the non-Federal Government participants may contribute a lesser percentage of the cost incurred during a particular period of Partnership activity or a lesser percentage of the cost of a particular Partnership activity.

(2) In the determination of the contribution made by a non-Federal Government participant, there shall be included the fair market value of the participant's contributions of equipment, services, materials, technology transfer activities, and other assets directly related to the costs associated with the goals and objectives of the Partnership, as determined by the official who establishes the Partnership.

SEC. 233. SELECTION OF PARTNERSHIPS.

(a) SELECTION.—Proposed Partnerships shall be selected through a competitive process prescribed, in consultation with the Director of the Office of Science and Technology Policy, by the Secretary of Defense (for Partnerships to be established by the Director pursuant to section 201), the Secretary of Energy (for Partnerships to be established by such Secretary pursuant to section 222), the Administrator of the National Aeronautics and Space Administration (for Partnerships to be established by the Administrator pursuant to section 223), and the Secretary of Health and Human Services (for Partnerships to be established by such Secretary pursuant to section 224).

(b) REQUIRED CRITERIA.—The criteria for the selection of proposed Partnerships for establishment under this title shall include the following:

(1) The existence of such a significant level of risk of failure to achieve the goals and objectives of the proposed Partnership that timely private sector investment in activities to achieve such goals and objectives is unlikely other than through the Partnership.

(2) Significant promise of achieving the purposes for which the Partnership may be established under this title.

(3) Significant potential for the research and development conducted by such Partnership on a critical technology to contribute to promoting economic prosperity or improving national security, as evidenced by the formulation of business plans for the subsequent commercial development of the technology.

(4) The potential effectiveness of the programs proposed by the Partnership for the transfer of technology through exchanges of personnel among Partnership participants and by other means.

(5) The sufficiency of the breadth of the participation of eligible firms in the Partnership to ensure that there will be competition in the application of the results of Partnership activities to the production of marketable products and the development of marketable processes.

(6) The level of involvement by eligible firms in the proposed Partnership, as determined on the basis of—

(A) the extent of the financial commitment of eligible firms to the activities of the proposed Partnership, including the extent to which the financial commitment of such firms exceeds the requirements in section 232(c); and

(B) the potential for increased participation by eligible firms in the Partnership over time.

(6) Such other capabilities that the Secretary or Administrator, as the case may be, considers desirable.

(c) PAYMENT FOR FEDERAL SUPPORT.—A cooperative agreement or other transaction entered into for or in connection with the establishment of a Partnership under this title may include a clause that requires a participant in the Partnership, as a condition for receiving support under a cooperative agreement or other transaction, to make payments to the department or agency establishing the Partnership.

SEC. 234. PROTECTION OF INFORMATION.

(a) AUTHORITY TO DISCLOSE INFORMATION.—Subject to subsection (b), a participant in a Partnership may disclose information on the research and development activities of the Partnership to the same extent that a Federal laboratory may disclose information under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) and all other applicable provisions of law.

(b) LIMITATIONS ON DISCLOSURE.—No officer or employee of the Federal Government may disclose any trade secret or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code, and is obtained from a non-Federal Government participant in a Partnership as a result of the activities of the Partnership, regardless of whether such activities are subject to the Stevenson-Wydler Technology Innovation Act of 1980. The prohibition in the preceding sentence does not apply to a disclosure made with the consent of such participant.

SEC. 235. OTHER ASSISTANCE TO PARTNERSHIPS.

The Secretary of Defense (in the case of a Partnership established pursuant to section 201), the Secretary of Energy (in the case of a Partnership established pursuant to section 222), the Administrator of the National Aeronautics and Space Administration (in the case of a Partnership established pursuant to section 223), and the Secretary of Health and Human Services (in the case of a Partnership established pursuant to section 224) shall provide the Partnership with technical and other assistance that the Secretary or Administrator (as the case may be) considers necessary and appropriate to facilitate the achievement of the goals and objectives of the Partnership.

PART D—ADDITIONAL DEFINITIONS

SEC. 241. DEFINITIONS.

In this title:

(1) The term "eligible firm" means a company or other business entity that, as determined by the Secretary of Commerce—

(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

(B) is a company or other business entity the majority ownership or control of which is in United States citizens or is a company or other business that is owned by a parent company that is incorporated in a country the government of which—

(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

(2) The term "Partnership" means the following:

(A) In the case of the Department of Defense, a Defense Dual-Use Technology Partnership established by an arrangement entered into by the Secretary of Defense pursuant to section 201.

(B) In the case of the Department of Energy, a Department of Energy Critical Technology Partnership established by an arrangement entered into by the Secretary of Energy pursuant to section 222.

(C) In the case of the National Aeronautics and Space Administration, a NASA Critical Technology Partnership established by an arrangement entered into by the Administrator of the National Aeronautics and Space Administration pursuant to section 223.

(D) In the case of the Department of Health and Human Services, a Department of Health and Human Services Critical Technology Partnership established by an arrangement entered into by the Secretary of Health and Human Services pursuant to section 224.

TITLE III—CRITICAL TECHNOLOGY APPLICATION CENTERS

SEC. 301. ASSISTANCE FOR CRITICAL TECHNOLOGY APPLICATION CENTERS.

(a) CONSOLIDATION OF CERTAIN TITLE 10 CHAPTERS.—Part IV of subtitle A of title 10, United States Code, is amended as follows:

(1) Strike out the heading of chapter 151 and insert in lieu thereof the following:

"SUBCHAPTER II—ISSUE OF SERVICEABLE MATERIAL OTHER THAN TO THE ARMED FORCES".

(2) Strike out the heading of chapter 150 and the table of sections of such chapter and insert in lieu thereof the following:

"CHAPTER 152—ISSUE OF SUPPLIES, SERVICES, AND FACILITIES

"SUBCHAPTER	Sec.
"I. Issue to the Armed Forces	2541
"II. Issue of Serviceable Material Other Than to the Armed Forces	2546

"SUBCHAPTER I—ISSUE TO THE ARMED FORCES

"Sec.
"2541. Reserve components: supplies, services, and facilities.".

(3) Redesignate section 2521 as section 2541.

(b) ASSISTANCE PROGRAM REQUIRED.—Title 10, United States Code, is amended by inserting after chapter 149 the following new chapter 150:

"CHAPTER 150—CRITICAL TECHNOLOGY APPLICATION CENTERS

"Sec.
"2521. Critical Technology Application Centers Assistance Program.
"2522. Critical technology application centers.
"2523. Purpose and activities of centers.
"2524. Assistance authorized.
"2525. Proposals for assistance.
"2526. Financial contributions of center participants.
"2527. Management plan.
"2528. Selection of proposals.
"2529. Critical technology application centers evaluation panels.
"2530. Definitions.

"§ 2521. Critical Technology Application Centers Assistance Program

"The Secretary of Defense, in close consultation and coordination with the Secretary of Commerce, shall conduct a program to provide assistance for the activities of regional critical technology application centers in accordance with the provisions of this chapter. The program shall be known as the 'Critical Technology Application Centers Assistance Program'.

"§ 2522. Critical technology application centers

"(a) A critical technology application center eligible to receive assistance under the program is any consortium of participants described in subsection (b) that—

"(1) is established for the purpose set out in section 2523(a) of this title; and

"(2) conducts (or proposes to conduct) activities described in section 2523(b) of this title.

"(b) The participants in a critical technology application center—

"(1) shall include—

"(A) eligible firms that conduct business in the region of the United States to be served by the center; and

"(B) a sponsoring agency in such region; and

"(2) may include—

"(A) institutions of higher education;

"(B) Federal laboratories;

"(C) private, nonprofit organizations; and

"(D) other organizations considered appropriate by the Secretary of Defense.

"(c)(1) A sponsoring agency of a center may be any agency described in paragraph (2) that, as determined by the Secretary, provides adequate assurances that it will—

"(A) meet the financial requirement in section 2526(a) of this title; and

"(B) provide assistance in the management of the center.

"(2) An agency referred to in paragraph (1) is—

"(A) any agency of a State or local government;

"(B) any organization established pursuant to an agreement entered into by two or more States or local governments;

"(C) any organization performing functions pursuant to such an agreement; or

"(D) any membership organization in which a State or local government is a member.

"§ 2523. Purpose and activities of centers

"(a) The purpose of a critical technology application center in a region of the United States is to facilitate the use of one or more national critical technologies for commercial purposes by an industry in that region in order to enhance the development and economic sustainability of the capability of that industry to compete effectively on an international scale and, in the case of the use of national critical technologies having potential military applications, thereby to maintain within the United States industrial capabilities that are vital to the national security of the United States.

"(b) The activities of a center may include the following:

"(1) The joint provision, by participants in the center to other participants in the center, of services that, as jointly determined by the eligible firms participating in the center, will enhance directly the ability of each such firm to use a national critical technology for a commercial purpose. Such services may include the following:

"(A) Operation of equipment testbed and scale-up facilities.

"(B) Development, testing, and evaluation of prototypes.

"(C) Sharing of technical expertise relating to design and management.

"(D) Dissemination of information relating to market trends and technical advances in materials and production equipment.

"(E) Technical education and training.

"(F) Quality testing and standards certification.

"(G) Technical feasibility reviews of ideas and inventions.

"(H) Other services that no such firm is likely to provide for on its own.

"(2) Joint research and development that—

"(A) is generally applicable to the needs of all of the eligible firms participating in the center; and

"(B) as jointly determined by such firms, will enhance directly the ability of such firms to use a national critical technology for a commercial purpose.

"(3) Subject to subsection (c), proprietary research and development that, as determined by one or more of the eligible firms participating in the center, will enhance directly the ability of any such firm to apply a national critical technology for a commercial purpose.

"(4) Appropriate use, by eligible firms participating in the center, of the technological expertise and capabilities of Federal laboratories and institutions of higher education located in the region served by the center.

"(5) Facilitation of the sharing of information, equipment, personnel, and expertise among eligible firms participating in the center and by such firms and other sources of labor, capital, and technological expertise in the region served by the center when such sharing will enhance directly the ability of such firms to use a national critical technology for a commercial purpose.

"(c) The cost incurred in a year for proprietary research and development activities of a center may not exceed 15 percent of the total cost incurred in such year for all activities of the center.

"(d) A critical technology application center receiving assistance under this chapter shall concentrate on building upon, not duplicating, the activities of existing regional institutions that are assisting industry in the region to apply one or more national critical technologies for commercial purposes.

"§ 2524. Assistance authorized

"(a) Under the program, the Secretary may provide—

"(1) financial assistance for the activities of a critical technology application center (including, in the case of a proposed center, the establishment of such center) in any amount not in excess of 30 percent of the cost of conducting such activities (including the cost of establishing a proposed center) during the period covered by the financial assistance; and

"(2) technical assistance for the activities (and, in the case of a proposed center, the establishment) of a center awarded financial assistance authorized by paragraph (1).

"(b) The Secretary may not provide financial assistance for construction of facilities.

"(c) The Secretary may furnish assistance to a critical technology application center under the program for not more than six years.

"§ 2525. Proposals for assistance

"(a) A sponsoring agency may submit to the Secretary a proposal for financial assistance for a critical technology application center.

"(b) Each proposal for financial assistance for a center shall include the following:

"(1) Goals and objectives of the center and a description of the role of the center in improving the competitiveness and productivity of eligible firms on a regional and national basis.

"(2) A program strategy for achieving such goals and objectives, including (A) a research and development plan, (B) a plan for providing services referred to in section 2523(b)(1) of this title, and (C) a description of the other activities to be undertaken by the center.

"(3) A discussion of how personnel, equipment, facilities, and expertise of such firms will be used to support and conduct center activities.

"(4) A management plan that satisfies the requirements of section 2527 of this title.

"(5) The commitment of the eligible firms participating in the center to meet the financial requirement of section 2526(b) of this title.

"§ 2526. Financial contributions of center participants

"(a) The sponsoring agency of a critical technology application center shall pay at least 30 percent of the total cost incurred each year for the activities of the center. Funds contributed for the activities of the center by institutions of higher education or private, nonprofit organizations participating in the center shall be considered as funds contributed by the sponsoring agency.

"(b) The eligible firms participating in a center shall pay at least 40 percent of the total cost incurred each year for the activities of the center.

"(c) The non-Federal Government participants in a center shall pay the total cost incurred each year for proprietary research and development activities of the center.

"(d) In the determination of the contribution made by an eligible firm participating in a center, there shall be included the fair market value of the firm's contributions of equipment, services, materials, and other assets directly related to the costs associated with activities of the center, as determined by the Secretary.

"§ 2527. Management plan

"A critical technology application center shall operate under a management plan that includes the following provisions:

"(1) Provisions for the eligible firms participating in the center to have the primary responsibility for directing the activities of the center and to exercise that responsibility through, among any other means, majority voting membership of such firms on the board of directors of the center.

"(2) Such other provisions as the Secretary determines necessary to ensure that the policies and activities of the center meet the needs and priorities of such firms.

"(3) Provisions for small and medium-size firms to participate in the center on a dues-paying basis, including a dues structure that encourages firms of such size to participate in the center.

"§ 2528. Selection of proposals

"(a)(1) The Secretary of Defense shall select the critical technology application centers to receive assistance under this chapter. The selections shall be made pursuant to a competitive process which the Secretary shall prescribe.

"(2) The Secretary shall consult closely with the Secretary of Commerce and the Director of the Office of Science and Technology Policy in prescribing the competitive selection process and in making selections pursuant to such process.

"(b) The criteria for selection of a center to receive financial assistance under this title shall include the following:

"(1) The potential for the activities of the center to result in—

"(A) increased international competitiveness and productivity of—

"(i) eligible firms within the region to be served by the center; and

"(ii) eligible firms generally; and

"(B) the emergence in such region of highly productive new firms that are capable of competing on an international scale.

"(2) The level of the involvement of eligible firms in the center, as determined on the basis of the following:

"(A) The extent of the financial commitment of eligible firms to the activities of the center, including the extent to which the financial commitment of such firms exceeds the requirements in section 2526(b) of this title.

"(B) The potential for increased participation by eligible firms in the center over time.

"(C) The provisions made for recruiting small and medium-size eligible firms for participation in the center and for ensuring a significant level of involvement of such firms in the activities of the center.

"(D) The extent to which the eligible firms participating in the center represent, and relate to each other over, the full range of the production process from supplier to producer.

"(3) The extent to which the proposed activities of the center are relevant to identifiable commercial needs of eligible firms conducting business in the region to be served by the center and the quality of those activities for meeting such needs.

"(4) The potential for the center to be able to apply critical technology research and development supported or conducted by Federal laboratories and institutions of higher education.

"(5) The potential for the center to sustain itself through support from industry and other non-Federal Government sources after termination of the Federal assistance provided pursuant to this chapter.

"(6) The level of involvement of appropriate State and local agencies, institutions of higher education, and private, nonprofit entities in the center, as determined on the basis of—

"(A) the extent of the financial commitment of the sponsoring agency to the activities of the center, including the extent to which the financial commitment of such agency exceeds the requirements in section 2526(a) of this title; and

"(B) evidence of the integration of center goals and activities into established programs, departments, and activities.

"(7) The vision, leadership, management direction, and skill of the participants regarding the operation of the center.

"§ 2529. Critical technology application centers evaluation panels

"(a)(1) The Secretary of Defense, in close consultation with the Secretary of Commerce and the Director of the Office of Science and Technology Policy, shall appoint a panel to evaluate the activities of each critical technology application center receiving financial assistance pursuant to this chapter.

"(2) Of the members of each panel—

"(A) at least one-third shall be appointed from among persons in industry who have expertise in matters relating to technology;

"(B) at least one-fourth shall be appointed from among officers and employees of States, local governments, private, nonprofit organizations, or institutions of higher education; and

"(C) at least one-third shall be appointed from among officers and employees of the Federal Government.

"(3) No member of a panel may be an officer or employee of a participant in the center under evaluation by the panel.

"(4) The Secretary shall appoint an officer or employee of the Federal Government to be the chairman of each panel.

"(b) During the 12-month period beginning three years after the date on which a critical technology application center receives financial assistance pursuant to this chapter, the activities of the center shall be evaluated by a panel appointed pursuant to subsection (a). The evaluation shall determine whether the activities of the center are consistent with the purpose set out in section 2523(a) of this title. In the determination of the consistency between such activities and such purpose, consideration shall be given to whether industry in the region served by the center has developed business plans to use a technology developed or applied as a result of such activities to sell products or services in the marketplace and whether such plans are being executed profitably for such industry or are likely to be executed profitably for such industry.

"(c) If the evaluation panel determines that the activities of a critical technology application center are not consistent with the purpose set out in section 2523(a) of this title, no additional financial assistance may be furnished such center under this chapter.

"(d)(1) Each member of an evaluation panel who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5 for each day (including travel time) during which such member is engaged in the performance of the duties of the evaluation panel. All members of an evaluation panel who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

"(2) The members of an evaluation panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the evaluation panel.

"§ 2530. Definitions

"In this chapter:

"(1) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is in United States citizens or is a company or other business entity that is owned by a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funds indirectly through international organizations; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

"(2) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

"(3) The term 'national critical technology' means a technology that—

"(A) appears on the list of national critical technologies contained in a biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

"(B) has not been expressly deleted from such list by such a report subsequently submitted to Congress by the President.".

(c) TABLES OF CHAPTERS.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and of part IV of such subtitle are each amended by striking out the items relating to chapters 150 and 151 and inserting in lieu thereof the following:

"150. Critical Technology Application Centers .... 2521".
"152. Issue of Supplies, Services, and Facilities .... 2541".

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF DEFENSE.—Funds are hereby authorized to be appropriated for the Department of Defense to carry out the Critical Technology Application Centers Assistance Program established pursuant to chapter 150 of title 10, United States Code (as added by section 301(a)), as follows:

(1) For fiscal year 1992, $50,000,000.

(2) For fiscal year 1993, $75,000,000.

(b) DEPARTMENT OF COMMERCE.—Funds are hereby authorized to be appropriated for the Department of Commerce to carry out the responsibilities of the Secretary of Commerce under the Critical Technology Application Centers Assistance Program as follows:

(1) For fiscal year 1992, $25,000,000.

(2) For fiscal year 1993, $50,000,000.

TITLE IV—FOREIGN TECHNOLOGY MONITORING AND ASSESSMENT

SEC. 401. FINDINGS.

Congress makes the following findings:

(1) The United States high-technology industry faces global competition that, on an unprecedented basis, challenges its leader-

ship in technologies that might have military applications and nonmilitary commercial applications.

(2) The need for further development of critical technologies fundamental to the national security of the United States is converging with the need for further development of critical technologies essential to the economic competitiveness of the United States.

(3) In order to halt the erosion of United States technological leadership and to rebuild United States strength in critical technologies, the United States must abandon the general inclination to ignore technological advances not originating in the United States and monitor and assess technology developments abroad far more coherently and rationally than has been done in the past.

(4) Both the United States Government and the private sector have important interests and roles in monitoring and assessing foreign technologies.

(5) Many departments and agencies of the Federal Government routinely collect and disseminate foreign scientific and technical information and collect or prepare and disseminate analyses of such information in the performance of the missions of such departments and agencies.

(6) The collection and dissemination of such information, and the collection, preparation, and dissemination of analyses of such information, by those departments and agencies is largely uncoordinated, duplicative, and incomplete.

SEC. 402. PURPOSES.

The purposes of this title are as follows:

(1) To establish a means for coordinating the foreign technology monitoring and assessment activities of the Federal Government.

(2) To establish in the Department of Commerce a central clearinghouse for the information and assessments produced by the numerous offices of the Federal Government involved in monitoring foreign activities regarding research, development, and applications of critical technologies, with particular emphasis on technologies that are critical to the commercial competitiveness of the United States.

(3) To establish in the Department of Defense a similar central clearinghouse with particular emphasis on technologies that are critical to the national security of the United States.

(4) To encourage the establishment in Europe and the Pacific Rim Area of privately operated offices to monitor, assess, and disseminate significant developments in commercial critical technology activities in foreign industries.

(5) To provide for the dissemination of information and assessments prepared under the program to Federal Government agencies and other interested parties.

SEC. 403. COORDINATION OF THE FOREIGN SCIENCE AND TECHNOLOGY INFORMATION ACTIVITIES OF THE FEDERAL GOVERNMENT.

The Federal Coordinating Council for Science, Engineering, and Technology shall—

(1) coordinate the activities of the Federal Government directed at monitoring significant foreign technology developments;

(2) facilitate joint foreign science and technology monitoring and assessment efforts of the departments and agencies of the Federal Government involved in the monitoring and assessment of foreign science and technology; and

(3) establish strategic goals and priorities for the clearinghouses established by—

(A) section 5(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(e)), as added by section 404; and

(B) section 135(c) of title 10, United States Code, as added by section 406.

SEC. 404. CLEARINGHOUSE OF FOREIGN COMMERCIAL TECHNOLOGY MONITORING AND ASSESSMENT.

(a) ESTABLISHMENT OF CLEARINGHOUSE.—Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

"(e)(1) There is established within the Office of the Under Secretary of Commerce for Technology an office to be known as the 'Clearinghouse of Foreign Commercial Technology Monitoring and Assessment'.

"(2) The clearinghouse shall be the lead agency of the Federal Government responsible for the compilation and dissemination of unclassified information and assessments on foreign research, development, and applications of commercial critical technologies.

"(3) The clearinghouse shall have the following responsibilities:

"(A) To maintain a central library for the compilation and dissemination of information and assessments on significant foreign activities in research, development, and applications of commercial critical technologies.

"(B) To establish and maintain a widely accessible data base containing information and assessments regarding foreign science and technology activities that involve commercial critical technologies, including, especially, activities in Europe and in foreign countries located on or near the periphery of the Pacific Ocean (known as the 'Pacific Rim Area').

"(C) To perform liaison activities among appropriate agencies and offices within the Department of Commerce, the Department of State, and other departments and agencies of the Federal Government in order to ensure that significant foreign activities in research, development, and applications of commercial critical technologies are identified, monitored, and assessed by appropriate departments and agencies of the Federal Government.

"(D) To identify the requirements of the Federal Government and United States industry for foreign scientific and technical information regarding commercial critical technologies, for associated foreign economic information, and for assessments of such information and to disseminate notice of such requirements to all departments and agencies of the Federal Government.

"(4) The clearinghouse shall produce, on a biennial basis, an assessment of the most significant foreign activities regarding the national critical technologies identified in the latest biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

"(5) The head of each department and agency of the Federal Government shall cooperate with the clearinghouse in coordinating the activities of such department or agency, as the case may be, regarding the collection and transmittal of information and assessments relating to commercial critical technologies.

"(6) In this subsection:

"(A) The term 'commercial critical technology' means a defense critical technology, a national critical technology, or an emerging technology that is not a defense-specific critical technology.

"(B) The term 'defense critical technology' means a technology that—

"(i) appears on the list of critical technologies contained in an annual defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2508 of title 10, United States Code; and

"(ii) has not been expressly deleted from such list by such a plan subsequently submitted to Congress by the Secretary.

"(C) The term 'national critical technology' means a technology that—

"(i) appears on the list of national critical technologies contained in a biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)); and

"(ii) has not been expressly deleted from such list by such a report subsequently submitted to Congress by the President.

"(D) The term 'emerging technology' means a technology that—

"(i) appears on an emerging technologies list submitted to Congress by the Secretary of Commerce; and

"(ii) has not been expressly deleted from such list by an emerging technologies list subsequently submitted to Congress by the Secretary.

"(E) The term 'defense-specific critical technology' means a defense critical technology that is used solely for military purposes and is unlikely to have any foreseeable nonmilitary commercial applications.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Commerce for each of fiscal years 1992 and 1993, $10,000,000, for the activities of the Clearinghouse of Foreign Commercial Technology Monitoring and Assessment and otherwise for carrying out the provisions of section 5(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (as added by subsection (a)).

SEC. 405. OVERSEAS FOREIGN CRITICAL TECHNOLOGY MONITORING AND ASSESSMENT GRANT PROGRAM.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Commerce shall establish a foreign critical technology monitoring and assessment grant program. Under the program, the Secretary shall award grants to one or more associations referred to in subsection (b) in order to provide grantees with financial assistance for the establishment of foreign critical technology monitoring and assessment offices in Europe and in foreign countries located on or near the periphery of the Pacific Ocean (known as the "Pacific Rim Area").

(b) ELIGIBLE GRANTEES.—Any not-for-profit association of industrial or professional organizations, and any not-for-profit research and development consortium of United States industry, that has economic and scientific interests in research, development, and applications of commercial critical technologies is eligible for a grant under the program.

(c) GRANT PROGRAM REQUIREMENTS AND LIMITATIONS.—(1) Grants shall be awarded on the basis of merit.

(2) The proceeds of a grant or grants made under this section may not be used to provide financial support for a foreign critical technology monitoring and assessment office for more than six years.

(3) The total amount provided a foreign critical technology monitoring and assessment office by grant under this section may not exceed the amount necessary to meet 50 percent of the capital and annual operating and maintenance needs of such office. An applicant for a grant under this section shall provide assurances in the application that the applicant will contribute sufficient funds to meet at least 50 percent of the proposed office's capital and annual operating and maintenance needs for the first three years after the establishment of the office and an increasing share of the total amount necessary to meet such needs for each of the ensuing three years.

(d) OFFICE ACTIVITIES.—Each privately operated, foreign critical technology monitoring and assessment office supported in part with the proceeds of a grant or grants awarded under this section to an association referred to in subsection (b) shall collect, evaluate, and disseminate to members of the association and to the Clearinghouse of Foreign Commercial Technology Monitoring and Assessment of the Department of Commerce assessments of significant activities in research, development, and applications of commercial critical technologies that are conducted in the geographic area in which the office is located and shall identify technology transfer and joint venture opportunities among United States industrial firms located in that area.

(e) FUNDING.—Funds are hereby authorized to be appropriated for the Department of Commerce to carry out the grant program established pursuant to this section as follows:

(1) For fiscal year 1992, $7,500,000.

(2) For fiscal year 1993, $10,000,000.

SEC. 406. CLEARINGHOUSE OF FOREIGN DEFENSE TECHNOLOGY MONITORING AND ASSESSMENT.

(a) AMENDMENT TO TITLE 10, UNITED STATES CODE.—Section 135 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) There is, within the Office of the Director of Defense Research and Engineering, an office to be known as the 'Clearinghouse of Foreign Defense Technology Monitoring and Assessment'.

"(2) The head of the clearinghouse shall consult closely with the head of the Clearinghouse of Foreign Commercial Technology Monitoring and Assessment of the Department of Commerce in order—

"(A) to minimize the duplication of any effort of the Department of Commerce by the Department of Defense regarding defense critical technologies having potential commercial uses; and

"(B) to ensure that the clearinghouse is effectively utilized to disseminate information to appropriate users of such information within the Federal Government.

"(3) The clearinghouse shall have the following responsibilities:

"(A) To maintain within the Department of Defense a central library for the compilation and appropriate dissemination of unclassified and classified information and assessments regarding significant foreign activities in research, development, and applications of defense critical technologies.

"(B) To establish and maintain—

"(i) a widely accessible unclassified data base of information and assessments regarding foreign science and technology activities that involve critical technologies, including, especially, activities in Europe and in foreign countries located on or near the periphery of the Pacific Ocean (known as the 'Pacific Rim area'); and

"(ii) a classified data base of information and assessments regarding such activities.

"(C) To perform liaison activities among the military departments, Defense agencies, other appropriate offices within the Department of Defense, and appropriate agencies and offices within the Department of Commerce, the Department of State, and other departments and agencies of the Federal Government in order to ensure that significant activities in research, development, and applications of defense critical technologies are identified, monitored, and assessed by an appropriate department or agency of the Federal Government.

"(D) To ensure the maximum practicable public availability of information and assessments contained in the unclassified and classified data bases established pursuant to subparagraph (B) by—

"(i) limiting, to the maximum practicable extent, the restrictive classification of such information and assessments; and

"(ii) disseminating information and assessments regarding defense critical technologies having potential commercial uses to the Clearinghouse of Foreign Commercial Technology Monitoring and Assessment of the Department of Commerce.

"(E) To cooperate with the Clearinghouse of Foreign Commercial Technology Monitoring and Assessment of the Department of Commerce to disseminate unclassified information and assessments regarding defense critical technologies having potential commercial uses so that such information and assessments may be further disseminated within the Federal Government and to the private sector.

"(4) In this subsection, the term 'defense critical technology' means a technology that—

"(A) appears on the list of critical technologies contained in an annual defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2508 of title 10; and

"(B) has not been expressly deleted from such list by such a plan subsequently submitted to Congress by the Secretary.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Department of Defense for each of fiscal years 1992 and 1993, $10,000,000, for the activities of the Office of Foreign Defense Technology Monitoring and Assessment and otherwise for carrying out the provisions of section 135(c) of title 10, United States Code (as added by subsection (a)).

SEC. 407. UTILIZATION OF NATIONAL SCIENCE FOUNDATION FOREIGN TECHNOLOGY EVALUATION PROGRAM.

(a) AVAILABILITY OF AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR THE DEPARTMENT OF COMMERCE.—Of the funds authorized to be appropriated to the Department of Commerce in section 404(b) for fiscal years 1992 and 1993, $1,000,000 may be made available to the National Science Foundation for each such fiscal year for support, in whole or in part, of foreign technology evaluation activities directed at the assessment of foreign capabilities in critical technologies.

(b) AVAILABILITY OF AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR THE DEPARTMENT OF DEFENSE.—Of the funds authorized to be appropriated to the Department of Defense in section 406(b) for fiscal years 1992 and 1993, $1,000,000 may be made available to the National Science Foundation for each such fiscal year for support, in whole or in part, of foreign technology evaluation activities directed at the assessment of foreign capabilities in critical technologies.●

By Mr. BINGAMAN (for himself, Mr. HOLLINGS, Mr. NUNN, Mr. GORE, Mr. WIRTH, Mr. KENNEDY, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. DIXON, Mr. LEVIN, Mr. DODD, Mr. SHELBY, Mr. DASCHLE, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 1328. A bill to enhance the national security and economic competitiveness of the United States by providing for increased Federal Government support for the development and deployment of advanced manufacturing technology and the training of manufacturing managers and engineers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ADVANCED MANUFACTURING TECHNOLOGY ACT

● Mr. BINGAMAN. Mr. President, today I am introducing the Advanced Manufacturing Technology Act of 1991. This is part of a package of five bills Senator HOLLINGS, Senator NUNN, Senator GORE, and I have worked together to draft. We welcome the cosponsorship of many of our colleagues, including Senators WIRTH, ROCKEFELLER, KENNEDY, DIXON, LEVIN, MIKULSKI, DODD, SHELBY, DASCHLE, LIEBERMAN and RIEGLE for our legislation.

This bill and Senator Hollings' companion bill, the Manufacturing Strategy Act of 1991, will unite the Department of Defense and the Department of Commerce, along with other civilian agencies, in a major effort to boost American manufacturing performance. Nothing less will do. The U.S. industrial base is under attack, and losing—to superb foreign competitors who surpass us not in science and breakthrough discoveries, but in engineering and manufacturing. In short, manufacturing matters, and it matters a great deal.

INDUSTRY'S ACHILLES HEEL

Manufacturing is the Achilles Heel of American industry. The United States dominates the world in science, and American companies make most of the major technological discoveries. But as industry moves along the learning curve, the competition quickly comes down to engineering and manufacturing, where Japanese and West German firms excel and United States firms continue to lag.

American stores are filled with products invented in the U.S. but no longer produced here. The ubiquitous video cassette recorder is just one example. Although an American company—Ampex Corporation—pioneered the technology, 95 percent of the world's VCR's are now built by Japanese producers. The Japanese reaped their advantage by investing years of effort in the manufacture of VCR's.

The same story can be told of many other products: phonographs, televisions, audio tape recorders, cassette disks, liquid crystal display technology, silicon wafers, microwave ovens, machine tool centers. The list goes on. Similar trends are now evident in semiconductors and computers.

In short, manufacturing matters because, ultimately, it is the greatest source of competitive advantage. The inevitable ease with which a technological discovery can be imitated has taken away much of the edge once enjoyed by American firms with a new invention. Now, the greatest competitive advantage lies not with those who make the original discovery, but with those who perfect its manufacture.

Other governments have learned that lesson well. The thrust of Japanese and West German technology policy is technology diffusion, engineering and manufacturing. By contrast, our own technology policy cultivates the scientific frontier, largely ignoring downstream issues of engineering and manufacturing. But at what cost? Michael Dertouzos, the chairman of MIT's Commission on Industrial Productivity, recently summed it up. He said "[in the U.S.] we value creativity and innovativeness, and we don't value production. But the money is not in invention, it's in production."

AMERICA'S MANUFACTURING PROBLEM

Ironically, the U.S. once excelled at production. According to the Economist, "British industrialists strolling around the Crystal Palace in London (in 1851) were horrified at the quality of the latest American guns. Unfair, they said. The dastardly colonials were using a British idea—a new lathe designed by a Mr. Maudsley—to mill weapons with greater precision than the British. Then they had the cheek to sell Britons the fruits of their own basic research." Similar complaints were later voiced about American success with radar, penicillin, polyesters, medical CAT scanners, and other British inventions.

As late as World War II, the United States strength was still in manufacturing. America defeated Germany not with superior technology but with superior production, resulting in greater numbers of ships, planes and weapons.

In recent decades, however, U.S. industry has fallen behind in the invention, production and adoption of advanced manufacturing technology broadly defined. As we enter the 1990's, many American firms are using manufacturing methods better suited to the 1950's.

In part, the problem results from sheer underinvestment. In the 1970's and 1980's, fixed capital investment in manufacturing—as a share of manufacturing output—was 1.5 times higher in Japan than in the United States. In developing new products and processes, Japanese firms devote almost double the share of total project costs to tooling and equipment as do American firms. And Japan now uses numerically controlled machine tools at one-and-a-half times the United States rate. Japan also employs about seven times as many industrial robots per thousand workers as does the United States. West Germany, Sweden, and several other countries have higher robot densities than the United States.

But the problem goes well beyond underinvestment in capital. U.S. manufacturers have also lagged foreign competitors in product development, design, quality control, shop floor organization, inventory management, and workforce training. This means that even when a firm invests in equipment, the equipment is not employed to full potential. For example, using similar flexible manufacturing systems, U.S. firms produce a less varied mix of parts, make fewer parts per day, introduce fewer new parts, and have less machine up-time than comparable Japanese firms.

The U.S. defense industry exhibits the same patterns as the civilian sector. Despite leadership in developing radically new products, DOD contractors have lagged in the adoption of new process technology and production management techniques. A recent National Research Council panel on defense manufacturing identified these concerns with our defense industrial base: Rapidly rising equipment costs, inadequate product quality, lack of surge capability, increasing lead times for new products, lack of cost-reducing capital investments, lack of domestic parts suppliers, despite excess, and capacity at the prime contractor level.

Similarly, the Center for Strategic and International Studies released a report this spring entitled "Integrating Commercial and Military Technologies for National Strength," which pointed out that the current defense acquisition system imposes numerous obstacles to dealing with these problems. Rather than seeking to build on the commercial sector to the mutual advantage of both our security and competitiveness, the existing system drives the two sectors apart.

In both the civilian and defense sectors, the problems of U.S. manufacturing are most acute in small- and medium-sized firms—those with fewer than 500 workers. There are 360,000 of these smaller firms in the United States and they account for 10 to 12 million jobs and more than half of the value added in manufacturing. Although most of these firms are not major exporters, as suppliers to large U.S. manufacturers they have a substantial indirect effect on American competitiveness. They are also critical to national security. The 1991 Joint Chiefs of Staff net assessment concludes that the loss of manufacturers of subsystem components is a threat to our Nation's ability to field state-of-the-art weapons systems.

The U.S. Bureau of the Census, in the largest survey to date of technology adoption in U.S. manufacturing, recently confirmed the lagging performance of small and medium-sized firms. Census asked nearly 10,000 firms in five industries about their use of 17 advanced manufacturing technologies. In all 17 areas, larger firms—those with more than 500 employees—had higher technology adoption rates than smaller firms. For example, large manufacturing firms are twice as likely to use numerically controlled or computer numerically controlled machine tools as are the smallest firms, and three times as likely to use computer-aided design or computer-aided engineering. The best estimates indicate that the productivity rate for small- and medium-sized manufacturing firms is about three-fourths that of large manufacturers.

Japanese and West German Governments make it a priority to strengthen small- and medium-sized manufacturing firms. Japan spends $500 million a year on a public network of 170 manufacturing support centers, known as kohsetsushi centers. When Showa Precision Tools, a successful $1.2-million-a-year diemaking company in Yokohama, decided to buy new equipment for its plant in 1988, the firm received a free evaluation of its purchase plan from manufacturing experts at the Yokohama kohsetsushi center. Upon request, the center will also dispatch a sensei, or master, to instruct shop foremen in quality-control techniques.

The United States, too, has innovative programs—largely at the State level—to modernize small- and medium-sized manufacturing firms. But these manufacturing extension programs are seriously underfunded and receive almost no Federal support; total funding is at most $70 million a year—about $20 million of that from the Federal Government. In striking contrast, our nation spends $1.1 billion each year on agricultural extension—one-third Federal. And yet agriculture accounts for only three percent of GNP, while manufacturing contributes more than 20 percent.

MANUFACTURING IS INDISPENSABLE

What Japan, West Germany, and other countries seem to understand better than the United States is the indispensable role of manufacturing in an advanced economy. Contrary to prophesies of a postindustrial age, manufacturing remains critical to this Nation for three reasons.

First, manufacturing represents more than 20 percent of U.S. gross national product [GNP]—over 18 million jobs. Another 8 to 10 million jobs in upstream services and raw materials go to support manufacturing—such things as machinery repair, testing and lab work, and payroll and accounting. In all, 25 percent of American jobs are closely linked to manufacturing.

Moreover, these jobs are relatively high paying. On average, American manufacturing workers earn 10 percent more than service workers and nearly double that of those employed in retail trade.

Despite their economic importance, our country is losing manufacturing jobs steadily. As of April, 18.3 million Americans were employed in manufacturing—down from 21 million in 1979 and 19.5 million in the late 1980's. Some of that erosion is a temporary consequence of the recession, but some of it is not. The Office of Technology Assessment estimates that over 1 million manufacturing jobs have been lost as the result of import competition.

Second, international trade is dominated by manufactured goods. Eighty percent of the $100 billion-a-year U.S. trade deficit is in manufacturing—three-quarters of that in just three industries: electronics, autos, and textiles.

Third, the manufacturing sector supports 90 percent of the privately funded research and development in this country. Manufacturing industries are truly the battleground on which the global technology war is being fought.

In sum, boosting American manufacturing performance is critical not just for the survival of U.S. manufacturing firms. It is also critical to strengthening employment and living standards, to reducing our trade deficit, and to supporting continued research and technology development.

ADVANCED MANUFACTURING TECHNOLOGY ACT OF 1991

The Advanced Manufacturing Technology Act of 1991 is designed to boost American manufacturing performance in five broad ways.

Technology management: First, the act provides for the coordinated planning and management of Federal activities in advanced manufacturing technology, with direct industry input into that planning process. Under the act, the Office of Science and Technology Policy [OSTP]—in close consultation with an industry-dominated advisory committee—would develop a 5-year technology roadmap for manufacturing. The roadmap would represent a national strategy for regaining a leadership position in the development of advanced manufacturing technology. OSTP would also coordinate technology development activities within the Federal Government, so as to strengthen working relationships between agencies.

In fairness to the administration, it has already begun this process. The Office of Management and Budget recently completed an inventory of Federal spending on manufacturing R&D, and OSTP has said it will follow up with a broad plan for manufacturing in fiscal year 1993. This bill will expedite that planning process and assure a central role for industry.

Technology development: Second, the legislation increases Federal support for the research and development of advanced manufacturing technology: According to OMB's inventory, manufacturing currently receives less than 2 percent of the Government's research budget, and 80 percent of that is defense-related either in DOD's or the Department of Energy's Defense Programs budget. The administration's budget request for fiscal year 1992 proposes sharp reductions in the defense manufacturing technology program. Our legislation provides stable funding for DOD's Mantech and Industrial Preparedness Programs—roughly $300 million, or triple the administrations request. The bill also authorizes additional funds for the Department of Commerce's Advanced Technology Program, specifically for advanced manfacturing R&D. In addition, the act requires the Departments of Defense, Commerce, and Energy, NASA, and the National Science Foundation to establish R&D partnerships with industry in advanced manufacturing. In most of the civilian efforts authorized by this title, industry would take the lead and contribute half the cost.

The rationale for these partnerships is straightforward. Just as the Federal Government supports basic research, it must bear part of the burden of exploring risky industrial technologies, which often provide large public benefits but only small private returns. The partnership approach serves to direct public funds to areas that industry itself thinks will have the highest payoffs, but where the benefits would be difficult for individual firms to capture. It also ensures there will be competition in bringing the technology developed by the partnerships to the marketplace by involving at least two and preferably more firms in each partnership.

Technology deployment: Third, our bill creates a National Manufacturing Extension Program modeled loosely after the highly successful agricultural extension service. Under this program, the Federal Government will provide matching funds for new and existing State, local, and nonprofit programs to modernize small- and medium-sized manufacturing firms, where the problem is most acute. In these programs, industrially-experienced engineers and other specialists work closely with smaller firms to solve production problems, boost quality and productivity, improve training, and introduce off-the-shelf technology. Not all manufacturing extension programs are equally effective, but the better ones have demonstrated their value, as the Office of Technology Assessment's 1990 report on manufacturing, "Making Things Better," enthusiastically concluded.

Federal support would allow States, localities, and nonprofit groups to expand some of the very good programs currently operating and to initiate programs where none exist. A wide range of programs would be eligible, including in-factory assistance, teaching factories, computer integrated manufacturing [CIM] centers, manufacturing technology testbeds, and flexible manufacturing networks. Given the magnitude of the challenge of modernizing small- and medium-sized firms, this program is intended to be inclusive rather than exclusive. But to insure results, three key criteria will guide the allocation of Federal matching funds.

One is the effectiveness of the program, including the use of an integrated approach to improving firms' manufacturing technology, work force training, and management. The problems of smaller firms are interrelated, and programs that tackle just technology are insufficient. A second criterion is the efficiency of service delivery. There is no substitute for one-on-one contact between an extension agent and a client firm in many cases, but a program should also seek to leverage its resources—for example, by providing group services to firms in a particular region and sector, or by facilitating self-help mechanisms such as manufacturing networks. The third key criterion is significant involvement by industry, which is itself a way to leverage extension activities. Particularly important is the participation of: First, key customers—the large OEM's [original equipment manufacturers] who must motivate many of their supplier firms to improve, and second, manufacturing equipment vendors. Like key customers, equipment vendors will benefit directly from the enhanced sophistication of small- and medium-sized manufacturers.

Our proposed program represents a major commitment by the Federal Government to work with States and industry to upgrade small- and midsized manufacturers. OTA calculated that assistance to 24,000 firms a year—7 percent of the total—would cost $120 million to $480 million, depending on the level and quality of service. Our proposed authorization for fiscal year 1992 of $80 million—$30 million for DOC, $50 million for DOD—together with the required matching funds, would allow States to achieve that modest target. By 1995, we would like to see that amount grow to a national expenditure of about $350 million—$175 million Federal. A program of that size, though still dwarfed by Japan's $500-million-a-year kohsetsushi network, could provide service to as many as 65,000 firms a year.

As is fitting and necessary for an ambitious campaign to modernize America's manufacturing base, the National Manufacturing Extension Program would be a partnership between the Department of Commerce and the Department of Defense. The Commerce Department's National Institute of Standards and Technology has the expertise to administer the program, since its current responsibilities include related activities, which Senator

HOLLINGS has initiated in previous years and which he proposes to expand in the Manufacturing Strategy Act of 1991. And the Department of Defense has a vital interest in the program, since DOD relies increasingly on commercial products, processes, and buying practices for meeting the needs of the military. More narrowly, defense subtier suppliers, whose ranks are dwindling, would be a key target group for a national extension effort. State programs in Pennsylvania, Ohio, New York, Maryland, and elsewhere are currently helping smaller defense contractors diversify into civilian markets, so that they can continue to supply a shrinking DOD market.

Technology education and training: In the area of education, the Advanced Manufacturing Technology Act authorizes $25 million for Federal matching grants to expand post-secondary degree programs in manufacturing engineering and management. This is an area Senator NUNN took the lead in drafting and he is today introducing this component of the Advanced Manufacturing Technology Act as a separate bill to highlight its importance. The program developed by Senator NUNN would be funded by DOD, working closely with the National Science Foundation, which has a strong track record of support for manufacturing research and education.

Engineering schools in the United States, increasingly science-oriented in the last 30 years, have all but ignored the applied field of manufacturing engineering. There are hopeful signs of change: Leading universities—Georgia Tech, MIT, Penn State, Purdue, and Stanford—have established manufacturing engineering programs, primarily at the graduate level, and these programs are showing results. But these programs can only begin to satisfy the urgent need for engineers trained in manufacturing and design disciplines, for managers versed in manufacturing technology, and for faculty qualified to teach manufacturing engineering.

To help address this diverse need, our bill directs DOD to make grants to at least 10 U.S. colleges and universities—both to expand existing undergraduate and graduate programs in manufacturing engineering and to establish new ones. The programs must combine research and work experience with multidisciplinary classroom training. And, as with all of the programs proposed in this act, there must be significant industry involvement.

The education and training title of our bill establishes a second program, Manufacturing Managers in the Classroom, to strengthen the capacity of technical and community colleges and other post-secondary schools to serve regional manufacturing firms. Under this program, the Federal Government would provide matching funds for such schools to recruit experienced manufacturing managers from industry and Federal labs—say, for a 1- to 2- year sabbatical. The managers would help to identify the education and training requirements of regional firms, develop the appropriate teaching curricula for classroom and in-factory classes, and market the programs and facilities of the school to the relevant firms. In short, the managers would serve as a bridge between the factory and the classroom.

The Federal matching funds for this program would be competitively awarded, based on a merit review. As with the National Manufacturing Extension Program, Manufacturing Managers in the Classroom would be a partnership between the Department of Commerce and the Department of Defense. Funding criteria would include the following: First, strong industry involvement; second, evidence that the school has identified ways both to help the manager become an effective teacher and to institutionalize the manager's knowledge and expertise; and third, evidence that the proposed activities are of an appropriate scale and a sufficient quality to ensure a long-term improvement in the school's ability to serve the education and training needs of regional firms.

International activities: Finally, the Advanced Manufacturing Technology Act specifies that a small amount of the funds authorized for technology development shall go specifically to increase access to foreign technology through international cooperation in advanced manufacturing. So far, the United States has been in the position of responding to proposals for cooperative R&D from other countries—proposals that have received a mixed reaction from American firms and universities. Yet few would disagree that international cooperation in manufacturing, under the right conditions, can benefit all parties. The funds set aside for international cooperation by this bill will allow the Federal Government, working closely with U.S. firms and universities, to begin to initiate its own proposals.

CONCLUSION

U.S. industry, long accustomed to a virtual monopoly of world markets, ignored the critical importance of manufacturing in a competitive global economy. Federal science policy ignored it as well. We are now paying a heavy price for that neglect. The MIT Commission on Industrial Productivity said it well in the Commission's 1989 book, "Made in America:" "In order to live well, a country must produce well."

If the United States is to regain leadership in manufacturing, the Federal Government must step in where private markets can not or do not function: In exploring risky industrial technologies that provide large benefits to society but only small returns to individual firms; in deploying modern manufacturing practices and technology to smaller manufacturing firms, which lack the resources to modernize on their own; and in educating sufficient numbers of manufacturing professionals and skilled production workers.

But at the same time, Government must have strong industry participation at every stage. Industry involvement in technology development is necessary in order to direct public funds to high-risk areas that industry itself thinks will have the highest payoffs. Similarly, Government's role in technology deployment and education must be to complement and leverage private resources. Public resources alone are inadequate to meet the scale of the challenge. Moreover, manufacturing modernization is a continual process of adjustment rather than a threshold event; that calls for integrated systems rather than discrete public programs—systems that rely heavily on assistance from key customers and collective problem solving by smaller firms themselves.

The Advanced Manufacturing Technology Act of 1991 and Senator HOLLINGS' companion bill, the Manufacturing Strategy Act of 1991, set out a coherent and ambitious plan for Government-industry cooperation in manufacturing technology management, development, deployment, education, and international cooperation. The bills would also forge an important partnership within the Federal Government, joining the resources of the Department of Defense, the Department of Commerce, and other civilian agencies. If there was ever a challenge that called for such a united front, it is manufacturing. State and local governments and universities are also brought into the partnership, and in turn encouraged to work with and through industry.

The actions proposed in these bills are not sufficient to make up for Government and industry's past neglect of manufacturing. In particular, there must be separate consideration of providing direct incentives for firms to invest in worker training and manufacturing plant and equipment. More generally, it took decades for the United States to lose its leadership position in manufacturing, and it will take decades to restore it. But the Advanced Manufacturing Technology Act of 1991 and the Manufacturing Strategy Act of 1991 put us on that important path, and they take a major step toward reclaiming our heritage as a powerful manufacturing nation.

Mr. President, I ask unanimous consent that the text of the Advanced Manufacturing Technology Act of 1991 be printed at the end of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Advanced Manufacturing Technology Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purposes.
Sec. 5. Definitions.

TITLE I—ADVANCED MANUFACTURING TECHNOLOGY MANAGEMENT

Sec. 101. Requirement for biennial multiyear advanced manufacturing technology strategic road map.
Sec. 102. Submission of first advanced manufacturing technology strategic road map.

TITLE II—ADVANCED MANUFACTURING TECHNOLOGY DEVELOPMENT

PART A—DEPARTMENT OF DEFENSE

Sec. 201. Defense manufacturing technology and industrial preparedness.
Sec. 202. Department of Defense Advanced Manufacturing Technology Partnerships.
Sec. 203. Authorization of appropriations.

PART B—DEPARTMENT OF COMMERCE

Sec. 221. Advanced Manufacturing Technology Program component.
Sec. 222. Department of Commerce Advanced Manufacturing Technology Partnerships.
Sec. 223. Authorization of appropriations.

PART C—OTHER DEPARTMENTS AND AGENCIES

Sec. 231. Department of Energy Advanced Manufacturing Technology Partnerships.
Sec. 232. NASA Advanced Manufacturing Technology Partnerships.
Sec. 233. National Science Foundation Advanced Manufacturing Technology Partnerships.

PART D—ADMINISTRATIVE AND OTHER PROVISIONS FOR PARTNERSHIPS

Sec. 241. Lead institution.
Sec. 242. Partnership proposals.
Sec. 243. Selection of partnerships.
Sec. 244. Protection of information.
Sec. 245. Technical and other assistance.
Sec. 246. Consultation on partnership activities.

PART E—ADDITIONAL DEFINITIONS

Sec. 251. Definitions.

TITLE III—MANUFACTURING EXTENSION PROGRAMS

Sec. 301. Defense manufacturing extension programs.
Sec. 302. National Manufacturing Extension Program.
Sec. 303. Interagency Council on Manufacturing Extension.
Sec. 304. Authorizations of appropriations.

TITLE IV—MANUFACTURING EDUCATION AND TRAINING

PART A—DEFENSE MANUFACTURING ENGINEERING EDUCATION

Sec. 401. Findings and purposes.
Sec. 402. Manufacturing Engineering Education Grant Program.
Sec. 403. Covered programs of manufacturing engineering education.
Sec. 404. Grant proposals.
Sec. 405. Grant awards.
Sec. 406. Definition.
Sec. 407. Authorization of appropriations.

PART B—MANUFACTURING MANAGERS IN THE CLASSROOM

Sec. 421. Manufacturing Managers in the Classroom Program.
Sec. 422. Authorization of appropriations.

TITLE V—INTERNATIONAL ACTIVITIES IN ADVANCED MANUFACTURING

Sec. 501. Findings and purpose.
Sec. 502. International cooperation in research and development.

SEC. 3. FINDINGS.

The Congress makes the following findings:

(1) The greatest competitive advantage to be derived from a technological discovery lies not with the discovery itself but, rather, with the perfecting of its manufacturing uses.

(2) United States industry has fallen behind industry in other countries in the invention, production, and use of advanced manufacturing technology.

(3) The cost of such lag to United States manufacturing productivity has been high, and the resulting weakness in the United States manufacturing base poses a threat to the national security of the United States.

(4) The 360,000 United States manufacturing firms with fewer than 500 workers are routinely among the last of the United States manufacturing firms to adopt and use advanced manufacturing technology.

(5) The vitality of these 360,000 small and medium-sized firms is critical to the economic prosperity of the United States, for more than half of the value added in the United States to commodities and products by manufacturing such commodities and products into end products is attributable to the manufacturing activities of such firms.

(6) The vitality of these 360,000 small and medium-sized firms, as well as large manufacturing firms, is also critical to the national security of the United States because the Department of Defense relies increasingly on commercial products, processes, and buying practices for meeting the needs of the Department of Defense for supplies and other property.

(7) Manufacturing extension programs conducted by States and other organizations, in some cases with support from large manufacturing firms, are effective in helping small and medium-sized firms modernize their manufacturing equipment and practices. However, such programs involve only a few thousand firms each year.

(8) Efforts by the Department of Defense, Department of Commerce, and other departments and agencies of the Federal Government to modernize United States manufacturing firms should be thoroughly integrated rather than separate and distinct.

(9) Education and training of United States managers, engineers, and workers in the disciplines that place appropriate emphasis on the entire manufacturing process, including design and customer support, are vital for ensuring the ability of United States manufacturing firms to keep pace with advances in manufacturing technology.

SEC. 4. PURPOSES.

The purposes of this Act are as follows:

(1) To ensure that within 10 years after the date of the enactment of this Act the United States is second to no other nation in the development, deployment, and use of advanced manufacturing technology.

(2) To provide for the coordination of the activities of the Federal Government regarding advanced manufacturing technology.

(3) To encourage the development and utilization of generic, precompetitive advanced manufacturing technology through Department of Defense, Department of Commerce, Department of Energy, National Aeronautics and Space Administration, and National Science Foundation programs for awarding research grants and research contracts, establishing research partnerships, and making of other cooperative agreements with United States industry.

(4) To support State, local, and private, nonprofit programs devoted to improving the quality, productivity, and performance of small and medium-sized United States manufacturing firms.

(5) To support the establishment of new programs for the study of manufacturing engineering and management in institutions of higher education in the United States and the enhancement of existing programs for the study of manufacturing engineering and management in such institutions.

(6) To encourage and support teaching by experienced manufacturing managers and experts from United States industry and Federal laboratories in institutions of higher education in the United States.

(7) To facilitate increased access to foreign sources of advanced manufacturing technology through international cooperation by the Federal Government and United States industry in international activities relating to such technology.

SEC. 5. DEFINITIONS.

In this Act:

(1) The term "advanced manufacturing technology" means processes, equipment, techniques, practices, capabilities (including organizational and management practices and capabilities), and skills (including worker skills) that are applied in ways intended—

(A) to improve the efficiency by which a product similar in character to existing products is designed, developed, tested, and manufactured;

(B) to reduce the cost of designing or producing a product;

(C) to improve the quality of a product, including the reliability, functionality, and maintainability of the product; or

(D) to expand the technical capability to design, develop, test, and manufacture a product that is fundamentally different in character from existing products.

(2) The terms "Federal laboratory" and "laboratory" have the meaning given the term "laboratory" in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

TITLE I—ADVANCED MANUFACTURING TECHNOLOGY MANAGEMENT

SEC. 101. REQUIREMENT FOR BIENNIAL MULTIYEAR ADVANCED MANUFACTURING TECHNOLOGY STRATEGIC ROAD MAP.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following new title:

"TITLE VII—NATIONAL ADVANCED MANUFACTURING TECHNOLOGY STRATEGIC ROAD MAP

"REQUIREMENT FOR STRATEGIC ROAD MAP

"SEC. 701. (a) The President, acting through the Federal Coordinating Council for Science, Engineering, and Technology, shall develop, issue, and submit to Congress, at least once every two years, in accordance with this title a multiyear strategic road map for advanced manufacturing technology (hereafter in this title referred to as the 'advanced manufacturing technology strategic road map' or 'strategic road map').

"(b) Each strategic road map shall cover at least the four fiscal years following the fiscal year in which the strategic road map is submitted to Congress.

"(c) In developing the strategic road map, the Council shall consult with appropriate representatives of United States industry interested in advanced manufacturing technology and with the Advanced Manufacturing Technology Advisory Committee established pursuant to section 703.

"CONTENT OF STRATEGIC ROAD MAP

"SEC. 702. (a) The strategic road map shall—

"(1) provide an assessment of the current strengths and weaknesses in the national capability of the United States to develop and apply advanced manufacturing technology, including an assessment of the current activities of United States industry, institutions of higher education in the United States, the Federal Government, and State and local governments which enhance or hinder the development and application of advanced manufacturing technology;

"(2) in light of such assessment, provide guidance for the conduct and coordination of the activities of the Federal Government that are directed toward enhancing the development and application of advanced manufacturing technology;

"(3) specify the goals and priorities of such activities;

"(4) provide guidance for interagency coordination of the implementation of the strategic road map within the Federal Government, including the appropriate roles of each department and agency of the Federal Government and of United States industry in implementing the Plan;

"(5) provide guidance for facilitating increased access to foreign sources of advanced manufacturing technology through international cooperation in activities of the Federal Government and United States industry relating to such technology; and

"(6) provide guidance for joint actions for departments and agencies of the Federal Government to take regarding the advanced manufacturing technology activities of such departments and agencies, including joint actions—

"(A) to ensure that the results of the advanced manufacturing technology research and development activities funded or conducted by departments and agencies of the Federal Government are appropriately disseminated to United States industry;

"(B) to encourage and enhance the use of such results by United States industry to improve the quality, productivity, and performance of the manufacturing activities of United States industry, with due regard to environmental considerations; and

"(C) to provide for education and training of personnel engaged in advanced manufacturing technology development.

"(b) Each strategic road map (other than the first strategic road map) shall include a discussion of the achievements of the advanced manufacturing technology activities conducted pursuant to the preceding strategic road map. Such discussion shall include—

"(1) an analysis of the progress made toward achieving the goals and objectives of the strategic road map;

"(2) a summary of the budgets of the departments and agencies of the Federal Government for advanced manufacturing technology activities for the first two fiscal years covered by such preceding strategic road map; and

"(3) any additional actions or recommendations for legislation necessary to carry out the provisions of this title and the provisions of the strategic road map.

"ADVANCED MANUFACTURING TECHNOLOGY ADVISORY COMMITTEE

"SEC. 703. (a) Director of the Office of Science and Technology Policy shall establish an Advanced Manufacturing Technology Advisory Committee to ensure that expert advice on advanced manufacturing technology is available to the Federal Coordinating Council for Science, Engineering, and Technology for the purposes of carrying out the responsibilities of the Council under this title.

"(b) The Committee shall consist of members appointed by the Director from among representatives of United States industry, members of industry associations, representatives of labor organizations in the United States, members of professional and technical societies in the United States, and other persons who are qualified to provide the Council with advice and assistance in the development of an Advanced Manufacturing Technology Strategic Road Map.

"(c) The Director of the Office of Science and Technology Policy shall designate a member of the Committee to serve as Chairman.

"(d) The Committee shall provide the Council with its independent assessment of—

"(1) the goals and priorities for the development and applications of advanced manufacturing technology, including an assessment of the extent to which the achievement of such goals and priorities will ensure United States leadership in the development and application of advanced manufacturing technology;

"(2) the specific programs and activities that the Federal Government must conduct as complements to the activities of United States industry in order to accomplish such goals and priorities;

"(3) the progress made in implementing the strategic road map;

"(4) any need to revise the strategic road map;

"(5) the balance between the components of the strategic road map; and

"(6) any other issues identified by the Director of the Office of Science and Technology Policy.

"(e) The Committee shall assist in the development of, and shall review, the first strategic road map before it is submitted to Congress. With regard to that strategic road map, the Committee shall provide the Council with its independent assessment of the matters described in clauses (1), (2), (4), (5), and (6) of subsection (d).

"RESPONSIBILITIES OF THE COUNCIL

"SEC. 704. The Federal Coordinating Council for Science, Engineering, and Technology shall—

"(1) serve as the lead entity of the Federal Government responsible for the development of the strategic road map and the interagency coordination of the Federal advanced manufacturing technology activities conducted pursuant to the strategic road map;

"(2) on a biennial basis, report to the President any recommended changes in departmental or agency responsibilities that are necessary for better implementation of the strategic road map;

"(3) each year before the submission of the budget to Congress pursuant to section 1105 of title 31, United States Code, review the budget concerning the consistency of the budget with the strategic road map and make the results of that review available to the appropriate officials within the Executive Office of the President; and

"(4) in carrying out its responsibilities under this title—

"(A) obtain analyses and assessments from the Critical Technologies Institute established by section 822 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 6686), as appropriate; and

"(B) consider any reports of and studies conducted by (i) departments and agencies within the executive branch, (ii) Congress, (iii) the National Research Council, (iv) industry associations, or (v) other persons and organizations.

"DEFINITIONS

"SEC. 705. In this title:

"(1) The term 'advanced manufacturing technology' means processes, equipment, techniques, practices, capabilities (including organizational and management practices and capabilities), and skills (including worker skills) that are applied in ways intended—

"(A) to improve the efficiency by which a product similar in character to existing products is designed, developed, tested, and manufactured;

"(B) to reduce the cost of designing or producing a product;

"(C) to improve the quality of a product, including the reliability, functionality, and maintainability of the product; or

"(D) to expand the technical capability to design, develop, test, and manufacture a product that is fundamentally different in character from existing products.

"(2) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).".

SEC. 102. SUBMISSION OF FIRST ADVANCED MANUFACTURING TECHNOLOGY STRATEGIC ROAD MAP.

The President shall submit the first National Advanced Manufacturing Technology Strategic Road Map to Congress under section 701 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (as added by section 101) within one year after the date of the enactment of this Act.

TITLE II—ADVANCED MANUFACTURING TECHNOLOGY DEVELOPMENT

PART A—DEPARTMENT OF DEFENSE

SEC. 201. DEFENSE MANUFACTURING TECHNOLOGY AND INDUSTRIAL PREPAREDNESS.

In order to enhance research and development in advanced manufacturing technology, the Secretary of Defense, in consultation with the Director of the Office of Science and Technology Policy, shall continue—

(1) to refine and implement the National Defense Manufacturing Technology Plan required by section 2513 of title 10, United States Code; and

(2) to encourage the advanced manufacturing technology research and development efforts of United States industry, Federal laboratories, and institutions of higher education in the United States.

SEC. 202. DEPARTMENT OF DEFENSE ADVANCED MANUFACTURING TECHNOLOGY PARTNERSHIPS.

(a) ESTABLISHMENT OF PARTNERSHIPS.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall establish one or more Advanced Manufacturing Technology Partnerships to carry out the purpose specified in section 4(3).

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be composed of participants from two or more eligible firms and may include one or more Federal laboratories, institutions of higher education in the United States, State entities, and any other participants that the Secretary of Defense considers appropriate.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Department of Defense for the purposes of carrying out the provisions of this part, $250,000,000 for each of fiscal years 1992 and 1993.

PART B—DEPARTMENT OF COMMERCE

SEC. 221. ADVANCED MANUFACTURING TECHNOLOGY PROGRAM COMPONENT.

Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended by striking out subsection (e) and inserting in lieu thereof the following new subsections:

"(e) There is established within the Program an Advanced Manufacturing Technology Component of the Program. Under the Advanced Manufacturing Technology Component of the Program, the Secretary, in consultation with the Director of the Office of Science and Technology Policy, shall ensure that financial support is provided for the activities of eligible firms and joint research and development ventures to identify and solve generic problems associated with research and development in advanced manufacturing technology and with the establishment of technical standards in advanced manufacturing technology. The Secretary shall place special emphasis on problems that inhibit the rapid development of commercially useful products, processes, and services associated with applications of advanced manufacturing technology.

"(f) As used in this section:

"(1) The term 'joint research and development venture' has the meaning given such term in subsections (a)(6) and (b) of section 2 of the National Cooperative Research Act of 1984 (15 U.S.C. 4302).

"(2) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is in United States citizens or is a company or other business entity of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.".

SEC. 222. DEPARTMENT OF COMMERCE ADVANCED MANUFACTURING TECHNOLOGY PARTNERSHIPS.

(a) ESTABLISHMENT OF PARTNERSHIPS.—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Director of the Office of Science and Technology Policy, shall establish one or more Advanced Manufacturing Technology Partnerships to carry out the purpose specified in section 4(3).

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be composed of participants from two or more eligible firms and may include one or more Federal laboratories, institutions of higher education in the United States, State entities, and any other participants that the Secretary of Commerce considers appropriate.

SEC. 223. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated to the Department of Commerce for carrying out section 222 as follows:

(1) For fiscal year 1992, $50,000,000.

(2) For fiscal year 1993, $100,000,000.

PART C—OTHER DEPARTMENTS AND AGENCIES

SEC. 231. DEPARTMENT OF ENERGY ADVANCED MANUFACTURING TECHNOLOGY PARTNERSHIPS.

(a) ESTABLISHMENT OF PARTNERSHIPS.—Not later than one year after the date of enactment of this Act, the Secretary of Energy shall establish three or more Advanced Manufacturing Technology Partnerships to carry out the purpose specified in section 4(3).

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be composed of participants from two or more eligible firms and one or more laboratories of the Department of Energy, and may include other Federal laboratories, institutions of higher education in the United States, State entities, and any other participants that the Secretary of Energy considers appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Energy for atomic energy defense activities for the purpose of carrying out this section, $50,000,000 for each of fiscal years 1992 and 1993.

SEC. 232. NASA ADVANCED MANUFACTURING TECHNOLOGY PARTNERSHIPS.

(a) ESTABLISHMENT OF PARTNERSHIPS.—Not later than one year after the date of the enactment of this Act, the Administrator of the National Aeronautics and Space Administration shall establish one or more Advanced Manufacturing Technology Partnerships to carry out the purpose specified in section 4(3).

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be composed of participants from two or more eligible firms and one or more laboratories of the National Aeronautics and Space Administration, and may include other Federal laboratories, institutions of higher education in the United States, State entities, and any other participants that the Administrator considers appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the National Aeronautics and Space Administration for carrying out this section, $10,000,000 for each of fiscal years 1992 and 1993.

SEC. 233. NATIONAL SCIENCE FOUNDATION ADVANCED MANUFACTURING TECHNOLOGY PARTNERSHIPS.

(a) ESTABLISHMENT OF PARTNERSHIPS.—Not later than one year after the date of the enactment of this Act, the Director of the National Science Foundation shall establish one or more Advanced Manufacturing Technology Partnerships to carry out the purpose specified in section 4(3).

(b) PARTNERSHIP PARTICIPANTS.—Each Partnership shall be composed of participants from two or more eligible firms, and may include one or more Federal laboratories, institutions of higher education in the United States, State entities, and any other participants that the Administrator considers appropriate.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the National Science Foundation for carrying out this section, $10,000,000 for each of fiscal years 1992 and 1993.

PART D—ADMINISTRATIVE AND OTHER PROVISIONS FOR PARTNERSHIPS

SEC. 241. LEAD INSTITUTION.

The participants in each Advanced Manufacturing Technology Partnership proposed to be established under this title shall designate a lead institution for the Partnership. The lead institution shall direct the activities of the Partnership.

SEC. 242. PARTNERSHIP PROPOSALS.

(a) SUBMISSION OF PROPOSALS.—Each proposal for the establishment of an Advanced Manufacturing Technology Partnership by the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, or the Director of the National Science Foundation, as the case may be, shall be submitted to such official by the lead institution acting on behalf of the proposed participants in the Partnership.

(b) CONTENT OF PROPOSALS.—Each proposal for the establishment of an Advanced Manufacturing Technology Partnership pursuant to this title shall include the following:

(1) Goals and objectives of the Partnership.

(2) A research and development plan to achieve such goals and objectives.

(3) Evidence of expertise among the Partnership participants in developing and utilizing advanced manufacturing technologies.

(4) Evidence of the commitment of eligible firms to participate in the Partnership, including a description of how personnel, equipment, facilities, and expertise of such firms will be used in the planning, conducting, and monitoring of the technology transfer activities of the Partnership and other Partnership activities.

(5) Evidence that the technologies proposed for development by the Partnership will help to minimize any potential health, safety, and environmental hazards of advanced manufacturing activities.

(6) The demonstration of financial commitment required by subsection (c).

(c) COST-SHARING REQUIREMENTS.—Each Partnership proposal shall demonstrate a financial commitment of the non-Federal Government participants to contribute at least 50 percent of the total cost of the Partnership activities. Within the total contribution to be made pursuant to such commitment the non-Federal Government participants may contribute a lesser percentage of the cost incurred during a particular period of Partnership activity or a lesser percentage of the cost of a particular Partnership activity. In the determination of the contribution made by a non-Federal Government participant, there shall be included the fair market value of the participant's contributions of equipment, services, materials, technology transfer activities, and other assets directly related to the costs of the Partnership activities, as determined by the official that established the Partnership.

SEC. 243. SELECTION OF PARTNERSHIPS.

(a) COMPETITIVE SELECTION.—Advanced Manufacturing Technology Partnerships shall be selected through a competitive process prescribed by the Secretary of Defense (for Partnerships established by such Secretary), the Secretary of Commerce (for Partnerships established by such Secretary), the Secretary of Energy (for Partnerships established by such Secretary), the Administrator of the National Aeronautics and Space Administration (for Partnerships established by the Administrator), and the Director of the National Science Foundation (for Partnerships established by the Director), in consultation with the Director of the Office of Science and Technology Policy.

(b) REQUIRED CRITERIA.—Each Secretary, the Administrator, and the Director, respectively, shall select for the establishment of a Partnership the Partnership proposal or proposals that—

(1) provides for the conduct of activities that involve such a significant level of risk of failure that timely private sector investment in such activities is unlikely other than through a Partnership;

(2) demonstrate the most promise of achieving the Partnership goals and objectives;

(3) offer the greatest potential for improving economic prosperity in the United States or the national security of the United States through research and development in advanced manufacturing technology, as evidenced by such activities as the formulation of business plans for the subsequent commercial development of the technology;

(4) propose the most effective program or programs for the transfer of technology to firms participating in the Partnership from other Partnership participants;

(5) provides for a breadth of participation of eligible firms in the Partnership that is sufficient to ensure that there will be competition in the application of the results of Partnership activities to the production of marketable products and the development of marketable processes;

(6) best provide for minimizing the hazards referred to in section 242(b)(5); and

(7) demonstrate the greatest commitment of eligible firms to Partnership participation.

SEC. 244. PROTECTION OF INFORMATION.

(a) AUTHORITY TO DISCLOSE INFORMATION.—Subject to subsection (b), a participant in an Advanced Manufacturing Technology Partnership may disclose information on the research and development activities of the Partnership to the same extent that a Federal laboratory may disclose information under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) and all other similar provisions of law.

(b) LIMITATIONS ON DISCLOSURE.—No officer or employee of the Federal Government may disclose any trade secret or commercial or financial information that is privileged or confidential within the meaning of section 552(b)(4) of title 5, United States Code, and is obtained from a non-Federal Government participant in a Partnership as a result of the activities of the Partnership, regardless of whether such activities are subject to the Stevenson-Wydler Technology Innovation Act of 1980. The prohibition in the preceding sentence does not apply to a disclosure made with the consent of such participant.

SEC. 245. TECHNICAL AND OTHER ASSISTANCE.

The Secretary of Defense (in the case of a Partnership established by such Secretary), the Secretary of Commerce (in the case of a Partnership established by such Secretary), the Secretary of Energy (in the case of a Partnership established by such Secretary), and the Administrator of the National Aeronautics and Space Administration (in the case of a Partnership established by the Administrator) shall provide the Partnership with technical and other assistance that the Secretary or Administrator (as the case may be) considers necessary and appropriate to facilitate the achievement of the goals and objectives of the Partnership.

SEC. 246. CONSULTATION ON PARTNERSHIP ACTIVITIES.

The Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Administrator of the National Aeronautics and Space Administration, and the Director of the National Science Foundation shall each consult with the Federal Coordinating Council for Science, Engineering, and Technology regarding the selection of Partnerships for establishment by such official.

PART E—ADDITIONAL DEFINITIONS

SEC. 251. DEFINITIONS.

In this title, the term "eligible firm" means a company or other business entity that, as determined by the Secretary of Commerce—

(1) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

(2) is a company or other business entity the majority ownership or control of which is in United States citizens or is a company or other business entity of a parent company that is incorporated in a country the government of which—

(A) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

(B) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

TITLE III—MANUFACTURING EXTENSION PROGRAMS

SEC. 301. DEFENSE MANUFACTURING EXTENSION PROGRAMS.

(a) REVISION OF AUTHORITY.—Section 2517 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "The Secretary of Defense,";

(2) in the first sentence—

(A) by striking out "the defense subtier industry" and inserting in lieu thereof "defense foundation firms"; and

(B) by striking out "and other existing organizations" and all that follows through "manufactured parts";

(3) in the second sentence, by striking out "of the Act of March 3, 1901 (15 U.S.C. 278k)" and inserting in lieu thereof "or 31 of the National Institute of Standards and Technology Act (15 U.S.C. 278k or 278p)"; and

(4) by adding at the end the following new subsection:

"(b) In this section, the term 'defense foundation firm' means a foundation firm (as defined in section 31(k) of the National Institute of Standards and Technology Act (15 U.S.C. 278p(k)) that is in one of the industries identified by the Under Secretary of Defense for Acquisition pursuant to section 2503(6) of this title.".

(b) CONFORMING DEFINITIONAL AMENDMENTS.—Section 2511 of title 10, United States Code, is amended to read as follows:

"§ 2511. Definitions

"In this chapter:

"(1) The term 'manufacturing technology' means processes, equipment, techniques, practices, capabilities (including organizational and management practices and capabilities), and skills (including worker skills) that are applied in ways intended—

"(A) to improve the efficiency by which a product similar in character to existing products is designed, developed, tested, and manufactured;

"(B) to reduce the cost of designing or producing a product;

"(C) to improve the quality of a product, including the reliability, functionality, and maintainability of the product; or

"(D) to expand the technical capability to design, develop, test, and manufacture a product that is fundamentally different in character from existing products.

"(2) The term 'manufacturing extension programs' means public and private, nonprofit programs for the improvement of the quality, productivity, and performance of small and medium-sized manufacturing firms in the United States.".

SEC. 302. NATIONAL MANUFACTURING EXTENSION PROGRAM.

(a) PROGRAM REQUIRED.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating section 31 as section 32; and

(2) by inserting after section 30 the following new section 31:

"NATIONAL MANUFACTURING EXTENSION PROGRAM

"SEC. 31. (a) The Secretary of Commerce, in close consultation and cooperation with the Secretary of Defense, shall conduct a program to be known as the 'National Manufacturing Extension Program'.

"(b) The purposes of the Program are as follows:

"(1) To encourage efforts to improve the manufacturing quality, productivity, and performance of foundation firms by providing financial and technical assistance for—

"(A) the conduct of advanced manufacturing technology programs of States, local governments, and private, nonprofit organizations that facilitate the achievement of such improvements; and

"(B) the establishment of such programs in States in which no such program is conducted.

"(2) To promote the development of a broad range of such programs, including programs that provide for in-factory assistance, teaching factories, computer-integrated manufacturing centers, advanced manufacturing technology testbeds, flexible manufacturing networks, group services, service centers, industry association technology activities, and other productivity and quality improvement activities.

"(3) To increase the involvement of appropriate segments of the private sector, especially key customers of foundation firms, vendors of advanced manufacturing equipment, and industry and professional organizations, in activities that improve the manufacturing quality, productivity, and performance of foundation firms.

"(c)(1) The Secretary of Commerce shall prescribe, in close consultation and cooperation with the Secretary of Defense, policies and procedures to implement the National Manufacturing Extension Program.

"(2) The Secretary may—

"(A) provide financial assistance through grants made or contracts, cooperative agreements, or other financial arrangements entered into in order to carry out the purposes of the Program; and

"(B) provide for the furnishing of technical assistance regarding advanced manufacturing technology to programs receiving financial assistance under the Program.

"(3) The technical assistance that the Secretary may provide for under this section includes such assistance as the following:

"(A) The dissemination of information between programs receiving financial assistance under the Program, between such programs and Regional Centers for the Transfer of Manufacturing Technology, and between such programs and other appropriate programs.

"(B) Training personnel involved in the conduct of such programs.

"(C) The development and dissemination of generally applicable tools and techniques for diagnosing the problems of foundation firms.

"(D) The dissemination of advanced manufacturing technology by Federal laboratories to foundation firms in accordance with the needs of such firms, as ascertained by the Federal laboratories pursuant to procedures which the Secretary shall prescribe.

"(E) Evaluation of the performance of programs.

"(4) Subject to the authority, direction, and control of the Secretary and the Under Secretary of Commerce for Technology, the Director of the National Institute of Standards and Technology shall perform the responsibilities and exercise the authority provided in this subsection.

"(d) Any State government, any local government, any private, nonprofit institution, any group of State governments, local governments, or private, nonprofit institutions, and any consortium of private, nonprofit institutions may submit to the Secretary an application for financial assistance under the Program in accordance with the procedures prescribed by the Secretary. The Secretary shall encourage multi-State applications where cooperation among States in the direction and delivery of program services serves the purposes of the Program.

"(e) Each application for financial assistance for an advanced manufacturing technology program under the National Manufacturing Extension Program shall include the following:

"(1) A statement of goals and objectives that are consistent with the purposes of the Program.

"(2) A program strategy for achieving such goals and objectives, including a discussion of how personnel, equipment, and facilities belonging to or utilized by the program will be used to carry out program activities.

"(3) A description of the nature and extent of the involvement by and support from private industry (especially key customers of the foundation firms to be served by the Program, vendors of advanced manufacturing equipment, and appropriate industry and professional organizations) in the planning, directing, and delivery of program services.

"(4) The demonstration of financial commitment required by subsection (f).

"(f) Each application for financial assistance for a program shall demonstrate a commitment to derive at least 50 percent of the resources necessary to defray the total cost of the program from non-Federal Government sources. In the determination of the contribution made by a non-Federal Government source, there shall be included the fair market value of the source's contributions of equipment, services, materials, and other assets directly related to the costs associated with the objectives of the Program.

"(g) Applications for financial assistance shall be evaluated on the basis of merit pursuant to procedures prescribed by the Secretary of Commerce, in close consultation with the Secretary of Defense and the Interagency Council on Manufacturing Extension.

"(h) In awarding financial assistance under the Program, the Secretary shall select advanced manufacturing technology programs that demonstrate in the applications the following:

"(1) Evidence that the program—

"(A) will be carried out by a staff that includes personnel who have significant experience in industrial manufacturing;

"(B) is capable of providing in-factory assistance to foundation firms, as appropriate; and

"(C) proposes an approach to improving the quality, productivity, and performance of foundation firms that integrates technology, training, management, and other appropriate factors.

"(2) Significant potential to result in lasting improvement in the quality, productivity, and performance of foundation firms in each region or sector served by the program.

"(3) Significant involvement by and support from private industry (especially key customers of the foundation firms to be served by the program, vendors of advanced manufacturing equipment, and appropriate industry and professional organizations) in the planning, directing, delivery, and financing of assistance to foundation firms.

"(4) The potential for improving the quality, productivity, and performance of a significant number of foundation firms with limited expenditure of public resources through provision of group services, facilitation of manufacturing networks, significant industry involvement, or by other means.

"(5) Appropriate cooperation and coordination with Regional Centers for the Transfer of Manufacturing Technology and other programs conducted by the Federal Government, any State, any local government, or any private, nonprofit organization to modernize United States manufacturing firms.

"(6) Attention to the needs of any foundation firms that supply manufactured products to the Department of Defense or to contractors of the Department of Defense.

"(7) Evidence of vision, leadership, management direction, and skill in developing and operating the program.

"(i)(1) The amount of financial assistance furnished to a recipient for an advanced manufacturing technology program under the Program may not exceed 50 percent of the estimated cost of carrying out the program for the period for which the assistance is to be provided. Financial assistance shall be provided to a recipient program for a period of at least five years unless such financial assistance is earlier terminated for good cause determined by the Secretary. The amount to be furnished shall be determined on the basis of the availability of funds for furnishing such assistance, the limitation in paragraph (2), the policies set out in paragraph (3), and other factors that the Secretary considers appropriate.

"(2) Paragraph (1) does not prohibit a recipient program from reapplying for financial assistance under the Program upon expiration or termination of the furnishing of financial assistance. The application for additional financial assistance shall be subject to the requirements and procedures set out in this section in the same manner and to the same extent as initial applications for financial assistance under the Program.

"(3) The Secretary shall ensure that an adequate level of financial assistance is furnished under the Program for advanced manufacturing technology programs that are to be conducted in States which, due to chronic economic disadvantages, lack the resources necessary to establish and sustain such programs. In carrying out this paragraph, the Secretary shall encourage such activities as cooperation between States and may award a State a one-time grant, not to exceed $500,000, to support, in close coordination with appropriate segments of private industry, the development of an advanced manufacturing technology program referred to in subsection (b)(1).

"(j) The Secretary shall prescribe regulations to carry out the Program. The regulations shall include the following:

"(1) A description of the Program.

"(2) Procedures for submitting applications for financial assistance.

"(3) Criteria for selecting applicants for award of financial assistance.

"(4) Support levels expected to be available for recipient programs.

"(k) In this section:

"(1) The term 'foundation firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees;

"(C) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(D) is a company or other business entity the majority ownership or control of which is in United States citizens or is a company or other business entity of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

"(2) The terms 'Interagency Council on Manufacturing Extension' and 'Council' each mean the Interagency Council on Manufacturing Extension established by section 303 of the Advanced Manufacturing Technology Act of 1991.

"(3) The term 'Program' means the National Manufacturing Extension Program established pursuant to subsection (a).

"(4) The term 'Regional Center for the Transfer of Manufacturing Technology' means a Regional Center for the Transfer of Manufacturing Technology referred to in section 25(a).".

(b) REGULATIONS.—The Secretary of Commerce shall publish the proposed regulations required by section 31 of the National Institute of Standards and Technology Act (as added by subsection (a)) in the Federal Register not later than 120 days after the date of the enactment of this Act. The period for public comment on such regulations shall be 30 days. The Secretary shall issue the final regulations within 60 days after the end of the period for public comment.

SEC. 303. INTERAGENCY COUNCIL ON MANUFACTURING EXTENSION.

(a) ESTABLISHMENT OF INTERAGENCY COUNCIL.—There is an Interagency Council on Manufacturing Extension.

(b) MEMBERSHIP.—The Council is composed of ten members as follows:

(1) Three members designated by the Secretary of Commerce from among officers and employees of the Department of Commerce.

(2) Three members designated by the Secretary of Defense from among personnel in the Department of Defense.

(3) One member designated by the Secretary of Energy from among officers and employees of the Department of Energy.

(4) One member designated by the Secretary of Labor from among officers and employees of the Department of Labor.

(5) One member designated by the Administrator of the National Aeronautics and Space Administration from among officers and employees of the National Aeronautics and Space Administration.

(6) One member designated by the Director of the National Science Foundation from among officers and employees of the National Science Foundation.

(c) CHAIRMAN.—The Secretary of Commerce shall designate a member of the Council to serve as Chairman.

(d) ACTIVITIES AND RESPONSIBILITIES.—The Council shall—

(1) advise the Secretary of Commerce regarding the establishment and conduct of the National Manufacturing Extension Program required by section 31 of the National Institute of Standards and Technology Act, as added by section 302;

(2) provide for the coordinated implementation of the National Manufacturing Extension Program by the Department of Commerce and the Department of Defense;

(3) serve as a means for coordinating the National Manufacturing Extension Program with related programs conducted by the Department of Energy, the Department of Labor, the National Aeronautics and Space Administration, the National Science Foundation, and other departments and agencies of the Federal Government;

(4) consult with representatives from States, localities, private, nonprofit entities, United States industry, and other appropriate groups on the policies and procedures prescribed to implement the National Manufacturing Extension Program; and

(5) develop a long-range strategic plan for the National Manufacturing Extension Program and, in developing such plan, devote particular attention to linkages between the Program and other programs and activities of the Federal Government.

(e) STRATEGIC PLAN NOT TO DELAY IMPLEMENTATION OF NATIONAL MANUFACTURING EXTENSION PROGRAM.—Implementation of the National Manufacturing Extension Program shall not be delayed in order for the Council to complete the development of the strategic plan referred to in subsection (d)(5).

SEC. 304. AUTHORIZATIONS OF APPROPRIATIONS.

(a) DEPARTMENT OF COMMERCE.—Funds are hereby authorized to be appropriated for the Department of Commerce to carry out the responsibilities of the Secretary of Commerce and under section 31 of the National Institute of Standards and Technology Act (as added by section 302(a)) and under section 303 as follows:

(1) For fiscal year 1992, $30,000,000.
(2) For fiscal year 1993, $50,000,000.
(3) For fiscal year 1994, $60,000,000.
(4) For fiscal year 1995, $75,000,000.

(b) DEPARTMENT OF DEFENSE.—Funds are hereby authorized to be appropriated for the Department of Defense to carry out the responsibilities of the Secretary of Defense under section 31 of the National Institute of Standards and Technology Act (as added by section 302(a)) and under section 303 and for transfer to the Department of Commerce for the conduct of the National Manufacturing Extension Program established by section 31 of such Act, as follows:

(1) For fiscal year 1992, $50,000,000.
(2) For fiscal year 1993, $65,000,000.
(3) For fiscal year 1994, $80,000,000.
(4) For fiscal year 1995, $100,000,000.

TITLE IV—MANUFACTURING EDUCATION AND TRAINING

PART A—DEFENSE MANUFACTURING ENGINEERING EDUCATION

SEC. 401. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) A strong defense industrial base is essential for the maintenance of the national security of the United States.

(2) Significant improvements in the productivity of the defense industrial base of the United States can be made if the manufacturers in the defense industrial base take full advantage of the rapid advancements that are occurring in manufacturing technology.

(3) Improved education and training of United States engineers, technicians, and workers in modern manufacturing techniques is vital to the ability of manufacturers in the defense industrial base of the United States to take advantage of advances in manufacturing technology.

(4) Federal Government support for State, local, and private sector initiatives is needed to stimulate improvements in manufacturing engineering education and training.

(b) PURPOSES.—The purposes of this title are to encourage the development of undergraduate and graduate level programs of education and research in manufacturing engineering at institutions of higher education in the United States and to increase the number of persons educated in the techniques and disciplines of manufacturing engineering through—

(1) the expansion of Federal Government support for programs of manufacturing engineering education in the United States;

(2) the provision of financial support for the establishment of new programs of manufacturing engineering education across the United States;

(3) the improvement of existing programs in manufacturing engineering education in the United States;

(4) the encouragement of increased participation of women, members of minority groups, and disabled persons in manufacturing education and training; and

(5) the active involvement of the Federal Government, States, and local governments along with institutions of higher education and private industry in cooperative undertakings to establish and support such programs.

SEC. 402. MANUFACTURING ENGINEERING EDUCATION GRANT PROGRAM.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Defense, in consultation with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy, shall establish a program for the Secretary to make grants to institutions of higher education for the following purposes:

(1) To support the enhancement of existing programs in manufacturing engineering education that are conducted by grantee institutions and that meet the requirements of section 403.

(2) To support the establishment at grantee institutions of new programs in manufacturing engineering education that meet such requirements.

(b) NEW PROGRAMS IN MANUFACTURING ENGINEERING EDUCATION.—For the purpose of subsection (a)(2), a program in manufacturing engineering education to be established at an institution of higher education may be considered new regardless of whether the program is to be conducted—

(1) within an existing department in a school of engineering of the grantee institution of higher education;

(2) within a manufacturing engineering department to be established separately from the existing departments within such school of engineering; or

(3) within a manufacturing engineering school or center to be established separately from an existing school of engineering of such institution.

(c) MINIMUM NUMBER OF GRANTS FOR NEW PROGRAMS.—Of the total number of grants awarded pursuant to this section, at least one-third shall be awarded for the purpose stated in subsection (a)(2).

(d) GEOGRAPHICAL DISTRIBUTION OF GRANTS.—In awarding grants under this subsection, the Secretary shall, to the maximum extent practicable, avoid geographical concentration of grant awards.

(e) INITIAL GRANTS.—Within one year after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of the National Science Foundation, shall award grants under the program to at least 10 institutions of higher education across the United States.

(f) COORDINATION OF GRANT PROGRAM WITH THE NATIONAL SCIENCE FOUNDATION.—The Secretary of Defense and the Director of the National Science Foundation shall enter into a written agreement for carrying out the grant program established pursuant to this section. The agreement shall include the following matters:

(1) Procedures to ensure that the grant program is fully coordinated with similar existing education programs of the National Science Foundation.

(2) Provisions for the National Science Foundation to assist in the administration and management of grants made by the Secretary under the program.

SEC. 403. COVERED PROGRAMS OF MANUFACTURING ENGINEERING EDUCATION.

(a) IN GENERAL.—A program of engineering education supported with a grant awarded pursuant to this title shall meet the requirements of this section.

(b) LEVEL OF HIGHER EDUCATION FOR WHICH PROGRAM IS OFFERED.—The program of education shall be conducted at the undergraduate level, the graduate level, or both the undergraduate and graduate levels.

(c) COMPONENTS OF PROGRAM.—The program of education shall be a consolidated and integrated multidisciplinary program of education having each of the following components:

(1) Multidisciplinary instruction that encompasses the total manufacturing engineering enterprise and that may include—

(A) manufacturing engineering education and training through classroom activities, laboratory activities, thesis projects, individual or team projects, and visits to industrial facilities, consortia, or centers of excellence in the United States and foreign countries;

(B) faculty development programs;

(C) recruitment of educators highly qualified in manufacturing engineering;

(D) presentation of seminars, workshops, and training for the development of specific research or education skills; and

(E) activities involving interaction between the institution of higher education conducting the program and industry, including programs for visiting scholars or industry executives.

(2) Opportunities for students to obtain work experience in manufacturing through such activities as internships, summer job placements, or cooperative work-study programs.

(3) Faculty and student research that is directly related to, and supportive of, the education of undergraduate or graduate students in advanced manufacturing science and technology because of—

(A) the increased understanding of advanced manufacturing science and technology that is derived from such research; and

(B) the enhanced quality and effectiveness of the instruction that result from that increased understanding.

(d) SIGNIFICANT INVOLVEMENT OF INDUSTRY.—The program shall be conducted with a significant level of involvement of private sector manufacturing firms having major manufacturing operations in the United States and a significant level of collaboration between the firms so involved and the institution of higher education conducting the program.

SEC. 404. GRANT PROPOSALS.

(a) PROPOSAL REQUIREMENTS.—The Secretary of Defense, in coordination with the Director of the National Science Foundation, shall solicit from institutions of higher education in the United States proposals for grants to be made pursuant to this title for the support of programs of manufacturing engineering education that are consistent with the purposes of this title.

(b) CONTENT OF PROPOSALS.—Each proposal submitted by an institution of higher education shall include the following:

(1) A description of the program proposed to be supported by the grant.

(2) A discussion of the institution's experience and demonstrated capabilities that qualify the institution to conduct the proposed program.

(3) A discussion of how industrial experience, expertise, and facilities will be integrated into the proposed program.

(4) A description of the anticipated curriculum.

(5) A description of the research proposed to be conducted pursuant to the proposed program, including how the research will support the instructional content of the program.

(6) A commitment by the non-Federal Government participants in the proposed program to contribute financial or in-kind support sufficient to defray at least 50 percent of the total cost of the program during the period covered by the grant, including a description of the cost-sharing arrangements provided to carry out the cost-sharing commitment.

(7) A description of the specific benefits the proposed program will provide for the improvement of the defense industrial base of the United States and the education and training of engineers in manufacturing methods, techniques, and technology in the United States.

(8) A plan to achieve a significant level of participation by women, members of minority groups, and disabled persons through active recruitment of students from among such persons.

SEC. 405. GRANT AWARDS.

(a) MERIT COMPETITION.—Grants shall be awarded on the basis of merit competition in accordance with procedures prescribed by the Secretary of Defense in coordination with the Director of the National Science Foundation.

(b) SELECTION CRITERIA.—The Secretary may select a proposal for the award of a grant pursuant to this title if the proposal, at a minimum—

(1) promotes the achievement of the purposes of this title;

(2) contains innovative approaches for improving engineering education in manufacturing technology;

(3) demonstrates a strong commitment by the proponents to apply the resources necessary to achieve the objectives for which the grant is to be made;

(4) provides for the conduct of research that supports the instruction to be provided in the proposed program and is likely to improve manufacturing engineering and technology;

(5) demonstrates a significant level of involvement of United States industry in the proposed instructional and research activities;

(6) is likely to attract superior students;

(7) proposes to involve fully qualified faculty personnel who are experienced in research and education in areas associated with manufacturing engineering and technology;

(8) proposes a program that, within three years after the grant is made, is likely to attract from sources other than the Federal Government the financial and other support necessary to sustain such program; and

(9) proposes to achieve a significant level of participation by women, members of minority groups, and disabled persons through active recruitment of students from among such persons.

SEC. 406. DEFINITION.

In this title, the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated to the Department of Defense for each of fiscal years 1992 and 1993, $25,000,000 to carry out the provisions of this title.

PART B—MANUFACTURING MANAGERS IN THE CLASSROOM

SEC. 421. MANUFACTURING MANAGERS IN THE CLASSROOM PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, in close consultation with the Secretary of Commerce, shall conduct a program to be known as the "Manufacturing Managers in the Classroom Program."

(b) PURPOSES.—The purposes of the program are as follows:

(1) To provide Federal financial assistance to community colleges and other institutions of higher education in the United States to support the employment of experienced manufacturing managers and experts as teachers in such institutions.

(2) To strengthen the capabilities of such institutions to serve the education and training needs of firms that manufacture items for commercial and military use and are located in the same geographic regions as such institutions, including the needs for worker training, human resource management training, and labor-management training.

(3) To attract high-quality manufacturing managers and experts from leading United States manufacturing firms and Federal laboratories to teach in such institutions on a temporary or permanent basis.

(4) To improve the quality and relevance of education and training programs available to United States manufacturing firms from community colleges and other institutions of higher education located in the same geographic region as such firms.

(5) To increase the awareness that United States manufacturing firms have of the potential for such institutions to serve the needs of such firms for education and training.

(c) PROGRAM ACTIVITIES.—Financial assistance provided for an institution of higher education under the program shall be used to support the following activities of one or more manufacturing managers and experts at such institution:

(1) Identifying the education and training requirements of United States manufacturing firms located in the same geographic region as such institution.

(2) Assisting in the development of teaching curricula for classroom and in-factory education and training classes.

(3) Teaching such classes and overseeing the teaching of such classes by others.

(4) Improving the knowledge and expertise of permanent faculty and staff of the institution.

(5) Marketing the programs and facilities of the institution to United States manufacturing firms located in the same geographic region as the institution.

(6) Coordinating the activities described in the other provisions of this subsection with other programs conducted by the Federal Government, any State, any local government, or any private, nonprofit organization to modernize United States manufacturing firms, especially the Regional Centers for the Transfer of Manufacturing Technology and programs receiving Federal financial assistance under the National Manufacturing Extension Program.

(d) PROPOSALS FOR FEDERAL SUPPORT.—Each application of an institution of higher education for Federal financial assistance under this section shall include the following:

(1) A statement of goals and objectives for the use of such financial assistance that are consistent with the purposes of this section.

(2) A program strategy for achieving such goals and objectives that includes—

(A) a description of the activities proposed to be supported in part by such financial assistance;

(B) a discussion of how the expertise of a manufacturing manager will be institutionalized through activities described in subsection (c)(4) and by other means; and

(C) a discussion of the means by which the institution will help the manufacturing manager become an effective teacher.

(3) A description of the nature and extent of involvement in, and support for, the proposed activities by United States industry, industry associations, and other appropriate organizations located in the same geographic region as the institution.

(4) The demonstration of financial commitment required by subsection (e).

(e) COST-SHARING REQUIREMENTS.—Each application for financial assistance under this section shall demonstrate a commitment by the applicant to contribute resources sufficient to defray at least 50 percent of the total cost of the activities proposed to be supported in part with such financial assistance. In the determination of the contribution made by an applicant, there shall be included the fair market value of the applicant's contributions of hardware and software, services, materials and other assets directly related to the costs of the proposed activities.

(f) MERIT COMPETITION.—Applications for financial assistance under this section shall be evaluated on the basis of merit pursuant to competitive procedures prescribed by the Secretary.

(g) SELECTION CRITERIA.—In selecting applications for the award of financial assistance under this section, the Secretary shall select applications that demonstrate—

(1) significant promise for achieving the purposes of this section;

(2) evidence that the proposed activities are of an appropriate scale and a sufficient quality to ensure long term improvement in the applicant's capability to serve the edu-

cation and training needs of United States manufacturing firms in the same region as the applicant;

(3) a significant level of industry involvement and support;

(4) attention to the needs of any United States industries that supply manufactured products to the Department of Defense or to a contractor of the Department of Defense; and

(5) evidence of vision, leadership, direction, and skill in the management of the proposed activities.

(h) FEDERAL SUPPORT.—The amount of financial assistance furnished to an institution under this section may not exceed 50 percent of the estimated cost of carrying out the activities proposed to be supported in part with such financial assistance for the period for which the assistance is to be provided. In no event may the amount of the financial assistance provided to an institution exceed $250,000 per year. The period for which financial assistance is provided an institution under this section shall be at least two years unless such assistance is earlier terminated for good cause determined by the Secretary.

(i) REGULATIONS.—(1) The Secretary shall prescribe regulations to carry out this section. The regulations shall include the following:

(A) A description of the program.

(B) Procedures for submitting applications for financial assistance.

(C) Criteria for selecting applicants for award of financial assistance.

(D) Amounts expected to be available for award to applicants.

(2) The Secretary shall publish the proposed regulations in the Federal Register not later than 120 days after the date of the enactment of this Act. The period for public comment on such regulations shall be 30 days. The Secretary shall issue the final regulations within 60 days after the end of the period for public comment.

(j) DEFINITIONS.—In this section:

(1) The term "Regional Center for the Transfer of Manufacturing Technology" means a Regional Center for the Transfer of Manufacturing Technology referred to in section 25(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278k).

(2) The term "National Manufacturing Extension Program" means the National Manufacturing Extension Program conducted pursuant to section 30 of such Act (as added by section 301).

SEC. 422. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF DEFENSE.—Funds are hereby authorized to be appropriated to the Department of Defense to carry out the responsibilities of the Secretary of Defense under section 421 and for transfer to the Department of Commerce for the conduct of the Manufacturing Managers in the Classroom Program conducted pursuant to such section, as follows:

(1) For fiscal year 1992, $5,000,000.

(2) For fiscal year 1993, $10,000,000.

(b) DEPARTMENT OF COMMERCE.—Funds are hereby authorized to be appropriated to the Department of Commerce to carry out the responsibilities of the Secretary of Commerce under the provisions of this part as follows:

(1) For fiscal year 1992, $5,000,000.

(2) For fiscal year 1993, $10,000,000.

TITLE V—INTERNATIONAL ACTIVITIES IN ADVANCED MANUFACTURING

SEC. 501. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Foreign institutions (including firms, government laboratories, and universities) have a leadership position in the development and application of certain advanced manufacturing technologies.

(2) The United States can benefit significantly from the increased access to foreign sources of advanced manufacturing technology that can result from international cooperation in activities of the Federal Government and United States industry relating to advanced manufacturing technology.

(3) A strong Federal Government program to improve domestic capabilities in advanced manufacturing technology can increase the benefits to be derived from such international cooperation.

(b) PURPOSE.—The purpose of this title is to facilitate international cooperation in activities of the Federal Government and United States industry relating to advanced manufacturing technology.

SEC. 502. INTERNATIONAL COOPERATION IN RESEARCH AND DEVELOPMENT.

(a) DEPARTMENT OF DEFENSE.—(1) Of the amounts authorized to be appropriated to the Department of Defense under section 203 of this Act, there is authorized to be appropriated for each of fiscal years 1992 and 1993, $5,000,000 for activities relating to advanced manufacturing technology that are carried out by United States industry, institutions of higher education in the United States, or Federal laboratories under the authority of bilateral or multilateral technology agreements entered into by the United States and other nations.

(2) The amount of such funds allocated for each such activity may not exceed one-third of the total estimated cost of carrying out that activity for the period for which the funds are to be provided.

(b) DEPARTMENT OF ENERGY.—(1) Of the funds authorized to be appropriated to the Department of Energy under section 231(c) of this Act, there is authorized to be appropriated for each of fiscal years 1992 and 1993, $5,000,000 for activities relating the advanced manufacturing technology that are carried out by United States industry, institutions of higher education in the United States, or Federal laboratories under the authority of bilateral or multilateral technology agreements entered into by the United States and other nations.

(2) The amount of such funds allocated for each such activity may not exceed one-third of the total estimated cost of carrying out that activity for the period for which the funds are to be provided.•

By Mr. HOLLINGS (for himself, Mr. GORE, Mr. BINGAMAN, Mr. NUNN, Mr. MITCHELL, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. DIXON, Mr. LEVIN, Mr. DODD, Mr. SHELBY, Mr. DASCHLE, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 1329. A bill to strengthen Federal strategy for the development and deployment of critical advanced technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. GORE, Mr. BINGAMAN, Mr. NUNN, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. DIXON, Mr. LEVIN, Mr. DODD, Mr. SHELBY, Mr. DASCHLE, Mr. LIEBERMAN, and Mr. RIEGLE):

S. 1330. A bill to enhance the productivity, quality, and competitiveness of U.S. industry through the accelerated development and deployment of advanced manufacturing technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL TECHNOLOGY STRATEGY ACT AND THE MANUFACTURING STRATEGY ACT

• Mr. HOLLINGS. Mr. President, today several of our colleagues and I are introducing a comprehensive package of bills to help American industry restore this Nation's sagging leadership in manufacturing and critical emerging technologies.

I, joined by Senator GORE and others, have authored two of the bills: the Federal Technology Strategy Act of 1991, which would improve the coordination of Federal technology efforts; and the Manufacturing Strategy Act of 1991, which would expand the Department of Commerce [DOC] efforts to help industry develop prototype manufacturing technologies for the 21st century and also would expand the DOC's existing technology extension activities. I am pleased that Senators BINGAMAN and NUNN are cosponsoring these bills.

Senators BINGAMAN and NUNN have authored two other bills, the Critical Technologies Act of 1991 and the Advanced Manufacturing Technology Act of 1991. Senator GORE and I have cosponsored these important initiatives. In addition, Senator NUNN has a fifth bill regarding manufacturing education programs at the Department of Defense [DOD], which I am pleased to cosponsor.

The two sets of bills complement each other, and reflect work done over the past year by the leaders of both the Commerce Committee and the Armed Services Committee. The fact that the chairmen of the two committees, plus the chairmen of their two technology subcommittees, have joined together today to introduce this package indicates the importance we attach to manufacturing and critical technologies.

THE FUNDAMENTAL ISSUE

I consider the issue addressed by these bills to be the central issue of our time. Will this government sit by, complacent and inactive, as we continue to lose ground to other countries in one industry after another; as our manufacturing base shrinks and more good jobs go overseas; and as our national defense becomes more and more dependent on technology from countries that may not always share our foreign policy aims? Or will this government, in partnership with American industry and labor, make a true commitment to restoring U.S. economic competitiveness and long-term economic growth? At a time when other countries are working hard to take the lead in key industries and key technologies, will our government fight to maintain the U.S. technology base?

The Members who are introducing these bills today have taken a clear stand on this fundamental issue—our government must not sit by. We know that the United States is lagging behind. A private group, the Council on Competitiveness, stated the problem well in a report that they presented to the Commerce Committee on March 20:

> The U.S. position in many critical technologies is slipping and, in some cases, has been lost altogether. Future trends are not encouraging. America pioneered such technologies as numerically controlled machine tools, robotics, optoelectronics, and integrated circuits only to lose leadership in them to foreign competitors. * * * The erosion of the U.S. position in critical technologies has helped to highlight an important lesson about industrial competition in the late 20th century: a lead in science is not sufficient to sustain technological leadership. Science excellence also must be supplemented by a strong position in critical technologies and by the ability to convert these technologies into manufactured products, processes and services that can compete successfully in the marketplace. Otherwise, America's jobs, standards of living and national security will be in jeopardy. * * *
>
> Governments in other major industrialized countries have used research and development [R&D] incentives, public-private technology consortia, infrastructure programs, tax policy, trade policy and regulations to improve the technological competitiveness of their industries. * * * Problems arising from foreign government actions have been compounded by the lack of a timely, coordinated, and effective U.S. industry and government response.

WHAT SHOULD BE DONE?

Over the past few years, Congress has worked with the administration to create the framework of a new national technology policy. In the area of civilian technology, I authored the Technology Competitiveness Act, the part of the 1988 Omnibus Trade and Competitiveness Act which upgraded the old National Bureau of Standards into a full-fledged civilian technology agency, the National Institute of Standards and Technology [NIST]. Under that law, NIST conducts laboratory research to provide industry with the support technologies needed to boost quality and productivity, supports technology extension efforts such as the five new manufacturing technology centers, and operates an Advance Technology Program to support industry-led technology development projects. On the defense side, Senator BINGAMAN, Senator NUNN, and others expanded the technology development efforts of the Defense Advanced Research Projects Agency [DARPA], supported the manufacturing technology [Mantech] programs, and created innovative projects such as Sematech.

The Commerce and Armed Services Committee both have worked to improve the coordination of the Federal Government's diverse technology programs. Senator GORE and I have authored bills to institutionalize interagency planning processes for global change research and high-performance computing. Senator BINGAMAN, with my support, has authored legislation requiring biennial national critical technology reports and creating a Critical Technologies Institute to provide staff support to the White House Office of Science and Technology Policy [OSTP].

Last year, the administration finally did endorse a government role in working with industry on precompetitive research to develop generic, enabling technologies. The administration has come to somewhat recognize that government has a responsibility to help industry develop those new basic technologies, which offer great potential benefits to the Nation but which are viewed as too long-term and too risky for any one company or even a group of companies to fund entirely on its own.

The question now is whether the new consensus on national needs and technology policy will be matched with a serious commitment of resources. Will we make technology and manufacturing major national priorities, commensurate with their importance to our standard of living and national defense?

The Council on Competitiveness, I believe, has stated what needs to be done.

> The Federal Government should view support of generic industrial technologies as a priority mission. * * * The President should move quickly to * * * announce his intention to increase dramatically the percentage of Federal R&D expenditures allocated to support for critical generic technologies and present a five-year implementation plan as part of his fiscal year 1993 budget.

In the bills my colleagues and I are presenting today, we are moving to implement these recommendations. We are proposing major initiatives in both manufacturing and other critical technologies, with some proposals covering fiscal year 1992 and others focused on fiscal year 1993. We sincerely hope that the administration will join us in this important effort. All Americans are concerned about the Nation's economic and military future, and these issues are too important to be ignored. My colleagues and I intend to push for action in this area, and we invite the President's participation.

THE FEDERAL TECHNOLOGY STRATEGY ACT

I now will briefly summarize the intent and provisions of the two bills, which I am introducing with Senator GORE and others. My proposed Federal Technology Strategy Act has two main provisions and several important reporting requirements. The first major provision would direct the President, through the OSTP Director, to prepare interagency plans to coordinate Federal activities in the major technical areas identified in the recent first biennial report of the National Critical Technologies Panel. In effect, we have taken the idea of interagency plans—codified for example in other legislation that I authored, and that is now law, on global changes research—and directed that these plans focus on a specific list of critical technologies. The bill would require Federal technology development plans in areas such as manufacturing technology, advanced materials, information and communications, and biotechnology.

Second, the Federal Technology Strategy Act states that it will be a mission of each Federal R&D agency to support the development of generic technologies upon which both the agency and the private sector depend. As the Federal Government becomes more a purchaser of private sector technology, and less the source of new technologies, it is in the interest of the Government to work with industry to create new technologies, as Federal agencies, including DOD, need the innovative products that commercial companies produce. Also, clearly new technology brings many general national benefits.

Next, the bill establishes a process for reviewing the participation of federally aided research groups in R&D projects funded by foreign governments—particularly governments with which the United States has formal science and technology agreements. We want to make sure that any U.S. participation in these foreign projects is consistent with overall U.S. policy.

Finally, the bill requires several reports. One provision asks the Secretary of Commerce for a one-time report on options and recommendations for increasing private investment in both new factories and the development and commercialization of new products. The bill also requires an annual report from the Secretary of Commerce to appropriate congressional committees on executive branch positions taken in international negotiations that might affect the size, activities, and eligibility requirements of Federal R&D programs.

THE MANUFACTURING STRATEGY ACT

My second bill focuses on the important issue of manufacturing, which remains the core of our national economy. The service sector and raw materials are of course vital, but to be rich and strong a nation must be able to produce manufactured goods. A nation which loses its capacity to manufacture loses good jobs, loses the ability to produce major export earnings, and loses one major component for its national security.

Thanks to a lower U.S. dollar and improvements made by many American firms, U.S. manufacturing exports have increased. However, all of us know that much more is needed—we need to pursue efforts to improve manufacturing technology, to modernize factories, to use new production techniques, and to reach world-class levels of quality and efficiency. Congress, and the States, have shown increasing concern about the health of U.S. manufacturing, and both also have learned a great deal in recent years about how to work with private industry to develop and to deploy advanced manufacturing technology. In my view, and I believe in the view of my colleagues who join me in introducing this legislation today, we now all have a special opportunity to work with industry to bring about an entirely new era of productive American manufacturing.

My proposed Manufacturing Strategy Act would expand existing DOC manufacturing programs in three areas. First, it would expand work to develop new manufacturing technologies for the 21st century by creating a new advanced manufacturing systems and networking project. This important technology development project would include one or more industry-led testbeds to refine, test, and demonstrate prototypes of advanced technology. I know that this can be done, because I have seen an earlier defense-oriented version of this work in my own State of South Carolina, at the rapid acquisition of manufactured parts [RAMP] project run by the Navy, NIST, several companies, and the State of South Carolina. The new technology exists; we need to refine it and get it to civilian as well as defense manufacturers.

Second, the bill would expand NIST's current technology extension efforts to help firms, especially smaller firms, to modernize their factories. NIST already operates five manufacturing technology centers [MTC's] to help companies. Along with creating more centers, I propose the creation of small satellite manufacturing centers to work with the existing MTC's as well as a new set of national centers for manufacturing and process technology to help meet the needs of specific U.S. industries. Third, the bill would create a new industry-led national quality laboratory at NIST to help Baldrige Award winners and our other best companies to pass on their lessons and best practices to a wide range of American managers and workers.

Finally, the Manufacturing Strategy Act also would require most other Federal research agencies to spend a small percentage of their R&D budgets to work with industry to develop new generic technologies, especially manufacturing and process technologies. Agencies would be encouraged to work through NIST's Advanced Technology Program.

Under our bill, most of these new DOC programs would start in fiscal year 1993. In the meantime, I will continue to work for strong fiscal year 1992 funding for NIST's important existing programs, including its laboratory research, the manufacturing technology centers, and the Advanced Technology Program.

CONCLUSION

Mr. President, I have a passionate belief that the United States should not settle for the status of a second-class economic power. I feel strongly that the Federal Government's annual $70 billion R&D investment should be made useful to industry and reoriented to meet the major world challenge now facing the United States—the contest to see which country or countries will dominate the industries and economies of the 21st century.

I want to compete, and I want the United States to win. I do not want to sit back and do nothing as the Japanese and others beat us in one industry after another. I am not angry with the Japanese. They are competing to win, while we are not even in the game. While other governments back their companies, our government sits by while we literally go out of business. These bills are an effort by the leaders of the two Senate committees most involved in technology to put at least the R&D parts of the Federal Government back into the game, back into helping our companies compete and helping them succeed.

Mr. President, I look forward to working with Senators GORE, BINGAMAN, and NUNN and others to refine and coordinate our respective bills. I also invite our other Senate colleagues, as well as the administration, to join us in passing legislation which will ensure that the Federal Government does its part to make the United States second to none in manufacturing, in critical technologies, and in prosperity and national strength.

Mr. President, I ask unanimous consent that the full text of my two bills, with accompanying summaries, be included in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Technology Strategy Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares the following:

(1) It is vital for the Nation to maintain strong capabilities in generic technology, in order both to meet the mission needs of Federal agencies and to help the private sector stay competitive in world markets. Both the Nation's prosperity and national security require a strong national technology base.

(2) Through the biennial reports of the National Critical Technologies Panel, the President and other Federal officials are well informed about which technologies are most critical to the Nation.

(3) In addition to the Federal Government's responsibility to support basic research, Federal agencies have a responsibility to participate with the private sector in precompetitive research on generic, enabling technologies which have the potential to contribute to a broad range of government and commercial applications. Federal support is appropriate and necessary for those technology development projects that offer the potential of large benefits to the economy but which are sufficiently risky and long-term that profits are distant and companies by themselves cannot justify funding them.

SEC. 3. TECHNOLOGY DEVELOPMENT PLANS AND FUNDING FOR CRITICAL TECHNOLOGIES.

Title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6681 et seq.) is amended—

(1) in the title heading by striking "PANEL";

(2) by inserting immediately after the title heading the following new subtitle heading:

"Subtitle A—National Critical Technologies Panel"; and

(3) by adding at the end the following new subtitle:

"Subtitle B—Technology Development

"FEDERAL TECHNOLOGY DEVELOPMENT PLANS

"SEC. 621. (a)(1) The President, through the Director and, as appropriate, through such interagency entities as the President or Director may designate, shall—

"(A) develop, within one year after the date of enactment of this section, Federal technology development plans for each of the following major areas of technology—

"(i) advanced manufacturing;

"(ii) advanced materials;

"(iii) information and communications;

"(iv) biotechnology and life sciences; and

"(v) such other technologies as the President or the Director may deem appropriate;

"(B) work, as appropriate, with leaders of United States industry and labor to identify the Nation's needs and options in those areas of technology;

"(C) consider, as appropriate, the findings of the biennial reports of the National Critical Technologies Panel; and

"(D) provide for interagency coordination of Federal agency activities in each such area of technology.

"(2) The purpose of the Federal technology development plans shall be to strengthen the Federal Government's technology strategy so as to ensure that Federal research and development programs, to the maximum extent feasible—

"(A) meet the current and projected mission needs of the Federal Government; and

"(B) create generic technologies that will help United States companies to be competitive in world markets.

"(3) Each such Federal technology development plan shall, for its given area of technology—

"(A) establish the goals and priorities for Federal activities for the fiscal year in which the plan is submitted and for the succeeding four fiscal years;

"(B) summarize the principal technical and other barriers to the development of a domestic United States technological capacity that is equal to or exceeds that of other major industrialized countries;

"(C) summarize what the United States Government and major foreign governments, as well as private United States and foreign companies, have spent annually in recent years in the given area of technology, and summarize how much of the spending by governments has focused on solving generic technical problems rather than on meeting specialized mission requirements;

"(D) set forth, in terms consistent with subsection (b) (2) and (3), the role of each Federal agency and department in implementing the plan; and

"(E) describe the levels of Federal funding for each agency and department required to achieve the goals and priorities established under subparagraph (A).

"(b)(1) The Director shall serve as the lead Federal official responsible for coordinating the preparation of Federal technology development plans under this section.

"(2) The Department of Commerce, particularly the Technology Administration, shall serve as the lead civilian agency for promoting the development and deployment of advanced generic civilian technologies and shall, subject to guidance from the Director and the Secretary of Commerce, be lead agency for coordinating the formulation of the civilian components of the Federal technology development plans. The Director and the Secretary of Commerce are authorized to create joint industry-government councils to help prepare the Federal technology development plans.

"(3) The Department of Defense shall serve as the lead Federal agency on issues of defense manufacturing and technology and shall, subject to guidance from the Director and the Secretary of Defense, be lead agency for coordinating the formulation of the defense components of the Federal technology development plans.

"(4) Prior to the President's submission of each annual budget estimate, the Director shall review each departmental and agency budget estimate in the context of the Federal technology development plans and shall make the results of that review available to the Office of Management and Budget and other appropriate elements of the Executive Office of the President. The Director of the Office of Management and Budget shall review each such report in light of the goals, priorities, and agency and departmental responsibilities set forth in the Federal technology development plans.

"(c)(1) The Director shall, upon request, make the Federal technology development plans available to committees or Members of Congress.

"(2) The Federal technology development plans shall be updated after the release of each biennial critical technologies report written by the National Critical Technologies Panel pursuant to section 603.

"(3) The Secretary of Commerce and the Secretary of Defense are authorized and directed to provide such assistance and resources as the President, the Director, or the Director of the Office of Management and Budget may require in order to prepare the Federal technology development plans.

"(d) In a statement accompanying the President's annual budget submission, the Director shall summarize the amounts of Federal research and development funding proposed for each of the critical technologies or groups of technologies identified in the most recent biennial critical technologies report.

"FEDERAL FUNDING FOR CRITICAL TECHNOLOGIES

"SEC. 622. (a) It shall be a mission of all Federal research and development agencies to support the national technology base upon which both the Federal Government and United States industry draw. Federal agencies shall, as appropriate, support—

"(1) industry-led projects to develop new generic enabling technologies; and

"(2) efforts in collaboration with the States and industry to accelerate the commercialization and use of new advanced technologies.

"(b) As part of its actions to support industry-led technology development projects and to contribute to the national technology base, each Federal research and development agency may provide funds to support activities under the Advanced Technology Program established under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n).

"INTERNATIONAL COLLABORATION IN THE DEVELOPMENT OF ADVANCED TECHNOLOGY

"SEC. 623. (a) No Federal department or agency, nor any organization in the United States which receives Federal research and development funding, shall participate in or assist any bilateral or international technology development project that is operated by or receives funds from a foreign government with which the United States Government has formal science and technology agreement unless such proposed participation is approved in advance by the Director or, by serving as the Director's designee, the Secretary of Commerce.

"(b) If a recipient of Federal research assistance violates the requirements of subsection (a), the Director may ban that recipient for two years from receiving additional Federal research assistance.

"(c) If, after meeting the requirements of subsection (a), any Federal department or agency provides funding to support a bilateral or international advanced technology research, development, or testing project, that department or agency shall, to the extent practicable, channel such funding through one or more United States-based joint research and development ventures, as defined in section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6)).".

SEC. 4. REPORT ON INCREASING PRIVATE INVESTMENT IN MANUFACTURING AND THE COMMERCIALIZATION OF TECHNOLOGY.

"(1) REQUIREMENT.—Within one year after the date of enactment of this Act, the Secretary of Commerce, acting through the Under Secretary of Commerce for Technology and such other officials as appropriate, shall submit to Congress a report on actions that can be taken by private industry, the States, and the Federal Government to increase private investment in—

(1) the development and production of new commercial technologies; and

(2) the use and application of advanced manufacturing and process technologies.

(b) CONTENTS.—The report shall include, but not necessarily be limited to, an analysis of the following issues:

(1) the role that strategic partnerships between larger United States companies and innovative smaller firms can play in increasing investment in the commercialization of new technologies developed by those smaller firms;

(2) what incentives, technology information programs, and possible reforms in accounting standards would encourage large institutional investors in the United States to encourage firms in which they hold shares to make long-term strategic investments in research and development, product commercialization, and advanced production equipment and facilities;

(3) what factors generally affect the cost, availability, and the long-term or short-term orientation of capital available to United States companies;

(4) the feasibility and advisability of establishing, within the Department of Commerce, a clearinghouse which provides—

(A) information to interested manufacturers, to Regional Centers for the Transfer of Manufacturing Technology, and to the States on the types of financing available to acquire advanced manufacturing equipment, including loans for purchases and leasing arrangements;

(B) information to banks, leasing companies, and other financing sources on the types of advanced manufacturing technology currently available in the marketplace and the range of services, including Regional Centers for the Transfer of Manufacturing Technology, available to help small and medium-sized manufacturers understand and utilize these technologies; and

(C) a forum for discussions among manufacturers, equipment vendors, financiers, and accounting experts on how to make advanced manufacturing equipment more financially available to small and medium-sized manufacturers; and

(5) how Federal research and development programs, particularly programs aimed at aiding the development of new generic technologies, might be improved so as to increase the probability that generic technologies developed through such programs will actually be commercialized by United States companies and the resulting products manufactured within the United States.

SEC. 5. ANNUAL REPORT ON NEGOTIATIONS POTENTIALLY AFFECTING FEDERAL RESEARCH AND DEVELOPMENT PROGRAMS.

The Secretary of Commerce, after consultation with the Director of the Office of Science and Technology Policy, shall report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on any current or planned Executive Branch positions in international negotiations, including negotiations regarding subsidies or government procurement, which would affect the activities, funding levels, or eligibility requirements of Federal domestic research and development programs.

FEDERAL TECHNOLOGY STRATEGY ACT OF 1991—BILL SUMMARY

Technology Management and Planning—In order to improve the coordination of Federal technology development programs, and to help ensure that the Nation has the generic technologies necessary to assist both agency missions and U.S. economic competitiveness, the bill directs the President, through the Director of the Office of Science and Technology Policy, to prepare five-year Federal technology development plans for key areas of technology, including manufacturing, advanced materials, information and communications, and biotechnology. (These interagency plans are similar to ones required under P.L. 101-606, the Global Change Research Act of 1990, and S. 272, the High-Performance Computing Act of 1991.)

Technology Development—States that it shall be a mission of all Federal research and development agencies to support the national technology base and, as appropriate, to support industry-led projects to develop new generic technologies. As part of these efforts, authorizes Federal agencies to provide funds to support industry-led projects under the Commerce Department's Advanced Technology Program. Authorizes expanded collaboration with U.S. industry and the States. Establishes a process for reviewing any proposed use of Federal funds in bilateral or international technology development projects supported by foreign governments with which the U.S. has a formal science and technology agreement.

Reports—Requires the Secretary of Commerce to submit to Congress a report on increasing private investment in manufacturing and in the commercialization of new technologies. Requires annual reports from the Secretary of Commerce on any position that the Executive Branch is taking in international negotiations that would affect the operation of Federal domestic research and development programs.

S. 1330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Manufacturing Strategy Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds and declares the following:

(1) The development and deployment of advanced manufacturing technologies and other process technologies is vital to the Nation's economic growth, standard of living, competitiveness in world markets, and national security.

(2) New developments in flexible computer-intergrated manufacturing, electronic manufacturing networks, and other new technologies make possible dramatic improvements across all industrial sectors in productivity, quality, and the speed with which manufacturers can respond to customers and changing market opportunities.

(3) The United States currently leads the world in research on advanced manufacturing technologies, but often lags behind other nations in the full development, deployment, and use of these new technologies.

(4) Among the steps necessary for the United States to reap the full benefits of advanced manufacturing technology are further research and development activities, testbed projects to test and validate new technology, programs to accelerate the deployment of both new advanced technologies and valuable off-the-shelf equipment, full development of digital product data technology, enhanced transfer of federally-funded technology to industry, and increased cooperation among the Federal Government, industry, and the States.

(5) The Department of Commerce, in cooperation with the Department of Defense and other Federal agencies, has played and can continue to play an important role in assisting United States industry to develop, test, and deploy advanced manufacturing technologies.

(c) PURPOSE.—It is the purpose of Congress in this Act to enhance the ability of the Department of Commerce's technology programs to assist the efforts of private industry in manufacturing and, in the process, to help ensure the continued leadership of the United States in advanced manufacturing technologies.

SEC. 3. AMENDMENT TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new title:

"TITLE III—MANUFACTURING TECHNOLOGY

"SEC. 301. STATEMENT OF POLICY AND PURPOSE.

"(a) STATEMENT OF POLICY.—Congress declares that it is the policy of the United States that—

"(1) Federal agencies, particularly the Department of Commerce, shall work with industry to ensure that within 10 years of the date of enactment of this title the United States is second to no other nation in the development, deployment, and use of advanced manufacturing technology.

"(2) because of the importance of manufacturing and advanced manufacturing technology to the Nation's economic prosperity and defense, all the major Federal research and development agencies shall place a high priority on the development and deployment of advanced manufacturing technologies, shall increase the percentage of their research and development budgets devoted to manufacturing technology, and shall work closely with United States industry to develop and test those technologies;

"(3) the Department of Commerce, particularly the Technology Administration, shall serve as the lead civilian agency for promoting the development and deployment of advanced manufacturing technology, and other Federal departments and agencies which work with civilian industry shall be encouraged, as appropriate, to work through the programs of the Department of Commerce; and

"(4) the Department of Defense shall serve as the lead Federal agency for working on defense manufacturing matters.

"(b) PURPOSE.—It is the purpose of Congress in this title to help ensure, through the programs and activities of the Department of Commerce and other Federal agencies, continued United States leadership in the development and deployment of advanced manufacturing technologies and their applications.

"SEC. 302. ROLE OF THE DEPARTMENT OF COMMERCE.

"(a) MISSION IN MANUFACTURING.—The Department of Commerce shall be the lead civilian agency of the Federal Government for working with United States industry to—

"(1) develop new generic advanced manufacturing technologies; and

"(2) encourage and assist the deployment and use of advanced manufacturing equipment and techniques throughout the United States.

"(b) DUTIES.—The Secretary shall, through the Under Secretary and the Director and, as appropriate, in coordination with the heads of other Federal agencies and with industry, design and manage programs that—

"(1) accelerate the development of advanced manufacturing technologies in such areas as computer-integrated manufacturing, advanced robotics, concurrent engineering, enterprise integration, communications networks for manufacturing, other advanced process technologies, computer software, and quality assurance techniques;

"(2) support projects, centers, and other mechanisms to help United States industry develop, test, and deploy advanced manufacturing and process technologies;

"(3) assist United States industry to—

"(A) develop and disseminate generic manufacturing process models and related techniques, including expert systems and benefit/cost analyses, that significantly increase quality, productivity, and flexibility;

"(B) expand and speed the use of the best current manufacturing practices, such as total quality management, concurrent engineering, and just-in-time delivery; and

"(C) develop techniques which help companies define their manufacturing technology needs and select production equipment;

"(4) increase coordination with industry for identifying the need for both interface and systems standards in manufacturing and, as appropriate, support testbeds so that industry can determine at early stages whether new technologies and prototypes are compatible with new standards; and

"(5) accelerate, in partnership with the States and industry, the broad deployment and adoption of advanced manufacturing technologies by medium and small, as well as large, manufacturers throughout the United States.

"(c) RELATION TO NATIONAL PLANS.—The Secretary, Under Secretary, and Director shall, as appropriate, ensure that Department of Commerce advanced manufacturing technology activities are conducted in a manner consistent with any national advanced manufacturing technology development plans that may be developed by the President or the Director of the Office of Science and Technology Policy.

"(d) COORDINATION WITH OTHER AGENCIES.—(1) the Secretary and the Secretary of Defense shall coordinate their policies and programs to promote the development and deployment of advanced manufacturing technologies. The two Secretaries shall, as appropriate, form joint working groups or special project offices to coordinate their manufacturing activities.

"(2) In order to avoid unnecessary duplication of efforts, the Secretary of Defense, as well as the heads of other departments and agencies, shall, whenever appropriate, conduct their technology extension activities through the technology extension programs created under sections 25 and 26 of the Act of March 3, 1901 (15 U.S.C. 278k and l), and their technology development activities through the Advanced Technology Program established under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n).

"SEC. 303. ADVANCED MANUFACTURING SYSTEMS AND NETWORKING PROJECT.

"(a) ESTABLISHMENT OF PROJECT.—(1) In addition to such technology development responsibilities as may be set forth in other Acts, the Secretary, through the Under Secretary and the Director, shall establish an Advanced Manufacturing Systems and Networking Project (hereafter in this title referred to as the 'Project').

"(2) The purpose of the Project is to create a collaborative multi-year technology development program involving the Institute, United States industry, and, as appropriate, the States in order to develop, refine, test, and transfer advanced computer-integrated, electronically-networked manufacturing technologies and associated applications.

"(b) PROJECT COMPONENTS.—The Project shall include—

"(1) an advanced manufacturing research and networking activity at the Institute;

"(2) one for more technology development testbeds within the United States, whose purpose shall be to develop, refine, test, and transfer advanced manufacturing and networking technologies created at the Institute and elsewhere and to assist industry in the implementation of these technologies and the development of associated applications; and

"(3) one or more information dissemination contracts with nonprofit organizations with experience in assisting small and medium-sized manufacturers, for the purpose of providing information and technical assistance regarding advanced manufacturing and networking technologies to these small and medium-sized manufacturers.

"(c) ACTIVITIES.—The Project shall, under the coordination of the Director, undertake the following activities:

"(1) test and, as appropriate, develop the equipment, computer software, and systems integration necessary for the successful operation within the United States of advanced manufacturing systems and associated electronic networks;

(2) establish at the Institute and the technology development testbed or testbeds—

"(A) prototype advanced computer-integrated manufacturing systems; and

"(B) prototype electronic networks linking the manufacturing systems;

"(3) assist industry to implement voluntary consensus standards relevant to advanced computer-integrated manufacturing operations, including standards for integrated services digital networks, electronic data interchange, and digital product data specifications;

"(4) help to make high-performance computing and networking technologies an integral part of design and production processes;

"(5) conduct research to identify and overcome technical barriers to the successful and cost-effective operation of advanced manufacturing systems and networks;

"(6) facilitate industry efforts to develop and test new applications for manufacturing systems and networks;

"(7) involve, to the maximum extent practicable, both those United States companies which make manufacturing and computer equipment and those companies which buy the equipment; with particular emphases on including a broad range of company personnel in the Project and on assisting small and medium-sized manufacturers;

"(8) train, as appropriate, company managers, engineers, and employees in the operation and applications of advanced manufacturing technologies and networks;

"(9) work with private industry to develop standards for the use of advanced computer-based training systems, including multimedia and interactive learning technologies; and

"(10) exchange information and personnel, as appropriate, between the technology development testbeds and the Regional Centers for the Transfer of Manufacturing Technology created under section 25 of the Act of March 3, 1901 (15 U.S.C. 278k).

"(d) Awards.—The Secretary shall make awards for the testbed or testbeds and for the information dissemination contracts created under subsection (b) of this section through competitive, merit-based procedures. Any joint research and development venture (as defined in section 2(a)(6) of the National Cooperative Research Act of 1984; 15 U.S.C. 4301(a)(6)), university, non-profit research organization, or Regional Center for the Transfer of Manufacturing Technology (as created under section 25 of the Act of March 3, 1901), within the United States, shall be eligible to apply to be selected as a testbed or to receive an information dissemination contract under the Project and to receive up to 6 years of funding from the Secretary, if such venture, university, organization, or Center at least matches the amount of funding sought from the Secretary. The Secretary shall give particular consideration to applicants that have existing expertise with digital data product technologies and with working with United States industry to develop and implement such specifications.

"(e) Relationship to High-Performance Computing Program.—(1) The Project shall be considered one of the Department of Commerce's activities under the Federal high-performance computing program and shall be considered a 'Grand Challenge', as that term is defined under that program. The Project shall remain under the jurisdiction of the Secretary, although the Secretary may, as appropriate, invite the participation of other Federal departments and agencies.

"(2) The Secretary and Director, in consultation with the Director of the Office of Science and Technology Policy, shall, as appropriate, direct that the Project conduct manufacturing networking experiments in partnership with the operators of the National Research and Education Network.

"(f) Advice and Assistance.—(1) Within 6 months after the date of enactment of this title, and before any request for proposals is issued, the Secretary, through the Under Secretary and Director, shall hold one or more workshops to solicit advice from United States industry and from other Federal departments, particularly the Department of Defense, regarding the specific missions and activities of the reseach testbeds.

"(2) The Secretary may request and accept funds, facilities, equipment, or personnel from other Federal departments and agencies in order to carry out responsibilities under this section.

"SEC. 304. OTHER AGENCY SUPPORT FOR INDUSTRY-LED RESEARCH IN MANUFACTURING AND PROCESS TECHNOLOGY.

"(a) Support of National Technology Base.—It shall be a mission of all Federal research and development agencies to support the national technology base upon which both the Federal Government and United States industry draw.

"(b) Required Support.—(1) In order to contribute to the national technology base, each Federal department and agency (with the exception of those agencies excluded by paragraph (6) of this subsection) shall expend, in addition to such sums as are spent pursuant to the Small Business Innovation Development Act of 1982, not less than 0.5 percent of its annual research and development budget in fiscal year 1993 and in each fiscal year thereafter to support industry-led research technology development projects whose purpose is the development of critical generic technologies, particularly manufacturing and processing technologies, which are identified in the biennial critical technologies reports prepared pursuant to section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683).

"(2) Each Federal department and agency subject to the requirements of paragraph (1) of this subsection may meet those requirements by either—

"(A) channelling its funds to support industry-led technology development projects through the Advanced Technology Program established under section 28 of the Act of March 3, 1901 (15 U.S.C. 278n); or

"(B) using or establishing its own program or programs to support industry-led technology development projects.

"(3) In order to avoid unnecesary duplication and to reduce the Federal Government's overall administrative costs in carrying out the requirements set forth in paragraph (1) of this subsection, Federal departments and agencies are encouraged to meet these requirements by working through the Advanced Technology Program. Any agency working through the Advanced Technology Program shall have the right—

"(A) to help select which technical areas will receive support from that agency's contributions; and

"(B) to be represented on the review panels which competitively review applications for the funds that came from that agency.

"(4) If a Federal department or agency subject to the requirements of paragraph (1) of this subsection uses one of its own programs to support industry-led technology development projects, the department or agency shall make awards under that program to industry through a competitive, merit-based review process.

"(5) As used in this section, the term 'industry-led technology development projects' means research and development projects in which individual United States companies or joint research and development ventures (as defined in section 2(a)(6) of the National Cooperative Research Act of 1984; 15 U.S.C. 4301(a)(6)) apply, on a cost-sharing basis, for Federal funding to develop generic, precompetitive technologies.

"(6) The requirements of this subsection shall not apply to the Department of Defense, the Department of Energy, the National Science Foundation, or any Federal department or agency whose annual research and development budget totals less than $50,000,000.

"(c) Required Support by DOD, DOE, and NSF.—(1) The Department of Defense and the Department of Energy shall, as appropriate, support the development of generic dual-use technologies which both assist those departments with their missions and help the private sector. The Secretary of Defense and the Secretary of Energy may, as appropriate, support industry-led technology development projects through the Advanced Technology Program.

"(2) The Director of the National Science Foundation shall continue to provide for the support of basic engineering research in manufacturing and manufacturing-related disciplines at colleges and universities throughout the United States.

"(d) Termination.—The requirements under this section shall expire at the end of fiscal year 2000.

"SEC. 305. INSTITUTE FELLOWSHIPS IN MANUFACTURING ENGINEERING.

"(a) Graduate Fellowships.—(1) The Under Secretary and Director shall establish a program to provide fellowships to graduate students at institutions of higher education within the United States who choose to pursue masters or doctoral degrees in manufacturing engineering. The purpose of the program is to encourage larger numbers of highly-qualified graduate students to enter manufacturing engineering and thereby help improve manufacturing within the United States. Such fellowships shall be awarded through a competitive, merit-based selection process.

"(2) In order to be eligible to receive one of the graduate fellowships established by this subsection, a student must attend or be admitted to a university graduate program which has been certified by the Director as meeting the following criteria:

"(A) at least several manufacturing companies have a continuing relationship with the program;

"(B) the program has at least several faculty members with expertise in manufacturing; and

"(C) the program encourages its graduate students to acquire experience in industry before enrolling for graduate study.

"(b) Manufacturing Managers Program.—The Under Secretary and Director also shall establish a program to provide fellowships, on a matching funds basis, to industrial executives with experience in manufacturing to serve for one or two years as instructors in manufacturing at two-year community and technical colleges in the United States. Fellowships shall be made through a competitive, merit-based process. In selecting fellows, the Under Secretary and Director shall place special emphasis on supporting individuals who not only have expertise and practical experience in manufacturing but who also can serve as bridges between two-year colleges and manufacturing firms in their areas.

"SEC. 306. NATIONAL QUALITY LABORATORY.

"(a) ESTABLISHMENT.—(1) There is hereby established, under the supervision of the Director, a National Quality Laboratory (hereafter in this section referred to as the 'Laboratory'). The purpose of the Laboratory is to disseminate information and materials and promote educational and research activities regarding ways in which United States companies and organizations can improve their quality management programs and productivity and, if they so desire, improve their ability to compete for the Malcolm Baldrige National Quality Award established under section 107 of this Act.

"(2) The Director may, under appropriate contractual arrangements, select one or more managers to operate the Laboratory, selecting such manager or managers from among broad-based nonprofit entities which are leaders in the field of quality management and which have a history of service to society.

"(b) ACTIVITIES.—The Laboratory shall—

"(1) develop industry-led workshops, seminars, and other mechanisms to disseminate broadly to United States companies and organizations the best practices available in total quality management, including the practices and quality improvement strategies successfully employed by those firms that have won the Malcolm Baldrige National Quality Award, as well as best practices in the fields of lean production, market-driven product improvement, and customer-supplied relations;

"(2) work with industry leaders and others to develop both measures of quality and recommendations concerning what skills employees should have in order to participate effectively in company quality programs;

"(3) explore, with private industry, other Federal agencies, and State and local government, innovative ways, including model curricula, in which two-year colleges and other educational institutions can teach quality assurance techniques and related background skills to industrial workers in both manufacturing and services; and

"(4) operate, at the Institute, at Regional Centers for the Transfer of Manufacturing Technology, or at other appropriate sites, summer courses and workshops to train teachers from high schools, two-year colleges, and other educational institutions in quality assurance techniques, advanced manufacturing, and related areas.

"(b) FUNDING.—The Secretary and the Director are authorized to seek and accept gifts from public and private sources to help fund the activities of the Laboratory. The Secretary and the Director also are authorized to use appropriated funds to assist the operations of the Laboratory.

SEC. 4. TECHNOLOGY EXTENSION AND DEPLOYMENT ACTIVITIES OF THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) MANUFACTURING TECHNOLOGY CENTERS.—Section 25 of the Act of March 3, 1901 (15 U.S.C. 278k), is amended—

(1) by amending the section heading to read as follows: MANUFACTURING TECHNOLOGY CENTERS";

(2) in subsection (c)(5), by inserting ", except for contracts for such specific technology extension services as the Director may specify" immediately before the period at the end;

(3) in subsection (c)(6), by inserting ", or by National Centers for Manufacturing and Process Technology," immediately after "Centers";

(4) by striking subsection (d); and

(5) by adding at the end the following new subsections:

"(d)(1) If a Center receives a positive evaluation after its third year of operation, the Director may, any time after that evaluation, contract with the Center to provide additional technology extension or transfer services above and beyond the baseline activities of the Center. Such additional services may include, but are not necessarily limited to, the development and operation of—

"(A) prototype regional teleconferencing and digital communications networks for the purpose of expanding the number of States and companies which can receive a Center's baseline services; and

"(B) programs to assist small- and medium-sized manufacturers in the Center's region to learn and apply the technologies and techniques associated with systems management technology.

"(2) In addition to any assistance provided or contracts entered into with a Center under this section, the Director is authorized to make separate and smaller awards, through a competitive process, to nonprofit organizations within the region served by a Center to enable those organizations to provide additional outreach services, in collaboration with the Center, to small- and medium-sized manufacturers. Organizations which receive such awards shall be known as Satellite Manufacturing Centers. No single award for a Satellite Manufacturing Center shall be for more than three years, awards shall be renewable through the competitive awards process, and no award shall be made unless the applicant provides matching funds at least equal to the amount requested from the Director.

"(e)(1) In addition to providing assistance for Regional Centers for the Transfer of Manufacturing Technology, the Secretary, through the Director, also shall provide assistance for the creation and support of National Centers for Manufacturing and Process Technology (hereafter in this Act referred to as 'National Centers'). Such National Centers shall be affiliated with any United States-based joint research and development venture (as defined in section 2(a)(6) of the National Cooperative Research Act of 1984; 15 U.S.C. 4301(a)(6)) that applies for and is awarded financial assistance under this subsection in accordance with a description that the Secretary shall publish in the Federal Register. Individual awards shall be selected on the basis of merit, through a competitive selection process.

"(2) The objective of the National Centers program is to enhance manufacturing productivity and quality in the United States through—

"(A) the creation of a series of industry-led National Centers, each focused on the testing, deployment, and application of manufacturing process technologies within a specific technical field such as advanced materials, electronics fabrication, or general manufacturing, for the purpose of assisting United States companies, both large and small, throughout the Nation to improve manufacturing, product design, and production in that specific technical field;

"(B) the transfer of manufacturing technologies and process techniques developed at the Institute to the National Centers and, through them, to manufacturing companies throughout the United States; and

"(C) the active dissemination of scientific, engineering, technical, and management information about manufacturing and process technology, including existing state-of-the-art technology as well as new advanced technologies.

"(3) The Secretary may provide financial support to any National Center created under this subsection for a period not to exceed 10 years. The Secretary may not provide to a National Center more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such National Center. The Secretary shall award to a National Center funding for the sixth through tenth years of that National Center's operation only if that National Center successfully passes an evaluation by the Secretary made during the fourth or fifth year of operation.".

(b) STATE TECHNOLOGY EXTENSION PROGRAM.—(1) Section 26(a) of the Act of March 3, 1901 (15 U.S.C. 278*l*(a)), is amended—

(1) by inserting immediately after "(a)" the following new sentence: "There is established within the Institute a State Technology Extension Program."; and

(2) by inserting "through that Program" immediately after "technical assistance".

(2) Section 26 of the Act of March 3, 1901 (15 U.S.C. 278*l*) is amended by adding at the end the following new subsection:

"(c) In addition to the general authorities listed in subsection (b) of this section, the State Technology Extension Program also shall, as authorizations and appropriations permit—

"(1) make awards to States and conduct workshops, pursuant to section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988, in order to help States improve their planning and coordination of technology extension activities;

"(2) support pilot projects in the States to develop and test innovative ways to help small and medium-sized manufacturers improve their technical capabilities, including innovative methods for transferring Federal technology, for encouraging business networks and shared facilities among small manufacturers, and for working with the States and, as appropriate, private information companies, to provide small and medium-sized firms with access to data bases and technical experts;

"(3) support cooperative research and technology assistance projects between the Institute and the States, particularly projects, funded on a matching basis, to help firms within the States to improve their manufacturing and process technologies;

"(4) support, on a matching funds basis, regional industrial modernization demonstration projects; and

"(5) as appropriate, promote the creation of industry-led State quality laboratories or institutes affiliated with the National Quality Laboratory established by section 307 of the Stevenson-Wydler Technology Innovation Act of 1980.".

SEC. 5. NATIONAL COMMISSION ON INDUSTRIAL MODERNIZATION.

(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Industrial Modernization (hereafter in this section referred to as the "Commission"), for the purpose of examining what steps must be taken by industry and government to ensure that within a decade the United States has a modern industrial infrastructure, including research and development capabilities and equipment and facilities, second to no other option.

(b) ISSUES.—The Commission shall address, but not necessarily limit itself to, the following issues:

(1) What range of factors affect how willing and able United States companies are to invest in new research, product development, and equipment and facilities, and how do those factors compare with conditions in other major industrialized countries?

(2) How do the cost, availability, and long-term or short-term orientation of capital in the United States affect the ability of companies to make investments and modernize industrial equipment and facilities?

(3) What are the particular industrial modernization problems, including capital problems and insufficient information, faced by small and medium-sized manufacturing firms in the United States?

(4) How feasible and appropriate would it be to create a privately-sponsored or government-sponsored enterprise which would serve as a secondary market for private loans for the purchase or lease of advanced manufacturing technology by small and medium-sized manufacturers within the United States, and could an insurance premium provision be built into such an enterprise to ensure that a sufficient financial reserve would exist to cover any losses incurred by the enterprise?

(5) In general, what steps could the Federal Government, the States, and the private sector take to accelerate the modernization of United States industry, particularly manufacturing firms?

(c) MEMBERSHIP.—(1) The Commission shall be composed of 12 members, none of whom shall serve as full-time Federal employees during their term of service on the Commission, who are eminent in such fields as advanced technology, manufacturing, finance, and international economics and who are appointed as follows:

(A) Four individuals shall be appointed by the President, one of whom shall be designated by the President to chair the Commission.

(B) Four individuals shall be appointed by the Speaker of the House of Representatives, one of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(C) Four individuals shall be appointed by the President pro tempore of the Senate, three of whom shall be appointed upon the recommendation of the majority leader of the Senate and one of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(2) Each member shall be appointed, within 60 days after the date of enactment of this Act, for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROCEDURES.—(1) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(2) Recommendations of the Commission shall require the approval of two-thirds of the members of the Commission.

(3) The Commission may use such personnel detailed from Federal agencies, particularly the Department of Commerce, as may be necessary to enable the Commission to carry out its duties.

(4) Members of the Commission, while attending meetings of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) REPORTS.—The Commission shall, within one year after the date of enactment of this Act, submit to the President and Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (e).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1993 and 1994.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

In addition to such other sums as may be authorized to be appropriated to the Secretary and the Director by this or any other Act, there is authorized to be appropriated to the Secretary and the Director—

(1) to carry out responsibilities under section 303 of the Stevenson-Wydler Technology Innovation Act of 1980 (as added by this Act), $50,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, and $75,000,000 for fiscal year 1995;

(2) to carry out responsibilities under section 305 of the Stevenson-Wydler Technology Innovation Act of 1980 (as added by this Act), $20,000,000 for fiscal year 1993, $30,000,000 for fiscal year 1994, and $30,000,000 for fiscal year 1995;

(3) to carry out responsibilities under section 306 of the Stevenson-Wydler Technology Innovation Act of 1980 (as added by this Act), $5,000,000 for fiscal year 1993, $5,000,000 for fiscal year 1994, and $5,000,000 for fiscal year 1995; and

(4) to carry out responsibilities under subsections (d) and (e) of section 25 of the Act of March 3, 1901, (as added by this Act), $30,000,000 for fiscal year 1993, $60,000,000 for fiscal year 1994, and $50,000,000 for fiscal year 1995.

SEC. 7. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended—

(1) by adding at the end the following new paragraphs:

"(14) 'Director' means the Director of the National Institute of Standards and Technology.

"(15) 'Institute' means the National Institute of Standards and Technology.

"(16) 'Assistant Secretary' means the Assistant Secretary of Commerce for Technology Policy.

"(17) 'Advanced manufacturing technology means—

"(A) numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial production; and

"(B) techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality assurance, concurrent engineering, shop floor management, inventory management, and upgrading worker skills.".

(b) REDESIGNATIONS.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) by inserting immediately after section 4 the following new title heading:

"TITLE I—DEPARTMENT OF COMMERCE AND RELATED PROGRAMS";

(2) by redesignating sections 5 through 10 as sections 101 through 106, respectively;

(3) by redesignating sections 11 through 15 as sections 201 through 205, respectively;

(4) by redesignating sections 16 through 18 as sections 107 through 109, respectively;

(5) by striking section 19;

(6) by redesignating section 20 as section 110;

(7) by inserting immediately after paragraph 110 (as so redesignated) the following new title heading:

"TITLE II—FEDERAL TECHNOLOGY TRANSFER";

(8) in section 4—

(A) by striking "section 5" each place it appears and inserting in lieu thereof "section 101";

(B) in paragraphs (4) and (6), by striking "section 6" and "section 8" each place they appear and inserting in lieu thereof "section 103" and "section 105", respectively; and

(C) in paragraph (13), by striking "section 6" and inserting in lieu thereof "section 102"; and

(9) by adding at the end of section 201 (as redesignated by paragraph (3) of this subsection) the following new subsection:

"(h) ADDITIONAL TECHNOLOGY TRANSFER MECHANISMS.—In addition to the technology transfer mechanism set forth in this section and section 202 of this Act, the heads of Federal departments and agencies also may transfer technologies through the technology transfer, extension, and deployment programs of the Department of Commerce and the Department of Defense.".

MANUFACTURING STRATEGY ACT OF 1991—BILL SUMMARY

National Goal—States that it shall be the policy of the United States Government, and particularly the Department of Commerce (DOC), to work with industry to ensure that within 10 years the United States is second to no other nation in the development, deployment, and use of advanced manufacturing technology.

Department of Commerce Role—States that DOC shall be the lead civilian agency of the Federal Government for working with United States industry to develop new generic manufacturing technologies and to encourage and assist in their deployment throughout the country. States that the Department of Defense (DOD) is the lead agency for defense manufacturing matters, and directs the Secretaries of Commerce and Defense to coordinate their policies and programs.

Technology Development—Advanced Manufacturing Systems and Networking Project: Creates, under the Director of DOC's National Institute of Standards and Technology (NIST), an industry-NIST collaborative project to develop and test new generic computer-controlled manufacturing systems and associated manufacturing communications networks. The aim is to create prototype manufacturing systems of the future.

Agency support of generic technologies: Requires all Federal agencies with over $50 million a year in research and development (R&D) to earmark 0.5 percent of their R&D budgets to support industry-led projects to develop new generic technologies, particularly manufacturing and process technologies. Excludes the Defense Department, the National Science Foundation, and Energy Department defense activities because these agencies have well-developed existing programs. Authorizes and encourages agencies to channel such funds through NIST's existing Advanced Technology Program.

Technology Extension and Development—Satellite Manufacturing Centers and National Centers for Manufacturing and Process Technology: Establishes, in addition to NIST's existing Manufacturing Technology Centers, a program of small Satellite Manufacturing Centers to work with the existing manufacturing centers. Also establishes a new program of National Centers for Manufacturing and Process Technology to help industry with the process technology needs of specific technical fields.

State Technology Extension Program: Clarifies title and expands mission of NIST's existing State Technology Extension Program.

National Quality Laboratory: Creates an industry-led National Quality Laboratory, in affiliation with NIST's Baldrige National Quality Award Program, to share the nation's best manufacturing practices with a wide range of U.S. firms. In effect, companies and groups who are leaders in total quality management and other best practices would help teach other firms.

Fellowships—Establishes NIST fellowships both for graduate students in manufacturing and for industry managers who would spend one or two years teaching manufacturing in community colleges.

National Commission on Industrial Modernization—Establishes 12-member National Commission on Industrial Modernization to analyze and make recommendations regarding how to increase investments in the development and application of new technologies, modernize facilities, and thus contribute to U.S. economic competitiveness.

Authorizations of Appropriations—Authorizes the following funds for the new programs created under this bill (funds in addition to authorizations for existing NIST programs):

[In millions of dollars]

	Fiscal year—		
	1993	1994	1995
Manufacturing project	50	100	75
Manufacturing fellowships	20	30	30
Quality laboratory[1]	5	5	5
Satellite and national centers	30	60	50
Total	105	195	160

[1] Most support for the Quality Laboratory will come from private sources.•

• Mr. GORE. Mr. President, I am pleased to join my colleagues in introducing these important bills to help restore U.S. leadership in technology and manufacturing.

As chairman of the Senate's Subcommittee on Science, Technology, and Space, and as a member of both the Commerce Committee and Armed Services, I know firsthand how important technology is to this Nation's future. I know that industry-government cooperation in technology has built entire American industries, including aircraft, computers, and biotechnology. I know, as do my colleagues, that investments made two decades ago in electronics, combined with the skill and dedication of our troops, won the gulf war.

With leadership in technology and manufacturing, the United States will be prosperous and strong with well-paid workers supporting their families with secure jobs. With new technologies, and new industries, and the economic growth they bring, we can keep the American dream alive. But if we continue to lag behind other nations, if we continue our current policy and drift aimlessly into the future, then growth will elude us, our competitors will overtake us, and that future will be marred by what could have been. American workers and America's economy will pay in lost jobs, in lost opportunity, in lost competitive strength.

And, Mr. President, the future is what this debate is all about. In a high technology world, technology policy matters. Technology policy is central to our economic and military well-being, key factors which determine whether our Nation succeeds or fails. And right now, today, we are not doing as well as we should, if our goal is to build economic power.

We should listen to the American people. They're worried. They're telling us, a majority of them, that our country is on the wrong track, that the problems they face are being ignored. There are optimists: Fortune magazine has just proclaimed "the second American century," and I truly hope they are right. But the voices I hear and the statistics I see paint a different picture.

Consider, for example, the voices of young people and teachers who were quoted in Paul Taylor's excellent June 11, Washington Post article about high school graduates of the class of 1991. "Somebody screwed up," one 18-year-old says in the article. "No names, but someone must have made major mistakes, because it seems like we have a lot of things that were just kind of neglected, and now they are cropping up as major problems." The article says that this student is daunted about the size of the Federal debt, worried about the environment, and already has felt the pinch of an inhospitable economy.

The article then quotes a teacher:

> All of the appliances in their homes are made in Japan. That simple fact has shaped a lot of their view of the world. It is not an optimistic time, and they are not an optimistic group. * * * These kids have grown up in a pressure cooker. They see the lifestyles their parents have been able to achieve, and they're haunted by the notion that they may not be able to match it.

Mr. President, what legacy have the policies of the past decade left our children? What legacy will today's drift in domestic policy leave them? What will happen if in technology policy—as with the environment, education, and so many other areas—there is only high-sounding but empty rhetoric, unmatched by real commitments?

We must confront the great economic challenge now before the United States. The days are over when the United States automatically led the world economy and had no shortage of high-paying manufacturing. We face stiff competition, from foreign governments and foreign companies determined to be the best. We lag behind in too many critical technologies and too many aspects of manufacturing.

Industry, labor, and government all became complacent and slow to recognize the great challenge before us. But while business and labor have recognized the challenge, tightened their belts, and striven to restore competitiveness as best they could, government—two Republican administrations—failed to do its part. In technology, for example, we invest almost none of our $70 billion annual research and development [R&D] budget to develop the new basic technologies needed by both industry and the military. Some of our leaders even pretend there is no problem, that there is no danger the United States will slip to the status of a second-rate economy of diminished expectations and reduced power.

Successive Republican administrations have failed to respond and failed to shift investment priorities to promote real economic growth in a high technology world. No effort has been made to bring together at the highest levels leaders from industry, labor, and government to craft the strategy necessary to get our economy back on track. No effort has recognized how important it is to try once again to make the American dream a real priority, not an empty slogan.

Mr. President, I believe that we who are introducing these bills today are offering the kind of response that is needed. We do not pretend that we can overnight restore America's leadership in technology or manufacturing, but these bills are a major piece of a long-term policy to bring results. They build upon proven approaches.

For example, both the Federal Technology Strategy Act, which I authored with Senator HOLLINGS, and the Bingaman-Nunn National Critical Technologies Act, call on the Office of Science and Technology Policy [OSTP] to prepare action plans for key technologies. OSTP and its Federal Coordinating Council for Science, Engineering, and Technology began this process in the late 1980's in the computer area, encouraged by legislation I authored in 1986. We have found these plans to be an excellent mechanism to strengthen the focus and interagency coordination of major R&D projects.

Senator BINGAMAN came at this issue from a different but equally important angle. Recognizing the importance of identifying critical emerging technology policy, he required first the Defense Department and then OSTP to identify the key technologies most important to the Nation. Major efforts followed, and now the Government has a much better idea than before which basic technologies are most important.

It is logical, then, to combine the interagency planning idea, which the Commerce Committee has long supported, with the list of critical technologies developed under Senator BINGAMAN's legislation. We are combining the best features of each approach.

Similarly, the leaders of the Commerce and Armed Services Committees are working together to develop the next generation of Federal policies regarding manufacturing technology. For several years, the National Institute of

Standards and Technology [NIST] and the Navy have worked together to develop and demonstrate new manufacturing technologies. Now it is time to take these technologies, along with innovations from other Federal laboratories, and work with industry to create a new generation of American manufacturing technology. The bills we are introducing today will authorize such an effort.

Mr. President, I have young children. I do not want them to grow up in an America of diminishing expectations, reduced opportunities, and increasing bitterness. We need not let our manufacturing base and high technology industries, and the economic prosperity they bring, decline further. We still have great strengths in this Nation, and if we put our minds to it we can once again compete with the best of them. What we lack is willpower and leadership from the administration.

Today, as four of the Senate's leaders on technology policy we are taking a major step to reorient the technology policies and priorities of the Federal Government. Through this legislation we can help make economic growth a priority. The American dream remains irrevocably tied with technology, as it has been since New England built the first mechanized factories in the 19th century and the country built its first canals and railroads. It is time to restore our lead in technology and manufacturing. It is time to work to keep the American dream within reach and the economic growth that makes it possible a long-term reality.•

By Mr. NUNN (for himself, Mr. BINGAMAN, Mr. BYRD, Mr. WARNER, Mr. COATS, Mr. GORE, Mr. THURMOND, Mr. WIRTH, Mr. MCCAIN, Mr. DIXON, Mr. HOLLINGS, Mr. DOMENICI, Mr. HATFIELD, Mr. SMITH, Mr. EXON, Mr. SHELBY, Mr. BUMPERS, Mr. DECONCINI, Mr. GLENN, Mr. LIEBERMAN, Mr. LEVIN, and Mr. KENNEDY):

S. 1331. A bill to require the Secretary of Defense to establish a grant program for the improvement of undergraduate and graduate manufacturing engineering education at institutions of higher education in the United States; to the Committee on Armed Services.

DEFENSE MANUFACTURING ENGINEERING EDUCATION ACT

• Mr. NUNN. Mr. President, I rise today, along with my distinguished colleagues, Senator BINGAMAN, Senator BYRD, Senator BUMPERS, Senator COATS, Senator DECONCINI, Senator DIXON, Senator DOMENICI, Senator EXON, Senator GLENN, Senator GORE, Senator HATFIELD, Senator HOLLINGS, Senator KENNEDY, Senator LIEBERMAN, Senator LEVIN, Senator MCCAIN, Senator SHELBY, Senator SMITH, Senator THURMOND, and Senator WIRTH to introduce the Defense Manufacturing Engineering Education Act of 1991.

Today, Mr. President, the Congress, the administration, and the American people all recognize the need to improve America's manufacturing capabilities. These improvements are critical to maintain national security and our economic vitality in the coming decades. The recent report of the National Critical Technologies Panel, headed by the White House science adviser, has made manufacturing technology one of its top priorities. The Defense Department, in its 1991 defense critical technologies plan, places a heavy emphasis on manufacturing technology. And the Joint Chiefs of Staff 1991 net assessment states that the ongoing loss of U.S. manufacturers is a threat to our ability to field state-of-the-art weapons systems on a timely basis.

Leaders in industry and academia now recognize that American engineering education has for the past several decades tended to neglect manufacturing and production process technology. It has, instead, tended to emphasize product design and engineering analysis. As a direct consequence, manufacturing engineering has somehow acquired a reputation of being a less prestigious occupation. It's been estimated that America devotes fully two-thirds of its engineering effort to product design and only one-third to manufacturing process design. In Japan, that ratio is typically reversed.

The legislation we are introducing today is directly targeted at one of America's most pressing problems, maintaining America's manufacturing essential capabilities in all areas of manufacturing critical to our national security and our economic growth. America needs to relearn how to take the results of its science and technology and effectively convert it into useful applications.

Mr. President, the purpose of this legislation is straightforward. It is intended to increase the number of manufacturing engineering students graduating from our universities and colleges. The proposed legislation will accomplish this by establishing a Defense Department program to make grants to universities and colleges all across America to establish new programs in manufacturing engineering education where none now exist, and to strengthen existing manufacturing engineering programs in universities and colleges that have already established such programs.

The firms that constitute America's defense industrial base provide a significant fraction of America's total manufacturing capability. Further, the advanced manufacturing technologies that the Defense Department has developed, and is continuing to develop, through their MANTECH program have often been the basis for improvements in the commercial sector manufacturing. Today we find that the development and application of defense and commercial advanced manufacturing technologies are becoming fully intertwined and interdependent. What supports one supports the other; what harms one harms the other.

In July 1988, the Under Secretary of Defense for Acquisition described the results of his examination of the problems facing the U.S. manufacturing base in a DOD report entitled "Bolstering Defense Industrial Competitiveness." In that report he noted that—

> The American educational system does not produce the required numbers and skill levels of scientists, engineers, and technicians to support advanced manufacturing needs. Engineering schools in American universities also focus inadequately on manufacturing, instead training engineers for careers in product research and development. Few faculty members have industrial experience or expertise. Emphasis on specialization results in engineering professional who are illequiped to understand total manufacturing systems.

The conclusion reached by the Under Secretary of Defense in this 1988 DOD study are as valid today as they were then. Since then, many other groups and committees have studied various aspects of this same problem. All tend to reach the same conclusions. And all conclude that our universities and colleges must, somehow, better balance the education of our engineers between product and process design, between invention and production, so that we can only convert science into technolgy to the battlefield or marketplace more economically, with higher quality, and quicker than any other nation.

Today, approximately 14 percent of all U.S. scientists and engineers are employed in defense related activities. The Department of Defense directly employs more than 100,000 scientists and engineers, approximately 3 percent of the national pool. And appropriately the Department has a large number of different programs supporting science and engineering education at the precollege, undergraduate and graduate levels.

The legislation we are introducing today is intended to build on this substantial Defense Department support of science and engineering education by expanding it into an area that critically needs our attention, and an area that will directly support the mission of the Defense Department.

The United States today graduates a few hundred engineers well-trained in advance manufacturing disciplines from those universities and colleges around the Nation that already have established manufacturing engineering education programs. But if you ask the leaders of industry in America, they will tell you that we should be graduating thousands rather than hundreds of new engineers educated in manufacturing technology each year if we are to remain a global power. And that we should find ways to reach beyond the traditional demographic group that make up this occupation, white males, and include women, minorities and the disabled.

Mr. President, the Defense Manufacturing Engineering Education Act of 1991 authorizes the Department of Defense to competitively award grants to at least 10 American universities and colleges to support multidisciplinary manufacturing engineering education programs at the undergraduate and/or graduate level. In order to achieve greater dispersion of these programs throughout America, at least one-third of these grants must be used to start new programs and, to the maximum extent practical, geographic concentration of grants should be avoided.

The legislation authorizes the Defense Department to fund this program at a level of $25 million for fiscal year 1992 and another $25 million for fiscal year 1993. To ensure that there is a full commitment to make these programs succeed, the grants will be awarded only when either the State government and the private sector provide matching funds on at least a 50–50 basis.

Programs selected for grants must have three essential elements: a multidisciplinary instruction component, a research component, and an integral work-experience component. The instructional component typically will include a selection of undergraduate or graduate level courses related to manufacturing and also laboratory activities, thesis projects, and visits to industrial facilities.

The research component will be specifically directed at supporting the instruction component through faculty and student performed research. The work-experience component may include internships, summer job placements, or cooperative work-study programs, in order to place the instruction and research elements in a real-world context.

The legislation directs the Defense Department to fully coordinate this program with the National Science Foundation's program to support engineering education to ensure that both programs are well coordinated. It also directs that programs selected have a significant level of participation by women, minorities, and the disabled.

In preparing this legislation, our staff worked closely with several major universities that already have manufacturing engineering programs established to benefit from their experience. Over 30 universities across the Nation were asked to review the draft legislation and recommend changes. Mr. President, I must report that the responses received have been overwhelmingly enthusiastic. Further, many of these responses offered constructive criticism which was incorporated wherever possible.

Mr. President, the legislation that we are introducing today provides a reasonable approach to increasing the number of engineers who think manufacturing, and who will take the lead in improving America's capability to manufacture and sell the things we invent competitively in today's global marketplace. It directly helps America's national security by making more engineering talent available to the defense industrial base to make our future weapons systems more produceable and more affordable. And, more importantly, it supports America's defense industrial base by strengthening America's ability to manufacture the products we need, such as advanced materials, microelectronic components and devices, and tools and test equipment, at home, and globally competitive in price and quality. I believe that the legislation we are introducing will act, in a very significant and important way, to ensure that the United States continues to maintain its leadership position both in the military and economic sectors in this era of advancing technologies.

Mr. President, I respectfully request that the full text of the bill be printed immediately following my statement in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1331

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Defense Manufacturing Engineering Education Act of 1991".

SEC. 2. FINDINGS AND PURPOSE

(a) FINDINGS.—Congress makes the following findings:

(1) A strong defense industrial base is essential for the maintenance of the national security of the United States.

(2) Significant improvements in the productivity of the defense industrial base of the United States can be made if the manufacturers in the defense industrial base take full advantage of the rapid advancements that are occurring in manufacturing technology.

(3) Improved education and training of United States engineers, technicians, and workers in modern manufacturing techniques is vital to the ability of manufacturers in the defense industrial base of the United States to take advantage of advances in manufacturing technology.

(4) Federal Government support for State, local, and private sector initiatives is needed to stimulate improvements in manufacturing engineering education and training.

(b) PURPOSES.—The purposes of this Act are to encourage the development of undergraduate and graduate level programs of education and research in manufacturing engineering at institutions of higher education in the United States and to increase the number of persons educated in the techniques and disciplines of manufacturing engineering through—

(1) the expansion of Federal Government support for programs of manufacturing engineering education in the United States;

(2) the provision of financial support for the establishment of new programs of manufacturing engineering education across the United States;

(3) the upgrading of existing programs in manufacturing engineering education in the United States;

(4) the encouragement of increased participation of women, members of minority groups, and disabled persons in manufacturing education and training; and

(5) the active involvement of the Federal Government, States, and local governments along with institutions of higher education and private industry in cooperative undertakings to establish and support such programs.

SEC. 3. MANUFACTURING ENGINEERING EDUCATION GRANT PROGRAM

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Defense, in consultation with the Director of the National Science Foundation and the Director of the Office of Science and Technology Policy, shall establish a program for the Secretary to make grants to institutions of higher education for the following purposes:

(1) To support the enhancement of existing programs in manufacturing engineering education that are conducted by grantee institutions and that meet the requirements of section 4.

(2) To support the establishment at grantee institutions of new programs in manufacturing engineering education that meet such requirements.

(b) NEW PROGRAMS IN MANUFACTURING ENGINEERING EDUCATION.—For the purpose of subsection (a)(2), a program in manufacturing engineering education to be established at an institution of higher education may be considered new regardless of whether the program is to be conducted—

(1) within an existing department in a school of engineering of the grantee institution of higher education;

(2) within a manufacturing engineering department to be established separately from the existing departments within such school of engineering; or

(3) within a manufacturing engineering school or center to be established separately from an existing school of engineering of such institution.

(c) MINIMUM NUMBER OF GRANTS FOR NEW PROGRAMS.—Of the total number of grants awarded pursuant to this section, at least one-third shall be awarded for the purpose stated in subsection (a)(2).

(d) GEOGRAPHICAL DISTRIBUTION OF GRANTS.—In awarding grants under this subsection, the Secretary shall, to the maximum extent practicable, avoid geographical concentration of grant awards.

(e) INITIAL GRANTS.—Within one year after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of the National Science Foundation, shall award grants under the program to at least 10 institutions of higher education across the United States.

(f) COORDINATION OF GRANT PROGRAM WITH THE NATIONAL SCIENCE FOUNDATION.—The Secretary of Defense and the Director of the National Science Foundation shall enter into a written agreement for carrying out the grant program established pursuant to this section. The agreement shall include the following matters:

(1) Procedures to ensure that the grant program is fully coordinated with similar existing education programs of the National Science Foundation.

(2) Provisions for the National Science Foundation to assist in the administration

and management of grants made by the Secretary under the program.

SEC. 4. COVERED PROGRAMS OF MANUFACTURING ENGINEERING EDUCATION

(a) In General.—A program of engineering education supported with a grant awarded pursuant to this Act shall meet the requirements of this section.

(b) Level of Higher Education for Which Program Is Offered.—The program of education shall be conducted at the undergraduate level, the graduate level, or both the undergraduate and graduate levels.

(c) Components of Program.—The program of education shall be a consolidated and integrated multidisciplinary program of education having each of the following components:

(1) Multidisciplinary instruction that encompasses the total manufacturing engineering enterprise and that may include—

(A) manufacturing engineering education and training through classroom activities, laboratory activities, thesis projects, individual or team projects, and visits to industrial facilities, consortia, or centers of excellence;

(B) faculty development programs;

(C) recruitment of educators highly qualified in manufacturing engineering;

(D) presentation of seminars, workshops, and training for the development of specific research or education skills; and

(E) activities involving interaction between the institution of higher education conducting the program and industry, including programs for visiting scholars or industry executives.

(2) Opportunities for students to obtain work experience in manufacturing through such activities as internships, summer job placements, or cooperative work-study programs.

(3) Faculty and student research that is directly related to, and supportive of, the education of undergraduate or graduate students in advanced manufacturing science and technology because of—

(A) the increased understanding of advanced manufacturing science and technology that is derived from such research; and

(B) the enhanced quality and effectiveness of the instruction that result from that increased understanding.

(d) Significant Involvement of Industry.—The program shall be conducted with a significant level of involvement of private sector manufacturing firms having major manufacturing operations in the United States and a significant level of collaboration between the firms so involved and the institution of higher education conducting the program.

SEC. 5. GRANT PROPOSALS

(a) Proposal Requirements.—The Secretary of Defense, in coordination with the Director of the National Science Foundation, shall solicit from institutions of higher education in the United States proposals for grants to be made pursuant to this Act for the support of programs of manufacturing engineering education that are consistent with the purposes of this Act.

(b) Content of Proposals.—Each proposal submitted by an institution of higher education shall include the following:

(1) A description of the program proposed to be supported by the grant.

(2) A discussion of the institution's experience and demonstrated capabilities that qualify the institution to conduct the proposed program.

(3) A discussion of how industrial experience, expertise, and facilities will be integrated into the proposed program.

(4) A description of the anticipated curriculum.

(5) A description of the research proposed to be conducted pursuant to the proposed program, including how the research will support the instructional content of the program.

(6) A commitment by the non-Federal Government participants in the proposed program to contribute financial or in-kind support sufficient to defray at least 50 percent of the total cost of the program during the period covered by the grant, including a description of the cost-sharing arrangements provided to carry out the cost-sharing commitment.

(7) A description of the specific benefits the proposed program will provide for the improvement of the defense industrial base of the United States and the education and training of engineers in manufacturing methods, techniques, and technology in the United States.

(8) A plan to achieve a significant level of participation by women, members of minority groups, and disabled persons through active recruitment of students from among such persons.

SEC. 6. GRANT AWARDS

(a) Merit Competition.—Grants shall be awarded on the basis of merit competition in accordance with procedures prescribed by the Secretary of Defense in coordination with the Director of the National Science Foundation.

(b) Selection Criteria.—The Secretary may select a proposal for the award of a grant pursuant to this Act if the proposal, at a minimum—

(1) promotes the achievement of the purposes of this Act;

(2) contains innovative approaches for improving engineering education in manufacturing technology;

(3) demonstrates a strong commitment by the proponents to apply the resources necessary to achieve the objectives for which the grant is to be made;

(4) provides for the conduct of research that supports the instruction to be provided in the proposed program and is likely to improve manufacturing engineering and technology;

(5) demonstrates a significant level of involvement of United States industry in the proposed instructional and research activities;

(6) is likely to attract superior students;

(7) proposes to involve fully qualified faculty personnel who are experienced in research and education in areas associated with manufacturing engineering and technology;

(8) proposes a program that, within 3 years after the grant is made, is likely to attract from sources other than the Federal Government the financial and other support necessary to sustain such program; and

(9) proposes to achieve a significant level of participation by women, members of minority groups, and disabled persons through active recruitment of students from among such persons.

SEC. 7. DEFINITION

In this Act, the term "institution of higher education" has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated to the Department of Defense for each of fiscal years 1992 and 1993, $25,000,000 to carry out the provisions of this Act.•

By Mr. BAUCUS (for himself, Mr. Grassley, Mr. Symms, Mr. Hollings, Mr. Shelby, Mr. Harkin, Mr. Wallop, Mr. Pressler, Mr. Simpson, Mr. Bond, Mr. Sanford, Mr. McCain, and Mr. Chafee):

S. 1332. A bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the Medicare program; to the Committee on Finance.

MEDICARE PHYSICIAN REGULATORY RELIEF AMENDMENTS

• Mr. BAUCUS. Mr. President, I am pleased to rise today with my esteemed colleague from Iowa, Mr. Grassley, to introduce important health care legislation, the Medicare Physician Regulatory Relief Amendments of 1991. We are joined by many of our distinguished friends in this effort, namely Senators Symms, Hollings, Shelby, Harkin, Wallop, Pressler, Simpson, Bond, Sanford, McCain, and Chafee.

This legislation continues the work began last year with the first physician regulatory relief bill S. 2591 in the 101st Congress. Congressman Roy Rowland introduced similar legislation in the House, H.R. 4475, which had overwhelming support there. Our effort last year was met with tremendous success and we were able to achieve most of what we wanted in the context of the budget reconciliation bill. With passage of those provisions we made some headway in reducing the red tape and paperwork that physicians suffer with every time they see a patient who is covered by Medicare. We achieved establishment of a practicing physicians advisory board; modifications in physicians' rights to appeal Medicare denials; a pilot project to provide physicians with more information on how claims are screened for denial; and modifications in reciprocal billing arrangements. Each of these provisions is needed and will improve Medicare conditions for physicians and patients alike.

But there is much more to be done, and the bill we present today is another step in that direction.

Mr. President, some will say that paperwork burdens are a necessary, if undesirable, byproduct of cost containment efforts in Medicare. They will say we must keep strict control over what Medicare will pay for if we are to prevent costly abuses of the system.

I disagree with that philosophy.

I have no argument with those who say that we need very strong cost controls in the Medicare program. In fact, I have spoken many, many times on the need for cost containment in health care. There is no question that the problem of runaway costs in health care is tightly intertwined with the problem of access to health care.

But I would argue that by requiring physicians to jump through endless Medicare hoops we are not helping anyone: not Medicare beneficiaries, or taxpayers, or physicians. On the contrary, we are jeopardizing good medical care by creating an adversarial relationship between physicians, carriers, and patients. We are strangling physicians in redtape.

Mr. President, the paperwork burden must be cut down. The bill we are introducing today would do this by accomplishing the following:

Amend existing Medicare Secondary Payer [MSP] authority to prohibit the Health Care Financing Administration [HCFA] from denying a physician payment for medically necessary covered services where patient noncompliance with an independently generated questionnaire is in doubt.

Allow HCFA to use extrapolation for case identification purposes but give the physician the option of requiring the carrier to show cause by producing evidence of specific payment errors in a given calendar quarter before actual recoupment going back over a number of years is demanded.

Prohibit HCFA from charging physicians for: First, filing paper claims; second, claim filing errors or claims that are rejected; third, charging physicians or patients for the costs of unsuccessful appeals; fourth, applications for unique provider identification numbers; fourth, medical review requirements.

Require HCFA to consider input from State medical societies in the annual carrier performance evaluations.

Allow physicians to file administrative appeals when the carrier has failed to or improperly implemented Medicare policy as established by the Secretary.

Require that all medical necessity denials under the Medicare program be reviewed by appropriately licensed physicians of the same medical specialty as the physician providing the service.

Prohibit peer review precertifications for 10 procedures.

Allow substitute billing for locum tenens physicians.

Mr. President, these are modest changes that will help ease some of the paperwork burdens plaguing physicians. I hope many of our colleagues will join us in this important effort. Our Nation's physicians, and all Medicare beneficiaries, deserve better than the maze of regulations they suffer under today.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Physician Regulatory Relief Amendments of 1991".

SEC. 2. NO MEDICARE SECONDARY PAYOR DENIAL BASED ON FAILURE TO COMPLETE QUESTIONNAIRE.

Section 1862(b)(2) of the Social Security Act (42 U.S.C. 1395y(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) TREATMENT OF QUESTIONNAIRES.—The Secretary shall not fail to make payment under subparagraph (A) based upon the failure of an individual to complete a questionnaire concerning the existence of a primary plan. However, any such payment remains conditional (as provided under subparagraph (B)).".

SEC. 3. LIMITATIONS ON USE OF EXTRAPOLATION.

Section 1842(c) of the Social Security Act (42 U.S.C. 1395u(c)) is amended by adding at the end the following new paragraph:

"(4) In carrying out its contract under subsection (b)(3) with respect to physicians' services—

"(A) the carrier may use extrapolation in order to identify claims for which payment may be disallowed;

"(B) the carrier may not recoup or offset payment amounts based on extrapolation if the physician requests that disallowed claims be identified individually; and

"(C) no refund, offset assessment, penalties, or interest shall accrue with respect to a claim that is disallowed until the date the administrative appeals process has been completed.".

SEC. 4. LIMITATION ON CARRIER USER FEES.

Section 1842(c) of the Social Security Act (42 U.S.C. 1395u(c)) is further amended by adding at the end the following new paragraph:

"(5) Neither a carrier nor the Secretary may impose a fee under this title—

"(A) for the filing of a claim on paper relating to physicians' services,

"(B) for an error in filing a claim relating to physicians' services or for such a claim which is denied,

"(C) for any appeal under this title with respect to physicians' services,

"(D) for applying for (or obtaining a unique identifier under subsection (r), or

"(E) for responding to inquiries respecting physicians' services or for providing information with respect to medical review of such services.".

SEC. 5. INCLUDING PHYSICIAN INPUT IN ANNUAL CARRIER PERFORMANCE REVIEWS.

Section 1842(b)(2) of the Social Security Act (42 U.S.C. 1395u(b)(2)) is amended—

(1) in the second sentence of subparagraph (A), by inserting "(including the reduction of administrative burdens on physicians furnishing services for which payment is made under this part)" after "contract obligations under this section", and

(2) by adding at the end the following new subparagraph:

"(D) In applying the standards and criteria established under subparagraph (A), the Secretary shall consider any evaluations (with respect to such standards and criteria) submitted by medical societies representing physicians who are served by the carrier.".

SEC. 6. APPEALS OF CARRIER VIOLATIONS.

Section 1842(b)(2) of the Social Security Act (42 U.S.C. 1395u(b)(2)) is further amended by adding at the end the following new subparagraph:

"(E) The Secretary shall provide that any individual (including a physician) who—

"(i) is aggrieved by the failure of a carrier to carry out policies established under this part, whether established through the carrier manual, regional office transmittals, central office transmittals, or other means, and

"(ii) establishes that the individual has (or, in the case of a failure affecting more than one individual, the individuals affected by the failure have) suffered damages aggregating at least $500 as a result of the failure, may obtain a hearing before the Secretary respecting such failure. If a carrier is found to have such a failure, the Secretary shall order the carrier to compensate the aggrieved individuals for such failure.".

SEC. 7. REVIEW OF MEDICAL NECESSITY DENIALS BY PHYSICIANS IN SAME SPECIALTY.

Section 1842(b)(2) of the Social Security Act (42 U.S.C. 1395u(b)(2)) is further amended by adding at the end the following new subparagraph:

"(F) In the contract under subsection (c), the Secretary shall require each carrier, in the case of a decision to deny payment for physicians' services under section 1862(a)(1), to provide for review of the decision by a physician in the same medical specialty as the medical specialty of the physician who provided the services.".

SEC. 8. CLARIFICATION OF PERMISSIBLE SUBSTITUTE BILLING ARRANGEMENTS FOR PHYSICIANS' SERVICES UNDER THE MEDICARE AND MEDICAID PROGRAMS.

(a) MEDICARE PROGRAM.—

(1) IN GENERAL.—Clause (D) of section 1842(b)(6) of the Social Security Act (42 U.S.C. 1395u(b)(6)), as inserted by section 4110(a)(2) of the Omnibus Budget Reconciliation Act of 1990, is amended to read as follows: "(D)(i) payment may be made to a physician for physicians' services (and services incident to such services) to be provided by a second physician on a reciprocal basis to individuals who are patients of the first physician if (I) the first physician is unavailable to provide the services, (II) the services are not provided by the second physician over a continuous period of longer than 60 days, and (III) the claim form submitted to the carrier includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician; and (ii) payment may be made to a physician for physicians' services (and services incident to such services) which that physician pays a second physician on a per diem or other fee-for-time basis to provide to individuals who are patients of the first physician if (I) the first physician is unavailable to provide the services, (II) the services are not provided by the second physician over a continuous period of longer than 90 days (or such longer period as the Secretary may provide), and (III) the claim form submitted to the carrier includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim meets the requirements of this clause for payment to the first physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

(b) MEDICAID PROGRAM.—

(1) IN GENERAL.—Section 1902(a)(32)(C) of such Act (42 U.S.C. 1396a(a)(32)(C)), as added by section 4708(a)(3) of the Omnibus Budget Reconciliation Act of 1990, is amended to read as follows:

"(C) payment may be made to a physician for services furnished by a substitute physician under the circumstances described in clause (D) of section 1842(b)(6), except that, for purposes of this subparagraph, any reference in such clause to 'a carrier' or 'the system established under subsection (r)' is deemed a reference to the State (or other fiscal agent under the State plan) and to the system established under subsection (x) of this section, respectively.".

(2) EFFECTIVE DATE.—(A) The amendment made by paragraph (1) shall apply to services furnished on or after the date of the enactment of this Act.

(B) Until the first day of the first calendar quarter beginning more than 60 days after the date the Secretary of Health and Human Services established the physician identifier system under section 1902(x) of the Social Security Act, the requirement under section 1902(a)(32)(C) of such Act that a claim form submitted must include the second physician's unique identifier is deemed to be satisfied if the claim form identifies (in a manner specified by such Secretary) the second physician.

SEC. 9. REPEAL OF PRO PRECERTIFICATION REQUIREMENT FOR CERTAIN SURGICAL PROCEDURES.

(a) IN GENERAL.—Section 1164 of the Social Security Act (42 U.S.C. 1320c–13) is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 1154 of such Act (42 U.S.C. 1320–3) is amended—

(A) in subsection (a), by striking paragraph (12), and

(B) in subsection (d), by striking "(and except as provided in section 1164)".

(2) Section 1833 of such Act (42 U.S.C. 13951) is amended—

(A) in subsection (a)(1)(D)(i), by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion";

(B) in subsection (a)(1), by striking clause (G);

(C) in subsection (a)(2)(A), by striking "to items and services (other than clinical diagnostic laboratory tests) furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion,";

(D) in subsection (a)(2)(D)(i)—

(i) by striking "basis," and inserting "basis or", and

(ii) by striking ", or for tests furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion))";

(E) in subsection (a)(3), by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)"; and

(F) in the first sentence of subsection (b)—

(i) by striking "(3)" and inserting "and (3)", and

(ii) by striking ", and (4)" and all that follows up to the period at the end.

(3) Section 1834(g)(1)(B) of such Act (42 U.S.C. 1395m(g)(1)(B)) is amended by striking "and for items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2), or a third opinion, if the second opinion was in disagreement with the first opinion)".

(4) Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) by adding "or" at the end of paragraph (14),

(B) by striking "; or" at the end of paragraph (15) and inserting a period, and

(C) by striking paragraph (16).

(5) The third sentence of section 1866(a)(2)(A) of such Act (42 U.S.C. 1395w(a)(2)(A)) is amended by striking ", with respect to items and services furnished in connection with obtaining a second opinion required under section 1164(c)(2) (or a third opinion, if the second opinion was in disagreement with the first opinion),".

SEC. 10. EFFECTIVE DATE.

The amendments made by this Act (other than by section 8) shall take effect on January 1, 1992.●

● Mr. GRASSLEY. Mr. President, I am pleased to join with my colleague, Senator BAUCUS, and several other Senators, in introducing the Medicare Physician Regulatory Relief Amendments of 1991—a bill which we think would reduce some of the redtape with which we have entangled physicians who treat Medicare beneficiaries.

Mr. President, there cannot be a Member of the Senate or House of Representatives who has not had reams of bitter mail from physicians detailing the hassles to which they are subjected by Medicare rules and regulations.

They complain:

Of payment rejections which they must appeal and reappeal with more paperwork before finally receiving payment.

Of letters demanding additional treatment justifications which eventually, after more correspondence, prove to have been unnecessary.

Of constantly changing requirements that have no relationship to the way medicine is really practiced.

Well, why should we care if physicians are upset with the administration of the Medicare Program? After all, one might argue that they are well compensated for their troubles.

The primary reason is that it can be the patient who ultimately suffers because of this kind of hassle. A second important reason is that unnecessary redtape adds to the cost of health care.

It has come to the point in many places that some physicians are simply refusing to take new Medicare beneficiaries. In the Cedar Rapids area of Iowa, for instance, constituents whose physician has died or retired have written to tell me that they are having a very difficult time finding a physician who will accept them.

Furthermore, in some parts of the country, for instance, rural Iowa, it is difficult to recruit physicians. In our State at this moment about 161 communities are looking for about 258 physicians.

The difficulty of getting physicians into rural communities is not entirely attributable to Medicare problems. But the prospect of case loads with large numbers of Medicare beneficiaries must cause physician recruits to pause, and, in many cases, locate somewhere other than rural communities.

In Iowa, part of the problem is that Medicare reimbursement for physicians is among the very lowest in the country.

A big part of the problem in Iowa, however, as elsewhere, is that the program subjects physicians to inordinate hassles through the routine administration by carriers and through the work of the peer review organizations.

In a State like my own, where 50 percent of the case load of a rural physician may consist of Medicare beneficiaries, Medicare administration is a very heavy weight indeed on a practice.

One Cedar Rapids physician said of the effect of the Medicare Program on his practice: "You cannot relax. You're constantly feeling there is somebody peering, probing, questioning. It's kind of like having a giant ant that * * * (is) biting you here and there, causing you a great deal of annoyance, and yet you never catch up with it."

I also want to remind my colleagues of the well-documented costs in our health care system that are attributable to administration. Much of the commentary about this focuses on the overhead associated with multiple private insurance payers active in the health care system.

What is not so frequently stressed is that a good deal of the administrative burden which falls on physicians is created by the Medicare Program through payment administration rules or through the quality review program.

I hope it goes without saying that, in a program which spends $100 billion a year, careful administration is absolutely essential. Unfortunately, we have come to a situation of administrative overkill in the program. As the Cedar Rapids Gazette put it:

> * * * The overall impression is the same: They are sick of the Federal Bureaucracy telling them how to practice medicine, requiring more paperwork, and threatening fines or imprisonment in every letter.

What we have to do is try to remove the hassle factor from the system—not the necessary, careful administration, but the red tape overkill which now seems so much a part of the system. We cannot remove the procedures which guard against waste and fraud, and we must continue to insist on careful quality review. But there is just too much bureaucratic busywork and papershuffling in this system.

In 1988–1989, we spent somewhere in the neighborhood of $300 million a year to oversee the quality of care in the Medicare Program, but found confirmed quality problems in only a little more than 2 percent of cases reviewed, and most of these involved incomplete documentation. Physicians have better thins to do with their time than jump through bureaucratic hoops created in Washington. I think physicians should be spending their time in patient care, not paperwork. And I would rather see them take on an additional nurse who would spend her time in patient care, rather than have to take on an additional administrative person to do Medicare paperwork.

Last year, Senator BAUCUS and I, with some of the same colleagues who join us today, began a modest effort to reduce some of the most offensive hassles burdening physicians by introducing the Medicare Physician Regulation Relief Amendments of 1990.

That legislation contained five provisions. Four of these were included in their original form or in modified versions in the Omnibus Budget Reconciliation Act of 1990—OBRA 90.

These were:

A provision to require that physicians be provided with more complete information on Medicare utilization review policies. OBRA 90 included a provision to study the effects of such a requirement.

A provision to allow professional organizations to appeal payment denials on behalf of an individual or group of physicians. A study of this possibility was included in OBRA 90.

A provision to allow physicians to use reciprocal billing arrangements with colleagues who may care for patients in their absence. This provision was included in OBRA 90 with certain modifications.

A provision establishing a practicing physician advisory group to the Health Care Financing Administration. This provision was included in OBRA 90.

A provision prohibiting Medicare carriers from charging physicians for information needed to comply with Medicare law and regulation. This provision was not included in OBRA 90.

The legislation we are introducing today has eight provisions:

First, it prohibits the Health Care Financing Administration from denying physician claims because Medicare patients fail to complete and return Medicare secondary payer questionnaires.

Current procedure puts the physician completely at the mercy of the patient's completion of such questionnaires in those cases in which a physician sees a patient for the first time. How many of us would want our compensation for a service rendered dependent on the inclination of those to whom we provided the service to fill out a questionnaire?

Second, it requires carriers to document each specific payment error to determine the actual amount recovered from physicians.

Currently, Medicare carriers use a sampling methodology to compute the total amounts a physician might owe the program because of payment errors. This procedure has the potential to considerably overstate the amount that physicians might owe.

Third, it prohibits the Health Care Financing Administration from charging physicians for filing paper claims, claim filing errors, or rejected claims, from charging physicians or patients for the costs of unsuccessful appeals, charging physicians for unique provider identification numbers, or medical review requirements.

These are all things that should be costs of administering the program. As things stand now, the program requires the physician to pay for such things. In reality, of course, the costs ultimately are paid by other payers through cost-shifting.

Fourth, it requires HCFA to consider comments from State medical societies in the annual carrier performance evaluations; to review current indicators of relations between carriers and providers; to modify current items to provide incentives for carriers to reduce the hassle factor.

Presently, there is no real avenue for physician commentary on carrier performance, and carriers are not evaluated by the Health Care Financing Administration on the basis of their relations with physicians. Nor are they provided any incentives to seek to reduce administrative burdens that they impose on them.

Fifth, it would allow individuals to file administrative appeals when carriers have failed to implement Medicare policy properly.

Presently, there is really no recourse if physicians believe that carriers are not appropriately implementing law and regulation. This provision would open up an avenue of appeal in such situations.

Sixth, it requires that all medical necessity denials under the Medicare program be reviewed by appropriately licensed physicians of the same medical specialty as the physician providing the service.

One of the things most troublesome to many physicians, particularly specialists, is that decisions by carriers that certain procedures may not have been medically necessary, are often made by nonphysicians, physicians no longer actively treating patients, or physicians not of the same specialty as the physician providing the service. This provision would correct this state of affairs.

Seventh, it would prohibit peer review precertifications for 10 procedures.

Eighth, it would allow substitute billing for locum tenens physicians.

The Health Care Financing Administration has determined that the current precertification review of 10 specific procedures ends up costing more than it returns in benefits to the program.

The locum tenens provision parallels the reciprocal billing provision which became law through OBRA 90. In this case, it applies not to colleagues who are informally "covering" for another physician, but physicians who have a contractual arrangement through which they provide services to another physician's patients.

Mr. President, eventually we will have to find a better way to administer this program. For the quality review part of the program, I hope that the Committee on Finance will seriously consider implementing reforms along the lines of those suggested in a recent report to Congress by the Institute of Medicine entitled "Medicare, a Strategy for Quality Assurance."

In the meantime, with the introduction of this bill today, we hope to continue the modest progress we began last year with our 1990 Medicare antihassle legislation.●

● Mr. HOLLINGS. Mr. President, I am pleased to join my colleagues today in legislation to continue the effort begun last year with S. 2591 to reverse some of the useless Medicare regulation that has become the trend with HCFA throughout the 1980's. I was pleased to see many of the provisions contained in S. 2591 included in Reconciliation, and we need to keep moving in the direction of eliminating measures that unduly burden physicians and confuse beneficiaries but provide no corresponding improvement in either cost or quality of care.

Let me emphasize, Mr. President, that this is a very modest effort and in most cases does not go nearly as far as most of us would like in reining in HCFA and contractor abuses. We hope only to push a little on behalf of Medicare beneficiaries and providers with the hope that we can keep reimbursement tolerable enough to allow continued access to services. I don't intend to go into all the provisions of this bill, but I would like to focus on one which has generated a lot of angry mail from my State and which demonstrates the point made earlier that this is a very modest bill.

The bill we introduce today would prohibit HCFA from denying physician payments for medically necessary covered services if patients fail to complete questionnaires. Now, we've all seen the recent media coverage decrying Medicare losses due to failure to collect from primary insurance—that is, claims in which Medicare should have been the secondary payor—and HCFA's promises to collect. You can't blame the media for focusing on these large dollar figures being tossed around by the Department, the inspector general, and others. But has anyone questioned whether these figures are correct? Have you seen any media coverage of how this problem occurred, who was at fault, or how it is going to be corrected? I haven't, but I've been forced to look into the matter because of numerous complaints from Medicare beneficiaries, providers, and most recently from businesses—and they're all fed up. From what I've been able to piece together, the data about secondary payors is questionable at best. HCFA furnished the contractors data regarding beneficiaries who had access to other insurance that should have been primary; by HCFA's own admission, the data was incorrect in many instances. If losses are based on this erroneous data, who know how much loss if any we are chasing? The real travesty here is that those who are responsible for the problem are in a position to make everybody else pay.

Mr. President, I ask that a letter from Benefit Planning Services, Inc., of Spartanburg, SC, which describes in detail an "employee benefit nightmare" be printed in the RECORD at the end of my statement. This letter relates the extremes to which HCFA is going to collect retroactively from private insurance for possible secondary payor claims. This is another instance in which we are driving business away from the very behavior we are attempting to promote. How can we encourage business to offer health insurance benefits to employees on the one hand, and make those which do so regret it on the other? My preference would be to require HCFA to cease immediately this harassment of business, but this modest bill we propose does not do that.

As I understand it, when a claim is submitted by a Medicare provider it is screened through this HCFA information and is rejected if there is a "hit." The contractor issues a questionnaire to the beneficiary soliciting information about other insurance. When the response is received, if there is no primary insuror the claim can be processed. But, the contractor has no authority to correct the base data, so the next claim submitted goes through the same process of rejection, questionnaire, resubmission. During all this time providers and beneficiaries are left holding the bag. A number of irate beneficiaries have told me they have given Medicare the information, Medicare knows that they have no other insurance, and they are so angry they are destroying the questionnaires. If the provider has agreed to accept assignment, the beneficiary has little concern for his pocketbook. Here again we are discouraging on the one hand the very behavior we are encouraging on the other. What incentive is there here for providers to accept assignment? Neither the contractor nor HCFA has any incentive to do it right the first time or to make timely corrections; in fact, the incentives are all in the reverse. The contractor is able to hold onto its funds longer, and, as these are not clean claims, they do not count against the contractor's time limitation for processing. The longer these claims are tied up in processing, the slower the drain on Treasury. Medicare beneficiaries and providers are also concerned about their budgets, and the Federal Government is in a better position to absorb these cash-flow problems than most providers and beneficiaries. It is unfair and unreasonable to deny payment to providers for medically necessary services because beneficiaries are unable or unwilling to keep paying for HCFA errors.

The other provisions contained in this modest bill are equally deserving, and I urge your consideration and hope for the bill's expeditious passage.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BENEFIT PLANNING SERVICES, INC.,
Spartanburg, SC, June 6, 1991.
Hon. ERNEST F. HOLLINGS,
U.S. Senate, Washington, DC.

DEAR SENATOR HOLLINGS: This is an insider tip on an employee benefit nightmare that is about to erupt in business all across the country.

I am writing on behalf of Benefit Planning Services, Inc., a Third Party Administrator (TPA), which represents about 100 employers in five states. They employ approximately 20,000 employees. We design and administer their group health plans. It is estimated that one-third of all U.S. workers are covered by employee benefit plans administered by TPA's. TPA firms operate much like independent CPA or law firms, providing continuing outside claims and plan administration for several client employers and benefit plans. Our clients include every size and type of employment, such as: small business, large corporations, union and association sponsored plans.

My perspective in this letter is based on years of observing the Medicare Secondary Payer program and extends beyond my affiliation with any organization or employer involved.

The purpose of this letter is to convey some of the concerns that employers are expressing about the Health Care Financing Administration's Data Match program which is presently being implemented, and to explain our views and unique problems with the Medicare Secondary Payer (MSP) program, as well as to make recommendations.

What is presently happening to employers under the data match? The Health Care Financing Administration (HCFA) has sent out the first MSP employer questionnaire and is scheduled to begin sending the second one (the long form) this month. HCFA officials have speculated that it will take 40–50 weeks to complete the second mailing. The first questionnaire has not received significant employer opposition, although it has caused some employers anxiety about what will follow.

Benefit Planning Services (BPS) received a draft copy of the second MSP questionnaire along with the instructions. Upon review of the instructions it has become apparent that the time, effort and expense of completing this questionnaire will be a tremendous burden on employers. BPS anticipates that once employers start to receive this form they will desperately seek relief, turning to their Congressmen for help.

EMPLOYER DATA COLLECTION PROBLEMS

The HCFA Data Match assumes employers are guilty until proven innocent. Employers, in many cases, will not be able to defend themselves with adequate documentation since employer information and coverage data dating back to 1983 is not available. While the Data Match coordinates records from 1987, HCFA has the right to seek recovery beginning in 1983. The Data Match questionnaire will provide a list of employees and former employees who worked for an employer during a specified time since 1987 and who incurred claims that triggered Medicare primary payments. The employer is required to check the type of coverage an employee elected during that time period and sign the form underneath a statement saying that the employer certifies the above information.

Employment and coverage data may be fragmented. HCFA seems to operate under the assumption that an employer will have all the information needed to answer the questionnaire. For employers who have contracted with claim processors, the employer may have just the enrollment cards while the claim processors keeps the claim records. Thus, the employer knows who enrolled in the plan but does not know who was covered every day of the year. For example: an employee can enroll and then fail to contribute the employee contribution amount and thereby lose coverage; or, an employee can move from a full-time status to part-time status and lose coverage. In both situations, the employer may not have documentation of these events. While employers are sent bills every month by insurance companies or administrators to fund plans, the bill many times will not include an itemized listing of each participant but just a breakdown (if even that) of the number of employees who have employee-only coverage and family coverage—employers will not know the names of the employees who have dropped out.

Claim processors are equally in the dark. Claim processors who were recently selected by an employer probably will not know the names of participants as they have moved on and off plans since many employers will not have retained this information from 1983. If an employer has remained with the same claim processor since 1983, the chances of having adequate documentation are much better. However, few employers fall in this category.

Even with the combined information from employers and claim processors, accurate certification of HCFA Data Match information will be impossible in many cases due to the inadvertent loss of old enrollment cards. For those employers who have kept enrollment cards, much time and effort will have to be expended in gathering information from various places at large costs to the employer.

1987 employment and coverage data may be trapped on old computer disks that are no longer compatible with a present system. With computer technology improving every year and the constant flow of corporate reorganizations, some employers and claim processors significantly revamp their computer systems yearly. While incompatibility may not be the norm, I have spoken with a few employers who said that 1987 claim data was simply inaccessible.

Recently one of our clients had a request from the HCFA Data Match. Not a simple request or even 2 or 3 requests as HCFA had often suggested would be the maximum on any one employer. This employer had less than three weeks to search files and gather information on 692 employees! You can imagine the expense and manpower this is consuming. The finance and personnel offices have ceased all productive, meaningful work to meet HCFA's request and avoid catastrophic, severe monetary penalties.

TIME AND COST BURDENS

HCFA's average time estimate for employers to complete the questionnaire is three hours—an estimate that demonstrates the lack of understanding HCFA has for employer data collection problems. Employers are given 30 days to respond to the questionnaire and a toll-free number has been established for employers who need an additional 30 days. If employers can not respond within 60 days, a letter must be sent to the Data Match Contractor requesting more time. Even if employers are able to gather the necessary information, Congress should be concerned about the cost this imposes on business. Retrieving data from inactive files maintained in warehouses can be extremely time consuming and require the labor of numerous employees.

HCFA REQUIRES EMPLOYERS TO CERTIFY DATA: IT'S A TRAP

There is no mention in the Data Match instructions about how employers will be handled if they can not make a good faith effort and certify the data. I recently asked a HCFA staffer if an employer could pay a penalty tax if the data could not be certified; the answer was no. An employer's failure to respond to each employee name listed would result in a subpoena, said the HCFA staffer.

Employers need protection from HCFA in the event information can not be certified.

The situations I have described above (i.e., lost enrollment cards, etc.) are valid reasons for granting some employers relief. If relief is not given, employers will be forced to certify inaccurate data. Once certified, HCFA will use information to seek recoveries and the employer will not be able to dispute the demands made by Medicare for reimbursement. Out of frustation, some employers may feel compelled to check the box on the questionnaire indicating that there is no coverage to avoid recovery activities. CFA has attempted to soft-pedal the legal reality of the certification issue, telling employers that they should do the best job they can with the questionnaire. In fact, the employer is asked to certify that the statements are correct to the best of his knowledge. This is disturbing indeed since whatever the employer certifies will be used in HCFA recovery activities. The information must be verified with accuracy or not at all.

DATA MATCH REPEAL

BPS was originally a supporter of the Data Match in its theoretical stage as we have always been interested in compliance strategies for the MSP laws. However, our latest exposure to the Data Match implementation has caused us to doubt the program's efficacy.

The Data Match was initially passed in OBRA '89 and scheduled to expire on September 30, 1991 for purposes of sending information to employers for verification. The checking of old data was a concern here, but believed to be manageable. Many TPA's and employers had reservations about HCFA's right to a six year period after receiving the data to analyze it and make recovery requests. Since the Data Match employer verification part was extended until September 30, 1995 in OBRA '90, the data collection problems are now considered intolerable.

Paying claims years after an insurance contract has expired can be financially devastating to an employer. Many self-insured plans have a stop-loss reinsurance coverage (i.e., insurance coverage that takes effect after claims reach a certain level) which contain provisions about the timely filing of claims. This is done for bookkeeping reasons and to prevent the potential opening retroactively of all contracts and to limit exposure to fraudulent claims. It basically protects the solvency of the insurance company.

Example: If Medicare discovered an MSP case in 1990 that occurred in 1985, Medicare has until 1996 to seek recovery. A 1996 plan will not be funded to pay claims that occurred in 1985. A small employer could be driven into bankruptcy if forced to pay claims directly out-of-pocket with no stop-loss reinsurance coverage.

BPS now believes the Data Match should be repealed. Alternative or significant changes to the present Data Match should be considered. One approach that warrants careful consideration was introduced by Senator Roth (S. 365). S. 365 amends the W-2 Form by asking a question about employer group health plan coverage and it establishes a data bank to collect this information. While Senator Roth's "Medicare Secondary Payer Reform Act of 1991" deserves consideration, it will not be a panacea.

W-2 FORM REPORTING

BPS recognizes two major drawbacks with the W-2 reporting system. First, it does not account for the fact that Medicare beneficiaries are mobile—a beneficiary may change jobs. Second, it fails to take into account that W-2 Forms may not accurately represent the number of employees employed. A below 20 employer will often appear to have over 20 workers because W-2 Forms are filed for any employee employed at any time during the year. For example: An 18 person employer has three employees leave and replaces them. The employer files W-2 Forms for all 18 of the original employees plus three more W-2 Forms for the employees. The employer appears to the IRS as a 21 person employer covered by MSP "working aged" laws when in fact the employer never had more than 18 workers.

THE SOURCE OF ERRORS

In addition to the W-2 system, BPS believes there needs to be more attention focused at the source of the problem. Were bills sent to the correct payer initially, MSP recovery would not be necessary. The hospital admitting clerks, physician office personnel and Medicare beneficiaries should be better educated about MSP so that their bills can be correctly directed.

Representatives of HCFA testified at a July 1990 hearing before the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs that HCFA has pursued an extensive campaign over the last three years directed at educating State insurance commissioners, insurers, employers and physicians. It was also reported that HCFA has developed a series of radio and television public service announcements designed to raise awareness of Medicare beneficiaries. All these efforts are commendable. However, HCFA's efforts are too little and too late. The "working aged" law took effect in 1983. HCFA has not wanted to listen to solutions or suggestions, and so the avoidable problems have become a crises of their own making.

Despite HCFA's efforts, the losses to the Federal government are still estimated to be as much as $1 billion a year. In some cases, there may be willful intent to avoid payment. In the majority of cases payors have made good faith efforts to comply, but the bills are still not getting to the right payor the first time around.

The Permanent Subcommittee on Investigation staff report prepared for the July 1990 MSP hearing gave insightful reasons why hospitals and physicians have difficulty in routing bills correctly. One of the reasons cited in the report was that Medicare is designed to pay quickly and both hospitals and physicians are concerned about cash flow. Some elderly patients feel they are entitled to Medicare and others are embarrassed to file with their employer plans, according to the report. For these reasons, admitting clerks need to be particularly aggressive in questioning patients about other group health coverage—a difficult task to accomplish with high turnover positions. Ironically, most medical providers charge non-Medicare patients more, so they even have an incentive to bill correctly.

MANY PLAYERS ARE AT FAULT

Let me state here that BPS is in no way attempting to divert your attention solely to the hospitals, providers and beneficiaries. We recognize that the failures of the MSP program cannot be blamed on just a few entities, as many players are involved, including Medicare contractors, private insurance companies, HCFA and Congress. For those who deliberately violate the spirit and the parts of the MSP laws that are clear, justice should be rendered.

Sometimes, however, the complexities of the MSP laws and the lack of guidance make it difficult to distinguish willful violators from unwillful ones. Undoubtedly, if a claim has been sent to a plan and rejected with the intent of having Medicare pay primary and possibly escaping primary payment, the plan should suffer the consequences. However, we find most MSP recovery claims are for charges never originally brought to the plan's attention.

There are grey areas where employers have had to make good faith interpretations of laws that lack sufficient legislative history to predict the final regulations HCFA will issue. I urge you or your staff to scrutinize the MSP statutes and then read the corresponding regulations. You will be surprised at the extent of extrapolation.

The MSP disabled law took effect on January 1, 1987. HCFA issued proposed regulations more than three years later on March 8, 1990 that confused rather than clarified issues. HCFA received many letters requesting clarification in addition to receiving numerous phone calls. HCFA responded to one letter by saying that these issues were under discussion and therefore they could not comment. Phone conversations yielded similar responses. The questions posed were not small technical points but raised substantive issues about the liability of an employer group health plan to pay primary. I know of some employers and clients who live in fear that their understanding of the MSP disabled rules will not coincide with HCFA's eventual regulatory statement. Many professional benefit administrators have taken great effort to read the statute and the proposed regulations, yet remain perplexed.

In response to overwhelming employer opposition, HCFA is presently drafting legislative language to clarify the MSP disabled law. While we are relieved by this development, it can not compensate employers for the lost time and expense in attempting to comply with the proposed rules.

Now I will turn your attention to some of the MSP problems that employers have been battling for years.

PAYING THE SAME CLAIM TWICE

One of the most frustrating tactics in MSP is HCFA's self-proclaimed right to recover from an employer group health plan when the plan has correctly paid primary and Medicare has also paid primary through its own fault but is unable to get its payment back from the beneficiary or provider. In this situation, the plan is required to pay the same claim twice which violates the plan to ERISA fiduciary liabilities.

HCFA uses some twisted logic in the final regulations on this subject. HCFA agrees that an employer group health plan that routinely pays primary benefits on behalf of a Medicare beneficiary without knowledge of Medicare's primary payment has acted responsibly and should not be liable for reimbursing HCFA if HCFA is unable to recover from the party that received the plan's primary payment. Here comes the twist—"However, if a third party pays an entity other than Medicare even though it was, or should have been, aware that Medicare had made a conditional primary payment, the third party must reimburse Medicare." (Wednesday, October 11, 1989, Vol. 54, No. 195, Federal Register, p. 41721). HCFA will tend to answer every plan's protest of ignorance with a "should have been aware" response. How could a plan have known about a claim if the plan was never sent a bill?

Plans are willing to do everything possible to ensure that HCFA knows about a possible MSP situation. BPS believes that plans should not be held responsible for double payment if the plan has notified a Medicare contractor that the employers group health plan has paid primary and Medicare goes ahead and pays primary anyway.

Plans have taken pains to implement procedures to ensure that Medicare does not make a mistaken payment. When claim information suggests a possible MSP situation, some plans respond in the following ways. 1. If a plan receives a hospital bill for a plan participant for whom Medicare should pay secondary but does not get a physician bill which would reflect services performed in the hospital, the plan will call the hospital and ask where the missing bill is. This is very time consuming for plans. 2. If a doctor double-bills (shot-gun duplicate billing is prevalent) and the plan knows that Medicare has already paid primary, plans will write to Medicare contractors and offer to repay Medicare directly if Medicare sends adequate claim documentation.

THE UNKNOWN CLAIM

While steps—such as documentation claims and notifying Medicare—can be taken to defend the plan that paid primary on one claim but didn't receive other related claims, there is no defense against the existence of unknown claims. According to HCFA, a plan is only off the hook if the plan has done everything possible to ensure that Medicare is not the secondary payer. Yet, if the plan receives no clue of a missing claim, then no investigation can be initiated. Plans will go to the limit when claim information suggests a possible MSP situation to ensure that a claim has been paid correctly the first time as it is too expensive to reopen a case. It is in the interest of the plan to do this. No one wants a claims to surface after stop-loss reinsurance coverage has expired.

The annual penalty tax under IRC section 5000—25% an employer's group health plan expenses—seems unjustified in the event of an unknown claim. Employers are being penalized for something they never knew about.

THIRD PARTY ADMINISTRATORS ARE NOT INSURANCE COMPANIES

HCFA has refused to recognize the fundamental difference between a Third Party Administrator and a Third Party Payor. A Third Party Payor, such as an insurance company, pays the claims from its own assets and shares in the risk of funding an employee benefit plan, while also profiting from plan savings. On the other hand, a Third Party Administrator (TPA) is just a service provider, like a law firm or CPA firm. The corporate assets of a TPA will not increase if a TPA pays out fewer claims, unlike an insurance company's assets in case of a full-insured plan. The Third Party Administrator is an agent of the employer hired primarily to process claims.

In the October 11, 1989 HCFA final regulations, TPAs are named repeatedly as liable entities, along with insurers, underwriters and employers. The regulations note that after Medicare recovers directly from a TPA it is appropriate for the TPA to seek whatever recourse is available to it under its contract. In so doing, HCFA openly acknowledges that TPAs are not ultimately responsible for payment. HCFA seems to want it both ways to facilitate recovery activities. If HCFA can't get the money from one source, they reserve the right to go after another even though that entity is not ultimately responsible for payment.

TWO COURTS HAVE AGREED WITH THESE ARGUMENTS

In United States of America vs. Blue Cross and Blue Shield of Michigan, the court held that the United States' right to recover primary payments "is directed at those who are responsible to actually make the payments, i.e., the self-insured employer plan itself, and not those who merely undertake to administer the payment process." In United States of America vs. Provident Life and Accident Insurance Co., the court held that the United States could not recover from the insurer where the insurer was just administering the plan. HCFA is acting exactly contrary to clear judicial decisions.

RECOMMENDATIONS

While Senator Roth's "Medicare Secondary Payer Reform Act of 1991" is a step in the right direction, additional steps need to be taken immediately.

BPS' recommendations are in agreement with most of the suggestions made in the staff report prepared by the Permanent Subcommittee on Investigations and some of the suggestions made by Michael Mangano, Office of Inspector General, Department of Health and Human Services before the Subcommittee on Oversight, Committee on Ways and Means on February 26, 1991.

1. The OBRA '89 Data Match should be repealed. This "pay and chase" approach is far too burdensome on employers, TPAs, insurers, providers and beneficiaries.

2. Hospitals and physicians need to improve the accuracy of data collected from patients. HCFA should be adequately funded so that it can sufficiently train these personnel and enforce the requirements.

3. Pre-claim development should be a priority. Medicare contractors should be adequately funded to enable them to research the accuracy of claims before distributing Medicare payments.

In summary, this MSP process is counterproductive and strongly resented by employers. These employers are fighting to show a profit in these recessionary times. We ask for your help and support. Government policies over time have been varied and conflicting, without any coordination. This new administrative nightmare will force many employers out of business or worse, force them to cancel their employee benefit programs. This in turn will put even more employees and citizens in a situation where they have no health coverage, thus joining the growing number without any type of health benefits.

We ask for your support in relieving employees of all sizes of this irrational and expensive burden. This will ensure they can return to concentrating on productivity rather than transferring funds to financing "search" expeditions for the HCFA.

Best Personal Regards,

J. THOMAS LIGHT.●

● **Mr. HARKIN.** Mr. President, I rise today to join my colleagues Senators BAUCUS, GRASSLEY, SYMMS, SHELBY, and HOLLINGS in introducing the Medicare Physician Regulatory Relief Amendments of 1991. I want to commend my colleagues, especially Senators BAUCUS and GRASSLEY, for their efforts to bring this legislation forward.

Last year I spoke with Dr. John Ebensberger of Greene, IA. He was the town's only doctor and was giving up dealing with the Medicare Program. He told me that he wanted to stay with Medicare because there were so many older residents of the town that depended on it, but that he simply couldn't put up with the redtape and hassle any more. In Cedar Rapids, IA, most doctors aren't accepting any new Medicare patients due to low pay and excessive paperwork. My health advisory group, many of whom are practicing physicians in Iowa, has reported similar problems in other areas of the State. In fact, all around my State and around the Nation, senior citizens and people with disabilities who rely on Medicare for their health insurance, are having their care threatened by the rising tide of unnecessary redtape in Medicare.

Over the past several years, there has been a dramatic increase in paperwork in the Medicare and Medicaid Programs. Doctors, hospitals, nurses, administrators and other health professionals are spending more and more of their time filling out paperwork and responding to requests for information. The result is that they have less and less time to spend actually providing health care.

Appropriate safeguards and standards are essential to ensure the fiscal integrity of the program and assure high quality care, but these standards must be administered efficiently and effectively. Proper administration would lower paperwork, increase health care quality and reduce health care costs.

As chairman of the Senate Appropriations Subcommittee on Health and Human Services, which funds the administration of Medicare, I have been working to reduce unnecessary redtape in this program. In the fiscal year 1991 appropriations report, my subcommittee called upon the Administrator of the Health Care Financing Administration to work to streamline their regulatory process and to and reduce unnecessary redtape. They have begun this process by establishing a working group of physicians to review regulatory requirements.

But more needs to be done and the bill we are introducing today will do much to improve the conditions facing doctors, especially those in rural areas. The bill would further reduce bloated redtape and improper bureaucratic administration in the Medicare Program and allow doctors to spend more of their time providing care to older Americans. It would also require that Medicare denials of payment be reviewed by practicing doctors of the same specialty as the physician providing the care in question.

Mr. President, I hope that we will move promptly this year to assure that older Americans and Americans with disabilities have access to quality care and to put more of our health care dollars into health care rather than paperwork.•

By Mr. SASSER (for himself, Mr. JOHNSTON, Mr. HATCH, Mr. DASCHLE, Mr. PRESSLER, Mr. PRYOR, Mr. D'AMATO, Mr. HOLLINGS, AND Mr. LEVIN):

S. 1333. A bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the Administrator of General Services to make available for humanitarian relief purposes any nonlethal surplus property, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL USED PROPERTY FOR HUMANITARIAN RELIEF ACT

• Mr. SASSER. Mr. President, today I rise to introduce the Federal Used Property for Humanitarian Relief Act of 1991. The bill, which is virtually identical to legislation I introduced during the 101st Congress, is cosponsored by Senators JOHNSTON, HATCH, DASCHLE, PRYOR, HOLLINGS, D'AMATO, PRESSLER, and LEVIN.

This legislation is intended to end the unfair preferential treatment given to foreign nations by the U.S. Government in the distribution of surplus Federal property. Currently, Mr. President, the Secretary of Defense has the authority to transfer excess Department of Defense property to the State Department for distribution to other countries under the auspicies of the Humanitarian Assistance Program. My bill would clarify that much of this property, which is all taxpayer-financed, should first be made available to States as well as Federal agencies and States through the General Services Administration [GSA] donation program, before it is given away free of charge to foreign governments.

The Humanitarian Assistance Program was created pursuant to an amendment to the fiscal year 1986 Defense appropriations bill. The original intent of the program was to help supply Afghan and Cambodian refugees and resistance groups with limited categories of Federal surplus property. Some of these items included boots, parkas, clothing items, medical supplies, and communication equipment. However, as the focus of the program expanded to a larger number of developing nations, and now to Eastern Europe and even the Soviet Union, the scope of excess property sought for the Humanitarian Assistance Program has also expanded. Over the past 2 years there has been an increasing emphasis on heavy-duty equipment, including bulldozers, tractors, roadgraders, cranes, backhoes, front loaders, dump trucks, and other equipment, which, before 1986, had been traditionally sought by States through the GSA donation program. In fact, approximately $60 million in Department of Defense excess property was acquired by the Humanitarian Assistance Program from 1986 to the present, with steady and substantial increases occurring each year.

I believe that the Humanitarian Assistance Program has far outgrown its original purpose. The program was designed to meet an immediate need in strife-torn developing countries. But it has since expanded to become a full-fledged foreign assistance program. It provides free to foreign nations valuable surplus construction and engineering equipment paid for by American taxpayers and greatly needed by financially strapped State and local governments.

Each State has an agency for surplus property that is responsible for screening available property and distributing it to various local government entities. In my home State of Tennessee, the State Division of Property Utilization has been able to obtain, for county and city road departments, heavy construction equipment through the GSA donation program. The cost of this equipment was substantially lower than if purchased new. In fact, in one county, the superintendent of highways paid $30,000 for a pan-scraper that would have cost $250,000 new. These State agencies are not only saving taxpayers money, but are providing invaluable source of inexpensive, surplus Federal equipment that greatly benefits thousands of local communities across the country.

Mr. President, the legislation I am proposing today with bipartisan cosponsorship affords us a real opportunity to enable State and local communities to provide vital infrastructure improvements and other Government services. The value of some of this excess surplus property is staggering. My colleagues need only ask their respective State surplus agencies to find out what a difference this surplus equipment can make. I hope they will do so, and that they will choose to cosponsor and support this important initiative.

By Mr. FOWLER:

S. 1334. A bill to provide for the full recovery of the Federal Government's costs of selling timber on national forest lands, to require site-specific identification of national forest lands that are not economically suitable for timber harvesting, to remove that land from the suitable timber base and make associated adjustments in the allowable sale quality, to assist in the economic transition of timber dependent communities, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL FOREST TIMBER SALES COST RECOVERY ACT

• Mr. FOWLER. Mr. President, as chairman of the Subcommittee on Conservation and Forestry, I have held hearing after hearing to unveil a cloud of confusion that has cost the taxpayers of this country more than $2 billion in the last decade.

I am speaking, Mr. President, about the below-cost timber sales made from our national forests. Each year, this abdominal timber program requires direct appropriations from Congress to stay afloat, contributing to our budget deficit, while compromising the ecological integrity of our forests. Below-cost sales are an economic and environmental travesty.

In keeping with its timber-driven motivation, the Forest Service has gone out of its way to justify this program, claiming outlandish benefits and ignoring significant costs. But in a hearing I held earlier this year, the Forest Service acknowledged that instead of returning $660 million to the Treasury—as claimed in their timber sales program report in February—the agency actually turned in a little more than $5 million.

A case can be made for some public lands logging benefits—and no one has suggested that timber operations cease entirely in our national forest. But the fact remains, as many as 101 of 122 administrative forests lost money on their timber sales in 1990. These operations benefit a bloated Forest Service timber bureaucracy—and practically no one else.

The below-cost forests, considered by themselves, lost $350 million for the taxpayers last year. That is an absurdity that ought to stop. I will guarantee we will never miss the mountainside clearcuts or the $200 million logging road budgets that support this boondoggle. We can save money, woods, and wildlife at the same time.

Mr. President, today, in the 100th year anniversary of our national forest system, I am introducing the National Forest Timber Sales Cost Recovery Act of 1991.

This legislation does not shackle the arms and legs of the U.S. Forest Service as some will undoubteldly claim. It will not—I repeat, will not—end timber sales from our national forests.

This legislation simply applies a guideline I believe most Americans will find quite pragmatic—prudence. With the enactment of this legislation, national forests timber may be sold only where cash returns to the U.S. Treasury from timber sales are adequate to cover the cost to the Treasury of growing and selling timber. This will establish a timber program that—at the very least—recovers the Government's full costs of selling timber.

These below-cost sales will be alleviated over 5 years in order to allow the Forest Service sufficient time to reorient its approach to timber sales.

This legislation also addresses a second critical element in reformulating our forest policies: Easing the transition of communities that have become dependent on the current wasteful Federal timber program.

The logging jobs created are the only real benefit of this program. Yet, they are not enough to justify the millions of dollars down the drain, or the ecological costs of inflated timber targets. Sustainable uses like recreation offer greater long-term benefits for most forest communities. Still, we cannot remain blind to the plight of workers who will inevitably be displaced by changing times.

That is why my bill will authorize funding for certified local community development organizations to plan and implement a wide variety of educational and employment training programs, and to reach out to new industries. Displaced workers would also be eligible for low-interest housing and new business loans. It is my hope and belief that many of these workers can remain in the industry to the extent that they can continue to work in and make their living off the forest.

The demands on our forests have never been greater. Simultaneously, the demands on this country's financial resources have never seen the likes of today. As we celebrate the 100th anniversary of our national forest system, let us recognize these constraints and set in place the foundation necessary for the U.S. Forest Service to meet the challenges of the 21st century.•

By Mr. CRANSTON (for himself and Mr. PELL):

S.J. Res. 165. Joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 Apache attack helicopters; to the Committee on Foreign Relations.

PROHIBITING THE PROPOSED SALE OF AH-64 APACHE ATTACK HELICOPTERS

Mr. CRANSTON. Mr. President, in the aftermath of the Persian Gulf war, it has become fashionable in Washington circles to express support for halting the proliferation of arms in the Middle East. Proposals and good intentions abound, but the administration is already failing to demonstrate a real commitment to stemming the flow of sophisticated weapons and weapons technology to the region.

Last week, Congress was formally notified that the administration plans to sell 20 AH-64 Apache attack helicopters, 620 Hellfire missiles and related equipment, and spare parts to the United Arab Emirates. Together with training their personnel, the estimated cost will come to $682 million.

It is not clear to me why the UAE needs these sophisticated weapons. The Apache is the most advanced attack helicopter we have. The unclassified justification which accompanied the sale is not very helpful. It says:

> This sale is consistent with the stated U.S. policy of assisting friendly nations to provide for their own defense by allowing the transfer of reasonable amounts of defense articles and services.

Will these weapons be sufficient to enable the Emirates to defend themselves if attacked? Or will the United States again have to send troops over there to do the fighting regardless of how much arms we send them? The UAE's military is relatively insignificant. Even if one considers the UAE's Armed Forces as part of the combined forces of the Gulf Cooperation Council states, this fighting force would not have been enough to defeat Saddam Hussein at the height of his power.

It will take more than helicopters to make the UAE or the Gulf states self-sufficient. How much more gives meaning to the cliche "spiraling arms race." It is my understanding that the UAE would like M1-A1 tanks and Bradley armored fighting vehicles in addition to these helicopters. This sale may be the tip of the iceberg of arms sales to the UAE, and other Gulf nations. Before we move forward on these sales, we need a better understanding of how these sales fit into long-term U.S. strategy for the region—if in fact we have a strategy. I am not ready to approve this sale if it means we are making a commitment to build up the militaries of the nations in the Persian Gulf.

Of even greater interest to me is the issue of threat perception: Exactly who does the UAE need to defend itself against? Where is the threat to the UAE? I find it hard to imagine that anyone will attack this Gulf state nestled between Saudi Arabia and Oman. Not Saddam Hussein. Presumably, we took care of the Iraqi military already.

Finally, I am troubled that at a time the administration has indicated its commitment to peace in the Middle East, selling offensive weapons to an Arab nation that still has not made peace with Israel will hurt, not help, the peace process. Selling arms to the Arabs while pressuring Israel to make concessions is no way to reassure our Israeli ally and advance the peace process.

Mr. President, I rise today to introduce a resolution of disapproval to this proposed sale of attack helicopters and Hellfire missiles to the United Arab Emirates.

Paying lip service to arms control initiatives is not enough. The arms bazaar is open and the customers are lining up. This arms sale comes just days after the administration has called on the major arms suppliers to restrain arms traffic in the Middle East. It is time for our Government to demonstrate real leadership. If we cannot restrain our own arms sales impulses, what message are we sending to the world's major arms suppliers? Have not we learned the lesson that "do as I say and not as I do" will lead us nowhere quickly?

Mr. President, I urge my colleagues to support this joint resolution of disapproval. The companion legislation was introduced in the House last week with 11 cosponsors. Let us end the new arms race in the Middle East before it begins. Let us stop this new round of arms sales now.

ADDITIONAL SPONSORS

S. 10

At the request of Mr. DOLE, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 10, a bill to amend title II of the Social Security Act to phase out the earnings test over a 5-year period for individuals who have attained retirement age, and for other purposes.

S. 26

At the request of Mr. MOYNIHAN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 26, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income the value of certain transportation furnished by an employer, and for other purposes.

S. 193

At the request of Mr. MCCAIN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 193, a bill to provide for the restoration of certain Medicare catastrophic benefits, plus addition of colon cancer screening benefit.

S. 239

At the request of Mr. SARBANES, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 238, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 280

At the request of Mr. SASSER, the name of the Senator from Montana [Mr. BURNS]. was added as a cosponsor of S. 280, a bill to provide for the inclusion of foreign deposits in the deposit insurance assessment base, to permit inclusion of nondeposit liabilities in the deposit insurance assessment base, to require to FDIC to implement a risk-based deposit insurance premium structure, to establish guidelines for early regulatory intervention in the financial decline of banks, and to permit regulatory restrictions on brokered deposits.

S. 401

At the request of Mr. DOMENICI, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to exempt from the luxury excise tax parts or accessories installed for the use of passenger vehicles by disabled individual.

S. 446

At the request of Mr. BAUCUS, the name of the Senator from Colorado [1Mr. WIRTH] was added as a cosponsor of S. 446, a bill to amend the Federal Unemployment Tax Act with respect to employment performed by certain employees of educational institutions.

S. 448

At the request of Mr. SYMMS, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 474

At the request of Mr. DECONCINI, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Oklahoma [Mr. BOREN] were added as cosponsors of S. 474, a bill to prohibit sports gambling under State law.

S. 480

At the request of Mrs. KASSEBAUM, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 480, a bill to amend the Public Health Service Act to provide grants to States for the creation or enhancement of systems for the air transport of rural victims of medical emergencies, and for other purposes.

S. 651

At the request of Mr. GARN, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 651, a bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act.

S. 781

At the request of Mr. SARBANES, the names of the Senator from South Dakota [Mr. PRESSLER], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from North Carolina [Mr. SANFORD], the Senator from Florida [Mr. MACK], and the Senator from Maryland [Ms. MIKULSKI], were added as cosponsors of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 816

At the request of Mr. MOYNIHAN, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 816, a bill to amend the Foreign Assistance Act of 1961 to authorize the provision of medical supplies and other humanitarian assistance to the Baltic peoples to alleviate suffering.

S. 821

At the request of Mr. LIEBERMAN, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 821, a bill to establish the Silvio Conte National Fish and Wildlife Refuge.

S. 866

At the request of Mr. BREAUX, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 882

At the request of Mr. SARBANES, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 882, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to mandate a 4-year grant cycle and to require adequate notice of the success or failure of grant applications.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Oregon [Mr. HATFIELD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from South Dakota [Mr. PRESSLER], and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale drift net fishing.

S. 914

At the request of Mr. GLENN, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 922

At the request of Mr. DASCHLE, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 922, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income payments made by electric utilities to customers to subsidize the cost of energy conservation services and measures.

S. 934

At the request of Mr. BUMPERS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 934, a bill to amend the Internal Revenue Code of 1986 to increase to 50 percent and extend for 1 year the deduction for health insurance for self-employed individuals.

S. 985

At the request of Mr. SIMON, the names of the Senator from Washington [Mr. ADAMS], the Senator from Arkansas [Mr. BUMPERS], the Senator from Rhode Island [Mr. CHAFEE], the Senator from California, [Mr. CRANSTON], the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. D'AMATO], the Senator from South Dakota [Mr. DASCHLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Nebraska [Mr. EXON], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Oregon [Mr. HATFIELD], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. JEFFORDS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Wisconsin [Mr. KOHL], the Senator from Vermont [Mr. LEAHY], the Senator from Rhode Island [Mr. PELL], the Senator from Michigan [Mr. RIEGLE], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 985, a bill to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

S. 1008

At the request of Mr. MCCONNELL, the names of the Senator from Wisconsin [Mr. KASTEN] and the Senator from Kansas [Mrs. KASSEBAUM] were added as cosponsors of S. 1008, a bill to require State agencies to register all offenders convicted of any acts involving child abuse with the National Crime Information Center of the Department of Justice.

S. 1102

At the request of Mr. MOYNIHAN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1102, a bill to amend title XVIII of the Social Security Act to provide coverage of qualified mental health professionals services furnished in community mental health centers.

S. 1106

At the request of Mr. HARKIN, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 1106, a bill to amend the Individuals With Disabilities Education Act to strengthen such act, and for other purposes.

S. 1156

At the request of Mr. PACKWOOD, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes.

S. 1176

At the request of Mr. DECONCINI, the names of the Senator from Alaska [Mr. MURKOWSKI] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 1176, a bill to establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

S. 1245

At the request of Mr. DASCHLE, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1249

At the request of Mr. KENNEDY, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1249, a bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing.

S. 1281

At the request of Mr. RIEGLE, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1281, a bill to provide for immediate delivery of U.S. Savings Bonds available to the public at the point of purchase.

S. 1301

At the request of Mr. CRAIG, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 1301, a bill to establish grant programs and provide other forms of Federal assistance to pregnant women, children in need of adoptive families, and individuals and families adopting children, and for other purposes.

S. 1313

At the request of Mr. BIDEN, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 1313, a bill to improve crime and drug control in rural areas, and for other purposes.

SENATE JOINT RESOLUTION 142

At the request of Mr. SHELBY, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from Texas [Mr. BENTSEN], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Maryland [Mr. SARBANES], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Virginia [Mr. ROBB], the Senator from New Jersey [Mr. BRADLEY], the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Indiana [Mr. COATS], the Senator from Kansas [Mr. DOLE], the Senator from Wisconsin [Mr. KASTEN], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 142, a joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week."

SENATE JOINT RESOLUTION 151

At the request of Mr. RIEGLE, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 151, a joint resolution to designate October 6, 1991, and October 6, 1992, as "German-American Day."

SENATE JOINT RESOLUTION 157

At the request of Mr. ROCKEFELLER, the names of the Senator from Rhode Island [Mr. PELL] and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 157, a joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week."

SENATE RESOLUTION 116

At the request of Mr. ROTH, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

AMENDMENTS SUBMITTED

SURFACE TRANSPORTATION EFFICIENCY ACT

LOTT AMENDMENT NO. 358

Mr. LOTT proposed an amendment to the bill (S. 1204) to amend title 23, United States Code, and for other purposes; as follows:

On page 5, line 4, insert "purusant to section 144 of title 23, United States Code" after "gram".

On page 5, line 11, insert "pursuant to section 119 of title 23, United States Code" after "Highways".

On page 28, stike out lines 2 through 25.

On page 29, line 1, strike out "(c)" and insert in lieu thereof "(a)".

On page 29, line 8, strike out "(d)" and insert in lieu thereof "(b)".

On page 29, line 11, strike out "(e)" and insert in lieu thereof "(c)".

On page 29, line 21, strike out "(f)" and insert in lieu thereof "(d)".

Beginning on page 30, strike out line 20 and all that follows through line 4 on page 35.

MACK (AND OTHERS) AMENDMENT NO. 359

Mr. MACK (for himself, Mr. GRAHAM, Mr. SANFORD, and Mr. HELMS) proposed an amendment to the bill S. 1204, supra, as follows:

On page 22, after line 21, insert the following: "*Provided*, That the Secretary shall use estimates prepared by the Secretary of Commerce to determine the population figures of the individuals states of the fiscal years 1987, 1988, 1989, 1990, and 1991: *And provided further*, That those estimates shall be used to distribute apportionments under this section".

MOYNIHAN (AND SYMMS) AMENDMENT NO. 360

Mr. MOYNIHAN (for himself and Mr. SYMMS) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . NATIONAL POLICY FOR INFRASTRUCTURE REUSE.

(a)(1) STUDY AND REPORT.—(1) Section 307 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) Not later than 12 months after the date of the enactment of the Surface Transportation Efficiency Act of 1991, the Secretary shall conduct a study of methods of facilitating the reuse of industrial manufacturing facilities.

"(2) In conducting the study described in paragraph (1), the Secretary shall consult with the heads of such departments and agencies of the Federal Government as the Secretary determines to be appropriate to ascertain regulatory, technical and other problems or constraints associated with the reuse of industrial manufacturing facilities.

"(3) Upon completion of the study described in paragraph (1), the Secretary shall submit a report to the appropriate committees of Congress on the findings of the study, including a summary of any information submitted to the Secretary by the head of a department or agency pursuant to paragraph (2).

"(4) For fiscal year 1992, an amount not to exceed $200,000 shall be taken out of the administration and research funds authorized by section 104 of this title for the purpose of carrying out the provisions of this subsection.".

(2) Section 104 of title 23, United States Code, is amended by striking "authorized by subsections (a) and (b) of section 307" and inserting "authorized by subsections (a), (b), and (g) of section 307".

On page 49, lines 18 through 25, strike "All provisions" and everything that follows and insert in lieu thereof "Sums".

On page 37 of the bill, at the end of section 111, add the following new subsection:

"(e) INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions.".

At page 25, line 13 add a new paragraph (4) as follows:

"(4) pursuant to this subsection projects which research, develop and test technologies to control highway related emissions which contribute to the nonattainment of any ambient air quality standard or the impairment of visibility within an urbanized area within the state shall be deemed to be eligible projects."

At page 57, line 7 add a new paragraph (6) as follows:

"(6)(a) The Secretary in cooperation with other appropriate federal agencies, the Governors of Arizona, California, New Mexico and Texas, and the appropriate representatives of the Republic of Mexico, shall assess the need for transportation infrastructure to facilitate trade between the United States and Mexico. Within 18 months following the date of the enactment of this Act, the Secretary shall report to Congress and the Governors of Arizona, California, New Mexico and Texas on such transportation infrastructure needs and the associated costs."

(b) The Secretary in cooperation with other appropriate federal agencies, the Governors of Maine, New Hampshire, Vermont, New York, Michigan, Minnesota, North Dakota, Montana, Idaho, Washington, and Alaska and the appropriate representatives from Canada, shall assess the need for transportation infrastructure to facilitate trade between the United States and Canada. Within 18 months following the date of the enactment of this Act the Secretary shall report to Congress and the Governors of Maine, New Hampshire, Vermont, New York, Michigan, Minnesota, North Dakota, Montana, Idaho, Washington, and Alaska on such transportation infrastructure needs and the associated costs.

On page 19, between lines 17 and 18, insert the following:

"(c) For purposes of paragraph (1)(A)(i) and paragraph (6) of subsection (b), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

On page 22, between lines 21 and 22, insert the following:

"(D) For purposes of subparagraph (C), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

On page 26, line 3, before the period insert the following: ": *Provided further*, That the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

On page 51, between lines 15 and 16, insert the following:

"(h) For purposes of subsections (b) and (e), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

On page 77, line 2, before the quotation marks, insert the following: "For purposes of this subsection, the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

Insert at the appropriate place in title I:

SEC. . DECLARATION OF NONNAVIGABILITY OF PORTION OF HUDSON RIVER, NEW YORK

(a) DECLARATION OF NONNAVIGABILITY.—

(1) IN GENERAL.—Subjection to subsections (b), (c) and (d), the area described in paragraph (2) is declared to be nonnavigable waters of the United States.

(2) AREA DESCRIBED.—The area referred to in paragraph (1) is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York).

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918,003 west 9806,753:

(1) Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44′-20″ east, having a radius of 390.00 feet and a central angle of 22°-05′-50″, 150.41 feet to a point of tangency;

(2) Thence north 71°-38′-30″ east, 42.70 feet;

(3) Thence south 11°-05′-40″ east, 33.45 feet;

(4) Thence south 78°-54′-20″ west, 0.50 feet;

(5) Thence south 11°-05′-40″ east, 2.50 feet;

(6) Thence north 78°-54′-20″ east, 0.50, feet;

(7) Thence south 11°-05′-40″ east, 42.40 feet to a point of curvature;

(8) Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 18°-37′-40″, 83.85 feet to a point of compound curvature;

(9) Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°-39′-00″, 101.19 feet to another point of compound curvature;

(10) Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°-32′-03″, 97.89 feet to a point of curve intersection;

(11) Thence south 13°-16′-57″ east, 50.86 feet to a point of curve intersection;

(12) Thence westerly, on the arc of a circle curving to the left, whose radial bears north 13°-16′-57″ west, having a radius of 6.00 feet and a central angle of 180°-32′-31″, 18.91 feet to a point of curve intersection;

(13) Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°-37′-11″ east, having a radius of 313.40 feet and a central angle of 4°-55′-26″, 26.93 feet to a point of curve intersection;

(14) Thence south 70°-41′-48″ west, 36.60 feet;

(15) Thence north 13°-45′-00″ west, 42.87 feet;

(16) Thence south 76°-15′-00″ west, 15.00 feet;

(17) Thence south 13°-45′-00″ east, 44.33 feet;

(18) Thence south 70°-41′-45″ west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936;

(19) Thence north 63°-08′-48″ west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein;

(20) Thence north 81°-08′-00″ west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet;

The following three courses being along the lines of George Sollan Park as shown on map prepared by the city of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B.P.C. Development Corp.

(21) Thence north 77°-35′-20″ east, 231.35 feet;

(22) Thence north 12°-24′-40″ west, 33.82 feet;

(23) Thence north 54°-49′-00″ east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941;

(24) Thence north 12°-24′-40″ west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.28 feet to the point or place of beginning.

(b) DETERMINATION OF PUBLIC INTEREST.—The declaration made in subsection (a)(1) shall not take effect if the Secretary of the Army (acting through the Chief of Engineers), using reasonable descretion, finds—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project, and

(2) after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed project is not in the public interest.

(c) LIMITATION ON APPLICABILITY OF DECLARATION.—

(1) AFFECTED AREA.—The declaration made in subsection (a)(1) shall apply only to those portions of the area described in subsection (a)(2) which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) APPLICATION OF OTHER LAWS.—Notwithstanding subsection (a)(1), all activities conducted in the area described in subsection (a)(2) are subject to all Federal statutes and regulations which may otherwise be applicable to such activities, including as may be applicable.

(A) sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401, 403), commonly known as the River and Harbors Appropriation Act of 1899,

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1254), and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) EXPIRATION DATE.—The declaration made in subsection (a)(1) shall expire—

(1) on the date which is 6 years after the date of enactment of this Act if work on the proposed project to be performed in the area described in subsection (a)(2) is not commenced before that date, and

(2) on the date which is 20 years after the date of the enactment of this Act, for any portion of the area described in subsection (a)(2) which on that date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(e) PROPOSED PROJECT DEFINED.—For purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

(1) the structure located in the area described in subsection (a)(2) and commonly referred to as Pier A; and

(2) the area surrounding that structure.

On page 162, add after line 9 the following new part:

PART D—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

SEC. 161. RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION.

Section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended by inserting "and the Rural Electrification Administration" after "Tennessee Valley Authority".

On page 3, insert immediately after the matter before line 1 the following:

PART D—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

Sec. 161. Relocation assistance regulations relating to the Rural Electrification Administration.

DOLE (AND MITCHELL) AMENDMENT NO. 361

Mr. SYMMS (for Mr. DOLE, for himself and Mr. MITCHELL) proposed an amendment to the bill S. 1204, supra, as follows:

At the appropriate place, add the following:

It is the sense of the Senate that the conferees on this bill should consider section 159 of title 23, United States Code, as it appears in amendment No. 295 as amended so as to determine each State's total apportionments under section 159 of title 23, United States Code, in a way that reflects each State's total effort for highways as described in amendment No. 334, and including each State's ability to finance its total effort for highways, as measured by its per capita disposable income as compared to the average State per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

GRAHAM AMENDMENT NOS. 362 THROUGH 364

Mr. GRAHAM proposed three amendments to the bill S. 1204, supra, as follows:

AMENDMENT NO. 362

On page 8, line 21, strike "$15,940,000,000" and insert "$16,721,000,000".

On page 8, line 22, strike "$16,840,000,000" and insert "$18,726,000,000".

On page 8, line 23, strike "$18,410,000,000" and insert "$20,687,000,000".

On page 8, line 24, strike "$20,190,000,000" and insert "$23,467,000,000".

AMENDMENT NO. 363

On page 6 of Amendment No. 295 (as amended), on line 8, in section (d)(1)(A), strike the words "other than" and insert instead "including".

AMENDMENT NO. 364

SEC. 106. SURFACE TRANSPORTATION PROGRAM

Strike lines 14 through 25, page 23, and insert:

Transportation Program funds"; and by striking "75" in two places and inserting instead "80".

SEC. 108. BRIDGE PROGRAM.

Insert a period after "80 per centum" on line 5, page 28 and strike the remainder of lines 5 through 25, page 28.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, the Committee on Small Business has scheduled a hearing to receive testimony on the expanding burdens placed upon small business concerns by Government-sponsored paperwork and information collection requirements. More specifically, the committee will again be reviewing the protections afforded small business concerns by the Paperwork Reduction Act of 1980. The hearing is scheduled for Tuesday, June 25, 1991, commencing at 9:30 a.m. It is to be held in the committee's hearing room, SR–428A.

Witnesses from the small business community are expected to include representatives of the National Federation of Independent Business [NFIB], the Small Business Legislative Council [SBLC], and National Small Business United [NSBU] as well as the Small Business Council of the U.S. Chamber of Commerce and the Smaller Manufacturers Council of the National Association of Manufacturers.

The committee intends to transmit the record of this hearing and subsequent hearings, as it did in 1989, to the Committee on Governmental Affairs, to assist the committee of legislative jurisdiction in any forthcoming deliberations of pending legislation to specifically reauthorize appropriations for the Office of Information and Regulatory Affairs within OMB and making substantive amendments to the Paperwork Reduction Act.

Further information concerning the Small Business Committee's hearing may be obtained from the committee's procurement policy counsel, William B. Montalto. Bill may be reached at 224–5175.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on June 19, 1991, beginning at 9 a.m., in 485 Russell Senate Office Building, on the National Native American Advisory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Special Committee on Aging, be authorized to meet during the session of the Senate on Wednesday, June 19, 1991, at 9 a.m. to hold a hearing on the ethics of health care rationing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 19, 1991, to receive testimony concerning S. 933, the Natural Gas Ratepayers Relief Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, June 19, 1991, at 9:30 a.m., in SDG–50, and again at 1:30 p.m., in SR–332, to hold a hearing on dairy supply management options.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 19, 1991, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 19, 1991, at 10 a.m. on the Department of Commerce technology programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation and the National Ocean Policy Study be authorized to meet during the session of the Senate on June 19, 1991, at 10 a.m. on S. 49, Oceans and Coastal Resources Enhancement Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Consumer and Regulatory Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Wednesday, June 19, 1991, at 10 a.m., to conduct a hearing on real estate asset disposition activities of the RTC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT INFORMATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Wednesday, June 19, 1991, at 1:30 p.m., on the subject: The census adjustment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COURTS AND ADMINISTRATIVE PRACTICE

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Courts and Administrative Practice of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, June 19, 1991, at 2 p.m., to hold a markup on S. 580, a bill to amend title 11 of the United States Code to exclude from the estate of the debtor certain interests in liquid and gaseous hydrocarbons, S. 653, a bill to prohibit injunctive relief, or an award of costs, including attorney's fees, against a judicial officer for action taken in a judicial capacity, S. 826, a bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes, S. 862, a bill to provide for a demonstration program for voir dire examination in certain criminal cases, and for other purposes, S. 863, a bill to amend the Federal rules of civil procedure with respect to the examination of prospective jurors, S. 864, a bill to amend the Federal rules of criminal procedure with respect to the examination of prospective jurors and S. 865, a bill to provide for a demonstration program for voir dire examination in certain civil cases, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, June 19, at 10 a.m. to hold a hearing on the Soviet crisis and the United State interest, future of the Soviet economy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 19, 1991, at 10 a.m. to hold a hearing on the President's recommendation that China continue to receive most-favored-nation trade status.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT INFORMATION AND REGULATION

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Subcommittee on Government Information and Regulation be authorized to meet on Wednesday, June 19, 1991, at 1:30 p.m., on the subject: the census adjustment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Wednesday, June 19, at 9:30 a.m., for a hearing on the subject: EPA's environmental protection policy—"forceless enforcement."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NEED A LIFT?

• Mr. STEVENS. Mr. President, in an effort to help the young people of this country, the American Legion has published its 40th edition of "Need a Lift?" It is one of the best informational handbooks I have seen on educational opportunities for scholarships, careers, and loans.

The information in this annually published handbook is useful to students, parents, and school counselors. It is presented in clear and concise terms and is available for a nominal fee of $2 from the American Legion, National Emblem Sales, P.O. Box 1050, Indianapolis, IN 46206.

It is important for students to have as much information as is available about scholarship and financial aid opportunities, and I ask that section IV of the handbook be printed in the RECORD.

The material follows:

SECTION IV—SOURCES OF SCHOLARSHIPS AND OTHER FORMS OF FINANCIAL AID AVAILABLE TO ALL STUDENTS

A. FEDERAL PROGRAMS (LISTED ALPHABETICALLY)

1. U.S. Department of Education provides the largest source of funding for financial aid programs. These programs are listed in the following paragraphs. Applications are available at postsecondary schools and high schools. The "Federal Student Aid Fact Sheet from the U.S. Department of Education, 1990–91" may be obtained by writing to Federal Student Aid Programs, P.O. Box 84, Washington, DC 20044. Federal student aid questions may be directed to the toll-free Federal Student Aid Information number: 1-800-333-INFO.

a. College Work-Study Program (CWSP). This program provides on-campus and off-campus employment to undergraduate and graduate students enrolled in colleges and eligible postsecondary institutions who need financial aid to meet college expenses. The wage paid is at least the current Federal minimum wage, but it may also be related to the type of work and its difficulty. In arranging a job and assigning a work schedule, the aid administrator takes into account the student's health, class schedule and academic progress.

b. Pell Grant Program. Formerly called the Basic Grant Program, this program makes funds available to eligible students attending participating colleges, community/junior colleges, vocational schools, technical institutions, hospital schools of nursing, and other participating postsecondary institutions. To apply for the grant, an applicant must demonstrate need and be an undergraduate student enrolled on at least a half-time basis. For the 1990–91 award period, individual awards will depend on program funding. The maximum award for the 1990–91 academic year was $2,300. To apply for a Pell Grant, a student must complete either the Federal form called "Application for Federal Student Aid" or one of several private or State need analysis applications which are used to determine eligibility for other sources of student aid: the Financial Aid Form (FAF) processed by CSS, the Family Financial Statement (FFS) processed by ACT, the Pennsylvania Higher Education Assistance Agency (PHEAA) form processed by PHEAA, the Student Aid Application for California (SAAC) processed by CSS, the Illinois State Scholarship Commission's form (AFSSA), processed by CSX or the Singlefile Form processed by USAF. Further information may be obtained from the Office of Student Financial Aid at the institution or a high school guidance counselor.

c. Perkins Loan (formerly National Direct Student Loan Program—NDSL). These loans are available to students enrolled at least half-time (and in some cases less than half-time) in a regular program of study at a participating school and who demonstrate need for financial assistance. Aggregate loans may not exceed $18,000 for a graduate student including undergraduate loans; $9,000 for students who have not completed their bachelor's but have completed 2 years leading to a bachelor's degree; $4,500 for any other student. Repayment of the loan begins 9 months after a borrower ceases to carry at least one half the normal academic work load, and is to be repaid within 10 years. Your "grace period" may be different than nine months if you are less than a half-time student. Interest of 5% will begin at the time the repayment period begins. You may defer repayment or have portions of your loan canceled under certain conditions.

d. Plus Loans and Supplemental Loans for Students (SLS). PLUS loans are for parent borrowers. SLS loans are for students. Interest rates are variable (maximum 12 percent). Like Stafford Loans, they are made by a lender such as a bank, credit union, or savings and loan association. It is not necessary to demonstrate need. Parents, graduate students and independent undergraduates may borrow $4,000 per year. In exceptional circumstances, the financial aid administrator may borrow $4,000 per year. In exceptional circumstances, the financial aid administrator may authorize dependent undergraduates to apply for an SLS. All borrowers must begin repaying these loans within 60 days, unless the borrower is entitled to a deferment and the lender agrees to let the interest accumulate until the deferment ends. The negotiation of each loan is between the student and the lending institution. Individuals who desire more information or wish to initiate a loan should discuss the matter with the lender and the school financial aid administrator.

e. Stafford Loan (formerly Guaranteed Student Loan—GSL). This program provides loans to students for educational expenses, and is available from eligible lenders such as banks, credit unions, savings and loan associations, State agencies and schools. Students must be enrolled on at least a half-time basis in participating postsecondary institutions, ranging from vocational and technical schools to degree-granting institutions. All applicants must undergo a needs test. For new borrowers, the interest rate is 8 percent for the first 4 years of repayment and 10 percent after that. A 5 percent origination fee is charged, which will be deducted proportionately from each loan payment. The money is passed on to the Federal Government to help reduce the Government's cost of subsidizing these low-interest loans. Your lender may also charge you an insurance premium of up to 3 percent of the loan principal.

Loans must be repaid. Repayment normally is over a 5–10 year period. The amount of the student's repayment depends on the size of his or her debt. The more the student borrows, the higher the payment will be. Failure to repay on a timely basis can damage a person's credit rating and may lead to legal action to recover the debt.

Deferment of payment may be granted for a variety of reasons. Deferments are not automatic and must be applied for through your lender. Check with your lender for deferment information.

Depending on your need, you may borrow up to $2,625 a year, if you're a first or second-year undergraduate student; $4,000 a year, if you have completed 2 years of study and have achieved third-year status; $7,500 a year, if you're a graduate student. The total Stafford Loan debt you can have outstanding as an undergraduate is $17,250. The total for graduate or professional study is $54,750, including any loans made as an undergraduate.

f. Supplemental Educational Opportunity Grant (SEOG) Program. This grant program is for students with exceptional financial need (priority given to PELL grant recipients). Students must be enrolled as an undergraduate or vocational student in a regular program of study at an educational institution participating in the program. In some cases, awards may be made to less than half-time students. Graduate students are not eligible. The amount of the award may be up to $4,000 yearly.

**There are other Federal programs you can get information about from your State educational agencies. These programs are:

g. The Paul Douglas Teacher Scholarship. Encourages outstanding high school graduates to pursue teaching careers after they finish postsecondary education. Provides scholarships of up to $5,000 for each year of postsecondary education to students who graduate from high school in the top 10 percent of their class, and who meet other selection criteria their State educational agency many establish. Generally, students are required to teach two years for each year of scholarship assistance they receive. Check with your State Scholarship Agency for information.

h. The Robert C. Byrd Honors Scholarship. Students who demonstrate outstanding academic achievement and show promise of continued excellence may receive $1,500 of their *first year* of postsecondary education. These scholarships are based solely on merit, and are not renewable. Recipients are selected by the agency in the State responsible for supervising public elementary and secondary schools.

2. U.S. Department of Health and Human Services administers programs of assistance for students enrolled in health professions programs.

a. Exceptional Financial Need Scholarship Program [IV–1] provides a scholarship to encourage students with exceptional financial need to pursue careers in medicine, osteopathic medicine, dentistry, optometry, podiatric medicine, pharmacy, or veterinary medicine. Applicants should be citizens, nationals or lawful permanent residents of the United States or District of Columbia, the Commonwealths of Puerto Rico, or the Marianna Islands, the Virgin Islands, Guam, the American Samoa, the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands and the Federated State of Micronesia. Scholarships will cover all or a part of the cost of tuition, and other reasonable educational expenses including fees, books, laboratory expenses and other costs of attending school. No service or financial obligation accompanies the scholarship. For information, write: *Health Resources and Services Administration, Bureau of Health Professions, Division of Student Assistance, Parklawn Building, Room 8–38, 5600 Fishers Lane, Rockville, MD 20857.* To apply for the program, contact the Director of Student Financial Aid at the school where you intend to apply for admission or where you are enrolled.

b. Program of Financial Assistance for Disadvantaged Health Professions Students is a program that provides financial assistance without a service or financial obligation to disadvantaged health professions students who are of exceptional financial need to pursue a degree in medicine, osteopathic medicine, or dentistry by providing financial support to help pay for their costs of education. Federal funds for this program are allocated to participating accredited health professions schools located in the United States and Puerto Rico. These schools are responsible for selecting the recipients of such assistance. You are eligible to apply if you are a citizen, national or lawful permanent resident of the United States or the District of Columbia, the Commonwealths of Puerto Rico or the Marianna Islands, the Virgin Islands, Guam, the American Samoa or the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated State of Micronesia; are accepted for enrollment or are enrolled in a participating health professions school as a full-time student; and are determined by your school's Financial Aid Director to be of "exceptional financial need" *and* to meet "disadvantaged" criteria.

Depending on finding available, a student may receive funds to cover the costs of tuition and other reasonable education expenses including fees, books, laboratory expenses and other costs of attending school.

To apply, contact the Director of Student Financial Aid at the school where you intend to apply for admission or where you are enrolled, or write to the address in (a) above.

c. The Health Education Assistance Loan (HEAL) Program is a federally insured loan program for eligible graduate students in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, public health, pharmacy, chiropractic, or in programs in health administration, clinical psychology, or allied health.

Eligible borrower—must be a citizen, national or permanent resident of the United States and accepted for enrollment as a full-time student, or already in full-time attendance and in good standing at an eligible HEAL school. Pharmacy students must have satisfactorily completed three years of training toward a pharmacy degree.

Eligible schools—Accredited health professions schools are eligible to participate in the HEAL Program if the school has an agreement with the Secretary. Foreign schools are not eligible under the HEAL Program even though some are eligible for the Guaranteed Student Loan Program.

Eligible lenders—Financial or credit institutions (including banks, savings and loan associations, credit unions, or insurance companies), State agencies, pension funds, eligible HEAL schools, and non-profit private entities designated by a State.

Loan limitations—Medical, osteopathic, dental, veterinary, optometric or podiatric students may borrow up to $20,000 per year, not to exceed $80,000 for all years. Pharmacy, chiropractic, health administration, clinical psychology, public health or allied health students may borrow up to $12,500 per year not to exceed $50,000 for all years.

Loans may be used solely for tuition, other reasonable educational expenses, including fees, books, supplies and equipment, and laboratory expenses, reasonable living expenses, reasonable transportation costs that relate directly to borrowers' educational expenses, and the HEAL insurance premium.

Interest—The HEAL Program does not provide a subsidy payment for interest. The amount of interest which may be charged to the borrower on the unpaid balance of the loan may not exceed the average bond-equivalent rate during the prior calendar quarter for 91-day Treasury bills sold at auction, plus three percent, rounded to the next higher ⅛ of one percent. Payment of principal and interest may be deferred while the borrower is a full-time student and during specific eligible periods of deferment. For more information contact the Director of Student Financial Aid at your school, or write to address in (a) above: Room 8–39.

d. The Health Professions Student Loan Program is a program of long-term interest loans to assist students having need for financial assistance to undertake the course of study required to become a physician, dentist, osteopathic physician, optometrist, pharmacist, podiatrist, or veterinarian. Funds are allocated to accredited schools of medicine, dentistry, osteopathic medicine, optometry, pharmacy, podiatric medicine, and veterinary medicine which are located in the United States and Puerto Rico, and which participate in the student loan program.

Each school participating in this program is responsible for selecting the recipients of loans and for determining the amount of assistance a student requires. Students applying for assistance under this program should apply through the school in which they have been accepted for enrollment or in which they are enrolled.

You are eligible to apply for a loan at a school that participates in the Health Professions Student Loan Program if you are:

1. A citizen, national, or a lawful permanent resident of the United States or the District of Columbia, the Commonwealths of Puerto Rico or the Marianna Islands, the Virgin Islands, Guam, the American Samoa, the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated State of Micronesia;

2. Accepted for enrollment or enrolled as a full-time student in a course leading to a degree of doctor of medicine, doctor of dental surgery or equivalent degree, doctor of osteopathic medicine, doctor of optometry or equivalent degree, bachelor of science in pharmacy or equivalent degree, doctor of pharmacy degree, doctor of podiatric medicine or equivalent degree, or doctor of veterinary medicine or equivalent degree; and

3. In need of the loan to be able to pursue the course of study.

Note: Students enrolled in schools of medicine or osteopathic medicine must demonstrate exceptional financial need.

Pre-professional students, interns, residents, and students seeking advanced training are not eligible for assistance under this program.

The maximum amount you may borrow for each school year is the cost of tuition plus $2,500 or the amount of your financial need, whichever is the lesser. The interest rate is five percent (5%) for all loans made on or after November 4, 1968.

For information, contact the Director of Student Financial Aid at your school, or write to the address in (a) above.

e. National Health Service Corps (NHSC) Scholarships [IV–2] are awarded to U.S. citizens enrolled or accepted for enrollment as full-time students in accredited U.S. schools of allopathic or osteopathic medicine, dentistry, and other health disciplines needed for the mission of NHSC. These scholarships include a monthly living stipend and payment of school tuition. Each year of scholarship support incurs a year of Federal service obligation. The minimum service obligation is 2 years.

The NHSC places full-time primary health care practitioners in selected federally-designated Health Manpower Shortage Areas of the United States. Virtually all of these practitioners owe service obligations of 2 to 4 years due to their participation in the NHSC Scholarship Program.

If appropriated funds are available, applications for competitive awards for the 1990–91 school year may be limited to students who have participated at their schools in the Federal "Scholarship Program for First-Year Students of Exceptional Financial Need."

The scholarship program is administered by the Bureau of Health Care Delivery and Assistance, Division of Health Services

Scholarships. For further information write to: *NHSC Scholarships, Parklawn Building, Room 7-29, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443-1650*, or for toll-free message tape, call 1-800-638-0824 (except Maryland).

f. National Health Service Corps Loan Repayment Program. [IV-2] The NHSC Loan Repayment Program invites applications from licensed allopathic (M.D.) or osteopathic (D.O.) physicians in the specialties of family practice, obstetrics-gynecology, pediatrics, internal medicine, and osteopathic general practice.

This federal program pays up to $20,000 annually toward a participant's qualified medical education loans (including HEAL) in return for 3 or 4 years of full-time professional practice at an approved NHSC Loan Repayment Service Site in the USA. (Two-year agreements will pay up to $13,333 per year.) Over 200 positions are available, mainly at private, non-profit community health centers serving the poor, the homeless, and migrant farm workers and their families. Compensation packages are negotiable and compare favorably with similar physicians in the same geographic area. Matches to sites must be concluded by February 15, 1990 and employment begin no later than August 1, 1990.

For an application, a list of NHSC Loan Repayment Service Sites, and a complete description of the Program, write to: *Division of Health Services Scholarships, Room 7-16, Parklawn Building, 5600 Fishers Lane, Rockville, MD. 20857* or telephone during office hours: 1-301-443-1650.

g. National Health Service Corps Loan Repayment Program for Graduate Nurses [IV-2]

The National Health Service Corps (NHSC) Loan Repayment Program pays for each year of full-time salaried practice at an approved NHSC Loan Repayment Service Site, up to $20,000 (up to $25,000 for certain sites under contract to Indian Tribes) toward a participant's qualified Government and commercial health professions education loans.

Applicants must be nurses who are U.S. citizens, preferably in their last year of graduate training for the M.S.N. A signed NHSC Loan Repayment Contract must be submitted with application agreeing to practice at an approved Site for 2, 3, or 4 years. Preference for selection will be given those who have completed graduate training in certified family nurse practitioners, pediatric nurse or nurse midwives. For applications write to NHSC Loan Repayment Program for Graduate Nurses, Room 7-16, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

h. Minority Access to Research Careers Program (Marc) Honors Undergraduate Research Training Awards [IV-3]

The Minority Access to Research Careers Program's Honors Undergraduate Research Training Program is designed to increase the number of well-prepared minority students who can compete successfully for entry into graduate programs leading to the Ph.D. in biomedical research. Its goal is also to help develop strong science curricula and research opportunities to prepare students for careers in biomedical research. A formal research experience for the recipient is an essential feature of the program. Summer study and research should be part of the overall training program at outstanding institutions or laboratories selected to enhance and supplement the trainee's formal course work and research training experience. The criteria for selection of trainees includes evidence that the candidate has clear potential to perform at a high level in the biomedical sciences and that the candidate demonstrates a determination to subsequently enter graduate programs leading to the Ph.D. degree. Applicants must be honor students in their third or fourth year of college. The college or university must have an enrollment drawn substantially from ethnic minority groups such as Am. Indians, Blacks, Hispanics, and Pacific Islanders.

Each school will make awards for stipends and tuition support for five or more students. The award may include travel expenses to one national meeting closely related to a project.

Graduates of this undergraduate program are then eligible to compete for a MARC Predoctoral Fellowship which supports 5 years of training toward either the Ph.D. or M.D./Ph.D. at any high quality graduate institution.

Applications may be filed by January 10, May 10 or September 10. Apply for information or application to: United States Department of Health and Human Services, National Institutes of Health, National Institute of General Medical Sciences, Westwood Building, Room 950, Bethesda, Maryland 20892.

3. Other U.S. Department of Health and Human Service Programs are:

a. Commissioned Officer Student Training and Extern Program (COSTEP) [IV-4]. COSTEP is a recruiting device for the Commissioned Corps of the Public Health Service (PHS) which offers excellent opportunities for students in health-related fields to get maximum benefit during free periods (31-120 days) of the academic year. Students may apply for assignments at any time during the year; however, the majority of students are hired for the summer period. To be eligible a student must have completed a minimum of one year of study in a medical, dental, or veterinary school; or have completed a minimum of two years of a professionally accredited baccalaureate program in the following course of study: dietetics, engineering, nursing, pharmacy, therapy, sanitary science, or medical record administration; or be enrolled in a masters or doctoral program in health related field other than those mentioned above. The student must expect to return to college as a full-time student in an accredited field of study following completion of the COSTEP assignment. Students must be free of any obligation that would conflict with extended duty in the PHS Commissioned Corps, may not be a member of another uniformed service nor owe a service obligation to another uniformed service, and must meet the qualifications for appointment in the Commissioned Corps. These include being a citizen of the United States, meeting the physical standards of the corps, and being under 44 years of age. Transportation is paid to and from the location of the assignment. *For applications, contact: Division of Commissioned Personnel, ATTN: COSTEP, Parklawn Building, Room 4-35, 5600 Fishers Lane, Rockville, MD 20857.* Deadline for applications: October 1 for assignments from January through April, February 1 for May through August, and May 1 for September through December. COSTEPs are commissioned as junior assistant health service officers in the Commissioned Corps of the PHS. The pay of a single COSTEP officer is $1,338.90 salary, $268.80 quarters allowance, $119.61 subsistence for a total of $1,726.31 per month. For COSTEP officers with dependents, the quarters allowance is $364.50 for a total of $1,823.01 per month. The quarters and subsistence allowances are not taxable. COSTEPs are eligible for medical and dental care while on duty and receive many of the benefits of commissioned officers. For additional information, you may call the COSTEP office at (301) 443-6324.

b. Professional Nurse Traineeship Program [IV-5]. Professional nurse traineeships are available through participating training institutions to help registered nurses prepare to teach in the various fields of nurse training, to serve in administrative or supervisory capacities, to serve as nurse practitioners, or to serve in other professional nursing specialties requiring advanced training. Traineeships provide a living stipend (not to exceed $6,552) and tuition and fees as set by the participating training institutions. Trainees are selected by the training institutions. Further information is available from: *Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Room 5C26, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD 20857.* Students should request information through the Dean of Nursing at their institution. Note: This assistance is only for students studying at the master's or doctoral level or studying to become nurse midwives.

c. Nursing Student Loan Program. [IV-5.1] The program is intended to assist students to achieve careers in nursing by providing long-term, low-interest loans to help meet costs of education.

Federal funds for this program are allocated to accredited schools of nursing education. These schools are responsible for selecting the recipients of loans and for determing the amount of assistance a student requires. Students applying for assistance under this program should apply through the school in which they have been accepted for enrollment or in which they are enrolled.

You are eligible to apply for a Nursing Student Loan if you are a citizen, national, or a lawful permanent resident of the United States or the District of Columbia, the Commonwealths of Puerto Rico or the Marianna Islands, the Virgin Islands, Guam, the American Samoa, the Trust Territory of the Pacific Islands, the Republic of Palau, the Republic of the Marshall Islands and the Federated State of Micronesia; are accepted for enrollment or are enrolled as a full-time or half-time student in a course leading to a diploma in nursing, an associate degree in nursing, a bachelor's degree in nursing or an equivalent degree, or a graduate degree in nursing.

You may borrow $2,500 for an academic year, $4,000 for each of the final two years, or the amount of your financial need, whichever is the lesser. The total amount of a student's loan for all years may not exceed $13,000.

In determining the amount of assistance you may require, the school considers: All financial resources available to you, including other sources of aid, such as scholarships or other repayable loans, and the costs reasonably necessary for attendance at the school.

The interest rate is five percent (5%) for all loans made on or after November 4, 1988. *To apply, contact the Director of Student Financial Aid at your school.*

4. The U.S. Department of Interior Administers a Program of Indian Tribal Grants and Loans. [IV-6.1] Over 45 Indian tribes have established their own grant and loan programs to promote higher education for their members. Contacts for tribal assistance should be made through the U.S. Dept. of the Interior, Bureau of Indian Affairs, Washington, D.C. 20240, or through the Tribal Headquarters.

5. Indians Higher Education Grant Program [IV-6] is a program for students who

are members of a tribal group being served by the Bureau and who are enrolled in accredited institutions of their choice in pursuit of an undergraduate or graduate degree; must demonstrate financial need to the institution they are or will be attending. For information, write to: *Department of the Interior–BIA, Office of Education Programs, MS 3512, Code 522, 18th & C Street, N.W., Washington, D.C. 20240.*

6. The U.S. Information Agency Sponsors: The Fulbright Teacher Exchange Program. [IV–7] Under the Mutual Educational and Cultural Exchange Act, qualified American educators may work in elementary and secondary schools abroad, and, in some instances, institutions of higher education in various countries. To be eligible, an applicant must be teaching currently as an elementary or secondary school teacher, college instructor, assistant, associate or full professor. Candidates must have at least a bachelor's degree, be a U.S. citizen at the time of application, proficiency in the language of the host country and have at least three years of successful full-time teaching experience. Two years are required for participation in summer seminars held in Italy and the Netherlands. Evidence of good health and stability also is required.

Round-trip transportation to some countries for those selected to participate may be provided. A maintenance allowance may also be provided, paid in the currency of the host country, based upon that country's cost of living. For teachers participating in the Exchange Program, the successful applicant's U.S. salary is continued by the participant's own school. Seminar grants may include round trip transportation and tuition costs, but for some, the participants are responsible for their own maintenance expenses. Regional interviewing committees conduct preliminary screening of applicants. Annual application deadline date is October 15. Application forms can be obtained from and then submitted to the *Teachers Exchange Branch, E/ASX, Room 353, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547.*●

NATIONAL GROCERS WEEK

● Mr. GRASSLEY. Mr. President, the week of June 23 is "National Grocers Week," a time to recognize the entrepreneurial contribution America's retail and wholesale grocers make to keep our economy viable, while providing friendly, hometown service to their customers.

These representatives of our great food distribution industry will be in Washington, DC, during this week, making their concerns and contributions known. "Grocers Care" is the theme of the conference, recognizing their support of "A Healthy America" with involvement in charitable organizations such as the American Cancer and Heart Associations; "A Clean America" with contributions to recycling and the environment; and "A Proud America" with grocers' civic and patriotic endeavors.

I am proud to recognize and include in today's RECORD the activities of Iowa's members:

Mr. James Scheer of Jim & Dean's Market in Council Bluffs is active in community charitable projects through their Jail and Bail Program, and raising funds in support of the American Cancer Society.

Mr. Jim Borders of Jim's Food Mart of Tabor has been a community club member for 20 years, rebates 1 percent on a save-a-tape program for nonprofit organizations, donated food for a tornado cleanup crew, assisted in fundraisers for ambulance and fire departments, supports the sheriff department, and serves on church and Optimist Club boards.

Mr. Robert Hand of Dahl's Foods in Des Moines actively sponsors Iowa Special Olympics and Polk County participants, is a major sponsor of the American Cancer Society golf tournament and their camp for children with cancer, contributes to the United Way, Convalescent Home for Children, and Iowa College Foundation, among others.

Robert Cramer, Fareway Stores of Boone, supported Iowa Hometown Care Package project, by sending care packages to Iowa soldiers in the gulf and serving as the collection point and providing transportation of donations.

Duane Godfrey of Rog & Scotty's Super Valu of Council Bluffs supports Grocers Fight Cancer Program with a percentage donation of 1 day's sales.

Jerry Fleagle of Fleagle Foods of Waterloo contributes computer equipment to local schools through the Computers for Kids Program.

Mick Gabrielson of We Three Market of Belmond supports local schools with an Adopt-a-Class Program, whereby employees interact with reading activities and sponsor holiday parties.

Jim Conrey, Jim's Super Valu of West Liberty, sponsors Little League, Meals on Wheels, school reading programs, MDA, Shrine and Lions Club, et cetera; recycling point and reusable bag promotions; and Red Cross support for families of Armed Forces in the gulf.

Doug Fallgatter of Fallgatters Market in Northwood, Mary Rooney of Payless Foods in Dyersville, and Scott Havens of Plaza Food Center in Norwald are active supporters of their communities and are participating in Grocers Care recognition activities in Washington, DC, during the week of June 23.

The Grocer Association of Iowa represented by Executive Director Trish Smallenberger, promotes community service activity among its members, as well as actively supporting "Our Common Ground"—a project to aid pensioners and orphans in the Soviet Union.

Also recognized for Grocers Care activity are: Dick Maxwell of Joyce's Foodland in Sac City for Grocers Fight Cancer; Ron Pearson of Hy-Vee Food Stores in Chariton for a 14-point environmental program including bag return on shelf tag program; Dave Wilson of Scrivner of Iowa in Laurens for being a major sponsor of Industry Days, which promotes employment opportunities; Chuck Ramsbacher of Nash Finch Co. in Cedar Rapids—their Econofoods stores distributed seedlings to customers to promote tree plantings in conjunction with Earth Day; Gene Foltz of Super Valu Stores in Des Moines for their Protect the Future Environmental Program to educate the consumer on recycled and recyclable packaging; Matt Andersen of Liddle's Super Valu Foods in New Hampton for their Grocers Fight Cancer promotion; Phyllis Pals of P&G Market in Belmond for their Grocers Fight Cancer Program; John Daugherty of Daugherty's Market in Adel sponsored cloth shopping bags which are being sold by students to raise money for environmental projects; and Russ Hale of Fairco-Associated Grocers in Ankeny for being a major sponsor of Red Ribbon Week, which promotes activities to demonstrate a commitment to a drug-free America.

These individuals and their companies deserve our recognition and the support of investing ourselves in our communities, as is their example.●

NATIONAL BEVERAGE CONTAINER REUSE AND RECYCLING ACT—S. 1318

● Mr. HATFIELD. Mr. President, yesterday, Senators PACKWOOD, JEFFORDS, and I introduced the National Beverage Container Reuse and Recycling Act, which is now Senate bill 1318. I now ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—This Act may be cited as the "National Beverage Container Reuse and Recycling Act".

SEC. 2. AMENDMENTS TO SOLID WASTE DISPOSAL ACT.—Title II of the Solid Waste Disposal Act (42 U.S.C. 3251 et seq.) is amended by adding at the end thereof the following new subtitle:

"Subtitle L—Beverage Container Recycling and Reuse

"SHORT TITLE; FINDINGS

"SEC. 12001. (a) SHORT TITLE.—This subtitle may be cited as the 'Beverage Container Reuse and Recycling Act'.

"(b) FINDINGS.—Congress finds and declares that—

"(1) the failure to reuse and recycle empty beverage containers represents a significant and unnecessary waste of important national energy and material resources;

"(2) nonbiodegradable beverage containers represent a continued threat to the environment;

"(3) solid waste resulting from such empty beverage containers constitutes a significant and rapidly growing proportion of municipal solid waste and increases the cost and problems of effectively managing the disposal of such waste;

"(4) disposal of such solid waste, which imposes severe problems in both urban and rural aspects of our environment as well as a financial burden on local and State governments, could be minimized by the recycling of empty beverage containers;

"(5) waste resulting from littering or discarding of certain containers constitutes a significant health hazard and poses a threat to children and others due to broken glass, detachable openings and other sharp objects present in recreation and other environments;

"(6) several States have previously enacted and implemented State laws designed to protect the environment, conserve energy and material resources and promote resource recovery of waste by requiring a refund value on the sale of all beverage containers, and these have proven effective as well as inexpensive to administer due to their self-enforcing nature;

"(7) a national system for requiring a refund value on the sale of all beverage containers would act as a positive incentive to individuals to clean up the environment and would result in a high level of reuse and recycling of such containers and help reduce the costs associated with solid waste management;

"(8) a national system for requiring a refund value on the sale of all beverage containers would result in significant energy conservation and resource recovery;

"(9) the reuse and recycling of empty beverage containers would eliminate these unnecessary burdens on the Federal Government, local and State governments, and the environment;

"(10) a national system of beverage container recycling is consistent with the intent of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.);

"(11) the provisions of this subtitle are consistent with the goals set in January 1988, by the Environmental Protection Agency, which establish a national goal of 25 percent source reduction and recycling by 1992, coupled with a substantial slowing of the projected rate of increase in waste generation by the year 2000; and

"(12) recycling the beverage containers of this Nation would result in a 6 to 8 percent reduction in the solid waste stream of this Nation.

"DEFINITIONS

"SEC. 12002. (a) DEFINITIONS.—For the purposes of this subtitle, the term—

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) 'beverage' means carbonated or noncarbonated mineral water, water, beer, wine, fruit juice, juice drink, soft drink, malt beverage, mixed beverages, distilled spirits, mixed spirit drink or mixed wine drink;

"(3) 'beverage container' means the individual bottle or can, with a capacity of up to one gallon, in which a beverage is sold, and that is constructed of metal, glass, or plastic, or any combination of these materials. Such term does not include cups or other similar open or loosely sealed containers;

"(4) 'refundable beverage container' means a beverage container which has clearly, prominently, and securely affixed to such container, or printed, embossed, or incised into such container (in accordance with section 12003), a statement of the amount of the refund value of the container, and which is in a condition required by this subtitle;

"(5) 'consumer' means a person who purchases a beverage in a beverage container for any use other than resale;

"(6) 'distributor' means a person who sells or offers for sale in interstate commerce beverages in beverage containers for resale;

"(7) 'retailer' means a person who purchases from a distributor beverages in beverage containers for sale in interstate commerce to a consumer or who sells or offers to sell in interstate commerce beverages in beverage containers to a consumer;

"(8) 'interstate commerce' means trade, traffic, or transportation—

"(A) between a place in a State and any place outside thereof,

"(B) within the District of Columbia or any territory or possession of the United States, or

"(C) which affects trade, traffic, commerce, or transportation described in subparagraph (A) or (B); and

"(9) 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

"(b) REGULATIONS.—The Administrator shall prescribe such regulations as may be necessary to establish who is a retailer with respect to the sale of beverages in beverage containers to consumers through beverage vending machines. In addition, such regulations shall prescribe the condition in which a beverage container must be submitted in order to be redeemed under the program, and shall provide for the establishment of a refund mechanism necessary to carry out the purposes of this subtitle.

"BEVERAGE CONTAINER PROGRAM

"SEC. 12003. PROGRAM.—Prior to the expiration of the 180 day period following the date of the enactment of this section, the Administrator shall, by regulation, establish a program to prohibit any distributor or retailer from selling or offering for sale, in interstate commerce, a beverage in a beverage container unless there is clearly, prominently, and securely affixed to such container, or printed, embossed, or incised into such container, a statement which includes the refund value. Such program shall take effect in accordance with the provisions of section 12005 and shall require, among other things, that—

"(1) if a consumer tenders for refund a refundable beverage container to a retailer or redemption center, the retailer or redemption center shall promptly pay the consumer the amount of the refund value stated on the container;

"(2) if a retailer, redemption center, or consumer tenders an empty refundable beverage container to a recycling entity for processing, the appropriate State agency or other entity designated by the Administrator, upon application, shall promptly pay the retailer, redemption center, or consumer, as the case may be, the amount of the refund stated on the container pursuant to this subtitle;

"(3) no beverage shall be sold or offered for sale, in interstate commerce, at wholesale, unless the distributor charges and the retailer pays, on each such beverage container, a minimum of 10 cents;

"(4) no such beverage shall be sold or offered for sale, in interstate commerce, at retail, including by vending machines, unless the retailer charges and the consumer pays, on each such beverage container, a minimum of 10 cents;

"(5) the distributor deposits all moneys collected pursuant to such program at such time and place as the Administrator shall direct;

"(6) unclaimed deposits be made available, from time to time, for purposes of paying, subject to the availability of unclaimed deposits, a handling fee up to 2 cents for each beverage container; and

"(7) unclaimed deposits not used toward payment of a handling fee be used to promote comprehensive recycling, such as development of redemption centers, curbside recycling or for other purposes related to recycling.

"PENALTIES

"SEC. 12004. VIOLATIONS.—Whoever violates any provision of section 12003, or regulation or rule issued pursuant thereto, shall be fined not more than $1,000 for each violation.

"EFFECTIVE DATES

"SEC. 12005. EFFECTIVE DATE.—The provisions of section 12003 shall apply, subject to the provisions of section 3 of the National Beverage Container Recycling Act, with respect to beverages sold or offered for sale in interstate commerce on or after the expiration of the 2-year period following the date of the enactment of this subtitle.".

SEC. 3. (a) EXEMPTION FROM APPLICATION OF AMENDMENTS ON THE BASIS OF A 70 PERCENT RECYCLING RATE.—The provisions of subtitle L of the Solid Waste Disposal Act shall not be applicable to any State which demonstrates to the Administrator of the Environmental Protection Agency that, for any period of 18 consecutive months following the date of the enactment of this Act, such State achieved a recycling or reuse rate of beverage containers equal to 70 percent of the beverage containers sold at retail in such State during the preceding 18 consecutive month period. Notwithstanding the preceding sentence, if at anytime following a determination that a State has achieved a 70 percent recycling or reuse rate the Administrator determines that such State has failed, for any 18-consecutive-month period, to maintain at least such a 70 percent recycling or reuse rate of its beverage containers, the Administrator shall notify such State that, upon the expiration of the 90-day period following such notification, the provisions of such subtitle L shall be applicable to that State.

(b) EXEMPTION FROM APPLICATION OF AMENDMENTS ON THE BASIS OF EQUALLY STRINGENT PROGRAM.—Any State which has in effect and is enforcing a program requiring the recycling or reuse of beverage containers may make application to the Administrator of the Environmental Protection Agency requesting that such State be exempted from the application of the provisions of subtitle L of the Solid Waste Disposal Act. If the Administrator determines, on the basis of such application, that the State program—

(1) is equally as stringent as the program provided for by such subtitle; and

(2) substantially complies with the requirements set forth in subsection (c) of this section;

the Administrator shall exempt such State from the requirements of such subtitle for such period as the State program is in effect and enforced. In the event that the Administrator terminates an exemption under this section in connection with any State, subtitle L of the Solid Waste Disposal Act shall, at such time as the Administrator shall determine, be applicable to such State.

(c) REQUIREMENTS FOR STATE PROGRAM.—For purposes of subsection (b), each such State program, in order to qualify for an exemption, shall substantially comply with the following minimum requirements:

(1) A minimum refund value of ten cents for each beverage container.

(2) A requirement that each distributor of beverage containers turn over to the State all deposits collected by such distributor from a retailer pursuant to this section, and that such deposits be deposited in a fund for use in accordance with paragraph (3).

(3) A requirement that upon application to a State, the State shall pay from the fund established pursuant to paragraph (2), a handling fee not to exceed 2 cents for each beverage container redeemed by a retailer or redemption center, and provide for conveniently located redemption services in accordance with paragraph (11). In the event that the unredeemed deposits in the fund are insufficient to pay the stated handling fee, that fee shall be reduced to a level for which there are sufficient funds.

(4) A requirement that, if a retailer, redemption center or consumer returns an empty refundable beverage container to a distributor or a processing facility, the State, upon application, shall promptly pay the retailer, redemption center, or consumer, as the case may be, the amount of the refund value stated on the container pursuant to this Act.

(5) A requirement that the State consider the size of the container in establishing the refund value of a beverage container in excess of 10 cents.

(6) A definition of 'beverage containers' and 'beverage' as provided in section 12002 of the Solid Waste Disposal Act.

(7) Establishment of convenient retailer or redemption center sites.

(8) A requirement that no beverage shall be sold or offered for sale—

(A) at wholesale, unless the distributor charges and the retailer pays, on each such beverage container, a minimum of 10 cents;

(B) at retail, including by vending machines, unless the retailer charges and the purchaser pays, on each such beverage container, a minimum of 10 cents; and

(C) unless the beverage container clearly indicates the refund value.

(9) A prohibition against the post-redemption disposal of any beverage container in a landfill or any other solid waste disposal facility.

(10) A requirement that each beverage container manufacturer shall clearly indicate by engraving, embossing, molding, stamping, labeling, or other appropriate methods, the refund value of the beverage container and the name or abbreviation of the State in which such container is manufactured, but nothing in this subsection shall be construed as prohibiting the reuse of a beverage container.

(11) A requirement that each retailer provide for redemption of beverage containers, including, at the discretion of the retailer, the establishment of redemption centers no more than a ½ mile radius of such retailer.

(12) A requirement that manufacturers, distributors, and processors of beverages or beverage containers shall provide such records and reports as may be necessary to enable a State to carry out its beverage container recycling and reuse program.

(13) A requirement that criminal penalties and civil penalties be provided for violations of State recycling and reuse laws involving empty beverage containers.

SEC. 4. REGULATIONS.—The Administrator of the Environmental Protection Agency shall issue such regulations as may be necessary to carry out the provisions of this Act, and the amendments made by this Act.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Andrew K. Semmel, a member of the staff of Senator RICHARD G. LUGAR, to participate in a program in Singapore, sponsored by the Institute of Policy Studies, from May 25–June 1, 1990.

The committee has determined that participation by Mr. Semmel in the program in Singapore, at the expense of the Institute of Policy Studies, is in the interest of the Senate and the United States.•

THE INDEPENDENCE OF THE SOUTH DAKOTA ELECTORATE IN PRESIDENTIAL ELECTIONS: A PAPER BY PROF. PHILIP A. GRANT

• Mr. DASCHLE. Mr. President, Philip A. Grant, Jr., professor of history at Pace University, recently provided me with a very informative paper that analyzes both the Republican and Democratic Presidential primaries in South Dakota and stresses the independence of the South Dakota electorate. His paper was delivered at the 1990 Dakota History Conference at Augustana College.

Professor Grant is a scholar very familiar with elections and public officials throughout South Dakota's history. His most recent paper in this area explores the idea that delegates to party conventions should be elected directly by the people, and I commend it to my colleagues' attention. Mr. President, I ask that Professor Grant's paper be included at this point in the RECORD.

The paper follows:

PRESIDENTIAL PRIMARIES IN SOUTH DAKOTA, 1952–80

(By Philip A. Grant, Jr.)

Between 1952 and 1980 millions of American citizens availed themselves of the opportunity to participate in the process of nominating presidential candidates. During these years both the Democratic and Republican Parties engaged in the task of choosing delegates to their respective national conventions. In many states these delegates were elected in presidential primaries. In addition to contributing to the selection of delegates the various primaries frequently indicated the levels of popular support for presidential contenders of the two major parties.[1]

South Dakota was among the thirteen states holding presidential primaries in every national election year from 1952 to 1980. Unlike the states which scheduled their presidential primaries in the late winter or early spring, the South Dakota primary contest always occurred during the first week of June. Between 1952 and 1972 the victor in South Dakota's presidential primary was allotted all of the state's delegates to the Democratic and Republican conventions, while in 1976 and 1980 provision was made for a proportionate split of the delegates of both parties.

In 1952 Senator Estes Kefauver of Tennessee surprised many political observers by challenging Democratic President Harry S. Truman for renomination. It was widely assumed that Truman would seek re-election in 1952 and it was anticipated that the incumbent Chief Executive would encounter only minimal difficulty in disposing of Kefauver. Not only did Kefauver upset Truman in the New Hampshire primary, but also the President startled the nation on March 29 by announcing that he would not be a candidate for re-election. Since Kefauver had already been campaigning in nearly all of the primary states, he enjoyed a distinct advantage over other actual or potential rivals for the democratic nomination. Kefauver proved to be especially popular in the Midwest, winning primaries in Ohio, Illinois, Wisconsin, and Nebraska. The Tennessean climaxed his numerous primary triumphs by scoring a solid victory in South Dakota on June 3. On that date Kefauver's slate of delegates outpolled an unpledged group of delegates by a margin of 22,812–11,741 (65.8%). As a consequence of his impressive primary victory, Kefauver received South Dakota's eight delegates to the Democratic convention.[2]

The 1952 Republican presidential contest involved General Dwight D. Eisenhower and Senator Robert A. Taft of Ohio. Eisenhower, a national hero by every standard, was supported by a bloc of governors from the populous states of the Northeast, while Taft, serving his third term in the Senate, was favored by most of the prominent Republican leaders of the Midwest. Since Taft was an avowed conservative on domestic issues and a steadfast isolationist on foreign policy questions, it was expected that he would easily prevail in the South Dakota primary. Indeed Taft had earlier recorded primary victories in Ohio, Illinois, Wisconsin, and Nebraska. Since Eisenhower was still occupying the post of Supreme Allied Commander in Europe and had not officially announced his candidacy, he was unable to travel to South Dakota and the other primary states. Instead of resulting in an emphatic Taft victory, the South Dakota primary proved to be extraordinarily close in numerical terms. The final outcome was as follows: Taft 64,695 (50.3%)–Eisenhower 64,995 (49.7%). While Taft gained the fourteen delegates to the Republican convention, Eisenhower's campaign received an obvious psychological boost from the General's strong showing in the South Dakota primary.[3]

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[1] Between 1952 and 1980 58,817,396 Republicans and 71,029,198 Democrats voted in presidential primaries. Altogether one hundred and fifty-eight primaries were held during this twenty-eight year period. James W. Davis, "Presidential Primaries" (Westport, Connecticut: Greenwood Press, 1980); "Guide to U.S. Elections" (Washington: Congressional Quarterly, Inc., 1985), pp. 408–435.

[2] State of South Dakota, "Legislative Manual, 1953" (Pierre: 1953), p. 145; Robert J. Donovan, "Tumultuous Years: The Presidency of Harry S. Truman, 1949–1953" (New York: W.W. Norton and Company, 1982), pp. 394–397; Joseph B. Gorman, "Kefauver: A Political Biography" (New York: Oxford University Press, 1972), pp. 115–141.

In 1956 Kefauver launched his second bid for the presidency. Like 1952, the Tennessee senator was determined to win most, if not all, of the presidential primaries. After repeating his New Hampshire primary victory of 1952, Kefauver campaigned vigorously throughout the Midwest. In 1956 Kefauver won primaries in Ohio, Indiana, Wisconsin, Nebraska, and Minnesota. Kefauver in 1956 concentrated on agricultural issues, promising general federal farm subsidies. Kefauver was unopposed in the June 5 South Dakota primary, polling 30,940 votes. While Kefauver withdrew from the presidential race after losing in the Florida, Oregon, and California primaries, he retained the loyalty of South Dakota's eight convention delegates in his successful quest for the Democratic vice-presidential nomination.[4]

Eisenhower, completing his first term in the White House, was unopposed for renomination in 1956. The President, who had carried South Dakota and thirty-eight of the other forty-seven states in 1952, was extremely popular and was heavily favored for reelection to a second term. In sharp contrast to 1952 Eisenhower received all of the 59,374 votes cast in the 1956 South Dakota G.O.P. presidential primary.[5]

In 1960 two Democrats, Senators John F. Kennedy of Massachusetts and Hubert H. Humphrey of Minnesota, competed against one another in the presidential primaries. The youthful Kennedy had attracted nationwide attention by narrowly losing the 1956 vice-presidential contest to Kefauver. Humphrey, a native of Doland, South Dakota, was completing his second term in the Senate. Kennedy, a highly effective campaigner, compiled an unblemished record of success in the ten presidential primaries which he opted to enter. Notwithstanding his distinguished record on Capitol Hill, Humphrey failed to win a single presidential primary and graciously ended his candidacy after losing to Kennedy in West Virginia in May. Humphrey was the sole candidate on the South Dakota ballot in the June 7 primary, but, inasmuch as he had ceased to be a candidate, only 24,773 Democrats bothered to vote in the primary itself. Because Humphrey had released all his delegates, the South Dakotans selected to attend the 1960 Democratic convention were free to vote for any of the several remaining candidates. Four of South Dakota's delegates were aligned in favor of Senator Kennedy, while the other members of the delegation were divided between three of the Massachusetts senator's rivals.[6]

While the Democrats in 1960 had a rather spirited contest for their presidential nomination and did not actually designate their candidate until Wyoming, the final state in the alphabetical listing, cast its vote at the party convention, the Republicans without delay united behind Vice-President Richard M. Nixon. Nixon faced no opposition whatever for the G.O.P. presidential nomination. The Vice-President, who was well-known in South Dakota because of his close friendship with Senator Karl E. Mundt, received 48,461 votes in the state's presidential primary. Since Nixon was mathematically assured of the Republican presidential nomination, he did not find it necessary to appear in South Dakota. Instead by June Nixon was earnestly preparing his campaign for the general election in November.[7]

By 1964 Lyndon B. Johnson had succeeded the late President Kennedy. During the weeks and months following Kennedy's tragic assassination, Johnson had conducted himself with remarkable dignity and had persuaded Congress to pass a substantial number of landmark bills. The public opinion polls established that Johnson in 1964 was likely to be elected to a full term by an overwhelming majority. Unopposed for his party's nomination, Johnson tabulated 28,172 votes in South Dakota's June 2 primary.[8]

The struggle for the 1964 Republican nomination was waged primarily between Senator Barry M. Goldwater of Arizona, an ultra-conservative, and Governor Nelson A. Rockefeller of New York, a self-proclaimed moderate liberal. While Goldwater fared well in several presidential primaries, his supporters were forced to compete with an unpledged slate of delegates in South Dakota. The members of the unpledged slate, while not necessarily hostile to Goldwater, claimed that the Republican Party should seriously consider choosing a compromise candidate as its nominee. In what proved to be somewhat of an upset in 1964, the unpledged slate of delegates crushed the slate committed to Goldwater. The official figures were: Unpledged 57,653 (67.4%)–Goldwater 27,076 (32.6%).[9]

Because of increasing anguish over the nation's prolonged and costly military involvement in Vietnam and the steady decline in President Johnson's popularity, Republicans were genuinely hopeful about their prospects of recapturing the White House in 1968. The major public opinion polls indicated that former Vice-President Nixon was clearly the frontrunner for the 1968 G.O.P. nomination. At the outset of the campaign Nixon's two principal rivals were Governors George M. Romney of Michigan and Nelson A. Rockefeller of New York. Romney, after faltering in the early stages of the New Hampshire primary campaign, withdrew from the presidential race on February 28, while Rockefeller announced on March 21 that he had definitely decided not to be a candidate. Thus, by late March Nixon was unopposed for the Republican nomination. As the only Republican appearing on the ballot, Nixon polled 68,113 votes in South Dakota's June 4 presidential primary.[10]

Unlike the Republicans, the Democratic Party in 1968 was to engage in an acrimonious internal struggle. President Johnson was challenged for renomination by two outspoken critics of his Vietnam policy, Senators Eugene J. McCarthy of Minnesota and Robert F. Kennedy of New York. After Johnson abruptly withdrew as a candidate on March 31, Vice-President Hubert H. Humphrey belatedly entered the presidential contest. By the time Humphrey launched his candidacy the deadlines for participating in the various presidential primaries had passed. McCarthy handily won primaries in Wisconsin, Pennsylvania, Massachusetts, and Oregon, while Kennedy scored impressive primary victories in Indiana, Nebraska, and the District of Columbia. In addition to McCarthy and Kennedy, Johnson was listed on the June 4 primary ballot. The Johnson slate of delegates was led by Robert M. Chamberlain, South Dakota's Democratic State Chairman and the 1966 Democratic nominee for Governor. Chamberlain, an avowed Humphrey supporter, pledged that the Johnson delegates would be available for the Vice-President. While it was generally expected that Kennedy would prevail in the primary, there was some doubt about his projection margin of victory. On June 4 Kennedy overwhelmed Johnson and McCarthy. The result of the primary was as follows:

Kennedy	31,826
Johnson	19,316
McCarthy	13,145

Inasmuch as seventy percent of South Dakota Democrats had voted for either Kennedy or McCarthy, there was a feeling that the primary reflected widespread disillusion with the Vietnam War. After the tragic death of Senator Kennedy, his colleague, Senator George S. McGovern of South Dakota, became a candidate for the presidency in August. At the 1968 Democratic National Convention in Chicago the South Dakota delegation cast all twenty-six of its votes in favor of inserting a peace plank in the party platform and favored McGovern over Humphrey by a margin of 24–2.[11]

In sharp contrast to 1968 the political scene in South Dakota was rather tranquil during the spring of 1972. President Nixon, heavily favored in his quest for re-election, was confronted with only token opposition in the series of Republican presidential primaries between March and June. Indeed Nixon was unopposed in the June 6 South Dakota primary, attracting 52,820 votes. Senator McGovern, while discounted as a serious contender for the Democratic nomination in late 1971 and early 1972, won Democratic primaries in Wisconsin, Nebraska, Massachusetts, Oregon, and Rhode Island. One of McGovern's two major rivals, Senator Edmund S. Muskie of Maine, suspended his presidential candidacy on April 27, while another, Governor George C. Wallace of Alabama, was incapacitated after an assassination attempt on May 13, McGovern faced no opposition in the June 6 South Dakota primary, receiving 28,017 votes. Interestingly, McGovern also won primary victories in New Mexico and California on June 6, virtually guaranteeing that he would secure the Democratic nomination on the first ballot.[12]

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[3] Stephen E. Ambrose, "Eisenhower: Soldier, General of the Army, President-Elect" (New York: Simon and Shuster, 1983), pp. 524–536; James T. Patterson, "Mr. Republican: A Biography of Robert A. Taft" (Boston: Houghton Mifflin Company, 1972), pp. 517–536; Philip A. Grant, Jr., "The 1952 Republican Presidential Primary," (South Dakota History, Winter 1977), VII, 46–58; Times, New York, N.Y., June 4, 1952, pp. 1, 22; June 5, 1952, pp. 1, 17.

[4] Charles A.H. Thomson and Frances M. Shattuck, "The 1956 Presidential Campaign" (Washington: The Brookings Institution, 1960), pp. 36–61; John H. Runyon, Jennefer Verdini, and Sally S. Runyon, "Sourde Book of American Presidential Campaign and Election Statistics" (New York: Frederick Ungar Publishing Company, 1971), p. 13.

[5] Elmo Richardson, "The Presidency of Dwight D. Eisenhower" (Lawrence: University of Kansas Press, 1979), pp. 89–92; Malcolm Moos, "Election of 1956," (History of American Presidential Elections, 1789–1968, 4 vols.; New York: Chelsea House Publishers, 1971), IV, 3341–3354.

[6] Carl Solberg, "Hubert H. Humphrey: A Biography" (New York: W.W. Norton and Company, 1984), pp. 199–212; Theodore H. White, "The Making of the President, 1960" (New York: Atheneum Publishers, 1961), pp. 78–114; Times, New York, N.Y., May 11, 1960, pp. 1, 31; Congressional Quarterly, May 27, 1960, p. 926; June 10, 1960, p. 998.

[7] Stephen E. Ambrose, "Nixon: The Education of a Politician, 1913–1962" (New York: Simon and Shuster, 1987), pp. 535–546; George H. Mayer, "The Republican Party, 1854–1964" (New York: Oxford University Press, 1964), pp. 506–510; Richard C. Bain and Judith H. Parris, "Convention Decisions and Voting Records" (Washington: The Brookings Institution, 1973), pp. 306–308.

[8] Michael Amrine, "This Awesome Challenge: The Hundred Days of Lyndon Johnson" (New York: G.P. Putnam's Sons, 1964); Doris Kearns, "Lyndon Johnson and the American Dream" (New York: Harper and Row, Publishers, 1976), pp. 170–209.

[9] Theodore H. White, "The Making of the President, 1964" (New York: Athenuem Publishers, 1965), pp. 98–129; Congressional Quarterly, May 27, 1964, p. 1003; June 5, 1964, p. 1089; Times, New York, N.Y., June 3, 1964, p. 30.

[10] George H. Gallup, "The Gallup Poll, 1959–1971" (New York: Random House, 1971), pp. 2089, 2096, 2102, 2103, 2106, 2108, 2109, 2113; Times, New York, N.Y., February 29, 1968, pp. 1, 22, 23; March 22, 1968, pp. 1, 32, 33, 34, 35; Leonard Levine, "The Running of Richard Nixon" (New York: Coward, McCann and Geoghegan, 1972), pp. 291–296.

[11] "Public Papers of the Presidents of the United States: Lyndon B. Johnson, 1968–1969" (Washington: United States Government Printing Office, 1970), pp. 469–476; Post, Washington, D.C., April 1, 1968, pp. 1, 12, 13, 14, 15; Times, New York, N.Y., April 1, 1968, pp. 1, 26, 27; April 28, 1968, pp. 1, 32; August 11, 1968, pp. 1, 61, 62; Convention Decisions and Voting Records, pp. 322–327; Arthur M. Schlesinger, Jr., "Robert Kennedy and His Times" (Boston: Houghton Mifflin Company, 1978), pp. 880–883; Jules Witcover, "85 Days; The Last Campaign of Robert Kennedy" (New York: G.P. Putnam's Sons, 1969), pp. 128–182.

In 1976 Gerald R. Ford, who had become the nation's Chief Executive after the resignation of President Nixon in August 1974, was considered politically vulnerable. Ford had not only provoked resentment by his controversial pardon of his disgraced predecessor, but had also encountered numerous difficulties in his relations with Congress. Competing with Ford for the 1976 Republican presidential nomination was former Governor Ronald Reagan of California, and articulate conservative. Reagan charged that Ford had been conspicuously ineffective both in the White House and as the leader of the Republican Party. Reagan's spirited campaign against Ford gained considerable momentum as the Californian defeated the President in the North Carolina, Georgia, Indiana, Nebraska, Arkansas, Idaho, and Nevada primaries. By late May it appeared that Ford was in a highly precarious position. It was generally anticipated that the June 1 South Dakota primary would be fairly close. Instead Reagan outpolled Ford by a tabulation of 43,038–36,976. Reagan's decisive triumph in South Dakota confirmed beyond any doubt that many Republicans throughout the country had lost confidence in President Ford.[13]

Due to the sustained publicity surrounding the Watergate scandal, the adverse impact of the Nixon pardon, and the divisive struggle between Ford and Reagan, Democrats felt that they were in a strong position to win the presidency in 1976. The most visible Democratic contenders were former Governor Jimmy Carter of Georgia, Governor Edmund G. Brown of California, Senator Frank F. Church of Idaho, and Congressman Morris L. Udall of Arizona. Altogether Carter won thirteen primaries over a three month period. Brown was the primary victor in only two states, while Church prevailed in three primary races, including his home state of Idaho. The June 1 South Dakota primary narrowed to a contest between Carter and Udall. Since Udall had not finished first in a single primary, his survival depended on vanquishing Carter in South Dakota. While failing to gain an absolute majority of the popular vote, Carter defeated Udall by a margin of 24,186–19,510. A total of 12,975 South Dakota Democrats, voted either for minor candidates or none of the individuals listed on the ballot. In the aftermath of the South Dakota presidential primary Carter was within a few hundred votes of clinching the Democratic nomination.[14]

In 1980 Ronald Reagan, who had commanded the support of 1,070 delegates at the 1976 Republican National Convention, was again a candidate for the G.O.P. presidential nomination. After easily winning the nation's first primary in New Hampshire, Reagan promptly disposed of most of his Republican competitors. By late April only former C.I.A. Director George Bush had not conceded the nominaiton to Reagan. Reagan accomplished the feat of prevailing over Bush in twenty of the twenty-four presidential primaries between March and May. Inasmuch as Bush trailed Reagan by seven hundred and eighteen delegates and had lost every primary contest west of the Mississippi River, it seemed unlikely that he would make a creditable showing in the June 3 South Dakota primary. Bush, noting the burden of his substantial campaign debt and foreseeing the inevitability of a Reagan nomination, withdrew from the presidential race on May 26. Under the circumstances, it was a foregone conclusion that Reagan would win the South Dakota primary by a landslide margin. The official primary statistics were as follows:[15]

Reagan	72,861
Bush	3,691

While Carter was elected president in 1976, many Democrats were skeptical about the degree of his commitment to the activist tradition of the New Deal, Fair Deal, and New Frontier. During his second and third years in the White House Carter was blamed for the lingering energy crisis, constantly rising inflation, and an apparent inability to communicate with Congress. After hesitating for several months in the spring and summer of 1979, Senator Edward M. Kennedy of Massachusetts decided to challenge Carter for renomination. Kennedy, the last surviving male member of the nation's most illustrious political family, charged that Carter had consciously betrayed the longstanding liberal heritage of the Democratic Party. While Kennedy mounted a vigorous campaign against Carter, the President's statute was temporarily bolstered as the American people rallied behind his leadership during the early months of the Iranian hostage crisis. Kennedy's successes against Carter were limited to primary victories in the densely populated northeastern states of Massachusetts, Connecticut, New York, and Pennsylvania. By the week prior to the June 3 South Dakota primary Carter led Kennedy in convention delegates by a count of 1,386–756. Kennedy's only hope of overtaking Carter was to humiliate the President in all of the final eight primaries scheduled for June 3. In South Dakota Kennedy, carrying thirty-nine of the state's sixty-seven counties, outpolled Carter 33,418–31,231. While Kennedy also won June 3 primaries in Rhode Island, New Jersey, New Mexico, and California, he lacked sufficient delegates to block Carter's renomination. The South Dakota primary result, while embarrassing to Carter, had no bearing on the outcome of the fierce battle within the Democratic Party.[16]

In South Dakota's eight presidential primaries between 1952 and 1980 an average of 88,623 Republicans and 42,731 Democrats were to participate in the balloting. While these figures suggested voter apathy, it must be remembered that four of the eight Republican primaries and five of the eight Democratic primaries were uncontested. The maximum degree of vote involvement for the Republican Party occurred in the 1952 contest between Senator Taft and General Eisenhower, while the largest turnout for the Democrats was tabulated in the race between President Carter and Senator Kennedy in 1980. Among Republicans Ronald Reagan in 1980 received the greatest number of primary votes, while in the same year Edward M. Kennedy attracted a record Democratic vote for a victorious candidate for his party.

There was three principal reasons why the South Dakota primary had only limited influence in the preconvention presidential campaigns of the two major parties. They were as follows: (1) The comparatively small numbers of delegates allotted to South Dakota Republicans and Democrats; (2) The fact that the primary was always held at such a late date in the spring season; (3) The competition provided by such other more populous states as California, Ohio, and New Jersey.

In 1952 South Dakota accounted for only 14 of the 1,206 delegates (1.2%) to the Republican National Convention and a mere 8 of the 1,230 delegates (0.7%) to the Democratic National Convention. As South Dakota's population failed to grow with each passing decade, its political influence decreased in a proportionate manner. In 1980 South Dakota furnished 22 of the 1,994 Republican delegates (1.1%) and 19 of the 3,381 Democratic delegates (0.6%). Between 1952 and 1980 presidential candidates of the two major parties concentrated on winning primaries in such large states as Pennsylvania and California. Pennsylvania had 70 Republican delegates in 1952 and 83 Republican delegates in 1980, while the number of G.O.P. delegates from California increased from 70 to 168. For the Democratic Party the delegate totals were as follows:

	1952	1980
Pennsylvania	70	185
California	88	306

Between 1952 and 1980 the number of South Dakotans voting in presidential primaries dropped from 163,127 to 151,608. During the same period the nationwide total of citizens participating in such primaries increased from 12,729,421 to 31,438,276.

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[12] Congressional Quarterly, May 27, 1972, pp. 1204–1205; June 10, 1972, p. 1314; Times, New York, N.Y., April 28, 1972, pp. 1, 72; May 16, 1972, pp. 1, 34, 35; Post, Washington, D.C., April 28, 1972, pp. 1, 2; May 16, 1972, pp. 1, 10; Gordon L. Weil, "The Long Shot—George McGovern Runs for President" (New York: W.W. Norton and Company, 1972), pp. 291–296; Stephen E. Ambrose, "Nixon: The Triumph of a Politician" (New York: Simon and Schuster, 1989), pp. 497–554; Herbert S. Parmet, "The Democrats; The Years After FDR" (New York: Macmillan Publishing Company, Inc., 1986), pp. 269–302.

[13] Lou Cannon, "Reagan" (New York: G. P. Putnam's Sons, 1982), pp. 210–226; Gerald R. Ford, "A Time to Heal; The Autobiography of Gerald R. Ford" (New York: Harper and Row, Publishers, 1979), pp. 333–388; "America Votes, 1976" (Washington: Congressional Quarterly, Inc., 1977), pp. 22–26; Post, Washington, D.C., June 2, 1976, pp. 1, 4; June 3, 1976, p. 16.

[14] Betty Glad, "Jimmy Carter; In Search of the Great White House" (New York: W. W. Norton and Company, 1980), pp. 229–259; Congressional Quarterly, May 15, 1976, pp. 1213–1214; June 5, 1976, pp. 1423–1424; Times, New York, N.Y., June 1, 1976, pp. 1, 42; June 2, 1976, pp. 1, 20; June 3, 1976, pp. 1, 29.

[15] "America Votes, 1980" (Washington: Congressional Quarterly, Inc., 1981), pp. 33–39; Congressional Quarterly, May 31, 1980, p. 1647; Post, Washington, D.C., May 27, 1980, pp. 1, 5; Times, New York, N.Y., May 27, 1980, pp. 1, B–9.

[16] William E. Leuchtenberg, "In the Shadow of FDR: From Harry Truman to Ronald Reagan" (Ithaca: Cornell University Press, 1983), pp. 202–206; Elizabeth Drew, "Portrait of an Election; The 1980 Presidential Campaign" (New York: Simon and Schuster, 1981), pp. 158–187; Congressional Quarterly, May 24, 1980, p. 1423; June 7, 1980, pp. 1949–1550; Times, New York, N.Y. June 3, 1980, pp. 1, B–10; June 4, 1980, pp. 1, 34; Post Washington, D.C., June 3, 1980, pp. 1, 4; June 4, 1980, pp. 1, 16, 17.

Unlike such early primary states as New Hampshire and Wisconsin, South Dakota's presidential primary has often been held either after candidates on the ballot have withdrawn or after the respective nominations have been settled. For the Democrats Senator Humphrey in 1960 and President Johnson in 1968 had withdrawn before the South Dakota primary. For the Republicans George Bush in 1980 had terminated his candidacy prior to the South Dakota primary. In 1956 Adlai E. Stevenson, who refrained from entering the South Dakota primary, was certain to be the Democratic nominee, while four years later John F. Kennedy, who also had not been on the South Dakota primary ballot, was within only a few votes of securing his party's nomination. Ronald Reagan had eliminated all his Republican competitors by the date of the 1980 primary. Only in 1952 and 1976 was the Republican nomination really in doubt by the date of the primary and only in 1968 and 1980 was the identity of the Democratic nominee yet to be determined. Interestingly, South Dakota favored Senator Taft in 1952 and former Governor Reagan in 1976, neither of whom prevailed at the Republican National Convention. Moreover, South Dakota chose Senator Robert F. Kennedy in 1968 and Senator Edward M. Kennedy in 1980, while the Democratic National Convention nominated other candidates.

If South Dakota had been the scene of the nation's only presidential primary in early June, it might have been more meaningful. Unfortunately, South Dakota was competing with populous California in seven of the eight presidential primary contests between 1952 and 1980. Since California was also the home states of such well-known presidential candidates as Richard M. Nixon, Ronald Reagan, and Edmund G. Brown, it attracted disproportionate attention in the media. Furthermore, South Dakota was in direct competition with New Jersey in 1968, 1972, and 1980 and with Ohio in 1980. In 1956 Governor Stevenson, while ignoring South Dakota, gained 68 delegates in the California primary. In 1964 Senator Goldwater lost the South Dakota primary to a slate of unpledged delegates, but won 86 delegates in California. Finally, in 1980 President Carter was defeated in South Dakota, but secured 89 delegates in Ohio. It was quite evident that the South Dakota primary had no harmful effects on Stevenson in 1956, Goldwater in 1964, or Carter in 1980. These candidates instead scored solid primary victories in states containing large blocs of delegates. Indeed by 1980 South Dakota accounted for only 22 of the 418 Republican delegates chosen in primaries on the first Tuesday in June and only 18 of the 696 Democratic delegates.•

REACHING OUT TO ORPHANS

• Mr. SIMON. Mr. President, I would like to recognize the efforts of the Orphan Foundation of America in initiating a program called Congratulate the Graduate. Last May in Illinois, 274 high school seniors prepared to graduate without a family to celebrate with them and recognize their achievement.

The Orphan Foundation of America is an organization dedicated to easing a young person's transition from the social service system to adulthood and independence.

Eileen McCaffrey Camara, the executive director, and Debra Bridgeforth have created a program in which new high school graduates, all orphans, will receive cards from other young men and women. The cards that I have read are warm and supportive, and the writers sincerely congratulate their fellow students on their accomplishment.

In turn, I would like to recognize and congratulate the Orphan Foundation of America for its service.•

TRIBUTE TO DR. ROBERT JENSEN

• Mr. SEYMOUR. Mr. President, I rise today in honor of the chancellor of the Rancho Santiago Community College District, Dr. Robert Jensen. Today in Orange County, a special community reception is being held for Dr. Jensen to congratulate him for his service to education on the occasion of his retirement.

Dr. Jensen and I have worked together on numerous education projects over the years. His dedication to California's community college system has been much appreciated throughout the State, and particularly in Orange County, where he has served the past 6 years.

Dr. Jensen has been chancellor of the Rancho Santiago Community College District since 1984, having come to Orange County from Sacramento, where he was president of American River College.

During his tenure as chancellor, Rancho Santiago College has grown each year in enrollment. In the 1990–91 academic year, it served more than 53,000 Orange County students. The college today also serves the educational needs of the country's diverse population with 40 percent of its student body comprised of Hispanic and Asian-Americans.

Through Dr. Jensen's leadership, Rancho Santiago College has strengthened its reputation as a college providing quality educational opportunities and as a college that cares about serving students. Some of the achievements of the college during Dr. Jensen's tenure include:

Development of the Orange campus, including the master planning of the new campus and the construction of four major buildings;

Expansion of the Centennial Education Center to provide more clasrooms for the college's continuing education program;

Opening of the RSC Transfer Center to assist and encourage students to transfer to 4-year universities and opening of the Tutorial Learning Center to help students succeed at RSC;

Development of several new programs to encourage high school and community college students from low-income families to enroll in college and stay in school, including Career Beginnings, Higher Ground, and STAR;

Development of an honors program at RSC and annual recognition programs for Chicano, Latino, and Asian scholars;

Opening of the Small Business Assistance and Training Center, the first of its kind in an Orange County community college;

Initiation of the 75th anniversary endowment fundraising campaign, which will result in RSC having its first major endowment fund to serve students through scholarships and special projects;

Winning the 1990 and 1991 State men's basketball championships.

Perhaps the most distinguishing feature of Dr. Jensen's tenure at Rancho Santiago College was his concern for students and for ensuring that the college provide services and classroom instruction that made it possible for all students, regardless of their background, to reach their educational and personal goals and to make a positive contribution to their community.

As Thomas Jefferson said: "Education, the ploughing and planting of human thought, produces the universal food of human progress." The fruits of Dr. Robert Jensen's labors have been bountiful.

I ask the Senate to join me in extending our congratulations and best wishes to Dr. Jensen.•

SILVIO CONTE NATIONAL FISH AND WILDLIFE REFUGE ACT, S. 821

• Mr. D'AMATO. Mr. President, I rise today as a cosponsor of the Silvio Conte National Fish and Wildlife Refuge Act, S. 821. This legislation is designed for the preservation of the Connecticut River watershed, and as a dedication to our friend and colleague, Congressman Silvio Conte.

Shortly before his death last year, Congressman Silvio Conte, a man who dedicated much of his efforts toward the restoration of the Connecticut River and its watershed, introduced the Connecticut River National Fish and Wildlife Refuge bill. Mr. Conte's goal was to prevent the impending, spoilation, ecological downgrading, and subsequent removal from public access of the Connecticut River.

The Connecticut River Valley is inhabited by 2 million people and traverses four of the six New England States. The river links the States by commerce, transportation, and energy supply, and empties into the Long Island Sound providing the sound with 70 to 80 percent of its incoming fresh water. The region where the Connecticut River enters the Long Island Sound is also of great significance to the survival of fish and wildlife.

S. 821 directs the U.S. Fish and Wildlife Service to define, designate, and map refuge boundaries within the Connecticut River Valley over the next 3 years in order to save it from potential ruin. I concur with Mr. Conte's belief that it is also critical to the survival of the region that there be a constituency committed to its health. By providing the public with easy access to the river and establishing public educational systems, this goal can be achieved. In addition, it is wholly appropriate to dedicate this act to Mr. Conte, a man who strived to conserve our country's natural resources.•

IN RECOGNITION OF DONALD F. KARCHER

• Mr. SEYMOUR. Mr. President, on behalf of the Orange County Red Cross and the many, many individuals who have benefited from the services Red Cross provides, I stand today in recognition of Donald F. Karcher, the outgoing chairman of the Orange County chapter's board of directors.

Don Karcher has been a member of the Board since 1978 and has served as chairman from 1989 to 1991. Some of the highlights of his tenure as chairman follow:

The Orange County Chapter Disaster Emergency Services has responded to 398 disasters affecting 303 families and 11,974 individuals;

The chapter processed 17,022 disaster welfare inquiries following the Loma Prieta earthquake;

The Orange County chapter sent and received more than 1,600 emergency communication messages during Operation Desert Storm from family members of military personnel serving in the gulf.

These and numerous other accomplishments can be credited to Don Karcher's years of leadership to the American Red Cross' Orange County chapter.

Albert Schweitzer said, "I have always held firm to the thought that each one of us can do a little to bring some portion of misery to an end." Through his work with the Red Cross, Don Karcher has done a lot to ease the misery caused by disasters, through the Red Cross' well-known efforts to promote disaster preparedness and effectively respond when disasters do occur.

I ask the Senate to join me in thanking Don for his tireless devotion to his fellow man and in upholding him as an example for all Americans to emulate in volunteering freely in service to others.

At this point, in honor of his outstanding service to his community, I would ask that Mr. Karcher's biography be printed in the RECORD.

The biography follows:

DONALD KARCHER PROFILE

Donald Karchar is President and Chief Operating Officer of Carl Karcher Enterprises which, along with its franchisees and licensees, operates more than 580 Carl's Jr. Restaurants in California, Nevada, Arizona and Oregon, Mexico and Japan.

Karcher previously was Executive Vice President, Senior Vice President, and prior to that served as Vice President of Operations for ten years. He joined the company in 1954 when it consisted of five hot dog stands in Los Angeles and a drive-in restaurant in Anaheim.

In addition to his executive responsibilities, Karcher devotes time to a wide variety of civic activities. He is a member of the Board of Directors of Anaheim Visitor and Convention Bureau; National Restaurant Association; California Restaurant Association; Cypress College Foundation; Loyola Marymount University; Orange County Chapter, American Red Cross; Anaheim Stadium, Inc.; United Way; also, Executive Advisory Council, Cal Poly Center for Hospitality Management; University Advisory Board at California State University, Fullerton; Presidential Advisory Council, Chapman College; and Chapman General Hospital Board of Governors.

In 1980 he was honored with a Silver Circle Award by the Foodservice Association of Marketing Executives. The Orange County Chapter, American Red Cross named Karcher the first recipient in 1984 of the Orange County Spirit Award. Cypress College honored him at its Tenth Annual Americana Man-of-the-Year Dinner in 1985. The First Friday Friars organization in Orange County voted him 1989 Man-of-the-Year. The Orange County Chapter National Conference of Christians and Jews awarded Karcher its 1990 Humanitarian Award.

Karcher and his wife, Dorothy, live in Anaheim; they are the parents of four children.

Mr. BYRD. Mr. President, I take the floor at this time to express my appreciation to the distinguished Senator from New York [Mr. MOYNIHAN] and the distinguished Senator from Idaho [Mr. SYMMS] for the preeminently excellent leadership they both displayed during the debate on the highway bill. I found them to be a great team. They were both very considerate of all Senators. I felt they were especially considerate of me, and they were most helpful to me in hammering out the amendment which was adopted by the Senate and which I had offered earlier. I found their advice to be always good. I found them to be stalwarts in their support of the amendment, never wavering in any manner.

And so I am grateful to Senator MOYNIHAN and Senator SYMMS, not only for their help to me and their support of my amendment, but also for the wisdom which they have demonstrated, the leadership they have contributed, and for the dedication to the Nation's interests that they have shown.

The Senator from New York is one at whose patience and equanimity I marveled. He was always in good humor. We all love him for his ready wit. His heart is "as stout as the Irish oak and as pure as the lakes of Killarney."

PAT MOYNIHAN is a very special person in the Senate. He has provided inspiration to me in many ways, and I hope to be able to emulate him in his ability to roll with the punches, listen to the concerns of others, take the criticism of some with respect to the work product, and always smile and show himself to be a good workman and a good sport.

I also thank my leader, Senator MITCHELL, for calling the meetings in his office from time to time with respect to my amendment.

I thank Mr. DOLE, the Republican leader. I especially thank Mr. DOLE for not offering the amendment today which we had understood on yesterday would be offered.

Mr. DOLE is a resourceful, intrepid, skillful fighter when it comes to parliamentary tactics. He is always in good humor, known very much all over the country for his ready wit, and an individual who is so very likable and, as far as I am concerned, my favorite Republican.

I thank all other Senators who have worked hard on this bill, those who won on their amendments and those who lost on their amendments, those who supported me on the amendment I had offered and those who opposed it. Together, we have passed a good bill.•

HAPPY BIRTHDAY TO SENATOR BURDICK

Mr. BYRD. Mr. President, I am glad that the majority leader called attention to the birthday of our venerable colleague from North Dakota, Mr. BURDICK. I served in the House of Representatives a good many years ago with QUENTIN BURDICK'S father. His father was a Republican, a large man, one who often voted with the Democrats, and who was often able to cause the House, with its 435 Members, to laugh.

QUENTIN BURDICK is a valuable member of the Appropriations Committee, which I chair. He is always punctual in his attendance, and he always votes.

I congratulate QUENTIN BURDICK on his birthday, and I shall close my remarks with a bit of verse which I did not compose but which I think all of my colleagues would want to join me in saying:

Count your garden by the flowers,
  Never by the leaves that fall;
Count your days by the sunny hours,
  Not remembering clouds at all.
Count your nights by stars, not shadows;
  Count your life by smiles, not tears;
And on this beautiful June afternoon,
  Count your age by friends, not years.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The absence of a quorum is suggested by the President pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATIONS TO THE MANAGERS OF THE BILL

Mr. MITCHELL. Mr. President, I want to add just a brief word of congratulations to the managers of the bill, the distinguished Senator from New York and the distinguished Senator from Idaho, for their diligent efforts to bring about final passage of the Surface Transportation Act.

It was a difficult process. It covered a period of nearly 2 weeks. There were many contentious issues, and a long road ahead on this bill because the House has yet to act, and there remains, of course, the conference. But at least we have taken one significant step forward in passing this bill.

And a great deal of the credit deservedly goes to Senator MOYNIHAN and Senator SYMMS. They conceived, wrote, and shepherded this bill through to final passage.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, I understand the distinguished Senator from California will be doing what we call wrap-up. I wanted to inform him that I have looked at each of the matters to be processed, and they have all been cleared on this side.

I thank the Senator from California.

Mr. CRANSTON. I thank the distinguished Senator from Kansas, the Republican leader, and I wish him well tonight.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. CRANSTON. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominees, reported today by the Committee on Armed Services:

Donald J. Yockey, to be Under Secretary of Defense for Acquisition;

Gen. Gordon R. Sullivan, to be Chief of Staff of the Army;

Maj. Gen. Horace G. Taylor, to be promoted to lieutenant general;

Gen. Carl E. Vuono, to be placed on the retired list as general;

Maj. Gen. J.H. Binford Peay III, to be lieutenant general.

I further ask unanimous consent that the nominees be considered and confirmed en bloc; that any statements appear as if read in the CONGRESSIONAL RECORD; that the motions to reconsider be tabled; that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The nominations, considered and confirmed en bloc, are as follows:

Donald J. Yockey to be Under Secretary of Defense for Acquisition;

Gen. Gordon R. Sullivan to be Chief of Staff of the Army;

Maj. Gen. Horace G. Taylor to be promoted to lieutenant general;

Gen. Carl E. Vuono, to be placed on the retired list as general, and

Maj. Gen. J.H. Binford Peay III, to be lieutenant general.

STATEMENT ON NOMINATION OF GEN. GORDON R. SULLIVAN

Mr. DOLE. Mr. President, the President's nomination of Gen. Gordon R. Sullivan for Chief of Staff of the U.S. Army, having been reported out without a single dissenting vote by the Committee on Armed Services, now comes before the full Senate for consideration. I strongly urge his immediate and unanimous confirmation.

General Sullivan is no stranger to this body nor to me. His over 30 years of service to our Nation are marked by excellence and superior judgment. His decorations include the Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit, the Bronze Star, and Purple Heart. These are just a few testimonies to his dedicated service.

We are confronted with rapid change and uncertainty. General Sullivan brings the right combination of hands-on experience and thoughtful perspective that are vital to meeting the challenges of these volatile times.

With 11 years of service in Europe and 4 years in the Asian theater, General Sullivan understands the fundamental changes that are taking place in the international environment.

He is personally responsible for developing the outstanding leadership, joint operational doctrine, and tactical proficiency that were the key to our success in the Persian Gulf.

As the Vice Chief of Staff of the Army during Desert Shield and Desert Storm, General Sullivan maintained close personal contact with the field commanders, ensuring they had what was needed to do the job. His support and guidance were critical elements to that victory.

It is command that truly distinguishes great leaders. And General Sullivan's record as commander of the 1st Brigade, 3d Armored Division, commander of the 4th Battalion, 73d Armored, 1st Infantry Division, and commanding general of the 1st Infantry Division speak for themselves.

But most of all, Gen. Gordon Russell Sullivan is a soldier's soldier. He has continuously worked to improve the quality of life of our Army personnel and their families.

The challenges ahead are, indeed, difficult and complex: A dynamic international environment, a shrinking defense budget, and perhaps new and emerging threats in the world. But in my view, Gen. Gordon Sullivan is exactly the right man at exactly the right time to lead the Army into the future.

I urge my colleagues to join me in supporting the President's nomination of Gen. Gordon Russell Sullivan as the next Chief of Staff of the U.S. Army.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDER FOR SENATE ACTION ON HOUSE SURFACE TRANSPORTATION MEASURE

Mr. CRANSTON. Mr. President, I ask unanimous consent that upon the receipt from the House of a surface transportation measure not containing a revenue component provision, without intervening action or debate, all after the enacting clause of said House measure be stricken; the text of S. 1204, as passed by the Senate, be inserted in lieu thereof; and the act be deemed read three times, passed, and the motion to reconsider be laid upon the table; and that the Senate at that point be deemed to have insisted upon its amendment, requested a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

I further ask unanimous consent that should the House return S. 1204, the Surface Transportation Efficiency Act of 1991, with any amendment, the Senate, without any intervening action or debate, disagree to the amendment or amendments of the House, and either agree to a conference or request a conference, as may be appropriate, on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PRINT S. 1204

Mr. CRANSTON. Mr. President, I ask unanimous consent that S. 1204, as passed, be printed.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. CRANSTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m., Thursday, June 20; that following the prayer, the Journal of the proceedings be deemed approved to date, and that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 10:30 a.m., with Senators permitted to speak therein; that during the period for morning business, Senator BINGAMAN be recognized to speak for up to 30 minutes; further that at 10:30 a.m., the Senate proceed to the consideration of Calendar No. 110, S. 1241, the crime bill; that once the bill is before the Senate on Thursday, there be debate only from 10:30 to 1 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. CRANSTON. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 10 a.m., Thursday, June 20.

There being no objection, the Senate, at 8:12 p.m., recessed until Thursday, June 20, 1991, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 19, 1991:

THE JUDICIARY

EUGENE E. SILER, JR., OF KENTUCKY, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT VICE HARRY W. WELLFORD, RETIRED.

JORGE A. SOLIS, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS VICE ROBERT W. PORTER, RETIRED.

DEPARTMENT OF JUSTICE

KAREN K. CALDWELL, OF KENTUCKY, TO BE U.S. ATTORNEY FOR THE EASTERN DISTRICT OF KENTUCKY FOR THE TERM OF 4 YEARS VICE LOUIS G. DEFALAISE, TERM EXPIRED.

JOHN F. HOEHNER, OF INDIANA, TO BE U.S. ATTORNEY FOR THE NORTHERN DISTRICT OF INDIANA FOR THE TERM OF 4 YEARS VICE JAMES G. RICHMOND, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JOHN W. FOSS [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. DONALD W. JONES [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent major general

BRIG. GEN. SIDNEY SCACHNOW, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF BRIGADIER GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 628:

To be brigadier general

COL. JAMES J. STEELE [redacted] U.S. ARMY.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be general

LT. GEN. JOSEPH P. HOAR [redacted] USMC.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. ERNEST T. COOK, JR [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. ROBERT B. JOHNSTON [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. WILLIAM M. KEYS [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. ROYAL N. MOORE, JR., 545-40-0929, USMC.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 19, 1991:

DEPARTMENT OF DEFENSE

DONALD JAY YOCKEY, OF CALIFORNIA, TO BE UNDER SECRETARY OF DEFENSE FOR ACQUISITION.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CARL E. VUONO, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF STAFF OF THE ARMY AND REAPPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 3033:

To be chief of staff of the Army

To be general

GEN. GORDON R. SULLIVAN, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 610(A):

To be lieutenant general

MAJ. GEN. HORACE G. TAYLOR, [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY BY THE PRESIDENT UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), AND TO BE APPOINTED AS SENIOR ARMY MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 711:

To be lieutenant general

To be senior Army member of the Military Staff Committee of the United Nations

MAJ. GEN. J.H. BINFORD PEAY, III [redacted] U.S. ARMY.

HOUSE OF REPRESENTATIVES—*Wednesday, June 19, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us always, O God, to do not only what must be done, but to focus also on what should be done. We know that many issues press upon us and demand action, but we also know that the critical and decisive moments of life are when we choose the direction we should take and the route we should follow. Enable us, O God, to lift our vision to see the path of justice and the road of service, so we will reflect Your grace and do the works of truth and mercy. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RUSSO. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RUSSO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 291, nays 110, answered "present" 1, not voting 30, as follows:

[Roll No. 165]

YEAS—291

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
AuCoin
Bacchus
Barnard
Barton
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
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Scheuer
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NAYS—110

Allard
Armey
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Jones (GA)
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Rogers
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Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Slaughter (VA)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Sundquist
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Wolf
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Taylor (NC)

NOT VOTING—30

Condit
Conyers
Edwards (OK)
Ford (TN)
Gallegly
Gephardt
Gilchrest
Gingrich
Hatcher
Hopkins
Hunter
Jefferson
Lancaster
Levine (CA)
Lewis (CA)
Lloyd
Michel
Mrazek
Oberstar
Rose
Savage
Schumer
Serrano
Spence
Vander Jagt
Weber
Weldon
Wilson
Wise
Young (AK)

□ 1026

Mr. COX of Illinois changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). Would the gentleman from Wisconsin [Mr. PETRI] kindly come forward and lead the House in the Pledge of Allegiance.

Mr. PETRI led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT TODAY DURING 5-MINUTE RULE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be permitted to sit today for the

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

consideration of the Financial Institutions Safety and Consumer Choice Act of 1991 while the House is sitting for amendment under the 5-minute rule.

The ranking minority member of the committee, the gentleman from Ohio [Mr. WYLIE], has been informed of this request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair announces that he will allow 10 1-minute statements on each side of the aisle.

BLUE CROSS AND BLUE SHIELD DOES THE RIGHT THING: PREVENTIVE HEALTH CARE

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, when private insurance companies do the right thing, we should commend them. I was very pleased to see that Blue Cross and Blue Shield, in their private insurance packages, will be offering a screening package for early detection, outlined yesterday, which includes tests for breast, colon, cervical, and lung cancer, heart disease, hypertension, diabetes, thyroid disease and osteoporosis.

Mr. Speaker, preventive health care is so important. Very few policies, private or public, have prevention as part of their policy.

Mr. Speaker, the only thing I disagree with is they should not have to raise their rates, because over a 3-year period, if they analyze all the extensive health delivery they will not have to give because of early detection or prevention, the rates should not be increased.

Mr. Speaker, I do want to compliment Blue Cross and Blue Shield. Let us hope they follow through, and other private and public insurance programs also include preventive health care.

□ 1030

REDUCTION OF HEALTH CARE PAPERWORK

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, recently I introduced H.R. 2625, the Paperwork Reduction in Health Care Act of 1991. This bill is the first of a series of legislation that I will support as part of my FAIR campaign, which is the fight against intrusive regulations.

The bill directs the Secretary of Health and Human Services and the Director of OMB to gauge the burden of federally initiated paperwork requirements associated with the delivery of health care. A national goal is established to reduce the burden of paperwork by at least 5 percent for the next 5 years.

Recent Harvard and GAO studies have concluded there is a potential to save $100 billion in health care paperwork costs.

We have all heard horror stories from our constituents regarding the paperwork burdens from Medicare and Medicaid. More than one-fifth of all health care dollars are spent on administrative costs. A doctor's staff spends almost 1 full day each week filling out Government forms.

I would encourage my colleagues to cosponsor the Paperwork Reduction in Health Care Act of 1991.

MEDICARE RIPOFF OF SENIORS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, I can hardly believe it, but yesterday I read that the Federal Government has been overcharging senior citizens for health care costs to the tune of $1 billion a year.

Mr. Speaker, let me just express the exasperation of my constituents. How can this administration keep pocketing people's hard-earned tax dollars, even when they are eligible? Why does this administration always start its budget cutting with seniors and the poorest seniors at that?

It seems that an extra $30 a month has been deducted from the Social Security paychecks of thousands of poor elderly Americans, those making less than $6,600 a year. That is 5 percent of their annual income. In many cases these seniors have been unnecessarily charged for medical expenses.

The shame is that these overcharges are occurring simply because those eligible for the refunds are unaware that they can apply. Mr. Speaker, it looks like dirty pool to me when a relief program is created for hard-working people and then kept a secret from those who are eligible to benefit. I think the American people are becoming tired of an administration that cares more about maintaining tax breaks for the wealthy than in providing tax relief to the middle class and has no plan to address the rising costs facing average families.

Mr. Speaker, this policy violates the trust that we have with the American people. I call on the administration to find its way back to the right course.

INCOME-DEPENDENT EDUCATION ASSISTANCE ACT

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, all across America college and graduate students have received their diplomas and have headed off to the job market, only to find that many companies stopped making job offers months ago. There's a recession on, and the picture for many of these students is bleak.

They're scared. They have bills to pay. And their most pressing source of debt is their education loans.

I have proposed a major student loan bill, the Income-Dependent Education Assistance Act—known as IDEA for short.

IDEA loans would be perfect for students who graduate in times of recession.

Under IDEA, there would be no fixed repayment schedule. Rather, repayment would be geared to the incomes of the borrowers, and would be stretched out automatically as long as needed.

Those with high incomes after leaving school would be expected to repay relatively quickly and at slightly higher effective interest rates. Repayment would be collected as a part of one's income taxes.

The IDEA Program has been carefully crafted to provide affordable student loans at reasonable rates, and at little or no cost to the taxpayers.

And any student who graduated during a recession would easily appreciate the advantage of the income-contingent aspect of the program—the aspect which would automatically reschedule repayment so that you pay faster when you are doing well financially, and more slowly when you are having a tough time making ends meet. That can help a lot when there's a recession.

Mr. Speaker, I am seeking cosponsorships, and those interested can find more information on IDEA on page 11218 of the May 16 CONGRESSIONAL RECORD.

MEDICARE PHYSICIAN REGULATORY RELIEF AMENDMENTS OF 1991

(Mr. ROWLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND. Mr. Speaker, today I am introducing the Medicare Physician Regulatory Relief Amendments of 1991.

In the last Congress, more than one-half of my colleagues joined me in cosponsoring legislation, which was enacted through the reconciliation process, to provide significant regulatory relief for this Nation's physicians treating our elderly in the Medicare Program.

Then, as now, the feeling was strong that unnecessary and unduly complicated administrative requirements ought not be dissuading our physicians from accepting new Medicare patients. Equally as strong, I believe is the shared sentiment that certain unnecessary regulatory burdens may be driving up the cost of medical care without demonstrable benefit at a time when Americans are asking for more affordable health care for all.

As was the case last year, this bill will send an important positive signal to physicians that the Congress is willing to cut through some of the redtape that binds them as they practice in the Medicare Program.

The legislation proposes to accomplish the following:

Amend existing Medicare secondary payer [MSP] authority to prohibit HCFA from denying a physician payment for medically necessary covered services where patient noncompliance with an independently generated questionnaire is in question.

Allow HCFA to use so-called extrapolation for case identification purposes but give the physician the option of requiring the carrier to show cause by producing evidence of specific payment errors in a given calendar quarter before actual recoupment going back over a number of years is demanded.

Prohibit HCFA from charging physicians for: First, filing paper claims, second, claim filing errors or claims that are rejected, third, charging physicians or patients for the costs of unsuccessful appeals, fourth, applications for unique provider identification numbers [UPIN], and fifth, medical review requirements.

Require HCFA to consider input from State medical societies in the annual carrier performance evaluations.

Allow physicians to file administrative appeals when the carrier has failed to or improperly implemented Medicare policy as established by the Secretary.

Require that all medical necessary denials under the Medicare Program be reviewed by appropriately licensed physicians for the same medical specialty as the physician providing the service.

Repeal peer review precertifications for all surgical procedures.

Allow substitute billing for locum tenens physicians.

I invite my colleagues to join me once again in cosponsoring the 102d Congress Medicare physician regulatory relief bill.

SMALL BUSINESS AMENDMENT TO H.R. 5

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, proponents of the small business exemption amendment to H.R. 5, the antistriker replacement bill, are trying to convince Members to support the measure since they claim that small businesses won't be affected.

As amended, H.R. 5 would create a separate labor category for union employees and nonunion—presumably small business—employees. Today, union and nonunion workers receive equal protection against being permanently replaced, if the employer commits an unfair labor practice.

But under H.R. 5, that protection is greatly expanded in favor of union employees, and discriminates against small business workers, by excluding them from the bill's protection.

What this so-called small business exemption amendment really does, is create the ultimate inducement for unions to bolster their membership roster, at the expense of small businesses. What better selling gimmick can unions use, than to say to small business workers strike, you can't be replaced because you're a union member.

No doubt about it Mr. Speaker, the so-called small business exemption amendment makes a bad bill worse. It reclassifies H.R. 5 from the antistriker replacement bill, to what it really is—a recruiting tool for union membership from a small business employees bill.

I urge my colleagues to oppose H.R. 5.

REACTION TO CONTINUED DEVELOPMENT OF WEST BANK AND GAZA STRIP

(Mr. BRYANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT. Mr. Speaker, in the last 2 months, the Likud government of Israel has taken more land from the Palestinians in the West Bank than the previous 2 years. Between Secretary of State Baker's first postwar peace mission to Israel on March 9 and his second visit on April 9, more than 20,000 acres was taken from Arab landowners.

I submit to my colleagues that it is no longer possible not to conclude that the policy of the Likud government of Israel to accelerate expansion in the settlements in the West Bank and Gaza Strip is wrong and that continued silence of this House is wrong as well.

Today I will offer an amendment to the foreign aid authorization bill to place in escrow that part of Israel's $3 billion in foreign aid equal to the sum our State Department says the Likud government spent in 1990 on settlements in the West Bank. That is $82.5 million.

I urge my colleagues to join me in voting to protect Israel's high moral standing from these Likud coalition policies, to protect the peace process and to protect the reputation for fairness of the United States of America.

STRIKER REPLACEMENT BILL WILL HURT SMALL BUSINESS WORKERS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, striker replacement legislation is designed to stop business owners from permanently replacing workers who walk off the job for more money, or better benefits, or other economic reasons.

Supporters of H.R. 5 want to cast it as a David-and-Goliath-type issue with poor union workers as David and huge corporations as Goliath.

In fact, these people want to ignore the very real—and very damaging—impact the bill would have on our Nation's smaller firms, and on their nonstriking employees.

Quite simply, this bill is bad for small business. What's at stake is not simply who has the upper hand in labor negotiations between the AFL–CIO and corporate America.

What is at stake is American jobs generated by the 20 million small businesses in every district in the country.

My colleagues, let us not sell out small business interests to big labor bosses. Vote against H.R. 5.

My colleagues, it is easy to say that you are all for small business. But it is how you vote that really counts.

□ 1040

TRIBUTE TO ALBERT BENJAMIN "HAPPY" CHANDLER

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, on Monday of this week I was among hundreds of Kentuckians at our State capitol in Frankfort who came to pay tribute to the late Gov. Albert Benjamin "Happy" Chandler, who died last Saturday at his home in Versailles, KY, at age 92.

Kentucky Gov. Wallace Wilkerson arranged that 2 days after his death the public could visit the casket holding the former U.S. Senator and Governor of Kentucky in the rotunda of the State capitol.

Then yesterday an impressive funeral service for Governor Chandler was held at Memorial Hall on the campus of the University of Kentucky, the institution "Happy" Chandler loved and where the Albert B. Chandler Medical Center is a reminder of his efforts to promote the University of Kentucky throughout his public life.

Former baseball commissioner Bowie Kuhn honored former baseball commissioner "Happy" Chandler in an opening eulogy in which he said he considered himself an adopted son of Governor Chandler, whom he said was probably baseball's most memorable and colorful character.

University of Kentucky President Charles Wethington was eloquent in his eulogy. Dr. Wethington said Governor Chandler was "without doubt, University of Kentucky's biggest fan and strongest supporter." Dr. Wethington noted that Chandler was elected twice as Kentucky's U.S. Senator and served two 4-year terms as Governor of Kentucky.

Governor Chandler sang at his own funeral through a recording of "My Old Kentucky Home," which he frequently sang at University of Kentucky basketball games and which he sang at a wedding at First Baptist Church, Whitesburg, KY, on February 12, 1984, when my wife Carol and I were married. There were only a few dry eyes in the crowd yesterday as "Happy" Chandler was heard at his own funeral.

The final tribute at yesterday's funeral service was delivered by Governor Wilkinson. Everyone I spoke with after the funeral was complimentary of the tremendous eulogy given "Happy" Chandler by his loyal friend Governor Wilkinson.

Some Kentuckians agree that two political happenings kept Governor Chandler optimistic about the future during this calendar year.

One was the privilege to serve on the Board of Trustees at the University of Kentucky, a coveted position to which Governor Chandler was appointed by Governor Wilkinson.

The second was the campaign by his grandson and namesake, Albert Benjamin Chandler III, for the Democratic Party nomination for State auditor of Kentucky. The election was May 28 and young Ben Chandler was a landslide winner. A photo that went statewide in Kentucky was that of "Happy" Chandler and his grandson Ben celebrating the victory on May 29.

My wife Carol and I extend our sympathy to the family of "Happy" Chandler.

Chandler is survived by his lovely wife, the former Mildred Watkins of Keysville, VA; their two sons. A.B. "Ben" Chandler, Jr., of Versailles, and J. Dan Chandler of Las Vegas, and two daughters, Mimi Lewis of Versailles and Marcella Miller of Wilson, NC.

Chandler's other survivors include a half-sister, Mary Catherine Bolin of Lexington, KY, 12 grandchildren and 9 great-grandchildren.

WELCOME TO BORIS YELTSIN AND MANGOSUTHU BUTHELEZI

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, today Washington is honored with the presence of two historic visitors, Boris Yeltsin, President of the Russian Republic, and Mangosuthu Buthelezi, chief of the Zulus and President of the Inkatha Freedom Party in South Africa.

Both the Soviet Union and South Africa are going through an incredible period of change, and in both countries we see the elimination of barriers to freedom and democracy. In both countries, however, we have seen a false picture presented to the American people.

In the Soviet Union, the media has presented us a picture of Mikhail Gorbachev as the reformer and democratizer. We are now becoming aware that Gorbachev represents communism's last gasp. His popularity is limited and dwindling, and his true commitment to democracy is in question. Similarly, the American people have a picture of South Africa in which Nelson Mandela is portrayed as the hero. Mandela's ANC has always been allied with the very same Communists the Russians are now trying to get rid of, and it has used burning tires around the necks of its opposition to terrorize them into submission.

I welcome Chief Buthelezi, and we welcome Boris Yeltsin, and I would think that these people are consistent with the values of the American people. We should be on their side and the side of democracy in the Soviet Union and in Russia and in South Africa.

TRIBUTE TO THE KENDRICK HIGH SCHOOL BAND OF COLUMBUS, GA

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, Columbus, GA, the home of Fort Benning and a symbol of historic significance, is noted for its outstanding educational institutions. I want to pay tribute today to one of those, the Kendrick High School.

The 1992 Tournament of Roses in Pasadena, CA, this year will mark the 500th anniversary of the founding of our great country. It will be a tribute to Christopher Columbus' discovery of America and, consequently, I want to commend the Marching Cherokees of the Kendrick High School in Columbus, GA, for its having been selected to participate in the 1992 Tournament of Roses parade.

The Kendrick High School Band will be only 1 of 22 bands from around the world participating in this event. It is, I am advised, the only band from the States of Georgia, Florida, South Carolina, North Carolina, the Southeastern United States, which was accepted.

I am certain that the Marching Cherokees will be a very good representative for the city of Columbus and for the State of Georgia at this historical event. One indication of the band's high reputation was its having been chosen to represent the entire State of Georgia at the 1990 Cherry Blossom Festival in Washington, DC.

Mr. Speaker, in closing, praise is due Kendrick High School's principal, Gerald Carey, and all of those good people who have made this possible.

H.R. 5 TOO DRASTIC FOR THE CARTER ADMINISTRATION

(Mr. BOEHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOEHNER. Mr. Speaker, when the Carter administration considered sweeping revisions to the National Labor Relations Act in the 1970's, banning the use of permanent replacement workers—as proposed by H.R. 5—was not included in these plans. The Carter White House rejected the concept as being infeasible, recognizing that such a ban would lead to increased labor disputes and inflationary wage increases.

During the 1980's, the number of strikes declined. Both labor and management realized that the only way to survive in a competitive international marketplace was through cooperation. H.R. 5 seeks to reverse this trend of cooperation and conciliation by giving unions and their members a privileged position over all other workers, while tipping the balance in Federal labor law overwhelmingly in their favor.

On this issue, President Carter was correct in opposing the elimination of replacement workers. Enactment of H.R. 5 would lead to more strikes, increase the rate of inflation, and give unions all the power in labor negotiations. Please join me in opposing H.R. 5.

SAYONARA TO AMERICAN JOBS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Firestone Rubber Co. of Akron, OH, now known as Bridgestone and owned and controlled by the Japanese, is moving to Tennessee.

While Boris Yeltsin is in America saying hello and asking for money from Congress, it is sayonara time to Akron rubber, sayonara time to Youngstown's Pittsburgh steel, sayonara to Detroit cars, sayonara to phones in Shreveport, sayonara to banks in New York, sayonara to farms in Iowa, sayonara to coal in West Virginia, sayonara to textiles in the South, and sayonara to American jobs.

But do not worry, Congress. We are developing a whole new great industry in America: unemployment. My district knows all about it.

THE H.R. 5 STRIKER REPLACEMENT BILL

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the H.R. 5 striker replacement bill will have devastating effects on the economy of this Nation.

During a strike, more than the employer's company is hurt. When a company's production is lowered due to striking employees, the economic effect reaches all companies that are involved in the supply and retail activities of the initial company.

Reaching an agreement over a strike requires compromise on the part of both the employer and the union. H.R. 5 would give unions an incredible amount of extra leverage in their negotiations. With no risk of losing their jobs, union members would continue to hold out for higher wages and more benefits, thus increasing labor costs.

If an employer is forced to agree to higher wages in order to bring an end to a strike, he will undoubtedly pass this cost on to the consumer. Higher prices will lead to inflation and a decline in demand for goods produced in this industry.

With our economy in its current state, we can't afford such an imbalance in business costs and the inflation that it would create. The prospects of our country to come out of the recession would be significantly reduced with the added costs of strikes to the business community.

H.R. 5 does not succeed in giving unions a fair position in labor negotiations. It tilts the scale too far toward the side of unions, giving them much more leverage than employers would have. The increased number of strikes caused by H.R. 5 will lead to an increase in labor costs and ultimately higher inflation. We cannot afford the economic effects of H.R. 5.

START THINKING ABOUT THE AMERICAN WORKER

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, it takes a lot of gall. China is warning the United States that if we do not give them most-favored-nation status, a very special tax break to ship all of their goods into the United States, they are going to retaliate.

You have got to say, "How are they going to retaliate?" They are going to cut back on the political and economic relationships with the United States. That is a little like Willie Sutton telling the bank president, "Do not lock your bank vault or I am not going to bank there anymore."

China wants special tax breaks with no conditions so that they can go about their merry way to ship in slave-labor-made products into the United States and telling us do not interfere with their right to kill their people because they want to speak freely or denying them their human and civil rights; "Just take our products made with slave labor," and the American workers are going to go on unemployment, and their jobs are going to go to China.

I think we ought to start thinking about the American worker for a change, and while we are at it, let us think about the American veterans who fought for over 200 years to defend the precious freedoms that we have, and now we are going to recognize countries like China.

□ 1050

INTRODUCTION OF AIRPORT AND AIRWAY TRUST FUND INTEGRITY ACT OF 1991

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to rivise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today I introduced, along with the gentleman from California [Mr. MINETA] the Airport and Airway Trust Fund Integrity Act of 1991. This legislation has two components. It takes the trust fund off budget and repeals the tax increases of last year.

In just 3 years the aviation trust fund surplus has increased almost 100 percent, to over $15 billion. This is despite the fact that the money from the tax increase was earmarked for the general fund for other programs.

Because this money is on the budget it is not being spent for important programs such as research into aviation safety. It is simply sitting there to offset the deficit.

Mr. Speaker, the tens of millions of flying Americans deserve to know that their ticket tax is being spent to enhance their safety, not sitting idle or being spent elsewhere.

My colleagues, you can help provide this peace of mind by cosponsoring the Airport and Airway Trust Fund Integrity Act of 1991.

RESTORE LABOR-MANAGEMENT NEGOTIATIONS BALANCE

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, we are going to have a chance here in the House of Representatives in the very near future to decide whether we want a solution or we want a political issue. What I am talking about in particular is the issue that has come out of the Committee on Education and Labor known as striker replacements. I will be the first to suggest that I think there is indeed a problem with labor-management negotiations today. Not universally, not in the majority of times, but in a couple of rare examples.

Certainly those who look at the Lorenzo situation, those who look at the Greyhound situation quickly recognize there have been cases in recent times where as a result of unfriendly takeovers, and frankly, bad faith negotiations, efforts have been made to simply eliminate a collective bargaining unit.

Now, my problem with the activities that have come out of the Committee on Education and Labor is even if we recognize, as I have, that there is a problem, they do not want a solution, what they want is a political issue. The goal ought to be to restore balance to labor-management negotiations. The goal ought to be to solve the problems with the National Labor Relations Board so that they can quickly go in and determine whether or not parties are conducting good faith labor negotiations.

Unfortunately, that only hope is going to be offered to Members in what is known as the Goodling substitute, so we in this House will have a chance to decide, do we want to solve the problem or do we want to posture for political issues? I hope it is the former.

LOUISIANA PASSES NATION'S MOST PROTECTIVE LAW

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, last night the Louisiana Legislature overrode the Governor's veto and passed the most protective law in the Nation for unborn children. The law will protect the unborn from death by abortion except when the pregnancy endangers the mother or when the pregnancy results from rape or incest.

Prior to yesterday's action, unborn children in Louisiana like the rest of the Nation had no protection whatsoever—at any point in pregnancy. Contrary to misinformation that has been advanced by the abortion lobby, the U.S. Supreme Court's 1973 decisions in Roe versus Wade and Doe versus Bolton did not provide any measure of protection for the unborn. In fact, the decisions struck down every protective abortion law that was on the books at the time.

Consistent with practically every other abortion law that has been enacted in our Nation, the Louisiana law does not provide any penalties for the woman. The legislature wisely recognized that both mothers and their unborn children are victims of abortion.

Mr. Speaker, the Louisiana Legislature should be commended for extending the circle of protection for extending fundamental human rights to the most innocent and defenseless members of the human family—unborn children. They have looked beyond the cliches and euphemisms and come to the realization that every abortion stops a beating heart.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I thank the gentleman for yielding. I just want to join with the words of my colleague from New Jersey, and both the gentleman and I are going over to meet with Mr. Boris Yeltsin. These truly are exciting times. I just wanted to point out to all of my colleagues and any visitors, like the 100 or more ministers from the great State of California, here is a picture taken on Red Square of an Easter pageant demonstration of Jesus carrying his cross, bringing the message of love, hope, and peace.

Thanks to one of our great people, that is always doing this in front of the Capitol, Rita Warren. To think we live in the exciting times, when Rita asks to go to the Soviet Union to do this, 3 years ago, the door was closed. Now the door is wide open, and Rita tells me the KGB, who was assigned to watch her, came over and posed with this actor playing Jesus Christ, representing his redemption of all people.

Exciting times indeed. Let Members go see Boris and find out if he is a secret Christian.

UPDATE ON FOREIGN AID AMENDMENTS

(Mr. McCOLLUM asked and was given permission to address the House for 1 minute.)

Mr. McCOLLUM. Mr. Speaker, I would like to point out to my colleagues that this morning in a few minutes we will be on the foreign aid bill. When we are discussing the foreign aid bill, we will be taking up some amendments that were already debated.

One of those is an amendment dealing with the excess military program and the question involved in that amendment will be one of the first up for vote. That is, whether or not we are going to tie the President's hands so that he will not be allowed, at all, to slip any heavy construction equipment to any foreign country for humanitarian purposes or for whatever reason that, in many cases, we have done in the past.

While I think that the amendment is well-being, that the gentleman from Missouri is about and has been offered, and will be up for a vote, my substitute would give the latitude to the President that he now has. In other words, it will give him the option of going back and being able to, in this particular instance or that particular instance, give humanitarian aid when it is needed, when the Armenians and those in Bangladesh or somewhere need heavy construction pieces of equipment such as a bulldozer or grader or whatever. The President would still have the option to do that.

I think it is very important that the substitute amendment that I am offering be adopted, which would allow the thrust of the main Taylor amendment to prevail, but at the same time give the President his continued flexibility to do the humanitarian deeds and some of the emergency national security interest deeds that he presently has this heavy contruction equipment under the excess program.

SURPLUS CONSTRUCTION EQUIPMENT SHOULD HELP AMERICANS

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, in the Foreign Assistance Act that will be brought up today, two countries will receive more financial assistance from the United States of America than my State will. The total amount of this bill is five times the annual budget of the State of Mississippi.

The amendment that I will offer today asks this Congress to limit the excess, the surplus equipment that is given away, and to keep heavy construction equipment here in America where it can help people in America who do not have running water, who do not live on a paved street, who do not have adequate drainage.

We seek to keep those things that the American taxpayer has already paid for, here in America, where they can help Americans. This bill will give away $25 billion to foreign governments. I think that is sufficient. I think that heavy construction equipment that can help the small cities, the small counties in America, ought to stay here and help Americans, like we told those people we would, last October, when we sought their vote.

STATUS OF CONSIDERATION OF INTERNATIONAL COOPERATION ACT OF 1991

(Mr. JOHNSTON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. JOHNSTON of Florida. Mr. Speaker, I rise to explain to the Members where we are at this point in the consideration of H.R. 2508. When the Committee rose last Thursday, all time for consideration of amendments under the rule had expired. However, pursuant to the House rules, the remaining amendments which were printed in the RECORD by last Wednesday are allowed 10 minutes of debate, divided equally between the proponent of the amendment and an opponent of the amendment. In addition, I would point out to Members that there is no debate permitted on second degree amendments, subject to clause 6 of rule XXIII. There is no motion to strike the last word.

At this point, there are no further amendments to title VI. However, one vote has been demanded on the Roth amendment and we expect a recorded vote to be demanded on the McCollum amendment to the Taylor amendment and possibly a recorded vote on the underlying Taylor amendment. There are no amendments in order to title VII.

In title VIII, dealing with Europe and the Middle East, we anticipate a series of amendments concerning Israel, Jordan, Yugoslavia, and the Soviet Union which will most likely require recorded votes. Under the order of the House, we will seek to cluster votes where appropriate.

In title IX, dealing with Asian and Pacific Affairs, we anticipate amendments involving Cambodia, and Laos, which also may require recorded votes.

In title X, dealing with Africa, we expect only two amendments to be offered: the Burton amendment on aid to South African organizations and the Bereuter amendment on the Horn of Africa.

In title XI, we expect only one amendment: a Traficant cutting amendment.

I would inform Members that the ranking miniority member, Mr. BROOMFIELD, and I have agreed that we will object to any unanimous consent request for additional debate time on amendments.

Mr. Speaker, I insert in the RECORD at this point correspondence between the Committee on Foreign Affairs and the Committee on Agriculture concerning this bill, as follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, June 3, 1991.

Hon. E KIKA DE LA GARZA,
Chairman, Committee on Agriculture, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Foreign Affairs has completed consideration of draft legislation authorizing foreign assistance programs for fiscal years 1992 and 1993. The Committee will introduce a clean bill on Monday, June 3, 1991, and report the legislation to the House on the same day. The Committee expects to appear before the Committee on Rules later that same week and schedule this legislation for the Floor the following week.

At my direction, the Committee staff has been in consultation with your staff regarding a provision in the legislation regarding the role of the Department of Agriculture on the Board for the Enterprise for the Americas Initiative which falls within the sole jurisdiction of the Committee on Agriculture. If you have no objection to the consideration of these provisions on the House Floor in their present form, without prejudice to your jurisdiction, I would be pleased to include our correspondence to this effect in the report on the bill.

Thank you for your consideration in this matter.

With best wishes, I am

Sincerely yours,

DANTE B. FASCELL,
Chairman.

COMMITTEE ON AGRICULTURE,
Washington, DC, June 3, 1991.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, Washington, DC.

DEAR MR. CHAIRMAN: This is with reference to your letter dated June 3, 1991 requesting that the Committee on Agriculture forego, without prejudice, its right to a referral of H.R. 2508, a bill to authorize foreign assistance programs for fiscal years 1992 and 1993.

Section 502 of the bill would increase from nine to eleven the number of members on the Environment for the Americas Board as authorized by section 610(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480). It is very important that the additional membership seat be created so that the Department of Agriculture will be represented on the Board. I appreciate your willingness to work with the Committee on Agriculture toward the enactment of this important amendment.

After a brief review of the remainder of the bill, which we received today, a number of other provisions affecting the jurisdiction of the Committee on Agriculture have been brought to my attention. Among these are new sections 5401 through 5411 of the Foreign Assistance Act of 1961, which establish the Enterprise for the Americas Facility and the Environment for the Americas Board. Both of these entities have already been established pursuant to the provisions of title VI of P.L. 480. The enactment of similar language in H.R. 2508 could result in confusion as to which statute governs the establishment and operations of the facility and the Board.

Additionally, I note that there are a number of provisions in H.R. 2508 placing minimum spending levels, conditions, or restrictions on assistance to certain countries under various assistance programs, including P.L. 480. I am concerned that these provisions will directly affect the operation of the programs authorized under P.L. 480 that are within this Committee's jurisdiction.

In order to expedite the consideration of H.R. 2508, the Committee on Agriculture will forego, without prejudice, the opportunity to obtain a sequential referral of the bill. However, in light of the provisions outlined above, and other aspects of the bill that may affect programs within this Committee's jurisdiction, I must reserve the Committee on Agriculture's right to seek the appointment of conferees on any matters that affect this Committee's jurisdiction.

I am hopeful that we can work together to resolve these concerns prior to the consideration of the bill on the Floor of the House of Representatives.

With best wishes, I remain

Sincerely,

E (KIKA) DE LA GARZA,
Chairman.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, June 11, 1991.

Hon. E DE LA GARZA,
Chairman, Committee on Agriculture,
Washington, DC.

DEAR MR. CHAIRMAN: This letter is in response to your letter replying to my letter of June 3, 1991 requesting that the Committee on Agriculture forgo, without prejudice, sequential referral of H.R. 2508, the International Cooperation Act of 1991.

I appreciate your cooperation in agreeing to the consideration of the bill on the Floor in its present form in order to expedite House action on this important authorization matter.

I am pleased that the Committee was able to accommodate your request with respect to the number of positions on the Environment for the Americas board authorized last year as part of the Farm Bill.

With respect to the concerns raised in your letter regarding non-food assistance debt provisions and country-specific restrictions and conditions on foreign assistance, the bill clearly does not make substantive changes to food assistance provisions over which we share jurisdiction. The Committee's actions on non-food assistance debt and on restrictions and conditions on overseas distribution of U.S. bilateral foreign assistance rest within the sole jurisdiction of the Committee on Foreign Affairs under Rule X of the Rules of the House.

Thank you for your continuing cooperation.

With best wishes, I am

Sincerely yours,

DANTE B. FASCELL,
Chairman.

□ 1100

MAKING IN ORDER 5-MINUTE VOTES ON CERTAIN AMENDMENTS TO H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991

Mr. JOHNSTON of Florida. Mr. Speaker, I ask unanimous consent that if a vote is ordered on the McCollum amendment to the Taylor amendment in title VI, that any subsequent votes without intervening business on amendments to that title be reduced to 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

INTERNATIONAL COOPERATION ACT OF 1991

The SPEAKER pro tempore. Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2508.

□ 1102

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, with Mr. MCDERMOTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, June 13, 1991, all the time for debate on amendments had expired, subject to clause 6 of rule XXIII, and title VI was open for amendment at any point.

RECORDED VOTE

The CHAIRMAN pro tempore. The unfinished business is the demand by the gentleman from Florida [Mr. MCCOLLUM] for a recorded vote on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] on which the noes prevailed on a voice vote to the amendment offered by the gentleman from Mississippi [Mr. TAYLOR], as modified.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to the order of the House of today, this will be a 15-minute vote to be immediately followed by a 5-minute recorded vote, if ordered, on the amendment offered by the gentleman from Mississippi [Mr. TAYLOR], as amended or not.

The vote was taken by electronic device, and there were—ayes 150, noes 267, not voting 15, as follows:

[Roll No. 166]

AYES—150

Allard
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bereuter
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Campbell (CO)
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Fawell
Fields
Fish
Ford (MI)
Franks (CT)
Gallegly
Gallo
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Porter
Ramstad
Ravenel
Rhodes
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—267

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (TN)
Frank (MA)
Gaydos
Gejdenson
Gephardt
Geren
Glickman
Gonzalez
Gordon
Gray
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Holloway
Horn
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Quillen
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Ritter
Roe
Roemer
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solomon
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—15

Condit
Conyers
Frost
Hopkins
Levine (CA)
Lloyd
Lowery (CA)
Mrazek
Oberstar
Pursell
Rose
Schumer
Serrano
Spence
Weldon

☐ 1126

Messrs. MAVROULES, OLVER, PETRI, RITTER, and DICKS changed their vote from "aye" to "no."

Mr. COLEMAN of Missouri and Mr. MCDADE changed their vote from "no" to "aye."

So the amendment to the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment offered by the gentleman from Mississippi [Mr. TAYLOR], as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. ROTH

The CHAIRMAN pro tempore. The unfinished business is the vote on the amendment offered by the gentleman from Wisconsin [Mr. ROTH] on which a recorded vote is ordered.

The Clerk will rereport the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROTH:

Page 414, line 12, strike out "and"; line 14, strike out the period and insert in lieu thereof "; and"; and after line 14, insert the following

"(3) with respect to each project or other activity for which such funds remain unexpended, the justification for such funds not having been expended.

Page 427, after line 7, insert the following:

"SEC. 6310. REPORTS BY THE INSPECTOR GENERAL REGARDING UNEXPENDED BALANCES.

"(a) COMMENTS ON SECTION 6301(e) REPORTS.—As soon as possible after the submission to the Congress each year of the information regarding unexpended balances required by section 6301(e), the Inspector General for the administering agency for title I shall submit to the appropriate congressional committees—

"(1) the Inspector General's recommendations for reducing the amount of such unexpended balances; and

"(2) such comments as the Inspector General considers appropriate with regard to the justifications provided pursuant to paragraph (3) of that section.

"(c) COMMENTS ON SECTION 7304(b) REPORTS.—As soon as possible after submission of a report pursuant to section 7304(b), the Inspector General for the administering agency for title I shall submit to the appropriate congressional committees such as the Inspector General considers appropriate with regard to the determination described in that report.

Page 454, after line 19, insert the following:

"SEC. 7304. DEOBLIGATION OF CERTAIN UNEXPENDED ECONOMIC ASSISTANCE FUNDS.

"(a) REQUIREMENT TO DEOBLIGATE.—Except as provided in subsection (b) and section 6105, at the beginning of each fiscal year the President shall deobligate, and return to the Treasury, any funds that, as of the end of the preceding fiscal year, have been obligated for a period of more than 3 years for development assistance, economic support assistance, assistance from the Development Fund for Africa, or assistance under chapter 2 of the title V (relating to the Multilateral Assistance Initiative for the Philippines), but have not been expended.

"(b) EXCEPTIONS.—The President, on a case-by-case basis, may waive the requirement of subsection (a) if the President determines, and reports to the appropriate congressional committees, that—

"(1) the funds are being used for a construction project that requires more than 3 years to complete; or

"(2) the funds have not been expended because of unforeseen circumstances, and those circumstances could not have been reasonably foreseen.

Mr. ROTH (during the reading). Mr. Chairman, in the interest of time, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ROTH. Mr. Chairman, I ask unanimous consent that I be allowed 15 seconds to explain the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

PARLIAMENTARY INQUIRY

Mr. FASCELL. Mr. Chairman, reserving the right to object, if I may pose a parliamentary inquiry, first of all, I could not hear the proceeding.

Second, I need to ask the Chair, are we now on the Roth amendment, which would seek to recapture all pipeline funds?

The CHAIRMAN pro tempore. The Chair cannot characterize the amendment. We are on the Roth amendment.

Mr. FASCELL. Without characterization, Mr. Chairman, is this the Roth amendment?

The CHAIRMAN pro tempore. The gentleman is correct. The gentleman from Wisconsin [Mr. ROTH] has requested that we dispense with the reading of the amendment, and that has been done. The gentleman from Wisconsin has now asked unanimous consent for 15 seconds to characterize the amendment.

Is there objection to the request of the gentleman from Wisconsin?

Mr. FASCELL. Mr. Chairman, the amendment has already been debated. I hate to do this, but if I make an exception on this one, I will have to do it on every single amendment that will come up next.

Mr. Chairman, I object.

The CHAIRMAN pro tempore. The gentleman's objection is heard.

A recorded vote has been ordered. Pursuant to the order of the House of today, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 216, noes 203, not voting 13, as follows:

[Roll No. 167]

AYES—216

Allard
Andrews (NJ)
Andrews (TX)
Anthony
Applegate
Archer
Armey
Aspin
Baker

Ballenger
Barrett
Barton
Bateman
Bentley
Bevill
Bilirakis
Bliley
Boehner
Brewster
Brooks
Browder
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Chapman
Clinger
Coble
Coleman (MO)
Combest
Condit
Costello
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeFazio
DeLay
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (OK)
Emerson
English
Erdreich
Evans
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Gradison
Grandy
Guarini
Gunderson
Hall (TX)
Hammerschmidt

Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Horn
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (SD)
Johnson (TX)
Jontz
Kanjorski
Kaptur
Kasich
Klug
Kolbe
Kolter
Kopetski
Kyl
Lancaster
LaRocco
Laughlin
Lewis (FL)
Lightfoot
Livingston
Long
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McCurdy
McDade
McEwen
McMillan (NC)
Miller (OH)
Mollohan
Montgomery
Moorhead
Morella
Murphy
Murtha
Myers
Neal (NC)
Nichols
Nussle
Ortiz
Oxley
Packard
Pallone
Parker
Patterson
Paxon

Perkins
Peterson (MN)
Petri
Pickett
Porter
Poshard
Quillen
Rahall
Ramstad
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Russo
Sangmeister
Santorum
Sarpalius
Savage
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sisisky
Skeen
Slattery
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Sundquist
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Walsh
Weber
Williams
Wylie
Young (AK)
Zeliff
Zimmer

NOES—203

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Annunzio
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bennett
Bereuter
Berman
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Broomfield
Brown
Bruce
Bryant

Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coughlin
Coyne
Darden
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly

Downey
Dymally
Edwards (CA)
Edwards (TX)
Engel
Espy
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Goss
Gray
Green

Hall (OH)
Hamilton
Hatcher
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horton
Hoyer
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jones (NC)
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lagomarsino
Lantos
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lipinski
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McDermott
McGrath
McHugh

McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morrison
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Pickle
Price
Rangel
Ravenel
Reed
Richardson
Roe
Ros-Lehtinen
Rostenkowski
Rowland
Roybal
Sabo

Sanders
Sawyer
Scheuer
Sikorski
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stokes
Studds
Swett
Swift
Synar
Tallon
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)

NOT VOTING—13

Frost
Hopkins
Levine (CA)
Lloyd
Mrazek

Oberstar
Pursell
Rose
Schumer
Serrano

Spence
Stark
Weldon

☐ 1143

Messrs. DE LA GARZA, WILSON, and TALLON changed their vote from "aye" to "no."

Mr. TALLON, Mr. SHAYS, Ms. HORN, and Messrs. VOLKMER, GLICKMAN, SISISKY, DURBIN, and McCURDY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. McDERMOTT). Are there any further amendments to title VI?

If not, the Clerk will designate title VII.

The text of title VII is as follows:

TITLE VII—LATIN AMERICA AND THE CARIBBEAN

CHAPTER 1—EL SALVADOR

[Reserved for provisions relating to El Salvador]

CHAPTER 2—OTHER PROVISIONS PERTAINING TO CENTRAL AMERICA

SEC. 721. PROMOTING CENTRAL AMERICAN RECOVERY AND DEVELOPMENT.

(a) IN GENERAL.—The Congress accepts with confidence that the countries of Central America will successfully direct their own economic and human resources to build and maintain the political, social, and economic institutions necessary to achieve peace and prosperity for their people. Accordingly, it shall be the policy of the United States to encourage and support the Central American countries in their efforts to build democracy, restore peace, establish respect for human rights, expand economic opportunities through the achievement of sustained and sustainable development, and improve living conditions in the countries of Central America. It further shall be the policy of the United States to support and encourage dialogue as the proper means of resolving armed conflicts in Central America.

(b) UNITED STATES ASSISTANCE FOR IMPLEMENTATION OF AN INTERNATIONAL PROGRAM FOR CENTRAL AMERICAN RECOVERY AND DEVELOPMENT.—In order to build upon the programs established pursuant to the National Bipartisan Commission on Central America and to establish a Central American Recovery and Development Program, it shall be the policy of the United States, consistent with implementation of the Esquipulas, Tesoro Beach, Tela, San Isidro, and Montelimar Accords and the Antiqua Declaration, to assist in the implementation of recommendations of the International Commission on Central American Recovery and Development, including proposals—

(1) to provide additional economic assistance to the countries of Central America to assist with relocation and resettlement of refugees and other displaced persons in the region, expand educational opportunity and access to health care, foster progress in respect for human rights, bolster democratic institutions, strengthen institutions of justice, conserve natural resources and protect the environment, and otherwise promote sustainable economic development;

(2) to facilitate the ability of the economies of individual Central American countries to grow through the development of the infrastructure of those countries, expansion of exports, and strengthening of investment opportunities, goals which are enhanced by the Caribbean Basin Economic Recovery Expansion Act of 1990; and

(3) to develop those initiatives in concert with the governments of Central America, Western Europe, Japan, Canada, and other democracies.

(c) REFUGEES AND DISPLACED PERSONS.—Consistent with the recommendations of the International Commission on Central American Recovery and Development, it shall be the policy of the United States to support, participate in, and contribute to the United Nations Development Program for its Special Plan of Economic Cooperation for Central America, which is designed to—

(1) reintegrate the displaced and refugee populations,

(2) create employment opportunities, and

(3) establish a system to ensure adequate food supplies and health facilities for the poor.

(d) MULTILATERAL AND REGIONAL COOPERATION.—

(1) MULTILATERAL COOPERATION.—It shall be the policy of the United States to encourage and secure greater international cooperation and support for implementing the recommendations of the International Commission on Central American Recovery and Development. In carrying out this policy, the President should exert continued leadership in multilateral and regional forums and at economic summits to further multidonor responses to the pressing development needs in Central America.

(2) PARTNERSHIP FOR DEMOCRACY AND DEVELOPMENT.—It further shall be the policy of the United States to help organize a partnership among donor countries and the Central American countries to provide a coordinated,

organized means of mobilizing resources and promoting a forum for dialogue about issues of development, democracy, social justice, and human rights.

(3) Regional cooperation.—If requested by the governments of Central America, the United States, in an effort to support full participation in a partnership for democracy and development, shall provide appropriate support and assistance for the development of a coordination mechanism for Central America which includes participation of governments and nongovernmental organizations. Such mechanism has been designated as the Central American Development Coordination Commission (CADCC) by the International Commission on Central American Recovery and Development.

(e) Enterprise for the Americas Initiative.—It shall be the policy of the United States to support and promote the Enterprise for the Americas Initiative to assist Central American countries in opening their economies and managing their foreign debt, which is a major factor in preventing economic renewal.

SEC. 722. MILITARY AIRCRAFT TRANSFERS.

(a) Notification of Transfers by the United States.—During fiscal years 1992 and 1993—

(1) the authorities of title II of the Foreign Assistance Act of 1961 and the Defense Trade and Export Control Act may not be used to make available any helicopters or other aircraft for military use, and

(2) licenses may not be issued under section 38 of the Defense Trade and Export Control Act for the export of any such aircraft, to any country in Central America unless the appropriate congressional committees are notified in writing at least 15 days in advance.

(b) Notification of Transfers by Other Countries.—During fiscal years 1992 and 1993, the Secretary of State shall promptly notify the appropriate congressional committees whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

SEC. 723. ASSISTANCE FOR GUATEMALA.

(a) Prohibition on Military Assistance.—Foreign military financing assistance may not be provided for Guatemala for fiscal years 1992 and 1993, except as otherwise provided in subsection (b) relating to ceasefire monitoring, demobilization, and transition to peace.

(b) Fund for Ceasefire Monitoring, Demobilization, and Transition to Peace.—

(1) Establishment.—There is hereby established in the Treasury of the United States a fund to assist with the costs of monitoring a ceasefire and the permanent settlement of the conflict in Guatemala, including the demobilization of combatants and their transition to peaceful pursuits. This fund shall be known as the Demobilization and Transition Fund for Guatemala (hereinafter in this subsection referred to as the "Fund".).

(2) Transfer of certain military assistance funds.—For each of the fiscal years 1992 and 1993, the President may transfer to the Fund, from amounts made available for foreign military financing assistance, such sums as may be necessary to carry out the purposes of paragraph (4).

(3) Conditions for use of the fund.—Amounts in the Fund shall be available for obligation and expenditure only upon notification by the President to the appropriate congressional committees that the Government of Guatemala and representatives of the Guatemalan National Revolutionary Unit (UNRG) have agreed to a ceasefire.

(4) Use of the fund.—Amounts transferred to the Fund are authorized to be used for, and shall be available only for—

(A) costs of demobilization, retraining, relocation, and reemployment in civilian pursuits of former combatants in the conflict in Guatemala, and

(B) costs of the monitoring of the ceasefire and permanent settlement in Guatemala.

(5) Duration of availability of amounts in the fund.—For purposes of provisions of law relating to periods of availability of funds, amounts transferred to the Fund shall be deemed to be obligated upon transfer.

(c) Prohibition Relating to FMS and Commercial Sales.—During fiscal years 1992 and 1993, the authority of the Defense Trade and Export Control Act may not be used to sell to the Government of Guatemala, and licenses may not be issued under section 38 of that Act for the export to Guatemala, of—

(1) any weapons or ammunition; or

(2) any aircraft, unless those aircraft are unarmed and the Government of Guatemala has agreed that those aircraft will not be armed.

(d) Economic and Food Assistance.—

(1) Limitations.—For fiscal years 1992 and 1993, development assistance, economic support assistance, and assistance under the Agricultural Trade Development and Assistance Act of 1954 that is provided for Guatemala—

(A) may be used only by civilian agencies and nongovernmental organizations;

(B) shall be targeted for assistance—

(i) for programs that directly address poverty, basic human needs, and environmental concerns;

(ii) to improve the performance of democratic institutions or otherwise to promote pluralism;

(iii) for the National Reconciliation Commission;

(iv) for fiscal reform and fiscal administration; or

(v) for programs that promote foreign and domestic trade and investment; and

(C) may not be used for partisan political purposes or as an instrument of counterinsurgency.

(2) Waiver.—The President may waive subparagraph (B) of paragraph (1) if the President reports to the appropriate congressional committees that the Government of Guatemala has made progress in eliminating human rights violations and in investigating and bringing to trial those responsible for major human rights cases such as those involving Americans.

(3) Congressional review of certain assistance.—Funds may be obligated for fiscal years 1992 and 1993 pursuant to a waiver under paragraph (2) only if the appropriate congressional committees are notified at least 15 days in advance of such obligation in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

SEC. 724. ASSISTANCE FOR NICARAGUA.

(a) Considerations in Providing Assistance.—Prior to providing assistance to Nicaragua for fiscal year 1992 or 1993 under the Foreign Assistance Act of 1961, the President should take into account the extent to which the Government of Nicaragua has—

(1) brought the Nicaraguan armed forces under full civilian control, including—

(A) effectively eliminating the influence of political parties within the military command; and

(B) stemming the illegal export of lethal equipment consistent with Nicaraguan obligations in the Central American peace process; and

(2) undertaken thorough and professional investigations into, and prosecution of those responsible for, human rights violations including—

(A) the deaths or disappearances of former members of the Nicaraguan resistance; and

(B) the February 1991 murder of Enrique Bermudez.

(b) Military Assistance.—In providing any foreign military financing assistance to the Government of Nicaragua for fiscal year 1992 or 1993, the President should consider the extent to which such assistance will further the goals of strengthening civilian control over the military, ending human rights abuses, and stemming the export of lethal military equipment.

(c) Limitation on Assistance to Members of the Nicaraguan Resistance.—During fiscal years 1992 and 1993, assistance under the Foreign Assistance Act of 1961 may not be provided for any member of the Nicaraguan resistance who has not disarmed or is not abiding by the terms of the cease-fire agreement and the addendums to the Toncontin Agreement signed on April 19, 1990.

(d) Expropriation Claims.—It is the sense of the Congress that the Government of Nicaragua should expedite the processing of claims by private citizens based on expropriation of property by the former Sandinista government.

SEC. 725. ASSISTANCE FOR REFUGEES AND DISPLACED PERSONS.

Of the amounts of economic support assistance made available for bilateral or regional programs for Central America for each of the fiscal years 1992 and 1993, not less than $25,000,000 shall be provided to nongovernmental organizations, through the United Nations High Commissioner for Refugees and the United Nations Development Program, to implement the Concerted Plan of Action in Favor of Central American Refugees, Returnees and Displaced Persons, such plan having resulted from the International Conference on Central American Refugees (CIREFCA) that convened in May 1989 as an element of the Esquipulas peace process.

SEC. 726. ASSISTANCE FOR DEMOCRATIC LEGISLATURES.

(a) Findings.—The Congress finds that—

(1) Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama all have freely elected governments and freely elected legislatures for the first time in the history of Central America;

(2) the Central American legislatures face economic, political, social, and institutional challenges in fulfilling their constitutional responsibilities; and

(3) the lack of equipment and resources poses an additional challenge for Central American legislatures in fulfilling their constitutional responsibilities.

(b) Strengthening Democratic Legislatures.—It is the sense of the Congress that—

(1) consistent with the purposes set forth in section 1221(b) of the Foreign Assistance Act of 1961, the United States should seek to strengthen the democratic legislatures in Central America (including Panama) by using foreign assistance funds made available under that Act to provide equipment and training to those legislatures; and

(2) efforts to support legislatures in Central America (including Panama) should be coordinated with and otherwise involve appropriately qualified private and public sector experts.

CHAPTER 3—THE CARIBBEAN

SEC. 741. ASSISTANCE FOR HAITI.

(a) Haiti's Democratic Transition.—The Congress congratulates—

(1) the Haitian people for accomplishing Haiti's first transition to democracy;

(2) President Aristide, who was chosen by the Haitian people to be Haiti's first democratically elected President;

(3) the Haitian military, which abided by the Haitian Constitution and supported the democratic transition; and

(4) the private voluntary organizations that remained in Haiti under difficult circumstances and which will have a significant role to play in Haiti's democratic future.

(b) UNITED STATES ASSISTANCE.—It is the sense of the Congress that the United States should provide significant and sustained assistance to the Government of Haiti so long as it abides by the Haitian Constitution and respects freedom of expression and human rights, and should continue to provide substantial assistance to Haitian private voluntary organizations, in order to assist Haiti in institutionalizing democracy and to promote economic development that will benefit the Haitian people.

(c) AMOUNTS OF ECONOMIC ASSISTANCE.—It is the sense of the Congress that, for each of the fiscal years 1992 and 1993, the United States should provide a total of at least $100,000,000 in economic assistance for Haiti under title I of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954, including at least $35,000,000 in economic support assistance and at least $40,000,000 in development assistance.

(d) CONGRESSIONAL REVIEW OF MILITARY ASSISTANCE AND SALES.—At least 15 days before obligating any funds for foreign military financing assistance for Haiti and at least 15 days before issuing any letter of offer to Haiti under the Defense Trade and Export Control Act, the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304 of the Foreign Assistance Act of 1961.

SEC. 742. HAITIAN SUGAR CANE HARVESTERS IN THE DOMINICAN REPUBLIC.

(a) UNITED STATES POLICY.—It shall be the policy of the United States to encourage the Government of the Dominican Republic to act expeditiously and forcefully to improve respect for the internationally recognized human rights of Haitian laborers engaged in the sugar cane harvesting industry in the Dominican Republic.

(b) WITHHOLDING OF ASSISTANCE.—Of the amounts made available for economic support assistance for the Dominican Republic for each of the fiscal years 1992 and 1993, $1,000,000 shall be withheld from expenditure until the President reports to the appropriate congressional committees on the steps taken by the Government of the Dominican Republic to improve respect for the internationally recognized human rights of Haitian laborers engaged in the sugar cane harvesting industry in the Dominican Republic, including the enforcement of the provisions mandated by President Balaguer's decree of October 15, 1990.

SEC. 743. ASSISTANCE FOR GUYANA.

(a) RESTRICTION.—For fiscal years 1992 and 1993, assistance may be provided to the Government of Guyana under the Foreign Assistance Act of 1961 or the Agricultural Trade Development and Assistance Act of 1954 only if the President reports to the appropriate congressional committees that the Government of Guyana is in power as a result of free and fair elections. In making such a determination, the President shall, if appropriate, take into account the findings of international observers with respect to the elections.

(b) EXCEPTIONS.—Subsection (a) does not apply with respect to—

(1) international narcotics control assistance; or

(2) assistance for the holding of free and fair elections.

(c) ECONOMIC ASSISTANCE FOLLOWING INSTALLATION OF A DEMOCRATICALLY ELECTED GOVERNMENT.—It is the sense of the Congress that, following submission of the report required by subsection (a), the United States should provide significant and sustained economic assistance for Guyana under title I of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954. Such assistance should total at least $20,000,000 for each of the fiscal years 1992 and 1993.

(d) ASSISTANCE FOR BASIC HUMAN NEEDS.—

(1) AMOUNT OF ASSISTANCE.—Not less than $3,000,000 in assistance described in paragraph (2) shall be used for each of the fiscal years 1992 and 1993 to meet basic human needs in Guyana. Such assistance may be provided only through nongovernmental organizations or (if a report is made under subsection (a)) through the Government of Guyana.

(2) SOURCES OF ASSISTANCE.—Amounts used pursuant to paragraph (1) may be derived from funds available for development assistance or for economic support assistance or may be in the form of assistance under title II or title III (including the use of local currency proceeds) under the Agricultural Trade Development and Assistance Act of 1954.

SEC. 744. DEMOCRACY IN SURINAME.

The Congress—

(1) condemns the armed forces of Suriname for the December 1990 coup and for their historic disregard for civilian authority;

(2) strongly urges the armed forces of Suriname to permit a peaceful transfer of power to the duly elected civilian government following the elections held on May 25, 1991; and

(3) calls upon the President to withhold United States assistance from Suriname until such a peaceful transfer of power has taken place, and to use such assistance to bolster civilian rule and to encourage the military to permit the civilian government to exercise genuine authority.

CHAPTER 4—ANDEAN INITIATIVE

SEC. 761. ECONOMIC ASSISTANCE AND ADMINISTRATION OF JUSTICE PROGRAMS FOR ANDEAN COUNTRIES.

(a) AUTHORIZATION OF ASSISTANCE.—Of the aggregate amounts authorized to be appropriated for development assistance and economic support assistance, $300,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for Andean countries.

(b) PRIORITIES IN USE OF ASSISTANCE.—In addition to the use of funds pursuant to subsection (c), priority in the use of funds that are allocated for Bolivia and Peru under subsection (a) shall be given to support programs that focus on providing coca farmers with alternative sources of income, including the introduction of alternative crops, agricultural research and extension, the provision of credit, assistance with land titles, agro-industry, micro-enterprise development, and infrastructure development.

(c) ADMINISTRATION OF JUSTICE PROGRAMS.—

(1) ADDITIONAL ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.—Of the funds appropriated for economic support assistance under subsection (a), up to $16,000,000 for each fiscal year should be used to provide assistance for Bolivia, Colombia, and Peru—

(A) pursuant to section 781 of this Act (relating to assistance for law enforcement), in addition to funds otherwise used for those countries under that section; and

(B) pursuant to paragraphs (2) and (3) of this subsection.

(2) PROTECTION AGAINST NARCO-TERRORIST ATTACKS.—Funds used in accordance with paragraph (1) may be used to provide to Bolivia, Colombia, and Peru, notwithstanding section 6202 of the Foreign Assistance Act of 1961 (relating to the prohibition on assistance to law enforcement agencies), such assistance as the government of that country may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(3) ASSISTANCE FOR HUMAN RIGHTS OFFICES.—Up to a total of $1,000,000 of the funds used in accordance with paragraph (1) each fiscal year should be used to provide training, technical assistance, and equipment—

(A) for the Office of Special Investigations and the Special Prosecutor for Human Rights, both of which are within the Office of the Attorney General of the Government of Colombia; and

(B) for the Office of Human Rights in the Office of the Attorney General of the Government of Peru.

(4) ADDITIONAL ASSISTANCE.—Funds may be used in accordance with paragraph (1) of this subsection without regard to the dollar limitation contained in section 781(g)(1) of this Act.

(5) PERIOD OF AVAILABILITY.—Funds allocated for use in accordance with paragraph (1) of this subsection shall remain available until expended notwithstanding any other provision of law.

SEC. 762. MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR ANDEAN COUNTRIES.

(a) AUTHORIZATION OF ASSISTANCE.—Of the amounts authorized to be appropriated for foreign military financing assistance, $118,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for assistance for Andean countries.

(b) PURPOSES OF ASSISTANCE.—Assistance under subsection (a) shall be designed to—

(1) enhance the ability of the government of the recipient country to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with that government by offering concrete assistance in this area of great mutual concern;

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking; and

(4) assist the armed forces of the Andean countries in their support roles for those countries' law enforcement agencies, which are charged with the main responsibility for the control of illicit narcotics production and trafficking.

(c) CONDITIONS OF ELIGIBILITY.—Assistance may be provided for an Andean country under subsection (a) only—

(1) so long as that country has a democratic government; and

(2) the government of that country, including the armed forces and law enforcement agencies, does not engage in a consistent pattern of gross violations of internationally recognized human rights.

(d) LAW ENFORCEMENT TRAINING AND EQUIPMENT.—Subject to subsection (e), funds made available to carry out subsection (a) may be used—

(1) to provide to law enforcement units, that are organized for the specific purpose of

narcotics enforcement, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts;

(2) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction; and

(3) for the procurement of defense articles or commodities for use in narcotics control, eradication, and interdiction efforts by law enforcement units that are organized for the specific purpose of narcotics enforcement.

Section 402 of this Act (relating to the exemption of narcotics-related assistance from the prohibition on assistance for law enforcement agencies) applies with respect to the use of funds under this subsection.

(e) Military and Law Enforcement Assistance.—

(1) Limitations on amounts.—The aggregate amount of military and law enforcement assistance provided for Bolivia, Colombia, and Peru for each of the fiscal years 1992 and 1993 may not exceed $250,000,000. Of that amount—

(A) not more than $150,000,000 for each such fiscal year may be assistance for the armed forces; and

(B) not more than $150,000,000 for each such fiscal year may be assistance for law enforcement units or agencies.

(2) Definition of military and law enforcement assistance.—For purposes of paragraph (1), the term "amount of military and law enforcement assistance" means the sum of—

(A) the amount obligated for foreign military financing assistance;

(B) the amount obligated for international narcotics control assistance;

(C) the amount obligated for international military education and training;

(D) the value of defense articles, defense services, and military education and training made available under the special drawdown authority of subsections (a) and (b)(1) of section 2901 of the Foreign Assistance Act of 1961; and

(E) the value of excess defense articles made available under chapter 3 of title II of the Foreign Assistance Act of 1961.

(f) Prohibition on Assistance for Peru's Sinchi Police.—For purposes of this section, Peru's Sinchi Police may not be considered to be a law enforcement unit that is organized for the specific purpose of narcotics enforcement.

SEC. 763. GENERAL PROVISIONS RELATING TO ASSISTANCE FOR ANDEAN COUNTRIES.

(a) Presidential Determination Required.—Assistance may be provided for an Andean country pursuant to section 761(a) and section 762(a), and excess defense articles may be transferred to Bolivia, Colombia, or Peru in fiscal years 1992 and 1993 pursuant to chapter 3 of title II of the Foreign Assistance Act of 1961, only if, before any such assistance is provided or any such defense articles are transferred for that fiscal year, the President determines that—

(1) that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a bilateral or multilateral agreement, to which the United States is a party, that contains specific, quantitative and qualitative, performance criteria with respect to those programs;

(2) the armed forces and law enforcement agencies of that country are not engaged in a consistent pattern of gross violations of internationally recognized human rights, and the government of that country has made significant progress in protecting internationally recognized human rights, particularly in—

(A) ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty, or security of the person, are not practiced; and

(B) permitting an unimpeded investigation of alleged violations of internationally recognized human rights, including providing access to places of detention, by appropriate international organizations (including nongovernmental organizations such as the International Committee of the Red Cross) or groups acting under the authority of the United Nations or the Organization of American States; and

(3) the government of that country has effective control over police and military operations related to counternarcotics and counterinsurgency activities.

Paragraph (2) does not apply with respect to assistance under section 761(a) for programs that focus on providing coca farmers with alternative sources of income, including the introduction of alternative crops, agricultural research and extension, the provision of credit, assistance with land titles, agro-industry, micro-enterprise development, and infrastructure development.

(b) Notifications to Congress.—Not less than 15 days before funds are obligated pursuant to section 761(a) or 762(a), the President shall transmit to the appropriate congressional committees a written notification in accordance with the procedures applicable to reprogrammings under section 6304 of the Foreign Assistance Act of 1961. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) in the case of assistance provided pursuant to section 762(a), the law enforcement or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will further—

(A) the objectives specified in subsection (a) of this section, and

(B) in the case of assistance under section 762(a), the purposes specified in section 762(b).

(c) Coordination With International Narcotics Control Assistance Program.—Assistance authorized by section 761(a) and section 762(a) shall be coordinated with international narcotics control assistance.

(d) Conditional Waiver of Brooke-Alexander Amendment.—For fiscal years 1992 and 1993, section 6204 of the Foreign Assistance Act of 1961, and any similar provision of the Foreign Operations, Export Financing, and Related Programs Appropriations Act for fiscal years 1992 and 1993, shall not apply with respect to narcotics-related assistance for an Andean country, provided the President has made the determination described in subsection (a) of this section.

CHAPTER 5—OTHER PROVISIONS PERTAINING TO THE REGION

SEC. 781. ASSISTANCE FOR LAW ENFORCEMENT.

(a) General Authority.—Assistance under this section shall be provided for countries in Latin America and the Caribbean with democratically elected governments—

(1) to promote respect for the rule of law and internationally recognized human rights by all elements of society;

(2) to improve the professionalism and effectiveness of law enforcement agencies in the Western Hemisphere based upon the traditional role of civilian law enforcement agencies within a democratic system;

(3) to improve the capacity of law enforcement officials and the courts to render independent, fair, timely, and accessible justice and to punish all who abuse human life and dignity; and

(4) to enhance the interaction among courts, prosecutors, and police in the investigation of crime.

(b) Types of Assistance Authorized.—Funds made available to carry out section 1221 of the Foreign Assistance Act of 1961 shall be available for countries in Latin America and the Caribbean that have a democratically elected government to support programs and activities, without regard to section 6202 of that Act—

(1) to enhance professional capabilities to carry out investigative and forensic functions conducted under judicial and prosecutorial control;

(2) to assist in the development of academic instruction and curricula for training law enforcement personnel;

(3) to improve the administrative and management capabilities of law enforcement agencies, especially their capabilities relating to career development, personnel evaluation, and internal discipline procedures;

(4) to improve penal institutions and the rehabilitation of offenders; and

(5) to enhance protection of participants in judicial cases.

(c) Assistance Subject to Notification Requirement.—Assistance under this section may be provided only if at least 15 days before each obligation of funds the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304 of the Foreign Assistance Act of 1961.

(d) Prohibition on Lethal Equipment.—Funds made available to carry out this section may not be used to provide any lethal equipment.

(e) Prohibition on DOD Participation.—Personnel of the Department of Defense and members of the United States Armed Forces may not participate in the provision of training under this section.

(f) Law Enforcement Training for the Caribbean.—Training for the police or other law enforcement personnel of a country in the Caribbean may be provided under the Foreign Assistance Act of 1961 only by the International Criminal Investigative Training Assistance Program of the Department of Justice. This subsection does not apply with respect to training provided under section 4201(b) of that Act (relating to international narcotics control assistance).

(g) Amounts Available for Law Enforcement Training.—Of the funds made available to carry out section 1221 of the Foreign Assistance Act of 1961—

(1) not more than $10,000,000 may be made available in each of the fiscal years 1991, 1992, and 1993 to carry out this section; and

(2) not less than $2,500,000 shall be made available in each of the fiscal years 1992 and 1993 to carry out this section with respect to countries in the Caribbean.

(h) Expiration.—The authority of this section shall expire on September 30, 1993.

SEC. 782. INTER-AMERICAN FOUNDATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 401(s)(2) of the Foreign Assistance Act of 1969 is amended to read as follows: "There are authorized to be appropriated $28,800,000 for fiscal year 1992 and $31,000,000 for fiscal year 1993 to carry out this section.".

(b) BOARD OF DIRECTORS.—

(1) QUALIFICATIONS.—Section 401(g) of that Act is amended by adding at the end the following: "All individuals appointed to the Board shall possess an understanding of and sensitivity to community level development processes. No more than 5 members of the Board may be members of any one political party.".

(2) TRANSITION RULE.—The requirements established by the amendment made by paragraph (1) do not affect appointments made to the Board of the Inter-American Foundation before the date of enactment of this Act.

(c) PRINCIPAL OFFICE.—Section 401(q) of that Act is amended to read as follows:

"(q) The Foundation shall maintain its principal office in the metropolitan Washington, D.C., area. The Foundation may establish agencies, branch offices, or other offices in any place or places outside the United States in which the Foundation may carry on all or any of its operations and business.".

(d) EXPENSES FOR MEETINGS AND PRINTING.—Section 401 of that Act is amended by adding at the end the following:

"(v) Funds made available to the Foundation may be used for the expenses described in section 1345 of title 31 of the United States Code (relating to travel, transportation, and subsistence expenses for meetings).

"(w) Funds made available to the Foundation may be used for printing and binding without regard to any other provision of law.".

SEC. 783. MILITARY ASSISTANCE AND SALES FOR CHILE.

During fiscal years 1992 and 1993, foreign military financing assistance may not be provided to Chile and sales may not be made to Chile under the Defense Trade and Export Control Act unless the appropriate congressional committees are notified of the amount and nature of the proposed assistance or sale (as the case may be) at least 15 days in advance in accordance with procedures applicable to reprogrammings pursuant to section 6304 of the Foreign Assistance Act of 1961.

SEC. 784. CENTRAL AMERICAN JOURNALISM PROGRAM AND THE REGIONAL ADMINISTRATION OF JUSTICE PROGRAM.

Of the aggregate amounts of development assistance and economic support assistance allocated for Latin America and the Caribbean, not less than $2,800,000 for each of the fiscal years 1992 and 1993 shall be provided to the Central American Journalism Program and Regional Administration of Justice Program's Center for the Administration of Justice to support democracy building activities in the region. The funds made available pursuant to this section shall be in addition to the level of assistance provided to these programs for fiscal year 1991.

Mr. WEISS. Mr. Chairman, I rise in strong support of H.R. 2508, the International Cooperation Act of 1991. I would like to begin by commending the chairman of the Foreign Affairs Committee, Mr. FASCELL, for his tireless—and often thankless—effort to complete this complex and important piece of legislation. His determination and commitment are very much appreciated by those of us who have worked under his leadership for so many months on this bill. I would also like to commend the Republican leadership of the committee, whose cooperation and active participation resulted in several important bipartisan provisions.

I would like to focus my remarks today on just one of those provisions—the section of the bill concerning U.S. policy toward Guatemala—section 733. With a striking degree of consensus and agreement, the Foreign Affairs Committee has adopted a set of strong human rights conditions on U.S. military and economic aid to that country.

This bipartisan agreement is an indication of the growing concern—both in Congress and the Bush administration—over Guatemala's deteriorating human rights situation. These concerns have been expressed very clearly by the State Department and by our able Ambassador in Guatemala City, Tom Stroock. According to the State Department's "Country Reports on Human Rights Practices:"

> Reliable evidence indicates that security forces and civil patrols committed, with almost total impunity, a majority of the major human rights abuses [in Guatemala in 1990]. These include extrajudicial killings, torture, and disappearances of, among others, human rights activists, unionists, indigenous people, and street children.

The State Department report goes on to say that—

> The security forces are virtually never held accountable for human rights violations. With few exceptions, the Government failed to investigate, detain, and prosecute those perpetrators of extrajudicial and politically motivated killings who were connected with the security forces.

In response to this deteriorating situation, the Foreign Affairs Committee has reached a bipartisan agreement on United States assistance to Guatemala. That agreement—which has been accepted by the State Department and which is included in the legislation before the House today—contains four main provisions:

First, a prohibition on military assistance to Guatemala for fiscal years 1992 and 1993. This provision would extend the current policy of the Bush administration, which suspended military aid last December in response to the inadequate investigation of the murder of United States citizen Michael Divine, who was allegedly killed by Guatemalan military intelligence personnel last June;

Second, a prohibition on lethal military sales to Guatemala under the Defense Trade and Export Control Act;

Third, a requirement that United States economic assistance to Guatemala may only be used for certain specified purposes—such as poverty alleviation, improving the performance of democratic institutions, and supporting the National Reconciliation Commission. This provision broadens our current policy so that economic support funds [ESF] will now be conditioned on demonstrated improvements in Guatemala's desperate human rights situation. This restriction may be waived by President Bush only if he certifies that the Guatemalan Government has made progress in eliminating human rights violations and in investigating major human rights cases. The committee report specifically refers to five cases on which progress must be demonstrated before a certification may be made: The June 1990 murder of U.S. citizen Michael Divine; the November 1989 abduction and torture of Ursuline Sister Dianna Ortiz—who was featured in a recent segment of ABC's "PrimeTime Live"; the September 1990 murder of anthropologist Myrna Mack; the October 1990 assassination attempt against Guatemalan journalist Byron Barrera and the assassination of his wife, Refugio Araceli Villanueva de Barrera; and the December 1990 massacre of 13 peasants in the town of Santiago Atitlan; and

Fourth, the creation of a demobilization and transition fund for Guatemala, which will provide United States aid to help monitor an eventual cease-fire and to facilitate a permanent settlement of Guatemala's internal conflict.

Mr. Speaker, the Foreign Affairs Committee has recommended this approach with a full awareness of the recent transition to a new Presidential administration in Guatemala. In the 6 months since his inauguration, President Jorge Serrano has indeed taken important steps to reverse Guatemala's tragic legacy of political violence.

For example, the new President has signed his intention to hold his security forces strictly accountable for their actions; he has named a new Defense Minister and a new police chief. And, perhaps most importantly, he has made a personal commitment to bring Guatemala's internal conflict—the longest running and most violent civil war in the hemisphere—to a peaceful, negotiated resolution.

These are very encouraging steps which deserve our commendation and support.

Unfortunately, other developments in Guatemala are not so encouraging—especially in the area of human rights. Not only has the pattern of human rights violations in Guatemala continued under the new Government, but the situation has actually become significantly worse during the last 6 months.

According to Guatemala's human rights ombudsman—a widely respected Government official—the number of extrajudicial killings during the first 3 months of this year is twice the number for the comparable period last year. More than a dozen labor leaders and politicians have fled the country in the last 3 weeks alone, after receiving death threats.

The victims of these abuses have often been the very people who alert the international community to Guatemala's human rights situation. Since January, three members of the human rights monitoring group, CERJ, have been murdered, as have members of their families.

This escalation of abuses demonstrates that President Serrano's good intentions are simply not enough to reverse the increasing pattern of human rights abuses in Guatemala. In light of this deteriorating situation, the United States can no longer base its foreign assistance—either military or economic—on promises alone. We must first see concrete, measurable human rights improvements.

The new President's promises to safeguard human rights were not enough to prevent the hundreds of extrajudicial killings that have already occurred this year, or the dozens of cases of torture and forced disappearance. Those promises were not enough to convince labor leaders and politicians to remain in the country. Therefore, although we are encouraged by President Serrano's well-intended promises, the committee has concluded that the actual pattern of abuses must be reversed before U.S. assistance may be released.

In conclusion, Mr. Chairman, let me once again urge my colleagues to support this legislation and send a strong bipartisan message about our commitment to promote justice and human rights in Guatemala.

The CHAIRMAN pro tempore. Are there any amendments to title VII?

If not, the Clerk will designate title VIII.

The text of title VIII is as follows:

TITLE VIII—EUROPE AND THE MIDDLE EAST

CHAPTER 1—MIDDLE EAST

SEC. 801. ASSISTANCE FOR ISRAEL.

(a) ECONOMIC SUPPORT ASSISTANCE.—

(1) AMOUNT OF ASSISTANCE.—Of the amounts made available for economic support assistance, not less than $1,200,000,000 for fiscal year 1992 and not less than $1,200,000,000 for fiscal year 1993 shall be available only for Israel.

(2) TERMS OF ASSISTANCE.—The total amount of funds allocated for Israel each fiscal year pursuant to subsection (a) shall be made available as a cash transfer on a grant basis. Such transfer shall be made on an expedited basis within 30 days after the beginning of the fiscal year or the date of enactment of the Act appropriating such funds, whichever is later. In exercising the authority of this paragraph, the President shall ensure that the level of cash transfer made to Israel does not cause an adverse impact on the total level of nonmilitary exports from the United States to Israel.

(b) FOREIGN MILITARY FINANCING GRANTS.—

(1) AMOUNT OF ASSISTANCE.—Of the amounts made available for foreign military financing grants, not less than $1,800,000,000 for fiscal year 1992 and not less than $2,000,000,000 for fiscal year 1993 shall be available only for Israel.

(2) EXPEDITED DELIVERY OF ASSISTANCE.—The total amount of funds allocated for Israel each fiscal year pursuant to subsection (a) shall be disbursed within 30 days after the beginning of the fiscal year or the date of enactment of the Act appropriating such funds, whichever is later.

(3) ADVANCED WEAPONS SYSTEMS.—To the extent that the Government of Israel requests that funds be used for such purposes, amounts made available for Israel pursuant to paragraph (1) shall, as agreed by the Government of Israel and the Government of the United States, be available for advanced weapons systems as follows:

(A) Up to $150,000,000 for each fiscal year shall be available for research and development in the United States.

(B) Not less than $475,000,000 for each fiscal year shall be available for procurement in Israel of defense articles and defense services, including research and development.

(c) MILITARY STOCKPILES IN ISRAEL.—Of amounts authorized by section 2703(b) of the Foreign Assistance Act of 1961 for the additions to stockpiles, $300,000,000 for fiscal year 1992 and $300,000,000 for fiscal year 1993 shall be available only for stockpiles in Israel.

(d) SPECIAL DRAWDOWN AUTHORITY FOR ISRAEL.—

(1) AUTHORIZATION.—In order to assist Israel in meeting its defense requirements and the threats it faces, during fiscal years 1992 and 1993 the President may direct, for the purposes of providing assistance under title II of the Foreign Assistance Act of 1961, the drawdown for Israel of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, having an aggregate value of up to $700,000,000 (subject to paragraph (2)).

(2) RELATION TO FY 1991 APPROPRIATIONS ACT AUTHORITY.—The amount specified in paragraph (1) shall be reduced by the value of any defense articles, defense services, and military education and training made available to Israel under section 599B of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513).

(3) RELATION TO OTHER AUTHORITIES.—Any defense articles, defense services, and military education and training made available to Israel under this subsection shall be in addition to any defense articles, defense services, and military education and training made available to Israel under other provision of law.

(4) DRAWDOWNS FROM UNITS WITHDRAWING FROM EUROPE.—To the maximum extent feasible, drawdowns under this subsection shall be made from units withdrawn or to be withdrawn from Europe.

(5) EXTENSION OF AUTHORITY.—In the event the President determines that the timing of the drawdown under this subsection would have an adverse impact on the readiness of the Armed Forces of the United States, the President shall have such additional time beyond the end of fiscal year 1993 as the President determines appropriate in which to exercise the authority of this subsection. The President shall notify the appropriate congressional committees of any determination under this paragraph, including an estimate of when the total amount authorized to be drawndown by this subsection will be provided to Israel.

(6) REPORT.—The President shall, within 6 months after the last delivery under this subsection, submit to the appropriate congressional committees a report identifying the defense articles, defense services, and military education and training provided to Israel under this subsection.

(7) REIMBURSEMENT OF DEFENSE ACCOUNTS.—Section 7201(d) of the Foreign Assistance Act of 1961 does not apply with respect to drawdowns under this section, but section 2901(g) of that Act does apply with respect to such drawdowns.

SEC. 802. ASSISTANCE FOR EGYPT.

(a) ECONOMIC SUPPORT ASSISTANCE.—

(1) AMOUNTS OF ASSISTANCE.—Of the amounts made available for economic support assistance, not less than $815,000,000 for fiscal year 1992 and not less than $815,000,000 for fiscal year 1993 shall be available only for Egypt.

(2) CONDITIONS FOR SECTOR GRANTS.—Assistance provided for Egypt pursuant to this subsection may include sector grants only if Egypt implements agreed upon reforms in the relevant sector.

(3) LAW ENFORCEMENT ASSISTANCE.—Notwithstanding section 6202 of the Foreign Assistance Act of 1961, assistance provided for Egypt pursuant to this subsection may include support for instruction and training for Egyptian civilian law enforcement personnel with respect to human rights, democratic pluralism, and comparative criminal justice systems, including support for related curriculum development and research. Such assistance may be provided only through United States institutions of higher education or through the International Criminal Investigative Training Assistance Program of the United States Department of Justice.

(b) FOREIGN MILITARY FINANCING GRANTS.—Of the amounts made available for foreign military financing grants, not less than $1,300,000,000 for fiscal year 1992 and not less than $1,300,000,000 for fiscal year 1993 shall be available only for Egypt.

SEC. 803. PROMOTING PLURALISM AND DEMOCRACY.

Of the amounts allocated by the Agency for International Development for democratic initiatives and human rights, up to $10,000,000 for fiscal year 1992 and up to $10,000,000 for fiscal year 1993 shall be used to support the growth of indigenous nongovernmental organizations that contribute to increased pluralism, democracy, and respect for human rights and the rule of law in the Middle East.

SEC. 804. WEST BANK AND GAZA PROGRAM.

Of the amounts made available for economic support assistance, not less than $16,000,000 for fiscal year 1992 and not less than $16,000,000 for fiscal year 1993 shall be available only for the West Bank and Gaza program.

SEC. 805. MIDDLE EAST COOPERATIVE SCIENTIFIC AND TECHNOLOGICAL PROJECTS.

Of the amounts made available for economic support assistance, not less than $7,000,000 for fiscal year 1992 and not less than $7,000,000 for fiscal year 1993 shall be available only for regional cooperative projects in the Middle East in accordance with section 202(c) of the International Security and Development Cooperative Act of 1985.

SEC. 806. COOPERATIVE DEVELOPMENT PROJECTS.

(a) COOPERATIVE DEVELOPMENT PROGRAM.—Of the amounts made available for development assistance, not less than $5,000,000 for fiscal year 1992 and not less than $5,000,000 for fiscal year 1993 shall be used to finance projects among the United States, Israel, and developing countries under the Cooperative Development Program.

(b) COOPERATIVE DEVELOPMENT RESEARCH.—Of the amounts made available for development assistance, not less than $2,500,000 for fiscal year 1992 and not less than $2,500,000 for fiscal year 1993 shall be used to finance cooperative development research projects among the United States, Israel, and developing countries.

SEC. 807. ISRAELI-PALESTINIAN PEOPLE-TO-PEOPLE ACTIVITIES.

It is the sense of the Congress that, in order to promote better understanding and mutual respect between the Israeli and Palestinian peoples, the United States should support educational, cultural, and humanitarian activities that bring Israelis together with Palestinians living in the West Bank and Gaza.

SEC. 808. POLICY TOWARD AND ASSISTANCE FOR LEBANON.

(a) UNITED STATES POLICY.—It is the sense of the Congress that United States policy toward Lebanon should—

(1) support the unity, sovereignty, and territorial integrity of Lebanon;

(2) work for the immediate release of American hostages seized in Lebanon;

(3) encourage the Government of Lebanon to undertake political reforms to establish representative democratic institutions;

(4) oppose Syrian control of Lebanon and the use of Lebanese territory by Syria for illegal narcotics production and trafficking;

(5) seek the removal of all Syrian, other Arab, and Iranian troops from Lebanon;

(6) seek the removal of Israeli forces from Lebanon as soon as the Government of Lebanon is capable of effectively guaranteeing an end to cross-border terrorism;

(7) provide, under present circumstances, humanitarian and economic assistance to the people of Lebanon through American and international private voluntary organizations and to American institutions in Lebanon, such as the American University of Beirut and Beirut University College; and

(8) ensure that none of the assistance provided to Lebanon benefits the Government of Syria.

(b) ECONOMIC SUPPORT ASSISTANCE.—Of the amounts made available for economic support assistance, not less than $4,000,000 for fiscal year 1992 and not less than $4,000,000 for fiscal year 1993 shall be available only for Lebanon.

(c) DEVELOPMENT ASSISTANCE.—Of the amounts made available for development assistance, not less than $6,000,000 for fiscal year 1992 and not less than $6,000,000 for fiscal year 1993 shall be available only for Lebanon.

(d) MILITARY SALES.—During the period beginning on the date of enactment of this Act and ending on September 30, 1993, defense articles and defense services may not be sold to Lebanon under the Defense Trade and Export Control Act, and deliveries to Lebanon of defense articles and defense services pursuant to any previous such sale shall be suspended, unless the President submits to appropriate congressional committees a report that—

(1) sets forth the purpose and value of the defense articles and defense services to be provided;

(2) identifies the intended end-user within the Lebanese Government of those defense articles and defense services; and

(3) states that the President has determined that—

(A) those defense articles and defense services will assist the Government of Lebanon in establishing effective control of Lebanese territory; and

(B) sufficient safeguards exist to ensure that those defense articles and defense services will not benefit the Government of Syria.

Any such report shall describe the basis for the determinations described in paragraph (3).

SEC. 809. RESTRICTIONS AND REPORTS WITH REGARD TO SYRIA.

(a) RESTRICTIONS ON ASSISTANCE.—United States assistance may not be provided to Syria until the President determines, and so reports to the relevant congressional committees, that—

(1) the Government of Syria has demonstrated its willingness to enter into direct bilateral negotiations with the State of Israel;

(2) the Government of Syria—

(A) does not deny its citizens, or any segment of its citizens, the right or opportunity to emigrate,

(B) does not impose any tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever, and

(C) does not impose any tax, levy, fine, or other charge (other than a nominal fee for administrative expenses) on any citizen as a consequence of the desire of such citizen to emigrate to the country of his or her choice;

(3) the Government of Syria is assisting the United States Government in obtaining the release of American hostages seized in Lebanon;

(4) the Government of Syria no longer supports groups responsible for acts of international terrorism and no longer provides safe haven for terrorists;

(5) the Government of Syria is withdrawing its armed forces from Lebanon;

(6) the Government of Syria is no longer acquiring chemical, biological, or nuclear weapons, and the President has received credible assurances that any such weapons now in the Syrian arsenal will not be used to threaten Syria's neighbors;

(7) the Government of Syria is fully cooperating with United States antinarcotics efforts and is taking steps to remove those members of the Syrian Government who are involved in the drug trade;

(8) the Government of Syria has made progress in improving its record of respect for internationally recognized human rights; and

(9) the Government of Syria has extradited the notorious Nazi war criminal Alois Bruner to Germany.

(b) REPORT TO CONGRESS.—Six months after a report is submitted pursuant to subsection (a), the President shall submit to the relevant congressional committees a report on United States policy towards Syria, with specific reference to each of the issues described in paragraphs (1) through (8) of subsection (a).

(c) ANNUAL REPORT THIRD COUNTRY ARMS SALES TO SYRIA.—Not later than March 31 of each year, the President shall submit to the relevant congressional committees a detailed report (which shall be based on all relevant information available to the United States Government) on all third country transfers of weapons and other military equipment to Syria during the previous calendar year. Each such report shall include an analysis of the impact of these transfers, especially—

(1) the cumulative amount and value of these transfers;

(2) the effect of these transfers on regional stability, security, and the balance of power;

(3) the extent to which these transfers make regional peace or war more or less likely;

(4) the extent to which an actual military need exists for these transfers;

(5) the extent to which Syria can bear the cost of purchasing, maintaining, operating, and securing the new weapons or other military equipment; and

(6) the effect on Israel's qualitative edge in the region, and the amount and type of military or economic assistance would be required to compensate for any loss in Israel's qualitative edge.

(d) DEFINITIONS.—As used in this section—

(1) the term "relevant congressional committees" means the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate; and

(2) the term "United States assistance" has the same meaning it has under section 7601(e)(5) of the Foreign Assistance Act of 1961.

SEC. 810. CAPTURED IRAQI EQUIPMENT.

(a) REQUIREMENT FOR CONGRESSIONAL NOTIFICATION BEFORE THIRD COUNTRY TRANSFER.—Equipment, supplies, or material captured from Iraq by United States forces in the context of Operation Desert Storm may be transferred to the government (or other entity) of any foreign country in the Middle East only if the relevant congressional committees are notified in advance in accordance with their regular notification procedures.

(b) DEFINITIONS.—As used in this section—

(1) the term "material" includes all lethal and nonlethal instruments of war and their supporting elements, components, and subcomponents; and

(2) the term "relevant congressional committees" means—

(A) in the House of Representatives, the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Affairs; and

(B) in the Senate, the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations.

SEC. 811. IRAQI COMPENSATION FOR DAMAGES TO OTHER COUNTRIES.

It is the sense of the Congress that under international law and the terms of United Nations Security Council Resolutions 674 (1990) and 687 (1991)—

(1) Iraq is liable for any direct loss, damage, or injury to foreign governments, nationals, and corporations as a result of Iraq's invasion and illegal occupation of Kuwait; and

(2) Israel is a country that suffered damage as a result of Iraq's aggression and should, therefore, be able to receive compensation from Iraq commensurate with the damage Israel suffered from that aggression.

SEC. 812. PEACE AND STABILITY IN THE MIDDLE EAST.

(a) EFFORTS TO ACHIEVE.—It is the sense of the Congress that, in the aftermath of the Persian Gulf conflict, the United States should work with its Arab coalition partners—

(1) to encourage their active support for efforts to achieve peace and stability in the Middle East and to settle the Arab-Israeli conflict through direct negotiations; and

(2) to take specific steps to—

(A) recognize Israel's right to exist,

(B) terminate the economic and diplomatic boycott of Israel,

(C) cease efforts to expel Israel from international organizations or to deny Israel the opportunity to participate in the activities of such organizations, and

(D) terminate assistance to countries or groups that commit or support acts of international terrorism.

(b) REPORTS ON IMPLEMENTATION OF POLICIES.—Not later than 3 months after the date of enactment of this Act and every 6 months thereafter, the Secretary of State shall submit to the appropriate congressional committees a report on progress in implementing the policies expressed in subsection (a).

SEC. 813. CUMULATIVE IMPACT OF CONVENTIONAL ARMS TRANSFERS TO THE MIDDLE EAST.

(a) ANNUAL REPORT.—Not later than January 31 each year, the President shall submit to the appropriate congressional committees a report containing the following:

(1) An analysis of the Middle East arms balance based upon the cumulative impact of the aggregate transfers of defense articles and defense services to the region by all countries during the previous calendar year.

(2) An analysis of how United States policy goals are advanced by United States transfers of defense articles and defense services to the region.

(3)(A) An analysis of what type of military or economic compensation is required, as a result of the transfers described in paragraph (1), to countries whose qualitative edge the United States is committed to maintaining, and how such compensation is to be funded.

(B) A detailed description of steps taken to preserve this qualitative edge and areas requiring attention due to a decline in comparative advantage.

(4) An analysis of defense articles and defense services obtained by Middle East coun-

tries from sources other than the United States.

(b) FACTORS.—The analyses required by subsection (a) shall be based on the following factors:

(1) The effect of the transfers of defense articles and defense services on regional stability and security.

(2) With respect to United States transfers, an assessment of the threat those transfers were intended to offset, and the extent to which an actual military need existed for the transfers.

(3) The extent to which those transfers will contribute to a regional arms race.

(4) The ability of the recipient country to operate, maintain, secure, and bear the cost of the defense articles and defense services transferred.

SEC. 814. RESTRICTIONS ON NEGOTIATIONS WITH THE PALESTINE LIBERATION ORGANIZATION.

Section 1302 of the International Security and Development Cooperation Act of 1985 is amended—

(1) by inserting "(1)" after "POLICY.—"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(2) In 1990 the United States, along with other members of the United Nations Security Council, condemned Iraq's invasion and annexation of Kuwait and called upon Iraq to withdraw from Kuwait. In 1991, the United States led a 28 nation coalition in military action to eject Iraq from Kuwait and implement the 12 Security Council resolutions regarding Iraq's invasion of Kuwait. The Palestine Liberation Organization opposed these policies of the United States and worked against their implementation.

"(b) REAFFIRMATION AND CODIFICATION OF POLICIES.—The United States hereby reaffirms the policies referred to in subsection (a). In accordance with these policies, no officer or employee of the United States Government and no agent or other individual action on behalf of the United States Government shall negotiate with the Palestine Liberation Organization or representatives thereof (except in emergency or humanitarian situations) unless and until the Palestine Liberation Organization recognizes Israel's right to exist, and amends its charter to reflect such recognition; clearly and unequivocally accepts United Nations Security Council Resolutions 242 and 338; and renounces and ceases the use of terrorism by any group represented on the Palestine Liberation Organization Executive Committee or the Palestine National Council.

"(c) DEFINITION OF TERRORISM.—As used in subsection (b), the term 'use of terrorism' has the same meaning as the term 'engage in terrorist activity' as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)).".

SEC. 815. UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 3379.

(a) FINDING.—The Congress finds that the General Assembly of the United Nations adopted Resolution 3379 on November 10, 1975, maintaining that Zionism constitutes a form of racism.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States should use all available means to obtain rescission by the United Nations General Assembly of Resolution 3379, and the Congress calls upon the General Assembly to rescind that resolution.

SEC. 816. 1981 ISRAELI PREEMPTIVE STRIKE AGAINST THE IRAQI NUCLEAR REACTOR AT OSIRAK.

(a) FINDINGS.—The Congress finds that—

(1) on June 7, 1981, the Israeli air force launched a preemptive strike against the Iraqi nuclear reactor at Osirak;

(2) on June 19, 1981, the United Nations Security Council adopted Resolution 487 which condemned that Israeli preemptive strike;

(3) in the years following that Israeli preemptive strike, Iraq demonstrated an ability and willingness to use weapons of mass destruction, as evidenced by chemical weapons attacks against both Iranian military forces and Kurdish Iraqi citizens;

(4) in 1990, Iraqi President Hussein attempted to illegally acquire triggering devices for atomic bombs, and also threatened to use weapons of mass destruction against both neighboring Arab countries and Israel;

(5) in August 1990, Iraq invaded and occupied Kuwait, demonstrating a continuing policy of aggression;

(6) after United States-led coalition forces attacked the Iraqi forces on January 16, 1991, Iraq attempted to draw Israel, a nonbelligerent country, into the conflict by launching 42 Scud missiles at Israel; and

(7) there is no evidence that the Israeli preemptive strike against the Iraqi nuclear reactor at Osirak delayed efforts to resolve the Arab-Israeli conflict.

(b) POLICY DECLARATIONS.—It is the sense of the Congress that—

(1) the 1981 Israeli preemptive strike against the Iraqi nuclear reactor at Osirak was a legitimate and justifiable exercise of self-defense which also reduced the threat of Iraqi nuclear aggression against countries bordering Iraq; and

(2) the United States should seek the repeal of United Nations Security Council Resolution 487 which condemned that 1981 Israeli preemptive strike.

SEC. 817. DEMOCRATIC REFORM AND HUMAN RIGHTS IN KUWAIT.

(a) FINDINGS.—The Congress finds that—

(1) on January 16, 1991, the United States led a 28 nation coalition in military action to eject Iraq from Kuwait and implement the 12 United Nations Security Council resolutions regarding Iraq's invasion of Kuwait;

(2) it is United States policy to promote the cause of human rights and the development of democratic institutions in Kuwait and around the world;

(3) there are the continuing reports of torture and extrajudicial killings in Kuwait, allegedly carried out by Kuwaiti armed forces and members of "resistance" groups against those who are alleged to have collaborated with the Iraqi occupation; and

(4) there is a lack of political rights in Kuwait, manifest in part by the 1986 suspension of the elected national assembly and the restricted nature of the franchise in Kuwait.

(b) RESTRICTION ON ARMS SALES.—Sales may not be made to Kuwait under the Defense Trade and Export Control Act, and licenses may not be issued under section 38 of that Act for the export to Kuwait of any item on the United States Munitions List, unless the President certifies to the appropriate congressional committees that the Government of Kuwait—

(1) has put an end to the occurrences of arbitrary arrest, torture, and extrajudicial killing by Kuwaiti armed forces, and is making a genuine effort to stop such acts by nongovernmental resistance groups;

(2) has clarified the legal basis for arrest and detention in Kuwait;

(3) has ensured that those detained have access to legal counsel and to humanitarian and human rights groups;

(4) has ensured that the rights to a speedy trial, due process, and a meaningful appeal of any sentence are accorded to each and every detainee;

(5) has the intention to extend the right to vote to all citizens irrespective of sex or literacy; and

(6) established a date certain, that is not later than December 31, 1992 (unless the government and the opposition agree on another date), on which parliamentary elections will be held.

CHAPTER 2—EASTERN MEDITERRANEAN

SEC. 821. ASSISTANCE FOR CYPRUS.

(a) AMOUNT OF ASSISTANCE.—Of the amounts made available for economic support assistance, not less than $15,000,000 for fiscal year 1992 and not less than $15,000,000 for fiscal year 1993 shall be available only for Cyprus.

(b) USES OF ASSISTANCE.—Assistance provided for Cyprus pursuant to this section may be used only for scholarships or for bicommunal projects.

SEC. 822. ASSISTANCE FOR GREECE.

Of the amounts made available for foreign military financing assistance, such amounts as may be necessary only shall be available to provide the following aggregate amounts of foreign military financing assistance for Greece: $350,000,000 for fiscal year 1992 and $350,000,000 for fiscal year 1993.

SEC. 823. ASSISTANCE FOR TURKEY.

Of the amounts made available for foreign military financing assistance, such amounts as may be necessary only shall be available to provide the following aggregate amounts of foreign military financing assistance for Turkey: $500,000,000 for fiscal year 1992 and $500,000,000 for fiscal year 1993.

SEC. 824. ADMISSION OF TURKEY INTO THE EUROPEAN COMMUNITY AND THE WESTERN EUROPEAN UNION.

It is the sense of the Congress that the President should do everything possible to support Turkey's inclusion in the full range of political, economic, and military institutions in Europe, including the European Community and the Western European Union.

SEC. 825. UNITED NATIONS SECRETARY GENERAL'S PEACE INITIATIVES REGARDING CYPRUS.

(a) FINDINGS.—The Congress finds that—

(1) the United States and Cyprus have close, long-standing ties;

(2) resolution of the Cyprus conflict is important for peace and stability in the Eastern Mediterranean and to the interests of the United States; and

(3) the United Nations Secretary General's proposals regarding Cyprus constitute an important step in the search for a solution to the conflict.

(b) POLICY DECLARATIONS.—The Congress—

(1) declares its support for the United Nations Secretary General's peace initiatives regarding Cyprus on the basis of United Nations Security Council resolutions; and

(2) encourages both parties on Cyprus to cooperate with the Secretary General.

CHAPTER 3—SUPPORT FOR EAST EUROPE DEMOCRACY

SEC. 841. AMENDMENTS TO SEED ACT OF 1989.

Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Support for East European Democracy (SEED) Act of 1989 (Public Law 101-179).

SEC. 842. UNITED STATES POLICY REGARDING EASTERN EUROPE.

(a) STATEMENT OF POLICY.—The provisions preceding title I are amended—

(1) by redesignating section 2 (22 U.S.C. 5401) as section 3; and

(2) by inserting the following new section 2 after the table of contents in section 1(b):

"SEC. 2. UNITED STATES POLICY REGARDING EASTERN EUROPE.

"(a) IN GENERAL.—It shall be the policy of the United States to facilitate the reintegration of the East European countries into the community of democratic nations and to end the artificial division of Europe. In furtherance of these objectives, the United States shall support economic and political reform in East European countries, both through—

"(1) the provision of assistance to governments and private individuals and entities in those countries, and

"(2) the promotion of a United States commercial presence in those countries.

"(b) ASSISTANCE.—Pursuant to subsection (a)(1), the United States should provide assistance for East European countries under the authorities of this Act to the extent that such countries are taking steps toward—

"(1) political pluralism, based on progress toward free and fair elections and a multiparty political system;

"(2) economic reform, based on progress toward a market-oriented economy;

"(3) respect for internationally recognized human rights; and

"(4) a willingness to build a friendly relationship with the United States.

"(c) REINTEGRATION OF EASTERN EUROPE INTO THE COMMUNITY OF DEMOCRATIC NATIONS.—

"(1) FINDINGS.—The Congress finds that—

"(A) the process in Eastern Europe of building democratic institutions and governments based on the rule of law and of developing market-oriented economies, will be far from complete during the 3-year period originally authorized in this Act;

"(B) the process of reintegrating Eastern Europe into the community of democratic nations will be slower and more difficult than was expected at a time of general euphoria following the democratic revolutions of 1989;

"(C) grant and loan assistance provided to date to Eastern Europe through the G-24 process (through the member governments of the Organization for Economic Cooperation and Development) has been generous but frequently duplicative;

"(D) successful reintegration of Eastern Europe into the community of democratic nations will require broader outreach by United States and G-24 assistance programs to populations, enterprises, and local and regional governments outside of national capitals.

"(2) POLICIES.—Accordingly—

"(A) the United States should commit itself, and seek the commitment of other G-24 governments, to the completion of Eastern Europe's reintegration into the community of democratic nations, and future requests for assistance should reflect the commitment of the United States to this task;

"(B) the United States and other G-24 governments should coordinate their assistance more thoroughly in order to prevent duplication of effort and to maximize the effectiveness of assistance provided; and

"(C) the United States should ensure that the assistance provided to each eligible East European country under this Act is distributed equitably through the country.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents in section 1(b) is amended by striking out the item relating to section 2 and inserting in lieu thereof the following:

"Sec. 2. United States policy regarding Eastern Europe.

"Sec. 3. Support for East European Democracy (SEED) Program.".

SEC. 843. EAST EUROPEAN COUNTRIES ELIGIBLE FOR SEED BENEFITS.

(a) ELIGIBILITY CRITERIA.—The provisions preceding title I are amended by inserting after section 3 (22 U.S.C. 5401), as so redesignated by section 842 of this Act, the following new section:

"SEC. 4. COUNTRIES ELIGIBLE FOR SEED BENEFITS.

"(a) ELIGIBLE EAST EUROPEAN COUNTRY.—For purposes of this Act, the term 'eligible East European country' means—

"(1) Poland,

"(2) Hungary,

"(3) the Czech and Slovak Federal Republic,

"(4) Bulgaria, and

"(5) any other East European country if the President has reported to the Congress that he has determined that that country is taking the steps described in section 2(b).

"(b) YUGOSLAVIA.—Yugoslavia shall also be considered to be an eligible East European country for purposes of this Act, unless the President determines, and reports to the Congress, that Yugoslavia is not taking the steps described in section 2(b).".

(b) CONFORMING AMENDMENTS.—

(1) SUMMARY DESCRIPTION OF SEED PROGRAM.—Subsection (a) of section 3, as so redesignated by section 842 of this Act, is amended by striking out "countries" and all that follows through "pluralism" and inserting in lieu thereof "East European countries that are taking the steps described in section 2".

(2) TABLE OF CONTENTS.—The table of contents in section 1(b), as amended by section 842(b) of this Act, is further amended by inserting after the item relating to section 3 the following:

"Sec. 4. Countries eligible for SEED benefits.".

SEC. 844. STRUCTURAL ADJUSTMENT.

(a) MULTILATERAL ASSISTANCE.—Subsection (a) of section 101 (22 U.S.C. 5411) is amended—

(1) in the subsection heading, by striking out "for Poland and Hungary"; and

(2) in paragraph (1)—

(A) by striking out "Poland and Hungary continue" and inserting in lieu thereof "an eligible East European country continues"; and

(B) by striking out "Poland and Hungary" the second place it appears and inserting in lieu thereof "that country".

(b) STABILIZATION ASSISTANCE AND DEBT RELIEF.—

(1) MULTILATERAL SUPPORT.—Section 101 is amended by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b) STABILIZATION ASSISTANCE.—To the extent that an eligible East European country continues to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government, in conjunction with other member governments of the Organization of Economic Cooperation and Development (OECD) and international financial institutions (including the International Monetary Fund), shall support the implementation of a program to address key structural economic problems, address pressing social problems, carry out comprehensive economic reform, and relieve immediate and urgent balance of payments requirements, through the use of mechanisms such as—

"(1) the Exchange Stabilization Fund pursuant to section 5302 of title 31, United States Code, and in accordance with established Department of the Treasury policies and procedures; and

"(2) the authority provided in section 102(c) of this Act.

"(c) DEBT RELIEF.—To the extent that an eligible East European country continues to evolve toward pluralism and democracy and to develop and implement comprehensive economic reform programs, the United States Government, as appropriate for individual eligible East European countries—

"(1) shall urge all members of the 'Paris Club' of creditor governments and other creditor governments to adopt, and participate in, a generous and early debt rescheduling program, as well as a program of reductions, on a case-by-case basis, of official debt and official debt service owed to such governments by the government of an eligible East European country; and

"(2) shall seek, in coordination with other creditor governments, to expedite consultations between the government of that East European country and its major private creditors in order to facilitate a rescheduling and reduction of payments due on debt owed to such creditors in a manner consistent with the international debt policy announced by the Secretary of the Treasury on March 10, 1989.".

(2) AUTHORIZATION FOR STABILIZATION ASSISTANCE.—Section 102(c) (22 U.S.C. 5412) is amended—

(A) in the section heading by striking out "ADDITIONAL";

(B) in paragraph (1)—

(i) by striking out "paragraph (1) of";

(ii) by striking out "urgent";

(iii) by striking out "Polish economy" and inserting in lieu thereof "economy of an eligible East European country"; and

(iv) by striking out "Poland" and inserting in lieu thereof "the eligible East European country"; and

(C) in paragraph (2) by inserting "with respect to Poland" after "fund)".

(c) DEBT-FOR-EQUITY AND DEBT-FOR-DEVELOPMENT SWAPS.—Section 104 (22 U.S.C. 5414) is amended—

(1) in subsection (a), by striking out "East European countries which have taken substantive steps toward political democracy and economic pluralism" and inserting in lieu thereof "eligible East European countries"; and

(2) in subsection (b), by striking out "East European country which has taken substantive steps toward political democracy and economic pluralism" and inserting in lieu thereof "eligible East European country".

(d) CONFORMING AMENDMENTS.—

(1) SECTION HEADINGS.—(A) Section 101 is amended in the section heading by striking out "IN POLAND AND HUNGARY".

(B) Section 102 is amended in the section heading by striking out "FOR POLAND".

(2) CROSS REFERENCES.—(A) Section 102(a)(2) (22 U.S.C. 5412) is amended by striking out "(1)(A)" and inserting in lieu thereof "(1)".

(B) Section 103(b) (22 U.S.C. 5413) is amended by striking out "Pursuant to section 101(b)(3)" and inserting in lieu thereof "To the extent that Poland continues to evolve toward pluralism and democracy and to implement comprehensive economic reform programs".

(3) TABLE OF CONTENTS.—The table of contents in section 1(b) is amended—

(A) in the item relating to section 101 by striking out "in Poland and Hungary"; and

(B) in the item relating to section 102 by striking out "for Poland".

SEC. 845. PRIVATE SECTOR DEVELOPMENT.

(a) ASSISTANCE FOR PRIVATE ENTERPRISE DEVELOPMENT.—Title II is amended—

(1) by redesignating sections 202 through 206 as sections 203 through 207, respectively; and

(2) by inserting after section 201 the following new section 202:

"SEC. 202. PRIVATE ENTERPRISE DEVELOPMENT.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—For purposes of promoting private sector development in eligible East European countries, the Agency for International Development is authorized to provide assistance—

"(1) for activities similar to those for which assistance is authorized by section 201, such assistance to be provided in a manner similar to the manner in which assistance is authorized to be provided by that section; and

"(2) to support United States participation in capital projects, both public infrastructure projects and private investment projects.

"(b) NOTICE TO CONGRESS OF MANNER IN WHICH ASSISTANCE WILL BE PROVIDED.—Each notification pursuant to section 706 with respect to funds to be obligated to carry out subsection (a)(1) shall specify the manner in which assistance will be provided.

"(c) NONAPPLICABILITY OF OTHER LAWS.—Funds made available for assistance under this section may be used notwithstanding any other provision of law.".

(b) LABOR MARKET TRANSITION.—Section 203 (22 U.S.C. 5422), as so redesignated by subsection (a) of this section, is amended—

(1) in the section heading, by striking out "IN POLAND AND HUNGARY";

(2) in subsection (a), by striking out "Poland and Hungary" in paragraphs (1) and (2) and inserting in lieu thereof "eligible East European countries";

(3) in subsection (c)(3), by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries";

(4) in subsection (g), by striking out all that follows "section" and inserting in lieu thereof "$5,000,000."; and

(5) by adding at the end the following:

"(h) AID AUTHORITY.—The President, acting through the Administrator of the Agency for International Development, is authorized to use funds made available to carry out this Act to provide the assistance described in this section for eligible East European countries. Assistance may be provided under this subsection notwithstanding any other provision of law.".

(c) TECHNICAL TRAINING AND ASSISTANCE.—

(1) EXPANSION OF AUTHORITY.—Section 204 (22 U.S.C. 5423), as so redesignated by subsection (a) of this section, is amended—

(A) in the section heading, by striking out "FOR" and all that follows through "HUNGARY" and inserting in lieu thereof "AND ASSISTANCE"; and

(B) by amending subsection (a) to read as follows:

"(a) TECHNICAL TRAINING AND ASSISTANCE PROGRAMS.—The President, acting through the Administrator of the Agency for International Development, shall develop and implement programs of technical training and technical assistance for eligible East European countries to enable them to better meet their needs as they develop a market economy and democratic institutions. These programs may include—

"(1) training in skills of agribusiness (including agricultural extension), commerce, entrepreneurship, finance, science (including environmental science), pollution control, business and government administration and management, auditing, accounting, drafting legal codes and regulations, and other relevant areas; and

"(2) technical assistance in areas specified in paragraph (1).".

(2) PARTICIPATION OF NGOS.—Paragraph (6) of subsection (b) is amended to read as follows:

"(6) United States private and voluntary organizations and private sector entities, and private and voluntary organizations and private sector entities of eligible East European countries."

(3) COMPETITIVE PROCEDURES.—That section is further amended—

(A) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(B) by inserting after subsection (b) the following new subsection (c):

"(c) COMPETITIVE PROCEDURES.—In carrying out this section, the Agency for International Development shall use competitive procedures to the maximum extent practicable in making grants to, and entering into contracts with, nongovernmental entities.".

(4) TECHNICAL CORRECTIONS.—That section is amended—

(A) in subsection (b), by striking out "406(a) (1) and (2)" and inserting in lieu thereof "501"; and

(B) in subsection (f), as so redesignated by paragraph (2)(A) of this subsection—

(i) by striking out "406(a) (1) and (2)" and inserting in lieu thereof "501(a)"; and

(ii) by striking out "1107 of the Food Security Act of 1985 (7 U.S.C. 1736 note)" and inserting in lieu thereof "501(c) of that Act (7 U.S.C. 1737(c))".

(d) PEACE CORPS PROGRAMS.—Section 205 (22 U.S.C. 204), as so redesignated by subsection (a) of this section, is amended—

(1) in the section heading, by striking out "IN POLAND AND HUNGARY";

(2) by striking out the first sentence;

(3) in the second sentence by striking out "Such programs and inserting in lieu thereof "Peace Corps programs in eligible East European countries"; and

(4) in paragraph (2), by striking out "technical skills described in section 203(a) to the people of Poland and Hungary" and inserting in lieu thereof "training in technical skills described in section 204(a)(1) to the people of eligible East European countries".

(e) USE OF LOCAL CURRENCIES.—

(1) EXPANSION OF AUTHORITY.—Section 206 (22 U.S.C. 5425), as so redesignated by subsection (a) of this section, is amended—

(A) in the section heading, by striking out "polish" and inserting in lieu thereof "LOCAL"; and

(B) in subsection (a)—

(i) by striking out "FOR POLAND" in the subsection heading;

(ii) by striking out "Poland" in the text preceding paragraph (1) and inserting in lieu thereof "the recipient country";

(iii) in paragraph (1), by striking out "for Poland authorized by sections 103(b), 201, and 203" and inserting in lieu thereof "provided for in sections 103, 201, 202, and 204";

(iv) in paragraph (2), by inserting "in the case of Poland," after "(2)";

(v) in subsection (b), by striking out "in Poland"; and

(vi) in subsection (c), by striking out "Poland for fiscal years 1990, 1991, and 1992" and inserting in lieu thereof "an eligible East European country".

(2) CROSS REFERENCE.—Section 204(f), as so redesignated by subsections (a) and (c)(2)(A), is amended by striking out "205" and inserting in lieu thereof "206".

(f) CREDIT UNIONS.—

(1) UNITED STATES POLICY.—Section 207 (22 U.S.C. 5426), as so redesignated by subsection (a), is amended—

(A) in the section heading, by striking out "POLISH AND HUNGARIAN"; and

(B) in subsection (a)—

(i) in the text preceding paragraph (1), by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries";

(ii) in paragraph (1), by striking out "Poland and Hungary" and inserting in lieu thereof "those countries"; and

(iii) in paragraph (2), by striking out "Poland and Hungary" and inserting in lieu thereof "those countries".

(2) CONFORMING AMENDMENT TO FEDERAL CREDIT UNION ACT.—Paragraph (16) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) (as added by the Support for East European Democracy (SEED) Act of 1989) is amended by striking out "Poland and Hungary" and inserting in lieu thereof "countries that are eligible Eastern European countries for purposes of the Support for East European Democracy (SEED) Act of 1989".

(g) ASSISTANCE TO STATE ENTERPRISES.—Title II is amended by adding at the end the following new section:

"SEC. 208. ASSISTANCE TO STATE ENTERPRISES.

"(a) FINDINGS.—The Congress finds that a very large percentage of the economies of Eastern Europe are dominated by state enterprises which were established during the period of Communist government. Democratically elected governments of East European countries have begun to implement a major program of decontrol and privatization in order to move to a free market economy. The selective provision of assistance, particularly technical training and assistance, to state-owned enterprises may in some instances be crucial in assisting to achieve a speedier and more successful transition from state ownership to a system of production based on private investment.

"(b) POLICY.—The provisions of this title shall not be interpreted to prevent assistance provided under this title to state enterprises in an eligible East European country for a period of two years following the date of enactment of this section, provided such assistance is designed to facilitate the speedy transition to a free market economy through a privatization of such enterprises and the further movement of the economy of that country toward a system of production based on private investment.".

(h) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The table of contents in section 1(b) is amended—

(1) by striking out "202", "203", "204", "205", and "206" and inserting in lieu thereof "203", "204", "205", "206", and "207", respectively;

(2) by inserting after the item relating to section 201 the following:

"Sec. 202. Private enterprise development.";

(3) in the item relating to section 203 (as so redesignated), by striking out "in Poland and Hungary";

(4) in the item relating to section 204 (as so redesignated), by striking out all that follows "training" and inserting in lieu thereof "and assistance.";

(5) in the item relating to section 205 (as so redesignated), by striking out "in Poland and Hungary";

(6) in the item relating to section 206 (as so redesignated), by striking out "Polish" and inserting in lieu thereof "local";

(7) in the item relating to section 207 (as so redesignated), by striking out "Polish and Hungarian"; and

(8) by adding at the end of the items relating to title II the following:

"Sec. 208. Assistance to state enterprises.".

SEC. 846. TRADE AND INVESTMENT.

(a) Repeal of Executed Amendments and Obsolete Provisions.—Section 301, section 302 (22 U.S.C. 2199 note), section 305 (22 U.S.C. 2421 note), and section 307 are repealed. The repeal of those sections does not affect any amendment made by any such section.

(b) Export-Import Bank Programs.—Section 303 (22 U.S.C. 635 note) is amended—

(1) by redesignating that section as section 301;

(2) in the section heading, by striking out "FOR POLAND AND HUNGARY";

(3) in the heading for subsection (a), by striking out "To Poland and Hungary"; and

(4) in subsection (a), by inserting after "thereof" the first place it appears ", by the Czech and Slovak Federal Republic or any agency or national thereof,".

(c) Trade Credit Insurance Program for Poland.—Section 304, and section 225 of the Foreign Assistance Act of 1961 (22 U.S.C. 2185), are repealed.

(d) Bilateral Investment Treaties.—Section 306 is amended—

(1) by redesignating that section as section 302;

(2) in the section heading, by striking out "WITH POLAND AND HUNGARY"; and

(3) by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries".

(e) Conforming Amendments to Table of Contents.—The table of contents in section 1(b) is amended—

(1) by striking out the items relating to sections 301, 302, 304, 305, and 307;

(2) in the item relating to section 303, by striking "303" and inserting in lieu thereof "301" and by striking out "for Poland and Hungary"; and

(3) in the item relating to section 306, by striking out "306" and inserting in lieu thereof "302" and by striking out "with Poland and Hungary".

SEC. 847. EDUCATIONAL, CULTURAL, AND SCIENTIFIC ACTIVITIES.

(a) Educational and Cultural Exchanges and Sister Institutions Programs.—Section 401 (22 U.S.C. 5441) is amended—

(1) in the section heading by striking out "with Poland and Hungary";

(2) in subsection (a)(1)—

(A) by striking out "Support for Expanded U.S. Participation" in the paragraph heading and inserting in lieu thereof "Freedom International Program";

(B) by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries"; and

(C) by adding at the end the following: "United States Government support for such activities shall be known as the 'Freedom International Program'.";

(3) in subsection (a)(2), by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries";

(4) in subsection (b), by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries";

(5) in subsection (c), by striking out "Poland and the United States and in Hungary" and inserting in lieu thereof "eligible East European countries"; and

(6) in subsection (d), by striking out "and Polish organizations and between American and Hungarian organizations" and inserting in lieu thereof "organizations and organizations of eligible East European countries".

(b) Scholarship Partnership.—Section 402 (22 U.S.C. 5442) is amended—

(1) in the section heading, by striking out "POLAND-HUNGARY";

(2) in subsection (a), by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries";

(3) in subsection (b)—

(A) by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries", and

(B) by striking out "in the United States";

(4) in subsection (c), by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries";

(5) in subsection (g)—

(A) by striking out "Poland or Hungary, as the case may be" and inserting in lieu thereof "his or her country of nationality", and

(B) by striking out "in the United States";

(6) by striking out subsection (i) and by inserting in lieu thereof the following:

"(i) Competitive Procedures.—In carrying this section, the Agency for International Development shall use competitive procedures to the maximum extent practicable in making grants to, and entering into contracts with, nongovernmental entities.";

(7) in subsection (j), by striking out "Poland and Hungary" and inserting in lieu thereof "an eligible East European country"; and

(8) by inserting at the end the following:

"(l) American Institutions Abroad.—The Administrator of the Agency for International Development may use funds made available each fiscal year to carry out this section in order to provide scholarships to enable students from eligible East European countries to study at American institutions of higher education in Europe.".

(c) Conforming Amendments to Table of Contents.—The table of contents in section 1(b) is amended—

(1) in the item relating to section 401, by striking out "with Poland and Hungary"; and

(2) in the item relating to section 402, by striking out "Poland-Hungary scholarship" and inserting in lieu thereof "Scholarship".

SEC. 848. OTHER ASSISTANCE PROGRAMS.

(a) Support for Democratic Institutions.—Section 501 (22 U.S.C. 5451) is amended—

(1) in the section heading, by striking out "IN POLAND AND HUNGARY";

(2) by striking out the text of subsection (a) and inserting in lieu thereof the following: "The President, acting through the Administrator of the Agency for International Development, is authorized to provide assistance in support of democratic institutions and activities in eligible East European countries."; and

(3) by adding at the end the following:

"(c) Competitive Procedures.—In carrying this section, the Agency for International Development shall use competitive procedures to the maximum extent practicable in making grants to, and entering into contracts with, nongovernmental entities.".

(b) Environmental Initiatives; Environmental Impact of Programs.—Section 502 (22 U.S.C. 5452) is amended—

(1) in the section heading, by striking out "INITIATIVES FOR POLAND AND HUNGARY" and inserting in lieu thereof "INITIATIVES; ENVIRONMENTAL IMPACT OF PROGRAMS";

(2) in subsection (a)—

(A) in the first sentence, by striking out "Poland and Hungary" and inserting in lieu thereof "Eastern and Central Europe"; and

(B) in the second sentence—

(i) by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries"; and

(ii) by striking out "and the restoration of the natural resource base on which a sustainable, healthy economy depends" and inserting in lieu thereof ", the restoration of the natural resource base, and the alleviation of health problems resulting from environmental degradation";

(3) in subsection (b), by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries";

(4) in subsection (g)—

(A) by striking out "Hungary and Poland" and inserting in lieu thereof "East European countries"; and

(B) by striking out "Poland and Hungary" and inserting in lieu thereof "eligible East European countries";

(5) in subsection (h)—

(A) by striking out "In Hungary" in the subsection heading; and

(B) by striking out "Government of Hungary" and inserting in lieu thereof "governments of eligible East European countries"; and

(6) by adding at the end the following new subsections:

"(i) AID Authority for Environment and Energy Assistance.—The President, acting through the Administrator of the Agency for International Development and the Administrator of the Environmental Protection Agency, is authorized to provide assistance for environment and energy activities in eligible East European countries, with emphasis on assistance in developing policies encouraging and providing incentives for end-use energy efficiency (including preparation of least-cost energy plans), conservation, and reliance on renewable energy resources. Assistance under this subsection may include training, technical assistance for related energy and environmental investments or regulation, local production of environmental or energy-related equipment, promotion of United States technologies, and dealing with health problems directly associated with pollution.

"(j) Coordination of Environmental Initiatives.—The Administrator of the Environmental Protection Agency and the Administrator of the Agency for International Development shall jointly, and in cooperation, select the environmental initiatives and policies for carrying out subsections (b), (c), (d), and (i). Specific environmental programs or projects shall be evaluated and carried out by those agencies or departments of the United States which have traditional and recognized expertise in the program area, or by nongovernmental organizations, as appropriate to their respective expertise.

"(k) Regional Program for Environmental Health Activities in the Czech and Slovak Federal Republic.—

"(1) Establishment.—The President shall work with officials of the Government of the Czech and Slovak Federal Republic to establish and support a regional program to study and facilitate cooperative activities to address the public health aspects of environmental degradation.

"(2) Funding.—Of the funds allocated to carry out subsection (i), not less than $1,000,000 for fiscal year 1992 shall be made available to carry out paragraph (1).

"(l) Assessment of Environmental Impact.—Assistance under this Act (other than assistance provided through Enterprise Funds under section 201 or through enterprise funds or similar entities under section 202) shall be provided consistent with section 1241 of the Foreign Assistance Act of 1961.

"(m) AGRICULTURAL ASSISTANCE.—Activities carried out under section 204 (relating to technical training and assistance) or section 206 (relating to use of local currency generated by agricultural assistance) that are designed to increase agricultural production shall emphasize the principles of low-input sustainable agriculture and integrated pest management, including promotion of alternative production systems that minimize pesticide residues on food.".

(c) MEDICAL ASSISTANCE.—Section 503 (22 U.S.C. 5453) is amended—

(1) in the section heading, by striking out all that follows "MEDICAL" and inserting in lieu thereof "ASSISTANCE."; and

(2) by amending the text of subsection (a) to read as follows: "The President, acting through the Administrator of the Agency for International Development, is authorized to provide to eligible East European countries (1) medical training, (2) assistance with respect to health care planning and policy, and (3) other assistance to improve the quality of health care.".

(d) ASSISTANCE FOR HOUSING.—Title V is amended by adding at the end the following:

"SEC. 504. ASSISTANCE FOR HOUSING.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—The President, acting through the Administrator of the Agency for International Development, is authorized to provide technical assistance, and assistance to support the infrastructure, necessary to support a viable housing sector in eligible East European countries. Such assistance may be provided notwithstanding any other provision of law.

"(b) HOUSING INVESTMENT GUARANTY PROGRAM.—Guaranties may be issued under section 1501 of the Foreign Assistance Act of 1961 for projects in eligible East European countries notwithstanding any other provision of law which would prohibit assistance for projects in such countries.".

(e) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The table of contents in section 1(b) is amended—

(1) in the item relating to section 501, by striking out "in Poland and Hungary";

(2) in the item relating to section 502, by striking out "initiatives for Poland and Hungary" and inserting in lieu thereof "initiatives; environmental impact of programs";

(3) by amending the item relating to section 503 to read as follows:

"Sec. 503. Medical assistance."; and

(4) by inserting after the item relating to section 503 the following:

"Sec. 504. Assistance for housing.".

SEC. 849. ADDITIONAL SEED PROGRAM ACTIONS.

(a) EASTERN EUROPEAN BUSINESS INFORMATION CENTER SYSTEM.—

(1) REDESIGNATION.—Section 602 (22 U.S.C. 5462) is amended—

(A) by striking out "SEED INFORMATION CENTER" in the section heading and inserting in lieu thereof "EASTERN EUROPEAN BUSINESS information center";

(B) in subsection (a)—

(i) by striking out "a SEED Information Center System" and inserting in lieu thereof "an Eastern European Business Information Center System"; and

(ii) by striking out "Government of Poland and the Government of Hungary" and inserting in lieu thereof "governments of eligible East European countries"; and

(C) in subsection (b), by striking out "SEED Information Center System" in paragraphs (1) and (2) and inserting in lieu thereof "Eastern European Business Information Center System".

(2) LOCATION.—Subsection (c) of section 602 is amended to read as follows:

"(c) LOCATION.—The Eastern European Business Information Center System may be based jointly in the Department of Commerce in the District of Columbia, and the capitals of eligible East European countries.".

(3) COMMUNICATIONS IN EASTERN EUROPE.—Section 602 is amended by adding at the end the following:

"(d) COMMUNICATIONS IN EASTERN EUROPE.—

"(1) FINDINGS.—The Congress finds that—

"(A) communications, information, and broadcasting are essential to advancing United States interests in promoting democracy and private enterprise in Eastern Europe; and

"(B) the need for coordination of public and private initiatives is particularly urgent in these areas.

"(2) SPECIAL INFORMATION ON BUSINESS OPPORTUNITIES.—Accordingly, the Eastern European Business Information Center System should develop special information on business opportunities in the communications, broadcasting, and information field for use by United States industry and the SEED Program coordinator.".

(b) ENCOURAGING VOLUNTARY ASSISTANCE.—Section 603 (22 U.S.C. 5463) is amended—

(1) in the section heading, by striking out "FOR POLAND AND HUNGARY";

(2) in subsection (a), by striking out "Poland and to refugees from Romania who are in Hungary" and inserting in lieu thereof "eligible East European countries"; and

(3) in subsection (b)—

(A) in the subsection heading, by striking out "TO POLAND";

(B) in paragraph (1), by striking out "Poland" and inserting in lieu thereof "eligible East European countries"; and

(C) in paragraph (3), by striking out "Poland" and inserting in lieu thereof "eligible East European countries".

(c) UNITED STATES REPRESENTATION IN EASTERN EUROPE.—Section 604 (22 U.S.C. 5464) is repealed.

(d) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The table of contents in section 1(b) is amended—

(1) by amending the item relating to section 602 to read as follows:

"Sec. 602. Eastern European Business Information Center.";

(2) in the item relating to section 603, by striking out "for Poland and Hungary"; and

(3) by striking out the item relating to section 604.

SEC. 850. FUNDING OF SEED PROGRAM.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—Title VIII (22 U.S.C. 5491-5495) is amended by adding at the end the following:

"SEC. 806. FUNDING OF SEED PROGRAM.

"(a) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President under the heading 'AGENCY FOR INTERNATIONAL DEVELOPMENT' $388,500,000 for fiscal year 1992 and $388,500,000 for fiscal year 1993 to provide the assistance authorized by the provisions of this Act specified in subsection (e). Such amounts are in addition to any amounts made available under title I of the Foreign Assistance Act of 1961 to provide such assistance. Amounts authorized to be appropriated by this subsection are authorized to be made available until expended.

"(b) ALLOCATIONS.—Except as provided in subsections (c) and (d), funds appropriated pursuant the authorizations of appropriations in subsection (a) shall be allocated as follows:

"(1) $164,000,000 shall be allocated for use under sections 201 and 202 (relating to Enterprise Funds and private enterprise development).

"(2) $20,000,000 shall be allocated for use under section 501 (relating to support for democratic institutions).

"(3) $75,000,000 shall be allocated for use under subsection (i) of section 502 (relating to assistance for environment and energy activities).

"(4) $129,500,000 shall be allocated for use under—

"(A) subsection (c)(1) of section 102 (relating to stabilization assistance),

"(B) subsection (h) of section 203 (relating to labor market transition),

"(C) section 204 (relating to technical training and assistance),

"(D) section 402 (relating to scholarships),

"(E) section 503 (relating to medical assistance), and

"(F) subsection (a) of section 504 (relating to assistance for housing).

"(c) REDUCTION OF ALLOCATIONS IF APPROPRIATIONS ARE LESS THAN SUM OF SPECIFIED ALLOCATION AMOUNTS.—If the aggregate amount appropriated for fiscal year 1992 or fiscal year 1993 by the Foreign Operations, Export Financing, and Related Programs Appropriations Act for that fiscal year to carry out this Act is less than the amount authorized to be appropriated for that fiscal year by subsection (a), then the amount allocated pursuant to each paragraph of subsection (b) shall be the amount which bears the same ratio to the amount specified in that paragraph as the amount appropriated bears to the amount authorized to be appropriated.

"(d) REALLOCATIONS BETWEEN CATEGORIES OF ASSISTANCE.—Funds allocated pursuant to any paragraph of subsection (b) may be reallocated for use under any other such paragraph if, at least 15 days prior to such reallocation, the President notifies the appropriate congressional committees (as defined in section 7601(b)(2) of the Foreign Assistance Act of 1961) in accordance with the procedures applicable to reprogramming notifications under section 6304 of that Act.

"(e) DESIGNATED PROVISIONS.—The provisions referred to in subsection (a) are the following provisions of this Act:

"(1) Subsection (c)(1) of section 102 (relating to stabilization assistance).

"(2) Sections 201 and 202 (relating to Enterprise Funds and private enterprise development).

"(3) Subsection (h) of section 203 (relating to labor market transition).

"(4) Section 204 (relating to technical training and assistance.

"(5) Section 402 (relating to scholarship partnership).

"(6) Section 501 (relating to support for democratic institutions).

"(7) Subsection (i) of section 502 (relating to assistance for environment and energy activities).

"(8) Section 503 (relating to medical assistance).

"(9) Section 504(a) (relating to housing assistance).

"(f) AUTHORIZATIONS PROVIDED IN OTHER SECTIONS OF THIS ACT.—Authorizations of appropriations provided in other sections of this Act, other than section 403 (relating to science and technology exchange agreements), shall cease to be effective as of the date of enactment of this section.

"(g) RELATION TO OTHER LAWS.—Funds made available under this section may be used to provided assistance under this Act notwithstanding any other provision of law.

"(h) FOREIGN ASSISTANCE ACT ADMINISTRATIVE AUTHORITIES.—Funds authorized to be appropriated by subsection (a) shall be considered to be funds made available to carry out title I of the Foreign Assistance Act of 1961 (relating to economic assistance programs). This subsection does not supersede any provision which authorizes assistance to be provided under this Act 'notwithstanding any other provision of law'.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents in section 1(b) is amended by adding at the end the following:

"Sec. 806. Funding of SEED program.".

SEC. 851. CONFORMING AMENDMENTS TO LIST OF SEED ACTIONS.

Subsection (c) of section 3 (22 U.S.C. 5401), as so redesignated by section 842(a)(1) of this Act, is amended as follows:

(1) DEBT-FOR-EQUITY AND DEBT-FOR-DEVELOPMENT SWAPS.—In paragraph (3), by inserting before the period at the end of the paragraph ", and debt-for-equity and debt-for-development swaps".

(2) STABILIZATION ASSISTANCE.—By—

(A) redesignating paragraphs (4) through (25) as paragraphs (5) through (26), respectively, and

(B) inserting after paragraph (3) the following new paragraph (4):

"(4) STABILIZATION ASSISTANCE.—Balance of payments support and other assistance to stabilize a country's economy and promote longer-term economic growth and stability, based on movement toward free market principles.".

(3) ENTERPRISE FUNDS.—In paragraph (6), as so redesignated by paragraph (2) of this section, by striking out "so is designated" and inserting in lieu thereof "is so designated".

(4) PRIVATE ENTERPRISE DEVELOPMENT.—By—

(A) redesignating paragraphs (7) through (26), as so redesignated by paragraph (2) of this section, as paragraphs (8) through (27), respectively, and

(B) inserting after paragraph (6), as so redesignated by paragraph (2) of this section, the following new paragraph (7):

"(7) PRIVATE ENTERPRISE DEVELOPMENT.—In order to support private enterprise development, assistance similar to that authorized to be provided by the Enterprise Funds and assistance to support United States participation in capital projects, both public infrastructure projects and private investment projects.".

(5) TECHNICAL TRAINING AND ASSISTANCE.—By amending paragraph (9), as so redesignated by the preceding paragraphs of this section, to read as follows:

"(9) TECHNICAL TRAINING AND ASSISTANCE.—Technical training and assistance to assist eligible East European countries as they develop a market economy and democratic institutions.".

(6) SCHOLARSHIPS.—Paragraph (22), as so redesignated by the preceding paragraphs of this section, is amended by inserting "and at American institutions of higher education abroad" after "States".

(7) MEDICAL ASSISTANCE.—Paragraph (26), as so redesignated by the preceding paragraphs of this section, is amended to read as follows:

"(26) MEDICAL ASSISTANCE.—Medical training and other assistance to improve the quality of health care.".

(8) ASSISTANCE FOR HOUSING.—By—

(A) redesignating paragraph (27), as so redesignated by the preceding paragraphs of this section, as paragraph (28), and

(B) inserting after paragraph (26), as so redesignated by the preceding paragraphs of this section, the following new paragraph (27):

"(27) ASSISTANCE FOR HOUSING.—Assistance to support a viable housing section.".

(9) EASTERN EUROPEAN BUSINESS INFORMATION CENTER SYSTEM.—Paragraph (28), as so redesignated by the preceding paragraphs of this section, is amended by striking out "a SEED Information Center" and inserting in lieu thereof "an Eastern European Business Information Center System".

CHAPTER 4—OTHER PROVISIONS RELATING TO EUROPE

SEC. 861. CONTRIBUTIONS TO ANGLO-IRISH INTERNATIONAL FUND.

(a) FUNDING.—Section 3 of the Anglo-Irish Agreement Support Act of 1986 is amended by adding at the end the following:

"(c) FISCAL YEARS 1992 AND 1993.—Of the amounts made available to carry out chapter 3 of title I of the Foreign Assistance Act of 1961 (relating to economic support assistance), $20,000,000 for fiscal year 1992 and $20,000,000 for fiscal year 1993 shall be used for United States contributions to the International Fund.".

(b) ANNUAL REPORT AND CERTIFICATION.—The Anglo-Irish Agreement Support Act of 1986 is amended—

(1) by striking out section 5(c); and

(2) by amending section 6 to read as follows:

"SEC. 6. ANNUAL REPORTS.

"(a) REQUIREMENT FOR REPORTS.—At the end of each fiscal year in which the United States Government makes any contribution to the International Fund (but not later than December 31), the President shall report to the Congress on the degree to which—

"(1) the International Fund has contributed to reconciliation between the communities in Northern Ireland;

"(2) United States contributions to the International Fund are meeting their objectives of encouraging new investment, job creation, and economic reconstruction on the basis of strict equality of opportunity;

"(3) the International Fund has increased respect for the human rights and fundamental freedoms of all people in Northern Ireland;

"(4) the Board of the International Fund, as a whole, is broadly representative of the interests of the communities in Ireland and Northern Ireland; and

"(5) disbursements from the International Fund—

"(A) are distributed in accordance with the principle of equality of opportunity and nondiscrimination in employment, without regard to religious affiliation; and

"(B) address the needs of both communities in Northern Ireland.

"(b) INDEPENDENT REVIEW OF THE FUND.—The reports submitted pursuant to subsection (a) shall discuss the results of any independent reviews that have been conducted of the programs and projects supported by the International Fund, with particular regard to the achievement of the objectives specified in paragraphs (1) through (5) of subsection (a).".

SEC. 862. TECHNICAL ASSISTANCE FOR BALTIC STATES AND FOR DEMOCRATIC GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS IN THE SOVIET UNION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts made available for economic support assistance, not less than $15,000,000 for fiscal year 1992 and not less than $15,000,000 for fiscal year 1993 shall be available only for assistance in accordance with this section.

(b) ALLOCATIONS OF ASSISTANCE.—Of the amounts made available each fiscal year pursuant to subsection (a)—

(1) half shall be allocated for assistance to Baltic states of Estonia, Latvia, and Lithuania; and

(2) half shall be allocated for assistance to eligible recipients in the Soviet Union that request technical assistance from the United States.

(c) TYPES OF ASSISTANCE AUTHORIZED.—Funds made available pursuant to this section shall be used to provide technical assistance to the Baltic states and eligible recipients in the Soviet Union in support of democratic reforms or market-oriented reforms.

(d) WAIVER OF RESTRICTIONS ON ASSISTANCE RECIPIENTS.—Assistance may be provided pursuant to this section to any Baltic state or eligible recipient in the Soviet Union notwithstanding any provision of law that would otherwise prohibit such assistance.

(e) ASSISTANCE MUST BE PROVIDED DIRECTLY OR THROUGH NGOs.—Assistance pursuant to this section—

(1) for a Baltic state, may only be provided directly to the government of that state or through nongovernmental organizations; and

(2) for a government of a Soviet republic or a local government described in subsection (f)(1), may only be provided directly to that government or through nongovernmental organizations.

(f) ELIGIBLE RECIPIENTS IN THE SOVIET UNION.—As used in this section, the term "eligible recipient in the Soviet Union" means—

(1) the government of any republic, and any local government, within the Union of Soviet Socialist Republics that was elected through open, free, and fair elections, and

(2) any indigenous nongovernmental organization in the Soviet Union that promotes democratic reforms and market-oriented reforms.

SEC. 863. ASSISTANCE FOR THE REPUBLIC OF ARMENIA.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for international disaster assistance, there are authorized to be appropriated for such assistance $5,000,000 for fiscal year 1992 and $5,000,000 for fiscal year 1993 for use in accordance with this section.

(b) USES OF ASSISTANCE.—Amounts made available pursuant to subsection (a) shall be used for humanitarian assistance, transportation of materials provided for such assistance, medical treatment, education and vocational training, and the construction of housing for the victims of the Armenian earthquake of December 7, 1988.

(c) USE OF UNITED STATES NGOs.—Assistance pursuant to this section shall be channeled through United States private voluntary organizations and other United States nongovernmental organizations.

SEC. 864. SOVIET-EASTERN EUROPEAN RESEARCH AND TRAINING PROGRAM.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated for such purpose, there are authorized to be appropriated $5,000,000 for fiscal year 1992 and $5,000,000 for fiscal year 1993 to carry out the Soviet-Eastern European Research and Training Act of 1983.

(b) ANNUAL REPORTS.—Section 807 of the Soviet-Eastern European Research and Training Act of 1983 (22 U.S.C. 4506) is amended to read as follows:

"ANNUAL REPORTS

"SEC. 807. At the end of each fiscal year, the Secretary of State shall prepare and submit to the Congress a report on the implementation of this title during that fiscal year. This report shall include—

"(1) an analysis of the extent to which the payments made pursuant to this title were successful in supporting the functions referred to in section 802(3);

"(2) a financial statement showing how the funds paid to each institution pursuant to this title were used, with a summary of the results of any audit conducted by the United States Government with respect to those funds;

"(3) a listing of all institutions receiving payments under this title whose administrative expenses that were covered by such payments represented more than 10 percent of the amount of those payments, with an explanation for each such institution of why its administrative expenses exceeded 10 percent of the amount of those payments; and

"(4) such recommendations as the Advisory Committee deems advisable.".

SEC. 865. UNITED STATES POLICY TOWARD YUGOSLAVIA.

It is the sense of the Congress that—

(1) the United States supports the territorial integrity of Yugoslavia as a common state of constituent republics;

(2) the United States recognizes the Federal Government as the legitimate government of Yugoslavia;

(3) the people of Yugoslavia should resolve questions about the future composition of Yugoslavia through reform, democracy, and negotiation, and not by the use of force by any republic, by the Federal Government, or by any opposition group;

(4) all ethnic groups, all republics, and all opposition parties should be included in discussions and decisions regarding the future composition of Yugoslavia;

(5) the Federal Government of Yugoslavia and the governments of all republics should tolerate the rights of their people to engage in open dialogue about the future composition of Yugoslavia;

(6) the Federal Government of Yugoslavia and the governments of all the republics should progress in the transition from communism to the adoption of democratic principles and a free market economy;

(7) democratic principles and a free-market economy in Yugoslavia should be supported;

(8) the recent use of force in Yugoslavia should be condemned;

(9) the Federal Government of Yugoslavia and the governments of all the republics should refrain from the use of force in resolving interethnic disputes;

(10) the republics of Yugoslavia should preserve the political and social rights, as well as the linguistic and cultural autonomy, of all minority populations living within their borders; and

(11) the President should announce that the United States will oppose any unjustified use of force and any abuse of human rights in Yugoslavia.

SEC. 866. SITUATION IN KOSOVO PROVINCE OF YUGOSLAVIA.

It is the sense of the Congress that—

(1) ethnic Albanians living in the Republic of Serbia and in other parts of Yugoslavia should not be discriminated against because of their ethnicity;

(2) the people of Kosovo province, including ethnic Albanians, should retain their autonomous status in Yugoslavia, respecting the rights of all peoples and treating them equally under the law;

(3) the people of Kosovo province should be allowed to hold free and fair elections for the Assembly of Kosovo province, which should be allowed to function as a representative institution reflecting the will of the people; and

(4) Albanian leaders in Kosovo province and other Yugoslav and Serbian leaders should resolve their differences through negotiations and should not, under any circumstances, resort to violence or repression.

SEC. 867. POLICY STATEMENT REGARDING THE IMPORTATION OF SPORTING AND HUNTING RIFLES AND SHOTGUNS FROM CERTAIN EAST EUROPEAN COUNTRIES.

It is the sense of the Congress that the regulations issued pursuant to section 38 of the Defense Trade and Export Control Act (part 47 of title 27 of the Code of Federal Regulations) should be amended to allow the importation into the United States of sporting and hunting rifles and shotguns manufactured in Poland, Hungary, or the Czech and Slovak Federal Republic.

SEC. 868. SOVIET AID TO CUBA.

(a) FINDINGS.—The Congress finds that—

(1) the Soviet Union has ended its economic subsidies to many nations which were formerly ruled by oppressive communist regimes;

(2) Fidel Castro's regime in Cuba continues to ignore internationally accepted standards of human rights;

(3) the Cuban centrally planned economic system would have collapsed long ago without outside assistance from the Soviet Union;

(4) Castro continues to deny Cuban citizens their right to a democratic government;

(5) a cutoff of Soviet assistance to Cuba would be consistent with American policy with respect to Cuba; and

(6) a cutoff of Soviet assistance to Cuba would be consistent with a spirit of cooperation between the United States and the Soviet Union.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) President Bush should place Soviet cessation of aid to Cuba high on his list of objectives for the upcoming United States-Soviet summit meeting;

(2) a Soviet cutoff of aid to Cuba should remain a high priority in United States-Soviet relations until the Soviet Union ends its economic and military support to the repressive Castro regime; and

(3) a democratically-elected government in Cuba should remain a significant goal of American foreign policy.

AMENDMENT OFFERED BY MR. TORRICELLI

Mr. TORRICELLI. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. TORRICELLI. The amendment is printed in the RECORD, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. TORRICELLI: Page 566, strike out line 18 and all that follows through line 14 on page 568 (section 817) and insert in lieu thereof the following:

SEC. 817. DEMOCRATIC REFORM AND HUMAN RIGHTS IN KUWAIT.

(a) FINDING.—The Congress finds that—

(1) because the United States and its allies committed their armed forces and resources to the liberation of Kuwait, the United States and its allies have a special interest and responsibility with respect to the future of Kuwait; and

(2) it is United States policy to promote respect for internationally recognized human rights and the development of democratic institutions in Kuwait and around the world.

(b) REPORT.—Not later than sixty days after enactment, the President shall report to the appropriate congressional committees whether the Government of Kuwait—

(1) has put an end to the occurrences of arbitrary arrest, torture and other extrajudicial actions;

(2) has taken significant steps to bring to justice to those responsible for perpetrating such abuses;

(3) has ensured that those detained have access to legal counsel, the right to an open and speedy trial, and other internationally recognized standards of due process of law;

(4) is taking firm steps to terminate martial law and to restore full constitutional processes;

(5) has continued to allow the presence and activities of international human rights and humanitarian organizational human rights and humanitarian organizations; and

(6) remains committed to the October 1992 date established for parliamentary elections, is taking the necessary steps to establish conditions to ensure that such elections are free and fair, and is permitting universal suffrage.

(c) The President and the Congress shall take into account progress on the abovementioned factors when determining United State policies toward Kuwait, including policies regarding the sale of defense articles and defense services.

Mr. TORRICELLI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. TORRICELLI. Mr. Chairman, my amendment offers a simple statement of policy, that with the war in the Persian Gulf having concluded, we, as part of a grand and successful alliance, have certain expectations for the region. We recognize the sovereignty of the nations involved. We are understanding of their suffering, but nevertheless, we have a right, as the nations reconstruct themselves, to see those nations share a common vision.

That vision is that democratic principles be recognized and underscored, sovereignty be respected, but at the same time universal suffrage be provided, and that while those are brought to justice who have caused crimes during this war, that due process be recognized.

Mr. Chairman, during the deliberations of the committee, those objectives were recognized and discussed. But in my judgment, we may not have been properly sensitive at the same time to the suffering of the Kuwaiti people. This is not to say that people who committed crimes should not pay for those crimes. It is that they should be afforded some due process, but at the same time, now that we understand that people of Kuwait suffered terribly, that people did collaborate with the enemy, that crimes were committed against the Kuwaiti people, and that those who were responsible should be brought to justice, they should have counsel, evidence should be provided. All of the internationally recognized rights to due process should be afforded.

Nevertheless, people should be held accountable. While the democratic process should be restored in Kuwait, it should be done while order is restored in Kuwait. It should be done not on any foreign model but on a democratic model consistently with the values of the Kuwaiti people, as they restore order as they see fit.

All that is being suggested here today, Mr. Chairman, is simply a balanced approach, a balance between their sovereignty and international objectives, a balance between justice of those who have violated the law in Kuwait and international systems of due process.

I think, Mr. Chairman, that my amendment affords us that balance. It has been discussed with the minority. It has been discussed with the administration. I think it offends no one and at the same time is consistent with our own national values.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I have no objection to the amendment, but I think it ought to be made clear that our Government and our private sector are sending tens of millions, hundreds of millions of dollars to rebuild this country. And we expect the Government of Kuwait to honor basic human rights. Otherwise, they cannot and should not have the great benefit of American tax dollars as well as the benefit of American corporations.

I hope the gentleman's amendment also includes under its basic premise that we are watching that Government. Because if it does not engage that basic human rights order in accordance with what is acceptable to this country, then all the benefits from the U.S. Treasury as well as from the U.S. companies that are going over there to rebuild that country could be stopped.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Torricelli amendment on democratic reform and human rights in Kuwait. I believe that it is the right mix of strongly expressing the serious concerns of Congress about the current political situation in Kuwait and still maintaining influence and the ability to positively promote real democratic reforms.

Many sacrifices were made by brave American service men and women in liberating Kuwait from the terror of Saddam Hussein's brutal occupation. In return, we expect Kuwait to follow the path of peace, human rights, and democratic reform. The Kuwaiti people themselves witnessed the horrors of a repressive, totalitarian system. Based on the experience of the Iraqi occupation, Kuwait should agree that sham trials, instant deportations, extrajudicial actions, and restrictions on the media and free speech are unacceptable.

Having personally spent some time in Kuwait shortly after its liberation, I know that the situation there is a bit chaotic. While we are correctly outraged by recent reports of vigilantism and questionable trials, such incidents are understandable—not condonable—but understandable following the Iraqi occupation. We should not forget that human rights conditions in Paris, following its liberation from the Nazis in 1945 were worse. There were collaborators in Kuwait and many whose families were butchered, perhaps due to actions of collaborators, are demanding swift justice. I would point out that while the media has focused on a few celebrated cases of judicial abuse, the Kuwaiti courts have dismissed or acquitted over 300 cases.

The Torricelli resolution condemns these incidents in Kuwait and requires the President to report to Congress on them. Further, it makes progress on human rights and democratic reforms a significant factor in determining our policy toward Kuwait, including policies regarding the sale of defense articles and defense services. However, unlike the bill language, the Torricelli amendment does not use a hammer to smash a mosquito. It is a balanced approach.

I recently led a mission of the National Republican Institute for International Affairs to Kuwait focused on assisting real democratic reform in Kuwait. While the Emir has finally announced elections for October 1992, that is not the end of the line. We must insist that these elections be free and fair. Opposition movements must be allowed to disseminate their ideas and platforms freely. The media must be unrestricted and accessible to all. These are benchmarks we will use in judging the progress of reform in Kuwait.

However, I also must caution Congress not to put the cart before the horse. In the compromise Torricelli amendment we require the President to report on whether or not the Government of Kuwait, "is permitting universal suffrage." In accordance with the Kuwaiti Constitution of 1962, a constitution that almost every Kuwaiti, including outspoken leaders of the opposition, strongly support, it is the defined role of Kuwait's Parliament to amend laws, including the election law that defines who can vote. During a recent conference the Republican Institute held here in Washington, leaders of the Kuwaiti opposition, including those women resistance fighters, agreed that the new Parliament may be elected by the presently select group of voters because that is the law of the land. One of the first tasks of this new Parliament would be to expand the suffrage to include all Kuwaiti citizens, including women and naturalized citizens. In other words, they want to do everything in strict accordance with the constitution.

I think this is remarkable. The Kuwaiti people are not demanding violent revolution. They want strict adherence to the rule of law and their constitution, even if that means a possibly awkward transition. It is not the place for the United States Congress to go against this plan backed by the vast majority of Kuwaitis.

Further, to circumvent the constitutional process undercuts some of the foundations of democratic reform in Kuwait. Along with the opposition in Kuwait, we should want the Parliament, not the Emir by himself, legislating. The Congress pressuring the Emir to change laws without the use of Parliament only weakens the power and role of Parliament.

Therefore, I believe we should make it clear that the intent of Congress is for democratic reform to advance in accordance with the 1962 Kuwaiti Constitution. That includes changing the enfranchisement laws.

During the conference in Jeddah, Saudi Arabia, in October 1990, the ruling al-Sabahs promised improved human rights and real democratic reform in a then only hoped for liberated Kuwait of the future. While we led Operation Desert Shield/Desert Storm and the United Nations passed its resolutions for many important and meaningful reasons, these promises were part of the equation. The future is now here. Kuwait has been liberated. Now is the time to implement the promised reforms as expeditiously as possible.

Kuwait can become a positive role model for other nations in the Middle East proving that political reform can come through peaceful, stable evolution rather than violent revolution. While the process has been slower than hoped and while expectations may have been higher than realities on the ground could deliver, I believe that measures like the compromise Torricelli amendment can help push the reform process along in a positive, constructive way.

I support the amendment and urge my colleagues to do the same.

AMENDMENT OFFERED BY MR. HAMILTION TO THE AMENDMENT OFFERED BY MR. TORRICELLI

Mr. HAMILTON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HAMILTON to the amendment offered by Mr. TORRICELLI: Strike out all of the Torricelli amendment that follows "SEC. 817." and insert in lieu thereof the following:

DEMOCRATIC REFORM AND HUMAN RIGHTS ON KUWAIT

(a) FINDINGS.—The Congress finds that—

(1) because the United States and its allies committed their armed forces and resources to the liberation of Kuwait, the United States and its allies have a special interest and responsibility with respect to the future of Kuwait; and

(2) it is United States policy to promote respect for internationally recognized human rights and the development of democratic institutions in Kuwait and around the world.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall report to the appropriate congressional committees whether the Government of Kuwait—

(1) has put an end to the occurrences of arbitrary arrest, torture, and other extrajudicial actions;

(2) has taken significant steps to bring to justice those responsible for perpetrating such actions;

(3) has ensured that those detained have access to legal counsel, the right to an open and speedy trial, and other internationally recognized standards of due process of law;

(4) has lifted martial law and restored full constitutional processes;

(5) has continued to allow the presence and activities of international human rights and humanitarian organizations;

(6) has complied with international law relating to deportations; and

(7) remains committed to the October 1992 date established for parliamentary elections,

is taking the necessary steps to establish conditions to ensure that such elections are free and fair, and is permitting universal suffrage.

(c) UNITED STATES POLICIES TOWARD KUWAIT.—Respect for internationally recognized human rights by the Government of Kuwait and the development of democratic institutions in Kuwait, including progress on the factors listed in paragraphs (1) through (7) of subsection (b), shall be a significant factor in the determination of United States policies toward Kuwait, including policies regarding the sale of defense articles and defense services.

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Mr. HAMILTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN pro tempore. Does the gentleman from Indiana [Mr. HAMILTON] rise in opposition to the original amendment?

Mr. HAMILTON. Mr. Chairman, yes, I do.

The CHAIRMAN pro tempore. The gentleman from Indiana [Mr. HAMILTON] is recognized for 5 minutes.

Mr. HAMILTON. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding.

I want to suggest to the membership that, indeed, the amendment that the distinguished subcommittee chairman offers, the gentleman from Indiana [Mr. HAMILTON], improves upon, although it was offered in opposition to, improves upon what was originally offered, and I think strikes the right balance between our allies in this conflict and our own national objectives for the restoration of democracy, the recognition of due process and human rights, and I think it is a real contribution.

Members of the House can be proud of it, and at this difficult moment for the people of Kuwait, can feel that we have done justice to ourselves in not offending them in a difficult moment but are being consistent with ourselves.

I thank the gentleman and congratulate him on his amendment.

Mr. HAMILTON. Mr. Chairman, I thank the gentleman from New Jersey, and I applaud him for the initiative he has taken in sending this important signal to Kuwait.

Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. KOSTMAYER], who was a chief sponsor of amendments on this same subject.

Mr. KOSTMAYER. Mr. Chairman, what is happening here is that I offered an amendment in the Committee on Foreign Affairs which was adopted by the committee. What it said was that we are not going to sell any more arms to Kuwait—and we have sold billions of dollars worth of arms to Kuwait—until they deal with these human rights abuses which we have been reading about in the newspapers and seeing on television every night.

The leadership of the committee and the gentleman from New Jersey [Mr. TORRICELLI] have asked me to moderate the amendment, and I have agreed to do so, and it is the substitute which the gentleman from Indiana [Mr. HAMILTON] and the gentleman from New Jersey [Mr. TORRICELLI] are offering which is the modified version of the amendment I offered.

I am bound by my agreement with the gentleman from New Jersey [Mr. TORRICELLI] to support this amendment, and I will, but I am not bound by my agreement in saying how distressed I am about what has been happening in Kuwait.

The gentleman from New Jersey [Mr. TORRICELLI] says that this amendment offends no one. He is right. It does not offend anybody. But the American people are offended by what is happening in Kuwait. We are offended that people are going to prison for 15 years for wearing a T-shirt with Saddam Hussein's picture on it. We are offended that mass graves are being uncovered, and that we think at least now, and we do not know for sure, that the people buried in those mass graves were killed after the liberation, not by Iraqis, but by the Kuwait Army which we supported.

Mr. Chairman, we are offended in this country at what we see happening in Kuwait, as I think we ought to be, and the gentleman from New Jersey is precisely correct when he says this amendment offends no one.

The Emir of Kuwait offends me. I find the Emir and his government offensive.

What this amendment does is send that message in a weakened form, and it outlines, Mr. Chairman, six or seven specific areas which we want the President and the administration to discuss with the Government of Kuwait and then report back to us in 60 days. It removes the arms-sale prohibition, regrettably, but I am bound by the amendment, and I am going to support it.

But it does require the President to report back to us in 60 days, and in 60 days, Mr. Chairman, I am going to be here on the floor with a copy of that report, and if I and others are not satisfied with it, we will raise this issue again.

Mr. HAMILTON. Mr. Chairman, I yield to the distinguished gentleman from Michigan [Mr. BROOMFIELD], the ranking member.

Mr. BROOMFIELD. Mr. Chairman, I speak in support of the Torricelli amendment.

When United States and allied forces vanquished the legions of Saddam Hussein and liberated Kuwait, I and millions of other Americans exulted that the Iraqi reign of terror was finally over. In the wake of liberation, we envisioned a Kuwait where respect for democratic principles, human rights, and the rule of law would form the foundation of a new system of governance.

Today, I am increasingly concerned about the Kuwaiti Government's commitment to promote these values.

The Torricelli amendment is the appropriate manner in which to express our concern about developments in Kuwait. Unlike the inflammatory rhetoric contained in the bill, the Torricelli amendment plainly states that the United States has a responsibility regarding the future of Kuwait. It also affirms that it is United States policy to promote respect in Kuwait for internationally recognized human rights and for the development of democratic institutions.

To underscore our concern over the situation in Kuwait, the Torricelli amendment requires a Presidential report on steps taken by the Kuwaiti Government to end reported abuses and institute needed political reforms. It also calls for the United States to take into account progress on these matters in formulating policy toward Kuwait.

In conclusion, I believe that the Torricelli amendment represents a more balanced and constructive way to address these difficult issues, and I urge its adoption.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana [Mr. HAMILTON] to the amendment offered by the gentleman from New Jersey [Mr. TORRICELLI].

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey [Mr. TORRICELLI], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title VIII?

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD.

Mr. BURTON of Indiana. Mr. Chairman, yes, it is.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 568, after line 14, insert the following:

SEC. 818. JORDAN.

The Congress is extremely distressed at Jordan's behavior and attitude during Operation Desert Storm. Assistance may not be provided to Jordan for fiscal year 1992 under the Foreign Assistance Act of 1961.

Mr. BURTON of Indiana. Mr. Chairman, it is pretty obvious what this amendment is all about. The country of Jordan, before and during the war in the Middle East, was very supportive of Iraq and Iraq's position. King Hussein said, on a number of American television shows, that he thought America was in error, and he showed unequivocal support for Saddam Hussein, in my opinion, and because of that, Mr. Chairman, I do not believe the United States of America should in any way support that country until we know there has been a manifest change in their attitude and behavior.

Mr. Chairman, we had 550,000 young Americans at risk, in harm's way, in the Middle East, and King Hussein was on television giving aid and comfort to the enemy, in my opinion.

For that reason, I do not think this Congress should give one dime to that country until we know there has been a change, a real change, in attitude.

Mr. Chairman, I reserve the balance of my time.

Mr. HAMILTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by my friend, the gentleman from Indiana, cuts off all assistance to Jordan. I think that would be a very bad mistake at this time.

The problem with the amendment is that it looks to the past instead of to the future. We certainly have reason to be disappointed with the position that Jordan took during the gulf crisis and with respect to Saddam Hussein, but this amendment throws the baby out with the bathwater.

We should focus on the possibilities for the future, and the point is that the King and Jordan could become, may very well become, an important actor in the peace process.

The timing of this amendment is most unfortunate. It comes exactly at the time that the Secretary of State is extending extraordinary efforts to try to find a basis for restarting the Middle East peace process, and Jordan is clearly one of the keys, if not the key, to that effort.

This amendment comes along and puts another huge obstacle in the front of the Secretary of State. He needs the flexibility to deal with this problem, and we ought not to put that obstacle in front of him.

The United States is trying to rebuild the relationship with Jordan, a relationship which in the past has been very good, which was damaged during the war, and now we seek to rebuild it. The President has said that we ought not to try to act with vengeance, but that we ought to try to build a peace in that region, and he is exactly right about that.

□ 1250

The other thing to note, and Members can see it in the morning newspaper is that Jordan is now coming our way through the appointments that the Congress is making in the Cabinet, the King has publicly and repeatedly expressed support for the U.S. peace efforts. He has repeatedly expressed support of face-to-face contacts.

I think we ought to encourage Jordan in those directions and not to discourage them. For those reasons, Mr. Chairman, I strongly suggest that the amendment of the gentleman from Indiana be defeated. Rigid legislation prohibiting or restricting aid to Jordan takes away a central tool that we have to respond to the improved Jordanian behavior. I think it would be a mistake. I urge the defeat of the amendment.

Mr. BURTON of Indiana. Mr. Chairman, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I rise in strong support of the amendment of the gentleman from Indiana, having proferred for the RECORD an amendment for myself for 2 years, this amendment is for 1 year.

However, I think it is unbelievable that at this time, after we have won the war in Desert Storm, that we as a nation would take our taxpayers' dollars and offer to send military assistance, military assistance to King Hussein in Jordan, who expressed his support not only by voice, but also militarily by providing assistance to Iraq to the war of Desert Storm.

I think it is absolutely asinine that we at this time should even think that we are to provide military assistance. That is what we are talking about, military assistance. We are not talking about humanitarian aid. We are not talking about medical supplies. We are talking about planes and tanks and guns and everything else.

This is a country that supported Saddam Hussein. I think we should support this amendment and deny to Jordan any funds of the taxpayers for military assistance.

Mr. HAMILTON. Mr. Chairman, I yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I entirely sympathize with the gentleman from Indiana [Mr. BURTON] and the gentleman from Missouri [Mr. VOLKMER]. I think that Jordan's posture in the Desert Storm situation was deplorable, and anything but helpful.

However, I much prefer the amendment of the gentleman from California [Mr. CUNNINGHAM] which I trust will be offered soon, which imposes sanctions and cutoffs on Jordan, but provides for a Presidential waiver. There is no flexibility in the amendment of the gentleman from Indiana [Mr. BURTON]. There is some Presidential flexibility in the amendment of the gentleman from California [Mr. CUNNINGHAM].

The bottom line, the end game on Jordan is, Can Jordan help reach peace between Israel and the Palestinians? All our troubles, all the world's troubles in the Middle East can be focused on the Israeli-Palestinian conflict. Jordan can play a critical role in helping to achieve peace. While Jordan deserves sharp criticism, the end game of peaceful settlement is so much more important.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, a slap on the wrist is not enough. The peace process in the Middle East has been going on throughout my entire lifetime and throughout my entire tenure in the Congress of the United States. Giving more aid to Jordan right now is not going to enhance that peace process.

Lest we forget what just happened, it is not the distant past, just a few short weeks ago, King Hussein of Jordan was giving aid and comfort to Saddam Hussein of Iraq, our adversary, who was trying to kill American young men and women. Trying to kill them, and over 200 young men and women died. Have we forgotten that?

Technology was being transferred to Jordan, other assistance was being given, which I cannot go into because of security, information we got from our intelligence sources, but the fact of the matter is he was working with Saddam Hussein. Why should we give millions of dollars of American taxpayers' dollars to this man who not only opposed the United States, but aided and abetted and gave comfort to our enemy at a time when 550,000 young American lives were at risk. No matter what anyone says, we cannot cut through that.

The fact of the matter is, he is not entitled to our support. If we wanted to send one single thing out of this body today, it ought to be that we reward our friends and give it to our enemies. If they are going to try to kill American young men and women or aid and abet that effort, by golly, they are not entitled to anything we have in this Chamber or in this country.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, remember that this is only military assistance. We are talking about giving him guns, planes, tanks and everything else. That is crazy. It does not make sense. The gentleman is absolutely right.

Mr. BURTON of Indiana. I understand it applies to military, but if I had my way, we could cut it all off.

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Indiana.

Mr. HAMILTON. The gentleman said that aid was going forward to Jordan. That is not correct. The President has suspended aid at this time, and I think that is the appropriate action for him to take.

Mr. BURTON of Indiana. Reclaiming my time, the fact of the matter is if we go to the other amendment, the President will still have the latitude to give that aid to Jordan, and they are not entitled to it.

AMENDMENT OFFERED BY MR. CUNNINGHAM TO THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is the amendment to the Burton amendment?

Mr. CUNNINGHAM. Yes, Mr. Chairman.

Mr. VOLKMER. Mr. Chairman, reserving a point of order, I have not seen the amendment.

The CHAIRMAN pro tempore. The gentleman has two amendments at the desk. Could the gentleman clarify which amendment it is he wishes to have considered?

Mr. CUNNINGHAM. Mr. Chairman, it is the amendment that contains the national interest waiver.

The CHAIRMAN. Is the gentleman offering this as a substitute for the Burton amendment?

Mr. VOLKMER. Mr. Chairman, I reserve a point of order if he does.

Mr. CUNNINGHAM. Mr. Chairman, I offer it as an amendment.

The CHAIRMAN pro tempore. The gentleman from Missouri [Mr. VOLKMER] is reserving his point of order.

Is the gentleman offering this as a substitute to the amendment?

Mr. CUNNINGHAM. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the substitute.

Mr. VOLKMER. Mr. Chairman, I raise a point of order against the amendment. It is not germane.

Mr. CUNNINGHAM. Mr. Chairman, this is a perfecting amendment.

The CHAIRMAN pro tempore. The gentleman is going to have to draft it as a perfecting amendment in that case.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

Mr. VOLKMER. Mr. Chairman, I ask for a ruling on the point of order.

Mr. BURTON of Indiana. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Chairman, as I understand it, the amendments have to be printed in the RECORD, and we are suggesting to the gentleman he has to perfect his amendment, which means a change. It therefore has not been printed in the RECORD. I make a point of order it is not in order.

The CHAIRMAN pro tempore. An amendment to a pending amendment does not have to be printed in the RECORD. It has to be properly drafted, but it can be offered after a printed first-degree amendment has been offered before the body; a second-degree amendment can be offered, but has to be properly drafted.

Mr. VOLKMER. Mr. Chairman, has the Chair ruled on the proposed amendment?

The CHAIRMAN pro tempore. The Chair has ruled that the amendment has to be properly drafted.

The Clerk will report the amendment to the amendment.

The Clerk read as follows:

Perfecting amendment offered by Mr. CUNNINGHAM to the amendment offered by Mr. BURTON of Indiana: Strike out all after "SEC. 818." and insert:

PROHIBITION ON ASSISTANCE FOR JORDAN.

Assistance may not be provided for Jordan for fiscal year 1992 under the Foreign Assistance Act of 1961, unless the President certifies that such assistance is in the national interest of the United States.

The CHAIRMAN pro tempore. There is no debate time on this amendment to the amendment. There is 1 minute remaining on each side on the underlying Burton amendment.

□ 1210

AMENDMENT OFFERED BY MR. VOLKMER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. VOLKMER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER as a substitute for the amendment offered by Mr. BURTON of Indiana: In lieu of the matter proposed to be inserted, insert the following:

SEC. 818. PROHIBITION ON CERTAIN ASSISTANCE FOR JORDAN.

Foreign military financing assistance may not be provided for Jordan for fiscal year 1992 or 1993 under the Foreign Assistance Act of 1961.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Since the amendment was not printed as a substitute, it is not debatable. It may be considered, but it cannot be debated.

There is still 1 minute left on the underlying amendment on each side.

PARLIAMENTARY INQUIRIES

Mr. FASCELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. FASCELL. Mr. Chairman, I could walk up and do this silently, but I would rather do it in the open, Mr. Chairman, so I can find out what the parliamentary situation is.

As I understand it right now, and the Chair can correct me if it so wishes and if I am wrong, we have a basic amendment and two pending amendments to the basic amendment.

I object to that, if that is the situation. Let us take them one at a time.

Will the Chair respond to my parliamentary inquiry?

The CHAIRMAN pro tempore. The Chair will first explain the parliamentary situation.

The first vote will be on the Cunningham amendment to the Burton of Indiana amendment.

The second vote will be on the Volkmer substitute for the Burton amendment, and the third vote will be on the Burton amendment, as amended or not.

Mr. CUNNINGHAM. Mr. Chairman, it was not my intent to not allow the gentleman from Indiana [Mr. BURTON] a vote on his amendment. I offered it at an improper time.

Mr. Chairman, I ask unanimous consent to withdraw my amendment and resubmit it after the vote on the amendment of the gentleman from Indiana [Mr. BURTON].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. HAMILTON. Mr. Chairman, reserving the right to object, I just want to try to clarify the situation, if I may.

Will the Chair state for us now where these several amendments stand and the order in which they will be voted on?

The CHAIRMAN pro tempore. The first vote will be on the Cunningham amendment to the Burton amendment.

The second vote will be on the Volkmer substitute for the Burton amendment, and the third vote will be on the Burton amendment, as amended or not.

The Chair now has a unanimous-consent request to withdraw the Cunningham amendment to the Burton amendment.

Is there objection to the request of the gentleman from California?

Mr. VOLKMER. Reserving the right to object, Mr. Chairman, I do not plan to object at all, but I just want to let the gentleman from Indiana know that if the gentleman from California is permitted to withdraw his amendment to the Burton amendment, I will be more than happy to ask unanimous consent to withdraw my amendment. That will put us right back to the Burton amendment and we will have one vote, and that is it.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California [Mr. CUNNINGHAM] to withdraw his amendment?

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BERMAN. Mr. Chairman, if the gentleman from California withdraws his amendment, is he then permitted to introduce that as a separate amendment after the Burton amendment has passed?

The CHAIRMAN. If the amendment is properly printed in the RECORD, it can be offered at any time under title VIII since it is not identical to the Burton amendment.

Mr. BERMAN. Mr. Chairman, has the gentleman's amendment been printed in the RECORD?

The CHAIRMAN. Yes; the gentleman's amendment is printed in the RECORD.

Mr. BERMAN. Was it the gentleman's intent to offer that amendment if the Burton amendment passes?

Mr. CUNNINGHAM. Mr. Chairman, if the gentleman will yield, if the Burton amendment goes down, then I will offer my amendment.

Mr. BERMAN. What if the Burton amendment passes. Will the gentleman offer his amendment?

Mr. CUNNINGHAM. No.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California [Mr. CUNNINGHAM] to withdraw his amendment?

Mr. HAMILTON. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

There is 1 minute left on the Burton amendment on both sides.

Mr. BURTON of Indiana. Mr. Chairman, I yield to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in strong support of the amendment of the gentleman from Indiana [Mr. BURTON] and in opposition to the amendment offered by the gentleman from California [Mr. CUNNINGHAM].

Jordan deserves not to be criticized, but condemned.

Mr. BURTON of Indiana. Mr. Chairman, I yield to the gentleman from Pennsylvania [Mr. SHUSTER].

Mr. SHUSTER. Mr. Chairman, I rise in strong support of the Burton amendment and echo the sentiments of my good friend, the gentleman from Oklahoma.

Mr. BURTON of Indiana. Mr. Chairman, I yield to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I rise in support of the Burton amendment, which is similar to one that I had also offered, and in opposition to the Cunningham amendment.

Mr. BURTON of Indiana. Mr. Chairman, we are running out of time, but let me just say this has muddied up the water.

The fact of the matter is my amendment is to cut off aid to Jordan for their unspeakable behavior prior to and during the war that endangered 550,000 young American lives. These perfecting amendments or substitutes muddy up the water. Please vote against these two substitutes and vote for the Burton amendment if you really care about sending a message to our adversaries and those who throw mud in the face of Americans overseas.

PARLIAMENTARY INQUIRIES

Mr. SMITH of Florida. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SMITH of Florida. Mr. Chairman, am I correct that after this vote, there will be a vote on the Volkmer substitute?

The CHAIRMAN pro tempore. The vote on the Volkmer substitute for the Burton amendment will be the second vote.

The first vote will be on the Cunningham amendment to the Burton amendment.

Mr. SMITH of Florida. So after this vote there will be a vote on the Volkmer substitute?

The CHAIRMAN pro tempore. The gentleman is correct.

Mr. SMITH of Florida. May I inquire whether the Chair has had the Volkmer substitute read or intends to do so after the vote on the Cunningham amendment?

The CHAIRMAN pro tempore. The amendment has already been read.

Mr. BERMAN. Mr. Chairman. I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman from California will state his parliamentary inquiry.

Mr. BERMAN. It is my understanding, Mr. Chairman, that the first vote will be on the Cunningham amendment to the Burton amendment, is that correct?

The CHAIRMAN pro tempore. That is correct.

Mr. BERMAN. So that if one finds the conduct of Jordan in the war was in fact reprehensible, but one wants to leave a little discretion for a Presidential waiver whether it be the peace process or anything else, one should vote for the Cunningham amendment.

The CHAIRMAN pro tempore. The gentleman is not stating a parliamentary inquiry.

Mr. HAMILTON. Mr. Chairman, I yield myself the final minute.

Mr. Chairman, the statement was made a moment ago that matters have been muddied up. They are not muddied up at all here. You have got two choices in front of you. The first is the Burton amendment which cuts off all aid to Jordan, and the second which we vote on first, the Cunningham amendment, is a cutoff of aid to Jordan with a Presidential waiver.

So the real question here is, do you want to give the President the flexibility to move ahead with the peace process and to take advantage of the role that Jordan can play in that peace process, or do you want to look back with vengeance for the misconduct, and I agree that it was misconduct from our standpoint of Jordan during the war.

We want to look forward. The Burton amendment looks back. The Cunningham amendment looks forward toward peace and reconciliation in the area.

If you vote now against the Cunningham amendment and you pass the Burton amendment, what you are doing is putting a major obstacle in front of the Secretary of State and the President on the peace process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CUNNINGHAM] to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CUNNINGHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 315, noes 105, not voting 12, as follows:

[Roll No. 168]

AYES—315

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
Baker
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Brown
Bruce
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coughlin
Cox (IL)
Coyne
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Edwards (CA)
Engel
Espy
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
McCandless
McCloskey
McCrery
McDade
McDermott
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)

Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Porter

Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Roberts
Roe
Roemer
Rogers
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sawyer
Scheuer
Schiff
Schulze
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)

Smith (TX)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Vucanovich
Walsh
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)
Zeliff

NOES—105

Applegate
AuCoin
Bacchus
Ballenger
Barton
Bentley
Bevill
Brooks
Browder
Bryant
Bunning
Burton
Callahan
Coble
Combest
Condit
Costello
Cox (CA)
Cramer
Crane
DeLay
Donnelly
Doolittle
Dorgan (ND)
Duncan
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Evans
Gallegly
Geren

Green
Gunderson
Hancock
Hansen
Harris
Hastert
Hefley
Henry
Hubbard
Inhofe
Jacobs
James
Johnson (SD)
Jones (GA)
Kasich
Kyl
Lent
Lewis (FL)
Lightfoot
Machtley
Mazzoli
McCollum
McEwen
McGrath
Miller (WA)
Molinari
Natcher
Oxley
Patterson
Paxon
Perkins
Petri
Pickle
Poshard
Ramstad

Ridge
Ritter
Rohrabacher
Ros-Lehtinen
Roth
Sangmeister
Santorum
Sarpalius
Savage
Saxton
Schaefer
Schroeder
Sensenbrenner
Shuster
Skelton
Solomon
Stallings
Stearns
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (WY)
Traficant
Upton
Vander Jagt
Volkmer
Walker
Washington
Weber
Whitten
Wylie
Zimmer

NOT VOTING—12

Barrett
Hopkins
Levine (CA)
Lloyd

McCurdy
Oberstar
Rose
Sanders

Schumer
Serrano
Spence
Weldon

☐ 1242

Mr. DONNELLY, Mr. ZIMMER, Ms. MOLINARI, and Messrs. LEWIS of Florida, DELAY, EMERSON, BRYANT, and BEVILL changed their vote from "aye" to "no."

Messrs. ANDREWS of Texas, MCCLOSKEY, ZELIFF, TOWNS, and NEAL of Massachusetts changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. HAMILTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The gentleman will state his parliamentary inquiry.

Mr. HAMILTON. Mr. Chairman, under the rule, is it in order to offer an amendment to the substitute offered by the gentleman from Missouri [Mr. VOLKMER], including the Presidential waiver just adopted?

The CHAIRMAN pro tempore. The Chair would have to rule on the germaneness of any amendment to the Volkmer amendment when offered, but an amendment is in order.

AMENDMENT OFFERED BY MR. HAMILTON TO THE AMENDMENT OFFERED BY MR. VOLKMER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA, AS AMENDED

Mr. HAMILTON. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. HAMILTON to the amendment offered by Mr. VOLKMER as a substitute for the amendment offered by Mr. BURTON of Indiana, as amended: Strike out the period at the end of the section proposed to be added by the Volkmer substitute and insert in lieu thereof the following: "unless the President certifies to the appropriate congressional committees that such assistance is in the national interest of the United States.".

The CHAIRMAN pro tempore. The Chair will state that this amendment will have no debate.

Mr. WALKER. Mr. Chairman, I reserve a point of order on the amendment.

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Chairman, I may be following the same train of thought as my colleague, the gentleman from Pennsylvania.

No. 1, I would ask, is this amendment in order? And No. 2, would it not in effect emasculate the Volkmer amendment so that aid could go to Jordan?

The CHAIRMAN pro tempore. The Chair will state that the Hamilton amendment is drafted as an amendment to the Volkmer substitute. The Chair cannot characterize the amendment.

Mr. BURTON of Indiana. I thank the Chair.

The CHAIRMAN pro tempore. Does the gentleman from Pennsylvania [Mr. WALKER] insist on his point of order?

Mr. WALKER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN pro tempore. The Chair states that no debate is in order on this amendment, so the point of order should be disposed of now.

POINT OF ORDER

Mr. WALKER. Mr. Chairman, I make a point of order on the amendment, that the amendment is being offered in the third degree, and, therefore, it is not eligible for consideration in the House.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The Chair will state that the amendment to the substitute is not in the third degree, but is in the second degree.

The question is on the amendment offered by the gentleman from Indiana [Mr. HAMILTON] to the amendment offered by the gentleman from Missouri [Mr. VOLKMER] as a substitute for the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HAMILTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 289, noes 135, not voting 8, as follows:

[Roll No. 169]

AYES—289

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer
Aspin
Atkins
Baker
Barnard
Barrett
Bateman
Beilenson
Bennett
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Brown
Bruce
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)

Collins (IL)
Collins (MI)
Conyers
Cooper
Coughlin
Coyne
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dooley
Downey
Dreier
Durbin
Dwyer
Dymally
Edwards (CA)
Engel
Espy
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling

Gordon
Goss
Gradison
Gray
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hunter
Hutto
Hyde
Ireland
Jefferson
Jenkins
Johnson (CT)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)

Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (GA)
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Manton
Markey
Martin
Martinez
Matsui
Mavroules
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Packard
Pallone
Panetta
Parker
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Porter
Price
Pursell
Rahall
Rangel
Ravenel
Ray
Reed
Rhodes
Richardson
Riggs
Roberts
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sarpalius
Sawyer
Scheuer
Schiff
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Walsh
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zeliff

NOES—135

Allard
Applegate
Armey
AuCoin
Bacchus
Ballenger
Barton
Bentley
Bevill
Boehner
Browder
Bryant
Bunning
Burton
Callahan
Coble
Combest
Condit
Costello
Cox (CA)
Cox (IL)
Cramer
Crane
Dannemeyer
DeLay
Dickinson
Donnelly
Doolittle
Dorgan (ND)
Dornan (CA)
Duncan
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Evans
Fields
Gallegly
Gaydos
Gekas
Geren
Gingrich
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Harris
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Hubbard
Hughes
Inhofe
Jacobs
James
Johnson (SD)
Jones (GA)
Kasich
Kolter
Kyl
Lent
Lewis (FL)
Lightfoot
Machtley
Marlenee
Mazzoli
McCollum
McEwen
McGrath
McMillan (NC)
Miller (OH)
Miller (WA)
Molinari
Myers
Natcher
Neal (MA)
Oxley
Patterson
Paxon
Perkins
Petri
Pickle
Poshard
Quillen
Ramstad
Regula
Ridge
Rinaldo
Ritter
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Sangmeister
Santorum
Savage
Saxton
Schaefer
Schroeder
Sensenbrenner
Shuster
Skelton
Solomon
Stallings
Stearns
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Thomas (CA)
Thomas (WY)
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Washington
Waters
Weber
Whitten
Wylie
Young (FL)
Zimmer

NOT VOTING—8

Hopkins
Huckaby
Levine (CA)
Lloyd
Oberstar
Serrano
Spence
Weldon

□ 1308

Mr. PACKARD and Ms. SLAUGHTER of New York changed their vote from "no" to "aye."

Mr. HOLLOWAY changed his vote from "aye" to "no."

So the amendment to the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF WASHINGTON TO THE AMENDMENT OFFERED BY MR. VOLKMER, AS AMENDED, AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA, AS AMENDED

Mr. MILLER of Washington. Mr. Chairman, I offer an amendment to the amendment, as amended, offered as a substitute for the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Washington to the amendment offered by Mr. VOLKMER, as amended, as a substitute for the amendment offered by Mr. BURTON of Indiana, as amended: Strike out the period at the end of the section proposed to be added to the bill by the Volkmer substitute as amended and insert in lieu thereof the following:

and that—

(1) the Government of Jordan has demonstrated its willingness to enter into direct bilateral negotiations with the State of Israel;

(2) the Government of Jordan has recognized Israel's right to exist; and

(3) Jordan is not providing assistance (other than humanitarian assistance) to Iraq.

□ 1310

Mr. MILLER of Washington. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Washington?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I want to make sure that I and all my colleagues understand what the amendment does. I would like to ask the gentleman from Washington: This sets very stringent conditions on Jordan before they can receive any money from the Government of the United States?

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Further reserving the right to object, I yield to the gentleman from Washington.

Mr. MILLER of Washington. The gentleman is correct.

Mr. BURTON of Indiana. Further reserving the right to object, it amends the Presidential waiver so that if Jordan does not meet these three conditions, the money will not be flowing through to them?

Mr. MILLER of Washington. If the gentleman will yield further, it sets very specific conditions for a Presidential waiver.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my reservation of objection.

Mr. VOLKMER. Mr. Chairman, reserving the right to object, I reserve the right to object to dispense with the reading on the basis to ask the gentleman from Washington that this language would be immediately following the language inserted or added to my amendment, by the gentleman from Indiana? Is that correct or incorrect?

Mr. MILLER of Washington. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. Further reserving the right to object, I yield to the gentleman from Washington.

Mr. MILLER of Washington. Mr. Chairman, the gentleman is correct.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Does the Chair agree with the gentleman from Washington that this does not knock out or replace any language but only adds to the amendment?

The CHAIRMAN pro tempore. The gentleman is correct. It adds to the language which was amended by the Hamilton amendment to the Volkmer substitute.

Mr. VOLKMER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Washington [Mr. MILLER] to the amendment offered by the gentleman from Missouri [Mr. VOLKMER], as amended, as a substitute for the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 410, noes 8, not voting 14, as follows:

[Roll No. 170]

AYES—410

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bonior
Borski

Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—8

Applegate
Gilchrest
Gonzalez
Owens (UT)
Rahall
Savage
Washington
Waters

NOT VOTING—14

Baker
Boehlert
Ford (TN)
Hopkins
Levine (CA)
Livingston
Lloyd
Michel
Oberstar
Payne (NJ)
Serrano
Skaggs
Spence
Valentine

□ 1333

Messrs. RHODES, GOSS, HYDE, and LEWIS of Florida changed their vote from "no" to "aye."

So the amendment to the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER], as amended, as a substitute for the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The amendment, as amended, offered as a substitute for the amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 410, noes 4, answered "present" 2, not voting 16, as follows:

[Roll No. 171]

AYES—410

Abercrombie
Ackerman
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Owens (NY)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth

Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—4

Orton
Owens (UT)
Savage
Washington

ANSWERED "PRESENT"—2

Gonzalez
Rahall

NOT VOTING—16

Alexander
Gray
Hall (OH)
Hopkins
Jones (NC)
Levine (CA)
Lloyd
Mavroules
McEwen
Michel
Oberstar
Serrano
Smith (OR)
Spence
Towns
Waxman

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So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. McEWEN. Mr. Chairman, I was present and voted on rollcall No. 171. My vote was not recorded. I would like it to appear that had it been recorded properly, I would have voted "aye."

AMENDMENT OFFERED BY MR. DREIER OF CALIFORNIA

Mr. DREIER of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. McDERMOTT). Is the amendment offered by the gentleman from California printed in the RECORD?

Mr. DREIER of California. Yes, Mr. Chairman, it is.

The Clerk read as follows:

Amendment offered by Mr. DREIER of California:—Page 588, after line 24, insert the following:

(h) PROGRAM FOR EAST EUROPEAN POLITICAL EDUCATION (PEEPLE.)—Title II, as amended by subsection (g) of this section, is further amended by adding at the end the following:

"SEC. 209. PROGRAM FOR EAST EUROPEAN POLITICAL EDUCATION (PEEPLE).

"(a) ESTABLISHMENT OF PROGRAM.—In order to assist with encouraging the transition from totalitarianism to democratic society by empowering Eastern Europe's indigenous forces for political and economic freedom, the Director of the United States Information Agency shall establish a Program for East European Political Education. This program shall be designed to provide training and hands-on experience for East European leaders with the United States Congress, in political campaigns in the United States, with the United States media, and with United States business by awarding Congressional Gift of Democracy Fellowships.

"(b) CONGRESSIONAL GIFT OF DEMOCRACY FELLOWSHIPS.—Congressional Gift of Democracy Fellowships pursuant to this section shall be awarded by no more than 2 nongovernmental organizations selected by the Director of the United States Information Agency to develop and administer the Program for East European Political Education. In selecting such organizations, the Director shall consider an organization's past experience in conducting Eastern European internship programs and its ability to coordinate activities with East European democratic and educational organizations.

"(c) MATCHING FUNDS.—Each organization selected pursuant to subsection (b) shall be required to use its own funds or other funds derived from nongovernmental sources, in an amount not less than the amount of funds made available to that organization under this section, for fellowships and its expenses in administering the Program for East European Political Education.

"(d) PERIOD OF FELLOWSHIPS.—Each fellowship pursuant to this section shall be for a period not to exceed 5 months.

"(e) FUNDING.—Of the funds made available to carry out section 204, up to $300,000 for each of the fiscal years 1992 and 1993 shall be transferred to the United States Information Agency for use in carrying out this section.

"(f) TERMINATION.—The Program for East European Political Education shall terminate as of September 30, 1993, unless extended by the Congress, and Congressional Gift of Democracy Fellowships may not be awarded after that date.".

"(i) BUSINESS TO BUSINESS PROGRAM.—Title II, as amended by subsections (g) and (h) of this section, is further amended by adding at the end the following:

SEC. 210. BUSINESS TO BUSINESS PROGRAM.

"The Congress—

"(1) finds that the Peace Corps, the Department of Commerce, and the Small Business Administration are working together to develop a Business to Business Program to send experienced United States businessmen and businesswomen as volunteers to Central and Eastern Europe for an extended period of time to work with private companies and individuals in order to teach basic business and management skills;

"(2) commends the Peace Corps, the Department of Commerce, and the Small Business Administration for developing their Business to Business Program and for recognizing the importance of sending business experts to help in the development of freemarket economies; and

"(3) authorizes the Peace Corps to use funds made available to carry out the Peace Corps Act to implement the Peace Corps' responsibilities under the Business to Business Program.".

Mr. DREIER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DREIER of California. Mr. Chairman, I plan to withdraw my amendment shortly, but I wanted to briefly explain the amendment, its basic intent, and then enter into a colloquy with the gentleman from Indiana [Mr. HAMILTON].

Mr. Chairman, during the past year and a half, I have had the pleasure of hosting four young eastern Europeans in my capitol office: Two young men from Poland, one woman from Hungary, and now a young woman from Bulgaria. Each of those interns was here for a 3-month fellowship program which was sponsored by the nonprofit National Forum Foundation.

Mr. Chairman, we have clearly found that this has been an outstanding program since its inception. We brought more than 80 leaders from political, economic and media sectors of six different countries in central and Eastern Europe to the United States for the intensive program. Hosts have included many of our colleagues here in the House, media organizations such as the Cable News Network, ABC News, and the New Republic, and various private companies around the country.

Frankly, Mr. Chairman, I should say that I was concerned that when these interns spent a great deal of time witnessing Capitol Hill that some maybe would want to go back to communist totalitarianism in Eastern Europe, but in spite of that, we have had success with the program. Many of those leaders are now in prominent positions in their respective governments. All of them returned with an expanded understanding of how a democracy and a free market functions.

Now the Agency for International Developement and the U.S. Information Agency have been running several similar programs. My experience with these is that they are not nearly as effective or inexpensive as the programs which have been run by these private nonprofit organizations.

Mr. Chairman, my amendment seeks to capitalize on the advantages of both the public and private sector efforts. It would establish a 2-year demonstration project, the Program for East European Political Education, or PEEPLE. The Agency for International Development would be directed to contract with a nonprofit group to run the program. AID would have given the group up to $300,000 which would have had to be matched with private funds by the group on a one-to-one basis. This way we clearly would leverage our aid.

The gentleman from Florida [Mr. FASCELL] was concerned that my amendment was micromanaging administration policy, and we know that we are not micromanaging administration policy in this bill, so I have agreed to withdraw the amendment, but I would like to ask a question of the gentleman from Indiana [Mr. HAMILTON].

I understand that the committee is willing to work with me to encourage the Agency for International Development to adopt a program similar to my amendment; is that correct?

Mr. HAMILTON. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from Indiana.

Mr. HAMILTON. Mr. Chairman, first let me just commend the gentleman from California [Mr. DREIER] for trying to emphasize the people-to-people program and the private enterprise. I think he deserves praise for that.

Mr. Chairman, we have reviewed the amendment of the gentleman from California [Mr. DREIER]. We agree with its intent. Congress has clearly directed the administration to use the private sector to assist central and eastern Europe whenever possible. We do intend to pursue this matter with the Agency for International Development and the U.S. Information Agency. I hope they will agree that the approach of the gentleman from California is worth exploring, and we will work with him and with them to accomplish that goal.

Mr. DREIER of California. Mr. Chairman, I thank the gentleman from Indiana [Mr. HAMILTON], my friend, for his very generous response.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from California [Mr. DREIER] for yielding, and I, too, want to commend the gentleman from California for this worthy proposal.

In the Committee on Foreign Affairs we have had an exchange program with interns between South Korea and the United States. We are going on, I think, our ninth year now. It has worked out admirably. We also have a Bundestag exchange program with German scholars and American students, and that, too, has worked very well over the years.

So, Mr. Chairman, I hope that we can formulate and implement this program that the gentleman from California [Mr. DREIER] proposes when we meet with the leaders in eastern Europe. They have always emphasized the need for better education and more familiarity with our Government, and this certainly would go a long way in bringing that about, and for that reason I am wholly supportive of the gentleman's proposal.

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Mr. DREIER of California. Mr. Chairman, I thank my friend, the gentleman from New York [Mr. GILMAN] for his support.

Mr. Chairman, I am happy to yield to the distinguished ranking member of the full committee.

Mr. BROOMFIELD. Mr. Chairman, I also join in commending the gentleman from California [Mr. DREIER] for this initiative. I think there is nothing we need more than a people-to-people program, and as the gentleman from New York [Mr. GILMAN] has said, these programs have worked. So why should we not have a similar program for Eastern Europe?

Mr. Chairman, I can assure the gentleman from California [Mr. DREIER] that I will be working with the chairman of the full committee, as well as the chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. HAMILTON], in working this out at a later date.

Mr. DREIER of California. Mr. Chairman, I thank my friend, the gentleman from Michigan, for his support.

Mr. Chairman, once again, assuring the Members that we do pursue this goal of not micromanaging in this bill, I am happy to withdraw my amendment.

The CHAIRMAN pro tempore. Without objection, the amendment offered by the gentleman from California [Mr. DREIER] is withdrawn.

There was no objection.

AMENDMENT OFFERED BY MR. KASICH

Mr. KASICH. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The Chair will inquire, is the amendment printed in the CONGRESSIONAL RECORD?

Mr. KASICH. Yes, it is, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KASICH: Page 568, after line 14, insert the following:

SEC. 818. SADDAM HUSSEIN'S WAR CRIMES

It is the sense of the Congress that the United States Government should significantly increase its efforts in cooperation with the United Nations Security Council, the International Court of Justice, and other appropriate international organizations to apprehend the President of the Republic of Iraq, Saddam Hussein, and to bring about his trial for crimes against peace, violations of the laws of war, and crimes against humanity.

Mr. KASICH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KASICH. Mr. Chairman, let me speak very quickly, first of all recognizing the work of the gentleman from Minnesota [Mr. RAMSTAD], who has worked very hard to collect cosponsors on a bill to do about the same thing. The reason I am offering this amendment is because it seems to me that every day that goes by, Saddam Hussein becomes more legitimate as the leader of a country, and it is an absolute terrible outrage that in any way, shape, or form he could be legitimized.

The President said that in the formation of a new world order we should make it clear that we are not going to accept aggression, that we are going to resolve problems at the negotiating table and not on the battlefield. He taught the Iraqi Army a lesson, but I think it is equally important in the new world order that we hold the leaders personally accountable for the kinds of actions taken by their forces. That is why I think it is necessary for us to pursue the war crimes against Saddam Hussein and his associates who carried those war crimes out, particularly in Kuwait.

I happened to have been in Kuwait City, and I can say that the reason why the Kuwaitis were so thrilled that we were there was not only because they wanted their own freedom but because they felt they could be next on the Iraqi hit list, that they could be shipped up to the torture chambers or could end up in the ground after having been killed.

Second, I am not only interested in pursuing this because I want Saddam Hussein to be punished for war crimes but because I would like to see a precedent established that creates a mechanism in the world so that the world can deal with despots like Saddam in the future, so we do not have to put ourselves in the position of putting 500,000 troops on the battlefield instead of being able to take more preventive measures early on.

One example is Kim Il-song in North Korea. I would love for this to be an energizing mechanism so that the world could not only prosecute Saddam Hussein but then move on to collective world action and be able to send serious messages to people like Kim Il-song so that if necessary we could take pinpoint action against him to neutralize his real intentions. I want this to be that mechanism, and I want this to create that precedent.

Mr. Chairman, I yield now to the gentleman from Minnesota [Mr. RAMSTAD].

Mr. RAMSTAD. Mr. Chairman, I rise in strong support of this amendment to bring Saddam Hussein to justice.

In February I introduced House Concurrent Resolution 81, which calls upon the United Nations to take all appropriate steps to try Saddam Hussein and his subordinates for war crimes. The resolution I introduced February 28, 1991, now has 98 cosponsors, which reflects strong bipartisan support for prosecuting Saddam Hussein for war crimes.

Like House Concurrent Resolution 81, the amendment before us today would hold Saddam Hussein accountable for his illegal invasion of Kuwait; his brutual treatment of the Kuwaiti people and allied prisoners of war; his unprovoked Scud attacks against Israel, and his destruction of Kuwait's land and oil resources.

Pursuant to the Geneva Convention of 1949, Saddam's numerous atrocities unquestionably merit prosecution for war crimes. A war crimes trial is not only justified, it is necessary to send a historic message to all future dictators that the international community will enforce well-established principles of international law.

As author, philosopher, and Holocaust survivor Elie Wiesel recently stated before the Senate Foreign Relations Committee:

> The story of war does not end with the end of war. It continues beyond the killing * * *. Let history record our determination that whenever an aggressor will launch war against defenseless countries, his story will inexorably lead him before an international court of justice.

Mr. Chairman, the call for a war-crimes trial is growing throughout the international community. Ministers of the 12-Nation European Community have voiced their support, as has the U.S. Senate.

In addition, U.N. Secretary General Javier Perez de Cuellar has instructed U.N. international law advisors to consider how to implement a war crimes trial if it were decided such a trial should take place.

We cannot allow a dark footnote to appear on the history of this war by allowing Saddam to go unpunished. We cannot allow this brutal aggressor to regroup and fight another day.

I therefore urge my colleagues to show that our Nation is committed to holding Saddam accountable for his war crimes by lending their support to this amendment.

Mr. KASICH. Mr. Chairman, I reserve the balance of my time.

Mr. HAMILTON. Mr. Chairman, I have an amendment to the amendment offered by the gentleman from Ohio [Mr. KASICH], and I rise in opposition to the amendment.

The CHAIRMAN pro tempore. Is the gentleman from Indiana [Mr. HAMILTON] seeking the time in opposition to the amendment?

Mr. HAMILTON. I am, Mr. Chairman.

AMENDMENT OFFERED BY MR. HAMILTON TO THE AMENDMENT OFFERED BY MR. KASICH

Mr. HAMILTON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HAMILTON to the amendment offered by Mr. KASICH: Delete lines 1 through 8 of the amendment and insert in lieu thereof the following:

SEC. 818. IRAQI WAR CRIMES AND CRIMES AGAINST HUMANITY.

It is the sense of Congress that the President of the United States should confer with members of the United Nations Security Council and seek appropriate Security Council action to establish an appropriate international tribunal to try all individuals, including Iraqi President Saddam Hussein, who were involved in the planning or execution of war crimes and crimes against humanity during and after Iraq's August 1990 invasion of Kuwait.

Mr. HAMILTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. HAMILTON. Mr. Chairman, the amendment before us offered by the gentleman from Ohio [Mr. KASICH] calls for the United States, in cooperation with the United Nations or several international organizations, to apprehend Saddam Hussein and try him for war crimes.

I am quite sure that every Member of this body supports the sentiments that are expressed in the gentleman's amendment, and I want to commend him for offering that amendment. There are some concerns about the amendment that I have, and that is the reason that I have offered this amendment. Let me first express my concerns and then indicate what my amendment does.

The concerns I have with the amendment offered by the gentleman from Ohio [Mr. KASICH] really relate to the question of apprehension. It says that the United States will significantly increase its efforts to apprehend Saddam Hussein, and, of course, that raises the question of how we are going to do it. How do we apprehend him? To what extent are we prepared to use force to apprehend him, and are we prepared to endorse, for example, the redeployment of American troops in the region to get the job done? What role under the amendment would the United Nations play in securing that apprehension?

So I find myself in a fairly difficult position, very much agreeing with the sentiments of the gentleman as he has expressed them but also looking to the amendment to find some difficult matters for the United States to deal with from a policy standpoint.

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So I have offered this amendment, and it really does three things. Right at the center of the process in expressing the sense of the Congress, it puts the United Nations. It says that the United States should confer with members of the U.N. Security Council and seek appropriate Security Council action to establish the appropriate international tribunal.

It goes one step further than the gentleman's amendment, because his amendment is directed only at Saddam Hussein. The amendment that I have offered includes Saddam Hussein, of course, but also all others who might be associated with the guilt that all Members think he bears.

The other point I would make about the amendment, as drafted, as I have offered it, is that I think it avoids some of the difficult matters that arise when you talk about apprehending Saddam Hussein under present circumstances.

So I want to commend the gentleman from Ohio [Mr. KASICH] for raising this. He is right on target, to suggest war crimes, and it is with some reluctance that I offer this amendment. But I do think it is appropriate, in view of some of the difficulties I expressed.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I want to commend the gentleman from Indiana [Mr. HAMILTON]. The gentleman does make improvements in terms of broadening those people we want to hold viable for war crimes. In terms of the mechanism for apprehending Saddam Hussein, the Geneva Conference provides a mechanism for being able to do that.

Mr. Chairman, what is most important here is that we just do not put this behind us, legitimize the rule of Saddam, and that the administration take this seriously.

It is my understanding that the other body has already approved somewhat similar language. What I would like to see is for the United States to prosecute Saddam postwar as hard as we worked to prosecute prewar and during the war period. I think that is what this language in this amendment does.

Mr. Chairman, I hope the gentleman from Indiana [Mr. HAMILTON] will work with me to make sure that the administration knows that this House is serious. If we do not see action to move along these lines, I am personally going to take more severe action to force us to move in this direction.

Mr. Chairman, I accept the amendment of the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, reclaiming my time, I thank the gentleman from Ohio for his comments. I appreciate it, and will work with him on it.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the amendment on Iraqi war crimes offered by the gentleman from Ohio [Mr. KASICH] and the amendment to the Kasich amendment by the gentleman from Indiana [Mr. HAMILTON].

Saddam Hussein is guilty of war crimes and crimes against humanity. There is evidence that by invading and occupying Kuwait, Iraq committed grave breaches of the Fourth Geneva Convention by subjecting the civilian population of Kuwait to inhumane treatment and savage acts of violence, by subjecting Kuwaiti civilians to physical coercion and suffering in order to obtain information, and by indiscriminately firing missiles into populated areas of Israel and Saudi Arabia with the intent of killing and injuring innocent civilians.

Iraq also violated the Third Geneva Convention by subjecting United

States and allied prisoners of war to physical and psychological abuse and by deliberately placing them at locations subject to allied bombardment.

Saddam Hussein stands at the helm of the regime which perpetrated these heinous crimes. There can be no doubt that he was directly responsible for their commission.

Mr. Chairman, United Nations Security Council Resolutions 670 and 674 provide a basis for prosecuting Saddam Hussein and other Iraqi officials for war crimes and crimes against humanity. It is now time to give meaning to those resolutions by initiating appropriate legal proceedings.

Accordingly, I urge the adoption of the Kasich amendment as amended by Mr. HAMILTON.

Mr. KASICH. Mr. Chairman, I yield myself such time as I may consume, only to say not only should we do this, but, again, this should serve as a precedent for not only the world taking collective action against Saddam, but being able to prevent large-scale deployments in the future if the world can act collectively and preventively, using this as the energizing factor.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment offered by the gentleman from Indiana [Mr. HAMILTON] to the amendment offered by the gentleman from Ohio [Mr. KASICH].

The amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio [Mr. KASICH], as amended.

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KASICH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to the order of the House, the vote on the amendment offered by the gentleman from Ohio [Mr. KASICH] as amended by the amendment offered by the gentleman from Indiana [Mr. HAMILTON] will be postponed until after debate on the next amendment.

AMENDMENT OFFERED BY MR. BRYANT

Mr. BRYANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRYANT: Page 549, insert the following after line 21:

(e) LIMITATION ON ASSISTANCE.—

(1) STATEMENT OF POLICY.—(A) The Congress strongly supports the preservation of the security and freedom of the State of Israel, and recognizes the extraordinary burden borne by Israel in accommodating the influx of Soviet Jews. The Congress also appreciates Israel's policy of restraint in the Persion Gulf conflict.

(B) The Congress recognizes that the United States commitment of $3,000,000,000 annually to Israel is a significant one, and one which will likely continue until obstacles to peace in the Middle East region are removed. Accordingly, the removal of obstacles to peace is a matter of significant importance to the United States.

(2) REPORTS ON INVESTMENT BY ISRAEL IN WEST BANK AND GAZA.—The President shall submit to the Congress, not later than February 1, 1992, and not later than February 1, 1993, a report on the extent of investment by the Government of Israel in new and expanded settlements in the West Bank and Gaza, other than in Jerusalem. The first report shall cover such investment during the 1991 fiscal year of Israel, and the second report shall cover such investment during the 1992 fiscal year of Israel.

(3) RESTRICTION ON ASSISTANCE FOR FISCAL YEAR 1992.—(A) Of the amounts otherwise made available under subsection (a) for fiscal year 1992, $82,500,000 shall be withheld, notwithstanding subsection (a)(2).

(B) The restriction contained in subparagraph (A) shall cease to apply if and when the President certifies to the Congress that the Government of Israel has demonstrated that it is not investing in new and expanded settlements in the West Bank and Gaza, other than in Jerusalem.

(4) RESTRICTION ON ASSISTANCE FOR FISCAL YEAR 1993.—(A) If a certification has not been made under paragraph (3)(B) by September 30, 1992, then of the amounts otherwise made available under subsection (a) for fiscal year 1993, an amount shall, notwithstanding subsection (a)(2), be withheld which is equal to the amounts expended by the Government of Israel in investment described in paragraph (2) as reflected in the report submitted under paragraph (2) by February 1, 1992.

(B) The restriction contained in subparagraph (A) shall cease to apply if and when the President makes a certification described in paragraph (3)(B).

(5) AVAILABILITY OF WITHHELD FUNDS.—Amounts withheld under paragraphs (3) and (4) shall remain available until expended, notwithstanding any conflicting provision contained in any appropriation Act.

Mr. BRYANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BRYANT. Mr. Chairman, the policy of the Likud government of Israel today is to accelerate the expansion of settlements in the West Bank and the Gaza Strip, taking land in these areas from the Palestinians who live there, and building Israeli settlements where Palestinians once lived and worked.

I offer my amendment today because I believe that it is no longer possible not to conclude that these settlements are wrong. They are wrong because it is always wrong to take the land of a neighboring people, and because this policy is undermining the historic American consensus of support for Israel, which has always been based on the high moral purpose which we have associated with Israel's existence from the very beginning.

Mr. Chairman, this policy is wrong, because it is clearly, undeniably, and irrefutably an obstacle to peace.

This is not a temporary policy. The policy of the Likud coalition that now governs Israel to continue to expand settlements in the West Bank and the Gaza is a part of the Likud political ideology to build a big Israel by gradually taking the lands now occupied by Palestinians in the West Bank and Gaza.

I would point out that in the last 2 months, they have taken more land than during the last 2 years combined. Between Secretary Baker's first postwar peace visit on March 9, and his second visit on April 9, more than 20,000 acres were taken from Arab landowners.

It is wrong under any circumstances to take land that is not your own, and, for this reason alone, we should be acting today to stop it, notwithstanding any impact it might have on peace negotiations.

But it also very clearly is an impediment to peace. The Likud government's provocative announcement of more settlements on the day Secretary of State Baker arrived on a peace mission spoke louder than I possibly can in this regard.

Subsequently, in testimony before Congress, Secretary of State Baker said that these settlements are, in his view, the greatest obstacle to peace.

Mr. Chairman, I do not think they are the greatest obstacle, but they are clearly an obstacle. There are other greater obstacles: The obstinate refusal of the Arab rulers to sit down and negotiate with Israel, the Arab boycott of companies which do business with Israel, and the Arab refusal to recognize Israel. And the outrageous treatment of Palestinians by Arab rulers, should not be ignored in this debate either.

But we have spoken out against the obstacles caused by Arab policy. The Likud government of Israel should not be able to use these circumstances to justify creating an additional obstacle.

Mr. Chairman, the expansionist policies of the Likud coalition which now governs Israel can no longer be sanctioned by the studied and timid silence of this House due to our concerns about domestic politics.

What they are doing is wrong. The amendment before the House is a modest effort to respond, and it simply says that we are going to hold in escrow $82.5 million of the $3 billion which we are now sending annually to Israel, which is an amount equal to the size of Israel's expenditure annually on West Bank settlements, according to our State Department.

As soon as the President certifies that the expansion of these settlements has ceased, that money will be released from escrow and sent posthaste to Israel.

What the Likud government is doing today is wrong for Israel. It is eroding the historic notion that there is a strong moral imperative associated with our support for Israel. This is not the Israel that Americans for decades have instinctively supported. This is the Likud government that we debate with today, embarrassing the American Secretary of State, taking the land of others and moving forward, heedless to international and national ramifications, as they pursue their own ideological goals.

□ 1420

We will be advised today, by the chairman of the subcommittee, once again, after years of having raised this issue quietly, to wait, to wait until the fall, to wait until next week, to wait until the Foreign Affairs Committee brings forward a more balanced, so to speak, amendment which criticizes the Arab governments.

If a more balanced amendment was necessary, where is it today? Why hasn't the committee brought one before us while we are considering the foreign aid bill?

How many resolutions must we support condemning actions of the Arab governments, how many Dear Colleague letters must we sign in support of Israel, how many Arab arms sales must we oppose, in order to prove that we condemn the anti-Israel policies of the Arab governments? How many billions of dollars must we send to Israel to prove whose side we are on?

We do not have to prove our bona fides with regard to Israel. We have every right to object to the policy of an ally which is wrong, which is an obstacle to peace, and which is supported by $3 billion per year in our foreign aid.

This is a hard vote. AIPAC has been in the hall all day long working Members one by one against this amendment, which they should be supporting, but it is wrong to continue to remain silent when we know that to remain silent is not in the interest of our country or of Israel. I submit that those Members who support Israel have an obligation not only to spend the tax dollars for Israel's benefit in the proposal before us today but to spend some of our own political capital to protect the moral foundation upon which the support of Israel has always rested, to protect the people of Israel from the extreme policies of the Likud coalition, to protect the reputation for fairness of the United States of America, and to protect the possibility of peace in the Middle East.

Mr. HAMILTON. Mr. Chairman, I rise in opposition to the amendment.

First of all, I want to say to the gentleman from Texas who has offered this amendment that I share his view that the expansion and thickening of these settlements is, in fact, an obstacle to peace and, therefore, I have some reluctance to oppose this amendment. I commend him for offering it, but I do feel constrained to oppose it.

First of all, because the amendment simply does not have, as he suggested in his remarks, balance. If we are going to make progress on the peace process, then we are going to have to treat these parties in a balanced way. And the problem is here that the gentleman has simply not done that with this amendment.

The gentleman, in a letter that he circulated to Members of this institution, said that the principal obstacles to peace, the principal obstacles to peace are things that the Arabs have refused to do, and yet his amendment is aimed only at the Israelis.

If the principal obstacles are in fact what the Arabs have not done, then why offer an amendment aimed at the Israelis? This amendment is aimed at one party to the dispute. There are many parties to this dispute, and to aim an amendment at one party is not to push the peace process forward.

I think this amendment will not be effective even if it were enacted in law. It is not going to stop the settlements.

We are going to stop the settlements only through the peace process itself. We are not going to stop the settlement by putting penalties on one party or the other or even all parties.

The best way to stop the settlements is to push that peace process forward. This amendment is inappropriate in terms of timing.

The Foreign Minister of Israel is going to be here this week to discuss these matters with Members. And to pass this amendment at this moment when he is coming forward to give Members information about these settlements, as we have requested him to do, I think is a mistake.

So I think this amendment, though very well intentioned and certainly aimed at an obstacle for peace, which are the settlements and the thickening of those settlements, is a mistake.

Mr. SAXTON. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from New Jersey.

Mr. SAXTON. Mr. Chairman, I wonder how many of those who would support this amendment have stood on the eastern suburbs of Tel Aviv and looked east. There, just 7 miles away, is a mountain range—a mountain range situated in the West Bank.

The land in question was captured by Israel when Israel was attacked by its Arab neighbors in 1967. It was, on Israel's part, a defensive action—an action necessitated by geography and necessitated to secure the eastern border from an aggressor—and in the intervening years, the Israelis have taken steps to defend themselves from future attacks.

I don't know whether it is necessary for them to establish settlements in the territory or not.

But, I do know this; Israel has stood firm as our ally since 1948. Time after time our two governments have seen things the same way. Whether it be in the United Nations, on issues regarding human rights, or in the values embodied in the basic tenants of our two sister democracies—we have stood together.

This amendment seeks to change the long-standing nature of the relationship our country has with Israel. It essentially says: Prime Minister Shamir, we do not like your housing policy in the territories, and we are going to try to force you to change it.

Never mind that they are the policies of an official state. Never mind that Israel's very existence is dependent on secure borders. And, never mind that these policies are the result of decisions made by lawfully elected and appointed officials in a democracy.

We have three possible courses of action with regard to Israel's future, and our future relationship:

First, to continue to aid Israel as we have in the past, our only staunch alley in the Middle East.

Second, to recognize the real issue—the problems involved in the ongoing relationship between the Israelis and their Arab neighbors. I hold that the Palestinian issue is a symptom, an offshoot of the real issue—the continued tension and lack of understanding by Arab governments toward Israel and in fact a lack of understanding and tension between the Arab countries themselves.

Third, support this amendment and for the first time atempt to impose an important policy decision on Israel. I believe an unwise option—unwise for our country and for Israel.

If you disagree with the Israeli policy on settlement, that's your right, but it is not right to try to impose your will on our only democratic ally in the Middle East. It should be the Israelis who make that decision.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, I rise in opposition to the amendment.

Mr. ENGEL. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from New York.

Mr. ENGEL. Mr. Chairman, I rise in strong opposition to the amendment.

Mr. CARPER. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Chairman, I rise in support of the Bryant amendment, doing so as a strong supporter of both United States foreign policy in the Middle East and United States foreign aid to Israel.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. HAMILTON. I yield to the gentleman from New

Mr. GILMAN. Mr. Chairman, I rise in strong opposition to the gentleman's amendment and in strong support of the remarks of the gentleman from Indiana. I just would like to comment that only a very small percentage of the refugees that have come to Israel have settled in the settlement area. I think that what we are doing is arranging a scarecrow type of tactic here that does not lead to a peaceful solution to the problem.

Mr. Chairman, I rise in opposition to the amendment proposed by the gentleman from Texas [Mr. BRYANT].

Mr. Chairman, under the guise of trying to promote peace between the Palestinians and the Israelis, this amendment attempts to link aid to Israel to specific domestic Israeli policy—that is the cessation of settlement activity in the West Bank and Gaza. I believe that this measure only targets one side of the equation, and only serves to undermine peace.

This amendment punishes Israel, the only democratic nation in the Middle East without addressing the principal ongoing causes of regional instability: the Arab boycott of Israel; the continued state of belligerency that the Arab nations have maintained against Israel since its inception; and the refusal of all of the Arab nations except Egypt to recognize Israel and engage bilaterally in direct negotiations.

Movement toward peace requires confidence on both sides. Conditioning United States foreign assistance only undermines Israel's ability to make concessions necessary for peace in the region and erodes Israeli confidence.

Mr. Chairman, I am unequivocally opposed to this amendment. The United States provides Israel with aid because it is in America's best interest. It enables Israel to promote America's interests and project democratic ideals. Accordingly, I strongly urge the defeat of this amendment.

Mr. LEVINE of California. Mr. Chairman, I rise in strong opposition to the Bryant amendment which links American foreign aid to Israel to Israeli domestic policies.

My distinguished colleague from Texas appears to be working on the same erroneous assumption as Secretary Baker—that Israeli settlement policy in the West Bank and Gaza is the impediment to the peace process. Such fallacious logic will not lead to peace in the Middle East and will only embolden the Arab States to continue their belligerency and rejectionist policies toward Israel.

As the New Republic editorial this week correctly observes:

> For Mr. Baker, the settlements are a convenient alibi for his failure to produce any Arabs at all for serious negotiations * * * every skewed and petulant reproach of Israel by Mr. Baker only enhances the power of the growing minority in that country which takes this hatred as an excuse to do everything that exacerbates it.

Although this amendment intends to punish Israel in order to move the peace process forward, in reality it will only erode the confidence of our only democratic ally in the region and consequently, undermine the peace process when it is at an extremely delicate stage. Just last week, Secretary Baker met with Israeli Foreign Minister Levy. How can we expect Mr. Levy and his government to make concessions at this sensitive stage of the peace process while the United States Congress is threatening to punish Israel before any negotiations have even begun?

While Israelis may be divided on the issue of settlements, they are united in their fears that conditioning United States foreign aid on the cessation of settlements undermines the integrity and sovereignty of the State of Israel.

Israelis on the left and right also understand the history of the region. This history sheds far more light on the sources of instability in the Middle East than Mr. BRYANT or Mr. Baker's assumptions regarding Israeli domestic policy.

Every Arab nation, except Egypt, has been in a state of war with Israel since its inception. Even after the gulf war and the sacrifices over half a million American men and women made to defend Arab soil, America's Arab coalition partners continue to snub our requests to negotiate directly with the State of Israel. The Arab states continue to isolate Israel through its enforcement of the Arab economic and diplomatic boycott. They continue their efforts to expel Israel from the United Nations and other international organizations.

These outrageous policies must end or we will never see peace in this region. Using the settlements as an excuse not to come to the table is just an excuse to avoid coming to terms with Israel's existence. The Israeli Government has stated several times that once direct negotiations begin between Israel and its Arab neighbors, all issues, including the future disposition of the West Bank and Gaza, will be discussed.

By prematurely raising the settlements issue and portraying it as the greatest impediment to the peace process, the Bryant amendment ignores the greater impediment to peace—Arab intransigence and belligerency against Israel—and threatens to undermine the peace process at this pivotal moment in its development.

I strongly urge my colleagues to cast their votes against the Bryant amendment.

Mr. MILLER of Ohio. Mr. Chairman, I rise in support of the Bryant amendment. The bill before the House today maintains a generous assistance program for Israel, one which will increase under the bill by 6 percent in fiscal year 1993 to $3.2 billion. Given this commitment of resources, we should ensure that our foreign aid program is consistent with our stated policy objectives—and that is what the Bryant amendment seeks to do.

Administrations of both parties have held that the creation of additional Jewish settlements in Israeli occupied territories are counterproductive to the peace process. Already the Israeli Government has confiscated 40 percent of West Bank land. I do not believe we should subsidize, even indirectly, new or expanded settlements in the West Bank or Gaza. Without a commitment from Israel that it will not increase settlements in occupied territories, we have no assurance that the assistance we provide does not serve to substitute for Israeli moneys that can then be used to support new settlements.

Withholding aid in an amount equal to Israel's investment in new or expanded settlements is appropriate to ensure that we do not undercut our own policy with respect to advancing the peace process. This amendment does not lessen our commitment to Israel's security nor discourage the emigration of Soviet Jews to Israel. Therefore, I urge its adoption by the House.

Mr. STALLINGS. Mr. Chairman, I rise today in opposition to the Bryant amendment. Under the guise of helping the peace process, this amendment attempts to link aid to Israel to specific domestic Israeli policy. Rather than serving the cause of peace, such action would undermine the peace process. It also targets only one side of the equation.

With this amendment, foreign aid to Israel becomes the tool of individual policies rather than the product of a strong relationship between two nations. Doing this sets a dangerous precedent for U.S. policy.

Conditioning foreign aid on any specific Israeli policy opens the door to a wide range of stipulations. While friends of Israel may believe that linking aid to settlements is a useful means of promoting peace, enemies of Israel perceive it as legitimizing further coercive action against Israel.

Movement in the peace process requires confidence on both sides. Conditioning U.S. foreign assistance only erodes Israeli confidence and undermines its ability to make the concessions necessary for peace in the region. The administration is working on peace initiatives in the area. I believe that passage of this amendment would undermine that cause.

The United States provides Israel with foreign aid because it is in the best interest to do so. There can be no doubt that it has served our interests to do so in the past—a point underscored vividly in the recent Persian Gulf war.

As we consider the future, we would be ill-advised to abandon a course and a relationship that have been of such benefit to both the United States and Israel. Over the long term, Israel's role as an advocate, ally, and friend advancing United States interests in the Middle East is vital.

I believe Israel is committed to the peace process and I urge my colleagues to avoid actions that would undermine that process.

Mr. CARDEN. Mr. Chairman, I rise today in opposition of Mr. BRYANT'S amendment to the foreign aid bill. Withholding $82.5 million from the aid earmarked for Israel in fiscal year 1992 is not in the best interest of Israel, the United States, or peace in the Middle East as Mr. BRYANT claims.

Foreign aid to Israel is an important strategic investment for the protection of vital United States interests. There is no denying that our aid benefits Israel directly, but it also serves to promote United States interests through a stable and loyal ally in a hostile and unpredictable region of the world. According to Secretary of Defense Richard Cheney, "We do not consider our relationship with Israel to flow in only one direction. The United States provides aid and assistance to Israel, but we also get national security benefits in return."

Withdrawing aid from Israel and putting pressure on Israel is not, in my opinion, the correct way to advance the peace process or United States interests in the stability of the region.

The United States should not take away one of Israel's bargaining chips without any progress by the Arab nations. History shows very clearly that the settlement question is negotiable. During the Camp David accords, Israel gave up settlements in the Sinai in exchange for concessions on the part of Egypt.

Further, it should be pointed out that the absence of settlements prior to 1967 and their relative scarcity up to 1977 did not bring any of Israel's Arab neighbors to the peace table.

If the United States is going to put such harsh pressure on Israel regarding the settlements, then why not do something about the numerous issues that continue to stand in the way of peace in the Middle East: First, the state of war maintained by all of the Arab nations against Israel, second, the refusal of every Arab nation except Egypt to recognize and negotiate directly with Israel, third, continued efforts by the Arab world to have Israel expelled from the United Nations, and fourth, the continuation of the Arab boycott against Israel.

The United States must continue its efforts to bring about direct negotiations between Israel and its Arab neighbors. It should not force unilateral concessions by Israel. Mr. BRYANT's amendment should be soundly defeated by this body.

Mrs. LOWEY of New York. Mr. Chairman, I rise in opposition to the Bryant amendment and in support of the full package of military and economic aid for Israel.

I was recently in Israel where I was fortunate enough to witness the largest airlift of refugees in history. Over 14,000 Ethiopian Jews were rescued from a war-torn and famine-ravaged land in less than 30 hours. The costs of this massive airlift combined with the cost of feeding, clothing, sheltering these refugees is monumental. With the added responsibility of providing for hundreds of thousands of Soviet refugees, it is clear that Israel's economy is being put to a severe test in her efforts to provide sanctuary to Jewish refugees the world over.

The Bryant amendment withholds aid to Israel under the pretense that Israel is the main obstacle to peace in the Middle East. This is simply not true. Israel has repeatedly invited the Arab States to sit down and negotiate peace. However, these nations refuse to do so. Not only do they maintain their state of belligerency against Israel, but they refuse to make even a symbolic gesture to prove that they are serious about peace. We should not allow the Arab States to delay the process further by trying to change the issues and cast blame on Israel.

If we are serious about achieving a lasting peace in the Middle East, our focus should be on encouraging the Arab States to move this process along by taking the very basic and fundamental step of recognizing Israel. It is not Israel which is obstructing this process. It is the Arab States at whose side we fought in Operation Desert Storm. It would be a grave error to withhold vital aid to Israel. It would also be a totally inappropriate attack on our loyal and dependable ally, on the only democracy in the region. In the strongest possible terms, I urge my colleagues to defeat this amendment.

Mr. WOLPE. Mr. Chairman, I rise in strong opposition to the Bryant amendment to H.R. 2508, the foreign assistance authorization legislation, which would link United States economic assistance to Israel with settlement activity in the West Bank and Gaza.

Make no mistake, the process of settling the occupied territories by Israel is a significant obstacle in Arab-Israeli peace negotiations, and the United States should continue to urge the Shamir government to reassess its policy of settling the occupied territories.

But at this critical juncture of the Middle East peace process, this is no time to threaten Israel with a cut in economic assistance. Indeed, a cut in United States aid to Israel at this time could certainly be counterproductive. It is important to remember that the underlying differences of the Arab-Israeli dispute are not between the United States and Israel. Rather, the underlying differences are between Israel and her neighbors.

Mr. Chairman, I want to take this opportunity to focus particular attention on those provisions of this legislation that relate to U.S. policy in the Middle East. In the aftermath of the allied war against Iraq, it is clear that the United States must redouble its diplomatic effort in this region. In my judgment, the cornerstone of United States policy is the Middle East must remain our relationship with the State of Israel. I believe, this legislation would enhance our relations with Israel, and contribute to the overall peace and stability of the region.

The war against Iraq and Saddam Hussein tested not only American resolve and values but it also tested the strength of our allies' commitment to upholding international law and thwarting aggression. Simply put, the war let us know who our friends are in the Middle East. And clearly, Israel emerged, as always, as our essential ally in the region.

Saddam Hussein's threat extended beyond Kuwait and Saudi Arabia. In the days before the outbreak of the air war, at the fateful meeting in Geneva between Secretary of State Baker and Iraqi Foreign Minister Tariq Aziz, a chilling warning of direct attack against Israel was made—not only in private but before the world's media. This blatant threat against another sovereign state shocked the world, and made clear Saddam Hussein's ruthless intentions. From that moment, Israel was on notice of an imminent threat to its people and property; Israelis feared that Saddam would launch chemical gas attacks against population centers, reviving bitter memories of the Holocaust.

On the second day of the air war, the missiles did begin to fall on Israel. We watched, with fear and anxiety, as the warheads slammed into the residential neighborhoods. By virtue of the live television coverage of the assault, we, as Americans, lived through the attacks as if we were Israelis at that moment. Americans identified with and came to the defense of a country that had not attacked Iraq, and that had no forces deployed against Iraq.

To be sure, Israel supported from the outset the American construction of a worldwide alliance that would confront and reverse Saddam's aggression. But at the request of the United States, Israel exercised enormous restraint in order to maintain the fragile coalition of forces arrayed against Saddam Hussein.

When Scud missiles rained down on the heads of innocent Israeli citizens, Israel acted in the interests of the United States and the American-led coalition and withheld a retaliatory strike. Israel absorbed Saddam's blows, one by one, relying only on the assurances of the United States that Iraq's offensive military capabilities would be suppressed and eliminated. Not in recent memory has any sovereign state ceded such control over its security to another country. The United States proved true to its word. And Israel abided by its commitment, forged in the skies over Tel Aviv, to the President and the Secretary of State.

For this alone, Israel deserves the continued assistance of the United States. But there are other, compelling reasons why Israel merits the special consideration we have provided in this legislation.

Israel is currently experiencing one of the most dramatic waves of immigration in its history. Hundreds of thousands of Soviet Jews have poured into the country over the past 2 years, riding a wave of hope away from the slow and painful disintegration of their lives in the Soviet Union. The costs of absorbing these Soviet Jews will be enormous, and Israel needs as much help as possible in fulfilling the aspirations of a generation of Soviet Jews.

Barely a month ago, another modern miracle unfolded in the shadows of the civil war in Ethiopia. The community of Beta Israel—some 16,000 Ethiopian Jews—that has been besieged for years, victims of geopolitical struggles far beyond their control, was airlifted, en masse, on a magic carpet of round-the-clock jumbo jets. These Ethiopian Jews now join their brethren from the Operation Moses airlift years ago. A people has been saved from repression and brought into freedom—in the one country in the world prepared to receive them. Because of this humanitarian drama as well, Israel needs and deserves our support.

It is our fervent hope, Mr. Chairman, that the postwar Middle East will be conducive to finding, at last, a just and lasting peace between Israel, the Palestinians, and her Arab neighbors. Although I will never give up personal hope that peace can be achieved, I must admit I am discouraged by the very slow progress to date.

Some argue that Israel's policies—particularly with respect to the settlements on the West Bank and the administration of the occupied territories—are the primary obstacle to peace, and the cause for the current stalemate in negotiations. Certainly, the United States should continue to press the Israeli Government on the related issues of settlements and land seizures; it is also important that the human rights concerns of Palestinians be more effectively addressed. But these are not—and never were—the primary obstacles to peace. Impediments, yes, but the underlying cause of the conflict, absolutely not.

It was my hope that, if the new world order following the coalition's victory against Iraq meant anything, it would be that we would no longer have business as usual in the region. And this had to mean, first and foremost, that the Arab nations allied with us would put aside their state of war against Israel, would end the Arab boycott of Israel, and would openly recognize Israel's right to exist. Period.

This has not happened—and I am afraid, with the passage of time, that the opportunity for breakthrough diplomacy in the postwar era may be slipping away from us. I understand Secretary Baker's frustration with Israel's policies with respect to the occupied territories, but in all honesty it is disappointing that the administration has not expressed the same degree of concern on the threshold question that the Arab countries must face, and face immediately: Whether they are willing to recognize the right of Israel to exist.

I do not have any doubt that, should the leaders of Saudi Arabia, Syria, and Jordan, join Egypt in declaring their recognition of Israel, all the other issues that divide them from Israel could be bridged.

It therefore would be a mistake to use the foreign assistance we are providing to Israel as a club on the larger diplomatic and political issues in the region. Israel is a touchstone of United States national security interests in the Middle East. This was true before the war against Iraq. It is even more true after the war.

It would also be a mistake to assist any government—directly or indirectly—that threatens to wage war on the State of Israel or that engages in repression and destabilization in the Middle East region. Clearly, Hafez al Assad's regime in Syria is as dangerous and reprehensible as the regime of Saddam Hussein. President Assad and his Baathist rulers engage in human rights violations, including torture; suppress freedom of speech; and harbor groups responsible for international terrorism. Moreover, the recent agreement between Syria and Lebanon signals Assad's continuing desire to expand his sphere of influence—and reign of brutality—in the Middle East.

The foreign aid authorization bill continues important restrictions on United States assistance to Syria. This legislation stipulates that no assistance may be provided to Syria until the President certifies to Congress that Syria has demonstrated its willingness to enter into direct negotiations with Israel, is no longer acquiring chemical, biological, and nuclear weapons, is respecting internationally accepted human rights, and is no longer harboring terrorist organizations. All of these conditions must be met to insure that the United States does not assist the cause of another rogue dictator like Saddam Hussein.

A number of my colleagues and I pursued legislation to cut off the sale of munitions to Saddam Hussein long before his invasion of Kuwait. Unfortunately, however, this administration ignored calls from Congress and continued to court Saddam Hussein—notwithstanding his abhorrent human rights record and threats to burn half of Israel—for uncertain geopolitical reasons. That mistake must not be made again. Shockingly, however, this administration seems to be on a similar course by courting Hafez al Assad.

Lastly, Mr. Chairman, the legislation before us would establish an important new initiative for restraining arms sales and transfers to the nations of the Middle East and the Persian Gulf region. A painful but certain lesson of the gulf war is that our many years of shortsighted arms control policies helped create the monster that we committed a half million Americans to contain. It is clearly evident that the United States and our allies supplied Iraq with the weapons which it used against our Armed Forces.

Now that the war is over, it should not be U.S. policy to reload all of the guns in the region. Incredibly, Secretary Cheney in his recent trips to the Middle East has begun to promise more arms sales as chits to our partners in the allied effort. We must not return to the arms business as usual. If we, the Europeans, and the Soviets can agree to stop major weapons sales to the region, and exercise restraint on other arms suppliers, then we can slow, if not stop, the arms spiral. Not only should we focus on weapons of mass destruction, but we should also seek to limit conventional weaponry.

Mr. Chairman, I strongly urge passage of H.R. 2508, the foreign assistance authorization bill.

Mr. SCHUMER. Mr. Chairman, I rise to oppose the Bryant amendment. It sounds clever enough. If you don't like the settlements, take the amount that Israel spent on them, even though it wasn't our aid money they spent on them, and take it out of their foreign aid. Show them who's boss.

This approach to foreign policy is patronizing and insulting to Israel, an ally who has always stood by us, especially during the painful experiences she had in the gulf war. The settlement policy divides some of us in Congress and, indeed, it divides Israelis as well. But nothing unites the Israeli people more than the sentiment that their domestic policy must not be dictated to them by other nations.

This amendment would not send a message to the Israeli people that their policy should be changed. It would instead signal to them that, when the chips are down, they stand alone in the world, surrounded by a sea of enemies. It is that sinking feeling among the Israeli people, that justified feeling of insecurity, that would ultimately undermine the peace process. Instead, we need to let Israel know, and let her enemies know, that we stand fully behind her. We cannot let Israel's enemies believe that they have driven a wedge between America and Israel; that, after all, has been their strategy all along.

Some of my colleagues in this body disagree with the settlement policy, and I acknowledge that. But they must acknowledge that Prime Minister Shamir has stated that the settlements will be a subject of negotiation in a peace conference.

And let's look at history on this matter. Under the Camp David Accords, Israel was willing to give up settlements in the Sinai, and it was Gen. Ariel Sharon himself who ordered his Army to evict the settlers in that area. Conversely, the absence of settlements prior to 1967, and the scarcity of them up to 1977, never brought the Arab nations closer to peace. Throughout history, the Arab nations have maintained a state of war against Israel.

Some of my colleagues may have been disturbed that settlements continued while Secretary Baker traveled to the Middle East. We all know that he was. But it's hard to believe that a handful of settlements were the greatest barrier to peace, the biggest thorn in Baker's side as he tried vainly to move the peace process forward. How does it compare to Saudi Arabia dropping out of the conference? How does it compare to a hundred new companies being added to the Arab blacklist in the boycott of Israel? Mr. Speaker, there are many obstacles to peace in the Middle East. Let's work in a constructive manner to overcome all of them, rather than trying to manage one with an amendment to the foreign aid bill. This is not the time or the place for the Bryant amendment, and I urge its defeat.

Ms. MOLINARI. Mr. Chairman, I rise in opposition to the Bryant amendment. I oppose the gentleman's amendment because it is a backhanded slap at our strongest ally in the Middle East, and does nothing to advance the cause of peace in the region. In fact if the Bryant amendment were to pass this body it would dramatically hinder the quest for peace, and leave Israel highly vulnerable in the delicate balance of Middle East diplomacy.

The Bryant amendment is just a means of stripping crucial aid from the only democratic country in the region. It sends no new message, except to undermine Israel's position in potential negotiations. The United States has been crystal clear in its opposition to settlements in the territories, and indeed no U.S. money goes to these settlements.

During Israel's first 30 years of history there were no such settlements, there were also no successful peace negotiations between Israel and her eastern neighbors. Now, there may actually be modest hope that all sides can come to the bargaining table, yet these settlements are being portrayed as the major road block to peace.

My colleagues, we are all frustrated at the glacial pace of the peace process, but we should not penalize our natural ally just because we have no leverage with countries like Syria and Jordan. The gentleman's concern with the difficulties in this region of the world are understood, but this is not the way to pave the way for peace. I urge opposition to the Bryant amendment.

Mr. CHANDLER. Mr. Chairman, I rise in opposition to the Bryant amendment.

The Bryant amendment will not further the peace process in the Middle East. Rather, this amendment will single out and damage a friend and ally of the United States.

I visited Israel twice this year and it became clear to me that Israel faces two ongoing threats to its security. First, Israel is threatened by its Arab neighbors. Most Arab nations maintain a state of war against Israel and enforce a trade embargo. Even a U.S. Air Force jet carrying Members of Congress cannot fly directly from Saudi Arabia to Tel Aviv.

Second, Israel is threatened from within by Palestinians, many of whom terrorize Israeli citizens.

The Bryant amendment completely ignores the complexity of the Middle East. When Arab countries refuse to recognize Israel's right to exist, how can there be peace? When Arab countries refuse to trade with Israel or suspend the state of war that exists, how can we blame Israel for the failure of peace negotiations? When Jordan supports Iraq in the Persian Gulf war, how can we assume that Jordan will work to secure the Jordanian-Israeli border? And why would we assume that Syria is not a continuing security threat when Damascus takes delivery of Scud missiles from Korea at the end of the Persian Gulf war? Where is the amendment that recognizes the reality of Middle East instability? Why does the Bryant amendment only single out Israel?

I visited Israel only a few days after the end of Operation Desert Storm. Our friends in Israel were on the front line throughout the war, enduring 39 Scud missile attacks which killed

16 people, wounded 300, and damaged 9,000 housing units. Yet, at the request of the United States, Israel demonstrated incredible restraint to keep the U.N. coalition together. Israel remained steadfast to our cause throughout Operation Desert Storm. They deserve a steadfast ally in return.

The United States must take a constructive and important role in achieving a Middle East peace. Essential to this role is ensuring that Israel is not alone in a hostile world.

Vote against the Bryant amendment.

Mr. OWENS of Utah. Mr.Chairman, I rise in strong opposition to the Bryant amendment. We in this Congress are all agreed, I think, in our serious concern about the impact of continued settlement activity on the search for peace. I hold the view without reservation that settlement activity is one of the obstacle to the peace process.

Unfortunately, the question raised by this amendment is not whether to condone or condemn settlement activity. Rather, it is on the method that we choose to seek an end to settlements. More importantly, it is on whether the means suggested by the gentleman from Texas will move the Middle East closer toward, or further away from, peace.

Settlement activity, like the Arab boycott and the refusal to recognize Israel's right to exist, is a symptom of a much greater and more complex problem. We err grievously today if we think that this single issue can be treated in a vacuum, without impact on the larger political picture.

Well intended as my friend from Texas is, the amendment's enactment will strengthen, not weaken, the hand of settlement advocates of conciliation and compromise.

We would do well to recognize that settlement is not a negotiable position for the governing party in Israel. Like it or not, its ideology forms the very bedrock of the Likud. Neither this amendment nor any like it will change this simple fact.

However, as with any democracy, Israel's Government is responsible to its electorate. Only the voters can change the fundamental direction of that Government. Those who argue that the United States can achieve this with a meat ax will meet with failure. And as a consequence, they will damage the United States-Israel relationship and the prospects for a meaningful peace process as well.

This measure speaks volumes to the Israeli electorate. It says that foreign aid is a bludgeon. Regardless of this specific amount, $82.5 million, it says that this country's commitment is Israel's security falls short of ironclad. It says that in the end, Israel cannot count on the United States for foreign assistance, which is so important to its survival. The Bryant amendment, therefore, plays right into the hands of the hardliners who believe that Israeli sovereignty over the entire West Bank is more important than a process leading to peace with secure and defensible borders.

Mr. Chairman, the United States must never use foreign aid as a bludgeon. Never. Our commitment must be absolutely assured. Only then can the people of Israel, who have good reason to fear for their survival, take a calculated risk for a lasting peace.

Mr. SCHEUER. Mr. Chairman, I rise in strong opposition to the Bryant amendment. I believe it is misguided and miscalculated.

Misguided because Israeli settlements of the disputed territories are not as the Secretary of State said, "the biggest obstacle to peace in the Middle East." Rather they are an impetus to peace, providing another reason for the Arabs to come to the peace table.

As long as the Arab States remain in a state of war with Israel, threatening her with annihilation, Israel will legitimately feel the need to augment her defenses. And settlements are a key component of Israel's defenses.

The proper forum to interrupt Israeli settlements is not here in the United States Congress, it is not in the State Department, and it is not in the White House. The proper forum is in face-to-face negotiations between Israel and her Arab neighbors.

Negotiating away differences is what the peace process is about.

This amendment is miscalculated because it will not further the peace process. It is absurd to think that the Arabs would come to the peace table, when they know they can get what they want through U.S. pressure.

And Israeli concession on settlement policy would not encourage the peace process, it would discourage it. If this amendment passes, the Arabs will have succeeded in driving a wedge between the United States and its special ally, Israel.

This amendment would not accomplish its goal of halting settlements. Rather it would insult Israel by intruding on another democracy's sovereignty.

Mr. Chairman, the biggest obstable to peace is Arab dogmatic intransigence. The ball is in the court of the Arab nations, peace has always been within their grasp.

After sending over 500,000 American troops to the Persian Gulf to restore the sovereignty of an Arab country and remove Saddam as a threat to the peace and stability of the region, we would be justified in pressuring the Arab States to seize the opportunity that has always been theirs. We are not justified in pressuring Israel like this.

I urge my colleagues to defeat the Bryant amendment.

Mr. TOWNS. Mr. Chairman, I rise today to urge my colleagues to vote against the Bryant amendment to the foreign assistance authorization bill.

The Bryant amendment would further undermine a seriously compromised peace process, and would gravely weaken the U.S. role in fostering negotiations between the nations at odds in the Mideast.

Despite the conditionality in the Bryant amendment, there is still no indication that U.S. funds are being used in funding West Bank housing resettlements. Our use of the big stick approach is completely inappropriate given Israel's staunch alliance with the United States in recent times.

Please join me in rejecting the Bryant amendment.

Mr. GREEN of New York. Mr. Chairman, I join the vast majority of my colleagues in strongly opposing the Bryant amendment to H.R. 2508, which, if passed, would significantly undermine the peace process in the Middle East.

The Bryant amendment is deeply flawed on a number of points. To begin, the amendment is based on a false premise. No nation today claims sovereignty over either the West Bank or Gaza, and Israel, therefore, is not an occupying power as defined under the Fourth Geneva Convention. Before Israel came into existence, the territory was Britain's, under a League of Nations mandate. Britain relinquished sovereignty when the United Nations passed its partition resolution. Egypt then occupied Gaza, and Jordan the West Bank. Egypt never claimed sovereignty over Gaza. While Jordan claimed sovereignty over the West Bank, only Britain and Pakistan acknowledged it and Jordan ultimately withdrew its claim.

For this and other reasons, U.S. policy would be set on an extremely disturbing path under the Bryant amendment, which seeks to link U.S. aid for Israel to settlement activity. This approach punishes our longstanding ally Israel without taking any action against the real causes of instability in the region—most notably, the military, economic, and political state of war that Arab nations have maintained against Israel since its inception.

Moreover, the United States provides aid to Israel because of the longterm friendship our two nations have enjoyed, and because aid to Israel is in our own Nation's best interests. Secretary of Defense Cheney has said:

> We do not consider our relationship with Israel to flow in only one direction. The U.S. provides aid and assistance to Israel, but we also get national security benefits in return.

History has proven that the presence or absence of settlements does not affect Israel's commitment to making peace with her Arab neighbors. Under the Camp David accords, Israel gave up not only settlements, but also vast oil reserves and strategic air bases. Conversely, the absence of settlements before 1967 did not bring Israel's Arab neighbors to end their state of war with Israel.

In short, we must not forget that the world in which Israel lives continues to present daily dangers. Syria, with a military that surpasses that of Israel in numbers of troops, tanks, and artillery, continues to modernize and expand its forces. Kuwait and Saudi Arabia, our primary coalition partners in the Persian Gulf war, have so far given no indication of their willingness to end or suspend their economic and political boycott of Israel. Ultimately, Arab government intransigence is the most significant obstacle to peace, and I urge my colleagues to defeat the Bryant amendment.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The question is on the amendment offered by the gentleman from Texas [Mr. BRYANT].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BRYANT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to a previous order of the House, the vote on the amendment offered by the gentleman from Texas [Mr. BRYANT] will be postponed until after the vote on the amendment offered by the gentleman from Ohio [Mr. KASICH].

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. Pursuant to a previous order of the House, votes will now be taken on those amendments on which recorded votes were ordered postponed.

Votes will be taken in the following order:

The amendment offered by the gentleman from Ohio [Mr. KASICH], as amended; and

The amendment offered by the gentleman from Texas [Mr. BRYANT].

The Chair will reduce to 5 minutes the time for the electronic vote after the first vote in this series.

AMENDMENT OFFERED BY MR. KASICH

The CHAIRMAN pro tempore. The pending business is the vote on the amendment offered by the gentleman from Ohio [Mr. KASICH], as amended, on which a recorded vote is ordered.

The vote was taken by electronic device, and there were—ayes 421, noes 1, answered "present" 1, not voting 9, as follows:

[Roll No. 172]

AYES—421

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—1

Savage

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—9

Fawell
Gray
Hopkins
Levine (CA)
Lloyd
Oberstar
Serrano
Spence
Torricelli

□ 1450

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. MONTGOMERY). Pursuant to a previous order of the House, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the next amendment, on which the Chair had postponed further proceedings.

AMENDMENT OFFERED BY MR. BRYANT

The CHAIRMAN pro tempore. The pending business is the vote on the amendment offered by the gentleman from Texas [Mr. BRYANT], on which a recorded vote is ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 44, noes 378, answered "present" 1, not voting 9, as follows:

[Roll No. 173]

AYES—44

Abercrombie
Bennett
Bonior
Boucher
Bryant
Carper
Conyers
DeFazio
Dellums
Dickinson
Dingell
Dymally
Ford (MI)
Hansen
Hayes (IL)
Hubbard
Lipinski
Long
Mazzoli
McCloskey
McMillan (NC)
Miller (OH)
Montgomery
Moran
Murphy
Oakar
Pease
Penny
Petri
Poshard
Rahall
Ray
Riggs
Rohrabacher
Roth
Sanders
Savage
Solomon
Stump
Taylor (MS)
Traficant
Vento
Washington
Waters

NOES—378

Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Borski
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Derrick
Dicks
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest

Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moorhead
Morella
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price
Pursell
Quillen
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Bateman

NOT VOTING—9

Fawell
Gray
Hopkins
Levine (CA)
Lloyd
Oberstar
Serrano
Spence
Torricelli

□ 1501

Mr. MORAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KLECZKA

Mr. KLECZKA. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. (Mr. Montgomery). The Chair would inquire of the gentleman, is the amendment printed in the Record?

Mr. KLECZKA. Yes, Mr. Chairman, the amendment is printed in the Record.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Kleczka: Page 619, strike out line 16, and all that follows through line 10 on page 620 (section 866), and redesignate subsequent sections accordingly.

Mr. KLECZKA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. BROOMFIELD. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BROOMFIELD. Mr. Chairman, I understand we are now taking up the Kleczka amendment.

The CHAIRMAN pro tempore. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. BROOMFIELD. Mr. Chairman, obviously the gentleman from Wisconsin is in favor of his own amendment. Is the gentleman, Mr. Engel, in opposition and does he get 5 minutes in opposition to the amendment?

The CHAIRMAN pro tempore. The Chair will ascertain who speaks in opposition to the amendment.

Is the gentleman from New York [Mr. Engel] in opposition to this amendment?

Mr. ENGEL. I am, Mr. Chairman, yes.

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr. Kleczka] will be recognized for 5 mintues, and the gentleman from New York [Mr. Engel] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. Kleczka].

Mr. KLECZKA. Mr. Chairman, my amendment strikes language in the bill concerning the Kosovo region of Yugoslavia, specifically lines 18 through 25, page 619, and lines 1 through 10, page 620, in section 866 of title VIII.

The section I seek to strike is language added in committee by Mr. Engel of New York.

The Engel language singles out the Republic of Serbia for its treatment of the Albanian minority in the Kosovo region.

I have four reasons for striking the Engel language: It is biased, it is poorly timed, it contradicts U.S. policy and it defies past House action.

First, the Engel language is biased.

It oversimplifies complex ethnic tensions and takes sides in a conflict that has plagued Yugoslavia for years.

Yugoslavia is a puzzling nation. It emerged from two empires, and it includes eight ethnic groups, four religions, and six republics.

If we discuss the grievances of ethnic Albanians, we must also discuss those of other ethnic groups.

Each group has grievances, but this is not the time or the place to debate each ethnic grievance.

The Engel language takes a dangerous approach to the tension in that nation and is clearly biased toward ethnic Albanians at a time when clear heads and open minds are needed.

Second, the timing of the Engel language is terrible. Its supporters forget that Yugoslavia is on the brink of civil war.

This language condemns one republic in the dispute, and it may be enough to throw the republics into armed conflict.

Such action could spread the spiralling ethinic violence throughout Eastern Europe.

It jeopardizes the tentative accord reached on June 6.

Third, the Engel language contradicts United States policy toward Yugoslavia.

Our policy is to avoid taking sides in the complex ethnic dispute and to encourage democratic progress.

That policy was emphasized when the administration recently reinstated aid, which had been cut off due to human rights concerns.

Similarly, last Friday, the State Department expressed its support for Serbia's restraint during an Albanian demonstration.

Both actions were taken in the spirit of my amendment to be evenhanded and tolerant of all ethnic groups.

Finally, the House rejected language similar to the Engel language last October 23.

On that date, the House overwhelmingly defeated House Concurrent Resolution 385 by a vote of 362–55, because it sent the wrong message.

The Engel language we seek to strike sends that same message. And it is wrong again.

I urge the House to again reject this language.

If the Engel language is not struck, Mrs. Bentley will offer an amendment which is pro-Serbian, and further, Mr. Kolter will offer an amendment which is pro-Croat.

If the Engel language is deleted, they will not proceed with their amendments.

Let's stop the finger-pointing and stick with neutral language supporting democracy and free markets in Yugoslavia, language which is already in the bill.

If my amendment passes, we will send the right message to the people of Yugoslavia.

The right message is that we will not engage in divisive ethnic disputes.

The right message is also that we encourage democratic dialog, inclusion of all ethnic groups, and an end to the violence and political conflict in Yugoslavia.

Mr. Chairman, I urge my colleagues to support my amendment.

Mr. Chairman, I yield to the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Chairman, I rise in strong support of the Kleczka amendment to strike language regarding human rights violations in the province of Kosovo in the Republic of Serbia in Yugoslavia.

As you know, current United States official policy is one of steadfastly refraining from taking sides in the complex ethnic disputes that have been rocking Yugoslavia, in order to promote internal stability without bloodshed.

I think earlier debate on this bill has underlined the need for this body to stay neutral regarding its policy toward Yugoslavia.

Yugoslavia is on the brink of a bloody civil war. A week and a half ago leaders from the six republics reached a fragile accord regarding further steps toward a unified Yugoslavia. If this House goes on record favoring specific nationalist groups within Yugoslavia, it could upset this tentative balance between the Republics, and result in civil war.

The House already is on record regarding the situation in Kosovo. The language of section 866 is very similar to that of House Concurrent Resolution 385, a measure that was soundly rejected at the end of the 101st Congress by a vote of 55–362.

I must stress that any language in this bill regarding specific regions in Yugoslavia could have an adverse effect on stability within that country.

In fact President Bush, in a March 1991 letter to Prime Minister Markovic of the Yugoslavian Federation stated:

> It should be absolutely clear that the United States does not and *will not* favor any particular national or ethnic group in Yugoslavia. At the same time, we want to see differences among nationalities resolved within the framework of a single, democratic Yugoslavia and will not encourage or reward those who would break the country apart.

I am not standing here today to deny that human rights violations exist within the Kosovo Province. This is true, but such violations are taking place throughout Yugoslavia, and not just in this one specific area. I quote from an article published in the Washington Post yesterday:

> Croatia * * * has met with relatively little western criticism—even though its record on human rights and economic reform does not measure up to the democratic goals the government set last year.

The ethnic tensions within the country of Yugoslavia are not a good versus evil situation. I quote again from the Washington Post:

> This simplistic view that sees a free, democratic Croatia and a bad barbaric Bolshevik Serbia is a lot of [sic] crap. It affects perceptions around the world and gets played back into the Yugoslav crisis.

With the advent of democracy in Yugoslavia has come a rise in ethnic rivalries that have been suppressed for half a century under Communist rule. These rivalries have existed for hundreds of years, and are inexplicably intertwined with the history of this region in Central Europe.

Serbs, Croats, Slovenes, and other ethnic groups all have bones to pick with each other. But, they are slowly resolving their differences through peaceful, democratic dialog, which not only is the wish of the various leaders in that country, but also is the thrust of U.S. policy within the region.

I quote from a May 24 State Department release:

> We believe that unity, to be preserved, must be put on a new, democratic, mutually agreed basis. This can only be achieved through dialogue and the furtherance of democratic processes.

In addition, I think it should be perfectly clear that a comment on the sensitive and delicate situation in Yugoslavia by the House of Representatives could also seriously undermine the efforts of Secretary of State James Baker, who is visiting that country on Thursday.

The language that Mr. KLECZKA wishes to strike could very easily shatter the tentative balance that the Republics of Yugoslavia have just reached. Now is not the time for a major change in United States policy. We must preserve Yugoslavian stability by retaining our neutral position on the ethnic strife that threatens to tear that country apart.

Vote "yes" on the Kleczka amendment.

Mr. KLECZKA. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman and Members, I spent 2 years living in and working in Yugoslavia. I have no ethnic affinity with any particular group, but I can tell you that this is a very dangerous and unfortunate amendment—rather this language, and that this amendment is a very valuable amendment because it strikes at prejudicial language in the bill which unfortunately was included in the bill.

The bill, as it now reads, would take sides in an explosive situation which is highly complex. It would be much better for us in Congress to return to neutral language, not take sides inside this country, which is already in turmoil, No. 1.

No. 2, the timing of this language in the bill is most unfortunate because this is a very fragile agreement which is holding together there and avoiding the kind of conflict that could erupt at any time.

□ 1510

Mr. Chairman, this would rub salt into that wound and possibly upset that. Congress should not be the cause of increasing tensions inside that fragile coalition of a country.

Finally, Mr. Chairman, this amendment or this language that this amendment would negate, the language in the bill, contradicts U.S. policy. U.S. policy is to avoid doing anything which would drive that country apart and break it into pieces. U.S. policy is still to try to hold the country together. We have many reasons to do that.

So, the Congress should not be taking sides, should not be rubbing salt in those wounds and should not be choosing this moment, of all moments, to do that.

Mr. Chairman, I would urge that my colleagues vote aye on the amendment of the gentleman from Wisconsin [Mr. KLECZKA] and return the language of the bill back to neutrality, which is where it should be.

Mr. ENGEL. Mr. Chairman, I rise to strongly oppose the amendment of the gentleman from Wisconsin [Mr. KLECZKA].

Mr. Chairman, the gentleman from Wisconsin would have us believe that the committee language takes sides in an ethnic dispute involving Yugoslavia. That is not the case at all. This has nothing whatsoever to do with the struggle to keep Yugoslavia together, nor with taking sides. The committee language simply talks about human rights.

Mr. Chairman, let me read what we are talking about and what the amendment of the gentleman from Wisconsin [Mr. KLECZKA] attempts to remove from the bill. The bill now says that ethnic Albanians should not be discriminated against because of their ethnicity, that the people of Kosovo Province should retain their autonomous status in Yugoslavia. The people of Kosovo Province should be allowed to hold free and fair elections for the assembly of Kosovo Province and, finally, that leaders in Yugoslavia should resolve their differences through negotiations and should not under any circumstances resort to violence or repression.

Is this excessive language? I think not.

I might also point out that the entire committee, the Committee on Foreign Affairs and the Europe and the Middle East Subcommittee, unanimously approved the language in the bill that the gentleman from Wisconsin [Mr. KLECZ-

KA] is now attempting to take out. So, rather than this being radical language, this is very, very moderate language, and, despite what the gentleman from Wisconsin says, this has nothing to do, is not at all similar, to the language that the House voted on last year. The language which the House voted on last year was similar to the Dole and Nickles language in the Senate. This simply talks about human rights abuses.

Th Government of Serbia, my colleagues, is the last Stalinist, hard-line, Communist government on the continent of Europe. Let us not paper over their human rights abuses. As Communist governments are falling time and time again all over the world, what the gentleman from Wisconsin [Mr. KLECZKA] would do is simply say, "Let's forget about the human rights abuses that the Stalinist government has perpetrated, and let's sort of pretend that we're taking sides in an ethnic dispute."

Mr. Chairman, we are saying that we are for human rights. That is what the entire Committee on Foreign Affairs is saying, that is what the Europe and Middle East Subcommittee is saying, and this Congress at this time in the world ought to stand on the side of human rights.

Oppose the amendment of the gentleman from Wisconsin. Support the committee language.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Chairman, I strongly oppose the Kleczka amendment that would strike out an important section in this bill concerning human rights problems in the Province of Kosovo in Serbia.

This section of the bill regarding Kosovo was added during committee consideration of this issue and has bipartisan support. This section was retained because it is important to speak out on this serious human rights issue.

The language that Congressman KLECZKA's amendment would strike merely expresses the sense of the Congress about the human rights situation in Kosovo. I quote:

> Ethnic Albanians living in the Republic of Serbia and in other parts of Yugoslavia should not be discriminated against because of their ethnicity.

It also says that Kosovo should retain its autonomous status, and that problems there should be resolved through negotiations.

When people around the world talk about the current human rights problems in Europe, Kosovo is what they talk about. By any measure, the human rights problems there are far more numerous and serious than in any other region in that country.

We will do a disservice to this institution by ignoring the human rights situation in that troubled province. If we speak out honestly about human rights violations in South Africa and Central America, why not talk about Yugoslavia? Current law is replete with references to human rights violations around the world. Why eliminate this fair and balanced language?

The facts speak for themselves about Kosovo. The Department of State's "Country Reports On Human Rights Practices for 1990," documents the tragic situation in Kosovo by saying:

> In the province of Kosovo, Serbian authorities continued and intensified repressive measures that featured in 1990 thousands of political arrests, tens of thousands of politically motivated job dismissals, and widespread police violence against ethnic Albanians. This violence included the use of excessive force . . . including random and . . . unprovoked shooting by police, resulting in at least 30 deaths and hundreds of injured.

Amnesty International's report for last year also paints a clear picture of the brutal treatment of the population in that province. According to the report, an ethnic Albanian political detainee was arrested and held in isolation without charge or trial. After being questioned by a doctor as to the state of his health, he was beaten by prison staff and officers. Unfortunately, this is not an isolated incident there.

In May, Secretary of State Baker wrote to me and expressed his "grave concern about continuing human rights violations by the Republic of Serbia in Kosovo." In our Government's official policy statement concerning that country, he said:

> Human rights abuses by the Serbian authorities against the majority Albanian population in Kosovo have continued thus far in 1991. Albanians are arrested, beaten, and otherwise harassed for attempting to exercise basic human rights, such as freedom of speech and assembly. Principal government organs remain shut down and most government functions have been taken over by Serbs appointed from Belgrade.

This week, the Conference on Security and Cooperation in Europe [CSCE] will discuss the problems of Yugoslavia and will review, I am sure, the human rights situation there. Secretary Baker will attend that meeting and will then visit Yugoslavia, where, I am sure, he will raise the human rights issue. We too should do our part to improve the human rights situation in that country. We should act responsibly and raise this issue by retaining the current language in this legislation.

Today, Kosovo is a political and human rights nightmare. It is time for us to face the facts about Yugoslavia. Credible human rights organizations, and our own Secretary of State have given Congress the facts. It is important that we keep this language that tells the truth about the sad story of Kosovo. I urge my colleagues to oppose the Kleczka amendment.

THE SECRETARY OF STATE,
Washington, DC, May 24, 1991.

Hon. WILLIAM S. BROOMFIELD,
House of Representatives.

DEAR BILL: I am writing to advise you of several steps we are taking to express our grave concern about continuing human rights violations by the Republic of Serbia in the Autonomous Province of Kosovo. Efforts by the government of Serbia block the orderly transfer of constitutional authority within the Yugoslav Presidency, and rising ethnic tensions that threaten Yogoslavia's transition to democracy and free markets.

The United States will issue a statement criticizing the Serbian leadership both for its human rights violations in Kosovo and its current efforts to overthrow the constitution; invoke Step Two of the CSCE Human Dimension Mechanism in Yugoslavia with regard to Serbian human rights violations, and urge other CSCE members to follow suit; and not support new OPIC projects in the Serbian Republic.

The intent of these measures is to underscore the danger of international isolation faced by those in Yugoslavia who would resort to repression, violence and unconstitutional means to achieve their political aims. We intend to review the above measures in light of the future progress of Yugoslavia and its constituent republics toward full respect for CSCE principles, both with respect to human rights and to the peaceful and democratic settlement of disputes.

The human rights situation in Kosovo must be an integral part of the peaceful and democratic resolution of the Yugoslav crisis. We believe that coordinated approaches to this problem among CSCE members will be mutually reinforcing, as have been our recent parallel demarches with the European Community in opposition to the use of force and in favor of a democratic, unified Yugoslavia achieved through dialogue. We also see continued pressure through the CSCE Human Dimensions Mechanism process as a particularly effective way to bring home to Yugoslav and Serbian authorities the depth and breadth of international concern about the Kosovo situation.

In light of serious flaws in the electoral process in the Republic of Serbia, I have invoked the certification mechanism of Section 599A of the Foreign Operations, Export Financing, and Related Programs Act, 1991. Certification signals our deep concern about the degree of commitment of the present Serbian leadership to the democratic political process, while allowing for continued U.S. support for Yugoslav economic reform on a selective basis, both through the IMF and World Bank and through bilateral technical assistance designed to support those at the federal and republic levels who are committed to market reform. The Department will forward this certification to the Congress under separate cover.

We have also followed up on the intensive diplomatic exchanges we have been having both in Yugoslavia and with our friends and allies with regard to the ongoing crisis in Yugoslavia, with demarches relating to the recent efforts by the Serbian government to block the orderly transfer of constitutional authority in the country.

We have made it clear to Yugoslav and Serbian authorities that resorting to violence and repression, and parallel efforts to block the constitutional transfer of authority, are inconsistent with democratic principles and raise grave risks of disintegration and internal conflicts.

It is our hope that our efforts, in parallel with those of the European Community and other CSCE members, will constitute a clear message of opposition to the use of repression, violence and unconstitutional means to block democratic change or undermine the process of dialogue in Yugoslavia. As the President recently wrote to the Prime Minister of Yugoslavia, Europe has experienced breathtaking change over the past few years. It would be a tragedy if Yugoslavia failed to grasp the possibilities of this moment in history to establish a new basis for democratic unity, and to join in the development of a Europe whole and free.

Sincerely yours,

James A. Baker III.

U.S. Policy Toward Yugoslavia

The provisions of the Nickles-Bentley Amendment, which entered into effect on May 5, establish certain conditions for U.S. assistance to Yugoslavia as well as discretionary waiver authority for the Administration in implementing the Amendment. The Administration has examined its response to the provisions of the Nickles-Bentley Amendment against the background of the ongoing and still intensifying crisis in Yugoslavia.

U.S. policy toward Yugoslavia is based on support for the interrelated objectives of democracy, dialogue, human rights, market reform, and unity.

By democracy we mean that all citizens of Yugoslavia should enjoy democratic rights and civil liberties, and be able to represent themselves through free and fair elections.

By dialogue we mean that disputes between republics, ethnic groups, or individuals should be resolved only through peaceful means. We would be strongly opposed to any use of force or intimidation to settle political differences, change external or internal borders, block democratic change, or impose a nondemocratic unity.

By human rights, we mean the standards of behavior laid down in international commitments to which Yugoslavia is a party, including the Helsinki Final Act and subsequent CSCE documents. We attach particular importance to the provisions relating to the treatment of members of minorities.

By market reforms, we mean that we support Yugoslavia's transition to a full market economy, open to private ownership and investment.

By unity we mean the territorial integrity of Yugoslavia within its present borders. We believe that the ethnic heterogeneity of most Yugoslav republics means that any dissolution of Yugoslavia is likely to exacerbate rather than resolve ethnic tensions.

We believe that unity, to be preserved, must be put on a new, democratic, mutually agreed basis. This can only be achieved through dialogue and the furtherance of democratic processes.

The United States will not encourage or reward secession; it will resepct any framework, federal, confederal, or other, on which the people of Yugoslavia peacefully and democratically decide. We firmly believe that Yugoslavia's external or internal borders should not be changed unless by peaceful consensual means.

Whether or not these five objectives are realized in Yugoslavia depends primarily on the people of Yugoslavia and their leaders at the republic and federal levels. The key factor in their ability to do so is the consolidation of peaceful, democratic dialogue as the mechanism for addressing their differences.

The consolidation of peaceful, democratic dialogue has therefore been the main thrust of U.S. bilateral and multilateral diplomacy over the past year, along with support for a democratic, unified Yugoslavia that fully respects human rights and that addresses the difficult decisions involved in market reform.

Over this period, Yugoslavia as a whole has made significant progress toward observance of CSCE principles, and the Yugoslav people and their leaders have preserved a commitment to dialogue under increasingly difficult circumstances.

However, progress toward a democratic, unified Yugoslavia achieved through dialogue has been increasingly threatened by a rise in ethnic tensions that threatens to reverse Yugoslavia's transition to democracy and free markets.

The United States strongly supports timely completion of the transfer of constitutional authority by the normal Presidential rotation to Stipe Mesic.

The Serbian leadership's efforts to block the constitutional transfer of authority within the collective Yugoslav Presidency are inconsistent with democratic principles and threaten disintegration and civil conflict.

Yugoslav Prime Minister Markovic and Stipe Mesic have sought to resolve this impasse constitutionally. Their efforts are critical to the continuity of Yugoslav federal authority and to further all-Yugoslav democratic and market reform.

The United States supports these efforts, and will continue to press strongly, both bilaterally and in parallel with others in the international community, for a constitutional transfer of authority in the Yugoslav Presidency.

We hold the leadership of the Serbian Republic responsible for the crisis in the Yugoslav Presidency, which can only be interpreted as a deliberate effort to exacerbate the political situation and raise the odds of disintegration and violence.

The conduct of the leadership of the Serbian Republic, both with respect to elections and to human rights, has also been in contrast to Yugoslavia's overall progress toward CSCE principles, in the context of the Nickles-Bentley Amendment.

We believe there have been serious flaws in the electoral process in the Serbian Republic.

Although the December 1990 election was a significant improvement over any held in Serbia in over 50 years, the electoral campaign was characterized by severe imbalances between access to the media and access to official sources of funding for the ruling and opposition parties. Republican authorities exhausted public resources to ameliorate the economic situation during the campaign, and subsequently made an illegal incursion into the Yugoslav monetary supply estimated at $1.8 billion to compensate for those expenditures. Republican authorities have also sought to perpetuate their control over the media in the aftermath of the election, making only grudging concessions to massive protests in favor of a free flow of information.

The holding of free and fair elections, like the free flow of information, is a measure of a government's commitment to a democratic political process; we do not believe that the present Serbian leadership has fully demonstrated such a commitment.

We assess the violations of human rights by Serbian authorities in Kosovo Province as extremely grave. There is a deteriorating cycle of action and reaction in the context of a fundamental political conflict between Serbs and ethnic Albanians. Basing its claim to Kosovo primarily on historical grounds, Serbia is seeking to reestablish its control over Kosovo through repressive means which clearly violate CSCE principles. The majority ethnic Albanian population in Kosovo bases its claim to autonomy within the province on ethnic grounds, and, in the face of Serbian repression, has escalated its demands since mid-1990 to insist on republican status separate from Serbia.

In the province of Kosovo, Serbian authorities continued and intensified repressive measures that featured in 1990 thousands of political arrests, tens of thousands of politically motivated job dismissals, and widespread police violence against ethnic Albanians. This violence included the use of excessive force by the police to disperse peaceful demonstrators, including random and at times unprovoked shootings by the police, resulting in at least 30 deaths and hundreds of injured.

Human rights abuses by the Serbian authorities against the majority Albanian population in Kosovo have continued thus far in 1991. Albanians are arrested, beaten, and otherwise harassed for attempting to exercise basic human rights, such as freedom of speech and assembly. Principal provincial government organs remain shut down and most government functions have been taken over by Serbs appointed from Belgrade. Albanian media organs remain closed, persons attempting to bring in Albanian language publications printed outside Kosovo are sometimes harassed. Many Albanian-language schools in Kosovo have been closed because of a refusal by teachers and pupils to use a new curriculum imposed by Serbia, and Serbian administrators almost completely dominate the Pristina University Rectorate and some individual faculties, and many ethnic Albanian professors have been fired or driven out.

The ability of ethnic Albanians in Kosovo to pursue their interests through the political process has been further curtailed by the Serbian government's abolition of the Presidency and Executive Council of Kosovo Province and by its replacement of Kosovo Province's representative on the federal Presidency.

Meanwhile, official Serbian arguments that Serbian policies in Kosovo are directed only against ethnic Albanian separatism from Serbia (and potentially from Yugoslavia to join neighboring Albania) have become to some extent a self-fulfilling prophecy: ethnic Albanians and their leaders in Kosovo have grown increasingly insistent on achieving a Republic separate from Serbia, and have boycotted opportunities, like the Serbian elections in December 1990, to participate in the Serbian political process.

There is also some concern in 1991 about human rights abuses in the Republic of Croatia. Serbian activists there have asserted that significant numbers of Serbs (some 11 percent of the Republic's population) have been fired from official positions in republican organs, especially the police, and from some public sector enterprises, solely on ethnic grounds.

Serbs also assert that they are sometimes subject to arrest, physical attacks, or other harassment by Croatian authorities. Serbian citizens of Croatia are also concerned at the prospect that Croatia might secede from Yugoslavia, thus cutting them off from their current country and Serbia against their will.

The situation in Croatia, however, is complicated by the existence of Serbian nationalist leaders who are attempting, including by use of armed force, to separate parts of Croatia from republican authority, and who have rejected repeated and unconditional offers of dialogue by Croatian authorities. There are also widespread reports that Croats living in Serbian-inhabited parts of Croatia are subject to arrest, attacks, and harassment by Serbs.

We support the principles that underlie the Nickles-Bentley Amendment, and aim to ensure that our assistance is closely tied to democratic and market reform and respect for human rights. In considering the implementation of this Amendment, however, we need to be careful not to hit the wrong target.

For this reason, the Administration has decided to take the following steps: (i) the Secretary of State has invoked the certification mechanism of the Nickles-Bentley Amendment; (ii) the U.S. will resume assistance to Yugoslavia on a selective basis; and (iii) the U.S. will invoke Step Two of the CSCE Human Dimensions Mechanism with regard to human rights violations in Serbia, and urge other CSCE members to follow suit; in addition, due to underwriting concerns relating to human rights and other problems in the Serbian Republic, OPIC will suspend assistance to new U.S. investments in the Serbian Republic.

Mr. ENGEL. Mr. Chairman, I just want to quote what our own U.S. State Department's 1990 annual report on human rights in Kosovo says.

In the province of Kosovo, Serbian authorities continued and intensified repressive measures that featured in 1990 thousands of political arrests, tens of thousands of politically motivated job dismissals and widespread police violence against ethnic Albanians. This violence included the use of excessive force by the police to disperse peaceful demonstrators.

Human Rights Watch says that in 1990 security forces of the Serbian Government attacked ethnic Albanian villages in apparent attempts at intimidation. The Serbian Government suspended the Kosovo Parliament and other institutions of government in which ethnic Albanians participated, shut down for extended periods the main ethnic Albanian daily paper and took all Albanian-language programming off radio and television.

Mr. Chairman, I urge my colleagues again to stand up for human rights. Let us not tolerate human rights abuses in the last Stalinist bastion in Europe.

The CHAIRMAN pro tempore (Mr. MONTGOMERY). The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLECZKA].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ENGEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 289, noes 127, answered "present" 1, not voting 15, as follows:

[Roll No. 174]

AYES—289

Abercrombie
Alexander
Allard
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Barnard
Barton
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Burton
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Fazio
Feighan
Foglietta
Ford (MI)
Ford (TN)
Frost
Gejdenson
Gekas
Gephardt
Gilchrest
Gonzalez
Goodling
Gordon
Gradison
Grandy
Gray
Guarini
Gunderson
Hall (TX)
Hamilton
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hobson
Hochbrueckner
Holloway
Horn
Hubbard
Hughes
Hunter
Hutto
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Jontz
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
LaFalce
LaRocco
Laughlin
Lehman (CA)
Lent
Levin (MI)
Lewis (GA)
Lightfoot
Long
Lowey (NY)
Luken
Machtley
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Oxley
Packard
Pallone
Panetta
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Ridge
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Sharp
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (OR)
Solomon
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Stump
Sundquist
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Traficant
Unsoeld
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Young (AK)

NOES—127

Ackerman
Anderson
Andrews (NJ)
Archer
Armey
Ballenger
Barrett
Boehner
Bonior
Broomfield
Bunning
Camp
Campbell (CA)
Chandler
Coble
Coleman (MO)
Combest
Cox (CA)
Dicks
Dingell
Doolittle
Dreier
Duncan
Edwards (OK)
Engel
Fascell
Fields
Fish
Flake
Frank (MA)
Franks (CT)
Gallegly
Gallo
Gaydos
Geren
Gillmor
Gilman
Gingrich
Glickman
Goss
Green
Hall (OH)
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Herger
Hoagland
Horton
Houghton
Hoyer
Hyde
Inhofe
Ireland
Johnson (CT)
Jones (GA)
Kanjorski
Kennedy
Kolter
Kyl
Lagomarsino
Lancaster
Lantos
Leach
Lewis (CA)
Lewis (FL)
Lipinski
Livingston
Lowery (CA)
Manton
McCandless
McCollum
McDade
McNulty
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murtha
Nichols
Orton
Owens (UT)
Parker
Paxon
Porter
Price
Pursell
Ramstad
Regula
Rhodes
Riggs
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schumer
Sensenbrenner
Shaw
Shays
Slattery
Smith (NJ)
Smith (TX)
Snowe
Solarz
Stark
Stearns
Swett
Tanner
Thomas (CA)
Towns
Upton
Walker
Weber
Weiss
Wylie
Yatron
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Bateman

NOT VOTING—15

Fawell
Gibbons
Hopkins
Huckaby
Lehman (FL)
Levine (CA)
Lloyd
Oberstar
Owens (NY)
Serrano
Spence
Torricelli
Traxler
Valentine
Waxman

☐ 1540

Messrs. BONIOR, SAXTON, HOYER, OWENS of Utah, and GLICKMAN changed their vote from "aye" to "no."

Mr. MCMILLEN of Maryland and Mr. MCEWEN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KOLTER

Mr. KOLTER. Mr. Chairman, I offer an amendment.

The Chairman pro tempore (Mr. MCDERMOTT). Is the amendment printed in the RECORD?

Mr. KOLTER. Yes, it is, Mr. Chairman.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KOLTER: Page 619, after line 15, insert:

SEC. . ETHNIC MINORITIES IN YUGOSLAVIA.

It is the sense of Congress that—

(1) ethnic minorities living in the Republic of Croatia, Serbia, and in other parts of Yugoslavia should not be discriminated

against because of their ethnicity or religion;

(2) ethnic minorities in the Republics of Croatia, Serbia, and other republics of Yugoslavia should retain their full ethnic, linguistic, religious, civil, and political rights, and the respective governments of the republics should take the necessary steps to ensure these rights; and

(3) political and national leaders of Yugoslavia should resolve their political and economic problems through negotiations and peaceful dialogue as equal partners and should not, under any circumstances, resort to violence, repression, or military force.

Mr. KOLTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. KOLTER. I yield to the gentleman from Florida, chairman of the Committee on Foreign Affairs.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for furnishing us a copy of his amendment, which was printed in the RECORD. We think it is a good amendment because it applies to all minorities, as I understand it. Is that the gentleman's intent?

Mr. KOLTER. That is precisely correct. It offers the same benefit for every society, every member, every member of the Yugoslavian Government, whether it be Slovenian, Croatian, Serbian, or whatever.

Mr. FASCELL. I think that is an excellent policy position to have and on this side we are delighted to accept the amendment.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. KOLTER. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I also would like to join Chairman FASCELL in complimenting the gentleman on drafting this resolution. I think it is an amendment that everybody can support and on this side we certainly accept it.

Mr. Chairman, this amendment is a step in the right direction and it deserves our support.

This amendment, however, fails to include the detailed language concerning the situation in Kosovo that our committee included during our markup of the bill.

When human rights violations are talked about in Europe and the United States, the name Kosovo is always raised. Our Government, international human rights groups, and our European allies are aware of the serious human rights and political problems there. By not including the committee's language, we are ignoring some facts and basic truths about that long-suffering Province. The language in the bill merely says that the ethnic Albanians living in Kosovo should not be discriminated against. It further adds that the Province of Kosovo should retain its autonomous status and that the problems of Yugoslavia should be resolved through negotiations.

None of this language is offensive, in my judgment. It accurately reflects what is happening in Kosovo today. It should be included in the bill. We in this great institution should take a stand. We should stand with the forces of democracy in Yugoslavia, or stand with those who believe that human rights violations and political repression are acceptable.

Mrs. BENTLEY. Mr. Chairman, will the gentleman yield?

Mr. KOLTER. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Chairman, I rise in support of the amendment of the gentleman from Pennsylvania, which covers all Republics and all ethnic minorities in Yugoslavia.

We all concede there are human rights violations throughout the federation. This amendment urges peaceful resolution of all in Serbia, Croatia, and elsewhere. It is vital that this take place. I command Mr. KOLTER for this amendment and I was happy to work on it with him.

Mr. MOODY. Mr. Chairman, will the gentleman yield?

Mr. KOLTER. I yield to the gentleman from Wisconsin.

Mr. MOODY. Mr. Chairman, I would also like to commend the gentleman on his amendment. It strikes just the right note. Unlike the previous amendment, which singled out a single area of the country, this amendment asks for equal human rights for all people and all regions. I think that is exactly the way this body should go, and I commend the gentleman for his amendment.

Mr. KOLTER. Mr. Chairman, I am pleased that there is unanimity of thought on this amendment.

I ask my colleagues to join me in support of my amendment which is offered here today in the interest of fairness to all ethnic groups in Yugoslavia.

I believe the human rights of all Yugoslavians should be protected and assured regardless of ethnic background, religious or political implications. Basic rights and responsibilities should be encouraged and supported for these people who are making magnificent and courageous strides toward democracy and freedom. These brave people deserve our response here today which confirms their inalienable right to self-determined human dignities.

There are positive changes taking place in Yugoslavia. Our commitment through my amendment has a clear and distinct relevance to the democratization which those in Yugoslavia have a right to be involved in today regardless of ethnic, religious, or political persuasions. There is much tension surrounding those pursuits.

My amendment should not result in creating more tension in Yugoslavia but in relieving those tensions. I ask you to support this amendment which will create a fair playing field for all of the young democratic governments who are struggling to be born in Yugoslavia.

There is a grave danger to the people in Yugoslavia. Their economy is weakening and power structures are gridlocked. Putting aside differences today will help prevent Yugoslavians from a catastrophic future.

This sense-of-Congress amendment gives those living in Serbia, Croatia, Macedonia, Slovenia, Montenegro, Bosnia-Herzegovina, and all Yugoslavian Republics the human rights which are their legacy as citizens of fledgling democracies. Vote for the Kolter amendment. This is a vote for equal treatment and respect for every person in Yugoslavia. If we fail to support this amendment we will jeopardize opportunities for a new peaceful existence for the people of Yugoslavia.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KOLTER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KYL

Mr. KYL. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. KYL. Yes, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. KYL: Page 622, insert the following after line 5:

SEC. 869. LIMITATIONS ON ASSISTANCE.

(a) FINDINGS.—The Congress finds that—

(1) the long term national security of the United States, and of the peoples of the Soviet Union, would benefit greatly from the transformation of the Soviet Union to a fully democratic nation based on the principles of government by the people, respect for individual rights, and free market economic opportunity; and

(2) assistance provided by the United States to the Soviet Union should promote rather than retard this transformation.

(b) CERTIFICATION.—During fiscal year 1992 and fiscal year 1993, assistance may not be provided to the Soviet Union under the Foreign Assistance Act of 1961 unless the President certifies in a report to the Congress that the following conditions have been met:

(1) That the Government of the Soviet Union has taken meaningful steps toward observing human rights for all citizens, including the following:

(A) The Soviet Government has ceased its interference with the freedom of the press in the Baltic states and the republics.

(B) The Soviet Government has ceased the threat and use of force against democratic movements.

(C) The Soviet Government has entered into meaningful negotiations with leaders of the Baltic states and the republics to ensure a smooth transition to self-determination.

(D) The people of the Soviet Union have been empowered to elect in genuinely free, fair, and open elections the government that rules them.

(E) The Soviet Government has not only codified but honors in practice the right of its citizens to leave the Soviet Union and to move freely within its borders, consistent with international standards.

(F) The Soviet Government compels no republic or historically recognized nationality group with a history of self-determination to remain part of the Soviet Union involuntarily, and fully respects the right of self-determination stipulated in the Universal Declaration of Human Rights, to which the Soviet Union is a party.

(G) The Soviet Government has withdrawn the authorization issued by Valentin Pavlov, the prime minister, permitting the police and the KGB to raid the offices of joint ventures involving nationals of western European countries and the United States, in violation of their civil rights;

(2) That the threat to the United States from the armed forces of the Soviet Union has been reduced, including—

(A) that the Soviet Union—

(i) has adopted a defense budget which will draw down the percentage of its gross national product that is allocated for military purposes to levels approximately those of the United States, and

(ii) is beginning to implement this defense budget; and

(B) that the Soviet Union has terminated the modernization of its strategic forces.

(3) That the Soviet Union is no longer engaged in acts of subversion, or of support for international terrorism, that are directed at the United States or its allies.

(4) That the Soviet Union no longer provides assistance in the form of arms sales, military assistance, or any kind of grant, credit, commodity, or technology transfer to other countries, such as Cuba and North Korea, that are engaged in activities inimical to the national interests of the United States.

(5) That the Soviet Union has taken constructive steps toward completing the Strategic Arms Reduction Talks (START) and has placed a high priority on reaching an accord in the Defense and Space Talks.

(6) That full transparency exists with respect to data necessary for the United States to determine the creditworthiness of the Soviet Union and its ability to repay debt, such as disclosing data to permit a detailed assessment of Soviet credits similar to that provided by other sovereign borrowers, including disclosure of the sources and uses of Soviet hard currency, the value of the strategic gold reserves of the Soviet Union, and other key economic and financial data.

(7) That, in order to demonstrate its creditworthiness and to demonstrate a commitment to economic reform, the Soviet Union has adopted specific provisions with strict, short timelines for deregulating most prices, selling to privately-owned entities most government-owned assets, and introducing genuine competition into the Soviet economy.

(8) That the Soviet Union is committed to environmental restoration and rehabilitation of unsafe nuclear facilities that it continues to operate.

(9) That the Soviet Union will not transfer to any country any equipment, technology, or services to build any VVERS nuclear reactors. In particular, that the Soviet Union will no longer provide support in the form of funds, equipment technology, or services for the Cienfuegos project in Cuba.

(10) That any assistance otherwise prohibited by this subsection will be provided, whenever feasible, to the democratically elected governments of the Baltic states and the republics.

(c) CERTAIN ASSISTANCE NOT AFFECTED.—Subsection (b) shall not prohibit assistance to the government of, or through nongovernmental organizations to, any of the Baltic states or any eligible recipient in the Soviet Union as defined in section 862(f).

(d) WAIVER IN THE NATIONAL INTEREST.—The President may provide assistance to the Soviet Union notwithstanding subsection (c) if—

(1) he determines such assistance to be in the national interest of the United States;

(2) he submits his determination, together with the reasons therefor, to the President of the Senate and the Speaker of the House of Representatives;

(3) 30 legislative days have elapsed since the determination is so submitted; and

(4) in the case of credit assistance, the United States will retain collateral for the full dollar amount of such assistance.

Each submission under paragraph (2) shall include a description of the progress of the Soviet Union in meeting the conditions set forth in subsection (b).

Mr. HAMILTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

Mr. KYL. Mr. Chairman, reserving the right to object, given the short amount of time that we have to describe the amendment, I prefer that it be read so that all Members could understand what is in it.

The CHAIRMAN pro tempore. The Clerk will read the amendment.

The Clerk concluded the reading of the amendment.

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Mr. KYL. Mr. Chairman, my colleagues, this amendment provides that certain conditions would have to be met by the Soviet Union before any aid could be provided under this act and that whenever feasible any aid be provided directly to the democratically elected governments of the Baltic States and other republics.

The conditions are all achievable, many of them immediately, and that is why we need to adopt them.

We want the Soviet Union to be able to achieve real fundamental transformation of its political, economic, and military system.

A substitute sense-of-Congress resolution with less stringent conditions may be offered by some who believe the conditions in our amendment are too tough, but our constituents will demand that there be tough conditions before any of their hard-earned money is sent to the Soviet Union.

In fact, I would challenge anyone to identify which of our conditions are too tough. I believe they are all realistic, meaningful, and achievable, and they need to be fixed in law rather than merely expressed in nonbinding form.

I urge their adoption.

Mr. Chairman, it is universally conceded that the Soviet Union is bankrupt economically and politically. The questions are what the Soviets should do and will do; and what, if anything, the United States can do to affect the situation in our best interest.

There is common agreement on what the Soviets should do—things like completing democratic reforms, ensuring civil and human rights and self-determination; implementing a true market economy based on property ownership; and reducing military expenditures to levels approximately relative to United States spending.

There is less consensus as to whether the Soviets will do what is necessary. Even if they were totally committed, which is far from certain, the task would be daunting by anyone's standards.

It is for this reason that some have proposed some kind of aid to the Soviet Union. Under such a grand bargain, the West might be asked to give, loan or guarantee up to $150 billion over 5 years.

As President Bush has said, "That's a big chunk of change." Even if that much money were available, we would not even consider giving it unless we determined that: First, it was in our best interest; second, it was the best way to achieve the objective; and, third, it had reasonable prospects for success.

To assure these three tests could be satisfied, we should begin identifying now the kinds of conditions that would have to be a part of any new aid program. That is the purpose of this amendment today: To put on the record a statement of conditions which should be met, which can be met, and, therefore, which must be met before the President or Congress could provide any new aid. They are not necessarily perfectly stated or all-encompassing; but they represent a good start at defining what we consider our critical interests.

Because of rules of germaneness, these conditions only apply to aid authorized under this act. At present, there is none. We believe it is important to include this statement in this authorization bill for three reasons: First, if aid is proposed in the future, it is important that the Congress have stipulated the requirements; second, assistance may be provided for in appropriation bills—loan guarantees, commitments to IMF, World Bank, et cetera; it is important that those commitments be conditional as well; and third, the Appropriations Committee has expressed itself somewhat similarly in report language in this year's foreign operations appropriation bill. By setting out those conditions which should be satisfied, this bill can provide a framework for any appropriation.

The conditions we have included in this amendment are all achievable—the intent is to identify things they should and can do, not to throw up impossible hurdles. So there should be no argument that we should provide assistance first and check progress later on their compliance. That would be backward, and would not be acceptable to the American people.

Should we bind the administration's hands, another argument against conditions? The answer is "yes," to the extent these conditions do so. This is not micromanagement; this is the statement of first principles, the sine qua non—that without which no aid should be considered by the administration.

The conditions we have set out are very similar to the recommendations of Zbigniew Brzezinski in a recent article published in the Washington Post; they were developed by a bipartisan group, they are neither liberal nor conservative; they are simply the kind of things our constituents would want us to do.

There is no negative impact on existing programs because these conditions do not apply to the commodity credit program, and there is no specific aid proposed in this bill. But adopting this amendment will send a message. That's its purpose.

If the United States is to have any influence over the Soviet Union, we must prescribe the remedy and require the Soviets to accept the remedy. Otherwise, any assistance will simply perpetuate a failed system.

The creditworthiness of the Soviet Union as described in subsections 6 and 7, section 869, should be determined upon receipt of the following information:

First, the sources and uses of Soviet hard currency, Including historical analysis of total hard currency revenues and specific sources from 1985 to 1990 and projected hard currency income and sources from 1991 to 1996; the percentage of hard currency earnings dedicated to imports, debt service payments in 1990 and projected payments for 1991, expenditures associated with Soviet obligations;

Second, the Soviet debt-financial structure, including total Soviet hard currency indebtedness and breakdown of debt; maturity schedules of debt; total arrearages to suppliers by country from 1989 to 1991; identification of major official and private creditors; historical analysis of terms and conditions received in credit markets from 1986 to 1991; historical analysis of official versus private debt from 1985 to 1991; level of untied, general purpose financing including interbank deposits as percentage of total debt for 1986–91; total Soviet bond offerings, by country; total claims against the Soviet Union in the "forfait" market; breakdown of Soviet assets, notably deposits with foreign banks, hard currency loans to other countries, strategic gold reserves, foreign property and investments, and so forth; total Western government guaranteed credit lines and drawdowns under these lines from 1989 to 1991; total projected Soviet financing requirements from 1991 to 1995; Soviet debt refinancing or rescheduling by Western governments from 1990 to 1991; and total Western bank deposits in Soviet-owned subsidiary banks located in the West;

Third, Soviet economic and financial vulnerabilities, including historical analysis and projections of Soviet oil and gas production; level of reliance on foreign equipment, technology, food imports, and so forth; current and projected level of access to Western financial markets; the size and duration of problems with payments arrearages, trade imbalances, project delays, and so forth; implications of volatile commodity prices and availability; financial implications of expanding domestic labor unrest; access vulnerabilities to export markets; and

Fourth, the Soviet domestic economic situation, including current and projected status of Soviet budget deficit, inflation, shortages, and ruble overhang; the components of total annual Soviet military expenditures at their actual size; the status of key industrial sectors and modernization efforts; projected costs of remedying environmental hazards from 1991 to 2000; and accounting to total Western food aid already distributed to the USSR.

Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Chairman, I rise in strong support of this amendment.

For five decades, the fundamental goal of our foreign policy has been to defeat communism and secure freedom for oppressed peoples in these totalitarian States.

Now, we have reached the critical point in history when the economic and political forces have converged to make us victorious in this great struggle.

This is the right moment to summon all our resources and apply them to win the final concessions we need from the Soviet Union.

This is the point of Gorbachev's maximum vulnerability, and this is the right time to pass these conditions for any assistance from the American people.

With this amendment we could see:

The end of Soviet support for Cuba and the other remaining puppet States;

The end of Soviet-sponsored terrorism;

The end of massive Soviet military pressure on Europe; and

The beginning of true change in the Soviet Union.

This morning a group of us met with Boris Yeltsin, the real leader of the reform movement. This is the kind of amendment that he would support, to break down the last vestiges of the Soviet Communist State.

Mr. KYL. Mr. Chairman, I reserve the balance of my time.

Mr. COX of California. Mr. Chairman, insufficient data disclosure by the Soviet Union has now become a major factor for American taxpayers and United States-Soviet relations. Adequate data is an indispensable precondition to Soviet integration into the Western economic and financial community and must be a prerequisite for any further United States Government loan guarantees. Moreover, Soviet data which are ultimately provided to the United States delegation will have to be independently evaluated, due to the long Soviet track record of falsifying data even when it has agreed to provide it.

I commend my colleague, Mr. KYL, for including data transparency as a condition to any United States assistance to the Soviet Union. To clarify exactly what it is that the sponsors of this provision have in mind, the following list summarizes some of the relevant factors that must be evaluated to determine Soviet creditworthiness and the wisdom of exposing the American taxpayer to further risk through loan guarantees to the U.S.S.R.:

I. SOURCES OF HARD CURRENCY

Sources of hard currency income and percentage breakdown.

Historical analysis of total hard currency revenues and specific sources.

Projected hard currency income and sources for at least the period 1991–96, to help determine Soviet ability to repay when American loans mature.

Actual and projected income from military hardwares sales to foreign countries and third parties, 1985–95.

II. USES OF HARD CURRENCY

Percentage of hard currency earnings dedicated to imports, including detail on major imported items.

Debt service payments in 1990 and projected payments for 1991.

Expenditures associated with Soviet client-state support—for example, Cuba—other foreign obligations, and illegal Western technology acquisition efforts.

III. DEBT/FINANCIAL STRUCTURE

Total Soviet hard currency indebtedness and breakdown of debt—that is, short-, medium-, and long-term.

Maturity schedules of debt.

Analysis of the components of total annual Soviet military expenditures.

Status of key industrial sectors and modernization efforts.

Projected costs of remedying environmental hazards (1990–2000).

Accounting of total Western food aid already disbursed to the U.S.S.R.

AMENDMENT OFFERED BY MR. JOHNSTON OF FLORIDA TO THE AMENDMENT OFFERED BY MR. KYL

Mr. JOHNSTON of Florida. Mr. Chairman, I rise in opposition to the amendment, and I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. JOHNSTON of Florida to the amendment offered by Mr. KYL: Strike out all of the Kyl amendment that follows "Page 622," and insert in lieu thereof the following:

After line 5, insert the following:

SEC. 869. UNITED STATES ASSISTANCE TO THE SOVIET UNION.

(a) FINDING.—The Congress finds that—

(1) there is a strong link in the Soviet Union between the task of democratization and the requirements of creating a market-oriented economy;

(2) there has been a significant increase in respect for human rights and fundamental freedoms in the Soviet Union and there has been a great increase in the number of people able to emigrate from the Soviet Union;

(3) progress has been made in the Soviet Union toward greater political pluralism and participation, including increased autonomy for its republics;

(4) substantial progress has been made toward arms control agreements to reduce Soviet conventional forces as well as its nuclear capabilities, including the number of intercontinental ballistic nuclear missles; and

(5) the economic problems that plaque the Soviet economy can only be effectively addressed by comprehensive economic reforms undertaken by the Soviet Union.

(b) CONGRESSIONAL POLICY DECLARATIONS.—The Congress—

(1) applauds market reforms and increased democratization within the Soviet Union and urges continued progress toward the creation of a free society and a free market economy;

(2) supports the provision of technical assistance to facilitate needed economic and market reforms and democratization within the Soviet Union and of emergency assistance in response to natural disasters; and

(3) opposes foreign assistance to the central government of the Soviet Union other than specialized technical assistance until——

(A) further major and fundamental reforms of the Soviet economic, political and legal systems are being implemented, designed to foster pluralism and a market economy in the country;

(B) there is a significant reduction in the conventional and nuclear forces as well as the defense expenditures of the Soviet Union;

(C) the Soviet Union ceases its repressive actions against the people and governments of the Baltic States, including the withdrawal of all specialized Interior Ministry troops, and returns control of all communication centers within the Baltic States to the freely-elected governments of those states;

(D) the Soviet central government enters into good-faith negotiations with the Baltic

States and other Soviet republics on their future status;

(E) the Soviet Union terminates all military assistance to Cuba and dramatically reduces other programs of assistance to Cuba as well as to other countries continuing to pursue repressive policies at home and a policy of hostility to the United States; and

(F) the Soviet Union has repaid all overdue debts it owes to U.S. business concerns.

Mr. JOHNSTON of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Florida?

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, reserving the right to object and making a parliamentary inquiry, it is my understanding that this amendment is structured as a perfecting amendment. Is that correct?

The CHAIRMAN pro tempore. As the gentleman said, he is offering it as an amendment to the Kyl amendment.

Mr. WALKER. As an amendment?

Mr. JOHNSTON of Florida. As an amendment.

Mr. WALKER. Further reserving the right to object, the reason why I am reserving the right to object is we do not have a copy of the amendment, and an amendment would have to have language at least somewhat similar in some places to that which has been offered by the gentleman from Arizona. Otherwise, it would have to be offered as a substitute. It would be helpful to know whether or not this amendment meets the test of an amendment rather than as a substitute.

Mr. JOHNSTON of Florida. Mr. Chairman, I think it begins and patterns itself, and it is very germane to the original amendment filed by the gentleman from Arizona [Mr. KYL]. The gentleman can take a look at it.

Mr. WALKER. Reserving the right to object, Mr. Chairman, it appears as though what the gentleman does is strike all of the language of the Kyl amendment and substitute language of his own, That, in fact, would be a substitute rather than an amendment, and it would, therefore, not be in order as a perfecting amendment the way the gentleman has structured it. I am reserving the right to object.

Mr. Chairman, I make the parliamentary inquiry as to whether or not this amendment is, in fact, in order as an amendment or whether or not it is something that has to be instead offered as a substitute.

Mr. JOHNSTON of Florida. Mr. Chairman, the language in there, even though it strikes his entire amendment, tracks quite a bit of it which I think would meet the requirements of an amendment to the amendment.

Mr. WALKER. Reserving the right to object, Mr. Chairman, I have made a parliamentary inquiry.

The CHAIRMAN pro tempore. The amendment is a perfecting amendment. It strikes everything after the beginning, but it includes some of the previous amendment, so it is a perfecting amendment.

Mr. WALKER. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I thank the gentleman for yielding.

This is the amendment language or substitute language which I had been provided earlier, that which was just supplied to us, and there is nothing in here which tracks the language in my amendment. With that representation to the Chair, I would ask the Chair to consider that point before ruling on any point of order that we might propose. It is a substitute not tracking to my amendment.

Mr. WALKER. Mr. Chairman, further reserving the right to object, I yield to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, my parliamentary inquiry would be: Is it incumbent upon the Chair to rule as to whether an amendment is or is not in violation of the rules of order before a point of order has been made? That is the essence of what the two gentlemen on the other side are asking, and parliamentarily I believe that is inappropriate. The Chair is now being asked to rule in advance of a point of order being made.

The CHAIRMAN pro tempore. The Chair has the responsibility to decide whether or not it is a substitute amendment or a perfecting amendment.

Mr. SMITH of Florida. Mr. Chairman, has the Chair ruled whether it is a substitute or a perfecting amendment?

The CHAIRMAN pro tempore. The Chair is prepared to rule that the amendment as drafted by the gentleman from Florida [Mr. JOHNSTON] strikes everything after "page 622" and, therefore, is a perfecting amendment. It leaves part of the amendment as drafted by the gentleman from Arizona [Mr. KYL] and is, therefore, a perfecting amendment.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. KYL. Mr. Chairman, reserving the right to object, would it be possible for the sponsor of the amendment to tell me what part then of my amendment is retained? Because that is not clear to me from the language that has been provided.

Mr. JOHNSTON of Florida. Mr. Chairman, will the gentleman yield?

Mr. KYL. Further reserving the right to object, I am happy to yield to the gentleman from Florida.

Mr. JOHNSTON of Florida. Mr. Chairman, everything before 622.

Mr. KYL. Further reserving the right to object, in other words, it strikes everything after the first "Whereas" in the findings? Is that correct? I would ask my colleague that.

The CHAIRMAN pro tempore. The amendment strikes everything after "page 622" which are the first two words or the first part of the instructions of the amendment.

Mr. KYL. Further reserving the right to object, so then, finally, Mr. Chairman, as a further point of clarification, the Chair rules that despite the fact that every word in my amendment is stricken and the gentleman's amendment substitutes new language for that, that qualifies as a perfecting amendment rather than a substitute under the precedents of the House?

The CHAIRMAN pro tempore. Technically the gentleman from Florida is correct in offering his amendment. He strikes only the insertion, but he does not strike the entire amendment.

The gentleman from Florida [Mr. JOHNSTON] is recognized for 5 minutes.

Mr. JOHNSTON of Florida. Mr. Chairman, this amendment makes a series of congressional policy declarations that urge a continuing progress toward the creation of a free society and a free-market economy inside the Soviet Union. It supports the provisions of technical assistance to facilitate market reform and democratization and opposes foreign assistance to the Central Government of the Soviet Union other than specialized technical assistance until a series of economic and political conditions are met.

These conditions that I have in my amendment to the amendment include further economic and political reform, a significant reduction in Soviet forces and defense expenditures and an end to the repression in the Baltics, good faith negotiation with the Baltic States and other republics, a dramatic reduction of Soviet assistance to Cuba and other repressive States and, finally, the Soviet repayment of debts to United States business concerns.

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The reason I think this body should support the amendment is, No. 1, the amendment is an appropriate statement by this Congress of this concern about domestic and foreign policies within the Soviet Union; No. 2, it is a balance statement, commending the Soviet Union for the steps it has taken so far in outlining additional steps that this Congress believes that the Soviet Union should take.

This amendment actually draws upon the amendment prepared by the gentleman from Ohio [Mr. MCEWEN], and it builds on his good works, which I appreciate. This amendment is consistent with a statement made by Secretary Baker in his speech in Copenhagen June 7 of this year.

It is my understanding that the administration approves of this amendment, but does not approve of the amendment of the gentleman from Arizona [Mr. KYL] because it literally ties the hands of the President and gives the President no discretion when it comes to any aid whatsoever.

In summary, I believe the amendment should be passed because it states an appropriate congressional policy; it is balanced for all concerned; it does not micromanage United States policy in the Soviet Union; and it does not tie the hands of the President.

Mr. Chairman, I urge my colleagues to vote for the amendment to the amendment.

Mr. KYL. Mr. Chairman, I yield such time as he may consume to the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in strong support of the Kyl amendment and in opposition to the Johnston amendment which simply does not go nearly far enough.

Mr. KYL. Mr. Chairman, the point I was going to make was that the reason I would like to object to the substitute amendment is that it does not really propose meaningful conditions. It is a sense-of-the-Congress only. Our amendment has real meaningful conditions on providing aid for the Soviet Union.

Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I support the amendment offered by the gentleman from Arizona. I think the substitute is an improvement over current law, but it is not enough. It is an expression of movement, but it does not move far enough.

We have had a lot of urging of some of my liberal friends who have urged conservatives to move beyond cold war thinking. I think that is important. However, I think we on the liberal side should do the same thing.

We had a problem over the past 45 years because the United States and the Soviet Union were locked in a cold war that could have become thermonuclear, and we had to overlook a lot because of that. When overriding national security questions were at stake, some issues became less important. Human rights, in that equation between the two countries was not always a given by any administration the way we might like because the threat of thermonuclear war overbore both countries.

We had a situation where, between the Soviet Union and America, the issues were too important, sometimes, for morality to come into play. That is no longer the case. We are now no longer threatened by the Soviet Union as to our very existence; nor, I think, are they threatened by the United States. Our relations are evolving. They are not there yet, more into a normal pattern. That is what this amendment says. This amendment says for the United States to no longer look at the Soviet Union as the single grave threat to our existence. Let the United States look at it as a society with which we are prepared to have relations, if it lives up to certain advantages, and particularly what the Kyl amendment says that I would like is, "you must reduce military spending." The great problem we face today in this country is a need to continue military spending beyond the level that is healthy for our economy. For the United States to give money to the Soviet Union while it still spends so much militarily makes no sense.

What the amendment of the gentleman from Arizona says to the Soviet Union is to make a very substantial reduction in their military. That will encourage and allow the United States to make an equally substantial reduction, and we will share some of that saving with the Soviet Union.

For the United States, in the current situation, to talk about large amounts of money going forward would be an error. What this says is that we want to move toward a more normal relationship, and in those relationships, we have a right, as a condition of giving our money, to talk about human rights and an end of repression, and particularly talk about a substantial mutual downward reduction in military spending.

Mr. JOHNSTON of Florida. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. KOLTER].

Mr. KOLTER. Mr. Chairman, my amendment to this section of the bill is addressed by the Johnston amendment to the Kyl amendment. Therefore, I rise in support of the Johnston amendment.

I ask my colleagues to join me in support of my amendment which addresses the problem of debts owed to United States businesses by the Government of the Soviet Union.

I was contacted last week by INDSPEC Chemical Corp., a small, employee-owned company in my district that manufactures a product which is being sold to the Soviet Union. This corporation has not been paid for a product delivered to the Soviet Government agency over 18 months ago.

Numerous attempts have been made to obtain payment—but to no avail. The United States Department of Commerce is compiling a list of companies that are affected by the Soviet agency's unwillingness to satisfy their debts. You, my colleagues, may have companies which are located in your district who are facing the very same difficulties.

[From the New York Times, March 1991]

DUNNING THE SOVIETS PROVES TOUGH

As a medium-sized maker of paperhandling equipment, the Zerand-Bernal Group Inc. of New Berlin, Wis., has been stung by its share of deadbeats. But company executives say that in all their years of running a business they have never faced a debtor as recalcitrant as the Union of Soviet Socialist Republics.

Zerand delivered equipment late last year to two Soviet factories that make food containers, one in Minsk and the other in Kishinev. The company says it has since spent $20,000 on lawyers for dunning letters, but it has not received any of the $32 million promised in its contract with Tekhnoeksport, a Moscow foreign trade organization.

The first payments were due in September; the last payments at the end of 1990.

A YEAR'S WORTH OF SALES

"We've written a lot of letters, but we haven't gotten any response," said Kenneth N. Allan, the project manager for Zerand, which is a division of Stevens Graphics Corporation of Fort Worth. He said the outstanding Soviet bill represented more than a year's sales for Zerand, which makes machinery that folds cartons.

Zerand is not alone. The Commerce Department says about 20 other companies are owed money for goods delivered to the Soviet Union. Such overdue bills total more than $100 million, with many of the debts about a year old. Zerand is owed the most money by far and is by far the least experienced in trade with the Soviet Union.

A Commerce Department spokeswoman said a handful of companies have been paid in the last few months, but a similar number of companies have joined the list of those unpaid.

The companies affected are all small and medium-sized ones that specialize in providing hard-to-obtain equipment, like electronic and scientific gear, on short notice. Experts say the Soviets have been more careful about paying large companies for fear of jeopardizing long-term business relationships.

Not surprisingly, relations between the Soviet Union and the smaller companies have been strained. While the smaller companies do not carry the weight of an International Business Machines Corporation, they fill important niches in the $3 billion worth of exports sent to the Soviet Union from the United States.

Oleg Enoukov, the deputy representative in New York City for Vneshekonombank, the Soviet bank responsible for foreign exchange, said the payment delays were an accidental offshoot of his country's first steps toward economic restructuring.

"We are in the initial phase," Mr. Enoukov said in a recent interview. "People are accustomed to receiving state support. They have to change their mentality."

In a recent interview with Reuters in Moscow, a Deputy Foreign Minister, Ernest Obminsky, said the nation had no problem meeting its own debts, but acknowledged, "We do have a big backlog in paying back debts between companies."

Soviet officials say it is difficult to estimate the total commercial debt arrears, but they say the bills are gradually being repaid and that the situation has not worsened since November.

Now, behind Zerand's lead, at least eight companies have agreed to pool their knowledge on trading with the Soviet Union in a determined effort to collect what they are owed.

It looks like they still have a way to go. They were hoping that Senator Bob Kasten, Republican of Wisconsin, would take up their cause and make payment of such debts a condition of extending new United States credit to the Soviet Union. Trade experts said companies in Germany, Italy and other European countries that were owed money on Soviet contracts were bailed out when their governments extended credit to the Soviet Union, with part of the money designated to pay the bills due the companies.

U.S. ACTION CALLED UNLIKELY

Unfortunately for the American companies, trade experts say there is little likelihood the United States will be extending new credit to the Soviet Union soon, because of concerns over Moscow's crackdown on the independence movements in the Baltics. An aide to Senator Kasten said there was little the Senator could do on the matter.

One measure of the frustration felt by executives of the American companies is their discarding of some of their shyness about publicizing their troubles. They had feared ruining their relationship with the Soviet Union, but now in interviews the executives describe a situation that leaves little room for maneuvering.

"This has caused us a great deal of difficulty," Mr. Allan said. "We are entering a depression; capital goods are not doing so good." He added, though, that the absence of the $32 million owed his company would not hamper operations.

Until recently in the Soviet Union, contracts involving a foreign company could take years to negotiate. The Soviet side would usually be represented by a foreign trade office, while the foreign company would be represented by an import-export company. But once a contract was signed, payment from a central bank in Moscow was sure and certain.

Now, trade experts say, the Soviet agencies have more freedom to make quick business agreements with foreigners, but those agencies have to find the hard currency to pay for the goods and services. A shortage of hard currency has in the last year caused repeated reports of delayed Soviet bill payments around the world.

"They did not plan ahead, and got into trouble," said Daniel L. Bond, the vice president who conducts risk analysis at the Export-Import Bank.

The American companies say they had no warning of the change. "We are old-timers who dealt with the cream of the crop of companies," said one East Coast importer, who would speak only on the condition of anonymity. "Our clients were told they are on their own after the fact."

This executive said his nine-year-old company was on the verge of declaring bankruptcy and badly needed the $70,000 it was owed from its Soviet deals.

Michael A. Herzen, president and founder of Techcare Systems Inc., a San Francisco-area company that sells medical and laboratory supplies, said a total of nearly $1 million had been overdue for nine months from various Soviet ministries.

He said the equipment his company delivered was already in use in the Soviet Union. "We haven't tried to get it back; we've tried to get the money back," Mr. Herzen said.

Techcare's plight shows how few options are available to the companies that are owed money. Most say they are confident that they will be paid; they just do not know when. They can wait and hope the United States Government will intervene, or try to demand payment through an arbitration process.

CONSIDERING ARBITRATION

Mr. Herzen said he was contemplating appealing to the Soviet Chamber of Commerce, which was named the arbitrator in his company's contract. But he said such a move might end his Soviet business dealings.

"The purchasing agencies buy most of the stuff, and you can alienate them forever, and they will not do business with you," Mr. Herzen said.

Having learned from past mistakes, Techcare and other companies, like Planet International Import-Export Ltd. of New York City, now make Soviet enterprises pay in advance or provide a letter of credit that assures the money is available once the goods are delivered.

But using such terms in contracts has reduced business by more than half, said Harold Weiner of Planet, who said his business was owed about $1 million.

I have contacted the Soviet Ambassador asking for his assistance and I am asking for the support of my colleagues in voting for this amendment which would restrict assistance provided under the Foreign Assistance Act of 1961 to the Soviet Union during fiscal year 1992 or fiscal year 1993 unless the President certifies to the Congress that the Government of the Soviet Union has paid all overdue debts it owes to businesses whose principal place of business is here in our own United States.

My amendment would not affect any aid to the Baltic Republics of Latvia, Lithuania, and Estonia or any other eligible Republican government elected through open, free, and fair elections. They would continue receiving our aid to foster the development of their newly founded democracies.

It would, however, attempt to have the scores settled on debts which are long overdue to our United States-based businesses before we give any additional assistance to the Soviet Union.

I ask for my colleagues' support for this logical, straight-forward amendment.

Mr. JOHNSTON of Florida. Mr. Chairman, I yield 1 minute to the chairman of the subcommittee, the gentleman from Indiana [Mr. HAMILTON].

Mr. HAMILTON. Mr. Chairman, I rise in support of the Johnston amendment.

Let Members be clear about what the Kyl amendment does. The Kyl amendment says that there will be no assistance to the U.S.S.R. unless the President certifies a number of conditions. Those conditions simply cannot be met. The President cannot certify that, and therefore, the impact of the Kyl amendment is to say no aid of any kind to the Soviet Union. That goes too far in the present circumstance.

We have a Secretary of State giving a speech yesterday indicating an opening here, and we ought not to tie the hands of the President to the extent that the Kyl amendment does.

We have, today, a very, very fluid situation with regard to the Soviet Union. The problem with the Kyl amendment is that it is much, much too rigid. The Congress ought to state conditions that should be met, but we ought not to tie the hands of the President completely. That is precisely what we are doing with the Kyl amendment. I urge the adoption of the Johnston amendment because of its balance and because of its nonmicromanagement approach to the problem. It does not tie the hands of the President.

Mr. KYL. Mr. Chairman, I yield 1 minute to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, the choice is clear. With all due respect to my colleague from Florida, his perfecting amendment or substitute consists of exhortations.

The Kyl amendment sets out clear conditions. Just this morning, many Members met with Boris Yeltsin, newly elected President of the Republic of Russia, I asked him a question on aid: Should we set out tough conditions before we give aid? He answered in the affirmative, and he said, "You should set ideological conditions."

That is what the Kyl amendment does. It serves the American taxpayer because it makes sure this aid will not be wasted like the aid to the Government of Poland, that talked about reform, but never made basic changes. It also says to the citizens of the Soviet Union, struggling for democracy, and for reduction in military spending, "This aid is only going to go to your government or your country when your leadership does not just talk about tinkering and reform, but makes real, basic changes."

I urge that we defeat the Johnston amendment and support the Kyl amendment.

Mr. JOHNSTON of Florida. Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Chairman, I will attempt to amend this amendment as amended, and it is for one important point.

We have been forewarned by leaders in the Soviet Union that the Union Treaty which is pending in that country could work a great disservice to those republics which do not participate in it. We should make certain that any United States assistance sent to the Central Government of the Soviet Union is equitably distributed among the republics.

I will be offering langauge to that effect to perfect the amendment offered by the gentleman from Florida.

Mr. JOHNSTON of Florida. Mr. Chairman, briefly in my remaining 30 seconds I would ask the gentleman from Massachusetts [Mr. FRANK] to read the amendment. It specifically requires the Soviet Union to have a significant reduction in conventional and nuclear forces, as well as the defenses.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. JOHNSTON of Florida. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK of Masschusetts. Unfortunately, it is interpreted by the President, and what the President thinks is significant and what I think is significant is sometimes significantly different.

Mr. JOHNSTON of Florida. Finally, the incongruity of this is that the other side says this side is constantly micromanaging the State Department. We want to give the State Department and the President this discretion, and we are tying his hands with the Kyl amendment.

PARLIAMENTARY INQUIRY

Mr. KYL. Mr. Chairman, I have parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The gentleman will state his parliamentary inquiry.

Mr. KYL. Mr. Chairman, I had yielded time for a unanimous-consent request, but I thought I had my time carefully calculated to leave 1 minute remaining for the gentleman from Florida [Mr. McCOLLUM] to close. Was the Chair correct in indicating I had 30 seconds remaining?

The CHAIRMAN pro tempore. The gentleman has 30 seconds remaining in our record.

Mr. KYL. Mr. Chairman, I yield the remaining 30 seconds to the gentleman from Florida [Mr. McCOLLUM] to close.

Mr. McCOLLUM. Mr. Chairman, I thank the gentleman for yielding time to me.

I think the bottom line of this is simple. Are we today going to make it clear that we are not going to give aid to the Soviet Union unless they meet conditions such as stopping the kind of arms shipments they are giving to Cuba, and doing the kinds of things they are continuing to do around the world in playing games, and we are not going to give aid to the Soviet Union until they change, fundamentally, their economic systems so they can truly be a new democracy that flourishes with an economic system that works?

□ 1610

The only way to do that is to vote for the Kyl amendment. If we vote for this substitute, or this thing they now call a perfecting amendment that the gentleman from Florida [Mr. JOHNSTON] is offering, that will not be accomplished; so I strongly urge a no vote for the Johnston perfecting amendment and a vote for the Kyl amendment to really send a message on this question of no aid to the Soviet Union until they really reform.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The question is on the amendment offered by the gentleman from Florida [Mr. JOHNSTON] to the amendment offered by the gentleman from Arizona [Mr. KYL].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KYL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 130, noes 286, not voting 16, as follows:

[Roll No. 175]

AYES—130

Ackerman
Andrews (ME)
Andrews (NJ)
Aspin
Atkins
Beilenson
Berman
Bonior
Borski
Boucher
Brown
Bustamante
Carper
Clay
Coleman (TX)
Conyers
Coyne
de la Garza
Dellums
Derrick
Dicks
Dixon
Downey
Dwyer
Dymally
Espy
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Hall (OH)
Hamilton
Hayes (IL)
Hoagland
Hochbrueckner
Houghton
Hoyer
Jacobs
Johnson (CT)
Johnston
Jontz
Kaptur
Kennedy
Kennelly
Kildee
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Lehman (CA)
Levin (MI)
Lewis (GA)
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Mrazek
Murphy
Nowak
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (MN)
Pickle
Price
Rangel
Ray
Richardson
Rose
Roybal
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schroeder
Sharp
Skaggs
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stokes
Studds
Swift
Synar
Thornton
Towns
Unsoeld
Vento
Washington
Waxman
Weiss
Wheat
Williams
Wolpe
Yatron

NOES—286

Abercrombie
Alexander
Allard
Anderson
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
DeFazio
DeLauro
Dickinson
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Evans
Feighan
Fields
Fish
Frank (MA)
Franks (CT)
Gallegly
Gallo
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hobson
Holloway
Horn
Horton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Jones (GA)
Jones (NC)
Kanjorski
Kasich
Kleczka
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Laughlin
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Marlenee
Mavroules
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Moran
Morella
Morrison
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Perkins
Peterson (FL)
Petri
Pickett
Porter
Poshard
Pursell
Quillen
Rahall
Ramstad
Ravenel
Reed
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roth
Roukema
Rowland
Russo
Santorum
Sarpalius
Savage
Saxton
Schaefer
Schiff
Schulze
Schumer
Sensenbrenner
Shaw
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Stallings
Stark
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torres
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weldon
Whitten
Wilson
Wolf
Wyden
Wylie
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—16

DeLay
Fawell
Gray
Hammerschmidt
Hopkins
Lehman (FL)
Levine (CA)
Lloyd
Martin
Oberstar
Owens (NY)
Roe
Serrano
Spence
Torricelli
Wise

□ 1634

Messrs. BROOKS, McMILLEN of Maryland, HERTEL, ALEXANDER, PICKETT, and HOLLOWAY, Mrs. BOXER, Mr. RIGGS, and Mr. DEFAZIO changed their vote from "aye" to "no."

Messrs. ATKINS, RICHARDSON, PRICE, HOAGLAND, McCLOSKEY, and LEVIN of Michigan changed their vote from "no" to "aye."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DURBIN TO THE AMENDMENT OFFERED BY MR. KYL

Mr. DURBIN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DURBIN to the amendment offered by Mr. KYL: On page 2, following line 6, insert the following and reletter subsequent subparagraphs accordingly:

(B) The Soviet Government has returned control of all buildings and other property which it has seized since January 1, 1991 within the Baltic States to the freely-elected governments of those States and other lawful owners of such buildings and other property;

(C) The Soviet Government has made assurances that such assistance will be distributed equitably among the Baltic States and the Soviet Republics, as shown through a detailed plan of proposed distribution;

Mr. DURBIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Illinois?

Mr. MILLER of Washington. Mr. Chairman, reserving the right to object, would my distinguished colleague, the gentleman from Illinois [Mr. DURBIN], just explain how his amendment changes the amendment of the gentleman from Arizona [Mr. KYL]?

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, under the amendment of the gentleman from Arizona [Mr. KYL], the President is to certify and report to Congress that certain conditions are met before the Soviet Union is to receive any assistance. I have added two conditions which I think are important.

Mr. Chairman, the first is that the Soviet Government returns control of all the buildings and property which it has seized since January 1, 1991, within the Baltic States; and, second, as I mentioned earlier, to make certain that all of the assistance from the United States to the Soviet Union is equitably distributed among the republics so that there is a no favoritism and that any assistance we send is not used as any type of pressure on those republics which have not signed the Union Treaty.

Mr. MILLER of Washington. Mr. Chairman, I thank the gentleman from Illinois [Mr. DURBIN] for his explanation.

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Washington. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I strongly support the amendment offered by the gentleman from Illinois [Mr. DURBIN] and urge the Members to support this important amendment.

Mr. Chairman, I rise to support the Durbin amendment. The amendment adds two important conditions to the Kyl amendment, on property seized from the Baltics and distributing any assistance to the Soviet Union equitably. We must ensure that the freely elected governments of the Baltic States are not ignored. I urge my colleagues to support the Durbin amendment.

Mr. MILLER of Washington. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois [Mr. DURBIN] to the amendment offered by the gentleman from Arizona [Mr. KYL].

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. MCCOLLUM TO THE AMENDMENT OFFERED BY MR. KYL, AS AMENDED

Mr. McCOLLUM. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM to the amendment offered by Mr. KYL, as amended: on page 4 of the Kyl amendment, line 3, after "Cuba" insert "Vietnam, Afghanistan,".

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Chairman, reserving the right to object, and I shall not object, but let me allow the gentleman from Florida to explain what his amendment does.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. McCOLLUM. Mr. Chairman, this amendment is very simple. It simply adds to the countries that are under the amendment of the gentleman from Arizona [Mr. KYL] the countries of Afghanistan and Vietnam because, if in fact we are going to have Cuba and North Korea there, it seems only appropriate, since the Soviets are still pumping lots and lots and lots of aid into Vietnam and into Afghanistan, that they be included. That is all the amendment does.

Mr. Chairman, I urge my colleagues to vote for it.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I would like to inquire of my colleague, the gentleman from Florida [Mr. MCCOLLUM], whether he intends to ask for a recorded vote.

Mr. McCOLLUM. Mr. Chairman, if the gentleman will yield, I do not intend to ask for a recorded vote on this amendment.

Mr. FASCELL. In addition, Mr. Chairman, I would like to ask the gentleman from Arizona [Mr. KYL] if he will be asking for a final vote on his amendment as amended.

Mr. KYL. Mr. Chairman, if the gentleman will yield, final vote, yes, Mr. Chairman.

Mr. FASCELL. Mr. Chairman, I was just trying to determine, and I thank the gentleman from Pennsylvania [Mr. WALKER] for yielding, if we could cluster any votes. As I understand it, there is only one vote then. That is on the amendment of the gentleman from Arizona [Mr. KYL] as amended.

Mr. WALKER. Mr. Chairman, as I understand it, further reserving the right to object, the only vote that we would have coming up would be the vote on the final passage of the amendment of the gentleman from Arizona [Mr. KYL].

□ 1640

I had been asked earlier, so there is no question about it, I have a freestanding amendment in the RECORD on Cuba that would follow the Kyl amendment. I would ask for a recorded vote, or intend to, when that is offered. I think there was discussion about clustering that, which, if you wish to ask for, I have no objection either.

Mr. FASCELL. Mr. Chairman, I thank the gentleman. I would just like to let Members know that there will be a final vote on the Kyl amendment, as amended, and then a vote on the McCollum amendment.

Mr. WALKER. Mr. Chairman, further reserving the right to object, my understanding of the freestanding amendment would be there would be 10 minutes of debate on that before we have another vote.

Mr. McCOLLUM. Mr. Chairman, if the gentleman will yield further, that is my understanding. It is a freestanding amendment.

Mr. FASCELL. Mr. Chairman, if the gentleman will yield, the gentleman does not have to.

Mr. WALKER. Mr. Chairman, reclaiming my time, that is true. The gentleman from Florida [Mr. FASCELL] is absolutely correct.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM] to the amendment offered by the gentleman from Arizona [Mr. KYL], as amended.

The amendment to the amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Arizona [Mr. KYL] as amended.

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. KYL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. The Chair will postpone the vote until after debate on the McCollum amendment on Cuba.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. McCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCOLLUM: Page 622, after line 5, insert the following:

SEC. 869. RESTRICTION ON ASSISTANCE TO THE GOVERNMENT OF THE SOVIET UNION.

During the fiscal year 1992 and 1993, assistance may not be provided to the Government of the Soviet Union under the Foreign Assistance Act of 1961 unless the Government has terminated all military assistance, directly or indirectly, to Cuba.

Mr. McCOLLUM. Mr. Chairman, this amendment is very straightforward. It is very simple. What it does is say there shall be no aid given to the Soviet Union, so long as the Government of the Soviet Union continues to provide to the Government of Cuba military assistance, directly or indirectly.

Mr. Chairman, I would like to quote on this from a column written very recently, June 3, by William Safire. That op-ed piece says,

After some badgering, an official U.S. source responsible for knowing the extent of Moscow's current subsidy of communism in Cuba disgorged this figure for 1990: $4.5 billion. That does not include the aid that the folks who gave the world Chernobyl are giving Fidel Castro to install uninspected nuclear reactors a stone's throw from Florida.

Mr. Chairman, my point is simple: We have absolutely no business giving any aid to the Soviet Union as long as they are supplying any military assistance or any other kind of assistance, but my amendment only goes to the military, $4.5 billion of assistance in the last year alone, and some estimates range as high as $30 billion over the last several years.

Mr. Chairman, it seems to me it is an unconscionable thing, to consider any aid to the Soviet Union whatsoever, as long as they continue to support this corrupt regime, 90 miles off the coast of my home State.

Mr. Chairman, at this point I include for the RECORD a House Republican task force report on this Soviet activity.

TASK FORCE ON TERRORISM & UNCONVENTIONAL WARFARE, HOUSE REPUBLICAN RESEARCH COMMITTEE,

Washington, DC, March 22, 1990.

THE SOVIET "PEACE" DIVIDEND

(By Yossef Bodansky and Vaughn S. Forrest)

Some analysts believe the breathtaking events in Europe since last summer mean the coming of a new era of peace. The Soviet unilateral withdrawal of some of the offensive elements of its armed forces in Eastern Europe, the mutual destruction of INF forces and Soviet promises to make additional withdrawals of its military forces from Eastern Europe have all contributed to the reduction of risk of war in Europe. Further, the sweeping reforms throughout Eastern Europe have resulted in a profound reduction of tensions all over the continent. Indeed, these events have been interpreted as the start of a new era of peace all over the world and as an irreversible end of the Cold War.

It is, however, too early to evaluate "peace" in Europe as events in the Baltic States and elsewhere in the Soviet Union have yet to unfold. Indeed, even the intelligence and police apparatus in other Eastern European countries have yet to be dismantled. These intelligence and police organizations are the front line of the shadow war which has been and remains substantive elements of the Cold War. Thus, it is at best very premature to declare the Cold War over.

Furthermore, even if one adopts a Eurocentrist point of view, a closer look at events suggests that the conventional wisdom is not entirely true. Indeed, it is crucial to understand that Moscow attributed the success of its unprecedented surge into the Third World in the mid-1970s in part to the atmosphere of East-West Detente. As G.B. Starushenko and Y.A. Bochkarev explained in their 1983 book, "Cooperation of the USSR with Liberated Countries and International Security":

"Detente, which is based on the principles of peaceful coexistence, presupposes the inadmissibility of intervention in the internal affairs of other countries under any pretext whatsoever. This applies particularly to armed intervention against people engaged in liberation struggle. It was not by accident that the people of Asia, Africa and Latin America achieved their greatest successes in the struggle for their national liberation during the detente years. It was in the 1970s that national-democratic revolutions took place in Ethiopia, Angola, Mozambique, Benin, Afghanistan, Madagascar, on the Seychelles, in Nicaragua, Grenada, and in other countries, and a large group of states with a socialist orientation emerged."

Thus, starting in the fall of 1989, once it became clear that the West was completely captivated by the fall of the Berlin Wall, the USSR significantly accelerated its offensive throughout the Third World, not just to consolidate tangible strategic gains, but to ruthlessly crush all the populations and movements resisting pro-Soviet regimes. Indeed, since this campaign has begun, there has been a series of major escalations in revolutionary violence throughout the Third World with Soviet-supported forces on the offensive in Afghanistan, Angola, Laos, Cambodia and Central America. All of these offensives have been financed and supplied by the USSR. In fact, had the Soviets not supported these forces, in all likelihood most would have ground to a halt.

The Task Force's analysis is that this escalation is part of a very specific and well defined Soviet doctrine of war prevention that couples the reduction of forces in Europe with suppression of points of possible contention in the Third World on terms favorable to Soviet interests. The ironic fact is that, under this doctrine, arriving at peaceful solutions for regional conflicts, currently a major aspect of the new era in US-Soviet relations, serves and expedites Soviet goals.

In this context, the political agreements that the Soviets have aspired to are to be based on the principles proven in the April, 1988 Geneva Accords on Afghanistan. In fact, the Bush Administration supported this approach when it reiterated its commitment to the essence of the agreement on the peaceful solution to regional conflicts reached during the Reagan-Gorbachev summit in late May 1988. By acceding to this, the US agreed in principle to a Soviet-style approach to the solution of regional issues.

Indeed, at present, both the US and the USSR agree that the Geneva Accords on the solution of the Afghan problem should serve as a precedent. Thus, in effect, the negotiations over, and the approach to the solution of, regional affairs are to be based on the principles proven in Geneva. Consequently, solutions imposed by the superpowers are no longer ruled out, and the US and the USSR will cooperate in the search for political solutions to the regional conflicts in the Middle East, the Persian Gulf, southern Africa, Cambodia and Central America. In fact, the implementation of Afghan-style peaceful solutions is already underway in Cambodia and Angola.

These regional solutions will, in effect, expedite and legalize the new surge by the USSR, its allies and proxies, into the Third World. Moscow believes that the consolidation of its presence in the Third World will not only give it a decisive edge in a future war, but might very well ensure the "self-Finlandization" of Western Europe even without the Soviets having to fight for it. In fact, the USSR considers its current surge to be the key to the emergence of a new anti-American world order in which regional powers will rally behind the Soviet Union in order to safeguard their interests from US-led "neo-colonialism" and "imperialist globalism".

Thus, the continued implementation of "Soviet-style" solutions to regional conflicts will facilitate the expansion of the Soviet sphere of influence, the consolidation of the Soviet hold over its empire, and affect the integration of local non-communist powers into willing and active participants in a new anti-Western bloc.

With this in view, it is crucial to understand that Moscow's celebrated new approach to regional conflicts does not reflect a change in the USSR's ultimate objectives. The strategic importance of the far flanks of the Third World had already been recognized by the Soviets in the mid-1960s.

There has, however, been a profound change in the Soviet Union's perception of the Third World. The much celebrated "new Soviet policy," as of the mid-1980s, was actually a change in means rather than of basic objectives. In reality, what really changed was Moscow's basic understanding of, and consequently approach to, the Third World.

The policy of peaceful solutions to regional conflicts is but one, albeit important, component of the USSR's rejuvenated strategic surge into the Third World. The other is the current series of Soviet-supported offensives aimed at consolidating and enhancing Moscow's dominance over these regions. The anticipated political solutions from these offensives, it is hoped, will ultimately legitimize Soviet victories.

In point of fact, regional conflicts have direct influence on the strategic posture of the USSR. Moscow believes that since vital interests of both superpowers are affected by regional fighting, some superpower involvement is inevitable. Since such involvement might develop into a direct confrontation between the superpowers, and possibly even spread beyond the region and escalate into a nuclear confrontation, the Soviet Armed Forces' approach each regional crisis both in respect to their merits and as the potential beginning of a nuclear war. Needless to say, the latter aspect has a strong influence on Soviet force structure and especially on the type and size of the Soviet nuclear arsenal.

Until the early-1980s, the USSR viewed all regional conflicts in terms of East-West confrontation. Only by installing a progressive pro-Soviet regime could Moscow ensure the loyalty of a developing country. This approach peaked in the 1970s with the establishment of several Soviet-controlled regimes in Asia, Africa and Central America. As of the late-1970s, intimate and protracted exposure to the Third World brought Soviet experts to realize that regional conflicts emerge from indigenous root causes such as tribal and religious entities. Moreover, the appearance of Socialist and Marxist-Leninist governments only exacerbated popular hostility and further destabilized these countries because the local populations reacted by becoming more traditionalist and religious in their outlook and therefore more hostile to the Soviet client government.

At the same time, the dominant trend in Soviet global strategy only increased the importance of hegemony in the Third World. Therefore, it became imperative for the USSR not only to retain and expand its hegemony over the Third World, but to attain it without exacerbating indigenous crises. Thus, the Soviets came to the conclusion that their presence in the Third World needed to be viewed by local populations as compatible with the revival of traditionalism and the rise of Third Worldism. Toward that end, the USSR has begun increasingly cooperating with traditionalist and even reactionary segments of Third World societies, even at the expense of indigenous left wing and Communist movements. The result has been an increasing identification of the U.S.S.R. as a patron of, rather than a rival to, Third World feelings of nationalism and self-determination.

As this perception has grown, the Soviet Union has moved to capitalize on it 'vis-a-vis' the US. Indeed, Moscow has already convinced Washington that the absence of a Marxist-Leninist regime is virtually the sole political objective and measure of American success in the Third World. Thus, Washington's objective in regional conflicts has not been to alleviate the local population's indigenous problems, but to strive for the elimination of outwardly pro-Soviet elements. The consequence of this approach plays into Soviet hands by allowing Moscow to decide when it is satisfied that tension in a given area has sufficiently decreased.

Taken then into a broader East-West context, the Soviets are able to link a reduction in their nuclear arsenal to a decline in regional tensions. Thus, as far as the USSR is concerned, without a meaningful advice toward the resolution of regional conflicts, (inevitably on terms favorable to Moscow,) there is no possibility for progress in arms control and disarmament.

The Geneva Accords on Afghanistan were the first agreement built to fit this Soviet approach. The essence of that agreement was to symbolically placate the US, while retaining firm yet unobtrusive Soviet control of Afghanistan through "under-the-surface" hold over elements such as the internal security apparatus and other military and national infrastructures. The true loyalty of the post-Accords leadership and its "moderate" leaders was assured through their continued dependence on "Praetorian Guards" provided by the USSR. Moreover, the source of popular conflict within Afghanistan was also thereby removed because the Soviet presence became, for all intents and purposes, invisible.

In the meantime, the peace brought about by the Accords opened the door for the West's financing of Afghanistan's reconstruction through the United Nations. However, even this achievement ended up working to the Soviet's credit as it allowed them to claim that they had manipulated the West into financing the Afghan regime.

Needless to say, Afghanistan is not the only place that the Soviets have been active in pursuing this kind of a policy. Since late 1989, major offensives have been conducted in Angola, Laos and Cambodia. Even in Nicaragua, the more subtle but no less ruthless routing of the popular opposition was intensified. Though apparently unsuccessful, it still remains to be seen if Ortega will turn over the military and the Interior ministry, (read the police and intelligence services), to the new government. In the meantime, peaceful agreements are being implemented in all these regions and countries. All of this is part of an overriding stratagem, and indeed, a close examination of events in these regions and countries clearly demonstrates the common methods employed by the Soviets to consolidate their position in the Third World under the guise of "national reconciliation."

These characteristics are:

1. The regimes and their armed forces remain totally dependent on continued massive Soviet military support. The leading military cadres are thoroughly trained by, and are loyal to, the USSR, Cuba or Vietnam. Their survival depends on the continued flow of arms and their ultimate loyalty is determined by this relationship. In Afghanistan, the USSR left behind several years of stockpiles, $1 billion of equipment delivered for the transit period, and in addition pledged a steady monthly flow of more than $300 million worth of munitions, continues, for an annual total of $4 billion.

In Cambodia, the Vietnamese troops left behind their equipment munitions stockpiles while a massive surge of $0.75b–$1.25b worth of additional weapons and supplies was rushed from the USSR and Vietnam. The annual routine Soviet military aid to Vietnam, including support for its interventions in Cambodia and Laos, is $2.5 billion.

Finally, the USSR transferred $2.5 billion of weapons to Angola, directly and from Cuba, in preparation for the offensive against UNITA. Even now, a steady flow of Soviet military supplies continues as the Cubans leave most of their equipment behind. For its part, Cuba receives $6 billion a year from the USSR while Nicaragua receives $1 billion. Military aid to other allies in Africa and the Middle East is also on the increase.

2. The entire defense establishment of these countries is saturated by "stay-behind" troops in local uniforms, security experts and local troops loyal to the hegemonic power. As a result, the population character of key areas is changed by the infusion of "stay-behind" settlers and their armed militias.

For example, in Afghanistan, the Soviets left behind some thousand military and intelligence advisers, some 15,000–20,000 Uzbek, Tajik and Turkomen KGB troops that operate in Afghan uniforms (the "Jowzjani"), and more than 20,000 Soviet elite forces, mainly Central Asians and Far East Asians (the "Mongols"), who operate in modified KGB border guard uniforms without marks. At least 45,000–50,000 troops from the Soviet controlled special DRA Army units that were trained in the USSR were returned to Afghanistan, including three brigades that began arriving after May 1989. Additionally, Soviet Uzbek and Tajik civilian experts, technicians and their families were settled in northern Afghanistan since the early-1980s and have yet to return to the USSR.

Similarly, in Cambodia, the Vietnamese "residual" forces are estimated at between 30,000 and 75,000 troops, mostly in small garrisons controlling key positions around the country. Further, Vietnamese officers from elite intelligence units remain in command of the Cambodian and Laotian key elite forces. In Cambodia, 400,000–950,000 Vietnamese settlers have their own 100,000-man militia. A comparable though smaller arrangement exists in Laos.

In Angola, Cuban pilots dominate the Air Force, while some 8,000–12,000 Cuban troops operate in Angolan uniforms. In addition, Cuban settlers have raised an 11,000-man strong militia. Further the Angolan Accords prohibit attacks against Cubans as they have agreed to withdrawal. Consequently, the Cubans exploited this by driving some of the resupply trucks in the latest offensive against Savimbi and Cuban units intermingled with FAPLA columns to deter UNITA from attacking them lest UNITA accidentally kill Cuban soldiers.

3. The Soviets and their allies retain unlimited access to the strategic infrastructure in these countries. Their hold over these installations is maintained by "advisers" and "civilian" technicians who provide all vital services including, at times, defense. Indeed, it is not by accident that after so many years of close cooperation with, and training by, the USSR, Cuba and Vietnam that nations such as Afghanistan, Angola, Laos and Cambodia lack technical manpower required to maintain their airports, airbases, main roads and harbors. Although almost all the local experts are totally committed to their government, the responsible tasks are still being performed by outside advisers. Such dependency will be deliberately continued for the foreseeable future.

4. The advocacy of withdrawal from regional conflict by the USSR and its allies is tied to firm statements of continued commitment to the client regimes. Thus, before leaving, the Soviets reiterate their intention to redeploy forces, if necessary, in order to save the local regimes from external intervention and aggression and thereby insure themselves a continued hand in the regime.

For example, the USSR repeatedly stated its commitment to the Kabul regime and a 5,000-troop quick intervention force was organized near the USSR's southern border. Indeed, during the March 6 coup attempt of General Tanai, Soviet forces intervened in order to save the Najib regime in Kabul. Six Soviet fighter-bombers were scrambled from Tajikistan and flew low over Kabul to demonstrate that the Najib regime could muster airpower to challenge Tanai's supporters. Further, on March 14, Najib disclosed that the USSR offered direct military assistance to save his regime, but that he had rejected it, adding that, "if we face foreign attack, that will be different."

Similarly, Hanoi has repeatedly stated that the withdrawal of Vietnamese troops does not reduce its commitment to the regime in Phnom Penh and it has also reiterated its intent to send troops back in order to secure this regime.

In the meantime, Havana has conditioned its withdrawal from Angola on the stability of the Luanda regime and has reiterated its intent to save it by force, if necessary. Indeed, fulfilling internationalist commitments remains a very strong ideological factor for all the governments and armed forces involved. (In fact, at the height of the winter 89–90 offensive against Savimbi, Cuba suspended its withdrawal and deployed forces to protect the Luanda government.)

5. The USSR and its allies press for the international recognition and legitimization of the regimes they leave behind, and special attention is paid to their acceptance as legitimate representatives of their peoples and countries in the world community.

A major effort is made for obtaining "national agreements" between client governments and their indigenous opponents, ostensibly to stop the fratricide and bloodshed. The call for such humanitarian considerations then proceeds from the presumption that the local regimes are legitimate and stable. Simultaneously, the local freedom fighters are portrayed as savages and perpetrators of atrocities against the prostrate civilian population.

Thus, for example, the Kabul regime, and not the resistance, was part of the Geneva Accords. UNITA was not part to the Angola-Namibia Accords and was absent from most of the African summits seeking solution to the Angola problem, and the Phnom Penh regime was permitted to take part in the Paris Conference while the resistance was excluded.

6. Simultaneously, the immediate pro-Western victim countries of Soviet policy are made preoccupied with internal terrorism so that they are incapable of, unwilling to, live up to their regional responsibilities. In this context, a compromise with the pro-Western regimes is sought so that the governments are left with no choice but to concentrate on their domestic problems.

An example of this would be the Soviet withdrawal from Afghanistan and the consolidation of the Kabul regime which was accompanied by an unprecedented escalation of KGB-WAD supported terrorism in Pakistan, including the assassination of President Zia-ul Haq. Islamabad was urged to seek compromise with Kabul or face the self-destruction of Pakistan.

The Vietnamese withdrawal from Cambodia was also accompanied by a surge of Vietnam-supported Pak Mai and PLAT terrorism as well as Libya-supported Islamic separatist terrorism in Thailand. While additionally, the leading terrorist groups in southern Africa; ANC, PAC and SWAPO, have reiterated their commitment to escalate the revolutionary armed struggle against South Africa as a component of their African policy toward a final solution of the Angolan problem.

Thus, it would seem apparent that the vision of "peace breaking out all over" is a selective one and that the Soviets are providing the West with rose colored glasses to see that it is maintained. The increasing evidence that the Soviet Union is using "peace" in Europe as a distraction from its wider goals in the Third World cannot be denied. The only question that remains is whether or not Western statesmen will be seduced by that distraction.

(This paper may not necessarily reflect the views of all the members of the Republican Task Force on Terrorism and Unconventional Warfare. It is intended to provoke discussion.)

TASK FORCE ON TERRORISM & UNCONVENTIONAL WARFARE, HOUSE REPUBLICAN RESEARCH COMMITTEE,

Washington, DC.

THE RETURN OF PETER THE GREAT—A GRAND OVERVIEW OF THE EVOLVING SOVIET GLOBAL STRATEGY

(By Vaughn S. Forrest and Yossef Bohansky)

Motto: "Peter hastened the adoption of Western ways by barbarian Russia, not refraining from barbarian means to fight barbarism."—V.I. Lenin.

In the past year the world has seen unprecedented popular activism in the streets of Eastern Europe. Claims have been made for fundamental changes in the halls of power. The entire world is being swept into great hope and anticipation. On the surface, the USSR and Eastern Europe seem to be moving toward Western forms of economy and political pluralism. Are we facing a new era? Probably. Yet, still left to be determined is just how much of the change is substance and how much of the change is only in appearance.

The Gorbachev reforms in the USSR, especially in their more obvious manifestations, such as public debates in the Supreme Soviet or greater freedom of the press, combined with the emerging changes in Eastern Europe, have created the impression of fundamental changes in the Soviet Empire.

In the West, popular analysis of events in the USSR has concluded that Eastern Europe, and even the USSR itself, is joining the West in both socio-economical and even political terms.

As it has repeatedly done throughout its history, the Soviet Union is opening a window to the West. However, in the past, Russia did so in order to advance its technological level and solve dire economic problems rather than join the family of Western nations. This should be kept in mind considering that, at present, the USSR is in its worst economic crisis since World War II.

Recent changes in Europe and the Third World are definitely heartening, and in all likelihood are bound to improve the lives of the local populations. At the same time, though, there are strong indications that because of these changes, the US is facing major strategic and economic crises that could evolve into serious national security challenges.

The key to this is Moscow's belief that it can accelerate its surge for global supremacy without the threat of nuclear destruction and, consequently, without the need to compel the US into acquiescence through strategic nuclear threat.

Developments throughout the world should be judged in their proper historical perspective, for they are not disparate events in isolation from the overall situation surrounding them. Events, even the most dramatic, are influenced by historical processes and evolving situations. Therefore, events are significant only when they are grounded in an historical evolution that has a lasting effect on future developments.

Thus, the recent events in Eastern Europe are so dramatic because the peoples came out to the streets after long dormant periods. The masses, more than any other socio-political force, are the product of their communal political cultures, national traditions and motivations, religions and superstitions. These factors must be taken into consideration when studying these recent developments, for in Eastern Europe we saw genuine popular mobilizations where the masses rallied to an inner call, thus reflecting their own "traditions" rather than our own western socio-political logic.

THE LEGACY OF HISTORY

"Moscow," the Russians say, "is the Capital of History." This self-preoccupation with history determines Russia's own assessment of epoch making events. The reforms currently pushed forward by M.S. Gorbachev are not different in this respect. Thus, their true lasting significance and possible enduring legacy should be examined in the context of Russia's past experience with reforms. Most important, therefore, is the role of past reforms in the expediting of both Imperial Russia's and, after 1917, the USSR's rise into a super-power position.

Since the days of Peter the Great, Russia's accumulation of power has been associated with cycles of economic and political reforms based on a massive influx of western technology and, consequently, social influence. The reign of Peter the Great (1682–1725), in this context, was a milestone in Russia's modernization and ensuing rise to world power. Fundamental reforms aimed at the westernization of society were ultimately translated into military power and territorial expansion.

Indeed, Soviet historiography deals with the questions of nation building and profound reforms under contemporary conditions through the analysis of the legacy of Peter the Great. In his 1976 book, "Peter the First," N.I. Pavlenko highlighted the lasting significance of Peter's reforms in Marxist-Leninist terms. Peter's reforms were aimed at benefitting only a specific segment of the population, namely, the ruling elite and the military. "The class direction of the reforms does not preclude their enormous pan-national significance. They led Russia onto the road of accelerated economic, political, and cultural development; and they inscribed the name of Peter, the initiator of these reforms, in the Pleiad of outstanding statesmen of our country."

Russian historians observe that through reform, Peter the Great succeeded in adapting the pursuit of Russia's enduring "sacred mission" to prevailing conditions and methods. This development still determines the conduct of Russian foreign policy, explained M.N. Pokrovisky in his 1915 article, "The Historic Mission of Russia:" "Beginning with the reign of Peter," writes Pokrovisky, "Russian foreign policy was dominated by commercial capitalism. The struggle for trade routes became its chief concern." Subsequently, Peter the Great launched a series of wars aimed at expanding Russia.

Since then, successive Russian rulers have felt compelled to embark on a series of wars aimed at military conquest in order to actively and unilaterally prevent a possible threat to Russia's growing global strategic presence and interests. Indeed, in a 1898 study, "War in the History of the Russian World," N.N. Sukhotin of the Russian General Staff recorded with pride that between 1700 and 1870, Russia spent 106 years fighting 38 campaigns and that 36 of them were offensive and only 2 defensive. The then escalating drive into Central Asia was presented as a worthy continuation of this legacy.

The forcible modernization and westernization of Russian society launched by Peter the Great was aimed at facilitating Russia's rise to power. Even improvements in the standard of living of, and the granting of greater freedom to, the population were examined in the perspective of their ramifications for Russia's external power.

Again, M.N. Pokrovskiy explains "that in the days of Peter the Great the dilemma had been either the abolition of serfdom, or the conquest of new markets; now it's either full completion of the bourgeois revolution, the triumph of bourgeois relations in the Russian countryside, or a 'Great Russia' defeated at home but defeating abroad." There should be no doubt as to the policy to be adopted in case there emerged a conflict between the pursuit of the internal and external objectives. In Russia, there is no concept of guns versus butter, rather there is only guns and butter, if possible. As A.D. Menshikov said of the essence of adhering faithfully to Peter's reforms, "The peasants and the army are like soul and body; you cannot have one without the other."

The accelerating industrialization of the modern world made the economic factor inseparable from the inherent power of the state. The means for the realization of Russia's "Historic Mission" had to be adapted to meet the realities of the contemporary world. As M.N. Pokrovskiy argued, "Political conquests last only when they consolidate an economic supremacy that had been established, or was being established, earlier, in peacetime. In this, conquest and revolution are similar to each other: both give a legal form to the material conditions that already exist."

As indicated above, Russian rulers tended to generally neglect the internal economic factor in their drive for external achievements. Therefore, periods of concentrated economic and technological modernization, largely based on the influx of funds and technology from the West, became crucially significant to Russia's ability to sustain and increase its drive for power and dominance.

These principles still guide the USSR's policy. Contemporary Soviet historians continue to emphasize the enduring relevance and validity of national priorities as historically defined by Peter the Great. What is good for the nation always comes first and only after that are the interests of the individual citizen considered. Moreover, what is good for the nation is ultimately good for the people, even if their suffering increases in the process.

These tenets are still cogent, argues N.I. Pavlenko, in view of Peter the Great's historical legacy: "Peter was an autocratic tsar, who expressed the interests of his class, who planted the new and cleared away the old by barbarian means. He was a son of his age. But he was truly great because he cared about the fate of his country, about the growth of its power. What Peter accomplished, together with the people and again the people, exercised an enormous influence not only on the subsequent historical destiny of Russia, but also in part of Europe. Peter was and remains one of the great statesmen whose name belongs forever to his country and to history."

THE PRESENT CHALLENGE

The USSR still thinks and operates in historical long-term processes. This approach is currently institutionalized in the 20 year long Defense Cycle (1986–2005) and even in longer-range forecasting and planning. Soviet policy is Russian at its core as it retains almost unchanged many of the traditional facets of Imperial Russian policy. These include such fundamental issues as the concept of citizen-government relations, the overall land-dominated approach to grand-strategy and the firm belief in a Moscow-inspired historical mission and destiny of global magnitude. Therefore, past experience and traditional aspirations are key to the understanding of Gorbachev's "Russian" approach to reform.

Indigenous social change in the population of Russia, and the USSR as a whole, directly contribute to Moscow's traditionalist policy. Indeed, the revival of the Russian Orthodox Church is directly associated with the massive and popular resurgence of Slavophile and Russophile sentiments, and such sentiments have traditionally been dominated expansionist tendencies and a drive for global power.

Because of the current conditions of the USSR, these Russian revivalists have a highly significant input into Soviet Government decision making and behavior if only for domestic reasons. These relatively "Great" Russians constitute the bulk of the high quality manpower pool of the USSR and are thus the key to the modernization of the economy.

Moreover, although aspiring for the revival of Tsardom, these Russian chauvinists know and acknowledge that their only viable way to national influence is through the system. Russophiles aim at change in the Soviet Union by reforming the CPSU, not by replacing it. As Alla Latynina of "Literaturnaya Gazetta" suggests, it is not impossible that an opportunistic clique of the CPSU, searching for new passions to exploit, will seize Russian nationalism as a banner to champion in order to gain widespread popularity and grass-roots support. In this context, it should also be remembered that Stalin mobilized the USSR's population to extreme sacrifices in the darkest phase of the "Great Patriotic War" by invoking traditional Russian patriotism and nationalism.

A similar approach may prove to be Gorbachev's only means of reconciling the USSR's population to its current unprecedented economic crisis as well as into prodding it to contribute to the recovery of the economy. However, the invoking of the traditionalist Russian themes will logically have to entail a commitment to external achievements for the Motherland and not just an improvement in the standard of living.

Indeed, traditionally, Russophiles and Slavophiles have been opposed to westernization. In fact, their only enduring criticism of Peter the Great was for admitting Western culture into Mother Russia. "We began to be citizens of the world," warned N. Karamzin in the mid-19th century, "but we ceased in some measure to be citizens of Russia."

At present, Gorbachev cannot alienate the Russian chauvinists for fear of economic collapse. Moscow can exploit them to rejuvenate popular enthusiasm in themes and programs that the Party represents only as long as those themes and programs include a promise to advance the Glory of the Motherland. This means external triumphs.

The Soviet sensitivity to, and awareness of, the inherent power of popular sentiments is being constantly demonstrated in the USSR's novel approach to reform in Eastern Europe. Rhetoric aside, so far the essence of the reform has amounted to a largely nonviolent release of building popular tensions. Inside Eastern Europe, the population is still subjected to unprecedentedly acute shortages and general economic deprivation. Such pressures could have led to violent uprisings like these in East Germany (1953), Hungary (1956) and almost Poland (1980). Instead, by allowing the people into the streets, the USSR has emerged as the champion of change—that is, contained and controlled change—as the masses shout "Gorby! Gorby!". Moreover, for the first time since 1945, there is genuine popular support in Eastern Europe for good relations with Moscow. As such, Gorbachev's actions have closely followed Stalin's observation that "leaders come and go, while the people remain."

In the case of Romania, explains Lev Navrozov, "Ceausescu was overthrown in a military coup which the KGB–GRU had been preparing for about 6 months." It was imperative for Moscow that the Eastern bloc become more cohesive, even if in a non-communist form.

Even if externally incited in part, the outburst of crowd politics in Eastern Europe clearly reflected long-dormant genuine sentiments. However, the USSR was able to quickly exploit these developments in order to significantly further its grand strategic objectives. Consequently through the current upheaval in Europe, some rather disturbing elements of the USSR's grand strategy have been brought to the surface. These elements' objectives are well defined:

1. Massive modernization of the USSR's scientific-technological and economic infrastructure at the highest speed and the lowest investment through the channelling of Western Europe's revitalized economy into subsidizing the USSR on a protracted and no-condition basis.

2. The unification of Europe—made popular in the "Common European Home" theme—and the ensuing isolation of the US from the continent through the disruption of alliances and creation of major economic confrontations. (The INF crisis and the fight for the Gas Pipeline serve as precedents.)

3. The disruption of the further unification of Western Europe through the introduction of a sudden need to "expand Europe." This would be further complicated by the new East European urging for a common, unified Europe, faithfully repeating Gorbachev with one difference, the inclusion of the USSR, but with all in agreement on the exclusion of the USA.

4. A Soviet surge into the Third World by exploiting indigenous trends and local proxies in order to control strategic assets, vital resources and potential markets, thus creating a Western dependence on the USSR and its allies for access to these resources and markets. Such dependence can be utilized to induce Western Europe to increase its selfless assistance to the recovery of the Soviet economy.

5. Finally, a Soviet push in the Third World for the building of alliances with indigenous revivalist movements in order to contain yet at the same time control the rise of anti-Western radicalism, thus becoming the barrier against, and the key to, the safety of Europe, a major service for which the USSR will be capable of demanding a price.

These objectives can be summed up as a goal to create a unified, Soviet-dominated Europe strategically dependent on the USSR and economically serving it while isolated and alienated from the USA.

This perception of the Russian-European relationship has developed since the days of Peter the Great. For example, saving the civilized world from the Tatar onslaught was considered part of Russia's historical obligation is a recurring theme. As S.L. Tikhvinskiy remarked in a "Sovetskaya Rossiya" article in mid-1984, the West "rejects the historical role which the peoples of our country played in saving European culture from the Tatar-Mongol invasion, and does not appreciate the extent of Russian commitment and sacrifice."

Tikhvinskiy explained that the cultural development of Russia fell behind that of Western Europe when Russia "had taken upon itself the brunt of attack by the Mongol aggressors, protecting Western Europe. The subsequent development of European civilization was paid for by the heavy sacrifice of the Russian people. Under favorable conditions, Europe went forward to the Renaissance, the Reformation, and so on, without expending its efforts on fighting the Tatar-Mongol hordes, as Russia had to do. 'Western Europe was, and still remains, in irredeemable debt to our homeland,' noted N.N. Molchanov most righteously and correctly.'" (N.N. Molchanov wrote the above in his 1984 book, "The Diplomacy of Peter the First.")

Russia is about to save Europe again either from the Third World, or from its westernized-self. It is Moscow's historical duty. But this time Europe will pay its historical dues fully to an assertive and self-confident Soviet Union. Most important, Russians do not compromise on the executing of their historical duties and the realization of their historical destiny.

CONSEQUENCES

The USSR is still committed to the isolation and containment of the US as the key to its ultimate rise to global prominence. Moscow believes that it has already acquired the military power needed for the attainment of these objectives through military means, and that this trend is irreversible. [Recent trends in Soviet military doctrine are discussed in a separate paper—YB] However, being apprehensive about the horrendous consequences of a nuclear war, the Soviets currently augment their strategic drive with efforts to attain their objectives through economic means.

Instead of merely challenging the trans-Atlantic strategic alliance, Moscow strives to transform U.S. relations with Europe (both West and East) from the familiar direct confrontation (with its military connotations) associated with the Cold War to an economic rivalry hailed as the beginning of a new era of global peace (so that no Western politican can afford to challenge the trend).

Soviet analysis of political-economic trends in the West suggests that a commercial "struggle" between the U.S. and Western Europe, especially in the Eastern markets, will quickly result in growing tensions and hostility exceeding by far the current tensions between the U.S. and Japan while leaving some level of global cordiality. Such a development would drive a fundamental wedge between the U.S. and Europe without a single strategic alliance or treaty being directly challenged or undermined by the U.S.S.R., thus making the collapse of Western unity an internal affair. The widespread call for a unified Europe and a single intertwined economy serves these Soviet interests.

At this late stage of the game, the U.S. has already limited its options through inaction. It is getting quite too late to warn Western Europe about the long-term ramifications of the changes advocated by Gorbachev. The U.S. cannot object too much to the emerging reunification of Europe because too heavy handed an approach will only rally Europeans together against a common enemy—the U.S.

There is, however, a major field for strategically important action. That field is the Third World, (Africa, South-West Asia and the Near East, the Pacific Rim and Ocean countries, as well as Latin America,) and the U.S. must lead the political, military and economic race into that region.

The Third World contains the global reserves of vital natural resources, markets and manpower for development. At present, the Western economy is dependent on these assets and the lines of communication connecting them. There is no reason why the U.S., whose national economy and growth are also dependent on access to the Third World, should lose or give up the race for this prize.

As indicated elsewhere [Crusader paper—YB], the Third World is being actively manipulated and directed into an anti-U.S./anti-West policy. If such a trend is allowed to mature, the Third World will gradually join the Moscow-inspired grand design if only as a viable means of uniting against a common enemy—the U.S.

On the other hand, a U.S. activist surge into the Third World can achieve the following: 1. Reduction of the explosive anti-U.S. hostility; 2. Securing the availability of resources and assets for the development of U.S. economy; and 3. Create a West European dependence on the U.S. for its economic relations with the Third World that will serve to counter-balance the Soviet surge in Europe.

(This article may or may not express the views held by all the members of the GOP Task Force on Terrorism and Unconventional Warfare.)

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I would like to compliment my friend, the gentleman from Florida [Mr. MCCOLLUM], on a very fine amendment, and something that is just common sense. If the Soviets have enough money to continue aid to Cuba, a country that has been a big pain in the bottom side of the United States, and particularly our State of Florida, then they certainly do not need any aid of any kind from the United States.

Ms. ROS-LEHTINEN. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentlewoman from Florida.

Ms. ROS-LEHTINEN. Mr. Chairman, this morning members of the Committee on Foreign Affairs met with Boris Yeltsin, and what the new President of the Russian Republic said was clear, direct, and specific: The United States should set ideological conditions on aid to the Soviet Union, and Russia will not send any more aid to foreign countries, including Cuba.

Mr. Chairman, this amendment tells the Soviet Union that they have to cut off aid to Castro's Cuba if the Soviets want to receive any assistance from the United States. The brutal regime of Communist Castro must be eliminated, and the cutoff of Soviet aid to Cuba is a step in the right direction.

Mr. Chairman, how can we allow U.S. taxpayer dollars to subsidize a dictator who has engaged in terrorism, torture, murder, drug trafficking, and countless other crimes? The United States should not indirectly underwrite this murderous thug.

Mr. McCOLLUM. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. McCOLLUM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The first vote will be on the Kyl amendment, as amended. That will be a 15-minute vote. The second vote, which will be on the McCollum amendment, will be a 5-minute vote.

AMENDMENT OFFERED BY MR. KYL

The CHAIRMAN pro tempore. The pending business is the vote on the amendment offered by the gentleman from Arizona [Mr. KYL], as amended, on which a recorded vote is ordered.

The vote was taken by electronic device, and there were—ayes 374, noes 41, as follows:

[Roll No. 176]

AYES—374

Ackerman
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kleczka
Klug
Kolbe
Kolter
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols

Nowak
Nussle
Olver
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weldon
Whitten
Wilson
Wolf
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—41

Abercrombie
Alexander
Aspin
Beilenson
Berman
Clay
Dellums
Dixon
Dymally
Flake
Foglietta
Gonzalez
Hamilton
Hayes (IL)
Houghton
Kildee
Kopetski
Kostmayer
Lewis (GA)
McHugh
Miller (CA)
Mink
Moran
Nagle
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Payne (NJ)
Roybal
Sanders
Savage
Skaggs
Smith (IA)
Washington
Weiss
Wheat
Williams
Wolpe
Yates

NOT VOTING—17

Conyers
DeLay
Eckart
Fawell
Gray
Hammerschmidt
Hopkins
Levine (CA)
Lloyd
Martinez
Oakar
Oberstar
Serrano
Spence
Torricelli
Waxman
Wise

☐ 1707

Messrs. PAYNE of New Jersey, CLAY, and OWENS of New York changed their vote from "aye" to "no."

Mr. KENNEDY and Mrs. PATTERSON changed their vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MCCOLLUM

The CHAIRMAN pro tempore (Mr. McDERMOTT). The pending business is the vote on the amendment offered by the gentleman from Florida [Mr. McCOLLUM] on which a recorded vote is ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 386, noes 29, not voting 17, as follows:

[Roll No. 177]

AYES—386

Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dickinson
Dicks
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Evans
Fascell
Fazio
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waxman
Weber
Weiss
Weldon
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—29

Abercrombie
Campbell (CO)
Clay
Collins (MI)
Dellums
Dymally
Espy
Gonzalez
Hayes (IL)
Houghton
Kostmayer
Lewis (GA)
Mfume
Moran
Nagle
Obey
Owens (NY)
Payne (NJ)
Rangel
Roybal
Sanders
Savage
Smith (IA)
Stokes
Torres
Washington
Waters
Wheat
Yates

NOT VOTING—17

Conyers
DeLay
Dingell
Fawell
Feighan
Gingrich
Gray
Hammerschmidt
Hopkins
Levine (CA)
Lloyd
Martinez
Oberstar
Serrano
Spence
Torricelli
Towns

☐ 1715

Mr. BEILENSON changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. MICHEL was allowed to proceed out of order.)

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Chairman, I take this time so that we might have a quick colloquy with the majority leader to inform the membership as to how we intend to proceed for the balance of this evening and tomorrow.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the distinguished majority leader.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding. We thought it might be well to give Members a sense of how we want to proceed tonight and tomorrow. We will try to finish this bill by about 7 o'clock. We hope that that can be done, and if

Members who have amendments and want to talk about amendments could restrain the debate as much as possible, it is possible, we think, to get the bill done by that time. However, if it is not done and likely to be done on or about that time, we will then move to the foreign operations appropriations bill and try to finish it tonight. We think that will take about 4 hours, so Members should expect to be here until 11 or maybe midnight tonight.

Tomorrow we will then take up the bill we are working on now if it is not finished, and try to finish it. We have one additional matter on water reclamation that we may or may not be able to deal with tomorrow. We will try to get Members out of here at an early, reasonable time in the midafternoon.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Florida, the distinguished chairman of the committee.

Mr. FASCELL. Mr. Chairman, let me say with regard to the pending bill that we have now completed title VIII. We are in title IX as soon as it is designated by the Clerk. The first two amendments have been agreed to, and no votes will be requested on the gentleman's side as far as I know.

The next amendment is on Kashmir, and the next one after that is on India. We expect votes on both of those. They could go 40 minutes and then a vote. We would then be in title X, and as far as we know, there is only one amendment there, and we are not sure where that is right now. Only the proposed sponsor might be able to tell Members. That is one amendment there. The other is an agreed upon amendment. If the gentleman from Nebraska [Mr. BEREUTER] does not ask for a rollcall vote on that one, we will have that one done. We would then be in title XI which, as far as I know, has only one amendment in it.

So there is a possibility with a little help to get this done tonight.

Mr. MICHEL. Mr. Chairman, I thank the gentleman for the information.

The CHAIRMAN pro tempore. The Clerk will designate title IX.

The text of title IX is as follows:

TITLE IX—ASIA AND THE PACIFIC

CHAPTER 1—EAST ASIA AND THE PACIFIC

SEC. 901. BURMA.

(a) CONSIDERATIONS IN FURNISHING ASSISTANCE AND MAKING MILITARY SALES.—During fiscal years 1992 and 1993, in determining whether to furnish assistance to Burma under the Foreign Assistance Act of 1961 or the Agricultural Trade Development and Assistance Act of 1954 (other than emergency humanitarian assistance under either such Act), and whether to make any sales of defense articles or defense services to Burma under the Defense Trade and Export Control Act, the President shall take into account whether—

(1) the Government of Burma has—

(A) ceded legal authority to a civilian government as mandated by the elections of May 1990;

(B) released persons arrested for the peaceful expression of their political views, including Aung San Suu Kyi and other leaders of the National League for Democracy; and

(C) ceased harassment of persons and political parties attempting to exercise freedoms of expression, association, and assembly; and

(2) the President has made a certification concerning Burma under section 4402 of the Foreign Assistance Act of 1961.

(b) NOTIFICATION REQUIREMENT.—During fiscal years 1992 and 1993, the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304 of the Foreign Assistance Act of 1961, at least 15 days before—

(1) obligating funds for any assistance for Burma under the Foreign Assistance Act of 1961 (other than emergency humanitarian assistance); or

(2) issuing a letter of offer to sell any defense articles or defense services to Burma under the Defense Trade and Export Control Act.

(c) STATEMENT OF CONGRESS REGARDING ECONOMIC SANCTIONS AGAINST BURMA.—

(1) FINDINGS.—The Congress finds that—

(A) Burma has failed to meet the conditions set forth in section 138 of the Customs and Trade Act of 1990 (104 Stat. 653), including that it meet the certification requirements listed in section 802(b) of the Narcotics Control Trade Act, that it transfer authority to a civilian government, that it lift martial law, and that political prisoners be released;

(B) the President has submitted a report to the Congress indicating that Burma has not met these conditions;

(C) section 138 of the Customs and Trade Act of 1990 authorizes the President to impose economic sanctions on Burma that he determines to be appropriate if the conditions set forth in section 138 of that Act are not met;

(D) section 138 of that Act directs the President to give primary consideration to the imposition of sanctions on those products which constitute major imports from Burma, including fish, tropical timber, and aquatic animals;

(E) imposition of such sanctions would communicate to the Burmese authorities the continued determination of the United States to promote a democratic transition in Burma, and might encourage other countries to adopt similar measures;

(F) the multilateral imposition of economic sanctions upon Burma would bring considerable pressure to bear on the Burmese authorities, and might help to foster democratic reforms; and

(G) the President has yet to make a determination of whether to impose economic sanctions under section 138 of the Customs and Trade Act of 1990.

(2) STATEMENT OF THE CONGRESS.—The Congress would welcome decisions by the President—

(A) to impose economic sanctions upon Burma under section 138 of the Customs and Trade Act of 1990, giving primary consideration to the imposition of sanctions on those products which constitute major imports from Burma; and

(B) to call upon other industrialized countries to impose similar sanctions upon Burma.

SEC. 902. CAMBODIA.

(a) FINDINGS.—The Congress finds that—

(1) the Government and people of the United States remain unalterably opposed to the return to power by the Khmer Rouge and believe that those responsible for the genocide in Cambodia in the 1970's, including Pol Pot, should be held accountable, through appropriate mechanisms, for their barbaric crimes;

(2) a comprehensive political settlement of the Cambodian conflict remains the best available way of achieving the objectives of the United States toward that country, that is, preventing the Khmer Rouge from returning to power, facilitating self-determination, independence, peace, and prosperity for the Cambodian people, and bringing an end to Cambodia's role as a pawn in geopolitical struggles;

(3) the approach to a comprehensive settlement in Cambodia developed by the 5 permanent members of the United Nations Security Council during 1990, with the significant contributions of Indonesia, Australia, Japan, and the United Nations Secretariat, meets at least the minimum interests of all parties to the Cambodian conflict and those of the Cambodian people;

(4) the United States supports the principle of freedom of political choice for the Cambodian people, including noncommunist and democratic alternatives to the two current but competing communist political movements;

(5) the United States is prepared to work with the current leadership in Phnom Penh should the Cambodian people choose it through free and fair elections to lead a new Cambodian government;

(6) the Cambodian people, particularly women and children, should not be denied basic humanitarian necessities before the conclusion of a comprehensive political settlement; and

(7) the Government of the United States has made a serious and significant effort to make explicit to Vietnam and the Phnom Penh regime the willingness of the United States to lift the economic embargoes and normalize relations if they agree to the political settlement proposed by the 5 permanent members of the United Nations Security Council, bearing in mind in the case of Vietnam that the pace and scope of the normalization process will be directly affected by Hanoi's cooperation on the POW/MIA issue and other humanitarian concerns.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Government of Vietnam and the Phnom Penh regime should negotiate in good faith on the draft text developed by the 5 permanent members of the United Nations Security Council and the Paris Conference Cochairmen regarding a settlement of the Cambodian conflict, with the intention to reach final agreement at the earliest possible moment, and all parties to the conflict should consider seriously any reasonable elaborations of the draft text which may be proposed;

(2) as a party to the Genocide Convention, the United States affirms that genocide is a crime under international law which it undertakes to prevent and punish, and calls upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide in Cambodia; and

(3) the interests of noncommunist Cambodian organizations and of the Cambodian people are best served by those organizations devoting themselves to political efforts rather than offensive military initiatives.

(c) HUMANITARIAN AND DEVELOPMENT ASSISTANCE FOR CAMBODIA.—

(1) AUTHORIZATION.—Of the funds made available for fiscal years 1992 and 1993 for de-

velopment assistance and economic support assistance, not more than $20,000,000 for each such fiscal year may be made available for humanitarian and development assistance for Cambodians along the Thai-Cambodian border, and throughout Cambodia, notwithstanding any other provision of law.

(2) DEFINITION.—For purposes of this subsection, the term "humanitarian assistance" includes food, clothing, medicine, and other humanitarian assistance, but such term does not include the provision of weapons, weapon systems, ammunition, any other equipment, vehicles, or material which can be used to inflict serious bodily harm or death, or any other item which is used solely for military conflict.

(3) DISTRIBUTION OF ASSISTANCE FOR CAMBODIANS ALONG THE THAI-CAMBODIAN BORDER.—Humanitarian and development assistance under this subsection that is provided for Cambodians along the Thai-Cambodian border may be provided through noncommunist Cambodian organizations and private voluntary organizations, so long as the President has not determined that specific groups or military units providing such assistance are cooperating militarily with the Khmer Rouge.

(4) LIMITATION ON HUMANITARIAN AND DEVELOPMENT ASSISTANCE TO CAMBODIANS IN AREAS CONTROLLED BY THE PHNOM PENH REGIME.—Before the conclusion of an international agreement acceptable to the United States with respect to a political settlement in Cambodia, funds allocated under this subsection for humanitarian and development assistance for Cambodians in areas of Cambodia under the control of the Phnom Penh regime may be provided only through international agencies and United States private and voluntary organizations.

(d) PROHIBITION ON CERTAIN ASSISTANCE TO THE KHMER ROUGE.—Notwithstanding any other provision of law, none of the funds made available to carry out this section may be obligated or expended for the purpose or with the effect of promoting, sustaining, or augmenting, directly or indirectly, the capacity of the Khmer Rouge or any of its members to conduct military or paramilitary operations in Cambodia or elsewhere in Indochina.

(e) HUMANITARIAN ASSISTANCE TO CHILDREN.—Of the funds made available for each of the fiscal years 1992 and 1993 for assistance under the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, to provide humanitarian assistance to children and war victims in Cambodia, except that, until the conclusion of an international agreement acceptable to the United States regarding a settlement of the Cambodian conflict, such assistance shall be provided through international relief agencies and United States private voluntary organizations.

(f) TRAINING OF NONCOMMUNIST CAMBODIANS.—Notwithstanding any other provision of law, the President may use such funds as may be necessary from funds made available for development assistance and economic support assistance for fiscal years 1992 and 1993 to provide, through the United Nations or otherwise, for the nonmilitary training of noncommunist Cambodians who are outside of Cambodia, including Cambodians in the United States, in appropriate skills that would be used by them upon returning to Cambodia in the context of an internationally acceptable political settlement in that country.

(g) INTERNATIONAL RELIEF PROGRAM FOR CAMBODIA.—Notwithstanding any other provision of law, the President may use such funds as may be necessary from funds made available under the Foreign Assistance Act of 1961 for fiscal years 1992 and 1993 for contributions and programs by the United States as part of an international program of relief (including resettlement and rehabilitation) and reconstruction in Cambodia in the context of an internationally acceptable political settlement in that country.

(h) CLARIFICATION OF AUTHORITIES GRANTED.—

(1) EARMARKINGS OF FUNDS NOT AFFECTED.—Nothing in this section supersedes any provision of this Act or the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that earmarks funds for a specific country, region, organization, or purpose.

(2) APPROPRIATIONS ACT LIMITATIONS NOT AFFECTED.—Nothing in this section supersedes any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that specifically refers to the assistance authorized by this section and establishes limitations with respect to such assistance.

(3) REPROGRAMMING REQUIREMENTS NOT AFFECTED.—Nothing in this section supersedes the requirements of section 6304 of the Foreign Assistance Act of 1961 or any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that requires prior notification to congressional committees of proposed reprogrammings of funds.

SEC. 903. PROHIBITION ON MILITARY ASSISTANCE TO FIJI.

No foreign military financing assistance and no international military education and training which is made available for fiscal year 1992 or fiscal year 1993 may be provided to Fiji unless the President certifies to the Congress that Fiji has held elections in which there has been broad participation by all communities in Fiji.

SEC. 904. MALAYSIA.

(a) FINDINGS.—The Congress finds that—

(1) the United States and Malaysia have a long tradition of friendship based on common commitments to democratic government, a free market economy, international peace and stability, and humane treatment of asylum-seekers;

(2) these common interests and commitments were most recently reflected in the endorsement by the Malaysian Government of the goal of removing Iraq from Kuwait and its vote in support of United Nations Security Council Resolution 678, which authorized the use of force to obtain that goal;

(3) ensuring temporary refuge for persons seeking asylum from acts of persecution is an international humanitarian obligation incumbent upon governments of all nations;

(4) in June 1989, the governments of 29 nations affirmed this principle in the "Comprehensive Plan of Action for Indochinese Refugees";

(5) the Comprehensive Plan of Action also provided for implementation of a refugee determination process, commitments by resettlement countries to resettle all those determined to be refugees, a program of voluntary repatriation for those determined not to be refugees, and a commitment by the Government of Vietnam to discourage clandestine departure and expand access to legal emigration through the Orderly Departure Program established by the United Nations for legal departure from Vietnam;

(6) the Government of Malaysia has traditionally maintained humane policies toward Indochinese asylum-seekers, permitting hundreds of thousands temporary refuge over the past 16 years;

(7) the Government of Malaysia chaired the international conference at which the Comprehensive Plan of Action was adopted, and expressed its willingness to abide by the commitments reflected in that plan;

(8) despite Malaysia's traditional tolerance toward asylum-seekers and its active role in the formulation of the Comprehensive Plan of Action, the Government of Malaysia has abandoned the policy of offering first asylum to Indochinese asylum-seekers, and has denied refuge to some 11,000 Indochinese asylum-seekers over the past 2 years;

(9) the actions of the Malaysian Government are in conflict with basic internationally recognized humanitarian standards, and expose innocent civilians to the risk of death on the high seas; and

(10) the actions of the Malaysian Government have imposed considerable burdens on Indonesia, which has maintained the policy of first asylum and has received an overwhelming majority of Indochinese asylum-seekers denied refuge in Malaysia.

(b) STATEMENT OF THE CONGRESS.—The Congress—

(1) welcomes the endorsement of the Malaysian Government of the goal of removing Iraq from Kuwait and its vote in support of United Nations Security Council Resolution 678, which authorized the use of force to obtain that goal;

(2) expresses its deep distress and concern about the policy and practice of the Government of Malaysia of denying first asylum to Indochinese asylum-seekers;

(3) urges the Government of Malaysia to reestablish the policy of first asylum and thereby to bring its practices into conformity with internationally recognized humanitarian standards;

(4) expresses its appreciation to the Government of Indonesia for maintaining its commitment to first asylum; and

(5) expresses its readiness to support efforts to provide supplemental assistance to Indonesia to accommodate the increased burden on that country that has resulted from the denial of first asylum by Malaysia.

SEC. 905. SOUTH PACIFIC REGIONAL PROGRAM.

(a) ALLOCATION OF FUNDS FOR SOUTH PACIFIC REGIONAL PROGRAM.—The President shall allocate the amount of funds requested for the South Pacific regional program under the Foreign Assistance Act of 1961 for fiscal year 1992 in the congressional presentation materials for such fiscal year, unless the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304 of that Act.

(b) ADDITIONAL FUNDS.—

(1) IN GENERAL.—In addition to the funds referred to in subsection (a), not less than $10,000,000 of the funds described in paragraph (2) shall be made available for the South Pacific regional program.

(2) SOURCE OF FUNDS.—The funds from which amounts are to be made available under paragraph (1) are—

(A) any funds made available for fiscal year 1992 for development assistance, or for economic support assistance, in amounts equal to the amounts requested for such assistance for Pakistan for fiscal year 1992 in the congressional presentation materials for such fiscal year, if a certification under section 620E(e) of the Foreign Assistance Act of 1961 is not in effect on September 30, 1991; or

(B) any funds made available for fiscal year 1992 for development assistance, economic support assistance, or international disaster assistance, which are allocated for Asia and the Pacific, if a certification referred to in subparagraph (A) is in effect on September 30, 1991.

(c) FUNDING FOR FISCAL YEAR 1993.—Not less than the amounts made available for fiscal year 1992 for the South Pacific regional program under the Foreign Assistance Act of 1961 shall be made available for fiscal year 1993 for the South Pacific regional program.

(d) FUNDS FOR SCHOLARSHIPS.—Of amounts made available under this section, not less than $2,000,000 of development assistance funds shall be available for each of the fiscal years 1992 and 1993 only for scholarships for study at postsecondary institutions of education in the United States.

SEC. 906. TAIWAN'S CONTRIBUTIONS TO OPERATIONS DESERT SHIELD AND DESERT STORM.

(a) FINDINGS.—The Congress finds that—

(1) Operation Desert Shield and Operation Desert Storm are expected to cost more than $45,000,000,000;

(2) the United States repeatedly appealed to the international community to share the costs resulting from Operation Desert Shield and Operation Desert Storm;

(3) Taiwan offered the United States $100,000,000 to help cover the costs resulting from Operation Desert Shield;

(4) the United States rejected Taiwan's offer;

(5) Taiwan provided approximately $30,000,000 to Middle Eastern nations adversely impacted by Iraq's invasion of Kuwait;

(6) Taiwan abided faithfully with the United Nations sanctions against Iraq;

(7) the Peoples' Republic of China abstained from voting on United Nations Security Council Resolution 678, which established January 15, 1991, as the deadline for Iraq's withdrawal from Kuwait and authorized coalition forces to use all means necessary to restore international peace and security to the region; and

(8) the Federal budget deficit for fiscal year 1991 will exceed $318,000,000,000.

(b) POLICY DECLARATIONS.—The Congress—

(1) commends Taiwan for sharing in the international responsibilities associated with Operation Desert Shield and Operation Desert Storm; and

(2) calls on the President to accept future contributions from Taiwan for multinational operations, like Operation Desert Shield and Operation Desert Storm, regardless of the positions of the People's Republic of China.

SEC. 907. COOPERATION ON POW/MIA ISSUE.

(a) FINDINGS.—The Congress finds that—

(1) there are still over 2,200 Americans unaccounted for in Southeast Asia;

(2) by not knowing the fates of their loved ones, the families of those unaccounted for in Southeast Asia have suffered tremendous hardship;

(3) the United States made a commitment that resolving the fates of Americans unaccounted for in Southeast Asia was a matter of the highest national priority; and

(4) the United States must reaffirm that commitment and fulfill its promise to the families of our missing Americans.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the United States should—

(A) continue to give the highest national priority to accounting as fully as possible for Americans still missing in Southeast Asia and to negotiating the return of any Americans still held captive in Southeast Asia; and

(B) heighten public awareness of the Americans still missing in Southeast Asia through the dissemination of factual data, including access by primary next of kin to all records concerning their relatives missing in Southeast Asia, to the extent that the disclosure of such records does not reveal sources and methods of intelligence collection; and

(2) progress on accounting for Americans still missing in Southeast Asia and other humanitarian issues will affect the pace and scope of the process of normalizing relations between the United States and Vietnam.

(c) SUPPORT OF HUMANITARIAN PROJECTS IN LAOS.—It is the further sense of the Congress that, consistent with section 4402 of the Foreign Assistance Act of 1961, the President should use available authority and appropriations to provide up to $200,000 in fiscal year 1992 and up to $200,000 in fiscal year 1993 for support of humanitarian projects in Laos associated with joint United States-Laotian cooperative efforts to resolve questions concerning Vietnam era prisoners of war or those missing in action.

SEC. 908. ADMISSION OF ASIAN COUNTRIES INTO THE OECD.

(a) FINDINGS.—The Congress finds that—

(1) the Republic of Korea, Taiwan, Hong Kong, and Singapore all now have gross national products at per capita levels that exceed those of some of the least developed members of the Organization for Economic Cooperation and Development (hereinafter in the section referred to as the "OECD");

(2) these Asian countries and territories have a substantial interest in furthering the health of the world economy and should assume a more prominent role in managing regional and global economic affairs; and

(3) the ideals of the OECD, namely liberalized trade and investment flows, assistance to the developing countries, and better coordination of national economic policies, are goals that should be strongly embraced and promoted by the newly industrialized countries and territories in Asia.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should encourage the OECD to actively undertake the process of study and consultation appropriate to consider for membership in the OECD the Governments of the Republic of Korea, Taiwan, Hong Kong, and Singapore.

SEC. 909. ASSISTANCE TO DISPLACED BURMESE IN THAILAND AND BURMA.

(a) AUTHORITY TO USE FUNDS.—Notwithstanding any other provision of law, $1,000,000 of the funds described in subsection (b) shall be used for humanitarian assistance for displaced Burmese nationals in Thailand and Burma. Funds for such humanitarian assistance shall be administered by the same bureau in the Department of State that administers migration and refugee assistance.

(b) SOURCE OF FUNDS.—The funds from which amounts are to be used under subsection (a) are—

(1) any funds made available for fiscal year 1992 for development assistance, or for economic support assistance, in amounts equal to the amounts requested for such assistance for Pakistan for fiscal year 1992 in the congressional presentation materials for such fiscal year, if a certification under section 620E(e) of the Foreign Assistance Act of 1961 is not in effect on September 30, 1991; or

(2) any funds made available for fiscal year 1992 for development assistance, economic support assistance, or international disaster assistance, which are allocated for Asia and the Pacific, if a certification referred to in paragraph (1) is in effect on September 30, 1991.

(c) CERTAIN RESTRICTIONS NOT APPLICABLE.—Section 4402 of the Foreign Assistance Act of 1961 shall not apply with respect to the humanitarian assistance for displaced Burmese nationals provided for in this section.

(d) REPROGRAMMING REQUIREMENTS NOT AFFECTED.—Nothing in this section supersedes the requirements of section 6304 of the Foreign Assistance Act of 1961 or any provision of the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act that requires prior notification to congressional committees of proposed reprogrammings of funds.

SEC. 910. ARMS TRANSFERS BY THE PEOPLE'S REPUBLIC OF CHINA TO IRAN, IRAQ, LIBYA, PAKISTAN, AND SYRIA.

(a) PROHIBITION.—In any calendar year, sales may not be made to the People's Republic of China under the Defense Trade and Export Control Act, and licenses may not be issued under section 38 of that Act for the export to the People's Republic of China, of any item on the United States Munitions List for military end-users if the President has determined that there is convincing, credible evidence that—

(1) any United States defense article or technology (including United States licensed technology) was used in—

(A) a cruise missile or ballistic missile,

(B) a advanced fighter aircraft, or

(C) a major component or technology for any such missile or aircraft,

and was transferred willingly to Iran, Iraq, Libya, Pakistan, or Syria by the People's Republic of China in the previous calendar year in contravention of the Defense Trade and Export Control Act or regulations issued under section 38 of that Act; or

(2) any chemical weapon, or any material, equipment, or technology intended for use by a military end-user for any nuclear explosive device, or for research on or development of any nuclear explosive device, was transferred willingly to Iran, Iraq, Libya, Pakistan, or Syria by the People's Republic of China in the previous calendar year.

(b) EXCEPTION.—The prohibitions contained in subsection (a) shall not apply to sales or exports of systems or components designed specifically for inclusion in civil products and controlled as defense articles only for purpose of export to a controlled country, unless the President determines that the intended recipient of such items is the military or security forces of the People's Republic of China.

CHAPTER 2—SOUTH ASIA

SEC. 921. ASSISTANCE FOR AFGHANISTAN.

The President may make available funds authorized to be appropriated for development assistance and economic support assistance for the provision of food, medicine, or other humanitarian assistance to the Afghan people and for the development and implementation of long-range bilateral and multilateral reconstruction efforts for Afghanistan and the establishment of a broad-based freely-elected Afghan Government. Assistance under this section may be provided notwithstanding any provision of law that would otherwise prohibit such assistance to Afghanistan.

SEC. 922. MINES IN AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) Afghan Government forces and the mujahedeen continue to lay anti-personnel and anti-vehicular land mines;

(2) in most cases, neither the Afghan Government nor the mujahedeen record the location of the mines;

(3) these mines are generally placed without customary precautions, and are un-

marked or are not designated to destroy themselves within a reasonable time;

(4) the value of mine awareness projects, which have been the primary focus of mine clearance projects undertaken so far, has been limited due to a lack of information that might come from extensive surveying; and

(5) resources devoted to such surveying have been inadequate.

(b) STATEMENT OF THE CONGRESS.—The Congress urges that—

(1) the Governments of the Soviet Union, Afghanistan, and the United States, as well as representatives of the mujahedeen, agree, in accordance with the spirit of the Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (the "Land Mines Protocol"), to make available through the United Nations information on mine location in Afghanistan necessary to protect civilians from the effects of mines, as well as information on how these devices can be safely neutralized;

(2) the United Nations work closely with specialist demining agencies, such as the Mines Advisory Group in Peshawar, Pakistan, to develop a strategy for locating and removing mines in Afghanistan that includes the creation of technical working groups consisting of recognized experts from the military, commercial, and engineering sectors;

(3) mine clearance programs in Afghanistan be monitored to ensure that mines are destroyed and not resold, and should be required to keep detailed records stored with the United Nations; and

(4) any efforts to promote repatriation to Afghanistan of displaced persons take into account the importance of mine surveying and mine clearance so as to minimize the risks to those who return to that country.

SEC. 923. UNITED STATES-SOVIET DIALOGUE ON A POLITICAL SETTLEMENT IN AFGHANISTAN.

(a) FINDINGS.—The Congress finds that—

(1) since September 1989, the United States and the Soviet Union have been engaged in high-level discussions on a political settlement in Afghanistan;

(2) both the United States and the Soviet Union have expressed their support for a United Nations-assisted political transition process in Afghanistan leading to the creation of a government that reflects the will of the majority of the people of Afghanistan;

(3) at various times over the past several years, both the United States and the Soviet Union have expressed support for a mutual termination of all military assistance to Afghanistan;

(4) the United States has made the most recent proposal for an early and effective mutual termination of military assistance, which the Soviet Union has not accepted; and

(5) a mutual, early, and effective termination of military assistance would signal United States and Soviet commitment to a peaceful political settlement, substantially reduce the level of violence in Afghanistan, encourage other outside suppliers to end their military assistance to Afghanistan, encourage the belligerent parties in Afghanistan to negotiate a peaceful settlement in Afghanistan, and make possible an act of self-determination by the Afghan people.

(b) STATEMENT OF THE CONGRESS.—The Congress—

(1) welcomes the United States-Soviet dialogue on mutual termination of all military assistance to Afghanistan and a political settlement in Afghanistan;

(2) welcomes the United States proposal on an early and effective mutual termination of military assistance to Afghanistan;

(3) urges the Government of the Soviet Union to accept the United States proposal, which would facilitate a peaceful resolution to the conflict in Afghanistan; and

(4) calls upon other countries supplying military assistance to belligerents in Afghanistan to express their readiness to terminate such military assistance in the context of a United States-Soviet agreement on a mutual termination of such assistance.

SEC. 924. UNITED STATES SUPPORT FOR DEMOCRACY AND DEVELOPMENT IN BANGLADESH.

(a) FINDINGS.—The Congress finds that—

(1) in a series of demonstrations beginning in 1990, the people of Bangladesh expressed their determination and commitment to human rights and democratic transition in Bangladesh, including holding free and fair elections and promoting freedoms of expression, association, and assembly;

(2) as a result of this expression of popular will, Bangladesh authorities agreed to the appointment of a neutral transition government to administer the country and to conduct national elections on February 27, 1991;

(3) the February elections were widely considered to be free and fair, and resulted in a victory for the Bangladesh National Party of Begum Khaleda Zia;

(4) the government of Prime Minister Begum Khaleda Zia has expressed its commitment to democratic rule and the maintenance of Bangladesh's economic adjustment program in coordination with the International Monetary Fund;

(5) while the sacrifices required by this economic adjustment program were compounded by the effects of the Persian Gulf Crisis, this did not deter Bangladesh authorities from strongly supporting United Nations sanctions against Iraq or from sending troops to help defend Saudi Arabia;

(6) as a result of its level of income and its commitment to the economic adjustment program supported by the International Monetary Fund, Bangladesh clearly meets the requirements for debt relief under section 411 of the Agricultural Trade Development and Assistance Act of 1954, as added by Public Law 101-624;

(7) in enacting section 411, the Congress clearly intended Bangladesh to obtain debt relief;

(8) in the absence of debt relief under such section 411, Bangladesh will ultimately risk being forced to make substantial debt payments that it had not anticipated; and

(9) implementation of such debt relief would promote economic development in Bangladesh and signal strong United States support and encouragement of democratization in Bangladesh.

(b) STATEMENT OF CONGRESS.—The Congress—

(1) congratulates the people of Bangladesh on the successful transition to a freely and democratically elected government in Bangladesh;

(2) welcomes the new government's commitment to democratic government and the economic adjustment program being implemented in coordination with the International Monetary Fund; and

(3) urges the President to take action to provide to Bangladesh, at the earliest opportunity, debt relief under section 411 of the Agricultural Trade Development and Assistance Act of 1954.

SEC. 925. NEPAL.

(a) ALLOCATION OF FUNDS FOR NEPAL.—The President shall allocate the amount of funds for development assistance requested for Nepal for fiscal year 1992 in the congressional presentation materials for such fiscal year, unless the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304 of the Foreign Assistance Act of 1961.

(b) ADDITIONAL FUNDS.—

(1) IN GENERAL.—In addition to the funds referred to in subsection (a), not less than $10,000,000 of the funds described in paragraph (2) shall be made available for Nepal if a democratically elected government in that country assumes office pursuant to free and fair elections.

(2) SOURCE OF FUNDS.—The funds from which amounts are to be made available under paragraph (1) are—

(A) any funds made available for fiscal year 1992 for development assistance, or for economic support assistance, in amounts equal to the amounts requested for such assistance for Pakistan for fiscal year 1992 in the congressional presentation materials for such fiscal year, if a certification under section 620E(e) of the Foreign Assistance Act of 1961 is not in effect on September 30, 1991; or

(B) any funds made available for fiscal year 1992 for development assistance, economic support assistance, or international disaster assistance, which are allocated for Asia and the Pacific, if a certification referred to in subparagraph (A) is in effect on September 30, 1991.

SEC. 926. PROMOTION OF HUMAN RIGHTS IN SRI LANKA.

(a) FINDINGS.—The Congress finds that—

(1) the United States and Sri Lanka have a long tradition of friendship and share common interests in economic development, constitutional, multiparty government, and international peace and stability;

(2) in recent years, the Government of Sri Lanka has confronted insurgents who have resorted to killings of civilians, kidnapping, destruction of civilian property, and other acts of terror in their attempt to achieve political objectives through the use of violence;

(3) in attempting to deal with these threats over the past several years, the Sri Lankan security forces, or persons acting under their control or influence, have committed serious and widespread violations of human rights, including disappearances and political killings, torture, failure to provide family members or lawyers with information on or access to detainees, and indiscriminate attacks that have caused civilian casualties in areas of civil conflict;

(4) Sri Lankan Government officials have indicated that they recognize the seriousness of these problems and the importance of bringing an end to abuses;

(5) despite the threats of terrorist violence, the Government of Sri Lanka has maintained democratic institutions in the country, and has taken steps that, if fully and vigorously implemented, could seriously address important human rights concerns; and

(6) these steps include inviting representatives of international human rights monitoring organizations to visit Sri Lanka, permitting access to international humanitarian organizations such as the International Committee of the Red Cross, permitting access to United Nations organizations dealing with investigations of human rights concerns, and establishing official bodies to investigate disappearances and other allegations of human rights abuses.

(b) STATEMENT OF THE CONGRESS.—The Congress—

(1) strongly condemns ongoing acts of terror, including killings of civilians, kidnap-

ping, and destruction of civilian property, by insurgents operating in the north, east, and south of Sri Lanka;

(2) expresses its deep concern about continuing reports of serious abuses of human rights by the Sri Lankan security forces or persons acting under their control or influence;

(3) welcomes statements by Sri Lankan Government officials indicating that they recognize the seriousness of these problems and the importance of bringing an end to abuses;

(4) welcomes efforts by the Sri Lankan Government to begin to address human rights concerns through measures that include inviting representatives of international human rights monitoring organizations to visit Sri Lanka, permitting access to international humanitarian organizations such as the International Committee of the Red Cross, permitting access to United Nations organizations dealing with investigations of human rights concerns, and establishing official bodies to investigate disappearances and other allegations of human rights abuses; and

(5) believes that continued progress on these issues will help to ensure further improvement in the relationship between the United States and Sri Lanka, based on mutual trust and respect.

(c) Considerations in Furnishing Assistance and Making Military Sales.—During fiscal years 1992 and 1993, in determining whether to furnish assistance to Sri Lanka under the Foreign Assistance Act of 1961 or the Agricultural Trade Development and Assistance Act of 1954 (other than emergency humanitarian assistance under either such Act), and whether to make any sales of defense articles or defense services to Sri Lanka under the Defense Trade and Export Control Act, the President shall take into account whether the Government of Sri Lanka has—

(1) established a public register of detainees and ensured that detainees have access to lawyers and family members;

(2) taken steps designed to deter disappearances and killings of civilians in all provinces by persons under the control or influence of government forces, such as enhanced efforts to pursue criminal investigations and prosecutions of those responsible for such abuses;

(3) taken measures designed to minimize civilian casualties in its combat operations in the north and east; and

(4) made serious and substantial efforts to investigate and prosecute those involved in the murder of journalist Richard DeZoysa.

(d) Assisting the Sri Lankan Government To Provide Human Rights Training and Education.—The President should encourage and assist the Government of Sri Lanka to provide effective human rights education and training in educational institutions in Sri Lanka, within the society at large, and to members of the security forces, including the police, the military, and paramilitary organizations.

CHAPTER 3—INDUSTRIAL COOPERATION PROJECTS IN CHINA AND TIBET

SEC. 941. STATEMENT OF PRINCIPLES.

(a) Purpose.—It is the purpose of this chapter to create principles governing the conduct of industrial cooperation projects of United States nationals in the People's Republic of China and Tibet.

(b) Principles.—It is the sense of the Congress that any United States national conducting an industrial cooperation project in the People's Republic of China or Tibet should adhere to the following principles:

(1) Suspend the use of all goods, wares, articles, and merchandise that are mined, produced, or manufactured, in whole or in part, by convict labor or forced labor if there is reason to believe that the material or product is produced or manufactured by forced labor, and refuse to use forced labor in the industrial cooperation project.

(2) Seek to ensure that political or religious views, sex, ethnic or national background, involvement in political activities or nonviolent demonstrations, or association with suspected or known dissidents will not prohibit hiring, lead to harassment, demotion, or dismissal, or in any way affect the status or terms of employment in the industrial cooperation project. The United States national should not discriminate in terms or conditions of employment in the industrial cooperation project against persons with past records of arrests or internal exile for nonviolent protest or membership in unofficial organizations committed to nonviolence.

(3) Ensure that methods of production used in the industrial cooperation project do not pose an unnecessary physical danger to workers and neighboring populations and property and that the industrial cooperation project does not unnecessarily risk harm to the surrounding environment, and consult with community leaders regarding environmental protection with respect to the industrial cooperation project.

(4) Strive to use business enterprises that are not controlled by the People's Republic of China or its authorized agents and departments as potential partners in the industrial cooperation project.

(5) Prohibit any military presence on the premises of the industrial cooperation project.

(6) Undertake to promote freedom of association and assembly among the employees of the United States national. The United States national should protest any infringement by the Chinese Government of these freedoms to the appropriate authorities of that government and to the International Labor Organization, which has an office in Beijing.

(7) Use every possible channel of communication with the Chinese Government to urge that government to disclose publicly a complete list of all those individuals arrested since March 1989, to end incommunicado detention and torture, and to provide international observers access to all places of detention in the People's Republic of China and Tibet and to trials of prisoners arrested in connection with the pro-democracy events of April through June of 1989 and the pro-democracy demonstrations which have taken place in Tibet since 1987.

(8) Discourage or undertake to prevent compulsory political indoctrination programs from taking place on the premises of the operations of the industrial cooperation project.

(9) Promote freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media. To this end, the United States national should raise with appropriate authorities of the Chinese Government concerns about restrictions on importation of foreign publications.

(10) Undertake to prevent harassment of workers who, consistent with the United Nations World Population Plan of Action, decide freely and responsibly the number and spacing of their children; and prohibit compulsory population control activities on the premises of the industrial cooperation project.

(c) Promotion of Principles by Other Nations.—The Secretary of State shall forward a copy of the principles set forth in subsection (b) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

SEC. 942. REGISTRATION REQUIREMENT.

(a) In General.—Each United States national conducting an industrial cooperation project in the People's Republic of China or Tibet shall register with the Secretary of State and indicate whether the United States national agrees to implement the principles set forth in section 941(b). No fee shall be required for registration under this subsection.

(b) Effective Date.—The registration requirement of subsection (a) shall take effect 6 months after the date of the enactment of this Act.

SEC. 943. REPORTING REQUIREMENTS.

(a) Report.—Each United States national conducting an industrial cooperation project in the People's Republic of China or Tibet shall report to the Department of State describing the United States national's adherence to the principles set forth in section 941(b). Such national shall submit a completed reporting form furnished by the Department of State. The first report shall be submitted not later than 1 year after the date on which the United States national registers under section 942 and not later than the end of each 1-year period occurring thereafter.

(b) Review of Report.—The Secretary of State shall review each report submitted under subsection (a) and determine whether the United States national submitting the report is adhering to the principles. The Secretary may request additional information from the United States national and other sources to verify the information submitted.

(c) Annual Report.—The Secretary of State shall submit a report to the Congress and to the Secretariat of the Organization for Economic Cooperation and Development, describing the level of adherence to the principles by United States nationals subject to the reporting requirement of subsection (a). Such report shall be submitted not later than 2 years after the date of the enactment of this Act and not later than the end of each 1-year period occurring thereafter.

SEC. 944. EXPORT MARKETING SUPPORT.

(a) Support.—Departments and agencies of the United States may only intercede with a foreign government or foreign national regarding export marketing activity in the People's Republic of China or Tibet on behalf of a United States national subject to the reporting requirements of section 943(a) if that United States national adheres to the principles set forth in section 941(b).

(b) Type of Contact.—For purposes of this section, the term "intercede with a foreign government or foreign national" includes any contact by an officer or employee of the United States with officials of any foreign government or foreign national involving or contemplating any effort to assist in selling a good, service, or technology in the People's Republic of China or Tibet. Such term does not include multilateral or bilateral government-to-government trade negotiations intended to resolve trade issues which may affect United States nationals who do not adhere to the principles set forth in section 941(b).

(c) EFFECTIVE DATE.—Subsection (a) shall take effect 2 years after the date of the enactment of this Act.

SEC. 945. DEFINITIONS.

For purposes of this chapter—

(1) the terms "adhere to the principles", "adhering to the principles" and "adherence to the principles" mean—

(A) agreeing to implement the principles set forth in section 941(b);

(B) implementing those principles by taking good faith measures with respect to each such principle; and

(C) reporting accurately to the Department of State on the measures taken to implement those principles;

(2) the term "industrial cooperation project" refers to a for-profit activity the business operations of which employ more than 25 individuals or have assets greater than $25,000 in value; and

(3) the term "United States national" means—

(A) a citizen or national of the United States or a permanent resident of the United States; and

(B) a corporation, partnership, and other business association organized under the laws of the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

The CHAIRMAN pro tempore. Are there any amendments to title IX?

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM. Page 645, insert the following after line 15:

SEC. 911. OPIC OPERATIONS IN LAOS.

The Overseas Private Investment Corporation may not operate any of its programs in Laos unless the President determines and reports to the Congress that the Government of Laos has taken legal and law enforcement measures to prevent and punish public corruption, especially by government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

Mr. MCCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1720

Mr. MCCOLLUM. Mr. Chairman, very briefly, all this does is to say that we are not going to allow the Overseas Private Investment Corporation to operate in Laos unless the President determines and reports to us that the Government of Laos has taken measures that will assure that public corruption and so forth is not going on in that country, particularly with regard to drug trafficking. We are concerned that people be put in jail or taken care of or punished appropriately in that country.

With regard to drug trafficking, it is a big problem. All this amendment does is to do that.

I believe that the gentleman from New York is perhaps ready and the gentleman from Florida is ready to allow acceptance of this amendment.

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. MCCOLLUM. I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I simply want to let the Members know that the committee has considered the amendment. We have no objection to it and hope that it can be expeditiously enacted without the need for a rollcall vote.

The CHAIRMAN pro tempore. Is there any Member who wishes to speak in opposition to the amendment?

It not, the question is on the amendment offered by the gentleman from Florida [Mr. MCCOLLUM].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MC COLLUM

Mr. MCCOLLUM. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. MCCOLLUM. It is printed in the RECORD, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCOLLUM:—Page 627, strike out lines 1 through 4, and redesignate paragraphs (6) and (7) as paragraphs (5) and (6).

Mr. MCCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. MCCOLLUM. This particular amendment that I have proposed here, Mr. Chairman, is an amendment regarding Cambodia.

My amendment would not allow any of the $20 million authorized by this bill to be used in any areas controlled by the Phnom Penh regimes until all Vietnamese troops are out of Cambodia.

I have offered this amendment for several reasons. First, recent reports indicate that Vietnamese aid troops remain in Cambodia despite the alleged Vietnamese withdrawal. This has significant impact on our relations with all countries in the region.

In addition, it has come to my attention, that while this Congress has appropriated some meager funds for the non-Communist resistance, very little has gone to them and I am receiving reports that the private voluntary organizations in the region that receive funds and commodities prefer to work with the Communist regime in Phnom Penh.

This amendment would also indicate that the United States would not take sides should the Permanent 5 process or any other process lead to elections in Cambodia.

I am willing, however, to make a unanimous-consent request, and I will do that momentarily after I engage in a colloquy with the gentleman from New York, to substitute some language for this, to amend my own amendment, if there is an understanding with the gentleman from New York on a couple points. First, I will yield to the gentleman, would the gentleman agree that of the $20 million in humanitarian aid directed for Cambodia in this bill, at least half of that amount should be used directly with the non-Communist resistance?

Mr. Chairman, I yield to the gentleman from New York.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for yielding to me.

That, of course, is a determination that would have to be made by those responsible for actually implementing this, but it certainly would be my hope, and I might add, a very strong hope.

Mr. MCCOLLUM. The gentleman, am I correct, Mr. Chairman, would encourage that, I presume, with the State Department?

Mr. SOLARZ. I will certainly encourage it.

Mr. MCCOLLUM. The second thing that I am concerned with, Mr. Chairman, is the fact that the language in the bill right now talking about free elections only talks about the government of Phnom Penh.

I am about to make a unanimous-consent request concerning this about my amendment, but before I do that, I want to be sure we have an understanding with the gentleman that it is his intent, as it is I believe mine and should be that of the Congress if this is adopted, that whatever government is elected, whether it is the non-Communist resistance organization government or the existing government of Phnom Penh, if it is free and fair elections the intent would be that government will be recognized by us; is that correct?

Mr. SOLARZ. Mr. Chairman, if the gentleman will yield further, the gentleman is absolutely right. I would fully expect, in fact I would insist, as I would imagine every Member would, that if free and fair elections are finally held in Cambodia that we would work with whatever government emerged from those election, whether it was the current government in Phnom Penh or the non-Communist movements which oppose them.

The only other alternative is the Khmer Rouge, but it is fairly obvious that if there is ever a free and fair election, they are not likely to win. In fact, it is inconceivable that they would win; so the real choice would be between the non-Communist and the current regime in Phnom Penh. Whichever one wins in a fair and square election, that government we would expect to work with.

Mr. McCOLLUM. With that in mind, Mr. Chairman, and reclaiming my time, then, in order to allow us to reach an accommodation on this, I ask unanimous consent to modify my amendment.

The CHAIRMAN pro tempore. The Clerk will report the modification to the amendment offered by the gentleman from Florida [Mr. McCOLLUM].

The Clerk read as follows:

Modification of amendment offered by Mr. McCOLLUM: Page 627, line 2, strike out "should" and all that follows through "it" in line 3 and insert in lieu thereof the following: "or any party making up the noncommunist resistance, whichever organization the Cambodian people chose".

Mr. McCOLLUM (during the reading). Mr. Chairman, I ask unanimous consent that the modification be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the modification of the amendment offered by the gentleman from Florida [Mr. McCOLLUM]?

Mr. SOLARZ. Reserving the right to object, Mr. Chairman, I simply want to commend the gentleman from Florida for a very constructive proposal. I think this addresses some of the concerns some of us had with the original language in the amendment. It deserves, in my view, the support of all Members of the House.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. McCOLLUM. Mr. Chairman, I simply urge the adoption of my amendment, as modified.

The CHAIRMAN pro tempore. The modification of the amendment has been agreed to.

The text of the amendment, as modified, is as follows:

Amendment offered by Mr. McCOLLUM, as modified: page 627, line 2: amend the language of the paragraph so as to read:

(5) the United States is prepared to work with the current leadership in Phnom Penn or any party making up the noncommunist resistance, whichever organization the Cambodian people choose.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from Florida [Mr. McCOLLUM].

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. BURTON of Indiana. It is, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS IN INDIA.

(a) REPORT ON ACCESS OF HUMAN RIGHTS MONITORING ORGANIZATIONS.—Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress whether the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

(b) TERMINATION OF DEVELOPMENT ASSISTANCE PROGRAMS.—If the President reports to the Congress, either pursuant to subsection (a) or at any other time, that Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country, all development assistance for India shall be terminated, except for assistance to continue the vaccine and immuno-diagnostic development project, the child survival health support project, and the private and voluntary organizations for health II project.

(c) RESUMPTION OF ASSISTANCE.—Assistance terminated pursuant to subsection (b) may be resumed only if the President reports to the Congress that the Government of India is no longer implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1730

Mr. BURTON of Indiana. Mr. Chairman, there have been many, many atrocities that have taken place in the Punjab and Kashmir in India. The Indian Government should be held accountable for these atrocities. Over the next 2 years we are supposed to give them, if this bill passes, $200 million in developmental assistance. I think the Members of this body and the people of this country ought to know what the Government of India and the military of India have been doing to the people of Punjab and Kashmir.

In the Punjab at least 1,500 Sikhs have been killed this year alone. Since 1984 over 90,000, 90,000 Sikhs have died at the hands of the Indian forces in extrajudicial killings. In June of 1990 Indian forces prevented Sikhs in the Punjab from gathering to commemorate the June 19, 1984, Golden Temple attack atrocity which killed 20,000 Sikhs at this holiest of shrines, that the Sikhs hold in such high esteem.

In Kashmir, Mr. Chairman, since December of 1989 2,200 Kashmiris have died at the hands of Indian security forces.

On May 8 of 1991 India's Central Reserve police forces opened fire on 3,000 Kashmiri people gathered to mourn 4 victims of a police shooting. These troops fired for 10 minutes, leaving 10 people dead, their bodies scattered over the street next to a cemetery. When some Kashmiris returned to collect their dead, other troops gunned down a teenage boy. In total, 29 Kashmiris lost their lives from Indian bullets that day.

Get this, Mr. Chairman. On February 23 more than 800 Indians sealed off and rampaged through the village of Kunan. This lasted from 11 p.m. until 9 a.m. the next morning. These troops herded all the men into an icy field and while these men stood freezing under guard, Indian troops entered the village homes, their homes, and at gunpoint they gang raped 23 of the ladies.

Local people say that 100 women were molested that day.

Mr. Speaker, one of the women, Zarifa Bano, was raped by seven soldiers even though she was 9 months pregnant. Four days later she gave birth to a boy whose arm had been broken when one of the soldiers kicked her in the womb.

Another woman was gang raped by seven of the soldiers while they made her 5-year-old son watch.

The atrocities that are being perpetrated upon the people of Punjab and Kashmir are unbelievable, and yet the world is turning a blind eye to them.

The Sikh community in Punjab and the Kashmiri people in Kashmir need to be heard. Their voices need to be heard. And the best way for them to be heard is for us to send a very strong message to the Indian Government. That means cutting off $200 million in developmental assistance until they improve their human rights record.

This kind of action cannot be tolerated. I urge my colleagues to support this amendment.

Mr. FEIGHAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. McDERMOTT). The gentleman from Ohio [Mr. FEIGHAN] will be recognized for 5 minutes in opposition to the amendment.

Mr. FEIGHAN. Mr. Chairman, I think all of us in this Chamber share the goals that the gentleman from Indiana [Mr. BURTON] is attempting to reach by sponsorship of this amendment. Certainly we are all appalled by the hundreds of atrocities that have been committed by the Indian security forces. However, I think we do disagree very vigorously on the way to accomplish that same goal.

I would say that a cut in development aid is probably the least constructive thing that we could do.

Therefore, I am offering a perfecting amendment, and that amendment is at the desk.

AMENDMENT OFFERED BY MR. FEIGHAN TO THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. FEIGHAN. Mr. Chairman, I offer a perfecting amendment to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The Clerk read as follows:

Amendment offered by Mr. FEIGHAN to the amendment offered by Mr. BURTON of Indiana:

In the text proposed to be inserted by the amendment, strike subsections (b) and (c), redesignate subsection (a) as subsection (c), and insert the following before subsection (c), as so redesignated:

(a) FINDINGS.—The Congress finds that—

(1) India is the world's most populous democracy, with a long tradition of free elections, competing political parties, and vibrant civilian institutions, including an independent judiciary and a free press;

(2) India is a party to the International Covenant on Civil and Political Rights, and the Indian Constitution guarantees fundamental human rights, including freedom of speech, freedom of assembly, and the right of due process;

(3) numerous Indian human rights organizations investigate, document, and publish information on human rights violations in India;

(4) despite India's history of democratic government and tradition of respect for the rule of law, there exist in parts of the country serious human rights problems that Indian human rights organizations and many political and community leaders are actively working to redress;

(5) these serious human rights problems have included abuses by some members of the security forces, who have been responsible for arbitrary arrests and detentions without trial, torture, deaths in custody, and disappearances and extrajudicial killings of unarmed civilians and suspected militants;

(6) there have been numerous reports that Indian security forces have been responsible for killings of unarmed demonstrators, assaults upon civilians, and the burning of homes and other civil property in Kashmir;

(7) there have also been numerous reports that Indian security forces have been responsible for the extrajudicial execution of suspected militants in staged encounters in Punjab;

(8) human rights violations have occurred as a result of the application of certain Indian security laws, regulations and procedures, such as those that permit detention without trial for up to one year, the use of in camera trials, and the holding of persons in incommunicado detention, those that eliminate safeguards against the use of confessions that may have been coerced, and those that provide security forces with excessively broad authority for the use of deadly force and impose severe limitations on the ability to take legal action against members of the security forces who may have committed human rights abuses;

(9) while some international human rights monitors have visited Kashmir and Punjab and reported on conditions in those regions, the Government of India has not cooperated with international human rights organizations in their efforts to conduct human rights factfinding in India, and has limited access to areas of conflict for international humanitarian organizations;

(10) militants in both Punjab and Kashmir have engaged in gross abuses against civilians, including kidnapping, murder, and attacks on civilian institutions, such as the media, the judiciary, and elected officials;

(11) acts of murder, intimidation, and harassment by militants in Kashmir have caused great suffering, including massive dislocation, especially for the Kashmiri Hindu community;

(12) numerous credible reports suggest that militants operating in Punjab and Kashmir have received arms and training from sources in Pakistan; and

(13) as a result of abuses committed by both the militant groups and Indian security forces, thousands of civilians have been killed or injured, or have disappeared, and hundreds have been made homeless.

(b) STATEMENT OF THE CONGRESS.—(1) The Congress calls upon the Government of India to take action to promote adherence to internationally recognized human rights standards, including actions to—

(A) ensure against long-term detention without trial, in camera trials, and the holding of persons in incommunicado detention;

(B) ensure that all detainees are brought before a judicial authority promptly after arrest, and to permit family members and lawyers immediate access to all persons in detention;

(C) maintain safeguards against the use in court of confessions that may have been coerced;

(D) affirms that all members of the security forces will be held responsible and subject to prosecution for human rights abuses;

(E) investigate all reports of human rights violations by members of the security forces and prosecute those who are found responsible; and

(F) expand access for international human rights and humanitarian organizations.

(2) The Congress urges the Government of India to pursue discussion and dialogue with representatives of a broad spectrum of the populations of Punjab, Kashmir, and other areas of civil conflict, in order to encourage a better understanding of grievances within these areas and to promote the process of political normalization.

(3) The Congress condemns gross abuses by militants in Kashmir and Punjab, who have been responsible for kidnapping, executions of civilians, and attacks on civilian institutions, and urges all military groups to cease the use of force to achieve political objectives.

(4) The Congress urges the Secretary of State to raise Indian human rights issues with the Government of India.

(5) The Congress calls upon Pakistani authorities not to provide arms or training to militants in Punjab or Kashmir, and urges the Secretary of State to convey this message to Pakistani officials.

Mr. FEIGHAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Ohio [Mr. FEIGHAN] still has time in opposition to the Burton amendment.

Mr. FEIGHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the perfecting amendment that I have offered expresses the very deep concern of this Congress about the human rights abuses by Indian security forces in Punjab, Kashmir, and in other regions of India. And it goes further, it urges the Indian Government to take a number of steps to curb abuses by the security forces.

I think this amendment to the amendment offered by the gentleman from Indiana [Mr. BURTON] represents a consensus between the administration, the Congress, and international human rights groups. It was drafted in close consultation with Asia Watch. The administration has no objection to the language. I think if we realize that the amendment offered by the gentleman from Indiana would cut several important programs in India, we would realize that without my amendment it in fact will hurt those innocent people whom we are attempting to help.

The amendment offered by the gentleman from Indiana would eliminate developmental assistance for certain housing programs, for AIDS prevention and control in India, for a whole range of other important developmental projects that go to those people, the most needy in India, to whom we certainly want to offer some assistance.

Finally, Mr. Chairman, I would say that the amendment that I am offering goes further than the amendment offered by the gentleman from Indiana, in that it calls attention to the atrocities that are committed by militant groups in the Punjab and Kashmir as well.

We condemn the conduct of those militants in language which is not included in the underlying amendment offered by the gentleman from Indiana.

Mr. Chairman, I would urge my colleagues to support this important amendment, continue the developmental aid to India, and yet make a very clear statement, a compelling statement about the deep concerns of this Congress and the administration about the abuses that we see.

Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the substitute offered by the gentleman from Ohio [Mr. Feighan] and in strong opposition to the amendment offered by the gentleman from Indiana [Mr. BURTON].

Mr. Chairman, I think the Burton amendment is utterly unbalanced. There are, to be sure, human rights problems in India, but they are not caused just by the Indian Government. They are also caused by Sikh militants and by Kashmiri extremists.

Just last week Sikh militants murdered up to 200 people in cold blood on two trains. There is not a word about it in Mr. BURTON's amendment.

If we want to send India a message, the way to do it is to adopt the Feighan substitute which expresses concern about the human rights problems there and also asks India to open up their country to Amnesty International.

But the fact of the matter is that under the Burton amendment we would not just be asking them to open up their country, we would potentially be cutting out $22 million in development assistance. There is not a single precedent in which the Congress has ever cut back or reduced aid to a constitutional democracy on human rights grounds. In fact, over the past decade, there has not been a single instance in which we cut back on development assistance, even to the most brutal dictatorships, on human rights grounds, because development assistance programs are designed to help people in need. We do not penalize the government when we cut back on development assistance; they penalize the people.

So if we are concerned about human rights in India, the way to express that concern in a reasonable and responsible way is to vote for the Feighan substitute.

Finally, if you were to listen to Mr. BURTON, you would think India has sealed off Kashmir and Punjab. That is nonsense. Asia Watch just went to Kashmir, Indian human rights groups are permitted to go into Kashmir and Punjab. In fact, Pakistan takes the human rights reports submitted by Indian human rights organizations and submits them to the United Nations.

So the notion that India is somehow cordoning off Punjab and Kashmir and we have to open it up by threatening to cut off $22 million in development assistance to open it up is simply untrue and unfounded.

Mr. BURTON of Indiana. Mr. Chairman, how much additional time do we have?

The CHAIRMAN pro tempore. The gentleman from Indiana [Mr. BURTON] has 2 minutes remaining.

Mr. BURTON of Indiana. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong support of the Burton amendment. The atrocities tolerated by the Indian Government and documented by Amnesty International, Asia Watch, the New York Times, the Washington Post, and other impartial observers warrants nothing less than strong response from the U.S. Congress.

Amnesty International has confirmed abundant human rights abuses in India today, including more than 25,000 people being detained without trial. Thousands of people being murdered by security forces in fake encounters. Hundreds of women being raped by police. Security forces firing into unarmed crowds, killing scores of innocent people. Torture is being rampant in Indian jails. Local government has been suspended in several regions. Human rights groups despite what the gentleman from New York said, still are not allowed into India and only by sneaking in has Asia Watch been able to get in, despite what the gentleman from New York has said. Let us take a strong response and support the Burton amendment.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself the remaining minute.

Mr. Chairman, I say to my colleague from New York, baloney, baloney. The gentleman knows that Amnesty International cannot get into Punjab and Kashmir, he knows the International Red Cross cannot get into Punjab and Kashmir because the Indian Government does not want the world to see the atrocities that are taking place there. That is a fact. And why should the United States of America be giving $200 million to that government in developmental assistance when these atrocities still go on? When they will not let anybody see if the curtain is drawn down?

□ 1740

Mr. Chairman, it is wrong.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Indiana [Mr. BURTON]. I do not think this is an issue that will go away, and I do not think a simple sense-of-the-Congress amendment is adequate to the atrocities and the problems that people in the Punjab have been experiencing. The Indian Government has to know that the American people want to put some teeth in this law, and those teeth would be the withdrawal of development assistance should international human rights organizations continue to be deprived of their opportunity to get into that region.

Mr. Chairman, I rise today in support of the Burton amendment and in opposition to the Feighan/Solarz substitute.

Although India has been called the world's largest democracy, the recent violent election, which claimed more than 250 lives, and an Amnesty International report, which documented approximately 4,000 political killings last year alone, are bitter reminders that the human rights situation in India has only deteriorated.

Improvements in human rights does not seem to be forthcoming as these killings have been exacerbated by the continual interethnic conflict between the government security forces and minority groups. A recent CRS report, that Congressman DREIER and I requested, states that:

> In Punjab and Kashmir, the centrally controlled paramilitary forces are generally composed of nonindigenous people who could be said to have little regard for the lives of the local people.

In addition to the killings, thousands more are in jail who will never see a trial, and at least five states are currently under martial law. Continued promises by India's political leadership for fresh elections in Punjab's 117-seat assembly, which was dissolved more than three years ago, has yet to be realized.

India has been plagued by increasingly religious and ethnic violence in many sections of the country, most notable in the Punjab and Kashmir. In seeking to suppress dissent and separatism, the Govenrment of India has resorted to violence, bludgeoning the principles of democracy upon which India was founded.

Violence and terrorism, on any side, can only serve to undermine a true and lasting peace between all the peoples of India. The Government of India must renounce the use of force, stop the human rights abuses, and honor its commitments for regional autonomy which were an integral part of the formation of India in 1947.

As progress in these areas has not been realized, Congress can no longer stand idly aside, but should condemn these actions by conditioning develomental assistance on an improvement in human rights.

Mr. Chairman, I believe that the Burton amendment most effectively and clearly sends that message to the Government of India.

Mr. BURTON of Indiana. For God's sake, let us help those people.

Mr. MATSUI. Mr. Chairman, I rise in opposition to the amendment offered by my colleague from Indiana [Mr. BURTON], and in support of the substitute offered by my colleague from Ohio [Mr. FEIGHAN]. While I do not condone human rights violations in this or any other region, I do not believe that suspension of India's development assistance funding is the answer to alleviating human rights abuses in Punjab, Kashmir or any other part of India. Control of the surging violence in many regions cannot be accomplished by imposing sanctions on India because it does not address the essence of the conflict. By following this path we will only further the poverty and hunger that is prevalent in this vast country.

The recent assassination of former Prime Minister Rajiv Gandhi and the potential for destabilization throughout the country makes the need for development assistance programs more imperative than ever. Shortly, India will emerge with a new political leader. We must not prejudge the role that this leader will play in promoting human rights throughout the country. The public world must encourage whoever shall lead India to work toward peace throughout the internal framework of the country.

Again, suspending development assistance programs will not address the heart of the problem in this volatile region but will serve only to drive a wedge between United States-India relations. The Feighan substitute appropriately expresses the deep concern of Congress over the human rights abuses in Punjab, Kashmir and other regions of India and it does not hurt the people of India who depend upon development aid for improved living conditions. I urge my colleagues to oppose the Burton amendment and support the Feighan substitute.

The CHAIRMAN pro tempore [Mr. McDermott]. The question is on the amendment offered by the gentleman from Ohio [Mr. Feighan] to the amendment offered by the gentleman from Indiana [Mr. Burton].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLARZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to clause 6, rule XXIII, the Chair announces that he will reduce to 5 minutes the time for a recorded vote, if ordered, on the amendment offered by the gentleman from Indiana [Mr. Burton], as amended or not, if the vote occurs immediately following the pending vote.

The vote was taken by electronic device, and there were—ayes 271, noes 144, answered "present" 1, not voting 16, as follows:

[Roll No. 178]

AYES—271

Ackerman
Alexander
Allard
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Archer
Aspin
Atkins
AuCoin
Barnard
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Broomfield
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Coughlin
Coyne
Darden
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Eckart
Edwards (TX)
Engel
English
Evans
Fascell
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hansen
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Livingston
Long
Lowey (NY)
Luken
Manton
Markey
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Mineta
Mink
Moakley
Mollohan
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Rangel
Ray
Reed
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schroeder
Sharp
Shaw
Shays
Sisisky
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Swett
Swift
Synar
Thomas (CA)
Thornton
Towns
Traxler
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Zimmer

NOES—144

Abercrombie
Andrews (ME)
Applegate
Armey
Bacchus
Baker
Ballenger
Barrett
Barton
Bevill
Bilirakis
Bliley
Boehner
Brewster
Browder
Bunning
Burton
Callahan
Camp
Chapman
Clay
Coble
Condit
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeFazio
Dickinson
Dixon
Donnelly
Dooley
Doolittle
Dornan (CA)
Dreier
Early
Edwards (CA)
Edwards (OK)
Emerson
Erdreich
Espy
Fazio
Fields
Franks (CT)
Gallegly
Gaydos
Gekas
Geren
Gillmor
Glickman
Gordon
Goss
Hall (TX)
Hancock
Harris
Hefner
Henry
Herger
Holloway
Hunter
Inhofe
Ireland
Jacobs
James
Kasich
Kolter
Kostmayer
Kyl
LaFalce
Laughlin
Lewis (FL)
Lipinski
Lowery (CA)
Machtley
Marlenee
McEwen
Meyers
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moody
Moorhead
Moran
Myers
Nowak
Packard
Parker
Patterson
Paxon
Quillen
Ramstad
Ravenel
Regula
Rhodes
Riggs
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Sanders
Schaefer
Schiff
Schulze
Schumer
Sensenbrenner
Shuster
Sikorski
Skeen
Slaughter (VA)
Smith (OR)
Solomon
Stark
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Torres
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wheat
Wilson
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff

ANSWERED "PRESENT"—1

Bateman

NOT VOTING—16

DeLay
Fawell
Gingrich
Gray
Hammerschmidt
Hopkins
Huckaby
Levine (CA)
Lloyd
Martin
Martinez
Oberstar
Serrano
Skaggs
Spence
Torricelli

□ 1803

Messrs. SLAUGHTER of Virginia, SHUSTER, CLAY, MORAN, EDWARDS of California, MILLER of Washington, and HALL of Texas changed their vote from "aye" to "no."

Ms. WATERS, Messrs. LEWIS of Georgia, JEFFERSON, and HORTON, Mrs. BOXER, Messrs. McCANDLESS, ROSE, BARNARD, SLATTERY, and Ms. PELOSI changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana [Mr. Burton] as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore [Mr. McDermott]. Is the amendment printed in the Record?

Mr. BURTON of Indiana. Yes, it is, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Burton of Indiana:

—Page 657, after line 25, insert the following:

SEC. 927. HUMAN RIGHTS IN INDIA.

(a) Report on Access of Human Rights Monitoring Organizations.—Not later than 60 days after the date of enactment of this Act, the President shall report to the Congress whether the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

(b) Termination of Development Assistance Programs.—If the President reports to the Congress, either pursuant to subsection (a) or at any other time, that the Government of India is implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country, 50 percent of development assistance for India shall be terminated, except for assistance to continue the vaccine and immunodiagnostic development project, the child survival health support project, and the private and voluntary organizations for health II project.

(c) Resumption of Assistance.—Assistance terminated pursuant to subsection (b) may be resumed only if the President reports to the Congress that the Government of India is no longer implementing a policy which prevents representatives of Amnesty International and other human rights organizations from visiting India in order to monitor human rights conditions in that country.

Mr. BURTON of Indiana (during the reading.) Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. BURTON of Indiana. Mr. Chairman, people are dying and being tortured and being raped, and children are being shot in Punjab and Kashmir in India. And the world has turned a blind eye to it.

Just a moment ago, I hope in error, 271 of my colleagues voted to just slap the wrist of India by sending a sense of Congress resolution. We need to send a stronger message.

They will not even allow Amnesty International or the International Red Cross into Punjab and Kashmir because they do not want the world to see these artocities.

Women are being raped. One woman gave birth to a child with a broken arm because the guy that raped her kicked her. And the baby was born 4 days later with a broken arm. In Punjab and in Kashmir these things are going on daily. I have seen pictures of these people burnt all over their bodies, tortured until they were killed, their genitals cut off, all kinds of torture.

Yet the world is not allowed to see this because they will not allow Amnesty International and the International Red Cross into Punjab and Kashmir.

This amendment will cut off half, just half, of the $200 million that we are supposed to give to India in developmental assistance over the next 2 years—just half, and will give it back to them the minute that they allow human rights groups into Punjab and Kashmir.

Is that too much to ask? For God's sake, for God's sake, think about it. If we just cut off $100 million from India, it will send a signal that will be heard around the world that we are against human rights violations and torture of our fellow man. We must do this.

I plead with my colleagues today. Please vote in favor of my amendment. If they allow Amnesty International or the International Red Cross into Punjab and Kashmir, then the world will know and they will get their aid. But until they do that, we should withhold it. I urge my colleagues' support. I urge my colleagues' support for God's sake.

□ 1810

Mr. SOLARZ. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we just had this debate. Those of the Members who voted in favor of the Feighan amendment, I hope, will now vote against the Burton amendment.

The gentleman from Indiana says that we are turning a blind eye to what is happening in Kashmir and Punjab. We are not turning a blind eye. We just adopted a resolution expressing the concern of the Congress about the human rights problems in Kashmir and Punjab, and we have gone on record with respect to that, but the gentleman from Indiana has created a totally false and misleading impression.

If we listen to him, we would think the Indian Government has cordoned off Kashmir and Punjab; nobody is allowed in, and under the cloak of darkness, women are being raped and innocents are being killed, and so on and so forth.

The fact of the matter is that Asia Watch has just sent researchers into Kashmir and Punjab, and they have published, or will be publishing, their reports. Several Indian human rights organizations have been given access to Punjab and Kashmir. They have submitted their reports. Foreign correspondents from the New York Times, the Washington Post, the Wall Street Journal, and dozens of other foreign newspapers have been permitted to go to Kashmir and Punjab. Amnesty International is now negotiating with the Government of India to send a team in there.

To suggest that India does not let human rights groups into Kashmir and Punjab is totally and completely untrue.

The gentleman now says that we should eliminate half of our development assistance to India if they do not let in Amnesty International. The fact of the matter is that we have never, ever cut humanitarian assistance to a constitutional democracy, and India is not the only democracy in the world where there are human rights problems. We did not cut development assistance to El Salvador or to Guatemala. We did not eliminate it in those countries although there are human rights abuses there. Indeed, over the past decade, we have not even cut development assistance to dictatorships because of human rights problems.

This is because development and humanitarian assistance goes to people, poor people, needy people.

We already had the debate on the Burton amendment. We have gone on record to express our concern about human rights, and I urge all of those who just voted against Burton before by voting for the Feighan substitute to vote against Burton now, because this is, in essence, the same vote we just had 5 minutes ago.

Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. ATKINS], my good friend.

Mr. ATKINS. Mr. Chairman, I rise in opposition to the Burton amendment. This is an amendment that punishes the victims.

If we are worried about misery and suffering and the suffering that has been caused in India by the Indian security forces, the way to resolve it certainly is not to try to starve children, to deny development assistance to the poorest of the poor. This is a crazy and a misguided amendment. It is an amendment which will make human rights even more difficult in India.

The Indian Government, as we speak, is negotiating with Amnesty International on sending a team in there. There are other human rights teams in there. There is tremendous concern in India about the abuses.

This amendment would make those abuses worse, make it more difficult to solve the problem, and punish innocent women and children.

Mr. SOLARZ. Mr. Chairman, I yield to my good friend, the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, I rise in opposition to the amendment proposed by the gentleman from Indiana [Mr. BURTON].

The fact is that India is a democracy, a democracy with as many problems as we have today.

The gentleman from Indiana [Mr. BURTON] would give the impression that the Parliament has met on this policy of genocide in Kashmir or Punjab, or the Cabinet has made its decision. The fact of the matter is that the Indians are as concerned about this problem as much as we are.

If Kashmir and Punjab do not need something it is congressional interference in the issues facing Pakistan and India on these two particular problems.

I, therefore, ask for a no vote on the Burton amendment.

Mr. SOLARZ. Mr. Chairman, let me just say in conclusion, particularly to my friends on the other side of the aisle, that the administration is strongly against the Burton amendment. Neither Asia Watch nor Amnesty International are supporting the amendment.

If we really want Amnesty International to get into these areas, and keeping in mind other human rights groups have already gotten in, the best way to make sure that Amnesty does not get in is to threaten to withhold this assistance, because under those circumstances India is much less likely to successfully consummate their negotiations with Amnesty.

I urge the defeat of the amendment.

Mr. BURTON of Indiana. Mr. Chairman, what is wrong with withholding the assistance until they allow Amnesty International and the International Red Cross into Punjab to investigate? What is wrong with that?

Amnesty International and the International Red Cross do have in New Delhi, hundreds of miles away from Punjab and Kashmir, a little bitty service office, but they have been trying to get into Punjab and Kashmir for years without success.

There have been reporters and there have been some human rights people who have sneaked into those areas to find out, but they are not allowed in by the Indian Government. They have been negotiating, as the gentleman from New York might lead you to believe, for 2 years with no success. They are still not allowed into Punjab and Kashmir.

All my amendment says is that we are going to cut off developmental aid, half of it, just half of it, no humanitarian assistance; this does not apply to humanitarian assistance, only developmental aid, half of it, $100 million for 2 years, half for 2 years. I just want to say to my colleagues that if they really care about human rights and they really care about their fellow man, they really ought to vote for this amendment, because it is not taking anything away from India, because the minute they allow these groups into Punjab and Kashmir, they will get their developmental assistance. There is no loss to them as long as they do what is right, what is humane.

I urge the Members to vote for this.

Mr. MARKEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana.

This past weekend, more than 100 innocent civilians were gunned down aboard two trains in the Punjab region of India by Sikh militants. This terrible and senseless violence is another episode in the ongoing separatist movement. It follows a pattern of violence that has involved Sikh and Moslem militants and Indian security forces alike. Like my colleague from Indiana, I deplore this violence and call on all parties involved to refrain from acts of terrorism and violence and to concentrate on peaceful political dialog.

I oppose this amendment because it fails to recognize that violence is being committed by those on both sides of the ongoing struggle. The amendment condemns India for failing to control the continuing violence while remaining silent on the atrocities perpetrated by the separatist terrorists. The terrible deaths of 110 innocent civilians gunned down by Sikh militants last weekend makes the omission of any language condemning the violence of the militant separatist groups even more glaring in its absence.

Such violence does not excuse India's own mistakes. The documented cases of human rights abuses by Indian security forces are deplorable. I support the recommendations of Asia Watch and others that the Government of India establish independent commissions of inquiry into all reports of violations. But action by the Government of India, not by the U.S. Congress, is most appropriate in dealing with these issues. India is to be commended for launching its own inquiries into violations and for pursuing criminal cases against those involved in violations, and I urge the Indian Government to quickly move to establish independent commissions as well.

Today the final results of a tumultuous Indian election were made public. Despite the terrible and tragic assassination of leading candidate and former Prime Minister Rajiv Gandhi, the Congress Party, which has won a plurality, will now try to form a government. As India and its new government continue to confront the tumult in Kashmir, the United States should work with the new government in support of a peaceful resolution to this regional conflict. And the best way to do so is to support bilateral talks between the Pakistani and Indian Governments.

These talks, begun in 1972 with the Simla accord of that year, hold the most promise for a peaceful solution. Recent discussions between the foreign secretaries of India and Pakistan have suggested progress, and I strongly urge both governments to continue to pursue peaceful political dialogue.

In the meantime, any statement expressing our serious concerns about the continuing violence must be evenhanded and free from double standards. I urge a no vote on the amendment.

The CHAIRMAN pro tempore [Mr. McDERMOTT]. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. The vote will be postponed until after debate on the next amendment and all amendments thereto.

Are there other amendments to title IX?

Mr. BURTON of Indiana. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

PARLIAMENTARY INQUIRY

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BURTON of Indiana. Mr. Chairman I do not understand why we are not having a vote on this particular amendment. It is a freestanding amendment with no perfecting amendments to it. Why are we not having a vote on it right now?

The CHAIRMAN pro tempore. The Chair was requested by the chairman of the committee and the ranking member to postpone the vote until after the debate on the next amendment so we can reduce the time required for the votes.

Mr. BURTON of Indiana. Mr. Chairman, further asking a parliamentary inquiry, the next amendment will be another freestanding amendment that does not even pertain to the same subject matter. How are you going to group those two together? I do not understand that.

The CHAIRMAN pro tempore. The votes can be in sequence, one 15-minute and one 5-minute.

Mr. BURTON of Indiana. Mr. Chairman, I just ask for regular order. I think we ought to vote on this while everybody has it fresh in their minds, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair has announced its intention.

The Clerk will read the amendment.

The Chair will rescind his decision on the amendment.

This is a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 182, noes 229, answered "present" 1, not voting 20, as follows:

[Roll No. 179]

AYES—182

Abercrombie
Allard
Andrews (ME)
Andrews (TX)
Applegate
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bennett
Bevill
Bilirakis
Bliley
Boehner
Brewster
Brooks
Browder
Bunning
Burton
Callahan
Camp
Carr
Chapman
Clement
Coble
Coleman (MO)
Condit
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Davis
DeFazio
Dickinson
Dingell
Donnelly
Dooley
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Fazio
Fields
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gillmor
Glickman
Goss
Hall (TX)
Hancock
Hansen
Harris
Hayes (LA)
Hefley
Hefner
Henry
Herger
Holloway
Hubbard
Hunter
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (TX)
Jones (NC)
Kasich
Kolbe
Kolter
Kyl
LaFalce
Laughlin
Leach
Lehman (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Luken
Machtley
Marlenee
Martin
McEwen
McMillan (NC)
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Murphy
Myers
Neal (NC)
Nichols
Nowak
Nussle
Oxley
Packard
Parker
Patterson
Paxon
Porter
Poshard
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Rowland
Sangmeister
Saxton
Schaefer
Schulze
Schumer
Sensenbrenner
Shuster
Sikorski
Skeen
Slattery
Slaughter (VA)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Traficant
Traxler
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wheat
Wilson
Wylie
Young (AK)
Young (FL)
Zeliff

NOES—229

Ackerman
Alexander
Anderson
Andrews (NJ)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bentley
Bereuter
Berman
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Broomfield
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Chandler
Clay
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Cox (IL)
Coyne
Darden
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dixon
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Engel
Espy
Evans
Fascell
Feighan
Fish

Flake
Foglietta
Ford (MI)
Frank (MA)
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hastert
Hatcher
Hayes (IL)
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hughes
Hutto
Hyde
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
Lagomarsino
Lancaster
Lantos
LaRocco
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Long

Lowey (NY)
Manton
Markey
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Mink
Moakley
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Price
Rahall
Rangel
Reed
Richardson
Rinaldo
Ritter
Roe
Rose
Rostenkowski

Roukema
Roybal
Russo
Sabo
Sanders
Santorum
Sarpalius
Savage
Sawyer
Scheuer
Schiff
Schroeder
Sharp
Shaw
Shays
Sisisky
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Swett
Swift
Synar
Thomas (CA)
Thomas (GA)
Thornton
Torres
Towns
Unsoeld
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weiss
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Zimmer

ANSWERED "PRESENT"—1

Bateman

NOT VOTING—20

Campbell (CA)
DeLay
Fawell
Gingrich
Gray
Hammerschmidt
Hopkins

Huckaby
Lehman (FL)
Levine (CA)
Lloyd
Martinez
McCloskey
Mineta

Oberstar
Pursell
Serrano
Skaggs
Spence
Torricelli

□ 1837

The Clerk announced the following pair:

On this vote:

Mr. DELAY, with Mr. LEVINE against.

Mr. SHAYS and Mr. RICHARDSON changed their vote from "aye" to "no."

Mr. MILLER of California changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. BURTON of Indiana. It is, Mr. Chairman.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 657, after line 25, insert the following:

SEC. 927. FREEDOM FOR KASHMIR.

(a) FINDINGS.—The Congress finds that—

(1) the historically independent people of the State of Jammu and Kashmir (commonly referred to as "Kashmir") have been denied the plebiscite that was promised them by resolutions adopted in 1948 and 1949 by the United Nations Commission for India and Pakistan;

(2) those resolutions were agreed to by the Government of India and the Government of Pakistan, with the firm support of the United States;

(3) the United States, as the world's most powerful democracy, has supported the principle that the status of the State of Jammu and Kashmir should be decided by the democratic method of a plebiscite under impartial control and supervision;

(4) despite those resolutions, during the past 40 years the people of the State of Jammu and Kashmir have suffered through 2 wars and continuous unrest while being denied the right to self-determination by the Government of India;

(5) the inevitable frustrations of a people being governed without their consent have recently resulted in an upsurge of conflict and violence in the State of Jammu and Kashmir;

(6) the Government of India has responded to this situation by isolating the State of Jammu and Kashmir from the outside world;

(7) there have been an increasing number of reports of unwarranted use of deadly force, as well as torture, rape, beatings, restriction of medical services, and other violations of basic human rights;

(8) the Government of India has continued to refuse the requests of Amnesty International and the International Committee of the Red Cross, to enter the State of Jammu and Kashmir to investigate and evaluate the situation;

(9) the Government of India has refused to respond to unofficial offers by the International Committee of Red Cross to provide humanitarian assistance to the State of Jammu and Kashmir; and

(10) the United States supports the Universal Declaration of Human Rights and the internationally recognized rights of freedom of speech, assembly, and press, and due process of law.

(b) POLICY DECLARATIONS.—The Congress—

(1) deplores the excessive use of force and violence, including torture, by the security forces of the Government of India against civilians in the State of Jammu and Kashmir;

(2) demands that the Government of India open the borders of the State of Jammu and Kashmir to Amnesty International and the International Committee of the Red Cross to permit an accurate assessment of the human rights situation in the State of Jammu and Kashmir;

(3) reaffirms that the question of the future status of the State of Jammu and Kashmir be decided through the democratic method of a free and impartial plebiscite; and

(4) calls on the President, the United Nations, and the international community to use all measures at their disposal to establish the conditions necessary for a free and impartial plebiscite in the State of Jammu and Kashmir.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1840

The CHAIRMAN pro tempore [Mr. MCDERMOTT]. The gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

Mr. BURTON of Indiana. Mr. Chairman, the human rights violations that I talked about earlier in my previous two amendments are documented in some detail by Asia Watch reports, "Human Rights in Kashmir, India, Under Seige," and, of course, human rights violations in Punjab.

I wish I had thought to bring those to the attention of my colleagues earlier.

Mr. Chairman, this amendment is a sense-of-Congress resolution. It does not withhold any developmental funds. All it says is that we as a body believe that the Government of India should live up to a commitment it made and the United Nations made in 1948 when they promised that the people of Kashmir would be given a plebiscite on whether or not they would be granted independence from both Pakistan and India. I would just like to read to you just a little bit about the history of this.

On January 1, 1948, after an armed conflict between India and Pakistan, India, and let me repeat, India brought the Kashmir issue before the United Nations Security Council.

In both 1948 and 1949 the United Nations Commission on India and Pakistan adopted a resolution which laid down the future of Jammu and Kashmir, whether to join India or Pakistan. And it should be decided, they agreed, by plebiscite.

Both India and Pakistan supported these resolutions and even Prime Minister Nehru said in 1951, "We have given our pledge to the people of Kashmir and subsequently to the United Nations. We stood by it, and we stand by it today. Let the people of Kashmir decide."

This resolution is still on the books. It is still in effect at the United Nations. All we ask in this resolution is that we as a body, as a government support a plebiscite in Kashmir to decide whether or not there should be an independent country as was promised by the leaders of India in 1948 through 1951 and by the United Nations.

For 44 years, Mr. Chairman, the people of Kashmir have suffered under the brutal oppression of the Indian Government, as I talked about before. Human rights groups, International Red Cross are not allowed into Kashmir right now. I will not cover that ground again. But the fact of the matter is that the people of Kashmir overwhelmingly are requesting, are pleading for the United Nations and the world to live up to the commitment that was made to them in 1948 that there be a plebiscite on independence.

I would just like to say that I think we as a government ought to support that, support the United Nations, support the previous leaders of India and give the people of Kashmir their plebiscite on independence.

Mr. Chairman, I reserve the balance of my time.

Mr. SOLARZ. Mr. Chairman, I have a perfecting amendment at the desk.

The CHAIRMAN pro tempore [Mr. ROWLAND]. Is the gentleman from New York [Mr. SOLARZ] in opposition to the amendment offered by the gentleman from Indiana [Mr. BURTON]?

Mr. SOLARZ. Mr. Chairman, I rise in opposition to the gentleman's amendment, and I have a perfecting amendment at the desk.

The CHAIRMAN pro tempore. The gentleman from New York [Mr. SOLARZ] is recognized.

AMENDMENT OFFERED BY MR. SOLARZ TO THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. SOLARZ. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The Clerk read as follows:

Amendment offered by Mr. SOLARZ to the amendment offered by Mr. BURTON of Indiana: Page 1, strike line 3 and all that follows through line 21 on page 2, and insert the following:

(1) Indian and international human rights organizations have reported serious abuses by some members of the security forces in Kashmir, including arbitrary arrests and detentions without trail, torture, deaths in custody, disappearances, killings of unarmed demonstrators, assaults against civilians, and burning of homes and other civilian property;

(2) such abuses have encouraged disaffection within the Kashmir community, which has been exacerbated by the suspension of local rule in Kashmir;

(3) a lasting settlement to the conflict in Kashmir will require political arrangements which would address the legitimate needs of all affected parties, including India, Parkistan, and all Muslim and non-Muslim Kashmiris;

(4) in 1972, India and Pakistan agreed to the provisions of the Simla Declaration, which provides that both countries would agree to resolve their differences "by peaceful means through bilateral negotiations or by other peaceful means mutually agreed upon between them";

(5) although international human rights monitors have visited Kashmir and reported on conditions there, the Government of India has not cooperated with international human rights organizations in their efforts to conduct human rights factfinding in Kashmir, and has limited access to areas of conflict for international humanitarian organizations;

(6) militants in Kashmir have been responsible for gross abuses against civilians, including kidnapping, murder, and attacks on civilian institutions; and

Page 2, line 22, strike "(10)" and insert "(7)".

Page 3, strike lines 6 through 18, and insert the following:

(2) urges the Government of India to investigate all reports of human rights violations in Kashmir and bring prosecutions against those believed to be responsible;

(3) urges the Governments of India and Pakistan to work to settle their differences by peaceful means as envisioned in the Simla Declaration;

(4) urges the Indian Government to undertake discussion and dialogue with representatives of all the people of Kashmir in order to encourage the reestablishment of a political process and address the popular grievances of the people of Kashmir; and

(5) condemns acts of terror by militants in Kashmir and urges them to cease the use of force to achieve political objectives.

Mr. SOLARZ (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I would like to see a copy of the gentleman's perfecting amendment, if possible.

Mr. CHAIRMAN pro tempore. The Clerk will read.

Mr. SOLARZ. Mr. Chairman, I would say to my friend, the gentleman from Indiana, we have already given him a copy.

Mr. BURTON of Indiana. Mr. Chairman, under my reservation the gentleman wants to respond. Is that in order?

The CHAIRMAN pro tempore. That is in order.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from New York [Mr. SOLARZ] is recognized for 5 minutes.

Mr. SOLARZ. Mr. Chairman, I rise in strong opposition to the amendment offered by my good friend, the gentleman from Indiana [Mr. BURTON]. His amendment would call for the holding of a plebiscite in Kashmir in order to give the people of that territory an opportunity to determine the future political status of the territory. I think that would constitute an utterly unjustified and unwarranted interference in the interal affairs of India and would have an absolutely chilling impact on Indo-American relations.

Let me give you, very briefly, a little bit of history here. In 1947, when the subcontinent was partitioned, the British partition plan provided that each of the princely states, of which Kashmir was one, would have to choose between becoming part of India or part of Pakistan.

The ruler of Kashmir, the Maharajah, opted in favor of becoming part of India. It was a legitimate act of accession.

Pursuant to that act of accession, Kashmir became part of India. It is true subsequent to that time a United Nations resolution was adopted calling for a plebiscite in Kashmir to determine the future of the territory. But that resolution provided that before the plebiscite could be held, all of Pakistan's Armed Forces that were in Kashmir would have to be withdrawn. The reason the plebiscite was never held was because Pakistan never withdrew all of its Armed Forces, as it was supposed to do under the terms of that U.N. resolution.

In 1956, a freely elected constituent assembly in the State of Jammu and Kashmir adopted a contitution which clearly made Kashmir a part of India. Elections were subsequently held in Jammu and Kashmir. Kashmir is clearly a part of India. If we now adopt the resolution calling for a plebiscite in Kashmir, it would be bitterly resented by the people and Government of India.

Would we call for a plebiscite in Quebec? Would we call for a plebiscite in the Basque part of Spain? Would we call for a plebiscite in other parts of the world where some people may not want to remain part of the country to which they now belong? We would not do these kinds of things. This is why we fought a Civil War about 130 years ago. We were not in favor of a plebiscite in those States which wanted to secede from the Union.

Abraham Lincoln made the point that once the Southern States joined the Union, they were part of it permanently.

If you give every minority that might want to secede the right to do so, democracy will cease to exist because every time a minority loses out, it will then opt out of the union of which it is a part.

Supposing we did call for a plebiscite, what kind of a plebiscite would it be? There are probably many people in Kashmir who favor independence. Yet if there is one thing that India and Pakistan agree on, it is that Kashmir should not be independent.

Pakistan, which says it wants a plebiscite, is opposed to a plebiscite in which the voters in Kashmir would have the option of independence. They just want to give them a choice between India and Pakistan.

So I think that the notion of a plebiscite is a total nonstarter. The administration strongly opposes it because they recognize that if we interfere in this way in the internal affairs of India, it will have a devastating impact on the relations between the world's most populous democracy and the world's most powerful democracy.

So I have offered a substitute which urges the Indian Government to resolve their differences with the people of Kashmir peacefully and through appropriate political mechanisms. It also says that the differences between India and Pakistan over Kashmir should be resolved within the framework of the 1972 Simla Declaration, agreed to by both Pakistan and India, in which both countries said that they would resolve the bilateral differences between them through negotiations.

And so, therefore, I think this amendment would be utterly unhelpful. I do not know why my friend from Indiana seems interested in all these amendments to irritate the Indians, but I very much hope that his amendment will be rejected and that my substitute will be adopted.

Mr. Chairman, I yield to my good friend, the gentleman from Massachusetts, such time as he may consume.

□ 1850

Mr. ATKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there is something very tempting, I realize, about the Burton amendment. But, the history of Kashmir suggests that in merely mandating a plebiscite, the United States will not present herself as a thoughtful and informed and wise contributor to a solution to the problems there. So much blood has been shed over Kashmir and so great is the distrust among the parties that it is impossible, even disingenuous, for the United States to decree that a plebiscite after 40 years of discord is the solution.

The situation in Kashmir does not yield to so simple an answer as a plebiscite that is mandated by the United States Government. Without a consensus in the region—either on the part of India and Pakistan or for that matter by the separatist movement itself—as to what would be the terms and goals of a plebiscite, it is rendered essentially meaningless.

I would suggest, for example, that if Kashmir voted to be independent and not a part of Pakistan, then Pakistan would instantly disavow the results of the plebiscite. Pakistan never met the conditions as far back as 1947 to withdraw fully from Kashmir as a condition for the plebiscite then envisioned by the United Nations. And, since then, wars have been fought and lost by Pakistan over this land and still violence persists. Wherein lies the evidence that the situation is any more conducive today to a solution.

In reality, the only chance for an enduring solution to this sad and intractable problem is an accord that would prove reasonable if now wholly satisfactory to India and to Pakistan. In 1972, after the Indo-Pakistani war, both countries acceded to the Simla Declaration in which they agreed to resolve their differences "by peaceful means through bilateral negotiations or by other peaceful means mutually agreed upon between India and Pakistan." Notwithstanding the best intentions of the gentleman from Indiana, it is inconceivable that a solution to the Kashmir problem will be achievable unless these two nations, which tragically have known far too many years of antagonism and mutual suspicion, find themselves negotiating in genuine good faith with each other. The good offices of the United States Government should be applied for this purpose without our suggesting that somehow we have arrived at the solution that has eluded all of the players, including the United Nations, for so long.

I urge my colleagues to support the substitute offered by the gentleman from New York.

Mr. BURTON of Indiana. Mr. Chairman, the people of India are wonderful people, and I am not taking issue with the people of that great country, that democracy. But I am taking issue with the Government and the governmental policies of India toward the people of Punjab and Kashmir.

Now this resolution or this amendment is a sense-of-Congress resolution that the Indian Government ought to live up to the commitment they made in 1948 and 1951 and subsequent to that by Indian leaders who promised a plebiscite on independence to Kashmir. The rapes, the torture, the murders that are taking place up there and have been taking place for the past 44 years are something that the human race should not tolerate, and the people of Kashmir overwhelmingly want a plebiscite on independence.

In addition, as I said before, in 1951 the leader of India, Mr. Nehru, said that he supported that, he supported the United Nations resolution which was passed which granted Kashmir a plebiscite on independence.

Now all I am saying here today is that I think that because of the atrocities that are taking place and because this body and other bodies around the world have not seen fit to put pressure on India to allow Amnesty International and other human rights groups into the Punjab and Kashmir, that we ought to honor this request as promised by the U.N. and former Indian leaders that there be a plebiscite in Kashmir.

Mr. Chairman, these people have suffered long enough, and I urge my colleagues to vote for this sense-of-Congress resolution. There is no cut-off in any developmental assistance, no monetary penalties, but it does express the sense of Congress that we think these people are entitled to democracy, and independence, and freedom, and human rights.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment offered by the gentleman from New York [Mr. SOLARZ] to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. Are there other amendments to title IX?

If not, the Clerk will designate title X.

The text of title X is as follows:

TITLE X—AFRICA

CHAPTER 1—AUTHORIZATIONS OF ASSISTANCE FOR AFRICA

SEC. 1001. AFRICAN DEVELOPMENT FOUNDATION.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the purposes of the African Development Foundation, as set forth in the African Development Foundation Act, which include supporting self-help activities at the local level, fostering effective participation, and encouraging the establishment and growth of indigenous development institutions which can respond to the requirements of the poor, are consistent with the purpose specified in section 5101(c) of the Foreign Assistance Act of 1961.

(b) AUTHORIZATIONS OF APPROPRIATIONS.—Section 510 of the African Development Foundation Act is amended by striking out all of the first sentence that follows "purpose," and inserting in lieu thereof "$14,950,000 for fiscal year 1992 and $14,950,000 for fiscal year 1993.".

SEC. 1002. SUPPORT FOR THE SOUTHERN AFRICA DEVELOPMENT COORDINATION CONFERENCE.

(a) ASSISTANCE FOR SADCC PROJECTS.—

(1) FUNDING.—Funds made available for assistance from the Development Fund for Africa for fiscal year 1992 and fiscal year 1993 shall be used to assist sector projects described in section 5102 of the Foreign Assistance Act of 1961.

(2) WAIVER OF RESTRICTIONS.—Funds made available pursuant to this subsection may be used without regard to section 6204 of the Foreign Assistance Act of 1961 or any similar provision.

(b) SECURITY OF SADCC PROJECTS.—The Congress urges the President to use diplomatic means, including multilateral negotiations and cooperation with international organizations, to protect the security of projects supported by the Southern Africa Development Coordination Conference from external attack, and urges the Government of South Africa to respect the territorial integrity of these states and to refrain from direct or indirect military aggression across its borders.

SEC. 1003. ECONOMIC SUPPORT ASSISTANCE FOR SUB-SAHARAN AFRICA.

Of the amounts made available for economic support assistance, $28,300,000 for fiscal year 1992 and $28,300,000 for fiscal year 1993 shall be available only for sub-Saharan Africa.

SEC. 1004. SUPPORT FOR DEMOCRATIZATION IN SUB-SAHARAN AFRICA.

(a) STATEMENT OF THE CONGRESS.—The Congress—

(1) welcomes the commitment of several governments in sub-Saharan Africa to move toward democracy and multiparty systems of government; and

(2) urges the President to increase substantially assistance designed to promote the growth and development of democratic institutions in Africa.

(b) ASSISTANCE FOR DEMOCRATIZATION.—

(1) EXAMPLES OF TYPES OF PROJECTS TO BE SUPPORTED.—In accordance with the provisions of section 1221 of the Foreign Assistance Act of 1961, assistance for democratization in sub-Saharan Africa may include—

(A) support for projects to strengthen the civilian institutions necessary for the growth and development of democracy such as free and independent print and broadcast media, an independent judiciary, electoral monitoring organizations, independent electoral commissions, human rights monitoring organizations, and other nongovernmental organizations that critically assess government policies and promote citizen participation in government;

(B) infrastructure support for democratic parties and organizations (including the provision of office equipment, transportation, and supplies), and infrastructure support to assist in electoral administration;

(C) support for projects to improve the capabilities of newly elected legislatures and to improve the constitutional and electoral revision process accompanying the transition to democracy; and

(D) support for educational programs and exchanges designed to foster understanding and respect to democratic values.

(2) UTILIZATION OF ORGANIZATIONS WITH EXPERTISE.—In undertaking democratization projects in sub-Saharan Africa, the President should utilize organizations with expertise in implementing programs designed to promote democratic development and political pluralism.

SEC. 1005. AFRICAN CENTER FOR CONFLICT RESOLUTION.

(a) ESTABLISHMENT.—The Administrator of the administering agency for chapter 1 of title V of the Foreign Assistance Act of 1961 shall take such steps as may be necessary to provide for the establishment of an African Center for Conflict Resolution. The purpose of the center shall be to review, analyze, research, and resolve conflicts on the continent of Africa, including regional, national, and subnational conflicts.

(b) FUNDING.—Funds made available for assistance from the Development Fund for Africa for fiscal year 1992 shall be used to support the establishment of the African Center for Conflict Resolution pursuant to subsection (a).

CHAPTER 2—PROVISIONS RELATING TO SPECIFIC COUNTRIES

SEC. 1021. ANGOLA.

It is the sense of the Congress that—

(1) the Government of the People's Republic of Angola and the Union for the Total Independence of Angola (hereinafter in this section referred to as "UNITA") should be commended for their willingness and effort to enter negotiations to reach a ceasefire agreement in the Angolan conflict and to reach agreement on a date for national multiparty elections in Angola; and

(2) the United States should continue to support direct negotiations between the leaders of the Government of the People's Republic of Angola and UNITA to achieve an agreement for a process of national reconciliation among Angolans, including the latest round of negotiations between the parties.

SEC. 1022. BURUNDI.

For fiscal years 1992 and 1993, in determining whether to furnish assistance under the Foreign Assistance Act of 1961 to Burundi, the President shall take into account that the Government of Burundi—

(1) has made substantial progress in reforming its military by engaging in a massive Hutu recruitment program, which is unprecedented in Burundi history;

(2) has taken important steps to reverse the pattern of discrimination against the Hutu; and

(3) has embarked on a major repatriation effort to accommodate the return of thousands of Hutu who fled the country in fear.

SEC. 1023. ETHIOPIA.

(a) STATEMENT OF POLICY.—The Congress—

(1) condemns the pervasive, systematic abuse of human rights by the Government of Ethiopia, including the continued imprisonment of thousands of political prisoners and detainees;

(2) encourages the Government of Ethiopia to continue the dialogue with the parties to the internal conflict in pursuit of a negotiated settlement to the crisis;

(3) finds that without fundamental reform of the Ethiopian state or peaceful resolution of Ethiopia's internal wars, there will be no end to Ethiopia's deep social crisis, no prospects for a transition to stability, growth, and liberty in Ethiopia, and minimal hope that the Horn of Africa will reverse the spread of devastating internal wars that have created massive human dislocation across the region;

(4) supports efforts to ensure that the people of Eritrea are able to exercise their legitimate political rights, consistent with international law, including the right to participate actively in the determination of their political future;

(5) favors the resumption of economic assistance to Ethiopia for development and reconstruction in the event there is clear progress in resolving Ethiopia's internal wars, improving human rights (including the rights of all people to emigrate, travel, and observe religious holidays), and implementing economic reforms;

(6) urges the President and the Secretary of State to focus world pressure and opinion—

(A) upon the Government of Ethiopia to foreswear summary executions, release political prisoners, reform Ethiopia's macroeconomic policies, and facilitate family reunification, and

(B) upon the Government of Ethiopia and its northern opposition to engage in meaningful negotiations that result in a pragmatic, enduring settlement; and

(7) urges the President and the Secretary of State to engage in direct, active discussions with the Soviet Union in order that the peaceful resolution of the crisis in Ethiopia becomes a high priority of both the United States and the Soviet Union, that external military flows to Ethiopia are reduced, and that the approach of the Soviet Union is consistent with that of the West.

(b) SANCTIONS.—The President is urged to use existing legal authorities to impose diplomatic and economic pressures upon the Government of Ethiopia if, after the enactment of this Act, the Government of Ethiopia fails to act in good faith to resolve its internal wars peacefully and to improve respect for internationally recognized human rights.

(c) REPORTS TO CONGRESS.—Not more than 90 days after the date of enactment of this Act and at the end of each 90 day period thereafter, the President shall submit to the appropriate congressional committees a report describing the actions of the Government of Ethiopia during the preceding 90 days with regard to its internal wars, human rights, and economic reform. Each such report shall describe the response of the United States to progress, or lack of progress, by the Government of Ethiopia in these critical areas.

SEC. 1024. KENYA.

(a) FINDINGS.—The Congress finds that—

(1) the United States and Kenya have enjoyed friendly relations based on mutual respect for democratic freedoms and human rights;

(2) Kenya has a key role in promoting regional stability and addressing the humanitarian needs of the people in East Africa;

(3) the Government of Kenya was instrumental in facilitating cross-border operations for the evacuation of United States Embassy personnel in Somalia, and in providing a means of transport for humanitarian assistance during the coup d'etat in Somalia;

(4) the United States is extremely concerned about the fate of the thousands of Somalian refugees to whom access by nongovernmental organizations, the United Nations High Commissioner for Refugees, and other relief agencies is currently being obstructed by actions of the Government of Kenya;

(5) Kenya is one of the largest recipients of United States assistance in sub-Saharan Africa, such assistance having been provided to encourage democratic freedoms and respect for human rights and to promote political stability in Kenya;

(6) recent actions by the Government of Kenya (including repression of critics and dissidents, harassment, arrest and detention of advocates of multiparty democracy, and repression and use of force against demonstrators calling for democracy and peaceful political change) have prompted strong and renewed concerns about human rights violations and the compromising of the independence of the judiciary in Kenya;

(7) reports of human rights violations, including cruel and degrading treatment of prisoners and detainees, arbitrary arrests, denial of fair public trials, and a repression of free expression, have been detailed in the Department of State's Country Reports on Human Rights Practices for 1990; and

(8) the continued campaign of the Government of Kenya against its citizens violates basic principles of international law regarding human rights and fundamental freedoms.

(b) STATEMENTS OF POLICY.—The Congress—

(1) condemns the arrest and detention of Kenyan citizens for the peaceful expression of their political views;

(2) condemns the Government of Kenya's disregard of human rights and fundamental freedoms;

(3) calls upon the Government of Kenya to end the intimidation and harassment of those who are critical of government policies and those working for democracy in Kenya, particularly individuals within the church, the press, and the legal and academic communities; and

(4) calls upon the Government of Kenya to implement effective safeguards to ensure unrestricted freedom of the press and the independence of the judiciary and to guarantee due process and other fundamental civil rights and human rights for individuals imprisoned or otherwise detained by the Government.

(c) ASSISTANCE AND MILITARY SALES.—

(1) SUSPENSION.—Subject to paragraph (2), economic and military assistance and sales to Kenya (including deliveries of assistance previously obligated and sales previously made) shall be suspended as of the date of the enactment of this Act.

(2) WAIVER.—The President may waive the restriction in paragraph (1) if the President determines and reports to the appropriate congressional committees that the Government of Kenya is taking steps to—

(A) charge and try (in accordance with internationally accepted standards) or release all prisoners, including any persons detained for political reasons;

(B) cease any physical abuse or mistreatment of prisoners;

(C) respect the independence of the judiciary; and

(D) respect freedom of expression.

(3) DEFINITION.—For purposes of this subsection, the term "economic and military assistance and sales" means economic support assistance, foreign military financing assistance, and sales of defense articles and defense services under the Defense Trade and Export Control Act.

SEC. 1025. LIBERIA.

(a) FINDINGS.—The Congress finds that—

(1) as a result of a protracted civil war, a general breakdown of law and order, the displacement of up to one-half of the country's population, the destruction of significant sections of the infrastructure, and the resulting economic collapse, the people of Liberia are suffering from—

(A) severe malnutrition and life-threatening disease conditions;

(B) a total collapse of Liberia's agricultural market due to abandoned farmlands and displaced farmers; and

(C) a nationwide dismantling of the health, educational, and sanitation systems; and

(2) because of a long, historical, and special relationship with the Republic of Liberia, it is in the interest of the United States and the international community to respond to the urgent needs of the people of Liberia and to assist in every way possible that country's effort to restore democracy and promote democratic institutions.

(b) UNITED STATES POLICY.—It shall be the policy of the United States to commit heightened diplomatic resources and energies to resolving the fundamental political conflicts which underlie the protracted humanitarian emergencies in Liberia.

(c) CIVIL STRIFE ASSISTANCE.—Funds made available for international disaster assistance may be used to provide assistance for civil strife relief, rehabilitation, and general recovery in Liberia. Such assistance shall be provided for humanitarian purposes and shall be provided on a grant basis. In providing such assistance, priority shall be given to funding—

(1) activities which maximize the use of private voluntary organizations for relief, rehabilitation, and recovery projects;

(2) activities which emphasize the health projects, including efforts to rehabilitate the primary health care system of Liberia;

(3) activities which contribute to the restoration of schools and the general education system, including efforts to support the teaching of displaced children;

(4) activities which contribute to efforts by the international community to respond to Liberian relief and development needs; and

(5) activities which will restore water and power services.

(d) USE OF ESF PIPELINE FUNDS TO SUPPORT PEACEKEEPING OPERATIONS IN LIBERIA.—

(1) AUTHORIZATION.—The President is authorized to deobligate funds that have been obligated for economic support assistance for Liberia for any prior fiscal year but that are unexpended on the date of enactment of this Act and transfer those funds to the "PEACEKEEPING OPERATIONS" account under chapter 6 of title II of the Foreign Assistance Act of 1961 for use in supporting peacekeeping efforts in Liberia by the Economic Community of West Africa Monitoring Group (ECOMOG).

(2) REQUIREMENT FOR APPROPRIATIONS ACTION.—The authority provided in paragraph (1) may be exercised only to the extent provided in advance in an appropriations Act.

(e) RESTRICTIONS ON ASSISTANCE TO THE GOVERNMENT.—

(1) REQUIREMENT THAT THERE BE RECONCILIATION AMONG ALL PARTIES.—For fiscal years 1992 and 1993, assistance under the Foreign Assistance Act of 1961 may be provided to the Government of Liberia only if the President reports to the appropriate congressional committees that the Government of Liberia has achieved substantial progress toward reconciliation among all parties to the conflict in Liberia.

(2) CONSIDERATIONS IF THERE IS AN ELECTED GOVERNMENT.—If the President has made the determination required by paragraph (1), in determining whether to provide assistance to the Government of Liberia the President shall consider whether that government is committed to respecting internationally recognized human rights, freedom of the press, the independence of the judiciary, freedom for the members of the legal community to practice their skill and defend their clients without fear, harassment, or persecution, and full participation in the political and reconciliation process by all parties.

SEC. 1026. MALAWI.

(a) FINDINGS.—The Congress finds that—

(1) the Government of Malawi has provided refuge to some 920,000 refugees from Mozambique despite great costs to the Malawian economy, and since 1986 has generously supported the work of the United Nations High Commissioner on Refugees;

(2) President H. Kamazu Banda has ruled Malawi since 1964, and his rule has been characterized by severe repression and abuses of human rights, including political imprisonment, torture, unfair trials, and deaths in detention;

(3) the Government of Malawi continues to detain without charge or trial a number of prominent Malawian citizens because of their political views, including Goodluck Mhango, Aleke Banda, Orton and Vera Chirwa, and approximately 20 other prisoners;

(4) according to the Department of State's Country Reports on Human Rights Practices for 1990, the Government of Malawi restricts freedom of the press and prohibits political meetings outside the framework of the ruling party; and

(5) the Malawi Young Pioneers are a force in the suppression of freedom of expression and in the intimidation of Malawian citizens, hindering prospects for the democratization of the country.

(b) STATEMENTS OF POLICY.—The Congress—

(1) recognizes and commends the Banda Government's response to the influx of refugees from Mozambique;

(2) condemns the abuse of human rights of Malawian citizens which has characterized the Banda presidency; and

(3) urges President Banda to release prisoners of conscience, end incommunicado detention and torture and abuse of prisoners, and permit freedom of speech and association in Malawi.

(c) RESTRICTIONS ON MILITARY ASSISTANCE.—For fiscal years 1992 and 1993, foreign military financing assistance for Malawi—

(1) may not be provided for the Malawi Young Pioneers; and

(2) may only be provided to support the Malawian military's effort to secure the Nacala Railroad and for military activities which assist in the Mozambique peace process, including the protection of Mozambiquan refugees.

SEC. 1027. MOZAMBIQUE.

(a) STATEMENTS OF POLICY.—

(1) BILATERAL ACTIONS.—It shall be the policy of the United States—

(A) to give high priority to encouraging a constitutional transition to multiparty democracy in Mozambique and to securing a fair negotiated political settlement between the Government of Mozambique and Mozambique National Resistance (RENAMO), which includes a ceasefire and free and fair elections;

(B) to continue to expand its bilateral development assistance to Mozambique through appropriate private and public channels;

(C) to strengthen Mozambique's transport sector through United States assistance to the Southern Africa Development Coordination Conference (SADCC);

(D) to identify additional opportunities in the health and other sectors in Mozambique for United States support of Mozambique's reconstruction; and

(E) to contribute to Mozambique's national reconciliation.

(2) MULTILATERAL ACTIONS.—It shall be the policy of the United States to encourage international support for generous levels of emergency humanitarian assistance (including food, medical care, shelter, and agricultural assistance) for the one third of Mozambique's population that is displaced or otherwise at-risk in that country, as well as the approximately 1,000,000 Mozambican refugees located in neighboring countries.

(b) RELATION OF ASSISTANCE TO HUMAN RIGHTS.—The provision to Mozambique of economic support assistance and foreign military financing assistance for fiscal years 1992 and 1993 shall bear a relation to significant steps by the Government of Mozambique to increase respect for internationally recognized human rights in Mozambique, and thereby promote a political settlement to the conflict in the country.

(c) REPORTS TO CONGRESS.—Not later than February 1, 1992, and not later than February 1, 1993, the President shall report to the appropriate congressional committees on the actions the United States Government has taken to carry out this section.

SEC. 1028. SOMALIA.

(a) FINDINGS.—The Congress finds that—

(1) a violent civil war, compounded by political anarchy, has resulted in a complete collapse of the Government of Somalia and its ability to provide services and protection to the citizens of Somalia; and

(2) a rapidly increasing refugee problem and the oppressive regime, along with other factors, have led to the spiraling decline of the Somalian economy.

(b) UNITED STATES POLICY.—It shall be the policy of the United States—

(1) to encourage a peaceful and democratic solution to the problems in Somalia; and

(2) to commit heightened diplomatic resources and energies to resolving the fundamental political conflicts which underlie the protracted humanitarian emergencies in Somalia.

(c) RESTRICTION ON ASSISTANCE TO THE GOVERNMENT.—For fiscal years 1992 and 1993, foreign military financing, international military education and training, and economic support assistance may be provided to the Government of Somalia only if the President determines and reports to the appropriate congressional committees that the Government of Somalia has made significant progress toward democratization and respect for internationally recognized human rights.

(d) FOOD ASSISTANCE.—In providing assistance for refugees in Somalia under the Agricultural Trade Development and Assistance Act of 1954 for fiscal years 1992 and 1993, the President should attempt to ensure that—

(1) an impartial counting of eligible beneficiaries of food assistance by the United

States and other donors has been or is being completed;

(2) none of the beneficiaries belong to military or paramilitary units; and

(3) the amount of such assistance does not significantly exceed the number of beneficiaries of such assistance.

(e) CIVIL STRIFE ASSISTANCE.—Funds made available for international disaster assistance may be used to provide assistance for civil strife relief, rehabilitation, and general recovery in Somalia. Such assistance shall be provided for humanitarian purposes on a grant basis. In providing such assistance, priority shall be given to assistance for—

(1) activities which maximize the use of private voluntary organizations for relief, rehabilitation, and recovery projects;

(2) activities which emphasize the health projects, including efforts to rehabilitate the primary health care system of Somalia;

(3) activities which contribute to the restoration of schools and the general education system, including efforts to support the teaching of displaced children;

(4) activities which contribute to efforts by the international community to respond to Somalian relief and development needs; and

(5) activities which will restore water and power services.

SEC. 1029. SOUTH AFRICA.

(a) NEED FOR A COMPREHENSIVE POLICY, INCLUDING ASSISTANCE.—It is the sense of the Congress that—

(1) the United States should support the elimination of apartheid and the establishment of democratic majority rule in South Africa through a comprehensive policy to bring about a nonracial democracy;

(2) this policy should include, among other measures, assistance for disadvantaged South African groups and organizations which are neither controlled nor financed by the Government of South Africa, and such assistance should include the encouragement of private investment in firms owned by disadvantaged South Africans consistent with the Comprehensive Anti-Apartheid Act of 1986, scholarships, assistance to promote the participation of disadvantaged South Africans in trade unions and private enterprise, and alternative education and community development programs;

(3) United States firms in South Africa should provide similar assistance; and

(4) the President should seek the cooperation of United States allies in Western Europe and Japan to join in similar multilateral initiatives to aid disadvantaged South Africans.

(b) LOW-INCOME HOUSING ASSISTANCE.—Funds made available for assistance from the Development Fund for Africa for each of the fiscal years 1992 and 1993 shall be used for assistance for the development, construction, and financing of low-cost housing in South Africa consistent with subsection (a)(2). Such assistance shall be provided through nongovernmental organizations or under conditions that are accepted by credible anti-apartheid groups.

SEC. 1030. SUDAN.

(a) UNITED STATES POLICY.—It shall be the policy of the United States to encourage negotiations between the Government of Sudan and the Sudanese People's Liberation Army in order to end the conflict between these two warring factions which has stifled the delivery of humanitarian assistance to the region, setting the stage for massive starvation.

(b) FOREIGN MILITARY FINANCING ASSISTANCE.—Except as provided in subsection (d), foreign military financing assistance may not be provided for Sudan for fiscal years 1992 and 1993.

(c) ECONOMIC ASSISTANCE.—

(1) PROHIBITION ON ASSISTANCE TO THE GOVERNMENT.—Except as provided in subsection (d), economic support assistance may not be provided to the Government of Sudan for fiscal years 1992 and 1993.

(2) ASSISTANCE FOR BASIC HUMAN NEEDS.—Should any assistance be provided to meet basic human needs in Sudan, the President shall take the necessary steps to ensure that such assistance reaches the intended recipients.

(d) REPORT ON PROGRESS TOWARD RESPECT FOR HUMAN RIGHTS AND DEMOCRATIZATION.—Subsections (b) and (c)(1) shall cease to apply if the President determines and reports to the appropriate congressional committees that the Government of Sudan is making significant progress toward respect for internationally recognized human rights and democratization.

SEC. 1031. ZAIRE.

(a) FINDINGS.—The Congress finds that—

(1) the people of the United States and the people of Zaire have cooperated in educational programs, cultural affairs, foreign policy issues, and economic development efforts in the 30 years since the independence of Zaire;

(2) the people of the United States support the development of democratic institutions in Zaire that reflect the will of the people of Zaire;

(3) in a speech given on April 24, 1990, President Mobutu Sese Seko of Zaire stated that he was committed to the establishment of a multiparty democracy and the holding of free and fair elections in Zaire;

(4) the people of Zaire have clearly endorsed the introduction of political pluralism in Zaire, as reflected in the establishment of political parties, and have engaged in public debate on the political future of Zaire;

(5) despite President Mobutu's statements on behalf of multiparty democracy, there are continued reports of arrests and other harassment of persons attempting to exercise their rights;

(6) in May 1990, students in Lubumbashi University were violently attacked by Zairian security forces, leading to an undetermined number of casualties;

(7) in April 1991, security forces attempted to suppress political rallies in Lubumbashi and Mbuji-Mayi, provoking a confrontation that led to the death and injury of dozens of Zairian civilians;

(8) to ensure a successful political transition which enjoys credibility in Zaire, the process that culminates in national elections must have the strong support of a broad spectrum of Zairian society, including all major opposition political parties, as well as labor, professional, and other nongovernmental organizations, and the direct participation of these groups in drafting a new constitution and in organizing the procedures and the timing of national elections; and

(9) important elements of that process will include respect for freedoms of expression, association, and assembly; fair access to the broadcast media for opposition candidates and parties; an electoral law and procedures that guarantee fairness; and an effective transition government that is politically neutral.

(b) STATEMENT OF THE CONGRESS.—The Congress—

(1) congratulates all the people of Zaire for their efforts to form political parties and encourage political pluralism in their country;

(2) urges the Government of Zaire to agree to the establishment of independent international inquiries into attacks on students at Lubumbashi University in May 1990, and into the incidents at Lubumbashi and Mbuji-Mayi in April 1991;

(3) urges the Government of Zaire to implement quickly and fully the commitment to provide fair access to the broadcast media for opposition candidates and parties;

(4) urges the Government of Zaire to ensure respect for freedom of expression, association, and assembly at all levels and throughout Zaire and to protect from harassment all citizens exercising their democratic rights;

(5) urges the creation of a politically neutral transition government with full autonomy for administering the country prior to national elections, including effective control over security forces and finances;

(6) urges the direct participation of a broad spectrum of Zairian society, including all major opposition political parties, as well as labor, professional, and other nongovernmental organizations, in the drafting of a new constitution;

(7) stresses the importance of an electoral law and electoral procedures that guarantee impartiality in electoral administration, provide adequate resources and legal authority to those responsible for administering the elections, allow an adequate time period for newly established political parties to organize and campaign, and permit international election observers; and

(8) expresses its readiness to explore ways of providing support to facilitate the holding of free and fair elections in Zaire.

(c) FOREIGN MILITARY FINANCING ASSISTANCE.—Except as provided in subsection (g), foreign military financing assistance may not be provided for Zaire for fiscal years 1992 and 1993.

(d) INTERNATIONAL MILITARY EDUCATION AND TRAINING.—Except as provided in subsection (g), international military education and training under chapter 5 of title II of the Foreign Assistance Act of 1961 may not be provided for Zaire for fiscal years 1992 and 1993.

(e) ECONOMIC SUPPORT ASSISTANCE.—Except as provided in subsection (g), economic support assistance may not be provided for Zaire for fiscal years 1992 and 1993.

(f) DEVELOPMENT ASSISTANCE.—Except as provided in subsection (g), assistance from the Development Fund for Africa and development assistance for fiscal years 1992 and 1993 shall not be transferred to the Government of Zaire. This subsection does not prohibit nongovernmental organizations from working with appropriate ministries or departments of the Government of Zaire.

(g) WAIVER IF THERE ARE FREE AND FAIR ELECTIONS.—

(1) AUTHORIZATION.—The President may waive the prohibitions in subsections (c) through (f) if the President determines, and reports in accordance with paragraph (2), that free and fair national elections have been held in Zaire. In making such a determination, the President shall take into account the extent to which the election process was consistent with the policies set forth in paragraphs (8) and (9) of subsection (a) and paragraphs (6) and (7) of subsection (b).

(2) CONGRESSIONAL REVIEW OF DETERMINATION.—A determination under paragraph (1) shall not become effective until 15 days after it is reported to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 6304 of the Foreign Assistance Act of 1961.

(3) CONGRESSIONAL REVIEW OF ASSISTANCE.—If the President has made the determination required by paragraph (1), the President shall notify the appropriate congressional committees at least 15 days before any obligation of funds for any assistance for Zaire described in subsections (c) through (f). Any such notification shall be considered in accordance with the procedures applicable to reprogramming notifications under section 6304 of the Foreign Assistance Act of 1961.

CHAPTER 3—UNITED STATES COMMISSION ON SOUTHERN AFRICA

SEC. 1041. SHORT TITLE.

This chapter may be cited as the "United States Commission on Southern Africa Act".

SEC. 1042. FINDINGS.

The Congress finds that—

(1) apartheid in South Africa has resulted in great disparities between whites and nonwhites, particularly in education, health care, employment opportunities, and availability of housing;

(2) education is not compulsory for blacks in South Africa;

(3) black South Africans have far fewer medical professionals and health care services available to them than whites: white South Africans have 1 physician for every 326 people, while black South Africans have one physician for every 3,400 people; there are only 20 black dentists and 70 black pharmacists for a black population of 25,000,000; segregation in state hospitals has resulted in overcrowding in black hospitals, yet white hospitals have empty beds; budgets for white hospitals are higher than for black hospitals even though black hospitals have 4 times as many patients as white hospitals;

(4) there is a key role for concerned United States citizens and businesses in the private sector to assist in enhancing the development of human resources in southern Africa; and

(5) there is a need for the United States to assist in the development of human resources in southern Africa in the public and private sector, in order to improve in general the living conditions of nonwhites in South Africa, and lay the foundation for effective leadership in a democratic post-apartheid society in South Africa and Namibia.

SEC. 1043. ESTABLISHMENT.

There is established the United States Commission on Southern Africa (hereafter in this chapter referred to as the "Commission"), which shall not be an agency or establishment of the Federal Government.

SEC. 1044. PURPOSE OF COMMISSION.

(a) IN GENERAL.—The purpose of the Commission is to solicit private sector funds to conduct programs to develop skilled personnel at various levels in the public and private sectors in South Africa and Namibia, particularly in middle management positions, by providing for the training of disadvantaged South Africans and Namibians, including refugees from South Africa in other countries, for positions in business and government in their respective countries, primarily in the fields of education, health care, law, and housing.

(b) AUTHORITIES.—In carrying out its purpose, the Commission may—

(1) establish, implement, and provide funds for human resource development programs for disadvantaged South Africans and Namibians, including educational and training programs in business and public administration, health care and the delivery of health care services, education, legal assistance, and housing; and

(2) provide scholarships and internships to disadvantaged South Africans and Namibians for appropriate study and training.

SEC. 1045. MEMBERSHIP; CHAIRPERSON.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 11 members appointed by the President from among persons who are not officers or employees of any government. Not more than 6 members of the Commission may be members of the same political party.

(b) CONTINUATION OF MEMBERSHIP.—If any member of the Commission becomes an officer or employee of a government, he or she may continue as such member for not longer than the 30-day period beginning on the date he or she becomes such an officer or employee.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), members of the Commission shall be appointed for terms of 4 years. No member may serve consecutive terms.

(2) STAGGERED TERMS.—Of the members of the Commission first appointed, 5 shall be appointed for terms of 2 years (as designated by the President at the time of appointment).

(3) VACANCIES.—Any member appointed to fill a vacancy on the Commission occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his or her term until a successor has taken office.

(d) NON-FEDERAL CHARACTER AND PER DIEM.—Members of the Commission shall not, by reason of their membership on the Commission, be considered to be officers or employees of the United States. The members of the Commission shall receive no pay on account of their service on the Commission, except that, while away from their homes or regular places of business in performance of duties of the Commission, members of the Commission may be allowed travel and transportation expenses to the same extent as is authorized in section 5703 of title 5, United States Code, for employees serving intermittently in the Government service.

(e) CHAIRPERSON.—The Commission shall elect a chairperson from among its members. The chairperson shall serve for a term of 2 years.

(f) BYLAWS.—The Commission may adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business.

SEC. 1046. PRESIDENT AND STAFF OF COMMISSION.

(a) PRESIDENT OF THE COMMISSION.—The Commission shall appoint and fix the pay of the President of the Commission.

(b) STAFF.—Subject to such rules as may be prescribed by the Commission, the President of the Commission may—

(1) appoint and fix the pay of such personnel, and

(2) procure the services of such experts and consultants,

as the President of the Commission considers appropriate.

(c) NON-FEDERAL CHARACTER.—The President and staff of the Commission shall not be considered to be officers or employees of the United States by reason of their service on the Commission.

SEC. 1047. POWERS OF COMMISSION.

(a) GIFTS, BEQUESTS, AND DEVISES.—The Commission may solicit, accept, hold, administer, invest, and use gifts, bequests, and devises of money and property, both real and personal, in furtherance of the purposes of this chapter. Money and property accepted pursuant to this subsection, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such money or property. Funds donated to and accepted by the Commission pursuant to this subsection are not to be regarded as appropriated funds and are not subject to any requirements or restrictions applicable to appropriated funds.

(b) AUTHORITY TO CONTRACT OUT.—In carrying out its purpose and activities, the Commission may enter into contracts with (to the extent that funds are available) and make grants to or obtain grants from State, local, and private agencies, organizations, institutions, and individuals.

SEC. 1048. REQUIREMENTS.

(a) USE OF FUNDS.—Funds made available by the Commission for programs in South Africa may not be used for programs conducted by or through organizations in South Africa which are financed or controlled by the Government of South Africa, such as the "homeland" and "urban council" authorities. Such funds may only be used for programs which in both their character and organizational sponsorship in South Africa clearly reflect the objective of a majority of South Africans for an end to the apartheid system of separate development. Nothing in this subsection shall be construed to prohibit programs which are consistent with this subsection and which award university scholarships to students who choose to attend a South African-supported university.

(b) FINANCIAL BENEFITS.—No part of the assets of the Commission shall inure to the benefit of any member of the Commission, any officer or employee of the Commission, or any other individual, except as salary or reasonable compensation for services.

(c) INDEPENDENT AUDITS.—

(1) AUDITS.—The accounts of the Commission shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Commission are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Commission and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) REPORT.—The report of each such independent audit shall be included in the annual report required by section 1049. The audit report shall set forth the scope of the audit and include such statements as are necessary to present fairly the Commission's assets and liabilities, surplus or deficit, with an analysis of the changes therein during the year, supplemented in reasonable detail by a statement of the Commission's income and expenses during the year, and a statement of the application of funds, together with the independent auditor's opinion of those statements.

(d) AUDITS BY COMPTROLLER GENERAL.—

(1) AUDITS.—The financial transactions of the Commission for each fiscal year may be audited by the Comptroller General of the United States in accordance with such principles and procedures and under such rules as may be prescribed by the Comptroller General. Any such audit shall be conducted at

the place or places where accounts of the Commission are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Commission pertaining to its financial transactions and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with any assets held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Commission shall remain in the possession and custody of the Commission.

(2) REPORTS.—A report of each such audit shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General considers necessary to inform the Congress of the financial operations and condition of the Commission, together with such recommendations with respect thereto as the Comptroller General considers advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made contrary to the requirements of this chapter. A copy of each report shall be furnished to the President and to the Commission at the time the report is submitted to the Congress.

(e) RECORDS OF RECIPIENTS.—

(1) RECORDS.—The Commission shall ensure that each recipient of assistance provided through the Commission under this chapter keeps separate accounts with respect to such assistance and such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) ACCESS TO RECORDS.—The Commission shall ensure that it, or any of its duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Commission under this chapter. The Comptroller General of the United States or any authorized representative of the Comptroller General shall also have access to such books, documents, papers, and records for such purpose.

SEC. 1049. REPORT.

The Commission shall transmit to each House of the Congress, not later than December 31 of each year, a report on its activities during the preceding fiscal year.

SEC. 1050. FUNDING.

Amounts made available for assistance from the Development Fund for Africa for fiscal year 1992 shall be provided as a grant to the Commission to carry out this chapter.

CHAPTER 4—OTHER PROVISIONS

SEC. 1061. UNITED STATES TRADE RESTRICTIONS ON PRODUCTS FROM SUB-SAHARAN AFRICA.

It is the sense of the Congress that special efforts should be undertaken to reduce trade barriers and to promote economic interchange between the United States and developing countries in sub-Saharan Africa.

SEC. 1062. RECOGNITION OF SUB-SAHARAN AFRICAN SUPPORT DURING THE PERSIAN GULF CRISIS.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the Republic of Senegal, one of the first sub-Saharan African countries to respond to the plea for international cooperation following Iraq's invasion of Kuwait, sent troops to the Persian Gulf region early in the conflict and suffered the highest number of casualties in a single Gulf-related incident, and the Government of the Republic of Senegal supported United States-sponsored resolutions on the Gulf crisis in the United Nations Security Council;

(2) the Government of Sierra Leone sent a medical team to the Gulf region, which remains after the cessation of hostilities and the United Nations ceasefire agreement to assist during the peacekeeping activities, and the Government of Sierra Leone consistently supported the United States in the United Nations by supporting the Security Council resolutions on the Gulf crisis;

(3) the Government of Niger was the first sub-Saharan African country to respond to the international appeal for international unity in restoring peace to the Gulf region, sending 481 brave and committed troops to join the coalition forces, and the Government of Niger actively supported the United States in the United Nations by supporting the Security Council's Gulf resolutions and has continued to support the peace efforts now that the ceasefire is in effect;

(4) in addition to the support provided by those countries, the United States received support and encouragement from many countries in sub-Saharan Africa whose economic situation and military limitations did not allow them to participate directly in the military coalition's efforts; and

(5) in the face of adversity and danger, the countries of sub-Saharan Africa stood with the international coalition in the effort to restore peace to the Persian Gulf region.

(b) RECOGNITION OF THEIR SUPPORT.—It is the sense of Congress that—

(1) the countries of Sub-Saharan Africa are to be applauded and paid a public debt of gratitude and appreciation for their courageous stance during the Persian Gulf conflict, a signal to the world that the countries of sub-Saharan Africa are committed to the rule of law;

(2) those countries are to be commended for their support of the United States in a time of crisis.

SEC. 1063. CONDITIONS ON FURNISHING IMET FOR SUB-SAHARAN AFRICA.

(a) CONSIDERATIONS IN PROVIDING ASSISTANCE.—International military education and training may be provided to a country in sub-Saharan Africa only if the President considers—

(1) whether that country has a government that—

(A) was democratically elected as the result of free and fair elections, or

(B) is committed to respecting internationally recognized human rights and to permitting freedom of expression and has achieved substantial progress in a process of democratization;

(2) whether the armed forces of that country are involved in human rights violations or the government of that country otherwise fails to respect internationally recognized human rights; and

(3) whether the armed forces or other elements of the government of that country are actively engaged in destabilization efforts aimed at any other country.

(b) REPORTS TO CONGRESS.—If international military education and training is provided to any country in sub-Saharan Africa that is not described in paragraph (1) of subsection (a) or that is described in paragraph (2) or (3) of subsection (a), the President shall, within 30 days after obligating funds for such assistance to that country, submit to the appropriate congressional committees a report setting forth the reasons for providing such assistance.

SEC. 1064. INTERNATIONAL FUND FOR AGRICULTURAL DEVELOPMENT.

Of the amounts made available for assistance from the Development Fund for Africa, $6,000,000 for each of the fiscal years 1992 and 1993 shall be transferred to the "INTERNATIONAL ORGANIZATIONS AND PROGRAMS" account under chapter 4 of title I of the Foreign Assistance Act of 1961. The funds so transferred shall be available only for contribution to the International Fund for Agricultural Development, in addition to amounts otherwise made available for contribution to that organization.

SEC. 1065. EXEMPTIONS FROM RESTRICTIONS ON ASSISTANCE.

The restrictions on assistance contained in this title shall not apply with respect to—

(1) international narcotics control assistance; or

(2) assistance provided through private voluntary organizations or other nongovernmental organizations for the holding of free and fair elections.

SEC. 1066. UNITED NATIONS EDUCATIONAL AND TRAINING PROGRAM FOR SOUTHERN AFRICA.

Of the amounts made available for assistance from the Development Fund for Africa, $400,000 for each of the fiscal years 1992 and 1993 shall be transferred to the "INTERNATIONAL ORGANIZATIONS AND PROGRAMS" account under chapter 4 of title I of the Foreign Assistance Act of 1961. The funds so transferred shall be available only for contribution to the United Nations Educational and Training Program for Southern Africa, in addition to amounts otherwise made available for contribution to that organization.

SEC. 1067. PREEMPTION OF STATE AND LOCAL SANCTION MEASURES AGAINST NAMIBIA.

(a) PREEMPTION.—Effective upon the date of enactment of this Act, any sanction imposed by any State or any governmental subdivision thereof, that is directed at South Africa or persons engaging in commercial or financial transactions in or with South Africa, and that also applies with respect to Namibia, shall be null and void to the extent that such sanction applies to Namibia or persons engaging in commercial or financial transactions in or with Namibia, unless such application is consistent with Federal law.

(b) DEFINITION.—For purposes of this section, the term "State" means any of the several States, the District of Columbia, and any of the territories or possessions of the United States.

Mr. DE LA GARZA. Mr. Chairman, I would like to thank my distinguished colleague from Florida and chairman of the House Foreign Affairs Committee, Mr. FASCELL, for his leadership on the Enterprise for the Americas Initiative [EAI] legislation included in the foreign aid reauthorization bill.

This legislation builds on the EAI authorized in the Food, Agriculture, Conservation, and Trade Act of 1990, which provided the President with authorization to reduce concessional Public Law 480 obligations to eligible Latin American countries, by providing additional authorization for the reduction of concessional AID obligations to such countries.

As the gentleman from Florida knows, both the House Committee on Agriculture and the

House Foreign Affairs committees share jurisdiction over various parts of the EAI. Therefore, I am happy to report that both committees were able to work out an amendment to clarify several aspects of the EAI legislation included in this bill.

Such amendment clarifies that at least one member of the Environment for the Americas Board shall be from the Department of Agriculture and that the EAI Facility, established in the 1990 farm bill, will be responsible for supporting the objectives of the EAI through administration of debt reduction operations for those Latin American nations that meet the economic and investment conditionality established by the 1990 farm bill for Public Law 480 concessional obligations and by this legislation for AID concessional obligations.

These requirements, to the extent possible shall be coordinated to provide for effective implementation of the reduction of concessional obligations in the EAI.

In close, Chairman FASCELL and I discussed in an exchange of letters dated June 3, 1991—which have been submitted for the record—that in the interest of not delaying House floor action on this bill, the Committee on Agriculture would not ask for sequential referral over this part of the bill. Nevertheless, this action was taken without in any respect waiving the jurisdiction of the Committee on Agriculture over matters within its jurisdiction.

I look forward to working with the gentleman from Florida on other parts of the EAI in the future.

Mr. SOLOMON. Mr. Chairman, last Wednesday, during the initial consideration of H.R. 2508, the distinguished chairman of the Committee on Foreign affairs, Mr. FASCELL, offered an en bloc amendment that contained two provisions that I had offered.

The first provision was sense-of-Congress language in support of the application by the Republic of Korea to become a member of the United Nations. The ROK, as every Member knows, has been a longstanding and faithful ally of the United States. More than 50,000 Americans died during the Korean conflict of 1950 to 1953 in order to protect the liberty and independence of the Republic of Korea.

Now that the ROK has come of age—politically, socially, and economically—as a respected member of the international community, it is altogehter fitting and proper that it be admitted as member state in the United Nations.

And, indeed, the UN has a special interest in the maintenance of peace and security on the Korean peninsula because a United Nations Command is still in place to assist in the defense of the ROK against aggression. The Security Council resolutions calling on the international community to protect the ROK against aggression are still in effect.

An endorsement by Congress of the Republic of Korea's bid for membership of the United Nations is timely and important.

The second provison that I offered concerns the nation of Ethiopia. The downfall in late May of the regime headed by the tyrant Mengistu Haile Mariam offers a ray of hope that a new day for Ethiopia has dawned.

The language I offered in the en bloc amendment calls upon the new authorities in control of Ethiopia to do what is necessary to establish a broadly-based provisional government that will begin the process of writing a Constitution and establishing a fully representative government. The language calls on the authorities in Ethiopia to respect human rights, implement economic reforms, and facilitate the districution of emergency humanitarian assistance.

The language also addresses the authorities in Eritrea and calls on them to open the ports of Mitsiwa and Aseb and to allow the restoration of commerce through those ports, as well as the delivery and distribution of emergency humanitarian assistance through those ports.

Mr. Chairman, we all pray that Ethiopia's long dark night is over. The devastation wrought by 17 years of Marxist tyranny has reduced the proud and ancient nation of Ethiopia to a state of profound crisis in all spheres—political, economic, and social. But the Mengistu regime is gone, and the opportunity to build a new Ethiopia is at hand. The language in the en bloc amendment calls upon our President to continue his active efforts on behalf of reconciliation and reconsideration in Ethiopa.

Mr. Chairman, I want to think my good friend, Mr. DYAMLLY, the distinguished new chairman of the Subcommittee on Africa, for his assistance in putting this amendment together.

Mr. RAHALL. Mr. Chairman, I rise in strong support of the Taylor amendment, and in opposition to the McCollum substitute.

As GENE knows, I have gone before the Armed Services Committee, where he is a member, in an effort to get an amended version of my bill, H.R. 919, adopted to get our taxpayer-owned heavy equipment and machinery away from foreign governments and back to the States for their own use. GENE TAYLOR'S amendment will help get us started on that mission.

Fifty-two of my colleagues have joined me in cosponsoring my surplus property bill, as it is called.

I asked for and got a GAO report early this year showing where millions of dollars' worth of government owned equipment, paid for by American taxpayers, goes after the Defense Department no longer wants it or need it. It goes to 39 foreign countries—and they don't pay a dime for it. They not only don't pay a dime for it, the U.S. Government pays to have it repaired in good condition for their use, and the U.S. Government pays to have it transported to 39 countries free of charge. GAO also found that in order to give away 48 million dollars' worth of heavy equipment, U.S. taxpayers had to pay another $46 million for its repair and transportation costs. America paid twice for the same goods—for a total of $94 million.

When the States get access to such equipment, even though the Defense Department has characterized it as mostly scrap and junk, States still pay to have it transported, and then they pay to have it repaired—or they don't get it.

Since my bill was introduced, I have heard from hospitals, child care centers, homeless shelters, waste water treatment management teams, mayors with flood control and stream erosion projects, firemen, policemen, and school superintendents—to name only a few—who have an urgent need for heavy construction equipment, machinery, compressors and power generators. They can't afford to buy them new.

Vote for the Taylor amendment, and the workers, farmers, school children on buses, mostly in rural, desperately poor, isolated parts of America will thank you for getting their road graded and smooth—not paved mind you—just graded.

Mr. MCCOLLUM'S amendment says the President should decide if these pieces of equipment could serve the national interest overseas, better than they could serve the national interest here at home.

Mr. Chairman, I am tired of having our national interest defined as what's good for foreign governments. Our national interest is defined, in my book, as what is good for the United States.

There is $25 billlion in this foreign aid bill we are considering today. And not a dime will go to any State in the Union.

This is probably the only time in the history of this body that Members will have a chance to vote on a foreign aid bill that contains assistnce for the United States of America—rather than foreign governments. What an opportunity to do something for the greater good.

I call on the 52 cosponsors of H.R. 919 to come to this floor and vote for the Taylor amendment.

I have copies of recent newspaper editorials in your hometown newspapers about how the Rahall surplus property bill keeps getting dropped in committee afterr committee. Any member is welcome to read them.

I was just honored to receive, from the great State of Oklahoma—a resolution passed by its State senate and sent the U.S. Congress, in support of the Rahall surplus property bill.

I repeat—this may be the only chance in our history that you have the opportunity to vote for a foreign aid bill that will help the States. Vote for the Taylor amendment.

Ms. LONG, I support the Bereuter amendment. The cargo preference provisions in the Foreign Aid Authorization Act, H.R. 2508, are very troubling. As a farmer, and a member of the House Agriculture Committee, I know the importance of keeping agricultural export costs to a minimum.

The provision which requires that 50 percent of the goods purchased by cash transfer recipient countries be carried on U.S. ships would be damaging to U.S. agriculture. They would erode the value of U.S. foreign aid and decrease exports, in particular agricultural exports.

The cargo preference provisions would make American exports more expensive because they would mandate that goods be exported in a costlier manner. According to the Agency for International Development [AID], the cost of shipping on U.S. vessels averages significantly more per ton than the cost of shipping on foreign-flagged ships. I support a strong domestic shipping industry, but it makes no sense to increase the cost of exporting, especially at a time when our Nation is trying to deal with stubborn trade deficits and trying to improve our foreign trade position around the world.

I urge my colleagues to support the amendment.

Mr. DORGAN of North Dakota. Mr. Chairman, I have proposed two amendments to ensure that our foreign military aid is not offered in a way which undercuts the goals of economic assistance to the same governments.

Taken together, the two amendments: First, underscore that military and economic aid are linked; and second, require that military aid not be provided to any country if it would hinder the achievement of the economic assistance goals: democracy, economic growth, environmental preservation and poverty alleviation.

The committee has agreed to accept en bloc my amendments regarding the policy of providing military aid. I appreciate that cooperation.

I would explain that my amendments grew out of concerns that the bill as reported does not make a clear link between military and economic aid and does not explicitly recognize that military aid we provide with the left hand in some cases can undercut the economic aid we provide with the right hand. Permit me, then, to try to show why these amendments are needed.

LIMITED AID DOLLARS

One reason is because we have limited foreign aid dollars and we must ensure that they meet essential foreign aid goals and the needs of friends and allies. The "United Nations Development Report of 1991" shows that poverty in the developing world can be alleviated: Average life expectancy in developing countries increased by 16 years and adult literacy by 40 percent in the past three decades.

IMPACT OF AID SHIFT

If we shift some foreign aid from military to economic accounts we can accelerate these trends. A shift of only one-third of today's global aid could increase spending on human development priorities by fourfold. Note that this does not require an increase in overall aid, but a shift of priorities. Now that the cold war is over, we can afford to make a major reinvestment of our aid; away from military aid and toward food and development aid. When we do so, we not only save lives but advance our national interests.

Even if Third World nations alone froze their military spending at current levels, they could save up to $150 billion in the next decade for human development. If donors matched this amount, by the year 2000 we could achieve the goals of universal primary education and health care, safe water for all, and the end of serious malnutrition. Imagine what we could do if we and other nations joined in a compact to change our priorities.

EXCESS MILITARY AID DIVERTS RESOURCES FROM HUMAN DEVELOPMENT

The UNDP report also documents the adverse impact of military spending by Third World governments. The governments which spend the most on arms, not surprisingly, spend the least on health, nutrition, and education. They spend much on arms and little on people.

Among such governments are recent or present recipients of United States military aid: Zaire, Chad, Tunisia, Pakistan, Honduras, El Salvador, and Peru. In these and other nations, excess military spending means that human development suffers and children die needlessly. In effect military aid reinforces the worst budget behavior of the worst governments.

EXCESS MILITARY AID CAN EXACERBATE HUNGER AND INCREASE CONFLICTS

Other examples of excess military spending occur in Sudan, Ethiopia, and Somalia. These are three governments which the United States and the Soviets armed to the teeth as part of cold war rivalries. But the weapons supplied were not used in the cold war but turned against the people in the Horn of Africa. This aggravated the famines which persistently stalk these nations and which now threaten 20 million people. Instead of promoting growth and stability our aid and that of others fostered conflict and poverty. I might add that Mr. BEREUTER, Mr. WHEAT, and I will later offer an amendment to redress this particular problem.

EXCESS MILITARY AID UNDERCUTS DEMOCRACY

I would also point out that these same military aid recipients have some of the worst records in the world on democracy, economic growth, resource management, and human rights. For example, among United States military aid recipients with the lowest human freedom index rankings are: the Philippines, Zaire, and Pakistan. So we must understand that military aid is not a neutral commodity: it can serve legitimate goals but also undermine some of our most important foreign policy goals.

CONCLUSION

We have to ensure that our military aid is not given in a way which undercuts the essential objectives of our development policy; democracy, poverty alleviation, sustainable economic growth, and environmental preservation.

My amendments set in place the policy framework to achieve that goal. We can really achieve a New World Order—one in which democracy and economies flourish and in which hunger, epidemics, and illiteracy are banished—if we will lead the way in realigning our foreign policy and the aid that embodies it.

So I urge support for my amendments and for further concrete budget steps to realign our foreign aid to fight hunger, disease, and illiteracy instead of the fading cold war.

Mr. FASCELL. Mr. Chairman, I move to strike the last word so that I may explain what is happening here.

Mr. Chairman, we are going to rise so we can bring up the next bill. We will complete this bill tomorrow. We have one amendment that has been agreed to. We have one amendment, an up-or-down vote after 10 minutes of debate, on funds to ANC, and then we will go into title XI, and there is only one pending amendment there. So we will finish in very short order tomorrow.

Mr. Chairman, I want to thank my colleagues, both on this side and on the other side, for their cooperation, and particularly the chairman.

The CHAIRMAN pro tempore. Does the gentleman from Florida [Mr. FASCELL] have a motion?

Mr. FASCELL. Mr. Chairman, I move that the committee do now rise.

Accordingly the Committee rose; and the Speaker pro tempore, Mr. MCNULTY having assumed the chair, Mr. MCDERMOTT, Chairman pro tempore of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. WELDON. Mr. Speaker, due to a death in the family, I was called away from Washington. In that time, missed several votes on H.R. 2508. Had I been present, I would have voted in the following manner on these questions:

Rollcall 165, "no"
Rollcall 166, "aye."
Rollcall 167 "aye."
Rollcall 168, "no."
Rollcall 169, "no."
Rollcall 170, "aye."

PERSONAL EXPLANATION

Mr. ECKART. Mr. Speaker, I was unavoidably detained in my office and missed rollcall vote No. 176, the Kyl amendment to the foreign aid authorization bill for fiscal years 1992 and 1993, regarding aid to the Soviet Union. Had I been present, I would have voted "aye."

I ask unanimous consent that this explanation be made a part of the permanent RECORD of official House proceedings immediately following the vote thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT ON H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL FOR FISCAL YEAR 1992

Mr. YATES, from the Committee on Appropriations, submitted a privileged report (Rept. No. 102–116) on the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes; which was referred to the Union Calendar and ordered to be printed.

Mr. REGULA reserved all points of order on the bill.

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2621, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1992

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 177 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 177

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2621) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed one hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations, the bill shall be considered for amendment under the five-minute rule. During consideration of the bill, all points of order against provisions in the bill for failure to comply with clauses 2 and 6 of rule XXI are hereby waived. The bill shall be considered for amendment by title instead of by paragraph and each title shall be considered as having been read. No amendment to the bill shall be in order except for the amendments printed in the report of the Committee on Rules accompanying this resolution. The amendments shall be considered in the order and manner specified in the report and shall not be subject to amendment except as specified in the report. The amendments shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. All points of order against the amendments in the report are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], and pending that, I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 177 is a modified open rule providing for the consideration of H.R. 2621, making appropriations for foreign operations, export financing, and related programs for fiscal year 1992.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate, the bill will be read by title for amendment and each title shall be considered as having been read.

The rule waives all points of order against provisions in the bill for failure to comply with clauses 2 and 6 of rule XXI. Clause 2 of rule XXI prohibits unauthorized appropriations or legislative provisions in general appropriations bills. These waivers are necessary because authorizing legislation on various programs in this bill has not yet been enacted.

In addition, Mr. Speaker, clause 6 of rule XXI prohibits reappropriations in general appropriations bills. The clause 6 waivers are necessary to allow the transfer of unexpended balances from one account to another and the extension of authority to obligate those funds in the new fiscal year.

Under the rule, no amendment to the bill shall be in order except for the amendments printed in the report of the Committee on Rules accompanying this resolution. The rules waives all points of order against the amendments, which shall be considered in the order and manner prescribed in the report and shall not be subject to amendment except as provided in the report. Each amendment shall be debatable for the period specified, equally divided and controlled by the proponent and a Member opposed thereto.

Finally, the rule provides for one motion to recommit.

Mr. Speaker, H.R. 2621, the foreign aid appropriations bill is a carefully crafted piece of legislation. The bill appropriates approximately $15.3 billion for U.S. foreign aid programs, of which $135 million will go toward deficit reduction. The bill conforms to last year's budget summit agreement, and is nearly $900 million below the fiscal year 1991 appropriations level.

As chairman of the Select Committee on Hunger, I would like to commend Chairman OBEY for including provisions to improve the conditions of children suffering from hunger and poverty around the world. Chairman OBEY was instrumental in earmarking a minimum level of funding for child survival activities of $275 million. A minimum of $135 million was also earmarked for basic education by the Appropriations Committee.

Mr. Speaker, these levels reflect the amounts included in my Freedom From Want Act. These levels also passed the House as amendments to the foreign aid authorization act just last week.

I would also like to commend Chairman OBEY and my colleagues on both sides of the aisle for including $630 million for the migration and refugee assistance account, and for providing a $30 million increase for the Office of Foreign Disaster Assistance. This money for refugees and disasters goes to help the most vulnerable people in the world.

Mr. Speaker, this is a fair and carefully crafted rule that is designed to facilitate House consideration of important foreign aid related issues. I urge my colleagues to adopt it.

□ 1900

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Ohio [Mr. HALL] for yielding me this time.

Mr. Speaker, I came over to this Chamber today with two speeches about this rule, the one I had originally intended to give, and the one I am going to give now. One is called my total opposition to this rule speech, being very upset about it, and the other is my kinder, gentler speech, which I will give here.

Mr. Speaker, suffice to say, that the events that unfolded on the floor yesterday helped everyone concerned to realize that the impasse we had reached on this particular rule had to be broken if we were going to let the House work its will.

Mr. Speaker, I must say at the outset that I cannot support the rule. However, I am going to restrain my expression of opposition, and will not call for a vote on it. I hope that no other Member will call for a vote.

I would like to take this time to explain to Members the understandings that I have about the agreements that were reached late yesterday afternoon at a meeting attended by the bipartisan leadership, the gentleman from Massachusetts [Mr. MOAKLEY], myself, and the floor managers of the foreign operations appropriations bill.

First, it was agreed that the rule for this bill, a rule that denies Members their right to offer amendments to reduce the level of appropriations contained in the bill, will not serve as a precedent or a model for future rules on general appropriations bills.

Mr. Speaker, I think that is extremely important. If we did not have that agreement, by all means I would not be standing here somewhat restrained in my demeanor.

Second, it was agreed between Speaker FOLEY and our Republican leader, the gentleman from Illinois [Mr. MICHEL], that there will be closer bipartisan consultation and cooperation concerning rules requests. That means all rules requests.

I might say that this really is not a partisan thing. The growing number of restrictive rules we have seen lately does not affect only the Republicans, it affects every Member of this House. Members saw some of that on the floor here yesterday when this House was tied up in knots by a Member from the Democrat side of the aisle who kept this House going for about 6 hours. Maybe that is what we should have been doing on our side of the aisle.

When restrictive rules are handed down for no plausible reason, the rights of all Members are being hurt in the process, and that is wrong.

Third, Mr. Speaker, it was agreed between the gentleman from Massachusetts [Mr. MOAKLEY] and myself that there will be closer bipartisan consultation and cooperation when the Committee on Rules meets. We have to establish some kind of common ground, or else the time of the House will be increasingly taken up by these protracted battles over the rules and the kind of action that Members saw on the floor of the House yesterday, and that is wrong. I do not want to participate in that type of thing, and I do not think any other Member does.

Mr. Speaker, finally, the gentleman from Massachusetts [Mr. MOAKLEY], has agreed to conduct hearings concerning the precedents that have been established in the past for the consideration of general appropriations bills, as well as the precedents that exist which concern the minority's right to offer motions to recommit, with or without instructions, something we have historically had.

Mr. Speaker, as Members know, the denial or limitation of the minority's recommittal rights has become an increasingly bitter bone of contention, and something has got to be done about that.

Mr. Speaker, I would like to thank all Members who participated in that meeting yesterday, including the gentleman from Massachusetts [Mr. MOAKLEY], the gentleman from Missouri [Mr. GEPHARDT], the gentleman from Illinois [Mr. MICHEL], and the Speaker, the gentleman from Washington [Mr. FOLEY]. If the agreements that were reached are lived up to, I believe the interests of every Member of this House will be better served.

Mr. Speaker, we have already heard an explanation by the gentleman from Ohio [Mr. HALL] of what is presently under consideration in this rule. In the interests of comity and of allowing the process to go forward, I will have no further comments about that.

Mr. Speaker, I include for the RECORD the speech I had originally intended to give in opposition to the rule. I am sure that my friends, especially those members on the Committee on Rules, for whom I have very deep respect, will find it to be interesting reading.

Mr. Speaker, I yield myself such time as I may consume. And I rise in opposition to this rule. I cannot ask the Members to support it.

Mr. Speaker, the rule before us denies Members their right to offer amendments that reduce the level of appropriations contained in this bill. This violation of the rules and precedents of the House should be of vital concern to every Member.

If the Rules Committee can re-write this part of the rules and precedents today, what will it be re-writing tomorrow?

The argument on behalf of this restrictive rule notes that this foreign operations appropriations bill has been considered under rules virtually identical to this one in four of the past 5 years. The implication seems to be that two wrongs make a right. Or three wrongs, or four wrongs all make a right.

Mr. Speaker, a rule that denies Members the right to make cutting amendments on a general appropriations bill is always wrong—I don't care what the so-called precedents are.

So then the argument comes back to us: "Sure, the rule may be restrictive, but all of the amendments filed by Republican members were made in order." And so we are supposed to be grateful.

Mr. Speaker, a letter was sent by Chairman MOAKLEY last week to all Members advising them that amendments to this bill would have to be filed ahead of time. I appreciate the fact that the chairman sent out his letter in a timely fashion that gave Members enough time to get their amendments ready—something that wasn't done the last time we handled this bill.

But I would suggest that the history of abusive rules for this particular bill has had a chilling effect on Members.

Given the fact, for example, that only three Republican amendments were made in order at all last year, how could Members have any expectation that they would receive better treatment this year? Especially when we were being led to believe that the restrictive rules in 4 of the past 5 years were serving as the model for this year's version.

So, having succeeded in warding off amendments in the first place, the Rules Committee now condescends to make in order such few Republican amendments as were filed.

And so now we get to the best comeback of all. Our friends on the other side of the aisle say: "This kind of rule is called for because the bill has to be protected on behalf of the administration." I tell you, Mr. Speaker, this notion that Democrats on the Appropriations Committee are doing the bidding of the administration has become the last refuge of the scoundrel.

The statement was made in the Rules Committee and elsewhere yesterday that this foreign operations appropriations bill is giving the administration 99 percent of what it asked for.

But the administration's policy statement on the bill, which I am looking at right now, comes up with a radically different estimate.

And even if the administration is getting 99 percent of what it asked for, what about all the rest it's getting which it didn't ask for? This policy statement from the administration is nine pages long, single-spaced. Nine pages worth of objections to provisions in this bill. And I can advise Members that the "V" word—veto—appears right off the bat in the second paragraph on page one. And, believe me, it's downhill from there.

So let's stop trying to kid each other. This rule has no business being on the floor. It's an insult to the rules and precedents of the House. It ought to be defeated. And I reserve the balance of my time.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MCDADE], the ranking Republican on the Committee on Appropriations.

Mr. MCDADE. Mr. Speaker, I am also constrained to rise in opposition to House Resolution 177.

As Members are aware, this rule has engendered no small amount of controversy, which came to a boil yesterday.

Much of this stems from the minority's legitimate concern about the unilateral decisionmaking that led to a rule closing off both amendments and motions to strike.

I might be useful to review the history here.

On June 11, Chairman MOAKLEY circulated a "Dear Colleague" letter notifying Members that their ability to offer amendments could only be guaranteed if those amendments were submitted to the Rules Committee by June 17.

I understand that there was absolutely no consultation with the minority on this and that the letter came as a surprise.

The rule that was reported, despite the expressed concerns on this side of the aisle, went ahead and restricted amendments which could be offered, precluding Members from offering simple motions to strike.

The ability to offer motions to strike on appropriations measures is a time-honored and important tradition.

There may be extraordinary occasions when such a rule is called for, but such extraordinary occasions probably must occur in the eyes of the beholders on both sides of the aisle.

In raising serious objections to the rule yesterday afternoon, a number of Members protested not only this rule specifically, but the precedent it could set for future debate on appropriations bills and other major legislation.

This is not the first time this has happened. We went through this debate on the foreign ops rule last year.

I am pleased that House leadership and Rules members met last night so that objections over this process could be aired.

I am heartened by leadership's promise to stipulate that this rule will not create a precedent.

Mr. Speaker, one of the basic principles upon which this democratic institution operates is the right of both parties to express freely their views.

Mr. Speaker, I fully sympathize, at 10 minutes past 7 o'clock, at the end of a long day, with those who wish to limit consideration of the foreign aid appropriations bill, after such a protracted debate on authorization, which has not yet even concluded.

It has been a tiring process, especially for my colleagues, the gentleman from Florida [Mr. FASCELL] and the gentleman from Michigan [Mr. BROOMFIELD].

But that is not really the issue here.

Our concern over the rule goes far beyond that. It goes to the ability of the minority to play a meaningful role in the process.

While I oppose House Resolution 177, I do support heartily the commitment the leadership gave last night to meet with us to develop a future policy which satisfies our concerns.

I am glad that they have recognized the legitimacy of our complaints.

Insofar as these policies will apply to appropriations bills, I look forward to participating fully as we work together to improve the process.

□ 1910

Mr. Speaker, because of the circumstances that led to this closed rule, I must oppose it and I urge my colleagues to do likewise.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume just to say to my good friend, the gentleman from Pennsylvania [Mr. McDADE], that I had great reservations about being restrained in my opposition to this rule. But the one reason in favor of the rule, again, other than what I stated concerning the meeting with Speaker FOLEY and others, is the fact that all Republican amendments which were prefiled are allowed under the rule and will be debated on the floor of this House as soon as we pass the rule. That includes even amendments that were not germane, one in particular by the gentleman from Ohio [Mr. McEWEN].

I thank the gentleman for his remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding time to me. I rise in opposition to this rule.

Mr. Speaker, if my colleagues look back through the history of parliamentary bodies, they will find that they arose for one specific reason and that was to put limitations on monarchs. The idea behind parliamentary democracy was that one would limit the spending of government by limiting the ability of the monarch to spend the people's money.

The main way that one did that was by striking out the spending that the monarch wanted to make, and so for the traditional, the whole history of parliamentary bodies, the motion to strike has been an important tool for individual members.

For 200 years in the Congress, the motion to strike was held sacrosanct. Thee have only been two previous occasions when the motion to strike was denied to Members of the House of Representatives, and those two previous occasions came in the 2 years just previous to this on this bill. And each time we have been told that it is being done because the administration wants it or there is some other reason, but fundamentally, what is happening here is we are setting a precedent that on some appropriation bills, a fundamental right of Members shall be taken away by the Rules Committee.

I think that is terribly wrong. It is a terribly bad precedent, and it is high time that Members stand up and fight for it on both sides of the asile.

If Members are not permitted the fundamental right of reaching into an appropriations bill and, regardless of what other rule exists, striking out spending or limiting spending, we have in fact been denied that which has been the traditional right of Members for the entire history of parlimentary democracy. I would suggest to my colleagues that we ought not to do this tonight or any other time.

Many Members may remember the allegorical story that talks about the fact that first they came for the Communists and I was not a Communist, so I did not cry out. Next they came for the Jews, and I was not a Jew, so I did not cry out. Next they came for the laborers, and I was not a laborer and I did not cry out. And then they came for me.

Let me tell my colleagues, tonight if you are a Member of the House, they are coming after you, because the fundamental right of all Members for the time honored tradition of parliamentary bodies is being stricken in this rule. We are being told in this rule that our right to take spending out of the bill regardless of anything else is no longer a right. It is only a privilege to be granted whenever the Rules Committee so determines.

I do not think Members want to do that. I do not think the majority Members of this body want to do that. I certainly know that the minority Members of this body do not want to do that. I realize that after some negotiations last night, we ended up with an agreement, and the gentleman from New York feels that we can be kinder and gentler. And I respect that, but I would suggest that kinder and gentler does not make up for the fact that we are being denied something which is very, very basic. I would hope that we would have strong vote against this rule that would say that for all Members, we do not want the right to strike taken away.

We want, in fact, the kind of rules that assure on an appropriations bill that every Member, on every occasion appropriations come to the floor, has the ability to limit spending or to strike the spending altogether. The House can go along with them one way or the other. Some of those votes may be tough votes, but it is what democracy and particularly parliamentary democracy is all about.

I would ask the House to turn down this rule.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, as the gentleman knows, the minority in particular, but I think many Members of the other side as well, have strong feelings that the right to strike is a very basic right that ought to be protected. And as the gentleman knows, we have had some assurance from the chairman of the Rules Committee and from the Speaker that this would not be setting a precedent on other appropriation bills. I want to compliment the gentleman for the point that he has made so articulately and let him know that we all need to be watching to make sure that that is the case, that this is treated as an exception, if this rule is adopted, that it is treated as an exception and not a precedent.

If we are to set a precedent of allowing the right to strike to be taken away from Members on either side of the aisle, I think it would be a very bad thing for this institution.

Mr. WALKER. I hope the record of this particular debate will demonstrate that it is the intention for this to be treated as an exception this time. I would simply say to the gentleman though that he, like me, has studied congressional actions over a period of time. And we know that from time to time parliamentarians reach back some years. I would hate to think that I was a part of a Congress that created a precedent that at some point in the future some parliamentarian will reach back for and say, "Oh, the ability to strike from an appropriations bill has been taken away before by the Rules Committee. It is no big thing. We will simply do it. Back in the 1980's, in the 1990's, Congress already determined that that was all right."

I think that we will put ourselves down the road toward ending the fundamental nature of parliamentary bodies if in fact we allow that precedent to be in place.

Mr. EDWARDS of Oklahoma. The gentleman makes a very valid point.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. SOLOMON. Let me just say the gentleman knows that I feel exactly the way he does. If there is one tenet I do not believe in, it is turning the other cheek. And I think the gentleman knows that. If there is one Member of this House who believes in an eye for an eye, it is this gentleman.

If I did not believe that I could trust the statements of those Members on both sides of the aisle in the meeting yesterday, I would not be standing up here. I would be raising more cain than the gentleman in the well. I say, let us give it a try. Let us see what happens, and no way does this set a precedent or are we bound. And God forbid, if these agreements are not lived up to, come on and join me and we will have a fight like Members have never seen before.

Mr. WALKER. I appreciate the gentleman's statement. I know he feels like I do on this. I think it is also important to demonstrate in a very, very clear way that the House of Representatives does not agree with this kind of rule that takes away from each individual Member a fundamental right and privilege as a Member of this body.

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. OBEY], chairman of the Subcommittee on Foreign Operations.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding time to me.

Let me simply say, in response to the gentleman from Pennsylvania, as someone who served all of my years in the State legislature, save one term, in the minority and having had the pleasure of having in those days the speaker not only have ironclad control over the rules but also have the ability to appoint all minority members to committees, which was a unique experience, I think I am pretty sensitive to the needs of minorities in parliamentary bodies. I have never forgotten that experience.

I simply want to make clear that in my view what happens on this bill, which is fairly unique, in no way, certainly in my eyes, can be regarded as precedent setting for other appropriations bill, especially given the fact that in 1981, there was not even a foreign aid appropriations bill on the floor so there was no opportunity to get at any amendments in the bill.

□ 1920

In 1982, there was a bill. Then for the next 4 years we again saw this bill folded in a continuing resolution, and again there was absolutely no opportunity to offer any amendments. In 1987, the same thing.

In the 5 years since I have been chairman, this bill has come to the floor on its own without being folded into a continuing resolution.

In 1990, or for the fiscal 1990 bill, the bill was open, but in fiscal 1988, 1989, 1991, and 1992, the bill was brought to the floor under a virtually identical rule to the one we are operating under tonight. The only difference between this bill tonight and the bill a year ago is that every Republican amendment that minority Members asked to have made in order was made in order, and to my knowledge, at least, not one indicated to me any request to offer any cutting amendment whatsoever that was not allowed.

In fact, the only amendments that were offered and noticed in the RECORD to be offered by Members of the minority, except for the gentleman from Ohio [Mr. MCEWEN], the only amendments to be offered by Republicans were efforts to raise, not lower, amounts in the bill.

I do not think that we are in a position of preventing reduced spending. In fact, when we are finished tonight, this bill will be the only appropriation bill which does not spend all of the authority provided to it. We, in fact, dedicated 1 percent of this bill explicitly for deficit reduction rather than for spending on foreign aid.

I think, on balance, we have tried to take care of the legitimate desires of Members pretty well, and I appreciate the cooperation of the Committee on Rules on both sides of the aisle.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. MCEWEN], a member of the committee.

Mr. MCEWEN. Mr. Speaker, I rise in opposition to the rule.

Mr. Speaker, I am one of the few with an amendment that is protected under this rule.

I think it is important to point out that the chairman of the Rules Committee, Mr. MOAKLEY, did make an effort to be as fair as he could in soliciting amendments for this restrictive rule. However, his fairness and short advance notice do not change the fact that this rule severely restricts the right of Members on both sides of the aisle.

None of us in this body doubt that the average, hard-working, tax-paying, lawn-mowing American wishes with all his or her heart that Congress would find a way to reduce spending. One of the simplest, most straightforward ways for a Member to reduce spending—regardless of which side of the aisle that Member may be on—is to do so through a cutting amendment.

The simple truth is that this rule does not allow that basic right to be exercised. So, it seems to me, that is in the interest of virtually every Member of this body—indeed, in the best interest of this institution—that we defeat this rule and protect the rights of all Members, both majority and minority.

The American people will have good reason to be upset with this body if we do not find ways to reduce spending by the Federal Government. And they will have good reason to be outraged if we agree that we will not even entertain any discussion or debate about reducing spending on a bill that would appropriate more than $15 billion.

To be sure, there are any number of substantive problems—in this Member's view—with this particular appropriations bill. Those are matters of policy such as the drastic cut of more than $400 million in the administration's request for foreign military financing. Meanwhile, at the same time, this bill appropriates far more than the administration requested in refugee assistance. Those two provisions taken together imply that the House is saying that we would prefer to withhold assistance to any of our allies trying to defend themselves, and would rather help them after they have become defeated and oppressed refugees.

There are other substantive problems with the bill as crafted—and I would ask unanimous consent, Mr. Speaker, to enter into the RECORD the administation's statement of its position—but my focus here is not on the substance of the bill. It is tempting to use this time to object to controversial portions of this bill that have been deliberately crafted to draw a veto from the President, namely those provisions that would weaken current law for abortion-related activities carried out in China by the U.N. Population Fund. Likewise it is tempting to spend more time objecting to the shortage of military support for Turkey when that country was so supportive during Operation Desert Storm and still must deal with a neighbor by the name of Saddam Hussein.

Unfortunately, the debate that will occur later on these and other issues will be less than full due to this restrictive rule. So, our focus now, Mr. Speaker, should be upon the procedure. And that procedure is one that should displease every Member of the House. In short, the process unfolded like this:

On June 11, before the Appropriations Committee even reported its foreign operations bill, Chairman MOAKLEY sent out a letter that put Members on notice that amendments would be restricted. It is fair to say that most Members were not aware of that restriction until at least Wednesday, June 12th. It arrived in my office via inside mail on Friday, June 14th;

On June 12, the committee reported its bill;

Printed copies of the bill were not available for Members to see until late Thursday, June 13th—by which time many members already were headed home for work in their districts all across this country;

On Friday, the 14, while most Members were out of town, the House Legislative Counsel office finally received its copy of the bill and report. So Members like this one, who were asking for assistance from that office, had to wait until Monday to have amendments in final form;

This Monday, June 17, the designated deadline for amendments, not only were many Members not yet back in town, but even those who were, doubtless had not had time to read through the bill and report to determine whether or not they wished to offer any amendments. And even if Members had amendments to offer, only one of the Legislative Counsel staff members was available to help Members and their offices. That employee should not have been expected to handle all requests before the 5 p.m. deadline for submission to the rules committee;

On June 13, meanwhile, Chairman WHITTEN of the Appropriations Committee requested a rule with the normal waivers, that is, he did not request a restrictive rule like the one before us today.

We then proceeded in the Rules Committee to issue this restrictive rule. Included in it, as I mentioned, was an amendment that I was able to get in before the Monday afternoon deadline. I am thankful for that, but nonetheless must oppose the rule because of the way it abridges the amendment rights of all Members.

Let me reiterate: Mr. MOAKLEY, I believe, did his best under a compressed timeframe. But the fact remains that a restrictive rule is exactly that—restrictive. We should not be restricted in our efforts to control spending, or to give voice to the interests of the people we represent.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, I thank the gentleman for yielding me this time. I thought I would have an opportunity to speak when we were on the bill, but this will do.

Mr. Speaker, I recognize the fact that I, again, swim upstream. I have listened to a lot of people in this body with much more seniority and who are much wiser than I attempt to make changes in this legislation, but I have heard very few people who have suggested that the entire concept was a mistake, and so I can count. I recognize the fact that the rule will pass, and the bill will pass.

But I want to say to my colleagues that it is not the way the S&L crisis was handled, it is not congressional pay increases, it is not junkets, it is not breaches of ethics that have caused this body to become alienated from the American public. It is our attitude toward legislation of this kind.

I do not have any problem with my country continuing to stand for humanitarian efforts overseas, to reach out the hand of this great democracy when there is famine and pestilence and real need. I do not have a problem really with authorizing the Secretary of State to expend with some discretion up to maybe a half million dollars or so, but this business of every year coming into this institution and institutionalizing foreign aid, making it assistance in perpetuity when there is no hope of any reduction, and when I talk to friends who lobby me about this and say, "Well, I know we should send money to countries like Egypt and Israel. But can you tell me when we might expect some reduction? Will it be in the year 2000 or 2010? Will it be on the 100th anniversary of the State of Israel," which I admire with all my heart? when is it to end? What are we to say to our folks at home, my dear colleagues, when they try to have us explain to them why we are now giving from the taxpayers in eastern and central North Carolina over $15 million to the Soviet Union? and the tank tracks in the sands of Eastern Europe have not yet been washed away.

We are told that there are two superpowers in the world, maybe only one economic, but there are certainly two superpowers militarily, and we are here with all the problems we have, with all the deficit, with all the need at home, we are sending money to the Russians.

You explain that to your folks if you can. I am against it, and I suggest that we should be ashamed of ourselves.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to our distinguished Republican leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker and my colleagues, the gentleman who just preceded me in the well makes a point similar to what I probably would have made in my junior years as a Member of this body. In those days, I used to say, "Do not confuse me with the facts. My mind is made up. Vote against the rule on foreign aid, vote against the foreign aid bill, no matter what."

Things can change when you are around here for a while and you take on a few more responsibilities and become, as in my case, leader, but those who serve in very prestigious positions on the Committee on Appropriations have to do their particular thing.

I think the roots of my decision have to be predicated in part on what we did in the budget resolution and the budget considerations last year, at the close of last year, when we determined that foreign aid and international affairs would be a specific item, defense would be a specific item, and then all the rest would be grouped as a third item. We pretty well locked into place what we thought we had to do for the next several years in the international field and in defense.

Of course, then, there was very little out there to be doled around discretionarywise.

Mr. Speaker, I am sorry that I missed the earlier part of the debate, but I suspect that several of my colleagues would take their usual pattern of attempting to have this House speak at will on every issue and have a free and open debate, and as open a rule as possible. This distinguished gentleman from Pennsylvania has advocated that and argued that case for as long as I can remember. Similarly for the gentleman from New York.

I recall in my days on the Committee on Appropriations as we used to come on this floor, we did not really need all that many rules in those days, and it was quite a freewheeling kind of debate; motions to strike were always in order, because we were always attempting on the Committee on Appropriations to cut back from some higher authorized level, and I think some of us may or may not have made our name by having employed that tactic during the course of the deliberations on individual appropriation bills.

We now come to a bill where, for example, all kinds of points could be made. I guess it could not be made any better than it was in the foreign aid authorization bill that we were considering earlier, with amendments coming off the wall of all kinds, sizes, description, and what not.

It is the kind of legislation where, you know, it could be no holds barred and everybody can have a say, and it is very difficult then, I tell you, to try and hold it, hold a good piece of legislation in line.

The gentleman from Wisconsin and I have had a number of conversations about the fact that there is not all that much of a constituency back home for any parts of this bill. Yes, there are certain items, and we can isolate them here and there, but generally speaking, it is a tough bill to manage on the floor of this House. The distinguished gentleman who just preceded me on the floor made the case very well for his point of view, and I am sure satisfying the wishes of his constituents, but I have got to carry water on both shoulders in this case, because I know what has to be done in the national interest, what the administration would like to have, what the Secretary of State would like to have and the President, quite frankly, to implement foreign policy by way of the foreign assistance program, whether it is military assistance, economic development, and all the rest.

So I am going to support this rule notwithstanding the fact that there have been some good arguments made against the proposition that we ought not to preclude motions to strike on appropriation bills.

☐ 1930

The motion to strike has been a time-honored kind of thing around here that many Members have employed over a period of years. But here again is one of those very tough bills that we want to protect as best we can for those who have the responsibility to conduct in principle not only our foreign aid program but our entire foreign policy.

I appreciate the attitude of the gentleman from Wisconsin during the course of the meetings we have had with one another. I appreciate, certainly, the attitude of the gentleman from Oklahoma [Mr. EDWARDS] who, likewise, has a similar job, what with his constituency, in attempting to shepherd this bill.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I know the gentleman had some discussions over some of the concerns we had about this rule that led to some of the actions on the floor yesterday; does the gentleman have some assurance that we are never going to see the motion to strike taken away from Members again?

Mr. MICHEL. Mr. Speaker, I thank the gentleman for raising the subject, because in the private deliberations that we were having yesterday with the Speaker and with the majority leader and with the distinguished chairman of the Committee on Rules, the gentleman from Massachusetts [Mr. MOAKLEY], and specifically before we had agreed to it, the gentleman from Massachusetts [Mr. MOAKLEY] said, "I'm not considering this as any kind of precedent here." It was raised by the distinguished gentleman from Oklahoma.

The gentleman from Massachusetts [Mr. MOAKLEY] responded in that regard, saying, "We don't consider this to be a precedent because it is a unique kind of situation." And it was for that reason that this Member was persuaded that it is probably the route we have to go in this instance.

I appreciate the gentleman reminding me, because it is very important.

Mr. WALKER. If the gentleman will continue to yield, can we expect next year, when this bill comes to the floor, and this is the third straight year when this has been employed on this bill, can we expect next year when it comes to the floor, while there may be some restrictions, at least the motion to strike——

Mr. MICHEL. From time to time we take each individual bill on its own merits at any given time. It would be nice if I could say flat out that I have that feeling and assurance and that that is the way I feel at that time. We will have to wait and see what this consideration is, but I am sure the gentleman will remind me at that time of this particular exchange and dialog, and what is it that again forces Members, if we have to, to make it 4 years in a row rather than 3.

I understand what the gentleman is saying.

Mr. WALKER. If the gentleman will continue to yield, my concern is obviously this: This is only the third time in the entire history of the Congress that we have employed this tactic. Now we have gone through a lot of other foreign crises before and the question is whether or not this is something that we want to continue as a pattern.

I would certainly hope that we would seek some assurance as we seek not to have a precedence, we also seek not to hold this bill as kind of a special bill where the Members do not have a right that has been a 200-year tradition.

Mr. SOLOMON. Mr. Speaker, let me point out that while there may not be any expressed constitutional bars against limiting amendments to appropriation bills, the fact still remains that Congress does have the preeminent power of the purse under the Constitution, and I could argue strongly against any rule that limits our right to exercise that power fully and freely.

Mr. Speaker, I yield my remaining 3½ minutes to the distinguished ranking minority member of the subcommittee, the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Speaker, I do not intend to take that long. I wanted to respond to the gentleman from North Carolina, because I think it is important that the people in this Chamber understand what is in this bill and what is not when he speaks about aid to the Soviet Union. I might say, that that money is primarily for technical assistance. It is money primarily, half of it to the Baltic Republics, which by U.S. policy we consider to be sovereign independent nations. I might also point out that the money is provided for the purpose of promoting democratic reforms.

The gentleman said in the opening part of his statement talking about, I think, Israel, he said, "How long are we going to have to do this," because that money is primarily to help our allies in providing for the common defense. I might say that the way we are going to end that and stop having to give the aid is when we see the threat removed. The more we can do to promote democratic reform throughout the world, the sooner the gentleman will not see the United States having to give security assistance to countries that are joined with the United States in trying to protect our common interests.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 264, nays 135, not voting 33, as follows:

[Roll No. 180]

YEAS—264

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Bruce
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeLauro
Dellums
Derrick
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Matsui
Mavroules
Mazzoli
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Quillen
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schulze
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NAYS—135

Allard
Archer
Armey
AuCoin
Baker
Barrett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bryant
Bunning
Burton
Callahan
Camp
Chandler
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
Emerson
Fields
Franks (CT)
Gallegly
Gilchrest
Gillmor
Gingrich
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hubbard
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kolbe
Kopetski
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Marlenee
McCandless
McCollum
McCrery
McDade
McEwen
McMillan (NC)
Miller (WA)
Molinari
Moorhead
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Ramstad
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schaefer
Schiff
Sensenbrenner
Shaw
Shays
Shuster
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Thomas (WY)
Traficant
Upton
Vander Jagt
Walker
Walsh
Weber
Weldon
Williams
Wolf
Wylie
Young (FL)
Zeliff
Zimmer

NOT VOTING—33

Ballenger
Bentley
Brown
Campbell (CA)
Clay
DeFazio
DeLay
Dicks
Espy
Fawell
Frost
Gekas

Goodling
Gray
Hammerschmidt
Hopkins
Huckaby
Klug
LaFalce
Levine (CA)
Lloyd
Lowery (CA)
Martin
Martinez
McCloskey
Nowak
Oberstar
Rahall
Serrano
Spence
Spratt
Torricelli
Vucanovich

□ 1956

The Clerk announced the following pairs:

On the vote:

Mr. Serrano for, with Mr. Hammerschmidt against.

Mr. Oberstar for, with Mr. DeLay against.

Mr. KOPETSKI and Mr. JOHNSON of Texas changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MAKING IN ORDER CONSIDERATION OF ADDITIONAL AMENDMENT TO H.R. 2621, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1992

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that it be in order to consider, in addition to those amendments to H.R. 2621 made in order by House Resolution 177, an amendment to be offered by Representative CONYERS of Michigan or Representative HORTON of New York or their designee, to be debatable for not to exceed 10 minutes, equally divided and controlled by the proponent and a Member opposed, which shall not be subject to amendment, to be considered following amendment numbered 10 in House Report 102-115, and in the following form:

On page 116, strike lines 22 through 25.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Massachusetts?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, and I do not intend to object, I simply do so to take this time to commend the distinguished chairman of the Committee on Rules, the gentleman from Massachusetts, for accommodating the request of the chairman and ranking Republican of the Committee on Government Operations to make in order the additional amendment to strike.

I also want to commend the chairman of the Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN], and the chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs, the gentleman from Wisconsin [Mr. OBEY], for agreeing to this request, as well as in light of last night's vote on the same issue.

Finally, Mr. Speaker, I am informed that the full Committee on Appropriations, in its markup of the Subcommittee on Interior Appropriations bill, today agreed to delete this provision from that bill.

So, hopefully, the House will not have to deal with this same issue on the remaining appropriation bill.

Mr. Speaker, I would assume that the same provision would be deleted in conference from the bills already passed by this House.

Mr. Speaker, having said all that, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 429, ADDITIONAL AUTHORIZATION FOR CONSTRUCTION OF BUFFALO BILL DAM AND RESERVOIR

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-117) on the resolution (H. Res. 178) providing for the consideration of the bill (H.R. 429) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, which was referred to the House Calendar and ordered to be printed.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1992

The SPEAKER pro tempore (Mr. MCNULTY). Pursuant to House Resolution 177 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2621.

□ 2000

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2621) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin [Mr. OBEY] will be recognized for 30 minutes, and the gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I yield myself 8 minutes.

Mr. Chairman, I recognize that this bill is one of the most popular bills to come to the Congress each year, and I appreciate the enthusiasm with which it is usually received.

Let me simply say before I begin that this bill very closely parallels, at least as closely as we could, given the fact that the bills are being considered concurrently, very closely parallels the authorization bill which was before us earlier in the day, and I especially want to thank all of the members of the subcommittee on both sides of the aisle who helped to put it together. I would also want to especially express my appreciation to the staff: Terry Peel, Bill Schuerch, Mark Murray, Lori Maes, Virginia Poole, and Mike Marek, and a number of other people who provide us a good deal of help in actually bringing this bill to the floor.

Mr. Chairman, this bill is $15.1 billion. It is $12.2 billion below the White House budget request largely because we have provided no funding for the International Monetary Fund which the President asked us to provide. Excluding the IMF, it is still $120 million below the President's request. It is $398 million below last year in discretionary spending. It is in compliance with the summit agreement, although we have not fully provided the money which the summiteers expected we would provide to foreign aid because, at the request of myself and the gentleman from Oklahoma [Mr. EDWARDS], the ranking Republican, the committee decided to devote roughly 1 percent of the bill to straight deficit reduction rather than to use it for foreign aid.

Mr. Chairman, this bill represents the second year in a 5-year plan to adjust foreign assistance spending to the end of the cold war. Military spending is down $159 billion below last year. It is $410 million below the President's request.

Economic assistance is up $839 million focused primarily on three items. We have an increase of $640 million directed at the needs of children, at the special needs of Africa with their incredible famine, and for refugees. On refugees, the committee has been determined to end what has been a multiyear fiction under which the costs for refugee programs have been routinely understated, thus requiring supplemental appropriations later in the year. This committee has provided a significant increase in refugee funding and in disaster funding because we think we have an obligation to bring real numbers to the floor, not numbers which are understated in a phony way. For population we provide a $50 million increase over last year. We provide $400 million for the European Development Bank.

On the Export-Import Bank we specifically prohibit any of those funds to be used for military sales. We do not want them to get in the way of commercial sales. We believe that the Export-Import Bank has retained strong bipartisan support principally because we have kept it focused on commercial sales, and we have not gotten into the controversial area of military sales.

With respect to Salvador we have simply delayed until after Labor Day any decision on the action that would be taken on that item in order to give the administration more time to try to pursue a negotiated settlement in that area, and what happens after Labor Day will be determined by what we judge the conduct of all parties in Salvador to be between now and the end of that period.

With respect to the Middle East I would simply make a comment or two because of the amendment of the gentleman from Texas [Mr. BRYANT] which was considered by the House earlier today. That amendment attempted to scale back funding for Israel to reflect the cost of settlements on the West Bank. It was defeated by a vote of 44 to 378. I voted against that amendment, but I very much respect the gentleman who offered it. I think the amendment was offered in good conscience. My objection to that amendment was simply that it aimed at only one side of the Middle East controversy, and I think we have an obligation, if we are to bring the parties together, to insist on flexible conduct on both sides of that question. I made a commitment to the Secretary of State that we would try to give him as much room as possible to deal with the Middle East, and so, therefore, I have told the Secretary of State that I would try to the best of my ability to see to it that no boats were rocked with respect to Middle East spending until he had ample time to try to negotiate the participation of all of the key parties in peace talks in the Middle East, and I think we have an obligation to do that. I think that situation is so serious that we cannot afford to have either the Executive Branch or the Congress freelancing. We need to be walking down that path together if we are to be constructive in our efforts in that region.

Mr. Chairman, I think Members can vote for this bill recognizing full well that we are spending less money than last year. We are spending it in a way which is much more balanced, which has not been the case in the past. I should note that in 1981 approximately 40 percent of this bill went for development assistance, 36 percent went for military assistance. That changed considerably up until about 1986. Development and humanitarian assistance dropped by almost 25 percent as a percentage of this bill, and military aid increased substantially. We have now over the last 5 years returned this bill to a much better balance in my view with 43 percent of the bill now being devoted to development and assistance and only 31 percent devoted to military assistance.

Mr. Chairman, I think that we reflect realities, and I would also point out that I think this bill, as stringent as it is, is a good investment for the taxpayer because there are a number of items in this bill which really represent efforts to deal with international problems before they get out of hand, before they require much greater expenditures, before they require the expenditures, not only of dollars, but of military equipment and, indeed, of lives.

It seems to me that the bill is very much in the interest of the United States, and I appreciate the bipartisan cooperation of the committee, and I will withhold other remarks until later in the discussion.

□ 2010

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have often said that one of the reasons the chairman of this committee and I work so well together is that we both basically oppose most foreign aid. Since I became the ranking member of the subcommittee, the House has cut more than $6 billion from administration requests in foreign aid. I am pleased to say that the subcommittee has once again succeeded in reducing overall foreign aid spending.

This year's bill totals $15.3 billion. That is $121 million below the administration's request, and including supplementals, it is $398 million below last year. Let me repeat, it is nearly $400 million less than last year. As the chairman noted, we have also denied the administration's separate request of 12 billion for the International Monetary Fund.

In subcommittee, we included a new account, which I consider one of the most important in the entire bill. This account dedicates $135 million to reducing the Federal budget deficit. Not reducing the debt of other countries, but reducing the debt of the American taxpayer. I've been on the Appropriations Committee for 10 years and this is the first time I know of that any approprition bill has contained a specific account dedicated to deficit reduction. I hope other spending bills in the future might contain a similar provision.

The bill makes several key policy statements as well. Our committee report contains language which says we are not prepared to provide aid to the Soviet Union until it has changed substantially—free elections, the right to secede, privatization of the economy. Several of us had lunch with Boris Yeltsin today. I admire his efforts to reform the Russian Republic and insisting on these conditions before any aid goes to the Soviet Union is the only way to help him bring about real change in the Soviet Union.

The bill contains no language conditioning aid to El Salvador. Every Member of this House should want lasting peace in Salvador and right now, the best way to help accomplish that goal is to remain silently supportive so that there is no breakdown in the peace talks.

I support the President's Enterprise for the Americas Initiative, which is fully funded in this bill. The administration also requested more than $300 million to reduce the debt owed to us by Latin American nations. But this bill contains only $65 million for debt reduction. I do not support any writing off of debt owed to the American taxpayers by foreign governments, and am pleased that the committee at least reduced the request by $235 million. I voted against this bill last year because it contained debt forgiveness for Egypt. I will not support writing off the debt owed to us by foreign nations. It is not only bad politics, but it is also bad policy. I recognize debt is a serious problem for developing nations but it would be better to help these nations reschedule or refinance their debt, and insist that they ultimately pay it.

The bill contains $415 million for the democracies of Eastern Europe and for the Baltic nations which are making steady progress in establishing democratic institutions and market economies. This funding is essential for those nations which are embarking upon the road to democracy, but it is not designed to meet the opportunities which may arise in the next year. We hope still more nations in Africa, Europe, and Latin America will move toward more democratic forms of government in the upcoming year, and each will need our help to succeed. I intend to offer an amendment which would increase the President's authority to shift money within this bill to help nations move toward democracy.

The bill contains a $20 million earmark for UNFPA for population control activities. The President has made it clear that he will veto the bill if the UNFPA money is kept in it. He vetoed the foreign operations bill 2 years ago because it contained a similar provision and I am certain he will do it again this year.

The bill also places unfortunate and ill-advised caps on aid to some of our most important gulf war allies. I hope that provision will ultimately be dropped.

Mr. Chairman, this bill still contains a number of provisions which remain unacceptable to me. However, this is not the final step for this bill. I will support this bill tonight to move the process forward and I intend to work hard in conference to make this bill more acceptable to me and to the administration. If we are not successful, I will oppose the final version of this bill.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I appreciate the chairman's recognition. During the Foreign Operations Subcommittee consideration of the fiscal year 1992 bill, I was pleased to join my colleagues on the subcommittee in supporting report language which recognizes the valuable contributions being made by the non-profit graduate business school in Central America called the Instituto Centroamericano de Administracion de Empresas [INCAE]. With the chairman's support, we also included language urging AID to reschedule this year's debt payment currently owed to the United States by INCAE, to work with the institution to come up with a plan to explore methods of relieving this debt, and to report that plan back to the committee. For the record, Mr. Chairman, I would like to restate my strong support for this assistance to INCAE. In addition, as I read the language presented in the committee report, it is my understanding that we are requesting AID to report back to the committee in sufficient time so that we may take action on proposals to address INCAE's debt to the United States during drafting of the fiscal year 1993 bill. Does the Chairman concur with my understanding concerning this aspect of the report language?

Mr. OBEY. The distinguished gentleman from Florida is correct in his understanding.

Mr. SMITH of Florida. I thank the chairman for his clarification and continued support for this assistance to INCAE.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, I want to commend the chairman of the subcommittee, the gentleman from Wisconsin, and the ranking member, my close friend, Mr. EDWARDS of Oklahoma, for bringing this bill to the floor in such a timely manner. This bill deals with many very sensitive and contentious issues and requires quite a lot of compromise, hard work, and dedication to move it along.

The foreign operations bill appropriates funding for a number of programs that reflect what we are all about as a country, including food assistance to countries unable to feed their people, health programs to eradicate many treatable diseases, including childhood diseases, international disaster assistance, development aid to the poorest of the poor countries, some of which have per capita incomes of less than $200, and carefully targeted assistance to Eastern European nations to help them achieve the freedom they are working for.

These types of programs and the foreign operations bill only take up about 0.6 percent of our Federal budget, but they bring immeasurable returns to the United States all around the world.

The foreign operations bill also contains a number of programs that are directly beneficial to U.S. business and workers. The Export-Import Bank, which directly facilitates the sale of U.S. products and services overseas, is an example of this type of program. The multilateral development banks also indirectly benefit U.S. businesses by strengthening the economies of our trading partners in the developing world and enabling them to engage in world markets.

In addition to these programs, I want to highlight some other parts of this bill which address urgent problems which I think are important.

Between 1800 and 1930, the world population doubled from 1 billion to 2 billion people. In the next 60 years, the world added another 3 billion people. At the current rate of growth the next billion will take only 11 years. At this pace, the present world population of 5.3 billion will double by 2025. Many, if not most, of the environmental problems facing us today can be directly attributable to pressures caused by population. Deforestation, desertification, water shortages, loss of biodiversity, global warming, and fouling of the ocean and ground water can all be attributed to the unprecedented expansion of the human race.

I think this is the most pressing problem facing the world and I am very pleased that this bill increased the AID voluntary family planning account to $300 million this year. I thank the chairman for his dedication to this important priority.

While I am very appreciative that population was made a priority in this year's bill, I must mention that we still have a long way to go to meet the urgent need for family planning services in the developing world. At the Amsterdam Conference on world population issues last year, it became apparent that to stem the tide of population growth, developed nations would have to increase their funding of voluntary family planning activities substantially. We currently spend approximately 2 percent of our foreign aid on such activities. In order to ensure manageable population growth we should increase this amount to 4 percent in the next few years and I will work to make that figure a reality.

I am very pleased also that the committee has included funding for UNFPA—albeit a small amount—to deliver contraceptive products to developing countries. AID, the U.S. bilateral assistance agency, does a good job in the countries where it operates, but it operates in only about 40 countries. UNFPA operates in almost 140, and I strongly support the inclusion of funding for UNFPA this year.

I am also very pleased that the committee again earmarked $15 million this year to help solve the standoff between the Greek-Cypriots and Turkish-Cypriots that has divided the island of Cyprus for the past 17 years. For the first time this year, use of these funds is limited to bicommunal projects that bring the people from both communities on Cyprus together and to academic scholarships for people of both communities.

I strongly support the use of these funds for bicommunal projects, but I am concerned that under the new way of distributing the funds intransigence by Turkish-Cypriots will result in no funds being used for any projects whatsoever. The way the system has worked, if the funds were not used bicommunally, they would be available for nonbicommunal projects divided according to population and spent by the United Nations. This acted as an incentive to encourage both sides to be forthcoming in negotiating bicommunal projects. I am concerned that Turkish-Cypriots will now have an incentive to hold up implementation of bicommunal projects with the knowledge that Greek-Cypriots will not benefit from the funds as they have in the past.

If this provision remains in the final legislation, we will see what the outcome is. If we find that negotiations on bicommunal projects have come to a stalemate, I will strongly encourage the Foreign Operations Subcommittee, the Foreign Affairs Committee, and the State Department to determine which side is dragging its feet and figure out ways to create incentives to ensure that these funds are used to achieve true bicommunal interaction between the two communities on the island in the future.

The greatest disappointment that I have with this bill is the treatment of one of the President's highest priorities, the Enterprise for the America's Initiative. The Enterprise for the Americas Initiative is a comprehensive blueprint for debt relief, economic reform, investment, development, and environmental improvement. While I applaud the chairman for fully funding the multilateral investment fund, I am extremely concerned that the debt relief portion of the initiative has been gutted. The President requested $285 million in debt relief, the House authorized $243, but the foreign operations bill that is on the floor today only authorizes $65 million.

Now, $65 million is a substantial amount, but taken in the context of relieving debt in Latin America it certainly does very, very little and is a far cry from enough to implement a comprehensive debt relief plan, which is what Enterprise for the Americas is designed to be. I hope that an accommodation can be worked out somewhere later in the process that will bring Enterprise for the Americas Initiative funding back up to administration levels and I look forward to working with the chairman on this issue.

I also want to thank the committee for including $40 million for the International Finance Corporation capital increase. This was really just a placeholder until Treasury and the World Bank could come to an agreement on the Bank's role in private sector lending. I am pleased to report that they have come to an agreement and Treasury has now requested the full $50 million that it is generally agreed is needed to permit the IFC to meet the private sector lending needs of the new democracies in Eastern Europe while continuing to serve the developing countries of Africa, Asia, and Latin America. I think it is clear that in light of the agreement, $50 million is the appropriate funding level and I look forward to working on this issue in conference.

I also thank the committee for including language that expresses support for the first direct election of members of the Legislative Council in Hong Kong, and which urges private organizations and governments to send teams of observers to the elections. These observers are designed to set a precedent of international observation at Hong Kong elections that will carry on after China takes control of Hong Kong in 1997.

As a final note, I would like to thank the committee staff: Terry Peel, Bill Schuerch, Mark Murray, Lori Maes, and Virginia Poole, a very capable detailee from AID, for their long hours and late nights which made it possible to bring this bill to the floor in such a timely manner. I also want to recognize the associate committee staff including, among others, Chris Walker, Pam Norick, Dean Sackett, Mike Marek, Gary Bombardier, Patricia Knight, Adele Liskov, and Tom Pines who have done such a fine job for their respective members.

I urge Members to support this bill.

□ 2020

Mr. OBEY. Mr. Chairman, I yield 2 minutes to my very good friend, the gentleman from Florida [Mr. LEHMAN], who is also chairman of the Transportation Subcommittee and one of the key members of the Subcommittee on Foreign Operations.

Mr. LEHMAN of Florida. Mr. Chairman, I thank my friend, the gentleman from Wisconsin, chairman of the Appropriations Subcommittee for Foreign Operations, for yielding time to me.

Mr. Chairman, I rise tonight to speak in favor of the 1992 foreign aid appropriations bill. It addresses the needs of refugees, provides disaster relief to people in crisis, promotes world wide peacekeeing activities, supports voluntary family planning, and even builds in deficit reduction. As Mr. NATCHER would say, this is a good bill. I congratulate DAVE OBEY for his skillful and strong leadership in crafting an excellent bill.

In fact, when the sorry history of the refugee situation in the last half of this century is written, no one should be given more credit to alleviating the suffering of refugees than the gentleman from Wisconsin for what he is providing in this legislation. He is a fighter for the survival of the refugees.

Let me focus on three of the most important items in this bill, refugee assistance, humanitarian assistance for children, and population assistance.

There are unprecedented numbers of refugees worldwide, as a result of natural disasters and war. In recognition of this sad fact, this bill provides an increase in humanitarian assistance to refugees in 1992. The bill appropriates $80 million to help provide transportation for thousands of Soviet Jews to Israel each month, and will help support the 14,000 Ethiopian refugees that have been airlifted to that country.

Children who have been displaced because of war, natural disaster, or economic circumstances represent one of the most overlooked areas of development. This bill increases funding for displaced children from $5 million to $8 million, with special emphasis on assisting displaced children in Romania and Cambodia, and the world's estimated 100 million street children. While the world is waiting to see the results of economic and military programs, programs funded in this bill for children will already be saving lives.

A vote for family planning is not largely symbolic. If we make voluntary family planning universally available, population can be stabilized. This is an essential first step in combating deforestation and preservation of endangered species and other environmental problems caused by overpopulation. The demand for contraceptives has grown substantially in countries where the AIDS epidemic is prevalent, and where contraceptives are not manufactured and foreign exchange to import them is limited. Condoms are essential to help prevent the spread of HIV and other sexually transmitted diseases. The $20 million earmarked for the U.N. Population Fund [UNFPA] is for the provision of contraceptive commodities only, and no part of these funds will go to China.

I urge my colleagues to vote for this bill. It encompasses the best the United States has to offer the world: Compassion, assistance, and an eye for the bottom line cost. Vote "yes" for the previous question.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 6 minutes to the gentleman from New York [Mr. GREEN].

□ 2030

Mr. GREEN of New York. Mr. Chairman, I rise in strong support of H.R. 2621, the foreign operations appropriations bill for fiscal year 1992, and I should like to take a minute to highlight a few of the bill's important provisions.

According to the Department of State, the size of the worldwide refugee problem nearly doubled during the 1980's, growing from 8 million in 1980 to over 15 million by the end of that decade. The beginning of the 1990's has only seen this crisis deepen, as appalling human rights developments in Iraq, Somalia, Tibet, and Cambodia have caused the global refugee population to swell. Armed conflicts in Afghanistan, El Salvador, Mozambique, the Sudan, and elsewhere continue to generate the majority of the world's refugees. H.R. 2621 addresses this growing problem by greatly enhancing the priority our Nation assigns to refugee assistance worldwide, appropriating $630 million for migration and refugee assistance.

Within the refugees assistance account, the bill earmarks $80 million for the resettlement of Soviet, Eastern Europe, and other refugees in Israel. This is a cause to which just about every Member of this House subscribed during the past two decades. We worked hard to see that this happy day would come when Soviet Jews would finally be able to leave the Soviet Union.

For that reason, I am delighted that this bill, under the leadership of our chairman, the gentleman from Wisconsin [Mr. OBEY], makes enhanced provision for the resettlement of those refugees. It is really a case of honoring a commitment that all of us, including the gentleman from Wisconsin [Mr. OBEY], our chairman, have made, and I think the bill for that reason alone deserves support.

I am also pleased that the bill contains my provision requiring the Department of State to redouble its efforts to urge the Arab League to cease the economic boycott of Israel. It is particularly appalling that two of our primary coalition partners in the Persian Gulf war, Kuwait and Saudi Arabia, have given no indication of their willingness to end or suspend this harmful boycott. In fact, those two nations have been among the boycott's strictest enforcers.

Mr. Chairman, I think it is particularly sad that they are doing that, because we have to understand that the boycott does not hurt just Israel. It hurts the United States and U.S. companies that want to do business in the Mideast, and so I think it is important that we take this step to try to encourage the administration to take the necessary steps to end the boycott.

H.R. 2621 also rightly places the needs of the world's children at the top of our Nation's development agenda, and recognizes the important goals outlined at the World Summit for Children last year. The bill appropriates $85 million for the U.N. Children's Fund [UNICEF], and provides increased assistance for displaced children, health and child survival, AIDS, and basic education.

In UNICEF's publication, "The State of the World's Children for 1991," emphasis is placed on the link between child survival and family planning. Babies born in quick succession, to a mother whose body has not yet recovered from a previous birth, are the least likely to survive. Recognizing this important link, H.R. 2621 provides $300 million for voluntary family planning. Within that, the committee has earmarked $20 million for the U.N. Population Fund [UNFPA]. I should emphasize that that earmarking is only for the provision of contraceptive commodities in developing countries. Plainly it is not for abortion, only for contraceptive commodities.

While the U.N. Family Planning Agency has been denied U.S. funds since 1985, the House wisely approved funding for UNFPA by a vote of 234 to 188 just last week. I sincerely hope the administration will reconsider its opposition to that funding. I have sought to find common ground with the Bush administration, going back to last year when Senator HATFIELD, who is someone who has been strongly on the right-to-life side, and I, who have been strongly on the prochoice side, sought jointly to meet with representatives of the administration to discuss this issue to try to work out some common ground while we ultimately got a meeting with White House staffers, it was obvious that they were not authorized to seek common ground with us. I once again urge the administration to sit down with those of us in the Congress who are concerned with family planning to see if we cannot come to some agreement on this important issue.

It is plain that the United States is not reaching nations like Ethiopia, Romania, Afghanistan, and Poland, to name just a few, where family planning help is desperately needed, but where the United States does not have a bilateral aid program that can provide that family planning. In the absence of that family planning, we are simply encouraging abortions. I cannot think of any case more graphic than the Romanian case to show how the restrictions that this Congress and this administration have in the past imposed on our ability to contribute to the United Nations family planning operation are not preventing abortions but, in fact, are encouraging abortions by the hundreds of thousands. It is a sad situation, and I hope that we shall deal with it.

Mr. Chairman, I do want to take a moment to address the issue of military assistance to the Government of El Salvador. As you know, there has been an agreement in this House that H.R. 2621 should be silent on the issue, as is the foreign aid authorization bill. That is in recognition of the fact that, under United Nations guidance, serious discussions are presently underway between the Government of El Salvador and the FMLN to achieve a permanent settlement to that nation's terrible civil war. I support the bill in taking this approach, because I believe that the U.S. policy must continue to give the fullest possible support to the U.N. negotiations process. However, I take this opportunity to urge President Bush not to release the second half of military funds available to the Salvadoran Government from fiscal year 1991. I concur with Chairman OBEY's position that release of those funds will take pressure off the Government with respect to negotiations, rather than moving the negotiations forward.

In short, I strongly urge all of my colleagues to support H.R. 2621 and commend both the chairman, the gentleman from Wisconsin [Mr. OBEY], and the ranking minority member, the gentleman from Oklahoma [Mr. EDWARDS], for their leadership in fashioning this commendable bill.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. McHUGH], who, even though he is not the vice chairman technically, serves in that capacity on a day-to-day basis and is most helpful to the committee in its work.

Mr. McHUGH. Mr. Chairmam, I rise in support of the bill. It is a responsible one and fully consistent with the budget agreement Congress enacted last year.

We know that foreign aid is the least popular and possibly least well understood part of our budget. Many Americans think of it as an international welfare program that has little to do with their own interests or those of our Nation.

Most people also believe that foreign aid consumes a large portion of our Federal resources. In fact, it represents roughly one and a half percent of our budget. But if effectively targeted and administered, foreign aid can be an indispensible tool for advancing the interests of the United States abroad.

Today, the international community is attempting to cope with some every profound developments. In central and Eastern Europe, Germany is reunified, the Warsaw Pact has disbanded, and fragile new governments are struggling to build democratic societies and restructure their economies. Communism is surely dead, but there is no assurance that the transition to economic and political pluralism will be smooth and stabilizing.

In Africa we have witnessed the collapse of dictatorships in Ethiopia and Somalia, and the end of a tragic civil war in Angola. Aspirations for more open and pluralistic political systems—and for governments that respect basic human rights—struggle to overcome tribal antagonisms in other areas of the continent. The outcome remains uncertain.

In our hemisphere, Haiti finally has a democratically elected government. Progress toward a negotiated settlement in El Salvador has been made, but the contending parties have now reached the most difficult issues and no one can predict whether peace will finally be delivered to a people that has suffered so much. In the meantime, newly elected governments in Chile, Nicaragua and elsewhere face the daunting task of making democracy work.

In the Middle East, Saddam Hussein is no longer an immediate threat to his neighbors or to global security. In the aftermath of the war, however, many questions remain.

Will the people of Kurdistan be able to return to their homes with any long-term guarantee of security? Will governments in Kuwait and the other gulf states respond affirmatively to the aspirations of their people for political systems that are more open and responsive? Are Israelis and Arabs, including the Palestinians, prepared to finally negotiate directly to resolve issues that have long divided them, or will everyone in that volatile region be content to reload their guns and await the next outbreak of violence?

For all of the remarkable changes that continue to unfold, Mr. Chairman, we should also recognize that some things have changed very little. In particular, hundreds of millions of people in the developing nations of the world continue to live in abject proverty—without adequate access to the food, shelter, credit, education and health services needed to live in dignity and hope.

Life expectancy in Africa is just 52 years on average; in Japan, it is almost 79. In South Asia, 58 percent of all adults are illiterate; less than 1 percent of adults are illiterate in Sweden. The plight of women and children in the developing world is especially troubling.

More than 180 million Third World children suffer from serious malnutrition; 110 millon lack access to basic education, something Americans take for granted. In Africa south of the Sahara, of every 1,000 children born, 179 will die before the age of 5; only 18 of every 1,000 children born in the industrialized nations will die before age 5.

These stark contrasts attest to the continuing human deprivation in many parts of the world today. For more than 40 years, much of our foreign aid has been shaped by the global competition between the United States and the Soviet Union. That competition has now waned, but the problems of suffering people remain. They continue to require our urgent attention.

Mr. Chairman, our foreign aid program cannot remake the world. We have neither the power nor the resources to do so. Moreover, aid alone would not solve these problems. The initiative for their resolution must come primarily from the people themselves. But those people look to the developed countries, especially the United States, for leadership and a helping hand.

If our foreign aid programs are to be relevant and advance legitimate American interests, they must effectively address the challenges the world faces today. Even if the pace of change were not so dramatic, there would be a need to reshape these programs. The rapidity of change only lends greater urgency to the task.

I believe that current realities require that we put less emphasis on military aid and more on promoting equitable economic growth. If new democracies are going to survive and prosper, if stability is to be assured among people who aspire to a better life, success will have more to do with economic development, moderate population growth and environmental protection, than it will with military arms and capabilities.

I also believe that most of those challenges can best be met through multilateral rather than bilateral approaches. Most problems are not limited to one country; they are most often regional and sometimes global. Effective action therefore requires a regional or global response. There needs to be greater support for multinational efforts where there is genuine cooperation and cost sharing.

This approach is exemplified by two new initiatives funded in this bill. One is the global environmental facility sponsored by the World Bank, and the second is the special program for Africa initiated by the International Fund for Agricultural Development. They are examples of the direction in which foreign aid programs should be moving.

The chairman of our subcommittee, Mr. OBEY, has already described the provisions in this bill in some detail. However, I would like to emphasize that the bill cuts foreign aid more than $1.2 billion from current levels and significantly reorders the priorities of the program. Among the more important adjustments the bill would make are the following:

First, the bill recognizes that we have a special obligation to children, and would accord them a much higher priority in our foreign assistance programs. For the first time, the bill earmarks a total funding level for child survival programs from all of the programs administered by the Agency for International Development [AID]. The amount recommended is $275 million, up from about $202 million in 1991. In addition, we have provided $85 million for the U.N. Children's Fund [UNICEF], $10 million more than the current level and $30 million more than the President requested.

As a result of these initiatives, funding for programs that have already been proven effective in saving children will increase 30 percent above the 1991 level, and more than 40 percent above the President's request.

Finally, for the first time the bill requires that a minimum of $135 million be spent on basic education programs; increases funding for AIDS prevention and control activities by 25 percent; and provides increases for a variety of other programs that benefit children, such as the Vitamin A Deficiency Program.

Second, the bill makes a realistic commitment to deal with the problems of refugees and disaster victims. In past years the refugee and disaster accounts have been chronically underfunded, and the administration has had to borrow from other accounts or seek supplemental appropriations to meet essential needs. This promotes uncertainty and inefficiency, and therefore we have recommended $70 million for disaster assistance, up from $40 million last year, and $680 million for the refugee accounts, up from $520.6 million in the 1991 bill. Within the amount recommended for refugee assistance, we have also increased funding for overseas refugee programs from the current level of $233.4 to $315 million.

The problem of chronic underfunding has been dramatized this year by events in Iraq, Bangladesh and Africa. It is time that we deal with these accounts in a more sensible fashion, and I believe the bill does so.

Third, the bill provides for a substantial increase in funding for Africa, the most desperately poor region of the world. By virtually every standard of economic and human development, Sub-Saharan Africa is the most underdeveloped region of the world. Congress recognized that in the past by establishing the Development Fund for Africa, which is administered by AID. This year we are strengthening that initiative by increasing development assistance for Africa from $800 million to $1 billion. There is no question that the needs there are compelling, and this action reflects the focus Africa is now receiving from other developed countries and the international organizations.

Mr. Chairman, let me stress again that the important priorities I have cited—children, refugees, disaster victims, and sub-Saharan Africa—are all being funded within the budget ceiling we have to work with. We have also recommended some reductions in the military aid accounts. The overall program level for military assistance recommended in this bill is down 3.4 percent from the 1991 level, and it is 8.4-percent less than the President's 1992 budget request.

As Chairman OBEY has indicated, the bill actually appropriates $135 million as a voluntary contribution to reduce the Federal deficit. This will not have a major effect in cutting the deficit, but it does reflect the Committee's effort to make some savings in foreign aid while at the same time meeting our most important priorities.

I would like to comment briefly on two other matters, Mr. Chairman.

At the request of the House leadership, we have deferred action on future aid for El Salvador until September. Given the delicate stage of negotiations between the government and the FMLN, I support that decision. Our goal should be to pressure both sides to settle the conflict now, and responsible parties have recommended that we do nothing at this critical moment which might appear to give an advantage to either side. When we revisit this important issue in September, Mr. Chairman, we must assess the conduct of both sides very carefully. We want an end to this war and genuine reforms in El Salvador. If either side fails to negotiate in good faith, or acts to scuttle the talks, it should have a profound effect on our decision in the fall.

Finally, this bill prohibits the Export-Import Bank from financing arms sales as the President proposed. It also incorporates language similar to that in the authorization bill imposing a temporary moratorium on arms shipments to the Middle East. Many of us in Congress believe that the administration should make a serious effort to negotiate a multilateral agreement limiting the transfer of both conventional and nonconventional weapons to that volatile region. Frankly, we have been disappointed with the President's efforts thus far. Much stronger leadership is necessary on this issue.

In closing, Mr. Chairman, I would again urge our colleagues to support this bill. While it is not perfect, it does respond in important ways to our changing world and it will advance legitimate American interests.

□ 2040

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield 4 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, every year since 1985, one population control organization, and only one, has been found to be in violation of the Kemp-Kasten anticoercion law.

Each year since 1985, the President has determined that one organization, the U.N. Population Fund, supports and comanages a coercive population control program, a program that uses forced abortion and involuntary sterilization to achieve its objective.

While H.R. 2621 continues the Kemp-Kasten language and adds a new twist linking funds for UNFPA with the continuance of MFN, it carves out a singular exception to the application of Kemp-Kasten.

Who gets the exception? You guessed it, the U.N. Population Fund, the only organization found to violate the Kemp-Kasten Anticoercion law gets exempted from that provision in the bill before Members, and receives an earmark for $20 million.

The UNFPA earmark, I suggest, is inconsistent with any authentic notion of voluntary family planning and makes a mockery of efforts to eradicate coercion by governments.

As the leading international apologists for China's coercive program, the UNFPA has engaged in a shameful cover up of the regime's atrocities against women, children, and the sanctity of the family. When the United Nations gave China an award to 1983, the regime's family planning minister proudly proclaimed that the award had put "the imprimatur of the world body" on China's family planning efforts.

On other occasions, high ranking Chinese officials pointed to the defense of their program by the UNFPA and the International Planned Parenthood Federation to deflect criticism by this Congress and the State Department. Dr. John Aird, the former Senior Research Specialist on China at the United States Census Bureau, compiled volumes of evidence on China's systematic use of coercive in population control programs. In his book published his year "Slaughter of the Innocents: Coercive Birth Control in China," Dr. Aird writes:

> The Chinese program remains highly coercive, not because of local deviations from central policies, but as a direct, inevitable and intentional consequence of those policies.
>
> Foreign organizations and individuals that indiscriminately laud the Chinese program or provide financial or technical assistance for any aspect of it place themselves in the position of supporting the program as a whole, including its violations of human rights.

Mr. Chairman, I can well appreciate Members' concern about family planning, but Members should be aware that the Kemp-Kasten language has not reduced U.S. support for international family planning efforts by 1 penny since 1985. Money denied UNFPA due to its cozy relationship with China's dictators has been reprogrammed to other family planning organizations.

Mr. Chairman, make no mistake about it, a reversal of the Kemp-Kasten policy providing an exemption for UNFPA sends a very bad signal to the Chinese dictators, that coercion matters very little to the United States. Let me remind Members that in the June 4, 1991 letter to congressional leaders, the President made it absolutely clear that he would veto this legislation if the Kemp-Kasten language was weakened in any way or repealed. I fully expect, Mr. Chairman, that this bill which contains vital funding for a myriad of programs will pass tonight, but no one should misconstrue that vote. I know for a fact that several Members who will vote to sustain a Presidential veto have indicated to me they will vote tonight for the bill to speed it on its way.

The end game, it is hoped, will be a bill before Members that could be signed by the President and absent the exemption for UNFPA to the Kemp-Kasten language.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I urge my colleagues to support the foreign operations appropriations bill for fiscal year 1992.

H.R. 2621 addresses, by significantly reordering spending priorities, some of the most critical concerns many of us have concerning the funding of U.S. foreign aid. For starters, foreign military aid is reduced by $1.14 billion compared to fiscal year 1991 appropriations. At the same time, funding is increased for important humanitarian aid programs such as child survival activities, basic education in developing countries, refugee assistance, AID's Office of Foreign Disaster Assistance, and UNICEF.

While I have regularly offered amendments to cut appropriations bills, I offer no such amendment today and instead applaud this effort by the Appropriations Committee, especially the Foreign Operations Subcommittee. Many of the humanitarian aid and development priorities incorporated in this bill conform with an amendment offered by Hunger Committee Chairman TONY HALL to the foreign aid authorization bill considered earlier and are an outgrowth of the "Freedom From Want Act" supported by those of us who serve on the Hunger Committee.

These provisions demonstrate how we can utilize U.S. foreign aid effectively to address the many problems facing citizens of the developing world. It is tragic to note that 14 million children die every year in developing countries. Child survival activities such as vaccinations, breastfeeding promotion, and oral rehydration therapy can drastically reduce that figure. Basic education programs in the developing world can give children a chance to lead better, more productive lives. But these changes will not occur if countries continue to spend their scarce resources on arms.

We must seek a new balance between military and humanitarian aid, and realize that significant changes have occured in the world that must be taken into account by U.S. foreign policy. This spending bill accurately reflects the strategic changes occurring in many parts of the world and moves us toward a proper balance in our assistance programs. It deserves our support.

Mr. OBEY. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I simply would like to respond to the comments of the previous speaker who referred to the President's threat to veto this bill because of its language which provides some assistance to the U.N. Population Program in the event that China obtains most-favored-nation status.

Let me simply say that I voted with the gentleman from New Jersey [Mr. SMITH] in the Committee on Appropriations against the language which was not contained in this bill. I also voted with him and the President on the amendments that were before Members on the floor on the authorization bill. We lost.

However, I frankly feel that the administration has to take some responsibility for that. Three weeks before our committee marked up the bill I called Governor Sununu and I told him that he needed to recognize that because of changes in personnel on our subcommittee, including changes on the Republican side of the aisle that the administration no longer had the votes on my subcommittee to retain the language that they wanted to retain on this issue. I urged him to sit down with the members of his own party on my subcommittee and to work out a compromise, which I told him I would buy, sight unseen.

□ 2050

No such call was made. No such effort was made by the White House to try to work out a compromise until 1 hour into the markup, at which point the phone call was made, obviously too late to have any real effect on anybody or anything.

So as a consequence, when the vote came three of us voted with the President; the gentleman from Oklahoma [Mr. EDWARDS], myself and the gentleman from Louisiana [Mr. LIVINGSTON]. We lost the amendment.

I feel obligated now to support the language in the committee bill because chairmen are supposed to be the instruments of the policy of the committee and the House, and not their own policy; but I just have to say that I would find it strange indeed were the President to veto this bill over this item.

The fact is that it is the administration which has linked their refusal to support funding for the U.N. Population Program to their unhappiness with the Population Control Program in China.

The administration specifically spelled out, in their letter to the U.N. Population Fund, that the reason they were declining to provide money is because of the actions of the Chinese Government with respect to abortion.

I happen to agree with the President that the program in China is coercive. I find the conformist pressures from the Chinese Government on this issue to be highly offensive, but I would simply suggest that there is one way which the President can prevent this funding from flowing; All he has to do is not to provide most favored nation status to China.

It seems to me strange for the White House on the one hand to say that we should provide funding to the U.N. program, the United Nations being a third party and not directly responsible for the conduct of the Chinese Government, and yet at the same time to have the President say to the Congress, "I want you boys and girls to pass legislation providing Most Favored Nation status for China."

If we have an objection to China's coercive abortion policy, we ought to direct our anger directly at China. We ought to direct our efforts at persuasion to change conduct to China.

It seems to me, therefore, that it is rampantly inconsistent for the President on the one hand to say that we should deny funding to a third party because we are unhappy with the conduct of China, and yet to say that we ought to provide most favored nation status to China.

If this veto takes place on this issue, it will be because the President has met himself coming back. It will be because he has decided to provide most favored nation status to China and has been able to convince the Congress to do that.

I think personally that is unfortunate. I think China should not get most favored nation status under any circumstances. I hope we defeat it. If we do defeat it, that is the one sure way to prevent any funding from flowing to the U.N. program. If on the other hand most favored nation status goes forward for China, then it seems to me highly inconsistent to say that we ought to withhold funds to a third party.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I just wanted to say to the gentleman, as he knows, I agree with him completely in having both of us voted against the money for the UNFDA, and I agree with the gentleman that MFN for China is a very bad idea. I think most of the Members on this side of the aisle would agree.

But as I told the gentleman in the committee, I am not sure that I see the parallel, because there are other nations to whom we give MFN status, and that does not mean that we adopt and endorse any coercive abortion if they were to undertake it. So I think the gentleman is perhaps stretching a little bit too high those two together.

Mr. OBEY. Well, Mr. Chairman, let me simply say that the point I am trying to make is that if we are unhappy with China because of their abortion policy, we ought to direct our unhappiness at China, not the United Nations.

My point also is broader. I believe that we ought to take this debate back from the extremes on either side of the question. I think the American public has a right to expect that we are going to try to reach a reasonable compromise which can be supported by the vast majority of the American people, rather than having outside groups on both sides of the issue whipsaw the Congress for their own personal concerns, even though I do not question their right to have those concerns.

It just seems to me we have an obligation to try to bring the country to the center on this issue. The President is not going to do that by a veto. He did not do that by a White House refusal to try to work out a compromise with folks on the Republican's side of the aisle. I suggest, therefore, the language here is an attempt to try to force that compromise, which I believe is the responsible and constructive thing to do.

Mr. WOLPE. Mr. Chairman, I rise in support of the foreign operation appropriation bill and want to address a specific element of this important legislation. I had intended to speak in opposition to amendments that I understood the gentleman from Oklahoma [Mr. EDWARDS], intended to offer that would have eliminated the requirement that military aid to Turkey and Greece be made on the basis of traditional 10-to-7 ratio. I am pleased to know that the gentleman has decided to withold his amendments, and that the 10-to-7 ratio requirement in the foreign assistance authorization legislation will be maintained.

I want to take this opportunity to express my strong support for the $15 million in economic assistance for Cyprus that has been authorized in the foreign assistance legislation. The earmarking of this assistance sends a strong signal to the two communities on Cyprus that the Congress continues to be strongly committed to resolving the Cyprus conflict.

The victory of the rule of law in the Persian Gulf has given the the people of Cyprus new hope that the tragic division of their country will soon come to an end. From the outset of the Persian Gulf conflict, Cyprus supported the efforts of the allied coalition. The Congress should now insist that the same rule of law that was asserted so decisively in response to Iraq's aggression against Kuwait be extended to Cyprus.

Mr. Chairman, President Bush speaks of a new world order. If indeed this means dedication to international law and respect for national sovereignty, then let Cyprus be the first test of the New World Order. There are operative U.N. resolutions which pertain to the resolution of the conflict on Cyprus which have not been enforced. Moreover, Turkey continues to ignore the will of the international community by maintaining its occupation of Cyprus. The U.N. resolutions with will weaken the United Nations, and destroy the opportunity for a new world order.

Mr. Chairman, it is my hope that the United States will redouble its diplomatic effort to secure a long overdue resolution of the Cyprus conflict.

Mrs. MORELLA. Mr. Chairman I urge my colleagues to support the increased funding provided for international voluntary family planning assistance, including $20 million for the U.N. population fund [UNFPA]. The funding for UNFPA is to be used specifically for contraceptive supplies and the distribution of these supplies.

Requests from developing countries to the U.N. population fund substantially exceed the funds available to UNFPA. Some examples of projects that UNFPA is not certain it will be able to fund include: $7 million for the establishment of a condom manufacturing plant in Bangladesh; $800,000 to avoid disruption in the supply of contraceptives in Rwanda; $300,000 required for contraceptive supplies in Mauritius; $2.35 million in emergency assistance requested by Mexico in early 1990 for contraceptive supplies; UNFPA could provide no more than $400,000 because the funds were simply not available; and $3.5 million for the procurement of contraceptives for Tunisia's 5-year development plan; funds are not expected to be available from UNFPA's current resources.

The $20 million requested in the bill will respond to some of the growing demand in the developing world for family planning. It will not meet all of the needs, by any stretch of the imagination. But it will provide birth control supplies to people who want and need them.

Demographers tell us that the population of the world will stabilize within the framework of three possible scenarios. The low projection is 8.5 billion, the medium is about 11 billion, and the highest projection is anywhere from 14 to 20 billion.

To achieve the medium variant, 11 billion, by the year 2000, we will need annually: 44 billion condoms, 8.76 billion cycles of oral contraceptives, 633 million doses of injectable contraceptives, and 310 million intrauterine devices.

This appropriations bill provides a modest $20 million to the U.N. population fund exclusively for contraceptive supplies and the distribution of these supplies.

A vote for this bill is a vote to help ensure that world population levels off at the lowest possible number commensurate with a rational and voluntary approach to reducing explosive world population growth.

Mr. HALL of Ohio. Mr. Chairman, I rise in strong support of H.R. 2621, a bill making appropriations for foreign operations, export financing, and related programs for fiscal year 1992. I have always appreciated the work of the chairman of the Subcommittee on Foreign Operations, Export Financing, and Related Programs of the Appropriations Committee, Mr. OBEY. But I will state that this year's bill goes further toward meeting the needs of the hungry, the poor, the sick, and the refugees of this world than ever before. I would also like to congratulate the gentleman from New York, a member of the subcommittee, Mr. MCHUGH, for the crucial role he has played in supporting children and other vulnerable people.

Many of the provisions in H.R. 2621 are similar to those found in H.R. 2258, the Freedom from Want Act, omnibus antihunger legislation which I introduced with my colleague BILL EMERSON earlier this year.

The bill before us sets a minimum level of funding for child survival activities of $275 million. It also sets a minimum of $135 million for basic education. This bill provides $630 million for the migration and refugee assistance account, 30-percent above the administration request. The bill set a minimum level of support of $315 million for refugee programs overseas.

This year, unfortunately, has seen a dramatic increase in the number of refugees globally. From the gulf to the Horn of Africa, millions of people have been forced to flee their homes. This is no time to decrease support for these innocent civilians. H.R. 2621 offers the generosity of the American people to those who need it most.

The bill increases funding for AID's Office of Foreign Disaster Assistance [OFDA], which does so much good work during emergencies overseas, from $40 to $70 million. The director of this office, Mr. Andrew Natsios, is a great humanitarian. More money for OFDA, like increased funding for refugees, goes to help the most vulnerable people in our world.

H.R. 2621 expands the vitamin A earmark to include iodine and other micronutrients. This is an important step toward meeting one of the goals set by the Bellagio Declaration—the eradication of vitamin A and iodine deficiency by the end of this decade.

In another area, this bill makes a critically needed change in our policy toward the Philippines. Last year, I and more than 20 of my colleagues wrote to President Bush urging him to reallocate the Philippine bases-related aid package—more toward meeting the human development needs of the people of the Philippines. H.R. 2621 does exactly this by reallocating 50 percent of the administration request for military aid to development assistance. Reducing military aid to provide increases to meet human development needs moves our aid program in the right direction.

Finally, this bill accomplishes all these critically needed changes at a level below the administration request and within budget guidelines.

Last week, I said during debate on the foreign aid authorization bill that nothing we do in foreign assistance is more important than two simple programs, saving children's lives through simple child survival activities and educating children—after we help them survive—and promoting literacy so people can acquire the basic skills they need to function in society. This is foreign aid in the best tradition of the American people—a generous helping hand to those in need. I fully support these programs, and strongly urge you to support this bill.

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the foreign assistance appropriations, H.R. 2508. I have consistently opposed aid to foreign countries throughout my tenure in this body because I am a strong believer in helping the citizens of this country, those citizens who have elected me to this office. Our own domestic programs should take precedence over our financial contributions to foreign nations. We must focus our efforts, financial and otherwise, toward the homefront and take the time to correct the mounting problems.

Mr. Chairman, I must point out that I have been a strong supporter of the State of Israel in the past and I continue to support American efforts to that end. The United States has a unique and valuable relationship with the Jewish state that must continue to be nurtured. Had there been a separate vote on aid to Israel, I would wholeheartedly lend my support, but I am unable to do so in the context of this bill.

Mrs. VUCANOVICH. Mr. Chairman, I rise in opposition to H.R. 2621 which includes $20 million for the U.N. population fund. This provision creates an exemption from the Kemp-Kasten law for the very organization that has been found in violation. Since 1985, we in Congress have adopted the legislative policy which withholds international population control funds from organizations which support or participate in the management of a program of coercive abortion or involuntary sterilization. Yet again, Mr. Chairman, I find that my colleagues have chosen to ignore this policy and fund the U.N. population fund—the same organizations which has been and continues to be the leading international supporter of the brutal, coercive population control program found in China.

We must recognize that every dollar withdrawn from the UNFPA in the past has been reprogrammed to other family planning projects that do not utilize abortion as a method of family planning.

Mr. Chairman, I will not vote for this language, nor will the President of these free and caring United States sign legislation which weakens current law for abortion-related activities as this bill does with the inclusion of this provision. I urge my colleagues to look at this legislation responsibly and vote against H.R. 2621.

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 2621, the Foreign Operations, Export Financing and Related Programs Appropriations Bill for fiscal year 1992. This is the eighth of the 13 annual appropriations bills to be considered by the House.

The bill provides $15.171 billion in discretionary budget authority and $13.476 billion in discretionary outlays. Because the committee has recommended an appropriation of $135 million for deficit reduction instead of for foreign aid, the bill technically is below the amount provided by the appropriation budget authority 602(b) subdivision for this subcommittee.

As chairman of the Budget Committee, I will continue to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each appropriations measure compares to the 602(b) subdivisions.

I look forward to working with the Appropriations Committee on its remaining bills.

[Fact Sheet]

H.R. 2621, Foreign Operations, Export Financing and Related Program, Fiscal Year 1992 (H. Rept. 203–108)

The House Appropriations Committee ordered reported the Foreign Operations, Export Financing and Related Programs Appropriations Bill for Fiscal Year 1992 on Wednesday, June 12, 1991. This bill is scheduled for floor action on Wednesday, June 19, 1991, subject to a rule being adopted.

COMPARISON TO THE 602(b) SUBDIVISION

The bill, as reported, provides $15,171 million of discretionary budget authority. Because the Committee has recommended an appropriation of $135 million for deficit reduction instead of for foreign aid, the bill technically is below the amount provided by the Appropriation budget authority 602(b) subdivision for this subcommittee.

COMPARISON TO DISCRETIONARY SPENDING SUBDIVISION

[In million of dollars]

	Foreign operations, export financing and related programs appropriations bill		Appropriations committee 602(b) subdivision		Bill over (+)/under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	15,171	13,476	15,306	13,612	[1] −135	[1] −136
Mandatory	41	41	41	41		
Total	15,212	13,517	15,347	13,653	[1] −135	[1] −136

[1] Because the Committee has appropriated $135,000,000 for deficit reduction instead of for foreign aid, the recommended amount in the bill is below the Committee's 602(b) allocation.

[2] Conforms to the Budget Resolution estimates.

Note: BA—New budget authority; O—Estimated outlays.

The House Appropriations Committee ordered reported the Committee's subdivision of budget authority and outlays on May 22, 1991. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102–69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year, as adopted by the Congress on May 22, 1991.

The following are the major program highlights for the Foreign Operations, Export Financing and Related Programs Appropriations Bill for Fiscal Year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Multilateral assistance	2,123	303
Bilateral assistance	8,163	3,448
Sub-Saharan Africa	(1,000)	(85)
Migration and refugee assistance	(630)	(459)
Security assistance	4,236	1,967
Export promotion	691	53
International monetary fund		

Mr. EDWARDS of Oklahoma. Mr. Chairman, I yield back the balance of my time.

Mr. OBEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered under the 5-minute rule by titles and each title is considered as read.

No amendments to the bill are in order except the amendments printed in House Report 102–115, or pursuant to the order of the House of earlier today. Said amendments shall be considered in the order and manner specified and shall not be subject to amendment, except as specified in House Report 102–115, or the order of the House of earlier today. Debate time for each amendment shall be equally divided and controlled by the proponent of the amendment and a member opposed thereto.

The Clerk will read.

The Clerk read as follows:

H.R. 2621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes, namely:

DEPARTMENT OF THE TREASURY

FINANCIAL MANAGEMENT SERVICE

GIFTS TO THE UNITED STATES FOR REDUCTION OF THE PUBLIC DEBT

For the purpose of reducing a portion of the public debt caused by public borrowings necessary to finance those programs, projects, or activities classified as "function 150" international affairs accounts pursuant to section 301(a)(4) of the Congressional Budget and Impoundment Control Act of 1974, $135,000,000, to pay at maturity, or to redeem or buy before maturity, an obligation of the Government included in the public debt as if pursuant to title 31, United States Code, 3113 (a)(1)(A) and (d).

The CHAIRMAN. The Clerk will designate title I.

The text of title I is as follows:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $70,126,332, to remain available until expended.

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environmental Facility, $50,000,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $2,267,418,063.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $1,060,000,000, for the United States contribution to the replenishment, to remain available until expended: *Provided*, That, before obligating funds made available under this heading, the President shall reduce from the amount obligated, the United States proportionate share of any loans approved by the Board of Directors for China for non-basic human needs since October 1, 1991 if China is denied most-favored-nation trading status by the United States Government: *Provided further*, That such funds withheld from obligation may be obligated only if the President certifies that it is in the national interest of the United States to do so: *Provided further*, That fifteen days prior to the obligation of such funds for the International Development Association, the President shall report his certification to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $40,330,972, for the United States share of the increase in subscriptions to capital stock, to remain available until expended: *Provided*, That funds appropriated under this heading are available subject to authorization: *Provided further*, That of the amount appropriated under this heading not more than $6,050,000 may be expended for the purchase of such stock in fiscal year 1992: *Provided further*, That none of the funds appropriated under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the paid-in share portion of the increase in capital stock, $57,313,367, and for the United States share of the increases in the resources of the Fund for Special Operations, $20,576,000, to remain available until expended: *Provided*, That the Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to use the voice and vote of the United States to oppose any assistance by the Bank to any recipient of assistance who refuses to agree in writing that in general any procurement of goods or services utilizing Bank funds shall be conducted in a manner that does not discriminate on the basis of nationality against any member country, firm or person interested in providing such goods or services.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,235,076,561.

INTER-AMERICAN INVESTMENT CORPORATION

For payment to the Inter-American Investment Corporation by the Secretary of the Treasury, $12,500,000, for the United States share of the capital stock of the Corporation, to remain available until expended.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS INVESTMENT FUND

For payment to the Enterprise for the Americas Investment Fund by the Secretary of the Treasury, for the United States contribution for the establishment of the Fund to be administered by the Inter-American Development Bank, $100,000,000 to remain available until expended: *Provided*, That funds appropriated under this heading are available subject to authorization: *Provided further*, That none of the funds appropriated under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $25,526,366: *Provided*, That, before obligating funds made available under this heading, the President shall reduce from the amount obligated, proportionately in paid-in capital and callable capital, the United States proportionate share of any loans approved by the Board of Directors for China for non-basic human needs since October 1, 1991, if China is denied most-favored-nation trading status by the United States Government: *Provided further*, That funds appropriated under this heading are available subject to authorization.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89–369), $158,793,050, to remain available until expended: *Provided*, That prior to obligating any of the funds appropriated under this heading for the Asian Development Fund, the Secretary of the Treasury shall submit a certification to the Committees on Appropriations that none of such funds will be made available for China.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in the capital stock in an amount not to exceed $186,972,187: *Provided*, That such funds are available subject to authorization.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $135,000,000, for the United States contribution to the sixth replenishment of the African Development Fund, to remain available until expended: *Provided*, That funds appropriated under this heading are available subject to authorization.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $8,987,307, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $134,809,612.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $70,020,600, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $163,381,400.

MULTILATERAL DEVELOPMENT BANKS—OTHER

For necessary expenses of the Department of the Treasury for reports calculating for loans, guarantees and insurance commitments for each credit program within the international affairs (Budget Function 150) account: (1) the probability of repayment by each country of existing United States international loans and the probability of default by each country on existing United States international guarantees, (2) subsidy estimates for each country and each such credit program, and (3) risk assessments for each country within each such credit program for fiscal year 1993, $3,000,000: *Provided*, That funds appropriated under this heading shall be used only for contracts with not less than two private firms: *Provided further*, That the Secretaries of Treasury, State, Defense, and Agriculture and the Administrator of the Agency for International Development, and the Chairman of the Export-Import Bank and the President of the Overseas Private Investment Corporation shall provide the necessary information to support these analyses: *Provided further*, That these reports shall be simultaneously delivered to the Department of Treasury, and to the Committees on Appropriations and the Committees on Budget and the Congressional Budget Office not later than December 1, 1991: *Provided further*, That the Office of Management and Budget shall transmit, for each credit program within Budget Function 150, country by country estimates of expected international loan repayments and payments by the United States under international guaranty obligations included in the fiscal year 1993 budget request concurrent with submission of the President's budget for fiscal year 1993.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $300,612,000: *Provided*, That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further*, That the total amount of funds appropriated under this heading shall be made available only as follows: $120,700,000 for the United Nations Development Program; $85,000,000 for the United Nations Children's Fund, of which amount 75 per centum (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 525 of this Act) shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum of which shall be expended within thirty days from the start of the United Nations Children's Fund fourth quarter of operations for 1992; $3,000,000 for the United Nations Capital Development Fund; $1,000,000 for the United Nations Development Fund for Women; $250,000 for the United Nations International Research and Training Institute for the Advancement of Women; $300,000 for the Intergovernmental Panel on Climate Change; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $800,000 for the World Meteorological Organization Special Fund for Climate Studies; $27,500,000 for the International Atomic Energy Agency; $20,000,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $1,000,000 for the Convention on International Trade in Endangered Species; $450,000 for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $400,000 for the United Nations Center on Human Settlements; $500,000 for the United Nations Industrial Development Organization Investment Promotion Service; $10,000,000 for the Organization of American States; $2,000,000 for the United Nations Afghanistan Trust Fund; $1,000,000 for the International Tropical Timber Organization; $1,000,000 for the World Food Program; $850,000 for the International Union for the Conservation of Nature; $600,000 for the United Nations Conference on Environment and Development; $500,000 for the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat; and $18,362,000 for the United States contributions to the replenishment of the International Fund for Agricultural Development: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further*, That funds appropriated under this heading may be made available for the Tropical Forestry Action Plan (TFAP) only if the Secretary of State determines (and so reports to the Congress) that (1) the TFAP has been reorganized, with an international steering committee and secretariat independent of the Food and Agriculture Organization, and includes the participation of a broad range of experts in its administration, (2) the responsibilities of TFAP have been broadened to include areas outside the forestry sector, and (3) procedures exist to ensure increased participation in national TFAP plans by affected populations and interested individuals and organizations outside the forestry sector.

The CHAIRMAN. The Clerk will designate title II.

The text of title II is as follows:

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1992, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE FUND

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $1,076,635,000, of which amount—

(a) not less than $345,000,000 shall be made available for health and child survival activities, and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided*, That not less than $65,000,000 shall be made available for activities relating to AIDS, of which not less than $30,000,000 shall be made available directly to the World Health Organization for its use in financing the Global Program on AIDS (including activities implemented by the Pan American Health Organization), and not less than $1,000,000 shall be made available to UNICEF for AIDS-related activities: *Provided further*, That not less than $280,000,000 shall be made available for health and child survival activities, of which $140,000,000 should be targeted for health activities and $140,000,000 should be targeted for child survival activities;

(b) not less than $5,000,000 shall be made available for new development projects of private entities and cooperatives for dairy development;

(c) not less than $20,000,000 shall be made available for the Vitamin A Deficiency Program and activities relating to iodine deficiency and other micro-nutrients, of which amount not less than $13,000,000 shall be made available for the Vitamin A Deficiency Program;

(d) not less than $225,000 shall be made available to support continued United States participation in the Associate Professional Officers Program of the international food agencies;

(e) not less than $5,000,000 shall be made available for activities relating to the control, prevention, and eradication of River Blindness;

(f) not less than $1,000,000 shall be made available for private voluntary organizations to be used to finance operations for blind children;

(g) not less than $7,500,000 shall be made available for cooperative projects among the United States, Israel, and developing countries, of which not less than $5,000,000 shall be made available for the Cooperative Development Program, and of which not less than $2,500,000 shall be made available for cooperative development research projects;

(h) not less than $5,000,000 shall be made available for the Central and Latin American Rural Electrification Support project;

(i) not less than $150,000 shall be made available, notwithstanding any other provision of law, for technical assistance and training programs for Soviet and Czechoslovakian statisticians and economists administered by the Bureau of Labor Statistics;

(j) up to $500,000 may be made available for child survival activities for Laos; and

(k) not less than $5,000,000 shall be for Soviet and East European research and training under the Department of State's title VIII program on Soviet and regional studies, notwithstanding any other provision of law.

CHILD SURVIVAL AND EDUCATION

Of the funds appropriated under the headings in this title under "Agency for International Development"—

(1) not less than a total of $275,000,000 shall be made available for programs in support of child survival activities; and

(2) not less than a total of $135,000,000 shall be made available for programs in support of basic education activities, including early childhood education, primary education, teacher training, and other necessary activities in support of early childhood and primary education, and literacy training for adults.

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $300,000,000: *Provided*, That none of the funds made available in this Act nor any obligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act: *Provided further*, That funds appropriated under this heading for family planning purposes shall not be reduced by a proportion greater than other development assistance accounts in order to comply with requirements to provide assistance from funds appropriated to carry out chapter 1 of part I or to carry out part I of the Foreign Assistance Act of 1961: *Provided further*, That of the funds appropriated under this heading, not less than 65 per centum shall be made available for the Office of Population of the Agency for International Development: *Provided further*, That not less than $20,000,000 of the funds appropriated under this heading shall be made available only for the United Nations Population Fund only for the provision of contraceptive commodities and related logistics, notwithstanding any other provision of law or policy: *Provided further*, That none of the funds made available under this heading shall be made available for programs in the People's Republic of China: *Provided further*, That prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 and section 534 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall apply to the funds made available for the United Nations Population Fund: *Provided further*, That the United Nations Population Fund shall be required to maintain the funds made available under this heading in a separate account and not commingle them with any other funds: *Provided further*, That any agreement entered into by the United States and the United Nations Population Fund to obligate funds earmarked under this heading shall expressly state that the full amount granted by such agreement will be refunded to the United States if, during its five-year program which commenced in 1990, the United Nations Population Fund provides more than $57,000,000 for family planning programs in the People's Republic of China: *Provided further*, That none of the funds made available under this paragraph for the United Nations Population Fund may be obligated if China is denied most-favored-nation trading status by the United States Government: *Provided further*, That in addition to funds otherwise available for such purposes, of the funds appropriated under this heading up to $500,000 may be used for the administration and planning of family planning assistance programs in addition to operating expense funds otherwise allocated for such office.

DEVELOPMENT FUND FOR AFRICA

For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, $1,000,000,000, to remain available until September 30, 1993: *Provided*, That not less than $50,000,000 of the funds appropriated under this heading shall be made available to assist activities supported by the Southern Africa Development Coordination Conference: *Provided further*, That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961: *Provided further*, That up to $2,000,000 of the funds made available under this heading may be used for administrative and planning costs associated with programs under this heading in addition to operating expense funds otherwise allocated to the Agency's Bureau for Africa: *Provided further*, That $10,000,000 of the funds appropriated under this heading shall be transferred to "International Organizations and Programs" and shall be made available only for the International Fund for Agricultural Development's Special Programme for Sub-Saharan African Countries Affected by Drought and Desertification.

ZAIRE

None of the funds appropriated by this Act to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 shall be transferred to the Government of Zaire: *Provided*, That this provision shall not be construed to prohibit nongovernmental organizations from working with appropriate ministries or departments of the Government of Zaire.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $8,000,000 shall be made available for programs and activities to address the health, education, nutrition, and other special needs of displaced children who have been abandoned or orphaned as a result of poverty, or manmade or natural disaster, of which not less than $1,500,000 shall be made available for assistance for street children: *Provided*, That assistance under this heading shall be made available notwithstanding any other provision of law.

HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, to provide humanitarian assistance through international relief agencies and United States private and voluntary organizations to children within Cambodia: *Provided*, That none of the funds made available under this heading may be made available, directly or indirectly, for the Khmer Rouge.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, for medical and related assistance for civilians who have been injured as a result of civil strife and warfare, including assistance to address the needs of the blind, and the provision of prostheses and vocational rehabilitation and training.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $10,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $6,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided*, That the Agency for International Development shall seek to ensure that country strategies, projects, and programs are designed so that the percentage of women participants will be demonstrably increased.

ASSISTANCE FOR BURMESE STUDENTS

Of the funds appropriated under the heading "Development Assistance Fund", not less than $1,000,000 shall be made available, notwithstanding any other provision of law, for assistance for Burmese students.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

HUMANITARIAN ASSISTANCE FOR ROMANIA

Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (other than funds under the heading "Development Fund for Africa"), not less than $4,000,000 shall be made available, notwithstanding any provision of law which restricts assistance to foreign countries, for humanitarian assistance for Romania. Of this amount—

(1) not less than $1,500,000 shall be made available for activities related to acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children, including the provision of improved facilities, food, medicine, and training of personnel;

(2) not less than $1,000,000 shall be made available for activities related to facilitating family reunification, foster care and adoption, and training of adoption and child welfare specialists; and

(3) not less than $1,500,000 shall be made available for family planning assistance, subject to the following:

(A) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 and section 534 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall be applicable to funds made available under this paragraph.

(B) Any recipient of funds under this paragraph shall be required to maintain them in a separate account and not commingle them with any other funds.

(C) Each agreement entered into by the United States to obligate funds made available under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning program in a country other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind.

PRIVATE SECTOR LOANS PROGRAM ACCOUNT

During fiscal year 1992, commitments to guarantee loans authorized by section 108(i) of the Foreign Assistance Act of 1961 may be made only to the extent that the total loan principal, any part of which is to be guaranteed, may not exceed $114,000,000 and only to the extent that such commitments involve no subsidy costs as defined in section 13201 of the Budget Enforcement Act of 1990. During fiscal year 1992, commitments for direct loans authorized by section 108 of the Foreign Assistance Act of 1961 may be made only to the extent that the total loan principal may not exceed $10,000,000 and only to the extent that such commitments involve no subsidy costs as defined in section 13201 of the Budget Enforcement Act of 1990. In addition, for administrative expenses to carry out guaranteed loan programs, $1,367,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $30,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $70,000,000, to remain available until expended.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $41,351,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $481,300,000: *Provided*, That in order to effectively monitor its program for the West Bank and Gaza, the Agency for International Development shall station one professional at either the Consulate General in Jerusalem or the Embassy in Tel Aviv: *Provided further*, That, by September 30, 1992, the Agency for International Development shall increase the total number of its direct-hire professional environmental and energy staff by twenty over the number of such staff within the Agency for International Development at the end of fiscal year 1991: *Provided further*, That the current reorganization of the Agency for International Development shall be undertaken within its existing resources and that the Administrator of the Agency for International Development shall submit a report to the Committees on Appropriations by no later than March 1, 1992, detailing the total costs to date of such reorganization (including salary and equipment costs) and projected future costs.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $37,739,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding section 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided*, That up to 3 per centum of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further*, That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further*, That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than two hundred and fifty-one at September 30, 1992: *Provided further*, That the Inspector General of the Agency for International Development may, at his discretion and after consultation with the Secretary of State, establish a regional office in Europe in order to carry out audit and other responsibilities with regard to assistance programs for Eastern Europe.

HOUSING GUARANTY PROGRAM ACCOUNT

For the subsidy cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of guaranteed loans authorized by sections 221 and 222 of the Foreign Assistance Act of 1961, $18,000,000: *Provided*, That these funds are available to subsidize loan principal, 100 percent of which shall be guaranteed, pursuant to the authority of such sections: *Provided further*, That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject to the availability of qualified applicants for such guarantees. In addition, for administrative expenses to carry out guaranteed loan programs, $8,500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development.

DEBT RESTRUCTURING UNDER THE ENTERPRISE FOR THE AMERICAS INITIATIVE

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of modifying direct loans authorized by chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 (including predecessor legislation), and for the cost of modifying direct loans made pursuant to the Export-Import Bank Act of 1945, $65,000,000, to remain available until expended: *Provided*, That none of the funds appropriated under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,216,624,000: *Provided*, That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1991, whichever is later: *Provided further*, That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further*, That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further*, That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further*, That none of the funds appropriated under this heading (or local currencies generated with funds provided to El Salvador under this Act) may be made available for El Salvador's Special Investigative Unit until 15 days after receipt by the Committees on Appropriations of a report from the Secretary of State which transmits a plan of the Government of El Salvador to transfer the Unit from military to civilian control, including the time period within which this transfer is to occur and the actions that will be taken to effect such a transfer: *Provided further*, That not less than $16,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Near East regional program: *Provided further*, That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships or for bicommunal projects: *Provided further*, That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further*, That not more than $300,000,000 of the funds appropriated under this heading may be made available to finance tied-aid credits, unless the President determines it is in the national interest to provide in excess of $300,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds made available by this Act may be used for tied-aid credits or tied-aid grants except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 may be used for tied-aid credits: *Provided further*, That as used in this heading the term "tied-aid credits" means any credit, within the meaning of section 15(h)(1) of the Export-Import Bank Act of 1945, which is used for blended or parallel financing, as those terms are defined by sections 15(h) (4) and (5), respectively, of such Act: *Provided further*, That up to $5,000,000 of the funds appropriated under this heading may be made available for humanitarian assistance for Armenia channeled through United States nongovernmental organizations, notwithstanding any other provision of law: *Provided further*, That funds appropriated under this heading shall remain available until September 30, 1993.

BALTIC STATES AND SOVIETS

(a) FUNDING.—Of the funds appropriated under the heading "Economic Support Fund", not less than $15,000,000 shall be made available only for assistance in accordance with the subsections under this heading.

(b) ALLOCATIONS OF ASSISTANCE.—Of the amount made available under this heading—

(1) half shall be allocated for assistance to the Baltic states of Estonia, Latvia, and Lithuania; and

(2) half shall be allocated for assistance to eligible recipients in the Soviet Union that request technical assistance from the United States.

(c) TYPES OF ASSISTANCE.—Funds made available under this heading shall be used to provide technical assistance to the Baltic states and eligible recipients in the Soviet Union in support of democratic reforms or market-oriented reforms.

(d) WAIVER OF RESTRICTIONS ON ASSISTANCE RECIPIENTS.—Assistance may be provided under this heading to any Baltic state or eligible recipient in the Soviet Union notwithstanding any provision of law that would otherwise prohibit such assistance.

(e) ASSISTANCE MUST BE PROVIDED DIRECTLY OR THROUGH NGOs.—Assistance under this heading—

(1) for a Baltic state, may only be provided directly to the government of that state or through nongovernmental organizations; and

(2) for a government of a Soviet republic or a local government described in subsection

(f)(1), may only be provided directly to that government or through nongovernmental organizations.

(f) ELIGIBLE RECIPIENTS IN THE SOVIET UNION.—As used in this section, the term "eligible recipients in the Soviet Union" means—

(1) the Government of any republic, and any local government, within the Union of Soviet Socialist Republics that was elected through open, free, and fair elections,

(2) any indigenous nongovernmental organization in the Soviet Union that promotes democratic reforms, human rights, the rule of law, or market-oriented reforms; or

(3) any governmental agency in the Soviet Union that promotes democratic reforms, human rights, the rule of law, and/or market-oriented reforms, provided that funds may be expended for technical assistance for such an agency but may not be provided directly to any such agency.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II, $20,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until expended.

PHILIPPINES ASSISTANCE

MULTILATERAL ASSISTANCE INITIATIVE

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961, $160,000,000, which shall be available for the Multilateral Assistance Initiative for the Philippines: *Provided*, That not less than 75 per centum of the funds appropriated under this paragraph shall be made available for project and sector activities consistent with the purposes of sections 103 through 106 of such Act: *Provided further*, That the President shall seek to channel through indigenous and United States private voluntary organizations and cooperatives not less than $25,000,000 of the funds appropriated under this paragraph and of the funds appropriated and allocated for the Philippines to carry out sections 103 through 106 of such Act: *Provided further*, That funds appropriated under this paragraph shall remain available until September 30, 1993.

DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $100,000,000, to remain available until expended, which amount shall be available only for nonproject sector assistance for the Philippines.

NOTIFICATION AND REPORT

None of the development assistance funds appropriated under this heading for the Philippines, and none of the funds appropriated in this Act under the headings "Economic Support Fund", "Development Assistance Fund", "Population, Development Assistance", and "Foreign Military Financing Program" that are allocated for the Philippines shall be obligated or expended except through the regular notification procedures of the Committees on Appropriations: *Provided*, That in the event the United States and the Government of the Philippines are unable to agree to a Military Base Agreement, the President shall submit a report to the Committees on Appropriations justifying requested or modified assistance levels for the Philippines in light of the failure to achieve such an agreement: *Provided further*, That such report shall be submitted prior to the initial notification required by this paragraph.

ASSISTANCE FOR EASTERN EUROPE

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $400,000,000, to remain available until expended, which shall be available, notwithstanding any other provision of law, for economic assistance for Eastern Europe as follows—

(1) $136,000,000 shall be provided for technical assistance and training, including such activities as support for labor activities, scholarship programs, medical assistance, and support for public and private sector development, and for technical and other assistance to support housing sectors;

(2) $75,000,000 shall be provided for environment and energy activities, with emphasis on assistance in developing policies encouraging, and providing incentives for, end-use energy efficiency (including preparation of least-cost energy plans), conservation, and reliance on renewable energy resources, and further including training, technical assistance for related energy and environmental investments or regulation, local production of environmental or energy-related equipment, promotion of United States technologies, and dealing with health problems directly associated with pollution;

(3) $20,000,000 shall be provided for activities to foster democratic pluralism;

(4) $169,000,000 shall be provided for the Polish-American, Hungarian-American and other Enterprise Funds; and for other private enterprise activities, with emphasis on technical assistance and training for development of market-oriented policies, restructuring and creation of financial institutions (such as stock markets, insurance companies and banks), creation and management of private business organizations, and privatization of state business organizations.

(b)(1) Funds allocated by this Act for any of the paragraphs under subsection (a) may be reallocated for the purposes of any other such paragraph if, at least 15 days prior to such reallocation, the Committees on Appropriations are notified in accordance with regular notification procedures.

(2) Funds appropriated under this heading or in prior appropriations Acts that have been made available to an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

(c) Funds made available for the Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(d) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

(e) On December 1, 1991, the President shall submit to the Committees on Appropriations a report containing the amount of funds obligated and expended for each project and subproject funded from amounts appropriated for Eastern Europe under this heading: *Provided*, That an update of this report shall be submitted by the President on March 1, 1992, to the Committees on Appropriations.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $14,950,000: *Provided*, That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $28,794,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

PROGRAM ACCOUNT

For the subsidy cost as defined in section 13201 of the Budget Enforcement Act of 1990, of direct and guaranteed loans authorized by section 234 of the Foreign Assistance Act of 1961, as follows: cost of direct and guaranteed loans, $2,399,000: *Provided*, That the funds provided in this paragraph shall be available for and apply to costs, direct loan obligations and loan guaranty commitments incurred or made during the period from October 1, 1991 through September 30, 1993.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $7,000,000.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $200,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions: *Provided further*, That funds appropriated under this heading shall remain available until September 30, 1993.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $150,000,000.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section

3109 of title 5, United States Code; $630,000,000: *Provided*, That not less than $80,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further*, That not less than $1,500,000 shall be available for Tibetan refugees: *Provided further*, That not less than $1,500,000 shall be available for voluntary repatriation of Hmong refugees from Thailand to Laos through nongovernmental organizations: *Provided further*, That not less than $315,000,000 shall be available for overseas refugee programs (in addition to amounts available for Soviet, Eastern European, and other refugees resettling in Israel): *Provided further*, That not more than $11,000,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $15,000,000: *Provided*, That funds appropriated under this heading which exceed the amount appropriated under this heading for fiscal year 1991 may be made available only through the regular notification procedures of the Committees on Appropriations.

AMENDMENT OFFERED BY MR. MC EWEN

Mr. MCEWEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCEWEN: Page 42, line 13, before the period insert the following:

": *Provided further*, That $1,000,000 of the funds appropriated under this heading may not be obligated or expended until the President reports to the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate on the following: (1) whether efforts are being made by the United States to mobilize the international community through the United Nations Security Council to bring about the expeditious replacement of Saddam Hussein as the military and political leader of Iraq, including a brief description of such efforts, (2) whether the continued rule of Saddam Hussein in Iraq is likely to result in future Iraqi aggression against neighboring states, increased international terrorism, or further genocidal attacks ethnic or religious minorities within Iraq, and (3) whether the perpetuation of the rule of Saddam Hussein is compatible with the principles of the United Nations and the goal of United Nations Security Council Resolution 678 which authorizes the use of force to restore international peace and security in the Persian Gulf.".

Mr. MCEWEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio [Mr. MCEWEN] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Chairman, I rise today to offer an amendment to withhold $1 million of the $15 million provided for antiterrorism activities until the President reports to the Congress on the impact of the continued rule of Saddam Hussein in Iraq.

The report that is required by this amendment is not complicated nor does it require the President to come to any particular findings. It simply requires a report on:

First, efforts being made to mobilize the United Nations Security Council to bring about the removal of Saddam Hussein as the leader of Iraq;

Second, whether Hussein's continued rule is likely to increase international state-sponsored terrorism, aggression against Iraq's neighbors, or genocide against religious or ethnic minorities in Iraq.

Third, whether Hussein's continued rule is incompatible with U.N. Resolution 678—which authorizes force to bring about peace and security in the region;

The President's leadership during the Iraq-Kuwait crisis was remarkable, and the American people recognize that he is a peerless statesman. In fact, President Bush is certainly the most respected leader on the planet.

Nevertheless, I would like to bring to the attention of the House the crisis of mammoth proportion that is beginning to brew in Iraq. The international Red Cross warns that A "public health catastrophe of immense proportions" threatens that country. Starvation and disease are likely to threaten thousands, even hundreds of thousands of Iraqis, in the coming months. Especially hard hit will be the innocent Iraqi children.

Considering that Saddam Hussein remains in power in Iraq, the civilized nations of the world, and expecially the United States, will face a difficult moral dilemma:

First, aid the government of Saddam Hussein with food, drugs, and assistance to repair the basic infrastructure of Iraq, or

Second, allow uncounted thousands of children to die slow and terrible deaths.

Just as Saddam Hussein attempted to use American and European civilians as hostages and human shields during the Kuwait conflict, the children of Iraq will be the hostages used in an attempt to get Western aid. It is a bitter irony that Mr. Hussein, stripped of most of his massive army and his chemical and nuclear weapons of mass destruction, nonetheless can still use the weapons of starvation and disease on these helpless children.

The civilized world could not give in to Hussein's blackmail after he invaded Kuwait. I believe that these same nations must now refrain from assisting Saddam Hussein's regime in its effort to rebuild Iraq. Anything that will assist in the ability of that horrendous regime to remain in power is offensive.

It is noteworthy that last month British Prime Minister John Major made a statement that no humanitarian aid would be acceptable to Great Britain unless Hussein were no longer in power.

The foreign ministers of the European Community have called for a Nuremburg style international tribunal to hold Saddam Hussein accountable for his crimes.

This is certainly a fine proposal, but the President has stated that above all, including bringing Hussein to justice, he desires the removal of Saddam Hussein from power.

As the potential disaster in Iraq unfolds, and pressure builds to aid that country regardless of who is in charge in Baghdad, I believe it is absolutely vital that the Congress be provided a report regarding the impact of Saddam Hussein's rule will have on numerous security matters like international terrorism, regional stability, and the treatment of minorities in Iraq.

We should also be made aware of efforts to mobilize the international community of nations through the U.N. Security Council to demand Hussein's removal.

I certainly support the efforts to fight international terrorism that are funded through this account of the foreign operations appropriations bill. And I would note that the amendment does not reduce that account, it only withholds 6 percent of the funds for antiterrorism activities until a report is submitted.

In fact, I hope that the administration shares my support for fighting terrorism and will promptly provide the Congress with the simple report that will allow the final $1 million to be available for antiterrorism efforts.

I urge that Members support this amendment in order to assure that we are prepared to face the consequences of Saddam Hussein remaining in power in Iraq.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. MCEWEN. I am pleased to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, we are happy to accept the amendment on this side of the aisle.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. MCEWEN. I am pleased to yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, we are very happy to accept the gentleman's amendment.

Mr. MCEWEN. Mr. Chairman, I thank both gentlemen for their cooperation, and I yield back the balance of my time.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman form Ohio [Mr. MCEWEN].

The amendment was agreed to.

Mr. CHAIRMAN. The clerk will designate title III.

The text of title III is as follows:

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $47,196,000: *Provided*, That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students: *Provided further*, That no country whose annual per capita Gross National Product exceeds $2,349 may receive more than $300,000 of the funds appropriated under this heading except as provided through the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds appropriated under this hearing shall be available for Zaire, Liberia, Sudan, and Somalia.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,100,000,000: *Provided*, That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be available for grants only for Egypt: *Provided further*, That the funds appropriated by this paragraph for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1991, whichever is later: *Provided further*, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further*, That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a), and shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further*, That none of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed a grant agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, $50,900,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $404,000,000: *Provided further*, That the rate of interest charged on such loans shall be not less than 5 per centum per year: *Provided further*, That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures.

If Turkey receives any funds under this heading on a grant basis then not less than $30,000,000 of the funds provided for Greece shall be made available as grants: *Provided*, That none of the funds appropriated under this heading shall be available for assistance for Guatemala except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Liberia or Somalia: *Provided further*, That funds appropriated under this hearing that are allocated for Malawi may only be provided to support the Malawian military's efforts to secure the Nacala Railroad and for military activities which assist in the Mozambique peace process, including the protection of Mozambican refugees: *Provided further*, That not more than $300,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further*, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further*, That not more than $28,900,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further*, That not more than $325,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during the fiscal year 1992 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further*, That of the funds appropriated under this heading not more than $350,000,000 shall be available for Greece, not more than $500,000,000 shall be available for Turkey, not more than $100,000,000 shall be available for Portugal, and not more than $100,000,000 shall be available for the Philippines: *Provided*, That the total of grants and the principal amount of direct loans provided for Greece and Turkey under this heading shall be made available according to a 7 to 10 ratio.

FOREIGN MILITARY SALES DEBT REFORM

Subsection (b) under the heading "Foreign Military Sales Debt Reform" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, is hereby repealed.

SPECIAL DEFENSE ACQUISITION FUND (LIMITATION ON OBLIGATIONS)

Not to exceed $275,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1991, to remain available for obligation until September 30, 1994: *Provided*, That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 $28,000,000.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 43, line 5, insert "Jordan" after "Sudan,".

Page 45, line 11, ", Jordan," after "Liberia".

The CHAIRMAN. Pursuant to the rule, the gentleman from Missouri [Mr. VOLKMER] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, this amendment would prohibit any military assistance fund or military training funds to the country of Jordan. The reason for this, as earlier debated in the Foreign Affairs authorization bill is that, as we know, during Desert Shield and Desert Storm the country of Jordan and King Hussein gave support not to us, who have been friendly allies of theirs before, but to our enemy, Saddam Hussein.

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And as a result, some of us feel it just does not make sense to provide assistance and training to their troops when they are in opposition to us and when we had our troops over in the Mideast, under Desert Storm, fighting to free Kuwait from Iraq and from Saddam Hussein, that the country of Jordan, under King Hussein, was providing not only vocal support but military assistance and other support for Iraq, and our enemy Saddam Hussein.

Therefore, I feel that we should deny assistance for this coming year to the country of Jordan. I do not want to spend a lot of time of the House. This matter has been debated earlier.

Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. OBEY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. VOLKMER

Mr. OBEY. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Missouri, Mr. VOLKMER.

The Clerk read as follows:

Amendment offered by Mr. OBEY as a substitute for the amendment offered by Mr. VOLKMER: On page 43, lines 5 and 6, strike out "and Somalia" and insert in lieu of:

"Somalia, and Jordan: *Provided further*, That funds appropriated under this heading may be made available for Jordan only if the President determines and certifies to the appropriate Congressional committees that: (1) the Government of Jordan has taken steps to advance the peace process in the Middle East, or that furnishing assistance to Jordan would be beneficial to the peace process in the Middle East, and (2) such assistance is in the interest of the United States, and (3) Jordan is complying with United Nations sanctions on Iraq".

On page 45, line 11, strike out "or Somalia" and insert in lieu of:

"Somalia, and Jordan: *Provided further*, That funds appropriated under this heading may be made available for Jordan only if the President determines and certifies to the appropriate Congressional committees that: (1) the Government of Jordan has taken steps to advance the peace process in the Middle East, or that furnishing assistance to Jordan would be beneficial to the peace process in the Middle East, and (2) such assistance is in the interest of the United States, and (3) Jordan is complying with United Nations sanctions on Iraq".

Mr. OBEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. EDWARDS of Oklahoma. Mr. Chairman, reserving the right to object, I understand that the gentleman from Missouri [Mr. VOLKMER] and the gentleman from Wisconsin [Mr. OBEY] have been able to reach agreement on this, but I would like to compliment the gentleman from Missouri [Mr. VOLKMER] for having brought this issue up so well today. He has made a very good point.

Mr. Chairman, I strongly oppose any assistance to Jordan and want to compliment the gentleman for having made the case as well as he has.

Mr. Chairman, continuing under my reservation of objection, I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. I thank the gentleman for yielding.

Mr. Chairman, I do not agree with the substitute, but I know where the votes lie. The matter has been debated in the authorization bill. I do not see the point of the House asking for another rollcall, going through all that, because I know the will of the House has probably already been decided.

Therefore, I will not be asking for a rollcall vote.

I recognize that the amendment offered by the gentleman from Wisconsin will pass and, therefore, I am forced to take it. But it is still better than what we had before we started with this bill, with no restrictions on any military assistance.

Mr. Chairman, I welcome the gentleman's support.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] will be recognized for 10 minutes, and a Member opposed thereto will be recognized for 10 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, let me simply say that the Clerk has already read the pertinent language.

This amendment is offered at the request of the administration. It is very similar to the amendment adopted on three separate occasions today to the authorization bill. It simply says no aid to Jordan unless the President certifies that the Government of Jordan has taken steps to advance the peace process in the Middle East or that furnishing assistance to Jordan would be beneficial to the peace process in the Middle East, that such assistance is in the interest of the United States and that Jordan is complying with the United Nations sanctions on Iraq.

I think it is self-evident, and I would ask for a vote.

The CHAIRMAN. Is there further discussion on the amendment offered by the gentleman from Wisconsin [Mr. OBEY] as a substitute for the amendment offered by the gentleman from Missouri [Mr. VOLKMER]?

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. CUNNINGHAM. I thank the gentleman for yielding.

Mr. Chairman, I would fully support the amendment of the gentleman from Wisconsin. The reason is that I would not put in one penny for Jordan, for their past atrocities to the United States. However, I do feel the Palestinian problem does need to be resolved. This gives the President the tools necessary to hold over the head of Hussein to achieve that.

I thank the gentleman for his amendment.

Mr. OBEY. I think the gentleman has exactly described the situation.

Mr. Chairman, if there are no other requests for time, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY] as a substitute for the amendment offered by the gentleman from Missouri [Mr. VOLKMER].

The amendment offered by Mr. OBEY as a substitute for the amendment offered by Mr. VOLKMER was agreed to.

Mr. VOLKMER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri, as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 by the gentleman from Oklahoma [Mr. EDWARDS].

Mr. EDWARDS of Oklahoma. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from Oklahoma [Mr. EDWARDS] is recognized for 5 minutes.

There was no objection.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I have submitted under the rule several amendments relating to additional aid to Turkey. I will not be offering those amendments, and I would also clarify that to keep our options open we have provided several alternatives. It was never my intention to offer an amendment that would have interfered with the current 7 to 10 ratio.

Mr. Chairman, I would like to say, however, that it is, in my opinion, essential that we look seriously at how much assistance we are giving to some of our good allies in that area.

Turkey, in particular, was very, very helpful to us in the gulf crisis. Turkey shut off the Iraqi pipeline immediately after Saddam invaded Kuwait, and it has cost the Turkish Government billions of dollars. The Turks allowed allied aircraft to launch bombing attacks from Turkish military bases.

The Azores were used by us as a key stopover point for our personnel and troops en route to the gulf.

The government in Greece, as well, which also, if we keep the 7 to 10 ratio, would get more money if Turkey did; the government in Greece is considerably more pro-Western than the one previously.

Last year the President agreed to sign a new defense cooperation agreement with the United States which will help keep the bases open to allied forces in case of another flareup in the Middle East.

Portugal has also been another NATO ally as well.

So I would only like to make the point that while I will not offer my amendments, when we do get to conference with the other body it would be my hope that we can remove the cap that is in our bill so that the administration will have the ability to provide more assistance to Turkey, Greece, and Portugal.

I think it would be in our interest to do so.

The CHAIRMAN. The Chair would ask the gentleman from Oklahoma [Mr. EDWARDS] if he intends to offer amendments Nos. 4, 6, or 8?

Mr. EDWARDS of Oklahoma. Mr. Chairman, I do not.

The CHAIRMAN. The Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided*, That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

SUBSIDY APPROPRIATION

There is hereby appropriated $612,000,000, for the subsidy cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of direct loans, loan guarantees, tied-aid grants, and interest subsidies, in accordance with section 15 of the Export-Import Bank Act of 1945, as amended: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans, tied-aid grants, interest subsidies, and total loan principal, any part of which is to be guaranteed, including insurance of not to exceed $11,000,000,000: *Provided further*, That up to $200,000,000 of any funds made available by this paragraph which remain unobligated as of September 30, 1992, shall remain available until expended and may be used for tied-aid grant purposes: *Provided further*, That none of the funds made available or limited under this heading may be used for tied-aid credits or grants except through the regular notification procedures of the Committees on Appropriations: *Provided further*, That none of the funds made available, and none of the credits and grants limited, under this paragraph may be made available to support in any manner whatsoever the financing of the sale of any item included in or covered by any category of the "United States Munitions List" authorized by section 38 of the Arms Export Control Act and regulations issued pursuant thereto: *Provided further*, That funds made available by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, or any agency or national thereof.

ADMINISTRATIVE EXPENSES

Not to exceed $25,113,000 (to be computed on an accrual basis) shall be available during fiscal year 1992 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors, and there is hereby appropriated $13,500,000 during fiscal year 1992 for administrative expenses incurred in connection with contracting for the issuance and servicing of insurance and reinsurance or in lieu of contracting for the performance of such services by the Export-Import Bank: *Provided*, That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $40,000,000.

The CHAIRMAN. The Clerk will designate title V.

(The text of title V is as follows:)

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. (a) Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1992, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapter 1 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act for Nicaragua, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 520. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

(c) None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SURPLUS COMMODITIES

SEC. 521. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 522. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Development Assistance Fund", "Population, Development Assistance", "Development Fund for Africa", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

CONSULTING SERVICES

SEC. 523. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 524. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 525. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization (or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it), Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided*, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1993.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 526. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 527. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 528. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 529. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

LIMITATION ON CONTINGENCY AUTHORITY

SEC. 530. Not more than $25,000,000 of the funds appropriated by this Act may be used for a "Democracy Contingency Fund".

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 531. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least fifteen days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

ENVIRONMENT AND GLOBAL WARMING

SEC. 532. (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to promote vigorously within each MDB, and especially within the Asian Development Bank, the expansion of programs in areas which address the problems of global climate change through requirements to—

(1) expand programs in energy conservation, end use energy efficiency, and renewable energy and promotion by—

(A) continuing to augment and expand professional staffs with expertise in these areas;

(B) giving priority to these areas in the "least cost" energy sector investment plans;

(C) encouraging and promoting these areas in policy-based energy sector lending;

(D) developing loans for these purposes; and

(E) convening seminars for MDB staff and board members on these areas and alternative energy investment opportunities;

(2) provide analysis for each proposed loan to support additional power generating capacity comparing demand reduction costs to proposal costs;

(3) continue to assure that environmental impact assessments (EIA) of proposed energy projects are conducted early in the project cycle, include consideration of alternatives to the proposed project, and encourage public participation in the EIA process;

(4) continue to include the environmental costs of proposed projects with significant environmental impacts in economic assessments; and

(5) continue to provide technical assistance as a component of energy sector lending.

(b) The Secretary of the Treasury shall vigorously promote within the International Monetary Fund reforms which address the problems of global climate change through requirements to—

(1) augment and expand professional staff to address the macroeconomic policies of recipient countries in conjunction with environmental preservation and sustainability;

(2) establish a systematic process within the Fund to review environment, public health, and poverty impacts of proposed lending prior to such lending taking place; and

(3) require that a report on the status of operationalizing these reforms be submitted to Congress prior to obligation of any additional funds to the IMF.

(c) The Secretary of the Treasury shall, not later than March 1, 1992, submit a report to the Congress which shall include—

(1) a detailed description of how the natural resource management initiatives mandated by this section have been incorporated in the Administration's efforts to address Third World Debt (the Brady Plan);

(2) a detailed description of progress made by each of the MDBs in adopting and implementing programs meeting the standards set out in subsection (a) including, in particular, efforts by the Department of the Treasury to assure implementation of this section, progress made by each MDB in subsection (a)(1)(B), and the amounts and proportion of lending in the energy sector for projects or programs in subsection (a)(1);

(3) the progress the Inter-American Development Bank has made in implementing environmental reforms;

(4) an updated analysis of each MDB's forestry sector loans, and a current analysis of each MDB's energy sector loans, and their impact on emissions of CO_2 and the status of proposals for specific forestry and energy sector activities to reduce CO_2 emissions; and

(5) the progress the International Bank for Reconstruction and Development has made in implementing the recommendations set forth in the April 1, 1988, report on "Debt-for-Nature Swaps".

(d)(1) The Administrator of the Agency for International Development shall update and issue guidance to all Agency missions and bureaus detailing the elements of the "Global Warming Initiative", which will continue to emphasize the need to reduce emissions of greenhouse gases, especially CO_2 and CFCs, through strategies consistent with continued economic development. This initiative shall continue to emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

(2) The Administrator shall pursue this initiative by, among other things—

(A) increasing the number and expertise of personnel devoted to this initiative in all bureaus and missions;

(B) devoting increased resources to technical training of mission directors;

(C) accelerating the activities of the Multi-Agency Working Group on Power Sector Innovation;

(D) focusing tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases to the global environment;

(E) assisting countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry;

(F) focusing energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases; and

(G) continuing to follow the directives with respect to key countries and countries that receive large Economic Support Fund assistance contained in section 534(b)(3) of Public Law 101-167.

(3) None of the funds appropriated in this Act shall be available for any program, project or activity which would—

(A) result in any significant loss of tropical forests; or

(B) involve commercial timber extraction in primary tropical forest areas unless an environmental assessment:

(i) identifies potential impacts on biological diversity;

(ii) demonstrates that all timber extraction will be conducted according to an environmentally sound management system which maintains the ecological functions of the natural forest and minimizes impacts on biological diversity; and

(iii) demonstrates that the activity will contribute to reducing deforestation.

(4) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(e) Of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961, not less than $130,000,000 shall be made available for environment and energy activities, including funds earmarked under section 533 of this Act, as follows—

(1) not less than $20,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for biological diversity activities, of which: $5,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act, and $100,000 shall be for the Charles Darwin Station;

(2) not less than $20,000,000 of the funds appropriated to carry out the provisions of sections 103 and 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available to support replicable renewable energy projects, and at least five new renewable energy projects are to be initiated during fiscal year 1992;

(3) not less than $7,000,000 of the funds appropriated to carry out the provisions of sections 103 and 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for assistance in support of elephant conservation and preservation, of which $2,000,000 shall be available for the PARCS project; and

(4) not less than $25,000,000 of the funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 shall be made available for the Office of Energy of the Agency for International Development.

(f) Of the funds appropriated by this Act to carry out the provisions of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, the Agency for International Development should, to the extent feasible and inclusive of funds earmarked under subsection (e) of this section, target assistance for the following activities:

(1) $50,000,000 for projects associated with the Global Environmental Facility;

(2) a total of $10,000,000 for CORECT, the Environmental Technology Export Council, and the International Fund for Renewable Energy Efficiency; and

(3) $55,000,000 for activities consistent with the Global Warming Initiative.

MONTREAL PROTOCOL FACILITATION FUND

(INCLUDING TRANSFER OF FUNDS)

SEC. 533. Not less than $15,000,000 of the funds appropriated by this Act to carry out sections 103 and 106 of the Foreign Assistance Act of 1961 shall be used to support the creation of a fund to facilitate and support global participation in the Montreal Protocol on Substances that Deplete the Ozone Layer: *Provided*, That these funds shall be transferred to the Bureau of Oceans, International Environment and Scientific Affairs of the Department of State and shall be made available, after consultations with the Environmental Protection Agency, to the United Nations Environment Program in its role as Secretariat to the Protocol: *Provided further*, That the United States representative to the Secretariat shall seek assurances that none of these funds shall be contributed to any developing country that is not a party to the Protocol and operating under Article 5 of the Protocol.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 534. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 535. Of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, up to

$70,000,000 may be made available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law. In carrying out this section, the Administrator of the Agency for International Development shall ensure that an equitable portion of the funds is made available to benefit Afghan women and girls, particularly in programs in refugee camps in Pakistan and in reconstruction projects in Afghanistan.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 536. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 537. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $10,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders, (3) pursued all legal avenues to bring to trial those who ordered and carried out the September 1988 massacre of ten peasants near the town of San Francisco, El Salvador, and to obtain a verdict, (4) pursued all legal avenues to bring to trial those who ordered and carried out the November 1989 murders of six Jesuit priests and their associates, and to obtain a verdict, and (5) pursued all legal avenues to bring to trial those responsible for the deaths of the ten unionists who were killed during the October 31, 1989 bombing of the FENASTRAS headquarters, and to obtain a verdict.

REFUGEE RESETTLEMENT

SEC. 538. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Financing Program", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 539. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 540. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Liberia, Lebanon, Zaire, Yemen, Guatemala, Chile, Uganda, or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 541. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 542. Up to $8,000,000 of the funds made available by this Act for assistance for health, child survival, and AIDS, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided*, That such individuals shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment: *Provided further*, That funds appropriated by this Act that are made available for child survival activities or activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provision of law that restricts assistance to foreign countries.

CHILE

SEC. 543. Funds appropriated by this Act under the heading "Economic Support Fund" may be used under the authority of section 534(b) (4) and (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society. Assistance may be provided under this section without regard to the requirements of section 726(b) of the International Security and Development Cooperation Act of 1981.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 544. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

SEC. 545. Section 61(a) of the Arms Export Control Act is amended by striking out "1991" and inserting in lieu thereof "1992".

DEFENSE EQUIPMENT DRAWDOWN

SEC. 546. (a) Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided*, That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

(b) Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 547. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided*, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 548. Funds appropriated by this Act may be obligated and expended subject to section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

SEC. 549. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided*, That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements: *Provided further*, That the Secretary of State and the Secretary of the Treasury should in every feasible instance notify the Appropriations Committees of the Congress and such other Committees as appropriate not less than 15 days prior to any formal multilateral or bilateral negotiation for official debt restructuring, rescheduling, or relief: *Provided further*, That the Secretary of State or the Secretary of the Treasury, as appropriate, shall report not later than February 1 of each year a consolidated statement of the budgetary implications of all debt-related agreements entered into force during the preceding fiscal year.

MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

SEC. 550. Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $7,000,000 from funds appropriated under the heading "Economic Support Fund".

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 551. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 552. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Taiwan: *Provided*, That funds may be made available to facilitate the sale of such shells notwithstanding the limitations of this section if the President determines that to do so is in the national security interest of the United States.

EARMARKS

SEC. 553. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided*, That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 554. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 555. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1990, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 556. Of the funds made available by this Act under the heading "Economic Support Fund", $10,000,000 may be made available for scholarships for disadvantaged South Africans.

NARCOTICS CONTROL PROGRAM

SEC. 557. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund", $275,000,000 may be made available for Peru, Bolivia, Colombia, and Ecuador: *Provided*, That funds under this paragraph may be made available to a country only if such country is making significant progress, as appropriate, in (1) satisfying the goals agreed to in the applicable bilateral narcotics agreement between such country and the United States, or a comparable multilateral agreement, (2) preventing narcotic drugs and other controlled substances from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States, (3) preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and (4) preventing and punishing public corruption which facilitates the illicit production, processing, or shipment of narcotic drugs and other controlled substances, or which discourages the investigation and prosecution of such acts.

(2) For the purpose of reducing dependence upon the productiōn of crops from which narcotic and psychotropic drugs are derived, funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act may be made available for Bolivia, Peru, Colombia, Ecuador, and Jamaica to promote the production, processing, and the marketing of products which can be economically produced in those countries, notwithstanding section 520 of this Act.

(3) Of the funds appropriated by this Act under the heading "Foreign Military Financing Program", not more than $118,000,000 may be made available for Bolivia, Peru, and Colombia: *Provided*, That no funds may be made available under this paragraph to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights.

(4) Funds made available by this Act to carry out the provisions of the Arms Export Control Act and section 534 of the Foreign Assistance Act of 1961 may be provided for training and equipment for law enforcement agencies or other units in Colombia, Bolivia, and Peru that are organized for the specific purpose of narcotics enforcement: *Provided*, That assistance under this paragraph may be provided notwithstanding section 660 of the Foreign Assistance Act of 1961 and the second sentence of section 534(e) of that Act: *Provided further*, That the waiver contained in this paragraph does not apply to Peru's Sinchi police: *Provided further*, That assistance provided pursuant to this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

(5) Funds made available under this subsection shall be available for obligation consistent with requirements to apply the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control).

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1991, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(B) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

(d) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs) of the Agency for International Development, and $40,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

SEC. 558. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 559. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

ASSISTANCE FOR CAMBODIAN DEMOCRACY

SEC. 560. (a) ASSISTANCE.—(1) Not to exceed $20,000,000 of the funds appropriated by this Act under the heading "Economic Support Fund" and for "development assistance" may be made available for humanitarian and development assistance for Cambodians, including the Cambodian non-Communist resistance, along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 522 of this Act, and the provisions of this section).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(3) Not later than January 1, 1992, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since January 1, 1991, between the Khmer Rouge and any individual group or faction of the non-Communist resistance.

(b) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(c) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "Humanitarian Assistance for Cambodian Children".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "Humanitarian Assistance for Cambodian Children" shall also be available to civilian victims of war.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

(e) NOTIFICATIONS.—Any funds made available during fiscal year 1992 to carry out the purposes of this section shall be subject to the regular notification procedures of the Committees on Appropriations.

COMPETITIVE INSURANCE

SEC. 561. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate.

IRELAND

SEC. 562. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

ASSISTANCE TO AFGHANISTAN

SEC. 563. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 564. Not less than 25 per centum of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

DISADVANTAGED ENTERPRISES

SEC. 565. (a) Except to the extent that the Administrator of the Agency for International Development of the Foreign Assistance Act of 1961 determines otherwise, not less than 10 percent of the aggregate amount made available for the current fiscal year for the "Development Assistance Fund", "Population, Development Assistance", and the "Development Fund for Africa" shall be made available only for activities of United States organizations and individuals that are—

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 per centum of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for sub-Saharan Africa for the current fiscal year.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals, and organizations contained in paragraphs (2) through (4) of subsection (a)—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Administrator's discretion, may best achieve the purpose of this section; and

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 per centum of the dollar value of the contract be subcontracted to entities described in subsection (a), except—

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

(3) Each person with contracting authority who is attached to the agency's headquarters in Washington, as well as all agency missions and regional offices, shall notify the agency's Office of Small and Disadvantaged Business Utilization at least seven business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 8(d) of the Small Business Act, except that the term includes women.

STINGERS IN THE PERSIAN GULF REGION

SEC. 566. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 567. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

APPROPRIATIONS OF UNITED STATES-OWNED CURRENCIES

SEC. 568. The provisions of section 1306 of title 31, United States Code, shall not be waived to carry out the provisions of the Foreign Assistance Act of 1961 by any provision of law enacted after the date of enactment of this Act unless such provision makes specific reference to this section.

DEBT-FOR-DEVELOPMENT

SEC. 569. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including debt-for-development and debt-for-nature exchanges, a nongovernmental organization may invest local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be used, including for the establishment of an endowment, for the purpose for which the assistance was provided to that organization.

LEBANON

SEC. 570. (a) Of the fund appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 not less than $10,000,000, $6,000,000 of which shall be derived from funds appropriated to carry out chapter 1 of part I and $4,000,000 of which shall be derived from funds appropriated to carry out chapter 4 of part II, shall be made available for Lebanon and may be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

(b) All deliveries to Lebanon of equipment purchased with Foreign Military Financing credits or grants shall be subject to the regular notification procedures of the Committees on Appropriations.

LOCATION OF STOCKPILES

SEC. 571. Notwithstanding section 514(b) of the Foreign Assistance Act of 1961, additions may be made to stockpiles in Israel during fiscal year 1992 having a value of $300,000,000: *Provided*, That the word "value" as used in this section shall have the same meaning as in section 514 of the Foreign Assistance Act of 1961.

ASSISTANCE FOR PAKISTAN

SEC. 572. (a) Section 620E(d) of the Foreign Assistance Act of 1961 is amended by striking out "April 1, 1991" and inserting in lieu thereof "April 1, 1993".

(b) None of the funds appropriated in this Act shall be obligated or expended for Pakistan except as provided through the regular notification procedures of the Committees on Appropriations.

SEPARATE ACCOUNTS

SEC. 573. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I (including the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as:

(i) project and sector assistance activities, or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I (including the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ASSISTANCE FOR NICARAGUA

SEC. 574. None of the funds appropriated by this Act shall be provided for any member of the Nicaraguan resistance who has not disarmed and is not abiding by the terms of the cease-fire agreement and the addendums to the Toncontin Agreement signed on April 19, 1990.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 575. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

FUTURE ASSISTANCE PROJECTIONS

SEC. 576. The Congress finds that, as is the case with most domestic programs, overall constraints on the Federal budget will have a significant impact on the ability of the

United States Government to meet program requirements in the coming years. Therefore, in order to assist the Congress to make the difficult policy choices attendant to budget shortfalls, the Congressional Presentation Documents of departments and agencies included within this Act shall contain funding projections for each of its major program components for each of the three years following the year for which new budget or other authority is being requested.

HUMAN RIGHTS

SEC. 577. (a) COUNTRY LISTINGS.—Not later than thirty days after submission of the report required by section 502B(b) of the Foreign Assistance Act of 1961, the Secretary of State shall submit to the Committees on Appropriations a listing of those countries the governments of which are found, based upon the criteria and findings in the report required by section 502B(b) of the Foreign Assistance Act of 1961, to engage in a consistent pattern of gross violations of internationally recognized human rights. This list shall be accompanied by a report from the Secretary of State describing how, for each country receiving assistance under the Foreign Military Financing Program, such assistance will be conducted to promote and advance human rights and how the United States will avoid identification with activities which are contrary to internationally recognized standards of human rights.

(b) HUMAN RIGHTS REPORT.—The Secretary of State shall also transmit the report required by section 116(d) of the Foreign Assistance Act of 1961 to the Committees on Appropriations each year by the date specified in that section: *Provided*, That each such report submitted pursuant to such section shall include a review of each country's commitment to children's rights and welfare as called for by the Declaration of the World Summit for Children.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 578. (a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq into its customs territory, and

(2) the export of its products to Iraq.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

SEC. 579. In all negotiations concerning the structure, bylaws, and operating procedures of the European Bank for Reconstruction and Development (EBRD), the Secretary of the Treasury shall vigorously seek—

(1) establishment of procedures for environmental assessment of all proposed operations with potentially significant environmental impacts;

(2) establishment of an environmental unit with sufficient staff to review proposed operations, monitor compliance with environmental provisions, and provide overall policy guidance;

(3) establishment of procedures for systematic consultation with and involvement of the public and interested nongovernmental organizations, including an opportunity for comment by local communities which may be affected by EBRD operations and establishment of a system of public notification and comment during the development of EBRD policies and operating procedures; and

(4) agreement that a significant portion of the EBRD's funds shall be devoted to projects focused on environmental restoration and protection.

REPEAL OF FISCAL YEAR 1991 PROVISION

SEC. 580. The amendment to section 516(a) of the Foreign Assistance Act of 1961 made by section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513) is hereby repealed.

CHEMICAL WEAPONS PROLIFERATION

SEC. 581. None of the funds appropriated by this Act may be used to finance the procurement of chemicals, dual use chemicals, or chemical agents that may be used for chemical weapons production: *Provided*, That the provisions of this section shall not apply to any such procurement if the President determines that such chemicals, dual use chemicals, or chemical agents are not intended to be used by the recipient for chemical weapons production.

KENYA

SEC. 582. Notwithstanding any other provision of law, none of the funds appropriated by this Act under the headings "Economic Support Fund" and "Foreign Military Financing Program", may be made available for Kenya unless the President certifies, and so reports to the Congress, that the Government of Kenya is taking steps to—

(1) charge and try or release all prisoners, including any persons detained for political reasons;

(2) cease any physical abuse or mistreatment of prisoners;

(3) restore the independence of the judiciary; and

(4) restore freedoms of expression: *Provided*, That none of the funds appropriated by this Act under the headings "Economic Support Fund" and "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after such report is transmitted to the Congress.

MEDITERRANEAN EXCESS DEFENSE ARTICLES

SEC. 583. During fiscal year 1992, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.

PRIORITY DELIVERY OF EQUIPMENT

SEC. 584. Notwithstanding any other provision of law, the delivery of excess defense articles that are to be transferred on a grant basis under section 516 of the Foreign Assistance Act to NATO allies and to major non-NATO allies on the southern and southeastern flank of NATO shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

ISRAEL DRAWDOWN

SEC. 585. Section 599B(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, is amended—

(a) by striking out "As a result" and all that follows through "the President", and inserting in lieu thereof "During fiscal year 1992, the President", and

(b) by striking out "of $700,000,000" and all that follows through the period, and inserting in lieu thereof "that equals the difference between $700,000,000 and the value of any such articles, services, and education and training that were authorized to be drawn down under the authority of this section before the enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1992.".

CHIEF FINANCIAL OFFICERS PROHIBITION

SEC. 586. None of the funds appropriated in this Act shall be used to implement the provisions of Public Law 101–576.

UNEXPENDED BALANCES EXTENSION

SEC. 587. (a) In accordance with section 1557 of title 31, United States Code, amounts appropriated or otherwise made available in Acts making appropriations for foreign assistance and related programs for fiscal years and under the headings identified in subsection (b) shall be exempt from the provisions of subchapter IV of chapter 15 of title 31, United States Code, until September 30, 1994.

(b) Subsection (a) shall apply to funds appropriated under the following headings for the fiscal year 1985 and 1986: "International Organizations and Programs" only for funds made available for the International Fund for Agricultural Development, "Agriculture, rural development, and Nutrition, Development Assistance", "Population, Development Assistance", "Health, Development Assistance", "Child Survival Fund", "Education and human resources development, Development Assistance", "Energy and selected development activities, Development Assistance," "Science and Technology, Development Assistance", "American Schools and Hospitals Abroad", "Trade and Development Program", "Economic Support Fund", "Peacekeeping Operations".

PRIOR CONSULTATIONS ON IFI REPLENISHMENTS

SEC. 588. Prior to entering into formal negotiations on any replenishment for any international financial institution or multilateral development bank, the Secretary of the Treasury shall consult with the Committees on Appropriations and appropriate authorizing committees on the United States position entering those negotiations.

ARMS TRANSFER MORATORIUM

SEC. 589. ARMS TRANSFER MORATORIUM.—(a)(1) ESTABLISHMENT.—Except as provided in paragraphs (2) and (3), the United States Government shall not agree to any transfers of major military equipment to any nation in the Middle East and Persian Gulf region. This moratorium is established to induce and encourage the other permanent members of the United Nations Security Council to join in this effort and also to induce and encourage other members of the North Atlantic Treaty Organization, former members of the Warsaw Pact, and other major arms supplier nations to join in this effort.

(2) CONDITIONS FOR TERMINATION OF UNITED STATES MORATORIUM.—The requirement of

paragraph (1) for a moratorium on United States arms transfers of major military equipment to the Middle East and Persian Gulf region shall cease to apply if the President submits to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and the Committees on Appropriations—

(A) a report stating that the President has determined that there has been agreement by another major arms supplier nation on or after May 21, 1991, to transfer any major military equipment to any nation in the Middle East and Persian Gulf region;

(B) the reports required by subsection (b)(1)(A) and (B).

(3) EMERGENCY TRANSFERS.—Paragraph (1) does not apply to any transfer of major military equipment that is a necessary, emergency response to major and sustained hostilities in the Middle East and Persian Gulf region or to an imminent threat of such hostilities.

(4) MAJOR MILITARY EQUIPMENT.—As used in this subsection, the term "major military equipment" means—

(A) air-to-air, air-to-surface, and surface-to-surface missiles and rockets;

(B) turbine-powered military aircraft;

(C) attack helicopters;

(D) main battle tanks;

(E) submarines and major naval surface combatants; and

(F) nuclear, biological, and chemical weapons.

(5) EXEMPTION OF REPLACEMENT EQUIPMENT.—Paragraph (1) and paragraph (2)(A) do not apply with respect to transfers which only involve the replacement on a one-for-one basis of equipment of comparable quality that has become inoperable after the date of enactment of this Act.

(b)(1) REPORT ON PLAN FOR MULTILATERAL REGIME.—As soon as practicable after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and the Committees on Appropriations the following two reports:

(A) A report setting forth a United States plan for leading the world community in establishing a multilateral regime to restrict transfers of conventional and unconventional arms to the Middle East.

(B) A report analyzing the feasibility of an arms transfer and control regime among nations in the Middle East and the potential elements of such regime, including—

(i) the feasibility of opening for ratification or accession by nations of the Middle East and Persian Gulf region the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of their Intermediate-Range and Shorter-Range Missiles (done at Washington on December 8, 1987), which bans all ground-launched ballistic and cruise missiles having ranges between 500 and 5,500 kilometers;

(ii) what techniques used in the Treaty on Conventional Armed Forces in Europe (done at Paris on November 19, 1990) can be usefully applied to regional arms control initiatives in the Middle East and Persian Gulf region; and

(iii) whether the "Open Skies" regime under consideration for countries in Europe and North America can be usefully applied to the Middle East and Persian Gulf region.

(2) REPORTS ON TRANSFERS AND REGIONAL BALANCE.—Not later than October 1 of each year, beginning in the first calendar year which begins after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives and the Committees on Appropriations a report—

(A) documenting all transfers of conventional and unconventional arms to the Middle East over the previous year and the previous 5 years, including sources, types, and acquirers of weapons;

(B) analyzing the current military balance in the region, including the effect on the balance of transfers documented under subparagraph (A);

(C) describing the operation of any agreements comprising the multilateral arms transfer and control regime envisaged by this section; and

(D) identifying supplier nations that have refused to participate in such a regime or that have engaged in conduct that violates or undermines the regime.

(c) EXISTING AGREEMENTS.—Subsection (a) does not apply with respect to transfers of defense articles or defense services pursuant to agreements entered into before May 21, 1991.

(d) CONVENING OF CONFERENCE TO NEGOTIATE A MULTILATERAL ARMS TRANSFER AND CONTROL REGIME.—As soon as practicable after the date of enactment of this Act, the President shall seek negotiations among, and undertake good faith efforts to convene a conference of, the five permanent members of the United Nations Security Council and other nations as appropriate, including members of the North Atlantic Treaty Organization, former members of the Warsaw Pact, and other nations selling military equipment and services, to establish a comprehensive multilateral arms transfer and control regime with respect to the Middle East and Persian Gulf region. The purposes of this regime should be—

(1) to slow and limit the proliferation of conventional weapons in nations in the Middle East and Persian Gulf region;

(2) to halt the proliferation of unconventional weapons, including nuclear, biological, and chemical weapons, as well as delivery systems associated with those weapons;

(3) to limit and halt the proliferation of ballistic missile technologies and ballistic missile systems that are capable of delivering conventional, nuclear, biological, or chemical warheads;

(4) to maintain the military balance in the Middle East and Persian Gulf region through reductions of conventional weapons and the elimination of unconventional weapons; and

(5) to promote regional arms control in the Middle East and Persian Gulf region.

NOTIFICATION REQUIREMENT—LOAN OF MILITARY EQUIPMENT

SEC. 590. The Committees on Appropriations are to be notified in accordance with the regular notification procedures prior to the use of the authorities contained in section 503 of the Foreign Assistance Act of 1961, or any comparable provision of law.

REPORTING REQUIREMENT

SEC. 591. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.

AMENDMENT OFFERED BY MR. EDWARDS OF OKLAHOMA

Mr. EDWARDS of Oklahoma. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EDWARDS of Oklahoma: On Page 68, line 16, strike "$25,000,000", and insert, "$50,000,000".

The CHAIRMAN. Pursuant to the rule the gentleman from Oklahoma [Mr. EDWARDS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. EDWARDS].

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of Oklahoma. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Mr. Chairman, I would be very happy to accept the amendment.

Mr. EDWARDS of Oklahoma. I thank the gentleman for agreeing to accept the amendment.

Let me just tell the Members very briefly this does not create any additional expenditure. The foreign aid authorization bill which we have been debating provides for an authorization of a democracy contingency fund to give the President the flexibility to shift money among the existing foreign aid accounts to respond to unforeseen democratic changes in the world.

The request by the administration and the amount of the authorization bill is $100 million. Our bill has $25 million. I think that is probably not adequate; $100 million may be too much.

So all I do in this amendment is increase the amount from $25 million to $50 million to give the President additional flexibility.

Mr. Chairman, I thank the gentleman for his support.

The CHAIRMAN. Is there further discussion on this amendment?

If not, the question is on the amendment offered by the gentleman from Oklahoma [Mr. EDWARDS].

The amendment was agreed to.

The CHAIRMAN. The next amendment is the Conyers-Horton amendment pertaining to the chief financial officers.

AMENDMENT OFFERED BY MR. HORTON

Mr. HORTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HORTON: On page 116, strike lines 22 through 25.

The CHAIRMAN. Pursuant to the order of the House of earlier today, the gentleman from New York [Mr. HORTON] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. HORTON].

□ 2110

Mr. HORTON. Mr. Chairman, I am offering this amendment to remove language in this bill that prohibits the use of funds to implement the Chief Financial Officers Act.

Mr. Chairman, in a 341-to-52 vote the House last night voted to remove similar language in the Treasury, Postal and general government appropriations bill. My amendment simply makes this appropriations measure consistent with the position of the House as expressed in last night's vote, and this is offered on behalf of myself and the gentleman from Michigan [Mr. CONYERS].

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me say that while I personally disagree with the amendment because it is not the most effective way to bring accountability to agencies, especially financial accountability, I recognize the will of the House, and I do not see any point in arguing about it again, and I will be happy to accept the amendment.

Mr. HORTON. Mr. Chairman, I thank the gentleman from Wisconsin [Mr. OBEY].

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I think this change has not only been welcomed by the House, as indicated by the overwhelming vote that was held before, but I think it is a very important step forward, and I am glad to support the amendment of the gentleman from New York [Mr. HORTON].

Mr. HORTON. Mr. Chairman, I thank the gentleman from Oklahoma [Mr. EDWARDS].

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. HORTON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 124, after line 4, insert the following:

SEC. 592. REDUCTION IN APPROPRIATIONS.

Each appropriation provided in this Act (other than the appropriations for "International Narcotics Control" and "Gifts to the United States for Reduction of the Public Debt") is hereby reduced by 1 percent.

The CHAIRMAN. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. TRAFICANT. Mr. Chairman, I want to commend the committee for their effort to take $135 million and make that contribution to deficit reduction.

Mr. Chairman, I believe the amendment is frugal, it is in good order, and I think it would be good for the country, and I would ask the committee to accept that amendment.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I will be happy to accept the amendment of the gentleman from Ohio [Mr. TRAFICANT] making clear that the amendment applies to all appropriated accounts. What that means is that the earmarked accounts are not included in the provision, and, given the way that it is drafted, I do not see any harm in accepting the amendment.

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I compliment the gentleman from Ohio [Mr. TRAFICANT] for his amendment. Cutting foreign aid is always a good thing to do. I agree with the gentleman, and I am glad to support his amendment.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Is there further discussion on the amendment of the gentleman from Ohio [Mr. TRAFICANT]?

The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the final three lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1992".

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NAGLE) having assumed the chair, Mr. GLICKMAN, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2621) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes, pursuant to House Resolution 177, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object to the vote on the ground that that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 301, nays 102, not voting 29, as follows:

[Roll No. 181]

YEAS—301

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
Atkins
AuCoin
Bacchus
Baker
Bateman
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Bruce
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gordon
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Harris
Hastert
Hatcher
Hayes (IL)
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hunter
Inhofe
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Matsui
Mavroules
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morella
Morrison
Mrazek
Murtha
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Price
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Santorum
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Spratt

Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Synar
Tallon
Taylor (NC)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Towns
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Visclosky
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wise
Wolf
Wolpe
Wyden
Yatron
Young (AK)
Zeliff
Zimmer

NAYS—102

Anthony
Applegate
Archer
Armey
Barnard
Barrett
Barton
Bennett
Bryant
Bunning
Clinger
Combest
Condit
Costello
Crane
Dannemeyer
DeFazio
Dickinson
Donnelly
Dreier
Duncan
Early
English
Fields
Gallegly
Gaydos
Gonzalez
Goss
Hall (TX)
Hancock
Hansen
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hubbard
Hughes
Hutto
Hyde
Ireland
Jacobs
James
Jenkins
Johnson (TX)
Jontz
Lagomarsino
Lewis (FL)
Long
Marlenee
Mazzoli
McCandless
McEwen
Miller (OH)
Mollohan
Montgomery
Moorhead
Murphy
Myers
Neal (NC)
Nussle
Packard
Parker
Patterson
Pease
Perkins
Petri
Poshard
Pursell
Quillen
Rahall
Ray
Roberts
Roemer
Rogers
Roth
Russo
Sangmeister
Sarpalius
Savage
Sensenbrenner
Shuster
Slattery
Slaughter (VA)
Smith (NJ)
Smith (OR)
Solomon
Staggers
Stearns
Stump
Tanner
Tauzin
Taylor (MS)
Traficant
Valentine
Volkmer
Walker
Walsh
Williams
Wilson
Wylie
Young (FL)

NOT VOTING—29

Ballenger
Beilenson
Brown
Campbell (CA)
Carr
DeLay
Fawell
Ford (TN)
Goodling
Gray
Hammerschmidt
Hopkins
Huckaby
Kolter
Lehman (FL)
Levine (CA)
Lloyd
Luken
Martin
Martinez
Mfume
Oberstar
Serrano
Spence
Swift
Thomas (GA)
Torricelli
Vucanovich
Yates

□ 2136

The Clerk announced the following pairs:

On the vote:

Mr. Yates for, with Mr. DeLay against.

Mr. Serrano for, with Mr. Spence against.

Mr. SAVAGE changed his vote from "yea" to "nay."

Mr. WASHINGTON changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, during consideration of legislation (H.R. 2621) making appropriations for U.S. foreign aid programs, I missed two rollcall votes. I would like the RECORD to show that had I been present, I would have voted "nay" on rollcall No. 180 and "aye" on rollcall No. 181.

PERSONAL EXPLANATION

Mr. LUKEN. Mr. Speaker, I came to the floor to cast my vote on final passage for H.R. 2621 the foreign operations appropriations bill for fiscal year 1992. I inserted my card and voted "yes." I intended to vote "yes."

PERSONAL EXPLANATION

Mr. BEILENSON. Mr. Speaker, unfortunately I was unable to be present in the House of Representatives during the vote on passage of H.R. 2621, the foreign operations appropriations bill for fiscal year 1992 (rollcall vote 181). Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. GOODLING. Mr. Speaker, I was unavoidably detained and missed two rollcall votes, Nos. 180 and 181. Had I been present, however, I would have voted "nay" on rollcall No. 180 and "nay" on rollcall No. 181.

PERSONAL EXPLANATION

Mr. MFUME. Mr. Speaker, I was unavoidably detained on the last rollcall vote, Rollcall 181.

Had I been here, I would have voted in the affirmative.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 2621, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1992

Mr. OBEY. Mr. Speaker, I ask unanimous consent that the Clerk may be permitted to make technical and conforming changes including section renumbering during engrossment of the bill. (H.R. 2621)

The SPEAKER pro tempore (Mr. NAGLE). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

GENERAL LEAVE

Mr. OBEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2621, and that I may be permitted to include charts, tables, and other materials.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

□ 2140

OLDER WOMEN'S BREAST CANCER PREVENTION ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. KENNELLY] is recognized for 5 minutes.

Mrs. KENNELLY. Mr. Speaker, today 41 of my colleagues and I are introducing legislation to provide fee schedule reimbursement of screening mammography through the Medicare Program. Last year Congress enacted legislation to provide for Medicare coverage of screening mammography once every other year, but limited reimbursements by imposing one nationwide cap, which is the lower of actual charges or $55 in all provider settings. The legislation we are introducing today would provide for reimbursement through a fee schedule developed by the Health Care Financing Administration, the way every other procedure under Medicare, including diagnostic mammography, is reimbursed.

Mr. Speaker, we all know that breast cancer is a leading killer of women. Various experts have estimated that breast cancer deaths could be reduced by nearly 30 percent if all women followed the recommended guidelines for obtaining screening mammography. Yet most women do not. Providing Medicare coverage for screening mammography is a very important step in encouraging mammography and making it more affordable. However, providing one cap for all parts of the country and all providers could, we are afraid, have the opposite effect from what Congress intended last year and could limit access to this vital procedure.

I understand that studies by the Physician Payment Review Commission and the General Accounting Office have indicated that costs drop as volume goes up, but that the overwhelming majority of providers do not have high volume. We hope that in the future volume will go up with Medicare coverage and costs can be reduced. However, if Medicare reimburses below current cost, as $55 is in many settings, providers will not be able to offer the test, especially if insurance companies also reduce their reimbursement to the Medicare level, as they usually do. In fact in 1988 the General Accounting Office said that only 7 percent of providers perform this service at $50. In high-cost urban areas and in rural areas, even $55 is not enough. In some areas it may be possible to offer screening mammography for $55, and in those cases $55 should be the limit. However, HCFA should have the ability to set maximum fees for screening mammography through the new relative value radiological fee schedule.

Mr. Speaker, the legislation before you has two parts. The first part simply strikes the provisions of current law which mandate a cap of $55. This will result in screening mammography reimbursement being limited by the radiological fee schedule, and HCFA will have to devise payment amounts within that schedule to cover screening mammography. No other provisions of last year's law are affected.

The second part would enable many nonradiologist physicians who now offer screening mammography to globally bill for the procedure. This change is restricted to the provision of mammography only. It does not change the total fee reimbursed by HCFA, only how the fee is allocated. Offering screening mammography in nonhospital outpatient settings, and where possible in a primary care physicians's office, is the most convenient setting and the setting where compliance should be highest, like the experience with the Pap smear. It is important that these settings should meet the highest quality standards, and

HCFA rightly applied the same strict quality standards to all settings in implementing last year's benefit. However, HCFA also correctly allowed primary care physicians to offer screening mammography if the image is interpreted by a qualified radiologist and all other quality standards are met. Unfortunately, the primary care physician cannot be reimbursed for his or her professional contribution. To solve this problem the second provision would amend the section 1842(b)(6) prohibition against global billing to allow primary care physicians (or other physician providers who do not interpret the mammography image) to globally bill HCFA for the entire procedure and thus receive payment for their contribution in providing the test.

Mr. Speaker, we believe this country is making good progress in this area but we need to do more. This bill represents another important step forward and hopefully we can adopt it expeditiously.

Mr. OWENS of Utah. Mr. Speaker, I rise this evening to address the House on a matter of foreign aid to Jordan, which was taken up earlier today. Because debate time was genuinely limited, I and other Members were unable to fully explore the issues related to Jordan and the Persian Gulf war. There were a great many statements made today impugning Jordan and King Hussein which were not substantiated by the facts. The King simply did not say what they said he said. I regret that I and other Members were unable to offer an adequate point-by-point defense when it was warranted.

Mr. Speaker, I strongly opposed the anti-Jordan amendments, even as they were amended, which passed the House earlier this afternoon. They ignored not only Jordan's importance to United States interests and stability in the Middle East, but also its historic and continuing friendship with the United States.

It is absolutely true that Jordan was not, in balance, helpful to the coalition before or during the Perisan Gulf war. Statements by the King which questioned the motives of the United States in the Middle East, Jordan's unwillingness to condemn Scud missile attacks on Israel, and Jordan's public sympathy for the Iraqi people—these were unhelpful. I am not suggesting otherwise.

But those actions are understandable, at least in part, even if not acceptable to the United States. Let us first consider the facts, both before and after the gulf war, and distinguish myth and misinformation from reality. Then, more importantly, we must consider how our actions today will affect the Middle East in the days and years to come.

First, we should recognize that for 35 years, Jordan, under King Hussein, has been a force for moderation in the Middle East and a consistent friend of the United States, often at great political risk to the King. Second, we must remember that King Hussein supported the U.N. sanctions, and he enforced them. Third, in a region increasingly influenced by radical and Islamic fundamentalist forces, the Kingdom has remained strongly pro-Western. In 1989, members of the Muslim Brotherhood won 33 seats out of 80 in the lower house of Parliament, and an additional 11 seats were carried by radical leftist groups.

The King's rhetoric and posture during the war were critical of the United States and our allies. However, he placed no barriers in our way. He strongly disapproved the invasion of Kuwait, and called upon Saddam Hussein to withdraw. His enforcement of sanctions which were overwhelmingly opposed within his own country was courageous, and, in fact, supportive of what we were doing. Moreover, Jordan went to extraordinary lengths and expense to shelter and care for an estimated 1 million refugees fleeing Iraq and Kuwait through Jordan after the invasion. This unexpected and selfless humanitarian effort, according to the New York Times, burdened Jordan with an additional $40 million in debt.

Notwithstanding the political difficulties in recent years in Jordan, King Hussein has steered his country toward the free market, democratization, and a moderate political course in the Arab world. He has genuinely attempted to maintain a stable and peaceful border with Israel, and by and large, has accomplished that. We enter into this debate, then, with a history of strong political, economic, and military cooperation between Jordan and the United States.

Second, we should consider the actual positions taken by the Jordanian Government during the gulf crisis and the factors which limited King Hussein's options. Although Jordan vocally objected to Western intervention in the region, it strongly objected to the Iraqi invasion, and, though we argued it was in misguided fashion, Jordan tried to play a mediating role in the crisis. Our country, and the Bush administration, were so determined to go to war, that when our Jordanian friend expressed disagreement with our policy, most Americans automatically placed the Kingdom of Jordan on the side of Saddam Hussein. That was an incorrect characterization; it is simply not true, and it was misleading to argue that point today.

Contrary to some media accounts, there is absolutely no evidence to suggest that Jordan offered military assistance or material to Iraq after the invasion of Kuwait. Two such allegations were made against Jordan; both were disproven. First, in the fall of 1990, Jordan was accused of engaging in military cooperation with Iraq, including training Iraqis on captured I-Hawk surface-to-air missiles. I expressed concern about this in a letter to Under Secretary of Defense Paul Wolfowitz. To quote from that response, dated October 18, 1990:

> We [the United States] have never been able to develop any evidence that the Jordanian military is assisting Iraq. We have no evidence of any unusual military shipments transiting Jordan to Iraq, Jordanian military personnel serving in operational units of the Iraqi armed forces, or Iraqi flights over Jordanian territory.

The letter went on to say:

> I want to stress that we regard Jordan as a key friend in the region, and that we have no evidence of Jordanian involvement with Iraq along the line of the questions raised in your letter.

I ask that this letter be printed in the RECORD following my remarks.

Later, allegations arose from unnamed sources that Jordan had shipped arms or ammunition to Iraq during the gulf crisis and some empty ammunition boxes were shown on television. Richard Boucher, the State Department spokesman, said on March 15 that the United States investigation found nothing to indicate that weapons had been sent to Iraq through Jordan since the mid-1980's.

Some have argued that Jordan did not enforce the U.N. imposed economic sanctions. Although there were early concerns over shipments of food and medicine, shortly after passage of U.N. Security Council Resolution 666 which clarified the terms of the sanctions, Jordan discontinued all trade to Iraq and enforced the sanctions without a breach. The only exception to this was Jordan's continued import of Iraqi oil, to which the United States did not object, and which did not result in any cash flow into Iraq.

It should be recognized that Saudi Arabia cut off the flow of the Tapline oil pipeline early on after the invasion. If Amman had purchased oil elsewhere than from Iraq, it would have faced fuel costs estimated at approximately $300 million in foreign exchange which Jordan did not have available. The cost of Iraqi oil was applied against debt owed by Iraq to Jordan; thus it yielded Baghdad no foreign exchange.

Mr. Speaker, it is important also to consider the reasons why Jordan treaded the ambiguous line that it did during the gulf crisis. First of all, King Hussein was profoundly distressed at the prospect of a war which could only spell disaster for his Arab brothers.

□ 2150

Also, Palestinians, which overwhelmingly supported Saddam Hussein in this crisis, comprise 70 percent, perhaps, of Jordan's population.

Other segments of the population supported Iraq as well, principally out of economic frustration and resentment toward the Gulf States. We should recognize that democratic reforms implemented by the King, steps which the United States has strongly encouraged, compelled him to be very responsive to public sentiment in his country.

Many would argue that King Hussein could have been more helpful to the coalition and still survived. That may or may not be true. Members of Congress understand better than most the need to be responsive to strong constituent feelings. The actions and the statements of his Government must be considered within the proper political context.

These anti-Jordan amendments, Mr. Speaker, which we passed today, would punish Jordan at precisely the wrong time. We are seeing now a clean and clear willingness and, indeed, a strong desire by King Hussein to cooperate with Secretary Baker's diplomatic initiative in the Middle East. King Hussein urged his country to accept Iraq's defeat and move forward. He has offered to attend a regional peace conference with or without a joint delegation of Palestinians.

In a speech before Jordan's Royal War College on May 22, the King said, "The facts on the ground are painful, but we must face them as they are. We must deal with reality and open eyes and open mind, even if it falls short of our hopes. This is a fact of life."

In an interview with a French magazine, Le Point, published on June 1, he said when asked about meeting with Israeli leaders, "taboos must disappear. It is too early to speak about it, but I think this should happen soon. Such face-to-face contacts ought to allow us all to dissipate our fears."

These are encouraging words, indeed, almost the only encouraging word which Secretary Baker is hearing from potential Middle East negotiating partners. This is a time, Mr. Speaker, to work on restoring the relationship between Jordan and the United States in the aftermath of the war. We can best support the peace process and stability in the region by working to heal that rift, not widen it, and by helping Jordan to obtain sound economic footing.

Jordan's economy was damaged more than that of any other country as a result of the war. It stands now on the verge of economic collapse, and with that, political turmoil. Jordan's economy has been heavily dependent on annual remittances of more than $600 million a year, and direct foreign aid from the Persian Gulf States of more than that amount.

King Hussein's principled stand, although we think it wrong, and Jordan's unwillingness to join or endorse the allied coalition severed those crucial ties and this critical economic assistance, and they will be difficult to restore.

Moreover, the war has contributed to a 30-percent unemployment rate, it has resulted in annual losses approximating 50 percent of gross domestic product, and compounded a foreign exchange crisis of major proportions. Consequently, Jordan is faced with ever-deepening economic turmoil, and this threatens its political stability and that of the entire region. With radical Islamic fundamentalism on the rise in Jordan, it is frightening to imagine the nature of a regime that could rise from the ashes of the current government.

It could be a government exactly like that which arose some 12 years ago in Iran. Mr. Speaker, today the King courageously sought birth to a new government headed by a Palestinian from the city of Nablus on the West Bank to Harmozi, and that government, Mr. Speaker, has no fundamentalist member in its government, even though they comprise almost 45 percent of the members of the Parliament. That is a courageous fact on the part of the king and one which speaks for moderation and the importance of continued American support for the Jordanian Government.

Mr. Speaker, these anti-Jordanian amendments which we passed today fly in the face of the advice of President Bush and Secretary Baker. It is also against the advice of most of the distinguished leadership of our Foreign Affairs Committee, and, may I say, almost every single objective authority on the Middle East who is interested in a comprehensive peace settlement in that area which is the most dangerous in the world today.

Mr. Speaker, a stable Kingdom of Jordan is critical to building a lasting peace in the Middle East. There is no rational vision of a peace process or settlement to the Palestinian and Arab-Israeli conflicts, without a stable Jordan. I visited Israel on two separate occasions during the gulf war. On both visits, Prime Minister Shamir told me that he was anxious that King Hussein and Jordan survive this crisis. Even after King Hussein's blistering and unfortunate speech on November 6, Prime Minister Shamir linked the fates of Israel and Jordan. He said, "Whatever happens there can have an influence of what happens with us."

Mr. Speaker, there is little to gain and much to lose by promoting Jordan's further economic decline and complicating Secretary Baker's diplomacy in the Middle East.

Mr. Speaker, at this point I will insert a letter to me from the Secretary of Defense to which I referred earlier, and the three key speeches by King Hussein made during the war and immediately thereafter.

ADDRESS BY HIS MAJESTY KING HUSSEIN I TO THE NATION, FEBRUARY 6, 1991

Brother citizens, brother Arabs, brother Muslims, you who uphold your faith and refuse to see your nation humiliated; you who are truly sincere within yourselves and in your hearts and minds, and in your objectives, ideas and attitudes; you who are concerned for the present as well as the future generations of our nation, I greet every one of you with all affection.

I choose to address you at this very difficult moment, motivated by Arab honor and religious duty. I address you on the eve of the fourth week of this savage and large scale war which was imposed on brotherly Iraq, and which is aimed at Iraq's existence, its role, its progress and its vitality. It is also aimed at Iraq's right to a life of freedom and dignity, and its determination to fulfill its historic, cultural and human role which started in Babylon, Baghdad and Basra, and which contributed to human civilization, scientific progress and culture.

Iraq, fellow Arabs and Muslims, now pays the price in pure and noble blood of belonging to its nation. Iraq had always hastened, without hesitation, to make sacrifices in all the battles which the Arabs fought, or which were forced upon them in defence of Arab land in Palestine, Syria, Egypt and Jordan. Arab blood was always dear to Iraq and shouldn't the blood of Iraqi men, women and children be dear to us?! How shamed will be the Arabs who let Arab blood be split in this unjust war?!

The world has known cruel wars, but never one like this that is waged against Iraq and the likes of which may never happen again. The armies of the biggest and most powerful nations have gathered and unleashed their modern and dangerous weapons on the land, in the sea, and in the sky. These weapons had originally been arrayed by the present international military alliance against an opposing alliance led by another super power. They are all now arrayed against the Baghdad of Haroun Al Rashid, the Basra of Islamic studies and poetry, the Kufa of Ali, may God's peace be upon him, the holy Hajaf, Karbala, Al Diwaniyeh, Mosul, Kerkouk, and every Iraqi city and village. Fire rains down upon Iraq from airplanes, from battleships, from submarines and rockets, destroying mosques, churches, schools, museums, hospitals, powdered milk factories, residential areas, Bedouin tents, electricity generating stations, and water networks. This bombing started from the first hours and took the form of a war that aims to destroy all the achievements of Iraq and return it to primitive life, by using the latest technology of destruction. The first victims of this war were justice, righteousness and peace. Its first casualties were the aspirations of all humanity since the end of the Second World War, hoping that that war would be the last human tragedy, and that man would no longer be killer or victim. All the hopes of our nation and the world community were thwarted the day the land of Iraq was turned into the arena of the third world war.

Brother citizens, brother Arabs, brother Muslims, the irony of this war is that it is waged under the cloak of international legitimacy, and in the name of the United Nations, which was created to preserve peace, security and justice, and to resolve disputes through dialogue, negotiations and diplomacy. If this is an example of the future role of the United Nations in the new world order, what an ominous future lies before all nations! What international legitimacy will there be to protect the less powerful against the more powerful who seek to subjugate them, humiliate them, kill them, and usurp all their rights that were granted by God and protected by charter of the United Nations? We now realize fully the real reason why we, the Arabs, were deprived of our right to solve our problems, and why the United Nations was prevented from fulfilling its role, and why the doors were shut against any sincere political attempt to resolve the gulf crisis. It is claimed that every effort possible was made to solve the crisis during the five months before the war. This is not true. If the effort that was spent in preparing for the war had been devoted to the quest for a peaceful settlement, this disaster would not have taken place. Moreover, the on-going war, with its destructive outcome, is incompatible with the humanitarian objectives of the United Nations resolutions which were adopted to restore peace and security to the gulf region.

By contrast the Arab-Israeli conflict remained far from any honest and real attempt to resolve it justly. The Arab Palestinian people and the Arab nation still await the implementation of a single United Nations resolution, which rejects Israeli occupation and calls for an end to it. Twenty-four years have passed since the occupation of the west bank, Gaza and the Golan Heights, and nine years have passed since the occupation of South Lebanon, but none of our hopes were fulfilled. Nevertheless, we did not despair of the United Nations. The major powers persisted in assuring us that a peaceful solution was possible. As regards the gulf crisis, the Arab parties concerned chose from the beginning to reject any political Arab dialogue with Iraq, and to block any attempt that could prevent the internationalization of the crisis and its resolution by directly dealing with all its causes and results. All the good offices of Jordan and others who were concerned for the future of our nation were aborted. Why? Because the real purpose behind this destructive war, as proven by its scope, and as attested to by the declarations of the parties, is to destroy Iraq, and rearrange the area in a manner far more dangerous to our nation's present and future than the Sykes-Picot agreement. This arrangement would put the nation, its aspirations and its resources under direct foreign hegemony and would shred all ties between its parts, thus further weakening and fragmenting it.

The talk about a new world order, whose early feature is the destruction of Iraq, and the persistence of this talk as the war continues, lead us to wonder about the identity of this order and instill in us doubts regarding its nature.

The new world order to which we aspire holds all people equal in their right to freedom, progress and prosperity. It deals with their causes with the same standards and under the same principles, regardless of any consideration or influence. The required new order would not mete out injustice to any one nation. It would not discriminate between nations but draw them together within the framework of mutual respect and fruitful cooperation for the benefit of our planet and all people in it. It must be an order that believes in public freedom and protects private freedoms, respects human rights and strengthens the principles of democracy. It should not deny the Arab people their right to all this.

The nature of the military alliance against Iraq betrays its near and long-term objectives. For when Israel supports this alliance; when two countries, one Arab and other Islamic, both of which have normal political relations with Israel, whose leaders compete for prominence in this alliance and reiterate their desire and enthusiasm for the destruction of Iraq, it becomes easy to realize that this war is a war against all Arabs and Muslims, not only against Iraq. When Arab and Islamic lands are offered as bases for the allied armies from which to launch attacks to destroy Arab Muslim Iraq, when Arab money is financing this war with unprecedented generosity unknown to us and our Palestinian brothers, while we shoulder our national responsibilities; when this takes place, I say that any Arab or Muslim can realize the magnitude of this crime committed against his religion and his nation.

Brother citizens, from the very beginning we have shouldered our responsibilities to the Arab nation and Islam, as well as towards international peace and security. We have made every effort to fulfill these responsibilities. We are not hurt because our rewards have been successive punishments to our country and people. It has become clear to the world that these punishments are the price which we must pay because we tried to avert the disaster which was planned and premeditated in the dark. As a new form of punishment there are now attempts to deprive us of our basic needs, even oil, as a new form of punishment, and one of the most severe, for no other reason than our principled stand. It is because we are not party to the conflict, nor part of the alliance, unwilling to dance to the tune others play, with no will of our own, no rights and no ability to express our free opinion. We would not forsake this right because it is equal in importance to our human right to breathe air that is not yet rationed. Nevertheless, Jordan's leadership and people will remain firm in their position and belief that the opportunity for peace still exists. Recourse to peace remains less costly and would reflect more truly the commitment to principles and values than the continuation of this devastating war.

The voices of millions can be heard in every country, including those of the alliance. They all call for peace and an end to the killing of children, the destruction of homes, and the withholding of medicine from the sick. I know just as you do that against these voices stand political and military leaders, alas with Arabs in their forefront, calling for the continuation of this war. Which voices will win in the end? The voices of reason, peace and justice, or the voices of war, hatred and insanity?

We and other brothers who have made a loud call to stop military action and open the way for diplomatic political action to resolve the problem, but the call fell on deaf ears. Many a time before the war had started we warned against is effects, the deep wounds which it would open, and its repercussions which would grow and include human, economic and ecological tragedies. We warned that war is a measure of last resort, launched only after all efforts to avert it have been exhausted. Our calls and warnings were in vain.

Justice will be victorious, God willing, brothers, and our Nation will prevail because, through its victory humanity will prevail against its enemies. Life will prevail over death. Love among nations will prevail over hatred. It will become clear to all those who gambled that our Nation would be divided, like its leaders, that it is a dead nation, will be proven wrong. Our Nation will remain, God willing, a strong, proud and vibrant nation. "These your people are one people and I am your God, so worship Me alone" (Surat Al Anbiya' No. 92). Let us have fear of God and remember that. If this situation continues it will only benefit those who covet our lands and resources, with Israel at their forefront. There are already signs that the spoils are being divided. We hear and read every day of plans to control our resources, limit our freedom of decision, strangle our aspirations and usurp our rights. There is talk of proposed military alliances and foreign troops that will stay on Arab soil; of conditions that will handicap our progress; of a solution for the Palestinian problem which has been prepared or which will be prepared by others according to what they see, and according to the will of the powerful that is imposed on the weak. We cannot imagine that this solution would fulfill the legitimate national rights of the Palestinian people on their national soil.

This is a call from a Hashemite Arab to all honest Arab and Muslim leaders. Let us join our efforts to stop this catastrophe and save the people of Iraq from the fate that is planned for them Let us save our Nation from the plans that are designed for it. Let us bring this war to an end.

The starting point in all this is immediate and serious work to make the alliance accept a cease-fire, in preparation for a responsible dialogue between the antagonists: An Iraqi-American dialogue and an Arab-Arab dialogue that resort to reason and balance interests against international legitimacy, the legitimacy of security, peace, justice and equality.

By destroying Iraq this war has exceeded the limits set by the United Nations in its resolutions. This is confirmed by declarations of the alliance leaders. So where is the United Nations now? The alternative to a cease-fire is the destruction of Arabs and Muslims, their humiliation, their exploitation, the trampling on their honour, pride and legitimate hopes, and hatred and strife between nations. We in Jordan, will stay the Arabs of all Arabs, the noblest of the noble, the men of all men. We shall always stay united, Army and people, alert to defend our country. If the fight is forced upon us we shall be up to it and gain one of God's two favours (victory or martyrdom). Our hearts are full of faith, and we thank God for everything.

From Amman of the Arabs I send to our people in Palestine our great pride in them, in their steadfastness, in their resilience against their suffering where a whole nation is under House arrest, without work, without a source of earning, without medicine. But it is a nation that believes in God and stands fast by the Aqsa Mosque and the Church of the Holy sepulchre.

As for our people in Iraq, what words can describe their great courage and pride, their tenacity, and their ability to face twenty-eight allied countries, twenty-eight armies headed by the largest, most powerful, and best armed army of the world! To them we send our love and our pride as they defend us all and raise the banner that says God is great, the banner of Arabs and Islam. We salute Iraq, its heroic army, its steadfast people, its glorious women, its brave children, and its aged, confronting with faith the bombers, the battleships and tons of explosives.

We send a special salute to His Holiness Pope John Paul II for his prayers and continuous calls for peace in the Middle East, and to all people and international figures everywhere who decry war and call for peace. A salute of pride to all our Arab and Muslim brothers in the five continents who came out from the first moments of war to make a stand for life and peace against death, destruction and aggression.

I pay a special debt of thanks to all those who search for truth and who work to spread it because they respect and care for truth. To all the newsmen, academics, and politicians who live among us and do their duty in honesty and professionalism.

"Most of their conferrings together are devoid of God, except such as enjoin charity, or the promotion of public welfare or of public peace; and on him who strives after these, seeking the gratification of God, shall be soon bestowed a great reward" (Surat Al-Nisa' No. 114).

May God's peace and blessing be upon you.

ADDRESS TO THE NATION BY HIS MAJESTY KING HUSSEIN I, MARCH 1, 1991

In the name of God the compassionate, the merciful.

Brother citizens, brother Arabs, in all parts of the Arab world, brother Muslims, in all parts of the world, I send you greetings that spring from a pure Arab heart and conscience that believes in the will of God. On this historic moment I shall pause with you at two landmarks of Jordan's progress and that of the greater Arab nation.

The first is the thirty-fifth anniversary of the Arabisation of the command of our Arab Army, so that it may always remain a source of strength for our nation and people.

The second is the end of the gulf crisis, which we sought from the onset to steer away from the dark tunnel it entered from the second of August until this day. This chapter ended at last, in one of the most cruel national disasters which our Nation has ever endured. Now I address every one of you men and women, young and aged, Muslims and Christians, servicemen and civilians. I address every Arab and Muslim who loved the unfolding saga in his heart and mind, or who faced it as an inescapable reality. I address you, brother Jordanians, to tell you that we have every cause to hold our heads high. Never have we bowed them other than to Almighty God, nor will we now. Our vision was clear from the onset of the tragedy. We realized what the outcome would be if Iraq continued its occupation of Kuwait, and if we were not successful in solving the problem peacefully within the Arab framework. We tried our best to contain the problem in its early stages and at all subsequent stages before the outbreak of war. We sought to solve it and avert disaster through our concern for the greater national interest and our commitment to noble principles. We were not successful. I do not propose to go into the detail of the sad drama because you know it well. You have lived it. I would like to say that the curtain has dropped on the final act, to herald a new dawn which beckons on the horizon. I realise that many of us in Jordan and in the Arab Muslim world will carry with them as they look forward to a new tomorrow, painful memories which can be transformed into hatred and rancour if they are allowed to grow and fester. But vibrant people are those that can overcome their pain and grievance, and contribute lessons from which they themselves learn as they strive for their future, their hope, and their aspirations. Dynamic nations do not allow bad memories to stall their progress or paralyse their ability to think. They emerge from the ashes and shake off the dust having drawn strength, confidence, and determination from their bitter ordeal, to resume normal life and to construct a brighter future.

You know that, after Iraq and Kuwait, Jordan suffered most from this crisis. We were isolated economically till our exports shrank. We were placed unwillingly in the war zone till our tourism ceased and our airspace was closed. We were obliged to shoulder over and above, the responsibility of hosting Jordanian returnees who worked in Kuwait. This entailed an additional burden to our financial and economic plight. Our standard of living was diminished, in the case of hundreds of thousands of our people, to below the poverty line; unemployment soared to an unprecedented level. Our tankers were hit as they came from Iraq loaded with oil, without which, not only the wheels of the economy would grind to a halt, but so would our ability to provide drinking water, which requires energy to pump it from its various sources. Nevertheless, we did what we could to stay prepared to defend our country at all levels; we mobilized the armed forces, called up our reserves, equipped the people's army, and provided basic food supplies for the country. We did not, however, bear a grudge towards anyone, nor did we place the blame on any. We realised that we would pay dearly for standing on principle, and maintaining our freedom of choice within a national context, and because of our geographical location.

Gloating and apportioning blame are not Arab traits, nor are they compatible with their spiritual values because they lead to enmity, hatred, and alienation. On the other hand, forgiveness and burying the past lead to healing the wounds and closing the ranks of the nation once again.

Let us place our trust in God and turn over a new leaf. Let everyone make an honest resolution to work for reconciliation and harmony, and to shun doubts, mistrust, and all causes of strife. Let us establish an inter-Arab relationship based on the fear of God, mutual trust, and faithfulness to the aspirations of our nation and its future generations to live in freedom, peace, security, and stability, so they can resume the quest for progress and fortitude, within its national character and Islamic values.

Let us turn a new page, thanking God that the Gulf war has ended, that the bleeding has stopped, and that the people of Kuwait enjoy their independence once again. Let us pray to God that this be the last strife between Arabs, and that he may guide them to the true path, the path of righteousness, justice, fraternity, solidarity, and affection.

As I say this a stream of images crowds my mind. Today our Kuwaiti brothers celebrate their return to their homes and the resolution of their independence. We share their happiness.

By contrast, our Iraqi brothers nurse their wounds and pain. We sympathise with them all, people and army: Arabs and Kurds, Sunnis and Shi'ites, in every city, village, and Bedouin camp.

We all bear a responsibility toward Iraq, its heritage and history. We shall stand by the Iraqi people as they look forward to rebuilding their country and to healing their wounds. To all our brethren in Iraq we pledge that we shall neither forget them, nor the help they have given us in moment of need.

On this day we see the beginning of a new Arab era. A new dawn between Iraq and Kuwait marked by reconciliation and reconstruction in both countries.

Today, pains and sorrows turn into hope and determination. Today is a day for reflection and self-appraisal, to heal the wounds restore Arab unity, and lay solid foundations for a better future. The nation did not start with us that it should end with us.

This is the day when we should consider how to revive and develop the Arab regional order, to make it more capable of containing our problems and facing the challenges that face our nation.

It is a day of determination for us to build our national strength, to restore confidence in ourselves, and to safeguard our values and beliefs.

It is a day when all should turn to solving their problems, the border issues being at the forefront, so that the nation will never again find itself in a situation of conflict that could lead to its ruin. It is the day when serious thinking ought to commence on how our abilities should complement construction and development in a context of cooperation, to safeguard our human and natural resources and to release the potential of our nation's youth.

It is the day on which we ought to bear witness to the interrelation of interests amongst the nations of the world, the interdependence amongst its peoples, the need to live in harmony with each other, to enjoy our resources in a framework of equality and by the grace of God to fulfill the trust of future generations. On this day we should also not be impervious to the anguish of the Palestinian Arab people, who look to the day of salvation when they too can rejoice as do the Kuawiti people today. The Palestinian people look to a world that has applied international legality with the same vigour that it demonstrated over the question of the occupation of Kuwait, and await the same firmness and decisiveness in applying international legality to its humanitarian and national demands.

It has been said that Palestinians showed happiness when missiles hit Israel. If that is correct, should the world not analyze the cause for this happiness? I suggest to the Israeli leadership and people that they scrutinize this phenomenon closely, for the Palestinians, like all living mortals, are also human, and it is humanity that constitutes their love for life, virtue and peace as it does for others. One cannot distinguish a line between this reaction to the attacks and the continued neglect by the international community of their suffering, a fact which can only have had a brutalizing effect. Such "happiness" is no more than a reflection of deep seated and profound sorrow, coupled with despair of attaining international justice and of having waited so long for salvation in freedom and the right to a life with dignity.

On this day we urge the world again to address the question of Palestine by the same criteria that it has applied over the question of Kuwait. We should also like to renew our pledge to the world that we are committed to striving for the attainment of a just and durable peace that guarantees the national rights of the Palestinian people on their national soil. Foremost among these rights is their right to self-determination and to representation in a peace process aimed at resolving the Arab-Israeli conflict. These rights constitute the basis for the achievement of lasting peace and enduring stability in the region, a goal which we seek jointly with the international community, guided by the noblest of values and by a commitment to the application of all international principles with equal enthusiasm and dedication.

On this day we must also focus attention on the growing disparity between rich and poor nations in this region which predicates continuing social and political unrest if it is not addressed institutionally through planning in order to cope with the challenges to stability in this region and to world peace, and not just as an expression of charity. In our opinion this means a great deal, for it addresses the core of international dealings with our region as an integrated region rather than a series of bilateralism.

On this occasion I should also like to thank all those who helped us during this crisis and who understood and appreciated our principled stand, our propensity for peace and our dedication to conflict resolution through peaceful means. We would like to assure the whole world that Jordan throws its arms open wide to all those who wish to establish friendly relations based on mutual respect and cooperation. Jordan extends its hand to all those who reciprocate with warmth and honour that we may work together in the knowledge that rhetoric will yield to meaningless deeds. Jordan will always belong to its nation, will always strive for international cooperation in achieving prosperity for all. This is Jordan's longstanding belief which, God willing, it will never abandon.

Here is Jordan we are proud of our democratic experiment which in this crisis has been a foundation stone of the edifice of our national unity. It has revealed the awareness of our people, their fears for the nation's welfare and their deep concern for regional developments in a context of responsible national and patriotic participation.

I congratulate you all in progressing on the path of democracy which we shall strive to conslidate and enhance. At the outset of this new phase, as we prepare ourselves to resume the process of reconstruction, we shall propose the national charter for national endorsement that we may, in the light of the charter, organize and, God willing, guide our participatory process with greater cooperation in the service of our country and our Arab nation equally. Our historic national responsibilities lie in providing the elements of success for our experiment which may offer a model for our Arab brethren, in their turn, to expand their participatory process in the service of their countries.

We in Jordan are confident that the Arab peoples have a greater sense of solidarity and harmony than the recent crisis suggests. They are capable of overcoming the causes of division and fragmentation which we have always cautioned against. Popular participation in the framework of democratic institutions is the guarantor of upholding that solidarity among peoples just as responsible freedom and respect for human rights and human dignity are the guarantors that prevent decision-makers from following the paths of adventurism.

For it is through the widespread adoption of democracy in Arab countries that we can best save our nation from the pitfalls of armed conflict. We also see in democracy a sure way of preserving harmony in the Arab nation on an acceptable basis which would lead the nation to the realization of its hopes in interdependence, strength, progress and prosperity.

"It may be that you dislike a thing which is good for you and it may also be that you prefer a thing and it may be the worst for you. God knows all and you know not." (Al Baqara 216)

May God's peace, mercy and blessings be upon you.

THE ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, October 13, 1990.

Hon. WAYNE OWENS,
House of Representatives,
Washington, DC.

DEAR MR. OWENS: I am writing in response to your recent letter regarding Under Secretary Wolfowitz' testimony before two House Foreign Affairs Subcommittees. Mr. Wolfowitz is out of the country, and I did not want to delay replying to your questions about Jordan.

We are well aware of the allegations suggesting that Jordan is providing technical assistance to train Iraqis on captured HAWK missiles, flying reconnaissance missions against allied forces in Saudi Arabia, and otherwise assisting the Iraqis. These are serious matters and we investigate all such reports. We have addressed them with the most senior civilian and military leadership in Amman, and have made it clear that such behavior would not be tolerated if it ever proved to be true. The Jordanians have responded by denying that any officially sanctioned cooperation is taking place. In several cases, they have asked for additional details to conduct their own investigations.

We have never been able to develop any evidence that the Jordanian military is assisting Iraq. We have no evidence of any unusual military shipments transiting Jordan to Iraq, Jordanian military personnel serving in operational units of the Iraqi armed forces, or Iraqi flights over Jordanian territory.

At the same time, we have expressed our extreme displeasure with some of the public positions taken by Jordan during the crisis. These demarches and expressions of opposition from other countries seem to have had an effect. The Jordanian Government has taken recent steps to distance itself from Saddam Hussein and his deplorable acts.

Our relationship with Jordan and Jordan's position during this crisis have been an issue, but we cannot lose sight of our longer term goals and objectives in the region. We continue to believe that it is in the best interest of the United States, Jordan, and regional stability to maintain a close and strong security relationship with Jordan. A secure and confident Jordan will allow its civilian and military leaders to play important and positive roles in regional affairs. The Jordanian Armed Forces, which rely heavily on security assistance from the United States, are a key ingredient in strengthening the government's self-confidence. We, therefore, are asking Congress to keep these factors in mind when considering the Administration's security assistance request. Our FY 1991 request of $50 million provides the minimum funding needed to support important US (and regional) interests in Jordan.

In conclusion, I again want to stress that we continue to regard Jordan as a key friend in the region, and that we have no evidence of Jordanian involvement with Iraq along the line of the questions raised in your letter. We will continue to monitor closely the situation, and I assure you that appropriate actions will be taken with any country that is discovered assisting Iraq.

Sincerely,

HENRY S. ROWAN.

NEWS CONFERENCE OF HIS MAJESTY KING HUSSEIN OF JORDAN, JANUARY 19, 1991

King HUSSEIN: Ladies and gentlemen and friends, I must apologize for having been inaccessible to many of my friends here who have asked to see me during the last few days, but I felt it important to have this opportunity to do so now and to say now much we appreciate your being with us during these very difficult times in this phase of the life of the world and our region, which I believe will have a great impact on the future of people here in this region and in the world as a whole.

I am pleased that my brother, the Crown Prince, has been able to meet with many of you and to answer your questions, and I'm happy that you are with us here. I hope to the best of our ability that we will make you feel at home amongst your friends.

In this very serious crisis, I believe the media has played a role that was unprecedented in any that the world has passed through in the past. The crisis itself, in terms of the point that we have reached now, is at the very beginning of what we strove—myself, the government, and the people of Jordan—to avert and avoid from the very outset.

You will recall my involvement in the first few days of the crisis, that we secured an Iraqi commitment to withdrawal from Kuwait and positive response to attempt a mini Arab summit in Jeddah in Saudi Arabia to resolve the causes and reasons that brought about the events of the second of August of last year against the background of the problem that was first discussed at the Arab summit in Baghdad.

Unfortunately, every attempt and every effort to secure progress towards a peaceful solution to the problem with which I was involved was blocked and was scuttled and escalation grew with the resolution adopted by the foreign ministers of the Arab League, the Security Council's involvement, and the arrival of troops to the region. And the story since then is well known to you.

We have tried our utmost and, with any glimmer of hope, we will try again.

This area has suffered for long, suffered injustice, and the people of this area have been denied their right to live in peace and in security, which is their right and the right of generations to come. It has inflamed passions to live in an area in the region where two problems now exist—one 23 years old in terms of its recent history, and another a few months old, both characterized by territorial occupation and annexation, both addressed by the Security Council of the United Nations, and the United Nations, yet one still waiting with us and probably being the cause, the root cause, of instability in this region, and one which has brought this great coalition to place and use the most lethal modern concentration of equipment and men and materiel in modern times.

I've always regretted that this was the choice, as it would appear, of—of many, and (we are?) apparently living in a new era and a new world, entertaining the hopes for a new world order, and I firmly believe that such an order can only exist if all in this world contribute seriously to upholding the same principles and ideas in dealing with any problem, wherever it occurs.

So let us hope that somehow we can still see this world approach this onslaught and try to bring it to a close as people of good will to try what has not been tried yet adequately, the approach of dialogue and diplomacy, quiet diplomacy, to bring this crisis to a satisfactory conclusion to all concerned and to move away from it to another crisis that has been with us for many, many years and to finally address it and then hopefully to move in an atmosphere of peace towards the removal of weapons of mass destruction from this entire region, towards democracy and freedom, respect for human lives and human rights, peace and security for all. I hope that the present slide towards the tragic, disastrous and the unknown be halted as soon as possible.

Well, we here in Jordan are passing also through a very interesting phase of the life of this country and its people, enjoying freedom, enjoying democracy, and in the face of such a crisis that we have never lived through before, facing it together with clarity of vision, with a sense of responsibility, and without the usual measures that governments may feel they have to adopt under far less dangerous circumstances. Of course, our hope is that what we have achieved may be an inspiration and an example to others to follow in the times to come, that somehow by some miracle we are able to turn the corner away from hatred and destruction and bloodletting towards peace in this region.

The alternatives are what I have pointed to time and again during these last months, and I am very, very deeply saddened to see and to live through my fears coming true or beginning to do so.

Anyway, rest assured that we are always and always be committed to the cause of peace, genuine peace that generations after us can accept and live with and perfect. The Arab world to which we belong, arab unity, relations based on mutual respect with the rest of the world and all in it—and true cooperation and openness. Rather than proceed any further with this talk to you, I will be more than glad and happy to answer any of your questions.

Q: (Off mike)—Are you calling for a temporary ceasefire at this time, and if so, what do you think that might accomplish considering the failure of previous diplomatic missions?

King HUSSEIN: Well, sir, with all due respect to whoever suggest that there was a real serious diplomatic effort, I would suggest that rather than go on this course any further, if the military actions could be brought to a halt, then maybe this would afford many of us the opportunity to really seriously try to seek efforts to get a solution, a diplomatic solution satisfactory to all against the background. This was attainable and was possible, even during the first 48 hours the part was open. But, unfortunately, soon thereafter it was shut. And I believe the effort that was put into the military option was infinitely greater than anything that happened on the diplomatic and political level.

Q: (Off mike)—is a view that hope, a possibility of a new diplomatic initiative that might bring this to an end if there is a ceasefire?

King HUSSEIN: I'm not speaking on anybody's behalf. And, on the other hand, regarding even the possibility of contact with Iraq, that hasn't been possible since the beginning of hostilities. But, I'm voicing my own view and that of my government, and certainly the whole of my people and, I'm certain, the people of good will everywhere.

Q: The Ambassador in France—in Paris said that Jordan was not part of this conflict. Does that mean that the King of Jordan and the people of Jordan has no sympathy for one or other camp?

King HUSSEIN: The people of Jordan and I have the greatest concern for the future as well as the present of this Arab world to which we belong. We have done everything we could in the past and we will never move away from our sense of responsibility to serve the cause of peace in this entire region to the best of our ability. My conscience, and I believe this is shared with the government and people of Jordan, it is clear we have tried everything that we could in the past. But we were blocked whenever we moved, and wherever we moved. And this did not happen from one side of the conflict only. It seems there was more emphasis on seeking a military option rather than letting diplomacy prevail to try to exhaust all possibilities of achieving a peaceful solution.

Q: (Cross talk)—and what will be the position of your (inaudible) in the case of Israel attack back through the (inaudible) states of Jordan?

King HUSSEIN: Sir, we have, as we drifted towards war, made it abundantly clear that this is a sovereign country and that we will defend our territory and air space against any possible incursion from any side to any conflict. Our means are limited, but we are determined to do whatever we can to ensure that our air space and land is not violated from any side to any conflict, and particularly during this very, very difficult point in time. That is our position and it is—has been so and will continue to be so.

Q:—do you a new quality of the aggression against Iraq and what's your point of view about the duties of European Community towards this new—(inaudible).

King HUSSEIN: I see that all members of the international community can either contribute towards averting disaster within the region, beyond the region, economically, ecologically and on the human dimension. And whoever does not do so will be involved in a way that will be judged by generations to come. And I believe it is the time to act and act quickly to avoid a further slide into the precipice.

Q: King Hussein, you have stated again that you will defend your airspace and your territory, do you expect that any action that you take in doing this could in fact result in Jordan being drawn into the war and drawing other Arab countries into the war?

King HUSSEIN: This is our territory and this is our responsibility and the skies above it. And we regret very, very much indeed that conditions have deteriorated to the point that they have. We are deeply saddened, not only by recent events but by all the events that erupted since the beginning of hostilities way short of having tried to achieve a political solution to the problem and a peaceful one. So, we cannot be people who duck and leave their skies to be used by any, because the right of one side to conflict to use it means the right of another. We have made it before the situation erupted the way it did. That with our means, all means available to us we will try to defend our sovereignty, our territory, our airspace to the best of our ability. And I believe that this is the only thing that you could do under the circumstances.

Q: Do you think Iraq has crossed your airspace on the way to hit Israel? In that case, have you filed any protests with Baghdad?

King HUSSEIN: As far as we are concerned I don't know, to my knowledge, airspace is——

(News conference, as broadcast on CNN interrupted for Defense briefing. End of all available audio.)

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FAWELL of Illinois (at the request of Mr. MICHEL), from 1 p.m. today and the balance of the week, on account of the death of his mother.

Mr. HAMMERSCHMIDT of Arkansas (at the request of Mr. MICHEL), from 4 p.m. today and for the balance of the week, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DARDEN) to revise and extend their remarks and include extraneous material:)

Mr. BACCHUS, for 5 minutes, today.

Mr. MAZZOLI, for 5 minutes, today.

Mrs. KENNELLY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of Utah, for 30 minutes, today.

Mr. MCCLOSKEY, for 60 minutes each day, on June 26 and 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. LOWEY of New York today just prior to the vote on the Bryant amendment, on H.R. 2508.

Mr. SCHUMER today in Committee prior to the vote on the Bryant amendment, on H.R. 2508.

Mr. CARDIN in Committee today just prior to the vote on the Bryant amendment, on H.R. 2508.

Mr. STALLINGS in the Committee today just prior to the vote on the Bryant amendment, on H.R. 2508.

Mr. TOWNS in the Committee today just prior to the vote on the Bryant amendment, on H.R. 2508.

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous matter:)

Mr. GOODLING in two instances.
Mr. SUNDQUIST.
Mr. COX.
Mr. CRANE.
Mr. MACHTLEY.
Mr. VANDER JAGT in two instances.
Mr. HEFLEY.
Mr. BALLENGER.
Mr. HANSEN.
Ms. MOLINARI.
Mr. SOLOMON in two instances.
Mr. GEKAS.
Ms. ROS-LEHTINEN in three instances.
Mr. KYL in two instances.
Mrs. MORELLA.
Mrs. VUCANOVICH.
Mr. PORTER.

(The following Members (at the request of Mr. DARDEN) and to include extraneous matter:)

Mr. ROWLAND.
Mr. RAHALL.
Mr. FASCELL in two instances.
Mr. HAMILTON in two instances.
Mr. VENTO in two instances.
Mr. ASPIN.
Mr. SCHUMER.
Mr. SHARP.
Mr. LIPINSKI.
Mr. EDWARDS of California.
Mr. HAMILTON.
Mr. STARK.
Mr. MONTGOMERY.
Mr. LEVINE of California.
Mr. DELLUMS.
Mr. MANTON.
Mr. TOWNS.
Mr. WILLIAMS.

ADJOURNMENT

Mr. OWENS of Utah. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 57 minutes p.m.), the House adjourned until tomorrow, Thursday, June 20, at 10 a.m.

OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 State. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose or evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 102d Congress, pursuant to the provisions of 2 U.S.C. 25:

John W. Olver, First District of Massachusetts.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1583. A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 37, United States Code, to authorize travel and transportation allowances for members of the uniformed services directed to perform overnight duty within the limits of their duty station at a location other than their residence or normal duty location in unusual or emergency situations; to the Committee on Armed Services.

1584. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-42, "The American College of Obstetricians and Gynecologists Revenue Bond Act of 1991", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1585. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-40, "National Children's Center, Inc., Revenue Bond Act of 1991", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1586. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-41, "The Abraham and Laura Lisner Home for Aged Women, Inc., Revenue Bond Act of 1991", and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1587. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Federal Railroad Safety Act of 1970 and for other purposes; to the Committee on Energy and Commerce.

1588. A letter from the Secretary of Defense, transmitting the semiannual report of the Office of Inspector General during the 6 months ending March 31, 1991, pursuant to Public Law 95-452, section 5(b) (96 Stat. 750, 102 Stat. 2526); to the Committee on Government Operations.

1589. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1590. A letter from the Director, Office of Management and Budget, transmitting the fourth report on U.S. costs in the Persian Gulf conflict and foreign contributions to offset such costs, pursuant to Public Law 102-25, section 401 (105 Stat. 99); jointly, to the Committee on Armed Services and Foreign Affairs.

1591. A letter from the Secretary of Energy, transmitting a copy of a report entitled "Pressurized Circulating Fluidized Bed Demonstration Project" proposed by Dairyland Power Cooperative and Iowa Power Inc.; jointly, to the Committees on Appropriations, Energy and Commerce, and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTION

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YATES: Committee on Appropriations. H.R. 2686. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102-116). Referred to the Committee of the Whole House on the State of the Union.

Mr. GORDON: Committee on Rules. House Resolution 178. Resolution providing for the consideration of H.R. 429, a bill to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, WY (Rept. 102-117). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MILLER of California:

H.R. 2684. A bill to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. YATES:

H.R. 2686. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. DANNEMEYER (for himself, Mr. Crane, and Mr. Rohrabacher):

H.R. 2687. A bill to provide for the development of a water market in the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DELLUMS:

H.R. 2688. A bill relating to the tariff treatment of certain cloth used in the fabrication of articles for use in public or private religious observances; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 2689. A bill to make grants for demonstration and evaluation of educational programs that improve educational opportunities of children by providing parents and children with a choice in education; to the Committee on Education and Labor.

By Mr. GOODLING (for himself and Mr. Ballenger) (both by request):

H.R. 2690. A bill to reauthorize the program for infants and toddlers with disabilities under part H of the Individuals with Disabilities Education Act, and for other purposes; to the Committee on Education and Labor.

By Mr. JEFFERSON:

H.R. 2691. A bill to prohibit discrimination by the States on the basis of nonresidency in the licensing of dental health care professionals, and for other purposes; to the Committee on Energy and Commerce.

Mrs. KENNELLY (for herself, Mrs. Boxer, Mr. Russo, Mr. Donnelly, Mr. Coyne, Mr. Levin of Michigan, Mr. Moody, Mr. Cardin, Mrs. Johnson of Connecticut, Mr. McGrath, Mr. Rangel, Mr. Jacobs, Mr. Ford of Tennessee, Mr. Jenkins, Mr. Downey, Mr. Guarini, Mr. Pease, Mr. Dorgan of North Dakota, Mr. Andrews of Texas, Mr. Crane, Mr. Schulze, Mr. Thomas of California, Mrs. Bentley, Mrs. Byron, Mrs. Collins of Michigan, Mr. Darden, Ms. DeLauro, Mr. Durbin, Mr. Frank of Massachusetts, Ms. Kaptur, Mrs. Lloyd, Ms. Long, Mrs. Lowey of New York, Mrs. Mink, Ms. Molinari, Mrs. Morella, Ms. Norton, Ms. Pelosi, Ms. Ros-Lehtinen, Mrs. Schroeder, Ms. Slaughter of New York, Mrs. Unsoeld, and Mr. Chandler):

H.R. 2692. A bill to amend title XVIII of the Social Security Act to repeal the limit on payment amounts for screening mammography under part B of the Medicare Program and to permit payment to be made under such part to a physician in whose office a screening mammography is performed; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. LEWIS of Florida (for himself and Mr. Mineta):

H.R. 2693. A bill to provide that receipts and disbursements of the Airport and Airway Trust Fund will not be included in the totals of the congressional budget or the budget of the U.S. Government as submitted by the President, to amend the Internal Revenue Code of 1986 to repeal certain increases made in aviation-related taxes, and for other purposes; jointly, to the Committees on Government Operations, Rules, Public Works and Transportation, and Ways and Means.

By Ms. NORTON:

H.R. 2694. A bill to amend title 11, District of Columbia Code, to remove gender-specific references; to the Committee on the District of Columbia.

By Mr. ROWLAND (for himself, Mr. Bliley, Mr. Fazio, Mr. Thomas of Wyoming, Mr. Allard, Mr. Taylor of Mississippi, Mr. Ray, Mr. Darden, Mr. Jones of Georgia, Mr. Jenkins, Mr. Thomas of Georgia, Mr. Moorhead, and Mr. Hall of Texas):

H.R. 2695. A bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the medicare program; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. STARK:

H.R. 2696. A bill to amend the Internal Revenue Code of 1986 to deny any deduction for expenses in connection with the cutting of old-growth redwood timber which is a nonrenewable resource and to impose an excise tax on the cutting of such timber; to the Committee on Ways and Means.

By Mr. WILLIAMS (for himself and Mr. Coleman of Missouri):

H.R. 2697. A bill to amend title V of the Higher Education Act of 1965 to provide Federal assistance to the National Board for Professional Teaching Standards; to the Committee on Education and Labor.

By Mr. DELLUMS:

H.J. Res. 277. Joint resolution to designate the 10-year period beginning January 1, 1992, as the National Decade of Historic Preservation; to the Committee on Post Office and Civil Service.

By Ms. NORTON (for herself, Mrs. Morella, Mr. Moran, Mr. Wolf, Mr. McMillen of Maryland, and Mr. Hoyer):

H.J. Res. 278. Joint resolution designating July 4, 1991, as "July 4th Family Celebration Day"; to the Committee on Post Office and Civil Service.

By Mr. RITTER (for himself, Mr. Stenholm, Mr. Levine of California, Mr. Bennett, Mr. Bacchus, Mr. Rohrabacher, Mr. Fuster, Mr. Blaz, Mr. Murphy, and Mr. Lagomarsino):

H. Con. Res. 170. Concurrent resolution to commend Boris Nikolaevich Yeltsin, President-elect of the Russian Republic, for his leadership on behalf of democratic, pluralistic, and free-market principles; to the Committee on Foreign Affairs.

By Mr. SOLARZ (for himself, Mr. Gilman, and Mr. Ackerman):

H. Con. Res. 171. Concurrent resolution expressing the sense of the Congress relating to the rescue of approximately 14,000 Ethiopian Jews from Ethiopia to Israel, and to the current famine in Ethiopia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

By Mr. LAUGHLIN introduced a bill (H.R. 2685) to clear certain impediments to the licensing of a vessel for employment in the coastwise trade in the United States; which was referred to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 123: Mr. Regula and Mr. Murphy.

H.R. 193: Mr. Porter.

H.R. 516: Mr. Serrano.

H.R. 709: Mr. AuCoin, Mr. DeFazio, Mr. Santorum, and Mr. Payne of New Jersey.

H.R. 713: Mr. Jones of Georgia and Mr. Barnard.

H.R. 784: Mr. Orton, Mrs. Johnson of Connecticut, and Mr. Boucher.

H.R. 830: Mr. Beilenson.

H.R. 954: Mr. Lehman of Florida and Mr. Foglietta.

H.R. 956: Mr. Lehman of Florida and Mr. Foglietta.

H.R. 958: Mr. Lehman of Florida, Mr. Foglietta, Mrs. Morella, and Mr. Wise.

H.R. 1048: Mr. Cramer.

H.R. 1067: Mr. Andrews of New Jersey, Mr. Edwards of California, Mr. Wheat, Mr. Kolbe, Mr. Hobson, Ms. Oakar, Mr. Lehman of Florida, Mr. Hutto, Mr. Thomas of Georgia, Mr. Riggs, Mr. Peterson of Florida, Mr. Volkmer, Mr. Staggers, Mr. Frost, Mr. Wise, Mr. Taylor of North Carolina, and Mr. Marlenee.

H.R. 1080: Mrs. Meyers of Kansas.

H.R. 1130: Mr. Chapman, Mr. Penny, Mr. Wise, Mr. Visclosky, and Ms. Norton.

H.R. 1134: Mr. Gordon.

H.R. 1147: Mr. Bunning, Mr. Hughes, Mr. Torres, Mr. Franks of Connecticut, Mr. de Lugo, and Mr. Regula.

H.R. 1218: Mr. Payne of New Jersey.

H.R. 1226: Mr. Andrews of Maine.

H.R. 1245: Mr. Bunning, Mr. Brewster, Mr. Lewis of Florida, Mr. Taylor of Mississippi, Mr. Ritter, Mr. Houghton, Mr. Neal of Massachusetts, Mr. Baker, Mr. Upton, Mr. Herger, Mr. Saxton, Mr. McGrath, Mr. Spratt, Mr. Weiss, Mr. Ravenel, Mr. Smith of Iowa, Mrs. Vucanovich, Mr. Miller of Ohio, Mr. Pickett, Mr. Washington, Mr. Staggers, Mr. Rogers, Mr. Sisisky, and Mr. Payne of Virginia.

H.R. 1251: Mr. Rangel.

H.R. 1252: Mr. Rangel.

H.R. 1253: Mr. Rangel.

H.R. 1300: Mrs. Boxer.

H.R. 1346: Mr. Coleman of Texas and Mr. Gray.

H.R. 1364: Mr. Mineta, Mr. Dellums, Mrs. Lowey of New York, Mr. Lantos, and Mr. Gejdenson.

H.R. 1365: Mr. Hayes of Illinois and Mr. Gejdenson.

H.R. 1414: Mr. Shuster.

H.R. 1417: Mr. McDermott.

H.R. 1418: Mr. Lipinski.

H.R. 1432: Mr. Evans.

H.R. 1450: Mr. Hoyer, Mr. de la Garza, and Mr. Grandy.

H.R. 1454: Mr. Rahall, Mr. Brown, Mr. Valentine, and Mr. Wise.

H.R. 1472: Mr. Gillmor, Mr. Montgomery, Mr. Spence, Mr. Williams, Mr. Campbell of California, Mr. Gunderson, Mr. Slaughter of Virginia, Mr. Early, Mr. Kennedy, Mr. Rohrabacher, Mr. Visclosky, Mr. Hopkins, Mr. Reed, Mr. Wylie, and Mr. Gallo.

H.R. 1481: Mr. Eckart and Mr. Moorhead.

H.R. 1495: Mr. Peterson of Florida, Mr. Miller of Ohio, Mr. Vander Jagt, and Mr. Hammerschmidt.

H.R. 1503: Mr. Parker, Mr. Bliley, Mr. Mfume, Mr. Brown, Mr. Serrano, Mr. Pickett, Mr. Rahall, Mr. Jefferson, Mr. Dixon, Mr. Wise, Mr. Evans, Mr. McMillen of Maryland, and Mr. Sisisky.

H.R. 1516: Mr. Jontz, Mr. Weber, Mr. Armey, and Mr. Herger.

H.R. 1539: Ms. Long, Mr. Poshard, Ms. Molinari, Mr. Mineta, Ms. Norton, and Ms. Kaptur.

H.R. 1605: Mr. Lehman of Florida and Mr. Foglietta.

H.R. 1633: Mr. Abercrombie, Mr. Ackerman, Mr. Dwyer of New Jersey, Mr. Fazio, Mr. Oberstar, Mr. Payne of New Jersey, Mr. Ravenel, and Mr. Reed.

H.R. 1653: Mr. Andrews of Maine, Mr. Holloway, Mr. Bilirakis, Mr. Hayes of Louisiana, Mr. Miller of Ohio, Mr. Nichols, Mr. Stenholm, Mr. Serrano, Mr. Wilson, and Mr. Klug.

H.R. 1669: Mr. English.

H.R. 1751: Mr. Perkins.

H.R. 1777: Mr. Stark and Mr. Bustamante.

H.R. 1860: Mr. Gillmor, Mr. Williams, Mr. Valentine, and Mr. McCloskey.

H.R. 1900: Mrs. Collins of Michigan, and Mrs. Lowey of New York.

H.R. 1920: Mr. Shays.

H.R. 1921: Mr. Shays.

H.R. 2027: Mr. Weber.

H.R. 2031: Mr. Hayes of Illinois, Mr. Swift, Mr. Perkins, Mr. Barrett, and Mrs. Unsoeld.

H.R. 2059: Mr. Lewis of California, Mr. Mrazek, Mr. Hyde, Mr. Horton, and Mr. DeFazio.

H.R. 2063: Mr. Poshard.

H.R. 2143: Mr. Rhodes.

H.R. 2152: Mr. Jones of Georgia.

H.R. 2157: Mr. Jacobs, Mrs. Patterson, Mr. Fazio, Mr. Walsh, Mr. Gordon, Mr. Skelton, Mr. Serrano, Mr. Ackerman, Mr. Evans, Mr. Nowak, Mr. Smith of Florida, Mr. Bonior, Mr. Dooley, Mr. Bruce, Mr. Ramstad, Mr. Peterson of Minnesota, Mr. Bustamante, Mr. Annunzio, Mr. Lewis of California, Mr. Weber, Mr. Hayes of Illinois, Mr. Volkmer, Mr. Clay, Mr. Russo, Ms. Waters, Mr. Downey, Ms. Norton, and Mr. Erdreich.

H.R. 2200: Mr. Packard.

H.R. 2212: Mr. Olin, Mr. Conyers, Mrs. Lowey of New York, Mr. Lipinski, Mr. Mrazek, and Mr. Owens of New York.

H.R. 2258: Mr. Boucher, Ms. Kaptur, Mr. Mrazek, and Mr. Reed.

H.R. 2299: Mr. Payne of New Jersey, Mrs. Boxer, Mr. McDermott, Mrs. Kennelly, Mr. Serrano, Mrs. Unsoeld, and Mr. Machtley.

H.R. 2303: Mr. Espy and Mrs. Lowey of New York.

H.R. 2309: Mr. Ackerman, Mr. Jefferson, Mr. Martin, Mr. Quillen, Mr. Rangel, and Mr. Scheuer.

H.R. 2361: Mr. de la Garza.

H.R. 2374: Mr. Nowak.

H.R. 2488: Mr. Jontz.

H.R. 2489: Mr. Machtley, Ms. Norton, and Mrs. Unsoeld.

H.R. 2540: Mr. Dellums, Mr. Lehman of Florida, Mr. Wyden, Mr. Leach, and Mr. Edwards of California.

H.R. 2541: Mr. Dellums, Mr. Wyden, Mr. Leach, and Mr. Edwards of California.

H.R. 2546: Mr. Paxon, Mr. Murphy, Mr. McGrath, Mr. Sundquist, Mr. Davis, Mr. Houghton, Mr. Dornan of California, Mr. Andrews of Texas, Mr. Sarpalius, Mr. Martinez, Mr. Stenholm, Mr. Bustamante, and Mr. Thornton.

H.R. 2553: Mr. Ramstad, Mr. Nichols, Mr. Dannemeyer, Mr. Owens of Utah, Mr. Bunning, and Mr. Kasich.

H.R. 2584: Mr. Staggers.

H.R. 2590: Mr. Roybal, Mr. Foglietta, Mr. de Lugo, Mr. Serrano, and Mr. LaFalce.

H.R. 2604: Mr. Solomon, Mr. Santorum, Mr. Peterson of Florida, Mr. Allard, Mr. Hyde, Mr. Riggs, Mr. Rohrabacher, Mr. Dreier of California, Mr. Kasich, Mr. Thomas of Wyoming, Mr. McCollum, and Mr. Hayes of Louisiana.

H.J. Res. 19: Mr. Ireland and Mr. Rowland.

H.J. Res. 23: Mr. Bacchus, Mr. Bilirakis, Mr. Coughlin, Mr. Coyne, Mr. Gilchrest, Mr. Gunderson, Mr. Jenkins, Mr. Kildee, Mr. Lantos, Mr. Levin of Michigan, Mr. McCrery, Mr. Machtley, Mr. Mazzoli, Mr. Moran, Mr. Regula, Mr. Ridge, Mr. Roemer, Mr. Serrano, Mr. Smith of New Jersey, Mr. Smith of Oregon, Mr. Stokes, Mr. Walsh, Mr. Wilson, and Mr. Visclosky.

H.J. Res. 95: Mr. Panetta, Mrs. Mink, and Mr. Orton.

H.J. Res. 233: Mr. Barnard, Mr. Hatcher, Mr. Blaz, and Mr. Payne of New Jersey.

H. Con. Res. 88: Mr. Donnelly.

H. Con. Res. 89: Mr. Rangel.

H. Con Res. 144: Mr. Lehman of Florida, Mr. Gray, Mr. Foglietta, Mr. Clinger, Mr. Gallo, Mr. Wheat, Mr. Beilenson, Mr. Yat-

RON, Mr. SABO, Mr. DWYER of New Jersey, Mr. AUCOIN, Mr. TRAFICANT, and Ms. MOLINARI.

H. Con. Res. 145: Mrs. UNSOELD and Ms. PELOSI.

H. Con. Res. 163: Mr. PERKINS, Mr. HUGHES, Ms. NORTON, Mrs. COLLINS of Michigan, and Mr. ABERCROMBIE.

AMENDMENTS

Under a clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 429 (Reintroduced today H.R. 2684

By Mr. RIGGS.

—At the end of the bill (page , after line), add the following new title:

TITLE XXX—TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT

SEC. 3001. INSTREAM RELEASES FROM THE TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT, FOR FISHERY RESTORATION AND FULFILLMENT OF FEDERAL TRUST RESPONSIBILITIES.

(a) INSTREAM RELEASES.—In order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to achieve the fishery restoration goals of the Act of October 24, 1984 (98 Stat. 2721, Public Law 98-541), for water years 1992 through 1996, the Secretary of the Interior, through the Trinity River Division of the Central Valley Project, shall provide an instream release of water to the Trinity River for the purposes of fishery restoration, propagation, and maintenance of not less than 340,000 acre feet per year. For any water year during this period for which the forecasted inflow to the Central Valley Project's Shasta Reservoir equals or exceeds 3,200,000 acre feet, based on hydrologic conditions as of June 1 and an exceedance factor of 50 percent, the Secretary shall provide an additional instream fishery release to the Trinity River of not less than 10 percent of the amount by which forecasted Shasta Reservoir inflow for that year exceeds 3,200,000 acre feet.

(b) COMPLETION OF STUDY.—By September 30, 1996, the Secretary, with the full participation of the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the United States Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery.

(c) STUDY RECOMMENDATIONS. Not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subsection (b) of this section, to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established in subsection (a) and the operating criteria and procedures referred to in subsection (b) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established in subsection (a) shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe.

EXTENSIONS OF REMARKS

INTERNATIONAL MERGERS AND ACQUISITIONS REVIEW ACT OF 1991

HON. PHILIP R. SHARP

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. SHARP. Mr. Speaker, on June 12 I introduced H.R. 2631, the International Mergers and Acquisitions Review Act of 1991. Enactment of this legislation will allow us to more logically monitor and, when necessary, regulate transnational mergers, joint ventures and takeovers.

The premise of H.R. 2631 is straightforward: the United States has a vital interest in effectively monitoring and, if need be, regulating global firms that, even though they may be located outside our borders, have significant commerce and economic impact within the U.S. market. Most concerns that do arise from global business combinations are related to possible concentrations or cartel-like behavior, which are best managed by application of antitrust principles. A much smaller class of takeovers or mergers might raise legitimate national security issues; these are best investigated under clearer Exon-Florio processes. The bill simply channels premerger notifications of such business combinations to their logical regulatory domains.

The globalization of commerce is increasing, and the trend is likely to continue. This phenomena has been generally beneficial to Americans—bringing new and improved technologies and affordable, higher-quality goods to more and more consumers. But global firms—through strategic alliances, keiretsu industrial cartels, mergers, or takeovers—may also unfairly control technology, prices, products, suppliers, and distributors, and thus restrict fair competition through abuse of market concentrations. As Members of Congress, we are right to be concerned about the potential for collusive, anticompetitive or monopolistic behavior of businesses—whether they are physically located here or abroad.

In addition to this antitrust concern, there are legitimate, but substantively different, concerns that exist for a narrower class of companies which are engaged in commerce in the defense industrial base of the United States. Especially as U.S. defense spending ratchets down, we must be alert to the creation of unwise monopolies and sole-source suppliers arising from takeovers and mergers in these critical industries.

Many Members of Congress thought that with the enactment of the Exon-Florio provision in 1988, the Federal Government would have an effective and permanent means of monitoring and when warranted regulating transnational mergers, acquisitions and joint ventures that raised broad national security issues. Senator J. JAMES EXON and then-Representative Jim Florio had the wisdom to recognize the possible risks to U.S. national security when they fought for this amendment in the 1988 Omnibus Trade and Competitiveness Act.

Now, however, Exon-Florio authority has lapsed; and the inherent ambiguity in defining "national security" has led to less than clear rules and predictable results. Further, after nearly 3 years, the real-world experience with Exon-Florio, and the continued intense debate on its efficacy, suggests that some changes are necessary.

Many transnational mergers, acquisitions and joint ventures voluntarily noticed under Exon-Florio may not fall under commonly accepted definitions of "national security," but such business combinations might well raise other concerns, such as antitrust. It is the antitrust, or competition, concern that is the more broad and typical, and the national security concern that is the more narrow and less predominant; yet, it makes sense to provide linkages between the two regulatory domains. In this way, potential threats to our economic welfare and our national security can be monitored and efficiently regulated by either or both sets of competencies, operating independently.

A report published May 5, 1991, by the Organization for Economic Cooperation and Development [OECD] warned that the rapid pace of technological advance is creating new problems for policymakers everywhere. The OECD report cautioned that the spread of technology-based multinational firms in the absence of effective competition policies poses the danger of worldwide cartels between global companies. Dr. Theodore H. Moran, professor of international business at Georgetown University's School of Foreign Service, testified recently before a House Energy and Commerce Subcommittee that it is the concentrative aspects of foreign direct investment that warrant careful examination, and that "there is a useful empirical finding from antitrust studies that can provide a guideline for policy." I am entering the full text of Dr. Moran's testimony for the RECORD.

H.R. 2631 would give U.S. policymakers enhanced tools of discovery and regulation to confront the challenges of the globalization of business. The bill provides a firm link between maintenance of our economic welfare, which is safeguarded by antitrust policies, and preservation of our national security, which is the promise of Exon-Florio. The bill asserts that when firms of any nation exceed a level of commerce in the United States, then we have a right to require detailed commercial, financial, and market information from them should they decide to combine in some way. This is the same kind of requirement that the European Commission, through its mergers regulation, places on U.S. companies whose combined sales within the EC exceeds the 250 million Ecu "community dimension" threshold. And the bill urges the President to move on the recommendation of numerous experts and the OECD study by commencing negotiations with other nations on an international antitrust accord.

By providing a linkage between the Hart-Scott-Rodino premerger notification requirement of the Clayton Antitrust Act and the Exon-Florio provision that provides for reviews and investigations of foreign direct investments which may credibly threaten the national security, H.R. 2631 yields a comprehensive framework that neither Exon-Florio nor antitrust can alone provide.

The bill makes the Hart-Scott-Rodino mandatory premerger notice the single starting point. With a focus on the national security aspects of transnational combinations, an interagency national security liaison committee, consisting of senior experts from the Departments of Commerce, Defense, State and Treasury, reviews in tandem with antitrust regulators at the Federal Trade Commission all Hart-Scott-Rodino notifications.

In addition to the normal antitrust notification thresholds already set by Hart-Scott-Rodino, H.R. 2631 establishes clear and precise national security triggers. If a firm has a classified contract with the U.S. Government; if it is required to register with the Secretary of State pursuant to section 38 of the Arms Export Control Act; if it has technology or engages in commerce falling under section 5 of the Export Administration Act; if it engages in any activity requiring a license under the Atomic Energy Act: then any merger, takeover or combination with another entity must be noticed, and the reasons for filing stated. Further, if the foreign entity is from a "country of concern" as defined by the Export Administration Act or from a nation found to have "repeatedly provided support for acts of international terrorism" under section 6(j) of that act, such foreign investments must give notice.

When a person filing under Hart-Scott-Rodino falls under any of these national security categories, the liaison committee refers the transaction to the Committee on Foreign Investment in the United States [CFIUS], and a full investigation is mandatory. The liaison committee has discretionary authority to send to CFIUS any other transaction which does not fit these precise criteria; in this instance, CFIUS by a simple majority vote determines whether an investigation is warranted. Because the bill allows both antitrust and national security investigators to work independently from the same Hart-Scott-Rodino filing, those transactions that raise concerns in both antitrust and national security domains can proceed in parallel. Exon-Florio timeframes have been harmonized with those of Hart-Scott-Rodino so that a case enters and exits both processes at the same points in time.

H.R. 2631 gives the President explicit additional authority under Exon-Florio. Under the bill, the President has the power to structurally precondition a merger or acquisition so that

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the national security concern is addressed. Structural preconditioning, unlike performance requirements that seek to modify a firm's behavior after the merger, avoids the pitfalls of continually monitoring the conduct of a firm, and allows the President to choose out-comes between "no" and "yes."

H.R. 2631 also addresses a serious institutional concern about Exon-Florio that many Members of Congress have: its lack of transparency and accountability. In advance of the President's final determination, the bill allows the House and Senate Select Committees on Intelligence, meeting in executive session, to receive classified oral briefing on a case for which CFIUS has concluded an investigation.

The Intelligence Committees' record on confidentiality on the most sensitive issues is well-established, and its members can and should be entrusted with Exon-Florio information so clearly relevant to the Nation's security. So that other Members of Congress and the American public can better understand how the CFIUS functions, the bill requires an annual public report on CFIUS investigations. The report, however, fully safeguards confidential business information and national security secrets through procedures successfully used by the British Monopolies and Mergers Commission in its merger and acquisition reports to Parliament.

Mr. Speaker, H.R. 2631 will direct detailed information on transnational mergers, acquisitions and joint ventures to their logical regulatory domains, where these transactions' potential effects on U.S. economic welfare and national security can be examined and dealt with comprehensively and independently. I urge Members on both sides of the Aisle to support it.

TESTIMONY OF THEODORE H. MORAN BEFORE THE COMMERCE, CONSUMER PROTECTION AND COMPETITIVENESS SUBCOMMITTEE OF THE HOUSE ENERGY AND COMMERCE COMMITTEE, JUNE 12, 1991[1]

Thank you for inviting me to be here today.

My testimony can be summarized in three points:

First, while the positive aspects of foreign direct investment in the United States outweigh the negative (in general) by a very large margin, there are genuine national security threats associated with foreign investment which the members of this subcommittee, and the members of Congress as a whole, cannot ignore.

Second, these "genuine" national security threats spring from instances where foreign acquisitions of U.S. companies take place in industries where external suppliers are extremely concentrated. In this context today's debate about changes in the Exon-Florio Amendment to address the concentration problem are even more important than the debate about the original Exon-Florio Amendment was.

Third, a proliferation of restrictions on flows of technology and capital (as well as goods and services) around the world also carries dangers for America's national security and national welfare. The "strengthening" of the Exon-Florio Amendment should therefore be focused narrowly on those cases where foreign suppliers pose a credible threat to U.S. interests because of their monopolistic structure, and not be allowed to interrupt foreign investment more broadly.

The first point requires some elaboration: most economists will tell this subcommittee that the welfare of the United States is enhanced by the innovations and management techniques, as well as the investment capital, that foreign companies bring to increase the productivity of our economy. I strongly associate myself with this positive stance toward direct foreign investment in the United States (similarly we should all urge Mexico, for example, to adopt an equally welcoming approach toward direct foreign investment).

But where some economists err is by not recognizing that there are legitimate national security exceptions to this generally affirmative posture toward inward investment. These exceptions occur when foreign suppliers can threaten to deny a continuous flow of those goods, services, or technology to users in the United States; to be more precise, when foreign suppliers can use their market power to delay, place conditions on, exercise blackmail through, or ultimately withhold the goods, services, or technology upon which we have become dependent.

These are not merely hypothetical apprehensions. There is a rich history of attempts by one government or another to influence the sovereign activities of other nations via extraterritorial directives to the overseas affiliates of the firms headquartered in the first government's territory. The U.S. itself has attempted to exercise such coercive power: recall the instructions of American authorities to IBM to have its French subsidiary withhold computer technology from France in the 1960s to inhibit De Gaulle's development of an independent nuclear deterrent, or, more recently, the Reagan Administration's unilateral and retroactive order to the European subsidiaries of Dresser Industries and General Electric to cancel their contracts to supply technology for the Soviet gas pipeline. Other countries have shown a similar propensity to use their international companies as vehicles for external diktat. It is worrisome to contemplate that our country may increasingly be on the receiving end of such extraterritorial mandates, especially when the White House and the Defense Department are reporting other nations to be in the lead in a rising number of critical technologies.

Our future could hold a growing number of experiences like the Kyocera case, in which MITI (under pressure from Socialist members of the Japanese Diet) forced Dexcel, the American subsidiary of Kyocera, to withhold its advanced ceramic technology from the U.S. Tomahawk missile program. Ironically, with the decline of Cold War solidarity, an expanding number of political groups in the parliaments of our allies may enjoy increasing leeway to deny technology or set conditions upon its use in the decades to come.

What should the United States do about this? How can we translate concerns about these legitimate threats to our national interests into the most appropriate public policy toward inward foreign investment in the United States?

To answer these questions brings me to the second point above, that the Amendments being considered by the subcommittee today constitute a conceptual breakthrough in their emphasis on the problem of concentration.

It is important to note that the possibility of denial, delay, blackmail, or manipulation via home country directives to the subsidiaries of foreign companies in the United States is not synonymous with dependence on foreign suppliers per se but only with dependence on concentrated foreign suppliers, where substitutes are few, the lead-time to develop alternatives is long, and stockpiling is not feasible.

To give an example, the members of this subcommittee frequently hear the argument that because American soldiers march in boots the United States has a national security interest in keeping a prosperous domestic footwear industry in American hands on American soil. But the suppliers of footwear are so dispersed internationally (and stockpiling is a relatively easy option were it deemed necessary) that foreign suppliers could never credibly threaten to cut America off. Thus protecting American footwear companies and/or blocking foreign acquisition of American footwear firms via a "strengthened" version of Exon-Florio would make no sense; it would merely force the Defense Department, the American taxpayers, and the American public to pay more for their footwear.

One can extend this argument to more difficult, and controversial cases, such as the machine tool industry. Here one finds that for most segments of the industry external suppliers are dispersed and competitive. There is no credible threat of denial; the practice of granting blanket protection to such segments of the machine tool industry and/or preventing foreign acquisitions only saddles the American users of machine tools with higher costs and inferior products (so do Buy American provisions). There are, however, some narrow segments of the machine tool industry where suppliers are extraordinarily concentrated (multi-axis cutters and grinders, or non-metallic fabricators, may be examples). For these narrow segments a case can be made that dependence on foreigners could be dangerous because a potential for external denial, delay, blackmail, or manipulation does exist.

Similarly the suppliers of advanced lithography equipment to imprint circuit patterns on silicon waters on the semiconductor industry ("steppers") are so few in number that they exercise quasi-monopoly power. The acquisition of an American stepper manufacturer by a foreign company would open the door to a kind of dependence for the United States that could be preyed upon by the parent corporation or the parent corporation's government.

This brings me to the third point above: The challenge for this subcommittee is to devise an appropriate policy toward acquisitions of U.S. firms by outsiders where global markets are dominated by tight foreign monopolies or oligopolies.

To accomplish this, there is a useful empirical finding from anti-trust studies that can provide a guide for policy: if the largest four firms (or four countries) control less than fifty percent of the market, they lack the ability to collude effectively even if they wish to exploit or manipulate recipients. If they control more than fifty percent of the market, they do hold the potential to coordinate denial, delay, blackmail, or manipulation. This "four-four-fifty rule" provides an objective test of whether a genuine threat to national security exists.[2]

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[1] Theodore H. Moran is Karl F. Landegger Professor and Director, Program in International Business Diplomacy, School of Foreign Service, Georgetown University, and Senior Associate, Business Executive for National Security. This testimony draws on a study of "Defense Implications of Industrial Globalization," being prepared for Business Executive for National Security.

[2] For more detailed analysis see Theodore H. Moran, "The Globalization of America's Defense Industries: Managing the Threat of Foreign Depend-

The use of a concentration measure offers a simple and effective method to strengthen the Exon-Florio Amendment: if a foreign acquisition is proposed in an industry where concentration is higher than four companies or four countries supplying fifty percent of the global market, the U.S. government should impose performance requirements on the acquiring firm to ensure the retention of production and R&D facilities in the United States; if a foreign acquisition is proposed in an industry where concentration is lower than four companies or four countries supplying fifty percent of the global market, the U.S. government should approve the acquisition without conditions.

As a last resort, if the U.S. government fails to obtain performance requirements for domestic R&D and production sufficient to render the threat of denial implausible, American authorities can block the acquisition. Such an action should rightly be considered a least desirable outcome, since it in effect requires the U.S. firm to remain in business and many require a tariff or a subsidy to accomplish.

One should note that a measurement of concentration in the global market is the appropriate standard. As in the footwear example discussed previously, there is no genuine national security threat if foreign suppliers are dispered even if the proposed acquisition is the last remaining U.S. company.

Most important, this concentration test obeys the "Golden Rule" of economic policy; that is, it has the virtue of being a policy approach that the United States can live with if we find other nations employing the same standard for acquisitions in their own countries (an objective measurement would be a great improvement over the vague and subjective national security grounds for rejecting acquisitions currently employed in Europe and Asia). From a technical point of view the "four-four-fifty rule" can be translated into a Herfindahl index measurement compatible with the merger and acquisition guidelines of the U.S. Justice Department. (Any concentration test of course counts all related corporate entities as a single firm, thus avoiding the possibility that companies with shared stock ownership and management like a Japanese keiretsu might be misrepresented as multiple independent firms.)

Finally, let me point out that strengthening the Exon-Florio Amendment via a concentration test avoids throwing the United States Congress once again into a debate over industrial policy. The approach recommended here does not depend upon the dubious ability of government bureaucrats to pick winners and losers better than the market. Instead it is based on established principles of aversion to monopoly or oligopoly power which have always guided the American preference for free markets.

A TRIBUTE TO DIANA SILIEZAR

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. MACHTLEY. Mr. Speaker, it is my distinct pleasure to rise today and congratulate Diana Siliezar, of Providence, RI, this years recipient of the Congressman Ronald K. Machtley Academic and Leadership Excellence Award for Mount Pleasant High School in Providence, RI.

This award is presented to the student chosen by Mount Pleasant High School who demonstrates a mature blend of academic achievement, community involvement, and leadership qualities.

Diana Siliezar has more than fulfilled this criteria. She has participated in a host of volunteer activities. She has been a volunteer at Blackstone Shelter, and Mount Pleasant for Peace. She has also assisted at Roger Williams Hospital, Rhode Island Hospital, and Charlesgate Nursing Home.

I commend Diana Siliezar on her outstanding achievements and wish her all the best in her future endeavors.

NICARAGUA: WHAT NEEDS TO BE DONE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. FASCELL. Mr. Speaker, Nicaragua is a country in the midst of a difficult passage. The lection of the Chamorro government was a towering achievement that moved the world and gave rise to great expectations for Nicaragua's future. However, turning around a country devastated by 8 years of economic mismanagement, political turmoil, and civil disorder is a tall order. It is going to require discipline, good management, and the support of Nicaragua's friends.

We have come a long way since the Sandinista years. There is a democratically elected government in Managua; the people enjoy freedom of expression and other basic human rights that were virtually suspended for 8 years; and the educational system is being purged of Marxist-Leninist dogma. The government has demonstrated that it recognizes the need for economic reform and the people, through their elected representatives, have shown a willingness to support it.

However, a very serious problem remains—the continuation of Sandinista power and influence in nearly every aspect of Nicaraguan life and every important Nicaraguan institution. Because of this, progress, especially serious economic reform, is going to be slow and difficult. We are going to have to accept that this government—at this moment—is simply not going to be able to do it all.

What we must hope for is that if we both support the Chamorro government, and keep up the pressure on the Sandinistas, incremental progress will spawn more progress. For every step forward, the government will be able to risk a bit more.

The Nicaraguan community in the United States is eager to play a supportive role in bringing about constructive change in Nicaragua. I commend to our colleagues the remarks of a prominent member of that community, Mr. Jorge Tefel:

REMARKS BY MR. JORGE TEFEL

On behalf of the Board of Directors of the Nicaraguan American Bankers & Businessmen Association (NABBA), it is an honor and a distinct privilege to welcome the Honorable Congressmen Dante Fascell, our honorable Nicaraguan Consul in Miami Mario Sacasa and his wife, Lidia, Dr. Horacio Aguirre, Dr. Adolfo Calero and his wife Mary and other distinguished personalities.

Tonight, we are very grateful and optimistic! Grateful to this land, the United States of America, because we see so many talented exiles—men and women—from different walks of life—who have become successful and productive members of this community. Unfortunately, our impoverished Nicaragua is in desperate need of human capital, economic aid, technical assistance, and most important, immediate changes and fundamental reforms for economic development to take the place of stagnation.

Tonight, we challenge Nicaraguans to keep-on struggling for ways to help our country despite early disillusions and enormous frustration * * * We also challenge the Chamorro Administration to take the exiled community into account, to pay attention to the Superior Council of Private Enterprises—COSEP—and to implement "real" reforms in Nicaragua.

The Nicaraguan government should come closer—rather than distance itself from the political forces that brought it to power. The alliance between the Ortegas and Antonio Lacayo, the ongoing appeasement of the Sandinistas through permissiveness and sanctioning of stolen properties and backroom dealing and the like * * * must come to an end!!

The Sandinistas have a "de facto" control over the country. They run the armed forces, the courts, customs, the police, and the list goes on * * * and on * * * and on * * * and that must come to an end!!!

The fact that Nicaragua is the only country in the Americas—with the exception of Cuba—where the title to property can change without the knowledge and authorization of, and compensation to its rightful owner * * * must come to an end as well * * *. Who would invest in Nicaragua, if private property changes hands in that manner!

Let's stop for a moment! * * * Let's consider what will it take to rebuild the country? To Make Nicaragua a productive nation again!

We only *pray* the Chamorro management team is enlightened enough to take immediate steps to:

1) Create an impartial, competent and just system of law and order;

2) Abolish all Sandinistas decrees enacted after February 15, 1990 for the purpose of legalizing their thievery and modus operandi;

3) Strengthen the democratic and political institutions;

4) Assure and re-establish respect for and protection of basic human rights and private property;

5) Return all illegally confiscated properties to their rightful owners—beginning with the ones controlled by the current government;

6) Transform the armed forces into apolitical bodies govern by civilian rule; and to

7) Allow all Nicaraguan exiles through-out the world to exercise their right to vote.

We understand it is difficult, but by just taking these initial steps, the government can create the adequate atmosphere to reactivate the economy and build confidence in the country * * * and eventually * * * attract much needed foreign investors.

Let's work together!!! We ought to be optimistic—because we have the capacity, the disposition, the desire and the friends to rebuild our Beloved Nicaragua.

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ence," International Security, Summer 1990 (Vol. 15, No. 1).

FOURTH DISTRICT'S KNIGHTS AND LADIES DISPLAY HISTORICAL KNOWLEDGE

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. RAHALL. Mr. Speaker, the 1991 Knights and Ladies of the Golden Horseshoe have once again been announced and they are all to be commended. This esteemed award has been given to a whopping 41 eight grade students in West Virginia's Fourth District this year.

The "Transmontane Order of the Knights of the Golden Horseshoe" was originally established in 1716 by Gov. Alexander Spotswood when he and his party explored the territory west of the Blue Ridge Mountains. He founded this order in an attempt to increase explorations to the "other side of the mountains." Governor Spotswood awarded each of the explorers with a small golden horseshoe, and each member promised to make at least one more trip to the then highly unknown western region.

Today the Golden Horseshoe is still the award, but the exploration is in the area of West Virginia history. This order was refounded in 1931 by Phil Conley, in an attempt to persuade students to think more about West Virginia and its important role in history. Each year approximately 250 eight-grade students are awarded the miniature horseshoe for scoring highest on the rigorous examination, which tests the students' knowledge of the history of their home State.

I wish to congratulate the 41 Knights and Ladies of 1991 who have proven their excellent grasp of the history of our great State of West Virginia.

MRS. ELMYRA BLACK IS LADY OF THE YEAR

HON. LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. THOMAS of Georgia. Mr. Speaker, it is my great honor and pleasure to share with the House the accomplishments of a special lady in my congressional district, Mrs. Elmyra Black of Swainsboro, GA.

Mrs. Black was recently named as 1991 "Lady of the Year" by the Theta Eta Chapter of Beta Sigma Phi. She was recognized for her many accomplishments in the religious, civic, educational, cultural, and business life of the Swainsboro community.

It is people like Mrs. Black who keep our communities thriving and growing. She has devoted countless hours to assisting others and has been unselfish in her desire to make Swainsboro a better place to live. On behalf of the citizens of the First Congressional District, I would like to extend my sincere congratulations and commendations to Mrs. Black.

At this point in the CONGRESSIONAL RECORD, I would like to include a copy of an article that ran in the May 8 edition of the Blade that details the many accomplishments of Mrs. Black over the years:

MRS. ELMYRA BLACK IS "LADY OF YEAR"

Mrs. William H. (Elmyra) Black of Swainsboro has been honored by Theta Eta Chapter, Beta Sigma Phi, as 1991 "Lady of the Year."

Nominated for the honor by Glad Garden Club, she was guest of honor at the civic group's "Lady of the Year" meeting last Tuesday night at Catered Creations.

She was recognized for her accomplishments in the religious, civic, educational, cultural, and business life of the community.

Mrs. Black serves as a member of the First Baptist Church Council, on the mission council, and as a church counselor. She presently is or has served as W.M.U. Associational leader and president of a W.M.U. Circle, Sunday school teacher, chaplain for the Daughters of the American Revolution, and as chairman of the Friendship Center.

She also serves on the committee for the Racetrack St. Clinic and has been president of the Parent-Teachers Association, a member of the Arts Council, a supporter of the Band Boosters' Club, and has assisted low-income families in a variety of community and personal activities.

Mrs. Black is a past president of the State Pharmaceutical Association Auxiliary, is a member of the Glad Garden Club, a member of Daughters of the American Revolution, and was active for several years in Cub Scout and Boy Scout programs.

A plaque in recognition of the honor was presented by Mrs. Missy Edenfield, chairman of the "Lady of the Year" selection committee.

EARLY INTERVENTION AND PRESCHOOL DISABILITY REAUTHORIZATION BILL

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. BALLENGER. Mr. Speaker, today, I am cosponsoring the administration's bill introduced by request by Congressman GOODLING which reauthorizes the early intervention and preschool programs under part H of the Individuals with Disabilities Education Act.

The Subcommittee on Select Education of which I am the ranking Republican is currently drafting a bipartisan bill to reauthorize these programs and many of the provisions in our bipartisan bill reflect those proposals recommended by the administration. Those provisions include adding assistive technology devices and services to the definition of early intervention services; changing the term "case management" to "service coordination"; requiring that the part H comprehensive system of personnel development be consistent with the part B comprehensive system of personnel development; and, providing a better transition for children in early intervention programs to move into preschool programs without creating a gap in services.

The administration's bill, however, contains a provision which mandates that States charge fees based on a sliding scale for early intervention services or receive a reduction in Federal dollars. After exploring this issue with expert witnesses at our subcommittee, I was convinced that we should maintain current law allowing States to choose whether to charge fees or not based on their individual needs. The bipartisan committee bill, therefore, will not contain this administration provision.

The Committee on Education and Labor plans to report a bipartisan bill very soon to authorize these important programs and ensure that infants and toddlers with disabilities and their families receive these essential services.

CIVITAN PRESIDENT CITED

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. SUNDQUIST. Mr. Speaker, I was pleased to learn recently that a good friend and constituent from Clarksville, TN, Dr. J.F. Burney, has been named president-elect of Civitan International.

Dr. Burney has distinguished himself both professionally and personally. He is the model of informed and involved citizenship. Civitan International has selected a fine man for this high office.

Because Civitan clubs are active all across our Nation, I thought my colleagues would be interested to learn of Dr. Burney's election, and for that reason, I ask that the following article, published in the Leaf-Chronicle, be printed in the CONGRESSIONAL RECORD:

BURNEY NEW CIVITAN PRESIDENT-ELECT

(By Sue Carlton)

More than 20 years ago, a friend's involvement with the Civitan Club attracted the interest of Dr. J.F. Burney.

That interest has become a lasting commitment. This week, Burney, professor of accounting and finance at Austin Peay State University, will take over as president-elect of Civitan International—a worldwide organization of 36,000 senior members and 18,000 junior members.

The annual Civitan International Convention will take place Wednesday through Saturday in Atlanta. New officers will be installed Saturday night.

Markham Howe, of Little Rock, Ark., will be the new Civitan International president. He will serve from Oct. 1, 1991 until Sept. 30, 1992.

Burney will become president Oct. 1, 1992, and will serve through Sept. 30, 1993. Each president serves for one year.

"Our work is primarily with youth and the elderly—the mentally and physically handicapped—and that is what interested me about Civitan originally," Burney said.

Committed to his work with the handicapped, Burney serves as president of the board of Harriett Cohn Mental Health Center.

He also has served nine years on the board of directors for Progressive Directions Inc. (Three years as chairman) and has served as chairman for the Cumberland Psychiatric Center. Children and Youth, Inc., and the former Five Rivers Boys Home.

A native Tennessean and former military man, he worked as a public accountant and later received his doctoral degree in accounting and finance from the University of Alabama.

Burney has been an APSU faculty member since 1959, and served as dean of the College of Business for 15 years.

As Civitan International's president-elect, Burney will serve on the board of directors, in addition to his other duties throughout the year.

"The job of president will involve quite a bit of traveling." Burney said. "In addition, I will be involved in overseeing the budget, working on the organization's plans for the next year and working with the committee on future convention sites."

Some of that travel will include trips to international Civitan locations—including Japan, Korea, Norway, Sweden and Bangladesh.

His job also will include training the governors-elect for the next year. Each governor presides over a certain geographical region.

"Next year will be the 75th anniversary of Civitan and we will be meeting in Birmingham where Civitan started," he said.

As outgoing president, Burney will automatically serve as chairman of the board of directors for the next year.

Burney and his wife Earlene, an elementary reading specialist, are members of the Church of Christ. They have four children, Mike, Steve, Cheryl and Laurie, and five grandchildren.

THE CIVIL RIGHTS BILL

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 12, 1991, into the CONGRESSIONAL RECORD:

THE CIVIL RIGHTS BILL

The House of Representatives recently passed a civil rights bill. The bill seeks to restore the law as it existed before 1989, when a divided Supreme Court issued a series of decisions which made it harder to sue an employer for alleged job discrimination. Behind the highly technical language of the bill lurk intense political controversy and serious questions about the laws against job discrimination.

The Civil Rights Act of 1964 guarantees all Americans the right to be free from discriminatory treatment. But no right is worth much without a remedy for those whose rights are denied. The civil rights bill is not about establishing new rights; it is about ensuring that adequate remedies exist. It deals primarily with the procedures and standards to be met in job discrimination lawsuits.

DISPARATE IMPACT

Many lawsuits center on the legality of hiring or promotion practices which are fair on their face but have an adverse effect on particular groups. For example, requiring job applicants to have a certain educational degree, test score, or physical ability may indirectly limit the number of women or minorities who would otherwise qualify for the job, and thereby result in unintentional discrimination. Such practices are said to have a "disparate impact," and are permitted only if they are required by business necessity. There are important similarities between the bill passed by the House and the one proposed by President Bush. Both bills require individuals filing job discrimination lawsuits to identify which specific practice caused the disparate impact, and employers to demonstrate why these practices are necessary. The two bills do differ on the definition of business necessity. The Supreme Court expanded this definition, making job discrimination harder to prove. The House bill would essentially restore the pre-1989 definition, while the President's bill would allow employers to use either the old or new definition.

QUOTAS

The most divisive issue raised by these bills is whether they will cause businesses to hire by quota. Under current law, quotas are generally prohibited unless they have been imposed by a court order against an employer found to have consistently discriminated in the past. The key point in the debate over quotas is on the difference between defining business necessity as "having a significant and manifest relationship to the requirements for effective job performance," under the House bill, or "significantly serving legitimate employment goals," in the President's bill. This small difference in language has generated the entire debate on quotas. Critics of the President's bill contend that its definition will enable employers to legally justify requirements that are not necessary for successful job performance. Opponents of the House bill charge that it will not allow employers to justify important employment requirements and thereby make discrimination too easy to prove. Consequently, they argue, employers will hire by quota rather than risk losing lawsuits. However, the House bill restores the definition of business necessity as it was for nearly 20 years. That standard did not lead to quotas then, and should not now. In addition, the House bill explicitly prohibits the use of quotas by employers and makes their use an unlawful employment practice. The President's bill does not forbid quotas.

MONETARY DAMAGES

Another key issue is whether victims of intentional job discrimination should be permitted to seek compensatory and punitive damages. Currently, only victims of racial discrimination may seek such damages. The House bill would allow all victims of intentional discrimination to seek compensatory damages, and punitive damages up to $150,000 or the amount of compensatory damages awarded. President Bush's bill would allow the awarding of $150,000 in damages, but only if the employee has also been harassed. Critics of the House bill argue that allowing employees to seek damages will encourage them to file lawsuits that will result in huge damage awards which could ruin some businesses. However, victims of intentional racial discrimination have been able to seek damages for over 100 years, and there is no evidence that this option has been abused. In addition, many believe that allowing damages is the only way to make sure the law adequately deters employers from discrimination.

CONCLUSION

Though both of the proposed bills had merits and flaws, the bill that passed the House was preferable. It does not require quotas, and restores important protections to American workers. In my view, those who claim that without this legislation employment discrimination will be rampant and those who predict that with this legislation employers will be obliged to observe quotas are both overstating their case.

While widely supported, the House bill fell well short of the number of votes required to override a presidential veto, which means that it will not become law. Renewed negotiations between the President and the Senate are now the appropriate course of action. I kept thinking throughout the debate that the civil rights bill should have been easier to pass. Strangely enough, there was little pressure in support of the bill, and some intense opposition to it focused on the quota charge. If there were not political overtones to this debate, reasonable people would have agreed on the language fairly quickly. The controversy surrounding the bill has as much to do with presidential politics and the state of race relations in America as it does with a civil rights bill.

My impression is that most Americans support affirmative action, but oppose quotas and reverse discrimination. Many of them no longer view the civil rights movement as advancing those goals; rather, they see it as a special interest group pursuing its own interests at the expense of others. They believe that reverse discrimination is pervasive in American life today and that civil rights legislation will only make the problem worse. I also believe that they support equal opportunity and efforts to expand opportunities to disadvantaged persons. This is what I think the civil rights bill accomplishes. It tries not to grant minorities special advantages at the expense of others, but rather helps ensure that they will be treated fairly. No one can doubt that there is much important work yet to be done to eliminate the obstacles that so many disadvantaged Americans face in trying to improve their lives. The civil rights bill is one modest step in this direction.

INTRODUCTION OF THE CHOICE IN EDUCATION ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. GOODLING. Mr. Speaker, the debate on educational reform has brought forth many new ideas, but none more controversial than choice in education. Choice has been touted by some as the solution to the Nation's educational woes, and in fact, a major component of the President's America 2000 proposal deals with choice in education. Others have pointed out several concerns about school choice and feel that it will weaken our public school system.

I have concerns that choice has been singled out as the solution to our education problems without proof that it is effective on a widespread basis. Recently, many more educational choice programs have begun operating around the country. Some of them have seen great success, like the one in Montclair, NJ, while some of them, Richmond, CA, for example, are finding that mismanagement and lack of commitment to educational reform are leading to continued failure of the school system and declining academic achievement of their students. Unfortunately, we do not now know what goes into the creation of a choice program of high quality, where all students are provided an improved education.

On May 21, the Committee on Education and Labor held an oversight hearing on choice in education. All of the witnesses agreed that if there is a role for the Federal Government in the area of school choice it is in determining what works and making this information available to other communities who may wish to implement such a program. I would agree that if schools are going to restructure around a choice model, then there is a Federal role in providing them with technical information so that students are provided the best services possible.

The bill that I am introducing today authorizes the Secretary of Education to make grants to public schools, or local educational agencies for demonstration and evaluation of a variety of educational choice programs. The goal of this legislation is to determine which types of choice programs are effective in improving parental involvement in their children's education and increasing student achievement.

One of the most contentious issues in the school choice debate is whether private schools should be allowed to participate. While I myself have serious reservations about public funds going to private schools, it is important that we look at all forms of choice programs and evaluate their effectiveness. As a result, public schools that propose to include private schools in their choice plans could apply for demonstration and evaluation grants.

The key to education progress is a commitment to quality and excellence. If schools are going to implement choice programs then there is a Federal role in finding out what is effective and sharing this information with all interested parties. We cannot afford to make judgments here in Washington on what is educationally correct, but rather take what is happening around the country and shape it so that it leads toward this goal.

CONGRATULATIONS TO AN OUTSTANDING LEADER—JACK SMANT

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. VANDER JAGT. Mr. Speaker, this summer Jack Smant may actually have some time to enjoy the beauties of what is, undeniably, one of the most beautiful areas in the most beautiful State in the country. The western side of the State of Michigan, and the ninth district which I have the honor to represent, offer some of the most exciting and breathtaking recreational areas and opportunities one can find.

But only if one can also find the time to enjoy them. Jack Smant, who declined to stand for election to the Ottawa County, Michigan Board of Commissioners this past fall, will have just a little more of that time. While he will not likely abdicate his strong feelings about citizen responsibility and involvement—and while his position as the executive director of the Association of Commerce and Industry will provide more than enough of an opportunity to tout the economic vitality of the area, I am sure that Jack is looking forward to some rest after 14 years of service as commissioner, including a stint as chairman. The citizens of Ottawa County and the communities Jack represented on the board are grateful for his service and for his continuing interest in the affairs of the county. I offer for my colleagues' review an article about Jack's contributions to the area which appeared in the Muskegon Chronicle as his formal term of service drew to a close last winter.

JACK SMANT HANGS UP HIS OTTAWA LEADERSHIP HAT TO DO MORE IN TRI-CITIES

(By Roger Morgenstern)

GRAND HAVEN.—Jack Smant will be the first person to tell you he's not retiring.

Starting Jan. 1, he's merely turning in one of the hats he wears.

The 56-year-old Ottawa County commissioner is leaving the county board after 14 years, in which he has been chairman and became one of the group's most influential members.

During his tenure on the board, Smant has worn two hats in the Tri-Cities—one as executive director of the Association of Commerce and Industry and the other as a county commissioner representing Grand Haven and Ferrysburg.

Just because he is stepping out of the political spotlight should not diminish Smant's leadership role in the community. He will continue to head what he calls a "dynamic organization" in becoming more heavily involved in economic development and community issues facing the entire Tri-Cities area.

Grand Haven Mayor Howard Meyer said Smant's and the ACI's assistance with the city will continue to grow as city officials play less of a direct role in economic development.

"Jack has served his constituents to the upmost, he's a real valued asset to the community . . . He will continue to play a role in the development of the Tri-Cities area," Meyer said.

Some in Grand Haven have even suggested Smant might be someone who could calm the city's political waters after the election defeat of former Mayor Marjorie Boon, the ouster of the city manager, the loss of a half dozen city department heads and the uncertainty of city finances. Smant is having no part of the speculation.

Smant said he's enjoyed his time as a county commissioner but has not thought if politics will play a part in his future.

"I haven't thought about future political moves if any," Smant said. "The impetus I've had is to wrap up the county work I have and let the dust settle for a while."

Smant said during an interview recently that over the years he had no problem separating the two roles, but admits he welcomes the opportunity to focus on one job.

"Everything's growing that we're dealing with . . . The amount of calls we get are growing by leaps and bounds," Smant said of the business and tourism inquiries at ACI.

"I've got the demands of a full-time job and I felt it was time to get out. I will have no problem keeping busy but I want to get back to a more normal life," Smant said.

Smant, who has served as the ACI's executive director since its 1981 formation, was formerly manager of the Committee for Economic Development, one of the ACI's forerunners. Prior to that, he owned a floor covering business.

Smant said he has always accounted for the time he should spend for the ACI, often working weekends, nights and vacations to make up for hours spent on county business.

The thought of stepping down from the county board first entered his mind two years ago, as he was mulling over another election bid.

Although he decided to run again, the new board committee structure set up under Board Chairwoman Jessie Dalman during the past two years has led to 80 percent of all matters flowing to the Internal Services Committee, which Smant chairs. The powerful, five-member committee drafts the county's budget and reviews personnel matters, among other time-consuming items.

Smant is considered by many as one of the most powerful commissioners on the 11-member board. In addition to serving as Internal chairman for the past two years, Smant was board chairman for eight years, from 1979 to 1986.

An experience and power vacuum on the 1991 county board is further enhanced by the additional departures this month of Dalman and Commissioner Ronald Mayers, both veteran, influential board members.

Smant, Dalman and others were at the forefront of the evolution county government since they came on the board in the mid 1970s. Smant says the professional, business-like approach the county board has taken in building its administrative structure purposely mirrors that of the private sector.

Among the changes made during his tenure are new computers countywide and administrators overseeing data processing, personnel, finance and buildings and grounds.

We moved (county government) into a nonpolitical arena feeling it would be the most cost-effective and productive," he said.

Both jobs—commissioner and ACI executive director—are "very public and demanding," Smant said, saying there came a point "where something had to give."

Each time an election year rolled around, Smant would always discuss the situation with the ACI board. They never asked Smant not to run and were always supportive, he said.

"They were surprised at my decision this year," Smant said, adding the 14-member board did not influence his decision, made public in April, not to run again.

ACI Board President Bob Risselade praised Smant's work on the ACI, saying role as a county commissioner never got in the way.

"From the ACI's standpoint that has never presented a problem as long as I've been involved," said Risselade, who's been on the board for more than five years. "I think the (ACI) board has always wholeheartedly supported him.

Risselade called Smant "extremely dedicated to ACI," and hoped that stepping down from the county board will give him some personal "breathing space."

But the county will not be far from Smant's mind. The outgoing commissioner said with his experience he would welcome consulting with next year's commissioners, if asked. Former Grand Haven City Manager Larry Deetjen will replace Smant in the county board's 4th District.

Commissioner Edward Bytwerk, of Spring Lake, said he'll miss his Tri-Cities colleague. "I have felt since I've been on the board that Jack's been a strong member of the board, not only for North Ottawa but also the entire county."

Smant's stint on the county board is only part of his political history in the Tri-Cities. From 1973 to 1975, he served on the Grand Haven City Council. In September 1975, he was appointed to the board to fill a vacancy.

In August 1976, Smant's first bid for election to the county board ended in a primary election defeat. But in 1978, he won the election and has remained in office ever since.

ELLEN DZIENGELESKI OF SOUTH GLENS FALLS, NY, COMES FROM A PATRIOTIC FAMILY

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. SOLOMON. Mr. Speaker, there are some families for whom service to their country is as natural as birthday parties. I'd like to speak about such a family today.

Ellen Dziengeleski of South Glens Falls, NY, has six aunts and nine uncles. Every one of her uncles served in the military, seven of them in World War II. Her mother is Rita Peirquet Raleigh of Green Bay, WI. The nine Pierquet brothers totaled 53 years in the Army, Navy, Air Force, and Marines.

Mr. Speaker, consider this:

The oldest Pierquet, Cy, was drafted into the Army Air Corps and served in a radar unit in the Pacific before being discharged in 1945.

Le Roy was a chief gunner's mate in the Navy and served aboard the U.S.S. *Pokomoke* from 1941 to 1945.

Marvin enlisted in the Army Air Corps in 1942 and served stateside until 1945.

The twins Cletus and Clayton also served. Cletus served in the Army Reserves from 1943 to 1957. He got a battlefield commission in the Battle of the Bulge and saw action in Germany, Belgium, Austria, Holland, and France. Clayton was drafted into the Navy in 1942, was stationed in the Pacific, and served until 1944. He also served in the Korean war.

Clement enlisted in 1943 and served in the Pacific until 1946 as a Navy coxswain.

Anthony enlisted in the Navy in 1943 and was a shipfitter third class on the U.S.S. *Makassar* in the Pacific until 1946. He also served on a destroyer during the Korean war.

Quintin, too young to serve in World War II, enlisted in the Marine Corps in 1950 and served in the Korean war as an ammunitions specialist until his discharge in 1954.

Jerome, also too young for World War II, enlisted in the Navy in 1947 and served as a boatswain's mate on the U.S.S. *Okaganon* during the Korean war. He remained in the Navy Reserves until 1953.

Mr. Speaker, as you can see, this is a truly extraordinary family. Ellen Dziengeleski is justifiably proud of her large, close family.

Ellen and her husband Roger are good, solid citizens in our district. Roger is a woodlands division manager at Finch, Pruyn, one of our most important industries.

You could imagine, Mr. Speaker, how special such holidays as Memorial Day, Fourth of July, and Veterans Day are to the Pierquet family and all its branches. With great pleasure, I ask all Members to join me in paying our own special tribute to this highly patriotic family.

FLORIDA BAPTIST FAMILY MINISTRIES BRINGS HOPE TO SOUTH FLORIDA FAMILIES

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, the Florida Baptist Children's Home has brought hope to south Florida children and their parents for over 40 years. Since 1958, the Miami-based home for children has taken in abused and neglected children. This ministry has expanded over the years to include shelters in Lakeland and Tallahassee, with a home for mentally retarded adult women in Winterhaven and a retirement home in Vero Beach.

The important work of the Florida Baptist Family Ministries, that of ministering to the needs of children, families, the mentally retarded, and senior adults, is largely supported by private donations. Recently, the Giving Hope Campaign was initiated to raise necessary funds to enhance and expand current services. Mr. Speaker, I am always encouraged by the success of private charities that are able to reach out to the community and bring hope and healing. There is a special earnesty to serve and profound commitment found in the efforts of the Florida Baptist Family Ministries.

I commend the leadership of both the Florida Baptist Family Ministries and the Giving Hope Campaign. The president of Florida Baptist Family Ministries, Richard Phillips, and director of development, Tom Blake, should be noted for their commitment and vision to the ministry. I also recognize the support provided by the campaign leadership: chairman, Bob Bery, the senior vice president of Dean Witter Reynolds, Inc.; initial division chair, George Wilson, chairman of Fuchs Baking Co.; and major division chair, Jim Ferguson, partner of Ferguson, Glasgow & Schuster Architects.

AMERICANS IN SPACE PRESERVATION ACT OF 1991

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. HEFLEY. Mr. Speaker, last month I introduced H.R. 2383, the Americans in Space Preservation Act of 1991.

My bill would direct the National Park Service to develop a plan of action for four Brevard County, FL, sites associated with the early days of America's space program. The sites are launch complexes, 5, 6, and 26, also known as the Air Force Space Museum and launch site for America's first satellite and first astronaut; the Mercury Mission Control Center; and the Apollo-Saturn launch umbilical tower, which supported the Apollo 11 launch.

In this action plan, the Park Service would evaluate the engineering and maintenance needs of these sites, prepare alternatives and recommendations for visitor use and interpretation, estimate costs, examine possible funding sources and coordinate with the Interior Department, the National Aeronautics and Space Administration, the Air Force and any other public or private entities having an interest in the preservation and interpretation of these sites.

I drafted this bill after meeting with our former colleague, Interior Secretary Manuel Lujan, and in consultation with representatives of the Park Service and the majority and minority staffs of the House Subcommittee on National Parks and Public Lands. I have also contacted the offices of Mr. BACCHUS, in whose district these sites are located, and with that of my colleague on the Interior Committee, Mr. JOHNSTON. H.R. 2383 has also won the endorsement of Spaceport Florida, the State's commercial spaceport authority.

This bill specifically states that the planning process should avoid, to the maximum extent possible, conflict with the ongoing operational requirements of the Air Force and NASA. Further, following a meeting between a member of staff and representatives of NASA, I agreed to limit the scope of this plan of action to the above-mentioned four sites and to emphasize that no NASA money would be involved in this effort. The space agency also wished its concerns with historic preservation heard, a request I hope will be honored during the hearing process.

H.R. 2383 directs that the plan of action be made available no later than 18 months after receipt of appropriations by the Park Service. Further, the Park Service will have 24 months to develop interpretive materials, suitable for public distributions, that interprets the significance of 26 space program sites associated with America's space program and identified in National Park Service "Man in Space" study of alternatives. Finally, the bill authorizes the sum of $500,000 to carry out this work.

The Park Service tells me that such a plan of action would be the next logical step after conducting a theme study and a study of alternatives, both of which have been completed on this subject. It also reflects what I believe to be Secretary Lujan's feelings on this matter, that the Park Service not commit to managing these sites as a unit of the National Park System but acknowledging that the NPS could play a role in bringing about their preservation. The completed plan of action will put all of the cards on the table, all of the information needed for us, a local support group or someone else to make decision on preserving and interpreting these sites.

This bill is my latest attempt at preserving a record of the sites associated with the early days of America's space program. Last year, I introduced a bill to deal with all 26 of those sites and that measure met with its share of opposition. Some feared the price tag, which could have reached $37 million, and others worried about the impact my bill would have on NASA's operational requirements.

A lot has taken place in the past 2 years. After 4 years, the Office of Management and Budget released the National Park Service "Man in Space" study of alternatives. In addition, NASA signed a programmatic agreement with historic preservation officials to conduct sites identified by the NPS study. Patrick Air Force Base found internal funds to repair the launch gantry that cradled America's first satellite launcher and, in Florida, a number of support groups expressed interest in preserving space program sites.

Lastly, the Advisory Council on Historic Preservation completed its report on "Balancing Historic Preservation Needs With the Operation of Highly Technical or Scientific Facilities." This report was written at the request of the chairmen and ranking members of the House Interior and Science and Technology Committees. In short, that study found that the operational and historic preservation needs can coexist so long as the agencies involved understand the ground rules.

I believe my bill will set the stage for action on these four sites, which really represent the essential substances of the space program's early years, and for an open discussion on the larger issues of reconciling historic preservation and operational needs. Given the Nation's technological bent, it's likely we'll see further conflicts in the future between these two national goals.

From these sites, America first journeyed into space, actions which opened a new era not only for our Nation, but for civilization. These actions did as much to define this country and the American experience as the Civil War or immigration or the opening of the West. In the end, it doesn't really matter whether Washington or the State of Florida or some public entity preserves and interprets these sites. But it's vitally important that we move toward that end. I believe H.R. 2383 would bring that about and I urge your support.

The text of the bill follows:

H.R. 2383

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Americans in Space Preservation Act of 1991".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) America's space program reflects some of humanity's highest intellectual achievements.

(2) America's space program has kindled an unprecedented evolution in technology, and has resulted in significant improvements in the quality of life for all Americans.

(3) The National Park Service has prepared a study of alternative concepts regarding the preservation needs of the 26 most important sites associated with America's space program.

(4) Further action must be taken to ensure that the significant sites and resources associated with America's space program are preserved, and that the educational and inspirational value of those sites and resources for the American public is fully realized.

SEC. 3. PLAN OF ACTION.

(a) PREPARATION OF PLAN.—In order to identify those actions that are necessary to preserve and interpret the significant sites and resources associated with the development of America's space program, the Secretary of the Interior (hereafter referred to in this Act as "the Secretary") shall prepare a plan of action by which those sites and resources located in Brevard County, Florida, may best be preserved and interpreted to the public.

(b) SITES AND RESOURCES INCLUDED.—The sites and resources to be encompassed by the plan shall include launch complexes 5, 6, and 26 (also known as the Air Force Space Museum), located at the Cape Canaveral Air Force Station; the Mercury Mission Control Center, located at the John F. Kennedy Space Center; and the Apollo-Saturn launch umbilical tower, also located at the John F. Kennedy Space Center.

SEC. 4. CONTENT OF PLAN.

The plan required under section 3 shall address each of the following:

(1) The engineering and maintenance needs associated with those sites and resources.

(2) Alternatives and recommendations for visitor use and interpretation.

(3) The costs associated with preservation, interpretation and maintenance.

(4) Possible sources of funding for the sustained operation and maintenance of the sites and resources, including private sources of funding.

(5) Appropriate management roles for those public agencies having custody of the sites and resources.

(6) Methods for achieving effective coordination between the Interior Department, NASA, Department of the Air Force, and any other public or private entities having an interest in the preservation and interpretation of sites and resources associated with the space program in Brevard County, Florida.

SEC. 5. PLANNING PROCESS.

The process by which the plan required under section 3 of this Act is prepared shall—

(1) include full consultation with, and the active participation of, NASA, the Department of the Air Force, the Florida State Historic Preservation Officer, and such other entities as the Secretary deems appropriate;

(2) include appropriate opportunity for public comment and participation in the development of the plan; and

(3) avoid, to the maximum extent practicable, conflict with the ongoing operational requirements of NASA and the Department of the Air Force.

SEC. 6. PLAN SUBMITTAL.

Within 18 months of funds first being made available for the purposes of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a comprehensive plan meeting the requirements of sections 3, 4, and 5 of this Act, including alternatives and recommendations for the preservation and interpretation of those sites and resources.

SEC. 7. INTERPRETATIVE MATERIALS.

Within 24 months of funds first being made available for the purposes of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a handbook, suitable for public distribution, that interprets the significance of the 26 sites associated with America's space program and identified in the above mentioned study of alternatives, and the relationship those sites bear to one another and to the space program as a whole.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated a sum not to exceed $500,000 to carry out the purposes of this Act.

BRICK TOWNSHIP, NJ, ELKS TO HONOR AMERICA'S SERVICE MEN AND WOMEN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. PALLONE. Mr. Speaker, on Saturday, June 21, 1991, I will have the honor and privilege of attending an event at the Brick Lodge No. 2151 of the B.P.O. Elks, Brick Township, NJ, in honor of America's service men and women returning from the Persian Gulf.

Mr. Speaker, America's victory over the dictator and aggressor Saddam Hussein is a triumph that belongs foremost to the brave men and women of our country, volunteers in all the branches of the service, who risked their lives in the cause of preserving international law and order. As can be seen from the huge parades and welcoming ceremonies all across America, their victory has brought the citizens of this country together to a degree not seen in at least a generation. The sense of admiration for the bravery and professionalism of our volunteers has cut across the usual lines of age, political affiliation, or personal ideology. Besides expressing their support for the cause for which our troops fought, Americans showed their deep commitment to our men and women in uniform by helping the troops and their families any way they could—not only during those anxious weeks when our forces were engaged in battle, but in the months of preparation that led up to the launching of Operation Desert Storm.

Now that the American service personnel are coming home, they are getting the chance to see just how wide and how deep the recognition and appreciation among the citizens of the United States really runs. The big parades in Washington and New York may have featured the impressive displays of hardware and stirring speeches by our great military leaders. But it is events like this Saturday's picnic in Brick Townships NJ, which truly show the caring and the character of the American people.

EARLY INTERVENTION AND PRESCHOOL DISABILITY REAUTHORIZATION BILL

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. GOODLING. Mr. Speaker, today, I am introducing by request the administration's bill to reauthorize the early intervention and preschool programs under part H of the Individuals with Disabilities Education Act.

The Education and Labor Committee is currently drafting a bipartisan bill to reauthorize these programs which incorporates many of the provisions of the administration's proposal. Those provisions include adding assistance technology devices and services to the definition of early intervention services; changing the term "case management" to "service coordination"; requiring that the part H comprehensive system of personnel development be consistent with the part B comprehensive system of personnel development; and, providing a better transition for children in early intervention programs to move into preschool programs without a gap in services.

The administration's bill, however, contains a provision which mandates that States charge fees based on a sliding scale for early intervention services or receive a reduction in Federal dollars. The bipartisan committee bill will not include this provision and will maintain current law allowing States to choose whether to charge fees or not based on their individual needs.

The Committee on Education and Labor plans to report a bipartisan bill in the near future to authorize these important programs and ensure that infants and toddlers with disabilities and their families receive these essential services.

HARTFORD UNITED METHODIST CHURCH HAS LONG TRADITION

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. SOLOMON. Mr. Speaker, our 24th New York District can boast of some of the most beautiful and most historic churches in America. The history of many of these churches is like the history of Colonial or 19th century America.

One of those churches is the Hartford United Methodist Church. I've already mentioned this church on this floor, because U.S. Army Spec. Collin Fuller, son of Rev. Patti Girard, pastor of the church, recently delivered the sermon there after his return from the Persian Gulf.

But I could not tell the story of this church any better than the article that recently appeared in my hometown newspaper, the Glens Falls Post-Star. I proudly place the article in today's RECORD:

A LABOR OF LOVE: HARTFORD CHURCH HAS ALWAYS HAD IT

(By Joan Patton)

"You will have a united church, who will love you, and take care of you because they love the Master whom you serve."

"The people in Hartford are the most wonderful, caring people. Each pastor has different skills. One pastor never has it all. One does the best job one can. We laugh a lot in service. It's important to laugh."

These quotations from two Methodist pastors, speaking in 1865 and 1991, sum up the warm relationship between pastor and congregation that has been a hallmark of the Hartford United Methodist Church. Rev. W. D. Hitchcock wrote the first, and Rev. Patti Girard, the first woman pastor the church has had, said the second last week.

Girard, a part-time pastor, serves a congregation of 175, and ministers to about 270 in all.

"There's so much to do," she said. "When I'm called, I like to be available. People can stop by anytime. It doesn't matter if I'm washing dishes or making supper. There's always time to talk."

Ironically, Rev. Girard was born and raised a Catholic. She graduated from St. Mary's Academy in Glens Falls. She didn't join the Methodist church until she was an adult, making the switch with her sister, Judy Rosebrook, who is a nurse and gospel singer.

Before coming to Hartford, Girard was a member, employee and assistant pastor of South Glens Falls Methodist Church for 17 years.

"I felt called to the ministry, and it was a joint decision between Frank and me to leave South Glen Falls for Hartford. It's been a joy, a labor of love."

She is licensed to preach, and is completing her course work for bachelor's and master's degrees, for her ordination.

She has been attending the Wesley Theological Seminary in Washington, D.C., every summer, and doing her course work by correspondence during the winter.

A few weeks ago, her son, Army Spec. Collin Fuller, a combat engineer stationed in Germany, but assigned to Saudi Arabia, and Rev. Girard preached dual sermons, "Faith Through Difficult Times." She praised her congregation's support of Fuller's unit during the crisis with letters, food, and prayers.

Sitting on the front porch of the parsonage, looking up and down tree-shaded Main Street, with its array of 19th century buildings, Rev. Girard said, "There's a common thread pastors have found here down through the generations: how well the people get along and work together, and how well they get along with the pastor."

Methodism was introduced to Washington County in 1770, when Philip Embury formed a class at Ashgrove in Camden Valley. Another class was formed in Hartford sometime in the early 19th century, connected with the Fort Ann circuit of the Methodist Church, and led by itinerant circuit-riding preachers.

The first class in Hartford was organized in 1844 by Ensign Stover, who was instrumental in persuading his fellow members to buy the South Baptist Church.

The Methodist Episcopal Church was incorporated Sept. 11, 1844. David Arnold Flyn, Whitcomb, Mason Hewlet, Solomon S. Cowen, Jabez Norton and John Norton were elected as trustees.

The Methodists bought the vacant South Baptist Church building for $800 in 1845. Some of the rare surviving church records show that Mason Hulett paid $29 for a pew on the south aisle in 1845. An undated map of the pew holders includes names like Gilchrist Hatch, Murrell, Norton, and Townsend. The church was dedicated in 1851. It was served by circuit-riding preachers until 1853, when Rev. William W. Foster became the first pastor.

The town petitioned the state legislature in 1803 and 1804 to authorize the county to build a courthouse in Hartford. Work on the building on Main Street began in 1804, but the courthouse was built in Salem instead. The Cowan family finished the building as a residence, and gave it to the church for use as a parsonage in 1912.

Historian Joseph Cutshall-King, who prepared a historic structures report for the Hartford Historical Group, wrote: "There are strong elements of the Neo-classical style in the church, in keeping with the architecture of the town and county. It is an important link between the Neoclassical-Style and Gothic-Style ecclesiastical architecture of Hartford."

The church is 2½ stories high, has a wood frame with interlocking members, clad in narrow strip clapboard framed at the corners with plain boards, rather than pilasters.

"It appears the church has never had an exterior body color other than white, trim has been either green or black," King wrote. The foundation is random ashlar (stone) covered with clapboard, the roof is slate-covered. According to King, the steeple, which is set back slightly from the line of the facade, originally had spires which were removed in the 1920s and stored. The steeple was originally open, but shuttered after 1895. The windows on the east front were altered when the church was raised. The east front windows were covered over when the Rowe memorial window was installed in 1895.

The church building was raised and a full basement built underneath in 1858. Church rooms and a kitchen were added in the 1870s, and in 1895, the building was repaired, and stained glass windows and a memorial window were given by William H. Rowe, in memory of his daughter. The trustees built the choir loft behind the pulpit and the Epworth League gave the church an Estey organ at the same time, to replace the organ bought in 1867.

The church membership grew slowly until 1869, when a wave of spiritual revival brought 130 new members into the congregation.

The church flourished, reaching its peak membership during the 1890s. A Christian Endeavor Society was organized about 1885, becoming a chapter of the Epworth League in 1891, with a membership of 60.

According to the 1896 history of Hartford written by Rev. Samuel D. Miller (pastor of the Methodist Church), a Sabbath school was organized soon after the church's founding. There were 30 scholars and 250 volumes in the library in 1857. During the following years when services were held in South Hartford, another Sabbath school was etablished, with a combined membership of 85, and 600 volumes. "The school is now in a flourishing condition with an attendance of nearly a hundred members each Sabbath."

Membership had so declined by 1926 the church appealed to the district superintendent to help. The next pastor, Rev. Roy Dunckel, revived the work of the church.

A former member of the church, Kathleen Kathe, wrote a manuscript history of the church. Quoting from the Miller history, she wrote: "One of the principal characteristics of the society from the beginning has been its harmony. . . . The pastors, almost without exception, have felt that their labors were successful because the members have loyally supported them in their work."

Over the years, the church has shared a pastor with the Argyle or Hebron church, but since the 1970s, has supported its own pastor.

AT A GLANCE: HARTFORD UNITED METHODIST CHURCH, MAIN STREET, HARTFORD

Pastor: Rev. Patti Girard.

Founded: Sept. 11, 1844.

Present building erected: 1833.

Regular services: 11 a.m. Sunday worship, 10 a.m., summer schedule; Sunday School (except in summer) 9:30 a.m., Sunday School superintendent, Cindy Irwin.

Organist and choir director, Marie Fountaine.

Groups: Irene Stone Bible Study, meets Tuesday mornings; Adult, youth choirs; youth group; Task Force (fund-raising committee).

Events: Memorial Day Chicken Barbecue, dinners, food and plant sales.

ROBERT L. "BUZZ" KERSMAN, A DYNAMIC LEADER AND DOER

HON. GUY VANDER JAGT

OF MICHGIAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. VANDER JAGT. Mr. Speaker, the economy is rebounding, we are told. It may take a while, it is said. We need aggressive entrepreneurs, businessmen willing to act on their dreams and to reach out to the marketplace effectively. None of us would disagree.

That is why it is a pleasure for me to draw attention to the dynamic leadership and industrial growth being generated by Robert L. Kersman of Muskegon, MI, in the Ninth Congressional District which I have the honor to represent.

Buzz Kersman assumed the leadership of Lorin Industries, an anodizer of aluminum, from his father a decade ago. He has taken the company, in a city where economic difficulties have persisted even in some of our better times, and provided continuing growth and expansion. Today Lorin Industries, under Bob's leadership, has grown to supply 50 percent of the domestic aluminum anodizing market. In addition, a small fabricating company he founded supplies such items as the aluminum windshield frames for the Army's Humvee which performed so capably in the recent Desert Storm operation. We in the Ninth District and the citizens of Muskegon are proud of the dynamic leadership and industrial growth which Buzz Kersman and Lorin Industries employees have provided in our area. I offer for my colleagues' review an article on the company and its work—and the leadership of Bob Kersman—which appeared in the Muskegon Chronicle earlier.

LORIN INDUSTRIES' FUTURE IS SHINING BRIGHT

(By Robert Burns)

You see it in the futuristic, bright metal canopy over the entrance of First of America's downtown Muskegon bank building.

You see it in the earthy brown vertical accents around the downtown Steketee's store.

In these and many other applications, what you see is anodized aluminum sheeting. What you don't readily see is where it comes from—Lorin Industries, 1960 Roberts.

But you'll be seeing more of it.

Lorin president Robert L. Kersman said its use in architecture is on the rise, which bodes well for the future of the company founded by his father, L. Herb Kersman, 47 years ago. Kersman, 51, has been president of the family-owned company for the past decade.

50 PERCENT OF MARKET

Today, Lorin controls about 50 percent of the domestic anodizing market. Its plant holds six of the nation's 14 anodizing lines.

Anodizing creates a thin layer of aluminum oxide onto aluminum sheeting electrolytically, continuously building billions of microscopic cells in the metal. With the use of various salts and organic dyes, anodized aluminum can be made in virtually any color.

Architectural panel manufacturers are big users of such finished metal. One product Lorin is manufacturing in ever-increasing quantities is the "sandwich" panel, which consists of two sheets of anodized aluminum separated by an insulated material.

Kersman said he believes Lorin has a big edge over suppliers of painted or plastic-coated architectural panels because the color in anodized panels is both uniform and permanent; it won't fade or flake off. The company has even developed a new process designed to cope with the effects of acid rain.

And of course, aluminum is light weight, strong, corrosion resistant and cost-competitive.

Other common uses of anodized aluminum are in parabolic lighting reflectors and in window frames.

GROWTH 12 PERCENT

Growth has averaged about 12 percent a year through most of the 1980s, and Kersman projects additional growth of 20-25 percent the next five years.

About 7 percent of Lorin's production is for export, and a growing international focus led last year to the hiring of the company's first export manager.

It also brought the dropping of the long-established Coil Anodizers name, now known simply as Lorin Industries. Coil Anodizers could be confused with competing firms Coil Anodizers of Chicago and Coil Anodizers of Belgium, Kersman said.

Indeed, Lorin is sometimes confused with its next-door neighbor, Kersco Industries, a business Kersman started in 1969 to fabricate aluminum as an additional service to customers. Kersco's two main products are extruded aluminum struts for convertible tops and windshield frames for the Army's Humvee vehicle.

Lorin has 140 employees, Kersco about 40. Falcon Tool Inc., a Ferrysburg tool and die shop which Kersman acquired to supply specialized bending machinery for Kersco's operations, employs another 20.

NEW EQUIPMENT

To get Lorin Industries and Kersco where he wants them to go, Kersman has been reinvesting money into both the past couple of years:

A 10,000-square-foot addition of plant and robotic and computer-controlled equipment at Kersco was completed in January 1990 at a cost of $1 million;

At Lorin, new equiment for precision cutting of aluminum sheeting after anodizing will cost another $750,000. The "cut-to-length" line will ensure both sides of a sheet are precisely the same length and will lie perfectly flat without buckling;

A 15,000-square-foot warehouse was completed last fall;

Lorin's administrative offices facing Roberts Street are getting a new exterior facelift, using sheets of anodized aluminum in a lustrous silver with black trim and cobalt blue accents. Inside, office space has been increased by nearly one-third, in part to accommodate new computers and related equipment.

The company has installed a cogeneration system costing $2 million. The system will supply about half of Lorin's electricity needs and reduce energy costs by 20 percent. The system is expected to pay for itself in 3½ years.

The system uses natural gas-powered reciprocating engines to turn generators capable of turning out 3,200 kilowatts of peak power. Heat from engine exhausts and cooling water is converted to steam, which is sent to the main plant for use in production processes.

Its development was largely the work of four men—Lorin project manager Ken Andrews, Richard A. Grenell of Newkirk Electric Co., Robert B. Hubert of Northern Boiler and Mechanical Contractors, and Danial T. Girvan, who heads Resource Engineering Inc. of Whitehall.

Built almost literally from the ground up, the system is unique in several ways, not the least of which is that it confounded at least one consulting engineer by costing $2 million, compared to approximately $2.5 million bid by three Detroit-area firms.

According to Girvan, after the $2.5 million bids were received, Kersman took local engineers aside and said, "We'll pay you to prove them wrong."

Moreover, most of the job was done by local pipefitters, electricians and other tradesmen, using local suppliers wherever possible.

Other signs of Lorin Industries' and Kersco's willingness to do business in the 1990s include a "participatory management" system based on the Scanlon Plan. It has been in effect for five years at Lorin, and three years longer than that at Kersco.

"Even before the Scanlon plan, we got along (with management)," said Bob Muttart, a production controller with 24 years at Lorin. "They don't treat you like you're just another employee."

"Before the teams, we knew something about the company, but not a lot about the problems we faced. We get a lot of security in knowing about that," added Janelle McGarry, a data processor of 15 years' experience at Lorin.

Both were invited to sit in on a recent interview with Kersman.

Lorin's work force is divided into 14 employee "teams," which meet monthly to discuss problems and ideas. Four times a year, a representative of each team meets with Kersman.

CONGRATULATIONS TO MERCY HOSPITAL ON ITS 41ST ANNIVERSARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to congratulate Mercy Hospital on their 41st anniversary and also commend the facility on its outstanding service to the South Florida community.

Mercy Hospital has grown very rapidly in recent years. It opened its doors in 1950 with only 125 beds. Now, in 1991, the hospital serves 115,000 patients per year with over 500 beds. With its professional staff of more than 1,400 doctors, nurses, and other medical specialists, the hospital has been able to stay on the leading edge of medical technology and skill.

Mercy has just inaugurated a new oncology wing, a new emergency room, a new women's pavilion, and a new gastroenterology center. Also, the hospital has recently renovated and expanded its cardiac catheterization lab and initiated a hospice unit within its main facility. I commend Edward J. Rosasco, Jr., the president and CEO of Mercy Hospital and member of the foundation's board, for his leadership at this institution.

The Mercy Hospital Foundation and other community supporters help the hospitals in many ways. Listed below are the board of directors of the foundation. These people have helped Mercy Hospital grow into the remarkable hospital that it is: Ralph J. Llopp, president; Dr. Ricardo Pines, vice-president; Janice Ramirez, secretary; Eugene Pesant, treasurer; Robert R. Belleny; Dr. Salvador Bonilla-Sosa; F. Otto Busot; Marta del Monte; Laurence Feingold; Robert A. Gusman; Raul F. Gutierrez, Sr.; Julio C. Iglesias; Gerda C. Janice; Stuart Leeds, DPM; Nancy Marquez; Nestor Martinez, M.D.; Rene V. Murai; Roberto Quinonez-Meza; Ralph Renick, K.M.; Teovaldo Rosell, Jr.; Alicia Suarez; Jose Valdez-Fauli, Sister Elizabeth-Ann Worley, S.J.J.

Mercy Hospital is paving its way to becoming an outstanding hospital in the 1990's and setting the standard for the 21st century.

EXPLANATION OF VOTE ON H.R. 2508, THE INTERNATIONAL COOPERATION ACT OF 1991

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. PEASE. Mr. Speaker, I again find myself in the unfortunate position of having to oppose this bill. I do so with a great deal of regret because I know that Chairman FASCELL and the members of the Committee on Foreign Affairs have worked hard to produce a bill which changes our approach to foreign aid. I commend the members of the committee for their effort.

A foreign aid program, and our foreign policy in general, should have an overriding principle that governs how it is administered. Section 101 of this bill explains reasons for foreign aid, and I think it is worth reviewing. It reminds us of the growing interdependence of countries and the need for all countries to participate in efforts to promote broad, sustainable development, that works toward the achievement of economic well-being for all people. Recognizing that many countries cannot marshal the necessary resources to accomplish these ideals by themselves, it expresses the need for the United States to take the lead in helping these countries.

I think this represents a well thought-out rationale for providing foreign aid.

The bill also outlines four objectives of U.S. aid to foreign nations. These objectives are to promote sustainable economic growth, improve the management of resources within these countries, alleviate poverty by developing the capabilities of the people of these countries, and promote democracy. Again, I think these objectives are laudable and reasonably lay out what the United States is hoping to achieve with our foreign aid program. More than that, it provides a basis on which we can defend this program to the taxpayers, who see the resources needed to address domestic problems getting smaller and smaller.

Unfortunately, the meat of the bill does not live up to the rationale it establishes. The bill authorizes $12.4 and $13 billion in spending for fiscal years 1992 and 1993, respectively. However, only $4.5 billion in 1992 and $4.7 billion in 1993 is provided for developmental assistance. The remaining money, which represents 64 percent of the total will go to provide assistance for military and special economic, political, and security conditions. This breakdown between developmental and nondevelopmental aid is no better than it has been for the past several years.

One example points out the need to reassess our foreign aid priorities. The United Nations Food and Agriculture Organization estimates that as many as 30 million Africans face severe malnutrition and starvation this year. I commend the committee for responding to this problem by authorizing $2.2 billion over the next 2 years for the Developmental Fund for Africa. This fund will surely help the men and women of Africa survive the famine and drought that has threatened many parts of this continent for the past decade.

On the other hand, it is disheartening to note that over the same 2-year period almost $13 billion in military and special economic support assistance will go to five individual countries. None of the $13 billion is directed at solving the African problem.

If we are committed to spending $25 billion on foreign aid over the next 2 years, then we should at least spend it in a way that is consistent with our foreign policy objectives. The bill before us today does not do that.

DEPARTURE STATEMENT OF RICHARD ARMITAGE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. CRANE. Mr. Speaker, I would like to take this opportunity to focus attention on the U.S. military base phaseout negotiations with the Filipino Government.

United States and Philippine relations have been strained recently over the issue of the possible elimination of United States military base presence in the Philippines due to the fact that the issue has been tied to concern over economic relations between the two countries. The Manila government fears that because of the base phaseout plan, there will be a decline in trade with the United States. As a result, they worry that there will be a slowdown in economic development due to the loss of preferential treatment given to the Philippines by the United States for hosting its military bases.

According to Richard Armitage, former Special Negotiator for the Philippine Base Negotiations, a base phaseout by the United States, would not directly correspond with a loss of economic activity. Since the Filipino Government may, in the end, choose to completely eliminate all United States military presence in the Philippines, Mr. Armitage reminds us that it would be in the best interest of both countries, "but especially the Philippines—to immunize our economic relationship from a bases relationship that is in decline."

I would like to commend the following "farewell" statement by Mr. Armitage to the people of the Philippines on May 3, 1991, to my colleagues.

U.S. DEPARTMENT OF STATE,
Washington, DC, May 23, 1991.

Hon. PHILIP M. CRANE,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN CRANE: Many thanks for your time and interest. I appreciate the attention of folks who care so deeply about national security affairs.

Enclosed please find a copy of the statement I issued when I bailed out of Manila. Any comments you could make which echoes this theme would be terrific.

I'll stay in touch and hopefully together we'll see this through to successful completion.

Sincerely,
RICHARD L. ARMITAGE,
Special Negotiator for the
Philippine Base Negotiations.

DEPARTURE STATEMENT OF RICHARD ARMITAGE MAY 3, 1991

Mr. Armitage has asked me to express to the people of the Philippines, and especially to Secretary Manglapus, his very profound and heartfelt thanks for the manner in which he has been treated during his seven visits to Manila. Even before he undertook this mission he felt that he had many friends and colleagues in this country. Now he has many more. He would like to assure all of his friends, all who believe that genuine affection exists between Filipinos and Americans, that in his view the ties that bind our peoples as brothers and sisters will long outlast the political difficulties we now face.

When the PACT process first began, the Government of the Phillipines made clear its belief that the issue of military bases had come to occupy, in a very unhealthy way, center stage in the Philippine-U.S. relationship. The U.S. accepted at face value the evident desire of the Government to deemphasize the military bases aspect of this vital bilateral relationship.

Indeed, during the initial stages of our talks there was plenty of evidence that the Philippine Government meant exactly what it said. The U.S. was presented a termination notice. The U.S. was asked to remove its fighter aircraft. The U.S. agreed to turn over John Hay. The U.S. agreed to end its exclusive use of Clark. The U.S. accepted the idea of a phase-down which could lead to the total removal of its forces from the Philippines.

It is, therefore, dismaying at this late date to see the resurgence of the bases issue as the defining element in our relationship. Had it been asked, the U.S. would not have recommended that the Philippines make its economic relationship with the U.S. a hostage to the declining asset represented by bases. We believe that items like trade transcend bases. But if the Government wishes to link trade to a declining and perhaps disappearing bases relationship, it has every right to try to do so. There are, after all, other markets for textile and sugar exports beside the U.S. market.

In the course of replacing the 1947 Military Bases Agreement the Government of the Philippines has worked with the U.S. to create procedures which would lead, over time, to one of two outcomes: the removal of all U.S. forces from sovereign Philippine military bases; or a long-term access arrangement, including a scaled-down residual cadre of U.S. military personnel working with the AFP to facilitate ongoing training, repair and replenishment activities. The ultimate decision on phase-out or access would rest exclusively with the Government of the Philippines. The U.S. has no way of judging, much less dictating, what the choice of the

Philippines will be with respect to the long-term future of basing arrangements. Indeed, we cannot predict with any degree of assurance whether or not access to Philippine bases will be a part of our own strategic requirements at the end of the decade.

The Philippine side in the PACT process has taken the position that the continued use of Philippine military bases by U.S. forces delays, in some manner, the economic development of the Philippines, and that the Philippines is therefore entitled to be compensated for having foregone certain economic opportunities.

Although the U.S. side finds it difficult to imagine how the disappearance of U.S. forces would, in and of itself, cause the acceleration of economic development in the Philippines, it nevertheless accepts the proposition that in return for hosting U.S. forces the Philippines is indeed entitled to preferential treatment. When the President and Congress work together to allocate security assistance funding, the so-called "base rights" countries do in fact enjoy a very high priority.

At the same time, however, the Philippines receives consideration that transcends the issue of bases. There has been a great deal of speculation in the Manila press, for instance, as to whether or not Special Negotiator Armitage will agree to a proposition that the Philippines should receive something on the order of $400 million in a so-called "hard component." The fact of the matter is that in fiscal year 1991 the U.S. Congress appropriated over $556 million for the Philippines. The fact of the matter is that President Bush has requested virtually the same amount for fiscal year 1992. The fact that some of this money is appropriated for programs—such as the Multilateral Assistance Initiative—which have nothing to do with basing arrangements does not make the money any less real. The fact is that MAI is an extraordinary program that has been designed to meet the unique needs of the Philippines. Just because it does not "count" as an element of a formula pertaining to military bases is no reason to act as if it does not exist.

This is not an insignificant point. As a policy matter the U.S. has no problem in accommodating the desires of key MAI donors by making its own MAI contribution to the Philippines completely off-limits to any bases-related accounting exercise. As a practical matter it is not easy to explain to a U.S. Senator—particularly one whose state contains military installations slated for closure—why certain categories of assistance are quietly pocketed while others become the subject of very public demands.

So it is with the Philippine-U.S. relationship as a whole. Unprogrammed, supplementary assistance to the Philippines in the wake of EDSA, worth hundreds of millions of dollars, did not come as a result of bases negotiations. The fact that the Philippine textile industry does roughly $1 billion worth of business annually in the United States, and that the Philippines had an overall trade surplus with the United States of nearly one billion dollars last year, did not occur as a result of base negotiations. Indeed, if Filipino textile manufacturers want export quotas linked to bases, would they be willing to see their quotas disappear if and when United States forces leave?

The United States takes the position that a phase-out of U.S. forces from Philippine bases need not mandate the phase-out of a bilateral economic relationship that pumps billions of dollars into the Philippine economy every year. Yes, the United States is willing—at the request of the Government of the Philippines—to link certain categories of annual appropriations and other activities to its use of Philippine installations. Certainly grant funding for the AFP is one such category, budgeted at $200 million for fiscal year 1992. Would the eventual phase-out of U.S. forces mean the automatic end of U.S. security assistance, or the end of bilateral trade relationships? We hope not. Yet the process of piling more and more of this dynamic economic relationship onto the back of military bases (particularly under the guise of a so-called "soft component") seems to run counter to the idea that our two countries can interact cooperatively even if our military bases relationship eventually becomes history.

It has been repeated over and over in the media that the United States has brought no flexibility ot the compensation table in the PACT process. We recognize that it is a time-honored tactic in negotiations to chide one's opposite number for being insufficiently flexible. When these talks are finished, perhaps both sides will be ready to acknowledge that, tactics aside, each side did its best to accommodate the needs of the other; that each side moved a considerable distance during the negotiating process. The record will show a concerted effort by many different agencies of the U.S. government to strengthen this vital bilateral relationship in ways that both can and cannot be measured in dollars.

Nevertheless there is no denying that the U.S. budget is under severe pressure. The days of Presidents and congressmen offering massive new spending programs are long gone. It is regrettable but true that the combination of economic downturn and large deficits causes pressure on accounts that do not generate dollars for recirculation in the United States domestic economy. If we fail to meet the full aspirations of the Philippine side in these talks with respect to appropriated funds specifically linked to our tenure on Philippine bases, it does not mean that we are acting in bad faith. If we decline to link yet other economic aspects of our bilateral relationship to a scaled-down bases scenario, it does not mean that Philippine business people will lose their United States markets or fail to achieve expanded access. Given the fact that the Philippine government may opt, in the end, for a complete phase-out of United States forces, the opposite may be true. It would seem to be in the interests of both sides—but especially the Philippines—to immunize our economic relationship from a bases relationship that is in decline.

The United States side is, in sum, satisfied that it has done the best it can under current circumstances with respect to bases-related compensation. It has moved a considerable distance toward meeting the needs of the Philippine side since January of this year, when the issue was first tabled. Although no one will deny that the developmental needs of this country are great, and no one will begrudge the Philippine side for having tried to do its very best for the citizens of this country, the United States ability to meet these needs has its limit. The limit with respect to bases-related compensation has been reached. The United States position contains nonmonetary elements which provide the foundations for a new relationship which will benefit our peoples for many years to come. The ultimate question is not whether or not the United States is willing to go back to the well to produce more dollars which do not exist, or to tie extraneous economic activities to a basing tenure which, in a few years, may cease to exist. The question is whether or not the Philippines wants the new relationship.

A PROUD MOMENT FOR THE PEOPLE OF RUSSIA

HON. C. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. COX of California. Mr. Speaker, last week, Boris Yeltsin was elected President of Russia in the first free Presidential elections in that country's 2,000-year history. This is a proud moment for the people of Russia, and a hopeful one for the people of the world. I'd like to share with you the text of a letter I wrote to President Yeltsin following his electoral victory.

HOUSE OF REPRESENTATIVES,
June 19, 1991.

President BORIS YELTSIN,
Republic of Russia,
Moscow, Russia.

DEAR PRESIDENT YELTSIN: I would like to take this opportunity to extend to you my congratulations on your election.

For the first time in Russia's 2,000 year history, the Russian people have freely elected their leader. You now face an awesome responsibility, but a marvelous opportunity as well. Under your leadership, Russia can emerge from the darkness of totalitarian dictatorship and chart a new course for all the peoples enslaved by communism throughout the world.

The task of rebuilding your nation after decades of communism will not be an easy one. After all, the old order remains in place and will not go quietly. Nevertheless, you can be sure of my full support—and that of the American people—for your struggle to bring freedom and democracy to Russia.

Good luck and Godspeed.

Sincerely,

CHRISTOPHER COX,
Member of Congress.

A TRIBUTE TO DR. JOSEPH B. MILLER

HON. J. ROY ROWLAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. ROWLAND. Mr. Speaker, I am compelled to call to the attention of my colleagues in the House, and indeed the people of our country, a truly outstanding and dedicated fellow physician, Dr. Joseph B. Miller, Miller Center for Allergy, Mobile, AL.

I learned of Dr. Miller when I was seeking help for an autistic grandchild. That there could possibly be some relationship between various allergies and autism was a theory held by Dr. Miller. I also learned that this theory was held by other physicians, though not many.

After talking with Dr. Miller he agreed to see my grandchild. A visit to his clinic for 5 days revealed he had extensive experience with this type of problem. His method of testing and immunization is not traditional in the usual sense of the word, but it is in my opinion very effective.

I spent some time talking with him and underwent some allergy testing myself, as did my daughter, who has severe allergies. The results that we experienced were very gratifying. The desensitization injections were mostly free of adverse side effects and relatively safe. They did not pose the likelihood of severe reactions that occasionally occurs with the more traditional vaccines.

Dr. Miller is a diplomate, American Board of Allergy and Immunology, a conjoint board of the American Board of Internal Medicine and the American Board of Pediatrics, and a diplomate of the American Board of Environmental Medicine.

He is the author of 43 publications, including two books, eight chapters in medical books, and 33 papers on original research.

Dr. Miller has distinguished himself with his contributions in the field of pediatrics, internal medicine, allergy and immunology, and the techniques which he had developed usually achieve the desired results.

Mr. Speaker, I tell you about Dr. Miller because he has so much to offer in the fields of allergy and immunology, and he is still fighting to get his theories and techniques accepted by the medical community in general. It has been a long and difficult fight for him. I believe that one day he will prevail, and he has my full support in this effort.

MIAMI GRANADA ROTARY CLUB INSTALLATION DINNER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the Miami Granada Rotary Club which is holding its annual installation dinner this month. This organization, whose motto is "look beyond yourself," is a good example of the Rotary International clubs throughout the world.

Rotary International is the first and one of the most successful worldwide service organizations. It is an organization of business and professional leaders united to further international understanding and promote peace through charitable and education programs. It was founded in 1905 in Chicago, IL, and now includes more than 1.2 million members in 165 lands.

The Miami Granada Rotary Club is one of the few Rotary clubs that is truly international. Its membership is composed of native-born Americans, Cuban-Americans and those from other Latin American countries. Among the service projects the Miami Granada Rotary Club has participated in is "PolioPlus," an immunization effort to eradicate poliomyelitis by the 21st century. The Miami Granada Club has helped immunize children in the Dominican Republic from polio and other diseases, as its part in this worldwide effort.

Rotary International has allocated more than $200 million for polio immunization projects in 67 nations to protect more than 417 million children. Rotary International is distributing polio vaccines in developing nations as well as expanding current immunization programs. Rotary International has been awarded the UNICEF International Child Survival Award for its PolioPlus Program.

The Miami Granada Rotary Club is also helping build Mission San Juan in Miami's Wynwood area. This community center will provide a place for disadvantaged young people to participate in sports and other activities after school.

By its many activities, the Miami Granada Rotary Club has proven itself to be another one of what President George Bush called the thousand points of light. The Miami Granada Rotary Club and other Rotary International clubs have helped make America a nation that cares not only at home but also throughout the world.

I would like to take this opportunity to thank Past President Wayne Hill and the other new officers of the Miami Granada Rotary Club who will be installed this month: President Reinaldo R. Gonzalez; Vice President Julio S. Borges; Secretary Jose A. Martinez; Vice Secretary Frank Cabeza; Treasurer Eugenio J. Gonzalez; Vice Treasurer Manuel F. Lubian; Sergeant at Arms Antonio Brito; Director Pedro J. Romanach; Director Carlos Arteaga; Director Julian Asion; Director Daniel F. Calderin; Director Dr. Luis A. Quiroga; Director Pedro Alvarez Cepero; Director Gilberto Escalante; Director Dr. Atanasio J. Fajardo; Director Victor Floresmeyer; and Director John Hessling.

REMOVING FEDERAL PRESSURE ON STATES TO SITE HAZARDOUS WASTE INCINERATORS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. GEKAS. Mr. Speaker, across our Nation, State governments are being unduly pressured by the Federal government into siting hazardous waste incineration facilities. Fearful of provisions contained within the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 authorizing the President to withhold Superfund remedial action funds for any State that does not assure the availability of hazardous waste treatment or disposal facilities in an approved capacity assurance plan [CAP], many State governments have begun siting hazardous waste incinerators.

However, the information which is contained in State CAP's has been shown to be both incomplete and inaccurate. Recent congressional hearings have brought to light striking deficiencies in the current CAP systems. The EPA Director of the Office of Solid Waste and Emergency Response recently testified before the House Committee on Government Operations as to the extreme limitations and widespread inconsistencies of the CAP system in its present form. The Assistant Comptroller General for the Program Evaluation and Methodology Division in the General Accounting Office [GAO] reported to Congress that CAP's "reveal such serious problems of data definition, measurement, and data reliability, validity and consistency as to make them practically unusable."

Compelling State governments to site hazardous waste incinerations on the basis of data that is as flawed as that contained in present capacity assurance plans is an outrage. States must be removed as soon as possible from the threat of losing Superfund remedial action funds for noncompliance with current capacity assurance plans. Ironically, the program EPA has developed to protect public health and the environment from hazardous waste is presently posing the greatest threat to these entities.

In response to this situation I have introduced House Concurrent Resolution 167 resolving that the President should not withhold funds to carry out remedial action under section 104(c) (9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 until such time as the Administrator of the Environmental Protection Agency certifies the veracity and accuracy of all data in each State's capacity assurance plan. I call upon all of my colleagues in this body to join with me in working to prevent the unnecessary proliferation of hazardous waste incinerators across our Nation. Protecting the health of the constituents we represent and the environment in which they live and work is one of our greatest responsibilities.

TRIBUTE TO COL. ROY WILLIS

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. HANSEN. Mr. Speaker, Col. Roy Willis has served as the commander of Tooele Army Depot [TEAD] in Tooele, UT, since June of 1989 and will complete that assignment in July of this year. I would like to join with the people of Tooele in congratulating him on a job well done.

The past 2 years have presented TEAD with many challenges. Yet Colonel Willis' extraordinary knowledge of logistics and industrial operations coupled with his zealous application of sound management principles has allowed TEAD to meet those challenges and to prosper. Through his leadership, TEAD has a more proficient work force and has achieved savings to the taxpayer in excess of $40 million while still meeting vital mission objectives.

Colonol Willis' vision for the new Consolidated Maintenance Facility and his tenacity in assuring completion of the project will produce millions of dollars worth of cost svings each year well into the 21st century.

He has placed Tooele at the forefront in implementing the Department of Defense's Total Quality Management [TQM] Program. Colonel Willis has worked tirelessly in reducing the rate Tooele must charge its customers even though TEAD is required to pay for much of the equipment for the Consolidated Maintenance Facility from operating funds. The reduction of this rate has put TEAD in a most competitive position to perform work for the U.S. Army.

Colonel Willis has dedicated resources, manpower and dollars to the professional training of managers and employees, which in turn, will pay dividends in increased efficiencies in years to come. He also recognized that the people of TEAD are its most valuable resource and has supported a recognition system designed to encourage and reward employee initiative. He has been an avid supporter of the Army's "Ideas for Excellence" and "Value Engineering" programs which will generate $8 million in savings this fiscal year.

Colonel Willis' outstanding performance of duty is in keeping with the finest traditions of military service and reflect great credit upon himself, Tooele Army Depot, and the U.S. Army. I wish him well in his future endeavors.

TWO-YEAR COLLEGES

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. LEVINE of California. Mr. Speaker, I wanted to commend this following article to my colleagues' attention. It is important that all of us recognize the unique and vital role that community colleges play in our educational system.

[From the Los Angeles Times, May 25, 1991]

TWO-YEAR COLLEGES

Should community colleges force students who do not have high school diplomas to take entrance examinations?

After more than 20 years of teaching at the community college level, I say no.

In a recent Opinion piece (April 28), Columbia University doctoral candidate Becky Nicolaides complains about difficulties she had teaching American history at a community college. She states that many of her students were ill-prepared, and she wondered if they were lazy or apathetic. Possibly, Nicolaides was ill-prepared. Having a doctorate doesn't guarantee that a person will be a good teacher.

The door to higher education is always open to the rich, the well-born and the able. They have their private universities to attend. It's the working-class whites, Afro-Americans, Latinos and Asians who, mostly, depend on the public institutions—especially the community colleges—through which to gain entrance to higher education.

Congress made a mistake when ruling that community colleges should administer entrance examinations to all students without high school diplomas. Thanks to Reps. George Miller and Mel Levine there is a move to resolve this injustice in favor of the community colleges.

Testing to deny entrance to college learning is a cruel personal injury. Ideally, testing should be used as a tool to determine how best to help someone. Why test if there is no mechanism or program in place to help someone with deficiencies?

The two-year colleges in California are not "junior colleges." A junior college readies a student for transfer to a university. A community college does this and more. Some students attend a community college to gain a job skill or to better their life. The community college is a place of lifelong learning. Therefore, it should be judged solely on the percentage of transfers to the university level. In fact, I've had many university graduates from this country and others attend my classes.

I suggest that the next time you drive by your local community college, you roll down your window, point and say, "That's my college." For the community college is the most democratic institution of higher learning that this country has.

ROGER GRAHAM.

SECRET TRIALS AT ODDS WITH FUNDAMENTAL U.S. VALUES

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. EDWARDS of California. Mr. Speaker, I want to bring to the attention of my colleagues an editorial from today's Washington Post. The editorial describes an outrageous provision in the President's crime bill that would allow the Justice Department to arrest and detain individuals who are not citizens, but who may be in this country legally, following a secret hearing of which the individual would have no notice and at which he would have no opportunity to appear. At a second proceeding to determine whether the individual has engaged in "terrorist activity," evidence could be presented that the individual would not be able to see or defend against. This proposal violates the basic tenets of our justice system, as the Washington Post editorial points out.

I am also introducing a letter sent to the President opposing the proposal, signed by the Nation's foremost authorities on immigration law and former general counsels of the Immigration and Naturalization Service from every administration back to the Johnson administration.

I commend the article and letter to my colleagues:

[From the Washington Post, June 19, 1991]

SECRET TRIALS

The Senate is about to consider a terrible proposal that would allow the government to hold secret trials leading to the deportation of certain noncitizens. It will come up as part of an assorted crime package moving to the floor this week. On the agenda are two crime bills, one supported by Sen. Joseph Biden and the Democrats, the other the administration's proposal sponsored by Sen. Strom Thurmond. Because the major features of both bills—the death penalty, habeas corpus revisions and changes in the exclusionary rule—have been considered in both houses recently, the Senate Judiciary Committee held only three perfunctory hearings this year—one on habeas, another on rural crime and a third to hear Attorney General Dick Thornburgh.

Incredibly, no hearings were held on the deportation proposal, which is new this year. Moreover, because the committee didn't even vote on these bills but simply sent both to the floor with recommendation, there is not even a committee report that evaluates this section of the president's bill.

The proposal is directed against aliens the government believes are engaged in "terrorist activity." It applies to all noncitizens, even those who have entered legally, lived here for decades and have children and other close relatives who are citizens. The bill uses a definition of "terrorist activity" that is broad and includes raising money for or urging others to join "terrorist organizations," though it does not define the latter term. That is a political decision left to the government, and presumably it could include groups such as Kurdish nationalists, Afghan rebels, Sikh separatists and the IRA. Spokesmen for the PLO are singled out in the statute as engaging in terrorist activity.

The administration bill would allow the Justice Department to go to a secret court and get an order for a special proceeding to deport such people. Targeted individuals would have no notice of this hearing and no opportunity to attend or be represented. They could be arrested and detained as soon as this petition was filed. At the special proceeding that followed, the government could present secret evidence—outside the presence of the alien and his lawyer—and could even withhold a summary of that evidence from the accused. Theoretically, appeals would be allowed, but again, the evidence used at the trial could be kept under seal and the appeal argued in secret.

Does this sound like a proceeding in an American court? It is a nightmare that could allow the worst kind of injustice. Though not a criminal trial, a deportation hearing involves severe penalties and must afford due process. There is not much that is good in either of the crime bills coming up for consideration—gun control is the exception—but this blueprint for a kangaroo court stands out. It's hard to see how anyone with any respect for the American idea of justice could support it.

JUNE 14, 1991.

President GEORGE BUSH,
The White House, Washington, DC.

DEAR PRESIDENT BUSH: Your Administration rightfully protested the travesty of justice in Kuwait's political trials because the accused were not allowed to see, and therefore rebut, the evidence against them. We are perplexed, therefore, by the provision in your proposed crime bill that would create an unprecedented "secret trial" procedure for deporting foreign nationals in the United States—including long term residents—accused of "terrorism." As in Kuwait, secret evidence would be used and the accused would not even have to be told the specific charges against him.

We believe that this provision is unconstitutional, unnecessary, and unwise. It is unconstitutional because it contravenes the first principle of due process: those accused must have a public trial, and a fair opportunity to confront the government's evidence and an opportunity to refute it. Since the turn of the century, the Supreme Court has mandated that before the government deports any foreign national, it must provide due process of law.

This proposal is quite different from the procedures authorized under the Foreign Intelligence Surveillance Act. That Act provides for ex parte, in camera proceedings to authorize issuance of warrants for certain kinds of electronic surveillance. It nowhere authorizes the use of secret evidence to impose severe sanctions on individuals, as this measure would do.

Your proposal is also unnecessary. As experts in this field, we believe that the government already has ample authority to ensure that dangerous immigrants do not remain free and at large. For example, existing immigration law authorizes the Administration to deny visas to foreign nationals believed to pose a threat to our security and to exclude them at the border. Secret evidence may already be used in this context, but only because aliens outside our borders are held to have no constitutional rights.

New provisions, which took effect on June 1, 1991, specifically authorize the exclusion and deportation of foreign nationals believed to be engaging in terrorism. In addition, the government may deport immigrants who are convicted of a single crime of moral turpitude within five years after entry and sentenced to one year or longer; two such crimes at any time after entry; any aggravated felony; or crimes related to espionage, treason, or sedition. Moreover, if an immigrant truly is engaged in terrorist activities, surely criminal charges and a request of no bond would result. If convicted, the immigrant could be detained without bond until deported.

Finally, this proposal is profoundly unwise. Our nation has survived more than two hundred years without secret trials. Your Administration has been in the forefront of promoting a new world order, premised upon adherence to international law. Should we now, in the name of fighting terrorism, depart drastically from the very principles that we are so vigorously urging other nations to adopt?

We urge you to withdraw this Draconian provision from the pending legislation in which it is contained. The nation cannot credibly advance the fundamental principles of democracy abroad while at the same time eroding them at home.

Sincerely,

Prof. Alex Aleinikoff, University of Michigan Law School; Prof. Deborah Anker, Harvard Law School; Sam Bernsen INS General Counsel (1974–77); Prof. Carolyn P. Blum, University of California at Berkeley, Boalt Hall School of Law; David Carliner, Carliner & Remes; David Crossland, INS General Counsel (1977–81); Charles Gordon, INS General Counsel (1966–74); Prof. Ira Kurzban, University of Miami School of Law; Prof. David Martin, University of Virginia School of Law; Prof. Hiroshi Motomura University of Colorado School of Law; Prof. Gerald L. Neuman, Columbia Law School; Maurice A. Roberts, Editor, Interpreter Releases, Former Chairman, Board of Immigration Appeals; Paul Schmidt, INS Acting General Counsel (1979–81 and 1986–87), INS Deputy General Counsel (1978–87); Prof. Peter Schuck, Yale Law School.

LET'S STOP THE MINING OF OLD GROWTH REDWOODS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. STARK. Mr. Speaker, every working day old growth redwoods are chain sawed in northern California. These are not ordinary trees, but towering giants, often huge in girth, that have stood for centuries.

The cutting down of these immense, ancient trees cannot be considered normal timber harvesting. In many cases these trees have lived for more than a millennium, growing since well before the time of Christ. These trees are not a normal renewable resource.

Cutting down old growth redwoods is the depletion of a nonrenewable resource. As with the extraction of other nonrenewable resources, cutting old growth redwoods should be subject to a severance fee. As with gold, silver, or other valuable commodities, society should benefit when this nonrenewable resource is lessened.

Mr. Speaker, I am introducing a severance tax on the harvesting of old growth redwoods. This tax would be the amount of 75 percent of the value of the tree when harvested. Old growth is defined as those trees which are 150 years and older.

Pacific Lumber and other companies have suggested that they have planted large numbers of redwood seedlings. While this is commendable, I doubt that the companies are making an investment today that they hope to collect on in the year 2991. Their intention would be to harvest those trees as soon as they are commercially valuable, as quickly as 30 years after being planted. This is particularly true to Maxxam Corp., sole owner of the Pacific Lumber Co., which has to make monthly junk bond payments and has been harvesting old growth redwoods at double to triple the pace than was the case before the company was taken over.

Mr. Speaker, it is important that we pass this legislation to give all Americans some benefit when nonrenewable old growth redwoods are harvested.

COL. THOMAS L. SIEGEL: CITIZEN-SOLDIER

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. VENTO. Mr. Speaker, the freedoms assured within our Constitution, the law of the land, have been preserved by the dedication and sacrifice of many Americans who accept the rights and responsibilities of citizenship; our neighbors who, without fanfare, serve on juries, vote in elections, pay their taxes, and serve in the defense of our Nation.

Today, I want to share some observations and recognize Col. Thomas L. Siegel and his retirement from the U.S. Air Force. For 30 years, Colonel Siegel has served with distinction and has proudly served our country as a citizen soldier.

In June 1961, as Tom describes it, he was inspired by the challenge of President John F. Kennedy, who reminded us to "ask not what your country can do for you, but what you can do for your country." Tom Siegel sought and obtained a commission as an officer in the U.S. Air Force Reserve. He served on active duty in January 1965 as a judge advocate, within sight of the dome of the Capitol, at Bolling Air Force Base.

Upon completion of his active duty in 1968, Colonel Siegel could have easily set aside his uniform in the attic and concentrated his full time and attention to the practice of law and raising his family. Tom Siegel could have changed his hair style and joined in the many other diversions of the day, perhaps ignoring the turmoil of the time. Instead, Tom chose to remain in the active military reserve. During a time when it was perhaps unfashionable, indeed, controversial, to wear a uniform in public, Tom Siegel proudly continued to give of his time to his country. That meant time away from his job and his family while he continued to serve in the U.S. Air Force.

For the past 30 years, Tom Siegel has served as a true citizen-soldier in the best American tradition. He served diligently and applied his considerable skills and talent as an attorney to assist the Office of the Judge Advocate General.

He made a real difference. In 1980, he was awarded his first Meritorious Service Medal in recognition of his contributions to the Air Force. Tom Siegel was promoted to the rank of colonel in 1985 and was appointed to the position of reserve advisor to the judge advocate of the 8th Air Force. He played an important role in implementing changes to the judge advocate training regulations from which Colonel Siegel was able to assemble and marshall over 70 citizen-soldier attorneys to train side by side with active duty judge advocates at the 14 legal offices then within the 8th Air Force. As a direct result of that effort, these attorneys were fully trained and ably served extended tours of active duty in fact supporting Operation Desert Shield and Desert Storm.

During his 4-year reserve assignment with the 8th Air Force, Tom Siegel devoted an impressive 70 working days a year in service to our country. In 1989, Colonel Siegel was awarded his second Meritorious Service Medal.

Such exemplary service and devotion to our Nation by Tom Siegel and many citizen soldiers like him who have proudly worn the uniforms of our military services have not been without personal sacrifices. Special recognition is due to the spouses and children of those who serve in our military and reserve units, such as Ruth Siegel, son Peter, and daughter Karen, who over the years sacrificed personal quality time with her husband, their father, when he put on the uniform and left home to train with the Air Force.

To Col. Thomas L. Siegel, and to all citizen soldiers like him and their families, I offer a very special "thank you." I'm proud to have Tom Siegel as a friend and, most importantly, want to express my appreciation for all of the contributions he has made the past 30 years; a task and service well done. Thanks, Tom.

50TH WEDDING ANNIVERSARY OF MR. AND MRS. EDWARD ROWINSKI

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. LIPINSKI. Mr. Speaker, it gives me great pleasure to bring to the attention of my colleagues an exemplary couple from the Fifth Congressional District of Illinois, Edward and Helen Rowinski, on the occasion of their 50th wedding anniversary. They were married at St. Casimir's Church in Chicago, on June 24, 1941, and are a role model of the family strength and solidity which has made America great.

Helping the Rowinski's celebrate their Golden Anniversary are their three children, Theresa, Bonnie, and Michael. In addition, they have six grandchildren: Tom, Valerie, Pamela, Sherry, Carly, and Dana who will make this occasion a celebration of family unity.

Their commitment to each other and their family is impressive and deserving of special recognition and honor. I am sure that my colleagues join me in congratulating Edward and Helen Rowinski, on their many years of love and commitment. May their life together continue to be full of joy and offer them many pleasant memories.

SOVIET JEWS DESERVE FAIR EMIGRATION POLICIES

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. DELLUMS. Mr. Speaker, I take to the well today to bring attention to an injustice that is occurring in the Soviet Union. This injustice being the Soviet Government's refusal to allow freedom of emigration for its Jewish citizens.

Soviet Jews are increasingly receiving consent to emigrate outside of the U.S.S.R. but, more often than not those allowed to leave are only released to please Western countries who have rallied to their sides.

It appears the Soviet Government has made progress in trying to democratize its country, and I believe that they have made a genuine attempt at reaching their democratic goals. In light of this new democratic vision, Soviet Jewish emigration needs to be reevaluated. The very existence of refuseniks, and the continued practice of arbitrary refusals prove that there is still a considerable amount of progress that needs to be made before there is free, uninhibited emigration out of the U.S.S.R.

Traditionally, guidelines for emigrating from the Soviet Union have been very strict. In the past, emigration out of the U.S.S.R. was allowed only in cases of family reunification and even then, there were no guarantees. Since the 1970's, the Soviet Government has turned down emigration requests of many Jewish citizens because they allegedly possessed state secrets. This label not only bars emigration, it also bars other family members from emigration or travel outside the U.S.S.R. Although international standards dictate that a person cannot be accused of possessing a state secret if they have been away from their jobs for over 5 years, Soviet officials continually ignore this guideline. This is clearly an unjust and dictatorial policy.

In recent years, the restrictions on emigration and travel have eased considerably on the Federal level, as reforms have made their way into the system. Unfortunately, some state and local officials still have the power to thwart emigration and in many cases they are now setting up road blocks and making it very difficult for Jewish citizens to obtain permission to emigrate.

If a prospective emigrant does manage to get clearance from local and Federal officials there is yet another obstacle to get around. If a family member, who is remaining in the U.S.S.R., objects to the request, that is considered sufficient grounds for refusal. This system gives a relative, who may not know or like a person, the authority to undermine the persons future.

Gregory Applebaum is a 70-year-old union leader who wants to emigrate to the United States. Mr. Applebaum applied for permission to emigrate on two occasions and both times he was denied on the grounds that he possesses state secrets. His son Jacob was allowed to leave in 1980 but, when Jacob's wife, son, and mother-in-law applied for permission they were all denied. Soon after their requests, Mr. Applebaum was dismissed from his position as vice director of a large union in the electronics industry. His wages were cut by 70 percent and he was demoted to the job of semiskilled laborer.

The use of arbitrary refusals is a clear violation of international human rights standards. Freedom of movement is a fundamental right of every human being and one that should not be left up to the discretion of a bureaucrat or a distant relative.

Mr. Speaker, it is on these grounds that I feel compelled to bring this matter to the attention of my colleagues. It is our obligation as the foremost example of democracy in the free world to voice our disapproval of this policy.

I believe that every country has the right to protect state secrets. However, we cannot afford to let it be used as an excuse to deny basic human rights. I am convinced that there is a way for the Soviet Government to protect its secrets and to allow free emigration.

CELEBRATING JUNETEENTH DAY

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. ASPIN. Mr. Speaker, today, June 19, is a most important day in history for all Americans. On this day in 1865, Maj. Gen. George Granger landed in Galveston, TX, to deliver President Lincoln's declaration that all slaves were free. The celebration commemorating this day, Juneteenth Day, has become a major event in cities all over our country including Beloit, Racine, and Milwaukee.

Now, 126 years after the African-American people's freedom from slavery, we are still talking about civil rights. Unfortunately, equal rights and equal treatment are still not a reality—not only for African-Americans but for women and other groups which have experienced discrimination throughout the history of our country.

The most important measure attempting to deal with civil rights in 1991 is H.R. 1, the Civil Rights and Women's Equity in Employment Act. The House passed the bill June 5 and now it's awaiting action by the Senate. However, President Bush has vowed to veto the version passed by the House.

Several substitutes of the bill were introduced in the House this year—including one offered by the Congressional Black Caucus of which I am an associate member. This was the Towns-Schroeder substitute. It was the most fair and honest version of the bill, and I voted for it. Unfortunately, it failed to pass the House by a vote of 152 to 277. This version of the bill would have returned to the pre-1989 law which required the employer to prove that it did not discriminate. Also, it would have placed no cap on damages victims of discrimination could receive.

The substitute which did not pass was a bipartisan compromise which overturned all five 1989 Supreme Court decisions and returned the burden of proof to the employer. Although the Towns-Schroeder substitute was a better bill, this version was acceptable, and I am pleased that the House passed this version with my support.

H.R. 1, then, passed the House by a vote of 273 to 158—less than the spread we had hoped for, but it passed. It's not enough though—in fact, 15 votes short—to override the President's veto.

If this historic legislation is to pass, the President needs to hear from all Americans.

But, regardless of what happens to the 1991 Civil Rights and Women's Equity in Employment Act, we have to keep working to improve our neighborhoods in our inner cities:

Through Citizens for a Better Community and the VISTA Program,

Through city initiated programs such as the foot patrol and code enforcement,

Through employment programs like Rock County OIC,

Through crime prevention programs like PYD [Positive Youth Development], and

Through the Beloit Inner City Council on Substance Abuse to counteract drug and alcohol abuse, as well as many other excellent programs.

All Americans must stay on top of it and pull together. The problems are too big to be handled just by government alone.

We need everyone working together to solve the problems of drug and alcohol, neighborhood deterioration, teen pregnancy and unemployment—especially among our black males.

Families need to support each other. And, where families are unable to do so, neighborhoods, churches, and communities need to step in. We need to build again from the bottom up.

African-Americans, all minorities, and all Americans need to band together if we're going to win back our cities and make them secure and comfortable places to live in again.

I know that the Merrill neighborhood in Beloit has suffered from some terrible experiences in the past including the recent murder of Stevie Cartwright. Those kinds of tragedies are happening all over our country. We all have to do our part to make certain that the criminals are brought to justice. If we want our neighborhoods to be free of crime, we need to send the message out that criminal activities will not be tolerated. And, we need to pass the message on to our youth. Don't forget, the best way for our youth to learn is by example.

I understand that the Beloit Inner City Council on Substance Abuse and the entire Beloit community lost a very good friend this week—Mardella Shipp. Mardella was the person who never took no for an answer. She saw a need, she organized, and she worked tirelessly to combat drug and alcohol abuse in our neighborhoods. She cared. Mardella's the kind of role model we need to learn from—the kind of model we need to emulate, and, we mourn her passing.

I stand with all the people who are celebrating America's freedom from slavery today. I remain committed to the civil rights of all Americans and hope that as citizens of the United States, we all can learn to recognize that surely there is more that binds us than divides us.

The celebration of Juneteenth Day signifies not only the African-Americans' freedom from slavery, but the triumph over all prejudices which haunt our Nation. Let's all remain committed and work hard to eradicate hatred, bigotry, and racism from every corner of these United States.

RETIREMENT OF RICHARD J. "DICK" JONES

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. MONTGOMERY. Mr. Speaker, on July 1, Mr. Richard J. (Dick) Jones, district counsel of the regional office in Waco, TX, will retire after 24 years of exceptional Government service. It is generally agreed that Dick Jones is one of the most outstanding district counsels in the Department of Veterans Affairs and I would like for my colleagues to know about his service and his background.

Dick Jones served in the U.S. Army from July 1953 through June 1955. After his discharge, he worked as a claims adjuster while attending law school at night for 5 years under the GI bill. He practiced law until he was appointed as a general attorney in the Chief Attorney's Office, Waco, TX, in April 1969.

Dick was promoted to chief, field legal section, in March 1972 and then became the assistant district counsel on January 1, 1976. On January 15, 1978, he was appointed district counsel. He has provided outstanding leadership to his office and has been a frequent consultant to other district counsels, especially on medico-legal issues and in dealing with management problems. He has distinguished himself in the quality of his legal services and in planning, directing, and supervising the operations of his office. His work involved the life, liberty, and property rights of hundreds of thousands of individuals. It often involved complex issues and challenges and required special efforts, dedication, and long hours of hard work.

Dick has met these challenges with distinction, Mr. Speaker. He has represented the VA very capably and has maintained excellent relations with court officials, attorneys, the Veterans Health Administration, VA regional office personnel, and the private sector. He is respected by other district counsels as well as the central office staff of the general counsel for his outstanding expertise in legal matters and his efficiency, versatility, and dependability. He is a true professional and has served the VA well.

Mr. Speaker, our committee has worked closely with Dick Jones over the years and members of our committee staff have relied on his expertise and counsel on a variety of issues before the committee. His knowledge of the system and his keen legal mind have served all of us very well. He will be greatly missed by his colleagues in the Department of Veterans Affairs but he has earned his retirement. Mr. Speaker, as he leaves the Federal Government, I join his many friends throughout the system and the State of Texas in wishing for him and his family a happy, healthy retirement.

TROPICAL DEFORESTATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 19, 1991 into the CONGRESSIONAL RECORD:

TROPICAL DEFORESTATION

While most Americans rank oil spills and pollution from hazardous waste as major ecological threats, a recent government panel of scientific experts gave much higher priority to deforestation causing habitat destruction and species extinction. Scientists are especially concerned about the loss of forest in the tropics because of the rich variety of plant and animal species lost and global warming.

The Problem: Each year 40-50 million acres of tropical forest—the size of the State of Washington—are destroyed by human activity. The most rapid deforestation is taking place in Brazil (which contains 30-40% of the remaining tropical rainforest), Indonesia, and Zaire. The deforestation rate jumped 80% between the late 1970s and the late 1980s.

Although tropical forests cover only 7% of the earth's surface, they contain 50-75% of all animal species. The forests are rich storehouses of genetic diversity, which can be used to reduce the susceptibility of cultivated plants to major blights and to cure diseases. A plant in Madagascar, for example, is the basis for medicine used to treat childhood leukemia. One fourth of the prescription drugs used in the U.S. are derived from tropical forest plants. Yet by some estimates, 10,000 tropical species are being lost every year, many before they are even catalogued. Tropical forests also help control flooding and erosion, and help regulate the amount of carbon dioxide in the atmosphere. Widespread deforestation contributes to changing regional weather patterns, and, as the trees are burned, to global warming.

The principal causes of tropical deforestation are clearing the land for crop production and cattle ranching, commercial logging, and cutting trees for fuelwood. Throughout the topics, developing nations are struggling to feed their people and raise cash to make payments on their international debt. Debt of developing countries increased from just over $50 billion in 1970 to $1.2 trillion in 1990. The world population, currently 5.4 billion, is increasing by 800 million each decade, straining the world's resources.

Some of the arguments for protecting the forests can at times be overstated. For example, many tropical forests are not the dense jungles teeming with exotic wildlife we often envision; instead most of the species they contain are insects, and dry tropical forests look like typical U.S. forests. And while deforestation is an important source of global warming, it contributes far less than fossil fuel use by industrialized countries. Yet there is a growing recognition, even in the major deforesting countries, that a valuable resource is being lost.

At times it may make sense for a developing country to cut down a portion of its forest in order to boost economic growth and raise the standard of living. Yet the particular concern about tropical deforestation is that in many cases much is lost and little is gained. Tropical forest soils typically are not amenable to farming because most of the nutrients are found in the vegetation rather than the soil. So the pattern is often clearing the land, depleting the soil within a year or two, and moving on to clear another stretch of forest.

Basic Strategy: The basic conservation strategy is to try to keep 5-10% of the world's rainfall pristine, as untouchable biological reserves, surrounded by a buffer zone in which there are limited, sustainable uses of the forest.

One important and rapidly growing use of the surrounding area is ecotourism—using naturalist guides for tours into the rainforest. Another use of the surrounding area is sustainable logging, in which the forest remains largely intact with only a few trees removed per acre each year. Attention is also being given to developing products that can be extracted from the forest without cutting the trees. Tropical forests are being inventoried for valuable products such as rubber, nuts, and medicinal plants. Recent uses range from ice cream made with rainforest nuts to latex coating for golf balls. The basic idea behind alternative uses is to give local people an economic reason for protecting the forest. There is a growing consensus that environmental protection must make economic sense and that development must go hand in hand with preservation.

Policy Steps: Many steps to improve preservation of tropical rainforests need to be taken by the countries themselves. For example, they should reduce tax incentives and land title policies that encourage cutting the trees, provide better enforcement of their forest protection laws, and expand education programs so local people appreciate more fully the value of the forests.

The Congress addresses tropical deforestation primarily in foreign assistance legislation, and has given it increasingly higher priority in its development assistance programs. Yet maintaining current funding levels will be difficult, as the federal budget is tightened and pressures appear for new priorities, such as assistance to Eastern Europe. Despite the overall squeeze in development assistance, U.S. funding specifically for international forestry protection programs has increased in recent years, and that trend should be continued.

Other helpful steps include trying to expand debt reduction and encouraging more debt-for-nature swaps, under which Third World loans are purchased at a discount and retired in exchange for conservation measures. We should also consider reducing trade barriers to those countries taking steps to preserve tropical forests. We should continue to press the World Bank and other multilateral lending institutions to promote environmentally sound development, and should continue to help developing countries reduce their birthrates. Finally, we should get our own environmental house in order. Our effectiveness in getting other countries to preserve their tropical rainforests has been undercut by U.S. policies which do not preserve our forests.

Despite the challenges, there are encouraging signs that the overall rate of tropical deforestation is slowing. International recognition of the importance of these unique natural resources is growing, and that is having the spillover effect of increased concern about better management of forests of all types. A 1992 United Nations conference in Brazil on the environment could well result in a broad international treaty on forest management.

CITIZENS COMMITTEE HONORED BY WETLANDS AWARD

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. EDWARDS of California. Mr. Speaker, I would like to take this opportunity to honor a very special group for their work in support of the environment. The Citizens Committee to Complete the Refuge is a group of individuals who have committed themselves to the important task of wetlands preservation.

In recognition of their efforts, the Citizens Committee has been chosen to receive the prestigious National Wetlands Conservation Award from the Fish and Wildlife Service.

The Citizens Committee is receiving this award as a result of efforts to conserve and restore wetlands to benefit wildlife and other resources. The committee's goal has been to preserve the remaining wetlands of the San Francisco Bay area by placing them in public ownership.

As many of you know, the San Francisco Bay National Wildlife Refuge has special importance to me personally. In 1972, I sponsored legislation that created the refuge, and did so again in 1988 to authorize the expansion of the refuge by 20,000 acres. However, it was the Citizens Committee that provided the much-needed grassroots support that was vital to the bill's success. Through the tireless efforts of scores of volunteers, the committee was able to unite local environmental groups, local governments, public officials and the bay area congressional delegation in support of this cause. These efforts provided me with a constant source of information and inspiration in my efforts to shepherd the bill through the legislative process.

The refuge expansion bill was only a beginning in the drive to preserve bay area wetlands. As over 90 percent of California's wetlands have disappeared, the work of groups like the Citizens Committee is now more important than ever before. The committee is currently focusing its efforts on Blair Island in Redwood City and Marin Islands off the San Rafael shoreline. These land parcels are particularly precious as they would provide much-needed habitat to the native birds of the San Francisco Bay area, such as the endangered California clapper rail and several species of herons and egrets.

The success of the San Francisco Bay National Wildlife Refuge and the protection to wetlands it provides is a tribute to the willingness of the members of the Citizens Committee to devote their time and energy to the task of wetlands preservation. They have demonstrated a strong commitment, enduring patience and perseverance to the work they perform. I can think of no other organization more deserving of the National Wetlands Conservation Award, and I am proud to see the Citizens Committee singled out for this honor.

THE PASSING OF HERBERT O. REID

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. DELLUMS. Mr. Speaker, the civil rights movement has lost one of its most illustrious advocates, and I have lost a good friend, with the passing of Herbert O. Reid.

Herb was one of the legal titans who graced the Howard Law School faculty during one of the most memorable periods in this Nation's history. During the fifties and sixties Herb Reid was one of those lawyers who profound knowledge of the law and intense commitment to the cause of true justice for all in a multiracial society helped change the core of American society across a broad spectrum, in both the public and private sector.

Herb's sage advice and shrewd insights on human nature made him a revered counselor to a younger generation of civil rights activists and the founding members of the Congressional Black Caucus. He was a man to be trusted in every respect, because he kept his word and he kept his own counsel.

Herb was also a great friend of, and to, this capital city. He was a grey eminence in the best sense of the term in the struggle to achieve home rule for Washington, and he worked closely with me through the years to expand the scope of self-determination for all its citizens.

Most of all, Herb was a friend indeed to all who sought his counsel and the warmth of a truly giving spirit. His quiet humor was a source of constant encouragement, especially during those times that try all our souls. He was a prince among men—and he will be missed by all who knew him. I am one of those who knew him—and who revered him as a wise counselor and who treasured him as a caring friend. I thank you, Herb, for those shared moments in time. You can rest assured that we will try to carry on in your name to achieve the goals of true equality for all that you did so much to advance.

NATIONAL BOARD FOR TEACHING STANDARDS

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. WILLIAMS. Mr. Speaker, I am pleased to introduce today a bill to authorize funds for the National Board for Professional Teaching Standards.

During the past decade a number of reports have focused attention on the state of America's education system. A number of people have been involved in discussing this issue; the President and our Nation's Governors have established national education goals to be achieved by the end of this century. A necessary ingredient of each of these reports and all of these goals is a good teacher in every American classroom. Yet all too often we overlook or ignore the importance of this.

One of the education reform reports of the past decade did not overlook teachers. In 1986 the Carnegie Forum on Education and the Economy issued an impressive report entitled "A Nation Prepared: Teachers for the 21st Century." Among the recommendations of that report was a call for the creation of a National Board for Professional Teaching Standards.

The call for the creation of this national board did not go unheeded. In the fall of 1987, with the encouragement of the Carnegie Forum, the board was established as a private, nonprofit organization. It is currently composed of 64 members representing a wide array of backgrounds and interests, including education, government, and business. More than half of the board's membership is made up of practicing classroom teachers. Leaders of industry such as David Kearnes of Xerox are board members. The Governor of Iowa is a board member. The former Governors of North Carolina and New Jersey are board members.

The board has done fine work in assembling a very diverse and distinguished group of individuals who have put together a framework for action and have developed consensus within the education and business communities about the need for treating and recognizing teachers as true professionals. This is an important development, and one that holds real promise for upgrading the image of teachers and professionalizing our teaching ranks.

The bill I am introducing today with my colleague from Missouri, Tom Coleman, provides Federal assistance for the research efforts that the board will be undertaking. Our bill amends title V of the Higher Education Act to provide funds to enable the board to conduct independent research and development related to the establishment of voluntary, professional standards and assessment methods for the teaching profession. Such Federal assistance is to be matched on a dollar-for-dollar basis with private funds. The bill authorizes $20 million to be available for these research activities of the board to be spent over the next 5 years.

The legislation includes provisions to guarantee the integrity if the research that will be undertaken by the board, provisions for an independent evaluation of the board's activities with a special focus on the impact any assessments might have on minority teachers, and provisions to ensure that Federal funds are used only for research and development activities, and not for administrative purposes. A priority in such activities is given for research relating to the teaching of mathematics, the sciences, foreign languages, and literacy, as well as for special education populations, including limited-English-proficient children, gifted and talented children, children with disabilities, and economically and educationally disadvantaged children.

It is estimated that it will cost $50 million to carry out the research and development activities necessary to put in place the assessment methods for classroom teachers that the board envisions. The bill I am introducing today authorizes $20 million in Federal assistance for that effort. Congress has already appropriated $5 million to underwrite the initial portion of the board's research activities. The board has begun a private fund-raising campaign to secure the rest of the money that will be needed to complete its work. This is a wonderful example of an important and useful public/private partnership.

In closing, it is important to note that with this legislation we will not be endorsing any Federal certification of teachers. We will not be interfering with local curriculum decisions. We will not be infringing upon the rights and responsibilities of the States to license teachers nor upon the practice of home school or private school teaching. In fact, the legislation contains specific prohibitions against any such Federal activity. This legislation maintains the time-honored tradition that decisions regarding teacher qualifications and certification procedures must stay at the local and State level.

What we are endorsing through this legislation is a proposal to recognize classroom teachers as professionals, to provide a means for teachers to attain professional stature, and to enhance our children's educational experience by keeping the best and brightest of our teaching cadre in the classroom. This is an important task indeed, and I ask my colleagues to join us in this effort.

OFFICERS ON PATROL

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. MANTON. Mr. Speaker, as a former police officer for the city of New York, I am very proud to bring to my colleagues' attention the heroic efforts of four fine young police officers of the New York City Transit Authority Police Department. These brave and dedicated individuals are being honored on June 20 by the Forest Hills Jewish Center for their roles in apprehending six suspects in a double homicide.

Mr. Speaker, Sgt. Thomas Paccione and Officers Danny Calemine; Gerard Pappas; and, Vincent Parry; will be presented with the Forest Hills Citizens on Patrol Crime Stopper of the Month Award for their quick thinking and daring action in apprehending several heavily armed and extremely dangerous suspects. Operating undercover on a robbery detail, these valiant officers were able to respond immediately to an execution-style shooting which left two dead, one near death and another in serious condition. Their very professional response to this dangerous situation enabled them to apprehend the suspects without resorting to the use of their own weapons and, therefore, avoiding further risk to innocent bystanders.

The composure and professional response exhibited by these officers cannot be overstated. Having walked a beat myself, I know firsthand the pressures and dangers associated with police work. When you are out on the streets responding to an emergency situation or a crime in progress, you must act instinctively and quickly. I do not believe the average citizen can truly appreciate the rigors of police work, nor recognize the fact that each and every day these dedicated public servants put their lives on the line for their communities.

The Forest Hills Citizens on Patrol Crime Stopper of the Month Award is a very fitting acknowledgment of their efforts as individual officers. I believe such awards also serve an important role in reminding our public safety officers that the average citizen is truly appreciative of the role they play in keeping our communities safe.

Mr. Speaker, we often forget that police officers and other public safety officers are also individuals, with lives of their own outside of the department. They have families and loved ones who must live with the dangers associated with this public service.

Sergeant Paccione is 41 years of age, and has served with the transit police department for 17 years. During his service he has earned letters of commendation and merit, the unit citation and received the meritorious police duty award. Tom and his wife Adeline have two children, John, 15, and Eddie, 11.

Officer Calemine was born in 1964, and has been with the department since 1986. Since becoming an officer, he has garnered several letters of commendation and a letter of merit. Danny, and his wife Mercedes have two children, Nicole, 6, and Danny, 1.

Officer Pappas is 28 years old, and he has been with the department for 6 years. He has received a letter of merit and has been recommended for the honorable mention award and the distinguished duty medal. Gerard and his wife Tina have two children, Gerard, 7, and Nicole, 3.

Officer Parry joined the transit police in 1973 when he was 21. His commanding officer has high regards for his work, and he has earned letters of commendation and merit, the unit citation and the meritorious police duty award. He has also been recommended for a number of other honors. Vincent and his wife Mary also have two children, Christopher, 15, and Michele, 9.

Mr. Speaker, we in Congress often talk about the need to get tough on crime. We debate and act on many pieces of legislation to reduce crime and remove violent criminals from our Nation's streets. But, it is the average police officer, such as these four hard-working and dedicated individuals of the New York City Transit Police Department, who are the real crime fighters. They deserve our support, encouragement, and recognition.

Mr. Speaker, it will be my great honor in participating in Thursday's ceremony honoring these heroic individuals.

TRIBUTE TO SHARON AND DAVID PORTMAN

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. PALLONE. Mr. Speaker, on Sunday, June 23, 1991, the Jewish Family and Children's Service will pay tribute to two of the most illustrious and most caring members of the Monmouth County, NJ, community: Sharon and David Portman.

Mr. and Mrs. Portman are being honored for their many years of kind and generous contributions to both the Jewish community and the community at-large. The list of their affiliations and associations is indeed a long one. What is truly significant is the fact that the Portmans have not simply lent their names to various organizations and causes. They have shown skillful leadership and unselfish devotion to a variety of civic and philanthropic endeavors that have enriched our community.

Among her many activities, Sharon Portman is a past president of the Jewish Federation of Greater Monmouth County, the Eatontown, NJ, Chamber of Commerce and the Monmouth-Ocean Development Council. David Portman, among his many community service accomplishments, has been a leader in the Operation Exodus movement to bring Jewish citizens of the Soviet Union, who face bleak lives filled with uncertainty, to live in the State of Israel. Indeed, efforts to support Israel have been a major focus of the Portmans' attention. They have taken on a unique leadership role in supporting development of the beautiful northern Israeli city of Zefad, helping in the construction of a community center for that city.

Jewish Family and Children's Service is one of the leading social service agencies in the area I represent, so the recognition that they are bestowing upon the Portmans is a true indication of the great contribution that they have made. It is, for me, a great honor to join in paying tribute to these fine citizens and wonderful friends.

CONGRATULATORY LETTER TO PRESIDENT-ELECT YELTSIN

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mrs. VUCANOVICH. Mr. Speaker, I include the following letter of congratulations to President-elect Boris Nikolavich Yeltsin:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 19, 1991.

Hon. BORIS NIKOLAVICH YELTSIN,
President-Elect, Russian-Soviet Federated Socialist Republic, Moscow, Russia.

DEAR PRESIDENT YELTSIN: As a U.S. Congresswoman I commend you for your great victory. It's obvious that the Russian people identify their emancipation from tyranny with the liberation of Russia from Soviet rule. It's also obvious that the U.S. foreign policy must change to reflect this new reality.

With your election, Mr. Yeltsin, the republican liberation movement is no longer a force which chips away at the edges of the communist state, nor will it be ignored by Western governments. Now, the Russian people have chosen a leader who will represent their needs, rather than the needs of the Party.

I am pleased with the results of the election and wish you much success in your new role as President. As a representative of the people here in the United States, I look forward to a continued healthy working relationship between our government and yours.

Sincerely,

BARBARA F. VUCANOVICH,
Member of Congress.

A VOTE FOR FREEDOM

HON. SUSAN MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Ms. MOLINARI. Mr. Speaker, today I want to call attention to the continued troubling news out of Yugoslavia regarding the human rights violations in the small province of Kosova.

Over the past few years, this province, which consists primarily of ethnic Albanians in southern Yugoslavia, has been forced to endure a repressive campaign waged by the neighboring government of the Republic of Serbia. There have been hundreds of separate incidents where ethnic Albanians have been arrested, beaten, tortured in prison, and subjected to mass firings from employment based on their ethnicity by the Serbian-controlled authorities.

As a signatory of the Helsinki Final Act, Yugoslavia has begun to make positive strides toward human rights in many of its other republics. However, both the State Department and Amnesty International have been highly critical of the ruling Serbian authorities and their unforgiving human rights violations which continue in Kosova.

Today's foreign aid authorization bill includes language approved by the full committee which would allow the people of Kosova to "hold free and fair elections and be able to retain their original autonomous status."

It is my sincere hope that each of us will extend America's spirit of free democracy to the people of Kosova. I urge members to oppose the Kleczka amendment which cuts language in this bill supporting free and fair elections as well as the ability to retain autonomy in this region. Send a message of American commitment to continue the movement toward more human rights and freedoms throughout Eastern Europe. Vote "no" on the Kleczka amendment.

CONGRATULATIONS TO 1991 BASEBALL BULLDOGS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. POSHARD. Mr. Speaker, I rise today tc congratulate the baseball Bulldogs of Harrisburg High School. Not long ago, I brought to your attention the Bulldogs winning the 1989 Illinois Class "AA" baseball championship. This year they finished second in the Class "A" Illinois High School State Baseball Tournament, coming within a break or two of becoming the first team ever to win a championship title in both the Class "A" and Class "AA" categories.

The Bulldogs started the season as impressively as they ended it, winning 10 of their first 11 games with 9 of them consecutively. Long winning streaks were not uncommon for the Bulldogs. Three times during the season they were able to compile streaks of nine or more games. One of these runs includes their bid for the championship where they were vying for their 10th in a row.

Going into the final game the Bulldogs were a team that was undaunted and eager to face their foe. The game was a hard fought contest, and even though the Bulldogs were defeated, they carry their heads high with pride in their accomplishments.

These young men show the dedication and leadership that will help them excel throughout their lives. The commitment that they have given to the game of baseball will prepare them for the future; whether on the playing fields, the classrooms, or the work force they will be able to make the best of the situation and come out a winner.

I am proud to be able to represent these fine young individuals in Congress and I am pleased to include for the RECORD the names of all those who helped to make this possible.

Randolph Tinder—superintendent, Gary Gordon—principal, Jim Collins—athletic director, Jay Thompson—head coach, Fred Barnes—assistant coach, Josh Banks, Chris Healy, Mike Cartwright, Terry Tripp, Brian Banks, Brent King, John Cannon, Jon Davis, Joe Beard, Chris Lucas, Chad Brown, Shannon Rider, Brandon Frantz, Ron Boston, Ashley Gott, Matt Clark, Jeremy Guest, Jay Herring, Nicole Cody—bat girl, and Curt Felton—sports editor.

SECTION 936 MUST BE MAINTAINED IN ITS ENTIRETY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. PORTER. Mr. Speaker, the Tax Reform Act of 1986 expands section 936 of the Internal Revenue Code to allow funds realized under this section to be used to finance projects in nations in the Caribbean which have signed a Tax Information Exchange Agreement with the Government of the United States. Since 1986, the Government of Puerto Rico has worked aggressively to make the availability of these funds known and has been rewarded by seeing an increased number of section 936 loans made available to eligible Caribbean nations. The program is proving to be the most viable source of new investment capital in the Caribbean.

I am very concerned, however, that a pending decision by OMB to prohibit the use of Federal guarantees for projects financed by section 936 funds threatens the productive investment of these funds in the Caribbean.

It is clear that Congress intent in the 1986 Tax Reform Act was to expand section 936 to create incentives that would attract needed U.S. investment to the nations of the Caribbean. These small, stable democracies are implementing structural adjustments and economic reforms to prepare their economies to be attractive to new investment.

What was not realized in 1986 was that difficulties would be encountered because of the perception of credit risk in the Caribbean. The commerical financial institutions that control the deposits of United States companies that do business in Puerto Rico are often unwilling to lend funds outside of Puerto Rico. As a consequence, credit enhancement in the form of an investment guarantee is generally required for nations to receive section 936 loans.

The Overseas Private Investment Corporation [OPIC] has been an innovative conributor to the solution of this problem. OPIC currently provides investment guarantees for section 936 loans in the Caribbean.

Unfortunately, recent actions indicate that the Federal Credit Working Group will recommend the issuance of a directive under OMB circular A–70 that would prohibit OPIC from extending guarantees to projects financed with section 936 funds.

Any action that would impede the effort to secure OPIC credit enhancement for section 936 loans to ventures in qualifying Caribbean nations will severely undermine section 936's ability to act as a catalyst for economic growth and development in the Caribbean and clearly go against congressional intent as expressed in the Tax Reform Act of 1986. I strongly oppose such an action and I urge the administration to oppose any effort to disallow the use of OPIC guarantees in conjunction with section 936 loans.

A CONGRESSIONAL SALUTE TO TAY YOSHITANI

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. ANDERSON. Mr. Speaker, today I rise to pay tribute to a man who has served his community with great distinction. I would like to take this opportunity to acknowledge the outstanding achievements of Mr. Tay Yoshitani.

Currently the deputy executive director, maritime affairs, for the Port of Los Angeles, Mr. Yoshitani has enjoyed a successful career in the business world. In addition to his professional career, Tay has also had an impressive record of service for his country and community.

In 1968, Mr. Yoshitani graduated with a bachelor of science degree from the U.S. Military Academy at West Point, and spent the next year training at the Airborne and Ranger schools at Fort Benning, GA. The next 3 years were spent as a captain/executive officer with Company B of the 46th Engineering Battalion stationed in Xuan Loc, Vietnam. Following his tours in Vietnam, Tay served from 1970 to 1973 as a captain/aide-de-camp to the commanding general of the U.S. Army in Japan. With the conclusion of his military service, Mr. Yoshitani continued his education, earning a master of business administration from Harvard University in 1975.

For 3 years after graduation, he was employed in a management-level position in the San Francisco and Honolulu offices of the Hawaii-based Castle & Cook Inc. From there Tay spent 3 years as vice president of Gamlon Corp., a real estate firm located in Honolulu. In 1982, he began his 5-year stint with the Avery International. After serving as the director of finance, director of planning and development, Mr. Yoshitani became the general manager responsible for the design and manufacture of label application systems. Prior to his 1989 appointment to the Port of Los Angeles, Tay was president of Grand America Inc., a real estate acquisition, development, and management firm based in Santa Monica, CA.

Mr. Yoshitani's involvement in community affairs is also impressive. He currently holds memberships in the West Point Association of Southern California, and the Harvard Club of Los Angeles. He also serves on the board of governors for the Japan-America Society and the Los Angeles-Long Beach chapter of the Propeller Club of the United States.

On June 24 of this year, Mr. Yoshitani is being honored by the Los Angeles and Long Beach Area Councils of the Boy Scouts of America with the Shipping and Transportation Industry Good Scout Award. The entire community takes great pride in joining with Tay's wife, Becky, and their children, Jennifer and Kristen, in extending congratulations on the receipt of this prestigious award.

Mr. Speaker, my wife, Lee, joins me in offering this congressional salute to Tay Yoshitani. We wish him all the best in the years to come.

CONGRATULATIONS TO CENTRALIA HIGH SCHOOL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 19, 1991

Mr. POSHARD. Mr. Speaker, I rise today to congratulate a very special high school in my district. Centralia High School has many things to be proud of and paramount among these is the fact that its student council has been able to organize the most highly successful one day blood drive in the entire United States, collecting 444 pints in just 6 hours.

Through the superb leadership of Mr. Jack Shelton, the C.H.S. student council has been able to enlist the support of not only the student body, but also the staff, parents, and the general public, in an effort to help with the vital task of maintaining an adequate blood supply in their area.

Centralia High School was recently given the most prestigious award granted by the American Association of Blood Banks. The Award of Merit for Distinguished Service in Advancing Public Understanding of Blood Banking was presented at a ceremony in Los Angeles and it is indeed a praiseworthy accomplishment.

By showing the public the necessity of maintaining an ample supply of blood, the C.H.S. student council emphasized the awesome demands on the blood supply in America. Since the student council began having blood drives in 1982 it has accounted for almost 3,000 pints of blood for the Missouri/Illinois Regional Blood Services/American Red Cross. This is an astonishing amount and the dedication that the student council has shown proves that these young people are truly committed to the cause of helping others. Former student council president Bobby Smith said of the school's success, "There is nothing quite like it." He is correct in that statement because there truly is no finer feeling than knowing you may have helped someone overcome illness, or perhaps even save a life.

Throughout the years C.H.S. has proven that it truly is a valuable member in the Red Cross Life Saving Team and I am proud to be able to represent all those who help to make Centralia High School such a special place.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 20, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 21

9:00 a.m.

Armed Services

Readiness, Sustainability and Support Subcommittee

To hold hearings on S. 1066, authorizing funds for fiscal years 1992 and 1993 for the Department of Defense, focusing on the Defense Environmental Restoration Account and the service environmental compliance funds accounts.

SR-222

Banking, Housing, and Urban Affairs

To hold hearings on streamlining the Resolution Trust Corporation.

SD-538

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study on S. 884, to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing, and related issues.

SR-253

JUNE 24

2:30 p.m.

Judiciary

Immigration and Refugee Affairs Subcommittee

To hold hearings to review the operation and programs of the Immigration and Naturalization Service, Department of Justice.

SD-226

JUNE 25

9:30 a.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on S. 1269, to require the Secretary of Energy to expedite the development of hydrogen derived from renewable energy sources as an alternative energy system for residential, industrial, utility, and motor vehicle use.

SD-366

10:00 a.m.

Appropriations

Treasury, Postal Service, General Government Subcommittee

Business meeting, to mark up provisions of H.R. 2622, making appropriations for fiscal year 1992 for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies.

SD-116

Banking, Housing, and Urban Affairs

International Finance and Monetary Policy Subcommittee

To hold hearings on provisions of S. 819, to amend the Bretton Woods Agreements Act to authorize consent to and authorize funds for an increase in the United States quota in the International Monetary Fund, and to authorize acceptance of the proposed amendments to the Fund's Articles of Agreement.

SD-538

Judiciary

Juvenile Justice Subcommittee

To hold hearings to examine minority representation in the juvenile justice system.

SD-226

2:00 p.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings to review revenues from additional radio spectrum allocations.

SR-253

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

2:30 p.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold oversight hearings on implementation of the grain quality title of the 1990 farm bill (P.L. 101-624).

SR-332

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1992 for foreign assistance programs.

SD-138

Foreign Relations

To hold hearings on the nominations of Mary Ann Casey, of Colorado, to be Ambassador to the Democratic and Popular Republic of Algeria, John Thomas McCarthy, of New York, to be Ambassador to the Republic of Tunisia, Robert H. Pelletreau, Jr., of Connecticut, to be Ambassador to the Arab Republic of Egypt, and Nicholas Platt, of the District of Columbia, to be Ambassador to the Islamic Republic of Pakistan.

SD-419

JUNE 26

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD-342

Veterans' Affairs

Business meeting, to mark up pending calendar business.

SR-418

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the semi-annual report of the Oversight Board of the Resolution Trust Corporation.

SD-538

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on S. 473, to revise the Lanham Trademark Act of 1946 to protect the service marks of professional amateur sports organizations from misappropriation by State lotteries, and S. 474, to prohibit a State from participating in betting, gambling, or wagering schemes based on any game connected to any professional or amateur sports organization.

SD-226

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. 362, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama.

SR-485

JUNE 27

10:00 a.m.

Foreign Relations

To hold hearings to examine U.S. relations with China.

SD-419

Judiciary

Business meeting, to consider pending calendar business.

SD-226

2:00 p.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings on S. 979, to provide for strong Department of Energy support of research and development of technologies identified in the National Critical Technologies Report as critical to U.S. economic prosperity and national security.

SD-366

JULY 9

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold oversight hearings on implementation of the research title of the 1990 farm bill (P.L. 101-624).

SR-332

2:00 p.m.

Select on Indian Affairs

Business meeting, to markup S. 668, to authorize consolidated grants to Indian tribes to regulate environmental grants to Indian tribes to regulate environmental quality on Indian reservations; to be followed by an oversight hearing on the Navajo-Hopi relocation program.

SR-485

JULY 10

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 471, to protect consumers by regulating certain providers of 900 telephone services, and S. 1166, to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call.

SR-253

2:00 p.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings to examine national tourism policy.

SR-253

JULY 11

9:30 a.m.

Select on Indian Affairs

To hold oversight hearings on employment on Indian reservations.

SR-485

JULY 15

2:00 p.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings to review the Department of Energy's role in math and science education.

SD-366

JULY 16

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for rail safety programs.

SR-253

JULY 17

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.

SR-485

JULY 23

9:30 a.m.

Rules and Administration

To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.

SR-301

2:00 p.m.

Energy and Natural Resources

To hold hearings on Senate Joint Resolutions 22 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.

SD-366

JULY 24

9:30 a.m.

Joint Printing

To resume hearings to examine the technological future of the Government Printing Office.

B-318 Rayburn Building

CANCELLATIONS

JUNE 20

9:00 a.m.

Select on Indian Affairs

To hold oversight hearings on the Navajo-Hopi relocation program.

SR-485

POSTPONEMENTS

JUNE 20

10:00 a.m.

Foreign Relations

To hold hearings on the nomination of J. Stapleton Roy, of Pennsylvania, to be Ambassador to the People's Republic of China.

SD-419

HOUSE OF REPRESENTATIVES—*Thursday, June 20, 1991*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May our words, O gracious God, be acceptable in Your sight and be instruments of truth and good will and understanding. As we communicate our feelings and attitudes toward each other, may we be reminded how significant words can be and how they reflect our beliefs and all we hold dear. May the words of our lips and the meditations of our hearts be acceptable in Your sight, O God, our strength and our redeemer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Colorado [Mrs. SCHROEDER] please come forward and lead the House in the Pledge of Allegiance.

Mrs. SCHROEDER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANOTHER WEST VIRGINIAN WITH NO ACCESS TO HEALTH CARE

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, as part of my weekly program of introducing West Virginians who cannot get access to health care, I introduce my colleagues to Victoria from Dunbar, WV. She was born prematurely, weighing 2 pounds, 2 ounces. Victoria was born with cerebral palsy. Her mother had to give custody of Victoria to Victoria's grandparents so that her grandfather's health insurance could pay for all of Victoria's hospital expenses. The hospital bill came to $90,000. Happily, the grandfather's insurance policy paid for it.

Mr. Speaker, Victoria's father graduated from West Virginia University with a degree in electrical engineering and recently got a new job, but unfortunately his employer's insurance carrier will not cover preexisting illness, so Victoria is not covered by this insurance. She does qualify for a supplemental security income card, but many pediatricians will not accept it.

Mr. Speaker, Victoria is now 5 years old and striving to be independent, but, Mr. Speaker, parents should not have to give up custody of their children in order to get medical help. If the President will not propose health care legislation for all, then Congress is going to have to do it, and soon.

GREEN BAY WELCOMES HOME 432D CIVIL AFFAIRS ARMY RESERVE UNIT

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, today the city of Green Bay welcomes home the 432d Civil Affairs Army Reserve Unit from the gulf.

Mr. Speaker, the brave men and women of the 432d were the first civil affairs unit deployed in the gulf, and they were the first civil affairs unit to enter Kuwait City during Desert Storm. Once there they restored power and water service and organized food delivery to that battle-torn city and to its weary population.

However, Mr. Speaker, the task of the 432d did not end there. As word of the unspeakable Iraqi atrocities against the Kurdish people spread through the region, America once again came to the rescue, and the 432d led the way into the cold, mountainous landscape of eastern Turkey and northern Iraq to rescue thousands of refugees.

Scrapping plans that would have brought the 432d home in May, the reservists instead tackled the assignment to save the Kurds. Every day was crucial to these people, and the 432d did a masterful job in delivering medical supplies and food to the Kurdish people. Today, millions of Kurds owe their lives to the men and women of the 432d and other units that assisted in the general relief.

Mr. Speaker, I am deeply honored to represent in this Congress the brave men and women of the 432d, and we welcome them home with open arms today.

ELDERLY AMERICANS FACING CRISIS IN ACCESS TO AFFORDABLE HEALTH CARE

(Mr. REED asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REED. Mr. Speaker, Congress recognized that elderly Americans face a crisis in access to affordable health care. In 1988, Congress moved to ease the burden for low-income elderly by recognizing that Medicaid should pay the Medicare premiums and out-of-pocket expenses of the elderly living in poverty.

But a law is no good unless people know about it. And, this law has been little good because no serious attempt was made by the administration to inform the elderly.

There are an estimated 4.2 million elderly people living in poverty whose Medicare payments should be covered by Medicaid and more than half of them do not know about this program.

The head of the Health Care Financing Administration said that she would ask private groups to help notify these people of the benefits available to them. But why are HCFA and the Social Security Administration not taking a more active role?

Why should we rely on voluntary efforts by private advocacy groups to tell people about a program to which they are entitled?

We have a health care crisis in this country. And this is an example of elderly people who most need health care benefits being denied help to which they are entitled because the Government has not taken the initiative to tell them.

In order to apply for these benefits, the elderly have to go to a welfare office. Even though in 30 States the Social Security office will accept general Medicaid applications, SSA will neither accept nor make available applications for this benefit in their offices.

If the Social Security Administration is really sincere about wanting to help people get these benefits, why won't they even let people apply for the benefits in their offices?

Mr. Speaker, this is only a small piece of the health care puzzle, but there's no reason not to solve this problem right away. I hope that HCFA and the Social Security Administration will work with us to get the word out to 2 million people as soon as possible.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

THE IMPORTANCE OF THE WOMEN'S HEALTH EQUITY ACT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, last week many of the women in Congress had a press conference talking about how important it was for women to have a mammogram, that breast cancer was really becoming an epidemic in this country.

One of our colleagues who has been a very, very active member of the caucus, the gentlewoman from Tennessee [Mrs. LLOYD] was there holding a banner and gave an impassioned speech. She remembered, as she went home, that it had been about a year since she had a mammogram.

So, Mr. Speaker, she went home to Tennessee, and had a mammogram, and unfortunately a malignancy was found. She is now resting in a hospital, and the Congresswomen have sent cookies to the staff taking care of her, and we await eagerly her return.

However, Mr. Speaker, this tells how this can strike anywhere, and it can strike any woman. I hope every woman out there is getting their regular mammograms. We must get the Federal Government into these areas. Women's health has been treated recklessly for so long by the Federal Government, and the congressional caucus on women's issues is very dedicated to trying to change that so that the women's health agenda is dealt with equally by the end of this decade.

My colleagues, please join us in passing the Women's Health Equity Act. It is time.

ESCOBAR RUNNING DOPE BUSINESS FROM HOTEL HILTON PRISON

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Pablo Escobar, the cocaine king of Colombia, is in jail. It is called the Hilton Prison. He has a jacuzzi, air-conditioning, a guest room, and everybody, supposedly, all excited.

Now just listen to this: After Escobar killed over 300 judges and politicians, the Colombian Government caved in. They passed a law that says no more extradition of drug punks to America, and that is just what Escobar wanted.

My colleagues, Pablo Escobar did not surrender. The Colombian Government surrendered. The Colombian Government has lost the war against cocaine, and it is time for Congress to tell Colombia, as a government, that they really have to be part of the solution or they will be treated as part of the problem. It is time for the death penalty for drug kingpins, and let me say one thing. He is not in jail. He is on vacation running the dope business from Hotel Hilton Prison.

□ 1010

ADMINISTRATORS OF EPA SUPERFUND LETTING AMERICA DOWN

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, during the past decade Congress passed a law called Superfund, to provide for the cleanup of hazardous and toxic waste sites in the United States. Over 1,000 sites, located all over the country, are on a special list called the national priority list, the worst environmental sites in America, for special cleanup.

Taxes are being levied on the chemical and petroleum industry to pay for these sites, and, in addition, moneys coming out of the general fund to help pay for the cleanup. Billions have been raised and spent.

How many sites have been fully and completely cleaned up? Zero sites have been fully and completely cleaned up. Less than 2 percent had even substantial cleanup.

Is the environment cleaner because of this? No. Virtually no sites have been cleaned up, and, unbelievably, hundreds of millions of dollars have been spent by the EPA on consultants, management firms, and engineers.

After a decade, all this money is going out, and there is no cleanup. It is so frustrating.

I do not know if we have another HUD scandal, why are so many dollars being spent on consultants and so little for housing, or another savings and loan scandal, where the money is going to developers and lawyers. But the administrators of this program are letting us down. It is one of the biggest boondoggles I have ever seen, and these toxic wastes go uncleaned up.

So I would suggest that the President, the Congress, and the private sector get together immediately and have a meeting, a kind of forum where we constitute what is involved in a baseline solution to this terrible Superfund problem.

CHANGES IN THE SOVIET UNION

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, for the first time in over 2,000 years we have seen an election take place in the Russian Republic, and the fact this election has taken place has clearly impressed all of us. But we have all been equally impressed by the fact that the winner of that election, the new President of Russia, Boris Yeltsin, has descended on Washington, DC.

Mr. Speaker, we saw him on Nightline the other night give a very impressive presentation. Many of us had the opportunity to meet with him here in the Congress yesterday. Last night he addressed a dinner at the Center for Democracy.

Mr. Yeltsin has made a number of very impressive statements, which every Member of this House should be aware of. He has talked about the fact that the recognition of the Baltic States is a priority, and then, last night, he said that as long as Mikhail Gorbachev stands for democracy and reform, he stands with Gorbachev.

Mr. Speaker, it is very apparent that this very, very unprecedented action is something we need to herald, and, as we look at the 15 republics of the Soviet Union, it is clear that dramatic change is taking place, and is taking place because of the leadership which we in the United States of America have shown over the past several decades.

WELCOME TO THE DELEGATION OF EUROPEAN PARLIAMENT

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, it is a great privilege and honor for me today to welcome the delegation of the European Parliament to Washington and to my home State of New Hampshire, where this year's summer meeting will take place this weekend.

The European Parliament, a body with over 500 members, has forged new alliances that link the countries of Western Europe together with common goals and a commitment to peace and economic progress. The completion of economic integration in 1992 will mark a historic step toward a united Europe.

This year's meeting in Hanover, NH, will be the first in New England since the European Community's inception. Not since the historic Bretton Wood's Conference of 1944, which laid the foundation for the post-Second World War economic order, has such a significant international meeting taken place in the Granite State.

Mr. Speaker, I invite my colleagues to join me and the people of New Hampshire in welcoming the European Parliament delegation.

COMMUNITY RIGHT-TO-KNOW MORE BILL

(Mr. SIKORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKORSKI. Mr. Speaker, I rise today to applaud a magazine ad by the Chemical Manufacturers Association.

It reads: "You're driving by that chemical plant, just like you do every day, when one of your kids asks you what they make in there and you answer that you're not really sure and it occurs to you that you probably should be." It says: "We want you to know."

This open door policy is great—I commend them. I only wish CMA had been there in the first place. In 1985, my community right-to-know amendment won by a single vote on this floor. The administration fought it. The chemical companies fought it. And 210 of my own colleagues fought it.

They said it was radical. They said it would cost money. It was unworkable, unfair, un-American. Now EPA touts it. Wall Street embraces it. And big companies report they are saving millions of dollars as they cut chemical use.

Rave reviews for community right to know. But hundreds of toxic chemicals don't have to be reported at all. And many major polluters are not even covered. Federal facilities pollute big—without having to report a drop.

In 1985 we established the public's right to know. Now we must take the next step and recognize the public's right to know more. Next week I will introduce the community right-to-know more bill—and the CMA will have a chance to support it and live up to this very commendable ad.

ANNUAL MEETING OF U.S. CONGRESS AND EUROPEAN PARLIAMENT

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, as the distinguished gentleman from New Hampshire [Mr. SWETT] indicated a few moments ago, a historic event is about to take place in New Hampshire, the annual meeting of the United States Congress and European Parliament. This meeting is taking place at a unique moment in history.

Yesterday we welcomed the first democratically elected President of Russia in history. Yesterday, after 46 years of occupation, the last Soviet troops pulled out of Hungary, and we are left with the transatlantic axis as the basis of peace and prosperity on the face of this planet.

Mr. Speaker, it is critical that our European friends and allies understand that we not only have an enormous opportunity of leading this globe into an era of peace and prosperity, but they have a responsibility of sharing with us all of the burdens of this enormous enterprise.

The Soviet system is bankrupt. It is up to all of us in the democratic world to demonstrate that there is a new renaissance in the democratic countries of the world. The New Hampshire conference will be a milestone in carrying us down that road.

ISRAELI SETTLEMENTS IN THE WEST BANK AND GAZA DO NOT ADVANCE THE PEACE PROCESS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, yesterday I voted for the Bryant amendment. The Bryant amendment would have escrowed something around 2 percent of the $3 billion which under the foreign aid bill goes to the State of Israel, until Israel's policy of expanding settlements into the occupied territories has ended.

Mr. Speaker, I need not tell anyone here how tough that vote was, both because of the ardent lobbying on both sides of the issue, but also because no one of us wants to do anything which will show any lack of love and affection for Israel, nor any reduction of our commitment to its continued existence in safe and secure borders.

But we must keep this in mind: the Likud-Shamir government is not Israel, any more than the Bush-Republican government is the United States. If my President is wrong, despite the pain and torment, I have to vote against him. When the Government of Israel in my judgment is wrong, I must vote against it.

Though the Bryant amendment did not pass yesterday, I think it does show, Mr. Speaker, many Members feel that Israel's policy of continued territorial expansion, which is an impediment to peace, must stop, and must stop immediately.

INCOME-DEPENDENT EDUCATION ASSISTANCE ACT

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, a short time ago I proposed my Income-Dependent Education Assistance Act—known as IDEA for short.

For both students and taxpayers, the IDEA Program would be a better deal than current student loan programs.

There are four sources of savings in IDEA that correspond to four sources of waste in current student loan programs.

First, the IDEA Program would virtually eliminate defaults.

Under IDEA, the rate at which you repay your loan would vary with your income. If your income increases, you pay faster. If it drops, your loan is automatically stretched out. So IDEA loans would always be affordable. There would be no reason to default.

Further, the loan repayments would be defined as income taxes. Evading repayment would be tax evasion. So there would be no opportunity to default.

Second, the cost of loan capital under IDEA would be lower. This is because IDEA would use direct Government capital rather than bank capital, which, under current programs, comes with a politically negotiated high interest rate.

Third, loan subsidies under the IDEA Program would be targeted precisely to those who need them and to the extent of their need. These subsidies would be balanced by premium payments from high income graduates.

Fourth, and finally, IDEA would be much simpler to administer, with no family needs analyses at the beginning, and then collection by the IRS as a part of income taxes.

Mr. Speaker, I am seeking cosponsorships, and those interested can find more information on IDEA on page E-1792 of the May 16 CONGRESSIONAL RECORD.

□ 1020

UNITED STATES SHOULD SPEND MORE MONEY AT HOME

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, yesterday we voted nearly $14 to $15 billion in foreign aid for other countries. Our older communities in this country, of which I have a lot of them, are deteriorating. They are going bankrupt. The roads are breaking up and decaying. Sewer- and waterlines are breaking up.

We are losing industries and jobs to other nations. We are running a $300 billion a year deficit. We have got almost $4 trillion in total deficit. We are paying out $200 billion each year just in interest. And yet we are sending $15 billion to other countries of the world.

Mr. Speaker, where are our priorities? Americans are not going to wait too much longer if we do not support our own American workers. They are going to take themselves off of the endangered species list and they are going to put Congress on. I think my colleagues better start thinking about that right now.

PRAISE FOR COLOMBIAN PEOPLE IN PROSECUTING DRUG WAR

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, the jury is still out on all the ramifications of the surrender of Pablo Escobar, leader of the Medellin drug cartel, to Colombian authorities, but one thing is certain: The fourth and final founder of the cartel is in the hands of the Colombian justice system. Of the others, one is in prison in the United States, one was killed by Colombian police, and the third is also in a Colombian prison. I believe this event is a milestone in the international war on narco-traffickers.

There was a great deal of speculation leading up to the surrender of Escobar, and much of it focused on the concern that Escobar's prison accommodations might be overly comfortable and it might be possible for him to continue to direct the cartel from his cell. For the time being, however, I think we should accept the assurances of the Colombian Ambassador and President Gaviria that the prison is secure, that Mr. Escobar's every communication and visit will be monitored, and that if he—or any other narco-trafficker—is found to be conducting any illegal activities from the penitentiary, they will lose the benefits of their plea bargains.

At this time, I believe it is most important that we applaud the determination and the courage of the Colombian people in prosecuting this war. No people have sacrificed more in the effort than the Colombians. And the capture of perhaps the biggest drug baron in the world deserves our recognition and strong praise.

DRUG DEALERS SHOULD BE EXTRADITED

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, today we receive two disturbing reports which indicate that the war on drugs has yet to win a battle. The Bush administration reports that Americans spent $40 billion last year on illegal narcotics, a figure experts say may be as high as $100 billion. We are not yet seriously addressing the drug plague within our borders: tens of billions spent to consume drugs, and we still can't offer sufficient treatment, can't keep our schools safe, and can't stop the crime that drug addiction fuels.

At the same time, we learn that we will have less help from beyond our borders as well. Yesterday the world's leading drug dealer, Colombia's Pablo Escobar, surrendered. But will he be extradited to the United States to face his 10 indictments for drug trafficking and murder? No. Hours before he surrendered, the Colombia Assembly voted to ban extradition. That sends a message to the rest of the cocaine cartels that they too can avoid real justice in the United States, where judges don't get assassinated and prisoners don't escape.

Meanwhile, Escobar heads to his own private prison, specially prepared by him as Medellin's only five-star hotel. In his leisure time, he might phone over to the Ochoa brothers, who surrendered earlier this year to a similar resort-style jail, from which they continue to operate their drug cartel. Is the Colombian Government throwing in the towel in its courageous battle against the drug cartels? Have the U.S. Federal agents and the hundreds of Colombian officials who have lost their lives in this struggle died in vain? We must urge the Colombian Government in the strongest possible terms to defeat the drug cartels, or to extradite the drug dealers here where we can do the job.

PRAISE FOR LOUISIANA LEGISLATURE

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, I am proud to note here today that my State of Louisiana has now passed the strictest antiabortion law in the Nation. This historic bill was passed over the veto of Gov. Buddy Roemer. It is the first time this century that a Louisiana Governor has been overridden. I am very pleased that Louisiana has taken the lead on resolving the issue on behalf of the innocent unborn.

With this action, the Louisiana Legislature has made a clear statement: we are moving slowly, but favor the permanent protection of unborn children.

TRIBUTE TO MAJ. CARL T. KIRKLAND

(Mr. RAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAY. Mr. Speaker, we have recently recognized, and rightly so, the Desert Storm veterans in their outstanding and brilliant success. We must not, however, forget those who are America's first line of defense, our local law-enforcement officers.

I am pleased today to recognize one of those heroes.

Mark Sullivan, a journalist and historian, once wrote that:

> To find a career to which one is adapted by nature and then to work hard at it is about as near to a formula for success and happiness as the world provides.

It is my pleasure to honor and salute a person who achieved that formula for succes and happiness. His name is Carl T. Kirkland, a major in the Columbus, GA, police force who recently retired after 41 years on the Columbus, GA, police force.

Published reports indicate that he retired after 41 years, the longest career in Columbus police history.

His superior, Chief of Police W.J. Wetherington, took note of his meritorious career when he wrote:

> You have always represented the department in a most professional manner and you are going to be missed.

The chief of police added:

> I can honestly say that your performance has been outstanding. No chief could ask for more than what you have given the department. You have always been on top of every situation in your area of responsibility and always kept me informed on the critical issues. I really have appreciated that.

Our community is not going to lose all of Mr. Kirkland's many talents. For the past 10 years he has enjoyed a sideline of teaching criminal justice courses at Troy State University—Fort Benning.

He plans to continue teaching, bringing to his students a world of experience, backed by his own formula for success and happiness.

RECYCLING EFFORTS IN THE CITY OF OLYMPIA, WA

(Mrs. UNSOELD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. UNSOELD. Mr. Speaker, I am honored to acknowledge the city of Olympia as the Grand Award Winner in the small city category of the National Recycling Awards Program. The award was presented to the capital city of Washington State at the 59th annual meeting of the U.S. Conference of Mayors on June 16 in San Diego. The award carries with it a $20,000 grant to be used for recycling education and participation efforts. Olympia deserves the right to carry the title "America's Recycling City."

I commend the cooperative efforts of city planners, the business community, and Olympia's citizens in developing and implementing an innovative, world-class comprehensive recycling program. The leadership shown by this great American city should serve as a successful case study to help promote and encourage recycling in other cities. My congratulations and thanks to Olympia. Their efforts to conquer the solid waste problem are much appreciated.

Olympia was among the first cities in Washington to implement curbside collection with a program that recycles newsprint, glass, aluminum, tin/steel cans, yard waste, tires, and large items such as furniture and metal appliances.

More than 85 percent of eligible single-family households and small multifamily dwellings participate. Residents who recycle receive a 20-percent discount on their waste disposal bill during participation months. An innovative program designed to reduce collection costs, called Dirt Works, allows residents to examine 15 different backyard composting systems and demonstration gardens utilizing compost.

More than 2,600 tons of materials—25 percent of the total residential waste stream—were diverted from landfills in 1990, enabling the city to avoid more than $132,000 in landfill fees.

Olympia even has a recycling superhero, Captain Waste-Not. Captain Waste-Not has helped to implement a comprehensive educational program including presentations to schools and community groups, direct mail, and newsletters. The Worms in Schools Program teaches young students about natural cycles, decomposition, and recycling through composting of food snack waste and demonstrations.

Olympia's integrated waste management system includes a citizens advisory committee, a comprehensive waste management plan, and waste composition studies to measure the effectiveness of recycling programs and their influence on the solid waste stream. The city works with local businesses and associations to implement joint public/private collection, processing, and marketing of commercial recyclables. Recyclable materials are also processed and marketed by Exceptional Forresters, Inc., a nonprofit organization employing developmentally disabled adults.

Olympia enacted a city ordinance in 1990 to require city offices, contractors, and consultants to purchase reusable and recycled materials whenever possible and practical. Almost all paper used by the city is made from recycled material. In addition, Olympia has adopted a comprehensive, 5-year solid waste collection and recycling plan designed to achieve a long-term goal of 50-percent recycling.

The city of Olympia was chosen based on criteria such as the level of coordination of recycling programs with integrated solid waste management, the quality and diversity of public education programs, the degree of innovation in recycling program design, the political leadership in promoting and overcoming barriers to recycling, and the degree of participation in local buy recycled programs.

Along with Olympia, the U.S. Conference of Mayors and the H.J. Heinz Co. Foundation cited additional programs in other cities for outstanding performance in a particular facet of recycling. The State of Washington can be justly proud of the cities of Seattle and Bellingham, for their respective contributions to recycling leadership and innovation, and outreach and education programs.

AMENDING THE METROPOLITAN WASHINGTON AIRPORTS ACT OF 1986

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, today I am pleased to introduce legislation to amend the Metropolitan Washington Airports Act of 1986, which has been overturned by a Supreme Court ruling. Under the 1986 Airports Act, Congress transferred control of National and Dulles Airports from the Federal Aviation Administration [FAA] to a local authority, the Metropolitan Washington Airports Authority [MWAA]. When the Supreme Court decided that the Congressional Board of Review's veto power over major actions by MWAA was unconstitutional, it also dissolved the authority of MWAA. Consequently, we, in Congress, must act quickly and pass legislation to allow National and Dulles Airports to continue to operate.

My legislation would create a new airport authority governed by a board of directors made up of 11 members who would meet certain criteria: They must hold elective office at the local or State level; they must live in the area affected by the airports; and they cannot be paid for their services on the board.

Under my bill, Congress would continue to oversee operations at National and Dulles through the legislative process. All actions by the board of directors would be submitted to the House Committee on Public Works and Transportation and the Senate Committee on Commerce, Science, and Transportation 30 days before they would take effect. Congress could adopt, repeal, or amend any proposal by the board, from the authorization of the issuance of bonds to the adoption of a budget or a master plan.

The members of the board of directors would be appointed: One by the Governor of Virginia, one by the Mayor of the District of Columbia, one by the Governor of Maryland, two each by the representatives from the local governments of Virginia, Maryland, and the District of Columbia who sit on the Metropolitan Washington Council of Governments [COG] board of directors, and two by the Virginia State Legislature.

An airport authority made up of local elected officials, under the watchful eye of Congress, would work hard to foster regulations that are fair and in the best interest of both the airlines and the public. An authority that is responsive to local concerns will help the aviation industry remain a good neighbor to the communities that it serves. I hope all of my colleagues will join me in support of this necessary legislation.

☐ 1030

ARMY OWES CONGRESS AND AMERICAN PEOPLE A FULL ACCOUNTING

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ABERCROMBIE. Mr. Speaker, Kuwaiti liberty was supposed to have been the reason for committing our Armed Forces in the gulf.

But many of us here are concerned about reports from Kuwait of kangaroo courts, death squads, mass graves, and life sentences imposed for the crime of having been forced at gun point by Iraqi occupiers to sing songs in praise of Saddam Hussein.

These human rights abuses are being conducted in the name of royal rulers whose authority depends—and depends absolutely—on the force of American arms.

That is why I am outraged by a report in this morning's Washington Post. It states that four civilian Filipino women employees of the U.S. Army in Kuwait were beaten and raped by Kuwaiti policemen.

Their crime? They had the bad luck to return to their apartment as it was being looted by those same agents of law and order.

Worse, Mr. Speaker, U.S. Army officers are apparently trying to cover up the incident by confiscating the pass of a reporter trying to cover the story.

Is this what we committed the might and prestige of the United States for? Murder, robbery, rape? And now, the capstone of shame, U.S. Army complicity in suppressing the truth?

The Army owes the Congress and the American people a full accounting, and I for one intend to press for one.

[From the Washington Post, June 20, 1991]

U.S. ARMY WORKERS BEATEN IN KUWAIT: FOUR FILIPINO WOMEN HELD BY POLICE FOR WEEK, AMBASSADOR IS TOLD

(By John Arundel)

KUWAIT CITY, June 19.—The U.S. Army has notified the American ambassador here of the beating by Kuwaiti policemen of four Filipino women who worked at an American military base in Kuwait, an Army spokesman said today.

The four Filipinos, who worked as cooks and food servers at the now-closed Camp Freedom, told Army security officials that they were detained for seven days at a police station, where they were repeatedly beaten, Army Lt. Col. Douglas Coffey said.

"They . . . showed us large bruises on their legs and arms," Coffey said. "We took their stories and asked them to substantiate them with a witness, which they did. We passed our report on to the ambassador."

One of the women said in an interview that she had been raped by policemen during their detention. Two of the three women interviewed denied being raped but revealed cuts and bruises on their arms, chests, legs and stomachs from the beatings.

But Spec. Robert Osman of Palm Springs, Calif., an acquaintance of the four, said some of the other women told him that they also have been raped by policemen. Osman, who is an Army broadcaster, and another soldier, who asked not to be identified, said they were reprimanded by their commanding officers for talking to a reporter about the alleged rapes.

Capt. Terence Ryan of the Army's Criminal Investigation Division, when asked today about the charges, took away this reporter's pass and escorted him out of the Army's headquarters building.

Osman and the other soldier said they went out with the four women the night of

June 6, then dropped them off at their home in Farwiniyah, a poor neighborhood where many Palestinians and Filipinos live.

As the women entered the fourth-floor apartment, according to their accounts, they found Kuwaiti policemen rifling their belongings. They were arrested, handcuffed and taken to a nearby police station, they said.

"They put money and gold jewelry in our pockets on our way there," one of the women said. "They wanted to make it look like we took something. When we got to the station they told [their senior officers] they caught us stealing and took the jewelry out to show them. That's when they took us into a room and started beating us."

The women said Kuwaiti police commanders have called their home twice to apologize for the incident.

"They didn't know we [also] worked at the Army base," one of the women said. "They said it was a misunderstanding and we will not be charged with stealing."

U.S. Embassy spokeswoman Jane Gaffney had no comment on the report.

INTERNATIONAL COOPERATION ACT OF 1991

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2508.

□ 1031

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, with Mr. McDERMOTT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, June 19, 1991, title X had been designated and was open for amendment at any point.

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just simply wanted to apprise our colleagues of where we are here.

As the Chair has said, we are at title X. The first amendment, I gather, will be the amendment offered by the gentleman from Nebraska [Mr. BEREUTER]. There is no objection to the Bereuter amendment. We have seen it, and we are prepared to accept it. The next amendment will be the Burton amendment, and I have been advised that there will be a rollcall vote on both those amendments.

We would ask the Chair to roll those votes, cluster the votes. We are then in position to designate title XI. There are no amendments to title XI, Mr. Chairman, and that would finish the bill.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment. It is printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER:

Page 705, after line 13, insert the following new chapter 4 and redesignate existing chapter 4 of title X (and sections thereof) accordingly:

CHAPTER 4—HORN OF AFRICA RECOVERY AND FOOD SECURITY

SEC. 1061. FINDINGS.

The Congress makes the following findings:

(1) The Horn of Africa (the region comprised of Ethiopia, Somalia, Sudan, and Djibouti) is characterized by an extraordinary degree of food insecurity as a result of war, famine, mounting debt, recurrent drought, poverty, and agricultural disruption, as well as by gross violations of human rights, political repression, environmental destruction, and the breakdown of such essential services as primary education and health care.

(2) Famine and war have killed an estimated 2,000,000 people in Ethiopia and Sudan since 1985, and generated another 8,000,000 displaced persons and refugees, a number so high as to make millions wards of the United Nations and international community. Relief officials now estimate that another 15,000,000 to 20,000,000 people are threatened by starvation as civil war and drought continue to ravage the area.

(3) Governments and armed opposition groups in Ethiopia, Sudan, and Somalia have been guilty of gross violation of human rights, which further erode food security in those countries.

(4) Countries in the Horn of Africa are among the poorest in the world, yet military expenditures by regimes in the region consumed as much as half of all government revenues, thereby diverting scarce resources from development and basic human needs.

(5) Until recently, United States and Soviet security aid in the Horn of Africa has served short-term Cold War objectives. This and other foreign security aid have exacerbated the conflicts and suffering in the Horn of Africa by contributing to the militarization of the region and entrenching undemocratic regimes.

(6) Assistance from the International Development Association and other international financial institutions have not productively addressed the major causes of hunger and proverty in the Horn of Africa. Neither has the International Monetary Fund been effective at achieving economic reform objectives through lending programs in circumstances of conflict such as have existed in the Horn of Africa in recent years.

(7) Such assistance policies have failed in large part because they did not target assistance to assist the poor majority and did not build upon or support the activities of indigenous and international nongovernmental organizations. Programs to achieve sustainable development and food security must support a grassroots approach which aids the poor majority.

(8) Appropriate assistance should also promote real food security which means access by all people at all times to enough food for an active and healthy life and the availabilty of sufficient income and food to prevent a chronic dependency upon food assistance.

(9) The end of the Cold War rivalries in the Horn of Africa affords the United States the opportunity to develop a policy which addresses the extraordinary food security problem in the region.

(10) Notwithstanding other pressing needs, the United States must accordingly fashion a new foreign policy toward the Horn of Africa and cooperate with other major donors and the United Nations—

(A) to develop an emergency relief plan which meets the immediate basic human needs that arise as long as civil strife and famine afflict the region;

(B) to promote immediately ceasefires, secure relief corridors, and an end to these conflicts; and

(C) to provide creative development assistance which attacks the root causes of famine and war and assists these nations on the path to long-term food security, reconstruction, voluntary repatriation, economic recovery, democracy, and peace.

SEC. 1062. HORN OF AFRICA RELIEF AND REHABILITATION PROGRAM.

(a) EQUITABLE DISTRIBUTION OF RELIEF AND REHABILITATION ASSISTANCE.—It shall be the policy of the United States in promoting equitable distribution of relief and rehabilitation assistance in the Horn of Africa—

(1) to assure noncombatants (particularly refugees and displaced persons) equal and ready access to all food, emergency, and relief assistance and, if relief or relief agreements are blocked by one faction, to continue supplies to the civilian population located in the territory of the opposing faction;

(2) to provide relief, rehabilitation, and recovery assistance to promote self-reliance, such as seeds, tools, water management technology, training, credit, child immunization and other health care, school construction, animal inoculation, and veterinary and medical supplies; and

(3) to assure that relief shall be provided on the basis of need without regard to political affiliation, geographic location, or the ethnic, tribal, or religious identity of the recipient.

(b) MAXIMIZING INTERNATIONAL RELIEF EFFORTS.—It shall be the policy of the United States in seeking to maximize relief efforts for the Horn of Africa—

(1) to redouble its commendable efforts to secure safe corridors of passage for emergency food and relief supplies in affected areas and to expand its support for the growing refugee population;

(2) to commit sufficient Food for Peace resources and Office of Foreign Disaster Assistance resources to meet urgent needs in the region and to utilize unobligated security assistance to bolster these resources; and

(3) to consult with member countries of the European Community, Japan, and other major donors in order to increase overall relief and development assistance for the people of the Horn of Africa.

(c) HORN OF AFRICA CIVIL STRIFE AND FAMINE ASSISTANCE.—

(1) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide assistance under chapter 6 of title I of the Foreign Assistance Act of 1961 (relating to international disaster assistance) for civil strife and famine relief, rehabilitation, and recovery in the Horn of Africa. During the remainder of fiscal year 1991, such assistance may be provided under chapter 9 of part I of that Act.

(2) Description of assistance to be provided.—Assistance pursuant to this subsection shall be provided for humanitarian purposes and shall include—

(A) relief and rehabilitation projects to benefit the poorest people, including (as needed) the furnishing of seeds for planting, fertilizer, pesticides, farm implements, crop storage and preservation supplies, farm animals and vaccine and veterinary services to protect livestock on which people depend; blankets, clothing, and shelter; emergency health care; emergency water and power supplies; and basic education; and

(B) emergency food assistance (primarily wheat, maize, other grains, processed foods and oils) for the needs of the affected and displaced civilian population of the Horn of Africa; and

(C) inland and ocean transport and storage of emergency food assistance, including the provision of trucks and other such measures.

Assistance pursuant to subparagraphs (B) and (C) shall be in addition to any such assistance provided under title II of the Agricultural Trade Development and Assistance Act of 1954.

(3) Use of PVO's for relief, rehabilitation, and recovery projects.—The maximum utilization of United States, international, and indigenous private voluntary organizations prudent to carry out this subsection is urged.

(4) Emergency health projects.—The maximum inclusion of emergency health projects, including efforts to provide primary health care systems, prudent to carry out this subsection is urged.

(5) Basic education projects.—The maximum inclusion of projects to provide basic education, including efforts to support the teaching of displaced children, prudent to carry this subsection is urged.

(6) Management support activities.—Up to two percent of the amount made available each fiscal year under paragraph (7) for use in carrying out this subsection may be used by the Agency for International Development for management support activities associated with the planning, monitoring, and supervision of emergency humanitarian and food assistance for the Horn of Africa pursuant to this subsection and subsection (d).

(7) Transfer of security assistance funds.—To carry out this subsection, the authority of section 6101 of the Foreign Assistance Act of 1961 may be used to transfer unobligated security assistance funds made available for fiscal years 1992 and 1993 for use in carrying out this subsection without regard to the 20-percent increase limitation contained in that section. As used in this paragraph, the term "security assistance funds" means funds available for economic support assistance, foreign military financing assistance, or international military education and training.

(d) Emergency Food Assistance.—The President is urged to use the authorities of title II of the Agricultural Trade Development and Assistance Act of 1961 to provide supplemental emergency food assistance for the various civilian victims of civil strife in the Horn of Africa in accordance with paragraphs (2)(B), (2)(C), and (3) of subsection (c), in addition to the assistance otherwise provided for such purpose.

SEC. 1063. HORN OF AFRICA PEACE INITIATIVE.

(a) Support for Grassroots Participation.—It shall be the policy of the United States in promoting peace and development in the Horn of Africa—

(1) to support expanded pluralistic and popular participation, the process by which all groups of people are empowered to involve themselves directly in creating the structures, policies, and programs to contribute effectively to equitable economic development, and to local, national, and regional peace initiatives;

(2) to ensure that all citizens enjoy the protection of civil, political, economic, social, religious, and cultural rights, an independent judiciary, and representative governmental institutions, regardless of gender, religion, ethnicity, occupation, or association; and

(3) to provide assistance to indigenous nongovernmental institutions working in government-controlled or opposition-controlled territories that have the capacity or potential to promote conflict resolution, to advance development programs, or to carry out relief, which routinely includes rehabilitation activities (as described in section 1062(a)(2)).

(b) Consultations.—The President is encouraged to undertake immediate consultations with the Soviet Union and other nations, with armed and unarmed parties in the Horn of Africa, and with the Secretary General of the United Nations in order to bring about negotiated settlements of the armed conflicts in the region.

(c) Mechanisms.—It is the sense of the Congress that, to best achieve the policy under subsection (a), the President should—

(1) direct the United States representative to the United Nations to—

(A) urge the Secretary General of the United Nations to make cease-fires, safe corridors for emergency relief, and negotiated settlements of the armed conflicts in the Horn of Africa a high and urgent priority;

(B) propose that the United Nations Security Council establish a United Nations arms embargo to end the supply of arms to the region, pending the resolution of civil wars and other armed conflict; and

(C) pledge diplomatic and material resources for enhanced United Nations peacekeeping and peacemaking activities in the region, including monitoring of cease-fires;

(2) play an active and ongoing role in other fora in pressing for negotiated settlements to such conflicts; and

(3) support and participate in regional and international peace consultations that include broad representation from the nations and factions concerned.

SEC. 1064. HORN OF AFRICA FOOD SECURITY AND RECOVERY STRATEGY.

(a) Targeting Assistance To Aid the Poor Majority; Use of PVO's and International Organizations.—

(1) Targeting assistance.—United States developmental assistance for the Horn of Africa should be targeted to aid the poor majority of the people of the region (particularly refugees, women, the urban poor, and small-scale farmers and pastoralists) to the maximum extent practicable. United States Government aid institutions should seek to—

(A) build upon the capabilities and experiences of United States, international, and indigenous private voluntary organizations active in local grassroots relief, rehabilitation, and development efforts;

(B) consult closely with such organizations and significantly incorporate their views into the policymaking process; and

(C) support the expansion and strengthening of their activities without compromising their private and independent nature.

(2) PVO's and International Organizations.—While support from indigenous governments is crucial, sustainable development and food security in the Horn of Africa should be enhanced through the active participation of indigenous private voluntary organizations as well as international private voluntary organizations and international organizations with demonstrated ability to work as partners with local nongovernmental organizations and a commitment to promote local grassroots activities on behalf of long-term development and self-reliance in the Horn of Africa.

(3) Restrictions on assistance to governments.—United States assistance should not be provided to the Government of Ethiopia, the Government of Somalia, and the Government of Sudan until concrete steps toward peace, democracy, and human rights are taken. Meanwhile, programs of developmental assistance should be promoted by supporting United States, indigenous, and international private voluntary organizations working in the afflicted countries. Assistance of this sort must be expanded as quickly as possible.

(b) Examples of Programs.—Assistance pursuant to this section shall include programs to—

(1) reforest and restore degraded natural areas and reestablish resource management programs,

(2) reestablish veterinary services, local crop research, and agricultural development projects,

(3) educate young people outside of their countries if conflict continues, restore primary education, and rebuild schools,

(4) reconstitute and expand the delivery of primary and material health care, and

(5) establish credit, microenterprise, and income generation programs for the poor.

(c) Voluntary Relocation and Repatriation.—Assistance pursuant to this section should also be targeted to the voluntary relocation and voluntary repatriation of displaced persons and refugees, once peace arrives. Assistance pursuant to this chapter may not be made available for any costs associated with any program of involuntary or forced resettlement of persons.

(d) Debt Relief, International Fund for Reconstruction.—Developmental assistance for the Horn of Africa should be carried out in coordination with long-term strategies for debt relief of countries in the region and with emerging efforts to establish an international fund for reconstruction of developing nations which settle civil wars.

(e) Assistance Through PVO's and International Organizations.—Unless a certification has been made with respect to that country under section 1066, assistance for the people of Ethiopia, Somalia, and Sudan pursuant to this section shall be provided only through—

(1) United States, international, and indigenous private voluntary organizations (as defined in section 5101(e)(2) of the Foreign Assistance Act of 1961), or

(2) through international organizations with demonstrated effectiveness in working in partnership with local nongovernmental organizations and a commitment to the promotion of local grassroots activities on behalf of development and self-reliance in the Horn of Africa (such as the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program).

(f) United States Voluntary Contributions to International Organizations for Development Assistance for the Horn of Africa.—It shall be the policy of the United

States to provide increasing voluntary contributions to United Nations agencies (including the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program) for expanded programs of assistance for the Horn of Africa and for refugees from the Horn of Africa who are in neighboring countries.

(g) DEVELOPMENTAL ASSISTANCE AUTHORITIES.—

(1) IN GENERAL.—After the effective date specified in section 1101 of this Act, assistance to carry out this section shall be provided pursuant to the authorities of subchapter A of chapter 2 of title I of the Foreign Assistance Act of 1961b (relating to development assistance) and chapter 1 of title V of that Act (relating to the Development Fund for Africa).

(2) FISCAL YEAR 1991.—For the remainder of fiscal year 1991, assistance to carry out this section shall be provided under chapters 1 and 10 of part I of the Foreign Assistance Act of 1961. Such assistance may be provided through private voluntary organizations pursuant to subsection (e)(1) notwithstanding any provision of law that would otherwise prohibit assistance to Ethiopia, Somalia, or Sudan under the Foreign Assistance Act of 1961.

(h) PROHIBITION ON ASSISTANCE TO GOVERNMENTS.—Assistance pursuant to this section shall not be transferred to the Government of Ethiopia, the Government of Somalia, or the Government of Sudan unless the President makes the certification described in section 1066 with respect to that government. This subsection does not prohibit private voluntary organizations and international organizations receiving assistance pursuant to subsection (e) from working with appropriate ministries or departments of any such government.

SEC. 1065. PROHIBITIONS ON SECURITY ASSISTANCE TO ETHIOPIA, SOMALIA, AND SUDAN.

Economic support assistance, foreign military financing assistance, international military education and training may not be provided for fiscal year 1992 or 1993 for the Government of Ethiopia, the Government of Somalia, or the Government of Sudan unless the President makes the certification descibed in section 1066 with respect to that government.

SEC. 1066. CERTIFICATION.

The certification required by sections 1064 and 1065 is a certification by the President to the appropriate congressional committees that the government of the specified country—

(1) has begun to implement peace agreements, national reconciliation agreements, or both;

(2) has demonstrated a commitment to human rights within the meaning of section 6302 of the Foreign Assistance Act of 1961;

(3) has manifested a commitment to democracy, has held, or scheduled, free and fair elections, and has agreed to implement the results of those elections; and

(4) in the case of a certification under sections 1064 (e) and (h), has agreed to distribute development assistance without discrimination.

SEC. 1067. REPORTING REQUIREMENT.

Not later than 180 days after the date of the enactment of this Act and each 180 days thereafter, the President shall submit a report to the appropriate congressional committees concerning efforts and progress in carrying out this chapter.

Page 685, strike out lines 1 through 9, line 10, strike out "(d)" and insert in lieu thereof "(c)"; and page 685, strike out line 22 and all that follows through line 18 on page 686.

Page 688, strike out line 12 and all that follows through line 9 on page 689 and insert in lieu thereof the following:

(b) ASSISTANCE FOR BASIC HUMAN NEEDS.—Should any assistance be provided to meet basic human needs in Sudan, the President shall take the necessary steps to ensure that such assistance reaches the intended recipients.

Mr. BEREUTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. DYMALLY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DYMALLY. Mr. Chairman, would the Chair advise the House as to the division of time on this particular amendment?

The CHAIRMAN pro tempore. The proponent gets 5 minutes, and an opponent gets 5 minutes.

Mr. DYMALLY. Mr. Chairman, if there is a no opposition, I rise to claim the time allocated to the opposition, as chairman of the Subcommittee on Africa.

The CHAIRMAN pro tempore. Without objection, the gentleman may claim the time. Does the gentleman wish to make that request?

Mr. DYMALLY. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BEREUTER. Mr. Chairman, this amendment establishes aid and food security policies toward the Horn of Africa countries of Ethiopia, Somalia, and Sudan. I offer it also on behalf of my distinguished colleague from North Dakota who chairs the International Task Force of the Select Committee on Hunger, Mr. DORGAN, on which this member serves, and my distinguished colleague from Missouri, who also serves on the Select Committee on Hunger, Mr. WHEAT. The legislation and the parallel amendment is also cosponsored and supported by the distinguished chairman and ranking minority member of the Select Committee on Hunger, Mr. HALL of Ohio and Mr. EMERSON.

I want to thank the distinguished chairman of the Foreign Affairs Committee, Mr. FASCELL, and the distinguished ranking member, Mr. BROOMFIELD, for their support in ensuring that this important legislation on foreign assistance policy in the countries of the Horn of Africa is considered as part of the foreign assistance bill today. I also particularly wish to express my deep thanks to its distinguished Africa Subcommittee Chairman DYMALLY and the distinguished ranking member, DAN BURTON, for their interest in the welfare of the people in the Horn, for their support as original cosponsors of the bill (H.R. 1454) on which this amendment is based, and for Chairman DYMALLY's assistance in conducting timely hearings and crafting this amendment so that it would reflect the rapidly changing situation in the Horn countries in recent weeks and consistency with provisions already included in title X.

This amendment comes from the foreign assistance provisions of H.R. 1454, the Horn of Africa Recovery and Food Security Act of 1991, which was introduced by Mr. DORGAN, Mr. WHEAT, and this Member on March 14, 1991. That bill now has 177 cosponsors in this body. Over 60 major relief, development, and antihunger groups, including Bread for the World, have endorsed this legislation. The leadership and staff of Bread for the World were particularly instrumental in providing initial drafting and especially to Sharon Pauling for her outstanding assistance and major role. It is also supported by both the distinguished chairman and ranking member of the Hunger Committee, Mr. HALL of Ohio and Mr. EMERSON.

This amendment, like H.R. 1454, addressed the pattern of United States relief, recovery, diplomatic, and assistance activities that are appropriate for the tragic situation in Ethiopia, Sudan, and Somalia, where protracted civil wars, drought, and poverty have created a living hell.

The Horn of Africa is by far the largest current disaster relief situation in the world in absolute numbers. Right now more than 15 million people in the Horn are in serious danger of dying from the combined effects of civil wars and drought. Within the region, almost 2 million people are refugees outside their own countries, running from one war zone into another. Millions more are internally displaced within their own countries. Herding peoples have lost their animals; agricultural people have eaten their seeds and been forced to leave their land. Conflicts have disrupted health and education systems. In the past 5 years alone, an estimated 2 million people in Sudan and Ethiopia have been killed by war or famine. Both governments and armed opposition groups in the Horn have been guilty of gross violation of human rights and of making the food security situation of civilians worse and impeding relief efforts.

Although the suffering and death of hundreds of thousands of people have been ongoing and intense, Ethiopia, Sudan, and Somalia had disappeared from the front pages until the recent political and military developments there. Somalia and Ethiopia are still in political disarray and ferment after their long-time rulers fled in the midst of continuing armed opposition earlier this year.

A civil war of disastrous proportions has been convulsing the Sudan for several decades. All three countries face real problems of national fragmentation along regional and ethnic lines.

These events are not exceptional but—unfortuntely—the regular pattern in this region. In this prolonged tragic conflict situation where so many lives are at risk we need to have a clear U.S. policy that is directed at helping the people who are suffering while refusing to assist governments that are contributing to needless suffering.

The amendment therefore defines four basic areas of U.S. policy toward the Horn countries because of the special emergency conditions there:

First, an expanded authority for relief, rehabilitation, and recovery assistance under the international disaster assistance authorities carried out by the Office of Foreign Disaster Assistance. The President is given discretionary authority for fiscal years 1992 and 1993 to transfer unobligated security assistance funds from economic support funds, military assistance, or IMET to supplement OFDA resources for the Horn.

OFDA is asked to carry out special rehabilitation and recovery activities such as primary health care, basic education, and restoring agricultural livelihoods of small producers in addition to normal emergency relief assistance. OFDA is also given the authority to fund the provision of emergency food to supplement Public Law 480, title II programs.

Second, the President is urged to take various actions to promote peace initiatives for the region in collaboration with the Soviet Union, other countries, the United Nations, and parties in the Horn. The objectives are to promote negotiated settlement of conflicts in the region, an end to further militarization of the Horn, safe corridors of passage for relief supplies during conflicts, and support for international peacekeeping efforts that may be needed.

Third, medium and long-term development assistance to the region is targeted toward the poorest and most vulnerable people, to the extent practicable, and must be channeled only through private voluntary groups and through international organizations like UNICEF that work at the grassroots level.

Fourth, no United States economic assistance, military assistance, or security assistance money can go to or through the Governments of Ethiopia, Somalia, or Sudan until the United States President certifies that they are making concrete progress toward peace, human rights, democratic elections, and nondiscriminatory distribution of aid. Once this certification is made, all provisions of the Development Fund for Africa apply to that country, as under normal conditions.

In summary, the United States needs to take a leadership role in expanding emergency relief efforts, in exerting international pressure for conflict resolution in the Horn, and providing creative forms of development assistance that will assist long-term food security, democracy, and peace. I urge your support for the amendment.

Mr. Chairman, I yield to the gentleman from New York [Mr. GILMAN] for his comments.

Mr. GILMAN. Mr. Chairman, I rise in strong support of the Horn of Africa amendment to H.R. 2508 and I commend the gentleman from Nebraska [Mr. BEREUTER] for his foresight, leadership, and hard work in crafting this amendment. I also commend the chairman of our Select Committee on Hunger, the gentleman from Ohio [Mr. HALL] and the Select Committee cochairman, the gentleman from Missouri [Mr. EMERSON], and the gentleman from North Dakota [Mr. DORGAN], the chairman of our International Task Force on honor for their determined efforts to ensure that Mickey Leland's voice and struggle for those in need continues to be heard.

I also thank Mr. DYMALLY the dinguished chairman of the African Subcommittee and Mr. BURTON the ranking minority member for their efforts in support of this measure.

Due to the extraordinary degree of food insecurity in Ethiopia, Somalia, Sudan, and Djibouti as a result of recurrent drought war, famine, environmental degradation, and a host of other significant reasons, the United States and the international community must take far-reaching efforts to help those in need. A combination of food relief, the end to militarization and political polarization of the region is the only approach that could be considered long term.

Mr. BEREUTER's amendment, which requires no additional funding, does necessary that. It encourages the President to undertake immediate consultations with the Soviet Union to work out some of the political aspects of the problems in the Horn, and the amendment further provides discretionary authority through fiscal year 1993 for the President to transfer unobligated security assistance funds to supplement disaster assistance for emergency use.

This approach to the immense and tragic problems in the Horn is the only one that will work. It reflects the work of our hard working staffs and senior members of the House Foreign Affairs Committee and the Select Committee on Hunger. If our deceased member Mickey Leland were here with us today he would be happy and proud to be associated with this amendment. Accordingly, I urge its adoption.

□ 1040

Mr. DYMALLY. Mr. Chairman, I move to strike the last word, and I rise in support of this amendment.

Mr. Chairman, the subcommittee knows of no opposition to this. I urge its passage.

Mr. Chairman, I yield to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I appreciate the gentleman yielding me this time. I want to thank all the folks here on the floor of the House including the gentleman from Nebraska [Mr. BEREUTER], the gentleman from Missouri [Mr. WHEAT], and so many others who have made it possible for Members to bring this legislation to the floor today.

This is a newspaper article of recent days, and the first line says "Africa Is Starving Again." This is a picture from that newspaper. It is the picture with the black and white, and finally the grays of death, of children in their mothers' arms with no food. Twenty million people and more are at risk of starvation in the Horn of Africa.

The world cannot sit idly by and do nothing. We need emergency responses now, and we need to put in place legislation that responds in the longer term to the plague of hunger and famine in the Horn of Africa.

This next article from the Christian Science Monitor is an entirely different picture. It is called the "River of Life," a project under food for peace and food for work, a project that brings water to an area so that that water can be used to produce crops and to help in daily living by people ravaged without water. It is a picture of color, of life, of people working together, of hope.

The legislation we have introduced today, the Horn of Africa Recovery Act, is an attempt to understand that we have a responsibility to help those people help themselves. The legislation, we hope, will represent a river of life in the long term for people who live not just in the Horn of Africa but especially in the Horn of Africa and all around the world, where people go to bed now with an ache in their belly because they are hungry, where children die because they do not have enough to eat. It will be a better world when we respond to that the way we can.

I am proud to have been a part of this piece of legislation to give hope to so many millions in the world.

HOPE FOR THE HORN OF AFRICA

Mr. Chairman, since the House is completing a long debate on the 1992–93 foreign aid authorization bill (H.R. 2508), I will make only brief remarks in support of the Bereuter-Dorgan-Wheat amendment on the Horn of Africa. To do so, I would like to present two pictures of the Horn of Africa—the first, agonizing; the second, inspiring.

THE GRIM GRAYS OF DEATH

The first photo is drawn in the stark colors of black and white and the grim shades of gray. It shows an Ethiopian child dying from starvation and dehydration in its mother's arms. Behind them is another gaunt, famished child waiting for food which has not arrived.

One could easily imagine in the deeper background a crowd of 20 million Africans from the Horn looking to the heavens for relief from famine, conflict, and poverty.

This is a picture from proverbs: "Where there is no vision (or hope), the people perish."

This is a picture of what is and what could be. It would seem to be a hopeless picture, but that is not the case. There is hope for another outcome than famine and death.

SIGNS OF HOPE

One sign of hope is the apparent end of civil war in Ethiopia and Somalia. Although the situations in both countries is tenuous, the brutal regimes of Mengistu Haile Mariam and Mohammed Siad Barre have been sent packing.

The test will now be whether provisional governments can give way to democratically elected governments which truly represent the will of the people in this troubled region and whether national fragmentation along ethnic lines can be avoided in each case. But at least there is hope.

Regardless of politics, hope also arises from the gritty determination of the people of the Horn themselves. Buffeted by recurring famine, persistent civil strife, and grinding poverty, the long-suffering people in these nations continue to strive to create a brighter future for themselves and their families.

THE LUSH GREENS OF THE RIVER LIFE

And that brings me to my second picture. It is a collage of photos from the June 5, 1991 issue of the Christian Science Monitor. Illustrating an aptly-titled story called "Ethiopian Oasis," the photos show how Africans themselves have created a solution to hunger and recurring famine.

The villagers of Gerame, Ethiopia constructed a rudimentary canal to their fields from a spring high up in nearby mountains. The canal carries life-giving water which supplies their drinking water and irrigates their crops. Instead of one unpredictable harvest per year, the villagers now grow three crops a year. Instead of being dependent on uncertain food and from distant centers, the people here now grow their own food.

In the words of the article:

> In this village, food, laughter, colorful dresses, and playing children—and water—are plentiful. Instead of weakness and despair, there is strength and vitality. Instead of rags, simple, but clean attractive clothing.

This project results from an innovative program called Food for Work, organized by the Lutheran World Federation. Rather than coming in to build a canal, LWF offered farmers food in exchange for their work in building in the canal.

The concept is elegantly simple and remarkably effective. It's like many other ones which use the abundant wheat and other grain from North America under the Food for Peace program to encourage self-help projects, designed and developed by indigenous people.

It's really American foreign policy at its very best. We act as good neighbors by extending a helping hand to other nations in need. We help feed hungry people even as they gain the means to feed themselves. What could make more sense. Why isn't this done throughout the Horn and throughout the world?

Yet Lutheran World Federation points out that a shortage of international donations prevents it from extending this program to other villagers. That is where Congress itself can help to provide hope to the people of the Horn.

A ROLE FOR THE CONGRESS

A final sign of hope is the legislation before us today. It is our challenge today to enact an amendment which can help to save the 20 million from the fate of the child in my imaginary picture.

It is an amendment supported by Bread for the World and numerous relief and religious organizations such as Lutheran World Relief. It enjoys the enthusiastic bipartisan support of over 175 Members of the House.

The amendment before us would do several things to build hope in the Horn:

It would expand the relief authority of our Government to include not only shelter and medicine but seeds, agricultural implements, emergency health care, and water supplies—to name a few.

It would allow the President to transfer unobligated funds from security aid accounts to provide additional food aid and humanitarian relief.

It would call for a high-level peace initiative by the President in the United Nations to foster peace and national reconciliation in the Horn of Africa.

It would authorize development aid through nongovernmental organizations such as Lutheran World Relief until such time that Horn governments could meet certain tests. They are democracy, respect for human rights, a commitment to deliver aid without discrimination, and a willingness to achieve peace and national reconciliation.

So I would urge my colleagues to join in unanimous support of this amendment today. In so doing they will help to create the conditions for an oasis of peace and food security in the entire Horn of Africa.

HORN OF AFRICA RECOVERY AND FOOD SECURITY AMENDMENT

Mr. Chairman, I am pleased to join my colleagues DOUG BEREUTER and ALAN WHEAT in offering an amendment to H.R. 2508 which consists of the main provisions of the Horn of Africa Recovery and Food Security Act. Joining us in this bipartisan effort are the chairman and ranking minority member of the Hunger Committee, TONY HALL and BILL EMERSON, as well as the chairman and ranking member of the African Affairs Subcommittee, MERVYN DYMALLY, and DAN BURTON.

May I thank Chairman DYMALLY and Chairman DANTE FASCELL of the Foreign Affairs Committee for cooperating with the sponsors and the Hunger Committee in expediting the consideration of this amendment. At a recent joint hearing of the two panels we heard testimony which revealed the dimensions of the famine in the Horn of Africa as well as the need for this amendment.

We are offering this amendment with the strong backing of Bread for the World and a wide coalition of private, voluntary organizations [PVO's] involved with promoting food security in the Horn of Africa. May I say at the outset how much I value the support and advice of these organizations.

This timely measure will focus attention on an enormous, looming, human tragedy in the countries of Sudan, Ethiopia, and Somalia. The tragedy is hunger—a killer threatening some 20 million people in the Horn of Africa. As chairman of the Hunger Committee's International Task Force, I can think of no global problem which should receive greater attention in Congress.

Our legislation will also reformulate U.S. policy toward the region and set forth a comprehensive program to prevent widespread famine and to chart a course for long-term recovery and food security in the region.

A REGION IN PERIL

The region has been plagued by persistent famine, widespread poverty, and decades of devastating civil wars. Some 2 million Ethiopians and Sudanese have died from war or famine in the last 5 years alone. Relief officials estimate that another 8 million have become refugees or displaced persons. Although some progress has been made in curtailing civil strife, military conflict and famine continue to threaten millions of people in the Horn.

Let me illustrate the urgency and magnitude of the problem by noting the comments of one witness at the hearing:

Roger Winter, Director of the U.S. Committee on Refugees, noted that in Sudan "some starvation death is inevitable * * *. Indeed it is already beginning to occur."

In other words, this is not an abstract problem but a current emergency.

Some weeks ago, James Grant, worldwide director of UNICEF, anticipated the "threat of a major disaster in the months immediately ahead" in Sudan. Estimates are that 9 million people need emergency food in Sudan alone. Most of these people live in government-held areas, according to Grant, while severe hunger continues to imperil Sudanese in civil war zones in the south.

Ethiopia's persistent civil wars have exacerbated the suffering caused by another drought. The northern part of the country is thought to need 1 million tons of food relief in 1991. I would note for the record that the Hunger Committee and the African Affairs Subcommittee were instrumental in getting the Ethiopian Government and opposition groups to open the port of Massawa and overland routes for secure passage of emergency food relief before the civil war ended in that nation. We can now only hope that peace and food security will become permanent realities in Ethiopia with the end of civil war.

The food situation in Somalia is also precarious, although precise estimates of need are still unclear. The rebel victory in January that ended that nation's civil war has created an opportunity to prevent widespread starvation. However, millions are now in need of food and other emergency aid. The de facto division of Somalia into two parts also sows the seed for renewed conflict unless efforts for national reconciliation and accommodation are pursued promptly. Testimony at our recent hearing underscored that we must get emergency food aid into Somalia, as well as into Sudan and Ethiopia.

THE WIDER PICTURE OF AFRICAN FAMINE

Let me say that the sponsors of this legislation are acutely aware that famine stalks several other African nations—particularly in Angola, Mozambique, Liberia, and other sub-Saharan nations. In Angola, for example, U.N. officials are striving to implement peace corridors to reach some 2 million people in need of emergency food. The United States also bears a special responsibility for Liberia, where a massive refugee problem in the aftermath of another civil war, has put over 1 million people at risk.

The United States will certainly need to exercise leadership in responding to these emergencies, as well. I know that the Hunger Committee has, and will continue, to press for cease-fires, peace settlements, and secure relief arrangements in these nations, too.

A NEW POLICY FOR THE HORN OF AFRICA

Our purpose, then, is not to single out the Horn of Africa to the exclusion of other needy nations. It is rather, to reaffirm that the United States will not neglect the Horn of Africa in an hour of dire human need. It is to say that many of the problems affecting individual nations in the region can only be resolved as peace, stability, and food security grow in the whole region. It is to assert that the peace settlements which have been achieved elsewhere in Africa should be sought with equal diligence in the Horn, as well. That will require the top-level attention of the President and the United Nations.

It is also our intent to capitalize on the reversal of the cold war as an occasion to redefine our policy toward the region. It is time to move away from a preoccupation with security aid toward an approach that pays attention to basic human needs and a strategy for recovery and food security.

Part of that effort entails solving problems from the bottom up, rather than from the top down. The bill recognizes the essential role of grassroots and private organizations in policymaking and development. It authorizes the use of bilateral development funding through indigenous organizations, PVO's and international organizations, even as we retain current restrictions on government to government aid. The bill sets forth specific criteria for human rights, democracy, and national reconciliation which must be met before U.S. Government aid can flow to any given government in the region.

A BUDGET NEUTRAL INITIATIVE

The bill does not authorize new funding. It provides authority to transfer from unobligated security aid balances such funds as are necessary to meet food and other emergency requirements in the Horn. It also authorizes the use of existing resources in the Development Fund for Africa to support the special, human-needs-based projects described in the bill. Among these are restoring agricultural extension services, veterinary assistance, and primary health care centers.

If we truly believe that averting starvation and human tragedy should be a top foreign policy priority, then surely we should be prepared to divert resources from lower priority needs to achieve more important goals. I am pleased that we have obtained a strong bipartisan group of cosponsors in support of this vital and fiscally responsible effort.

LEADERSHIP BEYOND THE PERSIAN GULF

For several months, the Persian Gulf war and the relief of Kurdish refugees have eclipsed news about most other regions of the world. Happily, that war has been won and relief has been delivered to hungry and suffering Kurds.

I hope that the President and the Congress will now turn to an even tougher challenge: mobilizing to fight hunger in the Horn of Africa and wherever it threatens. I urge the administration and all of my colleagues to join over 175 sponsors in this fight to keep millions of people alive. And, then, I request support for the ensuring effort to help the people of Somalia, Sudan, and Ethiopia on the road to recovery and food security.

So I urge unanimous support of this amendment and its prompt implementation.

Mr. DYMALLY. Mr. Chairman, I yield to the gentleman from Missouri [Mr. WHEAT].

Mr. WHEAT. Mr. Chairman, I thank the gentleman for yielding time to me, but I especially thank the gentleman for the leadership that he and the gentleman from Florida [Mr. FASCELL] has shown on this issue, holding hearings and bringing attention to the problems that still exist in the Horn of Africa.

The gentleman from North Dakota [Mr. DORGAN], the gentleman from Nebraska [Mr. BEREUTER], and myself have been working on this legislation. We are pleased that it is included in the foreign aid bill. Oftentimes when people in this country think of the Horn of Africa, the image that they get are the pictures that we will never forget in 1984, the images of the bloated bellies of children in Africa, of the parched soil of that land, of the overflowing refugee camps as people sought a blade of grass, a leaf, anything to feed their starving children. Those pictures, those images have gone away, but unfortunately the problem has not.

As the gentleman from North Dakota [Mr. DORGAN] pointed out, there are currently not thousands, not hundreds of thousands, but literally millions, perhaps 20 million people at risk of starvation in the Horn of Africa. We just have to look at the news accounts of recent days to find that the problem is not just of the vagaries of weather. It is also one of the vagaries of political instability. In Somalia and Ethiopia we have seen governments fall, governments that were never sensitive to the needs of their people, but now people are left without a system of being able to distribute much needed food at all.

This legislation takes into account the need to resolve the political unrest in those areas as a key element in recognizing and enshrining as a human right the fact that food should be available to all people. That is what we attempted to do with this legislation, and that is what I think this legislation does in all of the areas of the world, as well as the Horn of Africa. It enshrines as a right the principle that Mickey Leland found in the Horn of Africa and brought back to this House of Representatives. After he had a child die in his arms, he came back and told Members that no child should ever die again because of an inability, a political inability to feed that child.

That is what the Select Committee on Hunger has worked on for years. That is the initiation of this legislation, and that is the fruition of his work. We ought to get on with the passage of this legislation today.

Mr. Chairman, I rise to urge my colleagues to support the Bereuter-Dorgan-Wheat amendment. This measure contains the provisions of the Horn of Africa Recovery and Food Security Act, legislation a number of my colleagues, including BYRON DORGAN and DOUG BEREUTER, and I introduced earlier this year which affects United States policy toward the countries of Ethiopia, Somalia, and Sudan.

In recent days, we have not had to look beyond the front page of the newspaper to read and witness mind-numbing accounts of the human suffering and political instability that exist in the Horn of Africa. Relief officials report that at this moment over 20 million people, in the region are on the brink of starvation. Meanwhile, in the past 6 months alone, two of the three governments in the region have literally disintegrated.

Even though each of the countries in the Horn is distinct in its own right, recent events clearly show they are all united in having to confront extraordinary problems associated with war, famine, political unrest, and recurrent drought.

After years of repressive rule, Mengistu Haile Mariam, the dictator of Ethiopia, fled his nation last month, leaving behind 7 million people at risk of starvation along with lingering questions and anxious hopes about the political future of that country.

In Somalia, the embattled government of Siad Barre has fallen, the country has splintered, conflict continues, and the resulting disruption has left the entire Somali population in a desperate search for food.

And in Sudan, the government of Omer Hassan al-Bashir remains engaged in a brutal civil war and only recently and reluctantly has it acknowledged that a food crisis exists in that country. This lethal combination of war, famine, and negligence has left as many as 10 million people in immediate need of assistance in Sudan. Relief officials tell us that, even under the most hopeful conditions, up to 300,000 people will lose their lives this year.

These accounts of starvation, conflict, and instability may seem all too familiar. After all it was less than a decade ago that the whole world mobilized to help the starving masses in Ethiopia. Yet now, just a few years later, relief officials report that the Horn may be encountering a famine more devastating than that of 1984. And so, in our newspapers and on our television screens the scearing, indelible images are returning: The bloated bellies, the parched soil, the overflowing refugee camps, and old women and children desperately searching for a few leaves, a blade of grass, simply anything to fill their stomachs.

To many, these enduring images have become synonymous with the Horn of Africa. To many, the region seems fated to disaster. And to more than a few, the pervasive problems there seem utterly insoluble.

But others look to the Horn and see hope, opportunity, and potential. That sentiment, Mr. Speaker, is what our measure encapsulates. We believe that the changing world scene presents a unique chance to reshape and reformulate a more effective regional policy. To be sure, there are no easy answers or quick-fix solutions. But we just as firmly believe that properly targetted efforts can end the cycle of war, famine, and death that has rolled through the Horn for decades.

The Horn of Africa Recovery and Food Security Act sets out a comprehensive framework to address the basic needs of the people of the region—from short-term efforts to provide immediate relief to long-term initiatives designed to establish food security to the region. Through every step of this process, the measure supports grassroots efforts to help ensure that the indigenous population is directly involved in creating the structures, policies, and programs to promote equitable economic development.

The legislation is based on a fundamental recognition that any effort to move the Horn on the road to recovery must acknowledge the root causes of the suffering in the region and attempt to systematically redress them. While natural disasters, particularly drought, have certainly contributed to the problem, much of the tragedy is man-made.

Decades-long conflict is clearly a primary cause of the problems that are manifest today. These problems have been further complicated by misguided government policies. Callously unresponsive to even the most basic needs of their populations, these governments have maliciously pursued an agenda that emphasizes military weaponry over fundamental necessities. They have recklessly invested in the bankrupt policies of war and destruction instead of the tools of peace and development.

In Sudan, for example, where 40 percent of the population is confronting the prospect of death by starvation, the Government has devoted upwards of $1 million a day to wage its war against the South. And every year, half of the revenues of Ethiopia—perhaps the world's poorest country—have been devoured by its war machine.

Recognizing the enormous costs of conflict in the region, the legislation provides a framework to achieve peace in the Horn of Africa. It calls on our President to utilize the United Nations and other international organizations to make resolution of the conflicts in the Horn a priority. The measure further proposes a worldwide arms embargo to the region.

In the absence of peace, the Horn of Africa Act affirms that a time of crisis is not too early to begin laying the ground work to help ensure that a catastrophe like this never revisits the region. Small-scale relief and development projects, targeted toward the poor majority and provided by nongovernmental organizations, must be expanded.

And this measure lays out a program that would provide relief assistance and broaden its definition to routinely include projects geared toward self-subsistence and participatory development. By including seeds, fertilizers, farm implements, and basic education and health projects in emergency assistance, our measure will provide to the people of the Horn what they want and need most: The tools to help themselves.

Further, the legislation intensifies efforts to ensure that the governments of the region begin to take concrete steps to meet the needs of their own populations. To maximize pressure toward reform, the bill prohibits all but emergency humanitarian assistance to the governments in the region until the President certifies that firm progress has been made in establishing peace and promoting human rights and democracy. We believe that this will send an unmistakable message to the region's governments, new and old alike, that in order to win U.S. support, they must first make a commitment to reconciliation and democratic rule.

As we reformulate U.S. policy, we must also reassess the way our limited foreign assistance dollars are utilized. Consequently, our measure authorizes the President to transfer funds from foreign military accounts to help finance the humanitarian projects outlined in the bill.

In my view, this approach is long overdue. In a time of fiscal constraints, our Nation must set priorities and devote resources accordingly. If we truly believe that averting famine and suffering should be a top priority in U.S. foreign policy, then we should also be prepared to divert resources from less pressing or dubious needs.

It should be noted that our legislation is not an attempt to discount current U.S. efforts to bring an end to the suffering in the region. Our ongoing humanitarian efforts to provide aid to the millions in need and to support diplomatic negotiations to settle the conflicts are highly commendable.

But we believe that much more can be done. As the title of the legislation suggests, its ultimate objective is to promote the concept of food security: Access by all people at all times to enough food for an active and healthy life. Our measure enshrines this basic human right as an explicit goal and priority of U.S. policymakers toward the Horn.

Mr. Chairman, for the desperate millions in the Horn of Africa, time is of the essence. Weeks, days, even hours could make the difference between life and death. The extraordinary nature of the crisis warrants an extraordinary response from our Government. And that's where Congress has an essential role to play. Acknowledging the importance of the provisions outlined in this measure, over 160 of my colleagues—from across the ideological spectrum—are cosponsors of the House bill. In addition, over 120 individuals and organizations, led by Bread for the World, have endorsed the legislation.

The message from all of these supporters is universal. The time has come to build a lasting foundation of relief, rehabilitation, and recovery for those suffering in the Horn of Africa. Let us seize this opportunity and approve this critical measure.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. WHEAT. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I support this.

Mr. EMERSON. Mr. Chairman, I rise in support of my colleague Mr. BEREUTER's amendment concerning food security and relief for the Horn of Africa.

For the millions of people trapped by the devastating cycles of drought, famine, and war throughout the Horn of Africa, this amendment is of vital importance. The problems plaguing this region of the world are complex, and they require comprehensive solutions. About 2 million people in Ethiopia and Sudan have died during famine and civil conflict since 1985. And this year, millions of people across the Horn of Africa are again threatened by drought and the greatest food shortage Africa has ever known. It is clear, moreover, that severe food insecurity will continue unless the endemic civil wars raging throughout the region are brought finally to an end.

It is with these issues in mind that I endorse Mr. BEREUTER's amendment for its long-term approach to these very difficult problems. It recognizes the need for international effort to bring about peaceful solutions to the conflicts. It recognizes the need to maintain relief programs and to ensure that innocent civilians receive the emergency assistance they need. And this amendment recognizes the need for people to participate in their own rehabilitation and development, an essential step on the road to self-sufficiency. I ask your support for these important ideas, and that support can be demonstrated by voting for the Bereuter amendment.

Mr. PENNY. Mr. Chairman, I rise in strong support of the amendment offered by Representatives BEREUTER, DORGAN, and WHEAT. This amendment, based on the Horn of Africa Recovery and Food Security Act of 1991, proposes to oversee the establishment of peace and democracy in the Horn of Africa. I would also like to commend Congressman EMERSON for his dedicated and substantive work on this legislation.

In the Horn of Africa countries, many children have known nothing but hunger and violence all their lives. Tragically, photos of starving children along with bands of youths armed with automatic weapons and missile launchers have become commonplace. This amendment, however, intends to make these images mere bad memories. This legislation stipulates that the governments of Djibouti, Ethiopia, Somalia, and the Sudan must take concrete steps toward peace, human rights, and democracy before development aid and security assistance can be provided to them.

If this amendment is adopted, U.S. development assistance in the region will be targeted to the poor majority there, particularly refugees, women, and urban poor, and small-scale farmers. Such assistance would help provide a foundation for a stable family infrastructure. This aid would be provided through private voluntary groups and international organizations with experience in grassroots development programs.

As a member of the Select Committee on Hunger, I think I can speak for many of my colleagues when I say that we have agonized over this region for many years. Drought, famine, disease, war, and underdevelopment are the norm in the Horn of Africa. Now we have a chance to start, in a small way, the recovery process in this war-torn area and give hope to some of the most deprived people on earth.

I urge my colleagues to support this amendment.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The question is on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEREUTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to a previous order of the House, the vote on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER] will be postponed until after debate on the next amendment.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. Is the amendment printed in the RECORD?

Mr. BURTON of Indiana. It is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 688, after line 3, insert the following:

(c) LIMITATION ON ASSISTANCE.—Assistance for any fiscal year under the Foreign Assistance Act of 1961, including assistance with funds appropriated before the date of enactment of this Act, may not be delivered to any organization or institution in South Africa which—

(1) is formally linked to the Communist Party of South Africa;

(2) is engaged in violations of internationally recognized human rights, including the unlawful detention of individuals; or

(3) does not have in place democratic processes for internal decisionmaking and the selection of leaders.

This subsection does not prevent the provision of training, instruction, or education in democratic processes for individual members of an organization or institution that is ineligible for assistance under this subsection.

Mr. BURTON of Indiana (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

PARLIAMENTARY INQUIRY

Mr. DYMALLY. Mr. Chairman, has the Chair advised the House on the division of time?

The CHAIRMAN pro tempore. The proponent of the amendment gets 5 minutes and the opponent of the amendment gets 5 minutes.

Mr. DYMALLY. Mr. Chairman, I rise in opposition to the amendment to claim the 5 minutes.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself 2 minutes.

This amendment is very easily understood, it is very straightforward. It says that the foreign assistance that may be appropriated under this act shall not be forwarded to any organization that is formally linked to the Communist Party of South Africa, is engaged in violations of internationally recognized human rights, including the unlawful detention of individuals, or third, does not have in place democratic processes for internal decisionmaking in the selection of leaders.

Mr. Chairman, I do not believe any American taxpayer, or at least very few American taxpayers would support sending our tax dollars to other parts of the world in support of groups that have Communist principles as one of their primary goals and objectives. This legislation simply restricts the aid to any group that has links with the Communist Party, that violates human rights, does not choose its leaders in a democratic fashion. I think this is consistent with American values.

We have a very difficult time right now, Mr. Chairman, with a tremendous deficit that we are facing in this country. As a matter of fact, many people estimate the deficit to be between $350 and $400 billion this year. For the United States of America and this body to send taxpayers' dollars to any group that supports terrorism or Communist principles is, in my opinion, wrong, and we should be very clear that we do not want that to happen.

I urge my colleagues to review this amendment very carefully. I hope they will support it.

Mr. Chairman, I reserve the balance of my time.

□ 1050

Mr. DYMALLY. Mr. Chairman, I yield to the gentleman from Florida [Mr. FASCELL], the chairman of the full committee.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, let me just say that I think this amendment, while well-intentioned, does a great deal of damage. This House has already expressed itself in the past. This amendment would undo all of that in terms of $10 million that is now being held up over the same argument, and that is the reason for this amendment to go back and recapture previously appropriated funds and puts conditions on new organizations which we have encouraged in order to try to bring about a democratic process in Africa. So while it is well-intentioned and we certainly do not want to help any Communist organization, we do not intend to do that, I am perfectly content to leave it with the administration.

The amendment simply infers that the administration would not do that, and I do not believe it.

Mr. DYMALLY. Mr. Chairman, I yield to the gentleman from California [Mr. DELLUMS].

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, first let me say that I do not question the motive of my distinguished colleague in offering the amendment. I simply question the gentleman's judgment in offering the amendment.

Obviously this amendment is directed at cutting off aid to the ANC. The ANC was born in this gentleman's humble opinion in a very unique situation that exists in South Africa, that is indeed specific to South Africa, bringing together various organizations and groups in South Africa struggling against the cruelty and the absurdity that is the reality of apartheid in South Africa.

I think we must continue to understand what our objective is in South Africa, and that is the ending of the apartheid system and the emergence of democracy in South Africa. If that is indeed our objective and our goal, we should not tie ourselves to a strategy that is not flexible enough to allow the various parties coming together in a very unique environment to overthrow this reality, to be able in as flexible an environment as possible to continue to assert themselves.

I do not challenge the motive of the gentleman. I simply say it does not give the flexibility to see the emergence of the democratic society in South Africa, and I thank the gentleman for his generosity.

Mr. DYMALLY. Mr. Chairman, I yield to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Chairman, I also rise in opposition to the amendment that has been offered by our distinguished colleague, the gentleman from Indiana.

Really, I cannot think of anything we could do that would be more counterproductive than appearing to want to undermine the antiapartheid struggle and effort inside South Africa.

This is the kind of mindset that I really think is antiquated at this point. The struggle in South Africa is not between East and West. It is a struggle against a minority regime that is totally undemocratic. The United States correctly has thrown its support to the antiapartheid struggle. On a bipartisan basis, they have agreed to try to provide assistance to the African National Congress and to other groups, such as Inkatha and other groups that are a part of that struggle in South Africa. To now attempt in some way to limit or interfere with that struggle and with American support for those groups that are really leading the way

I think would be very foolish and very counterproductive in terms of American national interests within the region.

So I hope that this body will once again reaffirm the bipartisan commitment to the antiapartheid struggle and affirm our understanding that the East-West conflict, which is perhaps anachronistic worldwide, is certainly no longer relevant to American policy considerations in South Africa.

Mr. DYMALLY. Mr. Chairman, I yield to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Chairman, my good friend, the gentleman from Indiana, seems to have something against the South African Communist Party. I am going to surprise the gentleman. I share his concerns about the South African Communist Party. I do not think we should be providing any aid to the South African Communist Party.

The problem with the gentleman's amendment, however, is that it could throw out the baby with the bath water. There may be political movements in South Africa which are not part of the Communist Party, but which from time to time for tactical reasons enter into an alliance with it. That is what Francois Mitterrand did when he formed the first Socialist government in France.

So I believe the chairman of the African Subcommittee, the gentleman from California [Mr. DYMALLY] is going to offer a perfecting amendment to the amendment of the gentleman from Indiana [Mr. BURTON] which will prohibit any American assistance to the South African Communist Party.

If the gentleman from Indiana wants to vote against that amendment in order to permit aid to the South African Communist Party, he is free to do so, but if he wants to join those of us on this side of the aisle who say not a single American taxpayer dollar should go to the South African Communist Party, then the gentleman will vote for the perfecting amendment to be offered by the gentleman from California.

Mr. BURTON of Indiana. Mr. Chairman, I yield to my colleague, the gentleman from California [Mr. DORNAN], and just say that, "It's a great facade, STEVE, a great facade."

Mr. DORNAN of California. Mr. Chairman, I say with great sincerity what personal anguish it is to take the well following my distinguished colleague and friend, one of the heroes of the liberation of Kuwait in the battle of Desert Storm as played out in words on this House floor, my colleague, the gentleman from New York [Mr. SOLARZ], and disagree that we are throwing out the baby with the bath water.

We had a historic day in this town yesterday. I got Boris Yeltsin to sign a picture of a passion play in Red Square, and then last night down in the House dining room 12 of us met with the chief of the Kwa-Zulus, Chief Minister Buthelezi. He told us that 153 of his Zulu leaders and chairmen had been murdered in cold blood, burned to death, incinerated in their cars, throats slit, and one of their women chairmen was necklaced, killed by extremists in the ANC.

Then he told us that at every meeting now Nelson Mandela, a heroic person seemingly caught in a time warp, refers to Joe Slovo, the Communist leader, in every single serious call of the ANC.

This money is going to Communists, because the ANC is still crippled by its Communist leadership.

Mr. DYMALLY. Mr. Chairman, I yield 30 seconds to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I also rise in strong opposition to the Burton amendment.

I think that as we find that communism is crumbling around the world, we are looking for places to fight them. Soon they will be gone and there will be no more threat of the Communist Party, so perhaps one of the last vestiges for this battle is South Africa.

This money will not go to the Communist Party. As a matter of fact, this country has a very flawed policy when we give most-favored-nation status to the People's Republic of China, and unless they had elections recently, that is a Communist government, from what I understand, and we are giving them benefits for trade to the United States of America, making them stronger. If we are opposed to communism, we should be opposed to communism everywhere, and this selectivism, especially when the dollars in the corrected amendment will not go to the Communist Party.

I think if we look at the atrocities in South Africa we will see that the man that you sat around the table with and had dinner with last night may be the one that is causing the deaths of hundreds more than what is happening on the side of ANC.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, this is not designed to undermine the democratic processes in South Africa. Everybody in this Chamber, I believe, without exception, is opposed to apartheid and has worked for years to make sure it has ended. That is not the issue.

The issue is do we want American taxpayer dollars going to groups that are involved in many human rights violations, as were expressed by the gentleman from California [Mr. DORNAN], to go to groups that are tied very closely to the South African Communist Party which has as its goal not democracy, but complete control of the Government over everybody's lives over there?

We have been supporting Eastern European countries who are moving away from communism toward democracy. Why should American taxpayer dollars be given to aid an institution that is tied to the very things that we abhor?

American taxpayers do not want their taxpayer dollars spent for that purpose.

So I just say to my colleagues, there is nothing inherently wrong with this amendment. All it states, in my view, is what the American people truly want, and that is their taxpayer dollars used for one purpose, to promote freedom, democracy, and human rights in this world, and not for other purposes such as supporting the Communist movement in this world.

Mr. Chairman, I urge all my colleagues to support my amendment.

□ 1100

AMENDMENT OFFERED BY MR. DYMALLY TO THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. DYMALLY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. DYMALLY to the amendment offered by Mr. BURTON of Indiana: Strike out all of the amendment that follows "LIMITATION ON ASSISTANCE.—" and insert in lieu thereof the following: "Assistance for any fiscal year under the Foreign Assistance Act of 1961, including assistance with funds appropriated before the date of enactment of this Act, may not be delivered to the Communist Party of South Africa. The President shall undertake efforts to ensure that recipients of United States assistance in South Africa are not engaged in violations of internationally recognized human rights, including the unlawful detention of individuals, and do not have in place democratic processes for internal decisionmaking and the selection of leaders.".

Mr. DYMALLY. Mr. Chairman, this amendment is very clear. This amendment bans any aid to the Communist Party. If that is the fear of my good friend, the gentleman from Indiana [Mr. BURTON], I think this amendment has taken care of this problem, and I ask for an aye vote.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Chairman, did I understand the Clerk when he read the amendment offered by the gentleman from California [Mr. DYMALLY], to have language in it which says the President shall undertake efforts to insure that recipients of United States assistance in South Africa do not have in place democratic processes for internal decisionmaking and selection of leaders?

Mr. DYMALLY. That is not the amendment which was read, Mr. Chairman.

Mr. WALKER. That is the amendment which I heard the Clerk read. Will the Clerk confirm that that is what this amendment says?

The CHAIRMAN pro tempore. Without objection, the Clerk will re-report the amendment.

Mr. BURTON of Indiana. Mr. Chairman, I think to save time all that needs to be read is the last paragraph. That is the paragraph in question.

The CHAIRMAN pro tempore. Without objection, the Clerk will re-report the amendment.

Mr. DYMALLY. Mr. Chairman, there is a portion of the amendment that has a technical error. With unanimous consent, I would like to correct it.

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. BURTON of Indiana. Mr. Chairman, what does the gentleman from California [Mr. DYMALLY] mean by technical error?

The CHAIRMAN pro tempore. Without objection. The Clerk will re-report the amendment.

Mr. DYMALLY. Line 11, a drafting error. It should read——

Mr. WALKER. No, no, no, no, no. I am sorry.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk re-read the amendment as follows:

Amendment offered by Mr. DYMALLY to the amendment offered by Mr. BURTON of Indiana: Strike out all of the amendment that follows "LIMITATION ON ASSISTANCE.—" and insert in lieu thereof the following: "Assistance for any fiscal year under the Foreign Assistance Act of 1961, including assistance with funds appropriated before the date of enactment of this Act, may not be delivered to the Communist Party of South Africa. The President shall undertake efforts to ensure that recipients of United States assistance in South Africa are not engaged in violations of internationally recognized human rights, including the unlawful detention of individuals, and do not have in place democratic processes for internal decisionmaking and the selection of leaders."

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, I have another perfecting amendment at the desk.

Mr. BURTON of Indiana. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. This amendment is now pending and must be disposed of.

Mr. DYMALLY. Mr. Chairman, I ask unanimous consent to make a correction in my amendment to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. BURTON of Indiana. Mr. Chairman, I object.

The CHAIRMAN pro tempore. The gentleman from California [Mr. DYMALLY] will first state the modification.

Mr. DYMALLY. Mr. Chairman, the modification is on line 11. Cross out the word "not."

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Chairman, reserving the right to object, yesterday on the House floor, when the gentleman from California [Mr. CUNNINGHAM] sought to withdraw his amendment by unanimous consent, the chairman of the subcommittee on the other side denied him the opportunity to be able to make that kind of a change in what he wanted to do. Therefore, exercising the right of the minority in this case, I think it is extremely important that we have fairness, and so I do object.

The CHAIRMAN pro tempore. Objection is heard.

The question is on the amendment offered by the gentleman from California [Mr. DYMALLY] to the amendment offered by the gentleman from Indiana [Mr. BURTON].

PARLIAMENTARY INQUIRY

Mr. SOLARZ. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. SOLARZ. Mr. Chairman, if the perfecting amendment is defeated, would another perfecting amendment be in order, or would we have to move right away to a vote on the amendment offered by the gentleman from Indiana [Mr. BURTON]?

The CHAIRMAN pro tempore. Another perfecting amendment will still be in order.

Mr. SOLARZ. It would be?

The CHAIRMAN pro tempore. The gentleman is correct.

The question is on the amendment offered by the gentleman from California [Mr. DYMALLY] to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 16, noes 399, not voting 17, as follows:

[Roll No. 182]

AYES—16

Abercrombie
Andrews (NJ)
Anthony
Boucher
Dixon
Dymally
Espy
Fascell
Frank (MA)
Johnston
Rahall
Rangel
Swift
Washington
Wheat
Wise

NOES—399

Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Evans
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze

Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Waters
Waxman
Weber
Weiss
Weldon
Whitten
Williams
Wilson
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—17

Brooks
Carr
DeLay
Fawell
Gray
Hammerschmidt
Hopkins
Huckaby
Levine (CA)
Lloyd
Martin
Martinez
Oberstar
Ortiz
Serrano
Spence
Walsh

□ 1205

Messrs. VISCLOSKY, PERKINS, HEFLEY, KILDEE, FOGLIETTA, MARLENEE, SISISKY, McDERMOTT, LANTOS, HAYES of Illinois, and FROST, Mrs. KENNELLY, Messrs. RAY, COYNE, PICKLE, SPRATT, CAMPBELL of Colorado, BUSTAMANTE, and HOUGHTON, Mrs. MINK, Messrs. DINGELL, FEIGHAN, GORDON, FORD of Tennessee, SOLARZ, GEJDENSON, GUARINI, WYDEN, GIBBONS, OWENS of Utah, ROSE, DOWNEY, MARKEY, PANETTA, KOSTMAYER, CHAPMAN, JENKINS, DARDEN, and MURTHA, Mrs. SCHROEDER, Messrs. GEREN of Texas, SYNAR, DWYER of New Jersey, MORAN, STAGGERS, OLIN, and NOWAK, Ms. PELOSI, Mr. LEHMAN of California, Ms. HORN, Messrs. STOKES, SAWYER and DELLUMS, Mrs. BOXER, Messrs. CLEMENT, BERMAN, BEILENSON, DERRICK, FORD of Michigan, McCLOSKEY, BRYANT, VENTO, JONTZ, SANGMEISTER, FAZIO, CLAY, ROYBAL, HALL of Ohio, LUKEN, and RICHARDSON, Mrs. LOWEY of New York, Mr. BACCHUS, Mr. VOLKMER, Mrs. MORELLA, Messrs. LEWIS of Georgia, PEASE, COX of Illinois, GRANDY, KENNEDY, EDWARDS of Texas, LEVIN of Michigan, DEFAZIO, SMITH of Florida, FISH, McMILLEN of Maryland, SKAGGS, BORSKI, McNULTY, GAYDOS, WAXMAN, ECKART, and HOCHBRUECKNER, Ms. DELAURO, Messrs. PALLONE, CARDIN, and FLAKE, Mrs. COLLINS of Michigan, Messrs. DOOLEY, JEFFERSON, EDWARDS of California, and LAFALCE, Mrs. COLLINS of Illinois, Messrs. JONES of North Carolina, LAROCCO, ANDERSON, JACOBS, BROWN, APPLEGATE, OWENS of New York, CONYERS, NAGLE, STARK, MILLER of California, STUDDS, MOAKLEY, AUCOIN, POSHARD, PETERSON of Florida, OLIVER, MFUME, THORNTON, SANDERS, ACKERMAN, ENGLE, BONIOR, WOLPE, MANTON, ANDREWS of Texas, TRAFICANT, HOYER, BILBRAY, TORRICELLI, MURPHY, SAVAGE, YATRON, SCHUMER, PAYNE of New Jersey, and GREEN of New York, Ms. SLAUGHTER of New York, Messrs. GEPHARDT, MINETA, ALEXANDER, MATSUI, KLECZKA, SCHEUER, KOPETSKI, DE LA GARZA, MOLLOHAN, and LIPINKSI, Ms. LONG, Messrs. EVANS, PETERSON of Minnesota, and JOHNSON of South Dakota, Mrs. UNSOELD, Mr. TOWNS, and Mr. LEACH changed their vote from "aye" to "no."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WISE. Mr. Chairman, on rollcall vote No. 182, I voted "aye," returned to a Budget Committee hearing, and learned of the technical error. Before I could get back the vote had been closed. I should have voted "no."

PERSONAL EXPLANATION

Mr. SWIFT. Mr. Chairman, on rollcall vote No. 182, I voted "aye." There was a technical error in the amendment. I should have voted "no."

PERSONAL EXPLANATION

Mr. ANTHONY. Mr. Chairman, on rollcall No. 182, I had originally voted "aye." I was notified later that there was an error in the drafting of the amendment. Had I known that, I would have voted "no."

PERSONAL EXPLANATION

Mr. JOHNSTON of Florida. Mr. Chairman, when voting on the Dymally amendment, rollcall No. 182, I inadvertently voted "aye" when I meant to vote "no."

AMENDMENT OFFERED BY MR. DYMALLY TO THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. DYMALLY. Mr. Chairman, I offer a perfecting amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. DYMALLY to the amendment offered by Mr. BURTON of Indiana: Strike out all of the amendment that follows "LIMITATION ON ASSISTANCE.—" and insert in lieu thereof the following: "Assistance for any fiscal year under the Foreign Assistance Act of 1961, including assistance with funds appropriated before the date of enactment of this Act, may not be delivered to the Communist Party of South Africa. The President shall undertake efforts to ensure that recipients of United States assistance in South Africa are not engaged in violations of internationally recognized human rights, including the unlawful detention of individuals, and have in place democratic processes for internal decisionmaking and the selection of leaders.".

Mr. DYMALLY (during the reading). Mr. Chairman, I ask unanimous consent that the perfecting amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore (Mr. McDERMOTT). Is there objection to the request of the gentleman from California?

Mr. SOLARZ. Mr. Chairman, reserving the right to object, can the gentleman from California tell Members whether this perfecting amendment eliminates the technical and grammatical error contained in the amendment that was just defeated?

Mr. DYMALLY. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from California.

Mr. DYMALLY. Mr. Chairman, in the amendment which was just defeated there was a technical error. We had the words "not have in place democratic processes." This perfecting amendment eliminates the word "not."

Mr. SOLARZ. Mr. Chairman, further reserving the right to object, under the language of the perfecting amendment that the gentleman from California is now putting before the House, would the President have to undertake efforts to ensure that recipients of our aid in South Africa have in place democratic processes for internal decisionmaking in the selection of leaders?

Mr. DYMALLY. If the gentleman from New York will continue to yield, the gentleman is correct.

Mr. SOLARZ. Further reserving my right to object, if the gentleman's amendment is adopted, does that prohibit aid to the South African Communist Party?

Mr. DYMALLY. If the gentleman will continue to yield, the gentleman from New York is correct.

Mr. SOLARZ. Further reserving the right to object, if the gentleman's amendment is adopted, does it prohibit aid to the African National Congress?

Mr. DYMALLY. Mr. Chairman, if the gentleman will continue to yield, no.

Mr. SOLARZ. Mr. Chairman, further reserving my right to object, if the gentleman's amendment is defeated and the Burton amendment to which it has been offered as a perfecting amendment is adopted, would that prohibit aid to the African National Congress?

Mr. DYMALLY. That is correct.

Mr. SOLARZ. Finally, further reserving my right to object, it is the intention of the gentleman's amendment to prohibit aid to the South African Communist Party, but to permit aid to the African National Congress?

Mr. DYMALLY. That is correct.

Mr. SOLARZ. Mr. Chairman, I thank the gentleman for his classification.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, as I understood it a moment ago, the gentleman from New York asked if my amendment would prohibit aid from going to the ANC if it passed in its original form. I just wanted to ask the gentleman for clarification purposes, why would my amendment prohibit aid going to ANC when it only applies to those connected with the Communist Party?

Mr. DYMALLY. If the gentleman will yield, Mr. Chairman, the gentleman has to answer that question. I do not know what the gentleman's motive is.

Mr. BURTON of Indiana. Further reserving the right to object, I think the gentleman from New York has misled Members of the body by indicating that my amendment would keep the ANC from getting aid because it only directs its entire intentions toward those who are affiliated with or members of the Communist Party over there.

Now, if the ANC is affiliated with them, then that is another matter.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROOMFIELD. Mr. Chairman, I move to strike the requisite number of words.

BILL NATCHER—A ROLE MODEL FOR YOUNG AND OLD

Mr. BROOMFIELD. Mr. Chairman, this year is the 50th anniversary of a famous event in baseball history. Joe DiMaggio, the Yankee Clipper, hit safely in 56 consecutive games. That is the longest consecutive hitting streak in this century and a record that will probably never be broken.

Today another legend from a different field passes another historical milestone. BILL NATCHER, the legislative thoroughbred from Bowling Green, KY, cast his 17,000th consecutive vote since coming to Congress in 1954.

What an achievement. That is a record that I am sure will never be broken.

NATCHER and DiMaggio. These two great American legends share two important virtues: Dedication and persistence.

These two men symbolize the virtues that made America the great Nation that it is, and I would like to think both men are terrific role models for all Americans—young and old.

We all are very proud of you, BILL.

Mr. FASCELL. Mr. Chairman, will the gentleman from Michigan yield?

Mr. BROOMFIELD. I am very happy to yield to the gentleman from Florida, my good friend, the chairman of the Foreign Affairs Committee.

Mr. FASCELL. Mr. Chairman, I would just like to add my words of congratulations to not only a milestone in the life of one of our colleagues, but the creation of a legend in the Congress of the United States. If the gentleman from Kentucky is around anywhere, I want to let the gentleman know that we have held up the vote until he could get here. I wonder if the gentleman is here to take not only our congratulations, but to be right here where we can all see him cast the 17,000th vote.

Mr. BROOMFIELD. I am sure he will be here.

Mr. FASCELL. If he is around, Mr. Chairman, I would urge him to come forward to the well of the House so that we can see this event.

Mr. BROOMFIELD. He will.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California [Mr. DYMALLY] to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA, AS AMENDED

Mr. WALKER. Mr. Chairman, I offer an amendment as a substitute for the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mr. WALKER as a substitute for the amendment offered by Mr. BURTON of Indiana, as amended: In lieu of the matter proposed to be inserted, insert the following:

"Limitation on Assistance". Assistance for any fiscal year under the Foreign Assistance Act of 1961, including assistance with funds appropriated before the date of enactment of this Act, may not be delivered to the Communist Party of South Africa or any affiliated or associated organization. The President shall undertake efforts to ensure that recipients of United States assistance in South Africa are not engaged in violations of internationally recognized human rights, including the unlawful detention of individuals and do have in place democratic processes for internal decisionmaking and the selection of leaders.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BURTON of Indiana. Reserving the right to object, Mr. Chairman, I would like to ask my colleague, the gentleman from Pennsylvania, the content and intent of his amendment.

Mr. WALKER. Mr. Chairman, if the gentleman will yield, the amendment that I have at the desk is exactly the same as that which the House has just adopted which denies aid to the Communist Party, except it adds the following language: "or any affiliated or associated organization."

In other words, it is not enough just to cut off money to the Communist Party if the Communist Party goes out and calls itself the Socialist Workers' Party, or some other name. So all this amendment does is suggest that what we want to do is deny money to the Communist Party or any affiliated or associated organization with the Communist Party.

This amendment would simply take the language that we just adopted relating to the Communist Party and assure that all associations affiliated with the Communist Party or any kind of other organization that is Communist Party oriented would also be denied money under the amendment.

Mr. BURTON of Indiana. Further reserving the right to object, Mr. Chairman, it is my understanding that no American taxpayer dollars would go to the Communist Party or any affiliated association organization if this amendment is adopted.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, that is exactly my understanding of the amendment and my intent in the amendment.

Mr. DORNAN of California. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to my colleague, the gentleman from California.

Mr. DORNAN of California. One clarifying point, Mr. Chairman. Is the intent of the gentleman's substitute amendment to clarify and stop things like this list of 153 executive officers of the Inkatha Freedom Party murdered, stoned to death, incinerated, throats slit, of 153 people by assassins and operatives of the ANC, is that what the gentleman is attempting to bring to light and to stop by this amendment?

Mr. WALKER. Mr. Chairman, will the gentleman yield to me?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, my amendment would only apply to the ANC if in fact the ANC is an associate or affiliate of the Communist Party.

Mr. DORNAN of California. Well, I believe it is.

Mr. WALKER. The gentleman believes it is? But it will only be related to the ANC if in fact that is the case. If the President finds that is the case, obviously this would cut off money to the ANC.

Mr. BURTON of Indiana. Further reserving the right to object, Mr. Chairman, so if the President of the United States determined that the ANC or any other organizations was not affiliated with the Communist Party, then the funds would go forward?

Mr. WALKER. Mr. Chairman, if the gentleman will yield, that is certainly the understanding under this amendment.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. SOLARZ. Reserving the right to object, Mr. Chairman, if the author of the amendment would answer a question, if members of the South African Communist Party are also members of the African National Congress, under the terms of the gentleman's amendment would the gentleman consider the ANC to be an associated or affiliated party?

□ 1210

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me read to the gentleman the exact language of the amendment. It says that the funds appropriated may not be delivered to the Communist Party of South Africa or any other affiliated or associated organization.

Now, it seems to me that what you would have to have is some direct linkage there; the fact that you have overlapping members is certainly not a direct linkage. There would have to be some tie-in that the President could certify. It does not seem to me that that is too much to ask.

Mr. SOLARZ. Mr. Chairman, further reserving the right to object, is the gentleman saying that, merely because members of the South African Communist Party are also members of the African National Congress, this does not constitute an associated or affiliated organization?

Mr. WALKER. I would say to the gentleman it would depend upon the nature of the membership. As the gentleman well knows, in matters of corporate affairs and so on of this type, if there are interlocking directorships, for instance, if you have people who serve on the boards of both of them and so on, then of course there could be a membership problem. But if we are talking about fairly minor players, obviously that would not be the case. So it would depend on the nature of the relationship.

Mr. SOLARZ. Further reserving the right to object, is it the intention of the gentleman's amendment to preclude aid to the African National Congress?

Mr. WALKER. The intention of the gentleman's amendment is only to preclude money going to any affiliated or associated organization to the Communist Party.

Mr. SOLARZ. Does the gentleman consider the African National Congress to be associated or affiliated with the South African Communist Party?

Mr. WALKER. This gentleman does not have enough information of that kind on which to make a judgment. All I am attempting to do in this is to assure that if it would be, then it would be cut off; if it is not, then it would not.

Mr. SOLARZ. The gentleman has no opinion on that question?

Mr. WALKER. I have no opinion on that question.

Mr. SOLARZ. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore (Mr. MCDERMOTT). Is there objection to the request of the gentleman from Pennsylvania?

Mr. WEISS. Mr. Chairman, reserving the right to object, would the gentleman consider the membership of the Communist Party of South Africa and the African National Congress and other organizations in a confederation of organizations in South Africa to be an affiliation or association with the Communist Party?

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Chairman, I think I said to the gentleman here a moment ago that I think it has to be clear from the nature of the association. As the gentleman well knows from many of the investigations he has conducted, we regard these associations as being something where you have interlocking directorships or where you have people who have membership on both governing boards.

Mr. WEISS. Mr. Chairman, my question is different.

As the gentleman knows, there are confederations of organizations in South Africa which are united, for example, in removing all the apartheid laws. In that confederation there may in fact be the Inkatha Party, the ANC, the Communist Party and 100 other organizations. Does the gentleman consider that kind of relationship to be an affiliation or association with the Communist Party which in fact would bar aid to the African National Congress?

Mr. WALKER. I would say to the gentleman, under this amendment, that we would want to have somebody who is competent to make that decision to see how closely linked those organizations are, to make that judgment, make that determination.

All this amendment speaks to is whether or not the Communist Party or its affiliates or people associated with it are going to be denied the money. This gentleman is not about to make those determinations on the floor. I do not know all of the facts. I just want to make certain that the prohibition of funding for the Communist Party goes to the whole of the Communist Party activity in South Africa.

Mr. WEISS. Mr. Chairman, further reserving the right to object, it just seems to me this is not only very vague but very disingenuous.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REQUEST FOR MEMBER TO SPEAK ON PENDING AMENDMENT

Mr. DYMALLY. Mr. Chairman, I ask unanimous consent that I may be permitted to address the Committee for 30 seconds.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. BURTON of Indiana. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] as a substitute for the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

Mr. BURTON of Indiana. Mr. Chairman, in deference to my committee chairman, I withdraw my objection to allow the gentleman from California 30 seconds.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from California [Mr. DYMALLY] is recognized for 30 seconds.

Mr. DYMALLY. Mr. Chairman, the legislative history on this particular language offered by the gentleman from Pennsylvania [Mr. WALKER] is somewhat murky. There is the feeling that this language will not in any way affect it and it has to be perfected in conference committee.

Therefore, I ask for a "no" vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] as a substitute for the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to clause 2(c), rule XXIII, the Chair announces that he will reduce to 5 minutes the time for a recorded vote, if ordered, on the Burton amendment, as amended, if the vote occurs immediately following the pending vote, and then the postponed vote on the Bereuter amendment, immediately thereafter, will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 279, noes 134, not voting 19, as follows:

[Roll No. 183]

AYES—279

Allard
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill

Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Boucher
Brewster
Broomfield
Browder
Bruce
Bryant
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carper
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
Derrick
Dickinson
Dicks
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Early
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Fields
Fish
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Gradison
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)

Hefley
Hefner
Henry
Herger
Hobson
Holloway
Horn
Horton
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Kanjorski
Kaptur
Kasich
Klug
Kolbe
Kolter
Kyl
LaFalce
Lagomarsino
Lancaster
LaRocco
Laughlin
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Luken
Marlenee
Mavroules
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Murphy
Myers
Nagle
Neal (NC)
Nichols
Nussle
Obey
Olin
Orton
Owens (UT)
Oxley
Packard
Panetta
Parker
Patterson
Paxon
Payne (VA)
Penny
Perkins

Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Russo
Sangmeister
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Swett
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Traficant
Traxler
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Weber
Weldon
Williams
Wilson
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—134

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)

Atkins
AuCoin
Bacchus
Beilenson
Berman
Bonior

Borski
Boxer
Brown
Bustamante
Cardin
Clay

Collins (IL)
Collins (MI)
Cox (IL)
Coyne
DeLauro
Dellums
Dingell
Dixon
Donnelly
Dooley
Downey
Dymally
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gejdenson
Gephardt
Gonzalez
Grandy
Green
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Houghton
Hoyer
Jefferson
Jones (GA)
Jontz
Kennedy

Kennelly
Kildee
Kleczka
Kopetski
Kostmayer
Lantos
Leach
Lehman (FL)
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Manton
Markey
Matsui
McCloskey
McDermott
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Morella
Mrazek
Murtha
Natcher
Neal (MA)
Nowak
Oakar
Olver
Owens (NY)
Pallone
Payne (NJ)
Pease
Pelosi
Rahall
Rangel
Reed

Rose
Rostenkowski
Roybal
Sabo
Sanders
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Skaggs
Smith (FL)
Smith (IA)
Solarz
Staggers
Stark
Stokes
Studds
Swift
Synar
Thornton
Torres
Towns
Unsoeld
Vento
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—19

Brooks
Carr
Conyers
DeLay
Fawell
Gray
Hammerschmidt

Hopkins
Huckaby
Levine (CA)
Lloyd
Machtley
Martin
Martinez

Oberstar
Ortiz
Serrano
Spence
Walsh

□ 1245

The Clerk announced the following pair:

On this vote:

Mr. DeLay for, with Mr. Ortiz against.

Messrs. KENNEDY, KOSTMAYER, and THORNTON changed their vote from "aye" to "no."

Messrs. MOLLOHAN, McMILLEN of Maryland, MURPHY, EARLY, GILCHREST, OWENS of Utah, PETERSON of Minnesota, ORTON, and NUSSLE changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. NATCHER was allowed to proceed out of order.)

MR. NATCHER REPLIES TO MEMBERS' TRIBUTE ON HIS 17,000TH VOTE

Mr. NATCHER. Mr. Chairman, I want thank my friend, BILL BROOMFIELD who is one of the ablest Members in this House, for the statement he made in regard to my 17,000th vote.

I was elected a Member of Congress on August 1, 1953, and I was sworn in as a Member on January 6, 1954. I have never missed a day, and I have never missed a vote.

Mr. Chairman, it is a distinct honor and a privilege for me to stand here and say to all of you, ladies and gentlemen, that it is a distinct honor and a privilege for me to serve with you.

I have had about a hundred close calls. I was sitting in the Speaker's chair presiding as the Chairman of the Committee of the Whole on a bill, and I was announcing the vote. I had the slip of paper in my hand, and I said, "On this vote the ayes are 216, and the noes"—and John Monahan, who sits in the chair that my friend, Mary Alyce Jones, sits in now, ran up to the chair and said, "Don't you think you should vote?"

I said, "I believe I should." So I filled out my paper card and handed it in.

I was at one time snowed in at New Stanton, PA. They would not let us back on the turnpike. Finally at 6 o'clock they said, "If you want to take a chance, you can get on the turnpike." So I got on and I got here 5 minutes before the vote.

Mr. Chairman, for a number of years I have talked to the new Members at the beginning of each 2 years, and I have said to them that they should consider missing a little vote because not missing would create a problem.

Mr. Chairman, it has been a distinct honor and a privilege for me to be with you. In talking to the new Members, I have also said this to them "that I have been very fortunate. When I was here about 2 weeks, I learned that when you cross the center aisle and you have friends on both sides, you are a Member of the most powerful legislative body in the world."

I also learned early, Mr. Chairman, when I was first sworn in, that there are just as many smart Members sitting on that one side of the aisle as those that sit on the other side. I need help every day that I am here. On the bill that we will present, that we will bring in here next week, all of you have helped me and I want you to know that I appreciate it. You have all been good to me, and again I want you to know that from the bottom of my heart it is a distinct honor and a privilege for me to serve with you in the House of Representatives.

[Applause, the Members standing.]

□ 1242

AMENDMENT OFFERED BY MR. BURTON OF INDIANA AS AMENDED

The CHAIRMAN pro tempore (Mr. McDERMOTT). The pending business is the vote on the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. BEREUTER

The CHAIRMAN pro tempore. The pending business is the vote on the amendment offered by the gentleman from Nebraska [Mr. BEREUTER], on which a recorded vote is ordered.

This vote will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 410, noes 0, not voting 22, as follows:

[Roll No. 184]

AYES—410

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—0

NOT VOTING—22

Brooks
Carr
DeFazio
DeLay
Fawell
Gray
Hammerschmidt
Hopkins
Huckaby
Levine (CA)
Livingston
Lloyd
Martin
Martinez
Mfume
Oberstar
Ortiz
Serrano
Spence
Sundquist
Torricelli
Walsh

□ 1304

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. McDERMOTT). Are there additional amendments to title X?

Mr. McCOLLUM. Mr. Chairman, I move to strike the last word.

I have two amendments at the desk, but rather than offering those amendments, I would like to engage in a colloquy.

The amendments that I would have offered today but do not now intend to, assuming that we do have the understanding with the gentleman from New York [Mr. SOLARZ] on them, concern the question of the Peace Corps and Laos. And what they concerned was the fact that it is my belief that we should get understandings from the Government of Laos on the questions of our POW's and MIA's before we go in and that I think we also need to be concerned, as we were on the OPIC amendment that was agreed to earlier in this bill, on the question on the drug cartels.

I have a great deal of concern with the level of cooperation with the Government of Laos regarding the drug trafficking, the POW–MIA issue, and also the forced repatriation issue of the Hmong tribespeople from Thailand.

I would like to ask the gentleman from New York if he would agree to encourage the Peace Corps to refrain from beginning negotiations with the Government of Laos or entering that country until we have some clear progress on these issues?

Mr. SOLARZ. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding to me. Let me say first of all that I certainly share his concern on these issues. I very much hope that we can achieve some progress in solving them to our satisfaction.

As the gentleman knows, the Peace Corps is a people-to-people program. That is a concept I very much support, but I do believe that in making any decision about proceeding with the Peace Corps program in Laos, that the very problems to which the gentleman referred should certainly be taken into account by our Government.

I do not see how we can be indifferent to those problems, and I would hope and expect that the Government would be thinking about them and taking them into account before making any concrete decisions about moving forward.

Mr. McCOLLUM. Reclaiming my time, the gentleman would encourage the Government to take them into account then before proceeding?

Mr. SOLARZ. I certainly think they should be taken into account. As I said, I also believe the Peace Corps Program is a people-to-people program, but it functions in the context of the larger world in which we live. And the gentleman has referred to some very legitimate concerns, and I believe that it is important for the administration to be thinking about them and to be discussing them with the Lao officials and to let them know that the willingness of the Congress and of the American people to support our efforts there will in some measure be influenced by their willingness to address our concerns on these matters.

Mr. McCOLLUM. I thank the gentleman for that colloquy.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from California, who is very interested in the POW–MIA's.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding to me.

I agree with what the chairman of the subcommittee has said. I am particularly concerned, as the gentleman knows, with the POW–MIA issue. I had some concern with the amendment, as I understand it stood, not with the objectives but with some of the wording.

For example, as I understand the amendment, it would have required the Laotians to report on things where there might have been POW's and MIA's in areas that were not under their control but were under control of the Vietnamese. So from that standpoint, I had some concern.

I certainly have no concern whatsoever with what the gentleman is trying to do, what we are all trying to do, get more information from them. And although they have, I think, been more forthcoming than they had in the past, there is still a long ways to go. That is something that we should continue to discuss with them.

I would also say, I do have some concern also with regard to the attemping to make or appearing to make the Peace Corps in any way political.

□ 1300

Not only has that not been done before, but I am advised that unless we are very careful in how we approach this issue, we could put our volunteers in danger if people in the country perceived there was some kind of a political operation.

Mr. Chairman, I appreciate the gentleman yielding.

Mr. McCOLLUM. Mr. Chairman, I would just like to comment, in closing, that what the two gentlemen have said generally expresses my views, and I share them, because I do think the Peace Corps is important as an instrumentality of our presence and in terms of the good will and hopefully the spreading of democracy. But we do not want to see the Peace Corps or any other agency of our Government going into Laos or any other country if there is, indeed, still a question of lack of cooperation on things like POW/MIA's or on the drug question, and with that in mind, I will not offer either of these two amendments today.

I thank the gentlemen for engaging in the colloquy.

ESCALATION IN LAOS: VIETNAMESE WARFARE AGAINST THE HMONG AND LOWLAND LAO RESISTANCE

(By Yossef Bodansky, Director, Republican Task Force on Terrorism and Unconventional Warfare)

There is a marked escalation in the mostly unreported fighting in Laos. Most significant are widespread bombings aimed primarily at the destruction of segments of the Laotian civilian population who had declared liberated zones. In mid-January, field reports indicate that the Vietnamese Air Force was using chemical weapons and cluster-bombs against civilians.

In fact, a virtually unnoticed liberation war has been fought in Laos since the early-1970s. Despite the US withdrawal from South-East Asia, the collapse of South Vietnam and Cambodia, Laotians continued to resist the Kaysone Pathet-Lao regime and the North Vietnamese occupation forces.

The liberation struggle of the United Lao National Liberation Front (ULNLF) under the leadership of Prince Chao Sourivong Savang escalated in the late-1980s. Toward the end of 1989, the ULNLF controlled sufficient portions of Laos to declare the independence of the liberated areas on 5 December. A Revolutionary Provisional Democratic Government was formed at that time.

Facing the prospect of a popular uprising in the rest of Laos in support for an anticommunist struggle, Hanoi and the Pathet-Lao regime reacted swiftly and decisively. On 6 December, the communist LPDR (Laotian People's Democratic Republic) leader Kaysone Phomyihane declared that his forces "would continue to drop bombs and seek to destroy" the ULNLF forces (the Free Lao Resistance) "until they were totally wiped out." Analysis of Vietnamese military activity indicates that the primary objective of the Vietnamese and their allies is the civilian population. For the occupation forces, it is imperative to ruthlessly suppress the civilians so they will not support a rebellion. Analysis indicates that a military decision has been made that the bombing of civilians is a quicker solution that would preclude the use of ground troops in a lengthy offensive in an extremely rugged terrain.

A major intensification of the bombing took place in mid-January with the significant reinforcement of the communist air forces operating in Laos. Analysis from field reports on combat sorties and aircraft types indicates that the aircraft committed to the offensive are Vietnamese for the LPDR Air Force has only 4 MIG-21s.

The propaganda and psychological warfare against the resistance intensified simultaneously, reflecting Vientian's fears of the growing popularity of the ULNLF. A Radio Vientian's broadcast on 17 January 1990 warned about the ULNLF's "schemes to create dissatisfaction among the people over the party's leadership and the government's administrative affairs, as well as to create confusion in the people's thinking in order to make them lose confidence in the party and the new system. By doing so, these counter-revolutionary forces have tried to create political disturbances which will lead to the overthrowing of the new system." Vientiane called for a popular campaign for "the strengthening of the implementation of the national defense and public security maintenance" which includes both military and ideological measures amounting to a total war against the enemy.

According to on site field reports major bombing started on 4 January 1990 when some 20 MiG-21s flying from Vietnam dropped high explosive and chemical 60 MGs against several villages.

On the 5th, some MiG-21s were used in the Xieng Khouang Province against 5 villages. On 6 January 2 MiG-21s and Mi-8 helicopters attacked Ban Pakchao where the aircraft bombed and the helicopters fired rockets into local villages. On the 7th, 8 and 12 MiG-21s conducted two bombing raids in the Borikhane Province against 2 and 3 villages respectively, causing heavy destruction and causalties.

Fighting intensified on 9 January when 4 MiG-21s and 4 Mi-8 helicopters bombed and fired rockets at several villages and ULNLF positions. The next day, 3 Mi-8s and artillery attacked the same positions and villages. Each helicopter carried bombs, rockets and 12.7 mm machine guns. After they dropped their bombs and strafed, the helicopters in multiple sorties landed 400 Vietnamese-led Pathet Lao troops in the Dang Xo area and conducted a search and destroy mission against the civilians and resistance fighters in the area.

On 10 January, Vientiane announced that its air force would "continue air raids on all strongholds of the resistance."

Ground and air attacks on ULNLF continued. Further escalation took place on 12 January when 4 MiG-21s bombed ULNLF positions. These MiG-21s arrived from a new direction, other than Laos' only airbase in Vientiane, and after the raid returned in the general direction of Hanoi. The ground pressure intensified simultaneously. On 13 January, ULNLF forces were in dire situation having been subjected to 3-4 days of continued air and ground attacks.

On 19 January, Vietnamese forces were committed to the ground offensive as reinforcements. On site field reports indicate that Mi-8 helicopters dispersed "yellow and red powder" in the Phou Bia area, causing the death of 32 civilians and the injuring of an additional 173. The helicopters also bombed and strafed the village.

MiG-23 fighter-bombers were first used around 20 January. On site field reports say that they dropped chemical bombs. Reports from the field describing "invisible gas" that is "highly toxic and kills on contact." This fits very close with reported descriptions from both Afghanistan and Angola of the super-lethal Cyanogenic agents used there with devastating effectiveness. Reports indicate that the kill zone is approximately 1 km.

There were sketchy reports of black aircraft with longer nose and short wings. The description fits that of the dark blue Yak-38 of the Soviet Fleet. These aircraft were reportedly first used in bombing raids on 28-29 January.

If the reports on MiG-23s, Yak-38s and Cyanogenic-agents are correct, they point to a direct Soviet role in the offensive.

The reported aircraft may be the aircraft the USSR claimed to have evacuated from Cam-Ranh Bay. The Yak-38 was never exported and Vietnam has only a few MiG-23s.

If the reports of the Cyanogenic-agents are correct, this would indicate a direct Soviet role in the Vietnamese war against the Lao resistance.

This is also the first clear indication that despite Vietnam's proclamations of withdrawal from Laos, Hanoi has in fact increased its military presence in Laos as they have in Cambodia.

(This article may or may not express the views held by all of the members of the House Republican Task Force on Terrorism and Unconventional Warfare. The purpose of this article is to provoke discussion concerning current events.)

THE VIETNAM WAR: 1990

(By Yossef Bodansky and Vaughn S. Forrest, April 25, 1990)

It has become increasingly apparent that Vietnam is moving to consolidate its control over Laos and Cambodia despite the intensification of national liberation struggles against the Vietnamese sponsored puppet regimes in those countries. Hanoi is committed to a long term solution in Southeast Asia based on an effectively unified region under Vietnam's control, despite that country's highly publicized, albeit phony, withdrawal. At the present stage, the existence of local communist puppet regimes in Phnom Penh and Vientiane serves Hanoi's interests. Therefore, the Vietnamese Armed Forces, and the local forces they control, facilitate the bolstering of their allies' regimes in key sectors of Cambodia and Laos.

Indeed, there are indications that Vietnam is moving toward the furthering of a regional arrangement, with the PAVN near completion of an integrated regional command structure controlled from Hanoi. In the forward areas of Laos and Cambodia, this trend has been manifested in the establishment of combined units dominated by the Vietnamese, while several PAVN command structures disregard national boundaries. Taken together, these developments reflect Hanoi's commitment and determination to dominate Southeast Asia.

Furthermore, there is every indication that the USSR is in full support of the steps taken by Hanoi. Key military-organizational steps were accomplished with several Soviet military advisers and experts on site and largely on the basis of their knowledge. Further, there has been a corresponding increase in supplies of weapons from the USSR. Moreover, virtually all deliveries of such weapons have been conducted through Vietnam and under close Soviet-Vietnamese supervision, thus giving Hanoi effective control over the local Laotian and Cambodian regimes and armed forces. The Soviets have further enhanced this situation by redeploying combat aircraft from Cam Ranh Bay to interior bases from which they can provide direct support of the PAVN-dominated units in combat actions in Laos and Cambodia.

Currently, after the brief period of constant movement brought about by the ostensible withdrawal of Vietnamese forces from Cambodia, the deployment of Vietnamese forces has stabilized. At present, the Vietnamese continue to deploy forces in key strategic positions and persistently expand their zones of control. Adopting Soviet-Cuban doctrine, these PAVN forces continue Quality Edge measures operations. They bolster local units, that operate at times in their skirmishes and confrontations with a seeming PAVN quality, against national liberation forces. Further, invariably, the Vietnamese exercise a decisive impact on any given battle by holding key strategic positions and by delivering suppressive firepower, that is, artillery and airpower (including the use of chemical weapons), as well as by providing tactical mobility, largely by the landing of elite forces from helicopters at key points.

Thus, it is clear that the Vietnamese are committed to a long-term solution. In this context, their strategy is to confront and engage Laotian and Cambodian national liberation forces militarily only when necessary. Instead, the Vietnamese and their allies concentrate on controlling the regional strategic infrastructure and economic resources of key areas. By doing so, the Vietnamese are able to isolate the resistance from its base of power of support in the civilian population. The isolation and alienation of the population is then further enhanced through the implementation of repressive measures, such as the use of suppression fire (including chemical weapons), that force the population into internal migration away from areas where the resistance could utilize its support and resources.

This Vietnamese strategy is virtually identical to that used by the USSR and Cuba in their local wars in the 1980s. The Soviets further refined this strategy in their 1980–1984 drive to consolidate their control over Afghanistan and to prevent the resistance from turning into an effective popular force. Indeed, since 1982, as a result of this approach, the Afghan resistance has been rendered incapable of interfering with the USSR's consolidation and expansion of its strategic infrastructure in Afghanistan.

Similarly, by employing a derivative of this approach, the Cuban forces in Angola were able to seize the strategic intiative from UNITA. Indeed, since 1985, Cuban-MPLA forces have forced UNITA back into a succession of defensive battles around an ever shrinking bastion in south-eastern Angola.

Thus, Vietnamese dominated combat operations in Laos and Cambodia have seen the same principles and characteristics employed by the Soviets and the Cubans in other Third World locations. Below are outlined the specifics of Vietnamese operations in Laos and Cambodia:

CAMBODIA

Hanoi is implementing a comprehensive program to control and effectively annex Cambodia. To this end, the Vietnamese are conducting three distinct operations in Cambodia. These are:

1. In the eastern provinces of Cambodia, the Vietnamese are moving to consolidate their direct control over the area to facilitate its evolution into an integral part of Vietnam's economy.

2. The Vietnamese Armed Forces are expanding their deployment in the periphery of Cambodia in order to block the penetration of liberation forces and to isolate them from the population.

3. The Vietnamese are securing the main population and national centers of Cambodia, as well as the lines of communication from Vietnam, thus making Phnom Penh completely dependent on Hanoi for its survival.

The patterns of the Vietnamese deployment in Cambodia correspond to these objectives.

The current deployment of Vietnamese forces in Cambodia was accomplished in two phases. The first phase was accomplished during the "withdrawal" of late 1989. Major PAVN units, and a few subordinate subunits, were left behind in key strategic locations. Each of these subunits supervised a few RPKAF units with PAVN quality core elements and concealed caches of weapons and ammunition in the countryside. Moreover, the 4 Vietnamese concentrations of forces withdrawn from Cambodia remained just behind the border in 4 distinct force groupings (from south to north: Front 479, Front 979, Front 779 and Front 579), with training facilities and munitions stockpiles, ready to return and intervene in Cambodia. [Map not reproduced in RECORD.] The second phase involved the still continuing insertion of small units into Cambodia to consolidate positions and garrisons in key military installations. From there, the PAVN subunits, independently or with subordinate RPKAF subunits, deploy to small posts and garrisons in the countryside, gradually expanding the area controlled by Hanoi and displacing the rural population.

In addition, Hanoi is expanding its strategic centers for regional intervention in the Laos—Cambodia—Thailand border area. For example, PAVN Naval Infantry, subordinated to the F590 division on the Dao Phu Quoc Island (Vietnamese territory), deployed to control Cambodia's key harbors. [Map not reproduced in RECORD.] (These regional activities are discussed in detail below.)

The current deployment of PAVN forces and their RPKAF subordinates (excluding the annexed provinces and the regional intervention force) are controlled from a Corps Headquarters in south-east Pursat province where 7,000 PAVN troops are deployed. (See Map 1.) In early March 1990, the Corps Headquarters was in command of approximately 46,970 to 45,370 PAVN troops. (This total does NOT include the multiple small PAVN garrisons and caches spread all over rural Cambodia.) Further, Cambodian resistance sources claimed in mid-April, 1990 that a total of some 30,000 PAVN troops have been inserted into Cambodia since the "withdrawal", that is, approximately 9,500 to 10,000 Vietnamese troops have been inserted since early March. (See Map 1.) Because independent verification of the whereabouts of some of these forces is still lacking, they are not included in the above count.

The parts of Cambodia dominated by the Corps are divided into two strategic echelons (S.E.): The Western command is the 1st S.E., which is divided into two Fronts. The northern Front is devoted to dealing with the freedom fighters operating from Thailand. The southern Front is devoted to securing the main lines of communication from southern Vietnam and the Cambodian shore line. The 2nd S.E. is the Eastern command which is devoted to controlling the Cambodian interior and especially ground and river transportation.

This command structure remained intact even during the height of the Vietnamese "withdrawal". Indeed, the Corps Headquarters and its approximately 7,000 troops remained inside Cambodia well into late-1989, with control of the northern Front of the S.E. accomplished by two "stay-behind" PAVN Regiments (1,200 and 3,000 troops respectively.) These regiments, in turn, controlled 3 RPKAF divisions (286th, 5th and 81st) with PAVN core elements, as well as 2 RPKAF divisions (196th & 4th) with only PAVN special forces elements, all deployed along the Thai border. The control of the southern Front of the 1st S.E. was accomplished through a single "stay-behind" PAVN Regiment (5,000 troops specialized in internal security). This regiment also controlled 2 RPKAF divisions with PAVN core elements deployed along the Tonle River. (See Map 1.) During the "withdrawal", the control of the 2nd S.E. was accomplished through 2 PAVN Regiments (3,000 troops each) in the eastern Kompong Cham province near the Vietnamese border. A RPKAF division with a PAVN core unit in the center of the province was subordinated to this force. All together, approximately 27,060 troops remained in this deployment in Cambodia when the "withdrawal" was completed.

The expansion and bolstering of this deployment began in October, 1989 and is still in progress. At first, the PAVN deployment in the southern Front of the 1st S.E. was significantly reinforced. With the main lines of communication secured, forward forces of the northern Front of the 1st S.E. were reinforced. Then, the Vietnamese gradually built their garrisons near Phnom Penh and in Kompong Thom where a 1,560 troop strong PAVN Regiment was established to secure traffic to the north. Further, several PAVN battalions and companies are still in Cambodia, bolstering and expanding the PAVN deployment. Naval Infantry Battalions of the F590 Division on Dao Phu Quoc Island were landed in Kompot (1000 troops) and Thmar Sar (450 troops). (See Map 1.) Ultimately, a total of approximately 18,310 to 18,610 PAVN troops were inserted into these parts of Cambodia between 1st October, 1989 and 2nd March, 1990.

These PAVN and PAVN-controlled RPKAF forces continue to expand the areas covered by their operations. The main direction of advance and build-up being aimed at disconnecting the axes of penetration and advance into the interior of the Cambodian liberation forces. Offensive sweeps continue to be conducted in the border area in order to weaken the freedom fighters and stall their advance into the interior. Simultaneously, the civilian population is being suppressed by Vietnamese artillery and air power and is thus being pushed away from the key lines of communication into the deep interior so that it cannot link-up with, and thus support, the freedom fighters. The cumulative impact of the stalling of the freedom fighters and the induced internal migration has been to hasten the collapse of the popular support mechanism so crucial for the establishment of an effective liberation movement.

The effectiveness of these PAVN offensive sweep operations is significantly enhanced by the supply of Soviet weapons that is being provided through Vietnam. Most important is the supply of 4 Mi-17 assault helicopters that doubled the force of 4 older Mi-8s that had originally made up the RPKAF arsenal. In addition, the Soviets also supplied through Vietnam large quantities of artillery, rocket and small arms ammunition.

In the meantime, Soviet and Vietnamese advisers continue to supervise the build-up and organization of highly mobile PAVN-RPKAF subunits for the conduct of offensive sweeps against both the population and the liberation forces. Hun Sen stated in mid-April that the rejuvenated RPKAF forces were "moving into the offensive" in the Pailin area. An indication of the potential of these offensive sweeps was the limited, yet well organized and planned, offensive against the KPNLF of February, 1990. This offensive sweep resulted in the capture of the Svay Chek strategic town west of Battambang. The offensive relied on advance suppression by fire, mainly BM-14 and BM-21 MBRLs, followed by a swift attack by a motor-mechanized force in trucks and a few BTR-60s spearheaded by T-55 and T-54 tanks. This offensive sweep was organized and supervised by Soviet and Vietnamese advisers.

General Pan Thai of the KPNLAF attributed the success of the PAVN-RPKAF artillery forces in fighting in Svay Chek and Thmar Puok to a special PAVN Artillery unit identified as the 106th Regiment. A Captain Nguyen Van Tin of this regiment, who was captured by the KPNLAF, disclosed that his unit was 1,300 troops strong. They were deployed to Cambodia in December, 1989 "to supervise artillery units of the Phnom Penh army in Sisophon, Svay Chek and Phnum Srok."

Further, the tactics and force structure used during the Svay Check offensive sweep closely resembled past Soviet-style operations in Afghanistan and Angola (see below). The emphasis is on the suppression of the population and its isolation from popular forces. Swift decisive assaults relying on suppressive fire power and shock engagements with the resistance forces are intended only to stall and compel a withdrawal, rather than hold vast territories.

By this strategy, Vietnam has managed to consolidate control over key Cambodian territory, effectively annexing 3 provinces and altering the border in the other zones. At the same time, in the southern provinces, the Vietnamese completed a 550 km long canal stretching from Kep-Ha Tien on the Gulf of Thailand to Chipou. The canal is 25 meters wide and runs some 4-5 kms into Cambodian territory. Vietnam has since annexed this stretch of land, while in the eastern provinces, a new border line was established from Chipou to the Bo Duc area along controlling heights and main roads, and was annexed by Vietnam as well. [Map not printed in RECORD.]

Of even greater significance is the effective annexation of Cambodian's eastern provinces of Mondolkiri, Rattankiri and Stung Treng (east of the Mekong river). [Map not printed in RECORD.] The annexation was accomplished through a massive resettlement of some 400,000 to 950,000 Vietnamese who have their own 100,000-man militia. The Vietnamese settlers exploited local gold mines, cleared age-old forests and forbade Cambodian authorities from entering into the area. The administration of the area is coordinated by the F7579 Corps Headquarters east of Lomphat, with three PAVN internal security regiments (the 5501st, 5502nd and 5503rd) in effective control of the area. Three additional PAVN subunits—battalion to regiment in size—are also garrisoned in these provinces. This entire Vietnamese deployment stayed behind during the "withdrawal" and is now backed by the forces of Front 579 deployed just across the Vietnamese border.

LAOS

Hanoi is also implementing a comprehensive program to control and effectively annex Laos. The Vietnamese are conducting two distinct operations in Laos to this end:

1. The Vietnamese Armed Forces are expanding their deployment in the northern periphery of Laos in order to block the penetration of liberation forces and isolate them from the population.

2. The Vietnamese are securing the main population and national centers of Laos as well as lines of communication from Vietnam, thus making Vientiane completely dependent on Hanoi for its survival.

The pattern of the Vietnamese deployment in Laos corresponds to these objectives.

In northern Laos, the deployment of the PAVN and Pathet Lao forces are organized in two clusters aimed at interdicting ULNLF infiltration and the isolation of the civilian population. The northernmost PAVN deployment is comprised of the 600-man strong 185th Regiment and 4 supporting battalions. [Map not printed in RECORD.] The main Vietnamese fighting force is the central cluster which is comprised of 4 PAVN and PAVN-Pathet Lao battalions controlling at least 10 Pathet Lao battalions. All of these PAVN and PAVN-Pathet Lao forces are earmarked for the containment of the Laotian population and the ULNLF, as well as maintaining the local road network.

It is highly significant that the main PAVN deployment in the central to southern parts of Laos is not involved in fighting. Its primary objective is regional and strategic. Four PAVN divisions (the 336th, 968th and two U/Is) constitute the bulk of this 20,000 to 28,000 troop strong PAVN deployment. In comparison, only some 3,000 to 5,000 PAVN troops are involved in fighting the ULNLF throughout Laos. In addition, a few PAVN and PAVN-Pathet Lao battalions provide local internal security in the central and southern areas. (See Map. 2)

The strategy of the Vietnamese and the Pathet-Lao is to isolate the population from external support and penetration of ULNLF forces, as well as to suppress all possibility for popular support of the ULNLF by making the price of such support unbearable for the civilian population. Since January, 1990, the main military actions of the Vietnamese and the Pathet Lao were concentrated in the 2nd Military Region, where the ULNLF's main axes of penetration and best organized popular support are located. Most of the centers of Laos are located in this region as well.

The current Vietnamese military strategy is to contain and reduce the size of the "liberated areas." To that end, the first priority is to prevent the emergence of a unified system of "Liberated areas" in the central highlands that will threaten Vietnamese control over the road system between Luang Prabang, Vientiane and Xieng Khouang. Such a "liberated zone" would be able to serve as a distribution point for weapons and fighters from Thailand and would thus facilitate an effective escalation of the ULNLF's war. A secondary objective is to contain the "liberated area" along the Vietnamese border (east of Paksane) because if successful there, the ULNLF will be in a position to threaten the lines of communication into Vietnam as well as subvert the Vietnamese tribal population.

In order to cope with these missions, the Pathet-Lao formed a special task force in February, 1990, with headquarters in Vang Vieng. Vietnamese and Soviet military experts, as well as Vietnamese elite units, support the task force. While at least 5 battalions, including PAVN units and mixed Vietnamese-Laotian units, constitute the core of the task force. In addition, the task force was allocated 8 assault helicopters (5 Mi-17s and 3 Mi-8s) to operate from 3 landing sites in Vang Vieng, Phounsavan and Phoun Hong. (See Map 2.) Further, the task force has the authority to direct bombing raids by Vietnamese fighter-bombers.

The organization of such a Special Task Force to clear the 2nd Military Region is significant. It reflects a commitment to an escalation of the suppression of the civilian population as well as of the ULNLF itself. This will occur in two steps. First, there will be an intensified drive to significantly expand Vietnamese controlled lines of communication by forcing the population (via bombing, chemical weapons, heliborne raids, etc.) into abandoning areas overlooking the road systems and retreating into the mountainous areas that are considered "liberated areas". There, in the absence of external support, a socio-economic infrastructure and proper contact with the ULNLF leadership outside, there will emerge, because of competition for meager resources, increasing popular discontent. With popular support undermined, and with the ULNLF incapable of reacting to the crisis, popular trust in, and support for, the resistance will be severely damaged.

Such a strategy does not require the use of massive forces. Rather, it calls for selective and persistent suppression of isolated areas in order to build the cumulative impact of overall operations.

REGIONAL OPERATIONS

Most significant is the PAVN-dominated multi-national force being organized near the Laos-Cambodia-Thailand border area. The core of this force is two PAVN Divisions. In Cambodia it is the PAVN F315 Division in northern Preah Vihear Province. (The 7,000 PAVN troops left behind during the "withdrawal" were reinforced by 2,200 additional troops by the end of 1989.) And just north of the Laotian border are 4,000 troops of the PAVN F2 Division, supported by an independent PAVN regiment slightly to the north. (See Map 2.) These Vietnamese units serve as a quality edge element for Cambodian and Laotian formations built and trained around them. These combined forces undergo extensive advance training and are supervised by Soviet advisers and experts. Reportedly, some of the locally based elite PAVN forces were sent in late-November, 1989 to reinforce the fighting on route 10 between Battambang and Pailin. These Vietnamese troops were dressed in RPKAF uniforms.

In the meantime, another multi-national elite "Independence Division" is being trained by the Vietnamese in southeastern Mondulkiri province in an area held by the 5501st and 5503rd PAVN regiments. These troops are dressed in unique "para" uniforms and use a special Khmer flag. Soviet advisers are also reported to be active in this training area. Once combat ready, the "Independence Division" is expected to deploy to the Laos-Cambodia-Thailand border area.

The U.S.S.R. is deeply involved in these operations beyond simply providing advisers among the PAVN-dominated fighting units and the on-going massive resupply of weapons and ammunition. Most important has been the use of Soviet combat aircraft, mainly MiG–23s, for bombing in Laos, including the use of chemical weapons. While claiming to be withdrawing from their most visible bases such as Cam Ranh Bay, the Soviets continue to intensify their most visible bases such as Cam Ranh Bay, the Soviets continue to intensify their presence through back-door relations. Since late-1989, the U.S.S.R. has been consolidating a web of military ties that will hold all "local forces" together, as well as keep them dependent on each other and on the USSR, even after the Soviet's overt presence is somewhat reduced.

The reorganization of the PAVN-RPKAF forces in mobile and armored motor-mechanized units as well as the growing use of assault helicopters in Cambodia and Laos reflect the extent of the Soviet military involvement in local fighting. The PAVN-RPKAF motor-mechanized units are a direct evolution of Soviet-Cuban developments in counter-insurgency tactics proven throughout the Third World.

In 1975, the Soviet combined-arms forward detachment (OGPZ) was developed by the Cuban General Arnaldo Ochoa Sanchez into a highly mobile subunit optimized for operations in lesser developed countries. General Ochoa subsequently employed these units effectively in Angola. These basic Cuban-Angolan subunits, including the subsequent integration of helicopters, were further refined in the offensives against UNITA in Angola.

In the early 1980s, the Soviet-Cuban counterinsurgency subunits underwent additional tactical refinements on the basis of the Soviet experience in Afghanistan. Combat lessons were then integrated into the Cuban solution optimized for the Third World. In 1983, these refined units were used by Gen. Ochoa as a basis for Nicaragua's Special Counter-Insurgency Battalions (BLI), trained and equipped to fight the Contras.

The accumulating combat experience and expertise in counterinsurgency operations in tropical and jungle-mountainous theaters were generalized in 1985 by Gen. Krivda of the Soviet General Staff into the concept of "Cluster Forces", the key to Soviet intervention forces. The modernization and optimization of counterinsurgency forces for lesser developed countries has since been based on the "Cluster Force" principle. Such forces are currently used in Angola against Jonas Savimbi. The current PAVN-RPKAF tactics and the equipment recently delivered to both Laos and Cambodia fit closely with the requirements for such "Cluster Forces."

Thus, the dissemination of the USSR's latest tactical solutions for Counterinsurgency operations reflects Moscow's long-term commitment to the success of Hanoi's regional grand design.

(This paper may not necessarily reflect the views of all Members of the Republican Task Force on Terrorism and Unconventional Warfare. It is intended to provoke discussion and debate.)

The CHAIRMAN pro tempore (Mr. McDERMOTT). Are there further amendments to title X?

If not, the Clerk will designate title XI.

The text of title XI is as follows:

TITLE XI—OTHER PROVISIONS

SEC. 1101. EFFECTIVE DATE.

Amendments made by this Act to the Foreign Assistance Act of 1961, the Arms Export Control Act, or any other Act shall take effect on October 1, 1991, unless otherwise provided in this Act.

SEC. 1102. DEFINITION RELATING TO PRIOR YEAR MILITARY ASSISTANCE.

As used in titles VII through X of this Act, the term "foreign military financing assistance" includes, if appropriate in the context, assistance provided on any terms under section 23 of the Arms Export Control Act for fiscal years prior to fiscal year 1992.

SEC. 1103. THE PEACE CORPS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 3(b) of the Peace Corps Act is amended to read as follows:

"(b) There are authorized to be appropriated to carry out the purposes of this Act $200,000,000 for the fiscal year 1992, which are authorized to remain available until September 30, 1993, and $200,000,000 for the fiscal year 1993, which are authorized to remain available until September 30, 1994.".

(b) INSPECTOR GENERAL.—Paragraph (6) of section 7(a) of the Peace Corps Act is amended by inserting after "the Director of the Peace Corps" the following: "(with respect to officers and employees of the Peace Corps other than officers and employees under the supervision of the Inspector General of the Peace Corps) and the Inspector General of the Peace Corps (with respect to officers and employees under the supervision of the Inspector General),".

SEC. 1104. ENVIRONMENTAL SECURITY AND FOREIGN POLICY.

(a) SHORT TITLE.—This section may be cited as the "United States Environmental Security and Foreign Policy Act of 1991".

(b) FINDINGS.—The Congress makes the following findings:

(1) Environmental protection must play a pivotal role in United States foreign policy, especially in light of rapidly increased understanding of the pervasive nature of global environmental problems.

(2) Transnational environmental threats to the economic and social well-being of individuals, nations, and the global community and the means to adequately address such problems are likely to pose an increasing challenge in the formulation of United States foreign policy, and international diplomacy on environmental issues must constitute a high priority in the conduct of United States foreign policy.

(3) If sustainable economic development is to be achieved, protection of the environment, especially through prevention of environmental degradation, must be a major goal of United States foreign policy.

(c) CONGRESSIONAL DECLARATION OF ENVIRONMENTAL SECURITY AND FOREIGN POLICY.—In order to encourage the establishment of global environmental security, the Congress declares the following to be the policy of the United States:

(1) Current and potential threats to the global environment shall be assessed, and appropriate measures shall be taken to obtain international cooperation on environmental protection.

(2) United States foreign policy to achieve global environmental security shall be based on the following fundamental principles:

(A) Protection of human life from the adverse effects of environmental degradation.

(B) Protection of the atmosphere from degradation or adverse changes arising from human activity.

(C) Protection of biological diversity.

(D) Protection of the world's forest cover.

(E) Protection of the oceans from human induced pollution and from misuse of living marine resources.

(F) Broad-based environmentally sustainable development as a basic objective of United States foreign assistance.

(G) Integration of economic and environmental decisionmaking processes.

(3) In recognition of the environmental factors that affect relations among countries, the President, in consultation with appropriate government agencies, shall—

(A) identify and evaluate elements of environmental programs of the United States Government with significant international implications or applications;

(B) identify and evaluate international environmental developments with significant implications for or applications in the United States; and

(C) initiate and participate in international environmental activities directed to the identification and resolution of international environmental problems and issues.

(4) In order to implement the policies set forth in this section, the Secretary of State shall have primary responsibility to coordinate and oversee all major environmental agreements and activities between the United States and foreign countries, international organizations, and commissions of which the United States and one or more foreign countries are members.

(d) REPORT TO CONGRESS.—On May 1, 1992, and biennally thereafter, the Secretary of State shall submit a report to the Congress containing information and recommendations with respect to the following:

(1) Major multilateral environmental initiatives and negotiations concluded or in process, including identification of key issues and United States positions.

(2) Bilateral agreements on the environment in effect, by issue.

(3) United States participation in and support of environment programs in international organizations and multilateral development banks, including policies on environment protection encouraged by the United States and actions taken with regard to the policies by such institutions.

(4) International cooperation activities with respect to research and monitoring of environmental and natural resource conditions, including identification of United States funding levels and in-kind participation.

(5) Environmental policies and activities of the United States in providing foreign assistance.

SEC. 1105. UNITED STATES SUPPORT FOR UNCED.

(a) FINDINGS.—The Congress finds that—

(1) the United Nations Conference on Environment and Development (hereinafter in this section referred to as "UNCED") is scheduled to meet in June 1992 in Rio de Janiero, Brazil; and

(2) UNCED affords a major opportunity to shape international environmental policy as an underpinning of sustainable development for well into the next century.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) The United States should genuinely seek to fully integrate environmental principles and considerations into all spheres of international economic activity;

(2) the President should fully commit to the UNCED process, and accord it high-level attention and priority within the executive branch;

(3) the United States should exercise a prominent leadership role in preparations for the June 1992 meeting of the UNCED;

(4) the United States should carefully consider what it hopes to achieve through the UNCED and how United States national security interests may best be advanced in deliberations in that conference;

(5) the United States should seek ways to forge a global partnership and international cooperation among developing and industrialized nations on behalf of environmentally sound economic development;

(6) the United States should actively pursue creative approaches to the spectrum of UNCED issues which the conference will address, and in particular seek innovative solutions to the key cross sectorial issues of technology transfer and financial resources;

(7) the United States should consider how best to strengthen international legal and institutional mechanisms to effectively address the range of UNCED issues beyond the 1992 Conference and into the next century;

(8) the United States should promote broad international participation in the UNCED process at all levels, from grass roots to national;

(9) the Agency for International Development should assume an appropriate role in the preparations for the June 1992 meeting of the UNCED, in view of the mandate and expertise of that agency regarding the twin conference themes of international environment and development; and

(10) the executive branch should consider funding for appropriate activities related to the UNCED in amounts which are commensurate with United States responsibilities in the world, as such funds can engender good will and further our national interests and objectives in the UNCED process.

SEC. 1106. UNITED NATIONS CONVENTION ON THE RIGHT TO FOOD.

It is the sense of the Congress that a major effort should be made to strengthen the right to food in international law to assure the access of all persons to adequate food supplies. Toward that end, the Secretary of State, through the United States Representative to the United Nations, should propose to the United Nations General Assembly that a Declaration and a Convention concerning the right to food be adopted and submitted to the countries of the world for ratification. In the drafting of such a convention, consideration should be given to the inclusion of the following elements:

(1) The responsibility of every government to maintain policies aimed at providing food for its people.

(2) The responsibility of the international community to provide both emergency and nonemergency food assistance when appropriate.

(3) The responsibility of individual governments, and of armed opposition groups, to assure access of all civilians to sufficient supplies of food during time of war, other international armed conflict, or armed conflict not of an international character, to which they are a party.

(4) Sanctions against any government or armed opposition group which takes steps to deny the right to food to the people of the country.

SEC. 1107. REFORMING THE UNITED NATIONS RESPONSE TO INTERNATIONAL DISASTERS.

It is the sense of the Congress that a major effort should be made to reform and restructure the United Nations mechanism for responding to international disasters and other humanitarian emergencies. Toward that end, the Secretary of State, through the United States Representative to the United Nations, shall evaluate the role of the United Nations Disaster Relief Organization (UNDRO) and shall develop a proposal for strengthening the United Nations response to such emergencies. In formulating such proposal, the Secretary of State and the United States Representative to the United Nations shall give strong consideration to proposals that have been made for strengthening the United Nations responsiveness to disasters, including the following:

(1) The appointment by the Secretary General of a senior representative to be responsible for humanitarian affairs (including disaster response), whose office would be vested with sufficient authority, support, and resources to develop new procedures and coordination mechanisms to become the United Nations lead agency in international disaster relief matters.

(2) Creation of a standing interagency group, consisting of all United Nations agencies involved in disaster assistance, with a secretariat based in the office referred to in paragraph (1).

SEC. 1108. AUTHORITY TO FORGIVE REPAYMENT OF AN ALLIANCE FOR PROGRESS LOAN.

(a) FORGIVENESS.—Subject to subsection (b), the Administrator of the Agency for International Development shall release the Institute Centroamericano de Administration de Empresas from its obligation to make further payments to the United States Government on account of the loan made to that organization pursuant to the Alliance for Progress Loan Agreement dated April 25, 1972 (current loan number: 524–L–035).

(b) FEDERAL CREDIT REFORM ACT REQUIREMENTS.—The authority of subsection (a) may be exercised only to the extent that the budget authority for the resulting additional cost (within the meaning of the Federal Credit Reform Act of 1990) has been provided in advance in appropriations Acts.

Mr. DYMALLY. Mr. Chairman, I rise today in support of H.R. 2508, the foreign aid authorization bill.

This legislation reflects a bipartisan consensus that resulted from tireless efforts on the part of the subcommittee on Africa and the full committee to fashion a foreign assistance package for Africa that addresses the severe economic crisis and long term development needs of the continent.

Central to this effort is the establishment of programs and projects which address what most African leaders agree is the root problem of underdevelopment in Africa—poverty. Accordingly, the bill provides assistance and policy direction in critical sectors such as: First, health, particularly child survival, population planning, and one of the deadliest threats to health, AIDS; second, education; and third, housing, as well as special attention to vulnerable groups such as women and children.

The bill continues United States support for regional development initiatives by providing funding for the Southern Africa Development Coordination Conference [SADCC]. It also gives greater attention to supporting privatization initiative in Africa, and recognition and support for countries that have initiated economic reform measures.

In the area of human rights and democratization, the bill withdraws U.S. military and eocnomic support to those countries which have shown a consistent disregard for human rights unless and until certain conditions are met.

The bill also acknowledges the commitment of several governments in sub-Saharan Africa to move toward democracy and multiparty systems and authorizes assistance which promotes democratization and the development of democratic institutions in Africa.

At a time when the world is witnessing and supporting the easing of the East-West conflict, it is essential to also promote indigenous solution to regional, national, and subnational conflicts in Africa. Indeed, the conflicts in Liberia, Angola, Ethiopia, Mozambique, and other countries bear witness to the need for viable approaches to conflict resolution on the continent. The bill addresses this need by authorizing the establishment of a center for conflict resolution in Africa.

Mr. Chairman, the United States has focused almost exclusively on human rights practices as the main criterion for providing or restricting foreign assistance. Clearly human rights and democracy should continue to be factors in determining foreign assistance. However, given the fall of autocracies and the increase in democracies in Africa, I would suggest that there is a need to establish a broader set of criteria for selecting recipients of U.S. foreign assistance.

In this regard, I would propose the creation of a quality of life index which conditions aid on both positive and negative factors.

Positive side: Freedom of press, free and fair elections, right of assembly, human rights protections, freedom to travel, sound fiscal management, adequate health care, and sound environmental policies.

Negative side: Forced labor, political prisoners, censorship, proliferation of nuclear weapons, occupation of foreign territories, support or promotion of terrorism, sale of weapons, and military rule.

It is my belief that, by employing this approach, those countries most in need and most deserving of aid will be the primary recipients of U.S. foreign assistance.

Sustained and sustainable development does not come cheap; nor does the cost of funding programs and projects accordingly, we propose an authorization of $1 billion for fiscal year 1992 and $1.3 billion for fiscal year 1993. While this amount is the same as was authorized during the last authorization, it represents a $200 million increase over the amount appropriated for fiscal year 1991.

I doubt that there will be total agreement for every provision relating to assistance to Africa. However, the committee strongly believes that the funding level, policy initiatives, and program and projects—taken as a whole—represent the most desirable, cost effective, and responsive U.S. assistance to Africa.

A great degree of cooperation will be required to implement the programs and projects authorized to assist Africa. However, I am confident that consultations between Congress and the administration can make a significant and important difference in Africa.

Finally, Mr. Chairman, I want to thank my distinguished chairman, Mr. FASCELL, chairman of the full committee; Mr. BROOMFIELD, minority leader of the committee; Mr. BURTON, minority leader of the subcommittee; The majority and minority staffs of the full and subcommittee; and, of course, Mr. Chairman, my appreciation to the staff of the subcommittee on Africa for their contribution to the legislation.

Mr. DONNELLY. Mr. Chairman, I rise today in opposition to the House foreign aid authorization for fiscal years 1992 and 1993.

Mr. Chairman, I have supported similar authorizations in the past. However, I can no longer do so. Our continuing budget crisis, increasing trade deficit, spiraling national debt and stagnant economy demand that we in government make some hard choices about our future spending priorities.

Today, in this country, we still have people as poor and as sick and as hungry as those in many of the countries we help. These problems have confronted us for decades, and yet we have not done enough to help these people. We spend too little on health, education, and housing for the poor, and medical care for the elderly. These problems will not go away until we as a nation decide to focus on our own people.

I do not believe that we can ignore our longstanding global commitments, and I would support a more modest foreign aid package. But $12.3 billion is too much. We cannot afford to continue to borrow billions of dollars from foreign governments at exorbitant interest rates so that we can give billions to other countries.

We must cast aside our 1950's view of the world. We are no longer in the era of the Marshall plan; a time when our Nation was about to embark on its grand experiment. I am becoming increasingly concerned that President Bush's new world order will mean even more for foreign assistance, driving the U.S. deeper into debt.

Mr. Chairman, I did not reach this decision easily. Americans are by nature generous people, and the nations of the world look to us for guidance and assistance. However, as a representative of the American people, it is my duty to see that their needs are met. When I look around this country, I see that this is not the case.

If we must go further into debt, let us do so for the good of this country's poor, sick, and homeless. If I am forced to choose between helping the needy people of the world, and the needy people of this country, I must vote to care for our poor first.

The CHAIRMAN pro tempore. Are there any amendments to title XI? If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. McHUGH] having assumed the chair, Mr. McDERMOTT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2508) to amend the Foreign Assistance Act of 1961 to rewrite the authorities of that Act in order to establish more effective assistance programs and eliminate obsolete and inconsistent provisions, to amend the Arms Export Control Act and to redesignate that Act as the Defense Trade and Export Control Act, to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes, pursuant to House Resolution 170, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BROOMFIELD

Mr. BROOMFIELD. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BROOMFIELD. Mr. Speaker, yes, I am opposed to it in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. BROOMFIELD moves to recommit the bill, H.R. 2508, to the Committee on Foreign Affairs with instructions to re-report the bill in a form that is consistent with the recommendations of the task force on foreign assistance (Hamilton-Gilman task force) established by the Committee during the 101st Congress and the approach contained in the foreign and authorization bill transmitted by President Bush, which was submitted as H.R. 1792 during the current Congress.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan [Mr. BROOMFIELD] for 5 minutes in support of his motion.

Mr. BROOMFIELD. Mr. Speaker, I would first like to compliment the fine work that our good Chairman DANTE FASCELL, has done on this bill. He and I have worked together for years, and he has been consistently fair-minded and willing to work in a bipartisan spirit.

This year has been no exception. We have tried to shape a bill that is acceptable to both houses of Congress and to the President—a bill that truly projects America's ideals and protects its interests.

It is no criticism of the chairman to say that the final product, the bill we are voting on today, is a failure.

It is a bill with multiple personalities. It tries to respond to every special interest, and ends up ignoring the national interest.

It did not need to end this way. We had a good chance to work with the administration on writing a bill that would reflect the concerns of the Hamilton-Gilman task force on reforming foreign aid, as well as the concerns of many others who have witnessed the deterioration of the foreign aid program.

Our efforts were done in by the usual suspects—billions worth of earmarks, unceasing demands for more administration reports, and continued micromanagement—or maybe meddling is a better term—in U.S. foreign policy.

Above all, this bill is veto bait. The President has specifically named several items that would cause him to reject it. Those items stayed in the bill, and it will most certainly be vetoed. All in all, what we will pass here will be nothing but a meaningless gesture.

That is a shame. I thought this committee might have been able to finally bring forth a bill that could receive approval of both Houses of Congress and the White House.

Frankly, we blew it. As much as I would like to see this committee get its most important piece of legislation through the House, I recommend that we vote against the bill.

If it does pass, I hope we can work out something acceptable in conference, so that we can finally put our farm club status behind us and get back in the major leagues of legislation.

Mr. BROOMFIELD. Mr. Speaker, first of all, I would like to pay tribute to the gentleman from Washington [Mr. McDERMOTT], who I think did a super job under very difficult conditions over the last few days.

Mr. Speaker, I yield to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to join him in commending the gentleman from Washington [Mr. McDERMOTT] and, of course, our chairman, the gentleman from Florida [Mr. FASCELL], and the gentleman who yielded to me, the gentleman from Michigan [Mr. BROOMFIELD], for the way they have conducted this very difficult debate and vote.

I reluctantly oppose the bill as well, but I do want to say that, and I do not know how many people have noticed this, the most contentious title of this bill for many, many years, ever since I have been here, has been title VII. If we will note, there was not one amendment offered to title VII. I want to give credit for the fact of that happening, and for having a title VII that I can support, and if that were the whole bill, I would have no problem. I would vote for it and urge my colleagues to do the same. I want to give full credit to the chairman of the full committee and his staff, but particularly to the gentleman from New Jersey [Mr. TORRICELLI], who is the new chairman of the Western Hemisphere Subcommittee. He worked with the minority and, more important than that, I think he worked with the administration, particularly with Assistant Secretary Bernie Aronson, in fashioning a bill that I think, or a section or a title, that all of us can support.

I want to take this time to offer my congratulations and my thanks to him and his staff and to the full staff as well as the people on our side of the aisle.

Mr. BROOMFIELD. Mr. Speaker, I would like to finally say that I want to congratulate the staff on both sides. They have done a terrific job.

Mr. Speaker, I yield to my friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise to express my support for H.R. 2508, the International Cooperation Act of 1991, and I commend the distinguished chairman of the Foreign Affairs Committee, the gentleman from Florida [Mr. FASCELL], and our ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD] for their work on resolving some of the more contentious issues in this legislation. I am aware of and respect Mr. BROOMFIELD's objections to this bill. I had hope we would be able to work out a bill acceptable to the vast majority of our colleagues, on some issues we were successful, on others, we were not.

Mr. Speaker, I support this measure because I believe that the U.S. foreign assistance program is a critically important U.S. foreign policy vehicle. Military assistance to our allies gives them the wherewithal to meet their defense needs, thereby increasing U.S. influence around the globe. It is important to note that a good portion of our foreign military assistance is spent right here in the United States.

U.S. economic aid programs are designed to help friendly nations gain political and economic stability, thereby decreasing the chances of conflicts between nations escalating to the point of violence.

Our aid programs are designed to help improve the quality of life of people throughout the world. That includes bringing food, shelter, and medication to some of the world's most indigent.

Two years ago, the distinguished gentleman from Indiana [Mr. HAMILTON] and I cochaired a task force on foreign assistance, which examined our foreign aid program. The Hamilton-Gilman task force produced a report which contained several important recommendations, suggesting, for example, that the number of program objectives be reduced and be more focused. In fact, we established four major objectives of our economic assistance program, including sustainable economic growth, sustainable resource management, poverty alleviation, and democracy. We also advocated that the protection of our environment should be given higher priority by our aid recipients.

Our military assistance programs promote regional stability by enhancing the indigenous military capabilities of our allies and friends around the world. Although our security assistance program can not, as we all know, in itself correct major regional disparities, it is clear that this program helps to enhance friendly nations' self-defense capabilities.

Another significant aspect of our security assistance program is its ability to help our Nation project its influence throughout the world. It is partially through our security assistance program that we are able to maintain access to so many basing facilities throughout the world.

As we consider final approval of this bill, let us bear in mind just a few of the major provisions in this bill:

It takes important steps to streamline the narcotics related provisions in our foreign aid bill.

This bill provides the authorization for programs in Eastern Europe which will aid the democratization process, and the movement toward market economies.

It maintains the 7:10 ratio in security assistance between Greece and Turkey to encourage the resolution of the Cyprus problem.

This bill provides $3 billion in security assistance to Israel for fiscal year 1992 and $3.2 billion for fiscal year 1993.

It also addresses myriad other significant foreign policy provisions.

Mr. Speaker, our security assistance program saw its genesis during the post World War II period. It was an important part of our attempt to contain the spread of communism. Now, with the era of glasnost and perestroika upon us, and with different international crises confronting us, we must reassess our priorities. In recent years, our Foreign Affairs Committee has sought to address the need for revised U.S. foreign assistance policies and programs to reflect changing international political and economic realities. Two years ago, our report noted that with the relaxation of tensions between the superpowers, "Economic issues increasingly dominate the international agenda." For this reason, greater attention must be given to matters such as trade, debt, investment, and economic adjustment. I believe those priorities are adequately addressed in this measure.

Mr. Speaker, this bill is our best chance to impact on foreign policy issues during the next 2 years. Let us not let that chance slip away. Accordingly, Mr. Speaker, I urge the passage of this important measure.

The SPEAKER pro tempore. Does any Member wish to be recognized in opposition to the motion to recommit?

Mr. FASCELL. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] is recognized for 5 minutes.

Mr. FASCELL. Mr. Speaker, I want to express my appreciation, first, to our colleagues who have suffered through this long process in order to have the kind of debate that the American people deserve with regard to important foreign policy issues. Fortunately, or unfortunately depending on how you look at it, the foreign aid bill is the bill where you have most of the debate with regard to all the foreign policy issues that every Member of this House is interested in and can be heard and amendments can be offered.

It does take time in order to do that, and a lot of patience with our colleagues. So I join in a particular expression of appreciation to our Chair, the gentleman from Washington [Mr. McDERMOTT], to my colleagues on both sides of the aisle on the committee who worked very diligently to bring this to the point where we can pass this bill now.

As far as the motion to recommit is concerned, Mr. Speaker, I know it is pro forma, because I know that my distinguished colleague, the gentleman from Michigan, would not want to eliminate the earmarks for Israel, or go back on the Jordan amendment, go back on the U.S.S.R. amendment, go back on the South Africa amendment, on the Horn of Africa amendment, on the Gilman amendment, and a whole host of others that have been incorporated in this bill.

All I can say is we will continue our efforts as we have up until now in a strong bipartisan fashion to do the best we can to formulate a bill that not only we can be proud of but perhaps the administration will ultimately, eventually, sometime, I hope, support.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

□ 1310

The SPEAKER pro tempore (Mr. McHUGH). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 274, noes 138, not voting 20, as follows:

[Roll No. 185]

AYES—274

Abercrombie
Ackerman
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Atkins
AuCoin
Bacchus
Baker
Ballenger
Beilenson
Bennett
Bentley
Berman
Bevill

Bilbray
Bliley
Boehlert
Boehner
Bonior
Borski
Boxer
Brewster
Browder
Brown
Bruce
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Davis
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Dooley
Doolittle
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Inhofe
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Matsui
Mavroules
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Moody
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Obey
Olin
Olver
Owens (NY)
Owens (UT)
Pallone
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Pickle
Porter
Price
Ramstad
Rangel
Ravenel
Reed
Richardson
Ridge
Riggs
Ritter
Roe
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Santorum
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (TX)
Snowe
Solarz
Spratt
Stallings
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Waters
Waxman
Weber
Weiss
Wheat
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Zeliff
Zimmer

NOES—138

Alexander
Anthony
Applegate
Archer
Armey
Barnard
Barrett
Barton
Bateman
Bereuter
Bilirakis
Boucher
Broomfield
Bryant
Bunning
Chapman
Clinger
Combest
Condit
Costello
Crane
Dannemeyer
Darden
DeFazio
Derrick
Dickinson
Donnelly
Dornan (CA)
Dreier
Duncan
Early
Edwards (OK)
English
Fields
Gallegly
Gaydos
Goodling
Goss
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hobson
Holloway
Houghton
Hubbard
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
James
Jenkins
Johnson (TX)
Jontz
Kanjorski
Kolter
Lagomarsino
Lent
Lewis (FL)
Livingston
Long
Marlenee
Mazzoli
McCandless
McEwen
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Morrison
Myers
Neal (NC)
Nussle
Orton
Oxley
Packard
Panetta
Parker
Patterson
Pease
Perkins
Petri
Pickett
Poshard
Pursell
Quillen
Rahall
Ray
Regula
Rhodes
Rinaldo
Roberts
Roemer
Rogers
Roth
Russo
Sangmeister
Sarpalius
Savage
Schulze
Sensenbrenner
Shuster
Slaughter (VA)
Smith (NJ)
Smith (OR)
Solomon
Staggers
Stark
Stearns
Stump
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Weldon
Whitten
Williams
Wilson
Wolf
Wylie
Young (FL)

NOT VOTING—20

Aspin
Brooks
Carr
Coughlin
DeLay
Fawell
Gray
Hammerschmidt
Hopkins
Huckaby
Levine (CA)
Lloyd
Martin
Martinez
Oberstar
Ortiz
Serrano
Spence
Walsh
Washington

☐ 1341

The Clerk announced the following pairs:

On the vote:

Mr. Carr for, with Mr. DeLay against.

Mr. Serrano for, with Mr. Hammerschmidt against.

Mr. Oberstar for, with Mr. Spence against.

Mr. VOLKMER and Mr. DORNAN of California changed their vote from "aye" to "no."

Mrs. ROUKEMA and Messrs. BURTON of Indiana, YOUNG of Alaska, and THOMAS of Wyoming changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. CHANDLER. Mr. Speaker, during consideration of the Foreign Assistance Act this past week, Mr. BERMAN offered an amendment to reinstate the bill's original language reversing the administration's so-called "Mexico City policy." On that amendment, I was recorded as having voted "no" when I meant to vote "yes." When this issue comes before the House in the future, I will vote in accordance with my consistent position and in opposition to the Mexico City policy.

PERSONAL EXPLANATION

Mr. ANDREWS of New Jersey. Mr. Speaker, on rollcall vote No. 182, I voted "aye." It was not until I had returned to a hearing of the Select Committee on Narcotics Abuse and Control that I learned of the technical error in the amendment language. I was not able to return in time to change my vote. Had the drafting error been known at that time, I would have voted "no."

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 2508, INTERNATIONAL COOPERATION ACT OF 1991

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 2508, the Clerk be authorized to correct section numbers, cross references, punctuation, and grammatical and spelling errors, to make appropriate revisions in the tables of contents contained in sections 2 and 3, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Florida?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON THE AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION AND RELATED AGENCIES APPROPRIATIONS BILL, 1992

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and related agencies programs for the fiscal year ending September 30, 1992, and for other purposes.

Mr. McDADE reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS BILL, 1992

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.

Mr. McDADE reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE A PRIVILEGED REPORT ON THE DISTRICT OF COLUMBIA APPROPRIATIONS BILL, 1992

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes.

Mr. McDADE reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, before yielding to the distinguished minority leader, I guess we ought to also advise Members as to how we proceed for the balance of the day on the water bill.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. I thank the gentleman for yielding.

Mr. Speaker, in a moment we will be taking up the rule on the reclamation bill, and we will try to complete that bill. We do not know how long it will take at this point, but we hope to finish—we had hoped to finish around 3 o'clock. It may go longer than that. We will certainly not go beyond 5 o'clock. If at that point we are not getting done, we will rise and come back next week.

There will be no votes tomorrow.

On Monday, June 24, the House will meet at noon to take up six suspension bills on which the votes, if ordered, will be postponed until the end of the day.

The suspensions are as follows:

H.R. 470, conveying certain lands to the city of Gary, IN.

H.R. 2132, transfer of certain lands at Fort Smith Municipal Airport.

H. Con. Res. , Soap-Box Derby authorization.

H.R. 1006, Federal Maritime Commission authorization for fiscal year 1992.

H.R. 2194, Federal Facilities Compliance Act of 1991.

H.R. 1341, Federal Employees Reduction-in-Force Notification Act.

Then of course we will be taking up a House resolution at the end of the consideration of those suspensions on the Interior and related agencies appropriations, fiscal year 1992. We will hold the votes on the suspensions until after the Interior bill is finished.

Members may expect first votes on Interior, though, as early as 2 o'clock, maybe 3 o'clock, maybe 4 o'clock in the afternoon.

Mr. Speaker, on Tuesday the House will meet at noon to take up the District of Columbia appropriations, fiscal year 1992, subject to a rule; a suspension, H.R. 1775, Panama Canal Commission authorization, fiscal year 1992.

On Wednesday, June 26, the House will meet at 10 a.m. to take up the Labor, Health and Human Services, Education appropriations, fiscal year 1992.

On Thursday, possibly Friday, we will be meeting at 10 a.m. to take up the Agriculture, rural development, and related agencies appropriations, fiscal year 1992. It obviously is hoped if we can get the appropriation bills done by Thursday evening, that we would not have to be here for Friday for votes. Obviously——

Mr. MICHEL. And conference reports may be brought up at any time.

Mr. GEPHARDT. Conference reports may be brought up at any time, yes.

I am also advised that on Thursday we will be coming in at 11 a.m. because of other matters that have to be scheduled.

Mr. MICHEL. Then we will have our July 4th recess beginning whenever we can get through, either Thursday or Friday.

Mr. GEPHARDT. If we can get done on Thursday night, we will leave on Friday.

Mr. MICHEL. I thank the gentleman.

RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 178 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 178

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 429) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(l)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed sixty minutes, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 2684 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered by title instead of by section and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1340

The SPEAKER pro tempore (Mr. MAZZOLI). The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 178 is an open rule which provides for the consideration of H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991. This resolution calls for 1 hour of general debate to be equally divided between the chairman and ranking minority Member of the Interior and Insular Affairs Committee. After general debate has expired, the bill is subject to amendment under the 5-minute rule.

House Resolution 178 waives clause 2(l)(6) of rule 11, requiring a 3-day layover, and makes in order an amendment in the nature of a substitute consisting of the text of H.R. 2684 as original text for purposes of amendment. Clause 7, rule 16, prohibiting nongermane amendments, is also waived against the substitute amendment. Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, the substitute bill introduced by Chairman MILLER is a clean bill with several technical amendments which were worked out with the Budget Committee, Congressional Budget Office, the Agriculture Committee, and the Merchant Marine and Fisheries Committee.

H.R. 429 is an omnibus bill which incorporates 24 projects related to Bureau of Reclamation water projects, including the central Utah project. The central Utah project is the largest of four main storage projects in the Upper Colorado River Basin which were authorized in 1956 as part of the Colorado River storage project. The bill also includes the Grand Canyon Protection Act, several provisions addressing water pollution control and salination reduction problems at Bureau of Reclamation projects, and includes several water resource management projects which will improve the efficiency of water use in the Western United States.

I urge the adoption of House Resolution 178.

Mr. DREIER of California. Mr. Speaker I yield myself such time as I may consume.

Mr. Speaker, I support House Resolution 178 because it is a relatively unrestrictive rule, and I want to congratulate the gentleman from California [Mr. MILLER] for requesting it. However, I would be remiss if I did not point out that it is again unfortunate that we must waive clause 2(l)(6) of House rule 11 which provides that a bill cannot be considered until the third calendar day on which the report on the bill has been available to House Members.

The Government Printing Office copy was not even available to us yesterday afternoon when we adopted this rule in committee at around 3 p.m. and of course even more troublesome is that the new bill being made in order by this rule as base text for amendment purposes was just introduced yesterday and was not available from the documents room when we checked around 1 o'clock today.

I regret that Members must have had to rely on the Xeroxed copies of this new substitute which is available at the committee tables in this Chamber to even draft their amendments in proper form.

At the same time, we can commend the chairman of the Interior Committee, my colleague from California, Mr. MILLER, for doing a masterful job of compromising the various concerns and interests and accommodating those in the new substitute bill (H.R. 2684). As a consequence, I doubt there will be many amendments.

Still, it would be nice if the majority leadership had a little more consideration for Members who are not a party to such compromises so that the rest of this House will have a better idea of exactly what it is Members are being asked to vote on.

Mr. Speaker, an article published by a University of Illinois scientist in the International Journal of Climatology suggests that volcanic eruptions, such as those that are occurring in Japan and the Philippines, will lead to increased rainstorms in the Western United States and an end to that region's most recent drought.

I can only hope, Mr. Speaker, that the massive reclamation bill that this rule will make in order will have the same effect of improving water resources in the Western States without the catastrophic human suffering that generally occurs as a result of volcanic eruptions.

Mr. Speaker, I want to commend my colleagues on the Interior Committee for their hard work in bringing about this compromise legislation. Reclamation reform is never without controversy because of the diverse, and increasingly conflicting demands for water resources. Today, farmers in the arid regions of the West must compete with growing urban populations and environmental considerations for water supplies that are clearly inadequate.

To make matters worse, many water reservoirs are at all-time lows as a result of a 5-year drought. In fact, California's reservoir system is now at its lowest level since the drought of 1977. H.R. 429 will help the Western States to meet their water needs by authorizing work on several water resource projects, improving water use efficiency, and reforming the Federal Water Subsidy Program.

Of course, the bill is far from perfect, and the administration has outlined a number of concerns with respect to Indian water rights settlements, the transfer of water resource project facilities, and the budgetary impact, just to name a few. I hope that these differences can be resolved as we move through the legislative process.

In addition, Mr. Speaker, we need to look at new options to improve the region's water supply situation, particularly in my State of California. That State's water supply has had no significant increase in three decades, despite a doubling of the population. A long-range perspective dictates finding ways to further improve water supplies through technology, conservation, and efficiency. I look forward to working with my colleagues on the Interior Committee to achieve these objectives in the coming years.

Again, Mr. Speaker, I urge adoption of the rule.

I submit for the RECORD the views of the administration, as follows:

STATEMENT OF ADMINISTRATION POLICY

H.R. 429—RECLAMATION PROJECTS AUTHORIZATION AND ADJUSTMENT ACT OF 1991

The Administration supports many of the projects and provisions in H.R. 429. These include the increased authorized appropriations ceiling and requirements for improved cost sharing, binding contracts, and environmental compliance activities for the Central Utah Project. The Administration also supports (consistent with our GATT proposal) the intent of title XVII, which would amend the Reclamation Reform Act, and title XXV, which would reduce subsidy levels for irrigation water used to grow surplus crops, but will work in the Senate to address problems in the language contained in these provisions.

Nevertheless, the Administration opposes H.R. 429 because it contains numerous objectionable provisions and does not include offsets to the bill's increases in direct spending and decreases in receipts, as required by the Omnibus Budget Reconciliation Act of 1990 (OBRA).

Specifically, the Administration opposes title V, which would authorize about $240 million for the Ute Indian (Utah) Water Rights Settlement. This amount far exceeds the Federal government's maximum potential legal liability for an alleged breach by the United States of a 1965 water deferral agreement. The Federal government did not participate in the development of this settlement, a requirement of the Federal government's procedures for Indian Water rights negotiations and settlements. The Administration would not support any settlement developed or negotiated outside these established procedures.

In addition, the Administration opposes:

Title XIX, the Mid-Dakota Rural Water Supply System (South Dakota), which would authorize in excess of $100 million for the construction of a water supply project and establishment of a wetlands trust. Administration policy requires 100 percent repayment of such project costs; title XIX, however, would require as little as 15 percent reimbursement for the construction of the project and no cost-sharing for the wetlands trust fund.

Title X, the Central Valley Project, which would authorize an extension of the Tehama-Colusa Canal (California). This extension may be inconsistent with final water allocations under the project's operating agreement. Section 1002 would authorize a long-term water contract prior to completion of the Environmental Impact Statement on water marketing for the Central Valley Project.

While supporting the transfer of certain project facilities, the Administration objects to the following transfers which do not conform with its policy that transfers be mutually beneficial to the contracting entity and the United States:

Title XXII, the Sunnyside Valley Irrigation District (Washington), because it would convey a parcel of Federal land to the District without compensation.

Title XXIV, the Sly Park Unit of the Central Valley Project (California), because it would prevent the Secretary from negotiating terms acceptable to the United States by placing a cap on the sales price and would not expressly relieve the Federal government of future liability.

Title XXVII, the Solano Project Transfer and Putah Creek Improvement Project (California), because the pricing formula is unacceptable to the Administration.

The Administration urges the House to amend:

Title IV, the Utah Reclamation Mitigation Account, to delete the provision that would use revenues from the sale of electric power from the Colorado River Storage Project to fund both new conservation measures and the repayment of project debt. This provision would increase expenditures for Federal programs without a corresponding increase in Federal revenues.

Title XI, the Salton Sea Research Project (California), to require 100 percent reimbursement of Federal funding of the project.

Title VIII, the Lake Meredith Salinity Control Project (New Mexico and Texas), to require that the cost for design and construction services provided by the Bureau of Reclamation be reimbursed, including interest at current Treasury rates, within 3 years.

Title XX, the Lake Andes-Wagner Drainage Demonstration Program (South Dakota), to provide for significant non-Federal cost sharing.

In addition, H.R. 429 would relinquish the Federal government's exclusive control over construction of certain Central Utah Project facilities. The Federal government, however, would remain liable for certain penalties of $2 million per year—up to a total of $10 million—until the Central Utah Project is completed. The Administration urges the House to repeal the penalty provisions of P.L. 99-591 that stipulate the Federal government's liability for facility completion.

Scoring for the Purpose of PAYGO and Discretionary Caps.

H.R. 429 would increase direct spending and decrease receipts; therefore, it is subject to the pay-as-you-go requirement of OBRA. No offsets to the direct spending increases are provided in the bill. A budget point of order applies in the House and Senate against any bill that is not fully offset under CBO scoring. If, contrary to the Administration's recommendation, the House waives any such point of order that applies against H.R. 429, the effects of enactment of this legislation would be included in the look back pay-as-you-go sequester report at the end of the Congressional session.

OMB's preliminary scoring estimates of this bill are presented in the table below. Final scoring of this legislation may deviate from these estimates. If H.R. 429 were enacted, final OMB scoring estimates would be published within 5 days of enactment, as required by OBRA. The cumulative effects of all enacted legislation on direct spending will be issued in monthly reports transmitted to Congress.

ESTIMATES FOR PAY AS YOU GO

[In millions of dollars]

	1991	1992	1993	1994	1995	1991–95
Outlays	0–3	2–32	8–29	2–8	2–8	14–80
Receipts	0	0	(1)	(1)	(1)	(−0.3)–3

[1] Range of −1 to 1.

Mr. GORDON. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Speaker, I simply rise in support of the rule and to thank the members of the Committee on Rules. This is the second year that they have struggled with this legislation, and I appreciate the work of the gentleman from Tennessee [Mr. GORDON] and the gentleman from California [Mr. DREIER], of the chairman, the gentleman from Massachusetts [Mr. MOAKLEY], and the consideration that our committee is given before the Committee on Rules.

Mr. Speaker, I urge an aye vote on the rule.

Mr. GORDON. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. DREIER of California. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER], a former member of the Committee on Interior and Insular Affairs, and now a hard-working member of both the Committee on Foreign Affairs and the Committee on Banking, Finance and Urban Affairs.

□ 1350

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this rule and also this Member would take this opportunity to commend the distinguished gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs, as well as the distinguished gentleman from Alaska [Mr. YOUNG], the ranking member of the committee, for their assistance in including as section 2601 of H.R. 429 legislation that this Member introduced, H.R. 256, which amends the High Plains States Groundwater Demonstration Act in order to increase the funding authorization from the original $20 million to $34 million.

The original act, the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675), also introduced by this Member, authorized and directed the Secretary of the Interior, acting through the Bureau of Reclamation, and in cooperation with the Geological Survey, the Environmental Protection Agency, and 17 Western States to investigate the potential for artificial recharge of aquifers and to establish ground water recharge demonstration projects. In 1987, the 21 authorized projects were estimated to cost $18,520,400 which was under the $20 million authorized.

The Bureau of Reclamation in its September 1990 interim report to Congress, estimated the costs to complete the 21 projects at $31 million using 1989 price levels. Cost increases from the original 1987 estimate are due primarily to: First, inflation; second, addition of environmental protection and monitoring features, and third, an increase of $2.8 million due to the substitution of three new projects for three originally approved projects that later were withdrawn from the program due to changes in local sponsor support.

Seventeen projects are now underway or completed, while 4 have been deferred due to lack of sufficient funding under the current ceiling. Of the 17 projects, 6 projects have been reduced in scope or are limited to paper feasibility studies because field demonstration activities have been deleted in order to stay within the $20 million ceiling. H.R. 429 would raise the ceiling to $34 million to allow for inflation that has occurred since the estimates were made in 1989 for completion of all demonstration projects directed by the original High Plains Groundwater Demonstration Program Act of 1983.

This $14 million increase in the authorization level would result in the completion of the following projects:

Rillito Creek, Tucson, AZ;
Arcade, Sacramento, CA;
Stockton East, Stockton, CA;
Equus Beds, Newton, KS;
Big Creek, Hays, KS;
Woodward, Woodward, OK;
Southwest Irrigation District, Idaho;
Wood River, Grand Island, NE;
Texas High Plains, Texas Panhandle.

The Members of this body are all too familiar with the serious shortages of water in the semiarid and arid areas of the High Plains and the West. The chronic water shortages which California and other Western States have suffered, and which have become even more serious in recent years, serve to further emphasize the need for new approaches to water management and development.

Ground water provides the majority of the water supply in most of these States—especially in the High Plains. Indeed, the economic base of much of rural America is dependent upon ground water sources. In many areas underground water supplies are not only being mined at an alarming rate, but the overall quality is being threatened by contamination from various pollution sources or intrusion of brackish waters.

The basic purpose of the High Plains Ground Water Demonstration Program is to evaluate different ways of putting water back into the ground—artificial recharge. The program is designed to move ground water recharge technology from the research mode to the pilot demonstration phase and then, to evaluate the potential for building or rehabilitating larger operational projects.

Again, this Member would like to thank the distinguished gentleman from California [Mr. MILLER] for his recognition of the importance of ground water demonstration projects. Learning how to recharge ground water resources is very important. By taking new initiatives to conserve our supplies and preserve the high quality of those ground water supplies, we will be successful.

This Member urges adoption of the rule and support for section 2601 of H.R. 429 which will be taken up upon the approval of the rule, House Resolution 178.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I thank my distinguished colleague for yielding me this time.

First, Mr. Speaker, let me say that I am very happy to see that this is the first piece of legislation that our distinguished colleague, the gentleman from California [Mr. MILLER], the new chairman of the Committee on Interior and Insular Affairs, will handle. We wish him well.

When this legislation was before us last, Mr. Speaker, there was an amendment by our colleague, the gentleman from Connecticut [Mr. GEJDENSON], and we offered a compromise amendment that was basically agreed to. We had hoped that that would be the case this time, and the Committee on Interior and Insular Affairs did so vote. The gentleman from Connecticut [Mr. GEJDENSON] feels now, though, that there may be need for a technical correction, and that possibly it may need further study. But at this time I would have no objection to working with the chairman of the committee and with the gentleman from Connecticut [Mr. GEJDENSON] to allow that technical correction. In the meantime, we will continue working to see if we can enact what I term as legislation, which is the art of the possible.

So within the art of the possible, I hope that we might work out something more permanent than merely a technical correction at this point. I am caught in a very difficult situation between extremes, and what I am trying to do within the art of the possible is to get us off center and get us something that is viable and workable and that satisfies the concerns of one side and the concerns of the other side.

Mr. Speaker, I hope that this comes to pass, and anticipating the fact that I am not going to be here because I have to leave to return to my district for a very important meeting tonight, I do hope that the chairman of the committee, the gentleman from California [Mr. MILLER], the Representatives of the Western States, and the Committee on Agriculture will handle that matter.

With that, Mr. Speaker, I ask my colleagues respectfully to support the rule on our behalf as far as our interests are concerned and insofar as I think these matters can be handled properly.

Mr. DREIER of California. Mr. Speaker, I yield back the balance of my time, and I urge support of this rule.

Mr. GORDON. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to House Resolution 178 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 429.

The Chair designates the gentleman from Maryland [Mr. CARDIN] as Chairman of the Committee of the Whole and requests the gentleman from Tennessee [Mr. GORDON] to assume the chair temporarily.

☐ 1355

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 429) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone project, Pick-Sloan Missouri Basin Program, Wyoming, with Mr. GORDON (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. MILLER] will be recognized for 30 minutes, and the gentleman from Utah [Mr. HANSEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring before the House the bill H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991.

This bill, as reported, incorporates the text of several bills introduced and referred to the Committee on Interior and Insular Affairs. The principal purpose of H.R. 429 is to address a number of important water resource issues under the jurisdiction of our committee.

The bill increases cost ceilings to allow construction on certain important water resource development projects to be completed, including the central Utah project. In addition, the committee has included the Grand Canyon Protection Act; several provisions to control water pollution and reduce salinity problems at Bureau of Reclamation projects; and several important water resource management and demonstration projects which can improve the efficiency of water use in the West.

The bill also includes amendments to the Reclamation Reform Act of 1982. These amendments were recommended by the General Accounting Office in a 1989 report to the committee, and were passed by the House in essentially the same form nearly a year ago.

The committee has also included three provisions to allow local water districts to take control of Bureau projects. For two of these projects, the bill authorizes the Secretary of the Interior to transfer title to the local project beneficiaries, after receiving appropriate compensation.

Mr. Chairman, H.R. 429 also was referred to the Agriculture Committee and to the Merchant Marine and Fisheries Committee. As a result of discussions with those two committees, H.R. 429 incorporates amendments they have suggested, and both committees have completed their consideration of the bill. I sincerely appreciate the cooperation shown by Mr. DE LA GARZA and Mr. JONES in helping us bring H.R. 429 to the floor.

The cooperation of the Budget Committee and the Congressional Budget Office should also be noted. In particular, Terri Gullo of CBO deserves mention for the thorough financial analysis she has prepared on this complex bill.

H.R. 429, as amended, is in 29 titles. Specific provisions of the bill are as follows:

Title I of the bill increases the authorization ceiling for the Buffalo Bill Dam and Reservoir, Wyoming. These amendments will allow for completion of the project.

Titles II through VI of the bill authorize a comprehensive reformulation of the central Utah project. This language, which will be explained in detail by Mr. OWENS and Mr. HANSEN, completely reformulates this project. It will ensure that the project will be completed expeditiously, but with sensitivity to environmental concerns. In addition, these titles allow for a comprehensive settlement of water rights claims with the Ute Indian Tribe.

Title VII of the bill authorizes the Interior Secretary to design, construct, and maintain a water treatment plant to treat mine drainage water from the Leadville mine drainage tunnel, Colorado.

The bill would allow the Secretary to construct the Lake Meredith salinity control project, New Mexico and Texas.

Title IX of the bill authorizes the Secretary to reformulate the Cedar Bluff project, Kansas, and to enter into contracts with the State of Kansas to reformulate operation of the project.

With regard to the Central Valley project, California, the bill authorizes an extension of the Tehama-Colusa Canal service area, and authorizes the Secretary to enter into a long-term contract for water service from New Melones Reservoir with the Tuolumne Regional Water District.

The bill authorizes the Secretary to conduct a research project for the development of an enhanced evaporation system for saline water treatment in the vicinity of the Salton Sea, California.

The bill provides the consent of Congress to an amendment to the Sabine River Compact, Louisiana-Texas.

The bill designates the Salt-Gila Aqueduct of the central Arizona project as the Fannin-McFarland Aqueduct.

Title XIV of the bill allows municipalities to apply for contracts under the Warren Act so they can use excess storage and canal capacity in certain Bureau of Reclamation projects.

The bill amends the Reclamation Project Act of 1939 to allow the Secretary to amend contracts to increase repayment if justified based on new classifications of irrigable lands.

The bill authorizes the Bureau of Reclamation to participate with the city of San Diego, CA, in the conduct of the San Diego waste water reclamation study.

Title XVII of the bill incorporates a series of recommendations made in 1989 by the General Accounting Office to tighten enforcement of the acreage limitation provisions of the Reclamation Reform Act of 1982.

Title XVIII of the bill is the Grand Canyon Protection Act. This title directs the Secretary to implement new operating procedures for Glen Canyon Dam, and, if necessary, take other reasonable mitigation measures, to protect, mitigate adverse impacts to, and improve the condition of the resources of the Colorado River downstream from the dam.

The bill would authorize appropriations of $100 million for design and construction of a rural water system to provide good quality drinking water to more than 30,000 residents of central South Dakota.

The bill authorizes the Secretary to participate with other Federal agencies, the State of South Dakota, and others in a comprehensive study of selenium contamination associated with drainage water from irrigation projects. Construction of the Lake Andes-Wagner project would not be authorized by this title.

Title XXI of the bill authorizes a study of the water and power resource needs of the insular areas.

Title XVII of the bill authorizes the transfer of a small parcel of public land, with improvements, to the Sunnyside Valley Irrigation District, Washington.

The bill authorizes the Secretary to transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir, Colorado, to the local water district.

The bill authorizes the transfer of the Sly Park unit of California's Central Valley project to the El Dorado Irrigation District. Under this title, the Secretary would be authorized to negotiate an appropriate sale price for the project.

The next title would limit the ability of individuals to receive both Federal Reclamation water benefits and agricultural price support program benefits if an acreage reduction program is in effect for a commodity under the Agricultural Act of 1949 and if the Secretary of Agriculture determines that Commodity Credit Corporation stocks exceed an amount necessary to provide for a reserve of such commodity.

Title XXVI of the bill authorizes a $14 million increase in the appropriation ceiling for the High Plains States Groundwater Demonstration Program.

The next title authorizes the Secretary to transfer title to the Solano project, California, to local water users, and includes certain protections for Putah Creek.

Title XXVIII of the bill authorizes the Secretary to provide technical assistance to States and local governments for studies of desalinization projects.

The final title of the bill authorizes the Secretary to credit for repayment the San Juan Suburban Water District in California for the purchase of two water pumps that were acquired by the district on behalf of the Bureau of Reclamation.

Mr. Chairman, the committee believes enactment of H.R. 429 will solve many critical resource problems under the jurisdiction of our committee. The bill also presents many opportunities for innovative projects to solve problems related to drought, needs of fish and wildlife resources, contamination resulting from irrigation, and other issues.

Before I conclude, Mr. Chairman, I would like to comment on the language in the bill dealing with amendments to the Reclamation Reform Act of 1982.

This language represents the culmination of a long, bipartisan effort to curb abuses of the Reclamation Program. The General Accounting Office, which spent 2 years studying enforcement of the 1982 law, concluded that our past efforts to plug loopholes had not been successful. They recommended that the loopholes be plugged through a series of important changes in the 1982 act. Title XVII makes these changes.

This section is very similar in intent to legislation passed by the House last year by a 3-to-1 margin. Its goals are the same as two earlier efforts to reform the Reclamation Program. That is, to limit subsidies to those who truly deserve them, and put an end to the evasion of law by wealthy irrigators who are farming taxpayers more than they are farming the land.

Every independent source that has looked at the Reclamation Program has concluded that the clear intent of the laws passed by the Congress are not being met and that the Interior Department is failing to do its job to limit subsidies to those who truly deserve it.

The General Accounting Office told Congress that while "the Reclamation Reform Act's legislative history shows that the Congress expected the Bureau [of Reclamation] to provide federally subsidized water to a maximum of 960 acres," its regulations—substantially weakened as a result of irrigators' pressure—"do not reflect congressional expectations in the act's legislative history."

The Interior Department didn't disagree. GAO reported that "Interior agreed that some farmers have reorganized their farms into smaller holdings to maintain large farming operations."

One 12,345-acre cotton farm—roughly 20 square miles—was reorganized into 15 separate landholdings through 18 partnerships, 24 corporations, and 11 trusts, and then operated as one large farm. All 15 landholdings were managed by the original partners, who also continued to serve as officers in the landholdings—all of which are operated by a single loan secured in common by their common crop and other farm assets.

And GAO's conclusions have been echoed by the Interior Department's inspector general, by the Wall Street Journal, by "60 Minutes," and even by Secretary Lujan himself who has advised, "The loopholes should be closed."

The Bureau blames Congress for failing to close the loopholes, although the intent of the 1982 and 1987 Reclamation Acts are clear.

That is why we must act today, without further delay, to slam shut the loopholes and insist that those who choose to receive taxpayer subsidies obey the letter, the spirit, and the intent of the reclamation law.

This legislation may appear more complex than last year's version, but only because we have made conscientious efforts to assure that we do not handicap the operations of legitimate small farms that are eligible for the water subsidy.

The history of the Reclamation Program is filled with clever irrigators, and their even more clever lawyers, who have found ways to string together parcels of land partnerships, trusts, and other landholdings that were only transparently "small" farms. In fact, they were controlled by single interests that wove complicated patterns of ownership, investment, and control in order to qualify for multimillion-dollar subsidies.

This has been described as "The Chinatown Syndrome" after the famous film about water manipulations. But I think the record of abuse in the Reclamation Program would make even Noah Cross blush.

Earlier this month, the Agriculture Stabilization and Conservation Service charged 173 partnerships, created on behalf of nine California growers, with being a "scheme or device" designed to illegally circumvent the cap on crop subsidy payments. Now, USDA wants back $3.7 million in unjustified subsidies for the 12,345-acre operation.

The same Panoche Farms used the exact same fraudulent scheme to receive nearly a million dollars in irrigation benefits between 1986 and 1989. But unlike the ASCS, the Bureau of Reclamation isn't asking for one dime back.

This language, worked out in cooperation with my colleague from California, Mr. LEHMAN, establishes a rebuttable presumption that multiple landholdings would be considered a single farm—or farm operation—if ownership, operation, management, financing or other factors, individually or together, indicate that farming or operating such landholdings is being done by the same individual, group, entity, trust, or other arrangement or combination.

Under a number of narrowly defined circumstances, certain arrangements and transactions cannot be considered for purposes of determining the existence of a farm or farm operation. However, these arrangements and transactions may be excluded from consideration only if the parties to the arrangements and transactions certify that, first, the parties are unrelated to each other and, second, the parties negotiate the arrangements and transactions at arm's length.

It is important to emphasize that the triggering of the presumption is a separate and distinct decision based upon all information the Secretary deems appropriate. We do not expect landholders to simply file a statement with the Secretary that the proposed arrangement is between unrelated parties and at arm's length. Rather, we fully expect that whatever documents the Secretary deems appropriate and necessary will be filed and carefully examined by the Secretary. Only after such thorough review can the Secretary make a determination that the so-called exclusions may be triggered. To do otherwise would make a mockery of our efforts to close the loopholes that have plagued this program.

The burden of proof properly rests with those who seek millions of dollars in public subsidies. Let us remember that a 960-acre farm in California, where over 95 percent of Reclamation abuses occur, receives over $300,000 a year in Reclamation water subsidies. We have a right, and an obligation, to assure that those who take the money qualify in every respect for the program. Subterfuge, with or without the complicity of the Bureau of Reclamation, can have no place in this program.

This law says as clearly as we know how: No combination of land or interests is permitted, not by contract, by ownership, by trust, by secret agreement or by any other device. Reclamation is not a game for lawyers and accountants. It is an expensive subsidy program that either should benefit the small farmer for whom it was intended, or should be abolished.

Mr. Chairman, this marks the third time the House of Representatives has voted to close loopholes in the Reclamation law within the last 4 years. I think I can safely say that the patience of every Member has reached the breaking point. If the Interior Department or the water users refuse to implement these reforms or develop elaborate schemes to avoid compliance with the law, there will be little or no justification for continuing the Reclamation program.

The subsidies provided by this program can only be described as lavish. On a typical 960-acre operation in California, the taxpayers are providing over $300,000 in subsidies per year. Subsidies of this magnitude are difficult to justify when those who benefit from the program refuse to comply with the law.

I urge my colleagues to support H.R. 429.

□ 1400

Mr. HANSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 429, The Reclamation Projects Authorization and Adjustment Act. This is a major piece of legislation. There are 29 separate bills contained in this legislation. It is 191 pages long, directly affects 12 States, and indirectly affects the entire Western United States.

One of the major provisions of the legislation deals with an increase in the authorization levels for the Central Utah water project.

The Central Utah water project is the last, great water project in the West to go through Congress. This process started in the early 1950's with the passage of the Colorado River Storage Act and now, almost a half century later, we seek the final authorizations to finish this water project.

During the last 3 years, there has been an intense effort to craft Utah water legislation to meet the new challenges of reclamation development. We have learned that in order to build water projects, we need to be cost efficient and environmentally sound.

The Utah delegation has negotiated a very complex piece of legislation which has the support of various environmental, public power interests, native Americans, water districts, and local governments. The negotiations have not been easy; rather, they have been long and hard. This coalition has come together after a tremendous, bipartisan effort. I salute the many people who have brought us this far and express appreciation for their excellent work. Among others, I want to express my appreciation to Chairman MILLER for his leadership on this bill.

I would like to make four major points in my remarks today. First, the central Utah water project titles in this bill cut new ground in reclamation law. For the first time, the local water district, in this case the Central Utah Water Conservancy District, will construct the remaining water delivery features. As a result, the cost of the construction can be reduced significantly because private enterprize will engineer and construct the water systems rather than a more expensive Federal agency with its built-in overhead costs. We have determined this amounts to a 35-percent reduction in costs.

The second point concerns one of the most aggressive water conservancy plans in the Nation. Local water districts have agreed to plans to protect the scarce water supplies the CUP will provide.

The third point deals with local cost sharing and repayment obligations set forward in the legislation. This bill is not a gift to the State of Utah. There are local cost sharing obligations which require local parties to pay 35 percent of the cost of the systems in the bill. This is a substantial sum to the citizens in the State of Utah and was part of a long, drawn out compromise. We have determined while this might be a burden, it will be a sacrifice the people of Utah will have to make to assure themselves of a long-term water supply.

Regarding repayment obligations, the legal basis for the Bureau of Reclamation's repayment policy is based on a series of Federal laws dating back to the Reclamation Act of 1902. The Reclamation Project Act of 1939 provided for irrigation repayment to be based on the irrigator's ability to pay for water from the increased net income from irrigated farming. Contracts for the repayment of the irrigation construction obligation are based on payment capacity remaining after operation, maintenance, and repayment costs have been deducted. It is the Bureau of Reclamation's policy to collect 100 percent of remaining payment capacity after the OM&R costs have been deducted.

Under Reclamation Law, the costs allocated to irrigation are fully repaid without interest over a repayment period not to exceed 40 years. Assistance is also available from power revenues to repay the costs that are beyond the irrigators ability to pay. In essence, irrigators pay on construction costs up to their ability to pay and power repayment revenues provide the balance.

The need for municipal and industrial water in the West has been historically a growing concern. The basis for the repayment of M&I was established in the Reclamation Project Act of 1939 and the Water Supply Act of 1958. Interest is charged on M&I water development and allows a payback over a 50 year period.

Of course, these water facilities will have a long term operational life period and their value should exceed their repayment periods easily. They are assets of the Federal Government. The point here on repayment is that this legislation calls for increased authorizations to finish the central Utah water project. Utah is the second driest State in the Union. The Federal moneys will not be a gift, the moneys will be repaid in the future. The Federal Government will be making an investment in Utah's future, and as a result of securing these water supplies, the economy of Utah will be able to produce more goods and services adding to the overall prosperity of this great country.

My fourth and final point relates to the environment. The Utah titles in this legislation provide for the completion of the environmental mitigation features associated with the CUP. It creates a commission to oversee the various environmental initiatives and allows for significant funding to make sure actions are taken.

And finally, like other large and complex bills, there may be items within this legislation I personally disagree with. However, this is an omnibus bill. There are other important titles in this package. Water is critical to the development of the West. Much of this bill has already passed this body twice last year.

Mr. Chairman, I urge adoption of H.R. 429.

I reserve the balance of my time.

□ 1410

Mr. MILLER of California. Mr. Chairman, for purposes of debate only I yield 2 minutes and 30 seconds to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Chairman, it is with a great deal of pleasure that I rise in support of H.R. 429, the Reclamation Projects Authorization and Adjustment Act. Enactment of this legislation will finally fulfill a major portion of the promise made to the people of Utah when the Colorado basin compact was agreed to over 30 years ago. This bill will authorize the final links in a system of reservoirs and water conveyance structures which will bring water from the Colorado basin west to the Bonneville basin and south to the Sevier basin in central Utah.

We would not be considering this legislation today without the efforts of literally hundreds of people over several years. Chief among those who have made today possible is my friend and colleague, the gentleman from the Second District of Utah, WAYNE OWENS, a member of the Committee on Interior and Insular Affairs. My colleague from the First District, the distinguished ranking minority member of the subcommittee which initially dealt with this project, JIM HANSEN, has also made many valuable contributions to this effort. The benefits of the clip portion of this legislation accrue to all the citizens of the State of Utah and we have worked in concert to this end.

Chairman MILLER has been particularly helpful in assisting us in resolving many complex issues involved in the central Utah project. I want to express to the chairman my heartfelt appreciation for his understanding of the importance of this bill to the people of my district and the State and for expeditiously bringing this measure to the House for consideration. I am grateful for his distinguished leadership.

I also want to thank my colleague from Alaska, Mr. YOUNG, the ranking minority member of the full committee. I appreciate his cooperation and support and look forward to working with him in the future.

On behalf of the people of my district, I want to express my appreciation to all the other members of the Committee on Interior and Insular Affairs for supporting my efforts. I also want to thank the committee's capable and professional staff, individuals who worked so constructively with me. I am pleased and gratified by the cooperation and assistance I have received.

Finally, many environmental organizations which usually oppose water development projects have worked constructively with me on this legislation. Without compromise by all parties concerned, this bill—which is so vitally important to Utah—would not be before the House today.

Mr. Chairman, completion of the Bonneville unit of the central Utah project will allow us to utilize a major portion of Utah's share of the Colorado River. It will enable us to provide an adequate municipal and industrial water supply for the growing Wasatch Front and, equally important, it will provide us with much needed irrigation water for rural communities to the south.

The bill before us today differs from the legislation the House passed late last year. The changes are almost exclusively the result of the adoption of amendments I believe are essential to make this bill more responsive to the particular needs and concerns of the people of Utah's Third District which I represent. During the campaign last year, many voters, now my constituents, expressed concern over omissions or specific provisions in the version considered by the House in the 101st Congress.

For example, we have clarified a provision on crop assistance programs which could have had serious implications for many agricultural producers in Utah. We developed a new mechanism for water replacement in Wasatch County which allows restoration of historic river flows to enhance fish habitat while ensuring that agriculture in that county would not be deprived of water. We adopted provisions which will provide compensation for adjacent landowners who may be adversely affected by the wetlands preserve created in this bill. We have broadened the scope of a water management planning study and provided for the use of more efficient techniques, thereby making additional water available for rapidly-growing Utah County, a major metropolitan area in my district.

We have made the Mitigation Commission established by this bill more responsive to the plans and concerns of State and local government. I am disappointed, however, that we have been unable to clarify one point in this section. As originally drafted this bill created an environmental Mitigation Commission whose power is limited only by the appropriations process in Congress. This lack of accountability prompted numerous expressions of concern by Federal, State, and local officials whose activities would be affected by commission decisions.

In light of these concerns I proposed that we require the Commission to incorporate the recommendations of State and local agencies into the Commissions mitigation plans unless doing so would prevent the Commission from carrying out the responsibilities assigned to it in this bill. I also suggested that if the Commission did not adopt local recommendations that it issue a written finding explaining what prevented it from incorporating the plans of State or local governments.

To anyone as concerned as I am about making government responsive to the people, this is not an unreasonable requirement. After all, it incorporates a fundamental and essential tenet of democracy. Yet this suggestion encountered what I consider to be unreasoned and unreasonable opposition from environmental groups.

It was insisted that the following four words "in its sole judgment" be added to the language requiring the Commission to consider and incorporate local recommendations. I believe that this language adds nothing to the substance of the bill and may send the exact opposite message to the Commission than I want to send.

The issue I raised in conjunction with the Commission's activities is not an environmental one. It is a simple issue of good government. I am very concerned with the antidemocratic position the environmental community has taken on this issue. In opposing my efforts to make the Mitigation Commission more responsive they are saying that they do not want Federal agencies to be responsive to the goals and plans of State and local governments. That tact is dangerous to the country and particularly to the environmental movement. No pendulum continues its swing in one direction forever. If the environmental movement is beginning to take an antidemocratic stance in pursuit of its objectives I see critical problems ahead. Much of the good work the movement has accomplished will be seriously jeopardized.

Even though the language in the bill might lead the Commission to believe that it need not be responsive to State and local concerns, I sincerely hope that the Commission will in fact, be responsive to those concerns. It would, of course, be most unfortunate if the Commission or the Congress were to conclude that the Commission could ignore State and local concerns. I will personally and carefully monitor the activities of the Commission to ensure that they do not. I know that I will be joined in that effort by the other members of the Utah delegation and the majority of my colleagues in the House.

Mr. Chairman, this bill is overall a brilliantly crafted compromise which should be adopted enthusiastically by the House. It provides for vital water development in a fiscally and environmentally-responsible way. It is long overdue in fulfilling the promises made in the Colorado basin compact, and I urge its passage.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I rise in support of H.R. 429, and wish to thank Mr. MILLER and Mr. HANSEN for all of their help in bringing this important legislation to the floor.

One of the major reclamation projects contained in this bill is the Buffalo Bill Dam project near Cody, WY. The Buffalo Bill Dam provides water to a large number of irrigators in northeast Wyoming and also generates hydroelectric power and provides recreational benefits for the Cody area.

In 1982, Congress authorized extensive modifications to the Buffalo Bill Dam. The plan was to raise the height of the dam by 25 feet. The act authorized appropriations of $115.7 million and the modifications are largely complete. However, subsequent to the 1982 authorization, the Bureau of Reclamation identified a number of design changes which needed to be addressed.

Last year I introduced legislation which would have authorized the completion of the Buffalo Bill Dam. Unfortunately, this bill was not approved due to a number of contentious issues which developed in the House and Senate.

The Buffalo Bill Dam modification project is unique because it includes a substantial cost-sharing arrangement with the State of Wyoming. This State-Federal cost-share plan is extremely important and is a good example of what can be accomplished when the Federal Government and the States work together. As we continue to tighten our belts to combat the Federal budget deficit, we should begin to look at agreements such as this in order to complete vitally needed programs.

Mr. Chairman, I am very pleased that the House is acting on this important legislation and would urge its quick adoption.

Mr. MILLER of California. Mr. Chairman, for purposes of debate only, I yield 5 minutes to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Chairman, the central Utah project, unlike most Western water reclamation projects, is totally fiscally responsible. It should be authorized for all the valid reasons. We placed a cap on bureaucratic overhead. We have killed hundreds of millions of dollars of unneeded water projects contained in the original legislation and currently on the books. And with the Utah cost share of 35 percent, the largest of any such water project, the American taxpayer has been responsibly protected. Most Utahns will benefit from the environmental care and growth opportunities developed in this bill. I am proud of these accomplishments, and I express my appreciation for the dedication and spirit of the many individuals who have worked on this bill. I think that is very significant, that the interested parties in Utah's congressional delegation have achieved total consensus on virtually every major aspect of this controversial project. That consensus has not been accidental and it has certainly not been easy.

The central Utah project is a result of a willingness by many people with divergent interests to find a compromise that is acceptable to all. It represents a huge expenditure of time and energy to rationally redesign and update the project for the people of Utah.

The Central Utah Project Completion Act of 1991 is virtually identical to the bill that actually passed the House and the Senate last year, but our bill died in the final moments of the 101st Congress, becoming embroiled in the major conflict over the Reclamation Reform Act to which it was tied, as it is today.

Our new Utah colleague, BILL ORTON, has offered new insight into several local issues, and we have adopted his amendment to add an additional $30 million to help Wasatch County build a water efficiency project which will ensure the return of streamflows to the Strawberry River and mitigate for lost waters.

I want to express very real thanks to Chairman MILLER for his assistance and for that of Dan Beard and Steve Lanich of his staff. We owe a great debt to our former chairman, Mo Udall, whose advice and help on these issues over the years has been critical.

We present, with all that assistance, legislation which creates a fiscally and environmentally sound water miracle which is in itself another miracle.

I thank my colleague, the gentleman from Utah, the senior Republican on our subcommittee, for his help and invaluable input and his staff man, Jim Barker, and our new colleague, Mr. ORTON, for his fresh perspective and important amendments, and our colleague in the other body, Senator HATCH, and the former water commissioner of Salt Lake City who is also the spiritual high priest and chief guru of the central Utah project, as well as our senior Senator, JAKE GARN, who has been working on this bill for 25 years.

I also wish to express appreciation to Don Christiansen, general manager of the Central Utah Water Conservancy District, counsel Marcus Faust, Ed Osann, and Dave Conrad of the National Wildlife Federation and Jeff Appel in Utah who have been representing the Utah environmental community. All have contributed enormously, as well as a succession of my own staff members over 4 years, Matt Durham, Kenley Brunsdale, Mike Weyland, and finally, Tom Melling.

I am very grateful to the gentleman from California, Chairman MILLER, for bringing the House to this position. I hope that our colleagues will give again their confidence as we repass again this recodification and restructuring of the central Utah project.

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Chairman, I rise today in support of H.R. 429, and specifically, the Lake Meridith Salinity Control project which would dramatically improve the quality of drinking water for many people in my congressional district. I cosponsored this title of the bill with my colleague, Mr. SARPALIUS, as H.R. 1159 earlier this year.

This legislation stems from a 1985 Bureau of Reclamation study that not only confirmed the high concentration of salt in the drinking water, but identified the source of the salt pollution, and presented a solution to the problem. With this legislation which has been introduced since the 100th Congress, a half million people have been hopeful that clean drinking water is coming, and now it finally will.

Anyone who has been to west Texas knows that the scarce and valuable water supply is the basic lifeline for the area. However, the quality of the drinking water has been continually deteriorating to a point that it sometimes is below health and environmental standards. With this legislation, we can help people help themselves. Under the proposal, the Federal Government would pay no more than 30 percent of the cost of the project, with the remaining cost coming from the beneficiaries. This is a small Federal investment compared to the strong commitment coming from the area water authority.

I urge my colleagues to support H.R. 429 as passed by the Interior Committee. As a sponsor of the Lake Meridith salinity bill, I pass on the gratitude of the thousands of people who will have safe and clean drinking water because of this legislation. I also want to thank Mr. SARPALIUS who is also cosponsor of the Lake Meridith salinity bill.

☐ 1420

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just, first, like to commend the Utah delegation. A delegation of less character and less tenacity probably would have given up on this issue a long time ago. It has been a struggle and a lot of hard work to bring the central Utah project where it is today, so we can consider it on the floor, and they are to be commended, because they had to work and had to agree to satisfy many, many diverse interests within that State, interests that have changed, grown, and diminished over the life of the project. I think they are to be commended for all of their hard work.

Mr. Chairman, I yield 6 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, I find myself this year in a quite different situation than I did a year ago when this bill was on the floor.

I rise today to support the bill. I intend to vote for it and urge my colleagues to do the same.

Last year, we had a bill on the floor dealing with reclamation reform that had never been heard in the committee, that had not gone through any amendatory process, that had not been negotiated out with the parties involved. This is exactly the opposite case this year.

The chairman of our committee, the gentleman from California [Mr. MILLER], has used his time and his energies to sit down with this Member and with the gentleman from California [Mr. DOOLEY], the gentleman from California [Mr. CONDIT], and other affected Members to try to work a consensus bill together to meet the real needs that he see to reform reclamation law, but at the same time meet our concerns that it not be done in an arbitrary and capricious fashion that does unnecessary harm to innocent parties.

What we have on the floor today with respect to reclamation law is a compromise. Not everything in this is the way the gentleman from California [Mr. MILLER] would have liked it and, indeed, it is substantially different from the bill on the floor last year. Certainly not everything in it is what I would have liked had I been able to write it myself, but many of my concerns have been met, and I feel that we have been operating in good faith.

There are some differences that remain as this bill proceeds that I think have to be clarified and worked out, and only in a general sense now would I like to address a couple of them.

First is the situation with respect to the so-called Boswell trust that the gentleman from California [Mr. MILLER] talked about in his opening statement, and I am not going to refute the facts in that situation here. That has been discussed on this floor before and amply in the committee.

I do have a concern that the remedy that the chairman has in this bill and which I agreed to in committee as part of the compromise is not necessarily going to solve the problem that we are attempting to address. I fear that the result of withholding water from the Boswell trust, making them ineligible for Federal water at any price within 120 days, as the bill does, will only have the effect of allowing the insurance company that holds the mortgage to foreclose, take the place of the beneficiaries and, in fact, farm a 23,000-acre ranch with subsidized water by itself for 5 years at which point in time it can sell the property for a non-Bureau-approved price, or double the $10 million that it has into it, for about $20 million. That is my fear with the manner in which we are proceeding.

The beneficiaries will lose out. The Boswell Co. will probably be gone. But the main winner here, I think, is going to be the insurance company, not a bunch of small farmers who are going to come in and take over.

I have expressed this concern in committee. I know the chairman shares my concern here. I know that is not the result that he intends, and hopefully if this bill proceeds, we will be able to get more facts and make a more enlightened determination about how we ought to unravel this situation.

Also, I remain to have some differences over the way families and nonfamily members are treated in this bill. It has always been my contention that they ought to be treated the same, and that, in fact, you cannot separate families from farming. If you try to do that, you really do not know what you are doing.

Families and farming are integral parts of each other on the American landscape. This bill, for the first time, makes a differentiation and says that if you are a family farmer, relationships that you might have with other people in your family are, by definition, not arm's length, using the Internal Revenue Service Code as the determining factor and saying that you must meet a higher test. I am not happy with that. But I agreed to that.

I think the benefits of reclamation law are such that if that is what we have to do to reach a compromise, then we will walk that extra mile to prove that, as family members, we are operating at arm's length with each other. I am certain we can do that. I do not like the extra burden that is places, but, again, that is part of this compromise.

My overriding concern in this legislation is that, in trying to correct something that is wrong that does have problems, that we not go overboard and that we not sweep a lot of innocent people and a lot of innocent relationships down with the bad ones.

I continue to have concerns that some of the provisions in this bill, and one of the amendments that the gentleman from California [Mr. MILLER] will offer this afternoon could have that effect, that we may be not getting the 120 farmers out of thousands that the GAO said had problems in their operation and were circumventing the intent, the spirit, rather, of the intent of the law, but getting at normal, customary farming practices that those other thousands of people are engaged in. I know that that is not the intention of the chairman with this legislation, but I think we both agree on the same result. The only differences have been, and continue to be to a small degree, how to accomplish that. He has been open in discussing that with the gentleman from California [Mr. DOOLEY], the gentleman from California [Mr. CONDIT], and myself.

Again, I do not think we have a disagreement on the result, but we all want to be very careful as we split hairs, that we are splitting just as many of your hairs as you are of mine along the way, and both sides in this struggle have worst-case scenarios.

I think that in the spirit that we have worked together in the past, I do not see anything here that cannot be surmounted. Indeed, this bill, as a whole, with respect to the reclamation reform changes, is a thousand times better than the bill we had last year. It meets most of our concerns and represents a genuine compromise from which we can go forward.

The reclamation program has had a black eye in this Congress for some time. It has taken a lot of shots, not all of them justified, I believe. It has done a great deal of good for the West and California and for my district in particular.

In furtherance of the objectives of the law, my constituents are willing to take on a few more burdens, jump through a few more hoops, and I think that this legislation will protect our basic rights in that regard.

I thank the gentleman.

I also want to thank the members of the minority staff who worked with me so closely on this, the gentleman from Utah [Mr. HANSEN], and particularly the gentleman from Arizona [Mr. RHODES], who stood by me on the committee, and the members who felt as I do in fashioning this compromise.

I ask for an aye vote.

I thank the Members.

Mr. Chairman, as I am sure you agree, reclamation reform is one of the most controversial and complex matters that members of the Interior Committee face. Due to the difficulty of this issue, I want to thank you for your efforts to address my concerns and the concerns of my congressional district and farmers. As you know Mr. Chairman, during the 101st Congress, I raised a number of concerns and objections to legislation which amended the Reclamation Reform Act of 1982. Despite my objections and the objections of many of our colleagues, that legislation passed the House. I am pleased to report that I support H.R. 429, as passed by the committee. I remain hopeful that I will not be required to raise objections and that we can support the measure as adopted by the House committee without amendments. The committee measure was the result of many weeks of difficult, frustrating negotiations.

During the full committee's consideration of title XVII, I offered two amendments concerning reclamation reform which were adopted by the committee without objection. These amendments substantially altered the Reclamation Reform Act provisions and were the foundation of the compromise reached by the chairman and myself. Again, Mr. Chairman, I want to thank you for your efforts to work with me and other members to address legitimate farm families' concerns and to insure that they can continue their traditional, customary farming practices without being unjustly penalized. However, I again emphasize that altering these provisions would substantially impact the delicate balance on which this compromise is built.

As you know Mr. Chairman, these provisions are essential to my district's farmers since they authorize and establish safe harbors specifically defined in section 1702, subsections 3(b) and 3(c). These "safe harbors" reflect legitimate, customary farming practices and activities and are intended to ensure that landholdings are not combined into a farm or farm operation solely due to the existence of these activities, arrangements and transactions which are common to agricultural production.

I want to make very clear for the RECORD the application and interpretation of these provisions by the Secretary of the Interior. I have several concerns with the committee report and have joined my colleagues in submitting clarifications concerning the application of this title.

Title XVII of the bill protects the integrity and the intent of the Federal reclamation law. This title incorporates a series of provisions to amend and tighten the acreage and pricing limitation provisions of the 1982 act. The amendment to the 1982 act are also designed to correct potential abuses and circumvention and improve compliance with the reclamation law.

When applying title XVII, the Secretary must recognize the intent and essence of the provisions of this title. As author of these provisions, I want to reemphasize that these provisions provide a foundation for insuring protection of legitimate farming operations, while simultaneously requiring the Secretary to prevent abuse and circumvention of reclamation law through the use of sham financial transactions and illegitimate farming operations.

Section 1702, subsections 3(b) and 3(c) provide "safe harbors" only for legitimate, customary farming practices and activities and are intended to ensure that landholdings are not combined into a "farm" or "farm operation" solely due to the existence of these activities, arrangements, and transactions which are common to agricultural production.

Title XVII establishes a rebuttable presumption that multiple landholdings would be considered a single "farm" or "farm operation" if ownership, operation, management, financing, or other factors, individually or together, indicate that farming or operating such landholding is being done by the same individual, group, entity, trust, or other arrangement or combination. Clear guidelines are established in subsections 3(b) and 3(c) concerning the types of arrangements, transactions, and activities that the Secretary would not consider when determining whether a "farm" or "farm operation" exists. These provisions would apply only to those "farms" or "farm operations" that exceed 960 acres and apply to the price at which Federal reclamation water will be made available to such lands.

The principal feature of title XVII is the clarification of the term "farm" or "farm operation" in section 1702 which amends section 202 of the 1982 act by defining the new terms "farm" and "farm operation."

Subsection (3)(a) defines a "farm" or "farm operation" to mean any landholdings that are directly or indirectly farmed or operated by an individual, group, entity, trust, or any other combination or arrangement. For example, landholdings owned by separate partnerships, corporations, or individuals, each of which is fewer than 960 acres, may be presumed to be a single "farm" or "farm operation" if there is common ownership interest among the various entities or individuals involved.

Subsection (3)(a) provides that the presence of certain factors, as specified in subsection (3)(a), trigger a rebuttable presumption that a "farm" or "farm operation" exists. A "farm" or "farm operation" is presumed to exist when ownership, operation, management, financing, or other factors, individually or together, indicate that one or more landholdings are directly or indirectly farmed or operated by the same individual, group, entity, trust, or other combination or arrangement.

Subsection (3)(b) specifically addresses arrangements and transactions between unrelated parties and defines a number of circumstances where certain arrangements and transactions cannot be considered by the Secretary for the purpose of determining the existence of a "farm" or "farm operation" as defined by subsection (3)(a). These arrangements and transactions shall not be factors for the purpose of determining the existence of a "farm" or "farm operation" as defined by subsection (3)(a), if the parties to the arrangements or transactions certify, in accordance with sections 202 and 203 of the 1982 act, as amended by this bill, that the following two conditions are satisfied: First, the parties are unrelated to each other, and second, the parties conduct the arrangements and transactions at arm's length.

If the arrangements and transactions, as defined by subsections (3)(b)(1–5), have not been negotiated at arm's length between unrelated parties, the Secretary shall consider such arrangements and transactions in determining whether a "farm" or "farm operation" exists. If the parties engaged in such arrangements and transactions are related, such parties shall be subject to the provisions of subsection (3)(c). Therefore, when such arrangements and transactions are not negotiated at arm's length between unrelated parties, the rebuttable presumption that a "farm" or "farm operation" exists as established by subsection (3)(a) could be triggered.

The definition of what constitutes activities between related parties is defined in section 267(b) of the Internal Revenue Code of 1986. Therefore, the parties to an arrangement or transaction will be considered to be unrelated if they are not among the relationships defined in section 267(b).

Section 1702 amends section 202 of the 1982 act by adding subsections (3)(b)(1–5) which define certain arrangements and transactions which shall not be considered by the Secretary when determining the existence of a "farm" or "farm operation" as defined by subsection (3)(a), if such arrangements and transactions are between unrelated parties and are negotiated at arm's length. These arrangements and transactions include:

Subsection (3)(b)(1)—Participation in a bona fide cooperative by an individual or legal entity.

Subsection (3)(b)(2)—Entering into an agreement in which each party bears the risk of loss individually for customary farming practices and activities such as agreements for the use of equipment or labor; processing, handling, brokering, or packing crops; ginning cotton; purchasing seed; purveying water; or other practices or activities.

Subsection (3)(b)(3)—If an individual or legal entity enters into a financial transaction involving a loan for land or crops. Such financial transactions include, but are not limited to those transactions which provide for the granting or receipt of a security interest, crop mortgage, assignment of crop or crop proceeds or other interest in the crop or land with the sole purpose of obtaining repayment of a loan.

Subsection (3)(b)(4)—If an individual or legal entity enters into or exercises a right under an agreement which assures or requires bona fide quality control measures and/or the right to take control of a farming operation to maintain quality control.

Subsection (3)(b)(5)—If an individual or legal entity enters into an agreement for custom farming or farm management services and if the custom farmer or farm manager does not bear a direct risk of loss in the crop. Custom farm or farm management services include arrangements and transactions where specific services or the management of these services are provided to landholders by a farm manager or custom farmer who does not bear a direct risk of loss in the crop—that is, the custom farmer or farm manager has an enforceable right to a fee for the services provided regardless of the profits or losses of the crop for which the services were provided. An agreement to pay a custom farmer or farm manager an amount in excess of the fee for extraordinary service that is tied to production of the crop shall not be considered a risk of loss burden upon the custom farmer or farm manager.

Subsection (3)(c) specifies that the Secretary shall certify that a "farm" or "farm operation," as defined by subsection (3)(a), does not exist if activities between related parties, as defined in section 267(b) of the Internal Revenue Code of 1986, are entered into and performed at arm's length.

In the event that the Secretary does certify that related parties have entered into and performed at arm's length such activities including those arrangements and transactions established in subsections (3)(b)(1–5), such activities shall not be considered factors for determining the existence of a "farm" or "farm operation" as established by subsection (3)(a). If, however, the Secretary is unable to certify that activities between related parties were not entered into and performed at arm's length, these activities between the related parties shall be considered factors for the purpose of determining the existence of a "farm" or "farm operation."

Mr. HANSEN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Chairman, although I share some of the concerns, expressed by my California colleague, Mr. LEHMAN, I am confident, as he is that those problems can be worked out. I rise in support of H.R. 429, a bill which authorizes a comprehensive package of water reclamation projects to serve Californians and residents throughout the West.

As has been widely reported, the State of California is now in the fifth straight year of an unprecedented drought. Perhaps no region of the State has been more severely impacted by this drought than Santa Barbara and Ventura Counties, which I represent. In those counties, many residents have been on strict water rationing for over a year and the current rationing is designed to achieve a 43-percent decrease below predrought usage levels for domestic consumption.

Like many regions around the country, especially in the West, south-central California does not get an adequate supply of annual rainfall to meet its needs. Rather, in order to meet all the needs of the region, water storage and transfer/distribution systems are critical elements of our water supply program. I am pleased that many features of this bill address these water supply issues for regions like south-central California.

I am also pleased to see that Chairman MILLER has agreed to include my amendment to the Warren Act in the bill before the House today. Under this authorization, the Federal Government could use its reclamation facilities to transport and store, non-Federal water used for other than irrigation. Use of Federal reclamation facilities for transport and storage of non-Federal irrigation water has been authorized for 60 years. Such use was authorized because it was recognized that Federal facilities often had excess capacity, and in order to avoid the costs and environmental impacts of constructing duplicative systems. This same logic applies to use of Federal facilities for nonirrigation water.

The city of Santa Barbara, for example, proposes to use Lake Cachuma and Lake Casitas Reservior, along with other Federal facilities, to store and transfer water.

One other section of this bill which is of special interest is the authorization of feasibility studies for desalination projects. In the area which I represent, such technological approaches to water supply issues are likely to become even more important in meeting future water demands. Therefore, I would like to thank my friend, Mr. PANETTA, for authoring this section of the bill.

Overall, H.R. 429 as it comes to the floor is a very good bill which deserves the support of my colleagues. I would like to thank the chairman, Mr. MILLER, for bringing this comprehensive package to the floor. I am hopeful that the President will sign a comprehensive water reclamation package in the near future.

□ 1430

Mr. MILLER of California. Mr. Chairman, I yield 2 minutes to the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Chairman, I rise in support of this bill, H.R. 429. I want to commend our chairman, the gentleman from California [Mr. MILLER] on his strong and very sensitive leadership in our committee that brought about this compromise that we see here before Members today.

Mr. Chairman, I am standing here in support of this bill, H.R. 429. Title XXI would require a study of the long-term water, sewer, and power needs of the insular areas. It would also authorize funding to enable them to reduce their costly, almost total dependence on imported fuel.

These provisions were contained in an omnibus insular areas bill that I sponsored that unanimously passed the House last year. It, unfortunately, did not become law because of late Senate action.

Hence, with the support of Chairman GEORGE MILLER and other members of the Interior and Insular Affairs Committee, the language has been included in this bill.

The insular areas have long endured horrendous problems stemming from inadequate water, sewer, and power. The health of their peoples has been imperiled and the economic growth of their communities has been stifled, but to date they have only been able to apply Band-Aid solutions to these problems.

This bill would require a comprehensive study to permanently address the inadequacies. Correcting the deficiencies would considerably improve the quality of life of the nearly 4 million people of the insular areas.

The authorization to encourage use of renewable local energy resources would expand an existing authorization for projects identified in a 1982 Energy Department report to cover any projects determined to be worthwhile by the Energy Secretary. Reducing insular areas' dependency on imported fuel is critical to their economic health and makes sense in light of their abundant energy sources created by the wind, the Sun, and the ocean.

In short, title XXI would provide a long overdue response to critical needs. I commend Chairman MILLER for supporting it, our colleague ENI FALEOMAVAEGA for helping to develop it, and I urge my colleagues to approve it.

Mr. HANSEN. Mr. Chairman, I yield 1½ minutes to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Chairman, today I am introducing an amendment with the support of Congressman RON COLEMAN that will result in cost savings and more efficient management of two irrigation districts in New Mexico and Texas. This will be accomplished by transferring certain rights-of-way from the Bureau of Reclamation to the Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1.

My amendment provides the Secretary of the Interior with authority to transfer to the districts, without cost, title to easements, ditches, laterals, canals, drains, and other rights-of-way which the United States acquired on behalf of the two projects. The Secretary's authority extends to those rights-of-way used solely for the purposes of serving the two districts. Any transfer authorized under this legislation is subject to the condition that the districts assume full responsibility for operating and maintaining the portion of the project to be transferred.

This transfer is made possible by the fact that both districts have repaid in full to the Federal Government their portion of the project. This proposed transfer provides many advantages to both the Federal Government and the two districts. The United States reduces some of its administrative costs and potential management responsibilities as well as potential liabilities. The districts gain title and a fuller measure of control of lands in which they have the sole remaining interest.

Specifically, the districts will have greater ability to deal with encroachments that have been appearing on the rights-of-way and easements. Delays in processing and issuing permits for various utilities and water companies to cross these easements and rights-of-way should be eliminated.

Over the past 10 years, the costs to the districts for the operation and maintenance charges requested by the Bureau have increased 141 percent. This is during a time when the duties and responsibilities of the Bureau have decreased. Again, a consolidation of control and full responsibility of the easements and rights-of-way should lead to further savings.

This makes good sense and I hope my colleagues will offer their support in passing this amendment.

I include a copy of my proposed amendment, as follows:

In the appropriate place in the bill, insert: "The Secretary of the Interior is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico and Texas, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assumes the responsibility for operating and maintaining their portion of the project. Title to, and management and operation of, the reservoirs and the works necessary for their protection and operation shall remain in the United States until otherwise provided by an act of Congress."

Mr. MILLER of California. Mr. Chairman, I yield such time as he may consume to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in strong support of the reclamation project authorization.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise today in support of the agreement reached between Chairman MILLER and Representative LEHMAN on the reclamation reform sections of H.R. 429. This agreement was approved by the full House Interior Committee. While there are portions of the agreement with which I do not completely agree, I believe that this agreement represents an unprecedented step in the debate on reclamation reform. It is for this reason that I must oppose any amendments offered today to the provisions included in the agreement.

I am in agreement with the chairman that we must ensure that the Bureau of Reclamation enforces reclamation law so that those operations that clearly violate the intent of the law are charged the proper price for water. However, I believe that in an effort to get to this handful of abusers or reclamation law that many legitimate family farmers will be affected. The Bureau of Reclamation's recent audit report found only 120 farm operations in excess of 960 acres. This is clearly a small minority of farmers receiving reclamation water.

The centerpiece of the agreement is the establishment of the criteria by which the Secretary can and cannot make a presumption that a single farm or farm operation exists and thus, whether or not farmers must pay full cost for water. I must admit that the bill as reported by committee is quite complicated and will certainly create additional paperwork and uncertainty for farmers in my district. However, in an effort to draft a bill that provided clear exemptions for legitimate farming practices, it became clear that the approach taken was necessary.

One of the shortfalls of the committee language is the separate treatment of family and nonfamily farming arrangements. I believe that family farmers deserve at least equal treatment with nonfamily farmers. It is my hope that during the consideration of this bill in the Senate and in conference that some additional protections can be provided for family farms.

One of the provisions that I believe will provide an extra burden to legitimate family farm operations is the one eliminating trusts. The agreement that was approved by the Interior Committee makes it illegal for families to place their property in trust and still receive reclamation water. Many families use trusts as a management tool in order to more effectively operate their farms. While the bill provides for a phase in of this provision it will be a burden to many family farmers in my district.

Mr. Chairman, I think that it is important that we do not lose site of the tremendous benefits of the reclamation projects. The projects have been very successful in fulfilling their goals. Since 1982, there has been a Federal investment of over $12 billion in reclamation projects, only $5.4 of which has been for irrigation projects. Areas served by these projects generate almost $8 billion annually in increased economic activity, supporting tens of thousands of farmers, their employees, those who provide materials and services for agriculture, and the rural economies created by a healthy farm industry.

Even this unprecedented agreement we are considering today will have the impact of forcing many farmers to pay 4 to 5 times that which they are paying now for water, which is the highest cost farming expense for most. This will mean the difference between a profit and a loss and will probably put farmers out of business. This will have a profound impact upon not just farming economies, but upon the rural economies of the 17 Western States as well.

As I support the agreement today, I firmly believe that much work remains to be done to ensure that legitimate farming practices are protected. I will continue to work with my colleagues toward this goal.

□ 1440

Mr. HANSEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise today in strong support of H.R. 429.

The people of San Diego are faced with the challenge of paying for waste treatment as well as meeting secondary treatment water quality standards today.

My friends from the other side of the aisle in northern California are helping to defray the water needs of San Diego. My constituents are in a 6-year drought condition which has left us in an emergency situation with water rationing. We have people in my district not being able to take a bath because we do not have water. It has gotten to a critical level.

A good friend of mine from New Orleans said they had 6 feet, not inches, but 6 feet of rain this year. We have not had that much rain in 100 years, and we would sure like to have it.

The importance of this project for San Diego is critical. I want to commend the leadership of the Interior Committee in their efforts to provide a portion of the funding for this important critical project. San Diego receives 90 percent—not 19, but 90 percent of its water from the northern part of California. We need this. We desperately need the program, and I want to thank the chairman.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to my friend, the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank my colleague for yielding to me.

I, too, want to thank the gentleman from California [Mr. MILLER] and the gentleman from Utah [Mr. HANSEN] for their cooperation in this provision.

It is true that we import all of our water. It is also true that we use, for example, about 90 million gallons of drinking water every day to water golf courses in San Diego County. We are a community which unfortunately is behind the curve in water reclamation. This money for this study is going to go a long way toward showing us in San Diego how we and the congressional delegation, my good friend, the gentleman from California [Mr. CUNNINGHAM] who has really done a lot of outstanding work in this area of reclamation, the gentleman from California [Mr. LOWERY], and the gentleman from California [Mr. PACKARD] and myself can work on this reclamation challenge and start reclaiming sewage effluent and using it to irrigate golf courses and freeway landscaping and other areas that do not need drinking water and pull the drinking water off those uses for people. So this is money that will be very well spent.

We thank the leadership and the membership of the committee and the subcommittee for making it possible.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DOOLEY].

Mr. DOOLEY. Mr. Chairman, I want to thank the gentleman from California [Mr. MILLER], and the gentleman from California [Mr. LEHMAN], and the gentleman from California [Mr. CONDIT] for their efforts to come together and try to find some way in which we can eliminate the abuses that have occurred with reclamation law.

You know, I must point out, that while we give a great deal of attention to some of the abuses that have occurred with reclamation law, we also must keep in mind that it is the vast majority of farmers throughout the West who are benefiting from the water provided, who are living quite well within the spirit of the law.

I represent an area in California which is served primarily by the Friant Kern Canal. The average farm size with this water project is almost averaging farms of about 100 acres. Truly these individuals are living within the spirit of the law. Truly they are the ones who are benefiting from what the primary purpose of reclamation law was designed for.

It is those small farmers when we engaged in our discussion that we were trying to protect. We were trying to ensure that families could farm together, that family farmers and all farmers could participate in co-ops and customary business operations in a manner that would not jeopardize their ability to secure nonfull cost water.

While I think this law goes a long way and this reform goes a long way toward ensuring that we will maintain those customary farming practices, there are a few provisions with which I have some concern. One of them is the Westhaven Trust and the beneficiaries that belong to it. There are 326 beneficiaries, ranging from the part-time cook to the farm manager, that is a part of this trust. While I do not agree with the policy which allowed this trust to be farmed, I have a great deal of concern with the unilateral abrogation of that contract.

I think we need to be considerate of how we can assure that the beneficiaries are not financially penalized by the action that might result from the implementation of this law.

I am hopeful that as this bill progresses through the Senate and it comes into conference committee that we will be able to address some of these concerns, that we can assure that it will result in the equitable allocation of reclamation law to all those who choose to farm within its merits.

Mr. Chairman, as I am sure you agree, the changes to reclamation law that the House is considering today, involve highly controversial and complex issues which will affect farm families in my congressional district and throughout the Western United States. I am aware that during the 101st Congress, a number of concerns and objections to legislation to amend the Reclamation Reform Act of 1982 were raised. I remain hopeful that the agreement developed between my colleagues from California which addressed these and other objections will be maintained.

The Reclamation Reform Act provisions adopted by the full committee are the foundation of the compromise reached on this issue. This compromise agreement is designed to address legitimate farm families' concerns and insures that they will be able to continue their traditional, customary farming practices without being unjustly penalized.

As you know Mr. Chairman, these provisions are essential to my district's farmers since they authorize and establish safe harbors specifically defined in section 1702, subsections 3(b) and 3(c). These safe harbors reflect legitimate, customary farming practices and activities and are intended to ensure that landholdings are not combined into a farm or farm operation solely due to the existence of these activities, arrangements and transactions which are common to agricultural production.

I want to make very clear for the record the application and interpretation of these provisions by the Secretary of the Interior. Title XVII of the bill protects the integrity and the intent of the Federal reclamation law. This title incorporates a series of provisions to amend and tighten the acreage and pricing limitation provisions of the 1982 act. The amendments to the 1982 act are also designed to correct potential abuses and circumvention and improve compliance with the reclamation law.

When applying title XVII, the Secretary must recognize the intent and essence of the provisions of this title and apply these provisions to those farms or farm operations that exceed 960 acres. I want to reemphasize that these provisions provide a foundation for insuring protection of legitimate farming operations, while simultaneously requiring the Secretary to prevent abuse and circumvention of reclamation law through the use of sham financial transactions and illegitimate farming operations.

Section 1702, subsections 3(b) and 3(c) provide safe harbors only for legitimate, customary farming practices and activities, and are intended to ensure that landholdings are not combined into a farm or farm operation solely due to the existence of these activities, arrangements and transactions which are common to agricultural production.

Title XVII establishes a rebuttable presumption that multiple landholdings would be considered a single farm or farm operation if ownership, operation, management, financing, or other factors, individually or together, indicate that farming or operating such landholdings is being done by the same individual, group, entity, trust, or other arrangement or combination. Clear guidelines are established in subsections 3(b) and 3(c) concerning the types of arrangements, transactions, and activities that the Secretary would not consider when determining whether a farm or farm operation exists. These provisions would apply only to those farms or farm operations that exceed 960 acres and apply to the price at which Federal reclamation water will be made available to such lands.

The principal feature of title XVII is the clarification of the term farm or farm operation in section 1702 which amends section 202 of the 1982 Act by defining the new terms "farm" and "farm operation."

Subsection (3)(a) defines a farm or farm operation to mean any landholdings that are directly or indirectly farmed or operated by an individual, group, entity, trust, or any other combination or arrangement. For example, landholdings owned by separate partnerships, corporations, or individuals, each of which is fewer than 960 acres, may be presumed to be a single farm or farm operation if there is common ownership interest among the various entities or individuals involved.

Subsection (3)(a) provides that the presence of certain factors, as specified in subsection (3)(a), trigger a rebuttable presumption that a farm or farm operation exists. A farm or farm operation is presumed to exist when ownership, operation, management, financing, or other factors, individually or together, indicate that one or more landholdings are directly or indirectly farmed or operated by the same individual, group, entity, trust, or other combination or arrangement.

Subsection (3)(b) specifically addresses arrangements and transactions between unrelated parties and defines a number of circumstances where certain arrangements and transactions cannot be considered by the Secretary for the purpose of determining the existence of a farm or farm operation as defined by subsection (3)(a). These arrangements and transactions shall not be factors for the purpose of determining the existence of a farm or farm operation as defined by subsection (3)(a), if the parties to the arrangements of transactions certify, in accordance with sections 202 and 203 of the 1982 act, as amended by this bill, that the following two conditions are satisfied: First, the parties are unrelated to each other, and second, the parties conduct the arrangements and transactions at arm's length.

If the arrangements and transactions, as defined by subsection (3)(b) (1–5), have not been negotiated at arm's length between unrelated parties, the Secretary shall consider such arrangements and transactions in determining whether a farm or farm operation exists. If the parties engaged in such arrangements and transactions are related, such parties shall be subject to the provisions of subsection (3)(c). Therefore, when such arrangements and transactions are not negotiated at arm's length between unrelated parties, the presumption that a farm or farm operation exists as established by subsection (3)(a) could be triggered.

The definition of what constitutes activities between related parties is defined in section 267(b) of the Internal Revenue Code of 1986. Therefore, the parties to an arrangement or transaction will be considered to be unrelated if they are not among the relationships defined in section 267(b).

Section 1702 amends section 202 of the 1982 act by adding subsection (3)(b) (1–5) which define certain arrangements and transactions which shall not be considered by the Secretary when determining the existence of a farm or farm operation as defined by subsection (3)(a), if such arrangements and transactions are between unrelated parties and are negotiated at arm's length. These arrangement and transactions include:

Subsection (3)(b)(1): Participation in a bona fide cooperative by an individual or legal entity.

Subsection (3)(b)(2): Entering into an agreement in which each party bears the risk of loss individually for customary farming practices and activities such as agreements for the use of equipment or labor; processing, handling, brokering, or packing crops; ginning cotton;

purchasing seed; purveying water; or other practices or activities.

Subsection (3)(b)(3): If an individual or legal entity enters into a financial transaction involving a loan for land or crops. Such financial transactions include, but are not limited to those transactions which provide for the granting or receipt of a security interest, crop mortgage, assignment of crop or crop proceeds or other interest in the crop or land with the sole purpose of obtaining repayment of a loan.

Subsection (3)(b)(4): If an individual or legal entity enters into or exercises a right under an agreement which assures or requires bona fide quality control measures and/or the right to take control of a farming operation to maintain quality control.

Subsection (3)(b)(5): If an individual or legal entity enters into an agreement for custom farming or farm management services and if the custom farmer or farm manager does not bear a direct risk of loss in the crop. Custom farm or farm management services include arrangements and transactions where specific services or the management of these services are provided to landholdings by a farm manager or customer farmer who does not bear a direct risk of loss in the crop, that is, the custom farmer or farm manager has an enforceable right to a fee for the services provided regardless of the profits or losses of the crop for which the services were provided. An agreement to pay a custom farmer or farm manager an amount in excess of the fee for extraordinary service that is tied to production of the crop shall not be considered a risk of loss burden upon the custom farmer or farm manager.

Subsection (3)(c) specifies that the Secretary shall certify that a farm or farm operation, as defined by subsection (3)(a), does not exist if activities between related parties, as defined in section 267(b) of the Internal Revenue Code of 1986, are entered into and performed at arm's length.

In the event that the Secretary does certify that related parties have entered into and performed at arm's length such activities including those arrangements and transactions established in subsections (3)(b)(1–5), such activities shall not be considered factors for determining the existence of a farm or farm operation as established by subsection (3)(a). If however, the Secretary is unable to certify that activities between related parties were not entered into and performed at arm's length, these activities between the related parties shall be considered factors for the purpose of determining the existence of a farm or farm operation.

Mr. HANSEN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in opposition to this legislation because of the provisions in title XXV.

I also have further comments with regard to other portions of the bill, which I will submit for the RECORD.

Mr. Chairman, H.R. 429 includes a title which would authorize the extension of the service area of the Tehama-Colusa Canal, in the Sacramento Valley, CA, into additional areas of Yolo County and into Solano County. The extension is necessary to allow planning by a group of water agencies and municipalities for possible construction of facilities for delivery of central valley project water for agricultural and municipal use to these areas, when a contract for a water supply can be negotiated with the United States. It is my understanding that this title of H.R. 429 does not authorize construction of any facilities nor the execution of a water contract. It merely expands the definition of the service area of the canal.

The Tehama-Colusa Canal was constructed from Red Bluff, in Tehama County, to Bird Creek, in northern Yolo County, in the 1970's, and it now serves thousands of acres of agricultural land and provides a means for delivery of water to national wildlife refuges in the area. Not all of the identified water needs of the lands and refuges in the present service area have yet been met, however, and it is likely that the amount of water conveyed through the canal to water users and refuges there will increase in the next few years. There is a concern that the additional area to the canal's service area may adversely affect the ability of the existing and potential users of canal water in the present service area to receive water at certain times, due to limitations on the size and capacity of the canal. It is also a concern that the canal was not originally intended to supply water for municipal purposes, and therefore, any treatment of the water to allow that use, which could be extremely expensive, should be the responsibility of the agency or city wanting water for that purpose. In this way, those municipal water agencies will be treated the same as present users of canal water, who receive that water without any assurances as to its quality.

It is my understanding that the agencies and municipalities seeking extension of canal service into the area referred to in H.R. 429 have stated unequivocally their intent not to impair the capacity of the canal and the ability of the existing and potential users to receive water through the canal. These concerns have been stated by the Tehama-Colusa Water Users Association, and it is my understanding that they and the agencies and municipalities seeking the service area extension have agreed in principle to enter into a written memorandum of understanding setting forth the intent of the parties regarding these matters.

Thus, I am supportive of this provision in the bill with the understanding that a priority for use of the capacity of the Tehama-Colusa Canal must be identified and set aside for the benefit of the districts, lands and other users within the present service area, for agricultural and environmental water use. This includes not only the current and future water needs of the agencies along the canal, but also the ultimate needs to be met of the wildlife refuges in the service area. In addition, agencies which may want to use the Tehama-Colusa Canal for municipal purposes must acknowledge and accept that the canal water will not meet drinking water standards without treatment of filtration by those agencies.

Because the present and potential users of water in the existing service area committed themselves to the United States to repay the cost of the canal, the Congress authorized its original construction. In order to recognize that commitment, and to treat all users of the Tehama-Colusa Canal fairly, there should be no contracting of central valley project water supplies for any of the agencies or municipalities which have sought the service area extension at any time prior to the contracting for new or additional supplies of CVP water for the water agencies in the present service area, and the terms of the contracts should not be substantially different for any of the users of Tehama-Colusa Canal water.

Mr. Chairman, provisions have been included in H.R. 429, reintroduced as H.R. 1362, which will protect Lake Berryessa recreational users and give Napa County, CA, greater influence over Department of the Interior decisions impacting Lake Berryessa in Napa County. The concerns of providers and users of Lake Berryessa recreational facilities are of utmost importance. As a result, the legislation includes specific language which ensures protection and continuation of ongoing recreation uses.

In addition, to provide for an equitable distribution of water resources and to establish mechanisms for the transfer of water between Napa and Solano water users, Napa and Solano Counties have agreed to amend a 1981 agreement entered into between Napa County and Solano County. The Napa County Board of Supervisors approved the amendments to the agreement and Solano is expected to consider the amended agreement in the near future.

This agreement is very important to Napa County and is the first step to ensuring a reliable source of water necessary for the reduction of current water deficits in Napa County. Mr. Speaker, I request that the agreement between Napa and Solano Counties be included in the record to document the terms and verify the importance of the amendments to this agreement.

AMENDED AGREEMENT

This Amended Agreement made this ________ day of _____, 1991, by and between the Solano County Water Agency (formerly the Solano County Flood Control and Water Conservation District) and the Solano Water Authority (hereinafter referred to collectively as "Solano"); the Napa County Flood Control and Water Conservation District and the County of Napa (collectively "Napa"); the Solano Irrigation District ("SID"); and the County of Solano ("Solano County") all together hereinafter referred to as the "Parties". On June 16, 1981, the Parties except the Solano Water Authority, entered into an Agreement, ("Original Agreement"). The Parties agree that the Solano Water Authority is hereby made a party to the Original Agreement and that the Original Agreement is amended in its entirety to read as follows:

1. Recitals:

1.A. The Solano Project was constructed by the United States at the request of, and to benefit, the member agencies of the Solano County Water Agency.

1.B. Under a contract between the United States and the Solano County Water Agency, water users within the Solano County Water Agency are obligated to repay the construction cost of the dam and distribution facilities as well as the annual costs of operation, maintenance and administration of the Project.

1.C. The predecessors of the State Water Resources ControL Board ("Board"), in Decision D-869, granted water right permits to the U.S. Bureau of Reclamation on behalf of the water users in Solano County for beneficial use of the annual yield of the project, and the permits provide for final license of the project supply to the Solano Project water users.

1.D. Condition 14 of the water right permits for the Solano Project granted by D–869 established a 33,000 acre foot reservation of water ("reservation") to be put to use in the Upper Putah Creek Watershed above Monticello Dam.

1.E. Negotiations have taken place between NAPA and Solano representatives concerning their relative interests in the water remaining available under the reservation, which has been estimated to be 20,000 acre feet per year, although the actual amount of water remaining under the reservation cannot be known and determined until a study is completed and confirmed by the Board. After negotiations, it was proposed that a permanent allocation of the remaining available reservation be accomplished by requesting that the Board, in the course of licensing the Solano Project Permits, approve the permanent allocation of water remaining available under the reservation between Napa, Lake, and Solano Counties provided for in this Agreement. Lake County has previously agreed with Solano as to an equal division of any water remaining available under the reservation between Napa, Lake, and Solano Counties.

1.F. The purpose of this Amended Agreement is to retain in force all provisions of the Original Agreement which remain currently applicable and to memorialize and provide for the implementation, to the extent of the authority of the Parties of the following:

1.F.(1) As guaranteed in the Original Agreement, the permanent allocation of 1,500 acre feet of water per year for municipal and industrial use in the Upper Putah Creek Watershed within Napa County, whether or not that amount of water is being used for those purposes at the time of licensing of the Solano Project, and the equal division of the balance, if any, of remaining unused reservation between the areas of Lake and Napa Counties lying above Monticello Dam and Solano County. Napa's portion of the equal division of the remainder of the unused reservation will be referred to herein as "the Napa allocation."

1.F.(2) Both prior to licensing and after licensing Napa shall be entitled to exchange some of the Napa allocation with North Bay Aqueduct Water under specified circumstances.

1.F.(3) Under certain conditions specified herein, Napa will be provided with an additional 2,000 acre feet of water per year from Solano until Napa is receiving at least 2,000 acre feet of water per year from some other supplemental source at a cost comparable to the cost for additional supplemental water which Solano is willing to pay; and

1.F.(4) Solano will provide water from the Solano Project through the North Bay Interim Pumping Plant in the event of a non-drought emergency as hereinafter defined or in the event of scheduled maintenance of the North Bay Aqueduct or for periodic testing of the North Bay Interim Pumping Plant and Napa will compensate Solano for the water used in the manner hereinafter set forth.

1.G. The term "Solano County water users" or "Solano users" shall mean and be limited to the following: City of Benicia, City of Dixon, City of Fairfield, City of Rio Vista, City of Suisun City, City of Vacaville, City of Vallejo, Maine Prairie Water District, Reclamation District 2068, S.I.D., the University of California at Davis, and the California Medical Facility.

1.H. Solano is presently seeking transfer of the Solano Project from the United States to Solano by means of H.R. 429 and H.R. 2058 now pending in the United States Congress.

1.I. A number of provisions of the Original Agreement were to terminate finally when the North Bay Aqueduct was completed. The North Bay Aqueduct is complete and therefor those provisions are fully performed and no longer applicable.

2. Other documents. The Parties do, upon full execution of this Amended Agreement, agree to hereafter cause the preparation and execution of any required agreements, applications, dismissals and statements of position which shall be in conformance with the terms of this Amended Agreement and within the time limits set.

3. Prior filing with FERC. Pursuant to the Original Agreement, NAPA did file with the Federal Energy Regulatory Commission a Dismissal of all applications for permits, licenses, and all interventions, challenges or objections in regard to Solano Irrigation District/Monticello Power Plant. (FERC), Project No. 2780, including its Application for a License filed on behalf of Napa, or by Napa and a third party (the City of Santa Clara), and did obtain the signatures of such third party consenting to such withdrawal and dismissals or alternatively, give notice to Santa Clara of the termination of the Napa-Santa Clara Agreement. Each of the documents executed and filed by Napa specified that the dismissal and withdrawal were non-revocable and with prejudice, and bars the filing of any future Applications for Benefits, directly or indirectly, from the generation of hydroelectric energy by the Solano Irrigation District/Monticello Power Plant, (FERC) Project No. 2780 at Monticello Dam prior to January 1, 2031 (but Napa shall not be barred from opposing, intervening in, or in seeking any benefit from any hydroelectric project which involves the raising of the crest height of Monticello Dam which results in greater storage of water in Lake Berryessa).

4. Dismissals. Pursuant to Sections 4, 5, and 6 of the Original Agreement, the Parties did execute and file the various dismissals and other papers mentioned in those Sections.

5. Actions relative to power projects. Napa agrees that it will not directly or indirectly commence, participate in, finance or encourage the filing, or commencement of any legal action or administrative action in regard to any Federal, State or local agency, board, commission or other authority's actions concerning the Solano Irrigation District/Monticello Power Plant, (FERC) Project No. 2780, or any operations, functions or authority thereof. (This provision shall not apply to any negligent operation of the facilities which shall cause damage in Napa County.) Solano and SID likewise agree that they will not directly or indirectly commence, participate in, finance or encourage the filing or commencement of any legal or other action by third parties, including Napa County residents, taxpayers or landowners challenging or questioning Napa's activities heretofore in pursuing its proposed Putah Creek Power Project.

6. Provisions already terminated. The provisions of Sections 9, 10, 11, 12, 13, 14, and 15 of the Original Agreement are not included in this Amended Agreement. Since the North Bay Aqueduct has been completed and placed in operation, those Sections 9 through 15 are terminated by their own terms.

7. Payment to Napa. Conditional upon receipt by SID of those revenues, SID shall pay amounts, as specified hereafter, to Napa from power revenues received by SID under any power purchase agreement entered into between SID and a power purchaser. Such payments shall be made for each project year (as defined in the power purchase agreement as the year commencing at the end of the quarter in which the Full Operation Date of the Project occurs) commencing with the first full project year after the first date of delivery to Napa from the completed and operational North Bay Aqueduct and terminating on January 1, 2031. Such sum is to be calculated as follows:

7.A. The amount of 50,000,000 kilowatt hours of electricity shall be multiplied by;

7.B. 14 mils multiplied by the adjustment provisions applicable to that millage rate under the power purchase agreement of SID from the Full Operation Date; and

7.C. The total amount shall be multiplied by three and one-tenth percent (3.1 percent). That amount shall be paid to Napa at the end of each project year after the effective date of this provision from the revenues received by SID.

8. Prior approvals. The provisions of Paragraph 17 of the Original Agreement are deleted since the provisions have been fully performed.

9. Performance conditional. The Parties continue to recognize that the performance of this Amended Agreement in regard to water service to Napa or in regard to payment of monies under Section 7 to Napa is conditioned upon circumstances which the Parties may not control, the potential of legal challenges which may invalidate or make impossible or impractical, the performance of this Amended Agreement and other conditions or contingencies. Under the circumstances in which NAPA is unable to receive water pursuant to this Amended Agreement for any reason, or Napa is unable to receive the proceeds provided in Section 7 above, the provisions of this Amended Agreement shall remain in full force and effect, and Napa shall have no interest or claim whatsoever to any damages or equitable claim of payment or allocation of power or other benefits from the Monticello power plant, or the Solano Project water supply. Under such circumstance, Napa shall not be entitled to receive back any monies or value which it has paid to or which has been received by Solano or SID. Napa shall, under those described circumstances, not be entitled to rescind or cancel this Amended Agreement or any part thereof. (This shall not apply to any condemnation or take-over of the power project where SID receives compensation for loss of power production during the remaining term of the FERC License.)

10. Licensing of Solano project. Solano, together with the United States, is preparing for licensing of the water rights of the Solano Project. Each party agrees that until licensing occurs, there is a danger of unrealistic expectations of quantities of water available from the Putah Creek reservation and from the Solano Project because of the large total water use granted under permits by the Board and agreements issued by the United States regarding that water. As additional consideration for this Amended Agreement, at the time that licensing of the Solano Project water right is requested by Solano and/or the United States, Napa, and Solano each agree they will do the following:

10.A. Without the necessity of a request by the United States, upon request by Solano, at the time of the filing of a petition for license of the Solano Project water rights, Napa shall execute an amendment of the 1964 Agreement with the United States, or any other appropriate party, reducing the quantity of water provided to Napa under that agreement to 1,500 acre feet total; and

10.B. Napa agrees that it will not oppose licensing when requested by Solano and/or the United States. Napa further agrees that it will not seek a delay of that licensing process or determination. Napa agrees that the Napa County Flood Control and Water Conservation District and Napa County shall each adopt resolutions at the time that licensing is requested, stating this position and Napa will provide certified copies to the Board of those resolutions. The provisions of this Section 10 shall be the position and declaration of Napa throughout those licensing proceedings. The failure of any of the Parties to comply with the provisions of this Section 10 regarding licensing of the Solano Project constitutes a material breach of this Amended Agreement.

10.C. Prior to or in conjunction with the adoption of the Resolutions mentioned in Section 10.B, Solano will file documents with the Board requesting a permanent allocation of 1,500 acre feet plus the Napa allocation to that portion of Napa County upstream of Monticello Dam. The determination by the Board of the quantity of, if any, or the conditions imposed upon use of, the water remaining under the reservation shall be conclusive on the rights of the parties, and Napa shall have no claim against Solano arising from that determination. The Napa allocation may be used for any lawful purpose, subject to the terms of this Amended Agreement, and Solano will cooperate to have Napa's rights in this regard established.

10.D. Solano and Napa recognize that Napa possesses, under its 1964 Agreement with the United States, a theoretical right to utilize 7,500 acre feet of water, under United States' water right permit number 14186, for municipal and industrial purposes within the Putah Creek watershed. It is recognized and agreed by the Parties hereto that that right is limited by Napa's agreement, in the Original Agreement, to limit its use of water under the 1964 Agreement to 1,500 acre feet annually. The parties agree that Napa's use of water under the 1964 Agreement which was transported under the 1969 Agreement outside of the Putah Creek watershed was not a beneficial use under the reservation and not eligible for licensing because the use occurred outside of the place of use designated in the applicable permit. Solano agrees to take all reasonable steps at the time of licensing to provide to Napa, for permanent use of the Putah Creek watershed, 1,500 acre feet per annum of municipal and industrial water under the 1964 Agreement whether or not that amount exceeds actual use as of the date of licensing under the Solano Project. Napa and Solano agree that they jointly will use their best efforts to obtain partition, and assignment to Napa, of the United States' interests in its water right permit number 14186 to the extent of 1,500 acre feet per year. Any water remaining unused under the reservation, after satisfaction of the 1,500 acre feet municipal and industrial allocation, shall be subject to equal division between Lake (⅓), Napa (⅓), and Solano (⅓) Counties and the Parties shall so petition the Board. The unused portion of the 1,500 acre feet per year as of the date licensing shall not be used for Exchange under Section 11. If the sum of Solano's share and Napa's share of the reservation is less than the difference between 1,500 acre feet per year and Napa's actual annual use under water right permit number 14186, Solano shall have no obligation to provide more than its share of the reservation.

11. Exchange of reservation water. Any portion of the Napa allocation, to the extent it is not being put to beneficial use by the Napa County property owners located within Napa County and within the Putah Creek watershed, may at the option of Napa be exchanged by Napa for North Bay Aqueduct Water of Solano and transferred to Napa via the North Bay Aqueduct as provided in this section.

11.A. Concurrent as to time of delivery of North Bay Aqueduct water, Napa shall, as a condition of the exchange, provide for delivery of reservation water to Solano, including compliance with all legal and/or administrative requirements for the exchanges and satisfaction of any contractual requirements under its 1964 Agreement. The cost of such water payable by Napa shall be computed in accordance with Section 12 of this Amended Agreement.

11.B. Until the quantity of water remaining unused under the reservation has been determined by the Board, no more than 3,000 acre feet per year may be made available by Solano and Napa to each other for exchange. Once the quantity of water remaining unused under the reservation has been determined by the Board, Napa's right to exchange said 3,000 acre feet per year shall automatically terminate and be replaced by a right to exchange an amount not to exceed Napa's allocation which the Board confirms is available to the Solano Project.

11.C. In any year, the amount of water otherwise available to Napa under this Agreement shall be reduced in the same proportion as any reductions of Solano Project supply then being imposed by Solano on Solano users or, if applicable, being imposed by the U.S. Bureau of Reclamation on Solano.

11.D. Upon passage of Federal legislation authorizing transfer of title to the Solano Project to Solano, but for no more than two years from that date, Napa shall have the right to receive by exchange fifty percent (50%) of the Napa allocation made available under this section. Upon transfer of title to the Solano Project from the United States to Solano, and thereafter, Napa shall have the right to receive by exchange one hundred percent (100%) of the Napa allocation available under this section.

12. Charge for reservation exchange water. The cost per acre foot to be paid by Napa for the water to be provided to Napa pursuant to Section 11 of this Amended Agreement (through exchange) shall be the greater of the following:

12.A. The cost to Solano, at the time of delivery, of transporting the water to be exchanged from Barker Slough through Phase II of the North Bay Aqueduct to the Terminal Reservoir, but not including the capital cost component; or

12.B. The costs of water and the costs of transporting Solano Project water to the Cordelia Forebay, including without excluding other costs, all costs being charged or collected at the time of delivery and required in this aggregate to be paid by Solano users for the costs of the Solano Project allocated to Solano users annually. In addition to the amount set forth in Section 12.A. or 12.B., any costs payable to the United States for the Lake Berryessa water exchanged and delivered to Solano by Napa in exchange for the North Bay Aqueduct water shall be paid by Napa.

13. Emergency exchange water. Subject to the approval of the Board, if required, Solano will provide water to Napa from the Solano Project through the North Bay Interim Pumping Plant in the event of a non-drought emergency, scheduled maintenance of the North Bay Aqueduct, or periodic testing of the Interim Pumping Plant. For purposes of this Amended Agreement an emergency means an unanticipated interruption to flow caused by physical failures or Acts of God or similar catastrophes, including but not limited to the following: contamination of North Bay Aqueduct supply, power outage, physical damage to the transmission facilities, or mechanical failure of North Bay Aqueduct pumps, valves or the like. An emergency shall not include a reduction in water available to Napa due to drought, failure or interruption for any reason of uncontaminated sources of water available to Napa. This emergency exchange provision shall become effective upon transfer of title to the Solano Project to Solano.

13.A. Solano's obligation to provide water pursuant to this Section 13 shall be limited, in any month, to Napa's maximum monthly entitlement in Table A of its contract for water from the State Water Project, and shall last no longer than the emergency condition, maintenance outage or pump test, or the lapse of two (2) months, whichever period shall be shorter. The amount provided under this section shall be reduced, during times of drought, by the same percentage as the percentage of any reductions in the combined Solano Project and State Water Project supplies then being imposed upon Solano users.

13.B. The water delivered from the Solano Project under this Section 13 when storage in Lake Berryessa is greater than one million acre feet shall be repaid by Napa with exchange water provided pursuant to Section 11 above, or Section 14, within one year from the date of cessation of the emergency, testing, or maintenance. If water is not available in adequate quantities under Section 11 or Section 14 during that year, then the water delivered under this Section 13 shall be repaid within the year by exchange water from Napa's North Bay Aqueduct entitlement. When storage in Lake Berryessa is less than one million acre feet, but greater than 500,000 acre feet, Napa shall pay to Solano for water delivered to Napa under this section the full cost of replacement water including the cost of any necessary additional treatment. When storage in Lake Berryessa is 500,000 acre feet or less, Solano shall have no objection to provide Napa with water under this Section 13.

13.C. As used in this Amended Agreement, "Additional cost of treatment" means the additional cost of treating North Bay Aqueduct water above the cost of treating Solano Project water in the treatment plant of the city exchanging Solano Project water for North Bay Aqueduct water to make possible the exchange. The foregoing cost for the coming year shall be estimated and agreed upon by Solano and Napa, prior to the commencement of each year.

14. Additional water. Upon transfer of title to the Solano Project to Solano, Solano will additionally provide to Napa upon request, up to 2,000 acre feet of water per year, provided that, if Solano purchases supplemental water from a third party in that year, Napa shall purchase a like amount from that same source. If Solano forms a water bank pool, Solano shall have the option of requiring Napa to purchase from the water bank pool to meet the requirements of this section 14. The amount Napa is required to purchase shall not exceed the greatest amount purchased from the water pool bank by any sin-

gle Solano user at the same price as that charged to Napa. The amount so purchased by Napa shall be a credit to Solano against the amount requested by Napa under this section. During times of drought, the 2,000 acre feet shall be reduced by the same percentage as the total percentage of any reductions in the combined Solano Project and State Water Project supplies then being imposed upon Solano users. The percentage reduction shall be applied to the amount requested by Napa under this section. Napa, as a condition of receipt of this additional water, shall provide for compliance with all applicable legal and administrative and contractual requirements necessary to the delivery of this water to Napa.

14.B. The right to water under this Section 14 shall automatically terminate on January 1, 2006, or sooner if all of the following occur: (i) a new permanent or long-term water supply becomes available, provided said water supply will be utilized by Solano and Napa Counties; (ii) Napa County is entitled to receive not less than 2,000 acre-feet from said source; and (iii) the cost of the water from said water supply being assessed to Napa is comparable to the cost being assessed to Solano excluding costs which are incurred to transport or pump water to Napa or expand capacity of facilities to be utilized by Napa and similar costs which arise from conditions which are imposed due to Napa's location on the facilities necessary to deliver water to Napa.

14.C. The right to water under this Section is subject to the following additional conditions:

14.C.(1) Napa agrees to participate with Solano, and possibly other counties, in studies to identify sources and feasibility of potential permanent or long-term supplemental water supplies. Participation includes contributing financially on a proportional basis, at the same time as Solano, to any studies or investigations to acquire a new water source. Napa's contribution shall be in direct proportion to the amount of water it requests from new sources. Napa's request shall not be less than 2,000 acre-feet per year.

14.C.(2) Once permanent or long-term sources of water have been identified, Napa shall agree to pay its proportionate share for financing the implementation of the new source as long as the cost to be assessed to Napa is comparable to the cost willing to be paid by Solano.

14.C.(3) The failure to provide for compliance with conditions set forth in Sections 14.A. and/or 14.B. and/or this Section 4.C. shall terminate the right to request the additional water provided under this Section.

14.D. No additional water under this Section 14 shall be made available until water which may be available to Napa from the North Bay Aqueduct Table A Entitlement and under Section 11 is used first.

15. Charge for additional water. The cost to Napa per acre foot of water to be provided to Napa by Solano pursuant to Section 14 shall be Solano's then-current cost of providing an acre foot of groundwater extracted within Solano Irrigation District and used for exchange. That cost shall be determined periodically by a study conducted initially upon transfer of title to the Solano Project to Solano, and every fifth year thereafter. The study shall identify an appropriate cost index, and in any year in which Napa requests water under this Section, that index shall be applied to the last previous cost study to determine Solano's then-current cost of providing groundwater. The components of the Solano Irrigation District groundwater cost shall include but not be limited to:

15.A. Power.

15.B. Capital Cost.

15.C. The cost of the conversion of agricultural water supply to municipal and industrial supply under applicable Solano contracts.

15.D. Operation and Maintenance.

15.E. SID in lieu standby charges.

16. Method of exchange. Except as provided in Section 13, no Solano Project water shall be delivered directly to Napa except within the Putah Creek Watershed. In order to provide exchange water and a source of water to meet the requirements of Sections 11, 12, and 14, contemporaneously with the execution of this Amended Agreement Solano has executed agreements with public agencies within Solano County to provide for the necessary water supply and exchange capability. No water shall be delivered to Napa via the Cordelia Forebay or the North Bay Interim Pumping Plant directly from the Solano Project but only by exchange except in the case of water furnished pursuant to Section 13. All exchanges shall be delivered at the Cordelia Forebay. To make the exchanges and deliveries contemplated by Sections 11, 12, and 14, it may be necessary to obtain the approval of the California Department of Water Resources and if such approval should be necessary, Solano and Napa shall join in seeking approval, provided that, Napa shall pay all costs.

17. Requests for water. Requests for water pursuant to this Amended Agreement shall be made by the Engineer for the Napa County Flood Control and Water Conservation District. Such requests shall be consistent in format with and submitted concurrently with the annual schedules for NBA and Solano Project Water.

18. Legislation. Napa shall not oppose adoption or enactment of H.R. 429 or H.R. 2058 as introduced or similar successor legislation; provided that the language of Section 276(b) which is found in Title XXVII (Solano Project Transfer and Putah Creek Improvement) of H.R. 429 and the similar language of H.R. 2058 are not materially changed.

19. Arbitration of Disputes:

19.A. Any dispute or claim in law or equity arising out of this Amended Agreement or any resulting transaction shall be decided by neutral binding arbitration in accordance with the rules of the American Arbitration Association, and not by court action except as provided by California law for judicial review of arbitration proceedings. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The parties shall have the right to discovery in accordance with Code of Civil Procedure Section 1283.05. Any party may request arbitration of any dispute arising under this Agreement. A request shall be made by the party requesting arbitration to the other parties.

19.B. It is the intention of the parties that the powers of the arbitrator shall be as broad as required to define and implement the intention of the parties to this Amended Agreement. In that regard, the parties acknowledge that the arbitrators powers shall include, but not be limited to:

19.B.1. Interpretation of provisions of the Amended Agreement in accordance with the intention of the parties.

19.B.2. Imposition of further agreements of the parties to accomplish the ends addressed in this Amended Agreement.

19.C. Appointment of Arbitrator. Because of the broad implementing powers granted the arbitrator by this Section, the parties agree it is important that an experienced individual agreed to by the parties be appointed as arbitrator. The parties shall agree on an arbitrator. Should the parties be unable to agree within thirty (30) days of first attempting to do so, any of the parties may request that an arbitrator be appointed by the American Arbitration Association. Any arbitrator selected shall be a registered Civil Engineer or attorney with a minimum of fifteen years experience and shall have Statewide stature in the field of water resources. The cost for the arbitration, including reasonable professional and clerical fees shall be borne equally by Napa and Solano except as provided in Section 24.

19.D. By initialing this arbitration provision, you are agreeing to neutral binding arbitration of all disputes regarding this amended agreement. You are giving up your right to a jury or court trial concerning those disputes. Your judicial rights to discovery and appeal are also affected. Your agreement to this arbitration provision is voluntary.

Initials ____ Initials ____ Initials ____

Initials ____ Initials ____ Initials ____

20. Time. Time is of the essence in the performance of this Amended Agreement and of every term thereof.

21. Amended agreement complete. This Amended Agreement is full and entire and may not be altered except by a writing executed by the Parties hereto. The Parties agree that there are no warranties, either express or implied, no covenants or promises or expectations other than those contained within and set forth in writing in this Amended Agreement, and that this Amended Agreement is whole and entire.

22. Waiver. The waiver of failure to declare a breach as a result of the violation of any term or this Amended Agreement shall not constitute a waiver of that term or condition and shall not provide the basis for a claim of estoppel, forgiveness or waiver by any party to that term or condition.

23. Interest. If any amounts owed under the terms of this Amended Agreement shall not be paid within 30 days of the date due as provided herein, such amounts shall earn interest at the highest legally permissible interest rate for the party owing the funds for the periods that those amounts are owed and unpaid.

24. Attorney's fees. If it shall be necessary for any party hereto to commence legal action or arbitration to enforce the terms and provisions of this Amended Agreement, the prevailing party shall be entitled to reasonable attorneys fees, expenses, and cost incurred. The expenses and costs incurred shall include, without limitation to other reasonable types of outlay directly caused by or reasonably required by the litigation or dispute, the costs of any experts employed in either the preparation or presentation of any evidence in such proceedings incurred in preparing for or participating in such litigation.

25. Captions. The Section captions in this Amended Agreement are for convenience only and shall not be used in construing the Amended Agreement.

26. Execution by counterpart. The parties agree that this Amended Agreement may be executed in counterpart and that upon execution, each party shall deliver one original of its executed Amended Agreement to each of the other parties hereto.

In witness thereof, this Amended Agreement is executed hereof with full legal authority on this _____ day of _____, 1991.

Mr. HANSEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I simply rise in support of the bill.

I congratulate the authors for moving the bill through the process so expeditiously.

Mr. JOHNSON of South Dakota. Mr. Chairman, the Reclamation Projects Authorization and Adjustment Act that we are considering today includes authorization for two projects that are extremely important to South Dakota:

The proposed Lake Andes-Wagner unit would serve 45,000 acres while the Marty II unit would irrigate 3,000 acres of Indian-owned land. This project represents a chance to stabilize our rural economy by ensuring stable crop production. South Dakota is in its fourth year of drought, and this lack of water threatens the livelihood of our family farmers. Irrigation would help to stabilize production and lead to new economic development.

Economic development would be particularly welcomed on the Marty II portion of this project. The Marty II unit would be operated by the Yankton Sioux Tribe, which has an unemployment rate of nearly 90 percent. While irrigation development would by no means fully address this problem, it would certainly be a positive step in the right direction.

This year's Lake Andes-Wagner/Marty II authorizing language includes a comprehensive selenium demonstration project with national application. The research into selenium would have benefits far beyond the borders of South Dakota by offering important information on the mitigation of selenium. Furthermore, construction of the full irrigation project will not go forward until the study is complete and it demonstrates that irrigation can take place without adverse environmental impacts.

The Lake Andes-Wagner/Marty II units would greatly benefit South Dakota's economy. The project sponsors have carefully listened to all the suggestions and criticisms regarding the project, and I commend their efforts to substantially address these issues. This is a good project, and I look forward to authorizing it.

Meanwhile, the mid-Dakota rural water supply project would deliver good quality drinking water to approximately 30,000 South Dakotans who currently subsist on water that exceeds safe drinking water standards in a long list of minerals, bacteria, and other elements. It makes no sense to me that we allow people in our Nation to drink water of such exceedingly poor quality that it poses a potential health risk to the general public. As a strong advocate of an expanded Federal role in rural drinking water delivery, I will continue to move forward with this type of development, and I am hopeful the administration will follow suit and begin to play a leading role on this issue. We need to invest in our Nation's basic infrastructure, and the needs don't get any more basic than that for a reliable supply of safe, clean drinking water.

In addition to the public health threat from water of such poor quality, this water has a direct impact on the local economy. A steady supply of clean water would be a welcome benefit to area livestock as well as to civic leaders trying to lure new businesses to their area.

In addition to the drinking water aspects of this proposal, the project sponsors have developed a unique wetland enhancement component, which has great potential to improve existing wetlands and create new wetlands. As you all know, the prairie pothole region of the Great Plains, including this portion of South Dakota, plays an integral role in the central flyway. These wetlands have provided vitally important habitat for numerous species of waterfowl, as well as other birds and animals, for centuries, and the wetlands trust component of this project would tremendously benefit wetlands and wildlife in the region.

Water is the lifeblood for development in the West, and both of these projects demonstrate the useful purposes of soundly developed water resources. These projects have strong local and State support as well as the united efforts of the congressional delegation. These projects are important to South Dakota, and I will continue to work to move them forward.

Mr. FAZIO. Mr. Chairman, I rise in strong support of the bill, H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991.

I thank the chairman of the committee, the gentleman from California [Mr. MILLER] and his staff for their hard work to formulate a fair and balanced bill.

The provisions of the bill relating to the reform of reclamation law, in particular, represent significant progress when compared to the proposals considered by the House last year. The bill before the House today will put a stop to reclamation abuses while at the same time protecting legitimate, normal farm operations throughout the West.

I also thank the chairman of the committee for his assistance with two items of critical importance to my district: title XXVII of the bill, which provides for the transfer of the Solano project from Federal to local control and the enhancement of Putah Creek, and the provision of the bill authorizing the expansion of the Tehama Colusa Canal service area to include Yolo, Solano, and Napa Counties. Both of these measures will help provide a more secure water supply for Yolo and Solano Counties in the future.

Again, Mr. Chairman, I rise in strong support of the bill and urge its adoption.

Mr. MCCANDLESS. Mr. Chairman, I rise in support of title XI of H.R. 429, a title which I authored along with my colleague, DUNCAN HUNTER. This section provides for a salinity reduction research project at the Salton Sea of California.

As drought conditions have intensified throughout California, a new emphasis upon water conservation has heightened the interest in purifying the Salton Sea. Earlier this year, local sponsors who make up a group known as the Salton Sea Task Force, examined several different desalination methods that might be of use at the Salton Sea. A few of these options include a possible outflow channel to the ocean, a system of levies and dykes or a solar pond evaporation technique.

Included in the bill as reported out of committee is a minor addition to the Salton Sea authorization which will allow for research on several different technologies. This new language will allow the Bureau of Reclamation added flexibility in testing other methods of desalination. I thank Chairman MILLER and ranking member JIM HANSEN for their support and help in securing this title.

Environmental groups such as the National Audubon Society have joined local sponsors in endorsing this research project. It is my understanding that the U.S. Bureau of Reclamation is also agreeable to investigating alternative methods of desalination at the Salton Sea.

Mr. Chairman, I view the Salton Sea portion of this bill as a sure win/win situation for everyone. The environmental health of the area will be improved, benefiting important animal and plant species which rely upon the wildlife refuge at the sea. The recreational activities at the Salton Sea will also be revived, resulting in economic gain to the surrounding community. Finally, the desalination technologies studied by the Bureau of Reclamation will provide important Federal benefits to other arid regions of the United States and other nations.

Mr. HANSEN. Mr. Chairman, I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 2684 shall be considered by titles as an original bill for the purpose of amendment, and each title is considered as read.

The Clerk will designate section 1.

Mr. MILLER of California. Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the amendment in the nature of a substitute is as follows:

H.R. 2684

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1991".

SEC. 2. DEFINITION OF SECRETARY.

For the purposes of this Act, the term "Secretary" means the Secretary of the Interior.

TITLE I—BUFFALO BILL DAM AND RESERVOIR, WYOMING

SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR BUFFALO BILL DAM AND RESERVOIR, SHOSHONE PROJECT, PICK-SLOAN MISSOURI BASIN PROGRAM.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(1) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(2) In section 102—

(A) by amending the heading to read as follows:

"RECREATIONAL FACILITIES, CONSERVATION, AND FISH AND WILDLIFE";

and

(B) by adding at the end the following: "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(3) In section 106(a)—

(A) by striking "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and inserting "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)"; and

(B) by striking "modifications" and all that follows and inserting "modifications.".

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

SEC. 200. SHORT TITLE FOR TITLES II-VI; TABLE OF CONTENTS FOR TITLES II-VI; AND DEFINITIONS FOR TITLES II-VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) TABLE OF CONTENTS.—The table of contents for titles II through V of this Act is as follows:

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION
Sec. 201. Authorization of additional amounts for the Colorado River Storage Project.
Sec. 202. Bonneville Unit water development.
Sec. 203. Uinta Basin replacement project.
Sec. 204. Non-Federal contribution.
Sec. 205. Definite Plan Report and environmental compliance.
Sec. 206. Local development in lieu of irrigation and drainage.
Sec. 207. Water management improvement.
Sec. 208. Limitation on hydropower operations.
Sec. 209. Operating agreements.
Sec. 210. Jordan Aqueduct prepayment.
Sec. 211. Audit of Central Utah Project cost allocations.
Sec. 212. Surplus crops.
TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION
Sec. 301. Utah Reclamation Mitigation and Conservation Commission.
Sec. 302. Increased Central Utah Project water capability.
Sec. 303. Central Utah Project stream flows.
Sec. 304. Fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report for the Central Utah Project.
Sec. 305. Wildlife lands and improvements.
Sec. 306. Wetlands acquisition, rehabilitation, and enhancement.
Sec. 307. Fisheries acquisition, rehabilitation, and enhancement.
Sec. 308. Stabilization of high mountain lakes in the Uinta mountains.
Sec. 309. Stream access and riparian habitat development.
Sec. 310. Section 8 expenses.
Sec. 311. Jordan and Provo River Parkways and natural areas.
Sec. 312. Recreation.
Sec. 313. Fish and wildlife features in the Colorado River Storage Project.
Sec. 314. Concurrent mitigation appropriations.
Sec. 315. Fish, wildlife, and recreation mitigation schedule.
TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT
Sec. 401. Findings, purpose, operation and administration.
Sec. 402. Utah Reclamation Mitigation and Conservation Account.
TITLE V—UTE INDIAN RIGHTS SETTLEMENT
Sec. 501. Findings and purpose.
Sec. 502. Provision for payment to the Ute Indian Tribe.
Sec. 503. Tribal use of water.
Sec. 504. Tribal farming operations.
Sec. 505. Reservoir, stream, habitat, and road improvements with respect to the Ute Indian Reservation.
Sec. 506. Tribal development funds.
Sec. 507. Waiver of claims.
TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

(c) DEFINITIONS.—For the purposes of titles II-VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A-2-1401 et seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comments on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $922,456,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: *Provided*, however, That of the amounts authorized to be appropriated by this section, the Secretary is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in table 2 of the report accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88-45, February, 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:

(A) The dam in Bjorkman Hollow;

(B) The Deep Creek pumping plant;

(C) The North Fork pumping plant;

(2) Water development projects and features:

(A) Mosida pumping plant, canals, and laterals;

(B) Draining of Benjamin Slough;

(C) Diking of Goshen or Provo Bays in Utah Lake;

(D) Ute Indian Unit;

(E) Leland Bench development; and

(F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with non-Federal entities for construction of such project, and (2) the Secretary has requested construction funds for such project.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made available in their entirety to non-Federal interests as provided for pursuant to the provisions of this Act.

(e) STATUS OF PARTICIPATING PROJECTS.—The Secretary, in consultation with the Secretary of Energy and the Governors of the Upper Colorado River Basin States, is directed to report to Congress not later than April 15, 1992, on the status of Colorado River Storage Project participating projects for which construction has not begun as of October 15, 1990. The report of the Secretary shall include, but not be limited to, the following information:

(1) a description of each project, its legislative history, and history of environmental compliance;

(2) an analysis of the economic costs and benefits of each participating project;

(3) a recommendation as to whether the authorization of appropriations for that project be amended, be terminated, or should remain unchanged, along with the reasons supporting each recommendation.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however*, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph: *Provided, however*, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in section 107(e)(2) for related purposes.

(C) The feasibility study and the Project construction authorization shall be subject to the non-Federal contribution requirements of section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no funds to construct such features have been obligated or expended by the Secretary in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 102(a)(1) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 102(a)(1).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) STRAWBERRY-PROVO CONVEYANCE STUDY.—(A) $2,000,000 for the District to conduct a feasibility study, with public involvement, of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The study shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified.

(B) The cost of the study provided for in subparagraph (A) shall be treated as an expense under section 8: *Provided, however*, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed.

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be

available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) Strawberry Water Users Association.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within sections 2 and 13, township 3 south, range 12 west, and sections 7 and 8, township 3 south, range 11 west, Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) In General.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water construction within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) Expiration of Authorization.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no funds for such features have been obligated or expended in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however*, That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water;

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) Requirement for Binding Contracts.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) Non-Federal Option.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) Water Rights.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43-3825 (Application No. A36642) and Water Right No. 43-3827 (Application No. A36644).

(f) Uintah Indian Irrigation Project.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available, upon appropriation by Congress.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) Brush Creek and Jensen Unit.—(1) The Secretary is authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 18, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, United States Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total costs and shall be paid concurrently with the Federal share, except that for the facilities specified in section 202(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by sections 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Any feature or study to which this section applies shall not be cost shared until after the non-Federal interests enter into binding agreements with the appropriate Federal authority to provide the share required by this section. The District may commence such studies prior to entering into binding agreements and upon execution of binding agreements the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, amounts may not be obligated or expended for the features authorized in section 202(a)(1) or 203 until—

(1) the Secretary or the District, at the option of the District, completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to any non-Federal interests until any such interest enters into binding agreements with the appropriate Federal authority to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make such sums as are necessary available to the District for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include economic analyses consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983). The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(a)(1)(B) of this Act.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses;

(iii) planning or constructing water impoundments of greater than 5,000 acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

The minimum goal for the District shall be 30,000 acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by 5,000 acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab Counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase 5,000 acre-feet per year. In no event shall the minimum goal for the District be less than 20,000 acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2) (A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and,

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally sound measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Not less than ninety days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three-year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water or without significant adverse environmental impact, and in the public interest shall be deemed to constitute the "active inventory." For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 202(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) without significant adverse environmental impact; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the United States Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved and accepted by the Secretary for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1993, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are—

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(4) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will—

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of groundwater resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and groundwater supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. Such Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this para-

graph shall be made first available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (B)(2)(b).

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Prior to March 31, 1992, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years; (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.)

(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction; and

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air-conditioning and refrigeration systems.

(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and

(J) elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

(5) Prior to January 1, 1993, the board shall transmit to the Governor and the Secretary the recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the Board, will be most likely to be promulgated by January 1, 1994, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after ninety days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be:

(A) for the first year of substantial noncompliance, 5 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(B) for the second year of substantial noncompliance, 10 percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, 15 percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within twelve months after a determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) RECLAMATION REFORM ACT OF 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) IN GENERAL.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before sixty days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes is prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission, the Utah Division of Water Rights and the Bureau, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir by January 1, 1993.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary shall prescribe, and prior to October 1, 1992, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete, the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. CROPS FOR WHICH AN ACREAGE REDUCTION PROGRAM IS IN EFFECT.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to crops for which an acreage reduction program is in effect until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge an acreage reduction program production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949 if the stocks of such commodity held in storage by the Commodity Credit Corporation exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the acreage reduction program crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation, Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969, and the Endangered Species Act of 1973; and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of five members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the Members of the House of Representatives representing the State.

(B) One from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the majority leader of the Senate upon the recommendation of the Members of the Senate representing the State.

(C) one from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) one from a list of residents of the State submitted by the District.

(E) one from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within ninety days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS–15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be one year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out it duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five-year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this Act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better

served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: *Provided*, however, that the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) CONTRACTING AUTHORITY.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise of final settlement of any claim arising thereunder, with universities, nonprofit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969.

(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than ninety days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall give due consideration to all substantive recommendations and measures received pursuant to section 301(g)(3)(A), and shall incorporate recommendations received from Federal and State resource agencies, county and municipal entities, and the appropriate Indian tribes, unless the Commission, in its sole judgment, determines that doing so would be inconsistent with the purposes of this Act or would interfere with or prevent the Commission from fulfilling the duties and responsibilities assigned to it in this Act, or result in inefficient or impractical resource management practices. The Commission shall include in its plan a written description of the recommendations received and adopted. In addition, the Commission shall include in its detailed report to Congress required under paragraph (g)(5) a summary of the recommendations received with a written finding explaining why such recommendations were adopted or rejected. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) AGENCY CONCURRENCE.—Commission plans developed in accordance with this subsection, or implemented under subsection (f), that affect National Forest System lands shall be subject to review and concurrence by the Secretary of Agriculture.

(6) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least sixty days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law:

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation; *Provided, however*, That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act, (A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and, (B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or donations of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (1) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the account under section 402(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within the Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, 25,000 acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) The District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah Counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within thirty days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley tunnel to the Last Chance Powerplant and Switchyard, not less than 32 cubic feet per second during the months of May through October and not less than 25 cubic feet per second during the months of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than 80 cubic feet per second during the months of May through September and not less than 60 cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of 125 cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of 100 cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of 75 cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of 15 cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or streambed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate federal agency, for management as a big game winter range. In the case of such transfers, lands acquired within the boundaries of a national forest shall be administered by the Secretary of Agriculture as a part of the National Forest System.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September, 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under subparagraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(12) The Commission is authorized to compensate out of funds available in section 201 landowners adjacent to the Utah Lake Wetlands Preserve who experience provable economic losses attributable to the establishment of the Preserve or provable economic losses directly resulting from Preserve management practices contrary to the provisions of this subsection or from the manipulation of water levels within the Preserve. Total compensation for claims pursuant to this subsection shall not exceed $2,000,000: *Provided*, That the amount of funds available from the Commission for such compensation shall be adjusted according to the mechanism provided in section 201. The filing of a claim for compensation pursuant to this subsection shall not preclude an affected adjacent landowner from seeking other remedies or damages otherwise available under State or Federal law.

(13) Valuation of interests acquired under this subsection shall be independently determined as though the Preserve had not been established.

(14) Any property acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the Commission to the Utah Division of Wildlife Resources.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending 2,000 feet out into the bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for improving Utah Lake as a warm water fishery and other related issues; and (B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond River and Sixth Water Creek drainages.

(7) $475,000 for fish habitat restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary of the Wasatch-Cache National Forest to a level of practical necessity. For purposes of this subsection, the Lakes Management Area shall be defined as depicted on the map in the Wasatch-Cache National Forest Plan.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(c) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream, access, and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed rehabilitation, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8. EXPENSES.

Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in the following sections shall be treated as expenses under section 8: all sections of title III, and section 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreages, including those along the Jordan River identified by the multiagency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report accompanying the bill H.R. 429.

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diversion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) Deposit the Federal contribution to the Account authorized in section 402(b)(2); then,

(b) Of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concurrently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, 3 percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to—

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will—

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to State and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Instream flows				
1.a Lease of Daniels Creek water rights	$500	$500	$0	$0
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$10,0000	$10,000	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$15,000	$5,000	$5,000	$5,000
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$4,000	$500	$1,500	$1,500
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$500	$100	$100	$100
Subtotal	$30,000	$16,100	$6,600	$6,600
	FY96	FY97	FY98	
Instream flows				
1.a. Lease of Daniels Creek water rights	$0	$0	$0	
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$0	$0	$0	
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$0	$0	$0	
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$500	$0	$0	
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$100	$100	$0	
Subtotal	$600	$100	$0	
	TOTAL	FY93	FY94	FY95
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$1,300	$0	$100	$200
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$750	$0	$0	$250
Subtotal	$2,050	$0	$100	$450
	FY96	FY97	FY98	
Wildlife lands and improvement				
1. Acquisition of big game winter range [Sec. 305(a)]	$500	$500	$0	
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$250	$250	$0	
Subtotal	$750	$750	$0	
	TOTAL	FY93	FY94	FY95
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$14,000	$1,000	$2,600	$2,600
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$7,000	$300	$1,200	$1,500
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$1,500	$250	$250	$250
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 306(c)(9)]	$16,690	$1,690	$3,000	$3,000
Subtotal	$39,190	$3,240	$7,050	$7,350
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$2,600	$2,600	$2,600	
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$2,000	$2,600	$0	
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$250	$250	$250	
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]	$3,000	$3,000	$3,000	
Subtotal	$7,850	$7,850	$5,850	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$750	$50	$0	$100
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$4,000	$0	$400	$600
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$1,000	$200	$200	$200
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$1,500	$300	$300	$300
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	$1,000	$150	$150	$200
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$1,000	$0	$0	$0
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$475	$50	$50	$75
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$1,150	$0	$0	$100
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$5,000	$0	$0	$0
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$22,800	$100	$3,500	$4,200
Subtotal	$38,675	$850	$4,600	$5,775
	FY96	FY97	FY98	
Fisheries acquisition and restoration				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$200	$200	$200	
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$1,000	$1,000	$1,000	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$200	$200	$0	
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$300	$300	$0	
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	$150	$150	$200	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$100	$500	$400	
7. Restoration of native cutthroat trout populations [Sec. 307(7)]	$100	$100	$100	
8. Fish habitat improvements to the Jordan River [Sec. 311(a)]	$300	$400	$350	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$500	$2,000	$2,500	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$5,000	$5,000	$5,000	
Subtotal	$7,850	$9,850	$9,750	
	TOTAL	FY93	FY94	FY95
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$2,500	$0	$500	$500
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$1,125	$125	$200	$200
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$4,000	$500	$700	$700
Subtotal	$7,625	$625	$1,400	$1,400
	FY96	FY97	FY98	
Watershed Improvements				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$500	$500	$500	
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$200	$200	$200	
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$700	$700	$700	
Subtotal	$1,400	$1,400	$1,400	
	TOTAL	FY93	FY94	FY95
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$750	$0	$250	$250
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$250	$0	$0	$50
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$350	$0	$0	$50
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$8,500	$500	$1,000	$1,500
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$400	$50	$75	$75
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$750	$75	$75	$150
Subtotal	$11,000	$625	$1,400	$2,075
	FY96	FY97	FY98	
Stream Access and Riparian Habitat Development				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$250	$0	$0	
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$100	$100	$0	
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$100	$100	$100	
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$1,500	$2,000	$2,000	
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$75	$75	$50	
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$150	$150	$150	
Subtotal	$2,175	$2,425	$2,300	
	TOTAL	FY93	FY94	FY95
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$2,000	$125	$275	$400
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$750	$50	$100	$150
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$1,000	$0	$75	$75
4. Provo River corridor development [Sec. 311(e)]	$1,000	$0	$75	$75
Subtotal	$4,750	$175	$525	$700

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Total Additional	$133,290	$21,615	$21,675	$24,350
	FY96	FY97	FY98	
Recreation funds				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$400	$400	$400	
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$150	$150	$150	
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$200	$300	$350	
4. Provo River corridor development [Sec. 311(e)]	$200	$300	$350	
Subtotal	$950	$1,150	$1,250	
Total Additional	$21,575	$23,525	$20,550	
	TOTAL	FY93	FY94	FY95
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$2,700	$900	$900	$900
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$3,990	$666	$803	$790
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$3,000	$600	$600	$600
Subtotal	$9,690	$3,966	$1,403	$1,390
	FY96	FY97	FY98	
Strawberry collection system				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$0	$0	$0	
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$453	$604	$674	
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$600	$600	$0	
Subtotal	$1,053	$1,204	$674	
	TOTAL	FY93	FY94	FY95
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$160	$160	$0	$0
Subtotal	$160	$160	$0	$0
	FY96	FY97	FY98	
Duchesne canal rehabilitation				
1. Acquire and develop 782 acres along Duchesne River	$0	$0	$0	
Subtotal	$0	$0	$0	
	TOTAL	FY93	FY94	FY95
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$226	$100	$126	$0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$525	$525	$0
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$900	$0	$0
Subtotal	$2,176	$1,525	$651	$0
Total DPR	$12,026	$5,651	$2,054	$1,390
Grand Total	$145,316	$27,266	$23,729	$25,740
	FY96	FY97	FY98	
Municipal and industry system				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	
3. Aquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	
Subtotal	$0	$0	$0	
Total DPR	$1,053	$1,204	$674	
Grand Total	$22,628	$24,729	$21,224	

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife

and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the "Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS.—In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1993 through 2000, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually out of the revenues paid each year to the general fund of the Treasury from receipts from power contractors within the State of Utah for the sale of electric power and energy from the Colorado River Storage Project which amount shall be made available without further appropriation for expenditure from the Account: *Provided*, That such amount, to the extent deposited in the Account, shall be treated as having repaid and returned to the general fund of the Treasury costs assigned to power for repayment under section 5 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620d): *Provided further*, That in the event power revenues deposited in the Basin Fund are insufficient after first meeting annual operating needs to make the payment provided for under this subsection, payment to the Account shall be deferred until sufficient funds are available to pay the deferred amount, plus interest that would have accrued on such payment as principal in the Account.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend, subject to appropriation by Congress made in advance of such expenditure, all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b) (1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive:

(A) All amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) All interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the account that exceeds the amount required to increase the principal of the account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) FINDINGS.—The Congress finds the following—

(1) the unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah Units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase Construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing on July 1, 1992 and continuing for fifty years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to 35,500 acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah Units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District, 7 percent of the then fair market value of 35,500 acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event 35,500 acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first 35,500 acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) Bonneville Unit Tribal Waters.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) Election to Return Tribal Waters.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) Ratification of Revised Ute Indian Compact.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to reratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) The Indian Intercourse Act.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) Restriction on Disposal of Waters Into the Lower Colorado River Basin.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact: *Provided, however*, That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) Use of Water Rights.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) Rules of Construction.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a Congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to be appropriated by section 201, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a 7,500 acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) Repair of Cedarview Reservoir.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to the Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) Reservation Stream Improvements.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) Bottle Hollow Reservoir.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all nongame fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) Minimum Stream Flows.—As a minimum, the Secretary shall endeavor to maintain continuous releases from the outlet works of the Upper Stillwater Dam into Rock Creek of 29 cubic feet per second during May through October and continuous releases into Rock Creek of 23 cubic feet per second during November through April. Nothing in this authorization shall increase the obligation of the District to deliver more that 44,000 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) Land Transfer.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) Recreation Enhancement.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) Municipal Water Conveyance System.—Of the amounts authorized to be appropriated in section 201, $1,250,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) Establishment.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) Adjustment.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) Tribal Development.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—The Tribe shall waive, upon receipt of the sections 504, 505, and 506 monies, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to affect a complete release of the claims, the United States concurs in such release.

(c) RESURRECTION OF CLAIMS.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—TREATMENT OF DRAINAGE FROM THE LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SECTION 701. TREATMENT PLANT AND RELATED WORK.

(a) AUTHORIZATION.—The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by the treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, Colorado, in order that water flowing from the Leadville Tunnel shall meet water quality standards.

(b) COSTS NONREIMBURSABLE.—Construction, operation, and maintenance costs of the works authorized by this section shall be nonreimbursable.

(c) OPERATION AND MAINTENANCE.—The Secretary shall be responsible for operation, maintenance, and replacement of the water treatment plant, including sludge disposal authorized by this Act. The Secretary may contract for services to carry out this subsection.

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated beginning October 1, 1989, to carry out this title $20,000,000 (based on January 1989 prices), $2,000,000 of which shall be for the fish and wildlife restoration program authorized in section 704 of this title. There are also authorized to be appropriated such additional sums as may be required for operation and maintenance of the works authorized by this Act.

SEC. 703. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel, Colorado.

SEC. 704. RESTORATION OF FISH AND WILDLIFE RESOURCES.

(a) AUTHORIZATION.—The Secretary, acting through the Director of the United States Fish and Wildlife Service, is authorized, in consultation with other Federal entities and the State of Colorado, to formulate and implement, subject to the provisions of subsection (b) of this section, a program for the restoration of fish and wildlife resources on those portions of the Arkansas River Basin impacted by the effluent discharge from the Leadville Mine Drainage Tunnel, Colorado. The formulation of the program under this section shall be undertaken with appropriate public consultation.

(b) NOTIFICATION TO CONGRESS.—At least sixty days prior to implementing a program under subsection (a), the Secretary shall submit a report outlining a proposed program for carrying out subsection (a), including estimated costs, to the Speaker of the House of Representatives and the President pro tempore of the Senate.

SEC. 705. UPPER ARKANSAS RIVER BASIN WATER QUALITY RESTORATION INITIATIVE.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to the provisions of subsection (e) of this section, the Secretary is authorized, in consultation with the State of Colorado, the Environmental Protection Agency, and other Federal, local, and private entities, to conduct investigations of water pollution sources and impacts attributed to mining and other development in the Upper Arkansas River Basin, to develop corrective action plans for such basin, and to implement corrective action demonstration projects for such basin. The Upper Arkansas River Basin is defined as the hydrologic basin of the Arkansas River in Colorado extending from Pueblo Dam upstream to the headwaters of the Arkansas River.

(2) LIMITATION.—The Secretary shall have no authority to implement corrective action demonstration projects under this section at facilities which have been listed or proposed for listing on the national priorities list or are subject to or covered by the Solid Waste Disposal Act.

(b) LIABILITY.—Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 for costs or damages as a result of actions taken or omitted in the course of implementing an action developed under this section. This subsection shall not preclude liability for costs or damages as the result of negligence on the part of such persons.

(c) FUNDING.—In carrying out this section, the Secretary shall arrange for cost sharing with the State of Colorado and for the utilization of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans required in subsection (a). The Federal share of costs for the implementation of corrective action plans as authorized in subsection (a) shall not exceed 50 percent.

(d) PUBLIC INVOLVEMENT.—The development of all corrective action plans and subsequent corrective action demonstration projects under this section shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations issued under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Environmental Protection Agency.

(e) SUBMISSIONS OF PLANS TO CONGRESS.—At least sixty days prior to implementing any corrective action demonstration project under this section, the Secretary shall submit a copy of the proposed project plans, including estimated costs, to the Speaker of the House of Representatives and President pro tempore of the Senate.

(f) EFFECT ON CERCLA.—Nothing in this title affects or modifies, in any way, the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601). The development of corrective action plans and implementation of corrective action demonstration projects shall be exclusive of all enforcement actions under such Act. It is not the intent of this title to relieve non-Federal potentially responsible parties of their liability under such Act.

SEC. 706. DEFINITION.

As used in this Act, the term "Secretary" means the Secretary of the Interior.

TITLE VIII—LAKE MEREDITH PROJECT

SEC. 801. AUTHORIZATION TO CONSTRUCT AND TEST.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY.

(a) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water

Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) CONSTRUCTION CONTINGENT ON CONTRACT.—Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) CANADIAN RIVER MUNICIPAL WATER AUTHORITY SHARE.—All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) FEDERAL SHARE.—All project costs for design preparation, and construction management shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement, except that the Federal contribution shall not exceed 33 per centum of the total project costs.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) PRECONSTRUCTION.—The Secretary shall, upon entering into the contract specified in section 802 with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) TERMINATION OF CONSTRUCTION.—At any time following the first advance of funds, the Authority may request that the Secretary terminate activities then in progress, and such request shall be binding upon the Secretary, except that, upon termination of construction pursuant to his section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 805. TRANSFER OF TITLE.

Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 806. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title, except that the total Federal contribution to the cost of the activities undertaken under the authority of this title shall not exceed 33 per centum.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

SEC. 901. AUTHORIZATION OF REFORMULATION.

The Secretary, consistent with the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District No. 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create—

(1) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for ground water recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(2) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, for water sales, for fish, wildlife, and recreation purposes, and for other purposes.

SEC. 902. CONTRACT WITH THE STATE OF KANSAS FOR OPERATING POOL.

The Secretary may enter into a contract with the State of Kansas for the sale, use and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT WITH THE STATE OF KANSAS FOR CEDAR BLUFF DAM AND RESERVOIR.

(a) AUTHORIZATION.—The Secretary may enter into a contract with the State of Kansas, accepting a payment of $350,000, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir. After the reformulation of the Cedar Bluff Unit authorized by this title, all net revenues received by the United States from the sale of water of the Cedar Bluff Unit shall be credited to the Reclamation Fund.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the Cedar Bluff Irrigation District's obligations under contract number 0-07-70-W0064 shall be terminated.

(c) TRANSFER OF FISH HATCHERY.—The Secretary may transfer ownership of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary may transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached. The transferee of any interests conveyed pursuant to this section shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 905. ADDITIONAL ACTIONS.

The Secretary may take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—MISCELLANEOUS PROVISIONS, CENTRAL VALLEY PROJECT

SEC. 1001. EXTENSION OF THE TEHAMA-COLUSA CANAL SERVICE AREA.

The first paragraph of section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended by the Act of August 19, 1967 (81 Stat. 167), and the Act of December 22, 1980 (94 Stat. 3339, authorizing the Sacramento Valley Irrigation Canals, Central Valley Project, California, is further amended by striking "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or" and inserting "Tehama, Glenn, Colusa, Solano, and Napa Counties, those portions of Yolo County within the boundaries of Colusa County Water District, Dunnigan Water District, Yolo-Zamora Water District, and Yolo County Flood Control and Water Conservation District, or".

SEC. 1002. AUTHORIZATION FOR LONG-TERM CONTRACT FOR WATER DELIVERY.

(a) GENERAL AUTHORITY.—Notwithstanding the Energy and Water Development Appropriations Act, 1990, the Secretary of the Interior is authorized, pursuant to section 203 of the Flood Control Act of 1962 (76 Stat. 1191), to enter into a long-term contract in accordance with Federal Reclamation laws with the Tuolumne Regional Water District, California, for the delivery of water from the New Melones project to the county's water distribution system.

(b) RECLAMATION LAWS.—For purposes of subsection (a), the term "Federal Reclamation Laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof.

TITLE XI—SALTON SEA RESEARCH PROJECT

SEC. 1101. RESEARCH PROJECT TO CONTROL SALINITY.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 25 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources of the Senate regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 1201. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 1203, to the interstate compact, described in section 1202, relating to the waters of the Sabine River and its tributaries.

SEC. 1202. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 1203. AMENDMENT.

The amendment referred to in section 1201 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: *Provided*, That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

TITLE XIII—NAME CHANGE

SEC. 1301. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1302. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in subsection (a) hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XIV—EXCESS STORAGE AND CARRYING CAPACITY

SEC. 1401. EXCESS STORAGE AND CARRYING CAPACITY.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes from any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California.

TITLE XV—AMENDMENT TO THE RECLAMATION PROJECT ACT OF 1939

SEC. 1501. CONTRACT AMENDMENTS.

Subsection (h) of section 8 of the Reclamation Project Act of 1939 (43 U.S.C. 485g(h)) is amended to read as follows:

"(h) If any classification or reclassification of irrigable lands undertaken pursuant to this section results in an increase in the outstanding construction charges or rate of repayment on any project, as established by an existing contract with an organization, the Secretary shall amend the contract to increase the construction obligation or the rate of repayment. No other modification in outstanding construction charges or repayment rates may be made by reason of a classification or reclassification undertaken pursuant to this section without the approval of Congress.".

TITLE XVI—WATER RECLAMATION AND REUSE

SEC. 1601. PARTICIPATION IN STUDY.

The Secretary is authorized to participate with the city of San Diego, California, in the conduct of a study of conceptual plans for water reclamation and reuse. The Federal share of the cost of the study referred to in this section shall not exceed 50 percent of the total cost of the study.

SEC. 1602. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated the sum of $250,000 to carry out the Federal share of the study specified in section 1601 of this title.

TITLE XVII—RECLAMATION REFORM ACT OF 1982

SEC. 1701. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This title may be cited as the "Reclamation Reform Act Amendments of 1991".

(b) DEFINITION.—As used in this title, the term "the Act" means the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263, 43 U.S.C. 390aa, et seq.).

SEC. 1702. NEW DEFINITION.

Section 202 of the Act is amended by adding the following new definition after paragraph 2, and redesignating the subsequent paragraphs accordingly:

"(3)(A) The term 'farm' or 'farm operation' means any landholding or group of landholdings, including partial landholdings, directly or indirectly farmed or operated by an individual, group, entity, trust, or any other combination or arrangement. The existence of a farm or farm operation will be presumed when ownership, operation, management, financing, or other factors, individually or together, indicate that one or more landholdings, including partial landholdings, are directly or indirectly farmed or operated by the same individual, group, entity, trust, or other combination or arrangement thereof.

"(B) The following arrangements and transactions, if negotiated at arms length between unrelated parties, shall not be factors for the purpose of determining the existence of a farm or farm operation:

"(i) Participation in a bona fide cooperative;

"(ii) Entering into an agreement in which each party bears the risk of loss individually for: (I) the use of equipment or labor; (II) processing, handling, brokering, or packing crops; (III) ginning cotton; (IV) purchasing seed; (V) purveying water; or (VI) other similar agreements;

"(iii) Entering into financial transactions involving land or crop loans, including, but not limited to, the granting or receipt of a security interest, crop mortgage, assignment of crop or crop proceeds or other interests in a crop or land solely for the purposes of obtaining repayment of a loan;

"(iv) Entering into (or exercising rights under) an agreement to assure or require bona fide quality control measures and/or the right to take control of farming operations in order to ensure quality control; or

"(v) Entering into an agreement for custom farming or farm management services if the custom farmer or farm manager does not bear a direct risk of loss in the crop.

"(C) With respect to activities between 'related parties', as defined in section 267(b) of the Internal Revenue Code of 1986, the Secretary shall certify that a farm or farm operation does not exist based on information supplied by such parties if such information indicates that all such activities were entered into and performed at arms length."

SEC. 1703. ADDITION OF FARM OR FARM OPERATION TO THE ACT.

(a) The second sentence of section 203(b) of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and inserting after "leased" wherever it appears, the following: ", farmed or operated".

(b) Section 205 of the Act is amended by inserting after "landholding" wherever it appears, the following: ", farm, or farm operation", and by inserting after "landholdings" the following: ", farms or farm operations".

SEC. 1704. TRUSTS.

Section 214 of the Act is amended by adding the following new subsections.

"(c) The ownership and pricing limitations of this Act and the ownership limitations of any other provision of Federal reclamation law shall apply to a beneficiary of a trust in the same manner as any other individual.

"(d) The ownership and pricing limitations of this Act and the ownership limitations in any other provisions of Federal reclamation law shall apply to lands which are held by an individual or corporate trustee in a fiduciary capacity for a beneficiary or beneficiaries whose interests in the land served do not exceed the ownership and pricing limitations imposed by Federal reclamation law, including this title, as follows—

"(1) For trusts established on or before June 14, 1990 and benefitting 25 individuals or less, the ownership limitations shall go into effect nine years after enactment of these amendments, and the pricing limitations shall go into effect pursuant to sections 203 and 205, as applicable;

"(2) For trusts established on or before June 14, 1990 and benefitting more than 25 individuals, one hundred and eighty days after enactment of these amendments; and

"(3) For trusts established subsequent to June 14, 1990 upon the enactment of these amendments."

Section 205 is amended by adding a new subsection (d) as follows:

"(d) Any trust benefitting 25 individuals or less shall not, under any circumstances, be eligible to receive water at less than full-cost on more than 960 acres of Class I land or the equivalent thereof. Full-cost pricing resulting from the application of this subsection shall be phased in over three years, that being 33⅓ percent, 66⅔ percent, and 100 percent of the difference between the applicable nonfull cost rate and the then existing full-cost rate for the first, second, and third calendar years, respectively, following the effective date of these amendments."

SEC. 1705. INTENT AND PURPOSES.

Section 224(c) of the Act is amended to read as follows:

"(c) The Secretary is directed to prescribe regulations and shall collect all data necessary to carry out the intent, purposes, and provisions of this title and of other provisions of Federal reclamation law. Notwithstanding any other provision of law, the Secretary shall establish appropriate and effective penalties for failure to comply with any provision of this Act or any regulation established pursuant to this Act.".

SEC. 1706. REPORTING REQUIREMENTS.

(a) Section 228 of the Act is amended by inserting after "contracting entity" wherever it appears, the following: ", farm, or farm operation".

(b) Section 206 of the Act is amended by inserting after the final sentence the following: "This section shall also apply to all landholdings, farms, or farm operations, to all lands operated under any kind of operating agreement, and to all operators thereof. The Secretary, may also require the submission of any agreement or other document relating to the certification.".

SEC. 1707. RELIGIOUS OR CHARITABLE ORGANIZATIONS.

Section 219 of the Act is amended by—

(1) inserting "(a)" after "SEC. 219"; and

(2) inserting at the end the following new subsections:

"(b) The terms 'farm' or 'farm operation' shall not apply to any landholding of a religious or charitable entity or organization which qualifies as an individual under this section. If an individual religious or charitable entity or organization holds land as a lessor within a district, it shall qualify as an individual with respect to such lands: *Provided*, That the entity or organization directly uses the proceeds of the lease only for charitable purposes: *Provided further*, That the lessee is eligible to receive reclamation water upon the leased lands.

"(c) If an individual religious or charitable organization holds lands within a district, but fails to qualify as an individual under this section, its lands within a district with regard to which it does not qualify as an individual shall be lands held in excess of the ownership limitations of section 209 of this Act, and shall receive reclamation water only as excess lands in compliance with the provisions of section 209 of this Act. The failure of an individual religious or charitable entity or organization to qualify as an individual under this section shall not affect the qualification as an individual under this section of another individual religious or charitable entity or organization which is affiliated with the same central organization or is subject to a hierarchical authority of the same faith.".

SEC. 1708. RESTRICTION OF BENEFITS TO CITIZENS AND RESIDENT ALIENS.

(a) Section 202(8) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": *Provided*, That all such persons are citizens of the United States or resident aliens thereof.".

(b) Section 202(10) of the Act, as redesignated by section 1702 of this Act, is amended by striking the period and inserting in lieu thereof the following: ": *Provided*, That all such persons are citizens of the United States or resident aliens thereof.".

SEC. 1709. ASSESSMENT REVIEW.

The Secretary shall review on a case-by-case basis the full cost charges applied to prior law recipients who filed irrevocable elections pursuant to section 203(b) of the 1982 Act between May 13, 1987 and January 1, 1988. Upon completion of such review, the Secretary shall determine, taking into account all relevant information, whether or not the full cost charges assessed of said prior law recipients are appropriate. Based upon such determination, the Secretary may reduce or rescind said charges accordingly: *Provided*, That the Secretary shall inform by letter report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate of any intent to reduce or rescind such charges and that such reduction or rescission shall not take place until after the passage of ninety calendar days after the receipt by the respective Committees of the letter report. The Secretary shall consult with the Office of the Inspector General of the Department of the Interior in the preparation of such report.

SEC. 1710. APPLICATION TO INDIAN LANDS.

The Act (43 U.S.C. 390aa et seq.) is amended by adding at the end the following new section:

"SEC. 231. APPLICATION TO INDIAN LANDS.

Nothing in this title shall apply to trust or restricted Indian lands."

TITLE XVIII—GRAND CANYON PROTECTION

SEC. 1801. SHORT TITLE.

This title may be cited as the "Grand Canyon Protection Act".

SEC. 1802. FINDINGS.

The Congress finds the following:

(1) Current operating procedures at Glen Canyon Dam, including fluctuating water releases made for the production of peaking hydroelectric power, have substantial adverse effects on downstream environmental and recreational resources, including resources located within Grand Canyon National Park. Flood releases from Glen Canyon Dam have damaged beaches and terrestrial resources. Damage from flood releases can be reduced if the frequency of flood releases is reduced, as has been the practice in recent years.

(2) The Secretary announced on July 27, 1989, the preparation of an environmental impact statement to evaluate the impacts of Glen Canyon Dam operations on downstream environmental and recreational resources. Based in part on information developed during the environmental impact statement process, the Secretary will be in a position to make informed decisions regarding possible changes to current operating procedures for Glen Canyon Dam.

(3) The adverse effects of current operations of Glen Canyon Dam are significant and can be at least partially mitigated by the development and implementation of interim operating procedures pending the completion of an environmental impact statement, the Glen Canyon Environmental Studies, and the adoption of new long-term operating procedures for Glen Canyon Dam.

SEC. 1803. DEFINITIONS.

As used in this title—

(1) the term "Colorado River Compact" means the compact consented to by the Act of August 19, 1921 (chapter 72; 42 Stat. 171) and approved by section 13(a) of the Act of December 21, 1928 (45 Stat. 1064);

(2) the term "Upper Colorado River Basin Compact" means the compact consented to by the Act of April 6, 1949 (63 Stat. 31); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 1804. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures in such a manner as to protect, mitigate adverse impacts to, and improve the condition of, the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, under operating procedures that are subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to the allocation of the Colorado River.

(b) AMENDMENT OF CRSP.—The Act of April 11, 1956 (70 Stat. 105, chapter 203; 43 U.S.C. 620 et seq.; commonly referred to as the "Colorado River Storage Project Act"), is amended as follows:

(1) In section 3, by adding at the end the following: "It is the further intention of Congress that the Secretary shall operate Glen Canyon Dam and, if necessary, take other reasonable mitigation measures, so as to protect, mitigate damages to, and improve the condition of the environmental, cultural, and recreational resources of Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam, subject to and consistent with the water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, consented to by the Act of April 6, 1949 (63 Stat. 31, chapter 48), and other laws relating to allocation of the Colorado River.".

(2) In the first sentence of section 7, by striking "Acts." and inserting "Acts, nor shall the Secretary operate the hydroelectric powerplant at Glen Canyon Dam in a manner which causes significant and avoidable adverse effects on the environmental, cultural, or recreational resources of Glen Canyon National Park or Glen Canyon National Recreation Area downstream of Glen Canyon Dam.".

(c) PROMULGATION OF OPERATING PROCEDURES.—The Secretary shall promulgate interim and long-term operating procedures for Glen Canyon Dam as set forth in sections 1805 and 1806, which procedures shall be consistent with the requirements of this section, and, if necessary, shall take other reasonable mitigation measures.

(d) DISCLAIMER.—Nothing in this title alters or may be construed to alter the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or to affect in any manner the authority and responsibility of the Secretary with respect to the management and administration of such areas, including natural and cultural resources, and visitor use, as provided by laws applicable to such areas, including (but not limited to) the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

SEC. 1805. INTERIM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, and pending compliance by the Secretary with the requirements of section 1806, the Secretary shall, not later than October 1, 1991, or upon cessation of research flows used for preparing the environmental impact statement ordered by the Secretary on July 27, 1989, whichever is earlier, develop and implement interim operating procedures for Glen Canyon Dam. Such procedures shall—

(1) not interfere with the primary water storage and delivery functions of Glen Canyon Dam pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River;

(2) minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam;

(3) adjust fluctuating water releases caused by the production of peaking hydroelectric power and adjust rates of flow changes for

fluctuating flows that will minimize, to the extent reasonably possible, adverse downstream impacts;

(4) minimize flood releases, consistent with the requirements of section 1804 of this title;

(5) maintain sufficient minimum flow releases at all times from Glen Canyon Dam to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and to protect fishery resources; and

(6) limit maximum flows released during normal operations to minimize, to the extent reasonably possible, the adverse environmental impacts of Glen Canyon Dam operations on Grand Canyon National Park and Glen Canyon National Recreation Area downstream of Glen Canyon Dam and to protect fishery resources.

(b) CONSULTATION.—The Secretary shall develop and implement the interim operating procedures described in subsection (a) in consultation with—

(1) appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) the Secretary of Energy;

(3) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) affected Indian tribes; and

(5) the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) SCIENTIFIC DATA.—The Secretary shall develop and implement the interim operating procedures referred to in this section using the best and most recent scientific data available, including the scientific information collected and analyzed as part of the Glen Canyon Environmental Studies.

(d) TERMINATION.—The interim operating procedures described in this section shall terminate upon compliance by the Secretary with the requirements of section 1806 of this title.

(e) DEVIATION FROM PROCEDURES.—The Secretary may deviate from the interim operating procedures described in this section upon a finding that such deviation is necessary and in the public interest in order to—

(1) comply with the requirements of section 1806(a) of this title;

(2) respond to hydrologic extremes or power system operating emergencies; or

(3) further reduce adverse impacts on environmental, cultural, or recreational resources downstream from Glen Canyon Dam.

SEC. 1806. GLEN CANYON ENVIRONMENTAL STUDIES; GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; AND LONG-TERM OPERATING PROCEDURES FOR GLEN CANYON DAM.

(a) EIS.—The Secretary shall, not later than December 31, 1993, complete the final Glen Canyon Dam Environmental Impact Statement in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and in addition shall complete the Glen Canyon Environmental Studies. In preparing the environmental impact statement, the Secretary shall consider the views and conclusions of all cooperating government agencies, affected Indian tribes, and the general public. The Secretary shall make use of the best and most recent scientific data and studies in preparing the environmental impact statement, including the scientific information collected and analyzed as part of the Glen Canyon Environment Studies.

(b) REVIEW.—The Comptroller General of the United States shall review, in accordance with the standards set forth in the United States Water Resource Council's March 10, 1983, Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies, the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the draft of the environmental impact statement referred to in subsection (a). The Comptroller General shall report the results of the review to the Secretary and the Congress within one year after publication of the draft environmental impact statement.

(c) IMPLEMENTATION.—(1) Based on the findings, conclusions, and recommendations made in the studies, the statement prepared pursuant to subsection (a), and the review performed pursuant to subsection (b), the Secretary shall, within ninety days following completion of the final environmental impact statement or completion of the Comptroller General's review, whichever is later, implement long-term operating procedures for Glen Canyon Dam that will, alone or in combination with other reasonable mitigation measures, ensure that Glen Canyon Dam is operated in a manner consistent with this Act. Such procedures shall not interfere with the primary water storage and delivery functions of Glen Canyon Dam, pursuant to the Colorado River Compact, the Upper Colorado River Basin Compact, and other laws relating to allocation of the Colorado River.

(2) Upon completion of the requirements of paragraph (1), the Secretary shall submit to the Congress—

(A) the studies and the statement completed pursuant to subsection (a); and

(B) a report describing the long-term operating procedures for Glen Canyon Dam and other measures taken to protect, mitigate adverse impacts to, and improve the condition of the environmental, cultural, and recreational resources of the Colorado River downstream of Glen Canyon Dam.

(d) ANNUAL REPORT.—Annually after the date of the implementation of the procedures under subsection (c)(1), the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act (43 U.S.C. 1552(b)), on the operation of the Glen Canyon Dam during the preceding year and the projected year operations undertaken pursuant to this title. In the process of preparing the long-term operating procedures, the annual plans of operation described in this section, and the annual report specified in section 602(b) of the Colorado River Basin Project Act, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1807. LONG-TERM MONITORING.

The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with the requirements of section 1804 of this title. Such long-term monitoring shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1806(c)(1) of this title upon the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area. These monitoring programs and activities shall be established and implemented in consultation with the Secretary of Energy; the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming; affected Indian tribes, and the general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry and the contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1808. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

SEC. 1809. SAVINGS.

Nothing in this title shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), or, except as provided in section 1805, of this title, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), or other existing laws relating to environmental or natural resources protection, with regard to the operation of Glen Canyon Dam.

TITLE XIX—MID-DAKOTA RURAL WATER SYSTEM

SEC. 1901. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1991".

SEC. 1902. DEFINITIONS.

For purposes of this title—

(1) The term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1905 of this title;

(2) the term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota;

(3) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(4) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(5) the term "Secretary" means the Secretary of the Interior;

(6) the term "summer electrical season" means May through October of each year;

(7) the term "water system" means the Mid-Dakota Rural Water System, substan-

tially in accordance with the feasibility study;

(8) the term "Western" means the Western Area Power Administration;

(9) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report;

(10) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990; and

(11) the term "wetland trust" means a trust established in accordance with section 11(b) and operated in accordance with section 11(c).

SEC. 1903. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetland areas, and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) AMOUNT OF GRANTS.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc. and water conservation measures consistent with section 1905 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1912 of this title.

(e) LOAN TERMS.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc. under the provisions of this title shall be repaid, with interest, within thirty years from the date of each loan or loans and no penalty for prepayment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and,

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) COORDINATION WITH THE DEPARTMENT OF AGRICULTURE.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1904. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, providing not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1905. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) DESCRIPTION OF PROGRAMS.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers);

(4) declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study);

(5) public education programs; and

(6) coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1906. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre for acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1907. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.,

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1908. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1909. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources.

SEC. 1910. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1911. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—The Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first

year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service; and

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations, appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose; and

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: *Provided*, That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

SEC. 1912. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There are authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1903, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available under expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1904;

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1904; and

(3) $7,000,000 for the Federal contribution to the wetland trust under section 1911.

TITLE XX—LAKE ANDES-WAGNER, SOUTH DAKOTA

SEC. 2001. DRAINAGE DEMONSTRATION PROGRAMS.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, and with the assistance and cooperation of an oversight committee (hereafter "Oversight Committee") consisting of representatives of the Bureau of Indian Affairs, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water System, Inc. carry out a demonstration program (hereafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such Demonstration Program shall be conducted in accordance with the environmental analysis and documentation requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) The objectives of the Demonstration Program shall include:

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements, and providing reliable estimates of drainage return flow quality and quantity, with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water, and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving special emphasis to crops of Agricultural Commodities for which an acreage reduction program is in effect under the provisions of the Agriculture Act of 1949 (7 U.S.C. 1462 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions—

(1) rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) the Demonstration Program shall provide for the—

(A) supply all water, delivery system, pivot systems and drains;

(B) operation and maintenance of the irrigation system;

(C) Secretary of Agriculture to supply all seed, fertilizers and pesticides and make standardized equipment;

(D) Secretary of Agriculture to determine crop rotations and cultural practices; and

(E) Secretary and Secretary of Agriculture to have unrestricted access to leased lands;

(3) the Secretary and the Secretary of Agriculture may, in accordance with the Demonstration Program contract with the lessor and/or custom operators to accomplish agricultural work, which work shall be performed in accordance with the Demonstration Program;

(4) no grazing may be performed on a study site;

(5) crops grown shall be the property of the United States; and

(6) at the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their preleased condition at no expense to the lessor.

(d) The Secretary of Agriculture shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary of Agriculture. Any crops not sold shall be disposed of as the Secretary of Agriculture determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. The Secretary of Agriculture shall provide for lessors to preserve the cropland base and history on lands leased to the Demonstration Project under the same terms and conditions provided for under section 1236(b) of the Food Security Act of 1985 (7 U.S.C. 3836(b)). Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Interior and Insular Affairs, the Committee on Agriculture, and the Committee on Merchant Marine and Fisheries of the House of Representatives, to the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out in the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall—

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Program; and

(3) prepare in coordination with the Secretary of Agriculture a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriated for the Demonstration Program, shall transfer to the other Federal agencies funds in amounts sufficient to offset expenses incurred under this title.

SEC. 2002. PLANNING REPORTS—ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 2001, the Secretary shall comply with the study and reporting requirements of the National Environmental Policy Act and regulations issued to implement the provisions thereof with respect to the Lake Andes-Wagner Unit and Marty II Unit. The final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention or avoidance of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains. The Department shall not recommend that any such Unit be constructed unless the respective report prepared pursuant to subsection (a) is accompanied by findings by the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards and avoid all adverse effects to fish and wildlife resulting from the bioaccumulation of selenium.

SEC. 2003. INDIAN EMPLOYMENT.

In carrying out this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions training and employment opportunities shall be provided members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 2004. FEDERAL RECLAMATION LAWS.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof).

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program authorized by this title.

Of the amounts appropriated pursuant to this section, 5 percent of the total shall be utilized by the Director of the United States Fish and Wildlife Service to fund projects on Western National Wildlife Refuges designed to mitigage the adverse effects of selenium on populations of fish and wildlife within such refuges.

TITLE XXI—INSULAR AREAS STUDY

SEC. 2101. FINDINGS.

The Congress hereby finds and declares that assuring adequate supplies of water, sewerage, and power for the residents of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands has become a problem of such magnitude that the welfare and prosperity of these insular areas require the Federal Government to assist in finding permanent, long-term solutions to their water, sewerage, and power problems.

SEC. 2102. AUTHORIZATION OF STUDY.

The Secretary of the Interior is authorized and directed to undertake a comprehensive study of how the long-term water, sewerage, and power needs of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the Trust Territory of the Pacific Islands, and the Virgin Islands can be resolved. Such study shall be conducted in consultation with the governments of these insular areas.

SEC. 2103. REQUIREMENTS OF STUDY.

Such study shall include for each jurisdiction, but not be limited to—

(1) an assessment of the magnitude and extent of current and expected needs;

(2) an assessment of how the needs can be resolved;

(3) the costs and benefits of alternative solutions;

(4) the need for additional legal authority for the President to take actions to meet the needs; and,

(5) specific recommendations for the role of the Federal Government and each insular government in solving the needs.

SEC. 2104. THE INSULAR AREAS ENERGY ASSISTANCE AMENDMENT OF 1991.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96-597, as amended by Public Law 98-213 (48 U.S.C. 1492), is amended by adding the following subsection:

"(g)(1) There are hereby authorized to be appropriated $500,000 to the Secretary of Energy for each fiscal year for grants to insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependence of the insular area on imported fuels and improve the quality of life in the insular area.

"(2) Factors which shall be considered in determining the amount of financial assistance to be provided for a proposed energy-efficiency or renewable energy grant under this subsection shall include, but not be limited to, the following—

"(A) whether the measure will reduce the relative dependence of the insular area on imported fuels;

"(B) the ease and costs of operation and maintenance of any facility contemplated as part of the project;

"(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the report by the Secretary of Energy pursuant to this section or identified by the Secretary as consistent with the purposes of this section; and

"(D) whether the measure will contribute significantly to the quality of the environment in the insular area.".

TITLE XXII—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2201. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXIII—PLATORO DAM AND RESERVOIR, COLORADO

SEC. 2301. FINDINGS AND DECLARATIONS.

The Congress finds and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further financial risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States pursuant to the existing repayment contract between the United States and the District (Contract No. Ilr–1529, as amended); and

(C) determine such one time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and taking into account 50 percent sharing of the cost of maintaining a minimum stream flow as provided in section 2(d) of this title.

SEC. 2302. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the District in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (No. Ilr–1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam and Reservoir under Federal and State law; and

(B) that the District shall have the exclusive use and sole responsibility for maintenance of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite. The District shall have sole responsibility for maintaining the land and buildings in a condition satisfactory to the United States Forest Service.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such Contract Numbered Ilr–1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The District will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases or bypasses from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of 3,000 acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: *Provided, however*, That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to 2,400 acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of at least 7 cubic feet per second during the months of October through April and shall bypass 40 cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to monitor operation of Platoro Reservoir regularly including releases from it for instream flow purposes and to enforce the provisions of this subsection under the laws, regulations, and rules applicable to the National Forest System.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 2303. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

TITLE XXIV—SLY PARK UNIT, CENTRAL VALLEY PROJECT

SEC. 2401. SHORT TITLE.

This title may be cited as the "Sly Park Unit Sale Act".

SEC. 2402. SALE OF THE SLY PARK UNIT.

(a) IN GENERAL.—The Secretary shall, as soon as practicable after the date of enactment of this title, sell the Sly Park Unit to the El Dorado Irrigation District.

(b) SALE PRICE.—The sale price shall not exceed—

(1) the construction costs as included in the accounts of the Secretary, plus

(2) interest on the construction costs allocated to domestic use at the authorized rate included in enactment of the Act of October 14, 1949 (63 Stat. 852) up to an agreed upon date, plus

(3) the presently assigned Federal operation and maintenance costs, less

(4) all revenues to date as collected under the terms of the contract (14–06–200–949) between the United States and the El Dorado Irrigation District.

(c) TERMS OF PAYMENT.—The Secretary may negotiate for a payment of the purchase price on a lump-sum basis or on a semiannual basis for a term of not to exceed twenty years. If payment is not to be lump-sum, then the interest rate to be paid by the District shall be the rate referred to in subsection (b)(2).

(d) CONVEYANCE.—Upon completion of payment by the District, the Secretary shall convey to the El Dorado Irrigation District all right, title, and interest of the United States in and to the Sly Park Unit. All costs associated with the transfer shall be borne by the District.

SEC. 2403. DEFINITIONS.

For purposes of this title, the term—

(1) "El Dorado Irrigation District" or "District" means a political subdivision of the State of California duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the city of Placerville, El Dorado County, California.

(2) "Secretary" means the Secretary of the Interior.

(3) "Sly Park Unit" means the Sly Park Dam and Reservoir, Camp Creek Diversification Dam and Tunnel and conduits and canals as authorized under the American River Act of October 14, 1949 (63 Stat. 852).

TITLE XXV—COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES

SEC. 2501. COST FOR DELIVERY OF WATER USED TO PRODUCE THE CROPS OF CERTAIN AGRICULTURAL COMMODITIES.

Section 9 of the Reclamation Projects Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(g)(1) All contracts entered into, renewed, or amended under authority of this section or any other provision of Federal reclamation law after—

"(A) two years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least 50 percent of full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in Commodity Credit Corporation storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture; and

"(B) four years after the date of the enactment of this subsection shall require that the organization agree by contract with the Secretary to pay at least full cost for the delivery of water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provisions of the Agricultural Act of 1949, if the stocks of such commodity in Commodity Credit Corporation storage exceed an amount that the Secretary of Agriculture determines is necessary to provide for a reserve of such commodity that can reasonably be expected to meet a shortage of such commodity caused by drought, natural disaster, or other disruption in the supply of such commodity, as determined by the Secretary of Agriculture.

"(2) The Secretary shall announce the amount of the full cost payment for the succeeding year on or before July 1 of each year.

"(3) As used in this subsection, the term 'full cost' shall have the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982.

"(4) This subsection shall not apply to—

"(A) any contract which provides for irrigation on individual Indian or tribal lands on which repayment is deferred pursuant to the Act of July 1, 1932 (chap. 369; 47 Stat. 564; 25 U.S.C. 386(a); commonly referred to as the 'Levitt Act');

"(B) an amendment of any contract with any organization which, on the date of enactment of this subsection, is required pursuant to a contract with the Secretary as a condition precedent to the delivery of water to make cash contributions of at least 20 percent of the cost of construction of irrigation facilities by the Secretary;

"(C) any contract which carries out the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294), 100 Stat. 418; and

"(D) water delivered to any agricultural producer who is not a participant in any acreage reduction program in effect under the Agricultural Act of 1949.".

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g-1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report".

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate 5 years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.".

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$34,000,000 (October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—SOLANO PROJECT TRANSFER AND PUTAH CREEK IMPROVEMENT

SEC. 2701. SHORT TITLE.

This title may be cited as the "Solano Project Transfer and Putah Creek Improvement Act".

SEC. 2702. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Solano Project is a Federal reclamation project located in Solano, Yolo, and Napa Counties, California. The project was constructed by the United States between 1953 and 1958 for the purposes of providing water supply and incidental flood control benefits;

(2) the Solano Project supplies approximately 65 per centum of Solano County's public water supply;

(3) the California State Water Resources Control Board has granted, pursuant to California law, water rights permits to the Bureau of Reclamation for the Solano Project which establish that Solano County is the place of use for Solano Project water, with the exception of four thousand acre-feet used annually by the University of California-Davis in Yolo County pursuant to contract, and with a provisional reservation of up to thirty-three thousands acre-feet for the Putah Creek watershed above Monticello Dam;

(4) repayment of the Solano Project's reimbursable capital costs is the exclusive obligation of the Solano County Water Agencies, and said agencies have repaid more than half of these costs;

(5) the Solano County Water Agencies perform all operation and maintenance for the Solano Project under contract with the United States, and they have paid all operation and maintenance costs of the project;

(6) the Solano Project has no financial or physical interconnection with any other local, State, or Federal water project;

(7) the Solano Project impounds and diverts the waters of Putah Creek, which support riparian habitat, including a riparian reserve operated by the University of California, and both a cold water fishery and a warm water fishery;

(8) the United States Fish and Wildlife Service currently is preparing a Putah Creek Resource Management Plan; and,

(9) interested local public agencies and private organizations in Solano and Yolo Counties have formed an advisory group to provide advice regarding Putah Creek enhancement activities.

(b) PURPOSES.—The purposes of this title are—

(1) to convey to the Water Users fee title to the water supply facilities of the Solano Project upon payment to the United States by the Water Users of the sum calculated in accordance with section 2704 of this title;

(2) to provide for continuation of all public benefit purposes of the Solano Project;

(3) to protect Putah Creek fisheries, wildlife and riparian habitat, ground water recharge and diversion rights downstream of the Putah Diversion Dam in conformance with all applicable decisions and orders of the California State Water Resources Control Board and courts of competent jurisdiction, and all applicable State laws;

(4) to provide for enhancement of Putah Creek fisheries, wildlife and riparian habitat;

(5) to provide the Water Users with local ownership over their principal public water supply facilities;

(6) to eliminate significant Federal liabilities; and,

(7) to benefit the Federal Treasury from such payment and title transfer.

SEC. 2703. DEFINITIONS.

For the purposes of this title, the term:

(a) "Book value" of the water supply facilities means an amount which equals the product of the depreciable facilities costs and the applicable depreciation factor.

(b) "Capital/O&M adjustment" means the amount in arrears, if any, of capital repayments or operation and maintenance expenses due pursuant to the water service contract, plus accrued interest.

(c) "Construction defect and dam safety adjustment" means $7,270,000 for purposes of this Act.

(d) "Depreciable facilities costs" means the reimbursable capital costs of the water supply facilities of the Project which are to be transferred.

(e) "Depreciation factor" means a percentage derived by calculating the number and fraction of years between the date of purchase and the year 2033 and then dividing by 75.

(f) "Interim water releases" means: (1) releases into Lower Putah Creek of water owned by the Water Users, or any constituent entity thereof, in an amount not to exceed 2,700 acre-feet in 1991 and 3,000 acre-feet in 1992; and (2) releases into lower Putah Creek of water owned by the Yolo County Entities, or any member thereof, in an amount not to exceed 3,000 acre-feet in either 1991 or 1992.

(g) "Lower Putah Creek Coordinating Committee" means an advisory committee established to assist the Secretary in coordinating Federal, State and local efforts to protect and enhance the habitat of Putah Creek. This Committee is to consist of a maximum of fourteen members, up to seven of which are to be appointed by the Water Users and up to seven of which are to be appointed by the Yolo County Entities. The Committee is not an agency or establishment of the United States.

(h) "Lower Putah Creek" means that portion of Putah Creek extending from the Putah Diversion Dam to the Yolo Bypass in Yolo County, California.

(i) "Reimbursable capital costs" means the original reimbursable costs of the Solano Project, as set forth in the Bureau of Reclamation document entitled "Solano Project Statement of Project Construction Cost and Repayment," dated September 30, 1989 ("Solano Project Statement") attached as Appendix "A" in the report accompanying H.R. 429.

(j) "Remaining indebtedness" means the remaining balance of the reimbursable capital costs of the Solano Project, as set forth in the Solano Project Statement, and as adjusted thereafter to reflect any payments made prior to the date of transfer.

(k) "Secretary" means the Secretary of the Interior.

(l) "Solano County Water Agencies" means one or more public agencies in Solano County which have used water from the Solano Project and who are member agencies of the Water Users.

(m) "Solano Project" means the reclamation project described in House Document Numbered 65, Eighty-first Congress, first session (1949).

(n) "Water service contract" means the contract between the United States and the Solano County Flood Control and Water Conservation District for water service and for operation and maintenance of certain works of the Solano Project, dated March 7, 1955 (Contract No. 14-06-200-4090).

(o) "Water supplies facilities" means—

(1) the Monticello Dam and spillway;

(2) Lake Solano, its lands and facilities, and the Putah Diversion Dam;

(3) the Putah South Canal;

(4) all appurtenant facilities, lands, easements and rights-of-way.

This term does not include Lake Berryessa, its shoreline or any recreational features of the Solano Project, excepting recreational facilities leased and operated by Solano County on lands surrounding Lake Solano.

(p) "Water Users" means a public agency formed under the laws of the State of California duly organized and existing—

(1) including all member public agencies of the Solano Water Authority and the Solano County Water Agency, public agencies formed under the laws of the State of California;

(2) having a governing board in which a majority of the members are representatives of those local entities holding contracts for water from the Solano Project on the date of enactment of this title; and

(3) approved by both the Solano Water Authority and the Solano County Water Agency.

(q) "Yolo County Entities" means a group consisting of authorized representatives of the county of Yolo, the Yolo County Flood Control and Water Conservation District, the city of Davis, the city of Winters, the University of California at Davis, and the Putah Creek Council.

(r) "Uncontrolled Releases" means water bypassed or released at the Putah Diversion Dam which is not required to be released pursuant to section 2706(c) of this title, or to meet contract or state-law requirements.

SEC. 2704. TRANSFER OF THE SOLANO PROJECT WATER SUPPLY FACILITIES, OPERATIONS AGREEMENT AND PAYMENT.

(a) AGREEMENT.—The Secretary shall, as soon as practicable after the date of enactment of this title, enter into an agreement with the Water Users for the implementation of section 2705(b) of this title.

(b) The Secretary shall, upon execution of the agreement described in section 2704(a) of this title and payment of the sum calculated in accordance with section 2704(c) of this title, and subject to the provisions of sections 2706(a) and 2707(a) of this title, transfer to the Water Users all right, title and interest in and to the water supply facilities of the Solano Project described in section 2703(o).

(c) PRICE.—The price paid by the Water Users for the water supply facilities of the Solano Project shall be the amount which is the total of—

(1) the remaining indebtedness;

(2) the book value of the water supply facilities;

(3) any capital/O&M adjustment amount; and,

(4) all administrative costs incurred by the United States in effectuating the agreement and the transfer, less

(5) the dam safety and construction defect adjustment: *Provided, however*, That in no event shall the sum determined in subparagraphs (1)-(5) of this subsection above be less than 66 per centum of the original reimbursable capital costs of the water supply facilities of the Solano Project which are to be transferred.

SEC. 2705. RESPONSIBILITIES OF THE WATER USERS.

(a) Upon transfer of the water supply facilities, the Water Users shall, except as provided in this title: (1) assume all liability for administration, operation, and maintenance of said facilities and continue to provide for the operation thereof for the authorized Solano Project purposes including (but not limited to) all water supply contracts heretofore entered into by the Secretary; (2) protect Putah Creek fisheries, wildlife, riparian habitat, ground water recharge, and downstream diversion rights, including adhering to minimum water release schedules for Putah Creek downstream of Monticello Dam and Putah Diversion Dam in conformance with all applicable decision and orders of the State of California Water Resources Control Board and courts of competent jurisdiction and all applicable State laws; and (3) continue to provide the incidental flood control benefits currently enjoyed by downstream property owners on Putah Creek.

(b) The Water Users shall cooperate with the United States and the Lower Putah Creek Coordinating Committee to implement the supplemental releases for Putah Creek enhancement purposes mandated by section 2704. Such cooperation may include releasing Solano Project water from Monticello Dam and past the Putah Diversion Dam into Lower Putah Creek in exchange for water provided by the Secretary from other sources: *Provided*, That the Secretary shall pay the Water Users any actual costs that they may incur as a result of such exchange, less any savings that result from such exchange.

SEC. 2706. RESPONSIBILITIES OF THE UNITED STATES

(a) PRETRANSFER CONFIRMATION.—The Secretary may not transfer title to the water supply facilities of the Solano Project unless the Secretary confirms that all of the Solano Project member units have executed an agreement addressing their respective contractual entitlements. These member units are the city of Fairfield, Maine Prairie Water District, Solano Irrigation District, city of Suisun City, city of Vacaville, city of Vallejo, California Medical Facility, and University of California, Davis.

(b) RECREATION.—(1) The Secretary shall be responsible for, and retain full title to and jurisdiction and control over the surface of Lake Berryessa and Federal lands underlying and surrounding the Lake, and shall retain full title to all Lake Berryessa recreational facilities, exclusive of those properly constructed by concessionaires under applicable contracts; concessionaire contracts, interests in real property associated therewith; and similar associated rights and obligations. The Secretary shall consult with the State of California and local governments in Napa County, California, prior to implementing any change in operating procedures for such lands. The Secretary is authorized to enter into contracts or other agreements with Napa County, California, regarding land use controls, law enforcement, water supply, wastewater treatment, and other matters of concern within the boundaries of lands surrounding Lake Berryessa that were originally included in the lands acquired from the Solano Project.

(2) The Secretary, acting through the Bureau of Reclamation, is authorized to obtain water from Lake Berryessa consistent with its existing State water rights permit for recreational or other resource management purposes at Lake Berryessa, including that required for concession operation, in the manner, amounts, and at times as may be determined by the Bureau of Reclamation.

(3) The Secretary, acting through the Bureau of Reclamation, is authorized to make available, subject to appropriation, funds collected from recreation entrance and user fees, to local and/or State law enforcement agencies to enforce rules and regulations as are necessary for regulating the use of all project lands and waters associated with Lake Berryessa, and to protect the health, safety, and enjoyment of the public, and ensure the protection of project facilities and natural resources.

(4) The Secretary is hereby authorized to enter into joint future projects with Lake Berryessa concessionaires to develop, operate, and maintain such short-term recreational facilities as he deems necessary for the safety, health, protection, and outdoor recreational use by the visiting public, and, to amend existing concession agreements, including extending terms as necessary for amortization of concessionaire investments, to accommodate such joint future projects.

(5) The Secretary is authorized to assist, or enter into agreements with the State of California, or political subdivision thereof, or a non-Federal agency or agencies or organizations as appropriate, for the planning, development and construction of water and

wastewater treatment systems, which would result in the protection and improvement of the waters of Lake Berryessa.

(6) Funds collected from recreation entrance and user fees may be made available, subject to appropriation, for the operation, management and development of recreational and resource needs at Lake Berryessa.

(7) No activities upon the recreational interests hereby reserved to the United States shall, as determined by the Secretary after consultation with the Water Users, burden the Water Users' use of the water supply facilities of the Solano Project, reduce storage capacity or yield of Lake Berryessa, or degrade the Solano Project's water quality, except that, as described in subsection (b)(2) of this section, water will be made available for recreational and resource management purposes: *And provided further*, That this subsection will not apply to the particular Lake Berryessa recreational uses and operating procedures in existence on the date of the enactment of this legislation.

(8) Notwithstanding any provision in subsection (b) of this section, before the Secretary takes any action authorized by this subsection, including but not limited to the selection and/or approval of the Reservoir Area Management Plan (RAMP) for Lake Berryessa and surrounding lands, the Secretary shall consult with the County of Napa and determine that the proposed action is consistent with the Napa County General Plan, as amended.

(c) PUTAH CREEK ENHANCEMENT.—(1) The Secretary is authorized and directed to participate in a program to enhance the instream, riparian and environmental values of Putah Creek. Such program shall be at full Federal cost, shall cause no reduction in Solano Project supplies, and shall include but need not be limited to the following—

(A) the Secretary shall consult with the Lower Putah Creek Coordinating Committee and the Water Users and take appropriate actions to implement the recommendations contained in the United States Fish and Wildlife Service's Putah Creek Resource Management Plan;

(B) in order to enhance flows in Putah Creek which are prescribed by the California State Water Resources Control Board or courts of competent jurisdiction, arrangements as are necessary shall be made to provide at no net cost to any other party 3,000 acre-feet of supplemental water supply for releases into Putah Creek during "normal years," and 6,000 acre-feet of supplemental water supply for releases into Putah Creek during "dry years." "Normal years" are water years in which the total inflow into Lake Berryessa is greater than or equal to 150,000 acre-feet. "Dry years" are water years in which the total inflow into Lake Berryessa is less than 150,000 acre-feet. For the purposes of this paragraph, "water year" means each twelve month period beginning on October 1 and ending on the next September 30. These amounts to be released shall be in addition to any uncontrolled releases. The schedule for said supplemental releases shall be developed by the Secretary after consultation with the Lower Putah Creek Coordinating Committee. The Secretary is hereby authorized to enter into such agreements as may be necessary to effectuate this subsection;

(C) for purposes of more efficiently conveying and distributing the Lower Putah Creek such supplemental supplies and any additional amounts that the California State Water Resources Control Board or courts of competent jurisdiction may deem appropriate, the Secretary is authorized to construct water conveyance and distribution facilities at a cost of approximately $3,000,000; and

(D) to compensate for the cost associated with the 1991–1992 interim water releases, as defined in subsection 3(f), the Secretary is authorized and directed to supply to the Water Users and/or Yolo County Entities, or any member entities thereof providing the interim water releases, water in an amount equal to those interim water releases actually made or, in the alternative, to reimburse the parties making such releases for all costs associated with such releases.

(2) There are hereby authorized to be appropriated such sums as may be necessary to implement subsections (B), (C), and (D) of this section.

SEC. 2707. PAYMENT.

(a) PAYMENT.—The Secretary shall transfer all right, title, and interest in and to the water supply facilities of the Solano Project to the Water Users after the Secretary has received notification that the Water Users have made the payment specified in section 2704(b).

(b) DISPOSITION OF PAYMENT.—(1) All proceeds from the transfer of the Solano Project will be dedicated to environmental purposes. Eighty percent of the price paid for the water supply facilities of the Solano Project as specified in section 4(c) shall be deposited in a separate account by the Secretary. Interest from such account shall be utilized by the Secretary for matching grants with nonprofit organizations and institutions in California for fish and wildlife conservation. The remaining 20 percent paid for the water supply facilities shall be expended by the Secretary for the purpose of protecting and enhancing Lower Putah Creek, and may include expenditures for the purposes of acquiring property, including water rights, making improvements to property, and conducting studies and wildlife management activities. The portion of sale proceeds designated for Lower Putah Creek protection and enhancement shall thereafter be maintained by the Secretary in a separate account. Monies and interest from such account may be expended by the Secretary for the sole purpose of funding projects designed for Lower Putah Creek protection and enhancement purposes, including the payment of direct costs associated with meeting with Secretary's responsibilities under section 2706(c)(1)(B) of this title, in accordance with criteria developed by the Secretary in consultation with the Lower Putah Creek coordinating committee.

(2) All funds under this section shall be available only to the extent provided in an annual appropriation for such purposes.

SEC. 2708. VESTED RIGHTS AND STATE LAWS UNAFFECTED.

Nothing in this title shall—

(a) be construed as affecting or intending to affect or to interfere in any way with the State laws relating to the control, appropriation, use, or distribution of water used for the Solano Project, or any vested right acquired thereunder; and

(b) in any way affect or interfere with State laws relating to the protection of fish and wildlife or instream flow requirements, or any right of the State of California or any landowner, appropriator, or user of surface water or ground water in, to, from or connected with Putah Creek or its tributaries.

TITLE XXVIII—DESALINATION

SEC. 2801. TECHNICAL ASSISTANCE.

The Secretary is authorized to provide technical assistance to States and local government entities to assist in the development, construction, and operation of water desalination projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

TITLE XXIX—SAN JUAN SUBURBAN WATER DISTRICT

SEC. 2901. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project ratesetting policy, an amount equal to the documented price paid by the District for pumps provided by the District to the Bureau of Reclamation, in 1991, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps from the seller to the Bureau of Reclamation.

(2) The credit is effective on the date the pumps were delivered to the Bureau of Reclamation for installation at Folsom Dam.

AMENDMENTS OFFERED BY MR. GEJDENSON

Mr. GEJDENSON. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. GEJDENSON: In subparagraphs (A) and (B) of subsection (g)(1) of the amendment made by section 2501 of the bill—

(1) strike out "Commodity Credit Corporation storage" each place it appears and insert in lieu thereof "domestic storage"; and

(2) strike out "drought, natural disaster, or other disruption" each place it appears and insert in lieu thereof "foreseeable disruptions".

In the amendment made by section 2501, redesignate paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and insert after paragraph (2) the following new paragraph (3):

"(3)(A) The Secretary shall credit against any additional payment obligation established by this subsection 70 percent of the costs incurred by individuals or districts subject to the provisions of this subsection during the period beginning on the date of enactment of this subsection and ending on December 31, 1996, up to a maximum cost of $100 per irrigated acre, for the installation of water conservation measures approved by the Secretary. The Secretary shall grant such credit only upon finding that installation of such credit only upon finding that installation of such measures, and any mitigation pursuant to subparagraph (B), have been completed. Credit that exceeds such repayment obligation in any 1 year shall be applied in each succeeding year until fully utilized. Within 1 year from the date of enactment of this subsection, the Secretary shall promulgate rules to carry out the provisions of this paragraph.

"(B) Mitigation for fish and wildlife habitat losses, if any, incurred as a result of the installation and operation of such water conservation measures shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with installation of such conservation measures, and shall be the responsibility of the individual or district served by such measures.

Mr. GEJDENSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GEJDENSON. Mr. Chairman, I would just simply say that these amendments, one is a technical amendment to make sure the language accomplishes what we have all worked out, and I give great credit to the gentleman from California [Mr. MILLER] for his leadership on this issue, which is something that deals with not just economics, but national environmental policy, and for all the participants for making a good-faith effort to bring this to resolution.

Additionally, we provide some incentives in the second amendment for farmers to institute conservation measures.

Mr. Chairman, I believe there is support on both sides of the aisle for both these amendments.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I just want to commend the gentleman for his effort on this legislation. He has obviously discovered a problem that exists within the reclamation program where in fact we have this situation, where not only in some instances are we providing subsidized water to farmers, but in some cases we are providing subsidized waters to grow crops that are in surplus and then incurring other costs in other parts of the agriculture program.

This is an effort that was started by the gentleman from Connecticut [Mr. GEJDENSON] to rectify this problem. He worked very hard on it in last year's bill, and I believe these technical amendments are quite correct and make the legislation even better.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, we have had an oppportunity to look at the amendments. I feel we can accept them on this side of the aisle.

The CHAIRMAN. The question is on the amendments offerd by the gentleman from Connecticut [Mr. GEJDENSON].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. RIGGS

Mr. RIGGS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RIGGS: At the end of the bill (page , after line), add the following new title:

TITLE XXX—TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT

SEC. 3001. INSTREAM RELEASES FROM THE TRINITY RIVER DIVISION, CENTRAL VALLEY PROJECT, FOR FISHERY RESTORATION AND FULFILLMENT OF FEDERAL TRUST RESPONSIBILITIES.

(a) INSTREAM RELEASES.—In order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to achieve the fishery restoration goals of the Act of October 24, 1984 (98 Stat. 2721, Public Law 98-541), for water years 1992 through 1996, the Secretary of the Interior, through the Trinity River Division of the Central Valley Project, shall provide an instream release of water to the Trinity River for the purposes of fishery restoration, propagation, and maintenance of not less than 340,000 acre feet per year. For any water year during this period for which the forecasted inflow to the Central Valley Project's Shasta Reservoir equals or exceeds 3,200,000 acre feet, based on hydrologic conditions as of June 1 and an exceedance factor of 50 percent, the Secretary shall provide an additional instream fishery release to the Trinity River of not less than 10 percent of the amount by which forecasted Shasta Reservoir inflow for that year exceeds 3,200,000 acre feet.

(b) COMPLETION OF STUDY.—By September 30, 1996, the Secretary, with the full participation of the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the United States Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery.

(c) STUDY RECOMMENDATIONS.—Not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subsection (b) of this section, to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established in subsection (a) and the operating criteria and procedures referred to in subsection (b) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established in subsection (a) shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe.

Mr. RIGGS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

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Mr. RIGGS. Mr. Chairman, today I rise to offer an amendment to H.R. 2684 that would restore desperately needed water flows to the Trinity River. This amendment will confirm the Secretary of Interiors commitment to the fisheries of northern California.

The maintenance and preservation of the Trinity River fishery is critical to the economy and environment of California's north coast communities. In recent months, I have worked with Secretary Lujan and the Interior Department to protect tribal fishing rights and the commercial and recreational fishing industry in northern California from the severe losses that have resulted from development and diversion of water from the Trinity River.

The Act of August 12, 1955, authorized construction of works to divert the Trinity River on the condition that fish and wildlife resources in the Trinity basin be fully protected. On May 8, 1991, Secretary Lujan agreed that the department's obligations under that act and his trust responsibility to the Hoopa Valley Indian Tribe required the Department to make a substantial increase in the water supply for the Trinity River fishery. The Secretary's decision reflects an extraordinary consensus among reclamation, fish and wildlife, and Indian affairs officials in the Department of the Interior.

Now that the Secretary has done his part to try to stop the decline of the Trinity River fishery, it is time for Congress to step forward and confirm his decision. If Congress does not act, then the Trinity River basin fish and wildlife task force and the Klamath River basin fisheries task force could very well fail in their congressional mandate to restore and preserve the Klamath-Trinity fishery.

H.R. 2269 is the authority needed to ensure that the Federal trust responsibility will be met and that the communities that rely on the fisheries have a reasonable expectation that the fishery is on course for restoration. The bill requires provision of a minimum of 340,000 acre-feet of water annually to the Trinity River fishery through 1996 when the task force studies on the need of the fishery will be complete. Thereafter, adjustment of the flows will be based on the study results.

Finally, one reason why H.R. 2269 is especially deserving of your support is that it is a constructive initiative for the environment and the regional economy that will not require any expenditure of appropriated funds to implement. Thank you for your anticipated support on this issue.

In summary, Mr. Chairman, my amendment is obsolutely compatible with:

First, the consensus recommendations of the congressionally created Trinity River basin and Klamath River basin task forces:

Second, Interior Committee's report language related to the Emergency Drought Relief Act (H.R. 355) adopted earlier this year in this House; and

Third, Secretary Lujan's administrative directive of May 8, 1991.

Finally, Mr. Chairman, this amendment will ensure completion of the congressionally mandated 12-year study of the Trinity River salmon fishery, which is presently in its 6th year or if you'll pardon the pun at midstream. It will maintain the schedule and pace of the congressionally mandated Trinity River restoration program, and most seriously and fittingly, fulfill the Federal Government's trust responsibility to the Hoopa Valley Indian Tribe of northwest California.

Mr. Chairman, over the past 10 years Congress has authorized $57 million to restore the Trinity River fishery. That money will be wasted without water. We can continue to build dams and fisheries for another decade, but you cannot have fish if you do not have water.

I thank the Chairman, and again I thank the distinguished chairman and ranking member of the Committee on Interior and Insular Affairs for their exhaustive effort on this legislation and urge favorable consideration of my amendment.

Mr. HERGER. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to this amendment offered by my good friend and colleague, the gentleman from California [Mr. RIGGS].

Mr. Chairman, this amendment is far more complicated than it appears.

Mr. Chairman, unfortunately, having only been informed of the potential for this amendment yesterday, I regret that it has been impossible to obtain a full review of the potential effects of this amendment on the Sacramento River basin. However, in conversations with a number of my constituents, I must note that the potential harm to the Sacramento fishery, to agriculture, and to municipal water users posed by this amendment has not been sufficiently explored for the House to adopt this amendment at this time.

I only regret that we did not have more of an opportunity to work together to determine if a more amicable solution to this problem could have been arrived at before we reached this point in the process.

This is more than a battle between saving fish and protecting agriculture. Indeed, it is a battle between two threatened fish populations, and a battle over whether flexibility in allocating scarce water resources should be jettisoned in favor of concrete allocations that will not reflect changing conditions.

Mr. Chairman, I am well aware of the serious problems of the Trinity River, and the need to restore the Trinity River fishery, of which I am supportive. At the same time, however, the Sacramento River fishery is itself threatened, and this proposal would further undermine fish populations dependent on the Sacramento River for their survival.

The winter run of Chinook salmon in the Sacramento River has been declared threatened by the U.S. Fish and Wildlife Service, and endangered by the California Department of Fish and Game. This population has declined in fish counts made at Red Bluff Diversion Dam, from 118,000 fish in 1969 to 441 fish last year.

As a result of this serious problem, the Central Valley project has earmarked providing water to protect the fishery as its first priority for water delivery this year, despite the continued severe drought, which threatens California agricultural and municipal water users with cutoffs of up to 75 percent of their expected water deliveries.

The Sacramento River basin is the largest fishery habitat in the State of California, and is responsible for at least 70 percent of all salmon caught off the California coast. Salmon populations have declined up to 90 percent over the last 40 years.

The amendment before us today would write in stone a water allocation decision of the Secretary of the Interior, removing the ability to respond to changing conditions between the two fisheries. I trust the Secretary to take into consideration the various needs of the Sacramento and Trinity Rivers and to respond accordingly. I urge support for greater flexibility and the defeat of the Riggs amendment.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 429, the Reclamation Projects Authorization and Adjustment Act of 1991. This measure authorizes the Bureau of Reclamation to study, design, construct, sell, or modify a variety of water and power projects and to modify certain water repayment agreements.

I want to especially thank Chairman MILLER and his staff for their cooperation in resolving some pay-as-you-go issues contained in an earlier version of the bill. The Interior and Budget Committee staffs worked together at some length to address a variety of budget process concerns. As a result of their efforts and the Interior Committee's cooperation I am pleased to report that the CBO cost estimate of the bill shows no deficit impact in fiscal year 1991 and deficit reduction in fiscal years 1992–95. Specifically, the bill reduces Federal spending in fiscal year 1992 by $7 million, by $9 million in fiscal year 1993, by $8 million in fiscal year 1994, and by $8 million in fiscal year 1995.

As members know, it is critical that we keep track of legislation raising pay-as-you-go issues to avoid end-of-the-year sequestration in programs like Medicare, student loans, and foster care, to name a few.

I again thank the gentleman from California and I urge members to support this legislation.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Riggs amendment to deal with the flows on the Trinity River.

Mr. Chairman, I think this is a very important amendment. It fulfills a long-time obligation that the Congress has to restore those flows. It is very important that these flows be maintained so that not only can we restore the fisheries but also the river, recognizing that this fulfills the trust obligation we have to the Indian tribe in that area and also, I believe, we have to the commercial fisheries offshore from the Trinity River.

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Mr. Chairman, even with this amendment it is going to take many years to restore the damage that has been brought upon the Trinity River, and I would hope that the House would accept the amendment of the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. RIGGS. Mr. Chairman, I thank the distinguished chairman, the gentleman from California [Mr. MILLER], for his support of this legislation and the sensitivity and appreciation he has demonstrated throughout his legislative career for the sort of environmental resource issues we are discussing here within the context of my amendment.

I would also like to mention to my good friend and colleague, the gentleman from California [Mr. HERGER], that I am very much in favor of a comprehensive approach or a comprehensive look and comprehensive approach with respect to attempting to restore all of the fisheries out in northern California, but I will hasten to point out that I truly feel this particular amendment is compatible with and not conflicting or competing with his stated goal of wanting to increase flows and help with the restoration of the Sacramento fishery.

Mr. Chairman, I thank the gentleman from California [Mr. MILLER].

Mr. LEHMAN of California. Mr. Chairman, I move to strike the last word.

Very, very briefly, Mr. Chairman, based upon the presentation by the gentleman from California [Mr. HERGER] I am going to vote against this. It is correct that this is putting into law, statute law, what a judge has already ruled, but it would take away all flexibility.

Mr. Chairman, there are an awful lot of situations in California like this. Indeed the gentleman from California [Mr. MILLER] has a bill coming down the pike, and Mr. BRADLEY has one in the Senate, that take comprehensive looks at the entire water system of the State and attempt to reorder some of the priorities. I just think it is a mistake at this time to take one particular circumstance and say we are going to contain it right now out of the context of everything else that is going on. This problem should be addressed, but I do not think it is appropriate to take it off the table at this time.

Mr. Chairman, I urge a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. RIGGS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HERGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 300, noes 95, not voting 37, as follows:

[Roll No. 186]

AYES—300

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Barnard
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chapman
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cunningham
Darden
Davis
DeFazio
DeLauro
Dellums
Dicks
Dingell
Donnelly
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Evans
Fascell
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Green
Guarini
Gunderson
Hamilton
Harris
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Obey
Olin
Olver
Orton
Owens (NY)
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stark
Stearns
Stokes
Studds
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)
Zeliff
Zimmer

NOES—95

Allard
Archer
Bacchus
Baker
Ballenger
Barrett
Bateman
Bliley
Brewster
Bunning
Burton
Callahan
Camp
Chandler
Clinger
Coble
Combest
Condit
Coughlin
Cox (CA)
Cramer
Crane
Dannemeyer
Dickinson
Dixon
Dooley
Doolittle
Dornan (CA)
Dreier
Emerson
Espy
Fazio
Fields
Gekas
Geren
Gillmor
Gingrich
Grandy
Hall (TX)
Hancock
Hansen
Hastert
Hefley
Herger
Holloway
Hunter
Hyde
Inhofe
Kasich
Kolbe
Kolter
Kyl
LaRocco
Lehman (CA)
Lightfoot
Livingston
Luken
Marlenee
Matsui
McCandless
McCrery
McEwen
Michel
Miller (OH)
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Penny
Perkins
Rhodes
Roberts
Rogers
Rohrabacher
Roth
Schaefer
Shaw
Shuster
Skeen
Smith (OR)
Solomon
Stallings
Stenholm
Stump
Sundquist
Swett
Tanner
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Young (AK)

NOT VOTING—37

Barton
Beilenson
Brooks
Carr
Clay
Coleman (MO)
de la Garza
DeLay
Derrick
Fawell
Fish
Gaydos
Gray
Hall (OH)
Hammerschmidt
Hatcher
Hopkins
Huckaby
Jefferson
Lehman (FL)
Levine (CA)
Lloyd
Martin
Martinez
Mavroules
Oberstar
Ortiz
Owens (UT)
Pursell
Quillen
Schulze
Serrano
Smith (TX)
Spence
Walsh
Washington
Wilson

□ 1532

The Clerk announced the following pairs:

On this vote:

Mr. Ortiz for, with Mr. DeLay against.

Mr. Serrano for, with Mr. Quillen against.

Mrs. VUCANOVICH, Mr. INHOFE, and Mr. COX of California changed their vote from "aye" to "no."

Messrs. MCDADE, JOHNSON of Texas, LEACH, and RAMSTAD changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I might just explain to Members, it is our intention at this time to take an amendment from the gentleman from Ohio [Mr. TRAFICANT] that will be dealt with very quickly, and then an amendment by the gentleman from Pennsylvania [Mr. WALKER] which will require a vote, but which also will be dealt with very quickly. So if Members will just stay on the floor a moment longer, there will be a vote. Then I expect it might be 30 minutes until the next vote, which I hope will be final passage.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: at the end of the bill, insert the following new section:

SEC. . BUY AMERICAN PROVISIONS.

(A) The Secretary shall insure that the requirements of the Buy American Act of 1933 as amended apply to all procurements made under this Act.

(B) DETERMINATION BY THE SECRETARY.—(1) If the Secretary, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary shall rescind the waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any agreement, between the United States and a foreign country pursuant to which the head of an agency of the United States Government has waived the requirements of the Buy American Act with respect to certain products produced in the foreign country.

(3) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report on the amount of purchases from foreign entities under this Act from foreign entities in fiscal years 1992 and 1993. Such report shall sepa-

rately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(4) BUY AMERICAN ACT DEFINED.—For purposes of this section, the term "Buy American Act" means the title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq).

(C) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(a)). Any such determination shall be made in accordance with section 305.

(D) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract made with funds authorized under this title pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, the amendment states the Secretary shall ensure that the requirements of the Buy American Act of 1933, as amended, apply to all procurements made under this act.

Mr. Chairman, I appreciate the gentleman from California [Mr. MILLER] accepting this amendment. I want to commend the gentleman for the bill and for providing water to an area of our country that needs it the most.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, we have had a chance to look at this amendment, and accept this amendment. The gentleman from Ohio [Mr. TRAFICANT] offered this amendment when the bill was under consideration last year before the Congress, and we have no opposition.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Utah [Mr. HANSEN], the ranking vice chairman.

Mr. HANSEN. Mr. Chairman, the minority has had an opportunity to review the amendment, and accepts the amendment also.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: At the end of the bill, add the following new title:

TITLE XXX—LIMITATION ON AUTHORIZATIONS OF APPROPRIATIONS

SEC. 3001. LIMITATION.

Notwithstanding any other provision of law, amounts expended, or otherwise made available, pursuant to this Act when aggregated with all other amounts expended, or otherwise made available, for projects of the Bureau of Reclamation for fiscal year 1992 may not exceed 102.4 percent of the total amounts expended, or otherwise made available, for projects of the Bureau of Reclamation in fiscal year 1992.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this particular amendment is a balanced budget amendment. It goes to what we have discussed a number of times on the floor before, in trying to hold the spending in any given fiscal year to a 2.4-percent increase. It does it in this amendment by suggesting that none of the spending of the Bureau of Reclamation can exceed 102.4 percent of the total amount expended this year, and, if there would be figures that go above that, it would have to come out of the projects within this bill.

Mr. Chairman, this is an attempt to make certain none of the projects in this bill take us over the level required for a balanced budget. I would hope that Members would vote for it. I understand many Members have priorities that may not include the balanced budget. That is up to them. But the effort here is to make certain that all the bills that are coming through the House in fact comply with this.

Mr. Chairman, I offer the amendment in that regard.

Mr. MILLER of California. Mr. Chairman, we have no objection to the amendment, and we accept the amendment.

Mr. HANSEN. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California: In section 1702 (page , line), amend clause (iii) of paragraph (3)(B) to read as follows:

"(iii) Entering into financial transactions involving land or crop loans, in which the lender has no interest in providing farm services of any kind (except in a fiduciary capacity as trustee), including, but not limited to, the granting or receipt of a security interest, crop mortgage, assignment of crop or crop proceeds or other interests in a crop or land solely for the purposes of obtaining repayment of a loan;

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, let me state that I was assuming we would have a vote on the Walker amendment. We obviously did not vote on the Walker amendment. I am waiting to hear from the gentleman from Pennsylvania [Mr. KOSTMAYER], but I would assume the next vote may be about 30 minutes from now, which, as I say, will hopefully be final passage.

Mr. Chairman, at this time I offer an amendment to clause (iii) of paragraph (3)(B) of section 1702 of H.R. 429. The bill currently provides that loans made to farmers receiving subsidized reclamation water that are secured by a crop or land solely for the purpose of obtaining repayment of a loan shall not be considered by the Secretary of the Interior in determining whether a farm operation exists if the lender and borrower are unrelated parties and negotiate the terms of the loan at arm's length, or are related parties that the Secretary has certified negotiated at arm's length.

My amendment would provide that the Secretary is not excluded from considering any such loans that are made by a lender who also is in the business of providing farm services. This amendment does not mean, for example, that loans from a lender who also provides farm services to a farmer automatically turn their landholdings into a single farm operation. Rather, my amendment means that the Secretary has the opportunity to consider such loans for the purpose of determining whether the loan, in combination with the lender having an interest in providing farm services, creates a farm operation between the lender and the borrower. The purpose of the amendment, Mr. Chairman, is to make certain that the Secretary has all the facts necessary for determining if the lender is utilizing his financial position to control the operations of the farmers to whom the loans are made.

The amendment affects only those lenders who provide farming services in addition to loans. Thus, a bank, insurance company, or other commercial lender that is not in the business of providing farm services is not affected. A friend or even a relative who does not come within the definition of a related person (such as a first cousin, uncle, or niece) also is not affected by this amendment if they do not provide farming services.

□ 1530

AMENDMENT OFFERED BY MR. LEHMAN OF CALIFORNIA TO THE AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. LEHMAN of California. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. LEHMAN of California to the amendment offered by Mr. MILLER of California: On line 4, insert within the parentheses after "as trustee" the following: "or where the Secretary has determined that providing such farm service is a customary farm practice and not an attempt to evade reclamation law)."

Mr. LEHMAN of California. Mr. Chairman, I offer this amendment for the purpose of getting it into the RECORD and for the purpose of attempting to clarify a rather narrow point here where there is a difference between the parties, not a difference in intent. The intent of the gentlemen from California [Mr. MILLER], as expressed to me, is a good intent, one with which I can agree. He does not want to open up a loophole whereby farm lenders can in fact become farmers by making demands upon those to whom they loan money that will in fact put them in charge of the farm. I agree with that.

The gentleman from California [Mr. MILLER], believes that the language he has accomplishes that. My concern has been that it may go a little too far and harm ordinary customary farming practices such as potentially a ginning house operation or a packing shed operation.

The gentleman from California assures me that that is not his intent, but his intent is to get those who might in the future try to use this avenue to circumvent the law.

This may need additional clarification as we go forward, but once again I think that the gentlemen from California, Mr. MILLER and Mr. DOOLEY, and I are clear on this. The attorneys on each end of this argument come to slightly different conclusions about what the language accomplishes, and it is my intent here to help to clarify that for all of us.

Mr. DOOLEY. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from California, for purposes of a colloquy with the chairman of the committee to attempt to do that.

Mr. DOOLEY. Because this issue is of grave importance to the family farmers in my district, I would like to engage the chairman in a colloquy regarding the parameters of his amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of California. I yield to the gentleman from California.

Mr. MILLER of California. I would be pleased to engage in a colloquy with my friend from California who has been an active participant in drafting the reclamation reform language contained in title VII of this bill.

Mr. DOOLEY. Mr. Chairman, would you describe the factual situation in which you believe the Secretary would have a strong basis for determining that a single farm operation between a lender and a borrower exists, and contrast that to a situation in which you believe the Secretary would determine that a single farm operation between a lender and a borrower does not exist.

Mr. MILLER of California. The strongest case for determining that a single farm operation between a lender and a borrower exists is:

Where the lender withholds credit unless and until the borrowing farmer agrees to perform farming activities or refrain from performing farming activities at the direction of the lender, or

Where the lender provides a wide array of farming services to the farmer in addition to the loan.

In addition, the potential for a farm operation to exist with respect to each of these types of situations increases dramatically if the lender is the sole source of farm credit in the area.

By contrast, a situation in which the Secretary should determine that a single farm operation does not exist between a borrower and a lender is:

Where the loan is provided by a lender who also provides farm services and is merely a credit agreement to buy goods or services upon normal revolving credit terms like 30 or 60 days payment,

Where the lender who also provides farm services make no demands and imposes no requirements upon the farmer with respect to farm operations,

Where the terms and conditions of the loan made by a lender who also provides farm services are in the normal course of business for an organization in the same business as the lender, or

Where a history of loans between a lender who also provides farm services and borrower exists in which the lender has never tried to use the economic leverage of the loan to control the operations of the farm.

Mr. LEHMAN of California. I thank the chairman for that clarification. Having dealt with this issue for 10 years, he knows full well the imperative to be precise and to try to be very clear on what we mean. I am satisfied that our intent is the same in this regard. I am satisfied with the colloquy that we have had. If additional clarification is needed, the chairman has agreed to work to try to see that that is accomplished.

Mr. MILLER of California. I thank the gentleman for his cooperation.

Mr. LEHMAN of California. Mr. Chairman, I ask unanimous consent to withdraw my amendment to the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HANSEN. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SKEEN

Mr. SKEEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SKEEN: In the appropriate place in the bill, insert:

"The Secretary of the Interior is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso Country Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assumes the responsbility for operating and maintaining their portion of the project. Title to, and management and operation of, the reservoirs and the works necessary for their protection and operation shall remain in the United States until otherwise provided by an act of Congress."

Mr. SKEEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. SKEEN. Mr. Chairman, what this amendment does is authorize the Secretary of Interior to transfer title of easements, ditches, laterals, canals, drains, and other rights-of-way from the U.S. Bureau of Reclamation to the Elephant Butte Irrigation District and the El Paso County Water Improvement District No. 1 in Texas. That is what it does.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today in strong support of the amendment offered by Mr. SKEEN. The amendment would transfer certain rights-of-way to both the Elephant Butte Irrigation District and the El Paso County Water Improvement District No. 1. The legislation authorizes the Secretary of the Interior to transfer title to properties used solely by the water districts—easements ditches, laterals, canals, drains, and other rights-of-way—which are technically owned by the U.S. Government, to the water districts at no cost. Both districts have paid their share of the Rio Grande Project and are entitled to the title transfer.

The amendment enjoys the strong support of both the El Paso County Water Improvement District No. 1 and the Bureau of Reclamation. I am in favor of this amendment because the Government will reduce its administrative costs and liabilities while the water districts will gain title and control of the land.

I urge my colleagues to support this amendment.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, we have no problem with this amendment. This project is fully operational and they have met their financial obligations to the Federal Government. We would accept the amendment.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, the minority has also reviewed the amendment and we have no objection to it.

Mr. SKEEN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. SKEEN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. OWENS OF UTAH

Mr. OWENS of Utah. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. OWENS of Utah: In section 402(b)(3), amend subparagraph (B) to read as follows:

(B) $5,000,000 annually out of funds appropriated to the Western Area Power Administration, such expenditures to be considered non-reimbursable and non-returnable.

In section 402(c), amend paragraph (2) to read as follows:

(2) The Commission is authorized to administer and expend all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

Mr. OWENS of Utah (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. OWENS of Utah. Mr. Chairman, I offer this amendment on behalf of my colleague from Utah [Mr. HANSEN] and myself. It would correct a decision that we had to make just yesterday to change the provision for a $5 million contribution into the Wildlife and Conservation Mitigation Commission contained in the Central Utah project of this bill. We agreed earlier on in the writing of this bill that everyone would pay into the account, the Federal Government, the State of Utah, the water district and public power. This makes a technical correction which is really a substantive correction, I suppose, in the manner in which the Federal Government makes its contribution.

It has been worked out with the chairman and, as I said, with the ranking minority member, who is a cosponsor, and with the other groups who are involved in this legislation.

It is our intent in offering this amendment to assure that $5 million each year from the Western Area Power Administration annual appropriation will be deposited into the mitigation and conservation fund authorized in this act.

□ 1540

Mr. Chairman, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Chairman, I thank the gentleman for yielding, and I thank him for offering this amendment. I think it is an improvement. It will help with the mitigation, and we have no objection to the amendment from this side.

Mr. OWENS of Utah. Mr. Chairman, I yield to my colleague, the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, the minority has reviewed the amendment. We agree with it. It is a technical amendment, and we accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. OWENS].

The amendment was agreed to.

Mr. RHODES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the method by which this bill is being handled here this afternoon is a tribute to the almighty power of the airline schedule. You thought I was going to say the chairman, did you not? So I will be brief.

It has been a pleasure working on this bill. I particularly want to thank the gentleman from Connecticut [Mr. GEJDENSON] for his assistance in recognizing unique features of certain agricultural projects in certain parts of the West.

I want to thank and pay tribute to the gentleman from California [Mr. LEHMAN] and the gentleman from California [Mr. DOOLEY] for their work on the reclamation reform portions of this act which I think has greatly strengthened it.

I especially want to thank the gentleman from Utah [Mr. HANSEN] and the gentleman from California [Mr. MILLER] and call attention to the Grand Canyon Protection Act. This is an extremely important part of the bill, and probably, from my judgment, the most important part of the bill. The only concern that I have is that since this is an omnibus bill, it has the potential for getting bogged down in the Senate. If we see that happening, I hope that the gentleman from California [Mr. MILLER] would move expeditiously to separate the Grand Canyon bill from this act so that it can be sent forward as a stand-alone measure.

AMENDMENT OFFERED BY MR. KOSTMAYER

Mr. KOSTMAYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KOSTMAYER: At the end of title XV, add the following new section:

SEC. 1502. IRRIGATION ASSISTANCE REPAYMENT REFORM.

Section 9 of the Reclamation Project Act of 1939 (43 U.S.C. 485h) is amended by inserting at the end thereof the following new subsection:

"(h)(1) Subject to paragraph (2) and notwithstanding any other provision of law, any costs of construction incurred after September 30, 1992, which are allocated to irrigation and which are beyond the ability of water users to repay and which may be repaid by revenues from power marketed by the Western Area Power Administration shall be repaid within 40 years of the inservice date of such irrigation project, division, or development unit, upon terms no less favorable to the Federal Government than payment in equal annual installments.

"(2) An increase in wholesale power rates, if any, charged by reason of paragraph (1) of this subsection may not exceed one mil per kilowatt-hour per year.".

Mr. KOSTMAYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment is considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Chairman, I know it is late, and I will try to move very quickly, but this is a complicated amendment only because this is a complicated subject.

Let me explain briefly how projects are paid for under the Bureau of Reclamation. The current system calls for the Secretary of the Interior to make a judgment as to who the beneficiaries of a particular project will be. Generally they are farmers and utilities.

Let us say, for example, that in this hypothetical instance, a dam costs $100 million. The Secretary makes a judgment that $50 million of that benefits farmers and $50 million benefits utilities, the ratepayers. Therefore, the cost of that dam shall be borne equally by irrigators and ratepayers.

However, historically farmers have not generally been able in most cases, however, not in all cases, to pay their full 50 percent, and so the Secretary makes a judgment as to what percentage they can pay. Generally it is about 5 to 10 percent. The remainder which they are not able to pay shifts then to the utilities, and the utilities pay not only their share of the project, in this case our hypothetical $50 million, but they pay the farmer's share as well.

They have 50 years to pay their share. Only at that point do they then have to pay the farmers' share. They have 50 years to pay that share.

By the time they make that payment, the money is not worth very much because of inflation, and the Federal taxpayers get back on these Bureau of Reclamation projects about 1 penny for every dollar they invest. That is why the administration supports this amendment. That is why the National Taxpayer's Association supports this amendment.

This would require that both payments be made simultaneously, and that the payments not be deferred so that they are worth so little. Really, what we are talking about here, Mr. Chairman, is trying to stop a very unsound irrigation project.

This amendment is based on a recommendation issued by the inspector general in the Department of the Interior. It is virtually identical to the recommendation made by the Interior Inspector in the Department of the Interior except it does not go as far, because the Department of the Interior Inspector General says we ought not to only cover prospective dams, we ought to cover all dams historically.

My amendment covers only dams to be built in the future. Just to give you an example of what it could save, if we had done this on the Colorado River storage project, on the Central Arizona project, on the Pick-Sloan Missouri Basin project, on the Pacific Northwest Region project, we would have saved $2.1 billion.

The money that Federal taxpayers are paying to build these dams is being used to grow crops that are already in surplus in the country. This is agricultural and economic madness. It ought to be changed.

Now is the time to do it, and I hope that the committee will agree to my amendment.

PARLIAMENTARY INQUIRY

Mr. HANSEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HANSEN. Mr. Chairman, I noticed that the gentleman has offered two amendments. Which one is in front of us, if I may ask?

The CHAIRMAN. The gentleman from Pennsylvania may wish to hear this. The amendment that is currently pending, one amendment only, is headed "Irrigation Assistance Repayment Reform." That is the only amendment that is pending at this moment.

Mr. HANSEN. Is that No. 046 or 680?

The CHAIRMAN. 046.

Mr. HANSEN. Pardon me?

The CHAIRMAN. There is no number that is on this, but it is not 680. We do not have a number on the one that was offered. But it is titled "Irrigation Assistance Repayment Reform." The second amendment is captioned "Ability to Pay Determinations"; that has not been offered.

Mr. HANSEN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Utah [Mr HANSEN] is recognized for 5 minutes.

Mr. HANSEN. Mr. Chairman, those of us on the minority side see a number of problems with this. We think it relates basically to those in Western power.

There are 34 States that would have the way they take care of CRSP power changed. It seems a little onerous at this point in the game to do it in midstream.

I really feel it would be better if we continue the way we are doing this. This will add a tremendous power hike for Federal multipurpose users.

The amendment, as I said, changes the rules of Federal power projects in midstream for us, and I do not know where a straight-line amortization with hydraulic power is really possible.

We are setting a very dangerous precedent that could be applied to power investments and raise the power rates for a number of people. It will be very tough on the Power Marketing Administration.

So with that in mind, I personally would oppose this and feel that it would be a mistake for the committee to adopt this amendment at this time.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I do not do so out of a different conviction that the gentleman has that these projects should pay for themselves. I do it because it is not clear to me the impact of this amendment on current and existing facilities.

I know that the gentleman said it would apply only to new dams, but it also apparently applies to any modification or change in those dams afterwards.

We are seeing a whole new generation of turbines and energy-conservation projects being undertaken at these facilities. I am just concerned that that in itself would kick these projects into a new payment schedule.

I would be fully prepared to give this full consideration in the Committee on the Interior, and either the gentleman's committee, so we could then understand the full impact.

But for those reasons, I am opposed to this amendment.

Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, the Inspector General of the Department of the Interior would like this to apply retroactively. We are willing to apply it only prospectively. Right now, according to the Inspector General's report, the taxpayers are getting back a penny for every dollar they invest.

□ 1550

Under my amendment, this would increase to 24 cents a dollar. We would still be losing 76 cents on every dollar we invest. This is a subsidy. That is all it is. We are asking that these projects be able to pay for themselves. If these projects are able to pay for themselves, there is no problem.

Mr. MILLER of California. Reclaiming my time, I do not disagree with what the gentleman is saying. I am just saying that it is very important, and we have an obligation to these areas that are impacted by this amendment, to fully understand what that impact is going to be, and to be able to explain that.

It may very well be when we are done with that process we will still want to vote for this amendment. Until such time as that discussion can be engaged in, and that determination can be made, it is unfair to load this cost on that effort because this goes to the power users.

Mr. AUCOIN. Will the gentleman yield?

Mr. MILLER of California. Mr. Chairman, I yield to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Chairman, has the committee had hearings on this matter at all?

Mr. MILLER of California. Not to my knowledge, we have not had hearings. That is my concern.

Mr. AUCOIN. If the gentleman will further yield, that is my concern, too, and I think the chairman of the committee who is doing a magnificent job steering this committee thinks it is a matter that should be examined by his committee. Until the House acts on it, I am inclined to agree.

I would like to express the kind of concerns the committee I think would like to look at. Irrigation projects, for example, may potentially have some power generating potential. I don't know whether, or in what way this amendment would apply to those. I understand the EPA in the Pacific Northwest is exempt. I am speaking from my policy standpoint.

I am also concerned about the potential energy savings, adjustments or changes that could be made in existing plant facilities, and I do not know what the impact of this amendment would be on that.

Turbos and modernization, I do not know what the impacts would be there. Until those answers are known, it seems to me that we should not have the bill on the floor. I think the committee ought to take a look at it.

I appreciate the gentleman from California who chairs the committee agreeing with me on that, and I join him in opposing the amendment at this time.

Mr. MILLER of California. Mr. Chairman, reclaiming my time, let me make it very clear that this does not mean that the irrigator who, in fact, is getting the subsidy is concerned about here the business of a delayed payment that the gentleman from Pennsylvania [Mr. KOSTMAYER] raised, in fact, simply requires the power users, many of whom do not get benefits from the irrigation, requires them to pay more to continue that relationship between them and the irrigator. That may also be something that we want to take a look at with respect to this because I do not know that the power users, if this is a new agreement, that they, in fact, want to end up footing the bill for a project that they do not agree with or do not like, or do not want to pay for. That has to be put into this mix.

I can see the irrigators drifting on to the floor here. What I am trying to suggest is that this is somewhat more complicated. The author of the amendment knows in my gut I absolutely agree. I think the costs ought to be recovered. It is far too long a period of time. They should be recovered in a fair fashion. This decides, based on very old contracts, that a group of power users could get hit heavily with no notice.

I hope the gentleman would let Members have an opportunity to look at this amendment in the committee and find where the burden falls.

Mr. RHODES. Mr. Chairman, I move to strike the last word. I want to say that I agree with the chairman, that we do not know what the impact of this amendment will be. Each and every western water project is different. The benefits from each of them are different. The way they are priced are different.

I think it would be very, very important for Members to examine just exactly what the consequences of a move such as this will be so we do not wind up with a lot of unintended consequences. I would also like to expand such an inquiry to include the Corps of Engineers project which the gentleman knows serves the Eastern portion of the Nation, and for which there is neither advanced funding nor any payback. If we are going to get into the proposition that the beneficiaries of a water project ought to pay for, I think we ought to look into the Corps of Engineers projects as well as reclamation projects. I suspect that will elicit a response from Members.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. This bill deals with the Bureau of Reclamation, not the Corps of Engineers. I am happy to agree with the gentleman from Arizona about the Corps of Engineers. When this bill comes up and we have completed consideration of the Reclamation bill, I would be happy to consider that.

Let me say what we are really saying here when we say, "Let's have a hearing," is let Members put this off. People know it is a good idea. My friend from California knows in his heart of hearts it is a good idea.

As far as the utilities are concerned, there is a cap in the bill which would not allow their rates to go up more than 1 cent per kilowatt hour per year.

Mr. RHODES. One mil?

Mr. KOSTMAYER. If the gentleman will continue to yield, 1 mil. If they do begin to go up, they will say this is not a very good deal.

Let Members only have projects which can pay for themselves. The reason that the utilities do not object to this, the reason they are part of this bad bargain is because they do not have to pay the money back that the irrigators do not pay back until so long that it is not worth anything. They have no problem with this.

If we make this a sound, and do it on a sound fiscal basis, I think they will begin to have a serious problem.

Mr. RHODES. Reclaiming my time, let me respond to one point that the gentleman has tried to make.

Just bear in mind that utilities do not pay back anything. Ratepayers pay back. The consumers pay back.

So when we are talking about raising the rates to the utilities, that is not what we are talking about at all. We are talking about raising what our constituents, each and every one of them, pay for their electricity. That is what we ought to examine. I will be very candid with the gentleman. If this is an amendment that we cannot kill, then I certainly do not think it is an amendment we ought to postpone. If we cannot beat by voting, let us beat by having hearings.

Mr. KOSTMAYER. If the gentleman will yield, why should we subsidize utility rates? We are subsidizing utility rates because these projects cannot pay for themselves. If we stopped subsidizing utilities, they would do projects that can pay for themselves.

Mr. RHODES. Reclaiming my time, I would say that we subsidize utility rates for the same reason we subsidize a lot of things, because at some point in time, we decided it is wise public policy in this country to make available inexpensive, affordable electricity, for industry, for municipalities, and for individual ratepayers. That is the reason. It is a matter of public policy.

Your amendment is an adjustment to public policy and should be examined in that regard and should be examined very thoroughly.

Mr. KOSTMAYER. If the gentleman will continue to yield, let Members stop subsidizing a lot of things. Let Members subsidize fewer things.

Mr. RHODES. Reclaiming my time, I have no argument with the proposition that we subsidize too much. I think if we are going to go down that path, we have to recognize that we are changing fundamental public policy, and we better have a thorough airing of that before we go about it.

Mr. OWENS of Utah. Mr. Chairman, I move to strike the requisite number of words to say to my friend from Pennsylvania, with whom I very seldom disagree, almost but not quite, thou persuadeth me this afternoon. There are two or three major "buts."

First of all, it is my understanding, if I may have the attention of my friend, that this amendment deals only with the Western Area Power Administration and does not deal with the other administrations in this country.

Mr. KOSTMAYER. If the gentleman will yield, three of the other power marketing administrations the gentleman speaks of, Southeastern, Southwestern, and the Alaska Power Administration do not serve areas with Bureau of Reclamation Irrigation Projects. That is the only reason.

Mr. OWENS of Utah. Reclaiming my time, but in essence, the gentleman would have the impact of raising power rates. The gentleman says there is a cap, but it would raise them in one area, one power area of the country, of the five power areas in the country.

Mr. KOSTMAYER. If the gentleman will yield, this is the region that does business this way. Other regions do not do business in the same fashion. Other regions are simply exempt.

Mr. OWENS of Utah. Let me say I agree with the gentleman in principle and concept, but it is an issue which ought to be dealt with in a generic and fair way across the board.

□ 1600

If the gentleman will proceed and follow this issue at a subsequent time, as the chairman of our committee has promised, it would be heard in the appropriate way; but there have been, as has been said, no hearings and no consideration of the impact.

I would say to my friend, Mr. Chairman, this is an unfair implication for those in the Western Area Power Administration. It would increase rates for Federal power customers in that area and would require straight line repayment of power investments at a time and in a fashion that does not allow us to fully consider the implications of it.

The matter is not before us today. It is new and unexpected and it is unfair.

Furthermore, at this late date in the history of this very important bill, this amendment would cause some real problems. This is a major piece of legislation before us today. It has been very carefully and artfully crafted by the chairman of the committee over a period of years, and has been very controversial.

It is now basically to the point of resolution in the House with the controversy resolved, but we go now to the other body. There we have serious problems if we raise this new very tough issue, an issue that would be troublesome in resolving the major issues which we resolve in this major reform bill.

So I appeal to the gentleman not to insist on a vote. This is a major piece of legislation. Its future in the other body would be dramatically complicated by passage of this amendment, and I urge my colleagues to vote against it.

Mr. KOLBE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, what this amendment does has been made very clear in the discussion that we have had. Basically we are talking about increasing the repayment rates, shortening the repayment period from 50 to 40 years, doing away with the balloon payment that we have at the end, requiring annual payments. It changes the nature in which the projects are going to be repaid, those projects in the West that are power projects.

There are two reasons, it seems to me, that I would like to cite why I think this is bad legislation. The first, and most obvious, is that it is changing the rules of the game right in the middle of the game. We are talking about projects, I think of the central Arizona project that we have in Arizona, which was authorized in 1968. We have been funding the central Arizona project since 1975 in this body, and all of a sudden now we are going to change the rules of the game right in the middle of the construction, or two-thirds of the way through the construction of the project. It simply does not make any sense for us to do that.

The second thing that I think needs to be pointed out is there is a difference here. What the gentleman is doing is putting the cost of this on the power users, not on the irrigation users, which is where the benefits of projects by and large are seen, so it does not affect those who get the benefits of the project. It may affect those who have no benefit whatever from the project, that is the power users who may, and in fact very often are, in the urban areas. So it is not going to have the significant impact that the gentleman wants in terms of trying to put the cost on those who are getting the benefits from it.

As my colleague, the gentleman from Arizona noted, we do a lot of other kinds of projects around here, water projects all over the country that we call flood control projects that are done through the Corps of Engineers. We do not have the same kind of repayment features in those. We do not require that kind of annual repayment feature on those projects.

The gentleman from Pennsylvania talked about saying we ought to stop subsidizing a lot of things. Well, I happen to agree with the gentleman, but we do a lot of subsidizing of different things around here, not just construction, not just capital projects, but I would note that when it comes to mass transit, for example, we subsidize mass transit through operating subsidies.

So I think for all these reasons, Mr. Chairman, this is a bad piece of legislation, a bad amendment and it should be defeated.

Mr. KOSTMAYER. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Pennsylvania.

Mr. KOSTMAYER. Mr. Chairman, I think the Members would like to vote and I am prepared to vote. If the amendment is agreed to, I am certainly prepared not to offer the other 11 amendments I had this afternoon.

Mr. MORRISON of Washington. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Washington.

Mr. MORRISON of Washington. Mr. Chairman, I just want to say to the sponsor of the amendment, I represent an area with heavy investments in these matters, and any changes now that are being made are on behalf of Fish and Wildlife, so this is no time to change the rules, because this is not benefiting irrigators or rate payers. It is benefiting all of us. Let us stay with the game plan the way we have it.

Mr. THOMAS of Wyoming. Mr. Chairman, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from Wyoming.

Mr. THOMAS of Wyoming. Mr. Chairman, I simply rise to express my opposition and talk about the multiple use project we have in the West. This is not just power and irrigation. It is recreation, it is flood control, it is all these others that need to be included in the process as well, and I oppose this amendment.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to add my comments.

You know, there is clearly an environmental goal that the gentleman has, and apparently that is to stop unnecessary dams from being built. I would not want to associate myself with a different position, but I think it is important to point out in an era of global warming when we have air quality problems because of burning of oil and other problems associated with the use of nuclear power, we have very few options available to us.

It certainly is to our interest to build hydro projects where they are economically feasible and to upgrade them, to repower them, to put in new turbines, to do a number of things that make the existing projects that we have more efficient.

This is simply an environmental effort in and of itself. So it seems to me that without fully understanding the direction the gentleman is taking in this amendment, it ought to be handled in the committee. It ought to be looked at in the overall context of energy policy and air quality issues and ought not to be agreed to in a quick and dirty debate on the floor of the House of Representatives, when no one has had an opportunity to read it.

Now, as I understand it, this bill will not cover the Bonneville Power Administration. Now, why the gentleman decided to cover WAPA, the Western Area Power Administration, and not Bonneville, is beyond me.

Perhaps the gentleman felt he could not change the law. The gentleman easily could have changed the law as it related to Bonneville if he really wanted to encompass all the Members here by the same standard.

Mr. KOSTMAYER. Mr. Chairman, if the gentleman will yield, I just want to tell the gentleman that Bonneville is exempt under the law, Bonneville, Idaho, Oregon, and Washington are all exempt under the law.

Mr. FAZIO. The gentleman could not exempt them if it were his intent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. KOSTMAYER].

The amendment was rejected.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California:

TITLE XX.—LAKE ANDES-WAGNER, SOUTH DAKOTA

In section 2001(b)(4) (page 154), strike "program is" and insert in lieu thereof "program is not".

TITLE III.—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

In section 308(a) (page 76, line 17), strike "National Forest Plan" and insert in lieu thereof "National Forest Land and Resource Management Plan".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, this is purely a technical amendment to make up for a clerical error made in the production of the bill. Like the Foreign Affairs Committee, this has to do with "not" and not having "not".

I ask for the acceptance of the amendment.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Utah.

Mr. HANSEN. Mr. Chairman, the minority agrees with the chairman of the committee, and we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. MILLER].

The amendment was agreed to.

Mr. FALEOMAVAEGA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of H.R. 429, and in particular title 21, which will require a study of the long-term water, sewer, and power needs of the insular areas. This legislation previously passed the House of Representatives on June 14, 1990.

Mr. Chairman, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands comprise this country's overseas territories. None of them has water, sewer, or power systems which would be considered adequate by residents of the 50 States. The recent devastation of the Virgin Islands by Hurricane Hugo, and a similar devastation of the Manu's group of islands in Samoa in 1987 and again in February of last year have brought to the forefront the inadequacy of the water and power systems in our insular areas. The residents of these areas frequently receive contaminated or inadequate supplies of water and power. When hurricanes strike, and they strike frequently, there is no drinkable water, no power, and no sewage treatment.

The results of the study this bill authorizes will assist the Federal and territorial governments in determining the magnitude of the problem and the steps that should be taken to correct it.

Mr. Chairman, this title would not have been possible without the support of the Honorable GEORGE MILLER, chairman of the full committee, and the Honorable RON DE LUGO, chairman of the Subcommittee on Insular and International Affairs. Congressman ROBERT LAGOMARSINO also contributed significantly to the final draft which was significantly improved over legislation I introduced in the last Congress.

The CHAIRMAN. Are there further amendments? If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. PANETTA) having assumed the chair, Mr. CARDIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 429) to authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, pursuant to House Resolution 178, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 360, nays 24, not voting 48, as follows:

[Roll No. 187]

YEAS—360

Abercrombie
Ackerman
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Broomfield
Browder
Brown
Bruce
Bryant
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clement
Clinger
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Dannemeyer
Darden
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hastert
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Hoyer
Hubbard
Hughes
Hunter
Hyde
Inhofe
Ireland
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Markey
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Obey
Olin
Olver
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Sharp
Shaw
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—24

Archer
Armey
Burton
Crane
Duncan
Goss
Hancock
Herger
Jacobs
Marlenee
Nussle
Penny
Petri
Roberts
Rohrabacher
Santorum
Sensenbrenner
Shays
Smith (OR)
Solomon
Stump
Taylor (NC)
Williams
Zeliff

NOT VOTING—48

Alexander
Barton
Beilenson
Brooks
Bunning
Bustamante
Carr
Clay
Coleman (MO)
Costello
Davis
de la Garza
DeLay
Dicks
Edwards (OK)
Fawell
Gallo
Gaydos
Geren
Gradison
Gray
Hammerschmidt
Hatcher
Hopkins
Houghton
Huckaby
Hutto
Kennedy
Levine (CA)
Lloyd
Manton
Martin
Martinez
Mavroules
Morella
Oberstar
Ortiz
Pursell
Quillen
Regula
Rogers
Sabo
Schulze
Serrano
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Torricelli
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Washington

☐ 1642

The Clerk announced the following pairs:

On this vote:

Mr. Costello for, with Mr. DeLay against.

Mr. ROBERTS and Mr. STUMP changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MILLER of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore (Mr. OWENS of Utah). Is there objection to the request of the gentleman from California?

There was no objection.

ADJOURNMENT TO MONDAY, JUNE 24, 1991

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

HOUR OF MEETING ON THURSDAY, JUNE 27, 1991

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, June 26, 1991, it adjourn to meet at 11 a.m., Thursday, June 27, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-118) on the resolution (H. Res. 179) waiving certain points of order during consideration of the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL 6 P.M. ON TOMORROW TO FILE TWO LEGISLATIVE REPORTS

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until 6 p.m. on Friday, June 21, 1991, to file two legislative reports.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO FILE REPORT ON H.R. 2474, ARMS CONTROL AND DISARMAMENT ACT AUTHORIZATION AMENDMENTS, 1992 and 1993

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tonight to file its report on the bill (H.R. 2474) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal years 1992 and 1993, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

MARY KATHLEEN HANAGAN

The SPEAKER pro tempore (Mr. JONTZ). Under a previous order of the House, the gentleman from Florida [Mr. IRELAND] is recognized for 5 minutes.

Mr. IRELAND. Mr. Speaker, I was greatly saddened to learn of the death of Ms. Mary Kathleen Hanagan. Ms. Hanagan had been a valued employee in our Department of State's Passport Services Division for over two decades. At the time of her death, she was special assistant to the Deputy Assistant Secretary for Passport Services. Prior to that, she had served as the Chief of Special Issuance.

Mary Kathleen "Kathi" Hanagan was very well known to all of us in the Congress and to the many individuals in the executive branch who are called upon to travel overseas. For many years, Kathi was the focal point for lost passports, the issuance of official passports, and the solver of such problems as "I have to be overseas tomorrow morning and I don't have a passport." Often Federal employees are the brunt of many complaints, often many of them without foundation. Kathi Hanagan was a true example of the best and the brightest. She performed her job for 22 years in the most exemplary fashion. I am sure I speak for all the Members of the House when I say she will be missed and that she was not only a wonderful public servant, but a tremendous individual as well.

Kathi was very active in the local community and served as a volunteer for many area organizations. She also raised money for several worthy charities. In addition all her friends were deeply touched and moved by her courage in her battle with cancer over the last 9 months. The eulogy delivered at her funeral mass by her lifelong friend Mary Snell Diegelman is one of the most moving and memorable I have ever read. A true testament to the love for this individual both within her community and in Government circles was the fact that well over 300 people attended her funeral.

Mr. Speaker, with your permission I would like to place in the CONGRESSIONAL RECORD a copy of the memorable eulogy as well as an article from the Washington Post. On behalf of all the Members of the House, I extend sincere condolences to her family and friends at this time.

EULOGY FOR KATHI HANAGAN

(By Mary Snell Diegelman)

She was our friend . . . but as Charles E. Raven wrote, "no man, be he lawyer, doctor, priest or poet can correctly describe the real history of another . . . The little events that determine the growth of the soul, the secret memories that colour his mentality, the hidden springs from which arise his motives and action . . . These no friend, however intimate, can fully know."

While we are never privy to another's innermost thoughts, we are free to choose our friends, and we know what we cherish and expect from a friendship. I loved Kathi. She was my dear friend of almost forty years. When she asked me a couple of months ago to prepare and deliver this testimonial, I tried to tell her that she expected too much of me. But how could I refuse? How could I tell her that I couldn't muster enough composure to pull me through these few minutes after she endured with such courage and dignity the overwhelming mental and physical anguish of this last year.

Many of us here have known one another since grade school days at this parish, and we have returned tonight for a sadly significant milestone. It all began for us in the older buildings down the street—the Sacraments, celebrations, education, C.Y.O., weddings and sometime funerals—but never for one of our own. To those of you who were fortunate enough to become Kathi's friends in later years, we, her old-time friends, admire your taste, judgment and good fortune. We have all enjoyed the casual, seemingly uncomplicated (never shallow), shy yet sociable Mary Kathleen Hanagan:—the one who loved to sing but really couldn't carry a tune:—the one who would gleefully remind me about her charismatic charms after managing to develop a cherished friendship with a woman new to the area, despite the fact that Kathi's mouth was completely wired shut at the time.

We know she never tried to impress people with her intellect or any other attribute except wit. But, did you know how smart she was? How she could produce at the last minute—always down to the wire—some of the most incredible study marathons, term papers, exams—and her good grades reflected that. Besides, anyone with such an extensive repertoire of lousy jokes had to have a terrific memory and a very active mind.

But I came to love another side of Kathi—the part we shared during grade school sleep overs, long walks on the beach, lengthy phone conversations. Those were the times that enabled me to understand that I loved her for her faith, humor, innocent whimsy, intelligence and kindness—the same attributes which supported her through painful times and losses throughout the years—and this illness.

I have so many images of her in various settings—her family's living room in Fairlington, grade and high school classrooms, her college dorm rooms, her apartments in Alexandria. Following college, Kathi's professional career flourished while she struggled in her personal life. However, she rebounded—she blossomed after moving to Parkfairfax where she began to enjoy the freedom of being her best on her own terms. There was a period a couple of years ago when many of us were planning our Blessed Sacrament reunion—a time that captured Kath when she was at her absolute best. She looked fabulous. She was content. She thrived on her work, her home, her friends. Life had finally calmed down as much as she would allow it. She offered her home for our reunion planning sessions, and at first a rather small group worked and worried about pulling it off. After a while, we knew it would work because the planning sessions themselves turned into minireunions, and we thank Kath for setting the tone. She threw herself into it with such enthusiasm, humor and uncomplicated support that we hated the meetings to end. I understand that she exhibited the same vibrant force with her friends from the Saint Patrick's Day Parade Committee with whom she developed an interest in her Irish heritage, as reflected in the liturgy tonight.

No description of Kath would be complete without recognizing members of her family as central figures in her life. Jean, to who Kath referred lovingly as her "wicked stepmother", realized early on how much Kathi needed her gentle but firm guidance. I can't remember when Kath later began to call Jean "my Mom", but Jean made that transition easy, and Kath viewed her as her staunchest ally. In the old days, caring for Kath meant also taking on three or four of her friends at a time, who were constantly visiting the Hanagan household. Mr. Hanagan would peer up from the Sports Page or pizza dough just long enough to tease one of us—the same Irish humor that Kath inherited. All you had to do was see the twinkle coming into their eyes and you knew you were in for it. He and Kathi's mother must have been waiting for her with open arms on Tuesday. And Pat, her just-a-little-bit-older sister, who put up with a lot from Kath and us. Probably Pat became the good mother she is today because she got to practice on Kath's friends. I bet even Kathi would be hard-pressed to explain the extent of her reliance on Pat as a constant in her life. And, Jimmy, her baby brother—who grew up and was thrust into the role of advisor, champion and true friend.

From the moment we all realized the extent of her illness, I don't believe any one of us could casually accept our time with Kathi. Each visit and every opportunity to help were treasures. The sheer number of her friends was impressive—a testimony to her character. She never complained, and as time passed she wanted to visit with every person who contacted her. We all served a purpose—everyone had a role; but it never mattered to me and Kathi throughout the years what our status or roles were—student, worker, married, single, dating or gravely ill—having one another had become a way of life of us. Such a given! Now I can't comprehend life without her. I will miss her terribly. It was my great privilege to call her my dear friend!

[From the Washington Post, June 13, 1991]

MARY KATHLEEN HANAGAN

Mary Kathleen Hanagan, 44, an employee for 22 years in the State Department's passport services division, died of cancer June 11 at the Hospice of Northern Virginia in Arlington. She lived in Alexandria.

Miss Hanagan was special assistant to the deputy assistant secretary for passport services. A former passport examiner, she also had been chief of special issuance in the passport division.

Miss Hanagan was born in Washington and reared in Arlington. She was a graduate of St. Mary's Academy in Alexandria and Mary Washington College.

She was active with the St. Patrick's Day Parade Committee of Washington and was a volunteer at WETA, Hopkins House in Alexandria and senior citizen programs of Alexandria. She also tutored in the Washington Higher Achievement program and was a fund-raiser for the Arthritis Foundation.

Her marriages to Frank McGovern and James Ward ended in divorce.

□ 1640

TWO SHIPS ON A COLLISION COURSE

The SPEAKER pro tempore (Mr. JONTZ). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, earlier this month, this body debated at length over the future of space station Freedom. During this time many of my colleagues raised the point that if we abondoned funding for the project, then we would lose face in the sight of our allies. I would like to focus on what I consider particularly affronting remarks made by one of those so-called allies, Japan.

As much as I appreciate the sentiments of those who favored the station, and I too cast my vote on its behalf, feeling that it is an extremely important project for this country, we should recognize that there are some ominous lessons to be learned in the wake of these discussions.

Principally, it is important to recognize the degree to which foreign governments have diluted the integrity of the budget process. Certainly, it is true that the station is a cooperative venture and that the member nations of the project have an interest in realizing its further development, but it also is essential that we realize the extent to which foreign agents are attempting to influence American policymaking.

In this regard, Japan, more than any other nation involved in the project, has been extremely bitter. While it is no secret that the ties between our two nations have been deteriorating, the events leading up to the space station vote were extremely revealing considering the Japanese Government's longstanding public relations campaign of friendship and reconciliation.

The New York Times reported on May 28 that Japan issued an—

> * * * unusually blunt and direct warning that it might refuse to contribute billions of dollars to American-led big-science projects in coming years unless American plans to build a vast outpost in space remain intact.

The same article quoted an official at the Japanese Foreign Ministry who said, "It is a very serious situation."

Should the American people regard this as an attempt to blackmail the budget making process? I feel they should.

In reality, this most recent dispute points to a trend which has been developing in recent months signaling a fundamental alteration in the dynamics of the United States-Japan bilateral relationship.

This change in the weather marks the end of a long road of deteriorating commitment and respect between Japan and the United States.

Some have questioned the means by which these relations have come to be as bad as they are today. There is no reason for this confusion.

In fact, the fog of mystery which seems persistently to surround United States-Japanese relations is just one of the many mechanations employed by Japan's lobby to mislead and skew what should be a very important debate over the future of American industrial policy.

Fortune magazine of May 6, 1991 makes some significant observations concerning the changing nature of United States-Japan relations and offers what I feel is a very revealing portrait of Japan's evolving attitude about the value of the United States in their vision of the future.

To Japan, the United States is a commodity, to be bought and sold to the highest bidder.

Fortune began its analysis by noting a peculiar scene witnessed by some in the Japanese capital, Tokyo, this spring.

> Domo arigato—Thank You, America—read placards on the big truck leading a march through central Tokyo this spring. But unlike most demonstrations, this one wasn't snarling traffic. Behind the truck was just one lonely marcher.
>
> While Americans reacted to victory in the Gulf with unbridled pride, most Japanese saw the whole episode as orokana senso—that foolish war. Far from being ashamed of their checkbook approach to the Gulf, Japanese are bristling with arrogance and self-confidence. Japan's new mood, pitted against a souring American attitude toward Japan, has produced the deepest split between the two countries since World War II.

Mr. Speaker, what I find most astonishing about the Japanese position is its total disregard for the history of the relationship between our two nations. Countless times in the past 45 years the United States has suffered so that Japan could prosper.

> Since 1945 the U.S. and Japan have been knitted together at the hip, strategically and economically. During the Cold War, the U.S. felt it needed a strong military presence in northern Asia to counter the Chinese Communists and the Soviet Union. Japan welcomed the American security umbrella. Economically, Japan needed access to the huge U.S. market, plus American technology to keep growing. After initial postwar feelings that anything made in Japan was shoddy, Americans came to love Japanese goods for their value and high quality.

Times have changed. Trade figures belie the notion that the United States-Japan relationship has been a cooperative one. In fact what has developed is a parasitic relationship where Japan has utilized America as its host nation while aggressively pursuing a strategy of economic and industrial imperialism.

> Then, consider trade. Japan's dependence on the U.S. has shrunk dramatically. Since 1986, exports from Japan to the U.S. have edged up only slightly while those to Europe and Asia have soared. Trade with the U.S. last year accounted for 27% of Japan's worldwide trade, down from 33% in 1986. This year the figure could be around 25%, and for the first time in 15 years Japan will export more to Asia than to the U.S. If anything, America has become more dependent on Japan these days, not the other way around. The Commerce Department says the Pentagon will have to rely on the Japanese for semiconductors and other high-tech equipment for its smart weapons of the future. In consumer electronics, Americans have plenty of choice—among the Japanese brands that dominate shelves.

A comparison study of trade surpluses held by Japan in America and those held by America in Japan further illustrates this unbalanced relationship. According to Fortune, in 1990 Japan's leading surplus category was a $22.3 billion surplus with the United States in the areas of computers and telecommunications equipment. The United States largest surplus, $8.9 billion in the area of food, beverages, and cigarettes.

The writing is on the wall; Japan is sourcing America to supply its industrial growth.

Japan's change in attitude finally has brought to the surface long-held beliefs. Perhaps the following remarks can serve as a rallying cry for Americans interested in preserving some measure of economic strength.

A Japanese broadcaster, Hiroshi Kume, reflects on Japanese beliefs when he notes:

> We just don't think like you. We might dress in jeans, but we are still samurai, wearing swords. For us, Japan equals the earth. Going to England is like going to Mars. The U.S. is Jupiter. I've met junior-high kids who don't even know we fought a war against the Americans. Parents don't want to talk about it and schools don't teach it.

Mr. Speaker, Japan is different. And the comparison is not flattering. Americans who, in increasing numbers, are realizing the folly of one-sided United States-Japan interaction must stand up and be heard. America needs to defend its economic ability or else surrender its economic future to the predatory Japanese juggernaut.

Mr. Speaker, I include the entire Fortune magazine article for the RECORD.

[From Fortune Magazine, May 6, 1991]

THE BIG SPLIT

(By Carla Rapoport)

Domo arigato—Thank You, America—read placards on the big truck leading a march through central Tokyo this spring. But unlike most demonstrations, this one wasn't snarling traffic. Behind the truck was just one lonely marcher.

While Americans reacted to victory in the Gulf with unbridled pride, most Japanese saw the whole episode as orokana senso—that foolish war. Far from being ashamed of their checkbook approach to the Gulf, Japanese are bristling with arrogance and self-confidence. Japan's new mood, pitted against a souring American attitude toward Japan, has produced the deepest split between the two countries since World War II. The economic and geopolitical ties between the world's two wealthiest nations can no longer be taken for granted.

The U.S. trade deficit with Japan, though slowly decreasing, is still staggering. More Americans than ever believe that Japan's trading practices are restrictive at home and predatory abroad. Japanese think that America should get its own economy in shape instead of trying to tell Japan what to do. Americans have doubts that Japan can be counted on in the next crisis.

The results? Despite the cordial meeting between George Bush and Japanese Prime Minister Toshiki Kaifu in California in April, these developments are certain to cause political trouble at home for both of them. Here are some things to look for:

There will be increasingly bitter trade fights and at least some stirrings in Congress for retaliation, especially if deficit improvement flattens out.

The Democrats are bound to make U.S.-Japan trade a campaign issue in the 1992 presidential election.

The American-Japanese security alliance, in which bases in Japan have been a crucial part of U.S. global military power, will come under increasing strain.

Japan's growing strength in key high-tech industries will result in further penetration of markets worldwide.

OK, you say, you've seen this movie before and you know how it ends. Japan promises increased market access, and American industry promises to try harder, right? We decide that we need each other militarily and economically, right? Throughout the great trade battles, from textiles in the 1970s to baseball bats, beef, and supercomputers in the 1980s, that's the way it's been.

This rift looks more serious. Since 1945 the U.S. and Japan have been knitted together at the hip, strategically and economically. During the Cold War, the U.S. felt it needed a strong military presence in northern Asia to counter the Chinese Communists and the Soviet Union. Japan welcomed the American security umbrella. Economically, Japan needed access to the huge U.S. market, plus American technology, to keep growing. After initial postwar feelings that anything made in Japan was shoddy, Americans came to love Japanese goods for their value and high quality.

Now the Asian part of the Cold War is about to dissolve in Gorbymania. The Soviet leader's precedent-setting April trip to Tokyo is expected to lay groundwork for an end to the dispute over four Japanese islands held by the Soviets since the end of World War II. In exchange, Moscow is counting on billions in loans and credits.

U.S. policymakers want to keep America's 12 bases (two Army, three Navy, six Air Force, and a Marine air station) in Japan, with the Japanese providing a rising share of the cost, on grounds that accidents like the rise of a Saddam Hussein could happen in Asia too. But with the Soviet threat eliminated, many Japanese are uninterested in paying for U.S. troops they think are no longer needed.

Then, consider trade. Japan's dependence on the U.S. has shrunk dramatically. Since 1986, exports from Japan to the U.S. have edged up only slightly while those to Europe and Asia have soared. Trade with the U.S. last year accounted for 27 percent of Japan's worldwide trade, down from 33 percent in 1986. This year the figure could be around 25 percent, and for the first time in 15 years Japan will export more to Asia than to the U.S. If anything, America has become more dependent on Japan these days, not the other way around. The Commerce Department says the Pentagon will have to rely on the Japanese for semiconductors and other high-tech equipment for its smart weapons of the future. In consumer electronics, Americans have plenty of choice—among the Japanese brands that dominate shelves.

Want proof of Japan's new sense of independence? If you can read Japanese, glance at a recent study of U.S.-Japan relations commissioned by Japan's Foreign Ministry and written by the International Institute for Global Peace, a Tokyo research organization with strong government ties. The report states: "It is apparent that the U.S. economy is not recovering and its capacity to manage its foreign strategy is declining—for example, its inability to bear the full costs of the Gulf war. The American people and policymakers seem to refuse to acknowledge the country's decline and need for improvement

* * *. If the entire U.S. political system is not reformed, the illogical, inefficient budget procedure is likely to continue."

The study says that Japan's rise as an economic superpower has reawakened Japanese nationalism in the form of anti-Americanism. "There is a growing feeling that further [trade] concessions to the U.S. are unnecessary." During the Gulf war, nationalism erupted as pacifism, especially among Japan's younger generation. The report points out that the "backlash" was not directed at leaders of the multinational forces in general, but "specifically at the U.S." The Foreign Ministry study concluded that all this spells trouble for Japan-U.S. security treaties.

Anti-Americanism? Surely, as the Japanese grew richer, traveled abroad more, and absorbed more Hollywood movies, they would want what Americans want—bigger homes, two cars, consumer credit to the max, and more leisure. Japan's role in World War II must make young Japanese, like young Germans, anxious to atone for their parents' nationalistic mistakes, right?

It's not happening. Most Japanese are working and saving as hard as ever. As for guilt, forget it. Says Hiroshi Kume, Japan's popular latenight anchor for TV Asahi: "We just don't think like you. We might dress in jeans, but we are still samurai, wearing swords. For us, Japan equals the earth. Going to England is like going to Mars. The U.S. is Jupiter. I've met junior-high kids who don't even know we fought a war against the Americans. Parents don't want to talk about it and schools don't teach it."

In comic books and on television, Americans have become the butt of jokes. The standard Touch-Tone telephone, called the "push phone" in Japan after its push buttons, is now known as the Bush Phone. Pick it up, and it asks for money. Comedian Tokoro Joji draws laughs with this hardly humorous line: "Japan lends money to America so its people can maintain living standards three times higher than ours."

For years Japanese defended their aggressive trade policies by pleading poverty; the old we're-just-a-small-country-with-no-natural-resources line, usually accompanied by a deferential bow. A few still use it, but most Japanese unabashedly believe that their own robust economy will lead the world's development from now on. Japan is the world's largest donor of aid; eight of the world's ten biggest banks are Japanese; the country's huge industrial companies are rich and getting richer; what's more, city streets are still safe at night. The Japanese have so much of the world's advanced technology that even Western weapons makers are dependent on them. Well-respected economists in Tokyo now issue reports claiming that Japan, with half the population of the U.S., will have a larger GNP by the end of this decade.

Some Americans agree. William Spencer, CEO of Sematech, the government-backed semiconductor research consortium in Texas, says, in all seriousness, "Today's technology is not being driven by the Strategic Defense Initiative. It's being driven by Sony Camcorders." Japanese technology has become so important that IBM, Apple, Compaq, and Tandy are now defending Japan's electronics exporters against charges by smaller U.S. competitors that the Japanese are dumping flat-panel displays. The U.S. giants claim that American suppliers cannot meet the demand for this crucial computer component.

On the west coast, Japanese banks kept the flagging real estate market alive most of last year. They continued lending after most U.S. institutions had all but stopped in the wake of the S&L crisis. Says Jack Rodman, a Los Angeles real estate consultant: "Developers are holding their breath, waiting for Japanese banks to turn on the taps again." In the job-hungry South, expect only raves about the Japanese. Says Tennessee Governor Ned McWherter. "[Japan] is what our future is all about."

A lot of other Americans, though, view Japan's power with growing uneasiness. In March, Jerry Jasinowski, president of the 12,500-member National Association of Manufacturers, wrote to President Bush seeking a "reassessment" of America's relationship with Japan. Jasinowski, whose organization represents 85% of U.S. manufacturing output, didn't spell out precisely what he wanted Bush to do. But such a reassessment might well open a discussion of those Administration taboos, managed trade and industrial policy, the Japanese versions of which Jasinowski apparently envies. Japan's goals, he wrote, appear to be more "intensely national and more thoroughly coordinated and pursued than our own." In a CNN interview later, he added, "In some cases we ought to do what the Japanese have done."

Polls reflect a hardening attitude toward Japan and, lately, Japanese products. A nationwide survey last fall by the Chicago Council on Foreign Relations showed that 60% of those polled consider that Japan's economic strength will be a "critical threat" to the "vital interests of the U.S." over the next ten years. In a poll taken since the Gulf war by Gordon S. Black/USA Today, 31% said they would be "less likely" to buy Japanese products than before. Says Mark Foster, former special counsel to the U.S. embassy in Tokyo and now a consultant to American companies trying to crack the Japanese market: "All across the country, people I talk to are looking at the Japanese as free-riders."

Even the Bush administration, which has been extremely measured toward Japan, has begun to lose patience. Secretary of Agriculture Edward Madigan sent an emotional letter to Tokyo after Japanese officials threatened to arrest American farmers for trying to display packets of U.S. rice at a food exhibition. "There are more than two million farmers in America," he wrote. "Should they band together against buying Japanese products?" In March the Administration released its annual report on worldwide trade barriers. The tone was a lot calmer than Madigan's, but the longest section was devoted to Japan, including lengthy descriptions of such nontariff barriers as Japan's refusal to accept clinical testing data on U.S. pharmaceuticals on grounds that Japanese are physically different. More testing makes it more expensive for U.S. drug companies to crack the Japanese market.

Washington has soft-pedaled criticism of Japan through the years primarily because security arrangements have been deemed more important than trade. Push the Japanese too hard on imports, went the argument, and the U.S. might lose its important strategic bases. Nor has that view disappeared with the end of the Cold War. The Soviet threat has been replaced among some defense thinkers by the Great Vacuum threat. James Auer, head of U.S.-Japan Studies at Vanderbilt University and a former assistant to the Secretary of Defense, sums it up: "The biggest threat in the Pacific is no longer communism but the potential breakup of the U.S.-Japan alliance. If the U.S. were not there, it would leave a vacuum that the Soviets or the Chinese or the Japanese might be tempted or even forced to fill."

Still, the motion of the primacy of security is fading. In a letter to President Bush this spring, Senator Max Baucus, Democrat of Montana and chairman of the Senate subcommittee on international trade, wrote, "No other bilateral issue [with Japan] is more important than trade." He urged a sweeping review of America's Japan policy, similar to the one on U.S. policy toward the Soviet Union that the CIA performed when Bush was director.

At first glance, this shift in U.S. attitudes toward Japan seems odd. The trade deficit finally is moving in the right direction. From the peak of $57 billion in 1987, the gap narrowed to $41 billion last year. Japan's current account surplus with all its trading partners fell from 4.4% of GNP to 1.2%.

For many American companies, business in Japan has never been better. Coca-Cola earns more there than from its U.S. soft-drink business. Proctor & Gamble is diapering Japanese babies from Okinawa to Hokkaido. Motorola is cleaning up in the cellular phone market. Apple computers are popping up in Japanese schools and offices. Investment banks like Saloman Brothers and Morgan Stanley are making serious money in Japan.

The problem is that no matter how fast U.S. companies expand in Japan, Japanese companies are expanding faster worldwide. And America's trade profile with Japan is beginning to look like that of a Third World country. The U.S. is gaining in exports of raw materials and food while Japan is gaining in high-tech, high-value-added manufactured goods.

At the same time Japan's share of high-tech markets worldwide is surging while the U.S. share is declining. Further, while U.S. exports to Japan have increased substantially in the past five years, the growth of exports from Europe and Asia to Japan has handily outstripped U.S. growth.

It has been six years since the yen doubled in value following the meeting of central bankers at the Plaza hotel in New York. The currency shift was supposed to solve the trade problem by making U.S. goods cheaper in Japanese markets. Japan's imports have gone up dramatically, but the main beneficiaries have been neighboring Asian countries that sell cheap consumer goods and Europeans who have exploited a new Japanese appetite for French wines, Italian suits, and BMWs.

And while the U.S. trade deficit has declined, its proportion of Japan's total surplus went up—from 62% in 1986 to 75%. America's electronics industry is the largest in the world (though Japan's may surpass it in 1991). Yet the U.S. electronics deficit with Japan rose from $17.5 billion in 1985 to $18.2 billion last year.

In data-processing and office automation equipment, a sector Americans pioneered, U.S. world market share has plunged from 50.8% in 1984 to 32.1% in 1989, while Japan's has surged from 14.4% to 32.4%. Japan's share of the world electronics market jumped from 21.7% to 31.2% between 1985 and 1989, while the U.S. share dropped from 64.5% to 50.5%.

In addition, the strong yen allowed Japanese companies to pick up U.S. real estate and American companies at half price. The cost of imported raw materials, like oil and steel, plummeted because of Japan's superstrong currency. Not only did the muscular yen not hurt Japanese businesses, but moreover the growth cycle that began in late 1986 is soon to become the longest in the postwar period, expanding the economy by 25% so far.

On the eve of his latest trade mission to Japan, Commerce Secretary Robert Mosbacher complained that "Japan is an exporting superpower and an importing also-ran." Peter Petri, a Brandeis economist on sabbatical in Japan, explains: "The U.S. doesn't make cheap consumer goods anymore, and our luxury goods aren't rich enough for the Japanese. We're left with what we always sold—airplanes, sophisticated office equipment—things the Japanese couldn't make."

Japan's import tables bear out Petri's point. While imports from the U.S. climbed 76% between 1986 and 1990, imports from the countries of the European Community soared 133%. Sales from France to Japan have gone up nearly 300%, and from Germany 144%. Imports from China more than doubled, turning a trade deficit into a $6 billion surplus. Imports from Southeast Asia rose 83% and from South Korea 106%.

Even if Japan takes more action to open its markets, the U.S. will not significantly benefit. To the Japanese, this fact seems obvious. Says Makoto Kuroda, a former top trade official who is a managing director of Mitsubishi Corp.: "America is not in a position to supply Japan, if we are leading in major industries."

This hurts many U.S. companies. Consider semiconductors. After years of rancorous trade fights that led to a Japanese commitment to increase imports but little action, American producers are finally making progress in the Japanese market. But Rod Canion, president of Compaq, and Jerry Junkins, CEO of Texas Instruments, recently told Congress that the improvement is coming too late. While the U.S. semiconductor industry has now begun to hold its own, it has, they claim, "gone from dominance to fighting for parity" (see Technology). Since 1980 the U.S. share of the world chip market has fallen from 57% to 40%, while Japan's share has risen from 27% to 47%.

Don't blame us, say more and more Japanese. Most revealing is a report titled "Japan, the U.S., and Global Responsibilities," signed by 68 members of the Japan Forum on International Relations, including academics, writers, and the CEOs of Hitachi, NKK, Shimizu Corp., Nippon Life Insurance, Seiko Epson, and Yasuda Trust. At the end it states that the U.S. must abandon its preoccupation with the bilateral trade imbalance: "The U.S. should stop regarding each new tack in its efforts to resolve the trade imbalance as a panacea."

Looking at the matter coldly, the Japanese are right. While Americans earnestly push for a level playing field, the Japanese know that such a field doesn't exist. While the U.S. doggedly fights each trade battle, claiming victories in beef, oranges, and supercomputers, Japan's aggressive approach to trade doesn't change. When the U.S. finally got Japan to buy supercomputers last year after a seven-year fight, Japanese companies had learned how to make the machines themselves and had already taken 95% of the big public-sector market. Quotas came off beef and oranges last month but tariffs went up, so prices in the stores were unchanged or in some cases higher.

This doesn't mean the Japanese are cheating. They are simply playing by different rules. Economic policy drives Japanese society. As Mosbacher puts it, "It's difficult to know where the government ends and the private sector begins." Says Glen Fukushima, a former U.S. trade official now with AT&T Japan: "When tariffs and barriers come off, the Japanese are ready." Former U.S. trade negotiator Clyde Prestowitz Jr., now president of the Economic Strategy Institute in Washington, explains: "In the U.S. policies are canted toward the consumer. In Japan they are canted toward the producers."

Take a close look at the Japanese auto industry, touted by many American economists as the best example of Japan's wide-open competitiveness. Eleven makers slugging it out, right? In fact, only three of the smaller manufacturers—Mazda, Honda, and Suzuki—are independents, each sticking to a distinct area of expertise.

All the other automakers have strong links to one or two other manufacturers through stock ownership. Toyota is the leading shareholder of Hino, Japan's largest truck producer, and Daihatsu, another maker of minicars. Nissan owns 40% of Nissan Diesel Motor. Fuji Heavy Industries, maker of Subaru, would have been bankrupt long ago if Nissan and the Industrial Bank of Japan hadn't bailed it out. Bureaucrats tightly monitor overall production in all industries, and though there have been notable exceptions (they couldn't persuade motorcycle maker Honda to stay out of the car business), they have usually been able to curtail new facilities that might create overcapacity.

To get a feel for how this works, pretend that Teddy Roosevelt and the trustbusters never existed. Imagine that General Motors held stakes in all its parts makers, plus stakes to Bethlehem Steel, its biggest distributors, Prudential Life Insurance, Chase Manhattan, and Merrill Lynch. Imagine that it told all those companies that it would never sell the shares as long as they gave preferential treatment to GM wherever possible. Imagine the meeting GM would hold once a month with the CEOs of all those companies. Now you are getting the idea of a Japanese keiretsu, or industrial group.

Further, imagine senior managers from seven or eight of those groups sitting down with a bureaucrat at the Commerce Department. Says the government man: "Memory chips (or amorphous metals or whatever) are going to be crucial to all industries for the next decade. Here are the tax incentives and loans you can get if you decide to get involved in this business." The government keeps an eye on every important move the companies make, but it has also eliminated most of the risk. By making the business under discussion a top national priority, the government guarantees that markets will exist and no company will fail.

Is this collusion? Kinichi Kadono, a board member at Toshiba, doesn't think so. Looking back on Japan's move into high-power memory chips 15 years ago, he says, "The government acted as a trigger to get companies involved, but our investment since then has been huge." Is it fair? He answers with a touch of poor-little-Japan: "I was a teenager after World War II. You can't imagine the poverty and weakness we felt. Even with help from the government, we still thought we were helpless. The government played a big role here, but was it bad? I don't think so."

Though Tokyo's official attitude remains conciliatory on U.S. trade initiatives, Washington's efforts may now be beside the point. Japan's huge capital spending program, which was backed by the super-low interest rates and cheap capital costs of the late 1980s, has yet to bear fruit. Says Jeffrey Garten, a managing director of Blackstone Group, a New York investment bank that deals heavily with Japan: "The wave of Japanese exports that will come from that investment will likely dwarf anything we've seen so far."

Trade battles will become more acute, nonetheless. Expect computers to be next, and then watch for something called dual-use components. These are electronic devices that can go into a toaster or a Patriot missile. While Japan does not export arms, it does export dual-use electronics by the shipload. And it is this fact that brings trade with Japan back into the security arena. Says Andrew Grove, CEO of Intel: "All that high-tech stuff you saw in the Gulf war was based on U.S. technology developed in the 1970s. We controlled it then. Today, for the most part, we don't." After his fourth trip to Japan, Senator Jeff Bingaman, a New Mexico Democrat, wrote Deputy Secretary of Defense Donald Atwood: "A comparison of U.S. and Japanese efforts in critical technologies, particularly dual-use technologies, clearly shows adverse trends for the U.S."

Japanese executives take for granted that an important shift in the balance of power between the U.S. and Japan has taken place. Says Mitsubishi's Kuroda, an affable man who genuinely likes Americans: "The important thing is to make sure relations between Japan and the U.S. are good, and you'll have no problem buying Japanese chips. If your companies are not competitive, your government should help them. America should have the guts to tackle its problems."

Many Japanese in high places think it's only a matter of time before Japan stops giving in on U.S. demands for more trade concessions and more money for U.S. bases in Japan. They believe Japan should begin planning for an independent role on the world stage as befits its economic power and responsibilities. Says Shohei Kurihara, a former top government official who is now executive vice president of Toyota: "The strategic alliance [with the U.S.] is less important today." Adds Kume, the TV newscaster: "The military alliance makes me feel that World War II hasn't really ended."

Popular magazine articles have also taken up the topic, with titles like "Is America Japan's Military Policeman?" Outspoken Diet member Shintaro Ishihara, author with Sony Chairman Akio Morita of the popular book "The Japan That Can Say No," is already campaigning for the U.S. to give back an air base to be used as a third Tokyo airport. Toyota's Kurihara is saying no in his own way. Though import promotion is an official government policy, he says the company can't find an American car to recommend to its dealers.

Japanese politicians are gradually beginning to realize that saying no to America means Japan will have to accept more responsibility for its own defense. A willingness to go it alone is growing among younger members of the Diet. The danger, says Koji Kakizawa, a Diet member who is director of the ruling Liberal Democrat Party's National Defense Division, is that Japan will turn isolationist and not cooperate with the U.S. on defense matters at all. As for trade, the Ministry of International Trade and Industry (MITI) is preparing its own list of what it says are U.S. unfair trade practices—including quotas on sugar and other agricultural products—that it plans to present to Washington this year.

The ground ahead of the U.S. and Japan on the trade and defense fronts will be the rockiest since the war. But each side can act now to make the damage as light as possible.

Japan would do well continuing to stimulate its economy to keep imports and aid programs growing. Surely the ban on rice imports should be lifted, if only to show good faith to American negotiators.

On the U.S. side, a growing number of members of Congress and academics are looking at some kind of organized government support for targeted high-tech industries. Says Prestowitz: "The U.S. is becoming more dependent on foreign technology. The response of so many Japanese during the Gulf war showed that sometimes even allies may not see their national interest as coinciding with ours. Maybe we need a technology policy."

Such rumblings are even coming from inside the Administration. Managed trade, which would limit imports, is a nonstarter. But government aid to industries that make dual-use products is under consideration. Says a senior Administration trade official: "My personal view is that we haven't given these [industries] the attention they deserve. I'd focus on areas like semiconductors, real basic stuff."

Voices for such moves come from Japan too. "If U.S. politicians made a strong stand and ordered American manufacturers to catch up to Japan, then the U.S. would easily catch up and surpass us," says Ishihara. Adds Toshiharu Miyano, president of Miyano Machinery, a machine tool maker: "America must become more protectionist. Save the domestic manufacturing sector."

Ishihara and Miyano obviously have scant knowledge of the realities of American politics. Still, their comments, however naive, highlight the difference in thinking between Japanese and Americans. The Japanese would never leave something so precious as their industrial base to the brutalities of market forces. Bureaucrats and legislators guard industry like protective hens. Americans have always backed away from such thinking as unnecessary—and anticompetitive—coddling.

America's adversarial business climate grew out of years of combat between crusading governments and big companies. Remember the suit filed on the last day of the Johnson Administration, seeking to break up IBM because it was too powerful? The suit was eventually dropped, but similar action against AT&T did lead to a sundering of the telephone giant. Can anyone imagine a Japanese government pursuing such goals? Clyde Prestowitz, for one, thinks change is due. Says he: "When John D. Rockefeller knocked out competitors by undercharging, we said it was bad. Today, when foreign competitors undersell domestic manufacturers, that ought to be bad too, but we say it's good for the consumer."

As the U.S. considers its responses to Japan's growing economic challenges, it will also have to take a hard look at the strategic relationship. The two sides should unwind their relationship only slowly. Japan spends about $30 billion a year on defense. As the Soviet threat recedes, Japan can provide more of its own defense and still join in arms reduction programs.

What the U.S. must accept in dealing with both trade and defense issues is that the terms of the relationship have changed fundamentally. This is not just another squall that will end with pledges of more concessions in Japan and more patience in Washington. The new self-assurance of the Japanese is a fact. It only seems to have blown up overnight. It has been building for years, along with Japan's economic power. The question now is whether both sides can accept each other as they are, and build a new relationship on that understanding.

□ 1650

THE COLD WAR IS OVER

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, we have an enormous opportunity that faces us as a result of America's victory in the cold war. For 45 years, the United States had as its major concern in terms of the energy level of our political system, as a large claim on our resources, I would guess from 1945 till now, from the end of World War II till now, the largest single chunk of our resources, with the possible exception of Social Security. It has gone to the purpose of survival, and we would have hoped, victory in the cold war. We have now achieved that, and we are slow to recognize the consequences.

What these consequences mean are enormous, and they are enormously beneficial. For 45 years the United States defended much of the rest of the world against an aggressive, hostile and unified Communist bloc. That bloc no longer exists. Indeed, as I look around the world today, Mr. Speaker, with the exception of Fidel Castro, I cannot think of any Communist leader that George Bush does not like.

He is quite friendly with Mr. Gorbachev. He wants to initiate most-favored-nation treatment once again for the People's Republic of China. We are talking about giving assistance that we know winds up in the hands of Pol Pot in Cambodia. We were just told by the administration that we should not be too harsh here in our language toward the leader of Serbia, one of the last of the faithful Communists in Eastern Europe, Mr. Milosevic, in Yugoslavia.

I grant that the President has no great enthusiasm for the North Korean leadership, as he should not. He has not seemed especially angry at them lately.

The cold war is over, and it has not just withered away. We have won it.

The question is, what action do we now take? We have put ourselves at a significant disadvantage in several respects because of our willingness to defend so many of our allies against communism. We have maintained a very high percentage of our gross national product as military expenditure compared to many of our allies.

The problem is that many of these allies have become our competitors and they have used the disparity in military spending to our economic disadvantage.

In other words, as we have been protecting these people against military assault, they have been using that very fact as leverage against us in an economic competition.

Let us take the United States and Japan. The United States has been spending more than 6 percent of its gross national product on the military for some time over a period of years. The Japanese have averaged less than 1 percent.

I do not know anyone who thinks that if these two societies, America and Japan, had been spending roughly equal amounts on the military, that the economies would look the way they look now.

We have done in the military area wondrous things. People saw them on display during the war against Iraq. The United States has put some of its most creative scientists, its best technology, its most adept development people, its scarcest resources, its capital, we have put that into the military for the benefit of much of the world. We have, through those efforts, developed a wonderful set of weapons. But they have had, of course, one relevant quality here. They were not by and large for sale. They were certainly not to be shared widely.

We have put much of our best efforts into weaponry which we hoped fervently would never be used.

The Japanese, on the other hand, have been free to use virtually every resource in their society to develop those for civilian use and in competition. We have spent 6 percent; they have spent 1 percent of the GNP on the military.

Let us take two businesses that exist side by side, businesses of the same sort. Let us take two grocery stores, two law firms, two manufacturing companies, two drycleaning establishments, two auto plants, two of anything that has an identical product. And suppose that because of a difference in jurisdiction, in one community the owner of that business has to spend $6 out of every $100 taken in on security, on protection against burglary, robbery, assault.

And suppose the people just across the line spend $1 out of every $100 taken in for the identical purpose.

Most of us would expect that the business that had to spend $1 out of every $100 on security would be able to outstrip the business that spent $6 out of every $100 on security in a number of areas because one of them would have 5 percent in advantage to spend on marketing, on research, on development.

That is the advantage we have given Japan. Not just Japan. While the disparity has been greatest in percentage of GNP between the United States and Japan, it has been a significant one with the United States and NATO.

The average for the NATO countries outside of the United States in spending has been 3 percent of gross national product. So when we go to the Netherlands and Denmark and Germany and England and France and those countries in Western Europe, developed countries with which we compete, they have got a similar advantage.

What has happened, Mr. Speaker, is that we have tried to be Bo Jackson in a way that even Bo Jackson would not want to be Bo Jackson. For the last 20 years there have been two competitions going on in the world. There has been a military competition. There have been two competitors in the military competition, the United States and the Soviet Union.

I know that other countries developed weapons. We have Britain. We had France, other countries. But we just had a war with Iraq, which we were told was the fourth largest army in the world.

I assume China was first, Russia was second. We were third. Iraq was fourth. The outcome of that war between the United States and the fourth largest army in the world proved a point indisputably. We have a disparity in armed might over any other country, with the exception of the Soviet Union, that is incomparable.

If you take the United States and the Soviet Union as one end of a military spectrum, a year ago, with our thermonuclear capacity and our ability to deliver it, and then you look at Britain and France, they are probably closer to the Metropolitan Washington, DC, Police Department in firepower than they are to either the United States and the Soviet Union. We have been in classes by ourselves.

How has the Soviet Union been able to stay roughly even with, which I do not think they are equal, but in the same league with the United States in military spending? Very simply, by having no economy of a civilian nature. The Russians developed an extraordinarily repressive form of government which they used so they did not have to have a civilian economy. And they could stay with us militarily.

On the other hand, after the military competition between the United States and Russia as our first problem, we have had particularly for the last 20 years a civilian competition between the United States and Japan and Denmark and the Netherlands and France and Taiwan and Hong Kong and a lot of other countries.

□ 1700

Now, how have many of these countries stayed even, and even, in some cases, surpassed the United States in civil competition? Because, just as the Russians stayed even with us militarily having no civilian economy, these countries could stay even with us in the civilian area by having no military to speak of.

Look at the combined forces of NATO, look at the European Community, population, GNP; larger than ours and a military nowhere near ours.

The United States is, and has been for 20 years, the only society in the world that could even have contemplated competing against the Russians militarily and against our European and Asian allies in the civilian area. You see, that is why we have been the Bo Jackson of the world, but Bo Jackson was smarter than America. We were very energetic and very courageous. He was smarter, because Bo Jackson would play football during the football season against football teams and baseball during the baseball season against baseball teams. Even he never tried to play baseball and football on the same day against two different teams. That is what America has been expected to do for 20 years.

We have been simultaneously competing against the Soviet Union militarily, against Japan and Denmark, Hong Kong, the Netherlands, and Germany, and everybody else in the civilian area. We have done extraordinarily well.

This is not a reason for us to be self-flagellating. No other society in the history of the world could have accomplished what we accomplished, but neither could any society, including us, have done as well in either competition as we might have done if we were only doing one. Think what the civilian competition between America on the one hand and Denmark or Belgium or Taiwan or South Korea would look like if we did not have the military expenditures that we had.

The answer is we would have been doing a lot better. Look at the United States and Japan. Suppose that marvelous weaponry in terms of technological skill that people saw on display in the war against Iraq, suppose that had, instead, gone into civilian goods; suppose, instead of being used or held in reserve to defend the world, it was transformed into a civilian competition. I think the answer is very clear, that the disparity that we find in the balance of trade between ourselves and Japan would not have been anything like that.

So here is the situation we have had for 20 years. We have voluntarily decreased our civilian productive capacity, because we have voluntarily taken on an extraordinarily heavy military burden by and large for the benefit of the rest of the world.

People can argue about whether we should or should not have done that. I must say I think it has been a long time since we needed to do it.

People have said, "Well, we had to be there in the 1980's to protect Europe against a Warsaw Pact invasion." I cannot remember the last time that I think a Russian general would have comfortably picked up his gun, got in front of a bunch of armed Polish and Hungarian soldiers and said, "Follow me." I think he would have expected to have gotten shot.

Whatever you argue about the past, it is indisputable today that there is no ground military threat facing Europe. There is no military threat that I can see facing Japan.

What is Japan worried about? China and Russia? Yes, that they might not buy enough from them.

There is no more Warsaw Pact. The Soviet Union continues to be a nation about which we have to have concerns, but with its own internal turmoil, with its own secessionist tendencies, this is not a nation to strike fear into the hearts of a country as well armed as we now know the United States confidently to be.

On the one hand we no longer, it seems to me, have to carry that burden. By the way, we should note one reason we were paying so much more for the military than our European and Asian allies is that they were poor. When World War II ended, we were the only society of an advanced economic sort that survived intact. So we took on that burden. We helped. We supported them. They do not need it anymore.

Japan, the Netherlands, Belgium, these are not poor countries anymore. These are countries capable of spending on their own.

We started out the cold war defending poor and weak countries against a strong, aggressive Communist bloc. Do you know what has changed? Those countries are no longer weak. Those countries are no longer poor. The Communist bloc is no longer aggressive. The Communist bloc is no longer so threatening.

Only one thing is not changed. We are still spending as much money as we used to.

We started out spending that level of money for certain purposes. Everything has changed but the money, because they do not want us, our allies, to stop spending the money. Of course not.

Our allies like a situation in which we spend large amounts on their defense. It helps them keep their own military expenditures low. It helps their own economies. The United States is a very important force in creating jobs in Germany. The United States makes some contribution to the economies of these other countries. In the Philippines, if we pulled out, they would have economic problems.

It is ironic that in many of these countries they act as if they are doing us a favor by letting us stay there. Mr. Speaker, I think the most popular book in the world, without question, is "Tom Sawyer." All of those other countries have figured out that they can get America to paint their fences and act as if we should be grateful for the opportunity to do so.

The cold war being over, the United States could, over a 3-year period, cut its military expenditures in half and still be without question the strongest military power in the world. We would have nuclear submarines, the B-1 bomber, a capacity to send troops all over the world, airpower and seapower unequaled, but we would no longer be providing our allies with the special favor of taxing ourselves and borrowing money to provide enormous benefits to them.

On the one hand, that means our own productivity would take a boost. On the other hand, it means we could attack some of our own social problems.

My understanding is that every country in NATO but one has a form of universal health care. We are the only one that does not. We have the biggest military, and we have, for our own citizens, the least socially useful provision of health care systems.

I think the time has come to reverse that.

I have noticed the gentleman from California has come to the Chamber, and I will be happy to yield to him.

Mr. ROHRABACHER. Mr. Speaker, I thought I would just associate myself with many of the points the gentleman is making.

I think it is fascinating that we have people from the conservative side of the Congress and the more liberal side of the Congress who fundamentally agree that the nature of the cold war has changed, and, in fact, we are probably entering an era when the cold war will be behind us, and that we have got to make some fundamental decisions as to how we spend our resources, and I especially identified with the gentleman's analysis of how the Japanese and our other allies have basically not only been using their resources but their talent in order to compete with us while we were defending them.

I think many of the points that the gentleman has made, and I would like to note that in the last 2 months, some of the decisions I have had to make here on the floor have been predicated on totally different premises than what the decisions that I made 10 years ago when I was in the White House.

For example, I voted recently in support of an amendment offered by the gentleman from Massachusetts [Mr. FRANK] that would have prevented us from what I considered to be wasting money on certain nuclear weapons, and not to say that perhaps in the future if something happens in the Soviet Union where there is some sort of totalitarian threat that retakes over the Soviet Union we may again have to look at nuclear weapons, but at this point when the chances of war have so declined between the United States and the Soviet Union, now is not the time for us to be wasting scarce tax dollars, and as the gentleman pointed out so aptly, that if we waste our dollars here on defense items that are no longer necessary because world conditions have changed, it makes us less competitive in this new world of competition, in a world where the cold war is fading and we are under a new world of economic competition, and it makes us actually less able to compete.

Mr. FRANK of Massachusetts. I appreciate what the gentleman says. I think it ought to be clear that we are not talking here about ideological issues, or at least I hope we are not. We are talking about commonsense adjustments to reality.

I have said, and I know there are people in this House and elsewhere who would disagree with it, about the role of America in the world.

I think since World War II, it has been on the whole a very positive one. I do not speak from the standpoint of someone saying, "Gee, American military power has been kind of a problem, let us cut it back." I think American military power has been used very successfully. We should be very proud of the fact that Japan and Germany, for instance, today are prosperous and democratic.

Germany and Japan today practice a form of democracy greater than either of those societies has ever practiced it before. They get the primary credit for that. You do not inject democracy from the outside, but the United States gets secondary credit with our occupation of both Germany and Japan where we helped. I think one of the great accomplishments of Douglas MacArthur was that he was determined to do everything he could to inculcate democracy in Japan.

We are saying now not that we are unhappy about America's role but that it has been so successful that we can reorient our approach.

I yield further to the gentleman from California.

Mr. ROHRABACHER. I think it is important for us to note, and I know that we might have some disagreements on an analysis of history and what has brought us to this point where we can take a new look at it and perhaps the cold war, as I say, is fading.

☐ 1710

I, too, am very proud of the role that American forces have played around the world, and I think that without the courage and the strength of the United States and the technological component, the fact that we actually committed ourselves to developing the weapons systems that we needed in those days that I do not think that we could have deterred a general war with the Soviet Union. However, we did deter a war with the Soviet Union.

Now that the Soviet Union seems to be in somewhat disarray, I think more than weapons at this point in time, it is more important than the United States developing weapons, it is important for the United States to be the champions of democracy all over the world. I would like to note that the gentleman has been very supportive in recent days of measures that I have introduced and others have introduced to insist that the United States be on the side of the democratic reformers in Communist countries rather than trying to cut deals and go along and get along with the governments of those countries.

Mr. FRANK of Massachusetts. Reclaiming my time, I think the gentleman is right. When I talk about reducing what I think is wasteful spending right now militarily in Japan and in Western Europe, that is the opposite of isolationism.

I want America to be able to play a major constructive role in the world. I do not think we are doing enough to combat hunger in sub-Saharan Africa or help bring down the debt in South America. However, what we want to say in the post-cold-war era, we have helped build our allies up and fractionate the communism empire where there is no empire yet, and now what we are saying is, in the past we were deterred in foreign policy from advancing certain lesser issues because we had a bigger issue, a common human phenomenon. If we have an overriding focus on survival, on any one thing, other issues will become secondary.

Between the United States and the Soviet Union, for most of the postwar period, the problem was the terrible tension and the nuclear weapons, and we were focused on deterred war. We were focused on making sure the Soviets were not a threat in that sense to these vital interests. That meant in some cases that we looked the other way on human rights issues with both the Soviet Union and China. China was important to the United States because it was a counter way to the Soviet Union. So we judged China very leniently because we did not want to alienate them. That was true in other cases, too.

The breakout of war in Afghanistan meant we had a different view of Pakistan. Some of the Members are saying now, given the predominance of the United States in the world, given the fact that we have, for a combination of reasons, assured our security, we are not going to let that down. I do not want to dismantle nuclear submarines. I do not want to take a nuclear deterrent away. We may differ among ourselves as to how much we need, but I do not think there are many advocates for diminishing the American military superiority which the world has benefited.

Given that, we can now focus on other issues, look at China as a society and say that we will deal with them based on what values we think we advance in that relationship, and not simply as a counter to the Soviet Union.

Mr. ROHRABACHER. If the gentleman will continue to yield, also we can afford to be the champions of freedom and liberty and democracy that our forefathers thought America should be.

For example, if we no longer, as the gentleman says, have to have a counter way to China, and counter balance China against the Soviet Union, there is no reason why we should not insist on very strict human rights standards before we give them a most-favored-nation status.

I was very disheartened with the President's reaction, after his meeting with President Yeltsin, in that he reaffirmed in very strong terms that he would be, that we would still be maintaining a close relationship and a strong relationship with Mr. Gorbachev who has never been elected to anything. There is no one who elected Gorbachev to hold the power in the Soviet Union.

So I think when it comes to our national security, it behooves the United States to be very strong in our principles in insisting, and in countries all over the world, whether they be former Communist countries or countries like South Africa which were never taken control of by the Communists, but today when the Soviet threat has receded, there is no reason at all that we should not be for a very democratic South Africa.

I met with Chief Buthelezi and assured him I would be pushing for a democratic South Africa. Coupled with that, it is important that we, at a time when we have these opportunities, not let the Soviet leadership in the Kremlin get off the hook by continuing to support Communist and totalitarian movements like in Cuba, while we give our resources to subsidize them. This is another piece of legislation.

Mr. FRANK of Massachusetts. Reclaiming my time, I agree. One thing, as we did in the amendment, the gentleman talked about what we said to the Soviet Union. Many Members said, "Look, we are prepared to be your friends and cooperate with you and encourage you in moving toward democracy and moving toward freedom and moving toward a better and more productive economic system, but you have to cooperate." For the Soviet Union to continue to subsidize one of the world's most repressive regimes, the regime in Cuba, and also to continue to spend more than it ought to militarily, is unwise.

My own view, and I particularly like the amendment that our friend from Arizona [Mr. KYL] and others put forward, said to the Soviet Union we want the Soviet Union to substantially cut their military. I say to the Soviet Union that there is no reason why they cannot cut military more than half than what they are spending from their standpoint, much more makes sense, which would encourage people here, I believe we can cut our spending substantially in any case. A substantial reduction by the Soviets would even strengthen our case. It would enhance the process by which we would get the results to reduce spending here, and I would be glad at that point to share all the savings with them.

They can do something in their interests by cutting the military. If they do not do that, I do not think they can blame any country but themselves for not advancing economically.

Mr. ROHRABACHER. If the gentleman will continue to yield, I asked President Yeltsin that question directly yesterday. I said, "What would you do if the leadership in the Kremlin under Mr. Gorbachev continues to spend their resources and waste them on weapons of destruction?" He looked me in the eye. This was a very fascinating explanation of his own strategy, that he believes in the republics, where they will have the power to tax under the new union treaty, and the central government apparently will not have the power to tax. He said he will not permit the Russian republics to continue to subsidize a heavy military spending. They would reduce the subsidy that Russians give to the central government by 15 percent for their military and 15 percent next year, and that is another reason why we have someone who is willing to make a stand for peace in the republics, we should be out supporting those people who believe in democracy because it will enable the United States in the end to reduce our own military expenditures.

Mr. FRANK of Massachusetts. I thank my friend. I would just say that he mentioned that he spoke yesterday to Chief Buthelezi and spoke to Mr. Yeltsin. He had a cosmopolitan day. He has come a long way.

I appreciate the gentleman's support, and it stresses what I hope we can get across. The victory of the United States in the cold war offered the United States tremendous opportunity as a Nation. It offers, I might say, tremendous opportunities to my party as a Democrat. I have to say the party has a legitimate role in America. I belong to a party which has for sometime had an agenda for more programmatic activity on the part of the Federal Government. Part of the benefit we give from the demise of the cold war is the extent to which it will enhance our productivity by reducing the drain that the Government makes on the private sector in particular, by freeing up the marvelous technology and resources in capital that has gone into this military operation, by freeing some of that up for the private sector, I think we can do very well.

If Boeing loses the B-2 bomber ultimately, I believe that will enhance Boeing's ability to increase further its domination of the world in selling civilian airframes. I think this economy of ours continues to have enormous strength, and that if we are able to take tens of billions of dollars in resources that now go to the military every year, and free that up in the civilian sector, that will be helpful. Some of what we free up can also go to deal with social problems.

I said before, we are the only country in NATO that does not have a form of universal health care that tells the citizens, if they get desperately ill, worry about your health but do not worry about your finances. Among the NATO countries, only in the United States does a person have to worry that if they lose their job, they may be in terrible trouble if their child gets sick, because there will be no way to provide that child with medical care, short of total financial ruin.

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Only in the United States if you are 67 years old and you or your spouse faces the need to get long-term care do you have to accept the fact that that means you die wiped out financially because we do not have the right kind of health care system.

Why is the United States the only country in NATO that cannot have that kind of health care system? Are we somehow the ones who cannot afford it? Are we the poorest country in NATO? Are we really that far behind all our NATO allies?

No, the answer is that we have undertaken for so long a military burden on their behalf that we have deprived ourselves of the resources to give ourselves the kind of medical care in insurance terms that they give themselves.

What the end of the cold war offers to the Democratic Party is this. We have programs that I believe are quite popular with the American people, more education, better funded environmental activity, public transportation of which people can be proud, a railroad system that would be environmentally as well as economically better for all of us, more money for education so we could attract the very best Americans to get into teaching. We have not been able to afford that for some time.

Some of my colleagues have felt that if we raise taxes we could afford it, but there have been severe political constraints against raising taxes.

Properly acted upon, the end of the cold war offers those of us who believe in an activist government, those of us who believe that there is a role to be played on the part of this society through government in dealing with those needs that the free enterprise system cannot meet by itself, we now have a chance to have those resources.

We cannot solve every problem all at once, but we are talking, Mr. Speaker, I believe realistically about an ability to reduce military spending within a fairly short period of time from a $300 billion level to a $150 billion level and be the strongest Nation in the world. We will not be providing unnecessary protection in-depth for rich nations against nonexistent threats, that will lose. In return, we will gain enormous resources that we can put to our own beneficial use.

Mr. Speaker, I am about to yield back the balance of my time today, but I intend to speak again in the next few days on this theme.

I believe that our greatest political intellectual problem today is cultural lag. We won the cold war. That offers us enormous opportunities for increasing our worldwide civilian economic position. It offers us enormous resources for dealing with problems that we have too long ignored and we do not want to take advantage of them.

George Bush in this case is the opposite of another Republican George, George Aiken, the former Senator from Vermont. Since he is a former Senator, I think I can mention him under the rules. If he was a current Senator, I could not, but I think you can quote former Senators.

George Aiken said with regard to the war in Vietnam that what America should have done back in the seventies was to declare victory and get out. George Bush is doing the opposite with regard to the cold war. He wants to deny victory and stay in. He wants to continue to spend militarily on our national defense establishment almost the same amounts, marginally less but almost the same amounts that was spent at the cold war's height. That is a mistake. It is unnecessary for our defense. It is destructive to our economy.

I will return, Mr. Speaker, to discuss again ways in which I think we as a Nation and, candidly, my party as a party can take advantage of George Bush's refusal to recognize the implications of America's cold war victory.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. MILLER] is recognized for 60 minutes.

[Mr. MILLER of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE INTEGRITY IN HIGHER EDUCATION ACT OF 1991

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 20 minutes.

Mrs. LOWEY of New York. Mr. Speaker, I am pleased to join my distinguished colleague, Mr. GOODLING, the ranking member of the Education and Labor Committee, in introducing extremely important legislation to improve higher education programs in this Nation and to save the taxpayers money which is now being wasted through fraud and abuse in Federal student aid programs.

We are all aware that we will need a highly skilled workforce to meet the economic challenges that we face as a Nation in the 21st century. This means that we will need to ensure that more of our Nation's students receive high quality training at the postsecondary level.

Our Nation boasts the best higher education system in the world, and most of our Nation's educational institutions are providing high quality training for their students. However, it is clear from testimony before the Education and Labor Committee that the quality of some postsecondary education institutions is poor. In fact, the evidence shows that some institutions are engaging in outright fraud. As a result, students in these institutions are not receiving the training they need to obtain employment.

Unfortunately, many of these institutions are eligible to participate in Federal student aid programs, and their students rely heavily on guaranteed student loans to finance their educations. The result is that students frequently default on their loans, leaving our Nation's taxpayers with a substantial financial burden.

Clearly, we must be concerned about the costs to our Government of student loan defaults. However, we must also be concerned about many of the students who have defaulted. Some were not even aware that their student aid was in the form of loans. Others did not receive the education that they were promised. Still others want to repay the loans, but find themselves unable to do so because they don't have the skills to hold a job. Student loan defaults have enormous repercussions for the students involved, including a significant debt that will thwart their efforts to get ahead in life for years to come.

Further, it is worth noting that each loan default means that scarce Federal funds are being diverted from their intended purpose of training our young people for successful careers. At this crucial time in our Nation's struggle to ensure economic growth, we cannot afford to waste Federal education resources.

This year, the costs to the Federal Government of default payments for student loans will be approximately $2.7 billion. These costs have risen steadily in recent years, and they now amount to more than 50 percent of total obligations for the guaranteed student loan program. While some of the increase in default costs can be attributed to an increase in loan volume and to an increasing reliance by low-income borrowers on loans—due to reduced availability of grant funds—a substantial portion of the increase is attributable to waste and fraud. In fact, according to a report recently issued by the Senate Committee on Government Affairs permanent Subcommittee on Investigations, between fiscal years 1983 and 1989, default costs rose by 338 percent—approximtely four times greater than the increase in loan volume during that period.

This increase in default costs has led Congress to adopt a series of initiatives designed to reduce student loan defaults. While some of these reforms have been crafted in such a way as to exclude the participation of institutions of higher education in Federal financial aid programs based solely on the default rate of the institution's students, rather than on the quality of the programs they offer. It is extremely important to make a distinction between schools which serve a disadvantaged population that is more likely to have trouble repaying large loans, and those which are offering education which is of poor quality and is not likely to lead to gainful employment. We should not engage in so-called reforms which unfairly limit the access of disadvantaged students to the education they so desperately need in order to become productive citizens.

Further, many default reduction initiatives are aimed at controlling costs once a student loan default has already occurred. Clearly, this is not as efficient as stopping a default before it has occurred. One major means of preventing defaults, which has been proposed by Education and Labor Committee Chairman WILLIAM FORD, involves shifting the balance of student aid in the direction of more grant aid, particularly for low-income students and particularly in the early years of a student's postsecondary education. This is an essential reform which should be enacted as part of the upcoming reauthorization of the Higher Education Act.

However, we must also pay careful attention to preventing defaults before they occur by preventing poor quality educational institutions from participating in Federal student aid programs. This must be accomplished by improving our gatekeeping procedures for participation in student aid programs.

Currently, approval for participation in Federal student aid programs is governed by a "triad," including licensure by the States, accreditation by private accreditation agencies, and certification by the Department of Education. Testimony before the Education and Labor Committee has demonstrated that there are significant problems with each of these gatekeeping functions. The Senate Permanent Subcommittee on Investigations report states that "The triad of licensure, accreditation, and certification/eligibility provides little or no assurance that schools are educating students efficiently and effectively."

Clearly, substantial reforms will be needed in all of these areas. However, the bill that Mr. GOODLING and I are introducing today focuses on the importance of improving State oversight of the approval of postsecondary education institutions.

There are several reasons why we have chosen to emphasize the role of the States in oversight of higher education. First of all, States are much closer to the problem than the Department of Education and are much more likely to be able to conduct vigorous oversight for this reason. Second, the States have already demonstrated their capacity to conduct vigorous oversight with respect to the educational programs administered by the Veterans Administration. Third, we believe it is of fundamental importance to ensure that there is strong oversight of these public education programs by a governmental body that is responsible to the public. Finally, many States are willing and eager to take on this responsibility. Some are already moving in this direction by initiating regulatory reforms to improve the licensing of postsecondary educational institutions. And the State Higher Education Executive Officers Association has endorsed our proposal to expand significantly the responsibilities of States in this regard.

The Integrity in the Higher Education Act, which we are introducing today, provides a comprehensive plan for achieving strong State oversight of higher education institutions. We believe that this plan will succeed in improving the quality of higher education and eliminating waste and fraud. However, this bill is not intended as a final product. Rather, it is intended as a discussion document, and both Mr. GOODLING and I welcome the comments of all interested parties who have suggestions for improvements.

The Integrity in Higher Education Act authorizes the Secretary of Education to develop and implement objective performance standards for the administration of Title IV Student Aid Programs. These broad Federal standards will provide general principles that can be used to fashion State-specific standards governing the approval of postsecondary institutions.

The Secretary is also authorized to enter into agreements with States (or consortia of States) to establish one State postsecondary approving agency to review and approve all postsecondary institutions and educational programs. If any State declines to enter into such an agreement, the Secretary is authorized to enter into appropriate arrangements with another qualified entity to carry out this task.

The State's plan, which is subject to the Secretary's approval or disapproval, will specify the manner in which State oversight of postsecondary institutions would occur. Each postsecondary approving agency will have ultimate responsibility for authorizing each institution to offer postsecondary education and for assuring that each institution remains in compliance with State requirements for program quality. The State may approve different standards of approval for different classes of institutions as defined by its laws.

A State postsecondary approving agency may determine that an institution or educational program should be disapproved if it finds that an institution is not in compliance with State standards. In such cases, the State will notify the Secretary to take action to terminate that institution's eligibility for Federal student aid, subject to certain minimum procedural standards. This crucial authority will eliminate schools which are of poor quality from Federal student aid programs, thereby safeguarding our Nation's students and saving the taxpayers of this Nation large sums of money which would otherwise be wasted.

The bill also calls on the Federal Government to help pay the costs of this new oversight function by the States. The bill authorizes appropriations not to exceed 1 percent of the amount appropriated for title IV student aid programs, and it imposes a cap on the amount which can be received by individual States. This amount is consistent with that currently provided to States for the administration of many other education programs. It is important to note that the minimal new costs of this program will be more than offset by the significant savings and improved program delivery achieved through reduction of waste, fraud and abuse in these programs.

The bill also requires the Secretary to establish minimum standards for the approval of accrediting agencies and associations. Finally, it creates a new grant program to aid public agencies and nonprofit organizations to demonstrate innovative approaches to improve the administration of student aid programs and reduce regulatory burdens on higher education institutions.

All Americans understand the importance of education to our Nation's economic future, and they understand that ensuring high quality postsecondary education must be among our most important priorities if we hope to remain competitive in the world marketplace. This, in turn, will require increased availability of student aid for all American students. However, support for expansions of student aid and improvements in our higher education programs will be difficult so long as serious questions remain about the integrity of our higher education programs.

This is why the Integrity in Higher Education Act is of such great importance. By making State oversight and regulation the centerpiece of institutonal eligibility for Federal student assistance, we can significantly reduce the waste, fraud and abuse that are overshadowing the enormous accomplishments of most higher education institutions. This will not only safeguard our students and save the taxpayers money, but it will help us turn our attention to the most important task our nation currently faces: revitalizing our economy and enhancing our competitiveness.

I am honored to join Mr. GOODLING in introducing this bill, which I hope all of my colleagues will see fit to cosponsor. I am attaching a summary of the bill at this point:

SUMMARY OF THE INTEGRITY IN HIGHER EDUCATION ACT OF 1991

Section 1—Short Title.

The Integrity in Higher Education Act of 1991

Section 2—Institutional Integrity Requirements.

Creates a new Part H in title IV of the Higher Education Act devoted to institutional integrity.

Federal Responsibilities: The Secretary of Education is directed to develop and implement objective performance standards for the administration of Title IV student aid programs. This shall include program reviews of all eligible institutions and recertification reviews of administrative capability and financial responsibility of institutions.

State Postsecondary Approving Agency Program: The Secretary is authorized to enter into agreements to establish one State postsecondary approving agency in each State to review and approve postsecondary institutions and educational programs, and to provide federal funds to the States for this purpose. States may enter into consortia to carry out these provisions. If a State declines to enter into such an agreement, the Secretary is authorized to enter into appropriate arrangements with other entities for program review and approval in that State.

State Postsecondary Approving Agency Agreements: Each agreement shall describe a state organizational structure that identifies the State agency responsible for review and approval of each institution in the State for participation in student aid programs. Each agreement shall designate a single State postsecondary approving agency responsible for authorizing each institution to offer postsecondary education and for assuring that each institution remains in compliance with State requirements for offering postsecondary education. No State is required to fulfill these obligations unless the Secretary reimburses the State for the costs incurred (as limited by the following section).

Federal Reimbursement of State Postsecondary Approving Agency Costs: The Secretary shall reimburse the States for the costs of performing State postsecondary approving agency functions. Appropriations are authorized for fiscal year 1993 and succeeding fiscal years in an amount not to exceed one percent of the amount appropriated in each fiscal year for Title IV aid. A cap is imposed on the amount which may be received by any state in a fiscal year.

Functions of State Approving Agencies: The State postsecondary approving agency shall approve an institution only if the institution meets published State standards developed in consultation with institutions and demonstrates that it provides satisfactory education and training. The State may approve different standards of approval for different classes of institutions as defined by its laws. A State postsecondary approving agency may determine that an institution or educational program should be disapproved if it finds that an institution is not in compliance with State standards. In such cases, the States will notify the Secretary to take action as prescribed by regulation to terminate that institution's eligibility for federal student aid. The Secretary shall prescribe minimum procedural standards for the disapproval of institutions by State postsecondary approving agencies. States may adopt certain mechanisms to enforce State standards.

Section 3—Accrediting Agency Standards.

The Secretary of Education shall establish standards for the approval of accrediting agencies and associations. No accrediting agency or association shall be approved by the Secretary unless it meets these standards.

Section 4—Demonstration Grants for Improved Administration and the Reduction of Regulatory Burdens.

The Secretary of Education is authorized to make grants to public agencies, nonprofit private organizations, and institutions of higher education to demonstrate innovative approaches to improve the administration of student aid programs and reduce regulatory burdens on eligible institutions. For this purpose, $10 million is authorized in fiscal year 1992 and such sums as may be necessary for the 4 succeeding fiscal years.

LEAVE OF ABSENCE

By unanimous request, leave of absence was granted to:

Mr. ORTIZ (at the request of Mr. GEPHARDT) for today between 11 a.m. and 2 p.m. on account of official business.

Mr. HUTTO (at the request of Mr. GEPHARDT) for today after 3 p.m. on account of official business.

Mr. WASHINGTON (at the request of Mr. GEPHARDT) for today after 1 p.m. on account of official business.

Mr. RAY (at the request of Mr. GEPHARDT) for today on account of a death in the family.

Mr. WALSH (at the request of Mr. MICHEL) for today on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. DREIER of California) to revise and extend his remarks and include extraneous material:)

Mr. IRELAND, for 5 minutes, today.

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. STAGGERS, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mrs. LOWEY of New York, for 20 minutes, today.

Mr. SKELTON, for 60 minutes each day, on July 16, 23, and 30.

Mr. MCCLOSKEY, for 60 minutes, on June 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. BALLENGER.
Mr. WELDON.
Mr. GOODLING.
Mr. BEREUTER.
Mr. DUNCAN.
Mr. GALLEGLY.
Mr. PURSELL.
Mr. THOMAS of California.
Mr. FRANKS of Connecticut.
Mr. MICHEL.
Mr. KOLBE.

(The following Members (at the request of Mr. MCNULTY) and to include extraneous matter:)

Mr. TRAXLER.
Mr. SWETT.
Mr. ROEMER.
Mr. BONIOR.
Mr. SOLARZ.
Mr. TORRICELLI in two instances.
Mr. SOLARZ.
Mr. DARDEN.
Mr. BRUCE.
Mr. TORRES.
Mr. MAZZOLI.
Mr. SERRANO.
Mrs. LOWEY of New York.
Mr. YATRON.

ADJOURNMENT

Mr. FRANK of Massachusetts. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 25 minutes), under its previous order, the House adjourned until Monday, June 24, 1991, at 12 p.m.noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1592. A letter from the Comptroller General, the General Accounting Office, transmitting a review of the President's fourth special impoundment message for fiscal year 1991, pursuant to 2 U.S.C. 685 (H. Doc. No. 102–102); to the Committee on Appropriations and ordered to be printed.

1593. A letter from the Assistant Secretary of Defense, transmitting the 1991 report on textile and apparel manufacturing, pursuant to 10 U.S.C. 113 note; to the Committee on Armed Services.

1594. A letter from the Department of Defense, transmitting notification of the Defense Nuclear Agency's decision to exercise the provision for exclusion of the clause concerning examination of records by the Comptroller General, pursuant to 10 U.S.C. 2313(c); to the Committee on Armed Services.

1595. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to reorganize the Alcohol, Drug Abuse, and Mental Health Administration; to the Committee on Energy and Commerce.

1596. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Australia for defense articles and services (Transmittal No. 91–29), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1597. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the NATO Seasparrow Consortium for defense articles and services (Transmittal No. 91–24), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1598. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 232, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

1599. A letter from the Director, Office of Management and Budget, transmitting OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from passage of H.R. 2251, pursuant to Public Law 101–508, section 13101(a) (104 Stat. 1388–582); to the Committee on Government Operations.

1600. A letter from the Comptroller General of the United States, transmitting the Comptroller's views of the Conyers-Horton amendment to H.R. 2622; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ASPIN: Committee on Armed Services. H.R. 2474. A bill to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal years 1992 and 1993, and for other purposes; with amendments (Rept. 102–93, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. GORDON: Committee on Rules. House Resolution 179. Resolution waiving certain points of order during consideration of H.R. 2686, a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102–118). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. H.R. 2698. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102–119). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIXON: Committee on Appropriations. H.R. 2699. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other pruposes (Rept. 102–120). Referred to the Committee of the Whole House on the State of the Union.

Mr. NATCHER: Committee on Appropriations. H.R. 2707. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102–121). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITTEN:

H.R. 2698. A bill making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. DIXON:

H.R. 2699. A bill making appropriations for the government of the District of Columbia and other activities chargable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. RITTER:

H.R. 2700. A bill to establish uniform standards for product liability actions; jointly, to the Committees on the Judiciary and Energy and Commerce.

H.R. 2701. A bill to promote greater predictability in professional liability actions by establishing certain standards for liability and providing for other reforms; jointly, to the Committees on the Judiciary and Energy and Commerce.

H.R. 2702. A bill to amend the Internal Revenue Code of 1986 to encourage investments in startup companies by providing special treatment for losses on such investments; to the Committee on Ways and Means.

H.R. 2703. A bill to amend the Internal Revenue Code of 1986 to provide a variable capital gains deduction and to index the basis of capital assets; to the Committee on Ways and Means.

H.R. 2704. A bill to amend the Internal Revenue Code of 1986 to encourage investments in new manufacturing and other productive equipment by allowing an investment tax credit for such investments; to the Committee on Ways and Means.

H.R. 2705. A bill to amend the Internal Revenue Code of 1986 to encourage investments in manufacturing companies by providing special treatment for losses on such investments; to the Committee on Ways and Means.

H.R. 2706. A bill to amend the Internal Revenue Code of 1986 to provide a partial exclusion of dividends and interest received by individuals; to the Committee on Ways and Means.

By Mr. NATCHER:

H.R. 2707. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1992, and for other purposes.

By Mr. ARCHER:

H.R. 2708. A bill to amend the Internal Revenue Code of 1986 to clarify the application of certain pension plan distribution rules in cases where plan assets are invested with an insurance company in conservatorship; to the Committee on Ways and Means.

By Mrs. BENTLEY (for herself, Mr. GAYDOS, Mr. DONNELLY, Mr. LIPINSKI, Mr. HAYES of Louisiana, Mr. REED, Mr. HOCHBRUECKNER, Mr. FRANK of Massachusetts, Mr. DWYER of New Jersey, Mr. BENNETT, Mr. OBERSTAR, Mr. LIVINGSTON, Mr. SOLOMON, Mr. JEFFERSON, Mrs. UNSOELD, Mr. CARDIN, Mr. BAKER, Mr. DAVIS, Mr. BLILEY, Mr. BATEMAN, Mr. MURPHY, Mr. GILCHREST, Mr. LEWIS of California, Mr. HOLLOWAY, Mr. DORNAN of California, Mr. LOWERY of California, Mr. TAUZIN, Mr. OLIN, Mr. BILBRAY, Mr. HUNTER, Mr. HUBBARD, Mr. BLAZ, Mr. DELLUMS, Mr. RAVENEL, Mr. HORTON, Mr. SPENCE, Mr. MCMILLEN of Maryland, Mr. TALLON, Mr. CALLAHAN, Mr. GOODLING, Mr. MINETA, Mrs. JOHNSON of Connecticut, Mr. HERTEL, Mr. AUCOIN, Mr. SERRANO, Mr. PACKARD, Mrs. BYRON, Mr. RITTER, Mr. ANNUNZIO, Mr. ABERCROMBIE, Mr. KOLTER, Mr. MURTHA, Mr. OWENS of Utah, Mr. CHAPMAN, Mr. DEFAZIO, Mr. HUCKABY, Mr. PAYNE of Virginia, Mr. ANDREWS of Maine, Mr. MONTGOMERY, Mr. CUNNINGHAM, Mr. BORSKI, Mr. ATKINS, Mr. TAYLOR of North Carolina, Mr. TAYLOR of Mississippi, Mrs. MINK, Mr. TORRICELLI, Mr. GRANDY, Mr. HERGER, Mr. SLAUGHTER of Virginia, Mr. DICKS, Mr. QUILLEN, Mr. PURSELL, Mr. GALLEGLY, Mr. COBLE, Mr. HYDE, Mr. DARDEN, Mr. TRAFICANT, Mr. HARRIS, Mr. SAXTON, Mr. GONZALEZ, Mr. FOGLIETTA, and Mr. SCHULZE):

H.R. 2709. A bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. CLEMENT (for himself, Mr. COOPER, Mr. DUNCAN, Mr. FORD of Tennessee, Mr. GORDON, Mrs. LLOYD, Mr. QUILLEN, and Mr. SUNDQUIST):

H.R. 2710. A bill to amend title 28, United States Code, to provide for the appointment of an additional bankruptcy judge for the Middle District of Tennessee; to the Committee on the Judiciary.

By Mr. COUGHLIN:

H.R. 2711. A bill to amend the Foreign Assistance Act of 1961 to authorize assistance for foreign countries to plan and implement operations to interdict drug traffickers operating in those countries; to the Committee on Foreign Affairs.

By Mr. COUGHLIN (for himself, Mr. OXLEY, and Mr. PAXON):

H.R. 2712. A bill to provide authority to the Coast Guard to use necessary and appropriate force, in strictly controlled circumstances, to compel aircraft used in drug trafficking to land; jointly, to the Committees on Merchant Marine and Fisheries and Armed Services.

By Mr. COYNE:

H.R. 2713. A bill to extend the existing suspension of duty on 1,5-naphthalane diisocyanate; to the Committee on Ways and Means.

By Mr. CRANE:

H.R. 2714. A bill to amend the Internal Revenue Code of 1986 to increase the personal exemption to $4,000; to the Committee on Ways and Means.

By Mr. ENGEL:

H.R. 2715. A bill to amend the Communications Act of 1934 to direct the Federal Communications Commission to establish an ethnic and minority affairs section; to the Committee on Energy and Commerce.

By Mr. GOODLING (for himself and Mrs. LOWEY of New York):

H.R. 2716. A bill to amend title IV of the Higher Education Act of 1965 in order to improve the process for accreditation, licensure, and approval of institutions participating in programs under that title; to the Committee on Education and Labor.

By Mr. HOAGLAND (for himself and Mr. GLICKMAN):

H.R. 2717. A bill to amend section 319 of title 23, United States Code, relating to landscaping and scenic enhancement, to authorize planting trees along the rights-of-way of Federal-aid highways; to the Committee on Public Works and Transportation.

By Mrs. MORELLA:

H.R. 2718. A bill to amend the Metropolitan Washington Airports Act of 1986 to provide for reorganization of the Metropolitan Washington Airport Authority and for local review of proposed actions of the Airports Authority affecting aircraft noise; to the Committee on Public Works and Transportation.

By Ms. NORTON:

H.R. 2719. A bill to amend title 38, United States Code, to provide for the repatriation of the remains of veterans who received certain distinguished medals; to the Committee on Veterans' Affairs.

By Mr. OWENS of New York:

H.R. 2720. A bill to extend for 1 year the authorizations of appropriations for the programs under the Child Abuse Prevention and Treatment Act and the Family Violence Prevention and Services Act, and for certain programs relating to adoption opportunities, and for other purposes; to the Committee on Education and Labor.

BY Mr. PALLONE (for himself and Mr. SOLOMON):

H.R. 2721. A bill to amend the Internal Revenue Code of 1986 to immediately repeal the luxury tax on passenger vehicles; to the Committee on Ways and Means.

By Mr. PAYNE of New Jersey:

H.R. 2722. A bill to revise and extend the programs under the Abandoned Infants Assistance Act of 1988; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. TORRICELLI:

H.R. 2723. A bill to grant the United States a copyright to the flag of the United States and to impose criminal penalties for the destruction of a copyrighted Flag; to the Committee on the Judiciary.

By Mr. VISCLOSKY:

H.R. 2724. A bill to amend the Federal Water Pollution Control Act to establish a Water Pollution Penalty Fund and to authorize the Administrator of the Environmental Protection Agency to use amounts in that Fund to carry out projects to restore and recover waters of the United States from damages resulting from violations of that Act; to the Committee on Public Works and Transportation.

H.R. 2725. A bill to amend the Federal Water Pollution Control Act to direct the Administrator of the Environmental Protection Agency to enter into contracts with the Secretary of the Army to carry out a project for the removal and appropriate disposal of sediments, including contaminated sediments, in Indiana Harbor and Ship Canal, East Chicago, IN; to the Committee on Public Works and Transportation.

By Mr. WASHINGTON:

H.R. 2726. A bill to authorize the National Institute of Corrections to make grants to States to carry out family unity demonstration projects; and for other purposes; to the Committee on the Judiciary.

H.R. 2727. A bill to provide for the National Institute of Justice to study the feasibility of establishing a clearinghouse to facilitate the transfer of prisoners among State correctional institutions; to the Committee on the Judiciary.

By Mr. COLEMAN of Missouri (for himself, Mr. FORD of Michigan, Mr. GOODLING, and Mr. KILDEE):

H.J. Res. 279. Joint resolution to declare it to be the policy of the United States that there should be a renewed and sustained commitment by the Federal Government and the American people to the importance of adult education; to the Committee on Education and Labor.

By Mr. TRAXLER (for himself, Mr. PENNY, Mr. HORTON, Mr. PAYNE of Virginia, Mr. MCDERMOTT, Mr. LAFALCE, Mr. SANGMEISTER, Mr. KOSTMAYER, Mr. KANJORSKI, Mr. HARRIS, Mr. GUARINI, Mr. STAGGERS, Mr. BONIOR, Mr. KOLBE, Mr. SERRANO, Mr. GILLMOR, Mrs. MINK, Mr. HEFNER, Mr. NEAL of Massachusetts, Mr. HAMILTON, Mr. RAVENEL, Mr. FROST, Ms. KAPTUR, Mr. WISE, Mrs. MORELLA, Ms. LONG, Ms. NORTON, Mr. BOEHNER, Mr. BARNARD, Mr. KILDEE, Mrs. LLOYD, Mr. SMITH of Florida, Mr. FAZIO, Mr. WOLPE, Mr. VALENTINE, Mr. SMITH of Texas, and Mr. FORD of Michigan):

H. Con. Res. 172. Concurrent resolution providing for the printing of a revised edition of the booklet entitled "Our American Government" as a House Document; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

196. The SPEAKER presented a memorial of the Senate of the State of Nevada, relative to EPA's proposed standards for the regulation of waste from mines; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GREEN of New York introduced a bill (H.R. 2728) to provide the U.S. Claims Court with jurisdiction to hear, determine, and render judgment upon any claim by the personal representative of the estate of Beatrice Braude against the United States for the backpay of Beatrice Braude; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 11: Mr. SHAYS and Mr. SHARP.

H.R. 44: Mr. RINALDO.

H.R. 66: Mr. SWIFT, Mr. CARPER, Ms. PELOSI, Mr. MORRISON, Mrs. BOXER, and Mr. KILDEE.

H.R. 68: Mr. THOMAS of California and Mr. MRAZEK.

H.R. 74: Mr. TOWNS, Ms. NORTON, Mr. LANCASTER, Mr. SLATTERY, Mr. BUSTAMANTE, Mr. GEPHARDT, Mr. TRAFICANT, and Mr. HAMILTON.

H.R. 116: Mrs. PATTERSON.

H.R. 127: Mr. LEVINE of California, Mr. MOORHEAD, Mr. DORNAN of California, Mr. HOCHBRUECKNER, Mr. LENT, Mr. CONYERS, Mr. MCEWEN, and Mr. BUSTAMANTE.

H.R. 394: Mr. GONZALEZ, Mr. FALEOMAVAEGA, and Mr. SARPALIUS.

H.R. 463: Mr. PALLONE.

H.R. 661: Mr. CHANDLER and Mrs. JOHNSON of Connecticut.

H.R. 765: Mr. MCCLOSKEY, Mr. HOCHBRUECKNER, Mr. CONYERS, Mr. SMITH of Florida, and Mr. JONTZ.

H.R. 786: Mr. ROYBAL.

H.R. 911: Mr. SKAGGS, Mr. GALLO, Mr. DE LUGO, Mr. FROST, Mr. LAGOMARSINO, Mr. RHODES, Mr. ESPY, Mr. QUILLEN, Mr. BROWN, Mr. HATCHER, Mr. COUGHLIN, Mr. MACHTLEY, Mr. RICHARDSON, and Mr. CONDIT.

H.R. 999: Mr. HEFLEY.

H.R. 1063: Mr. MRAZEK, Mr. FOGLIETTA, Mr. ACKERMAN, Mr. SANDERS, Mr. JEFFERSON, Mr. RANGEL, and Mr. ANDREWS of New Jersey.

H.R. 1126: Mr. MARTINEZ, Mr. MCGRATH, Mr. VISCLOSKY, Mr. FOGLIETTA, Mr. HERTEL, and Mr. KILDEE.

H.R. 1161: Mr. KILDEE, Ms. ROS-LEHTINEN, and Mr. RAVENEL.

H.R. 1186: Mr. GEKAS, Mr. APPLEGATE, Mr. FISH, Mr. WOLPE, Mr. HANSEN, Mr. BATEMAN, Mr. MOLLOHAN, Mr. JONTZ, Mr. NAGLE, Mr. HEFNER, Mr. ALEXANDER, Mr. GILLMOR, Mr. WYLIE, Mr. GORDON, Mr. LIVINGSTON, Mr. ROWLAND, Mr. RAY, Mr. KILDEE, Ms. ROS-LEHTINEN, and Mr. PERKINS.

H.R. 1226: Mr. ECKART.

H.R. 1269: Mr. PALLONE.

H.R. 1300: Mr. OLVER.

H.R. 1335: Mr. ESPY, Mr. DELLUMS, Mr. SMITH of New Jersey, and Mr. MACHTLEY.

H.R. 1354: Mrs. LOWEY of New York, Mrs. SCHROEDER, Mr. BURTON of Indiana, Mr. WISE, Mr. SWIFT, Mr. HAYES of Louisiana, Mr. SLATTERY, Mr. REED, Mr. MAZZOLI, Ms. DELAURO, Mr. RANGEL, Mr. MCDERMOTT, Mrs. MORELLA, Mr. DONNELLY, Mr. SWETT, Mr. CAMPBELL of California, Mr. ROYBAL, Mr. DANNEMEYER, Mr. STOKES, Mr. LEWIS of California, Ms. SLAUGHTER of New York, Mr. ANDERSON, Mr. MANTON, Mr. CARDIN, Mr. ROEMER, Mrs. ROUKEMA, Mr. MARKEY, and Mr. LEVIN of Michigan.

H.R. 1406: Mr. BROOMFIELD, Mr. SWETT, Mr. DIXON, Mr. PERKINS, Mr. LOWERY of California, Mr. PACKARD, Mr. GAYDOS, Mr. MCCANDLESS, Mr. THOMAS of Wyoming, Mrs. BOXER, Mr. STALLINGS, Mr. CALLAHAN, and Mr. ZELIFF.

H.R. 1407: Mr. CAMPBELL of California and Mr. ZIMMER.

H.R. 1456: Mr. MINETA, Mr. SWETT, Mr. THORNTON, Mr. HOUGHTON, and Mr. FISH.

H.R. 1460: Mr. YATES.

H.R. 1583: Mr. OWENS of Utah, Mr. WEISS, Mr. BUSTAMANTE, and Mr. FORD of Tennessee.

H.R. 1597: Mr. THOMAS of California.

H.R. 1603: Mr. RAMSTAD.

H.R. 1623: Mr. JEFFERSON, Mr. BILBRAY, Mr. RAMSTAD, Mr. QUILLEN, Mr. CONDIT, and Mr. GINGRICH.

H.R. 1624: Mr. JEFFERSON, Mr. BILBRAY, Mr. RAMSTAD, Mr. QUILLEN, and Mr. CONDIT.

H.R. 1707: Mr. MACHTLEY and Mr. OWENS of New York.

H.R. 1730: Mr. KILDEE, Mr. IRELAND, Mr. EVANS, Mr. MCDADE, Mr. HASTERT, Mr. RICHARDSON, Mr. JENKINS, Mrs. COLLINS of Michigan, Mr. SWIFT, and Mr. KLECZKA.

H.R. 1774: Mr. SWIFT, Mr. MCMILLAN of North Carolina, and Mr. GEJDENSON.

H.R. 1864: Mr. GUNDERSON, Mr. ECKART, Mr. MURPHY, Mr. KOLBE, and Mr. RIGGS.

H.R. 1916: Mr. FOGLIETTA, and Mr. KILDEE.

H.R. 1969: Mr. WEISS, and Mr. ECKART.

H.R. 2017: Mr. ESPY.

H.R. 2046: Mr. LEHMAN of Florida, Mr. PERKINS, Mr. THOMAS of Georgia, Mr. JEFFERSON, and Mr. BURTON of Indiana.

H.R. 2049: Mr. SHUSTER.

H.R. 2135: Mr. TALLON, Mr. HORTON, Mr. MILLER of California, Mr. ROSE, Mr. ANDREWS of New Jersey, and Mr. RIGGS.

H.R. 2215: Mr. BACCHUS, Mr. CONYERS, Mr. DELLUMS, Mr. DIXON, Mr. GORDON, Mr. HORTON, Mr. JEFFERSON, Mr. MFUME, Ms. NORTON, Mr. PAYNE of New Jersey, Mr. SCHEUER, and Mrs. UNSOELD.

H.R. 2289: Mr. MOLLOHAN.

H.R. 2305: Mr. HORTON, Mr. SCHIFF, and Mr. GALLO.

H.R. 2323: Mr. STARK, Mr. DELLUMS, Mr. SMITH of Florida, Mr. DWYER of New Jersey, Ms. NORTON, and Ms. KAPTUR.

H.R. 2335: Mr. JONTZ.

H.R. 2382: Mr. JONTZ and Mr. HAYES of Illinois.

H.R. 2385: Mr. LIPINSKI, Mr. WILSON, Mr. MCMILLEN of Maryland, and Mr. LIGHTFOOT.

H.R. 2391: Mr. LANCASTER and Mr. DWYER of New Jersey.

H.R. 2392: Mr. LANCASTER and Mr. DWYER of New Jersey.

H.R. 2439: Mr. DELLUMS.

H.R. 2448: Mr. RINALDO.

H.R. 2515: Mr. DONNELLY, Mr. FORD of Tennessee, Mr. POSHARD, and Mr. BILBRAY.

H.R. 2553: Ms. OAKAR and Mr. LIPINSKI.

H.R. 2600: Mr. RINALDO, Mr. COYNE, Mr. STARK, Mr. TORRES, and Mr. GAYDOS.

H.R. 2611: Ms. NORTON, Mr. BERMAN, and Mr. DICKS.

H.J. Res. 123: Mr. MARTIN, Mrs. COLLINS of Michigan, Mr. FOGLIETTA, Mr. DYMALLY, Mr. NICHOLS, Mr. JENKINS, Mr. ROE, Mr. FRANKS of Connecticut, Mr. PAYNE of Virginia, Mr. HUBBARD, and Mr. COLEMAN of Missouri.

H.J. Res. 142: Mr. HARRIS, Mrs. COLLINS of Illinois, Mrs. MEYERS of Kansas, Mr. QUILLEN, Mr. LAGOMARSINO, Mr. FALEOMAVAEGA, Mr. RIDGE, Ms. SLAUGHTER of New York, Mr. ROGERS, Mr. MCNULTY, Mr. ERDREICH, Mr. FOGLIETTA, Mr. MARTIN, Ms. KAPTUR, Mr. GEKAS, Mr. DEFAZIO, Mrs. COLLINS of Michigan, Mr. BROOMFIELD, Mr. WELDON, Mr. UPTON, Mr. MCGRATH, Mr. BAKER, Mr. RHODES, Mr. MOORHEAD, Mr. DANNEMEYER, Mr. PURSELL, Mr. KASICH, Mr. SHAW, Mr. ANNUNZIO, Mrs. VUCANOVICH, Mr. VANDER JAGT, Mr. RITTER, Mr. DYMALLY, Mr. PALLONE, Mr. JONTZ, Mr. PERKINS, Mrs. JOHNSON of Connecticut, Mr. EDWARDS of Oklahoma, Mr. ROBERTS, Mr. COBLE, Mr. TAYLOR of North Carolina, Mr. SMITH of New Jersey, Mr. WEBER, Mr. MURPHY, Mrs. BENTLEY, Mr. MCMILLEN of Maryland, Mr. FAZIO, and Mr. DWYER of New Jersey.

H.J. Res. 156: Mr. DARDEN.

H.J. Res. 177: Ms. NORTON.

H.J. Res. 180: Mrs. BOXER, Mr. CARPER, Mr. COYNE, Mr. LEWIS of Florida, Mr. NATCHER, Mr. RAMSTAD, and Mr. RIDGE.

H.J. Res. 189: Mr. DARDEN, Mr. HALL of Ohio, Mr. HEFNER, Mrs. KENNELLY, Mr. MCMILLEN of Maryland, Mr. REED, Mr. REGULA, Mr. RIGGS, Mr. ROBERTS, Mr. SKEEN, Mr. SMITH of Florida, Mr. TORRICELLI, Mr. DE LUGO, and Mr. ANDREWS of Maine.

H.J. Res. 211: Mr. MINETA, Mr. GOODLING, Mrs. BYRON, Mrs. BOXER, Mr. LEVIN of Michigan, Mr. GORDON, Mr. PANETTA, Mr. HENRY, Mr. PETRI, Mr. SUNDQUIST, and Mr. KOSTMAYER.

H.J. Res. 233: Mr. JONES of Georgia and Mr. JENKINS.

H.J. Res. 248: Mr. PURSELL, Mr. KOLBE, Mr. NICHOLS, Mr. CUNNINGHAM, Mr. EMERSON, Mr. SCHAEFER, Ms. ROS-LEHTINEN, Mr. GILCHREST, Mr. MILLER of Ohio, Mr. RIGGS, and Mr. HUTTO.

H.J. Res. 257: Mr. ACKERMAN, Mr. BALLENGER, Mrs. BYRON, Mr. CLEMENT, Mr. DEFAZIO, Mr. DINGELL, Mr. ESPY, Mr. FOGLIETTA, Mr. FORD of Michigan, Mr. GUARINI, Ms. NORTON, Mr. HORTON, Mr. HUGHES, Mr. LANCASTER, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEWIS of Georgia, Mr. LOWERY of California, Mr. OWENS of Utah, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. ROE, Mr. SANGMEISTER, Mr. SCHULZE, and Mr. VANDER JAGT.

H.J. Res. 261: Mr. AUCOIN, Mr. BEREUTER, Mr. CARDIN, Mr. ENGEL, Mr. MAVROULES, and Mr. SWETT.

H.J. Res. 270: Mr. ANTHONY and Mr. SMITH of Florida.

H. Con. Res. 4: Mr. SPRATT.

H. Con. Res. 107: Mr. GALLEGLY, Mr. EMERSON, Mr. WAXMAN, Mr. CONDIT, Mr. RAMSTAD, Mr. UPTON, Mr. TORRES, Mr. KOSTMAYER, Mr. GUNDERSON, Mr. HOCHBRUECKNER, Mr. ABERCROMBIE, Mrs. LOWEY of New York, Mr. GRANDY, Mr. INHOFE, Mr. FISH, and Mr. ENGEL.

H. Con. Res. 152: Mr. MRAZEK, Mr. SCHEUER, Mr. DWYER of New Jersey, Mr. LEWIS of Georgia, Mr. DELLUMS, Mr. BILBRAY, Mr. DORNAN of California, Mr. MARKEY, Mr. CONYERS, Ms. NORTON, Ms. KAPTUR, and Mr. YOUNG of Alaska.

H. Con. Res. 156: Mr. MRAZEK, Mr. LEACH, Mr. JEFFERSON, Mr. HORTON, and Mr. LAGOMARSINO.

H. Res. 96: Mr. BACCHUS, Mr. BALLENGER, Mr. BENNETT, Mrs. BENTLEY, Mr. BLAZ, Mr. BOEHLERT, Mr. BORSKI, Mr. BOUCHER, Mrs. BOXER, Mr. BUSTAMANTE, Mr. CARPER, Mr. DELLUMS, Mr. EDWARDS of California, Mr. ENGEL, Mr. ESPY, Mr. FASCELL, Mr. FAWELL, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GORDON, Mr. HAMILTON, Mr. HUGHES, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mr. KLECZKA, Mr. KOLBE, Mr. KOSTMAYER, Mr. LANCASTER, Mr. LAUGHLIN, Mr. LEHMAN of California, Mr. LEWIS of Florida, Mr. LIGHTFOOT, Mrs. LLOYD, Mr. MFUME, Mr. MYERS of Indiana, Mr. OWENS of New York, Mr. PAYNE of Virginia, Mr. PETERSON of Minnesota, Mr. SANTORUM, Mr. SCHEUER, Mr. SKAGGS, Mr. STARK, Mr. STUDDS, Mr. SWIFT, Mr. SYNAR, Mr. WEISS, Mr. WOLPE, and Mr. ZIMMER.

H. Res. 163: Mr. REED, Mr. HUGHES, Mr. MRAZEK, Mr. ACKERMAN, Mr. TRAFICANT, Mr. EVANS, Mr. BROWN, Mr. LOWERY of California, Mr. SCHEUER, Mr. RAHALL, Mr. ANDERSON, Mr. HORTON, Mr. DANNEMEYER, Mr. RITTER, Mr. DINGELL, and Mr. LEVINE of California.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2686

By Mr. VOLKMER:

—On page 95, beginning on line 11, strike all of section 317.

By Mr. CRANE:

—In the title relating to "RELATED AGENCIES", under the heading "NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES", strike the items relating to the "NATIONAL ENDOWMENT FOR THE ARTS",

SENATE—*Thursday, June 20, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour. Owe no man any thing, but to love one another: for he that loveth another hath fulfilled the law.—Romans 13:7,8.

God of our fathers, we are tragically predisposed to bring people "down to size." For those who deserve honor, we practice reductionism, finding it difficult to accept another's honor more than our own. Our culture seems committed to stereotypes. We pigeonhole groups of people and label them with a caricature by a clever, if not cynical, cartoonist. One person in a group falls or fails, and we treat the whole group as falling or failing.

Forgive us for this stereotypical thinking. Help us to realize that every individual is of eternal value—that our value is determined not by our achievements but by the love of God. Teach us, Lord, to value each other, to honor one another, to love one another.

In the name of Him who said, "He that would be greatest among you, let him be everybody's servant." Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 20, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the time of the leadership is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:30 a.m., with the Senator from New Mexico [Mr. BINGAMAN] to be recognized to speak for up to 30 minutes.

Mr. MITCHELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, will the Senator yield for a minute?

Mr. BINGAMAN. I yield.

SCHEDULE

Mr. MITCHELL. Mr. President, at 10:30 a.m. the Senate will begin consideration of the comprehensive crime legislation. This is an important measure. There will be debate only until 1 p.m.

Beginning at 1 p.m., or possibly later if any change is made in the schedule, we will be taking up amendments to the bill. Rollcall votes are expected throughout the day.

I hope that the Senate can begin prompt and active consideration of this measure and move toward completion on it at the earliest possible time, consistent, of course, with thorough debate and full opportunity for Senators to offer such amendments and participate in such debate as they choose.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico [Mr. BINGAMAN] is recognized for up to 30 minutes.

TECHNOLOGY POLICY AND MANUFACTURING COMPETITIVENESS

Mr. BINGAMAN. Mr. President, I first express my appreciation to the majority leader for his support in the legislation we are going to be discussing this morning, but also for his courtesy in permitting us to speak in morning business on this issue.

PRIVILEGE OF THE FLOOR

I begin by asking unanimous consent that a congressional fellow in my office, Harry Arman, be permitted on the Senate floor to participate in this discussion.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, technology is the future. But for the first time in this century, America's premier place in that future seems in doubt. The country that developed the computer, tamed the atom, and explored the Moon is losing one technology-based industry after another to foreign competition. The country that pioneered mass production, machine tools, and industrial robots now invests less in plant and equipment than Japan, that is less in absolute dollars, even though Japan has a gross national product of only 60 percent that of our own.

American stores are filled with products invented in the United States but no longer produced here. The ubiquitous video cassette recorder is just one example. Although an American company—Ampex Corp.—pioneered the technology, 95 percent of the world's VCR's are now built by foreign producers. The same story can be told of many other products: Televisions, audio tape recorders, cassette disks, liquid crystal display technology, silicon wafers. The list goes on.

This chart which I have put up here for my colleagues to view today shows the trend over the last 20 years from 1970 to 1990 in VCR's, machine tools, telephone sets, semiconductors, semiconductor manufacturing equipment, audio recorders, and many other examples could be demonstrated to support this very same trend that I am speaking about.

In other technologies that the United States pioneered, we are now a distant follower: numerically controlled machine tools, robotics, optoelectronics, and memory chips. Many experts believe that the American computer and software industries are in danger of following the same downward trend.

Ironically, the United Statres remains strong in science, and American firms continue to make most of the world's major technological breakthroughs. But our inability to follow through allows Japan and other rivals to produce the commercial products the world wants. Although the United States still holds key markets, on average, Japanese firms can turn technology into new products and processes both more quickly and less expensively than United States firms.

Because commercial products increasingly push the cutting edge in technology, this pattern has led to American technological decline as well, particularly in the critical generic technologies that are driving economic growth. Many of these same technologies are vital to future weapons systems.

Senator GORE, who will speak after me, and I both serve on the Armed Services Committee as well as Senator NUNN, who is a cosponsor with us of this legislation along with Senator HOLLINGS.

A recent report from the Council on Competitiveness, warned that the U.S. position in many critical technologies is slipping and, in some cases, has been lost altogether. The council, a coalition of chief executives from business, higher education and labor, concluded that "unless the Nation acts immediately to promote its position in critical generic technologies, U.S. * * * competitiveness will erode further, with disastrous consequences for American jobs, economic growth and national security."

TECHNOLOGY POLICY FOR THE 1990'S

Yesterday, Senators HOLLINGS, NUNN, GORE, and I introduced a package of four bills aimed at reversing that decline in our technology position. Let me use my allotted time to describe the broad approach taken by these bills.

First, the bills provide a comprehensive national strategy for promoting U.S. leadership in those core technologies deemed critical to future economic prosperity and national security. This strategy, which builds on legislation we have enacted over the last 3 years, both in the Armed Services Committee and the Commerce Committee, addresses the essential points at which limited Government support is necessary to complement private markets.

Let me just list those critical points:

A means to identify and continually reevaluate our technology priorities, and a mechanism to manage efforts across Federal agencies to promote those priorities that we have agreed upon;

Adequate support for the research and development of these critical technologies, particularly high-risk, long-term research and generic, incremental technology development, which is so important;

Increased efforts to assist industry in commercializing and applying these technologies;

An enhanced capability to monitor and gain access to foreign sources of technological advantage; and

Greater attention to the U.S. manufacturing base, through additional support for both the development of advanced manufacturing technology and the deployment of existing technology, particularly to small- and medium-sized firms.

Second, although the bills address market failures, they recognize that a national technology strategy must be industry-driven to be effective. Thus they require industry's commitment of funds and people at every stage. Industry involvement in technology development is necessary in order to direct public funds to high-risk areas that industry itself thinks will have the highest payoffs. Similarly, Government's role in promoting technology commercialization and application, manufacturing deployment, and foreign technology monitoring is intended in these bills to complement private resources, so as to gain the highest leverage for the Federal funds that we spend in this area and to ensure that Federal dollars do not displace private dollars.

Third, the bills we introduced yesterday link technology development with manufacturing. U.S. industry, long accustomed to a virtual monopoly of world markets, ignored the critical importance of manufacturing in a global economy. Federal R&D policy—limited to support for basic science and mission-oriented technology development—ignored the importance of manufacturing as well. We are now paying a heavy price for that neglect. Michael Dertouzos, the chairman of MIT's Commission on Industrial Productivity, recently summed it up. He said "[in the U.S.] we value creativity and innovativeness, and we don't value production. But the money is not in invention, it's in production."

Our bills create a National Manufacturing Extension Program modeled loosely after the highly successful agricultural extension service. That we are all familiar with. Under this program, the Federal Government will provide matching funds for new and existing State, local and nonprofit programs to help modernize small- and medium-sized manufacturing firms, where the problem is most acute. There are 360,000 of these firms and they account for over half of the value added in manufacturing. The United States currently spends only $70 million a year on manufacturing extension—about $20 million of that from the Federal Government—compared to $1.1 billion on agricultural extension, one-third Federal of which comes from the Federal Government. As with other components of our legislation, the National Manufacturing Extension Program requires strong industry involvement, particularly by large customer firms, which are the primary drivers of production modernization.

In addition, our legislation supports manufacturing R&D and education:

It provides additional funds for manufacturing R&D, which currently receives less than 2 percent of the Federal research budget;

It authorizes $25 million to expand undergraduate and graduate programs to train manufacturing engineers and managers.

Senator NUNN is independently introducing a portion of this legislation and has a particular interest in this aspect of the legislation.

It provides matching support to recruit manufacturing experts from industry to teach in community colleges and other postsecondary schools, with the goal of strengthening the capacity of these institutions to serve regional manufacturing firms.

Manufacturing is a challenging endeavor, worthy of our brightest students in engineering and management. Our colleges and universities must upgrade their curricula if they are to prepare such students for the intellectual challenge of high-technology product development, design, and production. And they must engage the help of experienced manufacturing firms in this work.

Fourth, just as Federal policy has ignored manufacturing, it has ignored factors important to the commercialization and application of technology. That neglect has allowed our competitors to take our inventions and turn them into high value added products. Our legislation addresses the critical importance of technology commercialization and application through support for regional, industry-directed centers designed to promote those activities. Organized around the geographic concentrations of firms that exist in nearly all States—autos in Detroit, polymers in Akron, electronics in Phoenix—these critical technology application centers [CTAC's] will provide applied R&D and a range of shared technology services, such as equipment testbed and scale-up facilities, prototype test and development, and education and training. These activities represent a kind of technology application infrastructure that is often lacking for all but the largest U.S. firms. By drawing together firms from complementary sectors, this intrastructure will also strengthen member firms through closer linkages to their customer and supplier firms—a major strength of Japan's production system.

Fifth, our legislation forges a partnership between technology agencies of the Federal Government, particularly the Department of Defense and the Department of Commerce. The Commerce Department's National Institute of Standards and Technology would be the lead agency in implementing the Manufacturing Extension Program, since it has the resident expertise. The Department of Defense would help shape and fund that program. Conversely, the Department of Defense would take the lead, with the help of the Department of Commerce, in supporting the critical technology application centers. We also have a role in this legislation for the Department of Energy, for NASA, for the National Science Foundation, for NIH, all of which agencies have a major role in technology development.

A partnership between Federal agencies in these areas is long overdue. And in this legislation we try to provide for a solution to that. Our historical reliance on defense R&D to foster commercial technology development is no longer appropriate. Experts agree that the commercial sector will increasingly drive the strategic military technologies of the future, and DOD will increasingly need to rely on commercial products, processes, and buying practices. Thus DOD has a major stake in the success of the national effort to strengthen industrial technological and manufacturing performance.

Finally, our legislation builds on existing technology programs that are working well. Last year, Congress appropriated $50 million to Department of Defense's Defense Advanced Research Projects Agency [DARPA] to support industry consortia conducting precompetitive R&D in critical technologies. The administration eliminated, in their proposed budget to us, any funding for that program. The National Critical Technologies Act reinstates that important program and authorizes $100 million for DARPA to expand it. The bill also authorizes $110 million—up from $35 million in fiscal year 1991—for the Department of Commerce's Advanced Technology Program, which supports industry-led precompetitive R&D projects.

Likewise, the Advanced Manufacturing Technology Act provides stable funding for DOD's Mantech and industrial preparedness programs, roughly $300 million, or triple the administration's request. Also in that bill, the National Manufacturing Extension Program supplements existing programs at NIST that were established under Senator HOLLINGS' leadership by the 1988 Trade Act and which his Manufacturing Strategy Act proposes to further strengthen. And all of these programs build on State and regional programs with strong local support.

CONCLUSION

This legislative package will not be sufficient to make up for government's and industry's past neglect of manufacturing and technological competitiveness. But these bills, taken together, are a necessary first step. Obviously more could and should be done. In particular, there must be separate consideration of direct incentives for firms to invest in worker training, plant and equipment, and technological innovation.

More generally, for over a decade now, this country has been losing its leadership position in technology and in manufacturing. And in this decade, the decade of the nineties, we must make a commitment to reversing that trend and to restoring our leadership. This legislative package proposed by Senators HOLLINGS, NUNN, GORE, and myself I believe represents a major step toward reclaiming our leadership in technology and in manufacturing.

Mr. BINGAMAN. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Tennessee.

Mr. GORE. Mr. President, I rise to address the same subject, but I wish to begin by complimenting my colleague, the Senator from New Mexico [Mr. BINGAMAN] for his outstanding leadership in this area. I have been privileged to serve as the ranking Democratic member on the Technology Subcommittee which is chaired by Senator BINGAMAN on the Armed Services Committee. I have the privilege of serving as the chairman of the counterpart subcommittee, the Science, Technology, and Space Subcommittee of the Commerce Committee and have greatly enjoyed our cooperative working relationship in addressing these issues.

May I say as well, as he did, that the chairman of the Commerce Committee, Senator HOLLINGS, of South Carolina, and the chairman of the Armed Services Committee, Senator NUNN, of Georgia, have been absolutely indispensable in this four-way working partnership.

May I say that Senator HOLLINGS particularly has been having hearings and offering successful legislation on this topic for many years and has been the focal point, in my opinion, in the Congress for addressing this overriding challenge.

And Senator NUNN, as Senator BINGAMAN has suggested, has intently pursued important initiatives that have advanced the Nation's position in this regard.

The four of us have joined in introducing four bills, two coming out of the Commerce Committee and two coming out of the Armed Services Committee, all with the same basic intent and purpose.

We have worked with a number of other Senators who have been instrumental in bringing forward key ideas. May I mention the Senator from Connecticut [Mr. LIEBERMAN] who will speak in just a moment. And we appreciated the Senate majority leader coming to the press conference yesterday and in other ways, serving notice that this is going to be a priority for the Senate this session, as well it should be.

The basic outlines of this problem are pretty clear by now. The United States of America does basic research and development better than any Nation in the entire world. But when it comes to applying the new ideas and breakthroughs and inventions and innovations to making new products and designing new industrial processes and manufacturing things which are then sold to people, we are falling behind. Europe, and especially Japan, and others are coming forward and changing the research and transforming it into useful products a lot more quickly than we are. And they are using not only their research, they are using our research, too. We have become the laboratory for the entire world. There is great honor and distinction in that, but there ought to be more. There ought to be a better opportunity for our companies and the working men and women of this country to benefit from the enormous amounts of money that we put into research and development and the tremendous achievements of our scientists and engineers.

When we look at what is going on, we see that Japan and many countries in Europe funnel a very significant portion of their governmental R&D into applied research and into efforts that are designed specifically to take the raw, new discoveries from the laboratory and transform them into use mechanisms for gaining an advantage in the marketplace.

The Senator from New Mexico has used the classic example of the video cassett recorder. That story ought to be known nationwise. We invented it. They marketed it. But there are so many other identical stories that are not as well known.

The chart which the Senator from New Mexico referred to earlier tells a part of that story. In industry after industry, field after field, new discoveries come in the United States of America and then a few years later the new products based on those new discoveries are imported from other countries and bought by Americans from other countries.

That is not the fault of those other countries. We do not begrudge them their success in coming up with these new products. But it is our fault for not recognizing the situation more quickly and doing something about it.

There is an ideological blindness in the Bush administration on this very point. It is not hard to understand the basis for it. They believe, and the President believes, that the Government ought to stay out of most things and just not get involved in trying to fix things that go wrong.

In foreign policy, for years, the country suffered from what some called the Vietnam syndrome, which was an unreasonable assumption that the risks of getting involved in trying to fix some problems overseas were always gong to be higher than the risks of just standing by and doing nothing and not even getting involved. So we tried to stay out of everything. We looked the other way. Even when our national interests were at stake, we would turn the other way and not try to get involved.

Maybe we have begun to get over that a little bit. I certainly hope so. The distinguished occupant of the chair is a decorated veteran of the Vietnam conflict and has been an articulate spokesman in addressing this particular debate in foreign policy.

But what about domestic policy here at home? We face a similar kind of syndrome here at home. The Bush administration assumes that the risks of getting involved in trying to fix problems here at home are always going to be higher than the risks of standing by and doing nothing and not even trying to do something to make things better.

They are wrong. Just as the Vietnam syndrome was wrong in foreign policy, that approach is wrong in domestic policy. The problem we are identifying here this morning is one of the clearest examples of that. Senator HOLLINGS chaired yet another in a long series of hearings that he has organized just yesterday on this subject, and some officials of the Bush administration came and testified and told the following story.

They said that American companies involved in high technology research had been recently contacted by officials from Japan who said we are organizing a national consortium to look at this particular high technology area, and this one, and this one, and they listed them. Can you be involved? Can you help us? Can you join in this effort? And these American companies asked themselves, and then went to the administration and said, what are we supposed to do? We do not have anything like this in the United States of America. But in our labs we have ideas we know are extremely valuable in world markets, if they can be turned into useful products and processes.

We have nothing. The Japanese and the Europeans and others, they are moving out. They have a technology policy, an advanced manufacturing strategy. They have a game plan. They know what they are doing. We are doing nothing because we have zero leadership from the white House on this question.

That is what these four bills are designed to address; to put in place the kinds of strategies that we need here in the United States and to have a coordinated approach. Not an industrial policy—forget that old bugaboo. Not picking winners and losers. But having a coordinated game plan to do it the right way. That is what these bills are about.

I commend them to the attention of my colleagues. I am delighted with the working relationship we have in putting these forward with the support of the majority leader and the two full committee chairmen, themselves leaders on this question, who have made it a priority in the two relevant committees.

Through this legislation we can help make economic growth a priority. The American dream remains irrevocably tied with technology. It is time to restore our lead in technology and manufacturing. It is time to work to keep the American dream within reach and the economic growth that makes it possible a long-term reality.

Mr. NUNN. Mr. President, I am pleased to join with my distinguished colleagues, Senator BINGAMAN, Senator HOLLINGS, and Senator GORE in cosponsoring these four important bills intended to enhance America's technological and manufacturing strength. This legislation is the product of numerous hearings held by Senator BINGAMAN's Defense Industry and Technology Subcommittee, and of similar hearings held by Senators HOLLINGS and GORE in the Commerce Committee, and reflects the advice and recommendations of persons in Government, industry and academia given at many other meetings and discussions.

I am especially pleased to see the level of cooperation that has taken place between the Armed Services Committee and the Commerce Committee in crafting this legislation. Senator BINGAMAN, Senator HOLLINGS, Senator GORE, and their staffs have applied a tremendous effort in putting this legislation together. I believe they have created a good package and I am proud to join them as an original cosponsor. This legislation will go a long way toward helping America remain on top as a global military and economic power.

That these members of the Armed Services Committee and the Commerce Committee have found it appropriate to work closely together reflects the changing relationship between defense and nondefense technology and production. Not too many years ago defense technology strongly drove the technological advances of America and the entire free world. Defense inventions and developments not only kept America's Armed Forces technologically superior, but defense spinoffs found their way into all of our lives and improved our standard of living. These developments also were a major contributor to America's position as the world's leading high-tech exporters.

One good example of this is in the aerospace industry. There, in the late 1950's, the Air Force developed a new jet tanker, the KC-135, which provided the basis for designing and producing America's first jetliner, the Boeing 707. This defense investment, and its investment in the jet engines developed by General Electric and Pratt-Whitney for military aircraft over the years, have inevitably led to new models for use in the commercial jet aircraft market and is the basis for America's lead in this technology. Because of this, the United States continues to dominate the aerospace export market, and Boeing Aircraft is America's top exporter in terms of foreign sales.

Defense technology has spun-off many other applications for nondefense uses which have found their way into all of our lives. Things like the microwave oven, digital computers, semiconductors, and new materials for our automobiles and homes. But defense development and production no longer dominates like it once did. The evolution from the cold war will hopefully reduce military confrontation but economic warfare directly based on technology and productivity gains will intensify.

Today we find that there is more spin-on from nondefense development to defense than there is spin-off from defense to commercial markets. Since and technology no longer cleanly separate into defense and nondefense. And the same is true for manufacturing and production. That is why I believe this legislation, which takes a broader view of the Nation's technological and industrial agenda. And which attempts to create ways to prioritize and harmonize these activities, is so important.

Likewise, this legislation recognizes the strong role that manufacturing in America plays in keeping us No. 1 both in defense and in economic matters. It pays particular attention to the needs of the small- and medium-sized manufacturers who form the backbone of this Nation's production might.

Included in this legislative package is one provision that I feel merits special attention. This is the provision that supports enhancing existing programs, or establishing new programs, in manufacturing engineering education at our universities and colleges. Having the properly educated and trained human resources available is the key to any future success this Nation will achieve in technology and manufacturing. Today our universities and colleges produce the world's best scientists. They produce the world's best design engineers. But, for a variety of different reasons, we have neglected to adequately train enough manufacturing engineers. The purpose of this provision is to correct this inbalance. I have worked closely with Senator BINGAMAN on this provision, and because we feel it is so important, I have introduced it separately as a stand-alone bill which enjoys strong bipartisan support in the Senate.

Mr. President, this legislative package is strongly supported by numerous national organizations, and by many distinguished individuals all well-qualified to pass judgment on its merits. It provides an excellent opportunity for America to move ahead in establishing the policy and the mechanisms that we need to continue to be the world leader in technology and manufacturing.

In closing, I would like to thank my colleagues on the Armed Services Committee and the Commerce Committee for all of the excellent work they have devoted to preparing this legislation.

The results of their many long hours devoted to this effort is a truly comprehensive, far-reaching set of provisions that will provide a substantial basis for moving ahead in these two important areas. I urge my colleagues in the Senate to support this legislative initiative and give it your positive vote.

EXTENSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President, I ask unanimous consent the period for morning business be extended not beyond 10:45 am., with Senators permitted to speak therein for up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TECHNOLOGY LEGISLATION

Mr. LIEBERMAN. Mr. President, first I join my colleagues, the Senators from New Mexico and Tennessee, and also Senators NUNN and HOLLINGS, in the introduction of these four bills which I think can play a critical role in jump-starting our economy.

In the debate over America's declining industrial competitiveness and slowing economic growth, which I think is the No. 1 long-term challenge facing Congress in America today, we must address the high cost of capital, our low rate of savings and investment, chronic trade and budget deficits, and the failure of our educational system to prepare our children for the jobs that we need done. But we also must address the fundamental issue of technological advancement. That is what these four bills would do.

Technological advancement can drive an economy by creating new jobs, goods, services, industries, and capital. It increases productivity and products, and it will break through the competitive disadvantage that American firms are now facing.

My colleagues have spoken about the essential fact here, and I just repeat it in one sentence: America is still No. 1 at research, but falling behind in our ability to convert that research into products that can sell in America and throughout the world. If we are going to compete again successfully, if we are going to remain the dominant economic power in the world, it is going to take a new kind of partnership between the public and the private sectors.

This administration, as the Senator from Tennessee has indicated, has been mired in out-of-date economic theory and irrelevant ideological debates. The White House says the Federal Government has no business picking winners and losers and that the free market must reign supreme. Obviously, today all of us support the market economy. Here, as President Yeltsin visits our country to find out how to make it work, certainly we are not going to retreat from capitalism and the market economy.

But the message of American Government and economic success is that the free market system works best when it is supported by American Government. We have always picked winners and losers going way back in our history. That is how the railroads were built. That is how the highways were built. That is how the American aerospace industry and American agriculture have become the worldwide standards for American excellence, all of that done by the market with Government support.

That is exactly what these four bills would do for our manufacturing sector.

Mr. President, I introduced legislation myself in late April that addresses some of the concerns that American manufacturers have had in trying to remain competitive. Basically, my legislation would create a civilian DARPA, building on the success of that agency in the Department of Defense. It is not picking individual winners and losers; it is putting the Government on the side of industry by forming a working partnership. That is the intent of these four bills, and that is why I am proud to join in cosponsoring them.

CHEMICAL PLANT ACCIDENTS

Mr. LIEBERMAN. Mr. President, briefly I want to address another subject and that is the chemical accident that occurred at a plant in South Carolina. This one killed 6 workers and injured 33 others earlier this week. The number of accidents at chemical plants in this country has been dramatically on the rise. Twenty-three workers have died in five such accidents this year. Yesterday's New York Times included an excellent article by Keith Schneider that chronicles the recent history of these chemical plant disasters. I ask unanimous consent that that article be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LIEBERMAN. Mr. President, the time is right for an effective Federal response to this growing problem. We need an independent board equipped to respond to chemical plant explosions in the same manner as the National Transportation Safety Board responds to airplane crashes or train wrecks.

I am not talking about introducing a new bill. It is not necessary. We adopted it last year in the Clean Air Act, a section which provides for the creation of a chemical safety and hazard investigation board. But so far that section has been ignored by the administration. I ask this morning: Since when does the administration have the right to exercise line-item vetoes over laws passed by Congress? Since when can the President choose to ignore those sections of a law with which he disagrees?

The administration claims that it has failed to establish this board because of constitutional concerns over the board's relationship to the President and executive branch agencies.

I sat through the Clean Air Act hearings and the negotiating sessions with the White House on the Clean Air Act. I never heard a word of opposition based on constitutional concerns. Meanwhile, the explosions and the deaths continue with no independent teams doing the kind of methodical work that can identify the reasons behind these disasters and recommend improvements that safeguard human health. We need a watchdog because of the loss of potential human life.

The fact is that millions of people in this country live close enough to chemical plants to lose their lives if catastrophic explosions occur, and winds carry toxic fumes into their homes. The Bhopal disaster occurred thousands of miles away from our shores, but we must not delude ourselves into thinking it cannot happen here.

If the chemical industry needs to make safety improvements to protect their workers and their neighbors, we need to know now what those improvements should be. Only by establishing a Chemical Safety and Hazard Investigation Board can we be assured that every accident will be looked into with a professional, independent eye, and that the public will be told what went wrong, and what we can do to prevent disaster in the future.

The National Transportation Safety Board, by determining the cause of hundreds of accidents and making significant recommendations for safety improvements, has saved countless lives over recent decades. The American people feel safer—they are safer—because the NTSB is in existence. The American people deserve an NTSB for the chemical industry. The law requires it. It's time for the administration to fulfill the law, and create the Chemical Safety and Hazard Investigation Board, before some Bhopal-like disaster leads it to regret its unconscionable delay.

EXHIBIT 1

[From the New York Times, June 19, 1991]

PETROCHEMICAL DISASTERS RAISE ALARM IN INDUSTRY

(By Keith Schneider)

CHARLESTON, SC, June 18.—The blast that killed six workers at a chemical plant here on Monday was the latest in a streak of fires, explosions and poison-gas leaks at refineries and chemical plants around the nation.

Since October 1987, when a leak of hydrogen fluoride gas at a Marathon Oil refinery forced the evacuation of thousands in Texas City, Tex., the American petrochemical industry has endured one of the deadliest periods in its history, one that has baffled Government experts and alarmed company executives. The 12 worst explosions have killed 79 people, injured 933 and caused roughly $2 billion in damage.

In the last six weeks, before the blast here Monday at the Albright & Wilson Americas plant, an explosion at the Angus Chemical Company in Sterlington, La., killed 8 workers, injured 128 workers and residents, wrecked businesses and ruined so many homes that 23 families are still living in motels.

The explosion at Albright & Wilson Americas, a subsidiary of the Tenneco, occurred as workers were mixing chemicals to make a flame retardant used in textiles and is being investigated. Twenty-one employees and two firefighters were injured.

ARE THERE ANY LINKS?

Oil and chemical industry executives acknowledge that the number of recent big accidents, but they say they do not know if there is a common link. A petroleum trade group has begun a study to determine if there is a thread.

But independent safety experts and industry unions point to several trends that they say have made plants and refineries more dangerous: a growing dependence on the use of outside contractors, slipping safety standards, improper and inadequate training, flaws in engineering and design, old and deteriorating equipment, and a more aggressive drive for profits.

Gordon Strickland, assistant vice president of the Chemical Manufacturers Association, the industry's policy group in Washington, said that safety and training are improving, and denied that any of these factors were causing the rash of problems.

"The accidents that have occurred, it seems, all have different causes," he said. "The consequence is that one cannot nail it down to design or maintenance or whatever. And I don't believe that safety is anything but a first-line interest and concern in our industry."

THE DEATH RATE DOUBLES

An independent research group in Chicago, the National Safe Workplace Institute, said that the fatality rate from 1971, when the Occupational Safety and Health Administration was established, until the early 1980's was less than 10 a year. Over the past four years, the rate has been more than double that.

In 1987, according to the institute, the number of deaths and injuries in the petrochemical industry began to rise steadily. In 1989, an explosion at the Phillips Petroleum plastics plant in Pasadena, Tex., killed 23 workers. A year later, 17 workers were killed at an ARCO Chemical Company plant in Channelview, Tex. In the first six months of this year, 23 workers have died in five accidents.

The safety group based its estimate on news articles and interviews with business executives, labor groups, and Government officials.

On Monday, in the Charleston accident, 6 workers were killed and 23 injured when a chemical reactor apparently exploded without warning. Investigators from the company, and the State Labor Department have not determined the cause of the explosion.

But some aspects of the explosion described today by the plant's general manager and several workers were reminiscent of previous accidents. It occurred soon after a week-long shutdown; many of the workers killed or injured were contract workers, not plant employees, and new controls were being installed.

At this stage in the investigation there is no way to know if any of these factors contributed to the accident. And there is not a Federal agency that compiles statistics and investigates every accident the way the National Transportation Safety Board does, for example, with air crashes.

Although amendments to the Clean Air Act signed into law in 1990 established a Chemical Safety and Hazard Investigation Board, the White House has yet to appoint any members or provide funds.

The White House, in a statement, said it has not acted because of concerns over the structure of the board, how its activities will be coordinated with the Environmental Protection Agency and OSHA, and whether it will function as an independent group or under the jurisdiction of the President.

But Mr. Strickland of the chemical manufacturers group said there should be no delay: "Congress intended for the board to be established rapidly, and the events we see today suggest it should be expedited as quickly as possible."

OSHA now conducts investigations at accident sites, but its findings are often kept secret, pending the outcome of court cases involving penalties or, in rare cases, criminal charges.

WE LIVE IN TOXIC CITY

In the cities and towns that are host to the nation's 2,300 refineries and chemical processing plants, more and more workers and residents are asking whether the disasters are a coincidence, or an urgent signal.

"We live in toxicity, and it is very scary," said Bebe Lising, 39, a resident of Texas City and chairwoman of the Galveston-area chapter of the Sierra Club. "People have been kept so in the dark, and a lot of jobs are dependent on the industry. Our local health department is understaffed, and the plants monitor themselves."

Labor Department reviews show that the rate of injuries in refining and chemical plants is half the national rate for all manufacturing industries and has been declining. But the statistics do not take into account deaths and injuries suffered by employees of engineering and construction companies that work under contract.

Contract workers, whose numbers are rising in chemical and refining plants, are generally paid less and perform more dangerous duties than fulltime workers. Mistakes by these workers have been linked to many of the most serious accidents, including a disaster in October 1989 at the Phillips Petroleum plant near Houston that killed 23 workers and injured 232 people.

A study commissioned by OSHA determined last year that contract workers had much higher turnover rates than regular employees, received far less training and were much less aware of safety procedures in the event of an accident. The study, by the John Grey Institute of Lamar University in Texas, found that contract laborers were "routinely instructed to run in the event of an emergency," leaving regular employees to fight fires and shut down pumps and pipelines.

OSHA, a unit of the Department of Labor, is proposing a rule to require companies to give more training to contract workers. The American Petroleum Institute, the oil industry's principal trade group, has urged the Department of Labor to change its practices and report injury and accident statistics for all employees plant by plant.

Six months ago, the Petroleum Institute also started a study to see if any of the accidents had common characteristics. The study may be completed before the end of the year.

"There is great attention given to safety," said Charles Thomas Sawyer, vice president of industry affairs at the Petroleum Institute. "Is there a common reason for all of these accidents? I don't know the answer to that right now."

Last year, Congress directed OSHA and the E.P.A. to require companies to conduct studies of the potential castastrophic hazards of their plants and to submit plans for preventing accidents.

OSHA has almost finished its regulations. The E.P.A. has until 1993 to finish its regulations, which are aimed at modernizing equipment and improving manufacturing. Next month, the E.P.A. is scheduled to meet with state officials from New Jersey and California, the first states to establish rules for preventing chemical disasters.

The operating weaknesses in the petrochemical industry, say independent experts, may be the result of the aggressive cost cutting prompted by the corporate takeovers and mergers of the 1980's. To protect themselves from takeovers, or to finance the mergers, oil and chemical companies greatly increased production even as they cut costs and staff.

JOB TOTALS ARE SLASHED

More than 40,000 jobs have been cut in the refinery industry since 1982, according to the Petroleum Institute, leaving about 115,000 refinery workers. About 30,000 hourly jobs were lost in the chemical industry, according to the Oil, Chemical, and Atomic Workers International Union. Phillips Petroleum employed 30,000 people before it came under attack by T. Boone Pickens in the mid-1980's. By October 1989, when its chemical complex near Houston exploded, it employed 22,000.

"No sector of the economy was affected more by the raiders than the oil and chemical industry," said Joseph A. Kinney, director of the National Safe Workplace Institute. "Workers are paying for it with their blood."

Though industry executives say cutting costs has not affected safety, officials at OSHA say economy measures and their potential in compromise safety is a valid issue.

DEADLY BLASTS, TOXIC CLOUDS

The most serious chemical and refining accidents in the United States in recent years.

1. Texas City, Tex., Oct. 30, 1987: A worker operating a crane at Marathon Oil's Texas City refinery dropped a heater on a storage tank, causing a rupture that released 30,000 pounds of hydrogen fluoride gas. Three thousand residents were evacuated for three days, and 800 people were treated for breathing disorders and skin problems.

2. Pampa, Tex., Nov. 14, 1987: Butane and acetic acid leaked from a ruptured tank, forming a vast cloud of vapor that caught fire and exploded, destroying the Hoechst Celanese chemical plant, killing 3 workers and injuring 35 people. Economic loss, including property damage, lost production, legal expenses and fines: $241 million.

3. Henderson, Nev., May 5, 1988: Fire and explosion destroyed a Pacific Engineering and Production Company plant that manufactured ammonium perchlorate, a component of rocket fuel. Two employees, including the plant manager, were killed, 350 people were injured, 17,000 people were evacuated from their homes, and property damage was found 12 miles from the plant. Economic loss: $75 million.

4. Norco, La., May 5, 1988: An eight-inch pipe ruptured at a Shell Oil refinery, releasing a vapor cloud that ignited and exploded, killing 7 workers, injuring 42 and causing property damage that resulted in 5,200 claims. Economic loss: $327 million.

5. Pasadena, Tex., Oct. 23, 1989: A valve on a polyethylene reactor was left open at a Phillips Petroleum plastics plant, venting gases that caught fire and exploded with the force of 10,000 pounds of TNT. Twenty-three workers died, 232 people were injured, and the plant was destroyed. Economic loss: $750 million to $1 billion.

6. Baton Rouge, La., Dec. 24, 1989: A pipeline operating at high pressure ruptured at the Exxon U.S.A. refinery, releasing a cloud of ethane and propane that exploded, killing two workers, injuring seven and causing property damage up to six miles away. Economic loss: $44.7 million.

7. Channelview, Tex., July 5, 1990: An explosion in a compressor at a plant belonging to a chemical company owned by Atlantic Richfield killed 17 workers. Economic loss: $90 million.

8. Cincinnati, July 19, 1990: A fire and explosion at the BASF coatings and ink plant resulted from the cleaning of a chemical reactor vessel with volatile solvents. Two workers died, 80 people were injured, much of the plant was destroyed and 162 buildings were damaged. Economic loss: Company will not reveal.

9. Lake Charles, La., March 3, 1991: A fire and explosion killed 6 workers, injured 12, and caused extensive damage at the Citgo Petroleum refinery. Economic loss: Company will not reveal.

10. Corpus Christi, Tex., March 6, 1991: Two workers died and five were injured when hydrofluoric acid vapors escaped from a gasoline blending unit at the Kerr-McGee Corporation's Southwestern Refinery. Economic loss: Company will not reveal.

11. Port Lavaca, Tex., March 12, 1991: An explosion in the ethylene oxide unit of Union Carbide's Seadrift plant kills 1 and injures 19. Economic loss: $50 million to $75 million.

12. Sterlington, La., May 1, 1991: A fire in or near a compressor detonated nitro methane at the Angus Chemical Company plant, killing 8 workers, injuring 128 workers and residents, destroying much of the town's main business district and leaving 30 families temporarily homeless. Economic loss: more than $110 million.

13. Henderson, Nev., May 6, 1991: A pipe from a storage tank at the Pioneer Chlor Alkali plant leaked thousands of gallons of liquid chlorine in the middle of the night, causing evacuations, shutting down the city, sending 55 people to hospitals for treatment of injuries, mostly breathing problems.

14. Charleston, S.C., June 17, 1991: An explosion and fire at the Albright & Wilson Americas chemical plant killed 6 workers and injured 23 others including 2 firefighters. The accident occurred one day after a week-long shutdown. Economic loss: still to be determined by the company.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Connecticut [Mr. DODD].

AMERICAN MANUFACTURING

Mr. DODD. First of all, Mr. President, I want to commend Senator BINGAMAN, Senator NUNN, Senator HOLLINGS, Senator GORE, my colleague from Connecticut, Senator LIEBERMAN, and others, for their statements this morning regarding this package of legislation dealing with manufacturing in this country. And particular thanks to Senator BINGAMAN for taking the lead on this issue in developing this package which I think sets us at least on the track.

We are dealing with a fundamental issue that I think is going to determine global leadership by the end of this decade if not before and certainly in the 21st century. These four bills make up a comprehensive strategy to address a very serious problem facing this Nation: The decline of American manufacturing that threatens our technological leadership in the global marketplace.

As a member of the Senate Committee on Foreign Relations, I have had the opportunity in recent years to become more involved in issues relating to economic policy. In just this year alone, for example, my subcommittee has held a number of hearings on two matters relating to trade: the United States-Mexico Free-Trade Agreement and the Enterprise for the Americas Initiative.

Mr. President, I have long been convinced that economic policy must be considered as a fundamental part of our foreign policy. That is why I requested time this morning to speak on these bills introduced by the Senator from New Mexico.

Mr. President, some might think it is ironic that we choose this time to discuss the threat of America's decline. Some might think that America's role in the world is hardly a matter of concern right now. After all, some would say, we have just completed a highly successful and effective military mission in the Middle East. Within a matter of months, we moved over half a million men to the other side of the world—and within 100 hours after the start of the ground war, we brought the worlds fourth-largest army to its knees.

Some would even say that the United States, given the hardships that have befallen the Soviet Union recently, has finally established itself as the world's only superpower. And indeed, Mr. President, if you are talking about military power, they are absolutely, unequivocally correct. No other nation could have done what we did in the Persian Gulf. Everyone knows we were victors in the cold war, and our success in the Persian Gulf reflects that fact.

But Mr. President, we would be cruelly deceiving ourselves and the people of this country if we were to allow ourselves to believe that a victory in the cold war is the end of the story. Because U.S. military dominance in the world is just that—military dominance. It is nothing more. The New World Order will not only be based on who has the strongest air force and the better equipped troops. It will also be about who has the deepest pockets, the strongest manufacturing base, and the greatest technological know-how.

I firmly believe that the 21st century will be one of economic conflict, rather than military conflict. The fact is that we are moving from a bipolar world of nuclear confrontation to a tripolar world of economic competition. And we will need to move aggressively to firm up our manufacturing sector in order to keep up with the other two poles in this global competition—the Pacific rim and the European Community.

Mr. President, I think the approach taken in this package of legislation is a good one. It will unite the Department of Defense, the Department of Commerce, and other civilian agencies in a major effort to boost American manufacturing performance. It will significantly upgrade existing Department of Commerce efforts to assist U.S. manufacturers. And it will increase coordinated planning and management of Federal activities in critical technologies.

In short, Mr. President, this package recognizes that the problem threatening our Nation's manufacturing dominance is not one of creativity, but one of production. Our performance in some of the key technological sectors important to our economy confirms that fact.

In 1980, for example, 9 of the top 10 worldwide manufacturers of semiconductors were American firms. Nine years later, only 4 American firms remained in the top 10. In 1984, 7 of the top 10 computer manufacturers were American; 5 years later, only 4 reached the top 10.

And then there are the serious problems, of course, facing the Big Three automakers in this country. From the days of the old Model T, perhaps no product better symbolizes American creativity and ingenuity better than the automobile. But now the Japanese have 30 percent of the United States market, while American car manufacturers are racing to copy our competitors' assembly techniques.

Mr. President, we must take leadership now to address these problems. We do not need to instill creativity in American workers and manufacturers. But we do need to work on our follow-through. That is exactly what this package of bills will do.

So Mr. President, I firmly support this package. I commend the leadership for their introduction of it. And I commend Senator BINGAMAN and Senator HOLLINGS for their important work on this vital legislation.

As we stand on the verge of the New World Order, we must take the time to think carefully about what elements will make up that world order. And I think it is time we recognize that American economic policy and American competitiveness must take a paramount role. As we bolster our global diplomatic and military influence, this important legislation will ensure that the American manufacturing sector is not left behind.

PRODUCT LIABILITY AND FAIRNESS ACT

Mr. DODD. Mr. President, I would like to take this opportunity to discuss briefly another related matter—my cosponsorship of S. 640, the Product Liability Fairness Act of 1991.

For over a decade, I have not been a cosponsor of this legislation. Initially, my reluctance was tied to my concern that the legislation was designed to help only manufacturers and not the victims of product injuries. Senator DANFORTH and I unsuccessfully in 1985 and 1986, tried to deal with a comprehensive approach in liability matters. Unfortunately, that matter never came to a vote in the Senate.

Since then, Mr. President, this legislation has refined those particular procedures, and I now believe this bill represents a better balanced package of changes, some of which would benefit manufacturers, some of which would benefit victims, but all of which I think would produce a fair and more certain system of rules for redressing product injuries.

I note the presence of the distinguished Senator from Wisconsin on the floor who spent an extensive amount of his time a number of years ago dealing with a very similar matter, as have a number of others. But my hope that S. 640 will be given consideration. It is linked, Mr. President, directly to the bills introduced by the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. DODD. I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator recognizes the Senator from North Dakota [Mr. CONRAD].

U.S. ECONOMIC VULNERABILITY

Mr. CONRAD. Mr. President, I join in commending our colleague from New Mexico for his work in bringing these four bills to the attention of this body.

It seems clear to me that the chief weakness facing this country is our economic vulnerability. Last year, for the first time, Japanese assets worldwide were valued more highly than United States assets worldwide.

Ever since the mid-1980's we have been running very serious trade deficits, and, in fact, we have now become the largest debtor Nation in the world. In the mid-1980's, we were the largest creditor Nation in the world. What could be more clear than that the trend lines are moving against this country. What could be more clear than in industry after industry our competitors are on the move and we are not.

Mr. President, in my role as head of the deficit reduction caucus, I had an opportunity to bring in the Competitiveness Council to talk about the underlying reasons for the weakness that we are seeing in various manufacturing sectors. They have identified critical areas to U.S. technological supremacy. They have identified areas in which the United States must be more aggressive.

The Senator from New Mexico has taken a first step toward riveting the attention of this body and our Nation on what we can do to shore up the manufacturing in our country.

RURAL CRIME AND DRUG CONTROL ACT OF 1991

Mr. CONRAD. Mr. President, I rise to indicate this morning my support for the Rural Crime and Drug Control Act of 1991. This is a good bill, a bill of critical importance, to the people of North Dakota and other rural areas of the country. I am proud to be an original cosponsor.

I want to especially thank the distinguished chairman of the Judiciary Committee, Senator BIDEN, for his work on this bill. He has once again crafted a solid and tough proposal for fighting drug abuse and crime, and I thank him for it.

Mr. President, crime and drug abuse in our big cities get a great deal of publicity. It is difficult to watch an hour of television without seeing in graphic detail what drugs have done to our inner cities.

In my own neighborhood—and I live in Washington less than 10 blocks from this Capitol—in the 4½ years I have been in Washington, we have had two murders. I assume both of them were drug related. We have had numerous break-in attempts on our home, one of them successful. We have had our car stolen. We have had our renter have her transmission stolen out of her vehicle. She wakes up one morning, goes out, and the transmission is gone.

One of our renters went to try out for a play in suburban Maryland. After the play, she went to a fast-food restaurant to eat. While she was waiting for her order, a man jumped into the passenger side of the vehicle, put a gun to her head and said, "drive." This young woman, who had only been in Washington a relatively short time, a year earlier had been pistol whipped in a park three blocks from our house.

Mr. President, I do not know if all of these incidents were drug related, but I think we know in the big city that many of them are. And the time to act is now.

My point is it is not just here in the inner city; it is also in the rural parts of our country. But the drug problem in rural America has been largely ignored in the national debate. Little attention is paid to the damage drugs are doing to Main Street in middle America. This bill recognizes that the drug problem in rural America is just as potent, just as threatening and just as deadly.

It has been less than a year since I joined four of my colleagues to release a GAO study which showed that drug and alcohol abuse rates are just as high in rural areas as in urban centers. I said then that we needed the resources to fight this problem. I said then that we needed the money to educate our kids, and the money to find and punish drug dealers and pushers.

This bill delivers those resources and provides the tools needed to protect the streets and school yards of rural America.

Last year, we had a rural crime and drug bill which proposed only $25 million to tackle the problem. This year's bill proposes $50 million, and I promise by colleagues that every cent of it is needed. There is money here for the front end of the equation—stopping drug abuse before it starts. This bill provides the resources to go into the schools and tell kids that drugs are a dead end street. There is also money here to help those kids who do get into trouble, money to treat them and give them a chance to be drug-free citizens.

This bill promises that the pushers will pay. It promises tough penalties for those who turn a profit on the addiction of others. It promises prosecution to the full extent of the law for those who promise a high but deliver only misery. To those people, this bill says you will pay for what you have done. This is tough, workable legislation which will help make the streets of rural America safe again. I urge my colleagues to support it.

I yield back the remainder of my time.

EXTENSION OF MORNING BUSINESS

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the time for morning business be extended to 11 o'clock under the same conditions and limitations previously ordered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Chair recognizes the Senator from Colorado [Mr. WIRTH].

CRITICAL TECHNOLOGIES AND MANUFACTURING ACTS OF 1991

Mr. WIRTH. Mr. President, I am pleased to be an original cosponsor of the two bills introduced yesterday by the distinguished Senator from New Mexico [Mr. BINGAMAN], the majority leader, the chairman of the Armed Services Committee, and others.

The National Critical Technologies Act and the Advanced Manufacturing Technology Development, Deployment, and Education Act are complementary and essential initiatives to put America to work in the demanding international technology marketplace of the 21st century. These bills together point the way to a productive partnership between industry and government to sustain and nurture a viable technology and industrial base for this country.

Mr. President, we all watched with fascination and considerable pride the technological sophistication of American Armed Forces during the recent war in the gulf. Whether it was the pictures of American high-technology weapons striking their targets or the reports of the carefully orchestrated movement of massive amounts of troops and equipment, the technological accomplishments of the U.S. forces during the war were truly astounding. And a great deal of the credit for this success is due to American defense industry.

Yet as the images of the war fade, we are reminded that the technological successes we witnessed during the war stand in sharp contrast to the challenges we face in the broader world marketplace. Our Nation is going through a period of rapid and potentially profound change—changes brought about by the end of the cold war and by the emergence of new political and economic challenges.

The challenge of maintaining a robust defense industrial base in this period of transition and in the decade ahead will be a difficult as it is important. A falling defense budget will certainly erode the resources devoted directly to the defense industrial base. At the same time, American competitiveness in the world economy is being challenged for a variety of reasons well familiar to all of us. It is in this environment that we must address the challenge of maintaining a viable defense industrial base in the decade ahead.

We need a two-phrase policy that:

First, acknowledges the most cost-effective way to maintain a strong and innovative defense industrial base is to break down the barriers between military and civilian industry—to do away with the defense industrial complex as a kind of enclave within the broader American industrial effort; and

Second, acknowledges that this broader American industrial and technological effort exists in a highly competitive world, and this in turn requires a governmental role in enabling infrastructure for technological innovation and diffusion.

The critical technologies and manufacturing bills introduced yesterday do just that. And they are long overdue, Mr. President.

As a result of studies by industry groups, private research institutes, working groups of scientists and former Government officials, and even the Defense and Commerce Departments, the challenges confronting the U.S. economy and specific high technology sectors are fairly well understood. Compared with our economic competitors, we trail or are losing the narrow lead we have in a wide range of markets, from semiconductors to advanced materials to manufacturing technologies. The various critical technologies lists provide a valuable starting point for industry and Government alike to see where our weaknesses lie.

However, the lists alone are not enough. If the United States is to remain competitive in an increasingly sophisticated global economy, over the long term, the Federal Government—in close cooperative with industry and labor—must devise strategies both to remedy the underlying problems and to create a climate conducive to long-term success. Using the slow and blunt instrument of Government policy to address rapidly changing technological challenges on a case-by-case basis will lead at best to only occasional success. Instead, we must cast our net wider if our efforts are to be more than half-measures and practical solutions.

Overcoming the technology challenges facing the economy is not simply a matter of promoting innovation in our leading edge companies. Rather, we must work to increase the technological sophistication of the broad range of American industry, from semiconductor manufacturers to steel producers. That will demand policies designed to increase investment and stimulate diffusion of advanced technologies throughout all of American industry. It will also require that we not only train our scientists to be the best in the world, but also that we increase the technical competence of our entire work force.

As a member of the Senate Armed Services Committee, I have worked to encourage a movement of defense industry away from DOD dependency and toward greater common-ability with our civilian economy. As defense budgets shrink, it will become increasingly unviable to sustain a defense industrial enclave, as Bill Perry put it, within the U.S. economy, to bolster our defense industrial preparedness, we must broaden that base to take advantage of the much more dynamic commercial industrial base. To that end, last year the Senate Armed Services Committee broadened the scope of reimbursable independent research and development [IR&D] to include dual use technologies—an issue further addressed in the Critical Technologies Act. We also have been trying to get the DOD to reverse the tendency to write milspecs for every DOD acquisition.

It is likely the bills introduced yesterday will face a buzzsaw of opposition from ideologues in the Republican Party who will claim that these initiatives represent industrial policy and will engage the Federal Government in "picking winners and losers." To argue that the Government has no role in promoting the technological competitiveness of its people is to ignore reality. When a working market exists, it undoubtedly will remain the most effective means for channeling resources into promising areas. However, we have long recognized that in specific areas such as education, infrastructure, and basic research, markets do not work. Instead, it has fallen to the Government to intervene in these areas to achieve our society's goals.

The proper role of the Federal Government is one of creating enabling policies to foster technological advances throughout the entire economy just as scientists and engineers creating enabling technologies that permit progress in a wide range of field. We must work to devise a long-term, sustainable environment in which technological innovation and diffusion can flourish. Perhaps most importantly, we must stimulate greater investment in our future—by our citizens, our companies, and our Government.

Despite this fact, U.S. investment in basic infrastructure has declined over the past decade. We must reinvest in our technological infrastructure. The two bills introduced by the Senator from New Mexico does just that by increasing and targeting Federal support for precompetitive critical technologies and by expanding our commitment to manufacturing technologies.

Mr. President, let me anticipate, Mr. President, what I think will be some of the criticisms that are made of this legislation. We will hear not only that this as another Democratic effort, but statements will be made that this is industrial policy, that somehow the Democratic Party is once again advocating a program in which the Government, the cold hand of Government, is going to intervene in an otherwise vibrant economy and foul things up.

Mr. President, that criticism which we are going to get just as sure as I am standing here runs totally counter to the history of this country.

Let me explain. We have for more than 200 years in the United States had a partnership between the public sector, the Federal Government, and the private sector. When that partnership is run properly and when that partnership is recognized to be as strong as it is, we have had enormous success, running all the way back, Mr. President, to the Northwest Ordinance in which a certain amount of land was set aside for public education. That was a partnership between the public sector and the private sector. That set a pattern for education throughout the United States which has worked very well.

We had, Mr. President, during the 1820's, canals that were built from right up here on the Potomac River across into the West. Those canals were built in a partnership between the public sector and the private sector. Was that industrial policy? It probably was, but it was also a very important thing to do.

During the 1860's we had other examples of this. The State land grant university program, industrial policy? Could well have been, but certainly an enormously important investment in terms of developing the institutions of higher education and the research programs that have served us so well in the United States.

The railroads went across the country. We passed the Railroad Act during the 1860's as well providing a section of land, the alternative checkerboard pattern we have all learned about in our history books. Was that industrial policy? Certainly it was. It was the right kind of a partnership between the public and the private sector.

The examples go on and on and on. The Vocational Education Act, the 1920's, 1930's, in which we established the base of training through our public education structure of the private sector, setting up programs, the public sector helping to fund them.

The National Defense Education Act, established after Sputnik went up; everybody was deeply concerned about what happened.

We put together a partnership which was enormously successful in developing programs that ranged all the way from foreign language education in the United States to programs that built a lot of our research capacity for the modern day and age.

The Interstate Highway Program started by President Eisenhower, during that period of time. We have been debating the Highway Act here. That again is a partnership between that crucial private sector in transportation and the public sector working very closely together.

A final example, all around us, which we are so aware of, is the space program, again a very good example of the partnership.

We have more than 200 years of this history. It is very important to recognize that the legislation so important, so needed, and so well crafted by the distinguished Senator from New Mexico [Mr. BINGAMAN] builds on this great and final tradition. We must do that as we make a transition in the 1990's from an economy that had so much dependence on our military capability in figuring out what these critical technologies are, what again is the partnership going to be between the public and private sector, how do we maintain so many of these important industries in the United States, and how do we look ahead to become increasingly competitive in a more and more competitive international situation.

I am pleased to be an original cosponsor of this legislation. I thank the distinguished Senator from New Mexico for his leadership on this. I look forward to having our colleagues act on this very expeditiously.

Finally, my thanks to Senator KASTEN for his courtesy.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. KERREY). The Senator from Wisconsin is recognized.

Mr. KASTEN. I thank the Chair.

(The remarks of Mr. KASTEN pertaining to the introduction of S. 1335 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KASTEN. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unamimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WEST VIRGINIA DAY

Mr. BYRD. Mr. President, on this date 128 years ago, West Virginia was officially admitted to the Union as the 35th State.

West Virginia's admission to the Union was, however, neither smooth, swift, nor without pain.

Many Members of this very Senate were opposed to West Virginia's admission to the Union.

Some radical Republicans opposed the admission of West Virginia because the western Virginians who populated the proposed new State owned thousands of slaves, the emancipation of whom had nowhere been broached in the proceedings aimed at creating West Virginia.

On the other hand, strict constructionists objected that the War Between the States was being waged against the principle of illegal secession for any reason, and that West Virginia's separation from Old Virginia was nothing but illegal secession by another name.

Again, roughly a third of the residents of the counties of western Virginia to be included in the proposed "West Virginia" favored the secession of Virginia into the Confederacy, and thousands of these secessionist western Virginians were enlistees in the Confederate Army. To this day, the allegiances of these "Confederate West Virginians" are memorialized in a number of bronze Confederate soldier statues standing in several West Virginia communities.

To West Virginia's advantage, the slavery objection was satisfied by an agreement by West Virginia statehood proponents to gradual emancipation.

Abraham Lincoln himself dispatched the strict constructionists' objection by remarking that, though illegal secession was the issue between the Union and the Confederacy, the West Virginians were secessionists in favor of the Union and therefore to be tolerated.

Though legal admission to the Union took place on June 20, 1863, West Virginia was still rent by clashes between loyal Unionists and unreconciled Confederates until the end of the war, and even the Hatfield-McCoy feud of the 1880's was vaguely rooted in the Hatfields' Confederate ties and the McCoy's Unionist heritage.

In spite of all of the divisions that separated West Virginians originally, however, over the generations the citizens of the 35th State have learned increasingly to transcend their differences and to forge their identity as West Virginians.

Mr. President, I am proud today to wish my home State a "Happy Birthday," and to hail the heritage on which it stands. At the same time, I wish West Virginia even greater success in the years ahead as it stretches its potential and fulfills its promise as the 35th State in our country's unfolding destiny in the 21st century.

WEST VIRGINIA BIRTHDAY

Mr. ROCKEFELLER. Mr. President, I rise today to wish the great State of West Virginia, and all of its citizens, a very happy birthday. West Virginia was born 128 years ago, its people resolute with a single purpose in mind: To grant freedom to all men and women, black and white. This revolutionary spirit led Mountaineers in the western counties of Virginia to stand up against their richer, more powerful brothers and sisters to the east and demonstrate their willingness to fight for a principle.

The people of West Virginia have always been the first to stand up and fight for our country and for the principle of freedom. Our citizens' unwavering dedication to their State and Nation, their strong convictions, and their strong values make me proud to be a citizen of West Virginia.

Perhaps the most incredible characteristic that distinguishes West Virginians is their genuine concern for their neighbors, whether they live across the street or across the country. To West Virginians, a good government is one that ensures the well-being of all its citizens.

Happy birthday to a wonderful State on its 128th year.

RECOGNITION OF BALTIC FREEDOM DAY

Mr. WARNER. Mr. President, I rise today in recognition of Baltic Freedom Day, which celebrated its 10th anniversary on Friday, June 14, 1991. For the past 10 years, both the House and the Senate have passed legislation authorizing and requesting the President of the United States to declare June 14 as Baltic Freedom Day. On June 13, 1991, President Bush held a proclamation signing ceremony at the White House declaring June 14, 1991, as Baltic Freedom Day.

Even though the United States has never recognized the Soviet Union's hegemony over the Republics of Latvia, Lithuania, and Estonia, the Soviets continue their occupation of these states. We must leave no doubt in the minds of both Americans and Soviets regarding where Congress stands on the issue of independence and self-determination for the Baltic States. We stand firmly behind the Baltic people.

I am proud to once again be a cosponsor for Baltic Freedom Day and I look forward to the day when those brave people achieve independence.

ALBANIA REJOINS THE FAMILY OF EUROPE

Mr. PELL. Mr. President, yesterday Albania ended decades of isolation by becoming the newest member of the Commission on Security and Cooperation in Europe [CSCE]. By unanimous decision, the foreign ministers of CSCE countries meeting in Berlin yesterday voted to admit Albania as its 35th member.

I welcome this decision, and trust that the United States will use the CSCE forum to monitor and encourage Albania's compliance with its CSCE obligations, particularly those in the area of human rights. I would hope that during his upcoming visit to Albania, Secretary of State Baker will engage Albania's leaders in discussions on how Albania can contribute to what the Secretary has called "the Euro-Atlantic architecture."

In March, I traveled to Albania to observe that country's first democratic elections. During my trip, I discussed the CSCE issue with President Alia and Foreign Minister Kapplani. Incidentally, both these leaders played a key and strong role in guiding their country to democracy. They both too, went to great lengths to assure me that Albania wants to become a part of Europe and that it is determined to meet CSCE standards on political, economic, and human rights. Moreover, during his recent trip to the United States in May, Albanian Democratic Party Leader Sali Berisha identified CSCE membership as a key to Albania's increased integration into the world community.

For decades, Albania has lived beyond the pale of European civilization. In the last several months, however, it has taken great strides to tear down the walls that have separated it from the rest of the civilized world. Membership in CSCE undoubtedly will prove to be a key step in this process.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Chair advises the Senate the period for morning business has now expired.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The Senate will now proceed to consideration of S. 1241, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order there will be debate only on the bill until 1 p.m.

The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, last week the President of the United States, as has been his wont lately, chided the Congress for our failure to pass a crime bill within an arbitrary deadline of 100 days. I wish to note for the RECORD that we would have had this very crime bill we are debating now last year had the President seen fit to do something about assault weapons and been willing to accept the provisions that we passed here last year for the banning of certain assault weapons with such colorful names as Street Sweeper, and names like that.

So, here we are today. We are back at it again, and I should indicate at the outset the issues are contentious and basically the same issues, and one of them again is guns, whether or not there should be a so-called Brady bill, which is incorporated in the bill before us right now, the so-called Biden bill, and whether or not we should do something about those assault weapons everybody reads about and 85 percent of the American people think we should do something about, the same assault weapons, I might note, which the President said it is against the law to import into the United States and sell, but by some phenomenal stretch of logic it is all right to make them in the United States and sell them. I have never quite gotten that one yet, why the President thinks it should be against the law to be able to manufacture these guns in London or Germany or Korea, or wherever, and import them into the United States and sell them, but it is all right to take the very same gun and make it in Connecticut or Delaware or California and sell it. It sounds more like trade policy to me than it does law enforcement policy. But, nonetheless, that is one of the issues again this year, and we will be hearing a lot about that today.

But as the Senate begins consideration of the comprehensive crime legislation, we should start with the question not of what has happened in the past 100 days, which the President keeps talking about, but rather what has the Bush administration done or failed to do over the past 100 weeks that he has been President to fight crime.

Under this administration, America has seen its worst crime explosion in our entire history. Let me repeat that. In the last 100 weeks—the President likes to talk about 100 days; I want to talk a little bit about 100 weeks—in the last 100 weeks, under this administration, the United States has undergone the worst crime epidemic in its entire history. Under this administration we have seen an all-time national record for murders, over 23,000 people murdered in this country, making us the most dangerous Nation in the world; an all-time national record for rapes. A woman in Italy is over 40 times safer from the prospect of being raped than a woman in the United States. A woman in England is over 15 or 20 times, in that range, safer than a woman in the United States. There is a literal epidemic of rape in this country. We have also seen an all-time national record for violent crime. This is a product of 100 weeks of tough talk on crime and too little tough action on crime.

The President blames this crime plague and, in turn, the need for a new crime bill on congressional inaction, and he is certainly entitled to make such political statements. Every President does. A Democratic President coined this capability, Harry Truman, who was a fine President, but he found there was great benefit in running against the Congress. There always is, and were I in the President's position, I would find it great political fodder as well. He is entitled to engage in such statements.

But let us look at the facts: Since 1986, Congress has passed over 230 new or expanded penalties for drug and criminal offenses in these United States, 230 new penalties, and these penalties range from an automatic 5 years in jail for any person caught with a rock of crack cocaine, a piece of crack cocaine as small as a quarter.

I do not have a quarter with me but if you visualize what one looks like—yes, I do have a quarter. If you have a piece of crack cocaine no bigger than this quarter that I am holding in my hand, one-quarter of $1, we passed a law, through the leadership of Senator THURMOND, myself, and others, a law that says if you are caught with that you go to jail for 5 years. You get no probation. You get nothing other than 5 years in jail. The judge does not have a choice.

Now, the fact of the matter is we have gone from there all the way up to saying—under the leadership of Senator THURMOND and I would like to suggest that I take some small credit for it myself, as well and others, the Presiding Officer—that there is now a death penalty and we have passed it a couple of years ago. If you are a major drug dealer involved in the trafficking of drugs and murder results in your activities, you go to death. And there are a number of other severe penalties.

We changed the law so that if you are arrested and you are a drug dealer, under our forfeiture statues, the Government can take everything you own, everything from your car to your house to your bank account. Not merely what they confiscate in terms of the dollars from the transaction that you have just got caught engaging in, they can take everything. We have laws in the last several years where we do not allow judges discretion to sentence people. Flat-time sentencing. You get caught, you go to jail.

Well, all of these tools have been at the President's disposal for the last 100 weeks and more. Now if America's crime problem is worse than it ever was, it is not because the Congress has failed to give the President the tools—it has done its part—but rather because the administration has failed to use the power given to it by the Congress over the last 5 years, and in particular the last 100 weeks, to bring this epidemic under control.

Specifically, the administration's record of inaction includes some glaring examples. And the only reason I am doing this is so we can cut through all of this and try to get down to the facts so when we start to vote on specific pieces of legislation, we get away from all the hyperbole and political posturing on this legislation.

No wonder the press only covers this legislation in terms of the politics of it. You hardly every hear a debate in the press about whether or not one habeas corpus bill is in fact better than another. You hardly ever hear any discussion about whether or not one sentencing mode is better than another. You hardly ever hear any discussion in the press about whether or not State or local law enforcement, along the line I am suggesting and the President is suggesting, which is better, because the President is leading the band and everyone else here in the Congress is following the chief majorette out there, the drum major.

What happens? We all talk about the politics of it instead of the substance.

Well, the facts are glaring how bad things are. Two hundred days ago, Congress enacted life in prison for major drug dealers. Yet in the past 3 years, the President has obtained this penalty for only, on average, four drug dealers in the entire country each year.

If you live here in Washington you pick up the paper daily—as a matter of fact the papers stop doing it, because people are tired of seeing it—major drug deals, engaging in turf wars, people getting shot on street corners, murder rate phenomenally high. So we said 3 years ago, put those in jail for life, no probation, no parole. And in certain circumstances if they kill someone put them to death. And guess what? Out of all those crimes you read about, out of all the outrageous action, this administration on average in the last 3 years has gotten, on an average, four persons per year. Four. Count them. Four per year.

Think about it.

We have about 2 million people who have been using cocaine weekly in this country over the past half decade. But over the past 3 years, the administration has used its power to send drug dealers to jail for life only once every 3 months.

"The Congress is not tough on crime."

One thousand days ago, Mr. President, Congress gave the President the power to seek the death penalty against drug kingpins who murder. But in the last 1,000 days, this President, during the period of bloodshed and mayhem of which the President has spoken, the President has obtained the death penalty for only one person—one.

Congress is not tough? Congress passed the law and said, "Mr. President, find these people. When you get them, when the Justice Department has them and they murder somebody, put them to death." That is what we said. "You have the power;" 1,000 days ago that was given. One time has the vaulted Justice Department, under the leadership of Mr. Thornburgh, who beats up the Congress all the time, one time have they obtained the death penalty.

Now, look, maybe there are reasons why they cannot. Maybe it is hard to make the case. Maybe there is a whole rationale for why. But I find it, quite frankly, preposterous that this President stands up and says that this Congress is not tough on crime after we have given him all this power and, just to take two examples, he has only four times a year put someone in prison for life and only once gotten the death penalty. There were 23,500 murders; 2.2 million people cocaine addicts; 5.7 million felonies a year. One death penalty; four times a year life imprisonment. And the Congress is not tough on crime?

Mr. President, this quarter—remember I told you before, we passed a law, bipartisan. We said crack cocaine is such a bad deal that if you find someone with this much of it, a quarter's worth—not in value, in size—a year in jail.

Well, guess what? If the Justice Department in New York City, the U.S. attorney, arrests you with that much, the police arrest you, and they take you to the Justice Department and you only have that much, guess what the Justice Department, Mr. Thornburgh, says? We are not going to prosecute you. You have to have 10 times that much for us to prosecute you in New York City.

Whose judgment is that? The Congress, or the President?

And guess what, if you are in Miami and you get picked up with this much cocaine, crack cocaine, they say we are not going to put you in jail for 5 years. You say, well we caught him with 10 times this much. They say, well, we are still not going to do anything. We are not going to prosecute you. You have to have 100 times the minimum amount required.

Congress said put them in jail for a year if they have this much. The President said—and he has his own reasons for saying it and they may be good ones—but he says, "No, not unless you have 100 times this much are we going to even prosecute you."

I ask you, Mr. President, who is not tough on crime? Congress? The Constitution says we pass the laws, the President enforces the laws. We do not have a vigilante posse up here. We cannot start holding court here. We cannot prosecute people from here. We cannot, in the Congress, say: Arrest him, or her, or him, bring them into this Chamber. We have a law that says you go to jail for 5 years, no probation, no parole, if you have this much, they had this much, the jury finds they have this much, lock them up and put them in our prison.

We have three equal branches of the Government. One branch, the Presidency, is supposed to enforce the laws.

If you wonder why I am so frustrated, Mr. President, I have been dealing with this issue of crime and have been either the sponsor or cosponsor of every major tough piece of legislation relating to dealing with the criminal element in this country in the last 10 years, as many others have. And I hear the President tell me I am not tough on crime. And he gets a death penalty once?

Is he trying to tell me there is only one person out there in the last 1,000 days that has met the statutory requirement of death as a consequence of being a drug kingpin? Is there only one drug kingpin who murdered somebody who got caught in the last 1,000 days? Is that what he is saying to me? Or is he saying to me that, for whatever reasons, they were not able to, or chose not to use the laws at their disposal, made available by this—very tough on crime—Congress?

Mr. President, 1,000 hours ago—the President has us all in units of 100 these days. He likes to talk about 100 hours, 100 days. One thousand hours ago the President of the United States of America went on television, if I am not mistaken, and said to the American people, as he was required to by a law passed by the Congress, and written by me, to tell us what his national drug strategy was. So, he stood before the American people and all the press that are sitting up there, and he says: Here is my national drug strategy. And he said it is tough.

So, they asked me to comment. I said some parts are really good, some parts are not, but I am waiting for the President to send up more than his speech. I have his speech. I have that. I got that. But now he is supposed to do what all Presidents do. He takes his speech and he reduces it to a piece of legislation and he sends it up to the Congress and he says: "Now, Congress, here is what I want you to do. If you want to amend it we will debate it. If you do not agree with it, change it. But this is what I want you to do. Here is the legislation I want to become law."

So, as chairman of the Judiciary Committee, asked by the press will I move and act on the President's legislation, I said as soon as we get it we will act. One thousand hours ago. Guess what, Mr. President, the President has not sent us anything, anything. Not a word, other than over the television, not a single thing has he sent to the House Judiciary Committee, the Senate Judiciary Committee, the leadership of the Senate, the leadership of the House, the minority leader, the majority leader—anybody.

Hello, Mr. President, where is it?

And we are not tough? We are not acting on initiatives to try to stem the scourge of drugs in this country, and violent crime?

One thousand hours ago he said to all these people: I have an idea. This is how I am going to help stop the drug problem. And he has not sent us a thing. Not one single little bit.

And then I hear him on television, and hear his Attorney General stand up and say, "Our problem is the Congress is not tough." The problem is we have such an incredibly low regard in the minds of the public, and with some good reason—myself included—that you can just about say anything about the Congress and anyone will believe it. So, when in trouble, blame the Congress.

When in trouble, like that ad. There used to be an ad on TV for a cereal. Three little brothers are sitting there, and one little chubby brother in the middle sitting like this, and they look at it and say, "What is this cereal? I don't know. Gosh, what do you think? Let us try it. Well, Mikey will try it." And they pour a bowl for Mikey.

There is a rule in politics, when a President is in trouble, does not have an answer, what will we do, let us have a meeting—got it: Congress. Congress did it. Or Congress did not do it.

There is a lot we do not do, and by the very nature of this institution of 535 persons, it is not designed to move quickly. But the executive is so designed, as the Presiding Officer knows as a former Governor. That is the mark of the leadership of an executive, to move quickly, decisively and with incision.

Where is the drug bill? Is the Attorney General too busy? Is the drug czar too busy? Where is it? I want help. Where is it?

There are many other examples. Last year, responding to the administration request, Congress created new Federal judgeships. It was an unusual circumstance, Mr. President. People who do not follow politics, which is the vast majority of people—and there is good reason why not to; I am not chiding anyone for not following it—but those who do, know the following. There has just been a general principle over the past 200 years. Under the Constitution the Congress creates the number of judgeships. We, the Congress, decide whether there are going to be two district court judges in America or 2,000; whether there are going to be 20 or 5,000 circuit court judges. We are the ones under the Constitution to make that decision.

As the country has grown we have needed more judges to enforce the laws that have been passed—not enforce them, to pass judgment on the laws that have been passed.

Mr. President, an unusual circumstance came around last year. I, after having been around the country a little bit and with the urging of the distinguished senior Senator from South Carolina and others, was told, and they are right, that there were not a sufficient number of judges out there in order to be able to prosecute all these cases. Everybody knows that you cannot ultimately put people in jail until you get them before a judge. You cannot be tough on crime if there is no way to get people from the street, when you arrest them, in front of a judge because that is the intermediate stop, if they are guilty, to get to jail. It is an unusual little system like that. You need judges.

I am told the backups, particularly on drug cases in south Miami, in south Florida, in parts of the Southwest—all around America, are incredible. So the President said to me—not directly. Well, I guess he did by letter. He said: Look, we need more judges. I did something that is not particularly common for this place, I went into a group of Democrats—the Presiding Officer was there, and others—and said look, ladies and gentlemen, we should create new judgeships.

Someone said, wait a minute, we are going to create new judgeships? The President is going to take all these Republican conservatives and make them judges. We do not like that. And, besides, Joe, nobody does that. When there is a Democratic President, the Republicans do not let new judges be created.

And when this is a Republican President, Democrats do not create new judges. I stood there before you all and it did not take long because you all agreed with me that the Nation needed new judges because the law enforcement problem was serious, urgent. So we did something not only unusual, but swiftly. We created 84 new judgeships—85 new judgeships. Let me be precise.

The reason we did it is so that more criminals could be brought to justice in Federal court. Yet today, 200 days later, only 10, the President has only sent up the names of 10 men or women to fill those 85 slots. Who is tough on crime? Who is being diligent? The Congress is weak on crime? He said we need new judges. We said, Mr. President, here they are and here is where they are. We had little disagreement with the Justice Department.

I wanted to put the judges into areas where there are high crime rates and high backups of crime. So we worked out a formula where they had the most drug problems, the most drug cases, and we put judges there. And here we are 200 days later, not 100 days, 200 days later and the President who calls us soft and weak on crime has not sent us but the names of 15 people and, as we all know, under the Constitution, we cannot fill those judgeships. We cannot sit here and say so and so and so and so and so should fill those slots and then vote on it.

So here we are, 200 days later, and those judgeship slots are still empty.

Last week, the President said he "could not understand" why the Congress could not pass a crime bill in 100 days. Today, I must say I cannot understand why the President of the United States has been unable to exercise this important crime-fighting power of appointing new judges in 200 days.

Let me put it another way, Mr. President. In the past 1,000 days, Congress has given the power to the President to take away every penny a drug dealer makes, seize their houses, their cars, their boats, their jewelry, lock them up without parole or probation, and even execute them if need be.

We have already done our part, and now it is time for the administration to do its part. The laws are there; the tools are there to make a dent in this horrible crime problem. Yet, instead of getting better, things are only getting worse.

Mr. President, having said that, I want to turn now to the crime bill pending before us today.

The President says that he wants to get criminals off the streets. There is not a woman or man in this Chamber that disagrees with that. But the heart of the President's bill is to stop—let me put it another way. The heart of the President's bill, I believe, is basically shopworn proposals that, whatever their merit, will do very little to reduce crime in this country.

The President's death penalty proposals—and I might add the Biden crime bill before us calls for the death penalty for 51 offenses. A wag in the newspaper recently wrote that something to the effect that Biden has made it a death penalty offense for everything but jaywalking.

The President's bill calls for the death penalty on 46 offenses. The difference is negligible. Yet, I am a supporter of the death penalty. I am a supporter of the death penalty without the racial justice provision in it. I think it is better with it, but I am a supporter of it without it as well.

Let us put in in perspective, Mr. President. There were last year in this country over 23,000 murders. The President is making it sound to the American people like once this death penalty provision is passed—and I believe we will pass one—that we are going to end the problem.

So I asked my staff to write to the Justice Department, not the Democratic Justice Department, not the bipartisan Justice Department, not the scholastic Justice Department, not the academic Justice Department, not the Brookings Justice Department, but the President's Justice Department, the Republican Justice Department headed by a Republican, as it should be, a Republican Attorney General, at the command of the Republican President. I asked my staff to write to them and ask them the following question—I am paraphrasing: If the death penalty bill, as you are proposing it, Mr. President, as you are proposing it to be enacted in the year 1991, if that were the law in the year 1990, how many people would have received the death penalty under your death penalty bill? We wrote them a letter and asked them that question. Keep in mind 23,000 murders last year.

I tried this on a couple people at home who are not involved in the Senate at all. I said, if you had that death penalty bill, how many people do you think the Justice Department, now, the outfit that works for the President, how many people do you think they said would be put to death last year if the President's death penalty bill had been in place? 5,000? 10,000? 2,000? 500? 100? 50? 10?

No, six, s-i-x, six. That is what the President says. If my bill were in effect last year, there would be six people—six. This is not our number. This is their number. Give them 100 and a straight A for honesty. Six.

I think if six people deserve the dealth penalty, they should be given the death penalty. But let us not oversell it, Mr. President. And the same could be said for the Biden death penalty bill because it is Federal. If it is not on Indian lands—and this excludes Indian lands—only six people. But, yet, if you listen to the way it is advertised, people at home think if you pass either the Biden death penalty bill or the President's that we would increase the number of death penalty cases in America by 100, 500, 1,000, or 10,000. That is going to stop crime in the streets, six more people being put to death?

A second provision we will fight over that the President's bill has is habeas corpus. The President's habeas corpus reform plan is arguably very good. I disagree with parts of it because I think we should change habeas corpus. If you listen to the President and others speak about habeas corpus, you would think habeas corpus is the name of a man who is crouched in an alley every night waiting to rape or murder somebody. Habeas corpus is a process, and it means that once you are convicted of a death penalty case—it need not only apply to death cases but let us keep it in death cases. You are convicted of murder in a State court. It means that prisoner can file a piece of paper with a Federal court and he can say on that paper, "Look, the State Court of Delaware, Alabama, or California violated my constitutional rights, judge. They didn't apply the Federal Constitution. Here's my habeas corpus petition."

Now I am already behind bars when I file that. Every single person who files a habeas corpus petition is already in jail. It does not in any way affect whether my mother is going to be safer on Saturday night or Thursday night when she goes to the Pathmark to shop and comes out into the parking lot in the dark to put her groceries in her car.

Habeas corpus change will not affect her at all, because all the people who file these petitions by definition must be behind bars. They are in jail. They cannot get out. That is why they put the paper out there. They say, "Let me out or rehear my case because, look, here is the bad thing the Court did to me."

That is habeas corpus.

Now, what has happened is it has become abused. Somebody sentenced to death, what they do is they file a specious petition saying they coerced my confession. They put it out there, slide it between the bars, figuratively speaking, and it goes to a Federal district court, and the Federal district court says, "Well, I look at this and I look at the record, and it looks to me like that wasn't violated." And then the lawyer of the guy in jail says, "Well, I want to appeal that." They take it up to the circuit court of appeals, and the circuit court of appeals says, "It looks like no violation was made here. The guy was rightly convicted."

Then they say, "Whoa, wait; I am going to file cert. I want to go to the Supreme Court."

By the time that all gets done, even though I was sentenced to death on July 4, now it is 4 years later; it takes that long for it to get there, and so I sit there in my jail cell, and I am still alive. Then when they come back and say "No, it was not violated, no one violated your rights, now you get put to death," I say, "Wait a minute, I got another way." I say they kicked my dog in court.

I am being a little facetious now. But I come up with another claim, and so I slide another paper out the door. That goes to the district court. The district court says, "Something is wrong here," and they say, "Well, take it to the circuit court."

That is why, as the Senator from South Carolina is going to tell us today, as he should, there are ax murderers and violent murders in his State who have maimed—he had a woman come before our committee who was brutally raped and beaten and physically maimed, and the guy who did it to her—beyond a reasonable doubt, the jury concluding he did it—was in jail, sat there for 18 years or something, or some incredible amount of time.

Mr. THURMOND. Twelve years.

Mr. BIDEN. Twelve years. Because he kept filing these habeas corpus petitions.

So the issue here is how do we stop that? We do not want to take away the right of the Federal court to oversee whether a State court is applying the Constitution because we all know from our history sometimes they do not. But we do not want this repetitive thing to keep going.

So I have a bill that says, look, you get to file one of these papers and it has to be filed within 1 year, and it has to be adjudicated, and that is it, unless—and then there are three exceptions.

What we are going to argue about is whether there should be exceptions, not whether or not there should be a habeas corpus change.

But listening to the President, he says the second big anticrime initiative to make you safer on the streets of Washington tonight is to change the habeas corpus law. Now, how many people in the gallery, I wonder, as they walk out of here tonight back to their hotel rooms, think, "You know, they changed that habeas corpus and I bet that guy is not going to try to take my purse or he is not going to knock me in the head because he is going to think, 'Gee, before I do that, habeas corpus has been changed, I am not going to do that.' It's a big incentive to keep me safe."

Lest the people in this gallery think I am kidding, go back and listen to what the President says every time he says he is going to make the streets safer for us. He is going to give the death penalty. I want the death penalty. But he says only six people will it apply to. Then he says, "I am going to change habeas corpus."

Do you feel safer because habeas corpus is changed? I wonder how many criminals in their first act of violence even know what habeas corpus is. They probably have been listening to the President, too, and think it is an individual.

But that is the second big initiative, folks, and the reason why it is offered is not only should it be changed but it is the hot button for every civil libertarian in America because it is the great writ, it is 800 years old. And every time you say you are going to start fooling around with that one, everybody, including me, goes, "Now, wait a minute; let us be careful."

But the debate today and tonight and tomorrow and next week on habeas corpus is going to be about how many times you can slide that paper between the bars. But we are behind bars.

What is the third proposal the President has that is going to stop crime in the streets? The exclusionary rule. Now, here is a rule that really will get some people in this Chamber and in this Nation a little riled up, and with some good reason, because they see on "L.A. Law," they see in the newspaper for real, they see where somebody has been arrested and when they got arrested the cops found the goods, found the murder weapon on them or in their house, found the drugs in their car, found the contraband, the stolen television in their apartment, found blood samples and hair follicles on their rug, found things that allow the prosecution to prove they clearly did it, or Harry did it, or Mary did it, and then along comes the lawyer for Charlie, Mary, or Harry, who says, "Even though you have that evidence, if you ever show it to a jury, is surely going to convict my client, you cannot show that evidence to the jury because when the police got that evidence they violated the constitutional right of an individual when they got it."

Under our law we have an enshrined principle that says, for example, if without a search warrant and without probable cause I break down the door of your house and I go in and I find something there to sustain that you did something wrong, I cannot go into court and say, "Look, arrest this guy and convict him because look what I found in his house," because if you allowed that to happen, police who didn't like individuals would say, "I don't like Charlie. I am just going to periodically break down his door, go in, search his house, see what it has. I am going to stop anybody I want on the street and frisk them."

How would the folks feel if we did not have a fourth amendment which says they are not entitled—the police, the State—to illegally search you and seize your property? Everybody says, "Oh, it wouldn't matter to me"—until the first time it happens.

So to keep police from doing that—and police, by the way, 99.9 percent, do not do anything like this. And for the record, just in case you are wondering, every major police organization I am aware of has been a supporter of mine, endorses me, and I work with, so I am not an anticop guy. But there are some police who violate the law, the Constitution, just like there are some individuals who do it in any walk of life.

So we have this rule called the exclusionary rule, and up to now the way it works is we say look, you have to have probable cause and you have to have a search warrant. You have to go to a judge and say, "Before I break into Harry's house, judge, I am telling you why I want to be able to break into Harry's house. We have had that house under surveillance and we have watched that apartment. It is only 1,200 square feet, but we notice he has 12 48-inch televisions, and the place down the street is missing 12 48-inch televisions, so we think that maybe Charlie did it." And the judge will say, "OK, police officer, here is a warrant to go to 227 Maple Street; without getting permission, knock on the door, say, 'Let us in.' If they say, 'No,' you can break the door down to go in."

Now, what happens sometimes is the person who types that up, instead of saying 227 Maple, it says 227 Apple. So a police officer, in good faith, takes that search warrant, looks down, says 227 Apple, goes to 227 Apple, and knocks on the door of an innocent person. The person says, "You cannot come into my house." the cop says, "Here I come," and breaks the door down.

When they break the door down, they do not find television sets, concidentially, but they find out there are stolen bicycles in there. They say, "Whoa, you are not the person we are looking for, but guess what? You did something wrong. Now we are arresting you, and we will admit those bicycles in evidence."

I think if that happens with the police officer, he should be able to say, "Hey, look, Judge. I made a good faith mistake. So I should still be able to admit that evidence. I did not deliberately go to do that. It was a typo. I did not do anything wrong as a police officer."

Well, the leader of the Republicans says: "No. Not only should you do what BIDEN suggested in expanding the change in the exclusionary rule; you should be able to say, even when you do not have a search warrant, if you knock down a door without a search warrant, then later say, "God, I made a mistake; I thought I was on Maple and it was really Apple,' or 'I thought I was going after Jones, and it looked like Jones; but it turned out to be Wilson.'"

Now, we are getting a little shaky because now if a police officer has been looking for you but cannot get any evidence on you, I wonder how many might be tempted to say, you know, I am following Jones back to his house and I am going to break down Jones' door. I am going to say, "Oh, my goodness. I thought it was that cat burglar, Wilson, I was going after."

Well, that is extending the rule. It gets a little shaky. I do not think we should do that. But in good faith, people think we should be able to do that. I respect their judgment.

But now, what does the President say? His third big thing that he is going to do to stop crime in the streets, he is going to change the exclusionary rule to say the following: Not only if you make a mistake in good faith with the search warrant, or make a mistake in good faith without a search warrant, but if you make a mistake in bad faith. If I say, "I do not like Jones; I am going to find something on that so and so." I go break his door down. It is no mistake; I have no right to be there under the Constitution. But I find a gun.

The President actually proposes an unusual proposition for American law, that it does not matter whether it is good faith or bad faith, constitutional or unconstitutional. If you find a gun when you break in, everything is all right.

I wonder how many police officers will be issued two guns, one to carry and one to plant, if that crazy change in the law were able to take place.

Can you imagine that. You can say, "I am going to violate the Constitution, but if I find a gun, it is OK."

Now, I do not want to get into teaching a class, because I am not qualified on ethics or morals. But in undergraduate school, I recall those courses in philosophy where we talked about the ends justifying the means.

In America, if there is any one principle we have resisted in any aspect of our daily lives, it is the notion of the ends justifying the means. We have said the way to keep people law-abiding and civilized is to make sure that the means justifies the end.

We are going to enshrine in the law a new proposition, according to the President: If the means justifies the ends, so be it constitutional. So be it constitutional. If it does not work, just tear that piece up, put it over here, and we will move on. We will worry about another piece later.

But leave aside the merits for a minute. This is the third big thing the President says that is going to stop crime in the streets, that is going to make it safer for my mother in the Pathmark parking lot.

Guess what folks? Of the 5,700,000 felonies committed in America last year, of all those where someone is arrested and it goes to trial, in only 1 percent of the cases is the exclusionary rule an issue. Only 1 percent of the time does the defense counsel say on behalf of a defendant, "That piece of evidence you have to convict my client under the Constitution should not be admitted." One percent.

(Mr. LIEBERMAN assumed the chair.)

Mr. BIDEN. So, as the Presiding Officer, as one of the finest lawyers in this body, and also a former Attorney General knows, we sometimes argue in the alternative. Let me argue in the alternative.

For the sake of discussion, assume that the President, on the merits, is right about the exclusionary rule. Assume you should be able to say to the Constitition, "We will just put that piece aside for a while, because we found a way to get to it." Assume he is right to do that. Even if he is, it is 1 percent of the cases.

Let us go back and tally up the President's anticrime message. The same President, for over a 1,000 days, has only put one person, convicted one person, after the tough crime law; whose oath says, "if you have a quarters worth of crack, you have to have 5, 10 times that much in New York and 100 times that much in Miami before my prosecutors will even prosecute you"; the same guy who says, Knowing that we are able to put people in jail for life for drug offenses, has only four times a year done that; the same guy, or his administration, now says, "But now, I am really going to get tough. I am going to change the death penalty. Biden and I both want to change it. He likes this thing called racial justice. We think that is going to do away with the death penalty. So he is wrong about that. But I am going to make it for 46 crimes. BIDEN says make it for 51. We are going to get tough. And I am for the death penalty."

His own Justice Department says six people, other than on Indian reservations. So now, my mom knows that there are going to be six fewer people next year out of the 23,500 murders committed, I do not know by how many people. But six of them will be gone. Good; I want to do that.

Now, he says, "The second thing I am going to do to get tough is I am going to change habeas corpus. That is what I am going to do," knowing every one of those people are behind bars.

My mother can only hope, as I said earlier, somewhat facetiously, that before the guy bangs her on the head, God forbid, they say, "Oh, wait. I just remembered: Habeas corpus has been changed. I am not going to do that. I am going to go in and buy my own groceries." That is the second big thing he is going to do to make us safe in the street.

And the third big thing his administration has come up with is to change the exclusionary rule, allowing on a limited basis to shred the fourth amendment. Only on a limited basis, affecting 1 percent of the cases. OK; that is it folks.

What else is the President going to do to make sure that we are, in fact, safe? Well, he is going to change the gun law somewhat, although I am not sure that it is going to be introduced here. He talked about changing the gun laws to make the penalties tougher to get caught with a gun. I am all for that.

We already have a law, I believe, that says if you get caught with a firearm in the commission of a felony, it is 5 years. We already have that law. The President wants to make it 10 years. Well, make it 10 years. If you have a gun and you commit a felony, 10 years. We already have it 5 years, minimum mandatory. The judge cannot say, "You know, you had it in your pocket. You never intended to use it. We are only going to give you 1 year." The judge has to say 5 years.

He wants to make it 10 or 20 or 60. We can work that out. What else is he doing? Well, let me tell you what he is not doing—the President's tough talk and his Attorney General's tough talk. We look at this crime bill and read his lips and see that there are no new police, no new police that may cruise through that parking lot that my mom is in shopping.

By the way, you may think I am being a little facetious when I say that. I mean this seriously when I say this, because there is not a woman or man in this Chamber up here who, when their mother, who is 75, goes shopping, does not worry about their safety, or when their husband or wife are out on a business trip in a motel that they have never been to before, or when their kids have to go downtown to the library and are coming back home, or when they walk through the mall; there is not a person that does not worry about their kids, mother, husband, or wife. So I am not kidding when I say this.

The President says, when you read his bill and read his lips: no new police, zero, not an extra patrol car to ride through that parking lot where my mother is, on the chance that at the time something might happen to my mom, the patrol car rides around. No, we are going to rest on the death penalty, habeas corpus, and exclusionary rule to take care of that.

No new prosecutors. The occupant of the chair was a prosecutor. A lot of people in here were prosecutors. No new prosecutors, zero, none.

No new prisons. There is not a person, I respectfully suggest, Mr. President, in this gallery today from all over America, and various parts of the world, that is not aware of the assertion I am going to make. I doubt whether there is one person over the age of 12 in that gallery that is not aware of the fact that there are some hardened criminals who have been let out of jail before their sentence was served in their community, because their prison is overcrowded, and because the Federal court has ruled that it is a violation of the eighth amendment, cruel and unusual punishment, keeping them in a cell 6-by-8 with four people, or whatever. Not one person does not know that. Everybody, I suspect, in this Chamber, in this gallery, wants to get tough on convicted beyond a reasonable doubt criminals. Yet, does anybody know how we can do that without more prisons? Can anybody tell me that? I propose new prisons. The President wants no new prisons.

So before I get to my bill and the provision in it, let us look at some of the things the President does not want. He wants the death penalty. I want it. He wants a change in habeas corpus. I do. He wants a change in the exclusionary rule. I want it, but not nearly what he wants. But that is it, by and large. He does not want more prosecutors. He does not want more prisons, and he does not want more police. He does not want more aid to local law enforcement. He does not want help to fight juvenile gangs in America. The list goes on. He says: Do not worry, I will make the streets safe with these three things. I do not need any of these things over here.

These other elements are all in the so-called Biden bill, Mr. President, along with others. These are vital steps and sensible firearms management. My bill includes two commonsense and, I believe, moderate measures along these lines.

By the way, talking about what else he does not want, he does not want to do anything abut the guns in the streets. He does not want to do anything about even convicted felons getting those guns. I believe he would like to do something, do not get me wrong. I do not think he wants them to have them. I know he does not want them to have them. But there is a bill that says—In my State, for example, we have an instant check; when you go into a gunshop to buy a gun, as of January, and put your name down, they say, show me the identification, and the gunshop owner goes click click click in his commuter and looks in the screen and says: I cannot sell it to you, Smith; you are a convicted felon.

They say that is crazy, that convicted felons do not go into gunshops to buy guns. Guess what, in the first month, in my State, 12 percent, 12 out of 100 people who walked in to buy a gun were convicted felons. The administration admits that it is 17 percent, and a new study says it is 21 percent, out of every 100 people. Roughly 20 that walk in to buy that Magnum, that Street Sweeper, that AK-47 for target practice, are convicted felons.

The President says, though, wait a minute, we have a second amendment problem. I always find it funny how the second amendment takes precedence over the fourth amendment, and sixth amendment, which is the right to counsel. Anyway, I will not go into that. But the second amendment says we have a right to bear arms, and we do. But once you cross the threshold to say the Government has a right to tell you what kind of arms you can bear, you have already crossed the threshold. I respect those people who are pure second amendment people, that say under the second amendment the Government has no right whatsoever, under any circumstances, to deny you any arms.

The logical extension of that is you would be able to buy World War II tanks. If I have the money, why not buy an Abrams tank. Some of the people are laughing in the gallery, but there are flamethrowers you can buy. How many people think we should be able to own bazookas? Good idea. Or maybe, if you can do it through some terrorist means outside the country, maybe you can buy a SAM missile.

We all say, Biden, stop being ridiculous. That is foolish talking about those things. We all know you should not be able to have a tank in your backyard, or a flamethrower, or a SAM missile, or bazookas, which people try to buy. We all know you should not be able to have these big submachine guns, machineguns. Folks, if you say that, you have already crossed the line. You have already acknowledged that the Government has a right to say, notwithstanding the second amendment, that there are certain kinds of restrictions that can be placed on the ownership of arms.

All I am saying here is, in this bill, are two moderate things, which, frankly, will help only marginally. A lot of people who support this say this is going to change the world. It will not, but they will help. One is to say, look, if you are going to buy a gun, and the State does not have all its criminal records sitting on a disc so you can press a computer, like you can in my small State of Delaware, and find out who is a felon, that you have to wait 7 days; so the cops have a chance to check you out to find out whether or not you are the ax murderer from the next country over. Is that so preposterous? It does not say you cannot own a gun; it does not say when you get a gun, you have to register the gun. It only applies to handguns.

The NRA sees that as a foot in the door. This means you not only took my bazooka, you will next take my handgun. The second provision I have I spoke to in the beginning—it is not my provision; it is the DeConcini provision, the Brady provision, amended by Senator MITCHELL, but it happens to be in this crime bill I put together.

The second one says, hey, look, there are 14 guns, killer assault weapons, some of which we have seen used already in schoolyards, in mass murders, in Stockton, CA, and other places in the Nation that appear to have no recreational purpose.

Now, look, I am not a gun expert, Mr. President. I come from a State that owned a company that resides in your State and has been around for 100 years or more. I am not antigun. All my years here the gun-control people have been angry with me because I am not ready to support anything like registration or anything close to it. But it seems to me if you walk into Kmart today or walk in any store, go to the gun rack folks and you show me those big guns that have little handles on them. Since when do you go hunting with a gun that has a big old long barrel and a little tiny handle?

Maybe the deer in your part of the country are slow, not like they are in my part of the country. But I do not know any reason to hold that. How many hunters do you know that go out there and say, OK, bring on the deer, and stand there like this? What is the purpose of that?

And guess what. The President of the country of Colombia came to see me, personally—personally came to see me and asked me would I go to dinner with him. I said I would be flattered. I went to dinner with him at the Blair House with three or four other people. He said, "Senator, I know you are trying to do something about the drug trade; we keep working with you trying to effect chemical transfers and the rest, but can you do one thing?" I said, "What would you most like done?" He said, "Can you somehow shut down these gun factories because all the Medellin cartel people are flying up to Florida, walking into the Florida gun stores and buying these guns; coming back and blowing up and killing our Supreme Court Justices, two of our Presidential candidates."

Why? Now keep in mind, this is one I will never understand. I am going to repeat it and I will repeat it again in this debate. The President of the United States said—how many guns did he say were imported? I want to get the number in. I ask my staff who knows about the gun issue to come down here right away, if they would. I want to be precise here.

The President said that you cannot import into the United States of America a certain number of guns, and that is the number I want to know, 43 different types of semiautomatic assault weapons. He said there are 43 guns out there that you are not allowed to import into the United States and to sell, ostensibly because they are bad for the health of the American people and they have no legitimate hunting, no legitimate competitive purpose, target shooting or anything else. So he picked out 43 and he wrote up a list; is that correct?

He picked out 43 and said here is the list, and gave them to the people who work at Customs and said, "If you get any of these guns you confiscate them and you destroy them."

We came along and Senator DECONCINI came along and said: "Great, we are making progress. There are only 14 of those guns that we want to stop manufacturing in the United States," not 43, 14.

Now, this bill says 14 of these guns you cannot make in the United States of America, you cannot produce and you cannot sell. The MAC–10 assault pistol—I am not making up these names now. These are not made up by me. These are the names of the guns, the names by which they are marketed and processed. I mean, how many people say, "Well, I am going deer hunting. What you need is a MAC–10 assault pistol." What do you assault deer with these days? Or you can get a MAC–11 assault pistol or you can get a Striker-12 Street Sweeper. That is a good one.

Maybe this is just marketing names. "Biden, these are just marketing." I mean, why do you think you have to market the hunters? Names like MAC–10 assault pistol, MAC–11 assault pistol, Striker-12 Street Sweeper, Beretta AR70. Come on.

But forget all that. Let us assume it makes sense for them to be able to be sold here. Why does it make no sense for them to be able to be imported here? It is essentially the same weapon. How can the President say in one breath you cannot build this weapon in London and sell it in New York but you can make it in New York and sell it in New York? If that is true that is basically a violation of the GATT agreement. This is an unfair trade practice.

These are the two things included in my bill. So let us go back and review the bidding on guns.

The President has a way he is going to stop the impact on violent crime in the street. He does not say stop. To be fair with him he says impact on it. And he says as the No. 1 business we are going to change the death penalty. BIDEN wants to change the death penalty; the Congress wants to change it.

No. 2, we are going to change habeas corpus.

No. 3, we are going to affect 1 percent of all the cases that affect the exclusionary rule and maybe in someplaces have to tear up the fourth amendment but we are going to do that for 1 percent of the cases.

We are not going to allow no new cops, no new prosecutors, no new jails, no new help for juvenile gangs and no attempt to do anything about assault weapons or preventing criminals from being able to legally buy guns in the first place.

That is why my bill contains almost a dozen more significant, important, and, yes, tough anticrime measures. Let me just name a few right now.

Law enforcement. My bill provides an authorization for aid to enable local police agencies to boost their ranks by 10,000 new policemen, 10,000 new crime fighters, more police, more prosecutors and truly the front-line troops. So there is a total of 10,000 new combined, prosecutors and police officers.

For Federal law enforcement, our bill also authorizes, 2,800 new Federal crime fighters, 1,000 new FBI agents. The Director of the FBI came before us and he identified the drug cartel.

I said, "How many men will it take you?" He said, "I can only go after a certain few." "How many do you need to go after all of them?" He said, "I need 1,000." I said, "I will give you 1,000."

Why not give him 1,000, 1,000 folks to be able to target all the agencies, save us tens of billions of dollars if we did it properly.

My bill provides for 400 new Drug Enforcement Agency agents, 350 more Federal prosecutors and, as I said, we already provided for new judges. We need these new men and women if we are going to enforce all the tough new penalties Congress already passes and is passing. All right.

Also, I call for construction and the President opposes regional drug prisons. Our bill authorizes 10 new regional prisons, to hold 8,000 drug offenders. The President says he wants to get the criminals off the streets, but unless we build new prisons, the threat of incarceration is just that, a threat and no more.

The rural crime initiative is contained in my bill. Our bill contains a comprehensive initiative drafted by Senators BAUCUS and PRYOR to fight rural crime by providing more money, training, and help for rural law enforcement agencies.

Look, many of your States have a police force of two or three people. I just put out a report on rural crime that made the front page of every newspaper in America pointing out violence and crime. Drug crime is growing faster in rural America than it is any other place in the Nation. Some of you live in cities. That is not a problem for them. Yet these folks are not able to be trained. They have a police force of two, or three, or one; they should be able to get training down at Glynco in Georgia and other places to train them so they can help do the job.

Drug emergency areas. Our bill contains the Biden-Specter-Kennedy Drug Emergency Areas Act, a plan to rush emergency aid to areas hardest hit by drugs. We do that if you get hit by a hurricane, and we should do that if you get hit by a drug hurricane that erupts and blows up a whole section of the city. We act like we have to live with that.

It also provides drunk driving protection for children. Our bill—and not the President's—provides a 1-year penalty, enhanced penalty beyond what you would ordinarily get, for drunk drivers charged in a Federal court who have a child in the car. There is a simple reason for that, Mr. President. If you want to stop crime, stop the crime of a father or mother who are drunk insisting that they put their 5-, 6-, 2-, 1-, 8-year-old child in the car, a child totally incapable of saying, "Daddy, you're drunk. I'm not getting in the car with you," and then they are maimed. Thousands of kids. Well, that drunk driver should face a harsh penalty because when children are in the car they are in the car against their will, they are prisoners.

An antigang initiative. Our bill contains an innovative and tough new program to tackle the problem of juvenile gangs, endorsed by and proposed by the major entities in this country that deal with gang violence in the major cities.

It provides for boot camps. Our bill authorizes the use of 10 closed military bases as boot camps for youthful offenders. Most of these offenders will be put back on the street without any punishment whatever unless we build facilities. And again, this is the difference between being tough on crime and talking about being tough on crime.

Also in our bill, we have a police corps. Our bill adopts the Sasser-Specter-Graham compromise police corps plan—a plan to provide ROTC-type programs for police officers, and educational opportunities for those officers who have already agreed to serve and to protect. We need to get more people in this Nation graduating from college who want to go into public service to get involved in police work.

In closing, Mr. President—and I will have much more to say in the ensuing days and weeks—let me say what I would hope to have over the next several days is a serious, thoughtful debate on crime, and the competing measures before the Senate that are being presented to combat this epidemic. I would hope that the debate would be free from acrimony, and aimed at reconciling our differences, not highlighting them.

But my friends on the other side of this aisle—or, more likely, their friends at the other end of Pennsylvania Avenue—seem to want a political fight. So to that I say, I have no reservations defending this Democratic crime bill as a tougher crime bill than what the President has proposed, and I have no fear of debating this point with my Republican colleagues.

For the fact is simply this. Our crime bill—and not the President's—includes more death offenses; bans killer assault guns; keeps criminals from buying guns; beefs up Federal and local crime fighters; launches an attack on gangs, on rural crime, and on drug areas; adds new prosecutors and new prisons. That is the thing in my humble opinion that is going to truly have an impact on crime. Along with the implementation and enforcement of the bills we have already passed.

I hope our debate does not come to this, though, because in the past we always in this body have been able to ultimately compromise. The Senator from the great State of South Carolina who is second to none in this body in his commitment to fighting crime, second to none in his desire to be tough on criminals, is at some point going to introduce a bill to amend—essentially strike—what I have said, the bulk of what I have said, and insert the President's bill.

I welcome that debate. And I welcome that vote. I hope we at one point get a chance to vote on the President's bill. Let the President, who wants this bill, have the leadership of this body introduce his crime bill that he says is what the Congress needs and the country needs.

We have been trying to get this up but the highway bill has gone on and on. We did not make the 100 days but as arbitrary as it was, we tried to make it. We are here now.

Let us give the President a vote on his bill and find out whether Republicans and Democrats in this body believe that the President's bill freestanding or the bill that we have up freestanding is a better vehicle from which to attempt to fight crime. I respectfully suggest if we do that we will find that the majority of the Congress and ultimately the majority of both political parties will understand the need for more prosecutors; understand the need, notwithstanding the resistance of the President for more prisons; understand the need for more police officers, notwithstanding the President's objections; understand the need to do something about assault weapons; understand the need to do something about trying to get criminals from legitimately purchasing firearms.

I believe this body, I believe Republicans and Democrats know that you cannot make the parking lot of Pathmark, in a generic sense, all those parking lots, you cannot make the senior citizen housing, you cannot make the playgrounds, you cannot make the office area, you cannot make the parking garage, you cannot make the streets of America safer unless you are willing to take some bold steps beyond the death penalty, which I support, beyond changing habeas corpus, and beyond the issue of changing the exclusionary rule.

I yield for the moment.

The PRESIDING OFFICER. Is there further debate?

The Chair recognizes the distinguished Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, my good friend from Delaware talked so long. In view of that, several Senators want to speak over here and I ask unanimous consent that we extend this time until 2 o'clock.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. THURMOND. Thank you, Mr. President.

Mr. President, today, the Senate begins consideration of legislation which responds to the No. 1 domestic problem we face as a nation—violent crime. The average American today is no stranger to the volume of violent crime ravaging our cities and towns. The violent crime rate has risen at an alarming rate. The Federal Government's National Crime Survey estimates that there were over 5.8 million violent crime victimizations in the United States in 1989. Today, the Senate will be given the opportunity to take action to remedy this serious problem.

There are numerous factors which have contributed to our violent crime scourge. However, a principal reason for the growth of violence is that our criminal justice system has become soft on heinous criminals, failing to impose swift, effective punishment. Despite the efforts of law enforcement officers, many offenders are released back into society with little or no punishment. Offenders who commit heinous offenses no longer expect to be held accountable for their actions. For example, Department of Justice studies reveal that the average time served in State prisons for murder is 6 years, 7 months. The average time served for rape is less than 6 years. Unquestionably, these figures send the wrong message to violent offenders. Without a fear of punishment, there is little to deter the violent offender.

Mr. President, vicious criminals often commit numerous crimes before they are truly held accountable. For example, an estimated 76 percent of State prisoners serving time for a violent crime had prior criminal sentences—nearly half of them had been previously convicted of violent crime. Furthermore, 20 percent of the violent offenders entering prison would have still been in prison for a previous offense if they had fully served their prior sentence. These figures serve as evidence of what every law enforcement officer knows first hand—that, today violent criminals have no fear of the criminal justice system and pose a greater threat to Americans than ever before.

In recognition of the violent crime threat, I introduced President Bush's sweeping antiviolent crime bill, S. 635, on March 13, 1991. I fully intend to offer this major cirminal law reform measure as an amendment to the bill which is now before the Senate. This measure will take significant steps to ensure that our criminal justice system is tougher on criminals than on the law abiding. The Comprehensive Violent Crime Control Act of 1991, the President's proposal, recognizes that today's criminal justice system is balanced in favor of the violent criminal element without according adequate weight to the rights of victims, the law abiding, and law enforcement. It is time for a change. The American people are not clamoring for more debate on substantive criminal law reform proposals which seek to treat brutal criminals more favorably or expand vicious criminals' rights. Rather, they are demanding that Congress act upon the measures contained in the President's violent crime bill which limit the rights of the criminal and ensure tough, effective punishment.

Mr. President, the Senator from Delaware has been critical of the President's crime bill alleging that it provides inadequate funding for law enforcement. In an effort to pass an effective violent crime bill, I consulted with the administration. We are prepared to move the President's crime bill along with all of the additional funds called for by the chairman and contained in S. 1241. With much of the funding differences behind us, the Senate can focus upon the major reform proposals which the American people are demanding. I believe that it is important that those who have opposed the President's bill based upon funding differences clearly understand that now the debate can focus upon the truly critical reform provisions which must be adopted. Without question, the President's death penalty, habeas corpus, and exclusionary rule proposals are much tougher on criminals than the pending bill, S. 1241.

An example of a measure which the American people overwhelmingly support is the death penalty. Polls indicate that public support for the death penalty is at an all time high with almost 80 percent of the people of this Nation supporting capital punishment. Title I of the President's bill answers this call for appropriate punishment by restoring an enforceable Federal death penalty. It restores the Federal death penalty for such heinous crimes as murder of a Federal law enforcement officer or other official, attempted assassination of the President, terrorist acts, espionage, and treason. The rise in our Nation's murder rate must be stopped and the President's bill will go a long way toward reaching that goal. S. 1241, the Senator from Delaware's bill, has several troublesome provisions, including the so-called Racial Justice Act. This provision will effectively eliminate the death penalty in every State. No legitimate death penalty proposal can include such a provision which invalidates the death penalty in 36 States which currently have it.

The President's death penalty proposal also permits the presentation of victim impact evidence at the sentencing phase of a death penalty case. The President's bill specifies that evidence may be presented at the sentencing phase of a death penalty case concerning the effect a vicious murder had on the victim and the victims' family. Such evidence may include the suffering of the victim in the course of the killing and the victim's family emotional anguish and distress. Not only does S. 1241 not allow for such victim impact evidence, it would also further tilt the sentencing phase of a death penalty case in favor of the convicted murderer by mandating that the Government be bound by the Federal Rules of Evidence and Criminal Procedure in the sentencing phase. The convicted murderer would not be bound by these technical rules. Such a step is simply intended to impede the Government's ability to offer reliable and probative evidence which supports the imposition of a death sentence. For example, evidence of previous murder convictions may not be admissible against the convicted murderer during the sentencing phase. In other words, in determining whether to recommend a death sentence, the jury may not know that the defendant had murdered before. Such a provision would make the death penalty extremely difficult to impose. Again, this shows that the pending legislation expands the right of those facing the death penalty at the expense of victims—and I mean by that the Biden bill.

Another example of how our criminal justice system has lost sight of its responsibilities is the lack of finality and excessive litigation surrounding Federal habeas corpus appeals. There are currently over 2,400 individuals on death row. Yet, since 1972, only 146 brutal murderers have had their sentences carried out. This is due in large part to the Federal judicial system's continued tolerance for frivolous appeals and lack of respect for State court decisions. Between June of 1989 and June of 1990, almost 13,000 petitions for Federal habeas corpus review were filed in Federal district courts. These endless appeals bring our criminal justice system into disrepute.

The President's crime bill responds to the problem of endless appeals by combining the basic Powell Committee recommendations for death penalty litigation with the most important features of a habeas corpus reform bill which I introduced as S. 148 in January of this year. In exchange for providing death row inmates with competent counsel on State habeas cases, Federal courts will be required to accord deference to the results of State court adjudications which are full and fair when resolving issues of Federal law. Further, each capital petitioner would be entitled to only one Federal habeas petition except in very limited situations. Finality of litigation and the elimination of the habeas abuse which currently surrounds State death penalty convictions is critical. A State death penalty will not deter a potential cop killer until those who have been given a death sentence for similar crimes are actually punished without undue delay.

Unfortunately, those who do not appreciate the importance of habeas corpus reform will diminish its impact upon the violent crime problem. They will argue that habeas reform only impacts upon those individuals who are currently on death row or in prison. I disagree. True habeas reform will speed up the imposition of executions so that potential murderers will actually be deterred and just sentences can be imposed. In addition, it will bring a sense of finality to the families of victims who are forced to relive the vicious murders which haunt them day after day. Despite this, opponents of true habeas reform are the same people who downplay the effectiveness of true habeas corpus reform. They will oppose the tough reform contained in the President's bill and will advocate the weak habeas reform provisions contained in the Biden bill which will actually expand death row inmates' rights.

For example, the habeas provisions contained in S. 1241 would overturn several leading Supreme Court decisions which have limited habeas abuse. It overturns the recent Supreme Court decision in McCleskey versus Zant which narrowed death row inmates' ability to bring claims in Federal court which should have been raised in earlier petitions. In addition, it would reverse the major decision of Teague versus Lane which recently clarified the complicated area of law surrounding the retroactivity of law. The Biden bill overturns this case by allowing a prisoner to take advantage of interim changes in case law—no matter how insignificant. Furthermore, S. 1241 overturns a leading case, Wainwright versus Sykes, which established the procedural default rule. This rule limits the ability of a Federal court to hear habeas corpus claims which should have been raised in State court. S. 1241 would overturn these decisions to the benefit of the convicted criminal rather than building upon these decisions to the benefit of the law abiding, which is what the President's proposal does.

Mr. President, the President's crime bill also responds to some of the serious problems caused through application of the exclusionary rule. This bill seeks to codify the good faith exception to the exclusionary rule that has been recognized by the Supreme court. All too often in violent crime and drug cases, evidence is excluded at trial simply because the law enforcement officer innocently violated search and seizure rules. This provision codifies and expands upon the Supreme Court decision in U.S. versus Leon by simply providing that when a law enforcement officer acts in good faith compliance with the fourth amendment, any evidence obtained therefrom will be admissible as evidence in a criminal trial. Law enforcement officers should not be punished when they act in good faith.

The President's bill also proposes increased penalties for serious gun offenses. It is imperative that we make substantial prison time a certainty for the drug traffickers and other criminals who prey upon the innocent in our society and use firearms to commit their brutal crimes.

S. 635 also expands victims' rights and responds to the problems associated with sexual violence and child abuse. It creates a nationwide program of drug testing for Federal offenders on post conviction release. Finally, the bill responds to the threat of terrorism by including measures which strengthen our efforts against maritime and airline terrorism.

In summary, the measures contained in my amendment are fundamental, urgently needed reforms which Congress has debated for many, many years. A minority of Members of Congress who are fundamentally opposed to the death penalty, effective exclusionary rule reform, and substantive habeas reform should not be allowed to kill these vital measures. Clearly, these measures will prove to be effective tools in halting the spread of vicious crime. If true habeas corpus reform is enacted, heinous murderers sentenced to death for their unspeakable acts will finally be executed. If true exclusionary rule reform is enacted, law enforcement officers will not be punished for their efforts and criminals will not be set free on mere technicalities. If a comprehensive Federal death penalty is enacted, the Federal Government will be able to do its part to ensure that vicious, brutal murderers are appropriately punished.

Congress should act swiftly to pass the President's bill when we offer it as an amendment. It should not support the watered down Biden version which is currently before the Senate. Although some might assume that the two bills before the Senate are similar since they both contain a death penalty title, a habeas corpus reform title, and an exclusionary rule title, this is simply not true. The President's bill and the Biden bill are vastly different. In fact, S. 1241, the Biden bill, actually expands the rights of criminals at the expense of the law-abiding and it would effectively eliminate the death penalty in every State.

Mr. President, we must have real reform. Anything less is not acceptable. An effort to push a liberal bill through Congress which expands violent criminal's rights at the expense of law enforcement and the law abiding will not suffice. We must enact S. 635, the President's proposal, which is the toughest legislation to deal with violent crime in our Nation.

Mr. President, I would like to respond to some of the criticisms raised by my distinguished colleague. The Senator has criticized the administration for not doing enough to fight crime. I would like to note, however, the House has just cut—and the House is controlled by Democrats—has just cut by over $500 million the President's budget request for Federal law enforcement in 1992.

Second, there has been discussion of a gun search provision which would permit, in Senator BIDEN's words, police to act in bad faith. This provision is not in the Thurmond amendment.

Third, Senator BIDEN states that the President's death penalty would apply to only six cases. The Justice Department refutes this number when all murders are considered, not just those cases where life sentences had been imposed; it is refuted by both readily available statistical data and also by specific information that the Department of Justice recently provided to Senator BIDEN at his request.

For example, one death penalty provision contained in the President's bill covers all murders in the course of felony violations of the Federal drug laws. This includes almost all murders in the course of drug trafficking offenses or conspiracies.

The most recent Federal figures indicate that over 1,500 murders a year are identified by the police as being drug felonies. Hence, there are over 1,500 murders annually for which the death penalty could potentially be considered under this one provision of the President's proposal.

Mr. President, if you want to know what the sentiment is in this country on the President's bill, and the way I have amended it, compared with the Biden bill, the following list of victims' groups, States attorneys general, district attorneys, local law enforcement agencies, and law enforcement organizations have expressed their endorsement of the President's crime bill, S. 635, as I shall introduce it.

The attorneys general of the following 28 States and the Territory of Guam have endorsed the habeas corpus provisions of the President's crime bill, S. 635, and oppose the habeas corpus provisions of the Biden bill, S. 1241, and also are opposed to the Racial Justice Act embodied in S. 1241: California, New Jersey, North Carolina, Connecticut, Idaho, Florida, Nevada, Hawaii, Utah, Washington, Kansas, Oregon, New Hampshire, Georgia, Guam, Mississippi, Colorado, Pennsylvania, Texas, Arizona, Montana, Vermont, West Virginia, Nebraska, Alabama, Wyoming, Alaska, South Dakota, and Indiana.

Mr. President, I am sure attorneys general in many other States oppose the Biden bill and would favor the President's bill as I have amended it. We just have not heard from all of them.

I want to say that these are the people responsible for enforcing the law of this country. What do they do? They are against the Biden bill and for the President's bill, as I have amended it.

Mr. President, also, how do the district attorneys feel in this country? They are the people who prosecute the criminals. What bill do they favor, the President's bill or the Biden bill? The National District Attorneys Association favors the President's bill; the

California District Attorneys Association favors the President's bill; the Conference of District Attorneys in North Carolina favors the President's bill; the Louisiana District Attorneys Association favors the President's bill; the South Carolina Solicitors Association, which is equivalent to the district attorneys, favors the President's bill.

Janice Clardy, district attorney in Wetumpka, AL, favors the President's bill. Thomas Charron, district attorney, Marietta, GA, and president-elect of the National District Attorneys Association, favors the President's bill. Michael Bradley, district attorney, Ventura County, CA, favors the President's bill. Robert R. Gallagher, district attorney, Englewood, CO, favors the President's bill.

Mr. President, not only the law enforcement agencies of this country endorse the President's bill over the Biden bill, which ought to be enough in itself to pass the President's bill, but, as I mentioned, the district attorneys who do the prosecuting feel the same way. They favor the President's bill.

Now, what about the victims groups? Those are the people who have suffered at the hands of the criminals, and the families who have suffered at the hands of the criminals. How do they feel? Do they favor the President's bill or do they favor the Biden bill?

I will tell you, the Citizens Against Violent Crime, in South Carolina, favor the President's bill. Memories of Victims Everywhere, out of Irvine, CA, favor the President's bill. The Joey Fournier Anticrime Committee in Massachusetts; and Survival, Inc., of Saltillo, MS, favor the President's bill. Justice for Murder Victims, in California, favors the President's bill. The North Carolina Victim Assistance Network, Inc., favors the President's bill. Justice for Homicide Victims, from California, Inc., favors the President's bill. The League of Victims and Empathizers, Inc., from Florida, favors the President's bill. The Citizens for Law and Order, Oakland, CA, favors the President's bill.

Now, Mr. President, what about your law enforcement associations, those associations that represent the law enforcement of this Nation? How do they feel? The people of this Senate are entitled to know how they feel, because their members are responsible for enforcing the laws of this country. They want a tough crime bill. They do not want a watered down bill. How do they stand?

The National Law Enforcement Council, which is headquartered here in Washington, DC, favors the President's bill. The Federal Criminal Investigators Association, a national organization, favors the President's bill. The International Narcotic Enforcement Officers Association favors the President's bill. The Massachusetts Association of Italian American Police Officers favors the President's bill. The Massachusetts Crime Prevention Officers Association favors the President's bill. The California Correctional Peace Officers Association favors the President's bill. The Airborne Law Enforcement Association favors the President's bill.

These are all Federal national organizations. The Federal Investigators Association—they are the ones who investigate national crime—and its members favor the President's bill. The Fraternal Order of Police, which represents the whole Nation, how do they feel? The Fraternal Order of Police, for the whole Nation—not one State, all States—favors the President's bill. The Society of Former Special Agents of the FBI—these are people who have served as FBI agents in the past; they have no interest except to see the law supported and see crime eliminated—favors the President's bill.

The National Troopers Coalition favors the President's bill. Who are they? National troopers are the ones who are on the highways all the time and have to deal with these people, and a number of them are killed, some of them killed recently. They favor the President's bill. The National Sheriffs Association—every county in this Nation has a sheriff—favors the President's bill—not the Biden bill; the President's bill.

The Commission on Accreditation for Law Enforcement Agencies, Inc., favors the President's bill. The Greater Boston Hotel Security Directors Association favors the President's bill.

The law enforcement officers of this Nation favor the President's bill, and that is what I am going to offer as an amendment, except I am going to include the money that Senator BIDEN has included in his bill, because he has complained that the President does not want to put the money in it. We are going to put the money in the President's bill. Now there is no excuse for anybody not voting for the President's bill. It will embody the Biden money.

Mr. President, now is the time. This is the time—not another day—to support the President's bill. The people of this country are sick and tired of weak law enforcement. They are sick and tired of watered down bills on a pretense they are helping law enforcement, when they are really not.

The President's bill, as it will be amended to put in the Biden money, is the bill this Congress ought to pass. And I ask the Senate to pass this bill when it comes up.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. FOWLER). The Senator from Utah.

Mr. HATCH. Mr. President, I should like to pay personal tribute to my distinguished colleague from South Carolina, the ranking member on the Senate Judiciary Committee. I have to say that nobody has ever worked harder to try to get law and order bills passed than Senator THURMOND. If we would listen to him, we would make huge inroads against organized crime and against criminal activity, organized or otherwise, in this country.

I cannot begin to tell this body and everyone throughout this country the respect and admiration and fondness and downright brotherhood that I feel for the distinguished Senator from South Carolina. He not only has accurately portrayed the differences between both bills, but he has done so, I think, with fervor and with intelligence and with very well thought out words and deep feeling.

The country would be better off if we would listen to the Senator. The fact is that we have gone on in this country, year after year after year, allowing criminals to get away with it.

I think the differences between the two bills is stark. I encourage my colleagues to support the bill that the President has come up with, and which is so aptly sponsored by the distinguished Senator from South Carolina. Should that bill be defeated, I hope the distinguished Senator from South Carolina will be willing to call up component parts of that bill and have them debated against the component parts in the Biden bill, so that each of us will understand just exactly what the differences really are, and each of us will really know that the Thurmond amendments are far superior in the battle against crime than the parts of the Biden bill.

Mr. President, before Senator THURMOND spoke, the chairman of the Judiciary Committee spoke for more than one hour, and his principal point, restated several times, was that the President's crime bill does little to address our Nation's crime problem.

This raises a very interesting question. If the President's bill does so little to combat crime, if it is really so insignificant, as Senator BIDEN claims, then why does he stand here for over an hour opposing it? Why does the Senator so strenuously object to these provisions if they do nothing? Why let them pass?

The Senator protests too much. The President's provisions on the death penalty, habeas corpus, and exclusionary rule reform are very tough, and they make a difference. That is why, virtually, as Senator THURMOND has brought out, every State attorney general supports them. And that is pre cisely, why, in my opinion, the chairman of the Judiciary Committee and many of his colleagues oppose them.

Mr. President, Americans want a tough anticrime bill. Last year, they watched as one or both Houses passed tough crime measures, only to see the conference committee of Congress trash those measures. The American people will not forgive Congress if, in 1992, we repeat that sorry spectacle.

President Bush has sent to Congress a tough anticrime bill. I want to mention briefly some of the reasons I believe the President's bill contains much tougher provisions on the death penalty, haveas corpus reform, and exclusionary rule reform than the Democratic alternative in S. 1241, introduced by my friend, the distinguished chairman of the Judiciary Committee, Senator BIDEN.

I respectfully submit it is not enough to say the two bills have sections addressing the same subjects. The substance, and thus the differences, lie in the details.

Take the death penalty. I would first like, Mr. President, to remind my colleagues of a simple historical fact: There has always been a Federal death penalty. No bill now before this body introduces a new form of punishment into the Federal system. Instead, the main purpose of the pending legislation is only to adopt procedures to allow the death penalties already on the books to be constitutionally carried out.

In addition, the death penalty is authorized, under the President's bill, for certain heinous crimes not previously punishable by death, such as retaliatory murders of witnesses and jurors in Federal trials, and the use of weapons of mass destruction against American nationals.

Retired Justice Lewis Powell recently wrote on the subject of capital punishment in the Harvard Law Review that:

> The Supreme Court has made clear that death is a constitutionally valid sanction for some offenders, and a clear majority of citizens favors its use.

I agree with his conclusion.

I turn to the question of whether the death penalty is applied in a racially discriminatory manner. This issue is the principal difference between the Bush penalty proposal and the Biden proposal. It is now, however, the only important difference.

I would simply note at this point that no one has ever established racial discrimination based on statistics in an individual case, nor is this statistical approach to achieving racial justice likely to provide anything except paralysis in our criminal justice system. The so-called Racial Justice Act provisions contained in the Democratic alternative provide that the death penalty cannot, will not if these provisions pass, ever be carried out except by a racial statistical formula. It is a backdoor way to abolish the dealth penalty in the name of restoring it. Indeed, it will effectively repeal the death penalties in those States which now enforce it.

This fixation with statistical racial justice will make it absolutely impossible to carry out the death penalty. And in order to do so, should that provision pass, race will have to be a factor considered in the rendering of a death sentence. Not what they did necessarily, not the heinous criminal conduct, but the racial factor alone could prevent the death sentence even though it is well deserved.

The Senate properly recognized the fallacy underlying this theory when in the last two Congress this proposal was soundly rejected. This year's attempt to abolish the dealth penalty should be even more soundly defeated. I think it should be stripped out of the bill.

The President's bill contains a sound and reasonable precaution against discrimination on the basis of race, color, religion, national origin, or sex of the defendant or of any victim. It requires the court, in a hearing, to instruct the jury that it shall not be influenced by prejudice or bias related to these characteristics when considering whether the death penalty is justified. Moreover, if such a sentence is recommended by the jury, each juror, under the President's bill, must sign a certificate that such prejudice or bias was not involved in reaching his or her decision.

I urge anyone who feels that the present law does not adequately protect the criminal sentencing process from the infection of prejudice to examine this important section in the President's bill. Maybe we cannot legislatively ensure that discrimination will never exist, but I do believe that the certificate procedure required by section 102 of the Bush bill is the single most effective means we have of requiring that each capital sentencing jury carefully and soberly reflect upon the importance of race-neutral sentencing.

The certificate approach is forward looking. The Racial Justice Act, by contrast, does not in any way seek to prevent discrimination in the future. Its only goal is to remedy discrimination that allegedly may have occurred in the past by effectively prohibiting all executions in the future. That is no remedy. Indeed, the alleged discrimination purportedly addressed by the Racial Justice Act has never been proven in an individual case or otherwise.

The certificate approach is precisely the sort of guarantee that the Supreme Court in McCleskey versus Kemp suggested as a meaningful attempt to address possible discrimination in death penalty procedures. Unlike the scattershot approach of the Racial Justice Act, the certificate provides that alleged discrimination be addressed in the individual case, which the Court has recognized is the only place where it can logically be addressed.

Section 102's "special precaution to assure against discrimination" seeks to achieve justice; section 207's Racial Justice Act only seeks to prevent executions, regardless of whether justice is achieved or thwarted by that result. We can guard against discrimination in imposing the death penalty. President Bush's bill does so. The Biden bill will effectively end the death penalty under the guise of restoring it, and I do not think anybody who reads it and understands it could conclude otherwise.

With regard to habeas corpus, habeas corpus reform is one of the subjects on which the two crime bills most clearly differ. The contrast cannot be more stark. One bill, the President's, will decrease the number of times that a State prisoner can appeal his or her sentence in Federal court. The other bill, S. 1241, will without doubt increase these often frivolous and repetitive suits. Even under the President's approach, a convicted criminal will have numerous opportunities, half a dozen at least, to appeal his or her sentence. But under the Biden approach there is no limit whatsoever.

The habeas corpus provisions of S. 1241 will compound the problems that exist today, not reduce them. These provisions are a giant step in the wrong direction. Instead of enacting the reform that everybody seeks—less delay and more finality in resolving the criminal cases—the proposed bill will do exactly the opposite. It will, if enacted, overrule many of the most significant Supreme Court cases of recent years, which have had the effect of stemming the habeas corpus hemorrhage and will introduce new avenues of delay and postponement to be exercised by prisoners on death row.

This is not simply my view alone. It is the view of most of the Nation's State chief justices, speaking through the Conference of Chief Justices. It is the view of virtually all of the Nation's State attorneys general, many of whom, such as Attorney General Paul Van Dam, of Utah, are Democrats.

Since 1867, the Federal Government has, by statute, allowed certain prisoners in State confinement to challenge their convictions or their sentences by a means of application filed in Federal district court. While this remedy was originally limited to jurisdictional challenges and later expanded to encompass all constitutional claims, the habeas corpus remedy under 28 U.S.C. 2254 is now virtually limitless. Every prisoner in State custody can relitigate the validity of his or her confinement through this means for a virtually unlimited number of times throughout his or her imprisonment.

Reasonable limits on a prisoner's opportunity to relitigate his or her case must be recognized in order that the judgment of the court and the jury not be trivialized. The President's bill provides such limits by establishing, for the first time, a 1-year limit on the filing of habeas petitions, a rule of deference to State court determinations of issues that were "fully and fairly litigated," and a limitation of second and other successive habeas petitions in capital cases for claims raising doubt concerning the guilt of the prisoner.

S. 1241 provisions relating to postconviction remedies are nothing more than the thinly disguised effort to overturn half a dozen of the most recent Supreme Court decisions in the area of habeas corpus reform.

Most critically, it would undo current principles of finality of sentence by replacing the holdings in Teague versus Lane, a 1989 case, and Murray versus Carrier, a 1986 case, by replacing that good language with vague language on retroactivity that would allow death row inmates to have their sentences reviewed again whenever an allegedly new right is, in the view of anyone of more than 700 district court judges, created.

Can you imagine that? Can you imagine that being habeas corpus reform?

Retroactivity means they will have renewed hundreds of opportunities to make habeas corpus claims, frivolous claims at that, claims that we know are frivolous, claims that really should not be made.

S. 1241 would allow the Supreme Court's rulings on retroactivity to be overruled by a single Federal trial judge whenever that judge determines that it will be just to give the defendant the benefit of a law that the Supreme Court has ruled the defendant should not receive the benefit of.

I question, Mr. President, whether we have the power to create article III courts that can overrule the decisions of the U.S. Supreme Court, which is established by the Constitution. But even if we do possess that power, it is clearly unwise to exercise it. The decisions of the Supreme Court must be followed by the lower Federal courts. Otherwise, there will be chaos in our judicial system.

Congress should not be in the business of telling the Supreme Court what its opinions mean, and it certainly should not tell the lower Federal courts what parts of which cases they need follow. Such a practice cannot be countenanced in our constitutional system under our separation of powers principles. Moreover, it is a path that, once gone down, Congress could not be expected to resist in the future. What restraint would there be on a future Congress from setting aside any part of any other constitutional decision of the Court that it just plain did not like?

Our power to affect the constitutional interpretations of the Supreme Court is through the amendment process, not through disingenuous alterations of the principles of retroactivity.

S. 1241 also requires the district court to hear every claim that alleges a "miscarriage of justice," even if the argument has been specifically waived or abandoned at trial or on appeal for strategic or other reasons. This rule would overrule the leading case of Wainwright versus Sykes, a 1977 case, a landmark case, which has kept the number of habeas cases from being still larger by prohibiting a prisoner from raising in Federal court a claim which he is legitimately barred from raising in State court, unless the prisoner can show good cause for the default resulting in prejudice to his case. That is a reasonable rule, broad enough to allow every genuine case of constitutional error to be heard. It should be retained.

A bill which allows any death row inmate alleging that he is the victim of "miscarriage of justice," to obtain another review of his confiction and sentence in Federal court—no matter how many times he has previously been to Federal court—is not calculated to reduce the number of habeas corpus petitions.

But that is exactly what S. 1241 provides. That is one of the reasons why retired Justice Lewis Powell, as well as the chief judges of the Fifth and Eleventh Circuit Courts of Appeal, have testified that enactment of this title in the Biden bill will result in more, not fewer, repetitive habeas corpus cases.

The Supreme Court is limited in what it can do to address the habeas crisis. All it can do is interpret the statutes that Congress passes, as it did recently in McCleskey versus Zant, when it gave substance to our statutory language relating to an "abuse of the writ." But the ultimate problem is still Congress' to address. It is incredible to think that Congress would be tempted to act by undoing those few significant Supreme Court cases that have brought some semblance of sanity to this process.

I remind my colleagues that when we discuss postconviction counsel, we are talking about prisoners whose guilt has been established beyond a reasonable doubt and whose conviction and sentence have, in every case, been reviewed and affirmed by the highest appellate court of the State and, in many cases, by the Supreme Court of the United States of America. Only then, after their appeals are over and their criminal case is completed, would S. 1241 operate to provide still more lawyers for the prosecution of their civil remedies.

It is ridiculous to argue that the habeas provisions in the Biden bill do anything to reform habeas corpus. They expand the right to take appeals and to file petitions.

With regard to the exclusionary rule, under the judiciary-created exclusionary rule, completely credible and probative evidence critical to conviction is excluded from trial. This is done because a court, deliberating weeks or months later, rules that the evidence was unreasonably seized. The criminal goes free, to the detriment of society.

The Supreme Court has chipped away at the exclusionary rule, and properly so. Under the recent Supreme Court case cited, U.S. versus Leon, evidence obtained, based upon an objectively reasonable belief in a search warrant's validity, is admissible in court.

The Bush bill takes the logical, sensible, anticrime step of extending this good-faith exception to warrantless searches. The Democratic alternative does not.

Indeed, the Democratic alternative's attempted codification of the Leon standard might be viewed by the courts as a prohibition on further judicial expansion of the good faith exception or the judicial overturn of the exclusionary rule altogether.

Further, the language of the Democratic alternative does not even codify Leon for search warrant cases; it narrows it. In Leon, the Supreme Court stated that the good-faith search warrant exception to the exclusionary rule would not apply "in cases where the issuing magistrate wholly abandoned his judicial role. * * *"

Under the Democratic alternative, the good-faith exception would not apply if the judicial officer provided approval of the warrant without exercising a neutral and detached review of the application for the warrant. By tinkering with Leon decision in this way, the Leon good-faith rule itself will be narrowed, if the Biden Democratic bill is passed.

I want to chat a little bit about another important aspect of this whole debate.

Let me stress, in conclusion, that gun control is not crime control. The only thing gun control measures, such as waiting periods do is harass law-abiding citizens and deny the constitutional right to keep and bear arms. At the same time, criminals can obtain firearms through theft, the black market, or otherwise.

Combining the Brady waiting period bill with a background check might be compromise for gun control advocates. It is not acceptable to this Senator. Such a scheme will ensnare the law-abiding citizen in delay and erroneous denial of firearm purchases, leaving some citizens defenseless in the face of criminals. The criminals will have no such trouble obtaining firearms.

Let me just say this: Most crimes committed with the use of firearms were committed with firearms that are illegally obtained. In fact, almost all. The others are generally crimes of passion, which the Brady bill will not resolve. The Brady bill, No. 1, does not resolve most criminal activity with firearms, because those firearms are stolen or obtained in the black market, or otherwise, illegally. So the vast majority of all criminal activity with firearms, the Brady bill will not touch.

Second, the few remaining cases that are left over are, primarily, crimes of passion, which the Brady bill will not touch either. Very, very few cases might possibly be touched by the Brady bill.

I happen to love and respect Jim and Sarah Brady. There is no question in my mind that they are very fine and wonderful people. They have gone through untold suffering as a result of the useless and criminal act of an insane person.

On the other hand, I have to say that the Brady bill, No. 1, is not going to work. No. 2, it is going to be very costly.

We probably could take the estimated $200 million-plus that it will cost to implement that bill for no good reason, because it is not going to work, and put it into crime control and into our law enforcement mechanisms and we would be a lot better off. We would be a lot farther down the road of crime control.

I have to say also that the Brady bill is a step towards gun registration. To those of us who believe in the right to keep and bear arms, we do not want gun registration. We do not want the pre-Firearm Protection Act days to come back where because of mistakes in spelling, minimal mistakes in filing forms, decent law-abiding sports people have been indicated and persecuted. We do not want to go back to those days. We know this is just step one to get us back to those days.

We also do not want to have people lose their rights to keep and bear arms in this society. I am sure we will get into this debate a lot more, but I have to tell you there are a lot of people out there in this country if they really understood what is involved, and how really unlikely the Brady bill, or the Mitchell modification of the Brady bill are really unlikely that those bills will work, they would be darn mad to realize we are going back to a bureaucratic overregulatory harassing approach to gun control.

To sum up, Mr. President, the Democratic bill is a soft-on-crime bill. It effectively repeals State death penalty laws, that is unless we can get rid of the Racial Justice Act. It guts the Federal death penalty in the guise of restoring it because it cuts out the use of the Federal death penalty even if we took the Racial Justice Act out. It is a Godsend for convicted murders on death row because it makes it easier for them constantly to appeal their convictions and delay their executions. It hamstrings the police for cutting back on evidence that should be admissible in court.

Mr. President, I think it is eyewash because the American people want Criminal Code reform, want tougher gun approaches that makes sense, want tougher laws that will nip criminal conduct in the bud and make it tough to be a criminal, and want law that basically protects American citizens from unlawful activities, and especially criminal activities.

Mr. President, again, I compliment my distinguished colleague from South Carolina. He has been in the forefront of strong Criminal Code reform language ever since I have been here. The Criminal Code reform bill, the most monumental bill, was enacted to reform our criminal laws a few years back, was enacted largely because of his perseverance and the work that he did. And if we would listen to him I think we would find that his particular bill, that is, the President's bill would do an awful lot to put a big dent into criminal activity in our society and to help all of us to have a better and more responsive society to our needs.

Mr. President, I admire him, and I certainly support him and the President in this bill. I hope our colleagues will consider doing that because if we really want to do something about crime we ought to do it.

Having said all that, is there injustice in our criminal system? You bet. Are there inordinately high sentences? You bet. Are there judges who go off the reservation? You bet. Are some of the things the ACLU brings up in the protection of individual rights correct? You bet your life.

We have to fight those things with everything we have. But the Biden bill does not do that. I have to say the way the President's bill is written will be tough on crime without, I think, negating or hurting the rights of individual citizens and those who are accused of criminal activity in our society.

I am going to work all my lifetime to try and make sure that justice occurs in our courts. I do not agree with everything that happens by tough criminal judges, by any stretch of the imagination. I do not think they are always right. But if we give them laws that basically are good laws that give teeth to anticrime efforts everybody in our society will benefit and there is only one bill that is going to be debated here that has that type of law or that type of legal backing and that is the bill that the distinguished Senator from South Carolina is advocating, along with the President.

Mr. President, I yield the floor.

Mr. GRAMM and Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President——

Mr. GRAMM. Mr. President, I did not even hear the Senator from Delaware ask to be recognized.

Mr. BIDEN. The Senator from Delaware did.

The PRESIDING OFFICER. The Chair heard the Senator.

Mr. BIDEN. I would be delighted to yield to our colleague if he wishes me to. I will speak more in a Texas voice next time.

Mr. GRAMM. If the Senator did ask to be recognized then he deserves the floor.

Mr. BIDEN. It is fine by me for the Senator to have the floor. I was just going to make some comments on what Senator HATCH had said, but I already had a chance to speak.

The PRESIDING OFFICER. The Senator from Texas is recognized in his own right.

Mr. GRAMM. Mr. President, we are today debating a very important bill. I think most of us spend numerous days and hours talking about things that are important to individual interests in the country but issues important to the general interest of the country often go unmentioned.

Mr. President, I submit that we are debating today an issue that is critically important to every man, woman, and child in America. I submit that our bleeding Nation desperately wants us to do something about the problem of rampant crime.

I believe, Mr. President, that we are going to give the people of America a choice in the bills and amendments that are going to be presented here. And I think, Mr. President, that the choice is indeed clear: That if you believe the time has come to grab criminals by the throat and not let them go, you are only going to get one opportunity to do that and that is the opportunity that will be afforded when the distinguished Senator from South Carolina offers the President's crime bill.

Mr. President, I wish to review some statistics that I think are vitally important. These statistics reveal very clearly why the American people are 20 years ahead of Congress in demanding that action be taken. I think it is an absolute outrage that action has not been taken, that the democratic process has faltered because Congress has refused to act on an issue that consistently, whether you measure it in terms of public opinion polls or whether you simply listen to the voice of the people expressed individually, is the number one issue of concern in the country.

I want to present a series of statistics, Mr. President, that I think make a clear-cut case that we have crime without punishment in America, that show when people consider committing crime, they look rationally at the process of being indicted, convicted, sentenced, and imprisoned, and they conclude that there is not very much of an effective deterrent in the criminal justice system.

I want to further, in looking at the data, suggest that the one thing we could do that would immediately have a profound impact on the safety of the American citizenry is to stiffen mandatory sentences. And I want to present some new data on this subject.

I also want to talk about the data that now is available and which relates to the certainty of prison sentences, to crimes that are committed, and the growth of the crime rate. And, finally, I want to outline how critical I think this problem is and why I believe that we should not follow the normal process here where we simply debate the issue, vote on it, have it go off to conference somewhere, and never see most of it again.

In fact, Mr. President, we have voted on many of the critical issues that are in contention here. The Congress has voted on most of these issues in the House and the Senate. Under the normal procedure, when the House adopts a provision and the Senate adopts a different provision, we go to conference to work out the difference and the provisions that can be agreed upon end up in the final bill. But in the last few years that has not been the case. And so not only the will of the American people but the will of the majority in both Houses of Congress has been circumvented.

But let me begin by talking about crime without punishment. Mr. President, in a study by Dr. Morgan Reynolds of Texas A&M University that has been published by the National Center for Policy Analysis, Dr. Reynolds tries to do something that I think is profoundly important to this debate. He tries to calculate what he calls the risk of punishment.

In other words, what he does is look at the various crimes that are committed each year as they are reported in our official crime statistics and look at the probability that someone who commits a crime is going to be arrested. He looks at the probability that if they are arrested, whether they will be prosecuted. He looks at the probability, if they are prosecuted, whether they will be convicted. Then he looks at the probability that, if they are convicted, whether they will actually be imprisoned. He then calculates, looking at the crime of murder, for example, what the probability is of the amount of time that a person committing a murder can expect to spend in prison if he falls under this average statistic.

Mr. President, I do not know whether this is exactly relevant in each individual criminal decision, but I think it tells you a lot about our society when you look at these statistics.

Dr. Reynolds has gone back to 1950 in looking at these statistics. He has found that since 1950 the expected time in prison that you get for committing a serious crime—murder, rape, robbery, and assault—that the expected cost in terms of time in prison, when you take into account probability of arrest, the probability of prosecution, the probability of conviction, and the probability of imprisonment, that the expected cost in time spent in prison has declined by 60 percent since 1950.

Since that time, Dr. Reynolds finds that the amount of crime committed—again in terms of these very serious violent crimes—is up sevenfold. In fact, he found—and these statistics are startling to me and I am almost reluctant to repeat them as I do not want the criminals to know it. Unfortunately, they already do know it.

In 1950, when Dr. Reynolds pools all these serious crimes, like murder and rape and assault and robbery, together, he finds that if you look at all of them as a composite, in 1950, given the probability of arrest, conviction, and sentencing to prison, that the expected cost in 1950 of committing one of these crimes was 24 days in prison. Dr. Reynolds concludes that, by 1988, that had dropped to 8.5 days in prison.

Now let me just give you some of these figures, and listen to them.

Dr. Reynolds concludes that the average person who committed a murder—when you calculate everything out about the probability that he would be arrested, prosecuted, convicted and imprisoned—the average murderer in 1984 risked serving 2.3 years in prison. For a burglary, it was 7.7 days; for a car theft, it was 6.3 days.

> It is virtually impossible to prevent people from committing crimes. The most that the criminal justice system can do is impose punishment after the crime has been committed. * * * People commit crimes so long as they are willing to pay the prices society charges, just as many of us might risk parking or speeding tickets. Viewed in this way, the expected [risked] prison sentences * * * are the prices we charge for various crimes. Thus, the price of murder is about 2.3 years in prison; the price of burglary is 7.7 days; the price for stealing a car is 6.3 days.

Mr. President, is it any wonder, when the expected cost of stealing your automobile is 6.3 days in prison, that we have a lot of people that are waiting out there to steal our cars? I submit, Mr. President, that we have crime without punishment in America. And that is why we have so much crime in America.

We all know about repeat offenses. But let me just review the statistics because I think these statistics are absolutely alarming. They frighten me and, obviously, to the extent that the American people know them, they will outrage the American people.

We have had some detailed calculations conducted in 11 States that accounted for more than half of all State prisoners released in 1983. The Federal Bureau of Justice Statistics looked at what happened to people who were serving time in prison who were released that year and then looked at where those individuals were years later. Now this is only 11 States, but I think everybody concludes that it is basically representative of the Nation as a whole.

Of the people that were let out of prison in 1983, the vast majority of whom had served only a fraction of their time, 62.5 percent had been rearrested within 3 years for serious violations of the law. Almost two-thirds of the people who were let out of prison, State or Federal, in 1983, had been arrested within 3 years for a serious violation of the law; 46.8 percent had been convicted and 41.4 percent were back in prison or a local jail.

Mr. President, if you simply look at the data on arrests per crime being committed, I do not believe that it is stretching our imagination too much to conclude that fully 75 percent of the people who are being let out of prison today are walking right back out on the street and killing and murdering and brutalizing and robbing our people. I mean, that is basically what the facts say. If 62.5 percent within 3 years had been rearrested, how many have committed these crimes and not yet been caught?

Mr. President, let me talk about the cost of keeping somebody in prison and the cost as compared to the benefits of keeping them in prison. Keeping people in prison is expensive. We all know it. And I take pride in the fact that last year, after delaying for years, we finally put a lot of money into the system to build Federal prisons. Some people might say, "Well, that is not the problem. It is society's problem." And I will get to that. Quite frankly, I think it is part of the solution.

Botec Analysis Corp. has done a study of the annual cost of operating prisons in America. They concluded that it costs between $23,000 and $70,000 per year to operate one prison cell in America. Now that is a big variance between $23,000 and $70,000, but that is the range we are looking at.

It costs a lot of money to keep people in prison, and I do not deny that. But we now have a study by two Harvard professors, David Cavanagh and Mark Kleiman, who have studied the benefits in terms of preventing crime, preventing costs from being imposed on law-abiding citizens, of keeping those people in prison 1 more year. And what they have concluded is that by using a prison cell to extend the length of a prison sentence by 1 year, we save between $172,000 and $2.364 million a year.

In other words, it costs somewhere between $23,000 and $70,000 to keep somebody in prison a year. But, according to the Cavanagh and Kleiman study, the savings in terms of crime costs imposed on the working men and women of America in destruction of property, lessening of their earning power because they are crippled, loss of earning power because they are killed, is between $172,000 and $2,364,000, depending on how you value those things. But if you take the most expensive cost anywhere for a prison cell and then take the lowest value of preventing crime by keeping somebody in prison for another year, the benefits of doing so exceed the cost by a minimum of 2 to 1. And I submit, Mr. President, that that is a pretty remarkable statistic.

Now, I know there are going to be people who are going to say—and let me make it clear, Mr. President, that I never impugn the motives of people who make arguments on the floor of the U.S. Senate. I never assume the superiority of my argument over somebody else's in terms of motive. I think we all are motivated by the same thing. Some of us are right and some of us are wrong, and it is up to history to decide who that is.

But there are going to be people who say prison is not the answer. I do not claim it is the only answer. But I do believe it is part of the answer. It is an indispensable part of the answer.

Let me give some new data I think is pretty revealing. This data comes from the Bureau of Justice Statistics. In 1960, we had about 200,000 of our fellow countrymen in prison. By 1969, that number was basically the same, about 200,000. But America, of course, was a bigger country in 1969 than it was in 1960, and there was a 17-percent decline in the Nation's per capita imprisonment rate. So that on a per capita basis, in the 1960's, the percentage of our citizens in prison declined by 17 percent.

What happened to crime during that period? According to the FBI's Uniform Crime Report, between 1960 and 1969, violent crime in America exploded, soared 104 percent. The percentage of the population in prison went down; the crime rate went right through the ceiling.

In the 1970's, things changed dramatically in America in terms of people in prison. The imprisonment rate rose by 39 percent and the crime rate rose by 47 percent. So whereas the crime rate had more than doubled in the previous decade as the number of people in prison went down, as the number of people in prison in the 1970's went up, the crime rate rose by less than half.

But that does not tell the whole story, because in 1973 we started compiling a new statistic, which unfortunately we do not have for the 1960's, and we conducted a National Crime Survey of the public to try to measure not just crime reported but crime that occurred but was not reported.

What the Bureau of Justice Statistics' National Crime Survey said is that from 1973 to 1980, while the imprisonment rate was going up, the violent crime rate went up by only 6 percent, whereas it had more than doubled in the decade of the 1960's when on a per capita basis the number in prison went down.

In the 1980's, the number of people in prison almost doubled; it went up by 99 percent. By the national survey, which measures both reported and nonreported crime, for the first time ever it went down—by 13 percent. The number of people in prison almost doubled. The crime rate as measured by the National Crime Survey actually fell for the first time by 13 percent. Even if we use the FBI's Uniform Crime Report, which measures only reported crimes, violent crime went up by only 11 percent in the 1980's, compared to the 104 percent increase during the sixties.

Let me read a quote from Dr. Steven Dillingham, Director of the Bureau of Justice Statistics. Dr. Dillingham concludes a speech he gave in March by saying:

> Looking back over the three decades, we learn that over time—by decades—when imprisonment rates fell, violent crime rates soared; and when imprisonment rates rose, the violence crime rate experienced decreased rates of growth or even reductions, whether measured by the National Crime Survey or the Uniform Crime Reports.

Mr. President, I ask unanimous consent that Dr. Dillingham's full statement be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAMM. I am not going to get into the minutiae of the two bills before us. There are a lot of people here who know more about these bills than I do. But I want to make several points I think are important.

First, it is pretty clear to me the American people want the death penalty restored. They do not want it restored in such a way that nobody can ever be executed. They want it restored so when the punishment fits the crime we have the capacity to use the ultimate deterrent.

Mr. President, we have voted for such a death penalty on many occasions. The House last year voted for such a death penalty by 271 to 159. And yet today we still do not have workable capital punishment. Why?

How can it be that the House votes for it, the Senate votes for it, the President is for it, the American people are for it, and yet it is not the law of the land? How can that be?

Well, how it happened was that the leaders of the committees of jurisdiction in the conference dropped these provisions. So, despite the fact both Houses of Congress stated a clear preference, it did not become law.

The American people want capital punishment for drug kingpins, who are ordering murders, who are conducting violent crimes, who are preying on the health, happiness, and lives of our children. We adopted it. The House adopted it 295 to 133. It was adopted in both Houses of Congress.

When I was in the seventh grade I learned if the House votes for it, the Senate votes for it, the President is for it, the American people are for it, then probably it becomes the law of the land. But not so.

On habeas corpus——

Mr. BIDEN. Will the Senator yield on that point? I will only take a second to explain. There was a difference in what the House passed and what the Senate passed. And the House passed a provision on both cases, including the racial justice provision. We did not pass the racial justice provision.

As the leader of the conference on the Senate side I offered to take the death penalty without the racial justice provision and the House would not yield. They stuck to the racial justice provision.

The Republicans on this side said under no circumstances would they accept the death penalty with racial justice. And the House Members who voted for racial justice said under no circumstances would they accept the death penalty without it.

That is why it did not occur.

Mr. GRAMM. Mr. President, let me say I appreciate the enlightenment given to me by our colleague. In fact I know that is the case. But it does not alter the basic point I want to make, and that is if we had an up-or-down vote in the House today on capital punishment for drug kingpin murders it would be adopted overwhelmingly. A similar vote on the floor of the Senate, if it occurred today, and probably will occur today, or sometime next week would be adopted overwhelmingly.

Mr. BIDEN. I agree.

Mr. GRAMM. I know there are those who are so committed to racial quotas they want them not just in hiring, but they want them in capital punishment. I find that absolutely, incomprehensibly astounding. But I should never be astounded by the position of the U.S. Congress.

Habeas corpus reform—and again there are distinctions. But it does not change the point I am trying to make. We are for habeas corpus reform. The House adopted habeas corpus reform 285 to 146. Yet it has not become the law of the land.

Habeas corpus has to do with the court appeals of somebody who, for example, goes out and kills somebody and is convicted and sentenced; we are now giving that person endless ability to tie up the courts for years and years, decade after decade, circumventing the functioning of the criminal justice system.

The exclusionary rule, both Houses of Congress have basically concluded that if a police officer in good faith gets evidence, where they made a mistake—they broke into a house, there is a shootout, they grab the guy and they forget to read him Miranda and he confesses, for example, or if they find evidence without having a search warrant when they were drawn in by hot pursuit, or other factors that people more expert than I am can talk about—the point is, if a police officer in good faith finds a gun that was used to kill somebody or finds drugs, or finds incriminating evidence, should we let that evidence be used? Both Houses of Congress in one form or another have said yes. The American people say yes, the

President says yes. Yet it is not the law of the land.

The only thing I can conclude is we are out of touch with the thinking of the American people.

That, in a very real sense, we are a privileged few who are protected. I think we are never going to deal with this crime problem until each of us can emphathize with the people who are victims.

I know somebody famous said it and I looked for the quote, so I am not trying to claim credit for somebody else's quote. I do not know who said it, but he was right when he did say it. He said: The crime problem will not be solved until the people who are not the victims are as outraged as the people who are the victims.

Mr. President, I am outraged. I want us to do something about it. I do not want the crime issue as a political issue in the next election. I want us to vote to this issue. I want us to adopt a strong bill.

Let me conclude by saying just a little about the two bills and about procedure. First of all, I do not doubt the sincerity of the people who have the underlying bill before us, who have written it, who have put it together. As I look at it, Mr. President, I do not see it as being the tough bill I want. I do not see it as giving us the tough death penalty that I want. I do not see it dealing with the major issues that the President has called for us to deal with.

I do not see it as a total step backwards, but I think, quite frankly, it is mixed enough that it is worse than current law in some areas.

We have in the bill before us—and I know there will be a move to strike it, and I am not even sure—in fact, I think the distinguished chairman may, in fact, be opposed to racial quotas in capital punishment. But it is in the bill before us. Mr. President, I do not think that is the bill the American people have in mind when they talk about grabbing drug thugs by the throat.

We have procedures here that allow endless amendments. I just simply would like to propose a couple of things. Once, I think we ought to have an up-or-down vote on the President's bill. I think we ought to give the people an opportunity to vote yea or nay on the President's bill.

Mr. BIDEN. Will the Senator yield on that point?

Mr. GRAMM. I will be happy to.

Mr. BIDEN. I am prepared to do that. I am prepared the moment the Senator stops speaking to give the President an up-or-down vote on his bill.

Mr. GRAMM. Mr. President, I yield the floor.

EXHIBIT 1

THE ATTORNEY GENERAL'S SUMMIT ON LAW ENFORCEMENT RESPONSES TO VIOLENT CRIME: PUBLIC SAFETY IN THE NINETIES, MARCH 4-5, 1991

(By Steven D. Dillingham, Ph.D., Director, Bureau of Justice Statistics)

I appreciate very much Dr. Blumstein's outline of many of the factors we might consider as we try to project what will happen to violent crime and violent crime rates in the 1990s and beyond. Certainly it is desirable to consider possible impacts of demographics, and Al has devoted much time and talent to this challenge. As was mentioned, other variables can have some impact—such as drug use, social attitude, constrained criminal justice resources in times of tight budgets, changes in criminal laws, changes in crimes of preference, and new effeciencies and improvements in criminal justice practices.

The Department of Justice, through the Bureau of Justice Statistics (BJS) collects data and performs analysis on a national basis of topics, developments and trends relating to each component of the criminal justice system—beginning with vitimization and extending to law enforcement, prosecution, courts, jails, prisons, probation and parole, and recidivism studies. For example, regarding corrections statistics, national-level data goes back to pre-Civil War, with the initiation in 1850 of the first count of prisoners held in the states and then-existing territories. Today, we receive corrections data from every single prison and jail in the nation—without exception. BJS data are collected independently by agencies such as the Bureau of the Census and are available to the public for independent analysis at the University of Michigan. BJS studies are relied upon by Federal, state and local governments cirminal justice officials, and the public-at-large. The United States Supreme Court has cited our data in its decisions. BJS now fills 1 million requests each year for statistical reports.

Without overloading you with numbers, I will present some highlights of recent findings and trends:

First, let me address the one topic that generally dominates discussions of violent crime and appropriate responses to it. That topic is the relationship of imprisonment to violent crime (see slide with table).

Statisticians and criminal justice researchers have consistently found that falling crime rates are associated with rising imprisonment rates, and rising crime rates are associated with falling imprisonment rates (e.g., A. Blumstein, J. Cohen, and D. Nagin, Eds., Deterrence and incapacitation: estimating the effects of criminal sanctions on crime rates. Washington, DC: National Academy of Sciences, 1978, p. 5) It should be explained that "associated with " does not mean "directly or only caused by," as other factors I alluded to can also influence crime rates. BJS has examined the nation's relationships and I would like to share certain findings with you:

THE 1960'S

In 1960, State and Federal prisons in the United States held over 200,000 prisoners. The prison population fell during that decade while the nation's population increased so that, by 1969, the number of prisoners was below 200,000, representting a seventeen percent decline in the nation's per capita imprisonment rate. What happened to violent crme during that period? It soared. The FBI's Uniform Crime Reports (UCR) recorded a 104 percent increase in the UCR violent crime rate from 1960 to 1969. In other words, during the 1960s, as the imprisonment rate declined 17 percent, the UCR violent crime rate more than doubled. (The UCR is one of two national indicators of crime rates, and is based on crimes actually reported to police.)

THE 1970'S

The prison population decline that started in the 1960's continued into the early 1970s, bottoming out in 1972. Beginning in 1973 the prison population started growing year after year, usually in record numbers. By the end of the decade the imprisonment rate had risen 39 percent above its 1970 level, setting a new record for the largest single-decade increase ever. As the imprisonment rate rose, the UCR violent crime rate also continued to rise, but instead of the more than 100 percent increase observed in the 1960s, the increase was half as large, 47 percent.

Another source of data on crime rates, the National Crime Survey (NCS) of the Bureau of Justice Statistics, became available for the first time in the 1970s. The NCS—the second largest survey by the Federal Government reaching approximately 100,000 persons is an annual survey of America's households that asks household members about crimes they may have suffered. The NCS is based on the accounts of crime victims and includes both reported and unreported crimes. The survey's first year of operation was 1973. From 1973 until the end of the decade the NCS violent crime rate, recorded a slight rise of 6 percent.

THE 1980'S

The record 39 percent increase in the imprisonment rate during the 1970's was followed in the 1980's by a 99 percent increase. And what happened as the imprisonment rate nearly doubled? The NCS violent crime rate fell 13 percent and the UCR violent crime rate recorded its lowest single-decade increase ever, 11 percent, considerably lower than either its doubling in the 1960's or the 47 percent increase in the 1970's. Of special interest during the decade of the 1980's was the fact that the UCR violent crime rate actually dropped in 4 of the 10 years. Comparably, it had dropped only 1 year in the 1960s' and only 1 year in the 1970's.

THE 1990'S

Looking back over the three decades, we learn that over time (by decades) when imprisonment rates fell, violent crime rates soared; and when imprisonment rates rose, the violent crime rate experienced decreased rates of growth or even reductions, whether measured by the National Crime Survey or the Uniform Crime Reports. In the case of the National Crime Survey, an actual decline was reported. In the case of the Uniform Crime Reports, there has been an important comparative decline in the sense that the 11 percent increase in the 1980's is an indicator of positive movement when compared to either the doubling in the 1960's or the 47 percent increase in the 1970's.

No one knows for sure what the 1990s will bring. But if trends over the past three decades continue, and if imprisonment rates continue to rise, overall violent crime rates may not increase in the 1990s and may actually decline. A major unknown, of course, is whether imprisonment rates will continue their steady climb upward. Debates about our Nation's prisons are likely to be a recurring issue in the 1990s and it is not clear what the outcome of the debates will be. The implication of three decades of statistics and countless other studies are clear, however. The possibility that prisons are helping to ameliorate America's crime problem must be seriously weighed in those debates.

It certainly accords with both past research and common sense that policies and laws favoring swift, certain, fair and strong punishment (through incarceration of serious and violent offenders) should remain priorities for government at all levels and will serve to protect the public safety. After all, national statistics reveal that 95 percent of state prisoners have been convicted of violent crimes, or are recidivists. (At a Congressional hearing recently, a group of judges from New Jersey were startled at this high number and questioned it. However, the New Jersey Department of Corrections data continued to show that fully 97 percent of their inmates were either violent offenders or recidivists.)

Finally, let me highlight a few additional findings that represent the recent workings of our criminal justice system in responding to crime.

First, law enforcement and correctional systems across the nation have been hiring more officers and implementing higher professional standards. Simultaneously, the assets of criminals increasingly are being seized and forfeited to support criminal justice programs and innocent victims.

Second, during the 1980's, arrest rates increased, conviction rates increased, incarceration rates increased, and probation and parole supervision increased—evidence of improving effectiveness.

Third, Federal and state systems are utilizing more intermediate sanctions and punishments (*e.g.*, "boot camps") to complement prisons and jails in holding offenders accountable and controlling their behaviors.

Fourth, most states and Congress have enacted victim-oriented legislation (including victims bill of rights, restitution, victim assistance and compensation programs, victim impact statements, victim notification rights and missing children's acts).

These findings indicate that, while crime levels remain unacceptably high and demand our continued vigilance, the criminal justice system has responded to the demands of the 1980's and there are many indicators of dramatic improvements and increased efficiences. The point is that your dedication and your efforts indeed have had a major impact and made a very big difference—a difference that will continue in the future. Let us listen intently as others on this panel and at this conference discuss recent improvements and future initiatives that they foresee as being responsive to the demands of the 1990's and beyond.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER (Mr. DODD). The majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I am advised that discussions are continuing on attempting to reach an agreement on how best to proceed with respect to various amendments to the bill. I think it useful that such discussions continue. The debate has been joined, and I think that is a very good thing, too. I hope all Senators will continue to debate as they see fit.

Mr. President, I thank my colleagues, and I encourage those Senators who wish to make statements to continue to do so, and I hope we can proceed promptly with this bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for debate only on the bill until 3 p.m., and at the conclusion of the period for debate only, before any further action occur on the bill, the majority leader be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senate is in the process of addressing one of the most important issues of the day. That issue is crime. Almost every poll that has been taken on major issues, reflecting the people at the grassroots, considers crime only second most important to the issue of the economy. I would say that except for the economy, there is no more powerful or emotional issue for the American people.

It is time for us in this body to, once again, deal with this issue, and in the process of dealing with it, I hope that we pass tough, meaningful anticrime legislation.

I have participated in many hearings on the issue of crime and considered many so-called anticrime bills during my years in the Senate and as a member of the Judiciary Committee. But the time for study and the search for the root causes of crime, which debate consumes so much of this body's discussion of crime, has passed. We have to talk about dealing with criminal code reform and see that as a solution to the problems of crime. Our constituents are demanding action to stop criminal violence against persons and property, whatever the cause.

The American people are not interested in excuses and theories from sociologists who are looking for the root causes of crime. They do not want to hear explanations and justifications for criminal behavior. The citizenry of this country instead wants us to act in a way that says, "You commit a crime; you are going to pay a penalty for it." They want crime stopped right now.

That is why, Mr. President, it is time for us to consider the President's comprehensive crime package sponsored by our distinguished colleague, Senator THURMOND. This legislation is a meaningful antidote for the ailing criminal justice system. That is why just a few minutes ago it was good news for all of us on this side of the aisle to hear that we will have an opportunity for an up-or-down vote on that measure.

This bill put forward by Senator THURMOND calls for stiffer penalties for Federal firearm crimes, tougher laws on juveniles and gangs, simplified prosecution for sexual violence and child abuse acts, and expanded drug testing for Federal parolees and probationers.

It calls also for improvements in the judge-made exclusionary rule to allow Federal courts to exclude probative evidence only on constitutional grounds and admit evidence seized by police, if they are acting in good faith. A reasonable limitation is also called for on Federal habeas corpus petitions in order to promote some sense of finality in the criminal proceedings. And it also calls for the strengthening of the Federal death penalty by the addition of several new capital offenses, such as attempted assassination, kidnaping resulting in death, murder for hire, and murder during hostage taking.

Mr. President, I would like to elaborate on a couple of those issues and illustrate why the bill proposed by Senator THURMOND is the right approach, as opposed to the bill that has been reported from committee.

First, I refer to the exclusionary rule. This judge-made rule prohibits the introduction of certain evidence if proper procedures are not followed. The rule is derived from the fourth amendment protection against unreasonable search and seizures. This is a very important and a very fundamental right, but its interpretation and application has resulted in limiting the evidence the court can hear in a criminal case. The practical effect, then, has been that criminals go free because of legal technicalities.

The President's bill codifies a good-faith exception to the exclusionary rule. This means that evidence can be admitted if the police officers, in conducting the search and seizure, acted reasonably, believing that their conduct conformed with the fourth amendment.

The President's bill allows for this exception to the exclusionary rule, whether or not the police acted with a warrant. In contrast, Senator BIDEN's bill allows the exception only in the cases where the police are acting with a warrant. The simple fact is the Biden bill just does not go far enough. Procedural loopholes would be left and criminals could walk free.

The second issue of importance in this debate concerns habeas corpus proceedings. That term, as you all know, is a legal expression that literally means to have the person. Under our legal system, a person convicted in State court proceedings can petition a Federal court, claiming that he is being wrongly held or that his Federal rights are being violated.

Habeas corpus proceedings have gotten so out of hand that no State conviction can be considered final. Convicted criminals have the right to attack virtually every issue connected with their conviction. The result is that our Federal courts are tied up in reviewing too many State court proceedings. We need a system which recognizes the integrity and, most importantly, the finality of the State court process.

The President's bill would give us just that approach. The Biden bill, by contrast, would not curb habeas corpus petitions. Successive and repetitive petitions would be allowed in the Biden bill. The rule created by the Biden bill would be more permissive than current law.

In conclusion, Mr. President, the Bush-Thurmond package is tough on people that it ought to be tough on, those who commit violent crimes, and at the same time it is fair to suspects, and it protects law-abiding Americans.

The latest FBI report is evidence that violent crime in the United States presents us with one of our most crucial national security challenges of the last decade of the 20th century. Let us not be distracted from the mission ahead of us: To approve tough anticrime legislation. We must move forward in the consideration of this package, and we have that opportunity now. I hope very much there is a positive vote.

I yield the floor.

Mr. BIDEN. Mr. President, I listened with great interest to my friend on the committee, Senator GRASSLEY, who is one of the most productive members of the committee and with whom I vote a lot. We vote a lot together.

I respectfully suggest, though, that the distinctions between the Biden provision on amending habeas corpus, saying you only get one chance at getting out of jail with a habeas corpus petition, and the President's are significant, but neither of which are going to make it fundamentally safer in Des Moines or Maquoketa or any other city in Iowa. If we eliminate habeas corpus, if we said tomorrow nobody can ever again file a habeas corpus petition, we just eliminate it, all of those people are already in jail, the likelihood of that making it safer in rural Iowa or urban Iowa—maybe it could marginally, but it is certainly not a big ticket item in terms of whether or not you are going to be able to walk into an unlit parking lot at 11 o'clock after a movie in Des Moines or whether you are going to be able to hitchhike a ride from Maquoketa to Sioux City. I do not know that that is going to make a lot of difference. Maybe it will. It should be changed. But I really hope we keep the focus here.

The distinction between the Biden approach on habeas corpus and the Bush approach on habeas corpus, the Biden approach on the death penalty—we all know, by the way, where everybody is talking about the notion on the death penalty that we are going to have racial justice as part of this. Racial justice is sound. To put this in perspective, all the Racial Justice Act says is if you have 100 people in your State who are black and are convicted of murder and all 100 get the death penalty, and you have 100 people in your State who are white who are convicted of murder and none of them get the death penalty, something is rotten in Denmark. That is what this is designed to find out, because everybody knows the death penalty has been applied in ways that seem not to be fair.

Unlike many people who support the racial justice provision, I am one who supports the death penalty. I have written into my bill 51 offenses for which there would be death. An interesting little number, Mr. President, is that—I think this is true so let me amend this. I ask my colleagues to allow me to amend this over the next hour if I am wrong, but if memory serves me there is not a case that we could find where a white person who killed a black person was convicted of murder and got the death penalty. And there is hardly a case where a black person killed a white person that they do not get the death penalty. It is kind of interesting, is it not? Now, anyone who suggests that the application of the death penalty is not unevenly applied I think fails to understand what this country is like and where we are at the moment.

But I am prepared to support the death penalty without the racial justice provision. I happen to believe in the racial justice provision, but I believe more strongly in the death penalty.

Now, Mr. President, we all know what the vote is going to be here. The vote we are going to take shortly, I hope, is on racial justice. I am going to make as strong an argument as I can as to why it should stay in the bill, but you are going to hear many arguments about taking it out of the bill.

Mr. President, we voted on this last year. There are not enough votes to keep in the racial justice provision. So that is why I would like very much for us to be able to move to racial justice immediately upon the termination of this period for discussing the bill, at 3 o'clock. I have asked, let us move to racial justice. Let us get this thing up and down, debate it, and vote on it. But I am a realist, Mr. President. I have been here a long time, as have you. I know where the votes are. There are not votes to sustain any position on racial justice. So let us have the vote and let us move on.

My very distinguished colleague from Texas, Senator GRAMM, says the President is entitled to a vote on his bill. Here, hear. The Democratic Chairman of the Judiciary Committee says, yes, let us give the President a vote on his bill, up or down.

The President's bill consists of three things basically: the death penalty, which is in mine; habeas corpus, which is in mine—they are different, but in mine—and the exclusionary rule, which is in mine. They are all different. But that is all his bill is.

Now, interestingly enough, my distinguished colleague from South Carolina, the Senator who has been here a long, long time, Senator THURMOND, has been asking me for 3 days, please give me a vote up or down, no amendments, on the President's bill. He is entitled to that.

So I have spent the last week running around the Democratic side saying, even though you are entitled to amend the President's bill when it is put up as a substitute to mine, please do not. Let us make this clear once and for all so we stop all this malarkey. Let us find out how many votes the President has.

I hear my friend from Texas saying if we vote, at least—I am paraphrasing—if we vote on the President's bill, everybody knows everybody is for the President's bill.

I do not know that but I am prepared to find it out. I am prepared to find it out without any amendment, giving up all the rights under the Senate rules which we have to amend it, vote on it. Let us find out. Folks like my bill or like the President's bill. Let us have a vote.

But now I find my friend from South Carolina after asking me that for over a week has now taken the Biden bill, 95 percent of it or thereabouts, and attached it to the President's bill. I mean this bill, the President's bill, that Republican bill, that was the thing that was going to stand on its own, wanted a vote on it.

What have they done? They have taken all of the Biden bill I am told; they have announced they are going to do this. The Biden bill is 233 pages long. My guess is they have taken 200 pages of the Biden bill and stapled it to the President's bill. So let us have a vote on that now. What is it, Bush-Biden? What is it called now? I am prepared to do that too if they want.

I think it is about time we find out where people stand. Let us find out. Is the President's bill, which only has primarily had habeas corpus reform, the death penalty, and the exclusionary rule in it, is that going to stop crime in the streets? Does anybody believe that?

There are some who do not believe the remainder, what I propose, all that help for local law enforcement, will help either. But my goodness, let us have a vote.

So what I am proposing, I know my colleagues are listening in their offices—I will yield the floor now to my friend from Ohio, or whomever—what I am proposing is the following: Let us vote on racial justice so we can stop talking about it. Let us find out where the votes are. Vote on it, let the Senate work its will. Then let us go, if they want to, immediately to the President's bill and say, Mr. President, we will not lay one glove on it. We will let you have it exactly how you have written it and we will vote.

That is what I propose. I hope that will be considered in the next 40 minutes while we are still talking about this bill so we can get on with real debate in this and find out where the votes are on whatever one acknowledges is a critical issue facing America; that is, the rise of violent crime.

Let me just note once again, as I said earlier this morning, it is not the Congress that has not been tough, it is the President that has not been tough. The President has the authority to put people in jail for life with no probation and no parole if they are drug kingpins. He has only used that four times a year since he has had the authority.

The President has the authority to put to death, if he can get them convicted, get a death penalty for drug kingpins where there is a murder involved. He has only done that one time. That is how tough they are?

He has the authority to put in jail for 5 years, no probation, no parole, anybody who possesses a piece of crack cocaine as big as this quarter I am holding. Yet they will not even prosecute someone arrested with 10 times this amount in New York City, and it requires 100 times the amount I am holding in my hand before they will prosecute it in Miami; Federal, not State—Federal, Attorney General's office downtown, the Bush administration.

They will not even prosecute anybody. They are telling us that we are not tough on crime. We have given them 230 tough laws. Apply them. They have a dealth penalty provision, without racial justice. I wrote to them, I said Justice Department, tell me. Had this been the law for the last year, how many convictions and death sentences would you have been able to get that you did not get? There have been 23,000 murders now, by the way.

Do you know what they told me? They did not say 1,000, they did not say 10,000, they did not say 15,000, they did not say 100, they did not say 50. They said six, s-i-x. So they say that if you pass the President's bill you will have six additional death penalties next year because of it, six. And if you change habeas corpus, you will have zero additional people off the street because they are already in jail. And if you change the exclusionary rule the way they want, it will affect 1 percent of the criminal cases that go to trial. That is their, the President's tough-on-crime, strong, law-enforcement bill.

So let us get on with it, Mr. President. I have heard the President say, 100 days, pass my bill, 100 days, give me a vote. I have heard for 2 years the chairman of the Judiciary Committee is holding up my legislation. The chairman of the Judiciary Committee 2 years ago, 1 year ago, 6 months ago, 100 days ago, 2 seconds ago, and this instant says please, Republicans, give us a vote on the President's bill, allow us to vote on the President's bill. He is asking us. We Democrats are ready to do that. Please, Republicans, do not thwart the President. Give the Republican President a vote on his Republican bill.

Why are they so afraid of that? Why are they so worried about giving the Republican President a vote on the Republican bill from a Republican-controlled, procedurally controlled process now? They will not let us vote on the Republican bill.

So if I were going to be facetious, which I am inclined not to be, I would say I challenge the Republican Senate. I give them 100 minutes, 100 seconds to allow the American people to have the benefit of the President's crime package. Let us vote.

I challenge the Republicans to allow us to vote on the Republican President's, Republican crime bill, that they know will not work. And I know it will not work and does not put one cop on the street, does not do one thing to make it safer for my mother to shop at the Pathmark store on Thursday night.

But let us vote. Give the Republican his due.

I yield the floor.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, who is the toughest kid on the block? I have a tougher bill than you have. No, we Republicans have a tougher bill than the Democrats have. We are going to all solve the problems about crime.

Let us quit kidding ourselves. I have a lot of respect for my colleague from Delaware. I am on the Judiciary Committee. But I am frank to say neither the Republican's crime bill, the President's crime bill, or the Democrat's crime bill will solve the problem of crime in this country.

Once again we do this. Every 2 years we embark on a right of passage. We have to have a crime bill in the Senate.

As usual every Senator will have a chance to demonstrate to the American people, to his constituency back home, that he or she is opposed to crime. I would have thought having passed crime bills in each of the last three Congresses that we would have proven to the American people that we here in the Congress despise criminals, and condemn criminal conduct.

So what? So what? Unfortunately, we are so obsessed with proving our metal on this issue and so haunted by the specter of Willy Horton that we feel compelled to come down to the floor and rave about how it is time to do something about crime.

Mr. President, the Congress has been trying to do something about crime for two decades. I cannot remember the last time we had a Congress in which we did not debate and pass an omnibus crime or drug bill. We have passed the crime bill in at least each of the last three Congresses. But we have not made a dent in the crime rate.

In the last 10 years the prison population of this country has doubled, but there has been no reduction in the crime rate. We put more people in jail than any other Nation on Earth. But our crime rate is still among the highest in the world. The implementation of the death penalty has risen all around the country.

Yet, the numbers of murders continue to rise. We have increased mandatory minimum sentences, and yet, the number of people committing crimes continues to rise.

So who are we kidding? What are we saying? In short, we have tried a variety of tough-sounding, politically appealing approaches to the crime issue, but have failed to make any progress.

Indeed, the efforts to combat poverty 2 decades ago met with more success than our recent efforts to combat crime. Yet, antipoverty measures are dismissed as unworkable and not worthy of the Senate's time. Meanwhile, we consume thousands of hours recycling the same tired, tough-sounding approaches to fighting crime, which have not worked. They make for fine press releases, but they do not make our streets safer.

If this legislation were passed, or if the President's bill was passed, would it really address the terrible crime problems we face in this country? I could understand the importance of the Congress continually taking up this issue, but this bill is not about fighting crime at all. The truth is, we are engaged in a crass political contest about whether Democrats or Republicans hate crime more.

Let us stipulate in advance that we all hate crime, that we think crime ought to be put to a halt in this country. But we are not involved in a serious political debate about how to deter crime. When you talk about habeas corpus, and the exclusionary rule, and capital punishment for this, that, and every other thing, that does not solve the problem of crime in this country.

Mr. President, there is a comic book quality to our biannual debates about crime. If you do not believe me, look at the way the debate is cast. It is permissible to talk about executing more people, jailing more people for longer periods of time, creating new criminal offenses, adding more law enforcement personnel, and weakening constitutional liberties. If it sounds tough, you can go ahead and advocate it and avoid the dreaded label of being procriminal—soft on crime.

What happens if you suggest that the threat of crime intensifies in communities where poverty is rampant, where families are divided, where housing is scarce, and where opportunity is limited? What happens if you point out that more than half of all prison inmates in this country are considered functionally illiterate? What happens if you suggest that crime also could be deterred by giving some of our citizens better opportunities, or by building up our educational system in order to prevent kids from turning to crime?

In short, what happens if you suggest that there is a social and economic dimension to the problem of crime? At best, you are branded as being naive and out of touch; at worst, you are labeled as soft on crime, a coddler of criminals.

There is nothing startling about saying there is a social and economic dimension to the problem of crime. Those who are on the frontlines of the battle against crime know that to be true.

For instance, the American Bar Association's report on the criminal justice system quotes one law enforcement official as saying the drug problem "is ultimately a social problem. The problem is that people—for some reason, their life is such that they feel the need to obliterate some of it, to remove the pain of it, or make it more exciting. And you can't attack that from a law enforcement point of view."

Similarly, a trial judge quoted in the ABA report states that, "We are breeding family after family, born into hopeless circumstances, almost predestined to be on the outs in society." As a result, says the judge, "we are going to see a lot more crime."

Mr. President, Americans know that there is a social dimension to crime. One poll shows that by a more than 2-to-1 margin, Americans believe that poverty and lack of opportunity are an important cause of crime in this country. The facts support this view: The average prison inmate was at the poverty level before entering prison; about half of all prison inmates are functionally illiterate; over 70 percent never finished high school; nearly half of all jail inmates were unemployed at the time of their arrest; 48 percent of all inmates grew up with only one parent, or were raised by other relatives.

In short, the facts confirm one police officer's cogent summary of the situation: "While not all poor people are street criminals, almost all street criminals are poor people."

Mr. President, to say that there is a social dimension to the problem of crime does not in any way excuse criminal behavior. That is not my point. But it does help to explain the causes of crime. That is a distinction which seems to have been forgotten in the debate over crime, and it is a shame because we have neglected effective anticrime measures.

That may be stated as being soft on crime, wanting to coddle criminals, caring only about social programs and not worrying about crime in this country. That is baloney. As a matter of fact, the reality is that you cannot solve the problem of crime in this country by just putting more people in prison or causing more people to be subjected to capital punishment.

My point is that we have neglected effective anticrime measures. For instance, the Head Start Program, which provides preschool education and social services support for poor minority childen, has been described by the Milton Eisenhower Foundation as "One of the most effective, cost-effective innercity crime and drug prevention strategies ever developed."

In 1985, the Committee for Economic Development, composed of American corporate executives, concluded that, "It would be hard to imagine that society could find a higher yield for a dollar of investment than that found in preschool programs for its at-risk children. Every dollar spent on early prevention and intervention can save $4.75 in the cost of remedial education, welfare, and crime further down the road."

Unfortunately, four out of five children who are eligible for Head Start cannot participate in the program because funding levels are too low. We would rather spend huge sums of money jailing people, at a cost of up to $50,000 per inmate each year, after they have committed crimes than invest money up front to prevent them from turning to crime.

The story is the same with respect to drug treatment. The National Association of State Alcohol and Drug Abuse Directors found that every dollar spent on treatment, more than $11 in public expenditures, which includes the cost of processing drug users through the criminal justice system, is saved. A National Institute on Drug Abuse survey showed that drug users are far less likely to engage in crime after treatment and far more likely to be employed.

Unfortunately, only one in eight persons, nationwide, who need treatment are getting it; only one in seven drug addicts in prison received treatment in 1990.

Mr. President, crime is a complicated issue, but you would never know it from reading one of our debates here in Washington. The level of debate on this issue has degenerated so completely that we no longer even bother to try to understand why people commit crimes.

The Nation's top law enforcement official, Attorney General Dick Thornburgh, says that we should not bother "to search for the roots of crime." Can you believe that? The Nation's chief law enforcement official says that we should not even bother to search for the roots of crime.

How can you stop crime, if you do not know what starts it? How can you know that your actions will be effective in deterring crime, if you do not know what causes crime? But the Attorney General is not concerned with such complicated details. He says, "The American people demand action to stop criminal violence, whatever its causes. The debate over the root causes of crime will go on for decades but the carnage in our own mean streets must be halted now."

That just sounds great, and you can wave the flag with that statement, but you will not solve the problem of crime, Mr. Attorney General.

That is some fine tough talk Mr. President, stirring rhetoric spoken like a true candidate. But if you want to understand why our biannual crime bill rituals have failed, you need look no further than that statement. In essence, the Attorney General is saying that we should just go ahead and act without knowing whether or not our actions will be effective in deterring crime.

Look where that kind of thinking has gotten us. Measures which can help stop crime before it occurs—such as the Brady bill, drug treatments, and increased support for programs like Head Start—have been neglected. Instead, we focus solely on devising new ways to punish people after they have committed crimes. There is no balance to our approach, and that is why we have not been effective, and no matter whose bill is passed on the floor of the Senate we will not be effective.

Mandatory minimum sentences are a perfect example, Mr. President. Congress has passed mandatory minimum sentences which require judges to impose a certain sentence once the facts of the case are established. For example, in 1988 we enacted a law that required a 5-year mandatory minimum for first time possession of 5 grams of crack. Hooray, we had solved the problem. Five years with no chance of parole for possessing a teaspoonful of crack weighing as much as 2 pennies. Now I believe crack cocaine is the worst terror on our streets today but mandatory minimums—all of them—work terrible injustices.

Here are two examples: Sylvia Jenkins, a Washington secretary, was sent to prison for 5 years because her son had hidden some drugs in her attic. Even though she had little culpability, the mandatory minimum penalty forced on the judge by one of our mandatory minimums required that harsh sentence. Judge Stanley Harris, a Reagan appointee with a reputation as a tough sentencer, complained about having to impose the sentence. He said:

> It's killing me that I'm sending so many low-level offenders away for all this time.

Judge William Schwarzer, another tough sentencing Reagan appointee, actually cried as he sentenced a first-time offender to 10 years in prison with no parole. Let me quote from an article describing the case:

> The 49-year-old Oakland longshoreman had made a mistake in judgment by taking $5 to drive an acquaintance to Burger King. Little did he know he was participating in an undercover drug deal involving 100 grams of crack. Judge Schwarzer called the sentence "A grave miscarriage of justice which had resulted from rules making judges clerks, or not even that, computers automatically imposing sentences without regard to what is just and right."

It is hard to have sympathy for drug users, and I do not, but maybe this letter from a mother of such a child can move us to think about what we are doing on the Senate floor as we take up this crime bill. A crime bill that creates more mandatory minimums, increases penalties across the board, and provides death for people who have never even committed a murder.

This mother's son was facing a mandatory sentence for his first offense and she wrote to her Senator as follows:

> My son is now a casualty in the war on drugs. I need some kind of explanation from you as to just how these laws * * * were passed and how you think putting people like my son in jail for 3 years will help? It will cost taxpayers $20,000 to keep him in jail for 1 year. The Federal Government would never free this much money for him to go to school. Our jails in my State are full. Where will they send him? I am afraid it will be so far away that I will not be able to visit often. Does this make any sense? * * * to lock him away for 3 years is unproductive and wasteful of taxpayers' money. It seems to me that the driving force behind every Congressman is the fear of not being reelected * * * surely there is some basic morality that won't allow our young men to be sacrificed for an election campaign.

If that woman were black she could add that the sacrifice involves one out of every four young black men—who are either in jail, in prison or on parole or probation.

All I can say is, if this is the way we want to wage the war on crime, I will not consider victory to be success.

The crime bills on the floor today are premised on the idea that the way to stop crime is to execute more people, jail more people and weaken constitutional safeguards. Once again, Mr. President, we are on the brink of passing a crime bill which will make for great press releases, but will do precious little to address the root causes of crime.

Indeed, Mr. President, we have outdone ourselves this year. Last Congress, out of fear for being branded procriminal, the Senate embraced a proposal to impose a Federal death penalty for 32 different offenses. In reality, this proposal does not amount to much since only a handful of people ever commit these offenses. In fact the greatest impact is on American Indians who have the misfortune of residing on Federal lands and so are implicated in ways few others are.

Now, in this Congress we have gone quite a bit further. Last year, the Republicans, sensing that they might not be able to pin the procriminal label on the Democrats if we accepted their 32 Federal death penalties, came up with something they thought we would not be able to swallow: 49 new Federal death penalties.

Now I would have thought the Republicans were right, that we could not swallow this new idea. But I was wrong, we quickly put that proposal in our bill and added two more.

No one should think we will only be executing murderers. Our criminal justice system is not infallible; far from it. Since the turn of the century there have been over 350 instances in which defendants in this country were wrongly convicted of homicide and rape and sentenced to death. At least 23 innocent people have been executed by our Government. We know this in retrospect, but once the death sentence is carried out that knowledge is worthless. Once a person is dead at the hands of the State, there is no way to bring that person back to life. Too often we have realized after the fact that we were wrong in imposing a death sentence.

There appears to be no limiting principle; no discipline on this process. I am sure that someone can dream up a crime amendment which will so offend this body that the Senate would reject it, but at the moment I cannot see what that proposal would look like. A majority of this body have pretty much conceded they will vote for any death penalty provision. They have pretty much conceded they will vote for doubling any criminal penalty. They have pretty much conceded they will impose a mandatory minimum for any crime. We are about to undermine habeas corpus protections and eviscerate the exclusionary rule even though most law enforcement officials will tell you that weakening these constitutional protections will do little or nothing to reduce crime. We have done this because we are all afraid that voting against any such proposal will result in our being labeled procriminal.

Mr. President, this has to stop because legislating on crime is not a political game. We are so busy filling our jails with youthful first offenders and non-violent offenders that truly dangerous and violent criminals are being given early release to make room for the new inhabitants. Does that make any sense?

We would do the American people a service if we were honest with them about what causes crime and what will stop it. We could accomplish something if the political game would end. Until it does I will vote against the product of such gamesmanship.

Mr. President, I want to say how much I appreciate the courtesy of my colleague from Massachusetts who was good enough to permit me to proceed. I thank Senator KERRY very much.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Chair and I thank my colleague from Ohio and I also applaud him. While I do not agree with every single one of these objections, I do agree with the theme he expressed and the sentiment about the charade that is being perpetrated on the American people.

Mr. President, before I talk about an aspect of the crime bill, I wish to say a few words about Pablo Escobar and the deal that was just cut in Colombia.

PABLO ESCOBAR

Mr. KERRY. Mr. President, it seems to me that a funny thing happened to Pablo Escobar on the way to jail. He sued for peace but he may have won the war.

Pablo Escobar long ago declared war not only on Colombians and Americans but really he declared war on civilization. He declared war on all of our notions of decency. And he is one of the world's most notorious, ruthless purveyors in death. Countless American and Colombian lives have been shattered because of Escobar's traffic in drugs. No one has come to more symbolize the focus of our so-called drug war and our scorn for drug trafficking.

Make no mistake about it, Mr. President: he was really at war. He was blowing up buildings and people. He was assassinating police, judges, journalists, and always filling people's veins with drugs and filling his pockets with money—billions of dollars.

Finally, the heat got considerable because Colombia had made a commitment over the years to try to break up this process and to enforce the law and at great risk with the loss of lives on journalists and judges, the supreme court, the Attorney General, a Presidential candidate, all of whom were unwilling to equivocate, all of whom were unwilling to accommodate, and whose memory I believe is called to question in light of this particular arrangement.

But when the heat got considerable on Pablo Escobar, then he finally, as a result of the Government of Colombia being serious, said "I am going to try and cut a deal." And what a deal, the sweetest of sweetheart arrangements. His own luxurious jail cell right near his own home. Like the Ochoa brothers, who are now in jail getting fed daily by their mother's home cooking, he has now cut out his own jailing arrangement with private bath, soccer field, luxurious home furnishings, and a prison that literally has been built for him, with no threat of being extradited to the United States.

During the course of drug hearings that were held in the Foreign Relations Committee, we learned from witness after witness, and I quote the report of the committee: "What the members of the cartel fear most is extradition to the United States."

So a way has been taken, the one tool, the thing they fear the most, that which might hold them most accountable, has now been voted away, in a secret ballot I might add so the people had to vote to take away extradition so that those who might vote against it would not be subject to retribution by the drug lords.

That is indeed testimony to a country that cannot make its own decisions without the impact of what drug lords decide to do by violence.

Well, Mr. President, I am sympathetic to the President of Colombia. I have met him and I have talked to him about this. I am sympathetic to the Colombian people who desperately need a respite from this extraordinary violence. But if the respite comes by virtue of deciding in a war you are not going to do battle on a given day, then indeed you can have fewer body bags, but you may wind up losing the war.

I would respectfully suggest that is a question yet unanswered for Colombia. As I come to the floor today, I do not pretend that is certain. But I would suggest this raises a very significant question.

If indeed a criminal of his magnitude can negotiate a haven—actually a haven is incorrect—can negotiate an oasis away from pursuit of the police and away from extradition and know with certainty he is going to be listed on the Forbes 500 when he gets out in a few years, it seems to me we may well have made a mockery of the notion crime does not pay, because for Pablo Escobar crime is going to pay, and it is going to pay pretty plenty big, a lot bigger than many Wall Street investment bankers might ever dream of having it pay.

I do not think anyone in law enforcement could work 10 lifetimes or 100 lifetimes and hope to earn in those lifetimes what Pablo Escobar can earn in 1 year in jail. Amortized over the entire years he may spend in jail, that is not a bad investment, Mr. President. I would suggest there may be poor people in the United States or in Colombia who might willingly trade places with Pablo Escobar in return for the portfolio that awaits him on return.

Maybe the Government of Colombia has a plan. Maybe he will be prosecuted for more serious crimes and maybe he will be found guilty and maybe he will spend a lifetime in jail. But that is not what the people of Colombia, who have been watching, really believe.

Let me remind people of the record of Pablo Escobar compared to other criminals in this country we have either sentenced to life imprisonment or to death, like Ted Bundy, Charles Manson, Richard Speck. These were terrible murderers, terrible criminals, and each of them deserved their fate or worse. But none of them compares in magnitude to what Pablo Escobar has done. He has been charged with murdering hundreds of Colombians, including judges, prosecutors, and three Presidential candidates. He is accused of having masterminded 300 separate bombings over the past 2 years, including the bombing of a jetliner that killed all 107 passengers and crew aboard. He has hired young killers who murder journalists and publishers. He is a cop killer, a political assassin. He has killed the high and the mighty. And he is responsible for the murders of dozens of poor peasant farmers who also opposed his efforts to convert their areas to coca production. He has used his money to recruit thousands of slum boys as assassins, according to police.

Members of the clergy and others in Medellin say that Pablo Escobar and the violent world he represents have "corrupted an entire generation of youth" in Colombians.

An L.A. Times report said that the Colombian mother, on June 9, this year, said "Around here there is no law. I'll just mourn my boy's death, and move on."

In Medellin today there is a war between the police and the hired assassins, in which off duty police officers are murdered by teenage boys, and the teenage boys have been ordered by Pablo Escobar to shoot policemen. Ten percent of Medellin's policemen, or about 300, were murdered by the cartel in just the first 6 months of last year.

A leader of the liberal party of Colombia's President, Cesar Gaviria, has been quoted as saying, "There is only one word for this, and that is appeasement. The Government has conceded everything, and it will cost the country greatly. It is a catastrophe."

As Colombia newspaper columnist Juan Carlos Botero, wrote recently, the drug traffickers have now achieved "their biggest victory in history" with the end of extradition to the United States.

So Mr. President, I, too, want to see an end to the violence in Colombia, and I am sympathetic to the difficulties they face as a consequence of our habit.

One of the difficulties in criticizing the decision in Columbia is that we do not have clean hands in the United States.

The Senator from Ohio has alluded to that in his comments on the crime bill, and I will have a great deal more to say in my comments on the crime bill. But the simple reality is we do not have a real drug war here. And so how do we deal with the hyprocrisy of turning to the Colombians and saying you are cutting a deal when we are unwilling to have the kind of police presence in our streets that we ought to have, when we are unwilling to have the money allocated for the prisons we ought to have, when we do not have treatment on demand and only 20 percent of the addicts in this country who need and want treatment are getting it.

What do you say to them when we look at our own kids in school and we see that only 55 percent of the kids in our schools are being educated about drugs?

We have had plenty of declarations of war on drugs, Mr. President, but we have not yet had the resource allocation necessary to conduct that war.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. KERRY. Mr. President, I said I wanted to address some of the questions of this bill, and I would like to talk about one aspect of this bill in particular.

IMPORTANCE OF THE POLICE CORPS PROPOSAL

Mr. President, Albert Schweitzer said that, "Truth has no special time. Its hour is now—always." Today we have a truth of special urgency.

The worst part of this truth is that we have allowed the growth in our midst of a dangerous and menacing criminality. Crime and the fear of crime pervade almost every place and part of the Nation. Last year, the New York Times reported that much of the middle class was moving out of Philadelphia. This year, it has reported that much of the middle class appears about to move out of New York. Tomorrow they may be writing about Boston or about almost any other city in Massachusetts or the Nation.

Almost every city has large areas virtually abandoned, their buildings disfigured and gutted, their stores and businesses shattered, their night streets empty and menacing. There are schools from which all learning has almost died, where a quarter of all students report that they carry weapons for protection every day.

I see the distinguished majority leader has arrived on the floor and I know he wanted to make an announcement at 3 o'clock.

(Mr. DIXON assumed the chair.)

Mr. MITCHELL. Mr. President, I ask unanimous consent that the distinguished Senator from Massachusetts be permitted to continue, to complete his remarks, and that following his remarks I be recognized.

Mr. STEVENS. I did not hear the request.

Mr. MITCHELL. Mr. President, if I might explain, under the order, the period for debate only was to expire at 3 o'clock and then the majority leader was to be recognized. I have asked consent now that the Senator from Massachusetts be permitted to complete his remarks and then I be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, does that mean that general remarks would not be permitted after that time?

Mr. MITCHELL. No, it would not, Mr. President.

I might say to my colleague, we have been attempting to work out an agreement to proceed on this bill and have been continuing the debate for that purpose. However, the situation exists under which a Senator who has the floor at the time of the expiration of the debate period could, under the rule, offer an amendment, although that would, in my view, at least, be a breach of faith in connection with the discussions we have been having. And I have sought merely to avoid that possibility so we did not get into this difficulty on it under the circumstances.

I have no hesitation about permitting debate to be continued while we try to work this out, so long as it is clear that it is to be for debate only during that time.

Mr. STEVENS. Mr. President, reserving the right to object again, I do not object to the Senator from Massachusetts continuing as long as he wishes to continue.

My inquiry really was, after the majority leader obtains the floor, is there going to be some attempt to limit the debate at that time?

Mr. MITCHELL. No. I was either going to extend the time for continuation of the debate under the current agreement—that is for debate only—or put in a quorum call. I will be pleased, if the Senator wishes to discuss the matter, to permit such discussion as the Senator wishes to occur.

Mr. STEVENS. Mr. President, I am grateful to the leader.

If I may, I would like to have the opportunity to make a general statement before we get to the point where my statement might be restricted. I only am here to protect myself for that purpose at this time.

But I do not object at this time to the leader's request, as I understand it. It is merely that the Senator from Massachusetts is protecting his rights to continue at this time; is that correct?

Mr. MITCHELL. And following his remarks, the majority leader be recognized.

Mr. STEVENS. That is already the order. But there is no order, as I understand it, following the majority leader's statement; there is no limitation on debate?

Mr. MITCHELL. I am sorry, I did not understand the last statement.

Mr. THURMOND. The Senator did not understand.

Mr. STEVENS. My understanding is that following the statement of the Senator from Massachusetts, the majority leader is recognized, and once he is recognized there is still no limitation of debate under the existing agreement. I want to preserve that status.

Mr. MITCHELL. That is correct.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I just want to say, the majority leader spoke something about good faith. There is no bad faith here.

Mr. MITCHELL. No, I know that.

Mr. THURMOND. I talked to the distinguished chairman of the committee before I started. I told him exactly what was going to be in my bill—the President's bill, plus some funds he has in his bill. They were talking about no funds, the President wanting funds, so we put the funds in there. Now, it is the tough bill the President wanted, with the funds of the distinguished Senator from Delaware.

Mr. MITCHELL. I want to assure my beloved colleague, I was not referring to him at all in my remarks.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? Without objection, the Senator from Massachusetts is once again recognized.

Mr. KERRY. I thank the Chair, the majority leader, and my colleagues.

As I said, I was pointing to the devastation that exists in the cities of this country, the buildings that have been destroyed, gutted, empty shells of businesses, the extraordinary fear people have with respect to traffic in the streets, particularly at night.

But as we all know too well, Mr. President, there are schools from which almost all learning in this country has died; where a quarter of all students report that they carry weapons for protection every single day. And many adult citizens do the same, obviously, many of them on our transportation systems in the country.

The danger and destruction of life and property are greatest in the communities of the poor. But there is no one, no community among us in this Nation, that is exempt from burglary and housebreaking or murder.

The first signs of similar crime and disorder have spread relentlessly to an even wider suburban and rural spread of areas. The Department of Justice tells us that 83 percent of all Americans can expect to be the victim of a violent crime; 83 percent of the persons in this Nation can now look forward to the prospect of being the victim of a violent crime at least once in their lives, and maybe more.

A Gannett poll showed that one out of every four New York City households had a member who has been the victim of a street robbery in a recent year. There are areas of American cities where a baby boy being born today stands a greater risk of dying by violence than did the average American GI in World War II.

So, by present rates, 1 out of every 20 black men will die by homicide.

In 1988, according to the FBI, there were reported to the police over 20,000 homicides, 92,000 rapes, 540,000 robberies, and 900,000 felonious assaults. We know for every violent crime that was reported, there was at least one more that was not reported.

So more and more, even the crimes reported by the police do not result in an arrest, let alone a conviction, let alone an imprisonment. The police simply are not able to make an arrest in three-quarters of all reported robberies; in one-half of all reported rapes; and even in 30 percent of the homicides, the police are not even able to make an arrest.

The second fact we have to understand is that for each of these numbers—and they are numbers—but for each of these numbers, there is a personal tragedy. There is a dead son that a mother once loved; there is a daughter weeping for a father; there is a struggling business lost to its neighborhood; there is a teacher who is disillusioned and lost forever to the profession; or there is a police officer crippled or killed.

But for all the individual tragedies, for all of the blighted lives and families, there is even a greater loss. And it is a loss that every single one of us has come to feel in recent years, and that is the loss of something that we hold more dear in this country than anything else: It is the loss of freedom, the loss of the enjoyment of our homes and of our neighborhoods, and of the security of our families.

Worst of all, there is a loss of confidence in ourselves and in each other. Relations between the races become poisoned, and we learn to look at each other not as friends and as fellow citizens, but as alien and foreboding strangers.

This is a loss that every single one of us shares, and it is, in some immeasurable sense, a loss of our country. There can be no higher priority for the American Government today than to do everything that we can to halt and to reverse this inexorable drift toward a kind of chaos; to restore a sense of security, of justice, and of order to every part of the American Nation.

For the unprecedented rise of crime in the last four decades, Mr. President, there are obviously many causes. The dispossessed and largely uneducated rural populations have migrated to the cities, with the attendant social and family dislocation. Too often, the opportunity that they sought in the city has been frustrated by economics, by lack of education, or by racism. Families have literally disintegrated under the blight of modern life and under government policies, especially a welfare system that has produced idle parents, fatherless children, and a tragic loss of self-esteem and citizenship.

We are a rich country, and so we have many goods to steal, and theft has seemed to be an attractive way of life to a lot of people. Children are too often raised on a steady diet of vicarious violence.

It is estimated the average American teenager, by the age of 18, will have seen 16,000 killings simulated on television. And to all of this must be added the effects of a degraded system of criminal justice, which has seemed more interested in the welfare of convicted felons than in assuring justice and protection to honest citizens.

All of these undoubted causes of crime cry out for our attention. But, of all the causes of crime in America today, Mr. President, I respectfully suggest none is so serious and none requires some immediate attention as the decline in the strength of our police forces themselves. The police have always been, and are supposed to be, at once the symbol and the force of government authority. They are the indispensable foundation on which the life of the community has to be built. And one of the greatest crimes that has really been committed in the last few years against the public order and decent life is what we have done to the police.

A generation ago, one generation ago—which is the last time it can really be said that we enjoyed substantial civic peace in the United States—there were three times as many police officers as there were violent crimes. Today, we have exactly reversed that proportion of police officers to violent crimes.

Instead of 3.2 officers for every violent crime, which is what we had one generation ago, today we have 3.2 violent crimes for every serving officer in this country. In other words, in the Nation as a whole, we are devoting to violent crime one-tenth of the police power that we mobilize one generation ago.

For 40 years, the American people have been subjected to violent and vicious assaults on an ever-increasing scale, and in the midst of this war, we have engaged in unilateral disarmament. We hear a lot about unilateral disarmament on the floor of the Senate, but I will tell my colleagues, as an ex-prosecutor who spent 6 years of his life struggling in the 1970's to deliver justice with 12,000 backlogged cases, which we could only reduce by virtue of the LEA money that we had that allowed us to computerize and put special courtrooms and special prosecutors together, that was the only thing that permitted us, Mr. President. I will say in the last 12 years we have witnessed the disengagement, a unilateral disengagement, with our own rhetoric, and our rhetoric on the floor of the Senate is strong; that our ability to provide the police, the prosecutors, the courtrooms and the judges and the prisons has been the weakest part of any of the so-called declarations of war on crime.

I believe, Mr. President, that one of the most important priorities of this bill and of this country is a massive rebuilding of the strength of the police in this country and the reasons are the following: First, only much larger members of police on patrol in neighborhoods can conceivably begin to reestablish community order and safety. Police patrol is the key to the very survival of neighborhoods. It is also the only guarantor of peace on the street which allows us to meet each other as fellow citizens and in order to be able to enjoy and cherish the freedom of that engagement.

I believe that the overwhelming cause of the kind of ugly racial incidents that have disfigured too many of our cities is fear: Fear of crime, fear of the stranger, fear of those whom we do not know, fear of those whose color is different from our own. And I also believe that if we begin to reestablish domestic peace and order, then we can begin to restore our sense of confidence in one another, and so we can resume our historic march toward the fulfillment of the American promise for all of our people, and so we can end this divisiveness over quotas and over racial justice.

Second, Mr. President, we must begin to deter crime before it is committed. The small and weakened police forces of today cannot hope to catch more than a fraction of the many criminals who have adopted crime as a profitable way of life. Most departments simply do not have the manpower, by any imagination, to be able to investigate the theft of less than many thousands of dollars. Thus, the goods of the poor and of the middle class are constantly in danger, and, though the poor always suffer the most and black households lose more than 50 percent more to crime than do white households, 90 percent of stolen property is never restored to its owners.

Let me repeat that. Ninety percent of stolen property is never returned to its owners. So it is because of the police's incapability of investigating because of the sheer numbers that people say crime pays, crime pays, and they are, indeed, induced to adopt a way of life that we have somehow in our rhetoric eschewed.

Imprisoning more captured and convicted felons has been necessary, but that has not proven the answer, Mr. President. Because of longer sentences and lower parole rates, prisons nationally hold 70 percent more criminals than they did a decade ago, but we do not have less crime. I believe that more police patroling aggressively and investigating and acting against greater proportions of crime will significantly reduce the present terrible levels of crime.

Most of all, more police will give us a shield behind which we can begin to rebuild the structure of decent life in communities across the country. If children grow up in the midst of everyday violence, if to survive in their streets they must adopt the morals and the styles of gangsters, then we should not be shocked if they grow up violent and aggressive and if they then oppress and prey upon those who are even younger. The ultimate way to reduce crime is to teach children to grow up as peaceful and decent citizens, and to do that, we must establish peace and order in their neighborhoods, and to do that, Mr. President, I respectfully suggest that we need a police corps in this country.

We need the police corps for these reasons: Because, first, the police corps is the only proposal on the national agenda that would give us larger numbers of new additional police officers. Under the bill which we will have an opportunity to vote on, we can add 20,000 new officers nationally from every graduating class of our colleges. When the bill is fully implemented, we could increase our police numbers by more than one-sixth, which would increase our hard-pressed police forces by fully one-third.

Second, the police corps is more than simply a law enforcement program. In the deepest sense, it is also an education program because each year 20,000 students will graduate from college with their educational expenses paid. Each year 20,000 young people will enter a postgraduate course in service to the Nation serving as police officers. They will get a priceless education in our country and in its problems. They will learn about themselves, about discipline, about courage, about compassion, and about a contribution to others. And then, Mr. President, whether they remain in the police corps or whether they return to civilian life, they will be able to use all this education to become the leaders that we need in this country in the coming decades and into the next century.

Third, the police corps will be an economical way, one of the only ways, for local police departments to expand their members. Police corps officers would be full members of their local departments, and they would receive regular pay and benefits, but when they complete their 4-year terms and return to civilian life, they would not at that time be eligible for all the pensions that now represent up to one-third of the cost of employing police officers.

Mr. President, a fourth reason I believe so strongly in the police corps is that that corps will assure police departments a ready supply of highly educated and high-quality recruits. Many leading chiefs across the country have expressed enormous concern about the quality of the recruiting pool. That is why such chiefs as Lee Brown, of New York; Joe McNamara, of San Jose; Pat Fitzsimons, of Seattle; and Isaac Fulwood, of the District of Columbia are supporting the police corps and supporting it strongly. A Department of Justice survey carried out principally in the State of Massachusetts has shown that a very large number of students now attending college would be likely or highly likely to join a police corps. And this interest, interestingly enough, is highest among minority students, of whom nearly half might apply. Fifty percent of those expressing interest in the police corps, moreover, had grade point averages of B or better and half had scores of better than 500 on the math proportions of the scholastic aptitude test, and 53 percent, Mr. President, planned to study for advanced degrees.

A fifth reason for the police corps: I believe, and others share the view, that it would make possible the recruitment of highly qualified and motivated minority officers that almost all departments desperately require, not only for the patrol force but also to give us the base from which to pick a fair representation of superior officers for future selection.

Sixth, Mr. President, the concept of the police corps, which now incorporates Senator GRAMM's bill for in-service training of current police officers, would open up the educational opportunities for those now on the force. Across the country, many of our leading police executives got their college education through the prior LEAA Program. The revival of that kind of effort would make the same program possible for a later generation of officers and would improve the capacity of the delivery of police service.

Finally, Mr. President, and most of all, the police corps will help us to recover the sense of our own neighborhoods and even of our own cities and finally of our own country.

We have come to think, unfortunately, and I think this is a natural instinct for people, but many of us have come to think of law enforcement as something that is only done by police or by criminal justice professionals, but that somehow it does not bear on us, that it is not our personal responsibility. As a result, the police have been isolated, expected to perform the most difficult and unpleasant and dangerous of jobs without the public understanding and support that they deserve and require.

In the police corps, however, thousands of all of the sons and daughters of this country will be helping to enforce the peace, helping to protect our lives together, serving those in need. During their terms of service, and especially after their return to civilian life, they will form an indissoluble bridge between us, between the law enforcement community, between country, and between the effort to have civic peace.

Over time we can look forward, I believe, to a society in which many of the most prominent citizens have served as former police officers, in which more of us, therefore, take a personal responsibility for public peace, for safety, and for justice. This possibility has already appealed to the deans of four of the Nation's leading law schools—Yale, Stanford, Chicago, and Cardozo. These deans have all said that the police corps graduates would have such potential to contribute to American law that they should receive special consideration for admission to these most select and prestigious institutions.

Congressman JOHN LEWIS, a hero to all of us, one of the great leaders of the civil rights movement, told us that the police corps is vital to black Americans because they have been so particularly ravaged by crime and by violence, and he warns us that "in a very real sense, it is crime that has caused poverty, and it is the most powerful cause of poverty today." JOHN LEWIS also says, and we can all echo, that the police corps is not a bill for blacks, not a bill for whites; rather, it is a bill for Americans of all colors and stripes, as its unique collection of sponsors I believe testifies to.

I am proud to be associated with this bill, Mr. President, with Republicans and with Democrats across the entire ideological spectrum, because the police corps, I believe, is a way for us to resume American leadership. It affirms our deepest traditions about self-defense, self-reliance, of personal action, personal responsibility for community. But it also speaks to our best notion about public service, community action, and national strength. It is long past time for us to confront the violence that has disfigured hundreds of communities and the lives of millions of citizens, and as we move to enact this bill I think we can look beyond it to mobilizing the same voluntary spirit in other vital tasks that are before us.

In the years to come, I hope we will call upon the enormous talent and courage and commitment of our own people, and particularly our young people, to help assume command over our lives and to liberate all of our streets from thugs. We have been through some tough times in these recent years, but I believe that we have often in the past turned to our young people for their strength and for their understanding of how to deal with these problems. If we can incorporate that into this crime bill effort, Mr. President, once again we can turn to the young people of this country to help us restore civic order, restore pride, and restore a better sense of how we behave between each other, black and white, poor and rich, whatever our color or stripe as Americans. I believe that could be one of the most important advantages to this crime bill and one of the most important advances we have yet made in the effort to restore order to the streets and communities of this country.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the period for debate only under the bill be extended until 4 p.m. and that upon the conclusion of that period, prior to further action on the bill, the majority leader be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have long suspected that the intentions of some of those who advocate proposals such as those in the bill before us is the registration and the increased control over the acquisition and use of firearms by lawful citizens of the United States. This so-called crime bill before us today intensifies my concerns.

In my opinion, this bill has little to do with controlling crime and much to do with controlling guns.

In fact, if this bill is enacted, it would be the most comprehensive gun control bill since the 1968 Gun Control Act. That would be unfortunate, Mr. President.

I thought, and still hope, that there is room for real compromise. Many proponents of the waiting periods in this bill say their intent is to take the guns that are doing the harm to our society out of the hands of felons. I do not think any of us can help but agree to go along with that, after all it is already against the law for felons to buy or possess handguns.

Real background checks might be a way to enforce existing law. I support a provision for an instant check of the background of handgun buyers to enforce laws to stop felons from actually buying guns. Apparently an actual check will not satisfy the proponents of gun control. What is wanted is more than a way to end a felon's purchase of a handgun from a gun store. Frankly, there is no evidence of that. Most felons know the law and know that if they are caught with a gun, it is an automatic conviction for them.

This bill is not really about stopping felons from purchasing guns in gun stores. To me it is really about the entire gun control agenda of some people who are against our right to have guns.

If the gun-control provisions of this bill are adopted, I think another more Draconian bill will follow. And there is evidence to support this. One of the leading waiting-period proponents in the other body has already announced the next step, having just passed a waiting period over there. He has said he will introduce a bill in this Congress to create a national registry of firearms, not just handguns, all firearms.

This is misguided because there is no correlation between gun ownership rates and crime rates. Let me cite just a few statistics. In the first 30 years of this century, American per capita handgun ownership remained stable. But, the homicide rate increased tenfold. Between 1937 and 1963, handgun ownership rose 250 percent, but the homicide rate dropped 37 percent.

Switzerland has a militia. Switzerland distributes guns, including pistols and machineguns, to all adult males. It requires that they learn how to use them and requires that they be kept ready at the home of every able-bodied person in Switzerland. Rifle sales are unregulated in Switzerland. There is almost no gun crime in Switzerland, the overall crime rate is well below ours. Switzerland's crime rate is well below the crime rates of most European countries even those with strict national gun control.

We have just learned once again about gun registration, Mr. President. We have all heard, my generation did, about Hitler and how, in country after country, he read the gun registration laws and took the guns away from those who had them. This helped the Nazis take over Europe.

It just happened again when Iraq went into Kuwait. Kuwait had strict gun controls and this was a disaster when Iraq invaded it.

One of the most publicized provisions in this pending bill now is not crime control; it is the national waiting period for handgun purchases.

This is known throughout the country as the Brady bill. Waiting periods are a prior restraint on our right to have guns.

In other areas, proponents of prior restraints, such as under the first amendment, have a heavy burden to carry to satisfy constitutional requirements. But the proponents of this national waiting period, this prior restraint, have not met that burden. And the reason they have not done it is the history of this country shows that waiting periods do not work to control access to guns by those who wish to use them illegally. There is no relationship between violent handgun crime and waiting periods.

One scholar, David B. Kopel, who edited a paper entitled "Why Gun Waiting Periods Threaten Public Safety" had this to say on the question:

> Criminologists of every persuasion have examined waiting periods and not one has found statistically significant evidence that waiting periods are effective. Studies of felony prisoners show that virtually none of them obtain crime guns by personal over-the-counter purchase. * * * There is not a single study published in any academic journal which concludes waiting periods are effective. The results show just the opposite.

But this bill really is not for the purpose of establishing that concept. It is for the purpose of setting the stage for the next gun control legislation.

Mr. President, as I have said, waiting periods do not work. I do not think this one will work.

States with waiting periods have a much higher homicide rate, a much higher crime rate, than States without waiting periods. In waiting-period States, those that have already enacted waiting periods as State law, 67 percent of our homicides occur. The homicide rate in non-waiting-period States is 33 percent of the total. For violent crime the waiting-period States account for 74 percent of all violent crime. The non-waiting-period States account for 26 percent. Waiting periods are not an effective way to control the crime rate or to effectively control felons' access to guns.

Actually, by its own definition the Brady bill will do nothing to reduce handgun availability in the large urban areas of our country. Consider for instance our temporary home here in Washington, the murder capital of the United States, Washington, DC. It has the strongest gun control laws in our Nation.

The laws do not work, will not work, and there is no way to make them work. But we are told that the failure of those laws is the reason we need a national waiting period.

Many people have cited the crime rate in Washington, DC., saying we need a waiting period. They have one here. In fact, they virtually prohibit gun owership. Oh, then they say, they do not work because people bring the guns in from adjacent States, and that is the reason we have to have a national law. The fact is that Maryland has restrictions on handgun ownership. It has a 7-day waiting period. Virginia has an instant check on all criminal backgrounds, and it is the most effective one in the Nation. Furthermore, if they want a check, it is currently a crime to bring a gun into the District of Columbia, that is, for a D.C. resident to buy one and bring it in from anywhere else.

Now felons cannot legally buy guns in the District of Columbia, Maryland, Virginia, or anywhere else. Yet the rate of felons possessing guns in this city is the highest in the Nation.

These restrictions that exist here have not affected the crime rate in the District of Columbia. Waiting periods have not prevented access to handguns and, God knows, the District of Columbia exceeds the national crime rates.

New York City is suggested as another reason we need a national waiting period. We are urged to help New York City by enacting a national waiting period. That city also has what they tout as the strongest gun controls in the Nation. And the States of New York, New Jersey, Connecticut, and Pennsylvania, all of which surround the city of New York, have waiting periods. They also have background checks. None of them are working, they don't keep guns out of the hands of felons.

All of these areas have prohibitions on gun ownership, or waiting periods, or background checks. But by logic, if waiting periods are the answer, then New York ought to have the lowest violent crime and homicide rates in the country because it is surrounded by protections of those same solutions sought in this bill.

I ask any Senator to tell me how a national waiting period will reduce crime. It will interfere with the ability of a person who is not about to commit a crime to buy a gun, someone who comes to my State, for example, Mr. President, and finds that his luggage has been lost. He is going hunting. He got a week off. It takes a day to get to my State. He is told, oh, well, you can buy a gun, but wait 7 days, will you?

I had somebody tell me, "Why do you Alaskans need handguns anyway?" The next time you come up, Mr. President, I will let you catch a 200-pound halibut, and you bring it on board without a handgun. All right? You can go fishing with me out in the river. And stand there, catch a nice big salmon, and have a brown bear standing on the other side and decides he wants your salmon—and maybe you, too. You cannot very well carry a shotgun or a rifle over your shoulder and use your pole, but that is what people want you to do.

Handguns are still a necessity in many places in this country. What is more, possession of them is a right. That is what people are forgetting. This is a prior restraint on your right and my right to buy a gun, and to use it legally.

We will help put restrictions on those who use guns illegally. I would cosponsor a bill to say that anybody that kills another person with a gun would automatically get the death penalty.

That is not the point. Laws do not stop people from perpetrating crimes if they are determined to do it. And if they want a gun to do it, they will go steal one. Most of the felons that have guns in this country steal them or use other illegal means. This proposal will do nothing to change the ways felons obtain guns to commit crimes in urban areas. It does not address urban crime.

I do not want to say that the waiting-period provision is the only offensive provision of gun control in this bill.

I do not want to imply in any way a lack of great affection for my friend, a person that I have known many years, Jim Brady. I understand what he is doing. I understand his family's reaction to the crime that he was injured in. I even understand the former President coming to the aid of his former assistant who is pursuing this goal. If waiting periods would work, if it would do anything to reduce the availability of handguns to prohibited persons, we would help.

We want instant checks. We want to stop felons from purchasing guns.

I do not know what it would do to stop this waiting period for anyone that is about ready to commit a crime, as I have said.

I am told, well, if they just have a waiting period, people who might have some mental defect will forget about it and go away. They do not know people with mental defects if that is the reason, I just do not understand the concept that somehow or another, if you just wait a while, the urge to acquire a gun for an illegal purpose will disappear.

There are three other provisions in this bill that require or encourage gun registration by the local police and the Federal Government. These provisions also give wide latitude to Government officials to deny law-abiding citizens the right to buy firearms.

This bill has a ban on certain semiautomatic firearms, and yet, the way it is drafted, there is no functional difference between those firearms and tens of millions of honestly owned and used shotguns in this country, and other firearms owned by American sportsmen.

Actually, I am told that the semiautomatics banned under this bill have been used in less than .008 percent of all serious crime. Virtually all are possessed—those used illegally—by criminals who have acquired them illegally. The impact of this semiautomatic provision, again, will have no serious deterrent in it, as far as the ability of these people to acquire and use semiautomatics. But it will have, again, ultimately, a serious effect on the honest sportsman who buys a semiautomatic gun for his own purpose. And shotguns are semiautomatic.

I believe that the pressure is on us as a Nation to join the nations that prohibit the ownership of guns, as even the District of Columbia has done, and as many States now are trying to do. It bothers me considerably, because of the history of this country, and because I think it is one of the rights we ought to protect—the right to have firearms, not only for use in sports but for your own protection, if you wish.

There is another provision that would encourage local police to compile lists of handgun buyers. As I have indicated, it is shown that criminals do not buy guns at these gun stores. These are lawful people, people who do not mind disclosing their own names, Social Security numbers, home address, telephone number; it is all there. But why would this bill require local police to register sportsmen who lawfully use handguns, or with registered gun collectors? I have never understood that. Unless, as I say, it is the first step toward the conclusion urged by the gentlemen in the other body that we do have national registration with the intent of confiscation of guns.

Another provision bans ammunition clips and magazines, and requires a national registration of all gun owners that have them. The real prospect of an ever expanding cycle of that kind of provision is what disturbs me. It diverts our attention from real crime solutions, from the provisions of this bill that many of us would like to deal with. I hope that it is possible for me to vote for real crime control legislation.

Another set of gun restrictions from the advocates of gun registration and gun confiscation is not going to do the trick. These people will be back immediately after passage, as they have in the House, for another bill. I just do not believe that it is time for us to cross that bridge.

We have had a marathon of gun control bills since I have been in the Senate. We have had very little real anticrime control legislation. Gun control bills detract from real crime control bills. They have the appearance of action, and they are seized upon by the purveyors of publicity.

We should focus on the tools that are needed to get violent criminals off of our streets, to prevent felons from acquiring guns, to prevent the use by anyone of a gun in an illegal way. The President originally asked for the tools for crime control, and we should give them to him. I hope that by the time we work out this crime bill, we will have stripped the provisions of gun control from the bill and passed a bill that will help the police and the law enforcement agencies carry out their war on crime. That is one war I would like to win.

You cannot win the war on crime by attacking honest citizens, Mr. President. This bill attacks those of us who legitimately own guns and use them for lawful purposes. I do not intend to support this bill, and I urge Senators to join me in opposing it. I will oppose this bill, as long as those provisions are in it.

Thank you, Mr. President.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I would like to associate myself with the remarks of my colleague from Alaska. I think the problem we should be addressing today is violent crime. The bill that we have before us to debate, S. 1241, ignores the real solutions to the kinds of problems that have been so articulately outlined by my colleague.

S. 1241 is not a crime bill in the true sense that we would want to have a crime bill before the American people. As has been so clearly outlined, it is largely a wish list by the antifirearms rights movement in this country that has drawn a considerable amount of public attention in the last several years. In my opinion, it is a wholesale theft of the rights of the American people to keep and bear arms. It does not attack crime; it attacks the second amendment of the law-abiding citizens and gun owners of this country. It represents the ludicrous suggestion that 65 million—I repeat—65 million law-abiding American gun owners are somehow collectively responsible for the crimes of violent law breakers, whom S. 1241, irresponsibly in this process that it sets forth, ignores.

I am surprised; in fact, I am amazed by the rush of some in this Chamber to embrace the legislation that is before us, the most oppressive assault on the civil rights of the American people in two decades, since the Gun Control Act of 1968.

Among its supporters are some in this Chamber who, in another context, consider themselves to be great champions of civil liberty, Mr. President. They would condemn any similar attack on any other part of the Bill of Rights. Yet, today and tomorrow, and for the balance of this week and next week, they will be up here attacking second-amendment rights. While they might hold other of those rights reverently, they will turn to anger in their statements as they speak about the second amendment, and what it may or may not provide for the citizens of this country.

In recent weeks, Mr. President, antifirearm activists have claimed that they have taken, "the first step toward their ultimate goal," and they have issued, "a declaration of war." That is what we heard on the floor of the other Chamber a few weeks ago, a declaration of war against the NRA, not violent crime, but against some organization in this country. A declaration of war not against criminals, Mr. President, not even against the social, cultural, or economic problems that oftentimes contribute to crime, but against the NRA.

What is the NRA? I think we all know what I am referring to: the National Rifle Association of America to which the President of the United States and many of us in Congress, including myself, and 2.5 million Americans and other law-abiding citizens are members of. It is the same NRA which has served this country by training literally millions of citizens, law enforcement personnel, and former and future members of the Armed Services in safe and responsible use of firearms during its 120-year history.

This war, as I so quoted, this war against the National Rifle Association is justified, we are told, because the NRA, its members, and 65 million law-abiding American gun owners, are no better than criminals. We have heard surprising accusations that these decent Americans are in league with drug dealers and that they are "accessories to murder."

Mr. President, antifirearms activists have made this political pornography the central theme, if you will, of their efforts to abolish Americans' firearms ownership rights—although crime data from the Government and historic evidence clearly refutes those claims and unquestionably supports the right of individual Americans to own firearms.

That is why my colleague from Alaska and I stand before you today, to argue that S. 1241 is no crime bill.

I wonder how long this Nation will tolerate Congress abandoning the responsibility to make American streets safer from criminals, in order to pursue instead the obsessive campaign against American traditions of firearms ownership, a tradition proven and tested by millions of law-abiding American firearms owners over our long history, and a campaign against those who continue in that tradition today, owning firearms, being law-abiding and sensible Americans, and believing in the second amendment and believing in the fact, as our Founding Fathers intended it, assured some basic and fundamental rights in this country.

On the strength of preposterous accusations against law-abiding Americans, we have seen the antifirearms side take what it has called its first step. My colleague from Alaska referred to that. Passage of the Brady bill in the U.S. House of Representatives was that step.

Supporters of the Brady bill in that Chamber stated it would not stop crime. They admitted that. But they voted for it anyway. They are going to take away second-amendment rights even though they agree that in taking them away they were not going to do something that was better for America. Mr. President, they said they would vote for it anyway.

I ask you, Mr. President: Is that how this Congress should carry out the responsibilities given to it by the American people? Again, I wonder how long the American people will tolerate this taking away of basic constitutional rights in this country, all in the name of something else—and let me suggest to you it is all in name of politics, not good law, not safety in the streets, not safety in the home, not justice, but politics. And that is what this bill is all about.

Now we come to the next order of battle in the antifirearms movement. That order of battle is S. 1241. In addition to mandating a national wait on handgun purchases, this bill would ban semiautomatic firearms which the FBI and Bureau of Alcohol, Tobacco and Firearms indicate are rarely used in crimes. We see them on television and see them dramatized in American television creation today, but on the streets of America they are seldom ever used.

This bill would ban ammunition magazines and replacement parts of guns and the magazines of guns. The bill would require registration of semiautomatic firearms and these magazines already owned by millions of Americans.

Mr. President, before jumping into disaster, we should take heed of events in California and New Jersey. When the citizens of those States were required by law to comply with measures nearly identical to those provided in S. 1241, half a million gun owners in those States, law-abiding Americans in every respect of their lives, judged the Constitution supreme over the Government. When told to register their guns or their parts of guns, these Americans decided an evil law is no law. They did not register their firearms in California or New Jersey, and they will not in my home State of Idaho or Texas or Alabama or Tennessee or Alaska or Arizona, or any other State in the Union.

Congress cannot arbitrarily ignore the Constitution of this country and expect the citizens to do the same by complying like lambs to a law that violates it.

Those gun owners did not ask to be forced to choose between complying with a bad law and remaining true to the constitutional principle which have been with them from the very beginning of this country. The American people understand—if we do not, they do—that the Constitution and not the ideological whim of politicians who pass through this Chamber over centuries is the supreme law of the land.

Ban guns, magazines bans, waiting periods, national gun registration, other unprecedented threats to the civil rights of American gun owners is what we are doing.

A war against the NRA, never; will not work; has not in the past.

S. 1241 is, in my opinion, just a brief flirt with insanity, Mr. President. S. 1241 accomplishes nothing. It is verging on tyranny because we have failed to bring justice to this country.

The American people do not want a war against the second amendment. They want a war against violent criminals. They do not want a war for gun control. They want criminals under control, behind bars.

Those who support S. 1241 for some reason want your civil liberties removed. And I quote only one section of the provision of this proposed law, section 1223, Mr. President, where it changes the standards for holding an individual without bail pending trial.

Are you prepared to do that? Are you prepared to say to a law-abiding citizen who by some technical violation of the law has been denied his or her civil liberty—and that is called bail before trial? That is what you are going to be asked to vote for in S. 1241.

I call on my colleagues to join in denouncing once and for all the foolish notion that firearms restrictions against law-abiding citizens brings in an effort to stop crime. I call upon you to help pass criminal justice reform. An overwhelming majority of Americans are demanding it and we ought to provide it to them. That is what this law should be. That is what is important in the legislation before us.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Idaho yields the floor.

The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Massachusetts be recognized for debate only on the pending bill until 4:15 p.m.; and that at 4:15 p.m., before any further action on the bill, the majority leader be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Massachusetts is recognized.

Mr. KENNEDY. Thank you very much, Mr. President. I appreciate the courtesy of the majority leader and also the courtesy of the Senator from Florida [Mr. GRAHAM] who I understand is about to offer an amendment to strike the provisions of Senator BIDEN's crime package which include the Racial Justice Act.

I rise now to speak in opposition. It is my understanding that there will be a time agreement proposed, and at the appropriate time, I would ask that the time I use be deducted from the time allotted to those that are in opposition to the Graham amendment.

So I believe, hopefully, we will begin the opportunity for substantive debate and discussion on some of the provisions of the Biden crime package.

Mr. President, I rise in opposition to the amendment of the Senator from Florida [Mr. GRAHAM] to strike the Racial Justice Act.

It is no secret that I am against the death penalty. But that issue has been resolved by the Congress. The death penalty has been reinstituted. Indeed, it has been expanded and this crime bill would further expand the death penalty.

The Racial Justice Act provisions that this amendment would strike from the crime bill speak to a different issue. The issue is racism and the death penalty—discrimination and the application of the death penalty.

As someone who has served in this body for 28 years, I have had a number of opportunities to vote and to speak in support of our efforts to eliminate discrimination in our society. Discrimination in the context we discuss it today is the most important because it applies to the ultimate penalty—the issue of life and death.

Mr. President, we found in the early 1960's that there was discrimination in employment, Federal programs, and public accommodations, and we took action here in the U.S. Senate to deal with that. We found discrimination in voting, so we took corresponding action to deal with that. We found discrimination in housing and we acted on that, passing the 1968 and 1988 Fair Housing Acts. In 1973, we found discrimination against those with disabilities and we acted on that last year with the Americans With Disabilities Act.

To determine the presence of discrimination in just about every one of those cases, Mr. President, we built into the system the same kind of process and procedure that exists in the Racial Justice Act.

So, when we question at the outset whether the use of statistical evidence is appropriate—whether statistics provide a useful measure—we should understand that we are using the very same models, Mr. President, that we use in just about every other piece of legislation to eliminate discrimination. That is what this is about.

Justice Harry Blackmun brought this issue into sharp focus in his minority opinion in the McCleskey case, decided by a 5-4 majority of the Supreme Court in 1987. Justice Blackmun wrote:

> The court today seems to give a new meaning to our recognition that death is different. Rather than requiring a correspondingly greater degree of scrutiny of the capital sentencing determination, the Court relies on the very fact that this is a case involving capital punishment to apply a lesser standard of scrutiny * * *.

We use the various modalities to determine discrimination in housing, in employment, in public accommodations, with regard to the disabled, and even, Mr. President, in the criminal trial process with the selection of juries. But, as Justice Blackmun noted in McCleskey:

> The Court relies on the very fact that this is a case involving capital punishment to apply a lesser standard of scrutiny * * *.

The Racial Justice Act addresses that concern. The case is clear that in many, many jurisdictions the death penalty is applied in a discriminatory manner. The Racial Justice Act provisions have had longstanding bipartisan support. Race discrimination is unacceptable everywhere, and it is particularly unacceptable in capital punishment—the awesome decision by a free society of those whom Government can legally kill. If that decision is to be made at all, it must be made without racial bigotry.

There is compelling evidence that race discrimination infects capital sentencing decisions in jurisdictions throughout the country.

In study after study, experts have found that defendants who kill whites are more likely to receive the death penalty than those who kill blacks and that black defendants are more likely to be given a death sentence than white defendants.

An illustrative example, and by no means the only example, is the evidence in McCleskey versus Kemp, decided by the Supreme Court in 1987. Warren McCleskey, the defendant in that case, was a black man charged with murder for killing a white police officer in Fulton County, GA.

Without question, McCleskey's was a brutal crime. In fact, between 1973 and 1980, 17 defendants were charged with killing police officers in Fulton County, GA, but McCleskey was the one defendant who received the death sentence. In only one other murder was the death penalty sought and in that case the defendant was convicted of killing a black police officer and received a life sentence.

In challenging his death sentence, McCleskey placed into evidence two studies conducted by teams led by Prof. David Baldus of the University of Iowa College of Law, which analyzed over 2,400 homicide cases in Georgia between 1973 and 1979.

From official State records, the Baldus studies collected data about more than 500 factors in each case, such as the characteristics of the defendant and the victim, the circumstances of the crime, the strength of the evidence, and a range of mitigating and aggravating factors in each case. Using sophisticated statistical techniques, the studies took account of the effects of up to 230 nonracial sentencing factors.

The conclusions of that study are striking. When the characteristics of the crime and the defendant were controlled for, those who kill whites were 4.3 times more likely to receive the death penalty than killers of blacks. The importance of that data was well summarized in a dissenting opinion by Justice William Brennan, and I quote:

> At some point in this case, Warren McCleskey doubtless asked his lawyer whether a jury was likely to sentence him to die. A candid reply to this question would have been disturbing. First, counsel would have to tell McCleskey that few of the details of the crime or of McCleskey's past criminal conduct were more important than the fact that his victim was white.
>
> Furthermore, counsel would feel bound to tell McCleskey that defendants charged with killing white victims in Georgia are 4.3 times as likely to be sentenced with death as defendants charged with killing blacks.

Commenting on McCleskey's death sentence, Justice Brennan wrote:

> [T]he Baldus study indicates that, after taking into account some 230 nonracial factors that might legitimately influence a sentencer, the jury more likely than not would have spared McCleskey's life had his victim been black.

This pattern of racial discrimination in sentencing is repeated in jurisdiction after jurisdiction around the country.

In Florida, a study published in the Stanford Law Review found that defendants convicted of killing whites were eight times more likely to receive a death sentence than those convicted of murdering blacks. Another study found that blacks who kill whites received the death penalty 22 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Georgia, blacks who kill whites received the death penalty 16.7 percent of the time, while whites who killed whites received the death penalty only 4.2 percent of the time.

In Illinois, that same study found that killers of whites were six times as likely to receive a death sentence as killers of blacks.

In Maryland, defendants convicted of murdering whites received the death sentence eight times more frequently than killers of blacks.

In Ohio, a 1980 study found that blacks who kill whites received the death penalty 25 percent of the time, while whites who kill whites received the death penalty only 4.6 percent of the time.

In Texas, a 1980 study found that killers of whites were twenty times more likely to receive a death sentence than killers of blacks, while a 1985 study found that they were over four times more likely to do so. Blacks who kill whites received the death penalty 8.7 percent of the time, while whites who killed whites received the death penalty only 1.5 percent of the time.

This pattern also appears in California and Pennsylvania, and nationally as well. A 1985 study of capital sentencing conducted by a Dallas newspaper found that killers of whites were nearly three times more likely to receive the death sentence than killers of blacks.

An ongoing study in Columbus, GA, was recently reported on in Time magazine, as follows:

> Nowhere is that point more starkly illustrated than in Columbus, Georgia. Since Georgia adopted its current death penalty law in 1973, four white men in the Columbus district attorney's office have decided which murders will be prosecuted as capital crimes. To date, 78% of their cases have involved white victims, although blacks are the victims in 65% of the community's homicides.

The Senate had that and other evidence before it in 1988, when we first debated a similar proposal. Rather than adopting the proposal, however, the Senate passed legislation requiring the General Accounting Office to conduct a study of race discrimination in capital sentencing.

The GAO released its study early last year. After exhaustively reviewing the research literature, the GAO carefully reviewed all 28 studies of the issue whether race has played a role in capital sentencing since the Supreme Court's 1972 decision in Furman versus Georgia. The GAO conclusion last year was clear. Its report stated:

> Our synthesis of the 28 studies shows a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty after the Furman decision.
>
> In 82 percent of the studies, race of the victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty—those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks.

This is a GAO report, Mr. President. This is a GAO report that reviewed all of the various studies. Here is the clear, unvarnished conclusion that those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks.

> This finding was remarkably consistent across data sets, states, data collection methods, and analytic techniques.
>
> The race of victim influence was found at all stages of the criminal justice process.
>
> Legally relevant variables, such as aggravating circumstances were influential but did not explain the racial disparties researchers found * * *.
>
> After controlling statistically for legally relevant variables and other factors thought to influence death penalty sentencing * * * differences remain in the likelihod of receiving the death penalty based on race of victim.

The conclusions of the GAO's independent, unbiased appraisal of the studies of race discrimination in capital sentencing are clear: There is a pattern of evidence indicating racial disparties in the charging, sentencing, imposition of the dealth penalty in jurisdictions throughout the country. That pattern should be unacceptable to each and every Member of the Senate.

Unfortunately, the Supreme Court did not throw out McCleskey's death sentence. Instead, the Court rejected the statistical evidence of discrimination did not dispute the accuracy of the Baldus studies. The court majority in McCleskey admitted that statistical evidence of the kind contained in the studies would be sufficient to prove intentional race discrimination in other areas, such as housing and jury selection, and sufficient to establish employment discrimination claims under title VII of the Civil Rights Act of 1964.

In essence, the Supreme Court concluded in McCleskey that no statistical evidence should be accepted in death penalty cases unless legislation is adopted to provide for such admission. That means, without legislation such as the Racial Justice Act, no statistical evidence of discrimination in capital sentencing is admissible, even if that evidence is comprehensive, compelling or irrefutable.

But the majority concluded that the death penalty is different, because juries and prosecutors make capital punishment decisions on the basis of individual defendants, not on the basis of statistics, and because it would be inappropriate to require States to call on their juries and defendants to rebut showings of discrimination. The Court took the position that the evidence of widespread race discrimination in capital sentence is best presented to the legislative bodies.

In other words, Mr. President, a majority of the Court held that if the plaintiffs had alleged discrimination in one of the other civil rights areas where Congress acted, a court could use these statistics to make a finding of intentional discrimination. But, the Court said, unlike these other areas, Congress has not acted to remedy discrimination in capital sentencing.

We have an opportunity to act now, Mr. President. The Racial Justice Act has been included in the Biden bill, having been voted on by the Judiciary Committee members and found by a majority of the members of the Judiciary Committee to be a vitally important mechanism to guard against racism and safeguard rights guaranteed by the equal protection clause of the Constitution.

I believe that the McCleskey decision was a mistake. The compelling evidence that McCleskey's sentence was affected by racial considerations should have been sufficient to set aside his sentence. In its zeal to expedite proceedings in capital cases, the Court failed to recognize a glaring injustice that Congress should not tolerate, even if five Justices of the Supreme Court are willing to permit it.

Race discrimination is pervasive in capital punishment. The facts are irrefutable, and they should be unacceptable to each and every Member of the Senate.

I oppose the death penalty in all cases, but that is not the issue here. The Members of the Senate have the authority, and the responsibility, to ensure that racial disparities do not occur in State or Federal death penalty cases.

The Racial Justice Act is intended to meet that responsibility. The act prohibits the imposition of the death penalty under State or Federal law if the sentence is part of a racially discriminatory pattern.

Under the Racial Justice Act, if such a pattern exists—if a defendant can establish that the race of defendants or victims is playing a role in sentencing—then the Government must show by clear and convincing evidence that the racial disparities are not the result of discrimination, but reflect nonracial factors, such as the presence or absence of mitigating or aggravating circumstances.

The burden of proof on a capital defendant who seeks to challenge a death sentence under the Racial Justice Act will be quite high. For example, if a defendent offers statistical evidence demonstrating that blacks receive death sentences in a particular state at a rate higher than whites, and the defendant shows that the death sentence was imposed in furtherance of this racially discrimnatory pattern, then the State must show by clear and convincing evidence that the statistical disparity results from other, nonracial factors, such as differences in the nature of the crimes or in the conviction records of the defendants.

If the Government cannot meet that burden, the death sentence must be vacated. If we are serious about ending race discrimination in capital sentencing, no other result is acceptable.

By permitting statistical evidence of a pattern of racial disparities to be used to establish a claim of race discrimination, the act makes the standard of proof in capital sentencing cases analogous to that under other Federal antidiscrimination statutes, and standards of proof approved by the U.S. Supreme Court for use in demonstrating the presence of discrimination in the selection of juries in criminal proceedings.

In order to ensure that adequate data are available to determine whether or not race discrimination exists, the amendment also requires jurisdictions which have the death penalty to collect and maintain data about the nature of crimes for which the death penalty may be imposed, the details of those crimes, and the demographic characteristics of the victims and the defendants.

The mere fact that blacks may receive the death penalty more frequently than whites would not create a prima facie case of discrimination under the act. To establish a prima facie case, a defendant must show, for example, that blacks receive the death penalty with a fequency that is disproportionate to their representation among those arrested, or charged with, or convicted of capital crimes.

Contrary to arguments made by opponents of the Racial Justice Act, the measure will not result in quotas in death sentencing. Members of the Senate on both sides of the death penalty issue should be offended by the possibility of racial bias in capital sentencing in any form. That is the issue to which the act addresses itself.

Under the act, the mere fact that blacks may receive the death penalty more frequently than whites would not even create a prima facie case of discrimination.

To establish a prima facie case, a defendant must show that blacks, or killers of whites, for example, receive the death penalty with a frequency that is disproportionate to their representation among those arrested, or charged with, or convicted of capital crimes under the bill. Even if a prima facie case is established, the Government can rebut such a claim by showing by clear and convincing evidence that any disparity is the result of nonracial factors.

Nothing in the act requires any kind of quota in capital cases. All it does is guarantee that racial discrimination does not unfairly influence these life or death decisions.

Any attempt to use quotas in the process would violate the Racial Justice Act, precisely because the decisions would be so clearly founded upon race and not upon legitimate factors.

The Racial Justice Act is intended to eliminate racism in capital sentencing. It would not create quotas of any kind. I will ask unanimous consent that a letter, dated June 17, 1991, from University of Iowa Professors David Baldus and George Woodworth and Arizona attorney Charles Pulaski, all of whom are widely recognized experts on this issue, be included in the RECORD. They conclude, and I quote:

The argument that the Racial Justice Act would lead to racially discriminatory charging and sentencing practices and quotas is misleading in the extreme. The decline in racial discrimination that we have generally observed in this Nation's criminal justice system is most plausibly explained by expanded protection of Federal and constitutional law and a growing perception of the importance of nondiscriminatory and evenhanded treatment of criminal defendants. Any suggestion that this development has somehow produced quotas is completely implausible.

They go on to note:

> While Congress may want to outlaw quotas in death sentencing, to equate quotas with statistical tests is absurd.

Mr. President, I ask unanimous consent the GAO study dated February 1990 on death penalty sentencing be printed in the RECORD, and that a letter dated June 17, 1991, from Professors Baldus and Woodworth and an Arizona attorney, Charles Pulaski, be printed in the RECORD, and finally a memorandum dated November 1989 from Prof. Larry Tribe, all be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[U.S. General Accounting Office, Report to Senate and House Committees on the Judiciary]

DEATH PENALTY SENTENCING—RESEARCH INDICATES PATTERN OF RACIAL DISPARITIES

GENERAL ACCOUNTING OFFICE,
GENERAL GOVERNMENT DIVISION,
Washington, DC, February 26, 1990.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate.
Hon. STROM THURMOND,
Ranking Minority Member, Committee on the Judiciary, U.S. Senate.
Hon. EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs, Committee on the Judiciary, U.S. Senate.
Hon. JACK BROOKS,
Chairman, Committee on the Judiciary, House of Representatives.
Hon. HAMILTON FISH, Jr.,
Ranking Minority Member, Committee on the Judiciary, House of Representatives.

The Anti-Drug Abuse Act of 1988 (Public Law 100-690) requires us to study capital sentencing procedures to determine if the race of either the victim or the defendant influences the likelihood that defendants will be sentenced to death. We did an evaluation synthesis—a review and critique of existing research—on this subject to fulfill the mandate. This report provides a summary of our findings and a discussion of our approach and data limitations.

APPROACH

An evaluation synthesis is a critical integration of findings from existing empirical research on a given topic—in this case death penalty sentencing after the *Furman* decision.[1] First, we identified and collected all potentially relevant studies done at national, state, and local levels from both published and unpublished sources. Computer-generated bibliographic searches and manual reviews of the bibliographies of studies that we obtained contributed to our list of potentially relevant materials. We also surveyed 21 criminal justice researchers and directors of relevant organizations whose work relates to death penalty sentencing to identify additional research. We screened more than 200 annotated citations and references to determine relevance to our review. We excluded studies that (1) were based primarily on data collected prior to the *Furman* decision and (2) did not examine race as a factor that might influence death penalty sentencing. From this initial screening we obtained 53 studies that we determined to be relevant.

We then reviewed each of the 53 studies to determine both appropriateness and overall quality of the research. We excluded studies that did not contain empirical data or where duplicative (a few researchers published several articles, with the most current including data and findings cited in earlier versions). Twenty-eight studies remained after this assessment. The information included in these studies forms the basis for our findings.

Next, we rated the 28 studies according to research quality. Two social science analysts independently rated each study in five dimensions: (1) study design, (2) sampling, (3) measurement, (4) data collection, and (5) analysis techniques. A rating for overall quality was also given. A third analyst reviewed the rater's assessments to ensure consistency. In addition, a statistician reviewed the studies that used specialized analytic techniques to assess whether the techniques were applied correctly and whether the analyses fully supported the researcher's conclusions.

Finally, we extracted all relevant information on the relationship of race to death penalty sentencing from each of the studies. This information was compared and contrasted across studies to identify similarities and differences in the findings.

Evaluation synthesis has benefits and limitations. The major benefit is that evidence from multiple studies can provide greater support for a finding than evidence from an individual study. The major limitation is that this approach depends on the quantity and quality of the design and methodology of available studies and the comprehensiveness of their reporting. In this case, the body of research concerning discrimination in death penalty sentencing is both of sufficient quality and quantity to warrant the evaluation synthesis approach.

DESCRIPTION OF THE STUDIES

We evaluated 28 studies which were done by 21 sets of researchers.[2] The studies covered homicide cases for different time periods through 1988, many states that have the death penalty, and different geographic regions of the country. In three instances, two or more articles were generated from a single database, with each article focusing on a different aspect of the sentencing process. A few researchers used data from other studies in their analyses. Overall, the 28 studies constitute 23 different data sets.

We rated almost half of the studies as high or medium quality; the remainder were rated as low. It is important to evaluate research quality for two reasons; (1) the results of the synthesis should be based on a sufficient number of medium or high quality studies; and (2) it is important to note differences in studies' findings, if any, by the quality of the studies. By quality we mean the strength of the design and the rigor of the analytic technique that leads to a level of confidence we have in the study findings. We judged a study to be high quality if it: was characterized by a sound design that analyzed homicide cases throughout the sentencing process; included legally relevant variables (aggravating and mitigating circumstances); and used statistical analysis techniques to control for variables that correlate with race and/or capital sentencing.

We judged a study as medium quality if we found it to be lacking in one or more of the above characteristics. However, the medium quality studies generally were more similar to high quality studies than to low quality studies. Low quality studies typically had weak or flawed designs, relied on less reliable statistical analysis, and were simplistic in interpretation of the data. Studies published before 1985 comprised a larger proportion of lower quality studies than those published subsequently. This coincides with the relatively recent development and use of a more sophisticated statistical technique appropriate for use with data such as those in death penalty studies.

LIMITATIONS OF THE STUDIES

We critiqued all of the studies to identify methodological limitations in the design and analysis of the research. We identified three major limitations among these studies: (1) the threat of sample selection bias, (2) the problem of omitted variables, and (3) the small sample sizes.

Sample selection bias implies that the cases under consideration are not representative of all the cases of interest. The criminal justice system is characterized by discretionary processes of selection at different points in the system. Racial factors may influence decisions at different stages of the process. A study that considered only whether persons convicted were sentenced to death was especially prone to the biasing effect of sample selection. Racial factors may have influenced decisions earlier in the process, such as whether the prosecutor requested that an offender be charged with capital murder. This discretion exercised early in the process may have the effect of concealing (masking) race effects if analysis is limited only to the later stages.

We found sample selection bias in more than half of the low quality studies; these studies typically analyzed only those cases in which the defendant was convicted of capital murder or received the death penalty. Studies that included all reported homicides and followed the disposition of these defendants from initial charge through subsequent states of the judicial process are not likely to have been affected by this bias. More than two-thirds of the studies we rated high or medium quality picked up cases prior to conviction and followed these cases through the judicial process.

Another limitation is the problem of omitted variables. This limitation is especially important in studies examining racial discrimination. This is because the effect of race is considered the residual—after all relevant and important variables have been controlled, the effect that remains, the residual, is interpreted to be racial disparity. Omitting relevant variables can affect results by failing to reduce the residual appropriately, thus enhancing the perceived racial disparity. Omitted variables in death penalty research are potentially of two types: (1) variables that were known and were believed to be correlated with race or the death penalty and (2) variables that were not known and may be correlated with race or the death penalty outcome.

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[1] In *Furman* v. *Georgia*, 408 U.S. 238 (1972), the Supreme Court found unconstitutional death sentences imposed under state statutes which allowed juries to impose these sentences in an arbitrary or capricious manner. In response to this decision, states adopted new statutes that addressed the concerns raised by the Court.

[2] Appendix I includes a list of the studies we used in the synthesis.

Several of the higher quality studies controlled for many variables. For example, one high quality study controlled for more than 200 variables. Only a few variables are shown to be highly explanatory. Most of these are controlled for in the better quality studies. However, there are variables such as strength of evidence or socioeconomic status of the victim and defendant which are difficult to measure or obtain. If there are important omitted variables (either because they are difficult to measure or because they are unknown), other explanations for the differences in death penalty outcomes cannot be excluded. But for another variable to influence the existing disparity it would have to (1) be jointly correlated with both race and the death penalty outcome and (2) operate independently of the factors already included in the analysis.

A third limitation relates to the consequences of the small sample sizes in the analyses of death penalty imposition. The imposition of the death penalty is a relatively rare event. As such, in most studies there were very few cases at the end of the process—the sentencing and imposition stages. The small sample size places limits on the usefulness of statistical techniques for analysis at these final stages and thus limits the rigor of analyses at these stages.

While the severity of the limitations varied, as reflected in the studies' ratings, these limitations do not preclude a meaningful analysis of the studies. We have considered quality in evaluating the studies and arriving at our findings.

Our synthesis of the 28 studies shows a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty after the *Furman* decision.

In 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e., those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks.[3] This finding was remarkably consistent across data sets, states, data collection methods, and analytic techniques. The finding held for high, medium, and low quality studies.

The race of victim influence was found at all stages of the criminal justice system process, although there were variations among studies as to whether there was a race of victim influence at specific stages. The evidence for the race of victim influence was stronger for the earlier stages of the judicial process (e.g., prosecutorial decision to charge defendant with a capital offense, decision to proceed to trial rather than plea bargain) than in later stages. This was because the earlier stages were comprised of larger samples allowing for more rigorous analyses. However, decisions made at every stage of the process necessarily affect an individual's likelihood of being sentenced to death.

Legally relevant variables, such as aggravating circumstances, were influential but did not explain fully the racial disparities researchers found. In the high or medium quality studies, researchers used appropriate statistical techniques to control for legally relevant factors, e.g., prior criminal record, culpability level, heinousness of the crime, and number of victims. The analyses show that after controlling statistically for legally relevant variables and other factors through to influence death penalty sentencing (e.g., region, jurisdiction), differences remain in the likelihood of receiving the death penalty based on race of victim.

The evidence for the influence of the race of defendant on death penalty outcomes was equivocal. Although more than half of the studies found that race of defendant influenced the likelihood of being charged with a capital crime or receiving the death penalty,[4] the relationship between race of defendant and outcome varied across studies. For example, sometimes the race of defendant interacted with another factor. In one study researchers found that in rural areas black defendants were more likely to receive death sentences, and in urban areas white defendants were more likely to receive death sentences. In a few studies, analyses revealed that the black defendant/white victim combination was the most likely to receive the death penalty. However, the extent to which the finding was influenced by race of victim rather than race of defendant was unclear.

Finally, more than three-fourths of the studies that identified a race of defendant effect found that black defendants were more likely to receive the death penalty. However, the remaining studies found that white defendants were more likely to be sentenced to death.

To summarize, the synthesis supports a strong race of victim influence. The race of offender influence is not as clear cut and varies across a number of dimensions. Although there are limitations to the studies' methodologies, they are of sufficient quality to support the synthesis findings.

We are sending copies of this report to cognizant congressional committees, the Attorney General, and other interested parties.

Major contributors to this report are listed in appendix II. Please call me at 275-8389 if you have any questions.

LOWELL DODGE,
Director, Administration of Justice Issues.

APPENDIX I—LIST OF STUDIES

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[3] When we refer to a finding of racial disparities at the sentencing and imposition stages we are, in fact, including disparities that occurred in earlier stages of the judicial process, e.g., charging and decision to proceed to trial.

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APPENDIX II—MAJOR CONTRIBUTORS TO THIS REPORT—GENERAL GOVERNMENT DIVISION, WASHINGTON, DC.

Laurie E. Ekstrand, Chief Social Scientist.
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THE UNIVERSITY OF IOWA,
Iowa City, IA, June 17, 1991.

Re S. 1249, Racial Justice Act of 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR KENNEDY: We have been asked to comment upon whether S. 1249, the Racial Justice Act of 1991, would have the practical effect of either abolishing the death penalty in the United States or resulting in the use of racial quotas to avoid the application of the Act. We believe that neither of these outcomes would follow from the enactment of the Racial Justice Act.

The de facto abolition argument appears to rest upon the assumption that it will be very easy for capital defendants to establish a prima facie showing of a "discriminatory pattern" under the Act and very difficult for the states to rebut that showing. The argument also appears to assume that successful prosecution of a claim under the Racial Justice Act by one death-sentenced offender would entitle all death-row inmates in the state to relief from their death sentence. We believe that both of these propositions are false.

The establishment of a prima facie case under the Racial Justice Act requires racial disparities of a magnitude which strongly suggest that capital punishment is being used in a racially discriminatory fashion. Small statistical disparities are not enough to support such an inference. It is said nevertheless that minor numerical differences in the numbers or percentages of death sentences which a state has imposed will require the state to shoulder a troublesome burden of disproving discrimination. More specifically, it is argued that such evidence would be sufficient to demonstrate that the death penalty is being imposed "more frequently" in cases of one race than another under section 2921(1) of the Act and/or to show a racially "disproportionate" frequency which constitutes a prima facie case of discrimination under section 2922(c)(1) (A) and (B).

This argument is simply wrong. When an observed racial disparity in death-sentencing rates in a State is small or is based on small numbers of cases, it is not sufficient to put any burden of disproving discrimination on the State. Consider, for example, a State with a death-row population of 6 inmates, 4 of whose cases involved a white victim, while only 40% of these and all other death-eligible cases in the State involved a white victim. Or consider a State with a death row of 100 prisoners, 43 of whose cases involve a white victim while 40% of the death-eligible cases from which they were selected have a white victim.

Common sense suggests that neither of these patterns represents a situation in which the death penalty is being imposed "more frequently" upon killers of white victims within section 2921(1) or in which there is a "disproportionate" racial frequency within section 2922(c)(1). And we can assure you that any sort of responsible statistical analysis will produce exactly the same result: numerical differences as small as the ones described above would not lead any scientific researcher to conclude that racial discrimination is at work.

The reason is that small numerical differences like these could readily occur by chance in a criminal justice system that was not discriminating on the grounds of race. Ordinary statistical procedures do not allow conclusions of discrimination to be drawn from racial disparities based on small sample sizes (like 4 out of 6 cases) or from small differences in death-sentencing rates between racial groups even when the sample size is not small (like 43 instead of 40 out of 100 cases). To the contrary, a major function of statistics in research is precisely to ferret out disproportions that are real and to distinguish them from disparities that may be simply happenstance numerical differences that are attributable to chance.

All this leads one to ask—what type of disparities are we likely to observe in the various states? On the basis of the studies done to date, we are unlikely to see strong statewide racial disparities in many states, especially disparities concerning the defendant's race. We are much more likely to see the disparities concentrated in specific localities. For example, our research from Georgia showed no significant statewide evidence of race-of-defendant discrimination. Those overall results masked, however, data from one judicial district that showed a strong race-of-defendant effect. The data also showed evidence of race-of-defendant discrimination among a number of rural prosecutors. It is in areas like these that we will be likely to see a prima facie case established.

The de facto abolition argument further assumes incorrectly that states will be unable to rebut any inferences of discrimination by showing with "clear and convincing evidence that identifiable and pertinent nonracial factors persuasively explain" the racial disparities. Section 2922(c)(2). In fact, a variety of accepted statistical techniques are available for use by the State in making its rebuttal case whenever it appears that an observed racial disparity in a state's death-sentencing rates is more likely the product of differences in the distribution of pertinent nonracial characteristics than the product of racial discrimination. For example, in considering data simply showing that killers of white victims are more often sentenced to death than killers of black victims, one might legitimately wonder whether this observed disparity reflects the fact that the white-victim cases were more aggravated than the black-victim cases. But here also, there are available generally accepted statistical procedures designed to avoid this inferential pitfall. Specifically, they estimate racial disparities in death-sentencing rates and executions after taking into account or controlling for such nonracial factors. These procedures provide a solid basis for estimating the likelihood that the racial disparities that finally emerge from analysis are in fact the product of racial discrimination and are not explained by the fact that one racially defined subgroup of cases is more aggravated than another with which it is compared. And it is just such procedures that have been used in the more thorough empirical studies that show significant evidence of race-of-victim discrimination in this country, i.e., the race-of-victim effects persist after adjustment has been made for racially neutral factors such as the presence of torture or contemporaneous offenses like robbery or sexual assault.

Generally accepted statistical procedures of the type that will be used to evaluate racial disparities under the Racial Justice Act are used in a wide variety of other legal and nonlegal contexts in which it is important to distinguish between what is apparent and what is real. For example, such procedures provide the principal proof of a causal connection between cigarette smoking and cancer and between cholesterol and heart attacks. These procedures are also routinely used by pharmaceutical firms to establish the safety of new drugs.

Moreover, similar procedures are widely used in lawsuits, particularly in employment-discrimination cases involving claims of purposeful and intentional discrimination in employee hiring, promotion, and discharge. In those settings, the use of generally accepted statistical methods of proof has been explicitly and unanimously endorsed by the United States Supreme Court. These procedures have routinely provided an indispensable basis for the valid and just assessment of claims of race and gender discrimination. Moreover, defendants in discrimination cases are often successful in rebutting the plaintiff's prima facie case with objective and relevant nonracial factors. We fully expect such defenses will be similarly used in the context of the Racial Justice Act, often with considerable success.

In comparing the Racial Justice Act with comparable Title VII cases, i.e., those involving special qualifications for hiring or promotion, it is worth noting that the plaintiff carries the burden of accounting for the most important nonracial factors on which data are available as part of her prima facie case. So long as the relevant data are available to the parties, this requirement is appropriate and imposes no undue hardship on the plaintiff. Accordingly, under the Racial Justice Act the imposition of a similar burden on offenders presenting claims under the Racial Justice Act would be appropriate as long as data were available on the relevant aggravating and mitigating factors. This appears to have been the thinking behind the House version of the Racial Justice Act, which provides for an equivalent of a prima facie case on the basis of disparities that "take into account, to the extent it is compiled and publicly available, evidence of the statutory aggravating factors of the crimes involved."

The argument that claimants will always prevail in claims brought under the Racial Justice Act overlooks a simple fact. It is that after taking into account pertinent nonracial factors, it will be extremely unlikely to ever see any evidence of racial discrimination unless racial factors are in fact exerting a significant influence on capital sentencing in the jurisdiction under evaluation. As a result, it is by no means the case that states will usually lose these cases. For example, the existing literature suggests it is quite unlikely that claims of race-of-defendant discrimination will be successful at the statewide level, although the picture may be quite different in particular subdivisions of the states. Moreover, we expect that over time fewer and fewer claims of any type will be successful as prosecutors become more aware of their obligation to treat capital cases in an evenhanded fashion. On this point, we note that our evidence from Georgia showed quite strong evidence of statewide discrimination against black offenders before *Furman v. Georgia* (1972). In the period from 1973 to 1980, however, we observed no significant statewide evidence of race-of-defendant discrimination. The most plausible explanation for this change is that prosecutors and juries have become more sensitive to the problem of racial discrimination and most have generally sought to treat all offenders in a more evenhanded fashion. If the Racial Justice Act becomes law, we expect a similar development would occur over time with respect to the race of the victim.

It is also important to note that the statistical analyses required to refute claims of discrimination involve information on relatively few pertinent nonracial circumstances of the cases beyond the statutory aggravating and mitigating circumstances (and those would usually constitute a total of 10 to 20 variables). This fact belies any claim that the Racial Justice Act would require the states to collect and maintain massive statistical data files. Another relevant point is that once the required data base for evaluating the system is in place, it will be available for use with no further expense beyond routine updating. The suggestion that each claim brought under the Racial Justice Act will require the development of a new data base for analysis from scratch ignores this fact.

The de facto abolition argument also appears to assume that a single successful claim under the Racial Justice Act will block execution in all other death-sentenced cases in the state involved. This assumption completely overlooks the language of 2922 of the Act, which bars executions only if that person's death sentence and execution would "further a racially discriminatory pattern." As a result, only defendants whose cases fall within categories of death-eligible cases where racial effects are observed would be entitled to relief. For example, in Georgia, our research indicated that in cases highly aggravated with factors such as torture or multiple victims, there were no race effects related to either the race of the defendant or the victim. Those death sentences clearly do not further a racially discriminatory pattern and therefore would be unaffected by the law. And as noted earlier, our research from Georgia also indicates that the levels of racial disparities in capital sentencing vary significantly from one judicial district or county to the next. Thus, a finding of discrimination in district A would provide no basis for relief in other jurisdictions where there is no evidence that race is influencing the system.

The argument that the Racial Justice Act would lead to racially discriminatory charging and sentencing practices and quotas is misleading in the extreme. The decline in racial discrimination that we have generally observed in this nation's criminal justice system is most plausibly explained by expanded protection of federal and constitutional law and a growing perception of the importance of nondiscriminatory and evenhanded treatment of criminal defendants. Any suggestion that this development has somehow produced quotas is completely implausible. Similarly, in the employment discrimination context, the United States Supreme Court has for years authorized methods of proof for proving classwide purposeful discrimination that are comparable to those contemplated by the Racial Justice Act. Plaintiffs in those cases have both won and lost such cases, but there has never been any serious contention that either the right to challenge classwide purposeful discrimination in an employment context or the methods of proof employed for the task have led to racial or gender quotas in employment. The dispute over quotas recently raised by the 1991 Civil Rights Act relates strictly to disparate impact claims (which require no proof of purposeful discrimination) and not to claims of classwide purposeful discrimination.

Finally, an observation about the provision in the administration's Equal Justice Act that prohibits the use of "statistical tests" as a means "to achieve a specified racial proportion" of offenders, etc. S. 635 section 1002(b)(3) (A & B). The provision completely misconceives the function of statistical tests. They are used to compare differences in the rates at which characteristics of all types occur in different populations (e.g., the rates at which cancer develops in people who smoke versus those who do not), and to provide a basis for making causal inferences (e.g., that smoking causes cancer). In the context of death-sentencing research, statistical tests are merely an aid to determine whether different racial groups are being treated differently and whether those differences are a product of chance, different distributions of nonracial factors among different racial groups, or racial discrimination. Those tests have nothing whatever to do with achieving "a specified racial proportion relating to offenders" or anyone else. While Congress may want to outlaw quotas in death sentencing, to equate quotas with statistical tests is absurd. Moreover, the enactment of such a provision could unintentionally limit the capacity of state courts to monitor their own capital-sentencing systems to ensure that they are subject to no racial discrimination.

Sincerely,

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HARVARD UNIVERSITY LAW SCHOOL,
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To: Senator Edward M. Kennedy.
From: Laurence H. Tribe.
Subject: Congress' Constitutional Authority to Enact the Racial Justice Act of 1989, S. 1696.
Date: November 3, 1989.

Here are my views about whether Congress has the constitutional authority to enact S. 1696, the Racial Justice Act of 1989. My conclusion is that Congress has this authority, based on its broad remedial powers under §5 of the Fourteenth Amendment and §2 of the Thirteenth Amendment.

Congress' authority embraces the ability to identify situations that require appropriate legislation to remedy, or to prevent, violations of the Thirteenth and Fourteenth Amendments. In *Katzenbach v. Morgan*, 384 U.S. 641 (1966), the Supreme Court held that Congress could, in the exercise of its recognized fact-finding capacity, discover patterns of discrimination not discerned by the Court. This interpretation of *Morgan* appears to be widely accepted. Thus, last Term, in *City of Richmond v. J.A. Croson Co.*, 109 S. Ct. 706, 719 (1989), Justice O'Connor reaffirmed that "[t]he power to 'enforce' [the 14th Amendment] may at times also include the power to define situations which *Congress* determines threaten principles of equality and to adopt prophylactic rules to deal with those situations." (emphasis in original). *See generally* L. Tribe, *American Constitutional Law* §5-14, at 345-46 (2d ed. 1988).

Congress having found that "the death penalty is being administered in a pattern that evidences a significant risk that the race of the defendant, or the race of the victim against whom the crime is committed, influence the likelihood that the defendant will be sentenced to death," (b)(3), S. 1696 fits within the contours defined by *Morgan*.

Likewise, for purposes of identifying violations of the 13th Amendment, Congress can "rationally [ ] determine what are the badges and the incidents of slavery." *Jones v. Alfred H. Mayer Co.*, 392 U.S. 409, 440 (1968). Indeed, the Court has accepted the view that racial disparity in criminal penalties bears the emblem of slavery. *Civil Rights Cases*, 109 U.S. 3, 22 (1883). Here, Congress has concluded that "the interest in ensuring equal justice under law may be harmed, not only by decisions motivated by explicit racial bias, but also by government rules, policies, and practices that operate to reinforce the subordinate status to which racial minorities were relegated in our society," (b)(6). *See also McCleskey v. Kemp*, 481 U.S. 279, 1786 (1987) (Brennan, J., dissenting).

The Court's ruling in *McCleskey* that the defendant had failed to prove discriminatory intent forbidden by the Fourteenth Amendment presents no constitutional obstacle to Congress' authority. While a showing of discriminatory intent in a particular instance is required by a court that is asked to find an outright violation of the Fourteenth Amendment, Congress need not make any such finding in order to *enforce* the Amendment in its own right.

This proposition appears clear under any reading of *Morgan*. In *Morgan*, the Court upheld a section of the Voting Rights Act of 1965 that overrode an English literacy voting requirement notwithstanding the fact that the Supreme Court had previously ruled in *Lassiter v. Northampton County Board of Elections*, 360 U.S. 45 (1959), that such a requirement did not in itself violate the Fourteenth Amendment. In short, "congressional authority extends beyond the prohibition of purposeful discrimination to encompass state action that has discriminatory impact perpetuating the effects of past discrimination." *Fullilove v. Klutznick*, 448 U.S. 448, 477 (1980). *See generally* L. Tribe, *supra*, §5-14 at 337.

Indeed, the *McCleskey* opinion can be read as having invited Congress, in the exercise of its enforcement power under §5 of the Fourteenth Amendment, to regulate death penalty procedures that discriminated against black murderers of white victims and against black victims of white murderers. As the Court stated, "[i]t is not the responsibility of this Court to determine the appropriate punishment for particular crimes." Such a role belongs to "the legislatures, the elected representatives of the people." *McCleskey* at 1780. Moreover, "[l]egislatures also are better qualified to weigh and 'evaluate the results of the statistical studies . . .'" *Id.* (quoting *Gregg v. Georgia*, 428 US at 186).

Insofar as the remedial aspect is concerned, S. 1696 also clearly falls within the boundaries of Supreme Court precedent. The requirement that Congress enact "appropriate legislation," *Morgan* at 651, is a loose one. As stated by the Court, "[w]hatever legislation is appropriate, that is, adopted to carry out the objects the amendments have in view, whatever tends to enforce submission to the prohibition they contain and to secure to all persons the enjoyment of perfect equality of civil rights and the equal protection of the laws against state denial or invasions, if not prohibited, is brought within the domain of congressional power." *Ex Parte Virginia*, 100 U.S. at 345–46. *See also Morgan* at 653. The same standard applies in the Thirteenth Amendment context where §2 "clothed 'Congress with power to pass all laws necessary and proper for abolishing all badges and incidents of slavery in the United States.'" *Jones*, 392 U.S. at 439.

Again, the Court's ruling in *McCleskey* does not bar Congress from acting. The proposed bill targets official behavior that even the Court's most conservative members agree falls within suitable legislative reach. Although there is disagreement regarding the scope of Congress's authority to make its own interpretation of the *substance* of a constitutional violation, it is undisputed that Congress may choose its own broad *remedial scheme* to root out, and minimize the risk of, what the Court would concede are constitutional violations.

The question that has divided the Court is whether Congress has the authority to prohibit practices that have a discriminatory impact notwithstanding a judicial determination that only discriminatory intent violates the Constitution. For instance, in *City of Rome v. United States*, 446 U.S. 156 (1980), the majority held that given the "risk of purposeful discrimination, it was proper [for Congress] to prohibit [electoral] changes that have a discriminatory impact." *Id.*, at 177 (footnote omitted.). In his dissent, then Justice Rehnquist objected that Congress had in effect established an "irrebuttable presumption" of discriminatory purpose which, he claimed, would amount to a substantive change in the law. *Id.*, at 215 (Rehnquist, J., dissenting).

In contrast, the proposed bill is immune to such criticism. The bill does not suggest that discriminatory effects in sentencing amount to constitutional violations *per se*. The bill falls squarely within the bounds of the Court's ruling in *McCleskey* that only "purposeful discrimination" is unlawful. *McCleskey* at 1766 (citation omitted). Simply, following a finding of discriminatory impact, the bill attacks deliberate discrimination by establishing a *rebuttable* presumption that death penalty practices were undertaken for discriminatory reasons. The bill does not establish a conclusory presumption of intent but circumvents a problem of proof peculiar to the judicial setting. It thus satisfies Chief Justice Rehnquist's objections to congressional attempts to identify as violative of the Constitution practices which the Court does not view as such. In sum, S. 1696 does not put Congress in conflict with the Court's reading of the Fourteenth Amendment.

The nexus between Congress's finding of discriminatory enforcement that is likely to be the result of discriminatory motivation, and Congress's prophylactic rule—as it were, an evidentiary shift in the burden of proof—is sufficient under *Morgan* and its progeny. Where individuals are being sentenced to death based on their race or of that of their victims, Congress may properly decide—precisely *because* courts find it institutionally difficult to discern racial motivation and to fashion adequate relief even if they do discern such motivation—to act legislatively to remedy the inequity.

Of course, the Supreme Court remains divided over the scope of congressional power regarding certain types of discriminatory practices. Some Justices reject the view that Congress may expand the guarantees secured by the Fourteenth Amendment beyond those recognized by the Supreme Court. For example, in *Oregon v. Mitchell*, 400 U.S. 112 (1970), four Justices concluded that Congress could not determine independently that a state's disenfranchising of 18-year-olds violated the Equal Protection Clause. To grant Congress this authority, they believed, would improperly allow Congress "to determine as a matter of substantive constitutional law what situations fall within the ambit of the [Equal Protection] Clause," *id.*, at 296 (opinion of Stewart, J). Likewise, in *EEOC v. Wyoming*, 460 U.S. 226 (1983), four Justices viewed Congress's extension of the Age Discrimination in Employment Act to cover state and local governments as an improper legislative attempt to expand the reach of the Equal Protection Clause because the Supreme Court had never found that age discrimination was proscribed by the Fourteenth Amendment. *Id.* , at 259–65 (Burger, C.J., dissenting). *But see Mississippi University for Women* v. *Hogan*, 458 U.S. 718, 732–33 (1982) (stating that in assessing Congress's §5 power, the Court "give[s] great deference to congressional decisions and classifications," so long as Congress does not "validate a law that denies the rights guaranteed by the Fourteenth Amendment").

On any of the theories of congressional power under the Fourteenth Amendment, however, the Racial Justice Act is an appropriate exercise of Congress's authority. No case has ever challenged the view that Congress may fashion its own *remedies* to shield individuals from violations of a federal right on the basis of *race*. Both Justice Black's opinion in *Oregon* and Chief Justice Burger's dissent in *EEOC* contrasted legislative actions regarding age discrimination—which they found improper—with actions concerned with constitutionally protected classes—which they found legitimate. Although "[t]he Fourteenth Amendment was surely not intended to make every discrimination between groups of a constitutional denial of equal protection . . . the Civil War Amendments were unquestionably designed to condemn and forbid every distinction, however trifling, on account of race." *Oregon*, at 127 (opinion of Black, J.); *see also id.*, at 128–30; *EEOC*, at 260–62 (Burger, C.J., dissenting). Within this frame of reference, there are three separate rationales justifying S. 1696.

The *first* is that the criminal justice system discriminates against *black defendants* who, under the equal protection clause of the Fourteenth Amendment, are entitled to redress. This basis is suggested in §2922, (c)(A).

The *second* rationale focuses on the race of *the victim*. §2922, (c)(B). Where a specific "public good" is being unevenly distributed on the basis of race, Congress has a Fourteenth Amendment mandate to remedy the situation. In this instance, the relevant public good can be viewed as the capital sentence, seen by many as a useful deterrent to the most serious crimes. As Professor Randall Kennedy writes, "blacks . . . are quite literally being denied the equal *protection* of the laws." Kennedy, McCleskey v. Kemp: *Race, Capital Punishment, And The Supreme Court*, 101 Harv. L. Rev. 1388, 1422 (1988). No such claim of black *victims' rights* was rejected by *McCleskey*—nor could it have been, since no party had standing to press any such claim there.

This rationale suggests a *third* powerful justification for the proposed congressional remedy. The unevern enforcement of the death penalty depending on the race of the victim manifests society's demeaning vision of blacks as second-class citizens. Such unequal treatment must in turn "generate[] a feeling of inferiority as to their status in the community." *Brown* v. *Board of Education*, 347 U.S. 483, 494 (1954). *See also* L. Tribe, §16–21,at 1515–16. This situation provides a strong argument that Congress may constitutionally intervene to prevent this debasing image of a minority group from having gravely debilitating effects in other spheres of life.

The *Morgan* opinion suggested precisely this type of justification when it stated that congressional activity may be necessary to provide "enhanced political power" to "gain[] nondiscriminatory treatment . . . for the entire community." *Morgan* at 652. In a similar vein, the Fourteenth Amendment must confer on Congress the power to enhance the currently inferior status of blacks in the most dramatically visible of criminal contexts if they are ever to gain a full measure of human dignity in all realms of social life.

In sum, there is ample reason to believe that Congress has constitutional authority to enact S. 1696.

Laurence Tribe.

Mr. KENNEDY. Mr. President, I ask unanimous consent the period for debate only be extended until 4:30 p.m., and the majority leader be recognized at the conclusion of that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, we have done much over the past 20 years to help law enforcement officers across the country do a more effective job of fighting crime in our society. These steps have made a difference. We have strengthened literally hundreds of our criminal laws—some 232 new penalties in the past 3 years alone. We have reformed our sentencing statutes. We have strengthened our narcotics laws. We have appropriated additional resources for law enforcement.

Since so much of the crime in most communities is drug related, we have also put into place a number of reforms, ranging from law enforcement improvements to enhanced drug education and drug treatment programs to help the Nation win the war on drugs. But the tens of thousands of Americans who fall victim to crime each day know that more must be done.

The crime package developed by Senator BIDEN reflects a more effective approach to crime than the Bush alternative. Although the Biden package includes death penalty and habeas corpus provisions that I oppose, it contains many other worthwhile reforms to upgrade all aspects of Federal, State, and local law enforcement. In addition, on the death penalty, the Biden package also contains the Racial Justice Act, a response to the overwhelming evidence that racial discrimination affects capital sentencing decisions in many jurisdictions. The act would prohibit the application of the death penalty where imposition of a capital sentence is tainted by such discrimination.

In contrast to the comprehensive nature of the Biden package, the central focus of the Bush administration proposal is the death penalty. In my view, that focus is a sham, designed to address the politics, not the substance, of the crime issue in communities across America. Clamoring loudly for the death penalty and doing so little else is unacceptable, when we ought to be helping local police and all other aspects of the law enforcement and civil justice system to obtain the resources and other support they so adequately need.

The Bush alternative proposes little more than the further enhancements to existing Federal penalties, many of which we have previously increased and which will have no effect on the vast majority of crime at the State and local level. Even the administration's proposal to expand the death penalty is largely toothless. Its principal impact will be largely confined to murders committed on Indian reservations.

Habeas corpus reforms in the Bush proposal may achieve the desired goal of speeding executions, but make no mistake; the inevitable result will be to increase the numbers of individuals who are executed in violation of their constitutional rights. Most of the victims of these misguided reforms will be citizens without sufficient means to obtain decent legal representation.

To their credit, the sponsors of the administration package have deleted the bad idea of secret INS proceedings to deport foreign nationals from the United States.

The administration's proposal on this issue violated fundamental principles of due process and would be a serious embarrassment to the United States. We oppose secret proceedings and judicial travesties in Kuwait and other nations, and we should not copy them in the United States. We can support our local police and deal with foreign terrorists without turning America into a police state, and without destroying the fundamental civil liberties and constitutional guarantees that make this Nation truly free.

Just as we need more drug treatment and prevention programs to turn individuals away from drug abuse and drug-related crimes, so do we need more police on the streets of our communities with more resources to carry out their mission to combat crime.

Tough law enforcement is not inconsistent with the Constitution. But I am increasingly concerned that the administration's distorted battle plan in the war on crime and drugs has begun to undermine the freedoms in the Bill of Rights.

The administration's willingness to trash habeas corpus and the exclusionary rule, and limit the right to public trials, suggests that the Justice Department has decided it is easier to wage a political war on the Constitution than to wage a real war on crime.

Our greatest challenge is to use our limited resources most effectively. Efforts in recent years have increased penalties, without regard to the fact that the criminal justice system is already bursting at the seams. Today, there are 1 million offenders in prison, and over 2.5 million offenders free on probation or parole.

What the administration proposal clearly lacks is funding and other assistance for State and local law enforcement, who represent the front line against crime. Senator BIDEN has drawn this distinction clearly in his bill and his proposal is far better than the Bush alternative.

Both the President's crime bill and the Biden crime bill create new mandatory minimum sentences and increase old ones. But these sentences are becoming an increasingly serious obstacle to the success of the sentencing guideline system which Congress created in 1984.

Congress has persisted in enacting mandatory minimums in recent years for political reasons, despite the fact that such sentences seriously undermine the Sentencing Commission's mandate to devise a rational sentencing system. The commission's guidelines also limit judicial sentencing discretion, but they offer a far more effective way to achieve the goals we share.

Mandatory minimums inevitably lead to disparities in sentencing, because different defendants with different degrees of guilt and different criminal records receive the same sentence. The guideline system permits the court to consider the aggravating and mitigating circumstances relevant to each offense and each offender, but mandatory minimums prevent such individualized sentencing.

Some advocates of mandatory sentencing believe that coerced uniformity is appropriate. But the mandatory statutes do not produce uniformity; they merely transfer discretion from judges to prosecutors, who decide whether defendants will be charged with an offense carrying a mandatory penalty, and whether to insist on a plea to that count of the indictment. A guideline system makes judges accountable for the discretion they exercise; mandatory sentencing laws impose no similar check on prosecutors.

The commission has attempted to incorporate the congressionally mandated minimum penalties into the guidelines, but the effort is impractical. Such penalties have been enacted with little appreciation for the new sentencing system, and their passage has unnecessarily complicated the commission's work.

Both the Sentencing Commission and the Judicial Conference have criticized mandatory penalties. In the next few months, the commission and the General Accounting Office are expected to issue reports on mandatory minimums, and Congress will have an opportunity to review and act on their findings. These reports will suggest ways in which Congress can formulate sentencing policy without undermining the guidelines. For example, Congress might provide flexible statutory directions to the commission.

The Biden bill contains two other worthwhile reforms that deserve the Senators' strong support—the Brady handgun waiting period and the police corps. In fact, these two provisions may turn out to be the most innovative ideas of all, and both proposals are included in the Biden bill.

The police corps provision creates a new corps of young men and women willing to commit their talent and energy to law enforcement. Too often, as we have heard in debates on crime legislation, police forces in communities across the country are increasingly outnumbered in the war on crime. Today, strong law enforcement requires more police on the beat, which is exactly what the police corps provision is designed to achieve. It provides for 20,000 new police officers each year. The police corps will operate in much the same way as the Reserve Officers' Training Corps functions for the Armed Forces. In return for Federal aid to pay for their college education, young men and women will agree to serve in local and State police departments for 4 years after graduation, and will receive the same salary as regular law enforcement officers.

The police corps thus serves two important purposes. It encourages the united young Americans to make their careers in law enforcement, and it upgrades the quality of State and local enforcement in all parts of the country.

With respect to the Brady handgun waiting period is long overdue to stop the arms race on the streets of our communities. The waiting period will have a significant impact on the problem of violent crime and it should be enacted with or without the crime package.

Over two decades ago, in 1968, Congress enacted major legislation ensuring that firearms are sold only to law-abiding citizens. The Brady legislation, as modified by Senators MITCHELL, KOHL, and GORE, will put real teeth in the 1968 Gun Control Act, too many of whose provisions have been easily evaded for too long. Similar waiting periods have reduced the flow of handguns to individuals with felony convictions in States ranging from New Jersey, Georgia, Tennessee, and Florida to California. The success of these State initiatives is overwhelming. Felons are being caught by the thousands in States which have waiting periods and background checks. The Mitchell-Kohl-

Gore proposal is a simple and vital step toward reducing firearm violence and protecting the lives of our citizens.

Finally, law enforcement has an indispensable role to play in combating drug abuse. But it cannot do the job alone. Enduring victories will not be gained until students are persuaded that drugs are harmful, until communities create a climate in which drugs are unacceptable, and until drug treatment is available to all who want to kick their habit.

Excessive reliance on the criminal law to solve this deeply rooted social problem is not only doomed to failure—it threatens to distort our criminal justice system. We are willing to spend vast resources to build prisons and warehouse drug offenders. We are willing to ask clogged courts to administer assembly line justice to a mushrooming rag-tag army of addicts. Yet we are unwilling to invest needed resources in the treatment and education programs that could stop these crimes from happening in the first place and reduce the overwhelming logjam in the courts.

We are fighting a war on crime in which one of the principal weapons is bankrupt policy for prevention, education, and treatment of drug abuse, and those priorities are unacceptable.

Getting tough on crime means more than increasing penalties three or four times in as many years. Getting tough on crime means equipping our law enforcement system with enough police, prosecutors, and judges. It means investing in programs that are proven capable of preventing crime. To build a new prison costs the Federal Government as much as $85,000 per inmate. A place in a Head Start facility costs only about 5 percent as much, and it cuts the teenage arrest rate by nearly half. It is penny-wise and dollar-foolish for Congress and the administration to pay vast sums for new prison cells, yet refuse to allocate a fraction of that amount for new places in preschool classrooms.

It is time to get our priorities straight on crime, and this Senate legislation is the place to begin.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, let me define what the Racial Justice Act is and what it is not. I will start with what it is not. This act is not about the death penalty. This act is not about quotas. This act is about fairness and equality. This is a basic civil rights issue. This act is about civil rights, and it is all about; whether or not the U.S. Senate will come to grips with the fact that race and crime has become the polarizing issue in our country and that where there is discrimination in our society, where there is discrimination in the criminal justice system, we must act to eliminate that discrimination.

Leadership is not appealing to the fears of people. Leadership is inspiring people to be their own best selves.

There are two fundamental but separate issues here in this crime bill. The first is whether or not we should have a death penalty. But that is not what the Racial Justice Act is about. The second issue is, if we are going to have a death penalty, should we not do everything possible to make sure that it is imposed in a fair and equal manner. That the Racial Justice Act makes sure that that happens is why it is such an important act.

Many States already have the death penalty. I do not like that. From my own, honest point of view, the death penalty is wrong: intellectually, constitutionally, morally. I think people should be locked up for life when they commit heinous crimes, never again to get out of prison. But I do not believe the State should take a life. That is my own view. But in both crime bills before us in this body, in both versions, there are a number of death penalty provisions. Indeed, both crime bills expand the number of death penalty provisions.

But if there must be a death penalty in this country, then it must not be applied in such a way that it discriminates against people by virtue of the color of their skin. And make no mistake, discrimination is exactly what we have in the current application of the death penalty in our country today. Death penalty proponents and death penalty opponents have both sided in supporting this act, because all of us are offended by the existence of this racial bias in sentencing.

In 1987 in the McCleskey versus Kemp case, the Supreme Court of the United States of America upheld that statistical evidence, no matter how comprehensive or compelling, could not be accepted in death penalty cases absent some legislative directive. Is that what our justice system is about, ignoring evidence, ignoring discrimination? Our judicial system and its rules are supposed to be honest, supposed to be evenhanded, supposed to be unbiased, but right now that is not the way it is in all too many of our States.

Nobody on the floor of the Senate is here to argue that a problem does not exist. This is not a serious debate about whether a problem exists. The old maxim is absolutely true and I wish I did not have to say this, Mr. President: Capital punishment is all too often for those who do not have the capital.

Congress recognized that there was a problem and that we needed to closely examine it, and that is why we authorized the General Accounting Office to study the pattern of racial sentencing. The GAO did its study and the General Accounting Office released its study in February 1990, and the results are clear. They found "a pattern of evidence indicating racial disparities in the charging, sentencing and imposition of the death penalty."

In 82 percent of the cases examined, the race of the victim was found to be a factor in influencing the sentencing—82 percent of the cases. The GAO does not work for the American Civil Liberties Union. The GAO does not work for a death penalty project. The General Accounting Office works for us and they say there is a clear pattern of discrimination. That is an unpleasant truth, but that is an unpleasant truth that we must face up to. Leadership is having the courage to deal with basic problems, and this is a fundamental problem in our society: Discrimination; discrimination in sentencing.

Discrimination is a blight on our criminal justice system and our society, and I would argue that this discrimination undermines support for anyone who feels strongly about law and order.

The Racial Justice Act would respond to the Supreme Court's ruling and allow the use of valid statistics in death penalty cases. All the Racial Justice Act says is that when a defendant is facing the death penalty, he or she should have the opportunity to use valid statistics to show that this sentence was based upon race. In each case, the prosecution will have a full opportunity to dispute the evidence and the validity of the statistical data. The only thing this act does is make our judicial process fair by allowing the introduction of valid statistical evidence in capital cases.

This act does not endorse a particular statistical study. It does not create a presumption of racial bias. This act does not overturn the death penalty, although I would like to see that happen.

This act merely and simply says that a defendant should have the opportunity to introduce valid and relevant evidence of discrimination. That is why this is a basic civil rights vote. I do not see how anybody can be opposed to it.

Since there is no denying that the problem exists, I think there is a real, not so obvious, but important reason why there are those who oppose this Racial Justice Act. And that is because all too many people do not want to confront what is a political bombshell which is, there is a clear pattern of racial discrimination when it comes to sentencing, when it comes to capital punishment.

What I am trying to say today, Mr. President, to the very best of my ability, the time for playing politics on a basic human rights, civil rights question, is over and the time to pass this legislation, even if it is a difficult vote has come. This Racial Justice Act is about a commitment to justice that says that justice does not end at the courtroom door and it is a commitment that says that we, as the U.S. Senate, that we, as the U.S. Congress, are prepared to cast courageous votes to support the civil rights of people of color in the United States of America. That is the very best of our tradition, and that is what I hope we will do. Thank you, Mr. President.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the time for debate only be extended until 4:45 p.m., with the majority leader being recognized at the end of that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, 106 days ago the President challenged the Congress to pass transportation and crime legislation within 100 days. Yesterday, the Senate passed the highway bill and today the Senate takes up S. 1241, the crime bill. While I am pleased that the Senate is considering this important legislation, I would have preferred consideration of S. 635, the President's sweeping antiviolent crime bill. While we all agree in purpose that Congress must respond to our Nation's violent crime problem, we do not agree on the method for addressing this problem.

BIDEN BILL IS FLAWED

The bill on the floor today is well-intentioned, but flawed. It would unnecessarily restrict the rights of law-abiding gun owners, but does not strengthen the penalties against those who would use firearms in the commission of a violent crime. The revisions to habeas corpus procedure in S. 1241 would have the effect of allowing convicted murderers on death row to draw out what is an already protracted appeal process. Changes in the exclusionary rule included in the bill are more narrow than existing case law exceptions and would require that evidence vital to felony prosecutions be excluded because of legal technicalities. I do not believe that this bill is in the best interests of the American people who are besieged by an epidemic of crimes of violence.

PRESIDENT'S BILL IS BETTER APPROACH

A more effective approach to halting the incidence of violent crime in America is outlined in the President's bill, S. 635, the Comprehensive Violent Crime Control Act of 1991. This bill is the product of an unprecedented national summit on law enforcement responses to violent crime conducted by the Attorney General. The legislation represents the steps Congress must take in order to address violent crime.

DEATH PENALTY

The President's bill provides for an enforceable Federal death penalty, by establishing constitutional procedures for the implementation of a Federal death sentence. The bill authorizes the death penalty for the most heinous of Federal crimes including murder of law enforcement officers, murder for hire, fatal kidnapping, terrorist murders, and murders in violation of civil rights statutes. The President's bill also would provide the death penalty for drug kingpins, and for any murder in the course of a felony violation of Federal drug laws. S. 1241 does not adequately address the problem of drug-related violence, providing for the death penalty for murders committed in the course of only certain violations of Federal drug laws.

HABEAS CORPUS—LIMIT NEEDLESS APPEALS

Reform to habeas corpus procedures is included in the President's bill to curb abuses of this process. The provisions include time limits for filing, limitations on second and successive habeas petitions, and time limits for disposition of habeas petitions by Federal district and appellate courts in capital cases. These provisions reflect the view that to strengthen the criminal justice system's credibility, we must put an end to the never-ending succession of appeals.

EXCLUSIONARY RULE—GOOD FAITH

The President's bill also codifies the good faith exception to the exclusionary rule which has been recognized by the Supreme Court. This provision would provide for the admittance of evidence in warrant and nonwarrant cases where the conduct of the officers carrying out the search and seizure was reasonable. This provision also includes an exception to the exclusionary rule for firearms seized by Federal law enforcement officers in prosecutions of dangerous offenders where alternative safeguards against search and seizure violations are established. The bill introduced by the chairman of the Judiciary Committee takes a more narrow view than the existing caselaw exception, providing only that evidence will not be excluded if a police officer reasonably believed in good faith that the warrant he obtained complied with the law.

GUN CONTROL PROVISION UNACCEPTABLE

The gun control provisions for S. 1241 are most objectionable. The 7-day waiting period contained in the bill will not stop criminals from obtaining weapons. However, it would unnecessarily restrict law-abiding gun owners. The only way to stem the tide of higher crime is through stiffer penalties on criminals. This fact is recognized in the provisions of the President's bill, which proposes increased penalties for serious gun offenses and strengthened penalties for firearms possession by offenders with prior convictions for violent felony or serious drug offenses. It also imposes a 10-year mandatory prison term for use of semiautomatic weapons in a crime of violence. The President's bill makes substantial prison time a certainty for drug traffickers and other criminals who use firearms to commit their crimes.

While S. 1241 does contain provisions requiring a background check of potential gun purchasers, which I support, the 7-day waiting period is superfluous and will not have a significant impact on our efforts to keep guns out of the hands of violent criminals and eradicate violent crime.

CONCLUSION

Mr. President, the American people rightly demand from Congress a crime bill which will protect their right to be free from the fear of violent crime. The President's bill represents real reform toward reaching that goal. While the bill before us may have superficial appeal, by expanding the rights of criminals at the expense of law-abiding citizens, it does not move us closer toward our goal. I urge my colleagues to reject the Biden bill and support the substitute amendment containing the President's crime bill.

Mr. COCHRAN. Mr. President, let me first compliment the distinguished Senator from South Carolina [Mr. THURMOND] for the courageous and valiant effort he has made on the Judiciary Committee to convince that committee that the President's bill ought to be reported with favor to the Senate and recommended for passage.

I am concerned that we are continuing to see this agreement within the committee and a failure to reach a consensus on legislation that would really be effective in dealing with the serious problems we face today because of the scourge of crime on the streets and in our communities and in States throughout our great country.

The crime bill that was passed by the Senate must address the problems that we face in society and in the criminal justice system itself. I worry that the Biden bill that is being put before the body does not meet that challenge.

This crime bill ought to respond to the shocking facts that we see in our country today. For example, a murder is committed in the United States every 25 minutes, a rape every 6 minutes, and a burglary every 10 seconds. These are minutes and seconds that continue to go by.

The President challenged the Congress to react promptly to pass a bill that meets some of the needs that we have for criminal justice reform. He asked for a 100-day reaction by the Congress. It has been 100 days since the distinguished chairman and the former chairman of the Judiciary Committee, Mr. THURMOND, introduced the President's bill.

I think the time for action is now. I am glad the Senate has turned to the consideration of the crime bill. I congratulate the leader for scheduling it as he has now for the Senate's consideration.

But we must not lose sight of the fact that what is required by the Senate is not just taking up a bill but it is taking action, strong and decisive action, to ensure that criminals will be arrested, that criminals will be prosecuted, and that criminals will be punished for the commission of violent crime in the United States today.

Americans in every State, in every city, in every community, worry that they may be the next victim of a violent crime. Just 2 weeks ago, for example, in Arlington, TX, a man who had served only 7 years out of a 20-year sentence for murder was out of jail on bond on drug charges. He had not yet been arrested on some new charges that had been brought because police had a heavy caseload. He killed a 10-year-old girl and two of her relatives because the family had refused to drop criminal charges against him.

Mr. METZENBAUM. Mr. President, will my colleague yield for a moment so we may get an extension of time?

Mr. COCHRAN. I am delighted to yield to my friend.

Mr. METZENBAUM. I ask unanimous consent that the time for debate only on the bill be extended until 5 p.m., and that the majority leader be recognized at the end of that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I thank my distinguished colleague from Ohio.

Mr. President, there is a disturbing story, but it also carries a message that I hope is not lost in the Senate. It highlights a serious problem in the criminal justice system that needs to be reformed. Our system has had opportunities to prevent the kind of crime that I just described, opportunities to keep that person in jail, to make sure that he served his sentence, opportunities to support the local police in their efforts to deal with the heavy caseload that they face. The system broke down in this instance, Mr. President.

There is one proposal in the President's bill that I think would help address one of these problems that we continue to have brought to our attention. It stresses the swiftness and certainty of punishment for violent criminals, those who continue to commit violent crimes. We need to protect, in a more effective way, the innocent members of our society who have to continue to deal with the criminals who commit crimes over and over again.

The crime bill the President has recommended will authorize the death penalty for an additional 38 Federal felonies. It would include drug kingpins and persons who commit murders in the course of drug-related felonies. It would also include retaliatory murders of witnesses and jurors, fatal uses of weapons of mass destruction against American nationals anywhere in the world, and murders that occur during hostage taking.

The crime bill recommended by the President also contains effective procedures for restoring an enforceable Federal death penalty. In some States those who have been convicted of murder have been avoiding punishment for as much as 15 years. The Texas attorney general, Daniel Morales, recently said that the next execution in his State would probably be of an inmate who had been imprisoned awaiting execution since 1976. The President's bill will prevent criminals from making a mockery of our judicial process after they are convicted.

Mr. President, I believe the bill submitted by the distinguished Senator from South Carolina is much more convincing in its commitment to action than the bill being called up now by the Democratic leadership.

I urge the Senate to approve a substitute that will be offered by Senator Thurmond. It is the bill suggested by President Bush and it deserves to be enacted.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to commend the able Senator from Mississippi for his remarks. There is no question about it—the public is demanding a strong crime bill. The President has recommended a strong crime bill. We intend to offer that bill.

There was objection on the part of some of the Democrats that the President's bill did not have any funds in there to do certain things. So we have added the funds that Senator BIDEN had in his bill so you set the strong crime bill with the Biden funds.

What more do you want? That would give us the type of legislation we need here in order to combat crime. We ought not to delay this thing. We ought to go on and agree—to offer some amendments and then start voting. Let us get going. We have been on this bill all day. We have not voted a single time yet. All we want is just get a vote.

I think when you get a vote, the people will realize that we favor this bill, the law enforcement people favor it, the national law enforcement people in this country favor this bill. The national sheriffs favor it. The national police favor it. There is just no use in delaying the vote any further.

There is no use to pass a watered downed, weak crime bill. That is deceptive to the public. We do not want to pass a bill that enhances the opportunities of the criminals. We want to pass a bill that protects the victims. We ought to go ahead and vote as soon as we can.

I think the able chairman of the committee is about ready to vote. I hope he is. We can go ahead and save time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I am a little confused. The Senator from South Carolina is suggesting the President's crime bill is watered down because I am ready to vote on the President's crime bill right now. If the Senator from South Carolina does not want a vote on the President's crime bill, if he wants to vote on the President's crime bill with the Biden crime package attached to it, we can probably vote on that, too. That is a separate issue. But I am a little confused.

Is the Republican leadership saying they do not want a vote on the President's bill? If they want a vote on the President's bill, we can do that, bam. We can vote on the President's bill with the Biden bill attached to it if you want to do that, too. But I am just wondering what bill.

Is it the President's bill that is watered down.

Mr. THURMOND. The Biden bill is watered down on crime. We are willing to vote on the President's bill and the main objection as I understood Senator BIDEN, had he talked about it so much, that there is no money in there to do these things, that he put a lot of money in this bill.

Here is a list of funding provisions we have added: State local law enforcement, $1 billion; Federal counterterrorism, $65 million; law enforcement scholarships, $30 million; Federal law enforcement, $45½ million; antigang, $100 million; police corps, $400 million; rural crime initiative, $76 million; drug emergency areas, $300 million; regional prisons, $700 million; boot camps, $150 million, organized crime division, $45 million, and it makes a total of $3,221,000,000.

You have advocated this, and the main difference has been we did not have any money then. Now we will take your money.

In addition, we will add $550 million that was cut in the House from the President's 1992 budget for Federal law enforcement. The House cut that out. We will add that to it. Since you are intent on having these money provisions, we are going to give it to you; $100 million for instant gun checks, we are going to give you that. That makes a total of $3.83 billion. So you are getting mainly what you want, except we are getting the President's crime bill that we want. Working together, we can accomplish it all. So let us go ahead.

Mr. BIDEN. Mr. President, I understand it now. So that means that the President's crime bill, absent helping local police officers and the like, is obviously not going to do much about crime.

I want to know, has anybody called the President to tell him he is not going to get a vote on his crime bill? Because that is not the President's crime bill. I am delighted to vote on that as well, and we are going to vote on that.

I want to make it clear that, as I understand the substitute, the ranking member of the committee has dropped provisions that the President told us were critical. He said we need this antiterrorism provision, alien antiterrorism. Apparently, they went ahead and dropped that. Then the President said, by the way, we need an exclusionary rule that allows police to go in under any circumstances, as long as they get a gun. I understand now they have dropped that out of the President's bill.

Mr. THURMOND. Will the Senator yield.

Mr. BIDEN. Sure.

Mr. THURMOND. Mr. President, we took them out, because it was objected to, so we can get the rest of the crime bill through.

Mr. BIDEN. Mr. President, if I have been that successful in getting that many onerous provisions out of the crime bill and getting so many more enlightened provisions into the crime bill, if we work a little harder, we may have a really good crime bill.

As I understand it, once again, the Senator from South Carolina always does do this—he seeks to get a solid piece of legislation.

I do not want anybody confused here. What we are about to vote on, when we vote on it, bears no resemblance, no resemblance to the President's so-called crime bill. So I want the RECORD to show when we vote on that, it was not the Senator from Delaware who denied the President his vote on a crime bill; it was the Republican leadership that denied the President.

I am delighted by what they are doing. It makes me happy. We are moving in the right direction. I just want the President and the press to understand that the Democrats did not deny the President his vote. The Republicans obviously concluded that it was not good enough, and they are adding these other things, which is good. I am all for it. We will be able to work something out and vote on it. We are working in the right direction.

I yield the floor.

Mr. THURMOND. Well, Mr. President, the President has offered a wonderful crime bill. He did not put in a lot of this money because he did not feel it was wise at that time. But we are putting it in our bill in order to get this crime bill passed. These other items he says are being taken out, my good friend objects to them, so we took them out. We still think we will have a good cime bill. So this is really the President's bill with a Biden attachment, so let us go ahead and pass it right away.

Mr. BAUCUS. Mr. President, Tuesday I joined with Senators BIDEN, PRYOR, CONRAD, BUMPERS, and HARKIN in introducing a bill which will help rural areas address important components in the war on drugs: Interdiction, treatment, and prevention.

Just recently, two men were arrested for making methamphetamine or crank in a lab hidden in a camper trailer parked outside of Worden, MT, some 20 miles outside of Montana's largest city, Billings. Agents with the U.S. Drug Enforcement Administration, the Montana Criminal Investigation Bureau, and the Yellowstone County Sheriff's Office seized a lab and enough chemicals to make 3 to 4 kilograms of methamphetamine.

Only yesterday, the Southwest Montana Drug Task Force arested 40 suspects involved in illegal drug trafficking, including cocaine, marijuana, and LSD. This sting operation might be the drug task force's last, however, for county authorities have denied Sheriff Bob Butorovich's request for further funding.

As I have said repeatedly, rural areas are not immune to the drug problems of this country. In fact, the latest crime figures show that violent crimes linked to drugs have increased faster in Montana than anywhere else in the country.

For instance, Montana experienced a 23-percent increase in violent crime totals in 1989—much more than in either Los Angeles or New York.

DEA cocaine arrests in Montana have increased 100 percent in the last 5 years. My colleague from Arkansas, Senator PRYOR, tells me his State has experienced a similar increase.

Rural areas are especially conducive to methamphetamine production since crank labs are less easily detected in the vast and heavily wooded areas of my State.

And drug dealers do not have to import crank—they can make it anywhere here at home, even in a camper trailer. And unfortunately, they are making it in Montana, Arkansas, and other rural States.

I am encouraged that the legislation this body passed last year that increased funding for drug-related crime and provided an additional 7 DEA agents for Montana had helped bring drug traffickers like the ones I mentioned to justice. However, there are many more throughout the State who don't get caught.

The Rural Crime and Drug Control Act of 1991 is a solid step toward controlling drugs in rural areas. The bill authorizes $45 million to hire 350 DEA agents and support personnel to target rural drug trafficking, $50 million in aid to State and local law enforcement officials in rural areas, and $1 million for a specialized course for law enforcement personnel from rural agencies.

Reducing the amount of illegal drugs found in rural America is an integral part of the national drug strategy, but it is incomplete without a solid plan for treatment and prevention. Substance abuse, including alcoholism, has taken its toll in Montana, as it has in Arkansas, California, Washington, DC, and other places across the country. But resources for interdiction, treatment, and prevention are not readily available in many rural areas.

The Rural Crime and Drug Control Act of 1991 addresses these needs. This bill provides $25 million to the Office for Treatment Improvement to establish drug treatment programs and $25 million to the Office of Substance Abuse Prevention to foster drug prevention efforts in rural areas. In addition, the bill directs the Alcohol, Drug Abuse, and Mental Health Administration to use its clearinghouse to collect and disseminate information about rural drug treatment and prevention.

I would like to thank Senator BIDEN for bringing this legislation to the Senate floor. I commend him for including rural States in his important efforts to control crime in America.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

UNANIMOUS-CONSENT REQUEST

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator GRAHAM of Florida be recognized to offer an amendment to strike section 207 of S. 1241; that there be 90 minutes for debate on the amendment, equally divided and controlled between Senators GRAHAM and KENNEDY; that no amendment to the amendment be in order, nor the language proposed to be stricken; that when all time is used or yielded back, the Senate, without intervening action or debate, proceed to vote on or in relation to the Graham amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, I object.

Mr. MITCHELL. Mr. President, I regret the necessity for the distinguished Republican leader to object to this request, although I understand the circumstances which lead to it.

For the information of Senators, we have now been on the crime bill all day. There has been a good bit of debate and discussion on the bill, so I do not view that time as having not been effectively utilized.

This is a very important bill. The President, as we all know, has repeatedly stated his interest in having this bill considered and action completed upon it, and I have been trying very hard to do that, but without success and without being able to get an agreement on how best to proceed.

It had been my feeling that if we could reach an agreement on how to proceed, we could have completed action on the bill much earlier than will otherwise be the case. That is not now possible.

AMENDMENT NO. 365

Mr. MITCHELL. Mr. President, under the circumstances, I now, in behalf of Senator GRAHAM of Florida, send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. GRAHAM, proposes an amendment numbered 365.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, strike from line 12 through line 18 on page 44.

AMENDMENT NO. 366

Mr. MITCHELL. Mr. President, in behalf of Senator GRAHAM of Florida, I send another amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. GRAHAM, proposes an amendment numbered 366.

Mr. MITCHELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, strike from line 12 through line 17 on page 44.

Mr. MITCHELL. Mr. President, we will now commence debate on these amendments, and I renew my hope that we can proceed to get a vote on these amendments within a reasonable time and proceed to consider further amendments to the bill, and also that we can continue our efforts to reach an agreement for further handling of the bill.

As I said, I know that all concerned are anxious to complete action on this bill at the earliest possible time.

Mr. DOLE. If the majority leader will yield, I just say I think this will much stimulate discussion about reaching some accord on how we can figure out some rotation plan, or whatever, on amendments, or maybe some agreement on the number of amendments.

But we will continue to pursue that with the majority leader and with the manager of the bill, along with the distinguished Senator from South Carolina, Senator THURMOND.

Mr. MITCHELL. Mr. President, I thank my colleague for his cooperation.

Mr. GRAHAM. Thank you, Mr. President.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. THURMOND. May I make a brief statement, just about a minute?

Mr. MITCHELL. Mr. President, I yield to the distinguished Senator.

Mr. THURMOND. Mr. President, I want my colleagues to be clear on what is happening here. I have an amendment which embodies the major provisions of the President's crime bill and which leaves the Biden funding levels in his bill. It contains the tough reforms called for by the President and leaves intact Senator BIDEN's $3 billion-plus for law enforcement.

Now, if this tree is filled up here, I am being blocked from offering my amendment. The majority will permit a vote on the President's bill only, as I understand, if it is offered on their terms, with the racial justice amendment. The majority is trying to clean up their bill. That is fine. The racial justice should not have been put in there to start with. Now they want to take it out. They know it cannot be passed, and they hurt their own bill.

I will be here, I tell you, with my amendment, as long as it takes to get a vote on this bill, my amendment, which is the President's crime bill, with the funds offered by the distinguished Senator from Delaware, the chairman of the committee.

Mr. MITCHELL. Mr. President, I momentarily yield to the chairman of the committee, but I would just like to say in response to my colleague, for months the President has said he wants a vote on his crime bill. For months the distinguished Senator from South Carolina has said he wants to vote on the President's crime bill.

We have said here today over and over again we are prepared to vote on the President's crime bill this evening, but the distinguished Senator from South Carolina now says no; he does not want to vote on the President's crime bill. He wants a vote on the President's crime bill with some changes, changes taken from the bill of the Senator from Delaware [Mr. BIDEN].

So it reminds me of the old tale, you ought not to ask for something that you do not really want because you might get it. We had the President's bill and we are prepared to vote on that this evening, but all day we have been prevented from proceeding.

So I simply say to the Senator—and I am going to yield here momentarily to the Senator from Delaware, who is the chairman of the committee—I have the greatest respect and affection for the Senator from South Carolina. If he wants what he has been saying he wants, and what the President has been saying he wants is a vote on the President's crime bill—not the President's crime bill and the crime bill of the Senator from Delaware melded together—then we are prepared to do that. We have been prepared to do that all day, and we are prepared to do that right now. But that is not what has been asked.

At the last minute, at the last minute, now we are told: We do not really want what we asked for. Now we want something else.

So my response is—let everybody be clear about this, so there is no misunderstanding; the Senator from Delaware has been most involved—at this moment, we are prepared to agree to vote on the President's crime bill, which is what the President and the distinguished Senator from South Carolina have been saying all along they want.

So with that explanation, Mr. President, I yield to the distinguished Senator from Delaware.

Mr. BIDEN. Mr. President, we are making some progress; we are making some progress here. My Republican friends have jettisoned about 20 percent of the President's crime bill, I guess assuming it made no sense.

The provisions on exclusionary rule that the President testified before my committee in the person of the Attorney General were critical. The leadership, the Republicans, have said no, it is not a good idea. We should not have those searches for guns in there, and we are going to eliminate that. I think that is progress.

Now, they have also said the imposition of what are essentially the diplock courts, the provision that says you should be able to go in and try someone in absentia and in secret, and throw them out of the country, which the President said was important and he wanted. They have now said: That is a bad idea; let us throw that out of the President's bill. Progress.

They have also then said, of 200 of the 233 pages of the bill of the Senator from Delaware, this bill right here, they have essentially gone like this: They have taken this portion of it, taken off the front, and taken the rest and stapled it to the back of the President's bill, and I am happy with that. Progress.

The President, though, unfortunately, in the person of the Attorney General, before our committee came and testified. And he said he was against all of this stuff the Senator from Delaware wants, but that is progress.

Now, what I want to know, has anybody told the President? Because what

I do not want to have happen is what my friend from Texas made reference to before. A lot of sleight of hand works around this place. The House of Representatives voted for the death penalty; we voted for the death penalty. We got into a conference. The House would not even support their own House's position.

We could not get support for a death penalty without the racial justice provision. I moved to eliminate the racial justice provision. We could not even get a vote.

What I am a little worried about is that, we go ahead and pass this—and I know the Senator from South Carolina is not being cynical at all about this—we go ahead and pass this, and all the things the Senator from Delaware and the police of America say are critically important in stopping crime. Is there going to be support? Does this mean the President supports this; is he for these things? If he is for these things, we really have a deal. We are really getting there.

But what I do not want to have happen is just a cynical effort to be able to vote on a bad habeas corpus bill and a bad—the only two things left are the President's version of habeas corpus and the provision relative to good-faith exception and exclusionary for a warrantless search, because we are going to strike racial justice. There is not the votes in here for that.

The only thing is the death penalty. There is no death penalty provision in the Biden bill and the President's bill. That is the only difference. They accepted those as well. There may be some other minor difference.

So I guess what I am trying to say here is, is this an effort just to get rid of guns; is that what this is all about? Is that what we are doing?

Is that what we are doing? Because if that is the case, then we are really not, because they did not accept the provision that deals with guns that the Senate once voted for in the DeConcini bill or the Brady bill.

Does this mean we are going to get up-or-down votes on those if we accept this bill? Then it is OK by me if we can work this out. I just hope we understand what we are doing here. This bears no relationship to what the President said he wanted. The President's Attorney General had explicitly testified against the Biden bill and all the provisions that are being accepted by the Republicans. So I guess I end by saying, does the President know about this? Does the President know that this is his bill?

With that I yield the floor.

Mr. GRAMM. Mr. President, I ask unanimous consent that the distinguished Senator yield so we might discuss this a moment.

The PRESIDING OFFICER. The Senator from Florida has the floor.

AMENDMENT NOS. 365 AND 366

Mr. GRAHAM. Mr. President, on my behalf the majority leader has offered two amendments which would have the effect of removing from this bill the provision known as the Racial Justice Act.

Mr. President, it is difficult to speak in opposition to a provision that is self-described as a Racial Justice Act, and I do so with great admiration for those who, including myself, are committed to the cause of nondiscrimination and the equal application of justice in our American judicial system.

But, Mr. President, I must submit that the Racial Justice Act provision of this bill serves another purpose. The reality is that by enacting the Racial Justice Act, this Congress, in a bill designed to enhance Federal criminal justice standards, procedures and laws, will destroy the right of the States to impose the death penalty in a constitutional manner.

The Racial Justice Act of 1991 might more appropriately be called the Death Penalty Abolition Act of 1991.

Seldom has a proposed Federal law gone so far at one time as to unravel: First, the interest of the States in protecting citizens from murderers; second, to unravel the prosecutorial discretion recognized in every State; and, third, to unravel the jury system.

For the past 2 years, I have studied this act in great detail. I have asked for assistance from people on both sides of this issue. I am more convinced than ever that the Racial Justice Act in its current form is unacceptable. This proposal, as part of legislation establishing a Federal death penalty, prohibits States from imposing the death penalty in a "racially discriminatory pattern."

What is that pattern, Mr. President? An inmate must only show that death sentences are being imposed disproportionately on members of one race or on persons who commit crimes against members of another race by using "ordinary methods of statistical proof." Once that simple evidentiary standard is met, then the burden of proof shifts to the State to "establish, by clear and convincing evidence that identifiable and pertinent nonracial factors persuasively explain the observable racial disparities comprising the pattern."

In other words, simply by showing statistical evidence of disproportion application of the death penalty, the proponent is able to shift to the State the impossible burden of showing, by clear and convincing evidence, reasons for the statistical disparity.

Mr. President, this is not a new issue. As part of the Anti-Drug Abuse Act of 1988, Congress asked the General Accounting Office to determine if the race of either the victim or the defendant influences the likelihood that defendants will be sentenced to death.

What the General Accounting Office did—and their work has been previously referred to—was not an independent analysis of that question. Rather, they reviewed and critiqued existing research, compiled the analysis of that existing research, and issued a report in February of 1990.

A review of this limited analysis shows the problem of using statistical evidence in the criminal justice system. GAO found that 82 percent of the 28 reports which they found to be legitimate showed some race-of-victim trends. Another 18 percent of reports, meeting similar standards of academic acceptability, found no such patterns.

The evidence relating to race of a defendant was very unclear. One study, in fact, found that in rural areas black defendants were more likely to receive death sentences than white defendants. In urban areas, white defendants were more likely to receive death penalty than black defendants. Other studies have shown equally confusing results.

As the Georgia deputy attorney general Bill Hill said in testimony before the Judiciary Committee, the Racial Justice Act requires a criminal justice system not susceptible to mathematical predictability to produce mathematically predictable results.

The very nature of the criminal justice process does not lend itself to statistical precision. Each death-eligible decision is inherently individualized and not necessarily subject to being categorized.

Proponents of this legislation point to the use of statistical evidence in the area of employment discrimination as the basis of this legislation. However, the criminal justice system is inherently different from the employment process. As the Supreme Court has said, the very nature of the capital sentencing decision, and the relationship of statistics to that decision, are fundamentally different from the corresponding elements of a title VII employment discrimination case.

Mr. President, I also feel that public policy considerations strongly call for the removal of the Racial Justice Act from this bill.

Historically, prosecutors have been entrusted with wide discretionary powers. These powers include the decision to seek the death penalty where the law permits. Prosecutors are also possessed with the power to grant leniency. This power is inherent in our criminal justice system. To adopt this bill would call for a complete overhaul of the criminal justice system, an overhaul which I do not believe this Congress should be prepared to make, to make every State criminal justice system, as part of legislation, add a Federal death penalty.

If the Racial Justice Act is a proper response, we should be prepared and, in fact, I think we should insist that the methodology formulated by the Racial Justice Act be used not just in the relatively few capital cases, but in all aspects of our criminal justice system.

Think for a moment about the mass confusion our States would face as they attempted to deal with the ever-increasing problem of crime if the Racial Justice Act applied to all crimes.

The same confusion will result in the death penalty area if this legislation becomes law.

I am convinced that this bill would make the system much more arbitrary and capricious than even the proponents of this bill would argue that it is today.

Currently, the decision to execute is an individualized decisionmaking process.

The courts have repeatedly stressed that the Constitution requires an individualized determination as to the appropriateness of the death penalty, taking into account the character and record of the murderer and the circumstances of the offense.

This bill would substitute a different mode of analysis: No State may execute a murderer who deserves execution if other murderers who are equally deserving of execution have somehow managed to obtain undeserved mercy.

This is absurd; it is akin to prohibiting prison sentences for burglars because some burglars never got caught, Mr. President, that would be an arbitrary and capricious system of justice.

In summary, the proposed Racial Justice Act seeks three goals.

First, the act is designed to shift the focus of judicial inquiry from the defendant on a case-by-case basis to the Government on a systemwide basis.

Second, because of the inadaptability of statistical evidence to the criminal justice system, the act guarantees almost all criminal defendants a prima facie case.

Finally, by requiring that a criminal justice system not susceptible to mathematical predictability produce mathematically predictable results, this act would effectively end the ability of the States to constitutionally apply the death penalty.

Mr. President, I encourage my colleagues to oppose this act.

However, I want to take this opportunity to thank the distinguished Senator from Massachusetts for his efforts to abolish discrimination in all aspects of our society—a goal I endorse and a goal that I encourage all Members of the Senate to endorse.

With our common goal in mind, I will be offering an amendment which offers a proper response to the issue of potential discrimination in our entire justice system.

In analyzing this issue, I had three goals in mind.

First, Congress should do nothing to disrupt the discretionary nature of our criminal justice system.

Second, our States not be prohibited from applying their laws in a constitutional manner.

Third, we should attempt to analyze the issue of not only potential discrimination in the capital sentencing process, but also potential bias in the entire judicial system—from our law schools to our courtrooms.

I am convinced that an analysis of these three issues can best be conducted in the individual States.

In fact, the Florida Supreme Court established a statewide commission to study the issue of racial and ethnic bias in the State court system.

I am pleased to report that the recommendations made as a result of the first stages of that study were adopted in whole by the Florida Legislature this past spring.

I understand that several other States have established similar commissions and other States are studying the advisability of such studies.

The proper role of Congress is to encourage our States to look at their entire justice systems and for the States to formulate their own responses to any racial or ethnic bias.

My amendment calls for the authorization of $10 million over the next 5 years to make grants to States for such studies.

The grants would be administered by the Attorney General, through the Bureau of Justice Assistance.

Any such plans would have to be established by either the highest court of the State, the State legislature, or the chief executive officer of the State.

In awarding grants, the Attorney General would give priority to those States that impose the sentence of death for certain crimes.

In establishing criteria for awarding the grants, the Attorney General would take into consideration the population of the respective States, the racial and ethnic composition of the population of the States, and the crime rates of the States.

It is my hope that States will use these funds to look at their entire court system and develop innovative methods of not only dealing with discrimination—but also of encouraging participation in our court system by all members of our society.

The amendment which I will be offering later in this debate is virtually the same as an amendment which I offered on our most recent crime bill and which was adopted by a majority vote of the members of the U.S. Senate.

I am encouraged, therefore, that the Senate will respond again by recognizing that this approach, looking comprehensively at the total justice system of a State through a procedure which grows from either the highest judicial, legislative or executive office within that State, is the more appropriate manner to meet our very appropriate concern that justice in America be administered in a nondiscriminatory manner.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in strong support of the motion to strike the Racial Justice Act from this bill. I oppose the racial quota provisions and urge my colleagues to vote to strike them. The so-called Racial Justice Act was defeated last year by a vote of 58 to 38. A similar amendment was soundly defeated by the full Senate when it was offered as an amendment to the 1988 drug bill by a vote of 52 to 35. This version of the Racial Justice Act is vastly different and much more onerous than the 1988 amendment because it not ony applies to the Federal Government, but to the States as well.

The Federal death penalty in the President's bill clearly comports with the constitutional requirements outlined by the Supreme Court and establishes the procedures for the imposition of the death penalty for the numerous Federal crimes that currently authorize a sentence of death and other vicious crimes. Clearly, there is no constitutional requirement that the Racial Justice Act amendment be a part of any death penalty legislation.

Let me make one point crystal clear from the start: A vote to keep this racial quota provision in this bill is a vote against the death penalty. Just so no one is confused, the Racial Justice Act is a killer amendment. It must be removed from the bill.

Mr. President, the Racial Justice Act would amend Federal law to invalidate the death penalty, both in the Federal Government and in every State, whenever statistics show a racially disproportionate pattern without regard to the brutality of the crime committed. Supporters of the racial quota death penalty provisions would have statistics used to determine the sentence of a capital defendant as opposed to the rational judgment of honest judges and juries after a full examination of the heinous facts in a particular case. It is important to note that the Supreme Court examined the issue of using past statistical data to invalidate the death penalty in the case of McCleskey versus Kemp. The Supreme Court rejected this proposal and noted that to take this proposal "to its logical conclusion, throws into serious question the principles that underlie our entire criminal justice system * * *". The unconstitutionality of such a quota system under the equal protection clause is clear. The Supreme Court's death penalty decisions seek to minimize the role of race in capital sentencing. But the racial quota provisions would make racial considerations paramount and conclusive with no emphasis on the nature of the heinous crime committed.

Aside from questions of the RJA's constitutionality, the death penalty would be rendered ineffective, and impossible to impose. It would impose statistical quotas for both victims and killers, thereby dispensing justice by mathematical computation based upon statistics from other cases, rather than by a jury in each particular case. Computers doing computations should not determine the punishment of an individual who has committed a ruthless offense. Judges and juries who are sworn to uphold the law and be impartial should be the final arbitrators of appropriate punishment.

Mr. President, I think supporters of the racial quota provisions would agree with the following statement: "Race should play no role whatsoever insofar as far as the death penalty is concerned." Yet the Racial Justice Act would do just that. It would permit vicious murderers to avoid a death sentence by invoking the race of their victims as a shield and it would put prosecutors in the position of seeking the death penalty based upon a racial quota system. In fact, death row inmates will use statistics to overturn all death sentences without having to show any racism in their own cases. For example, a Federal court would be required to overturn every death sentence in a particular State if a study is presented to the court which shows the death penalty is applied in a disproportionate manner. Every death sentence—including the death sentence of a white defendant, who murdered a white victim, found guilty by an all white jury, and sentenced by a white judge—would be overturned. The same would hold true if every person involved in the case was black. This makes no sense whatsoever.

Mr. President, I believe the President will veto this legislation if the Kennedy racial quota language is included. The Department of Justice is strongly opposed to this provision. Because the Racial Justice Act is itself constitutionally problematic, and threatens both to lessen the effectiveness of capital punishment and reinject racial considerations into its imposition, the administration is strongly opposed to any legislation which contains it. In addition, a majority of our Nation's State attorneys general oppose the Racial Justice Act as well as our Nation's prosecutors.

Mr. President, the Senate should give the President a crime package he can sign into law. When Congress chooses to act upon comprehensive death penalty legislation, it should take steps to ensure that the legislation can be effectively implemented. For Congress to pass a death penalty which includes such a provision which, in effect, would eliminate the death penalty would be a disservice to the American people.

In summary, let me make one thing clear. The Federal Death Penalty Act included in the President's bill applies to those who commit heinous, depraved offenses. The legislation applies equally, across the board, to anyone who commits such a crime.

Finally, I want to restate my position so that there can be no doubt in anyone's mind. A vote today in favor of the motion to strike the racial quota provisions is a vote for the Federal death penalty. A vote against the motion to strike is a vote to kill, not only this bill, but every State death penalty as well. A vote against this motion to strike is a vote to kill the death penalty in the 36 States which now have it.

For these reasons, I strongly urge my colleagues to vote for the motion to strike.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I want to be sure since our colleagues keep using the phrase "racial justice" that everybody understands exactly what we are talking about. The bill before us contains a provision with similarities to a bill recently adopted basically on a partisan vote in the House of Representatives, that has the effect of setting up racial quotas in the application of the death penalty. That is what is being called racial justice.

Mr. President, there is one thing about those who are in favor of racial quotas. They are absolutely consistent. We saw adopted in both Houses of Congress last year a provision that, in effect, imposed racial quotas in hiring. The President vetoed that bill and his veto was sustained by one vote.

Today we have before us a provision in the crime bill that imposes racial quotas on capital punishment. I ask my colleagues, do we want to sentence people to death or not sentence them to death based on race? I submit, Mr. President, that we do not. Such decisions should be based on their crimes, based on what they do, based on the offenses that they commit against society no matter who their daddy is, no matter how society may have done them wrong, whether they are a rich person or a poor person, no matter what color they are.

Mr. President, I think it is clear this amendment is going to be adopted. We are going to strike the racial quota provision. I think it is good that we are going to do it. I hope the House has that much judgment.

I want to turn my comments now to the comments of our distinguished chairman. A minute ago, we had a little discussion as we engaged in moving toward the real debate on the bill and we saw some gamesmanship and posturing on both sides of the aisle. Basically, let me try to explain the issue and what we on our side of the aisle are trying to do, so that everybody understands exactly what the issue is.

There are really three issues that we are going to deal with. One issue is money. Our dear colleague from Delaware has sweetened his bill by putting about $3 billion of authorization in it. It does not appropriate any money. It simply authorizes that money be spent.

The President's crime bill is a true anticrime bill. It is not an authorization bill for funding. So what our distinguished leader from South Carolina decided to do is, rather than debate money, is debate the substance of the crime bill. So our distinguished leader from South Carolina decided that we will simply accept the $3 billion of authorization knowing that it may never be appropriated, but on the other hand, from our point of view, it is not a big issue in dispute.

What we are proposing to do, and at some point we are going to have a vote on it, and I want people to understand it, is authorizing more money. If our distinguished colleagues on the other side of the aisle want to fund the war on drugs, we are going to give them an opportunity to do it by doing two things. We want to provide $100 million to set up a nationwide instant criminal check verification program, whereas they provide $50 million for a similar purpose. And we want to go ahead and authorize the money that the House has already cut from the President's war on drugs.

But our objective was to separate out the money issue so we could vote on the substance of the crime bill. Do we want a death penalty that is a real death penalty? Do we want to make it possible to admit evidence that is obtained in good faith? Do we want strict minimum mandatory sentencing? Do we want to reform habeas corpus to assure that people get a day in court, but that they do not get 20 years in court and thereby circumvent the whole criminal justice process? That is what we want to vote on.

A final issue that our dear colleague from Delaware referred to are the provisions in the President's bill that we have dropped from the substitute. I think everybody here knows that we are engaged in negotiations around the clock on the gun issue. I think there is some possibility we might reach a compromise. Many of the colleagues on my side and many on the other side are not equally optimistic, but I think it is possible.

So our objective was not to vote on guns. We are negotiating to go see if there can be a compromise. Our objective is not to vote on money. This is not a money bill. It was never meant to be a money bill. Our objective is to vote on the key issues.

If you want an effective death penalty, you want the bill that will be offered and that contains the President's proposal by the distinguished Senator from South Carolina. If you want a sham death penalty, then you want the bill that is pending before us. If you want habeas corpus reform so people get an opportunity to appeal but they do not make a lifetime profession of thumbing their nose at the criminal justice system while their victims suffer and mourn, then you want to vote for the President's bill that will be offered by the distinguished Senator from South Carolina.

If you want stiff, minimum, mandatory sentencing to grab drug thugs and criminals by the throat, then you want to vote for the President's bill that is going to be offered by the Senator from South Carolina.

So that is what the issue is here. The issue that we really focus on is the crime bill, not guns. We are going to debate that. We are going to vote on it probably many times here. But the decisions to be made about the death penalty, about habeas corpus, about the exclusionary rule are converted into English as a good, tough, no-nonsense crime bill. That decision ought to be made on that issue.

That is what the distinguished Senator from South Carolina sought to do; take money off the table by agreeing to an authorization bill that funds everything the distinguished Senator from Delaware proposed, and what the President proposed that the House cut, and at the same time leave the gun issue to be decided later. We are going to get plenty of opportunities on that. Lest there be confusion, there is no trickery involved here. We want to vote on a crime bill and we want an up-or-down vote on it.

Finally, to be sure that it is absolutely clear, one of the reasons we decided to go ahead and deal with the money issue here is that we had people on the other side of the aisle say they would like to vote with us but they wanted to authorize $1 billion for State and local law enforcement.

Mr. President, what we have done is we have taken the money issue off the table. Now we can vote on the substance, we are going to vote on the substance finally so that everybody understands.

I want to repeat what the distinguished Senator from South Carolina said but in a little bit stronger form. We are going to have a vote on the amendment of the distinguished Senator from South Carolina. If we are here till Christmas, we are going to get an up-or-down vote on that.

And once it is voted on, once this crime bill is adopted, if the House does not move on the crime bill, we are for the next 4 weeks going to vote on this crime bill in the Senate, and after that, we are going to vote on it every single day until we finally do something about the No. 1 problem in the country. That is basically our plan.

I do not want anybody to say that we had not let them know what the ball game is. The ball game is we are not going to allow Congress to deny the President a chance to have his bill voted on, and we are not going to allow this game to occur where the American people are for the death penalty, the House votes for it, the Senate votes for it, and then it never becomes law; the American people want to allow the use of evidence gained in good faith, the Senate votes for it, the House votes for it, and it never becomes law.

That process has to stop. That is what this whole debate is about.

I yield the floor.

Mr. AKAKA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Mr. President, I rise today to urge my colleagues to support the Racial Justice Act.

Mr. President, regardless of whether one supports the death penalty or not, we should all work to assure that it is prescribed in a nondiscriminatory fashion. We must ensure that criminal penalties are commensurate with the crime committed—not based on the skin color of the criminal or victim.

But, this is not happening. There is ample evidence of racial bias in the sentencing of convicted felons to death. A growing body of research conducted by social scientists since the reinstatement of capital punishment in 1976, confirms the existence of racial bias in determining who dies on America's death rows. In a recent report synthesizing 28 different studies, the General Accounting Office found "a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty after the Furman decision."

On sentencing, a study in Illinois showed that those who murder whites are four times more likely to be sentenced to death than the murders of blacks. An Oklahoma study found similar results. And in Colorado, the murder of a white person is 20 times more likely to receive the dealth penalty than someone who has killed a black person according to another study.

We should be embarrassed by these findings. In a country founded on the premise of an individual's right to equal treatment under the law, we should be ashamed of how the death penalty is now being imposed on our citizens, and we should do something about it.

The Racial Justice Act has one singular purpose: to allow the use of valid statistics as evidence of racial bias in the imposition of the death sentence in a particular case. It would allow a defendant to challenge a death sentence by offering valid statistical evidence of a substantial disparity in capital sentencing according to the race of either the victim or defendants. Once evidence has been presented that a death sentence furthers a racially discriminatory pattern, a State can rebut the presumption of discrimination by offering evidence that some additional, nonracial factor explains either the pattern or the sentence.

This legislation is necessary because in 1987, the Supreme Court held that, absent a statutory requirement, the Federal courts could not accept evidence of discriminatory death sentencing patterns as proof of discrimination in death cases. This decision ran counter to established evidentiary principles, under which statistics have long been accepted as proof of discrimination. In fact, the Supreme Court has repeatedly upheld the use of statistical evidence in other criminal justice contexts, such as jury selection. Nonetheless, the Supreme Court held that in the death penalty context the courts would need statutory authority to accept statistical evidence as proof of race bias. This legislation would provide that authority.

The Racial Justice Act will not abolish the death penalty as some have argued. It prohibits only the execution of those death sentences that are the product of racial bias.

Mr. President, I urge my colleagues to support the Racial Justice Act.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEFLIN. Mr. President, I feel that we need a strong crime bill, because I want to remind my colleagues here in the Senate that, last year, over 6 million Americans fell victim to violent crime. By merely glancing at the latest statistics, one can see that crime continues to increase at an alarming rate. It is time we tried to slow down the spread of this horrible disease that is occurring in the United States.

We have before us two crime packages which, potentially, make significant strides toward combating violent crime. Both bills have provisions that will aid law enforcement offcials in their work. There are aspects of each bill that I strongly support, and there are others that I oppose.

I support a strong Federal death penalty law, as well as curtailing frivolous appeal by death row inmates. I oppose the Racial Justice Act provisions that are in some of these bills, but favor instead the Equal Justice Act provision which requires evenhanded administration of the Federal death penalty and other penalties without regard for race.

But I must stress, Mr. President, that our debate must not be limited strictly to these high profile issues. There are other issues that are very important, and I think that we should not lose sight of them. They may not have all the charisma and the high profile appearance that some of the major provisions have.

In S. 1241, title 1 would amend the Omnibus Crime Control and Safe Street Act of 1968 by authorizing $1 billion for grants to assist State and local law enforcement agencies, which would help strengthen their fight to provide safer streets and neighborhoods to each and every American. We must make a better effort to equip all law enforcement officials who are on the front lines of fighting crime.

The statistics continue to show that crime is growing. In 1990 alone, over 23,000 murders and more rapes and robberies and assaults than every before occurred. At the same time, however, the number of police officers in the Nation's 10 largest cities today is only about 1 percent higher than when the first drug strategy was released several years ago.

Title I is and a attempt to address this reality by providing to local law enforcement agencies the needed resources to combat crime.

I understand that in both packages this provision is included, which I think is a movement toward much progress. And I am delighted to see that it is there, and that the grants that will be made are not on a block grant basis, by which they go to the Governor. But they would allow for the local units of law enforcement to request grants to meet their particular needs.

There is another feature that I think merits our support in the Senate, and this is the provision dealing with the Drive-by Shooting Act, which would provide a fine and also provide maximum prision sentences of up to 25 years for firing a weapons into a group of two or more persons and injuring them. It would also provide for life imprisonment or the death penalty in drive-by shooting where death occurs.

These provisions apply to acts performed specifically in furtherance of a criminal drug enterprise, carrying with them a stronger sentence than the one presently applicable. Look at the simple fact that so much violent crime today is drug related. Intelligence reports from the U.S. Drug Enforcement Administration reveal that cocaine is becoming more scarce. As the drug supply decreases, the demand will necessarily increase. Such action foreshadows an even greater increase in violence, as criminals attack innocent Americans and fight amongst themselves over the distribution of dwindling supplies and control of territory.

This effort involves attempts to put a loophole in Federal law by providing stronger penalties for such drive-by operations, which are now commonplace in the drug community.

Then there is title VIII which is another provision that I think is very important. It is popularly known as the police corps. This proposal passed the Senate last year by a wide majority. It was, however, subsequently dropped in the conference between the House and the Senate.

Quite simply, the police corps would provide for the establishment of an organization similar to the Reserve Officers Training Corps, the ROTC. This provision would allow State and local law enforcement agencies to recruit people who would agree to serve a term as a police officer in a local law enforcement agency. In return, these young people would receive financial assistance for their college educational costs.

Essentially, the police corps concept is a competitive Federal scholarship. A college student selected by a local law enforcement agency could receive up to $10,000 per year over a 4-year period. But if the student fails to complete his or her course of study, the student must then repay the money earned toward the scholarship.

This program is flexible, allowing students to pursue their core curriculum. And, like ROTC, there would be two summers of specialty training. This program is broadly supported throughout the law enforcement community, and hopefully will attract bright, disciplined, and dedicated young men and women to assist in our Nation's war on drugs and violent crime.

There is another provision, title XIV, that is very important, and that is the provision dealing with Federal funding for State boot camp programs. Boot camps operate on the principle of shorter sentences coupled with a rigid program of both physical and mental activity. Boot camps serve as a viable alternative to adding inmates to our already crowded Federal prisons.

This program is unique in that it targets first-time offenders in an attempt to keep them away from career criminals, who often lead young people into becoming repeat offenders.

Provisions also are made in title XIV to combat this country's rapidly growing street gang violence. As everyone knows, street gangs have long been a problem for law enforcement officials in major metropolitan areas. What many do not realize, however, is that these violent organizations have begun to invade the smaller cities.

In fact, news reports from my own State reveal recruiting trips between Mobile and Montgomery by both the Bloods and the Crips, which are two of the most notoriously dangerous street gangs in recent history. These gangs have become so sophisticated, the weaponry they employ to commit crimes is often more technologically advanced than that used by law enforcement officers to oppose them.

Mr. President, we must level this uneven playing field. With a dramatic strengthening of the penalties for violent youths and a commitment of funds for programs that target juvenile gangs, law enforcement officials will have a far better chance of winning this battle.

One of the most important titles in the bill, tittle XVI, relates to rural crime, specifically violent crime that has moved with the drug epidemic from the metropolitan areas to middle America. This often-overlooked aspect of crime control does not garner the media's attention like our urban counterpart, but yet trying to combat illegal drugs in a rural setting is one of the greatest challenges facing law enforcement officials today.

The vastness of the area geographically coupled with limited resources combine to make the struggle against rural crime a major and a difficult task. No longer does living outside of an urban area automatically immunize an individual from violent crime.

This provision addresses the need for targeted resources in this regard, resources which will prove beneficial not only to my home State of Alabama but to the Nation as a whole.

Mr. President, still another provision, title XVIII which I think is worthy of the Senate's consideration, deals with increasing the penalty for drunk driving when a child is in a vehicle. Unfortunately, this irresponsible behavior occurs all too often. Hopefully, by strengthening the law in this area, adults will think twice before endangering not only their own life but the life of a young child.

I feel that the public expects and the Congress has the duty to enact a strong and responsible crime bill during this session. Legislation when enacted is rarely perfect and is usually the product of compromise. The vehicle upon which we embark on our journey as the first step is not perfect, but it is a good first step. I think it recognizes the importance of local law enforcement as the first line of defense in the war on drugs and violence and attempts to provide these local agencies the needed assets and resources to carry on their efforts to make America a safer place to live.

I look forward to working with my colleagues on this important legislative initiative. I hope that we can reach an agreement on many, many aspects of this proposed bill. There are controversial areas. There are certain things that I cannot support in the various crime packages, but I think we can move through them and strike those from the bill. I believe the majority of the Senate will agree that they should be stricken and that we can come up with an excellent crime bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HARKIN). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Mr. President, I just want to address this amendment very briefly. We all know that violence breeds violence. We look at a situation overseas, and we say, well, do they not realize that one thing just results in a reaction, a response?

It is also true that racial violence breeds more racial violence. Now, what does that have to do with this amendment? As you know, Mr. President, I am opposed to the death penalty, but that is not the issue immediately. The issue is whether the death penalty can be permitted to be applied in a discriminatory fashion.

Anyone who has any kind of sensitivity to the minority communities—and I am talking particularly about African-Americans and Hispanic Americans—knows that someone who is African-American or Hispanic-American, particularly in some settings, is much more likely to be found guilty of a crime of burglary or whatever the charge is than someone who is Caucasian. That is a fact of life, and it is a fact of life that is well recognized in the minority communities if not always in the white communities.

But when we come to the penalty of capital punishment, that clearly should not be applied in a discriminatory fashion. And that is all this bill does when it says capital punishment cannot be applied in a discriminatory way. We should not back off on that. Frankly, we do not reduce crime if we back off on it, we increase crime because people know that it is applied too often in a discriminatory fashion. That is the simple reality. Senator KENNEDY, in his remarks, pointed out earlier the GAO study as well as the Stanford University study about discrimination and the discriminatory means of application of this.

I hope that this body will do the humanitarian thing and will respond in a way that does not encourage more crime. Pulling this amendment out, candidly, Mr. President, is not going to discourage crime; it will result in more crime. Racial violence breeds more racial violence. And an indiscriminate application of capital punishment by any measure is racial violence. That is the reality, and I hope we recognize that reality.

Mr. President, if no one else seeks the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I support the motion to strike this provision of the crime bill because I do not believe that there can be a statistical analysis which provides justice, because the essence of our American system of justice is individualized treatment for the defendant based upon the nature of the act and the background of the defendant. When this provision has been denominated as the Racial Justice Act, it is an effort to characterize the provision in an extraordinarily favorable light, which is not an uncommon occurrence when Senators propose legislation and put a label on it. But I suggest that this provision does not deal at all with racial justice but realistically viewed, deals with the defense of statistics on some effort to analyze the race of the defendant or the race of the victim and, when it is concluded, it does not bear any reasonable relationship to what is just and proper in an individual case which ought to turn on individualized justice, on the nature of the act, and on the background of the defendant.

I agree with the last speaker, the Senator from Illinois, who said that the death penalty should not be applied in a discriminatory manner. I believe all 100 U.S. Senators would agree with that proposition, totally, unequivocally, and forcefully. But, this provision realistically viewed does not have anything to do with the discriminatory application of the death penalty.

I believe the death penalty is a deterrent, although I know there are many who disagree with that proposition on grounds of conscientious scruples. I have come to my own conclusion based upon extensive experience as a district attorney, and before that an assistant district attorney. My experience has demonstrated to me that the death penalty is a deterrent.

But I believe today and have always believed that the death penalty has to be applied sparingly, with extreme care, and with extreme societal restraint—both as a matter of fairness to the individual defendant and also if society is to retain the death penalty as an appropriate remedy for the most heinous of criminal acts resulting in murder, where the defendants are depraved and the nature of the act and the background of the defendant warrants the imposition of the death penalty.

During the 8 years I was district attorney in Philadelphia, from 1966 until 1974, I maintained the practice of personally reviewing each case where the death penalty was requested. In Philadelphia we had some 500 homicides a year and the death penalty was requested in a very, very small number of cases—only when the act was horrendous and the background of the defendant was incorrigible and the facts of the specific case warranted the death penalty.

I have voted, as the record will show, not to impose the death penalty on 17-year-olds or 16-year-olds, where that controversy has been brought forward on the Judiciary Committee and on the floor of the Senate. I have voted to maintain the age 18 or above as opposed to lowering the age for the death penalty, even though it is true that there are many horrendous acts, and it is a tempting matter to seek in some cases to impose the death penalty below the age of 18. But I have resisted that because of the proposition I have already described, of a restrained application of the death penalty.

Similarly, I have voted against any application of the death penalty to those who are mentally retarded. So that the context must be one of very, very careful application.

One case which I cite as illustrative of the deterrent effect of the death penalty arose in the late 1950's, in Philapelphia, when I was assistant district attorney and handled the case in the Supreme Court of Pennsylvania. It involved three young men named Williams, Kader, and Rivers, ages 19, 18, and 17, respectively.

Williams had a gun and urged Kader and Rivers to join him in the robbery of a north Philadelphia store. Kader and Rivers, 18 and 17, with marginal IQ's, in the 85 to 90 range, said they would not go on the robbery if Williams carried his gun. We know that from the statements which the three defendants made after the fact—all entirely consistent on that point.

When confronted with the refusal of Kader and Rivers to go along if he, Williams, carried a gun, Williams put the gun in a drawer and slammed it shut. And then unbeknownst to Kader or Rivers, Williams put his hand in the drawer, pulled out the gun, put it in his pocket, and off the three went to rob the store owner. During the course of the robbery there was resistance, a scuffle ensued. Williams pulled the gun and shot and killed the store owner and all three were charged with murder in the first degree.

The death penalty was imposed on all three and Williams was, in fact, executed in the early 1960's. The death sentences for Kader and Rivers ultimately were commuted because the evidence was undisputed that neither intended a murder to result and both resisted going along when they saw that a gun was to be carried.

The death penalty could have been imposed notwithstanding that set of facts. But it was a matter of discretion that the death penalty was ultimately commuted as to the two younger men.

That case is only illustrative of many, many cases which are on the books, many of which I have seen personally, where someone like Kader or Rivers—18, 17, marginal IQ's—are unwilling to go on a robbery if a gun is present because of their fear that a victim may be killed and that they may be charged with murder in the first degree and may sustain the death penalty.

There are numerous similar illustrations which lead me to the conclusion, based on my experience and what I have read and what I have learned from others, that the death penalty is an effective deterrent and ought to be maintained in an arsenal of weapons against violent crime, which is an enormous problem in our society today. I would support any reasonable restraint which went to the individualization of justice. The fact is, today's standards for the imposition of the death penalty are careful standards. The Sureme Court of the United States, in Furman versus Georgia in 1972 upset death penalty standards because of the failure to consider aggravating and mitigating circumstances.

So that today before the death penalty may be imposed, as a matter of constitutional law of the United States, there has to be a very careful analysis of the aggravating and mitigating circumstances to be taken into account by a jury before the death penalty is imposed.

We have, Mr. President, at the present time 36 of our 50 States which have retained the death penalty. Regrettably, it does not work well because of the long range of appeals which are taken. Some cases have lasted for as long as 17 years, and the average case with 2,500 men and women on death row at the present time is 8½ years.

These crime bills, both the one proposed by Senator BIDEN and the corollary proposal proposed by Senator THURMOND, contain provisions on the habeas corpus line to try to bring some sense into the appellate practice. Habeas corpus is the Latin expression meaning to produce the body, and that is the procedure by which Federal courts review State court convictions where the death penalty has been imposed.

The death penalty cannot be a deterrent, Mr. President, if these long exist. Regrettably, in our current system of justice, there is a failure to provide adequate counsel in many cases. The pending legislation would seek to cure that by a requirement that competent counsel be provided.

The pending legislation seeks to speed up the process so that there is fairness in the judicial determination, but that the process should not last so long, years and years, so that other decisions come down by the Supreme Court of the United States which then require another hearing in the lower court and then go back up on appeals in what has been a virtually endless process.

Last year, Senator THURMOND and I offered an amendment which was passed by this body which would substantially speed up the application of the death penalty. I intend to offer a series of amendments—hopefully they will be accepted—to restore what Senator THURMOND and I proposed last year and this body adopted.

One of those amendments would go to Federal jurisdiction attaching to review a State death penalty conclusion after the case has finally been reviewed by the State supreme court on the first occasion. At the present time, after a State court affirms the penalty of death in many jurisdictions there can be what is called collateral attack; that is, an attack on the conviction with State habeas corpus proceedings or proceedings dominated in some States, like my State of Pennsylvania, with postconviction hearing cases.

California has a model where after conviction, after imposition of the death penalty, there is a review of the issue of competency of counsel prior to the time the case goes to the State supreme court on the first occasion. Then when the State supreme court makes its decision affirming the imposition of the death penalty, it is my view that at that point the case is ripe for consideration in Federal courts.

At that juncture, there ought to be a tight time limit in terms of the appeal to the State courts, and then a tight time limit on how long the Federal courts will have to consider the case. In following this line, these matters could be adjudicated in the course of 2 years or perhaps slightly longer, within a period of time so that the law does not change so often that the case has to be remanded for further proceedings at the trial court level, and then more appeals are taken on what today is an endless process.

Mr. President, we have a situation as to Federal law where there is no death penalty on the books except for the so-called kingpin drug sellers who murder which was legislated in 1988 and certain application of the death penalty under the Uniform Code of Military Justice.

The Congress of the United States has not reinstated the death penalty since the case of Furman versus Georgia in 1972 imposed the new constitutional standards to undertake the complex variety of aggravating and mitigating circumstances. That has happened because, as I have personally witnessed in the 10½ years that I have been in the Senate, there are long speeches and filibusters, there is a failure of this body to agree, or when the Senate does enact legislation for the death penalty and the House enacts legislation for the death penalty, it goes to conference, as it did last year, very late in the session, and none of it comes to fruition.

I have offered, as the record shows, the death penalty on quite a number of extraordinarily heinous offenses, and one which I have pursued involves murder in the course of a terrorist act, a hijacking of a plane, or taking hostages, or the murder of U.S. citizens anywhere in the world, particularly egregious forms of murder where I believe the death penalty ought to be applied.

There are provisions of the pending legislation which would reinstate the death penalty for those categories of outrageous criminal conduct which result in murder where the defendant is depraved and upon consideration of the facts of the case and the background of the defendant, the death penalty is appropriate.

Again, Mr. President, I emphasize that the death penalty must be used sparingly. It must be used sparingly in the interest of justice both as to the individual and also if society is to retain the death penalty, because if society overuses the death penalty on people under 18, for example, or if society overuses the death penalty, abuses it on the mentally retarded, the public sentiment which favors the death penalty I think is susceptible for a decisive shift.

Public opinion supports the death penalty, Mr. President, by and large because of the commonsense conclusion based on extensive experience that the death penalty is a deterrent.

When you come to the issue of the resolution currently on the floor on the statistical computation, it is my firm conclusion that justice would not be done, but that justice will be done if the facts of the case are analyzed carefully by a jury which is charged meticulously to consider the facts in the case, the aggravating circumstances, the mitgating circumstances, the nature of the individual defendant, and the individual's record.

That is why, Mr. President, I think the provision which has been designated as the Racial Justice Act—and again I think it is a misnomer, it is not that at all. What it is is a complex statistical defense which is not practicable, not workable and would not bring justice to the criminal courts of the United States.

I thank the Chair and yield the floor.

Mr. GRAMM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I rise to oppose any effort to remove the Racial Justice Act amendments from the death penalty provisions of the crime bill. If a crime bill with numerous death penalty provisions is to pass this body, it is critical that we deal with the obvious discriminatory nature of death penalty sentences.

The Racial Justice Act has nothing to do with whether you are for or against the death penalty. It is about racial discrimination.

We, as a society, have determined correctly that racial bias should not influence such questions as who should get a job, who should vote, who should buy a house, or who should get a fair trial. It is time for Congress to make it clear that racial bias should not affect the question of who gets executed in this country. That is exactly what the Racial Justice Act does.

It creates a Federal right to a capital sentencing process that is unsullied by race discrimination. It is premised on the simple idea that it should be no more difficult to prove discrimination when a person's life is at stake than it is to prove bias when a person's job or right to vote is at stake.

If we are going to have a death penalty, it is absolutely critical that we do everything possible to ensure that criminal defendants are not wrongly or unjustly executed. We cannot attain that level of certainty unless we are sure that capital sentencing procedures are free from racial bias. That is what the Racial Justice Act is designed to do.

Our criminal justice system is far from infallible. Since the turn of the century, there have been over 350 instances in which defendants in this country were wrongly convicted of homicide and rape, and sentenced to death. At least 23 of these innocent people were actually sent to their death by our Government—23 men sent to their death. They were not guilty. It was a mistake. These mistakes were made for a number of reasons. Adding racial discrimination to the equation only increases the likelihood that juries will mistakenly or unjustly send people to their death.

Any discussion of this issue cannot ignore the shameful history of this country's treatment of Afro-Americans. In particular, there is a long history of discriminatory treatment in the enforcement and prosecution of criminal laws and the application of the death penalty. Beginning with the slave codes of colonial days, blacks faced criminal penalties for conduct which was legal for whites and they faced more severe punishment than whites when both committed the same offense. Some offenses constituted capital crimes only when committed by Afro-Americans or blacks.

With the passage of the 13th amendment, the slave codes were replaced by black codes which contained these racially discriminatory practices.

The 14th amendment abolished the black codes and supposedly guaranteed equal treatment under the law for blacks. But as we all know, that goal has not been fulfilled.

Mr. President, we need to confront the fact that in many parts of the country our criminal justice system operates primarily against racial minorities and the poor in our society. The Los Angeles Times reported that although—

> * * * it is clear that whites sell most of the nation's cocaine and account for 80 percent of its consumers, it is blacks and other minorities who continue to fill up America's courtrooms and jails.

One out of four black males in their twenties is either in jail or on probation or parole. A black male in his twenties is more likely to be caught up in the criminal justice system than to be in college. A Florida study found that black women are 10 times more likely to be turned over to child abuse authorities for substance abuse during pregnancy than are white women.

The police chief in Atlanta has wondered aloud whether our approach to crime would be different "if we started to put white America in jail at the same rate that we're putting black America in jail."

Mr. President, the New York police commissioner has suggested that we need to conduct a thorough study regarding race in the criminal justice system. I think that is appropriate. But I also think that at the very least the U.S. Senate must today make it clear that we want a capital sentencing process that is free of any hint of racial bias.

We in Congress have repeatedly sought to remedy racially discriminatory behavior when it occurs, whether it be in hiring, housing, or in education. For too long, however, we have ignored bias where it is a matter of life or death. When blacks are being sent to their death by our criminal justice system for conduct which would not result in capital punishment for a similarly situated white, when killing a white is four times more likely to result in a death sentence than killing a black, then it is time we act. The Racial Justice Act amendments of the crime bill are an important step toward remedying these injustices.

A study of this problem is not the answer. That will not resolve the issue. All it will do is postpone the deliberation and the determination as to what is the proper action for the Congress to take.

There can be little doubt that the death penalty is applied in a racially discriminatory manner. A General Accounting Office study found that since 1972 there has been a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty. That, from the General Accounting Office, is certainly an objective source.

This discrimination takes two forms: One kind is race of victim discrimination; and the other is race of defendant discrimination.

As to the first, the unfortunate fact of life is that juries in this country do not value the life of a black as highly as they value that of a white. Since 1976, when the death penalty was reinstituted 85.3 percent of the time that a person was executed, it was for killing a white person. Only 11 percent of the executions were for killing a black, and then only where the defendant was also black.

Mr. President, may we have order in the Senate?

Mr. President, I sought order because the next sentence I am about to make is an astounding one. Incredibly, there is not a single instance of a white being executed for killing a black. Never has a white been executed for killing a black.

Even more stark are some of the individual State statistics. A study of the Georgia system showed that white victim cases were over four times more likely to produce a death sentence than black victim cases. OK to kill a black, not OK to kill a white.

The other type of discrimination in capital sentencing involves discriminating against black defendants. Let me give some examples from the States. In a judicial district in central Georgia, the district attorney has sought the death penalty in 28 cases since taking office in 1974. In 22 of 28 cases, the defendant was black.

In Philadelphia, a single judge is responsible for sentencing 26 people to death. Of the 26, only 2 were white. Clearly, something is wrong with the system. Do not give me the argument that blacks commit more crime. The fact is blacks commit crime, and the whites commit crime. But the fact is we handle the matter differently when it comes to trying blacks and whites, and we make a big distinction when the victim is black instead of the victim being white.

Let me give you one example of the kind of racial bias that taints the justice system. Last December, Clarence Brandley was released from a Texas prison where he been on death row for the last 9 years, been on death row for 9 years. By all accounts he was innocent of the murder of which he was accused. But he had been convicted because of blatant racial bias. In fact, the court of appeals was so concerned about allegations of bias in his case that they appointed a special judge to review the case. That judge had the following to say after reviewing Brandley's case.

> In the over 30 years this court has presided over matters in the judicial system, no case has presented a more shocking scenario of the effects of racial prejudice.* * *

This is from the judge who was reviewing the earlier case.

Brandley was convicted of raping and murdering a white high school girl. An all white jury convicted him based on the testimony of three white fellow employees. The chief investigator allowed these three white employees to get together, to get their stories straight, before being interrogated.

There were no eyewitnesses, and the prosecution offered no forensic evidence or motive. In fact, evidence that the perpetrator was white was found on the victim, but was lost before trial.

Evidence that the perpetrator of the crime was white was found on the victim but was lost before the trial. A court reporter for the judge presiding said the judge and the prosecutor met secretly to decide how to testify about the missing evidence. The court reporter was told to keep her mouth shut and was later fired.

I could go on and on about how this case was mishandled and how Brandley was victimized because he had done something wrong when he was born—he was born black. But let it suffice that his is not a unique case. If anything, the fact that he is still alive and out of jail is what makes him different.

I could cite other specific examples where racial bias has clearly tainted a particular death sentence. For example, Roosevelt Wilson, a black man, was sentenced to death for rape in Alabama in 1937. Despite claims that the victim consented and despite the fact that the jurors later said they believed the act was consensual, the jury still found that Wilson deserved to die simply for messing around with a white woman. Think of that. The jury felt that Wilson deserved to die because he had an affair with a white woman, messing around with her.

Another example comes from Louisiana. In 1953, Edgar Labat and Clinton Poret, two black men, were sentenced to death for raping a white woman and robbing her male friend. After a dozen of stays of execution and 16 years on death row, they were released because witness' testimony unraveled, alibi witnesses came forward, and evidence showed that one of the defendants had been beaten into confessing.

What we are going to be doing here on this crime bill, Mr. President, is we are going to refuse to take into account the racial justice aspects; but we are going to do something more, because that particular defendant probably would have been dead and gone a long time before, had there been in the law at that time the denial of the right of habeas corpus that is about to become the law, if so many in this Senate move in that direction today, or the first of next week.

Two black men, Robert Shuler and Jerry Chatman, were sentenced to death in Florida in 1960 for raping a white woman. They were freed in 1972, 12 years later, after it was proved that police had suppressed evidence and that plaster foot casts introduced at the trial had been made in the deputy sheriff's backyard.

Mr. President, I could stand here for another 2 hours citing other such miscarriages of justice. But the fact is that racial bias is often not as blatant as it was in the case of Brandley, of these others that I mentioned. That is why we need the Racial Justice Act. Even this Supreme Court, which has weakened antidiscrimination laws, acknowledges that in the voting rights and employment contexts, a prima facie case of racial bias can be established based upon a showing that a pattern of discrmination results from the application of particular practices.

But the Supreme Court's 5 to 4 decision in McCleskey versus Kemp means that, in the context of the death penalty, a prima facie case of racial bias can never be established by evidence which shows that there is a pattern of discrimination in the application of the death penalty.

In other words, the Supreme Court is willing to overlook evidence of racial bias in the capital sentencing context that has determined should not be overlooked in the employment or voting rights context. The Senate should not make that same mistake.

The Racial Justice Act prevents the use of the death penalty where it can be shown that the penalty has been applied in a racially disproportionate way and there are no pertinent nonracial explanations for this disproportionate application.

In so doing, it addresses the results of discrimination, rather than trying to pinpoint the causes which, as we know, are sometimes too subtle to identify.

The Racial Justice Act only requires what is fair and just, but that seems to be too much for some people. I would be remiss if I did not take note of the rhetoric of those who oppose the Racial Justice Act. Attorney General Thornburgh opposes this amendment and has said, "The Racial Justice Act cannot fairly be characterized as in any sense a civil rights measure."

Frankly, Mr. President, I have to wonder whether the Attorney General knows anything about civil rights. There is not a single scintilla of evidence that he has any sensitivity at all to the issue of civil rights, as evidenced by his opposition to the civil rights bill here in the U.S. Senate, and as evidenced by his comments concerning the Racial Justice Act.

Does the Attorney General really believe that there are no civil rights concerns raised by the evidence and studies which show that racial considerations influence whomever receives the death penalty? Is the Attorney General blind? Is he deaf? Can he not read the evidence that has been proven time and time again by independent sources?

Does the Attorney General Thornburg believe that it is acceptable for black people to be executed more frequently than whites, or that killers of whites should be executed more readily than killers of blacks?

Furthermore, if this is not a civil rights bill, why do I hear it attached by the administration, absurdly, as a quota bill? How absurd can the White House be getting? The administration's automatic response to any civil rights bill proposed by the Congress is to label it a quota bill.

Obviously, this measure will work to reduce discrimination. Otherwise, the administration would not feel compelled to trot out its favorite attack line.

Mr. President, it is tempting to toss aside constitutional safeguards in order to punish individuals accused of heinous crimes. Sometimes we are inclined to do that. Emotionally, sometimes we feel that way. But that is not how constitutional democracies operate.

The process by which we decide who shall suffer the death penalty tells us much about the character of this body and the character of this Nation. Surely, we have enough character to ensure that this process is free of racial bias.

I urge my colleagues to support the Racial Justice Act. I hope that my colleagues will not see fit to delete that portion of the bill, and I hope my colleagues will recognize that a study of the issue is not the answer; it is time to enact the Racial Justice Act.

I yield the floor.

Mr. ADAMS. Mr. President, a national consensus has developed regarding the imposition of the death penalty under certain circumstances. Both the committee bill, S. 1241, and the administration's bill, sponsored by Senator THURMOND, broaden the use of the death penalty for 30 Federal offenses for which the current maximum penalty is life imprisonment. This is the most significant expansion of capital punishment since its reinstatement by the Supreme Court in 1976.

There is, however, one extremely significant difference between the two positions: the Biden bill contains the provisions of the Racial Justice Act. This fundamentally important safeguard would prohibit a State or the Federal Government from imposing the death penalty in a "racially discriminatory pattern."

Those of us who have the responsibility to vote in this Chamber should hold ourselves to the highest standard when we pass laws that might ultimately determine who will live and who will die. Where is justice if we permit the color of a person's skin, a person's ethnicity or any other such characteristic to determine or influence whether the death penalty may be imposed?

I am not aware how many of my colleagues have stood before a jury and asked that the death penalty be imposed upon a defendant, but I have. As U.S. attorney for the Western District of Washington, I asked for the death penalty in a case involving the cold-blooded murder of police officers that occurred during a bank robbery. Asking a jury to impose the death penalty is a responsibility that is not taken lightly by a fair-minded prosecutor. Voting to impose the death penalty is a legislative responsibility of similar gravity and importance.

As one who supports the imposition of the death penalty under certain circumstances, I am in strong support of including the Racial Justice Act. On February 26, of last year, the General Accounting Office released its landmark report on death penalty sentences issued since the U.S. Supreme Court's 1972 decision in Furman versus Georgia. The GAO found there has been "a pattern of evidence indicating racial disparities in the charging, sentencing and imposition of the death penalty." GAO concluded that "in 82 percent of the studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty; that is, those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks. This finding was remarkably consistent across data sets, States, data collection methods, and analytical techniques."

As the Seattle Times commented last year, the entry of race into capital sentencing decisions is "an American disgrace."

Mr. President, the Racial Justice Act is designed to assure that justice is truly blind when this ultimate punishment is weighed. As I have already indicated, I support the death penalty under certain circumstances. The American Bar Association and nearly 100 other groups support the Racial Justice Act, not because they want to end the death penalty, but because they believe, as I do, that equal justice under law demands that we end this pattern of discrimination.

It is my eternal hope that we would not even have to incorporate the provisions of the Racial Justice Act into our criminal justice laws. But the evidence is overwhelming that we must act to eliminate race as a factor in death penalty cases. I urge my colleagues to keep the Racial Justice Act provisions in S. 1241.

Mr. CRANSTON. Mr. President, I rise today to express my support for the Racial Justice Act which is included in Senator BIDEN's crime bill. No one would dispute that racial considerations have no place in our capital sentencing process. Yet, there is strong evidence that racial considerations are all too often a critical factor in deciding whether a particular defendant is executed.

In Furman versus Georgia, a 1972 Supreme Court case, the Court held that the death penalty as then applied in the United States was unconstitutional. The procedures used to impose the death penalty were found to be arbitrary and capricious. Several Justices specifically noted the racial bias apparent in death sentencing at the time. In response to Furman, many States devised statutes that they hoped would result in a more fair capital sentencing system. When these new statutes were reviewed by the Supreme Court in the Gregg versus Georgia decision, it was held that they offered the possibility of removing the bias and whim from capital sentencing.

Despite the Court's optimistic assessment, recent statistical evidence poignantly shows that the race of the victim strongly influences the decision to impose the death sentence. In February 1990, the General Accounting Office [GAO] confirmed the validity of the findings in 28 studies that race plays a significant role in capital sentencing. The GAO found "a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty after the Furman decision." Some of the studies have indicated that, in one particular State, a person accused of murdering a white was 4.3 times more likely to be sentenced to death than a person accused of murdering a black; a study involving a different State showed that the killers of whites were 8 times more likely to receive the death penalty than those convicted of murdering blacks. A nationwide study by the Dallas Times Herald showed that the killer of a white is nearly three times more likely to be sentenced to death than the killer of a black.

Mr. President, the GAO and the other independent studies are compelling evidence of the need for the Racial Justice Act. The Racial Justice Act would not create a presumption of racial bias. The act merely says that a defendant facing the death penalty should have an opportunity to use valid statistics, along with other evidence, to show that his sentence was based on race. In each case, the prosecution will have a full opportunity to dispute the validity of the defendant's evidence and show that there is no racial pattern or, even if there is, that the particular case does not fall within it.

The Racial Justice Act could be a critical tool in ensuring that justice is based on the facts of the case and not the race of the victim or the defendant. I urge my colleagues to join me in supporting the Racial Justice Act.

Mr. BRADLEY. Mr. President, I differ from some of my colleagues in that I believe that there is a place in our system of justice for capital punishment. At the one extreme of the scales of justice, there are crimes that so brutally deny the humanity of the victim and the criminal that they merit only the most absolute punishment. But I know that none of my colleagues would disagree with my belief that there is no place in our system of justice for racial prejudice.

Mr. President, I do not know whether people are put to death in parts of this country because of their race or the race of the victim, when a person of another race who committed the same crime against a victim of another race would live. But I know that I would want to know. If I were a judge evaluating an appeal from a death row inmate, I would want to know.

I would want to know about what's going on in Bay County in Florida. In that county, there were at least 119 homicides in 12 years. Forty percent of the victims were black. But the death penalty was imposed only in cases where the victim was white. If I were an appeals judge I would want to know this and I would want an explanation.

Those who contend that collecting and making available to courts such statistics would effectively stop executions make some assumptions that I'm not willing to make. That assume that most jurisdictions generate statistics like those small counties I've mentioned. They won't. As Prof. David Baldus of the University of Iowa points out, statistical disparities alone will not constitute prima facie evidence that the death penalty is being imposed in a discriminatory manner. Courts are capable of recognizing the genuinely significant discrepancy, and if they do, the State has the opportunity to demonstrate that race did not determine who lived, and who died.

Further, even after a significant racial discrepancy has been demonstrated, the jurisdiction would have the opportunity and the means to rebut that allegation with their own statistics. If they could show that there were some factors that would even partially explain the discrepancy, executions would continue as before. If only those who committed crimes against whites were executed, for example, the State could show that the crimes against whites were more brutal or aggravated, and thus the severity of the crimes explained the statistical disparities.

I want to know, Mr. President, that there is justice in this country, not racial justice. I want to know that if a white man brutally murders a black man, his crime will be judged just as dispassionately as that of a black man who murders a white man.

Mr. President, knowledge cannot obstruct justice. Knowing whether or not the death penalty is imposed in a flagrantly discriminatory manner, and stopping it only in the specific cases where it is, will not abolish the death penalty as an instrument of justice. This amendment asks for facts that no one should fear. It offers the kind of information and knowledge we need to ensure that justice is truly blind.

Mr. HARKIN. Mr. President, I wish to express my support for S. 1249, the Racial Justice Act, which is incorporated in the crime bill. The Racial Justice Act would ensure that racism plays no role in capital sentencing. I am an original cosponsor of S. 1249.

I am not in favor of the death penalty in any case. It does not deter crime and is a waste of resources. However, this act does not raise the question of whether the death penalty should be imposed; it raises the question of whether the death penalty should be imposed because of race.

Much of the underlying rationale of the Racial Justice Act is the work of Prof. David Baldus, a professor at the University of Iowa Law School. Professor Baldus conducted a comprehensive study of over 2,500 homicide cases in Georgia, which controlled for 230 nonracial factors. The results are astonishing.

According to the Baldus study, a person accused of murdering a white person was 4.3 times more likely to be sentenced to death than a person accused of murdering a black person. This effect was most pronounced in close cases, where the sentencer could legitimately return a sentence of life in prison or a death sentence. Highly aggravated murders showed little racial bias. The sentences for the most vicious murderers were not the result of racial bias; nor were the sentences in cases with the least aggravating circumstances. But where the question of life in prison or death in the electric chair was close, those who murdered whites were far more likely to be sentenced to death than those who murdered blacks.

Although fewer than 2 out of 5 Georgia homicide cases had white victims, nearly 9 in 10 death sentences were imposed on those who killed white persons. One Georgia district attorney sought the death penalty nearly six times as often for killers of white victims than killers of blacks.

Racial bias should not play any part in our justice system.

Some seem to think that this act would promote a quota system of death. This is absolutely not true, and is a gross simplification of the statistical analysis Professor Baldus undertook in his study, and which would be required under this law.

First, the appellant would have to prove a prima facie case through statistical methods. This means that the disparity must be highly likely to have resulted from racism. This test is more than a simple comparison of the number of death-eligible cases and the number of cases in which death was imposed. Instead, it is a sophisticated analysis of the statistical pattern of sentences to show that in the particular case at hand, the death penalty is being imposed because of race.

Even if the appellant demonstrates a prima facie case, the State has the opportunity to show that nonracial factors were clearly and convincingly responsible for the disparity. Some suggest that the clear and convincing standard is excessive. I do not believe it is unreasonable to require the Government to prove that race played no role in a sentence of death.

I have a copy of a letter from Professor Baldus analyzing the Racial Justice Act. I believe his careful analysis clearly shows that this legislation is necessary to overcome a travesty of justice in imposing racially discriminatory sentences. Considering the paramount importance of eliminating racial factors in the imposition of the death penalty, I strongly support the Racial Justice Act. I ask unanimous consent that a copy of this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF IOWA,
Iowa City, IA, June 17, 1991.

Re S. 1249, Racial Justice Act of 1991.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, DC.

DEAR SENATOR KENNEDY: We have been asked to comment upon whether S. 1249, the Racial Justice Act of 1991, would have the practical effect of either abolishing the death penalty in the United States or resulting in the use of racial quotas to avoid the application of the Act. We believe that neither of these outcomes would follow from the enactment of the Racial Justice Act.

The de facto abolition argument appears to rest upon the assumption that it will be very easy for capital defendants to establish a prima facie showing of a "discriminatory pattern" under the Act and very difficult for the States to rebut that showing. The argument also appears to assume that successful prosecution of a claim under the Racial Justice Act by one death-sentenced offender would entitle all death-row inmates in the State to relief from their death sentence. We believe that both of these propositions are false.

The establishment of a prima facie case under the Racial Justice Act requires racial disparities of a magnitude which strongly suggest that capital punishment is being used in a racially discriminatory fashion. Small statistical disparities are not enough to support such an inference. It is said nevertheless that minor numerical differences in the numbers or percentages of death sentences which a State has imposed will require the State to shoulder a troublesome burden of disproving discrimination. More specifically, it is argued that such evidence would be sufficient to demonstrate that the death penalty is being imposed "more frequently" in cases of one race than another under section 2921(1) of the Act and/or to show a racially "disproportionate" frequency which constitutes a prima facie case of discrimination under sections 2922(c)(1) (A) and (B).

This argument is simply wrong. When an observed racial disparity in death-sentencing rates in a State is small or is based on small numbers of cases, it is not sufficient to put any burden of disproving discrimination on the State. Consider, for example, a State with a death-row population of 6 inmates, 4 of whose cases involved a white victim, while only 40% of these and all other death-eligible cases in the State involved a white victim. Or consider a State with a death row of 100 prisoners, 43 of whose cases involve a white victim while 40% of the death eligible cases from which they were selected have a white victim.

Common sense suggests that neither of these patterns represents a situation in which the death penalty is being imposed "more frequently" upon killers of white victims within section 2921(1) or in which there is a "disproportionate" racial frequency within section 2922(c)(1). And we can assure you that any sort of responsible statistical analysis will produce exactly the same result: numerical differences as small as the ones described above would not lead any scientific researcher to conclude that racial discrimination is at work.

The reason is that small numerical differences like these could readily occur by chance in a criminal justice system that was not discriminating on the grounds of race. Ordinary statistical procedures do not allow conclusions of discrimination to be drawn from racial disparities based on small sample sizes (like 4 out of 6 cases) or from small differences in death-sentencing rates between racial groups even when the sample size is not small (like 43 instead of 40 out of 100 cases). To the contrary, a major function of statistics in research is precisely to ferret out disproportions that are real and to distinguish them from disparities that may be simply happenstance numerical differences that are attributable to chance.

All this leads one to ask—what type of disparities are we likely to observe in the various States? On the basis of the studies done to date, we are unlikely to see strong statewide racial disparities in many States, especially disparities concerning the defendant's race. We are much more likely to see the disparities concentrated in specific localities. For example, our research from Georgia showed no significant statewide evidence of race-of-defendant discrimination. Those overall results masked, however, data from one judicial district that showed a strong race-of-defendant effect. The data also showed evidence of race-of-defendant discrimination among a number of rural prosecutors. It is in areas like these that we will be likely to see a prima facie case established.

The de facto abolition argument further assumes incorrectly that States will be unable to rebut any inferences of discrimination by showing with "clear and convincing evidence that identifiable and pertinent nonracial factors persuasively explain" the racial disparities. Section 2922(c)(2) In fact, a variety of accepted statistical techniques are available for use by the State in making its rebuttal case whenever it appears that an observed racial disparity in a state's death-sentencing rates is more likely the product of differences in the distribution of pertinent nonracial characteristics than the product of racial discrimination. For example, in considering data simply showing that killers of white victims are more often sentenced to death than killers of black victims, one might legitimately wonder whether this observed disparity reflects the fact that the white-victim cases were more aggravated than the black-victim cases. But here also, there are available generally accepted statistical procedures designed to avoid this inferential pitfall. Specifically, they estimate racial disparities in death-sentencing rates and executions after taking into account or controlling for such nonracial factors. These procedures provide a solid basis for estimating the likelihood that the racial disparities that finally emerge from analysis are in fact the product of racial discrimination and are not explained by the fact that one racially defined subgroup of cases is more aggravated than another with which it is compared. And it is just such procedures that have been used in the more thorough empirical studies that show significant evidence of race-of-victim discrimination in this country, i.e., the race-of-victim effects persist after adjustment has been made for racially neutral factors such as the presence of torture or contemporaneous offenses like robbery or sexual assault.

Generally accepted statistical procedures of the type that will be used to evaluate racial disparities under the Racial Justice Act are used in a wide variety of other legal and nonlegal contexts in which it is important to distinguish between what is apparent and what is real. For example, such procedures provide the principal proof of a causal connection between cigarette smoking and cancer and between cholesterol and heart attacks. These procedures are also routinely used by pharmaceutical firms to establish the safety of new drugs.

Moreover, similar procedures are widely used in lawsuits, particularly in employment-discrimination cases involving claims of purposeful and intentional discrimination in employee hiring, promotion, and discharge. In those settings, the use of generally accepted statistical methods of proof has been explicitly and unanimously endorsed by the United States Supreme Court. These procedures have routinely provided an indispensable basis for the valid and just assessment of claims of race and gender discrimination. Moreover, defendants in discrimination cases are often successful in rebutting the plaintiff's prima facie case with objective and relevant nonracial factors. We fully expect such defenses will be similarly used in the context of the Racial Justice Act, often with considerable success.

In comparing the Racial Justice Act with comparable Title VII cases, i.e., those involving special qualifications for hiring or promotion, it is worth noting that the plaintiff carries the burden of accounting for the most important nonracial factors on which data are available as part of her prima facie case. So long as the relevant data are available to the parties, this requirement is appropriate and imposes no undue hardship on the plaintiff. Accordingly, under the Racial Justice Act the imposition of a similar burden on offenders presenting claims under the Racial Justice Act would be appropriate as long as data were available on the relevant aggravation and mitigating factors. This appears to have been the thinking behind the House version of the Racial Justice Act, which provides for an equivalent of a prima facie case on the basis of disparities that "take into account, to the extent it is compiled and publicly available, evidence of the statutory aggravating factors of the crimes involved." HR —— section 2921(d).

The argument that claimants will always prevail in claims brought under the Racial Justice Act overlooks a simple fact. It is that after taking into account pertinent nonracial factors, it will be extremely unlikely to ever see any evidence of racial discrimination unless racial factors are in fact exerting a significant influence on capital sentencing in the jurisdiction under evaluation. As a result, it is by no means the case that states will usually lose these cases. For example, the existing literature suggests it is quite unlikely that claims of race-of-defendant discrimination will be successful at the statewide level, although the picture may be quite different in particular subdivisions of the states. Moreover, we expect that over time fewer and fewer claims of any type will be successful as prosecutors become more aware of their obligation to treat capital cases in an evenhanded fashion. On this point, we note that our evidence from Georgia showed quite strong evidence of statewide discrimination against black offenders before *Furman v. Georgia* (1972). In the period from 1973 to 1980, however, we observed no significant statewide evidence of race-of-defendant discrimination. The most plausible explanation for this change is that prosecutors and juries have become more sensitive to the problem of racial discrimination and most have generally sought to treat all offenders in a more evenhanded fashion. If the Racial Justice Act becomes law, we expect a similar development would occur over time with respect to the race of the victim.

It is also important to note that the statistical analyses required to refute claims of discrimination involve information on relatively few pertinent nonracial circumstances of the cases beyond the statutory aggravating and mitigating circumstances (and those would usually constitute a total of 10 to 20 variables). This fact belies any claim that the Racial Justice Act would require the states to collect and maintain massive statistical data files. Another relevant point is that once the required data base for evaluating the system is in place, it will be available for use with no further expense beyond routine updating. The suggestion that each claim brought under the Racial Justice Act will require the development of a new data base for analysis from scratch ignores this fact.

The de facto abolition argument also appears to assume that a single successful claim under the Racial Justice Act will block execution in all other death-sentenced cases in the state involved. This assumption completely overlooks the language of 2922 of the Act, which bars executions only if that person's death sentence and execution would "further a racially discriminatory pattern." As a result, only defendants whose cases fall within categories of death-eligible cases where racial effects are observed would be entitled to relief. For example, in Georgia, our research indicated that in cases highly aggravated with factors such as torture or multiple victims, there were no race effects related to either the race of the defendant or the victim. Those death sentences clearly do not further a racially discriminatory pattern and therefore would be unaffected by the law. And as noted earlier, our research from Georgia also indicates that the levels of racial disparities in capital sentencing vary significantly from one judicial district or county to the next. Thus, a finding of discrimination in district A would provide no basis for relief in other jurisdictions where there is no evidence that race is influencing the system.

The argument that the Racial Justice Act would lead to racially discriminatory charging and sentencing practices and quotas is misleading in the extreme. The decline in racial discrimination that we have generally observed in this nation's criminal justice system is most plausibly explained by expanded protection of federal and constitutional law and a growing perception of the importance of nondiscriminatory and evenhanded treatment of criminal defendants. Any suggestion that this development has somehow produced quotas is completely implausible. Similarly, in the employment discrimination context, the United States Supreme Court has for years authorized methods of proof for proving classwide purposeful discrimination that are comparable to those contemplated by the Racial Justice Act. Plaintiffs in those cases have both won and lost such cases, but there has never been any serious contention that either the right to challenge classwide purposeful discrimination in an employment context or the methods of proof employed for the task have led to racial or gender quotas in employment. The dispute over quotas recently raised by the 1991 Civil Rights Act relates strictly to disparate impact claims (which require no proof of purposeful discrimination) and not to claims of classwide purposeful discrimination.

Finally, an observation about the provision in the administration's Equal Justice Act that prohibits the use of "statistical tests" as a means "to achieve a specified racial proportion" of offenders, etc. S. 635 section 1002(b)(3)(A & B). The provision completely misconceives the function of statistical tests. They are used to compare differences in the rates at which characteristics of all types occur in different populations (e.g., the rates at which cancer develops in people who smoke versus those who do not), and to provide a basis for making causal inferences (e.g., that smoking causes cancer.) In the context of death-sentencing research, statistical tests are merely an aid to determine whether different racial groups are being treated differently and whether those differences are a product of chance, different distributions of nonracial factors among different racial groups, or racial discrimination. Those tests have nothing whatever to do with achieving "a specified racial proportion relating to offenders" or anyone else. While Congress may want to outlaw quotas in death sentencing, to equate quotas with statistical tests is absurd. Moreover, the enactment of such a provision could unintentionally limit the capacity of state courts to monitor their own capital-sentencing systems to ensure that they are subject to no racial discrimination.

Sincerely,

DAVID C. BALDUS,
Joseph B. Tye Professor of Law.
GEORGE WOODWORTH,
Associate Professor, Department of Statistics and Actuarial Science.
CHARLES A. PULASKI, JR.,
Partner,
Snell & Wilmer, Phoenix, AZ.

Mr. GRASSLEY. Mr. President, I rise to oppose the Racial Justice Act, included in this crime bill.

The death penalty is the gravest and most serious of punishments, and it is not something I take lightly.

But I believe that justice requires criminals receive an appropriate punishment and for the most heinous and abominable acts, justice requires the imposition of the death penalty.

The inclusion of the Racial Justice Act as part of a Federal death penalty will not only undermine our system of justice, it will result in the abdication of the Government's duty to protect the people.

You cannot support the availability of capital punishment, while supporting the Racial Justice Act.

This legislation will make it impossible for not only the Federal Government—but also those States that presently have the death penalty option—to impose the death penalty.

In McCleskey versus Kemp—the case that the Racial Justice Act attempts to overturn—the Supreme Court said:

> A defendant who alleges an equal protection violation has the burden of proving "the existence of purposeful discrimination."

A corollary to this is that a criminal defendant must prove that the decisionmakers in this case acted with discriminatory purpose.

As even the proponents of the Racial Justice Act know—or should know—the Supreme Court concluded that McCleskey did not prove he was the victim of discrimination.

Yet, the proposed Racial Justice Act—in total disregard for accepted principles of equal protection jurisprudence—impose no burden on a criminal defendant in a capital case "to show discriminatory motive, intent, or purpose on the part of any individual or institution."

Under the death penalty provision in this bill, all that a convicted capital defendant need show is a statistical disparity, based on race, among defendants sentenced to death or among the victims of capital defendants.

All that the act's required statistics need show is a racially discriminatory pattern.

There is no requirement that a capital defendant prove prosecutors and juries acted with racially discriminatory intent.

This pattern could be established simply by showing a disproportion between the number of persons in a racial group who are sentenced to death or executed, in comparison with the representation of persons from that group in the pool of individuals who are arrested for, charged with, or convicted of crimes that are punishable by death.

A pattern may also be established on the basis of a disproportion between the racial composition of the class of victims of crimes for which the death penalty is actually imposed or carried out, and the racial composition of the class of persons against whom crimes are committed that may be punished by death.

Perhaps even worse, by its own terms, the act is retroactive.

Consequently, if the act becomes law, it would apply to every State capital defendant on death row, whether or not these defendants raised any claim of racial discrimination in the past.

Among its many provisions, the act requires every jurisdiction that allows for the capital punishment option to maintain racial data through elaborate records and reports.

However, since no jurisdiction currently maintains records on the race of victims and defendants and the reasons for various prosecutorial and jury decisions, this title may likely result in the invalidation of every capital sentence now in effect.

Consequently, every prosecutor would be required to relitigate every previous capital case in the jurisdiction—justifying decisions made by long ago prosecutors, judges, and juries.

Unless the act's required statistical equality can be maintained as a kind of death by racial quota, the death penalty will no longer be a criminal law sentencing option.

It is naive to believe that violent antisocial behavior takes place with a neat and clean statistical precision.

The act's abolition of the death penalty would gravely threaten the security of the American people—including members of minority communities who know firsthand the most devastating effects of violent crime—by inhibiting the ability of the criminal justice system to protect the people and insure domestic tranquility.

Make no mistake: The exact aim of this act is to eliminate the death penalty as a possible sanction against criminals convicted of the most heinous and abominable acts.

Worst yet, this act cynically ignores the present safeguards in our criminal law against discriminatory practices.

I defy anyone to dispute the fact that an individual defendant charged in our present criminal justice system and who can demonstrate that race motivated either the prosecutor's decision to charge him with a capital crime or the jury's decision to impose the penalty, has a constitutional claim for relief.

Current Supreme Court constitutional decisions safeguard capital defendants from all actual racial discrimination during any stage of the criminal justice process. The Supreme Court's decisions also ensure that convictions and sentences will not stand if any discrimination has occurred at any stage of the process.

Mr. President, in our system of justice, computers do not hand down sentences. There is no role for statisticians or social scientists in the courtroom. Rather, for more than 200 years, our system has dispensed justice through the efforts of prosecutors, judges, and juries. They take an oath to serve the ends of justice.

The Congress cannot exercise discretion for prosecutors, judges, and juries based on some arbitrary racial quota, who is to receive the death penalty and who is not.

If true justice can only be achieved through the use of a quota, then why base this quota simply on race, why not include religion, gender, and national origin as well.

The answer, the Racial Justice Act is not concerned with justice but rather the elimination of the death penalty.

More importantly, elimination of the death penalty as a means to fulfill the Government's role of protecting the people from violence is no solution to any concerns about possible race disparities.

Again, all that is required to establish discriminatory impact, is proof of nothing more than the acknowledged fact that as a result of unique human judgments that defy codification, a jury's collective sentencing judgment lacks mathematical predictability.

Under such a minimal burden, a defendant is guaranteed a ready-made prima facie case. However, the presentation of a successful rebuttal case by the Government would be virtually impossible. Prosecutors would be required to reproduce and present evidence sufficient to explain the race-neutral factors that motivated jurors to return race-neutral sentences of death.

Even if these factors could be produced in rebuttal, only by examination of individual jurors regarding their mental processes and emotional reactions could it ever be known that race-neutral factors were actually relied upon by the jurors.

Only then could proof of these race-neutral factors serve to persuasively explain any observable racial disparity.

The Government would also have to present proof of lack of discriminatory intent and purpose on the part of every decisionmaker involved in the capital sentencing process: prosecutors, grand jurors, trial and appellate court judges, and legislators.

All this is calculated to shift the judicial focus away from the guilt or innocence of individual criminal defendants and to focus on the collective guilt of society's criminal justice system.

Instead of determining whether the defendant received due process safeguards, the proposed act engages in diversionary tactics:

First, it shifts the focus to the Government on a systemwide basis;

Second, it guarantees a prima facie case against execution for any capital defendant; and

Third, it requires the criminal justice system to produce mathematical predictable results.

The result of enacting the Racial Justice Act is not justice, but rather the prohibition of the death penalty.

But we should not and we cannot insure a statistically exact proportion of African-American, Latino, and white defendants receiving the death penalty.

Such a statutory compelled course of conduct is contrary to the very belief that race has no part in the determination of guilt or the punishment to be imposed.

The Racial Justice Act commits the very evil it purports to cure. Race will determine one's sentence. This is not justice.

As I have said before, the use of society's ultimate criminal sanction is not something I take lightly.

It is for these reasons that I support this amendment and not S. 1241.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. I ask that my remarks appear as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

POLLUTION PREVENTION AND INDUSTRY

Mr. BAUCUS. Mr. President, several years ago the famous Grace Commission published a report entitled "War On Waste." That report focused on waste in Government. It is now time, however, that we look at waste in America.

We are now a very wasteful society. We throw out more than 11 billion tons of waste every year. We cannot hide it; we cannot just push it off into a corner or pile it up somewhere and just forget about it; though some have tried.

For too long, we have viewed waste in our country as a necessary evil. We have buried it until our purple mountains turned brown. We have burned it until our spacious skies rain toxins. And we have dumped it until infectious waste can be found from sea to shining sea.

We must change our attitudes about waste. It is not a necessary evil. We must create a new ethic in America to save what can be saved, conserve what can be conserved, recycle what can be recycled, and then and only then, under the most stringent standards, dispose of it.

The time has come to look at waste as a measure of our efficiency. The less we throw out, the more efficient we will be. The more efficient we are the more competitive we will be.

In outer space, for example, we use nonpolluting fuel cells for power and water. And since we cannot take unlimited fuel out in spaceships we must burn only what we need. We must operate at peak efficiency to survive in space. We do. And because we do we are world leaders in space travel.

So how do we get this mentality into the board room, into the production line, and into balance sheets?

How do we get chemical plants or steel mills to see efficiency as a necessity and not as a cost, even better, as an opportunity for profits, not as a cost?

Some companies are beginning to realize these opportunities. Why is that? What do they see that others to not see?

The Wall Street Journal on June 11, 1991, ran an article that provides some of the answers. It illustrates how industry is learning that less waste means more efficiency and more profit.

Let me share with you a few examples from the article.

DuPont's Beaumont, TX, plant cut its waste by two-thirds and will save $1 million a year.

Dow Chemical spent $15 million last year on waste reduction at its facility near Baton Rouge, LA. It has already saved $18 million in disposal and raw material costs.

And Monsanto believes there is $125 million worth of material in waste that can be recovered, but is now disposed.

Mr. President, there are other examples not mentioned in the article.

Merck & Co. cut air and water emissions and saved $280,000 with no capital expenditures.

Spic & Span replaced some old equipment and cut its landfill costs by 80 percent a year.

General Dynamics in 4 years cut its hazardous waste generation by 75 percent.

These companies and others have discovered that they too can save money by reducing their wastes. They can avoid costly landfill and incinerator costs and potential liabilities.

These examples illustrate what we can do if we put our minds to it.

The Resource, Conservation, and Recovery Act bill—S. 976—that I recently introduced will encourage more companies to put their minds and garbage to good use.

It will challenge industry, to use less toxic materials—to minimize the generation of waste—to recycle, reclaim and reuse as much as they can—and then to safely dispose of waste.

This combination of responsibility and regulation is intended to make the production of waste less desirable. It is intended to make recycling and reuse more desirable. And it is intended to make the disposal of waste more costly.

If we are to have a growing economy, a competitive society, and a healthy, safe environment—goals that we all want—what better way to get there than to reduce our waste.

Mr. President, I ask unanimous consent that the article appearing in the Wall Street Journal be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 11, 1991]

CLEANING UP: CHEMICAL FIRMS FIND THAT IT PAYS TO REDUCE POLLUTION AT SOURCE

(By Scott McMurray)

The chemical industry's record on the environment has been a sorry one. Despite toughter regulation and pressure from public interest groups, it still accounts for nearly half of all the toxic pollution produced in the U.S.

Yet lately, a new force has been driving the industry to clean up its act: economics.

In a major shift, chemical companies are viewing waste not as an unavoidable result of the manufacturing process, but as a measure of its efficiency. The more unusable byproducts a process creates, the less efficient it is—and the more economic incentive there is for making it better.

That's what Du Point Co. discovered at it's Beaumont, Texas, plant, which makes products for plastics and paint. For years, the facility had been spewing out a staggering 110 million pounds of waste annually. Du Pont engineers argued that reducing the pollution would be too expensive.

NOT WASTE AFTER ALL

But when they took a second look last year, they found just the opposite was true. By adjusting the production process to use less of one raw material, they were able to slash the plant's waste by two-thirds. Yields went up and costs went down. The savings: $1 million a year.

"When I heard about it, I just said: 'That's amazing,'" says Edgar Woolard, Du Pont's chairman and chief executive officer. He says the company now even sees waste reduction as a way to achieve a competitive advantage.

Environmentalists heartily support this view. Slashing toxic waste production "is very similar to energy conservation in the 1970s: There is a potential for massive savings," says David Roe, a lawyer with the Environmental Defense Fund.

The entire chemical industry, says Environmental Protection Agency administrator William Reilly, is "getting religion" about the benefits of cutting wastes.

Other industries, from semiconductor makers in Silicon Valley to metal processing companies across the Rust Belt, are also beginning to focus on toxic waste reduction as a way to cut costs, curb pollution and make operations more efficient. But it's the chemical industry that has the most to gain from waste reduction savings simply because it churns out so much.

According to the EPA, in 1989, the last year for which figures are available, the industry produced nearly half of the 5.7 billion pounds of toxins generated nationwide and tracked by the EPA. Chemical company officials say that, since then, the proportion has stayed roughly the same, though the total amount of toxins released in the country is believed to have declined. Some environmentalists have argued, however, that the EPA significantly understates the total amount of toxins discharged into the environment.

A BIGGER PICTURE

Richard Mahoney, Monsanto Co.'s chairman and chief executive officer, estimates that there is $125 million worth of material that currently isn't recovered from the waste that leaves the company's plants. What's more, other costs associated with waste are rising. They include processing, disposal and cleanup, not to mention lawsuits and government fines when those jobs don't get done right.

Dow Chemical Co., for instance, recently spent $30 million building a waste incinerator and dump to handle toxic materials at its plant site in Midland, Mich. And, earlier this year, Monsanto paid the state of Massachusetts $1 million to settle claims that its Everett, Mass., plant didn't report certain waste-water discharges. It paid another $192,000 to a trust fund that supports the cleanup of Boston harbor. Last year, it forked over $27 million to clean other sites. At year end, it had an accrued liability of $120 million on its balance sheet to cover certain future cleanup costs.

Chemical companies, however, might have made substantial cuts in toxic emissions sooner had they recognized some of the potential economic advantages, such as lower materials costs. "One of the differences is that we're now putting some of our best people into this area," says Robert Luft, Du Pont's senior vice president, chemicals. "When you do that, you can start making some fast progress."

THE LEGACY OF BHOPAL

In the past, chemical companies used to focus merely on complying with federal and state pollution laws for specific chemicals or plants. They didn't pay much attention to the aggregate amount of waste they produced each year, or the future liability it represented. Waste disposal costs were low, and the typical approach to pollution often was the dilution solution: Dilute wastes in massive amounts of air up a smokestack or water out the end of a sewer pipe. More-permanent solutions were unattractive. They almost always involved adding equipment, which meant higher costs, and, thus, intense corporate resistance.

That began to change after the deaths of more than 3,800 people in Bhopal, India, following the release of a cloud of toxic gas at a Union Carbide Corp. subsidiary in 1984. The disaster led to U.S. legislation in 1986 directing the EPA to compile and publicize a survey of toxic emissions, which put pressure on big polluters to do more than just meet minimum government standards.

In the process, companies began to discover economic advantages, as well. Some came from increasing production efficiency, while others came from finding other uses for some of the byproducts. Along the way, companies began to conclude that pollution was a sign of a bad manufacturing system. "When you make a lot of waste you know you don't have control of your operation," says Mr. Woolard, Du Pont's chairman.

Dow Chemical has been applying the same philosophy to its operations. For example, it estimates that, by recycling a toxic solvent used to make its Verdict herbicide, it is now saving about $3 million a year, and halving the amount of solvent going out the door as waste.

At its Plaquemine facility near Baton Rouge, La., Dow spent $15 million on waste reduction projects last year that it says have already saved $18 million in toxic waste disposal and raw material costs. The company promotes these projects internally with the acronym WRAP: Waste Reduction Always Pays.

Monsanto says that its nylon fibers plant in Pensacola, Fla., has cut its toxic air emissions by about 90% since 1987, and saved a few million dollars a year in raw materials expense. The plant is capturing a toxic solvent in a mineral-oil bath before it escapes up a smokestack. It then recycles the solvent back into the production process. The mineral oil isn't wasted either: It is returned to the plant, where it captures more solvent.

CAPTURING A CARCINOGEN

Monsanto says its Sauget, Ill., plant, across the Mississippi River from company headquarters outside St. Louis, cut its air and water emissions of PDCB, a carcinogenic chemical used in making mothballs, by 90%, or one million pounds. The company cooled the plant's waste vapor and captured the crystallized chemical for resuse before it was emitted. Loading the product directly into tank cars under sealed conditions cut vapor emissions even further.

In some cases, the industry is constructing new plants that incorporate the latest waste reduction technology. A new Du Pont herbicide plant, near Dunkirk, France, is expected to produce 90% less pollution than an existing facility. Among other things, it will distill and recycle solvents.

In other cases, chemical companies are tying together production processes at different plant sites to cut waste and save on raw material costs. Last fall, a Du Pont plant in Mobile, Ala., that makes herbicides and insecticides began tapping into the waste stream leaving the plant, pulling out solvents and titanium byproduct that it used to incinerate. The solvents get recycled into the plant's own operations, while the titanium is treated and shipped to a Du Pont plant in DeLisle, Miss., where it is used to make paint pigments. By integrating production this way, the Mobile plant cut its annual toxic emissions by about 25 million pounds, nearly 20%.

GETTING ALONG

Besides cutting costs, these waste reduction programs help companies earn public good will, as well as meet demands from regulators and environmentalists. Arco Chemical Co. is using several waste reduction processes to meet the stiff environmental standards that apply to the expansion of its Channelview, Texas, propylene oxide plant just east of Houston. The Arco Chemical plant, where 17 workers died in an explosion last July, is in an area of back-to-back oil and chemical plants that parallels the ship channel leading to the Gulf of Mexico.

"Roll down your car window and the aroma will knock you over." is how George Smith, of the Sierra Club's Houston chapter, describes the area.

The environmental group feared Arco Chemical's plant expansion would fill the air with an excessive amount of benzene, so it threatened to put the plan through a lengthy public hearing process. In response, Arco Chemical agreed to install a distillation process to recover benzene from liquid waste at the plant. The process keeps much of the benzene from reaching the plant's water treatment unit, where it could partially evaporate into the air before decomposing.

As it turns out, the added cost of the distillation process is largely offset by savings from the benzene that's recycled, says John Evans, environmental superintendent for the plant. And when all waste processes are in place, including catalytic converters that break down hydrocarbons before they go up the smokestack, the expanded facility will emit substantially fewer toxic chemicals than the original plant, even though production will have increased 200%, Mr. Evans says.

Environmentalists say the chemical industry still has a long way to go before it gets unqualified praise. But chemical companies contend that both regulators and the public will continue to see a substantial reduction in their output of toxic wastes. Monsanto, Dow and Du Pont all say their emissions have declined by between 30% and 50% in the past four years. They add that the numbers will continue to drop in the years ahead. The EPA is providing additional incentive: Last month, the agency proposed extending the deadline for required pollution controls at plant sites if companies speed up voluntarily cuts in their emissions.

Even though some of the short-term costs for the new waste reduction programs have been high—more than $200 million a year at the largest chemical companies—Monsanto's Mr. Mahoney says it is money well spent. "Our initiative and commitments to environmental protection will, over the long term, make us more, efficient, more cost effective and more competitive," he predicts.

THE TOXIC TOP TEN

U.S. companies ranked by the amount of toxic waste produced by their various facilities:*

Company	Facilities	Toxic waste (In millions of pounds)
Du Pont	85	348.40
Monsanto	33	293.83
American Cyanamid	29	202.09
BP America	18	123.66
Renco Group	2	119.08
3M	51	106.04
Vulcan Materials	2	93.15
General Motors	133	87.87
Eastman Kodak	23	79.48
Phelps Dodge	19	77.42

*1989 figures (latest available).
Source: Environmental Protection Agency.

Mr. BAUCUS. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRYAN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. SPECTER. Mr. President, I believe that later this evening there will be a vote on an amendment to be offered by the distinguished Senator from South Carolina, which is really in the nature of a substitute to the pending bill which has been proposed by the distinguished Senator from Delaware [Mr. BIDEN].

While there is a moment to make a statement on the floor, because I think there will be time limitations later, I wish to express my views in support of the Thurmond bill because I believe that the critical aspect in the pending legislation relates to habeas corpus, as to how we treat death penalties which come out of the State courts and in the Federal courts.

Earlier this evening, on the subject related to the so-called Racial Justice Act, I discussed at some length my views on the habeas corpus provisions. But I do want to state there are a number of provisions in Senator THURMOND's bill that I disagree with.

I believe the death penalty ought to be limited to those 18 years of age and older, and again, I had outlined my reasons in an earlier presentation. I do not believe the death penalty should be imposed on those who are mentally retarded; that it is insufficient simply to consider that a mitigating circumstance.

I am not yet certain as to the provisions with respect to abridgement of hearings on foreigners in the United States, although I am told that those provisions are now out of the bill proposed by the distinguished Senator from South Carolina.

But in making this statement, I wish to explain that in endorsing the Thurmond bill over the Biden bill, I do not agree with all the provisions of the Thurmond bill. But it will be subject to amendment, and I will have an opportunity at a later moment to amplify these views.

I thank the Chair, and I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the pending amendment No. 366 be withdrawn; that the Senate vote on amendment No. 365 at 7:15 p.m., with no intervening amendments or motions in order; that upon disposition of amendment No. 365, Senator THURMOND be recognized to offer his version of the President's crime bill; that there be 40 minutes of debate on that Thurmond amendment equally divided in the usual form; that no second-degree amendments be in order nor motions to recommit prior to the disposition of the Thurmond amendment; that at the conclusion or yielding back of that time the Senate vote on the Thurmond amendment; and that if the amendment is agreed to, it be considered original text for the purpose of further amendment.

Mr. DOLE. Mr. President, I have no objection. I wonder if we might start the vote in about 5 minutes to give some people who are already downtown a little time to get back.

Mr. MITCHELL. Mr. President, to accommodate that concern, an appropriate one, I ask unanimous consent that my request be modified to have the vote begin at 7:20 p.m.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Reserving the right to object; and the time to be equally divided between now and 7:20.

Mr. MITCHELL. I further modify my request that during the time between now and 7:20 p.m. there be debate on amendment No. 365, to be equally divided between Senators GRAHAM and KENNEDY.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader, as modified? The Chair hears none. The request is agreed to.

Amendment No. 366 is withdrawn.

The amendment (No. 366) was withdrawn.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Three and one-half minutes.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, I welcome the opportunity to have a disposition of this issue that is before us now and will be voted on at 7:20.

Just in a very summary way, Mr. President, the Senate of the United States, the Congress of the United States, the American people have tried to root out discrimination in whatever form or shape it has taken over the period of the last 30 years. We have made attempts at other times in our history, and there has been a very important continuing, ongoing effort to do so.

In the early 1960's, we eliminated discrimination on the basis of voting. In the mid 1960's, we eliminated discrimination on public accommodations. We attempted to eliminate discrimination in housing in 1968 and in 1988. Then during the period of the seventies, we made important progress in eliminating discrimination against those with disabilities and on the basis of gender.

All we are saying with the Racial Justice Act is if we are going to apply the death penalty, make sure we do not apply it in a discriminatory fashion and discriminatory way. We do believe that, on the basis of the GAO studies, a prima facie case has been made that in a variety of different jurisdictions the death penalty has been applied in a discriminatory way. That case has been made earlier during the course of the debate.

A point that has been made by those who are opposed to this amendment is that we should not use statistics in the criminal justice system. Mr. President, is it appropriate to use statistics in proving discrimination in criminal law in general and under the Racial Justice Act in particular?

Mr. President, statistics are generally accepted as one reliable indicator of racial discrimination. Few people admit their intention to discriminate. Therefore, the Supreme Court has usually recognized that the existence of discrimination can be proved by showing that the results of a decision-making process are discriminatory.

The Racial Justice Act will not, as some of its opponents have suggested, necessitate an overhaul of the criminal justice system. To the contrary, the statistical analysis that would be mandated pursuant to the act is consistent with Supreme Court pronouncements in criminal law decisions such as *Batson* v. *Kentucky*, 476 U.S. 79 (1986).

The Court determined in Batson that, in jury selection, a black criminal defendant can establish a prima facie case of discrimination by showing a substantial disparity between the percentage of blacks in the population and the percentage of blacks in the pool from which his grand jury or trial jury was selected. That is what the Batson case involved. It was a criminal case and the Court recognized the important and persuasive role that statistics can play.

A defendant may also use statistical evidence to show discrimination in a prosecutor's use of peremptory challenges against black trial jurors.

Congress has in the past exercised its enforcement authority by statutorily mandating use of evidence of unexplained and unjustified racial disparities. For example, after the Supreme Court ruled in 1980 that the Voting Rights Act and the 15th amendment required a showing of discriminatory intent, *Mobile* v. *Bolden*, 446 U.S. 55, Congress amended that act to allow plaintiffs to base a showing of discrimination on statistical evidence.

The statistical analysis required by the Racial Justice Act is clearly consistent with those boundaries that have been laid down by both the Supreme Court and the Congress. In addition, the heavy burden that faces a defendant seeking to mount a claim under the Racial Justice Act and the various opportunities that a State has to rebut those claims will ensure that courts and the criminal justice system will not be manipulated through misrepresentation.

A second point that is made, Mr. President, is that this is really an attempt to abolish the dealth penalty. I remind many of our colleagues that many of those who are cosponsors of our amendment are strong supporters of the death penalty.

Mr. President, the Racial Justice Act will not bring an end to capital punishment. Just to make absolutely clear, a number of those Members of this body who are strong supporters of the death penalty are cosponsors of S. 1249, the Racial Justice Act, and a number of others who support the death penalty have voted for the act.

They include: the Senator from Washington [Mr. ADAMS], the Senator for Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from New York [Mr. MOYNIHAN], and the Senator from Oregon [Mr. PACKWOOD].

The idea that there are Members who are strongly committed to the death penalty and who somehow feel that this will undermine it just does not hold up as an argument. It just does not hold up. I have indicated my own opposition to the death penalty. But what this debate is all about is racism in the application of the death penalty.

Even those who support the death penalty, support the Racial Justice Act. Others, who have no position on the death penalty, such as the American Bar Association, have indicated strong support for the Racial Justice Act.

In addition, Mr. President, I would refer again to the letter on this subject from University of Iowa Profs. David C. Baldus and George Woodworth and Arizona attorney Charles A. Pulaski, Jr. These widely recognized experts in the field of statistics and their application in the capital punishment context conclude as follows:

> The argument that claimants will always prevail in claims brought under the Racial Justice Act overlooks a simple fact. It is that after taking into account pertinent nonracial factors, it will be extremely unlikely to ever see any evidence of racial discrimination unless racial factors are in fact exerting a significant influence on capital sentencing in the jurisdiction under evalua-

tion. As a result, it is by no means the case that states will usually lose these cases.

Mr. President, a copy of this letter, dated June 17, 1991, has been included in the RECORD.

This letter illustrates in some detail how a seeming statistical disparity suggesting race as a factor may be easily explained. Does the disparity take into account the brutality of the various offenses, for example, or the prior records of the offenders, or other nonracial characteristics?

So it is clear, Mr. President, that the Racial Justice Act will not abolish the death penalty. Its effect is limited precisely to situations where racial bias plays a role in the application of the death penalty.

There may well be jurisdictions which already display no racial pattern in capital sentencing. And even if a defendant can meet the substantial burden imposed by the Racial Justice Act, the State can challenge the quality of that presentation or show how nonracial factors explain the alleged pattern of discrimination. But that is not all.

The State can proceed with an execution if it shows that the defendant's particular case was not part of the pattern of discrimination. In the McCleskey case, for example, it was clear from the defendant's statistical analysis that there was no pattern of discrimination in highly aggravated homicide cases.

Even if a defendant overcomes all of those hurdles and the death sentence is vacated, Mr. President, the State can retry that defendant once it remedies its practices to eliminate race as a consideration. Indeed, a State that has not already done so could go ahead and provide its district attorneys clear guidelines on when to charge capital offenses and when to seek the death penalty as a precaution to eliminate racial bias now.

Finally, Mr. President, the spurious argument made by some is that we will, if we accept the Racial Justice Act, then be applying a death penalty by quotas. Nothing could be further from the truth.

Contrary to arguments made by opponents of the Racial Justice Act, the measure will not result in quotas in death sentencing. Members of the Senate on both sides of the death penalty issue should be offended by the possibility of racial bias in capital sentencing in any form. That is the issue to which the act addresses itself.

Under the act, the mere fact that blacks may receive the death penalty more frequently than whites would not even create a prima facie case of discrimination.

To establish a prima facie case, a defendant must show that blacks, or killers of whites, for example, receive the death penalty with a frequency that is disproportionate to their representation among those arrested, or charged with, or convicted of capital crimes under the bill. Even if a prima facie case is established, the Government can rebut such a claim by showing by clear and convincing evidence that any disparity is the result of nonracial factors.

Nothing in the act requires any kind of quota in capital cases. All it does is guarantee that racial discrimination does not unfairly influence these life or death decisions.

Any attempt to use quotas in the process would violate the Racial Justice Act, precisely because the decisions would be so clearly founded upon race and not upon legitimate factors.

The Racial Justice Act is intended to eliminate racism in capital sentencing. It would not create quotas of any kind. We have included in the RECORD a letter, dated June 17, 1991, from University of Iowa Profs. David Baldus and George Woodworth and Arizona attorney Charles Pulaski, all of whom are widely recognized experts on this issue. They conclude, and I quote:

> The argument that the Racial Justice Act would lead to racially discriminatory charging and sentencing practices and quotas is misleading in the extreme. The decline in racial discrimination that we have generally observed in this nation's criminal justice system is most plausibly explained by expanded protection of federal and constitutional law and a growing perception of the importance of nondiscriminatory and even-handed treatment of criminal defendants. Any suggestion that this development has somehow produced quotas is completely implausible.

They go on to note:

> While Congress may want to outlaw quotas in death sentencing, to equate quotas with statistical tests is absurd.

Mr. President, if there is one area of public policy that we should free this country from, that is the application of the death penalty used in a discriminatory form. This is the last chance that an individual has. He may be discriminated against in terms of voting, but, hopefully, at some time in the future we might remedy that. He may be discriminated in housing and discriminated in employment as a matter of gender or disability, but we can still come back and try to have the opportunity to redress that particular grievance.

But when we have discrimination in the form of the death penalty, there is no second chance. And we believe that the Racial Justice Act offers the best opportunity to root out what has been demonstrated and documented and submitted in evidence during the course of this debate, the serious evidence that the application of the death penalty has been used in a discriminatory way in too many jurisdictions of this country. And with this particular amendment we say no to that.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Florida controls 3½ minutes.

Mr. HATCH. Mr. President, I have listened to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. If the Senator will suspend, under the unanimous-consent agreement, the 3 minutes allotted to the opposing point of view are under the control of Senator GRAHAM. Is there objection to Senator HATCH speaking on Senator GRAHAM's time?

Without objection, it is so ordered.

The Senator from Utah [Mr. HATCH] is recognized.

Mr. HATCH. Mr. President, enactment of section 207 of title II of S. 1241 would mean the end to the death penalty—both Federal and State. That is a sweeping claim, and I do not make it lightly. But this is the only conclusion that is possible for one who has studied the provisions of this legislation.

This is also the view of the attorneys general of the various States. On June 14, a letter signed by over 25 State attorneys general was sent to the chairman of the Judiciary Committee. Here is what the attorneys general stated:

> We have concluded that the practical effect of enactment of the Racial Justice Act would be to abolish the death penalty while doing nothing to promote racial justice.

The State attorneys general make an important point, Mr. President. They do not say simply that the Racial Justice Act will abolish the death penalty and therefore should be abolished despite some good that it might otherwise accomplish. No, they conclude that the act will do "nothing to promote racial justice," plus it will abolish the death penalty. That is a double criticism of the bill that I think should decide the vote of any Senator who may have been deceived by the title of this bill into thinking that it warranted his or her vote.

I have not heard of any State attorney general who denies that this bill will end the death penalty in his or her State, or anyone who claims that it will advance justice in any sense. Maybe there is one, but I doubt it.

The so-called Racial Justice Act is objectionable on innumerable grounds: it is illogical, some of its provisions are nonsensical, and, the entire bill is, I believe, plainly unconstitutional.

A prima facie case of discrimination is established under this bill by showing that death sentences are being imposed on persons of one race, black or white, with a frequency that is disproportionate to that race's representation among: First, the numbers of persons arrested for, charged with, or convicted of, death-eligible crimes; or second, the numbers of persons "against whom death-eligible crimes have been committed."

In addition, the bill requires State and Federal agencies to maintain pertinent data on the charging, disposition, and sentencing by race for all defendants in and victims of cases of death-eligible crimes. Proposed section 2923.

It is a significant failing of this bill that it does not indicate how this calculation is to be done: Who, for instance, are the victims of treason? Aren't we all? Who are the victims of airline hijacking or of drug kingpin activity? Does it make any difference whatsoever what the racial composition of the passengers is on a hijacked airplane? It is nonsensical to think that such crimes are motivated by the race of the plane's passengers, yet the Racial Justice Act would require prosecutors to find out the racial composition of the airplane's passengers and base their prosecutorial decisions on what that racial composition is.

This bill, if enacted, would force the criminal justice system to consider things never previously thought appropriate for prosecutors to consider. Indeed, it requires them to consider things that I believe they are positively prohibited, under the 14th amendment from considering. The bill would inject the factor of race into the operation of the criminal justice system in cases, such as prosecutions for treason, where no one has ever even alleged that race is a problem.

Is that racial justice? Is that progress in our Nation's longstanding effort to remove racial consideration from public policy? Of course not.

I submit that this provision promises one of the most significant steps backward in race relations that this Congress has ever considered. It would not only impede our progress toward a color-blind society; it would guarantee that we never get there. That it would accomplish all of this under the guise of the fine-sounding phrase "racial justice" is nothing more than a cynical hoax on those who have fought so long for genuine racial justice in this country.

Consider what the Justice Department has said about this bill:

> The Racial Justice Act cannot fairly be characterized as in any sense a civil rights measure. The practical abolition of capital punishment that would flow from the act would gravely harm the security of the American people, including minority groups who often experience at first hand the most devastating effects of violent crime. (DOJ Talking Points on the Racial Justice Act, May 16, 1990).

Earlier, Senator KENNEDY placed in the record the famous Baldus study that purports to establish racial disparities in capital sentencing. But section 207 goes far beyond the Baldus study. The study only condemned the situation in which more death sentences are allegedly being imposed where the victims are white than where the victims are black. But the so-called Racial Justice Act also prohibits the death penalty if fewer death sentences are being imposed in white-victim crimes than in black-victim crimes. The States cannot win: whether the statistics favor blacks or favor whites, this bill says there shall be no death penalty.

By making it equally bad whether the disproportion favors—or disfavors—blacks or whites, section 207 guarantees that its prohibition can never be satisfied. It never happens, in any jurisdiction, that everyone arrested for a crime is later charged with the offense, nor is everyone tried for a crime ultimately convicted, nor those convicted sentenced to death. A statistician could tell you the exact odds against all four of these numbers turning out to be identical, but any of us can see that the odds must be less than the chance of a coin toss landing on its edge. This is Alice in Wonderland stuff—it does not reflect a true concern for adopting a legislative solution to a perceived problem, even if we were convinced that the problem did exist.

Section 207 abolishes the death penalty by defining racial discrimination in such a way that it will be found in every case. When we decree that it is equally bad for either race to receive more or fewer death sentences, as the Racial Justice Act does, then we guarantee that discrimination, so defined, will exist in the future, even if it doesn't exist now. Since only two variables are to be measured in determining racial proportionality, it is clear that there will always be a disproportion.

We do not advance racial justice by pitting one race against another in meaningless statistical head counts. All that this bill guarantees is the abolition of the death penalty.

Capital sentencing, in the wake of Furman versus Georgia, is a very demanding process. Extensive procedural requirements not found in other criminal trials ensure that the death penalty will not be imposed arbitrarily, that racial bias will not enter into the process, and that any suspected discriminatory influence will be quickly detected and remedied.

Mr. President, there are simply no other questions is our public life about which we demand that the answers be so definitely and absolutely certain as the three questions necessary to the carrying out of a death sentence:

First, was the defendant guilty of the crime?

Second, was the sentence of death appropriate? and

Third, was the trial and sentencing free from prejudice and discrimination?

In addition, if the special precaution to assure against discrimination is enacted—section 102 of S. 1241, which is also contained in the Thurmond bill—then every juror in a capitol case will be required to ask a fourth question: has racial bias entered into my decision in the case before me? Only when every juror answers that additional question in the negative will the sentence be permitted to stand.

In sum, there are so many layers of protection against racial bias affecting capital sentencing that any statistical tinkering with the process, particularly tinkering as wrong-headed and unreliable as that proposed by section 207, is wholly unjustified.

CONSTITUTIONAL OBJECTIONS

Mr. President, section 207 also raises constitutional questions that I would urge my colleagues to consider. Prof. Richard Lempert of the University of Michigan—who is, coincidentally, a leading opponent of the death penalty—has studied the effect which the adoption of a statistics-based sentencing scheme would have. He said:

> In such a system people will be killed not because those who hear their case think they deserve to die but because the sentencers think that others do.

To me, that is the very definition of an unconstitutional application of the death penalty as laid down by the Supreme Court 19 years ago in Furman versus Georgia. But such a blatantly unconstitutional result is—tragically, I believe—what the supporters of the so-called Racial Justice Act are calling for.

The preamable to section 207 correctly notes that "section 5 of the 14th amendment of the U.S. Constitution calls upon Congress to enforce the Constitution's promise of equality under law." Section 207(b)(1). But this bill is not concerned with equality: it mandates proportionality, not equality. It not only fails to fulfill the 14th amendment's mandate, it would operate in direct opposition to that landmark provision of our law.

The 14th amendment prohibits any State from denying "to any person within its jurisdiction the equal protection of the laws." Section 207, by contrast, mandates the proportional treatment of the races, even if the races are thereby treated unequally. It bases justice not on equal treatment, but on a proportional ratio derived from arrest and conviction statistics. It is not concerned with equality: it seeks out and promotes proportionality which is, by logic and dictionary definition, inequality.

So let us be clear about what this bill is. It should be called the Racial Proportionality or Racial Inequality Act of 1991, for that is the clear aim of all of its provisions. But everything in the 14th amendment speaks to individual equality—you will not find anything in the 14th amendment about proportional justice.

CONCLUSION

In conclusion, Mr. President, let me simply say what must be obvious to all: Statistics are not justice. Our justice system provides layer after layer of protections against all forms of racial bias in jurors, judges, and prosecutors. Section 207 can have no result except the total elimination of the death penalty as an acceptable penalty for the most heinous crimes known to man. I realize that this result—the abolition of the death penalty—is pleasing to some, but I am equally aware that it is not desired by the great majority of Americans. Abolition of the death penalty is clearly not desired by the State legislators who, in 39 different States, have adopted death penalty statutes since 1976. Abolition of the death penalty is clearly not desired by the voters in States such as Illinois and California who in popular referenda have voted overwhelmingly to adopt or retain capital punishment. Nor is abolition of capital punishment desired by the typical 80 percent or more of the respondents whom pollsters regularly report favor the penalty.

Mr. President, I urge my colleagues to support this amendment and to reject—emphatically—section 207 of S. 1241.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida, amendment No. 365. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] would vote "aye."

Mr. DOLE. I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 55, nays 41, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—55

Baucus
Bentsen
Bingaman
Bond
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Craig
D'Amato
Dixon
Dole
Domenici
Exon
Ford
Fowler
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Johnston
Kassebaum
Kasten
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Robb
Roth
Rudman
Seymour
Shelby
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NAYS—41

Adams
Akaka
Biden
Boren
Bradley
Burdick
Chafee
Cohen
Conrad
Cranston
Danforth
Daschle
Dodd
Durenberger
Glenn
Gore
Harkin
Hatfield
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wirth

NOT VOTING—4

DeConcini
Pryor
Simpson
Wellstone

So the amendment (No. 365) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order the Senator from South Carolina [Mr. THURMOND], is to be recognized for the purpose of offering an amendment. Debate on that amendment is limited to 40 minutes divided equally according to the usual form. Pursuant to that agreement, the Chair recognizes the Senator from South Carolina [Mr. THURMOND], for the purpose of offering an amendment.

AMENDMENT NO. 367

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from South Carolina, [Mr. THURMOND], proposes an amendment numbered 367.

Mr. THURMOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment (No. 367) is printed in today's RECORD under "Amendments Submitted.")

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am happy to stand in support of the President's anticirime package. Frankly, I believe the Thurmond amendment is not only tougher on crime than the Biden bill, but it is an anticrime measure. The Bush bill on habeas corpus will limit the number of appeals through these petitions. The Biden bill will increase the already repetitious appeals of death row inmates rather than limiting them. And part of the problem is the retroactivity in the Biden proposal.

In Utah, death row inmate William Anderson convicted of murdering 5 people has been appealing his conviction since 1974; that is 17 years. He has received over 25 separate judicial reviews of the sentence, and the end is still not in sight. His current appeal before the Tenth Circuit Court of Appeals was argued in January 1991.

As I described earlier today, the Biden bill will allow even more repetitious appeals than what we have now.

Mr. President, the Supreme Court has established that evidence illegally obtained by the police is admissible in court if the police made a good faith reliance on a search warrant. President Bush's bill takes the commonsense approach of extending this good faith exception to evidence illegally obtained in a good faith warrantless search. The Biden bill does not. Indeed, I believe the Biden bill even cuts back the Supreme Court's good faith exception for searches based on a warrant.

Frankly, Mr. President, the President's bill really does reform habeas corpus. It really does stop the endless petitioning, the fruitless appeals made through habeas corpus petitions by convicted murderers all over this country at a cost of billions of dollars annually to the taxpayers of this country in cases where the most heinous crimes have been committed. The exclusionary rule reform will end this ridiculous ability of criminals to get off on technicalities. It will make a tremendous inroad into that, and it will extend the good faith rule under the Leon case in such a way as to protect the citizens of this country.

With regard to capital punishment, Mr. President, the President's death penalty bill is considerably better than the Biden provisions.

It applies to the murder of witnesses in criminal trials. It protects Americans abroad who were murdered, in certain instances. It has additional categories. It has a good procedural approach to capital punishment. It would solve the problems that currently plague the capital punishment area and have contributed to the endless appeals that we have been going through.

Mr. President, this is a chance for all of us to do something about stiffening the Criminal Code of this country in a way that will make dents in criminal activity like never before. I think almost everybody understands that we need to make these reforms and these changes.

I think almost everybody understands that we have people getting off on technicalities today and being put right back on the streets.

I think everybody understands the unlimited cost to the taxpayers, unlimited clogging of our courts that the repetitious habeas corpus appeals and petitions are making in our society today.

I think everybody understands that unless we have a death penalty as a deterrent factor, we are never going to stop some of the violent crimes going on in America today.

All three of these would be resolved by the President's bill. None of them would be resolved satisfactorily by the Biden bill that we have on the floor today. So I commend the distinguished Senator from South Carolina for being willing to sponsor the President's bill.

I hope we can put aside partisanship and can, in a bipartisan way, support the stronger bill, the bill that would help to resolve these three critical areas in criminal law, along with other areas, and the bill that I think would have the full faith and support of the President of the United States, that I think has an opportunity of being enacted into law, so we can make inroads into the criminal problems in this country like never before.

I yield the remainder of my time back to the distinguished Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield 3 minutes to the distinguished Senator from Texas.

Mr. GRAMM. Mr. President, I thank our distinguished leader from South Carolina for yielding.

Mr. President, since the 1960's, the dominant thought in the American criminal justice system has been that it is society's fault that people engage in criminal behavior. That thought process and the leniency it has produced has resulted in crime in our streets, and our bleeding Nation demands that we act and that we do something about this problem.

We have two basic approaches before us: The underlying bill, the majority bill, is basically a continuation of the policy of the 1960's. It goes backward on the exclusionary rule. It goes backward by allowing evidence gathered in good faith to be disallowed in the courts.

Mr. President, the American people think we have gone too far in the direction of protecting the rights of the criminals, while millions of our people are victimized by crime every year.

We have a choice between the death penalty that has questionable enforcement and a death penalty that puts into place what the American people support; that is, the death penalty for those who, through their actions, have taken the lives of other people under extreme circumstances of cruelty and disregard for human life and society.

We have a choice in terms of our ability to make a decision and to enforce the law, in terms of reforming endless appeals procedures whereby criminals who have been convicted and sentenced to death circumvent the law and thumb their nose at society for decades through endless appeals. The amendment offered by the Senator from South Carolina gives them their day in court, gives them an appropriate appeal; if their case is found to have merit, then they can escape the sentence. If not, the sentence is carried out.

Mr. President, if you are for getting tough on crime, if you are for grabbing criminals by the throat and not letting them go, to get a better grip, then you should vote for the President's crime bill, which has been offered by the distinguished Senator from South Carolina.

Money is not an issue. Basically, funding in both bills is the same. The gun issue has been delayed, as we negotiate on that tough and contentious issue. The only thing that is at issue is: Are we going to have a crime bill that is worthy of the name; are we going to respond to a national crisis? If you vote yes, we respond.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 7 minutes to my distinguished colleague from Wisconsin.

Mr. KOHL. Mr. President, I rise to speak in support of S. 1241 and in opposition to the President's crime bill which will be offered later as a substitute for the Biden bill.

It is important to put this legislation in context: it is clear that violent crime continues to escalate. Murder, rape, assault—these and other violent crimes occur more and more frequently. No State is free from the violence. In 1989 one violent crime was committed every 49 minutes in Wisconsin—one rape every 8 hours, 51 minutes; one robbery every 2 hours, 24 minutes, one aggravated assault every 1 hour, 28 minutes. In 1990 there were 223 murders in my State—the largest number by far since Uniform Crime Reporting figures have been compiled. And recently a Newsweek article listed Milwaukee as the top city for increased homicides for cities under 1 million in population.

This huge increase exemplified by my State is not an exception. It is the rule. Nationally, in 1989, there was a violent crime committed every 19 seconds—19 seconds. During my statement there will be 1 murder, 3 rapes, 15 robberies, and 30 aggravated assaults. These crimes strike at the core of our society; people live in fear and distrust; afraid to use the street of our cities, the parks in our towns. Crime threatens us as individuals and it threatens the social compact which binds us together.

The Senate is now considering the Violent Crime Act of 1991. Chairman BIDEN has devoted many hours to this legislation. He has conducted numerous hearings, coordinated with every law enforcement organization in the country, and worked with his colleagues on the Judiciary Committee and in the Senate to craft this proposal to reduce violent crime. I commend the chairman for his fine effort.

S. 1241 is not a singular approach to the violent crime epidemic. Here the problem is attacked on many fronts. First, the legislation provides funding for additional law enforcement personnel. Title I authorizes $1 billion to aid State and local law enforcement agencies for fiscal year 1992. Title V provides $75 million to the FBI and other Federal agencies for agents devoted to counterterrorism efforts. Title X authorizes $345 million to increase the number of Federal agents focusing on violent and drug-related crimes—1,000 FBI agents; 400 DEA agents; 500 border patrol agents; 400 INS agents; and 350 Federal prosecutors; in addition to increasing funds for public defenders, U.S. Marshals, and the courts. And title XVII provides $300 million for emergency assistance to State and local areas besieged by drug and crime problems.

Second, the violent crime package addresses specific drug-related activity. Titles VI, VII, and XIII deal with drive-by shootings, assault weapons, and prison for violent drug offenders, respectively. Furthermore, title XII increases penalties for use of a firearm during a violent crime, title XXI authorizes a new civil remedy to evict drug dealers from crack houses, and titles XIV and XV address special problems associated with youthful drug offenders.

Mr. President, as you know, I am chairman of the Juvenile Justice Subcommittee of the Judiciary Committee. Since reestablishing the subcommittee in January, I have been working with many experts in the field, conducting hearings, gathering information, and evaluating the current system. Chairman BIDEN and I have agreed that, although title XIV and XV of S. 1241 would be included in the subcommittee's jurisdiction, they will be incorporated into this crime package without affecting jurisdiction on these or similar issues in the future. Additionally, if the subcommittee develops gang legislation that is different from these titles, it will be substituted for the provisions currently in the bill. I look forward to working with the chairman as we continue our review of the juvenile justice system and develop appropriate legislation.

Third, this legislation includes provisions on the exclusionary rule, habeas corpus reform, and expanding the death penalty. As with most proposals considered by the Senate, I think this bill could be improved. In particular, I would strike the sections covering the Federal death penalty. Wisconsin has not had a death penalty since 1853. And I personally oppose the death penalty. But because I believe this legislation is extremely important to reducing the incidents of violent crime, I will support the bill.

Finally, Mr. President, title XXVII of the bill incorporates a compromise version of the Brady 7-day wait period. This compromise is the result of the combined efforts of the distinguished majority leader, myself, and Senator GORE, as well as Senator METZENBAUM, who has taken the lead on this issue for many years. In general terms, the compromise combines the waiting period of the Brady bill with the background check of the Staggers proposal offered in the House of Representatives.

Specifically, the Mitchell-Kohl-Gore proposal adds language to Brady which authorizes $40 million for grants to States to be used for either or both of two purposes: First, improving computer criminal records; or second, defraying costs of making a background check. Those grant moneys made available to States are conditioned on three things. First, a background check of handgun purchasers must be conducted during the waiting period. Second, by the end of 1993, States must make their criminal records available to the FBI's Interstate Identification Index System in order to establish a national data base. And third, by the end of 1995, State criminal records must be 80 percent current with case dispositions for the prior five years of criminal activity.

For decades attempts have been made to curb handgun violence. Yet, the proliferation in America continues. From last August to this March, nearly 300 Americans died in the Persian Gulf. But during that same period, more than 1,200 people were murdered in New York, more than a thousand murdered in Los Angeles, and more than 300 murdered right here in the Nation's Capital. And most of these victims were killed with guns. Of course, there is no panacea for this deadly problem. We need to move on many fronts: Ensure more certainty of punishment; provide more resources to State and local law enforcement; and, at times, lock up people and throw away the key. But we also need to do everything we can to keep firearms out of the hands of criminals and drug traffickers. We need to enact a uniform waiting period and a mandatory background check, and provide money to States to improve their criminal records. The Mitchell-Kohl-Gore proposal implements this concept in a simple, effective and straightforward manner, and best of all, it would save lives.

Before I close I would like to make a few comments on the President's crime legislation. The President's bill takes a Madison Avenue approach to legislating. It advertises to excess so-called tough measures—a Federal death penalty, habeas corpus reform, and exclusionary rule expansion; but fails to substantively increase the number of law enforcement personnel, address the problem of firearms proliferation, or develop new programs to deal with violent and drug-related crimes. All the catchy get-tough phrases the administration uses with commercial repetitiveness are, I am afraid, merely empty slogans. I believe that the American public has had enough of telemarketing politics. Crime is a problem not a headache. We cannot just take two aspirin and expect it to go away in the morning. It will take time, It will take money. It will take more cops on the beat, tougher penalties where necessary, and new ideas where old ones have not worked. And that is what is contained in the Biden crime bill, and that is why I will support S. 1241.

Mr. BIDEN. Mr. President, the basic question here, we are about to vote on. That is, are we going to have a Democratic crime bill which is before the Senate with a lot of bipartisan pieces to it, or are we going to have a shell of the President's bill with our bill crammed into it. That is basically what we are about to vote on here.

For a long time, we have been arguing with the administration that local law enforcement needs more money, and that there is a need for help for youth gangs, and so on. And there has been opposition to that.

If you believe in tough penalties, the underlying bill, the Biden bill, which this would essentially wipe out, I would respectfully suggest is much tougher than the President's bill on tough penalties or the substitute or the amendment that is being offered.

For example, we have the death penalty for firearms killing. If there is a use of a firearm and death results, there is a death penalty for that. That is not contained in the bill that is being offered here.

We have the death penalty for drive-by shootings. We read about it every day in the paper, that people who are innocent bystanders standing on the corner are shot down. We provide for the death penalty in the underlying bill which is attempting to be wiped out. The bill that has been offered does not contain that.

I believe in tough penalties, and our bill provides for more penalties for death for more offenses than the bill that is being offered here, and in its place.

With regard to victims' rights, I have been a supporter of—and I believe the Senator from South Carolina is, except his bill does not contain it—I have been a supporter of victims' rights. And our bill, not the President's, removes the cap on the fund so that victims can get the funding they need.

By that, I mean, you know when fines are paid by defendants after being convicted, it goes into a fund, and out of that fund is the place we recompense victims of crime. Right now, there is a cap on that that says only a litte bit of that money can be used.

The Justice Department and the President kind of like it that way, because the rest of the money then goes back into the Treasury. I want to take the cap off those funds and let victims be recompensed. If they need physical therapy, if they need help, let them get help. The underlying bill, the Biden bill does that. The bill that is being offered here does not do that.

Victims get shortchanged, victims of crime get shortchanged by the proposal that has been put forward.

Only our bill has a provision to close down crack houses. Our bill, not theirs. We give the Government authority to close those houses down. There is no such provision to close down crack houses in the alternative that has been put forward.

Only our bill adds a 1-year penalty for drunk driving for an adult who drives drunk with a child in the car. Children are victims. An uncle, an aunt, a next-door neighbor is going to drive your 7- or 8- or 9-year-old daughter somewhere. What does a child do? What does a child say to a drunken father who says, "Get in the car"? They are prisoners.

Our bill says that everyone should know if they are going to drive drunk and a child is in the car, they are going to have a tough penalty. They are going to go to jail for a year beyond what they would already go to jail for.

Above all, I appeal to my colleagues that to suggest that we have put, we Democrats—the Biden bill is a tough, tough, tough bill on crime. Do not abandon it now.

Only our bill has a provision, as I said, to close down those crack houses. There will be amendments, whichever bill wins. If the proposal made by the Senator from South Carolina fails, you will still have an opportunity to vote on habeas corpus.

I know my distinguished and knowledgable friend from Florida, Senator GRAHAM, thinks we should go further than I go on habeas corpus. He will get a chance to introduce that amendment if this provision fails. We will get a chance to vote on the exclusionary rule. We will get a chance to vote on guns, to take them out or put them in, depending on your point of view.

And tonight, we only decide which bill will be the starting point for this debate. I respectfully suggest that the bill that we have introduced, the Biden bill, is a much tougher place from which to start to deal with crime.

Tonight, it seems to me, as I say, we are just deciding what is the starting point: A bill that has just been hatched on the floor by my distinguished friend from South Carolina in what appears to be a mild sense of desperation, or a well-conceived bill. You may not like all the parts of it, but we held hearings after hearings on it. We have worked on it for, by and large, most provisions in the bill we worked on for over 3 years. That is what is up there.

I do not expect everyone to agree with everything I put in that bill. I expect my colleagues, Democrats and Republicans, will come along and say: Let us change this piece, or that piece. But it is well conceived—able to be improved upon from individual perspectives, but it is well conceived.

And what do we have to put up there? A bill that literally was cobbled together. They were standing here with paper clips and staple guns, putting it together. So, the only question is, Where do we start?

I would respectfully suggest, with all the good intentions on the part of my friend from South Carolina and others, that theirs is obviously not the place. I cannot believe, for example, they would intentionally leave out of their bill the ability to close down crack houses. I cannot believe it.

I know they did not intentionally leave out of the bill the ability to put someone to death for a drive-by shooting. I know they did not intentionally leave out of the bill the ability to put someone to death if they use a firearm in the commission of a crime and someone dies. I know they did not attempt to leave those things out. They did not mean to. But they did; just reinforcing the fact that this is not particularly well thought out.

Let us work from where we are. Let us reject this legislation that is being proposed as an alternative at this moment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, I say to the distinguished Senator from Delaware, the chairman of the committee, that our bill does contain the victims' cap he referred to. It does contain the provision on crack houses that he referred to. It does contain a provision for drunk driving. We left in many. They are in. They are in this bill.

Mr. BIDEN. If the Senator will yield just for a second?

Mr. THURMOND. Will the Senator answer on his own time?

Mr. BIDEN. I am sorry.

Mr. THURMOND. Mr. President, there are three big provisions of the President's bill that are very important, and that is what the public is demanding. One is a death penalty provision.

The Biden death penalty makes it extremely difficult to ever have a death penalty imposed. It fails to permit victim impact statement as evidence during the sentencing phase. It tilts the scales of justice in favor of the convicted murderer by requiring the application of Federal rules of evidence to the sentencing phase. This means evidence of a convicted murderer's prior murders may not be admissible when a jury hears evidence on whether to impose the death penalty.

Another provision is the habeas corpus. I will just tell you what the Attorney General of the Nation said, and it is summed up right here.

> Any crime reform effort would be incomplete unless it includes meaningful reform of the Federal habeas corpus process. Of the measures pending in the Senate, we believe that the provisions contained in S. 635—

The President's bill—

> would best accomplish the objectives of attaining finality of State court judgments and reduction of the unnecessary and repetitious litigation in Federal habeas corpus.

Here is the letter signed by the Attorney General. If you want to see what the Attorney General said, come up to see it.

Now, Mr. President, I want to say that so far as the exclusionary rule is concerned:

The Biden bill narrows the good-faith exception recognized by the Supreme Court in the case of United States versus Leon. It creates even more challenges to the admissibility of evidence than what the law currently requires. This is the bill that the people want. This is the bill that the law enforcement people want.

The States attorneys general favor this bill and the district attorneys favor this bill. The National District Attorneys Association endorses this bill, not the Biden bill. A number of States have endorsed the President's bill.

The victims groups have endorsed my bill. The Citizens Against Violent Crime, Memories of Victims Everywhere, the Joey Fournier Anti-Crime Committee, Justice for Murder Victims, North Carolina Victims Assistance Network, Justice for Homicide Victims, Citizens for Law and Order. They have all endorsed the President's bill.

The law enforcement organizations of this country, they have endorsed this bill. The National Law Enforcement Council has endorsed it; Federal Criminal Investigators Association; Federal Investigators Association; Fraternal Order of Police, a national organization. The Society of Former Special Agents of the FBI have endorsed it. The National Troopers Coalition in every State in the Nation have endorsed this bill. The National Sheriffs Association have endorsed this bill. This is the bill the attorneys general want. This is the bill the law enforcement organizations want. This is the bill the district attorneys want. This is the bill the victims groups want. They all have endorsed this bill. They have not endorsed the Biden bill.

This bill is extremely important and ought to pass. If we are going to protect the public, there is no use to pass a weak bill. It would be better to pass nothing. The President's bill contains just what the people want. It contains just what these people I have just told you about want.

I reserve the remainder of my time.

Mr. BIDEN. I yield myself 1 minute. I apologize to the Senator if I misrepresented his bill, but as of the description of what was in the bill 3 hours ago, those things were not in it. I do not know how all these groups—God bless my friend, I know he is reading from letters that are accurate—how could they endorse the bill and dislike the Biden bill when they took the Biden bill and put it in this bill? I am confused here. If all these groups thought the Biden bill was so bad, why did they take the Biden bill and put in the President's bill? And why did they cut out of the President's bill at least a significant piece of it.

The point I am trying to make here is nobody knows what the devil is in this bill. This bears no resemblance to what the President had introduced. This bears no resemblance to what the Senator from Delaware introduced. But it seems to bear a little bit of resemblance to everything anyone has introduced and can mean anything to anybody. I do not know how possibly these groups could have endorsed a bill that has just been sent up since they could not have seen it.

I pride myself in knowing something about this area. I do not know what is in this bill. I mean, how could that be? This is getting kind of silly. But at any rate, I am delighted to hear that all those groups endorse what is essentially now a Biden bill.

I yield the floor.

Mr. THURMOND. I yield 2 minutes to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the Senator from South Carolina. Let me say, this may not be the Biden bill, but I know it is not a gun control bill. If you want to vote on gun control, this is the vote. There are no gun control provisions in this version.

This is a clean bill, an absolutely clean bill, that the record will show who wants to support the legitimate gunowners of the country. And as a clean bill it is a bill I am going to vote for, although I doubt I will have that privilege again on this floor during the debate on the so-called crime bill. This is a clean crime bill consistent with all the groups the Senator from South Carolina has mentioned, and it is the kind of vote I have been seeking, an up or down vote on whether you support the legitimate gunowners of this country. If you do, you will vote with the Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield 3 minutes to the minority leader, the distinguished Senator from Kansas.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Republican leader is recognized.

Mr. DOLE. Mr. President, over half a century ago, President Franklin Roosevelt declared that America "had nothing to fear but fear itself."

Today, however, that statement is no longer true. For, today, men, women, and children, in urban and rural towns and cities all across America have something to fear—the likelihood that they be a victim of violent crime.

It is a fear that came true last year for 6 million—6 million—Americans—20,000 of whom lost their lives to violent criminals.

Just over a 100 days ago, President Bush challenged us to do something about crime, to act on his anticrime bill. Today, we finally begin to act.

There are those who say the 100-day calendar was only a publicity stunt, that it means nothing.

Well, I say it means something to the estimated 6,500 Americans who have been murdered in the past 100 days.

It means something to the 40,500 women who became the victims of rape in the past 100 days.

It means something to the 332,000 Americans who were robbed in the past 100 days.

And it means something to the 1,400,000 who were the victims of assault in the past 100 days.

For as long as I have been here, it seems we have debated crime every year. And it always seems like opinions could be divided into two camps.

In one camp are those, who, like me, think that individuals are responsible for their own actions, and that if you do the crime, you better be ready to do the time.

In the other camp are those who think that criminals are not to blame for their actions. They always look to blame someone else. They blame society. They blame the criminal's parents. They blame our school system. They blame the National Rifle Association.

Unfortunately, Mr. President, that attitude still prevails over in the House. Time and time again, any attempt to get tough on hardened criminals—to reform court procedures so that the guilty do not go free—are buried by the majority party in the House. And I want to underscore "in the House."

Each of us knows that whatever bill we pass here, has little or no chance of passing the House.

But still, we owe it to America to hope that the House will wake up to the crime epidemic sweeping the country. We owe it to ourselves to pass the best crime legislation we can.

And there is no doubt in my mind, or in the minds of the American people, that the best crime bill is President Bush's crime bill, and that is the bill before us right now.

The American people overwhelmingly believe that capital punishment is justified in the most heinous of crimes.

And the President's bill will provide for a workable, enforceable, Federal death penalty.

The American people overwhelmingly believe that criminals should not be set free to roam the streets because of a legal technicality.

And the President's bill will prevent that by codifying the good faith exception to the exclusionary rule, and by ensuring that any gun seized from a criminal can be introduced as evidence.

The American people overwhelmingly believe that convicted criminals should not be able to tie up our court system through endless appeals, which have no merit.

And the President's bill ensures that convicted felons will no longer evade punishment by drowning our courts in an avalanche of paperwork.

The American people overwhelmingly believe that the best way to deal with those who use guns in the commission of a crime is to lock them up and throw away the key.

And the President's bill will mandate tough no-parole, no-probation sentences for felons who use guns and semiautomatic weapons.

The President's bill is thorough and far reaching. It also includes sections designed to curb terrorism, racial injustice, sexual violence, and juvenile crime. And if we cannot pass it, then we should pass something as close to it as we can.

President Bush challenged Congress to pass tough anticrime legislation within 100 days. We failed that challenge.

More importantly, however, the American people have challenged Congress to let law-abiding citizens reclaim their streets, to remove fear from our neighborhoods.

For the sake of our country, that's one challenge we must meet.

For all the reasons stated by the distinguished Senator from South Carolina—and I have noted the Senator from Delaware said there were some changes. We have already said their bill, the Biden bill, already has been changed. On their own motion, they are changing their bill. So we have a chance to change ours a little bit around the edges, and that is precisely what we have done. But at least we do not have to vote on changing ours. We had to vote on changing theirs. I am glad we were able to accommodate those who no longer wanted the Racial Justice Act as a part of the Biden bill.

The PRESIDING OFFICER. The time of the Republican leader has expired.

Mr. BIDEN. Mr. President, I appreciate the kind comments of my friend from Kansas. Let me just yield myself 3 minutes of the 6 minutes remaining.

He talked about 100 days. Two thousand days ago, Mr. President, Congress enacted life imprisonment for major drug dealers, gave that authority to the President 2,000 days ago. Yet in the past 3 years, the President has obtained the death penalty on average for only four drug dealers in the entire country for the year. Do you hear that? Four. He has had the authority. This administration, this Attorney General. Four times a year. Think about it.

We have about 2 million people who have been using cocaine weekly in this country over the past 3 years and the administration has used its power to send drug dealers to jail for life only once every 3 months.

A thousand days ago, Mr. President, Congress gave the President the power to seek the death penalty against drug kingpins who murder. But in the past 1,000 days, Mr. President, during that period of bloodshed and mayhem everybody talks about, this President, this Attorney General has obtained the death penalty for only one—one. Hear me: one; one time. That is how tough they are. One time. They have had the authority for a thousand days.

Now, Mr. President, 1,000 hours ago the President announced a new national drug strategy. He said, "Here is what I want that Congress to do." And so I sat there as a dutiful Member of Congress, as chairman of the committee, saying, "Mr. President, send us your legislation." One thousand hours ago, Mr. President, he said that. One thousand hours later, the chairman of the Judiciary Committee is waiting for one single suggestion from the President of the United States. One. I do not want them all. Just send me one, Mr. President. Give me one idea what you want done.

One thousand hours ago you came up with a plan. You have sent us nothing. One person getting the death penalty in 3 years. Four times a year life imprisonment out of all those drug killers out there, and you have not even sent us, in 1,000 hours, one idea of what you want.

Now, I am a little bit disturbed, as you can tell, by all this talk about who is tough. Mr. President, we have an outfit downtown that has not used the death penalty and they have it. We have an outfit downtown, where there were 23,500 murders last year, and they sought the death penalty one time. One time for drug kingpins. That is it. They are tough.

Let us vote on this pretty soon. I yield the rest of the time to my colleague from Maine, when the time is appropriate. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Parliamentary inquiry, Mr. President, how much time does the Senator from Delaware have under his control?

The PRESIDING OFFICER. The Senator controls 2 minutes 40 seconds.

Mr. BIDEN. And how much time is under the control of the Senator from South Carolina?

The PRESIDING OFFICER. The Senator from South Carolina controls 3 minutes, 38 seconds.

Mr. BIDEN. I yield to the Senator from Maine, the majority leader.

Mr. MITCHELL. Mr. President, if there is one thing that has become clear today, it is that the bill we are about to vote on has little to do with reducing crime and has everything to do with increasing votes. Votes first in the Senate, votes then among the American people.

It is based on a very simple premise, that if a slogan is repeated often enough and loudly enough, the actions inconsistent with that slogan will be overlooked.

Thus, we have our beloved former chairman of the committee reciting a list of organizations which support the pending bill and oppose the Biden bill, when in fact the pending bill has, just today, incorporated three-fourths of the Biden bill. How is it possible for someone to be for a bill and against another bill when the bill they are allegedly for has incorporated most of what is in the bill that they are allegedly against?

Obviously what has happened is, at the very last minute, after months of clamoring for a vote on the President's bill, when confronted with the reality of a vote on the President's bill, that alternative was rejected.

In the face of the embarrassment, the embarrassment of requiring U.S. Senators to vote on a proposal that would for the first time in American history have authorized secret trials with no notice to the person, the subject of the proceeding, and with no opportunity to defend against the evidence—when faced with that embarrassment, that was withdrawn, at the last minute.

Were all the people who wrote those letters in support of the bill told that the bill was being changed at the last minute to exclude those parts of the President's bill which we have been told for months were essential and which now incorporates provisions from the bill which, we have been told for months, is a bad bill?

That is what is at stake here, it is votes. Votes here in the Senate; votes in the next election.

Mr. President, I will say as someone who has prosecuted many crimes at the State level, prosecuted many crimes at the Federal level, this pending amendment will do little or nothing to reduce crime in our society. The fact of the matter is, if every Member of this——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MITCHELL. Mr. President, I ask unanimous consent to use 30 seconds of my leader time.

The PRESIDING OFFICER. The Senator has that right. He may proceed.

Mr. MITCHELL. The fact of the matter is, as every Member of this Senate knows, violent crime is a subject within State jurisdiction. Changing the Federal law is going to affect a miniscule fraction of violent crimes in our society and those who represent to the American people that changing Federal criminal law is going to in any way significantly reduce the incidence of violent crimes in our society are making a statement that is demonstrably untrue.

I yield the floor.

Mr. THURMOND. Mr. President, I yield 2½ minutes of my time that is left—I still have some—to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas may proceed.

Mr. GRAMM. Mr. President, first of all on habeas, 28 States attorneys general, Democrats and Republicans, who understand this issue, have endorsed the amendments of the distinguished Senator from South Carolina as a stronger provision to help them enforce the law and put violent criminals in jail, as compared to the Biden provision.

Basically what we are seeing here is a debate about items that are not the core of this bill. The distinguished Senator from Delaware put $3 billion of authorization in the bill, with no appropriations. We changed our bill to not only put those in, but to authorize funding the President asked for but was never provided.

There are several little noncontroversial items that nobody disputes: Children victimized in cars driven by drug or alcohol abusers—that we included because it was not controversial. But there are four issues that are very controversial, that are at the heart of this whole debate. And really, there are no other issues.

One, do you want an enforceable death penalty for criminals who have committed terrible crimes and who have been sentenced by the court?

No. 2, do you want a habeas corpus reform that gives murderers their day in court but, when they are found not to have a case, carries out the will of the people?

Do you want an exclusionary rule that makes it possible for us to protect the rights of law-abiding citizens as well as the criminals seem to have theirs protected?

And, finally, one issue that is beyond dispute, is the gun issue. This is the only opportunity that we are going to have in this debate to strike these onerous gun provisions.

So to say that we do not know what is in these bills after we have debated them year after year after year, is basically inaccurate. We are down to these major issues. I do not think anybody disputes the fact that the amendment of the distinguished Senator from South Carolina, the President's bill, is the stronger of the two bills.

If you want a tough, grab-them-by-the-throat bill, this is the opportunity to get it.

UNANIMOUS-CONSENT AGREEMENT

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate resumes debate on this bill at 10 a.m. tomorrow, the next amendment in order be an amendment dealing with the exclusionary rule to be offered by Senator BIDEN, if the pending Thurmond amendment has been adopted, or by Senator THURMOND, if his pending amendment has been defeated; that there be 2 hours for debate on the exclusionary rule amendment with no other amendments or motions to recommit in order prior to the disposition of the exclusionary rule amendment; that the vote on or in relation to the amendment occur at 11:30 a.m., on Tuesday, June 25, with the 60 minutes prior to the vote equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has a minute. Is there objection?

Mr. THURMOND. I want to say to the Senate, this is the President's bill. This is a crime bill. They yelled about no money in it, we took that money and put it in here. We tried to do everything we could to get a good crime bill, to get it. We put the money in.

The PRESIDING OFFICER. If the Senator will suspend, the Chair asked if there was objection to the majority leader's request. The Senator may use his minute after the question has been responded to.

Mr. THURMOND. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator now may proceed.

Mr. THURMOND. Mr. President, all these Attorneys General, all these law enforcement people, all these prosecuting attorneys, all these victims groups would not be endorsing the President's bill over that bill if they did not think it was the best bill for this country.

We are here to help the people of this country. We need a strong bill. This President's bill is a strong bill. We have the money in our bill to help it pass because it is a strong bill. I hope the Senate will vote in favor of the President's bill. It may be the only chance we have to do it. There are no guns in here, and this is the first chance we have to vote on the bill without any guns.

Mr. President, I hope the Senate will vote in favor of the President's bill and pass it because the people of this country want it and need it.

Mr. GRASSLEY. Mr. President, Senator THURMOND has offered the President's bill, with the money provisions added from Senator BIDEN's bill and a few other amendments. Senator BIDEN says that now there is not much difference between his bill and the President's bill, aside from his gun control titles and the Racial Justice Act. Nothing could be further from the truth.

The President's bill provides an effective death penalty for 42 highly aggravated Federal crimes. The Biden bill also has a death penalty title. But what kind of death penalty?

The Biden bill has no death penalty for drug kingpins. The President's bill does. The President's bill also authorizes the death penalty for any murder in the course of drug trafficking activities. In comparison, the Biden bill arbitrarily limits the death penalty to certain types of murders in violation of particular drug provisions.

The Biden bill would silence the victims of crime in the courtroom. The President's bill, in contrast, espouses the pro-victim philosophy. It would give juries considering the death penalty information about the effect of the crime on the victim's family. It would also give victims of violent crimes the right to address the court concerning the sentence in noncapital cases.

In capital sentencing hearings, the Biden bill would create unprecedented restrictions on the admission of evidence supporting the imposition of the death penalty. Where the President's bill permits consideration of the death penalty based on the defendant's use of a firearm or history of firearms violence, the Biden bill contains no such provision.

Also, enacting Federal death penalty legislation could be an empty gesture if the endless appeals and delay that have thwarted State death penalty laws were allowed to occur in federal cases. The President's bill proposes special death penalty procedures to guard against obstruction of the Federal death penalty through this kind of litigation abuse. The Biden bill does not.

Senator BIDEN concedes that there is some difference between his habeas corpus proposal and the President's. To put it mildly, this is an understatement. It is the difference between night and day. It is the difference between curbing the abuse of habeas corpus, and making it worse.

The President's bill proposes fair but effective measures to curb the general abuse of habeas corpus and deal with the crisis in death penalty litigation. These measures are all taken in substance from bills that have been passed by the Senate or the House of Representatives in earlier Congresses. They include a more deferential standard of review for State court determinations, and reasonable time limits for Federal habeas filing. They also include, in relation to capital cases, broadened appointment of counsel for defendants, limiting second and successive habeas petitions to guilt-or-innocence claims, and time limits for concluding Federal habeas corpus litigation.

In contrast, the Biden bill's habeas corpus provisions systematically overturn existing rules that limit delay and litigation abuse in capital cases, including the decisions of the Supreme Court in McCleskey versus Zant (1991), Teague versus Lane (1989), and Murray versus Carrier (1986). These changes would increase opportunities to engage in repetitive habeas corpus filings, to raise claims that were not presented to the State courts, and to overturn convictions on the basis of later judicial decisions.

Frankly, it is impossible even to talk about title XI of S. 1241 as habeas corpus reform. It is not habeas corpus reform. It is a defendant-petitioner's wish-list of measures to ensure that litigation will go on forever and no death penalty will ever be carried out.

Bad death penalty provisions, and bad habeas corpus provisions, are just the beginning of the problems with S. 1241. In relation to firearms, for example, the Biden bill does not include the President's proposal of a 10-year mandatory prison term for using any semiautomatic firearm in committing a crime of violence or drug trafficking crime.

In relation to juvenile offenders, the President's bill proposes broader availability of the records of serious juvenile offenders for law enforcement and judicial use. It is obscene that a hardened criminal in his twenties, who has been convicted of rapes, armed robberies, or serious drug crimes as a juvenile, should stand in the courtroom as a first-time offender. But S. 1241 has no problem with such travesties, and does not attempt to do anything about them.

The President's bill proposes tough new measures against sexual violence and child abuse. These include, for example, broader use of similar crimes evidence in prosecuting rapists and child molesters, and higher penalties for many serious sex crimes. Also, last year we enacted a funding incentive for States to test sex offenders for the AIDS virus, and required the Federal Government to pay for medical examinations of rape victims in Federal cases. The President's bill extends these provisions by requiring AIDS testing of sex offenders in Federal cases as well, and by requiring Government payment of the cost of AIDS testing for the victim.

In contrast, the Biden bill contains no provisions at all dealing with sexual violence or child abuse. And these provisions from the President's bill are also not in Senator BIDEN's separate violence against women bill.

I could go on, but enough is enough. We have a clear, stark decision. On one side, the President's bill—a bill that vindicates the rights of the crime victim and the law-abiding public. On the other side, a bill that serves—however unintentionally—the interests of the killer, the rapist, and the violent predator. Our solemn obligation to the public permits only one choice: passing President Bush's Comprehensive Violent Crime Control Act of 1991.

Mr. SEYMOUR. Mr. President, I rise today as an original cosponsor of the President's crime proposal—one that will strike a blow against violent crime in America.

I also rise as a concerned American from a State that unfortunately has become all too familiar of the horror, the terror, and the tragedy of the violent crime. I am proud to say that my home State of California is a leader of many things. We are the Nation's economic leader, an engine of entrepreneurial innovation, job growth, and progressive social reform. But we are sadly a leader in other areas—in homicide, rape, and other violent crimes—in drug production, trafficking, and use.

It is true that America is suffering from a 50-State killing spree—but in California, this spree is at a fever pitch. Our great State has faced many challenges. This past year we faced a December freeze, the fifth year of drought, recession, and a staggering budget gap. But in the face of these challenges, Californians still have identified crime as their biggest concern. The latest report from the California Bureau of Criminal Statistics justifies their concern:

The number of willful homicides reported for 1990 increased more than 12 percent compared to 1989.

Aggravated assault rose by more than 6 percent.

Forcible rape rose by more than 5 percent.

Keep in mind, Mr. President, that these are reported crimes. For instance, a rape crisis center in California concluded that 9 out of every 10 rapes are never reported to a crisis center or law enforcement. And that one out of every three Los Angeles women, age 14 and over, will be sexually assaulted at least once in her lifetime.

But enough about statistics. Violent crime is more than just numbers. Violent crime is about people—law-abiding citizens who feel unsafe not because the crime rate is rising, but because they know or have seen a friend, a neighbor, a family member become the next victim of violent crime.

Just last week, a convicted rapist, released after serving only 6 years for raping a 9-year-old girl, was arrested for raping the same girl again.

Now, the President's crime legislation includes provisions that double the penalties for recidivist sex offenders—to keep thugs like that rapist in Oakland behind bars for a long, long time. There are no similar provisions in S. 1241.

Of course, those on the other side of the aisle will say that this is a charade. After all, they'll say, how many people are brought under Federal charges for rape. I agree when they say that most violent crimes are prosecuted in State courts in violation of State laws. But what enacting tough laws such as these do is send a strong signal to the States that we, as U.S. Congressmen, find the violent sexual assault, for example, is such a heinous crime, such a violation of a woman's peace of mind, that he deserves a long lease, in a small cell. As we have been inspired by the 50 models of democracy that we hail from, the Federal Government can be a model for the States in the area of criminal justice.

But we can pound the podiums on this issue, and label all this tough talk and nothing else, but that's not the case.

Mr. President, the distinguished chairman of the Judiciary Committee is correct when he states that our policies here will do nothing to effectively combat violent crime. He is absolutely right if our policies include a continuation of business as usual on Federal habeas corpus.

Of all the initiatives that are contained in the President's crime bill, habeas corpus reform stands as the heart of his proposal. We can expand the death penalty all we want—to virtually every offense that we find so heinous as to require death—but it will amount to nothing absent effective reform of Federal habeas corpus procedure.

Abraham Lincoln once said: "More rogues than honest men find shelter under habeas corpus." Well, this statement is certainly applicable today, but the rogues involved here are of the worst kind: those on death row.

According to the latest figures from the Department of Justice, the average time between the imposition of the death sentence and execution is 6½ years. Since the constitutionality of the death sentence was restored by the Supreme Court in 1977, just 3 percent of those on death row have received the sentence as prescribed by law.

Three percent, Mr. President.

After more than 12 years of criminal justice, 97 percent of those sentenced to death wait patiently to meet their fate as justice prescribed. But I must also point to an even more glaring statistic—one from California, where more than 250 capital criminals are housed and not one has been executed since 1977. One of them, Robert Alton Harris, should get a Ph.D. for his abuse of the system and his avoidance of the gas chamber.

Now, I am not a lawyer, Mr. President. I do not profess to have the technical legal background exemplified with eloquence and skill by the senior Senator from Pennsylvania or by the distinguished chairman of the Judiciary Committee. But it doesn't take a lawyer to recognize that the reason for the delay in carrying out these sentences is the current Federal habeas system—a system where justice denied means justice delayed. Indeed, after reading several examples of this time-consuming process, I have to believe that habeas corpus is Latin for "excessive delay."

Well, it's time we changed this definition of habeas corpus to mean "effective justice." It's time we restored public faith in a justice system that has been nothing but a never-ending story.

In short, the most common cause of death for a capital offender should not be old age.

Mr. President, the distinguished senior Senator from South Carolina has offered a workable proposal for habeas corpus reform. It will bring an end to needless habeas petitions, and bring much needed relief to our Federal courts.

In brief, this proposal allows death row inmates, with few exceptions, one round of Federal appeals—one trip through the Federal system. This reform was proposed by a committee chaired by the former associate justice of the Supreme Court, William Powell. And, on two occasions, this very body has approved this reform package—in the 98th Congress, and just last year, in the 101st Congress.

Mr. President, I am honored to have had the opportunity, in my first year as a U.S. Senator, to participate in some very historic votes. In my very first vote, I stood by our President in his efforts to restore the sovereignty of a peaceful nation.

And now, I take part in another vote of historic proportions, but it will only truly be historic if we break tradition and send the President's tough crime bill to his desk for his signature. Nothing would make me more proud than to say that in one year, I helped strike a blow against ruthless thugs who have waged violence in neighborhoods from Kuwait City to Kansas City, from Riyadh, Saudi Arabia to Redding, CA.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment No. 367 offered by the Senator from South Carolina [Mr. THURMOND].

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arizona [Mr. DECONCINI] and the Senator from Minnesota [Mr. WELLSTONE] are necessarily absent.

I also announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI] would vote "no."

Mr. NICKLES. I announce that the Senator from Wyoming [Mr. SIMPSON] is necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "yea."

The result was announced—yeas 40, nays 56, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—40

Bond
Brown
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Hollings
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Seymour
Shelby
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—56

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Chafee
Conrad
Cranston
Daschle
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Heflin
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Wirth
Wofford

NOT VOTING—4

DeConcini
Pryor
Simpson
Wellstone

So the amendment (No. 367) was rejected.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,287th day that Terry Anderson has been held captive in Lebanon.

STATE LEGALIZATION IMPACT ASSISTANCE GRANT PROGRAM [SLIAG]

Mr. SEYMOUR. Mr. President, I rise today to discuss a matter of great importance to the fiscal integrity, the health and the welfare of the State of California and other States with large populations of individuals who received amnesty under the Immigration Reform and Control Act of 1986.

I am speaking of course about the State Legalization Impact Assistance

Grant Program or SLIAG as it has come to be known.

The purpose behind SLIAG was very simple. Embodied in section 204 of the Immigration Reform and Control Act of 1986, SLIAG provides that States and local governments will be reimbursed for their costs in providing education, public assistance, and public health services to newly legalized aliens.

The law provided that $1 billion would be appropriated for each of fiscal years 1987 through 1991, for a total of $4 billion, and it stated that any unexpended funds would remain available for the States through fiscal year 1994 at which any unexpended funds would be returned to the Treasury.

This second component of the SLIAG agreement, the carryforward authority, expressly acknowledged the fact that as a reimbusement program, not all claims for services provided would be forthcoming in the first few years. That is where California and other similarly situated States find themselves today. We are now in the outyears of the program, but we have not seen claims for bona fide services disappear. In fact, they are increasing just as IRCA's legislative history anticipated.

The demand for SLIAG-related services are there. Under the law, they must be provided, and—also under law—they should be reimbursed through SLIAG. That's what the States and local governments expect, that's the deal they agreed to back in 1985 and 1986 when IRCA was debated and enacted.

Unfortunately, the Federal Government and the Congress see it differently; the Federal Government wants to back out of the deal, clean its hands of the entire matter, and claim the program an absolute success.

Well, let's not be too quick to applaud. Absent Federal support, it will fail.

The States were hesitant to embrace any amnesty program that did not protect them from the spiraling costs associated with this new population. Serving in the California Senate at the time, I recall vividly the internal debate. Home to a growing population of illegal immigrants, we saw the merits of providing amnesty. On the other hand, we feared the fiscal impact of such a policy. There were similar debates in other States.

Those of us who have served in local government can attest to the true impact of a Federal policy that simply shifts the costs of that Federal responsibility onto the shoulders of local communities. Especially in the area of immigration and refugee policy, the Federal Government is backing out of its partnership with the States.

When you sit down and examine the SLIAG debate, one factor becomes crystal clear: States and local governments are powerless to protect themselves from the consequences of Federal immigration policy. A State or county's fiscal well-being in this area is held hostage to the whims of the Federal Government.

Doesn't sound much like a partnership to me. And now, California, Texas, New York, Florida, Colorado, and other States are finding that support for SLIAG has ended. They are fulfilling their end of the bargain; they do so daily in emergency rooms and hospitals, schools, community-based organizations, and in other areas.

All they expect is for the Federal Government to pick up its end of the deal so that these same hospitals and clinics and school districts can assure a full level of service to entire communities.

Well, a brief chronology shows us that the Federal Government has been back peddling since SLIAG's inception. One could argue they never wanted to be in the game.

From the extremely slow promulgation of regulations and congressional feeding frenzies amounting to $1.123 billion, and the administration's budget request that would rescind remaining funds, a few States have been left to fend for themselves.

And I have just been informed that the House Appropriations Committee has zeroed out fiscal year 1992 SLIAG funding. So much for commitment.

SLIAG's biggest enemy has been the Congress' and the administration's unwillingness to understand the very program they joined together to create. Because the program front loads the funds in the first 4 years to reimburse costs incurred during the entire life of the program, through fiscal year 1994, there have been unallocated balances in the fund. The program was designed this way. However, many choose to interpret these unspent balances to mean that the states do not need the funds.

Nothing could be further from the truth. For instance, States did not drawdown a large amount of SLIAG funds in fiscal year 1988 or fiscal year 1989; California drewdown only $221.3 million, or 20 percent of its total allocation. All States drewdown $331 million. Compare this to fiscal year 1990 and fiscal year 1991 when, to date, States have drawndown over $1 billion. As of April, California has drawndown $969.8 million, or 75 percent of the SLIAG funds allocated to date.

Mr. President, California is home to 1.6 million newly legalized aliens. In Los Angeles County alone, more than 1 out of every 10 residents, 850,000 persons, applied for amnesty. This is about one-quarter of the Nation's total amnesty population. Over 20 percent of all hospital admissions in Los Angeles County are legalized aliens. Mr. President, consider the fact that one of every 200 babies born in this country is born to an amnesty applicant in one Los Angeles County hospital.

Let's be clear: cutting SLIAG funds does not cause the demand for services or the related costs to disappear. It merely shifts the burden—unfairly and inappropriately—to a few States and local governments. When hospitals cannot be reimbursed, when people cannot receive the language training they need, when outlays for public assistance programs go unreimbursed, it is not a simple case of a legalized alien not receiving a service. There is a ripple effect. Entire communities are being penalized.

I do not envy Pete Wilson and the California Legislature as they grapple with California's $14 billion deficit. But at least they have control over the very difficult choices they must make. Unfortunately, much of the budget crisis they are embroiled in stems from increased Medi-Cal costs, welfare payments, and school needs directly related to a failed Federal immigrant policy.

Cutting SLIAG will exacebate many times over the California budget crisis, the fiscal health of Los Angeles and other counties, and surely other States with large populations of amnesty recipients.

If we are to cut these funds, then we must be prepared to acknowledge the fact that we are creating an underclass of citizens who will not have the tools to fully participate in and benefit our society. How can you expect someone who is illiterate in their native language to become proficient in English with but 40 hours instruction? How can we expect healthy babies or basic health care when hospitals and clinics, absent reimbursement, will be forced to close down?

While rhetorical, these are very real questions that we must confront and for which we will be accountable should we not fulfill the Federal Government's promise under IRCA. I am not sure, Mr. President, that any Member in this Chamber would like to take credit for that.

Cutting SLIAG gives the Federal Government just one more opportunity to foist yet another fiscal burden onto the shoulders of States and local governments.

That is a bottom line of which no one can be proud.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CONRAD). Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 188: Robert M. Guttman, to be an Assistant Secretary of Labor;

Calendar 193: Lt. Gen. Richard G. Graves, to be lieutenant general;

Calendar 195: Lt. Gen. Dennis J. Reimer, to be Vice Chief of Staff;

Calendar 196: Lt. Gen. James E. Thompson, to be lieutenant general;

Calendar 198: Lt. Gen. Thomas N. Griffin, Jr., to be lieutenant general;

Calendar 199: Maj. Gen. Joseph S. Laposata, to be lieutenant general;

Calendar 200: Lt. Gen. Norman H. Smith, to be lieutenant general;

Calendar 201: Vice Adm. Jimmy Pappas, to be vice admiral;

Calendar 202: Vice Adm. Raymond P. Ilg, to be vice admiral; and

Calendar 203: Rear Adm. Kenneth C. Malley, to be vice admiral.

The following nominations reported today by the Committee on Armed Services:

Lt. Gen. Carl E. Mundy, Jr., to be Commandant of the Marine Corps;

Lt. Gen William M. Keys, to be lieutenant general; and

All nominations placed on the Secretary's Desk in the Army and Navy.

I further ask unanimous consent that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF LABOR

Robert Michael Guttman, of the District of Columbia, to be an Assistant Secretary of Labor, vice Mary Sterling.

IN THE ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Richard G. Graves, [redacted], U.S. Army.

The following-named officer for appointment as Vice Chief of Staff of the Army and appointment to the grade of general while serving in that position under the provisions of title 10, United States Code, sections 601 and 3034:

To be Vice Chief of Staff of the Army

To be general

Lt. Gen. Dennis J. Reimer, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. James E. Thompson, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

Lt. Gen. Thomas N. Griffin, Jr., [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Joseph S. Laposata, [redacted], U.S. Army.

IN THE MARINE CORPS

The following named officer to be placed on the retired list under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Norman H. Smith, [redacted], USMC.

IN THE NAVY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Jimmy Pappas, U.S. Navy, [redacted]

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be vice admiral

Vice Adm. Raymond P. Ilg, U.S. Navy, [redacted]

The following-named officer for appointment to the grade of Vice Admiral while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Kenneth C. Malley, U.S. Navy, [redacted].

The following nominations reported today by the Committee on Armed Services:

Lt. Gen. Carl E. Mundy, Jr., to be Commandant of the Marine Corps; and

Lt. Gen. William M. Keys, to be lieutenant general.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE ARMY, NAVY

Army nomination of Charles F. Brower, IV, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of May 6, 1991.

Army nominations beginning Daniel P. Burns, and ending Vicki L. Brosnahan, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 15, 1991.

Army nominations beginning Michael H. Chema, and ending James L. Wallingford, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 15, 1991.

Army nominations beginning Larry S. Merck, and ending * Michael L. Walters, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1991.

Army nominations beginning Thomas L. Abbenante, and ending 364x, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1991.

Army nominations beginning Daniel F. Abahazy, and ending 414a, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1991.

Army nominations beginning John D. Altenburg, and ending Paul C. Smith, which nominations were received by the Senate on June 10, 1991, and appeared in the CONGRESSIONAL RECORD of June 11, 1991.

Army nominations beginning Ronny Berry, and ending John L. Wydeven, which nominations were received by the Senate on June 10, 1991, and appeared in the CONGRESSIONAL RECORD of June 11, 1991.

Navy nominations beginning Edward L. Abner, and ending Lee Smith, III, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1991.

Navy nominations beginning Richard John Ackermann, and ending Richard Arnold Nelson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 3, 1991.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURES REFERRED

The following bill, received from the House of Representatives for concurrence on June 12, 1991, was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2123. An act to amend the District of Columbia Self-Government and Governmental Reorganizational Act to establish a predictable and equitable method for determining the amount of the annual Federal payment to the District of Columbia; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 323: A bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes (Rept. No. 102–86).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources, with amendments.

S. 1138: A bill to amend the Nuclear Waste Policy Act of 1982 to direct the Secretary of Energy to carry out site characterization activities at the Yucca Mountain site in Nevada and for other purposes (Rept. No. 102–87).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works:

Ivan Selin, of the District of Columbia, to be a member of the Nuclear Regulatory Commission for the term of five years expiring June 30, 1996.

(The above information was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. NUNN, from the Committee on Armed Services:

The following-named officer for appointment as Commandant of the Marine Corps, Headquarters, U.S. Marine Corps, and appointment to the grade of general while serving in that position under the provisions of title 10, United States Code, section 5043:

TO BE COMMANDANT OF THE MARINE CORPS

To be general

Lt. Gen. Carl E. Mundy, Jr., [redacted], USMC.

The following-named officer, under the provisions of title 10, United States Code, section 601, for assignment to a position of importance and responsibility as follows:

To be lieutenant general

Maj. Gen. William M. Keys, [redacted], USMC.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATFIELD:

S. 1336. A bill to amend Title XI of the Higher Education Act of 1965 in order to encourage urban education institutions to form partnerships to use their knowledge and resources for the solution of severe urban problems; to the Committee on Labor and Human Resources.

By Mr. SPECTER (for himself and Mr. SEYMOUR):

S. 1337. A bill to implement a Federal crime control and law enforcement program to stem gang violence, and for other purposes; to the Committee on the Judiciary.

By Mr. SANFORD:

S. 1338. A bill for the relief of Chi Hsii Tsui, Jin Mie Tsui, Yin Whee Tsui, Yin Tao Tsui, and Yin Chao Tsui; to the Committee on the Judiciary.

S. 1339. A bill to settle an agreement dated July 30, 1943, between the Secretary of the Interior of the United States, the State of North Carolina, and the Tennessee Valley Authority, and Swain County, North Carolina; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE:

S. 1340. A bill to amend the Agricultural Adjustment Act to establish a long-term milk supply management system that is controlled by milk producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BIDEN:

S. 1341. A bill to provide penalties for additional forms of credit and debit card fraud; to the Committee on the Judiciary.

By Mr. BREAUX:

S. 1342. A bill to amend title II of the Social Security Act to repeal the rule providing for termination of disabled adult child's benefits upon marriage; to the Committee on Finance.

By Mr. MITCHELL (for Mr. DECONCINI (for himself, Mr. KOHL, and Mr. BOREN)):

S. 1343. A bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities; to the Committee on the Judiciary.

By Mr. AKAKA (for himself, Mr. ADAMS, and Mr. CRANSTON):

S. 1344. A bill to require the Secretary of the Interior to conduct a study of nationally significant places in Japanese-American history; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Mr. PELL, Mr. STEVENS, and Mr. DECONCINI):

S. 1345. A bill to amend the National Film Preservation Act of 1988 to modify the composition and procedures of the National Film Preservation Board and the Librarian of Congress in preserving national films, and for other purposes; to the Committee on Rules and Administration.

By Mr. SYMMS (for himself, Mr. DOLE, Mr. DASCHLE, Mr. BAUCUS, Mrs. KASSEBAUM, Mr. BURNS, and Mr. SIMPSON):

S. 1346. A bill to amend the Internal Revenue Code of 1986 to provide for a 50 percent-of-occupancy rule with respect to the valuation of seats on corporate aircraft on a legitimate business flight when those seats would have otherwise gone unoccupied; to the Committee on Finance.

By Mr. PELL (for himself and Mr. CHAFEE):

S. 1347. A bill to provide emergency assistance to the State of Rhode Island to stabilize the banking system in the State and provide liquidity for the benefit of depositors at State banks and credit unions in receivership; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MURKOWSKI (for himself, Mr. KERRY, Mr. HATFIELD, Mr. STEVENS, Mr. CRANSTON, Mr. SIMPSON, and Mr. SIMON):

S. 1348. A bill to terminate certain economic sanctions against Vietnam after the Government of Vietnam authorizes access to its territory for the investigation of unresolved POW and MIA cases, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. D'AMATO:

S. 1349. A bill to permit the retroactive medicaid payment of medicare cost-sharing for indigent beneficiaries; to the Committee on Finance.

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S.J. Res. 166. Joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KASTEN:

S. 1335. A bill to establish a rural crime prevention strategy, to address the problem of crime against the elderly, to combat child abuse, sexual violence, and violence against women, to enhance the rights of law enforcement officers, to enhance the rights of crime victims, to address the problem of gangs and serious juvenile offenders, to restore an enforceable Federal death penalty, to impose minimum mandatory sentences without release, to establish mandatory judicial reforms, to reform the lives of prisoners and the prison system, and for other purposes; to the Committee on the Judiciary.

STRATEGY TO ELIMINATE CRIME IN THE URBAN AND RURAL ENVIRONMENT ACT

Mr. KASTEN. Mr. President, I rise today to introduce the Strategy to Eliminate Crime in the Urban and Rural Environment Act, a comprehensive reform initiative designed to focus congressional attention on the effects of rising crime rates both in our cities and in our rural areas.

The most important domestic role of government is to secure the lives and liberties of its citizens—to keep them secure from attack on their persons and their property. This bill includes both new initiatives, in the areas of rural crime and women's and children's safety, as well as reforms of current law that I think are essential to our success in this important task.

The major criminal law initiative introduces, for the first time, a new comprehensive strategy for preventing rural crime, an area of law enforcement which for too many years has been overlooked by Washington. In addition, it also includes many aspects of the President's 1991 crime control package, provisions of Senator GRAMM's previously introduced 1990 crime bill, as well as crime initiatives developed in the House of Representatives.

Mr. President, 3 months ago President Bush called upon the Congress to adopt a comprehensive and tough crime bill that he could sign into law within 100 days.

Mr. President, 105 days have passed. Where is the President's bill? The American people in public opinion poll after public opinion poll have demanded concrete answers to the national plague of crime now afflicting our States, counties, cities, and neighborhoods.

The number of violent crimes—rapes, aggravated assaults, robberies, and murders—reported in Milwaukee in 1990 increased by 47.3 percent over 1989, according to statistics released, May 21 by the Department of Justice.

In Milwaukee, all crimes were up a reported 10.7 percent over last year. Robberies were up an alarming 71.7 percent over last year, and vehicle thefts were up 44.9 percent. Although the number of murders in the 17 suburbs that surround Milwaukee has declined, the number of reported rapes in the suburbs increased by 37.9 percent.

Shockingly, robberies in the suburbs increased by 16.8 percent, and aggravated assaults were up 33.4 percent. In the city of Milwaukee, the rate of increase in rapes was 8.6 percent with 495 cases, and the increase in aggravated assaults was 16 percent with 1,486 cases.

From the national perspective, Tom Everson, Director of the Crime Reporting Center at the Justice Department, has said that the growing number of robberies in the United States was particularly worrisome. He went on to say, "I think robbery is becoming the crime of choice for people who need to get money to support their drug habits."

And as we are well aware, the picture doesn't get any better when we look at the situation outside our major metropolitan areas. Rural crime, perhaps one of the most insidious problems facing law enforcement today, has been on the upswing all across the Nation and any crime bill that reaches the President's desk must include a substantive rural crime component.

Mr. President, let me now turn to a brief overview of the comprehensive proposal being introduced today. Title 1 of this legislation focuses exclusively on the problem of rural crime in America.

My bill develops a comprehensive, national action plan or strategy to rid our smaller towns and rural areas of crime. We are not talking about taking some random dollar amount and throwing it at rural law enforcement. Instead, we are talking about developing an intelligent strategy for combatting the problem through, among other elements: an increase in education, training, and safety programs of proven effectiveness; the development of an efficient national network of communication between rural, metropolitan, and Federal law enforcement officials; confronting the problem of clandestine drug labs and the manufacture of precursor chemicals; and the systematic integration of rural law enforcement with the activities of local community officials.

As my colleague Senator STROM THURMOND pointed out earlier this year, nearly 19,000 murders were reported nationwide in 1989. During the same year, there were an estimated 94,504 forcible rapes committed in the United States. Clearly, a substantial number of these crimes occurred in rural America.

The time has come to begin to focus added resources for rural law enforcement. This bill will provide that focus.

Mr. President, title 2 of the bill doubles the existing penalties for any crime committed against individuals age 65 or over. Crimes against the elderly, no matter whether committed in rural or urban America, must be halted. Increased penalties for crimes committed against our seniors will provide a substantial deterrence for criminals contemplating such despicable offenses.

Title 3 of this comprehensive proposal is dedicated to eliminating child abuse, sexual violence and violence against women. This section includes: New provisions regarding the admissibility of evidence of similar crimes in sexual assault and child molestation cases, a new initiative mandating recordkeeping on child molesters through the National Crime Information Center, increased penalties for the distribution of illegal drugs to pregnant women, an enhanced program for campus reporting of sexual assaults, new proposals in the area of HIV testing and penalty enhancement in sexual offense cases, a provision for the payment of the costs of HIV testing for victims, the establishment of a National Task Force on Violence Against Women and a new provision aimed at reversing the increase of domestic violence in our communities.

Title 4 creates a Law Enforcement Community's "Bill of Rights". For too long, liberal special interest groups, such as the ACLU, have focused our attention solely on the rights of criminals. It is time to pay as much heed to the equally important rights of our law enforcement professionals.

Title 5 establishes a Victims' "Bill of Rights" by including victims' restitution provisions and eliminating the "cap" on the victims' rights fund. If criminals have rights as the result of congressional enactments during the 1960's, clearly it is time to recognize the rights of the victims of violent crime.

Title 6 of the bill deals with the prosecution of juvenile offenders and provides for increased penalties on criminals who are convicted of crimes committed while participating in street gangs, and includes additional penalties for felonies committed in furtherance of the activities of such gangs.

Title 7 establishes enforceable death penalty procedures, similar to S. 147, the Federal Death Penalty Act of 1991, which was introduced the first day of this Congress by Senator STROM THURMOND.

This title restores an enforceable Federal death penalty by establishing constitutional procedures for the implementation of a death sentence. It authorizes the death penalty for, among other things, murder, murder for hire, and certain attempts to assassinate the President.

In addition to these sections, I propose adding new sections to current Federal law involving the murder of individuals who are exercising their civil rights, and murders which are committed as a result of sexual assaults and child molestation.

Title 8 of this bill provides for stiff mandatory minimum sentences, without release, for drug pushers, and stiffer mandatory sentences for those who involve juveniles in drug use or drug trafficking activities. A new proposal to directly attack the use of firearms in drug and other violent crimes is included in this title, which imposes mandatory minimum sentences, without release, for the use of such weapons.

Title 9 deals with mandatory judicial reforms. Habeas corpus reform, along the lines previously proposed by Senator THURMOND, would speed and streamline the judicial appeal process while protecting the existing constitutional rights of convicted felons. It also includes the President's proposed reform of the exclusionary rule so as to permit the use of evidence obtained by law enforcement officers in good faith. This reform will prevent criminals from being released by Federal courts because of technical evidentiary problems.

This title also provides for accountability in the Federal judiciary by requiring the compilation and publication of an annual report on the sentencing patterns of Federal district court judges in relation to drug crimes; it requires that every individual convicted in a Federal court of a violent crime or a drug felony must serve the full sentence, up to a cap of 5 years; and it also provides for new temporary facilities for the housing of prisoners, including the utilization of closed Federal military bases.

Lastly, Federal courts will be permitted to limit, or "cap", inmate population levels in State prisons only when it has been proven by objective standards that: First, overcrowding has imposed cruel and unusual punishment on an individual prisoner and, second, when no other remedy exists.

Title 10 of this proposal deals with the treatment of convicted criminals. Among other provisions, is a new proposal which will mandate work for every prisoner in order to defray the cost to the taxpayer of keeping the criminal behind bars; mandating prisoner literacy as a precondition for parole; and a new requirement regarding the drug testing of both State and Federal prisoners.

Mr. President, each and every title of this comprehensive proposal has the same goal—to protect the life, liberty and pursuit of happiness of all Americans no matter where they live. Crime, both rural and urban, is a sword of Damocles hanging over the head of every American; no one knows who will be struck next.

Congress has a mandate to reduce this threat to America. The President has demanded action and the American people strongly support his call.

We must welcome this opportunity for a vigorous debate on a strong Federal crime policy—and enact a comprehensive rural and urban crime package that the American people need and deserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Strategy to Eliminate Crime in the Urban and Rural Environment Act of 1991".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—RURAL CRIME PREVENTION STRATEGY

Sec. 101. Findings.
Sec. 102. Strategy to address rural crime.
Sec. 103. National Institute of Justice national assessment.
Sec. 104. Pilot programs.
Sec. 105. Funding.

TITLE II—VIOLENT FELONIES AGAINST THE ELDERLY

Sec. 201. Violent felonies against the elderly.

TITLE III—CHILD ABUSE, SEXUAL VIOLENCE, AND VIOLENCE AGAINST WOMEN

Sec. 301. Admissibility of evidence of similar crimes in sexual assault and child molestation cases.
Sec. 302. Registration of offenders convicted of acts involving child abuse.
Sec. 303. Drug distribution to pregnant women.
Sec. 304. Statutory presumption against child custody.
Sec. 305. Definition of sexual act for victims below 16.
Sec. 306. Increased penalties for recidivist sex offenders.
Sec. 307. Restitution for victims of sex offenses.
Sec. 308. Required campus reporting of sexual assault.
Sec. 309. HIV testing and penalty enhancement in sexual abuse cases.
Sec. 310. Payment of cost of HIV testing for victim.
Sec. 311. National task force on violence against women.
Sec. 312. Domestic violence prevention act of 1991.
Sec. 313. Right of the victim to an impartial jury.
Sec. 314. Rules of professional conduct for lawyers in Federal practice.
Sec. 315. Full faith and credit for protective orders.

TITLE IV—LAW ENFORCEMENT OFFICERS BILL OF RIGHTS

Sec. 401. Law enforcement officers bill of rights.
Sec. 402. Table of contents.

TITLE V—VICTIMS' BILL OF RIGHTS

Sec. 501. Amendment of restitution provisions.
Sec. 502. Expansion of restitution.
Sec. 503. Suspension of Federal benefits.
Sec. 504. Victim's right of allocation in sentencing.
Sec. 505. Crime victims fund.
Sec. 506. Percentage change in crime victim compensation formula.
Sec. 507. Administrative costs for crime victim compensation.
Sec. 508. Relationship of crime victim compensation to certain Federal programs.
Sec. 509. Use of unspent 1402(d)(2) money.
Sec. 510. Underserved victims.
Sec. 511. Grants for demonstration projects.
Sec. 512. Administrative costs for crime victim assistance.
Sec. 513. Change of due date for required report.
Sec. 514. Maintenance of effort.
Sec. 515. Maintaining current funding levels.

TITLE VI—GANGS AND JUVENILE OFFENDERS

Sec. 601. Amendments concerning records of crimes committed by juveniles.
Sec. 602. Adult prosecution of serious juvenile offenders.
Sec. 603. Serious drug offenses by juveniles as Armed Career Criminal Act predicates.
Sec. 604. Increased penalty for travel act crimes involving violence.
Sec. 605. Increased penalty for conspiracy to commit murder for hire.
Sec. 606. Additional penalties for street gang activities.

TITLE VII—DEATH PENALTY

Sec. 701. Short title.
Sec. 702. Death penalty procedures.
Sec. 703. Capital punishment for murders in connection with sexual assaults and child molestations.
Sec. 704. Death penalty for murder during the commission of an act in violation of civil rights.
Sec. 705. Conforming amendment relating to transporting explosives.
Sec. 706. Conforming amendment relating to malicious destruction of Federal property by explosives.
Sec. 707. Conforming amendment relating to malicious destruction of interstate property by explosives.
Sec. 708. Conforming amendment relating to murder.
Sec. 709. Murder by Federal prisoner.
Sec. 710. Conforming amendment relating to kidnapping.
Sec. 711. Conforming amendment relating to hostage taking.
Sec. 712. Conforming amendment relating to mailability of injurious articles.
Sec. 713. Conforming amendment relating to presidential assassination.
Sec. 714. Conforming amendment relating to murder for hire.
Sec. 715. Conforming amendment relating to violent crimes in aid of racketeering activity.
Sec. 716. Conforming amendment relating to wrecking trains.
Sec. 717. Conforming amendment relating to bank robbery.
Sec. 718. Conforming amendment to Controlled Substances Act.

TITLE VIII—IMPOSITION OF MANDATORY MINIMUM SENTENCES WITHOUT RELEASE

Sec. 801. Increased mandatory minimum sentences without release for criminals using firearms and other violent criminals.
Sec. 802. Longer prison sentences for those who sell illegal drugs to minors or for use of minors in drug trafficking activities.
Sec. 803. Longer prison sentences for drug trafficking.
Sec. 804. Mandatory penalties for illegal drug use in Federal prisons.
Sec. 805. Deportation of criminal aliens.
Sec. 806. Encouragement to States to adopt mandatory minimum prison sentences.

TITLE IX—MANDATORY JUDICIAL REFORMS

Sec. 901. Admissibility of certain evidence.
Sec. 902. Habeas corpus reform
Sec. 903. Proscription of use of drug profits.
Sec. 904. Jurisdiction of special masters.
Sec. 905. Sentencing patterns of Federal judges.
Sec. 906. Judicial remedies for prison crowding.
Sec. 907. Temporary prison facilities and expanded capacity.
Sec. 908. Imprisonment of drug traffickers and violent criminals.

TITLE X—PRISONER AND PRISON SYSTEM REFORMS

Sec. 1001. Mandatory work requirement for all prisoners.
Sec. 1002. Mandatory education for incarcerated adults.
Sec. 1003. Employment of prisoners.
Sec. 1004. Withholding prisoners' Federal benefits to offset incarceration costs.
Sec. 1005. Drug testing of Federal prisoners.
Sec. 1006. Drug testing of State prisoners.
Sec. 1007. Encouragement to States to adopt prisoner and prison system reforms.

TITLE I—RURAL CRIME PREVENTION STRATEGY

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) The traditional supportive roles of the family, church, school, and community have declined in importance as a positive social factor influencing the prevention and control of crime in rural areas. As a result in recent years rural areas have experienced a marked increase in crime rates. This increase is taking its toll on rural law enforcement practitioners who are already encumbered by numerous characteristics that are unique to their rural circumstances.

(2) Compounding the increase in crime rates, rural police unlike their urban counterparts, are likely to encounter a multitude of nontraditional police tasks such as fire and railroad emergencies, search and rescue missions, animal control problems, livestock theft, wildlife enforcement, illegal distilleries, illegal crop farming and drug manufacturing, rural drug trafficking, and toxic dumping.

(3) These problems are further exacerbated by the rural officer's distinct disadvantage with respect to the lack of adequate training to manage these varied assignments, the low degree of specialization of job tasks, unique job stress factors, and inadequate data resources. Inadequate rural crime statistics and data analysis capabilities further frustrate the rural police organization's ability to cope with the nature, extent, and trends of rural crime.

(4) Rural law enforcement agencies are at a critical juncture, and strategic planning and action are imperative. The Domestic Chemical Action Group as convened by the National Institute of Justice in October 1990 has recommended that rural police receive training in various safety issues related to the identification, investigation, and seizure of illicit drug and chemical laboratories located in rural areas. Without such specialized training officials will face a high probability of explosions endangering police personnel and the community. National Institute of Justice sponsored research of environmental crime in major urban areas, including Los Angeles, has revealed the lack of police training in the identification, investigation, and clean-up of toxic and hazardous waste areas. It can be said with certainty that this recognized need for hazardous materials training is equally critical for rural police organizations.

SEC. 102. STRATEGY TO ADDRESS RURAL CRIME.

The purpose of this title is to address the growing problems of rural crime in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in rural areas throughout the country in implementing specific programs and strategies which offer a high probability of improving the functioning of their criminal justice systems.

SEC. 103. NATIONAL INSTITUTE OF JUSTICE NATIONAL ASSESSMENT.

(a) IN GENERAL.—The Director of the National Institute of Justice (referred to in this title as the "Director") shall conduct a national assessment of the nature and extent of rural crime in the United States, the needs of law enforcement and criminal justice professionals in rural States and communities, and promising strategies to respond effectively to those challenges, including—

(1) the problem of clandestine drug laboratories; changing patterns in their location and operation; safety and liability issues for both law enforcement officers and the community in the identification, investigation, seizure, and clean-up of clandestine laboratories;

(2) other environmental crimes, such as the dumping of hazardous and toxic wastes; the pollution of streams, rivers, and ground water; and access of rural communities to the expertise necessary to successfully identify, investigate, and prosecute such crimes;

(3) the cultivation of illegal crops, such as marijuana, including changing patterns in location and techniques for identification, investigation, and destruction;

(4) the problems of drug and alcohol abuse in rural communities, including law enforcement and criminal justice response and access to treatment services;

(5) the problems of family violence and child abuse, including law enforcement and criminal justice response and access to services for victims of such crimes;

(6) the problems of juvenile delinquency and vandalism as they affect rural communities;

(7) the access of law enforcement and criminal justice professionals in rural communities to the services of crime laboratories, the Automated Fingerprint Identification System, and other technological support;

(8) the access of law enforcement and criminal justice professionals in rural communities to professional training and development and the identification of models for the delivery of such training; and

(9) the special problems of drug abuse in jurisdictions with populations of 50,000 or less.

(b) FINAL REPORT.—The Director shall submit the national assessment to the President and Congress not later than 12 months after the date of enactment of this title.

(c) DISSEMINATION OF REPORT.—Based on the results of the national assessment and analysis of successful and promising strategies in these areas, the Director shall disseminate the results not only through reports, publications, and clearinghouse services, but also through programs of training and technical assistance, designed to address the realities and challenges of rural law enforcement.

SEC. 104. PILOT PROGRAMS.

(a) IN GENERAL.—The Director is authorized to make grants to local law enforcement agencies for pilot programs and field tests of particularly promising strategies and models, which could then serve as the basis for demonstration and education programs under the Bureau of Justice Assistance Discretionary Grant Program.

(b) TYPES OF PROGRAMS.—Pilot programs funded under this section may include—

(1) programs to develop and demonstrate new or improved approaches or techniques for rural criminal justice systems;

(2) programs of training and technical assistance to meet the needs of rural law enforcement and criminal justice professionals including safety;

(3) a rural initiative to study and improve the response to traffic safety problems and drug interdiction;

(4) an ongoing program to assist law enforcement professionals in dealing with the hazards of clandestine drug laboratories;

(5) victim assistance information to assist departments in beginning and maintaining strong programs to assist victims and witnesses of crime;

(6) emergency preparedness information for community groups concerned about disaster preparedness on the family and community level; and

(7) a program targeted at communities of less than 50,000 stressing the need for production of public safety through extensive partnership efforts between law enforcement, other local government agencies, businesses, schools, community and social organizations, and citizens.

SEC. 105. FUNDING.

There are authorized to be appropriated $5,000,000 to to carry out the national assessment and pilot programs required by this title.

TITLE II—VIOLENT FELONIES AGAINST THE ELDERLY

SEC. 201. VIOLENT FELONIES AGAINST THE ELDERLY.

(a) IN GENERAL.—Chapter 227 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3581. Mandatory sentence for felony against individual of age sixty-five or over

"(a) Upon any plea of guilty or nolo contendere or verdict or finding of guilty of a defendant of a crime of violence under this title, if any victim of such crime is an individual who had attained age sixty-five on or before the date that the offense was committed, the court shall sentence the defendant to imprisonment—

"(1) for a term of not less than one-half of the maximum term of imprisonment provided for such crime under this title, in the case of a first offense to which this section is applicable; and

"(2) for a term of not less than three-fourths of the maximum term of imprisonment provided for such crime under this title, in the case of a second or subsequent offense to which this section is applicable.

"(b) Notwithstanding any other provision of law, with respect to a sentence imposed under subsection (a) of this section—

"(1) the court shall not suspend such sentence;

"(2) the court shall not give the defendant a probationary sentence;

"(3) no defendant shall be eligible for release on parole before the end of such sentence;

"(4) such sentence shall be served consecutively to any other sentence imposed under this title; and

"(5) the court shall reject any plea agreement which would result in the imposition of a term of imprisonment less than that which would have been imposed under subsection (a) of this section in connection with any charged offense.

"(c) As used in this section, the term—

"(1) 'crime of violence' means—

"(A) a felony that has as an element of the offense the use, attempted use, or threatened use of physical force against the person or property of another; or

"(B) a felony that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense; and

"(2) 'victim' means an individual against whom an offense has been or is being committed.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections for chapter 227 of title 18, United States Code, is amended by adding at the end the following new item:

"3581. Mandatory sentence for felony against
individual of age sixty-five or over.".

(c) OTHER TECHNICAL AMENDMENTS.—(1) Section 3731 of title 18, United States Code, is amended by inserting after the second paragraph the following new paragraph:

"An appeal by the United States shall lie to a court of appeals from an otherwise final decision, judgment, or order of a district court sentencing a defendant on the ground that such sentence is less severe than that required under section 3581 of this title.".

(2) Rule 32(c) of the Federal Rules of Criminal Procedure is amended—

(A) by adding at the end of the first paragraph in paragraph (1) the following new sentence: "Neither the defendant nor the court may waive a presentence investigation and report unless there is in the record information sufficient for the court to determine whether a mandatory sentence must be imposed pursuant to title 18, United States Code, section 3581."; and

(B) in paragraph (2)(D), by inserting after "the offense" the following: "and information relating to whether any victim of the offense had attained age 65 on the date that the offense was committed".

(3) Rule 11(e)(1) of the Federal Rules of Criminal Procedure is amended by striking out "The" after "*In General.*" and inserting in lieu thereof "Except as provided in title 18, United States Code, section 3581, the".

TITLE III—CHILD ABUSE, SEXUAL VIOLENCE, AND VIOLENCE AGAINST WOMEN

SEC. 301. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEXUAL ASSAULT AND CHILD MOLESTATION CASES.

The Federal Rules of Evidence are amended by adding after rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, 'offense of sexual assault' means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)-(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in rule 413 and rule 414 of these rules.

"(b) A party who intends to offer evidence under this rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.".

SEC. 302. REGISTRATION OF OFFENDERS CONVICTED OF ACTS INVOLVING CHILD ABUSE.

(a) SHORT TITLE.—This section may be cited as the "National Child Abuser Registration Act of 1991".

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "child" means a person who is a child for the purposes of the criminal child abuse law of a State;

(2) the term "child abuse" means the physical, psychological, or emotional injuring, sexual abuse or exploitation, neglectful treatment, or maltreatment of a child by any person in violation of the criminal child abuse law of a State;

(3) the term "child abuser information" means the following facts concerning a person who has violated the criminal child abuse laws of a State:

(A) name, social security number, age, race, sex, date of birth, height, weight, hair and eye color, address of legal residence, and a brief description of the crime or crimes committed by the offender; and

(B) any other information that the Federal Bureau of Investigation or the National Crime Information Center determines may be useful in identifying child abusers;

(4) the term "criminal child abuse law of a State" means the law of a State that establishes criminal penalties for the commission of child abuse by a parent or other family member of a child or by any other person;

(5) the term "National Crime Information Center" means the division of the Federal Bureau of Investigation that serves as a computerized information source on wanted criminals, persons named in arrest warrants, runaways, missing children, and stolen property for use by Federal, State, and local law enforcement authorities;

(6) the term "State" means each of the States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territories of the Pacific; and

(7) the term "State child abuser information repository" means a division or office of a State that acts as a central repository for child abuse information.

(c) FINDINGS.—The Congress finds that—

(1) disturbing increases have occurred in recent years in the number of children who are abused by persons who have previously committed crimes of child abuse;

(2) many children who run away from home, who fall prey to pornography and prostitution, who suffer from a dependency on alcohol and drugs, and who become juvenile offenders, have been victims of child abuse;

(3) research has shown that child abuse tends to repeat itself, and many parents who abuse their children were once victims themselves;

(4) in recognition of the increased cases of child abuse, several States have established agencies to receive and maintain data relating to cases of child abuse;

(5) currently there exists no centralized national source through which a law enforcement agency can obtain data relating to persons who have committed crimes of child abuse;

(6) partly because of the lack of available and accurate information at the national level, persons who have committed acts of child abuse in one State have been able to go to another State to commit the crime again, in many cases in a position of authority over children; and

(7) the Nation cannot afford to ignore the importance of preventing child abuse.

(d) PURPOSES.—The purposes of this section are—

(1) to establish a national system through which current, accurate information concerning persons who commit crimes of child abuse can be obtained from a centralized source;

(2) to assist in the prevention of second incidents of child abuse by providing information about persons who have been convicted of a crime of child abuse to organizations whose primary concern is that of child welfare and care; and

(3) to understand the problem of child abuse in the United States by providing statistical and informational data to the Department of Justice, the National Center on Child Abuse and Neglect, the Congress, and other interested parties.

(e) REPORTING BY THE STATES.—

(1) IN GENERAL.—A State child abuse information repository may report child abuser information to the National Crime Information Center.

(2) GUIDELINES.—(A) The Attorney General shall establish guidelines for the reporting of child abuser information, including procedures for carrying out the purposes of this section.

(B) The guidelines established under subparagraph (A) shall require that—

(i) a reporting State ensure that reports of all convictions under the criminal child abuse law of the State are maintained by a State child abuser information repository; and

(ii) a State child abuser information repository maintain close liaison with the National Center on Child Abuse and Neglect and the National Center for Missing and Exploited Children for exchange of information and technical assistance in cases of child abuse.

(3) ANNUAL SUMMARY.—The Attorney General shall publish an annual statistical summary of the child abuser information reported under this section.

(f) COMPLIANCE.—Compliance with subsection (e) shall be a condition to the receipt by a State of any grant, cooperative agreement, or other assistance under—

(1) section 1404 of the Victims of Crime Act (42 U.S.C. 10603); and

(2) the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

SEC. 303. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 418 of the Controlled Substances Act is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

SEC. 304. STATUTORY PRESUMPTION AGAINST CHILD CUSTODY.

(a) FINDINGS.—The Congress finds that—

(1) State courts have often failed to recognize the detrimental effects of having as a custodial parent an individual who physically abuses his or her spouse, insofar as the courts do not hear or weigh evidence of domestic violence in child custody litigation;

(2) joint custody forced upon hostile parents can create a dangerous psychological environment for a child;

(3) physical abuse of a spouse is relevant to child abuse in child custody disputes;

(4) the effects of physical abuse of a spouse on children include actual and potential emotional and physical harm, the negative effects of exposure to an inappropriate role model, and the potential for future harm where contact with the batterer continues;

(5) children are emotionally traumatized by witnessing physical abuse of a parent;

(6) children often become targets of physical abuse themselves or are injured when they attempt to intervene on behalf of a parent;

(7) even children who do not directly witness spousal abuse are affected by the cli-

mate of violence in their homes and experience shock, fear, guilt, long lasting impairment of self-esteem, and impairment of developmental and socialization skills;

(8) research into the intergenerational aspects of domestic violence reveals that violent tendencies may be passed on from one generation to the next;

(9) witnessing an aggressive parent as a role model may communicate to children that violence is an acceptable tool for resolving marital conflict; and

(10) few States have recognized the interrelated nature of child custody and battering and have enacted legislation that allows or requires courts to consider evidence of physical abuse of a spouse in child custody cases.

(b) SENSE OF THE CONGRESS.—(1) It is the sense of the Congress that, for purposes of determining child custody, credible evidence of physical abuse of a spouse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive spouse.

(2) This section is not intended to encourage States to prohibit supervised visitation.

SEC. 305. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16.

Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting in lieu thereof "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 306. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) Section 2245 of title 18, United States Code, is redesignated section 2246.

(b) Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(c) The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking "2245" and inserting in lieu thereof "2246"; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 307. RESTITUTION FOR VICTIMS OF SEX OFFENSES.

Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110 of this title" after "an offense resulting in bodily injury to a victim".

SEC. 308. REQUIRED CAMPUS REPORTING OF SEXUAL ASSAULT.

Section 485(f) of the Higher Education Act of 1965 (20 U.S.C. 1092(f)), as added by section 204(a) of the Crime Awareness and Campus Security Act of 1990 (Public Law 101-542), is amended—

(1) in paragraph (1)(F), to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape, sexual assault, or any other abusive sexual conduct;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft."; and

(2) in paragraph (3), to read as follows:

"(3) Each institution participating in any program under this section shall make timely reports on criminal offenses described in paragraph (1)(F) that the institution considers to be a threat to other students and employees. The institution shall provide the reports to students, parents or guardians of students, and employees, at the institution, and to local police agencies, in a manner that is timely and that will aid in the prevention of similar occurrences.".

SEC. 309. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) Chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new section:

"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed six months and twelve months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within twenty-four hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed six months and twelve months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) CLERICAL AMENDMENT.—The section analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.".

SEC. 310. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", and the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault".

SEC. 311. NATIONAL TASK FORCE ON VIOLENCE AGAINST WOMEN.

(a) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this section, the Attorney General shall establish a task force to be known as the "National Task Force on Violence against Women" (referred to in this section as the "task force").

(b) DUTIES OF TASK FORCE.—

(1) GENERAL PURPOSE OF TASK FORCE.—The task force shall develop a uniform Federal, State, and local law enforcement strategy aimed at protecting women against violent crime, punishing persons who commit such crimes, and enhancing the rights of victims of such crimes.

(2) DUTIES OF TASK FORCE.—The task force shall perform such functions as the Attorney General deems appropriate to carry out the purposes of the task force, including—

(A) considering the reports of past Federal and State task forces or commissions on violent crime, family violence, and crime victims, including the President's Task Force on Victims of Crime (1982), the Attorney General's Task Force on Family Violence (1984), and the task forces and commissions established by the States of Alabama, Alaska, Arkansas, Hawaii, Idaho, Indiana, Kansas, Louisiana, Michigan, Minnesota, Nebraska, New Mexico, New York, North Carolina, Rhode Island, Virginia, Texas, Wisconsin, and Wyoming;

(B) developing strategies for Federal, State, and local law enforcement designated to protect women against violent crime, and to prosecute and punish those responsible for such crime;

(C) evaluating the adequacy of sentencing, incarceration, and release of violent offenders against women, and making recommendations designated to ensure that such offenders receive appropriate punishment; and

(D) evaluating the adequacy of the treatment of victims of violent crime against women within the criminal justice system, and making recommendations designed to improve such treatment.

(c) Membership.—

(1) IN GENERAL.—The task force shall consist of up to 10 members, who shall be appointed by the Attorney General not later than 60 days after the date of enactment of this section. The Attorney General shall ensure that the task force includes representatives of State and local law enforcement, the State and local judiciary, and groups dedicated to protecting the rights of victims.

(2) CHAIRMAN.—The Attorney General or his designee shall serve as the chairman of the task force.

(d) PAY.—

(1) NO ADDITIONAL COMPENSATION.—Members of the task force who are officers or employees of a governmental agency shall receive no additional compensation by reason of their service on the task force.

(2) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the task force, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(e) EXECUTIVE DIRECTOR AND STAFF.—

(1) EXECUTIVE DIRECTOR.—

(A) APPOINTMENT.—The task force shall have an Executive Director who shall be appointed by the Attorney General not later than 30 days after the task force is fully constituted under subsection (c).

(B) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(2) STAFF.—With the approval of the task force, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the task force.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the task force appointed under paragraph (2) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) CONSULTANTS.—Subject to such rules as may be prescribed by the task force, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(f) POWERS OF TASK FORCE.—

(1) HEARINGS.—For the purpose of carrying out this section, the task force may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the task force considers appropriate. The task force may administer oaths before the task force.

(2) DELEGATION.—Any member or employee of the task force may, if authorized by the task force, take any action that the task force is authorized to take under this section.

(3) ACCESS TO INFORMATION.—The task force may secure directly from any executive department or agency such information as may be necessary to enable the task force to carry out this section, to the extent access to such information is permitted by law. On request of the Attorney General, the head of such a department or agency shall furnish such permitted information to the task force.

(4) MAIL.—The task force may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(g) REPORT.—Not later than 1 year after the date on which the task force is fully constituted under subsection (c), the Attorney General shall submit a detailed report to the Congress on the findings and recommendations of the task force.

(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992, $500,000 to carry out the purposes of this section.

(i) TERMINATION.—The task force shall cease to exist 30 days after the date on which the Attorney General's report is submitted under subsection (g). The Attorney General may extend the life of the task force for a period of not to exceed one year.

SEC. 312. DOMESTIC VIOLENCE PREVENTION ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Domestic Violence Prevention Act of 1991".

(b) EXPANSION OF PURPOSE.—Section 302(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10401(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(c) EXPANSION OF STATE DEMONSTRATION GRANT PROGRAM.—Section 303(a)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(1)) is amended by striking "to prevent" and inserting "to increase public awareness about and prevent".

(d) GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.—The Family Violence Prevention and Services Act is amended by adding at the end thereof the following new section:

"GRANTS FOR PUBLIC INFORMATION CAMPAIGNS

"SEC. 314. (a) The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.".

(e) STATE COMMISSIONS ON DOMESTIC VIOLENCE.—Section 303(a)(2) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) provides assurances that, not later than 1 year after receipt of funds, the State shall have established a Commission on Domestic Violence, which will include as members representatives of antidomestic violence organizations and whose expenses will be paid out of funds other than those dedicated to providing services in domestic violence cases, to examine issues including—

"(i) the use of mandatory arrest of accused offenders;

"(ii) the adoption of 'no-drop' prosecution policies;

"(iii) the use of mandatory requirements for presentencing investigations;

"(iv) the length of time taken to prosecute cases or reach plea agreements;

"(v) the use of plea agreements;

"(vi) the testifying by victims at post-conviction sentencing and release hearings;

"(vii) the consistency of sentencing practices;

"(viii) restitution of victims;

"(ix) the reporting practices of and significance to be accorded to prior convictions (both felonies and misdemeanors); and

"(x) such other matters as the Commission believes merit investigation.

(f) INDIAN TRIBES.—Section 303(b)(1) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(b)(1)) is amended by striking "is authorized" and inserting "shall make no less than $1,000,000 available for".

(g) FUNDING LIMITATIONS.—Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking ", and" and all that follows through "fiscal years".

(h) GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.—The first sentence of section 303(f) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(f)) is amended to read as follows: "No demonstration grant may be made under this section to an entity other than a State unless the entity provides 50 percent of the funding of the program or project funded by the grant.".

(i) SHELTER AND RELATED ASSISTANCE; RURAL AREAS.—Section 303(g) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(g)) is amended to read as follows:

"(g)(1) The Secretary shall ensure that, of the funds distributed under subsection (a) or (b)—

"(A) not less than 60 percent of the funds shall be distributed to entities for the purpose of providing shelter and related assistance to victims of family violence and their dependents, such as—

"(i) food, shelter, medical services, and counseling with respect to family violence, including counseling by peers individually or in groups;

"(ii) transportation, legal assistance, referrals, and technical assistance with respect to obtaining financial assistance under Federal and State programs;

"(iii) comprehensive counseling about parenting, preventive health (including nutrition, exercise, and prevention of substance abuse), educational services, employment training, social skills (including communication skills), home management, and assertiveness training; and

"(iv) day care services for children who are victims of family violence or the dependents of such victims; and

"(B) not less than 20 percent of the funds (which may include funds distributed under subparagraph (A)) shall be distributed to entities in rural areas.

"(2) As used in this subsection, the term 'rural area' means a territory of a State that is not within the outer boundary of any city or town that has a population of 20,000 or more, based on the latest decennial census of the United States.".

(j) LAW ENFORCEMENT TRAINING AND TECHNICAL ASSISTANCE GRANTS.—Section 311(b) of the Family Violence Protection and Services Act (42 U.S.C. 10410(b)) is amended by adding at the end thereof the following new subparagraph:

"(C) Training grants may be made under this section only to private nonprofit organizations that have experience in providing training and technical assistance to law enforcement personnel on a national or regional basis.".

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 310 of the Family Violence Prevention and Services Act (42 U.S.C. 10409) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 310. (a) There are authorized to be appropriated to carry out this title, $40,000,000 for each of fiscal years 1992, 1993, and 1994.

"(b) Of the sums appropriated under subsection (a) for any fiscal year, not less than 85 percent shall be used by the Secretary for making grants under section 303.

"(c) Of the sums authorized to be appropriated under subsection (a) for any fiscal year, not more than 3 percent shall be used by the Secretary for making grants under section 314.".

(l) REPORT ON RECORDKEEPING.—Not later than 1 year after the date of enactment of this section, the Attorney General shall complete a study of, and shall submit to Congress a report and recommendations on, problems of recordkeeping of criminal complaints involving domestic violence. The study and report shall examine—

(1) the efforts that have been made by the Department of Justice, including the Federal Bureau of Investigation, to collect statistics on domestic violence; and

(2) the feasibility of requiring that the relationship between an offender and victim be reported in Federal records of crimes of aggravated assault, rape, and other violent crimes.

SEC. 313. RIGHT OF THE VICTIM TO AN IMPARTIAL JURY.

(a) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 24(b) of the Federal Rules of Criminal Procedure is amended by striking "the Government is entitled to 6 peremptory challenges and the defendant or defendants jointly to 10 peremptory challenges" and inserting "each side is entitled to 6 peremptory challenges".

(b) PROHIBITION OF DISCRIMINATION IN SELECTION OF JURY.—Section 243 of title 18, United States Code, is amended by designating the text of the section as subsection (a) and by adding a new subsection at the end thereof as follows:

"(b) In a proceeding in a court of the United States, an attorney representing a criminal defendant shall not exercise peremptory challenges to exclude any person from the jury on the basis of race or color, or on the basis of any other classification that could not lawfully be used by a prosecutor as the basis for exercising peremptory challenges. The prosecutor shall have the same right as the defense attorney to challenge the exercise of peremptory challenges on this ground. In determining whether a defense attorney has engaged in discrimination in violation of this subsection, a court shall apply the same standards that would apply in making a like determination concerning the exercise of peremptory challenges by a prosecutor, and shall have the authority to grant the same relief that would be available in case of unlawful discrimination by a prosecutor.".

SEC. 314. RULES OF PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE.

The following rules, to be known as the Rules of Professional Conduct for Lawyers in Federal Practice, are enacted and shall be included as an appendix to title 28, United States Code:

"RULES FOR PROFESSIONAL CONDUCT FOR LAWYERS IN FEDERAL PRACTICE

"Rule 1. Scope
"Rule 2. Litigation Abuses Prohibited
"Rule 3. Expediting Litigation
"Rule 4. Duty to Prevent Commission of Crime

"Rule 1. Scope

"(a) These rules apply to the conduct of lawyers in their representation of clients in relation to proceedings and potential proceedings before Federal tribunals.

"(b) For purposes of these rules, 'Federal tribunal' and 'tribunal' mean a court of the United States or an agency of the Federal Government that carries out adjudicatory or quasi-adjudicatory functions.

"Rule 2. Litigation Abuses Prohibited

"(a) A lawyer shall not engage in any action or course of conduct for the purpose of increasing the expense of litigation for any person, other than a liability under an order or judgment of a tribunal.

"(b) A lawyer shall not engage in any action or course of conduct that has no substantial purpose other than to distress, harass, embarrass, burden, or inconvenience another person.

"(c) A lawyer shall not offer evidence that the lawyers knows to be false or attempt to discredit evidence that the lawyer knows to be true.

"Rule 3. Expediting Litigation

"(a) A lawyer shall seek to bring about the expeditious conduct and conclusion of litigation.

"(b) A lawyer shall not seek a continuance or otherwise attempt to delay or prolong proceedings in the hope or expectation that—

"(1) evidence will become unavailable;

"(2) evidence will become more subject to impeachment or otherwise less useful to another party because of the passage of time; or

"(3) an advantage will be obtained in relation to another party because of the expense, frustration, distress, or other hardship resulting from prolonged or delayed proceedings.

"Rule 4. Duty to Prevent Commission of Crime

"(a) A lawyer may disclose information relating to the representation of a client to the extent necessary to prevent the commission of a crime or other unlawful act.

"(b) A lawyer shall disclose information relating to the representation of a client where disclosure is required by law. A lawyer shall also disclose such information to the extent necessary to prevent—

"(1) the commission of a crime involving the use or threatened use of force against another, or a substantial risk of death or serious injury to another; or

"(2) the commission of a crime of sexual assault or child molestation.

"(c) For purposes of this rule, the term 'crime' means a crime under Federal law or the law of a State, and the term 'unlawful act' means an act in violation of the law of the United States or the law of a State.".

SEC. 315. FULL FAITH AND CREDIT FOR PROTECTIVE ORDERS.

(a) ENFORCEMENT.—A protective order issued by a court of a State shall have the same full faith and credit in a court in another State that the order would have in a court of the State in which issued, and shall be enforced by the courts of any State as if it were issued in the State.

(b) DEFINITIONS.—As used in this section:

(1) The term "protective order" means an order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(2) The term "State" has the meaning given the term in section 513(c)(5) of title 18, United States Code.

TITLE IV—LAW ENFORCEMENT OFFICERS BILL OF RIGHTS

SEC. 401. LAW ENFORCEMENT OFFICERS BILL OF RIGHTS.

Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by adding at the end thereof the following new section:

"LAW ENFORCEMENT OFFICERS BILL OF RIGHTS

"SEC. 819. (a) Beginning with the first fiscal year commencing not less than 2 years after the date of enactment of this section, a grant under part B or C of this title that would otherwise be made, directly or indirectly, to any State, unit of general local government, or public agency, shall be reduced by 5 percent unless there is in effect with respect to such State, unit of general local government, or public agency, a law enforcement officers bill of rights which substantially provides to the law enforcement officers of such State, unit of general local government, or public agency as a minimum the rights set forth in subsection (b).

"(b) The rights referred to in subsection (a) are as follows:

" 'BILL OF RIGHTS

" 'SECTION 1. RIGHTS OF LAW ENFORCEMENT OFFICERS WHILE UNDER INVESTIGATION.

" 'Whenever a law enforcement officer is under investigation for alleged malfeasance, misfeasance, or nonfeasance of official duty, with a view to possible disciplinary action, demotion, dismissal, or transfer, the following minimum standards shall apply:

" '(1) The interrogation shall be conducted at a reasonable hour, preferable when the law enforcement officer is on duty, unless exigent circumstances otherwise require.

" '(2) The interrogation of a law enforcement officer shall take place at the offices of those conducting the investigation, the place where such law enforcement officer reports for duty, or such other reasonable place as the investigator may determine.

" '(3) The law enforcement officer being investigated shall be informed, at the commencement of any interrogation, of the name, rank, and command of the officer conducting the investigation. All questions asked in any such interrogation shall be asked by or through a single interrogator.

" '(4) The officer under investigation shall be informed in writing of the nature of the investigation prior to any interrogation. Upon completion of the investigation, the law enforcement officer shall be notified of the name of the witness and all charges not less than 10 days prior to any hearing.

" '(5) No formal proceeding which has authority to penalize a law enforcement officer may be brought except upon charges signed by the appropriate law enforcement officer in charge of the investigation.

" '(6) Any interrogation of a law enforcement officer in connection with an investigation shall be for a reasonable period of time, and shall allow for reasonable periods for the rest and personal necessities of such law enforcement officer.

" '(7) No threat, harassment, promise, or reward shall be made to any law enforcement officer in connection with an investigation in order to induce the answering of any question, but immunity from prosecution may be offered to induce such answering.

" '(8) All interrogations of any law enforcement officer in connection with the investigation shall be recorded in full, either written or taped or transcribed.

" '(9) The law enforcement officer shall be entitled to the presence of his or her counsel or any other one person of his or her choice at any interrogation in connection with the investigation.

" 'SEC. 2. REPRESENTATION ON COMPLAINT REVIEW BOARDS.

" 'Whenever a police complaint review board has been established which includes in its membership persons other than law enforcement officers of the agencies under jurisdiction of such board, such board shall also include a fair representation of such officers.

" 'SEC. 3. OPPORTUNITIES FOR A HEARING.

" '(a) If the investigation or interrogation of a law enforcement officer results in the recommendation of some disciplinary action, such as demotion, dismissal, transfer, or similar action, then, except in the case of summary punishment or emergency suspension as set forth below, the law enforcement agency shall give notice to the law enforcement officer that he is entitled to a hearing on the issues by a hearing board or a designated person.

" '(b) The States shall determine the makeup of the board and the procedures for the hearing.

" 'SEC. 4. SUMMARY PUNISHMENT, ADMINISTRATIVE ACTION, AND EMERGENCY SUSPENSION.

" '(a) The States may determine that the provisions of this bill are not intended to prohibit or apply to summary punishment, administrative action, or emergency suspension.

" '(b) For purposes of this section—

" '(1) the terms 'summary punishment' and 'administrative action' refer to punishment imposed for minor violations of department rules and regulations, which does not result in dismissal, demotion, transfer, or similar action; and

" '(2) the term 'emergency suspension' refers to situations where the head of the law enforcement agency determines such action is in the best interest of the public and the law enforcement agency.

" 'SEC. 5. CIVIL SUITS OF LAW ENFORCEMENT AGENCIES.

" 'Any law enforcement officer shall have the right to recover pecuniary and other damages from any law enforcement agency that violates the rights established under the law enforcement officer's bill of rights.

" 'SEC. 6. NOTICE OF DISCIPLINARY ACTION.

" 'Whenever a personnel action which will result in any loss of pay or benefits, or is otherwise punitive is taken against a law enforcement officer, such law enforcement officer shall be notified of such action and the reasons therefor a reasonable time before such action takes effect.

" 'SEC. 7. RETALIATION FOR EXERCISING RIGHTS.

" 'There shall be no penalty nor threat of any penalty to a law enforcement officer for the exercise of the officer's rights under this bill of rights.

" 'SEC. 8. OTHER REMEDIES NOT DISPARAGED.

" 'Nothing in this bill of rights shall disparage or impair any other legal remedy any law enforcement officer shall have with respect to any rights under this bill of rights.

" 'SEC. 9. DEFINITIONS.

" 'As used in this bill of rights—

" '(1) the term 'law enforcement officer' means any sworn officer of a public agency, if the principal official function of such officer is to investigate crimes, or to apprehend or hold in custody persons charged or convicted of crimes, and include police, sheriffs, and corrections guards or as defined by the statutory laws of the State;

" '(2) the term 'complaint review board' means any public body with specific lawful authority to investigate and take public action, including making reports, on charges of improper conduct by law enforcement officers, but is not a law enforcement agency, a grand jury, or other entity similar to a grand jury; and

" '(3) the term 'law enforcement agency' means any public agency charged by law with the duty to investigate crimes, apprehend and hold in custody persons charged with crimes.'.

"(c) This section is not intended to preempt any existing State law that meets the minimum requirements set forth in this section.".

SEC. 402. TABLE OF CONTENTS.

The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after the item relating to section 818 the following new item:

"Sec. 819. Law enforcement officers bill of rights.".

TITLE V—VICTIMS' BILL OF RIGHTS

SEC. 501. AMENDMENT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by striking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs."; and

(4) by adding at the end thereof the following new subsection:

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of fact and recommendations as to disposition, subject to a de novo determination of the issue by the court.".

SEC. 502. EXPANSION OF RESTITUTION.

Section 3663(b) of title 18, United States Code, is amended by striking "and" following the semicolon in paragraph (3), redesignating paragraph (4) as paragraph (5), and adding after paragraph (3) the following:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

SEC. 503. SUSPENSION OF FEDERAL BENEFITS.

Subsections (g) and (h) of section 3663 of title 18, United States Code, are redesignated as subsections (h) and (i), respectively, and a new subsection (g) is inserted as follows:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments established under subsection (f)(1) of this section, or any requirement of immediate payment under subsection (f)(3) of this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 504. VICTIM'S RIGHT OF ALLOCATION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following: "(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before ", or the attorney for the Government."; and

(6) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

"(1) 'victims' means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless or whether the victim is present; and

"(2) 'crime or violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

SEC. 505. CRIME VICTIMS FUND.

(a) ELIMINATION OF FUND CEILINGS AND SUNSET PROVISION.—Subsection (c) of section 1402 (42 U.S.C. 10601) of the Victims of Crime Act of 1984 is repealed.

(b) ALLOCATIONS.—

(1) GENERALLY.—Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended to read as follows:

"(2) The Fund shall be available as follows:

"(A) Of the total deposited in the Fund during a particular fiscal year—

"(i) 7 percent shall be available for grants under section 1404A of this title;

"(ii) 4 percent shall be available for grants under section 1404(c)(1);

"(iii) 89 percent shall be available in equal amounts for grants under section 1403 and section 1404(a) of this title.

"(B) The Director may retain any portion of the Fund that was deposited during a fiscal year that is in excess of 110 percent of the total amount deposited in the Fund during the preceding fiscal year as a reserve for use in a year in which the Fund falls below the amount available in the previous year. Such reserve may not, however, exceed $20,000,000.

"(C) If the amount deposited in the Fund during a fiscal year exceeds $150,000,000, then the reserved portion of such excess the Fund shall be made available to the judicial branch for administrative costs to carry out the functions of that branch under sections 3611 and 3612 of title 18, United States Code. The reserved portion referred to in the preceding sentence is the first $6,200,000 in each of fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter.".

(2) CONFORMING CROSS-REFERENCE.—Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)) is amended by striking "(iv)" and inserting "(i)" in lieu thereof.

SEC. 506. PERCENTAGE CHANGE IN CRIME VICTIM COMPENSATION FORMULA.

Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "40 percent" and inserting "45 percent".

SEC. 507. ADMINISTRATIVE COSTS FOR CRIME VICTIM COMPENSATION.

(a) CREATION OF EXCEPTION.—The final sentence of section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)(1)) is amended by striking "A grant" and inserting "Except as provided in paragraph (3), a grant".

(b) REQUIREMENTS OF EXCEPTION.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by adding at the end the following:

"(3) Not more than 5 percent of a grant made under this section may be used for the administration of the crime victim compensation program receiving the grant.".

SEC. 508. RELATIONSHIP OF CRIME VICTIM COMPENSATION TO CERTAIN FEDERAL PROGRAMS.

Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, if the compensation paid by an eligible crime victim compensation program would cover costs that a Federal program, or a federally financed State or local program, would otherwise pay, then—

"(1) such crime victim compensation program shall not pay that compensation; and

"(2) the other program shall make its payments without regard to the existence of the crime victim compensation program.".

SEC. 509. USE OF UNSPENT 1402(d)(2) MONEY.

Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(1)) is amended—

(1) by striking "or for the purpose of grants under section 1403 but not used for that purpose"; and

(2) by adding at the end the following:

"The Director, in the Director's discretion, may use amounts made available under section 1402(d)(2) for the purposes of grants under section 1403 but not used for that purpose, for grants under this subsection, either in the year such amounts are not so used, or the next year.".

SEC. 510. UNDERSERVED VICTIMS.

Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following:

"(6) In making the certification required by paragraph (2)(B), the chief executive shall give particular attention to children who are victims of violent street crime.".

SEC. 511. GRANTS FOR DEMONSTRATION PROJECTS.

Section 1404(c)(1)(A) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(c)(1)(A)) is amended by inserting "demonstration projects and" before "training".

SEC. 512. ADMINISTRATIVE COSTS FOR CRIME VICTIM ASSISTANCE.

(a) CREATION OF EXCEPTION.—Section 1404(b)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(B)(2)) is amended by striking "An eligible" and inserting "Except as provided in paragraph (3), an eligible".

(b) REQUIREMENTS OF EXCEPTION.—Section 1404(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(B)) is amended by adding at the end the following:

"(3) Not more than 5 percent of sums received under subsection (a) may be used for the administration of the crime victim assistance program receiving such sums.".

SEC. 513. CHANGE OF DUE DATE FOR REQUIRED REPORT.

Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604(g)) is amended—

(1) by striking "December 31, 1990", and inserting "May 31, 1993"; and

(2) by striking "December 31" the second place it appears and inserting "May 31" in lieu thereof.

SEC. 514. MAINTENANCE OF EFFORT.

Section 1407 of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by adding at the end the following:

"(h) Each entity receiving sums made available under this Act for administrative purposes shall certify that such sums will not be used to supplant State or local funds, but will be used to increase the amount of such funds that would, in the absence of Federal funds, be made available for these purposes.".

SEC. 515. MAINTAINING CURRENT FUNDING LEVELS.

The allocation provisions of sections 1402(d)(2)(A)(i), 1402(d)(2)(A)(ii), 1403(a)(3), and 1404(b)(3) of the Victims of Crime Act of 1984 shall take effect in a fiscal year upon certification by the Director that there are sufficient funds in the Victims Assistance Fund and the Victims Compensation Fund at the end of the previous fiscal year so that the allocations provided by such sections will not reduce the current funding levels in such funds.

TITLE VI—GANGS AND JUVENILE OFFENDERS

SEC. 601. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

(a) Section 5038 of title 18, United States Code, is amended by striking subsections (d) and (f), redesignating subsection (e) as subsection (d), and adding at the end thereof new subsections (e) and (f) as follows:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure or availability of records or information, if the law of the State in which a Federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure or availability is permitted under this section whenever the same circumstances exist.".

(b) Section 3607 of title 18, United States Code, is repealed, and the corresponding reference in the section analysis for chapter 229 of title 18 is deleted.

(c) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking the words "and section 3607 of title 18".

SEC. 602. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3))," and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), or (3), or 963),"; and

(B) by striking "922(p)" and inserting in lieu thereof "924 (b), (g), or (h)";

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844 or 846), section 1002(a), 1005, 1009, 1010(b) (1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b) (1), (2), or (3), or 963), or section 924 (b), (g), or (h) of this title,"; and

(B) by striking "subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3))" and inserting in lieu thereof "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1) (A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1) (A), (B), or (C), (d), or (e), 844 or 846) or section 1002(a), 1003, 1009, 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), or (3), or 963)"; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 603. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 604. INCREASED PENALTY FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting in lieu thereof "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than five years, or both, or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than twenty years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 605. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

SEC. 606. ADDITIONAL PENALTIES FOR STREET GANG ACTIVITIES.

(a) In General.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following:

"§ 1960. Street gangs

"(a) Whoever is convicted of a felony crime of violence (in or affecting commerce) for the benefit of, at the direction of, or in association with any criminal street gang, shall in addition to the punishment provided by law for such crime, be fined under this title and imprisoned not more than three years, or both. Any imprisonment imposed under this section shall not run concurrently with any imprisonment imposed for such crime.

"(b) As used in this section—

"(1) the term 'criminal street gang' means an ongoing organization, association, or group of three or more individuals, whether formal or informal, that—

"(A) has a common name or identifying sign or symbol; and

"(B) whose members individually or collectively—

"(1) engage in or have engaged in a pattern of predicate crimes; and

"(2) unlawfully carry or use firearms (as defined in section 921 of this title);

"(2) the term 'predicate crimes' means—

"(A) any crime that is racketeering activity when the meaning given that term in section 1961(1) of this title; or

"(B) any crime that is punishable under Federal, State, or local law that consists of—

"(i) an assault with a dangerous weapon or resulting in serious bodily injury;

"(ii) a shooting at a dwelling or occupied motor vehicle; or

"(iii) a theft of a motor vehicle;

"(3) the term 'felony crime of violence' means a crime of violence punishable by imprisonment for longer than one year."; and

"(4) the term 'pattern of predicate crimes' means 2 or more predicate crimes, one of which occurred after the date of the enactment of this section and the last of which occurred within 10 years (excluding any period of imprisonment) after the commission of a prior predicate crime.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 96 of title 18, United States Code, is amended by adding at the end the following:

"1960. Street gangs.".

TITLE VII—DEATH PENALTY

SEC. 701. SHORT TITLE.

This title may be cited as the "Capital Punishment Procedures Act of 1991".

SEC. 702. DEATH PENALTY PROCEDURES.

Title 18 of the United States Code is amended—

(1) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral Attack on Judgment Imposing Sentence of Death.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(c) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(d) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person;

"(e) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, acting with a state of mind described in subsection (f), engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

"(f) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: *Provided*, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) Mitigating Factors.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) Mental capacity.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) Duress.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) Participation in offense minor.—The defendant's participation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) Aggravating Factors for Homicide and for Attempted Murder of the President.—In determining whether a sentence of death is justified for an offense described in section 3519 (b) or (f), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) Conduct occurred during commission of specified crimes.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n) (aircraft piracy)).

"(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"(10) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) TYPE OF VICTIM.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (c)–(e), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591 (a), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (b) or (f), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591(c)-(e), an aggravating factor required to be considered under section 3592(d) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(b) Representation Before Finality of Judgment.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) Representation After Finality of Judgment.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within ten days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (1) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) Standards for Competence of Counsel.—In relation to a defendant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) Applicability of Criminal Justice Act.—Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(f) Claims of Ineffectiveness of Counsel.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§3599. Collateral attack on judgment imposing sentence of death

"(a) Time for Making Section 2255 Motion.—In a case in which sentence of death has been imposed, and the judgment has become final as described in section 3598(c) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within ninety days of the issuance of the order relating to appointment of counsel under section 3598(c) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding sixty days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) Stay of Execution.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) Finality of the Decision on Review.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed."; and

(2) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty procedures .... 3591.".

SEC. 703. CAPITAL PUNISHMENT FOR MURDERS IN CONNECTION WITH SEXUAL ASSAULTS AND CHILD MOLESTATIONS.

Title 18 of the United States Code is amended—

(1) by adding at the end of chapter 51 the following new section:

"§ 1118. Capital Punishment for Murders in Connection with Sexual Assaults and Child Molestations

"(a) Offense.—It is an offense to cause the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or to cause the death of a person through the intentional infliction of serious bodily injury.

"(b) Federal Jurisdiction.—There is Federal jurisdiction over an offense described in this section if the conduct resulting in death occurs in the course of another offense against the United States.

"(c) Penalty.—An offense described in this section is a Class A felony. A sentence of death may be imposed for an offense described in this section as provided in this title."; and

(2) by adding the following at the end of the table of sections for chapter 51:

"1118. Capital punishment for murders in connection with sexual assaults and child molestations.".

SEC. 704. DEATH PENALTY FOR MURDER DURING THE COMMISSION OF AN ACT IN VIOLATION OF CIVIL RIGHTS.

(a) Conspiracy Against Rights.—Section 241 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) Deprivation of Rights Under Color of Law.—Section 242 of title 18, United States Code, is amended by striking the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) Federally Protected Activities.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) Damage to Religious Property; Obstruction of the Free Exercise of Religious Rights.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

SEC. 705. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 706. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 707. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 708. CONFORMING AMENDMENT RELATING TO MURDER.

The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 709. MURDER BY FEDERAL PRISONER.

Chapter 51 of title 18 of the United States Code is amended—

(1) by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death."; and

(2) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. 710. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 711. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 712. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 713. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 714. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Subsection (a) of section 1958 of title 18 of the United States Code is amended by deleting the words "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting in lieu thereof "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 715. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Paragraph (1) of subsection (a) of section 1959 of title 18 of the United States Code is amended to read as follows: "for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both";

SEC. 716. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 717. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof "or if death results shall be punished by death or life imprisonment".

SEC. 718. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act is amended by striking subsections (g)–(r).

TITLE VIII—IMPOSITION OF MANDATORY MINIMUM SENTENCES WITHOUT RELEASE

SEC. 801. INCREASED MANDATORY MINIMUM SENTENCES WITHOUT RELEASE FOR CRIMINALS USING FIREARMS AND OTHER VIOLENT CRIMINALS.

(a) USE OF FIREARMS.—Section 924(c)(1) of title 18, United States Code, is amended to read as follows:

"(c)(1) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States or during and in relation to any felony punishable under chapter 25 of this title (relating to counterfeiting and forgery)—

"(A) uses, carries, or otherwise possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 10 years without release;

"(B) discharges a firearm with intent to injure another person, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for not less than 20 years without release; or

"(C) uses, carries, or otherwise possesses a firearm that is a machinegun, or is equipped with a firearm silencer or firearm muffler shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for 30 years without release.

In the case of a second conviction under this subsection, a person shall be sentenced to imprisonment for not less than 20 years without release for possession or not less than 30 years without release for discharge of a firearm, and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. In the case of a third or subsequent conviction under this subsection, a person shall be sentenced to life imprisonment without release. If the death of a person results from the discharge of a firearm, with intent to kill another person, by a person during the commission of such a crime, the person who discharged the firearm shall be sentenced to death or life imprisonment without release. A person shall be subjected to the penalty of death under this subsection only if a hearing is held in accordance with section 408 of the Controlled Substances Act (21 U.S.C. 848). Notwithstanding any other law, a court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used. No person sentenced under this subsection shall be released for any reason whatsoever during a term of imprisonment imposed under this paragraph.".

SEC. 802. LONGER PRISON SENTENCES FOR THOSE WHO SELL ILLEGAL DRUGS TO MINORS OR FOR USE OF MINORS IN DRUG TRAFFICKING ACTIVITIES.

(a) DISTRIBUTION TO PERSONS UNDER AGE 21.—Section 405 of the Controlled Substances Act (21 U.S.C. 845) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence."; and

(2) in subsection (b) by striking "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 20 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

(b) EMPLOYMENT OF PERSONS UNDER 18 YEARS OF AGE.—Section 420 of the Controlled Substances Act (21 U.S.C. 861) is amended—

(1) in subsection (a) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 10 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence"; and

(2) in subsection (c) by striking "Except to the extent a greater minimum sentence is otherwise provided, a term of imprisonment under this subsection shall be not less than one year." and inserting "Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than 20 years without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under the preceding sentence and such person shall not be released during the term of such sentence.".

SEC. 803. LONGER PRISON SENTENCES FOR DRUG TRAFFICKING.

(a) SCHEDULE I AND II SUBSTANCES.—Section 401(b)(1)(C) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(C)) is amended—

(1) in the first sentence by striking "of not more than 20 years" and inserting "which shall be not less than 5 years without release nor more than 20 years";

(2) in the second sentence by striking "of not more than 30 years" and inserting "which shall be not less than 10 years without release nor more than 30 years"; and

(3) in the fourth sentence by striking "which provide for a mandatory term of imprisonment if death or serious bodily injury results".

(b) MARIJUANA.—Section 401(b)(1)(D) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(D)) is amended—

(1) in the first sentence by striking "of not more than 5 years" and inserting "not less than 5 years without release";

(2) in the second sentence by striking "of not more than 10 years" and inserting "which shall be not less than 10 years without release"; and

(3) by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

(c) SCHEDULE IV SUBSTANCES.—Section 401(b)(2) of the Controlled Substances Act (21 U.S.C. 841(b)(2)) is amended—

(1) in the first sentence by striking "of not more than 3 years" and inserting "which shall be not less than 5 years without release";

(2) in the second sentence by striking "of not more than 6 years" and inserting "which shall be not less than 10 years without release"; and

(3) by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

(d) SCHEDULE V SUBSTANCES.—Section 401(b)(3) of the Controlled Substances Act (21 U.S.C. 841(b)(3)) is amended—

(1) in the first sentence by striking "of not more than one year" and inserting "which shall be not less than 5 years without release";

(2) in the second sentence by striking "of not more than 2 years" and inserting "which shall be not less than 10 years without release"; and

(3) by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person sentenced under this subparagraph, nor shall a person so sentenced be eligible for parole during the term of such a sentence.".

SEC. 804. MANDATORY PENALTIES FOR ILLEGAL DRUG USE IN FEDERAL PRISONS.

(a) DECLARATION OF POLICY.—It is the policy of the Federal Government that the use or distribution of illegal drugs in the Nation's Federal prisons will not be tolerated and that such crimes shall be prosecuted to the fullest extent of the law.

(b) AMENDMENT.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding the following new paragraph at the end thereof:

"(7)(A) In a case involving possession of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 1 year without release in addition to any other sentence imposed for the possession itself.

"(B) In a case involving the smuggling of a controlled substance into a Federal prison or other Federal detention facility or the distribution of a controlled substance within a Federal prison or other Federal detention facility, such person shall be sentenced to a term of imprisonment of not less than 10 years without release in addition to any other sentence imposed for the possession or distribution itself.

"(C) Notwithstanding any other law, the court shall not place on probation or suspend the sentence of a person sentenced under this paragraph. No person sentenced under this paragraph shall be eligible for parole during the term of imprisonment imposed under this paragraph.".

SEC. 805. DEPORTATION OF CRIMINAL ALIENS.

(a) DEPORTATION OF ALIENS CONVICTED OF CRIMES OF VIOLENCE.—Section 241(a)(14) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(14)) is amended by inserting after "convicted" the following: "of a drug trafficking crime or a crime of violence (as those terms are defined in paragraphs (2) and (3) of section 924(c) of title 18, United States Code) and who has served any term of imprisonment imposed by a court, or".

(b) REENTRY OF DEPORTED ALIENS.—Section 276(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1326(b)(2)) is amended to read as follows:

"(2) whose deportation was subsequent to a conviction for a drug trafficking crime or a crime of violence (as those terms are defined in section 924(c) (2) and (3) of title 18, United States Code), or for commission of an aggravated felony, such alien shall be fined under such title and imprisoned for not less than 20 years without release, and in the case of a second violation of subsection (a) shall be imprisoned for life without release. Notwithstanding any other law, the court shall not place on probation or suspend the sentence of any person sentenced under this paragraph and such person shall not be released during the term of such sentence.".

SEC. 806. ENCOURAGEMENT TO STATES TO ADOPT MANDATORY MINIMUM PRISON SENTENCES.

(a) PRIORITY.—Beginning on the date that is 2 calendar years after the date of enactment of this Act, a request for Federal drug law enforcement assistance funds from the Bureau of Justice Assistance Grant Programs by a State whose law provides for mandatory minimum sentences equal to or greater than the sentences authorized in sections 801, 802, 803, 804, and 805 for the commission of crimes against the State that are equivalent to the Federal crimes punished in those sections shall receive priority over a request by a State whose law does not so provide.

(b) REDISTRIBUTION.—Beginning on the date that is 2 calendar years after the date of enactment of this Act, the formula for determining the amount of funds to be distributed from the Drug Control and System Improvement Grant Program to State and local governments shall be adjusted by—

(1) reducing by 10 percent the amount of funds that would, except for the application of this paragraph, be allocated to States whose laws do not provide as stated in subsection (a); and

(2) allocating the amount of the reduction pro rata to the other States.

TITLE IX—MANDATORY JUDICIAL REFORMS

SEC. 901. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—

"(1) FEDERAL PROCEEDINGS.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(2) STATE PROCEEDINGS.—The law of the United States does not require the exclusion of evidence in a proceeding in any court under circumstances in which the evidence would be admissible in a proceeding in a court of the United States pursuant to paragraph (1) of this subsection.

"(b) FIREARMS SEIZED AS EVIDENCE BY FEDERAL LAW ENFORCEMENT OFFICERS.—

"(1) ADMISSIBILITY OF EVIDENCE.—In addition to the limitations on the exclusion of evidence set forth in subsections (a) and (c) of this section, a firearm obtained as a result of a search or seizure shall not be excluded as evidence in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out by a Federal law enforcement officer, and the firearm will be used as evidence against a defendant who—

"(A) is being prosecuted for a crime of violence or a serious drug offense; or

"(B) is ineligible to possess such firearm pursuant to section 922(g) of this title.

"(2) RULES FOR CONDUCT AND SANCTIONS.—The Attorney General shall promulgate rules and regulations relating to compliance by law enforcement officers of the Department of Justice with the fourth amendment to the Constitution. Such rules and regulations shall include specifications concerning—

"(A) the training of such officers in the law of search and seizure;

"(B) procedures and standards of conduct to be observed in carrying out searches and seizures;

"(C) procedures for reporting and investigating incidents involving possible violations of legal or administrative requirements relating to searches and seizures;

"(D) sanctions to be imposed when such violations are determined to have occurred; and

"(E) standards and procedures for settling claims for damages by victims of unlawful searches or seizures that are presented under section 2675 of title 28, United States Code.

"(3) RULES FOR CONDUCT AND SANCTIONS BY OTHER DEPARTMENTS AND AGENCIES.—The head of any other department or agency, following consultation with the Attorney General, may promulgate rules and regulations relating to compliance with the fourth amendment by law enforcement officers of such department or agency. Such rules and regulations shall meet the specifications set forth in paragraph (2) of this subsection.

"(4) REVIEW BOARDS.—The Attorney General, and any other head of a department or agency that promulgates rules and regulations pursuant to paragraph (3) of this subsection, shall establish a review board to consider all allegations of violations of the fourth amendment by law enforcement officers of the department or agency, and to recommend or impose appropriate sanctions in cases where violations are determined to have occurred. A review board so constituted may also be charged with recommending the settlement of claims for damages by victims of unlawful searches and seizures that are presented under section 2675 of title 28, United States Code.

"(5) REPORT TO CONGRESS.—The Attorney General, and any other head of a department or agency that promulgates rules and regulations pursuant to paragraph (3) of this subsection, shall report annually to Congress concerning—

"(A) allegations received by the review board established under paragraph (4) of this subsection, and claims presented under section 2675 of title 28, United States Code, that relate to search or seizure violations by law enforcement officers of the department or agency;

"(B) the actions taken on such allegations and claims; and

"(C) the bases for such actions.

"(6) DEFINITIONS.—As used in this subsection, the term—

"(A) 'firearm' has the meaning given such term in section 921(a)(3) of this title and also includes ammunition for such firearm;

"(B) 'law enforcement officer' has the meaning given such term in section 408(e)(2) of the Controlled Substances Act (21 U.S.C. 848(e)(2));

"(C) 'crime of violence' has the meaning given such term in section 924(c)(3) of this title; and

"(D) 'serious drug offense' has the meaning given such term in section 924(e)(2)(A) of this title.

"(7) EFFECTIVE DATE.—Paragraph (1) of this subsection shall take effect with respect to searches and seizures conducted by law enforcement officers of a department or agency following the promulgation of the regulations required under paragraph (2) or (3) of this subsection and the establishment of a review board pursuant to paragraph (4) of this subsection.

"(c) EVIDENCE NOT EXCLUDABLE BY STATUTE OR RULE.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(d) RULE OF CONSTRUCTION.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Admissibility of evidence obtained by search or seizure.".

SEC. 902. HABEAS CORPUS REFORM.

(a) GENERAL HABEAS CORPUS REFORM.—

(1) PERIOD OF LIMITATION.—Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

(2) APPEAL.—Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause."

(3) AMENDMENT TO RULES OF APPELLATE PROCEDURE.—Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

(4) SECTION 2254 AMENDMENTS.—Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(A) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(B) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(C) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(D) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

(5) SECTION 2255 AMENDMENTS.—Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

(b) DEATH PENALTY LITIGATION PROCEDURES.—Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.
"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.
"2258. Filing of habeas corpus petition; time requirements; tolling rules.
"2259. Evidentiary hearings; scope of Federal review; district court adjudication.
"2260. Certificate of probable cause inapplicable.
"2261. Application to state unitary review procedures.
"2262. Limitation periods for determining petitions.
"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall:

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§ 2261. Application to state unitary review procedure

"(a) For purposes of this section, a "unitary review" procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provision of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§ 2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) The district court shall determine such a petition or motion within one hundred and eighty days of the filing of the petition or motion.

"(2) The court of appeals shall determine an appeal relating to such a petition or motion within one hundred and eighty days of the filing of the record in the court of appeals. If the court of appeals grants en banc consideration, the en banc court shall determine the appeal within one hundred and eighty days of the decision to grant such consideration.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) the failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"§ 2263. Rule of construction

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

SEC. 903. PROSCRIPTION OF USE OF DRUG PROFITS.

(a) List of Assets.—Section 511(d) of the Controlled Substances Act (21 U.S.C. 881(d)) is amended by—

(1) inserting "(1)" after "(d)"; and

(2) adding at the end thereof the following new paragraph:

"(2)(A) Prior to sentencing a defendant on conviction in a Federal court of a felony under this title, the court shall compile a list of all assets owned by the defendant not subject to forfeiture.

"(B) After the release of a defendant described in subparagraph (A), upon request of the Attorney General, the court shall require the defendant to provide proof that any asset owned by the defendant not listed on the list described in subparagraph (A) was legally obtained.

"(C) In order to prove that a defendant legally obtained an asset not listed on the list described in subparagraph (A), the defendant shall be required to produce documentation of the same nature as that required of a taxpayer by the Internal Revenue Service.

"(D) Assets that a defendant does not prove were legally obtained under subparagraph (B) may be seized by the Attorney General through attachment and foreclosure proceedings, and the proceeds of such proceedings shall be deposited in the Department of Justice's Assets Forfeiture Fund and shall be available for transfer to the building and facilities account of the Federal prison system.".

SEC. 904. JURISDICTION OF SPECIAL MASTERS.

Notwithstanding any other law, a special master appointed to serve in a United States court to monitor compliance with a court order, including special masters who have been appointed prior to the date of enactment of this Act—

(1) shall be appointed for a term of no more than 1 year;

(2) may be reappointed for terms of 1 year;

(3) shall be given a clear and narrow mandate by the court and shall have no authority in any area where a specific mandate is not granted; and

(4) shall not have jurisdiction to enforce any judicial order with respect to the management of prisons or jails.

SEC. 905. SENTENCING PATTERNS OF FEDERAL JUDGES.

(a) In General.—Chapter 49 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 757. Sentencing patterns

"(a) The Administrative Office of the United States Courts shall annually publish a cumulative report on sentencing by United States District Judges. The report shall be compiled for the purpose of enabling the reader to assess criminal sentencing patterns among Federal judges and post-sentencing treatment to determine the judicial accuracy of forecasting future responsible and lawful behavior by those whom they sentence.

"(b) The report shall—

"(1) identify the judge that pronounced each criminal sentence;

"(2) give a brief description of the crime or crimes perpetrated by the criminal and the prison, probation, parole, furlough, recidivism, and other history of the criminal that is reasonably available for compilation; and

"(3) include such charts, profiles, and narratives as are necessary.".

(b) Technical Amendment.—The table of sections for chapter 49 of title 28, United States Code, is amended by adding at the end thereof the following:

"757. Sentencing patterns.".

SEC. 906. JUDICIAL REMEDIES FOR PRISON CROWDING.

(a) Purpose.—The purpose of this section is to provide for reasonable and proper enforcement of the eighth amendment.

(b) Findings.—The Congress finds that—

(1) the Federal courts are unreasonably endangering the community by sweeping prison and jail cap orders as a remedy for detention conditions that they hold are in conflict with the eighth amendment; and

(2) eighth amendment holdings frequently are unjustified because of the absence of a plaintiff inmate who has proven that detention conditions inflict cruel and unusual punishment of that inmate.

(c) Amendment of Title 18, United States Code.—(1) Subchapter C of chapter 229 of part 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3626. Appropriate remedies with respect to prison crowding

"(a)(1) A Federal court shall not hold prison or jail crowding unconstitutional under the eighth amendment except to the extent that an individual plaintiff inmate proves that the crowding causes the infliction of cruel and unusual punishment of that inmate.

"(2) The relief in a case described in paragraph (1) shall extend no further than necessary to remove the conditions that are causing the cruel and unusual punishment of the plaintiff inmate.

"(b)(1) A Federal court shall not place an inmate ceiling on any Federal, State, or local detention facility as an equitable remedial measure for conditions that violate the eighth amendment unless crowding is inflicting cruel and unusual punishment on individual prisoners.

"(2) Federal judicial power to issue equitable relief other than that described in paragraph (1), including the requirement of improved medical or health care and the imposition of civil contempt fines or damages, where appropriate, shall not be affected by paragraph (1).

"(c) Each Federal court order seeking to remedy an eighth amendment violation shall be reopened at the behest of a defendant for recommended alteration at a minimum of two-year intervals.

"(d) This section shall expire on the date that is 5 years after the date of enactment of this section.".

(2) Section 3626 of title 18, United States Code, as added by paragraph (1), shall apply to all outstanding court orders on the date of enactment of this section. Any State or municipality shall be entitled to seek modification of any outstanding eighth amendment decree pursuant to that section.

(3) The table of sections for subchapter C of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3626. Appropriate remedies with respect to prison crowding.".

SEC. 907. TEMPORARY PRISON FACILITIES AND EXPANDED CAPACITY.

(a) USE OF MILITARY INSTALLATIONS.—(1) In order to remove violent criminals from the streets and protect the public safety, the Attorney General shall take such action as may be necessary to ensure that sufficient facilities exist to house individuals whom the courts have ordered incarcerated. In order to provide facilities for incarceration, the Secretary of Defense, the Commission on Alternative Utilization of Military Facilities, and the Director of the Bureau of Prisons shall—

(A) identify military installations that could be used as confinement facilities for Federal or State prisoners; and

(B) examine the feasibility of using temporary facilities for housing prisoners.

(2) Not later than 90 days after the date of enactment of this Act, the Director of the Bureau of Prisons shall submit to the Congress a description and summary of the results of the examination conducted pursuant to paragraph (1).

(c) PRIORITY FOR DISPOSAL OF CLOSED MILITARY INSTALLATIONS.—Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) is amended to read as follows:

"(3)(A) Notwithstanding any other provision of this title and any other law, before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title the Secretary shall—

"(i) notify the Attorney General and the Governor of each of the territories and possessions of the United States of the availability of such real property or facility, or portion thereof; and

"(ii) transfer such real property or facility, or portion thereof, as provided in subparagraph (B).

"(B) Subject to subparagraph (C), the Secretary shall transfer real property or a facility, or portion thereof, referred to in subparagraph (A) in accordance with the following priorities:

"(i) If the Attorney General certifies to the Secretary that the property or facility, or portion thereof, will be used as a prison or other correctional institution, to the Department of Justice for such use.

"(ii) If the Governor of a State, the Mayor of the District of Columbia, or the Governor of a territory or possession of the United States certifies to the Secretary that the property or facility, or portion thereof, will be used as a prison or other correctional institution, to that State, the District of Columbia, or that territory or possession for such use.

"(iii) To any other transferee pursuant to the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(C) Within each priority specified in clauses (i) and (ii) of subparagraph (B), the Secretary shall give a priority for the transfer of any real property or facility referred to in that subparagraph, or any portion thereof, to any department, agency, or other instrumentality referred to in such clauses that agrees to pay the Department of Defense the fair market value of the real property, facility, or portion thereof.

"(D) In this paragraph, the term 'fair market value' means, with respect to any real property or facility, or any portion thereof, the fair market value determined on the basis of the use of the real property or facility on December 31, 1989.".

(d) REVIEW OF CURRENT STANDARDS OF PRISON CONSTRUCTION.—(1) The Director of the Bureau of Prisons (referred to as the "Director") shall—

(A) review current construction standards and methods used in building Federal prisons; and

(B) examine and recommend any cost cutting measures that could be employed in prison construction (consistent with security requirements), especially expenditures for air conditioning, recreational activities, color television, social services, and similar amenities.

(2) Not later than 90 days after the date of enactment of this Act, the Director shall submit to Congress a description and summary of the results of the review conducted pursuant to paragraph (1).

(e)(1) Chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§4014. Private construction and operation of Federal prisons

"(a) IN GENERAL.—The Attorney General may contract with private persons to—

"(1) construct, own, and operate Federal prison facilities; or

"(2) construct or operate Federal prison facilities owned by the United States,

including the provision of subsistence, care, and proper employment of United States prisoners.

"(b) COOPERATION WITH STATES.—The Attorney General shall consult and cooperate with State and local governments in exercising the authority provided by subsection (a).

"(c) FINANCING OPTIONS FOR PRISON CONSTRUCTION AND OPERATION.—(1) To the greatest extent possible, the Attorney General shall utilize creative and cost-effective private financing alternatives and private construction and operation of prisons.

"(2) Operating costs of privately-operated prisons shall be covered through rent charged to participating units of Government placing inmates in a prison.

"(3) The Attorney General may finance the construction of facilities through lease or lease-purchase agreements.

"(4) In order to gain full cost advantages from economies of scale and specialized knowledge from private innovation, the Attorney General may contract with consortia or teams of private firms to design, construct, and manage, as well as finance, prison facilities.".

(2) The table of sections for chapter 301 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"4014. Private construction and operation of Federal prisons.".

(f) SURPLUS FEDERAL PROPERTY.—(1) For the purpose of expanding the number of correctional facilities, the Administrator of the General Services Administration, in consultation with the Attorney General, shall, not later than 90 days after the date of enactment of this Act, identify and make available a list of not less than 20 parcels of surplus Federal property, which the Attorney General has certified are not needed for Federal correctional facilities but which may be suitable for State or local correctional facilities.

(2) During the period beginning on the date of enactment of this Act and ending 5 years after such date and notwithstanding any other law, any property that is determined to be excess to the needs of a Federal agency that may be suitable for use as a correctional facility shall be made available for such use, in order of priority, first, to the Attorney General, and second, to a State, the District of Columbia, or a local government.

(g) STATE AND LOCAL GOVERNMENT USE OF FACILITIES.—State and local governments shall be permitted to use Federal temporary incarceration facilities, when they are not needed to accommodate Federal prisoners, for the purpose of incarcerating prisoners at a per diem fee to be paid to the Bureau of Prisons.

SEC. 908. IMPRISONMENT OF DRUG TRAFFICKERS AND VIOLENT CRIMINALS.

During the period beginning on the date of enactment of this Act and ending 5 years after such date and notwithstanding any other law, every person who is convicted in a Federal court of committing a crime of violence or drug trafficking crime, shall be sentenced to and shall serve a full term of no less than 5 years' imprisonment, and no such person shall be released from custody for any reason or for any period of time prior to completion of the sentence imposed by the court unless the sentence imposed is greater than 5 years and is not a mandatory minimum sentence without release.

TITLE X—PRISONER AND PRISON SYSTEM REFORMS

SEC. 1001. MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted prisoners confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved. Such labor may include, but not be limited to—

(A) local public works projects and infrastructure repair;

(B) construction of new prisons and other detention facilities;

(C) prison industries; and

(D) other appropriate labor.

(2) It is the policy of the Federal Government that States and local governments have the same authority to require all convicted prisoners to work.

(b) PRISONERS SHALL WORK.—Medical certification of 100 percent disability, security considerations, or disciplinary action shall be the only excuse to remove a Federal prisoner from labor participation.

(c) USE OF FUNDS.—(1) Subject to paragraph (2), any funds generated by labor conducted pursuant to this section shall be deposited in a separate fund in the Treasury of the United States for use by the Attorney General for payment of prison construction and operating expenses or for payment of compensation judgments. Notwithstanding any other law, such funds shall be available without appropriation.

(2) Prisoners shall be paid a share of funds generated by their labor conducted pursuant to this section.

SEC. 1002. MANDATORY EDUCATION FOR INCARCERATED ADULTS.

Section 321 of the Adult Education Act (20 U.S.C. 1203) is amended—

(1) by striking "From" and inserting the following:

"(a) PROGRAM AUTHORIZED.—Subject to subsection (b), from"; and

(2) by adding at the end the following:

"(b) MANDATORY LITERACY PROGRAM.—

"(1) Before the expiration of the two-year period beginning on the date of the enactment of this Act, each State correctional system and each local jail or detention center with an over one hundred fifty inmate population shall have in effect a mandatory functional literacy program in at least one major correctional facility.

"(2) Provided that adequate funds are available, each State correctional system and each local jail or detention center with an over one hundred and fifty inmate population shall have in effect a functional literacy program in each correctional facility, before the expiration of the five-year period beginning on the date of the enactment of this Act.

"(3) Each mandatory functional literacy program required by paragraphs (1) and (2) shall include—

"(A) a requirement that each individual incarcerated in a State corrections system, or in a local jail or detention center with an over one hundred and fifty inmate population, who is serving a sentence of at least one year, and who is not functionally literate participate in such program until such individual—

"(i) achieves functional literacy;

"(ii) is granted parole;

"(iii) completes his or her sentence; or

"(iv) is released pursuant to a court order;

"(B) a prohibition on granting parole to any individual described in subparagraph (A) who refuses to participate in such program;

"(C) adequate opportunities for appropriate educational services and testing of all inmates at reception for functional literacy; and

"(D) an inmate participation incentive program which may include—

"(i) better housing opportunities;

"(ii) monetary incentives for achievement; and

"(iii) positive reports from the education department to the parole authorities for inmates who participate and progress in the literacy program.

"(4) For purposes of this subsection, the term 'functional literacy' means either:

"(A) an eighth grade equivalence in reading on a nationally recognized standardized test;

"(B) functional competency or literacy on a nationally recognized criterion-referenced test; or

"(C) a combination of subparagraphs (A) and (B).

"(5) Any individual serving a life sentence without parole, or who is terminally ill, or under a sentence of death shall not be required to participate in a mandatory functional literacy program.

"(6) The Secretary may waive the application of paragraph (3)(B) in any case in which a court order requires early release of an individual due to a constitutional consideration.

"(7) Each State facility and jail required to participate in this program shall make an annual report to the Secretary on the results of its mandatory literacy program. Such report shall include the—

"(A) number of individuals tested for eligibility;

"(B) number of individuals eligible for the program;

"(C) number of individuals participating in the program;

"(D) numbers of hours of instruction per week;

"(E) sample data on achievement of students; and

"(F) data on cost of literacy program.

"(8) Parole agencies are encouraged to make educational recommendations for those being released who do not have a marketable job skill or a high school diploma.

"(9) Jails with less than a one hundred and fifty inmate population are encouraged to develop mandatory functional literacy programs as described in paragraph (3).".

SEC. 1003. EMPLOYMENT OF PRISONERS.

(a) IN GENERAL.—The Attorney General may enter into contracts with private businesses for the use of inmate skills that may be of commercial use to such businesses.

(b) USE OF FEES AND PAYMENTS.—A portion of the fees and payments collected for the use of inmate skills under contracts entered into pursuant to subsection (a) shall be deposited in the fund described in section 131(c)(1), and a portion shall be paid to the prisoners who conduct the labor.

(c) SECURITY REQUIREMENT.—In the case of contracts described in subsection (a) in which the provision of inmate skills would require prisoners to leave the prison—

(1) prisoners shall be permitted to travel directly to a work site and to remain at the work site during the work day and shall be returned directly to prison at the end of each work day; and

(2) only prisoners with no history of violent criminal activity and who are able to meet strict security standards to insure that they pose no threat to the public, shall be eligible to participate.

SEC. 1004. WITHHOLDING PRISONERS' FEDERAL BENEFITS TO OFFSET INCARCERATION COSTS.

(a) IN GENERAL.—The Federal benefits received by any prisoner (not including those of a prisoner's spouse or dependents) who has been convicted of a crime of violence or drug trafficking crime under Federal or State law and who is incarcerated in a Federal or State prison shall, during the period of the prisoner's incarceration, be withheld to offset the costs of—

(1) any victim compensation award against such prisoner; and

(2) any incarceration costs of the prisoner incurred by the prison system.

(b) PAYMENT.—(1) In the case of a Federal Prisoner, Federal benefits withheld for the purpose of subsection (a)(2) shall be paid into the fund established by section 131(c).

(2) In the case of a State prisoner, Federal benefits withheld for the purpose of subsection (a)(2) shall be paid to the State.

(c) EXCEPTION.—The withholding of Federal benefits of a prisoner with a spouse or other dependents under subsection (a) shall be adjusted by the court to provide adequate support to and to prevent the impoverishment of dependents.

(d) DEFINITIONS.—As used in this section the term "Federal benefit" means the issuance of any payment of money, by way of grant, loan, or statutory entitlement, provided by an agency of the United States or by appropriated funds or trust funds of the United States but does not include a right to payment under a contract.

SEC. 1005. DRUG TESTING OF FEDERAL PRISONERS.

(a) DRUG TESTING PROGRAM.—Subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§3608. Drug testing of defendants on post-conviction release

"(a) The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish by regulation a program of drug testing of selected arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail.

"(b)(1) The Attorney General shall, not later than 6 months after the date of enactment of this section, promulgate regulations for drug testing programs under this section.

"(2) The regulations issued pursuant to paragraph (1) shall be based in part on scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. In addition to specifying acceptable methods and procedures for carrying out drug testing, the regulations may include guidelines or specifications concerning—

"(A) the selection of persons to be tested;

"(B) the drugs to be tested for;

"(C) the frequency and duration of testing; and

"(D) the effect of test results in decisions concerning the sentence, the conditions to be imposed on release before or after conviction, and the granting, continuation, or termination of such release.

"(c) In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(b) TECHNICAL AMENDMENT.—The section analysis for subchapter A of chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following:

"3608. Drug testing of defendants on post-conviction release.".

SEC. 1006. DRUG TESTING OF STATE PRISONERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750–3766b) the following:

"DRUG TESTING PROGRAMS

"SEC. 523. (a) PROGRAM REQUIRED.—No funding shall be provided under this part, whether by direct grant, cooperative agreement, or assistance in any form, to any State or to any political subdivision or instrumentality of a State that has not formulated and implemented a drug testing program, subject to periodic review by the Attorney General, as specified in the regulations described in subsection (b), for selected arrestees, individuals in jails, prisons, and other correctional facilities, and persons on conditional or supervised release before or after conviction, including probationers, parolees, and persons released on bail.

"(b) REGULATIONS.—(1) The Attorney General shall, not later than 6 months after the enactment of this section, promulgate regulations for drug testing programs under this section.

"(2) The regulations issued pursuant to paragraph (1) shall incorporate the standards applicable to drug testing of Federal prisoners under section 3608 of title 18, United States Code.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State, subdivisions, or instrumentality receiving or seeking funding under this subchapter at a time specified by the Attorney General, but no earlier than the date of promulgation of the regulations required by subsection (b).".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting at the end of the item relating to part E the following:

"Sec. 523. Drug testing program.".

SEC. 1007. ENCOURAGEMENT TO STATES TO ADOPT PRISONER AND PRISON SYSTEM REFORMS.

(a) PRIORITY.—Beginning on the date that is 2 calendar years after the date of enactment of this Act, a request for Federal drug law enforcement assistance funds from the Bureau of Justice Assistance Grant Programs by a State whose law provides mandatory work requirements, mandatory education requirements, and drug testing of prisoners as provided in this title shall receive priority over a request by a State whose law does not so provide.

(b) REDISTRIBUTION.—Beginning on the date that is 2 calendar years after the date of enactment of this title, the formula for determining the amount of funds to be distributed from the Drug Control and System Improvement Grant Program to State and local governments shall be adjusted by—

(1) reducing by 10 percent the amount of funds that would, except for the application of this paragraph, be allocated to States whose laws do not provide as stated in subsection (a); and

(2) allocating the amount of the reduction pro rata to the other States.

By Mr. HATFIELD:

S. 1336. A bill to amend Title XI of the Higher Education Act of 1965 in order to encourage urban education institutions to form partnerships to use their knowledge and resources for the solution of severe urban problems; to the Committee on Labor and Human Resources.

HIGHER EDUCATION ACT AMENDMENTS

Mr. HATFIELD. Mr. President, when we talk in the Congress about higher education in the United States, much of the discussion centers on financial access. As college education costs approach home mortgage dimensions, growing concerns about the availability of grants and loans are reflected in pending legislation. For example, of the bills introduced this year in the Senate as amendments to the Higher Education Act, more than 70 percent pertain to financial aid, which is only one of 16 titles of the act.

I share the apprehensions of my colleagues in the Congress as education costs soar, and I can empathize with the growing indignation of parents and students. It is ironic that, in a nation where a college education is an inherent part of the "American dream," we sometimes build barriers instead of bridges between students and higher education.

I rise today, Mr. President, to address another bridge that merits our attention, a span across a trough of severe problems that afflict urban areas: problems of the elderly, of families and children, of the poor in inner cities; urban housing and infrastructure; economic development and workforce preparation; crime prevention and interventions; health care; inner city school systems and their disadvantaged students. As familiar and widespread as these problems are, they have been left to school boards and superintendents, city halls and county governments to deal with. The primary responsibility may be the local government's, but the magnitude of these problems calls for the participation and commitment of other constituencies, as well.

In some cities, businesses and industries have started their own initiatives or joined municipal agency programs in efforts to address economic and workforce problems.

In these same urban areas, there are people with the skills, knowledge and experience to tackle these problems but whose talents are underutilized on metropolitan issues. These same people have the capacity to recruit scores of others into the battle against urban despair. They have access to the resources and processes to conduct community-based action research.

I speak of the faculty of universities and community colleges in these urban areas, whose students were born and live amid those urban problems.

As a political science professor, I developed great respect for the commitment and capabilities of my colleagues on university faculties. Later, as Governor of Oregon, while supporting the growth of our State system of higher education, I met and worked with administrators and faculties of universities and community colleges from different settings around the State. The land grant colleges, which address agricultural and rural issues, were impressive in their ability to confront their focused concerns. Later, there was talk of sea grant colleges. Why not urban grant universities?

Today, I rise to introduce legislation to amend title XI of the Higher Education Act of 1965. This bill will encourage urban universities to take the lead in forming partnerships and to use their knowledge and resources toward solving severe urban problems. Collaboration with local governments, business and industry, other educational institutions, nonprofit groups, and civic associations will bring great benefits to urban communities, merging the research and planning expertise of university people and the vigor and stamina brought to the consortium by its diverse membership.

We cannot expect to divert university faculty attention from academic teaching and scholarly research toward pragmatic and serious municipal problems without providing funding. After all, we cannot jeopardize the operation and mission of our urban universities. The funds authorized in my legislation would sponsor partnership activities to combat urban problems in at least 50 urban areas—possibly one per State—providing each partnership $500,000 each year, for projects up to 3 years' duration. For partnerships to help disadvantaged urban students graduate from high school, increase their opportunities for postsecondary education, and improve their prospects for productive employment, this bill provides for at least 30 grants of $500,000 each year for up to 3 years.

These are modest sums, Mr. President, yet the prospects are bright that this approach may generate innovative solutions to pressing and severe problems of our American cities.

And, finally, these programs represent the power of collaboration and shared purpose. The partnerships formed by a diversity of people and organizations and they tackle the problems in their back yards, main streets, side alleys and campuses—these coalitions may prove to be vigorous agents of change in the renewal of our nation's urban regions.

Mr. President, I ask unanimous consent that the bill I am introducing today be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REVISION OF TITLE XI.

Title XI of the Higher Education Act of 1965 is amended to read as follows:

"TITLE XI—URBAN COMMUNITY SERVICE

"SEC. 1101. FINDINGS.

"The Congress finds that—

"(1) the Nation's urban centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public health, housing, education, environmental concerns, planning and work force preparation;

"(2) there are, in the Nation's urban institutions of higher education, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

"(3) the skills, knowledge and experience in these urban institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

"(4) the application of such skills, knowledge and experience is hindered by the limited funds available to redirect attention to solutions to such urban problems.

"PART A—URBAN COMMUNITY SERVICE

"SEC. 1111. PURPOSE.

"It is the purpose of this part to provide incentives to urban institutions to enable such institutions to devise and implement solutions to pressing and severe problems in their communities.

"SEC. 1112. APPLICATION FOR URBAN COMMUNITY SERVICE GRANTS.

"(a) APPLICATION.—

"(1) IN GENERAL.—An eligible institution of higher education seeking assistance under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

"(2) CONTENTS.—The application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) include documentation of the formation of a consortium that includes, in addition to the eligible urban institution of higher education, one or more of the following entities:

"(i) an urban school system;

"(ii) a local government;

"(iii) a business or other employer; and "(iv) a nonprofit institution.

"(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

"(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs.

"(c) SELECTION PROCEDURES.—The Secretary shall, by regulation, develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part.

"SEC. 1113. ALLOWABLE ACTIVITIES.

"(a) IN GENERAL.—Funds made available under this part shall be used to design and implement programs to assist urban communities to address pressing and severe problems.

"(b) AUTHORIZED ACTIVITIES.—Activities conducted with funds made available under this part may include research on, or planning and implementation of, resource exchanges, technology transfers, technical training, the delivery of services, or technical assistance in the following areas—

"(1) Work force preparation.

"(2) Urban poverty and the alleviation of such poverty.

"(3) Health care, including delivery and access.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly in urban settings.

"(6) Problems faced by families and children.

"(7) Crime prevention and alternative interventions.

"(8) Urban housing.

"(9) Urban infrastructure.

"(10) Economic development.

"(11) Urban environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1112(a)(2)(B) concur are of high priority in the urban area.

"PART B—URBAN COLLEGE, UNIVERSITY, AND SCHOOL PARTNERSHIPS

"SEC. 1121. PURPOSE.

"It is the purpose of this part to encourage eligible partnerships serving low-income and disadvantaged urban students to enable such partnerships to support programs that may improve the retention and graduation rates of secondary schools serving such students, improve the academic skills of such students, increase such students' opportunities to continue their education beyond high school, and improve such students' prospects for productive employment. It is the further purpose of this part to help institutions of higher education serve more effectively both non-traditional students and unemployed or under-employed adults by filling the defined skill needs of the nation's employers in both the public and private sectors, particularly in urban and rural areas where unemployment rates exceed the national average.

"SEC. 1122. DEFINITION.

"For the purpose of this part, the term 'eligible partnership'—

"(1) shall include—

"(A) an urban institution of higher education; and

"(B) a secondary school or local educational agency; and

"(2) may include a local government, business, labor organization, professional association, community-based group or other public or private agency or organization.

"SEC. 1123. GRANTS AUTHORIZED.

"(a) IN GENERAL.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to eligible partnerhips in accordance with the provision of this part.

"(2) USE OF GRANT.—Each grant awarded under this part shall be used to support partnership activities which are directly related to the purposes set forth in section 1121.

"(b) PREFERENCES.—In making grants under this part, the Secretary shall give a preference to applications describing programs that—

"(1) serve predominantly low-income neighborhoods, families or individuals;

"(2) are conducted during both the regular school year and the summer; and

"(3) serve educationally disadvantaged students, potential dropouts, pregnant teens, and teen-aged parents.

"(c) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—In order to receive a grant under this part, each eligible partnership shall provide matching funds in amounts equal to—

"(A) 30 percent of the funds received in the first year in which an eligible partnership receives a grant payment under this part;

"(B) 40 percent for the second such year; and

"(C) 50 percent for the third such year.

"(2) SPECIAL RULE.—The non-Federal share of grants awarded under this part may be in cash or in kind fairly evaluated, including services, supplies or equipment.

"(3) WAIVER.—The Secretary may waive the matching requirement described in paragraph (1) for any eligible partnership that demonstrates to the satisfaction of the Secretary a unique hardship that prevents compliance with such matching requirement.

"(d) MAINTENANCE OF EFFORT.—Any local educational agency participating in a partnership assisted under this part shall not reduce its combined fiscal effort per student or its aggregate expenditures on education.

"SEC 1124. AGREEMENTS.

"(a) AGREEMENTS.—To be eligible for a grant under this part, an urban institution of higher education participating in an eligible partnership under this part shall enter into a written eligible partnership agreement with a secondary school or a local educational agency participating in an eligible partnership under this part.

"(b) CONTENTS OF AGREEMENT.—The agreement described in subsection (a) shall include—

"(1) a list of all organizations participating in the eligible partnership and designation of the official representatives of each such organization;

"(2) a description of the responsibilities of each organization participating in eligible partnership activities; and

"(3) a list of the resources to be contributed by each member of the eligible partnership.

"SEC. 1125. GRANT APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—An eligible partnership desiring to receive a grant under this part shall submit an application to the Secretary, at such time, in such form and containing or accompanied by such information as the Secretary, by regulation, shall require.

"(b) CONTENTS OF APPLICATIONS.—The application described in subsection (a) shall include—

"(1) a description of the activities and services for which assistance is sought;

"(2) a copy of the eligible partnership agreement;

"(3) a list of all schools to be involved in the program;

"(4) a description of the programs to be developed and operated by the eligible partnership; and

"(5) assurances to the Secretary—

"(A) that the eligible partnership shall establish a governing body including one representative from each organization participating in the eligible partnership;

"(B) that the eligible partnership will comply with the provisions of section 1123(c);

"(C) that any local educational agency participating in an eligible partnership shall utilize any Federal funds the local educational agency shall receive from a grant under this Part to supplement and, to the extent practicable, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of low-income and disadvantaged urban students described in this part; and

"(D) that in no case shall grant funds under this part be used to supplant non-Federal funds available for the same purpose for which such grant funds are awarded.

"PART C—ADMINISTRATIVE PROVISIONS

"SEC. 1131. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this title and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with officials of other Federal agencies and with non-Federal organizations to ensure that the panel membership shall be geographically balanced and be composed of representatives from public and private institutions of elementary, secondary, and higher education, labor, business, and State and local governments, who have expertise in urban community service or in education.

"SEC. 1132. DISBURSEMENT OF FUNDS.

"(a) LIMITATION ON AMOUNTS.—

"(1) DURATION.—Each grant awarded under this title may be awarded for a period not to exceed 3 years.

"(2) ANNUAL AMOUNT.—The Secretary shall not make a grant payment under this title which exceeds $500,000 in any 1 year.

"(b) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this title in a manner that achieves equitable geographic distribution of such grants.

"SEC. 1133. DESIGNATION OF 'URBAN GRANT INSTITUTIONS.'

"The Secretary shall publish a list of the institutions of higher education which are awarded grants under this title and shall designate these institutions of higher education as 'Urban Grant Institutions' for the duration of their grant award. Such list will benefit Federal and local government agencies and business and civic groups. Such list will also serve as a notice to interested entities that the designated 'Urban Grant Institutions' are ready to help their constituencies in a manner analogous to the land grant, space grant, and sea grant universities. The Secretary shall establish a national network of urban grant institutions so that the results of individual projects achieved in one metropolitan area can then be generalized, disseminated, replicated and applied throughout the nation.

"SEC. 1134. DEFINITIONS.

"As used in this title—

"(1) the term 'urban area' means a metropolitan statistical area having a population of not less than 400,000; or, in any State which does not have a metropolitan statistical area which has such a population, the entity of the State having an agreement or submitting an application under Section 1203 may, or, if no such entity has an agreement, the Secretary shall designate one urban area for the purposes of this title; and

"(2) the term 'urban institution of higher education' means a non-profit institution of higher education, or a consortium of such institutions, any one of which meets all the requirements of this paragraph, which—

"(A) is located in an urban area;

"(B) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

"(C) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas;

"(D) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

"(E) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas.

"SEC. 1135. AUTHORIZATION OF APPROPRIATIONS.

"(a) PART A.—There are authorized to be appropriated $25,000,000 for fiscal year 1992 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of part A.

"(b) PART B.—There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of part B."

By Mr. SPECTER (for himself and Mr. SEYMOUR):

S. 1337. A bill to implement a Federal crime control and law enforcement program to stem gang violence, and for other purposes; to the Committee on the Judiciary.

ANTI-GANG VIOLENCE ACT

Mr. SPECTER. Mr. President, today I am reintroducing a bill to implement a Federal crime control and law enforcement program to stem gang violence. This bill was S. 746 in the last Congress and was first introduced by me on April 11, 1989. I am reintroducing this bill today for the record, to coincide with floor consideration of the crime bill with this notation that provisions of this bill (S. 746—101st Congress) have been incorporated in the pending legislative proposals.

Not since the 1920's has such widespread violence plagued our city streets. This lawlessness revolves around the illegal drug trade, and increasingly involves our Nation's young people. Children of 10 and 11 and sometimes even younger use and deal drugs. Unless we take immediate and vigorous action, we run the risk of fostering a permanent urban underclass living outside the common values of our society.

The escalating market for crack, a potent smokeable cocaine derivative, has transformed portions of our cities into battlegrounds where territory is violently secured and protected by both youth and adult gangs. Gang activity in America is fast becoming a social dilemma as deadly and debilitating as any epidemic in history. More than just autonomous drug organizations that operate on a small scale, gangs have evolved into a subculture with a national market, international connections, incredibly complex strategies, and a cult-like following which has emerged, copycat like, as if to mimic what is perceived to be a romantic lifestyle.

Frequently, these gangs are organized along racial and ethnic lines, although preserving cultural identification is less central to gang formation than it once was. Traffic in narcotics, the use of automatic and semiautomatic weapons, and indiscriminate violence, together represent a dire change in the motives behind gang organizations. Names that have become all too familiar to residents of our urban areas, in particular, are Jamaican Posses, which operate mainly on the east cost; and Bloods and Crips, which are among the most violent of west coast gangs, made up mostly of black youth identified by rituals and talismans. Hispanic gangs, Pacific Asian gangs, and older gangs such as Hell's Angels vie for pieces of the very lucrative illegal drug trade.

Los Angeles is the epicenter of the gang problem in this country today. Gang killings in unincorporated portions of Los Angeles County soared 69 percent during the first 8 months of 1990, a period during which all violent crimes in the same region rose 20 percent, according to the Los Angeles County Sheriff's Department. By year end, the 1990 total for gang-related killings stood at 169, compared with 116 for 1989. According to law enforcement authorities, the estimated number of gang members in the greater Los Angeles area has doubled in the past 5 years. In 1985, these officials estimated there were 50,000 gang members in the region. In 1990, that number was placed at 100,000. The Los Angeles Times, in its August 21, 1990 issue, reported that the worsening gang homicide statistics have prompted the Los Angeles county district attorney's office to consider reassigning prosecutors to its overloaded gang division, and has renewed calls for additional funding for antigang programs.

The most recent statistics on gang-related crime show a large growth in Hispanic gangs, according to the Washington Post on May 29, 1990. The Los Angeles County Sheriff's Department has identified 45,776 Hispanic gang members, far more than the 30,845 identified black gang members—22,594 Crips and 8,251 Bloods. As California State University Prof. Gerry Riposa told the Washington Post, recruitment is crucial for a gang's survival because the size of a gang determines its territorial power:

> Power rises and falls, according to their ability to recruit and to maintain their presence on the street. [That] is why they lean on the 12- and 13-year olds. When younger recruits see a gang is powerful, they join.

According to this same article, graffiti serves as the newspaper of the streets, revealing the names of new and deceased members and sometimes whether attacks by gangs can be expected. Graffiti identify territory, whether another gang is trying to infringe on it and how far into a gang's territory one has ventured.

Although Los Angeles is the epicenter of the gang crime crisis, it has in the last few years become a truly national problem. A New York Times report of November 25, 1988, quoted the Los Angeles Police Department's Sgt. Robert Jackson, who has gained national recognition as an expert on gangs, as remarking that "I would say there are only a few States they haven't reached yet. And the number of places could be in the hundreds." A more recent report in the Los Angeles Times of February 4, 1990, entitled "When L.A. Gangs Come to Town" described the substantial migration of Los Angeles gangs to small towns across the country, one of which was York, PA. Gang members from California began moving in to that city of 50,000 in 1987. Most of the cocaine was transported by air, with teenage girls used as "mules" to travel under false names with drugs strapped to their bodies. Local authorities realized they were dealing with a national organization when two men were arrested with $50,000 in crack and easily raised the $30,000 bail in cash. They quickly returned to California. Local police then began an ultimately successful effort to stem this tide in which undercover officers were brought in from out of town and a combined force of 80 local, State and Federal officers was deployed.

This story is being repeated across the country in cities big and small. Newspaper accounts recount the deadly gang violence in big cities like Boston and Atlanta and smaller cities like Oklahoma, Shreveport, LA and Ashton, ID. As James Ginger, deputy director of the Police Foundation, told the Christian Science Monitor in its March 15, 1990 edition:

> The general consensus is that if a given city doesn't have a problem with drug-related youth violence, it's on the way.

In Philadelphia, 110 out of 402 homicides in 1988 were gang-related, constituting 27 percent of homicides. In 1990, 168 out of 525 homicides were gang-related, reaching nearly 33 percent of all homicides. I might add that last year's total for homicides was an all-time record, a shocking statistic.

During my tenure as district attorney of Philadelphia, I witnessed a precipitous rise in the number of gang-related homicides. In 1962, according to the district attorney's office, one reported death was attributable to gang warfare. By 1966, there were 14 deaths, and in 1968, there were 30. I began personally to investigate the dynamics of gang conflict. In the summer of 1968, members of my staff and I intervened in a street-corner confrontation between rival gangs in the North Philadelphia neighborhood. Working with the leaders of the Diamond Streeters and the Zulu Nation, we secured a pledge that neither gang would initiate confrontations with the other.

Building on this, my office sought funding to establish a program to continue efforts to establish a program to continue efforts at mediation and juvenile rehabilitation. With a small grant from the Dolfinger-McMahon Foundation, we hired a representative from each rival gang to work during the summer in the family court division. Their presence gave staff members a rare opportunity to learn about the dynamics of gang membership and interaction. We used their information to launch an innovative gang control program called Safe Streets, Inc., which has received national recognition. I served as chairman of the board of this new corporation.

In 1969, I traveled to Washington, DC, to meet with newly appointed Attorney General John Mitchell to discuss obtaining Federal funding to establish one-stop comprehensive juvenile centers. We envisioned a facility that would offer education, recreational, job referral, and attitudinal training programs and that would include professional counselors and gang members as staff. In July 1969, the Department of Justice awarded funds sufficient to operate two such centers. To maximize the use of available manpower, I decided to form a separate, nonprofit corporation to run the gang-control project. Thus, the project could function without relying upon already overburdened personnel in the District Attorney's office, except when absolutely necessary.

These gang-control centers offered a variety of resources to redirect the attention of juveniles away from violence toward more constructive activities. For instance, in cooperation with the State Bureau of Employment Security and private industry, staff placed youths in appropriate jobs. Perhaps the most unique aspect of these neighborhood centers was the attitudinal training program. Experienced group conselors and gang members discussed antisocial behavior and the responsibility due to family, community, and self. Staff and board members accompanied small numbers of gang members on weekend retreats at camps and parks outside Philadelphia.

After the first year, the Safe Streets Program was awarded an amount almost double its previous grant. In February 1970, the Wall Street Journal praised the Safe Streets Program's imaginative work. A Philadelphia Bulletin editorial praised "a good balance between an attractive offer to the kids and a reorientation of them for the benefit of the city." After peaking in 1969, the number of gang-related homicides fell by one-third in 1970.

As a U.S. Senator, I have continued to work in the area of gangs and drug-related crime. During the 97th Congress, as chairman of the Judiciary Subcommittee on Juvenile Justice, I chaired a hearing on July 9, 1981, to study violent juvenile crime. And during the 99th Congress, as cochairman of the congressional crime caucus, I joined Congressman HUGHES in cochairing a hearing on violent street crime.

Mr. President, since 1970 the profile of the typical gang member has changed. Involvement in narcotics trafficking and possession and use of automatic and semiautomatic firearms are new traits. What has been made clear is that local law enforcement authorities, while they are crucial to solving the gang violence crisis, cannot do it alone. A Federal initiative is desperately needed to stem the rising tide of gang-related violence that is sweeping this Nation. The provisions in this bill will do just that.

ANTIGANG UNIT—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

Mr. President, we need more Federal agents and prosecutors to arrest and convict the growing number of drug traffickers in this country. Because we must place more emphasis on the enforcement of our firearms laws, this bill gives significant new powers to the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms [BATF], the Federal agency responsible for such enforcement. There are many Federal firearms offenses that have proven effective in removing the violent criminal from the street. My Armed Career Criminal Act, for example, provides a 15-year mandatory minimum term of imprisonment for repeat violent felons and repeat drug offenders caught in possession of a firearm.

My bill would authorize an additional $18 million to BATF to establish an antigang unit. The bill also authorizes $8 million to the Attorney General for prosecutorial assistance to this new unit. The bill provides for 180 agents and appropriate support staff within the antigang unit and 40 prosecutors and appropriate support staff to be appointed by the Attorney General.

The proposed legislation also codifies the current practice in establishing direct liaison with State and local law enforcement agencies responsible for investigations, to provide training, information, coordination and other enforcement efforts to combat gang-related firearms violations. To facilitate this effort, BATF will be given asset forfeiture authority—meaning that it can seize assets related to drug gang activity. The legislation also will provide additional funds for BATF's Repeat Offender Program, which targets the armed career criminal for prosecution.

GUN POSSESSION

This bill would amend 18 U.S.C. 924(c) to make possession of a firearm by drug traffickers or perpetrators of other violent crimes subject to more severe penalties.

As it stands now, 924(c)(1) prohibits carrying or using a firearm during and in relation to a drug trafficking crime. Problems have arisen regarding this section because the term "uses or carries" has been construed literally, resulting in the dismissal of 924(c) offenses even though defendants possessed firearms during drug related offenses. My bill would add the word "possesses" to the phrase "uses or carries," thereby eliminating confusion over application of existing law. This change will make justice swift and sure, a major source of deterrence.

GUN DEALERS

The legislation also would amend 18 U.S.C. 922(j) to make theft from a federally licensed gun dealer a Federal offense. This will enable Federal officials to charge suspects with the theft directly, rather than the current strained efforts to convict on the indirect charge of possessing stolen firearms or ammunition. This provision is directed in particular at Jamaican Posses, a gang which has in the past robbed federally licensed gun dealers.

USE OF MINORS

Employed as lookouts who keep track of the movement of police, as runners who transfer crack to the street from makeshift factories and as dealers, minors are valuable tools in the drug trade, insulating adults from arrest. They are being armed to protect territorial boundaries and the drug supplies for which they are responsible. This bill would amend title 21 of the United States Code to provide an enhanced sentence for drug dealers who employ juveniles to traffic in drugs and when such young persons possess firearms while doing so.

Increasingly, minors are used to traffic in drugs across State lines. This bill would amend title 21 of the United States Code to provide an enhanced penalty of $100,000 for drug dealers who employ minors in this way. Fines collected under this provision would be transferred to the Secretary of Health and Human Services to be distributed to State and local agencies for existing juvenile drug rehabilitation programs.

GANG VIOLENCE IN PRISONS

My bill not only seeks to put more gang members in prison, but also provides provisions to ensure that they are not able to continue their gang activity while in prison. Violence in prisons between rival gang factions is an alarming phenomenon, placing heavy burdens on already overburdened facilities. This bill would authorize up to $1 million to the National Institute of Corrections for the Federal Bureau of Prisons to provide technical assistance to States to facilitate the separation of gang members in State prisons.

ANTIDRUG ABUSE GRANTS

In light of the importance of Federal support for local initiatives, my bill authorizes an additional $5 million to the Justice Department's Office of Justice Programs for Antidrug Abuse Grants for State and local task forces which have developed programs coordinating the efforts of law enforcement agencies, schools, and community organizations to combat youth gang crime and drug activity.

I want to note the success of one such effort, and to propose that it serve as a model for other antidrug abuse programs. In 1980, the Los Angeles County Board of Supervisors implemented the Inter-Agency Gang Task Force, to provide a forum where public agencies fighting street gangs can exchange information. The L.A. Police Department, the county sherrif's department, the probation department, the California Youth Department, the district attorney's office, the L.A. Unified School District and community-based organizations have worked together to develop, for example, the gang reporting, evaluating, and tracking system, a computer system to assist law enforcement agencies track gang members. The task force also provides a directory of agencies and services available to counsel communities.

While some members of youth gangs become hardened criminals by early adulthood, I believe that many still have personalities impressionable and vital enough to respond to legitimate social and education opportunities. Police and prosecutors must, of course, play a major role in the reduction of gang-related crime. But we must also allocate resources and develop programs that offer alternatives to gang life.

NATIONAL COMMISSION ON GANG INTERVENTION

The legislation I introduce today includes a provision expressing the sense of Congress calling for the President to establish a National Commission on Gang Intervention. The clear expansion of these gangs requires a national focus, one that will utilize national resources and national experts. The sharing of information from throughout the country on successful enforcement, rehabilitation, and prevention programs is essential. One of the issues on which the Commission will report is whether the Los Angeles-based gang information computerized database I have just referred to should be expanded and placed under the supervision of BATF.

ASSET FORFEITURE/NARCOTICS INVESTIGATIONS

My bill provides the Attorney General with the discretion to direct proceeds under the Department of Justice Assets Forfeiture Fund to U.S. Attorney's office for general narcotics prosecutions or specialized task forces. Under current practice, the Attorney General only may allocate assets forfeiture funds to law enforcement agencies for specified purposes such as the purchase of drugs, equipping vehicles, and the payment of awards. The bill I introduce today would extend the authority of the Attorney General to authorize the allocation of such funds for specific narcotics investigations and prosecution projects. I believe that this change is particularly warranted at a time when Federal law enforcement entities have stepped up their efforts to address burgeoning drug trafficking and criminal drug activity.

Mr. President, I ask for unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Gang Violence Act of 1991".

TITLE I—GANG VIOLENCE

SEC. 101. FINDINGS AND CONGRESSIONAL DECLARATION.

(a) FINDINGS.—The Congress finds—

(1) the explosion of drug trafficking in the cocaine derivative known as "crack" is transforming some of the country's toughest street gangs into highly organized drug-trafficking organizations;

(2) there is a consensus that these extremely violent gangs are establishing ties to major international drug suppliers and are expanding their operations across State lines; and

(3) an example of highly organized gang violence and drug trafficking is the Jamaican Posse which has transformed Jamaican enclaves throughout the country into bases of operations for their violent and lucrative crack distribution activities.

(b) DECLARATION.—Congress hereby declares that drug trafficking and the related violence by drug gangs requires coordinated and immediate Federal action.

SEC. 102. BUREAU OF ALCOHOL, TOBACCO AND FIREARMS AND STATE AND LOCAL COORDINATION.

The Director of the Bureau of Alcohol, Tobacco and Firearms shall establish direct liaison with State and local law enforcement agencies having responsibility for gang investigations for the purpose of providing training, technical expertise, information, coordination, and other enforcement effort to combat gang related firearms violations.

SEC. 103. ANTI-GANG UNIT IN THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.

(a) AUTHORIZATION.—

(1) AGENTS.—There is hereby authorized to be appropriated $18,000,000 for fiscal year 1992 to the Bureau of Alcohol, Tobacco and Firearms for the creation of a new Anti-Gang Unit. Funds appropriated pursuant to this section shall be used to provide 180 agents and necessary support staff.

(2) PROSECUTORS.—There is hereby authorized to be appropriated $8,000,000 for fiscal year 1992 to the Attorney General to provide 40 prosecutors and necessary support staff to aid the Anti-Gang Unit.

(b) COORDINATION OF RESOURCES.—The head of the Anti-Gang Unit shall work with Federal, State, and local law enforcement agencies to coordinate the resources necessary to fight gangs.

SEC. 104. ASSET FORFEITURE FOR THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.

Section 924(d) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) Any property (other than real property) subject to forfeiture under section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)), may be seized and forfeited in connection with an investigation of a violation of subsection (c) of this section, and all provisions of section 551 of the Controlled Substances Act shall apply to seizures and forfeitures under this paragraph.

"(B) For the purposes of subparagraph (A), the functions of the Attorney General under section 551 of the Controlled Substances Act with respect to the seizure, forfeiture, and disposition of property shall be carried out by the Secretary of the Treasury.".

SEC. 105. CRIMINAL PENALTIES FOR GANG VIOLENCE.

(a) FINDINGS.—The Congress finds that—

(1) an integral component of a drug gang is the use of sophisticated firearms;

(2) evidence indicates that these gangs have robbed federally licensed gun dealers for their sophisticated firearms and utilized these arms in driveby and other indiscriminate shootings; and

(3) the offenses provided in this section address the issues of use of sophisticated firearms.

(b) TRANSPORTATION OF MINORS FOR DRUG-RELATED ACTIVITY.—

(1) Section 420(a) of the Controlled Substances Act is amended in paragraphs (1) and (2) by inserting "transport," after "use,".

(2) Section 420(b) is amended by adding at the end thereof the following: "In addition to any fines imposed by other subsections of this section or by this subsection, the court shall impose a civil fine of $100,000 on a defendant found guilty of an offense under subsection (a). Any fine collected pursuant to the preceding sentence shall be transferred to the Secretary of Health and Human Services to be distributed to State and local agencies for juvenile drug rehabilitation through existing juvenile drug rehabilitation programs.".

(c) DISTRIBUTION OF FIREARMS TO A MINOR.—Section 420(d) of the Controlled Substances Act is amended by—

(1) striking "or" after the semicolon in paragraph (1);

(2) adding "transported" before "or used" in paragraph (2);

(3) striking the comma at the end of paragraph (2) and insering "; or"; and

(4) adding after paragraph (2) the following new paragraph:

"(3) by knowingly providing or distributing a firearm to any person employed, hired, used or transported who is under eighteen years of age,".

(d) GUN POSSESSION.—The first sentence of section 924(c)(1) of title 18, United States Code, is amended by—

(1) striking "uses or carries" and inserting "uses, carries, or possesses"; and

(2) striking "used or carried" and inserting "used, carried, or possessed."

SEC. 106. NATIONAL COMMISSION ON GANG INTERVENTION.

(a) ESTABLISHMENT.—It is the sense of the Congress that due to the escalation in violence, crime, and drug trafficking by organized gangs the President should direct the Secretary of the Treasury to establish a National Commission on Gang Intervention.

(b) DUTIES.—The Commission should—

(1) monitor and review gang activity nationwide to determine the extent, if any, of organized national gang activity;

(2) report on effective models for intervention, rehabilitation, and law enforcement;

(3) review the need for a national computerized database, located within the Bureau of Alcohol, Tobacco and Firearms, to track organized national gang activity more effectively; and

(4) recommend and report not later than 18 months after the date of enactment of this Act policies for effective approaches to gang activity for national dissemination.

SEC. 107. UNIFORM CRIME REPORTS.

(a) IN GENERAL.—

(1) GANG VIOLENCE.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire, for calendar year 1990 through calendar year 1995, data on the incidence of crimes that involve gang violence.

(a) CRIMES INVOLVED.—For purposes of this section, crimes involving gang violence are—

(A) homicide;
(B) assault;
(C) robbery;
(D) burglary;
(E) theft;
(F) arson;
(G) vandalism;
(H) trespass;
(I) threat; and
(J) such other crimes as the Attorney General considers appropriate.

(b) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the data acquired under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 1992 through fiscal year 1997.

SEC. 108. ANTI-DRUG ABUSE GRANTS.

(a) IN GENERAL.—There is hereby authorized to be appropriated $5,000,000 for fiscal year 1992 to the Office of Justice Programs of the Department of Justice for anti-drug abuse grants.

(b) ALLOCATION OF GRANTS.—Grants made under this section shall be allocated to State and local task forces that—

(1) include law enforcement, educational systems, and community-based organizations; and

(2) have developed coordinated programs necessary to alleviate gang activity and drug trafficking.

SEC. 109. GANG VIOLENCE IN PRISONS.

(a) POLICY.—The Congress hereby encourages the States to separate in State institutions and juvenile correctional institutions inmates who are identified as members of "gang organizations" to ease the current violence in prisons between rival gang factions.

(b) FUNDING.—There is hereby authorized to be appropriated such sums as are necessary not to exceed $1,000,000, to the National Institute of Corrections of the Federal Bureau of Prisons to provide technical assistance to States to facilitate the separation of gang members in State prisons.

TITLE II—CAREER CRIMINALS

SEC. 201. AMENDMENTS TO THE ARMED CAREER CRIMINAL ACT OF 1984.

(a) INTENT OF ACT.—The Congress declares that the intent of the Armed Career Criminal Act of 1984 was to enact a sentencing enhancement provision.

(b) UNCONSTITUTIONAL PRIOR CONVICTIONS.—Section 924(e)(1) of title 18, United States Code, is amended by inserting "which have not been obtained in violation of the Constitution," after "from one another,".

SEC. 202. REPEAT OFFENDERS PROGRAM.

There is hereby authorized to be appropriated $10,000,000 for fiscal year 1992 to the Bureau of Alcohol, Tobacco and Firearms for the Repeat Offender Program and anti-gang activities to hire 100 additional special agents and support personnel.

SEC. 203. STUDIES.

(a) PROFILE CAREER CRIMINAL.—The National Institute of Justice shall conduct a study and report on the profile and number of career criminals in America. The Institute shall submit the report to Congress not later than 1 year after the date of the enactment of this section.

(b) STATISTICS ON CAREER CRIMINALS.—The Bureau of Justice Statistics of the Department of Justice shall compile and maintain statistics for the number of arrests, prosecutions, and convictions of career criminals nationwide under sections 924(c) and 924(e) of title 18, United States Code. The Bureau shall publish and make available to the public annual reports of such statistics.

TITLE III—NARCOTICS INVESTIGATIVE PROJECTS AND TASK FORCE PROJECTS

SEC. 301. ALLOWING PAYMENT OF COSTS FROM THE DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.

Section 524(c)(1) of title 28, United States Code, is amended by—

(1) striking "and" after the semicolon in subparagraph (G);

(2) redesignating subparagraph (H) as subparagraph (I); and

(3) addng after subparagraph (G) the following:

"(H) the payment of any expenses necessary for the implementation and execution of approved narcotics investigative projects and task force projects of the Unied States Attorneys' Offices under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.), at the discretion of the Attorney General; and".

Mr. SEYMOUR. Mr. President, I rise today to pledge my support as an original cosponsor of the Anti-Gang Violence Act of 1991.

For the past several months, Americans have lined the streets from Washington State to Washington, DC, waving to sons and daughters, fathers and mothers, neighbors and friends—the brave men and women of Operation Desert Storm. But each day, Americans in the south central section of Los Angeles stand on their neighborhood streets, but they stand in sadness, not in celebration. They stand to see friends and family as victims, not victors, of a different kind of war—a war in which a Los Angeles resident is more at risk of being a casualty than a member of the Armed Forces at the height of Desert Storm. The war I speak of is a gang war, its main combatants are known as Crips and Bloods, but they are Americans. And their victims are Americans.

Fueled primarily by drug trafficking, gang activity has brought destruction to parks, schools and neighborhoods across my State of California. In many Los Angeles high schools, gang violence is as common an event as a pep rally. In my State capital of Sacramento, Californians watched their TV's in horror as a youth gang opened fire on the hostages they were holding in an electronics store—just some of the thugs in a city reported to have more than 3,500 known gang members, some as young as 11 years old.

But violent gangs are not unique to California. Indeed, gang activity is a malignant tumor, a fatal cancer spreading across the United States. The California Department of Justice reported that from Dallas to Des Moines, from Phoenix, AZ to Fayetteville, GA, the Crips and Bloods are infecting Main Street, U.S.A., with dangerous drugs and naked violence.

Combating this growing national epidemic requires national action. With the same resolve that Americans pledged to liberate Kuwait, we must work together to take back our schools, our parks, our streets. To win this war of mindless terror requires a coordinated effort from leaders of law enforcement, of communities, and of government.

We have seen examples of effective coordinated activity. Last year, the FBI, the U.S. attorney's office, the California State Department of Justice, the San Diego District Attorney's Office and Police Department were just some of the players involved in Operation Blue Rag, an antigang and drug trafficking task force that targeted Crip gang activity in the San Diego area. Through their efforts, more than 70 members and associates of Crip street gangs were taken off the streets and placed behind bars.

But combating gang violence requires more than just coordinated action by law enforcement. It requires community spirit, pride and determination to take back their streets. It requires the concern shown by the citizens of San Jose who launched Project Crackdown. With the help of law enforcement, residents in this community cleaned up their streets, increased neighborhood activities for their kids, and launched other projects to bring meaning to the word "community." I had the privilege of visiting this neighborhood earlier this year, and you can see, just by walking down their streets, the pride of families who joined together to say "No! to drug and gang activity, and backed their determined words with tough and responsible action.

Operation Blue Rag and Project Crackdown are inspiring examples of effective law enforcement coordination and community empowerment—examples that, if replicated in other cities across our Nation, will represent a beginning of the end—the end of gang-related drug trafficking and violent crime.

Today, Senator SPECTER and I introduce legislation to facilitate this beginning. The Anti-Gang Violence Act directs the Bureau of Alcohol, Tobacco, and Firearms to establish an antigang unit—a unit that is to work directly with State and local law enforcement to combat gang-related drug trafficking and violence. This legislation also increase criminal firearms penalties, and adds new penalties for transporting minors in drug-related crimes and distributing firearms to a minor. The enhancements made in these criminal laws will allow the Federal Government to make an effective strike against the spread of interstate gang violence.

Finally, Mr. President, this legislation authorizes $5 million in grants for communities—store owners, teachers, parents, kids—who want to take back their streets—back from gang-related drug pushing, violent terror, and mindless destruction.

The distinguished senior Senator from Pennsylvania has shown tremendous leadership and vision on this issue, and I look forward to working with him to adopt the Anti-Gang Violence Act.

Mr. President, the Anti-Gang Violence Act is not the solution to ending gang violence. If passed, it will not mean the end to Crips and Bloods. It will not mean an end to the fear that forces families to hide in their very own homes.

Indeed, the secret to victory in the streets of America can be found in the known secret to our victory in the desert valleys of Iraq: a resolve to restore liberty and justice—a spirit found deep within all law-abiding Americans. Those brave young men and women who we've saluted for this great victory in the desert are normal people: factory workers, bookkeepers, teachers and clerks. And we can best celebrate their victory in the desert by working together to achieve victory in the streets. By passing the Anti-Gang Violence Act, we can give Americans the tools to take back their streets and be victors, not victims, of crime.

By Mr. SANFORD:

S. 1338. A bill for the relief of Chi Hsii Tsui, Jin Mie Tsui, Yin Whee Tsui, Yin Tao Tsui, and Yin Chao Tsui; to the Committee on the Judiciary.

RELIEF OF THE TSUI FAMILY

• Mr. SANFORD. Mr. President, I rise to introduce a bill to grant permanent residency to a very special person, Charlie Two Shoes, and his family. This is indeed an auspicious occasion because this bill would give permanent residency to a person who has a long-standing tie to the United States and the Marine Corps.

That tie was established 46 years ago, when in 1945, a group of marines from the 6th Division stationed in China after World War II adopted an 11-year-old boy. They saw something special in the little boy they nicknamed "Charlie Two Shoes". Charlie met the marines when he came to peddle eggs and peanuts to the marines to keep his family from starvation. His parents agreed to let Charlie accompany the marines back to their base so he could get an education.

They gave him a cut-down uniform, a bunk in the barracks, and a place in the mess hall line. He stood inspections, spit-shined his shoes, swabbed floors and suffered the daily indignities of a real marine.

The marines made sure he went to school to learn English. When they pulled out of China in 1949, Charlie Two Shoes begged to go with them. But it couldn't be arranged. The marines promised to stay in touch and to bring him to America as soon as they could.

After the Communists gained control of China, Charlie's friendship with the marines became a dangerous liability. Charlie's mother destroyed all visible traces of his ties to the marines.

In 1962, when Charlie refused to join an anti-America propaganda campaign, he was fired from his job, placed under house arrest, and stripped of his citizenship. He remained under house arrest for 20 years. His wife, Jin Mie, was fired from her teaching position when she refused to divorce her husband. She was forced to work in the fields at hard labor until 1979.

In 1980, with the normalization of relations between China and the United States, Charlie was finally allowed to write to the marines whose addresses he recalled after 35 years. Three years later, he arrived in America to be reunited with the marine veterans who had adopted him when he was only 11-years-old.

Charlie fell in love with America. He wanted to remain in the United States and bring his wife and three children from China to live. In 1985, Charlie was granted an indefinite stay of deportation and was allowed to bring his family to America.

Charlie Two Shoes and his family now live in Chapel Hill, NC, where they own and operate the Tsing Tao Restaurant. They have lived there for the past 5 years and are a beloved part of the community.

I bring forth this bill today because I believe that Charlie Two Shoes and his family should not be kept from gaining full citizenship any longer. Therefore, I am advocating taking the next step of granting this family permanent residency.

Charlie's love for America and the Marine Corps has been demonstrated over the past 49 years. I trust that my fellow Senators will find his story as compelling as I have.

I ask unanimous consent that the bill and news articles which I send to the desk be included in the RECORD following my remarks.

I hope my colleagues will join me in this effort to assist a fine North Carolina resident and long-time friend to many marines obtain his long hoped for goal of a chance at becoming a citizen of the United States.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of the Immigration and Nationality Act, Chi Hsii Tsui, Jin Mie Tsui, Yin Whee Tsui, Yin Tao Tsui, and Yin Chao Tsui shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct five numbers from the total number of immigrant visas which are made available to natives of the country of the alien's birth under Section 203(a) of the Immigration and Nationalisty Act or, if applicable, from the total number of such visas that are made available to such natives under Section 202(e) of such Act.

[From the News and Observer, May 11, 1983]

HUG PLANNED TO END YEARS OF YEARNING

(By Ben Estes)

Sitting in Raleigh-Durham Airport Tuesday afternoon, William A. Bullard impatiently counted the hours before he would meet the friend he left in China 35 years ago.

As he gulped a cup of coffee and nervously waited for his airline ticket, Bullard said he found it hard to believe that he finally was going to see Charlie Two Shoes.

"It's all been a miracle," Bullard said. "It would be hard to explain any other way."

The day before, Bullard had not known he would be leaving his Autryville home in Sampson County and traveling to Cleveland to meet Cui Zhixi, nicknamed Charlie Two Shoes by a group of Marines stationed in China from about the end of World War II until 1948.

Bullard and other Marines took in young Charlie, who was poor, and with the consent of Charlie's parents they allowed the boy to live with them in their barracks at Qingdao. They sent him to missionary school and gave him a Marine uniform. "We treated him like a little brother," Bullard said.

Before leaving the country, the Marines promised to bring Charlie to live in America, but their promises could not be kept.

Bullard, who is in the insurance business, said he used to wonder about Charlie, but it was not until 1980 that he heard from him when Charlie wrote to ask whether he could meet with his old Marine buddies.

Bullard began an all-out effort to bring Charlie to the United States to live, battling red tape and even refurbishing the Sampson County house he was born in so Charlie and his family would have a place to call home. Bullard also set up a "Charlie Two Shoes" bank account for the many contributions to the effort that he received.

Charlie has come alone to the United States on a six-month visa but Bullard said he hoped Charlie could stay and bring his wife and children.

Bullard said he wants to bring Charlie to Autryville for a "big pig picking," although he does not know when that will be.

If Charlie can make the trip, Mayor Billy Martin of Autryville said in a telephone interview, the town would like to give Charlie "a warm welcome."

Bullard said he found out only last week from a marine friend that Charlie had received his passport and would be coming to America soon. It was only Monday night before he found out for sure that his friend would arrive in Cleveland Tuesday—Bullard's 58th birthday.

"It was about as big a birthday present as I've ever had," Bullard said. Charlie's reunion with Bullard and other ex-marines happened Tuesday night.

"He's been ecstatic; he hasn't slept for a week," said Bullard's daughter, Susan Wilson, who accompanied him to Cleveland.

Mrs. Wilson, a junior high school music teacher, said she also was anxious to meet Charlie. "This was a person I was raised to know but that I've never met," she said.

While waiting for his plane, Bullard, wearing a navy blue suit and puffing on a cigar, displayed several photographs of Charlie, one showing him as a 12-year-old and another more recent shot of him and his family standing in a plowed field. He also had several shots of the refurbished farmhouse that he planned to show Charlie.

Asked what would happen when he and Charlie met again, Bullard paused for a moment and smiled.

"I've got as much love for him now as I had for him when he was a boy," he said. "I guess we'll just hug."

[From the Greensboro News-Record, July 19, 1985]

JOY, TEARS MARK REUNION OF WAR PALS—"CHARLIE TWO SHOES" GETS HEARTY MARINE WELCOME

(By Jim Schlosser)

The scene was enough to make mighty Marines cry.

Several almost did Thursday when Cui Zhixi, better known as "Charlie Two Shoes," stepped off a plane at Regional Airport and embraced two aging buddies who had befriended him nearly 40 years ago in China.

"Don!" cried Zhixi, rushing toward ex-leatherneck Don Sexton, a Greensboro mechanic. "I'm so glad to see you."

Minutes later, Zhixi was embracing another face from the past, Charles Monnett Jr., a Greensboro carpet dealer who served as a Marine officer in China right after World War II.

Sexton had seen Zhixi in Ohio two years ago, but this was Monnett's first reunion with him since the post-war China days.

"Charlie Two Shoes," declared Monnett, using the nickname the Marines concocted because they thought it sounded like his Chinese name, "it's good to have you in Greensboro. You look great. It has been a long, long time."

Travelers passing through the airport were puzzled by the TV cameras, the reporters, the misty eyes and all the hugging.

"Who is Charlie Two Shoes?" several kept asking.

One woman told a friend she thought he is a dancer.

Far from it. Zhixi was a tiny, 12-year-old street peddler adopted by Sexton, Monnett and other Marines stationed at a base near the China coast in the late 1940s.

They gave him a Marine uniform, a bunk in the barracks and a place in the mess hall line. He stood inspections, spit-shined his shoes, swabbed floors and suffered the daily indignities of real Marines.

The Marines made sure he went to school to learn English. When they pulled out of China, Charlie Two Shoes begged to go with them. But it couldn't be arranged.

Later, the communist government, which took over China in 1949, kept Zhixi under house arrest for nearly 20 years because of his friendship with the Marines.

In 1980, a more liberal Chinese government allowed Zhixi to send a letter to several ex-Marines whose names he could recall. They arranged for Zhixi to visit America. His 1983 arrival appeared on the nightly network news. He has been living with an ex-Marine friend in Ohio. He makes civic club speeches, rides in parades and has fallen passionately in love with America.

He wants to stay and have his wife and three children join him. But the U.S. government says Zhixi will have to leave the country soon, despite intensive lobbying by ex-Marines throughout the country.

Thursday, Sexton led Zhixi through the airport terminal to the parking deck where—you guessed it—more Marines, present and past, were waiting.

A color guard in dress blues from the Marine Corps Reserve center stood at attention. The city's greeter, Mayor Pro Tem Jim Kirkpatrick—an ex-Marine, of course—gave Zhixi a gracious Greensboro welcome.

A tape recorder blared "From the Halls of Montezuma . . ." Zhixi stood ramrod straight, but he couldn't help blinking his eyes.

"I thank everyone in this beautiful country and in Greensboro," he said to the gathering.

Asked if Sexton and Monnett looked any different, Zhixi replied, "A lot—but one thing that never changes is that Marine spirit. Once a Marine, always a Marine. My faith in God and the Marine spirit kept me alive for these past 40 years."

The Marine color guard had never heard it put so beautifully. "Semper Fi, Charlie," one later declared. They demanded he visit their training center on Interstate 40.

Zhixi will be busy during his two-week visit to Greensboro. Trips to Guilford Courthouse National Military Park and other attractions are planned. Sunday, he will be the guest of honor at Sexton's church.

Next week, Sexton will take him to Parris Island, S.C., where Marines are made.

Under pressure from ex-Marines and several members of Congress, the government twice has extended Zhixi's stay in the country. A bill is before Congress to make him a permanent resident. This would make it possible for his family to join him. But the chairman of the congressional committee considering the bill, Romano L. Mazzoli, D-Ky., is staunchly opposed to the measure.

"He feels others in China are more deserving," Sexton said.

This view outrages Sexton and others who point out that Zhixi suffered greatly because of his devotion to the U.S. Marines

After the takeover, the communists at first didn't bother Zhixi. He went to college and earned an agricultural degree. Later, the government decided he posed a security threat because of past chumminess with the Marines.

"They asked me to make propaganda against America," he said. "I refused. I lost my job. They put me under house arrest. I couldn't leave my village. Each day, I had to go to the fields and do the worst kind of jobs."

His life improved when a more liberal Chinese government came to power during the Nixon administration.

"The current government is good," Zhixi said. "They have been cooperative. When I left China two years ago, they said if you want to stay in America, fine. If you want to come back, you are welcome."

The Chinese government is willing to let Zhixi's family join him in America, if only the U.S. government will give its blessing.

A decision must be made by Sept. 22. That's when Zhixi's visa expires.

"I just don't know how I can leave this country," he said. "We will just have to pray that everything works out."●

By Mr. SANFORD:

S. 1339. A bill to settle an agreement dated July 30, 1943, between the Secretary of the Interior of the United States, the State of North Carolina, and the Tennessee Valley Authority, and Swain County, NC; to the Committee on Energy and Natural Resources.

SWAIN COUNTY JUST COMPENSATION ACT

Mr. SANFORD. Mr. President, I rise today to introduce a bill, the Swain County Just Compensation Act of 1991. Allow me to speak briefly on an issue of which many of my Senate colleagues are aware—an issue that is now 48 years old and one that has been bogged down for many years. Over a number of years, the Senate has now and again discussed Swain County, NC, and how the Federal Government has failed to live up to a promise made to the county in 1943. I will repeat the background of what North Carolinians refer to as the 1943 agreement.

Mr. President, back in 1943, the Federal Government decided to build a lake near the Great Smoky Mountains National Park. We needed more electrical generation for the war effort, so the Federal Government built Fontana Dam—a 480-feet structure that was the fourth highest dam in the world at that time. The waters of the new Fontana lake generated hydroelectricity for critical production facilities in Tennessee, including those at Oak Ridge.

When Fontana Lake was built, many western North Carolinians were forced to leave their homes and their lands. Some 200 families who had been permanent residents of the present-day Fontana North Shore area were required to leave the area. They bore this burden with great patriotism, to help the war effort. However, many of these families feel they were mistreated, and bitterness lingers to this day.

The construction of the lake also resulted in the flooding of a highway, NC Highway 288, that had been paid for by Swain County. In 1943, the Federal Government agreed in writing to compensate Swain County for the loss of this highway. Such compensation was to take the form of a paved replacement road through what is now the North Shore area of the Great Smoky Mountains National Park, subject to the appropriation of funds for the road by Congress.

Mr. President, as is well known in western North Carolina, that road was started but never completed for a host of economic and environmental reasons. The Federal Government clearly is obligated to grant fair compensation to Swain County. The net present value of the flooded road is now approximately $16 million, and Swain County deserves at least that much.

Mr. President, this legislation calls for a fair and equitable settlement for the 1943 agreement. It would pay $16 million to Swain County, representing the net present value of the flooded road. Most of that money would be held by the county to improve the local schools and to further economic development. In addition, the county could elect to use a portion of these funds for the construction of a road on the North Shore of Fontana Lake, although my discussions with leaders in the county suggest that this may not be their top priority for the use of these funds.

Swain County is not wealthy. In fact it has one of the highest unemployment rates and lowest per capital incomes in North Carolina. Swain County urgently needs funds to invest in its future development. This legislation would facilitate such investment. For a county in which the entire property tax income did not reach $1 million in 1990, the investment of a majority of the settlement funds will obviously substantially increase the county's revenue base.

Mr. President, I think there should be little argument that $16 million represents a very conservative figure of what the Government owes Swain County. Let me explain briefly what method the National Park Service used to arrive at this figure. A 5-percent annual rate of interest was applied to the original 1940 value of N.C. Highway 288, and this rate was applied each subsequent year through 1991. Similarly, compounding the original value of the road at 5 percent annually through 1980, then-Secretary Andrus of the National Parks Service agreed on November 28, 1980, that fair compensation to the county for the flooded road was $9.5 million. I have agreed to a value of $16 million rather than the $16.309 that the 5-percent calculation might suggest.

If Secretary Andrus and county officials believed that $9.5 million represented fair compensation in 1980 for the value of the flooded road, I think it logical for purposes of contrast to take this 1980 base figure and calculate the average 1-year treasury bond interest rates for each year through 1991 as a reasonable way to measure the true present value of the road. Using this method, the value of the road is approximately $22.427 million.

Mr. President, I believe the just compensation offered to Swain County in this act does the most to benefit the greatest number of residents there. A necessary portion of the $16 million compensation will be used to pay indebtedness incurred by the county for much-needed school system improvements. The remaining funds, which will be held by the county, will give adults as well as children a brighter future. This local government, which is strapped for funds and has 84 percent of its land tied up in Government ownership, desperately needs and deserves this boost.

Senator Howard Baker and both of Tennessee's present Senators have tried to justly compensate this rural mountain county, and Senator Robert Morgan and JESSE HELMS of my State have also made serious attempts, as have Congressmen from both Tennessee and North Carolina. Mr. President, I have attempted to settle this matter in the past in the context of broader legislation, but I believe the citizens of Swain County cannot afford to wait another 48 years; I know a generation of school children cannot.

This issue has received repeated committee attention over the years and this legislation is very clear in its intent. Let us pay this debt and move on. We must look forward, not back.

Mr. President, I ask unanimous consent to submit the following statement of support for this measure on behalf of the National Park Service for the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, DC, June 18, 1991.

Hon. TERRY SANFORD,
U.S. Senate,
Washington, DC.

DEAR SENATOR SANFORD: Thank you for your interest in initiating a final settlement of claims arising from the 1943 agreement between the Department of Interior, the Tennessee Valley Authority, and Swain County, North Carolina. We are convinced that this issue has remained unsolved far too long.

We favor settlement of the 1943 agreement claims through a reimbursement to Swain County as outlined in Secretary Andrus' November 28, 1980, decision. Providing this payment to Swain County will require legislative authorization and appropriation. The National Park Service is in full support of measures to get these legislative efforts under way. We stand ready to provide any information or assistance you may need to expedite the process.

Sincerely,

JAMES M. RIDENOUR,
Director.

By Mr. DASCHLE:

S. 1340. A bill to amend the Agricultural Adjustment Act to establish a long-term milk supply management system that is controlled by milk producers, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL DAIRY ACT

Mr. DASCHLE. Mr. President, the time has come for the Congress to undertake a serious review of dairy policy. The inequities of the current system have resulted in disaster for many producers around the country, and in the Upper Midwest in particular. Steps are required to assure the continued viability of our Nation's dairy farms and address the needs of the consuming public.

Nearly all of the commodity programs administered by the Government recognize the need to impose some type of supply controls to provide market stability. Dairy is the notable exception to this rule. The result is inherent instability. One year we can end up with large surpluses and low producer prices. The next year, after producers have cut back production because of low prices, we end up with tight supplies and high consumer prices. Effective mechanisms must be adopted to keep production in proportion to consumption.

People can talk all they want about deregulation and the virtues of the free market, but we only have to look to the lessons of the last 2 years to see what happens when we combine low support prices with a lack of supply controls. Dairy prices have been on a roller-coaster ride that harms producers and consumers alike. Today, producers receive 30 percent less in their milk checks than they did a year ago, but consumers are still paying the same for dairy products as when producer prices were higher.

This phenomenon is not unique to the agricultural sector. When the cost of a product for a retailer goes up, we are quick to see the change reflected in the purchase price of the item; but, when the retailer's costs drop, the consumer often waits in vain for that reduction to appear in the price of the produce he or she purchases.

As Congress begins consideration of dairy policy reform, it is important that all available options be considered. Other countries have developed dairy programs that have served both the producer and the consumer well, and there are many valuable lessons we can learn from their experiences.

Today, I am introducing a dairy package modeled in part on a system that has been in place in Canada since the mid-1970's. This legislation, known as the National Dairy Act, would keep milk supplies in step with demand and ensure the continued vitality of the family farm in the United States. The bill calls for the adoption of a two-tier pricing mechanism. The first-tier price would be paid for milk that is produced within a producer's marketing base. A lower, second-tier price would be paid for all milk produced in excess of a producer's marketing base. The result will be a fair, stable price for producers, and a reasonably priced, dependable supply for consumers.

The first-tier price that a producer receives would be set at a level that reflects a farmer's cost of production on a regional basis. Annual adjustments to the price would be made based on changes in the cost of inputs, such as labor, feed and other producer costs. Prices would vary from region to region depending on the cost of production, but a minimum price of $13.60/ctw is the objective.

The use of class I differentials would be replaced as a mechanism to account for regional differences in the cost of production; however, differentials could be used in cases where it is necessary to encourage the production of adequate supplies of milk for fluid consumption. A regional pricing scheme based on local costs of production would eliminate the inequities caused by the current system that sets prices depending on how far a producer lives from Eau Claire, WI. Overproduction of milk would be eliminated by the second tier mechanism that levies a 75-percent assessment against milk that is produced in excess of a producer's marketing base.

A producer's marketing base would be established to reflect historical production. Bases may be transferred between family members without restrictions. Bases from retiring producers would revert to a county pool and distributed according to a set of preferences. Priority would be given to new milk producers purchasing existing facilities, established producers whose current production base is below the regional producer cap, and socially disadvantaged groups. It would also be possible for undistributed bases to be transferred between different milk marketing orders to respond to regional shifts in production.

The Secretary would be required to provide dairy products for the continuation of food and nutrition programs. Surplus products resulting from overbase production would be allocated to food programs, while producer assessments for overbase production, would be used for the funding of these programs. The adoption of this program would also result in dairy program savings that could be applied to nutrition programs if needed. Adequate emergency reserves would also be maintained to support necessary long-term and emergency food relief programs.

Finally, milk marketing boards made up of active producers would be elected on the county, milk marketing order, and national level to make base allocation decisions, determine annual production needs, and make other administrative decisions. These boards would allow producers to have a direct role in supervising the administration of the program.

This legislation should not be viewed in isolation, but as a piece of a puzzle. I worked for higher producer prices in the debate over the 1990 farm bill as well. I was ultimately forced to vote against the farm bill because the mechanisms it employed were not sufficient to maintain prices. Today, we can see the results in both grain and dairy prices. Wheat, corn, beans, oats and other commodities are at depressed prices. The debate we are about to enter on dairy policy sets the tone for future debates on other commodities. Failure to take a strong stand now and get a fair bill for our Nation's dairy producers would be a disturbing omen for the Nation's other agricultural producers.

The advantages of the program I have proposed are clear. It would eliminate the chronic problems of overproduction and underproduction. Furthermore, it would cost substantially less to administer than the current program at the same time it increases producer incomes. The critics of this program will raise several objections to it, including the likelihood of increased costs to consumers and a reduction in producer efficiency, but I feel that each concern can be adequately addressed.

The argument that supply controls will discourage increased production efficiency is unfounded. Typically, if a producer decides he needs more income, he can simply go out and add more cows to his milking herd. More cows mean more milk, which means more income. But it also means greater surpluses and additional Government costs. If we assign producers a production limit, they have to squeeze out more profits by improving management techniques and finding ways to produce within marketing bases with fewer cows and fewer inputs. Such a program encourages efficiency, rather than discouraging it.

Critics also claim the National Dairy Act will raise costs for consumers. There may be a slight increase. However, I encourage the public to look at the alternative to meaningful reform. If producer prices remain low, the forced exodus of farmers from rural areas will continue, leaving the rural economy severely damaged. Do our urban countrymen feel it is right and just that their rural friends be bled to death just so a gallon of milk will be a few cents cheaper? Other countries around the world answer a resounding "no." The people of this country must recognize that dairy farmers are entitled to a fair price for the vital service they provide to society.

Moreover, the argument that consumer prices will increase is based on a huge assumption. It assumes that the prices consumers pay in the store bear a direct relationship to the price producers receive on the farm.

Free marketeers would have us believe this dogma, but the facts prove otherwise. When milk prices started to take a nose dive on the farm last August, it was unnoticable on the grocery store shelves. I encourage anyone to approach the average person on the street of the Nation's Capital and seek empathy for the sorry state of the contemporary dairy farmer. I guarantee you'll be received with a blank stare. Consumers don't know there's anything wrong down on the farm because they are still paying the same prices they were paying when farmers were getting 25 percent more for their milk. I'd like someone to tell me where the benefit for the consumer is in a system like that.

Opponents of dairy reform often raise the specter of hungary children being denied the benefit of WIC and other nutrition programs so farmers can earn more money. The reform of the existing dairy program will save money and raise additional funds from assessments on overproduction. These funds can be distributed to offset increased costs that might result from changes in the dairy program. Also, I would point out that, even under the old system, nutrition programs were not immune from the effects of high costs.

Today, milk prices are as low now as they have been since 1978. There is a handy little book put out by the Milk Industry Foundation every year called "Milk Facts." The publishers of "Milk Facts" used to have a habit of putting a statistic in the booklet that told people what percentage of a dollar a farmer got for every dollar spent by a consumer. For almost every year from 1978 to 1989, that figure was above 60 percent. If you care to look at the latest version, the figure isn't even included. The reason is simple—they are too embarrassed to print it. In the past 2 years the percentage a dairy farmer gets from a consumer's dollar has dropped from the 60 percent range down to 40 percent. And if I might interject, a wheat farmer only gets about 5 percent.

In 1978, $10 milk translated into $1.74/gallon on the store shelf. Today, the same gallon of milk costs $2.70. The heralded cheap food policy in this country means one thing—cheap food on the farm. Support prices have been lowered to a point where producers can no longer survive, yet consumers are still paying the same high prices. If the ratio went back up to 60 percent, farmers could enjoy a healthy income increase without costing the consumer a dime. By raising producer prices to a realistic level, the National Dairy Act would force retailers to return to a more realistic ratio between retail and producer price.

When I speak to farmers in my State and around the country, I hear the same sentiment echoed over and over again. "We're not asking for a handout," they say, "all we are asking for is a chance." A chance to stay on their land and remain a part of the communities that their grandparents and great grandparents built out of empty, unsettled lands.

When I return home to the State of South Dakota to hold agriculture meetings the absence of youthful faces is alarming. Today, only 1 percent of the Nation's farmers are under age 25 while almost 30 percent are over the age of 55. The number of farmers under 25 years of age has dropped 43 percent in the last 10 years, and nearly one-half of the farm assets in the United States today are controlled by farmers who are likely to retire in the next 10 years.

This Congress should take note of the reality of modern day farming and start asking itself whether it really desires to sacrifice rural society by devaluing the fruits of the farmer's labor. If the answer is that it does not, meaningful dairy policy reform that raises producer prices to reasonable levels would be a good place to start.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1340

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Dairy Act of 1991".

SEC. 2. MILK SUPPLY MANAGEMENT SYSTEM.

The Agricultural Adjustment Act, reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by inserting after section 8c (7 U.S.C. 608c) the following new section:

"SEC. 8c–1. MILK SUPPLY MANAGEMENT SYSTEM.

"(a) DEFINITIONS.—As used in this section:

"(1) BASE.—The term 'base' means the production base established for a milk producer under subsection (h).

"(2) BEGINNING MILK PRODUCER.—The term 'beginning milk producer' means a milk producer who is establishing a milk production operation and who has not assumed the full control and risk of the operation for longer than 5 years.

"(3) COUNTY COMMITTEE.—The term 'county committee' means a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

"(4) DAIRY COMMITTEE.—The term 'Dairy Committee' means a Dairy Committee established under subsection (c).

"(5) FAMILY MEMBER.—The term 'family member' means a spouse, parent, sibling, child, or grandchild.

"(6) LOCAL MILK MARKETING BOARD.—The term 'Local Board' means a Local Milk Marketing Board established under subsection (d).

"(7) MARKETING YEAR.—The term 'marketing year' means the period beginning on July 1 and ending on the following June 30.

"(8) NATIONAL BOARD.—The term 'National Board' means the National Milk Marketing Board established under subsection (e).

"(9) NEW MILK PRODUCER.—The term 'new milk producer' means a person who has no milk marketing history or who has returned the base of the person to the county pool.

"(10) NONFARM CORPORATION.—The term 'nonfarm corporation' means a corporation that derives less than 50 percent of its gross annual earnings from the sale of raw milk.

"(11) ORDER.—The term 'order' means an order issued under section 8c and this section that is applicable to handlers of milk and its products.

"(12) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(13) SOCIALLY DISADVANTAGED GROUP.—The term 'socially disadvantaged group' has the same meaning provided such term by section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

"(b) ISSUANCE OF ORDERS APPLICABLE TO ALL MILK.—Notwithstanding any other provision of this Act, not later than June 1, 1992, the Secretary shall issue or amend orders that are applicable to all handlers of milk and its products.

"(c) DAIRY COMMITTEES.—

"(1) IN GENERAL.—A county committee, acting through a Dairy Committee, shall be responsible for local administration of the base program established under an order applicable to the county, including decisions regarding base allocations and appeals.

"(2) ELECTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), milk producers in each county shall elect a Dairy Committee.

"(B) COMBINED COUNTIES.—If there are less than five active milk producers in a county, milk producers in the county shall elect a Dairy Committee in combination with milk producers in other counties, in a manner determined by the Secretary.

"(3) COMPOSITION.—A Dairy Committee established for a county or combined counties shall be composed of three active milk producers operating in the county or combined counties.

"(4) TERMS.—A member of a Dairy Committee shall serve for a 1-year term and may be elected for an additional 1-year term, except that a member may not serve on a Dairy Committee for more than 2 consecutive terms.

"(d) LOCAL MILK MARKETING BOARDS.—

"(1) IN GENERAL.—Milk producers under an order shall elect a Local Milk Marketing Board composed of six active milk producers, and three consumers, in the area subject to the order.

"(2) TERMS.—A member of a Local Board shall serve for a 3-year term and may be elected for an additional 3-year term, except that—

"(A) initial members elected to a Local Board shall serve staggered terms, as determined by the Secretary; and

"(B) a member may not serve on a Local Board for more than 2 consecutive terms.

"(3) NOMINATIONS AND VOTING.—Nominations and voting for a Local Board shall be conducted in a manner similar to nominations and voting for county committees, as determined by the Secretary.

"(4) DUTIES.—A Local Board shall—

"(A) develop and supervise the administration of programs and referendums established under this section to carry out the order in the area subject to the order;

"(B) monitor and review milk price increases at retail establishments located in the area; and

"(C) administer the milk supply management program established by this section in the area.

"(5) APPROVAL OF ADDITIONAL PROVISIONS.—If the Local Board determines that an additional provision is necessary to carry out the purposes of an order, to be effective, the provision must be approved in a referendum by a majority of milk producers that are subject to the order. The Local Board shall not permit bloc voting in the referendum.

"(6) ADMINISTRATION.—A Local Board shall carry out this section in a manner that promotes family farming, the entry of beginning farmers, and the nonmonetary transfer of base between milk producers.

"(e) NATIONAL MILK MARKETING BOARD.—

"(1) IN GENERAL.—Members of Local Boards shall annually elect, from among the members of Local Boards, a National Milk Marketing Board, composed of one member from each region of the United States, as determined by the Secretary.

"(2) DUTIES.—The National Board shall—

"(A) provide general oversight for administration of the national milk supply management program;

"(B) monitor the actions of the Secretary and the Commodity Credit Corporation in carrying out this section;

"(C) review amendments to orders that are proposed in regulations; and

"(D) annually determine the estimated production levels that are necessary to balance national dairy supply and demand.

"(3) FUNDING.—An order shall require that a pro rata share of expenses of the National Board, and all expenses of the Local Board administering the order, shall be financed by milk producers in a manner and at a rate specified in the order on all producer milk under the order.

"(f) MINIMUM PRICE.—

"(1) IN GENERAL.—Effective beginning January 1, 1992, subject to paragraph (2), orders issued or amended pursuant to this section shall provide for the payment to all producers and associations of producers delivering milk to all handlers minimum prices for all milk delivered by them at a rate equal to $13.60 per hundredweight of milk containing 3.67 milkfat, as adjusted in accordance with this subsection and section 8c.

"(2) ADJUSTMENTS.—On July 1, 1992, and each July 1 thereafter, the Secretary shall adjust the minimum price for milk covered by an order to reflect—

"(A) in the case of class I fluid milk, the formula established in paragraph (3);

"(B) in the case of class II and III manufactured milk, the average of the cost of production nationwide for the milk (based on the formula established in paragraph (3)); and

"(C) in the case of the price for all milk covered by the order that is paid to all producers and associations of producers, the blended minimum prices for class I, II, and III milk, based on the use of each type of milk covered by the order.

"(3) MILK PRICING FORMULA.—For purposes of carrying out this subsection, the Secretary shall establish a milk pricing formula for each order that establishes a total cost per hundredweight for milk produced, based on—

"(A) cash costs (excluding interest and labor), which shall be based on the average costs incurred by the most efficient 75 percent of 2 percent of randomly chosen milk producers covered by the order;

"(B) labor costs for producers in a region, which shall be based on—

"(i) the average gross hourly earnings for private nonagricultural workers in the region, as calculated by the Bureau of Labor Statistics of the Department of Labor; divided by

"(ii) the average quantity of milk produced (per hundredweight) by the most efficient 75 percent of 2 percent of randomly chosen milk producers covered by the order;

"(C) return on equity based on the average percentage return for nonfarm businesses;

"(D) interest paid on debts incurred by producers, excluding the principal residence of producers;

"(E) depreciation of buildings;

"(F) depreciation of cows;

"(G) depreciation of machinery;

"(H) a management fee, equal to 5 percent of the total of the items referred to in subparagraphs (A) through (G);

"(I) advertising assessments;

"(J) milk hauling costs; and

"(K) costs incurred for administering the order.

"(4) ADJUSTMENT OF CLASS I PRICES.—A Local Board may adjust prices for Class I (fluid) milk provided under an order to ensure adequate supplies of the milk.

"(g) ANNUAL BASE ALLOCATION.—

"(1) ANNUAL PRODUCTION CHANGES.—As soon as practicable before July 1, 1992, and the beginning of each marketing year thereafter, the National Board shall determine the quantity of increased or decreased milk production that is necessary to meet the projected demand for milk and milk products during the marketing year, allowing for the required purchases of milk and milk products by the Commodity Credit Corporation for existing food programs, Federal Government usage, and adequate supplies for food reserves.

"(2) TRANSITION PERIOD.—During the period beginning July 1, 1992, and ending June 30, 1994—

"(A) 1 percent of the total national base shall be allocated for use in appeals and emergency base adjustments; and

"(B) milk producers in regions that have limited production of milk to the base established for the region shall not have their base reduced by more than the quantity allocated under subparagraph (A).

"(3) INDIVIDUAL PRODUCER LIMITATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), an order shall establish an individual producer limitation based on the economic and production needs of the region of the producer.

"(B) EXISTING BASE.—An order may not reduce the base of a milk producer (as in effect on June 30, 1992), except that no new or returned base may be allocated to a milk producer if the quantity of milk produced by the producer exceeds the individual producer limitation established for the producer under subparagraph (A).

"(h) PRODUCTION BASES.—

"(1) ESTABLISHMENT.—Each milk producer who is actively engaged in the production of milk on the date of enactment of this section shall receive a production base equal to the higher of—

"(A) the quantity of milk produced by the producer during the preceding marketing year; or

"(B) the average quantity of milk produced by the producer during the preceding 5 marketing years, excluding the year in which the quantity of milk produced was the highest and the year in which the quantity of milk produced was the lowest.

"(2) TRANSFER.—

"(A) CEASING DAIRY OPERATIONS.—If a milk producer ceases dairy operations, the production base of the producer shall revert to the production base pool established for the county, except that—

"(i) this subparagraph shall not apply to transfer of bases described in subsection (i)(1); and

"(ii) at least 10 percent of all production bases that are returned to the county pool under this subparagraph shall be retained by the county committee to be allocated to qualifying producers who are described in paragraphs (2) through (5) of subsection (i).

"(B) CLASS I MONETARY BASES.—Production bases established under this section may not be sold, leased, or otherwise transferred except in regions where class I monetary bases have been established on or before June 30, 1992. Class I bases shall be transferred in accordance with this section.

"(C) TEMPORARY BASE EXCHANGES.—In the case of a region in which the supply of milk is less than the demand for milk, the producers in the region may arrange for temporary base exchanges between producers (for up to 1 year) in order to maintain a stable production base for the region.

"(D) TRANSFERS BETWEEN FAMILY MEMBERS.—Nothing in this Act shall be construed to restrict the transfer of bases between family members.

"(i) ALLOCATION OF NEW OR RETURNED BASE.—New or returned production base of a milk producer in a county shall be allocated, in order of priority, to:

"(1) A family member of the producer.

"(2) A new milk producer purchasing the cows or farms, or both.

"(3) A beginning milk producer in the county. At least 25 percent of all base held in the pool shall be offered to beginning milk producers.

"(4) An existing milk producer in the county who applies for base that would not cause the producer to produce more milk than the individual producer limitation established for the producer under subsection (i)(3).

"(5) An agricultural commodity producer in the county. In the case of a county in which at least 5 percent of the agricultural producers are members of socially disadvantaged groups who are or have expressed interest in becoming new milk producers or beginning milk producers, the Local Board shall transfer to the producers a percentage of the milk marketing base that is at least equal to the percentage of the agricultural producers in the county who are members of the social disadvantaged group.

"(6) If the Local Board established for a county is unable to allocate new or returned base to producers within the county, the base may be allocated by the Local Board—

"(A) to qualifying producers in the State; and

"(B) then to qualifying producers subject to the order.

"(7) If a Local Board is unable to allocate new base to qualifying producers subject to the order, the base shall be distributed equally among producers subject to other orders.

"(8) No new or returned base shall be allocated to nonfarm corporations or nonfarm absentee investors.

"(9) For purposes of this subsection, a milk producer who participated in the milk production termination program established by section 201(d)(3) of the Agricultural Act of 1949 (as added by section 101(b) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1363) may elect to be considered a new milk producer or a beginning milk producer.

"(j) PENALTIES FOR OVERPRODUCTION.—

"(1) IN GENERAL.—If a producer produces milk in excess of the base established for the producer, the producer shall be liable to the Secretary for a penalty that is equal to the product obtained by multiplying—

"(A) the quantity of milk produced by the producer in excess of the base; by

"(B) at the option of the Secretary—

"(i) a rate determined by the Secretary that will reduce the price received by the producer for excess production to the world market price for milk for the marketing year; or

"(ii) a rate equal to 75 percent of the minimum price for class II and III manufactured milk established under subsection (f)(2)(B), if the Secretary determines that the rate would achieve greater savings to the Federal Treasury.

"(2) ADDITIONAL ASSESSMENT.—In addition to the penalty imposed under paragraph (1), a producer described in paragraph (1) shall be liable to the Secretary for an additional assessment equal to the cost of processing, transportation, storage, and other charges incurred with respect to the excess production, as determined by the Secretary.

"(3) USE OF FUNDS.—The Secretary shall use all funds collected under this section for the purchase of milk and milk products for food assistance programs carried out by the Federal Government.

"(k) DETERMINATION OF INVENTORY.—In determining total national milk inventory levels for purposes of carrying out this section, the National Board shall—

"(1) calculate Commodity Credit Corporation purchases of milk and milk products on the basis of—

"(A) net Commodity Credit Corporation purchases of pounds of milk equivalent; less

"(B) Commodity Credit Corporation pounds of milk equivalent either sold to the commercial market or used for Federal Government programs; and

"(2) consider Commodity Credit Corporation purchases used in Federal Government programs as part of the national utilization of milk and milk products.

"(l) FOOD RESERVES AND COMMODITY DISTRIBUTION PROGRAMS.—In determining total national milk inventory levels for purposes of carrying out this section, the National Board shall—

"(1) maintain supplies of emergency reserves of milk and milk products that are adequate to support necessary long-term and emergency food relief programs;

"(2) not consider the reserves as surplus production; and

"(3) establish the reserve at a level of not less than 3,000,000,000 pounds of milk equivalent.

"(m) NATIONAL REFERENDUM.—

"(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, the Secretary shall conduct a referendum, by secret ballot, of all milk producers engaged in the production of milk for commercial use in the United States to determine whether a majority of the producers support the implementation of the milk supply management system established by this section.

"(2) CONTINUATION.—The milk supply management system shall continue to remain effective unless Congress approves a joint resolution disapproving the system.".

SEC. 3. SOLIDS CONTENTS OF BEVERAGE MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following new subparagraph:

"(M)(i) Providing that—

"(I) all milk that is in final package form for beverage use shall contain not less than 8.7 percent milk solids not fat;

"(II) all lowfat milk that is in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

"(III) all skim milk that is in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

"(ii) As used in this paragraph, the term 'milk' means sweet milk of cows.".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall become effective on January 1, 1992.

(b) BASES.—Subsections (g) through (l) of section 8c-1 of the Agricultural Adjustment

Act (as added by section 2 of this Act) shall become effective on July 1, 1992.

(c) REFERENDUM.—Subsection (m) of section 8c–1 of the Agricultural Adjustment Act (as added by section 2 of this Act) shall become effective on the date of enactment of this Act.

(d) SOLIDS CONTENTS OF BEVERAGE MILK.—Section 8(c)(5)(M) of the Agricultural Adjustment Act (as added by section 3 of this Act) shall become effective on the date of enactment of this Act.

By Mr. BIDEN:

S. 1341. A bill to provide penalties for additional forms of credit and debit card fraud; to the Committee on the Judiciary.

CONSUMER PROTECTION AGAINST CREDIT CARD FRAUD ACT

Mr. BIDEN. Mr. President, today I am introducing the Consumer Protection Against Credit Card Fraud Act of 1991. This legislation updates and expands the protections against credit card fraud provided by the Credit Card Fraud Act of 1984.

Mr. President, the losses from credit card fraud are enormous. In 1982, the last year data was available prior to enactment of the Credit Card Fraud Act of 1984, the losses from the counterfeiting and alteration of VISA and Mastercard were $25 million. Despite the successful prosecution of crimes under that statute, credit card fraud losses of those same companies today have ballooned to $200 million annually. According to an estimate of the Federal Trade Commission, telemarketing fraud—much of which involves credit cards—produced losses in 1989 in excess of $1 billion.

In part, these enormous losses result from the appearance of a new generation of scams. The phony solicitation of credit cards over the phone and the laundering of credit card receipts have replaced the counterfeiting and alteration outlawed by the 1984 law. Effective prosecution of these new crimes requires that the earlier law be updated. By clarifying and expanding the 1984 Credit Card Fraud Act so that it covers telemarketing fraud and the laundering of credit card receipts, we can assist prosecutors in shutting down these new scams.

Mr. President, the Consumer Protection Against Credit Card Fraud Act amends section 1029 of the criminal code to cover three offenses not covered by current law. First, it outlaws solicitations for the purchase of a credit card without the authorization of the credit card company. Typically, an offer of a low-rate credit card is made to a consumer with no credit card or a poor credit rating. In exchange for a payment, sometimes as much as several hundred dollars, the defrauded consumer receives only a list of credit card issuers or an application—information available for free elsewhere.

Second, it establishes an offense for the fraudulent taking of payment via credit card for goods or services that are either never delivered or far inferior to those that were promised. Such frauds usually are perpetrated over the phone.

Third, it criminalizes the laundering of credit card receipts. This offense, referred to as a factoring scheme, typically involves the perpetrator of the fraud and a third-party intermediary acting as a broker. In this scam, a merchant with access to the credit card system is persuaded to submit fraudulent credit card sales slips. Policing by the credit card companies is ineffective because identifying the perpetrator of the fraud and denying him access to the system will not prevent submission of the phony receipts.

Mr. President, thousands of consumers are victimized by credit card fraud every year. Frequently, the perpetrators of credit card fraud prey on the elderly and their fears of insufficient savings. Sometimes the victims are individuals already struggling with a poor credit history or no credit history.

The banking industry also is victimized by credit card fraud. Financial institutions issuing credit cards generally reimburse their cardholders for losses caused by credit card fraud. Recently, some individual schemes have led to bank losses in excess of $1 million each.

Notwithstanding the available reimbursement, consumers continue to suffer from credit card fraud. Many consumer victims—either because of embarrassment, or because of a lack of awareness of available remedies—never report their losses to their credit card company, and they are not reimbursed.

Mr. President, the National Consumers League, the Consumer Federation of America, VISA, Mastercard, and their member financial institutions all strongly support this legislation. Simply by updating and clarifying current law, we can assist prosecutors and help victims. Many people are hurt by credit card fraud each year, and the dollar amounts lost to these crimes are enormous. We should act on this legislation quickly.

Mr. President, I ask for unanimous consent so that the full text of the Consumer Protection Against Credit Card Fraud Act of 1991 may be reprinted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 1341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Protection Against Credit Card Fraud Act of 1991".

SEC. 2. FRAUD AND RELATED ACTIVITY IN CONNECTION WITH ACCESS DEVICES.

Section 1029 of title 18, United States Code, is amended—

(1) in subsection (a) by inserting after paragraph (4) the following new paragraphs:

"(5) knowingly and with intent to defraud effects transactions with one or more access devices issued to another person or persons to receive payment or any other thing of value during any one-year period the aggregate value of which is equal to or greater than $1,000;

"(6) without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

"(A) offering an access devices; or

"(B) selling information regarding or an application to obtain an access device; or

"(7) without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, one or more evidences or records of transactions made by an access device;".

SEC. 3. TECHNICAL AMENDMENTS.

Section 1029 of title 18, United States Code, as amended by section 2, is amended—

(1) in subsection (a) by striking "or" at the end of paragraph (3);

(2) in subsection (c)(1) by striking "(a)(2) or (a)(3)" and inserting "(a) (2), (3), (5), (6), or (7)"; and

(3) in subsection (e) by—

(A) striking "and" at the end of paragraph (5);

(B) adding "and" at the end of paragraph (6); and

(C) adding at the end thereof the following new paragraph:

"(7) the term 'credit card system member' means a financial institution that is a member of a credit card system, including a financial institution that is the sole credit card system member affiliated with a credit card issuer.".

By Mr. BREAUX:

S. 1342. A bill to amend title II of the Social Security Act to repeal the rule providing for termination of disabled adult child's benefits upon marriage; to the Committee on Finance.

EFFECT OF MARITAL STATUS ON ELIGIBILITY FOR SOCIAL SECURITY DISABILITY BENEFITS

• Mr. BREAUX. Mr. President, I rise to introduce legislation to address an inequity in the Social Security Act's coverage of disabled individuals.

A provision in the Social Security Act's disability insurance program—title II of the act—provides benefits to the disabled children of individuals who receive old age or disability insurance benefits. This is known as the disabled adult child benefit. These individuals receive a cash benefit and Medicare coverage. They are especially dependent on the health insurance coverage provided under Medicare—these individuals are severely disabled and have an extremely difficult time finding private health insurance. Even if they can find an insurer, premiums are likely to be very high.

Under current law, individuals who receive the disabled adult child benefit automatically lose their benefits if they get married, regardless of their income. This penalty is archaic and has outlived its usefulness. When it was written into the Social Security Act, society treated the disabled differently. The notion was that, upon marriage, disabled individuals would leave their dependence relationship with the Federal Government only to enter into a relationship of dependence on a spouse. Today, we have come to realize that disabled persons can be productive members of society in their own right—they can marry and raise families and pursue happiness like everyone else. The automatic loss of benefits—especially of Medicare coverage—is a dramatic disincentive toward this goal.

Mr. President, the legislation that I am now introducing would repeal the provision which requires that disabled adult children lose their benefits when they marry.

Mr. President, one of my constituents, a man by the name of Jimmy Rick, brought this provision to my attention. Mr. Rick is an extraordinary man. He has been paralyzed from the neck down since he was 3 years old and has had a series of incredibly painful and debilitating operations over the course of his 44 years. Every night of his life he must sleep in an iron lung. Despite all of this, he drove his wheelchair 1,100 miles from Amite, LA, to Washington, DC, to bring to the attention of Congress the affect that the marriage provision has had on his life. Jimmy Rick is the perfect example of why the loss of benefits due to marriage does not make sense. He and his wife, Dona had to wait 7 years before they could get married and adopt children. Mr. Rick was completely dependent on the Medicare coverage he had as a beneficiary. The couple could not afford to marry until Dona found a job with the U.S. Postal Service that carried the kind of health insurance coverage they needed. Since their marriage in May 1990, the Rick have adopted two children; Heidi, age 11 and Milton, age 13. They plan to adopt several more. The Rick's are now a growing and productive family. This archaic provision in the Social Security law only served to dalay this happy event for 7 long years.

Mr. President, I urge my colleagues to take a look at this legislation and consider how outdated the marriage requirement is. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1342

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF RULE PROVIDING FOR TERMINATION OF DISABLED ADULT CHILD'S BENEFITS UPON MARRIAGE.

(a) IN GENERAL.—Section 202(d) of the Social Security Act (42 U.S.C. 402(d)) is amended—

(1) in paragraph (1)(D), by striking "or marries,";

(2) by striking paragraph (5); and

(3) in paragraph (6) by inserting "(other than by reason of death)" after "terminated", by striking "(provided no event specified in paragraph (1)(D) has occurred)", and by striking "the first month in which an event specified in paragraph (1)(D) occurs" in subparagraph (C) and inserting "the month in which the child's death occurs".

(b) CONFORMING AMENDMENTS.—

(1) Section 202(d) of such Act (as amended by subsection (a)) is further amended by redesignating paragraphs (6), (7), (8) and (9) as paragraphs (5), (6), (7), and (8) respectively.

(2) section 201(s)(2) of such Act (42 U.S.C. 402(s)(2)) is amended by striking "So much of subsections (b)(3), (c)(4), (d)(5), (g)(3), and (h)(4) of this section as precedes the semicolon," and inserting "Subsections (b)(3), (c)(4), (g)(3), and (h)(4)) of this section".

(3) Section 223(e) of such Act (42 U.S.C. 423(e)) is amended by striking "(d)(6)(A)(ii), (d)(6)(B)," and inserting "(d)(5)(A)(ii), (d)(5)(B)".

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to marriages occurring on or after May 1, 1991.•

By Mr. MITCHELL (for Mr. DECONCINI for himself, Mr. KOHL, and Mr. BOREN):

S. 1343. A bill to encourage the States to enact legislation to grant immunity from personal civil liability, under certain circumstances, to volunteers working on behalf of nonprofit organizations and governmental entities; to the Committee on the Judiciary.

VOLUNTEER PROTECTION ACT

• Mr. DECONCINI. Mr. President, I rise today with Senators BOREN and KOHL to introduce the Volunteer Protection Act of 1991. This legislation encourages States to provide protection to volunteers who donate their time for hundreds of nonprofit organizations. It is identical to the bill I introduced last Congress (S. 520). Senators KOHL, BOREN and I are committed to giving security to these greatly needed volunteers while they donate their time and effort for so many worthwhile causes.

Many volunteers believe they may be the subject of a lawsuit as a result of their volunteer activities. A recent poll of national, State and local volunteer organizations showed that over 60 percent of those polled had such fears. Potential volunteers are not getting involved, and nonprofit organizations are dropping valuable programs because of their concern about litigation. In fact, a 1988 Gallup Poll showed that one out of every seven nonprofit agencies had eliminated certain worthwhile programs because of their exposure to litigation. The situation is bad, and will get worse without legislation to provide liability protection to these volunteers. President Bush is pushing for more and more volunteer participation, yet the risk to these volunteers is great.

Ask the mountain rescue volunteer who was sued by the climber he risked his own life to save. The climber sustained spinal injuries in a 90-foot fall, and turned around and sued the volunteer for "reckless and negligent" rescue techniques. The suit was eventually dropped 2 years later, but only after draining the personal financial resources of the volunteer rescue worker.

Ask the little league coach who was sued by the parents of the child he coached. The child was struck in the eye by a fly ball that he misjudged while playing outfield. The parents argued their child was a natural shortstop, and sued the coach for negligently playing the child in an unfamiliar position. The case was settled out of court for $25,000.

The examples go on, but the effect is devastating. A large number of potential volunteers choose not to do so, while insurance costs for those who do continue to rise at alarming rates. The work force of 85 million volunteers who contribute 16.5 billion hours of service is threatened. As the 1988 Gallop Poll reported that over half of the organizations polled indicated a drop in the number of volunteers over the previous 3 years. In addition, 16 percent of volunteer leaders responding reported that they themselves had refused to sit on the board of a nonprofit organization due to concerns about liability.

While all 50 States have passed some form of volunteer protection legislation, the degree of protection is extremely varied. Some States protect all volunteers, while others cover only the organization executives. I believe the States should have the flexibility to enact protection they feel is appropriate, but these valuable volunteers need assurances that their financial stability is not threatened while they put their best efforts into helping others. This bill accomplishes both.

The bill is not mandatory but instead provides an incentive for the States to enact legislation. Those States who choose to enact legislation in compliance with the act are rewarded with a 1-percent increase in social service block grant funds.

Moreover, the bill allows certain exceptions to and conditions on the granting of immunity which the States may include while complying with the act. Specifically, a State may exclude protection from a volunteer who operates a motor vehicle and can also require the organization to provide a secure source of recovery for injured individuals. A State may also make the organization liable for the acts or omissions of its volunteers similar to State laws making an employer liable for the acts or omissions of an employee. Finally, State or local governments may still bring suit to enforce a Federal, State, or local law. A State is free to enact any of the above provisions, depending on its individual needs, while shielding its volunteer work force from potential liability.

If a State passes legislation in compliance with the terms of this bill, the volunteer will be protected from personal financial liability, as long as the individual was acting in good faith within his/her official duties. This grants the necessary protection, but assures that the volunteer's efforts are in the interest of those supposedly benefited. Let me make it clear that this bill is not intended to prevent the injured party from obtaining redress, because they are still free to pursue their claim against the organization according to State law. Additionally, volunteers that act in a willful or wanton manner are not protected.

Mr. President, the volunteers of our Nation are in integral part of many nonprofit organizations. Their participation in these organizations, many of which are federally funded, is an essential part of our effort to reduce the Federal deficit. Without their valuable contributions, many Federal programs will be forced to fund additional paid positions, or cut back on greatly needed services. The bill will also provide a degree of uniformity and certainty among the several States. Should a State enact legislation in compliance with the act, volunteers in that State will know they are protected, and know the limitations on that protection.

Finally, this bill is officially supported by over 80 nonprofit organizations, in addition to being supported by the volunteer community as a whole.

Mr. President, I ask unanimous consent that the entire text of the bill I am submitting today be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1343

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Volunteer Protection Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) within certain States, the willingness of volunteers to offer their services has been increasingly deterred by a perception that they thereby put personal assets at risk in the event of liability actions against the organization they serve;

(2) as a result of this perception, may nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, local governments, foundations, and other civic programs, have been adversely affected through the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating; and

(4) because Federal funds are expended on useful and cost-effective social service programs which depend heavily on volunteer participation, protection of voluntarism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal encouragement of State reform.

(b) PURPOSE.—It is the purpose of this Act to—

(1) promote the interests of social service program beneficiaries and taxpayers; and

(2) sustain the availability of programs and non-profit organizations and governmental entities which depend on volunteer contributions

by encouraging reasonable reform of State laws to provide protection from personal financial liability to volunteers serving with nonprofit organizations and governmental entities for actions undertaken in good faith on behalf of such organizations.

SEC. 3. NO PREEMPTION OF STATE TORT LAW.

Nothing in this Act shall be construed to preempt the laws of any State governing tort liability actions.

SEC. 4. LIMITATION ON LIABILITY FOR VOLUNTEERS.

(a) LIABILITY PROTECTION FOR VOLUNTEERS.—Except as provided in subsections (b) and (d), any volunteer of a nonprofit organization or governmental entity shall incur no personal financial liability for any tort claim alleging damage or injury from any act or omission of the volunteer on behalf of the organization or entity if—

(1) such individual was acting in good faith and within the scope of such individual's official functions and duties with the organization or entity; and

(2) such damage or injury was not caused by willful and wanton misconduct by such individual.

(b) CONCERNING RESPONSIBILITY OF VOLUNTEERS WITH RESPECT TO ORGANIZATIONS.—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) NO EFFECT ON LIABILITY OF ORGANIZATION.—Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to injury caused to any person.

(d) EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.—A State may impose one or more of the following conditions on, and exceptions to, the granting of liability protection to any volunteer of an organization or entity required by subsection (a):

(1) The organization or entity must adhere to risk management procedures, including mandatory training of volunteers.

(2) The organization or entity shall be liable for the acts or omissions of its volunteers to the same extent as an employer is liable, under the laws of that State, for the acts or omissions of its employees.

(3) The protection from liability does not apply if the volunteer was operating a motor vehicle or was operating a vessel, aircraft, or other vehicle for which a pilot's license is required.

(4) The protection from liability does not apply in the case of a suit brought by an appropriate officer of a State or local government to enforce a Federal, State, or local law.

(5) The protection from liability shall apply only if the organization or entity provides a financially secure source of recovery for individuals who suffer injury as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

SEC. 5. CERTIFICATION REQUIREMENT AND ADJUSTMENT OF SOCIAL SERVICES BLOCK GRANT ALLOTMENTS.

(a) CERTIFICATION AND BLOCK GRANT ALLOTMENTS.—In the case of any State which certifies, not later than 2 years after the date of the enactment of this Act, to the Secretary of Health and Human Services that it has enacted, adopted, or otherwise has in effect State law which substantially complies with section 4(a), the Secretary shall increase by 1 percent the fiscal year allotment which would otherwise be made to such State to carry out the Social Services Block Grant Program under title XX of the Social Security Act.

(b) CONTINUATION OF INCREASE.—Any increase made under subsection (a) in an allotment to a State shall remain in effect only if the State makes a certification to the Secretary of Health and Human Services, not later than the end of each 1-year period occurring successively after the end of the 2-year period described in subsection (a), that it has in effect State law which substantially complies with section 4(a).

SEC. 6. DEFINITIONS.

For purposes of this Act—

(1) the term "volunteer" means an individual performing services for a nonprofit organization or a governmental entity who does not receive compensation, or any other thing of value in lieu of compensation, for such services (other than reimbursement for expenses actually incurred or honoraria not to exceed $300 per year for government service), and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer;

(2) the term "nonprofit organization" means any organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(3) the term "damage or injury" includes physical, nonphysical, economic, and noneconomic damage; and

(4) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory of possession of the United States, or any political subdivision of any such State, territory, or possession.●

By Mr. AKAKA (for himself, Mr. ADAMS, and Mr. CRANSTON):

S. 1344. A bill to require the Secretary of the Interior to conduct a study of nationally significant places in Japanese-American history; to the Committee on Energy and Natural Resources.

JAPANESE-AMERICAN NATIONAL HISTORIC LANDMARK THEME STUDY ACT

Mr. AKAKA. Mr. President, we cannot change history, but we can learn from it. All too often we seek solace in selectively absolving our national conscience of responsibility for past deeds and institutions which evidence injustice and prejudice. This is understandable since these ugly embarrassments directly contradict the democratic ideals and cherished values upon which our country was founded.

One such unfortunate period in American history was when over 100,000

Japanese-Americans and alien residents were interned during World War II. To ensure that we, and future generations, will never forget this denial of constitutionally protected civil liberties, I am introducing the Japanese-American Landmark Theme Study Act. I am pleased to have the senior Senator from California [Mr. CRANSTON] and the senior Senator from Washington, [Mr. ADAMS] join me in sponsoring this bill.

The legislation I introduce today would require the Secretary of the Interior to conduct a national historic landmark theme study of all key sites that were a part of this sad and shameful chapter in American history when Japanese-Americans were denied civil rights. On the basis of this study, the National Park System Advisory Board would evaluate and rank possible historic landmarks and recommend sites for designation to the Secretary of the Interior. Currently, only one relocation camp, the Manzanar War Relocation Center in California, is a national historic landmark.

In 1942, President Roosevelt signed Executive Order 9066, which began the relocation of over 120,000 Japanese-American citizens and resident aliens living in Hawaii and the west coast. Within months, thousands of Japanese-Americans were forced to abandon their homes and businesses, to resettle in internment and temporary detention camps.

The nine internment camps to be studied, located in Arizona, Arkansas, California, Colorado, Idaho, Utah, and Wyoming became prisons for the evacuated residents who were forbidden from leaving the camps without approval from military authorities. Fifteen other temporary detention camps were spread through Washington, Oregon, California, and Arizona.

Mr. President, solely on the basis of race, these people, regardless of citizenship or loyalty, without proof or justification, were denied their civil rights. In addition to having their personal liberty denied, these Americans were deprived of other basic constitutional guarantees and fundamental human rights. Freedom of speech and assembly was denied. The right to vote in Federal and local elections was denied. Religious freedom was restricted.

My bill also requires that the theme study examine other sites of significance in Japanese-American history during World War II. This would include Camp Shelby, MS, where the famed 442d Infantry Regimental Combat Team was trained, and Camp McCoy, WI, training installation for the 100th Infantry Battalion. Japanese-American volunteers in both units served with distinction and valor and are among the most decorated teams in American history. I can think of no greater example of patriotism and love of country than the service offered by those in defense of a Constitution and Nation that failed them.

Mr. President, in 1988, after 46 years of hindsight and unjust recrimination, America recognized its act of grave injustice against Japanese-Americans and affirmed its commitment to "liberty and justice for all" in the enactment of the Civil Liberties Act of 1988.

Now, by designating these significant sites as national historic landmarks, we commemorate this unfortunate period in our Nation's history. It is imperative that we remember the consequences of allowing hysteria and racial prejudice to override an individual's constitutional rights, and to teach this lesson to our children, if we are to avoid a repetition of our disgraceful mistakes of the past.

By Mr. LEAHY (for himself, Mr. PELL, Mr. STEVENS, and Mr. DECONCINI):

S. 1345. A bill to amend the National Film Preservation Act of 1988 to modify the composition and procedures of the National Film Preservation Board and the Librarian of Congress on preserving national films, and for other purposes; to the Committee on Rules and Administration.

NATIONAL FILM PRESERVATION ACT

Mr. LEAHY. Mr. President, I am today introducing, for myself, Senator PELL, Senator STEVENS, and Senator DECONCINI, legislation to reauthorize and extend the National Film Preservation Act of 1988.

WHY FILM PRESERVATION MATTERS

Motion pictures are central to the American experience. Most of us in this body grew up looking forward to the next Saturday afternoon matinee. Generations around the world have learned about America and America's dreams from watching Hollywood's creations. Movies are the indigenous American art form.

Think for a moment about some of the films selected under the 1988 act of inclusion in the National Film Registry—movies like "Casablanca," "Citizen Kane," "High Noon," "It's a Wonderful Life," and "Sunset Boulevard"—and it becomes instantly clear why the preservation of our film heritage is so important. It is a heritage admired and envied the world over, a heritage that tells us about who we are and who we were. But it is also a perishable heritage that will not endure unless we take steps to save it.

Because of deterioration or loss, more than half the feature films produced in the United States before 1951 have already been lost, including 80 percent of our silent movies. And many films produced after 1951 are deteriorating rapidly.

The good news is that the need to preserve our films has become increasingly clear in recent years to professionals and filmgoers alike. For the studios, presevation has fortunately become a question of economics. They see now as they did not see 10 or 15 years ago the value of their film libraries. Movies that have gathered dust for years can still have value on cable or home video. For moviegoers the pleasure of seeing a sparkling, restored version of "Lawrence of Arabia" or "Spartacus" is reason enough for the work of preservation.

The legislation we introduce today, with active support of the Librarian of Congress, would reauthorize the National Film Preservation Act of 1988, with certain modifications.

THE 1988 ACT

In essence, the 1988 act:

Created a National Film Preservation Board, with representatives from industry and the academic community, under the leadership of the Librarian of Congress;

Empowered the Board to select 25 "culturally, historically, or esthetically significant" films each year for inclusion in a new National Film Registry;

Stipulated that films selected for the Registry were entitled to bear a seal indicating such selection;

Required movies selected for the Registry to bear a label if exhibited in a "materially altered" form; and

Directed the Board to establish guidelines for determining whether a film has been materially altered.

THE NEW REAUTHORIZATION BILL—SUMMARY

Our new legislation has shifted away from labeling to an expanded focus on preservation. There are many ongoing film preservation efforts in this country, carried out by the Library of Congress, the National Archives, the Museum of Modern Art, laboratories such as the Eastman House, Turner Broadcasting, the Hollywood studios and others. But there is little coordination. Under the bill, the primary mission of the Librarian and the Board will be to develop and coordinate a National Film Preservation Program beginning with a year-long study to ascertain the current state of film preservation in America.

The Librarian and the Board will also continue to select 25 classic films for inclusion in the National Film Registry, using their best efforts to ensure that there are high quality versions of these films in existence, or, if not, that the necessary preservation and restoration work is done. The range of films that may be selected has been broadened to include short subjects and documentaries.

The new bill also eliminates the labeling provisions of the 1988 act, so that the Librarian and the Board can concentrate on preservation.

When the 1988 law was enacted—as an amendment to an appropriation bill—the labeling provisions were not given the full consideration they deserve, in the proper legislative committees of Congress. Labeling inevitably raises the question of whether persons other than copyright holders—such as film directors or writers—should retain any remedial rights in their works. This is a complex, moral rights issue that ought to be fully considered by the House and Senate Judiciary Committees before being enacted into law.

Moreover, as the Librarian of Congress recognizes, the difficult and contentious determinations required in administering a labeling regime—such as what constitutes a "material alteration," when such an alteration has been made and what kind of label should be applied—are not the sort that the Librarian is qualified to make.

Finally, a broad consensus of the film community agrees that the important contribution this bill can make to film preservation should not be put at risk by linkage to the controversial labeling question.

This legislation redirects and broadens the focus of the National Film Preservation Act to the useful and important business of preservation. We look forward to swift action on this bill so that it can be enacted before the 1988 act sunsets at the end of September.

I ask unanimous consent that the bill together with a section-by-section analysis and a statement of Senator DECONCINI be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1345

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Film Preservation Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage;

(3) because of deterioration or loss, less than one-half of the feature-length films produced in the United States before 1951, including only 20 percent of the silent films, still exist and many of the films produced after 1951 are deteriorating at an alarming rate; and

(4) it is appropriate and necessary for the Federal Government to—

(A) recognize motion pictures as a significant American art form deserving of protection, including preservation and restoration; and

(B) establish a National Film Registry of films that represent an enduring part of our national, historical, and cultural heritage, which Registry should be established and maintained in the Library of Congress; and

(5) to the extent possible, and with the permission of the copyright owners, films selected for inclusion in the National Film Registry should be made widely available to the American public in their Registry versions.

SEC. 3. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall establish a National Film Registry under the provisions of this Act, for the purposes of recognizing and preserving films that are culturally, historically, or aesthetically significant.

SEC. 4. DUTIES OF THE LIBRARIAN OF CONGRESS.

(a) DUTIES.—The Librarian shall, after consultation with the Board established under section 5—

(1) after completion of the study required under section 12, establish a comprehensive national film preservation program for films, in conjunction with other major film archives, with the objectives of—

(A) coordinating activities to assure that ongoing efforts of archivists and copyright owners, and others in the public and private sector are effective and complementary;

(B) generating public awareness of and support for those activities;

(C) increasing accessibility of films for educational purposes; and

(D) improving nationwide activities in the preservation of works in other media such as videotape;

(2) establish criteria and procedures pursuant to which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication;

(3) establish procedures whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry;

(4) establish procedures for the examination by the Library of Congress of copies of films named for inclusion in the National Film Registry to determine eligibility for the use of the seal of the National Film Registry;

(5) determine which films satisfy the criteria developed under paragraph (2) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in such Registry;

(6) publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry;

(7) provide a seal to indicate that a film is included in the National Film Registry;

(8) to the extent practicable, ensure, subject to the rights of copyright owners, that there is a Registry version of each film selected for the National Film Registry;

(9) publish in the Federal Register the standards for preservation or restoration that shall qualify films for use of the seal; and

(10) submit an annual report to the appropriate committees of the Congress, listing films included in the National Film Registry and describing the activities of the Board.

(b) SEAL.—A seal provided for a film under subsection (a)(7) may be used on any copy of the Registry version of such film as defined in section 11(6). Before such seal may be used, the Library of Congress shall have examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or his duly authorized licensee may place or authorize the placement of a seal on a copy of a film selected for inclusion in the National Film Registry. In the case of works no longer protected by copyright, the Library may affix a seal. The person authorized by this subsection to place a seal on a copy of a film selected for inclusion in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1991.".

SEC. 5. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of 17 members, selected by the Librarian in accordance with the provisions of this section. Each organization listed in subparagraphs (A) through (P) shall submit a list of not less than three qualified candidates to the Librarian. With the exception of the member listed in subparagraph (Q), the Librarian shall appoint 1 member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend. Such organizations shall include—

(A) the Academy of Motion Picture Arts and Sciences;

(B) the Directors Guild of America;

(C) the Writers Guild of America East and West, appointed in accordance with paragraph (2);

(D) the National Society of Film Critics;

(E) the Society for Cinema Studies;

(F) the American Film Institute;

(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;

(H) the Department of Film and Television at New York University Tisch School of the Arts;

(I) the University Film and Video Association;

(J) the Motion Picture Association of America;

(K) the National Association of Broadcasters;

(L) the Alliance of Motion Picture and Television Producers;

(M) the Screen Actors Guild of America;

(N) the National Association of Theater Owners;

(O) the American Society of Cinematographers;

(P) the United States Members of the International Federation of Film Archives; and

(Q) a member at large.

(2) Each organization under paragraph (1)(C) shall nominate 3 candidates. The Librarian shall appoint a candidate from 1 organization as a member of the Board, and shall select a candidate from the other organization as an alternate.

(3) The member at large listed in paragraph (1)(Q) shall be chosen by the Librarian from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall also select from the names submitted in this paragraph an alternate member at large who may attend those meetings which the member at large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years. There shall be no limit to the number of terms that any individual member may serve.

(2) A vacancy on the Board shall be filled in the manner prescribed by the Librarian,

except that no entity listed in subsection (a) may have more than 1 nominee on the Board at any time.

(d) QUORUM.—Nine members of the Board shall constitute a quorum, but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

(f) MEETINGS.—The Board shall meet at least once each calendar year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 6. POWERS OF THE BOARD.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Librarian and Board considers appropriate.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics, film preservation organizations and representatives for academic institutions with film study programs.

(c) SELECTION OF FILMS.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian and make recommendations with respect to the selection of films for the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant. The Board shall recommend and the Librarian shall select not more than 25 films a year for inclusion in the Registry.

SEC. 7. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) COPY OF FILM.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of a Registry version of each film included in the National Film Registry. Whenever possible the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—In addition, the Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials. Such materials shall become a part of the collection described in subsection (d).

(c) PROPERTY OF THE UNITED STATES.—All copies of films, and other materials, received by the Librarian shall become the property of the United States Government, except that nothing in this Act shall infringe on the copyright owners' rights under title 17, United States Code.

(d) REGISTRY COLLECTION.—All copies of films received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, subject to the limitations of title 17, United States Code—

(1) provide for reasonable access to films in such collection for scholarly and research purposes; and

(2) to the extent practicable, and with the permission of the copyright owners, endeavor to exhibit or encourage the exhibition of such films to the public.

SEC. 8. SEAL OF THE NATIONAL FILM REGISTRY.

(a) USE OF THE SEAL.—No person shall knowingly distribute or exhibit to the public a copy of a film which bears a seal as described under section 4(a)(7) if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but the print from which such copy was made was not examined and approved for use of the seal by the Library of Congress pursuant to section 4(b).

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal as described in this section shall be effective for each film after publication by the Librarian in the Federal Register of the name of that film selected for inclusion in the National Film Registry.

SEC. 9. REMEDIES.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 8 of this Act upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective removal of the seal of the National Film Registry.

(2) In any case in which the Librarian finds a pattern or practice of the willful violation of this Act, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief.

(c) EXCLUSIVE REMEDIES.—The remedies provided under this section shall be the exclusive remedies under this Act or any other Federal or State law, regarding the use of the seal as described by section 4(a)(7).

SEC. 10. STAFF OF BOARD; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate.

(b) EXPERTS AND CONSULTANTS.—The Librarian may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS-15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 11. DEFINITIONS.

For purposes of this Act:

(1) The term "Board" means the National Film Preservation Board.

(2) The term "copy" used in reference to a film means a copy fixed on film stock, not on other media such as videotapes or laser disks.

(3) The term "film" means a motion picture as defined in section 101 of title 17, United States Code, except that such term excludes any works not originally fixed on film stock, such as videotapes or laser disks.

(4) The term "Librarian" means the Librarian of Congress.

(5) The term "publication" means a publication as defined in section 101 of title 17, United States Code.

(6) The term "Registry version" means, with respect to a film, the version of the film first published or as complete a version as bona fide preservation and restoration activities by the Library of Congress or another archive acting pursuant to section 4 can compile.

SEC. 12. STUDY BY THE LIBRARIAN OF CONGRESS.

The Librarian, after consultation with the Board, shall conduct a study on the state of film preservation and restoration, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to film preservation. No later than 1 year after the date of enactment of this section, the Librarian shall submit to the Congress a report containing the results of the study conducted under this section.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Library of Congress, such sums as are necessary to carry out the provisions of this Act, but in no fiscal year shall such sum exceed $250,000.

SEC. 14. EFFECTIVE DATE.

The provisions of this Act shall be effective on the date of the enactment of this Act through September 30, 1997. The provisions of this Act shall apply to any copy of any film, including films selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988. Films selected for the National Film Registry under the National Film Preservation Act of 1988 shall be deemed to have been selected under this Act.

SEC. 15. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 et seq.) is repealed.

SECTION-BY-SECTION ANALYSIS OF NATIONAL FILM PRESERVATION ACT OF 1991

Section 1 of the bill sets forth its title, the "National Film Preservation Act of 1991."

Section 2 sets forth Congress's findings that it is appropriate for the federal government to recognize the importance of film preservation and to establish a National Film Registry of films that represent an enduring art of our national, historical and cultural heritage.

Section 3 directs the Librarian of Congress to establish a National Film Registry.

Section 4(a) sets forth the duties of the Librarian of Congress, which include developing a comprehensive national film preservation program; establishing criteria for the selection of films for the Registry; providing a seal to indicate that a film has been selected for the Registry; and ensuring, to the extent practicable, that a properly preserved and restored version exists of each Registry film.

Section 4(b) sets forth the rules for the use of a seal indicating that a film has been selected for the Registry.

Section 5 directs the Liberarian to establish the National Film Preservation Board, describes the composition of the Board and sets forth provisions relating to the Board's functioning, including quorum requirements, meetings and terms of office.

Section 6 sets forth the powers of the Board, pertaining mostly to its role in advising the Librarian of Congress on the selection of films for inclusion in the National Film Registry.

Section 7 directs the Librarian to endeavor to obtain archive quality copies of the films selected for the National Film Registry, together with related background materials.

Section 8 makes clear who may and who may not use the seal.

Section 9 sets forth remedies available against persons who use the seal in contravention of section 8.

Section 10 authorizes the Librarian to appoint such staff as he deems appropriate and to procure the services of experts and consultants.

Section 11 sets forth definitions.

Section 12 directs the Librarian to conduct a study on the state of film preservation and restoraton activities in the United States, to be completed within one year and submitted to Congress.

Section 13 authorizes the appropriation of up to $250,000 per year to the Library of Congress, the same amount as in the 1988 Act.

Section 14 makes the Act effective from the date of enactment through September 30, 1997, and makes clear that films selected under the National Film Preservation Act of 1988 shall be deemed to have been selected under the 1991 Act.

Section 16 repeals the 1988 Act.

STATEMENT OF SENATOR DECONCINI

Mr. President, I am pleased to cosponsor the National Film Preservation Act of 1991. Like the 1988 law this bill amends, it advances a worthy purpose, and it has been written to avoid problems that surrounded enactment of the earlier Film Preservation Act. I applaud the efforts of my Judiciary Committee colleague, Senator Leahy, to produce a well-crafted bill in consultation with the Librarian of Congress.

American motion pictures are a significant part of our cultural heritage, and we must promote efforts, both by the government and by private interests, to honor them as an art form and to preserve them. That was the impetus behind the 1988 Film Preservation Act: it established the National Film Preservation Board to select 25 films each year to be included in the National Film Registry. The 75 motion pictures selected so far form an enduring part of our national, cultural legacy.

But one of the centerpieces of the present law is a labelling requirement that has been the source of a great deal of controversy and misunderstanding. The law now requires distributors and theater owners to affix a label to selected films if they are "colorized" or otherwise "materially altered." The meaning of these terms was a source of much dispute during the debate on the 1988 Act and continues to cause confusion today.

The 1991 amendments will eliminate the disputes that emerged over the interpretaton of that vague term. Instead of the label, original and complete copies of films (Registry Copies) selected for the Registry may display a seal of the Library of Congress. The bill no longer requires film distributors, theater owners or other private parties to affix a government-mandated label. It will no longer compel the government, through its enforcement of the label requirement, to interfere in an activity that is protected by the First Amendment.

This bill reauthorizes the Board for another six years so it may continue to select American films for the Registry, and refocuses the activities of the Board and the Librarian on more pressing needs: the preservation of American motion pictures. More than half of all American films produced before 1951, including 80 percent of silent films, no longer exist. By authorizing the Librarian and the Board to develop a comprehensive national film preservation program and to coordinate film preservation efforts nationwide, the bill will help ensure that these fragile masterpieces of American culture will be enjoyed by generations to come.

By Mr. SYMMS (for himself, Mr. DOLE, Mr. DASCHLE, Mr. BAUCUS, Mrs. KASSEBAUM, Mr. BURNS, and Mr. SIMPSON):

S. 1346. A bill to amend the Internal Revenue Code of 1986 to provide for a 50 percent of occupancy rule with respect to the valuation of seats on corporate aircraft on a legitimate business flight when those seats would have otherwise gone unoccupied; to the Committee on Finance.

TAX TREATMENT OF TRAVEL ON COMPANY AIRCRAFT

• Mr. SYMMS. Mr. President, I am introducing legislation to clarify an area of the Tax Code that has allowed the Internal Revenue Service to publish an unworkable regulation. This legislation would replace the current 50 percent of capacity rule with the more reasonable 50 percent of occupancy rule with respect to individuals flying on corporate aircraft as hitchhikers, that is, filling seats that would otherwise go empty.

This bill has a history of support in the Finance Committee and in the Senate. Similar language was agreed to by the Finance Committee in 1989 as part of the budget reconciliation legislation for fiscal year 1990, but it was dropped, along with several other meritorious changes, when the Senate decided to adopt a barebones package.

The problem this bill addresses first arose in 1984 as a result of the Congress attempting to deal with another, related problem. Prior to 1984, many companies across the country had a longstanding practice of allowing employees and their families to fly on a space available basis in otherwise unoccupied seats when the company plane was on a legitimate business trip. No income was imputed to these employees or to their family members and, generally, there was no challenge by the IRS. If there was ever a tax dispute, it was usually whether the aircraft as on a valid business flight, not whether a hitchhiker on a business flight ought to report income.

In 1983, the Treasury Department was in the process of enacting a number of regulations tightening up on the definition of tax-exempt fringe benefits. As part of this process, Treasury concluded that these hitchhiker-flyers had to figure out the value of the flight and include it in their taxable income. Treasury also concluded that airline employees who were allowed by their employer or other airlines to fly for free or at reduced rates had to include the value of the savings in their taxable income.

In 1984, Congress codified the tax treatment of many types of fringe benefits in an attempt to reverse Treasury's regulations and to regain control over this area of the Tax Code from the Treasury Department. One of the fringe benefits that was codified as tax free in 1984 was the tax treatment of free or reduced fare rides by airline employees.

As so often happens in the making of tax policy, clarifying one area created uncertainty in other areas. In this case, clarifying the treatment for airline employees created an implication that hitchhikers on corporate aircraft were taxable on the value of their flights.

After the fringe benefit legislation was enacted with no explicit treatment of the hitchhiker problem, the Treasury Department published regulations to establish values for flights by all hitchhikers on company aircraft. The regulations were very controversial, and the Senate explicitly rejected them in a recorded vote in 1985.

Recognizing that its position had been contrary to congressional intent, the Treasury Department tried once again with new temporary and proposed regulations. In letters to Senator DOLE, Senator PACKWOOD, and Congressman ROSTENKOWSKI, then-Assistant Treasury Secretary Pearlman conceded that Congress did not intend, at least in some circumstances, to tax the value of these flights. However, the letter provided the Treasury would establish a new 50 percent of capacity rule. Under this rule, the Treasury would value these flights at zero for tax purposes only if 50 percent of the seats of the aircraft were occupied by employees flying for business reasons even though there was no legislative history to support this position.

The 50 percent of capacity rule was an effort at compromise between the Treasury and the Congress and was also intended to make the job of the IRS easier. It was a bright line test to determine if a flight was being made for business reasons. I think it perfectly fine to try to make the IRS' job easier, but not when it runs contrary to congressional intent.

Moreover, while the test may make life easier for IRS auditors, the test itself is irrational and inconsistent with business practice. Having 50 percent of the available seats occupied by employees does not, in itself, make a flight a business flight. Some or all of those employees might not be flying to further company business. Thus the taxpayer must still establish facts to prove the flight was a business flight.

As a practical matter, we all know that a plane can be on a real business trip with only one passenger. I know in my State a company often will have to send an engineer or other expert to a remote mining site, for example, and no one is ever going to question whether or not the trip is for business reasons. It wouldn't matter if the plane could have held 8 or 10 passengers. If the company needed that one employee at the site, the flight was a business flight.

Or suppose the chairman of the board was taking the corporate jet to a board meeting, or a shareholder meeting, or a meeting with the company's bankers. If he's the only one on the plane other than the pilot, I don't think anyone would question that this is a business trip. Is it any less of a business trip if other seats on the jet are filled?

If the issue is whether the flight is made to transact business, the 50 percent of capacity rule is not an appropriate way to make the determination. If there is some question as to whether the flight itself accomplishes some business purpose, that is a matter for IRS auditors.

The legislation I am proposing is a very measured response. By replacing the 50 percent of capacity rule with a 50 percent of occupancy rule hitchhikers will be able to ride for free only if for every hitchhiker there is at least one person traveling on business. Because this is a modest response, there is little revenue lost to the Treasury.

I would like to go further and exempt all hitchhikers as long as the aircraft has at least one person traveling on business, but the revenue consequences of such a change lead me to doubt that such a change could be enacted, so I have chosen a more modest approach.

As a matter of good policy, the Treasury Department should change their administrative rule to adopt the 50 percent occupancy rule. I have no reason to believe Treasury will act, so I encourage my colleagues to cosponsor this legislation so the Congress can require the change.●

By Mr. PELL (for himself and Mr. CHAFEE):

S. 1347. A bill to provide emergency assistance to the State of Rhode Island to stabilize the banking system in the State and provide liquidity for the benefit of depositors at State banks and credit unions in receivership; to the Committee on Banking, Housing, and Urban Affairs.

RHODE ISLAND EMERGENCY ASSISTANCE ACT

● Mr. PELL. Mr. President, today my colleague Senator CHAFEE and I are introducing the Rhode Island Emergency Assistance Act of 1991. This bill is the companion measure to a bill introduced in the House of Representatives by House Banking, Finance and Urban Affairs Committee Chairman HENRY GONZALEZ. The bill is cosponsored in the House of Representatives by Rhode Island Congressmen JACK REED and RON MACHTLEY. The bill is also cosponsored by Congressman BARNEY FRANK of Massachusetts and Congressman GERALD KLECZKA of Wisconsin.

Before I describe the details of this bill, I would like to thank Chairman GONZALEZ for his efforts to solve a very serious problem in the State of Rhode Island. Chairman GONZALEZ has many issues before his committee right now, including a major revision of our Nation's banking laws. Despite the busy agenda of his committee, Chairman GONZALEZ has demonstrated true compassion for the terrible suffering that is taking place in Rhode Island.

Mr. President, on January 1 of the this year, Rhode Island Governor Bruce Sundlun was forced to close 45 banks and credit unions insured by the Rhode Island Share and Deposit Insurance Corporation [RISDIC]. Rhode Islanders had placed their money in RISDIC-insured institutions believing that their money was safe and protected from loss. RISDIC created this false impression through misleading television commercials and brochures stating that RISDIC insurance was an adequate safety net for depositor funds.

Many parties share the blame for allowing this deceit to go unchecked and ultimately end in disaster: The management of the effected banks and credit unions, the executive and legislative branches of State government and the appropriate State supervisory agencies.

It is easy to assign blame in this crisis. The problem comes when Rhode Island is faced with picking up the pieces of this financial disaster and making depositors whole once again. Of the original 45 RISDIC-insured banks and credit unions closed by the Governor, a dozen remain closed after 5½ months. These closed institutions represent almost half a billion dollars in frozen depositor assets. Out of a State population of about 1 million people, it is estimated that between 150,000 and 200,000 people have funds that remain frozen in closed banks and credit unions.

Rhode Island has been forced to come to grips with this crisis while suffering through a terrible fiscal upheavel. Rhode Island unemployment has hovered at 7 percent or higher. The State budget deficit is over $200 million and State income taxes have increased 20 percent.

The Rhode Island banking crisis is nothing short of an economic disaster that has hit Rhode Island at a time when it does not have the resources to pick up the pieces. Caught in the middle of this tragedy are the depositors. Many of the depositors of these closed institutions are older people who have worked hard all their lives to put a modest amount of money aside for retirement. These depositors put their money and their trust in neighborhood banks and credit unions that served entire communities. This is especially true of Marquette Credit Union in Woonsocket, RI. Woonsocket is in the northern part of Rhode Island and it seems that most of the residents of this city had funds in Marquette.

The devastation and anguish that has come upon Rhode Island communities like Woonsocket is certainly comparable to the suffering and loss that occurs in the wake of a natural disaster.

When a natural disaster occurs on a level of magnitude that overwhelms State resources, the Federal Government steps in to help. I believe the Rhode Island banking crisis is a disaster that fits this criteria and that it is time for Federal assistance.

The Rhode Island Emergency Assistance Act establishes the moral and legal foundation for Federal assistance to Rhode Island. The bill establishes a two-track solution to the Rhode Island crisis.

The first part of the bill provides Rhode Island with a $150 million loan from the Federal Emergency Management Agency [FEMA] at an interest rate of 6 percent.

The second part of the bill provides a maximum of $350 million in Federal loan guarantees backed by FEMA for the State of Rhode Island to be used in making depositors whole again.

The bill also provides an appropriation of $150 million for FEMA for the purposes of this act and additional unspecified appropriations for FEMA to carry out the loan guarantee portion of the act.

In addition, the Rhode Island Emergency Assistance Act designates the provisions of this bill as "emergency requirements" under the rules set forth in the Budget Act of 1985.

Mr. President, this is not the best of times to ask for help from the Federal Government. However, hard times will not deter me working with my colleagues to convince them that Rhode Island deserves Federal assistance.

I ask that the text of the the Rhode Island Emergency Assistance Act of 1991 be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rhode Island Emergency Assistance Act of 1991".

SEC. 2. EMERGENCY ASSISTANCE PROVIDED.

(a) EMERGENCY LOAN.—

(1) IN GENERAL.—Subject to the terms and conditions established in accordance with paragraph (2), the Director of the Federal Emergency Management Agency shall lend $150,000,000 to the State of Rhode Island and Providence Plantations (hereafter in this Act referred to as the "State of Rhode Island") for the purpose of expediting the repayment of depositors at State-chartered banks and credit unions in receivership in such State and facilitating the resolution of such receiverships.

(2) TERMS AND CONDITIONS.—Except as provided in paragraph (3), the terms and conditions for any loan under paragraph (1) shall be established by mutual agreement of the Director of the Federal Emergency Management Agency and the duly authorized rep-

resentative of the State of Rhode Island taking into account the exigent circumstances of the borrower and the need for adequate assurance of repayment for the lender.

(3) INTEREST RATE.—Interest on any loan under paragraph (1) shall be paid by the borrower at an annual rate of 6 percent, compounded daily.

(b) EMERGENCY LOAN GUARANTEE.—

(1) IN GENERAL.—Subject to the terms and conditions established in accordance with paragraph (2), the Director of the Federal Emergency Management Agency shall guarantee the repayment of any amount not to exceed $350,000,000 borrowed by the State of Rhode Island, or the Depositors Economic Protection Corporation established by such States, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and facilitate the resolution of such receivership.

(2) TERMS AND CONDITIONS.—The terms and conditions for any loan guarantee under paragraph (1) shall be established by mutual agreement of the Director of the Federal Emergency Management Agency and the duly authorized representative of the State of Rhode Island.

(c) APPROPRIATION OF AMOUNTS.—

(1) IN GENERAL.—There are hereby appropriated to the Director of the Federal Emergency Management Agency—

(A) the sum of $150,000,000 for fiscal year 1991 for purposes of subsection (a)(1); and

(B) such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (b)(1).

(2) AVAILABILITY.—Amounts appropriated under paragraph (1) for any fiscal year shall remain available until expended.

(d) DESIGNATION OF PROVISIONS AS EMERGENCY REQUIREMENTS.—Each provision of this Act is hereby designated as an emergency requirement for purposes of sections 252(e) and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985, and the President is hereby deemed to have designated each such provision as an emergency requirement for purposes of such section.•

By Mr. MURKOWSKI (for himself, Mr. KERRY, Mr. HATFIELD, Mr. STEVENS, Mr. CRANSTON, Mr. SIMPSON, and Mr. SIMON):

S. 1348. A bill to terminate certain economic sanctions against Vietnam after the Government of Vietnam authorizes access to its territory for the investigation of unresolved POW and MIA cases, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

VIETNAM ACCESS ACT

• Mr. MURKOWSKI. Mr. President, I rise today to introduce the Vietnam Access Act of 1991, for myself and Senator KERRY of Massachusetts, Senators HATFIELD, STEVENS, CRANSTON, SIMPSON, and SIMON. The bill calls for the termination of certain economic sanctions after the Government of Vietnam authorizes necessary access to its territory for the investigation of unresolved POW and MIA cases.

RESOLVING THE POW/MIA QUESTION

Mr. President, the fates of nearly 2,300 brave young Americans remain unknown some 16 years after the United States pulled out of Vietnam. Our Government, under a mission headed by General Vessey, has made final resolution of these cases our utmost priority in dealing with Vietnam. This is as it should be, and I applaud General Vessey and his team.

We believe this effort can be supplemented by the presence of international humanitarian organizations, such as the Red Cross, if they could only have unlimited presence inside Vietnam satisfactory to scour the countryside with the objective of resolving the POW/MIA issue. American humanitarian workers, as well as American business people and tourists have a far greater chance from within Vietnam. The current policy of isolating Vietnam simply denies this additional opportunity. Access cannot work against our concerns, but very well may help to solve them.

Incidentally, Mr. President, I understand that leaders from several veterans groups, including the Veterans of Foreign Wars, the American Legion, and the Vietnam Veterans of America, are leaving on an official mission to visit Vietnam on this very subject at the end of the month.

TRADING IN NON-STRATEGIC GOODS ONLY

In addition, and only after full access has been attained, my bill calls for a lifting of the most restrictive aspects of the United States trade embargo in place against Vietnam since 1975. There will be no trade in high technology or dual-use commodities as a result of this bill. In fact, the legislation directs the Secretary of Commerce to place Vietnam in a new, less-restrictive, commodity export control grouping.

Mr. President, our trade embargo on Vietnam is airtight. It goes so far as to make it illegal for an American travel agency to arrange plane tickets for groups of Vietnam veterans wishing to travel together to Vietnam. Restrictions such as these are not helping put an end to the Vietnam syndrome—they are helping to prolong it.

Our airtight embargo is not denying Vietnam access to Western goods either. Staunch United States allies such as Britain, France, Canada, and Japan poured more than $1.4 billion of investment into Vietnam last year alone. If U.S. foreign policy goals are being achieved at the expense of our economic well-being, so be it. But this is not the case in Vietnam. The sole nation being denied business by our embargo is the United States of America.

NOW IS NOT THE TIME FOR DIPLOMATIC RELATIONS

Mr. President, my legislation absolutely does not call for a normalization of diplomatic relations. There are too many outstanding issues to take that step now. We must continue to work with Vietnam for peace in Cambodia. We must finally resolve the POW/MIA issue, and we must seek further economic and political reforms within Vietnam.

Our policy toward Vietnam for the past 16 years has been based on leverage. My legislation will not reduce our opportunities for leverage. Vietnam is desperately poor and her people are suffering. Since Soviet aid has nearly dried up, Vietnam wants access to multilateral lending institutions, Vietnam wants diplomatic relations with the United States and Vietnam would like most-favored-nation trading status. None of these are granted by my legislation. My legislation merely seeks to resume limited economic relations in a manner that fosters United States interests in Southeast Asia.

ISOLATION IS NOT THE ANSWER

Last week, by a margin of 12 to 1, the Foreign Relations Committee adopted a nonbinding amendment I offered to the Foreign Relations Authorization Act of 1992. That amendment stated it is the sense of the Senate that the goals of United States foreign policy would be advanced by increased access to Vietnam and by a lifting of the trade embargo against Vietnam.

We have two prominent, outstanding problems with the government of Vietnam. The first, and by far the highest priority, is the unresolved fate of nearly 2,300 American servicemen who served in the war in Vietnam. The second is that Vietnam remains Communist, at a time when communism has failed around the world. Communist governments deny their citizens basic human rights and basic freedoms.

But we can begin to address both of these problems by allowing access to humanitarian groups and American businesses and individuals in Vietnam. The isolation of Vietnam has not served our purposes thus far. The free flow of Western ideas, people and goods may. It is certainly time to begin to end this war.•

By Mr. D'AMATO:

S. 1349. A bill to permit the retroactive Medicaid payment of Medicare cost-sharing for indigent Medicare beneficiaries; to the Committee on Finance.

RESTORATION OF BENEFITS FOR QUALIFIED MEDICARE BENEFICIARIES

Mr. D'AMATO. Mr. President, I rise today to introduce legislation to restore lost Medicare benefits to our Nation's indigent and disabled medicare beneficiaries.

On Tuesday, June 18, an article appeared on the front page of the New York Times, exposing the failure of several Federal and State agencies to notify between 2.2 and 2.3 million low-income elderly and disabled citizens of their rights to receive free Medicare coverage under the Qualified Medicare Beneficiary Program [QMB].

These individuals are eligible for assistance, but are not receiving it because the Government is failing to aggressively promote the benefit. Under the QMB Program, aged or disabled citizens with incomes below 100 percent of the poverty level are entitled to have Medicaid pay their Medicare premiums, deductibles, and copayments. It is unacceptable that more than half of those eligible are not receiving their rightful benefits.

Earier today, I joined the distinguished Republican leader in sending a letter to HHS Secretary Sullivan calling for immediate actions to inform elderly and disabled citizens about the QMB benefits potentially available to them. Specifically we called upon the Secretary to establish a toll-free 800 number offering information about eligibility criteria, and procedures for applying for QMB status. We also proposed that HHS require that a clear, readable statement explaining potential QMB eligibility be included on all "Explanation of Medicare Benefits" forms, which are sent to medicare beneficiaries after they receive health care services.

I am hopeful that HHS will implement these, and other suggestions they have received to improve, prospectively, their outreach activities. Yet, even if they were to mount the most effective public information campaign imaginable, it would be small comfort to those who have already suffered financial hardship due to the Government's previous lackluster promotional effort.

That is why I am introducing this bill today, which rectifies the Government's failure by allowing qualified medicare beneficiaries to recoup their lost benefits. Specifically, my bill would establish a 180-day "amnesty period" to allow individuals to apply for, and receive retroactive payments for any Medical costs they incurred while eligible for, but not enrolled in, the QMB Program.

In New York alone, my bill could help as many as 160,000 individuals who have not yet taken advantage of the benefits to which they are entitled.

Mr. President, we simply cannot allow indigent senior citizens to be penalized for Government's failure to inform them of their rights. My bill, by giving them a one-time chance to recoup the benefits denied them, will ensure that they are not so penalized.

Mr. President, I ask unanimous consent that the text of my bill be printed at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RETROACTIVE MEDICAID PAYMENT OF MEDICARE COST-SHARING.

(a) IN GENERAL.—Notwithstanding any other provision of law, any qualified medicare beneficiary described in section 1905(p)(1) of the Social Security Act who files an application within 180 days after the date of the enactment of this Act (in such form and with such documentation as determined by the Secretary of Health and Human Services) for payment of medicare cost-sharing (as defined in section 1905(p)(3) of such Act) shall receive a retroactive payment in addition to any other payment.

(b) RETROACTIVE PAYMENT.—

(1) IN GENERAL.—For purposes of subsection (a), the term "retroactive payment" means payment of special medicare cost-sharing for the period—

(A) beginning on the earliest date the qualified medicare beneficiary would have received payment of medicare cost-sharing if such beneficiary had applied when first eligible, and

(B) ending on the date on which such beneficiary begins receiving such payment either pursuant to an application filed under this section or otherwise.

(2) SPECIAL MEDICARE COST-SHARING DEFINED.—For purposes of paragraph (1), the term "special medicare cost-sharing" means medicare cost-sharing determined without regard to subparagraph (A) of section 1905(p)(3).

By Mr. DOLE (for himself and Mrs. KASSEBAUM):

S.J. Res. 166. Joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week"; to the Committee on the Judiciary.

NATIONAL CUSTOMER SERVICE WEEK

Mr. DOLE. Mr. President, my distinguished colleague from Kansas and I rise to introduce legislation designating the week of October 6 through 12, 1991 as "National Customer Service Week". I would take note of the fact that in 1989 and 1990, 17 States and 18 States, respectively, recognized this week, as well as a number of cities, and I believe that it is now time for the making of a national proclamation.

Certainly, very little goes more to the success of a business—be it a small Main Street business or a Fortune 500 company—than its ability to satisfy its customers.

Today's competitive market dictates that it is no longer enough to make a quality product; you also have to be able to service that product and service your customers' needs. Happy customers mean regular customers, and regular customers mean more customers. And that all leads to a healthy, thriving business.

The purpose of this legislation is very simple: It is to direct attention to the important role that the customer and customer service play in the economic growth of companies and in turn, our Nation. The issue could not be of more importance today as we look back at a decade where the competitive environment changed dramatically and where greater challenges lie ahead with the impending unification of the European economic system.

I hope that others will join me and support this legislation which provides important recognition to a critical component of American business and the American economy that we will undoubtedly be hearing a great deal more about in the future.

Mr. President, I ask unanimous consent that the text of the Joint Resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 166

Whereas recognizing the value and importance of the customer drives the quality of customer service;

Whereas the high cost of attracting new customers today further emphasizes the need to keep existing customers through effective service;

Whereas when customer service is recognized as contributing to the profit of a company, the professional status of customer service continues to increase;

Whereas excellent customer service distinguishes successful companies that understand the importance and influence a customer has on success; and

Whereas excellent customer service contributes to the growth and success of every company: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 6 through 12, 1991, is designated as "National Customer Service Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 20

At the request of Mr. ROTH, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 20, a bill to provide for the establishment and evaluation of performance standards and goals for expenditures in the Federal budget, and for other purposes.

S. 98

At the request of Mr. PRESSLER, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 98, a bill to amend the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.

S. 311

At the request of Mr. ROTH, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 311, a bill to make long-term care insurance available to civilian Federal employees, and for other purposes.

S. 313

At the request of Mr. SPECTER, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 313, a bill to carry out obligations of the United States under the U.N. Charter and other international agrements pertaining to the protection of human rights by establishing a civil action for recovery of damages from a person who engages in torture or extra judicial killing.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S.

474, a bill to prohibit sports gambling under State law.

S. 517

At the request of Mr. BOREN, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 517, a bill entitled the "Educational Exchanges Enhancement Act of 1991."

S. 651

At the request of Mr. GARN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 651, a bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act.

S. 664

At the request of Mr. THURMOND, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 664, a bill to require that health warnings be included in alcoholic beverage advertisements, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 832

At the request of Mr. GORTON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 832, a bill to authorize the Secretary of Commerce to develop and expand new national markets for recycled paper and other commodities; and to carry out a program requiring Federal departments to procure and use recycled paper and paper products in carrying out their functions.

S. 878

At the request of Mr. DODD, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 884

At the request of Mr. PACKWOOD, the names of the Senator from Tennessee [Mr. GORE] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 884, a bill to require the President to impose economic sanctions against countries that fail to eliminate large-scale driftnet fishing.

S. 895

At the request of Mr. PRESSLER, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 895, a bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffer from Alzheimer's disease or related organic brain disorders.

S. 1030

At the request of Mr. GORTON, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 1030, a bill to authorize private sector participation in providing products and services to support Department of Energy defense waste cleanup and modernization missions.

S. 1133

At the request of Mr. KENNEDY, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1133, a bill to establish a demonstration grant program to provide coordinated and comprehensive education, training, health and social services to at-risk children and youth and their families, and for other purposes.

S. 1301

At the request of Mr. CRAIG, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1301, a bill to establish grant programs and provide other forms of Federal assistance to pregnant women, children in need of adoptive families, and individuals and families adopting children, and for other purposes.

S. 1329

At the request of Mr. HOLLINGS, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 1329, a bill to strengthen Federal strategy for the development and deployment of critical advanced technologies, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. JOHNSTON, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from New York [Mr. MOYNIHAN], and the Senator from California [Mr. CRANSTON] were added as cosponsors of Senate Joint Resolution 6, a joint resolution to designate the year 1992 as the "Year of the Wetlands."

SENATE JOINT RESOLUTION 81

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Joint Resolution 81, a joint resolution to designate the periods commencing on December 1, 1991, and ending on December 7, 1991, and commencing on November 29, 1992, and ending on December 5, 1992, as "National Home Care Week."

SENATE JOINT RESOLUTION 113

At the request of Mr. LAUTENBERG, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution designating the oak as the national arboreal emblem.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Washington [Mr. ADAMS] were added as cosponsors of Senate Resolution 82, a resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 116

At the request of Mr. ROTH, the names of the Senator from Virginia [Mr. WARNER], the Senator from Georgia [Mr. FOWLER], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 126

At the request of Mr. SMITH, the names of the Senator from Utah [Mr. GARN], the Senator from Wisconsin [Mr. KASTEN], the Senator from Indiana [Mr. LUGAR], the Senator from South Carolina [Mr. THURMOND], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Resolution 126, a resolution encouraging the President to exercise the line-item veto.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

GRAHAM AMENDMENTS NOS. 365 AND 366

Mr. MITCHELL (for Mr. GRAHAM) proposed two amendments to the bill (S. 1241) to control and reduce violent crime, as follows:

AMENDMENT NO. 365

On page 35, strike from line 12 through line 18 on page 44.

AMENDMENT NO. 366

On page 35, strike from line 12 through line 7 on page 44.

THURMOND AMENDMENT NO. 367

Mr. THURMOND proposed an amendment to the bill S. 1241, supra, as follows:

On page 245, strike "thereafter" and insert "these sections 1 and 2, titles II through IV subtitles A through E of title V, title VI, title VII, title IX, title XI, title XII, title XIX, titles XXIII through XXVII of S. 1241 as introduced shall be void and of no effect. Title XXIII of S. 1241 as introduced is discretionary upon the Attorney General.

Sec. 211. Death penalty litigation procedures.

TITLE III—EXCLUSIONARY RULE

Sec. 301. Admissibility of certain evidence.

TITLE IV—FIREARMS

Subtitle A—Firearms and Related Amendments

Sec. 401. Enhanced penalty for use of semiautomatic firearm during a crime of violence or drug trafficking offense.

Sec. 402. Possession of a firearm or an explosive during the commission of a felony.

Sec. 403. Conforming amendment providing increased penalty for second offense of using an explosive to commit a felony.
Sec. 404. Clarification of definition of conviction.
Sec. 405. Permitting consideration of pretrial detention for certain firearms and explosives offenses.
Sec. 406. Smuggling firearms in aid of drug trafficking.
Sec. 407. Theft of firearms and explosives.
Sec. 408. Conforming amendment providing mandatory revocation of supervised release for possession of a firearm.
Sec. 409. Increased penalty for knowingly false, material statement in connection with the acquisition of a firearm from a licensed dealer.
Sec. 410. Statute of limitations for certain gangster weapon offenses.
Sec. 411. Possession of explosives by felons and others.
Sec. 412. Summary destruction of explosives subject to forfeiture.
Sec. 413. Summary forfeiture of unregistered national firearms act weapons.
Sec. 414. Disposition of forfeited firearms.
Sec. 415. Elimination of outmoded language relating to parole.
Sec. 416. Possession of stolen firearms.
Sec. 417. Using a firearm in the commission of counterfeiting or forgery.
Sec. 418. Mandatory penalty for firearms possession by violent felons and serious drug offenders.
Sec. 419. Reporting of multiple firearms sales.
Sec. 420. Possession of stolen firearms and explosives.
Sec. 421. Receipt of firearms by nonresidents.
Sec. 422. Firearms and explosives conspiracy.
Sec. 423. Theft of firearms or explosives from licensee.
Sec. 424. Disposing of explosives to prohibited persons.

TITLE V—OBSTRUCTION OF JUSTICE

Sec. 501. Protection of court officers and jurors.
Sec. 502. Prohibition of retaliatory killings of witnesses, victims, and informants.
Sec. 503. Protection of State or local law enforcement officers providing assistance to Federal law enforcement officers.

TITLE VI—GANGS AND JUVENILE OFFENDERS

Sec. 601. Amendments concerning records of crimes committed by juveniles.
Sec. 602. Adult prosecution of serious juvenile offenders.
Sec. 603. Serious drug offenses by juveniles as Armed Career Criminal Act Predicates.
Sec. 604. Increased penalty for travel act crimes involving violence.
Sec. 605. Increased penalty for conspiracy to commit murder for hire.

TITLE VII—TERRORISM

Subtitle A—Aviation Terrorism

Sec. 701. Implementation of the 1988 protocol for the suppression of unlawful acts of violence at airports serving international civil aviation.
Sec. 702. Amendment to Federal Aviation Act.

Subtitle B—Maritime Terrorism

Sec. 711. Short title for subtitle B.
Sec. 712. Findings.
Sec. 713. Statement of purpose.
Sec. 714. Offenses of violence against maritime navigation or fixed platforms.
Sec. 715. Clerical amendments.
Sec. 716. Effective dates.
Sec. 717. Territorial sea extending to twelve miles included in special maritime and territorial jurisdiction.
Sec. 718. Assimilated crimes in extended territorial sea.
Sec. 719. Jurisdiction over crimes against United States nationals on certain foreign ships.

Subtitle C—Terrorism Offenses and Sanctions

Sec. 731. Torture.
Sec. 732. Use of weapons of mass destruction.
Sec. 733. Homicides and attempted homicides involving firearms in Federal facilities.
Sec. 734. Providing material support to terrorists.
Sec. 735. Addition of terrorist offenses to the RICO statute.
Sec. 736. Forfeiture for terrorist and other violent acts.
Sec. 737. Enhanced penalties for certain offenses.
Sec. 738. Sentencing guidelines increase for terrorist crimes.

Subtitle E—Antiterrorism Enforcement Provisions

Sec. 741. Aliens cooperating in terrorist or other investigations.
Sec. 742. Amendment to the alien enemy act.
Sec. 743. Counterintelligence access to telephone records.
Sec. 744. Counterintelligence access to credit records.
Sec. 745. Authorization for interceptions of communications.
Sec. 746. Participation of foreign and state government personnel in interceptions of communications.
Sec. 747. Disclosure of intercepted communications to foreign law enforcement agencies.
Sec. 748. Extension of the statute of limitations for certain terrorism offenses.

TITLE VIII—SEXUAL VIOLENCE AND CHILD ABUSE

Sec. 801. Admissibility of evidence of similar crimes in sexual assault and child molestation cases.
Sec. 802. Drug distribution to pregnant women.
Sec. 803. Definition of sexual act for victims below 16.
Sec. 804. Increased penalties for recidivist sex offenders.
Sec. 805. Restitution for victims of sex offenses.
Sec. 806. HIV testing and penalty enhancement in sexual abuse cases.
Sec. 807. Payment of cost of HIV testing for victim.

TITLE IX—DRUG TESTING

Sec. 901. Drug testing of Federal offenders on post-conviction release.
Sec. 902. Drug testing in State Criminal Justice Systems as a condition of receipt of justice drug grants.

TITLE X—EQUAL JUSTICE ACT

Sec. 1001. Short title.
Sec. 1002. Prohibition of racially discriminatory policies concerning capital punishment or other penalties.
Sec. 1003. General safeguards against racial prejudice or bias in the tribunal.
Sec. 1004. Federal capital cases.
Sec. 1005. Funding objective.
Sec. 1006. Extension of protection of civil rights statutes.

TITLE XI—VICTIMS' RIGHTS

Sec. 1101. Restitution amendments.
Sec. 1102. Victim's right of allocution in sentencing.

TITLE I—DEATH PENALTY

SEC. 101. SHORT TITLE.

This title may be cited as the "Capital Punishment Procedures Act of 1991".

SEC. 102. DEATH PENALTY PROCEDURES.

TITLE 18 OF THE UNITED STATES CODE IS AMENDED.—

(a) by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH PENALTY PROCEDURES

"Sec.
"3591. Sentence of death.
"3592. Factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Appointment of counsel.
"3599. Collateral Attack on Judgment Imposing Sentence of Death.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(a) an offense described in section 794 or section 2381 of this title;

"(b) an offense described in section 1751(c) of this title if the offense, as determined beyond a reasonable doubt at a hearing under section 3593, constitutes an attempt to murder the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President;

"(c) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(d) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person;

"(e) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, acting with a state of mind described in subsection (f), engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or "(f) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at a hearing under section 3593, caused the death of a person intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or caused the death of a person through the intentional infliction of serious bodily injury;

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified: *Provided*, That no person may be sentenced to death who was less than eighteen years of age at the time of the offense.

"§ 3592. Factors to be considered in determining whether a sentence of death is justified

"(a) Mitigating Factors.—In determining whether a sentence of death is justified for any offense, the jury, or if there is no jury, the court, shall consider each of the following mitigating factors and determine which, if any, exist:

"(1) Mental capacity.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) Duress.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) Participation in offense minor.—The defendant's paticipation in the offense, which was committed by another, was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

The jury, or if there is no jury, the court, shall consider whether any other aspect of the defendant's background, character or record or any other circumstance of the offense that the defendant may proffer as a mitigating factor exists.

"(b) Aggravating Factors for Espionage and Treason.—In determining whether a sentence of death is justified for an offense described in section 3591(a), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) Previous espionage or treason conviction.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of life imprisonment or death was authorized by statute.

"(2) Risk of substantial danger to national security.—In the commission of the offense the defendant knowingly created a grave risk to the national security.

"(3) Risk of death to another.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) Aggravating Factors for Homicide and for Attempted Murder of the President.—In determining whether a sentence of death is justified for an offense described in section 3519 (b) or (f), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) Conduct occurred during commission of specified crimes.—The conduct resulting in death occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property by explosives), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1118 (prisoners serving life term), section 1201 (kidnapping), section 1203 (hostage taking), section 1751 (violence against the President or Presidential staff), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, section 1826 of title 28 (persons in custody as recalcitrant witnesses or hospitalized following insanity acquittal), or section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472 (i) or (n) (aircraft piracy)).

"(2) Involvement of firearm or previous conviction of violent felony involving firearm.—The defendant—

"(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

"(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) Previous conviction of offense for which a sentence of death or life imprisonment was authorized.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(4) Previous conviction of other serious offenses.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) Grave risk of death to additional persons.—The defendant, in the commission of the offense or in escaping or attempting to escape apprehension, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) Heinous, cruel or depraved manner of commission.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) Procurement of offense by payment.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) Commission of the offense for pecuniary gain.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) Substantial planning and premeditation.—The defendant committed the offense after substantial planning and premeditation.

"(10) Vulnerability of victim.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(11) Type of victim.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice President-elect, the Vice President-designate, or, if there was no Vice President, the officer next in order of succession to the office of the President of the United States, or any person acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 1116(b)(3)(A) of this title, if that official was in the United States on official business; or

"(D) a Federal public servant who was outside of the United States or who was a Federal judge, a Federal law enforcement officer, an employee (including a volunteer or contract employee) of a Federal prison, or an official of the Federal Bureau of Prisons—

"(i) while such public servant was engaged in the performance of his official duties;

"(ii) because of the performance of such public servant's official duties; or

"(iii) because of such public servant's status as a public servant.

For purposes of this paragraph, the terms 'President-elect' and 'Vice President-elect' mean such persons as are the apparent successful candidates for the offices of President and Vice President, respectively, as ascertained from the results of the general elections held to determine the electors of President and Vice President in accordance with title 3, United States Code, sections 1 and 2; a 'Federal law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution of an offense; 'Federal prison' means a Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government; and 'Federal judge' means any judicial officer of the United States, and includes a justice of the Supreme Court and a United States magistrate judge. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(d) Aggravating Factors for Drug Offense Death Penalty.—In determining whether a sentence of death is justified for an offense described in section 3591 (c)-(e), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) Previous conviction of offense for which a sentence of death or life imprisonment was authorized.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) Previous conviction of other serious offenses.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"§ 3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—Whenever the Government intends to seek the death penalty for an offense described in section 3591, the attorney for the Government, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, shall sign and file with the court, and serve on the defendant, a notice that the Government in the event of conviction will seek the sentence of death. The notice shall set forth the aggravating factor or factors enumerated in section 3592, and any other aggravating factor not specifically enumerated in section 3592, that the Government, if the defendant is convicted, will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the Government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—When the attorney for the Government has filed a notice as required under subsection (a) and the defendant is found guilty of an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. Prior to such a hearing, no presentence report shall be prepared by the United States Probation Service, notwithstanding the provisions of the Federal Rules of Criminal Procedure. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under the section is necessary; or

"(3) before the court alone, upon motion of the defendant and with the approval of the attorney for the Government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—At the hearing, information may be presented as to—

"(1) any matter relating to any mitigating factor listed in section 3592 and any other mitigating factor; and

"(2) any matter relating to any aggravating factor listed in section 3592 for which notice has been provided under subsection (a) and (if information is presented relating to such a listed factor) any other aggravating factor for which notice has been so provided.

The information presented may include the trial transcript and exhibits. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The attorney for the Government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of an aggravating factor is on the Government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the evidence.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591 (a), an aggravating factor required to be considered under section 3592(b) is found to exist;

"(2) an offense described in section 3591 (b) or (f), an aggravating factor required to be considered under section 3592(c) is found to exist; or

"(3) an offense described in section 3591(c)–(e), an aggravating factor required to be considered under section 3592(d) is found to exist;

the jury, or if there is no jury, the court, shall then consider whether the aggravating factor or factors found to exist under subsection (d) outweigh any mitigating factor or factors. The jury, or if there is no jury, the court shall recommend a sentence of death if it unanimously finds at least one aggravating factor and no mitigating factor or if it finds one or more aggravating factors which outweigh any mitigating factors. In any other case, it shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"(f) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not be influenced by prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that prejudice or bias relating to the race, color, religion, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religion, national origin, or sex of the defendant or any victim may be.

"§ 3594. Imposition of a sentence of death

"Upon the recommendation under section 3593(e) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without the possibility of release.

"§ 3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal of the sentence must be filed within the time specified for the filing of a notice of appeal of the judgment of conviction. An appeal of the sentence under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) If the court of appeals determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the evidence and information support the special findings of the existence of an aggravating factor or factors; and

"(C) the proceedings did not involve any other prejudicial error requiring reversal of the sentence that was properly preserved for and raised on appeal;

it shall affirm the sentence.

"(2) In any other case, the court of appeals shall remand the case for reconsideration under section 3593 or for imposition of another authorized sentence as appropriate.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§ 3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does so provide, and the sentence shall be implemented in the manner prescribed by such law.

"(b) SPECIAL BARS TO EXECUTION.—A sentence of death shall not be carried out upon a person who lacks the mental capacity to understand the death penalty and why it was imposed on that person, or upon a woman while she is pregnant.

"(c) EMPLOYEES MAY DECLINE TO PARTICIPATE.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participate in any execution' includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"§ 3597. Use of State facilities

"A United States Marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"§ 3598. Appointment of counsel

"(a) REPRESENTATION OF INDIGENT DEFENDANTS.—Notwithstanding any other provision of law, this section shall govern the appointment of counsel for any defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, for an offense against the United States, where the defendant is or becomes financially unable to obtain adequate representation. Such a defendant shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in section 3599(b) of this title has occurred.

"(b) REPRESENTATION BEFORE FINALITY OF JUDGMENT.—A defendant within the scope of this section shall have counsel appointed for trial representation as provided in section 3005 of this title. At least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel.

"(c) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the Government shall promptly notify the district court that imposed the sentence. Within ten days of receipt of such notice, the district court shall proceed to make a determination whether the defendant is eligible under this section for appointment of counsel for subsequent proceedings. On the basis of the determination, the court shall issue an order: (1) appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel; (2) finding, after a hearing if necessary, that the defendant rejected appointment of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation.

"(d) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under this section, at least one counsel appointed for trial representation must have been admitted to the bar for at least five years and have at least three years of experience in the trial of felony cases in the federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least five years and have at least three years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"(e) APPLICABILITY OF CRIMINAL JUSTICE ACT.—Except as otherwise provided in this section, the provisions of section 3006A of this title shall apply to appointments under this section.

"(f) CLAIMS OF INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 2255 of title 28, United States Code, in a capital case shall not be a ground for relief from the judgment or sentence in any proceeding. This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"§ 3599. Collateral attack on judgment imposing sentence of death

"(a) TIME FOR MAKING SECTION 2255 MOTION.—In a case in which sentence of death has been imposed, and the judgment has become final as described in section 3598(c) of this title, a motion in the case under section 2255 of title 28, United States Code, must be filed within ninety days of the issuance of the order relating to appointment of counsel under section 3598(c) of this title. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding sixty days. A motion described in this section shall have priority over all noncapital matters in the district court, and in the court of appeals on review of the district court's decision.

"(b) STAY OF EXECUTION.—The execution of a sentence of death shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 2255 of title 28, United States Code. The stay shall run continuously following imposition of the sentence, and shall expire if—

"(1) the defendant fails to file a motion under section 2255 of title 28, United States Code, within the time specified in subsection (a), or fails to make a timely application for court of appeals review following the denial of such motion by a district court; or

"(2) upon completion of district court and court of appeals review under section 2255 of title 28, United States Code, the motion under that section is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a district court, in the presence of counsel and after having been advised of the consequences of his decision, the defendant waives the right to file a motion under section 2255 of title 28, United States Code.

"(c) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (b) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"(2) the failure to raise the claim was (A) the result of governmental action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed."; and

(b) in the chapter analysis of part II, by adding the following new item after the item relating to chapter 227:

"228. Death penalty procedures .... 3591.".

SEC. 103. CONFORMING AMENDMENT RELATING TO DESTRUCTION OF AIRCRAFT OR AIRCRAFT FACILITIES.

Section 34 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 104. CONFORMING AMENDMENT RELATING TO ESPIONAGE.

Section 794(a) of title 18 of the United States Code is amended by changing the period at the end of the section to a comma and by adding immediately thereafter the words "except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds beyond a reasonable doubt at a hearing under section 3593 of this title that the offense directly concerned nuclear weaponry, military spacecraft and satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; sources or methods of intelligence or counterintelligence operations; or any other major weapons system or major element of defense strategy.".

SEC. 105. CONFORMING AMENDMENT RELATING TO TRANSPORTING EXPLOSIVES.

Section 844(d) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 106. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF FEDERAL PROPERTY BY EXPLOSIVES.

Section 844(f) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 107. CONFORMING AMENDMENT RELATING TO MALICIOUS DESTRUCTION OF INTERSTATE PROPERTY BY EXPLOSIVES.

Section 844(i) of title 18 of the United States Code is amended by striking the words "as provided in section 34 of this title".

SEC. 108. CONFORMING AMENDMENT RELATING TO MURDER.

The second paragraph of section 1111(b) of title 18 of the United States Code is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

SEC. 109. CONFORMING AMENDMENT RELATING TO KILLING OFFICIAL GUESTS OR INTERNATIONALLY PROTECTED PERSONS.

Section 1116(a) of title 18 of the United States Code is amended by striking the words "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

SEC. 110. MURDER BY FEDERAL PRISONER.

Chapter 51 of title 18 of the United States Code is amended—

(a) by adding at the end thereof the following:

"§ 1118. Murder by a Federal prisoner

"(a) Whoever, while confined in a Federal prison under a sentence for a term of life imprisonment, murders another shall be punished by death or by life imprisonment without the possibility of release.

"(b) For purposes of this section—

"(1) 'Federal prison' means any Federal correctional, detention, or penal facility, Federal community treatment center, or Federal halfway house, or any such prison operated under contract with the Federal Government;

"(2) 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death."; and

(b) by amending the section analysis to add:

"1118. Murder by a Federal prisoner.".

SEC. 111. CONFORMING AMENDMENT RELATING TO KIDNAPPING.

Section 1201 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 112. CONFORMING AMENDMENT RELATING TO HOSTAGE TAKING.

Section 1203 of title 18 of the United States Code is amended by inserting after the words "or for life" in subsection (a) the words "and, if the death of any person results, shall be punished by death or life imprisonment".

SEC. 113. CONFORMING AMENDMENT RELATING TO MAILABILITY OF INJURIOUS ARTICLES.

The last paragraph of section 1716 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the paragraph.

SEC. 114. CONFORMING AMENDMENT RELATING TO PRESIDENTIAL ASSASSINATION.

Subsection (c) of section 1751 of title 18 of the United States Code is amended to read as follows:

"(c) Whoever attempts to murder or kidnap any individual designated in subsection (a) of this section shall be punished (1) by imprisonment for any term of years or for life, or (2) by death or imprisonment for any term of years or for life, if the conduct constitutes an attempt to murder the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President.".

SEC. 115. CONFORMING AMENDMENT RELATING TO MURDER FOR HIRE.

Subsection (a) of section 1958 of title 18 of the United States Code is amended by deleting the words "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting in lieu thereof "and if death results, shall be punished by death or life imprisonment, or shall be fined in accordance with this title, or both".

SEC. 116. CONFORMING AMENDMENT RELATING TO VIOLENT CRIMES IN AID OF RACKETEERING ACTIVITY.

Paragraph (1) of subsection (a) of section 1959 of title 18 of the United States Code is amended to read as follows: "for murder, by death or life imprisonment, or a fine in accordance with this title, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine in accordance with this title, or both";

SEC. 117. CONFORMING AMENDMENT RELATING TO WRECKING TRAINS.

The second to the last paragraph of section 1992 of title 18 of the United States Code is amended by changing the comma after the words "imprisonment for life" to a period and deleting the remainder of the section.

SEC. 118. CONFORMING AMENDMENT RELATING TO BANK ROBBERY.

Section 2113(e) of title 18 of the United States Code is amended by striking the words "or punished by death if the verdict of the jury shall so direct" and inserting in lieu thereof "or if death results shall be punished by death or life imprisonment".

SEC. 119. CONFORMING AMENDMENT RELATING TO TERRORIST ACTS.

Section 2332(a)(1) of title 18 of the United States Code is amended to read as follows:

"(1)(A) if the killing is murder as defined in section 1111(a) of this title, be fined under this title, punished by death or imprisonment for any term of years or for life, or both;".

SEC. 120. CONFORMING AMENDMENT RELATING TO AIRCRAFT HIJACKING.

Section 903 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1473), is amended by striking subsection (c).

SEC. 121. CONFORMING AMENDMENT TO CONTROLLED SUBSTANCES ACT.

Section 408 of the Controlled Substances Act is amended by striking subsections (g)–(r).

SEC. 122. CONFORMING AMENDMENT RELATING TO GENOCIDE.

Section 1091(b)(1) of title 18 of the United States Code is amended by striking "a fine of not more than $1,000,000 and imprisonment for life;" and inserting in lieu thereof "by death or imprisonment for life, or a fine of not more than $1,000,000, or both;".

SEC. 123. INAPPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18 of the United States Code, as added by this Act, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801 et seq.).

TITLE II—HABEAS CORPUS REFORM

Subtitle A—General Habeas Corpus Reform

SEC. 201. SHORT TITLE FOR SUBTITLE A.

This subtitle may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 202. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 203. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause."

SEC. 204. AMENDMENT TO RULES OF APPELLATE PROCEDURE.

Federal Rule of Appellate Procedure 22 is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

SEC. 205. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United State Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(3) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(4) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. 206. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by deleting the second paragraph and the penultimate paragraph thereof, and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

Subtitle B—Death Penalty Litigation Procedures

SEC. 210. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Death Penalty Litigation Procedures Act of 1991".

SEC. 211. DEATH PENALTY LITIGATION PROCEDURES.

Title 28, United States Code, is amended by inserting the following new chapter immediately following chapter 153:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.

"2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment.

"2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions.

"2258. Filing of habeas corpus petition; time requirements; tolling rules.

"2259. Evidentiary hearings; scope of Federal review; district court adjudication.

"2260. Certificate of probable cause inapplicable.

"2261. Application to state unitary review procedures.

"2262. Limitation periods for determining petitions.

"2263. Rule of construction.

"§ 2256. Prisoners in State custody subject to capital sentence; appointment of counsel; requirement of rule of court or statute; procedures for appointment

"(a) This chapter shall apply to cases arising under section 2254 brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if the provisions of subsections (b) and (c) are satisfied.

"(b) This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners whose capital convictions and sentences have been upheld on direct appeal to the court of last resort in the State or have otherwise become final for State law purposes. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(c) Any mechanism for the appointment, compensation and reimbursement of counsel as provided in subsection (b) must offer counsel to all State prisoners under capital sentence and must provide for the entry of an order by a court of record: (1) appointing one or more counsel to represent the prisoner upon a finding that the prisoner is indigent and accepted the offer or is unable competently to decide whether to accept or reject the offer; (2) finding, after a hearing if necessary, that the prisoner rejected the offer of counsel and made the decision with an understanding of its legal consequences; or (3) denying the appointment of counsel upon a finding that the prisoner is not indigent.

"(d) No counsel appointed pursuant to subsections (b) and (c) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(e) The ineffectiveness or incompetence of counsel during State or Federal collateral postconviction proceedings in a capital case shall not be a ground for relief in a proceeding arising under section 2254 of this chapter. This limitation shall not preclude the appointment of different counsel, on the court's own motion or at the request of the prisoner, at any phase of State or Federal postconviction proceedings on the basis of the ineffectiveness or incompetence of counsel in such proceedings.

"§ 2257. Mandatory stay of execution; duration; limits on stays of execution; successive petitions

"(a) Upon the entry in the appropriate State court of record of an order under section 2256(c), a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed under section 2254. The application must recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 within the time required in section 2258, or fails to make a timely application for court of appeals review following the denial of such a petition by a district court; or

"(2) upon completion of district court and court of appeals review under section 2254 the petition for relief is denied and (A) the time for filing a petition for certiorari has expired and no petition has been filed; (B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or (C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) before a court of competent jurisdiction, in the presence of counsel and after having been advised of the consequences of his decision, a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254.

"(c) If one of the conditions in subsection (b) has occurred, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless:

"(1) the basis for the stay and request for relief is a claim not previously presented in the State or Federal courts;

"(2) the failure to raise the claim is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review; and

"(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"§ 2258. Filing of habeas corpus petition; time requirements; tolling rules

"Any petition for habeas corpus relief under section 2254 must be filed in the appropriate district court within one hundred and eighty days from the filing in the appropriate State court of record of an order under section 2256(c). The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner files the petition to secure review by the Supreme Court of the affirmance of a capital sentence on direct review by the court of last resort of the State or other final State court decision on direct review;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for postconviction review pending before a State court of competent jurisdiction; if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for postconviction review until final disposition of the case by the highest court of the State, but the time requirements established by this section are not tolled during the pendency of a petition for certiorari before the Supreme Court except as provided in paragraph (1); and

"(3) during an additional period not to exceed sixty days, if (A) a motion for an extension of time is filed in the Federal district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254; and (B) a showing of good cause is made for the failure to file the habeas corpus petition within the time period established by this section.

"§ 2259. Evidentiary hearings; scope of Federal review; district court adjudication

"(a) Whenever a State prisoner under a capital sentence files a petition for habeas corpus relief to which this chapter applies, the district court shall:

"(1) determine the sufficiency of the record for habeas corpus review based on the claims actually presented and litigated in the State courts except when the prisoner can show that the failure to raise or develop a claim in the State courts is (A) the result of State action in violation of the Constitution or laws of the United States; (B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or (C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State postconviction review; and

"(2) conduct any requested evidentiary hearing necessary to complete the record for habeas corpus review.

"(b) Upon the development of a complete evidentiary record, the district court shall rule on the claims that are properly before it, but the court shall not grant relief from a judgment of conviction or sentence on the basis of any claim that was fully and fairly adjudicated in State proceedings.

"§ 2260. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to the provisions of this chapter except when a second or successive petition is filed.

"§ 2261. Application to state unitary review procedure

"(a) For purposes of this section, a "unitary review" procedure means a State procedure that authorizes a person under sentence of death to raise, in the course of direct review of the judgment, such claims as could be raised on collateral attack. The provisions of this chapter shall apply, as provided in this section, in relation to a State unitary review procedure if the State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation and payment of reasonable litigation expenses of competent counsel in the unitary review proceedings, including expenses relating to the litigation of collateral claims in the proceedings. The rule of court or statute must provide standards of competency for the appointment of such counsel.

"(b) A unitary review procedure, to qualify under this section, must include an offer of counsel following trial for the purpose of representation on unitary review, and entry of an order, as provided in section 2256(c), concerning appointment of counsel or waiver or denial of appointment of counsel for that purpose. No counsel appointed to represent the prisoner in the unitary review proceedings shall have previously represented the prisoner at trial in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(c) The provision of sections 2257, 2258, 2259, 2260, and 2262 shall apply in relation to cases involving a sentence of death from any State having a unitary review procedure that qualifies under this section. References to State 'post-conviction review' and 'direct review' in those sections shall be understood as referring to unitary review under the State procedure. The references in sections 2257(a) and 2258 to 'an order under section 2256(c)' shall be understood as referring to the post-trial order under subsection (b) concerning representation in the unitary review proceedings, but if a transcript of the trial proceedings is unavailable at the time of the filing of such an order in the appropriate State court, then the start of the one hundred and eighty day limitation period under section 2258 shall be deferred until a transcript is made available to the prisoner or his counsel.

"§ 2262. Limitation periods for determining petitions

"(a) The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter, and the adjudication of any motion under section 2255 of title 28, United States Code, by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) The district court shall determine such a petition or motion within one hundred and eighty days of the filing of the petition or motion.

"(2) The court of appeals shall determine an appeal relating to such a petition or motion within one hundred and eighty days of the filing of the record in the court of appeals. If the court of appeals grants en banc consideration, the en banc court shall determine the appeal within one hundred and eighty days of the decision to grant such consideration.

"(b) The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) The time limitations under this secton shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.

"(d) the failure of a court to meet or comply with the time limitations under this section shall not be a ground for granting relief from a judgment of conviction or sentence. The State or Government may enforce the time limitations under this section by applying to the court of appeals or the Supreme Court for a writ of mandamus.

"§ 2263. Rule of construction

"The provisions of this chapter shall be construed to promote the expeditious conduct and conclusion of State and Federal court review in capital cases.".

TITLE III—EXCLUSIONARY RULE

SEC. 301. ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) In General.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) Evidence Obtained by Objectively Reasonable Search or Seizure.—

"(1) Federal proceedings.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(2) State proceedings.—The law of the United States does not require the exclusion of evidence in a proceeding in any court under circumstances in which the evidence would be admissible in a proceeding in a court of the United States pursuant to paragraph (1) of this subsection.

"(b) Evidence Not Excludable by Statute or Rule.—Evidence shall not be excluded in a proceeding in a court of the United States on the ground that it was obtained in violation of a statute, an administrative rule or regulation, or a rule of procedure unless exclusion is expressly authorized by statute or by a rule prescribed by the Supreme Court pursuant to statutory authority.

"(c) Rule of Construction.—This section shall not be construed to require or authorize the exclusion of evidence in any proceeding.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"3509. Admissibility of evidence obtained by search or seizure.".

TITLE IV—FIREARMS

Subtitle A—Firearms and Related Amendments

SEC. 401. ENHANCED PENALTY FOR USE OF SEMIAUTOMATIC FIREARM DURING A CRIME OF VIOLENCE OR DRUG TRAFFICKING OFFENSE.

(a) Section 924(c) of title 18, United States Code, is amended by inserting ", or semiautomatic firearm," after "short barreled shotgun".

(b) Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(26) the term 'semiautomatic firearm' means any repeating firearm which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

SEC. 402. POSSESSION OF A FIREARM OR AN EXPLOSIVE DURING THE COMMISSION OF A FELONY.

(a) Section 924(c) of title 18, United States Code, is amended by striking "uses or carries a firearm" and inserting in lieu thereof "uses, carries, or otherwise possesses a firearm", and by striking "used or carried" and inserting in lieu thereof "used, carried, or possessed".

(b) Section 844(h) of title 18, United States Code, is amended by striking "carries an explosive during" and inserting in lieu thereof "uses, carries, or otherwise possesses an explosive during", and by striking "used or carried" and inserting in lieu thereof "used, carried or possessed".

SEC. 403. CONFORMING AMENDMENT PROVIDING INCREASED PENALTY FOR SECOND OFFENSE OF USING AN EXPLOSIVE TO COMMIT A FELONY.

Section 844(h) of title 18, United States Code, is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 404. CLARIFICATION OF DEFINITION OF CONVICTION.

Section 921(a)(20) of title 18, United States Code, is amended by adding at the end the following:

"Notwithstanding the previous sentence, if the conviction was for a violent felony involving the threatened or actual use of a firearm or explosive or was for a serious drug offense, as defined in section 924(e) of this title, the person shall be considered convicted for purposes of this chapter irrespective of any pardon, setting aside, expunction or restoration of civil rights.".

SEC. 405. PERMITTING CONSIDERATION OF PRETRIAL DETENTION FOR CERTAIN FIREARMS AND EXPLOSIVES OFFENSES.

Section 3142(f)(1) of title 18, United States Code, is amended by—

(1) striking "or" before subparagraph (D);

(2) redesignating subparagraph (D) as subparagraph (E); and

(3) inserting a new subparagraph (D) as follows:

"(D) an offense under 18 U.S.C. 844(a) that is a violation of 18 U.S.C. 842(d), (h), or (i), or an offense under 18 U.S.C. 924(a) that is a violation of 18 U.S.C. 922(d), (g), (h), (i), (j) or (o), or an offense under section 844(d), or 924(b), (g), (h), or (i) (as added by this Act) of this title; or".

SEC. 406. SMUGGLING FIREARMS IN AID OF DRUG TRAFFICKING.

Section 924 of title 18, United States Code, is amended by adding at the end thereof the following:

"(i) Whoever, with the intent to engage in or to promote conduct which—

"(1) is punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.);

"(2) violates any law of a State relating to any controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802); or

"(3) constitutes a crime of violence (as defined in subsection (c)(3);

smuggles or knowingly brings into the United States a firearm, or attempts to do so, shall be imprisoned for not more than ten years, fined under this title, or both.".

SEC. 407. THEFT OF FIREARMS AND EXPLOSIVES.

(a) Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(j) Whoever steals any firearm which is moving as, or is a part of, or which has moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

(b) Section 844 of title 18, United States Code, is amended by adding at the end the following:

"(k) Whoever steals any explosive materials which are moving as, or are a part of, or which have moved in, interstate or foreign commerce shall be imprisoned for not less than two or more than ten years, and may be fined under this title.".

SEC. 408. CONFORMING AMENDMENT PROVIDING MANDATORY REVOCATION OF SUPERVISED RELEASE FOR POSSESSION OF A FIREARM.

Section 3583 of title 18, United States Code is amended by adding at the end thereof the following new subsection:

"(h) Mandatory Revocation for Possession of a Firearm.—If the court has provided, as a condition of supervised release, that the defendant refrain from possessing a firearm, and if the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of supervised release, the court shall, after a hearing pursuant to the provisions of the Federal Rules of Criminal Procedure that are applicable to probation revocation, revoke the term of supervised release and, subject to the limitations of paragraph (e)(3) of this section, require the defendant to serve in prison all or part of the term of supervised release without credit for time previously served on postrelease supervision.".

SEC. 409. INCREASED PENALTY FOR KNOWINGLY FALSE, MATERIAL STATEMENT IN CONNECTION WITH THE ACQUISITION OF A FIREARM FROM A LICENSED DEALER.

Section 924(a) of title 18, United States Code, is amended—

(1) in paragraph (a)(1)(B), by striking out "(a)(6),"; and

(2) in subsection (a)(2), by inserting "(a)(6)," after "subsections".

SEC. 410. STATUTE OF LIMITATIONS FOR CERTAIN GANGSTER WEAPON OFFENSES.

Section 6531 of the Internal Revenue Code of 1986 (26 U.S.C. 6531, relating to periods of limitation of criminal prosecutions) is amended by striking "except that the period of limitation shall be six years" and inserting in lieu thereof "except that the period of limitation shall be five years for offenses described in section 5861 (relating to firearms) and the period of limitation shall be six years".

SEC. 411. POSSESSION OF EXPLOSIVES BY FELONS AND OTHERS.

Section 842(i) of title 18, United States Code, is amended by inserting "or possess" after "to receive".

SEC. 412. SUMMARY DESTRUCTION OF EXPLOSIVES SUBJECT TO FORFEITURE.

Section 844(c) of title 18, United States Code, is amended by redesignating subsection (c) as subsection (c)(1) and by adding paragraphs (2) and (3) as follows:

"(2) Notwithstanding the provisions of paragraph (1), in the case of the seizure of any explosive materials for any offense for which the materials would be subject to forfeiture where it is impracticable or unsafe to remove the materials to a place of storage, or where it is unsafe to store them, the seizing officer is authorized to destroy the explosive materials forthwith. Any destruction under this paragraph shall be in the presence of at least one credible witness. The seizing officer shall make a report of the seizure and take samples as the Secretary may by regulation prescribe.

"(3) Within sixty days after any destruction made pursuant to paragraph (2), the owner of, including any person having an interest in, the property so destroyed may make application to the Secretary for reimbursement of the value of the property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) the property has not been used or involved in a violation of law; or

"(B) any unlawful involvement or use of the property was without the claimant's knowledge, consent, or willful blindness,

the Secretary shall make an allowance to the claimant not exceeding the value of the property destroyed.".

SEC. 413. SUMMARY FORFEITURE OF UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.

Section 5872 of title 26, United States Code, is amended by redesignating subsection (a) as subsection (a)(1) and by adding paragraphs (2) and (3) to read as follows:

"(2) UNREGISTERED NATIONAL FIREARMS ACT WEAPONS.—Notwithstanding the provisions of paragraph (1), the provisions of sections 7323 and 7325 shall not apply to any firearm which is not registered in the National Firearms Registration and Transfer Record pursuant to section 5841. No property rights shall exist in any such unregistered firearm and it shall be summarily forfeited to the United States.

"(3) RIGHTS OF INNOCENT OWNERS.—Within one year after the summary forfeiture made pursuant to paragraph (2) the owner of, including any person having an interest in, the property seized may make application to the Secretary for reimbursement of the value of such property. If the claimant establishes to the satisfaction of the Secretary that—

"(A) such property has not been involved or used in a violation of law; or

"(B) any unlawful involvement or use of such property had been without the claimant's consent, knowledge, or willful blindness,

the Secretary shall make an allowance to such claimant not exceeding the value of the property so forfeited.".

SEC. 414. DISPOSITION OF FORFEITED FIREARMS.

Subsection 5872(b) of title 26, United States Code, is amended to read as follows:

"(b) DISPOSAL.—In the case of the forfeiture of any firearm, where there is no remission or mitigation of forfeiture thereof—

"(1) the Secretary may retain the firearm for official use of the Department of the Treasury or, if not so retained, offer to transfer the weapon without charge to any other executive department or independent establishment of the Government for official use by it and, if the offer is accepted, so transfer the firearm;

"(2) if the firearm is not disposed of pursuant to paragraph (1), is a firearm other than a machinegun or a firearm forfeited for a violation of this chapter, is a firearm that in the opinion of the Secretary is not so defective that its disposition pursuant to this paragraph would create an unreasonable risk of a malfunction likely to result in death or bodily injury, and is a firearm which (in the judgment of the Secretary, taking into consideration evidence of present value and evidence that like firearms are not available except as collector's items, or that the value of like firearms available in ordinary commercial channels is substantially less) derives a substantial part of its monetary value from the fact that it is novel, rare, or because of its association with some historical figure, period, or event the Secretary may sell such firearm, after public notice, at public sale to a dealer licensed under the provisions of chapter 44 of title 18, United States Code;

"(3) if the firearm has not been disposed of pursuant to paragraph (1) or (2), the Secretary shall transfer the firearm to the Administrator of General Services, General Services Administration, who shall destroy or provide for the destruction of such firearms; and

"(4) no decision or action of the Secretary pursuant to this subsection shall be subject to judicial review.".

SEC. 415. ELIMINATION OF OUTMODED LANGUAGE RELATING TO PAROLE.

(a) Section 924(e)(1) of title 18, United States Code, is amended by striking ", and such person shall not be eligible for parole with respect to the sentence imposed under this subsection".

(b) Section 924(c)(1) of title 18, United States Code, is amended by striking "No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 416. POSSESSION OF STOLEN FIREARMS.

Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "receive,".

SEC. 417. USING A FIREARM IN THE COMMISSION OF COUNTERFEITING OR FORGERY.

Section 924(c)(1) of title 18, United States Code, is amended by inserting "or during and in relation to any felony punishable under chapter 25 (relating to counterfeiting and forgery) of this title" after "for which he may be prosecuted in a court of the United States,".

SEC. 418. MANDATORY PENALTY FOR FIREARMS POSSESSION BY VIOLENT FELONS AND SERIOUS DRUG OFFENDERS.

Section 924(a)(2) of title 18, United States Code, is amended by inserting a comma before "or both" and by inserting before the period at the end thereof the following: ", and if the violation is a violation of subsection (g)(1) of section 922 by a person who has a previous conviction for a violent felony or a serious drug offense as defined in subsection (e)(2) of this section, a sentence imposed under this paragraph shall include a term of imprisonment of not less than five years.".

SEC. 419. REPORTING OF MULTIPLE FIREARMS SALES.

Subsection 923(g)(1)(D)(3) of title 18, United States Code, is amended—

(1) by deleting the phrase "five consecutive business days" and inserting in lieu thereof "thirty consecutive days"; and

(2) by adding a new sentence at the end thereof as follows: "Each licensee shall forward a copy of the report to the chief law enforcement officer of the place of residence of the unlicensed person not later than the close of business on the date that the multiple sale or disposition occurs.".

SEC. 420. POSSESSION OF STOLEN FIREARMS AND EXPLOSIVES.

(a) FIREARMS.—Section 922(j) of title 18, United States Code, is amended by inserting "possess," before "conceal";

(b) EXPLOSIVES.—Section 842(h) of title 18, United States Code, is amended by inserting "possess," before "conceal".

SEC. 421. RECEIPT OF FIREARMS BY NONRESIDENT.

Section 922(a) of title 18, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end thereof;

(2) in paragraph (8) by striking the period at the end thereof and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms.".

SEC. 422. FIREARMS AND EXPLOSIVES CONSPIRACY.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(j) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Whoever conspires to commit any offense defined in this chapter shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 423. THEFT OF FIREARMS OR EXPLOSIVES FROM LICENSEE.

(a) FIREARMS.—Section 924 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(k) Whoever steals any firearm from a licensed importer, licensed manufacturer, licensed dealer or licensed collector shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

(b) EXPLOSIVES.—Section 844 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(m) Whoever steals any explosive material from a licensed importer, licensed manufacturer or licensed dealer, or from any permittee shall be fined in accordance with this title, imprisoned not more than ten years, or both.".

SEC. 424. DISPOSING OF EXPLOSIVES TO PROHIBITED PERSONS.

Section 842(d) of title 18, United States Code, is amended by striking "licensee" and inserting in lieu thereof "person".

TITLE V—OBSTRUCTION OF JUSTICE

SEC. 501. PROTECTION OF COURT OFFICERS AND JURORS.

Section 1503 of title 18, United States Code, is amended—

(1) by designating the current text as subsection (a);

(2) by striking the words "fined not more than $5,000 or imprisoned not more than five years, or both." and inserting in lieu thereof "punished as provided in subsection (b).";

(3) by adding at the end thereof a new subsection (b) as follows:

"(b) The punishment for an offense under this section is—

"(1) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title;

"(2) in the case of an attempted killing, or a case in which the offense was committed against a petit juror and in which a class A or B felony was charged, imprisonment for not more than twenty years; and

"(3) in any other case, imprisonment for not more than ten years."; and

"(4) in subsection (a), as designated by this section, by striking "commissioner" each place it appears and inserting in lieu thereof "magistrate judge".

SEC. 502. PROHIBITION OF RETALIATORY KILLINGS OF WITNESSES, VICTIMS AND INFORMANTS.

Section 1513 of title 18, United States Code, is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(2) by inserting a new subsection (a) as follows:

"(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

"(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(B) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole or release pending judicial proceedings given by a person to a law enforcement officer; shall be punished as provided in paragraph (2).

"(2) The punishment for an offense under this subsection is—

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112 of this title; and

"(B) in the case of an attempt, imprisonment for not more than twenty years.".

SEC. 503. PROTECTION OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS PROVIDING ASSISTANCE TO FEDERAL LAW ENFORCEMENT OFFICERS.

Section 1114 of title 18, United States Code, is amended by inserting ", or any State or local law enforcement officer while assisting, or on account of his or her assistance of, any Federal officer or employee covered by this section in the performance of duties," before "shall be punished".

TITLE VI—GANGS AND JUVENILE OFFENDERS

SEC. 601. AMENDMENTS CONCERNING RECORDS OF CRIMES COMMITTED BY JUVENILES.

(a) Section 5038 of title 18, United States Code, is amended by striking subsections (d) and (f), redesignating subsection (e) as subsection (d), and adding at the end thereof new subsections (e) and (f) as follows:

"(e) Whenever a juvenile has been found guilty of committing an act which if committed by an adult would be an offense described in clause (3) of the first paragraph of section 5032 of this title, the juvenile shall be fingerprinted and photographed, and the fingerprints and photograph shall be sent to the Federal Bureau of Investigation, Identification Division. The court shall also transmit to the Federal Bureau of Investigation, Identification Division, the information concerning the adjudication, including name, date of adjudication, court, offenses, and sentence, along with the notation that the matter was a juvenile adjudication. The fingerprints, photograph, and other records and information relating to a juvenile described in this subsection, or to a juvenile who is prosecuted as an adult, shall be made available in the manner applicable to adult defendants.

"(f) In addition to any other authorization under this section for the reporting, retention, disclosure or availability of records or information, if the law of the State in which a Federal juvenile delinquency proceeding takes place permits or requires the reporting, retention, disclosure or availability of records or information relating to a juvenile or to a juvenile delinquency proceeding or adjudication in certain circumstances, then such reporting, retention, disclosure or availability is permitted under this section whenever the same circumstances exist.".

(b) Section 3607 of title 18, United States Code, is repealed, and the corresponding reference in the section analysis for chapter 229 of title 18 is deleted.

(c) Section 401(b)(4) of the Controlled Substances Act (21 U.S.C. 841(b)(4)) is amended by striking the words "and section 3607 of title 18".

SEC. 602. ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS.

Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1003, 1005, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), (3))," and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844, or 846), section 1002(a), 1003, 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b)(1), (2), or (3), or 963),"; and

(B) by striking "922(p)" and inserting in lieu thereof "924(b), (g), or (h)";

(2) in the fourth undesignated paragraph—

(A) by striking "an offense described in section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959)" and inserting in lieu thereof "an offense (or a conspiracy or attempt to commit an offense) described in section 401, or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841, 844 or 846), section 1002(a), 1005, 1009, 1010(b)(1), (2), or (3), of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959, 960(b)(1), (2), or (3), or 963), or section 924(b), (g), or (h) of this title,"; and

(B) by striking "subsection (b)(1)(A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), (3))" and inserting in lieu thereof "or an offense (or conspiracy or attempt to commit an offense) described in section 401(b)(1)(A), (B), or (C), (d), or (e), or 404 (insofar as the violation involves more than 5 grams of a mixture or substance which contains cocaine base), of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A), (B), or (C), (d), or (e), 844 or 846) or section 1002(a), 1003, 1009, 1010(b)(1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b)(1), (2), or (3), or 963)"; and

(3) in the fifth undesignated paragraph by adding at the end the following: "In considering the nature of the offense, as required by this paragraph, the court shall consider the extent to which the juvenile played a leadership role in an organization, or otherwise influenced other persons to take part in criminal activities, involving the use or distribution of controlled substances or firearms. Such factor, if found to exist, shall weigh heavily in favor of a transfer to adult status, but the absence of this factor shall not preclude such a transfer.".

SEC. 603. SERIOUS DRUG OFFENSES BY JUVENILES AS ARMED CAREER CRIMINAL ACT PREDICATES.

Section 924(e)(2)(A) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking "and" at the end of clause (ii) and inserting in lieu thereof "or"; and

(3) by adding at the end the following:

"(iii) any act of juvenile delinquency that if committed by an adult would be a serious drug offense described in this paragraph; and".

SEC. 604. INCREASED PENALTY FOR TRAVEL ACT CRIMES INVOLVING VIOLENCE.

Section 1952(a) of title 18, United States Code, is amended by striking "and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than $10,000 or imprisoned for not more than five years, or both" and inserting in lieu thereof "and thereafter performs or attempts to perform (A) any of the acts specified in subparagraphs (1) and (3) shall be fined under this title or imprisoned for not more than five years, or both, or (B) any of the acts specified in subparagraph (2) shall be fined under this title or imprisoned for not more than twenty years, or both, and if death results shall be imprisoned for any term of years or for life".

SEC. 605. INCREASED PENALTY FOR CONSPIRACY TO COMMIT MURDER FOR HIRE.

Section 1958(a) of title 18, United States Code, is amended by inserting "or who conspires to do so" before "shall be fined" the first place it appears.

TITLE VII—TERRORISM

Subtitle A—Aviation Terrorism

SEC. 701. IMPLEMENTATION OF THE 1988 PROTOCOL FOR THE SUPPRESSION OF UNLAWFUL ACTS OF VIOLENCE AT AIRPORTS SERVING INTERNATIONAL CIVIL AVIATION.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 36. Violence at international airports

"(a) Whoever unlawfully and intentionally, using any device, substance or weapon,—

"(1) performs an act of violence against a person at an airport serving international civil aviation which causes or is likely to cause serious injury or death; or

"(2) destroys or seriously damages the facilities of an airport serving international civil aviation or a civil aircraft not in service located thereon or disrupts the services of the airport;

if such an act endangers or is likely to endanger safety at that airport, or attempts to do such an act, shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and the offender is later found in the United States.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 2 of title 18, United States Code, is amended by adding at the end thereof the following:

"36. Violence at international airports.".

(c) EFFECTIVE DATE.—This section shall take effect on the later of—

(1) the date of the enactment of this subtitle; or

(2) the date the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 23 September 1971, has come into force and the United States has become a party to the Protocol.

SEC. 702. AMENDMENT TO FEDERAL AVIATION ACT.

Section 902(n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(n)) is amended by—

(1) striking out paragraph (3); and

(2) renumbering paragraph (4) as paragraph (3).

Subtitle B—Maritime Terrorism

SEC. 711. SHORT TITLE FOR SUBTITLE B.

This subtitle may be cited as the "Act for the Prevention and Punishment of Violence Against Maritime Navigation and Fixed Platforms".

SEC. 712. FINDINGS.

The Congress finds that—

(1) the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation requires each contracting State to establish its jurisdiction over certain offenses affecting the safety of maritime navigation;

(2) the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, which accompanies the aforementioned Convention, requires that each contracting State to the Protocol establish its jurisdiction over certain offenses affecting the safety of fixed platforms;

(3) such offenses place innocent lives and property in jeopardy, endanger national security, affect domestic tranquility, gravely affect interstate and foreign commerce, and are offenses against the law of nations;

(4) on December 27, 1988, the President of the United States issued Proclamation 5928 proclaiming that the territorial sea of the United States henceforth extended to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

(5) on November 5, 1989, the Senate gave its advice and consent to ratification of the Convention and its Protocol.

SEC. 713. STATEMENT OF PURPOSE.

The purpose of this Act is to—

(1) implement fully the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf;

(2) clarify Federal criminal jurisdiction over the territorial sea of the United States; and

(3) establish Federal criminal jurisdiction over certain acts committed by or against a national of the United States while upon a foreign vessel during a voyage having a scheduled departure from or arrival in the United States.

SEC. 714. OFFENSES OF VIOLENCE AGAINST MARITIME NAVIGATION OR FIXED PLATFORMS.

Chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 2280. Violence against maritime navigation

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship;

"(3) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship;

"(4) places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship;

"(5) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if such act is likely to endanger the safe navigation of a ship;

"(6) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safe navigation of a ship;

"(7) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (6); or

"(8) attempts to do any act prohibited under paragraphs (1)–(7);

shall be fined under this title or imprisoned not more than twenty years, or both; and if the death of any person results from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do any act prohibited under paragraphs (2), (3) or (5) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safe navigation of the ship in question, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b)—

"(1) in the case of a covered ship, if—

"(A) such activity is committed—

"(i) against or on board a ship flying the flag of the United States at the time the prohibited activity is committed;

"(ii) in the United States; or

"(iii) by a national of the United States or by a stateless person whose habitual residence is in the United States;

"(B) during the commission of such activity, a national of the United States is seized, threatened, injured or killed; or

"(C) the offender is later found in the United States after such activity is committed;

"(2) in the case of a ship navigating or scheduled to navigate solely within the territorial sea or internal waters of a country other than the United States, if the offender is later found in the United States after such activity is committed; and

"(3) in the case of any vessel, if such activity is committed in an attempt to compel the United States to do or abstain from doing any act.

"(d) The master of a covered ship flying the flag of the United States who has reasonable grounds to believe that he has on board his ship any person who has committed an offense under Article 3 of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation may deliver such person to the authorities of a State Party to that Convention. Before delivering such person to the authorities of another country, the master shall notify in an appropriate manner the Attorney General of the United States of the alleged offense and await instructions from the Attorney General as to what action he should take. When delivering the person to a country which is a State Party to the Convention, the master shall, whenever practicable, and if possible before entering the territorial sea of such country, notify the authorities of such country of his intention to deliver such person and the reason therefor. If the master delivers such person, he shall furnish the authorities of such country with the evidence in the master's possession that pertains to the alleged offense.

"(e) As used in this section, the term—

"(1) 'ship' means a vessel of any type whatsoever not permanently attached to the seabed, including dynamically supported craft, submersibles or any other floating craft: *Provided*, That the term does not include a warship, a ship owned or operated by a government when being used as a naval auxiliary or for customs or police purposes, or a ship which has been withdrawn from navigation or laid up;

"(2) 'covered ship' means a ship that is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.

"§ 2281. Violence against maritime fixed platforms

"(a) Whoever unlawfully and intentionally—

"(1) seizes or exercises control over a fixed platform by force or threat thereof or any other form of intimidation;

"(2) performs an act of violence against a person on board a fixed platform if that act is likely to endanger its safety;

"(3) destroys a fixed platform or causes damage to it which is likely to endanger its safety;

"(4) places or causes to be placed on a fixed platform, by any means whatsoever, a device or substance which is likely to destroy that fixed platform or likely to endanger its safety;

"(5) injures or kills any person in connection with the commission or the attempted commission of any of the offenses set forth in paragraphs (1) to (4); or

"(6) attempts to do anything prohibited under paragraphs (1)–(5);

shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) Whoever threatens to do anything prohibited under paragraphs (2) or (3) of subsection (a), with apparent determination and will to carry the threat into execution, if the threatened act is likely to endanger the safety of the fixed platform, shall be fined under this title or imprisoned not more than five years, or both.

"(c) There is jurisdiction over the prohibited activity in subsections (a) and (b) if—

"(1) such activity is committed against or on board a fixed platform—

"(A) that is located on the continental shelf of the United States;

"(B) that is located on the continental shelf of another country, by a national of the United States or by a stateless person whose habitual residence is in the United States; or

"(C) in an attempt to compel the United States to do or abstain from doing any act;

"(2) during the commission of such activity against or on board a fixed platform located on a continental shelf, a national of the United States is seized, threatened, injured or killed; or

"(3) such activity is committed against or on board a fixed platform located outside the United States and beyond the continental shelf of the United States and the offender is later found in the United States.

"(d) As used in this section, the term—

"(1) 'continental shelf' means the sea-bed and subsoil of the submarine areas that extend beyond a country's territorial sea to the limits provided by customary international law as reflected in Article 76 of the 1982 Convention on the Law of the Sea;

"(2) 'fixed platform' means an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes;

"(3) 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(4) 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States determined in accordance with international law; and

"(5) 'United States', when used in a geographical sense, includes the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas Islands and all territories and possessions of the United States.".

SEC. 715. CLERICAL AMENDMENTS.

The analysis for chapter 111 of title 18, United States Code, is amended by adding at the end thereof the following:

"2280. Violence against maritime navigation.
"2281. Violence against maritime fixed platforms.".

SEC. 716. EFFECTIVE DATES.

Section 714 of this Act shall take effect on the later of—

(1) the date of the enactment of this Act; or

(2)(A) in the case of section 2280 of title 18, United States Code, the date the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation has come into force and the United States has become a party to that Convention; and

(B) in the case of section 2281 of title 18, United States Code, the date the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf has come into force and the United States has become a party to that Protocol.

SEC. 717. TERRITORIAL SEA EXTENDING TO TWELVE MILES INCLUDED IN SPECIAL MARITIME AND TERRITORIAL JURISDICTION.

The Congress hereby declares that all the territorial sea of the United States, as defined by Presidential Proclamation 5928 of December 27, 1988, is part of the United States, subject to its sovereignty, and, for purposes of Federal criminal jurisdiction, is within the special maritime and territorial jurisdiction of the United States wherever that term is used in title 18, United States Code.

SEC. 718. ASSIMILATED CRIMES IN EXTENDED TERRITORIAL SEA.

Section 13 of title 18, United States Code (relating to the adoption of State laws for areas within Federal jurisdiction), is amended by inserting after "title" in subsection (a) the phrase "or on, above, or below any portion of the territorial sea of the United States not within the territory of any State, Territory, Possession, or District", and by inserting the following new subsection (c) at the end thereof:

"(c) Whenever any waters of the territorial sea of the United States lie outside the territory of any State, Territory, Possession, or District, such waters (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) shall be deemed for purposes of subsection (a) to lie within the area of that State, Territory, Possession, or District it would lie within if the boundaries of such State, Territory, Possession, or District were extended seaward to the outer limit of the territorial sea of the United States.".

SEC. 719. JURISDICTION OVER CRIMES AGAINST UNITED STATES NATIONALS ON CERTAIN FOREIGN SHIPS.

Section 7 of title 18, United States Code (relating to the special maritime and territorial jurisdiction of the United States), is amended by inserting at the end thereof the following new paragraph:

"(8) Any foreign vessel during a voyage having a scheduled departure from or arrival in the United States with respect to an offense committed by or against a national of the United States.".

Subtitle C—Terrorism Offenses and Sanctions

SEC. 731. TORTURE.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 113A the following new chapter:

"CHAPTER 113B—TORTURE

"Sec.
2340. Definitions.
2340A. Torture.
2340B. Exclusive remedies.

"§2340. Definitions

"As used in this chapter—

"(1) 'torture' means an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control.

"(2) 'severe mental pain or suffering' means the prolonged mental harm caused by or resulting from: (a) the intentional infliction or threatened infliction of severe physical pain or suffering; (b) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality; (c) the threat of imminent death; or (d) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

"(3) 'United States' includes all areas under the jurisdiction of the United States including any of the places within the provisions of sections 5 and 7 of this title and section 101(38) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301(38)).

"§2340A. Torture

"(a) Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than twenty years, or both; and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life.

"(b) There is jurisdiction over the prohibited activity in subsection (a) if: (1) the alleged offender is a national of the United States; or (2) the alleged offender is present in the United States, irrespective of the nationality of the victim or the alleged offender.

"§2340B. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws on the same subject, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any civil proceeding.".

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item for chapter 113B the following new item:

"113B. Torture .... 2340.".

SEC. 732. WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—The Congress finds that the use and threatened use of weapons of mass destruction, as defined in the statute enacted by subsection (b) of this section, gravely harm the national security and foreign relations interests of the United States, seriously affect interstate and foreign commerce, and disturb the domestic tranquility of the United States.

(b) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§2339. Use of weapons of mass destruction

"(a) Whoever uses, or attempts or conspires to use, a weapon of mass destruction—

"(1) against a national of the United States while such national is outside of the United States;

"(2) against any person within the United States; or

"(3) against any property that is owned, leased or used by the United States or by any department or agency of the United States, whether the property is within or outside of the United States;

shall be imprisoned for any term of years or for life, and if death results, shall be punished by death or imprisoned for any term of years or for life.

"(b) For purposes of this section—

"(1) 'national of the United States' has the meaning given in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

"(2) 'weapon of mass destruction' means—

"(a) any destructive device as defined in section 921 of this title;

"(b) poison gas;

"(c) any weapon involving a disease organism; or

"(d) any weapon that is designed to release radiation or radioactivity at a level dangerous to human life.".

(c) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339. Use of weapons of mass destruction.".

SEC. 733. HOMICIDES AND ATTEMPTED HOMICIDES INVOLVING FIREARMS IN FEDERAL FACILITIES.

Section 930 of title 18, United States Code, is amended by—

(a) redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g) respectively;

(b) in subsection (a), deleting "(c)" and inserting in lieu thereof "(d)"; and

(c) inserting after subsection (b) the following:

"(c) Whoever kills or attempts to kill any person in the course of a violation of subsection (a) or (b), or in the course of an attack on a Federal facility involving the use of a firearm or other dangerous weapon, shall—

"(1) in the case of a killing constituting murder as defined in section 1111(a) of this title, be punished by death or imprisoned for any term of years or for life; and

"(2) in the case of any other killing or an attempted killing, be subject to the penalties provided for engaging in such conduct within the special maritime and territorial jurisdiction of the United States under sections 1112 and 1113 of this title.".

SEC. 734. PROVIDING MATERIAL SUPPORT TO TERRORISTS

(a) OFFENSE.—Chapter 113A of title 18, United States Code, is amended by adding the following new section:

"§ 2339A. Providing material support to terrorists

"Whoever, within the United States, provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used to facilitate a violation of section 32, 36, 351, 844 (f) or (i), 1114, 1116, 1203, 1361, 1363, 1751, 2280, 2281, 2332, or 2339 of this title, or section 902(i) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472(i)), or to facilitate the concealment or an escape from the commission of any of the foregoing, shall be fined under this title, imprisoned not more than ten years, or both. For purposes of this section, material support or resources shall include, but not be limited to, currency or other financial securities, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 113A of title 18, United States Code, is amended by adding the following:

"2339A. Providing material support to terrorists.".

SEC. 735. ADDITION OF TERRORIST OFFENSES TO THE RICO STATUTE.

(a) Section 1961(1)(B) of title 18 of the United States Code is amended by:

(1) inserting after "Section" the following: "32 (relating to the destruction of aircraft), section 36 (relating to violence at international airports), section";

(2) inserting after "section 224 (relating to sports bribery);" the following: "section 351 (relating to Congressional or Cabinet officer assassination),";

(3) inserting after "section 664 (relating to embezzlement from pension and welfare funds)," the following: "section 844 (f) or (i) (relating to destruction by explosives of government property or property affecting interstate or foreign commerce),";

(4) inserting after "section 1084 (relating to the transmission of gambling information)," the following: "section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1203 (relating to hostage taking),";

(5) inserting after "section 1344 (relating to financial institution fraud)," the following: "section 1361 (relating to willful injury of government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),";

(6) inserting after "section 1513 (relating to retaliating against a witness, victim, or an informant)," the following: "section 1751 (relating to Presidential assassination),";

(7) inserting after "section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire)," the following: "section 2280 (relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms),"; and

(8) inserting after "2320 (relating to trafficking in certain motor vehicles or motor vehicle parts)," the following: "section 2332 (relating to terrorist acts abroad against United States nationals), section 2339 (relating to use of weapons of mass destruction),".

(b) Section 1961(1) of title 18 of the United States Code, is amended by striking "or" before "(E)", and inserting at the end thereof the following: "or (F) section 902 (i) or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1472 (i) or (n));".

(c) Section 1961(5) of title 18 of the United States Code is amended by adding at the end thereof the following sentence: "The term shall not be construed to require the presence of any pecuniary purpose when the acts of racketeering involve only crimes of violence."

SEC. 736. FORFEITURE FOR TERRORISTS AND OTHER VIOLENT ACTS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding after section 982 the following new sections:

"§ 983. Civil forfeiture of property used to commit violent acts

"(a) The following property shall be subject to civil forfeiture by the United States:

"(1) any property used or intended for use to commit or facilitate the commission of a violent act; and

"(2) any property constituting or derived from the gross profits or other proceeds obtained from a violent act.

No interest of an owner in property shall be forfeited under paragraphs (1) or (2) by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent or willful blindness of that owner.

"(b) All provisions of the customs law relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, except to the extent that such duties arise from seizures and forfeitures effected by any customs officer.

"(c) As used in this section the term 'violent act' means—

"(1) any felony offense under the following chapters of this title: chapter 2 (relating to aircraft and motor vehicles); chapter 5 (relating to arson); chapter 7 (relating to assault); chapter 12 (relating to civil disorders); chapter 18 (relating to congressional, cabinet, and supreme court assassination, kidnaping, and assault); chapter 35 (relating to escape and rescue); chapter 40 (relating to importation, manufacture, distribution and storage of explosive materials; chapter 41 (relating to extortion and threats); chapter 44 (relating to firearms); chapter 51 (relating to homicide); chapter 55 (relating to kidnaping); chapter 65 (relating to malicious mischief); chapter 81 (relating to piracy and privateering); chapter 84 (relating to Presidential and Presidential staff assassination, kidnaping, and assault); chapter 95 (relating to racketeering); chapter 97 (relating to railroads); chapter 102 (relating to riots); chapter 103 (relating to robbery and burglary); chapter 105 (relating to sabotage); chapter 111 (relating to shipping); chapter 113A (relating to terrorism); or chapter 113B (relating to torture);

"(2) any felony offense under the following sections of this title: section 831 (relating to prohibited transactions involving nuclear materials); section 956 (relating to conspiracy to injure property of foreign government); or section 1153 (relating to offenses committed within Indian country);

"(3) any felony offense under: section 2284 of title 42 of the United States Code (relating to the sabotage of nuclear facilities); sections 901 (i), (j), (k), (l), (m), or (n) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472 (i), (j), (k), (l), (m) or (n)); section 11(c)(2) of the Natural Gas Pipeline Safety Act (49 U.S.C. App. 1679(c)(2)); or section 208(c)(2) of the Hazardous Liquid Pipeline Safety Act (49 U.S.C. App. 2007(c)(2));

"(4) any other United States offense punishable by imprisonment for more than one year involving murder, robbery, kidnaping, extortion, or malicious destruction of property; or

"(5) a conspiracy or attempt to commit any of the foregoing offenses.

"(d) The filing of an indictment of information alleging a violation of an offense constituting a violent act which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"§ 984. Criminal forfeiture of property used to commit violent acts

"(a) Any person convicted of a violent act as defined in section 983(c) of this title shall forfeit to the United States, irrespective of any provision of State law, such person's interest in—

"(1) any property constituting, or derived from, any proceeds the person obtained, directly or indirectly, as the result of such violent act; and

"(2) any of the person's property used, or intended to be used, in any manner or part, to commit, or to facilitate the commission of, such violent act.

"(b) The provisions of subsections (b), (c), and (e)-(p) of section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853 (b), (c), and (e)-(p)) shall apply to—

"(1) property subject to forfeiture under subsection (a);

"(2) any seizure or disposition of such property; and

"(3) any judicial proceeding in relation to such property.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 46 of title 18, United States Code, is amended by adding at the end thereof, as amended, the following:

"983. Civil forfeiture of property used to commit violent acts.

"984. Criminal forfeiture of property used to commit violent acts.".

SEC. 737. ENHANCED PENALTIES FOR CERTAIN OFFENSES.

(a) Section 1705(b) of title 50, United States Code, is amended by replacing "$50,000" with "$1,000,000".

(b) Section 1705(a) of title 50, United States Code, is amended by replacing "$10,000" with "$1,000,000".

(c) Section 1541 of title 18, United States Code, is amended by replacing "$500" with "$250,000" and by replacing "one year" with "five years".

(d) Sections 1542, 1543, 1544 and 1546 of title 18, United States Code, are each amended by replacing "$2,000" with "$250,000" and by replacing "five years" with "ten years".

(e) Section 1545 of title 18, United States Code, is amended by replacing "$2,000" with "$250,000" and by replacing "three years" with "ten years".

SEC. 738. SENTENCING GUIDELINES INCREASE FOR TERRORIST CRIMES.

The United States Sentencing Commission is directed to amend its sentencing guidelines to provide an increase of not less than three levels in the base offense level for any felony, whether committed within or outside the United States, that involves or is intended to promote international terrorism, unless such involvement or intent is itself an element of the crime.

Subtitle E—Antiterrorism Enforcement Provisions

SEC. 741. ALIENS COOPERATING IN TERRORIST OR OTHER INVESTIGATIONS.

(a) IN GENERAL.—Notwithstanding any other provision of law, whenever the Attorney General, or his designee, determines that the entry of a particular alien into the United States for permanent residence or other status, or where an alien is already present in the United States, the award of permanent residence or other status, is in the interest of national security, essential to the furtherance of the national intelligence mission, important to the United States public safety, or necessary to protect the life of an individual who has provided cooperation to Federal law enforcement, such alien and his immediate family shall be given entry into the United States and/or awarded permanent residence or other status. Where the decision to grant such entry or award of permanent residence or other status is based on furtherance of the national intelligence mission, the Attorney General shall consult with the Director of the Central Intelligence Agency concerning the decision.

(b) LIMIT ON NUMBER OF ALIENS.—The number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed two hundred persons in any one fiscal year. The decision to grant or deny permanent resident or other status under this section is at the discretion of the Attorney General and shall not be subject to judicial review.

SEC. 742. AMENDMENT TO THE ALIEN ENEMY ACT.

Section 21 of title 50, United States Code, is amended by inserting "(a)" before "Whenever," and by adding the following new subsection:

"(b) Whenever the President invokes the authority contained in subsection (a) as to aliens of a hostile nation or government and further determines that the United States may also be subject to actual, attempted, or threatened predatory incursions by aliens of other nations, whether or not acting in concert with the hostile nation, the President is authorized, by his proclamation thereof, to include within the terms of subsection (a) and sections 22, 23, and 24, any and all other aliens within the United States, or any subcategories or subclasses of such aliens, by nationality or otherwise, as the President may so designate.".

SEC. 743. COUNTERINTELLIGENCE ACCESS TO TELEPHONE RECORDS.

Section 2709 of title 18 of the United States Code is amended by—

(1) striking out subsections (b) and (c); and

(2) inserting the following new subsections (b) and (c):

"(b) REQUIRED CERTIFICATION.—The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may:

"(1) request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communication service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) there are specific and articulable facts giving reason to believe that the person or entity about whom information is sought is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801);

"(2) request subscriber information regarding a person or entity if the Director (or the Director's designee certifies in writing to the wire or electronic communications service provider to which the request is made that—

"(A) the information sought is relevant to an authorized foreign counterintelligence investigation; and

"(B) that information available to the FBI indicates there is reason to believe that communication facilities registered in the name of the person or entity have been used, through the services of such provider, in communication with a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(c) PENALTY FOR DISCLOSURE.—No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information under this section. A knowing violation of this section is punishable as a class A misdemeanor.".

SEC. 744. COUNTERINTELLIGENCE ACCESS TO CREDIT RECORDS.

Section 1681(f) of title 15, United States Code, is amended by inserting "(1)" before the existing paragraph thereof, and by adding the following provisions:

"(2) Notwithstanding the provisions of section 1681(b) of this title, a consumer reporting agency shall furnish a consumer report to the Federal Bureau of Investigation (FBI) when presented with a request for a consumer report made pursuant to this subsection by the FBI provided that the Director of the FBI, or his designee, certifies in writing to the consumer reporting agency that such records are sought for counterintelligence purposes and that there exists specific and articulable facts giving reason to believe the person to whom the requested consumer report relates is an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

"(3) Notwithstanding the provisions of section 1681(b) of this title, a consumer reporting agency shall furnish identifying information respecting any consumer limited to name, address, former addresses, places of employment or former places of employment, to a representative of the FBI when presented with a written request signed by the Director of the FBI, or his designee, stating that the information is sought in connection with an authorized foreign counterintelligence investigation.

"(4) No consumer reporting agency, officer, employee, or agent of such institution, shall disclose to any person that the FBI has sought or obtained a consumer report, or identifying information respecting any consumer. A knowing violation of this section is punishable as a class A misdemeanor.".

SEC. 745. AUTHORIZATION FOR INTERCEPTIONS OF COMMUNICATIONS.

(a) Section 2516(1)(k) of title 18, United States Code, is amended by adding before the ";" the following: ", or of section 1701 and the following of title 50, United States Code (relating to the International Emergency Economic Powers Act); section 2410 appendix of title 50, United States Code (relating to the Export Administration Act); or section 5 appendix of title 50, United States Code (relating to the Trading with the Enemy Act)".

(b) Section 2516(1) of title 18, United States Code, is further amended by redesignating subparagraph (o) as subparagraph (p) and adding a new subparagraph (o) as follows:

"(o) any violation of section 956 or section 960 of title 18, United States Code (relating to certain actions against foreign nations);".

(c) Section 2516(1)(c) of title 18, United States Code, is amended by inserting before "or section 1992 (relating to wrecking trains)" the following: "section 2332 (relating to terrorist acts abroad), section 2339 (relating to weapons of mass destruction), section 36 (relating to violence at airports),".

SEC. 746. PARTICIPATION OF FOREIGN AND STATE GOVERNMENT PERSONNEL IN INTERCEPTIONS OF COMMUNICATIONS.

Section 2518(5) of title 18, United States Code, is amended by inserting "(including personnel of a foreign government or of a State or subdivision of a State)" after "Government personnel".

SEC. 747. DISCLOSURE OF INTERCEPTED COMMUNICATIONS TO FOREIGN LAW ENFORCEMENT AGENCIES.

Section 2510(7) of title 18, United States Code, is amended by inserting before the semicolon "and additionally, for purposes of section 2517 (1)-(2), any person authorized to perform investigative, law enforcement, or prosecutorial functions by a foreign government".

SEC. 748. EXTENSION OF THE STATUTE OF LIMITATIONS FOR CERTAIN TERRORISM OFFENSES.

(a) Chapter 213 of title 18, United States Code, is amended by inserting a new section 2386 as follows:

"§ 3286. Extension of statute of limitations for certain terrorism offenses

"Notwithstanding the provisions of section 3282, no person shall be prosecuted, tried, or punished for any offense involving a violation of section 32 (aircraft destruction), section 36 (airport violence), section 112 (assaults upon diplomats), section 351 (crimes against Congressmen or Cabinet officers), section 1116 (crimes against diplomats), section 1203 (hostage taking), section 1361 (willful injury to government property), section 1751 (crimes against the President), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2340A (torture) of this title or section 902 (i), (j), (k), (l), or (n) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1572 (i), (j), (k), (l), or (n)), unless the indictment is found or the information is instituted within ten years next after such offense shall have been committed.".

(b) The table of sections for chapter 213 is amended by inserting below the item for:

"3285. Criminal contempt."

the following:

"3286. Extension of statute of limitations for certain terrorism offenses.".

TITLE VIII—SEXUAL VIOLENCE AND CHILD ABUSE

SEC. 801. ADMISSIBILITY OF EVIDENCE OF SIMILAR CRIMES IN SEXUAL ASSAULT AND CHILD MOLESTATION CASES.

The Federal Rules of Evidence are amended by adding after rule 412 the following new rules:

"Rule 413. Evidence of Similar Crimes in Sexual Assault Cases

"(a) In a criminal case in which the defendant is accused of an offense of sexual assault, evidence of the defendant's commission of another offense or offenses of sexual assault is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, 'offense of sexual assault' means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code;

"(2) contact, without consent, between any part of the defendant's body or an object and the genitals or anus of another person;

"(3) contact, without consent, between the genitals or anus of the defendant and any part of another person's body;

"(4) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on another person; or

"(5) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(4).

"Rule 414. Evidence of Similar Crimes in Child Molestation Cases

"(a) In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

"(b) In a case in which the Government intends to offer evidence under this rule, the attorney for the Government shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

"(d) For purposes of this rule and rule 415, "child" means a person below the age of fourteen, and "offense of child molestation" means a crime under Federal law or the law of a State that involved—

"(1) any conduct proscribed by chapter 109A of title 18, United States Code, that was committed in relation to a child;

"(2) any conduct proscribed by chapter 110 of title 18, United States Code;

"(3) contact between any part of the defendant's body or an object and the genitals or anus of a child;

"(4) contact between the genitals or anus of the defendant and any part of the body of a child;

"(5) deriving sexual pleasure or gratification from the infliction of death, bodily injury, or physical pain on a child; or

"(6) an attempt or conspiracy to engage in conduct described in paragraphs (1)–(5).

"Rule 415. Evidence of Similar Acts in Civil Cases Concerning Sexual Assault or Child Molestation

"(a) In a civil case in which a claim for damages or other relief is predicated on a party's alleged commission of conduct constituting an offense of sexual assault or child molestation, evidence of that party's commission of another offense or offenses of sexual assault or child molestation is admissible and may be considered as provided in rule 413 and rule 414 of these rules.

"(b) A party who intends to offer evidence under this rule shall disclose the evidence to the party against whom it will be offered, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen days before the scheduled date of trial or at such later time as the court may allow for good cause.

"(c) This rule shall not be construed to limit the admission or consideration of evidence under any other rule.".

SEC. 802. DRUG DISTRIBUTION TO PREGNANT WOMEN.

Section 418 of the Controlled Substances Act is amended by inserting ", or to a woman while she is pregnant," after "to a person under twenty-one years of age" in subsection (a) and subsection (b).

SEC. 803. DEFINITION OF SEXUAL ACT FOR VICTIMS BELOW 16.

Paragraph (2) of section 2245 of title 18, United States Code, is amended—

(1) in subparagraph (B) by striking "or" after the semicolon;

(2) in subparagraph (C) by striking "; and" and inserting in lieu thereof "; or"; and

(3) by inserting a new subparagraph (D) as follows:

"(D) the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;".

SEC. 804. INCREASED PENALTIES FOR RECIDIVIST SEX OFFENDERS.

(a) Section 2245 of title 18, United States Code, is redesignated section 2246.

(b) Chapter 109A of title 18, United States Code, is amended by inserting the following new section after section 2244:

"§ 2245. Penalties for subsequent offenses

"Any person who violates a provision of this chapter after a prior conviction under a provision of this chapter or the law of a State (as defined in section 513 of this title) for conduct proscribed by this chapter has become final is punishable by a term of imprisonment up to twice that otherwise authorized.".

(c) The table of sections for chapter 109A of title 18, United States Code, is amended by—

(1) striking "2245" and inserting in lieu thereof "2246"; and

(2) inserting the following after the item relating to section 2244:

"2245. Penalties for subsequent offenses.".

SEC. 805. RESTITUTION FOR VICTIMS OF SEX OFFENSES.

Section 3663(b)(2) of title 18, United States Code, is amended by inserting "or an offense under chapter 109A or chapter 110 of this title" after "an offense resulting in bodily injury to a victim".

SEC. 806. HIV TESTING AND PENALTY ENHANCEMENT IN SEXUAL ABUSE CASES.

(a) Chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new section:

"§ 2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty

"(a) TESTING AT TIME OF PRE-TRIAL RELEASE DETERMINATION.—In a case in which a person is charged with an offense under this chapter, a judicial officer issuing an order pursuant to section 3142(a) of this title shall include in the order a requirement that a test for the human immunodeficiency virus be performed upon the person, and that follow-up tests for the virus be performed six months and twelve months following the date of the initial test, unless the judicial officer determines that the conduct of the person created no risk of transmission of the virus to the victim, and so states in the order. The order shall direct that the initial test be performed within twenty-four hours, or as soon thereafter as feasible. The person shall not be released from custody until the test is performed.

"(b) TESTING AT LATER TIME.—If a person charged with an offense under this chapter was not tested for the human immunodeficiency virus pursuant to subsection (a), the court may at a later time direct that such a test be performed upon the person, and that follow-up tests be performed six months and twelve months following the date of the initial test, if it appears to the court that the conduct of the person may have risked transmission of the virus to the victim. A testing requirement under this subsection may be imposed at any time while the charge is pending, or following conviction at any time prior to the person's completion of service of the sentence.

"(c) TERMINATION OF TESTING REQUIREMENT.—A requirement of follow-up testing imposed under this section shall be canceled if any test is positive for the virus or the person obtains an acquittal on, or dismissal of, all charges under this chapter.

"(d) DISCLOSURE OF TEST RESULTS.—The results of any test for the human immunodeficiency virus performed pursuant to an order under this section shall be provided to the judicial officer or court. The judicial officer or court shall ensure that the results are disclosed to the victim (or to the victim's parent or legal guardian, as appropriate), the attorney for the Government, and the person tested.

"(e) EFFECT ON PENALTY.—The United States Sentencing Commission shall amend existing guidelines for sentences for offenses under this chapter to enhance the sentence if the offender knew or had reason to know that he was infected with the human immunodeficiency virus, except where the offender did not engage or attempt to engage in conduct creating a risk of transmission of the virus to the victim.".

(b) CLERICAL AMENDMENT.—The section analysis for chapter 109A of title 18, United States Code, is amended by inserting at the end thereof the following new item:

"2247. Testing for human immunodeficiency virus; disclosure of test results to victim; effect on penalty.".

SEC. 807. PAYMENT OF COST OF HIV TESTING FOR VICTIM.

Section 503(c)(7) of the Victims' Rights and Restitution Act of 1990 is amended by inserting before the period at the end thereof the following: ", and the cost of up to two tests of the victim for the human immunodeficiency virus during the twelve months following the assault".

TITLE IX—DRUG TESTING

SEC. 901. DRUG TESTING OF FEDERAL OFFENSES ON POST-CONVICTION RELEASE.

(a) DRUG TESTING PROGRAM.—(1) Chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3608. Drug testing of defendants on postconviction release

"The Director of the Administrative Office of the United States Courts shall, as soon as is practicable after the effective date of this section, establish a program of drug testing of criminal defendants on post-conviction release. In each district where it is feasible to do so, the chief probation officer shall arrange for the drug testing of defendants on post-conviction release pursuant to a conviction for a felony or other offense described in section 3563(a)(4) of this title.".

(2) The section analysis for chapter 229 of title 18, United States Code, is amended by adding at the end thereof the following:

"3608. Drug testing of defendants on postconviction release.".

(b) DRUG TESTING CONDITION.—

(1) Section 3563(a) of title 18, United States Code, is amended—

(A) in paragraph (2), by striking out "and";

(B) in paragraph (3), by striking out the period and inserting in lieu thereof "; and"; and

(C) by adding a new paragraph (4), as follows:

"(4) for a felony, an offense involving a firearm as defined in section 921 of this title, a drug or narcotic offense as defined in section 404(c) of the Controlled Substances Act (21 U.S.C. 844(c)), or a crime of violence as defined in section 16 of this title, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated upon request of the Director of the Administrative Office of the United States Courts, or the Director's designee. No action may be taken against a defendant on the basis of a drug test administered pursuant to this paragraph or sections 3583(d) or 4209(a) of this title, unless the drug test confirmation is a urine drug test confirmed using gas chromatography/mass spectrometry techniques or such test as the Director of the Administrative Office of the United States Court after consultation with the Secretary of Health and Human Services may determine to be of equivalent accuracy, except that a defendant who tests positive may be detained pending confirmation of the test result as provided in this paragraph.".

(2) Section 3583(d) of title 18, United States Code, is amended by inserting after the first sentence the following: "For a defendant convicted of a felony or other offense described in section 3563(a)(4) of this title, the court shall also order, as an explicit condition of supervised release, that the defendant refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the court) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(3) Section 4209(a) of title 18, United States Code, is amended by inserting after the first sentence the following: "If the parolee has been convicted of a felony or other offense described in section 3563(a)(4) of this title, the Commission shall also impose as a condition of parole that the parolee refrain from any unlawful use of a controlled substance and submit to periodic drug tests (as determined by the Commission) for use of a controlled substance. This latter condition may be suspended or ameliorated as provided in section 3563(a)(4) of this title.".

(c) REVOCATION OF RELEASE.—(1) Section 3565(a) of title 18, United States Code, is amended by inserting in the final sentence after "3563(a)(3)," the following: "or unlawfully uses a controlled substance or refuses to cooperate in drug testing, thereby violating the condition imposed by section 3563(a)(4),".

(2) Section 3583(g) of title 18, United States Code, is amended by inserting after "substance" the following: "or unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of supervised release,".

(3) Section 4214(f) of title 18, United States Code, is amended by inserting after "substance" the following: ", or who unlawfully uses a controlled substance or refuses to cooperate in drug testing imposed as a condition of parole,".

SEC. 902. DRUG TESTING IN STATE CRIMINAL JUSTICE SYSTEMS AS A CONDITION OF RECEIPT OF JUSTICE DRUG GRANTS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end of part E (42 U.S.C. 3750–3766b) the following:

"DRUG TESTING PROGRAMS

"SEC. 523. (a) PROGRAM REQUIRED.—It is a condition of eligibility for funding under this part that a State formulate and implement a drug testing program for targeted classes of persons subject to charges, confinement, or supervision in the criminal justice systems of the State. Such a program must meet criteria specified in regulations promulgated by the Attorney General under subsection (b) of this section. Notwithstanding the above, no State shall be required to expend an amount for drug testing pursuant to this section in excess of 10 per centum of the minimum amount which that State is eligible to receive under this part.

"(b) REGULATIONS.—The Attorney General shall promulgate regulations to implement this section, which shall incorporate scientific and technical standards determined by the Secretary of Health and Human Services to ensure reliability and accuracy of drug test results. The regulations shall include such other guidelines for drug testing programs in State criminal justice systems as the Attorney General determines are appropriate, and shall include provisions by which a State may apply to the Attorney General for a waiver of the requirements imposed by this section, on grounds that compliance would impose excessive financial or other burdens on such State or would otherwise be impractical or contrary to State policy.

"(c) EFFECTIVE DATE.—This section shall take effect with respect to any State at a time specified by the Attorney General, but no earlier than the promulgation of the regulations required under subsection (b).".

TITLE X—EQUAL JUSTICE ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the "Equal Justice Act".

SEC. 1002. PROHIBITION OF RACIALLY DISCRIMINATORY POLICIES CONCERNING CAPITAL PUNISHMENT OR OTHER PENALTIES.

(a) The penalty of death and all other penalties shall be administered by the United States and by every State without regard to the race or color of the defendant or victim. Neither the United States nor any State shall prescribe any racial quota or statistical test for the imposition or execution of the death penalty or any other penalty.

(b) For purposes of this title—

(1) the action of the United States or of a State includes the action of any legislative, judicial, executive, administrative, or other agency or instrumentality of the United States or a State, or of any political subdivision of the United States or a State;

(2) "State" has the meaning given in section 541 of title 18, United States Code; and

(3) "racial quota or statistical test" includes any law, rule, presumption, goal, standard for establishing a prima facie case, or mandatory or permissive inference that—

(A) requires or authorizes the imposition or execution of the death penalty or another penalty so as to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims; or

(B) requires or authorizes the invalidation of, or bars the execution of, sentences of death or other penalties based on the failure of a jurisdiction to achieve a specified racial proportion relating to offenders, convicts, defendants, arrestees, or victims in the imposition or execution of such sentences or penalties.

SEC. 1003. GENERAL SAFEGUARDS AGAINST RACIAL PREJUDICE OR BIAS IN THE TRIBUNAL.

In a criminal trial in a court of the United States, or of any State—

(1) on motion of the defense attorney or prosecutor, the risk of racial prejudice or bias shall be examined on voir dire if there is a substantial likelihood in the circumstances of the case that such prejudice or bias will affect the jury either against or in favor of the defendant;

(2) on motion of the defense attorney or prosecutor, a change of venue shall be granted if an impartial jury cannot be obtained in the original venue because of racial prejudice or bias; and

(3) neither the prosecutor nor the defense attorney shall make any appeal to racial prejudice or bias in statements before the jury.

SEC. 1004. FEDERAL CAPITAL CASES.

(a) JURY INSTRUCTIONS AND CERTIFICATION.—In a prosecution for an offense against the United States in which a sentence of death is sought, and in which the capital sentencing determination is to be made by a jury, the judge shall instruct the jury that it is not to be influenced by prejudice or bias relating to the race or color of the defendant or victim in considering whether a sentence of death is justified, and that the jury is not to recommend the imposition of a sentence of death unless it has concluded that it would recommend the same sentence for such a crime regardless of the race or color of the defendant or victim. Upon the return of a recommendation of a sentence of death, the jury shall also return a certificate, signed by each juror, that the juror's individual decision was not affected by prejudice or bias relating to the race or color of the defendant or victim, and that the individual juror would have made the same recommendation regardless of the race or color of the defendant or victim.

(b) RACIALLY MOTIVATED KILLINGS.—In a prosecution for an offense against the United States for which a sentence of death is authorized, the fact that the killing of the victim was motivated by racial prejudice or bias shall be deemed an aggravating factor whose existence permits consideration of the death penalty, in addition to any other aggravating factors that may be specified by law as permitting consideration of the death penalty.

(c) KILLINGS IN VIOLATION OF CIVIL RIGHTS STATUTES.—Sections 241, 242, and 245(b) of title 18, United States Code, are each amended by deleting "shall be subject to imprisonment for any term of years or for life" and inserting in lieu thereof "shall be punished by death or imprisonment for any term of years or for life".

SEC. 1005. FUNDING OBJECTIVE.

Section 501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended by striking "and" following the semicolon in paragraph (20), striking the period at the end of paragraph (21) and inserting in lieu thereof "; and", and adding at the end thereof the following new paragraph:

"(22) providing, in all appropriate cases, particularly collateral and other postconviction proceedings, adequate resources and expertise to ensure that the death penalty is expeditiously carried out.".

SEC. 1006. EXTENSION OF PROTECTION OF CIVIL RIGHTS STATUTES.

(a) Section 241 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in".

(b) Section 242 of title 18, United States Code, is amended by deleting "inhabitant of" and inserting in lieu thereof "person in", and by deleting "such inhabitant" and inserting in lieu thereof "such person".

TITLE XI—VICTIMS' RIGHTS

SEC. 1101. RESTITUTION AMENDMENTS.

(a) EXPANSION OF RESTITUTION.—Section 3663(b) of title 18, United States Code, is amended by striking "and" following the semicolon in paragraph (3), redesignating paragraph (4) as paragraph (5), and adding after paragraph (3) the following:

"(4) in any case, reimburse the victim for necessary child care, transportation, and other expenses related to participation in the investigation or prosecution of the offense or attendance at proceedings related to the offense; and".

(b) SUSPENSION OF FEDERAL BENEFITS.—Subsections (g) and (h) of section 3663 of title 18, United States Code, are redesignated as subsections (h) and (i), respectively, and a new subsection (g) is inserted as follows:

"(g)(1) If the defendant is delinquent in making restitution in accordance with any schedule of payments established under subsection (f)(1) of this section, or any requirement of immediate payment under subsection (f)(3) of this section, the court may, after a hearing, suspend the defendant's eligibility for all Federal benefits until such time as the defendant demonstrates to the court good-faith efforts to return to such schedule.

"(2) For purposes of this subsection—

"(A) the term 'Federal benefits'—

"(i) means any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

"(ii) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

"(B) the term 'veterans benefit' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.".

SEC. 1102. VICTIM'S RIGHT OF ALLOCATION IN SENTENCING.

Rule 32 of the Federal Rules of Criminal Procedure is amended by—

(1) striking "and" following the semicolon in subdivision (a)(1)(B);

(2) striking the period at the end of subdivision (a)(1)(C) and inserting in lieu thereof "; and";

(3) inserting after subdivision (a)(1)(C) the following: "(D) if sentence is to be imposed for a crime of violence or sexual abuse, address the victim personally if the victim is present at the sentencing hearing and determine if the victim withes to make a statement and to present any information in relation to the sentence.";

(4) in the second to last sentence of subdivision (a)(1), striking "equivalent opportunity" and inserting in lieu thereof "opportunity equivalent to that of the defendant's counsel";

(5) in the last sentence of subdivision (a)(1) inserting "the victim," before ", or the attorney for the Government."; and

(6) adding at the end the following:

"(f) DEFINITIONS.—For purposes of this rule—

(1) "victims" means any individual against whom an offense for which a sentence is to be imposed has been committed, but the right of allocution under subdivision (a)(1)(D) may be exercised instead by—

"(A) a parent or legal guardian in case the victim is below the age of eighteen years or incompetent; or

"(B) one or more family members or relatives designated by the court in case the victim is deceased or incapacitated;

if such person or persons are present at the sentencing hearing, regardless or whether the victim is present; and

"(2) 'crime or violence or sexual abuse' means a crime that involved the use or attempted or threatened use of physical force against the person or property of another, or a crime under chapter 109A of title 18, United States Code.".

TITLE XII

FEDERAL CRIMINAL JUSTICE RESTORATION ACCOUNT AUTHORIZATION

There are authorized to be appropriated the following sums: (1) for the fiscal year ending September 30, 1992, $511,130,000 above the amounts provided in the House of Representatives passed version of H.R. 2608 on June 13, 1991 for the criminal justice approprition accounts of the Department of Justice; and (2) sums as may be necessary for subsequent fiscal years.

TITLE XIII

* * *

TITLE XIV

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crime victims' Restitution Act of 1991".

SEC. 2. AMENDMEDNT OF RESTITUTION PROVISIONS.

(a) ORDER OF RESTITUTION.—Section 3663 of title 18, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "(a) The court" and inserting "(a)(1) The court";

(B) striking "may order" and inserting "shall order"; and

(C) adding at the end thereof the following new paragraph:

"(2) In addition to ordering restitution of the victim of the offense of which a defendant is convicted, a court may order restitution of any person who, as shown by a preponderance of evidence, was harmed physically, emotionally, or pecuniarily, by unlawful conduct of the defendant during—

"(A) the criminal episode during which the offense occurred; or

"(B) the course of a scheme, conspiracy, or pattern of unlawful activity related to the offense.";

(2) in subsection (b)(1)(A) by striking "impractical" and inserting "impracticable";

(3) in subsection (b)(2) by inserting "emotional or" after "resulting in";

(4) in subsection (c) by strking "If the Court decides to order restitution under this section, the" and inserting "The";

(5) by striking subsections (d), (e), (f), (g), and (h); and

(6) by adding at the end thereof the following new subsections:

"(d)(1) The court shall order restitution to a victim in the full amount of the victim's losses as determined by the court and without consideration of—

"(A) the economic circumstances of the offender; or

"(B) the fact that a victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source.

"(2) Upon determination of the amount of restitution owed to each victim, the court shall specify in the restitution order the manner in which and the schedule according to which the restitution is to be paid, in consideration of—

"(A) the financial resources and other assets of the offender;

"(B) projected earnings and other income of the offender; and

"(C) any financial obligations of the offender, including obligations to dependents.

"(3) A restoration order may direct the offender to make a single, lump-sum payment, partial payment at specified intervals, or such in-kind payments as may be agreeable to the victim and the offender.

"(4) An in-kind payment described in paragraph (3) may be in the form of—

"(A) return of property;

"(B) replacement of property; or

"(C) services rendered to the victim or to a person or organization other than the victim.

"(e) When the court finds that more than 1 offender has contributed to the loss of a victim, the court may make each offender liable for payment of the full amount of restitution or may apportion liability among the offenders to reflect the level of contribution and economic circumstances of each offender.

"(f) When the court finds that more than 1 victim has sustained a loss requiring restitution by an offender, the court shall order full restitution of each victim but may provide for different payment schedules to reflect the economic circumstances of each victim.

"(g)(1) If the victim has received or is entitled to receive compensation with respect to a loss from insurance or any other source, the court shall order that restitution be paid to the person who provided or is obligated to provide the compensation, but the restitution order shall provide that all restitution of victims required by the order be paid to the victims before any restitution is paid to such a provider of compensation.

"(2) The issuance of a restitution order shall not affect the entitlement of a victim to receive compensation with respect to a loss from insurance or any other source until the payments actually received by the victim under the restitution order fully compensate the victim for the loss, at which time a person that has provided compensation to the victim shall be entitled to receive any payments remaining to be paid under the restitution order.

"(3) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim in—

"(A) any Federal civil proceeding; and

"(B) any State civil proceeding, to the extent provided by the law of the State.

"(h) A restitution order shall provide that—

"(1) all fines, penalties, costs, restitution payments and other forms of transfers of money or property made pursuant to the sentence of the court shall be made by the offender to the clerk of the court for accounting and payment by the clerk in accordance with this subsection;

"(2) the clerk of the court shall—

"(A) log all transfers in a manner that tracks the offender's obligations and the current status in meeting those obligations, unless, after efforts have been made to enforce the restitution order and it appears that compliance cannot be obtained, the court determines that continued recordkeeping under this subparagraph would not be useful;

"(B) notify the court and the interested parties when an offender is 90 days in arrears in meeting those obligations; and

"(C) disburse money received from an offender so that each of the following obligations is paid in full in the following sequence:

"(i) a penalty assessment under section 3013 of title 18, United States Code;

"(ii) restitution of all victims; and

"(iii) all other fines, penalties, costs, and other payments required under the sentence; and

"(3) the offender shall advise the clerk of the court of any change in the offender's address during the term of the restitution order.

"(i) A restitution order shall constitute a lien against all property of the offender and may be recorded in any Federal or State office for the recording of liens against real or personal property.

"(j) Compliance with the schedule of payment and other terms of a restitution order shall be a condition of any probation, parole, or other form of release of an offender. If a defendant fails to comply with a restitution order, the court may revoke probation or a term of supervised release, modify the term or conditions of probation or a term of supervised release, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, or take any other action necessary to obtain compliance with the restitution order. In determining what action to take, the court shall consider the defendant's employment status, earning ability, financial resources, the willfulness in failing to comply with the restitution order, and any other circumstances that may have a bearing on the defendant's ability to comply with the restitution order.

"(k) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter (B) of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

"(l) A victim or the offender may petition the court at any time to modify a restitution order as appropriate in view of a change in the economic circumstances of the offender.".

(b) PROCEDURE FOR ISSUING ORDER OF RESTITUTION.—Section 3664 of title 18, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d);

(3) by amending subsection (a), as redesignated by paragraph (2), to read as follows:

"(a) The court may order the probation service of the court to obtain information pertaining to the amount of loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report as the court directs.";

"(e) The court may refer any issue arising in connection with a proposed order of restitution to a magistrate or special master for proposed findings of act and recommendations as to disposition, subject to a de novo determination of the issue by the court."

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON INNOVATION, TECHNOLOGY AND PRODUCTIVITY

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business Subcommittee on Innovation, Technology and Productivity be authorized to meet during the session of the Senate on Thursday, June 20, 1991, at 9:15 a.m. The subcommittee will hold a hearing on United States-Japan auto parts trade.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on June 20, 1991, at 10 a.m. to hold a hearing on the President's recommendation that China continue to receive most-favored-nation trade status.

The PRESIDING OFFICER Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 20, 1991, at 2 p.m. on the nomination of Dennis Yao to be a member of the Federal Trade Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Communications, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on June 20, 1991, at 9:30 a.m. on broadcasters public interest obligations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, June 20, 1991, at 2 p.m., to hold a hearing on the nomination of Jane R. Roth, to be U.S. circuit judge for the Third Circuit, Sterling Johnson, Jr., to be U.S. district judge for the Eastern District of New York, Harvey E. Schlesinger, to be U.S. district judge for the Middle District of Florida and Ralph W. Nimmons, to be U.S. district judge for the Middle District of Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TECHNOLOGY

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Technology and the Law of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, June 20, 1991, at 10 a.m., to hold a markup on S. 652, a bill to protect the privacy of telephone users by amendment section 3121 of title 18, United States Code.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks, and Forests of the full Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., June 20, 1991, to receive testimony on the following bills: S. 477, S. 628, S. 772, S. 855, S. 867, and S. 1117.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 20, beginning at 2 p.m., to conduct a hearing on implementation of section 404 of the Clean Water Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, June 20, beginning at 9:30 a.m., to conduct a hearing on implementation of section 404 of the Clean Water Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, June 20, 1991, at 1:30 p.m., to hold a hearing on Enforcement and Administration of the Foreign Agents Registration Act [FARA].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON LABOR

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Labor of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, June 20, 1991 at 10 a.m., for a hearing on "Retirees at Risk: The Executive Life Bankruptcy."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Aging of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, June 20, 1991, at 9:30 a.m., for a hearing on "Why Are We Losing the War Against Breast Cancer."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation be allowed to meet during the session of the Senate on Thursday, June 20, 1991, at 9 a.m. to hold a hearing on the agriculturally derived renewable fuels—current status and prospects for the future.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, June 20, 1991, at 9 a.m., to receive a briefing from special operations forces on the conduct of special operations during Operation Desert Shield/Desert Storm.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Thursday, June 20, 1991, at 2 p.m., to receive testimony on the strategic defense initiative in review of S. 1066, the Department of Defense authorization bill for fiscal years 1992–93.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. FORD. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Thursday, June 20, 1991, after the first vote of the afternoon, in the President's Room, in order to report out Ann Veneman as Deputy Secretary of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 20, at 2 p.m., to hold a hearing on three ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NEWARK, NJ—ONE OF AMERICA'S MOST LIVABLE CITIES

• Mr. LAUTENBERG. Mr. President, I rise with great pride to congratulate the city of Newark, NJ, on being named one of America's most livable cities by the U.S. Conference of Mayors.

Newark is a success story that every American can be proud of. Emerging from trying times in the 1970's and 1980's that saw much of Newark victimized by poverty and crime, today Newark is in the midst of what the Conference of Mayors called a true renaissance. The future is one of hope for growth, prosperity, and success. Where business once fled Newark, today it is returning and building futures there, giving the city a sense of resurgent pride and promise.

Mayor Sharpe James has provided the leadership to help make Newark an example of smart planning and vision. The city has been selected as an All-American City by the National Civic League and Newark's recycling program is a model of efficiency that has won praise from the U.S. Environmental Protection Agency. Also, as a transportation hub encompassing air, rail, and sea facilities, Newark is one of the gateways to America and is working to make its transportation more accessible and efficient. Newark is one American city facing the 21st century with every reason for optimism.

I would like to have printed in the RECORD an article from the June 18, 1991 New York Times titled "A Livable City? Newark. Yes, Newark." which makes clear just why Newark is so deserving of the honor of being named one of America's most livable cities.

The article follows:

[From the New York Times, June 18, 1991]

A LIVABLE CITY? NEWARK. YES, NEWARK.

(By James Barron)

This sounds like monologue material for Johnny or Dave or Arsenio: Newark, once a symbol of old-fashioned industrial might and later of urban unrest and disintegration, won an award yesterday in a competition to choose America's most livable cities.

Newark. Livable. Really.

The United States Conference of Mayors announced this at its annual meeting in San Diego, commending Newark for a "true renaissance." It noted that Newark was getting its first new theater in 50 years and had its first new shopping center in 20, along with hundreds of town houses for low- and moderate-income residents.

This is not the only prize to come Newark's way lately. Just last week, Newark was designated an All-American City by the National Civic League, and Newark has won a shelf of trophies for a recycling program that uses tires in making pavement for roads. The method Newark uses has attracted worldwide attention. A delegation from the Soviet Union spent a week in Newark studying it.

STILL SERIOUS PROBLEMS

All this for a city that used to be laughed off in the same breath as Detroit, which like Newark was scarred by riots in the 1960's, or Cleveland, where the Mayor once set his hair on fire at a ribbon-cutting ceremony.

"There's an old saying—when you face a mass of problems, if they don't kill you, you'll be better off," Mayor Sharpe James of Newark said last week. "We faced the riots, where most people's image even today is one of Newark burning and National Guard troops marching up and down the street."

Newark still has the serious problems of any big city: crime and the perception of crime, drugs, and AIDS. Unemployment stood at 12.6 percent in February, the most recent month for which the Bureau of Labor Statistics has compiled figures. That was up from 10.2 percent in the same month of 1990, and well above the national rate.

In talking about Newark's recent success in getting construction projects going, Mayor James uses the old real-estate cliché—"location, location, location." Newark, though, is profiting from more than being in the right place at an opportune time; the Mayor might just as well say transportation, transportation, transportation.

Newark has the nation's fastest-growing airport and its largest port for container ships, along with a train station that serves an an anchor for many of the new buildings downtown. And Newark may well become one of the new cities in the nation whose airport is reachable by rail: the Port Authority of New York and New Jersey is spending $350,000 to study linking a planned peoplemover system at the airport to the Northeast Corridor rail lines.

'BEAUTIFUL DOWNTOWN NEWARK'

"Newark is so much more accessible," said Pamela Goldstein, an aide to Mayor James. "I don't want to take a potshot at New York or anything, but it's much easier to get goods in and out of Newark."

Michael Zimmer, the associate dean of the Seton Hall University Law Center, remembers arriving in Newark in 1978 and deciding that "it was a pretty dispirited place."

"Then," he said, "it was pure irony when someone said 'beautiful downtown Newark." If you fly around Newark now in a helicopter, you would see the coming together of a viable urban environment." Mr. Zimmer suggests a helicopter because he finds the traffic increasingly snarled in the downtown area where the law school's new home is scheduled to open this year.

The streets may get more clogged as new buildings open. Blue Cross and Blue Shield of New Jersey plan to move 2,400 employees from a campus-like complex in suburban Florham Park to a Newark office tower. New Jersey Transit is expected to occupy an adjacent building. And the $200 million New Jersey Performing Arts Center is planned for the block behind Seton Hall's new law school.

PUBLIC AND PRIVATE INVESTMENT

Some urban experts say awards like the ones Newark has been winning lately may go to cities that pay as much attention to municipal marketing as to municipal development. But most agree that Newark has made progress.

"The secret to Newark is many years of public investment are now yielding a harvest," said Mitchell Moss of the Urban Research Center and New York University. Tax abatements and other government incentives are credited with making some new projects economically attractive. And a small number of downtown corporations—among them Prudential Insurance, Public Service Electric and Gas, First Fidelity Bank and New Jersey Bell—have put a large amount of money into building new buildings.

"Mayor James has been doing well, but it's like trying to push a boulder up a hill," said Norman J. Glickman, director of the Center for Urban Policy Research at Rutgers University in New Brunswick. "He's gotten halfway up the hill, but whether he'll get to the top remains to be seen."

Other planners are more skeptical of a Newark renaissance.

"It flies in the face of secular reality," said George Sternlieb, who founded the center Mr. Glickman now runs. "The secular reality is a city that still is essentially dependent upon welfare and on the flow of funds from the county, the state and the Feds." Newark used to have 20 percent of the job base of the entire state, he said, but now has no more than 5 or 6 percent.

JUST A BEGINNING

Mr. James said he was not sweeping the city's problems under the rug. "We're talking about a window of opportunity," he said last week after winning the All-America City prize. "We have an award that says, 'Hey, Newark, we recognize where you were, we recognize your progress.' And that's what we accept this as—not as an ending but a beginning to do more."

One thing that some residents say Newark must do to clinch the city's transformation is to reach beyond downtown, with its new elevated walkways connecting the buildings near Pennsylvania Station.

"People who come into Newark never set foot on Newark soil," said Mary Smith, the treasurer of New Community, a nonprofit group that built the new shopping center. "We need more things in the neighborhoods to benefit the neighborhoods."

PURPOSEFUL ACTIONS

And the livability award? In San Diego yesterday, Kay Scrimger of the Conference of Mayors said that Newark was chosen from among 117 cities "not for intrinsic livability but for purposeful actions in developing programs that promote livability." In other words, she said, the award goes to a mayor who has done something to make his city livable, not necessarily to one whose city already is.

Newark clearly hopes it will get publicity from its recent awards—and it probably won't get too much of the kind it does not need. Steve O'Donnell, the head writer on "Late Night With David Letterman," said that in nearly 10 years he could not remember putting a Newark joke on the air.

"We'll make a Cleveland Indians joke sometimes," said Mr. O'Connell, who grew up in Cleveland, "but not Newark, maybe since we're playing to a nationwide audience. Newark may be more of a tristate-area joke than a nationwide joke."•

PLASTICS FROM POTATO WASTE

• Mr. SIMON. Mr. President, what do farmers in Idaho and the Argonne National Laboratory in Illinois have in common?

The Argonne National Laboratory has much in common with every State in the Union because of its preeminent role in the world of research.

But one of the things they are developing is degradable plastics from potato waste.

An article that originally appeared in the magazine. Logos, a quarterly research publication by the Argonne National Laboratory, outlines what is happening in the world of research.

I saw the article reprinted in the publication the World & I.

I ask to insert the article in the RECORD at this point.

The article follows:

PLASTICS FROM POTATO WASTE

(By Robert Coleman)

The disparate worlds of potatoes and plastics may hold a solution to each other's problems.

Waste from potato processing adds up to more than 10 billion pounds annually in the United States alone. The total is growing, overloading present methods of disposal.

The nondegradable plastic waste fouling the environment—a more visible problem—is stimulating a rising demand for degradable plastics. Furthermore, the heightened awareness that plastics are made from a nonrenewable resource, petroleum, provides impetus for finding a way to make plastics from renewable sources.

While research into biodegradable plastics is proceeding on many fronts, one of the most promising approaches may be the one now being mastered at Argonne National Laboratory, in Argonne, Illinois. In concept, the idea is simple: convert potato starch into a biodegradable plastic that can be made photodegradable, with the rate of degradation being determined during the production process.

A potentially valuable resource, food processing waste has become an economic burden and a serious environmental problem. Although some potato waste is sold as cattle feed or converted to ethanol as an alternative to gasoline, billions of pounds of it are spread on land dedicated to that use alone. Each year, cheese producers generate several billion pounds of cheese whey wastes, a potentially valuable source of energy-rich molecules. Other food processing industries generate large quantities of energy-rich wastes as well.

Since June 1988, researchers at Argonne have been developing a process for turning starchy food waste into plastics that are fully biodegradable and can readily be made photodegradable. Nearing mastery of the complete process, Argonne's researchers are developing technology that (1) converts food processing waste into lactic acid, and (2) uses polylactic acid (chains of lactic acid molecules) to make environmentally safe, degradable plastics. The research and development required to produce degradeable plastics from high-carbohydrate food waste is multidisciplinary, drawing on expertise in enzymology, molecular biology, microbiology, fermentation, product recovery, process design, and polymer chemistry.

Biodegradable polylactic acid plastics have been in use for some years. However, they are expensive and are used only to make high-value items such as surgical sutures, prosthetic devices, and surgically implanted drug delivery systems for hormones and insulin. In these applications, high-purity polylactic acid plastic is the material of choice because it degrades so completely into natural molecules that are readily absorbed into the body.

STARCH TO GLUCOSE TO LACTIC ACID

The new proprietary technology developed at Argonne rapidly converts the starch in potato waste into glucose. The process involves one less step than previously required. This time savings makes the Argonne method less expensive and adds to its feasibility.

The lab receives fresh potato waste samples from Universal Frozen Foods in Twin Falls, Idaho. The samples are labeled and stored frozen. The solid potato waste contains 14–16 percent fermentable starch. The waste samples, representative of processing waste generated by large french fry facilities in Oregon and Idaho, are then homogenized in a blender.

A two-enzyme process breaks down the starch into glucose. First, a highly temperature-stable alpha amylase (a starch-splitting enzyme) decomposes the long starch molecule into smaller pieces. It is broken down further by another enzyme, glucoamylase, which attacks small fragments of starch and produces glucose in a process called saccharification. More than 90 percent of the starch is converted into glucose in this bench-scale process, which requires only 4–8 hours. The previous standard process requires almost 100 hours.

Next, the glucose is fermented to lactic acid. A strain of lactic acid bacteria is added to the glucose in a bioreactor processing vat. More than 95 percent of the glucose is fermented to lactic acid during batch fermentation for 48 hours.

An important aspect of the current research involves screening lactic acid bacteria to enhance performance. Research at Argonne has identified and developed strains of lactic acid bacteria that might improve the process efficiency.

LACTIC ACID INTO PLASTIC

The lactic acid is recovered and purified to make plastic. After fermentation, the bacteria are separated from the lactic acid, which is recovered by an electrically charged separation process. Lactic acid can be further purified through carbon filters. Processes for additional purification are being investigated.

Lactic acid powder is used to develop plastic with photodegradable and biodegradable characteristics. The plastic's decay rate is manipulated during its preparation, either by varying the isomers (compounds with the same numbers of atoms but with different atomic structures) of lactic acid, or by adding other compounds. A 50-50 mixture of the two lactic acid isomers provides the quickest breakdown, while plastics made entirely of one of the isomers break down the slowest.

Argonne has developed the first photodegradable polylactate plastic film, to our knowledge. It contains about 95 percent lactic acid and 5 percent of an environmentally safe product, and it deteriorates from exposure to ultraviolet light from sunlight.

POTENTIAL MARKETS

Potential markets for the plastics are as mulch films and compost bags, products that required many million pounds of plastic in 1990 to meet U.S. demand alone. Agricultural mulch film is a plastic sheet that keeps water in the soil and controls weeds. At present, farmers have to spend up to $100 an acre to recover the nondegradable film.

Another promising alternative is as the carrier medium for time-released pesticides and fertilizers. Argonne is investigating programmable fertilizer and pesticide delivery systems for sustained release, using plastic that degrades during the course of a growing season.

Approximately one billion pounds of pesticides are used every year in the United States; unfortunately, a high proportion is wasted, and the runoff often contaminates aquifers. A time-released pesticide dissolving from a degradable plastic matrix, much like a time-released cold capsule, could improve the efficiency of pesticide use—achieving less waste at lower cost—while minimizing groundwater pollution. A collaborative study between Argonne and the Tennessee Valley Authority National Fertilizer and Environment Research Center, begun in fall 1989, is examining the efficiency of polylactates for sustained release of urea-based fertilizers.

Other potential markets for degradable polylactic acid plastic and coatings include the following:

Marine plastic applications including lobster pots, netting, and packaging for items consumed on board ships.

Degradable liners for paper cups.

Protective coatings for root systems of young seedlings used for reforestation.

Future research involves optimizing and scaling up the continuous process for converting glucose into lactic acid. Specific bacterial strains are being developed for more efficient fermentation. To study the feasibility of the process, a demonstration plant will have to be built next to a potato processing facility to convert the waste on a commercial scale.

A recently developed, novel procedure for synthesizing polylactic acid plastic promises to reduce the cost of plastic production. Follow-up research is needed to establish the actual cost of plastic production and develop the procedures to provide the desired degradation rate. On this solid foundation, the intended applications of polylactic acid plastic will be developed more fully, in alliance with potential major users of the plastic.

Converting food waste high in starch or simple sugar into plastic products has great potential. Argonne is investigating potato and cheese whey wastes because they are quite high in carbohydrates and are available in large volumes. Corn, sorghum, and wheat are other conversion candidates.●

THE EISENHOWER LEGACY

● Mr. CRAIG. Mr. President, I am happy to rise today to commend the work of Mr. Ralph Becker. This prolific American has distinguished himself on a number of fronts. He was one of the driving forces behind the development of the Kennedy Center. He was instrumental in making sure history recorded the role played by President Eisenhower in the culture and arts of this country. And, certainly not least, he has given us a delightful and comprehensive record of the evolution of the Kennedy Center in his book, "Miracle on the Potomac."

Many Americans admired Eisenhower for his prowess as a commander and for his steadfast guidance of this country as its President. Comparatively few know of his commitment to propagating the arts in the District of Columbia and across the country.

The story of the Eisenhower administration and its involvement in the National Cultural Center—the Kennedy Center—is an exciting and historic one. I would like to ask, Mr. President, that Mr. Becker's remarks from his address, "The Cultural Legacy of Eisenhower," which he gave in October of last year at "The Eisenhower Centennial Celebration, a Retrospective View," be printed in the RECORD.

To my colleagues who might wish to know of Eisenhower's unique contributions to the cultural history of America, I recommend both Mr. Becker's remarks and his book.

The remarks follow:

THE EISENHOWER LEGACY

(Remarks of Ralph E. Becker)

Friends of Eisenhower, I am very proud to join my esteemed colleagues gathered here: Richard Coe, critic emeritus of the Washington Post, was a strong advocate for a national cultural center despite major opposition from his colleagues and the editor of his newspaper, a long-time friend, he is the perfect individual to moderate this panel of experts. No one is more qualified than author Dr. Elise Kirk to discuss Eisenhower's musical and entertainment programs at the White House:

Unfortunately, Abbott Washburn has to be in Washington as Chairman of the celebration at the Eisenhower Theater of the Kennedy Center. However, he sent as a substitute his distinguished cousin, Dr. Malcolm McLean of Minnesota. Dr. McLean is past president of Northland College of Minnesota, a political and cultural officer of USIA who served in Brazil, Vietnam and the Dominican Republic. He was Director of Arts of St. Paul, Minnesota and will speak about USIA, Voice of America and the People-to-People Program. Raymond Freeman, deputy director of the National Park Service for many years, is intimately acquainted with Mission 66 and the renaissance of the National Park Service, including restoration of Ford's Theatre and Independence Hall. The International Cultural Exchange Program initiated by Ike—notably the US/USSR cultural exchange agreement he negotiated with Nikita Khrushchev—will be covered adeptly by Guy E. Coriden, Jr., for many years a member of the United States Department of State.

No accurate portrait of President Eisenhower, whose eight years in office brought peace and prosperity, would be complete without his cultural achievements being fully recognized. His devotion to the betterment of the cultural fabric of our lives has been hidden, whatever the reason, under a bushel basket for thirty years. It is now time to illuminate this dimension of our 34th President.

William Bragg Ewald, his biographer and an official of his administrations, is also a panelist of this symposium. Paraphrasing Carl Sandburg, Ewald described him best when he said: "Ike was steel and velvet . . . as hard as rock and soft as drifting fog, one who held in his heart and mind the paradox of terrible storm and peace unspeakable and perfect." It is undoubtedly from these overlooked qualities—the "'velvet" and the "heart" in him—that Eisenhower's commitment to the arts derived.

It was in 1800 that President John Adams issued a mandate for the new capital city of Washington, D.C. He mandated that it should become "the capital of a great nation, advancing with unexampled rapidity in arts, in commerce, in wealth and population—a seat of government and of culture."

Turning the dream of an early President into reality took the initiative of a modern one and nearly 200 years. It was Eisenhower who answered the call. His commitment became public record in 1955 in his second State of the Union message, when he said ". . . the Federal government should do more to give official recognition to the importance of the arts and other cultural activities. I shall recommend the establishment of a Federal Advisory Council on the Arts . . . to advise the Federal government on ways to encourage artistic endeavor and appreciation." He made good on his promise and on July 1, 1955 in Newport, Rhode Island, he signed Public Law 128 creating the D.C. Auditorium Commission. The act established a 12-member bipartisan commission to formulate "plans for the design, location, financing and construction in the District of Columbia for a civic auditorium . . . and a music, fine arts and mass communication center." The commission endured continued onslaughts and opposition over the site chosen in Foggy Bottom for almost two years but on August 8, 1957 the House Appropriations Committee refused the request for a $25,000 operation budget and its effort died for lack of funding by Congress.

Perseverance, however, paid off and like a phoenix rising from its own ashes, the cultural center regenerated itself in the form of bills introduced in the House and Senate by Congressman Frank Thompson and Senator William Fulbright in January of 1958. These bills were successors to pioneer bills introduced in the House in 1953, Eisenhower's inaugural year, by Congressman Carroll Kearns, Republican of Pennsylvania and Congressman Charles D. Howell, Democrat of New Jersey.

Unprecedented and historic, the story behind the funding and construction of the Center is exciting. The origins of the Center during the Eisenhower years were not smooth sailing. We were beset with problems from the outset. We had to deal with a constant lack of funds, opposition from Capitol Hill and vitriolic criticisms from native Washingtonians.

The site originally chosen for the National Cultural Center was the spot on the Mall now occupied by the National Air & Space Museum. Selection of this site inspired a controversy that lasted seven long years and was resolved only by intervention of the Eisenhower White House. As a result of actions taken by Sherman Adams, Ike's Chief of Staff, and Secretary of Interior Fred Seaton, the Center was able to obtain from the Corps of Engineers the magnificent site in Foggy Bottom where it stands today. This led directly to passage of the National Cultural Center Act—Public Law 85-874–which Ike signed on September 2, 1958. It also cleared the way for construction of both the Air & Space Museum and the Theodore Roosevelt Bridge, which provided a much-needed Potomac River crossing.

During the heat of battle, debates and hearings were held and Congressman Bob Jones of Scottsboro, Alabama, Chairman of the Public Buildings Committee and a great quarterback for the Center, requested a letter from President Eisenhower supporting the Center. I phoned Chief of Staff Sherman Adams who immediately had Bryce Harlow write the letter for the President's signature. At the time we had troops in Lebanon and Eisenhower taking the time to dispatch such a letter sent a powerful message to Congress concerning its importance. The letter was sent to Chairman Buckley in August and truly became the turning point in the entire struggle to locate the Center in Foggy Bottom, in the closing days of the Session. I quote from it now:

"Dear Mr. Chairman: I am writing you with reference to legislation pending before your committee which would authorize the national cultural center here in Washington on a site mandated by the Federal government with funds raised by voluntary contributions. There has long been a need for more adequate facilities in the Capital for the presentation of the performing arts. An auditorium and other facilities such as are provided for in pending legislation, established and supported by contributions from the public, would be a center of which the entire Nation could be proud. I hope that the Congress will complete action on this legislation during this session."

The stalemate was a long and arduous one but those in favor of the site persevered and at long last on September 2, 1958 Ike signed the legislation authorizing a national cultural center—Public Law 85-874—the National Cultural Center Act. His message at the time was clear, succinct, and prophetic:

"The cultural center belongs to the entire country. The challenge of its development offers to each of us a noble opportunity to add to the aesthetic and spiritual fabric of America."

As President, he championed the concept of a national cultural center, strongly endorsing the legislation creating it.

These three milestones are yet another dimension of his cultural commitment for the City and the Nation, which recast Washington's bleak cultural history. Just one of these projects alone constitutes a monumental feat, the three together point out the awesome scope of his legacy. An added major benefit was that his foresight paved the way for Federal participation in the arts—the establishment of the National Endowment for the Arts and Humanities—which occurred during the Johnson administration. Look at Federal and state participation in the arts today, running into billions of dollars.

In 1959 I was appointed by President Eisenhower as a founding trustee and general counsel of the National Cultural Center. My recent book, "Miracle on the Potomac: The Kennedy Center from the Beginning," chronicles the monumental task of creating a cultural center worthy of the Nation. I wrote it as a tribute to President Eisenhower. Although the Center is named for President John F. Kennedy, to be reminded of Eisenhower's seminal contribution in no way diminishes the appropriateness of the Center as a living memorial to President Kennedy. His love for the arts and the importance he gave them in the achievement of national goals are as much a part of the Center as its architecture. But to neglect the role that Eisenhower played in the Center's chancy beginnings not only omits a significant item of cultural history but also serves to perpetuate an image of the man that does disservice to his memory.

During his lifetime and since his death, most historians have focused with good reason on Eisenhower's accomplishments as soldier and statesman. But there was more to Ike, even the public Ike, than his effectiveness as a leader in difficult times. For him, the arts were part of a much larger quest for better understanding among the peoples of the world. He encouraged Americans of all races, creeds and occupations to visit and communicate with their counterparts in many different lands. His interest in cultural performances at the White House included many first, particularly Broadway musicals as well as opera, ballet and symphony presentations.

Eisenhower, the professional military man, had observed firsthand the impact of propaganda during World War II, and from this experience he had learned something about psychological warfare. What Ike saw of men and women in wartime only served to reinforce his basic faith in the good will and good sense of ordinary people. "People want peace so badly," he once observed, "that someday governments are going to have to get out of the way and let them have it."

From this sentiment derived the international cultural exchange and People-to-People programs. He did not stop there, he was the first President to initiate restoration of Ford's Theatre as a historic site and a viable theatrical venue.

However, I believe the National Cultural Center, renamed the John F. Kennedy Center for the Performing Arts in 1964, must be numbered among Eisenhower's finest achievements. It is for the reasons I have mentioned that I wanted to write Miracle on the Potomac—to bring the genesis of this great institution to the public. It is the story behind the struggle to bring the Center to life, the story behind the struggle to bring Eisenhower's dream to life.

Despite the dire predictions of its early critics, today the Center flourishes. Former Librarian of Congress Daniel Boorstin put it succinctly when he said, "It is the greatest institution built in the last century."

The Center's programming and activities are unparalleled in the world. It is not just a showcase for the rich, it is a gift to the entire nation, as its founders envisioned it. Reduced ticket prices, senior citizen and handicapped programs, education, recreation, every possible facet of the performing arts-all are served by the existence of the Center. Its umbrella is wide and its diversity unique, so much can be found within the workings of the Center that the whole country benefits and should know it. This is President Dwight D. Eisenhower's legacy to the United States.

Even after he left office, the National Cultural Center was still a priority with him. He espoused the early philosophy of President Adams and added his own to it in an essay called "The Creative Purpose" for the book "Creative America," published in 1962 for the benefit of funding the Center. It is worthy quoting here:

"The founding fathers' dream of a new society in a new world included beauty widely enjoyed as well as wealth widely shared. They dreamed of a nation adept at the arts of humanism as well as the works of industry. They strove for cultural growth as well as for economic increase. Artists fully aware of and dedicated to their responsibility strengthen our national spirit. Their new place in American life should, I think, inspire new and finer accomplishments—in all the arts. It is my hope that they, in turn, will inspire us with new pride in the concepts of mind and heart that have made our country great."

During "An American Pageant on the Arts", a national fundraiser telecast on November 29, 1962, he reaffirmed his dedication via satellite from Augusta, Georgia to "an American center of culture in Washington to which all artists of the United States could repair . . . and where people would come to see what America was capable of . . . in the arts and all that is spiritually aesthetic to the senses of man."

President Kennedy wanted his predecessor's approval of each stage in the creation of the Center and in September of 1962, officials of the Center journeyed to the Eisenhower Farm right here in Gettysburg to unveil the new model for the Center. He and Mamie wholeheartedly approved it. The National Cultural Center, which he had championed for so long, was actually young to be a reality. It was a proud and jubilant day for the former President.

As he said in his 1960 treatise "Goals for Americans", "In the eyes of posterity the success of the United States will be judged by the creative activities of its citizens in the arts, architecture, literature, music and the sciences." His contributions to our cultural history, all too often overlooked, were significant and lasting.

It was an honor and a privilege to watch the dream become a reality, an honor and privilege to know such a great man with such far-reaching goals and such staunch commitment to culture and to a Nation.●

AMERICAN HERO: KEITH CROFFOOT

● Mr. SIMON. Mr. President, the other day, I had the chance to meet Keith Croffoot and his mother.

Keith is 10 years old and has AIDS. He is a hemophiliac.

I could go into some detail of his story, but Keith tells his story best.

This is a statement he made here in Washington about 2 weeks ago.

I urge my colleagues and staff people who have fears to read this story, and I ask to insert it in the RECORD at this point.

The article follows:

I HAVE AIDS

(By Keith A. Croffoot)

Hi! My name is Keith. I will be 10 years old in June. I have AIDS. I was born with Hemophilia. Hemophilia is a bleeding disorder where the blood doesn't clot properly. When ever I have a bleed, I have to get blood transfusions to stop the bleeding. When I was 10 months old, I got a lot of blood transfusions to help my tongue stop bleeding. That is also when I was exposed to the virus that causes AIDS.

I have been asked to come here today to tell you what it is like to have AIDS. I think that by me sharing my story it will help you better understand not only how I feel but how a lot of other people feel when they are sick and not everyone knows about their illness.

I was only 5 years old when the doctors told my Mom that I had full blown AIDS. They didn't tell me right away because I was too young to understand what that meant. Ever since I was a baby, I was always sick with one thing or another, so I really didn't feel any different.

I went through kindergarten along with all of my other friends. I felt and acted just like them. I just didn't think that I was different than my other friends. The only difference was I had to go into the hospital every now and then because I got sick. That didn't even bother me because I was used to the hospitals because of my Hemophilia problems. The feeling like being like everyone else started to change a few weeks before I finished kindergarten. That was when more than just my Mom and the doctors knew I had AIDS. When the school found out that I had AIDS, my whole life changed.

I remember the day that my Mom took me to school and the principal wanted to talk to her. That was when he told her that he knew I had AIDS. She took me right back out of school. The principal told her she had to. She just told me that I was going to get a few extra days off. Before I went back to school she told me the truth. She told me that I had AIDS. To me, it only gave the reasons as to why I was sick, a name. She told me that people didn't know much about AIDS and that they would say and do mean things to me. I didn't understand why because I was the same person before they knew I had AIDS as I was after they found out.

Right after I went back to school, the kids quit playing with me and were saying mean things like; "OOH, he is the kid with AIDS!" There were a lot worse things also. My feelings were hurt. I felt like I did something wrong. Everyone seemed to be mad at me just because I was sick. I felt like no one even cared about me except for my Mom. This was only the beginning.

My Mom and I moved long before the school found out about me having AIDS. The new school said that I couldn't go to their school. My Mom said that it was because they didn't know enough about AIDS and that they were afraid. So were the other parents. My Mom also said that it wasn't right for the school to keep me out so she fought them in court so I could go. I wanted to go to school. I wanted to be with other kids. While she was fighting in court, a lot of other bad things happened to me. I got kicked off of my T-Ball team and kicked out of a bowling alley. My Mom and I also got kicked out of a laundromat. The one thing that hurt us the most is that we were told by our minister that we didn't even belong in church either. Four months later we won in court and I got to go back to school.

Going back to school wasn't easy. I was scared because I didn't know if the kids would like me or be afraid of me. I didn't know if the parents were going to let their kids play with me or even eat lunch with me. I just had to take it one day at a time.

I remember my Mom taking me to the zoo one day. I had asked her for a penny for the wishing well. I made my wish and tossed the penny in. I then asked my Mom for all of the pennies she had. I tossed all of the pennies in one at a time and made the same wish. My Mom asked me what I was wishing for so many times. I told her "Mom, I only have one wish in the whole world. I wished that I didn't have AIDS." I told her it wasn't because it hurt too much being sick, but that it hurt too much for all of the people treating my Mom and me so bad all of the time.

Since I have gone back to school, things have changed a lot. My Mom and I decided that it was best that we teach people about AIDS instead of just letting them be afraid. We started talking to the news reporters and the T.V. stations. I wanted people to see for themselves that I was just like any other kid and that I was okay. I wanted people to know that they didn't have to be afraid of me. I wanted people to care not fear.

Not everyone can stand up in front of people and say they have AIDS. I wish I didn't have to, but it is the only way to get people to take notice about a disease as serious as AIDS and the people who have it. People with AIDS are just like anyone else except that they are sick. It really doesn't matter how you got AIDS, it is just that we need for you to care. People with AIDS need to be liked, loved and accepted just like everyone else. I want people to learn this more than anything. You can't get AIDS just from being around someone who has AIDS. You can't get AIDS just from being my friend or just from being a friend of someone who has AIDS.

I have a lot of friends now. They are not afraid. They like me just because I am me. If they have any questions, I will answer them. If they want to learn, I will teach them. I am lucky that I don't get sick that much. When I do get sick, it isn't too bad. I know that my mom worries and so does my family and friends. They don't worry because they are afraid; they worry because they care.•

TENTH ANNIVERSARY OF THE OREGON CONSORTIUM

• Mr. HATFIELD. Mr. President, I rise today in recognition of the Oregon Consortium's 10th year in employment and training in rural Oregon. Having personally witnessed the touching testimony of many of the alumni of their job training programs, I can attest to the benefits they have delivered to Oregonians throughout the State.

The Oregon Consortium is a federally funded, Service Delivery Area for the Job Training Partnership Act Program. Their 27 offices provide a full range of employment and training services to dis-located workers, welfare recipients, disadvantaged youth and adults, displaced homemakers, older workers, school dropouts, and many others who face serious barriers to employment. They have very strong links to economic development and education efforts in Oregon's communities, working closely with local employers to create a qualified, motivated work force. Their broad network of partnerships includes more than 200 staff, 200 active private and public sector volunteers, and thousands of employers and clients.

The Oregon Consortium Board of Directors and the Oregon Private Industry Council are an extraordinarily committed group of local elected officials and business people representing rural Oregon, all volunteering their time to ensure that rural Oregon builds a first rate work force, enriching the lives of thousands of families in our communities.

In recognition of the board members, council members, volunteers, staff, friends, and partners, I would like to salute the achievements and successes of those who have served the Oregon Consortium since 1981. Mr. President, I would also request that a copy of Gov. Barbara Roberts' proclamation of the Oregon Consortium's 10th year anniversary be printed in the RECORD following my remarks.

The proclamation follows:

PROCLAMATION

Whereas: The Oregon Consortium and The Oregon Private Industry Council, Inc. have administered quality employment and training programs since their inception in 1981; and

Whereas: The programs have touched the lives of at-risk-youth, school dropouts, welfare recipients, unskilled adults, displaced homemakers, dislocated workers and others throughout Oregon's 27 rural counties; and

Whereas: Partners in many other organizations (federal, state and local governments, business, labor, education, community-based organizations and service providers) have played a role in this successful program; and

Whereas: The employment and training system has made valuable contributions to the vitality of Oregon communities, and will continue to be critical to Oregon's workforce development; and

Whereas: The Governor is proud to recognize officially the achievements of The Oregon Consortium, The Oregon Private Industry Council, Inc., their volunteer members, partners and staff for dedicating their time and expertise to assure a trained workforce for Oregon.

Now, therefore, I, Barbara Roberts, Governor of the State of Oregon, hereby proclaim June 23 through June 28th as "The Oregon Consortium's 10th Year Anniversary" and encourage all citizens to join in this observance.•

COMMENDING CREW OF STS-40 SHUTTLE MISSION

• Mr. SHELBY. Mr. President, as the space shuttle *Columbia* landed only last Friday at Edwards Air Force Base, CA, I would like to take this opportunity to applaud the seven-member crew of the STS-40 shuttle mission for a sensational job. This 41st shuttle mission has been declared as the best spacelab mission ever in terms of its success. Its mission—life sciences—provides us with valuable insights into how the human body adapts to microgravity and readapts to the Earth's gravity during reentry. This information is essential for future NASA programs and for the myriad of benefactors here on Earth. The synergism of technology provided by space research pervades almost every facet of society. These quantum leaps of knowledge have changed forever the fields of medicine, education, industry and natural science.

We must continue to push to the edge of the envelope with future shuttle missions and the natural follow-on, the space station. Space Station freedom represents the zenith of America's investment in high technology—an investment that must not be abandoned by this Congress.

Mr. President, I ask that my colleagues in the Senate join me in making a firm and early commitment to the space station. The recent funding battle in the House of Representatives has shaken the very foundation of the space station and the National Aeronautics and Space Administration as a whole. The very same Congress that mandated a reconfiguration of space station freedom in order to bring its budget into line now threatens to cancel the program altogether. The people of NASA, along with our international partners, have designed a smaller, more affordable design for space station Freedom. They have done what we have asked, and we must now fulfill our commitment to the space station and the future generations that will benefit from its legacy.

As Americans, we must ask ourselves what our role is to be in the future. Will we lead or will we follow? It is not enough for the United States to adapt to changing technologies; we must blaze the trail for others. Space station Freedom will afford us the opportunity to revitalize the American spirit and to recapture preeminence as the explorer of new frontiers. Leadership cannot be declared—it must be earned.

Once routine, reliable and affordable access to space is established through space station Freedom, the United States will inherit an incalculable return on its investment. New technologies will open new markets. An investment in space exploration and space station Freedom will maintain and improve America's share of the global market and enhance our competitiveness and balance of trade. We cannot deny ourselves or future generations of Americans the legacy of space exploration. I invite my colleagues in the Senate to join me in an unwavering commitment to space station Freedom.●

SPEECH BY PRIME MINISTER NAWAZ SHARIF OF PAKISTAN

● Mr. SIMON. Mr. President, in a recent speech Prime Minister Nawaz Sharif of Pakistan to the National Defense College called for a meeting to ban nuclear weapons in South Asia.

He suggests that the United States, the Soviet Union, and China be participants, along with India and Pakistan in such a meeting.

I believe that is worth exploring.

The development of nuclear weapons by India and Pakistan is, ultimately, not in the best interest of either India or Pakistan. My guess is that the difficulty in getting two of the nations to agree not to proceed with nuclear weapons, is that India will argue that China has nuclear weapons, and India cannot ignore the Chinese situation.

I am doubtful that China would agree to get rid of nuclear weapons, but it is worth exploring. A discussion of some system of restraint that all the nations of that area could follow would be helpful.

I believe that the United States should follow through on the suggestion of Prime Minister Sharif.

Slightly encouraging in his remarks were these words:

> Pakistan cannot be oblivious of the requirements of its security. Nevertheless, we will continue our efforts for establishing good neighborly relations with India. A beginning was made at Male during the SAARC Summit last November. My recent visit to New Delhi to attend the funeral of Mr. Rajiv Gandhi enabled me to establish personal contacts with leaders of India's main political parties. I was encouraged by the positive reponse to our desire to improve bilateral relations. We hope that once the new government has assumed power in New Delhi after the elections, it will be possible for us to move forward towards the establishment of tension free relations and the settlement of the Kashmir dispute in accordance with the relevant UN resolutions. This would be in the spirit of Male and that of the Simla Agreement, and would enable the two countries to devote their scarce resources to the improvement in the quality of life of their peoples.

Relations between Pakistan and India can improve.

Elimination of nuclear weapons from both countries would help.

If Pakistan can develop a more reliable democracy, frankly, that will help also.

In the statement there is the suggestion that Pakistan's nuclear efforts are all for peaceful purposes. All nations say that, as they develop more and more weapons. Unfortunately, India has developed nuclear weapons. Pakistan, somewhat understandably, has developed nuclear weapons in response to India.

But the growing proliferation of nuclear weapons in that region is, ultimately, in no one's best interest.

I hope we will follow through on the suggestion made by Prime Minister Nawaz Sharif, and I ask to insert his statement into the RECORD at this point.

The statement follows:

ADDRESS TO THE NATIONAL DEFENCE COLLEGE BY NAWAZ SHARIF, PRIME MINISTER, ISLAMIC REPUBLIC OF PAKISTAN

Mr. Commandant, members of the directing staff, participants of the National Defence Course, distinguished guests: It gives me great pleasure to be present here today at the presentation of the National Strategy Paper by the participants of the National Defence Course.

I am impressed by the high quality of the presentation, which reflects the hard work put in by the participants and the excellent guidance provided by the Directing Staff of the National Defence College. I would like to congratulate them and, particularly, the Commandant on the lucid and comprehensive manner in which major national issues relating to politics, economy, foreign policy and defence have been covered. I am sure that the training and experience acquired by the participants of the Course at the National Defence College will stand them in good stead in their future careers.

I am glad to see that the participants of the Course also include senior officers from several friendly countries. I hope their stay in Pakistan has been confortable and rewarding. As they return to their homes, I would like them to take back assurances of our sincere desire for strengthening friendly relations with these countries.

A deep understanding of national and international affairs, which have a bearing on our security, is an imperative for all senior officers. The courses run by the National Defence College enable their participants to acquire this understanding and contribute to their professional excellence. The College, as the premier military training institution in Pakistan, is, thus, playing an extremely valuable role in preparing the officers for the assumption of senior command and staff positions in the three Services.

In discussing national security, it is important to recognize that internal strength is of primary significance. My government, therefore, attaches the highest priority to a strong defence in order to deter any threat to our national security. The strength of our own armed forces provides us the strongest guarantee for the maintenance of a peaceful environment for the country. My government would, therefore, continue to do all that is possible to ensure that our armed forces are well-equipped and prepared to safeguard Pakistan's security and territorial integrity.

History teaches us that the vital importance of the armed forces notwithstanding, successful defence of any country is dependent on the over-all strength of that country. Factors such as the moral and spiritual foundations of the society, political stability, social cohesion and harmony, economic strength and technological advancement provide the underpinning and constitute the back-bone of its defence capability. Our survival and progress as a nation will, therefore, depend, in the ultimate analysis, upon our success in acquiring internal strength. Only then would we be able to ward off external threats to our security.

Our foremost objective is to establish a progressive, dynamic and just socio-economic order in the country. Only by doing so, would we be able to accelerate economic development, hasten the pace of technological advancement and raise the standard of living of the people. Only thus would the nation acquire strength and enter the 21st century with confidence and dignity.

This is not an easy task. We face numerous problems and difficulties, both internally and externally. But I am confident that by maintaining unity, faith and discipline in our ranks, and by fully harnessing our resources, we can realize our goals.

We have already taken a number of steps with this aim in view. We are encouraging the private sector to engage in productive activity. We have liberalized the economy and done away with rules and regulations, which had stifled private initiative in the past. We have introduced reforms for the elimination of foreign exchange restrictions and for creating a liberal environment for foreign private investment in the country. We are also disinvesting State Corporations, which were a heavy burden on the national exchequer.

We have resolved the vexed issues of apportionment of river waters and the distribution of financial resources between the federal and provincial governments. We have steered through the Parliament a progressive, democratic and welfare-oriented Shariah bill.

We are taking strong measures to curb crime and lawlessness, eradicate the Klasnnikov culture and put an end to drug trafficking, which are eating into the vitals of our society. These steps would strengthen social harmony and stability. They would also promote economic activity by encouraging domestic and foreign investment in the country.

These reforms and measures will impart vitality and dynamism to the economy and polity enabling us to achieve self-sustained growth and self-reliance. Self-reliance certainly does not mean isolation. No nation can afford to isolate itself from the rest of the international community in the increasingly inter-dependent world of today. A policy of self-reliance means primarily to depend on our own resources for improving the lot of our people. But it does not exclude mutually beneficial economic cooperation with friendly countries without compromising our national sovereignty or self-respect.

The pursuit of rapid economic development and social progress pre-supposes an environment of peace and security. Thus, my government is guided by the twin objectives of progress at home and peace abroad. Pakistan will, therefore, continue to follow the policy of developing friendly relations with all countries on the basis of the principles of sovereign equality, non-interference in internal affairs and peaceful settlement of disputes.

We are gratified to note that the UN has assumed a more effective role in the settlement of regional disputes and conflicts. It would be our endeavour to strengthen this trend which, we believe, is in the best interest of international peace and progress. We also hope that the five Permanent Members of the Security Council would play their due role in ensuring respect for the purposes and principles of the UN Charter.

We have taken an initiative for expediting the political settlement of the Afghanistan issue. We have entered into consultations with the UN Secretary General and the countries concerned. We have welcomed the 5-point initiative for the settlement of the Afghanistan issue, announced by the UN Secretary General last month. The key to such a settlement remains in the transfer of power from the Najibullah regime to a broad-based government in Kabul established in accordance with the wishes of the people of Afghanistan. Only such a broad-based government can restore peace in the country and enable the Afghan refugees to return voluntarily to their homeland. The settlement of the Afghanistan issue would remove a major obstacle in the improvement of our relations with the Soviet Union, in which we are deeply interested.

The Islamic World, with which Pakistan has special links, has suffered grievously because of the Iraqi occupation of Kuwait which led to the Gulf War. We took a principled position on the issue in accordance with the relevant Security Council resolutions. We were gravely concerned because Iraq's action violated recognized norms of inter-state conduct. It also posed a serious threat to the security of Saudi Arabia, a fraternal country, which has always stood by Pakistan's side.

We made efforts to find a peaceful and honourable solution of the problem. For this purpose, I undertook visits to 12 Islamic countries and sent Special Envoys to 13 others. Unfortunately, my efforts and those of the international community did not succeed. The armed conflict has caused massive material destruction and heavy loss of human life, particularly in Kuwait and Iraq.

Following the liberation of Kuwait and restoration of peace in the area, I visited Kuwait and assured the Amir and his government that Pakistan was ready to continue the tradition of cooperation with Kuwait and other regional states and would support their efforts to strengthen peace and stability in the region. It will be our endeavour to develop further bilateral ties with these countries in political, economic, technical and other fields. Pakistan stands for moderation, stability and cooperation among the Islamic countries of the Gulf region.

Pakistan will continue to strengthen its close and brotherly relations with Iran and Turkey. We take deep satisfaction in the recent decisions of the three countries to revitalize Economic Cooperation Organization and to hold a Summit Conference of these three fraternal states before the end of 1991 to advance this cooperation.

Friendship with China has been a cornerstone of Pakistan's foreign policy and a source of strength to regional peace and stability. We will continue our efforts to develop close and friendly relations and mutually beneficial cooperation with China.

Pakistan values its friendship with Japan, which has emerged as an economic superpower. It is Pakistan's largest trading partner. The two countries also maintain close cooperation in various fields. My government will pay special attention to the strengthening of friendly ties with Japan.

We are impressed by the fast economic growth achieved by several countries of the Asia-Pacific Region. Their experience offers us important lessons. It would be our effort to promote friendly ties and mutually beneficial cooperation with these countries. We shall also intensify our efforts to promote closer cooperation with African nations in political, economic, commercial and technical fields.

Europe is undergoing a process of rapid transformation and integration. Pakistan attaches importance to its relations with the region and wishes to develop them further. It is our hope that the European Single Market, which will come into existence in 1992, will provide easier access to imports from the developing countries.

The developing countries currently face serious problems of low level of developmental assistance, heavy burden of debt servicing, negative resource flows, an unfavourable international trade regime, adverse terms of trade and an unjust international financial and monetary system. We will continue our efforts to promote North-South dialogue with a view to overcoming these problems.

Pakistan, as a developing country, has close identity of views with other Third World countries on important international political and economic issues. We wish to develop further Third World solidarity through the promotion of South-South Cooperation.

India's military build up, development of medium-range missiles and the military potential of its unsafeguarded nuclear programme pose a serious threat to Pakistan's security. The threat is accentuated by India's refusal to resolve the Kashmir dispute peacefully and its attempt to suppress the indigenous uprising in Occupied Kashmir through massive and brutal use of force. India has concentrated over 400,000 military and para-military forces in Occupied Kashmir for this purpose. The heavy deployment of its forces along Pakistan-India border also serves to heighten tension. This cannot, however, prevent us from offering moral and political support to the struggle of the Kashmiri people for the exercise of their right to self-determination, as recognized by the relevant UN Security Council Resolutions.

In the face of this serious situation, Pakistan cannot be oblivious of the requirements of its security. Nevertheless, we will continue our efforts for establishing good neighbourly relations with India. A beginning was made at Male during the SAARC Summit last November. My recent visit to New Delhi to attend the funeral of Mr. Rajiv Gandhi enabled me to establish personal contacts with leaders of India's main political parties. I was encouraged by the positive response to our desire to improve bilateral relations. We hope that once the new government has assumed power in New Delhi after the elections, it will be possible for us to move forward toward the establishment of tension free relations and the settlement of the Kashmir dispute in accordance with the relevant UN resolutions. This would be in the spirit of Male and that of the Simla Agreement, and would enable the two countries to devote their scarce resources to the improvement in the quality of life of their peoples.

The issue of nuclear non-proliferation in South Asia is another complicating factor in Pakistan-India relations. It is, therefore, necessary to place the issue in its proper perspective.

We suffer from a serious energy shortage which not only hampers economic and industrial growth, but causes hardship to our people. In view of our ever growing energy requirements, we have no option but to rely on the generation of nuclear power for meeting the needs of our expanding economy.

Unfortunately, our efforts to develop nuclear energy and technology for peaceful purposes have been subjected to unfair criticism and discriminatory pressures. We have repeatedly asserted that our nuclear programme is devoted to peaceful purposes. In pursuance of our regional approach to nuclear non-proliferation, we have expressed our willingness to accept any equitable and non-discriminatory regime for keeping South Asia free of nuclear weapons.

We have made the following proposals to prevent nuclear proliferation in South Asia:

(a) Establishment of a Nuclear-Weapon-Free Zone in South Asia, a proposal which has been endorsed repeatedly by the UN General Assembly since 1974.

(b) In view of India's opposition to the establishment of a Nuclear-Weapon-Free Zone in South Asia, we proposed in 1978 that, as a first step, Pakistan and India should issue a joint declaration renouncing the acquisition or manufacture of nuclear weapons.

(c) In 1979, Pakistan proposed an agreement with India on a system of bilateral inspection of all nuclear facilities on reciprocal basis.

(d) We also proposed in 1979 simultaneous acceptance of IAEA safeguards by Pakistan and India on all nuclear facilities.

(e) Pakistan expressed its readiness in 1979 to accede to Nuclear Non-Proliferation Treaty (NPT) simultaneously with India.

(f) Later in 1987, Pakistan proposed the conclusion of a bilateral or regional Nuclear Test Ban Treaty.

(g) In 1987, Pakistan also proposed convening of a Conference on nuclear non-proliferation in South Asia under the auspices of the United Nations with the participation of regional and other interested states.

The above proposals have been reiterated by us from time to time. Pakistan's commitment to nuclear non-proliferation, both at global and regional levels, is, thus, clear and unwavering. It is not fair, therefore, to cast doubts on Pakistan's intentions and to subject Pakistan to discriminatory treatment. No self-respecting nation can accept that.

We are gratified to note that the regional approach to disarmament is steadily gaining ground in international circles. Our resolution calling for initiatives for confidence-building measures, nuclear non-proliferation and conventional disarmament at regional and sub-regional levels was adopted by the UN General Assembly in 1990 by an overwhelming majority of 142 votes in favour, none against and 10 abstentions.

Nuclear-weapon-free zones have already been established in Latin America and the South Pacific region with the endorsement of the five nuclear-weapon states. Similar proposals have been advanced concerning other regions. Last year, Argentina and Brazil signed an agreement to use nuclear energy exclusively for peaceful purposes. They also agreed to submit their nuclear programmes to bilateral inspection and, later, to IAEA safeguards to ensure the peaceful character of their programmes.

More recently, President Bush has announced a major initiative for arms control on a regional basis in the Middle East. Among other things, the initiative calls for steps by all the regional states to prevent nuclear proliferation in the Middle East. France has also in its recently announced disarmament proposal, called for regional regimes for the prohibition of weapons of mass destruction.

We firmly believe that nuclear non-proliferation in South Asia is a sine qua non for regional peace and progress. We are willing to enter into a bilateral arrangement with India or a regional regime for ensuring that South Asia remains free of All Weapons of Mass Destruction. We are prepared to adopt measures aimed at mutual and balanced reduction of forces consistent with the principle of equal and undiminished security at the lowest level of armaments. However, we cannot and will not take unilateral steps which endanger our national security.

Pakistan and the United States have a history of friendship going back to the 50's. This friendship is solidly based on our shared beliefs in principles and human values, our common commitment to democratic institutions, the respect we attach to individual liberty and sustained cooperation stretching over several decades. There is a close convergence of views on such issues as Afghanistan and regional peace and stability. Therefore, despite the occasional ups and downs, the friendship between Pakistan and US has continued with the passage of time and manifested itself in the expansion of mutual cooperation in diverse fields.

Against this background, the current difficulties in Pakistan-US relations are particularly regrettable. This relationship, which has served the interests of the two countries so well in the past and has so much potential for the future, should not be allowed to be impaired.

It is an irony that the current difficulties in Pakistan-US relations stem from differences of approach to the objective of nuclear non-proliferation, to which both are deeply committed. The United States has focussed almost exclusively on Pakistan's nuclear programme. The fact is that India exploded a nuclear device in 1974. It as a number of nuclear enrichment and re-processing facilities outside the framework of IAEA safeguards. It is also reported to have unsafeguarded plutonium sufficient for producing over 100 Hiroshima-size nuclear bombs. We cannot, therefore, ignore India's fast growing nuclear programme and jeopardise our national security.

Pakistan is ready to enter into multilateral consultations for promoting the cause of nuclear non-proliferation in South Asia. There are indications that the United States, the Soviet Union and China might be inclined to support a regional approach. I hope that they would be wiling to move together with Pakistan and India to achieve the objective of keeping our region free of nuclear weapons.

I would like to propose specifically that the United States, the Soviet Union and China consult and meet with India and Pakistan to discuss and resolve the issue of nuclear proliferation in South Asia. The aim of the meeting should be to arrive at an agreement for keeping this region free of nuclear weapons on the basis of proposals already made or new ideas that may emerge. The nuclear non-proliferation regime to be negotiated during the proposed multilateral consultations should be equitable and non-discriminatory.

We hope that the proposal would receive an early response from the countries concerned so that arrangements can be finalised and the conference held as quickly as possible.

A regional non-proliferation regime, containing guarantees for non-nuclear-weapon states and agreed to by all the regional countries, is a practical method of resolving the problem in all its dimensions. Such a regime would help usher in a climate of mutual trust and strengthen peace and security in South Asia, enabling the states of the region to concentrate their energies and efforts on accelerating economic development and promoting the well-being of their peoples.

I have decided to send to the United States a high-level delegation led by Mr. Wasin Sajjad, Chairman, Senate and including Mr. Akram Zaki, Secretary General, Foreign Affairs and other senior officials to exchange views on the whole range of Pakistan-US relations. We must acquire a better understanding of each other's point of view on various issues such as Afghanistan, regional peace and security, human rights, narcotics control, disarmament, nuclear non-proliferation and cooperation in various fields.

Given sincerity of purpose and mutual goodwill, I am confident that we will ultimately succeed in resolving our current difficulties on the basis of mutual understanding and accommodations. Our search for a way out of the current impasse will be facilitated if each side tries to understand the compulsions of the other and focuses on ultimate objectives rather than the means of achieving them.

Let me conclude by reiterating our desire to develop friendly relations and mutually beneficial cooperation on the basis of equality with all countries, big and small, to serve the interest of international peace and development. We will particularly strive to create a tension-free and peaceful environment in South Asia to usher in an era of progress and prosperity in the region.•

AMERICA AT THE THRESHOLD

• Mr. GARN. Mr. President, last year, President Bush, Vice President QUAYLE, and NASA Administrator Dick Truly challenged Tom Stafford and the Synthesis Group to develop a road map for the future of our space exploration program. Specifically, Tom and the group he assembled were to evaluate a wide range of technologies and mission options, and recommend two or more methods whereby this Nation could meet the President's two long-range objectives of returning to the Moon to stay and launching a manned expedition to Mars.

General Stafford's report, "America at the Threshold," has now been submitted to the President and warmly endorsed by him. Each Member of this body has been furnished a copy of this important report.

The group which General Stafford assembled is unique in the breadth and depth of its knowledge and experience in all of the scientific disciplines that play a role in the space program. Their report is most impressive and I recommend that each of my colleagues study it carefully.

This is much more than a report on a potential set of missions or requirements for a specific space exploration activity. This report, in my view, provides a fresh look at our Nation's civil space program. It takes the long-range view, looking forward into the next century. In doing so, it shows us, in simple yet dramatic terms, why we need a civil space program, and how all the pieces of it fit together. We can see, in this report, why we need a space station, why we need advanced and heavy-lift launch systems, and why we need a healthy, aggressive technology development program. We can see not only how all of this can bring about the realization of mankind's greatest dream, but how it can also serve as the greatest single catalyst for the improvement of the human condition throughout our plant.

In spite of its futuristic orientation, this report tells us in real, practical terms about ways we can begin today to meet mankind's greatest challenge: the extension of civilization beyond our planet.

What the Synthesis Group report shows us is that it is no longer just a dream; that we have the ability to move outward, into our solar system, if we have the courage, the will, and the commitment to do so.

Mr. President, I urge my colleagues to study this exciting report. I urge them to see the vision that it presents to us and the challenge and opportunity it provides for us to ensure that as mankind inevitably moves into space, it will be guided by American values and principles.•

TRIBUTE TO THE ACADEMY OF THE SACRED HEART

• Mr. BREAUX. Mr. President, I rise to congratulate the students at the Academy of the Sacred Heart in New Orleans. Martha de la Houssaye's honors government class placed in the top five in the National Competition on the Bicentennial of the Constitution and the Bill of Rights, held in Washington, DC, April 26 to 29. Having won the State competition in March, these 27 students earned the privilege of representing Louisiana in the national competition.

This is the fourth consecutive year Sacred Heart has represented Louisiana. In 1988, they finished 11th; in 1989, 4th; and in 1990, 16th.

Team members include: Sarah Bradley, Rebecca Brown, Tara Burst, Keely Carrere, Nicole Charbonnet, Leslie Copeland, Jennifer Couch, Elizabeth Daly, Gina DiMarco, Sheri Ellis, Katherine Endom, Desiree Evans, Jennifer Guste, Gigi Haydel, Ann Heard, Tory Hebert, Kelly Johnson, Christine Lomasney, Wendy Lund, Becky Perroyea, Katie Peyton, Renee Reymond, Lauren Raynolds, Kelly Seymour, Stacy Sins, Allison Thomas, and Melissa Zaegel.

The students' performance attests to their high standard of academic excellence and strong interest in our great system of government. Against various reports of the apathy of U.S. youth and the low quality of our educational system, the Academy of the Sacred Heart provides a stellar example of all there is to be proud about our Nation's young people! It is reassuring to know that these students have such a complete understanding of and keen interest in our political process.•

CONGRATULATIONS, NANCY HOWE—1991 DUCK STAMP ARTIST

• Mr. JEFFORDS. Mr. President, columnist George Miller has called the Federal Duck Stamp Competition "The Duck That Laid the Golden Egg." That fitting title hints at what a beneficial program the Duck Stamp Program has been for all involved. The artists, duck stamp collectors, waterfowl hunters, and the waterfowl whose wetlands are protected by stamp revenue, all benefit directly. Not many Federal programs receive that kind of praise, but the duck stamp deserves it.

Since its inception in 1934, revenues raised from the duck stamp have been dedicated to preserving vanishing wetlands vital to migratory ducks and geese. To date, over 350 million duck stamp dollars have gone to preserve 4 million acres of wetlands for waterfowl and other wildlife that rely on the wetlands habitat.

Nancy Howe, this year's winning artist, is the first woman to win the contest. Her winning design features a pair of king eiders resting on the subarctic tundra common to Alaska and Canada and was selected from among 626 other entries. As a Vermonter and an outdoor enthusiast, Nancy feels a responsibility to speak out about the dangers threatening the wetlands accompanies her role as the winning artist.

Nancy has painted since childhood and plans to become a full-time artist. She has exhibited her work in numerous art shows including a Ducks Unlimited show, and the Art for Parks tour sponsored by the National Park Academy of the Arts. Nancy and her husband, Jim Russell, have two young boys, Tyler and Ryan.•

COMMENDING SGT. RONALD JONES, 3d ARMORED DIVISION

• Mr. McCONNELL. Mr. President, the gallantry and fighting prowess of the 3d Armored Division during Operation Desert Storm has been well documented. Squaring off against Saddam Hussein's elite Republican Guard, members of that division guaranteed Iraq's timely defeat.

While we owe thanks and praise to all our service men and women who answered the call of duty when sounded, I want to take a moment to share with my colleagues the heroic deeds of Sgt. Ronald Jones, A Troop, 4th Battalion, 7th Cavalry Regiment, 3d Armored Division. I note with pride that he is a native of Salem, KY.

On February 26, 1991, while ensuring the 3d Armored Division would not be outflanked by enemy forces, Sergeant Jones' Bradley Fighting Vehicle came under hostile fire. Rendered inoperable by a damaged transmission, Sergeant Jones ordered his crew to evacuate the vehicle. Seconds after pulling his driver to safety, the vehicle was hit by a missile. Shrapnel unfortunately wounded the driver.

Having repositioned themselves inside his platoon leader's vehicle, Sergeant Jones administered first aid to his injured soldier. Soon after, two rounds from a T-72 Iraqi tank hit the Bradley. "There were flash fires inside the vehicle. I had burns on the left side of my face, head and neck," recalled Sergeant Jones.

Despite his wounds—and this is what distinguishes the quality of today's soldier, Mr. President—Sergeant Jones continued to care for his driver and other injured troops. In fact, he refused medical attention until Army medics had examined and stabilized all other injured servicemen.

For his heroic and selfless deeds, Sergeant Jones was recently awarded the Silver Star by Vice President QUAYLE. I know my colleagues will join me in extending a heartfelt thanks to Sergeant Jones and his family. Mr. President, it is this quality of soldier that contributes to the excellence of our Armed Forces.

I ask that a copy of an article in the Paducah Sun appear in the RECORD so that my colleagues may learn more of this true American hero.

The article follows:

[From the Paducah Sun, June 20, 1991]

LIVINGSTON NATIVE EARNS SILVER STAR

Sgt. Ronald Jones is a hero.

And he has something tangible to prove it: a Silver Star awarded to him by Vice President Dan Quayle. The Silver Star, given for gallantry in battle, is one of the highest awards given to soldiers.

Jones, a native of Salem, is a soft-spoken young man whose job in the Army is to lead a squad of Bradley Fighting Vehicles, the Army's heavily-armed armored personnel carriers. A trained scout, his mission in battle is to go forward and look for the enemy.

A seven-year Army veteran, Jones said he was proud to receive the Silver Star from the vice president, who was on a five-nation European tour with his wife, Marilyn, and two of their three children. Quayle came to Erlangen, Germany, home of the U.S. 1st Armored Division's 2nd brigade, to welcome home the Germany-based VII Corps from the war.

More than 1,200 soldiers and family members, representing various U.S. Army Europe units throughout Germany, traveled to Erlangen to see the vice president pin medals on seven of their comrades.

Jones, a member of A Troop, 4th Battalion, 7th Cavalry Regiment of the 3rd Armored Division, is stationed in Hanau with his wife, Beate, and 14-month-old daughter, Romina.

During the war, his division's mission was to attack and entrap several units of the Iraqi Republican Guard. When Jones' armored personnel carrier was hit, he and his crew were making sure no enemy forces were anywhere close to one of the 3rd AD's flanks as the division pushed across the desert.

"Our mission was to pull a flank screen for the 3rd AD as they were advancing on the Republican Guard. We were to keep the enemy from coming around and flanking us on the side," Jones explained.

As he moved along the division's flank, Jones' vehicle was hit in the transmission by machine-gun fire. Realizing that worse things were heading their way, Jones told his crew to evacuate the vehicle.

"I pulled my driver out of the hatch seconds before a missile hit the Bradley's turret," said Jones.

As Jones and his crew were making their way to their platoon leader's Bradley, which was nearby, Jones' driver was hit by shrapnel. As Jones was administering first aid to his driver inside the platoon leader's vehicle, that vehicle was shot twice by a T-72 Soviet-made Iraqi tank.

"There were flash fires inside the vehicle," said Jones. "I had burns on the left side of my face, head and neck."

Despite his own injuries, Jones continued to perform first aid on his driver and others in the vehicle. When the group finally made it to Army medics, Jones continued to help the other soldiers and refused to let the medics work on him until the others were cared for.

"I wanted to make sure my driver, who was injured a second time by shrapnel, was stable before I let them treat me," said Jones. "I had to make sure he was OK."

The incident occurred Feb. 26, the third day of the war. When a cease fire was called on Feb. 27, Jones said he felt good.

"I felt we'd done what we set out to do," he said. "We didn't need to push farther. We already accomplished our mission."●

A TRIBUTE TO DREW JOHNSON

● Mr. BREAUX. Mr. President, I rise to recognize the courage and fortitude of Drew Johnson, a 6-year-old boy from Zachary, LA, who has been selected as the 1991 National Poster Child for the Muscular Dystrophy Association. Drew and his parents, Sam and Teri Johnson, provide a stellar example to families across the Nation who are struggling against a common insidious enemy.

Drew will also be prominently featured on the "Jerry Lewis Telethon" over Labor Day. It is people like Drew and his united family who represent the strengths to which we all aspire and attest to the highest qualities of human kind. Our daily tribulations and problems pale in comparison to the personal challenges Drew faces every day. I know we all can look to Drew in our everyday lives for courage and support.●

ORDERS FOR TOMORROW

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. Friday, June 21; that following the prayer, the Journal of proceedings be deemed approved to date, and the time for the two leaders be reserved for their use later in the day; that there be a period for morning business not to extend beyond 10:30 a.m. with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF THE CRIME BILL—S. 1241

Mr. FORD. Mr. President, I ask unanimous consent that the previous order regarding resumption of S. 1241 be changed to reflect a change in time of 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. FORD. Mr. President, if there be no further business to come before the Senate today, I ask unanimous consent that the Senate now stand in recess under the previous order until 10 a.m. Friday, June 21, 1991.

There being no objection, the Senate, at 9:03 p.m., recessed until Friday, June 21, 1991, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate June 20, 1991:

U.S. INFORMATION AGENCY

CHARLES GRAVES UNTERMEYER, OF TEXAS, TO BE AN ASSOCIATE DIRECTOR OF THE U.S. INFORMATION AGENCY, VICE RICHARD W. CARLSON.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

JOYCE ELAINE TUCKER, OF ILLINOIS, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 1996. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

THOMAS B. HEFFELFINGER, OF MINNESOTA, TO BE U.S. ATTORNEY FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF 4 YEARS VICE JEROME G. ARNOLD, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. EUGENE H. FISCHER, [redacted] U.S. AIR FORCE.

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED, UNDER THE PROVISIONS OF SECTIONS 593, 8218, 8373, AND 8374, TITLE 10, UNITED STATES CODE:

To be brigadier general

COL. RICHARD C. COSGRAVE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

IN THE ARMY

THE U.S. ARMY NATIONAL GUARD OFFICER NAMED HEREIN FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES IN THE GRADE INDICATED BELOW, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 593(A), 3385 AND 3392:

To be major general

BRG. GEN. NATHANIEL H. ROBB [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate June 20, 1991:

DEPARTMENT OF LABOR

ROBERT MICHAEL GUTTMAN, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. RICHARD G GRAVES [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF OF THE ARMY AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 601 AND 3034:

To be vice chief of staff of the Army

To be general

LT. GEN. DENNIS J. REIMER [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. JAMES E. THOMPSON [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. THOMAS N. GRIFFIN, JR. [redacted] U.S. ARMY.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JOSEPH S. LAPOSATA [redacted] U.S. ARMY.

MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS COMMANDANT OF THE MARINE CORPS, HEADQUARTERS, U.S. MARINE CORPS, AND APPOINTMENT TO THE GRADE OF GENERAL WHILE SERVING IN THAT POSITION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 5043:

To be Commandant of the Marine Corps

To be general

LT. GEN. CARL E. MUNDY, JR. [redacted] USMC.

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. NORMAN H. SMITH [redacted] USMC.

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. WILLIAM M. KEYS [redacted] USMC.

NAVY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. JIMMY PAPPAS, U.S. NAVY [redacted]

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be vice admiral

VICE ADM. RAYMOND P. ILG, U.S. NAVY [redacted]

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. KENNETH C. MALLEY, U.S. NAVY [redacted]

IN THE ARMY

ARMY NOMINATION OF CHARLES F. BROWER, IV, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 6, 1991.

ARMY NOMINATIONS BEGINNING DANIEL P. BURNS, AND ENDING VICKI L. BROSNAHAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1991.

ARMY NOMINATIONS BEGINNING MICHAEL H. CHEMA, AND ENDING JAMES L. WALLINGFORD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1991.

ARMY NOMINATIONS BEGINNING LARRY S. MERCK, AND ENDING MICHAEL L. WALTERS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 3, 1991.

ARMY NOMINATIONS BEGINNING THOMAS L. ABBENANTE, AND ENDING 364X, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 3, 1991.

ARMY NOMINATIONS BEGINNING DANIEL F. ABAHAZY, AND ENDING 414A, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 3, 1991.

ARMY NOMINATIONS BEGINNING JOHN D. ALTENBURG, AND ENDING PAUL C. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JUNE 10, 1991, AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 11, 1991.

ARMY NOMINATIONS BEGINNING RONNY BERRY, AND ENDING JOHN L. WYDEVEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE ON JUNE 10, 1991, AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 11, 1991.

IN THE NAVY

NAVY NOMINATIONS BEGINNING EDWARD L. ABNER, AND ENDING LEE SMITH, III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 3, 1991.

NAVY NOMINATIONS BEGINNING RICHARD JOHN ACKERMANN, AND ENDING RICHARD ARNOLD NELSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 3, 1991.

EXTENSIONS OF REMARKS

A PERSISTENT AMERICAN YEARNING

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. TRAXLER. Mr. Speaker, I would like to call the attention of my colleagues to the following article, "A Persistent American Yearning", by James Reston. I have long admired Scotty Reston since my days in college, and I find his thoughts absolutely charming in this feature that appeared in The New York Times Magazine on Sunday, June 16, 1991. This article is adapted from his memoir, "Deadline: Our Times and The New York Times," to be published in October by Random House.

A PERSISTENT AMERICAN YEARNING

The last decade of a century is a tempting time for Presidents, journalists, end-of-the-world preachers and other dreamers. Presidents in particular begin meditating on their place in history, and wondering how to make it look a little better than it was. George Washington made his famous farewell address in the last decade of the 18th century, and foresaw safety and prosperity for the new Republic in isolation from the quarrels of the world. In the last decade of the 19th century, President McKinley was not thinking of isolation (or of his sudden death soon to come), but was planning a new American empire and leading the country into the Spanish-American War. And at the beginning of the last decade of the 20th, George Herbert Walker Bush, the 41st President, was proclaiming the dawn of a "new world order," and starting it with a war against Iraq in the Middle East.

After studying the fortunetellers of the past, I admired their bravery more than their judgment. In the 1890's, the best of them were writing confidently about a future world of "inevitable progress." They were convinced that there was something in the nature of the universe, or maybe in the economics of supply and demand, or in the spread of knowledge and education that would surely lead to the Golden Age. By the time I arrived in Washington two world wars later, however, the pessimists had taken over, with books deploring "The Decline of the West" (Spengler), "The End of Our Time" (Berdyaev) and "The Fate of Homo Sapiens" (H.G. Wells).

All of their guesses were interesting, but most of them were wrong, for the world changed faster than they could change their minds. Some chalky genius, monkeying around in a laboratory or a garage, was always discovering how people could fly like birds, or send messages, pictures and even the music of Beethoven through space, or extract more food from the bounteous earth, or wipe out disease or go to the moon. These thinkers and tinkerers invented not only a better mousetrap but also a better mouse, named Mickey, who went into the movies and made children happy. They also developed new ways to kill more people, with atom bombs, but the human race just went on producing more children by the same delightful old-fashioned process anyway.

I admired the optimistic spirit behind President Bush's new world order, but I couldn't find much new in it other than his war in the Middle East. He vowed it would assure "for ourselves and for future generations" an Age of Peace, "where the rule of law, not the law of the jungle, governs the conduct of nations." I was all for George, but I thought this sounded very much like the pronouncements of other Presidents, particularly those of Woodrow Wilson, who thought not only that America could "change the world" but also that it had a moral duty to do so.

There was, I thought, something both wonderful and goofy about all this persistent American determination to reform the world. It reminded me of the little signs that used to hang in some of the service stores in Dayton, Ohio, when I was a boy. I forget the exact words, but they promised to do anything "possible" by tomorrow but conceded that the "impossible" might take a few days longer. This was the spirit that had conquered the American continent, survived the great economic depression of the 30's, helped restore Western Europe and Japan after World War II and survived the cold war with the Soviet Union for almost half a century.

But before you could say Saddam Hussein or even Yasir Arafat, President Bush had sent half a million Americans to the Middle East battlefield when Congress wasn't looking, and chased the Iraqis out of Kuwait in four days. It was a perfect American war: quick, flashy and all on television. More Americans were murdered at home during those four days than were killed in the war. President Bush called it, without undue modesty, the greatest military victory in the history of the Republic, and scarcely mentioned the 150,000 Iraqis who were slaughtered in the process.

Accordingly, I began to wonder about these wars to end war, and think that maybe old John Adams had a better idea. Adams said at the end of the 18th century that America should always try to help other nations in trouble, but he added that we should "go not abroad seeking monsters to destroy." In my years in the capital, however, we were finding monsters all over the world, not only big-league monsters in the Soviet Union and China but bush-league monsters in Korea, Vietnam, Cuba, Nicaragua, El Salvador, Panama, Iraq and various other places that didn't want our advice about freedom and democracy, or even know what the words meant.

No doubt the Iraq war served several useful purposes. It put future aggressors on notice that they could not assume American neutrality. It made clear that the United States regarded the oilfields of the Middle East as "vital" to its security and would not permit them to come under the control of any hostile power. It put an end to the self-doubts that had plagued the nation after its defeat in Vietnam, but this "Vietnam syndrome" was followed by a kind of "Iraq swagger" of boasting that Uncle Sam was No. 1 and would now at last redeem the optimistic visions of Woodrow Wilson and the other prophets of eternal peace.

My optimism didn't go quite that far. I thought the long nightmare of an atomic war was over for the foreseeable future, but I had more modest dreams. I didn't believe in new world orders that relied on fighting wars rather than deterring them, or in United Nations resolutions that "authorized" the United States to do most of the fighting. I believed in collective, not selective, security, and I thought we needed to ask ourselves some questions.

What areas were really "vital" to the security of the United States? Would our schools and slums be high on this list? When and how were we going to make the United States independent of Middle East oil and how? How could we have a new world order without cooperation between the United States and the Soviet Union? When were these giants and the other industrial nations going to control or stop the shipment of advanced military weapons and materials for the production of nuclear, chemical and bacteriological explosives to the shaky gangster nations of the world? In short, where was the end-of-the-century threat to United States security anyway—abroad or at home?

So every once in a while I mounted my old pulpit at The Times and suggested that the time had come, not for another new world order proclaimed, financed and policed by the United States and started with a war, but for a new American order beginning with a reappraisal of our commitments and resources and a reform of our priorities and decision-making procedures. I wasn't throwing off the disorder of the old world—it made so much news!—I just felt it could be improved with a little less fighting and a little more patience, common sense and diplomacy. I may have been wrong about this, but I didn't think it would hurt to review our commitments, keep them in line with our bank balances, pay our debts and prepare our children for the new problems of the coming century.

I thought I knew George Bush fairly well, but I didn't recognize his warrior pose. For years I had been longing for some Gentleman President to come along and set an example of calm thinking and honest talking, and I felt that George Bush was precisely that sort of man. The one I knew had promised "a kinder America" in "a gentler world," and I admired his record. His whole career seemed a preparation for the Presidency. He had more personal experience in Congress, business, military intelligence, war and diplomacy than any other President of my time. He was not an ideologue, having come out of the old Teddy Roosevelt-Col. Henry L. Stimson progressive nonpartisan tradition. I followed his career in the House of Representatives and at the United Nations. My wife, Sally, and I flew around with him during the 1980 Presidential campaign, when he was mocking Ronald Reagan's "voodoo' economics, and I felt sure he would bring a more pragmatic spirit to the White House.

In many ways, he did. On most things, he consulted the leaders of Congress. He abandoned his silly campaign promise of "no nex taxes" (when he finally switched, he called

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the new taxes "revenue enhancement"). He tolerated dissent, and he held almost as many news conferences in his first year in the White House as Ronald Reagan did in the previous eight years. But something happened to him on his way to the White House. He campaigned like Richard Nixon and talked like Lyndon Johnson, saying publicly that Saddam Hussein was "worse than Hitler," and vowing publicly to "kick him in the ass." And when it was said that maybe he was a bit of a "wimp," he disproved it by wandering into two wars in his first two years in office.

He defied the principles of the United Nations when he went to war in Panama to get rid of a dictator named Noreiga (again, the personal military approach to foreign policy), then relied on the United Nations principles when he went to war against Iraq, and defended the wars as moral contributions to good over evil.

More important, he talked about "the next American century," and said it was the purpose of the United States to insure the stability and security of the Middle East. "Among the nations of the world, only the United States of America has both the moral standing and the means to back it up," he said. "We are the only nation on this earth that could assemble the forces of peace."

The Republicans used to call this sort of thing "globaloney." Whatever it was, I thought it aroused excessive expectations that would be followed, as usual, by excessive disappointments. After all, most of the events that determined the history of this century—the collapse of the old empires, the rise of Communism and Nazism, the Great Depression and the cold war—were not foreseen. Nevertheless, President Bush presumed to talk confidently about his new world order for the next "American century."

There was no doubt that Saddam's brutal aggression deserved to be punished, but there were many places in the world where war might be morally justified but politically unwise. My fear was that this interventionist policy would eventually produce a negative reaction in the United States, weaken the Western alliance, revive the spirit of American isolationism and provoke racial tensions among blacks, who made up a disproportionate percentage of the American ground forces.

His 100-hour ground war against Iraq, however, was highly popular. It was short and dramatic. The armed services demonstrated more military foresight and skill in waging the war than the civilian diplomats had shown in preventing it. And the American press decided that nothing short of an economic depression could keep President Bush from being re-elected in 1992.

I avoided this guessing game, considering all my embarrassing predictions of the past. I thought George Bush was driving into a future he could not foresee, with one eye on the rear-view mirror and the other on the next election. He was, I believe, thinking like an old soldier about the foreign wars of the past, and not thinking much about the health of the nation, or even about the advice of his own doctors to give his fluttery heart a rest.

Before the Iraq war started, I wrote that saying "my President, right or wrong" was like saying "my driver, drunk or sober," but once the bombs started falling on Baghdad and Tel Aviv, the debate ended and the popularity of the President increased, as it did at the beginning of the Korean and Vietnam Wars. Accordingly, I worked on my own idea, not of a new world order, but of a new American order, which, in my imagination, would be planned in the last years of the 90's and put into operation with a fixed deadline of Jan. 1, 2000.

I found that, to my delight and to the despair of my younger friends, the older I got and the less information and energy I had, the more dogmatic I became. My wife greeted this with a melancholy sigh, but I went ahead anyway. The new American order of my imagination didn't contain anything that was not both reasonable and achievable. For example, it would have in place by the first day of the new century an energy program that didn't depend on the oil of the Middle East. I thought this was essential, even if we had to rely on the sun, the wind, atomic energy, taxes and horses. I didn't think this was ideal, but it seemed to me more realistic than counting on peace and sanity in the Middle East.

In my new American order, the world wouldn't be peopled by phantoms, and the objective would be to settle political disputes by negotiation, even with scoundrels, and not by proclaiming another "American century" with Uncle Sam as schoolmaster and chief of the world police. "Let George do it," I told myself, wasn't a policy but a line out of an old musical comedy, which I didn't think would be very popular when the bills came in.

By Deadline Jan. 1, 2000, under my dreamy schemes, both political parties would be in agreement (1) that the main threat to the nation's security came from within and not from abroad; (2) that a strong and modified defense force was essential, and (3) that even America's resources were limited, and should not be squandered on reluctant peoples who would rather fight than eat. I thought that clarity as well as charity begins at home, and therefore, that we should cut our military guarantees to the essential minimum and reduce all moral posturing by Congressmen and columnists as much as possible under the First Amendment. (This would, of course, be denounced as the new isolationism, but I thought it was better to be denounced for avoiding unnecessary wars than for fighting them.)

Under my fantasy of a new American order, the two political parties would have an official smoke-filled room, preferably the old Supreme Court chamber in the Capitol, where candidates for the parties' nominations for the Presidency and Vice Presidency would be chosen by party leaders who knew something about character and ability to govern the country. The political parties would, before the election of 2004, I insisted, have abolished the present disgraceful system of campaign financing and arranged for at least six free television debates between the candidates (minus all reporters). They would not eliminate the state primary elections, but would retain the power to veto any turkey or quail proposed in these popularity contests.

On one wall of this smoke-filled room, there would be a portrait of Warren Gamaliel Harding to remind the pros not to make the same mistake again, and on another wall there would be a portrait of Teddy Roosevelt, preferably not on horseback, together with his favorite warning:

"The things that will destroy America are prosperity at any price, peace at any price, safety first instead of duty first, the love of soft living and the get-rich-quick theory of life. This country will not be a permanently good place for us to live unless it's a good place for all of us to live."

I had some other dandy, if not original ideas: I thought it would help if Presidents and other leaders told the truth, and mentioned the word "sacrifice" once in a while. I didn't think we should amend the Constitution to conform to every popular whim of the day, or try to police the bedrooms of the American people. I thought it was unwise to corner dictators and other wild beasts, and since Presidents were not immortal, I favored Vice Presidents that were as reliable as a spare tire. I was for a longer school year because I was more interested in smart kids than "smart bombs," and I was for voluntary national service by young people to help in the overburdened, overexpensive hospitals, and for a national anthem that anybody could sing, drunk or sober.

Nobody listened to these fantasies, of course, but that's one of the nice things about being over 80: you don't care whether they listen, and even when they do, you can't quite hear what they say.

CONGRATULATIONS TO FATHER ROBERT SALAMON

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Father Robert Salamone on the occasion of his leaving St. Francis Church in Hackensack, NJ.

Father Robert was educated in New Jersey having attended St. Francis Seminary High School in Lafayette, Don Bosco College in Newton, and Immaculate Conception Seminary in Mahwah. He was invested in the Capuchin Franciscan Order on August 10, 1975; in the Simple Profession on August 15, 1976 and in the Solemn Profession on July 15, 1979. He was ordained a deacon on September 17, 1979 and a priest on June 7, 1980.

Father Robert was assigned to St. Francis Church after being ordained a priest in June of 1980 and served the congregation as well as being provincial secretary. He became pastor in 1985 and was named to the provincial council at the same time.

His outstanding work does not stop within the congregation of St. Francis. Father Robert is the Dean of South Central Bergen Deanery No. 5 which encompasses nine parishes. He is the Chaplain of National UNICO, the Hackensack Fire Department, the Hackensack Police Department, the Knights of Columbus, and the Columbiettes.

His dedication to the community is exemplified by these and many other services which he has worked to provide. Father Robert is one of those special few who truly make a difference in our society. His emotional and spiritual guidance has been invaluable to the many people whose lives he has touched.

Father Robert will be greatly missed by his congregation and his family, and the community as a whole. We wish him the best as he leaves for Immaculate Conception Parish in Hendersonville, NC. I am sure he will continue to give his time and talent, energy and enthusiasm to his new parish.

Mr. Speaker, I am proud to join in paying tribute to this exceptional man and extend my best wishes to him as he embarks on his new assignment.

CONGRESSMAN KILDEE HONORS FLINT MAGNET THEATRE PROGRAM

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. KILDEE. Mr. Speaker, I rise today to commend the Flint Central High School Theatre Magnet Program. For the second consecutive year, this outstanding group has been selected to perform at the National Thespian Festival.

The Flint Theatre Program was chosen from hundreds of high school theatre programs to be one of six that present full length mainstage productions at this year's festival. Directors of the National Thespian Society cited superior set design, student ability to work with challenging material, professional commitment, honesty, and integrity among the groups attributes. Flint Central High School is the only Michigan high school ever to perform mainstage at the national festival and the Flint Theatre Magnet Program ranks among the top 10 percent of high school theatre programs nationwide.

Under the guidance of the Flint program directors, 45 Flint Central High School students will present Eugene O'Neill's "Ah, Wilderness!" at the festival. Over 3,000 high school theatre students from around this world will attend this year's festival at Ball State University in Muncie, IN. Central High School also represented Flint at the 1989 festival in which they performed "The Diviners" by Jim Leonard, Jr.

The students involved in this year's production are Jasen Anthony, Sara Beck, Kate Baldridge, Sue Ann Bennis, LaShona Calver, Suzanne Carrico, Annelise Culver, Thomas Decke, Dan Dortman, Benjamin Figura, Brandi Generes, Mischa Gibbons, Marie Glenn, Maria Greanya, Mashonda Griffin, Christopher Hall, Chris Johnson, Shamiran Khoshaba, Kevin Kluender, Hannah Meyer, Kate Miller, James Milner, Ain Milner, Jayme Molpus, Chris Panoff, Amanda Panos, Dan Perina, Wilson Personett, Joi Price, Michael Ramsdell, Tara Richards, David Roberts, Rob Rosario, KaTonya Schuler, Rachel Shaker, Andrew Shell, Kimiko Shimoda, Phillip Stilley, April Taeckens, Shonda Thurman, J.C. Trowt, Karl Tyler, Eleni Vamvakidou, Kari Weaver, Paul Wendland, and Rebecca Zaroo.

Mr. Speaker, as I rise today I share the pride that the Flint community and the State of Michigan take in the accomplishments of these young men and women. Their creativity has culturally enriched Flint and their achievements in theatre have set a fine example for Flint area youth. Recognition of these students' efforts and talents is truly merited and brings great honor both to them and to residents of the Flint area.

TRIBUTE TO MRS. FELICITA SERRANO ON HER RETIREMENT

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a very special woman, Mrs. Felicita Serrano, who has dedicated more than 20 years of service to bilingual and multicultural education in my community. Mrs. Serrano is celebrating her retirement this evening. Please join me in praising Mrs. Serrano for her unwavering commitment to our greatest national asset, our youth, and in wishing her the best on this special occasion.

Mr. Speaker, Felicita Serrano was born in Caguas, PR, on July 19, 1935. She was brought up and educated in the mountainous region of the island where she learned the value of hard work and a strong education. From the time she was very young, her dream was to become a teacher, and she spent hours sharing her family's values and love for education with the children of the neighborhood.

Mrs. Serrano attends the local elementary, intermediate, and high school on the island of Puerto Rico. After completing her bachelor's degree at the University of Puerto Rico, she earned a scholarship to study at the University of Illinois where she received her masters degree. She later completed her doctorate in education at New York University.

Her dream was realized when she became a teacher of early childhood education in 1956. Mrs. Serrano first taught in elementary schools in the rural areas of Puerto Rico and worked at several levels of the school system on the island.

She later became involved in Operation Understand, an exchange program sponsored by the Boards of Education of Puerto Rico and New York City. Through this program, Mrs. Serrano received an appointment to work at Public School 77 in District 12, New York City, bringing her values of hard work, good will, culture, history and a strong awareness of the Puerto Rican identity and Spanish language to the children of the South Bronx. A year later she accepted a position in the office of the superintendent of community schools at District 7 in the Bronx, as coordinator of bilingual programs. She wrote proposals, visited schools and promoted the extension and implementation of bilingual programs in New York City schools. Later that year she became supervisor of all bilingual school projects in Community School District 10.

Under Mrs. Serrano's supervision, a bilingual school was organized as a regular New York City public school, school No. 159, the Day Elementary School. In 1982, she was named principal, and requested the change of the school's name to Luis Munoz Marin Bilingual School, after the first elected Governor of Puerto Rico. She was the first Puerto Rican to become a principal in District 10.

Mrs. Serrano's strong leadership of a well-disciplined and highly professional staff enabled her to create a comfortable study atmosphere where the children felt loved, safe and secure. Her dedication to bilingual education and appreciation for many cultures was reflected in the children's love for her. She served as a positive role model and mentor for them and was an encouraging and interested friend as well as teacher.

Mr. Speaker, pleace join me in commending Mrs. Felicita Serrano for her strong efforts and invaluable contributions to education in our community. She has dedicated her life to the promotion of harmony among cultures through a bilingual and diverse curriculum, and has instilled strong values in the children who were lucky to call her teacher. Let us thank her for her many gifts and talents she has shared with our children, and wish her the warmest congratulations on her retirement.

CONGRATULATIONS TO LESLIE GOODMAN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to Leslie E. Goodman on being chosen as the recipient of the Human Relations Award by the New Jersey Chapter of the American Jewish Committee.

Leslie E. Goodman, president and chief executive officer of First Fidelity Bank, N.A., New Jersey and senior executive vice president of First Fidelity Bancorp., is noted for his remarkable professional and civic achievements.

Leslie's academic achievements include earning his undergraduate degree from Rutgers University in 1965, pursuing a MBA at Rutgers University Graduate School of Business, and earning a law degree from Rutgers Law School in 1980. Mr. Goodman was admitted to both the New Jersey and Pennsylvania Bars.

Leslie began his career in banking in 1906, with First National State Bank of New Jersey, where he entered as a management trainee and was eventually named president and chief operating officer. He served as chairman and chief executive officer of Fidelity Bank, Philadelphia, and in a number of senior management positions at different First Fidelity branches.

Despite the often pressing demands imposed upon him by his career, Leslie serves on a variety of boards, including those of Hackensack Medical Center and WAWA, Inc. In addition, under his presidency, First Fidelity has been an active supporter of educational and athletic events for children and adolescents, promoting youth talent in sports and in the arts. Mr. Goodman and his wife Joyce are the proud parents of two children.

Mr. Speaker, I am proud to join in paying tribute to Leslie Goodman. I am sure he will continue to provide invaluable service to his community and truly make a difference in society. I extend my best wishes to him on this most special occasion.

THE INTEGRITY IN HIGHER EDUCATION ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. GOODLING. Mr. Speaker, I am pleased to join with my colleague Congresswoman LOWEY in introducing the Integrity in Higher Education Act in order to increase the quality of programs supported through Federal student financial assistance. Public confidence in the student aid programs has been eroded by increasing defaults in the student loan programs and examples of abuse in the program by unscrupulous schools defrauding students and taxpayers. Countless students have left postsecondary education with thousands of dollars in student loans and little or no educational skills, which in turn has left these students unable to obtain or keep jobs to pay back their loans. The cost of the Federal guarantee for default payments is $2.7 billion for this year alone.

Since the Higher Education Act will expire this September, we have the opportunity to guarantee accountability in the Federal programs. As a result of my intention to correct the system, I am introducing the Integrity in Higher Education Act.

The current Federal system relies on a triad of players to ensure the integrity of the Federal programs. Unfortunately, the current system has not been as successful as it should be. As State governments are in the closest position to postsecondary institutions which benefit from the Federal dollar, the Integrity in Higher Education Act will focus on increasing the role of the State government. The bill assures integrity in education programs by providing additional resources to States and requiring minimum standards for managing the Federal programs. It directs the States to oversee the quality of services offered by postsecondary education institutions and includes standards for educational excellence provided by the schools.

The bill requires: First, the Secretary of Education to develop objective performance standards for the administration of the Federal programs; and second, each State to approve an institution only if the institution can comply with State standards for such items as financial and administrative capacity, facilities, equipment and supplies.

Mrs. LOWEY and I are introducing this bill to promote discussion of the issues. We do not intend for this bill to be the final product; however, it does represent our strong concern for integrity in the Higher Education Act and quality of educational services provided to our Nation's students. We invite your comments and hope that you will cosponsor this bill. In joining us you will be ensuring integrity in the higher education programs.

KILDEE WELCOMES DELEGATION FROM KIELCE, POLAND

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. KILDEE. Mr. Speaker, I rise today to welcome municipal officials from Kielce, Poland to my hometown of Flint, MI. The delegation's visit to Flint is part of an international exchange program sponsored by Sister Cities International that links 14 cities in the United States with municipal training centers in Poland.

Through this outstanding exchange program, Polish municipal officials will increase their understanding of the process and structure of local democratic government. By examining city operations, the delegation will gain a firsthand view of democratic government in action. I am pleased that the city of Flint will play an integral role in promoting the implementation of democracy in Poland.

Members of the Kielce delegation to Flint include Mayor Robert Rzepka; Zbigniew Szcaepanczyk, the mayor's plenipotentiary on foreign affairs; Grzegorz Grudzinski, city council of Kielce; Dr. Andrezj Bednarz, headmaster of the college of self-government administration in Kielce; and Tomasz Raczynski, lecturer at the Technical University.

Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me in welcoming the members of the Kielce delegation. The city of Flint is proud to participate in the Sister Cities International Program and embraces the opportunity to extend the democratic tradition upon which our own great Nation is founded.

TIME TO TEAR DOWN THE NEW UNITED STATES EMBASSY IN MOSCOW

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. BEREUTER. Mr. Speaker, the United States has long known that the new U.S. Embassy in Moscow poses grave security risks. The building has been thoroughly compromised; it will be impossible to handle classified material or discuss sensitive issues in the Soviet constructed portions of the building. The use of the lower floors on matters not deemed sensitive will in fact jeopardize security and sensitive operations as this Member has explained in debate on this issue earlier this year during the State Department authorization bill.

I invite my colleagues' attention to the following editorial from the June 12, 1991, edition of the Washington Times.

[From the Washington Times, June 12, 1991]

A NEW EMBASSY IN MOSCOW

If President Bush and Mikhail Gorbachev carry through with the summit meeting tentatively planned to convene in Moscow sometime next month, U.S. security arrangements there will less resemble the intrigues of a John Le Carre novel than the slapstick of a "Get Smart" episode. Because our government does not control a single secure room in the entire Soviet Union, Mr. Bush and his lieutenants may be forced to discuss the final details of an arms control treaty in the confines of bug-free motor home shipped in from Washington for the occasion.

Six long years have passed since the State Department learned that its "new" Moscow Embassy, built by Soviet contractors with Soviet-supplied materials, was (as one congressional comedian put it) "one big microphone." Hardly two months have gone by since a mysterious fire that broke out in the still-occupied "old" embassy was doused by a brave band of KGB agents dressed up as firemen.

Glasnost and Gorbomania aside, the blaze smouldered for eight hours while Soviet spies roamed the building rifling unlocked safes, collecting blank U.S. passports, digging obsolete listening devices out of plaster walls and pilfering personal items from the work stations of American Embassy personnel. One firefighter was caught walking out of the building cradling the briefcase of the second-ranking U.S. diplomat in Moscow. No doubt he was thoughtfully trying to save the documents therein from becoming charred or waterlogged.

The fire reportedly damaged CIA and National Security Agency office space and security and listening equipment, effectively denying the U.S. government any secure haven in the Soviet capital.

It's one thing to imagine the Albanian mission to Bucharest doing business out of a Winnebago. But for the world's greatest power to handle security at its embassy in the capital of the world's second greatest power in this fashion is unpardonable.

The "new" U.S. Embassy in Moscow is a monument to the failure of detente. The deal for its construction, which was negotiated in 1972, put the Soviet mission on top of Washington's Mount Alto, where listening devices could be targeted downhill at the Pentagon and the State Department. Meanwhile, some of the lowest ground in Moscow was set aside for the new U.S. compound. The Soviets brought their embassy in from the Motherland piece by piece. We let them build ours. And they riddled its very superstructure with listening devices that cannot be removed without demolishing the building.

Last month the House voted to let the State Department decide what to do about the new embassy in Moscow. The State Department reportedly favors keeping the building, tearing down the top two floors and adding four more. A better idea would be to tear the whole thing down and start from scratch—using American labor and American steel.

TRIBUTE TO LT. GEN. CARL SPAATZ

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. YATRON. Mr. Speaker, I rise today with much pride to honor a man of glowing credentials and tremendous accomplishments on his 100th birthday. Lt. Gen. Carl A. Spaatz has given so much to our country in his 100 years, and I think we should all take this opportunity to congratulate him on his wonderful achievements.

Lieutenant General Spaatz was born on June 28, 1891, in Boyertown, PA. He graduated from the Military Academy at West Point as America was preparing to enter World War I. Although Spaatz was fairly young at this time, he made great contributions to the war effort, including the shooting down of three German Fokker planes. For his efforts, Spaatz received the Distinguished Service Cross for heroism in action. When the war ended, Spaatz dedicated himself to establishing the American forces in the air as the most powerful in the world. In order to achieve this goal, Spaatz helped develop several innovative methods of flight. It was at this time that the transcontinental flight was improved substantially, and the refueling endurance trip was also attempted. In one such endurance flight, Spaatz completed a refueling operation despite being drenched with scalding aviation gasoline, thus helping to keep the plane in the air for 150 hours and 40 minutes. These heroics in the famous "Question Mark" incident earned him the Distinguished Flying Cross in 1929.

Lieutenant General Spaatz continued to be extraordinarily successful in the field of aviation during the 1930's, and World War II provided him with the perfect opportunity to display all that he had learned. His first assignment in the war was to assist in the invasion of North Africa, which he did by commanding the force that became known as the Spaatzwaffe. As the war progressed, Spaatz was appointed to several other key positions, including the leadership of the U.S. Strategic Air Forces in the European theater. His direction of the strategic bombing against the Germans throughout 1944 was vital in America's success against Hitler's forces. As the war in Europe came to a close, Spaatz was reassigned to the Far East, where American air power was instrumental in completing the victory over the Japanese. By this time, the greatness of his achievements was widely recognized, as he had already achieved the title of three star lieutenant general and was called the best air commander I know by General Eisenhower.

Mr. Speaker, I hope that you and my colleagues will join me in honoring Lieutenant General Spaatz. This outstanding gentleman is most deserving of all of the accolades he has received, and I would like to thank him for everything he has done for this country and wish him the best of luck in the future.

MASS GRAVES IN KUWAIT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. MAZZOLI. Mr. Speaker, I have spoken on numerous occasions on the House floor about my concerns over the brand of justice which Kuwait is meting out to those within its borders.

The following article by Kenneth Roth which appeared in the June 11, 1991 New York Times describes in stomach-churning detail the mass graves on the outskirts of Kuwait City and the shameful even illegal treatment received by individuals held in Kuwaiti police or military custody.

Kuwait's continued violation of the basic human and civil rights of its citizens and residents is a scandal. It should be deplored and condemned vigorously by the United States and all the democratic nations of the world, and it should stop immediately:

MASS GRAVES IN KUWAIT

(By Kenneth Roth)

On the southern outskirts of Kuwait City, al-Riqqa cemetary guards the dark underside of Kuwait's liberation. In a corner is a section marked "collective graves." Here lie many victims of Kuwait's ordeal—not only those felled by Iraq's secret police but also those who have died at Kuwaiti hands since liberation.

Twenty-four of the graves appear to date from the Iraqi occupation, judging from the height of the weeds and the dates posted on several makeshift markers. The remaining 20 mass graves, their earth freshly turned, appear to have been dug more recently. Terrified grave diggers whispered to me that many of the bodies shows signs of unspeakable torture.

The registry book in a room in the grave diggers' compound provides clues about the newer graves. Some are filled with Iraqi victims: bodies held for burial until after liberation. But the book also records the burial of 54 "unidentified bodies" of people who appear to have died since March 6—a week after liberation. When the registry shows a cause of death, the victims are described as "killed," in contrast to "natural causes" cited elsewhere. As required, most of the bodies were first received at hospital morgues; this resulted in a paper trail. I was able to obtain documentation for two unidentified bodies received from Farwantyya Hospital and buried March 19. A March 18 hospital memo reveals that the bodies of people who died March 12 and 13 were received from the Ardhiyya police station.

In one unusual entry in the grave diggers' registry book, an unidentified male buried May 30 was received not from a hospital but directly from the Sabah al-Salem police station. When I asked at the station about him, I was told variously that he was a drug addict and a car accident victim, but there was no plausible explanation of why the body was not first brought to a hospital morgue.

Interviews with three Palestinians and one Iraqi provided a glimpse of what might have happened. Arrested in mid-May and brought to the Sabah al-Salem police station, they were put through a routine so well orchestrated the officers had names for the torture chambers.

The youths said that after questioning—"How many Kuwaiti girls did you rape? How many Kuwaiti officers did you turn in to the Iraqis?"—they were led through what the police called the party room, barbecue room and drinking juice room. In each, they said, at least a dozen uniformed troops tortured them: beatings with sticks and poles; electric shocks and burns with cigarettes and heated rods, and forced drinking of what smelled like sewage water.

Who is responsible for the deaths of the 54 in al-Riqqa cemetery? That the killings appear to have occurred since March 6, after the first wave of private vengeance killings following liberation had largely subsided, suggests that organized forces are to blame. So might the large number of unidentified dead in the country where, since liberation, the proliferation of checkpoints makes leaving home without identity papers unthinkable.

A series of documented post-liberation killings of people in police and military custody substantiates this view. One Palestinian man arrested in early March and held in the military detention facility for one month told me of 11 prisoners killed by torture. I was able to confirm at least three other cases of Palestinians murdered in police or military custody.

In an important speech on May 26, Crown Prince Sheik Saad al-Abdallah acknowledged for the first time that prisoners were being mistreated, and vowed to prosecute those responsible. To fulfill this pledge, he should begin by ordering an investigation into the bodies at al-Riqqa cemetery.

Independent forensic scientists, accompanied by expert international observers, should exhume the graves to determine the cause of death. Hospital records should be examined to ascertain which bodies came from police stations or other detention facilities. Security officers found responsible for abuses should be arrested and vigorously prosecuted.

The mass graves at al-Riqqa cemetery clearly do not reflect the full extent of the killing in liberated Kuwait; some victims have been identified and given individual burials, while others may be buried elsewhere.

But the cemetery is a critical starting point for confronting the official violence that has left many non-Kuwaiti residents, particularly the Palestinian community, terrified.

As Kuwait rebuilds, a top priority should be the establishment of a system of accountability that would bring to justice those responsible for these abuses, allow victims' families to confirm the fate of their loved ones, and begin to stem the cycle of violence and recrimination that threatens to tear the nation apart.

CABLE TV COMPETITION IS THE WAY TO GO

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. DUNCAN. Mr. Speaker, I have spoken on the House floor several times, both last year and earlier this year, with regard to allowing competition in the cable television industry.

As I have said before, increased competition in cable TV would do more than any amount of regulation at either the Federal or local level to hold down subscription costs and improve service to consumers.

I am pleased that the newspaper USA Today in its Friday, June 14, 1991, issue published an editorial advocating cable television competition.

I would like to bring this editorial to the attention of my colleagues and ask that it be reprinted in the RECORD:

COMPETITION HELPS CABLE TV CUSTOMERS

Take it or leave it.

That's the only choice for most people who don't think they are getting their money's worth from cable TV.

Jan Heffron, a six-year subscriber from Wheaton, Ill., chose to cancel recently when her cable company raised its rates again and reduced its basic programming services.

Cable subscribers, now 60% of households, shouldn't have to pull the plug like Heffron when they get mad. They should be able to switch to competing cable companies.

But most communities today are served by unregulated monopolies operating with exclusive rights granted by local governments. No cable alternative is available.

The Federal Communications Commission voted on Thursday to turn the clock back part way, to 1984 when local governments regulated cable rates.

The writer across this page is right; the new FCC regulation is a mistake. But he's mistaken, too, to call for even more financial regulation of the cable TV industry.

That would discourage, not encourage competition. New operators would be dissuaded from entering new markets controlled by local politicians.

Development of new technologies that offer promising cable TV alternatives would be delayed without the incentive to compete in open markets.

And the viewers' choice would still be: Take it or leave it.

In its early days, cable TV delayed service to many communities and slowed down development of new programming services. Rate regulation should be a last resort.

The FCC is attacking the wrong problem today.

The lack of cable regulation is not what caused the anger of cable subscribers in Chicago, Lebanon Junction, Ky., and South Florida.

The lack of real competition is the real problem.

And that won't get any better until local officials quit granting long, exclusive operating agreements like those in Broward County, Fla., that are for as many as 30 years.

Competition works. The 65 cities with competing systems pay 18 percent less than subscribers in monopoly markets, according to a survey by Consumers Research magazine.

When competition moved into Montgomery, Ala., rates dropped $2 a month for twice as many channels. In Henderson, Tenn., competition cut rates $5 for doubled the channels.

Local governments should remove all obstacles to cable competition. Local officials should just get out of the picture and let cable viewers control the cable companies.

The FCC should be breaking up monopolies, not piling more unnecessary regulation.

Competition is the best regulator.

CONGRATULATIONS TO WILLIAM SLOANE JELIN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today, for I rise to extend my heartiest congratulations and warmest best wishes to William Sloane Jelin as he is honored as the American Roofing Industries "Man of the Year" for 1991.

Bill is a dedicated, respected man who has risen quickly to the top of the American roofing industry. He is the president of Karnak Corp. and CEO of NRG Barriers, both leading forces in the industry.

Bill's rapid rise to eminence, dating only from 1975, when a year after finishing a master's program at the Georgetown University School of Foreign Service, and a year after joining Karnak as president, Bill and his father founded NRG Barriers, in New Hampshire. His success cannot only be attributed to his energy, his business acumen and his outstanding qualities, but also to his broad experience in world affairs and in dealing with critical domestic issues.

Besides the master's program from Georgetown University, Bill also attended the Harvard summer program in international political economics, as well as having been a political journalist and foreign policy analyst here and abroad. He has testified before Senate and congressional committees and serves as an advisor to the Environmental Protection Agency Stratospheric Ozone Advisory Committee.

Despite all of these important business and Government duties, Bill is also active in a variety of specifically Jewish causes such as AIPAC, of which he is national committee member, and UJA, where he has been active since his high school years in the late 1960's when he served as chairman of the teenage fundraising drive and chairman of the cabinet as well as a trustee of the Rabbinical College of New Jersey. Locally, Bill is the assistant treasurer of the Southern Maine Jewish Federation and chairman of the York County fundraising drive.

Mr. Speaker I am proud to join in paying tribute to this exceptional man. He is among those outstanding few who truly make a difference in society. I extend my best wishes to him on this special occasion.

SOVIETS INTEND TO PURCHASE 50 MILLION DOLLARS' WORTH OF ALMONDS

HON. GARY CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. CONDIT. Mr. Speaker, despite the severe economic difficulties the Soviet Union is experiencing, it remains an important export market for the United States. Agricultural exports to the Soviet Union are very important to our economy.

In particular, exports of almonds from California to the Soviet Union have enjoyed a long history. Almonds were exported to the Soviet Union before it was fashionable to export agricultural products there. In fact, almond exports to the Soviet Union began in the late sixties. The Soviets are very good customers.

I was pleased to see that credit has been made available to the Soviet Union through the GSM–102 Program. This credit will enable the Soviet Union to continue to purchase almonds from California. In fact, almonds grown in my district often go to the Soviet Union. Therefore, the Soviet use of this credit to purchase almonds will have a major impact in the San Joaquin Valley of California.

It is understood that the Soviets intend to purchase 50 million dollars' worth of almonds. Farmer members of the cooperative, Blue Diamond, have told me how important the Soviet market is. It is understood that trade with the Soviet Union has led to lasting friendships. I certainly support this trend in our relations.

TRIBUTE TO JUDGE T. CLARK HULL

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. FRANKS of Connecticut. Mr. Speaker, last week, the State of Connecticut became a little bit poorer. One of my State's quintessential public servants stepped down after decades of making life better for all Connecticut residents.

Connecticut Supreme Court Justice T. Clark Hull of Danbury will always be known as a "people's man." Last week, on his 70th birthday, Judge Hull retired from the bench. It is appropriate that his birthday is Flag Day.

While Flag Day symbolizes our most treasured symbol, Judge Hull symbolizes what is good about politics—hard work, compassion, and a sense of humor.

Born in 1921 in Danbury, Judge Hull attended Exeter Academy and graduated from Yale University with a bachelor of arts degree in 1942, and from Harvard Law School in 1948. He also served his country, with the U.S. Air Force, from 1942 to 1946.

After establishing a law firm in Danbury, Judge Hull was elected to the Connecticut State Senate in 1963 and easily returned to office three times.

In 1970, he staged one of the most remarkable moments in Connecticut political history during the State Republican Convention in Hartford. As chairman of the convention, Judge Hull was charged with the difficult task of keeping the party faithful, happy, and in order while party leaders met to find a candidate for Lieutenant Governor to run with former U.S. Representative Thomas Meskill.

By using his gentle Irish humor, some singing, and a breezy repartee with the delegates, Judge Hull built an instant bond with the assembly. Before the night went out and the dawn came in, the convention nominated Judge Hull for Lieutenant Governor.

Along with then Governor Meskill, Hull was elected. He served for 2 years before being nominated to the Connecticut Superior Court.

He served on that court for 10 years before Gov. William A. O'Neill appointed him to the appellate court for 4 years, and then to the highest court in Connecticut, on September 25, 1987.

Judge Hull has served at all levels of government, but he has never lost sight of his calling. He has treated all people as equals.

He has shown an appreciation for the burdens Connecticut residents face each day of their lives.

But Judge Hull knows the law. He lives by it, respects it, challenges it, and brings a level of decency to it which will serve as a positive, inspirational example to future public servants.

Mr. Speaker, Judge Hull is leaving a large shadow behind as he moves from the footlights of public life, but he is not bowing for the last curtain call.

Fortunately, Judge Hull will still be serving as State judicial referee in his native town—Danbury. I know he will continue his fine tradition of service. More importantly, I know Judge Hull will still be able to enliven his community with his activism, his keen insights, and his irreplaceable wit.

REPORT OF THE ANDREI SAKHAROV MEMORIAL CONGRESS DELEGATION TO ARMENIA AND AZERBAIJAN, MAY 25–31, 1991

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. FEIGHAN. Mr. Speaker, yesterday I had the pleasure of meeting Mr. Zori Balyan, a peoples' deputy representing the region of Nagorno-Karabakh in the U.S.S.R. He described the dire situation in that troubled region in lucid detail.

As I am sure you know, the people of Armenia have begun to express renewed national pride and are striving to establish democracy and freedom in their part of the world. Nagorno-Karabakh, an ethnically Armenian enclave within the Republic of Azerbaijan, is the focus of increased ethnic tension between Armenians and Azerbaijanis. The conduct of Soviet troops there has made a bad situation worse.

I call upon all peoples of the region, and the Soviet forces dispatched there, to refrain from violence and to settle their differences through peaceful negotiation.

The Andrei Sakharov Memorial Congress sent a delegation to Armenia and Azerbaijan last month in order to provide the world with a clear picture of the situation there. I would like to share the Sakharov delegation's report with my colleagues. It offers excellent guidelines to the leaders of the Soviet Union on how to promote peace and human rights there. I urge all who are interested in human rights to read this report:

PRESS STATEMENT: MOSCOW, WEDNESDAY, MAY 29, 1991—PRESENTED BY THE BARONESS COX, LEADER OF THE DELEGATION

An international group of participants from the first International Andrei Sakharov Memorial Congress, coming from USA, UK, Japan, Norway, and other parts of USSR, returned today from an independent fact-finding mission to the border region of Armenia and Azerbaijan. The mission was led by Baroness Cox, a deputy speaker of the House of Lords.

On the basis of interviews and observations at 16 different sites in both Armenia and Azerbaijan (because of the complex situation we wished to hear the views of both the Armenians and the Azeris), and of interviews within Yerevan with hospital patients, relatives of prisoners, and Government officials, we believe that serious violations of human rights and of Soviet and international law have occurred and are still occurring. Our concerns include:

1. Killings—e.g. Eye-witness accounts of a man shot in the throat 30 times in front of his pregnant wife whom he was trying to defend from a beating; a priest shot while remonstrating with soldiers, who accused him of paramilitary activities. We were also given accounts of multiple killings in several villages.

2. Beatings, Torture and Physical Assault—e.g. A paralysed, bed-ridden elderly man shot in the legs in front of his elderly wife (whom we met), who was forced to leave him behind; many instances of rape and beating. In the presence of Soviet soldiers, a frail elderly woman (whom we met), forced at gunpoint to stand in a barrel and beaten on the head, was asked to identify 'bandits' and threatened with decapitation. Soldiers mutilated ears of girls and young women while ripping off their ear rings.

3. Forced Deportation: Hundreds of villagers were forced at gun point to leave all their belongings and sign letters of "voluntary" consent to deportation. One whole village was deported at night and the people left over the border in the pouring rain at midnight with no possessions. We are concerned that new forced deportations may be imminent. We urge that they should not occur and that atrocities should not be repeated.

4. Abduction and Imprisonment: Many examples including 2 doctors sent to provide medical care who were abducted, imprisoned and beaten daily (Photo taken).

5. Destruction of Homes, Looting and Theft of Livestock: Tanks, shell and helicopter fire used to destroy homes; gasoline used to burn property. An 80-year-old man was burnt in his home. Livestock, automobiles and other property was confiscated—other humiliating types of offer of derisory payment (3 roubles for a car).

6. Destruction of Churches, Schools and other Public Buildings.

7. Murder, Abduction and Accounts of Imprisonment of Law Enforcement Officers: This has created a state of fear. We met relatives of many militiamen and civilians who had been abducted. We are concerned over their grief and urge that an immediate effort should be made to release those held or to assure that they stand trial according to fair legal procedures. This matter was raised with Marshal Yazov this morning who said he would look into it.

In a visit to Azerbaijan in a village in the Nakhichevan region we spoke to local militia and villagers who expressed grievances concerning continuing armed conflict and recurring shelling causing damage to property.

We were concerned at the armed forces belonging to the militia (OMON); they included non-professional recruits who were promptly given the rank of sergeant.

In another visit to Azerbaijan across the border from a northern Armenian village of Voskepar, a group of six delegates walked across the border to meet the Azeris there and to hear their version of events. No villager had walked this road for a month; they tried to discourage us because it was too dangerous. We had discussions with villagers on both sides, who had been friendly two years ago. The Major on the Azeri side said there had been many family tragedies; but that is no excuse for revenge. All were happy that we took the effort to understand them.

On May 6, eleven Armenian militiamen were killed near Voskepar in Armenia by shots probably from a helicopter. About 14 were taken prisoner. There are other prisoners. The Azeris claim that the Armenian militiamen are bandits—the Armenians call them a legal local defense force. We do not want to interfere in internal affairs, but it is vital to notice the civil rights issues involved. The Armenian village has no one to defend them, we saw no guns and there was no Soviet army present—whereas in the Azeri village we counted over 6 submachine guns and many OMON troops, and there is also a Soviet Army headquarters. The recent damage all came from the Azeri side.

The detained prisoners must be treated fairly. They must be given a fair trial, they must be permitted legal representations and they must be held in prisons in republics neutral to the conflict, there must be freedom of information and freedom to communicate with family and friends. Since the conflict seems a question of deportations between the Armenian republic and the Union, ideally they could be released to return to their homes.

Marshal Yazov in an interview at 10 am Wednesday 30 May, promised to look into this question personally.

ADDITIONAL CONTRIBUTION TO PRESS CONFERENCE

Findings

We have visited and conducted interviews with refugees. Soviet troops stationed on the border, and Armenian and Azerbaijani militia and have contacted officials from both republics. We also inspected physical evidence of destruction. We have found forced deportations of whole villages affecting thousands of Armenians that have been perpetrated in the last month. Villagers from Getashen (Chaikend), Berdadzor and Gadrut areas have been deported on respectively April 30, May 6, and May 14–16. These deportations have proceeded according to a similar pattern. Villagers were surrounded by Soviet internal troops using tanks, helicopters, and armoured personnel carriers. These troops and Azerbaijani OMON entered the villages and detained residents. OMON operatives reportedly killed, tortured, assaulted, and harassed Armenians. Houses, cars, livestock, and other personal property were illegally seized by OMON and local Azerbaijani villagers acting in concert with them who often brought trucks to load looted goods. Churches, hospitals and schools were damaged or destroyed. Reports corroborated by official sources confirm that R Mamedov, First Deputy Minister of Internal Affairs of Azerbaijan, Chairmen of Raispolkoms, district chiefs of militia and KGB, and other local officials were present and directed aspects of the operation. Inhabitants' requests for military protection went unheeded. In particular Colonel Zhukov, Soviet Military Commandant of Nagorno-Karabakh, responded that he could do nothing. Before and during the operations residents were forced by the OMON to sign statements of "voluntary" departure, often by torture, beating and death threats. The evidence suggests that many were forced to depart without signing anything. Those who signed were often told to address their statements to Mr. Polyanichko, Second Secretary of the Central Committee of the Communist Party of Azerbaijan.

In connection with these deportations, numerous individuals have disappeared or are missing after being taken into the custody of Azerbaijani and Soviet authorities. At the same time there were several incursions by Azerbaijani OMON units, accompanied by units of the USSR Internal Ministry forces, into the territory of Armenia. Over eighty individuals reported by Armenian authorities to be members of the Armenian militia were taken prisoner and transported to Azerbaijan, where some are now reportedly facing charges.

We also obtained credible testimony that villagers detained or captured soldier who have since been exchanged for some imprisoned villagers.

CONCLUSIONS

Internal troops subordinated to Soviet MVD have conducted actions coordinated with Azerbaijani OMON forcibly to deport entire villages, often brutalizing civilians, including women, children, and elderly persons. Gross violations of internationally guaranteed human rights have been found, in clear violation of the International Covenant of Civil and Political Rights and other international agreements to which the USSR is a signatory. We found credible and compelling evidence that additional deportation and related abuses are being planned by Azerbaijani and Soviet authorities and are imminent unless immediate action is taken to prevent them.

RECOMMENDATIONS

1. As a matter of utmost urgency, to protect lives and to prevent further suffering, we insist that President Gorbachev, Minister of Internal Affairs Pugo, and President Mutalibov of Azerbaijan: Order immediately and unequivocally that no other deportations occur; stop use of excessive force in the region, bearing in mind the requirements of the United Nations Code of Conduct for Law Enforcement Officials, which permits the use of force only when strictly necessary, and in proportion to the threat. To this end we urgently call for the immediate withdrawal and disbandment of Azerbaijani OMON forces.

2. The relevant authorities, including Minister Pugo, Procurator General of the USSR N Trubin, and the Minister of Internal Affairs, Azerbaijan SSR should provide a full account of the names, locations and charges, if any, against all detainees and in particular they should account for all the disappeared.

3. President Gorbachev, Minister Pugo, President Mutalibov, and the Military Commandant of Nagorno-Karabakh, Colonel Zhukov, should take immediate steps to provide safe conditions for the deportees to return to their homes.

4. These authorities should declare the areas of deportation a disaster area and request national and international humanitarian aid to rebuild the economy and infrastructure of the deported villages; and provide all facilities to enable protection and aid to be given to the victims of internal strife.

5. International confidence-building measures should be instituted, including the presence of international obervers to oversee the safety of the population and distribution of aid to victims.

6. The Supreme Soviet of the USSR should create a special commission to investigate the validity and credibility of the statements of voluntary departure and issue a public report within thirty days.

7. We further ask the Soviet government to invite to the USSR the UN Special Rapporteur on Summary and Arbitrary Executions to investigate the killings which occurred during the deportations.

8. As a stabilizing measure, we believe that protection to the Armenian and Azerbaijani villagers should only be provided by Soviet troops who are rotated on a frequent basis, serve on both sides of the Armenian-Azerbaijani border, and are ethnically balanced, unlike the present situation in which 50% or more of these troops are local Azerbaijani recruits.

9. We recommend that international authorities (particularly including the International Committee of the Red Cross) be invited by the Soviet authorities to visit all prisoners taken in connection with recent events to verify that such prisoners are being held in healthy and humane conditions away from any area of conflict, are advised of charges against them, if any, and are afforded legal counsel to prepare their defense. We urge that all due process rights and assurances of a fair trial by provided to all detainees and that appropriate authorities concerned with the administration of justice consider whether justice would best be served by transferring any criminal proceedings outside the affected area.

10. We urge the authorities to ensure that human rights are fully respected in Armenia and Azerbaijan without discrimination.

Felice Gaer, USA.
Shin-ichi Masagaki, Japan.
Caroline Croft, USA.
Alexej Semyonov, USA.
David Leopold, USA.
Miiko Kataoko, Japan.
Yuri Samodurov, USSR, Executive Director of the Organizing Committee, First International Andrei Sakharov Memorial Congress.
Alexander Goldin, USSR, Secretary of the Organizing Committee, First International Andrei Sakharov Memorial Congress.
Caroline Cox, UK.
John Marks, UK.
Scott Horton, USA.
Robert L. Arsenault, Jr., USA.

Professor Richard Wilson gave an individual report which agrees with the above in its general conclusions.

REPORT OF A GROUP OF EXPERTS FROM THE INTERNATIONAL DELEGATION ON THEIR VISIT TO BAKU, MAY 30–JUNE 1, 1991

On May 30, 1991 five persons (two staff members, two foreign participants, and one foreign journalist) travelled to Azerbaijan under the aegis of the First Andrei Sakharov Memorial Congress. In a letter presented to Azerbaijan leaders, we requested meetings with the leaders of Azerbaijan, including the Azerbaijani President. We requested visits to the following areas: villages of the Shusha region and the Gadrut region of NKAO, from which large numbers of Armenians have fled, in addition to the villages of the Shumyan region and to the cities of Stepanakert and Hodjaly. While our requests were presented repeatedly during our visit, including to Azerbaijani President A. Mutalibov and Dr. A. Dashdamirov, Chairman of the Permanent Commission on State Sovereignty of the Supreme Soviet of the Azerbaijani Republic, the only request that was met was a series of meetings with leaders and officials of Azerbaijan. Our request to visit specific areas of conflict was denied.

FINDINGS

In a meeting with Presidnet Mutalibov and Dr. DAshdamirov, we found these officials to be justifying current deportations and unwilling to exclude future deportations of Armenians from NKAO. The aim of this policy of deportation is to make Armenian authorities abolish a decree adopted by the Supreme Soviet of Armenia according to which, "Armenia agrees to include NKAO in its composition at the request of the latter" (Karabakh). The aim of the policy of forced deportations is to "clear the area of bases used by Armenian paramilitary troops".

We also had meetings with representatives of the Azerbaijani intelligentsia who expressed unanimous concern that public opinion, in the USSR and abroad, which strongly condemned deportations of Armenians was not strong enough in condemning the deportations of Azerbaijanis which took place in 1988. The President of Azerbaijan and members of the Azerbaijani intelligentsia are concerned that world public opinion has been unduly influened by an "Armenian lobby".

No official with whom we met denied the possibility that Azerbaijani OMON forces are engaged in atrocities, including killings, looting and banditry, brutality, and violence directed against women, children, and the elderly.

Various officials including one from the Ministry of Internal Affairs of Azerbaijan, said that the Azerbaijani side would be open to third party independent mediation, including observers. The United Nations and a third neutral country were suggested.

Azerbaijani officials expressed discontent that the Armenian side has been unwilling to accept a 10 km buffer zone.

RECOMMENDATIONS

In addition to all recommendations we presented in our original report and in its addendum, we further recommend that NKAO and surrounding Armenian villages in Azerbaijan, within thirty days, be opened to a detailed inspection by a group from the International Andrei Sakharov Memorial Congress, "Peace, Progress, and Human Rights".

David W. Leopold Esq; Robert L. Arsenault Jr.; Yuri Samodurov; Alexander E. Goldin.

TRIBUTE TO CAROL M. STROM

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. PURSELL. Mr. Speaker, I rise today to pay tribute to an outstanding member of the community of Livonia in my home State of Michigan. The subject of this tribute is Mrs. Carol M. Strom, a retiring member of the Livonia Public Schools Board.

For more than 20 years, Mr. Speaker, Carol Strom has been active in the Livonia school system and the Livonia community. She is one of those individuals who, through the tireless contribution of time and effort, has set an example worthy of recognition. Allow me to retrace her many years of service:

Starting in 1968, Carol was elected the president of the Randolph School PTA. From this start, she has moved on to fill numerous PTA positions throughout the district and the State—including being the Michigan PTA secretary.

In 1975, Carol was elected to the Livonia Public Schools Board for the first time. Since then, she has continued to be reelected to 3-year terms. During her years on the board, Carol has been selected to serve as secretary, vice president, and president.

With a school board tenure which spans three decades, Carol Strom has played an important part in the ongoing success of the Livonia public school system. Residents and students have benefited from her participation and leadership as a school board member.

In addition to her PTA and school board work, Carol has been active in other volunteer efforts, including Camp Fire Girls, numerous projects at the Schoolcraft College Women's Resource Center, the Livonia Branch of the American Association of University Women, and the March of Dimes.

Throughout the years, many of these organizations have recognized Carol's efforts and leadership with awards and other forms of honor.

On a more personal side, Carol is married and the mother of four children. She has been employed as a teacher and Census Bureau coordinator.

Mr. Speaker, it is with a great sense of pride that I ask my colleagues to join me today in paying tribute to an outstanding citizen and personal friend—Carol M. Strom. I wish her continued success as she brings this chapter of her career to a close and moves on to new and different endeavors.

TEAM WORK

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. KOLBE. Mr. Speaker, we hear a lot of talk these days about the conflicts between labor and management. We are told these conflicts will prevent the United States from staying competitive in the increasingly tough world market place. With that thought in mind, I'm pleased to be able to share with my colleagues some good news on the labor-management front, some news that bodes well for our competitive posture.

The news I have to share is about the remarkable improvement in labor relations at Magma Copper Co., in Arizona. By encouraging better employee participation through a Joint Union-Management Cooperation Committee, Magma Copper Co., has increased productivity, decreased costs and averted an employee strike. The company, the union and the employees are cooperating to develop a critical ore deposit. The result will be an increase in productivity, an extension of our Nation's vital mineral deposits and the addition of 1,500 or more jobs for at least another decade.

This revolutionary emphasis on "people potential" is an example for other industries. With a positive management and labor relationship emphasizing common goals, companies and employees stand to gain in both job satisfaction and increased revenues.

I commend to my colleagues an article appearing in the Arizona Daily Star, June 16, 1991, which reports the tremendous success of Magma Copper Co.

TEAM WORK

(By Richard Ducote)

Two years ago this month, the unions and management at Magma Copper Co. seemed poised for mutual destruction.

Triennial contract talks were dragging on in Mesa while tensions mounted in the mining towns of San Manuel and Miami.

Company representatives warned they would replace strikers to keep operations alive. Union leaders vowed they would not go down without a fight and would take the company down with them.

Although a last-minute settlement was reached and a strike was averted, a bitter legacy of mistrust and resentment on both sides threatened to fester into future problems.

But today, Magma's president thinks his company can boast the best labor relations in the business.

The top union leader dealing with Magma agrees that the company is "light years ahead" of other copper producers in finding new ways to deal with its workers.

Experts are crossing oceans to view the startling transformation of Magma from a hotbed of labor-management strife to a testing ground of cooperative harmony.

There is talk that bargaining showdowns every three years may become a thing of the past. And new team efforts tapping "people potential" have yielded startling productivity improvements that veterans of the company can hardly believe.

Some say what has happened at Magma in the last two years is nothing short of revolutionary.

A TENTATIVE NOD

Leaders of a coalition of unions representing Magma's hourly workers last week gave a tentative nod to a company plan that could open up a whole new mining operation at San Manuel later in the decade.

Magma hopes to use the new spirit of cooperation among its workers to go forward with a $90 million plan that could save 1,500 jobs in 1997 and extend the working life of San Manuel's underground operations well into the next century.

The plan to develop the deep "Kalamazoo" ore body springs from what Magma Pesident Burgess Winter calls "taking the lid off to unlock the people potential" throughout the company.

Magma is ready to commit $5 million to study full development of the Kalamazoo, a deeper extension of the existing San Manuel ore body nearing the end of its economic life.

More than 3,000 people work in the San Manuel mining, smelting and refining complex 45 miles northeast of Tucson.

Magma officials think some of the credit for the company's record 1990 income of $84 million goes directly to the new spirit of cooperation seeping through the workplace.

The centerpiece of the changes is the Joint Union-Management Cooperation Committee formed a few months after the signing of the 1989 contract. The JUMCC has been heartily endorsed by both Magma executives and the unions repesenting its workers at San Manuel and the Pinto Valley operations in the Globe-Miami area.

SHELTON SKEPTICAL AT START

Present at the creation of JUMCC was Don Shelton, a 27-year veteran at San Manuel and former president of the United Steelworkers Local that represents nearly 2,000 Magma workers. He recently began serving as union coordinator for the joint committee.

Shelton recalls he was "very skeptical in the beginning" when company and union representatives gathered in Scottsdale a few months after the bitter contract negotiations to begin the process of building cooperative teams.

"The whole process has created a totally different atmosphere. Now, just about anything is possible."

Both Magma and its unions had longstanding reputations for hard-nosed bargaining and tinder-box labor relations.

"One begets the other, "Shelton observed. "There never was a lot of trust between them." Now, Magma is probably the "most progressive" mining company in turning worker participation into reality, he added.

Shelton said that as he finally began to see the potential for the joint participation approach to problems at Magma, he realized that "given this kind of opportunity, you would be foolish not to grab it and run. What it finally boils down to is a better quality of life."

AN END TO THE SIEGES

A concept is beginning to jell that would establish what some describe as a "living perpetual agreement," or a process that takes care of problems as they arise as opposed to a three-year contract negotiated on deadline.

One advantage to such a new-style agreement which Shelton offhandedly refers to as "This Thing" offers enticing possibility of ending the near-siege mentality that sometimes grips a community as labor contracts near expiration and bargaining bravado increases.

"There will be a lot less stress on families," he said.

Magma President Winter calls the revolution of attitudes at the company "quite fascinating."

Winter is sure that the estimated $3 million that Magma has spent on the thousands of hours of meetings and the professional consultants to develop the JUMCC process is already paying off in higher productivity and lower costs.

Aside from that, Winter said, "I am really having so much fun now I can hardly stand it."

POURING MONEY INTO KALAMAZOO

The fun started only recently.

When Winter arrived at Magma in the fall of 1988, he found the company was "pouring money into the Kalamazoo at an alarming rate of $2 million to $3 million a month and "looking at years of development before any hope of a return."

The Kalamazoo deposit is part of the same ore body that has been the lifeblood of Magma for decades. But Kalamazoo split off and fell deeper into the Earth's crust in the distant geological past, making it harder, and more expensive, to develop.

Winter said he made an "open and shut" decision to stop development on the Kalamazoo in October of that year.

Then came 1989, a "dreadful year" in which the company made visible preparations for a strike and warned that strikers could be replaced.

"The process was nerve-wracking and unfortunate. We spent several million dollars on strike preparations and, even worse, we lost a year of progress simply because we were obsessed by the process. Things were almost on hold throughout the company."

The first task of the Scottsdale gathering in the fall of 1989 was to establish credibility, Winter said.

"We held meetings ad nauseam at SunSpace Ranch and everywhere else" trying to get the point across that a new culture was being born.

"Now, I believe that when I talk to people around the property, they tend to believe me."

AN IDEAL PILOT PROJECT

As the concept of cooperation began to take shape, Winter said he began to "look around for a pilot project" to demonstrate how things could work.

"Kalamazoo was ideal. We needed a group of 150 people, a group that's not too large or too small. And it was clear Kalamazoo was a significant challenge."

The "K Team" assigned to plot a strategy for development of the ore body spent four months "meeting incessantly—laying out everything in detail. They redesigned the whole job."

People in the group, from both sides of the "labor-management fence," began to realize there were "no managers and no workers, only people. A team was developed."

Ore started coming out of the Kalamazoo late last year. Results so far indicate that costs of "K" production are 35 percent below that of the larger San Manuel ore body. Productivity is 50 percent higher, a beaming Winter said.

"It's just working smarter."

Full development of Kalamazoo, however, will require a whole new approach to the entire underground operation, which employs 1,500 people.

COST DOWN 10 PERCENT

For now, however, the results of JUMCC are paying off.

Overall costs of finished copper from underground sources is down more than 10 percent from a year ago due to improvements in all phases of the operation, he said.

Companywide, Winter said, there is a new feeling among all the Magma employees that "it's fun to come to work now."

Under Magma's current mining plan, underground operations at San Manuel will shut down in 1997. Only a viable plan to exploit Kalamazoo can save the underground operation and the 1,500 jobs that go with it, Winter said. "Everyone understands that."

Magma must have a commitment from unions to remove the threat of a crippling work stoppage that would "kill the economics of Kalamazoo," he said.

With that commitment, Winter said, Magma can go forward with a $5 million feasibility study.

By no later than December 1992, a decision will have to be made on Kalamazoo, where full development will take 10 years and $90 million.

"Timing is absolutely critical," Winter said, because Kalamazoo development must begin in time to make use of the San Manuel underground force as that ore body begins to become depleted. Losing the work force, even for a year, would also wreck the economics of the "K," he said.

THE FACTS OF LIFE

Warnings about the end of the useful life of the San Manuel underground are not a "threat" to workers but just "the facts of life," Winter said.

"In many ways, it would be easier for the company to just run out of ore at San Manuel and develop other mines or just buy concentrates (from other companies) for the smelter."

If Magma is able to transplant the innovations and spirit from the K Team to the huge San Manuel operation, the savings could be dramatic.

The goal of the project is to reduce costs from $5.40 a ton to $4 a ton or below. At $4 a ton for underground ore, finished cathode copper at 70 cents a pound is possible. Within those parameters, Winter said, Magma would be justified in spending $90 million to give the underground operations a new lease on life.

Robert Guadiana, director of a four-state region for the United Steelworkers and head of the Magma union coalition, said JUMCC represents "a complete metamorphosis from traditional bargaining. It is a completely different style of working—a whole different philosophy."

Guadiana, active in the union movement for more than 30 years, said the hope is that Magma and its workers can develop "problem-solving bargaining" to replace the traditional adversarial process.

A way may be found to meet the company's goal of removing the threat of work stoppage as Kalamazoo is developed, while at the same time enhancing job security for workers, he said.

WAY AHEAD OF OTHER COMPANIES

"What is going on at Magma is almost revolutionary in the copper industry," Guadiana said. "It is light years ahead of other companies whose only vocabulary is threats, threats, threats."

Guadiana said there is an "excellent possibility" of getting an early agreement with Magma for a new contract before the July 1992 expiration of the current pact.

And there is a "real possibility" that there may never again be a bargaining showdown at Magma, he added.

The example set by the workers and management at Magma should not be lost on the rest of the industry, Guadiana said.

"In spite of themselves, the rest of the cooper industry will have to be brought into the 21st century. The way to survival is employee involvement and employee participation. Cooperation, not aggravation, has got to be the watchword."

MORE TREES ALONG HIGHWAYS

HON. PETER HOAGLAND

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. HOAGLAND. Mr. Speaker, today I am introducing the highway tree planting initiative of 1991 to encourage States to plant more trees along federally aided highways. My bill would amend the Surface Transportation Act and authorize the Secretary of Transportation to identify areas along highways that are suitable for planting of trees and require each State to develop and implement a plan for the planting of trees in places where it is practical and safe to the traveling public. States would then be eligible for Federal cost-share grants to implement their tree planting plan.

In the United States, excluding Alaska, only 5 percent of our primary forest remains intact. In my State of Nebraska, land with tree cover accounts for only 1.5 percent of the total land area. This is a long overdue bill to address some of our mistakes of the past.

Currently, there is no specific direction in the law which encourages or requires States to plant trees along highways. The States are allowed to use the Federal highway funds they receive for purposes of constructing highways, which, includes building the actual roadway and landscaping the corridor along the highway. Unfortunately, trees are not given a priority. They should be, for many reasons. The Highway Tree Planting Act of 1991 would create a grant program to encourage States to plant trees along federally assisted roadways.

Some may ask, "Why are trees needed along highways?" There are several reasons.

Trees have esthetic advantages. Federal regulations require highways to blend in with the natural environment and provide pleasure and satisfaction in their use. What better way to improve the pleasure of driving than to drive down tree-lined highways?

Trees along highways have several environmental advantages as well. Trees help us fight pollution, both in the air, as filters for air particles, and in the water, by preventing runoff, washouts and flooding. A tree lined highway will also cut heat radiation from the pavement. When planted appropriately, trees can act as wind and snow breaks and prevent soil erosion.

But one of the most important benefits to be gained from the planting of trees is to help reduce the effects of global warming. We have all read and heard the disturbing reports on the greenhouse effect in recent years and how carbon dioxide gas buildup in the atmosphere is partly responsible for this global environmental problem. Trees play an integral role in the global warming trend and carbon dioxide buildup by acting as a carbon sink. According to the American Forestry Association, an acre of trees uses about 2.6 tons of carbon dioxide per year. Deforestation has had a devastating effect on our global climate, second only to the burning of fossil fuels as a human source of atmospheric carbon dioxide. According to the Environmental Protection Agency's own analysis, if only 10 percent of the suitable land within highway corridors were planted, new carbon dioxide emissions from powerplants would be significantly offset because trees use carbon dioxide in the photosynthetic process.

The concept of planting trees along highways is not a new one. Prior to 1980, Federal funds were specifically earmarked for tree planting on roadsides. Since then, we have not had a consistent nationwide policy for planting trees along highways, but many States have recognized the need for more trees. In Nebraska, for instance, State agencies have developed the "living snow fence" along portions of Nebraska highways. Consisting of four rows of shrubs and conifers placed safely from the roadside, these natural fences provide low-cost, low-maintenance snow and wind breaks that help reduce hazardous snow from roadways during severe weather conditions.

The highway tree planting initiative of 1991 is consistent with highway construction planning. Most people think of highways as just the pavement their cars roll along. In reality, the total highway environment consists, not just of the roadway, but of roadside development as well. This development includes rest areas, scenic overlooks, travel information centers, landscape projects and preservation of valuable adjacent scenic lands. Obviously, trees can and do play an integral part in the total highway environment. Many highway corridors have room to plant trees in a manner that is consistent with highway policy. Trees can be planted in such a way that they are safely clear of the roadside yet still enhance the natural environment. A strip of land on each side of the roadway which must be kept clear of immovable objects for the safety of mortorists is known to highway experts as the "clear zone." My bill stresses that the Secretary of Transportation shall identify suitable areas for tree planting—areas not in "clear zone" so that they do not interfere with highway traffic or safety.

My bill would set aside $10 million each fiscal year from the highway trust fund, which at the beginning of the 1991 fiscal year had a balance of $9.6 billion in the highway account. This is a small price to pay when considering the environmental and aesthetic benefits that trees provide. The bill sets up a grant program to allocate the funds, under which States would have to apply and contribute 20 percent of the total project cost. This will save money because States that do not need funds would not just automatically get them. With a matching requirement, States have an incentive to use funds wisely.

In order to further save Federal tax dollars, my bill specifically encourages States to accept donated trees for their landscaping projects and encourages State highway departments to enter into cooperative agreements with State foresters. Many State forestry agencies grow their own seedlings in large numbers that keep the cost per tree very low. Since my bill specifies that only low maintenance trees be planted in suitable rights-of-way, the costs associated with the upkeep of these tree would be small. For example, these trees would be planted in areas far enough from the roadside so that pruning of dead limbs would not be needed.

The highway tree planning initiative of 1991 will enhance and complement President Bush's 10-year plan to plant, improve and maintain 1 billion trees a year. This program, called "America the Beautiful," was initiated as a result of the American peoples' concern for the future of the Earth's environment. This concern has been focused on the deterioration of our once abundant natural resources. The bill I am introducing today will enhance this Nation's efforts to curb the greenhouse effect.

This bill also augments the President's highway bill by building on a provision he has included to set aside $5 million for the enhancement for scenic byways. The administration's bill also encourages landscaping and scenic enhancement, "improvement of strips of land necessary for the restoration, preservation and enhancement of significant environmental features and scenic beauty adjacent to highways." My bill would add to the highway program specific encouragement and funds for planting trees.

I urge my colleagues to support what I think is a good and necessary piece of legislation. It puts into law an economical, safe and environmentally sound method of improving America's highway environment through the planting of trees. This bill, will, for the first time, establish a clear policy of planting trees in highway corridors and address what should have been done long ago.

THE HOSPITAL COST CONTAINMENT ISSUE

HON. TERRY L. BRUCE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. BRUCE. Mr. Speaker, the health care debate is on all of our minds today, particularly the need to stop escalating health care costs. Last year the United States spent an estimated $618 billion on health care, yet 37 million Americans remain uninsured. Given the importance of this issue, I would like to insert into the RECORD excerpts from a recent article in the New England Journal of Medicine, which discusses the hospital cost containment issue. I think the results of that study will prove interesting to my colleagues.

HOSPITAL COST CONTAINMENT IN THE 1980'S: HARD LESSONS LEARNED AND PROSPECTS FOR THE 1990'S

(By William B. Schwartz, M.D. and Daniel N. Mendelson, M.P.P.)

Between 1981 and 1988, a period of intense cost containment efforts, there was an observed decrease of 19 percent in the total number of inpatient hospital days. This figure understates the real savings, however, because inpatient days have historically been increasing by more than 1 percent annually and would have been expected to continue increasing in the absence of cost-containment efforts. In terms of the deviation from the historical upward trend, we estimated that inpatient days were reduced by more than 28 percent between 1981 and 1988.

The year-by-year pattern of reductions is perhaps of even greater relevance, since it suggests that further savings will be difficult to achieve. After a steady increase in the percentage of days saved through 1985, the fraction of days saved shrank each year, so that by 1988 there was virtually no savings. This near-halt in the number of inpatient days saved merits particular attention, because it occurred in the face of continuous expansion of managed care and other initiatives designed to reduce the number of inpatient days overall.

The effect of the reduction in inpatient days on the increase in hospital costs slowed from an historical average of over 6 percent per year to about 2 percent per year by 1985. By 1988, the increase in costs had returned to a level above 6 percent.

Thus we conclude that efforts to contain costs did little to limit expenditures beyond decreasing the total number of inpatient days per year. Moreover, it seems likely that the upward pressure on costs will continue in the future, as a result of wage increases required to attract and hold personnel, a wave of expensive new forms of technology, a growing number of patients with the Acquired Immunodeficiency Syndrome, and a new commitment to insurance coverage for the uninsured and underinsured.

Our calculations include only changes in expenditure for acute care in hospitals and do not indicate the overall effect of these changes on system-wide expenditures for health care. When care is transferred to free-standing ambulatory care facilities and physicians' offices, the resulting costs partially offset the savings accomplished in hospital-based care. Because there are no readily available measures of care shifted to settings outside the hospital. We have been unable to calculate the net savings to society.

The sharp slowing in the number of inpatient days saved per year suggests that a further substantial reduction in inpatient days will be hard to achieve unless new practice guidelines are successfully implemented. We also believe that the data indicate that whatever further reductions are likely to be achieved will have only a limited and transient effect on costs.

To illustrate this point, we estimated the effect on costs of saving a total of 20 percent more inpatient days between 1989 and 1995, for a total reduction of nearly 50 percent of inpatient days since 1981. Assuming that each day eliminated saves 65 percent of the cost of an average day of inpatient care, the increase in expenditures would be reduced by 2 percentage points annually. But because a decrease in the number of inpatient days would almost inevitably be accompanied by an increase in visits for ambulatory care, a reduction of this magnitude would probably not be observed. If the increase in the number of visits for ambulatorty care were equal to that in 1987 and 1988, much or all of the savings from cutbacks in inpatient care would be offset.

Equally important, if by the mid-1990s we are successful in eliminating nearly all remaining inappropriate inpatient days, no further cutbacks will be available to mask the underlying rate of increase in costs. Only if other cost-containment measures are put in place will the control of costs be possible.

The aggregate figures just discussed conceal important differences between the rate of increase in Medicare and non-Medicare expenditures. Most notably, between 1982 and 1988 the number of inpatient days used by Medicare patients fell by 41 percent, whereas the number of days used by non-Medicare patients fell by only 15 percent. This finding indicates either that most of whatever days remain to be saved are in the non-Medicare sector, or that the fraction of unnecessary days originally present in the Medicare sector was substantially larger than that in the non-Medicare sector.

The pattern of increase in costs in the two sectors was also remarkably different. Between 1976 and 1982, real costs to Medicare rose at about twice the rate as in the non-Medicare sector; between 1982 and 1988 the situation was completely reversed. Medicare expenditures under the prospective payment system fell steadily, so that by 1987 and 1988 the increase averaged only 0.6 percent per year. By contrast, the increase in non-Medicare expenditures accelerated to almost 9 percent per year during this period. It is important to note that the large increases in Medicare costs that have been reported in the popular press have been driven to a considerable extent by Medicare payments to physicians, which rose by more than 11 percent annually in 1987 and 1988.

These data clearly indicate that the private sector is carrying a steadily increasing share of the responsibilities for maintaining the quality of care for both Medicare and non-Medicare patients in the hospital. How long this burden will be accepted by private payers remains uncertain.

ORPHAN DRUG MARKETING PRACTICES

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. STUDDS. Mr. Speaker, I rise today to alert my colleagues to an excellent article which appeared in the June 16 New York Times magazine concerning the marketing of recombinant human growth hormone [r-hGH].

The article details how one of two pharmaceutical companies currently licensed to market r-hGH moved aggressively to expand its market after securing a federally guaranteed monopoly for its product under the Orphan Drug Act. The law provides market incentives for the development of drug therapies for rare conditions.

The article raises a number of interesting questions about current regulation of this category of pharmaceuticals, and I commend it to my colleagues:

HOW SHORT IS TOO SHORT

(By Barry Werth)

All Marco Oriti has ever wanted, ever imagined, is to be taller. At his fifth birthday party at a McDonald's in Los Angeles, he became sullen and withdrawn because he had not suddenly grown as big as his friends who were already 5: in his simple child's calculus, age equaled height, and Marco had awakened that morning still small. In the six years since then, he has grown, but slowly, achingly, unlike other children.

"Everybody at school calls me shrimp and stuff like that," he says. "They think they're so rad. I feel like a loser. I feel like I'm nothing." At age 11, Marco stands 4 feet 1 inch—4 inches below average—and weighs 49 pounds. And he dreams, as all aggrieved kids do of a sudden, miraculous turnaround: "One day I want to, like, surprise them. Just come in and be taller than them."

Marco, a serious student and standout soccer player, more than imagines redress. Every night but Sunday, after a dinner he seldom has any appetite for, his mother injects him with a hormone known to stimulate bone growth. The drug, a synthetic form of naturally occurring human growth hormone (H.G.H.) produced by the pituitary, has been credited with adding up to 18 inches to the predicted adult height of children who produce insufficient quantities of the hormone on their own—pituitary dwarfs. But there is no clinical proof that it works for children like Marco, with no such deficiency. Marco's rate of growth has improved since he began taking the drug, but his doctor has no way of knowing if his adult height will be affected. Without H.G.H., Marco's predicted height was 5 feet 4 inches, about the same as the Nobel Prize-winning economist Milton Friedman and this year's Masters golf champion, Ian Woosnam, and an inch taller than the basketball guard Muggsy Bogues of the Charlotte Hornets. Marco has been taking the shots for six years, at a cost to his family and their insurance company of more than $15,000 a year.

That Marco is healthy but receives a powerful drug with unknown risks; that as a child he's incapable of informed consent; that his only handicap, if that's what it is, is being at the bottom of the growth curve for children in the United States; that his therapy will take 10 years and cost well over $150,000 while perhaps doing no more than reinforcing his perception that there is something wrong with him—each is troubling.

But what makes the treatment of children like Marco even more disturbing is that ultimately they are taking H.G.H. because there is H.G.H. to give them. The decision to give H.G.H. to "normally short" children—also known as "non-growth-hormone deficient"—typically is arrived at after anguished negotiation between parents and pediatric endocrinologists. But a much larger factor driving such decisions is simply the availability of the drug.

"Until growth hormone came along, no one called normal shortness a disease," says Dr. John D. Lantos of the Center of Clinical Medical Ethics at the University of Chicago Pritzker School of Medicine. "It's become a disease only because a manipulation has become available, and because doctors and insurance companies, in order to rationalize their actions, have had to perceive it as one. What we're seeing is two things—the commodization of drugs that are well-being enhancers and the creeping redefinition of what it means to be healthy."

"It's warped," says Diane Keaton, cofounder of the National Association of Short Adults (N.A.S.A.), a semiserious 300-member lobby whose motto is "Down in front!" and whose mission is to deflate society's cult of stature. "We think shorter is better. We use less food and fiber. We take up less space. The short people I know don't complain about being short; they complain about things not fitting."

Protropin, the trade name for the H.G.H. that Marco takes, is manufactured by Genentech Inc., the world's prototype biotechnology company. Such companies specialize in producing abundant quantities of scarce natural proteins by recombining genetic material. The first drug for humans to be sold by such a company under the company's own name, Protropin has become a test case for challenging one of the central tenets of drug therapy: Because it was developed less for specific disorders than because researchers had learned how to make it, disorders had to be found for it to treat.

What has become clear only later on is that beyond those biochemical illnesses that could be found there is another condition that from Genentech's perspective serves equally well.

A Cleveland Browns cap splays Marco Oriti's ears and shadows his sparrowish face. Like many boys his age, Marco imagines himself someday in the N.F.L. He also says he'd like to be a jockey—making a painful incongruity that mirrors the wild uncertainty over his eventual size. But he is unequivocal about his shots, which his mother rotates nightly between his thighs and upper arms. "I hate them," he says.

He hates being short far more. Concord, the small Northern California city where the Oriti family now lives, is a high-achievement community where competition begins early. So Luisa Oriti and her husband, Anthony, a bank vice president, rationalize the harshness of his treatment. "You want to give your child that edge no matter what," she says. "I think you'd do just about anything."

Marco first began taking H.G.H. in the spring of 1985. At the time, the vials delivered to his house contained not Protropin but a cellular extract drawn from human cadavers. Coroners and pathologists from around the country snipped out the pea-size pituitary glands, located at the base of the brain, and shipped them to laboratories, where they were pulverized and their growth hormone isolated with solvents. Almost 30 years had passed since the first successful treatment of pituitary dwarfs. But scant supplies dictated that the hormone be given to those who needed it most and for whom some efficacy had already been proven. By every known measurement, Marco appeared to be secreting enough hormone naturally. Only his extreme failure to grow prompted his endocrinologist to try to get him the drug.

As it turned out, the next six months were pivotal not only for Marco and H.G.H. but for the biotechnology industry in general. Two months after he received his first shots, doctors discovered that four people who had received natural H.G.H. had died of Creutzfeldt-Jakob disease, a rare dementia caused by slow-acting viruses that live in the brain. The Food and Drug Administration promptly halted distribution of natural H.G.H. leaving thousands of young patients untreated and their families terrified that they, too, might be infected.

Genentech (pronounced ge-NEN-tech) was then nearing completion of four years of largely successful human clinical trials with the genetically engineered Protropin, which appeared to be every bit as effective as the natural hormone. It was also plentiful and, having been developed under sterile conditions and nowhere near human brain cells, virus free. The F.D.A. approved the drug soon after.

For Genentech, it was the last in a series of vital benedictions that would finally allow the company to emerge as a full-fledged drug company, something no other biomedical startup had done since the 1950's, when the Syntex Corporation began selling birth control pills under its own name. For the industry, it was a license to prove what until then had been a tantalizing but largely theoretical notion that recombinant DNA techniques could produce quantities of valuable drugs, drugs that would do things no one had seen before.

Genentech moved aggressively to capitalize on its good fortune, although conflicting conditions dictated a careful strategy. There were only about 20,000 known pituitary dwarfs in the country, indicating a relatively small market. (Experts disagree on how to measure this deficiency.) On the other hand, Genetech knew H.G.H. was a powerful compound—a metabolic master switch—with enormous commercial appeal. Two of H.G.H.'s better-known side effects were that it stimulated protein production and reduced fat. Body-builders and runners were already flocking to buy natural H.G.H. on the black market, paying up to 10 times the price of anabolic steroids. Myths spread about the drug's potential for dieters and those who wanted to reverse the processes of aging. These speculations only increased with the drug's sudden abundance, since researchers now had an approved substance with which to test such claims.

Though the drug had been approved for sale only to those children who were hormone deficient, the company acted as if it planned to sell to many more people than that. "Obviously, there aren't that many short kids to treat," Dr. Barry M. Sherman, then Genentech's director of clinical research, told Science magazine, confirming the company's bullishness.

Others, however, were concerned. "We are now moving from an era in which there were too many patients chasing too little growth hormone to an era in which there will be too much growth hormone chasing too few patients," predicted Dr. James M. Tanner of the Institute of Child Health at the University of London. "It is really Brave New World."

As principal investigator for Genentech's clinical trials with Protropin and a paid consultant to the company, Dr. Selna L. Kaplan was at the center of the drug's transition. Kaplan was interested precisely in those children Sherman seemed most to take for granted as potential recipients of Protropin. A professor at the School of Medicine of the University of California at San Francisco, she had spent nearly 30 years studying the mechanisms of growth and treating children who, for one reason or another, grew poorly. Having as much H.G.H. as she wished to prescribe meant being able to prove what the drug could, and could not, do for a range of short children, including Marco Oriti. Marco had become Kaplan's patient shortly after his fifth birthday, when his family moved to the Bay Area.

From a clinical standpoint, treating non-hormone-deficient children held considerable risks. As Kaplan well knew, growth is not a simple and discrete process. It involves numerous hormones and hormone receptors in a complex pathway that begins in the brain. Treatment with H.G.H. might have no effect on someone who was small because of a shortage not of growth hormone itself but of growth hormone receptor, which extends from body tissue, snaring H.G.H. from the passing blood. Nor was it known what the side effects of such treatment might be. If too little H.G.H. in children caused dwarfism, too much might result in acromegaly, a form of giantism.

Kaplan also knew, as a doctor and researcher, that deciding not to treat normally short children posed other risks. H.G.H. was a remarkably efficacious treatment. She had seen it work in hundreds of growth-hormone-deficient children. If the drug proved as effective with normally short kids as it had with pituitary dwarfs, withholding it would deprive children like Marco—whose families she had occasionally seen become profoundly upset when she wouldn't prescribe treatment.

As she considered the effects of Protropin on normally short children, Kaplan might also have been considering its effects on her career. Virtually every measure of success for a clinical researcher—financing, publications, academic advancement, even the ability to attract patients—depends on experimenting with the most advanced therapies. H.G.H., because of its sudden availability, had only heightened this imperative. Kaplan was already treating a few normally short kids with natural H.G.H.—one of the few doctors to do so. In 1985, with the approval of recombinant H.G.H., she cautiously began prescribing it for more and more.

Having a powerful drug is one thing for a pharmaceutical company selling it something else Barry Sherman, an endocrinologist by training and Genentech's point man for testing its endocrine drugs in humans (and now the company's vice president for medical affairs), had not been in on the original decision to develop Protropin in the 1970's. But he knew Genentech was now in a rare position. The company had inherted, as he put it, a "naked"—i.e. noncompetitive—market for human growth hormone. Sherman's department was to be central in the company's efforts to exploit its new prize.

Because Protropin was initially targeted for use by less than 200,000 people, it qualified as one of the first so-called orphan drugs: a doleful designation resulting from a 1983 ruling that drug companies nonetheless covet. It meant that Genentech, for its willingness to pursue a presumably unprofitable area, now had a federally guaranteed monopoly for seven years. Eli Lilly & Company soon also received orphan drug status for a slightly different form of recombinant H.G.H.; it has also profited—last year, worldwide sales reached at least $100 million Orphan drug status allowed the companies to charge whatever they wanted, in the case of Protropin a figure now approaching $20,000 a year for each patent. (By 1994, when it and Lilly's orphan status will both have lapsed pricing is expected to become more competitive). Sherman, a voluble man with an easy manner, began seeing to it that doctors who wished to experiment with Protropin where supported in their research and that, to the extent possible, their findings benefited Genentech's sales outlook.

In fact, because the F.D.A. had approved Protropin only for the treatment of hormone-deficient children—dwarfs—the company was restricted from marketing these other potential applications. But that was hardly bad news. The big money with an increasing number of drugs is not with those few indications covered by the F.D.A. label but with those many, many more that aren't. Indeed, a good part of the game in drug marketing is now to find the narrowest indications possible for drugs that are likely to be blockbusters later on (Genentech has recently received approval for gamma interferon—a powerful anticancer drug with sales projections of up to $250 million—for treatment of an immune disorder affecting just a few hundred children per year.) Such a strategy short-circuits the enormous expense of having to prove that a compound works for more than one condition, and is fostered—even promoted—by a gaping contradiction in Federal policy. Though the F.D.A. bars companies from actively promoting drugs for nonapproved uses, once a drug is approved any doctor can prescribe it for any purpose.

Gernentech began avidly pursuing the largest group of potential users reasonably available to children who were short but not hormore deficient. What these children all had in common was being in the lower three percentiles in height and having a poor growth pattern. Some had diagnosable ailments like Turner's syndrome a genetic growth disorder in girls, or other illnesses like brain tumors and kidney disease that stunted growth. Many, though, were small simply because their parents were. Whatever the case, these children were beginning to experience the psycho-social effects of being short and were suffering for it.

But how did one define the condition that Genentech sought to treat? Was mere shortness a disease? A disorder? The success of the company depended on the view that it was. "If people could see a clear disadvantage, and we could treat them for it and it would help." Sherman says, then drug therapy is "not inappropriate." In Sherman's view, an attitude he says is prevalent in Europe, no distinction is made about why a child is short. Stature, not biochemical disorder, is the sole criterion for treatment.

Genentech began by identitying its market—mainly through its association with the Human Growth Foundation, a nonprofit advocacy group for short children. As part of a general campaign to boost awareness of the problems of short people, the foundation had for years sent volunteers to shopping malls and state fairs to conduct "height screenings" Genentech, and to a lesser extent Lilly, adopted the foundation. Between them, the two companies provide two-thirds of its national budget, with Genentech even donating the measuring rods used in the screenings according to Deborah S. Swansburg, the foundation's executive director.

Next, the company began spending millions of dollars annually to underwrite research by pediatric endocrinologists. It entertained doctors and nurses lavishly at frequent symposiums. "It's hard not to be influenced when you're receiving this kind of industrial support," says Dr. Douglas S. Frasier, a professor at the U.C.L.A. School of Medicine and one of the country's leading pediatric endocrinologists "Genentech coopted the field."

But it was Sherman, Genentech's medical man, who did most toward legitimizing the treatment of healthy kids. He and his colleagues understood that there is no clear line between having too little H.G.H. and just enough. Diagnosis most often consists of giving a child a powerful drug known to stimulate the release of H.G.H. from the pituitary—insulin or L-dopa are the most common—and measuring the amounts of hormone in the blood. Such pump priming can yield notoriously imprecise results.

Here was Genentech's opportunity. If no one knew for sure what constituted a treatable deficiency, then no one could say accurately who would benefit from taking H.G.H. and who wouldn't; the line between sickness and health could be jiggered freely. As Genentech's chief medical officer, Sherman led the company in attacking the current system of diagnostics, to the point of being listed as one of the main authors of a scientific paper arguing that some tests were so inconsistent as to be worthless.

"I can take you into one endocrinologist who'll say your kid is hormone deficient and another who'll say he isn't," Sherman says. "It's a total crapshoot."

Perhaps proving this point, Genentech is now sponsoring its own clinical trial with more than a hundred healthy children in the third percentile and under, saying in effect that hormone deficiency need no longer be considered essential for treatment, that being very small, for whatever reason, is enough.

The success of Genentech's handholding of doctors and patients, its exploiting of gaps in knowledge, its leveraging of enormously favorable Federal regulations and its blurring of the line between sickness and health, all can be measured most strikingly in Protropin's sales. In 1990, the company sold $157 million of Protropin, up more than 40 percent from two years earlier. It controlled 75 percent of the United States market that had grown to more than $200 million—more than 20 times what the company had originally predicted. With sales of T.P.A., a recombinant heart attack drug costing $2,200 a dose, stagnating after it was shown in a widely publicized trial to work no better than a drug costing $76, Genentech was becoming increasingly dependent on Protropin.

Except there is still no clinical evidence that H.G.H. makes normally short kids any taller as adults. There's no proof that H.G.H. does what families like the Oritis are paying upward of $150,000 for.

In October 1989, Selna Kaplan delivered a paper at an international meeting of endocrinologists in Stockholm. Of the first 12 normally short children she had treated with H.G.H.—children whose therapy had begun up to a decade earlier and who were now full-grown adults—only two were more than two inches taller than their predicted height without the hormone. It was a small group, and they had started therapy relatively late and received less than optimum doses. But they were among the first to test the efficacy of H.G.H. by growing up, and their overall failure to respond was dismaying.

Other doctors who had been treating normally short kids were also now discovering that while they clearly had an initial growth spurt with H.G.H., there was little indication that the drug was making them taller in the long run. U.C.L.A.'s Frasier began describing himself as "cautiously pessimistic" about whether H.G.H. was ultimately of value to such children, a mood shared by many of his colleagues. "I'm less convinced as time goes by that there's a long-term benefit here," he says.

Genentech and adherents of H.G.H. were quick to discredit Kaplan's findings (though she remains on Genentech's payroll as a consultant). But since then, other research findings have supported hers. Most leaders in the field now agree that non-hormone-deficient children do grow faster in the first year of receiving the drug than in the previous year without it. After that, their growth rate is, in Frasier's words, "never as good." Genentech argues that because of the initial growth spurt most children experience, H.G.H. seems to relieve some of the trauma of being left behind.

But there is still virtually nothing to show that a child treated with H.G.H. will become a bigger adult. Indeed, Kaplan and others point out that such treatment may speed up the process of puberty, thereby causing children to stop growing sooner than normal and thus negating any initial gain in height.

Sherman remains stalwart. Buoyed by preliminary findings from Genentech's own research with non-deficient children in the lowest three percentiles, he and his team have begun advising doctors to start children earlier on Protropin and keep them on longer—in other words, to prescribe more drug. They have been making much of the psychological benefit of the growth spurt as a treatment goal in and of itself. And they point to studies showing H.G.H.'s success with children with Turner's syndrome and kidney problems, other causes of shortness that lie in that gray area beyond hormone deficiency.

But Kaplan and Frasier's findings have punctured the bubble that surrounded H.G.H. Insurers are now less willing to bear the cost of treating normally short kids, agreeing to six-month trials, if at all. "All we tell parents now is that there is a good chance that their child will grow faster sooner," Kaplan says. "But that's it. Some may grow taller eventually, but not nearly as many as those who have this initial growth spurt."

While it was still too early to judge the drug's efficacy, criticisms of H.G.H. were muted. But that forgiveness—toward possible side effects, toward its price, toward the rationale for giving it to healthy children—has begun yielding to a stricter accounting. British researchers recently reported a drastic 76 percent loss of body fat and 25 percent increase in muscle in normally short children taking H.G.H. "The children became skinny" and in some cases "inappropriately muscular," they wrote. They also warned about possible effects on internal organs and cell division, reviving an earlier, generally discredited, link between H.G.H. and leukemia. Meanwhile, Kaplan herself has begun wondering openly whether psychiatry might not be a more appropriate and cost-efficient solution for the psychic ills of short kids—a view shared by more and more doctors.

"This year, Boston City Hospital ran out of money to immunize children," says Dr. Samir S. Najjar, a pediatric endocrinologist at Harvard Medical School. "Can we afford, in the present climate, to squander this kind of money on an inch or two of height? For an esthetic problem?"

For Sherman and those doctors and patients who support aggressive treatment, the notion that shortness is somehow just a cosmetic matter is patently "heightist." They point to a body of literature about the predictable sufferings of short people: College graduates more than 6 feet 2 inches tall earn 12 percent more than their shorter classmates; of American Presidents, only two have been shorter than the national average for men of their time; short men find it harder to marry; growth-retarded children have more social problems in school. Little of it is scholarly and most is irrelevant for a child agonizing to become 5 feet 6 inches instead of 5 feet 4 inches.

The question is largely an ethical one—does treating short but healthy children with H.G.H. conform to accepted medical practice for new therapies? Comparing H.G.H. treatment to cosmetic operations for children—ear-piercing, for example—the medical ethicist John Lantos concludes that because of the duration of treatment and the potential long-term risks H.G.H. therapy is "less acceptable."

But in an article in the Journal of the American Medical Association published last year, Lantos and his co-authors strike much closer to the real issue with their economic analysis—what they call "the potential magnitude of the problem." "Of the three million children born in the U.S. annually," they wrote "90,000 will, by definition, be below the third percentile for height." The article projects that that is a potential annual market of $6 billion to $10 billion.

Followed to its logical extreme, Genentech's use of the lowest three percentiles has a built-in escalator that, as Lantos and his colleagues point out, need never stop. If making our shortest children taller is the goal, the growth curve can be pushed up indefinitely. After all, there will always be a lowest three percentiles. Someone will always be shortest.

High as they'd risen, the stakes for H.G.H. abruptly jumped out of sight last July, as a result of a widely publicized article in the New England Journal of Medicine by Dr. Daniel Rudman, a professor at the Medical College of Wisconsin and gerontologist at the Veterans Affairs Medical Center in Milwaukee. He and his co-authors suggested another unexpected cosmetic benefit. In a group of men 61 and older, a six-month course of the drug seemed to reverse a substantial portion of the muscle shrinkage and accumulation of fat that goes with old age—a "potential blockbuster off-label use," one financial report told its readers. Suddenly, a new market of millions of people had materialized. Estimates of potential worldwide annual sales soared. (This month, however, Rudman's group indicated in an update of the survey that the desired effects may begin to reverse when the men stop taking the drug, and said further study was necessary.)

Researchers have long known that most people slow down in their production of growth hormone as they grow older. The question now was whether giving it to old men, 40 years or more after they'd reached their final height, wasn't simply more unwarranted tampering with nature. Short kids made taller, old people younger—appealing notions perhaps, but where does it all stop?

Is aging, too, like shortness, now to be considered a disorder?

The answer is provided neatly, if unintentionally, by Rudman. "We see some men who secrete youthful amounts of hormone into their 80's," he says. The implication is that, compared with these hormonal superproducers, men with normal secretions for their age are somehow deficient.

Genentech stayed out of the discussion at first, perhaps because Rudman's original research was supported by Lilly. But now, it is thinking about joining in. "Our point of view," Sherman says, "is that you have to approach clinical testing in terms of treating a disease." With old people, he asks, "What's your end point?"

The question could equally be asked about healthy short children in the lowest three percentiles.

"They're abnormally short," replies Sherman.

TRIBUTE TO THE NEW YORK YANKEES

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. SERRANO. Mr. Speaker, I rise today to share with you and my distinguished colleagues a story of one of America's most popular traditions and pastimes, a symbol of American culture. As the Congressman representing the South Bronx, my district is home to the famous Yankee Stadium. This stadium has hosted the greatest baseball teams of all time, and has been home to the world-famous New York Yankees. The Yankees have contributed much to the sport of baseball, to the community of the Bronx, to New York City, and to thousands of baseball fans all across the country.

The Yankees gave baseball the first player of Italian origin chosen for the Baseball Hall of Fame, Joe DiMaggio, and the first player of Hispanic background inducted into the Hall of Fame, Lefty Gomez. For some of us who grew up near Yankee Stadium, the excitement of baseball games was the highlight of our springs and summers. Yankee Stadium has drawn crowds of record numbers to view this spectacular team.

Mr. Speaker, today I rise to pay tribute to Yankee Stadium. I would like to share with you a piece written by Prof. Philip A. Grant, Jr., of Pace University in New York City. This paper was delivered in May at the North American Society for Sport History Convention at Loyola University in Chicago, and details some of the most famous events and milestones in the history of the New York Yankees. The following text is entitled "The New York Yankees and the World Series, 1936–1939."

THE NEW YORK YANKEES AND THE WORLD SERIES, 1936–1939

Between 1936 and 1939 the New York Yankees not only won four consecutive American League pennants, but also accomplished the spectacular feat of prevailing over their National League opponents in four successive World Series confrontations. During the first half of the twentieth century no other team in either league captured as many as four world championships in a row.[1]

The Yankees in 1936 and 1939 defeated their National League rivals, the New York Giants, in six and five games respectively. In the following two years the Yankees vanquished the Chicago Cubs and Cincinnati Reds each in four straight games. Thus, over a span of four seasons the Yankees emerged victorious in sixteen of nineteen World Series contests.[2]

In purely statistical terms the Yankees overwhelmed their National League challengers in every meaningful category. Altogether the Yankees outscored their various adversaries 108 to 57 and surpassed their opponents in base hits 179 to 142. The principal reason why the Yankee offense proved so awesome was explained by their 23 home runs and fifty-five extra base hits recorded between 1936 and 1939. By contrast the National League pennant winners produced only 7 home runs and thirty-one extra base hits.[3]

In every respect the Yankee pitching staff was decidedly superior to the collective group of pitchers wearing National League uniforms. From 1936 to 1939 Yankee pitchers completed ten games and allowed a mere forty-four earned runs. During the same period the National League pitchers completed eight games and yielded ninety-nine earned runs. The other relevant figures were as follows:[4]

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[1] Footnotes at end of article.

	Strike-outs	Walks
Yankee pitchers	100	44
Opposing pitchers	92	67

The Yankee dominance of World Series competition between 1936 and 1939 closely reflected the phenomenal record of the New York team within the American League itself. From April 14, 1936 to September 30, 1939 the Yankees won 408 of 609 regular season games, thereby compiling a victorious percentage of .670. In these four seasons the Yankees won pennants by margins ranging from nine and one-half games to nineteen and one-half games and from sixty to one hundred and twenty-eight percentage points. On the average the Yankees ran fifteen games and ninety-six percentage points ahead of the American clubs finishing in second place.[5]

It was noteworthy that six of the Yankees active during the period from 1936 to 1939 were later elected to the Baseball Hall of Fame. These individuals were Manager Joe McCarthy, Catcher Bill Dickey, First Baseman Lou Gehrig, Center Fielder Joe DiMaggio, and Pitchers Lefty Gomez and Red Ruffing. McCarthy, who guided the Yankees to eight pennants and seven world championships, compiled a winning percentage of .621 during his sixteen years at the team's helm. Dickey, who in 1946 succeeded McCarthy as Yankee manager, was probably the most outstanding catcher in the history of professional baseball. The legendary Gehrig, the American League's "Most Valuable Player" in 1936, inspired his Yankee teammates throughout the nineteen twenties and nineteen thirties. An authentic superstar by every conceivable standard, DiMaggio in 1939 was designated the American League's "Most Valuable Player" and eventually was a key participant in ten pennant winning campaigns. Gomez and Ruffing, who won a combined total of 462 games, provided the Yankees with two of the most talented pitchers on the major league baseball scene between the two world wars.[6]

Augmenting the six Yankees to be included in the Hall of Fame were Shortstop Frank Crosetti, Third Baseman Red Rolfe, Right Fielder George Selkirk, and Pitcher Johnny Murphy. Crosetti, Rolfe, Selkirk, and Murphy each had the distinction of being chosen for the American League squad in two of the four All-Star Games between 1936 and 1939. Crosetti, who was known primarily for the high quality of his defensive skills, scored 486 runs and stole 59 bases from 1936 to 1939. Maintaining a .308 batting average, Rolfe also accounted for 155 doubles and 43 triples over the four-year period. Selkirk bolstered the Yankees by hitting over .300 in three of the four world championship seasons and driving in more than one hundred runs in two of these seasons. Acknowledged as the foremost relief pitcher in the major leagues, Murphy between 1936 and 1939 had a 33-15 won-lost record and was credited with saving forty-three games.[7]

Interestingly, the remarkable successes of the Yankees in the World Series were closely paralleled by the team's well-documented contributions to the annual All-Star Games. Between 1936 and 1938 sixteen of the thirty-six starting players in All-Star Games were Yankees. Indeed in 1939 six of the nine starters and three of the sixteen reserve players wore pinstripes. In the American League All-Star victory of 1937 Lefty Gomez was the winning pitcher and Lou Gehrig drove in a total of four runs, while in the 1939 American League All-Star triumph Red Ruffing was the starting pitcher and Joe DiMaggio blasted a home run.[8]

In addition to their impressive array of established players the Yankees were quite fortunate in having under contract three comparatively young individuals in the early stages of their illustrious major league careers. These players were Second Baseman Joe Gordon, Left Fielder Charlie Keller, and Pitcher Spud Chandler. Gordon, who in 1942 would be chosen the American League's "Most Valuable Player," accounted for 56 doubles, 12 triples, and fifty-three home runs and drove in 208 runs during his first two seasons (1938–1939) on the Yankee roster. Only twenty-two years old as he began his rookie year in 1939, Keller it .334 over the course of the regular season and .438 in the World Series. Chandler, who twice would win twenty games in the following decade and be acclaimed the American League's "Most Valuable Player" in 1943, compiled a 24-9 won and lost record (.727) during the 1937, 1938, and 1939 seasons.[9]

The ability of the Yankees to win four consecutive World Series was especially remarkable in view of the high quality of the National League teams during the four year period. The three National League managers were to win an aggregate total of eight pennants and three World Series. The National Leaguers later to be inducted in the "Hall of Fame" included Giants Bill Terry, Mel Ott, Carl Hubbell, and Travis Jackson, Cubs Gabby Hartnett, Dizzy Dean, and Billy Herman, and Reds Bill McKechnie, Ernie Lombardi, and Al Simmons. Also in National League uniforms were such frequent "All-Star" Game performers as Stan Hack, Phil Cavaretta, Bill Lee, Billy Judges, and Rip Collins of the Cubs, Frank McCormick, Bucky Walters, and Paul Derringer of the Reds, and Dick Bartell of the Giants. With players of such talent it was no surprise that the Giants, Cubs, and Reds captured eight pennants during the nine years between 1932 and 1940.[10]

FOOTNOTES

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[1] The only other team to have won four consecutive pennants was the New York Giants (1921–1924). The Giants (1921–1922) and the Chicago Cubs (1907–1908) were the only National League teams to have triumphed in two successive World Series, while the Yankees (1927–1928) and the Philadelphia Athletics (1910–1911 and 1929–1930) were the only American League teams to have gained two World championships in a row. "The Baseball Encyclopedia" (New York: Macmillan Publishing Company, 1990), pp. 2632–2633, 2636–2637, 2446–2647, 2652–2655; Noel Hynd, "The Giants of the Polo Grounds" (New York: Doubleday, 1988), pp. 220–260; David Q. Voigt, "American Baseball" (2 vols.; Norman: University of Oklahoma Press, 1966–1976), II, 16–18, 37–38, 166–175, 181–184, 193–198; "Times," New York, N.Y., October 15, 1908, p. 7; October 24, 1910, p. 6; October 9, 1922, pp. 1, 12; September 28, 1924, IX, 1, 2; October 10, 1928, pp. 1, 22, 23; October 9, 1930, pp. 1, 31.

[2] Donald Honig, "Baseball's Ten Greatest Teams" (New York: Macmillan Publishing Company, 1982), pp. 29–84; "Baseball Encyclopedia," pp. 2661–2664; "Times," New York, N.Y., October 7, 1936, pp. 1, 34, 35; October 11, 1937, pp. 14, 15; October 10, 1938, pp. 1, 22, 23; October 9, 1939, pp. 1, 22, 23.

[3] The offensive statistics were as follows:

	Runs batted in	Total bases
Yankees	105	279
Opponents	48	200

[4] Thirteen of the Yankee's sixteen World Series victories were won by the three pitchers in the starting rotation, Red Ruffing, Lefty Gomez, and Monte Pearson.

[5] "Baseball Encyclopedia," pp. 287, 291, 295, 297; "Times," New York N.Y., September 10, 1936, p.30; September 24, 1937, p. 25; September 19, 1938, p. 23; September 17, 1939, V, i, 3. The Yankees clinched their consecutive American League pennants on the following dates: September 9, 1936; September 23, 1937; September 18, 1938; September 16, 1939. The aggregate statistics for the American League between 1936 and 1939 wee as follows:

	Won	Lost	Percentage
New York Yankees	408	201	.670
Detroit Tigers	338	279	.548
Cleveland Indians	336	278	.548
Boston Red Sox	331	275	.546

[6] Dave Anderson, "The Joe DiMaggio Years," "The Yankees" (New York: Random House, 1979), pp. 56–97; Martin Appel and Burt Goldblatt, "Baseball's Best: The Hall of Fame Gallery" (New York: McGraw-Hill Book Company, 1980), pp. 130–136, 169–172, 179–180. 286–287, 335–336; David L. Porter (ed.), "Biographical Directory of American Sports: Baseball" (Westport, Connecticut: Greenwood Press, 1987), pp. 146–147, 148–149, 210–211: 217–218, 345–346, 489–490; Henry F. Graff, "Henry Louis Gehrig, "Dictionary of American Biography, Supplement Three" (New York: Charles Scribner's Sons, 1973), pp. 294–295.

[7] Mike Shatzkin, "The Ballplayers: Baseball's Ultimate Biographical Reference" (New York: William Morrow, 1990), pp. 237, 775–776, 935, 985; "Baseball Encyclopedia," pp. 812, 1395, 1436, 2078.

[8] "Times," New York, N.Y. July 7, 1936, p. 24; July 8, 1936, p. 22,; July 7, 1937, p. 29; July 8, 1937, p. 27; July 6, 1938, p. 15; July 7, 1938, p. 14; July 11, 1939, p. 23; July 12, 1939, p. 23.

[9] "The Ballplayers," pp. 177, 401, 559.

[10] "Biographical Directory: Baseball," pp. 142–143, 144–146, 235–236, 245–246, 250–251, 267–268, 278–279, 335–336, 348–349, 360–261, 431–432, 512–513, 551–552, 588–589.

THE PRESIDENCY, BY ANY MEANS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. RANGEL. Mr. Speaker, I would like to bring to the attention of my colleagues an article that was written by Mr. Stuart E. Eizenstat. Mr. Eizenstat discusses in the article two incidents where Presidential candidates have been accused of using unethical practices in their bid for the office of the Presidency.

Such allegations are serious and if true illustrate a fundamental weakness in our Presidential electoral process. If candidates are allowed to conduct Presidential election campaigns using less than acceptable campaign methods, then the door would be open for a variety of possible ethical abuses in other areas of government.

The article which appeared in the May 5, 1991, edition of the Los Angeles Times follows:

[From the Los Angeles Times, May 5, 1991]

PERSPECTIVE ON POLITICS; THE PRESIDENCY, BY ANY MEANS

(By Stuart E. Eizenstat)

Evidence that the chairman of the 1980 Ronald Reagan presidential campaign, William J. Casey, a former member of the wartime intelligence service and later CIA director, met with leading Iranians to foreclose the release of American hostages before the election to ensure Presidency Jimmy Carter's defeat, fits into a disturbing modern historical pattern.

That Casey was so involved is the startling conclusion by both PBS in its documentary "The Election Held Hostage" and in the New York Times by Gary Sick, my former colleague in the Carter White House and a person of unimpeachable integrity.

As the country is poised to embark on the 1992 presidential campaign season, this alleged incident and its recent progeny underscore the lengths to which campaigns will go to secure the prize of the presidency and give cause for the American people to question the integrity of their most important election.

American political campaigns have always been rough-and-tumble affairs in which there is no room for the fainthearted and few rules of combat. Because of our weak political party structure, which necessitates a high degree of individual entrepreneurialism, and the difficulty of projecting a meaningful political message over a huge continent to an electorate generally uninterested in issues, American political campaigns have historically relied heavily on negative caricatures of opponents.

As long ago as the campaign of 1800, Alexander Hamilton wrote that John Adams had "great and intrinsic defects in his character which unfit him for the office of Chief Magistrate," while Federalists charged that Thomas Jefferson had behaved in a cowardly fashion as Virginia governor during the Revolution and that he was a "mean spirited, low lived fellow, the son of a half-breed Indian squaw . . . raised wholly on hoe-cake made of coarse-ground Southern corn, bacon and hominy, with an occasional change of fricasseed bull frog."

The presidential campaign of 1884 between James G. Blaine and Grover Cleveland was one of the vilest ever waged. Democrats accused Blaine of public corruption while Republicans attacked Cleveland of an illicit affair with the famous ditty, "Ma! Ma! Where's My Pa? Gone to the White House, Ha! Ha! Ha!"

More recently, Lyndon Johnson's 1964 television ad of a young girl interrupted in picking flowers by a nuclear explosion, implying that Republican Barry Goldwater would be an irresponsible trustee of the nuclear button, and the 1988 Bush campaign ad on Willie Horton, implying that Michael Dukakis would be soft on crime, are recent examples of the same genre of political exaggeration to make a point.

While such negative attacks are hardly admirable, each was an open charge, rebuttable by the accused candidate and ultimately subject to the court of public opinion. The Johnson ad was pulled quickly because of the effective attack on it by the Goldwater campaign, while the Bush ad had an indelible impact on the electorate because Dukakis never deigned to demonstrate its untruth until it was too late.

But the contention that Casey sabotaged an early hostage release during the 1980 election fits into a recent pattern of far more insidious presidential campaign excesses, in which laws may be violated and voters are deprived of information on which to make an informed judgment before the election. Each of these instances had a major impact on the presidential election and on the course of American history.

In the 1968 presidential campaign I served as research director for the presidential campaign of Hubert H. Humphrey. There is convincing evidence that the Nixon campaign at a critical stage in the election, following a bombing halt in the Vietnam War that had led to a surge in Humphrey's support, had Anna Chennault contact South Vietnam's President Nguyen Van Thieu. She persuaded him not to participate in Paris peace talks, because he would get a better deal from a Nixon presidency.

While President Johnson learned of this perfidy before the election, he chose never to disclose it. We watched with unknowing dismay as Humphrey's rising popularity aborted in the concluding days of the campaign when South Vietnam mysteriously and unexpectedly announced its refusal to join the peace talks, despite the entreaties of the President who had committed hundreds of thousands of American troops to that country's survival. This 1968 episode makes it clear that Richard Nixon's "dirty tricks" reelection campaign directed against Edmund Muskie and the subsequent Watergate theft and coverup in 1972 were not aberrations but were part of a clear pattern of Nixon campaign tactics.

The 1980 Iran hostage episode, if true, bears a striking resemblance to the Anna Chennault caper. In each case, there would be a clear interference with the conduct of American diplomacy.

The 1980 Reagan campaign, chaired by Casey, admitted after the election that it had come into the unauthorized possession—whether by theft, a mole in the Carter campaign or a disaffected Carter campaign worker—of the briefing book used to prepare Carter for the penultimate event of the 1980 campaign, the presidential debate with Reagan.

Perhaps the crucial point in the debate occurred when Reagan deftly responded to the President's charges of his opposition to Medicare by saying, "There you go again." This was hardly spontaneous, we can now surmise, because the debate book gave him the Carter script to be used in attacking his record. Here there were possible violations of the law in purloining documents. But far more important, nothing came to light in time for the public to form its own judgments of this conduct.

Thus, the 1980 Iran hostage allegations fit into a Casey-directed campaign that had already lowered its standards. It is easy to forget, in Reagan's landslide victory, that polls showed the election a tossup the weekend before the election, when a hostage deal again seemed possible. We felt helpless as the hostage release and reelection evaded us.

American and world history would certainly have been vastly different if Humphrey and Carter had been elected. The sad message is that the campaigns employing these tactics—far more sordid than mere public attacks on an opponent—got away with it, and may continue to do so in the future. Election results cannot be changed retroactively. The only small satisfaction comes from hoping that the truth will ultimately come out and that it will effect history's judgment of those who have befouled our political system. In the case of the 1980 Iranian hostage matter, the least that can be done is for Congress, and indeed the Bush administration, to jointly appoint a blue-ribbon bipartisan commission to get to the truth of the matter.

RU–486: POLITICS AND SCIENCE COLLIDE

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. LEVINE of California. Mr. Speaker, I commend the following article to my colleagues who share my concern over women's access to health care in this country. The author, a professor in the department of obstetrics and gynecology at the University of Southern California School of Medicine, raises some pertinent points that lawmakers in America must consider when enacting public policy. It is my belief that, as Dr. Grimes points out, RU–486 promises to be an important step in the right direction to achieving equitable and compassionate health care for women in this country:

RU–486: POLITICS AND SCIENCE COLLIDE

(By David Grimes)

The term "orphan drug" usually denotes a drug found to be effective against a rare disease. Since the potential market, and profit, are so small, the manufacturer elects not to distribute the drug. The new French drug RU–486 is also an "orphan drug," although it is effective in treating a very common condition: pregnancy. But it has been orphaned by politics, not unprofitability.

The most frequent means of elective abortion in the United States is suction curettage. In this simple procedure, the cervix—the entrance into the uterus—is stretched open to a small diameter, and the contents of the uterus are removed by suction through a small plastic tube. This procedure has been found to be extremely safe and effective, but no substantial improvement in the technology of early abortion has been made in more than 20 years. Hence, RU–486, or mifepristone, is a development of great importance.

RU–486 is the first of a new class of compounds, the antiprogestins. It is a steroid that blocks the action of the naturally occurring hormone progesterone on the internal lining of the uterus. Since progesterone is required to sustain an early pregnancy, if this support is blocked, the products of conception separate from the uterus and are expelled.

Developed in France, the drug has been used with great success by tens of thousands of French women. Several hundred women in Los Angeles have also taken part in early trials. From 1984 to 1990, volunteers received RU–486 for abortion at Women's Hospital, part of Los Angeles County-USC Medical Center, under research protocols. Our experience with the drug corroborated that of other scientists around the world: RU–486 is safe, effective and popular.

Marketing of RU–486 is anticipated soon in the United Kingdom, and its use in other European nations is expected to follow. The California Medical Assn. and many other medical organizations support the drug. Why, then, is RU–486 not on the horizon for American women? A small but vocal minority opposed to abortion is keeping the drug at bay. Roussel Uclaf, the French manufacturer, appears unwilling to market the drug in the United States until the intensity of the controversy subsides.

Critics of RU–486 seem to have three concerns. Some allege that it is dangerous—the Dalkon Shield of the '90s. Unlike the Dalkon Shield, RU–486 has been rigorously tested by the international scientific community under the auspices of the World Health Organization. The drug is closely related chemically to norethindrone, one of the components of birth-control pills, taken on a daily basis by millions of women in the United States.

In the largest report from France, the rate of serious complications from abortion with RU–486 was one case per thousand abortions. In a recent randomized clinical trial in Los Angeles, we found the side effects of RU–486 to be comparable to those of a placebo, which was an over-the-counter pain pill.

Second, some abortion opponents fear this drug because it could make abortion increasingly private. Abortions with RU-486 might be widely available through physicians' offices rather than through abortion clinics. In that case, opponents of abortion might lose their targets for picketing, harassment and violence. For example, since 1977, 110 abortion clinics have been burned or bombed in this country.

Finally, some abortion opponents claim that RU-486 would promote abortion by making it "too easy." Implicit in this claim is the notion that abortion should be "difficult" or punitive for women, who should suffer for their indiscretion by undergoing both anesthesia and surgery. No mention is ever made of any punishment for the men responsible for these pregnancies.

RU-486, which induces a miscarriage, is apparently not sufficiently noxious. In our trials with RU-486 in Los Angeles, most volunteers had had a prior suctioncurettage abortion. These women reported that abortion with RU-486 was "two thousand times better" and "far less violent" than the surgical alternative.

RU-486 has a number of potentially important medical uses aide from abortion. By blocking the action of progesterone, it helps to soften and open the cervix, which may induce labor for childbirth or facilitate surgery inside the uterus. When given in larger doses, RU-486 blocks the action of a hormone made by the adrenal glands. Studies at the National Institutes of Health have shown RU-486 to be effective medical treatment for a serious disease caused by excessive secretion of this hormone. Some breast cancers may also be treatable with RU-486.

For several decades, scientists have known that methotrexate, a highly effective drug used in chemotherapy for certain cancers, could also be used to induce abortion. What would have happened had anti-abortion activists persuaded its manufacturer not to market that drug merely because they disagreed with one potential use? To the extent that politics meddles with medical science, all Americans suffer.

Induced abortion is one of the most common operations performed in the United States. Each year, 2 percent to 3 percent of all women of reproductive age undergo elective abortions—about 1.6 million per year. Those of us in women's health are working hard to reduce the number of abortions required. However, because of dwindling contraceptive research and development, misconceptions about the safety and efficacy of current contraceptives and human fallibility, the need for abortion will not disappear. Moreover, abortion will remain essential for women whose fetuses have severe genetic or metabolic defects and for women whose lives would be threatened by continuation of pregnancy.

Abortion has always been with us, and it always will be. Since abortion is a fundamental part of women's health care, our societal responsibility is to make it as safe, inexpensive and compassionate as possible, RU-486, currently denied women in this country, promises to be an important step in that direction.

IMPORTANCE OF SECTION 936 TO PUERTO RICO'S ECONOMIC DEVELOPMENT IS EXPLAINED

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. FUSTER. Mr. Speaker, I rise today to explain to my colleagues once again how very important section 936 of the U.S. Internal Revenue Code is to Puerto Rico's continued economic development. I do this because the gentleman from California, [Mr. STARK] has seen fit to introduce legislation which would, unfortunately, impose serious restrictions upon section 936.

I have written a letter to Congressman STARK concerning this, wherein I point out that the employment statistics upon which his proposed legislation is predicated is totally erroneous and misleading. Such legislation would also seriously undermine Puerto Rico's economy and put serious strains on Commonwealth and Federal social services.

Because I know that many of my other colleagues on the Ways and Means Committee and in the House share my views as to the importance of section 936 to Puerto Rico's continued economic development, I am today reprinting in the RECORD the most pertinent sections of my letter to Congressman STARK:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 18, 1991.

Hon. FORTNEY STARK,
Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN STARK: The study by The Midwest Center for Labor Research which you cite approvingly in your statement reports on 25 instances in which jobs were purportedly transferred to Puerto Rico from mainland locations. You must be aware that such "evidence" in no way proves that the 936 credit is costing jobs, on balance, in the U.S. mainland. Plant openings and closing go on by the thousands every year, and in almost every instance one state gains at another's expense. This is simply the nature of a free market system. It is a telling fact that in many of the cases of job transfer cited Puerto Rico was only one of many sites, both foreign and domestic, which were on the receiving end of the jobs. In Puerto Rico, alone, 81 plants closed completely last year, and doubtless some of the work that was being done in those plants ended up in mainland states.

The Midwest Center apparently also realized that their anecdotal evidence was not enough so they added an appendix entitled "Aggregate data on job losses". The focus of attention in the appendix is the pharmaceutical industry, and a table is produced which shows employment of production workers in the U.S. pharmaceutical industry going down from 88.7 thousand in 1980 to 82.0 thousand in 1989, a decline of 7.6 percent.

So that the authenticity of the numbers may not be questioned I have attached a printout (omitted here today for space reasons) supplied to me on the day of your press conference by the definitive source for employment statistics in this country, the Bureau of Labor Statistics of the U.S. Department of Labor. That printout shows an increase in production worker employment in the U.S. pharmaceutical industry from 96.7 thousand in 1980 to 101.9 thousand in 1989 and a further increase to 105.1 thousand in 1990.

That's what I mean when I say that this data, which is absolutely critical to the argument advanced by the OCAWU is inaccurate. Perhaps even worse is the way in which it is intentionally misleading. Production workers are the only ones looked at, as if they were the only ones that counted. Total jobs, I should think, would be more important. From 1980 to 1989 total U.S. pharmaceutical employment went up from 196.1 thousand to 232.2 thousand, and in 1990 it reached 237.9 thousand. These are truly significant increases which the OCAWU doesn't want us to know about, apparently. The gains in U.S. pharmaceutical employment are all the more impressive when put in the context of the generally poor performance of manufacturing in the U.S. as a whole, which it is only fair to do. While employment in the drug companies was doing so well overall production worker employment in manufacturing fell from 14.214 million in 1980 to 12.974 million in 1990. Total manufacturing employment fell from 20.285 million in 1980 to 19.111 million in 1990 in the United States. Still, it is the pharmaceutical industry which the OCAWU singles out as a big job loser.

Even more shameless in its inaccuracy then the Midwest Center's study was a flier handed out at the press conference by the OCAWU entitled "Jobs Exported to Puerto Rico" (As if Puerto Rico were a foreign country). "Section 936," says the flier, ". . . has drawn thousands of jobs away from the mainland during the past two decades." I invite your attention to the employment performance of the pharmaceutical industry since 1970. In the past two decades 89 thousand jobs have been gained for an increase of 60 percent while overall U.S. manufacturing employment actually declined.

Far from being the "lose-lose proposition" that you referred to in your press conference the 936 arrangement has clearly been beneficial to workers in both Puerto Rico and the U.S. mainland. The reason why is quite simple. Pharmaceutical companies are the quintessential high technology companies which depend for their existence on their ability to develop new products continually. This requires large sums of money which cannot easily be raised in outside capital markets. Section 936 has permitted the pharmaceutical companies to remain innovative and competitive while at the same time assisting the heavily over-populated island of Puerto Rico. This doesn't sound like a "lose-lose proposition" to me.

Now let's look at the importance of 936 to Puerto Rico: You might begin with the two-volume "Economic Study of Puerto Rico" by the U.S. Department of Commerce in 1979. Here's a sample of what their non-partisan team of experts had to say:

> Federal and Commonwealth tax policies have been extremely important in stimulating industrial growth throughout the post-World War II period. (Vol. I, p. 8).
>
> Another important role of the Federal Government is that of a stimulator of Puerto Rican industrial growth through tax policies. The U.S. tax exemptions granted to firms investing in Puerto Rico go back many years. But the Internal Revenue Code revisions of 1976 and the changed economic environment which ultimately diminished the importance of low labor costs and tariff-free entry of products into the United States—two particularly advantageous features of Puerto Rico in the earlier development—have made the tax concessions of greater value in recent years. (Vol. I, p. 9).
>
> Continuation of the present exemption from Federal income tax of repatriated divi-

dends from Puerto Rican enterprises, however, is virtually a sine qua non for attracting more U.S. investment capital to Puerto Rican industry. (Vol. I, p. 24).

The Possessions Corporation System of Taxation under section 936 is of central importance to continued Puerto Rican industrial development. Aside from section 936, however, existing Federal Government programs have only a marginal impact on industrial development. (Vol. II, p. 12)."

Other dispassionate studies have reached similar conclusions, the most recent one being that of the Congressional Budget Office in conjunction with Congressional deliberations over enabling legislation for a plebiscite on Puerto Rico's political status. Organizations such as the OCAWU always prefer to refer to reports by the U.S. Treasury, however. With all due respect to that important organization, given their track record on section 936 I believe that if it were up to them Puerto Rico would still be the "Poorhouse of the Caribbean". As recently as 1984, as a part of their Report to the President on tax reform they called for the complete elimination of section 936. The Treasury's first interest is in the collection of taxes; it is not set up to deal with the larger issues of economic development.

That is what concerns me most about the legislation which you are proposing. Not only is it not needed as shown by the employment statistics I have provided, but it also creates a cumbersome mechanism by which the Department of the Treasury could accomplish administratively what it proposed in 1984. Given the natural volatility of market conditions no company can safely predict what decisions they might have to make with respect to their manpower levels in the future. Any job reductions anywhere else could too easily be blamed on job increases in Puerto Rico. The safe thing to do would be simply to avoid the risk and forget about investing in Puerto Rico. Section 936 could simply turn into a dead letter. . .

THE 25TH ANNIVERSARY OF THE ADULT EDUCATION ACT

HON. E. THOMAS COLEMAN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. COLEMAN of Missouri. Mr. Speaker, today along with three of my colleagues from the Education and Labor Committee, I am introducing a joint resolution honoring the 25th anniversary of the Adult Education Act. This act is the cornerstone of Federal assistance to adults lacking basic education and literacy skills and has over the past 25 years served hundreds of thousands of adults obtain these much needed skills.

A recent State performance report indicates that 3.3 million people received services under the Adult Education Basic State Grant Program. Approximately 69 percent of these participants received instruction in either basic skills or English-as-a-second-language programs. The remaining 31 percent received high school equivalency instruction.

This instruction was provided by about 7,300 full-time and 69,000 part-time teachers. Over 90,000 literacy volunteers participated in the program, mostly as tutors. Further, 199,785 participants passed the general education development [GED] test; another 52,146 participants received U.S. citizenship; over 151,000 participants who were previously unemployed found jobs; and over 24,000 left the welfare rolls. Clearly, our investment in Adult Education Act programs yields significant results for the individuals involved as well as for the Nation as a whole.

Funds provided under the Adult Education Act also fund a variety of other services. There are grants for programs for migrant farmworkers and immigrants. Other grants fund programs to train adult volunteer tutors. There is a program of applied research, development, dissemination, and evaluation which contributes to the improvement and expansion of adult education, and a national clearinghouse to compile information on literacy curricula and resources for adult education.

At a time when we are hoping to raise the overall literacy rate in this country, and to encourage adults to continue to learn throughout their lives, the Adult Education Act encompasses those kind of efforts. It is fitting that we recognize the 25th anniversary of this worthwhile program, and that we indicate our continued support for its activities through this joint resolution.

RECOGNIZING TAIWAN'S QUALIFICATIONS FOR MEMBERSHIP IN THE GENERAL AGREEMENT ON TARIFFS AND TRADE

HON. JOHN MILLER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. MILLER of Washington. Mr. Speaker, recently the New York Times published two editorials urging the administration to support Taiwan's application for GATT membership. The titles of those two editorials pretty well sum up the matter: "Taiwan Belongs in GATT," and "Taiwan is Too Big to Ignore." The Republic of China was a founding member of the GATT in 1947. Shortly after that, the civil war on the mainland intervened. Taiwan later was granted observer status but lost that status when it lost its seat in the United Nations. But now Taiwan is one of the leading trading nations of the world. It is too big to ignore. It is a responsible member of the world trading community and has demonstrated its sincerity by abiding by GATT rules even though it is not a signatory.

Taiwan, the world's 13th largest trading partner, and the United States' 6th largest trading partner, is clearly qualified for membership in the GATT. As a GATT member, Taiwan would sit at the table with its fellow trading nations and be bound officially to abide by the same rules of international trade that 100 other member nations abide by. Taiwan deserves membership in GATT, and it deserves the support of the United States for its application. It is in the United States interests for Taiwan to be in GATT. I hope my colleagues will agree and join me in urging the administration to support Taiwan's application.

TAIWAN: TOO BIG TO IGNORE

Taiwan is now one of Asia's most powerful industrial and trading economies. It is Amercia's sixth-largest trading partner, doing more business with this country than France or Saudi Arabia and twice as much as mainland China. Taiwan has become a major global investor; its companies now buy our American businesses.

Yet in the eyes of official Washington, and of most other governments, Taipei scarcely exists.

When Washington belatedly recognized the People's Republic 12 years ago, it accepted the proposition then put forth by both Beijing and Taipei that there could be only one China. But in reality, there remain two Chinas. America's traditional one-China policy is ripe for critical review.

The one-China fiction grows increasingly hard to justify as Taiwan deepens its economic relations with the outside world and China turns its back on market reforms. After last year's bloodbath in Tiananmen Square, no one imagines an easy fusion of the two Chinese states any time soon.

Taipei's application to rejoin the capitalist world's main trade organization, the General Agreement on Tariffs and Trade, has already set off a debate within the Bush Administration. Carla Hills, the Trade Representative, supports Taipei's bid. But the State Department, reluctant to upset Beijing and perhaps endanger its cooperation against Iraq, resists.

Taiwan was a founding member of the Trade Agreement in 1947 but was forced out in 1971 when the People's Republic assumed China's seat in the United Nations. Its return would automatically subject Taiwanese trade to the world's agreed trading ground rules. That can also be done, as now, by a network of bilateral agreements.

Ultimately, GATT membership is symbolic and political. But it is just for symbolic and political reasons that the U.S. should now look with favor on Taiwan's readmission. There is no doubt about Taiwan's commitment to a market economy, a standard condition for GATT membership. And, unlike mainland China, Taiwan is now committed to democracy.

There are obvious problems. Beijing insists on subordinating Taiwan's application to its own membership bid. But that may not prove insuperable. Both Chinas now participate in the Asian Development Bank, with Taiwan accepting the designation "Taipei, China." That formula honors the fiction of one China while acknowledging the reality of two regimes. Taipei would re-enter GATT as the "Customs Territory of Taiwan, Penghu, Kinmen and Matsu."

Washington is not obliged to humor Beijing's desire to deny the reality of two Chinas. Especially on economic matters, the U.S. holds far more cards than the People's Republic, and can afford to put American interests first. Those interests are served by maintaining normal diplomatic and economic relations with mainland China. But they are also served by dealing with the reality of Taipei.

TAIWAN BELONGS IN GATT

Even as politics divided the world after World War II, trade united it. Now, Communism's collapse and the third world's disenchantment with protectionism makes possible a truly global market—one world, united in trade.

The framework for trade advances has been the General Agreement on Tariffs and Trade. Under its auspices nearly 100 diverse nations have agreed to uniform, equitable rules of international commerce. Yet GATT ought to be even more universal than it now is. Politics still divides.

Western deference to China now keeps Taiwan, the world's 13th-largest trading nation, outside GATT. Beijing objects that admitting Taiwan would undermine the principle that there can be only one China.

That argument doesn't stand up. Taiwan has deliberately skirted the one-China issue by applying to GATT as the "Customs Territory of Taiwan, Penghu, Kinmen and Matsu. Its admission under this name would follow the precedent of Hong Kong, a GATT member since 1988. Ideological hostility, not China's integrity, seems Beijing's true concern.

Taiwan's open-market economy meets normal GATT entrance criteria, while Beijing's half-reformed, half-centralized system falls short. And despite the mainland's huge edge in territory and population, Taiwan is a weightier player in the world economy by almost every measure: industrialization, trade flows, capital exports and international reserves.

Taiwan is now America's sixth-largest trading partner, accounting for this country's second-largest bilateral trade deficit. With the Bush Administration's stated commitment to GATT, Washington might be expected to support Taiwan's application strongly. But thus far it has not.

The Administration would best serve American political and economic interests by supporting Taiwan's entrance into GATT.

BRIG. GEN. RUSS ZAJTCHUK

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. MICHEL. Mr. Speaker, earlier this week, Russ Zajtchuk was promoted to brigadier general of the U.S. Army at the Walter Reed Army Medical Center in Washington, DC.

Promotions such as these, meritorious as they are, are often overlooked save by friends and family. Yet, the promotion of Russ Zajtchuk should serve to remind each of us that the American dream is alive and can, against odds and obstacles, persevere.

Born in Ukraine, Brigadier General Zajtchuk emigrated via Germany to my native State of Illinois. General Zajtchuk's studies, began at the University of Illinois, culminated in a doctor of medicine degree from the University of Chicago.

After 21 years of dedication on both domestic and international assignments, Russ Zajtchuk is at the pinnacle of medical services; he was until recently the deputy commander of the Walter Reed Army Medical Center and will soon be the commanding general of Brooke Army Medical Center, Fort Sam Houston, TX.

I join with his friends and family in wishing Brigadier General Zajtchuk continued success.

TWENTY SUCCESSFUL YEARS FOR THE NORTH WARD CENTER

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. PAYNE of New Jersey. Mr. Speaker, on Friday, June 21, a neighborhood in my hometown of Newark, NJ, holds a special celebration as the North Ward community gathers to mark the 20th year anniversary of the North Ward Educational and Cultural Center.

The center stands as a tribute to the enduring spirit of a neighborhood determined not only to survive, but to flourish. Over the years, immigrants seeking a better life settled into the North Ward's small frame houses with their lovely flowering gardens. It was a neighborly place, where life centered around family and church-related activities.

After the upheaval of 1960's, many feared that the values and the cohesiveness of the North Ward would be lost forever. But, in the midst of the storm, the community found an anchor. An idea emerged to create a center where all North Ward residents would be welcome, a center where young and old could come together to learn, to work, to talk, and to grow. Among those who worked to make the idea a reality was Msgr. Geno Baroni, whose confidence in the future of urban life inspired him to establish the National Center for Urban Ethnic Affairs and led to his appointment as Under Secretary of Housing and Urban Development. Community leaders like Steven Adubato, a Newark schoolteacher, worked to create a community center that would be a place of unity infused with a spirit of optimism about the future.

The North Ward Center offers senior citizens' services, recreation, day care, and job training opportunities. Other services of the center include youth counseling, housing, community rehabilitation and stabilization, health care, and partnerships with other organizations such as the Boys' and Girls' Clubs of Newark.

Over the years, the center's activities have included an anticrime program, equivalency classes to help people acquire high school diplomas, a training program for those seeking placement in the business world, a Meals on Wheels Program, a hypertension screening program, a senior citizens employment project, and a "sister city" agreement with Guaynabo, Puerto Rico.

It is an interesting historical note that the headquarters of the center was once a mansion representing the privilege of mill and factory owners who controlled Newark at the turn of the century. Today, the descendants of factory and mill workers are able to benefit from the services offered at this splendid location.

The center has found creative ways to promote international goodwill: In March 1979, they held a simulated peace treaty signing between an Israeli and an Egyptian family living in the North Ward; to help the victims of the 1980 earthquake in southern Italy, they hosted a fundraising event commemorating Italy's "Little Christmas"; and in conjunction with UNICEF, they raised funds for Ethiopian Famine Relief.

Mr. Speaker, I know my colleagues here in the U.S. House of Representatives join me in paying tribute to the North Ward community on the 20th anniversary of the North Ward Center, a special place which embodies solid, enduring values handed down from one generation to another. Our best wishes go out for continued success.

TRIBUTE TO THE 49TH TACTICAL FIGHTER WING

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to the 49th Tactical Fighter Wing. The wing's members are holding their 1991 reunion in Roseville, MI this week.

The 49th initially was designated as the 49th Pursuit Group in 1940. The group was activated on the 16th of January, 1941 at Selfridge Field near Mount Clemens, MI. It was among the first to deploy from the United States to the Pacific Theatre of Operations during World War II. In 4 years of combat the group's pilots destroyed 678 enemy aircraft, a record surpassing all other fighter groups in the Pacific Theatre. Their success in the war earned them the nickname "fighting 49ers."

In 1950, the redesignated 49th Fighter Bomber Wing began operations in Korea. Its members were the first jet fighter unit to operate there. They became one of the most decorated Air Force units to emerge from the Korean war.

On July 8, 1958, the wing received its present designation. The following summer the wing began what became a 9-year stay at Spangdahlem Air Base in the Federal Republic of Germany.

The unit became the first dual-based tactical fighter wing in July 1968 when its members were based at Holloman Air Force Base in New Mexico. The wing's first exercise of dual-basing, entitled Crested Cap I, earned the 49ers the coveted MacKay Trophy. The award, given for the "most meritorious flight of the year," was earned by the 49th for the fastest, nonstop deployment of jet aircraft ever accomplished with TAC by a wing's entire fleet.

In May 1972, the wing was directed to perform combat duties in Southeast Asia. During almost 5 months of combat, the wing flew thousands of missions without losing a single man to the enemy—a testimony to the outstanding training and proficiency of all members of the 49th.

In 1980, two pilots from the 49th each flew their F–15's 6,200 miles in just over 14 hours and established a record for the longest flights of a single-seat fighter aircraft.

In the fall of 1988, the 49th won top honors at William Tell, an air-to-air weapons competition held in Florida. The wing outdistanced the nearest competitor by the significant margin of more than 2,000 points. The 49th won a variety of awards, including the coveted "Top Gun" for the best fighter pilot.

I commend the 49th Tactical Fighter Wing on their success. I am confident they will continue to serve this country in an equally outstanding fashion in the future.

Above all, Mr. Speaker, I pay tribute to the brave men and women who have given their lives to keep this great sovereign Nation free.

HOUSE RESOLUTION 177

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. FROST. Mr. Speaker, I rise in support of House Resolution 177, the Foreign Operations Appropriation for Fiscal Year 1992. I am particularly pleased that the Committee on Appropriations has included in its bill a recommendation for $20 million for assistance to democratic institution building in Eastern Europe in the coming year. I would like to thank the chairman of the subcommittee, Mr. OBEY, for his assistance and support of democratic institution building in the region and for his support for the activities of the Special Task Force on the Development of Parliamentary Institutions in Eastern Europe.

Mr. Speaker, since the task force was created in April of 1990, we have developed a plan of assistance to the parliaments of Hungary, Czechoslovakia, and, in coordination with the Senate's Gift of Democracy Program, Poland. I am pleased to announce that on Thursday of last week, a contract was signed for the provision of computer and office equipment to the Federal Assembly of the Czech and Slovak Federal Republic. This equipment should be installed by the end of July and I believe it is a concrete demonstration of the seriousness of our effort on the behalf of these new institutions in Eastern Europe. In addition, by the end of this week, the first request for proposal for computer and office equipment for the parliament of the Republic of Hungary will be published.

The task force, with the assistance of the Library of Congress and the Congressional Research Service, is actively working with these new parliaments to help them develop the necessary infrastructure to ensure that they will become true legislative bodies. In addition to providing computer equipment, the task force is also providing books and periodicals to stock the parliamentary libraries, and training staff in research and analysis in order to begin to be able to provide those services to the members and staff of those parliaments. We believe we are helping to establish a strong foundation for the future development of the new parliaments of Eastern Europe and for the future of democracy in the region.

Mr. Speaker, the task force has developed a budget of $6 million for fiscal year 1992 to be dedicated to the completion of our assistance program in Poland, Hungary and Czechoslovakia, and to begin a program of assistance in Bulgaria. We are especially pleased that the Subcommittee on Foreign Operations is supportive of our efforts and has recommended in its report that the program be funded at that level in the coming fiscal year.

TRIBUTE TO RABBI JOSEPH PERL

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. GREEN of New York. Mr. Speaker, I rise today to recognize my constituent, Rabbi Joseph Perl, who will retire this month after 25 years of service with the New York City Department of Housing Preservation and Development [NYHPD]. Joseph Perl currently acts as director of project services for fiscal affairs at NYHPD.

As the senior Republican of the Appropriations Subcommittee which funds the Department of Housing and Urban Development [HUD], I am especially pleased to congratulate Joseph Perl on his achievements. Mr. Perl has been an integral figure at the NYHPD in promoting housing progams as he has served as an advisor and a special assistant to numerous housing commissioners. Due to Mr. Perl's active involvement and fiscal insights, his housing programs have enabled the city to save millions of dollars. This was especially true with the Mitchell-Lama Housing Programs.

Rabbi Perl has been instrumental in overseeing the development of a great many housing projects, but he is most known for his work in the Boro Park Brooklyn community. He has shown a great deal of devotion and allegiance to that neighborhood.

At this time, I join my colleagues in offering special thanks to Joseph Perl for dedicating his career to serving the community. I should also like to extend my very best to him upon his retirement.

AAA 75TH ANNIVERSARY COMMEMORATION

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. DINGELL. Mr. Speaker, today I rise to commemorate the 75th anniversary of the American Automobile Association of Michigan, more widely as the automobile club of Michigan. Not only is AAA-Michigan the third largest automobile club in the country, but it operates the largest travel agency in Michigan. On June 25, AAA-Michigan will celebrate 75 years of servicing our State and its insurance needs, and I would like to pay tribute to their accomplishments.

In 1916 when 19 Detroit-area business leaders united to form the Detroit Automobile Club, they probably did not envision the growth their club would experience in the years that have followed. During this organization's 75 years, it has become the leading advocate for the adoption of an "implied consent law" to reduce drunk driving accidents and deaths. AAA-Michigan has led successful efforts to lower the blood-alcohol content standard for drunk driving, and has actively supported the enactment of mandatory safety belt laws. Not only was AAA-Michigan the first auto club to develop high school drivers' training classes, but it was also the first auto club to install a stop sign.

Throughout the 75 years AAA-Michigan has been in existence its membership has expanded to more than 1.5 million members. In just last year alone AAA-Michigan has answered more that 800,000 emergency road service requests, passed out over a million triptiks, tourbooks and other travel-related information, sponsored 40,000 safety patrollers and settled more than 358,000 insurance claims.

Mr. Speaker, at this time I ask my colleagues in the House to join me in saluting AAA-Michigan on this occasion and thank them for all their steadfast years of service to our State of Michigan.

OPPOSITION TO AMENDMENT TO H.R. 2508

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. MOODY. Mr. Speaker, I rise to express my opposition to the Bryant amendment to H.R. 2508, the foreign aid authorization bill. The Bryant amendment would withhold $82.5 million of the $3 billion in economic assistance to Israel.

I do share some of the concerns that motivate Congressman BRYANT. I hope that we will not see an expansion of settlements in the West Bank and Gaza. But I also share the concerns expressed by Chairman HAMILTON; this is not a balanced amendment. It cites Israel's settlement activity as an obstacle to peace in the region. But we all know that the greatest obstacles to peace do not, in fact, come from Israel.

The greatest obstacles come from Arab countries that refuse to recognize Israel's right to exist and continue to impose a trade boycott against Israel. This amendment takes no steps to withhold aid to those countries. For this reason, it is not evenhanded and I cannot support it.

RECOGNIZING AMERICAN AIRLINE'S LEADERSHIP IN WICHITA STATE UNIVERSITY'S AIRLINE QUALITY RATINGS

HON. DAN GLICKMAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. GLICKMAN. Mr. Speaker, at the beginning of this century, Orville and Wilbur Wright had a vision. Their dream was to see Americans flying, and their creative genius ensured that this Nation would play the primary role in developing the fledgling aviation industry.

While the airline industry has undergone dramatic change in the ensuing 84 years, one thing has remained constant: the United States continues to be the indisputable world leader in the field of aviation.

Much of the credit for this fact can be attributed to the substantial commitment of Government, industry and academic institutions to aviation research and development. One such higher learning facility that conducts extensive aviation research and development is the National Institute for Aviation Research at the Wichita State University.

Located in my congressional district and widely recognized as one of the finest facilities in this country, the institute is a shining example of a higher education facility integrating the cooperative efforts of business and Government to advance this Nation's aviation research. The capabilities and state-of-the-art facilities at the National Institute for Aviation Research have made it one of the most preeminent research centers in the world and have directly benefited this Nation's aviation industry.

Recently, under the able leadership of Dr. Brent Bowen, Dr. Dean Headley and Ms. Jacqueline Luedtke, the institute developed an airline quality rating [AQR] to evaluate the comparative quality of the major domestic airlines. Sixty-five industry experts developed a list of 19 factors used by the traveling public to judge the different airlines' quality of service. The list of factors includes on-time performance, pilot deviations, number of accidents, flight problems, oversales, mishandled baggage and customer service.

Based upon these objective, quantifiable factors, the institute compared the 10 major U.S. airlines, and in a report issued in April, concluded that American Airlines was the top domestic airline as of January 1991. This finding was consistent with a recent major consumer survey of 4,400 frequent flyers which also gave American Airlines top honors. My hat goes off to the company, which has definitely proven that they are "something special in the air."

I believe that the AQR is an extremely valuable way of measuring consumer satisfaction. Moreover, because it employs a method less-burdensome than surveying thousands of customers, it can and will be updated on a regular and timely basis. I applaud the institute for all its efforts in this regard and encourage it to keep up the good work. I also salute American Airlines for their achievement in providing high-quality, dependable service to this Nation's traveling public.

SALUTE TO JOHNNY CARPENTER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. GALLEGLY. Mr. Speaker, I am pleased to rise today to pay special recognition to a man who has been helping handicapped and underprivileged children win back their self-esteem and their confidence for some 50 years.

Johnny Carpenter, the cowboy who cares, has been operating the Heaven on Earth Ranch in Lake View Terrace, CA, since the 1940's. At the 5-acre ranch, he has helped nearly 1 million children through the magic of horses and the power of caring.

A generous man who provides his services without charge, he built and maintains almost single-handedly his ranch, an authentic western town complete with wagons, stagecoaches and livestock. The children, many of whom have seldom been outdoors, respond to the setting, and visibly brighten. Many gain a new confidence that had not seemed possible before.

For his outstanding efforts, Mr. Carpenter has been honored time and time again, including being presented with the prestigious Thomas Jefferson Award for Public Service. The commendation accompanying that award sums it up: "What he has done for thousands of youngsters can never be repaid."

Mr. Speaker, I ask my colleagues to join me in saluting Johnny Carpenter for some 50 years of bringing light into the lives of children.

TRIBUTE TO WILLIAM K. WATERS

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. REED. Mr. Speaker, I rise today to pay tribute to William K. Waters on the occasion of his 25th anniversary as student council advisor at Park View Junior High School in Cranston, RI. Mr. Waters, who is known as Mr. Park View in recognition of his devotion to the tradition of educational excellence at Park View Junior High School, is rightly honored for his longstanding service in this challenging capacity.

William Waters, a 1964 graduate of Rhode Island College, is presently chairperson of the social studies department at Park View. He is regarded by fellow educators and parents as a stellar teacher who has through his leadership, imagination, and dedication positively affected the educational experiences of thousands of young Rhode Islanders. He is credited with steering the Park View Student Council to new levels of achievement, and for imbuing Student Council members with senses of responsibility and self-confidence.

Mr. Speaker, I ask you and my colleagues to join me today in saluting William K. Waters. I am indeed fortunate that Mr. Waters has undertaken his impressive mission in my representative district, and I join family and friends who today honor his achievement.

CELEBRATING THE CAREER OF RABBI JOSEPH PERL

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. SOLARZ. Mr. Speaker, I rise today to celebrate the career and accomplishments of Rabbi Joseph Perl on the occasion of his retirement on June 28, 1991. In his nearly 25 years of service to our city, he has made inestimable contributions to the welfare of New York's citizens.

Thousands of New York's citizens live in clean, safe, affordable housing thanks to his efforts. His professionalism and dedication have saved the city millions of dollars through sound fiscal management. Programs such as the Mitchell-Lama middle income housing program are lasting monuments to his labors.

While Rabbi Perl has served most recently as the director of projects services for fiscal affairs and the New York City Department of Housing, Preservation, and Development, he has distinguished himself in numerous important positions in our municipal government.

I am also proud to note that so outstanding a public servant is a beloved member of the Boro Park community in the heart of Brooklyn, which I represent. Although he is best known in the five boroughs as an exacting fiscal administrator, he is first and foremost a friend of Boro Park and its most important institutions. He is a credit to our neighborhood.

Mr. Speaker, in recent years government has gotten the reputation for ineptness and corruption. Yet it is due to the skilled labors of public servants whose integrity is beyond reproach that we are able to point to our successes in the public sector. Public servants like Rabbi Perl make the system work for all of us.

Although his skill and his concern for his fellow New Yorkers will be missed, I am nonetheless pleased to join with his many friends and colleagues in celebrating Rabbi Perl's distinguished career in public service.

TRIBUTE TO ROBERT DEKRUIF

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. BERMAN. Mr. Speaker, I rise today to salute my dear friend, Robert DeKruif. Through his professional and civic accomplishments, Bob has contributed greatly to the San Fernando Valley and to the State of California for the past 50 years. It is to celebrate this milestone in his successful career that I honor him today. He currently holds the positions of vice chairman of Home Savings of America, director and vice chairman of the board of H.F. Ahmanson & Co. and, since 1968, he has served on the board of trustees for the Ahmanson Foundation.

In 1941, after receiving a bachelor's degree in business administration from the University of Southern California, Bob joined H.F. Ahmanson & Co., as an insurance salesman. In 1958 he was appointed president of the corporation. Presently, in his capacity as director and vice chairman of the board, he is responsible for the company's government relations activities, as well as for overseeing the community outreach, corporate media relations and corporate communications departments. Bob is truly exceptional, not solely for these professional achievements, but for the manner in which he has used his prestige to help others less fortunate than himself.

In addition to volunteering his time and expertise to numerous community organizations and involving himself in projects ranging from art exhibits to job fairs, Bob has directed the distribution of charitable donations to more than 1,000 community agencies throughout the State and the Nation. Specifically, he has provided leadership in the expansion of career awareness and training for inner-city youth. Bob assisted in the development and growth of the Alzheimer's Disease and Related Disorders Association. He also helped to create "Operation Con-Game," an award-winning nationwide crime prevention program.

Most notably, Bob merged his professional prowess with his civic-minded philosophy as the sponsor of business development conferences designed to enhance minority participation in major corporate purchasing programs. He is also involved in other activities created to strengthen the Home Savings Affirmative Action Program. His goal for this work is the external dissemination of equal employment opportunities, the internal revision of affirmative action policy, and the formation and maintenance of advisement committees.

In all facets of his personal and professional life Bob has continually shown dedication to his community and its members. He is a dedicated citizen fully deserving of the many commendations bestowed upon him. Please join me in thanking Robert DeKruif for his humanitarian contributions to his community and to his State of California and in wishing him every success in his future endeavors.

PRESERVE TV MARTI

HON. TIMOTHY J. ROEMER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. ROEMER. Mr. Speaker, last week the House passed the Commerce, Justice and State Department appropriations bill. I am pleased to note that in taking this action, one of our most important programs in carrying the message of democracy to Communist countries was preserved.

TV Marti has been broadcasting into Cuba and delivering strong signals into its primary target areas of Havana, Matanzas, and Pinar del rio Provinces. The broadcasts are fulfilling a critical role in attempting to provide information to a populace that is the victim of one of the most aggressive disinformation programs in the world.

In Castro's Cuba, news is being censored from the Soviet Union, Eastern Europe, and from elsewhere in Latin America. As democracy sprouts it wings in Communist countries across the globe, the people of Cuba are being denied the right to information which we in the free world take for granted. This is clear evidence that while the cold war may be over in Eastern Europe, it is still alive and well in Castro's Cuba.

A recent study completed by independent contractors for the U.S. Information Agency concluded that despite Castro's jamming of the TV Marti signal, 81 percent of the households in the primary target area have tried to tune in to the station, and 28 percent are able to receive it. This translates to approximately 273,000 households and shows that the interest within Cuba regarding TV Marti is stronger and more consistent than ever.

Amendments had been proposed during House consideration of the appropriations bill that would have reduced funding for TV Marti. I am glad that these amendments were not offered. During these times of increased democratization around the world, we must not forget that there are still places like Cuba where communism thrives and leaders like Castro suppress the wishes and hopes of their people.

It has long been U.S. Government policy to broadcast into countries that do not permit the free flow of ideas and information, and we must continue these policies until the last vestiges of Communist oppression are driven from the face of the Earth. The people of Cuba deserve to hear the message of democracy, and we in the Congress must assure that we support efforts to do so.

UPON THE RETIREMENT OF MAJ. GEN. JOHN P. SCHOEPPNER, JR.

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. THOMAS of California. Mr. Speaker, I want to recognize Maj. Gen. John P. Schoeppner, Jr., on his retirement from the U.S. Air Force after a distinguished 31-year career. General Schoeppner has served as the commander of the Air Force Flight Test Center at Edwards Air Force Base in California since July 1988, overseeing the base's 301,000 acres and 18,000 employees and residents and an $801 million annual budget.

General Schoeppner has distinguished himself both as a pilot and a commander during his Air Force career. A graduate of the Air Force Officer Training Corps program, General Schoeppner entered the Air Force in 1960 and completed his pilot training in 1966 at Reese Air Force Base, TX. He participated in the United States' response to North Korea's attack on the U.S.S. *Pueblo* as a flight commander in the 18th Tactical Fighter Wing while stationed at Kadena Air Base in Okinawa, Japan, and is a command pilot with more than 3,000 flying hours, including 360 combat hours. His military decorations and awards include the Distinguished Service Medal, Defense Superior Service Medal, Legion of Merit with two oak leaf clusters, and the Distinguished Flying Cross.

Following graduation from the U.S. Air Force Test Pilot School at Edwards Air Force Base in 1972, General Schoeppner completed Air War College in 1978, and was assigned to Headquarters U.S. Air Force, Washington, DC. There, General Schoeppner served as chief of the Tactical Requirements Division in the office of deputy chief of staff for research, development, and acquisition. He was also the U.S. representative to the North Atlantic Treaty Organization's Tri-Service Group on Air Defense.

General Schoeppner has ably served the Air Force Flight Test Center at Edwards Air Force Base both as an instructor and a commander. Following his graduation from test pilot school, General Schoeppner remained on the staff at Edwards Air Force Base as an instructor and chief of the Training Resources Branch. Subsequent assignments at Edwards included operation assistant for joint test force activities, chief of maintenance quality control, and deputy commander of the 6512th Test Squadron.

As commander of the Air Force Flight Test Center, General Schoeppner has presided over the streamlining of the base's organizational structure while improving the base's roads, parks, and facilities such as the youth center. He has improved the quality of life and raised the morale of the enlisted personnel by refurbishing blocks of enlisted personnel's quarters, including both apartments and dormitories. In addition, General Schoeppner has extended the life of the base by presiding over improvements and expansions of the base's infrastructure.

Mr. Speaker, I thank my colleagues for allowing me this opportunity to honor Maj. Gen. John P. Schoeppner on his retirement. He has been a great friend to the Air Force Flight Test Center at Edwards Air Force Base and he has been a great personal friend to me, and his services will be missed.

TRIBUTE TO POLICE OFFICER

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. DARDEN. Mr. Speaker, police officers take an oath to protect and serve; it's their job. But this past week, Rick William Hardin, a 6-year veteran of the Marietta Police Department, went above and beyond the call of duty in risking his life to save others. Today, I would like share with my colleagues the story of this courageous man.

On June 12, Officer Hardin was on patrol in downtown Marietta as a member of the Cobra Unit drug task force when he drove by a man screaming and wildly waving a box cutter before a large crowd. Officer Hardin stopped his vehicle, pulled his gun, and confronted the suspect, who he believed to be under the influence of drugs. When a backup officer arrived, the suspect repeatedly lunged at both officers with the razor-tipped instrument.

Standing in the range of fire was a crowd of approximately 75 people, including small children. Because he was afraid a bullet might ricochet into the crowd, Officer Hardin attempted to make the arrest without his finger on the trigger. As he approached the suspect, he felt something blunt strike his face. The suspect slashed Officer Hardin from jawbone to collarbone.

With approximately 40 stitches in his face and neck, Officer Hardin says he still believes he handled the situation properly. The consequences of shooting someone, he says, are far more devastating. Exposing himself to bodily harm was the best way to avoid harm to any innocent bystanders. The suspect is now behind bars at the Cobb County jail.

Officer Hardin's actions are a model example of the dedication and commitment behind a police officer's pledge to protect and serve the people. I am certain he acquired many of these admirable traits from his father, Austell Police Chief Clyde Hardin, also a respected and admired law enforcement officer. As Seventh District Representative of the State of Georgia and a resident of the Marietta community, I am proud to know that the Marietta Police Department has such capable and courageous members serving us.

The officer accompanying Officer Hardin in the arrest had said he plans to nominate him for Officer of the Year. I second the motion, and wish Officer Hardin a speedy recovery.

TRIBUTE TO MRS. MARIE NOLAN

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. WELDON. Mr. Speaker, it is with the greatest sadness that I rise today to retell the story of a true patriot and a wonderful woman. Marie Nolan, a constituent in my district, was the kind of grandmother that everyone has wished for, one that would do anything for her children and her grandchildren, one that had earned the love and respect of all of those around her, and one whose passing has left an empty feeling in the hearts of those who knew and loved her.

In the fall, when the first American troops were being sent into the Middle East, Marie Nolan was diagnosed as having metastatic lung and brain cancer. Only a short while later, on the January night that the war began, Mrs. Nolan passed away.

Mr. Speaker and fellow colleagues, patriotism, American flags, and yellow ribbons have brought our troops home from the Middle East. But no great patriotism, no flying flags, no number of yellow ribbons can bring Marie Nolan back to her grandchildren. No, we must continue to fight, to try to find the cure that will, once and for all, rid the world of cancer. Please join me in remembering Marie Nolan, and, in remembering her, to support the war against cancer.

TRADE FOR WESTCHESTER'S FUTURE

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mrs. LOWEY of New York. Mr. Speaker, trade is one of the keys to a robust economy in a peaceful world. It brings us products and prosperity that would otherwise be unavailable, and forges bonds of friendship and understanding between cultures that would not otherwise be easily brought together. On June 24, a prestigious award will be presented to a group whose dedication to the cause of improved and expanded trade has been most impressive and effective, the World Trade Club of Westchester.

The World Trade Club was founded in 1973 with the goal of promoting the flow of products between Westchester and the world. As a vital component of the Westchester County Association, it seeks to make available to local businesses the expertise that they need to take advantage of trade opportunities that would benefit our county and our country. Their efforts have met with tremendous success. Working together with the Westchester Department of Commerce/Constituent Affairs, the New York State Department of Economic Planning, and the U.S. Department of Commerce, the club has helped numerous local businesses to begin to expand their overseas operations. By organizing conferences on topics like "Doing Business With the U.S.S.R.," and "How to Succeed in Business With Israel," the World Trade Club provides valuable information which helps keep Westchester one of the most competitive business centers in the Nation.

Recently, it was announced that the World Trade Club of Westchester had been awarded the President's "E" Award for Excellence in Export Service. This highly-coveted recognition extended by the Commerce Department acknowledges outstanding performance in the promotion or facilitation of American exports. At a ceremony next Monday, Club President Joseph Schoonmaker will be accepting this award. I am deeply honored to represent and be associated with this important organization. I am sure that all of my colleagues join me in congratulating the World Trade Club of Westchester on this well-deserved honor, and in wishing its membership well as they continue striving to serve our local and national economies.

TRIBUTE TO SHERIFF RAYMOND W. GOODMAN

HON. W.G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 20, 1991

Mr. HEFNER. Mr. Speaker, I rise today to pay tribute to Sheriff Raymond W. Goodman of Richmond County, NC. Since 1951, Raymond Wallace Goodman has served the people of Richmond County as sheriff. As certified by the Secretary of State of North Carolina, Raymond Goodman is the longest serving sheriff in the history of my State.

During his 40 years in office, Sheriff Goodman has built his department from a small southern county sheriff's office to a modern computerized law enforcement operation.

Sheriff Goodman also has a place in the annals of North Carolina political history. For almost four decades, aspiring candidates for State and local office have sought him out for his advise and support. His political clout, not only in Richmond County, but in many parts of North Carolina, has enabled Sheriff Goodman to play a significant role in the election of Governors, Senators, and Members of this House. Upon close examination of North Carolina's political landscape, his mark is indelibly present.

In addition to his office, Raymond Goodman is also a successful businessman. He is owner of R.W. Goodman, Inc., a furniture, appliance, and clothing retail store and of Richmond Yarns, a textile spinning operation.

Mr. Speaker, I join the people of Richmond County in saluting Sheriff Raymond W. Goodman, keeper of the peace, political leader and businessman, for his historic milestone, and thank him for his dedicated service to his community and State.

SENATE—*Friday, June 21, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; For kings, and for all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty.—I Timothy 2:1-2.

Eternal God, perfect in truth, justice, and righteousness, there is no adequate way to express gratitude for our democracy, born more than 200 years ago out of the faith of our Founding Fathers who envisioned a sovereign people—a government of, by, and for the people. And as their records indicated, they took prayer seriously, which is why both Houses of Congress have opened with prayer from their very first day.

I pray for the people, that they may realize failure to exercise their sovereign responsibility will cause our democracy to fail as much as the failure of politicians, special interests, the press and media. Help them to take their citizenship seriously, to prepare for elections by knowing candidates and issues. Deliver them from "one issue politics," from cynicism and the excuses they give for apathy and neglect.

For God's sake and national renewal. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 21, 1991.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THOMAS A. DASCHLE, a Senator from the State of South Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. DASCHLE thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time will be reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

EDUCATIONAL PROGRESS

Mr. COCHRAN. Mr. President, President Bush recently said:

> There are only a few moments in life when we're called on to join a crusade, and this is one of them.

His remarks were made in a discussion of a recent study by the National Assessment of Educational Progress, which had revealed disappointing information in a nationwide assessment of the math skills of eighth grade students.

This report confirms that we have work to do and the time to act is now. I see the results of this report as a call to action—action to approve legislation that would implement the President's education strategy, America 2000.

One of the goals established by the Nation's Governors that form the basis for the new strategy calls for students in the United States to be first in the world in science and mathematics achievement by the year 2000. The education strategy includes the following objectives:

> Math and science education will be strengthened throughout the system, especially in the early grades.
>
> The number of teachers with substantive background in mathematics and science will increase by 50 percent.
>
> The number of United States undergraduate and graduate students, especially women and minorities, who complete degrees in mathematics, science, and engineering will increase significantly.

The Federal components of the President's education proposals are currently pending before the Labor and Human Resources Committee, and I am hopeful that they will be adopted at the committee's executive session next week.

Mr. President, I ask unanimous consent that a summary of the "State of Mathematics Achievement" be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

THE STATE OF MATHEMATICS ACHIEVEMENT: NAEP'S 1990 ASSESSMENT OF THE NATION AND THE TRIAL ASSESSMENT OF THE STATES NATIONAL CENTER FOR EDUCATION STATISTICS DATA SUMMARY

(By Emerson J. Elliott, Acting Commissioner of Education Statistics and Gary W. Phillips, Acting Associate Commissioner, Education Assessment)

BACKGROUND

When Congress reauthorized the National Assessment of Educational Progress (NAEP) in the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, it continued assessments at the national level and, for the first time, called for assessment at the State level on a trial basis for 1990 and 1992. The national component of the 1990 assessment covered reading, mathematics and science at grades 4, 8 and 12 (and ages 9, 13 and 17). It included an expanded sample of private schools compared with previous years; an extra set of items measuring problem solving and estimation skills in mathematics; as well as background questionnaires from students (44 questions), teachers (69 questions), and principals (117 questions). The national sample in mathematics consisted of 1,300 private and public schools, and 26,000 students. At this time, only the mathematics assessment data are being released. The results for science and reading will be released later this year.

The State component of the 1990 assessment was limited to 8th grade mathematics as mandated by Congress, and for public schools only. Approximately 100 schools and 2500 students were sampled in each State.

There are several issues that need to be kept in mind in interpreting the 1990 NAEP data.

The 1990 Mathematics Assessment represents the beginning of a new mathematics trend line. There was no possibility of connecting the new trend line to the old one dating back to 1973 because the change in the content of the test was too substantial to justify such a connection.

The national averages in Part I and II of the composite report may be different because they are based on two different populations of students. In Part I, the national averages are based on a population of students tested from January-May, 1990 and include both public and private schools. As an illustration, the overall national average for public schools at grade 8 in Part I of the report was 264, whereas, in Part II it was 261. In Part II, the national average is based on a random half of the overall national sample and includes only public school students. This subsample was tested in January-February, 1990 (at the same time as the test administration of the Trial State Assessment).

The NAEP survey uses a representative sample of students and gathered data from

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

teachers of those students, not a representative sample of all teachers. Consequently, the reader can make generalizations about students but cannot make inferences about teachers. For example, we find that, for the nation, 45% of the students have male teachers. It cannot be inferred, however, that 45% of all teachers are male.

The mathematics teacher questionnaire was not administered at grade 12 because only about half of the 12th graders were in mathematics classes. Therefore, all information related to instructors at the 12th grade was obtained from the student and principal questionnaires.

PART I—NATIONAL RESULTS

Overall Findings

The overall mathematics achievement for each grade and level was as follows:

Grade	Average proficiency	Percentage of students at or above			
		Level 200	Level 250	Level 300	Level 350
4	216	72	11	0	0
8	265	98	67	14	0
12	295	100	91	46	5

The descriptions of the four levels of performance are as follows:

Level 200—Simple additive reasoning and problem solving with whole numbers.

Level 250—Simple multiplicative reasoning and beginning two-step problem solving.

Level 300—Reasoning and problem-solving involving fractions, decimals, precents, elementary geometric properties, and simple algebraic manipulations.

Level 350—Reasoning and problem-solving involving geometric relationships, algebraic equations, and beginning statistics and probability.

Some of the major findings in national data were that for all three grades:

Asian/Pacific Islander students exhibited the highest level of performance, followed by white, American Indian, Hispanic, and black students in descending order.

There were no differences in male and female performance in grades 4 and 8. However, in the 12th grade, males performed better than females.

Students attending schools in advantaged urban communities had the highest mathematics proficiency while those attending disadvantaged urban schools had the lowest.

Students in the Southeast tended to perform less well than those in the other regions.

Catholic and other private school students outperformed public-school students, although the difference was reduced by grade 12.

The better performing students had parents with some education beyond high school, access to a greater number of reading and resource materials at home, did more homework (at grades 8 and 12), missed less school, had both parents in the home, and watched less television.

The top one-third of schools had:

About one-third to half of the white and Asian/Pacific Islander students,

Nearly half of the students that had at least one parent who graduated from college,

Almost two-thirds to three-fourths of the students from advantaged urban communities, and

Almost half of the students from the Northeast and Central regions.

In contrast, at all three grade levels, the bottom one-third of schools had:

About two-thirds of the black students and nearly half of the Hispanic students,

Almost half of the students that had parents who did not finish high school,

Half to two-thirds of the students that were from disadvantaged urban communities, and

About half of the students from the Southeast region.

Similar subpopulation patterns were found for each of the six content areas: numbers and operations; estimation; measurement; geometry; data analysis; statistics and probability; and algebra and functions (see Chapter 3).

At grade 4, students' proficiency was lower in numbers and operations and estimation and highest in measurement. At grade 8, average proficiency was highest in numbers and operations and estimation. By grade 12, the students proficiency was similar across content areas.

Course Taking Patterns in the Mathematics Content Areas

There was a strong positive relationship between overall average mathematics proficiency and the amount of mathematics courses the student takes. This is true for the nation and for each subgroup.

Looking across the subgroups the most coursework was taken by Asian/Pacific Islanders, males, those living in advantaged urban areas, in the Northeast, attending private schools, and with parents who had graduated from college.

In grade 8, almost all students were enrolled in one of the three different types of courses—eighth-grade mathematics (58%), pre-algebra (22%), and algebra (16%).

By grade 12, most students had taken at least one algebra course (83%), very few students had taken advance algebra or pre-calculus (9%) or calculus (4%).

By grade 12, 28% of high school seniors had not taken a year of geometry, 55% had taken geometry but not trigonometry, and 17% had taken additional coursework in trigonometry.

By grade 12, only 12% of high school seniors had taken a semester of statistics.

Student Performance on Constructed Response Questions

About a fourth of the 1990 assessment required the student to respond to open-ended items rather than the multiple-choice format. In addition, in the national sample, a special research probe was conducted using constructed-response items to measure the students' problem solving abilities. The problem-solving items required students to resolve practical problems with multiple steps.

The general pattern of results for constructed response questions paralleled those for the multiple choice items. For example, data within each grade reflect patterns similar in gender and racial/ethnic group performance as generally were observed in the overall assessment.

Instructional Approaches

The policy of ability grouping was less prevalent in elementary school than in middle school as reported by teachers. Only 26% of 4th grade students were grouped by ability, whereas 66% of 8th grade students were grouped by ability.

Even though a considerable amount of research in both education and cognitive psychology has indicated a need for student centered, "hands-on" instructional approaches which place math problems in a real-world context (Lauren Resnick, *Education and Learning To Think*, Washington, DC, National Academy Press, 1987), textbooks and worksheets still comprised the primary instructional materials in school mathematics.

From 39-45% of the students across all three grades reported never working in small groups or with manipulatives and tools such as counting blocks, rulers or geometric shapes.

Only 30% of 8th and 12th graders reported doing some sort of written report or mathematics project.

NAEP data reveal that considerable testing is done in our schools. The percent of students reporting taking at least a weekly mathematics test for grades 4, 8 and 12 was 52%, 71% and 58%, respectively.

Only 13% of the fourth grade students and 19% of the eighth grade students were in classrooms where teachers reported receiving all the resources they needed.

Calculators and Computers

Because of the mathematical power provided by calculators and computers, almost all mathematics reforms recommend more use of both. NAEP data show that

Virtually every student or their family owns a calculator.

Teachers report using calculators more frequently with high ability students.

Calculator usage increases across grades. The percentage of students reporting use at least several times a week for grades 4, 8, and 12 was 9%, 30% and 58%, respectively.

Fewer students have access to computers in their mathematics classrooms. Only 34% of 4th graders and 21% of 8th graders have a computer available in the classroom.

Computer usage decreases across grades. In grade 4, 38% of students report that they use a computer at least once a week. The percentages for grades 8 and 12 are 16% and 20% respectively.

Opportunity To Learn

Many studies such as the Second International Mathematics (SIMS) have demonstrated that higher achievement is associated with a greater opportunity to learn mathematics. NAEP addressed the student's opportunity to learn by measuring the amount of overall mathematics instructional time provided to students, including homework, and teachers' reports about the topics emphasized in 4th and 8th grade classrooms.

Teachers of 4th and 8th graders reported spending 3-4 hours per week on mathematics instruction.

More than half of the students spent 15-30 minutes each day on mathematics homework.

Although teachers spent a fair amount of time on mathematics instruction, they gave students (especially low ability students) very little opportunity to learn knowledge and skills beyond arithmetic. The heaviest instructional emphasis (86%) in the 4th was on arithmetic number operations (Table 8.4/p.191). Although 89% of the high ability 8th grade students received a heavy emphasis in algebra, 60% of the low ability 8th graders were provided a heavy emphasis on numbers and operations.

Very small proportions of students in any grade received heavy emphasis in measurement, geometry, or data analysis, statistics, and probability.

The major skill emphasized in the 4th grade was learning facts (91%). In the 8th grade, the emphasis shifted to learning procedures (68%). The development of mathematical reasoning and communication skills tended to be emphasized primarily in high ability groups.

Students' Perception of Mathematics

In general, the majority of students appeared to have positive perceptions of mathematics. Furthermore, there is a positive relationship between perception and mathematics proficiency.

Characteristics of Mathematics Teachers

The mathematics teaching workforce in the United States is very experienced. On average, the teachers of 4th and 8th grade students had 15-16 years of classroom experience and 14 years of experience teaching mathematics.

Almost two-thirds of the 4th and 8th graders were taught by teachers with the highest level of certification.

AMERICAN ENERGY INDEPENDENCE

Mr. JEFFORDS. Mr. President, I speak today to tell you that as we approach the Fourth of July, our national birthday celebration, America is in need of a new Declaration of Indepedence. This great Nation needs to state loudly and clearly once again that it is, and intends to remain, independent. I must say this because, sadly, this is not the direction in which we are moving

In the course of events of this Nation, of late, America is becoming dangerously dependent. And this goes radically against the principles upon which the Nation was founded. Those principles are of self-reliance and hard work, the essentials of independence.

Today America is becoming less independent as we become more and more reliant on foreign oil. Unless we act decisively, this Nation will apparently stay on that course which is, I declare, a course of national doom. At the very least, it must be stated that at our current rate, we will not achieve energy independence until sometime after all the oil wells of Earth run dry.

Obviously, this Nation founded to be governed for the good of the many is being steered by a policy that has in mind only the good of the few. I speak, of course, of the oil companies who reap great profits from our dependence on foreign oil and who even have the temerity to profit most in times of naitonal emergency.

Change is needed for, as I have said before, the future of an energy dependent America is severely limited while the future of an energy independent America knows no bounds.

The original Declaration of Independence cautioned that mankind is more disposed to suffer than to right themselves by abolishing the forms to which they are accustomed. "But when a long train of abuses and usurpation," as the original Declaration warns, presents themselves to the people, the people will act.

I tell you today that America is waking to the dangers, the frustrations, to the terrible costs, of energy dependence. Polls tell us that a huge majority of our citizens want energy independence and are willing now to pay extra for energy independence.

Americans do not want their future to be dependent on a 6,000-mile transfusion line subject to severance at any moment due to war or the whims of foreign powers. And add to the cost of the expensive oil that comes from that pipeline the untold billions on billions of dollars in military might, being spent now and earmarked for the years ahead, necessary to guarantee our supply of Mideast oil.

There is, there must be, another way. I have a way.

My program for American energy independence is something I call the Replacement and Alternative Fuels Act, or RAFA for short. I thank my colleagues, particularly those on the Energy Committee, for their consideration of that legislation, S. 716, and for their adoption of a portion of the bill. I also thank those who opposed the measure for the time they took in consideration. But I also wish to say that I am determined to go forward with this proposal.

I am determined to do what some say is impossible but what is, indeed, most possible, to set America on a course toward energy independence. One of the strongest indications of its possibility came in the American Petroleum Institute's reaction to my bill. When the oil companies trot out warnings of environmental boondoggle, economic disaster, logistical nightmare, you know you have hit on something they are taking seriously. To paraphrase Senator GORE, when the facts are not on your side, holler. That is hollering.

The oil companies will also tell you this is an ethanol bill, or a methanol bill. No apologies; it is. It is also a tar sands bill, an electric car bill, a hydrogen bill, a natural gas bill, an oil shale bill, and a coal bill, all sources of replacement or alternate fuels. And by the way, this is also a jobs bill, a deficit reduction bill, a balance of trade bill, and an environmental bill. It is also an OPEC bill, aimed squarely at the heart of those who would hold us hostage to oil.

So as the Fourth of July nears, I can think of no greater gift that we could give the American people than a new gift of freedom, a new Declaration of Independence, a commitment in law of our intent to break the bonds of energy dependence.

I might also add that 1991 is the bicentennial year for my home State of Vermont and the 200th anniversary of its motto which is freedom and unity. Vermonters know a lot about Independence, fought hard for it more than two centuries ago, and were an Independent republic for a time.

I also say today that as we move toward a new Declaration of Independence, we keep in mind the words "freedom and unity." This Nation deserves the new freedom that energy indpendence would give it, the freedom to realize its still vast potential. I know this Nation has the unity necessary to bring about that new freedom for reliable polls tell me 85 percent of Americans want energy independence.

That is a majority any Founding Fathers would be delighted to have behind them in setting off on any brave new venture, be it a new nation or a new declaration of a nation's intent, such as energy independence and the vast horizon of possibility that stretches bright and shining beyond it.

Mr. SYMMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

UNITED STATES AID AND SOVIET REFORMS

Mr. SYMMS. Mr. President, it is easy to lose all sense of proportion and perspective when political changes come fast and furious. In the past few years we've seen the Berlin Wall come down and the merger of East and West Germany. We have seen the Soviets admit that their system does not work. We have seen reforms begin in China, only to be crushed with tanks. We have seen the slow death of the guerrilla movements in Central America as democracy has finally taken root. We have seen a major military victory for the United States in the Middle East.

The rate of these changes would seem to qualify for fast and furious. So maybe it is understandable that so many world leaders have lost their sense of perspective. I can find no other reasonable explanation for even suggesting that the Western democracies provide general economic aid to the Soviet Union at this time. The Soviets are spending about $20 billion a year on nuclear weapons aimed directly at us and another $20 billion on their overall strategic forces when measured in 1987 dollars. If they have this kind of money for nuclear warheads, they certainly do not need our help.

To add insult to injury, Mr. President, it was reported in the media yesterday—I have not been able to confirm this yet from official sources—but it is reported in the media that SS-20 missiles now are on the island of Cuba. Those were also bought and paid for by the Soviet dictators, and the Soviet empire. It is an outrage to think that the Soviet Union is spending this much money on a nuclear war machine with most of it aimed at the United States of America.

And when I refer to aid to the Soviets, I mean cash and loans needed to rebuild their economy. I do not mean we should deny the kinds of loan guarantees we recently provided to allow our farmers to compete with subsidized European farmers when selling to the Soviets.

Perhaps one reason so few people have questioned giving aid to the Soviets is that we have given aid to so many of our former enemies. But there is one big difference between giving aid to Poland and giving it to the Soviets—

the Poles are not building nuclear warheads targeted on our cities!

You would think one reason for providing aid is to help the Soviets through the tough time of reform. It is true the Soviet economy is in desperate trouble. It will take years of hard work and struggle before it recovers. The reforms needed to turn their economy around have hardly even started. I hope they succeed in adopting democratic reforms. I hope they learn the importance of private property, that it is the well-spring from which so much human progress derives. Maybe if they make these changes the people of Russia, Georgia, the Ukraine, and so forth, can avoid catastrophe.

But there is no guarantee these reforms will continue. There is no guarantee catastrophe is avertable. Providing aid at this time is, as the saying goes, just throwing good money after bad.

In fact, up until the publication of the study out of Harvard University's ivory tower, I had not heard anyone suggest that the amounts of western aid that have been discussed would really help. While the social scientists are perfectly willing to risk the taxpayer's money, the fact is even the amounts proposed are miniscule compared to the size of the problem.

The telling argument offered in support of aid to the Soviets rests on the need to provide President Gorbachev a lifeline. We need to provide Gorby an IV of financial juice to keep him in power, so the argument goes. Give him a fix so he can stay in power.

This tells us the United States and much of the Western World remains taken in by Gorbymania. Faddism is a fact of life, I know. And this might explain how Gorbachev could be given a Nobel Prize for Peace. But in matters of national preservation I would expect national leaders to rise above ephemeral spirits.

We are so captured by the man that it seems Gorbachev himself is conducting much of our foreign policy. We watch his every step as though he alone can shephard the Soviet Union through the difficult transition from Communist dictatorship to some form of democratic-capitalist system. And so we gear our policies toward whether it would inconvenience President Gorbachev.

Gorbachev, being a master politician, has recognized how susceptible western thinking is to fears he might not survive, let alone succeed. And so he has taken to the international campaign trail trying to build up his case: Give me money or who knows what you will face.

I have heard of many forms of extortion, but few match the sheer audacity of that practiced by President Gorbachev. Give me money to keep building weapons pointed back at you so I can keep the military in check and, not incidentally, stay in power myself.

It is an open question whether President Gorbachev can survive in power. I can certainly understand the interest in some quarters to prop this man up. It is a matter of preferring the devil you know, choosing the path of least immediate resistance. But with the economy of the Soviet Union in shambles, it is hard to see how anyone could do much worse relative to United States interests.

And given our outstanding successes in the past of propping up failed dictators, I can certainly see why we need to use U.S. tax dollars.

When you look at the list of the people that we have been involved in, it is a long and distinguished list. You wonder why we cannot learn from the past. There are certain fundamental economic principles that must be involved in reforms of private property—a sound currency, a convertible ruble. Those things are fundamental if the Soviet Union is going to be successful.

No one can say whether the economic reforms in the Soviet Union can save that country from absolute and total collapse. I do not think many people in this country understand the magnitude of the task.

Part of the task of reforming the Soviet economy is fixing its monetary system. There are enormous pent-up demands for goods. And I understand there is a large overhang of currency in the Soviet economy. Prof. Steve Hanke, professor of economics at Johns Hopkins University, recently published an article in the June 5, 1991, edition of the Wall Street Journal, in which he describes how the use of a currency board could form the basis on one solution to the Soviet's monetary problems. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 5, 1991]

SOVIETS NEED HONEST MONEY, NOT AID

(By Steven H. Hanke)

Mikhail Gorbachev hopes to attend the London meeting of the seven major industrial nations this month in order to plead his case for Western economic aid. Earlier this month, the Soviet Union's prime minister, Valentin Pavlov, explained that one of the major reasons for that aid is to prevent a complete collapse of the ruble.

Since the Soviet government canceled its 50- and 100-ruble notes earlier this year, individual Soviets have had no confidence in the ruble. To protect their wealth from overnight expropriation, Soviets substitute zelyonenki (greenbacks) for rubles. That substitution is very costly for the Soviet Union. Individual Soviets probably hold about $10 billion in foreign currency, or about $30 per person. To obtain those little bits of paper, which are produced by Western central banks at virtually no cost, Soviets must exchange real goods and services. The flight from the ruble generates a perverse form of foreign aid that flows from the Soviet Union to the West.

To reverse that aid flow, the Soviet Union must install a monetary system that is sound, well understood and simple to operate. A currency board system would meet these requirements.

More than 60 countries (mainly former British colonies) have had currency boards. So long as they kept their boards, all of those countries successfully maintained convertibility at a fixed exchange rate.

Under a currency board system, there is no central bank. Instead, the currency board issues notes and coins. These are convertible into a foreign reserve currency at a fixed rate and on demand. As reserves, the board holds high-quality, interest-bearing securities denominated in the reserve currency. Its reserves are equal to 100 percent, or slightly more, of its notes and coins in circulation, as set by law. A currency board does not accept deposits and it generates income from the difference between the interest paid on the securities it holds and the expense of maintaining its note and coin circulation. It has no discretionary monetary policy. Instead, market forces alone determine the money supply.

As long as they used the currency board system, Britain's colonies enjoyed the same relatively low inflation rates as did the metropolitan center they were linked to by their reserve currency; branch banks from the metropolitan centers were prominent; residents had access to capital at competitive rates; indigenous firms, often with correspondent arrangements in the metropolitan centers, developed to intermediate between local savers and investors; and relative prices were roughly in line with those on world markets.

With independence and as an expression of nationalism, most currency boards were replaced by central banks. In consequence, the quality of their domestic currencies deteriorated sharply. However, currency boards still exist in Hong Kong, Singapore and Brunel, where they continue to operate with great success.

There is even an historical precedent in Russia for a currency board. After the Bolshevik revolution, when troops from Britain and other allied nations invaded northern Russia, the currency was in chaos. The Russian civil war had begun, and every party to the conflict was issuing its own near-worthless money. There were more than 2,000 separate issuers of flat rubles. Trade was difficult because few people would accept flat rubles in exchange for goods and services.

To facilitate trade, the British established a National Emission Caisse for northern Russia in 1918. The caisse issued "British ruble" notes. They were backed by pounds sterling and convertible into pounds at a fixed rate. British Foreign Office archives reveal that the father of the British ruble was none other than John Maynard Keynes, who was a British Treasury official at the time.

Despite the civil war, the British ruble was a great success. The currency never deviated from its fixed exchange rate with the British pound. In contrast to other Russian rubles, the British ruble was a reliable store of value. Naturally, the British ruble drove other rubles out of circulation. Unfortunately, the British ruble's life was brief: The National Emission Caisse ceased operations in 1920, after allied troops withdrew from Russia.

To establish a convertible ruble, the Soviets should heed Paul Volcker's warning delivered last summer to a gathering of central bankers in Jackson Hole, Wyoming: Markets developed long before central banks appeared; in fact, central banks could be one Western institution that might actually retard the transition to markets.

> So the Soviets should abolish Gosbank and replace it with a currency board. The best way to begin would be to freeze the existing supply of ruble notes and coins. Then the ruble should be allowed to float against other currencies for a specified period, so that its free market exchange rates could be observed. With the information gained during the period of floating, the authorities should fix the ruble to the foreign reserve currency at an exchange rate that makes Soviet exports competitive, and pledge to exchange the new ruble for the reserve currency at that rate.
>
> The most logical reserve currency for the new board would be the U.S. dollar since that is the preferred currency in the Soviet Union. To obtain the dollar reserves necessary for the currency board, the Soviet government could begin by converting its official stock of gold and foreign currency reserves into dollars. That would generate about $20 billion. The Soviets could raise at least another $20 billion through standby facilities with Western governments, the International Monetary fund, the European Bank for Reconstruction and Development and other multinational organizations.
>
> To assist in establishing credibility and to assure Soviet citizens that the currency board's asssets were safe, the board should be incorporated and based in a safe-haven country, such as Switzerland. The majority of the board's directors should be foreign nationals, designated by private institutions in their home countries.
>
> The Soviet Union would have a convertible currency within months. The British introduced a convertible ruble just 11 weeks after Keynes proposed it.
>
> If the government in Moscow fails to repair the ruble, the Soviet republics will follow through on their threats to fill the void by issuing their own currencies. Republics that install currency boards will have the same experience as the north Russian government: Their rubles will quickly drive Soviet rubles out of circulation, further humiliating and discrediting Moscow.

Mr. SYMMS. Mr. President, I want to quote the very important part of this column.

> Since the Soviet government canceled its 50- and 100-ruble notes earlier this year, individual Soviets have had no confidence in the ruble. To protect their wealth from overnight expropriation, Soviets substitute zelyonenki (greenbacks) for rubles. That substitution is very costly for the Soviet Union. Individual Soviets probably hold about $10 billion in foreign currency, or about $30 per person. To obtain those little bits of paper, which are produced by Western central banks at virtually no cost, Soviets must exchange real goods and services. The flight from the ruble generates a perverse form of foreign aid that flows from the Soviet Union to the West.

That have convertible currencies—

> To reverse that aid flow, the Soviet Union must install a monetary system that is sound, well understood and simple to operate.

I urge my colleagues to read this, because we must recognize that until the Soviet Union gets convertible currency, there is no way economic reforms can take place. Otherwise, it is a perverse form of foreign aid, with the Russian people, trading hard goods to get hard currency. Actually, it is a perverse form of foreign aid, because all the central banks have to do is print these little pices of paper for virtually no cost, and it is paid for in dear terms by the Russian people.

The needs of those people trapped in the Soviet Union are enormous. We have needs also. We have an infrastructure that needs repair and rebuilding, and a health system that threatens to take over our economy. We have a drug problem and a crime problem in this country. Even with the demands on our own resources, the tremendous suffering faced by the people in the Soviet republics compels moral people to want to help.

I could almost agree to providing extensive humanitarian aid. I might well be able to see my way to providing some limited economic aid. But I will never agree to providing aid as long as the Soviet military buildup continues.

Mr. President, if they have the resources to build these weapons, they do not need our aid. It is that simple. I know some of the supporters of aid for the Soviets would like to argue that it is not so simple. They will argue that Gorbachev cannot continue with his reforms without the support of the military, and that only through bribing the generals with more missiles, can he be assured of that support. This may be true, but it also may not be true.

Taking that argument to its illogical conclusion, why do we not just build the weapons for them? After all, we know how much better our equipment is, and we can surely produce it more efficiently than they can. Why do we not just build the weapons and give them to the Soviet generals, pretargeted on United States cities? I do not think the people would go along with that. That should give the Soviet generals—at least assure them—that they had weapons that would work.

That sound crazy, and it is, Mr. President. That is about what we are going to do, if we give the Soviet Union aid. They are building nuclear missiles that are aimed at the United States of America. As I said earlier, we find reports—I will attempt to get those reports confirmed as soon as possible—in the media that there are now SS–20 missiles in Cuba. Whether they are nuclear tipped SS–20 missiles or nonnuclear, I do not know.

This is not just old-fashioned Commie bashing, Mr. President. The threat of world communism is fading. It has failed; it is over. The world realizes communism is a bankrupt, morally broken system. The military capability of the Soviet war machine does live on. We cannot overlook that.

The American taxpayer still pays very dearly for the weapons that we have and the upgrades of the old ones to face the continued military threat. It just does not make sense for the United States of America to subsidize a Soviet nuclear machine, even as the American taxpayer has to bear the burden of a nuclear defense. There is just no rational, logical explanation why we should do it. The late Ayn Rand, the famous author, called this activity pathologically irrational.

There will come a day when United States aid to individual republics of what is now the Soviet Union will be appropriate. I look forward to that day when we can start making straight deals directly with those republics, when we see this empire crumble. But that day is not today. Two conditions must be met:

First, the Soviets must stop building nuclear weapons. If they have any money to build nuclear weapons, they do not need help from the American taxpayer. The Soviet reforms must be far enough along so that the American taxpayer knows that his money and her money is not being thrown down a rathole. We are a long way from meeting either of those conditions today.

I say again, when I talk about throwing the money down a rathole, if, in fact, the Soviet Union does not adopt private property reform so that the people can actually own and hold private property in that country and if, in fact, they refuse to make the ruble convertible to the other currencies of the world and stand behind it, if they fail to do that, Mr. President, there is no way that we will not be throwing money down a rathole.

And during this process, as there has been some more openness through glasnost in the Soviet Union, as the people go out and acquire the greenbacks and the deutschmarks, the British pounds, the French francs, and other currencies, by barter and trade with goods of their labor and their sweat, blood, and tears, it is a perverse form of foreign aid from the backs of the Russian people out to the West, because all we have to do is run the printing presses and print some more greenbacks at a very low cost, while they pay a very dear price for them.

We must, I think, insist upon this. It would be foolish for us to think we can ever bribe the Soviet generals. What we need to do is see more of what Mr. Yeltsin spoke of when he was here this week, and that is a conversion—as Secretary Baker talked about—of the Soviet military plants to produce consumer goods for the Russian people.

Mr. President, I think my time has expired. I thank the chair for his indulgence. I see no other Senators on the floor. So I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PELL). Without objection, it is so ordered.

GOVERNMENT-TO-GOVERNMENT RELATIONSHIP OF THE UNITED STATES WITH INDIAN TRIBAL GOVERNMENTS

Mr. INOUYE. Mr. President, Senator MCCAIN and I are most pleased to be able to share with our colleagues, a recent policy statement of the President of the United States reaffirming the government-to-government relationship of the United States with Indian tribal governments.

Mr. President, on April 15 and 16 of this year, the leaders of tribal governments from across Indian country met in the Senate in the seventh of a series of regional and national tribal leaders forums held over the past year in an effort to develop a national Indian agenda. During the course of the national forum, tribal government leaders shared their concerns and their priorities with officials from the various Federal agencies responsible for the administration of Federal Indian programs.

The national forum culminated in a meeting with the President of the United States, in which tribal leaders called upon the President to reaffirm the policy of Indian self-determination first articulated by President Nixon in the early 1970's and to reaffirm the government-to-government relationship between the United States and the Indian nations. The tribal leaders also requested that the President designate a senior staff member in the White House to serve as a liaison with Indian tribal governments.

The President's statement, issued on June 14, 1991, is responsive to the petition of the leaders of tribal governments in every respect, and we applaud his leadership.

After a century of fluctuating Federal policies that ranged from wars against the Indian tribes, followed by a policy of removal from their traditional lands to reservations in the Western States, and later a policy of termination of Federal relations with the Indian tribes and forced assimilation of Indian people, tribal governments and their citizens across Indian country will undoubtedly greet the President's message with considerable enthusiasm and relief.

We are grateful to the President for recognizing and reaffirming the governmental status of the nations that represent this country's first Americans. In so doing, the President has sent a signal to the nations of the world, that this country will honor and respect its native peoples. We commend the President for his firm commitment to an enlightened policy.

We ask that the President's statement and the briefing paper to the President be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE
OFFICE OF THE PRESS SECRETARY,
Los Angeles, CA, June 14, 1991.

STATEMENT BY THE PRESIDENT REAFFIRMING THE GOVERNMENT-TO-GOVERNMENT RELATIONSHIP BETWEEN THE FEDERAL GOVERNMENT AND TRIBAL GOVERNMENTS

On January 24, 1983, the Reagan-Bush Administration issued a statement on Indian policy recognizing and reaffirming a government-to-government relationship between Indian tribes and the Federal Government. This relationship is the cornerstone of the Bush-Quayle Administration's policy of fostering tribal self-government and self-determination.

This government-to-government relationship is the result of sovereign and independent tribal governments being incorporated into the fabric of our Nation, of Indian tribes becoming what our courts have come to refer to as quasi-sovereign domestic dependent nations. Over the years the relationship has flourished, grown, and evolved into a vibrant partnership in which over 500 tribal governments stand shoulder to shoulder with the other governmental units that form our Republic.

This is now a relationship in which tribal governments may choose to assume the administration of numerous Federal programs pursuant to the 1975 Indian Self-Determination and Education Assistance Act.

This is a partnership in which an Office of Self-Governance has been established in the Department of the Interior and given the responsibility of working with tribes to craft creative ways of transferring decision-making powers over tribal government functions from the Department to tribal governments.

An Office of American Indian Trust will be established in the Department of the Interior and given the responsibility of overseeing the trust responsibility of the Department and of insuring that no Departmental action will be taken that will adversely affect or destroy those physical assets that the Federal Government holds in trust for the tribes.

I take pride in acknowledging and reaffirming the existence and durability of our unique government-to-government relationship.

Within the White House I have designated a senior staff member, my Director of Intergovernmental Affairs, as my personal liaison with all Indian tribes. While it is not possible for a President or his small staff to deal directly with the multiplicity of issues and problems presented by each of the 510 tribal entities in the Nation now recognized by and dealing with the Department of the Interior, the White House will continue to interact with Indian tribes on an intergovernmental basis.

The concepts of forced termination and excessive dependency on the Federal Government must now be relegated, once and for all, to the history books. Today we move forward toward a permanent relationship of understanding and trust, a relationship in which the tribes of the nation sit in positions of dependent sovereignty along with the other governments that compose the family that is America.

BRIEFING PAPER TO PRESIDENT BUSH FROM THE NATIONAL INDIAN TRIBAL LEADERS FORUM

We very much appreciate this historic opportunity to meet with you today and to discuss the relationship between the United States and tribal governments.

CRITICAL ISSUES IN FEDERAL INDIAN POLICY

Tribal Sovereignty and the Government-to-Government Relationship: Indian tribes, along with the United States and the states, are one of three sources of sovereignty within the United States of America. Tribal governments have exercised sovereignty since time immemorial. Two centuries of treaties, executive action, legislation, and supreme court opinions have recognized tribes as sovereigns. Today, tribes enact laws, administer them, and adjudicate disputes in tribal courts. Every president from Nixon to Reagan has issued a formal statement recognizing the government-to-government relationship between the United States and Indian tribes.

Trust Relationship and Federal Expenditures: The United States has a well-established special trust obligation to American Indians. When treaties were negotiated, the United States promised Indian tribes that the federal government would meet the special needs of Indian people. Today, special federal programs for education, health, housing, and economic development remain seriously underfunded and are inadequate to address pressing needs in Indian country.

Culture and Religion: The vibrant and diverse cultures and religions of Indian people are flourishing: Our traditions—including our reverence for the land and the extended family—are the indispensable underpinning for tribal policy.

Sustainable Homelands: Our ultimate goal is that our reservations will be prosperous, self-sustaining, permanent homelands in which strong and creative tribal governments preserve the old ways and adopt new ones, including the tools of modern technology, when consistent with our traditions and our love and respect for the land.

REQUESTS RELATING TO THIS MEETING

We respectfully request that the President take the following preliminary actions in order to further the goal of fulfilling the special government-to-government relationship between the federal government and American Indian tribes:

1. The President should issue a formal statement acknowledging and supporting the government-to-government relationship between the United States and Indian tribes;

2. The President should designate a senior staff member in the White House to serve as liaison with Indian tribes; and

3. The designated liaison person within the White House should promptly begin discussions with Indian leaders on the issue of how best to institutionalize, within the White House, a mechanism for carrying out the government-to-government relationship.

SIGNATORIES

We sign this statement on behalf of 200 Indian leaders meeting in Washington, DC in Room 216 of the Senate Hart Office Building at a National Indian Tribal Leaders Forum conducted from April 15 through April 17, 1991:

Delbert Frank, President, Affiliated Tribes of N.W. Indians; Jacob Viarrial, Governor, Pojoaque Peublo; Wilma Mankiller, Principal Chief, Cherokee Nation of Oklahoma; Russell Hawkins, Chairman, Sisseton-Wahpeton Sioux Tribe; Eddie L. Tullis, Chairman, Poarch Creek Indian Reservation; Phillip Martin, Chief, Mississippi Band of Choctaw Inds.; Larry Nuckolls, Governor, Absentee-Shawnee Tr. of Oklahoma; Elbridge Coochise, President, Nat'l Amer. Ind. Ct Judges Assoc.; Jerry G. Haney, Chief, Seminole Nation of Oklahoma.

Edward K. Thomas, President, Tlingit & Haida Tribes of Alaska; Peterson Zah, President, Navajo Tribe; Nora Garcia, Chairperson, Ft. Mohave Indian Reservation; Lionel Bordeaux, President, Sinte Gleska College; Wayne Ducheneaux, President, Nat'l Congress of Am. Indians; Earl Old Person, Chief and Chairman, Blackfeet Indian Reservation; Glen Miller, Chairman, Menominee Indian Reservation; and Oren Lyons, Chief, Onondaga Nation, Iroquois Confederation.

Dated: April 17, 1991.

HAPPY 50TH ANNIVERSARY RALPH AND GOLDIE LEWIS

Mr. SEYMOUR. Mr. President, on June 23, Ralph and Goldie Lewis will celebrate their 50th wedding anniversary. It is said that success is not a destination, but a journey. At this milepost in their journey through life, however, it is only fitting that we pause to salute the success Ralph and Goldie have enjoyed so far.

In 35 years in business, Ralph and Goldie have built Lewis Homes into one of the Nation's top homebuilding firms. Regularly, their firm is listed among the Nation's top 10 builders by Professional Builder magazine.

Lewis Homes is a family-owned business. Ralph and Goldie's four sons, Richard, Robert, Randall, and Roger, are all active in the business.

The Lewis family is a fine example of those who have journeyed to California in search of the California dream. Together, the family has taken advantage of California's education and economic opportunities and built a life that has not only been good to them, but also has helped countless others seeking homes for their own families.

I ask the Senate to join me and the Lewis family today in extending our best wishes to Ralph and Goldie as they celebrate 50 golden years together.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1991—S. 1106

Mr. KENNEDY. Mr. President, I am delighted to strongly support S. 1106, the Individuals With Disabilities Education Act Amendments of 1991. Through this bill, early intervention service will be reauthorized, and existing services and programs will be enhanced.

Originally, part H of Public Law 99-457 allowed States 3 years to plan and adopt policies for the development and implementation of services to infants and toddlers with disabilities. States were required to have the system in place and provide some early intervention services. The implementation of all early intervention services to all eligible infants and toddlers and their families was to have taken place by the fifth year.

Many States are now reaching their fourth and fifth years, but may have to stop providing early intervention services due to the current fiscal crisis. This reauthorization recognizes the severe fiscal realities facing so many States across the country. Rather than dropping these States from the program, this bill says such States will have an additional 2 years to meet the fifth year requirements, while States that are able to meet their requirements now will receive a reward for doing so. Instead of penalizing the most hard-pressed States, their children and their families, we are lending an extra hand to a few and commending others for a job well done.

Another important aspect of this reauthorization is the increasing role which families play in effective early intervention. Families of children with special needs face many more obstacles than other families. They must work with doctors from numerous areas of medicine, teachers, therapists, and service coordinators. All of these professionals will offer advice to the families as to what to do, often contradicting each other, leaving families bewildered. This bill will allow parents, themselves, to become the family's and child's service coordinator, previously called "case manager" in Public Law 99-457. Thus, families may elect not to use the service coordinator services available under part H.

In addition, under this bill parents can decide what services their child needs without jeopardizing other services the family and child are receiving. Families were once led through the maze by professionals, but now they are leading themselves and other families through a comprehensive early intervention system. We are enabling and empowering families.

States have discretion to decide whether to serve children who are "at-risk for developing developmental delays." Through the differential funding provision, States such as Massachusetts will be able to continue programs that will identify these children and refer them to the appropriate programs. States that have developed these programs should be commended for choosing this avenue of promoting early intervention.

Other provisions of this bill ensure that children with disabilities attending Department of Defense schools abroad and schools in this country which serve military bases will benefit from the same rights as children with disabilities covered by Public Law 94-142 and Public Law 99-457. This bill ensures that children with special needs who are military dependents receive the same services as other children. The bill protects all American children between birth and age 5, inclusive.

Our commitment to early intervention for infants and toddlers with developmental disabilities deserves to be continued. Early intervention is working. It is enabling these children to develop to their maximum potential.

We know that children begin to learn from birth and continue to develop throughout their lives. Failure to use early intervention for children with disabilities wastes valuable time and opportunity. Early intervention also substantially reduces later educational and other costs to society. By giving children with disabilities a chance to develop their skills, we enable them to become productive citizens, at great benefit to the Nation. For all these reasons, this legislation deserves prompt action, and I urge the Senate to approve it.

STEVENS SUBSTITUTE AMENDMENT TO S. 218

Mr. STEVENS. Mr. President, radio spectrum is one of the most important natural resources controlled by the Federal Government. Spectrum is not tangible—we can't perceive it directly—but it affects our daily lives in a profound way. The early morning television news programs we watch at home; the nationwide telephone system we access in our offices; the mobile communications used by police, ambulances, and firemen; and many other important services are all spectrum based.

The electromagnetic spectrum, which includes the radio spectrum, consists of bands of different wavelengths of waves created by the oscillation of electric charges moving at the speed of light. The frequency of the oscillation of these waves is used to determine the various bands of spectrum. Short wavelengths like x rays have frequencies on the order of 10 to the 21st power, while longer wavelengths like AM radio have frequencies on the order of 10 to the 3d power. The frequency of oscillation is measured in terms of hertz—named for the 19th-century German Physicist Heinrich Hertz.

Radio and TV are broadcast over the longer wavelengths of the electromagnetic spectrum. For example, AM radio ranges from 540 to 1600 kilohertz and FM radio from 88 to 108 megahertz, while TV is broadcast over slightly higher frequencies. Newer technologies are using frequencies that range up to 6 gigahertz. However, even the highest frequencies used for over-the-air transmissions are still longer than the frequencies over which visible light is transmitted.

Mr. President, the demand for radio spectrum—both for expansion of existing services and for introduction of new services—has risen dramatically over the past decade. We now face a potential spectrum shortage that could sap the creativity and vitality of the American telecommunications industry, which currently leads the world. We can't create more radio spectrum. To deal with a potential shortage, we must make our current spectrum use more efficient and develop underutilized portions of the spectrum.

My good friend, the senior Senator from Hawaii, who chairs the Commerce Committee's Communications Subcommittee, is taking the lead in addressing the spectrum shortfall. His bill, S. 218, would establish a national spectrum planning process to ensure that we are anticipating future spectrum needs and taking the steps necessary to provide for them. S. 218 would also take the unprecedented step of directing the Federal Government, one of the largest spectrum users, to identify at least 200 megahertz of federally assigned frequencies that are excess to Federal needs. These frequencies would then be reallocated to non-Federal uses by the Federal Communications Commission [FCC].

Mr. President, I support Senator INOUYE'S effort. These frequencies can be reallocated to non-Federal uses without compromising the effectiveness of Federal programs. At the same time, I think that the Senator should, as part of this reallocation, address another serious problem—the deterioration of the spectrum assignment process.

The FCC has a two-step process for distributing spectrum. The first step is the allocation of a specific band of frequencies to a particular purpose. For example, the radio spectrum between 88 megahertz and 108 megahertz is allocated to FM radio service.

Once an allocation to a particular purpose has been made, the FCC assigns individual frequencies within that allocation to specific individual licensees. Currently, the FCC uses comparative hearings or lotteries to assign frequencies. The comparative hearing process is expensive and time consuming, and is generally used for assignment of frequency licenses that have a public interest component, for example television and radio licenses.

Lotteries were authorized by Congress to assist the FCC in dealing with the ever increasing number of applications for frequencies with primarily commercial uses. Unfortunately, lotteries, particularly in the cellular telephone service, often produced outrageous multimillion dollar windfalls for speculators. Typically, a speculator would apply with the hope of winning the lottery but no real desire to provide the service. If the speculator won the lottery, he would, as soon as possible, sell the spectrum license for a hefty bonus to a third party with a genuine desire to provide the service.

These windfalls have attached so many additional applicants to lotteries that the FCC recently has to suspend taking applications for the 220 megahertz band when the rush of applications—in excess of 100,000 over a matter of days—threatened to overwhelm the Commission's processing capacity.

Mr. President, the time has come for Congress to consider a new spectrum assignment procedure. That procedure should: First, reduce the cost—in time and money—of spectrum assignment by discouraging frivolous or speculative applications; second, increase the efficiency and effectiveness of the assignment process by granting the spectrum license in the first instance to the applicant with the greatest desire to provide the service; third, encourage the efficient use of spectrum by licensees; and fourth, fairly compensate Federal taxpayers for use of a scarce public natural resource.

In many cases, competitive bidding fills the bill. It is not appropriate for every spectrum assignment, but in cases like cellular telephone service, it could vastly improve the assignment process for bona fide applicants, Federal taxpayers, and most importantly, the general public.

The amendment I intend to propose at the proper time to Senator INOUYE'S bill would authorize the FCC to implement a limited competitive bid process for assignment. It would exempt license renewals and modifications and several categories of telecommunications services where competitive bidding would not be appropriate. It would require the FCC to ensure that needs of rural America are not slighted in a competitive bidding system. It would give the FCC the flexibility to devise competitive bidding procedures that would encourage the development of new telecommunications services and ensure that all bona fide parties are able to participate in the competitive bidding process.

Mr. President, it's also important to note what my competitive bidding amendment would not do.

First, it would not change the FCC's exiting spectrum allocation procedures. The FCC would continue to consider a broad range of public interest and technical factors in determining to what use a particular block of spectrum would be allocated.

Second, it would not expand, in any way, the rights granted a licensee. Licenses would still be issued for a limited term subject to the jurisdiction of the FCC. No one would be buying a property right in the spectrum.

Mr. President, in a sense, competitive bidding for spectrum licenses already exists. In the postlottery market, licenses change hands for money every day. The only problem is that the beneficiaries are lottery speculators—not the consumers who depend on spectrum-based services or the general public that ultimately owns the spectrum. It's time that Congress moved to change this sorry state of affairs.

I ask unanimous consent, Mr. President, that my amendment and a section-by-section analysis of my amendment be printed in the RECORD in their entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT TO S. 218

Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emerging Telecommunications Technologies Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) radio spectrum is a valuable public natural resource;

(2) it is in the national interest that this resource be used more efficiently;

(3) the spectrum below 6 gigahertz is becoming increasingly congested;

(4) scarcity of assignable radio frequencies can and will—

(A) impede the development and distribution of new spectrum-based products and services,

(B) reduce the capacity and efficiency of the United States telecommunications system, and

(C) adversely affect the productive capacity and international competitiveness of the United States economy;

(5) more efficient use of the spectrum can provide the resources to expand the range of telecommunications services offered to the public, increase national economic output, and otherwise further the public interest;

(6) many United States Government functions and responsibilities depend heavily on the use of the spectrum, involve unique spectrum applications, and are performed in the broad national and public interest;

(7) the United States Government should be given explicit authority to identify government frequencies excess to its needs and make such frequencies available to meet non-United States Government needs;

(8) current spectrum assignment procedures—specifically comparative hearings and lotteries—often are expensive and time-consuming, can strain the limited resources of the Federal Communications Commission, and can result in an inefficient distribution of spectrum and an unjustified windfall to speculators;

(9) competitive bidding for spectrum in many instances can yield significant benefits for the United States by reducing the cost in time and money—and increasing the efficiency—of spectrum assignment, discouraging purely speculative applications, encouraging the efficient use of spectrum by licensees, and fairly compensating United States taxpayers for use of a scarce public natural resource;

(10) competitive bidding should be structured to—

(A) enable all parties with a bona fide interest to participate in the assignment process;

(B) facilitate introduction of new spectrum-based technologies and entry of new companies into the telecommunications market;

(C) give appropriate consideration to the special needs of certain spectrum users such as government public safety agencies, rural common carriers, marine and aviation licensees, and others; and

(D) otherwise further the general public interest;

(11) competitive bidding should not—

(A) alter existing spectrum allocation procedures;

(B) disrupt the operations of existing spectrum licensees; or

(C) expand, in any way, the rights granted a licensee in the current spectrum assignment process; and

(12) the President of the United States, the Secretary of Commerce, and the Federal Communications Commission should be directed to foster more efficient use of spectrum through more intensive spectrum planning; the reallocation of at least 200 megahertz of spectrum from United States Government use to non-United States Government use; and the implementation of competitive bidding procedures for some new spectrum assignments.

SEC. 3. NATIONAL SPECTRUM PLANNING.

(a) PLANNING ACTIVITIES.—The Secretary and the Chairman of the Commission shall, at least twice each year, conduct joint spectrum planning meetings with respect to the following issues—

(1) future spectrum needs for all uses (including government public safety operations and rural telecommunications services);

(2) spectrum allocation actions necessary to meet those needs; and

(3) actions necessary to promote the efficient use of the spectrum in meeting those needs, taking into account, among other factors—

(A) technological innovations and marketplace developments affecting the relative efficiencies of different portions of the spectrum;

(B) proven spectrum management techniques to promote increased shared use of the spectrum as a means of increasing non-United States Government access; and

(C) potential incentives for spectrum users to develop innovative technologies, products, and services and that more efficiently and effectively utilize the spectrum.

(b) REPORTS.—The Secretary and the Chairman of the Commission shall submit a joint annual report to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate on the joint spectrum planning meetings conducted pursuant to subsection (a) and any recommendations for action developed in such meetings.

(c) OPEN PROCESS.—The Secretary and the Chairman of the Commission will conduct an open process under this section to provide any interested entity (including any private, public, commercial, and governmental interest) a reasonable opportunity to present and exchange its views and to ensure full consideration of those views.

SEC. 4. IDENTIFICATION OF REALLOCABLE FREQUENCIES.

(a) IDENTIFICATION REQUIRED.—In accordance with the provisions of this section, the Secretary, in consultation with United States Government spectrum users, shall identify bands of frequencies that—

(1) are allocated on a primary basis for United States Government use and eligible for licensing pursuant to section 305(a) of the Communications Act (47 U.S.C. 305(a));

(2) are not required for the present or identifiable future needs of the United States Government;

(3) can feasibly be made available during the fifteen years after the date of enactment of this Act for use under the provisions of the Communications Act for non-United States Government uses;

(4) can be reallocated to non-United States Government uses without imposing costs on the United States Government that are excessive in relation to the benefits that may be obtained from such uses; and

(5) are likely to have significant value for non-United States Government uses under the Communications Act.

(b) AMOUNT OF SPECTRUM RECOMMENDED.—

(1) IN GENERAL.—In accordance with the provisions of this section, the Secretary shall recommend for reallocation for use by non-United States Government stations bands of frequencies totalling at least 200 megahertz that are located below 6 gigahertz and meet the criteria set forth in subsection (a).

(2) MIXED USES PERMITTED TO BE COUNTED.—Bands of frequencies which the Secretary recommends be partially retained for use by United States Government stations, but which are also recommended to be reallocated and made available under the Communications Act for use by non-United States Government stations, may be counted toward the minimum 200 megahertz of spectrum required by paragraph (1), except that—

(A) the bands of frequenceis counted under this paragraph may not count toward more than one-half of the minimum 200 megahertz required by paragraph (1);

(B) a band of frequencies may not be counted under this paragraph unless the assignments of such band to United States Government stations under section 305 of the Communications Act (47 U.S.C. 305) are limited by geographic area, by time, or by some other means that guarantees that the potential use to be made by such United States Government stations is substantially less (as measured by geographic area, time, or some other reasonable standard) than the potential non-United States Government use to be made; and

(C) the operational sharing permitted under this paragraph shall be subject to procedures established and implemented by the Commission and the Department of Commerce to prevent harmful interference.

(c) CRITERIA FOR IDENTIFICATION.—

(1) NEEDS OF THE UNITED STATES GOVERNMENT.—In determining whether a frequency band meets the criterion specified in subsection (a)(2), the Secretary shall—

(A) consider whether such band is used to provide a communications service that is or could be available from a commercial provider;

(B) seek to promote—

(i) the maximum practicable reliance on commercially available substitutes,

(ii) the sharing of frequencies (as permitted under subsection (b)(2)),

(iii) the development and use of new communications technologies, and

(iv) the use of non-radiating communications systems where practicable; and

(C) seek to avoid—

(i) serious degradation of United States Government services and operations,

(ii) excessive costs to the United States Government and civilian users of such Government services, and

(iii) identification of a band that is likely to be subject to substitution for the reasons specified in subparagraphs (A) through (C) of section 5(b)(2).

(2) FEASIBILITY OF USE.—In determining whether a frequency band meets the criterion specified in subsection (a)(3), the Secretary shall—

(A) assume such band will be assigned by the Commission under section 303 of the Communications Act (47 U.S.C. 303) during the fifteen years following the date of enactment of this Act,

(B) assume reasonable rates of scientific progress and growth of demand for telecommunications services,

(C) determine the extent to which reallocation of such band will relieve actual or potential scarcity of frequencies available for non-United States Government use,

(D) seek to include frequencies that can be used to stimulate the development of new technologies, and

(E) consider the cost to reestablish United States Government services displaced by the reallocation of such bank over the fifteen year period.

(3) COSTS TO THE UNITED STATES GOVERNMENT AND PUBLIC BENEFITS.—In determining whether a frequency band meets the criterion specified in subsection (a)(4), the Secretary shall consider—

(A) the costs to the United States Government of relocating its services in order to make such band available for non-United States Government use, including the incremental costs directly attributable to the loss of the use of such band; and

(B) the benefits that could be obtained from reallocating such band to non-United States Government uses, including the value of such band in promoting—

(i) the delivery of improved service to the public,

(ii) the introduction of new services, and

(iii) the development of new communications technologies.

(4) NON-UNITED STATES GOVERNMENT USE.—In determining whether a frequency band meets the criterion specified in subsection (a)(5), the Secretary shall consider—

(A) the extent to which equipment is commercially available that is capable of utilizing such band, and

(B) the proximity of frequencies that are already assigned for non-United States Government use.

(5) OTHER USES.—

(A) INAPPLICABILITY OF CRITERIA.—Notwithstanding any other provision of this Act, no criterion set forth in subsection (a) shall be deemed to be met with regard to any frequency assigned to, or used by, a Federal power agency for the purpose of withdrawing that assignment under this Act.

(B) MIXED USE ELIGIBILITY.—The frequencies assigned to any Federal power agency may be eligible for mixed use under subsection (b)(2) only in geographically separate areas. In those cases where a frequency is to be shared by an affected Federal power agency and a non-Federal user, non-Federal use shall not be permitted if such use would cause harmful interference to the affected Federal power agency or adversely affect the reliability of its power system.

(C) DEFINITION.—For the purposes of this paragraph, the term "federal power agency" means the Tennessee Valley Authority, the Bonneville Power Administration, the Western Area Power Administration, or the Southwestern Power Administration.

(d) PROCEDURE FOR IDENTIFICATION OF REALLOCABLE BANDS OF FREQUENCIES.—

(1) SUBMISSION OF REPORTS TO THE PRESIDENT TO IDENTIFY 45 MEGAHERTZ TO BE MADE AVAILABLE IMMEDIATELY FOR REALLOCATION AND TO PROVIDE PRELIMINARY AND FINAL REPORTS ON ADDITIONAL FREQUENCIES TO BE REALLOCATED.—(A) Within six months after the date of the enactment of this Act, the Secretary shall prepare and submit to the President a report that specifically identifies and recommends for immediate reallocation 45 megahertz of spectrum meeting the criteria set forth in subsection (a).

(B) Within twelve months after the date of the enactment of this Act, the Secretary shall prepare and submit to the President a preliminary report that tentatively identifies and recommends for reallocation bands of frequencies meeting the criteria set forth in subsection (a).

(C) Within twenty-four months after the date of enactment of this Act, the Secretary shall prepare and submit to the President a final report that specifically identifies and recommends for reallocation at least 155 additional megahertz of spectrum meeting the criteria set forth in subsection (a).

(D) The President shall immediately notify the Congress of the receipt of the reports required by this paragraph and publish the reports in the Federal Register.

(2) CONVENING OF PRIVATE SECTOR ADVISORY COMMITTEE.—Not later than twelve months after the enactment of this Act, the Secretary shall convene a private sector advisory committee to—

(A) review the bands of frequencies identified in the preliminary report required by paragraph (1)(B);

(B) advise the Secretary with respect to—

(i) the bands of frequencies which should be included in the final report required by paragraph (1)(C), and

(ii) the effective dates which should be established under subsection (e) with respect to such bands;

(C) receive public comment on the Secretary's preliminary and final reports; and

(D) prepare and submit the report required by paragraph (4)

The private sector advisory committee shall meet at least quarterly until each of the actions required by section 5(a) have taken place.

(3) COMPOSITION OF COMMITTEE; CHAIRMAN.—The private sector advisory committee shall include—

(A) the Chairman of the Commission and the Secretary (or their designated representatives), representative of the Department of Defense, a representative of the Department of Transportation, and one other representative from a United States Government department or agency (excluding the Departments of Commerce, Defense, or Transportation or any agency within those departments) designated by the Secretary;

(B) Persons (other than employees of the United States Government) who shall be designated by the Secretary and shall be representative of—

(i) manufacturers of spectrum-dependent telecommunications equipment,

(ii) commercial and non-commercial users of the spectrum (including, but not limited to, rural common carriers, radio and television broadcast licensees, State and local public safety agencies, and the aviation and maritime industries), and

(iii) Other interested members of the public who are knowledgeable about the uses of the spectrum.

A majority of the members of the committee shall be members designated pursuant to subparagraph (B), and one of such members shall be designated as chairman by the Secretary.

(4) RECOMMENDATIONS ON SPECTRUM ALLOCATION PROCEDURES.—The private sector advisory committee shall, not later than twenty-four months after its formation, submit to the Secretary; the Commission; the Committee on Energy and Commerce of the House of Representatives; and the Committee on Commerce, Science, and Transportation of the Senate recommendations for the reform of the process of allocating spectrum between United States Government users and non-United States Government users, and any dissenting views thereon.

(e) TIMETABLE FOR WITHDRAWAL AND LIMITATION.—The Secretary shall, as part of the final report required by subsection (d)(1)(C), include a timetable for the effective dates by which the President shall, within fifteen years after the date of enactment of this Act, withdraw or limit assignments on frequencies specified in the report. The recommended effective dates shall—

(1) permit the earliest possibe reallocation of such frequencies in light of the requirements of section 6(a);

(2) take into account the useful remaining life of equipment that has been purchased or contracted for to operate on such frequencies;

(3) make provision for the need to coordinate frequency use with other nations; and

(4) minimize the imposition of incremental costs on the United States Government directly attributable to the loss of the use of such frequencies or the changing to different frequencies that are excessive in relation to the benefits that may be obtained from non-United States Government uses of such frequencies.

SEC. 5. WITHDRAWAL OR LIMITATION OF ASSIGNMENT TO U.S. GOVERNMENT STATIONS.

(a) IN GENERAL.—The President shall, subject to further authorization in an Appropriations Act—

(1) within three months after receipt of the report required by section 4(d)(1)(A), withdraw or limit the assignment to a United States Government station of any frequency in the 45 megahertz recommended for immediate reallocation;

(2) by the effective dates recommended pursuant to section 4(e) (except as provided in subsection (b)(4)), withdraw or limit the assignment to a United States Government station of any frequency recommended for reallocation by the report required by section 4(d)(1)(c);

(3) assign or reassign other frequencies to United States Government stations as necessary to adjust to withdrawal or limitation of assignments pursuant to paragraphs (1) and (2); and

(4) publish in the Federal Register a notice and description of the actions taken under this subsection.

(b) SUBSTITUTIONS.—

(1) AUTHORITY TO SUBSTITUTE.—Notwithstanding the provisions of subsection (a), if the President determines that a circumstance described in paragraphs (2) or (4) exists, the President may, within one month after receipt of the report required by section 4(d)(1)(A), and within six months after receipt of the report required by section 4(d)(1)(C), substitute an alternative frequency or band of frquencies for the frequency or band that is subject to such determination and withdraw or limit the assignment of that alternative frequency or band pursuant to subsection (a). The President shall publish in the Federal Register a statement of the reasons for taking any such action.

(2) SUBSTANTIVE GROUNDS FOR SUBSTITUTION.—(a) The recommended frequency reallocation would seriously jeopardize the national security interests of the United States;

(B) the frequency recommended for reallocation is uniquely suited to meeting important United States Government needs;

(C) the recommended frequency reallocation would seriously jeopardize public health or safety; or

(D) the recommended frequency reallocation would result in incremental costs to the United States Government that are excessive in relation to the benefits that may be obtained from non-United States Government uses of the reallocated frequency.

(3) CRITERIA FOR SUBSTITUTED FREQUENCIES.—For purposes of paragraph (1), a frequency may not be substituted for a frequency identified by the report required by section 4(d)(1)(C) unless the frequency proposed as a substitute also meets each of the criteria set forth in section 4(a).

(4) DELAYS IN IMPLEMENTATION.—If the President determines that any action cannot be completed by the effective date recommended pursuant to section 4(e) or that such action on such date would result in a frequency's not being used as a consequence of the Commission's distribution plan prepared pursuant to section 6, the President may—

(A) withdraw or limit the assignment to United States Government stations on a later date that is consistent with such distribution plan by providing notice to that effect in the Federal Register, including the reason that withdrawal or limitation at a later date is required; or

(B) substitute alternative frequencies pursuant to paragraphs (1) and (3).

(c) COSTS OF WITHDRAWING FREQUENCIES ASSIGNED TO THE UNITED STATES GOVERNMENT.—(1) Any United States Government licensee, or non-United States Government entity operating on behalf of a United States Government licensee, that is displaced from a frequency pursuant to this section may be reimbursed, from revenues received pursuant to section 8, not more than the incremental costs it incurs (in such amounts as provided in advance in an Appropriations Act) that are directly attributable to the displacement from the frequency. The estimates of these costs shall be prepared by the affected agency, in consultation with the Department of Commerce.

(2) There are authorized to be appropriated to the affected licensee agencies such sums as may be necessary to carry out the purposes of this subsection.

SEC. 6. DISTRIBUTION OF FREQUENCIES BY THE COMMISSION.

(a) PLANS SUBMITTED.—(1) With respect to the 45 megahertz of spectrum made available for reallocation pursuant to section 5(a)(1), the Commission, subject to further authorization in an Appropriations Act, shall, not later than twenty-four months after the date of enactment of this Act, complete a public notice and comment proceeding regarding the allocation of such spectrum and shall prepare a plan to assign such spectrum. Assignments of the 45 megahertz shall be made pursuant to the competitive bidding process authorized by section 8 during fiscal years 1994 through 1996, except that the Commission may, after conducting public notice and comment proceedings, waive this requirement on a case by case basis if it determines that a waiver is necessary to further a fundamental policy objective of the Communications Act.

(2) With respect to the spectrum made available for reallocation pursuant to section 5(a)(2), the Commission, subject to further authorization in an Appropriations Act, shall, not later than forty-eight months after the date of enactment of this Act, complete a public notice and comment proceeding and, after consultation with the Secretary, prepare and submit to the President and the Congress a plan for the distribution under the Communications Act of such spectrum. Such plan shall—

(A) taking into account the timetable recommended by the Secretary pursuant to Section 4(e), propose—

(i) the gradual distribution of the frequencies remaining, after making the reservation required by clause (ii), over the course of a ten-year period beginning on the date of submission of such plan; and

(ii) reserve a significant portion of such frequencies for distribution beginning after the end of such ten-year period;

(B) contain appropriate provisions to ensure—

(i) the availability of frequencies for new technologies and services in accordance with the policies of section 7 of the Communications Act (47 U.S.C. 157); and

(ii) the availability of frequencies to stimulate the development of such technologies and services; and

(C) not prevent the Commission from allocating bands of frequencies for specific uses in future rulemaking proceedings.

(b) AMENDMENT TO THE COMMUNICATIONS ACT.—Section 303 of the Communications Act (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(u) Have authority to assign the frequencies reallocated from United States Government use to non-United States Government use pursuant to the Emerging Telecommunications Technologies Act of 1991: *Provided*, that any such assignment shall be made expressly subject to the right of the President to reclaim such frequencies under the provisions of Section 7 of the Emerging Telecommunications Technologies Act of 1991.".

SEC. 7. AUTHORITY TO RECLAIM FREQUENCIES.

(a) AUTHORITY OF PRESIDENT.—Notwithstanding any other provision of law, the President may, in accordance with this section, reclaim any frequency withdrawn or limited pursuant to section 5(a) for reassignment to United States Government stations if the President determines that—

(1) such frequency is needed to further the national security interests of the United States or meet important public health or safety needs, or

(2) such frequency is uniquely suited to meeting other important United States Government needs.

(b) PROCEDURE FOR RECLAIMING FREQUENCIES.—In reclaiming a frequency, the President shall—

(A) establish a timetable to effect an orderly transition for a displaced licensee (if such frequency has been assigned) to obtain a new frequency and equipment necessary for its utilization;

(B) provide an estimate of the cost of displacing such licensee (if such frequency has been assigned); and

(C) to the maximum extent possible, replace the reclaimed frequency through the substitution procedures established by section 5(b).

(c) COSTS OF RECLAIMING FREQUENCIES.—Any non-United States Government licensee displaced from a frequency pursuant to this section shall, subject to the enactment of appropriations, be reimbursed, from revenue received pursuant to section 8, the incremental costs it incurs that are directly attributable to the loss of the use of the frequency. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.

(d) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to limit or otherwise affect the authority of the President under section 706 of the Communications Act (47 U.S.C. 606).

SEC. 8. COMPETITIVE BIDDING.

(a) COMPETITIVE BIDDING AUTHORIZED.—Subject to further authorization in an Appropriations Act, section 309 of the Communications Act (47 U.S.C. 309) is amended by adding at the end thereof the following new subsection:

"(j)(1) Subject to the exclusions and conditions listed in paragraph (2), the Commission shall have authority to use competitive bidding to award initial licenses or new construction permits, including licenses and permits for spectrum reallocated for non-United States government use pursuant to the Emerging Telecommunications Technologies Act of 1991.

"(A) The Commission shall require potential bidders to file a first-stage application indicating an intent to participate in the competitive bidding process and containing such other information as the Commission finds necessary. After conducting the bidding, the Commission shall require the winning bidder to submit a second-stage application. Upon determining that such application is acceptable for filing and that the applicant is qualified pursuant to subparagraph (B), the Commission shall grant a permit or license.

"(B) No construction permit or license shall be granted to an applicant selected pursuant to subparagraph (A) unless the Commission determines that such applicant is qualified pursuant to section 308(b) and subsection (a) of this section, on the basis of the information contained in the first-and-second-stage applications submitted under subparagraph (A).

"(C) Each participant in the competitive bidding process is subject to the schedule of charges contained in section 8.

"(D) The Commission shall have the authority in awarding construction permits or licenses under competitive bidding procedures to (i) define the geographic and frequency limitations and technical requirements, if any, of such permits or licenses, in accordance with public interest, convenience, or necessity; (ii) establish minimum acceptable competitive bids; and (iii) establish other appropriate conditions on such permits and licenses that will serve the public interest.

"(E) The Commission shall, within eighteen months after the date of enactment of the Emerging Telecommunications Technologies Act of 1991 following public notice and comment proceedings, adopt rules establishing competitive bidding procedures under this subsection, including the method of bidding (such as sealed bids) and the basis for payment (such as lump-sum or installment payments, fixed or variable royalties, combinations of lump-sum payments and royalties, or other reasonable forms of payment).

"(2)(A) Competitive bidding shall not apply to:

"(i) license renewals and modifications;

"(ii) the United States Government and State or local government entities;

"(iii) amateur operator services, over-the-air terrestrial radio and television broadcast services, public safety services, and radio astronomy services;

"(iv) private radio end-user licenses, such as Specialized Mobile Radio Service (SMRS), maritime, and aeronautical end-user licenses;

"(v) any license grant to a non-United States Government licensee being moved from its current frequency assignment to a different one by the Commission in order to implement the goals and objectives underlying the Emerging Telecommunications Technologies Act of 1991; and

"(vi) any other service, class of services, or assignments that the Commission determines, after conducting public comment and notice proceedings, should be exempt from competitive bidding because of public interest factors warranting an exemption to the extent the Commission determines the use of competitive bidding would jeopardize appropriate treatment of those factors.

"(B) In implementing this subsection, the Commission shall ensure that current and future rural telecommunications needs are met and that existing rural telecommunications licensees and their subscribers are not adversely affected.

"(3) Monies received from competitive bidding pursuant to this subsection shall be deposited in the general fund of the United States Treasury.".

(b) RANDOM SELECTION NOT TO APPLY WHEN COMPETITIVE BIDDING IS USED.—Section 309(i)(1) of the Communications Act (47 U.S.C. 309) is amended by deleting the period after the word "selection" and inserting in lieu thereof: ", except in instances where competitive bidding procedures are to be utilized pursuant to subsection (j).".

SEC. 9. DEFINITIONS.

As used in this Act:

(1) The term "Act" means the Emerging Telecommunications Technologies Act of 1991.

(2) The term "Communications Act" means the Communications act of 1934, as amended (47 U.S.C. 151 et seq.).

(3) The term "allocation" means an entry in the National Table of Frequency Allocations of a given frequency band for the purpose of its use by one or more radiocommunication services.

(4) The term "assignment" means an authorization given by the Commission or the United States Government for a radio station to use a radio frequency or radio frequency channel.

(5) The term "Secretary" means the Secretary of Commerce.

(6) The term "Commission" means the Federal Communications Commission.

STEVENS SPECTRUM AMENDMENT TO S. 218—SECTION-BY-SECTION ANALYSIS

SECTION 1—SHORT TITLE

This section specifies the short title of the Act—the "Emerging Telecommunications Technologies Act of 1991".

SECTION 2—FINDINGS

This section contains twelve findings concerning the allocation and assignment of the radio spectrum. Among other things, the following points are made:

Radio spectrum is a valuable public resource that should be used more efficiently;

The increasing scarcity of available spectrum will hurt the United States economy;

The U.S. government should do more intensive spectrum planning and should identify and make available for reallocation to non-government use at least 200 megahertz of government frequencies that are excess to its need;

Current spectrum assignment procedures often are expensive and time-consuming and can result in an unjustified windfall to speculators;

Competitive bidding in many instances would reduce the cost and increase the efficiency of spectrum assignment and would fairly compensate taxpayers for the use of a scarce public resource;

Competitive bidding should be structured to facilitate the introduction of new spectrum-based services and give appropriate consideration to the special needs of certain spectrum users such as public safety agencies and rural common carriers; and

Competitive bidding should not alter existing spectrum allocation procedures, disrupt the operation of existing spectrum licensees, or expand, in any way, the rights granted a licensee.

SECTION 3—NATIONAL SPECTRUM PLANNING

The Secretary of Commerce (Secretary) and the Chairman of the Federal Communications Commission (FCC) are required to conduct joint spectrum planning meetings at least twice each year. These meetings shall consider future spectrum needs for all uses and the actions necessary to meet those needs in an efficient manner. The resuts of these meetings must be reported annually to the President and the Congress.

SECTION 4—IDENTIFICATION OF REALLOCABLE FREQUENCIES

The Secretary, in consultation with other U.S. government users, is required to identify bands of frequencies that: (1) are currently allocated on a primary basis to the U.S. government and are eligible for licensing by the FCC: (2) are not required for present or identifiable future needs of the U.S. government; (3) can feasibly be made available for non-U.S. government use over the next 15 years; (4) can be reallocated to non-U.S. government uses without imposing costs on the U.S. government that are excessive in relation to the benefits from those uses; and (5) are likely to have significant value for non-government uses. The last 4 criteria are explained in detail later in the section.

At least 200 megahertz below six gigahertz must be identified. Up to 100 megahertz of the 200 megahertz may be partially retained by the U.S. government, but only if U.S. government use is substantially less than non-U.S. government use. Frequencies assigned to Federal power agencies may not be withdrawn pusuant to this process.

The Secretary is required to submit a report identifying 45 megahertz for immediate reallocation within six months after the date of enactment and a report identifying at least an additional 155 megahertz for long-term reallocation within two years after the date of enactment. In the final 155 megahertz report, the Secretary shall include a timetable for withdrawing and limiting the frequencies recommended for reallocation. The President shall notify the Congress of the receipt of each report and publish the reports in the Federal Register.

Within one year of the date of enactment the Secretary is required to convene a private sector advisory committee to review the spectrum tentatively identified for the 155 megahertz report. The advisory committee shall be composed of the Secretary; the Chairman of the FCC; representatives of the Departments of Defense and Transportation and one other government department or agency; and representatives of manufacturers of spectrum-dependent equipment; commercial and non-commercial users of the spectrum (including public safety agencies and rural common carriers); and other interested members of the public. The advisory committee shall submit to the President and the Congress a report on recommendations for reforming the current process for allocating spectrum between U.S. government and non-U.S. government users.

SECTION 5—WITHDRAWAL OR LIMITATION OF ASSIGNMENT

The President shall limit or withdraw frequencies in the 45 megahertz recommended for immediate reallocation within three months of receipt of the Secretary's report and shall limit or withdraw frequencies in the 155 megahertz recommended for long-term reallocation by the dates recommended by the Secretary. Notice of actions taken under this section shall be published in the Federal Register.

Alternative frequencies may be substituted for frequencies recommended for reallocation if the President determines that the recommended frequency would: seriously jeopardize the national security interests of the United States; affect a frequency uniquely suited to an important U.S. government need; seriously jeopardize public health or safety; or result in costs that are excessive to the U.S. government in relation to the benefits obtained from the use of that frequency by non-government users. The substituted frequency must meet the criteria set forth in section 4. The President may also delay implementation of a withdrawal or limitation for cause. Appropriations are authorized to cover incremental costs incurred by any U.S. government licensee that are directly attributable to being displaced from a frequency.

SECTION 6—DISTRIBUTION OF FREQUENCIES BY THE COMMISSION

The Secretary is required to complete a public notice and comment proceeding within two years after the date of enactment regarding reallocation of the 45 megahertz, and prepare a plan for the assignment of that spectrum. The 45 megahertz shall be assigned pursuant to the competitive bid process authorized in section 8 during fiscal years 1994 through 1996, except where the FCC determines, after notice and comment on a case-by-case basis, that it is necessary to waive the competitive bid process in order to further a fundamental policy of the Communications Act.

Within four years of the date of enactment the FCC shall, after a public notice and comment proceeding and in consultation with the Secretary, submit to the President a plan for the distribution of the 155 megahertz identified for long-term reallocation. The plan shall reserve a significant portion of the frequencies identified for reallocation for distribution not earlier than 10 years after the date the plan is submitted and shall include appropriate provisions to ensure the availability of frequencies for new technologies and services.

Section 303 of the Communications Act is amended by adding a new subsection which provides that the FCC shall have the authority to assign frequencies reallocated under this Act and reserves the right of the President to reclaim those frequencies in accordance with section 7 of this Act.

SECTION 7—AUTHORITY TO RECLAIM FREQUENCIES

The President is authorized to reclaim any frequency reallocated under this Act if the President determines that such frequency is: needed to further the national security interests of the United States; needed to meet important health or safety needs; or is uniquely suited to other important U.S. government needs.

The President shall establish a timetable to effect the orderly transition of any displaced licensee to a new frequency, provide an estimate of the cost of displacing such licensee, and to the maximum extent possible, replace the reclaimed frequency through the substitution procedures established in section 5.

The U.S. Government shall, subject to enactment of appropriations, reimburse any non-U.S. government licensee displaced under this section for incremental costs incurred as a direct result of the displacement. Nothing in this section may be construed as limiting the wartime authority of the President under section 706 of the Communications Act.

SECTION 8—COMPETITIVE BIDDING

Section 309 of the Communications Act is amended by adding a new subsection to authorize the FCC to use competitive bidding to award initial licensees or new construction permits.

Potential bidders would be required to file first-stage applications. The winner of the competitive bid process would be required to file a second-stage application. Only if the FCC determines that the winner met the requirements of section 308(b) and 309(a) of the Communications Act would an initial license or construction permit be granted. Winners would be subject to the schedule of fees under section 8 of the Communications Act, and the FCC would have full authority under the new subsection to restrict the license, establish minimum bids, and establish other requirements in the public interest.

Within eighteen months of the date of enactment the FCC shall, after public notice and comment proceedings, adopt rules for competitive bidding under the new subsection. The rules shall include the method of bidding and the basis for payment, which may include lump-sum or installment payments, fixed or variable royalties, or some other reasonable form of payment.

Competitive bidding shall not apply to: license renewals and modifications; U.S., state, or local government entities; amateur operator, over-the-air terrestrial radio and television broadcast, public safety, and radio astronomy services; private radio end-user licenses; and license grant to a non-U.S. government licensee being moved from a current frequency to a new frequency as a result of this Act; and any other service, class of service, or assignment that the FCC determines, after public notice and comment, is in the public interest to exempt from competitive bidding.

In implementing competitive bidding, the FCC shall ensure that current and future rural telecommunications needs are met and that existing rural telecommunications licensees and their subscribers are not adversely affected.

Monies received from competitive bidding shall be deposited in the general fund of the United States Treasury.

SECTION 9—DEFINITIONS

This section defines the terms "Act," "Communications Act," "allocation," "assignment," "Secretary," and "Commission" for the purposes of this Act.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1241, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

AMENDMENT NO. 368

(Purpose: To codify the "good faith" exception to the exclusionary rule)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 368.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Strike section 2301 and insert in lieu thereof the following.

SEC. . ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following:

"§3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—

"(1) FEDERAL PROCEEDINGS.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(2) STATE PROCEEDINGS.—The law of the United States does not require the exclusion of evidence in a proceeding in any court under circumstances in which the evidence would be admissible in a proceeding in a court of the United States pursuant to paragraph (1) of this subsection.

The PRESIDING OFFICER. The time for debate on this amendment is limited to 2 hours, evenly divided.

Mr. THURMOND. Mr. President, today, I rise to offer an amendment which codifies an exception to the exclusionary rule that has been recognized by the Supreme Court. This amendment will assist law enforcement in its effort to combat violent and drug-related crime. It is taken from title III of President Bush's crime bill and it is similar to a bill, S. 151, which I introduced on the first day of this Congress. Furthermore, it is similar to a measure that overwhelmingly passed the Senate by a vote of 63 to 24 on February 7, 1984. The House overwhelmingly passed a similar amendment last year as an amendment to the 1990 crime bill.

The exclusionary rule is a judicially created remedy for violations by law enforcement officers of the fourth amendment's prohibition against illegal searches and seizures. More simply, if evidence is obtained by a law enforcement officer in violation of the fourth amendment then that evidence will be excluded in a criminal trial.

Since the creation of the exclusionary rule remedy in 1914, in Weeks versus California, the Supreme Court has recognized exceptions when the exclusionary rule should not apply. This measure codifies one of those exceptions created by the Court in the case of United States versus Leon. This case provided that evidence obtained pursuant to a warrant, which is later found to be defective, will not be excluded if the law enforcement officer acted in objective good faith. Objective good faith would be established if the circumstances surrounding the search justify an objectively reasonable belief that it was in conformity with the fourth amendment. This amendment codifies this rule of law and extends the exception to warrantless searches.

Mr. President, the amendment that I am offering today neither authorizes nor encourages law enforcement officers to disregard the fourth amendment and randomly search a person's home. What it does is address the legal loophole that often allows a criminal to go free, irrespective of guilt or innocence, when evidence crucial to a criminal proceeding is suppressed. The goal of the exclusionary rule is to deter law enforcement conduct that violates the fourth amendment. Therefore, if a law enrcement officer's conduct in executing a search is in conformance with the fourth amendment, applying the exclusionary rule does not serve as a deterrent. It should be noted that the determination as to whether the officer conducted the search in objective good faith would be made by the Court based on the circumstances surrounding the search. Of course if the officer's conduct did not exhibit objective good faith, the evidence would not be allowed.

This amendment is a reasonable extension of the exception currently recognized by the Supreme Court. The extension of the good-faith exception to warrantless searches is a distinction without an effective difference. If a law enforcement officer acts in good faith, it makes no sense to exclude incriminating evidence simply because there was no search warrant. Murderers and other violent offenders should not be set free on mere technicalities. When evidence which can be used to prosecute a rapist or drug trafficker is obtained in good-faith conformance with the fourth amendment, the evidence should be admitted at trial.

Mr. President, those who are opposed to this amendment will downplay the effectiveness of this legislation on our Nation's crime problem. They will claim it only effects 1 percent of the almost 6 million felonies committed every year. Yet, the exclusionary rule has a major impact on the categories of evidence—drugs and guns—which are so directly related to the violence which plagues our streets. In addition, 1 percent of 6 million cases is still 600,000 cases. That's 600,000 cases where without the good-faith exception to the exclusionary rule, the guilty may go free. In addition, this figure fails to take into account those cases which are not even prosecuted because of exclusionary rule problems. According to the Department of Justice, a detailed study of two local prosecutor's offices showed that almost a third of all felony drug arrests were not prosecuted because of the exclusionary rule.

Unfortunately, the Biden exclusionary rule proposal contained in S. 1241 does more harm than good. Although it appears, on its face, to be a codification of the Leon decision which created the good-faith exception, it is not a fair or accurate codification of the decision. The good-faith exception recognized in the Leon decision is already the law. The Biden bill would effectively freeze the status quo in this area of the law and prohibit the Supreme Court from considering broader applications of the good-faith standard. In fact, the Biden exclusionary rule provision, according to the Department of Justice, would create broader challenges to the admissibility of evidence than current law. It broadens the scope of the possible warrant challenges. For example, it would create an opportunity to challenge every search warrant by questioning the subjective neutrality of a magistrate or judge. This invites a subjective inquiry into the magistrate's thought process and goes far beyond the corresponding qualification in the Leon case.

Simply put, the Biden bill creates new legal loopholes that would allow for new and continued challenges to searches. It fails to extend the good-faith exception to warrantless searches. Furthermore, it effectively freezes this area of the law in its tracks.

In closing, my amendment is an important law enforcement measure which will apply in all cases but will be especially helpful in the enforcement of violent crimes. Those who commit such crimes should not go free on mere technicalities when officers act in good faith conformance with the fourth amendment. This amendment will aid in the prosecution of criminals without sacrificing the principles of the fourth amendment.

How to vote on this amendment is clear. If you believe that criminals should not benefit unfairly and be set free when law enforcement officers act in good faith, vote for the Thourmond amendment. However, if you believe we should expand criminals' rights to challenge the admissibility of evidence at trial, vote against the Thurmond amendment and in favor of the Biden bill.

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. THURMOND. Mr. President, I yield such time as he may require to the able and distinguished Senator from Utah [Mr. HATCH].

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this is an extremely important issue. Again, I compliment the distinguished Senator from South Carolina for bringing it to the attention of the Senate and, of course, discussing it in the able manner that he has.

I believe that a vote for the Thurmond amendment is a vote to put more murderers, more rapists, more robbers, more drug dealers behind bars. A vote against the Thurmond amendment is to let the same murderers, rapists, robbers, and drug dealers free to roam the streets where they committed the crimes to begin with.

The so-called exclusionary rule provision in S. 1241, the Democrat bill, is in my opinion and with all due respect, a sham provision. At best, that provision in the Biden bill will only codify an existing Supreme Court precedent which, of course, is unnecessary to do. It is much more likely, however, that the provision in S. 1241 is actually going to be more favorable to criminals than to law enforcement officers.

So the two points I am making are, No. 1, in the Democrat bill, why codify an already existing exception to be exclusionary rule which may preclude the Supreme Court from expanding that exception; and, second, why codify in the Democrat bill something that will be more favorable to criminals than it is to law enforcement officers?

It is not enough to label the provision in a bill "exclusionary rule" and claim that the alternative bill and the Bush bill are the same on this issue. They are not.

President Bush's provision, a modified form of which is before the Senate, will allow into court evidence obtained by police officers in a warrantless search if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it conformed to the fourth amendment. The Biden bill does not allow such evidence into court.

Indeed, I believe that the Biden provision is likely to cut back on the admission of evidence the Supreme Court has allowed at trial since 1984.

Basically, the Thurmond amendment extends the Supreme Court's current good faith exception to the exclusionary rule to warrantless cases and seizures.

In my view, if, as the Supreme Court has ruled in United States versus Leon, evidence obtained based upon an objectively reasonable belief in a warrant's validity is admissible in court, it is only logical to admit into a criminal trial evidence obtained based on an objectively reasonable belief in the validity of a search where a warrant is not present.

Except for the section dealing with the admissibility of firearms, this amendment is basically the same as title III of the President's crime bill, which was voted down last evening. The exclusionary rule, or the suppression doctrine, is a judicially created attempt to enforce the fourth amendment. It is a judicial policy under which evidence obtained unreasonably, according to current fourth amendment standards, is excluded from evidence, or, in other words, is inadmissible.

Although the fourth amendment triggers its judicial application, the exlusionary rule is not a part of the Constitution. It is a court-made rule of evidence that was not adopted for Federal Courts until 1914, in Weeks versus United States; and not adopted for State courts until 1961, in Mapp versus Ohio.

In all those other years, we did not have the rule applicable.

If a causal connection between a piece of evidence and an illegal search or seizure is determined, even the most credible kinds of evidence may be deemed tainted and excluded from trial—the fruit of the poisonous tree doctrine. For example, the discovery of a murder weapon is inadmissible evidence at trial if the weapon was found as a result of an illegal search for business records.

Completely credible and probative evidence critical to conviction, seized in the heat of apprehending a suspected felon, may be excluded from consideration solely because a court deliberating months later believes that it was obtained in an unreasonable fashion. As the rule now operates, a criminal who in fact committed a dreadful violent crime is set free—not because he is innocent, but because the evidence necessary to establish his guilt is deemed to have been unreasonably seized.

As everyone knows, this rule has resulted in several outrageous results. Let me relate some of these troubling examples:

In April 1989, an appellate court in Alaska dropped a charge against a bartender who had sold drugs to undercover State troopers from his jacket hanging some 15 feet from the bar because, the court ruled, the jacket was not within the bartender's reach and the troopers should therefore have obtained a search warrant for the jacket. This is ridiculous but, nevertheless, this is the length to which they go in interpreting this rule.

Just last year, according to the U.S. attorney for the State of Utah, an Emory County sheriff pulled over a Cadillac going westbound on I–70 for a traffic violation. After writing a warning citation to the driver, the officer asked the driver for permission to search the car. In the car, the officer found 89 kilos of cocaine with a street value of $20 million. However, because the officer had not returned the driver's license to the driver and handed him the warning citation before asking to search the car, the court found that the driver's fourth amendment rights has been violated and the exclusionary rule therefore became applicable, excluding the cocaine as evidence. The driver, of course, is now back out on the streets, able to do exactly the same thing that he did before.

Thankfully, in 1984, the Supreme Court restored some sanity to the issue of admissibility of evidence in *United States* v. *Leon*, 468 U.S. 897 (1984). The Leon decision specifically permitted the admission of evidence obtained in conformity with a warrant in circumstances justifying an objectively reasonable belief in the warrant's validity, noting that excluding evidence where an officer's conduct is objectively reasonable "will not further the ends of the exclusionary rule in any appreciable way; for it is painfully apparent that * * * the officer is acting as a reasonable officer would and should act in similar circumstances. Excluding evidence can in no way affect his future conduct unless it is to make him less willing to do his duty." 468 U.S. at 920.

I am confident that exclusionary rule supporters would agree that this rule imposes a tremendously high cost on society. Guilty persons are left unpunished, to return to the streets to do more harm.

The purpose of the exclusionary rule is to deter illegal police conduct. Some people believe that this deterrent function is important enough to impose the tremendous costs of the exclusionary rule on law-abiding Americans and victims of crime and their families. This purpose is said to be important enough to let murderers, rapists, and drug dealers go free.

But if a police officer conducts a search later ruled illegal, and does so in circumstances justifying an objectively reasonable belief that the search was in conformity with the fourth amendment, excluding the obtained evidence has no deterrent effect whatsoever. The policeman will make a search in such a circumstance every time; why throw out the evidence and let the crook go free, or the murderer go free, or the drug dealer go free? That is why the Supreme Court created an exception to the exclusionary rule in such a case where a warrant is involved.

Mr. President, there is no more deterrent value in keeping out such evidence where a warrant is not involved.

Suppose a police officer in a squad car gets a call that a robbery has taken place and is given a partial description of the alleged robber. The police officer then comes across a person fleeing the general vicinity of the crime who meets the partial description. The policeman arrests the person. Let us assume that we all agree that it was objectively reasonable for the policeman to make the arrest. The policeman then searches the person for weapons and finds drugs. But, a court, later reviewing the arrest, decides the arrest was not based on probable cause. Why throw out the drug charge as the fruit of an illegal search?

If the policeman believed the search was lawful as incident to a lawful arrest, and we agree it was objectively reasonable to believe that the arrest was lawful, there is no deterrent purpose served by letting the drug criminal go free. None whatsoever.

The amendment now before the Senate would provide that evidence shall not be excluded in any Federal proceeding on the ground that a search or seizure was in violation of the fourth amendment if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. This would apply the underlying principle of Leon, so as to admit evidence obtained in such circumstances in cases involving warrantless searches, as well as in cases involving searches pursuant to a warrant.

This principle has already been applied for several years by the Federal courts in the fifth circuit in deciding on the admissibility of evidence obtained through searches and seizures in both warrant and nonwarrant cases. I cite with particularity *U.S.* v. *Williams*, 622 F.2d 830 (5th Cir. 1980). The standard of objective reasonableness is also uniformly applied in determining an officer's exposure to civil liability based on an allegedly unlawful search or seizure. (*Anderson* v. *Creighton*, 483 U.S. 635 (1987).)

This amendment also provides specifically that the fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of circumstances justifying an objectively reasonable belief that a search or seizure was in conformity with the fourth amendment.

It provides that the law of the United States does not require the exclusion of evidence in any court under circumstances in which it would be admissible in a Federal court under this amendment. This makes it clear that Federal law does not require the State courts to exclude evidence obtained in circumstances justifying an objectively reasonable belief that the officer's conduct was consistent with constitutional strictures on searches and seizures. Each State is free to make its own determination concerning the admissibility of evidence in such cases.

I would therefore urge my colleagues to vote in favor of this amendment.

Mr. HATCH. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if I might ask the managers of the bill for their indulgence. I ask unanimous consent to proceed for 5 minutes as in morning business?

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection on our side.

Mr. BIDEN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 1351 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOMENICI. I thank the managers for yielding. I now yield the floor.

The PRESIDING OFFICER (Mr. KERREY). Who yields time?

Mr. BIDEN. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, now, after the first round or skirmish on this debate on what is the more effective, tougher, yet fair crime bill, get into a number of very important skirmishes.

When I say skirmishes, I do not mean to make light of their significance or importance. This is the first of several substantive debates that we are about to have on very critical issues that affect the constitutional rights of Americans and the ability of law enforcement to effectively discharge their responsibilities.

What we are talking about in this case is a rule called the exclusionary rule, which has been spoken about by both my distinguished colleagues from South Carolina and Utah. Sometimes when the public hears these phrases that we lawyers throw around, "the exclusionary rule" and "probable cause" and "objective good faith," and we discuss illegal or unwarranted searches and seizures, it gets confusing. So there is the tendency of each of us, in an honest, hopefully persuasive way, to make our case—to try to distill the arguments in ways that will be more understandable by applying them to fact situations in order to explain, demonstrate how the law, if changed, would affect the lives of Americans.

I know both my colleagues and the Justice Department are acting in total good faith when they put forward their examples, when they make their assertions about changing the law the way Senator THURMOND wants it changed and the Justice Department wants it changed although the Justice Department has dropped their wacky notions. Justice came in here with a harebrained idea in their original bill that said a police officer can even search in bad faith. I think the Justice Department's credibility has been so badly tarnished on the notion of the exclusionary rule that I am not sure we should listen to anything they have to say. Even my distinguished Republican colleagues said, wait a minute, this idea that the President sent up here about being able to knock down your door with or without a warrant as long as we find a gun, it is not OK. Even they figured out that most Americans who want to get tough on crime would say, "Hold up. Where did you get that idea?"

Even my distinguished Republican colleagues talked to the Justice Department and said, "hey guys, you are a little off the reservation." We want to get tough, but we are conservatives, and we think a man or a woman's castle is their home. I suspect this is the kind of thing they said. But the bottom line is: even the Justice Department, or the White House—whoever wrote that stupid notion—said we had better drop that out.

So we thought we are going to have a debate on that 2 days ago but even the Justice Department said we had better not try to go that far. There is no sense in shredding the fourth amendment totally. Maybe we should keep some of it in tact. Again, that is my characterization.

But the facts are accurate. They amended their own crazy notions about the exclusionary rule and dropped it, I am told—I in the paper—under pressure not merely from the Senator from Delaware but many Senators on the Republican side of the aisle.

Reasonable people can differ on what we should do. The Senator from Delaware says, hey, look, a police officer makes a mistake. In a circumstance where under present law where he or she has to have a search warrant—a document, a search warrant—if they make a mistake, in that circumstance, and it is good faith, then whatever they seize should be admissible in court.

I have a friend named Sid Bullock, who is one of the best trial lawyers in Delaware. It was nice to work with Sid. Mr. Bullock used to say something special, when he would stand before a jury to sum up things—I know my friend, and I am being very serious when I say this, my friend from Utah, is a fine trial lawyer. He himself has tried many cases. Every fine trial lawyer has a certain technique when he stands before a jury. Sid Bullock used to say something very, very simple and straightforward that caught the essence of what the criminal justice system was about. I think it warrants repetition here. He would stand before a jury and he would say, "Now, look, we are about to hear a lot of accusations and counteraccusations. What I really want you all to do is keep your eye on the ball." He would stand there and say, "A lot of you are athletes, or like sports. You know, in almost all sports requiring the movement of a sphere through the air, a ball, the fundamental thing you look at—whether you are playing golf, whether you are playing baseball, whether you are trying to catch a football, whether it is volleyball, whether it is basketball—is to keep your eye on the ball, and not all these other things around it." And I respectfully suggest that we should keep our eye on the ball as we discuss this issue.

In order to make this complicated issue clear to all of us, as I am going to attempt to do, I will try the same technique—to attempt in good faith to make my case, give specific examples, or make generic assertions.

My senior colleague from South Carolina talked about how this is going to—if they change the rule the way they want to, as opposed to the way I want to—this is going to put murderers and rapists in jail who today go free. Well, I find that kind of hard to understand. And I am going to spend some time, at the appropriate time, trying to show what the real impact of what they are in good faith, to steal a phrase, attempting to do—the impact of what they will do.

But let us go back and keep our eye on the ball for a minute. My friend from South Carolina said in 1984, 7 years ago, I forget at what time during the year, Congress voted on a bill to accord a good-faith exception to the exclusionary rule. The indication being if we did it then, why do we not do it again now? There is a big difference though. That was before the Supreme Court decision adopting a good-faith exception.

So when my colleagues were voting out here, the Supreme Court had not ruled. We came along and we said in this Chamber, we said, hey, when a policeman has a warrant, he makes a mistake, but it is good faith and he has a search warrant—it is a search where he should be required to have the search warrant—he goes and gets one, if there is a technical mistake relating to the warrant and his enforcement of that warrant, execution of that warrant, then the evidence should be admissible. And the Supreme Court came along and they said, that is right. That should be admissible. That is not a violation of the fourth amendment. That is what they ruled.

So when the Senators voted in 1984, they were voting on the assumption that technical legal mistakes would let criminals go free. But that is no longer the law. The same Supreme Court after our vote adopted the good-faith rule as long as there was a warrant.

Today, we face a much different question. The real question here is the Biden bill before us which says, "hey, look, if you have a warrant and you make a mistake, you ought to be able to admit the evidence." That is what the Supreme Court said.

I find this incredibly interesting reasoning coming out of this Justice Department. They say the Biden bill is worse than the present law. The implication is that the present law is bad as well. It is worse than the present law because it will allow new legal loopholes.

Once again, the Justice Department is demonstrating their lack of information because if I have codified—which they acknowledge I have—the present law, the Supreme Court decision, how am I making it worse than the law is now? That I think it is down to the crux of it. If I codify what the Supreme Court said, that means that is as far as we can go. That is really what has them worried. It does not make the law worse than it is now. It makes it better. What worries them is it might end the prospect of eroding the fourth amendment rights of Americans in America.

You know, we all hear these stories and there are, let me say at the outset, there are horror stories that can be shown where a wanton, vicious criminal is let go because his or her constitutional rights are violated. It is reprehensible. It is angering, and it is frustrating, on the rare occasions when it occurs. But the reason the Court says that is, it says that if you are going to be able to violate the constitutional rights of a criminal, then you are also going to be able to violate the constitutional rights of an innocent person. And we know that power corrupts.

The reason why we have a Constitution is not to protect the guilty; it is to protect the innocent. If I am able to violate your fourth amendment rights and you are a criminal, then I clearly can violate yours, if I do not like you, and you are totally innocent. And people say, well, that will not happen.

The reason it will not happen is we all know anyone with authority is good. They are not going to do that. Anyone with authority, any police officer, is clearly only going to violate the rights of the guilty, not violate the rights of the innocent.

If I knew that to be the case, if Plato's philosopher king could come down and in fact enforce that, then I would say, right on, let us do it that way. I do not want the criminals to have those constitutional rights. I do not want them knowing they are guilty. I do not want them to be able to go free on any technicality, other than the word of God. But the reason we do this is not to let them go free. The reason is so people who are innocent do not have the power of the State used against them.

You may say that is crazy, that never happens. Ask the folks that are sitting up here behind me. I wonder if they are absolutely certain that in their hometown, in their city, in their State, there is no one in police authority who might not be willing to violate their rights, who in fact might not if there were not protections against strip searches when pulled over by automobiles and without probable cause. I wonder whether they think they would never be harassed. I wonder whether they have never been harassed parking in a parking lot, or in a parking space, or at a parking meter, or in a traffic violation. I am sure none of them have ever been harassed. I am sure that is true, because they are all innocent.

But the fact of the matter is, the reason why we do this is not to protect the rights of the guilty people, but the rights of innocent people. You may say, that is kind of crazy, Biden. Everybody knows that none of that would ever happen.

Well, let me just touch on a few points my colleagues have made. The implication here is—and I made the point yesterday, which they reasonably and understandably responded to and acknowledged—that in only 1 percent of the cases nationally does this issue even come up.

They go on to extrapolate from that—keep your eye on the ball here—Biden says, in States where the studies have been done, like California and others—in California, it is 0.7 percent, but in roughly 1 percent of the cases does the prosecutor say, hey, look, I cannot take that case to trial because I, the prosecutor, believe you have violated the fourth amendment rights of that individual, and we can never get a conviction, because you have violated those rights, or you should not have, and even if we could, we should not, and he says, "so I am not going to take it to court." Keep your eye on the ball now. So far so good.

Then my friends over here stand up and imply—not imply, point out—that that could be up to 600,000 cases. And then they imply from that, that it means 600,000 people are guilty and were let off. That is, No. 1, implicit in what they say. Keep your eye on the ball now. And No. 2, they say, if we had our good faith exception, all 600,000 of those criminals would be in jail. That assumes two things. Keep your eye on the ball. It assumes, No. 3, that in every one of those cases that were thrown out, there was a good faith mistake made by the police officer. I find that, No. 1, that is a real leap of faith and logic to reach that conclusion. And, No. 2, it assumes—to make their drop dead case, you know, how bad this is—that all 600,000 of those people were guilty.

So that if their law was in place, no one's rights would be violated except those 600,000 people, who were not proceeded against, who were not proven quilty of anything, but would have been because the cop acted in good faith for certain. That is the kind of leap you have to make.

So let us talk realistically here. The cases that they can cite, and I can cite, where a genuine, real life, bad guy got off, because a real life, good cop made a real life, good faith decision that turned out to be a violation of the Constitution, are minuscule. I cannot give you the number, but I can assure you, applying simple Aristotelian logic, that it is significantly fewer than the seven-tenths of 1 percent of the cases that are referred to in this California study, or the 1 percent of the cases in America.

Let us balance that against where the risk is. We would all have to, I believe—and I am prepared and anxious to debate this point, if there is not agreement on it—I think we can all stipulate that what I just said is logically and factually true, that some percentage of those cases that were dropped are not dropped because of a good-faith mistake and, too, some percentage of those people where the cases were dropped, the people were innocent anyway.

So we acknowledge we are talking about a relatively small number of people. What do we balance that against? These folks say, OK, to get that relatively small group of people, we are going to make a relatively big change in the way this country has operated since our Founding Fathers said we have had bad experience with people in power. People with power come in and knock on my door, and if I do not answer, they break it down, because they do not like me. They do not like the fact that I do not like the king. They do not like the fact that I am not paying an unfair tax to those Brits back there, those Englishmen. They do not like the fact—and so on and so forth. So they knock my door down.

We said, wait a minute, our Founding Fathers said: In our new country, we are not going to let that happen. So we are going to err on the side of protecting all those people out there that we know are victims of the present practice.

Let me say again—keep your eye on the ball here—the next thing I am going to hear, I predict, is: Well, BIDEN, things have changed. You are equating what the British Crown did to good colonists to what police would do to good Americans. Are you saying the police in America are like those British soldiers were back then? Keep your eye on the ball.

I am saying, no, that is not the case. You are talking to a guy, who I believe—I may be mistaken—every major police organization in America has endorsed as a candidate for election, repeatedly; and I am happy to say I have the support of the overwhelming number of police officers of this country—not only mild support, but active support.

I am one of the few guys who stood on this floor, by the way, and defended police when the orgy of charges of brutality came out against them.

So again, keep your eye on the ball, because you are going to hear arguments here about Biden saying the cops are just like the British soldiers. But let us again do a little statistical game. There are—I forget the total number of police officers; I am looking at my staff—there are 500,000 police officers in America.

Now, all it would take would be 1,000 of them not to be very sensitive to the Constitution to create a little bit of a problem. We saw what happened in Los Angeles. I believe that is an aberration, but nonetheless, it happens, what these fellows want to do. In order to get that, keep your eye on the ball.

Again, for that infinitesimally small number of guilty people who do get away, they want to put in jeopardy, at the hands of that small number of people in authority who are not good guys—they want us to trust them, that by getting the bad guys, none of the innocent guys will get in the way.

Now, look, how about the cases where in good faith—let me ask, How much time does the Senator from Delaware have?

The PRESIDING OFFICER. Thirty-five minutes and thirty seconds.

Mr. BIDEN. We are always talking about the case where a police officer comes in and in good faith, he goes and he knocks your door down, or searches your automobile, or frisks you on the street. It was a violation of the fourth amendment, and in a good-faith mistake, he or she finds guns, drugs, murder weapons, et cetera.

For every one of those cases, I assure you there are considerably more where a police officer, in good faith or bad, searches someone, violates their constitutional rights, and finds nothing at all. Except they denigrate the individual they have searched, and violate the sanctity of the home of the person they have barged in on and found nothing.

Now, the incidences of that happening with the change in the law saying you can have a good-faith—good-faith—exception; you can admit evidence in good faith when you do not have a search warrant, even in a circumstance where a search warrant is required—because that is really what we are talking about.

The Senator from Utah—and I am going to ask him at a later time in this debate if he would cite the case for me and give me the citation of the case and what year it occurred about that fellow with all the cocaine in his car, because I wish to speak to that. I expect there is a clear explanation for that. I am not sure until I find out the date and time and the name of the case.

But what we have is in many of the cases you are going to hear about and which you have heard already, were cases—remember the case where we said the police officer is chasing somebody in hot pursuit; a crime had just been committed. He has a description of what he thinks the person looks like, and he is out there in hot pursuit searching for that person.

Under our law now, there is no requirement for a search warrant; none at all. So right now, if that officer had probable cause to come up and collar the guy who looked like the bad guy, and a reasonable man would conclude that the officer was acting reasonably, that case would not be thrown out.

The only reason this case was thrown out which the Senator talked about—and I noted he did not cite the case; I do not know the name of it. But I would be willing to bet it is because the judge said, "Hey, wait a minute. You said you were looking for a red-haired guy that was 6 feet 8, and you ended up jumping on a black-haired guy who was 4 feet 3." Because if there was reasonableness, an objective mistake, how is that different than probable cause, unless what my friends are trying to do is really get rid of the notion of probable cause. It is a pretty basic notion in America.

I want the police to have some relatively good reason, not beyond a reasonable doubt, but a probable cause to be able to do something to somebody.

You know, you are speeding; there is probable cause you broke the law. You are running away from the scene of the crime. There is probable cause. Somebody comes out and says you have 14 46-inch televisions in your one-bedroom apartment, and you live next door to an appliance store that has just lost 14 46-inch televisions. There is probable cause. It is a fundamental basic requirement under our legal system.

So again, keep your eye on the ball. The example given of chasing the guy, looking for the guy, that is not where you need a warrant anyway. So this whole thing does not apply. If the guy acted in good faith, in almost every court, that would meet the test of having had probable cause to go after that guy. That is basically what it means.

Now, if they threw the case out, either the guy was not acting in good faith, or the judge is stupid, both of which are possible. And the case is an aberration.

But again, keep your eye on the ball. What we are talking about here are cases where our history has said, "Look; before you go ahead and knock down the door, rip apart the car, body search the individual, you have to have some reason for doing it."

And all we are saying, and what the court has been saying, this conservative Supreme Court, all they are saying is, "Look; all you have to do is go to a judge and say, 'Hey, Judge,'' and any magistrate will hear you any time you go as a police officer. You go and say, "Hey, Judge; look. Here is why I think I should be able to go into that person's house; that person's car," or whatever. You do not have to say "beyond a reasonable doubt." Just give the reason. Probable cause is relatively easy to meet.

The judge says, "OK; here is a search warrant. You can go do it." In the case you heard, and all the other cases of cars riding down the highway, you do not have to go to a judge if you have a reasonable basis to think that something is happening.

Or you do not have to go to a judge at all, if somebody, knowing they do not have to waive the right, says, "By the way, search my car. We waive the right; search it," you do not have to have probable cause there. You do not have to have anything, as long as you did not coerce that person, beat him with a rubber hose, and say, "Tell me I can search your car."

What my friends are doing is they are entering into a new concept here. They are saying, in the cases where you ordinarily need a warrant, it is not good enough. Biden says you get a warrant; there is a mistake in it. It is OK. We want to say if you, the police officer, in making your own judgment of what the Constitution means, if you conclude you do not need a warrant—you, the police officer—if you conclude you do not need a warrant, if you conclude you know what the fourth amendment means and you are acting in good faith when you do that, then you can do things that ordinarily require a warrant, even when a court would otherwise say, "Hey; you do not have a right to get a warrant; you do not have a right to go with or without a warrant."

I say to my friends here, the issue is not only that infinitesimal number of cases where the bad guy gets away. But what is at stake here is the inadvertent and unintended harassment of innocent people, allowing for the first time in a long time for individual police officers to be able to make independent judgments that they do not need search warrants anymore; letting them determine what probable cause means; and giving the people with the power the right to do things that courts otherwise by definition would conclude were illegal, because that is really what they are saying here.

The essence of what they are saying here is we want to change the law in a way that tells the Supreme Court: Your present interpretation of what is constitutionally protected is not the one we agree with. We are telling you to say something different. So we are saying let the police officer determine, if he in good faith makes the mistake, that it is OK, even if it violates your constitutional rights.

Let me also point out, and then I will reserve the remainder of my time, the implication again is made that the police officers, the FBI, and others, are sort of breaking down the door, straining at the ropes, saying please change this law; this is putting us in a straitjacket. So many bad guys are getting away, we want a change.

I asked that question of the Director of the FBI, Judge Sessions, who testified before our committee. I asked him whether or not the exclusionary rule should be changed in any way, even the way I was suggesting. He said, "The exclusionary rule is important to the proper carrying out of law enforcement responsibilities, and by and large I am happy with it the way it is." This is the head of the FBI.

Police officers will say, yeah, if you are going to change it, that is good, I would like to have it changed. But this is not at the top of the police agenda. They are not banging down the door of every Senator in this place saying, "Please change the exclusionary rule; I can't do my job," because, although they would like this change, some of them, they understand it is also of great benefit to them, too, because it has required them to become as good as they have become. It has required them to become as professional as they have become. you do not hear police up here saying, "By the way, let us do away with the Miranda ruling." They figured out that is the best thing for them to keep control of. It protects them as well as it does other people.

So the point is that I have no doubt the police endorse the change, but I also have no doubt that this is not the No. 1 issue on their hit parade.

Mr. President, I reserve the remainder of my time.

I yield the floor.

The PRESIDING OFFICER (Mr. FORD). Who yields time?

Mr. HATCH. Mr. President, I yield myself such time as I may need.

Mr. President, I have to say that the policemen in this country may not be knocking down the doors to change the rule, except those who have seen murderers go free who then go out and commit other murders, robbers go free who then go out and commit other robberies, drug dealers go free on technicalities and then go out and spread drugs among our kids, all because of technicalities.

Those police officers want these rules changed. They do not want to do things that are wrong. They want to do things that are right, but they want to get criminals and they want to nail them. They do not want some judge letting them off on some technicality so they can go out and murder somebody else or deal more drugs.

I have to say there are some other people who would like to have these rules changed: The parents of children who have been killed where the murderer gets off, the wives of husbands who get killed where the murderer gets off, or the parents of children who become drug addicts where drug pushers and the drug lords get off.

Mr. BIDEN. Will the Senator yield for a quick question?

Mr. HATCH. Yes.

Mr. BIDEN. Are these cases where the police officers made good-faith mistakes?

Mr. HATCH. In some cases. Of course, after Leon, evidence obtained in good faith reliance or on a warrant, is admissible. But since Leon, in searches without warrants, these cases with warrantless searches still exist; you bet.

In other words, it is still going on. Unless we change the law to what the distinguished Senator from South Carolina would like, we are going to have these types of injustices against the people of the United States continuing to occur. All he is asking, if there is reasonable, objective belief in the case of warrantless searches, we should not let these people off under some court-formulated exclusionary rule.

I want to mention just a couple of other things.

Mr. President, I notice that the distinguished Senator from Delaware, our chairman of the Judiciary Committee, mentioned that all he is doing is codifying the Leon case.

Mr. President, I draw attention to Attorney General Thornburgh's May 14, 1991, letter to Senator BIDEN. He states:

> * * * even considered on its own terms, [the Biden exclusionary rule] is not a fair or accurate codification of the Leon rule * * *. [The Biden] provision incorporates apparent redundancies and surplus language that would give rise to interpretive problems and other wasteful litigation.

It would give rise to interpretive problems and other wasteful litigation. That is what the Attorney General is upset about.

The Attorney General goes on to say:

> The lead-in language in the provision states that the warrant must be issued by a "detached and neutral" magistrate, but the second enumerated exception to the proposed statute's general rule of admission states that evidence may be excluded if the magistrate did not exercise "neutral and detached" review. Are these conditions the same or different? If they are the same, why are they both stated? If they are different, what does one add to the other?
>
> The proposed [Biden] formulation of the exceptions to admissibility departs from Leon. For example, the second enumerated exception, as noted above, covers cases in which the magistrate did not exercise "neutral and detached review of the application." This potentially invites a subjective inquiry into the magistrate's thought processes, and goes far beyond the corresponding qualification in Leon [468 U.S. at 923], which applies to cases in which the "issuing magistrate wholly abandoned his judicial role in the manner condemned in *Lo-Ji Sales, Inc.* v. *New York*, 442 U.S. 319 (1979)." The cited case involved an egregious situation in which the magistrate issued a largely blank warrant, accompanied the officers on the search, and gave ad hoc authorizations to seize particular items at the search site. In contrast, the formulation proposed in [the Biden proposal]

> would broadly invite attacks on the use of evidence based on alleged failings of the issuing magistrate in "neutrality" or "detachment," even though he was unquestionably carrying out his normal judicial function.
>
> In short, the purported codification of Leon in [the Biden bill] is narrower than the actual Leon "good faith" exception, and is subject to interpretive problems and deficiencies in drafting. It would accordingly be unacceptable on its own terms, even if there were some legitimate purpose to be served by codifying Leon.

I think that has to be said.

The Thurmond amendment does not undermine the fourth amendment. The standard of reasonable search and seizure is not altered at all by the amendment. There is no more incentive under this amendment for a policeman to make an illegal search than exists today because the only time evidence is admitted under this amendment is when the policeman has an objectively reasonable belief the search is lawful. Now that policeman, if he thinks he is conducting a lawful search, he is going to conduct that search with or without the amendment. So it is not a matter of deterrence here. The only question is whether to admit the seized evidence that would convict the criminal or to let the criminal go free on a technicality.

Let me stress the exclusionary rule is not part of the Constitution, it is not a constitutional right. As the Court in Leon noted, "The rule" operates as "a judicially created remedy designed to safeguard fourth amendment rights generally through its deterrent effect, rather than a personal constitutional right of the party aggrieved," 468 U.S. at 906, quoting *U.S.* v. *Calandra* 414 U.S. at 3481.

I was also interested in the comments of the distinguished Senator from Delaware about how few people really are affected by this. Tell this to the wives of the husbands who are murdered. Tell that to the parents of the child who becomes a drug addict and kills himself. Tell it to anybody who was an innocent member family who gets hurt because of the criminal action and conduct of others. I admit that these rules are not violated all the time. I admit they are exceptions to normal police conduct. I admit that sometimes people who are innocent are charged with things that make them appear to be guilty. But that doesn't mean a wrongdoer should go free because evidence obtained in objectively reasonable search is legal is suppressed.

I am not sure that statistics are particularly helpful in arguing about the pros and cons of reform in the exclusionary rule. Some cases that are not pursued because of the exclusionary rule may not show up in a particular study, and we know there are a number of such cases. Moreover, even a study comparing the number of prosecutions declined with the total number of adult felony arrests does not reflect the effect of the exclusionary rule in forcing the prosecutor to plea bargain a case to a lesser offense or sentence.

Furthermore, let us assume that the exclusionary rule impacts on as few as 1 percent of the total number of arrests across this country. That is still a very, very substantial number. I wonder whether, when confined to drug cases and murder cases, or other cases of violent crime, the percentage is higher. And I suspect that it is. There is evidence to this effect, that the percentage probably is higher. But even at 1 percent, it is significant.

Be that as it may, and regardless of the exact percentage, to a victim of a violent crime or an officer on the beat, each case is important. Moreover, how many additional crimes do these freed lawbreakers commit, once the exclusionary rule allows them to get off on technicalities, because the exclusionary rule prevents their conviction? I cannot begin to tell my colleagues, but it is a lot more than 1 percent. And there are a lot of people, thousands in this country every year, who suffer because of the stringent interpretations of this rule.

I might note, Mr. President, that Justice White, for a majority on the Supreme Court in the U.S. versus Leon case, decided in 1984—I think he completely answered the argument of the distinguished Senator from Delaware. He noted in part that one study suggested that the exclusionary rule—

> results in nonprosecution or nonconviction of between 0.6 percent and 2.35 percent of individuals arrested for felonies.

We are talking about felonies—

> The estimates are higher for particular crimes the prosecution of which depends heavily on physical evidence. Thus, the cumulative loss due to nonprosecution or nonconviction of individuals arrested on felony drug charges is probably in the range of 2.8 percent to 7.1 percent.

Justice White noted that a number of researchers have concluded that the impact of the exclusionary rule is insubstantial. He then made a very telling point. He said this:

> [The] small percentages with which they deal mask a large absolute number of felons who are released because the cases against them were based in part on illegal searches or seizures.

Time after time the cases that make it to trial only to be reversed because of a technical good-faith mistake under the exclusionary rule, allowing the criminal to go free thereby, cause most citizens to question exactly where our criminal justice system is heading.

Indeed, I would like to move the discussion from the misleading and theoretical world of statistics to the real world. Charles Brandt, chief deputy attorney general for the great State of Delaware, the State from which the distinguished chairman of the Judiciary Committee comes—he was there from 1974 to 1976 as the chief deputy attorney general, and past president of the Delaware Trial Lawyers Association—wrote an article in the January 1990 Reader's Digest entitled "Let Our Police Take on the Drug Dealers."

He excoriated the exclusionary rule and does not understand why the good-faith exception in warrant cases cannot be extended to warrantless searches. He said, with respect to the exclusionary rule:

> Every day in America, drug dealers walk away from their crimes because of legal hair-splitting. Police Departments, trying to follow court guidelines on proper procedure by studying cases like those above, now find their hands cuffed, their eyes blinded and their ears plugged by the very laws they have sworn to uphold. The sad result is that today, all over the country, drug markets operate flagrantly, protected by rules that exclude authorities better than any steel door.

He then goes on to say:

> Steven Schlesinger, former director of the Bureau of Justice Statistics, estimated in Crime and Public Policy, that the exclusionary rule derailed 45,000 to 55,000 serious criminal cases in 1977, 1978 alone.

That is a lot of cases. Let us say it is a smaller percentage than that, let us say it is 5,000 or 6,000—that is a lot of cases around this country, of criminals going free to continue to commit the crimes they have been doing against the people in this country.

But, if that 45,000 to 55,000 is correct, that is pretty serious stuff. And it looks to me like we need to do some fine tuning here, and that is what the distinguished Senator from South Carolina is trying to do.

He is not trying to come up with a rule that makes the fourth amendment a nullity. He is trying to come up with a rule that makes sense, that gets these criminals. And when we know they have done the crime and we have the evidence that proves it, if there has been an objective, reasonable belief for having obtaining that evidence, it ought to be admissible.

As the prosecutor and chief deputy attorney general for Delaware, Mr. Brandt, who wrote the article said:

> I know firsthand how the exclusionary rule decisions affected drug enforcement. They constrained the police to operate in slow motion while drug traffickers picked up frightening speed.
>
> In addition to being a prosecutor, I've served as a defense attorney and have seen from the inside how criminals use the rules to protect their activities.

Some of the cases I have cited and will cite are derived from Mr. Brandt's article. For example, in a case occurring not long ago, Alabama police were tipped off that a vehicle was transporting guns and drugs. With their own guns drawn they surrounded the car and noticed a partially smoked marijuana joint on the dashboard. They ordered the occupants to get out.

The Alabama Court of Criminal Appeals decided the police could not have been sure of their informant's reliability, declared that the seizure of an automatic pistol and drugs was illegal, and remanded the case to the lower court without the key evidence.

In United States versus Perez-Esparza, an informer who had previously supplied the DEA with reliable information 20 out of 25 times, tipped them off that a specific car was being used to smuggle narcotics from Mexico into the United States and our people, the United States Border Patrol agents, subsequently stopped the car and detained the driver and Perez-Esparza. They stopped him for 3 hours, until DEA agents arrived.

Perez-Esparza was then read his Miranda rights, told that he was being detained on suspicion that his car was transporting narcotics. And further told that agents were obtaining a warrant for a search of the car.

Perez-Esparza then gave oral and written consent to the search of his car. The search uncovered cocaine and, again, being warned of had his rights, Perez-Esparza confessed.

The Ninth Circuit Court of Appeals overturned the conviction under the reasoning that while the informer's tip provided a sufficient basis for the officers to stop the car and question its driver, it did not support probable cause for an arrest. Thus, the 3-hour detention was an illegal arrest, rendering the suspect's consent to the search of his car ineffective, even though the court agreed the consent was fully voluntary.

All evidence stemming from the defective consent to the search was thereby suppressed. And Perez-Esparza was set free to go out and sell some more drugs to your kids and my kids, or grandchildren, or neighbors, or friends, or even people we do not even know.

In *U.S.* v. *Sanchez-Jaramillo*, Seventh Circuit court, cert. denied 449 U.S. 862, a 1980 case, Immigration and Naturalization agents acting with probable cause, arrested Sanchez on a charge of counterfeiting alien registration cards.

After being arrested, Sanchez consented to a search of his apartment. During the search the agents found Mr. Cruz in a bedroom. They read him his Miranda rights and told him to sit in the living room with Mr. and Mrs. Sanchez while they continued to search.

Two locked suitcases were then found in the bedroom where Cruz had been sleeping. Cruz told the agents they belonged to him. At the agents' direction, Cruz opened the suitcases. Cash and materials used to counterfeit alien registration cards were found inside. Cruz was then arrested. He was later convicted. The Seventh Circuit Court of Appeals overturned the conviction holding that the agents lacked probable cause to detain Cruz and that any consent Cruz gave for the search of the suitcases was ineffective as it cannot be sufficiently voluntary to purge the taint of the illegal detention. The court held that both the evidence in the suitcases and the statements made by Cruz subsequent to the search should have been suppressed.

I can go on and on. So whether it is 1 percent or 10 percent, whether it is 45,000 times a year or 55,000 times every 2 years, that is a lot of people who are getting off who do not deserve to get off where the evidence is found pursuant to good faith with or without a warrant.

I think what the Supreme Court is trying to do is get it back to a balance where not just criminal rights are protected and defended all the time, but victims rights are protected and defended and maybe get it in a little bit of a balance. And they can do it constitutionally. They have been doing it constitutionally, but they do need some help legislatively in order to get this done so that we can put these people off the streets, and stop the murders, and stop the violent crimes, and stop the violence, and stop the drugs, and the drug pushers, and the drug Kingpins, and do what we can to put them out of business.

Nobody wants to take away constitutional rights. I do not want to. Nobody wants to unfairly act even against criminals, or at least I do not want them to, nobody here in the Senate does. Policemen do make mistakes. Law enforcement officials can make mistakes. I do not think many of them want to do wrong in making those mistakes. I do not think the burden of having to show that they acted with objective, reasonable belief that their search was lawful is always an easy burden, whether there is a warrant or whether there is not. But if they can meet that burden, then we ought to give the police a chance to do so in the interest of cleaning up the awful mess in our streets in our country today.

I have to tell my colleagues, I have a great deal of respect for my friend from Delaware. There is no question about it. We are very close friends. We work together on a lot of things, and I have a great deal of respect for his ability as a lawyer, and a great lawyer. I think he is truly a great chairman of our committee, as was his predecessor, Senator THURMOND, who is now the ranking member.

But I have to tell my colleagues, I think he is hamstrung by a number of factors to really do the things he knows he needs to do. I will not go into those factors, but it is no secret that ideology can play a role on both sides of this floor in matters, and there are people in this body who just do not want to get tough on crime. They talk it at home, but when they have the opportunity to do something, they will not do it.

I do not want to get tough on crime to the point that I take advantage of people or that I violate their constitutional rights. But where you have a police officer who is following through and stopping some punk from killing somebody, or from continuing to kill other people, or from passing drugs, or from violent crime, and he obtains evidence with a reasonable, objective belief that his search is lawful, my gosh, we should admit the evidence. I mention again that the exclusionary rule is not a constitutional right itself. Nothing in the Constitution compels the exclusion of illegally obtained evidence.

I read an article not so long ago that a high percentage of Americans have had some contact with criminal activity against them. It is getting bad in our streets. We are all suffering, and the country is suffering. We are awash in drugs and everybody knows about how well armed they are, and the type of murders they are committing. This city is a perfect illustration, the death capital of our country, and a lot of it comes from drugs which involve all kinds of criminal activity.

We can sit back and act like these wonderful rules that some liberal mentality has come up with should be preserved at all costs and ignore the victim's rights as well, or we can balance it, protect the rights of the accused so that they have every shot constitutionally but also protect the rights of the victims whose numbers are increasing every day.

Do not use statistics with me. I do not care if it is 1 person per year or 55,000. I would naturally want it to be 1 rather than 55,000. The distinguished Senator from South Carolina is trying to do something about crime in the streets and trying to do it in a good faith way, he is doing it in a legal way and he has the backing of the President of the United States and the whole Justice Department.

I have to say, as much as the distinguished Senator from Delaware can lay claim to the support of police officers all over the country, I have to tell you, Senator THURMOND has the respect and the support of every police officer in this country who understand this issue. We are talking about a country that has the potential of going down the drain if we do not stop the criminal element.

As the father of 6 children, and grandfather of 11, and a 12th on its way, I am concerned about this. I have to tell my colleagues, I do not like to have to get tougher on crime than we are in some respects, but we have to move in that direction.

If we can do it fairly, like the distinguished Senator from South Carolina is trying to do, I think we will benefit everybody in our society.

Yes, there will probably be some mistakes. Yes, there will probably be some unfairness. But there are going to be mistakes and unfairness under the current system although all the unfairness and mistakes seem to be against the victims, against the law-abiding citizens.

It is time to put these people out of business who do criminal activity. It is time to put the violence down. It is time to stop the wanton murders in our streets, not only here but all over the country. I have to tell my colleagues, the drug cases are where a lot of these exclusionary rule or suppression of evidence cases arise.

Their rights will be protected. It is just that we will have the law enforcement tools to do something about the degradation that is happening in our streets. It is about time we did. Unless we pass what the distinguished Senator from South Carolina, and the President of the United States, and the Justice Department, and virtually every law enforcement official in this country would like to have, that is this amendment, then I have to say we are not doing as much as we can about the crime problems happening to our citizens and people in our country. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, my friend from Utah is overly generous in his compliments of the Senator from Delaware and a very skilled debater. I am going to try to play the part of the Senator from Utah for a moment, and use the debating technique he just used to make his point, if I may, to make a point.

Let me start by saying that for every constitutional protection that exists in the Constitution, because it exists, some guilty person is protected. Because of free speech, there is some smut peddler somewhere who has been protected. Because of the free speech clause of the first amendment, there is some totally irresponsible, maniacal newspaper person who has ruined the reputation of somebody in the public who is protected. Because of the second amendment, there are some thugs and drones of society legally purchasing guns and gunning people down in the streets. I will not go through it all—because of the fifth amendment, the sixth amendment, the ninth—not the ninth amendment—there are people who are guilty as sin but are not able to be prosecuted because of the protection built in to protect the innocent.

My friend is the most persuasive man—weaving from whole cloth—that I know. Let me give you an example. He just acknowledged that we are talking about a relatively small number of cases, and by the time he sat down, he said the passage of this amendment is really going to make the streets safer—the implication being that drugs are going to be off the street. If you listen to it, there is going to be this phenomenal impact.

Let me play back the argument the other way, not about the fourth amendment. What do we say to the mother—and given time I will get you names of individual mothers—whose child is shot dead just because they have visited a next door neighbor's home and a father legally having a gun in that home, legally having it in his possession—the child dies. There is no requirement you must keep guns locked up in the home. Hundreds of kids a year are shot dead because of the second amendment right of individuals to bear arms—not criminals, good people—to bear arms. What do you say to that mother whose child is shot dead because a father wanted to keep a pistol in the nightstand drawer? Do you say, well, it is a second amendment right you have to understand? What do you say to the mother whose child gets shot dead in a drive-by shooting where a punk walks into Kmart and buys, legally, a handgun or a semiautomatic weapon or a shotgun, walks out of the store with that gun, and in the process of conducting their drug trade, kills the child standing on a street corner? What do you say to the mother?

They say, why should anybody be able to buy those guns? Why should Kmart have those guns up there like that? Why do we not have guns registered and only people who can prove they are using them for hunting and have hunting licenses and meet the following tests have them? Why? Why? Why? Hundreds of innocent children killed. The reason is because the Senator from Utah and the Senator from Delaware and the Senator from South Carolina take the Constitution seriously, and it says people, even punks, are allowed to bear arms. That is what our Constitution says. Punks can bear arms.

Drug dealers can bear arms if they have not been convicted. And even if they have been convicted, we have no way of knowing whether they have been convicted when they walk into Kmart to buy the gun today.

The Senator stands up here on the floor with great articulation and passion and talks about the second amendment. I am willing to bet you there are 10 times as many people killed by guns in the hands of punks who legally buy them than there are murderers let go because of the exclusionary rule where there has been a good faith mistake made by police officers.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. I can never prove that.

I will in just a second.

I would think that all you have to do is pick up the newspaper and read. But we here understand there is a Constitution and the Constitution protects the right of punks to buy guns. It protects the right of junkies to buy guns. And we know what they do. So I could make the same kind of argument. But it is not relevant to the case at hand.

I yield for the question.

Mr. HATCH. The Senator raises some interesting points with regard to the use of weapons in our society, but the point I am making is that if the punk kills the mother's child, then evidence of that murder obtained in an objectively reasonable belief the search was lawful should not be suppressed. That is what I think is the difference.

Now, I decry the same things the distinguished Senator from Delaware does.

Mr. BIDEN. This is on the Senator's time, I assume, if it is not a question because I have not much time left.

Mr. HATCH. Yes.

The PRESIDING OFFICER. The Senator from Delaware is correct.

Mr. BIDEN. I am delighted to have the Senator keep speaking. I do not have much time is what I am saying.

Mr. HATCH. I do not want punks or drug pushers or anybody else to be able to have guns. They will buy them from Kmart or they will get them illegally by stealing them or get them through the black market or otherwise. But what I do not want to have evidence obtained on an objectively reasonable belief the search was lawfully suppressed because of a rule that I think is weighted in favor of protecting the criminal rather than the victim. I think that mother's rights ought to be protected against that punk who killed her son, and that is all the distinguished Senator from South Carolina is trying to do.

We can debate this forever more on why it is important to have an exclusionary rule. The distinguished Senator from Delaware and myself may agree on a number of aspects of that, but what the Senator from South Carolina is asking is that we accept his amendment that would allow warrantless searches as long as they are pursued on an objective, reasonable belief the search was lawful.

I am sorry to interrupt the Senator, but I wanted to make that point.

Mr. BIDEN. Mr. President, I would like to invite—I mean this sincerely—either of my colleagues to interrupt. It is not an interpretation. This is what debate is supposed to be. The only reason I made the reference I did, I do not have much time left under the time agreement and I wanted to make sure that we were allocating it to whomever was speaking.

The PRESIDING OFFICER. The Senator is correct and the debate by the Senator from Utah was charged to his time.

Mr. BIDEN. The point I am making is we can give very emotional arguments appealing to the genuine emotions of people to make a case that is not relevant to the case at hand. That is the only point I was making.

The mother who loses her son because some punk can buy a gun in Kmart and kills her son, who is an innocent bystander, is not going to find much relief in the fact that the kid who kills her son does or does not go to jail or whatever. Her son is dead. That is the only point I was making.

Every amendment in the Constitution—every amendment in the Constitution—provides for what is being characterized here as loopholes for the abuse of society. Every one of them. But the reason they are there is because in the wisdom of the over 200 years of history of this country it has been concluded that the greatest danger of all is for the individuals, the innocent individuals, not to have the protection of those same amendments.

So there is not a single one that I can think of that does not have the effect of letting somebody, somewhere along the line who we find incredibly distasteful, who we find without any redeeming social value, take advantage of that Constitution.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. I will be happy to yield.

Mr. HATCH. This can be on my time. I do not disagree with the Senator about some of the things he is saying, but no one is ever let off for committing a crime because of the second amendment.

That is totally irrelevant. That is the point I am making. If someone uses a gun to kill, that person is going to be prosecuted for murder. The only way he will not be convicted is unless some court lets him go because of the exclusionary rule, or some other rule.

But the fact of the matter is one of the ways he might be let go is because of the exclusionary rule. That concerns me, because if the exclusionary rule is fairly applied, I can live with that.

But what we would like to do is even up the fairness. The distinguished Senator from South Carolina is trying to give the victims some rights, too. All he is saying is: Look; do not keep out evidence that is obtained with an objectively reasonable belief the seizure was lawful because doing so has no deterrent effect at all. That is all he is saying.

To me, I think that is a worthwhile statement. He is saying it with regard to warrantless searches, which does extend the exclusionary rule beyond the Leon case. I happen to disagree with the distinguished Senator from Delaware on that issue because I think it is time we get tough, not allow these people to get off scot-free, and go out and continue to do their criminal activity and kill others when the police officer has acted with objectively reasonable belief in apprehending that criminal and obtaining the evidence that will convict that criminal. That is the difference between us.

Frankly, I do not believe that my colleague really would vitally disagree with that particular proposition or that particular change if it was not that he is representing his whole side on this matter.

Mr. BIDEN. I find my friend from Utah one of the most interesting fellows in this body. He kills you with kindness.

He just said I would disagree, but for the fact that—I have some political constraint. I happen to disagree with him because he is wrong, having nothing to do with any constraint. But he is very, very good at that.

Let me move on, in the time that I have left.

There is a very, very impressive letter that a friend of both of ours from the State of New Hampshire has sent to us, Senator RUDMAN. He cites a case that I find very interesting, and he is of the view that it is a very bad idea to stretch the change in the constitutional application of the exclusionary rule as far as is being suggested.

He says the Supreme Court noted in Collidge versus New Hampshire:

> Prosecutors and policemen simply cannot be asked to maintain the requisite neutrality with regard to their own investigation. The competitive enterprise that must rightly engage their single-minded attention cannot expect that * * *.

We cannot expect police officers without clear guidance to do anything other than try to protect us by whatever means are necessary.

I wonder what my friend from California would have said if this beating case we saw out in Los Angeles, if in the process of that beating, that person confessed to having murdered somebody? Should it be admissible? If in the process of that beating, I ask that question of my friend—if, when Rodney King was being beaten, the guy we saw on television; if, in the process of that beating, Rodney King confessed to a murder that he did commit, should Rodney King be convicted under our laws? That is my question.

Mr. HATCH. I do not know, under those circumstances. I really do not.

Mr. BIDEN. That is the problem.

Mr. HATCH. The fact of the matter is, the answer is probably no. But I do not know how the courts would construe that.

Mr. BIDEN. Usually, the courts construe beatings eliciting confessions as a bad thing. And the reason they do that is we have a proposition about self-incrimination in our country. As a matter of fact, not only usually, always do they construe it that way.

But my point is, this would be assuming somebody had committed a murder. If the police beat the confession out of him, and he did commit the murder—he did commit the murder—confessed to it, and that is what convicted him, now, I will not want that guy going free. I would not want that person going free. He did commit a heinous murder, but the only way we were able to convict him is the police beat him up with a hose. Should that person be denied their constitutional rights? Well, my gut tells me no; yet, they should hang him; he did it.

But why is it that we do not allow those kinds of things to be admissible? Why is that? Because it means that we are fearful if you allow that kind of practice, that practice gets used on innocent people as well. And we have a basic fundamental notion in our country that the means must justify the ends; not that the ends justifies the means. That is what this is all about.

I promise you, giving the police the authority to go out and protect us by whatever means is necessary, without any constitutional protection, we would be safer from thugs. I promise you that. There would be no question about that.

Mr. HATCH. Will the Senator yield on that point again?

Mr. BIDEN. I will in a moment.

We concluded in this society that we do not want that to happen. If we said tomorrow the police can use whatever means they want to do away with the drug trade, I promise you things would change. Things would change. They just would go down to where everyone is on the street corner, and without a trial, round them up. There would be fewer drug dealers. We would be safer. But we made a judgment in this country. We do not do things like that—we have a Constitution—because in that net innocent people would get caught.

So I guess the point I am making here is what really is being done by my distinguished friend from South Carolina if he is stretching the means test. He is saying that as long as the result is something that helps, the means you use to arrive at that result is OK. As long as you found something that the guy did is bad, it is OK. It is OK.

Mr. HATCH. Will the Senator yield on that?

Mr. BIDEN. Yes, on the Senator's time.

Mr. HATCH. That is not what the Senator is saying. He is saying the case of Rodney King illustrates that the police were beating him not knowing he murdered somebody. In the process the police learned that he murdered somebody.

Mr. BIDEN. But if they beat him knowing he murdered somebody.

Mr. HATCH. Let us stick with the original example because it is more clear. Either way would be fine. He is not saying that should not be suppressed. We also let some people get off scot-free because they can take the fifth amendment against self-incrimination.

Some say that the reason Oliver North has had a reversal in his case is because of the limited use immunity that was granted, and the tainted evidence that was used against him. He got off, whether what he did was wrong or not.

I uphold those rights, and so does the Senator from South Carolina. All he is saying is do not let them off when the police person has used objectively reasonable belief in the lawfulness of the search obtaining the evidence that convicts that criminal. Do not let him off.

In the case of Rodney King, that will not be objectively reasonable belief that they are obtaining evidence that could be used to convict him. They would be using brutal police force to do it. I think there is a considerable difference between what the distinguished Senator from South Carolina wants here, and the President of the United States and the Attorney General of the United States, and what the Senator from Delaware is characterizing it as.

I know I do not mean to mischaracterize it. I am not taking offense by it. I just want to clarify this matter. The Senator from South Carolina just wants reasonably obtained evidence, under the standard of his amendment to be allowed into evidence, even though the policemen did not have time to get a warrant.

Frankly, that would be an improvement over current law, where people are getting off on technicalities when the policeman acted with reasonable belief that what he or she was doing was lawful. That is all the distinguished Senator from South Carolina is saying. If we would move to that standard, yes, we would sweep more of these criminals off the street, and rightly so.

If we want to move a police brutality standard, I would be the first to stand side by side with the distinguished Senator from Delaware and fight for the rights of those criminals—even though I know they are criminals—because that would be a violation of our basic fundamental rights under the Constitution. But I have to say that where you have a reasonable approach—and that is all he wants—why should that evidence not be admitted? Why should it be suppressed? Why should these drug pushers, murderers, violent criminals be let off? That is what is involved here. It is not as broad as the distinguished Senator from Delaware had indicated.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Chair advises the Senators that Senator THURMOND asked that he be notified when 5 minutes are left on his time. There are now 5 minutes 13 seconds.

The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I yield myself 3 minutes 30 seconds, and I ask not to be told when I have used that time.

Mr. President, the Senator from Utah has just confirmed the point I was making. The only point I was making by all these examples is that the Senator made it sound like he was against, and I was for, letting all these horrible, guilty people go free. The Senator has just acknowledged that he and the Senator from South Carolina are willing to let horrible, guilty people go free when their constitutional rights are violated. And the fact is that, under the change in the law that would occur under the Thurmond proposal, you would still have thousands of horrible, guilty people going free.

So the debate is not what the Senator from Utah made it sound like in the first 30 minutes of his talking, about whether or not the Senator from Delaware is protecting those horrible, guilty criminals, while he wanted to get those horrible, guilty criminals off the street. That is not the debate.

The debate is on that very small margin of people that would be captured by the change in the law. Is it worth trading off the basic constitutional rights and the jeopardy that innocent people would be placed in, knowing that even if the proposal of the Senator from South Carolina becomes law, there are still horrible, guilty people who are going to go free because we have a Constitution and a basic principle that says that the ends do not justify the means; the means must justify the ends. That is what this country is all about.

Now that we have established that, let us narrow the debate down very closely. The way the Senator from Utah spoke earlier, he noted that the Attorney General said that what I am suggesting would really radically change Leon. I wish the Attorney General would get some new lawyers. Let me read from my proposal: "The judicial officer issuing the warrant was materially misled by information in an affidavit."

That would be one example of detached and neutral. Let me read from the decision in Leon: "Physical evidence seized by officers reasonably relying on a warrant issued by a detached and neutral magistrate.* * *"

Further on in Leon: "Because a search warrant provides the detached scrutiny of a neutral magistrate.* * *"

Biden language: "Detached scrutiny, neutral magistrate, lacking any condition of probable cause."

Let me read from Leon: "If a magistrate or judge in issuing the warrant was misled by information in an affidavit that the affiant knew was false or would have known was false except in reckless disregard of the truth * * * also not apply in cases where the issuing magistrate wholly abandoned his judicial role in the manner condemned in"—it names two cases—going on, again, in Leon: "* * * so lacking in indicia of probable cause to render official belief in its existence entirely and unreasonable." The same language in ours: "* * * lacking indicia of probable cause."

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BIDEN. I yield myself one more minute.

The point is that we took the language from the Leon case.

If what the Attorney General says about my legislation is true, it is also absolutely true of the Supreme Court's decision in the Leon case. You can still argue whether or not the magistrate was detached and neutral. That is the language in the Leon case. The Leon case says—I quote on page 913 and 914 of the Leon case, and page 223 in S. 1241: "If the search and seizure is carried out on a reasonable reliance on a warrant issued by a detached and neutral magistrate." If it is arguable, in my case, it is going to create litigation. It clearly is already going to create litigation. It is in the Leon case. I yield the floor and reserve the remainder of my time.

Mr. THURMOND. Mr. President, I yield 1 minute to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am willing to let some criminals go free if, for example, their fifth amendment rights are violated or any amendment rights. But I am not willing to let criminals go free when a police officer obtains evidence on an objectively reasonable belief that the search is legal. The question is whether the Senator from Delaware is willing to let those criminals go free, because we certainly differ. Unless he is willing to allow that language brought forth by the distinguished Senator from South Carolina, the President of the United States, and the Justice Department to become law, those criminals are going to go free.

The Constitution, incidentally, does not require the exclusionary rule. This is a judge-made rule. I want to make that point again. All we are asking is that that evidence not be suppressed which is objectively and reasonably obtained.

I yield the floor, Mr. President.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

Mr. President, the Senator from Delaware refers to provisions which would permit law enforcement officers to knock down doors in bad faith and search our homes. Yet, these provisions are not in my amendment. My amendment does not permit such conduct. Clearly, any officer who chooses to knock down a door, when he had an opportunity to seek a search warrant, would not be acting in objective, reasonable conformance with the fourth amendment. It is totally unreasonable to believe that judges would permit evidence to be admitted at trial which was not obtained in good-faith conformance with the Constitution.

My amendment simply addresses where the evidence will be suppressed when a law enforcement officer acts in objective, reasonable conformance with the fourth amendment. The good-faith exception to warrant the searches is not radical. It has already been applied for several years by the Federal courts in the 5th and 11th circuits. In addition, the good faith exception does not change, one bit, any individual's rights under the fourth amendment. It does, however, change the rules governing the admissibility of evidence so that criminals will not be set free on mere technicalities when law enforcement officers act in good faith.

Mr. President, the Senator from Delaware has talked about the price we pay for constitutional rights. Yet, the exclusionary rule is not a constitutional right. It is a judicially created remedy. It is a deterrence to improper behavior. My amendment simply states that when an officer acts in good faith, no deterrent purpose is served by excluding evidence.

Therefore, a criminal should not go free on a technicality.

Mr. President, I want to say that my amendment is endorsed by the district attorneys of this Nation. The district attorneys of the whole Nation have endorsed my amendment. They are not for the Biden amendment. The Conference on District Attorneys has endorsed my amendment.

Since yesterday I have also heard from the district attorneys from Fort Myers, FL; Oakland, MI; and Carroll County, IA, and others, and they favor my amendment. They are not in favor of the Biden amendment.

I want to say also that the victims' groups favor my amendment: The Citizens Against Violent Crime, Memories of Victims Everywhere, The Joey Fournier Anti-Crime Committee, Survival Inc., Justice for Murder Victims, North Carolina Victim Assistance Network, Justice for Homicide Victims, the League of Victims and Emphathizers, Citizens for Law and Order.

Mr. President, my amendment is favored by the Attorney General of the United States. It is favored by the National Law Enforcement Council. It is favored by the Federal Criminal Investigators Association. It is favored by the International Narcotics Enforcement Officers Association, the Massachusetts Association of Italian-American Police Officers, the Crime Prevention Officers Association. It is favored by the California Correctional Peace Officers Association. It is favored by the Airborne Law Enforcement Association, the Federal Investigators Association, the Fraternal Order of Police. They affect this whole Nation.

Policemen in the Nation do not favor the Biden amendment. They favor this amendment that I offered here today. The Society of Former Special Agents of the FBI, the National Troopers Coalition. Go out on the highways. The troopers in every State of this Nation have endorsed this amendment that I am offering.

Who endorsed Senator BIDEN's amendment? Who endorsed his amendment? I do not know of a single law enforcement agency in this Nation that has endorsed his amendment.

Mr. President, I want to say now is the time, if we want to quit fooling around with technicalities. Quit tying the hands of the police if they act in good faith. Do not let a criminal loose on technicalities. Let us hold him, try him, convict him, and put him in prison where he ought to be and protect the people of this Nation.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, how much time remains to the Senator from Delaware?

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired. The Senator from Delaware has 3½ minutes.

Mr. BIDEN. Mr. President, let us make it clear what we are talking about is a constitutional right. The court has said that the fourth amendment is violated if you have a search of someone, seize evidence without a search warrant or without probable cause in hot pursuit.

So what we are talking about in changing the definition of what constitutes a violation of the fourth amendment. No one has accused this Supreme Court of being a liberal Supreme Court. The Court has said, as far as the Court has been willing to go, is to say where there is a search warrant and where there is a good-faith mistake made, then it is not a violation of one's fourth amendment right.

What we are talking about, I say to my friend from Utah, is changing the interpretation of what constitutes one's constitutionally protected rights.

I say to my friend from South Carolina, I did not say his amendment allowed bad-faith action. I was referring to the original Justice Department's language, not what the Senator from South Carolina is saying. And, the Senator from South Carolina said something I hope is true about his amendment. He said—obviously I am paraphrasing—when the police have a chance to get a search warrant, they must. If that is what it means, that is a different interpretation. I thought even if they act in good faith, if they had a chance to get a search warrant first, they must. They should.

I want the legislative language to show that that is what was said, because that is different than being able to operate in good faith. If he is really saying that if you are in a position to be able to get a search warrant you should. That means you do not have to get one in hot pursuit. I am not saying you have to have one in hot pursuit. I am not saying you have to have one when you are following someone you think has just committed a crime.

I point out that the 5th circuit and 11th circuit essentially applied the definition of probable cause necessary for a police officer to be able to search someone. That is the essence of those decisions.

I would also point out the American Bar Association says that they oppose the Thurmond amendment. Obviously, if you said to the police—God bless them, their job is a competitive one and we thank God they think that way—but if you said to the police, "Let us eliminate the fourth amendment," I imagine there are a fair number of police who would say, "That is a good idea. If I do not have to fool around with that technicality I can get a lot of people for you."

Who would expect the police not to endorse this? Who would expect the police not to endorse a change in law that said, "By the way, if you think there are drugs in the house you can break the door down"? I imagine the police would endorse that, too. I would if I were a policeman. "My job is tough enough as it is and the Constitution does get in my way." It does. It is a fact. So why would anybody be shocked that the police would endorse this. Of course they would endorse it.

Mr. President, what we are talking about here are constitutional rights that the courts said are violated at this moment. The court says your rights are violated if you do what the Thurmond amendment proposes to do.

The PRESIDING OFFICER. The Senator's time has expired. Under this amendment all time has expired. Any further time will have to come under the bill.

Mr. BIDEN. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I say to the Republican leader that I think we are going to be able to work out an agreement on how to stack death penalty amendments. I would invite every Senator who has a death penalty amendment to be here on Monday when we go to consideration.

We will either be able to work out an agreement between Senator THURMOND and myself as to the order we will move on amendments, or possibly a compromise amendment. Senator THURMOND and I could possibly agree to amend it. That is the hope and expectation, and I think it is reasonable.

I hope Senators who have death penalty amendments or wish to speak to that will do that on Monday when we resume consideration. It would be my hope that Senator THURMOND and I would then request that the leadership stack the votes on Tuesday on death penalty amendments that Senator THURMOND and I and others could agree to on Monday, after having been debated.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDENT pro tempore. How long does the Senator want the period to run, and how long does he wish Senators to be permitted to speak therein?

Mr. BIDEN. Mr. President, to be allowed to run for 5 minutes, and Senators be permitted to speak therein, 2½ minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,288th day that Terry Anderson has been held captive in Lebanon.

Today is also the eve of the Muslim Eid al-Adha holiday. A traditional opportunity to offer a gesture of good will. This would seem a most appropriate—if long overdue—occasion for those holding Terry Anderson and the other American hostages to release them.

SURFACE TRANSPORTATION EFFICIENCY ACT

The text of S. 1204, the Surface Transportation Efficiency Act, as passed by the Senate on June 19, 1991, is as follows:

S. 1204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Efficiency Act of 1991".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Secretary defined.

TITLE I

PART A—GENERAL PROVISIONS

Sec. 102. Declaration of policy.
Sec. 103. Authorization of appropriations.
Sec. 104. Obligation ceiling.
Sec. 105. Unobligated balances.
Sec. 106. Surface Transportation Program.
Sec. 107. Congestion Mitigation and Air Quality Improvement Program.
Sec. 108. Bridge Program.
Sec. 109. Interstate Maintenance Program.
Sec. 110. Interstate Construction Program.
Sec. 111. Federal Lands Highways Program.
Sec. 112. Toll facilities.
Sec. 113. Metropolitan planning.
Sec. 114. Statewide planning.
Sec. 115. Research and data collection.
Sec. 116. Magnetic levitation transportation.
Sec. 117. Access to rights-of-way.
Sec. 118. Report on reimbursement for segments constructed without Federal assistance.
Sec. 119. Disadvantaged business enterprises.
Sec. 120. Availability of funds.
Sec. 121. Program efficiencies.
Sec. 122. Use of safety belts and motorcycle helmets.
Sec. 123. Credit for non-Federal share.
Sec. 124. Acquisition of rights-of-way.
Sec. 125. Transportation in parklands.
Sec. 126. Traffic control standards.
Sec. 127. Use of rubber-modified asphalt pavement.
Sec. 128. Rights-of-Way Revolving Fund.
Sec. 129. Scenic and Historic Highways.
Sec. 130. National Highway System.
Sec. 131. Definitions.
Sec. 132. Functional reclassification.
Sec. 133. Repeal of certain sections of title 23 United States Code.
Sec. 134. Conforming and technical amendments.
Sec. 135. Recodification.
Sec. 136. Timber Bridge and Timber Research Program.
Sec. 137. Gross vehicle weight restriction.
Sec. 138. Vehicle length restriction.
Sec. 138A. National maximum speed limit.
Sec. 139. Road sealing on reservation roads.
Sec. 140. Emergency relief advances.
Sec. 140A. Highway construction training.
Sec. 140B. Erosion control guidelines.
Sec. 140C. International highway transportation outreach program.
Sec. 140D. Education and training program.
Sec. 140E. National Highway Institute.
Sec. 140F. Use of zebra mussels in infrastructure.
Sec. 140G. Infrastructure Investment Commission.
Sec. 140H. Regulatory interpretation.
Sec. 140I. Clear gasoline requirement.
Sec. 140J. National defense highways.
Sec. 140K. Allocation formula study.
Sec. 140L. Storm water permit requirements.
Sec. 140M. Investigation and report.
Sec. 140N. Report on the use or oxygenated fuels in certain cities and metropolitan statistical areas.
Sec. 140O. Youth jobs highway beautification program.
Sec. 140P. Interstate transportation agreements and compacts.
Sec. 140Q. Substitute project.
Sec. 140R. Montana-Canada trade.
Sec. 140S. Level of effort apportionment bonuses.
Sec. 140T. National policy for infrastructure reuse.
Sec. 140U. Declaration of nonnavigability of portion of Hudson River, New York.
Sec. 140V. Sense of the Senate

PART B—NATIONAL RECREATIONAL TRAILS FUND ACT

Sec. 141. Short title.
Sec. 142. Creation of National Recreational Trails Trust Fund.
Sec. 143. National Recreational Trails Funding Program.
Sec. 144. National Recreational Trails Advisory Committee.

PART C—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT

Sec. 151. Short title.
Sec. 152. Purpose and scope.
Sec. 153. Advisory Committee.
Sec. 154. Strategic plan, implementation, and report to Congress.
Sec. 155. Technical, planning, and project assistance.
Sec. 156. Applications of technology.
Sec. 157. Authorizations.
Sec. 158. Definitions.

PART D—RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

Sec. 161. Relocation assistance regulations relating to the Rural Electrification Administration.

TITLE II—HIGHWAY SAFETY

PART A—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION AUTHORIZATION

Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. Authorization of appropriations.
Sec. 204. Intelligent vehicle-highway systems.
Sec. 205. Side impact protection for vehicles.
Sec. 206. Automobile crashworthiness data.
Sec. 207. Standards compliance.
Sec. 208. Investigation and penalty procedures.
Sec. 209. Multipurpose passenger vehicle safety.
Sec. 210. Rollover protection.
Sec. 211. Rear seatbelts.
Sec. 212. Impact resistance capability of bumpers.
Sec. 213. Child booster seats.
Sec. 214. Airbag requirements.
Sec. 215. State motor vehicle safety inspection programs.
Sec. 216. Recall of certain motor vehicles.
Sec. 217. Darkened windows.
Sec. 218. Grant program concerning use of seatbelts and child restraint systems.
Sec. 219. Methods of reducing head injuries.
Sec. 220. Pedestrian safety.
Sec. 221. Daytime running lights.
Sec. 222. Antilock brake systems.
Sec. 223. Heads-up displays.
Sec. 224. Safety belt design.
Sec. 225. Criteria for standards.
Sec. 226. Impaired driving enforcement.

PART B—MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION

Sec. 231. Short title.
Sec. 232. Motor carrier safety assistance program.
Sec. 233. New formula for allocation of MCSAP funds.
Sec. 234. Violations of out-of-service orders.
Sec. 235. Intrastate compatibility.
Sec. 236. Enforement of blood alcohol concentration limits.
Sec. 237. FHWA positions.
Sec. 238. Drug free truck stops.
Sec. 239. Improved brake systems for commercial motor vehicles.
Sec. 240. Compliance review priority.
Sec. 241. Report on training of drivers.

PART C—TRANSPORTATION EMPLOYEE TESTING

Sec. 261. Short title.
Sec. 262. Findings.
Sec. 263. Testing to enhance aviation safety.
Sec. 264. Testing to enhance railroad safety.
Sec. 265. Testing to enhance motor carrier safety.
Sec. 266. Testing to enhance mass transportation safety.

PART D—GENERAL PROVISIONS

Sec. 271. Rural tourism development.
Sec. 272. Education and training program.
Sec. 273. Commercial drivers license waiver.
Sec. 274. Border crossing study.

TITLE III—FEDERAL TRANSIT ACT OF 1991

Sec. 301. Short title; table of contents.
Sec. 302. Change of agency name.
Sec. 303. Amendment to short title of the 1964 Act.

Sec. 304. Findings and purposes.
Sec. 305. Commute-to-work benefits.
Sec. 306. Capital grant or loan program.
Sec. 307. Capital grants; technical amendment to provide for early systems work contracts and full funding grant contracts.
Sec. 308. Section 3 program—Allocations.
Sec. 309. Section 3 program—Rail modernization formula.
Sec. 310. Section 3 program—Local share.
Sec. 311. Section 3—Grandfathered jurisdictions.
Sec. 312. Capital grants—Innovative techniques and practices.
Sec. 313. Capital grants—Elderly persons and persons with disabilities.
Sec. 314. Capital grants—Eligible activities.
Sec. 315. Criteria for new starts.
Sec. 316. Advance construction; technical amendment related to interest cost.
Sec. 317. Federal share for ADA and Clean Air Act compliance.
Sec. 318. Capital grants—Deletion of extraneous material.
Sec. 319. Comprehensive transportation strategies.
Sec. 320. Section 9 program—Allocations.
Sec. 321. Section 9 formula grant program—Discretionary transfer of apportionment.
Sec. 322. Section 9 program—Elimination of incentive tier.
Sec. 323. Section 9 program—Energy efficiency.
Sec. 324. Section 9 program—Applicability of safety provisions.
Sec. 325. Section 9 program—Certifications.
Sec. 326. Section 9 program—Program of projects.
Sec. 327. Ferry routes.
Sec. 328. Section 9 program—Continued assistance for commuter rail in southern Florida.
Sec. 329. Section 11—University transportation centers.
Sec. 330. Rulemaking.
Sec. 331. Section 12—Transfer of facilities and equipment.
Sec. 332. Special procurement.
Sec. 333. Section 16—Elderly persons and persons with disabilities.
Sec. 334. Meal delivery service to homebound persons.
Sec. 335. Section 18—Transfer of facilities and equipment.
Sec. 336. Section 18—Grants to offset Amtrak losses.
Sec. 337. Human resources program support.
Sec. 338. Authorizations.
Sec. 339. Report on safety conditions in mass transit.
Sec. 340. Section 23—Project management oversight.
Sec. 341. Section 26—Planning and research.
Sec. 342. Technical accounting provisions.
Sec. 343. GAO report on charter service regulations.
Sec. 344. GAO study on public transit needs.
Sec. 345. Use of population estimates.
Sec. 346. Section 9B—Technical amendment.
Sec. 347. Use of census data.

TITLE IV—PRIVATE PROPERTY RIGHTS

Sec. 401. Private Property Rights Act.

SEC. 3. SECRETARY DEFINED.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I

PART A—GENERAL PROVISIONS

SEC. 102. DECLARATION OF POLICY.

(a) Subsection 101(b) of title 23, United States Code, is amended to read as follows:

"(b) DECLARATION OF POLICY.—The National Systems of Interstate and Defense Highways is completed. The principal purpose of Federal highway assistance shall henceforth be to improve the efficiency of the existing surface transportation system.

"It is the policy of the United States to facilitate innovation and competition, energy efficiency, productivity and accountability in transportation modes through Federal and State initiative.

"It is the policy of the United States to increase productivity in the transportation sector of the economy through systematic attention to costs and benefits, pursuing the most efficient allocation of costs and the widest distribution of benefits.".

(b) Subsections 101(d) and 101(e) of title 23, United States Code, are hereby repealed.

(c) The Secretary shall distribute copies of the Declaration of Policy contained in this section to each employee of the Federal Highway Administration, and shall ensure that such Declaration of Policy is posted in all offices of the Federal Highway Administration.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(A) REPEAL OF FISCAL YEAR 1993 AUTHORIZATION FOR INTERSTATE CONSTRUCTION.—Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by—

(1) inserting "and" after "1991";

(2) striking the comma after 1992" and inserting in lieu thereof a period; and

(3) striking "and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1993".

(b) AUTHORIZATIONS.—The following sums are authorized to be appropriated out of the Highway Account of the Highway Trust Fund:

(1) SURFACE TRANSPORTATION PROGRAM.—For the Surface Transportation Program $7,330,000,000 for fiscal year 1992, $7,700,000,000 for fiscal year 1993, $8,260,000,000 for fiscal year 1994, $9,250,000,000 for fiscal year 1995, and $12,260,000,000 for fiscal year 1996.

(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For Congestion Mitigation and Air Quality Improvement $1,000,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(3) BRIDGE PROGRAM.—For the Bridge Program $2,350,000,000 for fiscal year 1992, $2,440,000,000 for fiscal year 1993, $2,580,000,000 for fiscal year 1994, $2,820,000,000 for fiscal year 1995, and $3,230,000,000 for fiscal year 1996.

(4) INTERSTATE MAINTENANCE PROGRAM.—For resurfacing, restoring and rehabilitating the National System of Interstate and Defense Highways, $2,530,000,000 for fiscal year 1992, $2,620,000,000 for fiscal year 1993, $2,770,000,000 for fiscal year 1994, $3,020,000,000 for fiscal year 1995, and $3,250,000,000 for fiscal year 1996.

(5) INTERSTATE CONSTRUCTION PROGRAM.—For construction to complete the Interstate System, $1,800,000,000 for fiscal year 1993, 1994, 1995, and 1996: *Provided*, That section 102(c) of the Federal-Aid Highway Act of 1987, regarding minimum apportionment, is hereby repealed: *And provided further*, That such sums shall be obligated as if authorized by section 108(b) of the Federal-Aid Highway Act of 1956.

(6) INTERSTATE SUBSTITUTION PROGRAM.—For the Interstate Substitution Program for projects under highway or transit assistance programs $240,000,000 for each of fiscal years 1992, 1993, 1994, and 1995: *Provided*, That such sum shall be obligated as if authorized by section 103(e)(4)(G) of title 23, United States Code, for highway assistance programs.

(7) FEDERAL LANDS HIGHWAY PROGRAM.—

(A) For Indian reservation roads $200,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(B) For public lands highways $200,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(C) For parkways and park highways $120,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(8) TERRITORIAL HIGHWAY PROGRAM.—For the Territorial Highway Program $15,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(9) NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM.—For the National Magnetic Levitation Design Program $50,000,000 for fiscal year 1992, $75,000,000 for fiscal year 1993, $125,000,000 for fiscal year 1994, $250,000,000 for fiscal year 1995, and $250,000,000 for fiscal year 1996.

(10) FEDERAL HIGHWAY ADMINISTRATION RESEARCH PROGRAMS.—For the purpose of carrying out research as authorized by section 307, the amount of $120,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996: *Provided*, That such amount shall be made available from within the amount of the deduction authorized pursuant to section 104(a) of title 23, United States Code.

(11) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—For carrying out the University Transportation Centers Program pursuant to the Urban Mass Transportation Act of 1964, as amended, $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(12) HIGHWAY USE TAX EVASION PROJECTS.—(A) For highway use tax evasion projects $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996: *Provided*, That these sums shall be available until expended and may be allocated to the Internal Revenue Service of States at the discretion of the Secretary: *Provided further*, That these funds shall be used only to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service staff (only for purposes under this paragraph), supplement motor fuel tax examination and criminal investigation, develop automated data processing tolls, evaluate and implement registration and reporting requirements, reimburse State expenses that supplement existing fuel tax compliance efforts, and analyze and implement programs to reduce tax evasion associated with other highway use taxes.

(B) The Secretary shall report on October 1 and April 1 of each year to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the expenditure of all funds under this paragraph, including expenses for the hiring of additional staff by any Federal agency and any expenditures for outside consultants.

(13) SAFETY BELT AND MOTORCYCLE HELMET USE.—For the purpose of carrying out programs under section 153 of title 23, United States Code, $45,000,000 for fiscal year 1992, $30,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994.

SEC. 104. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law, the total of all obligations for Federal-aid highway programs or State allocations made pursuant to section 143 shall not exceed—

(1) $15,480,000,000 for fiscal year 1992;

(2) $16,721,000,000 for fiscal year 1993;

(3) $18,726,000,000 for fiscal year 1994;

(4) $20,687,000,000 for fiscal year 1995; and

(5) $23,467,000,000 for fiscal year 1996:

Provided, That limitations under this section shall not apply to obligations for emergency relief pursuant to section 125 and obligations for minimum allocation pursuant to section 157.

(b) Distribution of Obligation Authority.—For each of fiscal years 1992, 1993, 1994, 1995 and 1996, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to all the States for such fiscal year.

(c) Limitation on Obligation Authority.—During the period October 1 through December 31 of each fiscal year 1992, 1993, 1994, 1995, and 1996 no State shall obligate more than 35 per centum of the amount distributed to that State under subsection (b) for that fiscal year, and the total of all State obligations during the period shall not exceed 25 per centum of the total amount distributed to all States under subsection (b) for that fiscal year.

(d) Redistribution of Unused Obligation Authority.—Notwithstanding subsections (b) and (c), the Secretary shall—

(1) provide all States with authority sufficient to prevent unintended lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State:

(2) after August 1 of each of fiscal years 1992, 1993, 1994, 1995 and 1996, revise a distribution of funds made available under subsection (b) for that fiscal year if a State will not obligate the amount distributed to it during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during the fiscal year, first in accordance with paragraph (4) of this subsection and, to the extent further obligation authority is available after distribution of the maximum permitted under paragraph (4), then by distributing the remainder giving priority to those States having large unobligated balances of funds apportioned under section 104 and section 144 of title 23, United States Code; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highways program, and the National Magnetic Levitation Design Program.

(4)(A) Subject to subparagraph (B), a State which after August 1 and on or before September 30 of fiscal year 1992, 1993, 1994, 1995, or 1996, obligates the amount distributed to such State in such fiscal year under subsection (b) may obligate for Federal-aid highways and highway safety construction on or before September 30 of such fiscal year an additional amount not to exceed 5 per centum of the aggregate amount of funds apportioned or allocated to such State—

(i) under sections 104 and 144; and

(ii) for highway assistance projects under section 103(e)(4), which are not obligated on the date such State completes obligation of the amount so distributed.

(B) Limitation.—During the period August 2 through September 30 of each of fiscal years 1992 through 1996, the aggregate amount which may be obligated by all States pursuant to subparagraph (A) shall not exceed 2.5 per centum of the aggregate amount of funds apportioned or allocated to all States—

(i) under sections 104 and 144, and

(ii) for highway assistance projects under section 103(e)(4), which would not be obligated in such fiscal year if the total amount of obligational authority provided by subsection (a) for such fiscal year were utilized.

(C) Limitation on Applicability.—

(i) Subparagraph (A) shall not apply in a fiscal year to any State which on or after August 1 of that fiscal year has the amount distributed to such State under subsection (b) for such fiscal year reduced under paragraph (d)(2).

(ii) This paragraph does not create obligation authority in addition to that provided by subsection (a), but concerns only redistribution of obligation authority.

SEC. 105. UNOBLIGATED BALANCES.

Unobligated balances of funds apportioned for the primary, secondary and urban systems and the railway-highway crossing and hazard elimination programs may be obligated for the Surface Transportation Program as if they had been apportioned for that program.

SEC. 106. SURFACE TRANSPORTATION PROGRAM.

(a) Establishment of Program.—Title 23, United States Code, is amended by adding the following new section:

"§ 133. Surface Transportation Program

"The Secretary shall establish a Surface Transportation Program in accordance with this section.

"(a) Eligibility.—Projects eligible under the Surface Transportation program shall include—

"(1) construction, reconstruction, rehabilitation, resurfacing, restoration, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit, painting of and application of calcium magnesium acetate on bridges and other elevated structures;

"(2) capital costs for mass transit, passenger rail (including high speed rail), and operating cost for passenger rail for States without Amtrak service as of the date of enactment of this Act, publicly owned intra- or inter-city bus terminals and facilities, and magnetic levitation systems, including expenditures on rights of way and associated facilities, and expenses for contracted passenger rail or magnetic levitation service provided by public or private carriers;

"(3) carpool projects and fringe and corridor parking facilities and programs, and bicycle facilities and programs;

"(4) surface transportation safety improvements and programs, including highway safety improvement projects, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings;

"(5) surface transportation research and development programs;

"(6) capital and operating costs for traffic monitoring, management and control facilities and programs;

"(7) surface transportation planning programs;

"(8) transportation enhancement activities as defined in section 101;

"(9) transportation control measures listed in section 108(f) of the Clean Air Act, as amended;

"(10) incremental costs attributable to the use of alternative fuels by school buses, including purchase and installation of alternative fuel refueling facilities to be used primarily for school bus refueling and conversion of school buses to make them capable of using only an alternative fuel (except that diesel school buses may be converted to run on a combination of diesel and natural gas): *Provided*, That any conversion using funds authorized by this paragraph comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990: *Provided further*, That for purposes of this paragraph, 'alternative fuels' means methanol, ethanol, and other alcohols; mixtures containing 85 percent or more by volume of methanol, ethanol, or other alcohol with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; and electricity; and

"(11) any other purpose approved by the Secretary.

Provided, That projects other than those described in paragraphs (3) and (4) may not be undertaken on roads functionally classified as local or rural minor collector, unless such roads are on a Federal-aid highway system as of January 1, 1991, except as approved by the Secretary. Surface Transportation Program funds may be used—

"(A) as part of a highway construction project, or as a separate effort, to mitigate wetland loss related to highway construction; or

"(B) to contribute to statewide efforts to conserve and restore wetlands adversely affected by highway construction

if such efforts comply with all applicable requirements of and regulations under Federal law, including but not limited to the National Environmental Policy Act, the Endangered Species Act, and the Federal Water Pollution Control Act. These efforts may include the development of statewide wetland conservation plans, and other State or regional efforts to conserve and restore wetlands. Contributions toward these efforts may occur in advance of specific highway construction activity only if the State has a transportation planning process that precludes the use of such efforts to influence the environmental assessment of the highway construction project, the decision relative to the need to construct the highway project, or the selection of the project design or location.

"(b) General Requirements.—

"(1)(A) At least 75 per centum of apportionments and obligation authority made available to a State for the Surface Transportation Program in any year shall be divided between—

"(i) the metropolitan areas of the State with a metropolitan statistical area population of over two hundred and fifty thousand; and

"(ii) the other areas of the State;

in proportion to their relative share of the State's population. The remaining 25 per centum of funds may be programmed in any area of the State.

"(B) Notwithstanding the requirements of subparagraph (A), in any State where—

"(i) greater than 80 per centum of the population of such State is located in one or more metropolitan statistical areas and greater than 80 per centum of the land area of such State is owned by the United States only 35 per centum of Surface Transportation Program funds shall be divided based on the formula provided in subparagraph (A). The remaining 65 per centum of funds may be programmed in any area of the State.

"(C) The requirements of subparagraph (A) shall not apply to any State which is non-contiguous with the continental United States.

"(2) Programming and expenditure of funds for projects in metropolitan areas shall be consistent with the requirements of section 134, regarding metropolitan planning.

"(3) Programming and expenditure of funds for projects in non-metropolitan areas shall be consistent with the provisions of section 135, regarding statewide planning.

"(4) Of the apportionments made available to a State under this section, each State must assure that no less than 8 per centum of such funds are programmed for transportation enhancement activities, as defined in section 101.

"(5) In the case where a State constructs a facility under this program with a Federal share of 80 per centum and later converts the facility to operation such that the project would originally have been undertaken with a Federal share of 75 per centum, the State shall repay to the United States, with interest, the amount of the difference in the cost to the United States.

"(6) Each State shall assure that funds attributed to metropolitan and nonattainment areas pursuant to paragraph (1) shall be divided among such areas in a fair and equitable manner based on the relative population of such areas, except that the State may divide funds based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to do so and the Secretary grants the request.

"(7) Each State shall assure that funds attributed to attainment and non-metropolitan areas pursuant to paragraph (1) shall be distributed fairly and equitably among those areas.

"(c) ADMINISTRATION.—

"(1) If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State, that, if it fails to take corrective action within sixty days from the receipt of the notification, the Secretary will withhold future payments under this section until the Secretary is satisfied that appropriate corrective action has been taken.

"(2) The Governor of each State shall certify prior to the beginning of each fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for Surface Transportation Program projects during the fiscal year: *Provided*, That the State may request adjustment to the obligation amounts later in the fiscal year. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the Surface Transportation Program funds expected to be obligated by the State in that fiscal year for projects not subject to review by the Secretary.

"(3) Projects must be designed, constructed, operated and maintained in accordance with State laws, regulations, directives, safety standards, design standards and construction standards.

"(4) Any State may request that the Secretary no longer review and approve design and construction standards for any project other than a project on an Interstate highway or other multi-lane limited access control highways, except as provided in section 102(b), regarding resurfacing projects. After receiving any such notification the Secretary shall undertake project review as requested by the State.

"(5) The Secretary shall make payments to a State of costs incurred by it for the Surface Transportation program. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.

"(d) For purposes of paragraph (1)(A)(i) and paragraph (6) of subsection (b), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(b) APPORTIONMENT.—Section 104(b) of title 23, United States Code, is amended by—

(1) amending paragraph (1) to read as follows:

"(1) SURFACE TRANSPORTATION PROGRAM.—For the Surface Transportation Program, in a manner such that—

"(A) a State's per centum share of all funds allocated or apportioned pursuant to this title for fiscal year 1992 and any fiscal year thereafter, excluding funds apportioned or allocated for the Interstate Construction, Interstate Substitute, Federal Lands Highways, Congestion Mitigation and Air Quality Improvement, Minimum Allocation, National Magnetic Levitation Design, and Emergency Relief programs;

shall be equal to—

"(B) such State's per centum share of all apportionments and allocations received under this title for fiscal years 1987, 1988, 1989, 1990, and 1991, excluding apportionments and allocations received for the Interstate Construction, Interstate Substitute, Federal Lands Highways and Emergency Relief Programs, all apportionments and allocations received for demonstration projects, and the portion of allocations received pursuant to section 157, regarding minimum allocation, that is attributable to apportionments made under the Interstate Construction and Interstate Substitute programs in such years: *Provided*, That, in calculating a State's per centum share under this subparagraph for the purpose of making apportionments for fiscal years 1992, 1993, 1994, 1995, and 1996, each State shall be deemed to have received one-half of 1 per centum of all funds apportioned for the Interstate Construction Program in fiscal years 1987, 1988, 1989, 1990, and 1991: *And provided further*, That in any fiscal year no State shall receive a percentage of total apportionments and allocations that is less than 70 per centum of its percentage of total apportionments and allocations for fiscal years 1987, 1988, 1989, 1990, and 1991, except for those States that receive an apportionment for interstate construction of more than $50,000,000 for fiscal year 1992.

"(C) ENERGY CONSERVATION, CONGESTION MITIGATION, AND CLEAN AIR BONUS.—This paragraph shall apply beginning in fiscal year 1993 and shall apply only to those States with one or more metropolitan statistical areas with a population of two hundred fifty thousand or more. The amount of each such State's Surface Transportation Program funds determined pursuant to section 133(b)(1)(A)(i) shall be reduced by multiplying such amount by a factor of 0.9 if the State's vehicle miles of travel per capita is more than 110 per centum of its vehicle miles of travel in the base year. Reductions in apportionments made pursuant to the preceding sentence shall be placed in a Surface Transportation Bonus Fund and shall be used, to the extent such funds are available, to increase the amount of Surface Transportation Program funds determined pursuant to section 133(b)(1)(A)(i) by a factor of 1.1 for each State affected by this paragraph, if such State's vehicle miles of travel per capita is less than 90 per centum of its vehicle miles of travel per capita in the base year. Funds remaining thereafter in the Surface Transportation Bonus Fund, if any, shall be apportioned to the States affected by this paragraph in proportion to each State's share of Surface Transportation Program funds determined pursuant to section 133(b)(1)(A)(i) among all such States prior to any adjustments made pursuant to this paragraph. Funds so apportioned shall be treated as funds pursuant to section 133(b)(1)(A)(i) area treated. For the purposes of this paragraph, the term 'base year' shall mean the year 1990 for fiscal years 1993, 1994, and 1995, and shall mean the year 1995 for fiscal years 1996 and all subsequent fiscal years.

"(D) For purposes of subparagraph (C), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(2) striking "upon the Federal-aid systems" and inserting in lieu thereof "upon the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Program, and the Interstate System";

(3) striking "paragraphs (4) and (5)" and inserting in lieu thereof "subparagraph (5)(A)"; and

(4) striking "and sections 118(c) and 307(d)" and inserting in lieu thereof "and section 307".

(c) FEDERAL SHARE.—Section 120(a) of title 23, United States Code, is amended by striking "Subject to the provisions of subsection (d) of this section, the" and inserting in lieu thereof "The"; by striking ", primary, secondary, or urban funds, on the Federal-aid primary system, the Federal-aid secondary system, and the Federal-aid urban system" and inserting instead "Surface Transportation Program funds"; and by inserting "for capital projects that add capacity available to single occupant vehicles, except where the project consists of a high occupancy vehicle facility available to single occupant vehicles at other than peak travel times, and 80 per centum of the cost of construction for other projects", in two places after the words "cost of construction".

(d) GUIDANCE.—The Secretary shall develop and make available to the States guidance on how to determine what portion of any project under section 133 of title 23, United States Code, is eligible for an 80 per centum Federal share.

(e) CONFORMING AMENDMENTS.—The analysis of title 23, United States Code, is amended by striking:

"133. [Repealed Public Law 90-495]."

and inserting in lieu thereof:

"133. Surface Transportation Program.".

SEC. 107. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 149 of title 23, United States Code, is amended to read as follows:

"§ 149. Congestion Mitigation and Air Quality Improvement Program

"The Secretary shall establish a congestion mitigation and air quality improvement program pursuant to the requirements of this section.

"(a) ELIGIBLE PROJECTS.—A project may be funded under the congestion mitigation and air quality improvement program—

"(1) only if guidance issued by the Environmental Protection Agency pursuant to section 108(f) of the Clean Air Act, as amended, shows to the satisfaction of the Secretary, after consultation with the Administrator of the Environmental Protection Agency, that the project is likely to contribute to the attainment of any national ambient air quality standard, except in the case where such guidance is not available, only if the project is described in section 108(f) of the Clean Air Act, as amended;

"(2) the project is listed in a State implementation plan that has been approved pursuant to the Clean Air Act, as amended and the project will have air quality benefits; or

"(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project is likely to contribute to the attainment of any national ambient air quality standard, whether through reductions in vehicle miles travelled, fuel consumption, or through other factors; and

"(4) pursuant to this subsection projects which research, develop and test technologies to control highway related emissions which contribute to the nonattainment of any ambient air quality standard or the impairment of visibility within an urbanized area within the State shall be deemed to be eligible projects; and

only if the project does not result in the construction of new capacity available to single occupant vehicles, except where the project consists of a high occupancy vehicle facility available to single occupant vehicles at other than peak travel times.

"(b) Distribution of Funds.—Apportionments made under this section shall be made available in nonattainment areas as defined pursuant to the Clean Air Act, as amended, with urbanized area populations over fifty thousand in proportion to the relative share of weighted nonattainment area population as calculated in section 104(b)(2) within the State: *Provided*, That each State that contains a nonattainment area shall receive a minimum apportionment of one-quarter of 1 per centum of the apportionment made under this section: *Provided further*, That the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures. Selection of projects for such funds shall be carried out by the metropolitan planning organization for each such area in accordance with the provisions of section 134 of title 23, United States Code.

"(c) Federal Share.—The Federal Share payable for a project under this section shall not exceed 80 per centum of the cost of the project.".

(b) Apportionment.—Section 104(b)(2) is amended to read as follows:

"(2) For the Congestion Mitigation and Air Quality Improvement Program.—In the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States, where weighted nonattainment area population shall be calculated by multiplying the population of any nonattainment areas within any State that is in nonattainment for ozone by a factor of—

"(A) 1.0 if the area is classified as a marginal nonattainment area;

"(B) 1.1 if the area is classified as a moderate nonattainment area;

"(C) 1.2 if the area is classified as a serious nonattainment area;

"(D) 1.3 if the area is classified as a severe nonattainment area;

"(E) 1.4 if the area is classified as an extreme nonattainment area;

where the classification of nonattainment areas is that used in the Clean Air Act, as amended, and by further multiplying the population of any non-attainment area by a factor of 1.2 is such area is in nonattainment for carbon monoxide.". Notwithstanding any other provision of this section, any State which is subject to air pollution control measures pursuant to section 184 (related to Interstate Ozone Air Pollution) or section 176A (related to Interstate Transport Commissions) of the Clean Air Act Amendments of 1990 shall receive a minimum of one-tenth of 1 per centum of the total funds apportioned under this section.".

(c) Conforming Amendments.—The analysis of chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 149. Truck lanes."

and inserting instead:

"Sec. 149. Congestion Mitigation and Air Quality Improvement Program.".

SEC. 108. BRIDGE PROGRAM.

(a) Federal Share.—Section 144(f) of title 23, United States Code, is amended to read as follows:

"(f) The Federal share payable for any project undertaken under this subsection shall be 80 per centum, except for any costs attributable to the expansion of the capacity of any bridge or the construction of any new bridge where such new capacity or new bridge is primarily available to single occupant vehicles, in which case the Federal share payable shall be 75 per centum. In the case where a State constructs a bridge or portion thereof not primarily available to single occupant vehicles pursuant to this section, and later converts the bridge or portion thereof to be primarily available to single occupant vehicles, the State shall repay to the United States, with interest, the amount of the additional cost borne by the United States that would have been borne by the State had the bridge or portion thereof been originally available primarily to single occupant vehicles.".

(b) New Capacity Guidance.—The Secretary shall develop and make available to the States criteria for determining what share of any project undertaken pursuant to section 144 of title 23, United States Code, is attributable to the expansion of the capacity of a bridge where the new capacity is available to single occupant vehicles.

(c) Bridge Painting, Seismic Retrofit, and Maintenance.—Section 144(e) of title 23, United States Code, is amended by adding at the end "Funds apportioned pursuant to this subsection shall be available for the painting and seismic retrofit of, or application of calcium magnesium acetate on, any bridge eligible for assistance under this section.

(d) Repeal of Discretionary Bridge Program.—Section 144(g) of title 23, United States Code, is repealed.

(e) Level of Service Criteria.—The Secretary shall, by January 1, 1992, in consultation with the States, establish level of service criteria for the Bridge Program: *Provided*, That, notwithstanding the requirements of such criteria or of section 144 of title 23, United States Code, up to 35 per centum of bridge program funds made available to a State in any fiscal year shall be available for expenditure on any public bridge, provided that such expenditure conforms with the bridge management system adopted by the State.

(f) Conforming Amendments.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 144. Highway bridge replacement and rehabilitation program."

and inserting in lieu thereof:

"Sec. 144. Bridge Program."

(2) Section 144 of title 23, United States Code, is amended as follows:

(A) The title is amended to read:

"§ 144. Bridge Program".

(B) Subsection (b) is repealed; and subsection (c) is amended by striking", other than those on any Federal-aid system," and by striking "on and off the Federal-aid system;".

(C) Subsection (e) is amended by striking "(1) Federal-aid system bridges eligible for replacement, (2) Federal-aid system bridges eligible for rehabilitation, (3) off-system bridges eligible for replacement, and (4) off-system bridges eligible for rehabilitation." and inserting instead "(1) Bridges categorized for rehabilitation and (2) bridges categorized for replacement."; and (2) by striking "on the Federal-aid primary system" and inserting instead "under the Surface Transportation Program".

(g) Transfer of Funds.—Up to sixty percent of the apportionment of Bridge Program funds are eligible to be transferred to either the Surface Transportation Program or the Interstate Maintenance Program if apportionment of bridge funds exceed bridge funds obligated in the previous year by more than 50 percent. These transferred funds may be programmed in any area of the State and are not subject to the requirements of distribution specified in section 133(b)(1) of title 23, United States Code.

SEC. 109. INTERSTATE MAINTENANCE PROGRAM.

(a) Limitation on New Capacity.—Section 119(a) of title 23, United States Code, is amended by inserting after the end of the first sentence: "Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.".

(b) Adequate Maintenance of the Interstate System.—Section 119(f)(1) of title 23, United States Code, is amended by inserting at the end of the paragraph "The Secretary must find that the State is adequately maintaining the Interstate System to accept such a certification.".

(c) Non-Federal Match Requirement.—

(1) Section 119(a) of title 23, United States Code, is amended by striking "section 120(c)" and inserting in lieu thereof "section 120(d)".

(2) Section 120(d) of title 23, United States Code, is amended to read as follows:

"(d) Interstate Maintenance.—The Federal share payable on account of any project undertaken for the maintenance of Interstate highways under the provisions of section 119 shall either—

"(1) not exceed 80 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

"(2) not exceed 80 per centum of the cost of construction, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage of the area of all such lands in such State is of its total area, except that the Federal share payable on any project shall not exceed 95 per centum of the total cost of the project.

In any case where a State elects to have the Federal share as provided in paragraph (2), the State must enter into an agreement with the Secretary covering a period of not less than one year, requiring the State to use solely for purposes eligible under this title (other than paying its share of projects undertaken pursuant to this title) during the period covered by the agreement the difference between the State's share as provided in paragraph (2) and what its State's share would be if it elected to pay the share provided in paragraph (1) for all projects subject to the agreement.".

(d) GUIDANCE TO THE STATES.—The Secretary shall develop and make available to the States criteria for determining—

(1) what share of any project funded under section 119 of title 23, United States Code, is attributable to the expansion of the capacity of an Interstate Highway or bridge; and

(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code.

(e) NON-CHARGEABLE SEGMENTS.—Section 104(b)(5)(B) of title 23, United States Code, is amended by adding "and routes on the Interstate system designated under section 139(a) of this title before January 1, 1984" after the phrase "under sections 103 and 139(c) of this title" each of the two times it appears in the first sentence.

(f) CONFORMING AMENDMENTS.—

(1) NEW TITLE.—The title of section 119 of title 23, United States Code, is amended to read:

"**§Sec. 119. Interstate Maintenance Program**";

(2) ANALYSIS.—The analysis for chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 119. Interstate System Resurfacing."

and inserting in lieu thereof:

"Sec. 119. Interstate Maintenance Program.".

(3) Section 119 of title 23, United States Code, is amended—

(A) by striking out subsection (c), with regard to reconstruction, and inserting in lieu thereof the following new subsection:

"(c) Activities authorized in subsection (a) may include the reconstruction of bridges, interchanges and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes.";

(B) by striking out subsection (e), with regard to toll facilities;

(C) by striking out, in subsection (a), ", rehabilitating, and reconstructing" and inserting in lieu thereof "and rehabilitating"; and

(D) in subsection (f)—

(i) by striking "PRIMARY SYSTEM" from the title and inserting in lieu thereof "SURFACE TRANSPORTATION PROGRAM"; and

(ii) by striking "rehabilitating, or reconstructing" and inserting in lieu thereof "or rehabilitating".

(4) APPORTIONMENT.—Section 104(b)(5)(B) of title 23, United States Code, is amended by striking "rehabilitating, and reconstructing" and inserting instead "and rehabilitating".

SEC. 110. INTERSTATE CONSTRUCTION PROGRAM.

(a) MASSACHUSETTS.—Paragraph 104(b)(5)(A) of title 23, United States Code, is amended by striking "upon the approval by Congress, the Secretary shall use the Federal share of such approval estimates in making apportionments for the fiscal year 1993" and inserting in lieu thereof:

"The Secretary shall use the Federal share of the 1991 Interstate Cost Estimate, adjusted to reflect (i) all previous credits, apportionments of Interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of Interstate discretionary funds, and (iv) transfers of Interstate construction funds, to make apportionments for fiscal years 1993, 1994, 1995 and 1996 in the ratio in which the Federal share of the estimated cost of completing the Interstate System in a State bears to the Federal share of the sum of the estimated cost of completing the Interstate System in all of the States, except Massachusetts: *Provided*, That Massachusetts shall be apportioned $100,000,000 for the fiscal years 1993, $800,000,000 for the fiscal year 1994, $800,000,000 for the fiscal year 1995, and $850,000,000 for the fiscal year 1996.".

(b) CONFORMING AMENDMENTS.—Paragraph 104(b)(5)(A) of title 23, United States Code, is further amended by striking "1960 through 1990" the two places it appears and inserting instead "1960 through 1996"; and by striking "1967 through 1990" and inserting instead "1967 through 1996". Unobligated balances of funds allocated for Forest Highways may be obligated for Public Lands highways.

SEC. 111. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended as follows:

(1) Subsection (c) is amended by inserting at the end "The secretary shall allocate 66 per centum of the remainder of the authorization for public lands highways for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987."; and by inserting after "allocate" the words "34 per centum of".

(2) Subsection (a) is repealed and the following subsections are relettered accordingly.

(b) PROJECTS.—Section 204 of title 23, United States Code, is amended as follows:

(1) Subsection (b) is amended (A) by striking "construction and improvements thereof" and inserting in lieu thereof "planning, research, engineering and construction thereof"; and (B) by inserting at the end "Funds available for each class of Federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of Federal lands highways."; and by striking "forest highways and".

(2) Subsection (a) is amended by striking "forest highways,"; and by inserting at the end "Notwithstanding any other provision of this title, no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project.".

(3) Subsection (c) is amended by striking "on a Federal aid system and inserting in lieu thereof "eligible for funds apportioned under section 104 or section 144 of this title".

(4) Section 204 of title 23, United States Code, is amended by striking subsection (h) and inserting instead:

"(h) Funds available for each class of Federal lands highways may be available for the following—

"(1) transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development;

"(2) adjacent vehicular parking areas;

"(3) interpretive signage;

"(4) acquisition of necessary scenic easements and scenic or historic sites;

"(5) provision for pedestrians and bicycles;

"(6) construction and reconstruction of roadside rest areas including sanitary and water facilities; and

"(7) other appropriate public road facilities such as visitor centers as determined by the Secretary.

"(i) The Secretary shall transfer to the Secretary of Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.".

(5) Section 205(c) is amended by striking "$15,000" in four places and inserting in lieu thereof "$50,000".

(c) REHABILITATION.—Of the funds authorized to be appropriated pursuant to section 103(b)(7)(B) of this Act, an amount equal to $20,000,000 shall be available for each of fiscal years 1992, 1993, 1994, 1995, and 1996 for continued rehabilitation of federally-owned highways under the Federal lands highway program of title 23, United States Code. Such funds shall remain available until expended.

(d) INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled post-secondary vocational institutions.

(e) INDIAN RESERVATION ROADS PLANNING.—Two percent of funds allocated for Indian reservation roads shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or Metropolitan Planning Organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding. Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.

(f) CONFORMING AMENDMENTS.—Section 203 of title 23, United States Code, is amended by striking "forest highways" in two places.

SEC. 112. TOLL FACILITIES.

(a) REPEAL OF NATIONAL POLICY.—Section 301 of title 23, United States Code, is hereby repealed. The analysis of chapter 3 of such title is amended by striking out the item relating to section 301.

(b) NEW REQUIREMENTS.—Section 129 of title 23, United States Code, is amended to read as follows:

"§129. Toll facilities

"(a) PROHIBITION.—Tolls may not be imposed on any existing free interstate highway.

"(b) FEDERAL SHARE PAYABLE.—Except as provided in subsection (e), the Federal share payable for any project under this section shall not exceed 35 per centum of the cost of the project for construction of new toll facilities: *Provided*, That, for the purposes of subsection (d), the Federal share may be increased by a percentage of the remaining cost that is equal to the percentage that unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, in a State are of its total area, and shall not exceed 80 per centum of the cost of the project for rehabilitation of existing toll facilities or conversion of existing free facilities to toll facilities: *Provided*, That for the purposes of subsection (d) the Federal share may be increased in accordance with the provisions of section 120(a), as amended. A State may loan all or part Federal funds made available pursuant to this section to a public agency constructing a toll facility: *Provided*, That such loan may be made only after all Federal environmental requirements have been complied with and permits obtained. The amount loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the agency constructing the facility. Funds loaned pursuant to this section may be obligated for projects eligible under this section. The repayment of any such loan shall commence not less than five years after the facility has opened to traffic. Any such loan shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The term of any such loan shall not exceed 30 years from the time the loan was obligated. Amounts repaid to a State from any loan made under this section may be obligated for any purpose eligible under this title. The Governor of each State making a loan pursuant to this section shall establish procedures and guidelines for making such loans.

"(c) CONSTRUCTION OR CONVERSION OF FACILITIES.—Except as otherwise provided in this section, Federal funds to carry out this title may not be obligated on toll facilities or to convert free facilities to toll facilities. The Secretary may permit Federal participation, on the same basis and in the same manner as participation in projects on free highways under this title, in the construction of any toll highway, bridge, tunnel, or approach thereto, or the conversion of any free highway, bridge, tunnel or approach thereto to a toll facility, upon compliance with the provisions of this subsection, except that no Federal funds may be used to impose tolls on any existing free interstate highway. The highway, bridge, tunnel, or approach thereto must be publicly owned. The appropriate State transportation or highway department or departments must be party to an agreement with the Secretary that provides that—

"(1) all tolls received from the operation of the facility, less the actual cost of operation and maintenance, shall be applied to repayment, including debt service and reasonable return on investment, of the party financing the facility, except for amounts contributed by the United States; and

"(2) after the date of final repayment, revenues from tolls in excess of revenues needed to recover actual costs of operation and maintenance shall be used for any transportation project eligible under this title.

"(d) CONSTRUCTION OF FERRYBOATS AND FERRY APPROACHES.—The Secretary may permit Federal participation under this title in the construction of ferryboats and ferry approaches, whether toll or free, subject to the following conditions:

"(1) It is not feasible to build a bridge, tunnel, or other normal highway structure in lieu of the ferry.

"(2) The operation of the ferry shall not be on a route that is classified as local, as a rural minor collector, or as a route on the Interstate System, except that, in the case of ferry systems that serve such routes and other routes in an integrated system, such ferry may operate throughout the entire service area of the ferry system.

"(3) The ferry shall be publicly owned and operated.

"(4) The operating authority and the amount of fares charged for passage on the ferry shall be under the control of the State, and all revenues shall be applied to actual and necessary costs of operation, maintenance, and repair, including replacement of ferryboats.

"(5) The ferry shall be operated only within the State (including the islands which comprise the State of Hawaii and the islands which comprise the Commonwealth of Puerto Rico) or between adjoining States. Except with respect to operations between the islands which comprise the State of Hawaii, operations between the islands which comprise the Commonwealth of Puerto Rico, operations between the islands of Maine, and operations between any two points in Alaska and between Alaska and Washington, including stops at appropriate points in the Dominion of Canada, no part of the ferry operations shall be in any foreign or international waters.

"(6) No ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from a disposition shall be credited to the unprogrammed balance of Surface Transportation Program funds last apportioned to the State. Any amounts credited shall be in addition to other funds then apportioned to the State and shall be available for expenditure in accordance with the provisions of this title.

"(e) CONGESTION PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more congestion pricing pilot projects. The Secretary may enter into cooperative agreements with as many as five such State or local governments or public authorities to establish, maintain, and monitor congestion pricing projects.

"(2) Notwithstanding subsection (c), the Federal share payable for such programs shall be 100 per centum. The Secretary shall fund all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least one year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund any project for more than three years.

"(3) Revenues generated by any pilot project under this section must be applied to projects eligible under this title.

"(4) The Secretary shall monitor the effect of such projects for a period of at least ten years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives every two years on the effects such programs are having on driver behavior, traffic volume, transit ridership, air quality, and availability of funds for transportation programs.

"(5) Of the sums made available the Secretary pursuant to section 104(a), not to exceed not to exceed $25,000,000 shall be made available each fiscal year to carry out the requirements of this subsection.".

(c) EXISTING TOLL FACILITY AGREEMENTS.—At the request of the non-Federal parties to any toll facility agreement reached before October 1, 1991 under (1) section 105 of the Federal-Aid Highway Act of 1978; or (2) section 129 of title 23, United States Code, as in effect immediately prior to the date of enactment of this Act; the Secretary shall allow for the continuance of tolls without repayment of Federal funds, except that revenues collected from such tolls in excess of revenues needed to recover the local share of construction and acquisition costs including debt service and the actual costs of operation and maintenance shall be used for: (1) any transportation project eligible under this title, or (2) costs associated with transportation facilities under the jurisdiction of said non-Federal party, including debt service and costs related to the construction, reconstruction, restoration, repair, operation and maintenance of said facilities.

SEC. 113. METROPOLITAN PLANNING.

(a) NEW REQUIREMENTS.—Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Metropolitan planning

"(a) METROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization shall be designated for each urbanized area of over fifty thousand in population within any State by agreement among the Governor and the units of general purpose local government. Each metropolitan planning organization shall designate boundaries for a metropolitan area pursuant to subsection (b) and shall carry out the transportation planning process required by this section. Metropolitan planning organizations in existence on or before October 1, 1991 shall be considered as being designated for the purposes of this section. Metropolitan planning organizations that represent portions of multi-State metropolitan areas shall, where feasible, provide for coordinated transportation planning for the entire metropolitan area by adopting a single transportation improvement program for such area. The Governor of any State may enter into such agreements as may be necessary with the Governor of any other State to provide for comprehensive multi-State transportation planning for metropolitan areas that encompass portions of more than one State.

"(b) METROPOLITAN AREA BOUNDARIES.—For the purposes of this title, the boundaries of any metropolitan area shall be determined by the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the area expected to become urbanized within the forecast period, and may encompass the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area as defined by the Bureau of the Census. For areas designated as nonattainment for ozone or carbon monoxide under the Clean Air Act, as amended, the boundaries of the metropolitan area shall be the boundaries of the nonattainment area, except as otherwise provided by the metropolitan planning organization.

"(c) GENERAL REQUIREMENT FOR PLANNING.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum—

"(1) consider preservation of existing transportation facilities and, where practical, meet transportation needs by using existing transportation facilities more efficiently;

"(2) provide that transportation planning is consistent with applicable Federal, State and local energy conservation programs, goals and objectives;

"(3) consider the need to relieve congestion and prevent congestion from occurring where it does not yet occur;

"(4) conform with the applicable requirements of the Clean Air Act as amended;

"(5) consider the effect of transportation policy decisions on land use and development, and assure that transportation plans and programs are consistent with the provisions of all applicable short- and long-term land use and development plans;

"(6) recommend, where appropriate, the use of innovative financing mechanisms, including value capture, tolls, and congestion pricing to finance projects and programs;

"(7) provide for the programming of expenditure on transportation enhancement activities as required in section 133;

"(8) consider the effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded;

"(9) consider the overall social, economic, and environmental effects of transportation decisions;

"(10) take into account international border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations;

"(11) consider the need for connectivity of roads within the metropolitan area with roads outside the metropolitan area; and

"(12) develop a long range transportation plan.

"(d) Transportation Improvement Program.—

"(1) Development of program.—The metropolitan planning organization, in cooperation with the State and relevant transit operators, shall develop a transportation improvement program that includes all projects within the metropolitan area proposed for funding pursuant to this title and the Urban Mass Transportation Act, that is consistent with the long range transportation plan developed by the metropolitan planning organization, and that conforms with the applicable State implementation plan developed pursuant to the Clean Air Act, as amended. The program may include a project only if full funding can be reasonably anticipated to be available for such project within the period of time contemplated for its completion. The program shall be updated at least every two years, and shall be approved by the metropolitan planning organization and the Governor.

"(2) Priority of projects.—The transportation improvement program shall include a priority list of projects and project segments to be carried out within each three-year period after the initial adoption of the transportation improvement program.

"(3) Selection of projects.—Except as otherwise provided in subsection (e), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization, and shall be in conformance with the transportation improvement program for the area.

"(e) Additional Requirements for Areas of Over 250,000 Population.—

"(1) For metropolitan statistical areas of more than two hundred fifty thousand population within any State, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by a metropolitan planning organization in cooperation with the State and transit operators.

"(2) The planning process shall include a congestion management system that provides for effective management of new and existing transportation facilities through the use of travel demand reduction and operational management strategies. In nonattainment areas for ozone or carbon monoxide, the development of the congestion management system shall be coordinated with the development of the transportation element of the State Implementation Plan required by the Clean Air Act as amended.

"(3) The Secretary shall assure that each metropolitan planning organization is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once per annum. The Secretary may certify a metropolitan planning organization only if it is complying with the requirements of section 134 and other applicable requirements of Federal law. If at any time after October 1, 1992 a metropolitan planning organization is not certified by the Secretary, the obligation authority attributed to the relevant metropolitan area pursuant to section 133(b)(1) shall lapse and be redistributed to other States in accordance with the requirements of section 104(d)(2), regarding redistribution of obligation authority.

"(4) Selection of projects.—All projects carried out with Federal participation pursuant to this title (excluding projects undertaken pursuant to the Bridge and Interstate Maintenance Programs) or the Urban Mass Transportation Act within the boundaries of a metropolitan area covered under this subsection shall be selected by the metropolitan planning organization and the Governor in conformance with the transportation improvement program for such area and the priorities established therein. Projects undertaken pursuant to the Bridge and Interstate Maintenance Programs shall be selected by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement plan for the area.

"(5) The metropolitan planning organization for areas covered under this subsection shall provide for a fair and equitable distribution of funds within the metropolitan area.

"(6) Metropolitan planning organizations for areas covered under this subsection shall provide opportunity for public review of draft transportation plans and programs prior to final approval of such plans and programs.

"(f) Additional Requirements for Nonattainment Areas.—

"(1) Notwithstanding any other provision of law, for areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, Federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(2) If, at the end of any three-year planning period established pursuant to subsection (d), a project to be carried out within such period has not been carried out, any changes in emissions of pollutants that contribute to nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, that have been attributed to such project shall be discounted for the purposes of conformity review pursuant to section 176(c) of the Clean Air Act, as amended, (42 U.S.C. 7506(c)) until such time as binding commitments have been made to complete the project by a date certain.

"(3) For the purpose of determining conformity pursuant to section 176(c) of the Clean Air Act, as amended, (42 U.S.C. 7506(c)), the metropolitan planning organization shall take into account emissions expected to result from all projects to be carried out within the metropolitan area, whether such projects are publicly or privately funded.

"(g) Reprogramming of Set Aside Funds.—Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this subsection may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135.

"(h) For purposes of subsections (b) and (e), the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(b) 1 Percent Set Aside.—Section 104(f) of title 23, United States Code, is amended by striking in paragraph (1) "one-half per centum" and inserting in lieu thereof "1 per centum"; by striking in paragraph (1) "the Federal-aid systems" and inserting in lieu thereof "programs authorized under this title"; by striking in paragraph (1) all after the fifth comma and inserting in lieu thereof "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate Construction and Interstate Substitute programs."; and by striking in paragraph (3) "section 120" and inserting in lieu thereof "section 120(j)".

(c) Apportionment Within a State.—Section 104(f)(4) of title 23, United States Code, is amended by striking "and metropolitan area transportation needs" and inserting in lieu thereof "attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable Federal law.".

(d) Conforming Amendments.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 134 Transportation planning in certain urban areas."

and inserting in lieu thereof:

"Sec. 134. Metropolitan Planning.".

(2) Section 104(f)(3) of title 23, United States Code, is amended by striking "designated by the State as being".

SEC. 114. STATEWIDE PLANNING.

(a) New Requirements.—Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Statewide planning

"(a) Management Systems.—Each State shall have a Bridge Management System, a Pavement Management System, a Safety Management System, and a Congestion Management System developed in accordance with regulations prescribed by the Secretary, except that any State that certifies to the satisfaction of the Secretary that no significant congestion exists or is projected to exist within such State shall not be required to have a congestion management system. Systems shall include inventories and use current condition data to identify needs. The Bridge Management System shall include provisions for life-cycle cost analysis where appropriate. The Secretary may withhold project approvals under section 106 and may decline to accept a notice and certification under section 133(c)(2) if a State fails to have approved systems. The regulations shall provide for periodic Federal review of the Management Systems.

"(b) Traffic Monitoring System.—Each State shall have a Traffic Monitoring System to provide statistically based data necessary for pavement management, bridge evaluation, safety management, congestion management, national studies, and other activities under this title. The Secretary shall establish guidelines and requirements for the Traffic Monitoring System.

"(c) STATE PLANNING PROCESS.—Each State shall undertake a continuous transportation planning process which shall—

"(1) take into account the results of the management systems required pursuant to subsection (a);

"(2) take into account any Federal, State or local energy use goals, objectives, programs or requirements;

"(3) take into account any valid State or local development or land use plans, programs, or requirements;

"(4) take into account international border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations;

"(5) provide for comprehensive surface transportation planning for non-metropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation;

"(6) be consistent with any metropolitan area plan developed pursuant to section 134;

"(7) provide for connectivity between metropolitan areas within the State and with metropolitan areas in other States;

"(8) take into account recreational travel and tourism;

"(9) take into account any State plan developed pursuant to the Federal Water Pollution Control Act; and

"(10) be coordinated with the development of any State implementation plan required under the Clean Air Act, as amended, and provide for compliance with any relevant requirements of such plan and such Act.

"(d) ADDITIONAL REQUIREMENTS FOR STATES CONTAINING NONATTAINMENT AREAS.—Any State containing an area in nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, as amended, shall develop and update at least every two years a long range transportation plan. In addition to the requirements in subsection (c), such plan shall—

"(1) incorporate without amendment the provisions of any metropolitan area plan developed pursuant to section 134; and

"(2) provide for coordination in the development of the State transportation plan required pursuant to this section and the State implementation plan required pursuant to the Clean Air Act, as amended.

"(e) FUNDING.—Funds set aside pursuant to section 307(c)(1) of title 23, United States Code, shall be available to carry out the requirements of this section.".

(b) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 135. Traffic operations improvement programs.".

and inserting in lieu thereof:

"Sec. 135. Statewide Planning.".

SEC. 115. RESEARCH AND DATA COLLECTION.

(a) RESEARCH PROGRAM.—Section 307 of title 23, United States Code, is amended as follows:

(1) NEW REQUIREMENTS.—Subsection (b) is redesignated (b)(1), and the following new paragraphs are added thereafter:

"(2) The highway research program shall include a coordinated long term program of research on Intelligent Vehicle Highway Systems.

"(3) The highway research program shall include a coordinated long term program of research for the development, use and dissemination of performance indicators to measure the performance of the surface transportation system, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the surface transportation system.

"(4) The highway research program shall continue those portions of the work of the Strategic Highway Research Program that the Secretary deems to be important.

"(5) The Secretary shall create and administer a transportation research fellowship program to attract qualified students to the field of transportation engineering and research, which shall be known as The Dwight David Eisenhower Transportation Fellowship Program. No less than $2,000,000 per fiscal year of the funds set aside pursuant to section 307 shall be made available to carry out this paragraph.

"(6)(A) The Secretary in cooperation with other appropriate Federal agencies, the Governors of Arizona, California, New Mexico and Texas, and the appropriate representatives of the Republic of Mexico, shall assess the need for transportation infrastructure to facilitate trade between the United States and Mexico. Within 18 months following the date of the enactment of this Act, the Secretary shall report to Congress and the Governors of Arizona, California, New Mexico, and Texas on such transportation infrastructure needs and the associated costs.

"(B) The Secretary in cooperation with other appropriate Federal agencies, the Governors of Maine, New Hampshire, Vermont, New York, Michigan, Minnesota, North Dakota, Montana, Idaho, Washington, and Alaska, and the appropriate representatives from Canada, shall assess the need for transportation infrastructure to facilitate trade between the United States and Canada. Within 18 months following the date of the enactment of this Act the Secretary shall report to Congress and the Governors of Maine, New Hampshire, Vermont, New York, Michigan, Minnesota, North Dakota, Montana, Idaho, Washington, and Alaska on such transportation infrastructure needs and the associated costs.".

(2) Subsection (c) is amended by striking "highway programs and local public transportation systems" and inserting in lieu thereof "transportation programs"; by striking "highway usage" and inserting in lieu thereof "transportation"; and by striking "highways and highway systems" and inserting in lieu thereof "transportation systems".

(b) FEDERAL SHARE FOR STATE RESEARCH ACTIVITIES.—Section 120(j) is amended by striking "85 per centum" and inserting in lieu thereof "80 per centum"; and by striking "exclusive of" and inserting in lieu thereof ", and"

(c) STATE AUTHORITY TO PROGRAM FUNDS.—Section 307(c) of title 23, United States Code, is amended by striking "upon the request of the State highway department, with the approval of the Secretary, with or without State funds," in paragraph (1) and inserting in lieu thereof "by the State highway department only"; by striking "Not to exceed 1½ per centum" and inserting in lieu thereof "Two per centum"; by striking "section 104" and inserting in lieu thereof "sections 104 and 144"; and by repealing paragraphs (2) and (3).

(d) DATA COLLECTION AND ANALYSIS.—

(1) BUREAU OF TRANSPORTATION STATISTICS.—There is established within the Department a Bureau of Transportation Statistics (hereafter referred to as the "Bureau"). The Bureau shall be responsible for—

(A) compiling, analyzing, and publishing a comprehensive set of transportation statistics which should provide timely summary in the form of industrywide aggregates, and multiyear averages, and totals of some similar form which include information on—

(i) productivity in the various portions of the transportation sector,

(ii) traffic flows,

(iii) travel times,

(iv) vehicle weights,

(v) variables influencing traveling behavior including choice of mode,

(vi) travel costs of intracity commuting and intercity trips,

(vii) availability and number of passengers served by mass transit for each mass transit authority,

(viii) frequency of vehicle and transportation facility repairs and other interruptions of service,

(ix) accidents,

(x) collateral damage to the human and natural environment,

(xi) and the condition of the transportation system, all of information which shall be suitable for conducting cost-benefit studies, including comparisons among modes and intermodal transport systems.

(B) The Director of the Bureau of Transportation Statistics, in cooperation with the States, shall pursue a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. This effort shall—

(i) be coordinated with the efforts undertaken pursuant to section 307(b)(3) of title 23 to develop performance indicators for the national transportation system;

(ii) assure that data and other information are collected in a manner to maximize the ability to compare data from different regions and time periods; and

(iii) assure that data are quality controlled for accuracy and are disseminated to the States and other interested parties.

(C) promulgating guidelines for the collection of information by the Department required for statistics under this paragraph to assure that the information is accurate, reliable, relevant, and in a form that permits systematic analysis;

(D) coordinating the collection of information by the Department for developing such statistics with related information-gathering activities conducted by other Federal agencies;

(E) Making readily accessible the statistics published under this paragraph; and

(F) identifying missing information of the kind identified under subparagraph (A) (i) through (xi), reviewing these information needs at least annually with the Advisory Council on Transportation Statistics, and making recommendations to the appropriate Department of Transportation research officials concerning extramural and intramural research programs to provide such information.

(2) Nothing in the provisions of paragraph (1) shall authorize the Bureau to require the collection of any data by any other Department, or to establish observation or monitoring programs.

(3) Information compiled by the Bureau of Transportation Statistics shall not be disclosed publicly in a manner that would reveal the personal identity of any individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), reveal trade secrets and com-

mercial or financial information provided by any person to be identified with such person.

(4) Director of Transportation Statistics.—The Bureau shall be under the direction of a Director of Transportation Statistics (hereafter referred to as the "Director") who shall be appointed by the President, by and with the advice and consent of the Senate. The term of the Director shall be 4 years. To begin within 180 days of enactment of this Act. The Director shall be a qualified individual with experience in the compilation and analysis of transportation statistics. The Director shall report directly to the Secretary. The Director shall be compensated at the rate provided for at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(5) Transportation Statistics Annual Report.—On January 1, 1992, and each January 1 thereafter, the Director shall submit to the President a Transportation Statistics Annual Report (hereafter referred to as the "Report"). The Report shall include, but not be limited to those items identified in subparagraph (A) (i) through (x). The Report shall also include documentation of the methods used to obtain and assure the quality of the statistics presented in the Report and recommendations in improving transportation statistical information.

(6) Continuing Performance of the Functions of the Director Pending Confirmation.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by the Director may continue to perform such functions until such functions are assigned to an individual appointed as the Director under this Act.

(7) Advisory Council on Transportation Statistics.—The Director shall appoint an Advisory Council on Transportation Statistics, comprised of no more than 6 private citizens who have expertise in transportation statistics and analysis (except that at least one of such appointees should have expertise in economics) to advise the Director on transportation statistics and analyses, including whether the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information. The Council shall be subject to the provisions of the Federal Advisory Committee Act.

(8) Study of Data Needs.—(A) No later than 1 year after the start of Bureau operations, the Secretary of the Department of Transportation in consultation with the Director of the Bureau and the Assistant Secretary designated as Chief Information Resources Officer, shall enter into an agreement with the National Academy of Sciences for a study, evaluation, and report on the adequacy of the data collection procedures and capabilities of the Department. No later than 18 months following an agreement, the National Academy of Sciences shall report its findings to the Secretary and the Congress. The report shall include an evaluation of the Department's data collection resources, needs, and requirements, and shall include an assessment and evaluation of the following systems, capabilities, and procedures established by the Department to meet those needs and requirements—

(i) data collection procedures and capabilities;

(ii) data analysis procedures and capabilities;

(iii) the ability of data bases to integrate with one another;

(iv) computer hardware and software capabilities;

(v) management information systems, including the ability of management information systems to integrate with one another;

(vi) Department personnel; and

(vii) the Department's budgetary needs and resources for data collection, including an assessment of the adequacy of the budgetary resources provided to the Department and budgetary resources used by the Department for data collection needs and purposes.

(9) The report shall include recommendations for improving the Department's data collection systems, capabilities, procedures, data collection, and analytical hardware and software, and for improving its management information systems.

(10) Funding.—Section 104(a) of title 23, United States Code, is amended by inserting ", data collection, and other programs" after "research"; and by inserting ", and section 303" after "section 307".

(11) Analysis.—The analysis for chapter 3 of title 23, United States Code, is amended by striking:

"Sec. 303. [Repealed. Public Law 97-449].".

and inserting in lieu thereof:

"Sec. 303. Data Collection and Analysis.".

(12) Study of State Level of Effort.—(A) Not later than 3 months after the date of enactment of this Act, the Secretary and the Director of the Bureau shall undertake a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

(B) Such study shall include collection of data relating to State and local revenue collected and spent on surface transportation programs. Such revenue shall include income from fuel taxes, toll revenues including bridge and ferry tolls, sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and other appropriate State and local revenue sources as the Director of the Bureau deems appropriate.

(C) Not later than 9 months after the date of enactment of this Act, the Secretary and the Director of the Bureau shall provide a written report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives detailing the findings of the study. Such report shall include recommendations on the most appropriate measure of State level of effort in funding surface transportation programs and comprehensive data by State on revenue sources and amounts collected by States and local governments and devoted to surface transportation programs.

(e) Fundamental Property Studies.—(1) The Administrator of the Federal Highway Administration (hereafter in this subsection referred to as the "Administrator") is directed to conduct fundamental chemical property and physical property studies of petroleum asphalts and modified asphalts used in highway construction in the United States with the primary emphasis of prediction of pavement performance from the fundamental and rapidly measurable properties of asphalts and modified asphalts.

(2) In carrying out the studies in paragraph (1), the Administrator shall enter into contracts with a non-profit organization with demonstrated expertise in research associated in the above areas in order to undertake the necessary technical and analytical research in coordination with existing programs, including the Strategic Highway Research Program, that evaluate actual performance of asphalts and modified asphalts in roadways.

(3) Activities of Studies.—The Administrator in conducting the studies in this subsection shall include the following activities:

(A) fundamental composition studies;

(B) fundamental physical and rheological property studies;

(C) asphalt-aggregate interaction studies;

(D) coordination of composition studies, physical and rheological property studies and asphalt-aggregate interaction studies for the purposes of prediction of pavement performance including refinements of strategic Highway Research Program specifications.

(4) The Administrator, in coordination with a non-profit research organization, shall implement a test strip, the purpose of which shall be to demonstrate and evaluate unique energy and environmental advantages of the use of shale oil modified asphalts under extreme climate conditions. The Administrator shall report to Congress on his findings as required under paragraph (6). Such findings shall include an evaluation of this test strip and legislative recommendations on a national program to support American transportation and energy security requirements. In no event shall this report be submitted after November 30, 1995. For purposes of construction activities related to this test strip the Administrator and the Director of the National Park Service shall make the necessary funds available in equal amounts from the Park and Parklands allocation for the Federal lands highway program.

(5) Authorizations.—The Administrator shall provide at least $3,000,000 for each of fiscal years 1992, 1993, 1994, 1995 and 1996 to carry-out the provisions of paragraph (2).

(6) Annual Report to Congress.—On November 30 of each year, the Administrator shall report to Congress on progress in implementing the provisions of this subsection in the preceding fiscal year. For purposes of fiscal year 1992, the Administrator shall provide a report on proposed activities within one hundred eighty days of enactment of this section.

(f) Collaborative Research and Development.—Section 307 of title 23, United States Code, is amended by adding subsection (g) as follows:

"(g) Collaborative Research and Development.—For purposes of encouraging innovative solutions to highway problems, and stimulating the marketing of new technology by private industry, the Secretary is authorized to undertake on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments; foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the States of the United States. In carrying out this section, the Secretary may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710a). The average Federal share in these agreements shall not exceed 50 percent except, where there is substantial public interest or benefit, the Secretary may approve a higher Federal level of participation. Cooperative research and development agreements shall recognize all directly related costs to the non-Federal partners including personnel, travel, hardware development, etc. The research, development, or utilization, of any technology pursuant to an agreement under the above provisions, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended.".

(g) Section 307(c) of title 23, United States Code, is amended by inserting a new paragraph (2) to read as follows:

"(2) In addition to the percentage provided in paragraph (1) of this subsection, not to exceed one-half of one per centum of sums apportioned under sections 104 and 144 shall be available for expenditure upon request of the State Highway Department to rural planning organizations designated by the State as being responsible for assisting the State in carrying out the provisions of section 135 of this title.".

SEC. 116. MAGNETIC LEVITATION TRANSPORTATION.

(a) DECLARATION OF POLICY.—Section 101(c) of title 23, United States Code, is amended to read as follows:

"(c) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.".

(b) NATIONAL MAGNETIC LEVITATION DESIGN PROGRAM.—

(1) MANAGEMENT OF PROGRAM.—(A) There is hereby established a National Magnetic Levitation Design Program to be managed jointly by Secretary and the Assistant Secretary of the Army for Civil Works (hereafter referred to as "the Assistant Secretary"). In carrying out such program, the Secretary and the Assistant Secretary shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency. The Secretary and the Assistant Secretary shall establish a National Maglev Joint Project Office (hereafter referred to as the "Maglev Project Office") to carry out such program, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions.

(B) STRATEGIC PLAN.—The Secretary and the Assistant Secretary, in consultation with appropriate Federal officials including the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop a national strategic plan for the design and construction of a national magnetic levitation surface transportation system. Such plan shall consider other modes of high speed surface transportation, including high speed rail. The plan shall be completed and transmitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives within eighteen months of the date of enactment of this Act.

(2) PHASE ONE GRANTS.—(A) Not later than three months after the date of enactment of this Act, any eligible participant may submit to the Maglev Project Office a proposal for research and development of a conceptual design for a maglev system and an application for a grant to carry out that research and development.

(B) Not later than six months after the date of enactment of this Act, the Secretary and the Assistant Secretary shall award grants for one year of research and development to no less than six applicants. If fewer than six complete applications have been received, grants shall be awarded to as many applicants as is practical.

(C) The Secretary and the Assistant Secretary may approve a grant under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights of way, the potential for the guideway design to be a national standard, and the bidder's resources, capabilities, and history of successfully designing and developing systems of similar complexity: *Provided*, That, the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development, and agrees to provide for matching of the phase one grant at a 90 per centum Federal, 10 per centum non-Federal cost share.

(D) For purposes of this section, the term 'eligible participant' means United States private businesses, United States public and private education and research organizations, Federal laboratories, and consortia of such businesses, organizations and laboratories.

(3) PHASE TWO GRANTS.—Within three months of receiving the reports under paragraph (2), the Secretary and the Assistant Secretary shall select not more than three participants to receive one-year grants for research and development leading to a final design for a maglev system. The Secretary and the Assistant Secretary may only award grants under this paragraph if they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into a national system, and if the applicant agrees to provide for matching of the phase two grant at a 80 per centum Federal, 20 per centum non-Federal cost share.

(4) PROTOTYPE.—(A) Within six months of receiving the final designs developed under paragraph (3), the Secretary and the Assistant Secretary shall select one design for development into a full scale prototype. Not more than three months after the selection of such design, the Secretary and the Assistant Secretary shall award one prototype construction grant to a State government, local government, organization of State and local governments, consortium of United States private businesses or any combination of these entities for the purpose of constructing a prototype maglev system in accordance with the selected design.

(B) Selection of the grant recipient under this paragraph shall be based on the following factors:

(i) The project shall utilize interstate highway rights-of-way.

(ii) The project shall have sufficient length to allow significant full speed operations between stops.

(iii) No more than 75 per centum of the cost of the project shall be borne by the United States.

(iv) The project shall be constructed and ready for operational testing within three years after the award of the grant.

(v) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

(vi) The project shall be located in an area that provides a potential ridership base for future commercial operation.

(vii) The project shall be located in an area that experiences climatic and other environmental conditions that are representative of such conditions in the United States as a whole.

(viii) The project shall be suitable for eventual inclusion in a national magnetic levitation system network.

(c) LICENSING.—

(1) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this Act shall be disclosed.

(2) COMMERCIAL INFORMATION.—The research, development and use of any technology developed pursuant to an agreement reached pursuant to this section, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary and the Assistant Secretary may require any grant recipient to assure that research and development shall be performed substantially in the United States, and that the products embodying the inventions made under any agreement pursuant to this section or produced through the use of such inventions shall be manufactured substantially in the United States.

(d) AVAILABILITY OF FUNDS.—Funds authorized to be appropriated to carry out this section shall remain available until expended.

(e) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports on progress made under this section to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(f) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, the requirements of chapter 1 of title 23, United States Code, shall apply to the provisions of this section.

SEC. 117. ACCESS TO RIGHTS-OF-WAY.

(a) AVAILABILITY OF RIGHTS-OF-WAY.—Subsection 142(g) of title 23, United States Code, is amended to read as follows:

"(g) In any case where sufficient land exists within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, highway and non-highway public mass transit facilities the Secretary shall authorize a State to make such lands and rights-of-way available with or without charge to a publicly or privately owned authority or company for such purposes.".

(b) AVAILABILITY OF AIRSPACE.—Section 156 of title 23, United States Code, is amended by adding before the period at the end of the first sentence the following: ": *Provided*, That the States may permit governmental use, use by public or private entities for passenger, commuter, or high speed rail, magnetic levitation systems, or other transit, utility use and occupancy where such use or occupancy is necessary for a transportation project allowed under this section, or use for transportation projects eligible for assistance under this title, with or without charge.".

(c) CONFORMING AMENDMENTS.—Section 142 of title 23, United States Code, is amended as follows:

(1) Paragraph (a)(1) is amended by striking "of the Federal-aid systems"; and by striking "project on any Federal-aid system" and inserting in lieu thereof "Surface Transportation Program project or as an Interstate construction project".

(2) Paragraph (a)(2) is repealed.

(3) Subsection (c) is repealed.

(4) Paragraph (e)(2) is repealed.

(5) Subsections (i) and (k) are repealed.

SEC. 118. REPORT ON REIMBURSEMENT FOR SEGMENTS CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

The Secretary shall update the findings of the report required by section 114 of the Federal-Aid Highway Act of 1956 to determine what amount the United States would pay to the States to reimburse the States for segments incorporated into the Interstate System that were constructed at non-Federal expense. The report required under this section shall be completed by October 1, 1993, and shall be transmitted to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 119. DISADVANTAGED BUSINESS ENTERPRISES.

(a) CONTINUATION OF CURRENT LAW.—Section 106(c)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by striking "titles I and III of this Act or obligated under" and inserting instead "the Surface Transportation Efficiency Act of 1991 or obligated under titles I and III of this Act and".

(b) ADJUSTMENT FOR INFLATION.—Section 106(c)(2)(A) of such 1987 Act is amended by striking "14,000,000" and inserting instead "15,370,000".

(c) STUDY.—The Comptroller General of the United States shall conduct a study of the Disadvantaged Business Enterprise program of the Federal Highway Administration (hereafter in this section referred to as the "DBE program"). The study shall include—

(1)(A) a determination of the percentage of disadvantaged business enterprises that have enrolled in the DBE program that have graduated from the DBE program after an enrollment period of 3 years;

(B) a determination of the number of disadvantaged business enterprises that have been enrolled in the DBE program for a period greater than 3 years; and

(C) a determination as to whether the graduation date any of the disadvantaged business enterprises described in subparagraph (B) should be accelerated;

(2) a determination of which State transportation programs meet the requirement under the DBE program for 10 per centum participation by minority-owned businesses and woman-owned businesses by contracting with out of State contractors in lieu of in-State contractors;

(3)(A) a determination as to whether adjustments in the DBE program could be made with respect to—

(i) Federal or State participation in training programs; and

(ii) Meeting capital needs and bonding requirements; and

(B) with respect to subparagraph (A), in the case where adjustments could be made, recommended adjustments that would continue to encourage minority participation in the program and would improve the success rate of the disadvantaged business enterprises;

(4) recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises participating under the DBE program; and

(5) a determination of additional costs incurred by the Federal Highway Administration in meeting the requirement for 10 per centum participation, as described in paragraph (2).

(d) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report on the findings of the study described in subsection (a) to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Public Works of the House of Representatives.

SEC. 120. AVAILABILITY OF FUNDS.

(a) Section 118 of title 23, United States Code, is amended to read as follows:

"(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Account of the Highway Trust Fund to carry out this title shall be available for obligation when apportioned or allocated, or on October 1 of the fiscal year for which they are authorized, whichever first occurs.

"(b) PERIOD OF AVAILABILITY DISCRETIONARY PROJECTS.—

"(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate Construction in a State shall remain available for obligation in that State until the close of the fiscal year in which they are apportioned or allocated. Sums not obligated by the close of the fiscal year in which they are apportioned or allocated shall be allocated to other States, except Massachusetts, at the discretion of the Secretary. All sums apportioned or allocated on or after October 1, 1994 shall remain available in the State until expended: *And provided further*, That all sums apportioned or allocated to Massachusetts on or before October 1, 1989 shall remain available until expended.

"(2) OTHER FUNDS.—Except as otherwise specifically provided, funds (other than interstate construction) apportioned or allocated pursuant to this title in a State shall remain available for obligation in that State for a period of three years after the close of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

"(c) ALASKA AND PUERTO RICO.—Funds made available to the State of Alaska and the Commonwealth of Puerto Rico under this title may be expended for construction of access and development roads that will serve resource development, recreational, residential, commercial, industrial, and other like purposes.

"(d) SET ASIDE FOR INTERSTATE DISCRETIONARY PROJECTS.—

"Before any apportionment is made under section 103(b)(5) for a fiscal year beginning after September 30, 1991 the Secretary shall set aside $200,000,000. Such funds shall be available for obligation by the Secretary under the following priorities:

"(1) FIRST.—For high cost projects which directly contribute to the completion of a segment of the interstate system which is not open to traffic;

"(2) SECOND.—For projects of high cost in relation to a State's total apportionment of funds; and

"(3) THIRD.—For projects with respect to which the Secretary may make payments under section 115 of title 23, United States Code.".

SEC. 121. PROGRAM EFFICIENCIES.

(a) Section 102 of title 23, United States Code, is amended to read as follows:

"§ 102. Program efficiencies

"(a) STANDARDS.—Except as provided in section 133(c), projects undertaken pursuant to the Surface Transportation Program must be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards. The design and construction standards to be adopted for highways classified as principal arterials and designated as a part of the interim or permanent National Highway System shall be those approved by the Secretary in cooperation with the State highway departments and the American Association of State Highway and Transportation Officials. Any State may request that the Secretary no longer review and approve design and construction standards for any project other than a project on an Interstate highway or other multi-lane limited access control highways, except as provided in subsection (b), regarding resurfacing projects. After receiving any such request the Secretary shall undertake project review only as requested by the State.

"(b) PAVEMENT REHABILITATION PROJECTS.—Notwithstanding any other provision of this title, a State highway or transportation department may approve the design of a pavement rehabilitation project or highway resurfacing project on any project constructed pursuant to this title: *Provided*, That States comply with the requirements of all other applicable Federal laws and regulations.

"(c) HIGHWAY MAINTENANCE STANDARDS.—Notwithstanding any other provision of this title, a State highway or transportation department may establish maintenance standards for projects constructed pursuant to this title, which shall be subject to annual approval by the Secretary. The Secretary may not withhold project approval pursuant to section 106 if a State is meeting maintenance standards approved by the Secretary under this section.

"(d) HOV PASSENGER REQUIREMENTS.—A State highway or transportation department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes: *Provided*, That no fewer than two occupants may be required. For the purposes of this title and the Surface Transportation Efficiency Act of 1991, motorcycles and bicycles shall not be considered single occupant vehicles. Nothing in this title or the Surface Transportation Efficiency Act of 1991 shall be construed as altering the provisions or effect of section 163 of the Highway Improvement Act of 1982.

"(e) ENGINEERING COST REIMBURSEMENT.—A State shall refund to the Highway Trust Fund all Federal funds for preliminary engineering for any project if the project has not yet advanced to construction or acquisition of right-of-way within ten years of receipt of such Federal funds.".

(b) HISTORIC AND SCENIC VALUES.—Section 109 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(p) Where a proposed project under sections 103(e)(4), 133, or 144 involves a historic facility or where such project is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) and section 133(c) if such project is designed to standards that allow for the preservation of these values: *Provided*, That such project is designed with mitigation measures to allow preservation of these values and ensure safe operation of the project.".

(c) DELEGATION OF RESPONSIBILITIES.—Section 302 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(c) At the request of the Governor of any State, the Secretary is authorized to permit the highway or transportation department of a municipality of over 1 million population within the State to perform all such duties and responsibilities regarding projects undertaken within the municipality as are delegated to it that would otherwise be the responsibility of the State highway or transportation department. For purposes of this subsection, the Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(d) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 102. Authorizations.".

and inserting in lieu thereof:

"Sec. 102. Program efficiencies.".

SEC. 122. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) NEW REQUIREMENTS.—Section 153 of title 23, United States Code, is amended to read as follows:

"§ 153. Use of safety belts and motorcycle helmets

"(a) STATE LAWS.—

"(1) FISCAL YEAR 1995.—If, at any time in fiscal year 1994 a State does not have in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if any individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body;

the State shall expend for highway safety programs 1.5 per centum of the amount apportioned to such State for fiscal year 1995 under section 104(b)(1).

"(2) AFTER FISCAL YEAR 1995.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if any individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) has a safety belt properly fastened about the individual's body;

the State shall expend for highway safety programs 3 per centum of the amount apportioned to such State for the succeeding fiscal year under section 104(b)(1). A State which is required to expend funds for highway safety programs under this subsection shall expend such funds for purposes eligible under section 402; section 152, except repavement; and section 130.

"(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under this subsection shall be 100 per centum.

"(4) AVAILABILITY.—Notwithstanding the requirements of section 118, funds subject to be set aside under this subsection shall be available only in the year for which they were apportioned, and shall thereafter lapse. For purposes of making expenditures of such funds, a State shall use an amount of the obligation authority distributed for the Surface Transportation Program for the fiscal year in which the set aside apportionments were made equal to the amount required to be expended under this subsection.

"(b) GRANTS TO STATES.—

"(1) STATE ELIGIBILITY.—The Secretary may make grants to a State in accordance with this section if such State has in effect—

"(A) a State law which makes it unlawful for an individual to operate a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(B) a State law which makes it unlawful for an individual to operate a passenger vehicle if any individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

"(2) USE OF GRANTS.—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

"(A) To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

"(B) To train law enforcement officers in the enforcement of State laws described in paragraph (1).

"(C) To monitor the rate of compliance with State laws described in subsection (a).

"(D) To enforce State laws described in paragraph (1).

"(3) MAINTENANCE OF EFFORT.—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's two fiscal years preceding the date of the enactment of this section.

"(4) FEDERAL SHARE.—A State may not receive a grant under this section in more than three fiscal years. The Federal share payable for a grant under this section shall not exceed—

"(A) in the first fiscal year such State receives a grant, 75 per centum of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

"(B) in the second fiscal year such State receives a grant, 50 per centum of the cost of implementing in such traffic safety program; and

"(C) in the third fiscal year such State receives a grant, 25 per centum of the cost of implementing in such fiscal year such traffic safety program.

"(5) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 per centum of the amount apportioned to such State for fiscal year 1990 under section 402.

"(6) ELIGIBILITY FOR GRANTS.—

"(A) A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

"(B) A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(i) has in effect at all times a State law described in paragraph (1)(A) and achieves a rate of compliance with such law of not less than 75 per centum; and

"(ii) has in effect at all times a State law described in paragraph (1)(B) and achieves a rate of compliance with such law of not less than 50 per centum.

"(C) A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(i) has in effect at all times a State law described in paragraph (1)(A) and achieves a rate of compliance with such law of not less than 85 per centum; and

"(ii) has in effect at all times a State law described in paragraph (1)(B) and achieves a rate of compliance with such law of not less than 70 per centum.

"(c) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsection (b) (2) and (3), a State shall measure compliance with State laws described in subsection (b)(1) using methods which conform to guidelines to be issued by the Secretary ensuring that such measurements are accurate and representative.

"(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) The term 'child restraint system' means a device which is designed for use in a passenger vehicle to restrain, seat, or position a child who weighs 50 pounds or less.

"(2) The term 'motorcycle' means a motor vehicle with motive power which is designed to travel on not more than 3 wheels in contact with the surface.

"(3) The term 'passenger vehicle means a motor vehicle with motive power which is designed for transporting 10 individuals or less, including the driver, except that such term shall not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

"(4) The term 'safety belt' means—

"(A) with respect to open-body vehicles and convertibles, and occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.".

"(e) AUTHORITY.—All provisions of chapter 1 of this title that are applicable to Surface Transportation Program funds, other than provisions relating to the apportionment formula, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.".

(b) STUDY.—The Secretary shall conduct a study of restrained and unrestrained individuals injured in motor vehicle crashes and of helmeted and non-helmeted motorcyclists injured in motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in: The severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; and mortality and morbidity outcomes. Of the amounts authorized to be appropriated for fiscal year 1992 to carry out the requirements of this section, not less than $5,000,000 shall be available until expended to carry out this subsection. The Secretary shall report the results of this study to Congress not later than 40 months after the date of enactment of this Act. Approval by the Secretary of

Transportation of the payment of such sums shall establish a contractual obligation of the United States to pay such sums.

(c) Regulations.—Not later than one hundred and eighty days after the date of the enactment of this Act, the Secretary shall issue regulations to carry out section 153 of title 23, United States Code.

(d) Conforming Amendment.—The analysis for chapter 1 of title 23, United States Code, is amended by striking:

"Sec. 153. [Repealed.].".

and inserting in lieu thereof:

"Sec. 153. Use of Safety Belts and Motorcycle Helmets.".

SEC. 123. CREDIT FOR NON-FEDERAL SHARE.

(a) Eligibility.—A State may use as a credit toward the non-Federal matching share requirement for all programs under this Act and title 23, United States Code, those funds that are generated and used by public, quasi-public and private agencies to build, improve, or maintain transportation infrastructure that serves the public purpose of interstate commerce. Such public, quasi-public or private agencies shall have built, improved, or maintained such transportation infrastructure without Federal funds.

(b) Maintenance of Effort.—The credit for any non-Federal share shall not reduce nor replace State monies required to match Federal funds for any program pursuant to this Act or title 23, United States Code. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that such State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding three fiscal years.

(c) Treatment.—Use of such credit for a non-Federal share shall not expose such agencies from which the credit is received to additional liability, additional regulation or additional administrative oversight. When credit is applied from chartered multi-State agencies, such credit shall be applied equally to all charter States. The public, quasi-public, and private agencies from which the credit for which the non-Federal share is calculated shall not be subject to any additional Federal design standards, laws or regulations as a result of providing non-Federal match other than those to which such agency is already subject.

SEC. 124. ACQUISITION OF RIGHTS-OF-WAY.

(a) Right-of-Way Revolving Fund.—Section 108(c)(3) of title 23, United States Code, is amended by striking out "ten" and inserting in lieu thereof "twenty".

(b) Early Acquisition of Rights-of-Way.—Section 108 of title 23, United States Code, is further amended by adding subsection (d) as follows:

"(d) Early Acquisition of Rights-of-Way.—Federal funds may be used to participate in payment of the costs incurred by a State for the acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, which are subsequently incorporated into a project, and the costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values. The Federal share payable of the costs shall be eligible for reimbursement out of funds apportioned to the State when the rights-of way acquired are incorporated into a project eligible for surface transportation funds, if the State demonstrates to the Secretary and the Secretary finds that—

"(1) any land acquired, and relocation assistance provided complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;

"(2) title VI, of the Civil Rights Act of 1964 has been complied with;

"(3) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and that the acquisition is certified by the Governor as consistent with the State plans prior to the acquisition;

"(4) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this Act;

"(5) the alternative for which the right-of-way is acquired is selected by the State pursuant to regulations to be issued by the Secretary, which provide for the consideration of the environmental impacts of various alternatives;

"(6) prior to the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the right-of-way was acquired by the State, and the acquisition has been approved by the Secretary under this Act, and in compliance with section 4(f) of the Department of Transportation Act, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

"(7) prior to the time that the cost incurred by a State is approved for Federal participation, both the Secretary and the Administrator of the Environmental Protection Agency have concurred that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to the need to construct the project, or the selection of the project design or location.".

(c) Conforming Amendments.—Section 108 of title 23, United States Code, is further amended—

(1) in subsection (a), by striking out "on any of the Federal-aid highway systems, including the Interstate System," each of the two places it appears;

(2) in subsection (c)(2), by striking "on any Federal-aid system"; and

(3) in subsection (c)(3) by striking "on the Federal-aid system of which such project is to be a part".

SEC. 125. TRANSPORTATION IN PARKLANDS.

(a) In General.—Not later than twelve months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall submit to the Congress a study of alternative transportation modes for use in the National Park System. Such study shall consider the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands. Such study shall also consider methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) Authorization of Appropriations.—From within the sums authorized to be appropriated for subsection 202(d) of title 23, United States Code, $300,000 shall be made available to carry out this section.

SEC. 126. TRAFFIC CONTROL STANDARDS.

The Secretary shall revise the Manual of Uniform Traffic Control Devices to include—

(a) a standard for a minimum level of retroreflectivity that must be maintained for pavement markings and signs, which shall apply to all roads open to public travel;

(b) a standard to define the roads that must have a center line or edge lines or both, provided that in setting such standard the Secretary shall consider the functional classification of roads, traffic volumes, and the number and width of lanes.

SEC. 127. USE OF ASPHALT RUBBER PAVEMENT.

(a) Beginning on the date three years after the date of enactment of this Act, the Secretary of Transportation shall make no grant to any State under title 23 of the United States Code, other than projects or grants for safety where the Secretary determines that the principal purpose of the project is an improvement in safety that will result in a significant reduction in or avoidance of accidents, for any year unless the State shall have submitted to the Secretary a certification that the asphalt pavement laid in the State in such year and financed in whole or part by such grants shall satisfy the minimum utilization requirement for asphalt rubber pavement established by this section. The Secretary may modify the minimum utilization requirement for asphalt rubber pavement during a phase-in period, if the Secretary determines that such phase-in period is necessary to develop production and application facilities for asphalt rubber pavement. Such phase-in period shall not extend beyond the date six years after the date of enactment of this section. The Secretary may increase the minimum utilization requirement for asphalt rubber pavement to be used in federally-assisted highway projects to the extent it is technologically and economically feasible to do so and if an increase is appropriate to assure markets for the reuse and recycling of scrap tires.

(b) The Secretary may set aside the provisions of this section for any three-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency with respect to paragraphs (1) and (2), that there is reliable evidence indicating—

(1) that manufacture, application or use of asphalt rubber pavement substantially increases risks to human health or the environment as compared to the risks associated with conventional pavement;

(2) that asphalt rubber pavement cannot be recycled to the same degree as conventional pavement; or

(3) that asphalt rubber pavement does not perform adequately as a material for the construction or surfacing of highways and roads.

(c) Any determination made to set aside the requirements of this section may be renewed for an additional three-year period by the Secretary, with the concurrence of the Administrator with respect to determinations made under subsections (b)(1) and (b)(2). Any determination made with respect to subsection (b)(3) may be made for specific States or regions considering climate, geography and other factors that may be unique to the State or region and that would prevent the adequate performance of asphalt rubber pavement in such State or region.

(d) The minimum utilization requirement for asphalt rubber pavement in federally-assisted highway projects shall be not less than an average of six pounds of rubber derived from scrap tires for each one ton of finished asphalt pavement used in federally-assisted highway projects in the State. The Secretary may grant a State credit toward the minimum utilization requirement for volumes of asphalt rubber pavement used in other road and construction projects and for asphalt rubber pavement containing rubber at rates less than or greater than six pounds per ton: *Provided*, That the total amount of rubber used in asphalt pavement containing rubber in the State in any year is at least equivalent to the amount that would be used if 100 per centum of the pavement used in federally-assisted highway projects in the State contained six pounds of rubber per ton of finished pavement.

(e) The Secretary shall establish a minimum utilization requirement for asphalt rubber pavement less than the minimum otherwise required by subsection (d) in a particular State, upon the request of such State and with the concurrence of the Administrator of the Environmental Protection Agency, if the Secretary determines that there is not a sufficient quantity of scrap tires available prior to disposal in the State to meet the minimum utilization requirement established by subsection (d) and each of the other recycling and processing uses, including retreading, for which scrap tires are required.

(f) For purposes of this section—

(1) the term "process" means the utilization of tires to reclaim material or energy value;

(2) the term "recycle" means to process scrap tires to produce usable materials other than fuels;

(3) the term "asphalt rubber pavement" means any hot mix asphalt paving mixture which contains rubber derived from scrap tires, is produced using the wet or dry process and is used for a pavement base, surface course, or stress absorbing membrane interlayer;

(4) the term "stress absorbing membrane interlayer" means a process of spray applying asphalt rubber pavement prior to the overlayment of conventional asphalt pavement to reduce reflective cracking and to waterproof the roadway.

(g) The Secretary shall, in cooperation with the Administrator of the Environmental Protection Agency, conduct a program of research to determine—

(1) the public health and environmental risks associated with the production and use of asphalt rubber pavement;

(2) the performance of the asphalt rubber pavement under various climate and use conditions; and

(3) the degree to which asphalt rubber pavement can be recycled.

The research program required by this subsection shall be completed not later than three years after the date of enactment of this Act. The Secretary is authorized to use funds pursuant to sections 103(b) and 115 (making amendments to section 307 of title 23, United States Code) to carry out the research required by this subsection.

SEC. 128. RIGHT-OF-WAY REVOLVING FUND.

Section 108 of title 23, United States Code, is amended—

(a) in subsection (a) by striking out "on any of the Federal-aid highway systems, including the Interstate System" in each of the two places it appears; by striking out "State highway department" in each of the two places it appears and inserting in lieu thereof "State transportation department"; and by inserting "or passenger rail facility" after "road"; and

(b) in subsection (c) by inserting "and passenger rail facilities" after "highways" in paragraph (2); by striking "on any Federal-aid system" in paragraph (2); by striking "State highway department" and inserting in lieu thereof "State transportation department" in paragraph (2); by inserting "or passenger rail facility" after "highway" in each of the two places it appears in paragraph (3); and by striking "on the Federal-aid system of which such project is to be a part" in paragraph (3).

SEC. 129. SCENIC AND HISTORIC HIGHWAYS.

There is hereby created a National Scenic and Historic Byways Program, and an Office of Scenic and Historic Byways within the Federal Highway Administration, which Office shall administer the program. The Office shall provide technical assistance to the States and shall provide grants for the planning, design and development of State scenic byway programs. The Secretary, in consultation with the Secretaries of Agriculture, Interior, and Commerce, and other interested parties, shall establish criteria for roads to be designated as part of an All American Roads program. The Secretary shall designate the roads to be included in the All American Roads program. Roads considered for such designation shall be nominated by the States and Federal agencies. For all State-owned roads nominated by Federal agencies, the State shall concur in the nomination. The sum of $5,000,000 per year is authorized to be appropriated for the purposes of carrying out this section. The Secretary shall establish criteria for allocating such funds to the States.

SEC. 130. NATIONAL HIGHWAY SYSTEM.

(a) Within two years of the date of enactment of this Act, the Secretary shall submit to the Congress a proposal for a National Highway System to provide an interconnected system of principal arterial routes which will serve major population centers, ports, airports, international border crossings, and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel. The National Highway System shall consist of highways on the Interstate System and other specified urban and rural principal arterials, including toll facilities.

(b) During the two year period prior to the submission of the proposed National Highway System to Congress, the interim National Highway System shall consist of the Interstate System and such urban and rural principal arterials (including toll facilities) as designated by each State. Each State shall expend at least 17.5 percent of the amounts authorized by section 103(b)(1) of this Act for each of the fiscal years 1992 and 1993 on such interim National Highway System.

(c) A final National Highway System submitted to Congress by the Secretary shall be designated in accordance with guidelines issued by the Secretary which provide for equitable allocation of mileage among States. The final system shall be designated by each State in consultation with regional and local officials, with the approval of the Secretary. Ninety days after submission of the proposed National Highway System to Congress, each State shall expend at least 17.5 percent of the amounts authorized by section 103(b)(1) of this Act for each of the fiscal years 1994 through 1996 on the system so designated in the report to Congress or on such system as is modified by an Act of Congress. Amounts authorized by section 103(b)(1) of this Act do not include any amounts transferred to the Surface Transportation Program from the Interstate Maintenance Program, or any other program.

(d) If a State certifies to the Secretary that apportionments required to be spent on the National Highway System pursuant to this section are in excess of amounts needed to adequately maintain the National Highway System routes within the State as determined by the Bridge Management System and Pavement Management System under section 135(a) of title 23, as amended by this Act, the State may transfer up to 20 percent of these amounts for any project eligible under the Surface Transportation Program.

SEC. 131. DEFINITIONS.

(a) NEW DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended adding definitions for "carpool project", "hazard elimination", "magnetic levitation system", "metropolitan area", "open to public travel", "operational improvement", "public authority", "public lands highway", "railway-highway crossing", "reconstruction", and "transportation enhancement activities" as follows:

"The term 'carpool project' means any project to encourage the use of carpools and vanpools, including but not limited to provision of carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

"The term 'hazard elimination' means the correction or elimination of hazardous locations, sections, or elements, including roadside obstacles and unmarked or poorly marked roads which may constitute a danger to motorists, bicyclists or pedestrians.

"The term 'magnetic levitation system' means any facility (including vehicles) using magnetic levitation for transportation of passengers or freight that is capable of operating at high speeds, and capable of operating along Interstate highway rights of way.

"The term 'metropolitan area' means an area so designated pursuant to section 134.

"The term 'open to public travel' means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulations other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.

"The term 'operational improvement' means a capital improvement other than (1) a reconstruction project; (2) additional lanes except high occupancy vehicle lanes; (3) interchange and grade separations; or (4) the construction of a new facility on a new location. The term includes the installation of traffic surveillance and control equipment; computerized signal systems; motorist information systems, integrated traffic control systems; incident management programs; transportation demand management facilities, strategies, and programs; high occupancy vehicle preferential treatments including the construction of high occupancy vehicle lanes; and spot geometric and traffic control modifications to alleviate specific bottlenecks and hazards.

"The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate or maintain toll or toll-free facilities.

"The term 'public lands highway' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel, or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by, a public authority and open to public travel.

"The term 'railway-highway crossing project' means any project for the elimination of hazards of railway-highway crossings, including the protection or separation of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings.

"The term 'reconstruction' means the addition of travel lanes and the construction and reconstruction of interchanges and over crossings, including acquisition of right-of-way where necessary.

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, highway safety improvement projects other than repaving projects, railway-highway crossing projects, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures or facilities including historic railroad facilities and canals, preservation of abandoned railway corridors including the conversion and use thereof for pedestrian or bicycle trails, control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.".

(b) CONFORMING AMENDMENTS.—

(1) The definition for "highway" is amended by inserting "scenic easements" after "and also includes".

(2) The definitions for "Federal-aid highways", "Federal-aid system", "Federal-aid primary system", "Federal-aid secondary system", "Federal-aid urban system", "forest highway", "project", and "urban area" are repealed.

(3) The definition for "Indian reservation roads" is amended by striking ", including roads on the Federal-aid systems,".

(4) The definition for "park road" is amended by inserting ", including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles," before "that is located in".

SEC. 132. FUNCTIONAL RECLASSIFICATION.

A functional reclassification, which shall be updated periodically, should be undertaken by each State (as that term is defined in section 101 of title 23, United States Code), the United States Virgin Islands, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands, by September 30, 1992, and shall be completed by September 30, 1993 in accordance with guidelines that will be issued by the Secretary. The functional reclassification shall classify all public roads (as that term is defined in section 101 of title 23, United States Code).

SEC. 133. REPEAL OF CERTAIN SECTIONS OF TITLE 23, UNITED STATES CODE.

(a) The following portions of title 23, United States Code, are hereby repealed, including the chapter analyses relating thereto—

(1) section 105, relating to programs;

(2) section 117, relating to certification acceptance;

(3) section 122, relating to bond retirement;

(4) section 126, relating to diversion of funds;

(5) section 137, relating to parking facilities;

(6) section 146, relating to carpools;

(7) section 147, relating to priority primary projects;

(8) section 148, relating to a national recreational highway;

(9) section 150, relating to urban system funds;

(10) section 155, relating to lake access highways;

(11) section 201, relating to authorizations;

(12) section 212, relating to the Inter-American Highway;

(13) section 216, relating to the Darien Gap Highway;

(14) section 309, relating to foreign countries;

(15) section 310, relating to civil defense;

(16) section 311, relating to strategic highway improvements;

(17) section 312, relating to military officers;

(18) section 318, relating to highway relocation; and

(19) section 320, relating to bridges on Federal dams.

SEC. 134. CONFORMING AND TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 23, UNITED STATES CODE.—Title 23, United States Code, is amended as follows:

(1) Section 103 is amended as follows:

(A) Subsections (a), (b), (c), (d), and (g) are repealed.

(B) Paragraph (e)(1) is amended by striking "All highways or routes included in the Interstate System as finally approved, if not already coincident with the primary system, shall be added to said system without regard to the mileage limitation set forth in subsection (b) of this section.".

(C) Paragraph (c)(4)(B) is amended by striking the last two sentences and inserting instead "Each highway project constructed under this paragraph shall be subject to the provisions of this title applicable to highway projects constructed under the Surface Transportation Program.".

(D) Paragraph (e)(4)(E)(i) is amended by striking "for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year" and by inserting in lieu thereof "until expended".

(E) Paragraphs (e)(4)(H)(i) and (e)(4)(H)(iii) are amended by striking "and 1991" the three places it appears and inserting instead "1991, 1992, 1993, 1994 and 1995".

(F) Subsection (f) is amended to read as follows:

"(f) The Secretary shall have authority to approve in whole or in part the Interstate System, or to require modifications or revisions thereof.".

(2) Section 104 is amended as follows:

(A) Subsection (b)(6) is repealed.

(B) Subsections (c) and (d) are repealed.

(3) Section 106 is amended as follows:

(A) Subsection (a) is amended by striking "117" and inserting instead "133".

(B) Subsection (b) is repealed.

(C) Subsection (d) is amended by striking "on any Federal-aid system".

(4) Section 109 is amended as follows:

(A) Subsection (a) is amended by striking "on any Federal-aid system".

(B) Subsection (c) is repealed.

(C) Subsection (i) is amended by striking "on a Federal-aid system" and "on any Federal-aid system"; and by striking "the Federal-aid system on which such project will be located".

(D) Paragraph (l)(1) is amended by striking "on any Federal-aid system".

(5) Section 112 is amended by striking subsection (f).

(6) Section 113 is amended—

(A) by striking "on the Federal-aid systems, the primary and secondary, as well as their extensions in urban areas, and the Interstate System,";

(B) by striking "upon the Federal-aid systems,"; and

(C) by striking "on any of the Federal-aid systems".

(7) Section 114 is amended as follows:

(A) Subsection (a) is amended by (1) striking "located on a Federal-aid system" and inserting instead "constructed under this chapter" and (2) striking "117" and inserting "133".

(B) Paragraph (b)(3) is amended by striking "located on a Federal-aid system" and inserting instead "under this chapter".

(8) Section 115 is amended as follows:

(A) The title of subsection (a) is amended by striking "URBAN, SECONDARY," and inserting instead "SURFACE TRANSPORTATION PROGRAM,".

(B) Subparagraph (a)(1)(A)(i) is amended by striking "section 104(b)(2), section 104(b)(6)" and inserting instead "section 104(b)(1)".

(C) The title of subsection (b) is amended by striking "AND PRIMARY".

(D) Paragraph (b)(1) is amended (i) by striking "the Federal-aid primary system or"; (ii) by striking "104(b)(1) or"; and (iii) by striking ", as the case may be,".

(9) Section 116 is amended as follows:

(A) Subsection (a) is amended by striking "The State's obligation to the United States to maintain any such project shall cease when it no longer constitutes a part of a Federal-aid system".

(B) Subsection (b) is amended by striking "on the Federal-aid secondary system, or within a municipality," and inserting instead "within a county or municipality".

(10) Section 120 is amended as follows:

(A) Subsection (c) is amended by striking the last sentence.

(B) Subsection (f) is amended by striking "project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable on a project on such system as provided in subsections (a) and (c) of this section" and inserting instead "project on the Interstate System shall not exceed the Federal share payable on a project on that system as provided in subsection (c) of this section and any project off the Interstate System shall not exceed the Federal share payable as provided in subsection (a) of this section".

(C) Subsection (k) is amended by striking "for any Federal-aid system" and inserting instead "under section 104"; by striking ", and 155 of this title and for those priority primary routes under section 147"; and by striking "and for funds allocated under the provisions of section 155".

(D) Subsection (m) is repealed.

(11) Section 121(c) is amended by inserting "For projects obligated under section 106" in two places before the word "No"; and by striking "located on a Federal-aid system".

(12) Section 123 is amended by striking "on any Federal-aid system".

(13) Section 124 is amended by striking "of the Federal-aid systems" and inserting in lieu thereof "public roads or bridges except roads functionally classified as local or rural minor collector".

(14) Section 125 is amended as follows:

(A) Subsection (b) is amended (i) by striking "highways on the Federal-aid highway systems, including the Interstate System" and inserting instead "public roads except roads functionally classified as local or rural minor collector" and (ii) by striking "authorized on the Federal-aid highway systems, including the Interstate System" and inserting instead "authorized on public roads except roads functionally classified as local or as rural minor collector".

(B) Subsection (c) is amended by striking ", whether or not such highways, roads, or trails are on any of the Federal-aid highway systems".

(15) Section 130 is amended by striking subsections (a), (e), (f), and (h), and by renumbering the remaining sections accordingly.

(16) Section 139 is amended as follows:

(A) Subsection (a) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; and (iii) by striking "rehabilitating and reconstructing" and inserting instead "and rehabilitating".

(B) Subsection (b) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; (iii) by striking "rehabilitating and reconstructing" and inserting instead "and rehabilitating"; and (iv) by striking "section" in the last sentence and inserting instead "subsection".

(C) Subsection (c) is amended (i) by striking "on the Federal-aid primary system"; (ii) by striking "sections 104(b)(1) and" and inserting instead "section"; and (iii) by striking "restoration, and reconstruction" and inserting instead "and restoration".

(17) Section 140 is amended as follows:

(A) Subsection (a) is amended by striking "on any of the Federal-aid systems,".

(B) Subsection (c) is amended by striking "104(a)" and inserting instead "104(b)".

(18) Section 141(b) is amended by striking "on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system" and inserting instead "on public roads except roads functionally classified as local or rural minor collector".

(19) Section 152 is amended by striking subsections (d) and (e).

(20) Section 157 is amended as follows:

(A) Subsection (b) is amended (i) by striking "primary, secondary, Interstate, urban" and inserting instead "Interstate, Surface Transportation Program" and (ii) by striking the period at the end of the last sentence and inserting instead "and section 104(a) of the Surface Transportation Efficiency Act of 1991.".

(B) Subsection (d) is amended by striking "154(f) or".

(21) Paragraph (a)(2) of section 158 is amended by striking "104(b)(2), 104(b)(5), and 104(b)(6)" and inserting instead "and 104(b)(5)".

(22) Section 215 is amended as follows:

(A) Clause (2) of subsection (c) is amended by inserting at the beginning "except as provided in section 129".

(B) Subsection (e) is repealed.

(C) Subsection (f) is amended by (1) striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and by (2) striking "and provisions limiting the expenditure of such funds to the Federal-aid systems".

(23) Section 217 is amended as follows:

(A) Subsection (a) is amended by striking ", (2) and (6)", and by striking "paragraphs" and inserting in lieu thereof "paragraph".

(B) Subsection (b) is amended by striking ", (2) and (6)", and by striking "paragraphs" and inserting in lieu thereof "paragraph".

(24) Section 302(b) is amended by striking ", for the construction of projects on the Federal-aid secondary system, financed with secondary funds, and for the maintenance thereof".

(25) Section 304 is amended by striking "the Federal-aid highway systems, including the Interstate System" and inserting instead "Federal-aid highways".

(26) Section 315 is amended by striking "sections 204(d), 205(a), 206(b), 207(b), and 208(c)" and inserting instead "section 205(a)".

(27) Section 317(d) is amended by striking "on a Federal-aid system" and inserting instead "with Federal aid".

(28) Subsection (d) of section 402 is amended (A) by striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and (B) by striking "and provisions limiting the expenditure of such funds to the Federal-aid system".

(29) Subsection (g) of section 408 is amended (A) by striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and (B) by striking "and provisions limiting the expenditure of such funds to Federal-aid systems".

(b) AMENDMENTS TO THE HIGHWAY SAFETY ACT OF 1978.—Subsection (i) of section 209 of the Highway Safety Act of 1978 is amended by (1) striking "Federal-aid primary highway" and inserting instead "Surface Transportation Program" and by (2) striking "and provisions limiting the expenditure of such funds to the Federal-aid systems".

(c) AMENDMENTS TO THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—(1) Section 411 of the Surface Transportation Assistance Act of 1982 is amended as follows:

(A) Subsection (a) is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid primary system highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(B) Subsection (c) is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid Primary System highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(C) Subsection (e) is amended by striking "Federal-aid Primary System highways" and "Primary System highways" and inserting instead in two places "highways which were designated as Federal-aid Primary System highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(2) Section 412(a) of the Surface Transportation Assistance Act of 1982 is amended by striking "Federal-aid Primary System highways" and inserting instead "highways which were designated as Federal-aid Primary System highways before the enactment of the Surface Transportation Efficiency Act of 1991".

(3) Section 416 of the Surface Transportation Assistance Act of 1982 is amended as follows:

(A) Subsection (a) is amended by striking "Federal-aid highway" in two places and inserting instead "highway which was on a Federal-aid system on the date of the enactment of the Surface Transportation Efficiency Act of 1991"; and by striking "Federal-aid Primary System highway" and inserting instead "highway which was on the Federal-aid Primary System on the date of enactment of the Surface Transportation Efficiency Act of 1991".

(B) Subsection (d) is amended by striking "Federal-aid highway" and inserting instead "highway which was on a Federal-aid system on the date of the enactment of the Surface Transportation Efficiency Act of 1991".

(d) AMENDMENTS TO TITLE 42, UNITED STATES CODE.—Section 5122(8)(B) of title 42, United States Code, is amended by striking "any non-Federal-aid street, road or highway" and inserting instead "any street, road or highway not eligible for emergency relief under title 23, United States Code.".

(e) OPERATION LIFESAVER.—Whenever apportionments are made under section 104(a) of title 23, United States Code, the Secretary shall deduct such sums as the Secretary deems necessary, not to be less than $250,000 per fiscal year, for carrying out Operation Lifesaver.

(f) TECHNICAL CORRECTION TO PUBLIC LAW 101-516.—Section 333 of Public Law 101-516 is amended by—

(1) inserting the following after "SEC. 333.":

"Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Revocation or suspension of the driver's license of individuals convicted of drug offenses

"(a)(1)";

(2) by striking the second sentence of such section; and

(3) Section 104 of title 23, United States Code, is amended by inserting subsections (a)(2), (a)(3), (b) and (c) of such section as those subsections existed in title 23, United States Code, immediately prior to enactment of Public Law 101-516.

SEC. 135. RECODIFICATION.

The Secretary shall, by October 1, 1993, prepare a recodification of title 23, United States Code, related Acts and statutes and submit the recodification to the Congress for consideration.

SEC. 136. TIMBER BRIDGE AND TIMBER RESEARCH PROGRAM.

(a) The Secretary of Transportation is hereby authorized to establish a Timber Bridge Construction Discretionary Grant Program.

(1) Of the amount authorized per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 by section 103(b)(3) of the Surface Transportation Efficiency Act of 1991 (relating to the bridge program), $5,000,000 shall be available for obligation at the discretion of the Secretary for such program. The Federal share payable on any bridge construction project carried out under this section shall be 80 per centum of the cost of such construction.

(2) States may submit applications for construction grants in such form as required by the Secretary, who shall select and approve such grants based on the following criteria:

(A) bridge design shall have both initial and long term structural and environmental integrity;

(B) bridge design should utilize timber species native to the State or region;

(C) innovative design should be utilized that has the possibility of increasing knowledge, cost effectiveness, and future use of such design; and

(D) environmental practice for preservative treated timber should be utilized and construction techniques which comply with all environmental regulations.

(b) The Secretary of Transportation is hereby authorized to establish a Program of Research on Wood Use in Transportation Structures.

(1) Of the amount authorized per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 by section 103(b)(10) of the Surface Transportation Efficiency Act of 1991 (relating to Federal Highway Administration Research Programs), $1,000,000 shall be available for obligation at the discretion of the Secretary for such program. The Federal share payable on any research grant shall be 100 per centum.

(2) The Secretary of Transportation, through the Federal Highway Administration, may make grants to, or contract with States, other Federal agencies, universities, private businesses, nonprofit organizations, and any research or engineering entity for research on any one of the following areas:

(A) timber bridge systems which involve development of new, economical bridge systems;

(B) development of engineering design criteria for structural wood products which improve methods for characterizing lumber design properties;

(C) preservative systems which demonstrate new alternatives, and current treatment processes and procedures optimized for environmental quality in the application, use and disposal of treated wood.

(D) alternative transportation system timber structures demonstrating the development of applications for railing, sign, and lighting supports, sound barriers, culverts, retaining walls in highway applications, docks, fresh and salt water marine facilities and railway bridges; and

(E) rehabilitation measures which demonstrate effective, safe, reliable methods for rehabilitating existing structures.

(3) The Secretary, through the Federal Highway Administration, shall assure that the information and technology resulting from research is transferred to State and local transportation departments and other interested parties.

SEC. 137. GROSS VEHICLE WEIGHT RESTRICTION.

(a) The fourth sentence of subsection 127(a) of title 23, is amended by adding after "thereof" the following: ", other than vehicles or combinations subject to subsection (d) of this section,".

(b) GROSS VEHICLE WEIGHT.—Section 127 of title 23, United States Code, is amended by adding a new subsection (d), to read as follows:

"(d)(1) A longer combination vehicle may continue to operate if and only if the Secretary of Transportation determines that the particular longer combination vehicle configuration was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual, continuing lawful operation on or before June 1, 1991, or pursuant to section 335 of Public Law 101-516. All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991, except in Wyoming in which additional vehicle configurations not in actual operation on June 1, 1991, may be authorized by State law, unless otherwise directed, not later than the general election date in 1992, provided such vehicle configurations do not exceed 117,000 pounds gross vehicle weight and comply with the single axle, tandem axle, and bridge formula limits set forth in section 127(a) of title 23, United States Code. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311, 2312, and 2316). Any State further restricting or prohibiting the operations of longer combination vehicles shall, within 30 days, advise the Secretary of Transportation of such action and the Secretary shall publish a notice of such action in the Federal Register.

"(2) Within sixty days of the date of enactment of this Act, the Secretary shall publish in the Federal Register a complete list of those State statutes and regulations and of all limitations and conditions, including, but not limited to routing-specific configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection. No statute or regulation shall be included on the list published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual, continuing operation on or before June 1, 1991. Except as modified pursuant to the fourth sentence of paragraph (1) of this subsection, the list shall become final within a further sixty days after publication in the Federal Register. Longer combination vehicles may not operate on the National System of Interstate and Defense Highways except as provided in the list.

"(3) For purposes of this section, a longer combination vehicle is any combination of a truck tractor and two or more trailers or semitrailers which operate on the National System of Interstate and Defense Highways at a gross vehicle weight greater than eighty-thousand pounds.

"(4) Nothing in this subsection shall be construed to allow the operation on any segment of the National System of Interstate and Defense Highways of any commercial motor vehicle combination prohibited under section 411(j) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311(j)).".

(c) Section 141(b) of title 23, United States Code, is amended by adding at the end the following new sentence: "Each State shall also certify that it is enforcing and complying with section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311(j).".

SEC. 138. VEHICLE LENGTH RESTRICTION.

Section 411 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2311) is amended by adding at the end the following new subsection:

"(j)(1) No State shall allow by statute, regulation, permit, or any other means, the operation on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary, pursuant to subsection (e) of this section, of any commercial motor vehicle combination with two or more cargo carrying units (not including the truck tractor), whose cargo carrying units exceed, as determined by the Secretary—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation authorized by statute or regulations of that State on or before June 1, 1991; or

"(B) the length of the cargo carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, continuing lawful operation (including continuing seasonal operation) in that State on or before June 1, 1991.

"(2) For purposes of this subsection, the length of the cargo carrying units of a commercial motor vehicle combination is the length measured from the front of the first cargo carrying unit to the rear of the last cargo carrying unit.

"(3) Commercial motor vehicle combinations whose operations in a State are not prohibited under paragraph (1) of this subsection may continue to operate in such State on the highways described in paragraph (1) only if in compliance with, at the minimum, all State statutes, regulations, limitations, and conditions, including but not limited to routing-specific and configuration-specific designations and all other restrictions in force in such State on June 1, 1991. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of any commercial motor vehicle combination subject to this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of this section and of section 412 and section 416 (a) and (b) of this Act. Any State further restricting or prohibiting the operations of commercial motor vehicle combinations shall advise the Secretary within 30 days after such action and the Secretary shall publish a notice of such action in the Federal Register.

"(4) Within 60 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register a list of length limitations, as determined by the Secretary, applicable to commercial motor vehicle combinations operating in each State on the highways described in paragraph (1). The list shall indicate the applicable State statutes and regulations associated with such length limitations. The list shall become final within 60 days after publication in the Federal Register. Commercial motor vehicle combinations prohibited under paragraph (1) may not operate on the National System of Interstate and Defense Highways and other Federal-aid Primary System highways as designated by the Secretary. The list may be combined by the Secretary with the list required under section 127(d) of title 23, United States Code.

"(5) Nothing in this subsection shall be construed to allow the operation on any segment of the National System of Interstate and Defense Highways of any longer combination vehicle prohibited under section 127(d) of title 23, United States Code.

"(6) Nothing in this subsection shall be interpreted to affect in any way the operation of commercial motor vehicles having only one cargo carrying unit. Nor shall this subsection be interpreted to affect in any way the operation in a State of commercial motor vehicles with two or more cargo carrying units if such vehicles were in actual, continuing operation (including continuing seasonal operation) in that State on or before June 1, 1991, authorized under State statute, regulation, or lawful State permit.

"(7) As used in this subsection, 'cargo carrying unit' means any portion of a commercial motor vehicle combination (other than the truck tractor) used for the carrying of cargo, including a trailer, semitrailer, or the cargo carrying section of a single unit truck.".

SEC. 138A. NATIONAL MAXIMUM SPEED LIMIT.

(a) Section 141 of title 23, United States Code, is amended by striking subsection (a).

(b) Section 154 of title 23, United States Code, is amended to read as follows:

§ 154. National maximum speed limit

"(a) SPEED LIMIT—A State shall not have (1) a maximum speed limit on any public highway within its jurisdiction in excess of fifty-five miles per hour other than highways on the Interstate System located outside of an urbanized area, (2) a maximum speed limit on any highway within its jurisdiction on the Interstate System located outside of an urbanized area in excess of sixty-five miles per hour, (3) a maximum speed limit on any highway within its jurisdiction in excess of sixty-five miles per hour located outside of an urbanized area which is; (A) constructed to interstate standards in accordance with section 109(b) and connected to an interstate highway posted at sixty-five miles per hour; (B) a divided four-lane fully controlled access highway designed or constructed to connect to an Interstate highway posted at sixty-five miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of sixty-five miles per hour; or (C) constructed to geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and designated by the secretary as part of the Interstate System in accordance with section 139(c) or (4) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using that portion of the highway, if on November 1, 1973, that portion of the highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of that vehicle including any load thereon. Clause (4) shall not apply to any portion of a highway, during the time that the condition of the highway, weather, an accident or other condition creates a temporary hazard to the safety of traffic on that portion of a highway.

"(b) SPEED DATA.—Each State shall submit to the Secretary speed-related data as the Secretary determines by rule is necessary for each twelve-month period ending on September 30. The data shall be collected in accordance with criteria to be established by the Secretary and shall include data on citations and travel speeds on public highways with speed limits posted at or above fifty-five miles per hour.

"(c) MOTOR VEHICLE DEFINED.—As used in this section the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

"(d) CERTIFICATION.—Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with this section. The Secretary shall not approve any project under section 106 in any State which has failed to certify in accordance with this subsection. In preparing a certification under this subsection, the State shall consider the speed-related data it submits to the Secretary under subsection (b).".

SEC. 139. ROAD SEALING ON RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend funds apportioned under this section from the Highway Trust Fund for the purpose of road sealing projects.".

SEC. 140. EMERGENCY RELIEF ADVANCES.

The Secretary shall advance emergency relief funds to the State of Washington for the replacement of a bridge on the Interstate System damaged by November 1990, storms notwithstanding the provisions of section 125 of title 23, United States Code: *Provided*, - That this provision shall be subject to the Federal Share provisions of section 120, title 23, of the United States Code. The State of Washington shall repay such advances to the extent that a final court judgment declares that damage to such bridges was a result of human error.

SEC. 140A. HIGHWAY CONSTRUCTION TRAINING.

Subsection (b) of section 140 of title 23, United States Code is amended by adding at the end thereof: "Notwithstanding any other provision of law, not to exceed one-fourth of 1 per centum of funds apportioned to a State for the Surface Transportation Program or the Bridge Program, may be available to carry out this subsection upon a request by the State highway department.".

SEC. 140B. EROSION CONTROL GUIDELINES.

(a) The Secretary of Transportation shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part by this Act.

(b) Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) Guidelines developed under subsection (a) shall be consistent with the program of section 319 of the Clean Water Act and section 6217(g) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 140C. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Chapter 1, of title 23, United States Code is amended by adding the following new section at an appropriate place:

"SEC. . INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

"(a) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the domestic highway community of technological innovations abroad that could significantly improve highway transportation in the United States, to promote United States highway transportation expertise internationally, and to increase transfers of United States highway transportation technology to foreign countries. Such activities may include:

"(1) develop, monitor, assess, and domestically disseminate information about foreign highway transportation innovations that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) inform other countries about the technical quality of American highway transportation goods and services through participation in trade shows, seminars, expositions and other such activities;

"(4) offer those Federal Highway Administration technical services which cannot be readily obtained from the United States private sector to be incorporated into the proposals of United States firms undertaking foreign highway transportation projects. The costs for assistance shall be recovered under the terms of each project;

"(5) conduct studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development as of the date of enactment, and in Greece and Turkey.

"(b) COOPERATION.—The Secretary may carry out the authority granted hereby, either independently, or in cooperation with any other branch of the United States Government, State or local agency, authority, association, institution, corporation (profit or nonprofit) foreign government, multi-national institution, or any other organization or person.

"(c) FUNDS.—The funds available to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The funds shall be available for promotional materials, travel, reception and representation expenses necessary to carry out the activities authorized by this section. Reimbursements for services provided under this section shall be credited to the appropriation concerned.".

SEC. 140D. EDUCATION AND TRAINING PROGRAM.

Chapter 1 of title 23, United States Code, is amended by adding the following new section at an appropriate place.

"SEC. . EDUCATION AND TRAINING PROGRAM.

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support services that will (1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with specific road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; (2) identify, package and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and (3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance program centers. The Secretary shall provide technical and financial support for the centers.".

SEC. 140E. NATIONAL HIGHWAY INSTITUTE.

Section 321 of title 23, United States Code, is amended to read as follows:

"SEC. 321. NATIONAL HIGHWAY INSTITUTE.

"(a) ESTABLISHMENT AND AUTHORITY TO CONDUCT TRAINING.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute hereinafter referred to as the 'Institute'. The Institute shall develop and administer, in cooperation with the State transportation or highway departments, and any national or international entity, training programs of instruction for Federal Highway Administration, State and local transportation and highway department employees, State and local police, public safety and motor vehicle employees, United States citizens and foreign nationals engaged or to be engaged in highway work of interest to the United States. Programs may include, but are not limited to courses in modern developments, techniques, management, and procedures, relating to highway planning, environmental factors, acquisition of rights-of-way, relocation assistance, engineering, safety, construction, maintenance, contract administration, motor carrier activities and inspection. The Secretary shall administer the authority vested in the Secretary by this title or by any other provision of law for the development and conduct of education and training programs relating to highways through the Institute.

"(b) SET ASIDE.—Not to exceed one-fourth of 1 percent of all Surface Transportation

Program funds apportioned to a State under this title shall be available for expenditure by the State highway department for payment of not to exceed 75 percent of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) FEDERAL RESPONSIBILITY.—Education and training of Federal, State and local highway employees authorized by this section shall be provided (1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or (2) in any case where education and training are to be paid for under subsection (b) by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, institutions, individuals, and the Institute: *Provided*, That private agencies and individuals shall pay the full cost of any education and training received by them.

"(d) TRAINING FELLOWSHIPS; COOPERATION; COLLECTION OF FEES.—The Institute is authorized, subject to approval of the Secretary, to engage in all phases of contract authority for training purposes authorized by this section including but not limited to the granting of training fellowships. The Institute is also authorized to carry out its authority independently or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other national or international entity, or person. The Institute is authorized to establish and collect fees from any entity and place them in a special account for the purpose of this section.

"(e) FUNDS.—The funds required to carry out this section may be from the sums deducted for administration purposes under section 104(a). The provisions of section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), shall not be applicable to contracts or agreements made under the authority of this section. The sums provided pursuant to this subsection may be combined or held separate from the fees or memberships collected and be administered by the Secretary as a fund which shall be available until expended.

"(f) DEFINITION.—The term 'national and international entity' as used in this section is defined to mean any government or nongovernment, public or private, profit or nonprofit body, institution, corporation, agency, association, authority, State, Country, Province, City, County, local jurisdiction, or individual.".

SEC. 140F. USE OF ZEBRA MUSSELS IN INFRASTRUCTURE.

(a) Within 180 days of the date of enactment of this Act, the Secretary of Transportation shall begin studies to determine the feasibility of utilizing zebra mussels, Dreissena polymorpha, in aggregate or other materials used to construct transportation infrastructure. Within three years of the date of enactment of this Act the Secretary shall submit a report to the Congress on the feasibility of utilizing zebra mussels in aggregate or other materials used to construct transportation infrastructure. The Secretary shall continue feasibility studies beyond this date if necessary to determine long-term performance of materials incorporating zebra mussels.

(b) If the studies required under subsection (a) demonstrate the feasibility of using zebra mussels as a construction material, beginning four years after the enactment of this Act, the Secretary of Transportation shall make no grant to any State under title 23 of the United States Code, other than projects or grants that will result in a significant reduction in or avoidance of accidents, for any year unless the State shall have submitted to the Secretary a certification that zebra mussels have been utilized in construction of transportation infrastructure in all applications in which any increase in cost due to using zebra mussels is equal to or less than the cost of disposal of the zebra mussels in conformance with all applicable environmental regulations. The Secretary may establish a phase-in period, not to extend beyond the date seven years after the date of enactment of this Act, if the Secretary determines that such a phase-in period is necessary to establish technology or production facilities for utilizing zebra mussels in transportation infrastructure applications.

(c) The Secretary may set aside the provisions of this section for any three-year period on a determination that there is reliable evidence indicating—

(1) that zebra mussels do not perform satisfactorily as a material for the construction or surfacing of roads or other infrastructure construction applications; or

(2) that utilization of zebra mussels results in increased risk to the safety of motorists, construction workers, or maintenance personnel.

(d) Any determination made to set aside the requirements of this section may be renewed for an additional three-year period by the Secretary. Any determination made with respect to subsection (c) may be made for specific States or regions considering climate, geography, and other factors that may be unique to the State or region.

(e) The Secretary, at the request of a State, may exclude a certain percentage of the federally assisted highways in such State from these requirements, if the Secretary determines that there is not a sufficient volume of zebra mussels in the waters within or contiguous to the State to constitute a nuisance.

SEC. 140G. INFRASTRUCTURE INVESTMENT COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established the Commission to Promote Investment in America's Infrastructure (hereafter referred to as the "Commission").

(b) COMPOSITION.—(1) The Commission shall be composed of seven members appointed as follows:

(A) two members appointed by the Majority Leader of the Senate;

(B) two members appointed by the Speaker of the House of Representatives;

(C) one member appointed by the President of the United States;

(D) one member appointed by the Minority Leader of the Senate; and

(E) one member appointed by the Minority Leader of the House of Representatives.

(2) Individuals appointed to the Commission shall have appropriate backgrounds in finance, construction lending, actuarial disciplines, pensions, and infrastructure policy disciplines.

(c) FUNCTION OF COMMISSION.—It shall be the function of the Commission to conduct a study for the purpose of determining the feasibility and desirability of creating a type of infrastructure security which would permit the investment of pension funds in funds utilized to design, plan, and construct infrastructures in the United States. The Commission can include recommendations as to private sector as well as other recommendations for innovating public policy alternatives to assist infrastructure investment at all levels of government.

(d) REPORT.—Within 180 days following the date of the enactment of this Act, the Commission shall report its findings and recommendations to the Congress and to the President of the United States.

(e) EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem, in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(f) COMMISSION STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairman may—

(1) appoint and fix compensation of an executive director, a general counsel, and such additional staff as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent for the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(g) AUTHORIZATION.—There is authorized to be appropriated for the purposes of carrying out this section such sums as may be necessary for the Commission to carry out its functions.

(h) TERMINATION.—Effective 180 days following the date of submission of the report under subsection (d), this section shall be deemed repealed.

SEC. 140H. REGULATORY INTERPRETATION.

Section 635.410 of title 23, Code of Federal Regulations, and any similar regulation, ruling, or decision shall be applied as if to include coating.

SEC. 140I. CLEAR GASOLINE REQUIREMENT.

No refiner may enter into the common carrier pipeline system any gasoline that would preclude the addition of a legally waivered fuel or fuel additive unless the gasoline contains a legally waivered fuel or fuel additive in a quantity sufficient to meet the requirements of regulations issued pursuant to section 211 of the Clean Air Act (42 U.S.C. 7545).

SEC. 140J. NATIONAL DEFENSE HIGHWAYS.

(a) Upon certification by the Secretary, after consultation with the Secretary of Defense, that a particular highway or portion of such highway, located outside the territory of the United States, is important to the national defense, up to $20,000,000, as determined by the Secretary, shall be made available for the purposes of this section in fiscal year 1993, 1994, 1995, and 1996, from the Interstate Construction Program funds authorized under section 103(b)(5) of this Act.

(b) Funds made available under this section shall be available only for the reconstruction of any highway or portion thereof certified under subsection (a), and shall remain available until expended.

SEC. 140K. ALLOCATION FORMULA STUDY.

(a) The General Accounting Office in conjunction with the Bureau of Transportation Statistics created pursuant to section 115 of this Act, shall conduct a thorough study and recommend to the Congress within two years after the date of enactment a fair and equitable apportionment formula for the allocation of Federal-aid highway funds that best directs highway funds to the places of greatest need for highway maintenance and enhancement based on the extent of these highway systems, their present use, and increases in their use.

(b) The results of this study shall be presented to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on or before January 1, 1994, and shall be considered by these committees as they reauthorize the surface transportation program in 1996.

SEC. 140L. STORM WATER PERMIT REQUIREMENTS.

(a) Notwithstanding the requirements of sections 402(p)(2) (B), (C), and (D) of the Federal Water Pollution Control Act, the Administrator of the Environmental Protection Agency shall not—

(1) require any municipality with a population of less than 100,000 to submit any part I general permit application or individual application (as described in a rulemaking published in the Federal Register on November 16, 1990) for a storm water discharge associated with any airport, powerplant or uncontrolled sanitary landfill owned or operated by the municipality prior to May 18, 1992 or any part II general permit application for such discharge prior to May 18, 1993, unless such permit is required by sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act;

(2) require any municipality with a population of less than 100,000 to submit any permit application for a storm water discharge associated with any industrial activity other than an airport, powerplant or uncontrolled sanitary landfill owned or operated by the municipality prior to October 1, 1992, unless such permit is required pursuant to sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act, and any deadlines established pursuant to regulation or Public Law 102-27 associated with such permit application requirements shall be delayed until after such date;

(3) enforce the requirements of any permit issued to a municipality with a population of 100,000 or greater solely for storm water discharges, other than permits associated with industrial activities owned or operated by the municipality and permits required by sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act, prior to October 1, 1992.

(b) For purposes of this section an uncontrolled sanitary landfill is a landfill or open dump, whether in operation or closed, which does not meet the requirements for run-on and run-off controls established pursuant to subtitle D of the Solid Waste Disposal Act.

(c) This section shall not be interpreted, construed or applied to affect any permit requirement or application deadlines for a storm water discharge established pursuant to sections 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act or any permit for a storm water discharge associated with an industrial activity not owned or operated by a municipality.

(d) The Administrator shall modify permit application deadlines applicable to storm water discharges associated with industrial activities owned or operated by municipalities with populations of 100,000 or greater to assure that such deadlines are coincident with application deadlines for systemwide permits required for such municipalities and associated with storm water discharges from other than industrial facilities.

SEC. 140M. INVESTIGATION AND REPORT.

(a) The Secretary of Transportation shall conduct an investigation into the feasibility of prescribing rules with respect to multilane, limited access, Federal-aid highways to do the following:

(1) Prohibit trucks weighing in excess of 10,000 pounds gross weight from using the furthest left lane.

(2) Restrict all such trucks to the furthest right lane, except that such trucks may use the lane adjacent to the furthest right lane to pass.

(b) In conducting the investigation described in subsection (a), the Secretary of Transportation shall consider innovative ways to separate truck traffic from other vehicle traffic on highways taking into consideration the effect on safety, congestion management, other relevant issues, and the cost of each such innovation.

(c) The Secretary of Transportation shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report setting forth the findings of the study conducted under subsection (a), within one year from the date of enactment of this Act.

SEC. 140N. REPORT ON THE USE OF OXYGENATED FUELS IN CERTAIN CITIES AND METROPOLITAN STATISTICAL AREAS.

Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, and in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Congress a report on the feasibility and effectiveness of requiring, during the period from October 1 through March 31, in all cities and metropolitan statistical areas (as established by the Office of Management and Budget) with a population of 250,000 or more, the use of oxygenated fuels (with a percentage of 2.7 or greater).

SEC. 140O. YOUTH JOBS HIGHWAY BEAUTIFICATION PROGRAM.

(a) AUTHORITY.—A State may use not to exceed 0.2 percent of the amounts appropriated to such State under section 104 of title 23, United States Code, to establish a State program to employ eligible economically disadvantaged individuals during the employment period to perform highway landscaping and beautification activities.

(b) ELIGIBLE ECONOMICALLY DISADVANTAGED INDIVIDUALS.—To be eligible to be employed under a State program established under subsection (a), an individual shall—

(1) have an income, or be a member of a family with a family income, that is below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) for an individual or a family of similar size; and

(2) be a resident of the State.

Preference shall be given to individuals meeting the requirements of this subsection who are between the ages of 18 and 20.

(c) EMPLOYMENT ACTIVITIES.—Individuals may be employed under a State program established under subsection (a) to perform highway landscaping and beautification activities within the State that may include—

(1) activities directed at improving the scenic landscaping at highway rights-of-way and rest areas;

(2) trash pick-up and collection activities along roadsides;

(3) participation in programs related to traveler information (including signage); and

(4) other appropriate activities.

(d) ADMINISTRATION.—

(1) STATE CONTRIBUTION.—To be eligible to use the amounts referred to in subsection (a) to establish a State program, a State shall agree, with respect to the costs incurred by the State in carrying out such program, to make available (directly or through donations from public or private entities) non-Federal contributions towards such costs in an amount equal to 5 percent of such costs.

(2) LIMITATION.—A State shall not use in excess of 5 percent of amounts made available to such State under subsection (a) to administer the State program.

(3) FEDERAL OVERSIGHT.—The State official responsible for administering the program established by the State under subsection (a) shall annually prepare and submit to the Secretary of Transportation a report containing a description of such program, including—

(A) the costs incurred in implementing such program;

(B) the number of individuals employed under such program; and

(C) the types of activities performed by such individuals.

(e) NONDISPLACEMENT AND GRIEVANCE PROCEDURE.—The grievance procedures and nondisplacement requirements contained in sections 176(f) and 177(b) of the National and Community Service Act of 1990 shall apply to State programs established under this section, insofar as they are applicable, except that all references to "this title" in such sections shall be deemed to be a reference to this section.

(f) EMPLOYMENT PREFERENCE.—For the purposes of employing individuals pursuant to a program established under subsection (a), each State shall give preference to individuals who were formerly employed by such State, and who suffered loss of employment, within the previous year for reasons other than cause.

SEC. 140P. INTERSTATE TRANSPORTATION AGREEMENTS AND COMPACTS.

CONSENT AND APPROVAL OF CONGRESS.—The consent and approval of Congress are hereby given to the several States to negotiate, enter into, and carry out agreements or compacts for the purpose of establishing policies and priorities, including allocation of funds, to resolve interstate highway and bridge problems of regional significance identified by metropolitan planning organizations.

SEC. 140Q. SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 E-W Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a), the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.

(c) LIMITATION ON ELIGIBILITY.—If, by October 1, 1993, or two years after the date of enactment of this Act, whichever is later, the Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I-94 E-W Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under section 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(5) FUNDING PROVISIONS FOR SUBSTITUTE PROJECTS.—Notwithstanding any other provision of law, the source of funding for any transit substitute projects approved under subsection (a) shall be the Mass Transit Account of the Highway Trust Fund. All other funding provisions for any approved substitute projects shall be as provided in section 103(e)(4) of title 23, United States Code.

(e) TRANSFER OF APPORTIONMENTS.—Wisconsin may transfer Interstate construction apportionments to its national highway system in amounts equal to or less than the costs for additional work on sections of the Interstate System that have been built with Interstate construction funds and that are open to traffic as shown in the 1991 Interstate cost estimate.

SEC. 140R. MONTANA-CANADA TRADE.

The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana: *Provided*, That such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

SEC. 140S. LEVEL OF EFFORT APPORTIONMENT BONUSES.

(a) AMENDMENT TO TITLE 23.—(1) Chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 159. Level of effort apportionment bonuses

"(a) The Secretary shall, for fiscal years beginning with fiscal year 1993, determine each State's total annual apportionment under sections 133 (relating to the Surface Transportation Program), 144 (relating to the Bridge Program), and 119 (relating to the Interstate Maintenance Program) and shall use that total in calculating the bonus apportionments authorized by this section.

"(b) The Secretary shall, subject to the availability of appropriations, make an apportionment to each State in which the rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, with a bonus apportionment equal to the lesser of—

"(1) five percent of its total annual apportionment under sections 133, 144, and 119 of this title for each of fiscal years 1993, 1994, 1995, and 1996; or

"(2) the percentage by which that State's rate of tax on gasoline exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia, multiplied by its total annual apportionment under sections 133, 144, and 119 of this title.

"(c)(1) The Secretary shall, subject to the availability of appropriations, make a bonus apportionment to each State equal to its total annual apportionment under sections 133, 144, and 119 of this title, multiplied by the percentage by which that State's rate of tax on gasoline, as of July 1 preceding the beginning of the fiscal year, exceeds the average rate of tax on gasoline levied by the fifty States and the District of Columbia as of such date, minus an amount which is the product of that total annual apportionment and the percentage by which that State's per capita disposable income exceeds the average per capita disposable income in the fifty States and the District of Columbia, calculated for the calendar year preceding the year in which the fiscal year begins. The bonus apportionment made to any State under this section shall be reduced by any amount provided under subsection (b).

"(2) For purposes of paragraph (1), the per capita disposable income of a State or the District of Columbia for any calendar year is such income as is determined by the Bureau of Economic Analysis of the Department of Commerce.

"(d) If the aggregate apportionments under this section in any fiscal year exceed the authorization of appropriations for such year, there shall be a pro rata reduction for that fiscal year of the apportionments to the extent of such excess.

"(e) The Federal share payable of the costs of projects carried out with apportioned funds under this section may not exceed 80 percent.

"(f) For purposes of this section, the term 'tax on gasoline' means a tax that is—

"(1) imposed by and administered by a State; and

"(2) uniform as to rate and based upon identical transactions in all geographical areas of such State.

"(g) Funds authorized to be appropriated for bonus apportionment under this section shall be available only for projects authorized under chapter 1 of this title, including provisions which provide contract authority.".

(2) The table of sections for chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 158 the following new item:

"159. Level of effort apportionment bonuses.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for payment of the bonus apportionments authorized by section 159 of title 23, United States Code, the following amounts for the following fiscal years:

(A) For fiscal year 1993, $390,500,000.

(B) For fiscal year 1994, $943,000,000.

(C) For fiscal year 1995, $1,138,500,000.

(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(c) ADDITIONAL DONOR STATE BONUS AMOUNTS.—(1) There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the payment of additional donor State bonus amounts the following amounts for the following fiscal years:

(A) For fiscal year 1993, $390,500,000.

(B) For fiscal year 1994, $943,000,000.

(C) For fiscal year 1995, $1,138,500,000.

(D) For fiscal year 1996, $1,638,500,000.

(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(3)(A) The additional amount provided under this subsection for a fiscal year shall be apportioned only after bonus apportionments under section 159 of title 23, United States Code, to the extent of their availability, have first been made to the States.

(B) The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring each successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

(C) The additional apportionment under this subsection shall be subject to the provisions of chapter 1 of title 23, United States Code, including provisions which provide contract authority.

(d) OBLIGATION LIMITATIONS.—(1)(A) Notwithstanding section 104 of this Act, for each of the fiscal years 1993, 1994, 1995 and 1996, the Secretary shall distribute among the States the limitations imposed by section 104(a) of this Act by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways (other than sums authorized for section 159 of title 23, United States Code and sums authorized by subsection (c) of this section) which are apportioned or allocated to each State for such fiscal year bear to the total of such sums authorized to be appropriated for Federal-aid highways which are apportioned or allocated to all the States for such fiscal year until 100 percent has been distributed.

(B) The Secretary shall distribute the limitation remaining after the distribution in subparagraph (A) among the States entitled to apportionments of sums authorized by section 159 of title 23, United States Code, and sums authorized by subsection (c) of this section, in the ratio which such apportionments and allocations for each such State bear to the total of such apportionments and allocations for all such States.

(2) Whenever the limitation made available for a fiscal year is insufficient to provide 100 percent of the distribution under paragraph (1)(B), then—

(A) 50 percent of such insufficient limitation shall be deducted from the limitation that would be received for section 159 of title 23, United States Code, and

(B) 50 percent of such insufficient limitation shall be deducted from the limitation that would be received under subsection (c) of this section.

(e) INAPPLICABILITY OF OBLIGATION LIMITATION TO EMERGENCY RELIEF.—Limitations in section 104 of this Act shall not apply to obligations for emergency relief pursuant to section 125 of title 23, United States Code.

(f) DEFINITION.—For purposes of this section, the term "State" has the meaning given to such term in section 101 of title 23, United States Code.

SEC. 140T. NATIONAL POLICY FOR INFRASTRUCTURE REUSE.

(a) STUDY AND REPORT.—(1) Section 307 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) Not later than 12 months after the date of the enactment of the Surface Transportation Efficiency Act of 1991, the Secretary shall conduct a study of methods of facilitating the reuse of industrial manufacturing facilities.

"(2) In conducting the study described in paragraph (1), the Secretary shall consult with the heads of such departments and agencies of the Federal Government as the Secretary determines to be appropriate to ascertain regulatory, technical and other problems or constraints associated with the reuse of industrial manufacturing facilities.

"(3) Upon completion of the study described in paragraph (1), the Secretary shall submit a report to the appropriate committees of Congress on the findings of the study, including a summary of any information submitted to the Secretary by the head of a department or agency pursuant to paragraph (2).

"(4) For fiscal year 1992, an amount not to exceed $200,000 shall be taken out of the administration and research funds authorized by section 104 of this title for the purpose of carrying out the provisions of this subsection.".

(2) Section 104 of title 23, United States Code, is amended by striking "authorized by subsections (a) and (b) of section 307" and inserting "authorized by subsections (a), (b), and (g) of section 307".

SEC. 140U. DECLARATION OF NONNAVIGABILITY OF PORTION OF HUDSON RIVER, NEW YORK.

(a) DECLARATION OF NONNAVIGABILITY.—

(1) IN GENERAL.—Subjection to subsections (b), (c) and (d), the area described in paragraph (2) is declared to be nonnavigable waters of the United States.

(2) AREA DESCRIBED.—The area referred to in paragraph (1) is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York).

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918,003 west 9806,753:

(1) Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44′-20″ east, having a radius of 390.00 feet and a central angle of 22°-05′-50″, 150.41 feet to a point of tangency;

(2) Thence north 71°-38′-30″ east, 42.70 feet;

(3) Thence south 11°-05′-40″ east, 33.45 feet;

(4) Thence south 78°-54′-20″ west, 0.50 feet;

(5) Thence south 11°-05′-40″ east, 2.50 feet;

(6) Thence north 78°-54′-20″ east, 0.50 feet;

(7) Thence south 11°-05′-40″ east, 42.40 feet to a point of curvature;

(8) Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 18°-37′-40″, 83.85 feet to a point of compound curvature;

(9) Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°-39′-00″, 101.19 feet to another point of compound curvature;

(10) Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°-32′-03″, 97.89 feet to a point of curve intersection;

(11) Thence south 13°-16′-57″ east, 50.86 feet to a point of curve intersection;

(12) Thence westerly, on the arc of a circle curving to the left, whose radial bears north 13°-16′-57″ west, having a radius of 6.00 feet and a central angle of 180°-32′-31″, 18.91 feet to a point of curve intersection;

(13) Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°-37′-11″ east, having a radius of 313.40 feet and a central angle of 4°-55′-26″, 26.93 feet to a point of curve intersection;

(14) Thence south 70°-41′-48″ west, 36.60 feet;

(15) Thence north 13°-45′-00″ west, 42.87 feet;

(16) Thence south 76°-15′-00″ west, 15.00 feet;

(17) Thence south 13°-45′-00″ east, 44.33 feet;

(18) Thence south 70°-41′-45″ west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936;

(19) Thence north 63°-08′-48″ west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein;

(20) Thence north 81°-08′-00″ west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet;

The following three courses being along the lines of George Sollan Park as shown on map prepared by the city of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B. P. C. Development Corp.

(21) Thence north 77°-35′-20″ east, 231.35 feet;

(22) Thence north 12°-24′-40″ west, 33.82 feet;

(23) Thence north 54°-49′-00″ east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941;

(24) Thence north 12°-24′-40″ west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.28 feet to the point or place of beginning.

(b) DETERMINATION OF PUBLIC INTEREST.—The declaration made in subsection (a)(1) shall not take effect if the Secretary of the Army (acting through the Chief of Engineers), using reasonable descretion, finds—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project, and

(2) after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed project is not in the public interest.

(c) LIMITATION ON APPLICABILITY OF DECLARATION.—

(1) AFFECTED AREA.—The declaration made in subsection (a)(1) shall apply only to those portions of the area described in subsection (a)(2) which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) APPLICATION OF OTHER LAWS.—Notwithstanding subsection (a)(1), all activities conducted in the area described in subsection (a)(2) are subject to all Federal statutes and regulations which may otherwise be applicable to such activities, including as may be applicable—

(A) sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401, 403), commonly known as the River and Harbors Appropriation Act of 1899,

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1254), and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(d) EXPIRATION DATE.—The declaration made in subsection (a)(1) shall expire—

(1) on the date which is 6 years after the date of enactment of this Act if work on the proposed project to be performed in the area described in subsection (a)(2) is not commenced before that date, and

(2) on the date which is 20 years after the date of the enactment of this Act, for any portion of the area described in subsection (a)(2) which on that date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(e) PROPOSED PROJECT DEFINED.—For purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

(1) the structure located in the area described in subsection (a)(2) and commonly referred to as Pier A; and

(2) the area surrounding that structure.

SEC. 140V. SENSE OF THE SENATE.

It is the sense of the Senate that the conferees on this Act should consider section 159 of title 23, United States Code as it appears in amendment No. 295 as amended so as to determine each State's total apportionments under section 159 of title 23, United States Code, in a way that reflects each State's total effort for highways as described in amendment No. 334, and including each State's ability to finance its total effort for highways, as measured by its per capita disposable income as compared to the average State per capita disposable income, as well as taking into account the effect of such apportionment formula on energy conservation, energy security, and environmental quality.

PART B—NATIONAL RECREATIONAL TRAILS FUND ACT

SEC. 141. SHORT TITLE.

This part may be cited as the "National Recreational Trails Fund Act of 1991".

SEC. 142. CREATION OF NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Recreational Trails Trust Fund', consisting of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available for making expenditures to carry out the purposes of the National Recreational Trails Fund Act of 1991.".

(b) DEPOSIT OF UNREFUNDED HIGHWAY TRUST FUND MONEYS.—Section 9503(c) of the Internal Revenue Code of 1986 (relating to Highway Trust Fund) is amended by adding at the end thereof the following new paragraph:

"(6) TRANSFERS FROM THE TRUST FUND FOR NONHIGHWAY RECREATIONAL FUEL TAXES.—

“(A) TRANSFER TO NATIONAL RECREATIONAL TRAILS TRUST FUND.—The Secretary shall annually pay from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by the Secretary) equivalent to 0.3 per centum of total Highway Trust Fund receipts, as adjusted by the Secretary pursuant to subparagraph (B).

“(B) ADJUSTMENT OF PERCENTAGE.—

“(i) FIRST YEAR.—Within 1 year after the date of enactment of this Act, the Secretary shall, based on studies of nonhighway recreational fuel usage in the various States, adjust the percentage of receipts paid into the National Recreational Trails Trust Fund to correspond to the revenue received from nonhighway recreational fuel taxes.

“(ii) SUBSEQUENT YEARS.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received from nonhighway recreational fuel taxes.

“(iii) AMOUNT OF ADJUSTMENT.—The amount of an adjustment in the percentage stated in clause (ii) shall be not more than 10 per centum of that percentage in effect at the time the adjustment is made.

“(iv) USE OF DATA.—The Secretary shall make use of data on off-highway recreational vehicle registrations and use in making adjustments under clauses (i) and (ii).

“(C) DEFINITIONS.—For the purposes of this paragraph—

“(i) NONHIGHWAY RECREATIONAL FUEL TAXES.—The term ‘nonhighway recreational fuel taxes’ means the taxes under sections 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to fuel used as nonhighway recreational fuel.

“(ii) NONHIGHWAY RECREATIONAL FUEL.—The term ‘nonhighway recreational fuel’ means—

“(I) fuel used in vehicles and equipment on recreational trails or back country terrain, including use in vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain; and

“(II) fuel used in campstoves and other outdoor recreational equipment.”.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

“Sec. 9511. National Recreational Trails Trust Fund.”.

SEC. 143. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) IN GENERAL.—The Secretary, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing and maintaining recreational trails.

(b) STATEMENT OF INTENT.—Moneys made available under this Act are to be used on trails and trail-related projects which have been planned and developed under the otherwise existing laws, policies and administrative procedures within each State, and which are identified in, or which further a specific goal of, a trail plan included or referenced in a Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act.

(c) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is three years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) PERMANENT PROVISION.—On and after the date that is three years after the date of enactment of this Act, a State shall be eligible to receive moneys under this Act only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails;

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this Act as provided in subsection (e).

(d) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 per centum of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this Act;

(B) paying expenses of the National Recreational Trails Advisory Committee;

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this Act; and, if any such funds remain unexpended, for—

(D) research on methods to accommodate multiple trail uses and increase the compatibility of those uses, information dissemination, technical assistance, and preparation of a national trail plan as required by the National Trails System Act (16 U.S.C. 1241 et al).

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 per centum of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 per centum of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off-highway vehicle registrations in each State.

(3) LIMITATION ON OBLIGATIONS.—The provisions of paragraphs (1) and (2) notwithstanding, the total of all obligations for recreational trails under this section shall not exceed—

(A) $30,000,000 for fiscal year 1992;

(B) $50,000,000 for fiscal year 1993;

(C) $54,000,000 for fiscal year 1994;

(D) $56,000,000 for fiscal year 1995;

(E) $56,000,000 for fiscal year 1996;

(e) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this Act for—

(A) in an amount not exceeding 7 per centum of the amount of moneys received by the State, administrative costs of the State;

(B) in an amount not exceeding 5 per centum of the amount of moneys received by the State, operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) development of urban trail linkages near homes and workplaces;

(D) maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) restoration of areas damaged by usage of recreational trails and back country terrain;

(F) development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee;

(G) provision of features which facilitate the access and use of trails by persons with disabilities;

(H) acquisition of easements for trails, or for trail corridors identified in a State trail plan;

(I) acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown; and

(K) only as otherwise permissable, and where necessary and required by a State Comprehensive Outdoor Recreation plan, construction of new trails crossing Federal lands, where such construction is approved by the administering agency of the State, and the Federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this Act for—

(A) condemnation of any kind of interest in property; or

(B)(i) construction of any recreational trail on National Forest System lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Forest land and resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved land and resource management plan;

(ii) construction of any recreational trail on Bureau of Land Management lands for motorized uses unless such lands:

(I) have been allocated for uses other than wilderness by an approved Bureau of Land Management resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved management plans; and

(C) upgrading, expanding or otherwise facilitating motorized use or access to trails predominantly used by non-motorized trail users and on which, as of May 1, 1991, motorized use is either prohibited or has not occurred.

(3) GRANTS.—

(A) IN GENERAL.—A State may provide moneys received under this Act as grants to private individuals, organizations, city and county governments, and other government entities as approved by the State after considering guidance from the recreational trail advisory board satisfying the requirements of section 143(c)(2)(A), for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (8)(B), not less than 30 per centum of the moneys received annually by a State under this Act shall be reserved for uses relating to motorized recreation, and not less than 30 per centum of those moneys shall be reserved for uses relating to non-motorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this Act in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (g)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain effective until such time as a State has allocated not less than 40 per centum of moneys received under this Act in the aforementioned manner.

(B) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of section 143(c)(2)(A).

(6) SMALL STATE EXCLUSION.—Any State with a total land area of less than three million five hundred thousand acres, and in which nonhighway recreational fuel use accounts for less than 1 per centum of all such fuel use in the United States, shall be exempted from the requirements of paragraph (4) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) CONTINUING RECREATIONAL USE.—At the option of each State, moneys made available pursuant to this Act may be treated as Land and Water Conservation Fund moneys for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act.

(8) RETURN OF MONEYS NOT EXPENDED.—(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within four years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) If approved by the State recreational trail advisory board satisfying the requirements of section 143(c)(2)(A), may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes otherwise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(f) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreation trail pursuant to this Act is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (e). Nothing in this Act diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(g) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (c).

(2) FUND.—The term "Fund" means the National Recreational Trails Trust Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6)(C)(ii) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activity and vehicular travel by motorcycle, four-wheel drive or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) MOTORIZED RECREATION.—The term "motorized recreation" may not include motorized conveyances used by persons with disabilities, such as self-propelled wheelchairs, at the discretion of each State.

SEC. 144. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be eleven members of the advisory committee, consisting of—

(1) Eight members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) Hiking,
(B) Cross country skiing,
(C) Off-highway motorcycling,
(D) Snowmobiling,
(E) Horseback riding,
(F) All terrain vehicle riding,
(G) Bicycling,
(H) Four-wheel driving;

(2) an appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary;

(3) one member appointed by the Secretary from nominations submitted by water trail user organizations; and

(4) one member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) CHAIRMAN.—The Chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least five of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of three years, except that the members filling five of the eleven positions shall be initially appointed for terms of two years, with subsequent appointments to those positions extending for terms of three years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trailside and trail-head facilities that qualify for funding under this Act; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this Act.

(g) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) REIMBURSEMENT FOR EXPENSES.—Nongovernmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 143(d)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) REPORT TO CONGRESS.—Not later than four years after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this Act, and contains recommendations for changes in Federal policy to advance the purposes of this Act.

PART C—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT

SEC. 151. SHORT TITLE.

This Part may be cited as the "Intelligent Vehicle-Highway Systems Act of 1991".

SEC. 152. PURPOSE AND SCOPE.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation (hereinafter referred to in this title as the "Secretary") shall conduct a program to promote and facilitate the implementation of Intelligent Vehicle-Highway Systems as a component of the Nation's surface transportation systems. The goals of such program shall include, but not be limited to—

(1) the widespread implementation of Intelligent Vehicle-Highway Systems to enhance the capacity, efficiency, and safety of the Federal-aid highway system, including as an alternative to additional physical capacity of that system;

(2) the enhancement, through more efficient use of the Federal-aid highway system, of the efforts of the several States to attain air quality goals, as established by the Administrator of the Environmental Protection Agency pursuant to the Clean Air Act (42

U.S.C. 7401 et seq.), as amended by Public Law 101–549 (104 t. 2399);

(3) the enhancement of safe and efficient operation of the Nation's highway systems;

(4) the development and promotion of Intelligent Vehicle-Highway Systems and an Intelligent Vehicle-Highway Systems industry in the United States, utilizing authority provided under section 307 of title 23, United States Code;

(5) the reduction of societal, economic, and environmental costs associated with traffic congestion;

(6) the enhancement of United States industrial and economic competitiveness and productivity, by improving the free flow of people and commerce, and by establishing a significant United States presence in an emerging field of technology;

(7) the development of a technology base for Intelligent Vehicle-Highway Systems and the establishment of the capability to perform demonstration experiments, utilizing existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

(b) COORDINATION.—The Secretary shall lead and coordinate an Intelligent Vehicle-Highway Systems program and shall foster its use as a key component of the Nation's surface transportation systems. As appropriate, the Secretary shall consult with the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other interested Federal departments and agencies, in carrying out the purposes of this title. The Secretary shall strive to transfer federally owned or patented technology to State and local governments and to the United States private sector. As appropriate, the Secretary shall maximize the involvement of the United States private sector, colleges and universities, and State and local governments in aspects of such programs, including design, conduct (including operations and maintenance), evaluation, and financial or in-kind participation.

(c) STANDARDS.—The Secretary shall develop and implement standards and protocols to promote the widespread use and evaluation of Intelligent Vehicle-Highway Systems technology as a component of the Nation's surface transportation systems. To the extent practicable, such standards and protocols shall promote compatibility among Intelligent Vehicle-Highway Systems technologies implemented throughout the several States. The Secretary is authorized to make use of existing standards-setting organizations as the Secretary determines appropriate.

(d) EVALUATION.—The Secretary shall establish guidelines and requirements for the evaluation of field and related operational tests carried out pursuant to section 155 of this Act.

(e) INFORMATION CLEARINGHOUSE.—The Secretary shall establish a repository for technical and safety data collected as a result of federally sponsored projects pursuant to this title, and shall make such information readily available, upon request, at an appropriate cost to all users, except for proprietary information and data. In carrying out the requirements of this subsection, the Secretary may delegate this responsibility, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation. For the purposes of carrying out the requirements of this subsection, such entity would be eligible for Federal aid, as specified in this title.

SEC. 153. ADVISORY COMMITTEE.

The Secretary is authorized to utilize one or more advisory committees in carrying out his responsibilities under this title. Any advisory committee so utilized shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and funding provided for any such committee shall be available from monies appropriated for advisory committees as specified in relevant appropriations Acts, and from funds allocated for research, development, and implementation activities in connection with the Intelligent Vehicle-Highway Systems program under this title.

SEC. 154. STRATEGIC PLAN, IMPLEMENTATION, AND REPORT TO CONGRESS.

(a) STRATEGIC PLAN.—

(1) STRATEGIC PLAN.—Not later than twelve months following the date of the enactment into law of this title, the Secretary shall formulate, and submit to Congress, a strategic plan for the Intelligent Vehicle-Highway Systems program under this title.

(2) SCOPE OF STRATEGIC PLAN.—In preparing such plan, the Secretary shall—

(A) specify the goals, objectives, milestones of such program and how specific projects relate to these, including consideration of the five-, ten-, and twenty-year timeframes for specified goals and objectives;

(B) detail the status and challenges and non-technical constraints facing the program;

(C) chart a course of action necessary to achieve the program's goals and objectives;

(D) provide for the development of standards and protocols to promote and ensure compatibility in the implementation of Intelligent Vehicle-Highway Systems technologies; and

(E) provide for the accelerated use of advanced technology to reduce traffic congestion along heavily populated and traveled corridors.

(b) IMPLEMENTATION REPORTS.—

(1) IMPLEMENTATION REPORTS.—Not later than twenty-four months after the date of enactment of this title, and annually thereafter, the Secretary shall submit to the Congress a report on the implementation of the strategic plan required in subsection (a) of this section.

(2) SCOPE OF IMPLEMENTATION REPORTS.—In preparing such report, the Secretary shall—

(A) analyze the possible and actual accomplishments of Intelligent Vehicle-Highway Systems projects in achieving congestion, safety, environmental, and energy conservation goals, as described in this title;

(B) specify cost-sharing arrangements made, including the scope and nature of Federal investment, in any research, development, or implementation project under such program;

(C) assess non-technical problems and constraints identified as a result of each such implementation project; and

(D) include, if appropriate, any recommendations for legislation or modification to the strategic plan required in subsection (a) of this section.

(c) REPORT TO CONGRESS.—

(1) REPORT TO CONGRESS.—In cooperation with the Attorney General and the Secretary of Commerce, the Secretary shall prepare and submit, within twenty-four months following the date of enactment of this title, a report to Congress addressing the non-technical constraints and barriers to all aspects of the innovation of such program under this title.

(2) SCOPE OF REPORT TO CONGRESS.—In preparing such report, the Secretary shall—

(A) address antitrust, privacy, educational and staffing needs, patent, liability, standards and other constraints, barriers, or concerns relating to such program;

(B) recommend legislation and other administrative action necessary to further the Intelligent Vehicle-Highway Systems program under this title; and

(C) address ways to further promote industry and State and local government involvement in such program.

(3) UPDATE OF REPORT.—Within five years following such date of enactment, the Secretary shall prepare an update of such report.

SEC. 155. TECHNICAL, PLANNING, AND PROJECT ASSISTANCE.

(a) TECHNICAL ASSISTANCE AND INFORMATION.—The Secretary is authorized to provide planning and technical assistance and information to State and local governments seeking to use and evaluate Intelligent Vehicle-Highway Systems technologies. In doing so, the Secretary shall assist State and local officials in developing provisions for implementing areawide traffic management control centers, necessary laws to advance such systems, the infrastructure for such existing and evolving systems, and other necessary activities to carry out the Intelligent Vehicle-Highway Systems program under this title.

(b) PLANNING GRANTS.—Subject to the availability of funds, the Secretary is authorized to make grants for feasibility and planning studies to be conducted by State and local governments. Such grants shall be made at such time, in such amounts, and subject to such conditions as the Secretary may determine.

(c) TRAFFIC MANAGEMENT SYSTEMS.—Any interagency traffic and incident management entity, including independent public authorities or agencies, contracted to a State department of transportation for the implementation of traffic management systems of designated corridors, is eligible to receive Federal transportation funds under this title through the appropriate State department of transportation.

(d) FUNDING OF PROJECTS.—In deciding which projects or operational tests relating to Intelligent Vehicle-Highway Systems to fund utilizing authority provided under section 307 of title 23, United States Code, the Secretary shall—

(1) give the highest priority to those projects that would contribute to the national goals and objectives specified in the Intelligent Vehicle-Highway Systems strategic plan required pursuant to section 154 of this title, minimize the relative percentage of Federal contributions to total project costs, but not including Federal-aid funds;

(2) seek to fund operational tests that advance the current State of knowledge and, where appropriate, build on successes achieved in previously funded work involving such programs; and

(3) require that operational tests utilizing Federal funds pursuant to this Act have a written evalution of the IVHS technologies investigated and key outcomes of the investigation, consistent with the guidelines developed pursuant to section 152(d) of this Act.

(e) AUTHORITY TO USE FUNDS.—Each State and eligible local entity is authorized to use funds provided under this Act for implementation purposes in connection with the Intelligent Vehicle-Highway Systems Program.

SEC. 156. APPLICATIONS OF TECHNOLOGY.

(a) Congested Corridors Program.—The Secretary shall designate transportation corridors in which application of Intelligent Vehicle-Highway Systems will have particular benefit and, through financial and technical assistance, shall assist in the implementation of such systems. In designating such corridors, the Secretary shall focus on automatic vehicle identification, electronic toll collection, highway advisory radio, variable message signage, advanced traveler information systems, and other steps that would reduce congestion, enhance safety, and promote a smoother flow of traffic throughout the corridors.

(b) Priorities.—In designating and providing funding for such corridors, the Secretary shall allocate not less than 50 per centum of the funds appropriated pursuant to this section to eligible State or local entities for application in not less than three but not more than ten corridors with the following characteristics:

(1) traffic density (as a measurement of vehicle miles traveled per road mile) at least 1.5 times the national average;

(2) severe or extreme nonattainment for ozone, as determined by the Administrator of the Environmental Protection Agency pursuant to the Clean Air Act, as amended by Public Law 101–549 (104 t. 2399);

(3) a variety of types of transportation facilities, such as highways, bridges, tunnels, toll and non-toll;

(4) inability to significantly expand existing surface transportation facilities;

(5) a significant mix of passenger, public transportation, and commercial motor carrier traffic;

(6) complexity of traffic patterns; and

(7) potential contribution to the implementation of the Secretary's strategic plan developed pursuant to section 154 of this title.

(c) Additional Funding.—The balance of funds provided under this section shall be allocated to eligible State or local entities for application in corridors with a significant number of the characteristics listed in subsection (a) of this section.

SEC. 157. AUTHORIZATIONS.

(a) Congested Corridors Program.—For the congested corridors program under section 156, within funds authorized to be deducted pursuant to section 104(a) of title 23, United States Code, there is authorized to be appropriated $150,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

(b) Availability of Funds.—Funds authorized to be appropriated under this Act shall remain available until expended.

(c) Reservation of Funds.—Of the funds provided pursuant to subsection (a) of this section, not less than 5 per centum shall be reserved for innovative, high-risk operational or analytical tests that do not attract substantial non-Federal commitments but are determined by the Secretary as having significant potential to help accomplish long-term goals established by the strategic plan prepared pursuant to section 154 of this Act.

(d) Federal Share Payable.—The Federal share payable on account of activities authorized pursuant to this title shall not exceed 80 per centum of the cost. The Secretary may waive this restriction for projects undertaken pursuant to subsection (c) of this section.

SEC. 158. DEFINITIONS.

For the purposes of this part, the term—

(a) "Intelligent Vehicle-Highway Systems" means the development or application of electronics, communications, or information processing, including, but not limited to, advanced traffic management systems, advanced traveler information systems, and advanced vehicle communications systems, used singly or in combination to improve the efficiency and safety of surface transportation systems; and

(b) "corridor" means any major transportation route which includes some contribution of closely parallel limited access highways, major arterials, or transit lines; and, with regard to traffic incident management, it may also refer to more distant transportation routes that can serve as viable options to each other in the event of traffic incidents.

Part D—Relocation Assistance and Real Property Acquisition

SEC. 161. RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION.

Section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended by inserting "and the Rural Electrification Administration" after "Tennessee Valley Authority".

TITLE II—HIGHWAY SAFETY

Part A—National Highway Traffic Safety Administration Authorization

SEC. 201. SHORT TITLE.

This part may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

SEC. 202. DEFINITIONS.

As used in this part, the term—

(1) "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer; and

(4) "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

(a) Traffic and Motor Vehicle Safety Program.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, and $74,044,106 for fiscal year 1994.

(b) Motor Vehicle Information and Cost Savings Programs.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, and $6,987,224 for fiscal year 1994.

(c) National Driver Register Act.—Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second time it appears; and

(2) by inserting immediately before the period at the end the following: ", not to exceed $6,131,000 for fiscal year 1992, not to exceed $6,363,978 for fiscal year 1993, and not to exceed $6,605,809 for fiscal year 1994".

(d) NHTSA Highway Safety Programs.—For the National Highway Traffic Safety Administration to carry out section 402 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $126,000,000 for fiscal year 1992, $130,788,000 for fiscal year 1993, $135,757,944 for fiscal year 1994, $140,916,745 for fiscal year 1995, and $146,271,573 for fiscal year 1996.

(e) NHTSA Highway Safety Research and Development.—For the National Highway Traffic Safety Administration to carry out section 403 of title 23, United States Code, there are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $45,869,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

SEC. 204. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

The Secretary shall expend the sums authorized under section 203(e) as the Secretary deems necessary for the purpose of conducting research on intelligent vehicle-highway systems. The Secretary shall develop a strategic plan with specific milestones, goals, and objectives for that research. The research should place particular emphasis on aspects of those systems that will increase safety, and should identify any aspects of the systems that might degrade safety.

SEC. 205. SIDE IMPACT PROTECTION FOR VEHICLES.

(a) Amendment of FMVSS Standard 214.—The Secretary shall, not later than 12 months after the date of enactment of this Act, issue a final rule amending Federal Motor Vehicle Safety Standard 214, published as section 571.214 of title 49, Code of Federal Regulations. The rule shall establish performance criteria for improved head injury protection for occupants of passenger cars in side impact accidents.

(b) Extension to Multipurpose Passenger Vehicles.—Not later than 18 months after the date of enactment of this Act, the Secretary shall issue a final rule to extend the applicability of such Standard 214 to multipurpose passenger vehicles, taking into account the performance criteria established by the final rule issued in accordance with subsection (a).

SEC. 206. AUTOMOBILE CRASHWORTHINESS DATA.

(a) Study and Investigation.—

(1) Arrangements with National Academy of Sciences.—The Secretary shall, within 30 days after the date of enactment of this Act, enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation regarding means of establishing a method for calculating a uniform numerical rating, or series of ratings, which will enable consumers to compare meaningfully the crashworthiness of different passenger car and multipurpose passenger vehicle makes and models.

(2) Contents of Study.—Such study shall include examination of current and proposed crashworthiness tests and testing procedures and shall be directed to determining whether additional objective, accurate, and relevant information regarding the comparative crashworthiness of different passenger car and multipurpose passenger vehicle makes and models reasonably can be provided to consumers by means of a crashworthiness rating rule. Such study shall include examination of at least the following proposed elements of a crashworthiness rating rule:

(A) information on the degree to which different passenger car and multipurpose passenger vehicle makes and models will protect occupants across the range of motor vehicle crash types when in use on public roads;

(B) a repeatable and objective test which is capable of identifying meaningful differences in the degree of crash protection provided occupants by the vehicles tested, with respect to such aspects of crashworthiness as occupant crash protection with and without use of manual seatbelts, fuel system integrity, and other relevant aspects;

(C) ratings which are accurate, simple in form, readily understandable, and of benefit to consumers in making informed decisions in the purchase of automobiles;

(D) dissemination of comparative crashworthiness ratings to consumers either at the time of introduction of a new passenger car or multipurpose passenger vehicle make or model or very soon after such time of introduction; and

(E) the development and dissemination of crashworthiness data at a cost which is reasonably balanced with the benefits of such data to consumers in making informed purchase decisions.

(3) REPORT BY NATIONAL ACADEMY OF SCIENCES.—Any such arrangement shall require the National Academy of Sciences to report to the Secretary and the Congress not later than 19 months after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall, to the extent permitted by law, furnish to the Academy upon its request any information which the Academy considers necessary to conduct the investigation and study required by this subsection.

(4) PUBLIC COMMENT.—Within 60 days after transmittal of the report of the National Academy of Sciences to the Secretary and the Congress under paragraph (3), the Secretary shall initiate a period (not longer than 90 days) for public comment on implementation of the recommendations of the National Academy of Sciences with respect to a rule promulgated under title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles.

(5) DETERMINATION BY SECRETARY.—Not later than 180 days after the close of the public comment period provided for in paragraph (4) of this subsection, the Secretary shall determine, on the basis of the report of the National Academy of Sciences and the public comments on such report, whether an objectively based system can be established by means of which accurate and relevant information can be derived that reasonably predicts the degree to which different makes and models of passenger cars and multipurpose passenger vehicles provide protection to occupants against the risk of personal injury or death as a result of motor vehicle accidents. The Secretary shall promptly publish the basis of such determination, and shall transmit such determination to the Congress.

(b) RULE ON COMPARATIVE CRASHWORTHINESS RATING SYSTEM.—

(1) PROMULGATION.—If the Secretary determines that the system described in subsection (a)(5) can be established, the Secretary shall, subject to the exception provided in paragraph (2), not later than 3 years after the date of enactment of this Act, promulgate a final rule under section 201 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941) establishing an objectively based system for determining and publishing accurate comparative crashworthiness ratings for different makes and models of passenger cars and multipurpose passenger vehicles. The rule promulgated under such section 201 shall be practicable and shall provide to the public relevant objective information in a simple and readily understandable form in order to facilitate comparison among the various makes and models of passenger cars and multipurpose passenger vehicles so as to contribute meaningfully to informed purchase decisions.

(2) REVIEW BY CONGRESSIONAL COMMITTEES.—The Secretary shall not promulgate such rule unless—

(A) a period of 60 calendar days has passed after the Secretary has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Energy and Commerce of the House of Representatives a summary of the comments received during the period for public comment specified in subsection (a)(4); or

(B) each such committee before the expiration of such 60-day period has transmitted to the Secretary written notice to the effect that such committee has no objection to the promulgation of such rule.

(c) RULE ON PROVIDING CRASHWORTHINESS INFORMATION TO PURCHASERS.—If the Secretary promulgates a rule under subsection (b), not later than 6 months after such promulgation, the Secretary shall by rule establish procedures requiring passenger cars and multipurpose passenger vehicle dealers to make available to prospective passenger car and multipurpose passenger vehicle purchasers information developed by the Secretary and provided to the dealer which contains data comparing the crashworthiness of passenger cars and multipurpose passenger vehicles.

SEC. 207. STANDARDS COMPLIANCE.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following new subsection:

"(j)(1) The Secretary shall establish a schedule for use in ensuring compliance with each Federal motor vehicle safety standard established under this Act which the Secretary determines is capable of being tested. Such schedule shall ensure that each such standard is the subject of testing and evaluation on a regular, rotating basis.

"(2) The Secretary shall, not later than 6 months after the date of enactment of this subsection, conduct a review of the method for the collection of data regarding accidents related to Federal motor vehicle safety standards established under this Act. The Secretary shall consider the desirability of collecting data in addition to that information collected as of the date of enactment of this subsection, and shall estimate the costs involved in the collection of such additional data, as well as the benefits to safety likely to be derived from such collection. If the Secretary determines that such benefits outweigh the costs of such collection, the Secretary shall collect such additional data and utilize it in determining which motor vehicles should be the subject of testing for compliance with Federal motor vehicle safety standards established under this Act.".

SEC. 208. INVESTIGATION AND PENALTY PROCEDURES.

(a) INVESTIGATION PROCEDURES.—Section 112(a)(1) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401(a)(1)) is amended by adding at the end the following: "The Secretary shall establish written guidelines and procedures for conducting any inspection or investigation regarding noncompliance with this title or any rules, regulations, or orders issued under this title. Such guidelines and procedures shall indicate timetables for processing of such inspections and investigations to ensure that such processing occurs in an expeditious and thorough manner. In addition, the Secretary shall develop criteria and procedures for use in determining when the results of such an investigation should be considered by the Secretary to be the subject of a civil penalty under section 109 of this title. Nothing in this paragraph shall be construed to limit the ability of the Secretary to exceed any time limitation specified in such timetables where the Secretary determines that additional time is necessary for the processing of any such inspection or investigation.".

(b) CIVIL PENALTY PROCEDURES.—Section 109(a) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398(a)) is amended by adding at the end the following: "The Secretary shall establish procedures for determining the manner in which, and the time within which, a determination should be made regarding whether a civil penalty should be imposed under this section. Nothing in this subsection shall be construed to limit the ability of the Secretary to exceed any time limitation specified for making any such determination where the Secretary determines that additional time is necessary for making a determination regarding whether a civil penalty should be imposed under this section.".

SEC. 209. MULTIPURPOSE PASSENGER VEHICLE SAFETY.

(a) FINDINGS.—The Congress finds that—

(1) multipurpose passenger vehicles have become increasingly popular during this decade and are being used increasingly for the transportation of passengers, not property; and

(2) the safety of passengers in multipurpose passenger vehicles has been compromised by the failure to apply to them the Federal motor vehicle safety standards applicable to passenger cars.

(b) CLASSIFICATION REVIEW.—

(1) RULEMAKING PROCEEDING.—In accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of such Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms, the Secretary shall, not later than 12 months after the date of enactment of this Act, complete a rulemaking proceeding to review the system of classification of vehicles with a gross vehicle weight under 10,000 pounds to determine if such vehicles should be reclassified.

(2) CLASSIFICATION CONSISTENCY.—Any reclassification pursuant to paragraph (1) shall, to the maximum extent practicable, classify as a passenger car every motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor car or other motor vehicle principally designed for the transport of persons under heading 8703 of the Harmonized Tariff Schedule of the United States. Nothing in this section shall prevent the Secretary from classifying as a passenger car any motor vehicle determined by the Department of the Treasury or United States Customs Service to be a motor vehicle for the transport of goods under heading 8704 of such Harmonized Tariff Schedule.

SEC. 210. ROLLOVER PROTECTION.

The Secretary shall, within 12 months after the date of enactment of this Act, complete a rulemaking proceeding to consider establishment of a Federal Motor Vehicle Safety Standard to protect against unreasonable risk of rollover of passenger cars and multipurpose passenger vehicles.

SEC. 211. REAR SEATBELTS.

The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for each of the fiscal years 1992 and 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

SEC. 212. IMPACT RESISTANCE CAPABILITY OF BUMPERS.

(a) DISCLOSURE OF BUMPER IMPACT CAPABILITY.—The Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.) is amended by inserting immediately after section 102 the following new subsection:

"DISCLOSURE OF BUMPER IMPACT CAPABILITY

"SEC. 102A. (a) The Secretary shall promulgate, in accordance with the provisions of this section, a regulation establishing passenger motor vehicle bumper system labeling requirements. Such regulation shall apply to passenger motor vehicles manufactured for model years beginning more than 180 days after the date such regulation is promulgated, as provided in subsection (c)(2) of this section.

"(b)(1) The regulation required to be promulgated in subsection (a) of this section shall provide that, before any passenger motor vehicle is offered for sale, the manufacturer shall affix a label to such vehicle, in a format prescribed in such regulation, disclosing an impact speed at which the manufacturer represents that the vehicle meets the applicable damage criteria.

"(2) For purposes of this subsection, the term 'applicable damage criteria' means the damage criteria applicable under section 581.5(c) of title 49, Code of Federal Regulations (as in effect on the date of enactment of this section).

"(c)(1) Not later than 90 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a proposed initial regulation under this section.

"(2) Not later than 180 days after such date of enactment, the Secretary shall promulgate a final initial regulation under this section.

"(d) The Secretary may allow a manufacturer to comply with the labeling requirements of subsection (b) of this section by permitting such manufacturer to make the bumper system impact speed disclosure required in subsection (b) of this section on the label required by section 506 of this Act or section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232).

"(e) The regulation promulgated under subsection (a) of this section shall provide that the information disclosed under this section be provided to the Secretary at the beginning of the model year for the model involved. As soon as practicable after receiving such information, the Secretary shall furnish and distribute to the public such information in a simple and readily understandable form in order to facilitate comparison among the various types of passenger motor vehicles. The Secretary may by rule require automobile dealers to distribute to prospective purchasers any information compiled pursuant to this subsection.

"(f) For purposes of this section, the term 'passenger motor vehicle' means any motor vehicle to which the standard under part 581 of title 49, Code of Federal Regulations, is applicable.".

(b) AMENDMENT OF BUMPER STANDARD.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall amend the bumper standard published as part 581 of title 49, Code of Federal Regulations, to ensure that such standard is identical to the bumper standard under such part 581 which was in effect on January 1, 1982. The amended standard shall apply to all passenger cars manufactured after September 1, 1992.

(2) AUTHORITY TO REQUIRE HIGHER STANDARD.—Nothing in this subsection shall be construed to prohibit the Secretary from requiring under such part 581 that passenger car bumpers be capable of resisting impact speeds higher than those specified in the bumper standard in effect under such part 581 on January 1, 1982.

SEC. 213. CHILD BOOSTER SEATS.

(a) IN GENERAL.—In accordance with applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), the Secretary shall conduct a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 213, published as section 571.213 of title 49, Code of Federal Regulations, to increase the safety of child booster seats used in passenger cars. The proceeding shall be initiated not later than 30 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

(b) DEFINITION.—As used in this section, the term "child booster seat" has the meaning given the term "booster seat" in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act.

SEC. 214. AIRBAG REQUIREMENTS.

(a) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies, shall establish a program requiring that all passenger cars acquired after September 30, 1991, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side airbags and that all passenger cars acquired after September 30, 1993, for use by the Federal Government be equipped, to the maximum extent practicable, with airbags for both the driver and front seat outboard seating positions.

(b) AIRBAGS FOR CERTAIN OTHER VEHICLES.—

(1) DEADLINES FOR INSTALLATION.—Passenger cars, and those trucks, buses, and multipurpose passenger vehicles that have a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, shall, in accordance with the following schedule, be equipped with airbags complying with the occupant crash protection requirements under S4.1.2.1 of Federal Motor Vehicle Safety Standard 208, published as section 571.208 of title 49, Code of Federal Regulations:

(A) All passenger cars manufactured on and after September 1, 1995, shall be so equipped for both the driver and right front seat outboard seating positions.

(B) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1996, and before September 1, 1997, shall, at a minimum, be so equipped for the driver side.

(C) All such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1997, shall be so equipped for both the driver and right front seat outboard seating positions.

(2) TREATMENT OF AIRBAG REQUIREMENTS.—For purposes of sections 108 through 112, 114, 115, 116, 118, 120, 121, and 151 through 158 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397 through 1401, 1403, 1404, 1405, 1406, 1408, 1409, and 1411 through 1418), the requirements of paragraph (1) of this subsection are deemed to be a Federal motor vehicle safety standard prescribed pursuant to section 103 of that Act (15 U.S.C. 1392).

SEC. 215. STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS.

Part A of title III of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1961 et seq.) is amended by adding at the end the following new section:

"STATE MOTOR VEHICLE SAFETY INSPECTION PROGRAMS

"SEC. 304. (a) The Congress finds that—

"(1) State motor vehicle safety inspection programs, when properly administered, can reduce the rate of highway traffic accidents by a significant percentage;

"(2) the 1990 amendments to the Clean Air Act will subject approximately 60 percent of the vehicles in the United States to emissions inspection;

"(3) as States plan to implement the requirement for emissions inspections, there is considerable potential for simultaneously and economically implementing effective motor vehicle safety inspection programs;

"(4) the Secretary, as part of the effort to reduce highway accidents, should make every effort to ensure that the potential for effective State motor vehicle safety inspection programs is realized; and

"(5) the Secretary and the Administrator of the Environmental Protection Agency shall coordinate their efforts so as to ensure maximum coordination of motor vehicle safety inspections and required emissions inspections.

"(b) The Secretary shall, within six months after the date of enactment of this section and every year thereafter, submit a report to Congress detailing the efforts of the Secretary to ensure that State motor vehicle safety inspection programs are implemented in the most effective manner possible. The report shall—

"(1) specify Federal manpower allocations for support of State motor vehicle safety inspection efforts;

"(2) specify allocations and expenditures of Federal funds on such efforts;

"(3) describe the extent and effect of the coordination by the Secretary and the Administrator of the Environmental Protection Agency of their respective efforts regarding motor vehicle safety inspection and required emissions inspections, and of the coordination of State motor vehicle safety inspections and emissions inspections;

"(4) list the States that do not have a periodic safety inspection program for motor vehicles that meets the requirements of Highway Safety Program Standard Number 1 and part 570 of title 49, Code of Federal Regulations; and

"(5) include any data, furnished by the States that do operate such safety inspection programs, that concerns the relative effectiveness of their particular programs.".

SEC. 216. RECALL OF CERTAIN MOTOR VEHICLES.

(a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

SEC. 217. DARKENED WINDOWS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding on the use of darkened windshields and window glass in passenger cars and multipurpose passenger vehicles, including but not limited to the issues of—

(1) the harmonization of light transmittance requirements for multipurpose passenger vehicles with light transmittance requirements for passenger cars;

(2) performance requirements for light transmittance; and

(3) appropriate levels of light transmittance.

The proceeding shall consider the effects of such issues in the context of the safe operation of passenger cars and multipurpose passenger vehicles, as well as on the hazards to the safety of law enforcement personnel as a result of such use of darkened windshields and window glass.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 18 months after such date of enactment.

SEC. 218. GRANT PROGRAM CONCERNING USE OF SEATBELTS AND CHILD RESTRAINT SYSTEMS.

(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§411. Seatbelt and child restraint programs

"(a) Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement seatbelt and child restraint programs which include measures described in this section to foster the increased use of seatbelts and the correct use of child restraint systems. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for seatbelt and child restraint programs at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this section.

"(c) No State may receive grants under this section in more than three fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the seatbelt and child restraint program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) Subject to subsection (c), the amount of a grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall equal 20 percent of the amount apportioned to such State for fiscal year 1991 under section 402.

"(e) A State is eligible for a grant under this section if such State—

"(1) has in force and effect a law requiring all front seat occupants of a passenger car to use seatbelts;

(2) has achieved—

"(A) in the year immediately preceding a first-year grant, the lesser of either (i) 70 percent seatbelt use by all front seat occupants of passenger cars in the State or (ii) a rate of seatbelt use by all such occupants that is 20 percentage points higher than the rate achieved in 1990;

"(B) in the year immediately preceding a second-year grant, the lesser of either (i) 80 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 35 percentage points higher than the rate achieved in 1990; and

"(C) in the year immediately preceding a third-year grant, the lesser of either (i) 90 percent seatbelt use by all such occupants or (ii) the rate of seatbelt use by all such occupants that is 45 percentage points higher than the rate achieved in 1990; and

"(3) has in force and effect an effective program, as determined by the Secretary, for encouraging the correct use of child restraint systems.

"(f) As used in this section, the term 'child restraint system' has the meaning given such term in section 571.213 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(g) There are authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, to carry out this section, $10,000,000 for the fiscal year 1991, and $20,000,000 for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"411. Seatbelt and child restraint programs.".

SEC. 219. METHODS OF REDUCING HEAD INJURIES.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider methods of reducing head injuries in passenger cars and multipurpose passenger vehicles from contact with vehicle interior components, including those in the head impact area as defined in section 571.3(b) of title 49, Code of Federal Regulations, as in effect on the date of enactment of this Act, and to revise the Federal motor vehicle safety standards as appropriate.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not less than 60 days after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

SEC. 220. PEDESTRIAN SAFETY.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard to minimize pedestrian death and injury, including injury to the head, thorax, and legs, attributable to vehicle components.

(b) DEADLINES.—The proceeding required under subsection (a) shall be initiated not later than 6 months after the date of enactment of this Act and completed not later than 2 years after such date of enactment.

SEC. 221. DAYTIME RUNNING LIGHTS.

(a) RULEMAKING PROCEEDING.—Not later than 12 months after the date of enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal Motor Vehicle Safety Standard 108, published as section 571.108 of title 49, Code of Federal Regulations, to authorize passenger cars and multipurpose passenger vehicles to be equipped with daytime running lights, notwithstanding any State law or regulation that affects the use of such lights.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the safety implications of the use of such lights in the United States, including the recommendations of the Secretary concerning whether to require passenger cars and multipurpose passenger vehicles to be equipped with such lights.

SEC. 222. ANTILOCK BRAKE SYSTEMS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding concerning whether to adopt a Federal motor vehicle safety standard requiring antilock brake systems for all passenger cars and multipurpose passenger vehicles manufactured after September 1, 1996.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 223. HEADS-UP DISPLAYS.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider the establishment of a standard requiring that passenger cars and multipurpose passenger vehicles shall be equipped with heads-up displays capable of projecting speed, fuel, and other instrument readings on the lower part of the windshield, enabling the driver to check such readings without looking down.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 224. SAFETY BELT DESIGN.

(a) RULEMAKING PROCEEDING.—The Secretary shall conduct a rulemaking proceeding to consider whether to amend any existing standard applicable to seatbelts, as published under part 571 of title 49, Code of Federal Regulations, for modification of seatbelt design in order to take into account the needs of children and short adults.

(b) DEADLINES.—The proceeding required by subsection (a) shall be initiated not later than 90 days after the date of enactment of this Act and completed not later than 12 months after such date of enactment.

SEC. 225. CRITERIA FOR STANDARDS.

Any standard established under a proceeding required by section 210, 217, 219, 220, 221, 222, 223, or 224 shall be in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103(a) of that Act (15 U.S.C. 1392(a)) requiring that Federal motor vehicle safety standards be practicable, meet the need for motor vehicle safety, and be stated in objective terms.

SEC. 226. IMPAIRED DRIVING ENFORCEMENT.

(a) SHORT TITLE.—This section may be cited as the "Impaired Driving Prevention Act of 1991".

(b) ESTABLISHMENT OF GRANT PROGRAM.—Chapter 4 of title 23, United States Code, is amended by inserting immediately after section 404 the following new section:

"§ 405. Impaired driving enforcement programs

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make basic and supplemental grants to those States which adopt and implement impaired driving enforcement programs which include measures, described in this section, to improve the effectiveness of the enforcement of laws to prevent impaired driving. Such grants may only be used by recipient States to implement and enforce such measures.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for impaired driving enforcement programs at or above the average level of such expenditures in its 2 fiscal years preceding the fiscal year in which this section is enacted.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 5 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the impaired driving enforcement program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) shall equal 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(e) ELIGIBILITY FOR BASIC GRANTS.—

"(1) GENERAL.—For purposes of this section, a State is eligible for a basic grant if such State—

"(A) provides for a program (funded at the level required under paragraph (2)) to conduct highway checkpoints for the detection and deterrence of persons who operate motor vehicles while under the influence of alcohol or a controlled substance, including the training, manpower, and equipment associated with the conduct of such checkpoints;

"(B) provides for a program (funded at the level required under paragraph (2)) to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment;

"(C) establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(ii) the notice of suspension or revocation referred to in clause (i) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(iii) the State shall provide, in the administrative procedures referred to in clause (ii), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in clause (vi);

"(iv) after serving notice and taking possession of a driver's license in accordance with clause (i), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(v) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(vi) the suspension and revocation referred to under clause (iv) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with clause (ii);

"(D) requires that any person with a blood alcohol concentration equal to or greater than the following percentage when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol:

"(i) 0.10 percent for each of the first 3 fiscal years in which a basic grant is received; and

"(ii) 0.08 percent for each of the last 2 fiscal years in which a basic grant is received;

"(E) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of alcohol shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of alcohol within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of alcohol within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of alcohol shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license; and

"(F) provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines and surcharges collected from persons by reason of their operation of a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(2) REQUIRED FUNDING LEVELS.—The funding level for the program described in paragraph (1)(A), and for the program described in paragraph (1)(B), shall be an amount equal to or greater than—

"(A) the average level of expenditures by the State for such program in its 2 fiscal years preceding the date of enactment of this section, plus

"(B) 2.4 percent of the amount apportioned to the State for fiscal year 1989 under section 402 of this title.

"(3) WAIVER FOR REDUCED FATALITIES.—If the rate of alcohol-related fatalities (as defined in the Fatal Accident Reporting System of the National Highway Traffic Safety Administration) in a State decreases by an average of 3 percent per calendar year for the 5 consecutive calendar years prior to the fiscal year for which the State would receive a basic grant under this section, the Secretary may waive for that State the basic grant eligibility requirements of one subparagraph among subparagraphs (A) through (F) of paragraph (1).

"(f) SUPPLEMENTAL GRANT PROGRAM.—

"(1) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(2) PROGRAM FOR PREVENTING DRIVERS UNDER AGE 21 FROM OBTAINING ALCOHOLIC BEVERAGES.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for and increases its enforcement of an effective system for preventing persons under age 21 from obtaining alcoholic beverages, which may include the issuance of drivers' licenses to persons under age 21 that are easily distinguishable in appearance from drivers' licenses issued to persons 21 years of age and older.

"(3) DRUGGED DRIVING PREVENTION.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance or combination of controlled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body;

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) enacts a statute which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect two of the following programs:

"(i) an effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances;

"(ii) an effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances; and

"(iii) an effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(4) BLOOD ALCOHOL CONCENTRATION STANDARD.—For purposes of this section, a State is eligible for a supplemental grant (only for any of the first 3 fiscal years in which a basic grant is received) in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State requires that any person with a blood alcohol concentration of 0.08 percent or greater when operating a motor vehicle shall be deemed to be driving while under the influence of alcohol.

"(5) UNLAWFUL OPEN CONTAINER AND CONSUMPTION OF ALCOHOL PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger areas.

"(6) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c), not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for the suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period after the date of enactment of this section; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates, on an individual basis, to avoid undue hardship to any individual, including any family member of the convicted individual, and any co-owner of the motor vehicle, who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration or unrestricted return of the license plates of the motor vehicle.

"(7) SUPPLEMENTAL GRANTS AS BEING IN ADDITION TO OTHER GRANTS.—A supplemental grant under this section shall be in addition to any basic grant or any other supplemental grant received by such State.

"(g) EFFECT OF PARTICIPATION IN PROGRAMS UNDER SECTIONS 408 AND 410.—No State may receive a grant under this section for any fiscal year for which that State is a recipient of a grant under section 408 or 410 of this title.

"(h) DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or "(ii) the contents of which are partially removed.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for the fiscal year ending September 30, 1992, and $50,000,000 per fiscal year for the fiscal years ending September 30, 1993, September 30, 1994, September 30, 1995, and September 30, 1996, respectively. Sums authorized by this subsection shall remain available until expended.".

(c) DEADLINES FOR ISSUANCE OF REGULATIONS.—The Secretary shall issue and publish in the Federal Register proposed regulations to implement section 405 of title 23, United States Code (as added by subsection (b) of this section), not later than December 1, 1992. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress before March 1, 1994.

(d) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by inserting immediately after the item relating to section 404 the following new item:

"405. Impaired driving enforcement programs.".

PART B—MOTOR CARRIER SAFETY ASSISTANCE PROGRAM REAUTHORIZATION

SEC. 231. SHORT TITLE.

This part may be cited as the "Motor Carrier Safety Assistance Program Reauthorization Act of 1991".

SEC. 232. MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.

(a) AMENDMENT TO TITLE 23, U.S.C.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§412. Motor carrier safety assistance program

"(a) GRANTS.—The Secretary is authorized to make grants to eligible States for the development or implementation, or both, of programs for—

"(1) the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

"(2) effective enforcement of State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

A State shall be eligible to receive grants under this section only if the State has a plan approved by the Secretary under subsection (b).

"(b) STATE PLANS.—

"(1) SUBMISSION.—The Secretary shall formulate procedures for a State to submit annually a plan where the State agrees to adopt, and to assume responsibility for enforcing—

"(A) Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders; and

"(B) State or local traffic safety laws and regulations designed to promote the safe operation and driving of commercial motor vehicles.

"(2) APPROVAL.—Subject to paragraph (3), a State plan submitted under paragraph (1) shall be approved by the Secretary if, in the Secretary's judgment, the plan is adequate to promote the objectives of this section, and the plan—

"(A) designates the State motor vehicle safety agency responsible for administering the plan;

"(B) ensures that the State motor vehicle safety agency and other State or local agencies participating in the plan have or will have the legal authority, resources, and qualified personnel necessary for administering the plan;

"(C) ensures that the State will devote adequate funds for administering the plan;

"(D) provides a right of entry and inspection to carry out the plan and provides that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Inspection Standard, through the use of a nationally accepted system allowing ready identification of previously inspected commercial motor vehicles;

"(E) provides that the State motor vehicle safety agency will adopt uniform reporting requirements and use uniform forms for recordkeeping, inspections, and investigations, as may be established and required by the Secretary;

"(F) provides that all required reports be submitted to the State motor vehicle safety agency and that the agency make the reports available to the Secretary, upon request;

"(G) ensures State participation in motor carrier information systems, including data bases containing data and information on drivers, vehicle inspections, driver operating compliance with applicable traffic safety laws and regulations, vehicle safety and compliance reviews, traffic accidents, and the weighing of vehicles;

"(H) ensures that commercial motor vehicle size and weight inspection activities will not diminish the effectiveness of other safety initiatives;

"(I) gives satisfactory assurances that the State will conduct effective activities—

"(i) to remove impaired commercial motor vehicle drivers from our Nation's highways through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment, and to provide an appropriate level of training to its Motor Carrier Safety Assistance Program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

"(ii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle drivers, especially including the checking of the status of commercial driver's licenses;

"(iii) to ensure adequate enforcement of State or local traffic safety laws and regulations that affect commercial motor vehicle safety; and

"(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials;

"(J) gives satisfactory assurances that the State will promote—

"(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and to provide training on appropriate strategies for carrying out such interdiction activities; and

"(ii) effective use of trained and qualified officers and employees of political subdivisions or local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety; and

"(K) seeks to ensure that fines imposed and collected by the State will be reasonable and appropriate and provides that, to the maximum extent practicable, the State will seek to implement into law and practice the recommended fine schedule published by the Commercial Vehicle Safety Alliance.

"(3) ADDITIONAL PLAN REQUIREMENTS.—

"(A) SAFETY AND DRUG ENFORCEMENT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle safety (including commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), exclusive of Federal funds and State matching funds required to receive Federal funding, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's previous three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot projects.

"(B) WEIGHT.—The Secretary shall not approve a State plan unless the plan provides that the estimated aggregate expenditure of funds of the State and its political subdivisions for commercial motor vehicle size and weighing activities, exclusive of Federal funds, will be maintained at a level that does not fall below the estimated average level of such aggregate expenditure for the State's previous three full fiscal years. In order to be authorized to use funds under this section to enforce commercial motor vehicle size and weight requirements, a State in its State plan submitted under this subsection shall certify that such size and weight activities will be coupled with an appropriate form of commercial motor vehicle safety inspection and will be directly related to a specific commercial motor vehicle safety problem in that State, in particular that funds for size and weight enforcement activities will be—

"(i) conducted at locations other than fixed weight facilities;

"(ii) used to measure or weigh vehicles at specific geographical locations (such as steep grades or mountainous terrains), where the weight of a vehicle can significantly affect the safe operation of that vehicle; or

"(iii) used at sea ports of entry into and exit from the United States, with a focus on intermodal shipping containers.

"(C) TRAFFIC SAFETY ENFORCEMENT.—The Secretary shall not approve a State plan that provides for funds received under this section to be used to enforce traffic safety regulations applicable to commercial motor vehicles, unless the State certifies in the plan that such traffic safety enforcement will be coupled with an appropriate form of a commercial motor vehicle safety inspection.

"(D) MAINTENANCE OF EFFORT.—The Secretary shall not approve any plan under this section which does not provide that the estimated aggregate expenditure of funds of the State and its political subdivisions, exclusive of Federal funds and State matching funds required to receive Federal funding, for commercial motor vehicle safety programs, including an estimate of expenditure for traffic enforcement activities that were coupled with commercial motor vehicle safety inspections, will be maintained at a level which does not fall below the estimated average level of such expenditure for the State's previous three full fiscal years. In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot programs.

"(3) CONTINUING EVALUATION; WITHDRAWAL OF APPROVAL; JUDICIAL REVIEW.—

"(A) EVALUATION.—The Secretary shall make a continuing evaluation of the manner in which each State is carrying out its State plan, based upon reports submitted by the State motor vehicle safety agency and upon the Secretary's own inspection. A written statement of the evaluation shall be prepared every three years, the first of which shall be completed within three years after the date of enactment of this section.

"(B) WITHDRAWAL OF APPROVAL.—After providing a State with notice and an opportunity to comment, whenever the Secretary finds that a State plan is not being followed, or has become inadequate to ensure the enforcement of—

"(i) Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety (including vehicle size and weight requirements and commercial motor vehicle alcohol and controlled substances awareness and enforcement, including interdiction of illegal shipments), or compatible State rules, regulations, standards, and orders, and

"(ii) State or local traffic safety laws and regulations applicable to commercial motor vehicles,

the Secretary shall notify the State that approval of the State plan is being withdrawn and shall specify the Secretary's reasons for such withdrawal. The plan shall cease to be an approved plan upon receipt by the State of the notice of withdrawal, and the Secretary shall permit the State to modify and resubmit the plan in accordance with this subsection.

"(C) JUDICIAL REVIEW.—A State may seek judicial review of notice of withdrawal of approval, pursuant to chapter 7 of title 5, United States Code, in the appropriate United States Court of Appeals. The State may retain jurisdiction in any administrative or judicial enforcement proceeding commenced before the withdrawal of the approval of the State plan, if the issues involved do not directly relate to the reasons for the withdrawal of approval.

"(4) COORDINATION OF SAFETY PLANS.—The State motor vehicle safety agency shall coordinate the plan prepared under this subsection, with the highway safety plan developed under section 402 of this title. Such coordination shall include consultation with the Governor's Highway Safety Representative and representatives of affected industries to promote effective implementation of the purposes of this section.

"(c) FEDERAL SHARE OF COSTS.—By grants authorized under this section, the Secretary shall reimburse a State an amount not to exceed 80 percent of the costs incurred by that State in the development or implementation, or both, of programs as described under subsection (a). In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.

"(d) ALLOCATIONS.—

"(1) DEDUCTION FOR ADMINISTRATION.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed 1.25 percent of the funds available for that fiscal year. At least 75 percent of the funds so deducted for administration shall be used for the training of non-Federal employees, and the development of related training materials, to carry out the purposes of this section.

"(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under subsection (b), the available funds for that fiscal year, pursuant to criteria established by the Secretary; except that the Secretary, in allocating funds available for research, development, and demonstration under subsection (h)(3) or for public education under subsection (h)(4), may designate specific eligible States among which to allocate such funds.

"(e) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and one succeeding fiscal year. Funds not expended by a State during those two fiscal years shall be released to the Secretary for reallocation. Funds made available under part A of title IV of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2301 et seq.) which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this section.

"(f) OBLIGATION OF FUNDS.—Approval by the Secretary of a grant to a State under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the costs incurred by that State in development or implementation, or both, of programs as described under subsection (a).

"(g) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.

"(h) FUNDING.—

"(1) AVAILABILITY.—To incur obligations to carry out the purposes of this section, there shall be available to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) not to exceed $70,000,000 for fiscal year 1993, $75,000,000 for fiscal year 1994, $80,000,000 for fiscal year 1995, and $85,000,000 for fiscal year 1996.

"(2) ENFORCEMENT.—Of funds made available under this subsection for any fiscal year, not less than $7,500,000 each year shall be used to pay for traffic enforcement activities focused exclusively upon commercial motor vehicle drivers, if such activities are coupled with an appropriate type of inspection for compliance with the commercial motor vehicle safety regulations. Of the funds made available under this subsection for each of fiscal years 1993 and 1994, not less than $1,500,000 shall be used to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) by Motor Carrier Safety Assistance Program officers and employees, specifically including the cost of purchasing equipment for and conducting inspections to check the current status of licenses issued pursuant to that Act.

"(3) RESEARCH AND DEVELOPMENT.—Not less than $500,000 but not more than $2,000,000 of the funds made available under this subsection for any fiscal year shall be available for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of this section and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for up to 100 percent of the State costs, or to other persons as determined by the Secretary. The development of the model program and procedures required under section 6 of the Motor Carrier Safety Assistance Program Reauthorization Act of 1991 shall be funded under this paragraph.

"(4) PUBLIC EDUCATION.—Not less than $350,000 of the funds made available under this subsection for any fiscal year shall be allocated among specified eligible States to help educate the motoring public on how to share the road safely with commercial motor vehicles. In carrying out such education activities, the States shall consult with appropriate industry representatives.

"(i) DEFINITIONS.—As used in this section, the term—

"(1) 'commerce' means—

"(A) trade, traffic, and transportation within the jurisdiction of the United States between a place in a State and a place outside of such State (including a place outside the United States); and

"(B) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in subparagraph (A).

"(2) 'commercial motor vehicle' means any self-propelled or towed vehicle used on highways in commerce to transport passengers or property—

"(A) if the vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(B) if the vehicle is designed to transport more than 15 passengers, including the driver; or

"(C) if the vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 App. U.S.C. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under that Act.

"(3) 'controlled substance' has the meaning such term has under section 102(b) of the Controlled Substances Act (21 U.S.C. 802(b)).

"(4) 'State' means any one of the 50 States, the District of Columbia, American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, Guam, or the Virgin Islands.".

(b) AMENDMENT TO SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982.—

(1) ELIGIBLE EXPENDITURES.—Section 402 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2302) is amended by adding at the end the following new subsection:

"(e) After the date of enactment of this subsection, a State with a plan approved under subsection (b)(1) of this section may be reimbursed by the Secretary under this part for expenditures in enforcing State or local traffic laws or regulations designed to promote the safe operation and driving of commercial motor vehicles, or for activities described under section 411(b)(2)(I) and (J) of title 23, United States Code, or both.".

(2) FUNDING.—Section 404(a)(2) of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304(a)(2)) is amended—

(A) by striking "1988 and" and inserting in lieu thereof "1988,"; and

(B) by inserting immediately before the period at the end the following: ", and $65,000,000 per fiscal year for fiscal year 1992".

(c) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following new item:

"412. Motor carrier safety assistance program."

SEC. 233. NEW FORMULA FOR ALLOCATION OF MCSAP FUNDS.

Within 6 months after the date of enactment of this Act, the Secretary of Transportation by regulation shall develop an improved formula and processes for the allocation among eligible States of the funds made available under the Motor Carrier Safety Assistance Program. In conducting such a revision, the Secretary shall take into account ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous materials transportation safety, including traffic safety enforcement and size and weight enforcement activities that are coupled with motor carrier safety inspections; to increase compatibility of State commercial motor vehicle safety and hazardous materials transportation regulations with the Federal safety regulations; and to promote other factors intended to promote effectiveness and efficiency that the Secretary determines appropriate.

SEC. 234. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

(a) FEDERAL REGULATIONS.—Section 12008 of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2707) is amended by adding at the end the following new subsection:

"(g) VIOLATION OF OUT-OF-SERVICE ORDERS.—

"(1) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

"(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than $1,000;

"(B) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than $1,000; and

"(C) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than $10,000.

"(3) DEADLINES.—The regulations required under paragraph (1) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of enactment of this subsection and shall be issued not later than 12 months after such date of enactment.".

(b) STATE REGULATIONS.—Section 12009(a)(21) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2708(a)(21)) is amended by inserting "and (g)(1)" immediately before the period at the end.

SEC. 235. INTRASTATE COMPATIBILITY.

Within 9 months after the date of enactment of this Act, the Secretary of Transportation shall issue final regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety law and regulations with the Federal motor carrier safety regulations under the Motor Carrier Safety Assistance Program. Such guidelines and standards shall, to the extent practicable, allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In the review of State plans and the allocation or granting of funds under section 411 of title 23, United States Code, as added by this part, the Secretary shall ensure that such guidelines and standards are applied uniformly.

SEC. 236. ENFORCEMENT OF BLOOD ALCOHOL CONCENTRATION LIMITS.

Within 3 months after the date of enactment of this Act, the Secretary of Transportation shall consult with representatives of law enforcement organizations and affected industries, and develop within 12 months after such date of enactment a model program and procedures for Motor Carrier Safety Assistance Program officers and employees to enforce the .04 percent blood alcohol concentration limit established by regulation pursuant to the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

SEC. 237. FHWA POSITIONS.

To help implement the purposes of this part, the Secretary of Transportation in fiscal year 1992 shall employ and maintain thereafter two additional positions at the headquarters of the Federal Highway Administration in excess of the number of employees authorized for fiscal year 1991 for the Federal Highway Administration.

SEC. 238. DRUG FREE TRUCK STOPS.

(a) SHORT TITLE.—This section may be cited as the "Drug Free Truck Stop Act".

(b) FINDINGS.—The Congress finds that—

(1) the illegal use of controlled substances by operators of commercial motor vehicles represents an enormous threat to the safety of all motorists and their passengers on the Nation's roadways; and

(2) as indicated by numerous studies, congressional hearings, and investigations, individuals often use the areas surrounding roadside truckstops and roadside rest areas as sites for the distribution of these controlled substances to the operators of commercial motor vehicles.

(c) AMENDMENT TO CONTROLLED SUBSTANCES ACT.—

(1) IN GENERAL.—In light of the findings in subsection (b), part D of the Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting immediately after section 408 the following new section:

"TRANSPORTATION SAFETY OFFENSES

"SEC. 409. (a) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or safety rest area is (except as provided in subsection (b)) subject to—

"(1) twice the maximum punishment authorized by section 401(b); and

"(2) at least twice any term of supervised release authorized by section 401(b) for a first offense.

Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a term of imprisonment under this subsection shall be not less than one year. The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.

"(b) Any person who violates section 401(a)(1) or section 416 by distributing or possessing with intent to distribute a controlled substance in or on, or within one thousand feet of, a truck stop or a safety rest area after a prior conviction or convictions under subsection (a) have become final is punishable—

"(1) by the greater of (A) a term of imprisonment of not less than three years and not more than life imprisonment or (B) three times the maximum punishment authorized by section 401(b); and

"(2) at least three times any term of supervised release authorized by section 401(b) for a first offense.

"(c) In the case of any sentence imposed under subsection (b), imposition or execution of such sentence shall not be suspended and probation shall not be granted. An individual convicted under subsection (b) shall not be eligible for parole under chapter 311 of title 18 of the United States Code until the individual has served the minimum sentence required by such subsection.

"(d) For purposes of this section—

"(1) the term 'safety rest area' has the meaning given that term in part 752 of title 23, Code of Federal Regulations, as in effect on the date of enactment of this section; and

"(2) the term 'truck stop' means any facility (including any parking lot appurtenant thereto) that has the capacity to provide fuel or service, or both, to any commercial motor vehicle as defined under section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986, operating in commerce as defined in section 12019(3) of such Act and that is located adjacent to or within 2,500 feet of the Interstate and Defense System or the Federal-Aid Primary System.".

(2) CONFORMING AMENDMENTS.—

(A) CROSS REFERENCE.—Section 401(b) of such Act (21 U.S.C. 841(b)) is amended by inserting "409," immediately before "418," each place it appears.

(B) TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting, immediately after the item relating to section 408, the following:

"Sec. 409. Transportation safety offenses.".

(d) SENTENCING GUIDELINES.—

(1) PROMULGATION OF GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987 (28 U.S.C. 994 note), the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 409 of the Controlled Substances Act, as added by subsection (c), shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(B) in no event less than level 26.

(2) IMPLEMENTATION BY SENTENCING COMMISSION.—If the sentencing guidelines are amended after the date of enactment of this Act, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

(3) LIMITATION.—The guidelines referred to in paragraph (2), as promulgated or amended under such paragraph, shall provide that an offense that could be subject to multiple en-

hancements pursuant to such paragraph is subject to not more than one such enhancement.

SEC. 239. IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES.

(a) Rulemaking Proceeding.—Section 9107 of the Truck and Bus Safety and Regulatory Reform Act of 1988 (Public Law 100-690, subtitle B of title IX; 102 Stat. 4530) is amended—

(1) by striking "Report on" in the heading;

(2) by inserting "(a) Report.—" immediately before "Not later than"; and

(3) by adding at the end the following new subsection:

"(b) Rulemaking Proceeding.—The Secretary shall initiate a rulemaking proceeding not later than July 1, 1991. Such proceeding shall concern the need to adopt methods for improving braking performance standards for commercial motor vehicles and shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing. Any rule which the Secretary determines to issue as a result of such proceeding regarding improved brake performance shall take into account the necessity for effective enforcement of such a rule. The Secretary shall conclude the proceeding required by this subsection not later than April 1, 1992.".

(b) Conforming Amendment.—The table of contents contained in section 9101(b) of the Truck and Bus Safety and Regulatory Reform Act of 1988 (102 Stat. 4527) is amended by striking "Report on improved" in the item relating to section 9107 and inserting in lieu thereof "Improved".

SEC. 240. COMPLIANCE REVIEW PRIORITY.

If the Secretary of Transportation identifies a pattern of violations of State or local traffic safety laws or regulations, or commercial motor vehicle safety rules, regulations, standards, or orders, among the drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that such motor carrier receives a high priority for a compliance review.

SEC. 241. REPORT ON TRAINING OF DRIVERS.

Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effectiveness of the efforts of the private sector to ensure adequate training of entry level drivers of commercial motor vehicles. The report shall include recommendations of the Secretary on the feasibility, desirability, and cost effectiveness of establishing mandatory Federal training requirements for all such entry level drivers. In preparing the report, the Secretary shall solicit the views of interested persons.

Part C—Transportation Employee Testing

SEC. 261. SHORT TITLE.

This part may be cited as the "Omnibus Transportation Employee Testing Act of 1991".

SEC. 262. FINDINGS.

The Congress finds that—

(1) alcohol abuse and illegal drug use pose significant dangers to the safety and welfare of the Nation;

(2) millions of the Nation's citizens utilize transportation by aircraft, railroads, trucks, and buses, and depend on the operators of aircraft, trains, trucks, and buses to perform in a safe and responsible manner;

(3) the greatest efforts must be expended to eliminate the abuse of alcohol and use of illegal drugs, whether on duty or off duty, by those individuals who are involved in the operation of aircraft, trains, trucks, and buses;

(4) the use of alcohol and illegal drugs has been demonstrated to affect significantly the performance of individuals, and has been proven to have been a critical factor in transportation accidents;

(5) the testing of uniformed personnel of the Armed Forces has shown that the most effective deterrent to abuse of alcohol and use of illegal drugs is increased testing, including random testing;

(6) adequate safeguards can be implemented to ensure that testing for abuse of alcohol or use of illegal drugs is performed in a manner which protects an individual's right of privacy, ensures that no individual is harassed by being treated differently from other individuals, and ensures that no individual's reputation or career development is unduly threatened or harmed; and

(7) rehabilitation is a critical component of any testing program for abuse of alcohol or use of illegal drugs, and should be made available to individuals, as appropriate.

SEC. 263. TESTING TO ENHANCE AVIATION SAFETY.

(a) In General.—Title VI of the Federal Aviation Act of 1958 (49 App. U.S.C. 1421 et seq.) is amended by adding at the end thereof the following:

"SEC. 614. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) Testing Program.—

"(1) Program for employees of carriers.—The Administrator shall, in the interest of aviation safety, prescribe regulations within 12 months after the date of enactment of this section. Such regulations shall establish a program which requires air carriers and foreign air carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of airmen, crewmembers, airport security screening contract personnel, and other air carrier employees responsible for safety-sensitive functions (as determined by the Administrator) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(2) Program for FAA employees.—The Administrator shall establish a program applicable to employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions. Such program shall provide for preemployment, reasonable suspicion, random, and post-accident testing for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Administrator may also prescribe regulations, as the Administrator considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

"(3) Suspension; revocation; disqualification; dismissal.—In prescribing regulations under the programs required by this subsection, the Administrator shall require, as the Administrator considers appropriate, the suspension or revocation of any certificate issued to such an individual, or the disqualification or dismissal of any such individual, in accordance with the provisions of this section, in any instance where a test conducted and confirmed under this section indicates that such individual has used, in violation of law or Federal regulation, alcohol or a controlled substance.

"(b) Prohibition on Service.—

"(1) Prohibited act.—It is unlawful for a person to use, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section and serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(2) Effect of rehabilitation.—No individual who is determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section shall serve as an airman, crewmember, airport security screening contract personnel, air carrier employee responsible for safety-sensitive functions (as determined by the Administrator), or employee of the Federal Aviation Administration with responsibility for safety-sensitive functions unless such individual has completed a program of rehabilitation described in subsection (c) of this section.

"(3) Performance of prior duties prohibited.—Any such individual determined by the Administrator to have used, in violation of law or Federal regulation, alcohol or a controlled substance after the date of enactment of this section who—

"(A) engaged in such use while on duty;

"(B) prior to such use had undertaken or completed a rehabilitation program described in subsection (c);

"(C) following such determination refuses to undertake such a rehabilitation program; or

"(D) following such determination fails to complete such a rehabilitation program,

shall not be permitted to perform the duties relating to air transportation which such individual performed prior to the date of such determination.

"(c) Program for Rehabilitation.—

"(1) Program for employees of carriers.—The Administrator shall prescribe regulations setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of employees referred to in subsection (a)(1) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or controlled substances. Each air carrier and foreign air carrier is encouraged to make such a program available to all of its employees in addition to those employees referred to in subsection (a)(1). The Administrator shall determine the circumstances under which such employees shall be required to participate in such a program. Nothing in this subsection shall preclude any air carrier or foreign air carrier from establishing a program under this subsection in cooperation with any other air carrier or foreign air carrier.

"(2) Program for FAA employees.—The Administrator shall establish and maintain a rehabilitation program which at a minimum provides for the identification and opportunity for treatment of those employees of the Federal Aviation Administration whose duties include responsibility for safety-sensitive functions who are in need of assistance in resolving problems with the use of alcohol or controlled substances.

"(d) Procedures for Testing.—In establishing the program required under subsection (a), the Administrator shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the controlled substances testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations promulgated under this section, except that the regulations promulgated under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to employees of an air carrier or foreign air carrier, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY ADMINISTRATOR.—Nothing in this section shall be construed to restrict the discretion of the Administrator to continue in force, amend, or further supplement any regulations issued before the date of enactment of this section that govern the use of alcohol and controlled substances by airmen, crewmembers, airport security screening contract personnel, air carrier employees responsible for safety-sensitive functions (as determined by the Administrator), or employees of the Federal Aviation Administration with responsibility for safety-sensitive functions.

"(3) INTERNATIONAL OBLIGATIONS.—In prescribing regulations under this section, the Administrator shall only establish requirements applicable to foreign air carriers that are consistent with the international obligations of the United States, and the Administrator shall take into consideration any applicable laws and regulations of foreign countries. The Secretary of State and the Secretary of Transportation, jointly, shall call on the member countries of the International Civil Aviation Organization to strengthen and enforce existing standards to prohibit the use, in violation of law or Federal regulation, of alcohol or a controlled substance by crew members in international civil aviation.

"(f) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Administrator.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents of the Federal Aviation Act of 1958 relating to title VI is amended by adding at the end the following:

"Sec. 614. Alcohol and controlled substances testing.
"(a) Testing program.
"(b) Prohibition on service.
"(c) Program for rehabilitation.
"(d) Procedures.
"(e) Effect on other laws and regulations.
"(f) Definition.".

SEC. 264. TESTING TO ENHANCE RAILROAD SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following:

"(r)(1) In the interest of safety, the Secretary shall, within twelve months after the date of enactment of this subsection, issue rules, regulations, standards, and orders relating to alcohol and drug use in railroad operations. Such regulations shall establish a program which—

"(A) requires railroads to conduct preemployment, reasonable suspicion, random, and post-accident testing of all railroad employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance;

"(B) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used or to have been impaired by alcohol while on duty; and

"(C) requires, as the Secretary considers appropriate, disqualification for an established period of time or dismissal of any employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law and any rules, regulations, standards, or orders issued under this title.

The Secretary may also issue rules, regulations, standards, and orders, as the Secretary considers appropriate in the interest of safety, requiring railroads to conduct periodic recurring testing of railroad employees responsible for such safety sensitive functions, for use of alcohol or a controlled substance in violation of law or Federal regulation. Nothing in this subsection shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any rules, regulations, standards, and orders governing the use of alcohol and controlled substances in railroad operations issued before the date of enactment of this subsection.

"(2) In carrying out the provisions of this subsection, the Secretary shall develop requirements which shall—

"(A) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(B) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(i) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this subsection, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(ii) establish the minimum list of controlled substances for which individuals may be tested; and

"(iii) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this subsection;

"(C) require that all laboratories involved in the controlled substances testing of any employee under this subsection shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(D) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any employee shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(E) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(F) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(G) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this subparagraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this subsection; and

"(H) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(3) The Secretary shall issue rules, regulations, standards, or orders setting forth requirements for rehabilitation programs which at a minimum provide for the identification and opportunity for treatment of railroad employees responsible for safety-sensitive functions (as determined by the Secretary) in need of assistance in resolving problems with the use, in violation of law or Federal regulation, of alcohol or a controlled substance. Each railroad is encouraged to make such a program available to all of its employees in addition to those employees responsible for safety sensitive functions. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this paragraph shall preclude a railroad from establishing a program under this paragraph in cooperation with any other railroad.

"(4) In carrying out the provisions of this subsection, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(5) For the purposes of this subsection, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

SEC. 265. TESTING TO ENHANCE MOTOR CARRIER SAFETY.

(a) AMENDMENT TO COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986.—

(1) IN GENERAL.—The Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.) is amended by adding at the end the following new section:

"SEC. 12020. ALCOHOL AND CONTROLLED SUBSTANCES TESTING.

"(a) REGULATIONS.—The Secretary shall, in the interest of commercial motor vehicle safety, issue regulations within twelve months after the date of enactment of this section. Such regulations shall establish a program which requires motor carriers to conduct preemployment, reasonable suspicion, random, and post-accident testing of the operators of commercial motor vehicles for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such operators for such use in violation of law or Federal regulation.

"(b) TESTING.—

"(1) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of the operator of a commercial motor vehicle be conducted in the case of any accident involving a commercial motor vehicle in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

"(2) TESTING AS PART OF MEDICAL EXAMINATION.—Nothing in subsection (a) of this section shall preclude the Secretary from providing in such regulations that such testing be conducted as part of the medical examination required by subpart E of part 391 of title 49, Code of Federal Regulations, with respect to those operators of commercial motor vehicles to whom such part is applicable.

"(c) PROGRAM FOR REHABILITATION.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of operators of commercial motor vehicles who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such operators shall be required to participate in such program. Nothing in this subsection shall preclude a motor carrier from establishing a program under this subsection in cooperation with any other motor carrier.

"(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (a) of this section, the Secretary shall develop requirements which shall—

"(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

"(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

"(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

"(B) establish the minimum list of controlled substances for which individuals may be tested; and

"(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

"(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

"(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

"(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within 3 days after being advised of the results of the confirmation test;

"(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

"(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

"(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

"(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

"(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to commercial motor vehicle employees, or to the general public.

"(2) OTHER REGULATIONS ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by commercial motor vehicle employees issued before the date of enactment of this section.

"(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

"(f) APPLICATION OF PENALTIES.—

"(1) EFFECT ON OTHER PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to the operator of a commercial motor vehicle under this title or any other provision of law.

"(2) DETERMINATION OF SANCTIONS.—The Secretary shall determine appropriate sanctions for commercial motor vehicle operators who are determined, as a result of tests conducted and confirmed under this section, to have used, in violation of law or Federal regulation, alcohol or a controlled substance but are not under the influence of alcohol or a controlled substance, as provided in this title.

"(g) DEFINITION.—For the purposes of this section, the term 'controlled substance' means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) specified by the Secretary.".

(2) CONFORMING AMENDMENT.—The table of contents of the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 100 Stat. 5223) is amended by adding at the end thereof the following:

"Sec. 12020. Alcohol and controlled substances testing.".

(b) PILOT TEST PROGRAM.—

(1) DESIGN AND IMPLEMENTATION.—The Secretary shall design within nine months after the date of enactment of this Act, and implement within 15 months after the date of enactment of this Act, a pilot test program for the purpose of testing the operators of commercial motor vehicles on a random basis to determine whether an operator has used, in violation of law or Federal regulation, alcohol or a controlled substance. The pilot test

program shall be administered as part of the Motor Carrier Safety Assistance Program.

(2) SOLICITATION.—The Secretary shall solicit the participation of States which are interested in participating in such program and shall select four States to participate in the program.

(3) SELECTION.—The Secretary shall ensure that the States selected pursuant to this subsection are representative of varying geographical and population characteristics of the Nation and that the selection takes into consideration the historical geographical incidence of commercial motor vehicle accidents involving loss of human life.

(4) DURATION; ALTERNATIVE METHODOLOGIES.—The pilot program authorized by this subsection shall continue for a period of one year. The Secretary shall consider alternative methodologies for implementing a system of random testing of operators of commercial motor vehicles.

(5) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the results of the pilot program conducted under this subsection. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for the random testing of operators of commercial motor vehicles.

(6) FUNDING.—For purposes of carrying out this subsection, there shall be available to the Secretary, $5,000,000 from funds made available to carry out section 404 of the Surface Transportation Assistance Act of 1982 (49 App. U.S.C. 2304) for fiscal year 1992.

(7) DEFINITION.—For purposes of this subsection, the term "commercial motor vehicle" shall have the meaning given to such term in section 12019(6) of the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2716(6)).

SEC. 266. TESTING TO ENHANCE MASS TRANSPORTATION SAFETY.

(a) DEFINITIONS.—As used in this section, the term—

(1) "controlled substance" means any substance under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)) whose use the Secretary has determined has a risk to transportation safety;

(2) "person" includes any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States, or any State, territory, district, or possession thereof, or of any foreign country; and

(3) "mass transportation" means all forms of mass transportation except those forms that the Secretary determines are covered adequately, for purposes of employee drug and alcohol testing, by either the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) or the Commercial Motor Vehicle Safety Act of 1986 (49 App. U.S.C. 2701 et seq.).

(b) TESTING PROGRAMS.—

(1) IN GENERAL.—The Secretary shall, in the interest of mass transportation safety, issue regulations within 12 months after the date of enactment of this Act. Such regulations shall establish a program which requires mass transportation operations which are recipients of Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, to conduct preemployment, reasonable suspicion, random, and post-accident testing of mass transportation employees responsible for safety-sensitive functions (as determined by the Secretary) for use, in violation of law or Federal regulation, of alcohol or a controlled substance. The Secretary may also issue regulations, as the Secretary considers appropriate in the interest of safety, for the conduct of periodic recurring testing of such employees for such use in violation of law or Federal regulation.

(2) POST-ACCIDENT TESTING.—In issuing such regulations, the Secretary shall require that post-accident testing of such a mass transportation employee be conducted in the case of any accident involving mass transportation in which occurs loss of human life, or, as determined by the Secretary, other serious accidents involving bodily injury or significant property damage.

(c) REHABILITATION PROGRAMS.—The Secretary shall issue regulations setting forth requirements for rehabilitation programs which provide for the identification and opportunity for treatment of mass transportation employees referred to in subsection (b)(1) who are determined to have used, in violation of law or Federal regulation, alcohol or a controlled substance. The Secretary shall determine the circumstances under which such employees shall be required to participate in such program. Nothing in this subsection shall preclude a mass transportation operation from establishing a program under this section in cooperation with any other such operation.

(d) PROCEDURES FOR TESTING.—In establishing the program required under subsection (b), the Secretary shall develop requirements which shall—

(1) promote, to the maximum extent practicable, individual privacy in the collection of specimen samples;

(2) with respect to laboratories and testing procedures for controlled substances, incorporate the Department of Health and Human Services scientific and technical guidelines dated April 11, 1988, and any subsequent amendments thereto, including mandatory guidelines which—

(A) establish comprehensive standards for all aspects of laboratory controlled substances testing and laboratory procedures to be applied in carrying out this section, including standards which require the use of the best available technology for ensuring the full reliability and accuracy of controlled substances tests and strict procedures governing the chain of custody of specimen samples collected for controlled substances testing;

(B) establish the minimum list of controlled substances for which individuals may be tested; and

(C) establish appropriate standards and procedures for periodic review of laboratories and criteria for certification and revocation of certification of laboratories to perform controlled substances testing in carrying out this section;

(3) require that all laboratories involved in the testing of any individual under this section shall have the capability and facility, at such laboratory, of performing screening and confirmation tests;

(4) provide that all tests which indicate the use, in violation of law or Federal regulation, of alcohol or a controlled substance by any individual shall be confirmed by a scientifically recognized method of testing capable of providing quantitative data regarding alcohol or a controlled substance;

(5) provide that each specimen sample be subdivided, secured, and labelled in the presence of the tested individual and that a portion thereof be retained in a secure manner to prevent the possibility of tampering, so that in the event the individual's confirmation test results are positive the individual has an opportunity to have the retained portion assayed by a confirmation test done independently at a second certified laboratory if the individual requests the independent test within three days after being advised of the results of the confirmation test;

(6) ensure appropriate safeguards for testing to detect and quantify alcohol in breath and body fluid samples, including urine and blood, through the development of regulations as may be necessary and in consultation with the Department of Health and Human Services;

(7) provide for the confidentiality of test results and medical information (other than information relating to alcohol or a controlled substance) of employees, except that the provisions of this paragraph shall not preclude the use of test results for the orderly imposition of appropriate sanctions under this section; and

(8) ensure that employees are selected for tests by nondiscriminatory and impartial methods, so that no employee is harassed by being treated differently from other employees in similar circumstances.

(e) EFFECT ON OTHER LAWS AND REGULATIONS.—

(1) STATE AND LOCAL LAW AND REGULATIONS.—No State or local government shall adopt or have in effect any law, rule, regulation, ordinance, standard, or order that is inconsistent with the regulations issued under this section, except that the regulations issued under this section shall not be construed to preempt provisions of State criminal law which impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to mass transportation employees, or to the general public.

(2) OTHER REGULATION ISSUED BY SECRETARY.—Nothing in this section shall be construed to restrict the discretion of the Secretary to continue in force, amend, or further supplement any regulations governing the use of alcohol or controlled substances by mass transportation employees issued before the date of enactment of this Act.

(3) INTERNATIONAL OBLIGATIONS.—In issuing regulations under this section, the Secretary shall only establish requirements that are consistent with the international obligations of the United States, and the Secretary shall take into consideration any applicable laws and regulations of foreign countries.

(f) PENALTIES.—

(1) DISQUALIFICATION.—As the Secretary considers appropriate, the Secretary shall require—

(A) disqualification for an established period of time or dismissal of any employee referred to in subsection (b)(1) who is determined to have used or to have been impaired by alcohol while on duty; and

(B) disqualification for an established period of time or dismissal of any such employee determined to have used a controlled substance, whether on duty or not on duty, except as permitted for medical purposes by law or any regulations.

(2) EFFECT ON OTHER APPLICABLE PENALTIES.—Nothing in this section shall be construed to supersede any penalty applicable to a mass transportation employee under any other provision of law.

(g) INELIGIBILITY FOR FINANCIAL ASSISTANCE.—A person shall not be eligible for Federal financial assistance under section 3, 9, or 18 of the Urban Mass Transportation Act of 1964 (49 App. U.S.C. 1602, 1607a, or 1614) or section 103(e)(4) of title 23, United States Code, if such person—

(1) is required, under regulations prescribed by the Secretary under this section, to establish a program of alcohol and controlled substances testing; and

(2) fails to establish such a program in accordance with such regulations.

PART D—GENERAL PROVISIONS

SEC. 271. RURAL TOURISM DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the "Rural Tourism Development Act of 1991".

(b) RURAL TOURISM DEVELOPMENT FOUNDATION.—

(1) FINDINGS.—The Congress finds that increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, or recreational resources for future generations of Americans and foreign visitors.

(2) ESTABLISHMENT OF FOUNDATION.—In order to assist the United States Travel and Tourism Administration in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(3) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include but not be limited to—

(A) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(B) development of educational resources to assist in private and public rural tourism development; and

(C) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(4) BOARD OF DIRECTORS.—

(A) ESTABLISHMENT.—

(i) COMPOSITION.—The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(I) during its first two years shall consist of nine voting members; and

(II) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(ii) APPOINTMENT.—

(I) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(II) The voting members of the Board, other than those referred to in subclause (I), shall be appointed in accordance with procedures established by such bylaws.

(iii) QUALIFICATIONS.—The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(iv) TERMS OF OFFICE.—Voting members of the Board shall each serve a term of six years, except that—

(I) initial terms shall be staggered to assure continuity of administration;

(II) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of his or her predecessor, that person shall serve only for the remainder of the predecessor's term; and

(III) any such appointment to fill a vacancy shall be made within 60 days after the vacancy occurs.

(B) EX-OFFICIO MEMBERS.—The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(C) CHAIRMAN; VICE CHAIRMAN.—The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(D) MEETINGS; QUORUM; OFFICIAL SEAL.—The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business, and the Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(5) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(6) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—

(A) IN GENERAL.—The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(B) GIFTS, DEVISES, AND BEQUESTS FOR BENEFIT OF INDIAN TRIBES.—A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(7) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(8) USE OF FEDERAL SERVICES AND FACILITIES.—The Foundation may use the services and facilities of the Federal Government and such services and facilities may be made available on request to the extent practicable without reimbursement therefor.

(9) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(10) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(11) ADMINISTRATION.—

(A) IN GENERAL.—In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(B) VOLUNTARY AND UNCOMPENSATED SERVICES.—The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section, without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(C) TREATMENT AS FEDERAL EMPLOYEE.—Neither an officer or employee hired under subparagraph (A) nor an individual who provides services under subparagraph (B) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(12) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not ex-

empt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(13) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(14) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(15) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for each of fiscal years 1991, 1992, and 1993 not to exceed $500,000 to—

(A) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Rural Tourism Development Foundation by private persons and Federal, State, and local government agencies; and

(B) provide administrative services for the Rural Tourism Development Foundation.

(16) DEFINITIONS.—As used in this section, the term—

(A) "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(B) "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(C) "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(D) "rural tourism" means travel and tourism activities occurring outside of United States Standard Metropolitan Statistical Areas, including activities on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(17) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended—

(A) by striking "and" at the end of paragraph (14);

(B) by striking the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(16) may assist the Rural Tourism Development Foundation, established under the Rural Tourism Development Act of 1991, in the development and promotion of rural tourism.".

SEC. 272. EDUCATION AND TRAINING PROGRAM.

Chapter 1 of title 23, United States Code, is amended by adding in an appropriate place the following new section:

"§ Education and Training Program

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies, in (1) urbanized areas of 50,000 to 1,000,000 population and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into direct contracts for education and training, technical assistance and related support service that will:

"(1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas, including pavement, bridge and safety management systems; improve roads and bridges; enhance programs for the movement of passengers and freight; and deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines and technical resource materials; and a tourism and recreational travel technical assistance program;

"(2) identify, package and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and

"(3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with two or more urbanized areas of 50,000 to 1,000,000 population and (B) rural technical assistance program centers: *Provided*, That not less than four centers shall be designated to provide transportation assistance that may include, but is not necessarily limited to, a 'circuit-rider' program, providing training on intergovernmental transportation planning and project selection, and tourism recreational travel to American Indian tribal governments.

"(c) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds authorized by section 104(a). The sum of $8,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, and 1996 shall be set aside from such administrative funds for the purpose of providing technical and financial support for these centers, including up to 100 per centum for services provided to American Indian tribal governments. An additional sum of $5,000,000 for the fiscal year 1992 shall be set aside from such administrative funds to establish and carry out a tourism and recreational travel technical assistance program in non-urbanized areas. Funds to carry out this section shall remain available until expended.".

SEC. 273. COMMERCIAL DRIVERS LICENSE WAIVER.

In addition to the authority which the Department of Transportation granted to States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to farm vehicles contained in volume 53, pages 37313–37316, of the Federal Register (September 26, 1988), such States may extend such waivers to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, and to vehicles used to transport livestock feed, whether or not such vehicles are controlled and operated by a farmer.

SEC. 274. BORDER CROSSING STUDY.

(a) The Secretary of Transportation shall conduct a review of current Federal highways that access border crossings between the United States and Canada in order to:

(1) determine whether or not they are in compliance with current Federal highway regulations and adequately designed for future growth and expansion;

(2) assess their ability to accommodate increased transfer of commerce due to the United States-Canada Free Trade Agreements; and

(3) assess their ability to accommodate increasing tourism-related traffic between the United States and Canada. The review shall specifically address issues related to the alignment of United States and Canadian highways at the border crossings, the development of bicycle paths and pedestrian walkways, potential energy savings to be realized by decreasing truck delays at the border crossings and related parking improvements.

(b) The Secretary shall issue a report of the findings of this review to the Senate Environment and Public Works Committee and the House Public Works Committee within 60 days after the date of enactment of this Act.

TITLE III—FEDERAL TRANSIT ACT OF 1991

SEC. 301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Federal Transit Act of 1991".

(b) TABLE OF CONTENTS.—

Sec. 301. Short title; table of contents.
Sec. 302. Change of agency name.
Sec. 303. Amendment to short title of the 1964 Act.
Sec. 304. Findings and purposes.
Sec. 305. Commute-to-work benefits.
Sec. 306. Capital grant or loan program.
Sec. 307. Capital grants; technical amendment to provide for early systems work contracts and full funding grant contracts.
Sec. 308. Section 3 program—Allocations.
Sec. 309. Section 3 program—Rail modernization formula.
Sec. 310. Section 3 program—Local share.
Sec. 311. Section 3—Grandfathered jurisdictions.
Sec. 312. Capital grants—Innovative techniques and practices.
Sec. 313. Capital grants—Elderly persons and persons with disabilities.
Sec. 314. Capital grants—Eligible activities.
Sec. 315. Criteria for new starts.
Sec. 316. Advance construction; technical amendment related to interest cost.
Sec. 317. Federal share for ADA and Clean Air Act compliance.
Sec. 318. Capital grants—Deletion of extraneous material.
Sec. 319. Comprehensive transportation strategies.
Sec. 320. Section 9 program—Allocations.
Sec. 321. Section 9 formula grant program—Discretionary transfer of apportionment.
Sec. 322. Section 9 program—Elimination of incentive tier.
Sec. 323. Section 9 program—Energy efficiency.
Sec. 324. Section 9 program—Applicability of safety provisions.
Sec. 325. Section 9 program—Certifications.
Sec. 326. Section 9 program—Program of projects.
Sec. 327. Ferry routes.
Sec. 328. Section 9 program—Continued assistance for commuter rail in southern Florida.
Sec. 329. Section 11—University transportation centers.
Sec. 330. Rulemaking.
Sec. 331. Section 12—Transfer of facilities and equipment.
Sec. 332. Special Procurement.
Sec. 333. Section 16—Elderly persons and persons with disabilities.
Sec. 334. Meal delivery service to homebound persons.
Sec. 335. Section 18—Transfer of facilities and equipment.
Sec. 336. Section 18—Grants to offset Amtrak losses.
Sec. 337. Human resources program support.
Sec. 338. Authorizations.
Sec. 339. Report on safety conditions in mass transit.

Sec. 340. Section 23—Project management oversight.
Sec. 341. Section 26—Planning and research.
Sec. 342. Technical accounting provisions.
Sec. 343. GAO report on charter service regulations.
Sec. 344. GAO study on public transit needs.
Sec. 345. Use of population estimates.
Sec. 346. Section 9B—Technical amendment.
Sec. 347. Use of census data.

SEC. 302. CHANGE OF AGENCY NAME.

(a) IN GENERAL.—The Urban Mass Transportation Administration is hereby redesignated as the "Federal Transit Administration".

(b) CONFORMING AMENDMENTS.—Titles 5 and 49, United States Code, are amended by striking "Urban Mass Transportation Administration" wherever it appears and inserting "Federal Transit Administration".

(c) OTHER REFERENCES.—Any reference in any other provision of law to the "Urban Mass Transportation Administration" shall be deemed to refer instead to the "Federal Transit Administration".

SEC. 303. AMENDMENT TO SHORT TITLE OF THE 1964 ACT.

(a) IN GENERAL.—The Urban Mass Transportation Act of 1964 is amended by striking the first section and inserting the following:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Federal Transit Act'.".

(b) OTHER REFERENCES.—Any reference in any other provision of law to the "Urban Mass Transportation Act of 1964" shall be deemed to refer instead to the "Federal Transit Act".

SEC. 304. FINDINGS AND PURPOSES.

(a) FINDINGS.—Section 2(a) of the Federal Transit Act (hereafter referred to in this Act as the "Act") (49 U.S.C. App. 1601(a)) is amended—

(1) in paragraph (2), by striking "and" after "basis";

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) that significant improvements in public transportation are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.".

(b) PURPOSES.—Section 2(b) of the Act (49 U.S.C. App. 1601(b)) is amended—

(1) in paragraph (2), by striking "and" after "private";

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) to provide financial assistance to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.".

SEC. 305. COMMUTE-TO-WORK BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

(4) current Federal law allows employers to provide only up to $15 per month in employee benefits for transit or van pools;

(5) the current "cliff provision", which treats an entire commuter transit benefit as taxable income if it exceeds $15 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy "levels the playing field" between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.

SEC. 306. CAPITAL GRANT OR LOAN PROGRAM.

The heading of section 3 of the Act (49 U.S.C. App. 1602) is amended by striking "discretionary" and inserting "capital".

SEC. 307. CAPITAL GRANTS; TECHNICAL AMENDMENT TO PROVIDE FOR EARLY SYSTEMS WORK CONTRACTS AND FULL FUNDING GRANT CONTRACTS.

Section 3(a)(4) of the Act (49 U.S.C. App. 1602(a)(4)) is amended—

(1) by inserting "(A)" after "(4)";

(2) in the fifth sentence, by inserting "not less than" after "complete";

(3) by adding after the fifth sentence the following:

"(B) The Secretary is authorized to enter into a full funding contract with the applicant, which contract shall—

"(i) establish the terms and conditions of Federal financial participation in a project under this section;

"(ii) establish the maximum amounts of Federal financial assistance for such project; and

"(iii) facilitate timely and efficient management of such project in accordance with Federal law.

"(C) A contract under subparagraph (B) shall obligate an amount of available budget authority specified in law and may include a commitment, contingent upon the future availability of budget authority, to obligate an additional amount or additional amounts from future available budget authority specified in law. The contract shall specify that the contingent commitment does not constitute an obligation of the United States. The future availability of budget authority referred to in the first sentence of this subparagraph shall be amounts specified in law in advance for commitments entered into under subparagraph (B). Any interest and other financing costs of efficiently carrying out the project or a portion thereof shall be considered as a cost of carrying out the project under a full funding contract, except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The total of amounts stipulated in a contract for a fixed guideway project shall be sufficient to complete not less than an operable segment.

"(D) The Secretary is authorized to enter into early systems work agreements with the applicant if a record of decision pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary determines there is reason to believe—

"(i) a full funding contract will be entered into for the project; and

"(ii) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

The early systems work agreement shall obligate an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of project implementation, including land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. The interest and other financing costs of carrying out the early systems work agreement efficiently shall be considered as a cost of carrying out the agreement, except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. If an applicant fails to implement the project for reasons within the applicant's control, the applicant shall repay all Federal payments made under the early systems work agreement plus such reasonable interest and penalty charges as the Secretary may establish in the agreement.";

(4) by inserting "(E)" before "The total estimated";

(5) in the sentence that begins "The total estimated"—

(A) by inserting "and contingent commitments to incur obligations," after "Federal obligations";

(B) by inserting "early systems work agreements and full funding grant contracts," after "all outstanding letters of intent,"; and

(C) by inserting "or 50 percent of the uncommitted cash balance remaining in the mass transit account of the Highway Trust Fund, including amounts received from taxes and interest earned in excess of amounts that have been previously obligated, whichever is greater" after "section 3 of this Act"; and

(6) in the sentence that begins "The total amount covered", by inserting "and contingent commitments included in early systems work agreements and full funding grant contracts" after "by new letters issued,".

SEC. 308. SECTION 3 PROGRAM—ALLOCATIONS.

Section 3(k)(1) of the Act (49 U.S.C. App. 1602(k)(1)) is amended to read as follows:

"(1) IN GENERAL.—Of the amounts available for grants and loans under this section for fiscal years 1992, 1993, 1994, 1995, and 1996—

"(A) 40 percent shall be available for rail modernization;

"(B) 40 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems; and

"(C) 20 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities.".

SEC. 309. SECTION 3 PROGRAM—RAIL MODERNIZATION FORMULA.

Section 3(k) of the Act (49 U.S.C. App. 1602(k)) is amended by adding at the end the following:

"(3) RAIL MODERNIZATION FORMULA.—

"(A) HOLD HARMLESS FOR HISTORIC RAIL SYSTEMS.—

"(i) IN GENERAL.—Of the amounts available under paragraph (1)(A), the Secretary shall, in each of fiscal years 1992 through 1996, reserve for grants to historic rail systems $455,000,000 or the amount approved in an appropriations Act, whichever is less.

"(ii) SPECIFIC ALLOCATIONS.—The Secretary shall initially allocate—

"(I) 41 percent of the amount reserved in clause (i) to those two historic rail systems with shared responsibility for the operation and preservation of a regional commuter rail line that, taken together, would receive 49 percent under the apportionment formula specified in section 9(b)(2) if such formula was applied, solely for the historic rail systems, to the total amount available for allocation under this paragraph, with 14.63 percent of the amounts so allocated being reserved for the smaller of the two historic rail systems as measured by fixed guideway route miles; and

"(II) an amount equal to 2 percent of the amount reserved in clause (i) to that historic rail system that received funding for rail modernization under this section for only 2 of the 5 fiscal years 1986 through 1990.

"(iii) GENERAL ALLOCATIONS.—The Secretary shall allocate all amounts described in clause (i) that remain after making the allocations specified in clause (ii) so that each historic rail system, other than those specified under such clause, receives the higher of—

"(I) an amount that bears the same ratio to the total amount available for allocation under this subparagraph as the total amount of funding for rail modernization activities received during fiscal years 1984 through 1990 by that historic system bears to the total amount of funding for rail modernization received during fiscal years 1984 through 1990 by all historic rail systems, or

"(II) an amount that bears the same ratio to the total amount available for allocation under this subparagraph as the total amount of funding for rail modernization activities received during fiscal years 1988 through 1990 by that historic system bears to the total amount of funding for rail modernization received during fiscal years 1988 through 1990 by all historic rail systems.

The Secretary shall make such fair and equitable adjustments to the amounts received by historic rail systems under this clause as are necessary for the practicable administration of the program. Notwithstanding the allocations that would otherwise result under this clause, an historic rail system shall not receive less than the amount the system would receive if the apportionment formula specified under section 9(b)(2) were applied, solely for the historic rail systems, to the total amount available for allocation under this clause.

"(B) REMAINDER.—

"(i) INITIAL ALLOCATION.—After reserving amounts for historic rail systems as required by subparagraph (A), the Secretary shall allocate any amounts remaining available under paragraph (1)(A) that exceed the allocations made under subparagraph (A), but that do not exceed $525,000,000, as follows:

"(I) 50 percent shall be allocated among historic rail systems in accordance with the apportionment formula specified under section 9(b)(2); and

"(II) 50 percent shall be allocated among all other eligible systems in accordance with the apportionment formula specified under section 9(b)(2).

"(ii) SECOND ALLOCATION.—Any amounts available under paragraph (1)(A) in excess of the amounts allocated under subparagraph (A) and clause (i) of this subparagraph shall be made available to all eligible systems in accordance with the apportionment formula specified under section 9(b)(2).

"(C) APPORTIONMENT.—(i) On October 1 of each fiscal year, the Secretary shall apportion any amounts made available or authorized to be appropriated for that fiscal year (and any fiscal years remaining in the authorization period identified under paragraph (3)) among all eligible systems in accordance with the provisions of this paragraph. The Secretary shall publish apportionments of such authorized amounts on the apportionment date established by the preceding sentence.

"(ii) The Secretary shall apportion any amounts provided or approved for obligation in an appropriations Act to carry out paragraph (3)(A) for any fiscal year in accordance with the provisions of this paragraph not later than the 10th day following the date on which such funds were appropriated or October 1 of such fiscal year, whichever is later. The Secretary shall publish apportionments of such appropriated amounts on the apportionment date established by the preceding sentence.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'historic rail system' includes those rail systems that (I) received funding for rail modernization under this section for at least 2 of the 5 fiscal years 1986 through 1990, and (II) receive in fiscal year 1991 at least 0.5 percent of the total amount of funding made available under section 9(b)(2); and

"(ii) the term 'eligible systems' shall include, for a given fiscal year, all historic rail systems and all other fixed guideway systems placed in revenue service more than 10 years prior to such fiscal year. The term 'eligible system' may include, for a given fiscal year, a fixed guideway system not eligible under the preceding sentence if such system, prior to the beginning of such fiscal year, demonstrates to the satisfaction of the Secretary that the system has modernization needs that cannot be met adequately with amounts received under section 9(b)(2) of this Act. A fixed guideway system shall be considered to be placed in revenue service for purposes of this clause if a minimum operable segment of such system was so placed.".

SEC. 310. SECTION 3 PROGRAM—LOCAL SHARE.

Section 4(a) of the Act is amended by inserting at the end the following new sentence: "The remainder so provided may include the cost of rolling stock previously purchased if the applicant demonstrates to the satisfaction of the Secretary that—

"(1) such purchase was made solely with non-Federal funds;

"(2) such purchase would not have been made except for use on a planned extension that is eligible for assistance under section 3; and

"(3) the rolling stock so purchased is to be used on the extension for which the Federal grant is being requested.".

SEC. 311. SECTION 3—GRANDFATHERED JURISDICTIONS.

Section 3(a)(4) of the Act (49 U.S.C. App. 1602(a)(4)), as amended by section 307 of this title, is amended by adding at the end the following subparagraph:

"(F) All existing letters of intent, full funding agreements and letters of commitment, issued prior to the enactment of the Federal Transit Act of 1991, shall be continued in force.".

SEC. 312. CAPITAL GRANTS—INNOVATIVE TECHNIQUES AND PRACTICES.

Section 3(a)(1) of the Act (49 U.S.C. App. 1602(a)(1)) is amended by inserting before the semicolon the following: ", including grants to States and local public bodies for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services".

SEC. 313. CAPITAL GRANTS—ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

Section 3(a)(1) of the Act (49 U.S.C. App. 1602(a)(1)) is amended by striking subparagraph (E) and inserting the following:

"(E) mass transportation services which are planned, designed, and carried out to meet the special needs of elderly persons and persons with disabilities, with such grants and loans being subject to all of the terms, conditions, requirements, and provisions applicable to grants and loans made under this section; and".

SEC. 314. CAPITAL GRANTS—ELIGIBLE ACTIVITIES.

Section 3(a)(1) of the Act (49 U.S.C. App. 1602(a)(1)) is amended by adding at the end the following:

"(F) the development of corridors to support fixed guideway systems, including bus service improvements, marketing of bus service, protection of rights-of-way through acquisition, transportation system management improvements such as dedicated bus and high occupancy vehicle lanes and construction of park and ride lots, and any other improvements that the Secretary may determine would result in increased transit usage in the corridor.".

SEC. 315. CRITERIA FOR NEW STARTS.

Section 3(i) of the Act (49 U.S.C. App. 1602(i)) is amended to read as follows:

"(i) NEW START CRITERIA.—

"(1) DETERMINATIONS.—A grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may not be made under this section unless the Secretary determines that the proposed project—

"(A) is based on the results of an alternatives analysis and preliminary engineering;

"(B) is cost-effective;

"(C) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

"(2) CONSIDERATIONS.—In making determinations under this subsection, the Secretary—

"(A) shall consider the direct and indirect costs of relevant alternatives;

"(B) shall account for costs related to such factors as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to implement each alternative analyzed; and

"(C) shall identify and consider transit supportive existing land use policies and future patterns, and consider other factors including the degree to which the project increases the mobility of the transit dependent population or promotes economic development, and other factors that the Secretary deems appropriate to carry out the purposes of this Act.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary shall issue guidelines that set forth the means by which the Secretary shall evaluate cost-effectiveness, results of alternatives analysis, and degree of local financial commitment for the purposes of paragraph (1).

"(B) COST-EFFECTIVENESS.—Cost-effectiveness thresholds shall be adjusted to account for inflation and to reflect differences in local land costs, construction costs, and operating costs.

"(C) FINANCIAL COMMITMENT.—The degree of local financial commitment shall be considered acceptable only if—

"(i) the proposed project plan provides for the availability of contingency funds that the Secretary determines to be reasonable to cover unanticipated cost overruns;

"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project.

"(D) STABILITY ASSESSMENT.—In assessing the stability, reliability, and availability of proposed sources of local funding, the Secretary shall consider—

"(i) existing grant commitments;

"(ii) the degree to which funding sources are dedicated to the purposes proposed; and

"(iii) any debt obligations which exist or are proposed by the recipient for the proposed project or other transit purposes.

"(4) PROJECT ADVANCEMENT.—No project shall be advanced from alternatives analysis to preliminary engineering unless the Secretary finds that the proposed project meets the requirements of this section and there is a reasonable chance that the project will continue to meet these requirements at the conclusion of preliminary engineering.

"(5) EXCEPTIONS.—

"(A) IN GENERAL.—A new fixed guideway system or extension shall not be subject to the requirements of this subsection and the simultaneous evaluation of such projects in more than one corridor in a metropolitan area shall not be limited if (i) the project is located within an extreme or severe nonattainment area and is a transportation control measure, as defined by the Clean Air Act, that is required to carry out an approved State Implementation Plan, or (ii) assistance provided under this section accounts for less than $25,000,000 or less than ⅓ of the total cost of the project or an appropriate program of projects as determined by the Secretary.

"(B) EXPEDITED PROCEDURES.—In the case of a project that is (i) located within a nonattainment area that is not an extreme or severe nonattainment area, (ii) a transportation control measure, as defined in the Clean Air Act, and (iii) required to carry out an approved State Implementation Plan, the simultaneous evaluation of projects in more than one corridor in a metropolitan area shall not be limited and the Secretary shall make determinations under this subsection with expedited procedures that will promote timely implementation of the State Implementation Plan.

"(C) EXCLUSION FOR CERTAIN PROJECTS.—That portion of a project financed with highway funds made available under the Federal-Aid Highway Act of 1991 shall not be subject to the requirements of this subsection.

"(6) PROJECT IMPLEMENTATION.—A project funded pursuant to this subsection shall be implemented by means of a full funding contract.".

SEC. 316. ADVANCE CONSTRUCTION; TECHNICAL AMENDMENT RELATED TO INTEREST COST.

Section 3(l)(2)(B) of the Act (49 U.S.C. App. 1602(l)(2)(B)) is amended by striking all after "greater than" and inserting "the most favorable interest terms reasonably available for the project at the time of borrowing.".

SEC. 317. FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE.

Section 12 of the Act (49 U.S.C. 1608) is amended by inserting at the end thereof the following new subsection:

"(k) FEDERAL SHARE FOR CERTAIN PROJECTS.—The Federal grant for a project to be assisted under this Act that involves the acquisition of bus-related equipment required by the Clean Air Act or the Americans with Disabilities Act of 1990 shall be 90 percent of the net project cost of such equipment attributable to compliance with such Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs attributable to equipment specified in the preceding sentence.".

SEC. 318. CAPITAL GRANTS—DELETION OF EXTRANEOUS MATERIAL.

Section 4 of the Act (49 U.S.C. App. 1603) is amended—

(1) by inserting at the end of subsection (a) the following: "If the Secretary gives special consideration to projects that include more than the minimum non-Federal share of the net project cost required under this subsection, the Secretary shall give reasonable consideration to differences in the fiscal capacity of State and local governments."; and

(2) by striking subsections (b) through (g) and subsection (i) and redesignating subsection (h) as subsection (b).

SEC. 319. COMPREHENSIVE TRANSPORTATION STRATEGIES.

Section 8 of the Act (49 U.S.C. App. 1607) is amended to read as follows:

"SEC. 8. COMPREHENSIVE TRANSPORTATION STRATEGIES.

"(a) METROPOLITAN TRANSPORTATION STRATEGIES.—

"(1) IN GENERAL.—It is in the national interest to encourage and promote the development of transportation systems that integrate various modes of transportation and efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. The Secretary shall cooperate with State and local officials in metropolitan areas in the development of comprehensive transportation strategies for achieving this objective.

"(2) METROPOLITAN PLANNING ORGANIZATIONS.—

"(A) IN GENERAL.—A metropolitan planning organization shall be designated for each urbanized area of more than 50,000 in population by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population, including the central city or cities, as defined by the Bureau of the Census. In those metropolitan areas eligible for designation as transportation management areas in accordance with subparagraph (D), the metropolitan planning organization shall include local elected officials, officials of agencies that administer or operate major modes of transportation in the metropolitan area (including, at a minimum, all transportation agencies that were included as of June 1, 1991), and appropriate State officials. For purposes of this section, the term 'metropolitan area' shall mean an area for which one metropolitan planning organization is responsible.

"(B) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this or earlier provisions of law, shall remain in effect until revoked by agreement among the Governor and the affected units of general purpose local government, or as otherwise provided under State or local procedures, except that a metropolitan planning organization (i) shall be redesignated within a period of 12 months if the metropolitan area is designated as a transportation management area under subparagraph (D), and (ii) metropolitan planning organizations may be reorganized by agreement among the Governor and units of general purpose local government representing at least 75 percent of the affected population including the central city or cities, as defined by the Bureau of the Census, as appropriate to carry out the provisions of this Act. The Secretary shall establish practicable procedures and timetables that the Secretary determines to be appropriate for metropolitan planning organizations to meet the requirements of subparagraph (A).

"(C) RESPONSIBILITY OF THE GOVERNOR.—When a metropolitan planning organization is designated or reorganized, the Governor shall ensure that the metropolitan planning organization is structured to—

"(i) give balanced assessment to all modes of transportation, including roadway and public transit facilities;

"(ii) give full consideration to the need for mobility of people and goods into and through central cities within the metropolitan area; and

"(iii) otherwise carry out the metropolitan planning organization's responsibilities under Federal law. The Governor shall certify to the Secretary that the requirements of this subparagraph have been met.

"(D) TRANSPORTATION MANAGEMENT AREAS.—The Secretary shall publish and annually update a list of those metropolitan areas that—

"(i) have populations of more than 250,000; or

"(ii) are nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.).

The Secretary shall designate such areas to be transportation management areas. The Secretary may designate additional metropolitan areas to be transportation management areas upon the request of the Governor and the metropolitan planning organization. Such additional metropolitan areas may include ecologically fragile areas of national significance that are expected to be significantly affected by transportation decisions. The designation of a transportation management area shall remain in effect until revoked by the Secretary. The metropolitan planning organization in a transportation management area shall carry out a continuing, cooperative and comprehensive transportation planning and programming process in cooperation with the State and transit operators and have such additional authorities and responsibilities as are specified in this Act.

"(E) TRANSITIONAL PROVISION.—The Secretary shall designate as transportation management areas—

"(i) not less than 20 percent of the metropolitan areas on the list in subparagraph (D) within 1 year after the date of enactment of this section;

"(ii) not less than 40 percent of such areas within 2 years after the date of enactment of this section;

"(iii) not less than 60 percent of such areas within 3 years after the date of enactment of this section;

"(iv) not less than 80 percent of such areas within 4 years after the date of enactment of this section; and

"(v) all such areas thereafter.

To the extent the Secretary deems practicable after taking into account local circumstances, the Secretary shall exceed the percentages required in this subparagraph and give priority to designation of metropolitan areas that have the most severe problems of air quality and traffic congestion. The Secretary shall designate all nonattainment areas that are classified under the Clean Air Act as moderate, serious, severe, or extreme nonattainment areas for ozone or serious nonattainment areas for carbon monoxide within 2 years after the date of enactment of the Federal Transit Act of 1991.

"(3) METROPOLITAN AREA BOUNDARIES.—

"(A) IN GENERAL.—For the purposes of this Act, the boundaries of any metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall include at least the existing urbanized area and the contiguous area that can reasonably be expected to be urbanized within the subsequent 20-year period.

"(B) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within a metropolitan statistical area, as defined by the Bureau of the Census, if—

"(i) more than 1 metropolitan planning organization was designated within such area on January 1, 1991; and

"(ii) the Secretary determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization appropriate.

If more than 1 metropolitan planning organization has authority within a metropolitan statistical area, appropriate provision, as determined by the Secretary, shall be made to coordinate the metropolitan transportation strategies within such urban area.

"(C) INCLUSION OF CLEAN AIR NONATTAINMENT AREAS.—Any area that—

"(i) is found to be in nonattainment for any transportation-related pollutant under the Clean Air Act; or

"(ii) is determined by the Governor and the metropolitan planning organization to be likely to be significantly affected by air pollution within a reasonable period of time shall be included within the boundaries of the appropriate metropolitan area, as determined by the Governor and the metropolitan planning organization. If more than one metropolitan planning organization has authority within a nonattainment area, appropriate provision, as determined by the Secretary, shall be made to coordinate the metropolitan transportation strategies within such nonattainment area.

"(D) COORDINATION IN MULTI-STATE AREAS.—

"(i) IN GENERAL.—The Secretary shall establish such requirements as the Secretary deems appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Bureau of the Census, to provide coordinated transportation planning for the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area.

"(ii) COMPACTS.—The consent of the Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

"(4) DEVELOPMENT OF TRANSPORTATION STRATEGY.—

"(A) IN GENERAL.—Each metropolitan planning organization shall prepare and update periodically, according to a schedule that the Secretary determines to be appropriate, a metropolitan transportation strategy for its metropolitan area as provided in this section. In developing the strategy, the metropolitan planning organization shall consider the environmental, energy, land use, and other regional effects of all transportation projects to be undertaken within the metropolitan area, without regard to funding source.

"(B) PUBLICATION OF STRATEGIES.—A metropolitan transportation strategy shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish as appropriate for the publication and submission of metropolitan transportation strategies to carry out this section.

"(C) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In nonattainment areas for transportation-related pollutants, the metropolitan planning organization shall coordinate the development of a metropolitan transportation strategy with the process for development of the transportation measures of the State Implementation Plan required by the Clean Air Act.

"(D) PARTICIPATION BY INTERESTED PARTIES.—Prior to approving a metropolitan transportation strategy, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation and other interested parties with a reasonable opportunity to participate in the development of the strategy, in a manner that the Secretary deems appropriate.

"(E) CERTIFICATION OF COMPLIANCE.—The Secretary shall assure that each metropolitan planning organization is carrying out its responsibilities under applicable provisions of Federal law. The Secretary shall, not less frequently than every 3 years, provide certification to those metropolitan planning organizations that, in the opinion of the Secretary, are carrying out applicable requirements of Federal law. If the Secretary finds, after reasonable notice and opportunity for hearing, that a metropolitan planning organization is not carrying out its responsibilities under applicable provisions of Federal law, the Secretary shall deny certification and, until corrective action satisfactory to the Secretary is taken, may suspend or disapprove in whole or in part the expenditure within the metropolitan area of funds made available under the Federal-Aid Highway Act of 1991 or this Act. The Secretary shall not (i) withhold certification under this section based upon the policies and criteria established by a metropolitan planning organization for determining the feasibility of private enterprise participation in accordance with section 8(e), or (ii) otherwise impede a metropolitan planning organization's implementation of such policies and criteria.

"(5) CONTENTS OF STRATEGY.—A metropolitan transportation strategy under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum—

"(A) identify transportation facilities (including but not necessarily limited to major roadways, mass transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions, such as—

"(i) moving goods within the metropolitan area and among distant markets;

"(ii) enabling people to move quickly to and from home, jobs and other destinations; and

"(iii) connecting complementary modes of transportation (such as highways, transit systems, ports, railroads and airlines);

"(B) assess major demands on the metropolitan transportation system, projected over the subsequent 20-year period;

"(C) set forth a long-range strategy for meeting metropolitan area personal mobility and goods transportation needs, including State and local actions to manage travel demand, improve transportation operations and management, increase the efficiency and effectiveness of existing facilities, or provide new transportation capacity; and

"(D) explain how proposed transportation decisions will—

"(i) achieve compliance with applicable requirements of the Clean Air Act, the Clean Water Act, and other environmental and resource conservation laws;

"(ii) further applicable Federal, State and local energy conservation programs, goals and objectives; and

"(iii) affect other important social, economic and environmental objectives of the metropolitan area as reflected in publicly adopted plans, such as those concerning housing, community development, and historic preservation;

"(E) explain—

"(i) the extent to which State and local policies regarding land use and transportation will affect metropolitan-wide mobility; and

"(ii) how proposed transportation decisions will affect future travel demand, growth in vehicle use, mobile source emissions, and land use and development, taking into consideration the provisions of all applicable short-term and long-term land use and development plans;

"(F) include a financial plan that demonstrates how the metropolitan transportation strategy can be implemented, which plan shall indicate resources from all sources that are reasonably expected to be made available to carry out the strategy, and recommend any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls, and congestion pricing;

"(G) project capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operations, resurfacing, restoration and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization and rehabilitation of existing and future public transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods; and

"(H) indicate as appropriate proposed transportation enhancement activities.

"(6) ABBREVIATED STRATEGIES FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under paragraph (2)(D), the Secretary may provide for the development of abbreviated metropolitan transportation strategies that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas.

"(7) STATEWIDE STRATEGY.—The State shall develop a statewide transportation strategy, in a form acceptable to the Secretary, that shall take into account the transportation needs of areas for which no metropolitan planning organization has been designated.

"(b) TRANSPORTATION IMPROVEMENT PROGRAMS.—

"(1) DEVELOPMENT OF PROGRAMS.—

"(A) IN GENERAL.—The metropolitan planning organization, in cooperation with the State and relevant transit operators, shall develop and submit to the Secretary for review a transportation improvement program for the ensuing period of not less than 3 years and, to the extent practicable, for subsequent periods of not less than 3 years.

"(B) CONTENTS.—The program shall—

"(i) include all projects within the metropolitan area proposed for funding pursuant to the Federal-Aid Highway Act of 1991 and this Act, except as provided in clause (iii);

"(ii) conform with the approved metropolitan transportation strategy and the State Implementation Plan required under the Clean Air Act; and

"(iii) include a project, or an identified phase of a project, only if full funding for such project or project phase can reasonably be anticipated to be available within the period of time contemplated for completion of the project and, in the case of a major project to expand the transportation capacity, an appropriate range of alternatives has been analyzed pursuant to the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

"(2) PERIODIC REVIEW AND REVISION.—The metropolitan planning organization shall update or reapprove the program not less frequently than annually, except that the Secretary may provide for a less frequent updating for areas that are not designated to be transportation management areas, as the Secretary determines to be appropriate. A metropolitan planning organization may amend the program at any time, if the amendment is consistent with the metropolitan transportation strategy.

"(3) NOTICE AND COMMENT.—Prior to approving a transportation improvement program, a metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(4) PRIORITY PROJECTS.—The program shall identify priority projects reflecting projected funding and the objectives of the metropolitan transportation strategy that shall be carried out for each relevant programming period.

"(5) STATE PROGRAMS.—The Governor shall develop and submit to the Secretary, in a form acceptable to the Secretary, a transportation improvement program covering a period of not less than 3 years for areas for which no metropolitan planning organization has been designated and shall include in such program the projects proposed for funding in both metropolitan and nonmetropolitan areas under sections 108 and 109 of the Federal-Aid Highway Act of 1991.

"(c) PROJECT SELECTION WITHIN TRANSPORTATION MANAGEMENT AREAS.—

"(1) APPROVAL OF PROJECTS.—For projects within a transportation management area, the metropolitan planning organization shall submit to the Governor and the Secretary a list of highway and transit projects and activities that the metropolitan planning organization has approved for funding in the ensuing period, which shall not exceed 2 years. The list shall specify for each approved project the programmatic source of Federal assistance available for approval by the metropolitan planning organization. Federal assistance required for the approved projects and activities shall not exceed Federal assistance made available for project selection by the metropolitan planning organization for that period under section 106 of the Federal-Aid Highway Act of 1991 and sections 3 and 9 of this Act. When submitting a list of projects and activities under this paragraph, the metropolitan planning organization shall certify to the Secretary that the list—

"(A) was developed in accordance with a continuing, cooperative and comprehensive planning process that the Secretary has found satisfactory under subsection (a)(4)(E); and

"(B) is consistent with a transportation improvement program that is submitted to the satisfaction of the Secretary under subsection (b)(2).

"(2) REQUIREMENT OF APPROVAL.—Notwithstanding any other provision of law, no project or activity to be carried out with Federal participation pursuant to the Federal-Aid Highway Act of 1991 or this Act may be approved within a transportation management area unless it is included in the list of projects approved by the metropolitan planning organization under paragraph (1).

"(3) EXCEPTIONS.—(A) Paragraph (2) shall not apply to projects or activities that in the determination of the Secretary, are mandated by the Americans with Disabilities Act of 1990.

"(B) Nothing in this section confers on a metropolitan planning organization the authority to intervene in the management of a transportation agency.

"(4) RECAPTURE.—Amounts made available under the Federal-Aid Highway Act of 1991 or this Act for project selection by a metropolitan planning organization in a transportation management area shall remain available for a period of 3 years following the close of the fiscal year for which such funds are made available to the metropolitan area. The Secretary shall recapture any funds not obligated during such period and reallocate the funds nationally as soon as practicable according to the formula for the program under which the funds were made available. For the purposes of this paragraph, funds shall be considered to be obligated if the funds are reserved to help finance a project for which an application is pending under section 3.

"(5) TRANSFER OF FUNDS.—Funds made available for a highway project under this Act shall be transferred to and administered by the Federal Highway Administration in accordance with the requirements of the Federal-Aid Highway Act of 1991. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of this Act.

"(d) GRANTS.—

"(1) ELIGIBILITY.—The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof, or enter into agreements with other Federal departments and agencies, for the planning, engineering, design, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include—

"(A) studies relating to management, operations, capital requirements, and economic feasibility;

"(B) evaluation of previously funded projects; and

"(C) other similar or related activities preliminary to and in preparation for the construction, acquisition or improved operation of mass transportation facilities and equipment.

"(2) CRITERIA.—A grant, contract or working agreement under this section shall be made in accordance with criteria established by the Secretary.

"(e) PRIVATE ENTERPRISE.—The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban areas, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

"(f) USE FOR COMPREHENSIVE PLANNING.—

"(1) IN GENERAL.—The Secretary shall ensure, to the extent practicable, that amounts made available under section 21(c)(1) for the purposes of this section are used to support balanced and comprehensive transportation planning that takes into account the relationships among land use and all transportation modes, without regard to the programmatic source of the planning funds.

"(2) FORMULA ALLOCATION TO ALL METROPOLITAN AREAS.—The Secretary shall apportion 80 percent of the amounts made available under section 21(c)(1) to States in the ratio that the population in urbanized areas, in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this paragraph. Such funds shall be allocated to metropolitan planning organizations designated under section 8(a)(2)(A) by a formula, developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary, that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act. The State shall make such funds available promptly to eligible metropolitan planning organizations according to procedures approved by the Secretary.

"(3) SUPPLEMENTAL ALLOCATION TO TRANSPORTATION MANAGEMENT AREAS.—The Secretary shall apportion 20 percent of the amounts made available under section 21(c)(1) to States to supplement allocations under subparagraph (B) for metropolitan planning organizations in transportation management areas. Such funds shall be allocated according to a formula that reflects the additional costs of carrying out planning, programming, and project selection responsibilities under this section in such areas.

"(4) HOLD HARMLESS.—The Secretary shall ensure, to the maximum extent practicable, that no metropolitan planning organization is allocated less than the amount it received by administrative formula under section 8 of this Act in fiscal year 1991. To comply with the previous sentence, the Secretary is authorized to make a pro rata reduction in other amounts made available to carry out section 21(c).

"(5) FEDERAL SHARE PAYABLE.—The Federal share payable for activities under this paragraph shall be 75 percent except where the Secretary determines that it is in the Federal interest not to require a State or local match.".

SEC. 320. SECTION 9 PROGRAM—ALLOCATIONS.

Section 9(a) of the Act (49 U.S.C. App. 1607a(a)), is amended—

(1) in paragraph (1), by striking "8.64" and inserting "8.90"; and

(2) in paragraph (2), by striking "88.43" and inserting "91.10".

SEC. 321. SECTION 9 FORMULA GRANT PROGRAM—DISCRETIONARY TRANSFER OF APPORTIONMENT.

Section 9 of the Act (49 U.S.C. App. 1607a) is amended—

(1) in subsection (j)(1), by inserting after the first sentence the following: "In a transportation management area designated pursuant to section 8(a)(2)(D), grants for construction projects under this section also shall be available for highway projects if—

"(A) such use is approved by the metropolitan planning organization in accordance with section 8(c) after appropriate notice and opportunity for comment and appeal is provided to affected transit providers; and

"(B) in the determination of the Secretary, appropriate provision is made for investments mandated by the Americans with Disabilities Act of 1990."; and

(2) by adding at the end of subsection (j) the following:

"(3) Grants for construction projects under this section may be available for highway projects only if funds used for the State or local share portion of such highway projects are eligible to fund either highway or transit projects, or, when in the determination of the Secretary there exists under State or local law a sufficient amount of funds from a dedicated source which is available to fund local transit projects.".

SEC. 322. SECTION 9 PROGRAM—ELIMINATION OF INCENTIVE TIER.

Section 9 of the Act (49 U.S.C. App. 1607a) is amended—

(1) in subsection (b)(2), by striking "95.61 per centum of the" and inserting "The";

(2) in subsection (b), by striking paragraph (3);

(3) in subsection (c)(2), by striking "90.8 per centum of the" and inserting "The"; and

(4) by striking subsection (c)(3).

SEC. 323. SECTION 9 PROGRAM—ENERGY EFFICIENCY.

Section 9(b) of the Act (49 U.S.C. 1607a(b)) is amended by adding at the end the following:

"(3) If a designated recipient under this section demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce equipment use but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under paragraph (2)(B) shall not be reduced as a result of such actions.".

SEC. 324. SECTION 9 PROGRAM—APPLICABILITY OF SAFETY PROVISIONS.

Section 9(e)(1) of the Act (49 U.S.C. App. 1607a(e)(1)) is amended in the first sentence by striking "and 19", and inserting "19, and 22".

SEC. 325. SECTION 9 PROGRAM—CERTIFICATIONS.

(a) Annual Submissions.—Section 9(e)(2) of the Act (49 U.S.C. App. 1607a(e)(2)) is amended by inserting after the first sentence the following: "Such certifications and any additional certifications required by law shall be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall annually publish a list of all required certifications in conjunction with section 9(q).".

(b) Streamlined Procedures.—Section 9(e)(3) of the Act (49 U.S.C. App. 1607a(e)(3)) is amended by adding at the end the following: "The Secretary shall establish streamlined administrative procedures to govern compliance with the certification requirement under subparagraph (B) with respect to track and signal equipment used in ongoing operations.".

SEC. 326. SECTION 9 PROGRAM—PROGRAM OF PROJECTS.

Section 9(f) of the Act (49 U.S.C. App. 1607a(f)) is amended—

(1) at the end of paragraph (3), by striking "and";

(2) at the end of paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) assure that the proposed program of projects provides for the maximum feasible coordination of public transportation services assisted under this section with transportation services assisted by other Federal sources.".

SEC. 327. FERRY ROUTES.

Section 9 of the Act (49 U.S.C. App. 1607a) is amended by adding at the end thereof the following new subsection:

"(r) Ferry Services.—A vessel used in ferryboat operations funded under this section that is part of a statewide ferry system may from time to time be operated outside of the urbanized area in which service is provided to accommodate periodic maintenance so long as the mass transportation service funded under this section is not thereby significantly reduced.".

SEC. 328. SECTION 9 PROGRAM—CONTINUED ASSISTANCE FOR COMMUTER RAIL IN SOUTHERN FLORIDA.

Section 329 of the Federal Mass Transportation Act of 1987 (101 Stat. 239) is amended—

(1) in the first sentence, by striking all that follows "year" and inserting a period; and

(2) in the second sentence, by striking all that follows "service" and inserting a period.

SEC. 329. SECTION 11—UNIVERSITY TRANSPORTATION CENTERS.

Section 11 of the Act (49 U.S.C. App. 1607c) is amended—

(1) in the third sentence of subsection (a), by inserting "safety," after "engineering,";

(2) by striking paragraph (7) of subsection (b) and inserting the following:

"(7) Program coordination.—The Secretary shall provide for coordination of the research, education, training and technology transfer in the research centers, the dissemination of the results of the research, and a clearinghouse between the centers and the transportation industry. The Secretary shall review and evaluate the programs carried out by the grant recipients at least annually.";

(3) by striking paragraph (8) of subsection (b) and inserting the following:

"(8) Administration.—Up to 1 percent of the funds made available from any source to carry out this subsection shall be available to the Secretary for the administrative expenses in connection with the performance of such administrative responsibilities."; and

(4) by adding at the end of subsection (b) the following:

"(11) Availability of research funds.—Notwithstanding any other provision of law, funds appropriated or otherwise made available to the Department of Transportation in any Act for the purpose of transportation research may, at the discretion of the Secretary, be made available to one or more of the transportation research centers for the conduct of research compatible with the research conducted in such centers pursuant to authorizations under this Act or from the Highway Trust Fund.

"(12) National centers.—To accelerate the involvement and participation of minorities and women in transportation-related professions, particularly in the science, technology, and engineering disciplines, the Secretary shall make grants to colleges or universities to establish three additional National Centers for Transportation Management, Research, and Development. The National Centers shall give special attention to the design, development, and implementation of research, training, and technology transfer activities to increase the number of highly skilled minorities and women in the work force. The Centers shall meet all guidelines and criteria applicable to Centers under this subsection. In awarding the grants, the Secretary shall consider the commitment which the college or university demonstrates to enrollment of minorities and women.".

SEC. 330. RULEMAKING.

Section 12(i) of the Act (49 U.S.C. App. 1608(i)) is amended by adding at the end the following:

"(3) Limitation.—The Secretary may not use any other method to propose or implement rules governing activities under this Act except as provided under this subsection.".

SEC. 331. SECTION 12—TRANSFER OF FACILITIES AND EQUIPMENT.

Section 12 of the Act (49 U.S.C. App. 1608) is amended by adding at the end the following:

"(l) Transfer of Capital Asset.—

"(1) Authorization.—If a recipient determines that facilities and equipment acquired with assistance under this Act no longer are needed for their original purposes, the Secretary may authorize the transfer of such assets to any public body to be used for any public purpose, with no further obligation to the Federal Government, on condition that any such facilities (including land) remain in public use for a period of not less than 5 years after the date of the transfer.

"(2) Determination.—Before authorizing a transfer under paragraph (1) for any public purpose other than mass transportation, the Secretary shall first determine that—

"(A) there are no purposes eligible for assistance under this Act for which the asset should be used;

"(B) the overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

"(C) in the case of facilities (including land), the Secretary determines through an appropriate screening or survey process that there is no interest in acquiring the asset for Federal use.

"(3) Documentation.—Where the Secretary finds that a transfer is warranted, the Secretary shall set forth in writing the rationale for the decision that the transfer is appropriate under the standards in paragraph (2).

"(4) Relation to other provisions.—The provisions of this section shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 332. SPECIAL PROCUREMENT.

Section 12 of the Act (49 U.S.C. App. 1608) is amended by adding at the end the following:

"(m) Special Procurement Initiatives.—

"(1) Turnkey system procurements.—

"(A) In general.—In order to advance new technologies and lower the cost of constructing new mass transportation systems, the Secretary may allow the solicitation for a turnkey system project to be funded under this Act to be conditionally awarded before Federal requirements have been met on the project so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under this Act may be made available for such a project when the recipient has complied with relevant Federal requirements.

"(B) Initial demonstration phase.—In order to develop regulations applying generally to turnkey system projects, the Secretary is authorized to approve not to exceed 4 projects for an initial demonstration phase. The results of such demonstration projects shall be taken into consideration in the development of the regulations implementing this subsection.

"(C) Turnkey system project defined.—As used in this subsection, the term 'turnkey system' means a vendor-specific project under which a recipient contracts with a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time.

"(2) Multiyear rolling stock procurements.—

"(A) In general.—A recipient procuring rolling stock with Federal financial assistance under this Act may enter into a multiyear agreement for the purchase of such rolling stock and replacement parts pursuant to which the recipient may exercise an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

"(B) Consortia.—The Secretary shall permit 2 or more recipients to form a consortium (or otherwise act on a cooperative basis) for purposes of procuring rolling stock in accordance with this paragraph and other Federal procurement requirements.".

SEC. 333. SECTION 16—ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

Section 16 of the Act (49 U.S.C. App. 1612) is amended—

(1) by striking "elderly and handicapped persons" each time the phrase appears and inserting "elderly persons and persons with disabilities";

(2) in subsection (b)(2), by striking "to private nonprofit corporations and associations" and all that follows through "inappropriate," and inserting "to the Governor of each State for allocation to private nonprofit organizations and public bodies approved by the State to coordinate transportation services to elderly persons and persons with disabilities for the specific purpose of assisting such organizations and public bodies to provide transportation services to elderly persons and persons with disabilities,";

(3) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(4) by inserting after subsection (b) the following:

"(c)(1) Funds made available for purposes of subsection (b) may be used for transportation projects to assist in the provision of transportation services for elderly persons and persons with disabilities which are included in a State program of projects. Such programs shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Federal sources.

"(2) Sums made available for expenditure for purposes of subsection (b) shall be apportioned to the States on the basis of a formula administered by the Secretary which shall take into consideration the number of elderly persons and persons with disabilities in each State.

"(3) Any amounts of a State's apportionment under this subsection that remain available for obligation at the beginning of the 90-day period before the expiration of the period of availability of such amounts shall be available to the Governor for transfer to supplement funds apportioned to the State under section 18(a) or section 9(d).

"(4) The Secretary shall, within 60 days following the enactment of the Federal Transit Act of 1991, promulgate regulations to allow vehicles purchased under this section to be leased to local public bodies and agencies for the purpose of improving transportation services designed to meet the special needs of elderly persons and persons with disabilities.".

SEC. 334. MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.

Section 16 of the Act (49 U.S.C. App. 1612) is amended by adding at the end the following:

"(g) Meal Delivery Service to Homebound Persons.—In order to carry out subsection (a), the Secretary shall authorize mass transportation service providers receiving assistance under this section or section 18(a) to coordinate and assist in providing meal delivery service for homebound persons on a regular basis, if the activities authorized do not—

"(1) conflict with the provision of mass transportation services; or

"(2) result in a reduction of service to mass transportation passengers.".

SEC. 335. SECTION 18—TRANSFER OF FACILITIES AND EQUIPMENT.

Section 18 of the Act (49 U.S.C. App. 1614) is amended—

(1) by striking subsection (g) and redesignating subsection (h) as subsection (g); and

(2) by adding at the end the following:

"(h) Transfer of Facilities and Equipment.—In addition to the transfer authority under section 12(k), in administering this section, the State may transfer facilities and equipment acquired with assistance under this section or section 16(b) to any recipient eligible to receive assistance under this Act if the equipment or facilities continues to be used in accordance with the requirements of this section or section 16(b), as appropriate.".

SEC. 336. SECTION 18—GRANTS TO OFFSET AMTRAK LOSSES.

Section 18 of the Act (49 U.S.C. App. 1614) is amended by adding at the end the following:

"(i) Amtrak Losses.—The amounts apportioned under subsection (a) to Maine, South Dakota, and Oklahoma may be used by such State to offset operating losses incurred by Amtrak in any calendar year as a result of providing passenger rail service to such State on the basis of an application pursuant to section 403 of the Rail Passenger Service Act (45 U.S.C. 563), and in conjunction with cost-sharing under subsection (b) of such section. Not more than 50 percent of a State's share of the operating losses incurred by Amtrak in such State may be offset with funds available under this section.".

SEC. 337. HUMAN RESOURCES PROGRAM SUPPORT.

Section 20 of the Act (49 U.S.C. App. 1616) is amended—

(1) by inserting "(a) In General.—" before the first sentence; and

(2) by adding at the end the following:

"(b) Use of Funds.—The Secretary is authorized to retain any funds returned to the Secretary in connection with a grant or contract under subsection (a), and such funds may continue to be used for the purpose of subsection (a).".

SEC. 338. AUTHORIZATIONS.

Section 21 of the Act (49 U.S.C. App. 1617) is amended to read as follows:

"SEC. 21. AUTHORIZATIONS.

"(a) Formula Grant Programs.—

"(1) From the trust fund.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, $1,070,500,000 for the fiscal year 1992, $1,220,000,000 for the fiscal year 1993, $1,300,000,000 for the fiscal year 1994, $1,450,000,000 for the fiscal year 1995, and $1,565,000,000 for the fiscal year 1996, to remain available until expended.

"(2) Authorized to be appropriated from the trust fund.—In addition to the amounts specified in paragraph (1), there are hereby authorized to be appropriated from the Transit Account of the Highway Trust Fund to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, $450,000,000 for the fiscal year 1992, $525,000,000 for the fiscal year 1993, $550,000,000 for the fiscal year 1994, $400,000,000 the fiscal year 1995, $300,000,000 for the fiscal year 1996, to remain available until expended.

"(3) From general funds.—In addition to the amounts specified in paragraphs (1) and (2), there are hereby authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, $990,000,000 for the fiscal year 1992, $862,000,000 for the fiscal year 1993, $801,000,000 for the fiscal year 1994, $981,500,000 for the fiscal year 1995, and $1,160,000,000 for the fiscal year 1996, to remain available until expended.

"(b) Section 3 Discretionary and Formula Grants.—

"(1) From the trust fund.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, $535,000,000 for the fiscal year 1992, $580,000,000 for the fiscal year 1993, $680,000,000 for the fiscal year 1994, $750,000,000 for the fiscal year 1995, and $835,000,000 for the fiscal year 1996, to remain available until expended.

"(2) From general funds.—In addition to the amounts specified in paragraph (1), there are hereby authorized to be appropriated to carry out section 3 of this Act, $775,000,000 for the fiscal year 1992, $780,000,000 for the fiscal year 1993, $798,600,000 for the fiscal year 1994, $828,900,000 for the fiscal year 1995, and $850,400,000 for the fiscal year 1996, to remain available until expended.

"(3) Contractual obligations.—Approval by the Secretary of a grant or contract with funds made available under subsection (a)(1) or (b)(1) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project. Approval by the Secretary of a grant or contract with funds made available under subsection (a)(2), (a)(3) or (b)(2) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project only to the extent that amounts are provided in advance in appropriations Acts.

"(c) SET-ASIDE FOR PLANNING, PROGRAMMING AND RESEARCH.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), an amount equivalent to 3.0 percent of funds made available or appropriated under subsections (a) and (b), and appropriated under the National Capital Transportation Act of 1969 shall be made available until expended as follows:

"(1) 45 percent of such funds shall be made available for metropolitan planning activities under section 8(f);

"(2) 5 percent of such funds shall be made available to carry out section 18(h);

"(3) 20 percent of such funds shall be made available to carry out the State program under section 26(a); and

"(4) 30 percent of such funds shall be made available to carry out the national program under section 26(b).

"(d) OTHER SET-ASIDES.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), of the funds made available or appropriated under subsections (a) and (b) and appropriated under the National Capital Transportation Act of 1969—

"(1) not to exceed an amount equivalent to 1.22 percent shall be available for administrative expenses to carry out section 12(a) of this Act and shall be available until expended;

"(2) not to exceed an amount equivalent to 1.5 percent shall be available for transportation services to elderly persons and persons with disabilities pursuant to the formula under section 16(b) of this Act, to be available until expended; and

"(3) $5,000,000 shall be available for the purposes of section 11(b) relating to university transportation centers for each of fiscal years 1992 through 1996.

"(e) COMPLETION OF INTERSTATE TRANSFER TRANSIT PROJECTS.—Of the amounts remaining available each year under subsections (a) and (b), after allocation pursuant to subsections (c) and (d), for substitute mass transportation projects under section 103(e)(4) of title 23, United States Code, there shall be available $160,000,000 for fiscal year 1992 and $164,843,000 for fiscal year 1993.

"(f) SET-ASIDE FOR RURAL TRANSPORTATION.—An amount equivalent to 6 percent of the amounts remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), and (e), shall be available pursuant to the formula under section 18, to remain available until expended.

"(g) SECTION 9 FUNDING.—The funds remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), (e) and (f), shall be available under section 9.".

SEC. 339. REPORT ON SAFETY CONDITIONS IN MASS TRANSIT.

Section 22 of the Act (49 U.S.C. App. 1618) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 22."; and

(2) by adding at the end a new subsection as follows:

"(b) REPORT.—The Secretary shall, within 180 days after the date of enactment of this subsection, make a report to Congress to include—

"(1) actions taken to identify and investigate conditions in any facility, equipment, or manner of operation as part of the findings and determinations required of the Secretary in providing grants and loans under this Act;

"(2) actions taken by the Secretary to correct or eliminate any conditions found to create a serious hazard of death or injury as a condition for making funds available through grants and loans under this Act;

"(3) a summary of all passenger-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(4) a summary of all employee-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(5) a summary of all actions taken by the Secretary to correct or eliminate the unsafe conditions to which such deaths and injuries were attributed;

"(6) a summary of those actions taken by the Secretary to alert transit operators of the nature of the unsafe conditions which were found to create a serious hazard of death or injury; and

"(7) recommendations to the Congress by the Secretary of any legislative or administrative actions necessary to ensure that all recipients of funds under this Act will institute the best means available to correct or eliminate hazards of death or injury, including—

"(A) a timetable for instituting actions,

"(B) an estimate of the capital and operating cost to take such actions, and

"(C) minimum standards for establishing and implementing safety plans by recipients of funds under this Act.".

SEC. 340. SECTION 23—PROJECT MANAGEMENT OVERSIGHT.

Section 23(a) of the Act (49 U.S.C. App. 1619(a)) is amended—

(1) by striking paragraphs (1) through (5);

(2) by striking "½ of 1 percent of—" and inserting "¾ of 1 percent of the funds made available for any fiscal year to carry out sections 3, 9, or 18 of this Act, or interstate transfer transit projects under section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under any such section.".

SEC. 341. SECTION 26—PLANNING AND RESEARCH.

The Act is amended by adding at the end the following:

"SEC. 26. PLANNING AND RESEARCH PROGRAM.

"(a) STATE PROGRAM.—The funds made available under section 21(c)(3) shall be available for State programs as follows:

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—50 percent of that amount shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend mass transportation research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of that amount shall be apportioned to the States for grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act.

"(A) APPORTIONMENT FORMULA.—Amounts shall be apportioned to the States in the ratio which the population in urbanized areas in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this section.

"(B) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under this subsection to be used to supplement funds available under subsection (a)(1), as the State deems appropriate.

"(b) NATIONAL PROGRAM.—

"(1) IN GENERAL.—The funds made available under section 21(c)(4), shall be available to the Secretary for grants or contracts for the purposes of section 6, 8, 10, 11, or 20 of this Act, as the Secretary deems appropriate.

"(2) COMPLIANCE WITH ADA.—Of the amounts available under paragraph (1), the Secretary shall make available not less than $2,000,000 to provide transit-related technical assistance, demonstration programs, research, public education, and other activities that the Secretary deems appropriate to help transit providers achieve compliance with the Americans with Disabilities Act of 1990. To the extent practicable, the Secretary shall carry out this subsection through contract with a national nonprofit organization serving persons with disabilities with demonstrated capacity to carry out these activities.

"(3) SPECIAL INITIATIVES.—Of the amounts available under paragraph (1), an amount not to exceed 25 percent shall be available to the Secretary for special demonstration initiatives subject to such terms, conditions, requirements, and provisions as the Secretary deems consistent with the requirements of this Act, except that the provisions of section 3(e)(4) shall apply to operational grants funded for purposes of section 6. For nonrenewable grants that do not exceed $100,000, the Secretary shall provide expedited procedures governing compliance with requirements of this Act.

"(4) TECHNOLOGY DEVELOPMENT.—

"(A) PROGRAM.—The Secretary is authorized to undertake a program of transit technology development in coordination with affected entities.

"(B) INDUSTRY TECHNICAL PANEL.—The Secretary shall establish an Industry Technical Panel consisting of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in the identification of priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

"(C) GUIDELINES.—The Secretary shall develop guidelines for cost sharing in technology development projects funded under the section. Such guidelines shall be flexible in nature and reflect the extent of technical risk, market risk, and anticipated supplier benefits and pay back periods.

"(5) SUPPLEMENTARY FUNDS.—The Secretary may use funds appropriated under this subsection to supplement funds available under subsection (a)(1), as the Secretary deems appropriate.

"(6) FEDERAL SHARE.—Where there would be a clear and direct financial benefit to an entity under a grant or contract funded under this subsection or subsection (a)(1), the Secretary shall establish a Federal share consistent with that benefit.".

SEC. 342. TECHNICAL ACCOUNTING PROVISIONS.

Notwithstanding any other provision of law, any funds appropriated before October 1, 1983, under section 6, 10, 11, or 18 of the Act, or section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, that remain available for expenditure after October 1, 1991, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 343. GAO REPORT ON CHARTER SERVICE REGULATIONS.

The Comptroller General of the United States shall submit to the Congress, not later than 12 months after the date of the enactment of the Act, a report evaluating the impact of existing charter service regulations. The report shall—

(1) assess the extent to which the regulations promote or impede the ability of communities to meet the transportation needs of government, civic, and charitable organizations in a cost-effective and efficient manner;

(2) assess the extent to which the regulations promote or impede the ability of communities to carry out economic development activities in a cost-effective and efficient manner;

(3) analyze the extent to which public transit operators and private charter carriers have entered into charter service agreements pursuant to the regulations; and

(4) analyze the extent to which such agreements enable private carriers to profit from the provision of charter service by public transit operators using federally subsidized vehicles.

The report shall also include an assessment of the factors specified in the preceding sentence within the context of not less than three communities selected by the Comptroller General.

SEC. 344. GAO STUDY ON PUBLIC TRANSIT NEEDS.

The Comptroller General of the United States shall, on a biennial basis, submit a report to the Congress evaluating the extent to which the Nation's transit needs are being adequately addressed. The report shall include:

(1) An assessment of the unmet needs for transit, as reflected by the unmet, existing maintenance, and modernization needs of transit systems throughout the Nation.

(2) A 5-year projection of the maintenance and modernization needs that will result from aging of existing equipment and facilities, including the need to overhaul or replace existing bus fleets and rolling stock used on fixed guideway systems.

(3) A 5-year projection of the need to invest in the expansion of existing transit systems to meet changing economic, commuter, and residential patterns.

(4) An estimate of the level of expenditure needed to satisfy the needs identified above.

(5) An examination of existing Federal, State, and local resources as well as private resources that are or can reasonably be expected to be made available to support public transit.

(6) The gap between the level of expenditure estimated under paragraph (4) and the level of resources available to meet such needs identified under paragraph (5).

SEC. 345. USE OF POPULATION ESTIMATES.

(a) URBAN MASS TRANSIT PROGRAM.—Section 5(a) of the Act (49 U.S.C. App. 1604(a)) is amended—

(1) in paragraph (1)(A)(i), by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce";

(2) in paragraph (2)(A)(i)(I), by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce"; and

(3) in paragraph (2)(A)(ii)(I), by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce".

(b) BLOCK GRANTS.—Section 9(d)(1) of the Act (49 U.S.C. App. 1607a(d)(1)) is amended by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce".

(c) FORMULA GRANT PROGRAM FOR AREAS OTHER THAN URBANIZED AREAS.—Section 18(a) of the Act (49 U.S.C. App. 1614(a)) is amended in the second sentence by inserting after "Federal census" the following: "or, after the expiration of 4 and 8 years after the most recent Federal census data become available, as shown by estimates prepared by the Secretary of Commerce".

SEC. 346. SECTION 9B—TECHNICAL AMENDMENT.

Section 9B(a) of the Act (49 U.S.C. App. 1607a-2(a)) is amended by striking "subsections (b) and (c) of".

SEC. 347. USE OF CENSUS DATA.

For fiscal year 1992, the Secretary of Transportation shall use data from the 1990 Federal census, to the extent practicable, in determining the allocation of funds under sections 9, 16(b)(2), and 18 of the Act. The Secretary of Transportation and the Secretary of Commerce shall coordinate efforts to expedite the availability of census data for such use and to ensure that census data is collected and prepared in a form that is appropriate to the needs of the Department of Transportation. The Secretary of Transportation shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of actions taken pursuant to this subsection not later than 9 months following the date of enactment of this Act.

TITLE IV—PRIVATE PROPERTY RIGHTS

SEC. 401. PRIVATE PROPERTY RIGHTS ACT.

(a) SHORT TITLE.—This section may be cited as the "Private Property Rights Act".

(b) DEFINITIONS.—As used in this section:

(1) The term "agency" means all executive branch agencies, including any military department of the United States Government, any United States Government corporation, United States Government controlled corporation, or other establishment in the Executive Branch of the United States Government.

(2) The term "taking of private property" means an activity wherein private property is taken such that compensation to the owner of that property is required by the Fifth Amendment to the Constitution of the United States.

(c) PROTECTION OF PRIVATE PROPERTY.—

(1) No regulation promulgated after the date of enactment of this section by any agency shall become effective until the issuing agency is certified by the Attorney General to be in compliance with Executive Order 12630 or similar procedures to assess the potential for the taking of private property in the course of Federal regulatory activity, with the goal of minimizing such where possible.

(2) Upon receipt of guidelines proposed by an agency for compliance with the procedures referenced in paragraph (1), the Attorney General shall, in a reasonably expeditious manner, either approve such guidelines, or notify the head of such agency of any revisions or modification necessary to obtain approval.

(d) JUDICIAL REVIEW.—

(1) Judicial review of actions or asserted failures to act pursuant to this section shall be limited to whether the Attorney General has certified the issuing agency is in compliance with Executive Order 12630 or similar procedures, such review to be permitted in the same forum and at the same time as the issued regulations are otherwise subject to judicial review. Only persons adversely affected or grieved by agency action shall have standing to challenge that action as contrary to this section. In no event shall such review include any issue for which the United States Claims Court has jurisdiction.

(2) Nothing in this subsection shall affect any otherwise available judicial review of agency action.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar Order No. 204, Ivan Selin, to be a member of the Nuclear Regulatory Commission.

I further ask unanimous consent that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

NUCLEAR REGULATORY COMMISSION

Ivan Selin, of the District of Columbia, to be a member of the Nuclear Regulatory Commission for the term of 5 years expiring June 30, 1996.

STATEMENT ON THE NOMINATION OF IVAN SELIN

Mr. CHAFEE. Mr. President, I rise today in support of the nomination of Dr. Ivan Selin as a Commissioner of the Nuclear Regulatory Commission. Dr. Selin is an extraordinary individual who comes to us with a rather extensive list of achievements, which is a testimony to the enormous capabilities of this man who will serve the administration and, indeed the Nation with great honor and distinction. In 1960, Dr. Selin received the distinction of a Ph.D. from Yale University in electrical engineering. In 1960–61 he was a Fulbright scholar, and in 1962 he received the highest honors in sciences from the University of Paris in mathematics. From 1960–65, Dr. Selin was a research engineer at the Rand Corp. where he divided his efforts between national security issues and research material in statistical communications theory. He served as Chairman of the Military Economic Advisory Panel to the Director of Central Intelligence from 1978 to 1989, and a member from 1979 to 1989, and chairman 1988 to 1989 of the Board of Governor's of the United Nations Associations. Additionally he was a member of the Advisory Board of the U.S.S.R. and Eastern Europe at the National Academy of Sciences. Dr. Selin was sworn in as Under Secretary of State for Management on May 23, 1989, where he now serves as the principal adviser to the Secretary of State on all matters involving the allocation of State Department resources in support for the President's foreign policy objectives. Prior to joining the State Department, Dr. Selin was the chairman of the board of American Management Systems, Inc., a very successful company. He speaks six languages and is married to the lovely former Nina Cantor.

Mr. President, Dr. Selin's experiences from his previous positions both in the private and the public sectors, make him an exceptionally well qualified nominee to be the Commissioner of the Nuclear Regulatory Commission. It is my opinion that Dr. Selin possesses the unique qualifications required for a commissioner of this agency. Dr. Selin stated in his testimony before the Senate Committee on Environment and Public Works, that he would see his duty as that of assuring that existing nuclear powerplants are operated safely and with proper regard for national security and environmental issues and that it would especially be his responsibility to assure that when and if nuclear powerplants are built they are also constructed and operated with public health and safety, national security, and environmental protection as the paramount considerations.

America has entered an age where energy dependence is at the forefront of concern. The Nuclear Regulatory Commission is the underlying agency which oversees the maintenance and operations of all nuclear facilities and it is with great pleasure that I hear such enthusiasm for the environment and the concerns of the American people expressed by this nominee.

Therefore, Mr. President, it is without hesitation that I wholeheartedly support the nomination of Dr. Selin by the President to be a Commissioner of the Nuclear Regulatory Commission and encourage my fellow colleagues to join me in approving this most deserving nominee.

LEGISLATIVE SESSION

The PRESIDENT pro tempore. Under the previous order, the Senate will now return to legislative session.

EXPORT CONTROLS ON COMPONENTS OF CHEMICAL WEAPONS MESSAGE FROM THE PRESIDENT—PM 56

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

1. On November 16, 1990, in Executive Order No. 12735, I declared a national emergency under the International Emergency Economic Powers Act ("IEEPA") (50 U.S.C. 1701, *et seq.*) to deal with the threat to the national security and foreign policy of the United States caused by the proliferation of chemical and biological weapons. In that order I directed the imposition of export controls on goods, technology, and services that can contribute to the proliferation of chemical and biological weapons and delivery systems. I also directed the imposition of sanctions on foreign persons and foreign countries involved in chemical and biological weapons proliferation activities under specified circumstances.

2. I issued Executive Order No. 12735 pursuant to the authority vested in me as President by the Constitution and laws of the United States, including IEEPA, the National Emergencies Act (50 U.S.C. 1601 *et seq.*), and section 301 of title 3 of the United States Code. At that time I also submitted a report to the Congress pursuant to section 204(b) of IEEPA (50 U.S.C. 1703(b)). Section 204 of IEEPA requires follow-up reports, with respect to actions or changes, to be submitted every 6 months. This report is submitted in compliance with that requirement.

3. Since the issuance of Executive Order No. 12735, the United States Government has implemented additional export controls under the Enhanced Proliferation Controls Initiative (EPCI), announced on December 13, 1990. Three provisions implementing EPCI and Executive Order No. 12735 amend the Export Administration Regulations and were published in the *Federal Register* (56 FR 10756–10770, March 13, 1991), copies of which are attached. These regulations impose additional controls on exports that would assist a country in acquiring the capability to develop, produce, stockpile, deliver, or use chemical or biological weapons or ballistic missiles. The first two regulations were issued in interim form for public comment and implemented immediately. The third regulation was issued in proposed form for public comment.

The three regulations can be described as follows:

The first regulation expands from 11 to 50 the number of chemical weapons precursors whose export is controlled by the United States Government to all countries except the 20-member Australia Group of countries that cooperate against chemical and biological weapons proliferation and the NATO member countries. Prior to this regulation the United States had controlled the 39 additional chemical weapons precursors only to Iran, Iraq, Syria, and Libya, and the four embargoed countries of Cuba, Vietnam, Cambodia, and North Korea.

The second regulation imposes a requirement for individual validated licenses for export of certain chemical and biological weapons-related dual-use equipment to 28 designated destinations.

The third regulation will impose a requirement for individual validated licenses where an exporter knows or is informed by the United States Government that any export is destined for the design, development, production, or use of chemical or biological weapons or missiles. This regulation also will impose an individual validated license requirement for U.S. persons who knowingly provide assistance to such a project, as well as for U.S. person participation in the design, construction, or export of whole chemical plants that make chemical weapons precursors.

The United States Government, in bilateral contacts, at the Australia Group meetings of December 1990 and May 1991, and at the Missile Technology Control Regime (MTCR) partners meeting of March 1991, has pursued negotiations with foreign governments to persuade them to adopt measures comparable to those the United States has imposed. At the May 1991 Australia Group meeting, the members agreed that by the next Australia Group meeting in December 1991 they would place controls on the export of all 50 chemical weapons precursors identified by the Group. They also agreed in principle to control the export of dual-use chemical weapons-related equipment. The United States Government is seeking greater harmonization of national export control laws, particularly in the areas of chemical and biological weapons-related equipment, including whole chemical plants, and curbs on citizen proliferation activities and end-user controls. At the MTCR partners meeting, significant progress was made toward adopting an updated annex of controlled missile-related technologies. The MTCR partners also agreed to consider further harmonization of controls and implementation procedures. We will continue to pursue efforts to obtain foreign adoption of comparable measures.

An interagency chemical and biological weapons sanctions working group chaired by the Department of State has been established to evaluate intelligence and identify potentially sanctionable chemical or biological weapons activity that has taken place since November 16, 1990. This group has met and vetted information on potentially sanctionable activities but has not completed its analysis. The Administration has not as yet made any sanctions determinations but is reviewing potential sanctions cases.

On May 13, 1991, I announced a further U.S. initiative aimed at completing a comprehensive global chemical weapons ban in the Geneva Conference on Disarmament within 12 months. The initiative contains a series of concrete, forward-looking proposals that we believe will help inspire other governments and make this result possible.

In addition, on May 29, 1991, I announced a Middle East arms control initiative intended to curb the spread of chemical and biological weapons as well as conventional arms, missiles, and nuclear weapons. With regard to chemical and biological weapons, the initiative calls for the establishment of guidelines for restraints on transfers of conventional arms, weapons of mass destruction, and associated technology. It calls for all states in the Middle East to commit to becoming original parties to the Chemical Weapons Convention and for confidence-building measures by regional states. The initiative also calls for strengthening the 1972 Biological Weapons Convention through full implementation of its provisions, an improved mechanism for information exchange, and regional confidence-building measures.

4. The proliferation of chemical and biological weapons continues to constitute an unusual and extraordinary threat to the national security and foreign policy of the United States. I shall continue to exercise the powers at my disposal, including export controls and sanctions, and will continue to report periodically to the Congress on significant developments, pursuant to 50 U.S.C. 1703(c).

GEORGE BUSH.

THE WHITE HOUSE, *June 21, 1991.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1458. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, notice that the Defense Nuclear Agency intended to exercise the authority for exclusion of the clause concerning the examination of records by the Comptroller General; to the Committee on Armed Services.

EC–1459. A communication from the Director for Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, a report entitled "Department of the Army Report on Cleanup of the Rocky Mountain Arsenal"; to the Committee on Armed Services.

EC–1460. A communication from the Director for Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report setting forth the financial condition and operating results of the Working Capital Funds of the Department of Defense for fiscal year 1990; to the Committee on Armed Services.

EC–1461. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a Presidential memorandum relating to the end strength level of United States armed forces in Japan; to the Committee on Armed Services.

EC–1462. A communication from the Acting Secretary of the Navy, transmitting, pursuant to law, the Naval Medical Research and Development Command's C.W. "Bill" Young Marrow Donor Recruitment and Research Program Report; to the Committee on Armed Services.

EC–1463. A communication from the Secretary of Defense, transmitting a draft of proposed legislation to streamline the facilities infrastructure of the United States Army Crops of Engineers, and for other purposes; to the Committee on Armed Services.

EC–1464. A communication from the Acting Secretary of the Treasury, transmitting, pursuant to law, the Department's 1991 report on intermarket coordination; to the Committee on Banking, Housing, and Urban Affairs.

EC–1465. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize appropriations for the Coast Guard for fiscal years 1992 and 1993, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–1466. A communication from the Assistant Secretary of Energy (Fossil Energy), transmitting, pursuant to law, notice of a delay in the submission of the quarterly report on the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

EC–1467. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–1468. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–1469. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–1470. A communication from the Administrator of General Services, transmitting, pursuant to law, an informational copy of a proposed prospectus for the National Archives and Records Administration, Philadelphia, Pennsylvania; to the Committee on Environment and Public Works.

EC–1471. A communication from the Administrator of the Drug Enforcement Adminstration and the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Guidelines for the Cleanup of Clandestine Drug Laboratories"; to the Committee on Environment and Public Works.

EC–1472. A communication from the Chairman of the United States Advisory Commission on Public Diplomacy, transmitting, pursuant to law, a report on the United States Information Agency and the public diplomacy activities of the United States Government; to the Committee on Foreign Relations.

EC–1473. A communication from the Attorney General of the United States, transmitting a draft of proposed legislation to amend the Foreign Agents Registration Act of 1938, as amended; to the Committee on Foreign Relations.

EC–1474. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the quarterly report concerning human rights activities in Ethiopia for the period January 15–April 14, 1991; to the Committee on Foreign Relations.

EC–1475. A communication from the Secretary of Labor, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Labor, for the period October 1, 1990 to March 31, 1991; to the Committee on Governmental Affairs.

EC–1476. A communication from the Administrator of General Services, transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949 to authorize executive agencies to establish more than one supply source for a particular commodity or service; to the Committee on Governmental Affairs.

EC–1477. A communication from the Secretary of Veterans Affairs, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Department of Veterans' Affairs, for the period October 1, 1990 to March 31, 1991, and the Department's management report on actions taken in response to audit recommendations; to the Committee on Governmental Affairs.

EC–1478. A communication from the Executive Director of the John C. Stennis Center for Public Service, transmitting, pursuant to law, the report on the activities of the Center for calendar year 1990; to the Committee on Governmental Affairs.

EC–1479. A communication from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend provisions of the Bankruptcy Code governing the powers of a bankruptcy court and the effect of automatic stays as they related to certain multifamily liens insured or held by the Secretary of Housing and Urban Development or the Secretary of Agriculture; to the Committee on the Judiciary.

EC–1480. A communication from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to amend title 28, United States Code, with respect to the admissibility in evidence of foreign records of regularly conducted activity; to the Committee on the Judiciary.

EC–1481. A communication from the Secretary of Education, transmitting a draft of proposed legislation to amend the Higher

Education Act of 1965 to target Federal grant assistance of the lowest-income students; to reward excellence and success in education, to enhance choice and flexibility, to promote greater accountability, to reduce waste and abuse in the use of public funds, to extend the Act, and for other purposes; to the Committee on Labor and Human Resources.

EC–1482. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final priority—Developmental, Bilingual Education and Special Alternative Instruction Programs; to the Committee on Labor and Human Resources.

EC–1483. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final priorities—Training Programs for Educators—Innovative Alcohol Abuse Education Programs; to the Committee on Labor and Human Resources.

EC–1484. A communication from the Secretary of Education, transmitting, pursuant to law, interim final regulations with invitation to comment—Disability and Rehabilitation Research: General Provisions, Research Fellowships; to the Committee on Labor and Human Resources.

EC–1485. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the status of budget authority that was proposed for rescission by the President in his third special impoundment message for fiscal year 1991; pursuant to the order of January 30, 1975, as modified by the order of April 4, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, and the Committee on Foreign Relations.

EC–1486. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the fourth report on United States Costs in the Persian Gulf Conflict and Foreign Contributions to Offset Such Costs; to the Committee on Armed Services.

EC–1487. A communication from the Assistant Secretary of Defense (Production and Logistics), transmitting, pursuant to law, a report on the ability of the domestic industrial base of textile and apparel manufacturers to support mobilization of the Department of Defense; to the Committee on Armed Services.

EC–1488. A communication from the Acting Under Secretary of Defense (Acquisition), transmitting, pursuant to law, certification with respect to certain major defense acquisition programs; to the Committee on Armed Services.

EC–1489. A communication from the Director of the Office of Thrift Supervision, transmitting, pursuant to law, the first annual report of the Office on the preservation of minority savings institutions; to the Committee on Banking, Housing, and Urban Affairs.

EC–1490. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on appropriations legislation; to the Committee on the Budget.

EC–1491. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC–1492. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on a project negotiated under the Clean Coal Technology Demonstration Act; to the Committee on Energy and Natural Resources.

EC–1493. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC–1494. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Environmental Protection: Meeting Public Expectations With Limited Resources"; to the Committee on Environment and Public Works.

EC–1495. A communication from the Department of Labor, transmitting, pursuant to law, the quarterly report on the expenditure and need for worker adjustment assistance training funds under the Trade Act; to the Committee on Finance.

EC–1496. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the patterns of expenditures of children; to the Committee on Finance.

EC–1497. A communication from the Secretary of the Postal Rate Commission, transmitting, pursuant to law, an advanced notice of proposed rulemaking; to the Committee on Governmental Affairs.

EC–1498. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–40 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC–1499. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 9–41 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC–1500. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of the D.C. Act 9–42 adopted by the Council on June 4, 1991; to the Committee on Governmental Affairs.

EC–1501. A communication from the Secretary of Commerce, transmitting a draft of proposed legislation to amend Title 13, United States Code, to repeal requirements for the collection and publication of statistics on cotton ginnings, and for other purposes; to the Committee on Governmental Affairs.

EC–1502. A communication from the Director of the Office of National Drug Control Policy, Executive Office of the President, transmitting a draft of proposed legislation to augment and clarify law enforcement agency roles in ordering aircraft to land and vessels to bring to, to enable improved money laundering investigations, to promote drug testing in Federal and State criminal justice systems, and for other law enforcement improvements; to the Committee on the Judiciary.

EC–1503. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to reorganize the Alcohol, Drug Abuse, and Mental Health Administration; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources without amendment:

H.R. 690. A bill to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes (Rept. No. 102–88).

H.R. 749. A bill to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia (Rept. No. 102–89).

By Mr. JOHNSTON, from the Committee on Energy and Natural Resources with amendments:

H.R. 904. A bill to direct the Secretary of the Interior to prepare a national historic landmark theme study on African-American history (Rept. No. 102–90).

H.R. 1143. A bill to authorize a study of nationally significant places in American labor history (Rept. No. 102–91).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BENTSEN, from the Committee on Finance:

Mary Catherine Sophos, of California, to be a Deputy Under Secretary of the Treasury.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BINGAMAN (for himself and Mr. DOMENICI):

S. 1350. A bill to formulate a plan for the management of natural and cultural resources on the Zuni Indian reservation, on the lands of the Ramah Band of the Navajo Tribe, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. JOHNSTON, Mr. WALLOP, Mr. FORD, Mr. CRAIG, Mr. SIMON, Mr. MOYNIHAN, Mr. GORTON, Mr. SEYMOUR, Mr. D'AMATO, and Mr. SYMMS):

S. 1351. A bill to encourage partnerships between Department of Energy Laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy national security, the environment, and scientific and technological competitiveness; to the Committee on Energy and Natural Resources.

By Mr. DODD:

S. 1352. A bill to place restrictions on United States assistance for El Salvador; to the Committee on Foreign Relations.

By Mr. LIEBERMAN (for himself, Mr. REID, and Mr. DURENBERGER):

S. 1353. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that hazardous pesticides are promptly removed from the market and to ensure that the health of all citizens, particularly our children, is protected, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN:

S. 1354. A bill to amend title II of the Social Security Act to increase the amount of remuneration an election official or worker may receive and be excluded from an agreement between a State and the Secretary providing for the extension of benefits under such title to State employees; to the Committee on Finance.

By Mr. SIMON:

S. 1355. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BINGAMAN (for himself and Mr. Domenici):

S. 1350. A bill to formulate a plan for the management of natural and cultural resources on the Zuni Indian reservation, in the lands of the Ramah Band of the Navajo Tribe, and in other areas within the Zuni River watershed and upstream from the Zuni Indian reservation, and for other purposes; to the Select Committee on Indian Affairs.

ZUNI RIVER WATERSHED ACT

• Mr. BINGAMAN. Mr. President, for decades, the Zuni Pueblo and Ramah Band of the Navajo Tribe have watched their land and history erode away. Every year, topsoil, washed down from mountains and mesas, is carried by the spring runoff and floods. This valuable topsoil is then deposited within the Zuni Pueblo's Black Rock dam, causing the dam to fill with silt. The dam's ability to hold floodwaters is seriously compromised.

The damage is not confined to the loss of topsoil and the creation of a serious safety problem. Zuni history is also being washed away. Year after year, expanding arroyos threaten Zuni archeology. Nearly 2,000 archeological sites have been damaged as a result of erosion.

The destructive erosion goes back to the era of historic logging and overgrazing fostered by various Government policies and decisions. Since that time, land management practices have changed, but the Zuni and Ramah people are left with a legacy of barren landscapes.

The bill I am introducing will change this legacy. My bill will produce a plan for the management of the watershed that will not only prevent further degradation, but will identify what can be done to rehabilitate these lands. The bill fosters the voluntary cooperation among the Zuni Indian Pueblo, the Ramah Band, the State of New Mexico, the Soil Conservation Service, the Forest Service, the Bureau of Indian Affairs and private land owners. All people within the Zuni River watershed should benefit from a cooperative effort to restore these affected lands. This cooperative effort will ensure that the severe erosion we have seen in the past does not occur in the future.

I am pleased that my colleague Senator DOMENICI is cosponsoring this bill. I urge my other colleagues to join me in supporting this legislation to conserve the Zuni River watershed for the benefit of present and future generations.

Mr. President, I ask unanimous consent that the text of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1350

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni River Watershed Act of 1991".

SEC. 2. FINDINGS.

Congress finds that—

(1) over the past century, extensive damage has occurred in the Zuni River watershed, including—

(A) severe erosion of agricultural lands;

(B) reduced productivity of renewable resources; and

(C) loss of nonrenewable resources;

(2) the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation includes—

(A) Federal land;

(B) State land;

(C) Zuni Indian Trust land;

(D) Navajo Tribal Trust land;

(E) Ramah Band of the Navajo Tribe Trust land;

(F) individual Indian allotment lands; and

(G) private land;

(3) the Department of Agriculture, the Bureau of Indian Affairs, the Zuni Indian Tribe, and the Ramah Band of the Navajo Tribe agree that corrective measures are required to prevent continued degradation of natural and cultural resources throughout the Zuni River watershed;

(4) with the passage of the Zuni Land Conservation Act of 1990 (Public Law 101-486), the Zuni Indian Tribe has the ability to take these corrective measures within the Zuni Indian Reservation;

(5) the implementation of a watershed management plan within the Zuni Indian Reservation will be ineffective without the implementation of a corresponding plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation;

(6) most of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation is within the Cibola National Forest or Indian Trust lands;

(7) the Secretary of Agriculture, acting through the Chief of the Forest Service and the Chief of the Soil Conservation Service, and the Secretary of the Interior, acting through the Commissioner of Indian Affairs, have the technical expertise to formulate a plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation on Federal, State, Indian, and private lands;

(8) an effective watershed management plan for the Zuni River watershed requires voluntary cooperation among the—

(A) Soil Conservation Service;

(B) Forest Service;

(C) Bureau of Indian Affairs;

(D) Zuni Indian Tribe;

(E) Ramah Band of the Navajo Tribe;

(F) State of New Mexico; and

(G) private landowners; and

(9) all persons living within the Zuni River watershed will benefit from a cooperative effort to rehabilitate and manage the watershed.

SEC. 3. STUDY, PLAN, AND REPORT.

(a) STUDY AND PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Soil Conservation Service and the Chief of the Forest Service, and the Secretary of the Interior, acting through the Commissioner of Indian Affairs, shall—

(A) conduct a study of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation, as depicted on the map entitled "Zuni River Watershed" numbered —— and dated ————, 1991, which shall be on file and available for public inspection in the—

(i) New Mexico State Office of the Soil Conservation Service; and

(ii) Albuquerque Area Office of the Bureau of Indian Affairs; and

(B) prepare a plan for watershed protection and rehabilitation on both public and private lands.

(2) PLAN COMPONENTS.—The plan required by paragraph (1)(B) shall include—

(A) a watershed survey describing current resource conditions;

(B) recommendations for watershed protection and rehabilitation on both public and private lands;

(C) management guidelines for maintaining and improving the natural and cultural resource base on both public and private lands;

(D) a system for monitoring resource conditions that can be coordinated with the system developed by the Zuni Indian Tribe;

(E) proposals for voluntary cooperative programs, that implement and administer the plan required by paragraph (1)(B), among—

(i) the Department of Agriculture;

(ii) the Department of the Interior;

(iii) the Zuni Indian Tribe;

(iv) the Ramah Band of the Navajo Indian Tribe;

(v) the State of New Mexico;

(vi) private landowners within the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation; and

(vii) other public or private agencies;

(F) a project plan that—

(i) outlines tasks necessary to implement the plan required by paragraph (1)(B);

(ii) recommends completion dates; and

(iii) estimates the costs of the tasks; and

(G) a monitoring plan that—

(i) outlines tasks for monitoring and maintaining the watershed; and

(ii) estimates the annual cost of performing the tasks.

(b) REPORT.—Not later than 2 years after the date that funds are made available for the study and the preparation of the plan as required by subsection (a)(1), the Secretary of Agriculture and the Secretary of the Interior shall submit to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a written report containing—

(1) the full text of the study and the plan; and

(2) an executive summary of the study and the plan.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.●

By Mr. DOMENICI (for himself, Mr. BINGAMAN, Mr. JOHNSTON, Mr. WALLOP, Mr. FORD, Mr. CRAIG, Mr. SIMON, Mr. MOYNIHAN, Mr. GORTON, Mr. SEYMOUR, Mr. D'AMATO, and Mr. SYMMS):

S. 1351. A bill to encourage partnerships between Department of Energy Laboratories and educational institutions, industry, and other Federal laboratories in support of critical national objectives in energy, national security, the environment, and scientific and technological competitiveness; to the Committee on Energy and Natural Resources.

DEPARTMENT OF ENERGY SCIENCE AND TECHNOLOGY PARTNERSHIP ACT

Mr. DOMENICI. Mr. President, I rise today to introduce a bill on behalf of myself, Senators BINGAMAN, JOHNSTON, WALLOP, CRAIG, SIMON, MOYNIHAN, GORTON, SEYMOUR, D'AMATO, and SYMMS.

These Senators names, I read today because in each case within their States is a major Department of Energy National Laboratory. There are a couple of others who are not yet cosponsors but I am sure they will be as soon as they have a chance to review this legislation.

I am excited about this legislation because I believe the Department of Energy has more science and technology available than any other institution in the world. Most of it was developed because of their particular mission with reference to either nuclear energy or nuclear devices or atomic energy or atomic devices. In the meantime, what we have are national treasures; nearly thousands of scientists with support teams are in these laboratories, including Los Alamos and Sandia in the State of New Mexico.

The time has come to say to the Secretary of Energy, we give you the authority and direct you to use these national laboratories and the science and technology that is encapsulated therein for purposes beyond the current mission of the Department's laboratories. We believe the time has come to ask these laboratories to help American industry, large and small, to better compete. We believe the time has come to ask them to help our universities with joint partnership type academic efforts, thus through the synergy of the two making our science and technology even better.

We think the time has come to ask them to ask the private sector and academia and other agencies of the Federal Government to do a better job in energy efficiency. We think partnerships ought to be entered into in the private sector and academia, moving in energy efficiency and alternative energies. We think the time has come for high-performance computing. A number of them are absolute experts. We think they ought to be turned loose in partnership arrangements to use the full strength of this marvelous specialty of computing to move ahead our competitive advantages and, yes, even to move ahead in some of the fields we are so worried about that have to do with environment, that have to do with various things such as global climate change.

We also believe the time has come to let these laboratories and scientists therein enter into partnership arrangements with the private sector and others to solve environmental problems that we all know are there and to come up with new ideas so as to mitigate in the future environmental problems as we develop new kinds of industrial processes and the like.

Obviously, they are already involved in some of these areas, like human health. But we want to make it absolutely clear by this legislation that the Secretary is directed to involve, through partnership arrangements and otherwise, these laboratories and their expertise in human health, including the mapping of the human geno and other new and yet untried, but certainly to evolve the science of health and wellness of the future.

We believe advanced manufacturing technologies, including those that may affect energy, energy efficiency, environmental protection ought to be the subject matter of partnership and cooperative arrangements between these laboratories and America's business and industry, large and small, and, yes, America's universities also, so that again you can combine the strength of the two and move more rapidly to solve problems, all for America's future.

Education and training. Clearly, when you have more scientists and engineers than any other institution in the world, more Ph.D.'s working for laboratories than any in the world, we ought to ask them to involve themselves in training and education and not have it anything other than upfront activity that thay have been chartered to do, authorized and directed to do.

So that is what this bill is going to do. It will do some other things. It is not going to cost any money. But what it will do is broaden the scope and the horizon and, yes, the jurisdiction and ability of thousands of the best scientists of the world who kept America free, kept America always out front in nuclear activities and prevented a nuclear holocaust and in the process accumulated the best scientists in the world. We want them to apply that expertise to many areas of endeavor in America, to give us more competitiveness, to solve some of the problems of the future, because certainly with science moving ahead rapidly we want to be the first in many of these areas to keep America always on the cutting edge.

I am confident that for those who want to move technology and transfer technology, they will agree, when this bill is finally before the Senate, this is another way to move technology from the minds of brilliant people and from machines and enterprises in laboratories to the marketplace of application. A good way is to create partnerships with businesses and laboratories, experts, and that is what we are going to try to do.

I send the bill to which I have alluded to the desk and ask that it be properly referred.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I am pleased to support Senator DOMENICI in introducing the technology partnership legislation he has developed with the Department of Energy. The partnership concept is a very useful one for addressing technology issues. I have made use of it in my own legislation, S. 979, that is before the Energy and Natural Resources Committee. That bill is aimed at research and development on critical technologies identified in the most recent National Critical Technologies Report.

I look forward to working with the committee to further develop the ideas in the Department of Energy, Science, and Technology Partnership Act. This bill could become the basis for a number of initiatives for the Department of Energy within the context of a government-wide effort to improve U.S. technological competitiveness. If America is to keep ahead of international competitors, it needs to nurture its technological edge.

I am committed to making sure that high-payoff enterprises like the DOE laboratories remain strong and vital, even in time of tight Federal budgets. One way in which this can happen is to encourage the national laboratories to work even more effectively with universities and industry. Each type of institution has its own special strengths. The partnerships contemplated under this bill can facilitate this kind of creative interaction and provide the national laboratories with the new information the laboratories need to make their efforts relevant to commercial requirements.

Mr. JOHNSTON. Mr. President, I congratulate Senator DOMENICI for introducing this legislation today. I know he has been working with the Department of Energy and other Senators to develop this bill. He and Senator BINGAMAN have been the leaders in the Senate in their concern to find new ways that the Nation can be served by the national laboratory system we have built in this country. I know both of them are ready to join the chairman, the ranking member, and other members of the Committee on Energy and Natural Resources to devise a new charter for this laboratory system that will serve the Nation even better in the future. This bill will provide the vehicle for this effort.

This legislation can serve as an enabling statute for a new role for the Department of Energy in research and development. The great technological challenges the Nation faces have many facets that fit well with the capabilities of the Department of Energy. Energy supply development, energy efficiency, renewable energy, alternative fuels, and nuclear energy are the obvious areas of challenge where the Department continues to be active.

The Department of Energy is also the home of much of the Federal support for basic research in the sciences in the United States. This has been true over many, many years, long before the superconducting super collider was even thought of. Today the Department operates the largest and most valuable machines of basic science in the world.

The Department of Energy designs, develops, tests, builds, and maintains the weapons that comprise the Nation's nuclear deterrent.

These are all important roles that will continue in the future. But the world that gave rise to these specific elements of the Department of Energy charter is changing, and there are departmental capabilities that can be put to wider use. The Department of Energy has built the most powerful and advanced lasers. The Department's laboratories are the world leaders in the development of supercomputers. These laboratories are helping to lead the effort to map the human genome. High-strength alloys and other high-performance structural materials have been developed in DOE national laboratories and applied directly to problems prior to commercial application.

These laboratories employ over 16,000 researchers with advanced degrees in science and engineering. More than 50 Nobel Prizes have been awarded for work performed at DOE national laboratories or that drew upon national laboratory contributions. Since 1985, over 140 spinoff companies have been formed based on technologies developed at the DOE national laboratories.

This imposing national asset could not be constructed from scratch in today's budget climate. We have these laboratories as a gift from the time when the Nation invested heavily in the infrastructure of science for defense. We need to apply the tools these laboratories make available to the solution of today's problems.

This bill will help us begin this debate in the committee. I'm looking forward to the hearings we will have. I know Admiral Watkins agrees with the importance of this legislation. It will be a major issue for us as well.

By Mr. DODD:

S. 1352. A bill to place restrictions on United States assistance for El Salvador; to the Committee on Foreign Relations.

EL SALVADOR PEACE, SECURITY, AND JUSTICE ACT OF 1991

• Mr. DODD. Mr. President, I rise for the purpose of introducing legislation relating the administration's fiscal 1992 military aid request for El Salvador. This legislation, except for one major difference, is virtually identical to the legislation approved by the Senate last October.

My colleagues will recall that the framework which we established last fall was adopted by a very strong vote, 74 to 25. And subsequently the administration's efforts to modify it failed by vote of 58 to 39.

That effort was designed to use the military aid program as a way of moving the negotiating process forward and maintaining the active involvement of the United Nations in it.

Up front the legislation required the United States to withhold 50 percent of the $85 million in military aid requested for fiscal 1991. Additionally, it withheld 50 percent of the military aid pipeline. Then through a series of incentives and disincentives, the legislation sought to convince both sides that there was more to be gained from a negotiated settlement than from continuing the war effort.

This is, I believe, a sound approach and one which needs to be pursued in terms of the fiscal 1992 military aid request for El Salvador. Accordingly my proposal is designed to do just that, repeat the Senate-adopted provision of last October except for one major change.

The change is this: Under the terms of the legislation I am introducing today, any decision by the President to release all the military aid funds, or alternatively to withhold all of them, would be subject to a 15-day review by the appropriate committees of the Congress pursuant to the standard reprogramming procedure.

In other words, this provision keeps the foreign policy committees and the appropriations committees in the decisionmaking loop and allows for a Presidential finding to be overturned by a majority-supported decision of any one of these committees.

Based on our experience earlier this year, I believe the addition of this provision is essential. We gave the President maximum flexibility to release the funds and, in my opinion and in the opinion of a lot of other people, he abused that authority. Clearly, then, this authority must be circumscribed by a congressional review process, such as the one which I have included in the measure I am offering today.

Now I know, Mr. President, that there are those who will argue that we should do nothing at this point on the issue of military aid to El Salvador and they will point to the decision by our colleagues in the House to hold off legislatively until September.

I have talked to my friends in the House. They know that I respect their decision. The fact that there may be differences on timing and tactics between the House and the Senate should not be misunderstood. Keep in mind that last year that the House acted first and the Senate, not until later in the year.

I do not believe that the status quo should be left in tact on the question of military aid to El Salvador for the next 2 or 3 months. My view is that would be a mistake because it would suggest to the parties at the negotiating table that our commitment to a political settlement has been weakened.

Alternatively, I have suggested to the administration that it withdraw its fiscal 1992 military aid request and withhold obligating or spending 50 percent of the fiscal 1991 money. This would provide the greatest safeguard against "rocking the boat." And in September or October, we sit down and figure out collectively where we want to go and how to get there.

That's not acceptable to the administration. They will not withdraw the 1992 request. Nor will they commit to withholding the $42.5 million in 1991 funds until after the Labor Day.

In view of these circumstances, Mr. President, I believe there is no choice but to proceed with the kind of legislative effort that I have outlined.

I ask unanimous consent that a copy of my proposed legislation be printed at this point in the RECORD, together with a summary of it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "El Salvador Peace, Security, and Justice Act of 1991".

SEC. 2. STATEMENT OF POLICY.

United States military assistance to the Government of El Salvador shall seek three principal foreign policy objectives, as follows: (1) to promote a permanent settlement and cease-fire to the conflict in El Salvador, with the Secretary General of the United Nations serving as an active mediator between the opposing parties; (2) to foster greater respect for basic human rights and the rule of law; and (3) to advance political accommodation and national reconciliation.

SEC. 3. MAXIMUM LEVEL OF MILITARY ASSISTANCE.

Of the funds made available for United States military assistance for fiscal year 1992, not more than $85,000,000 shall be available for El Salvador.

SEC. 4. PROHIBITION OF MILITARY ASSISTANCE.

(a) PROHIBITION.—Subject to subsection (b), no United States military assistance may be furnished to the Government of El Salvador—

(1) if the President determines and reports in writing to the appropriate congressional committees that—

(A) after the President has consulted with the Secretary General of the United Nations, the Government of El Salvador has declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict of El Salvador;

(B) the Government of El Salvador has rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(C) the Government of El Salvador is not conducting a thorough and professional investigation into, and prosecution of, those responsible for the eight murders at the University of Central America on November 16, 1989, as evidenced, for example, by the high command of the Salvadoran military withholding from judicial authorities, military personnel as witnesses or information or documents that have been identified by the presiding judge in the case as potentially relevant to the investigation; or

(D) the military and security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces; and

(2) if the appropriate congressional committees have had at least 15 days to review the President's determination under paragraph (1) in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(b) Requirement for Resumption of Assistance.—Assistance prohibited under subsection (a) may only be resumed pursuant to a law subsequently enacted by the Congress.

SEC. 5. WITHHOLDING OF MILITARY ASSISTANCE.

(a) In General.—Fifty percent of the total United States military assistance allocated for El Salvador for fiscal year 1992 and 50 percent of the total United States military assistance allocated for El Salvador for previous fiscal years, which has not been obligated, expended, delivered, or otherwise made available to the Government of El Salvador, shall be withheld from obligation or expenditure (as the case may be) except as provided in subsections (b) and (c).

(b) Release of Assistance.—Subject to the provisions of sections 4, 6, and 10, United States military assistance withheld pursuant to subsection (a) may be obligated and expended only if—

(1) the President determines, in accordance with subsection (c), and reports in writing to the appropriate congressional committees that—

(A) after he has consulted with the Secretary General of the United Nations, the representatives of the FMLN—

(i) have declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict in El Salvador, or

(ii) have rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(B) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN;

(C) proof exists that the FMLN is continuing to acquire or receive significant shipments of lethal military assistance from outside El Salvador, and this proof has been shared with the appropriate congressional committees; or

(D) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control; and

(2) at least 15 days before any obligation or expenditure of funds is made, the appropriate congressional committees are notified in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961.

(c) Period Covered by Presidential Determination.—A determination under subsection (b) may be made only with respect to the activities of the FMLN occurring after the President's determination of January 15, 1991, pursuant to section 531(d)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513).

(d) Exception.—Notwithstanding any other provision of law, funds withheld pursuant to subsection (a) may be disbursed to pay the cost of any contract penalties which may be incurred as a result of such withholding of funds under this subsection.

SEC. 6. CONDITION FOR TERMINATION OF ALL UNITED STATES ASSISTANCE.

(a) Prohibition.—Subject to subsection (b), no United States assistance may be furnished to El Salvador if the duly elected head of Government of El Salvador is deposed by military coup or decree.

(b) Requirement for Resumption of Assistance.—Assistance prohibited under subsection (a) may only be resumed pursuant to a law subsequently enacted by the Congress.

SEC. 7. ESTABLISHMENT OF A FUND FOR CEASE-FIRE MONITORING, DEMOBILIZATION, AND TRANSITION TO PEACE.

(a) Establishment of Fund.—There is hereby established in the Treasury of the United States a fund to assist with the costs of monitoring a permanent settlement of the conflict, including a cease-fire, and the demobilization of combatants in the conflict in El Salvador, and their transition to peaceful pursuits, which shall be known as the "Demobilization and Transition Fund" (hereafter in this section referred to as the "Fund"). Amounts in the Fund shall be available for obligation and expenditure only upon notification by the President to the appropriate congressional committees that the Government of El Salvador and representatives of the FMLN have reached a permanent settlement of the conflict, including a final agreement on a cease-fire.

(b) Transfer of Certain Military Assistance Funds.—Upon notification of the appropriate congressional committees of a permanent settlement of the conflict, including an agreement on a cease-fire, or on September 30, 1992, if no such notification has occurred before that date, the President shall transfer to the Fund any United States military assistance funds withheld pursuant to section 5. In addition, the President may transfer to the Fund any additional military assistance that has been allocated for El Salvador for fiscal year 1991 or fiscal year 1992 that he determines necessary to carry out the purposes of this section.

(c) Use of the Fund.—Notwithstanding any other provision of law, amounts in the Fund shall be available for El Salvador solely to support costs of demobilization, retraining, relocation, and reemployment in civilian pursuits of former combatants in the conflict in El Salvador, and for the monitoring of the permanent settlement and cease-fire.

(d) Duration of Availability of Funds.—Notwithstanding any other provision of law, amounts transferred to the Fund shall remain available until expended.

SEC. 8. STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.

In order to strengthen the control of the democratically elected civilian Government of El Salvador over the armed forces of that country, United States military assistance for any fiscal year may be delivered to the armed forces of El Salvador only with the prior approval of the duly elected President of El Salvador.

SEC. 9. SUPPORT FOR DEMOCRACY.

(a) Continuation of Program.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall continue to undertake programs of education, training, and dialogue for the purpose of strengthening democratic, political, and legal institutions in El Salvador.

(b) International Human Rights Monitoring.—The Secretary of State is authorized to cooperate fully with the United Nations Secretary General and with United Nation's efforts to implement provisions of the Human Rights Accord, which was agreed to between the Government of El Salvador and the FMLN on July 26, 1990, during the fourth session of the United Nations-mediated negotiations, and, in particular, to provide assistance in support of the deployment of the United Nations Observer Force in El Salvador.

(c) Assistance.—Of the amounts made available for economic support fund assistance for fiscal year 1992, up to $10,000,000 may be used to carry out this section and, at the direction of the Secretary of State, may be used pursuant to subsection (b) to provide assistance for the deployment or activities of the United Nations Observer Force in El Salvador.

SEC. 10. INVESTIGATION OF MURDERS.

Of the amounts made available for United States military assistance for El Salvador for fiscal year 1992, $5,000,000 may not be expended until the President certifies to the appropriate congressional committees that the Government of El Salvador has pursued all legal avenues to fully investigate, bring to trial, and obtain verdicts against—

(1) those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera;

(2) those who ordered and carried out the September 1988 massacre of ten peasants near the town of San Francisco, El Salvador;

(3) those who ordered and carried out the November 1989 murders of six Jesuit priests and their associates; and

(4) those responsible for the deaths of the ten unionists who were killed during the October 31, 1989, bombing of the FENASTRAS headquarters.

SEC. 11. REPORTING REQUIREMENTS.

The President shall, at the request of any of the appropriate congressional committees, submit a report periodically to such committee on the implementation of the provisions of this Act, including the status of the investigation into the politically motivated murders listed in section 10.

SEC. 12. DEFINITIONS.

For purposes of this Act—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee

on Foreign Affairs and the Committee on Appropriations of the House of Representatives;

(2) the term "economic support fund assistance" means the assistance which is authorized to be provided under chapter 4 of part II of the Foreign Assistance Act of 1961;

(3) the term "FMLN" means the Farabundo Marti Front for National Liberation;

(4) the term "United States assistance" has the same meaning as is given to such term by section 481(i)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(4)) and includes United States military assistance as defined in paragraph (3); and

(5) the term "United States military assistance" means—

(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961; and

(B) assistance to carry out section 23 of the Arms Export Control Act.

SEC. 13. REPEAL.

Sections 531 of the Foreign Operations, Export Financing, and Related Programs Appropriatins Act, 1991, are repealed.●

SUMMARY OF THE EL SALVADOR PEACE, SECURITY, AND JUSTICE ACT OF 1991

Sets forth the following U.S. policy objectives with respect to El Salvador—

To promote a permanent settlement and cease-fire to the conflict through mediation by the U.N. Secretary General;

To foster greater respect by the Government of El Salvador for basic human rights and the rule of law: and

To advance political accommodation and national reconciliation.

Caps military assistance to El Salvador at $85 million for FY 1992;

Prohibits all U.S. military assistance to the Government of El Salvador if the President determines and reports to the appropriate Congressional Committees, in accordance with reprogramming procedures under Section 634A of the Foreign Assistance Act of 1961, that any of the following is the case—

The Government of El Salvador has declined to participate in good faith negotiations;

The Government of El Salvador has rejected the mediating role of the Secretary General of the UN;

The Government of El Salvador is failing to conduct a professional investigation into and prosecution of those responsible for the November 16, 1989 murders of the six Jesuits and their associates; or

The miltiary and security forces of El Salvador are assassinating or abducting civilians.

Underscores the U.S. commitment to the negotiating process by withholding 50 percent of U.S. military assistance which would otherwise be made available to the Government of El Salvador in fiscal year 1992, including any money in the pipeline from prior fiscal years, unless the President determines and reports to the appropriate Congressional Committees, in accordance with reprogramming procedures under 634A of the Foreign Assistance Act 1961, that any of the following is the case—

The FMLN has declined to participate in good faith negotiations;

The FMLN has rejected a mediating role of U.N. Secretary General;

The survival of the constitutional government of El Salvador is being jeopardized by a substantial military offensive by the FMLN;

Proof exists and has been provided to Congress that the FMLN continues to receive substantial military assistance from outside that country; or

The FMLN is assassinating or abducting civilians.

Terminates all U.S. economic and military assistance to the Government of El Salvador in the event of a military coup;

Establishes a "Fund for Ceasefire Monitoring, Demobilization and Transition to Peace", transfers military assistance withheld by the bill to the newly established fund, with the monies to be provided to El Salvador once a permanent settlement has been reached to support implementation of that settlement;

Strengthens civilian control over the military by mandating prior approval of all U.S. military assistance to the military and security forces by the civilian government;

Earmarks up to $10,000,000 in ESF funds in FY 1992 to support democratic initiatives in El Salvador, including for National Endowment for Democracy programs, and international human rights monitoring efforts through the deployment of the U.N. Observer Force in El Salvador.

Fences $5,000,000 in FY 1992 military assistance pending the investigation and trial of those responsible for the 1981 murders of the U.S. AIFLD workers, and the Salvadoran land reform activist; the 1988 San Francisco massacre; the 1989 murders of the six Jesuits and their associates; and deaths of ten trade unionists resulting from the 1989 Fenastras bombing;

Authorizes periodic reports to the Congress.

By Mr. LIEBERMAN (for himself, Mr. REID, and Mr. DURENBERGER):

S. 1353. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that hazardous pesticides are promptly removed from the market and to ensure that the health of all citizens, particularly our children, is protected, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

PESTICIDE HEALTH AND SAFETY ACT

● Mr. LIEBERMAN. Mr. President, Senator REID, Senator DURENBERGER, and I are introducing legislation today to amend the Federal Insecticide, Fungicide, and Rodenticide Act to ensure that all pesticides are clearly labeled, that hazardous pesticides are promptly removed from the market, and that the health of all citizens, especially our children is protected. In the last several years, the Environment and Public Works Committee's Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, chaired by my colleague from Nevada, Senator REID, has held a number of hearings to examine the issue of pesticides in the food supply and for use in lawn care. What we heard during those hearings was unsettling in terms of the length of time it takes the U.S. Environmental Protection Agency to cancel a dangerous pesticide, how little information EPA often has regarding the potential toxic effects of chemicals, and the inadequacy with which this information is relayed to the consumer. That is why we are introducing legislation that would require EPA to provide the protection the American people deserve.

We have found that it often takes EPA 15–20 years to remove a dangerous pesticide from the market. For example, it took 17 years to have Alar removed and that was only because the manufacturer agreed to voluntarily stop selling it. Similarly, the threat of potential health effects of EBDC first came to light as far back as 1970. But its use was continued until 1989 when the major manufacturers of EBDC announced a voluntary suspension of EBDC production for use on some U.S. crops. However, EPA's review of its use on other crops is still ongoing. Furthermore, the recent revelation that some bananas grown for export to the United States were found to be contaminated with up to 10 times the legal limit of aldicarb, brings to mind the fact that this pesticide has been undergoing special review by the EPA for over 5 years. Although thousands of people suffered from nausea, vomiting, and diarrhea after eating watermelon that had been sprayed with aldicrab in the mid-1980's, its use on other crops has continued while EPA continues to debate the significance of aldicrab's inhibition of cholinesterase, an important enzyme in the nervous system. Furthermore, although manufacturers may voluntarily suspend sales of a pesticide for use on a particular crop, all of the existing crops that have been treated with the pesticide are still in the pipeline for sale to and consumption by the U.S. public.

This legislation will ensure that EPA can remove dangerous pesticides from the market as soon as data indicates that it poses a risk to public health. In addition, the legislation provides for the periodic expiration of pesticide registrations and tolerances which will force the pesticide industry and EPA to ensure that the determination of the safety of a pesticide is based upon the most state-of-the-art scientific data.

The Pesticide Health and Safety Act will improve the quality of information that appears on labels for pesticide products. For example, at our hearings on lawn care products it was revealed that some labels state that the applicator should wear protective clothing, while they bear pictures of individuals applying these products, wearing shorts and short sleeves and no gloves. Our bill would bar such misleading labels. Furthermore, current labels on pesticides do not necessarily include statements regarding the potential health effects of the product. I think consumers have a right to know about the potential or suspected health effects of the products they are using. Therefore, the bill will require that all known human health and environmental risks be disclosed on the label.

This way, the consumer will be able to make informed decisions regarding the choice and use of pesticide products to which they will be exposing themselves, their children, and their pets.

There is a wide degree of variation of diets among different population groups. It follows that the degree of consumption of products that have been treated with pesticides also varies among the population. For example, children consume a much higher quantity of fruits and vegetables than do adults. Therefore, the Pesticide Health and Safety Act will require that EPA examine the effects of a pesticide on children and other sensitive or heavily exposed populations before it is registered or reregistered, rather than base its risk assessments on a value that represent the mean consumption, across the country, of a product.

EPA currently establishes tolerance levels as if the American public was exposed to a single pesticide on a single piece of fruit or vegetable when, in fact, a sample 1-day diet may contain over 50 different pesticides. This legislation would require EPA to look at the total nondietary and dietary exposure to pesticides—in our air, in our soil, in our water, in all the fruits and vegetables, in our milk and in our meat, poultry and fish. I find it ironic that some well-known scientists have been urging the public to include more fruits and vegetables in their diet in order to reduce the chance of getting cancer, when the chemicals that are intentionally applied to the same fruits and vegetables may produce cancer themselves. EPA needs to evaluate the cumulative effects of these chemicals on human health.

The Pesticides Health and Safety Act requires all pesticide applicators to keep records of the data and time of pesticide applications and requires certified applicators to receive training in integrated pest management and sustainable agriculture. In addition, the bill provides much needed changes in the composition of the Agency's scientific advisory panel [SAP]. In studying the Alar case, I was surprised to learn that no member of the SAP was a pediatrician or a scientist trained in public health, even though the SAP was making crucial recommendations affecting our health and the health of our children. I was also disturbed to learn that some members of the SAP consulted for the chemical industry before and during their service on the panel. The legislation we are introducing today requires that a pediatrician and a public health specialist be members of the SAP, that all nominees be required to publicly disclose previous consulting activities, and that all members of the panel be barred from consulting for any company with an interest in pesticides while on the panel.

Senator REID, Senator DURENBERGER, and I look forward to working with our colleagues in the Senate to help move this legislation forward to ensure that the health of American citizens, especially children, is adequately protected.

I request unanimous consent that the bill and the section-by-section description of the bill be printed in their entirety immediately following my remarks and those of Senator REID.

Mr. REID. Mr. President, I am pleased to join my distinguished colleagues, Senators JOE LIEBERMAN and DAVE DURENBERGER, in introducing the Pesticide Health and Safety Act of 1991.

The Pesticide Health and Safety Act of 1991 is almost identical to a bill that we introduced in the last Congress following several months of inquiry into the pesticide regulatory process by the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development of the Environment and Public Works Committee, which I chair.

There are thousands of chemicals in our environment that are inadequately regulated and that pose significant dangers to our health and safety. The legislation we're introducing will allow greater control of the regulatory process, which will increase safety and health standards.

Fears about the use of the growth regulator Alar in apples and apple products prompted my subcommittee to examine the complicated area of food safety regulation. The subcommittee conducted a hearing in May 1989 to review the regulation of Alar, the pesticide regulatory process in general, and the potential acute and chronic neurotoxic effects of exposure to pesticides.

Following the hearing the subcommittee issued a report entitled "Government Regulation of Pesticides in Food: The Need for Administrative and Regulatory Reform." The report outlines the shortcomings in the pesticide regulatory process and sets forth recommendations for improvement. Many of the provisions in the bill that we are introducing today are an outgrowth of the recommendations in the subcommittee report.

Concern about food safety has become a catalyst to the reform of regulations governing the use of pesticides on food. Our Nation's reliance on pesticide products is well known. There are reportedly 50,000 agricultural chemicals used in America today. Approximately 1.2 billion pounds of pesticides costing $65 billion are sold each year, almost 5 pounds of pesticides for every man, woman, and child in this country.

Before a pesticide can be sold, it must be registered with the Environmental Protection Agency. Unfortunately, many pesticides were registered a long time ago and have not undergone modern testing for adverse health effects. Because of increased concerns about such pesticides, Congress in the 1988 amendments to the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA] required EPA to reregister these products.

Unfortunately this process has been very slow. Just last month, the General Accounting Office reported to the subcommittee that EPA had fallen behind its own April 1990 schedule for reregistration of 32 pesticides commonly used for lawn care. The GAO found that only 1 of the 32 pesticides had been completely assessed and that no products containing this pesticide have yet been reregistered. Most alarmingly, the GAO found that the Agency's data collection activities for 7 of the 32 pesticides will not even be finished before the pesticides had been scheduled to be reregistered. This group of pesticides includes 2,4-D, an herbicide which EPA has been considering placing in special review since 1986 because of concerns about possible cancer risks.

Should concerns arise about the safety of a pesticide, it is often difficult to remove that product from the market. The history of Alar demonstrates the inability of EPA to act swiftly and effectively under the present law.

Evidence that Alar caused cancer in animals was discovered in 1977. In 1980 EPA took steps to begin a special review to consider the benefits and risks not considered at the time of the product's original registration. In 1985, EPA announced its intention to cancel all food use registrations of Alar. The Agency then referred the matter to its scientific advisory panel for review. Following closed door meetings, the SAP disagreed with EPA's assessment, believing additional tests were necessary. Alar was thus allowed to stay on the market, pending additional information from its manufacturer.

It was not until January 1989 that EPA announced that it would initiate proceedings to cancel Alar—12 years after the chemical's safety was first questioned. My subcommittee was told in 1989 that cancellation proceedings could take as long as 3 or 4 years. We found this unacceptable and introduced legislation to ban Alar. Subsequent negotiations with EPA resulted in the voluntary withdrawal of Alar from the domestic market.

The bill that we are offering today addresses many of the deficiencies the subcommittee identified in the pesticide regulatory process. Specifically, the Pesticide Health and Safety Act of 1991 would:

Make it easier for EPA to remove a pesticide from the market by revising the standards for cancellation and suspension of a pesticide registration;

Establish a "sunset" provision, requiring periodic expiration of pesticide registrations and allowing reregistration only upon a determination that pesticides comply with regulatory standards in effect at that time;

Require EPA to consider health risks to children and other sensitive population subgroups;

Require the Agency to consider the cumulative effects of pesticides on food; and

Require the scientific advisory panel to include at a minimum one public health specialist and one pediatrician.

With this legislation, we can solve a major problem and send a hopeful message to American families. If you're a parent and worried that your kids are eating food that's been poisoned by chemicals, this legislation is good news indeed. Our kids have been routinely victimized by inefficient regulations. This bill will put an end to this pattern of neglect.

Mr. President, the changes to the Federal Insecticide, Fungicide and Rodenticide Act set forth in the bill that we are proposing will significantly reduce the risks to public health from pesticide exposure. I urge my colleagues to support the Pesticide Health and Safety Act of 1991.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1353

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pesticide Health and Safety Act of 1991".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) the removal of carcinogenic pesticides from the market may take 18 years from the date of the first finding of carcinogenicity;

(2) the time-consuming process and the years of indecision can be harmful to all participants, the manufacturers, the agricultural producers, and the consumers;

(3) delays in decisionmaking and the inability of the Environmental Protection Agency to remove dangerous products from the market may expose children to hazardous chemicals at critical periods in their development; and

(4) the 18 years or more that it has taken the Environmental Protection Agency to act on Alar and on Ethylene Bisdithiocarbamates (EBDCs) is a clear indication that the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) must be amended.

(b) Purpose.—It is the purpose of this Act to provide for the effective control of pests and the protection of human health and the environment.

SEC. 3. DEFINITIONS.

Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136) is amended—

(1) in subsection (e)—

(A) in the first sentence of paragraph (1), by striking "which is classified for restricted use";

(B) in paragraph (2), by striking "pesticide which is classified for restricted use for purposes of producing any agricultural commodity" and inserting "registered pesticide for purposes of producing any agricultural commodity that the producer offers for sale or trade";

(C) in paragraph (3), by striking "pesticide which is classified for restricted use" and inserting "registered pesticide"; and

(D) in paragraph (4), by striking "available if and when" and all that follows through the period and inserting "physically present at the time and place the pesticide is applied. If the pesticide being applied is classified for restricted use or for prescription use, the pesticide shall only be applied by a certified applicator.";

(2) in subsection (j), by striking "and man" and inserting "people, especially population subgroups understood to be either more heavily exposed or more sensitive, or both";

(3) in subsection (n)(1), by striking "active ingredient, and the total percentage of all inert ingredients," and inserting "ingredient";

(4) in subsection (q)(1)—

(A) in subparagraph (E)—

(i) by inserting "(i)" after the subparagraph designation;

(ii) by adding at the end the following new clauses:

"(ii) all warnings, caution statements, directions for use and statements of a practical treatment required under this subsection are not displayed in a size that is uniform on a particular label; or

"(iii) the label or labeling is misleading to the ordinary individual with regard to the known safety and toxicity under customary conditions of purchase and use;";

(B) in subparagraph (F)—

(i) by inserting "(i)" after the subparagraph designation;

(ii) by inserting "human" after "protect";

(iii) by adding at the end the following new clause:

"(ii) the label or labeling contains or supplies a visual depiction, and the depiction is misleading or is not wholly consistent with the accompanying directions for use;";

(C) by striking subparagraph (G) and inserting the following new subparagraph:

"(G)(i) the label does not contain a warning or caution statement that may be necessary and if complied with, together with any requirements imposed under section 3(d), is adequate to protect human health and the environment;

"(ii) the required warning or caution statement does not include all known human health and environmental risks;

"(iii) the required warning or caution statement is not accompanied by a list of uses known to be dangerous to human health and the environment;

"(iv) the label or labeling contains or supplies a visual depiction, and the depiction is misleading or is not wholly consistent with the accompanying warning or caution statement;

"(v)(I) it contains a chemical that the Administrator has determined is a probable human carcinogen, and the label does not so state;

"(II) it contains a chemical that the Administrator has determined is a possible human carcinogen, and the label does not so state; or

"(III) it contains a chemical that has been determined to be a probable or possible human carcinogen by a Federal agency or entity other than the Administrator, and the label does not so state; or

"(IV) it contains a chemical that may cause unusual reactions in some people, and the label does not so state;";

(D) by striking the period at the end of subparagraph (H) and inserting "; or"; and

(E) by adding at the end the following new subparagraph:

"(I) the label or labeling contains a statement to the effect that it or its ingredients are registered with the Administrator, unless the statement is followed immediately by the most recent date of registration and by the further statement that: 'EPA registration is not a guarantee of safety. It is a product registration process and is not a safety determination.' "; and

(5) in subsection (bb)—

(A) by striking "to man" and inserting "to people, children,"; and

(B) by striking "the economic" and inserting "particular economic".

SEC. 4. REGISTRATION.

Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a) is amended—

(1) in subsection (a), by inserting "or on human health" after "on the environment";

(2) in subsection (c)(2)(A), by adding at the end the following new sentence: "The Administrator shall publish standards for the neurotoxic information required to support the registration of a pesticide product within 1 year of the date of enactment of this sentence."; and

(3) in subsection (c)(5)—

(A) in subparagraph (C)—

(i) by inserting before the semicolon at the end the following: ", on the health of children, or on the public health taking into consideration regional, ethnic, and other circumstances that may increase risk to certain population groups";

(ii) by striking "and" at the end;

(B) in subparagraph (D)—

(i) by striking "generally";

(ii) by inserting before the period at the end the following: ", on the health of children, or on the public health taking into consideration regional, ethnic, and other circumstances that may increase risk to certain population groups";

(iii) by striking the period at the end and inserting "; and";

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) it does not contain inert ingredients identified by the Administrator as List 1 (inerts of toxicological concern) or List 2 (potentially toxic inerts, with high priority for testing)."; and

(D) by inserting before "The Administrator" the following new sentences: "The Administrator shall publish in the Federal Register guidelines for calculating the benefits of a pesticide. In calculating benefits, the Administrator shall consider whether the denial of the registration will cause major disruptions in the nutritional balance of children or adults or otherwise adversely affect the quality or safety of the national food supply.".

SEC. 5. REREGISTRATION.

Section 4(k)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(k)(2)) is amended by striking "reregistration and expedited processing of similar applications." and inserting "reregistration, expedited processing of similar applications, research on the neurotoxic effects of pesticide products, and other research considered necessary by the Administrator.".

SEC. 6. CANCELLATION.

Subsection (b) of section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(b)) is amended to read as follows:

"(b) Cancellation.—

"(1) Standard for cancellation.—The Administrator shall cancel the registration of a pesticide if the Administrator determines that—

"(A) there are prudent concerns that the pesticide causes unreasonable adverse effects on the environment or on human health when used in accordance with its labeling or in accordance with actual practice; or

"(B) the pesticide product or its labeling or other material required to be submitted by this Act do not comply with the requirements of this Act.

The proponents of the registration of a pesticide shall at all times have the burden of showing that the standard for cancellation is not met.

"(2) PROPOSED CANCELLATION ORDER.—

"(A) If the Administrator determines that the standard for cancellation may be met, the Administrator shall initiate a cancellation proceeding by issuing a proposed cancellation order.

"(B) If the proposed cancellation is based on a concern that the pesticide may pose a risk to human health or the environment, the Administrator shall review scientific information prior to issuing a proposed cancellation order.

"(C) The Administrator shall base the cancellation decision on actual exposure data, except that if the data is not available, the Administrator shall base the decision on the best available theoretical or estimated risk of exposure.

"(D) The Administrator shall send a copy of the proposed order to each registrant holding a registration addressed by the proposed order and shall publish the proposed order in the Federal Register. The proposed cancellation order shall include (or incorporate by reference to publicly available documents) the following:

"(i) A statement of the factual and legal bases for the proposed cancellation action.

"(ii) If the pesticide is used to produce an agricultural commodity, a general analysis of the impact of the proposed action on the production of major agricultural commodities and on the prices and availability of foods necessary to ensure a proper nutritional balance for an individual (hereafter in this subsection referred to as 'vital retail foods') to determine whether the proposed action will severely disrupt the domestic availability and affordability of a major agricultural commodity. The analysis shall not consider regional variations in production, but shall examine the national availability of the commodity.

"(iii) An analysis of the available substitute chemical and nonchemical pesticides and of the alternative agricultural techniques available to minimize the risks associated with the use of the chemical pest control techniques.

"(iv) If the pesticide product is used on more than one agricultural commodity, a review of the cumulative effects of the pesticide product on human health and the environment.

"(v) The changes, if any, in the terms and conditions of registration that a registrant would need to make in order for the Administrator to conclude that cancellation would not be appropriate.

"(3) REVIEW OF PROPOSED CANCELLATION ORDERS, DENIALS OF APPLICATIONS FOR REGISTRATION, OR PROPOSED CHANGES IN CLASSIFICATION.—

"(A) The registrant or applicant for registration, and any other interested person, shall have an opportunity to comment on a proposed cancellation order, denial of application for registration, or proposed change in classification, for at least 60 days after the publication of the proposal in the Federal Register.

"(B) The Administrator shall send a copy of the proposed cancellation order to the Secretary of Agriculture and the Scientific Advisory Panel established under section 25(d). Unless the Secretary and Panel waive the opportunity to comment, the Administrator shall allow at least 60 days from their receipt of the proposed cancellation order to submit written comments on the proposed order.

"(C) All comments submitted pursuant to this paragraph shall be considered advisory in nature. The Administrator shall issue the final determination on the basis of the standard set forth in paragraph (1)(A).

"(D) No final cancellation order may be issued under paragraph (4) until after the comment period.

"(4) FINAL ORDERS.—

"(A)(i) If no comments opposing the proposed action are submitted by a registrant or other interested person during the comment period provided pursuant to paragraph (3), and if, in the case of a cancellation proceeding, a registrant does not notify the Administrator that the registrant has made the changes, if any, specified in the proposed cancellation order pursuant to paragraph (2)(D)(v), the Administrator may issue a summary final order canceling registration, denying application for registration, or changing classification.

"(ii) The final order shall be published in the Federal Register and sent to each registrant of, or applicant for, a registration addressed by the final order.

"(iii) The final order shall not be subject to judicial review.

"(B)(i) If, after reviewing comments submitted pursuant to paragraph (3), the Administrator determines that the standard for cancellation of registration, denial of application for registration, or change in classification is met, the Administrator shall publish a final order of cancellation, denial of application, or change in classification in the Federal Register and shall send a copy of the order to each applicant for, or registrant holding, a registration addressed by the final order.

"(ii) The final order shall include (or incorporate by reference to publicly available documents) the following—

"(I) the factual and legal bases for the final order;

"(II) a summary of the major comments submitted by the public and, in the case of a cancellation proceeding, submitted by the Secretary of Agriculture and the Scientific Advisory Panel established under section 25(d), and the responses of the Administrator to the comments;

"(III) in the case of a cancellation proceeding involving a pesticide used in the production of an agricultural commodity, an analysis of the impact of the proposed action on the production of major agricultural commodities and on the prices and availability of vital retail foods to determine whether the proposed action will severely disrupt the domestic availability and affordability of a major agricultural commodity;

"(IV) an analysis of the available substitute chemical and nonchemical pesticides and of the alternative agricultural techniques available to minimize the risks associated with the use of the pesticide;

"(V) if the pesticide product is used on more than one agricultural commodity, a review of the cumulative effects on the use of the pesticide product on human health and the environment; and

"(VI) in the case of a cancellation proceeding, a description of the changes, if any, in the terms and conditions of registration of a pesticide product that the registrant would need to make in order for the final cancellation order not to apply to the product.

"(iii) A final order issued pursuant to this subparagraph shall be effective on the date of the publication of the final order in the Federal Register, except that in the case of a cancellation order with respect to which the Administrator has established terms and conditions as an alternative to cancellation pursuant to clause (ii)(IV), the order shall not be effective until 30 days after the publication of the order in the Federal Register, and a product will not be canceled pursuant to the order if a registrant, within the 30-day time period, has applied to amend its registration to comply with the specified terms and conditions.

"(C) All cancellation proceedings shall be concluded not later than 2 years after the publication of the proposed cancellation order in the Federal Register. If the Administrator fails to conclude the proceeding, the Administrator shall publish in the Federal Register a notice showing good cause why the proceedings have not been completed.

"(D) On the issuance of the final cancellation order, the tolerance established for the pesticide under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) shall be revoked. The Secretary of Health and Human Services may issue regulations to account for unavoidable residual environmental contamination in existence after the revocation of the tolerance.

"(E) If, after receiving the comments submitted pursuant to paragraph (3), the Administrator determines not to cancel, deny application, or change classification, the Administrator shall publish in the Federal Register a final decision to that effect and shall send a copy of the order to each registrant of, and applicant for, a registration addressed by the proposed order. The decision shall include the factual and legal basis for the determination of the Administrator, and shall include a summary of the comments submitted concerning the proposed order and the responses of the Administrator to the comments. The decision shall be effective upon publication.

"(5) JUDICIAL REVIEW.—

"(A) Notwithstanding any other provision of this Act, judicial review of the final order, or final decision not to issue an order, issued pursuant to subparagraph (B) or (C) of paragraph (4) shall be made available to any person who is adversely affected by the order or decision in the United States Court of Appeals for the District of Columbia Circuit or for any other Circuit in which the petitioner for review resides.

"(B) Requests for review shall be filed in an appropriate Court of Appeals not later than 60 days after the publication of the final order or decision in the Federal Register.

"(C) Judicial review shall be based on the administrative record compiled by the Administrator concerning the proposed cancellation, denial, or change in classification.

"(D) The final order or decision shall be sustained on review unless the action is determined to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

"(6) PETITIONS TO SUSPEND, CANCEL, DENY APPLICATION, OR CHANGE CLASSIFICATION.—

"(A) Any person may, at any time, petition the Administrator to suspend or cancel a registration pursuant to this section or to deny an application for registration or change the classification of a pesticide pursuant to section 3. The petition shall include the factual and legal bases supporting the petition.

"(B) If the Administrator determines that the requested action is necessary to serve the purposes of this Act, the Administrator shall suspend the pesticide or issue a proposed order to cancel, deny application, or change classification, and the appropriate provisions of this section and section 3 shall apply.

"(C)(i) If the Administrator denies the petition, the Administrator shall specify the basis for the denial.

"(ii) The petitioner may thereafter seek judicial review of the denial of the petition in the United States Court of Appeals for the District of Columbia Circuit or for any other Circuit in which the petitioner resides. Requests for review shall be filed in an appropriate Court of Appeals within 60 days after receipt of the denial of the petition.

"(iii) Judicial review shall be based on the administrative record developed during the course of consideration of the petition.

"(iv) The order denying the petition shall be sustained on review unless the action is determined to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

"(7) EFFECT OF FINAL ORDER OF CANCELLATION, DENIAL OF APPLICATION, OR CHANGE IN CLASSIFICATION.—

"(A)(i) The Administrator may issue an order summarily denying any application for registration or amendment under section 3 or 24, or application for exemption pursuant to section 18, with respect to a pesticide that has been subject to a final order issued pursuant to this section canceling registration, denying application for registration, or changing classification, unless the applicant has presented substantial new evidence that—

"(I) may materially affect the basis for or content of the prior order;

"(II) was not available to the Administrator at the time the Administrator issued the final order; and

"(III) could not, through the exercise of due diligence, have been discovered prior to the issuance of the final order.

"(ii) If the Administrator determines that the applicant has not provided substantial new evidence complying with the requirements of this subparagraph, the Administrator may issue an order summarily denying the application and shall send a copy of the order to the applicant.

"(B)(i) The applicant may thereafter seek judicial review of the order summarily denying the application in the United States Court of Appeals for the District of Columbia Circuit or for any other Circuit in which the applicant resides. Requests for review shall be requested in an appropriate Court of Appeals within 60 days after the receipt of the denial of application.

"(ii) An order denying an application under this subparagraph shall be sustained on review unless the order is determined to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

"(C) If, after review of an application (and supporting data submitted by the applicant) for a registration or amendment pursuant to section 3 or 24, the Administrator determines that the applicant has submitted substantial new evidence and that reconsideration of the prior final order may be warranted, the Administrator shall publish a notice in the Federal Register announcing that the Administrator is reconsidering the prior final order. The notice shall describe the nature of the application, contain the factual and legal bases for the determination of the Administrator that reconsideration may be warranted, and shall provide an opportunity of at least 60 days for interested persons to comment on the issues of whether reconsideration should be granted and whether the application should be granted.

"(D) After the opportunity for comment on a notice issued pursuant to subparagraph (C) has expired, the Administrator shall publish a final decision in the Federal Register either denying the application or granting reconsideration of the prior final order to the extent necessary to consider the application. A final decision granting reconsideration may, at the discretion of the Administrator, contain a final determination granting or rejecting the application. If such a final determination is not contained in a final decision granting reconsideration, the application shall be reviewed according to section 3 or 24, as appropriate.

"(E)(i) If the Administrator issues a final decision pursuant to subparagraph (D) denying reconsideration of a prior final order, the applicant may petition for judicial review of any such denial in the United States Court of Appeals for the District of Columbia Circuit, or the Court of Appeals for any other Circuit in which the petitioner resides, within 60 days after the publication of the notice in the Federal Register. Judicial review shall be based on the administrative record compiled by the Administrator concerning the application. The final decision shall be sustained on review unless the action is determined to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

"(ii) If the Administrator grants reconsideration, but denies the application, the Administrator shall publish in the Federal Register a notice proposing denial of registration pursuant to section 3(c)(6). Such a notice may be contained in a final decision granting reconsideration issued pursuant to subparagraph (D). Subsequent action on the proposed denial shall be in accord with the applicable provisions of this subsection.

"(iii) If the Administrator determines, after granting reconsideration, that the application should be granted, the Administrator shall publish in the Federal Register a notice granting the application. Such a notice may be contained in a final decision granting reconsideration issued pursuant to subparagraph (D). Any person who is adversely affected by the granting of the application may petition for judicial review of the determination of the Administrator to grant the application in the United States Court of Appeals for the District of Columbia Circuit, or the Court of Appeals for any other Circuit in which the petitioner resides, within 60 days after the notice granting the application is published in the Federal Register. Judicial review shall be based on the administrative record compiled by the Administrator concerning the application. The grant of the application shall be sustained on review unless the action is determined to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

"(8) AUTHORITY TO ISSUE REGULATIONS.—Nothing in this subsection shall be construed as limiting in any way the authority of the Administrator to issue regulations pursuant to section 25, including regulations requiring the adoption or modification of specific terms and conditions of registrations issued pursuant to this Act.

"(9) PRESCRIPTION USE CLASSIFICATION.—

"(A) If the Administrator determines that a pesticide cannot be canceled pursuant to the criteria described in section 6(b)(2) and the Administrator has prudent concerns that the pesticide poses a particular risk to the health of any population subgroup or to the environment, the Administrator shall publish in the Federal Register a regulation reclassifying the pesticide, or the particular use or uses to which the determination applies, for prescription use only.

"(B) The prescription use classification described in subparagraph (A) shall, on the label, require that a certified pest control expert, pursuant to regulations promulgated by the Administrator, inspect the setting in which the pesticide is to be applied in order to—

"(i) document the presence of the target pest;

"(ii) determine that no cultural or biological option is available;

"(iii) confirm that no general or restricted use pesticide is registered for use on the target pest that could be expected to bring about a comparable degree of control; and

"(iv) specify the timing, rate, and conditions of the use of the pesticide, and maintain a record of the evaluation and prescription to be provided, on request, to Federal and State officials.

"(C) Any such reclassification shall be reviewable in the appropriate Court of Appeals upon petition of a person adversely affected filed within 60 days of the publication of the regulation in final form. The final decision of the Administrator shall be sustained on review unless the action is determined to be arbitrary, capricious, an abuse of discretion, or not in accordance with the law.".

SEC. 7. SUSPENSION.

Subsection (c) of section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(c)) is amended to read as follows:

"(c) SUSPENSION.—

"(1) ORDER.—

"(A) If the Administrator determines that the use of a pesticide may cause significant adverse effects to human health or the environment, the Administrator may issue an order immediately suspending the registration of a pesticide.

"(B) The Administrator shall send to the registrant by certified mail a copy of the suspension order, and shall publish the order in the Federal Register.

"(C) The order shall become effective either on the publication of the order in the Federal Register or on the receipt by the registrant of the order, whichever occurs first.

"(D) The suspension shall expire 180 days after becoming effective unless, on or before the expiration date, the Administrator publishes in the Federal Register a proposed cancellation order that would cancel the registration of the pesticide use suspended by the order issued under this subsection. If a proposed cancellation order is issued prior to the expiration date, the suspension shall continue in effect until terminated in accordance with paragraph (3).

"(2) EXISTING STOCKS.—

"(A) The Administrator may allow continued sale or use of existing stocks of a suspended pesticide if the Administrator makes a specific finding that the use will not cause significant adverse effects to human health or the environment.

"(B) If the Administrator determines that existing stocks may continue to be sold, the stocks shall bear a label stating that production of the pesticide has been suspended because of concerns about adverse health and environmental effects.

"(C) If the Administrator determines that existing stocks may no longer be sold, the manufacturer shall accept return of the pesticide and provide reimbursement to the purchaser.

"(3) DURATION OF SUSPENSION.—

"(A) A suspension issued under this subsection may be terminated by the Administrator at any time.

"(B) A suspension order issued under this subsection shall terminate on completion of a proceeding to cancel the registration of the pesticide under subsection (b), or on cancellation by the Administrator of the suspended registration.

"(C) If the cancellation by the Administrator of the suspended registration is reversed by a reviewing court, the suspension order issued under this section shall be reinstated.

"(4) JUDICIAL REVIEW.—

"(A) Any suspension order entered by the Administrator pursuant to this subsection shall be subject to review in an action by the registrant, or by any other adversely affected person in an appropriate district court, solely to determine whether the order of suspension was arbitrary, capricious, or an abuse of discretion, or whether the order was issued in accordance with the procedures established by law.

"(B) No such action shall be entertained by a district court unless the action is filed within 20 days of publication of the order in the Federal Register.

"(C) The effect of any order of the district court shall be to stay the effectiveness of the suspension order, pending the final determination of the Administrator with respect to cancellation. The commencement of a proceeding under this paragraph shall not operate as a stay of the suspension order unless otherwise ordered by the court.".

SEC. 8. EXPIRATION OF REGISTRATIONS.

Subsection (d) of section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(d)) is amended to read as follows:

"(d) EXPIRATION OF REGISTRATIONS.—

"(1) DURATION OF REGISTRATIONS.—Notwithstanding any other condition imposed on the registration of a pesticide product, the registration of a pesticide product that has not been canceled or has not otherwise expired shall expire in accordance with this subsection.

"(2) PRE-1984 PESTICIDES.—

"(A) In the case of a pesticide product containing an active ingredient that was contained in a pesticide first registered before November 1, 1984, the registration shall expire on the later of—

"(i) 19 years after the date on which the active ingredient was first registered; or

"(ii) 9 years after the date on which the Administrator determines, pursuant to section 4(g)(2)(A), that the pesticide products containing the active ingredient are eligible for reregistration.

"(B) Thereafter, the registration of any product containing the active ingredient shall expire every 9 years after the date on which registrations for pesticide products containing that active ingredient had most recently expired.

"(3) POST-1984 PESTICIDES.—

"(A) In the case of a pesticide product containing an active ingredient that was contained in a pesticide first registered after October 31, 1984, the registration shall expire 15 years after the date on which the active ingredient was first registered.

"(B) Thereafter, the registration of any product containing the active ingredient shall expire every 9 years after the date on which registrations for pesticide products containing that active ingredient had most recently expired.

"(4) PESTICIDES CONTAINING MORE THAN ONE ACTIVE INGREDIENT.—

"(A) Notwithstanding paragraphs (2) and (3), the registration of a pesticide product containing more than one active ingredient shall expire at such time as the Administrator determines, except that no registration shall expire sooner than the later of—

"(i) 15 years after the date on which the earliest registration was granted for an active ingredient in the formulation; or

"(ii) 9 years after the date on which the Administrator determines, pursuant to section 4(g)(2)(A), that pesticides containing one of the active ingredients in the product are eligible for reregistration.

"(B) Thereafter, the registration of any product containing more than one active ingredient shall expire every 9 years after the date on which the registration had most recently expired.

"(5) NOTIFICATION.—The Administrator shall publish in the Federal Register the dates on which the registrations of pesticide products shall initially expire.

"(6) EXPIRATION OF TOLERANCE.—The tolerance of a pesticide product under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) shall expire concurrently with its registration. The Secretary of Health and Human Services may, on application by the registrant, continue the tolerance for not more than 2 years to ensure that agricultural products already in the stream of commerce are allowed to be sold. In order for the pesticide product to be reregistered, the tolerance level shall be reset.

"(7) SALE, DISTRIBUTION, AND USE OF EXISTING STOCKS.—

"(A)(i) Except as provided under clause (ii) and subparagraph (B), if the registration of a pesticide product has expired pursuant to this section, existing stocks of the pesticide may be sold and distributed for 1 year after the date on which the registration of the product expired, unless the Administrator determines that additional sale and distribution is inappropriate.

"(ii) The registrant may not sell and distribute more product than the average quantity sold and distributed by the registrant annually during the last 3 full calendar years prior to the expiration of the registration.

"(iii) Any sale, distribution, and use of existing stocks permitted by this section shall be subject to the limitations, terms, and conditions applicable to the sale, distribution, and use of the product prior to its cancellation.

"(B) The Administrator may prohibit or establish such additional limitations and conditions as are necessary to fulfill the purposes of this Act on the sale and distribution or the sale, distribution, and use of a pesticide product the registration of which has expired pursuant to this section, if the Administrator determines that use of the pesticide may cause unreasonable adverse effects on the environment or on human health.

"(8) APPLICATION.—Notwithstanding any other provision of law, the filing of an application for renewal of the registration of a pesticide product shall not extend the registration past the date on which the registration expires unless—

"(A) in the case of a registrant that would not qualify for the exemption in section 3(c)(2)(D) with respect to one of the active ingredients in its product—

"(i) the registrant has submitted an application for renewal of its registration at least a year before the expiration date; and

"(ii) the Administrator has not issued a notice pursuant to section 3(c)(6) proposing to deny the application; or

"(B) in the case of a registrant that would qualify for the exemption in section 3(c)(2)(D) with respect to all of the active ingredients in its product—

"(i) the registrant has submitted an application for renewal of its registration at least 6 months before the date on which the registration is scheduled to expire; and

"(ii) the Administrator has not issued a notice pursuant to section 3(c)(6) proposing to deny the application.

When a timely application for renewal of a registration is filed pursuant to this paragraph, the expiration date for the registration shall be considered to be the date the Administrator either grants the application for renewal or issues a notice pursuant to section (3)(c)(6) proposing to deny the application.

"(9) CONTENTS OF APPLICATIONS FOR RENEWAL.—The Administrator may issue regulations establishing requirements for the contents of applications for renewal. In the regulations, the Administrator shall require applications for renewal to comply with the same requirements as are in effect at the time for initial applications for registration.

"(10) DENIAL OF APPLICATIONS FOR RENEWAL.—

"(A) The Administrator shall issue a notice of denial pursuant to section 3(c)(6) if—

"(i) a timely application for renewal was not received;

"(ii) an application for renewal does not comply with the requirements for registration;

"(iii) by the end of the time periods prescribed by paragraph (8), an agreement for delivery of information needed for renewal, including a schedule for delivery, has not been entered into; or

"(iv) the registrant has not made a good faith effort to adhere to conditions in subparagraph (C).

"(B) If the Administrator determines that an application for renewal does not comply with the requirements for registration, the Administrator may issue a notice pursuant to section 3(c)(6) proposing to deny the application, except that if the Administrator determines that an applicant for renewal has made a good faith effort to comply with the requirements for registration, the Administrator shall not issue a notice pursuant to section 3(c)(6) until the Administrator has provided the applicant for registration a reasonable period of time to make the necessary corrections to complete the application.

"(C) The Administrator shall not issue a notice of denial of application for renewal of registration before notifying the Secretary of Agriculture of the intent of the Administrator to issue such a notice and the reasons therefor, and providing the Secretary of Agriculture with an opportunity to provide comments to the Administrator on the proposed denial.

"(11) PUBLICATION.—Not later than 90 days after any registration of a pesticide product expires pursuant to this subsection, the Administrator shall—

"(A) notify the registrant of the expiration and the conditions, if any, under which the existing stocks may be sold, distributed, and used; and

"(B) publish a notice in the Federal Register listing each pesticide product, the registration of which has expired, and the conditions, if any, under which the existing stocks of the product may be sold, distributed, and used.".

SEC. 9. RECORDKEEPING.

Section 8 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136f) is amended to read as follows:

"SEC. 8. RECORDS.

"(a) AUTHORITY TO REQUIRE RECORDS.—The Administrator may require any producer, importer, or exporter of a pesticide, registrant, applicant for registration, applicant for or holder of an experimental use permit, pesticide testing facility, or any holder of a pesticide that is the subject of a regulation or order issued under section 19(b)—

"(1) to prepare, and to maintain for reasonable periods of time, such records as the Administrator determines to be necessary for the effective implementation or enforcement of this Act;

"(2) to furnish to the Administrator reports stating the location where the records are maintained; and

"(3) to furnish a copy of any such records to the Administrator on written request.

"(b) RECORDS OF APPLICATORS.—

"(1) COMMERCIAL APPLICATORS.—The Administrator shall require each commercial applicator to maintain, and may require a commercial applicator to file with the Administrator, records of each pesticide application, including the identity and quantity of pesticide applied and the date and location of the application.

"(2) PRIVATE APPLICATORS.—The Administrator shall require private applicators to maintain, and may require a private applicator to file with the Administrator, records of each pesticide application, including the identity and quantity of pesticide applied and the date and location of the application.

"(c) RECORDS OF PESTICIDE DEALERS.—

"(1) IN GENERAL.—The Administrator shall require each pesticide dealer to maintain a record of each sale or distribution of all registered pesticides.

"(2) CONTENTS.—The records shall include the identity of the pesticide sold or distributed, the identity of the person to whom the pesticide was distributed or sold, the date of the distribution or sale, and the quantity of the pesticide distributed or sold.

"(3) DURATION.—A pesticide dealer shall maintain the records required under this subsection for as long as required by the Administrator.

"(4) DEFINITION.—As used in this section, the term 'pesticide dealer' means any person who, in the ordinary course of business, distributes, or sells any registered pesticide.

"(d) LIMITATIONS.—The Administrator shall not, under the authority of subsection (a) or (b), require any person to maintain records of—

"(1) financial data, pricing data, or sales data other than shipment data;

"(2) personnel data, except for data concerning exposure of employees of pesticides or ingredients of pesticides, or concerning health effects on employees that could reasonably be attributable to the exposure; or

"(3) research or test data other than—

"(A) data relating to a registered pesticide;

"(B) data relating to any pesticide for which an application for registration or for an experimental use permit has been filed;

"(C) data relating to any pesticide for which an exemption pursuant to section 18 has been requested;

"(D) data relating to any pesticide for which a regulation has been promulgated pursuant to section 3(a);

"(E) data relating to testing a pesticide testing facility; or

"(F) data relating to the storage or disposal of a pesticide whose registration has been suspended or canceled.".

SEC. 10. CERTIFIED APPLICATORS.

Section 11 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136i) is amended—

(1) in subsection (a)(1)—

(A) in the second sentence, by striking "and shall not" and all that follows through "pesticides";

(B) in the sixth sentence, by striking "sale, offering for sale" and all that follows through "commercial application" and inserting "private application, sale, offering for sale, holding for sale, or distribution of any registered pesticides to maintain the records and submit the reports concerning the application";

(C) in the eighth sentence, by inserting before the period at the end the following: ", except that certification shall not apply to the application of chemicals for the purpose of cleaning, sanitizing, or disinfecting"; and

(D) by striking the ninth and tenth sentences and inserting the following new sentence: "The standards shall also provide that to be certified an individual shall be shown to be competent with respect to integrated pest management practices, including the ecological principles underlying sustainable and economical pest control methods.";

(2) in subsection (c), by striking "provisions for making" and all that follows through the end of the subsection, and inserting "instruction concerning integrated pest management techniques, including the ecological principles underlying sustainable and economical pest control methods."; and

(3) in subsection (e), by striking "shall" and inserting "may".

SEC. 11. AUTHORITY OF ADMINISTRATOR.

Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w) is amended—

(1) by inserting after the 10th sentence the following new sentence: "The panel membership shall always include a pediatrician and a scientist trained in public health.";

(2) by inserting after the 15th sentence (as it existed before the amendments made by this section) the following new sentences: "The Administrator shall require information on the previous employment and consulting activities of each nominee. The information shall be available to the public."; and

(3) by inserting after the 17th sentence (as it existed before the amendments made by this section) the following new sentence: "No member of the panel shall be permitted to consult for or receive any direct or indirect payment or any other benefit from any company with an interest in pesticide products during the member's term on the panel.".

SEC. 12. TABLE OF CONTENTS.

The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended—

(1) by striking the items relating to subsections (b), (c), and (d) of section 6 and inserting the following new items:

"(b) Cancellation.
  "(1) Standard for cancellation.
  "(2) Proposed cancellation order.
  "(3) Review of proposed cancellation orders, denials of applications for registration, or proposed changes in classification.
  "(4) Final orders.
  "(5) Judicial review.
  "(6) Petitions to suspend, cancel, deny application, or change classification.
  "(7) Effect of final order of cancellation, denial of application, or change in classification.
  "(8) Authority to issue regulations.
  "(9) Prescription use classification.
"(c) Suspension.
  "(1) Order.
  "(2) Existing stocks.
  "(3) Duration of suspension.
  "(4) Judicial review.
"(d) Expiration of registrations.
  "(1) Duration of registrations.
  "(2) Pre-1984 pesticides.
  "(3) Post-1984 pesticides.
  "(4) Pesticides containing more than one active ingredient.
  "(5) Notification.
  "(6) Expiration of tolerance.
  "(7) Sale, distribution, and use of existing stocks.
  "(8) Application.
  "(9) Contents of applications for renewal.
  "(10) Denial of applications for renewal.
  "(11) Publication.";

and

(2) by striking the items relating to section 8 and inserting the following new items:

"Sec. 8. Records.
  "(a) Authority to require records.
  "(b) Records of applicators.
    "(1) Commercial applicators.
    "(2) Private applicators.
  "(c) Records of pesticide dealers.
    "(1) In general.
    "(2) Contents.
    "(3) Duration.
    "(4) Definition.
  "(d) Limitations.".●

THE PESTICIDE HEALTH AND SAFETY ACT OF 1991

SECTION-BY-SECTION

Sec. 1—Short Title. This Act is called the "Pesticide Health and Safety Act of 1991."

Sec. 2—Findings. Congress finds that the removal of dangerous pesticides from the market often involves significant delays and is not sufficiently protective of human health and the environment.

Sec. 3—Definitions. Expands the definition of certified and private applicators to cover those who use all registered pesticides. Expands the term "environment" to specifically cover population subgroups understood to be more heavily exposed and/or more sensitive to pesticides. Requires additional information on safety and toxicity on the label. Bars misleading statements and pictures regarding safety and proper use.

Sec. 4—Registration. Amends the registration provisions of FIFRA to ensure that a pesticide's effects on the health of children and other population subgroups are specifically reviewed prior to registration. Requires that the Environmental Protection Agency (EPA) establish specific standards for the review of a pesticide's neurotoxic effects prior to registration.

Sec. 5—Certified Applicators. Certification standards must provide that a certified applicator is proficient in integrated pest management and sustainable pest control methods.

Sec. 6—Cancellation. The cancellation standard is revised to enable the EPA Administrator to cancel a pesticide when there are prudent concerns that the pesticide causes unreasonable adverse effects on human health or the environment. The registration has the burden of showing that the standard for cancellation has not been met. Under current law a pesticide can only be cancelled when the Administrator determines that it generally causes unreasonable adverse effects on the environment.

In determining whether to cancel a pesticide, the Administrator must review the impact of the cancellation on the price and availability of vital retail foods, analyze the available substitute chemical and nonchemical pest control methods and alternative agriculture techniques, and, if the pesticide is used on more than one commodity, review its cumulative effect on human health and the environment.

All cancellation proceedings must be concluded in 2 years.

If the Administrator determines that cancellation is not proper pursuant to this section, but has prudent concerns about particular risks of a pesticide, the Administrator may reclassify one or more uses of the pesticides as a prescription use. Under a prescription use classification the pesticide can only be used after a certified applicator has determined that the target pest is present and that other pest control techniques are not viable.

Sec. 7—Suspension. The suspension standard is revised to enable the Administrator to suspend a pesticide upon a determination that use of the pesticide may cause significant adverse effects to human health or the environment. Under current law the Administrator can only suspend a pesticide if it presents an "imminent hazard".

Sec. 8—Sunset Provision. All pesticide registrations and tolerances will expire every nine years. They will be reregistered upon a determination that they comply with the standards for registration at the time their registration expires. No provision of current law has been interpreted by the EPA as requiring the expiration of all pesticide registrations.

The already-established fees collected in conjunction with reregistration shall also be available to the Administrator to conduct research on the neurotoxic effects of pesticide products and other research deemed necessary.

Sec. 9—Record Keeping. The Administrator shall require commercial and private applicators to keep records of pesticide applications and shall require pesticide dealers to maintain records of sales and distributions of pesticides.

Sec. 10—Scientific Advisory Panel. The membership of the panel shall include a pediatrician and a scientist trained in public health. The Administrator shall require each nominee to provide information on previous employment and consulting activities and this information shall be made available to the public. No member of the panel shall be permitted to consult or receive any direct or indirect benefit from a company with any interest in pesticide products while serving on the panel. Current law does not contain any restrictions on consulting by members of the Scientific Advisory Panel.

By Mr. HARKIN:

S. 1354. A bill to amend title II of the Social Security Act to increase the amount of remuneration an election official or worker may receive and be excluded from an agreement between a State and the Secretary providing for the extension of benefits under such title to State employees; to the Committee on Finance.

ELECTION WORKERS SOCIAL SECURITY EXEMPTION

• Mr. HARKIN. Mr. President, I am introducing a bill to raise the exemption from Social Security withholdings on wages earned by election workers from $100 to $1,000. This may seem to be a small change, Mr. President, but for the fact that such an alteration will have surprisingly broad-based implications nationwide.

In 1990, Congress amended the Social Security Act. Among the changes made was the requirement that poll watchers are now required to pay Social Security taxes on earnings in amounts exceeding $100. This inconspicuous provision of the law, Mr. President, has created an administrative nightmare. Not only are poll watchers, many of whom are elderly citizens living on fixed incomes, forced to sacrifice a portion of their meager earnings, election commissioners from all over the country are paying the price as well.

In my own State of Iowa, Sandy Steinbach, commissioner of elections, estimates the paperwork cost, alone, of this provision exceeds $309,000 statewide. For example, Tom Slockett, Johnson County, IA, commissioner of elections reports that because of the new law, the county must issue every poll watcher two checks, one for salary from which FICA is withheld and one for mileage traveled for which the county compensates its election workers—and Iowa is a relatively small State. This is not to mention the increased difficulty counties may face in recruiting poll watchers. Sue Wold, deputy commissioner of elections in Linn County, IA, reports that 100 of all 676 precinct election officials in the county requested their names be removed from the election employee rolls when informed that Social Security taxes would be withheld from their checks.

Poll watchers usually work only about 3 days a year in Iowa. The paperwork for meeting the Social Security requirements of withholding in this case is not worth the gain. The $1,000 limit would exempt virtually all election workers without affecting more permanent employees. This change in the exemption, therefore, makes absolute sense. Please join me in supporting this small but important change in the law.

Ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1354

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AMOUNT OF REMUNERATION ALLOWED ELECTION OFFICIALS OR WORKERS TO BE EXCLUDED UNDER AN AGREEMENT BETWEEN A STATE AND THE SECRETARY UNDER TITLE II.

(a) IN GENERAL.—Section 218(c)(8) of the Social Security Act (42 U.S.C. 418(c)(8)) is amended by striking "100" and inserting "1000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with regard to services performed on or after October 1, 1991.•

By Mr. SIMON:

S. 1355. A bill to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to authorize funds received by States and units of local government to be expended to improve the quality and availability of DNA records; to authorize the establishment of a DNA identification index; and for other purposes; to the Committee on the Judiciary.

DNA IDENTIFICATION ACT

• Mr. SIMON. Mr. President, I rise today to introduce legislation to encourage the use and data banking of forensic DNA fingerprints.

DNA is the basic genetic material that gives every individual in the world a distinct identity. DNA fingerprinting is a scientific test which can analyze blood, hair, saliva, semen, or skin left at the scene of a crime to determine if it matches samples provided by a defendant or suspect. These tests, when properly performed and analyzed, are considered nearly foolproof. They are a powerful new crime-fighting tool that may conclusively implicate or exonerate an individual accused or suspected of a crime.

In 1989, I held the first ever congressional hearings on DNA tests. The testimony received at that hearing convinced me of the scientific soundness of these tests and their undeniable crime-fighting potential. DNA fingerprinting has been hailed as the most important technological breakthrough in law enforcement since the inception of conventional fingerprinting. I have strongly supported the FBI's efforts to advance the use of this technology in State and local crime laboratories.

DNA fingerprinting is beginning to have a significant impact on criminal prosecutions by enhancing the ability of U.S. attorneys and local prosecutors to obtain convictions. To date DNA test results have been accepted into evidence in criminal trials in 38 States.

But the Office of Technology Assessment, in an August 1990 report on forensic uses of DNA tests, concluded that standards are essential to the performance of high-quality forensic DNA analysis. The OTA report also concluded "setting standards for forensic DNA analysis is the most urgent policy issue and needs to be resolved without further delay."

I agree. Standards will ensure that forensic DNA laboratories are performing high-quality work and will give guidance to the courts and others in judging the reliability of individual test results. It will also pave the way to creation of a DNA data bank accessible to State and local criminal justice agencies nationwide—a vital step in assuring that this technology achieves its full crime-fighting potential.

On June 13, I cochaired a joint hearing of the Senate Subcommittee on the Constitution and the House Subcommittee on Civil and Constitutional Rights on the issue of forensic DNA tests and the need for standards. The legislation I rise to introduce is informed by testimony received in the hearing. The bill fosters the adoption of forensic DNA testing standards and encourages the proliferation of this important technology while addressing the legitimate privacy considerations involved with its use.

In furtherence of that goal, the DNA Identification Act of 1991 directs the National Institute on Standards and Technology [NIST] to appoint a permanent advisory board, including forensic scientists, to develop standards for testing the proficiency of forensic laboratories in conducting DNA analysis. In turn the FBI would be charged with reviewing these recommendations and publishing standards. Laboratories that meet or exceed the published standards may be approved by the National Institute of Standards and Technology. The bill authorizes appropriations to the FBI and the National Institute of Standards and Technology to carry out these goals.

Mr. President, as violent crime increasingly pervades our society, we must aggressively pursue all avenues to see that those who commit these crimes are expeditiously apprehended, prosecuted, and convicted. I believe that working together, the law enforcement and scientific communities can ensure the integrity and increased acceptance of forensic DNA tests. The DNA Identification Act will further this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1355

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "DNA Identification Act of 1991".

SEC. 2. FUNDING TO IMPROVE THE QUALITY AND AVAILABILITY OF DNA ANALYSES FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

Section 501(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751(b)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(22) developing or improving in a forensic laboratory a capability to analyze DNA for identification purposes if each State or unit of local government that performs DNA analyses with any part of a grant made under this subsection certifies to the Director that—

"(A) DNA analyses performed at such laboratory will satisfy or exceed then current standards for a quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation after taking into consideration the recommended standards developed by the advisory board on DNA forensic analysis methods established under section 3(a) of the DNA Identification Act of 1991;

"(B) DNA samples obtained by, and DNA analyses performed at, such laboratory will be accessible only—

"(i) to criminal justice agencies for law enforcement identification purposes;

"(ii) to the record subject for criminal defense purposes; and

"(iii) if personally identifiable information is removed, for a population statistics database or for quality control purposes;

"(C)(i) each analyst performing DNA analyses at such laboratory will undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program approved under section 3(b) of the DNA Identification Act of 1991; and

"(ii) the results of each test performed to comply with clause (i) will be made available to the public without charge; and

"(D) the population studies relied on by such laboratory are publicly available.".

SEC. 3. PROFICIENCY TESTING PROGRAMS.

(a) PUBLICATION OF STANDARDS.—(a) Not later than 180 days after the date of the enactment of this Act and for purposes of subsection (b), the Director of the National Institute of Standards and Technology shall appoint an advisory board on DNA forensic analysis methods which shall develop, and periodically monitor, recommended standards for testing the proficiency of forensic analysts in conducting analyses of DNA. The advisory board shall include as members molecular geneticists, population geneticists, forensic scientists, experts in law, and experts in privacy.

(2) The Director of the Federal Bureau of Investigation, after taking into consideration such recommended standards, shall issue (and revise from time to time) standards for testing the proficiency of forensic laboratories in conducting analyses of DNA.

(3) The standards described in paragraphs (1) and (2) shall specify criteria for proficiency tests to be applied to each procedure used by forensic laboratories to conduct analyses of DNA. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory is performing acceptably.

(b) APPROVAL OF PROFICIENCY TESTING PROGRAMS.—The Director of the National Institute of Standards and Technology shall approve a DNA proficiency testing program, if such program satisfies the then current standards in effect under subsection (a).

(c) PRIVACY STANDARDS.—The advisory board on DNA forensic analysis methods shall develop recommended privacy standard for the protection of DNA samples and analyses.

(d) PERMANENT NATURE OF THE ADVISORY BOARD.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the advisory board appointed under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the National Institute of Standards and Technology, in addition to any other amounts specified in appropriations Acts, such sums as may be necessary for carrying out the purposes of this section.

SEC. 4. INDEX TO FACILITATE LAW ENFORCEMENT EXCHANGE OF DNA IDENTIFICATION INFORMATION.

Section 534 of title 28, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following:

"(d) The Attorney General may, under the authority of subsection (a) of this section, establish an index of DNA identification records of persons convicted of crimes punishable by more than one year's imprisonment. Such index may include only information on DNA identification records that are—

"(1) based on analyses performed in accordance with publicly available standards that satisfy or exceed the guidelines for the quality assurance program for DNA analysis, issued by the Director of the Federal Bureau of Investigation under the DNA Identification Act of 1991;

"(2) prepared by laboratories whose DNA analysts undergo, at regular intervals of not to exceed 180 days, external proficiency testing by a DNA proficiency testing program approved under section 3(b) of the DNA Identification Act of 1991; and

"(3) maintained by Federal, State and local criminal justice agencies pursuant to rules that allow disclosure of stored DNA samples and DNA analyses only—

"(A) to criminal justice agencies for law enforcement identification purposes;

"(B) to the record subject for criminal defense purposes; or

"(C) if personally identifiable information is removed, to governmental agencies for a population statistics database, or for quality control purposes"; and

(3) by inserting ", or, in the case of DNA identification records exchange, if the quality control and privacy requirements described in subsection (d) of this section are not met" before the period at the end of subsection (b).

SEC. 5. FEDERAL BUREAU OF INVESTIGATION.

(a) PROFICIENCY TESTING REQUIREMENTS.—

(1) GENERALLY.—Personnel at the Federal Bureau of Investigation who perform DNA analyses shall undergo, at regular intervals and not to exceed 180 days, external proficiency testing by a DNA proficiency testing program approved under section 3(b).

(2) REPORT.—The Director of the Federal Bureau of Investigation shall submit to the Committees on the Judiciary of the House and Senate an annual report on the results of each of the tests referred to in paragraph (1).

(b) PRIVACY PROTECTION STANDARDS.—

(1) GENERALLY.—Except as provided in paragraph (2), the results of DNA tests performed for a Federal law enforcement agency may be disclosed only to—

(A) criminal justice agencies for law enforcement identification purposes; and

(B) the record subject for criminal defense purposes.

(2) EXCEPTION.—If personally identifiable information is removed, test results may be disclosed to a population statistics database or for quality control purposes.

(c) CRIMINAL PENALTY.—Whoever—

(1) by virtue of employment or official position, has possession of, or access to, DNA information; and

(2) willfully discloses such information in any manner to any person or agency not entitled to receive it shall be fined not more than $100,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Federal Bureau of Investigation, in addition to any other amounts specified in appropriations Acts, such sums as may be necessary for carrying out the purposes of this Act.●

ADDITIONAL COSPONSORS

S. 284

At the request of Mr. LIEBERMAN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 323

At the request of Mr. CHAFEE, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 323, a bill to require the Secretary of Health and Human Services to ensure that pregnant women receiving assistance under title X of the Public Health Service Act are provided with information and counseling regarding their pregnancies, and for other purposes.

S. 640

At the request of Mr. KASTEN, the names of the Senator from Connecticut [Mr. DODD] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 640, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 656

At the request of Mr. KASTEN, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 656, a bill to amend the Internal Revenue Code of 1986 to provide for a maximum long term capital gains rate of 15 percent and indexing of certain capital gains, and for other purposes.

S. 729

At the request of Mr. BURDICK, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 729, a bill to assist small communities in construction of facilities for the protection of the environment and human health.

S. 781

At the request of Mr. SARBANES, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1133

At the request of Mr. KENNEDY, the names of the Senator from Pennsylvania [Mr. WOFFORD] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 1133, a bill to establish a demonstration grant program to provide coordinated and comprehensive education, training, health and social services to at risk children and youth and their families, and for other purposes.

S. 1170

At the request of Mr. DURENBERGER, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1170, a bill to require any person who is convicted of a State criminal offense against a victim who is a minor to register a current address with local law enforcement officials of the State for 10 years after release from prison, parole, or supervision.

S. 1240

At the request of Mr. CHAFEE, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of S. 1240, a bill to amend title XIX of the Social Security Act to provide criteria for making determinations of denial of payment to States under such Act.

S. 1332

At the request of Mr. GRASSLEY, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 1332, a bill to amend title XVIII of the Social Security Act to provide relief to physicians with respect to excessive regulations under the Medicare Program.

SENATE JOINT RESOLUTION 61

At the request of Mr. FORD, the names of the Senator from California [Mr. CRANSTON], the Senator from Hawaii [Mr. INOUYE], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 61, a joint resolution to designate June 1, 1992 as "Kentucky Bicentennial Day."

SENATE JOINT RESOLUTION 74

At the request of Mr. LIEBERMAN, the names of the Senator from California [Mr. SEYMOUR], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 74, a joint resolution designating the week beginning July 21, 1991, as "Lyme Disease Awareness Week."

SENATE JOINT RESOLUTION 78

At the request of Mr. BENTSEN, the names of the Senator from Kansas [Mrs. KASSEBAUM], the Senator from New Jersey [Mr. BRADLEY], the Senator from Wisconsin [Mr. KOHL], the Senator from Delaware [Mr. ROTH], the Senator from South Dakota [Mr. PRESSLER], the Senator from Nevada [Mr. BRYAN], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Mississippi [Mr. LOTT], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kansas [Mr. DOLE], the Senator from Arkansas [Mr. BUMPERS], the Senator from Alaska [Mr. STEVENS], and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 78, a joint resolution to designate the month of November 1991 and 1992 as "National Hospice Month."

SENATE JOINT RESOLUTION 125

At the request of Mr. SIMON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 125, a joint resolution to designate October 1991 as "Polish American Heritage Month."

SENATE JOINT RESOLUTION 142

At the request of Mr. SHELBY, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 142, a joint resolution to designate the week beginning July 28, 1991, as "National Juvenile Arthritis Awareness Week."

SENATE JOINT RESOLUTION 147

At the request of Mr. LEAHY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of Senate Joint Resolution 147, a joint resolution designating October 16, 1991 and October 16, 1992, as "World Food Day."

SENATE CONCURRENT RESOLUTION 35

At the request of Mr. GLENN, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Pennsylvania [Mr. WOFFORD], the Senator from Illinois [Mr. SIMON], the Senator from Colorado [Mr. WIRTH], the Senator from Hawaii [Mr. AKAKA], the Senator from North Dakota [Mr. BURDICK], the Senator from Georgia [Mr. NUNN], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Concurrent Resolution 35, a concurrent resolution expressing the sense of the Congress that the awarding of contracts for the rebuilding of Kuwait should reflect the extent of military and economic support offered by the United States in the liberation of Kuwait.

SENATE RESOLUTON 123

At the request of Mr. KASTEN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Resolution 123, a resolution relating to State taxes for mail order companies mailing across State borders.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

THURMOND AMENDMENT NO. 368

Mr. THURMOND proposed an amendment to the bill (S. 1241) to control and reduce violent crime, as follows:

Strike section 2301 and insert in lieu thereof the following:

SEC. . ADMISSIBILITY OF CERTAIN EVIDENCE.

(a) IN GENERAL.—Chapter 223 of title 18, Untied States Code, is amended by adding at the end the following:

"§ 3509. Admissibility of evidence obtained by search or seizure

"(a) EVIDENCE OBTAINED BY OBJECTIVELY REASONABLE SEARCH OR SEIZURE.—

"(1) FEDERAL PROCEEDINGS.—Evidence which is obtained as a result of a search or seizure shall not be excluded in a proceeding in a court of the United States on the ground that the search or seizure was in violation of the fourth amendment to the Constitution of the United States, if the search or seizure was carried out in circumstances justifying an objectively reasonable belief that it was in conformity with the fourth amendment. The fact that evidence was obtained pursuant to and within the scope of a warrant constitutes prima facie evidence of the existence of such circumstances.

"(2) STATE PROCEEDINGS.—The law of the United States does not require the exclusion of evidence in a proceeding in any court under circumstances in which the evidence would be admissible in a proceeding in a court of the United States pursuant to paragraph (1) of this subsection.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on efforts to combat fraud and abuse in the insurance industry.

This hearing will take place on Wednesday, June 26, 1991, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill of the subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Thursday, June 21, 1991, at 9 a.m. to conduct a hearing on streamlining the RTC.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, and the National Ocean Policy Study, be authorized to meet during the session of the Senate, Thursday, June 21, 1991, at 9:30 a.m. on driftnets and S. 884.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

COMMENCEMENT ADDRESS OF SENATOR SAM NUNN

• Mr. LEVIN. Mr. President, thoughtful people in America are spending a great amount of time these days trying to analyze the incredibly rapid changes taking place in the Soviet Union and what steps the United States should be taking in response. We certainly have an interest in supporting radical reform in the Soviet Union in the hope that they will move rapidly toward democracy and free markets.

One of the most thoughtful of these analysts is our colleague, the distinguished Senator from Georgia, Senator SAM NUNN. His recent commencement speech at the National Defense University is typical of his analytical prowess. It is worthy of wide consideration and I ask that it be printed in the RECORD.

The address follows:

COMMENCEMENT ADDRESS OF SENATOR SAM NUNN AT GRADUATION CEREMONIES OF THE NATIONAL DEFENSE UNIVERSITY, FORT MCNAIR, DISTRICT OF COLUMBIA, JUNE 19, 1991

Thank you very much Admiral Baldwin for your kind introductory remarks. I am delighted to be here with the graduates of the combined classes of the National War College and the Industrial College of the Armed Forces, as well as your families and the friends of the National Defense University. I know that the participation of the international fellows and civilian professionals has enriched the course of instruction, and that personal friendships have developed here that transcend institutional and national boundaries.

This is a very special occasion for each member of the graduating class as you complete your formal military education at the pinnacle of professional military education here at the National Defense University.

I congratulate each member of the graduating class, and your families. I have a keen appreciation for the many hardships that a military career brings both to the service members and to their families. Our freedom depends upon your many hours of training, planning, and peacetime operations, often conducted at great personal sacrifice and separation from families and loved ones.

Professional military education allows you to put aside the intense pressures of your normal military duties and to reflect on the larger international security picture. Your careers thus far and your graduation from this prestigious university indicate that there are a lot of future generals and admirals in this class.

Seeing all these present and future generals and admirals reminds me of the evening in 1951 when Ambassador Joseph Grew was paying tribute to General George Marshall on his retirement from the position of Secretary of State. Among the head table guests were General and Mrs. Dwight D. Eisenhower. In closing, Ambassador Grew said: "General Marshall has had a distinguished military and civilian record. He has been wartime Chief of Staff of the Army, Secretary of State, and Secretary of Defense. There is no honor within their command that the American people would not give this man. But he refuses any further honors. All he wants to do is to go down to his beautiful farm in Virginia and spend the rest of his days with Mrs. Eisenhower." As the laughter subsided and the humiliated ambassador took his seat, he scribbled a note to Mrs. Eisenhower that said: "My apologies to the general." Mrs. Eisenhower quickly passed the note back after writing at the bottom: Which general? The ambassador failed to make the transition between generals.

As each of you in this class moves to your next assignment you will do so in a period of great transition. As the Persian Gulf war demonstrated, we have now seen a revolutionary change in conventional warfare.

America is proud of the performance of our Armed Forces in Operation Desert Storm. We must make sure that we learn the correct lessons from this conflict.

Our Senate Armed Services Committee has received a number of briefing from the men and women, officer and enlisted, who actually fought the war. Based on those briefings, I have a few preliminary observations:

First, a strategy of reinforcement worked. No other country in the world could have moved as many personnel and as much equipment halfway around the world and across the desert of Saudi Arabia as quickly as we did. We must be cognizant, however, that we had considerable help from our allies and we had a superb logistical infrastructure available to us in Saudia Arabia and the Gulf States. We need to continue our investment in airlift and sealift, and we also need to emphasize prudent prepositioning.

Second, there is no substitute for tough, realistic training to prepare our troops for combat. As I heard Admiral Rickover say on several different occasions—the more you sweat in peace, the less you bleed in war. Our investment in realistic training at the Army's National Training Center, the Marine Corps' 29 Palms, the Navy's Top Gun Training, and the Air Force's Red Flag Exercises is a critical component of our military capability.

Third, the defense reforms enacted in the Goldwater-Nichols legislation paid big dividends. As General Schwarzkopf said "The Goldwater-Nichols Act * * * effectively brought the forces from all our services under one clear chain of command."

Fourth, our investment in defense technology has paid off. The performance of stealth, electronic warfare, precision guided munitions, night vision devices, AWACS and JSTARS was a major contributor to the effort.

But the most critical factor and the essential ingredient that assured success was the high-quality, dedicated, and motivated men and women in the military services. We have heard countless stories of ingenuity, initiative, and individual heroism during our briefings.

There are also areas in which we need to improve.

We need better capability to collect and deliver intelligence to tactical units on the move. We also need better interoperability among the various intelligence systems of the services.

We need better air to ground identification of friend or foe to prevent casualties from friendly fire.

We need better mine sweeping and clearing capability both on land and at sea.

We need to provide better night fighting capability for the Marine Corps.

And, as I mentioned, we need greater airlift and sealift capability.

In learning lessons from the war, however, we have to be conscious of the many unique elements that were involved and be careful not to overlearn or draw conclusions that may not be applicable to a world in transition. As Vaslav Havel, the former playwright and human rights prisoner, now President of Czechoslovakia, recently observed, events have moved so rapidly we have literally no time even to be astonished.

The crumbled Berlin Wall and the reemerging sovereignty of Eastern Europe are a tribute to the men and women of our Armed Forces who over the past forty years have paid the price, sometimes the ultimate price, in defending freedom and preserving our institutions and values. Whether in

Korea or Vietnam or on lonely deployments in other remote points on the globe, you and your predecessors displayed the determination and resolve that convinced our potential enemies of our staying power and determination to defend freedom.

The threat environment has changed dramatically in the past few years. The prime source of the threat, the Soviet Union itself, is undergoing revolutionary change. While its leadership talks about domestic reform, the country's economy is deteriorating rapidly, republics are demanding sovereignty or full independence, and sporadic strikes and ethnic violence erupt around the country.

We must not forget, however, that the Soviet Union remains a powerful nation in terms of military capability. It still possesses a huge nuclear arsenal. It also possesses significant naval and air forces capable of projection far beyond Soviet borders.

Our relationship to a changing Soviet Union is fundamental to our security and to our future defense requirements. One merely has to consider how different Operation Desert Storm might have been if Iraq's invasion of Kuwait had occurred during the period of U.S.-Soviet confrontation. The Soviet Union's cooperation at the United Nations allowed the imposition of international sanctions and the Security Council's authorization to use force. Moreover, the improved security situation in central Europe allowed us to redeploy forces from Europe to the Persian Gulf, forces that were essential to our decisive military victory.

Our previous policy frameworks for U.S.-Soviet relations were clearly formulated, and they were successful.

Our policy framework of the World War II period was clear: Cooperation with the Soviet Union in a military alliance against Hitler's aggression.

The policy framework of the cold war period was equally clear: Containment of ruthless Soviet expansionism conducted by Stalin and his successors.

We must now design and construct a new framework that will serve our national interests equally well in the new historical setting of the 1990's. This graduating class will make significant contributions in shaping this framework as it evolves in the months and years to come.

To stimulate your thinking, let me suggest a few guiding principles for U.S.-Soviet relations during a period of historic Soviet transition:

It is in the vital interests of the entire international community to see that the Soviet Union becomes a non-threatening member of the world community instead of an international renegade or a source of domestic chaos that inadvertantly sparks international instability.

It is also in the interests of the international community for the Soviet Union to reduce its threatening military posture, develop a market economy and move to a pluralistic, decentralized democratic system and greater respect for human rights.

I must quickly add, however, that apart from humanitarian assistance, substantial sums of direct aid to today's Soviet Union would be like pouring money into a cosmic black hole. Unless the Soviet leadership and the Soviet people undertake basic economic reforms thus far missing—including private ownership, realistic pricing, currency convertability, and a market economy—large-scale western economic aid will be wasted.

The Gorbachev reform effort to date brings to mind the old analogy with the British. It is as if the British, after all these years, finally concluded they had been driving on the wrong side of the road and decided to do something about it. After numerous committee meetings, they decided not to make the switch all at once but to change gradually, starting first with trucks. I think that is about the way the Soviets have handled their economic reform.

It follows that any aid beyond essential humanitarian assistance must be conditioned on basic economic change in the USSR. I do not believe, however, that it is in America's long-term interest to impose or be perceived as imposing detailed economic conditions or plans on the Soviet Union.

For example, state subsidies for food, housing, health and transportation permeate the everyday life of the Soviet people. These subsidies must be cut severely, a process very unpopular in any country, including our own. Such painful but necessary stipulations should not be insisted upon by the United States.

I believe that any conditional economic assistance should be carried out on a multinational basis, drawing on the experience of such organizations as the International Monetary Fund and the World Bank.

The West must not neglect Eastern Europe. The most relevant example for the people of the Soviet Union and for their leaders will be the success or failure of Eastern European countries that have undertaken tough economic reform, including Poland, Czechoslovakia, and Hungary.

The bilateral component of the new framework should focus on those specific areas in which the United States can play a unique role, and which are clearly in our interests as well as those of the Soviet Union. I would suggest as the centerpiece U.S. cooperation in Soviet efforts to convert military production to civilian uses.

Military conversion is pivotal to the success of Soviet economic reform for several reasons:

The Soviet economy of today was built by Stalin as a pyramid, with the military-industrial complex occupying the top one-third and receiving the best human and material resources—to the severe detriment of the non-military sectors occupying the bottom two-thirds. With the economy on the verge of total breakdown, it is clear that the Stalinist pyramid has to be reconfigured.

In addition to President Gorbachev, virtually all the democratic reformers, including Boris Yeltsin, most of the centrists, and the growing numbers of leaders within the military-industrial complex itself now recognize this necessity and are struggling to find a way to do it successfully.

Conversely, growing unemployment in the defense sector will lead military-industrial traditionalists to vigorously oppose needed economic reform. During a recent visit to Leningrad—or should I say Saint Petersburg—I was told that some 45,000 defense-related workers presently are unemployed in that city alone.

The USSR has a well educated work force, proven scientific and technical talent, and vast natural resources. Soviet leaders can help their people by re-channeling the considerable riches their country currently possesses but wastes in a military establishment that consumes at least 25% of the country's gross national product.

At the same time, measured cooperation on military conversion is also in our national security interests.

If done properly, it will reduce Soviet military production capabilities.

In addition, the Soviet military-industrial complex has for decades been an isolated stronghold of the Stalinist approach to domestic and foreign policy. Cooperation on military conversion will expose this traditionally closed sector of Soviet society to the thinking and experience of American counterparts in the public and private sectors.

As central as military conversion is to Soviet interests and to ours, it will require imagination and flexibility on both sides. Most importantly, it will require American private sector investment. Red tape will have to be minimized, so that the investment climate becomes much more hospitable.

If the Soviet Union encourages American firms to explore and extract vast Soviet reserves of gas and oil, for example, the revenues could help fund private investment in joint ventures on military conversion.

One aspect of military conversion particularly appropriate for U.S.-Soviet joint ventures would be the clean-up of nuclear, chemical and other pollutants and wastes produced by the cold war. It seems fitting that the two superpowers, after years of confrontation, should now begin a pattern of cooperation to clean up the cold war.

Let me underscore that our cooperation must be premised on the reduction of Soviet military capabilities. Moreover, our cooperation in this area must reinforce rather than impede the growing economic and political sovereignty of the republics vis a vis the central government.

If this new policy framework can be constructed successfully, it can accelerate the transition of the Soviet Union to an economic system that serves the interests of its own people, and to a national security policy in which the Soviet defense establishment is proportionate to the country's legitimate defense requirements. What a change this would be.

June 19, 1991 is a day of transition for each of you in this class during a period of great change for our nation and the world.

It has been said about change that:

To the fearful it is threatening because it may mean that things will get worse.

To the hopeful it is encouraging because it may mean that things will get better.

To the confident it is inspiring because the challenge exists to make things better.

Because of leaders like you in this graduating class, America does not fear change. We face the future with hope and confidence—we put our faith in you.

Thank you.●

LETTER FROM CONNIE PRICE, MALAD, ID

● Mr. SYMMS. Mr. President, America is crying out for help, but we do not seem to hear the cry very often. Well, I heard Connie Price, and I rise to share with my colleagues the cry of this person who calls herself a "confused American."

Connie and her husband live in the small town of Malad, ID, where they run the Malad Drive In. Connie calls it "the neatest little fast-food" restaurant in Idaho. Quality is everything to Connie and her husband, and they cook food the old-fashioned way. In fact, they do not buy those prepackaged frozen french fries—they still make them fresh every day from real Idaho potatoes.

It sounds like the American dream—a husband and wife owning their own business, raising a family, living in a friendly community. Well, it was the American dream until somebody got in their way.

That somebody is us—Congress!

We made Connie and her husband raise their wages for 14-year-old carhops from $2.75 an hour to $3.00 an hour. Then, we told them that was not enough—so now they have to pay $4.25 an hour. And all the while, Congress keeps heaping more FICA, income, payroll, unemployment, and capital gains taxes on them and all the other small businesses of America.

Connie wrote me and asked why she and her husband work so hard. Why should they work from 4:30 a.m. to 11 p.m. every day, when they could sit back and do nothing and collect welfare?

I know the answer to that question. They are working so hard because they know that is right—that is America, where hard work is the way to realize your dreams.

Connie ends her letter by asking, begging for support for small business people. Connie, I hear you and I say to you and, Mr. President, I say to all my colleagues, that it's time to cut payroll taxes, cut the capital gains tax, stop shoving minimum wage laws down the dying throats of our businesses and give people like Connie a break. These are not tax cuts for the rich, like some try to suggest—these are breaks for the mom-and-pop shops, the husband and wife shops and the small business owners across America.

Mr. President, I ask that Connie's letter be printed in the RECORD.

The letter follows:

MALAD, ID, *May 14, 1991.*

To Whom It may Concern:

My name is Connie Price. I am the proud co-owner of the neatest little fast-food drive in Idaho: The Malad Drive In. My husband and I take great pride in our little establishment! Our drive-in was established in 1955 with food cooked the old-fashioned way. My husband's mother was the previous owner; and when she wanted to retire from business, we bought the establishment from her. She had my husband train for six months to be sure he knew how to do everything (from cooking to ordering) just right. We take great pride in the quality of our food, the cleanliness of our establishment, and the friendliness of the people we hire. Even our french fries are still made daily from real potatoes! Sounds like old-fashioned Americanism, doesn't it? Well, it is—and we are very proud of it!!

In April 1990, we had to raise our minimum wage from $2.75 (for part time, 14 year old carhops) to $3.80. Okay, we complied. Then recently we were told to raise minimum wage to $4.25. Okay, we again complied. We were at first told that small businesses that grossed less than $500,000 would be exempt from this requirement, then later told the only exemption would be for agriculture. We again had to raise our prices to conform to this new law (and lost a few customers in the process), but we feel we can still remain in business. For the carhops we hire, this is always their first job. We spend most of the training time teaching them how to work—how to be on time—and how to get along with other people (co-workers as well as the public). My husband works from 4:30 a.m. to 11:00 p.m. at our drive in—seven days a week. I work at Thiokol (in Brigham City, Utah) as a secretary to help make ends meet. I leave home at 5:30 a.m. and return at 5:00 p.m. In my spare time, I do the payroll and scheduling for our drive in.

My husband and I keep asking ourselves why we do this—why we work this hard. Why not quite and go on welfare (food stamps and the whole bit) as its the new "American Way!" Why are we working ourselves to death to pay all the things small business people are required to pay: FICA, state tax, federal tax, employment tax, state unemployment tax, federal unemployment tax and so many others—and just when we feel we are getting our head above water—you again raise the minimum wage law. It seems to me that people who work to get ahead are farther behind than people who just sit back and reach out their hands. The old adage is true: "Give someone bread when he is down and he learns to reach out his hand for more—but if you put a hoe (or a pencil or a hot pad) in his or her hand you teach them to work to support themselves."

If anyone wanted to run for President of the United States and be assured of getting every vote of every working man and woman in America, all they would have to do is reform the welfare and aid programs! Teach people to care for themselves! I am not saying there should be no programs at all—but everyone could and should do what they can to help themselves—first, then we should assist. Let them have a little self-pride.

We have a nice couple in our town who have five children. They ran into a bit of bad luck (the man works at Thiokol with me) and got a few months behind in their house payment. The bank quickly took back their lovely home and put welfare people in it—a family with seven children. The bank won't have to worry about them getting behind in their payment. The government will take care of them!!! The working family are now renting and trying to save up to again buy. Why does America make it so hard on the working family and so easy on those who do nothing?

My son and his wife are a working couple with one child. They have tried many times to qualify for a home loan but make too much money to qualify for the Idaho or FHA assisted loans. Together they make $30,000. They have friends who don't work who live in a lovely home and receive a lovely welfare check. Isn't that fair? Try paying living expenses—rent, gas, heat, lights, a $4,000 hospital bill (no insurance)—and saving for a house. It's damn hard.

We have two children and they both tell us the only thing we ever did for them is teach them how to work. We were always gone working and they had to learn the rest of life for themselves! Tell me, did we do them a favor? I don't know. Isn't that sad. I really don't know. The small business people who try to make it for themselves are definitely fighting an uphill battle.

We need—ask—beg for the support of our legislature in protecting the small business people. Help us to help ourselves instead of making it so damn hard. If this new $4.25 minimum wage law does not run us out of business, can you assure us that you will fight to protect the small business people in the future, or should we all close our doors and sit back on our duffs with outstretched hands.

Sign me; A Confused American.

CONNIE PRICE,
Co-owner, Malad Drive In.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Gaye Bennett, a member of the staff of Senator SYMMS, to participate in a program in China, sponsored by the Chinese Culture University, from July 1–6, 1991.

The committee has determined that participation by Ms. Bennett in the program in China, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Donald Hardy, a member of the staff of Senator SIMPSON, to participate in a program in Indonesia, sponsored by the Indonesian Embassy and United States-Asia Institute, from August 16–31, 1991.

The committee has determined that participation by Mr. Hardy in the program in Indonesia, at the expense of the Indonesian Embassy and United States-Asia Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for David W. Brown, a member of the staff of Senator BAUCUS, to participate in a program in Indonesia, sponsored by the Indonesian Embassy and United States-Asia Institute, from August 16–31, 1991.

The committee has determined that participation by Mr. Brown in the program in Indonesia, at the expense of the Indonesian Embassy and United States-Asia Institute, is in the interest of the Senate and the United States.•

RETIREMENT OF WILLIAM (BILL) E. WEBER

• Mr. LUGAR Mr. President, after 27 years of outstanding service to the agricultural community, Bill Weber, a dedicated soil conservationist is retiring from the Soil Conservation Service [SCS] as an assistant State conservationist for operations after a very distinguished career. His deep concern and devotion to enhancing land and water quality has culminated in many great accomplishments.

Bill Weber was born in Wakefield, IL. His interest in agriculture took root on his father's farm near Ingraham, IL. After completing 2 years of college Bill returned home to help his father before joining the Army in 1958. In 1961 Bill resumed his college career at the University of Illinois. Before graduating, Bill honed his soil scientist and conservationist skills as a student trainee. He graduated from the university in 1963 with a major in agronomy. In addition to earning a Bachelor of Science degree, Bill has a masters in public administration from the University of Oklahoma.

Bill began his career with SCS as a soil conservationist in Freeport, IL in 1964. Since then, he has held positions as district conservationist in Metropolis, IL and Golcanda, IL, RC&D coordinator—Shawnee RC&D area—in Carbondale, IL, area conservationist in MaComb, IL and soil conservationist—program analyst—Policy Analysis Division in Washington, DC.

In 1980 he came to Indiana as assistant State conservationist for operations. During his tenure in Indiana, Bill provided statewide leadership that has resulted in a nationally recognized, outstanding resource conservation and development program. Bill has also been an effective leader/trainer of needed dialog through many changing agency responsibilities for farm bill legislation. His understanding of actions needed and their consequences to producers has enhanced the agency's relationship with the agriculture community.

Bill has received numerous performance awards and commendation letters. In 1973, Bill received a special achievement award for controlling erosion in the southwest Indiana target area. Because of his efforts, errosion control nearly doubled from the average of the 3 previous fiscal years.

Upon his retirement, Weber and his wife will make their home in Ingraham, IL. I wish to take this opportunity to thank Bill for the assistance he has provided my staff and join with his friends at SCS in wishing him and is wife the best of luck in their future endeavors.●

A NEW DECLARATION OF INDEPENDENCE

● Mr. JEFFORDS. Mr. President, I speak today to tell you that as we approach the Fourth of July, our national birthday celebration, America is in need of a new Declaration of Independence. This great Nation needs to state loudly and clearly once again that it is, and intends to remain, independent. I must say this because, sadly, this is not the direction in which we are moving.

In the course of events of this Nation, of late, America is becoming dangerously dependent. And this goes radically against the principles upon which the Nation was founded. Those principles are of self-reliance and hard work, the essentials of independence.

Today America is becoming less independent as we become more and more reliant on foreign oil. Unless we act and act decisively, this Nation will apparently stay on that course which is, I declare, a course of national doom. At the very least, it must be stated that at our current rate, we'll not achieve energy independence until sometime after all the oil wells of Earth run dry.

Obviously, this Nation founded to be governed for the good of the many is being steered by a policy that has in mind only the good of the few. I speak, of course, of the oil companies who reap great profits from our dependence on foreign oil and who even have the temerity to profit most in times of national emergency.

Change is needed for, as I have said before, the future of an energy-dependent America is severely limited while the future of an energy-independent America knows no bounds.

The original Declaration of Independence cautioned that mankind is more disposed to suffer than to right themselves by abolishing the forms to which they are accustomed. "But when a long train of abuses and usurpations" as the original Declaration warns, presents themselves to the people, the people will act.

I tell you today that America is waking to the dangers, the frustrations, to the terrible costs, of energy dependence. Polls tell us that a huge majority of our citizens want energy independence and are willing now to pay extra for energy independence.

Americans do not want their future to be dependent on a 6,000-mile transfusion line subject to severance at any moment due to war or the whims of foreign powers. And add to the cost of the expensive oil that comes from that pipeline the untold billions on billions of dollars in military might, being spent now and earmarked for the years ahead, necessary to guarantee our supply of Mideast oil.

There is, there must be, another way. I have a way.

My program for American energy independence is something I call the Replacement and Alternative Fuels Act, or RAFA for short. And I would like here to thank my colleagues, particularly those on the Energy Committee, for their consideration of that legislation, S. 716, and for their adoption of a portion of the bill. I also thank those who opposed the measure for the time they took in consideration. But I also want to say that I am determined to go forward with this proposal.

I am determined to do what some say is impossible, but what is indeed most possible—to set America on a course toward energy independence. One of the strongest indications of its possibility came in the American Petroleum Institute's reaction to my bill. When the oil companies trot out warnings of environmental boondoggle, economic disaster, logistical nightmare, when they use that kind of language, you know you've hit on something they're taking seriously. To paraphrase Senator GORE, when the facts aren't on your side, holler. That's hollering.

The oil companies will also tell you this is an ethanol bill, or a methanol bill. No apologies, it is. It's also a tarsands bill, an oil-shale bill, a hydrogen bill, an electric-car bill, and a coal bill, all sources of replacement or alternate fuels. And by the way, this is also a jobs bill, a balance-of-trade bill, and an environmental bill. And it's also an OPEC bill, aimed squarely by at the heart of those who would hold us hostage to oil.

There's also talk around to the effect that this plan would cost too much, some say $100 billion over 10 to 20 years. Let me pause here and put in terms we can all understand. It's not that expensive, at most an additional 5 to 10 cents per gallon, and that's one of the prime reasons they're scared. When I started working on this bill I went to the Department of Energy and asked what it might cost. The answer I got was pennies a gallon. That's right, we're just pennies a gallon from energy independence and the American people want energy independence and are willing to pay for it.

Right now, we're paying $40 billion each year in defense costs to keep the oil flowing. Add in the costs of Desert Storm, including the rise in gas prices, and you're talking $100-a-barrel oil and more.

Also consider what major positive effect the alternative and replacement fuel bill such as I propose could have on American employment—tens, even hundreds of thousands of jobs.

Then I hear talk that my bill is antifree market. Quite the opposite and certainly nothing is less free market than the OPEC cartel which charges customers 10 times the cost of production for its product. All we do is set up a free market isolated from OPEC. It thus can attract the capital necessary to feed that market.

My approach can work. It doesn't need subsidies and it doesn't raise taxes one thin dime. It creates a free market in which domestic energy producers can be free to develop domestic energy alternatives without being undercut by OPEC. It thus can attract the capital necessary to feed that market.

And is this careless, radical? It's been tried in Canada, Brazil, and South Africa and it works.

So as the Fourth of July nears I can think of no greater gift that we could give the American people than a new gift of freedom, a new Declaration of Independence, a commitment in law of our intent to break the bonds of energy dependence.

I might also add that 1991 is the bicentennial year for my home State of Vermont and the 200th anniversary of its motto which is "Freedom and Unity." Vermonters know a lot about independence, fought hard for it more than two centuries ago, were an independent republic for a time.

I also say today that as we move toward a new declaration of freedom, we keep in mind the words "Freedom and Unity." This Nation deserves the new freedom that energy independence would give it, the freedom to realize its still vast potential. I know this Nation has the unity necessary to bring about new freedom for reliable polls tell me 85 percent of Americans want energy independence.

That is a majority any founding fathers would be delighted to have behind them in setting off on any brave new venture, be it a new nation or a new declaration of a nation's intent, such as energy independence and the vast horizon of possibility that stretches bright and shining beyond it.•

SALUTE TO ACADEMIC DECATHLON

• Mr. SEYMOUR. Mr. President, I stand today in recognition of a very special group of students and their teachers from my home State of California, who have won honors in the Academic Decathlon competition at the State and national levels.

Jay Kim, Ryan Sakamoto, Teddy Chen, Todd Faurot, George Dannenhauer, Sian Baker, Robin Cheney, and Kirk Brown are the members of the Laguna Hills High School academic decathlon team, coached by Kathy Lane and Roger Gunderson. The Orange County team won the statewide California competition in March.

The team representing Pacific Palisades High School from the Los Angeles Unified School District placed second at the State level. Its members include Amir Berjis, Ritu Batra, Matthew Gelbart, Eddy Kup, Neal Kaplan, David Elashoff, Robert Brombach, Lesley Young, Thabiti Sabahive. The team is coached by Rose Gilbert and Don Walz.

Placing first in the California contest division for smaller schools, with under 1,000 students enrolled in the 10th through 12th grades, the Del Oro High School team from Placer County included Rick Fasani, Richard Howard, Kevin Wood, Chelsea Haley, Lori Townsend, Brandon Tuttle, Surjir Gish, Andrew Luebke, and Bliane Nickerson. Jack Sanchez and Valerie Sanchez coached the team.

I am particularly pleased to note that the Orange County team placed second in the national finals held in Los Angeles in April, and among overall winners, Jay Kim won a bronze medal in the honors category and George Dannenhauser was silver medalist in the scholastic category.

The U.S. Academic Decathlon competition was born in Orange County, the brainchild of a gifted educator and former superintendent of schools, Dr. Robert Peterson. The California program originated in 1979, with over 45 counties now participating. The U.S. competition, in which 44 States now compete, began in 1981. In every national competition, a California team has placed first or second. Of course, having said that, I must also add that it is not whether you win or lose, it is how you play the game. In the case of the academic decathlon, the game is played so everyone wins, because everyone who participates learns.

The academic decathlon program is structured to motivate students, not just "A" students, but also "B" and "C" students. In 1987, the highest scoring student in the national competition was a "C" student who had been denied admission to college. Because of this affiliation with the decathlon he was admitted to the University of California Berkeley and is now a graduate of that institution.

I rise today not only to honor the students who have won this competition, and the teachers who helped guide them, but also the private sector partners in the U.S. Academic Decathlon Program. It is certainly a foremost example of the success of which American educators and businesses are capable when they join together to achieve their common goal of a better-educated society.

The decathlon's national sponsors include the Ronald McDonald Children's Charities, the Lennox Foundation, the Raytheon Co., the Northrop Corp., the Psychological Corp., a division of Harcourt Brace Jovanovich, Inc., D.C., Heath and Co., TRW, and Arthur Andersen.

In California, the sponsors include Arthur Andersen and Co., the Bank of America, Carl Karcher Enterprises, the Foundations of the Milken Families, McDonnell Douglas, the California State Lottery, GTE California, the Hoag Foundation, Pacific Bell, Price Waterhouse, Rockwell International, City National Bank, the Fashion Institute of Design & Merchandising, San Fernando Valley Links, AIM Marketing and Insurance Services Corp., ARCO Foundation, First Interstate Bank of California, Fluidmaster, Inc., the Fluor Foundation, Hughes Aircraft Co., Kinko's the Copy Store, the Security Pacific Charitable Foundation, the Southern California Edison Co., the Termo Co., and Toyota USA.

I ask the Senate to join me in saluting the Academic Decathlon Program and the students, teachers, and sponsors who participate in the program from throughout the Nation.•

HONORING NATIONAL GROCERS WEEK, JUNE 23-29, 1991

• Mr. GORTON. Mr. President, it is with great pride that I rise today to honor National Grocers Week. This week has been set aside to recognize the enormous contribution America's retail and wholesale grocers make to keep our economy viable, while providing friendly, hometown service to their customers.

Representatives from the food distribution industry will be here in Washington, DC, this week in order to participate in a "Grocer's Care" conference recognizing their support and involvement in other charitable organizations as well. They are involved in the American Cancer and Heart Associations; "A Clean America" with contributions to recycling and the environment; and "A Proud America" with grocers' civic and patriotic endeavors.

Washington State's members of the conference include Craig Cole of Brown and Cole Stores in Ferndale, John Herbison of U.R.M. Stores, Inc. in Spokane, Walter Schmidt of Walt's Fine Foods in Lakebay, Chris Brown of Wrays Thriftway in Yakima, and Wayne Spence of the Washington State Food Dealers Association.

Mr. President, these individuals and their companies deserve our recognition and our support. I am proud to pay tribute to the grocers of America during National Grocers Week.•

REAUTHORIZATION OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT [IDEA] FINAL PASSAGE

• Mr. DURENBERGER. Mr. President, I rise today to support S. 1106, the Individuals With Disabilities Education Act Amendments of 1991. On April 18, President Bush announced his national education strategy that would prepare this country for the 21st century. To achieve this strategy, the President, has, in conjunction with all 50 of our Nation's Governors, set forth 6 national goals. The first, and I believe the most important of these goals, is that every child in America starts school ready to learn.

Preparing all children, including children with disabilities, is a vital part of meeting this first education goal. In fact, we are already ahead of the game when it comes to every intervention services for children with disabilities thanks to the efforts Congress took 5 years ago when it established the framework for a comprehensive, statewide system of early intervention services for infants and toddlers with disabilities and their families, known as the part H program.

Dr. Robert Davilla, Assistant Secretary for Special Education and Rehabilitation Services, also acknowledged this connection, when he testified before the Disability Subcommittee, stating "We believe this program canmake a real difference in helping meet the national goal of improving the school readiness of all young children, including children with disabilities." So I am pleased, Mr. President, to have had the opportunity today, along with my colleague from Iowa and others, to join in supporting reauthorization of this program.

The miracles of this program, even in its first 5 years have been many. From the little girl, Gretchen, who testified with her family before the subcommittee to Nicole Anderson and her family in Minnesota, this program has prepared young children with disabilities not only for school, but for life.

When the program was developed in 1986, a 5-year implementation period was established to allow States time to create the type of systems and services required under this act. In reviewing this program, it became clear, that even with all its support requirements under this bill in the allotted timeframe. It became evident that the 5-year implementation period established in 1986 may not have been long enough for some States to develop the kind of comprehensive systems envisioned under this act. In addition, we found States trapped by severe budget shortfalls that could not have been foreseen in 1986.

On the other hand, we had to recognize that several States had made the tough decisions and financial commitments to implement this program, and we did not want to penalize these States in any way for doing what we asked.

The bill before us today provides both assistance to those States that are struggling to meet the deadlines under the original act to stay in the program, and added incentives to those States who are on time. It does so by creating a new system of differential funding. This change will give States up to an additional 2 years to reach full implementation.

Currently, all States have completed year 3 requirements. Some States have already made 4th-year applications. The bill before us will allow States who are not ready to make 4th-year applications to receive two 1-year extensions at which time they would continue to receive planning money set at 1989 funding levels the 1st year and 1990 levels the 2d year. In 1990, States who are on schedule applying for the 4th year will receive their share of 1990 funds, plus any reallotment from remaining moneys from States not on schedule.

In 1991 and 1992, States fully on schedule will receive their 1991 funding allocations plus up to 100 percent their previous year's allocation. States who have proceeded to the 4th year will receive their 1990 level of funding plus a reallotment of funds left over from States on schedule. States who are still unable to make 4th year requirements the 2d year will receive their 1990 funding level but will be ineligible for any reallotment.

Because States were facing an application deadline of July 1 and it was not clear that we could have passed S. 1106 by that time, we pulled this section of the bill out and attached it to the extension of the Rehabilitation Act which was signed into law, Public Law 102–52, by the President on June 6, 1991.

In addition, this legislation makes several other important changes in the part H program. The bill would eliminate the current disruption of services for children turning 3 years of age during the school year by making several changes that will provide a smooth transition between the part H program and the section 619 preschool program. The bill modifies the number of members and composition of the State interagency coordinating council, and the functions of and allowable expenditures by the council. The bill places in statute the current Federal Interagency Coordinating Council. In addition, it amends the definition of "children with disabilities" to provide States with discretion to include children experiencing developmental delays.

Finally, Mr. President, I would like to thank my colleague from Iowa for his leadership on this issue. He has been steadfast in his support for this program and for children with disabilities and their families.

Mr. President, we have seen how this program can do wonders for these young children, and I urge your support of this important legislation.●

RECORD TO REMAIN OPEN UNTIL 3 P.M.

Mr. BIDEN. Mr. President, I ask unanimous consent that the RECORD remain open today until 3 p.m. for the introduction of statements and legislation, and further, that the Senate committees may file reported legislative and Executive Calendar until 3 p.m. today.

The PRESIDENT pro tempore. Without objection, the several requests will be granted.

ORDERS FOR MONDAY, JUNE 24, 1991

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 a.m. on Monday, June 24; that following the prayer, the Journal of proceedings be deemed approved to date; that the time of the two leaders be reserved for their use later in the day; and that the Senate then resume consideration of S. 1241, the crime bill.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL MONDAY, JUNE 24, 1991 AT 11:30 A.M.

Mr. BIDEN. Mr. President, if there is no further business to come before the Senate today, and I see no Senator seeking recognition, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 11:30 a.m., Monday, June 24.

There being no objection, the Senate, at 1:22 p.m., recessed until Monday, June 24, 1991, at 11:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate June 21, 1991:

NUCLEAR REGULATORY COMMISSION

IVAN SELIN, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF 5 YEARS EXPIRING JUNE 30, 1996.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

SENATE—*Monday, June 24, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

God of our fathers, You have declared in Your Words, "* * * there is no power but of God: the powers that be are ordained of God." "* * * rulers are not a terror to good works, but to the evil. * * *, that "* * * he is the minister of God to thee for good. * * *"—Romans 13:1, 3, 4.

Sooner or later, most of the problems and burdens that beset the world find their way into this Chamber. Grant to Your servants, upon whom this enormous responsibility rests, the grace to realize that they cannot do everything for everybody all the time. As pressures build and they feel their humanity, their vulnerability and weakness, help them to realize that You are just a thought away—that at any moment, whatever the situation, they may turn their minds and hearts to Thee for insight, wisdom, and strength. Grant to their staffs, who share this burden, the grace to look to You.

Sometimes, Lord, we turn to You because there is nowhere else to go. Thank You for Your gracious, more than adequate support. Help us all to avail ourselves of Your infinite and gracious and accepting love.

In His name who said, "Come unto me, all ye that labour and are heavy laden, and I will give you rest." Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 12 noon today with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, at noon the Senate will return to the consideration of the comprehensive crime legislation. There will be no rollcall votes today. There will be rollcall votes beginning at 11:30 a.m. tomorrow.

It is my hope we can make good progress in debating several amendments today and that we can continue and dispose of this bill as soon as possible consistent with thorough review. Senators should expect rollcall votes throughout the remainder of the week at any time of the day, evening, or night as we seek to complete action on this legislation at the earliest possible time.

The PRESIDENT pro tempore. The Chair would seek guidance from the majority leader. It is the Chair's understanding that the 2 hours of debate allotted on the Thurmond amendment on Friday were consumed and that under the order no other amendment or motion to recommit will be in order until the Thurmond amendment has been disposed of tomorrow at 11:30 a.m.

Mr. MITCHELL. Mr. President, it is my understanding that the managers of the bill intend to bring up other amendments by consent today. They had discussed and came close to reaching agreement on a method for proceeding pursuant to unanimous consent on Friday but discontinued their consideration when they could not reach final agreement. But I am advised that they expect to reach agreement today and to proceed to several amendments relating generally to the death penalty provisions in the pending bill.

The PRESIDENT pro tempore. The Chair thanks the majority leader. Is it the desire of the majority leader then, at the time morning business closes and the Senate resumes consideration of the bill, that the Thurmond amendment be temporarily laid aside?

Mr. MITCHELL. It is. And I believe the managers, who will be present at noon, will be prepared to seek consent to accomplish that.

The PRESIDENT pro tempore. Very well. The Chair thanks the majority leader.

Mr. MITCHELL. Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Tennessee [Mr. GORE].

RELEASE OF HOSTAGES

Mr. GORE. Mr. President, I take the floor this morning in morning business to discuss three subjects. First of all, I would like to say to my colleagues that I am introducing a resolution calling for a formal investigation of the charges that have been made by many, including several distinguished journalists and a former member of President Carter's administration, Mr. Gary Sick, that the campaign manager for the Reagan-Bush campaign negotiated in the summer of 1980 a formal agreement with officials of the Government of Iran calling for a delay in the release of our hostages then being held by Iran until after the elections in November 1980.

The evidence which has thus far trickled into the public domain is still fragmentary. Much of it is circumstantial, but it is compelling. If the allegations are not true, the country needs to know they are not true. If they are true, the country needs to know that as well.

A number of investigators in the journalistic community and elsewhere have worked on bringing out these facts. I read the initial column by Mr. Gary Sick some months ago. Frankly, Mr. President, I did not think a great deal about it, but I watched and listened as further evidence was developed. The Front Line program, I am told, had a very extensive presentation on it. I watched the Nightline special program last week. The evidence presented there indicates that a spokesman for the Reagan-Bush campaign told a journalist in 1980 that Mr. William Casey, the campaign manager, was abroad, meaning overseas, on a date which precisely corresponds with one of the negotiating sessions which allegedly took place in Madrid in the summer of 1980 and was described to the Nightline investigators by a man named Hashemi who said he was the interpreter and go-between during both of the negotiating sessions.

No record of Mr. Casey's presence in the United States of America was found in any public or private record for any of the dates during which the negotiations allegedly occurred in Madrid.

There is a great deal more circumstantial evidence which has been brought forward by a number of these reports. I believe the air needs to be cleared, Mr. President. So I am today calling for a formal investigation of these charges and allegations without prejudging what that investigation might find, but believing deeply that it needs to take place in order to establish the truth or falsehood of the allegations that have been made.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Some deals should never be made, Mr. President, whether arms for hostages or hostages for elections. We have only one President at a time, and the idea that a Presidential campaign would enter into negotiations with the leaders of a foreign country and establish an understanding which had allegedly the effect of prolonging the period of captivity and suffering of American hostages in Iran is the kind of charge which must be addressed fully and thoroughly.

ORDER OF PROCEDURE

Mr. GORE. Mr. President, I ask unanimous consent to address the Senate for an additional 10 minutes on two other topics.

The PRESIDENT pro tempore. There being no objection, the Senator is recognized for an additional 10 minutes.

AMERICA'S CHILDREN

Mr. GORE. Mr. President, this morning the National Commission on Children released a report worthy of our Nation's most serious attention. This report reflects more than 2 years of work by a bipartisan Commission led by our colleague, Senator JAY ROCKEFELLER, that included leaders from a broad range of disciplines who share a key concern for America's children.

I wish to commend Senator ROCKEFELLER, our distinguished colleague, the President pro tempore, our Presiding Officer, and I wish to commend all of the other members of the Commission. I would like to commend the Commission's report to this body, and focus briefly on two of the key recommendations coming out of the Commission.

First of all, by a unanimous vote the Commission put forward its plan and recommended a refundable tax credit for children. I strongly endorse that idea.

It is in fact the core of legislation which I introduced more than a month ago along with Congressman TOM DOWNEY in the other body, who was joined by GEORGE MILLER and DAVE OBEY, two distinguished Members of the other body. The four of us introduced the Gore-Downey Working Family Tax Relief Act to cut taxes for 35 million American families with children, a measure causing a tax cut for 134 million Americans.

The Commission recommends a tax credit for children, and the Gore-Downey bill recommended the same thing, offering an $800 tax credit for each child up to age 18, replacing the more limited personal exemption with a tax benefit that for some families would be twice as valuable.

The Gore-Downey bill focuses our efforts where they are needed most, on middle-income working families with children. Increasing the personal exemption as some others have proposed would send the greatest benefits to those with the greatest incomes. A refundable tax credit such as both the Gore-Downey bill and the Commission on Children, sends the tax cuts to the families who need them most.

The Commission also expresses support for expanding the earned income tax credit. The Gore-Downey bill to which I referred a moment ago does in its second major provision precisely that, expands the EITC to help working families with children continue to choose work over welfare and help them help their children.

Finally, one point where Gore-Downey and the Commission differ—the Gore-Downey bill offers tax cuts where they are needed for a change, and it pays for them. This is an important distinction, Mr. President.

It is a good thing to put forward ideas that would be beneficial for the country but, in the context of the budget crisis we continue to face in America, I think it is important to suggest how we can pay for the ideas that are suggested. And the Gore-Downey bill pays for the tax relief for working families with a more progressive tax rate that takes the burden off middle-income and working families.

ANTARCTICA

Mr. GORE. Mr. President, in the time that I have remaining I would like to turn to a third subject. By coincidence this subject also involves Madrid.

A negotiation which has been underway in Madrid has just broken up. This negotiation covers a topic which I have talked about here in this Chamber on many occasions, and that is the need to protect the environment of Antarctica by declaring that continent at the bottom of the world a global ecological continent.

The good news is that the entire world believes that should be done. The bad news is the Bush administration does not.

The news from Madrid where the 39 countries that are party to the Antarctica Treaty gathered until yesterday is unfortunately very bad news, but not surprising. At the last minute the U.S. delegation alone among all of the treaty parties announced that the United States would not sign the environmental protocol. Why is it, Mr. President?

The parties had gathered after agreeing tentatively on a measure several months ago which was then brought back to each of the respective governments included in the negotiations for review. Every other country approved the treaty.

Here in the United States the Environmental Protection Agency, the majority of those in the State Department, and many others in the Bush administration, agreed with the draft of the treaty. Why not protect Antarctica? Ideologs in the White House, Mr. President, led by Mr. John Sununu, who I am told was personally involved in making the decision to torpedo the negotiations, made their will known to the negotiators and ordered them to object to the treaty draft that every other nation in the world had agreed to.

Do you know the irony, Mr. President? We passed legislation here in Congress that was signed by President Bush making it illegal for U.S. companies to drill for oil, and mine for coal, or even prospect for them in Antarctica. The environment is just too fragile there. We do not know how to do it without disrupting the ecology of that area. The President signed that legislation.

Oil companies and coal companies are not clamoring to develop Antarctica. It is too hard. It is too remote. The conditions are too forbidding.

But, Mr. President, there are some companies from other nations that are collecting information of the kind that might be useful in the future in opening up Antarctica to oil drilling, and coal mining. The way Prince William Sound had oil taken out of it—we were told there that if we just have adequate protections, the environment will be safe.

Well, we saw what happened when the *Exxon Valdez* hit the reef and the oil spilled out. The damage would be infinitely worse in Antarctica.

In fact, Mr. President, a small oilspill from an Argentine tanker called *Bahia Paraiso* occurred 2 years ago—2 years ago, and the oil is still spilling out. Nobody can get to it to fix it.

Mr. President, this area of the world is especially important to the global environmental pattern. It is not an accident that the ozone hole was first discovered in Antarctica, or that the global warming is expected to do its first damage in raising temperatures, the highest at the poles, because these parts of the Earth, at the extremities, are the most vulnerable ecologically, and they play key roles in governing the climate pattern of the entire world.

Ironically, scientists were in Antarctica studying the plankton of the southeastern ocean to determine what the effect these increased levels of ultraviolet radiation, due to ozone depletion, might have on the food chain, and the precise area they were studying was covered by the oilspill of the *Bahia Paraiso*—5 years' work lost. They have to start all over again.

Well, now the world has said, let us do something different. Let us do something new. Let us say that Antarctica is off limits to oil drilling and coal mining. The companies do not want to do it anyway. Let us set a precedent and say, in an area like this let us protect it and keep it in its pristine state, as a global ecological commons, a land of science, if you will.

Everybody in the world agreed. The Congress agreed. The U.S. Senate agreed. We passed resolutions. We passed legislation. The distinguished cosponsor, leading cosponsor, on the Republican side was the Senator from North Carolina [Mr. HELMS]. The distinguished Republican cosponsor on the House side was the late Silvio Conte. It was his last measure, Mr. President, before his death. He was there at the White House for the signing ceremony.

The President signed the resolution and the legislation. He did not follow through on it. Mr. Sununu convinced him not to, at least that is my interpretation. I cannot understand why the President would suddenly reverse direction and say we disagree with the unanimous vote of the House, unanimous vote of the Senate, and unanimous conclusion of every other nation in the world. And for ideological reasons, we are going to insist that Antarctica be kept open for oil drilling and coal mining.

Here we face a global ecological crisis, Mr. President, without any precedent in the history of human kind, and we have a small opportunity to make an important statement and set an important precedent to say to all the world and to future generations, at least here we can agree, Antarctica will be off limits to the kind of exploitation which has done so much damage in the past.

Mr. President, I ask unanimous consent to have 2 additional minutes, and I would be glad to yield at any time to any of our other colleagues that wish to take the floor.

The PRESIDENT pro tempore. The Chair hears no objection.

The Senator is recognized for 2 additional minutes.

Mr. GORE. When the negotiations reached the stage where everyone agreed, the negotiators went home. Our negotiator came back and said we think we have a good package; most in the administration agree. Certainly, here in the Congress we had asked them to do this, and there was a great deal of approval for what they did.

I met with the principal negotiators, the officials in the State Department, responsible for this. I told them frankly, Mr. President, this is a smart thing for the administration to do. It is good for future generations. I thought it would also be good for them in a political sense, in that they would be able to say, well, look, we hear what people are saying about the need for a different approach to the global environment. We want to respond to it. And since the oil companies and other energy companies are not present on this one, why not do it? I am thinking in their terms.

I was then surprised, genuinely surprised, when the news came that those who supported this measure in the administration had been overruled by Mr. Sununu. I will tell you this, Mr. President. I know from the reports in Madrid—one of the delegation, incidentally, is Mr. Will Martin of Nashville, TN, who was selected as a member of the nongovernmental organization community on the delegation, and I know from the reports there that these other countries are in an uproar.

Of course, the 30th anniversary of the historic Antarctic Treaty is coming up in only a few days. The world was preparing to sign this environmental protection agreement on the anniversary of that treaty. That will not be possible now, because for this administration, the bottom line is exploitation of fossil fuel resources, no matter what, trying to open up the reserve area in Alaska.

There will be a big battle here on the floor of the Senate about that. At least in Alaska somebody was wanting to go up there and drill for oil. I hope they will not be allowed to do it in that area. Here in Antarctica they are not being pushed to do it.

HOW WE ALMOST LOST THE TECHNOLOGICAL WAR

Mr. COCHRAN. Mr. President, as we study the lessons of the recent Persian Gulf crisis, it will be tempting to exaggerate the importance of some weapons systems and overlook others.

The truth is that our most modern and technologically advanced systems were the big difference between winning a war with very few casualties and winning a war with many casualties.

On June 14, the Wall Street Journal carried an article written by Mr. Norman R. Augustine which discusses the importance of a robust commitment to military research and development.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HOW WE ALMOST LOST THE TECHNOLOGICAL WAR

(By Norman R. Augustine)

Critics who for years have been telling us that our military technology won't work are now telling us that, in the Persian Gulf, it didn't work. Fortunately, Saddam and his troops didn't get the word.

We are told that the cruise missile, the Apache helicopter and the Stealth fighter didn't perform up to par. Neither, it seems, did the Patriot missile—which some apparently would have us believe was repeatedly knocked out of the sky by Saddam Scuds.

It is said less damage would have occurred had the Scuds not been intercepted at all. This despite the fact that one Scud, which went unengaged and hit a U.S. barracks, produced more American casualties from enemy action than were sustained in the entire ground offensive. Israeli neighbors erected a sign near one Patriot battery proclaiming, "Yankee, stay here!" Patriots almost certainly enabled Israel to stay out of the war—avoiding the profound consequences that could have followed.

Under such circumstances, one can't help being reminded of those economists who, whenever any action works well in the business world, rejoin, "Yes, but would it have worked in theory?" What is surprising is that we should be surprised that our hardware in the Persian Gulf worked. That is, after all, what it was designed to do.

This is not to say that in modern warfare, technology is everything. The next war won't necessarily be won by the side with the last antenna standing. (Our soldiers, sailors, marines, airmen and coast guardsmen were so good that they would have won the Gulf War with the other side's hardware.) What we saw in the Gulf War was a victory of the technology of the 1970s (most of the equipment used in the Persian Gulf was originally developed some two decades ago), the manufacturing of the 1980s, and the people of the 1990s. It proved to be an unbeatable combination—a true case of spending dollars today rather than spending lives tomorrow.

The story that has yet to be told, however, is how very close we came not to having all that high-tech hardware in the first place and how the obstacles in our hardware acquisition process might have lost the technological war for us. In fact, we came perilously close to not having "invisible" airplanes, not owning the night, not having "smart" munitions that could select the room within a building to hit, not possessing some of the spacecraft that constituted the new high ground over the desert, and not having a "bullet that could hit a bullet."

In the case of virtually every one of the systems that had so forceful an impact in the desert—Patriot, LANTIRN, Maverick, Blackhawk, JSTARS. Apache, Hellfire, Tomahawk, Bradley, the M-1 Abrams tank, to name but a few—there were times during research and development when severe technical problems were encountered. This seems to be characteristic of even the best-managed projects that operate near the edge of the technological frontier.

The extremely successful and durable Sidewinder missile, for example, failed in its first 13 test flights. In the space program, 10 of the first 11 rockets launched in the 1960s to gather data on moon landing sites were failures.

At such times it was often argued that the thing to do was to cancel these "troubleplagued projects" (as the critics branded them) and start anew on projects that would have no such problems. To have done so often would have been the more popular approach with elements of the media, parts of the public, some of the Congress, most of the auditors, and even segments of the military itself.

Fortunately, the developers did not stop—although, at times, the life expectancy of these systems seemed shorter than that of an Iraqi tank. The result is history. The world's fourth largest Army, well-experienced in combat, some 8,000 miles away, was defeated in a 1,000-hour air war and a 100-hour ground war—with personnel and equipment casualties favoring the coalition by a ratio of 1,000 to 1.

There are, of course, those occasional circumstances where canceling a suffering project is the wisest course. That's where management judgment comes in. But in general, the correct answer is, first, not to start projects until it is absolutely clear they are needed and affordable and, second, once started to diligently solve the problems that will invariably be confronted. Bluntly stated, "Tough It Out." Wars are not won with good ideas memorialized in laboratories any more than economies are built with research that others take to the marketplace.

It is astonishing what the defense acquisition system can accomplish when it is unfettered. In World War II, it built a Liberty ship in four days; in the Gulf War, it was able to develop, test and send into combat, over a span of a few weeks, a huge laser-guided bomb (made from a cannon barrel!) against deep underground command centers in Iraq.

Perhaps the best example of all is the Patriot "Scudbuster." The Patriot missile is assembled by Martin Marietta under contract to Raytheon Corp., the system's prime contractor.

Patriot very nearly was the "defense system that wasn't." It came perilously close to Pentagon cancellation at least twice and was the target of several termination efforts in Congress during a prolonged and painful 18-year development.

On Aug. 2, the day the Iraqi army rolled into Kuwait, there were only three anti-Scud Patriot missiles in existence—in spite of the facts that somewhere on this planet there are about 10,000 Scuds, that about 1,000 ballistic missiles of one kind or another are fired each year, and that some 2,000 ballistic missiles have been fired in anger. These Patriot missiles were first-generation, experimental models intended for testing. Initial operational missiles were not scheduled for delivery for another five months.

Relieved of the sometimes burdensome restrictions of the defense acquisition process and fully supported by the military, numerous contractors and several labor unions, all the stops were pulled and 17 Patriot missiles, the first of hundreds in the pipeline, were quickly assembled.

Dedicated employees literally worked around the clock, including Thanksgiving and Christmas. Scores of suppliers, for everything from nuts and bolts to rocket motors and gyroscopes, accelerated shipments. The government assigned top priority to deliveries, in some cases reducing paper work requirements to hours from weeks.

One anti-Scud missile was rushed to White Sands, where it was successfully flight tested—and the others were dispatched by air to the Persian Gulf to report for duty. The record for an individual missile over the course of the war, from the time it left the assembly line in the U.S. until it intercepted a Scud over Israel, was two days—lending new meaning to the concept of just-in-time manufacturing.

It is difficult to do things that have never been done before—that is what research and development is all about. Sometimes almost as much perseverance is required in the laboratory as on the battlefield. Military R&D, like war, is not for the faint of heart.

(Mr. Augustine, a former Army undersecretary under President Ford, is CEO of Martin Marietta Corp. and a co-author, with Kenneth Adelman, of "The Defense Revolution" (ICS Press, 1990).)

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,291st day that Terry Anderson has been held captive in Lebanon.

REMEMBERING BOBBIE EUGENE MOZELLE

Mr. RIEGLE. Mr. President, I rise today to pay tribute to the memory of a beloved husband, son, and brother, Bobbie Eugene Mozelle, of Detroit. Mr. Mozelle was brutally assassinated on February 7, 1991, the first civilian casualty of Operation Desert Storm. He was gunned down by murderous left wing terrorists outside his apartment near the Incirlik Air Force Base in Adana, Turkey.

Bobbie Mozelle's life was dedicated to serving his country and his family. Following a 20-year career, he retired from the Air Force in 1989 as a master sergeant. His years in the Air Force included a tour of duty in Vietnam. He had been serving as a civilian U.S. customs expert in Turkey at the time of his assassination.

But more important than what he did is who he was. Just 44 years old when he died, Bobbie Mozelle was a quiet, kind, and loving man devoted to his family. He was a newlywed. Married just 8 short months when he was murdered, he sent his bride, Fatma, back to Detroit to wait his return.

He was a loyal dependable son and brother. His mother, Lydia, lives in Detroit. She knew she could always count on Bobbie to be there for her. The day after Mrs. Mozelle learned of her son's death, his Valentine's card arrived in the mail. She tells us that Bobbie was a "good boy." His sisters, Vera and Vanessa, miss him each and every day and hold close memories from their childhood.

Mr. President, Bobbie Mozelle puts another dimension on the human tragedies of war. The victims of war reach far beyond the battlefield and the combatants directly involved. Bobbie was a civilian, doing his job, earning a living to support his family. His murder was senseless, his life full of meaning. I know all of my colleagues join me in sending our heartfelt condolences to his family. Bobbie will not be forgotten.

THE RETIREMENT OF COL. GARY L. LA GRANGE

Mr. DOLE. Mr. President, I rise today to pay tribute to a truly outstanding soldier, Col. Gary L. La Grange, who is retiring from active service on July 31, 1991, after faithfully and honorably serving our country for the past 27 years.

I first came to know Colonel La Grange in 1988 when he became the garrison commander at Fort Riley, KS. I was impressed with him then, but I did not fully appreciate this truly remarkable man until I witnessed his performance during Operations Desert Shield and Desert Storm. Though not directly involved in combat, he managed the mobilization of over 2,800 National Guard and Reserve personnel who were mobilized during that period of time. I think he did an outstanding job and I indicated that to him many, many times. He was also the cornerstone for the over 17,000 family members of the 1st Division. Additionally, Colonel La Grange was the director for much of the division's support—during the deployment and throughout the operation. It can be accurately stated that much of the success enjoyed by the 1st Infantry Division during Desert Shield and Desert Storm—mobilization, speedy preparations, rapid deployment, and combat effectiveness are directly attributable to this man.

Colonel La Grange entered the Army in 1964 and was subsequently commissioned as a second lieutenant of armor in 1968. He served in armored units in war and held numerous important logistics assignments in peace.

During the Vietnam conflict he served in the 1st Armored Division, the 198th Light Infantry Brigade, the American Division, and as an adviser to the Royal Armed Forces in Laos. During these tours and in his career, Colonel La Grange received the Combat Infantryman's Badge; the Expert Infantryman's Badge, the Bronze Star; the Purple Heart; the Meritorious Service Medal with two Oak Leaf Clusters; and the Army Commendation Medal with two Oak Leaf Clusters.

Although armor was his first choice for a career path, Colonel La Grange also distinguished himself as an outstanding logistician. In this area he served in various capacities: light maintenance company commander, logistics battalion commander; executive officer division support command; and G–4 of the 1st Infantry Division.

Colonel La Grange's professionalism and leadership as a military officer have earned him the respect and admiration of his soldiers, fellow military officers, and the Army leadership. He is known for his integrity, compassion, and ability to inspire people to exceed their own expectations. These qualities will assure his continued success in his new pursuits.

Mr. President, the Army will miss the wisdom, steadiness, and technical skill of this outstanding officer; however, the Nation appreciates the personal and professional sacrifices he and his family made during his remarkable career. I salute Col. Gary L. La Grange for his distinguished military service. I also applaud those who most closely supported him during his long career; his wife Jan, and his daughters, Kathye, Shari, and Jennifer. Kansas and the Nation owe you a great debt. May this wonderful Army family have many years of health, happiness, and prosperity during their retirement in Kansas.

CHINA, SANCTIONS AND MFN

Mr. DOLE. Mr. President, in considering complex issues, it is often as important to keep in mind what the issues are not—as it is to deal with the issues as they really are.

The question of whether or not the Congress will overturn the President's decision to extend MFN for China is a case in point.

As I have said before, the issue is not whether we condone China's Tiananmen crackdown, its use of slave labor, its arms sales policies, or some of its trade abuses. We all abhor and condemn Chinese policies and practices in those areas.

The issue is not whether we should lavish some great benefits on the Chinese. MFN, despite its misleading name, is not the extension of any great new benefit to Beijing—but the continuation of normal trading relations on a level playing field; the same position we take on trade toward almost every other nation on Earth.

And today let me add: the issue is not whether we should impose sanctions on China, reflecting our real and legitimate concerns on human rights and all the rest.

In fact, we already have in place—and have had in place since Tiananmen Square—a whole series of sanctions, motivated by and symbolizing our opposition to China's ongoing human rights abuses. And the administration continues to express its displeasure over human rights, arms proliferation matters, trade, and other matters not only through our diplomacy, but through the targeted use of effective sanctions.

Recently, Secretary Baker wrote me, outlining the administration's policy of targeted sanctions. I believe the letter goes a long way to setting the record straight on what the administration is doing to pressure the Chinese to improve their policies on a whole range of issues.

The letter also makes the persuasive case that, with a whole range of tools at our disposal—and in light of the undeniable fact that denying MFN would hurt the very Chinese we want to support, while punishing us as much as the Chinese Government—MFN is not an effective or appropriate tool to use to move Chinese policies in the directions we would like.

Mr. President, I believe Secretary Baker has sent an identical letter to all Senators, but I believe it would be useful to put the letter on the public record, in advance of our debate on this issue, and for the information of any Senators or staff who may not have had the opportunity to see it. I ask unanimous consent that the text of the Secretary's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, June 14, 1991.

Hon. BOB DOLE,
U.S. Senate.

DEAR BOB: I want to emphasize for you and your colleagues in Congress those sanctions that President Bush has authorized to register our disapproval of China's human rights, proliferation and trade practices. The President has used legal authorities to employ appropriate countermeasures, as we do with all countries that violate international norms. Proposals to deny or condition MFN for China not only punish innocent Chinese but take away the best instrument we have to promote a wide range of U.S. interests, including keeping China's door open to trade and the exchange of people and ideas.

Following the crackdown at Tiananmen, the President immediately authorized a number of measures to express American abhorrence of this needless violence against the pro-democracy movement. These were:

Suspension of senior-level exchanges, except those contacts essential to pursue strategic, nonproliferation or human rights interests.

Termination of the military relationship, including weapons program and military exchanges.

Denial of all export licenses for equipment used by the Chinese military and police.

Termination of support for multilateral development loans to China, except for basic human needs projects.

Suspension of grants from our Trade and Development Program (TDP) and new activities of the Overseas Private Investment Corporation (OPIC).

Opposition to talks within COCOM on liberalizing controls on high-technology exports to China.

As new issues have emerged in the nonproliferation and trade areas, the President has taken further strong steps, using existing legal authorities:

In April, the President denied licenses for export of components critical for the launch of a Chinese domestic satellite.

The President will not seek any further satellite waivers for China until missile proliferation concerns are satisfied.

Similarly, he instructed the Commerce Department not to license exports of high-speed computers to China until these concerns are satisfied.

The President announced on May 27 his intention to deny licenses to any Chinese company found to exceed international standards in the transfer of missile equipment.

We are taking steps also to address the protection of intellectual property rights and the bilateral trade imbalance:

In April, the President authorized the designation of China under the Special 301 provisions for violation of U.S. intellectual property rights. A formal investigation of Chinese practices is underway and action will follow if adequate progress does not occur.

Assistant U.S. Trade Representative Joseph Massey is in Beijing this week to press concerns about market access with senior Chinese officials.

The Administration has also taken firm action against Chinese transshipments of textiles in violation of quotas, costing China some $85 million this year.

This Administration has actively applied sanctions against China since the tragedy at Tiananmen Square. The United States now stands alone as the only country that still has its original sanctions in place and is pursuing additional measures.

I continue to believe that selective application of existing legal mechanisms to specific issues of concern will yield the most gains with China. To deny MFN to China will destroy our dialogue with the Chinese on these issues and dismantle our leverage. Conditioned renewal would be tantamount to withdrawal, holding our interests hostage to unpredictable actions by the Chinese government. To employ such a blunt instrument will succeed only in hurting the millions of people in China who seek economic and political reform and who look to the U.S. for compassion and support.

Sincerely,

James A. Baker III.

SANCTIONS AND OTHER MEASURES IN PLACE ON CHINA

The U.S. currently has the toughest position on China sanctions. While the EC, Japan and Australia have gradually relaxed their sanctions, the U.S. has reaffirmed its existing sanctions and taken additional measures.

POST-TIANANMEN SQUARE

All the measures authorized by the President following the Tiananmen Square crackdown remain in effect, with only minor modifications to take into account U.S. interests:

Arms and Military Cooperation: Weapons deliveries remain suspended as does military cooperation.

Embargo on Sales to Military/Police: No licenses are being issued to dual-use civilian technology items for the Chinese police or military.

Munitions List: Licenses for items on the munitions list remain suspended. (The only exceptions in 1990-91 have been for the Australian AUSSAT satellite project and Swedish Freja scientific satellite project).

Trade and Development Program (TDP) and Overseas Private Insurance Corp. (OPIC): No new activities since June 1989.

Export Control Liberalization: The U.S. remains opposed to considering proposals for easing COCOM controls on China.

World Bank Lending: The U.S. remains opposed to all World Bank lending except for basic human needs.

High-Level Exchanges: Regular, high-level exchanges, particularly those of a formal, ceremonial nature, remain suspended. Exceptions have been granted only to pursue issues of vital concern (e.g., human rights, nonproliferation issues, trade problems and regional issues, such as the Persian Gulf and Cambodia).

ADDITIONAL MEASURES

Over the past year the following additional measures have been taken to pursue specific U.S. interests:

Proliferation: The President rejected licenses for a Chinese satellite project and stated that the U.S. would impose additional sanctions on any Chinese company found to violate international guidelines on missile sales. Other measures are not under consideration.

Trade: The President authorized the designation of China for trade action under Special 301 for violation of U.S. intellectual property rights. Over $85 million in Chinese textile overshipments were blocked because of violations of the bilateral textile agreement. USTR has stepped up its consultations with China on the trade imbalance, with talks scheduled for mid-June.

ACHIEVEMENTS OF THE PRESIDENT'S STRATEGY OF ENGAGEMENT

Human rights—our dialogue has yielded results: Chinese lifted martial law; released 1000 political detainees; allowed Fang Lizhi to leave; began to provide accounting of detained dissidents and Christians; public commitment to prevent export of prison labor products (but Customs investigation continues to ensure that China upholding that pledge); gave assurances on family reunification; resumed access to Tibet by diplomats and journalists.

Nonproliferation—the Chinese are beginning to move in the right direction: endorsed in principle effective and responsible international arms control; attended NPT RevCon in 1990; acceded to the Seabed Treaty in 1991; PRC and Algeria agreed to place their cooperation under IAEA safeguards; supported UN consensus on elimination of Iraqi weapons of mass destruction; President Yang Shangkun recently stated unequivocally that China had not sold any intermediate-range missiles and explicitly denied China had sold such missiles to Iran or Syria.

We have a genuine dialogue on proliferation issues, including our desire for a Chinese commitment to observe MTCR guidelines, join the NPT, and support early agreement of a Chemical Weapons Convention.

Global/regional issues—China continues to share common ground with us: supported the international consensus during the Gulf Crisis, including enforcement of military and commercial sanctions, observers to UNIKOM, relief supplies to Kurdish and Shiite refugees; cooperating with efforts to find a comprehensive political solution to the Cambodian issue—Chinese support, particularly with respect to the Khmer Rouge, will become even more important; shares our objective of reducing tension on the Korean peninsula—China has demonstrated positive influence contributing to regional stability by exchanging trade offices with Seoul and as is apparent in Pyongyang's decision to seek a separate UN Seat.

Trade—China acknowledging our concerns: In response to growing trade imbalance, Beijing has sent two buying missions to U.S., claiming purchases of $1.7 billion. On intellectual property rights, the government accelerated passage of copyright law—but it fell short of international standards. Chinese have demonstrated a readiness to discuss these problems both here and in Beijing. Asst. U.S. Trade Rep Massey is leading an IPR/market access delegation to Beijing June 12–15.

Mr. GORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. AKAKA). The point of no quorum having been raised, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

Mr. HELMS. Mr. President, I suppose under the circumstances, I should ask unanimous consent also to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BOY AND HIS MOM: A PICTURE OF TRIUMPH

Mr. HELMS. Mr. President, we all have problems from time to time, and my father used to tell me that these problems usually turn out to be blessed if you handle them right. It took me a while to realize that he was correct about that.

In the same mail one morning last week, I received a letter from Dr. Norman Vincent Peale—surely one of the most remarkable men of our time—and in the same pile with Dr. Peale's letter was the May issue of Guideposts, that extraordinary little publication which Dr. Peale founded and of which he serves as editor and chief publisher. The interesting thing is the letter and the copy of the magazine arrived independent of each other. And that caused me to think.

Even though I had a busy morning ahead of me, as all Senators do, the thought occured that this little coincidence perhaps was an indication that there was something special in that issue of Guideposts that I should see. There was, Mr. President, indeed something that I ought to take the time right then to read and I did.

And that, Mr. President, is why I am here on the Senate floor making these remarks today. I hope that all Senators, and everybody else who peruses the CONGRESSIONAL RECORD, will read the lead article in the May issue of Guideposts—and, to make it easy for them to do so, I shall ask unanimous consent later to have this article printed in the RECORD.

Now you will recall, Mr. President, that I said at the outset that problems usually turn out to be blessings if you handle them right.

The article in Guideposts to which I refer is about a 7-year-old boy in Charlotte, NC, who was born prematurely and weighed 2 pounds and 12 ounces. He is the son of Jeff and Marie Gaskin of Charlotte, Jeff's full name is Jeffrey B. Gaskin, and he is in the securities business and a highly respected young man.

And Marie? Well, I have decided that Marie is bound to be saint—or, certainly, she qualifies to be one. But Marie does not think so. She just feels that she is a lucky mother who is a registered nurse in the acute hemodialysis unit at Presbyterian Hospital in Charlotte.

It turns out that Marie wrote this article for the May edition of Guideposts and I think, Mr. President, that you will be inspired when you read it. It is a story of 7-year-old Brian Gaskin who, as I said earlier, was born weighing 2 pounds 12 ounces, but that is not all of the story. Wait until you hear the rest of it.

Little Brian not only had to fight to stay alive right after his birth; Brian was born deaf and blind.

Now I am not going to try to relate Marie Gaskin's account about her son and how she and her husband Jeff found a blessing in what began as an incredibly sad set of circumstances. Marie's article is entitled, "A World of Hope and Beauty." And if you doubt it, just read the article from the May issue of Guideposts which I now ask unanimous consent to be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without obligation, it is so ordered.

(See exhibit 1).

Mr. HELMS. Mr. President, in closing, I might mention that a splendid young woman from England, Samantha Winter, came to the United States 2 years ago to live with Jeff and Marie Gaskin and to serve as a resident tutor to Brian. Samantha has a cousin back in England who is deaf and blind and she knows something about the training of people with these kinds of disabilities.

Now, I will summarize briefly. I do not want to take the punch away from the story in Guideposts written by Marie Gaskin. But today, at age 7, little Brian Gaskin rides horseback; he swims; he fishes; he has learned sign language, or his mother has taught him sign language. He is an absolutely precious little boy.

And like my daddy said, if you have a problem, if you address it the right way, it turns out to be a blessing.

Mr. President, I am going to yield the floor reiterating the hope that all Senators and everybody else who receives the CONGRESSIONAL RECORD will read Marie Gaskin's beautiful story about her son, Brian. I think it will brighten your day.

EXHIBIT 1

A WORLD OF HOPE AND BEAUTY

(By Marie Gaskin)

When we found out we were expecting a baby, my husband, Jeff, and I imagined our child growing up in a Norman Rockwell world: going off to school with a new lunch box, learning to swim, catching fish, riding a pony, skating on white sidewalks. How impossible those simple dreams would seem later on.

Our son was born on a Sunday morning in July, two and a half months early. He weighed 2 pounds 12 ounces and he wasn't breathing. The nurse rushed him to neonatal intensive care.

The first time Jeff and I visited our son, I thought that I, a registered nurse, would be prepared. But when I saw him struggling desperately to survive, so fragile and tiny among all those wires and tubes, unable to breathe except with a ventilator, the blood drained from my face. As I gazed at my son, all my hopes seemed to collide with reality.

"We need to have hope," Jeff said back in my room. "We can endure anything if we have hope."

Hope. It seemed like the most elusive thing in the world, especially when the doctors weren't very hopeful. Besides his premature size, our son was very sick with toxoplasmosis, a rare disease that could cause blindness, deafness and brain damage—that is, if he survived at all.

Two days later when I visited our son, whom we named Brian, I noticed a stuffed dog in his crib, a gift from his nurse. Until now no one had brought him a gift, since no one expected him to live. I picked up the dog and gave it a squeeze. That small toy gave me a genuine breath of hope amid all the grim predictions. I named it Sparky the Guard Dog.

The next day, however, Brian's condition worsened. "Maybe you ought to hold him now," a nurse said. A rocking chair was pulled near his ventilator and Brian was tucked into my arms. Then suddenly the cardiac alarm sounded. Brian's heart had failed. He was scooped from my lap as emergency measures exploded all around.

That evening, as a last-ditch transfusion dripped into Brian's veins, an eye specialist who'd been called in approached Jeff and me in the waiting area. "The news isn't good," he told us. "Brian is blind."

Jeff and I stood there like two extinguished candles, our faces dark and silent. "Are you sure?" Jeff finally asked.

"I'm afraid so," the doctor said.

Late that night Jeff and I went home, but sleep would not come. In the silence of my bedroom I began to have the feeling I should pray differently. Let go . . . surrender him to Me, and inner voice urged.

Lying in bed, Jeff and I prayed. We relinquished the seemingly hopeless situation to the Lord. We put Brian into God's hands. Then I fell asleep on Jeff's shoulder.

The next morning a call came from Brian's nurse. The transfusion had worked. Not only that, for the first time he was breathing without a ventilator. I hung up and twirled through the house, ecstatic.

Brian's condition gradually improved. Every day I went to the hospital and rocked him, singing every lullaby I knew, hoping he would come to know me by my voice. Jeff and I told each other that a blind child could still have a full life.

On a crisp October day I showed up at the hospital to take our son home. He was three months old. I was dressing him when the nurse handed me an envelope from Brian's doctors. Inside I found a list of homes: institutions and care facilities where I could send Brian to live. One of them was a home for the profoundly retarded.

I felt dazed. I shredded the list to pieces. Then I picked up my child and took him home. That night I found a permanent place for Sparky the Guard Dog in Brian's nursery.

That first year Brian was plagued by constant ear infections. I told myself that was why he didn't respond to noises as other children did. If I clapped my hands, he didn't turn around. And Brian made only vibratory sounds, no "da-da" or "ma-ma."

One bleak February day when Brian was 18 months old, the doctors sedated him to perform a brain stem audiometry. Jeff and I stood in the dimly lit room watching a green television monitor. I stood there willing the wave forms on the screen to rise and fall, which would mean Brian could hear. The lines were flat.

I wanted to scream that little babies cannot be born blind and deaf, that this could not be happening. Instead I walked slowly to the car, clutching Brian to me, struggling to keep myself from shattering to pieces inside.

At home I put Brian in his playpen and sank onto the sofa. Jeff had to return to work and I was alone. I sat there gazing out the window as gray clouds scrolled down the sky, enveloping everything in semidarkness.

I looked at Brian playing with Sparky. "Oh, Brian, how am I going to communicate with you? How will I tell you about God, or that I love you, and make you understand what that means?"

The next three days I moved like a shadow through the house. I did not go out. I barely ate. I felt sorry for Brian, sorry for myself. I kept imagining what it must be like to live in Brian's world, where not even a trace of sound or light penetrated. What sort of life would he have?

On the fourth morning, still robed in gloom, I carried Brian into the kitchen and put him in his high chair. I thought of the night he was close to death, how I had surrendered him to God. Where had all that brave hope gone?

Sunlight streamed through the bay window, shining on Brian's hair, weaving a little golden halo around his head. I stopped everything and looked at him. I was pierced suddenly with love, much love. And just like that a thought burned in me: *Regardless of how severe his handicaps are, his life is a beautiful, shining gift, and he can have a future . . . if only I break out of my prison of hopelessness and do everything in my power to help him.*

In the Bible it says that love hopes all things, that it endures all things (I Corinthians 13:7). Well, that was exactly what was happening inside me. I began to hope again. I shoveled oatmeal in Brian as fast as he could eat, then dressed us both and headed for the mall. I marched into a bookstore and bought a copy of Helen Keller's autobiography.

As I read that book, I marveled. Here was a woman who'd grown up deaf and blind like Brian will, yet she contributed more to the world than most seeing and hearing people. I read about her struggle to learn, about how her teacher, Annie Sullivan, never gave up hope.

Soon after that I met Joyce Kirchin, a teacher at the North Carolina School for the Deaf. She took a special interest in Brian and agreed to take him into her program even though she'd never taught a deaf-blind child. She also helped me learn my second language, sign language.

Armed with a repertoire of new words, I plopped Brian in his high chair one morning. I signed the word for juice on his cheek, curving my thumb and forefinger into the shape of the letter C and tracing the movement slowly across his skin. Then I put a cup of juice in his hands. After he took a sip, I took the cup away, and repeated the whole thing again. I did it over and over.

I was about to give up for the day when Brian slowly lifted his hand to his cheek and formed the letter C next to his mouth. I gasped. "Oh, Brian, you said juice!" I picked him up and danced around the kitchen. *Juice!* What a beautiful word!

I knew then Brian could learn. *Mama, Daddy, Brian, eat, sleep, walk, bath, fun*—it was slow work, but he picked up word after word. I signed "Daddy's home" in his hands each time Jeff arrived from work and gave him a hug. One day Brian signed "Daddy's home" as Jeff came through the door. How did he know? we wondered. We figured out Brian had known by Jeff's scent as well as the particular vibration of his footsteps on the floor. Indeed, over the next four years we discovered that Brian was an intelligent child, with a zeal for experiencing the world.

When he was five I accompanied his school on a field trip to a farm where the children were given pony rides. As Brian sat on the pony, he became animated. He signed "horse" over and over. I came away praying for a way he could ride again. A few days later a friend called. "I just read about a riding program for handicapped children, and Brian kept coming to my mind," she said. "I felt a nudge to call and tell you about it."

"Thank you, God," I whispered as I took down the information.

As we neared the horse stables a week later, I took Brian's hands and signed, "Brian ride horse today." And when I lifted him into the saddle, he buried his face in the animal's neck, feeling and sniffing. As the horse plodded off, Brian broke into laughter. "Horse fun!" he signed. "Brian happy."

At seven years old Brian still rides every week. When I see him up in that saddle, I often recall those things we dreamed about for our child before he was born; Brian has done every one of them. You should have seen him the first time he caught a fish or went careening down the sidewalk on a pair of skates with me in full chase, or dived into the swimming pool and came up sputtering. More than anyone, I love his daring and his passion for living.

I've learned a lot from being Brian's mom. Most of all, I discovered the enormous power of hope. Through the ups and downs of these seven years, I found there's nothing that suffocates potential and snuffs out the joy of life more than feeling boxed in by a hopeless situation. No matter what difficulty you struggle with, there's always a way to overcome it, transform it or find the best within it, if only you surrender it to God and don't give up.

Once, I felt convinced that I would never be able to communicate to my deaf-blind son and make him understand that I love him. Well, today when I sign the words *I love you* across his chest, his face lights with a smile and he reaches to hug me. If ever hope ceases to sing inside, remember that.

A LOUD HUZZA FOR JAMES P. GODWIN, SR.

Mr. HELMS. Mr. President, there is not a Member in the Senate who objects to helping the truly needy, particularly citizens who are not able to work due to physical disability or illness or otherwise being unable to go to work. But there is a plethora of public assistance programs—we are not allowed to call them welfare programs anymore, lest we be branded as hardhearted—programs that encourage many to work only if and when they happen to want to work.

The Federal legalese classified these programs as entitlement programs. Congress has accepted this insanity, that welfare recipients getting the Federal assistance are entitled to the tax money taken forcibly from the overburdened taxpayers, and that these entitlements cannot and must not be reduced or eliminated. You hear that every time we work on a budget around this place.

Mr. President, I do not buy that nonsense; never have and never will. To the contrary, I have long been convinced, predating my running for the Senate the first time in 1972, that the taxpayers are being ripped off. And I am absolutely convinced that both the legislative branch and the executive branch, meaning Congress and the Federal bureaucracy, should limit—dare I say the word—welfare programs to the demonstrably needy; people who are needy because they are not able to work or for another legitimate reason.

These thoughts came to mind over the weekend when I received a copy of the letter written by James P. Godwin, Sr., who is president of Godwin Manufacturing Co. in Dunn, NC.

Mr. Godwin became justifiably enraged 2 or 3 weeks ago, when he received one of these forms from the Harnett County food stamp office, which Mr. Godwin was to complete promptly and return to the food stamp office. The form concerned one of Mr. Godwin's employees who comes to work only when he feels like it, and most of the time he does not feel like it, or sometimes he comes when he does not have anything else to do.

I am not going to use the name of the employee, I will just call him John Doe.

The food stamp office wanted all sorts of information about Mr. Doe, in particular, how much Mr. Doe would be paid by the Godwin Manufacturing Co.

Mr. Godwin sat down and wrote this response to the food stamp office. He had in capital letters, "TO WHOM IT MAY CONCERN:

> John Doe has been employed by Godwin Manufacturing since February 28, 1989, and his work has been satisfactory. We have only one problem and that is his attendance.
>
> He does not want to work because of such programs as yours. He is now on temporary suspension (because he wouldn't show up for work). But he found enough time to get a (Federal) handout.
>
> Knowing the nature of this claim, I will not be a party to any such actions and since you have been notified of his work habits, this should disqualify him. If this is not satisfactory, I will take necessary action to prevent this.
>
> Very truly yours, Godwin Manufacturing Company, Inc., James P. Godwin, Sr., president.

Mr. President, John Doe, the name I have given this employee—who was suspended for his refusal to show up for work—will probably get the free food stamps. But I think Mr. Godwin deserves a loud huzza for taking the stand against using the taxpayers' money to subsidize an able-bodied man who just plain does not want to work, and who is convinced he is entitled to money taken from the hard-working, taxpaying citizens who are forced by their Government to subsidize people like this John Doe.

The real tragedy is that few politicians and Federal bureaucrats are even bothered by this situation.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCLUSIONARY RULE

Mr. GRASSLEY. Mr. President, late last week and all of this week we started and will be continuing discussion of the criminal code reform legislation. One of the very important issues that is going to be involved in that debate, which debate has already started to a considerable extent, is the issue of the exclusionary rule as it deals, particularly, with Senator THURMOND, the ranking Republican on the committee, trying to change the underlying legislation that is before us to make it a much stronger bill for law enforcement.

The American people, of course, have a right to be secure in their dwellings, free from drug traffickers and other people who are constantly violating our law. This legislation does not deal just with drug traffickers but it brings considerable attention to the issue of law enforcement as drug trafficking is one of those segments of the criminal society that has tended to benefit a great deal from strict interpretation of the exclusionary rule. The American people also have a right to prosecute those who would flagrantly disregard the laws of the United States and hide behind the fourth amendment.

With the adoption of a meaningful reform of the exclusionary rule, no longer will evidence be thrown out of the courts when a law enforcement officer has acted in good faith—evidence that otherwise goes to the question of a defendant's guilt.

By adopting meaningful reform, we will send a message very loud and very clear: No longer will a guilty defendant get a free ticket out of jail. And we all know that that happens too often today.

It is important to remember that the exclusionary rule is not a part of the Constitution. It is a judge-made attempt, adopted by the Supreme Court for the use of the Federal courts in 1914, and for the States of our great country in 1961.

It was done by the Supreme Court to enforce the protection afforded under the fourth amendment which guarantees that the people shall be "secure in their persons, house, papers, and effects, against unreasonable searches and seizures" and thus to deter abusive law enforcement practices.

Throughout the years, some Members of the Supreme Court, such as Justice Black and Chief Justice Burger, have suggested that the exclusionary rule is not mandated by the fourth amendment. Rather it is judicially created and is, therefore, judicial lawmaking that Congress might negate.

As we all know, the rule excludes evidence from being considered at a criminal trial if proper procedures were not followed in the obtaining of that evidence.

This includes even the most credible and probative evidence, where a court has determined that the evidence is tainted by conduct of an official authority—such as a judge or a law enforcement officer—which contravenes the protection afforded by the fourth amendment.

The overtechnical reliance upon the exclusionary rule has resulted in criminals—who have, in fact, been caught in the act of committing a violent crime—being set free.

They are set free not because they are innocent, but because the evidence necessary to establish guilt is determined by some court to have been seized "unreasonably."

Enforcement of the exclusionary rule appears to demand that a criminal trial be a perfect exercise, and, of course, there is no constitutional or legal requirement that a criminal trial be of that perfect form.

In *Michigan* v. *Tucker*, (1974), Justice Rhenquist said:

> Just as the law does not require that a defendant receive a perfect trial, only a fair one, it cannot realistically require that policemen investigating serious crimes make no errors whatsoever.

The foremost responsibility of law enforcement officers is to protect the citizenry of our country. Sometimes in the performance of those duties, a police officer or law enforcement generally may make a mistake.

Common sense must allow for the distinction between a wholly unreasonable search of one's person or home, and a simple and honest mistake.

Enforcement of the exclusionary rule does not allow for a common sense distinction to be made between flagrant violations and accidental errors, as it is applied by the courts today. A determination that the rule has been violated results in all tainted evidence being thrown out of that court.

In addition, the enforcement of the exclusionary rule affords no real protection or remedy for an innocent party whose fourth amendment rights have been infringed.

In 1984, the U.S. Supreme Court, in United States versus Leon, adopted a "good faith" exception to the exclusionary rule, in instances where a search was conducted pursuant to a warrant that was later invalidated.

The Supreme Court then recognized that it is absurd to attempt to deter conduct in those instances where a police officer, in good faith, conducted a search pursuant to what he or she considered to be a valid warrant; while it is determined by another court that the search violated the law due to deficiencies in the warrant.

The Thurmond amendment, which I hope will be successful, recognizes that it is as equally absurd to impose a rule which is meant to deter abusive police conduct in instances in which the officer is acting in good faith even without a defective warrant.

It seems to me that common sense ought to dictate and does dictate that so long as our law enforcement officers are acting in good faith and with probable cause, a rule, the purpose of which is to deter abusive law enforcement practices, should not be applied regardless of whether the officer has obtained a defective warrant.

So, Mr. President, I believe that any exception to the exclusionary rule should be valid only so long as the law enforcement officer has acted in good faith, and concludes that a particular set of facts and circumstances give rise to probable cause.

This amendment is not a carte blanche for law enforcement officials to run amuck through our towns and countryside.

Also, let me make myself crystal clear that in supporting the Thurmond amendment, I am in no way condoning the breaking of law by police officers. That cannot be tolerated.

However, some common sense must be restored to the operation of our criminal justice system, and I think the Thurmond amendment does just that.

Strict adherence to the exclusionary rule makes sense only in those instances where law enforcement personnel intended to break the law.

Make no mistake, we supporting this amendment in no way advocate abolishing the exclusionary rule.

I do, however, intend to maximize the availability of reliable physical evidence that may tend to prove the guilt or innocence of a defendant.

It is for these reasons that I hope this body will support the Thurmond amendment and oppose the provisions of S. 1241 that are not strong enough.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I ask unanimous consent to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANTARCTIC ENVIRONMENTAL PROTECTION PROTOCOL

Mr. DURENBERGER. Mr. President, 2 months ago in Madrid, Spain, the United States was 1 of 26 voting members of the 30-year-old Antarctic Treaty to tentatively agree on a draft accord prohibiting mining in the Antarctic for at least 50 years. After that date, the ban on mining could be lifted only if all current signers of the treaty concurred.

This past weekend, however, we witnessed the end of another round of negotiations designed to finalize this important international agreement. But, unfortunately, this most recent round of talks ended in disarray because the United States of America blocked this far-reaching environmental protection agreement, saying we needed more time to study the treaty's proposed ban on mining.

The U.S. announcement resulted in a compromise that would allow a country to opt out of the ban at the end of 50 years if three quarters of the 26 countries with voting rights agreed. Unfortunately, we would not sign that either.

It is true, Mr. President, that the United States is only 1 of 26 voting members. But, of the 26 members with full voting rights that subscribed to the agreement in April of this year, the United States was the only country to come to this round of talks unable or unwilling to secure its Government's approval for the protocol.

In other words, the President of the United States would not approve this protocol on behalf of the United States.

Mr. President, my initial reaction to this action by our Government is to ask, "Why would the United States stand alone among the 26 voting members in this conference and refuse to sign?"

There is now broad scientific consensus that trifling with the fragile ecosystem of Antarctica poses dangers to the entire world. Among many other dangers, of course, any warming of the Antarctic icecap and adjacent waters as a result of industrial activity would decrease the ocean's ability to act as a depositor of carbon dioxide—thus increasing the likelihood of further global warming.

Mr. President, we do not need more time to study this proposed agreement; we need action. A signature by the United States would send a strong and positive message that this country places global environmental concerns higher in priority than hypothetical economic interests a half century into the future. I believe that the United States refusal to sign this treaty now is nothing short of an international embarrassment.

President Bush has committed himself to the global environment. That commitment was evident last year when he signed measures directing his administration to work toward an indefinite ban on drilling in Antarctica. At that time, President Bush also vowed to take a leadership role on the issues being addressed in this draft treaty. For the administration to reverse itself now is a serious breach of faith in our own policy of encouraging good environmental stewardship—not just in this country—but all around the world.

Two years ago, as the President knows and as the Chair knows, I spent many hours on this floor discussing the bold international expedition across Antarctica led by my friend and fellow Minnesotan, Will Steger. That expedition was followed by millions of people all across the globe, partly because of the human adventure and tribute to the human spirit the Steger expedition represented. But actually millions around the globe also cheered on those seven brave men—from seven different nations—because their trip served as a graphic symbol of the international commitment to the future of Antarctica that all nations must equally share.

Mr. President, the United States does not need more time to consider, or reconsider, the decision made this weekend. And, although it is now too late to preserve this truncated conference, it is not too late to save the Antarctic.

The environmental evidence warranting our signing exists. The United States has said it agrees with all other aspects of the draft treaty. It would be a terrible shame to negate its future environmental benefits by not signing the treaty now.

In October of this year, the delegates working on this treaty will again meet in Bonn, Germany. It is my sincere hope, and I will communicate this to the President of the United States, that prior to that date, the United States of America will be able to give its full support to this very worthy international effort.

I intend to work to make sure we do not let our "partners in global stewardship" down again, and I hope my colleagues will join me. Each of us owes that commitment—not just to ourselves—but to the future.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. METZENBAUM). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INOUYE). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is concluded.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER (Mr. BRYAN). The Senate will now resume consideration of S. 1241, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1241) to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending: Thurmond Amendment No. 368, to permit exceptions to the exclusionary rule in searches where there was no search warrant if conforming to the Fourth Amendment, and to permit the admission into evidence of a firearm however it is seized or found.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that once this agreement I am about the request be entered, Senators BIDEN and THURMOND be recognized to offer a compromise amendment with respect to the death penalty provisions that are included in the bill that is at the desk; that there be 10 minutes equally divided and controlled in the usual form for debate on the amendment; that following the conclusion or yielding back of the time on the Biden-Thurmond amendment, it be considered agreed to as original text for the purpose of further amendment; further, that Senator INOUYE be recognized to offer an amendment relative to the application of the death penalty in Indian tribal lands, on which there be a time limitation of 40 minutes equally divided and controlled in the usual form; that only one amendment to the amendment be in order, by either Senator THURMOND or his designee, with respect to the application of the death penalty on Indian tribal lands; that following the conclusion of debate on the Inouye amendment today, the amendment be laid aside until 10 a.m. tomorrow, at which time Senator THURMOND or his designee be recognized to offer his second-degree amendment, on which there be 30 minutes equally divided and controlled between the offeror of the amendment and Senator INOUYE; that votes on both the second-degree amendment and the Inouye amendment occur immediately following the disposition of the Thurmond amendment No. 368, which vote has been scheduled to occur at 11:30 a.m. on Tuesday morning; that following the conclusion of the debate on the Inouye amendment, Senator BIDEN be recognized to offer an amendment modifying the application of the death penalty with respect to drug kingpins in which no murder has been the direct result of the crime; that there be 30 minutes of debate on the Biden amendment equally divided and controlled in the usual form with no amendments to the amendment in order and with a vote occurring on the Biden amendment immediately following the vote disposing of the Inouye amendment, as amended, if amended, without intervening action or debate on Tuesday.

I further ask unanimous consent that when the Senate reconvenes following the party conference luncheons on Tuesday, Senator SIMON be recognized to offer an amendment substituting life imprisonment without the possibility of parole for the death penalty provisions in the bill, on which there be 1 hour of debate equally divided and controlled in the usual form, with no amendment to the amendment in order, and with a vote occurring on the amendment when all time has been yielded back; that following the conclusion of the vote on the Simon amendment respecting life imprisonment, Senator HATFIELD be recognized to offer an amendment relative to televised executions; that there be 90 minutes of debate equally divided and controlled in the usual form, with no amendments to the amendment in order and with a vote occurring on that amendment Tuesday immediately following the conclusion or yielding back of the time, and that Senator HATFIELD, if he chooses, may withdraw his amendment; that the Senate in recess tomorrow to accommodate the usual party luncheon conferences, commencing with the conclusion of a rollcall vote on the Biden drug kingpin amendment; provided further, that during the pendency of this amendment no amendments to text proposed to be stricken nor motions to recommit the bill be in order.

That is my unanimous-consent request, Mr. President.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The text of the agreement is as follows:

Ordered, That at 10 a.m. on Tuesday, June 25, 1991, the pending amendment be amendment No. 370 by the Senator from Hawaii (Mr. Inouye) and that the Senator from South Carolina (Mr. Thurmond), or his designee, be recognized to offer a 2nd degree amendment; that it be the only 2nd degree amendment in order and that there be 30 minutes debate, to be equally divided and controlled between the offeror of the amendment and the Senator from Hawaii (Mr. Inouye).

Ordered further, That at 10:30 a.m. there be 1 hour of debate, equally divided and controlled in the usual form; and that at 11:30 a.m. a vote occur on, or in relation to, amendment No. 368.

Ordered further, That immediately following the vote on amendment No. 368, there be votes on both the 2nd degree amendment to the Inouye amendment and the Inouye amendment, No. 370.

Ordered further, That a vote on the Biden amendment, No. 371, occur on Tuesday, June 25, 1991, immediately following the vote disposing of the Inouye amendment, No. 370, as amended if amended, without intervening action or debate.

Ordered further, That following the vote on the Biden amendment, the Senate stand in recess to accommodate the usual party luncheon conferences.

Ordered further, That on Tuesday, June 25, 1991, when the Senate reconvenes following the party conference luncheons, the Senator from Illinois (Mr. Simon) be recognized to offer an amendment substituting life imprisonment without possibility of parole for the death penalty provision in the bill, on which there shall be 1 hour debate, to be equally divided and controlled in the usual form, with no amendment to the amendment in order, and with a vote to occur on the amendment when all time is used or yielded back.

Ordered further, That following the vote on the Simon amendment, the Senator from Oregon (Mr. Hatfield) be recognized to offer an amendment relative to television executions, on which there shall be 90 minutes, equally divided and controlled in the usual form, with no amendments to the amendment in order, and with a vote to occur on the amendment immediately following the conclusion or yielding back of time.

Ordered further, That the Senator from Oregon (Mr. Hatfield) may, if he chooses, withdraw his amendment.

Ordered further, That no amendments to the text proposed to be stricken, nor motions to recommit the bill, be in order.

AMENDMENT NO. 369

Mr. THURMOND. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself and Mr. BIDEN, proposes an amendment numbered 369.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. BIDEN. Mr. President, if the Senator will yield for just a moment for a unanimous consent, I ask unanimous consent that the Thurmond amendment numbered 368 be temporarily laid aside to permit the consideration of the Biden-Thurmond amendment that has just been offered and that the Thurmond amendment No. 368 reoccur at 10:30 a.m. on Tuesday.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise today to offer a bipartisan version of the Federal Death Penalty Act which I drafted with my colleague Senator BIDEN. It is very similar to what the Senate passed last year as part of the 1990 crime bill. It provides the necessary procedures for the imposition of the death penalty and provides the death penalty for certain serious Federal offenses. Working together, Senator BIDEN and I consulted with the Department of Justice and have resolved several of the major differences between the death penalty titles of the President's and the Democrat's crime bill. It is a workable and tough Federal death penalty.

For example, Senator BIDEN agreed to adopt the President's drug kingpins provisions. In addition to covering over 40 Federal offenses, the amendment also authorizes the death penalty for three categories of drug offenders. The bill authorizes the death penalty for the leaders of the largest drug enterprises, who are currently subject to a mandatory term of life imprisonment under title XXI. In addition, other leaders of drug enterprises who attempt to obstruct justice by attempting to murder persons involved in the criminal justice process are covered. It also covers other persons who commit murders in the course of drug felonies.

This amendment also includes a provision from the President's bill which permits the presentation of victim impact evidence at the sentencing phase of a death penalty case. It specifies that evidence may be presented at the sentencing phase of a death penalty case concerning the effect a vicious murder had on the victim and the victim's family. Such evidence may include the suffering of the victim and the victim's family's anguish and distress. Not only does this amendment allow for such victim impact evidence, it also deletes troublesome provisions from the underlying bill which would have mandated that the Government be bound by the Federal rules of evidence and criminal procedure in the sentencing phase of a death penalty case.

Senator BIDEN and I have also worked together to clean up the language which governs jury instructions. We have also worked to ensure that the bill contains an adequate list of aggravating factors. For example, this amendment will allow for consideration of the death penalty for murders committed by killers with prior records of firearms violence.

In closing, this amendment provides procedures similar to those put in place by the death penalty passed last year. It is time for Congress to pass a workable comprehensive death penalty. The law-abiding citizens and this Nation demand action and they demand it now. I am pleased that we have been able to work out a bipartisan Federal death penalty.

For these reasons, I urge my colleagues to support this amendment.

Mr. BIDEN. Mr. President, the Senator from South Carolina and I seem to have been doing this for a long, long time; that is, it is our responsibility to bring to the floor, hopefully get passed by the Senate, a meaningful anticrime and antidrug legislation. We always find ourselves in an area that is probably the most highly contentious, the most—how can I say it?

I guess the best way to say it is this: When the Senator and I bring a bill to the floor on a matter relating to antitrust, or we bring a piece of legislation to the floor on conventional forces agreement, as we will soon, or we bring a piece of legislation to the floor regarding foreign policy, or even contentious nominations, most of our colleagues, the way this organization functions, acknowledge somewhat of an expertise as a committee and they tend to be guided, as we do, by the committee structure here, the will of the committee.

But if there is one area where everyone in the U.S. Congress views themselves sufficiently expert, to have a firm view on it, it is in the area of law enforcement, the criminal justice system, and national drug policy. I do not say this critically. It is easy for everyone to have an opinion on that.

So the Senator and I, over the years, have learned that unless we are willing to compromise we are not able to bring a vehicle to the floor here that can allow for reasoned debate and, to be very blunt about it, under the Senate rules debate in a relatively timely fashion, so we do not spend the entire summer on the crime bill.

We both, after having had the so-called big vote substitute or to amend the Biden amendment, Biden bill, which is at the desk, we decided that we should not both insist on everything we wanted, and in this very contentious area that we should try to reach a compromise so we could begin to narrow the differences, and also narrow the scope of the debate a little bit. That is what we have been about for the last 2 days, attempting to negotiate that.

It is true as the Senator says that the Biden-Thurmond compromises on matters relating to the death penalty are before us, and we both did agree. But as you will soon find out, each of us has reserved the right to amend some portion of the so-called Biden-Thurmond amendment we just sent up.

For example, there is a death penalty provision that I believe to be unconstitutional, and that is to allow the death penalty to be imposed where no death results from the crime. I believe the Supreme Court is fairly clear on that, and notwithstanding the fact that I believe it is unconstitutional, in order to get this moving I agreed to put it in this substitute provision.

So I will be moving to amend my own amendment here in a moment. But as arcane as it may seem to the people here in the gallery and many who listen to this on C-SPAN, it is necessary to get the debate underway. We both gave a good deal. My friend from South Carolina gave on repealing the drug penalty procedures, on mandating the death penalty where there are no mitigating offenses, and omitted some of the aggravating factors in the President's crime bill. So we both made concessions.

But that is the only way we are going to move. We both have been here long enough to understand in all likelihood where we are going to end up on this legislation. We just voted on this legislation a year ago. There seems to be a pretty broad consensus.

For example, instead of amending it the way the Senator wanted, we agreed to not include the execution of the mentally retarded, a position I feel very strongly about. So we made some compromise. Now we are about to debate and vote in the order our unanimous-consent agreement called for.

So with that very brief and somewhat tedious explanation on my part, we are about to settle over the next day and a half the issue relating to the death penalty. Then I hope we will be able to do the same with regard to habeas corpus, and then maybe the most contentious provisions except guns will have been debated, voted on, set aside and we are able to move on so we are ultimately able to get to the point where we can vote on the crime bill.

With that brief explanation, let me now yield the floor, to comply with the unanimous-consent agreement, to our friend from Hawaii who has been extremely generous in his cooperation allowing this process to go forward to introduce his amendment. I thank him again for his cooperation.

I might note parenthetically, we were in this negotiating process and he was not present. I said well, we do not have agreement on this one item. They said who is it? I said who is holding this up? They said Senator INOUYE. I said Senator INOUYE is one who always is compatible and to this he should understand that each of my Republican colleagues said that is true. We do not have a problem if it is Senator INOUYE.

So I want to thank him again for his cooperation and thank him for the gentlemanly way in which he has allowed this process to go forward. I might note at the outset I strongly support the effort he is about to undertake which is to protect Indian land.

With that I yield the floor.

The PRESIDING OFFICER. Before recognizing the distinguished Senator from Hawaii, Senator THURMOND has 1 minute 51 seconds left on the time allocated to him pursuant to the unanimous-consent agreement. Does the Senator yield that time?

Mr. THURMOND. I am pleased to yield it.

The PRESIDING OFFICER. All time has been yielded by the Senator and the time allocated to Senator INOUYE having expired, pursuant to the unanimous-consent agreement the Senator from Hawaii [Mr. Inouye] is now recognized.

AMENDMENT NO. 370

(Purpose: To accord Indian Tribal governments a right similar to state governments to determine whether the death penalty should apply to offenses committed by Indians within their jurisdiction)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 370.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title II, insert the following: "Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this

> title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction."

Mr. INOUYE. Mr. President, the amendment before us has been before this Senate since Thursday when this body began the consideration of this crime bill. Up until a few moments ago this amendment was section 3598 of this bill. As part of the agreement reached by the distinguished chairman of the Judiciary Committee and the ranking Republican member, this section, section 3598, was taken up, and it is my intention to reinstate this section in the bill.

Mr. President, perhaps the most important point to understand about this amendment is that it is premised upon the sovereign status of tribal governments.

It may be difficult for most Americans to understand that Indian governments are sovereign governments. Accordingly, it has nothing to do with race or ethnicity. It has nothing to do with so-called special interest groups. Mr. President, we all should know that the U.S. Constitution and the debates in the Continental Congress recognize and address Indian nations based upon their status as governments. This has been true since the earliest of times in our history.

Mr. President, it is most appropriate that on June 14, 1991, just a few days ago, the President of the United States issued the following statement. I would like to read part of that into the RECORD. The statement reads as follows:

> On January 24, 1983, the Reagan-Bush administration issued a statement on Indian policy recognizing and reaffirming a government-to-government relationship between Indian tribes and the Federal Government. This relationship is the cornerstone of the Bush-Quayle administration's policy of fostering tribal self-government and self-determination.
>
> This government-to-government relationship is the result of sovereign and independent tribal governments being incorporated into the fabric of our Nation, of Indian tribes becoming what our courts have come to refer to as quasi-sovereign domestic dependent nations. Over the years, the relationship has flourished, grown, and evolved into a vibrant partnership, in which over 500 tribal governments stand shoulder to shoulder with the other governmental units that form our Republic.

Indeed, the Constitution only speaks in terms of governments: State governments, the national governments, tribal governments, and the governments of foreign lands. Thus, when we speak of "Indian country," we refer to a Federal jurisdictional framework that is based upon the jurisdiction of governments. The term "Indian country" instructs us as to which governments will have jurisdiction over lands defined as Indian country. This term does not refer to the people who may occupy or reside on lands that are defined as Indian country.

So, Mr. President, let us not allow ourselves to be confused by references to racial or ethnic groups. For those who are not familiar with the context in which we are discussing this issue, there may be a tendency to think of Indian people in racial or ethnic terms.

But, Mr. President, the Supreme Court has held that it is the government-to-government relationship between the United States and Indian nations—the political and legal relationship of tribal governments with the Federal Government—that distinguished laws enacted for Indians. The Constitution recognizes this relationship and vests in the Congress plenary authority over Indian affairs. It does so not based upon treaties, as some have mistakenly understood; rather, the United States entered into treaties with Indian nations because we recognize their sovereignty.

Mr. President, as many of us recall, by reports, speeches, and the CONGRESSIONAL RECORD, there was a time when these Indian nations sent ambassadors to the District of Columbia to be accredited with the President of the United States. There were hundreds of ambassadors representing Indian nations.

Within our constitutional framework, there are three domestic units of government: The national government, State governments, and the tribal government. With regard to the relations among those governments, tribal governments, like State governments, have a direct relationship with the Federal Government.

Recognizing the equality of their governmental status as it relates to the Federal Government, this amendment accords to tribal governments a status similar to that of the State governments, namely that tribal governments, like State governments, can elect whether or not to have the death penalty apply for crimes committed within the scope of their jurisdiction.

Currently, Mr. President, Indian tribal government have criminal jurisdiction over all Indian people on their reservations. I repeat that: "All Indian people on their reservations." They do not have jurisdiction over non-Indians.

This amendment does not expand the criminal jurisdiction of the tribal government. The bill before us, S. 1241, would provide the death penalty for specific offenses committed on Federal lands or prosecuted in Federal courts.

In the context of its application in Indian country, Mr. President—this is important—we are not talking about capital crimes, such as treason or the assassination of the President of the United States, because for those crimes, the death penalty will apply without regard to what would otherwise be within the scope of a State or tribal jurisdiction. This Federal law will preempt the laws of the States and tribal government, as it refers to capital crimes.

But where the death penalty would apply only if a State elected to have it apply, this amendment would allow a tribal government to have the right to make the same election. To understand why the death penalty issue is one that affects the Indian country in a unique way, it is important to understand the context in which the proposed bill would apply.

First of all, of all lands subject to Federal court jurisidiction in the bill before us, only Indian reservations have significant permanent populations. We are not talking about the national parks where the permanent populations are made up of bears and antelopes; we are talking about reservations. Second, with some exceptions provided by the Congress, State law does not apply on Indian reservations. Thus, in most instance, it is tribal and Federal laws exclusively that apply on Indian reservations.

With regard to crimes defined under the Federal law, the provisions of the Major Crimes Act extend Federal law to crimes committed on Federal lands, including Indian lands. According to a recent article in the Washington Post, those that commit murder on Indian reservations comprise over 50 percent of those charged with first degree murder within the Federal court system. Because that is the only population there.

Further, testifying before the Committee on the Judiciary, Federal public defenders have suggested that as many as 70 percent of the total number of persons convicted of first degree murder in the Federal system are Indians. And yet, these Indians have committed less than 2 percent, or about 1.6 percent, of the crimes of the United States. Yes, they represent 1.6 percent of all offenders in the United States. Yes, they represent 1.6 percent of all offenders in the United States. Yet, because of the quirk in this law, 70 percent of those charged with first degree murder under the Federal law will be American Indians.

In the absence of some modification to address this differential impact, 70 percent of all death sentences imposed by this law would be imposed upon Indian people, without the right of election.

The State of Hawaii, for example, has elected to have no death penalty. In the State of Hawaii we have so elected because the people have decided that they were against the death penalty. All we are asking by this amendment is to give the sovereign people in the sovereign governments of Indian country the same right.

Mr. President, as we all know the U.S. Constitution, Federal statutes, and Federal court decisions recognize Indian tribal government as sovereign entities.

In the exercise of their sovereign powers and authorities, tribal governments administer tribal law, and although State law does not generally apply on Indian reservations, tribal governments may elect to have certain State or Federal laws apply within their respective jurisdictions.

So, consistent with this sovereign status of tribal governments within the Federal system, I wish to call upon my colleagues to support this amendment because it will allow the death penalty to apply on Indian lands upon the election of a tribal government, the same right that our 50 States have at this moment.

This provision serves the additional purpose of diminishing the differential impact that a Federal death penalty will have upon Indian people while at the same time conforming S. 1241 to the existing statutory framework affecting Indians and to our government-to-government relationship with Indian tribal governments.

Incidentally, Mr. President, the wording of this amendment reflects a refinement of the language of the amendment that was the subject of Senate debate in the last Congress which this body adopted.

It is carefully circumscribed to assure that tribal government's election as to the application of the death penalty will apply only to crimes defined under Federal law and only to those that come within the jurisdiction of a tribal government for criminal purposes, namely Indian people as they are defined in the Major Crimes Act. It will not apply to non-Indians.

Should a crime bill, the bill before us, be enacted into law, the death penalty will apply on Federal lands for Federal crimes.

State governments will still have the option of determining whether the death penalty will apply to crimes committed within their jurisdictions.

This amendment will accord tribal governments the same right to elect to have the death penalty apply to crimes committed within Indian country, consistent with their sovereign status within the Federal system.

And, Mr. President, I fervently believe that we must act to assure that the first Americans of this country do not become the unintended victims of a law that is otherwise designed to treat all governments equally.

Mr. President, American Indians are the first citizens of this land, first Americans of this land, and as such, throughout the history of our relationship, they have assisted our Government in every endeavor. In every war, Native Americans have volunteered—and it may interest my colleagues to know that in the most recent war, the desert war, Desert Storm, Indian participation was seven times the national norm. Their representation was the largest of any ethnic or racial group and most of them served in combat. And thus has been the case in the Vietnam war, in the Korean war, in World War II, and World War I.

These are men and women who have shed their blood to indicate their love and allegiance to our Government but at the same time they are well aware that their governments by the Constitution of this land and by statutes of this land are sovereign. The least we can do is to recognize their sovereignty and to make it apply in this law.

How much time do I have remaining?

The PRESIDING OFFICER (Mr. BURDICK). The Senator has 4½ minutes remaining.

Mr. INOUYE. I reserve the time.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, I yield the remainder of my time to the Senator from New Mexico.

Mr. DOMENICI. I do not think I can use it all because I have to leave.

I yield myself 3 minutes.

Mr. President, this is a very forthright amendment. I am a cosponsor, and last year the U.S. Senate, by an overwhelming vote, approved a similar amendment on a similar crime bill. I hope they will do that again.

Essentially, this amendment boils down to a very basic proposition. I happened to check today to see how many States do not have the death penalty, and I think I am right. About 14 States in the Union do not even have the death penalty yet.

The Senator from New Mexico is for the death penalty, but I believe that you can be for the death penalty and be for something else, and I happen to be for something else, and that happens to be Indian sovereignty and Indian self-determination.

I frankly do not believe that it is fair for the U.S. Congress to determine the death penalty for the Indian people; that is, for Indians who commit murder on Indian reservations—and that is all we are talking about, our Indian people who commit crimes for which a State would have the death penalty. I do not believe it is right for us to do that automatically.

We ought to recognize the Indian people, their legislative bodies, and this amendment gives the Indian legislature bodies, their tribal councils, the authority to elect whether or not murder committed on their land by an Indian is subject to the death penalty or not—very simply, basic fairness, as I see it.

Some will argue discrimination because, in fact, the Indian-elected group may not vote for the death penalty. Are they claiming discrimination as to the 14 States who do not have the death penalty? Their neighboring States have it. So when you walk across the State line and commit that crime, you will have the death penalty in one State and not the other, and it was not but 2 or 3 years ago there were many more States without the death penalty.

Frankly, I believe if I were an Indian leader, I would be pushing that tribal council to vote in the death penalty for the kinds of murder that entitles one to the death penalty. Sooner or later, the Indian people will make those kinds of decisions themselves.

So, essentially this is fairness, a recognition of Indian sovereignty, Indian self-determination. When it really counts, are we not going to count it, or are we?

And Senator INOUYE and Senator DOMENICI say "yes." If they do not vote in through their tribal-elected officials the death penalty, then it will not apply on Indian country as to murder committed by an Indian. I think that is fair.

All the other first-degree, death penalty provisions of this new statute about killing an FBI agent, killing the President of the United States, we do not change that. They require the death penalty wherever it occurs anywhere in America. In fact, if a conviction for one of these crimes occurs in 1 of these 14 States, where there is no death penalty, the Federal provisions for the death penalty apply there also.

I think there are some who would argue that the Indian governments should not have the same rights as States. I believe they should have the same rights and that is why I join with my friend from Hawaii. Without this right, the high numbers of Indians receiving the death penalty are going to be absolutely deplorable. It is going to apply to all Indian people, who commit 60 to 70 percent of all murders on Federal land. Yet they have not even had a voice in whether or not the death penalty should apply unless we adopt the Inouye-Domenici amendment.

I yield the floor and thank the Senator for yielding me some time.

Mr. THURMOND. Mr. President, I must oppose this Federal jurisdiction amendment.

The proposed amendment would grant sovereign authority to Indian tribes to establish laws impacting upon the conduct of individuals within the boundaries of a Federal reservation. The amendment would allow an Indian tribe to choose whether to have the Federal death penalty apply to members of that tribe if the murder occurred on Indian country.

This amendment is the result of the jurisdictional issues surrounding the operation of Federal criminal law on Indian reservations. Stated simply, most of the Indian tribes do not want to have this criminal provision apply to them. This amendment would have the effect of exempting Indians who commit heinous, vicious murders from the death penalty simply because their tribe does not like it. Let me repeat—

it will exempt Indians residing on Indian lands from the Federal death penalty, even though they are under Federal jurisdiction, simply because they are Indian. This amendment would set a dangerous precedent. If it passes, what will prohibit every other special interest group from coming to the Senate and seeking an exemption from a criminal statute simply because they are opposed to it? The answer is nothing would.

Supporters of this amendment claim Indians would be treated unfairly under the present bill because they account for a vast majority of the murder cases in Federal court. These numbers ignore the fact that a vast majority of these cases are not capital cases. While many may qualify at first degree murders, they are not all capital murders. Simply put, the death penalty would be rarely, if ever, sought in these cases. Again, as in the case of the Racial Justice Act, statistics are being used in an attempt to weaken this bill.

Mr. President, the death penalty title of this bill applies to those who commit heinous, depraved offenses. The legislation applies equally across the board to anyone who commits such a crime within Federal jurisdiction. This death penalty proposal operates on the nature of the offense committed, not on whether the defendant is an Indian. Supporters of this amendment argue that if an Indian kills an Indian on Indian land in a State where there is no death penalty, he could face the death penalty. Whereas, if someone commits a murder outside Indian land in that same State, he would not face the death penalty. This argument ignores the fact that currently there are numerous murders presently occurring on Indian land, in as many as 36 States which authorize the death penalty, where the Indian defendant does not face the possibility of a death sentence. Further, this amendment would say that murder victims who are Indian, which account for most of the victims on Indian land, are worth less than other victims of murder where the Federal Government has jurisdiction.

Mr. President, we should view this amendment for what it really is—special interest legislation. The Indians want to control and define criminal law on Indian land. Yet, the question regarding who has criminal jurisdiction within Indian country is controversial and has been debated for decades. Time and time again Federal courts have determined that the Federal Government has this authority. In cases which date back as far as 1831, the Supreme Court of the United States has determined that the Federal Government has the authority to enact criminal laws affecting Indian territory.

Mr. President, this amendment's proponents, in reality, are opening the door to expansion of the Indian territories' role in creating and defining criminal law. In other words, it expands Indian country automomy despite the fact that the Federal Government has historically asserted and held criminal jurisdiction over Indian land. The supporters of this amendment now want the Federal Government to give up that authority. For the Senate to pass this amendment would be a major precedent which is contrary to decades of Federal law and policy. This amendment would exclude Indians from Federal criminal law by expanding sovereign authority beyond what is appropriate for Indian tribes. Indian tribes, to my knowledge and according to the Select Committee on Indian Affairs, have never had the authority to opt in or out of a particular Federal criminal statute.

Mr. President, any claim which asserts that to subject the Indians to the death penalty is without precedent is clearly incorrect. Violent crimes involving Indians in Indian country have been subject to Federal law since 1885 when Congress enacted the Major Crimes Act of 1885. Since that time, Indians on Indian land have been subjected to Federal penalties, including the death penalty, for murder, and other serious crimes against Indians. In fact, Indians are currently subjected to the death penalty for certain drug-related murders under the Controlled Substances Act. Federal death penalty statutes are nothing new to Indian country.

In summary, those who commit heinous, depraved murders should face the death penalty. There should be no exception. This legislation applies fairly to all who commit vicious murders.

For these reasons, I strongly oppose this amendment.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, how much time do we have?

The PRESIDING OFFICER. The Senator has 45 seconds remaining.

Mr. INOUYE. Mr. President, I yield myself the 45 seconds.

Our Founding Fathers drafted the Constitution and decided that Indians were sovereign. We did not decide that. The wisdom of our Founding Fathers decided that.

In succeeding Congresses, our predecessors found it in their wisdom to continue this policy of the United States, and most recently on June 14, 1991, the President of the United States, the Honorable George Bush, reiterated the sovereign and independent status of Indian nations.

All we are doing is to provide the Indian nations the same right as State governments have. Mr. President, not all States have opted for capital punishment. The State of Hawaii, I am proud to say, is one of the 14 that do not have capital punishment. Yes, we do have heinous crimes in our State, as they do in all States. But we have decided, our people have decided not to apply capital punishment upon our defendants.

Some of the Indian nations will opt for capital punishment. Some may not. But I think it should be their sovereign right to elect how their people will be treated.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, it does not make very much sense, if an Indian kills an Indian or anybody else who is not on the Indian territory, he can get the death penalty if the State has such a law. But if he kills someone and he just crosses the line onto the Indian territory, then he cannot get the death penalty. Does that make sense?

We have to be practical. Indians are American citizens. Are you not discriminating against them when you try to put them in a different category and characterize them in such a way? If they are American citizens, they should be treated like American citizens. They should be treated like everybody else, whether they are blacks, they are whites, they are reds, they are tans, or they are Indians. If they are Indians, American citizens, treat them all alike. Why make an exception because they are Indians?

According to the position that my good friend has taken—and he is my good friend—if an Indian on a reservation kills another Indian, or anybody else, it does not matter how vicious the crime, it does not matter how depraved the crime, he cannot get the death penalty. He cannot get that death penalty. Whereas if he was off the reservation, he could get the death penalty.

In other words, you have a line of demarcation here: Off the reservation, you can get the death penalty; on the reservation, you cannot. All you have to do is step over the line onto the reservation, then you cannot get the death penalty.

Mr. President, is that fair? Is that American? Is that jurisprudence that we want to have in this country? Why not treat everybody alike? We are all American citizens. Indians have every right any other American has. Why not hold them to the same responsibilities? I think most of them really feel that that would be just.

Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator has 10½ minutes remaining.

Mr. THURMOND. I reserve the remainder of my time Mr. President. I suggest the absence of a quorum.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. Does the Senator withhold?

Mr. THURMOND. I have no objection, Mr. President.

Mr. KERREY. I thank the Senator from South Carolina.

Mr. President, I am going to ask unanimous consent that without any time being charged to either side, I be allowed to speak as in morning business for a period of 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE ADMINISTRATION'S HEALTH CARE POLICY: LEAPING THE CHASM IN TWO JUMPS

Mr. KERREY. Mr. President, I rise to offer comments on four stories on health care in America which appeared in yesterday's and today's newspapers.

The first, in yesterday's New York Times, reported that President Bush decided to delay additional funding for childhood immunization, even though last week the President announced he was sending some of his senior officials out in the field to find out "why kids aren't getting immunized."

The second, in this morning's Washington Post, reports Sunday's speech by Secretary of Health and Human Services Louis Sullivan to the American Medical Association in which the Secretary warned doctors to hold down medical costs if they want to avoid "a total Government takeover of health care."

I must, with respect, inject my amazement at Secretary Sullivan's willingness to use the old routine, "The Government is going to get you if you don't watch out," to the American Medical Association. Of all people, Secretary Sullivan must know the American Government already has doctors in a growing web of paperwork and cost shifts. He must also know Government pays for 42 percent of all health care today, plus an additional 10 percent in the form of an income tax deduction.

Mr. President, the American Medical Association must have been amazed themselves, since a month ago during a visit with Governor Sununu, they were chastised for simply raising the issue of the urgent need for national reform of our health care financing. I suspect the AMA was also amazed by the President's emphasis on childhood immunization; apparently word of the President's reversal had not reached the Secretary.

The third and fourth articles, which I call to the attention of my colleagues, appeared in today's Wall Street Journal. They talk about the trouble President Bush and the Republican Party are having responding to America's health care crises of rising cost and diminishing coverage.

I ask unanimous consent that the text of all four articles be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KERREY. Mr. President, these articles are noteworthy for several reasons. They suggest the administration is finally waking up to the reality of our health care crisis. Dr. Sullivan correctly identified the core of that crisis, an explosion of health care costs, when he said:

> We must be concerned that consuming ever larger portions of GNP on health care necessarily diverts resources from other good uses. For example, increased wages, savings, capital investment, research and development, and human services.

And the President correctly identified one of the many inexcusable coverage gaps in our Nation's health care system by drawing attention to a dangerous recurrence of measles and other preventable diseases.

Last year saw over 27,000 cases of measles, including 89 deaths, Mr. President—the worst outbreak since 1977.

These numbers are not unrelated to the cost crisis that Secretary Sullivan described. Our system of financing health care—the fragmented, inefficient system that lets costs soar—has systemic ways of responding to higher costs. First, when costs go up, it gives employers and insurers an incentive to cut back on coverage rather than giving society incentives to restrain costs. Thus, the number of Americans without health insurance is millions higher than a decade ago. Second, even as costs go up, our financing system continues to encourage expensive procedures, like MRI and CAT-scans, at $1,000 a shot, but does not encourage an employer—or a President—to fund preventive services such as immunizations, which may cost $25 a shot.

These are the problems of a system of financing health care that is simply out of control. But the question occurs: Why is the administration just waking up to these problems now? After all, health care costs have been on a wild trajectory up, and health care coverage has been on an alarming trajectory down, for over a decade. The President himself in the campaign of 1988 promised to allow Americans to buy into Medicaid, but apparently after examining the costs has decided against that worthy objective.

The two Journal articles suggest why this awakening is occuring now. The first notes that Republican Members of Congress have begun to hear an outcry from their constituents. And the companion article suggests that even though White House Chief of Staff John Sununu seems comfortably unconcerned about America's health care crisis, that crisis has nonetheless begun to strike the Republican Party in a very personal painful way—the same way it has struck millions of Americans.

The article relates a very sad but all too typical story about what often happens when Americans do get sick. It said that when Lee Atwater, the late Republican chairman, was tragically stricken with a brain tumor, the Republican National Committee's insurance carrier threatened to triple the RNC's rates if they did not drop Mr. Atwater's coverage. It is hard to imagine such callousness. It is difficult to fathom what Mr. Atwater and his family must have felt at that moment. But it is even harder to stomach a system of financing health care that permits and even encourages insurers to risk-skim in this fashion.

Not surprisingly, the RNC responded as hundreds of other small- and medium-size businesses in similar circumstances have been forced to do—they changed insurance companies. But even so, the new rates are higher, and the RNC's new chairman, Clayton Yeutter, laments to the reports, "many of our not-very-well paid young people can't afford the coverage." But in spite of that observation, Mr. President, Chairman Yeutter recommends doing nothing about health care before the 1992 election.

Despite this very regrettable encounter with the problems in our system of financing health care, the administration seems to have settled on a strategy of much talk and little action. It is a strategy that invokes the moral leadership of the Oval Office to identify problems, but never to solve them. It is a strategy that recalls something that Otto von Bismark once said: "When a man says he approves of something in principle, it means he hasn't the slightest intention of putting it into practice." It is a strategy that looks squarely at ruinous health care costs, 33 million uninsured, 27,000 cases of measles, and tells America to take two aspirin and call the morning after the next election.

Surely, if an outbreak of measles and other childhood killers is serious enough to dispatch a team of very senior administration officials, it is serious enough to dispatch a sum of money that amounts to less than one ten-thousandth of Mr. Bush's budget proposal. Surely, if rising medical costs are so dangerous that they threaten to erode the very foundation of our economy, they are serious enough to enact a comprehensive plan to control those costs—rather than relying on selfless cost-consciousness by America's physicians. And, surely, if our health care financing system has failed even Lee Atwater and the RNC, it must be failing millions of less prominent and powerful individuals and firms, and surely the time for reform has arrived.

Mr. President, the British Prime Minister David Lloyd George once said, "The most dangerous thing in the world is to leap a chasm in two jumps." That is precisely why the administration's strategy on health care strikes me as so dangerous. I applaud their first jump—recognizing and calling attention to what may be America's most pressing crisis. But I question whether their second jump—a jump to a solution—will ever occur.

Mr. President, I yield the floor and thank the managers of this bill.

EXHIBIT 1

[From the New York Times, June 23, 1991]

PRESIDENT DEFERS ACTION ON A PLAN TO BUY AND DISTRIBUTE VACCINES

(By Robert Pear)

WASHINGTON, June 22.—In a Rose Garden ceremony last week, President Bush said he was sending a team of senior officials to six cities "to learn why kids aren't getting immunized" against measles and other diseases. But now the White House has deferred action on an emergency plan to buy vaccines and distribute them to cities and states.

The plan, completed in May by a committee of Federal health and welfare officials, would cost $91 million, and the Administration had decided to wait at least until next year to request money for the program. The White House says that Mr. Bush requested $258 million for immunizations in January, an 18 percent increase over the previous year, and that the extra $91 million sought by the Public Health Service and other agencies is not needed at this time.

But in a confidential report, the interagency committee concludes that "immunization programs across the country have inadequate resources," lacking money, staff and vaccines. Suggesting that the Administration knows what to do, the report calls the problem urgent and says, "The focus of the plan is on action."

Most of the money would go to the Federal Centers for Disease Control, to buy vaccine and distribute it to city and state governments and to public clinics. Community health centers say they have not been able to buy all the vaccines they needed this year, and health officials say the cost of measles vaccine, up to $25 a dose, has significantly hindered its use.

The Federal immunization program buys vaccines to protect children against measles, mumps, rubella, polio, diphtheria, tetanus, whooping cough, and Haemophilus influenze type b, a bacterium that can cause meningitis. Federal health officials say $91 million would allow them to locate and vaccinate 5 million to 10 milllion children.

More than 27,600 measles cases reported in the United States last year, the worst outbreak since 1977, and 89 people died of related complications. In some inner-city neighborhoods, only about half the children have been vaccinated.

At the Rose Garden ceremony on June 13, Mr. Bush said he was sending a team of senior officials and health experts to six cities "to learn why kids aren't getting immunized." The places to be visited, from September through January, are Philadelphia, Detroit, Phoenix, Dallas, San Diego and Rapid City, S.D.

"WARNING FLAG" FOR HEALTH CARE

The interagency panel's report illustrates the problems facing Mr. Bush as he tries to emphasize the "kinder, gentle" side of his Administration without spending large sums on new projects.

The panel says the failure to immunize youngsters is "a warning flag" that signals the determination of basic health-care services for many children. Its proposals closely follows recommendations made in January by a panel of outside experts, the National Vaccine Advisory Committee, which investigated measles outbreaks in many cities.

Some health policy officials suggested the money requested for the tour by Federal officials would be better spent on vaccinations. In the Los Angeles area, which has had more than 6,000 measles cases with 37 deaths since December 1987, Dr Shirley L. Fannin, an epidemiologist at the County Health Department, said: "We do not require that the Federal Government send 'swat teams' to handle our problems. It would be a great deal less expensive if Congress would give us money directly to hire our own staffs to apply the remedies we need."

In Dallas, 3,000 cases of measles, with 12 deaths, were reported in a recent 10-month period. Dr David R. Smith, director of the primary care program at Parkland Memorial Hospital, said; "Over 95 percent of the kids who come down with measles had been in the health-care system shortly before they got the diseases. They had been to clinics, school nurses and doctors, but we failed to vaccinate them. That tends to refute the idea that we can't find these kids or their parents don't care."

PLEA TO LOWER VACCINE'S COST

Pediatricians, members of Congress and Federal health officials say the price of the measles vaccine has become a significant barrier to its use for many children. Dr. Robert G. Harmon, head of the Federal Health Resources and Services Administration, said the price had "increased dramatically over the last 10 years."

The American Academy of Pediatrics and Representative Henry A Waxman, Democrat of California, have appealed to Merck & Company to lower the price, now $15 for a dose dought by the Government and $25 for private purchasers. Its market, they note, was doubled by Government fiat when the Public Health Service recommended last year that all youngster get a second dose.

At a recent hearing of the House Energy and Commerce Subcommittee on Health, Mr. Waxman, the chairman, told a Merck executive: "I don't understand your pricing of the measles vaccine. We are in the midst of an epidemic, and you are the only manufacturer of the vaccine."

Merck says the price of its vaccine has risen more slowly than the Consumer Price Index and is lower now than in 1988 because of discounts given to the Government. "We are not exploiting kids or contributing to the measles epidemic," said John Doorley, a spokeman for Merck.

The interagency committee included officials from the Department of Health and Human Services, the Education Department, the Agriculture Department, which runs a major food program for children and pregnant women, and the Department of Housing and Urban Development, which subsidizes housing for 4.5 million families. The panel proposed spending in these areas, among others:

$46 million in Federal grants for up to 60 cities with a high incidence of measles or a low rate of immunization.

$5 million to help community health centers hire additional personnel and track down unvaccinated people.

$2.5 million to deploy health workers in welfare offices to inoculate children in families applying for welfare benefits.

$2.5 million to vaccinate children living in public housing projects.

$10 million to help state agencies and clinics buy extra measles vaccine needed to offer children a second dose.

In addition to the many specific short-term measures proposed by the Interagency Committee on Immunization, the Public Health Service is considering a radical change in the vaccination system. Under an alternative being tested in several states, the Government would buy all vaccine for childhood diseases, then deliver it at no charge to public clinics and private doctors' offices.

"Vaccines should be treated like a public utility," said Dr. Kenneth J. Bart, director of the National Vaccine Program Office, which coordinates Federal agencies responsible for immunization activities. "Prices must not be allowed to inhibit access to vacines."

[From the Washington Post, June 24, 1991]

HHS SECRETARY URGES DOCTORS TO CURB COSTS; CITIZENS MAY DEMAND "GOVERNMENT TAKEOVER," AMA MEETING WARNED

CHICAGO, June 23.—Health and Human Services Secretary Louis W. Sullivan appealed today to the nation's largest organization of doctors to curb soaring U.S. medical costs and improve availability of care or risk a virtual popular revolt.

"Unless we act now to meet these goals, we could find ourselves with a critical mass of our citizens demanding a total government takeover of health care," Sullivan told hundreds of doctors at the opening of the American Medical Association's annual meeting.

"I doubt that many in this room today would welcome that development," he added in an 18-minute speech that was interrupted by applause three times.

Sullivan has been an ally of the AMA on issues such as trying to keep tobacco out of the hands of minors but has opposed the organization on such matters as a proposed restructuring of Medicare fees that would reduce payments to doctors for many procedures.

Sullivan said that health care accounted for about 12 percent of the gross national product in 1990—or about $2,500 for every man, woman and child. That's a larger percentage than any other country spends.

"As physicians, we must recognize that health care is not the only public good," he said. "As Americans, as well as physicians, we must be concerned that consuming ever larger portions of GNP on health care necessarily diverts resources from other good uses—for example, increased wages, savings, capital investment, research and development and human services such as drug rehabilitation, foster care and family support."

Sullivan made only a passing reference to the AIDS epidemic, which was expected to be the dominant topic at the gathering, when he issued a call for increased emphasis on individuals accepting responsibility for their own health.

Possible HIV testing of doctors and restrictions for health-care professionals infected with HIV were among AIDS-related issues expected to be considered by the 300,000-member AMA's policymaking House of Delegates.

Among other topics expected to be addressed at the meeting is tobacco use. One resolution urges major league baseball teams to ban tobacco use at their ballparks and commends the Oakland Athletics for doing so. Genetic testing, which insurance companies could use to screen out prospective policyholders who carry genes for certain diseases, also is to be discussed.

The AMA gave its layman's distinguished service award to Bob Keeshan, television's "Captain Kangaroo," who urged doctors to take the lead in fighting the hunger, malnutrition, measles, whooping cough and polio that are increasing among some groups of U.S. children.

"Kids can't vote in this country. Kuwaitis can't vote either. But that did not stop us from coming to the aid of the Kuwaitis in their hour of great peril," Keeshan said. "If we can help the Kuwaitis, we ought to be able to help our kids."

[From the Wall Street Journal, June 24, 1991]

ILLS OF THE NATION'S HEALTH-CARE SYSTEM ARE PULLING GOP INTO SEARCH FOR CURES

(By Jeffrey H. Birnbaum)

VANCOUVER, WA.—Republican Rep. Rod Chandler interrupts the pleasantries of a cocktail party to say he wants the federal government to help self-employed people buy health insurance. "Oo hoo!" exclaims Richard Turley, a local real-estate salesman. "I'm with you already."

The Washington state lawmaker is cherred like this wherever he goes. Whether it's in a conference room in Seattle or a restaurant in Atlanta, the prosperous people with whom he tends to spend his time are anxious about rising medical costs, and are looking toward Republican representatives like him to lend a helping hand.

"It's the revolt of the 'haves,'" Rep. Chandler concludes. "These are the people who know darn well who their congressman is, which makes them a potent political force."

Health coverage has always been a sore point with constituents, but lately a broader group of voters has been registering complaints. The grousing doesn't just come from the "have nots" anymore: low-income people without health insurance. These days middle-income and upper-middle-income people—lawyers, small-business owners and even doctors—also are venting their rage.

This growing base of support has energized the still-nascent drive to overhaul the U.S. health-care system, and increases the likelihood that change will eventually come. Even Republicans, who have long resisted Democratic entreaties for broad-scale legislation, are beginning to move now that their own constituency is up in arms.

"When you raise the issue, it's like pushing a hot button," says Rep. Mickey Edwards of Oklahoma, chairman of the House GOP policy committee. "It has become a top priority."

Rep. Gingrich sees the new GOP drive to devise its own plan as a wise defensive maneuver against the hard-charging Democrats. "We have to, at some point, offer a convincing solution that is market-oriented and decentralized or we will get eroded into bureaucratically rationed health care," he says.

It's clear that the GOP proposals, whatever they are, won't be anywhere near as broad or heavily governmental as Sen. Mitchell's plan. Instead, they will aim to provide incentives, probably through the tax code, to encourage small businesses to provide health insurance to their employees.

But a number of other, more far-reaching proposals are circulating on the political right as well. For instance, the conservative Heritage Foundation suggests radically altering the federal tax system to allow individuals (rather than corporations) to deduct health-insurance premium payments. The conservative think-tank would also give individuals tax credits to encourage them to pay for some basic medical treatments out-of-pocket rather than rely on insurance.

Rep. Chandler is pushing a modest proposal aimed mostly at helping small employers. It would encourage them to buy health insurance through purchasing groups by eliminating the ability of states to mandate the kinds of health benefits they must provide. As an incentive for self-employed individuals to join the purchasing groups, the Chandler bill would allow them to deduct all of their premium payments.

"The current system just doesn't work very well," says Rep. Newt Gingrich of Georgia, the second-ranking Republican in the House. "You can't govern this country without significantly addressing health care."

While more and more Republicans are willing to acknowledge that something must be done, though, huge differences remain between them and Democrats over how best to address the problem.

Some Democrats want outright national health insurance, funded with taxpayer dollars. But the principal Democratic proposal so far, sponsored by Senate Majority Leader George Mitchell of Maine, is a hybrid public-private plan called "play-or-pay." It would require employers either to offer health coverage to their employees or be forced to contribute to a new public health-insurance plan called AmeriCare, which would replace the current Medicaid program for the poor and would insure anyone not covered by an employer plan.

Republicans, for most of whom the national health-care issue is still unfamiliar terrain, haven't come up with much yet in the way of detailed proposals. But as many as 34 Senate Republicans have been meeting regularly to study the health=care problem with an eye toward devising their own legislation. And in the House, the GOP leadership is expected to adopt a plan of its own soon to address at least parts of the complex problem.

Democats largely dismiss such proposals as too little and late. "The patient is bleeding to death of a chest wound and they've decided to fix the cut on the finger," says Rep. Thomas Downer of New York. "It isn't going to work." Still, it is significant that for the first time, both Democrats and Republicans are in basic agreement that something must be done.

Statistics bear out that health care, increasingly, is a middle-class headache. Of the more than 30 million people without health insuance, two-thirds have jobs or belong to a family in which someone works. Of the 85% of Americans who have insurance, at least one in six has had his or her benefits reduced over the past few years. One study shows that the portion of health benefits picked up by employers has declined since 1980 to 69% from 80%, leaving employees to pay the difference.

Concern over the issue is certainly evident around the conference table in Seattle where Rep. Chandler is meeting with 14 small-business owners. Every one of the executives, from the printer to the financial adviser, professes dissatisfaction with the rising price of health coverage for themselves and for their employees. They welcome Rep. Chandler's prescription of new tax breaks and reduced government regulation.

"It's a national problem," asserts Nona Brazier, a waste-disposal-company owner who sports an elephant-shaped pin to signify her Republican allegiance. "Something has to be done."

Rep. Chandler says he sees the health issue only getting hotter and hotter in the coming months. He intends to stress the issue in his race for the Senate next year against Democratic Sen. Brock Adams, an advocate of national health insurance.

He couldn't duck the issue even if he wanted to, he says: "A year ago, you could get by with a good speech on what the problem is on health care. Now you've got to have a plan."

[From the Wall Street Journal]

AT A DIVIDED WHITE HOUSE, SUNUNU IS WARY, WHILE DARMAN CALLS FOR ACTION

(By Michel McQueen)

WASHINGTON—The American Medical Association leaders who met with White House officials last month to discuss ideas for health-care reform found themselves dismayed at the bedside manner and unhappy with the diagnosis.

Chief of Staff John Sununu complained the doctors were too sympathetic to Democratic proposals to overhaul the healthcare system and bluntly warned them to slow down. "He led us to believe the Bush administration was not going to stampede into anything," said one of the doctors, who left the White House convinced the administration was gong to take its "own sweet time" in addressing the issue.

To date, the administration's prescription for the nation's health-care problems has been: Take two aspirin and call us in a couple of years. Despite skyrocketing health costs and more than 30 million uninsured people, the White House has virtually steered clear of the subject.

In recent weeks, though, at least some of the president's advisers have begun to call for a change. While Mr. Sununu continues to argue against addressing the issue, Budget Director Richard Darman has said publicly he believes the White House should propose a sweeping health-care reform by next year. And others, like presidential pollster Robert Teeter, are reluctantly concluding that the issue may be too hot to be ignored.

"Clearly there is a real need to get behind this," says GOP political consultant Rich Bond. "Just as the Democrats can be seen to be floundering around on foreign policy issues, the Republicans have not yet put their best minds to work on the health care issue."

Former Bush campaign adviser Deborah Steelman, one of the few Republican strategists who has been following the issue, says many of her party have come to believe that "health care is to the '90's what taxes were to the '80s." She adds, "If we give away this issue, we are giving away the game of the decade."

Political pressure for health-care reform is clearly on the rise. Business and interest groups are up in arms, members of Congress are restless, and Health and Human Services Secretary Louis Sullivan has been sounding alarms about rising needs and costs.

So far, however, President Bush has said little. The administration has made some modest proposals on infant health care, immunizing preschool children and capping medical-liability costs. But the president has put little effort into promoting them—in one case abandoning a long-planned trip to Chicago and sending Vice President Quayle as a substitute.

In part, the White House reticence dates back to the 1988 campaign. Health care for the uninsured was a signature issue for Democratic candidate Michael Dukakis, who started a plan to provide benefits to the uninsured in his native Massachusetts. Bush advisers, however, paid only cursory attention to the issue, preferring to focus on education and the environment, issues where they felt they had a stronger hand.

Many political strategists continue to defend a low-key approach through the 1992 campaign. At a health-policy group last month, GOP pollster Bill McInturff reiterated the view that "people most concerned with the [issue] were not big parts of the Republican coalition." Mr. McInturff's review of ABC News exit-polling data for the group showed those who identified health care as their primary concern mainly fell into four subgroups: the uninsured, the poor, Hispanics, and blacks. These groups voted for Mr. Dukakis in margins ranging from 56% to 88%, he said.

Republican National Committee Chairman Clayton Yeutter, who has been at White House strategy meetings where health care has been discussed, also plays down the issue. It's "an issue that will have to be confronted by the nation sometime in the next few years," he says, but for now "there clearly is not a consensus in the Republican Party . . . about what the answers should be." His advice: "I wouldn't put it in the top five" problems facing the country.

Mr. Yeutter's comments echo those made by Mr. Sununu in April at a meeting with Republican Reps. Bill Archer of Texas and John Kasich of Ohio, who had been tossing around ideas,on the issue. At present, health is a losing game for the GOP, Mr. Sununu said, because the Democrats will always "up the ante"—promising more benefits and more coverage with little regard for the costs. Republicans inevitably will be cast as a bunch of Scrooges, he argued, unwilling to help the nation's helpless Tiny Tims.

Spearheading the other side, however, is Mr. Darman. In a meeting with reporters earlier this month, he argued that the White House should come up with a comprehensive health care-reform plan before the 1992 election. The issue could then be debated during the campaign, he said, clearing the way for a giant legislative package shortly after the election.

Asked whether Mr. Sununu agreed with his view, Mr. Darman paused, then replied: "I don't know."

Mr. Teeter, a close political adviser to the president, also seems to be slowly acknowledging a need to address the issue, although he continues to express skepticism about plans for a big fix. "My view is that . . . when you've got a problem this big . . . that has huge financial implications, it never gets solved in a democracy in one fell swoop," he says. "You bite off pieces of the problem and let the system digest the changes."

Some Republican officials have found an even more persuasive argument for addressing health-care problems closer to home—in the illness and death of former party chairman Lee Atwater. Mr. Atwater was stricken in March 1990 with what turned out to be an inoperable brain tumor, but he remained on the Republican National Committee payroll and health plan. The insurance carrier threatened to triple the committee's rates unless it dropped Mr. Atwater's coverage. Instead, the committee changed insurance companies. But rates are now so high, says Mr. Yeutter, "that many of our not-very-well-paid young people can't afford the coverage."

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, I wonder if my colleague from South Carolina will be kind enough to yield me 2 minutes to speak in favor of Senator INOUYE's position notwithstanding the fact he has another position.

Mr. THURMOND. I will be very pleased to yield my distinguished chairman 2 minutes.

Mr. BIDEN. Mr. President, last year, the Senate adopted an amendment, authorized by Senators INOUYE and DOMENICI, to permit Indian tribes to decide whether they will adopt the death penalty.

I see no reason to change that result this year. The issue here is one of fairness and self-determination.

First, unless exempted, Indian tribes will be disproportionately affected by a Federal death penalty. Most of the heinous murders we read about in the paper or hear about here on the Senate floor fall within the province of State—not Federal—jurisdiction and responsibility.

Federal jurisdiction extends primarily to murders on Federal territory, and that means Indian lands. Close to 80 percent of the total number of persons actually convicted of first-degree murder in the Federal system are Indians.

As a result, if Indian country is not exempted, Indian murders are likely to generate well over two-thirds of Federal death sentences, even though native Americans comprise only 1 to 2 percent of our population. I feel sure that when the American public thinks about imposing a Federal death penalty law, it does not intend that its principal impact is felt on Indian reservations.

Second, the issue is one of self-determination. The Congress does not purport to tell any particular State that it must have the death penalty. But here we are telling a coequal sovereign—Indian tribal governments—that they should adopt the death penalty. On such a controversial and emotional issue as the death penalty, Indian tribal governments should come to their own decision.

For these reasons, I support Senator INOUYE's amendment.

Mr. President, I just want to make two points. The first point is that we have basically made a longstanding agreement, over more than 100 years, that we are going to, where it is deemed appropriate, allow Indian nations to make judgments for themselves relative to the conduct of affairs within the Indian nation on Indian lands that are agreed to as a consequence of treaty, where it does not impact upon the ability of the United States of America to be able to conduct itself in international affairs or in the natural order and process of the conduct of business and commerce and social policy in this Nation.

So, basically, we have said, in cases where it will not affect the ability of the Nation to function, that we would allow Indian nations to function as if they were States on matters that were not of consequence to a uniform application of law nationwide. We allow States to be in a position where some States have the death penalty and some do not. I think it is only appropriate that we allow the Indian nation to be able to make their own judgment whether or not they wish to have the death penalty. That is the first point.

The second point is that we should remind everyone that the Federal death penalty provisions in the Biden-Thurmond substitute, quite frankly, only affect Federal lands, and the bulk of the Federal lands where the death penalty would be applied would be on Indian reservations. So the application of the death penalty, if we do not allow Indians to make their own judgment as we allow States to make their judgment whether or not they wish to have a death penalty, is that 80 percent of all those put to death under the law that Senator THURMOND and I are suggesting would be Indians.

It seems to me they should be able to make that judgment. We do not say to the State of Delaware or the States of New Jersey, Alabama, Mississippi, or California, you must have a death penalty. I support the death penalty.

We do not impose that on the States. I think it is perfectly reasonable not to impose that upon the Indian nations. There is more to say, but in interest of time I will yield back whatever seconds I have left.

I thank the Chair. I yield the floor. I thank my colleagues.

Mr. THURMOND. Mr. President, I want to clarify this situation. The courts have held that the U.S. Government has jurisdiction over the Indian lands and they can pass such laws as are appropriate. Now, under the proposed amendment, if an Indian on the reservation rapes a women, kills her, burns her body, he could not get the death penalty. Now, if he just steps outside of that reservation and he rapes a woman and kills her and burns her body, he can get the dealth penalty. Does that make sense?

If a white man or a black man goes on an Indian reservation and kills or rapes somebody, he can get the death penalty, but if an Indian is on the Indian reservation he cannot get the death penalty?

Why the discrimination?

Under our law, everybody is supposed to be treated alike. Indians are now American citizens. They are supposed to be treated like everybody else. They have all the rights of everybody else. They ought to have to bear the same responsibility as everybody else. If other people have to obey the law, Indians ought to obey the law. Why should we have a special group carved out and allow an exception that says Indians on an Indian reservation can commit capital crimes against each other? Is that not an injustice to the Indians, that they kill each other on the reservation, rape each other, and under no condition can get capital punishment? Where they were off the reservation, they could get the death penalty. If anybody else comes on the reservation and kills or rapes or murders, they can get the death penalty, but Indians on reservations cannot get the death penalty.

To me that is not equality. It is not equality under the law. It is not fair play under the law. Let us treat everybody alike. We are all Americans: black, white, yellow, tan, Indians, anybody else. We all have responsibilities to obey the law, and the law ought to apply equally to everybody everywhere.

The courts have held that the U.S. Government does have authority to pass laws on Indian reservations and everywhere. I say we ought to do it. We ought to treat everybody alike. If we are going to have capital punishment in this country, it should apply to Indians, to blacks, to yellow, apply it to everybody, or we should not have it.

Mr. President, I have always been very interested in Indians. I like to help them every way I can, but are we helping them when we allow Indians to kill Indians on reservations? They cannot kill off the reservations. Why should they be able to kill on the reservations?

Mr. President, let us treat everyone alike. America is the land of the free and the home of the brave. Everybody has equal rights; everybody has responsibilities. Let us enforce that. Let us not carve out one special group, Indians against Indians. It is an injustice to them. It is an injustice to the Constitution. It is an injustice to the rest of the people of this Nation. Let us treat everybody alike. We are all Americans. Treat us all alike.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina has 3½ minutes remaining.

Mr. THURMOND. How much time do have I remaining?

The PRESIDING OFFICER. Three and a half minutes.

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, amendment No. 369 is agreed to.

AMENDMENT NO. 371

(Purpose: To impose the death penalty only in drug cases involving an intentional killing)

Mr. BIDEN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Inouye amendment is set aside. The clerk will report the new amendment.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 371.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

The amendment is as follows:

Title IV is amended by adding at the end, a new section 403, as follows:

"SEC. 403. APPLICATION ONLY FOR INTENTIONAL KILLINGS.

Notwithstanding the penalties designated in section 402 of this Act, the maximum penalty for the offense enumerated in section 402 shall be life in prison, without release, unless the offense involves an intentional killing as defined by section 1111 of title 18, United States Code. If the offense involves such a killing, the maximum penalty shall be death."

Mr. BIDEN. Mr. President, before I begin I would just like to mention—it just came to mind—with regard to the last amendment we had on Indian reservations that we will vote on tomorrow, if someone is at the New Jersey-New York State line and kills someone, if they are 2 feet into New York when it happens, they do not get the death penalty. If they are 2 feet into New Jersey, they do get the death penalty.

No one is suggesting, that I know of, that we should have a uniform law saying there should or should not be the death penalty in every State although we have the authority to preempt States. We could do that. And I do not know why we should do it differently. That is a point I wanted to make. I have no more time.

Let me move to the issue before us, the death penalty for drug kingpins.

Mr. President, in 1986 this Senator and 96 others voted for a drug kingpin death penalty which is now the law. Last year and again this year, the administration returned to the Senate with a new drug kingpin death penalty. To any listener, including my colleagues, they are wondering what is all this drug kingpin death penalty stuff: You were just telling me, BIDEN, we have a death penalty for drug kingpins and now you are telling me there is a new amendment for drug kingpins. How is it different?

Right now, Mr. President, under the drug kingpin death penalty law—and I will argue all are death penalty laws with one exception—there is a requirement in order to meet the constitutional requirements of the eighth amendment allowing the death penalty to be imposed that there be a death that results as a consequence of the crime being committed.

So under our present drug kingpin law, we say if you are a drug kingpin and in the operation of your business, your illegal business, your criminal activity, either as a consequence of a murder that you order, a murder that occurs, death occurs in the carrying out of your business, then you can be put to death if you are caught.

As a matter of fact, the Senator from Delaware thinks you should be put to death if you are caught. But now there is a new principle being introduced, and that is this new death penalty requirement is invoked in the following three ways that cannot be invoked now:

One is if you are a large-scale drug kingpin and you conduct that business and no murder occurs, there is no death involved, nothing happens in the taking of someone's life, but the mere fact that you, in fact, conduct the business, if you are caught conducting that business, you should be put to death.

I would like to see that happen. I do not have any problem with that as a practical matter because, in fact, they do as much damage as the young 17-year-old who robs the 7-Eleven store and commits murder in the process while running out of the store. But the Supreme Court has ruled that there has to be a death in order for the death penalty to be imposed.

There are two other pieces of this new drug kingpin law that is now in the Biden-Thurmond substitute. That is that if you are a large- or small-scale kingpin and you attempt murder, you are a druggie, you are a drug kingpin, and you attempt to kill someone—that also allows the death penalty be imposed. I think that may pass. That provision may pass constitutional muster. It is close.

The third part is where there is a drug felony where death results. My friend, the Presiding Officer in the chair, knows the law well. It is essentially a felony murder crime where there is a drug transaction taking place, and the murder occurs. There is a drug offense taking place and a murder occurs.

That is in my view in all probability constitutional. But the first part of this new proposal is not, in my view.

Under the drug kingpin law that is now on the books that we passed several years ago—it has been on the books for 3 years, I say, Mr. President—there has only been one conviction. This administration and the last administration has only gotten one conviction.

I think we should kind of put this in focus. As we start to balance this, I balance what we might pass as being unconstitutional against the practical application of the law where it could become law. They have only gotten one conviction under the present drug kingpin death penalty law. The fact is that the Justice Department has only charged three people under this law.

Given the record, I have to question the emphasis we are now placing on the death penalty for drug kingpins, there already being such a penalty on the books seldom used.

Again, as I said, this administration would extend the death penalty to drug kingpins who do not murder, and to any drug felon where the conduct results in death. Neither of these extensions is supported by the existing law as interpreted by the Supreme Court. The Supreme Court has held repeatedly that the death penalty is only a proportionate punishment where killing is involved. In order to satisfy the eighth amendment, the Court has ruled it must be proportionate. The punishment must be proportionate to the crime. The Court, whether I like it or not, has ruled that death for a crime is only proportionate where death has occurred in the commission of the crime.

In the famous case of Coker versus Georgia, the court held that even in the case of one of the most egregious crimes in this Senator's view, rape, and in this case, a heinous rape that occurred, the Supreme Court ruled in 1977, in Coker versus Georgia, that the rapist duly convicted of a heinous rape, a vicious crime, could not be put to death because the eighth amendment would be violated because no death had resulted.

Our outrage against drug kingpins, like our outrage against rape, does not necessarily mean that the law will survive constitutional scrutiny.

Even as recently as last year the Justice Department acknowledged these constitutional deficiencies when it explained to the Judiciary Committee that a similar proposal not specifically limited to drug felons in Senator THURMOND's death penalty bill would have been constitutionally suspect, to use their phrase. The Attorney General at the time testifying said "The eighth amendment requires that the defendant himself have actually killed, attempted to kill, or intended the lethal force used in killing."

What is being proposed here is a death penalty for a crime where no death results. As I said, as much as I am sympathetic to the notion as the sponsor of this bill which provides for 50—some death penalties, and I support the death penalty, I also understand that the Court has drawn a line, and we should be responsible in our application of the Court's ruling.

The proponents of this amendment that is now in the bill, not my amendment, of the law as is before us in the bill, say that, well, BIDEN, you may be right about Coker versus Georgia but the Supreme Court in Tison versus Arizona said, look, you can have the death penalty where the defendant did not actually pull the trigger.

That case involved a case where a bunch of thugs took out into a desert a family and executed them, including a 2-year-old child. And in that case, they said that two of the defendants, I believe it was two, who did not pull the trigger, but who provided for the escape of these thugs from prison, who provided the weapons for them, if I am not mistaken, who provided the circumstances in which the murders were allowed to take place, and who stood there and watched them, should be able to be put to death. I say, yes, they should. But the distinction is in that case death actually occurred.

So Tison is no, in my view, basis to argue that in a case where drug transactions are taking place but no death occurs you should be able to apply the death penalty. I do not think the case can support the death penalty where no killing is involved as the administration would suggest.

So I oppose the administration's new drug kingpin death penalty. There is already an existing death penalty for drug kingpins. I do not see why now we should be attempting, with all the expansion of the death penalty, or we are proposing to increase and set out a death penalty provision which seems to this Senator clearly unconstitutional.

The Court has ruled that in order to apply the death penalty and satisfy the eighth amendment of the Constitution it must be proportionate. They have concluded that proportionate means that you can only take the life of a person under the law who has taken the life of a person illegally. You cannot take the life of a person under the Constitution where there has been, as bad as the crime is, no death directly or indirectly. And we are about to put into the law, if this provision, my amendment does not pass, a law that I believe to be unconstitutional.

So, Mr. President, I realize that this is going to be a difficult amendment to pass, because I must tell you my sympathies are with the Senator's position, and my sympathies are against my own amendment. But as an attorney, as a lawyer sworn to uphold the law, as a U.S. Senator sworn to uphold the Constitution, I believe it would not be responsible for me as chairman of the Judiciary Committee to stand before my colleagues, who at least occasionally look to me for some judgment on these issues, and not say what I believe the Constitution as interpreted by the Supreme Court dictates.

I believe it dictates that this provision in the present bill before us is unconstitutional. You cannot put a person to death where there is no death resulting as a consequence of the crime they have been convicted of committing.

I thank my colleagues. I yield the floor. I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina has 15 minutes remaining.

Mr. THURMOND. Mr. President, I rise today in strong opposition to this motion to strike the drug kingpin death penalty language from this bill. These provisions were taken from President Bush's violent crime bill. The death penalty for drug kingpins is urgently needed legislation which will send a strong signal to drug traffickers that their heinous acts will not be tolerated.

The death penalty for drug kingpins is not a new issue for the Senate. Last year, the Senate overwhelmingly passed a similar provision by a vote of 66 to 32. The House passed a similar amendment to last year's crime bill as well. It is time for Congress to pass this important provision and send it to the President for his signature.

The pending bill authorizes the death penalty for three categories of drug offenders: First, the leaders of the largest drug enterprises, who are currently subject to a mandatory term of life imprisonment under title XXI; second, other leaders of drug enterprises who attempt to obstruct justice by attempting to murder persons involved in the criminal justice process; and third, other persons who commit murders in the course of drug felonies. This amendment would strip these provisions from the bill. This amendment ignores the fact that drug traffickers are responsible for untold deaths and suffering in this Nation, especially the death of young people who often are the ones using drugs. Drug kingpins are as responsible for the drug-related murders, which occur on our streets every day, as those who pull the trigger.

Mr. President, recent Supreme Court decisions also support the constitutionality of the death penalty for these individuals. In Tison versus Arizona, the Court found that reckless indifference to the value of human life may be every bit as shocking to the moral sense as any specific intent to kill and those who act accordingly may be sentenced to death. Most major drug kingpins do act with reckless disregard for human life and should be subject to the death penalty.

In summary, the death penalty for drug kingpins is a familiar issue to the Senate. Last year, the Senate passed a death penalty virtually identical to these provisions by an overwhelming majority. The House did so as well. Large-scale drug trafficking is a pernicious threat to our national security. It is time for Congress to broaden the category of offenses for which the death penalty can be applied to include those individuals who choose to undermine our Nation's health and safety. The law-abiding citizens of our Nation demand action and they demand it now.

Mr. President, I strongly urge my colleagues to oppose this amendment which will strike a vital provision that will send a strong message to major drug dealers. A vote in favor of this amendment will weaken our efforts to keep illicit narcotics out of our country.

Now, as I understand it, my distinguished colleague's position is that unless there is a murder, they should not allow capital punishment. However, my good friend here introduced a bill himself that when there is treason and nobody is killed, then capital punishment is allowed. He introduced another provision that did not require a death in order to carry the death penalty; it was espionage. Treason and espionage were in the provisions of my colleague's bill. Capital punishment was included there, even though nobody had been killed.

Now he says you should not allow capital punishment unless somebody is killed. That is inconsistent. In the case of treason or espionage, they ought to get the death penalty. Drug kingpins ought to get the death penalty. Drug kingpins, who provide drugs and cause the deaths of these young people and others, ought to get the death penalty.

Mr. President, I hope that the Senate will see fit to defeat the amendment of my distinguished colleague.

Mr. HATCH. Mr. President, the amendment that the distinguished chairman of the Judiciary Committee proposes reflects a strong difference of opinion between conflicting ideologies. There are, I believe, strong arguments on both sides of this issue. I rise only to dispute the claim made by the chairman to the effect that the Supreme Court has somehow already determined this issue and that those who support the death penalty for drug kingpin activity, irrespective of whether a homicide results, are thereby supporting an unconstitutional provision.

I assume when the Senator from Delaware states that the Supreme Court has held that the death penalty cannot be imposed in the absence of a homicide he is basing this view on the case of Coker versus Georgia, or one of the other cases striking down State death penalties for rape. The line of authority does not support the Senator's argument.

There has always been a Federal death penalty, and there has always been a Federal death penalty for nonhomicide offenses. To begin with, death has always been the traditional and accepted punishment for treason, as well as for some forms of espionage. This is true worldwide, and it is reflected in our Federal Criminal Code. Even countries that are generally said to be without a death penalty have been known to employ the penalty for cases of treason. This is true, for example, of Norway, which executed the notorious traitor Quisling after World War II.

The Supreme Court has never said nor implied that the current prescribed penalty for treason—death—is in any way unconstitutional. If the death penalty is not to be an available penalty for drug kingpin activity, it will be because individual Senators have decided, for their own reasons, that it should not be. It will not be because the Supreme Court has somehow already decided this issue for us. This is a legislative judgment for us to make, just as it would be a legislative judgment were the proposal before us to abolish the existing death penalty for treason. We cannot hide behind the Supreme Court on this issue.

The PRESIDING OFFICER. The Senator from South Carolina controls the remaining 9 minutes.

Mr. THURMOND. Mr. President, I yield the remainder of my time.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska is recognized.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in Executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:20 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1341. An act to amend title 5, United States Code, to require that a Federal employee be given at least 60 days' written notice before being released due to reduction in force; and

H.R. 2621. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes.

At 5 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate.

H. Con. Res. 173. A concurrent resolution authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby.

MEASURES REFERRED

The following bills were read the first and second time by unanimous consent, and referred as indicated:

H.R. 1341. An act to amend title 5, United States Code, to require that a Federal employee be given at least 60 days' written notice before being released due to reduction in force; to the Committee on Governmental Affairs.

H.R. 2621. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1992, and for other purposes; to the Committee on Appropriations.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LOTT:

S. 1356. A bill to amend section 104(a)(1) of title 28, United States Code, to designate Tupelo, MS, as an authorized site for holding Federal court; to the Committee on the Judiciary.

By Mr. BREAUX (for himself and Mr. BRYAN):

S. 1357. A bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. ROCKEFELLER, Mr. CRANSTON, Mr. AKAKA, Mr. DECONCINI, Mr. DASCHLE, Mr. MCCAIN, Mr. MACK, and Mr. CONRAD):

S. 1358. A bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill veterans; to the Committee on Veterans' Affairs.

By Mr. DURENBERGER (by request):

S. 1359. A bill to reauthorize the program for infants and toddlers with disabilities under part H of the Individuals with Disabilities Education Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BENTSEN:

S. 1360. A bill to establish in the State of Texas the Palo Alto Battlefeld National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WIRTH (for himself, Mr. AKAKA, Mr. HARKIN, Mr. SIMON, Mr. BUMPERS, and Mr. SANFORD):

S. Res. 141. Resolution expressing the sense of the Congress that the United States should implement promptly the recommendations the National Academy of Sciences issued in its report, "Policy Implications of Greenhouse Warming"; to the Committee on Environment and Public Works.

By Mr. FORD (for himself and Mr. MCCONNELL):

S. Res. 142. Resolution relative to the death of A.B. "Happy" Chandler, a former Senator for the Commonwealth of Kentucky; considered and agreed to.

By Mr. FORD (for himself and Mr. STEVENS):

S. Con. Res. 49. Concurrent resolution authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush on June 27, 1991; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX (for himself and Mr. BRYAN):

S. 1357. A bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds; to the Committee on Finance.

EXTENSION OF SMALL ISSUE DEVELOPMENT BOND PROGRAM

• Mr. BREAUX. Mr. President, I rise today, with my colleague Senator BRYAN, to introduce legislation to extend permanently the small issue Industrial Development [IDB] Bond Program.

These small issue bonds, which are now carefully targeted to smaller manufacturers, provide a critical source of financing necessary to establish new plants or modernize existing facilities.

I am personally familiar with those bonds. They have been an integral component of Louisiana's economic development strategy, helping to provide jobs for thousands of Louisianians. Unfortunately, my State, like others, continues to suffer from the continuing effects of unemployment. We are making progress, but we have not yet fully recovered from the economic shocks that our State sustained in the 1980's. It would be most unfortunate if we were to lose one of our most effective tools for job creation.

IDB's provide access to affordable capital for smaller businesses. Today's credit environment, along with the rapidly changing banking and savings and loan industries, has severely strained the ability of American businesses to raise capital. This is particularly true for smaller businesses. Larger corporations can rely on cash reserves, selling stock, or issuing corporate bonds. Smaller companies lack these options. In many cases, small issue IDB's offer the only available source of investment capital for them.

IDB's also give these smaller manufacturers access to capital at rates that are competitive with those available to larger companies. Most small companies typically pay an interest rate that is 2 to 3 percentage points higher than the prime rate. This differential obviously puts smaller manufacturers at a disadvantage. Small issue IDB's help overcome this obstacle by providing financing to these smaller companies at rates that are at or below prime.

During the 1980's Congress subjected IDBs to close scrutiny and made a number of important reforms. As a result, the tax bills of 1984 and 1986 have fundamentally changed the operation of the IDB Program, eliminating perceived abuses, targeting the bonds to smaller manufacturers, subjecting them to restrictive statewide private activity bond volume cap, and requiring greater public participation in the process of deciding which project should receive tax-exempt financing. The result is a strong, reformed, and responsible program that contributes to job creation and retention and that merits an extension by Congress.

We have already extended this program several times, without change, in the past few years, a reflection of the fact that Congress is now satisfied with how the program operates. We have eliminated the perceived abuses. We have brought the volume of bonds issued under control. We have targeted them to the area where they will do the most good. It is now time to provide certainty and predictability to the system and extend it permanently. The year-to-year uncertainty that now surrounds these annual sunset dates is unnecessary.

Because of the importance of these bonds, a number of organizations have endorsed an extension of the small issue IDB Program. These include the National Governors Association, the National League of Cities, and the National Association of Counties. In my State, both the Chamber and organized labor have urged Congress to extend these bonds.

I urge my colleagues to join me as a cosponsor of this important legislation.•

By Mr. GRAHAM (for himself, Mr. ROCKEFELLER, Mr. CRANSTON, Mr. AKAKA, Mr. DECONCINI, Mr. DASCHLE, Mr. MCCAIN, Mr. MACK, and Mr. CONRAD):

S. 1358. A bill to amend chapter 17 of title 38, United States Code, to require the Secretary of Veterans Affairs to conduct a hospice care pilot program and to provide certain hospice care services to terminally ill patients; to the Committee on Veterans' Affairs.

VETERANS' HOSPICE SERVICES ACT

• Mr. GRAHAM. Mr. President, today I rise to introduce long overdue legislation extending to the Secretary of Veterans Affairs the authority to begin offering hospice care services to terminally ill veterans.

Under current law, Medicare-eligible patients have access to hospice care, as do Medicaid patients at States' option. This bill will take us toward allowing all veterans to receive equitable access to the hospice benefit offered Medicare and most Medicaid patients.

Hospice programs are designed to meet the needs of terminally ill patients with a short prognosis for life. Trained teams of physicians, nurses, social workers, volunteers, and chaplains provide pain relief, symptom management, and supportive services to the patient and caregivers.

Although there are numerous types of hospice programs around the country, all have two shared goals. First, hospice seeks to make the final days of the patient's life as comfortable and enjoyable as possible. Second, hospice programs reduce the overwhelming financial burden facing the terminally ill patient and caregiver.

Traditionally, hospice patients are served at home where family and friends become an essential element providing the basic care. The hospice team instructs caregivers in the daily routine of assisting the terminally ill individual. Through this instruction and special counseling, the hospice team helps make the adjustment to new circumstances.

For those individuals who, for whatever reason, do not choose to remain at home, hospice programs can also be provided within medical facilities.

This legislation authorizes the Secretary of Veterans Affairs to select 15–30 VA medical facilities to experiment with offering hospice services to veterans through a variety of methods, including in-house programs staffed by VA personnel and contracting out to private, profit or nonprofit hospice programs.

The bill requires the VA to annually report on the level of veteran participation and satisfaction with the program and to estimate the cost effectiveness of providing terminally ill patients with this type of care.

Mr. President, I am confident that the VA will find real interest in the veterans community for this service. The independent budget offered earlier this year by a number of veterans service organizations specifically called for the activation of hospice programs in the VA.

Second, I am confident that VA reports will show that hospice programs result in substantial savings for both the VA and the individual, as well as freeing up much needed hospital beds for other veterans.

The costs involved in caring for a terminally ill patient in the last 180 days is staggering. A recent study by the Health Care Financing Administration indicated that 46 percent of all costs of care spent in the last year of a patient's life are consumed in the last 60 days. At least a third of those days the patient spends in an acute hospital bed.

A 1985 VA survey showed that there were 5,322 terminally ill patients housed in VA hospitals on most days. Ninety-two percent of those veterans died in the hospital, rather than in their own home.

It is not the intent of this legislation to take away health care services or hospital benefits from our terminally ill veterans. The terminally ill veteran will be free to elect or reject hospice benefits.

Our brave veterans deserve the right to die with dignity. Extending the hospice care option in the VA gives them this opportunity.

Senators ROCKEFELLER, CRANSTON, AKAKA, DECONCINI, DASCHLE, MCCAIN, MACK and CONRAD join me in offering this legislation.•

• Mr. ROCKEFELLER. Mr. President, I am proud to join Senator BOB GRAHAM in the effort to establish a pilot program to provide hospice care to veterans through the Department of Veterans Affairs.

After hearing from veterans and hospice caregivers over the last few months, I have come to the conclusion that the VA should be doing more to address the special needs of terminally ill veterans and their families.

Hospice care is a compassionate alternative to traditional hospital or nursing home care that some veterans prefer in the final stages of life. Under hospice programs, terminally ill veterans are given the option to stay at home or in comfortable surroundings with family and close friends nearby. Patients are made as comfortable as possible, and the family receives support as well.

In previous years, I have been proud to work on legislation that expands the hospice benefit to Medicare and Medicaid beneficiaries.

We should do no less for our veterans. Hospice care is an important option, and one that should be available to our veterans and their families through the VA health care system.

I know that a few VA medical centers, on their own initiatives, are working on hospice programs—and I applaud their efforts. I also know that other VA medical centers try to do their best to respond compassionately to the needs of terminally ill veterans.

But I believe that the VA should push forward to explore the best ways to provide true hospice care for all veterans.

My concern for veterans has prompted me to join my distinguished colleague from Florida, Senator BOB GRAHAM, in working to address this need. I am proud to cosponsor his legislation to promote hospice care within the VA through a pilot program.

This legislation establishes a demonstration program for hospice care within the VA by directing the Secretary to create between 15 and 30 pilot hospice programs. The bill encourages the VA to test various models of providing hospice care, including having VA hospitals provide the care directly or allowing the VA to work with local hospices. Because of some of the unique features of VA health care, there will be some questions about implementing this program. This is why a pilot project is needed.

Through this legislation, I believe we will learn a great deal about the most efficient, effective, and, more important, compassionate way to provide hospice care to veterans.

Personally, I am deeply committed to strengthening our country's health care system for everyone—including veterans—through the unique VA health care system.

I believe aggressively promoting some alternative types of care—hospice care, respite care, home-based care, adult day care—will strengthen the VA health care system and help our veterans receive the care and dignity they deserve.

I want to commend the VA for its ongoing, but limited, efforts on such initiatives, but I believe we must fully develop and expand these programs throughout the VA system.

It is in the best interest of our veterans to expand such health care options. Veterans in every region—West Virginia, Florida, California, and across the country—deserve access to hospice care, respite care, and other health care alternatives.

Earlier this month, the Senate Veterans' Affairs Committee considered the issue of hospice care at its hearing. I was proud to introduce to the committee a special witness from West Virginia, Ms. Charlene Farrell, the director of the Hospice of Huntington. Her testimony was deeply moving and compelling. Ms. Farrell has been a leader in West Virginia on hospice care and has personally tried to reach out to veterans and families to provide special care. Unfortunately, not all veterans, as Ms. Farrell poignantly notes, are able to choose hospice care.

To help more veterans have access to hospice care, I am cosponsoring Senator GRAHAM's hospice pilot program.

I would like to share with my colleagues Ms. Farrell's testimony regarding hospice and caring for veterans. I ask unanimous consent that Ms. Farrell's testimony be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY OF CHARLENE FARRELL, EXECUTIVE DIRECTOR, HOSPICE OF HUNTINGTON, BEFORE THE SENATE VETERANS' AFFAIRS COMMITTEE, JUNE 12, 1991

On behalf of the Hospice of Huntington and the National Hospice Organization, I would like to thank the Committee for inviting me to testify in support of expending access to hospice care by our country's veterans.

Hospice of Huntington, located in Huntington, West Virginia, is a Medicare certified, private-non-profit community hospice and a member of the National Hospice Organization. Last year Hospice of Huntington served 233 patients and their families. I have been the Executive Director of Hospice of Huntington for almost eight years.

The National Hospice Organization (NHO) is a non-profit membership organization headquartered in Arlington, Virginia. Established in 1978, NHO is dedicated to advocating quality care for terminally ill people and their families. NHO's membership currently includes more than 1,200 hospices and over 2,000 hospice professionals. NHO provides educational programs, technical assistance, publications, advocacy and a national referral service.

In the first quarter of every year, NHO conducts a "census" of hospices in the United States. We are collecting data now for 1990. Our survey for last year suggests that there were approximately 1,529 hospice programs across the country, and at least another 130 programs under development or providing fewer services than necessary to be considered as a hospice as defined by the NHO Standards of Care.

A review of NHO census data suggests the following information about hospice care in the United States:

Forty-one percent of all hospices are independent, community based organizations.

Thirty percent of all hospices are hospital based.

Twenty-three percent of all hospices are home health agency based.

Over ninety-five percent of all hospices are non-profit or government entities.

The average hospices served approximately 124 patient/families in 1989.

Hospices across the country served approximately 186,000 patient/families in 1989.

Currently, approximately 1,000 hospice programs are Medicare certified.

Today I would like to share with you the hospice philosophy of caring for dying patients and give you some examples of my experience in dealing with the present VA system. I hope these examples will demonstrate how hospice can provide veterans with appropriate care during their last days.

Hospice is a concept of caring for patients and their families when cure is not possible and the expected life-span is measured in weeks and months. Hospice in this country is predominantly home care, with inpatient backup, as necessary. The focus of hospice care is on providing pain and symptom control for the patient and emotional and spiritual support for the patient and family. Hospice allows patients to make choices about how they spend their last days so they can die with dignity surrounded by their loved ones. Hospice helps families to go on living after the death; to acknowledge their grief, to be changed by it and yet feel whole enough to continue to lead a fulfilling life. These goals are accomplished by providing an interdisciplinary team of physicians, nurses, social workers, home health aides, pastoral and other counselors, and volunteers to interact with the patient, family, and attending physician.

As I noted, there are now almost 1,700 hospices throughout the country, a vast increase since the first American hospice was founded in 1974. Our collective experience has been that people cannot focus on living out their last days with dignity when they are in excruciating pain or when they have unbearable symptoms. Hospices have become experts in the area of pain and symptom control so that the business of dying can take on new meaning. Dying patients can be helped to make peace with their loved ones, their God, and themselves so that a sense of acceptance and serenity can surround the death bed. More than once we have witnessed family members who are able to say to their loved one, "I'm going to be alright, it's OK to let go." Shortly after, the patient died peacefully.

Many patients have goals that they set, and some live to meet that one more goal. Jim was one of those people. Jim was a veteran of the Korean conflict and very active in the American Legion Post 16. He was referred to Hospice of Huntington in November 1990 and several months later he traveled to Washington, D.C. for an American Legion meeting. He was very excited about the trip. He and his wife D.J. volunteered at the Veterans Hospital and were well known by the staff. Jim had hospice care outside of the VA system because the VA in our area does not have a hospice program. He did receive medication from the VA, but he had to travel from his rural Wayne County home 45 minutes to visit a VA physician for renewals to his prescriptions. Jim had hoped to attend an American Legion meeting next month. When he realized that wasn't going to happen, he went downhill very fast. On Memorial Day, he died at the VA hospital, three hours after he arrived there.

Continuity of care is a very important aspect of hospice care. The hospice works to help patients and families deal with physical, emotional and spiritual issues by providing a team of professionals who are aware of the patient's needs and problems. All Medicare certified hospices provide 24 hour-a-day on-call nurses, available to respond to patient crisis or concerns.

The VA system in our area with its staff rotations often has a different physician responsible for the patient's care at each admission or visit to a VA clinic. That was the problem experienced by Tom, a 70-year-old veteran of WWII and a POW in Japan for three years. He died recently after an eight-year battle with chronic depression and lung infections. Tom received hospice care at home for several months until his sister-in-law, the primary caregiver, became too ill to care for him. He entered the VA hospital in October 1990 and bounced between the VA hospital and a veterans nursing home until he died on April 11th of this year. One of his paid caregivers complained that "Every time I looked up, a different physician was there ordering something else to be done." The paid caregiver, who grew to love Tom, brought Tom's living will to the hospital and said, "Please let him die; he doesn't want to be saved."

When a patient is so ravaged by disease that cure is not possible, the focus needs to be on allowing patients to make choices about their lives and providing them as much freedom from pain and other symptoms as possible.

Leonard is a veteran of the Korean conflict with cancer of the tongue. He cannot talk, he has a tracheostomy to breathe and a feeding tube in his stomach for medication and nutrition. He was most recently at the VA hospital from February 14th to May 3rd of this year. At the VA hospital he was sullen, depressed and wanted the door and drapes shut at all times. He was referred to Hospice of Huntington when he and his daughters decided to take him home to die. He lives in a second floor, three-room apartment. His daughters and his sister take turns staying with him. He loves to sit on the porch in the sunshine or lay on his couch watching John Wayne movies. He is not easy to take care of and requires constant attention. His daughters tell me that if he lives through the summer they don't know what they will do. They both have families of their own and they attend the local universities, which will start again in September. Our local VA has no respite program to provide relief for them.

Most people, when asked, want to be at home in familiar surroundings with their loved ones when they die. Jim was no exception. Jim was a veteran of WWII, 78th Infantry Division. He hated hospitals. I know, because I am his daughter. When my middle son, Patrick, was born 17 years ago, he came to my hospital room to visit. He handed me a present and turned to leave. I asked him to walk down to the nursery to visit his new grandson and he asked, with a nervous laugh, "Do I have to?" When he was in the last stages of metastatic prostate cancer, he made me promise not to take him to the hospital. I kept that promise. I was able to do that because there was a hospice program in our community that helped my mother and me take care of him at home. I learned on a personal level that having the knowledge to care for a seriously ill patient is not enough when that patient is your parent. There were days when I couldn't perform the simplest nursing task. As a registered nurse, I accept the broken bodies as they are, and I try to make them feel better. When I looked at my Dad, I saw the contrast: the strong, independent man he was, and the weak, confused, debilitated man he had become. Without the emotional support of hospice, my grief would have paralyzed me.

I am proud to be able to address the issue of access to hospice care for veterans. It would have been my parents' 43rd Wedding Anniversary today. My father had excellent care at home until he died. All veterans don't have this option. Their daughters aren't Directors of hospices. Veterans need expanded options and equal access to these services. The present system provides good medical care; however, its focus is on cure. Programs such as the one my colleague coordinates in Hampton, Virginia, is a marvelous exception, but still an exception.

The hospice community is very sensitive to the issue of healthcare costs, and we appreciate the need to balance increasing access to healthcare and the government's need to restrain the associated costs. We believe hospice care can be an effective answer to this dilemma. While there will be a modest cost to administer the pilot project that is being proposed, the actual cost of care should be no more, and perhaps less, than providing care to all the veterans who will be eligible to receive care under the proposed project through the traditional VA hospital.

Veterans courageously faced death to preserve our country, and they deserve to have a peaceful end to their lives. The present VA system has difficulty with continuity of care for the terminally ill because there is often not an assigned attending physician. The focus of care for the most part is curative, not palliative. Emotional and spiritual support is limited. Home care is not an option for most veterans because VA benefits are most often limited to inpatient and nursing home options. Few facilities offer home care.

Those of us who have seen the coordinated, home-care-oriented hospice approach work for Medicare beneficiaries, Medicaid recipients, HMO participants and others know that it will work for veterans. We believe that a broad-based pilot program will demonstrate to the Department of Veterans Affairs that a hospice team can enable them to use scarce resources more appropriately for their terminally-ill patients.

I would like to conlude my remarks by thanking the members of this Committee, particularly the Chairman and Senators Rockefeller and Graham, for their support of this particular issue and for their support of hospice care over the years. With your help, hospice programs have changed how our nation cares for the terminally ill. We have given them back control over their own lives; we have allowed them to retain the dignity they deserve, and we have allowed them the opportunity to live, as they choose to live, until they die.●

● Mr. CONRAD. Mr. President, I am very pleased to join my distinguished colleague Senator GRAHAM in introducing legislation today that would extend the benefits of hospice care to all terminally ill veterans.

Under current law, terminally ill veterans are not eligible to receive the benefit of care in a home or hospice environment during the last 6 months of their life expectancy. Their only option is to be admitted to a Department of Veterans Affairs medical facility.

Patients under Medicare coverage are eligible to receive hospice care benefits as are most individuals receiving Medicaid assistance. Unfortunately, the same medical benefit is not available to veterans. As a result, veterans with terminal illness, and in the final days of their lives, cannot be treated with the comfort and care that would be available to Medicare and Medicaid patients in a home or hospice environment.

Under the legislation proposed by Senator GRAHAM, the Department of Veterans Affairs would have the authority to establish 15 to 30 pilot programs for the delivery of hospice care to terminally ill veterans.

The legislation would allow the Department of Veterans Affairs to test and carefully examine a variety of hospice and home care programs, including in-house programs staffed by DVA personnel, or contracting hospice options out to private, nonprofit, and profit organizations.

The benefits provided under the Hospice Services Act of 1991 would be entirely optional, and be very similar to those extended to patients with Medicare coverage. Terminally ill veterans would be eligible to receive reimbursement of fees for this health care coverage.

Mr. President, the absence of this compassionate health care alternative for veterans who have sacrificed and given so much for their country is totally unacceptable. Furthermore, the absence of this health care option for terminally ill veterans is unquestionably taxing existing Department of Veterans Affairs facilities; beds that normally would be used for veterans with immediate and acute care needs are occupied by terminally ill veterans.

Many terminally ill veterans would indeed prefer the option of residing at home, in the care of their families and friends. The hospice option would also be far more affordable to the families involved, and most certainly a less costly alternative for the Department of Veterans Affairs.

I commend my distinguished colleague Senator GRAHAM for introducing this measure and responding in a most compassionate manner to those veterans and families facing this tragic period in their lives. I strongly urge my colleagues to join in cosponsoring this measure.●

By Mr. DURENBERGER (by request):

S. 1359. A bill to reauthorize the program for infants and toddlers with disabilities under part H of the Individuals With Disabilities Education Act, and for other purposes; to the Committee on Labor and Human Resources.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT REAUTHORIZATION AMENDMENTS

• Mr. DURENBERGER. Mr. President, I rise today to introduce, by request of the administration, the Individuals With Disabilities Education Act Reauthorization Amendments of 1991.

The bill will amend and reauthorize part H of the Individuals With Disabilities Education Act [IDEA], and includes amendments to section 619 of the IDEA and various technical amendments to the IDEA and to Public Law 101–476. This bill permits States to use funding for both part H and section 619 for services during transition of children under part H to preschool programs under section 619. It would also eliminate requirements that State Interagency Coordinating Councils be composed of no more than 15 members and that parent members be parents of children no older than 6 years.

Furthermore, the legislation would encourage States to serve greater numbers of at-risk children by giving States flexibility to decide services and protections they provide to infants and toddlers at risk.

In addition, the bill would encourage States to establish sliding fee scales for direct services based on a family's ability to pay. Finally, the legislation would clarify that assistive technology services and devises are early intervention services, and extends authority for the part H lead agency to monitor programs that do not receive part H funds to ensure that the statewide system, as a whole, meets part H requirements.

I would like to note, Mr. President, that while it is the intention of Senator HARKIN and I to move forward with S. 1106, the Individuals With Disabilities Education Act Amendments of 1991 reported out of the Labor and Human Resources Committee on May 22 by unanimous voice vote, that we have worked closely with the administration while developing S. 1106 and have already incorporated many of the provisions in the administration's bill I am introducing today into S. 1106.•

By Mr. BENTSEN:

S. 1360. A bill to establish in the State of Texas the Palo Alto Battlefield National Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

PALO ALTO BATTLEFIELD NATIONAL HISTORIC SITE ACT

• Mr. BENTSEN. Mr. President, today I introduce a bill that will contribute greatly in preserving history and recognizing a turning point in the expansion of the United States to the West. This legislation will add to the boundaries of the Palo Alto Battlefield National Historic site and direct the Secretary of the Interior to develop a general management plan to preserve its integrity.

The Palo Alto Battlefield is the site of the first battle of the Mexican-American war. The battle took place May 8, 1846, near Brownsville, TX. Among those present were Gen. Zachary Taylor, who later became President of the United States, along with another future President, Lt. Ulysses S. Grant.

This 50-acre historic site is the only unit of our National Park System dedicated to the preservation and interpretation of resources related to the Mexican-American war, which played a very signficant role in our Nation's history. The war ended with the signing of the Treaty of Guadalupe-Hidalgo in 1848, which granted the United States the land from the Gulf of Mexico to the Pacific Ocean. The end of Mexican sovereignty in the Western territories they had occupied encouraged the expansion of United States settlements in the Southwest.

Currently, only a cannon and plaque mark the spot of the Palo Alto Battlefield. This legislation authorizes $6,000,000 to expand the site to 3,400 acres. It also instructs the Secretary of the Interior to seek out artifacts and memorabilia from the Mexican-American war for preservation and display at the site.

Many citizens in the Brownsville area appreciate the significance of this historical site and have been working to preserve it. The commemoration and interpretation of the Battle of Palo Alto and the Mexican War is strongly supported by local, county, and State elected officials as well as individuals and groups in the area. In addition to this local support there is a great desire on the part of the Mexican Government to preserve this area and recognize those Mexicans who perished. Discussions with Mexican officials are already underway to set the stage for cooperation in developing this site.

This battle provided significant firsts in American warfare, including artillery maneuvers. During the duration of the war other firsts happened such as war reports by telegraph, transportation of troops and supplies by railroad and steamboat, combat photography and the introduction of the Colt revolver in the fight. The interpretive resources provided by this legislation will allow all of us to understand better the Mexican-American war and the role it played in developing our Nation.

Overall, this expansion will be a valuable addition to the National Park System and greatly serve the local community and the many visitors to south Texas.•

ADDITIONAL COSPONSORS

S. 141

At the request of Mr. DASCHLE, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 141, a bill to amend the Internal Revenue Code of 1986 to extend the solar and geothermal energy tax credits through 1996.

S. 239

At the request of Mr. SARBANES, the names of the Senator from Colorado [Mr. BROWN], the Senator from Virginia [Mr. WARNER], the Senator from Vermont [Mr. JEFFORDS], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of S. 239, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia.

S. 250

At the request of Mr. FORD, the names of the Senator from Nebraska [Mr. EXON], the Senator from Maine [Mr. MITCHELL], the Senator from Ohio [Mr. GLENN], the Senator from South Dakota [Mr. DASCHLE], the Senator from North Dakota [Mr. CONRAD], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 250, a bill to establish national voter registration procedures for Federal elections, and for other purposes.

S. 256

At the request of Mr. DASCHLE, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 256, a bill to clarify eligibility under chapter 106 of title 10, United States Code, for educational assistance for members of the Selected Reserve.

S. 284

At the request of Mr. BRADLEY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 284, a bill to amend the Internal Revenue Code of 1986 with respect to the tax treatment of payments under life insurance contracts for terminally ill individuals.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 539

At the request of Mr. INOUYE, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 539, a bill to amend title 23, United States Code, relating to motor carrier transportation.

S. 567

At the request of Mr. SANFORD, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 640

At the request of Mr. KASTEN, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 640, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 649

At the request of Mr. BREAUX, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 649, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury tax on boats.

S. 741

At the request of Mr. WIRTH, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 741, a bill to promote cost effective energy efficiency improvements in all sectors of the economy, promote the use of natural gas and encourage increased energy production, thereby reducing the Nation's dependence on imported oil and enhancing the Nation's environmental quality and economic competitiveness.

S. 747

At the request of Mr. PRYOR, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 775

At the request of Mr. CRANSTON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 775, a bill to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

S. 781

At the request of Mr. SARBANES, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 781, a bill to authorize the Indian-American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 847

At the request of Mr. BURNS, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 847, a bill to limit spending increases for fiscal years 1992 through 1995 to 4 percent.

S. 866

At the request of Mr. BREAUX, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 869

At the request of Mr. CRANSTON, the names of the Senator from Colorado [Mr. WIRTH] and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 869, a bill to amend title 38, United States Code, to improve the availability of treatment of veterans for post-traumatic stress disorder; and for other purposes.

S. 882

At the request of Mr. SARBANES, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 882, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to mandate a 4-year grant cycle and to require adequate notice of the success or failure of grant applications.

S. 911

At the request of Mr. KENNEDY, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 911, a bill to amend the Public Health Service Act to expand the availability of comprehensive primary and preventative care for pregnant women, infants and children and to provide grants for home-visiting services for at-risk families, to amend the Head Start Act to provide Head Start services to all eligible children by the year 1994, and for other purposes.

S. 914

At the request of Mr. GLENN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 971

At the request of Mr. DECONCINI, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 971, a bill to promote the development of microenterprises in developing countries.

S. 1003

At the request of Mr. GLENN, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. AKAKA], and the Senator from Nevada [Mr. BRYAN] were added as cosponsors of S. 1003, a bill to provide for appointment by the President, by and with the advice and consent of the Senate, of certain officials of the Central Intelligence Agency.

S. 1253

At the request of Mr. SANFORD, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1253, a bill to protect the right to carry out a lawful hunt within a national forest.

S. 1305

At the request of Mr. DOMENICI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 1305, a bill to amend the Internal Revenue Code of 1986 to encourage consumer participation in energy efficiency, conservation and cost-effective demand-side management by excluding from gross income payments made by utilities to customers for purchasing qualified energy conservation appliances and for taking energy conservation measures, and for other purposes.

S. 1348

At the request of Mr. MURKOWSKI, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 1348, a bill to terminate certain economic sanctions against Vietnam after the Government of Vietnam authorizes access to its territory for the investigation of unresolved POW and MIA cases, and for other purposes.

SENATE JOINT RESOLUTION 72

At the request of Mr. SPECTER, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Connecticut [Mr. DODD], the Senator from Florida [Mr. GRAHAM], the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. SIMON], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Joint Resolution 72, a joint resolution to designate the week of September 15, 1991, through September 21, 1991, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 96

At the request of Mr. RIEGLE, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Vermont [Mr. JEFFORDS], and the Senator from New Mexico [Mr. DOMENICI] were added as cosponsors of Senate Joint Resolution 96, a joint resolution to designate November 19, 1991, as "National Philanthropy Day."

SENATE JOINT RESOLUTION 124

At the request of Mr. BRADLEY, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of Senate Joint Resolution 124, a joint resolution to designate "National Visiting Nurse Associations Week" for 1992.

SENATE JOINT RESOLUTION 143

At the request of Mr. RIEGLE, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of Senate Joint Resolution 143, a joint resolution to designate the week of August 4 through August 10, 1991, as the "International Parental Child Abduction Awareness Week."

SENATE JOINT RESOLUTION 145

At the request of Mr. CRANSTON, the names of the Senator from Idaho [Mr. SYMMS], the Senator from Iowa [Mr. GRASSLEY], the Senator from Michigan [Mr. LEVIN], the Senator from Ohio [Mr. METZENBAUM], the Senator from North Dakota [Mr. CONRAD], the Senator from North Carolina [Mr. SANFORD], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Wisconsin [Mr. KASTEN], the Senator from Montana [Mr. BURNS], and the Senator from Delaware [Mr. ROTH] were added as cosponsors of Senate Joint Resolution 145, a joint resolution designating the week beginning November 10, 1991, as "National Women Veterans Recognition Week."

SENATE CONCURRENT RESOLUTION 49—AUTHORIZING USE OF THE CAPITOL ROTUNDA

Mr. FORD (for himself and Mr. STEVENS) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Senate Committee on Rules and Administration is authorized to use the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush at 2:30 p.m. on June 27, 1991. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

SENATE RESOLUTION 141—RELATIVE TO THE REPORT OF THE NATIONAL ACADEMY OF SCIENCES ON GREENHOUSE WARMING

Mr. WIRTH (for himself, Mr. AKAKA, Mr. HARKIN, Mr. SIMON, Mr. BUMPERS, and Mr. SANFORD) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 141

Whereas, the National Academy of Sciences in its report, "Policy Implications of Greenhouse Warming," has found that—

(1) increases in atmospheric greenhouse gas concentrations will be followed by increases in average atmospheric temperature;

(2) we cannot predict how rapidly these changes will occur, how intense they will be, or what regional changes in temperature, precipitation, wind speed, and frost occurrence can be expected;

(3) if the projections within the reasonable range prove to be accurate, the stresses on this planet and its inhabitants would be serious;

(4) there are numerous cost-effective actions we as a nation could take that would constitute prudent insurance;

(5) the National Academy of Sciences has concluded that the United States could reduce its greenhouse gas emissions by 10 to 40 percent of their 1990 level at very low cost;

(6) despite the uncertainties, greenhouse warming is a potential threat sufficient to justify action now;

(7) the position of the United States as the current largest emitter of greenhouse gases means that action in the rest of the world will be effective only if the United States does its share.

Whereas, the National Academy of Sciences in its report, "Policy Implications of Greenhouse Warming," has recommended that the United States—

(1) continue the aggressive phaseout of CFC and other halocarbon emissions and the development of substitutes that minimize or eliminate greenhouse gas emissions;

(2) study in detail the "full social cost pricing" of energy, with a goal of gradually introducing such a system;

(3) reduce the emission of greenhouse gases during energy use and consumption by enhancing conservation and efficiency;

(4) make greenhouse warming a key factor in planning for our future energy supply mix. The United States should adopt a systems approach that considers the interactions among supply, conversion, end use, and external effects in improving the economics and performance of the overall energy system;

(5) reduce global deforestation;

(6) explore a moderate domestic reforestation program and support international reforestation efforts;

(7) maintain basic, applied, and experimental agricultural research to help farmers and commerce adapt to climate change and thus ensure ample food;

(8) make water supply more robust by coping with present variability by increasing efficiency of use through water markets and by better management of present systems of supply;

(9) plan margins of safety for long-lived structures to take into consideration possible climate change;

(10) move to slow present loss of biodiversity;

(11) continue and expand the collection and dissemination of data that provide an uninterrupted record of the evolving climate and of data that are (or will become) needed for the improvement and testing of climate models;

(12) improve weather forecasts, especially of extremes, for weeks and seasons to ease adaptation to climate change;

(13) continue to identify those mechanisms that play a significant role in the climatic response to changing concentrations of greenhouse gases. Develop and/or improve quantification of all such mechanisms at a scale appropriate for climate models;

(14) conduct field research on entire systems of species over many years to learn how CO_2 enrichment alters the mix of species and changes the total production or quality of biomass. Research should be accelerated to determine how greenhouse warming might affect biodiversity;

(15) strengthen research on social and economic aspects of global change and greenhouse warming;

(16) the United States should resume full participation in international programs to slow population growth and should contribute its share to their financial and other support; and,

(17) the United States should participate fully with officials at an appropriate level in international agreements and in programs to address greenhouse warming, including diplomatic conventions and research and development efforts: Now, therefore, be it

Resolved by the Senate that it is the sense of the Senate, That the United States Government implement the recommendations of the National Academy of Sciences in its report "Policy Implications of Greenhouse Warming."

Mr. WIRTH. Mr. President, I am again compelled today to take the floor of the U.S. Senate to address the pervasive and complex threat of global climate change. Today, I introduce the global warming response resolution which calls on the President and Congress to promptly implement the recently released recommendations of the National Academy of Sciences, in its report "Policy Implications of Greenhouse Warming." The significance of this report, Mr. President, is overwhelming.

The academy found that:

Increases in atmospheric greenhouse gas concentrations now occurring will be followed by increases in average atmospheric temperature.

While we cannot predict how rapidly these changes will occur or how intense they will be, if the projections within the reasonable range prove to be accurate, the stresses on our planet would be serious.

The United States could reduce its greenhouse gas emissions by 10 to 40 percent of their 1990 level at very low cost.

Most importantly, the National Academy of Sciences found that despite the uncertainties, greenhouse warming is a potential threat sufficient to justify action now.

The panel's recommendations consider what is known about the costs of action, Mr. President, and the risks of nonaction. Their conclusion: We have available cost-effective mitigation options whose implementation will yield a 10 to 40 percent reduction in greenhouse gas emissions at a net benefit, or at worst, very low cost to the economy. Many of these measures would also yield major energy security benefits. Here we have the opportunity to integrate good environmental policy with good energy policy.

I and others have long argued that the United States must take the lead in the effort to reduce international greenhouse gas emissions. This feeling is echoed by the academy and I quote from their report: "Greenhouse warming poses a potential threat sufficient to merit prompt responses." Moreover, the panel "reached the collective judgment that the United States should undertake not only several actions that satisfy multiple goals, but also several whose costs are justified mainly by countering or adapting to greenhouse warming." In short, the most serious minds of our scientific community and the world scientific community have concluded that prudent, cost-effective responses to the danger of global warming are necessary at this time. In the absence of U.S. direction, Europe has taken the lead. This abdication is an embarrassment to the proud legacy of U.S. leadership of the latter half of the 20th century.

We are rudely discovering the rise of a new superpower—nature. The blunt fact is that we are on a collision course with the planet. We have headed down a path that threatens our way of life as profoundly as living with atomic weapons. We have won the cold war but how can we beat nature? We can only destroy her, and with her ourselves. Peaceful coexistence is the answer again and this means recognizing our impact on the global environment and changing our ways accordingly.

The lack of leadership on this issue we have witnessed from a self-proclaimed "environmental President" is appalling. This administration's effort to cast one of the most serious questions of our time as a simplistic either/or proposition retards responsible debate of this question. As the academy report makes clear, we have a range of options that go beyond what has become a paralyzing paradox: believe it and do everything at great cost, or doubt it and do nothing. We must move beyond this shallow polarization. The academy points the way.

A few of the academy's recommendations include:

Continue the aggressive phaseout of CFC's;

Reduce the emission of greenhouse gases by enhancing energy conservation and efficiency. These practices will also benefit our efforts to achieve energy independence;

Consider greenhouse warming a key factor in planning for our future energy supply mix;

Reduce global deforestation and support domestic and international reforestation efforts;

Research agricultural practices to help farmers and commerce adapt to climate change thus ensuring ample food supply; and

Continue research on the record of evolving climate, the impact to species and biodiversity of CO_2 enrichment, and on the social and economic aspects of climate change; and

Most importantly, the United States should resume full participation in international programs to slow population growth and participate in international agreements and programs to address greenhouse warming.

Two years ago I joined Senator John Heinz in sponsoring the public policy study, "Project 88, Harnessing Market Forces To Protect Our Environment." This report took an in-depth look at how market-based incentives can be utilized to help solve our pressing environmental problems, as contrasted with traditional regulation. Recently, I released on behalf of John Heinz and myself a followup report: "Project 88—Round II, Incentives for Action: Designing Market-Based Environmental Strategies." This report, compiled with the help of over 100 experts from industry, academia, environmental organizations, and government agencies, takes a detailed look at environmental problems that defy traditional regulatory control methods such as global climate change. Project 88—Round II discusses least-cost policy approaches for confronting greenhouse warming, both domestically and internationally. These include a tradeable-permit program for greenhouse gases which would allow pollution reductions to be achieved at lower aggregate cost and other approaches designed to reduce the impact of climate change by enlisting the power of market forces. Project 88—Round II contains further examples of the range of cost-effective options available to reduce the threat of global warming.

Mr. President, this administration has isolated the United States outside the community of nations that has lined up to take on one of the greatest environmental challenges we face—global warming. While members of the "Carbon Club" including Great Britain, Germany, Canada, and Japan have set emissions reduction targets and deadlines, we hear only feeble lip service from an administration which chooses to ignore the deafening consensus of the world scientific community.

We have embarked on a huge and frightening experiment where our planet takes on the role of a giant laboratory. Can we rally get away with pumping millions of tons on greenhouse gases into our atmosphere year after year without effect? With consequences so serious, so pervasive, and so unpredictable, prudence demands that we act now to limit their likelihood, while we have time. I ask my colleagues today to join me in urging this administration to implement responsible cost-effective measures that will lessen the risk and potential impact of greenhouse warming.

SENATE RESOLUTION 142—RELATIVE TO THE DEATH OF A.B. "HAPPY" CHANDLER

Mr. FORD (for himself and Mr. McCONNELL) submitted the following resolution; which was considered and agreed to:

S. RES. 142

Whereas, the Honorable A.B. "Happy" Chandler served Kentucky with honor and distinction as State Senator, Lieutenant Governor, Governor, and United States Senator; and

Whereas, he served with distinction in the United States Senate in the years of 1939-45, and served on the Interoceanic Canals Committee, the Judiciary Committee, the Military Affairs Committee, the Mining Minerals Committee and the Privileges and Elections Committee; and

Whereas, his accomplishments on behalf of the Commonwealth of Kentucky are a tribute to the respect and admiration in which he is held by Kentuckians and Americans across this Nation.

Resolved, That the Senate expresses its profound regret and sorrow on the death of the late Senator A.B. "Happy" Chandler.

Resolved, That the Secretary transmit an enrolled copy of this resolution to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of A.B. "Happy" Chandler.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

THURMOND (AND BIDEN) AMENDMENT NO. 369

Mr. THURMOND (for himself and Mr. BIDEN) proposed an amendment to the bill (S. 1241) to control and reduce violent crime, as follows:

(1) Strike page 9, line 1 through page 48, line 18 and replace with the following:

TITLE II—DEATH PENALTY

SEC. 201. SHORT TITLE.

This title may be cited as the "Federal Death Penalty Act of 1991".

SEC. 202. CONSTITUTIONAL PROCEDURES FOR THE IMPOSITION OF THE SENTENCE OF DEATH.

(a) IN GENERAL.—Part II of title 18 of the United States Code is amended by adding the following new chapter after chapter 227:

"CHAPTER 228—DEATH SENTENCE

"Sec.
"3591. Sentence of death.
"3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified.
"3593. Special hearing to determine whether a sentence of death is justified.
"3594. Imposition of a sentence of death.
"3595. Review of a sentence of death.
"3596. Implementation of a sentence of death.
"3597. Use of State facilities.
"3598. Special provisions for Indian country.

"§ 3591. Sentence of death

"A defendant who has been found guilty of—

"(1) an offense described in section 794 or section 2381 of this title;

"(2) an offense described in section 1751(c) of this title, if the offense, as determined beyond a reasonable doubt at the hearing under section 3593, constitutes an attempt to kill the President of the United States and results in bodily injury to the President or comes dangerously close to causing the death of the President; or

"(3) any other offense for which a sentence of death is provided, if the defendant, as determined beyond a reasonable doubt at the hearing under section 3593—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury that resulted in the death of the victim;

"(C) intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victim died as a direct result of the act; or

"(D) intentionally and specifically engaged in an act, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victim died as a direct result of the act,

shall be sentenced to death if, after consideration of the factors set forth in section 3592 in the course of a hearing held pursuant to section 3593, it is determined that imposition of a sentence of death is justified, except that no person may be sentenced to death who was less than 17 years of age at the time of the offense.

"§3592. Mitigating and aggravating factors to be considered in determining whether a sentence of death is justified

"(a) MITIGATING FACTORS.—In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider any mitigating factor, including the following:

"(1) IMPAIRED CAPACITY.—The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) DURESS.—The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) MINOR PARTICIPATION.—The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participation was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) FORSEEABILITY.—The defendant could not reasonably have forseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) NO PRIOR CRIMINAL RECORD.—The defendant did not have a significant prior criminal history of other criminal conduct.

"(6) DISTURBANCE.—The defendant committed the offense under severe mental or emotional disturbance.

"(7) VICTIM'S CONSENT.—The victim consented to the criminal conduct that resulted in the victim's death.

"(8) OTHER FACTORS.—Other factors in the defendant's background or character that mitigate against imposition of the death sentence.

"(b) AGGRAVATING FACTORS FOR ESPIONAGE AND TREASON.—In determining whether a sentence of death is justified for an offense described in section 3591(1), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) PRIOR ESPIONAGE OR TREASON OFFENSE.—The defendant has previously been convicted of another offense involving espionage or treason for which a sentence of either life imprisonment or death was authorized by law.

"(2) GRAVE RISK TO NATIONAL SECURITY.—In the commission of the offense the defendant knowingly created a grave risk of substantial danger to the national security.

"(3) GRAVE RISK OF DEATH.—In the commission of the offense the defendant knowingly created a grave risk of death to another person.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

"(c) AGGRAVATING FACTORS FOR HOMICIDE AND FOR ATTEMPTED MURDER OF THE PRESIDENT.—In determining whether a sentence of death is justified for an offense described in section 3591 (2) or (6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist:

"(1) DEATH DURING COMMISSION OF ANOTHER CRIME.—The death, or injury resulting in death, occurred during the commission or attempted commission of, or during the immediate flight from the commission of, an offense under section 32 (destruction of aircraft or aircraft facilities), section 33 (destruction of motor vehicles or motor vehicle facilities), section 36 (violence at international airports), section 351 (violence against Members of Congress, Cabinet officers, or Supreme Court Justices), an offense under section 751 (prisoners in custody of institution or officer), section 794 (gathering or delivering defense information to aid foreign government), section 844(d) (transportation of explosives in interstate commerce for certain purposes), section 844(f) (destruction of Government property in interstate commerce by explosives), section 1118 (prisoners serving life term), section 1201 (kidnaping), section 844(i) (destruction of property affecting interstate commerce by explosives), section 1116 (killing or attempted killing of diplomats), section 1203 (hostage taking), section 1992 (wrecking trains), section 2280 (maritime violence), section 2281 (maritime platform violence), section 2332 (terrorist acts abroad against United States nationals), section 2339 (use of weapons of mass destruction), or section 2381 (treason) of this title, or section 902 (i) or (n) of the Federal Aviation Act of 1958 (49 U.S.C. 1472 (i) or (n)) (aircraft piracy).

(2) INVOLVEMENT OF FIREARM OR PREVIOUS CONVICTION OF VIOLENT FELONY INVOLVING FIREARM.—For any offense, other than an offense for which a sentence of death is sought on the basis of section 924(c) of this title, as amended by this Act, the defendant—

(A) during and in relation to the commission of the offense or in escaping or attempting to escape apprehension used or possessed a firearm as defined in section 921 of this title; or

(B) has previously been convicted of a Federal or State offense punishable by a term of imprisonment of more than one year, involving the use of attempted or threatened use of a firearm, as defined in section 921 of this title, against another person.

"(3) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(4) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(5) GRAVE RISK OF DEATH TO ADDITIONAL PERSONS.—The defendant, in the commission of the offense, or in escaping apprehension for the violation of the offense, knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"(6) HEINOUS, CRUEL, OR DEPRAVED MANNER OF COMMITTING OFFENSE.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"(7) PROCUREMENT OF OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(8) PECUNIARY GAIN.—The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(9) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation to cause the death of a person or commit an act of terrorism.

"(10) CONVICTION FOR TWO FELONY DRUG OFFENSES.—The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"(12) CONVICTION FOR SERIOUS FEDERAL DRUG OFFENSES.—The defendant had previously been convicted of violating title II or title III of the Controlled Substances Act for which a sentence of 5 or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(13) CONTINUING CRIMINAL ENTERPRISE INVOLVING DRUG SALES TO MINORS.—The defendant committed the offense in the course of engaging in a continuing criminal enterprise in violation of section 408(c) of the Controlled Substances Act and that violation involved the distribution of drugs to persons under the age of 21 in violation of section 418 of such Act.

"(14) HIGH PUBLIC OFFICIALS.—The defendant committed the offense against—

"(A) the President of the United States, the President-elect, the Vice President, the Vice-President-elect, the Vice-President-designate, or, if there is no Vice President, the officer next in order of succession to the office of the President of the United States, or any person who is acting as President under the Constitution and laws of the United States;

"(B) a chief of state, head of government, or the political equivalent, of a foreign nation;

"(C) a foreign official listed in section 116(b)(3)(A) of this title, if the official is in the United States on official business; or

"(D) a Federal public servant who is a judge, a law enforcement officer, or an employee of a United States penal or correctional institution—

"(i) while he is engaged in the performance of his official duties;

"(ii) because of the performance of his official duties; or

"(iii) because of his status as a public servant.

For purposes of this subparagraph, a 'law enforcement officer' is a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, or prosecution or adjudication of an offense, and includes those engaged in corrections, parole, or probation functions.

The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists."

"§3593. Special hearing to determine whether a sentence of death is justified

"(a) NOTICE BY THE GOVERNMENT.—If, in a case involving an offense described in section 3591, the attorney for the government believes that the circumstances of the offense are such that a sentence of death is justified under this chapter, the attorney shall, a reasonable time before the trial, or before acceptance by the court of a plea of guilty, or at such time thereafter as the court may permit upon a showing of good cause, sign and file with the court, and serve on the defendant, a notice—

"(1) stating that the government believes that the circumstances of the offense are such that, if the defendant is convicted, a sentence of death is justified under this chapter and that the government will seek the sentence of death; and

"(2) setting forth the aggravating factor or factors that the government, if the defendant is convicted, proposed to prove as justifying a sentence of death.

The factors for which notice is provided under this subsection shall include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"(b) HEARING BEFORE A COURT OR JURY.—If the attorney for the government has filed a notice as required under subsection (a) and the defendant is found guilty of or pleads guilty to an offense described in section 3591, the judge who presided at the trial or before whom the guilty plea was entered, or another judge if that judge is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(1) before the jury that determined the defendant's guilt;

"(2) before a jury impaneled for the purpose of the hearing if—

"(A) the defendant was convicted upon a plea of guilty;

"(B) the defendant was convicted after a trial before the court sitting without a jury;

"(C) the jury that determined the defendant's guilt was discharged for good cause; or

"(D) after initial imposition of a sentence under this section, reconsideration of the sentence under this section is necessary; or

"(3) before the court alone, upon the motion of the defendant and with the approval of the attorney for the government.

A jury impaneled pursuant to paragraph (2) shall consist of twelve members, unless, at any time before the conclusion of the hearing, the parties stipulate, with the approval of the court, that it shall consist of a lesser number.

"(c) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty or pleads guilty to an offense under section 3591, no presentence report shall be prepared. At the sentencing hearing, information may be presented as to any matter relevant to the sentence, including any mitigating or aggravating factor permitted or required to be considered under section 3592. Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial. The defendant may present any information relevant to a mitigating factor. The government may present any information relevant to an aggravating factor. The government and the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in the case of imposing a sentence of death. The government shall open the argument. The defendant shall be permitted to reply. The government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the government, and is not satisfied unless the existence of such a factor is established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless the existence of such a factor is established by a preponderance of the information.

"(d) RETURN OF SPECIAL FINDINGS.—The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factor or factors set forth in section 3592 found to exist and any other aggravating factor for which notice has been provided under subsection (a) found to exist. A finding with respect to a mitigating factor may be made by one or more members of the jury, and any member of the jury who finds the existence of a mitigating factor may consider such factor established for purposes of this section regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If no aggravating factor set forth in section 3592 is found to exist, the court shall impose a sentence other than death authorized by law.

"(e) RETURN OF A FINDING CONCERNING A SENTENCE OF DEATH.—If, in the case of—

"(1) an offense described in section 3591(1), an aggravating factor required to be considered under section 3592(b) is found to exist; or

"(2) an offense described in section 3591 (2) or (3), an aggravating factor required to be considered under section 3592(c) is found to exist, the jury, or if there is no jury, the court, shall consider whether all the aggravating factor or factors found to exist sufficiently outweigh all the mitigating factor or factors found to exist to justify a sentence of death, or, in the absence of a mitigating factor, whether the aggravating factor or factors alone are sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend whether a sentence of death shall be imposed rather than a lesser sentence. The jury or the court, if there is no jury, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence.

"(f) SPECIAL PRECAUTION TO ENSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, prior to the return of a finding under subsection (e), shall instruct the jury that, in considering whether a sentence of death is justified, it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or of any victim and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or of any victim may be. The jury, upon return of a finding under subsection (e), shall also return to the court a certificate, signed by each juror, that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or any victim was not involved in reaching his or her individual decision and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant or any victim may be.

"§3594. Imposition of a sentence of death

"Upon a finding under section 3593(e) that a sentence of death is justified, the court shall sentence the defendant to death. Otherwise, the court shall impose any sentence other than death that is authorized by law. Notwithstanding any other provision of law, if the maximum term of imprisonment for the offense is life imprisonment, the court may impose a sentence of life imprisonment without parole.

"§3595. Review of a sentence of death

"(a) APPEAL.—In a case in which a sentence of death is imposed, the sentence shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time specified for the filing of a notice of appeal. An appeal under this section may be consolidated with an appeal of the judgment of conviction and shall have priority over all other cases.

"(b) REVIEW.—The court of appeals shall review the entire record in the case, including—

"(1) the evidence submitted during the trial;

"(2) the information submitted during the sentencing hearing;

"(3) the procedures employed in the sentencing hearing; and

"(4) the special findings returned under section 3593(d).

"(c) DECISION AND DISPOSITION.—

"(1) The court of appeals shall address all substantive and procedural issues raised on the appeal of a sentence of death, and shall consider whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor and whether the evidence supports the special finding of the existence of an aggravating factor required to be considered under section 3592.

"(2) Whenever the court of appeals finds that—

"(A) the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary factor;

"(B) the admissible evidence and information adduced does not support the special finding of the existence of the required aggravating factor; or

"(C) the proceedings involved any other legal error requiring reversal of the sentence that was properly preserved for and raised on appeal,

the court shall remand the case for reconsideration under section 3593 or imposition of a sentence other than death.

"(3) The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"§3596. Implementation of a sentence of death

"(a) IN GENERAL.—A person who has been sentenced to death pursuant to the provisions of this chapter shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and for review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States marshal, who shall supervise implementation of the sentence in the manner prescribed by the law of the State in which the sentence is imposed. If the law of such State does not provide for implementation of a sentence of death, the court shall designate another State, the law of which does provide for the implementation of a sentence of death, and the sentence shall be implemented in the latter State in the manner prescribed by such law.

"(b) PREGNANT WOMAN.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"(c) MENTAL CAPACITY.—A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability; lacks the mental capacity to understand the death penalty and why it was imposed on that person.

"§ 3597. Use of State facilities

"(a) IN GENERAL.—A United States marshal charged with supervising the implementation of a sentence of death may use appropriate State or local facilities for the purpose, may use the services of an appropriate State or local official or of a person such an official employs for the purpose, and shall pay the costs thereof in an amount approved by the Attorney General.

"(b) EXCUSE OF AN EMPLOYEE ON MORAL OR RELIGIOUS GROUNDS.—No employee of any State department of corrections, the Federal Bureau of Prisons, or the United States Marshals Service, and no employee providing services to that department, bureau, or service under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis of part II of title 18, United States Code, is amended by adding the following new item after the item relating to chapter 227:

"228. Death sentence .... 3591".

SEC. 203. SPECIFIC OFFENSES FOR WHICH DEATH PENALTY IS AUTHORIZED.

(a) CONFORMING CHANGES IN TITLE 18.—Title 18, United States Code, is amended as follows:

(1) AIRCRAFTS AND MOTOR VEHICLES.—Section 34 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(2) ESPIONAGE.—Section 794(a) of title 18, United States Code, is amended by striking the period at the end of the section and inserting ", except that the sentence of death shall not be imposed unless the jury or, if there is no jury, the court, further finds that the offense directly concerned nuclear weaponry, military spacecraft or satellites, early warning systems, or other means of defense or retaliation against large-scale attack; war plans; communications intelligence or cryptographic information; or any other major weapons system or major element of defense strategy.".

(3) EXPLOSIVE MATERIALS.—(A) Section 844(d) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(B) Section 844(f) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(C) Section 844(i) of title 18, United States Code, is amended by striking "as provided in section 34 of this title".

(6) MURDER.—(A) The second undesignated paragraph of section 1111(b) of title 18, United States Code, is amended to read as follows:

"Whoever is guilty of murder in the first degree shall be punished by death or by imprisonment for life;".

(B) Section 1116(a) of title 18, United States Code, is amended by striking "any such person who is found guilty of murder in the first degree shall be sentenced to imprisonment for life, and".

(7) KIDNAPING.—Section 1201(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(8) NONMAILABLE INJURIOUS ARTICLES.—The last paragraph of section 1716 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the paragraph.

(9) PRESIDENTIAL ASSASSINATIONS.—Subsection (c) of section 1751 of title 18, United States Code, is amended to read as follows:

"(c) Whoever attempts to kill or kidnap any individual designated in subsection (a) of this section, if the conduct constitutes an attempt to kill the President of the United States and results in bodily injury to the President or otherwise comes dangerously close to causing the death of the President, shall be punished—

"(1) by imprisonment for any term of years or for life; or

"(2) by death or imprisonment for any term of years or for life.".

(10) WRECKING TRAINS.—The second to the last undesignated paragraph of section 1992 of title 18, United States Code, is amended by striking the comma after "imprisonment for life" and inserting a period and striking the remainder of the section.

(11) BANK ROBBERY.—Section 2113(c) of title 18, United States Code, is amended by striking "or punished by death if the verdict of the jury shall so direct" and inserting "or if death results shall be punished by death or life imprisonment".

(12) HOSTAGE TAKING.—Section 1203(a) of title 18, United States Code, is amended by inserting after "or for life" the following: "and, if the death of any person results, shall be punished by death or life imprisonment".

(13) RACKETEERING.—(A) Section 1958 of title 18, United States Code, is amended by striking "and if death results, shall be subject to imprisonment for any term of years or for life, or shall be fined not more than $50,000, or both" and inserting "and if death results, shall be punished by death or life imprisonment, or shall be fined not more than $250,000, or both".

(B) Section 1959(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) for murder, by death or life imprisonment, or a fine of not more than $250,000, or both; and for kidnapping, by imprisonment for any term of years or for life, or a fine of not more than $250,000, or both;".

(14) GENOCIDE.—Section 1091(b)(1) of title 18 United States Code, is amended by striking "a fine of not more than $1,000,000 or imprisonment for life," and inserting ", where death results, by death or imprisonment for life and a fine of not more than $1,000,000, or both;".

(b) CONFORMING AMENDMENT TO FEDERAL AVIATION ACT OF 1954.—Section 903 of the Federal Aviation Act of 1958 (49 U.S.C. 1473) is amended by striking subsection (c).

SEC. 204. APPLICABILITY TO UNIFORM CODE OF MILITARY JUSTICE.

The provisions of chapter 228 of title 18, United States Code, as added by this title, shall not apply to prosecutions under the Uniform Code of Military Justice (10 U.S.C. 801).

SEC. 205. DEATH PENALTY FOR MURDER BY A FEDERAL PRISONER.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1118. Murder by a Federal prisoner

"(a) OFFENSE.—Whoever, while confined in a Federal correctional institution under a sentence for a term of life imprisonment, commits the murder of another shall be punished by death or by life imprisonment.

"(b) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Federal correctional institution' means any Federal prison, Federal correctional facility, Federal community program center, or Federal halfway house;

"(2) the term 'term of life imprisonment' means a sentence for the term of natural life, a sentence commuted to natural life, an indeterminate term of a minimum of at least fifteen years and a maximum of life, or an unexecuted sentence of death; and

"(3) the term 'murder' means a first degree or second degree murder as defined by section 1111 of this title.".

(b) AMENDMENT OF CHAPTER ANALYSIS.—The chapter analysis for chapter 51 of title 18, United States Code, is amended by adding at the end thereof the following:

"1118. Murder by a Federal prisoner.".

SEC. 206. DEATH PENALTY FOR CIVIL RIGHTS MURDERS.

(a) CONSPIRACY AGAINST RIGHTS.—Section 241 of title 18, United States Code, is amended by striking out the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(b) DEPRIVATION OF RIGHTS UNDER COLOR OF LAW.—Section 242 of title 18, United States Code, is amended by striking out the period at the end of the last sentence and inserting ", or may be sentenced to death.".

(c) FEDERALLY PROTECTED ACTIVITIES.—Section 245(b) of title 18, United States Code, is amended in the matter following paragraph (5) by inserting ", or may be sentenced to death" after "or for life".

(d) DAMAGE TO RELIGIOUS PROPERTY; OBSTRUCTION OF THE FREE EXERCISE OF RELIGIOUS RIGHTS.—Section 247(c)(1) of title 18, United States Code, is amended by inserting ", or may be sentenced to death" after "or both".

TITLE III—DEATH PENALTY FOR MURDER OF LAW ENFORCEMENT OFFICER ACT

SEC. 301. DEATH PENALTY FOR THE MURDER OF FEDERAL LAW ENFORCEMENT OFFICIALS.

Section 1114(a) of title 18, United States Code, is amended by striking "punished as provided under sections 1111 and 1112 of this title," and inserting "punished, in the case of murder, by a sentence of death or life imprisonment as provided under section 1111 of this title, or, in the case of manslaughter, a sentence as provided under section 1112 of this title,".

SEC. 302. DEATH PENALTY FOR THE MURDER OF STATE OFFICIALS ASSISTING FEDERAL LAW ENFORCEMENT OFFICIALS.

(a) IN GENERAL.—Chapter 51 of title 18, United States Code, as amended by section 205 of this Act, is amended by adding at the end the following:

§1119. Killing persons aiding Federal investigations

"Whoever intentionally kills—

"(1) a State or local official, law enforcement officer, or other officer or employee while working with Federal law enforcement officials in furtherance of a Federal criminal investigation—

"(A) while the victim is engaged in the performance of official duties;

"(B) because of the performance of the victim's official duties; or

"(C) because of the victim's status as a public servant; or

"(2) any civilian or witness assisting a Federal criminal investigation, while that assistance is being rendered and because of it, shall be sentenced according to the terms of section 1111 of title 18, United States Code, including by sentence of death or by imprisonment for life.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end of the following:

"1119. Killing persons aiding Federal investigations.".

TITLE IV—DEATH PENALTY FOR DRUG CRIMINALS ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Death Penalty for Drug Kingpins Act of 1991".

SEC. 402. DEATH PENALTY FOR DRUG KINGPINS.

Title 18, chapter 228, section 3591 of the United States Code (as created by this Act), is further amended by—

(a) striking the "(3)" before the words "any other offense for which" and inserting a "(6)"; and

(b) inserting after the words "death of the President; or", the following:

"(3) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under the conditions described in subsection (b) of that section;

"(4) an offense referred to in section 408(c)(1) of the Controlled Substances Act (21 U.S.C. 848(c)(1)), committed as part of a continuing criminal enterprise offense under that section, where the defendant is a principal administrator, organizer or leader of such an enterprise, and the defendant, in order to obstruct the investigation or prosecution of the enterprise or an offense involved in the enterprise, attempts to kill or knowingly directs, advises, authorizes, or assists another to attempt to kill any public officer, juror, witness, or member of the family or household of such a person;

"(5) an offense constituting a felony violation of the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.), where the defendant, acting with a state of mind described in subsection (6), engages in such a violation, and the death of another person results in the course of the violation or from the use of the controlled substance involved in the violation; or

(c) At the end of section 3592, title 18, United States Code, add the following:

"(d) AGGRAVATING FACTORS FOR DRUG OFFENSE DEATH PENALTY.—In determining whether a sentence of death is justified for an offense described in section 3591 (3)–(6), the jury, or if there is no jury, the court, shall consider each of the following aggravating factors and determine which, if any, exist—

"(1) PREVIOUS CONVICTION OF OFFENSE FOR WHICH A SENTENCE OF DEATH OR LIFE IMPRISONMENT WAS AUTHORIZED.—The defendant has previously been convicted of another Federal or State offense resulting in the death of a person, for which a sentence of life imprisonment or death was authorized by statute.

"(2) PREVIOUS CONVICTION OF OTHER SERIOUS OFFENSES.—The defendant has previously been convicted of two or more Federal or State offenses, each punishable by a term of imprisonment of more than one year, committed on different occasions, involving the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) or the infliction of, or attempted infliction of, serious bodily injury or death upon another person.

"(3) PREVIOUS SERIOUS DRUG FELONY CONVICTION.—The defendant has previously been convicted of another Federal or State offense involving the manufacture, distribution, importation, or possession of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which a sentence of five or more years of imprisonment was authorized by statute.

"(4) USE OF FIREARM.—In committing the offense, or in furtherance of a continuing criminal enterprise of which the offense was a part, the defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm, as defined in section 921 of this title, to threaten, intimidate, assault, or injure a person.

"(5) DISTRIBUTION TO PERSONS UNDER TWENTY-ONE.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 418 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(6) DISTRIBUTION NEAR SCHOOLS.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 419 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(7) USING MINORS IN TRAFFICKING.—The offense, or a continuing criminal enterprise of which the offense was a part, involved conduct proscribed by section 420 of the Controlled Substances Act which was committed directly by the defendant or for which the defendant would be liable under section 2 of this title.

"(8) LETHAL ADULTERANT.—The offense involved the importation, manufacture, or distribution of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), mixed with a potentially lethal adulterant, and the defendant was aware of the presence of the adulterant. The jury, or if there is no jury, the court, may consider whether any other aggravating factor exists.

INOUYE AMENDMENT NO. 370

Mr. INOUYE proposed an amendment to the bill S. 1241, supra, as follows:

At the end of title II, insert the following:

"Notwithstanding sections 1152 and 1153, no person subject to the criminal jurisdiction of an Indian tribal government shall be subject to a capital sentence under this chapter for any offense the Federal jurisdiction for which is predicated solely on Indian country as defined in section 1151 of this title, and which has occurred within the boundaries of such Indian country, unless the governing body of the tribe has elected that this chapter have effect over land and persons subject to its criminal jurisdiction."

BIDEN AMENDMENT NO. 371

Mr. BIDEN proposed an amendment to amendment No. 369 proposed by Mr. THURMOND to the bill S. 1241, supra, as follows:

Title IV is amended by adding at the end, a new section 403, as follows:

"SEC. 403. APPLICATION ONLY FOR INTENTIONAL KILLINGS.

"Notwithstanding the penalties designated in section 402 of this Act, the maximum penalty for the offenses enumerated in section 402 shall be life in prison, without release, unless the offense involves an intentional killing as defined by section 1111 of title 18, United States Code. If the offense involves such a killing, the maximum penalty shall be death."

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS

HARKIN (AND OTHERS) AMENDMENT NO. 372

Mr. KERREY (for Mr. HARKIN (for himself), Mr. DURENBERGER, and Mr. JEFFORDS) proposed an amendment to the bill (S. 1106) to amend the Individuals With Disabilities Education Act to strengthen such act, and for other purposes, as follows:

On page 42, between lines 4 and 5, insert the following:

"SEC. 23. ADMINISTRATIVE COSTS.

"Subclause II of section 611(c)(2)(A)(i) of the Act (20 U.S.C. 1411(c)(2)(A)(i)(II)) is amended by striking "$350,000" and inserting "$450,000".

On page 42, line 5, strike "23" and insert "24".

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee has changed the time of the hearing on paperwork reduction to 9 a.m., instead of 9:30 a.m., Tuesday, June 25, 1991, in room 428A of the Russell Senate Office Building. For further information, please call William Montalto or Susan Eckerly, at 224-5175.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON IMMIGRATION AND REFUGEE AFFAIRS

Mr. KERREY. Mr. President, I ask unanimous consent that the Subcommittee on Immigration and Refugee Affairs, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Monday, June 24, 1991, at 2:30 p.m., to hold a hearing on the Immigration and Naturalization Service and immigration issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

GEORGIA'S IRON FIST OF INDEPENDENCE

• Mr. SIMON. Mr. President, we follow with great interest, and frequently a lack of understanding, the events that are unfolding in the Soviet Union.

Our hope is that a genuine, solid democracy can emerge.

Obviously, we want to see the three Baltic States independent or, at the very least, part of a very loose federation with the Soviet Union, just as Canada is in a loose federation with the British Empire. But for all practical purposes is independent.

We also have fears about what may take place.

Georgia is an example of our fears.

Their new President is Zviad Gamsakhurdia. It was good to see the first provincial election take place in Georgia, the election of someone who has been a militant anti-Communist, and spent years in jail. But we follow what has happened since the election with some apprehension.

We do not want to see a Communist dictatorship supplanted by some other form of dictatorship.

I hope that President Gamsakhurdia will recognize his place in history. It can be a shining one, or it can be one that is anything but shining. If he leads Georgia in the direction of intolerance and dictatorship, the people of Georgia will suffer, and his chance to be revered in generations to come will disappear also.

Mr. President, I ask to have printed in the CONGRESSIONAL RECORD the article from the Economist of June 1, 1991, that describes the situation in Georgia.

The article follows:

GEORGIA'S IRON FIST OF INDEPENDENCE

It should be a cause for pure rejoicing: the first president of any of the Soviet republics to be elected by popular vote. But in the case of Zviad Gamsakhurdia, just elected president of the southern republic of Georgia, joy is not unalloyed.

Mr. Gamsakhurdia has all the credentials to be a Soviet Vaclav Havel. A brave and uncompromising anti-communist, he spent years in jail. He is chairman of the Georgian branch of Helsinki Watch, which is committed to the defence of human rights. His coalition of nationalist parties, called Round Table/Free Georgia, easily won elections to the local parliament last October, promising to march Georgia out of the Soviet Union. Seven months later he remains vastly popular: he was elected president on May 26th with 87% of votes cast. The liberal intellectuals' candidate, an economist, came second. He got 6%.

Yet Mr. Gamsakhurdia's behaviour in power has given rise to fears that dicatorship is rising in Georgia along with nationalism. Rivals are denounced as traitors. The local press is given over to singing the praises of his government. Anyone insufficiently enthusiastic in his support—like the respected former leader of the Rustaveli Society (a group associated with his Round Table)—finds himself removed from office or, in other cases, in jail. Mr. Gamsakhurdia has even suggested that citizenship, and therefore property rights, in a future independent Georgia should be restricted to those who can show that their ancestors lived in the area before 1801.

Most disturbing is his treatment of Georgia's minorities. Before his election Mr. Gamsakhurdia said that he would preserve the separate legal and administrative regimes enjoyed by the three main minority groups: South Ossetia, Adjaria and Abkhazia. One month after his coalition swept topower, Mr. Gamsakhurdia abolished South Ossetia's legal autonomy (admittedly provoked by the South Ossetians' own declaration of secession from Georgia). The result was virtual civil war and dozens of deaths. Unabashed. Mr. Gamsakhurdia threatened to abolish Adjaria's autonomy as well "if this is supported by the population."

Non-Georgians account for one-third of the republic's population. Militant chauvinism, combined with ferocious attacks on rival politicians, do not bode well for settling disputes. Mr. Gamsakhurdia is fond of saying that the Kremlin is the main threat to Georgia. Dictatorship could yet supplant it.•

CENSUS UNDERCOUNT

• Mr. SASSER. Mr. President, on March 6, 1991, Senators MOYNIHAN, BENTSEN, RIEGLE, BRADLEY, KENNEDY, DIXON, SARBANES, KERRY, SIMON, LIEBERMAN, BUMPERS, DECONCINI, LAUTENBERG, MIKULSKI, BINGAMAN, BURDICK, DODD, WIRTH, PRYOR, GORE, and CRANSTON joined me in sending a letter to the Secretary of Commerce urging him to statistically adjust the 1990 Census for undercounts. I ask unanimous consent that a copy of our letter be included in the RECORD. In addition, Senators AKAKA, LEVIN, SPECTER, HEFLIN, INOUYE, SHELBY, NUNN, and ROCKEFELLER have also sponsored Senate Joint Resolution 21, calling for a statistical adjustment of the 1990 census for undercounts.

The stakes are exceedingly high. Billions of dollars of critical, but limited Federal funding will be distributed to these localities based, in large part, on the results of the 1990 census. Ever since Census Day 1990, there has been widespread concern among local officials nationwide that the census failed to count millions of Americans. Now, over 1 year after the much heralded Census Day, it appears that local claims of an undercount have fallen upon deaf ears within the administration.

Mr. President, local officials have done their part. Many have gone the extra mile launching independent census efforts to improve the accuracy of the count. I believe that we in the Congress have also done our part. Congress has made every reasonable action to ensure that the Census Bureau had the resources to undertake what has become the largest census effort in history. It is time for the Secretary of Commerce to do his part. It is time for the Department of Commerce to arrive at the only reasonable decision that can be reached, namely, that the 1990 census must be statistically adjusted for undercounts.

Just recently, Mr. President, I received a letter from the city of Fayetteville, TN, about the 1990 census process. I ask that the letter be printed in the RECORD. This letter is typical of the frustrations felt by local governments nationwide. Fayetteville made every effort to work with and cooperate fully with the Census Bureau to achieve a fair and accurate 1990 census count. The city of Fayetteville even spent $10,810.11 of its own funds conducting a special census to ensure the quality and accuracy of the count. As early as January 2, 1991, the mayor of Fayetteville contacted the Census Bureau in an effort to clear up continued discrepancies in the Fayetteville population count. Five months later, the city of Fayetteville still has not received a response from the Census Bureau.

In the interim, a great deal has occurred. The Census Bureau has released the results of its postenumeration survey. The PES results confirmed what many in the Congress and local officials had been saying all along. The Census Bureau admitted that they may have missed as many as 6 million Americans in the 1990 census count. On June 13, 1991, the Census Bureau refined the results of the postenumeration survey announcing that approximately 5.3 million Americans were not counted in the original census. The Census Bureau has confirmed that between 5 and 6 million Americans were missed in the count. I believe that it is time to correct that error.

Mr. President, the July 15, 1991, adjustment decision date is fast approaching. I do not believe that the Secretary needs to wait any longer to announce the clear and overwhelming need for a statistical adjustment to the 1990 census count.

Ten years ago, the Census Bureau declined to adjust the census. One obstacle to adjustment was said to be a lack of agreement within the statistical community regarding the methodology for adjustment. I would think that in 10 years the Census Bureau would have actively and aggressively obtained the necessary consensus in the event that an adjustment would be needed in the 1990 census process. Indeed, in the 1990 census, the need for a statistical adjustment is greater. In the 10 years that have passed, the overall undercount rate is greater than in 1980, and the 1990 census is the first in history that is less accurate than the one before.

Mr. President, it is clear that our Nation has grown since the 1980 census count. Given the tremendous amount of time, effort, and money that has been put into the 1990 census process, it is my sincere hope that the Census Bureau and the Department of Commerce will not rely on the impediments of the past as the basis for a flawed 1990 census count.

Mr. President, I mentioned at the outset that 21 Senators and I wrote to the Secretary of Commerce on March 6, 1991, urging a statistical adjustment of the 1990 census for undercounts. Three months later, the Secretary has yet to reply to our letter.

I believe that we have waited long enough. I believe that the city of Fayetteville, TN, and localities all across this Nation have waited long enough. Americans deserve a fair and accurate 1990 census count. It is high time for an affirmative response on the question of a statistical adjustment of the 1990 census. The question remains, however, whether the Census Bureau and the Department of Commerce, in this decade, will put aside the politics of enumeration to ensure a fair and accurate 1990 census count.

The letter follows:

THE CITY OF FAYETTEVILLE,
Fayetteville, TN, May 16, 1991.

Senator JIM SASSER,
Russell Senate Office Building
Washington, DC.

DEAR SENATOR SASSER: I'm sure you have received a mountain of mail from across the State as well as Fayetteville concerning the controversy surrounding the 1990 census.

In March of 1991 Fayetteville conducted a special census. This past week the figures were checked and certified by the State of Tennessee Local Planning Division.

I thought you might be interested in the comparison between the special census and the Census Bureau.

	Census Bureau	Special census	Difference	
			Number	Percent
Population	[1]6,921	7,338	417	6
Total residences	3,232	3,347	115	
Vacancies	260	203	57	

[1] After appeal.

Because State shared funds are based on population, census counts are very important to us as well as others throughout the State and Nation.

The City of Fayetteville spent $10,810.11 conducting the census.

This expenditure and most of the controversy could have been eliminated if the Census Bureau would communicate with the local governments.

All local governments had to designate a contact person, however, the person turned out to be a mail distribution only.

As an example, Mayor John Underwood sent a letter to the Census Bureau on January 2, 1991, requesting identification of the special population, because we could not locate the actual number in these places with the census blocks.

As of this date we still don't have an answer. We do know after checking with these special places, an error of 236 people or 231 percent was committed by the Census Bureau.

During the appeals process, direct contact and communication should have occurred between the Census Bureau and our local government.

Is it possible a lesson could be learned and a division of the Federal Government communicate rather than alienate its citizens?

The City of Fayetteville Board of Mayor and Aldermen appreciates the help you have given in trying to deal with the Census Bureau.

Yours truly,

LYNN WAMPLER,
City Administrator.•

COMBATING LONELINESS

• Mr. SIMON. Mr. President, recently, in the publication Zgoda, Ed Moskal, the national president of the Polish National Alliance, had a column titled, "Combating Loneliness."

It is a topic to which we pay far too little attention.

I remember years ago when I was publishing a weekly newspaper in Troy, IL, that an older woman came in and told me she was suffering from the worst disease in the world. I asked what she meant and she said loneliness.

Ed Moskal has taken time in his column, not to write about the usual business affairs of his national organization, but has called on us to remember those who are too easily forgotten. He says:

> As the weather improves and people begin to come out of their more isolated winter existence and to participate in more outdoor events, the sad fate of our lonely and shut-in neighbors must become even more apparent to those whom the world seems to have forgotten or even rejected. Each of us can effectively combat this widespread yet underreported social ill by taking some precious time from our busy lives to think about neighbors whom we have not seen for a while, about friends who have not been in church or at the lodge recently, or even about distant relatives with whom we have lost touch.

If each of us takes just a little extra time to remember those who are less mobile than we are, and who may be lonely, it can make a world of difference in their lives.

I ask that the column by Edward J. Moskal be printed in the CONGRESSIONAL RECORD at this point.

The article follows:

[From Zgoda, June 1, 1991]

COMBATING LONELINESS

(By Edward J. Moskal)

They are almost invisible to the world, or at least to the vast majority of people who lead busy and active lives. Surrounded by family and friends and co-workers week after week, we tend to forget that—hidden in the bowels of cavernous urban apartment buildings and sterile nursing facilities—tens of thousands of individuals in each major city idle away the time by watching television or, even more depressingly, by just remembering better days which have passed them by. Our nation, indeed is likely filled with literally hundreds of thousands of the shut-in, the elderly, and the seriously ill who have no one to care for them.

The fraternal movement in the United States, in which our Polish National Alliance continues to play an integral role, was born in large part of the desire by recent immigrants to a new land with many new challenges to comfort and care for each other as well as to cover the practical expenses of families who had suffered the tragic loss of a breadwinner. Support and assistance—on such grand uniting principles is fraternalism built, and in the service of such values must fraternalism continue to function in the generations ahead.

Our world may have become a lot more sophisticated over the past half century, and an attandant individual alienation and societal cynicism about the motives of our fellow citizens are well documented in the annals of sociologists and of other scholars of the social sciences. But despite the fact that most of us have a lot more on our minds these days than even before, we must remember that at the core, all human beings continue to crave attention, support, love and understanding by other human beings.

As the weather improves and people begin to come out of their more isolated winter existence and to participate in more outdoor events, the sad fate of our lonely and shut-in neighbors must become even more apparent to those whom the world seems to have forgotten or even rejected.

Each of us can effectively combat this widespread yet underreported social ill by taking some precious time from our busy lives to think about neighbors whom we have not seen for a while, about friends who have not been in church or at the lodge recently, or even about distant relatives with whom we have lost touch. The elderly and the home-bound face special and often complicated problems which are often partially or wholly reversible only after another person takes a legitimate interest in them, and it is our duty as caring people who are proud to be a part of a historic movement like the Polish National Alliance to take an interest in a Polish American whose golden years may be over but who still can contribute much. Whether in listening to problems, assisting with practical chores, or encouraging renewed activity in the community in order to dissipate the loneliness of the depressed, each of us can make a world of difference with perhaps just a few minutes of time each week.

Our fraternal traditions of faith, family and culture should inspire us to regularly contribute our talents, time and resources for the good of our community and nation. Taking time to help those who have no one else to whom they can turn can be as rewarding to those who render assistance as to those lives are brightened by a smile and a deed well done. Take the time to care—the rewards are overlasting.•

NATIONAL GROCERS WEEK

• Mr. BOREN. Mr. President, the week of June 23 is National Grocers Week, a time to recognize the entrepreneurial contribution America's retail and wholesale grocers make to keep our economy viable, while providing friendly, hometown service to their customers.

These representatives of our great food distribution industry will be in Washington, DC, during this week, making their concerns and contributions known. "Grocers Care" is the theme of the conference, recognizing their support of "A Healthy America" with involvement in charitable organizations such as the American Cancer and Heart Associations; "A Clean America" with contributions to recycling and the environment; and "A Proud America" with Grocers' civic and patriotic endeavors.

I am proud to recognize and include in today's RECORD the activities of Oklahoma's members:

Joan Salisbury of Bud's Grocery in Vici sponsors the town baseball team, donates sacks and supplies to area schools to promote environmental awareness during Earth Day, and helped organize, advertise, and support the town's fundraiser to purchase "jaws-of-life" for the rescue squad.

Marty Monjay of Monjay's IGA in Sulphur contributes to an educational fund in conjunction with the Foundation for Excellence, making cash donations based on grocery sales receipts; supports a work-study program to train the deaf in retail, provided two bullet-proof vests to the police department; cosponsors county economic development director position; supported the Armed Forces through a Desert Storm and Welcome Home project; and supports community health clinics.

The following individuals are active supporters of their communities and will be recognized for Grocers Care activities in Washington, DC, during the week of June 23: R. Scott Petty of Petty's Fine Foods in Tulsa; Bill Johnson of Johnson Foods in Muskogee, Maurice Box of Box Food Stores in Tahlequah, R.C. Pruett of Pruett's Food in Antlers, John Redwine II of John's IGA in Spiro, Harold Hale of Hale's Foods in El Reno, Steve Brown of Save-A-Stop in Oklahoma City, Scott Dixon of Bud's Food Stores in Tulsa, and Darold Anderson of Affiliated Food Stores in Tulsa.

The Oklahoma Grocers Association actively supports and encourages members' community service activities. Elden Roscher, executive director, is also participating in Grocers Care recognition activities in Washington, DC.

These individuals and their companies deserve our recognition and the support of investing ourselves in our communities, as is their example.•

BUDGET SCOREKEEPING REPORT

• **Mr. SASSER.** Mr. President, I hereby submit to the Senate the most recent budget scorekeeping report for fiscal year 1991, prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.4 billion in budget authority, and under the budget resolution by $0.4 billion in outlays. Current level is $1 million below the revenue target in 1991 and $6 million below the revenue target over the 5 years, 1991–95.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $326.6 billion, $0.4 billion below the maximum deficit amount for 1991 of $327.0 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 24, 1991.

Hon. JIM SASSER,
Chairman, Committeee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1991 and is current through June 21, 1991. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Budget Enforcement Act of 1990 (Title XIII of P.L. 101-508). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 17, 1991, there has been no action that affects the current level of spending and revenues.

Sincerely,
ROBERT D. REISCHAUER
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., AS OF JUNE 21, 1991

[In billions of dollars]

	Revised on-budget aggregates[1]	Current level[2]	Current level +/− aggregates
On-budget:			
Budget authority	1,189.2	1,188.8	−0.4
Outlays	1,132.4	1,132.0	−.4
Revenues			
1991	805.4	805.4	(3)
1991–95	4,690.3	4,690.3	(3)
Maximum deficit amount	327.0	326.6	−.4
Direct loan obligation	20.9	20.6	−.3
Guaranteed loan commitments	107.2	106.9	−.3
Debt subject to limit	4,145.0	3,404.9	−740.1
Off-budget:			
Social Security outlays:			
1991	234.2	234.2	
1991–95	1,284.4	1,284.4	
Social Security revenues:			
1991	303.1	303.1	
1991–95	1,736.3	1,736.3	

[1] The revised budget aggregates were made by the Senate Budget Committee staff in accordance with section 13112(f) of the Budget Enforcement Act of 1990 (Title XIII of Public Law 101–508).

[2] Current level represents the estimate and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. In accordance with section 606(d)(2) of the Budget Enforcement Act of 1990 (title XIII of Public Law 101–508) and in consultation with the Budget Committee, current level excludes $45.3 billion in budget authority and $34.6 billion in outlays for designated emergencies including Operation Desert Shield/Desert Storm; $0.1 billion in budget authority and $0.2 billion in outlays for debt forgiveness for Egypt and Poland; and $0.2 billion in budget authority and outlays for Internal Revenue Service funding above of June 1990 baseline level. Current level outlays include a $1.1 billion in savings for the Bank Insurance Fund that the committee attributes to the Omnibus Budget Reconciliation Act (public law 101–508), and revenues include the Office of Management and Budget's estimate of $3.0 billion for the Internal Revenue Service provision in the Treasury-Postal Service appropriations bill (Public Law 101–509). The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50,000,000.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 1ST SESS., SENATE SUPPORTING DETAIL, FISCAL YEAR 1991 AS OF CLOSING OF BUSINESS JUNE 21, 1991

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			834,910
Permanent appropriations	725,105	633,016	
Other legislation	664,057	676,371	
Offsetting receipts	−210,616	−210,616	
Total enacted in previous sessions	1,178,546	1,098,770	834,910
II. Enacted this session:			
Extending IRS Deadline for Desert Storm Troops (H.R. 4, Public Law 102–2)			−1
Veterans' education, employment and training amendments (H.R. 180, Public Law 102–16)	2	2	
Dire emergency supplemental appropriations for 1991 (H.R. 1281, Public Law 102–27)	3,823	1,401	
Higher education technical amendments (H.R. 1285, Public Law 102–26)	3	3	
OMB domestic discretionary sequester	−2	−1	
Emergency supplemental for humanitarian assistance (H.R. 2251, Public Law 102–55)	(1)		
Total enacted this session	3,826	1,405	−1
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory adjustments required to conform with current law estimates in revised on-budget aggregates	−8,572	539	
VI. Economic and technical assumption used by Committee for budget enforcement act estimates	15,000	31,300	−29,500
On-budget current level	1,188,799	1,132,014	805,409
Revised on-budget aggregates	1,189,215	1,132,396	805,410
Amount remaining:			
Over budget resolution			
Under budget resolution	416	382	1

[1] Less than $500,000.

Note: Numbers may not add due to rounding.•

FOREIGN-BORN, TOO, FACE "GLASS CEILING" IN JOB PROMOTION

• **Mr. SIMON.** Mr. President, in March, the Washington Post printed an article by Frank Swoboda titled, "Foreign-born, Too, Face 'Glass Ceiling' in Job Promotion."

Somehow I missed that when it originally appeared, and I came across a reprint of it the other day.

It talks about an area of civil rights in our country that is a problem, though a largely unrecognized problem.

I am pleased that Commissioner Joy Cherian, of the Equal Employment Opportunity Commission, is speaking out.

I hope he continues to do that, and I hope there will be other journals in addition to the Washington Post that call attention to this problem.

I ask that the article be printed in the RECORD at this point.

The article follows:

FOREIGN-BORN, TOO, FACE "GLASS CEILING" IN JOB PROMOTION

(By Frank Swoboda)

As a first-generation American, Joy Cherian worries about job discrimination on the basis of national origin.

As a member of the Equal Employment Opportunity Commission, Cherian is in a position to do something about it.

Cherian, a native of India, talks about the "triple A's" when he talks about national origin discrimination in employment: "accent, ancestry and appearance."

And it's not just a problem for first-generation Americans, he said. "It affects not only immigrants but even third- and fourth-generation Americans," Cherian said.

"The issue is very serious. This is one of the areas where in the last 26 years after enactment of the Civil Rights Act there is still not enough focus," he said. "Women's groups are concerned about sexual harassment, the AARP [American Association of Retired Persons] is concerned about age discrimination, the NAACP and others talk about race discrimination. Who talks about national origin?"

Under federal law, it is illegal for an employer to discriminate against anyone because of birthplace, ancestry of culture. It also is illegal to require that employees speak only English at all times at work unless it is necessary for conducting business. And employers are prohibited from discriminating on the basis of an individual's accent.

Cherian said the EEOC is seeing an increase in the number of complaints concerning national origin. "We have a lot of cases," he said.

In fiscal 1987, there were 9,653 such conplaints filed with the agency, representing 8.8 percent of the EEOC caseload. Last year there were 11,688 complaints, representing 11.1 percent of EEOC cases.

Cherian's concern about such discrimination comes amid increasing reports of attacks on Arab Americans and their property as a result of the war in the Persian Gulf.

In New York, the American Civil Liberties Union has filed suit against Pan American World Airways Inc. for refusing to allow Arab Americans to fly during the early days of the war. In some cases, the airline also required American citizens of Arab ancestry to show their passports before they could fly.

It also comes at a time when Congress has changed the nation's immigration laws to open the gates for skilled workers in an effort to help U.S. corporations deal with a growing shortage, a move that could create a backlash among less-skilled American workers.

If you want to see the problems facing immigrants in the workplace, he said, you can start by looking at some areas of the federal government itself. "If you go to the National Institutes of Health," Cherian said, " you will see a lot of foreign-born scientists, and many do not go beyond the GS–14," about a middle-management level. He said the same applies to many private corporations. "You won't see many at the vice president or senior vice president level," he said.

These workers are prevented from rising to top management levels by the same "glass ceiling" blocking women and minorities, Cherian said.

Last year, the Labor Department announced a "glass ceiling initiative" for federal contractors—a universe that includes the entire Fortune 500—to determine why women and minorities reach a certain level in management and then seem to run up against an invisible barrier that keeps them out of the upper management levels. While the initiative doesn't specifically address national origin, whatever the government concludes in the study would apply to all types of discrimination.

In the study, the department's Office of Federal Contract Compliance Programs has been examining nine major corporations for nearly a year to try to determine whether women and minorities receive the same training and career advancement opportunities as the White males climbing the corporate ladder beside them. Results of that study are expected to be completed later this month.

Writing in the July issue of Labor Law Journal, Cherian cited several cases in which Asian immigrants were denied promotions because they had a foreign accent. In the article, Cherian told of two immigrants—one from Korea, the other from India—who were denied promotions in the federal government despite exemplary work records because supervisors were concerned the public would not like their accents. In both cases, the EEOC ordered the employees promoted.

"In spite of the fact that we glory in our tradition as a nation of immigrants, we tend to make it even harder for the new immigrants when we impose artificial linguistic barriers in the way of their becoming successful and productive Americans," he wrote.●

MORNING BUSINESS

Mr. KERREY. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELATIVE TO THE DEATH OF A.B. "HAPPY" CHANDLER

Mr. KERREY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 142, a resolution relative to the death of A.B. "Happy" Chandler submitted earlier today by Senators FORD and MCCONNELL.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 142) relative to the death of A.B. "Happy" Chandler, a former Senator from the Commonwealth of Kentucky.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. FORD. Mr. President, in the early morning hours of Saturday, June 14, the great Commonwealth of Kentucky, the U.S. Senate, and indeed the Nation lost a great friend, A.B. "Happy" Chandler, who died at 92 years of age.

Mr. President, Happy Chandler was born on July 14, 1889, in Corydon, KY. He graduated from Transylvania College in 1921, and went on to earn his law degree from the University of Kentucky. He opened his law practice in Versailles at the young age of 26. He served Kentucky as State senator, lieutenant governor, and two terms as Governor in 1935 and 1955.

In 1939, Happy was appointed to the U.S. Senate to fill the vacancy caused by the death of Marvel Mills Logan, and was reelected to the seat in 1942. In 1945 he resigned from his Senate seat to take the position of Commissioner of Baseball, where he has been honored as a member of the Baseball Hall of Fame for his role in the integration of major league baseball.

Mr. President, in recognition of this outstanding service to the Commonwealth of Kentucky, the U.S. Senate, and the Nation, I offer this resolution honoring A.B. "Happy" Chandler and urge its adoption

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I state for the record that I have already paid the former Governor and Senator, "Happy" Chandler, a tribute in the RECORD. I want to say that he was a very able, fine leader in this country, and we all mourn his passing.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 142) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 142

Whereas, the Honorable A.B. "Happy" Chandler served Kentucky with honor and distinction as state senator, lieutenant governor, governor and U.S. Senator; and

Whereas, he served with distinction in the U.S. Senate in the years of 1939–45, and served on the Interoceanatic Canals Committee, the Judiciary Committee, the Military Affairs Committee, the Mining Minerals Committee and the Privileges and Elections Committee; and

Whereas, his accomplishments on behalf of the Commonwealth of Kentucky are a tribute to the respect and admiration in which he is held by Kentuckians and Americans across this nation.

Resolved, That the Senate expresses its profound regret and sorrow on the death of the late Senator A.B. "Happy" Chandler.

Resolved, That the Secretary transmit an enrolled copy of this resolution to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of A.B. "Happy" Chandler.

Mr. KERREY. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROTUNDA USE AUTHORIZATION

Mr. KERREY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 49, submitted earlier today by Senators FORD and STEVENS.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 49) authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush on June 27, 1991.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nebraska?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. Without objection, the concurrent resolution is agreed to.

The concurrent resolution (S. Con. Res. 49) was agreed to, as follows:

S. CON. RES. 49

Resolved by the Senate (the House of Representatives concurring), That the Senate Committee on Rules and Administration is authorized to use the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush at 2:30 p.m. on June 27, 1991. The Architect of the Capitol and the Capitol Police Board shall take such action as may be necessary with respect to physical preparations and security for the ceremony.

Mr. KERREY. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS

Mr. KERREY. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 123, S. 1106, a bill to amend the Individuals with Disabilities Education Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

> A bill (S. 1106) to amend the Individuals with Disabilities Education Act to strengthen such Act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, I rise today in support of S. 1106, the Individuals with Disabilities Education Act Amendments of 1991.

In 1986, Congress passed Public Law 99-457, landmark legislation which provided incentives to States to serve 3 to 5-year-old children with disabilities and created a new program, part H, which provides financial assistance to States to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families.

Under part H, States were given 3 years to plan and adopt policies establishing this system in place and provide some but not all early intervention services. In the fifth year, States are expected to provide all early intervention services to all eligible infants and toddlers with disabilities and their families.

At hearing before the Subcommittee on Disability Policy, which I chair, Dr. Robert Davila, Assistant Secretary for Special Education and Rehabilitative Services, indicated the Department of Education's strong support for this program:

> We believe that this program can make a real difference in helping to meet the national goal of improving the school readiness of all young children, including young children with disabilities."
>
> This progam was special in its design because it focused on the family's role of nurturing young children with disabilities. The legislation sought to support that role by drawing together an often fragmented system of services to meet the unique needs of infants with disabilities. It did this through a focus on interagency cooperation, service coordination, and case management.

Likewise, families testified to the dramatic need for such coordinated comprehensive services, and the impact which they can have on preventing tragedies and improving outcomes for children and families.

Diane Sanny, from Fairfield, IA, reported her family's experience:

> I cannot imagine what the quality of Gretchen's life would have been without the knowledge, direction and support we received.
>
> However, as our good fortune would have it, at this time, part H was being implemented in Iowa; and we became the first pilot family in our area to have an individualized family service plan done. The process itself, was extremely beneficial because having to explain to these professionals what I was feeling for the first time clarified why I was overwhelmed and exhausted by life. The results were immediate. * * * My life was saved.
>
> In closing, I cannot emphasize enough the impact that these services have had on our lives. For Gretchen, it means a brighter future than we ever imagined. There's little doubt that she'll be a self-sufficient, productive member of society due largely to very early and excellent care she received. As for Bob and myself, having a child with disabilities has been the greatest challenge of our lives and we have coped well with much thanks for the support we were given.

I am especially pleased to have sponsored S. 1106, which reauthorizes these vital programs, because they represent exactly the kind of preventive approach needed which coordinates the efforts of education, health and human services agencies in serving these children and their families. This program represents the first and best chance to help the families of these infants and toddlers to optimize their potential and to reach our nation's No. 1 educational goal: "By the Year 2000, all children in America will begin school ready to learn."

With the skyrocketing costs associated with health care and the disturbing trends in our educational system, we simply cannot afford to fail these children. We need all the well-educated workers and productive citizens we can produce; and this includes children born with disabilities or at risk for developmental delays. That is why I was so pleased to note recently, the statement of the Committee for Economic Development, a group of 250 of our leading corporate executives and educators. Their report, "The Unfinished Agenda: A New Vision for Child Development and Education," recommends beginning with good prenatal care, good nutrition, and other preventive services, and emphasizes the importance of early childhood education to meet children's developmental needs. It is wonderful that they, too, focused on the need for family-centered and coordinated interagency programs.

Clearly, there is a strong link between health and education which we overlook only at our own peril. This point has recently been emphasized by the National Health/Education Consortium, a group of some 40 national health and education organizations concerned about the future of America's children.

> Early intervention makes a difference, but research shows that help must be made available as soon as possible after an insult has occurred.

It is clear that part H is leading the way in this national movement. In witness of this, Dr. Richard Nelson, president of the Association for Maternal and Child Health, and professor of pediatrics and director of specialized child health services at the University of Iowa, testified at our subcommittee hearing that:

> Part H represents a critical national initiative for our nation's youngest citizens. The legislation has the potential to be a template for all future health and human services legislation requiring the concerted efforts of multiple federal programs to address the needs of a population. We commend the Subcommittee's commitment to these most vulnerable children and families.

While we were considering the reauthorization of part H, we had the assistance of many organizations, groups and individuals. In particular, I want to express my gratitude to the Division of Early Childhood of the Council for Exceptional Children, the Consortium for Citizens with Disabilities, the Association of Maternal and Child Health, the National Association of State Directors of Special Education, and numerous State agency officials and private citizens whose thoughtful commentary and ideas have been so helpful in this process. We also enjoyed the support and guidance of the fine staff of the Department of Education. Based upon their input we were able to draft a bill which addresses the concerns of professionals and the needs of families who are working together to meet the needs of infants and toddlers with disabilities.

A number of my distinguished colleagues here in the Senate, and members of the House of Representatives as well, provided constructive advice. I particularly want to thank Senators DURENBERGER, KENNEDY and HATCH for their wisdom and counsel in this process.

Reading the comments and suggestions of the various groups and individuals made it clear to me that though there were challenges for State and Federal agencies to develop coordinated policies, and new relationships to be established between health, social and education agencies and families, the system is working.

In the development of this reauthorization bill, several principles guided us:

First, it became clear that any State which truly wants to participate should be given the opportunity to do so. We had to find a way to recognize the current serious fiscal realities in many States, while at the same time rewarding those States which have stayed on schedule.

Second, significant increases in funding are needed and appropriate, when related to increased direct provision of services.

Third, what the program needs now is fine-tuning, not major structural changes. Furthermore, the program needs to remain family-centered.

Finally, a way needed to be found which would ensure a smooth transition for children as they move through a continuum of programs from early intervention, to preschool, to elementary and secondary education and beyond.

On May 21, I introduced S. 1106, along with Mr. DURENBERGER, Mr. KENNEDY, Mr. HATCH, Mr. SIMON, Mr. WELLSTONE, Mr. DODD, Mr. BINGAMAN, Mr. ADAMS, Mr. JEFFORDS, and Mr. COCHRAN. Additional cosponsors are Mrs. KASSEBAUM and Mr. DOLE. At the request of all members of the Subcommittee on Disability Policy, the bill was considered directly by the Committee on Labor and Human Resources. On May 22, 1991, the motion to favorably report the bill as introduced with technical and conforming amendments was passed unanimously by the Committee.

S. 1106 reauthorizes part H of the Individuals with Disabilities Education Act [IDEA]—Early Intervention Services for Infants and Toddlers—and amends both part H and other relevant sections of the act to improve the operation of the programs and services established. The major provisions of the bill are described below:

The bill includes several changes to parts B and H of the act designed to facilitate the development of a comprehensive seamless system of services for children aged birth to 5, inclusive, and their families which will ensure: First, a smooth transition for children moving from early intervention programs under part H to preschool programs under part B and second, the delivery of appropriate services. These changes recognize the critical role played by families in this system.

Section 2 of the bill amends the definition of "children with disabilities" in section 602(a)(1) of the act to provide discretion to the States to include children, aged 3-5, who are "experiencing developmental delays", as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social/emotional development, or adaptive development, and who, by reason thereof, need special education and related services.

Sections 3 and 4 of the bill amend sections 613 and 614 of the act to permit local educational agencies and intermediate educational units to use Individualized Family Service Plans as described in part H, instead of Individualized Education Plans, consistent with State policy and with the concurrence of the family. States are also required to create policies and procedures to assure a smooth transition from part H to part B for eligible children.

Section 5 of the bill amends section 619 of the act (Preschool Grants) to allow part B funds to be used to provide a free appropriate public education for children who will reach their third birthday during the school year, whether or not they were already receiving services under part H. However, it clarifies that this does not extend part H eligibility for services to children already receiving a free appropriate public education under part B. Comparable language to allow reciprocal usage of funds from part H to assure a smooth transition is included in section 13 of the bill. This section also raises the funding ceiling per child to $1500.

Section 6 of the bill amends section 623 of the act (Early Education Demonstration Program) to authorize the use of funds for programs which focus on children from birth to age 2, inclusive, who are "at risk" of having substantial developmental delays if early intervention services are not provided. This section also authorizes the use of these funds to facilitate and improve outreach to low-income, minority, rural and other underserved populations, and to support Statewide projects to redesign the delivery of early intervention services to infants and toddlers with disabilities and their families and special education and related services to preschool children with disabilities from segregated to integrated environments.

Section 7 of the bill increases the authorization level for parent training centers in order to assist them in meeting their expanded authority to address the needs of families with infants and toddlers with disabilities. This section also authorizes centers to increase activities designed to enhance parents understanding of their rights under part H and to impart skills necessary to enable families to facilitate their own child's development, including service coordination functions.

Section 8 of the bill updates terminology used in section 672 to describe "infants and toddlers with disabilities" and "early intervention services" consistent with the language used by those working in the early intervention field. The bill retains the term "case management" in the definition section, but in subsequent sections of the act, substitutes the term "service coordination". This section also clarifies "early intervention services" to include vision, assistive devices and technology, and necessary transportation services. Furthermore, this section includes family therapists, orientation and mobility specialists, and pediatricians and other physicians under the definition of qualified personnel. These changes codify current Department of Education policy. Finally, this section places in statute the policy in current regulations that, to the maximum extent appropriate, infants and toddlers receive early intervention services in natural environments, including the home and community settings such as day care centers, in which children without disabilities participate.

Section 9 of the bill creates a mechanism for continued participation in part H by States facing serious fiscal problems while at the same time providing rewards for those States that are in full compliance with the provisions currently in the law. Because many States were facing a deadline of June 30, 1991, to submit continuation applications under part H, passage of this provision was considered an urgent matter. For this reason, an identical provision was added by amendment to H.R. 2127, the Rehabilitation Act Amendments of 1991, which was passed by the Congress in May and signed into law June 6, 1991 (Public Law 102-52).

Section 10 of the bill amends section 676 of the act to include training of paraprofessionals, and clarifies that the State comprehensive system of personnel development must be consistent with the part B system. The general administrative and supervisory roles of the lead agency with respect to programs and activities receiving assistance are clarified. This section and section 12 of the bill, also amend sections 676 and 678 of the act to authorize and clarify that the State assigns fiscal responsibilities for part H to the several agencies. The State lead agency is then charged with assuring compliance by all state agencies with their appropriate fiscal responsibilities under part H.

Section 11 of the bill amends section 677 of the act in several ways. A statement of the natural environments in which services are provided is required. Changes are also made to emphasize the central role of the parents in designing and implementing services. The phrase "strengths and needs" (of families) is replaced with "resources, priorities, and concerns" in accordance with the recommendations of parents. Furthermore, a new subsection (e) is added regarding parental consent. Finally, this section removes the requirement that the service coordinator be a person from "the profession most immediately relevant to the infant's, toddler's or parents' needs." This allows other qualified persons to function in this role.

Section 12 of the bill adds a new requirement under the State part H application process under section 678 of the act, by requiring a description of the policies and procedures used to ensure a smooth transition between part H and part B. A description of the process by which the lead agency notifies local educational agencies and intermediate educational units of a child's eligibility at least 90 days before part B services must begin, is also required, as are further assurances under section 678(b) of the act regarding policies and procedures adopted to ensure involvement of underserved groups and access to culturally competent services.

Section 13. This section amends section 679 of the act to allow part H funds to be used to provide a free appropriate public education to children with disabilities from their third birthday to the beginning of the following school year.

Section 14 of the bill amends section 680 of the act to clarify parental rights, including the right to decline any single or group of services without jeopardizing their access to other services. This policy is currently in the Department's regulations. The phrase "consistent with Federal and State law" is included to clarify that this section does not supersede existing valid statutes, such as child abuse reporting or other statutes protecting children or the public health.

Section 15 of the bill modifies the number of members and composition of the State Interagency Coordinating Council under section 682 of the act, selection of the chairperson, and the functions of and allowable expenditures (explicitly including child care costs for parent representatives) by the council.

Section 16 of the bill ensure that each State receives at least $500,000 beginning with fiscal year 1991 funds under section 684(c) of the act.

Section 17 of the bill extends the program for 3 years to put this part on the same time track as the discretionary programs under IDEA. This section also authorizes $220 million for fiscal year 1992 and "such sums" thereafter.

Section 18 of the bill is a new section which places in statute, the current Department of Education policy of utilizing an interagency coordinating council similar to those required at the State level. The composition and major functions and responsibilities of the council are specified.

Section 19 of the bill is a new section which requires the Secretary to carry out a study of alternative funding formulae for allocating funds under part H of IDEA. The study is to be completed in time for the next reauthorization cycle.

Sections 20 and 21 of the bill amend respectively, section 6 of Public Law 81–874 (20 U.S.C. 241 (a)) (Impact Aid) and section 1409 of the Defense Dependents Education Act of 1978 (20 U.S.C. 927) to assure the availability of early intervention services for infants and toddlers with disabilities and of a free appropriate public education for preschool children with disabilities, comparable to those available under parts B and H of the act, for military dependents.

I urge my colleagues to also support an amendment to allow an increase in a cap on the expenditure of part B funds for program administration in smaller population States. The proposed amendment would raise this from a level of $350,000, established in 1986, to $450,000.

Finally, I would like to conclude my remarks urging passage of S. 1106 with a personal note. Last year, when we passed the Americans with Disabilities Act, I dedicated that legislation to the next generation of children with disabilities and their parents. At that time I said:

> With the passage of the ADA, we as a society make a pledge that every child with a disability will have the opportunity to maximize his or her potential to live proud, productive, and prosperous lives in the mainstream of our society.

But without appropriate early intervention, preschool, and special education services provided under IDEA this promise will not be realized for many newborn infants and older children. Part H, which we are reauthorizing today, and which has been called "the most important children's disability legislation of the decade", provides these services while maintaining a focus on the family. We must not fail these children. The goals of these programs are achieveable, and it's time for us to get on with the job.

Mr. HATCH. Mr. President, I am delighted to stand in support of legislation that acknowledges the critical role families play in the development of children and that assists them in that role. I believe that S. 1106 warrants that characterization. It assists parents, the primary caregivers in families, with the sometimes overwhelming challenge of raising a child with disabilities.

I have always believed that government programs must be crafted to allow the greatest flexibility possible—individuals differ, as do families, communities, regions, and States. It is absolutely vital that the government do all it can to let decision makers, on whatever level, exercise their own best judgments wherever and whenever possible.

This legislation not only provides such flexibility, but also provides mechanisms to increase coordination among Federal programs that serve children with disabilities. This legislation also recognizes the current fiscal problems of States and provides legislative changes that will enable States to continue to receive funding even though their budgetary constraints may force them to fully implement this program at a slower rate than originally anticipated.

This is a bill that balances the need for increased services for infants and toddlers with disabilities with the fiscal realities of our economy.

I urge my colleagues to support S. 1106.

Mr. DODD. Mr. President, today I rise in support of S. 1106, the Individuals with Disabilities Act Amendments of 1991. As an original cosponsor to this important piece of legislation, I want to commend Senator HARKIN, chairman of the Disabilities Policy Subcommittee, for his continued leadership on behalf all the disabled individuals in this country.

Since the Education for All Handicapped Children Act passed into public law in 1975, all disabled children across the country have been assured the right to a free, appropriate public education. This legislation recognized that disabled children like all other children—have the fundamental right to learn and develop to their potential in the public school system. The legislation also recognized that educating disabled children provides long-term economic benefits to society, with substantial savings in welfare, institutional, and other social costs.

The expansion of services to disabled children was taken one step further in 1986, with the passage of part H—Early Intervention Services for Infants and Toddlers on the Individuals with Disabilities Education Act. This landmark legislation called for States participating in part H to provide all eligible infants and toddlers with comprehensive, early intervention services.

The importance of these early intervention services cannot be underscored. Providing disabled infants and toddlers with these critical, early intervention services can help to ameliorate the disability. They also greatly improve the child's future success in school as well as in leading a productive and fulfilling life.

It is critical that Congress send States the message that we are committed to this program. With straining budgets and tight fiscal constraints, the States, burdened with the overwhelming majority of these program costs, are looking for leadership and commitment from the Federal Government—with the waiver provision which has already passed into public law, and with the appropriate funding. In my own home State of Connecticut, it is estimated that it will cost $27 million to serve all eligible infants and toddlers with the appropriate intervention services. Congress must send States the message that the Federal Government is committed to assisting States implement their statewide systems and provide early intervention services to all eligible children.

Since part H was incorporated into the Individuals with Disabilities Education Act, Congress has recognized the value of early intervention programs, through appropriate legislation and funding. Today's legislation continues in this spirit.

Mr. JEFFORDS. Mr. President, I rise in support of S. 1106, to reauthorize part H of the Individuals With Disabilities Education Act [IDEA] as well as the technical amendment to section 1411(c) of the act. I want to commend the chairman of the subcommittee, Senator HARKIN, for his steadfast commitment to programs which serve the needs of our disabled community.

The technical amendment to section 1411 of IDEA is particularly important to my State. The amendment raises from $350,000 to $450,000 the amount of part B funds that smaller population States may spend from each year's grant award for administering the part B program in their States.

The limit on expenditure has been in place since 1986 when the cap was raised from $300,000 to $350,000. However, inflationary increases and changes in Federal requirements have resulted in large programmatic cost increases. The increase in the administrative cap from $350,000 to $450,000 will go a long way to assist these small States in meeting the requirements and costs involved in providing services to our disabled community.

I am also glad to be a cosponsor of the part H program. Part H funds are used for the planning, development, and implementation of statewide systems to provide early invervention services for disabled infants and toddlers. Reauthorization reconfirms Federal support for these essential programs.

The importance of a bill that targets our young children cannot be underestimated. Early intervention services have proven to be among the most effective ways to prevent some disabilities from developing or to limit their severity. By helping families meet the needs of their disabled children as early as possible we provide both essential support services as well as savings in the long run.

S. 1106 includes important changes to help States facing fiscal crisis to remain in the part H program. It further reaffirms the importance of family member participation within the program and encourages coordination among agencies. S. 1106 goes to great length to ease the transition from early intervention programs to preschool programs.

Reauthorization of part H joins the numerous programs already in existence to provide access and services to disabled individuals. The American's With Disabilities Act, Individuals With Disabilities Education Act, Vocational Rehabilitation, and Development Disabilities Act, to name a few. The Government's intention cannot be questioned. However, I hope that we can now put our money where our mouth is. Intentions don't fund programs, we need adequate appropriations to assist States in providing the services that we mandate and that these children deserve.

AMENDMENT NO. 372

(Purpose: To amend part B of the Individuals With Disabilities Education Act to increase the amount of funds that may be used for administrative costs)

Mr. KERREY. Mr. President, I send an amendment to the desk on behalf of Senators HARKIN, DURENBERGER, and JEFFORDS.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for Mr. HARKIN (for himself, Mr. DURENBERGER, and Mr. JEFFORDS) proposes an amendment numbered 372.

Mr. KERREY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, between lines 4 and 5, insert the following:

"SEC. 23. ADMINISTRATIVE COSTS.

"Subclause II of section 611(c)(2)(A)(i) of the Act (20 U.S.C. 1411(c)(2)(A)(i)(II)) is amended by striking "$350,000" and inserting "$450,000".

On page 42, line 5, strike "23" and insert "24".

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 372) was agreed to.

Mr. KERREY. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Without objection, the bill is deemed read a third time and passed.

So the bill (S. 1106), as amended, was deemed read a third time and passed, as follows:

S. 1106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Individuals with Disabilities Education Act Amendments of 1991".

SEC. 2. DEFINITIONS.

Paragraph (1) of section 602(a) of the Individuals with Disabilities Education Act (hereafter in this Act referred to as the "Act") (20 U.S.C. 1401(a)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after "(1)"; and

(3) by inserting at the end thereof the following new subparagraph (B):

"(B) The term 'children with disabilities' for children aged 3 to 5, inclusive, may, at a State's discretion, include children—

"(i) experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

"(ii) who, by reason thereof, need special education and related services.".

SEC. 3. STATE PLAN.

(a) STATE PLAN.—Subsection (a) of section 613 of the Act (20 U.S.C. 1413(a)) is amended—

(1) by striking "and" at the end of subparagraph (B) of paragraph (13);

(2) by striking the period at the end of paragraph (14) and inserting a semicolon and "and"; and

(3) by inserting at the end the following new paragraph:

"(15) set forth policies and procedures relating to the smooth transition for those individuals participating in the early intervention program assisted under part H who will participate in preschool programs assisted under this part, including a method of ensuring that when a child turns age three an individualized education program, or, if consistent with sections 614(a)(5) and 677(d), an individualized family service plan, has been developed and is being implemented by such child's third birthday."

SEC. 4. APPLICATION.

Paragraph (5) of section 614(a) of the Act (20 U.S.C. 1414(a)(5)) is amended by inserting "(or, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, an individualized family service plan described in section 677(d) for each child with a disability aged 3 to 5, inclusive)" after "disability".

SEC. 5. PRE-SCHOOL GRANTS.

Section 619 of the Act (20 U.S.C. 1419) is amended—

(1) in subsection (b)—

(A) in subparagraph (B) of paragraph (1), by inserting ", and for any two-year-old children provided services by the State under subsection (c)(2)(B)(ii) or by a local educational agency or intermediate educational unit under subsection (f)(2)" after "inclusive"; and

(B) in paragraph (3), by striking "$1,000" and inserting "$1,500";

(2) by amending subparagraph (B) of subsection (c)(2) to read as follows:

"(B) use not more than 20 percent of such grant—

"(i) for planning and development of a comprehensive delivery system;

"(ii) for direct and support services for children with disabilities, aged 3 to 5, inclusive; and

"(iii) at the State's discretion, to provide a free appropriate public education, in accordance with this Act, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H, and";

(3) by amending subsection (f) to read as follows:

"(f) Each local educational agency or intermediate educational unit receiving funds under this section—

"(1) shall use such funds to provide special education and related services to children with disabilities aged 3 to 5, inclusive; and

"(2) may, if consistent with State policy, use such funds to provide a free appropriate public education, in accordance with this part, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H."; and

(4) by inserting at the end thereof the following new subsection:

"(g) Part H of this Act does not apply to any child with disabilities receiving a free appropriate public education, in accordance with this part, with funds received under this section.".

SEC. 6. EARLY EDUCATION FOR CHILDREN WITH DISABILITIES.

Section 623 of the Act (20 U.S.C. 1423) is amended—

(1) in the matter preceding subparagraph (A) of subsection (a)(1), by inserting ", including individuals who are at risk of having substantial developmental delays if early intervention services are not provided," after "disabilities";

(2) by striking "and" at the end of subparagraph (H);

(3) by redesignating subparagraph (I) as subparagraph (K); and

(4) by inserting the following new subparagraphs after subparagraph (H):

"(I) facilitate and improve outreach to low-income, minority, rural, and other underserved populations eligible for assistance under parts B and H;

"(J) support statewide projects in conjunction with a State's plan under part H and a State's application under part B, to change the delivery of early intervention services to infants and toddlers with disabilities, and to change the delivery of special education and related services to preschool children with disabilities, from segregated to integrated environments; and".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS FOR PART D.

Paragraph (3) of section 635(a) of the Act (20 U.S.C. 1435(a)(3)) is amended—

(1) by striking "$12,100,000" and inserting "$15,100,000";

(2) by striking "$13,300,000" and inserting "$16,300,000"; and

(3) by striking "$14,600,000" and inserting "$17,600,000".

SEC. 8. DEFINITIONS FOR PART H.

Section 672 of the Act (20 U.S.C. 1472) is amended—

(1) in subparagraph (A) of paragraph (1)—

(A) by inserting "(hereafter in this part referred to as 'communication development')" after "speech development";

(B) by inserting "(hereafter in this part referred to as 'social or emotional development')" after "psychosocial development"; and

(C) by inserting "(hereafter in this part referred to as 'adaptive development')" after "skills";

(2) in paragraph (2)—

(A) in subparagraph (C)—

(i) in clause (iii), by striking "language and speech" and inserting "communication";

(ii) in clause (iv), by striking "psychosocial" and inserting "social or emotional"; and

(iii) in clause (v), by striking "self-help skills" and inserting "adaptive development";

(B) in subparagraph (E)—

(i) in clause (vii), by inserting "(hereafter in this part referred to as 'service coordination services')" after "services";

(ii) by striking "and" at the end of clause (x); and

(iii) by inserting at the end thereof the following new clauses:

"(xii) vision services,

"(xiii) assistive technology devices and assistive technology services, and

"(xiv) transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive early intervention services,";

(C) in subparagraph (F)—

(i) by striking "and" at the end of clause (vii);

(ii) by striking "and" at the end of clause (viii); and

(iii) by inserting at the end thereof the following new clauses:

"(ix) family therapists,

"(x) orientation and mobility specialists, and

"(xi) pediatricians and other physicians,";

(D) by redesignating subparagraph (G) as subparagraph (H); and

(E) by inserting after subparagraph (F) the following new subparagraph (G):

"(G) to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which children without disabilities participate, and".

SEC. 9. DIFFERENTIAL FUNDING.

Section 675 of the Individuals with Disabilities Education Act (20 U.S.C. 1475) is amended by adding at the end thereof the following new subsection (e):

"(e) DIFFERENTIAL FUNDING FOR FOURTH OR FIFTH YEAR.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, a State shall be eligible for a grant under section 673 for fiscal years 1990, 1991, or 1992 if—

"(A) the State satisfies the eligibility criteria described in subsection (b)(1) pertaining to the State's third or fourth year of participation under this part; and

"(B) the Governor, on behalf of the State, submits, by a date that the Secretary may establish for each such year, a request for extended participation, including—

"(i) information demonstrating to the Secretary's satisfaction that the State is experiencing significant hardships in meeting the requirements of this section for the fourth or fifth year of participation; and

"(ii) a plan, including timelines, for meeting the eligibility criteria described in subsections (b)(1) and (c) for the fourth, fifth, or succeeding years of participation.

"(2) APPROVAL OF REQUEST.—

"(A) FIRST YEAR.—The Secretary shall approve a State's request for a first year of extended participation under this subsection if the State meets the requirements of paragraph (1).

"(B) SECOND YEAR.—The Secretary shall approve a State's request for a second year of extended participation under this subsection if the State—

"(i) meets the requirements of paragraph (1); and

"(ii) demonstrates to the Secretary's satisfaction that the State has made reasonable progress in implementing the plan described in paragraph (1)(B)(ii).

"(3) DURATION.—The Secretary may not approve more than two requests from the same State for extended participation under this subsection.

"(4) PAYMENT.—

"(A) FISCAL YEAR 1990.—Notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1990 shall receive a payment under this part in an amount equal to such State's payment under this part for fiscal year 1989.

"(B) FISCAL YEAR 1991 OR 1992.—Except as provided in subparagraph (C) and notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment for such fiscal years in an amount equal to the payment such State would have received under this part for fiscal year 1990 if such State had met the criteria for the fourth year of participation described in subsection (b)(1).

"(C) MINIMUM.—Beginning in fiscal year 1991, the payment under this part to each of the 50 States, the District of Columbia, and Puerto Rico shall not be less than $500,000.

"(5) REALLOTMENT.—

"(A) FISCAL YEAR 1990.—The amount by which the allotment computed under section 684 for any State for fiscal year 1990 exceeds the amount that such State may be allotted under paragraph (4)(A) of this subsection (and, notwithstanding section 684(d), any fiscal year 1990 funds allotted to any State that such State elects not to receive) shall be reallotted, notwithstanding the percentage limitations set forth in sections 684 (a) and (b), among those States satisfying the eligibility criteria of subsection (b)(1) for the fourth year of participation that have submitted an application by a date that the Secretary may establish in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year.

"(B) FISCAL YEAR 1991 OR 1992.—The amount by which a State's allotment computed under section 684 for any State for fiscal years 1991 or 1992 exceeds the amount that such State may be allotted for such fiscal year under paragraph (4)(B) of this subsection shall be reallotted, notwithstanding the percentage limitations set forth in section 684 (a) and (b)—

"(i) first, among those States satisfying the eligibility criteria of subsection (c) for the fifth year of participation that have submitted applications by a date that the Secretary may establish for each such year in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year, except that no such State, by operation of this clause, shall receive an increase of more than 100 percent over the amount such State would have otherwise received under section 684 for the previous fiscal year;

"(ii) second, if funds remain, among those States that have—

"(I) satisfied the eligibility criteria of subsection (b)(1) for the fourth year of participation;

"(II) qualified for extended participation under this subsection; and

"(III) not received a reallotment payment under clause (i),

in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year, except that no State, by operation of this clause, shall receive a reallotment payment that is larger than the payment such State would otherwise have received under section 684 for such year; and

"(iii) third, if funds remain, among those States satisfying the eligibility criteria of subsection (c) for the fifth year of participation that did not receive a reallotment payment under clause (ii) in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year.

"(6) DEFINITIONS.—For the purpose of this subsection, the term 'State' means—

"(A) each of the 50 States, the District of Columbia, and Puerto Rico;

"(B) each of the jurisdictions listed in section 684(a); and

"(C) the Department of the Interior.".

SEC. 10. REQUIREMENTS FOR STATEWIDE SYSTEM.

Subsection (b) of section 676 of the Act (20 U.S.C. 1476(b)) is amended—

(1) in paragraph (4), by striking "case management" and inserting "service coordination";

(2) in paragraph (8)—

(A) by inserting "the training of paraprofessionals and the" after "including"; and

(B) by inserting "that is consistent with the comprehensive system of personal development described in section 613(a)(3)" after "State"; and

(3) in paragraph (9)—

(A) by amending subparagraph (A) to read as follows:

"(A) the general administration and supervision of programs and activities receiving assistance under section 673, and the monitoring of programs and activities used by the State to carry out this part, whether or not such programs or activities are receiving assistance made available under section 673, to ensure that the State complies with this part."; and

(B) in subparagraph (C)—

(i) by inserting "in accordance with section 678(a)(2)" after "responsibility"; and

(ii) by striking "agency" and inserting "agencies".

SEC. 11. INDIVIDUALIZED FAMILY SERVICE PLAN.

Section 677 of the Act (20 U.S.C. 1477) is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by striking paragraph (1); and

(C) by inserting before paragraph (3) (as redesignated in subparagraph (A)) the following new paragraphs:

"(1) a multidisciplinary assessment of the unique strengths and needs of the infant or toddler and the identification of services appropriate to meet such needs;

"(2) a family directed assessment of the resources, priorities, and concerns of the family and the identification of the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability; and";

(2) in subsection (d)—

(A) in paragraph (1)—

(i) by striking "language and speech" and inserting "communication";

(ii) by striking "psychosocial" and inserting "social or emotional"; and

(iii) by striking "self-help skills" and inserting "adaptive development";

(B) in paragraph (2), by striking "strengths and needs" and inserting "resources, priorities, and concerns";

(C) by redesignating paragraphs (5), (6), and (7), as paragraphs (6), (7), and (8), respectively;

(D) by inserting after paragraph (4) the following new paragraph (5):

"(5) a statement of the natural environments in which early intervention services shall appropriately be provided,"; and

(E) in paragraph (7) (as redesignated in subparagraph (C))—

(i) by inserting "(hereafter in this part referred to as the 'service coordinator')" after "manager"; and

(ii) by inserting "(or who is otherwise qualified to carry out all applicable responsibilities under this part)" after "needs"; and

(3) by inserting at the end thereof the following new subsection:

"(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents or guardian and informed written consent from such parents or guardian shall be obtained prior to the provision of early intervention services described in such plan. If such parents or guardian do not provide such consent with respect to a particular early intervention service, then the early intervention services to which such consent is obtained shall be provided.".

SEC. 12. STATE APPLICATION AND ASSURANCES.

Section 678 of the Act (20 U.S.C. 1478) is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (7) as paragraph (9);

(B) by redesignating paragraphs (2), (3), (4), (5), and (6), as paragraphs (3), (4), (5), (6), and (7), respectively;

(C) by inserting after paragraph (1) the following new paragraph (2):

"(2) a designation by the State of an individual or entity responsible for assigning financial responsibility among appropriate agencies,";

(D) by striking "and" at the end of paragraph (7) (as redesignated in subparagraph (A)); and

(E) by inserting immediately after paragraph (7) (as redesignated in subparagraph (A)) the following new paragraph (8):

"(8) a description of the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under this part who are eligible for participation in pre-school programs under part B, including a description of how the families will be included in the transitional plans and how the lead agency under this part will notify the appropriate local educational agency or intermediate educational unit in which the child resides at least 90 days before such child is eligible for the preschool program under part B in accordance with State law,"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (6);

(B) by redesignating paragraph (7) as paragraph (8); and

(C) by inserting after paragraph (6) the following new paragraph (7):

"(7) beginning in fiscal year 1992, provide satisfactory assurance that policies and practices have been adopted to ensure meaningful involvement of traditionally underserved groups, including minority, low-income, and rural families, in the planning and implementation of this part and to ensure that such families have access to culturally competent services within their local areas, and".

SEC. 13. USE OF FUNDS.

Section 679 of the Act (20 U.S.C. 1479) is amended by—

(1) striking "and" at the end of paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting a comma; and

(3) inserting at the end thereof the following new paragraph:

"(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year.".

SEC. 14. PROCEDURAL SAFEGUARDS.

Section 680 of the Act (20 U.S.C. 1480) is amended—

(1) in paragraph (2), by inserting "including the right of parents or guardians to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law" after "information";

(2) by redesignating paragraphs (3), (4), (5), (6), and (7), as paragraphs (4), (5), (6), (7) and (8), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) The right of the parents or guardian to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.".

SEC. 15. STATE INTERAGENCY COORDINATING COUNCIL.

Section 682 of the Act (20 U.S.C. 1482) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "15 members" and inserting "at least 15 members but not more than 25 members, unless the State provides sufficient justification for a greater number of members in the application submitted pursuant to section 678"; and

(B) in paragraph (2)—

(i) by striking "and the chairperson of the Council"; and

(ii) by inserting before the second sentence thereof the following new sentence: "The chairperson of the Council shall be selected by and from among the members of the Council, except that the chairperson shall not be the representative from the lead agency.";

(2) by amending subsection (b) to read as follows:

"(b) COMPOSITION.—(1) The Council shall be composed as follows:

"(A) At least 20 percent of the members shall be parents of infants or toddlers with disabilities or children with disabilities aged 12 or younger, with knowledge of, or experience with, programs for infants and toddlers with disabilities. At least one such member shall be a parent of an infant or toddler with a disability or a child with a disability aged 6 or younger.

"(B) At least 20 percent of the members shall be public or private providers of early intervention services.

"(C) At least one member shall be from the State legislature.

"(D) At least one member shall be involved in personnel preparation.

"(E) At least one member shall be from each of the State agencies involved in the provision of, or payment for, early intervention services to infants and toddlers with disabilities and their families and shall have sufficient authority to engage in policy planning and implementation on behalf of such agencies.

"(F) At least one member shall be from the State educational agency responsible for preschool services to children with disabilities and shall have sufficient authority to engage in policy planning and implementation on behalf of such agency.

"(2) The Council may include other members selected by the Governor, including a representative from the agency responsible for the State governance of insurance.";

(3) in subsection (d)—

(A) by inserting "to conduct hearings and forums, to reimburse members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care for parent representatives), to pay compensation to a member of the Council if such member is not employed or must forfeit wages from other employment when performing official Council business," before "to hire staff"; and

(B) by inserting "to" before "obtain"; and

(4) in subsection (e)—

(A) by striking "The" and inserting "(1) The";

(B) by redesignating paragraphs (1), (2), and (3), as subparagraphs (A), (B), and (D), respectively;

(C) by striking "and" at the end of subparagraph (B) (as redesignated in subparagraph (B));

(D) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to services provided under part B, to the extent such services are appropriate, and"; and

(E) by inserting at the end thereof the following new paragraph:

"(2) The Council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for children aged birth to 5, inclusive.".

SEC. 16. ALLOCATION OF FUNDS.

Paragraph (1) of section 684(c) of the Act (20 U.S.C. 1484(c)(1)) is amended—

(1) by striking "1991" and inserting "1994"; and

(2) by inserting "or $500,000, whichever is greater" before the period at the end thereof.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS FOR PART H.

Section 685 of the Act (20 U.S.C. 1485) is amended to read as follows:

"There are authorized to be appropriated to carry out this part $220,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

SEC. 18. FEDERAL INTERAGENCY COORDINATING COUNCIL.

Part H of the Act (20 U.S.C. 1471 et seq.) is amended—

(1) by redesignating section 685 (as amended in section 17) as section 686; and

(2) by inserting after section 684 the following new section:

"SEC. 685. FEDERAL INTERAGENCY COORDINATING COUNCIL.

"(a) Establishment and Purpose.—

"(1) In general.—The Secretary shall establish a Federal Interagency Coordinating Council in order to—

"(A) minimize duplication of programs and activities relating to early intervention services for infants and toddlers with disabilities and their families, and preschool services for children with disabilities, across Federal, State and local agencies;

"(B) ensure the effective coordination of Federal early intervention and preschool programs and policies across agencies;

"(C) coordinate the provision of Federal technical assistance and support activities to States;

"(D) identify gaps in agency programs and services; and

"(E) identify barriers to Federal interagency cooperation and program operation.

"(2) Appointments.—The Council and the Chairperson shall be appointed by the Secretary. In making the appointments, the Secretary shall ensure that each member has sufficient authority to engage in policy planning and implementation on behalf of the department, agency, or program that such member represents.

"(b) Composition.—The Council shall be composed of—

"(1) a representative of the Office of Special Education Programs;

"(2) a representative of the National Institute on Disability and Rehabilitation Research;

"(3) a representative of the Maternal and Child Health Services Block Grant Program;

"(4) a representative of programs assisted under the Developmental Disabilities Assistance and Bill of Rights Act;

"(5) a representative of the Health Care Financing Administration;

"(6) a representative of the Division of Birth Defects and Developmental Disabilities of the Centers for Disease Control;

"(7) a representative of the Social Security Administration;

"(8) a representative of the Special Supplemental Food Program for Women, Infants and Children of the Department of Agriculture;

"(9) a representative of the National Institute of Mental Health;

"(10) a representative of the National Institute of Child Health and Human Development;

"(11) a representative of the Bureau of Indian Affairs of the Department of the Interior;

"(12) a representative of the Indian Health Service;

"(13) a representative of the Surgeon General;

"(14) a representative of the Department of Defense;

"(15) a representative of the Administration for Children and Families;

"(16) a representative of the Alcohol, Drug Abuse and Mental Health Administration;

"(17) a representative of the Pediatric Aids Health Care Demonstration Program in the Public Health Service;

"(18) at least 3 parents of children with disabilities age 12 or under, of whom at least one must have a child with a disability under the age of 6;

"(19) at least 2 representatives of State lead agencies for early intervention services to infants and toddlers, one of which must be a representative of a State educational agency and the other a representative of a noneducational agency;

"(20) other members representing appropriate agencies involved in the provision of, or payment for, early intervention services and special education and related services to infants, toddlers with disabilities and their families and preschool children with disabilities; and

"(21) other persons appointed by the Secretary.

"(c) Meetings.—The Council shall meet at least quarterly and in such places as the Council deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(d) Functions of the Council.—The Council shall—

"(1) advise and assist the Secretary in the performance of the Secretary's responsibilities described in this part;

"(2) conduct policy analyses of all Federal programs related to the provision of early intervention services and special educational and related services to infants and toddlers with disabilities and their families, and preschool children with disabilities, in order to determine areas of conflict, overlap, duplication, or inappropriate omission;

"(3) develop and recommend strategies to address issues described in paragraph (2);

"(4) develop and recommend joint policy memoranda concerning effective interagency collaboration, including modifications to regulations, and the elimination of barriers to interagency programs and activities;

"(5) provide technical assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved early intervention programming for infants and toddlers with disabilities and their families and preschool children with disabilities; and

"(6) facilitate activities in support of States' interagency coordination efforts.

"(e) Conflict of Interest.—No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under Federal law.".

SEC. 19. STUDY.

(a) Study.—

(1) In general.—The Secretary shall undertake a study to identify alternative formulae for allocating funds under part H of the Individuals with Disabilities Education Act.

(2) Contents.—The study shall include an analysis of—

(A) the current formula, which uses census data;

(B) a formula that uses child count procedures comparable to procedures used in part B of the Individuals with Disabilities Education Act;

(C) a formula that uses estimates of children that States anticipate will be served each year with adjustments made in the subsequent year for over- and under-counting of children actually served;

(D) the effect of including or excluding "at risk" children in formula using child count procedures; and

(E) formulae that use other alternatives or a combination of alternatives.

(b) Report.—The Secretary shall transmit the study and a report on such study to the

Senate Committee on Labor and Human Resources and the House Committee on Education and Labor by March 1, 1993.

SEC. 20. SECTION 6 SCHOOLS.

Subsection (a) of section 6 of Public Law 81–874 (20 U.S.C. 241(a)) (Impact Aid) is amended by inserting after the third sentence thereof the following new sentence: "For purposes of providing such comparable education, all substantive rights, protections and procedural safeguards, available to children with disabilities age 3 to 5, inclusive, under part B of the Individuals with Disabilities Education Act and to infants and toddlers under part H of such Act shall be applicable to such comparable education by academic year 1992–1993, and all due process procedures available under part B of such Act shall be applicable to such comparable education on the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991.".

SEC. 21. DEFENSE DEPENDENTS EDUCATION ACT OF 1978.

Subsection (c) of section 1409 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 927 et seq.) is amended to read as follows:

"(1) CHILDREN WITH DISABILITIES.—Notwithstanding the provisions of section 1402(b)(3), the provisions of part B of the Individuals with Disabilities Education Act shall apply to all schools operated by the Department of Defense under this title, including the requirement that children with disabilities, aged 3 to 5, inclusive, receive a free appropriate public education by academic year 1993–1994.

"(2) INFANTS AND TODDLERS WITH DISABILITIES.—The responsibility to provide comparable early intervention services to infants and toddlers with disabilities and their families in accordance with individualized family service plans described in section 677 of the Individuals with Disabilities Education Act and to comply with the procedural safeguards set forth in part H of such Act shall apply with respect to all eligible dependents overseas.

"(3) IMPLEMENTATION TIMELINES.—In carrying out the provisions of paragraph (2), the Secretary shall—

"(A) in academic year 1991–1992 and the 2 succeeding academic years, plan and develop a comprehensive, coordinated, multidisciplinary program of early intervention services for infants and toddlers with disabilities among Department of Defense entities involved in the provision of such services to such individuals;

"(B) in academic year 1994–1995, implement the program described in subparagraph (A), except the Secretary need only conduct multidisciplinary assessments, develop individualized family service plans and make available case management services; and

"(C) in academic year 1995–1996 and succeeding academic years, have in effect the program described in subparagraph (A).

SEC. 22. TECHNICAL AMENDMENTS.

(a) INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—The Act (20 U.S.C. 1400 et seq.) is further amended—

(1) in section 602(a)—

(A) in subparagraph (B) of paragraph (1), by inserting a comma after "thereof";

(B) in subparagraph (A) of paragraph (17) (as amended in section 2(2)) by striking "and social work services, and medical and counseling services, including rehabilitation counseling," and inserting ", social work services, counseling services, including rehabilitation counseling, and medical services,"; and

(C) in paragraph (22), by striking "section 703(a)(2)" and inserting "section 7003(a)(2)";

(2) in subsection (b) of section 605, by inserting a comma after "under this title";

(3) in the heading for part B, by striking "HANDICAPPED CHILDREN" and inserting in lieu thereof "CHILDREN WITH DISABILITIES";

(4) in section 611—

(A) in the matter preceding subparagraph (A) of subsection (a)(1), by striking "paragraph (3)" and inserting "paragraph (5)"; and

(B) in paragraph (1) of subsection (f), by striking "schools operated for Indian children" and inserting "schools for Indian children operated or supported";

(5) in paragraph (3) of section 612, by striking "first with respect to handicapped children" and inserting "first with respect to children with disabilities";

(6) in subsection (a) of section 613—

(A) in paragraph (2), by striking "and section 202(1) of the Carl D. Perkins Vocational Education Act"; and

(B) in subparagraph (B) of paragraph (9), by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(7) in subsection (b) of section 617, by striking "(and the Secretary, in carrying out the provisions of subsection (c))";

(8) in paragraph (1) of section 622(a), by inserting a comma after "State educational agencies";

(9) in subparagraph (A) of section 623(a)(1) by striking "communication made and" and inserting "communication mode"; and

(10) in paragraph (1) of section 624(a), by striking ", including" and all that follows through the end thereof and inserting "of such children and youth with disabilities, including their need for transportation to and from school,";

(11) by amending the heading for section 626 to read as follows:

"SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR YOUTH WITH DISABILITIES";

(12) in section 631—

(A) in subparagraph (E) of subsection (a)(1), by striking "handicapped children" and inserting "children with disabilities"; and

(B) by amending subparagraph (D) of subsection (c)(5) to read as follows:

"(D) participate in educational decision-making processes including the development of the individualized education program";

(13) in paragraph (3) of section 634(a), by striking "section 631(c)(9)" and inserting "section 631(c)(10)";

(14) in the heading for section 642, by striking "HANDICAPPED CHILDREN" and inserting "CHILDREN WITH DISABILITIES";

(15) in paragraph (2) of section 661(b), by striking "Public Law 100–407" and inserting "the Technology-Related Assistance for Individuals with Disabilities Act of 1988";

(16) in paragraph (3) of section 671(b), by striking "provided to handicapped infants, toddlers, and their families" and inserting "provided to infants and toddlers with disabilities and their families";

(17) in paragraph (6) of section 676(b) by striking "as required under this paragraph";

(18) in paragraph (3) of section 682(e), by striking "infants or toddlers" and inserting "infants and toddlers"; and

(19) in subsection (a) of section 684—

(A) by striking "the Republic of the Marshall Islands, the Federated States of Micronesia,"; and

(B) by inserting "(until the compact of Free Association with Palau is ratified)" after "Palau".

(b) MISCELLANEOUS STATUTES.—

(1) COMPREHENSIVE CHILD DEVELOPMENT ACT.—Section 670S(1) of the Comprehensive Child Development Act is amended by striking "Education of the Handicapped Act" and inserting "Individuals with Disabilities Education Act".

(2) DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT.—Sections 122(b)(5)(C) and 124(b)(3) of the Developmental Disabilities Assistance and Bill of Rights Act are each amended by striking "Education of the Handicapped Act" and inserting "Individuals with Disabilities Education Act".

(3) FOLLOW THROUGH ACT.—Section 663(b)(9) of the Follow Through Act is amended by striking "Education of the Handicapped Act" and inserting "Individuals with Disabilities Education Act".

(4) HEAD START TRANSITION PROJECT ACT.—Sections 136(a)(4)(C) and 136(a)(10) of the Head Start Transition Project Act are each amended by striking "Education of the Handicapped Act" and inserting "Individuals with Disabilities Education Act".

(5) REHABILITATION ACT OF 1973.—Sections 101(a)(11), 304(d)(2)(D), 311(c)(3), 634(b)(2)(A), 634(b)(3)(D), and 705(a)(4)(C) of the Rehabilitation Act of 1973 are each amended by striking "Education of the Handicapped Act" and inserting "Individuals with Disabilities Education Act".

(6) TRIBALLY CONTROLLED SCHOOLS ACT OF 1988.—Sections 5204(a)(3)(C), 5205(a)(3)(B), 5205(b)(2)(B), and 5205(b)(3)(A)(ii) of the Tribally Controlled Schools Act of 1988 are each amended by striking "Education of the Handicapped Act" and inserting "Individuals with Disabilities Education Act".

(7) HEAD START ACT.—Subsection (d) of section 640 of the Head Start Act is amended by striking "paragraph (1) of section 602 of the Education of the Handicapped Act" and inserting "section 602(a)(1) of the Individuals with Disabilities Education Act".

(8) THE HIGHER EDUCATION ACT OF 1965.—Paragraph (2) of section 465(a) of the Higher Education Act of 1965 is amended by striking "section 602(1) of the Education of the Handicapped Act" and inserting "section 602(a)(1) of the Individuals with Disabilities Education Act".

(9) SOCIAL SECURITY ACT.—The Social Security Act is amended—

(A) in section 1903(c)—

(i) by striking "handicapped child" and inserting "children with disabilities";

(ii) by striking "Education of the Handicapped Act" and inserting "Individuals with Disabilities Education Act"; and

(iii) by striking "handicapped infant or toddler" and inserting "infant or toddler with disabilities"; and

(B) in section 1915(c)(5)(C)(i), by striking "(as defined in section 602 (16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401 (16), (17))" and inserting "(as defined in section 602(a) (16) and (17) of the Individuals with Disabilities Education Act)".

SEC. 23. ADMINISTRATIVE COSTS.

Subclause II of section 611(c)(2)(A)(i) of the Act (20 U.S.C. 1411(c)(2)(A)(i)(II)) is amended by striking "$350,000" and inserting "$450,000".

SEC. 24. EFFECTIVE DATE.

(a) SECTIONS 6 AND 7.—The amendments made by sections 6 and 7 shall take effect on October 1, 1991, or the date of enactment of this Act, whichever is later.

(b) SECTION 9.—The amendments made by section 9 shall take effect on the date of enactment of this Act.

(c) SECTIONS 8, 10, 11, 12, 14, AND 15.—The amendments made by sections 8, 10, 11, 12, 14, and 15 shall take effect on July 1, 1992.

(d) Remaining Provisions.—The remaining sections of this Act and the amendments made by such sections shall take effect on July 1, 1991, or the date of enactment of this Act, whichever is later.

Mr. KERREY. Mr. President, I move to reconsider the vote.

The PRESIDING OFFICER. Without objection, the motion to table the motion to reconsider is agreed to.

AUTHORITY FOR COMMITTEES TO FILE REPORTS

Mr. KERREY. Mr. President, I ask unanimous consent that, during the recess or adjournment of the Senate, Senate committees may file reported Legislative and Executive Calendar business on Tuesday, July 2, from 12 noon to 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, JUNE 25, 1991

Mr. KERREY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Tuesday, June 25; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; and that there be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I ask unanimous consent that on Tuesday, June 25, the Senate reconvene at 2:30 p.m. following the party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. KERREY. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as under the previous order, until 9:30 a.m. Tuesday, June 25.

There being no objection, the Senate, at 7:02 p.m., recessed until Tuesday, June 25, 1991, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 24, 1991:

CENTRAL INTELLIGENCE

REBERT M. GATES, OF VIRGINIA, TO BE DIRECTOR OF CENTRAL INTELLIGENCE, VICE WILLIAM H. WEBSTER.

DEPARTMENT OF STATE

FRANK G. WISNER, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE PHILIPPINES.

DEPARTMENT OF COMMERCE

ERIC I. GARFINKEL, OF MARYLAND, TO BE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION, VICE DENNIS EDWARD KLOSKE, RESIGNED.

BOARD FOR INTERNATIONAL BROADCASTING

KARL C. ROVE, OF TEXAS, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR A TERM EXPIRING APRIL 28, 1994, VICE EDWARD NOONAN NEY, TERM EXPIRED.

IN THE PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATE FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be Assistant Surgeon

DAVID L. SPRENGER

IN THE FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

KEITH BOVETTI, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

RICHARD ADES, OF FLORIDA
THOMAS MOORE, OF FLORIDA
DALE SLAGHT, OF NEW JERSEY

IN THE FOREIGN SERVICE

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS ONE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

DAVID P. DOD, OF OREGON
LAURA K. MCGHEE, OF FLORIDA
LANE LEE SMITH, OF PENNSYLVANIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

MARGARET R. ALEXANDER, OF WASHINGTON
PAMELA LANE BALDWIN, OF VIRGINIA
JEFF BORNS, OF CALIFORNIA
RONALD A. CARLSON, OF CALIFORNIA
BAUDOUIN DE MARCKEN, OF MINNESOTA
JOHN PUTNAM GRANT, OF THE DISTRICT OF COLUMBIA
CHRISTINE ALEXANDRA KELLER, OF CALIFORNIA
RICHARD ROY MARTIN, OF CONNECTICUT
JAMES R. MCGUNN, OF CALIFORNIA
GARY W. NEWTON, OF MASSACHUSETTS
JOHN A. ROGOSCH, OF VIRGINIA
MARK STUART WARD, OF CALIFORNIA
WILLIAM H. YAEGER, III, OF TEXAS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

MARIA SANCHEZ-CARLO, OF VIRGININA
MARY LOU SCHERTZ, OF CALIFORNIA

AGENCY FOR INTERNATIONAL DEVELOPMENT

GERALD RICHARD ANDERSEN, OF WASHINGTON
D. CRAIG ANDERSON, OF ALASKA
PETER STANTON ARGO, OF NEW MEXICO
DAVID ADKINS ATWOOD, OF THE DISTRICT OF COLUMBIA
VICTOR KEVIN BARBIERO, OF VIRGINIA
GERALD A. BARTH, OF CALIFORNIA
STEPHEN F. CALLAHAN, OF VIRGINIA
MELANIE MAMRACK CHEN, OF PENNSYLVANIA
LOUIS CORONADO, OF MICHIGAN
WILLIAM FRANKLIN DEESE, OF TENNESSEE
NADINE DUTCHER, OF WASHINGTON
ALLEN EISENBERG, OF MARYLAND
MARGOT BIEGELSON ELLIS, OF NEW YORK
JAMES ALAN FRANCKIEWICZ, OF CALIFORNIA
WILLIAM RICHARD GARLAND, JR., OF WASHINGTON
MARK W. GELLERSON, OF ILLINOIS
JOHN GISINGER, OF NEW MEXICO
HEATHER WARRACK GOLDMAN, OF FLORIDA
LYNN D. GORTON, OF THE DISTRICT OF COLUMBIA
ROBERT WARREN HANCHETT, OF CALIFORNIA
STEPHEN M. HAYKIN, OF WASHINGTON
JOHN HEPP, OF ILLINOIS
SHIRLEY ALYC'E HUNTER, OF TEXAS
JOHN J. JACOBSON, OF FLORIDA
PAULE-AUDREY KIZZIAR, OF VIRGINIA
JOEL EVAN KOLKER, OF NEW JERSEY
RICHARD ALAN MACKEN, OF FLORIDA
ALBERT LEE MERKEL, OF CALIFORNIA
DENNIS E. PANTHER, OF WASHINGTON
DAVID MATTHEW ROBINSON, OF VIRGINIA
ERNEST RICHARD ROJAS, OF CALIFORNIA
WM. BRENT SCHAEFFER, OF VIRGINIA
CHARLES SIGNER, OF NEVADA
RICHARD WINSLOW WHELDEN, OF MARYLAND
GREGG WITTALA, OF SOUTH DAKOTA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

KURT EDWARD AMEND, OF IOWA
CHARLES E. BENNETT, OF WASHINGTON
GEORGE WILLIAM BRAZIER, III, OF VIRGINIA
EDWIN P. BROWN, OF PENNSYLVANIA
JANE BETH BUCHMILLER, OF MISSOURI
SANTIAGO BUSA, JR., OF CALIFORNIA
FLOYD STEVEN CABLE, OF NEW YORK
GEORGE WOOD COLVIN, JR., OF CALIFORNIA
GUSTAVO DELGADO, JR., OF MARYLAND
NORA B. DEMPSEY, OF PENNSYLVANIA
KENNETH J. FAIRFAX, OF CALIFORNIA
DARIA FANE, OF NEW YORK
THOMAS HENRY GOLDBERGER, OF NEW JERSEY
DEAN JOSEF HAAS, OF CALIFORNIA
TRACI A. JUDD, OF CONNECTICUT
GEORGE KENNEY, OF ILLINOIS
STEPHEN CARVER KIMMEL, OF NEW YORK
ALLAN DAVID LANGLAND, OF CALIFORNIA
LORI GODEC MAGNUSSON, OF VIRGINIA
JONATHAN R. MCHALE, OF NEW JERSEY
JEFFREY A. MEER, OF NEW YORK
GARY STEPHEN MIGNANO, OF KANSAS
PATRICIA NEWTON MOLLER, OF COLORADO
JOHN KIDDOO NALAND, OF LOUISIANA
ADAM E. NAMM, OF NEW YORK
RICHARD WALTER NELSON, OF CALIFORNIA
PAUL ALEXANDER NEUREITER, OF TEXAS
PAMELA K. ROE, OF WISCONSIN
ELISABETH SCHULER, OF CALIFORNIA
TODD PAISLEY SCHWARTZ, OF OHIO
R. STUART SWANSON, OF NEW YORK
LAURENCE EDWARD TOBEY, OF NEW JERSEY
HOWARD ANDREE VAN VRANKEN, OF CALIFORNIA
KURT D. VOLKER, OF PENNSYLVANIA
JEFFREY M. ZAISER, OF THE DISTRICT OF COLUMBIA

U.S. INFORMATION AGENCY

THOMAS H. CASEY, JR., OF NEW JERSEY
TERRY R. DAVIDSON, OF TEXAS
A. L. DOCAL, JR., OF FLORIDA
PHILIPPE A. FRAYNE, OF NEW YORK
ROBERT BUTLER HILTON, OF MICHIGAN
DAMARIS ALLEN KIRCHHOFER, OF HAWAII
BRIAN A. PENN, OF WISCONSIN
CAPIE A. POLK, OF GEORGIA
VICTORIA H. SILVERMAN, OF VIRGINIA
SUSAN ELIZABETH STAHL, OF CALIFORNIA
LAURIE WEITZENKORN, OF FLORIDA
BENJAMIN G. ZIFF, OF CALIFORNIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE AND THE UNITED STATES INFORMATION AGENCY TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

ANDREA K. ALBERT, OF VIRGINIA
THEODORE ALLEGRA, OF COLORADO
MARJORIE A. AMES, OF VIRGINIA
CLAUDIA E. ANYASO, OF THE DISTRICT OF COLUMBIA
MASARU S. ASCHENBACH, OF VIRGINIA
JONATHAN D. BANK, OF MARYLAND
DEBORAH J. BARRASS, OF VIRGNIA
EDWARD CHARLES BERDICK, OF CONNECTICUT
CHARLES O. BLAHA, OF WISCONSIN
AMY MARGARET BLISS, OF COLORADO
MARK W. BOCCHETTI, OF MISSOURI
STEVEN C. BONDY, OF CALIFORNIA
KATHLEEN JOANNE BRAHNEY, OF VIRGINIA
WILLIAM D. BRIGGS, OF MARYLAND
RICHARD GEORGE BROWN, OF THE DISTRICT OF COLUMBIA
LAURA G. BYERGO, OF VIRGINIA
THOMAS J. CANDLER, OF VIRGINIA
GLADYS SHAWN COOPER, OF CALIFORNIA
MARY ELLEN COUNTRYMAN, OF WASHINGTON
SHAWN P. CROWLEY, OF FLORIDA
MARK DANNER, OF THE DISTRICT OF COLUMBIA
KATHRYN J. DAVENPORT, OF VIRGINIA
JILL DERDERIAN, OF MARYLAND
PUSHPINDER S. DHILLON, OF OREGON
WILLIAM D. DOUGLASS, OF NEVADA
AUDREY BONITA DUMENTAT, OF ILLINOIS
PETER ALFRED EISENHAUER, OF WISCONSIN
JEFF AUGUST ELZINGA, OF WISCONSIN
CARI ROBIN ENAV, OF NEW YORK
JOHN C. FOSS, OF VIRGINIA
JULIA FULLER, OF THE DISTRICT OF COLUMBIA
SUSAN PATRICIA GARRO, OF THE DISTRICT OF COLUMBIA

ERIC V. GAUDIOSI, OF PENNSYLVANIA
GEORGE D. GAYDOS, JR., OF PENNSYLVANIA
KATHRYN SCHMICH GELNER, OF MISSOURI
IN-MI KIM GOSNELL, OF VIRGINIA
LAURA MARLENE GOULD, OF NEW JERSEY
ANGELA LYNETTE GRAY, OF NORTH CAROLINA
LAURA ANN GRIESMER, OF OHIO
ALYSON L. GRUNDLER, OF NEW YORK
LOY ALLEN HALEY, JR., OF THE DISTRICT OF COLUMBIA
JAN ERIK HALL, OF MARYLAND
PETER MARK HAYMOND, OF VIRGINIA
STEVEN HENDRYX, OF CALIFORNIA
JOAN P. HILL, OF NORTH CAROLINA
DANIEL N. HOFFMAN, OF VIRGINIA
ANDREW GRISWOLD HYDE, OF VIRGINIA
OLIVER BRAINARD JOHN, OF VIRGINIA
EDWARD BERNARD JOHNS, JR., OF VIRGINIA
SENECA ELIZABETH JOHNSON, OF IDAHO
HENRY KAMINSKI, OF MARYLAND
CHRISTOPHER KAVANAGH, OF ILLINOIS
DAVID R. KEENER, OF VIRGINIA
CYNTHIA A. KIERSCHT, OF NORTH DAKOTA
JAMES ALCORN KNIGHT, OF NEW YORK
JOSEPH JAMES KOO, OF VIRGINIA
ELENA J. KRAWCZYK, OF VIRGINIA
JOSEPH P. KRUZICH, OF OREGON
MYUNGSOO MAX KWAK, OF CALIFORNIA
ALEXANDER MARK LASKARIS, OF THE DISTRICT OF COLUMBIA
JOHN P. LOMBARD, OF VIRGINIA
JOHN M. LYNN, OF OREGON
ALFRED R. MAGLEBY, OF UTAH
MELISSA BOYLE MAHLE, OF CALIFORNIA
MARTY WILLIAM MARTIN, OF VIRGINIA
ELIZABETH KAY WEBB MAYFIELD, OF TEXAS
BRIAN DAVID MCFEETERS, OF NEW MEXICO
JOHN K. MOLEN, OF VIRGINIA
TIMOTHY MICHAEL MONAHAN, OF THE DISTRICT OF COLUMBIA
LARRY A. MOODY, OF CALIFORNIA
KATHLEEN A. MORENSKI, OF VIRGINIA
CHRISTOPHER W. NYCE, OF VIRGINIA
JAMES M. OTTINGER, OF VIRGINIA
ELISE THAYER PATTERSON, OF TEXAS
MARION K. PLUMMER, OF VIRGINIA
MILES ANDREW POMPER, OF NEW JERSEY
GORDON ASA PROUTY, OF CALIFORNIA
ALLISON PUGH, OF NEW YORK
JOHN THOMAS RATH, OF NEW MEXICO
JONATHAN D. RICE, OF VIRGINIA
STEPHEN W. RILEY, OF VIRGINIA
EARL S. ROBINSON, III, OF LOUISIANA
DAVID CLINTON RODEARMEL, OF WASHINGTON
DEAN RAYMOND ROGERS, IV, OF VIRGINIA
FARREL H. ROPER, III, OF COLORADO
ROBERT ROSENFELD, OF MARYLAND
MARCO N. SAINATI, OF VIRGINIA
DOROTHY KREBS SARRO, OF NEW YORK
CHRISTINE SARKES SASSEVILLE, OF MARYLAND
ANDREW J. SCHOFER, OF NEW JERSEY
JANET DAWN SHANNON, OF WASHINGTON
JONATHAN JAMES SHAKES, OF CALIFORNIA
SHEILA A. SIPES, OF MARYLAND
CORINNE E. SMITH, OF NEW YORK
ANDREW SNOW, OF NEW YORK
THOMAS L. STRIPLING, OF VIRGINIA
ALEXANDER C. TABB, OF VIRGINIA
JOYCE A. THOMPSON, OF VIRGINIA
ROBERT S. THOMPSON, OF MARYLAND
NANCY L. TODD, OF MONTANA
JOHN JOSEPH WALESIEWICZ, OF VIRGINIA
GARRY TIM WALL, OF VIRGINIA
MYLES E. WEBER, OF MINNESOTA
ROBERT L. WHITE, OF VIRGINIA
ANGELA D. WILLIAMS, OF CALIFORNIA
HANNU A. WOLIN, OF VIRGINIA
JULIET WURR, OF CALIFORNIA

CONSULAR OFFICERS OF THE UNITED STATES OF AMERICA:

RALPH E. JOHNSON, OF NEW JERSEY
ROGER ALLEN MEECE, OF WASHINGTON

SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

PAUL S. CARPENTER, OF VIRGINIA
KENNETH A. COHEN, OF MARYLAND
JOSEPH HUGGINS, OF THE DISTRICT OF COLUMBIA
S. AHMED MEER, OF MARYLAND.
PAUL P. POMETTO, II, OF MARYLAND
JAMES E. ROBERTSON, OF MARYLAND

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 23, 1988:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

VICTOR D. COMRAS, OF FLORIDA

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES R. CLAPPER, JR. [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. THURMAN D. RODGERS [redacted] U.S. ARMY.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICERS IDENTIFIED WITH AN ASTERISK ARE NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE.

MEDICAL SERVICE CORPS

To be colonel

DENNIS J. FRINGELI [redacted]

ARMY

To be major

DWIGHT D. BONHAM [redacted]
*MICHAEL P. GOLDBERG [redacted]
JOAQUIN F. REIS, II [redacted]

MEDICAL CORPS

To be major

*MARSHA C. ARMSTRONG-MILLER [redacted]
*FRANK A. BAUER [redacted]
*CURTIS W. FISHER, II [redacted]
*VINITA GUPTA [redacted]
GREGORY B. HUGHES [redacted]
*JOHN H. SCHRANK [redacted]
*IRWIN B. SIMON [redacted]

HOUSE OF REPRESENTATIVES—*Monday, June 24, 1991*

The House met at 12 noon.

The Reverend Dr. Ronald F. Christian, Office of the Bishop, Evangelical Lutheran Church in America, Washington, DC, offered the following prayer:

Almighty God, source of all that is true, creator of all that is good, Father of all people, everywhere:

Grant, we pray, wisdom to leaders of nations, especially the President, the Members of Congress, and judges of this land. May truth be discerned with equity, justice pursued with diligence.

Renew, we pray, a sense of beauty and awe in Your created order.

May we not harm as much as help, waste as much as wonder; and give gratitude in our hearts for our families.

May past generations not be forgotten;

May parents be loving and patient; and

May our sons and daughters be blessed with Your grace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from Michigan [Mr. CAMP] will please come forward and lead the House in the Pledge of Allegiance.

Mr. CAMP led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation, under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

> S. 249. An act for the relief of Trevor Henderson.

The message also announced, that, pursuant to Public Law 101-509, the Chair, on behalf of the Republican leader, announces his appointment of Dr. Donald R. McCoy, of Kansas, to the Advisory Committee on the Records of Congress.

THE 438TH MILITARY POLICE UNIT OF THE KENTUCKY NATIONAL GUARD SAYS: PLEASE DO NOT FORGET US

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, "Please don't forget us. Please don't forget us." That plaintive refrain was made to me from Saudi Arabia on Saturday in a phone call I had with Captain Scully, who is the commanding officer of the 438th Military Police National Guard unit which is stationed in Louisville, my hometown and congressional district.

Captain Scully's 130 men and women have been in the gulf since February. They feel that their military mission has been accomplished, and that was underscored to me at the meetings I had at the Buechel Armory on Saturday, at which I heard from the parents and relatives and spouses of these men and women.

They feel their job is over, Mr. Speaker, and that they, the reservists and the guardsmen, ought to come home. They do, after all, have jobs, and they have schools to attend.

I hope, Mr. Speaker, that the President, Secretary Cheney, General Powell, and all the rest will bring those folks back home.

I am wearing a little button today which says, "Til they all come home." Let us not forget at the parades on the Fourth of July, which will take place in just a few days, that not all our troops are back yet. The 438th is not back home, and I pledge to do all I can to get them back home as soon as possible.

REFUTATION OF ALLEGATIONS AGAINST NED UNIT IN COSTA RICA

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, in recent days, there have been allegations by Members of this body of improper activities in Costa Rica by the National Republican Institute for International Affairs, a part of the National Endowment for Democracy.

The Republican Institute's activities in Costa Rica have been public, on the record and clearly within its charter and that of the National Endowment of Democracy. The accusations about the Institute's work suggests a political motivation reflecting the intense Presidential campaign which occurred in Costa Rica 2 years ago.

Since the allegations made about the Republican Institute's activities in Costa Rica are not true, I am placing in the RECORD today a point-by-point rebuttal. I urge my colleagues to consider carefully the Republican Institute's statements before accusing it of improper actions in Costa Rica.

MORE SHOCKING REVELATIONS IN THE S&L DEBACLE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, the savings and loan disaster may be the most blatant example of Government waste, mismanagement, incompetence, neglect, and favoritism in the history of the United States. When we see what it is going to cost the taxpayers, it is absolutely shocking.

But even more shocking is how the FDIC is dealing with this. We should remember that this agency is funded by the American taxpayer, and they are proceeding to settle these savings and loan cases in sealed court decisions. Yes, the taxpayers can pay the bill, but they cannot see what happened.

We just finished the one in the Silverado case in Colorado. The taxpayers are going to be on the hook for $950 billion. They sealed the decision on the $49 million that they assessed to the people who were really at fault, and actually we now find out that over $23 million of that was taxpayer-funded money, too. So we are going to pay even more.

Mr. Speaker, I think the taxpayers should be getting much more response from the administration and from everyone else. To continue thumbing their noses at the taxpayers who are left holding the bag is absolutely outrageous.

"TAX FAIRNESS" IS HITTING THE MIDDLE CLASS AND CAUSING JOBS TO BE LOST

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, remember the budget reconciliation bill passed by Congress last year? To reach

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

a deal, some Members of Congress agreed to "soak the rich" and pile on new taxes on so-called luxury items. The new tax hit automobiles above $30,000, yachts above $100,000, and aircraft above $250,000.

The Joint Committee on Taxation indicated this tax would raise nearly $1.5 billion between 1991 and 1995. The 10-percent excise tax would be mere pocket change for the wealthy. The tax took effect on January 1, 1991. Not long after, a funny thing happened. People stopped buying new boats, cars, and planes.

Bustling boat yards around the country began to close. Layoffs have followed in other industries. For instance, 275 dedicated and loyal employees who produced fiberglass for yachts at the PPG plant in Shelby, NC, have been laid off.

Obviously, putting people out of jobs has not done much for "revenue enhancement." The unemployed cannot send taxes to the U.S. Government.

The point to make however, is that when Congress tried to soak the rich, a lot of hard-working average American citizens paid the price—with their jobs. Join with me by working for true tax fairness and opposing these burdensome taxes.

QUALITY NOT THE ISSUE—TOO MANY IMPORTS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the big three automakers lost a record $4.7 billion in the last two quarters. Experts now warn that both Chrysler and Ford could collapse and could be on the ropes.

But let us get off the "quality" crap around here. An MIT study says that 80 percent of the auto manufacturing plants in the United States that are free of defects and tops in quality are American plants. The truth is that there are just too many cars, too much capacity.

□ 1210

Mr. Speaker, Congress has turned America into a giant flea market, and does not even charge table space. The truth of the matter is, we cannot even ship a couple hundred sacks of rice to Japan, unless we are nice. Think about it.

CONGRESS: A BROKEN RECORD

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, some observers comment that this body sounds like a broken record. Every year we seem to go round and round on the same issues, sort of a perpetual "play it again Sam" program. Well, here we are, poised once again to vote on the Interior appropriations bill, legislation that has traditionally been the focal point of intense debate over oil drilling. Every year, those of us who believe that drilling for oil in environmentally sensitive waters is unsound and shortsighted, line up to oppose such activity. And every year, there are those who advocate more drilling because they believe oil is the proven answer to our energy needs. The people of the coastal United States that I represent now know that the whole "to drill or not to drill" debate misses the mark. They are urging that we debate a longer-term vision of how we are going to meet our country's growing energy needs with conservation and alternative energy resources. Instead of just playing the same song over and over again, with the same old refrain, "More drilling, more drilling, more drilling." Let's look to a more comprehensive energy approach.

S&L BAILOUT IS A HUGE TAX INCREASE

(Mr. SANDERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, I rise today to briefly touch upon one of the major crises facing this country, and that is the continued bailout of the savings and loan industry, and they are now talking about another $100 billion, and the very precarious condition of the commercial banks who may also soon be in need of a major infusion of taxpayer money.

I wish to make two brief points:

First, I will not, and I hope you will not, vote another penny for the S&L bailout, or a bailout of the commercial banks, unless we make absolutely certain that it will not be the working people, the elderly, or the poor who end up paying for the bailout. This bailout is nothing more than a huge tax increase, and it is imperative that the wealthiest people in this country, the people whose incomes have soared and whose tax burdens have declined during the last decade shoulder the cost, and not working people or the middle class, who have seen a decline in their standard of living while their tax burden has increased.

Second, as a member of the House Banking Committee, I want to express deep concerns about the President's bank proposals which will give greatly expanded powers to the banks. Mr. Speaker, the taxpayers of this country are currently spending hundreds of billions of dollars in bailout money because of the fraud, mismanagement, and extremely irresponsible investment practices of the banking community, both in the S&Ls and the commercial banks. Given that reality and that track record, it seems to me to be the height of folly to give these same people even more power than they have now. I do not intend to support the President's proposal.

TREAT ESCOBAR AS ONE OF WORLD'S MOST WANTED CRIMINALS

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, one of the world's most ruthless and dangerous criminals, billionaire drug baron, Pablo Escobar, leader of Colombia's Medellin cocaine cartel, surrendered last week. He was joined in his surrender by his top lieutenants and his brother Roberto. While there should be some celebrating the jailing of the Escobars, unfortunately I am reluctant to celebrate at this early stage in the judicial process.

I am concerned that we will be subjected to Escobar's continued dealings as he conducts business as usual. Pablo Escobar has negotiated his surrender and is now being housed in a private, luxury jail overlooking his hometown of Envigado. His surrender was conditioned upon Escobar's being able to direct who will guard him, the banning of police from the prison, and a special mesh roof on the prison designed to repel any potential aerial attacks. This deal was completed just hours after the Colombian Government agreed to ban extradition.

Despite destroying thousands of lives world wide, both by assassination and by providing poisonous drugs to the world's youths, Pablo Escobar was guaranteed a reduced sentence by the Colombian Government. Mr. Speaker, I ask, is this justice? Is this the example we want to set for treatment of one of the world's most wanted criminals?

I fear this lenient slap-on-the-wrist treatment will do absolutely nothing to halt this man's heinous operations that are wreaking havoc throughout this world. I fear this savage being will continue to conduct business as ususal with the new headquarters located at his luxury hotel which he and the Colombian Government are labeling a prison. And when his term is completed, Escobar will pick up where he left off, resuming his No. 1 position in the Medellin cartel.

I commend the Colombian Government's overall efforts, but I urge them to administer sterner treatment of the world's No. 1 drug trafficker, Pablo Escobar. I hope a cloak is not being thrown over the world's eyes as we witness the arrest of this horrible man.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken at the end of legislative business today.

FORT SMITH MUNICIPAL AIRPORT, FORT SMITH, AR

Mr. ROE. Mr Speaker, I move to suspend the rules and pass the bill (H.R. 2132) to authorize the Fort Smith Airport Commission to transfer to the city of Fort Smith, AR, title to certain lands at the Fort Smith Municipal Airport for construction of a road.

The Clerk read as follows:

H.R. 2132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER AUTHORITY.

Notwithstanding section 511(a)(14) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)(14), including any rule or order issued or grant assurance made to carry out such section), the Fort Smith Airport Commission may transfer, without monetary consideration, to the city of Fort Smith, Arkansas, title to such lands within the boundaries of the Fort Smith Municipal Airport as may be necessary to construct a road connecting Massard Road, south of Rogers Avenue, to the terminus of Phoenix Avenue at Interstate Route 540 if the conditions set forth in section 2 are met.

SEC. 2. CONDITIONS.

The transfer described in section 1 shall be subject to the following conditions:

(1) The city of Fort Smith, Arkansas, will close to public use—

(A) the road located within the boundaries of the Fort Smith Municipal Airport, formerly known as the Airport Loop Road; and

(B) those portions of South Louisville Road, South 66th Street, and South 74th Street, that are located within such boundaries.

(2) The city will transfer, without monetary consideration, to the Fort Smith Airport Commission title to the lands on which the road and portions of roads described in paragraph (1) are situated.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 2132 authored by the distinguished ranking Republican member of the committee, JOHN PAUL HAMMERSCHMIDT.

The Fort Smith Airport needs a release from assurances that the airport made to the Federal Aviation Administration when the airport purchased land with Federal Airport Improvement Program funds. At that time, Fort Smith assured the FAA that if it sold the property purchased, the airport would receive fair market value. Now, the airport wants to swap land with the city to permit a new road to be built.

The parcels of land being swapped are roughly comparable in size; however some FAA officials have indicated that such a swap may not technically meet the fair market value test.

It appears to me that a land swap of the type being proposed here leaves the airport whole. The bill simply permits this land swap to go forward, irrespective of whether the land swap technically constitutes fair market value. Authorizing the land swap will provide a safety enhancement at the Fort Smith Airport because after the new road is built the airport can close an old road which is too close to a runway and a radar facility. The new road will improve access to the airport relieving congestion and promoting efficiency.

I urge the House to pass this bill, and I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill to permit the airport in Fort Smith, AR, to transfer land to the city of Fort Smith. The city will use this land to build a road called the Phoenix Avenue Extension, portions of which will go through airport property.

Under current law, section 511(a)(14) of the Airport and Airway Improvement Act, an airport usually must receive fair market value for land that it transfers.

However, in this case the airport wants to transfer the land for the Phoenix Avenue Extension without receiving payment from the city. Instead, it will do a land swap. It would give land to the city for the Phoenix Avenue Extension. In return, the city will close the street known as the Airport Loop Road, which goes through airport property, and give the land for this road to the airport.

The loss to the airport by giving up the land for the Phoenix Avenue Extension would be 13 acres. The gain to the airport by acquiring the Airport Loop Road would be 12 acres. There seems to be some disagreement within FAA as to whether this land swap constitutes the fair market value required under current law.

The legislation before us now is needed to clarify this situation and allow the land transfer to go forward.

The FAA has indicated that it has no problem with this legislation. They recognize that the Phoenix Avenue Extension will improve access to the airport and that closure of the Airport Loop Road would enhance airport security by removing public access to areas near the runway and the radar.

It should be emphasized that this legislation does not authorize any money for the road. It merely clears away any legal roadblocks that may exist that could prevent the city from acquiring the land needed to construct that road.

Mr. Speaker, I would like to thank the Honorable BOB ROE, Chairman of the Public Works Committee; the Honorable JAMES OBERSTAR, chairman of the Aviation Subcommittee; and the ranking member of the Aviation Subcommittee, the Honorable BILL CLINGER, for helping to bring this measure to the floor.

Mr. Speaker, I urge my colleagues to vote for this legislation.

□ 1220

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 2132.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GARY REGIONAL AIRPORT, GARY, IN

Mr. ROE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 470) to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, IN, as amended.

The Clerk read as follows:

H.R. 470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF CERTAIN RESTRICTIONS.

(a) RELEASE.—Notwithstanding section 16 of the Federal Airport Act (as in effect on May 29, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 U.S.C. App. 1622c), and the provisions of subsection (c), to grant a release or releases, without monetary consideration, with respect to the restrictions, requirements, and conditions imposed on the property described in subsection (b) by a quitclaim deed conveying such property to the city of Gary, Lake County, Indiana, dated May 29, 1947.

(b) DESCRIPTION OF PROPERTY.—Those lands incorporated in the Reconstruction Finance Corporation project known as Tracts A and C of Plancer 1035, Rubber Synthetics, Gary, Indiana (WAA No. R-Ind. 6), legally described as follows:

That part of the east one-half of section 35, township 37, range 9 west of the second principal meridian, lying between the C.L.S. & E. Railroad and the Grand Calumet River, and that part of the west one-half of section 36, township 37, range 9 west, lying between United States Highway 12 and the Grand Calumet River, and that part of the southeast quarter of section 36, township 37, range 9 west, lying between United States Highway 12 and the Grand Calumet River, and that part of the southeast quarter of section 26, township 37, range 9 west, lying between the C.L.S. & E. Railroad and United States Highway 12, all in the city of Gary, Lake County, Indiana. Tract A is composed of 476.885 acres, and Tract C is composed of 133.971 acres. Total area is approximately 610 acres, with all its appurtenances, being a part of the same property acquired by the Defense Plant Corporation under that certain warranty deed executed by the Gary Land Company, an Indiana corporation, dated August 25, 1942, and filed for record in the Recorder's Office of Lake County, Indiana, on October 9, 1942, as document number 742127, in book number 666, page 278, and that certain warranty deed executed by the Elgin, Joliet and Eastern Railroad Company, an Illinois and Indiana corporation, dated December 22, 1942, and filed for record in the Recorder's Office of Lake County, Indiana, on December 23, 1942, as document number 82584, in book 670, page 68.

(c) LIMITATION ON USE OF AMOUNTS RECEIVED.—Any amounts received by the city of Gary, Indiana, for use of property governed by a release granted by the Secretary of Transportation under this section shall be used by the city for development, improvement, operation, or maintenance of the Gary Regional Airport.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 470 authored by our distinguished colleague from Indiana, PETE VISCLOSKY. The bill is a straight-forward measure that simply releases the Gary, IN, Airport from restrictions placed on the use of the airport property when it was deeded to Gary by the Federal Government in 1949. According to the restriction placed in the deed, Gary is required to use all of the land for airport purposes or risk it reverting back to the Federal Government.

The city of Gary would like to create the opportunity for a foreign trade zone to be established at the Gary Airport. Since the use of land for a foreign trade zone is technically not an airport purpose, Gary needs this bill enacted in order to establish the zone. The committee has been informed by the Federal Aviation Administration that the land in question is not needed for aviation purposes at the airport. We have also been told by FAA that a foreign trade zone will, in fact, further enhance the economic vitality of the airport's operations. The city of Gary would like to see a foreign trade zone established in order to attract economic development and employment. I believe it is a reasonable and responsible way to use this land.

Mr. Speaker, while this bill may appear to be a minor technical matter, let me emphasize that this bill is about job creation and improving the quality of life of hundreds of people who could obtain work at a foreign trade zone in Gary. This legislation is very important for Gary and the surrounding area. I commend the gentleman from Indiana for his vigorous pursuit of this matter.

I urge our colleagues to pass the bill, and I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill.

It is quite similar in its intent to my bill, H.R. 2132. Both bills would allow airport land to be used for a nonaviation, but otherwise worthwhile purpose.

In this case, the bill would allow airport land to be used as a foreign trade zone. According to the FAA, this will not interfere with the current or future operation of the airport.

Moreover, as amended by the Public Works Committee, this bill would make clear that any revenues derived from the foreign trade zone must be used for airport purposes.

These types of deed restriction removal bills are commonly passed by the House. I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. ROE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I would first like to thank Chairman ROE and Congressman HAMMERSCHMIDT for bringing this bill I introduced, H.R. 470, to the floor today.

This legislation will remove restrictions placed on two tracts of land at the Gary Regional Airport. The restrictions, which prohibit the use of the parcels for nonaviation purposes, were placed on the land when it was deeded to the city of Gary in 1942 by the War Assets Administration. All agree that these restrictions are dated and their removal at this time is necessary so that the Gary Airport Authority may proceed with their plans to establish a foreign trade zone at the facility.

The last decade was very hard on northwest Indiana and the city of Gary particularly. The rescession in the early 1980's and the dramatic restructuring of the steel industry, the region's primary employer, resulted in unemployment rates that were the highest in the State. Thousands of families were forced to move to seek other opportunities.

However, there are strong indications that we have turned the corner and I am optimistic about the future. In Gary, the airport is one of the cornerstones that can be utilized to revitalize the city and help enhance the economic growth of the entire region. Since being elected to Congress, I have worked with local, State, and Federal officials to assist in the development of the Gary Regional Airport. The bill before the House today will spark continued development of the airport and will provide it with added momentum in the final stretch of the site selection process for designation of the area's third major airport.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and pass the bill, H.R. 470, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAPBOX DERBY

Mr. ROE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 173) authorizing the use of the Capitol Grounds for the Greater Washington Soapbox Derby.

The Clerk read as follows:

H. CON. RES. 173

Resolved by the House of Representatives (the Senate concurring), That, the Greater Washington Soap Box Derby Association ("Association") shall be permitted to sponsor a public event, soap box derby races, on the Capital grounds on July 13, 1991, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate. Such event shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board, except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event. For the purposes of this resolution, the Association is authorized to erect upon the Capital grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment, as may be required for the event. The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from Arkansas [Mr. HAMMERSCHMIDT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 173.

This resolution would authorize the Greater Washington Soap Box Derby races to be run on the Capitol Grounds on Saturday, July 13, 1991. This event would be sponsored by the local affiliate of the All-American Soap Box Derby, the Greater Washington Soap Box Derby Association.

Mr. Speaker, as this resolution is noncontroversial and as timing is critical in order to prepare for the event, we are proceeding directly to the floor today.

The races and the preparations for them provide important benefits to our youth. These include teaching basic skills in mechanics and aerodynamics as well as pride in workmanship, the joy of competition and family togetherness.

Under the resolution, the association, as the sponsor, would assume all responsibility for expenses and any liability related to the event the association would also make its arrangements for the races with the approval of the Architect of the Capitol and the Capitol Police Board.

Mr. Speaker, I urge adoption of this resolution, and I reserve the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 173 which will allow the Greater Washington Soap Box Derby to be run on the downward slope of Constitution Avenue. Although this event has been a yearly occurrence for the last 50 years, this will be the first time that it will be held on Capitol Grounds. Not only is the event fun for the entire family but it teaches the young participants the basics of mechanics and aerodynamics as they design and build their soap boxes for the derby.

The downward slope of Constitution Avenue on the Senate side of the Capitol provides the ideal "soap box run" for the 30–40 expected participants from around the Greater Washington area. It is not often that the U.S. Congress can contribute to the art of the Soap Box Derby, thus it is fitting and appropriate that we allow the Greater Washington Soap Box Derby Association to use our "Hill."

Mr. Speaker, I urge my colleagues to support the resolution.

Mr. Speaker, I reserve the balance of my time.

□ 1230

Mr. ROE. Mr. Speaker, I thank the distinguished gentleman.

Since this is a very important transportation matter, I have the honor to defer to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I want to thank Representative ROE, chairman of the House Public Works Committee, and the ranking minority member, Representative HAMMERSCHMIDT, for their strong support and assistance in expediting consideration of this measure, today.

This resolution simply authorizes the use of Constitution Avenue NE, between Delaware and Third, for the Greater Washington Soap Box Derby competition—part of the All-American Soap Box Derby—on July 13.

The Architect of the Capitol and the Sergeant at Arms, as is the usual practice, will negotiate a licensing agreement with the local Derby Association to assure that there will be complete compliance with rules and regulations governing the uses of Capitol Grounds. This year's race will mark the 54th running of the Derby.

The local competition offers girls and boys, aged 9 to 16, an invaluable opportunity to develop and practice both sportsmanship and engineering skills. Although the Derby focuses attention on the young people, it is actually a family event.

It is entirely appropriate that this event, the Derby's Washington region competition which attracts young people from the District of Columbia, northern Virginia, eastern Maryland and Baltimore, be held near the center of this community.

Young people deserve, and we owe them every opportunity to not only participate in these kinds of activities, but to see others participating in them.

As Ken Tomasello, the director of the Metropolitan Washington Soap Box Derby Association said to me:

> In short, while it (the Derby) doesn't keep kids "off the street", it does give them a drug-free activity "on the street."

This resolution supports just that kind of effort right here in our backyard. These kids and those who will be watching them will have a street that is safe, and which provides them with the visibility that this kind of event deserves.

Again, I want to thank the chairman and ranking minority member for their help, as well as Speaker FOLEY for his interest in this project.

I urge my colleagues to support the resolution.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from New Jersey [Mr. ROE] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 173.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 173, the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RE-REFERRAL OF H.R. 1178, RAILWAY LABOR ACT AMENDMENTS, TO COMMITTEE ON ENERGY AND COMMERCE AND COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. ROE. Mr. Speaker, I ask unanimous consent that the bill H.R. 1178, amending the Railway Labor Act to provide that a majority of valid votes cast by members of a craft or class of employees shall determine the representative of such craft or class for purposes of such act, be re-referred jointly to the Committee on Energy and Commerce and the Committee on Public Works and Transportation.

This request has been cleared with the minority leadership of the House and with the majority and minority of the Committee on Energy and Commerce.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

RE-REFERRAL OF H.R. 2366, ECONOMIC ADJUSTMENT ASSISTANCE AUTHORIZATION ACT OF 1991, TO COMMITTEE ON ARMED SERVICES, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS, AND COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. ROE. Mr. Speaker, I ask unanimous consent that H.R. 2366, the Economic Adjustment Assistance Authorization Act of 1991, be re-referred jointly to the Committee on Armed Services, the Committee on Banking, Finance and Urban Affairs, and the Committee on Public Works and Transportation.

This request has been cleared with the minority leadership of the House and with the majority and minority of the Committees on Armed Services and Banking, Finance and Urban Affairs.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FEDERAL MARITIME COMMISSION AUTHORIZATION FOR FISCAL YEAR 1992

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1006) to authorize appropriations for fiscal year 1992 for the Federal Maritime Commission, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1006

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATION.

In fiscal year 1992, $17,974,000 is authorized to be appropriated for the use of the Federal Maritime Commission.

SEC. 2. WAIVERS FOR CERTAIN VESSELS.

(a) Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) ARGOSY (United States official number 528616).

(2) BILLFISH (United States official number 920896).

(3) CUTTY SARK (United States official number 282523).

(4) JIGGS (United States official number 208787).

(5) LOIS T (United States official number 668034).

(6) MARCIA (State of Maryland registration number MD6814P).

(7) NUSHAGAK (United States official number 618759).

(8) PHOENIX (United States official number 655712).

(9) PURE PLEASURE (United States offical number 968163).

(10) STARLIGHT VIII (United States official number 910317).

(11) WINDWARD III (United States official number 552289)

(b) Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289) and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the following inflatable vessels may engage in the coastwise trade:

(1) Serial number 3968B, model number J990.

(2) Serial number 4581B, model number J990.

(3) Serial number A501A, model number D989.

(4) Serial number A502A, model number D989.

(5) Serial number 6291C, model number G091.

(6) Serial number 6300C, model number G091.

(7) Serial number 7302C, model number G091.

(8) Serial number 7305C, model number G091.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes, and the gentleman from South Carolina [Mr. RAVENEL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1006, a bill to authorize appropriations for the Federal Maritime Commission for fiscal year 1992. The funds authorized by this bill will enable the FMC, an independent agency, to carry out its responsibilities to administer and enforce the statutes affecting our waterborne foreign and domestic commerce.

H.R. 1006 authorizes the appropriation of $17,974,000 for the Commission for fiscal year 1992. This amount is identical to the administration's budget request.

It is an increase of $2,080,000 over the fiscal year 1991 authorization and appropriation. This increase will fund higher personnel costs, building rent, and other administrative costs.

Fiscal conservatives will be pleased to hear that, in fiscal year 1990, the FMC collected in excess of $25 million in fines and penalties—160 percent of its budget.

In the first 7 months of fiscal year 1991, over $21 million has been collected—135 percent of its budget. How many Federal agencies collect more revenues than they spend?

On May 2, 1991, the Committee on Merchant Marine and Fisheries marked up H.R. 1006, and unanimously ordered it reported to the House.

The bill also authorizes the Secretary of Transportation to issue certificates of documentation in the coastwise trade of the United States for a number of privately owned vessels.

Mr. Speaker, I reserve the balance of my time.

Mr. RAVENEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1006 the fiscal year 1992 authorization of appropriations for the Federal Maritime Commission.

H.R. 1006 authorizes $17,974,000 for fiscal year 1992. This funding level, which is identical to the administration's budget request, represents an increase of $2,080,000 over the fiscal year 1991 appropriation. This increase in funding authority will take care of additional personnel costs, the rent for the building that houses the agency, and other administrative costs.

The Federal Maritime Commission [FMC] is the independent regulatory body that administers a number of important shipping laws governing both domestic and international shipping activities. The primary responsibility of the FMC is to monitor shipping practices of ocean common carriers, marine terminal operators, shippers, and others involved in shipping activities in the U.S.-foreign commerce. One of the key elements of the agency's activities is to ensure that the tariffs filed with the FMC are honored and that shipping practices are carried out fairly.

As part of the FMC's responsibilities in enforcing these shipping laws, during fiscal year 1990 the agency collected over $25 million in fines and penalties and $155,000 in various fees. These funds, which were deposited into the U.S. Treasury, represent more than $10 million more than the entire appropriation for the Commission for that fiscal year. In other words, Mr. Speaker, the FMC has been making money for the Federal Government and has been helping to offset some of our budget deficit problems.

Mr. Speaker, I would like to take a brief moment to comment on one item contained in the committee amendment under consideration today. The Merchant Marine and Fisheries Committee has considered a number of bills which Members have introduced to allow privately owned vessels to be documented for coastwise privileges. The committee looked at these bills and determined that there are good reasons to provide legislative authorization to allow the vessels involved to be documented.

One vessel included in this legislation is the fishing vessel *Billfish*. The owner of this U.S.-built fishing vessel has been unable to supply evidence to the Coast Guard of the complete chain of title for this boat. Without that evidence the Coast Guard is not able to grant the appropriate documents to enable the boat to accept passengers for hire. I introduced the original legislation on the fishing vessel *Billfish* and I am delighted to see it included in this committee amendment.

I urge all of our colleagues to join Chairman JONES and myself in supporting H.R. 1006. This is a good bill; it reflects the wishes of our President in the terms of the budget; and it should be enacted.

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the FMC's primary mission is to ensure an equitable trading environment for all parties in our ocean trade. The agency seeks to eliminate discriminatory or unfair trade practices which are detrimental to both U.S.-flag ocean carriers and exporters and importers in our foreign trade.

As an example, earlier this month, the FMC announced success as a result of its investigation into the controversial Japanese harbor management fund. U.S.-flag carriers had alleged that they paid a disproportionate share into this fund and received no benefits from it.

The Federal Maritime Commission invoked its authority under the Foreign Shipping Practices Act—a law that I authored in 1988 to combat discriminatory practice against our carriers by foreign entities.

As a result of the FMC investigation and the prospects of sanctions under the act, Japan will significantly modify the fund, use the levies for genuine maritime purposes that benefit all carriers, and stop collecting it altogether in the near future. I congratulate the FMC for its aggressive use of the Foreign Shipping Practices Act and section 19 of the Merchant Marine Act of 1920.

The FMC also is vigorously pursuing remedies to combat unfair restrictions United States carriers currently face doing business in Korea. I encourage the Commission in these endeavors. Next month, a high level United States Government delegation will visit Korea for discussions with maritime officials there. I sincerely hope that the Government of Korea will take this opportunity to announce the elimination of these discriminatory restrictions on United States-flag carriers doing business in that country.

Mr. Speaker, H.R. 1006 has the unanimous support of the members of the Committee on Merchant Marine and Fisheries and the full support of the administration. The bill deserves the support of this House, and I urge its passage.

□ 1240

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from North Carolina [Mr. JONES] that the House suspend the rules and pass the bill, H.R. 1006, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1006, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

J.E. "EDDIE" RUSSELL POST OFFICE BUILDING

Mr. MCCLOSKEY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 674) to designate the U.S. Post Office located at 304 West Commercial Avenue in Monterey, TN, as the "J.E. 'Eddie' Russell Post Office," as amended.

The Clerk read as follows:

S. 674

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The building in Monterey, Tennessee, which houses the primary operations of the United States Postal Service (as determined by the Postmaster General) shall be known and designated as the "J.E. (Eddie) Russell Post Office Building", and any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the J.E. (Eddie) Russell Post Office Building.

SEC. 2. TECHNICAL CORRECTIONS.

Title 39, United States Code, is amended—

(1) in section 3001, by redesignating the 2 subsections immediately following the first subsection (i) as subsections (j) and (k), respectively; and

(2) in section 3005(a), by striking "section 3001(d), (f), or (g)" each place it appears and inserting "3001(d), (h), or (i)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana [Mr. MCCLOSKEY] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. MCCLOSKEY].

Mr. MCCLOSKEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill passed the Senate on March 14 of this year and a companion bill—H.R. 966—was introduced by our colleague from Tennessee, Congressman BART GORDON.

Naming the post office building located at 304 West Commercial Avenue, Monterey, TN, as the "J.E. (Eddie) Russell Post Office" would be a fitting tribute to a man who began a career with the U.S. Postal Service as a letter carrier and ended that career, almost 20 years later, as the Monterey, TN, postmaster.

Mr. Russell's love for the postal service did not stop at the end of a hard days' work. Eddie Russell was an active member of the Tennessee chapter of the National Association of Postmasters and served, with distinction, as the vice president of this organization for 3 long years. The Postal Service has lost a valued employee with Mr. Russell's untimely death. It would be a fitting tribute for the post office building in Monterey, TN, that Mr. Russell was instrumental in getting for the community, to bear his name.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority has unanimously approved this legislation.

Mr. MCCLOSKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, this legislation pays tribute to fine servant of the people of Tennessee and of the United States.

Mr. Speaker, many people worked hard to bring this bill to fruition, and I want to compliment and thank all those who assisted, particularly the chairman of the committee, Mr. CLAY; the ranking member, Mr. GILMAN; and the ranking member of the Postal Operations Subcommittee, Mr. HORTON.

I especially want to thank the chairman of the Postal Operations Subcommittee, the gentleman from Indiana [Mr. MCCLOSKEY] and his fine staff as well as the staff of the committee.

And I want to praise the people of Monterey, TN, for suggesting the renaming of their post office and for working to bring it about.

Mr. Speaker, Eddie Russell was a career postal employee who worked hard for many years to serve the people of his community, his State and his country. Eddie Russell saw that his community needed this post office, and he is credited with being instrumental in obtaining the new building.

The old post office in Monterey had fallen into very bad repair. The roof failing, and water poured in when it rained. More than once, mail got wet. Mr. Russell felt that it was his responsibility to protect the mail, and he worked diligently to fulfill that responsibility.

Finally, Mr. Russell's work paid off, and a new post office building was begun. But, tragically, he was stricken with bone marrow cancer while construction was in progress. He died before the facility he had worked so hard to bring about was completed.

The people of Monterey thought so much of their late postmaster that they organized a petition drive in support of naming their new post office in his honor, and they brought their interest to the attention of their elected representatives.

Eddie Russell was a native of Carthage, TN. He attended Cumberland College in Lebanon, TN. He was a member of the Mount Tabor Missionary Baptist Church.

He was employed by the Upper Cumberland Electric Membership Cooperative in Carthage, TN, for 6 years, but physical injuries forced him to leave a promising career with the cooperative.

He went to work for the Postal Service, first in Carthage, then as Postmaster in Baxter, TN, and finally as Postmaster in Monterey, TN, until his life was cut tragically short.

Mr. Speaker, let us go forward and pass this bill naming the Monterey post office in honor of Eddie Russell, a dedicated servant of his community and an outstanding employee of the U.S. Postal Service.

Mrs. MORELLA. Mr. Speaker, I yield back the balance of my time.

Mr. McCLOSKEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana [Mr. McCLOSKEY] that the House suspend the rules and pass the Senate bill, S. 674, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to designate the building in Monterey, Tennessee, which houses the primary operations of the United States Postal Service as the 'J.E. (Eddie) Russell Post Office Building,' and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCLOSKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 674, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

FEDERAL EMPLOYEE REDUCTION-IN-FORCE NOTIFICATION ACT

Mr. KANJORSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1341) to amend title 5, United States Code, to require that a Federal employee be given at least 60 days' written notice before being released due to a reduction in force, as amended.

The Clerk read as follows:

H.R. 1341

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employee Reduction-in-Force Notification Act".

SEC. 2. NOTICE REQUIREMENTS.

Section 3502 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as provided under subsection (e), an employee may not be released, due to a reduction in force, unless—

"(A) such employee and such employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (2), at least 60 days before such employee is so released; and

"(B) if the reduction in force would involve the separation of a significant number of employees, the requirements of paragraph (3) are met at least 60 days before any employee is so released.

"(2) Any notice under paragraph (1)(A) shall include—

"(A) the personnel action to be taken with respect to the employee involved;

"(B) the effective date of the action;

"(C) a description of the procedures applicable in identifying employees for release;

"(D) the employee's ranking relative to other competing employees, and how that ranking was determined; and

"(E) a description of any appeal or other rights which may be available.

"(3) Notice under paragraph (1)(B)—

"(A) shall be given to—

"(i) the appropriate State dislocated worker unit or units (referred to in section 311(b)(2) of the Job Training Partnership Act); and

"(ii) the chief elected official of such unit or each of such units of local government as may be appropriate; and

"(B) shall consist of written notification as to—

"(i) the number of employees to be separated from service due to the reduction in force (broken down by geographic area or on such other basis as may be required under paragraph (4));

"(ii) when those separations will occur; and

"(iii) any other matter which might facilitate the delivery of rapid response assistance or other services under the Job Training Partnership Act.

"(4) The Office shall prescribe such regulations as may be necessary to carry out this subsection. The Office shall consult with the Secretary of Labor on matters relating to the Job Training Partnership Act.

"(e)(1) Subject to paragraph (3), upon request submitted under paragraph (2), the President may, in writing, shorten the period of advance notice required under subsection (d)(1) (A) and (B), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

"(2) A request to shorten notice periods shall be submitted to the President by the head of the agency involved, and shall indicate the reduction in force to which the request pertains, the number of days by which the agency head requests that the periods be shortened, and the reasons why the request is necessary.

"(3) No notice period may be shortened to less than 30 days under this subsection.".

SEC. 3. APPLICABILITY.

The amendment made by section 2 shall apply with respect to any personnel action taking effect on or after the last day of the 90-day period beginning on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KANJORSKI] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. MORELLA] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KANJORSKI].

GENERAL LEAVE

Mr. KANJORSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 1341, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KANJORSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1341, the Federal Employees Reduction-in-Force Notification Act requires the Federal Government to provide Federal employees a minimum of 60-day advance notification of a reduction in force.

During the 101st Congress, the Subcommittee on Human Resources held several hearings on the impact of base closures on civilian personnel. During those hearings, witnesses testified that in order to accommodate and place separated employees in Job Training Partnership Act programs they need at least 2 months notification. I believe Federal employees who will lose their jobs deserve a minimum 60-day requirement.

Currently, the Code of Federal Regulations requires agencies to notify employees 30 days in advance of a reduction in force. During subcommittee hearings this past April, the General Accounting Office [GAO] testified that a majority of Federal agencies provide written notice 60 days in advance of a RIF. Under current regulation, agencies can provide a general RIF notice to employees 60 days in advance but not actually inform the employee they will be let go until 10 days before separation. This is unacceptable. The reason for advance notification is so that employees can receive the benefits of placement and training programs. Ten days is not sufficient. H.R. 1341 provides a specific notice 60 days in advance of being separated.

Let me remind my colleagues that requiring a 60-day notice to employees who are about to lose their jobs is not a novel idea. It is already the law of the land when it comes to most businesses in the private sector. When Congress earlier enacted plant closing legislation, we all understood that providing 60 days advance notice to employees about to be laid off was one of the act's major provisions. The bill we have before us today simply extends this basic principle of fairness and decency to the Federal Government and its employees.

The General Accounting Office [GAO] reviewed advance notification policy in its study entitled, Plant Closing—Limited Advance Notice and Assistance Provided Dislocated Workers. This study of private sector advance notice practices between 1983 and 1984 found that "several major business associations and labor organizations agree that workers dislocated by closures and layoffs need time to adjust to the trauma of job loss and to help facilitate transition to reemployment." According to the study, advance notice:

First, provides time to plan and implement programs to help workers adjust to their dislocation and find reemployment;

Second, increases worker participation in adjustment programs; and

Third, improves the efficiency and effectiveness of adjustment programs by helping dislocated workers find comparable jobs more quickly.

The fact that an employee may have worked for the Federal Government rather than for the private sector does not alter the impact of dislocation on the employee, the employee's family, or the community in which the employee lives.

Considerable research has been done on the issue of dislocation. Virtually everyone who has looked at the problems associated with dislocation has agreed on the importance of early notice to workers of impending dislocation.

It should also be noted that, unlike many private sector businesses, the Federal Government almost always has the ability to accommodate the need of its employees for a 60-day notice period. Private companies, responding to rapidly changing economic needs, are limited in their ability to foresee events. Federal agencies, however, are typically aware of impending reduction-in-force actions well in advance of the date of employee release. Typically, meeting a 60-day notice requirement will not require any additional delay in the agency's planned reduction. To the extent that an agency may need to respond quickly to events that were not reasonably foreseeable, H.R. 1341, as reported, authorizes the President to waive the 60 days' notice requirement.

Mr. Speaker, I urge my colleagues to vote for H.R. 1341.

□ 1250

Mr. Speaker, I reserve the balance of my time.

Mrs. MORELLA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1341, a bill requiring that a Federal employee be given at least 60 days' notice before being released due to a reduction in force.

Present regulations affecting Federal employees require agencies to notify employees, in writing, 30 days in advance of a reduction in force.

The Committee on Post Office and Civil Service passed this bill after extensive hearings conducted by the Subcommittee on Human Resources. Being affected by a reduction in force is an extremely frightening and disruptive event in the lives of employees. In order for these employees to participate in job training and placement programs, it is necessary to give RIF'd employees at least a 60-day notification. The provisions of this bill are applicable to all Federal reductions in force, large or small.

Mr. Speaker, I would like to extend my appreciation to the gentleman from Pennsylvania [Mr. KANJORSKI], chairman, Subcommittee on Human Resources, and to Chairman CLAY of the Committee on Post Office and Civil Service for their untiring efforts to bring this bill to the floor.

The Omnibus Budget Reconciliation Act of 1990 [OBRA] requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. H.R. 1341 affects a mandatory program and therefore is subject to the pay-as-you-go requirements of OBRA. However, OMB's preliminary estimate is that the bill will not increase direct spending and therefore has a zero pay-as-you-go effect.

I urge my colleagues to support H.R. 1341.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the very distinguished ranking member of the Committee on Post Office and Civil Service.

Mr. GILMAN. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, I previously strongly supported initiatives requiring employee notice in the case of layoffs and plant closings in the private sector. I want to commend both the distinguished chairman of the Committee on Post Office and Civil Service, the gentleman from Missouri [Mr. CLAY] and the distinguished chairman of the Subcommittee on Human Resources, the gentleman from Pennsylvania [Mr. KANJORSKI] for their diligent work on behalf of all of our Federal employees.

It is ironic that the Federal Government does not extend such advance requirements to its own workers. While the Office of Personnel Management opposes this legislative measure, I am pleased to learn that OPM is in the process of issuing regulations similar in nature. Federal workers should not be without this basic necessary protection.

Under the proposed OPM guidelines, agencies will have to provide employees with at least 60 days written notice prior to a reduction in force when 50 or more employees are to receive separation notices in the same competitive area. The 60-day requirement would not apply in situations caused by an immediate shortage of funds or other unforeseeable circumstances, or when fewer than 50 employees are being separated.

An agency would be able to meet the 60-day reduction-in-force notice requirement either by issuing a general notice which is followed by a specific notice, or by issuing a 60-day specific notice. At present, agencies are required to give employees at least 30 days advance written notice prior to a reduction-in-force action.

While I commend OPM for issuing these proposed regulations, I believe this House should nevertheless proceed through the legislative route. I do not question OPM's intentions; however, regulations can be withdrawn or modified at the discretion of the executive branch. In addition, the proposed legislation applies to all reductions in force, not merely those affecting 50 or more employees. In addition, this threshold is applied to RIF notices, not separation notices. Finally, H.R. 1341 requires that a specific notice be sent to the employee at least 60 days before the RIF begins. The OPM regulations only require a 60-day general notice.

Mr. Speaker, while I believe OPM is headed in the right direction with regard to this issue, I believe it is more prudent for this body to follow the legislative path. Accordingly, I urge our colleagues to join in support of this legislation.

Mr. KANJORSKI. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the distinguished chairman of the subcommittee, the gentleman from Pennsylvania [Mr. KANJORSKI] for yielding to me.

Mr. Speaker, I am particularly pleased to support H.R. 1341, which provides additional job protection to Federal employees by requiring notification of State agencies and Government officials and by requiring 60-day written notice before an employee may be released due to a reduction in force, when conditions are reasonably foreseeable.

If anything, this measure is tardy in bringing the Federal Government in line with the requirements Congress has placed on the private sector and helps assure that we will keep and attract a superior labor pool at a time when the competition for talent is fierce.

Reductions causing job loss are extremely traumatic. The least any employer should be expected to do is to mitigate the harshness of layoff by affording the opportunity to take offsetting actions. Federal workers serve our country honorably. Increasingly, they are paid less than their private sector counterparts. The very least we should do for these dedicated employees is to assure that their treatment in the workplace is as close as possible to the treatment afforded the private sector.

This bill provides Federal employees with much needed improvements. I was happy to support it in committee and am happy to support it here today.

Mr. Speaker, again I thank the distinguished chairman of the full committee, the gentleman from Missouri [Mr. CLAY] and the ranking member of the full committee, the gentleman from New York [Mr. GILMAN], and the chairman of the subcommittee, the gentleman from Pennsylvania [Mr. KANJORSKI], for moving to modernize Federal requirements in this important way.

Mr. MORAN. Mr. Speaker, I would like to rise today in support of H.R. 1341, the Federal Employee Reduction-in-Force Notification Act.

Mr. Speaker, increasingly over the next decade, we will come under budgetary contraints that will force us to reduce the size of our Federal Government. While this process may be inevitable, we can take a very positive step by ensuring that those employees who are laid off from the Federal Government under a reduction in force are given ample notice.

Chairman KANJORSKI has taken an important step to ease the blow for the Federal workers due to be reduced in force by extending the notification process from 30 days to 60 days. This extension is necessary because it is becoming so difficult for these displaced Federal workers to find similar employment in the Federal service. While the administration may be justified in its attempts to reduce the size of the civil service, certainly it has the luxury of showing compassion for those workers displaced. Rarely in the Federal Government is an agency forced to reduce its manpower or close a department's door at a moment's notice. Federal agencies have the luxury of knowing their budgets and of knowing in advance where cuts may be made. The Federal agency is thus in a position to alert its workers and ensure that all have ample opportunity to find suitable employment.

Again I support H.R. 1341 and I urge all of my colleagues to vote yes for Federal workers and yes on the Federal Employee Reduction-in-Force Notification Act.

Mr. HORTON. Mr. Speaker, as a member of the Subcommittee on Human Resources and a cosponsor of this bill I want to commend Chairman KANJORSKI for the introduction of this important legislation and announce my unequivocal support for H.R. 1341, the Federal Employee Reduction-in-Force Notification Act. The bill would require that a Federal employee be given at least 60 days written notice before being released due to a reduction in force.

H.R. 1341 will allow employees the opportunity to prepare for the personal disruption that can follow the loss of employment. I am deeply concerned about equitable treatment for RIF'd Federal employees, who may be ill-prepared for the current job market, and the uncertainty it presents.

I support extending this humane protection for Federal employees, their families, and their communities. The unique nature of employment with the Government, and the inability to translate Federal work skills to the private sector, make enactment of a 60-day notification period essential, practical, and compassionate.

Mrs. MORELLA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KANJORSKI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MCDERMOTT). The question is on the motion offered by the gentleman from Pennsylvania [Mr. KANJORSKI] that the House suspend the rules and pass the bill, H.R. 1341, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL FACILITIES COMPLIANCE ACT OF 1991

Mr. SWIFT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities, as amended.

The Clerk read as follows:

H.R. 2194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Facilities Compliance Act of 1991".

SEC. 2. APPLICATION OF CERTAIN PROVISIONS TO FEDERAL FACILITIES.

(a) IN GENERAL.—Section 6001 of the Solid Waste Disposal Act (42 U.S.C. 6961) is amended—

(1) by inserting "(a) IN GENERAL.—" after "6001.";

(2) in the first sentence, by inserting "and management" before "in the same manner";

(3) by inserting after the first sentence the following: "The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines. The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local solid waste or hazardous waste regulatory program."; and

(4) by inserting after the second sentence the following: "For purposes of enforcing any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order, or civil or administrative penalty or fine) against any such department, agency, or instrumentality, the United States hereby expressly waives any immunity otherwise applicable to the United States. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local solid or hazardous waste law with respect to any act or omission within the scope of his official duties. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State solid or hazardous waste law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—Such section is further amended by adding at the end the following new subsections:

"(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—(1) The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in the Act. The Administrator shall initiate an administrative enforcement action against such a department, agency, or instrumentality in the same manner and under the same circumstances as an action would be initiated against another person. Any voluntary resolution or settlement of such an action shall be set forth in a consent order.

"(2) No administrative order issued to such a department, agency, or instrumentality shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.

"(c) LIMITATION ON STATE USE OF FUNDS COLLECTED FROM FEDERAL GOVERNMENT.—Unless a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

SEC. 3. DEFINITION.

"(a) PERSON.—Subtitle F of the Solid Waste Disposal Act is amended by adding at the end the following:

"SEC. 6005. DEFINITION OF PERSON.

"For the purposes of this Act, the term 'person' wherever used in this Act, shall be treated as including each department, agency, and instrumentality of the United States.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Washington [Mr. SWIFT] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. RITTER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Washington [Mr. SWIFT].

GENERAL LEAVE

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2194, the Federal Facilities Compliance Act of 1991, a bill introduced by my colleagues DENNIS ECKART of Ohio and DAN SCHAEFER of Colorado.

Mr. ECKART and Mr. SCHAEFER deserve special commendation for their remarkable record of perseverance and patience over the past three Congresses in their efforts to restore environmental accountability at Federal facilities.

Both of these gentlemen have diligently pursued enactment of this legislation in spite of the numerous obstacles placed in their path by the Departments of Energy and Defense, and they have consistently demonstrated their willingness to work with the administration and the minority members of this committee to overcome these obstacles.

This legislation has had a long and complex history.

In 1976, Congress mandated that Federal facilities comply with our Nation's hazardous waste laws in the same manner and to the same extent as any other person, including private entities and State and local governments. Unfortunately, at the urging of the Justice Department on behalf of the Departments of Energy and Defense, over a period of time some Federal courts indicated that the waiver of sovereign immunity in the 1976 law was not sufficiently clear.

In 1987, President Bush came to my State of Washington and acknowledged that some of our worst environmental polluters were our Federal facilities and that he would insist "that in the future Federal agencies meet or exceed our environmental standards."

One year later, in 1988, the Energy and Commerce Committee tried to carry out that objective by approving Federal facilities legislation by a vote of 27 to 15.

In 1989, the committee again approved similar legislation by a vote of 38 to 5 and it subsequently passed the House by a vote of 380 to 39.

The legislation before us today which passed the Energy and Commerce Committee by a vote of 42 to 1, is virtually identical to the House-passed legislation in the last Congress. It has three primary provisions—all of which are designed to remove the double standard that now applies to Federal facilities on the one hand and to state and private facilities on the other.

First, it clarifies the sovereign immunity waiver to ensure that States have the right to enforce their hazardous waste laws and RCRA against Federal facilities.

Second, it restores to EPA the right to use administrative orders to resolve regulatory violations at Federal facilities.

Finally, Federal agencies will have the opportunity to confer with the EPA Administrator before any administrative order becomes final.

I would say to my colleagues that what we are doing here is not unique with regard to Federal compliance with environmental laws. In fact, the language of this bill is similar to provisions that are already in the Clean Air Act, the Safe Drinking Water Act, and the Medical Waste Tracking Act.

The need for the legislation is obvious. If DOD and DOE had been complying with the law, environmental disasters like the Hanford Reservation in my home State of Washington might never have happened. Without this bill, I'm afraid they will continue to happen.

This bill has widespread support. For example, it has been endorsed by the National Governors' Association, the National Conference of State Legislators, the League of Cities, the National Association of Attorneys General, and the Shipbuilders' Council of America, as well as organized labor and all of the major environmental organizations—I would here like to submit for the RECORD a list of those organizations. Our subcommittee hearings this year, as well as those held during the 100th and 101st Congresses, clearly revealed the depth of that support and the need for legislative action.

It is indeed regrettable that we are considering this legislation for yet a third time. I can only express my hope that it will be the last time. I am confident that the will of this committee and the House, as reflected in the overwhelming votes on nearly identical legislation in the last Congress, and, hopefully our vote here today, will send a clear message that it is time to eliminate the environmental double standard that the Federal Government continues to hide behind.

I urge my colleagues' support for the bill.

□ 1300

Mr. Speaker, I reserve the balance of my time.

Mr. RITTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Washington [Mr. SWIFT] for his leadership in bringing this issue to the House floor. I also want to recognize the efforts of the gentleman from Ohio [Mr. ECKART] and the gentleman from Colorado [Mr. SCHAEFER] to remedy current shortcomings in Federal facilities environmental compliance.

I have been a consistent supporter of this legislation because I believe the Federal Government has an unquestionable obligation to comply with its own environmental laws. The historic failure to meet that obligation demands congressional action. That, Mr. Speaker, is what we are doing here today.

This legislation gives to the States and the Administrator of the Environmental Protection Agency the tools needed to ensure that Federal facilities are treated on an equal basis with the private sector. It allows the EPA to issue unilateral administrative orders to Federal facilities to comply with RCRA, the Resource Conservation and Recovery Act. It also allows States to impose fines and penalties on Federal agencies that violate environmental laws, just as is the case with the private sector.

The committee has reported this legislation with two small but important amendments. The first amendment clarifies that Federal employees are not themselves subject to civil liability under RCRA for acts performed within the scope of their official duties.

The second amendment clarifies that the Federal Government may pay nondiscriminatory fees for State oversight costs, without the fees being considered unconstitutional taxes.

Just as this legislation grants States new rights to enforce environmental laws against Federal facilities, it carries with it a corresponding duty, incumbent upon State officials, to act responsibly in exercising those rights. The committee identified several areas where existing environmental regulations do not seem to fit the types of facilities or wastes subject to this legislation. In many instances, regulations were developed with no thought that they might someday be applied to enforcement situations made possible by this legislation.

Our subcommittee hearings brought to light several of these issues, commonsense issues really, and I want to review them briefly. First, we should treat military vessels like private vessels when it comes to hazardous waste manifesting. Unless amended, the legislation we are considering today would subject military and other publicly operated vessels to RCRA generator, transporter, and storage requirements for the wastes generated and held on board until the vessel reaches port, but private vessels enjoy an exemption from hazardous waste laws until such time as the vessel reaches port and the waste is off loaded. At a minimum, military vessels demand as much equal treatment as civilian ships. Laws already exist that prevent ocean dumping, and the U.S. Navy is entirely willing to comply with those laws. It will be enough to invoke RCRA regulation when our ships return from their long voyages and discharge their wastes on shore. They should not be treated as a hazardous waste storage facility while they are out at sea, particularly when private vessels are not subject to the same kind of regulation.

Second, EPA should develop alternative RCRA regulations for wastes that are unique to the military, like ordance and munitions. Regulations intended to apply to industrial processes may not make sense when applied to military munitions. Requirements under RCRA will have to be modified to accommodate the very special requirements of military munitions. For example, military bomb disposal units are called upon to defuse or dispose of unexploded bombs almost on a weekly basis. Moving these explosives, or detonating them in place may trigger status as a RCRA transporter or disposer. If RCRA regulations lead to greater hazards for bomb disposal units, then clearly they must be modified.

This is not just a joke, I say to my colleagues. There are two situations where local authorities sought to apply RCRA regulations to bomb disposal.

Third, we should treat Federal sewage treatment works like publicly owned treatment works for purposes of RCRA jurisdiction. Publicly owned wastewater treatment works [POTWS] currently have complete RCRA exemption, as they are regulated under the Clean Water Act [CWA]. Largely because federally owned treatment works [FOTWS] were not intended to qualify for the CWA Grant Program, they were excluded from the definition of a POTW. As a result FOTWS are not included in the RCRA exemption for POTWS. One of the strongest arguments put forth by the authors of this legislation is that it puts federally owned facilities on an equal footing with their private sector and State owned counterparts. Fairness alone demands that these facilities be treated as equivalent to municipally owned facilities.

Fourth, EPA should revisit RCRA regulations dealing with storage, inspection and testing to account for radiological hazards to workers dealing with so-called mixed waste that is both radioactive and hazardous. Specifically, compliance with present RCRA requirements relating to the frequency of inspections, the spacing of containers and waste analysis methods, could result in greater worker exposure to radiation, clearly an anomalous and undesirable result of this legislation. Surely RCRA requirements can be modified to accommodate the need to reduce worker exposure to radiation, while still protecting the environment.

□ 1310

And finally, we must confront headon the painful reality that we simply do not yet have the technology to treat some types of mixed waste. We must develop a nationwide approach to developing treatment technology, building the required facilities and safely storing wastes in the interim.

As I have identified these issues, I believe each raises a legitimate concern that Congress needs to address.

We understand the questions of jurisdiction brought about by this legislation. We are willing to work with them, but we should not let jurisdictional matters determine whether or not the legislation is perfected to the extent that it does the job that we want it to do, and does not have in it anomalies and inconsistencies that would result in not doing the job, or litigation, and not cleanup.

At the committee markup, I engaged in two colloquies, one on the issue of military vessels and one on the remaining four issues, with the gentleman from Washington State, Mr. SWIFT, along with the chairman, Mr. DINGELL, and the ranking member, Mr. LENT. In those colloquies, I understood the gentleman from Washington to indicate his commitment to consider the vessels issued at the appropriate time in this legislation, and to consider the remaining issues in the RCRA reauthorization process. I would ask the gentleman from Washington if my understanding is correct?

Mr. SWIFT. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Speaker, I can assure the gentleman from Pennsylvania [Mr. RITTER] that I am most willing to work with him on this problem. I am willing at the appropriate time to consider language in the context of this legislation that is carefully drafted to address the specific problems the gentleman raises.

Mr. RITTER. Mr. Speaker, I thank the gentleman from Washington. I again thank him for his consistent leadership on this issue. I would also hope that some of these outstanding issues could be settled in the House-Senate conference.

I thank the gentleman and look forward to working with him on these issues in this bill and in RCRA reauthorization. With the assurances of my esteemed colleague that he will fully address the outstanding issues raised by this legislation, I urge Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina [Mr. SPRATT].

Mr. Speaker, I rise to engage my colleague from Washington [Mr. SWIFT], the chairman of the subcommittee, in a colloquy.

On June 6, 1991, Leo Duffy, Director of the Department of Energy's Office of Environmental Restoration and Waste Management testified before a joint meeting of two Armed Services Committee panels that it is impossible for DOE to comply with the land disposal restrictions of the Resource Conservation and Recovery Act, section 3004(j), which prohibits the storage of hazardous wastes except to allow the accumulation of sufficient quantities to facilitate proper recovery, treatment, or disposal. Mr. Duffy testified that the Department has identified over 25 discrete mixed radioactive hazardous waste streams for which no available treatment technology exists, and for which the development of appropriate treatment technology may take 10 or more years. In addition, the Department has identified over 250 discrete waste streams for which there is either inadequate capacity for the treatment of existing volumes of stored wastes and newly generated waste, or for which identified technology exists but requires demonstration, permitting, or other actions to meet Federal and State requirements before it can be applied.

As the gentleman knows, I had intended to offer an amendment to require that the Environmental Protection Agency develop a national compliance plan to make it possible for the Department of Energy to come into compliance with section 3004(j) without subjecting the Department to fines and penalities for problems that are beyond the ability of the Department to solve using current technology.

Mr. SWIFT. Mr. Speaker, if the gentleman will yield, I appreciate the gentleman's cooperation and support in this process. I understand the gentleman beleives section 3004(j) presents the Department of Energy with problems concerning the storage of mixed waste. I must note that this issue is a very complex one, over which there is much debate, and an adequate legislative record on the issue has yet to be made. I can assure the gentleman that our committee will give serious and fair consideration to all the questions raised by the mixed waste issue. I am prepared to hold a hearing in the coming months solely on this issue to fully explore the Department's concerns within the legislative context of the comprehensive RCRA reauthorization, which will occur this Congress.

Mr. SPRATT. Mr. Speaker, I thank the chairman for his commitment to hold a hearing on mixed waste issues and to consider revising current law during the process of reauthorizing RCRA.

In addition to the concern about storing and disposing of mixed wastes, I would like to ask the chairman to address a second issue raised by Mr. Duffy during testimony before the Armed Services Committee. DOE is concerned that it cannot comply with occupational radiation exposure standards established pursuant to the Atomic Energy Act without violating the requirements for managing mixed waste in accordance with the Resource Conservation and Recovery Act.

According to Mr. Duffy, DOE is evaluating approximately 700 mixed waste streams that must comply with both AEA and RCRA. Among the problem identified by the Department are: First, the need to store mixed transuranic waste in densely packed configurations that do not comply with RCRA, in order to increase radiation shielding and consequently reduce radiation exposures to inspectors and workers; and second, the impossibility on monitoring, characterizing and handling liquid, high-level radioactive mixed waste in tanks using the procedures established under RCRA, without undue occupational radiation exposures.

Mr. SWIFT. If the gentleman will yield further, Mr. Speaker, it certainly is not the intention of the committee that RCRA requirements should expose workers to unsafe levels of radiation. In fact, section 1006(a) of RCRA—that is the current law—prohibits the application of any RCRA requirement which would be inconsistent with the Atomic Energy Act.

> Nothing in this chapter shall be construed to apply to (or to authorize any State, interstate, or local authority to regulate) any activity or substance which is subject to the * * * Atomic Energy Act * * * except to the extent that such application (or regulation) is not inconsistent with the requirements of such Acts.

The committee encourages the Department of Energy to notify the Environmental Protection Agency of any RCRA requirement which is resulting in any DOE workers being exposed to unsafe levels of radiation—I note the Department of Energy has yet to notify EPA of any such circumstance—and to work with EPA in resolving any such inconsistencies, as RCRA provides.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for his clarification of this issue.

Mr. RITTER. Mr. Speaker, I yield 5 minutes to the gentleman from Colorado [Mr. SCHAEFER], who has distinguished himself in leadership on this issue.

Mr. SCHAEFER. Mr. Speaker, it was not long ago that I stood on the House floor with members on the Committee on Energy and Commerce, and we were all congratulating each other on a job well done. This was after seeing the landmark clean air legislation that so many members had put so many hours in, and that passed overwhelmingly.

But as I and many of those same colleagues witness what will likely be an equally convincing vote for the environment, we know today's celebration will be altogether different. Because unlike amendments to the Clean Air Act, we can take little pride in passage of H.R. 2194. Its very necessity can best be termed regrettable.

For the Federal Facilities Compliance Act states what should already be obvious: That the Federal Government is expected to abide by the same environmental laws it imposes on others. This "do as I say, and as I do" legislation merely extends the right, States currently have to levy fines and penalties against private companies to Federal entities as well for violations of the Nation's waste disposal laws. It is simply a matter of fairness: That those failing to comply with the law be subject to enforcement actions, Federal agency or otherwise.

Not surprisingly, the Departments of Energy and Defense continue to oppose this common-sense initiative. They have grown all too accustomed to the double standard they currently enjoy, allowing the Federal Government to violate environmental laws relatively free from retribution. This unaccountability has left the Nation with a legacy of contamination and the American taxpayer with the staggering costs of cleaning it up.

They are costs that have reached monumental proportions. Estimates of $200 billion to clean up the Nation's Federal facilities are common and likely conservative. While H.R. 2194 can do nothing to reduce this liability, it can ensure that the mistakes of the past are less likely to recur. After all, there is no better way to prevent tomorrow's contamination than to comply with the environmental laws of today. That is the underlying reasoning of this legislation.

Fortunately, it is logic we in the House understand. On two occasions in the 101st Congress we adopted similar measures, by 380 to 39 and voice vote respectively. Approving H.R. 2194 today will once again send a resounding message to the other body—that we remain steadfastly committed on a bipartisan basis to environmental compliance at our Federal facilities.

Mr. Speaker, support for H.R. 2194 is widespread. Just last week we were pleased to add Governor Wilson of California to the growing list of advocates. Like us, they won't look back at passage of the Federal Facilities Compliance Act with pride for what it accomplished. But years from now, we can all be pleased with what the legislation prevented.

□ 1320

It is unfortunate that we have to pass legislation like this, Mr. Speaker, because our Federal facilities should be in compliance with our various environmental laws.

I would like to say that I greatly appreciate the gentleman from Ohio [Mr. ECKART] for his long work in this particular area, particularly a lot of the staff as well, David Eck of my own staff, and the various people who have worked on this legislation to try and make sure that the States have the ability now to issue fines and penalties against any Federal entity who violates our clean air, clean water, or any other environmental law.

I would urge the support of H.R. 2194 and hope that we have a good, swift passage on this and we get it to the President's desk as soon as possible.

Mr. RITTER. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. RAY] who is the head of the Defense Environmental Restoration Panel of the Committee on Armed Services.

Mr. SWIFT. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. RAY].

Mr. RAY. Mr. Speaker, House bill H.R. 2194 represents a slight improvement over legislation that was considered in the last Congress; however, the fact remains that the concept is not in the best interest of the Nation and may only serve to further the States' dismal record of using any financial leverage they have.

My strong objection remains—State administrative fines and penalties, if applied to cleanup activities, could destroy the national worst-first cleanup strategy now being carried out by the Department of Defense.

I think it is unrealistic to expect that any reasonable DOD cleanup strategy will satisfy every State, and I fail to see how fines and penalties are going to promote—rather than hinder—a rational cleanup program.

I spent several years of service in municipal and local government, and I can attest to the horror stories of inadequate landfills that will dismay the public if any when the Environmental Protection Agency [EPA] and State enforcement agencies begin to fulfill their charters to clean up the environment. Until then, my several years of working with DOD and EPA convince me that DOD's Federal facilities are years ahead of other public sector entities.

This is the decade of the Environment, yet Congress appears to be less willing to increase funding for the Defense environmental restoration account than in years past.

There is also an increasing concern about the management of the cleanup program, combined with a disappointment that there is little to show for almost $4 billion expended on DOD cleanups to date.

We can no longer rely on congressional add ons to avoid facing difficult choices on cleanup priorities in the future.

The resulting scramble for dollars will be difficult to control, and the outcome may have little to do with environmental importance or merit.

I am also concerned about the absence of any limitation on the total amount of State administrative fines and penalties that can be assessed under the legislation. DOD has estimated its potential financial exposure to range between $250 million and $15 billion over the next 15 years.

Some claim that the States have no intention to be unreasonable and harbor no plans to raid the Federal Treasury. However, I remain unconvinced in this respect. I constantly read about the actions taken by States to get operating dollars from any source possible. I must evaluate legislation as we do military threats: On the basis of capability as well as intent.

In addition to my previous concerns about this legislation, I have become more aware of the fact that the standards that Federal facilities must meet are often much more stringent than any other public or private regulated entity.

This issue came up earlier this year when I participated in a State leadership conference in my district where there were extensive discussions about the environmental problems at Georgia military bases.

Conference participants included municipal leaders, private businessmen, and senior managers from State and local government agencies. When we finished, there was agreement on one thing: Not one of the participants wanted his municipality, business, or agency to be regulated like a Federal facility.

In the near future, I intend to make a comprehensive review of Federal facility regulatory requirements to determine the nature and extent of this inequitable treatment.

It looks like we are asking the Federal taxpayer to foot the bill for retail regulation, while everyone else is paying wholesale.

I strongly object to such an inequity. If more stringent RCRA requirements are good enough for Federal facilities, they should be applied to everyone else. If they are overbroad and harmful, then we should not force them upon anyone. Congress should not be arguing for equity in enforcement mechanisms, while seeking to maintain discriminatory regulatory practices.

With a declining DOD budget, we are all concerned about how to balance military, economic, and political considerations during the Nation's largest peacetime military builddown in our history. Putting significantly more environmental programs into a diminished defense budget is bound to involve some painful tradeoffs. Obviously, these tradeoffs are going to be even more painful if DOD must need more stringent regulatory requirements.

I would also like to point out the multifaceted nature of DOD cleanup and compliance challenges.

These complexities involve the recruiting and retaining of qualified environmental personnel, the conflict and overlap of statutory and regulatory cleanup requirements, the availability of qualified environmental contractors, the suitability of DOD contracting procedures, and the quality of the management of DOD environmental programs. To date, I have not found that fines and penalties are particularly relevant to these problems, much less helpful in finding a solution to them.

In any event, I think that the 4 years Congress has spent debating the issue of the waiver of sovereign immunity under RCRA has been a healthy experience. I know that this debate has caused the Department of Defense and the House and Senate Armed Services Committees to increase their awareness of environmental requirements and how they might be addressed.

I also hope that the environmental committees have developed some sensitivity to DOD's problems and the Department's honest efforts to address them in an effective manner.

While I cannot support H.R. 2914, I am satisfied that this legislation did receive the full and careful consideration it deserved.

At this point I include the following:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 21, 1991.

Hon. BOOTH GARDNER,
Governor of Washington, Chairman of the National Governors Association, Hall of the States, Washington, DC.

DEAR GOVERNOR GARDNER: This is in response to correspondence I received from Governor Sinner and Governor Bangerter, Chairman and Vice Chairman of the Association's Committee on Energy and Environment, dated April 11, urging me to support the Federal Facilities Act of 1991. My answer has been delayed, for I wanted to have the benefit of a hearing on this legislation before I responded. A joint hearing by the Environmental Restoration Panel and Department of Energy Nuclear Facilities Panel of the House Armed Services Committee was held June 6 to receive testimony on pending Federal Facilities Compliance legislation.

House bill H.R. 2194 represents a slight improvement over legislation that was considered in the last Congress; however, the fact remains that the concept is not in the best interest of the nation and may only serve to further the states' dismal record of using any financial leverage they have.

My strong objection remains that State administrative fines and penalties can be applied to cleanup activities that would be inconsistent with a national "worst-first" cleanup strategy by the Department of Defense (DOD). I think it is unrealistic to expect that any reasonable DOD cleanup strategy is likely to satisfy every State. Also, I fail to see how unilateral enforcement is likely to result in a rational program.

I spent several years of service in municipal and local government, and I can attest to the horror stories of inadequate landfills that will dismay the public if and when the Environmental Protection Agency (EPA) and state enforcement agencies begin to fulfill their charters to clean up the environment. Until then, my several years of working with DOD and EPA convince me that DOD's federal facilities are years ahead of other public sector entities.

This is the Decade of the Environment, but Congress appears to be increasingly unwilling to boost funding for the Defense Environmental Restoration Account (DERA). DOD environmental cleanups are already receiving priority treatment and there must be compelling justification for additional funding. Concern is also increasing about the management of the cleanup program, combined with disappointment that there is so little to show for the almost $4 billion expended to date on DOD cleanups. Also, general agreement is that base closure environmental and cleanup requirements deserve a higher priority.

For all of these reasons, it is unlikely that we can continue to rely on congressional add-ons to avoid facing difficult choices on future cleanup priorities. The resulting scramble will be difficult to control and could end up having little to do with environmental merit.

I am also concerned about the absence of any limitation on the amount of State administrative fines and penalties that can be assessed under the legislation. I recognize that, to date, environmental fines and penalties have not been onerous, and that the States have given assurances that they would be reasonable in exercising increased authority. Nevertheless, I remain unconvinced in this respect. DOD has estimated that its potential exposure to fines and penalties related to cleanup-only requirements in accordance with the Federal Facilities Compliance bills to range between $250 million and $15 billion over the next 15 years. I am certainly not saying that the States intend to raid the Treasury by the assessment of administrative fines and penalties, but I must evaluate legislation—as we do military threats—on the basis of capability as well as intent. I am constantly reading of the actions being taken by local and state governments to get operating dollars from any source possible.

I have also become aware of other problems that need to be addressed by the legislation or through related legislative or regulatory actions. With all the focus on the equity issues of whether Federal facilities should be subject to fines and penalties, we have lost sight of the fairness of the regulation of these facilities. The rules and standards that Federal facilities must meet are often more stringent than any other public or private regulated entity.

The recent DOD hearing confirmed what I had learned earlier this year when I participated in a Georgia Leadership Conference in my District. Interest is high in environmental problems at DOD installations and in my Chairmanship of the Environmental Restoration Panel. Conference participants included municipal leaders, private businessmen, and senior managers in State and local government agencies. All agreed on one thing: Not one of them wanted to be regulated like Federal facilities are regulated.

The municipalities, which somehow escape the same harsh treatment, do not want their landfills subject to regulation as solid waste management units under subtitle C of the Resources Conservation and Recovery Act (RCRA). They do not want their sewage treatment plant sludge subject to RCRA regulation. They clearly wanted the boundaries of their RCRA facilities and National Priorities List (NPL) sites to be defined as narrowly as possible. Also, they agreed that having their RCRA facilities inspected annually is unnecessary. Representatives of the private sector agreed. In short, my constituents do not want their communities or their businesses to be regulated like federal facilities.

Recently, the Marine Corps Logistics Base in Albany, Georgia, became subject to fines and penalties associated with the disposal of sludge generated by the combination of its treated industrial and domestic sewage effluent into the Flint River. One possible correction involved a multi-million dollar cost. However the solution that was achieved, where the sludge was not regulated under RCRA because of the Publicly Owned Treatment Works (PTW) exemption, was to contract with the local municipality to take the effluent through its system to the Flint River.

Similarly, I don't see the States being any more willing to play by the Federal Facility environmental rules. Not one has suggested that counties be designated as RCRA facilities, even though they contain one or more RCRA regulated activities. Many DOD bases are larger than counties and are so characterized.

Further, I have found that cleanup remedies in States, counties and localities are less stringent than those at Federal facilities. In the District that I represent is at least one NPL site of 16 acres where the remedy was cap and monitor with the surrounding community unable to use its wells and having to wait 12 years for a city water hookup. Citizens, at this time, continue to live under this possible exposure. This would not be tolerated if a Federal facility were involved.

The recent hearing also raised some questions over whether States, localities and private parties are going to identify the problems. For example, the report to Congress on the Defense Environmental Restoration Program for FY 1990 revealed that DOD had identified approximately 25,000 potential hazardous waste sites at over 1,700 active installations and 7,000 formerly used Defense sites. Put these bases together and you have a land mass about the size of Tennessee. By contrast, EPA has identified only about 30,000 other potential hazardous waste sites in the remainder of the United States.

My suspicions were confirmed when EPA testified that it does not have the manpower to investigate potential hazardous waste sites. Instead, EPA relied upon State, local and private sector input. As you can readily see, what is mandatory for DOD is discretionary for everyone else. It almost forces you to think how fortunate those people are who live near a DOD installation.

Brevity requires that I allow myself only one further piece of evidence. We all know that the DOD budget is declining. However, it must meet the nation's most stringent requirements. Yet, some folks want the Federal taxpayer to foot the bill for retail regulation while all others are paying wholesale rates.

We can agree that the lively public discourse on the environment has produced some benefits. It has increased awareness of the issues and how requirements might be met. The subject deserves a full and careful hearing and I am satisfied that will be achieved before final action is taken.

Sincerely,

RICHARD RAY,
Chairman, Environmental Restoration Panel.

Mr. SWIFT. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I rise very enthusiastically in support of the bill.

Mr. Speaker, I rise in support of H.R. 2194, as amended, the Federal Facilities Compliance Act of 1991. I was an original cosponsor of this measure when it was introduced in 1989 and passed during the 101st Congress, and I believe that now, more than ever, the Congress must clarify for the administration what we thought was already clear in the law: Federal facilities are subject to this Nation's environmental laws to the same extent as private entities and State and local governments.

When we say Federal facilities are subject to environmental laws, we mean that Federal facilities are subject to the same substantive and procedural requirements and sanctions, including civil and administrative fines and penalties. We also mean that EPA must have the ability to utilize administrative orders to resolve environmental violations by Federal facilities.

As an oversight chairman, I have seen firsthand the consequences of the unitary executive theory put forth by the Justice Department to justify allowing Federal offenders to employ delay tactics to avoid swift compliance with environmental laws. Investigations by my Subcommittee on Environment, Energy and Natural Resources have shown that chronic environmental problems at Department of Energy [DOE] facilities like the Savannah River Plant, the Fernald Plant, the Hanford Reservation, and Rocky Flats have not been taken care of to the satisfaction of nearby citizens and State environmental officials. Similar situations have been uncovered at Department of Defense [DOD] facilities. Because of this unitary executive theory originated and championed by the Reagan and Bush administrations, EPA's hands are tied. While EPA is expected to aggressively enforce the law against private entities, the administration's policy renders the EPA powerless to issue unilateral orders requiring its sister Federal agencies to clean up. Instead, EPA must resort to grovelling at the feet of the polluting federal facilities to beg for a consent agreement.

This fact is not lost on the polluting Federal facilities who are, at best, disinclined to deal seriously with EPA. It's time that EPA stopped approaching Federal violators with hat in hand and started enforcing the law to the fullest extent.

I might also note that, even though States and citizens groups can sue to force Federal facilities to clean up environmental contamination, the delay tactics employed by Federal violators are time consuming and cost money. It is regrettable that, all too often, precious time and money is spent trying to get the Federal Government to comply with its own laws. As the Nation's biggest and worst polluter, the Federal Government should stop dilly-dallying and start setting an example for private industry to follow.

I have no doubt that, by actually making Federal facilities pay civil and administrative fines and penalties, H.R. 2194 will result in less jawboning and faster clean up actions. And by providing EPA explicit authority to issue unilateral administrative orders against noncomplying Federal facilities, H.R. 2194 will enable EPA to effectively deal with the biggest environmental offender—the U.S. Government. Mr. Speaker, I fully support H.R. 2194 and I urge its swift passage and adoption by the House. They say the third time's a charm—let's work to make it so for the Federal Facilities Compliance Act of 1991.

Mr. SWIFT. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I would first like to commend the chairman of the subcommittee, the gentleman from Washington [Mr. SWIFT] and the gentleman from Ohio [Mr. ECKART] and our colleagues, the gentleman from Colorado [Mr. SCHAEFER] and the gentleman from Pennsylvania [Mr. RITTER], for their tireless effort on this legislation. Without their leadership, we would not be here today so I thank them all for their assistance.

Mr. Speaker, I rise today in strong support of the Federal Facilities Compliance Act of 1991.

□ 1330

Federal facilities routinely generate, manage, and dispose of millions of tons of hazardous waste including acids, nitrates, radioactive materials, and heavy metals. Yet, in many cases, Federal facilities continue to ignore efforts by the EPA and the States to enforce laws that regulate hazardous waste cleanup. As a result, they are threatening the health of thousands of Americans.

In my home State of Kansas, several Department of Defense facilities have been cited for environmental compliance problems including Fort Riley, Fort Leavenworth, the Kansas Army Ammunition Plant, the Smokey Hills Weapons Range, and the Sunflower Army Ammunition Plant.

Current law simply does not give the State of Kansas or the EPA authority to effectively enforce existing environmental laws when Federal facilities fail to obey the law. It is simply common sense that all hazardous waste, including that generated by Federal agencies, should be handled properly and safely at minimum risk to the environment and minimum cost to the taxpayers. Common sense also demands that all agencies of the Federal Government comply with Federal environmental laws.

We cannot stand by any longer as irresponsible Federal facilities choose when they will comply with the law and when they will not.

I urge my colleagues to pass this important legislation and give our States and the Environmental Protection Agency the authority to enforce our Nation's environmental laws when they are being blatantly violated by Federal agencies.

Mr. Speaker, again, I commend the gentleman from Ohio [Mr. ECKART] and all the others who have been involved in this legislation.

Mr. SWIFT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. LUKEN].

Mr. LUKEN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 2194.

In my district, we have a radioactive dump. It is known as the Fernald Uranium Processing Plant. For years they made nuclear weapons there, and they just disposed haphazardly of whatever waste they came in contact with.

The DOE has absolutely failed in every respect to do anything about meaningful cleanup at this site. The result has been contaminated water, contaminated farms, contaminated property all around.

H.R. 2194 simply puts a little bit of accountability into the system and gives the DOE a little bit of incentive.

For years it is difficult to identify what incentive DOE has to clean up places like the Fernald Uranium Processing Plant.

I rise in support of the Federal Facilities Compliance Act, and I congratulate the gentleman from Colorado [Mr. SCHAEFER] and my friend and colleague, the gentleman from Ohio [Mr. ECKART] for bringing this legislation to the floor.

Mr. SWIFT. Mr. Speaker, I yield 7 minutes to the coauthor of this bill, the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, I thank my colleague, the subcommittee chairman, and particularly I am thankful to my friend, the gentleman from Ohio [Mr. LUKEN], a new Member who I recall on his first day of swearing in said to me very simply, "Now, are you going to help me get Fernald cleaned up?"

CHARLIE is carrying on in the fine tradition of his father, who worked very hard to rectify the problems there at that facility.

The greed of the 1980's has truly been replaced by the green of the 1990's. That is what this bill is all about.

America is very good at reading labels. We in politics are very good at trying to affix labels to both philosophies and programs about which the American people seem to be paying much closer attention.

It is very clear what the provisions of this bill do. It attaches a very clear, easily understood label to the Federal Government, and it says, as my colleague, the gentleman from Colorado, says, "We are going to make you do as we do with other governmental agencies and other facilities and not simply as we say."

For all too long, the Federal Government has practiced a hypocrisy which says, "Do as I say, not as I do," and has allowed Federal facilities to be the Nation's single leading environmental polluter. This legislation ends that hypocrisy.

We all know the consequences of pollution know no political or, indeed, even geographic boundary. Leaking underground storage tanks, 1 cup of which can pollute an underground aquifer of hundreds of thousands of gallons of fresh drinking water, cause as much damage whether that gasoline leaked from a Federal Government facility or from a neighborhood gas station. Yet, that small business owned on the street corner in Anywhere, U.S.A., would be subjected to the harshest environmental penalties that this Nation can bring to bear, whereas that same gas pump located at a Federal facility can ignore the Nation's Federal environmental laws.

That will end with the passage of this bill. What we are talking about is compliance. We are not talking about the problems that have been suggested by those who will oppose this bill but are simply saying that the Nation's environmental laws which make sense for business and for cities and towns and villages all across this country, that they make sense to us as the Federal Government as well, and that the taxpayers of America should not be financing pollution, and the cost of cleaning up that pollution all at the same time.

We will end this double standard.

Now, what is it that we are talking about requiring the Federal Government to do? In the home State of my colleague from Colorado, we are saying put labels on the drums. In the home State of my colleague from Colorado, we are saying do not stack the drums outside where they can rust. In the home State of my colleague from Colorado, we are saying put something underneath those drums to catch them when they leak.

It is an embarrassment that our own Federal Bureau of Investigation was forced to sneak in under the cloak of night to seize Federal Government records as evidence of pollution because our own Federal Government cannot enforce the Nation's environmental laws against itself.

My colleague from Colorado has stood foursquare for the symmetry in protection of this Nation's environment, but when taxpayers' dollars finance pollution of his own environment, we know the time to end that hypocrisy must be squarely before us.

We believed that we had corrected this problem when we first addressed it in RCRA 5 years ago. Indeed, we have split decisions from different Federal district courts, and now the Supreme Court has agreed to hear the resolution of this case, but heaven forbid that we allow nine unelected individuals make these decisions which we believe we are fully capable of doing and, indeed, did almost 5½ years ago.

We believe that the Nation's environmental laws that are good enough for General Motors should be good enough for generals at the Pentagon. We believe that Uncle Sam must lead the way in preserving and protecting this Nation's environment, not follow, as others have suggested.

The concealment that has occurred of pollution has to end. In fact, we asked both the GAO and the Office of Technology Assessment to take a look at the provisions of the bill to see whether or not, indeed, local governments and State governments have abused the same authority that we will propose to give them under RCRA that they already have under the Clean Water Act, the Clean Air Act, the Safe Drinking Water Act, and the Medical Waste Tracking Act in which States and local governments have the right to enforce those laws against the Federal Government but which are denied under the provisions of a court decision under RCRA. Changes that we will make with the passage of this law.

Our provision says with absolute certitude that the States and local governments will have the right to use the Federal environmental laws as tools to protect the Nation's environment which, indeed, belongs to us all, and that the States and local governments have not abused the powers that they have under other laws which we will extend to them under the provisions of this bill. We truly believe that the damage that the Federal Government has done must come to an end, and that we cannot preach the good word of environmentalism on the one hand and sabotage that environment on the other.

The passage of this bill today will send the clearest and most unequivocal message that the hypocrisy that has gripped the enforcement of the Nation's environmental laws will end, and passage of our legislation today will make that dream a reality.

Mr. SCHAEFER. Mr. Speaker, will the gentleman yield?

Mr. ECKART. I am happy to yield to the gentleman from Colorado.

Mr. SCHAEFER. Mr. Speaker, I appreciate the point that the gentleman is making, that, if I am not mistaken, the CBO estimates were, since 1979, there has been $1 million in fines and penalties assessed across this Nation, which is $100,000 a year, and for those individuals who say that we are going to line the pockets of our States, all they have to do is look back upon this, and I think that is very important, and not only that, the second point I wanted to make is the fact that these dollars that would come out after the passage of this bill for these fines will have to go back into environmental purposes into a State; you cannot use it to build a bridge or to improve a road.

Mr. ECKART. Mr. Speaker, the gentleman is correct. Indeed, the testimony from the EPA and the CBO says, "The penalties have not been unreasonable or excessive," and that during our subcommittee hearings, the EPA Acting Assistant Administrator for Solid Waste and Emergency Response had testified that there was no evidence that existed that State or local governments have abused this same discretion that they have under every other environmental law except this.

I thank my colleague for drawing that to our attention.

□ 1340

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman.

Mr. RITTER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KYL] who happens to be ranking member on the Armed Services Panel dealing with nuclear facilities.

Mr. KYL. Mr. Speaker, I thank my colleague for yielding this time to me.

Mr. Speaker, this legislation is well intentioned, but misses the mark in addressing key issues needed to effectively deal with Federal facility environmental compliance, some of which have been identified by the gentlemen from Pennsylvania [Mr. RITTER] and South Carolina [Mr. SPRATT], and Georgia [Mr. RAY].

For example, Federal facilities, like the Department of Energy and Veterans' Administration hospitals, generate radioactive mixed waste that is currently subject to land disposal restrictions and can not be disposed of unless treated in accordance with EPA standards. Why is this a problem? Because treatment technologies and facilities simply do not currently exist to treat this waste; therefore, the waste can not be disposed of. These are not just leaky gas tanks. Until the technologies are developed and facilities permitted and constructed, storage of the waste is the only environmentally responsible option; indeed it is the only option.

This option is illegal, however, under RCRA. Instead of addressing this impossible situation, H.R. 2194 would subject these governmental facilities to fines and penalties in situations for which no corrective action exists. This simply is unacceptable. We must realize that this problem is truly a technological one that merits serious and focused attention. Public policy demands that specific mixed waste treatment regulations be promulgated now if Federal agencies hope to be successful in their compliance programs. This bill will simply distract important efforts and Federal moneys away from important issues such as developing safe compliant technologies. I urge my colleagues, who will be conferees on the bill, to seriously consider a fair and equitable solution to this matter at that time. The Federal Government must do its part; but there also must be recognition of some of the unique aspects of Federal activities.

Mr. SWIFT. Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, we are all too familiar with the DOE's inability to meet deadlines. Triparty agreements between States, the EPA, and DOE have proven to be meaningless. Federal facilities represent some of the Nation's worst hazardous waste problems. These sites can be found in every State.

The Federal Facilities Compliance Act clarifies that the Federal Government waives its soverign immunity from EPA and State enforcement actions under RCRA. This legislation does not impose any new requirement on Federal facilities nor does it strengthen existing compliance standards. What it does do is to clarify the legitimate role of EPA and State enforcement authorities.

DOE continues to resist enforcement of environmental laws. Prompt passage of this act will give State and EPA regulators the very tool needed to achieve compliance with Federal environmental laws at Federal facilities.

I strongly urge you to vote for H.R. 2194 and to oppose any weakening amendments, should they be offered.

Mr. SWIFT. Mr. Speaker, I yield myself the remainder of the time, simply to make several points with regard to some of the things that have been said here today, just to clarify the record.

First of all, the DOD RCRA compliance rates are fully 10 to 15 percent lower than the private entities, according to data provided by the EPA.

The second point I would make is that there is no evidence in the record that the States have ever been irresponsible with the penalty authority given them under other statutes in Federal law, such as the Clean Air Act.

The worst first prioritization is not endangered by State fines and penalty authority for the simple reason that States already have injunctive relief authority under RCRA which they could use if they so chose to affect the worst first prioritization, and they have not done so.

Finally, saying that fines and penalties should be spent on cleanup instead of enforcement is something devoutly to be wished. I wish that were true consistently even in the private sector, but the fact is there are bad actors and in this instance there are some bad actors in the Federal Government, and if they would simply spend the money on compliance, there would be no need to spend it on fines and penalties.

I would also note that the Federal Government with regularity places fines against States for lack of compliance with various Federal laws, even though States have limited budgets.

Finally, it is well settled that fines and penalties are significant deterrents to noncompliance, the most important reason for giving this enforcement tool to the States.

The bill will save the Federal Government and taxpayers a lot of dollars over the years if it forces the money to go into compliance, which is of course its purpose.

With that, I urge all my colleagues to support this legislation.

Mr. Speaker, I include the following list which was referred to earlier:

National Association of Attorneys General.
National Governors' Association.
The National Conference of State Legislatures.
Association of State and Territorial Solid Waste Managers.
Environmental Action.
Environmental Defense Fund.
National Audubon Society.
National Wildlife Federation.
Natural Resources Defense Council.
Sierra Club.
U.S. Public Interest Research Group.
Clean Water Action.
Friends of the Earth.
Greenpeace.
Izaac Walton League of America.
Mineral Policy Center.
National Council of Churches.
National Toxics Campaign.
American Federation of Labor and Congress of Industrial Unions.
Amalgamated Clothing and Textile Workers Union.
American Federation of State, County and Municipal Employees.
American Federation of Teachers.
Building and Construction Trades Department.
Communication Workers of America.
Industrial Union Department.
International Association of Bridge, Structural and Ornamental Iron Workers.
International Association of Machinists and Aerospace Workers.
International Brotherhood of Electrical Workers.
International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.
International Federation of Professional and Technical Engineers.
International Ladies Garment Workers Union.
International Union of Bricklayers and Allied Craftsmen.
International Union of Operating Engineers.
Laborers' International Union of North America.
Metal Trades Department, AFL–CIO.
National Association of Letter Carriers.
United Automobile, Aerospace & Agricultural Implement Workers of America International Union.
United Association of Journeymen and Apprentices of Plumbing and Pipe Fitting Industry of the United States and Canada.
United Brotherhood of Carpenters and Joiners of America.
United Mine Workers of America.
Shipbuilders' Council of America.

Mr. LENT. Mr. Speaker, I rise today in support of H.R. 2194, the Federal Facilities Compliance Act of 1991, although I believe there are additional areas the legislation must address. It is clear that the Government must improve the environmental record of federally owned and operated facilities. I believe the Government must set the example for full compliance with environmental laws, and this legislation is an important step in attaining the goals.

However, it is only one step, and an incomplete one at that. In its current form, this legislation has not yet achieved its authors' stated goal of putting Federal facilities on an equal footing with other facilities, and it does not resolve the dilemma posed by mixed radioactive waste.

I have sought to bring these shortcomings to the attention of my colleagues on the Committee on Energy and Commerce. I believe one of the important outcomes of the Subcommittee on Transportation and Hazardous Materials' recent hearing has been a clearer understanding of the problems the legislation creates in enforcing RCRA regulations on a few particularly troublesome wastestreams. Today, I want to briefly raise these concerns with the rest of my colleagues.

First, the imposition of RCRA requirements at Federal facilities should not pose radiologic hazards to workers. Radiologic hazards are not adequately addressed under RCRA. Historically, they have been controlled by the Atomic Energy Act and other management procedures developed at individual facilities. I do not believe Congress intends for implementation of the RCRA program to conflict with other safety laws.

Second, the existing provisions of RCRA which prohibit the storage of hazardous waste pose an impossible situation for those that manage some types of radioactive mixed waste. At the present time, treatment technology simply does not exist for many types of mixed wastes. Our goal must be the development of necessary treatment facilities and the safe storage of these wastes in the interim. This legislation does not adequately address this pressing issue.

Third, military facilities need rules tailored to the unique safety requirements of handling munitions. Again, we want to ensure that RCRA does not conflcit with training requirements and safety rules and that the production of munitions is not mired in administrative delays during emergency situations like those recently experienced in Operation Desert Storm.

During Desert Storm this country faced the need for a significant increase in TNT production to produce munitions. TNT has a limited shelf life and cannot be stored for long periods. We currently obtain all of our TNT from Canada and domestic production would require the start up of old TNT plants. The permitting and administrative burdens under RCRA would make supply for a significant wartime effort impossible in the shortrun. We should provide the Administrator authority to craft special regulations that contemplate in advance situations like those posed during Desert Storm. We should not let inaction now pose a crisis either for our men in uniform or the environment in the future.

Finally, there is no reason to treat federally owned sewage treatment works any different than those owned by municipalities, or military vessels any different than civilian vessels. The major purpose of this bill is to put Federal facilities on the same footing as other facilities. Yet, should this legislation be enacted in its current form, it ignores existing statutory and regulatory decisions that serve to discriminate against military vessels and federally owned treatment works.

I have consistently stated my support for the goals of this legislation. However, I have often found it necessary to speak in opposition to its passage because of my concerns over its implementation and how that could affect the integration of RCRA with other environmental and safety statutes and the underlying principle of putting Federal facilities on an equal footing with the private sector.

I am, therefore, very pleased that both the subcommittee chairman, my colleague from Washington State, and our esteemed committee chairman have recognized the legitimacy of the issues I raise today. Having communicated the importance of these issues and receiving the commitment of my colleagues on the committee to resolve them either in this legislation or in the RCRA reauthorization, I will be voting in favor of passage of the bill as reported by the committee.

Mr. BILIRAKIS. Mr. Speaker, I rise today in support of H.R. 2194, the Federal Facilities Compliance Act. As an original cosponsor of this legislation, I would like to commend the sponsors of the bill, the gentleman from Ohio [Mr. ECKART] and the gentleman from Colorado [Mr. SCHAEFER] on their fine work.

The legislation will assure Federal facilities' increased compliance with the Resource Conservation and Recovery Act, better known as RCRA. RCRA regulates the management, treatment, storage and disposal of hazardous waste. Facilities of the Department of Defense and the Department of Energy together generate approximately 20 million tons of hazardous or mixed hazardous and radioactive waste annually.

The legislation before us today will accomplish two goals. First, it will clarify that States have the authority to assess civil fines and penalties against Federal facilities that do not comply with RCRA requirements. Until this time, States have been divided with regard to the authority to levy fines and penalties against Federal facilities.

H.R. 2194 removes this confusion and permits States to assess fines and penalties against such facilities. Currently, municipalities, individuals, and private facilities are subject to paying these fines.

Additionally, the bill explicitly grants the Environmental Protection Agency the authority to bring administrative enforcement actions against Federal facilities. The EPA uses administrative actions for enforcement of hazardous waste regulations. H.R. 2194 would define "person" under RCRA to include each department, agency, and instrumentality of the United States.

When this bill was considered on the House floor 2 years ago, I offered an amendment that was unanimously approved by my colleagues. It required States to use on environmental restoration projects any fines collected for violations of RCRA by a Federal facility. Instead of these Federal taxpayers' dollars going into a State's general treasury to be spent in any manner, as is the current law, I believe very strongly that this money should be returned to the environment.

Mr. Speaker, this is an issue of environmental equity. If States receive money because a Federal facility has harmed the environment through a violation of RCRA, the money collected through fines ought to be returned to the environment in the form of restoration projects.

My provision leaves plenty of flexibility for the State to designate the types of environmental restoration projects, but it does require that the States spend the money on the environment. I am pleased that this amendment was included in the bill before us today.

Finally, I understand the administration has provided the committee with a list of amendments that seek to address Federal facility problems under RCRA. While I strongly support the Federal Facilities Compliance Act, I hope Congress will continue to work with the Department of Energy and the Department of Defense in resolving their concerns.

In conclusion, H.R. 2194 will restore public confidence in congressional efforts to clean up the environment. It will eliminate the current dual standard and, instead, simply subject Federal facilities to the same substantive and procedural RCRA requirements as State and local governments and private companies. It is my hope that this bill will be approved by Congress in a timely fashion.

Mr. DINGELL. Mr. Speaker, as we consider this legislation, I would like to take my colleagues back to when RCRA was last considered by the House. At that point it was understood that the legislation, among other things, accomplished three objectives. First of all it required that the Environmental Protection Agency [EPA] should be able to issue civil orders to other Government agencies. That is in H.R. 2194. It is there because the Department of Energy [DOE] challenged the EPA's interpretation of the statute. It is absolutely essential if EPA is to carry out its proper responsibilities that it have the ability to issue orders to the sister agency. DOE and DOD are enormously recalcitrant in complying with notices of violation.

Mr. Speaker, the second thing it did, which is very important, was permit the assessment of civil penalties against Federal agencies by States. This is nothing new, but because of a split interpretation in the courts in a number of States that issue has come under question. It is no longer clear that the States have the authority to issue those civil assessments or penalties against Federal agencies for their failure to comply with the act. There is nothing new, or startling, in this particular legislation. It is the same authority the States have under the Clean Air Act, Clean Water Act, Safe Drinking Water Act, and Medical Waste Tracking Act.

This is the third part: That EPA and the States were going to have the prime and the paramount responsibility in terms of addressing problems of cleanup and compliance. H.R. 2194 makes that clear. This again is nothing new.

Now why is it that we have to take this step? I mentioned that we are returning to the original interpretation of RCRA when it was last considered sanely and sensibly in the House. It should be pointed out that under that interpretation of the law, which also includes injunctive authority, there was no expenditure of money on cleanup programs dictated to agencies by the States out of the ordinary priorities that were set by the DOD, or the DOE or any of the other agencies of the Federal Government. Further, the Congressional Budget Office has determined that:

> Despite the extensive authority available to States under current law, they have not levied a substantial amount of environmental fines on Federal facilities.

What am I saying to my colleagues, Mr. Speaker? I am saying that we should have no hesitancy with regard to this legislation.

Now are there problems? Of course. Almost every Federal agency has areas under its jurisdiction which are Superfund sites. It has been mentioned that DOD has an enormous number of them. That is true, and they are very serious. It has been mentioned that DOE has them, and they are indeed terrifying because we are talking about not only hazardous waste of the most dangerous sort, but we are talking about nuclear waste. We are also talking about mixed waste, substances which defy almost any judgment as to the real peril that they impose upon this society, and we are not just talking about pollution of the air. We are talking about contamination of the soil, pollution of the water, and contamination of the ground water, something which will persist for hundreds of years.

Mr. Speaker, it must be observed here that the peril is enormous. One of the problems has been the absolute recalcitrance of Government agencies, not just the Defense Department, but the DOE and other Federal agencies to comply with the law. They have refused to adhere to the requirements that the Congress has set forth, and, if my colleagues want proof, take a look. They have contaminated the air, the soil, the water, and the subsurface waters. They have misled the Congress about it. They have concealed the facts from the State agencies. They have refused to cooperate in cleanups and their compliance record is far behind that of private industry.

The people of this country who are afflicted with polluted waters, radioactivity in their air, their soil, their subsurface waters, and who are afflicted with hazardous waste in their ground water, have a right to expect that their Government is going to comply with the law and is not going to endanger them by contamination of their environment. This bill will help assure compliance and cleanup by Federal agency polluters.

Mr. SIKORSKI. Mr. Speaker, I rise in support of the Federal Facilities Compliance Act of 1991, authored by my distinguished colleauges, DENNIS ECKART of Ohio and DAN SCHAEFER of Colorado as H.R. 2194.

Mr. Speaker, H.R. 2194 is singularly important to me. I was present at its creation. In 1987, the House Committee on Energy and Commerce held an oversight hearing on this problem of our Nation's disgraceful resistance to the enforcement of environmental laws at its own facilities. From this hearing came H.R. 2194.

In 1987, I described, hopefully, what is now the past:

Years where Minnesota citizens living near the Twin Cities Army Depot had their drinking water wells contaminated—and the Army refused to acknowledge that it caused the problem.

Years where the people of Minneapolis had their drinking water contaminated by the U.S. Navy installation at FMC. Until we changed the law in 1986, the Department of the Navy refused to even submit to a cleanup agreement.

I also look forward to the future. As my colleagues know, when America's hazardous waste law, the Resource Conservation and Recovery Act [RCRA] is reauthorized next year, I intend to offer amendments that will end the era where Federal facilities feel that they have a special privilege to pollute, contaminate, and harm people's health.

Now I would like to speak of the present—to making sure first and foremost, that States have the tools they need now to ensure that all egregious polluters change their ways and pollute no more.

By enacting H.R. 2194, the State of Minnesota—and all States—will finally have the tool that makes them true environmental regulators.

A few years ago, a Colorado judge ruled that a Department of Defense installation had to comply with a State hazardous waste law. In his court order the judge explained why States must have the enforcement tools necessary to ensure protection of public health and the environment. He wrote:

> Sites like (Department of Defense installations) must be considered in the long range perspective of generations yet unborn and centuries still far over time's horizon. Indeed it is the people of (a State) who ultimately must pay the price of cleanup, or the price of not cleaning up this site * * * the worst hazardous and toxic waste site in America. It is not inappropriate that the present and future victims of this poison legacy, left in their midst by the Army * * * should have a meaningful voice in this cleanup. In RCRA, Congress has plainly provided them that voice * * * through the State.

Court Order, Rocky Mountain Arsenal, Judge Jim R. Carrigan, U.S. District Court, February 1989.

By empowering the States—by enacting H.R. 2194—that meaningful voice will finally be provided.

Mr. RICHARDSON. Mr. Speaker, I want to commend you for bringing this issue to the House floor so expediently. I also want to commend my colleagues, Mr. ECKART and Mr. SCHAEFER, for their perseverance in passing this important environmental legislation.

The environmental problems at our Federal facilties are unprecedented. Day after day we read about environmental contamination throughout our Federal complex. This committee has received testimony from the General Accounting Office, the Environmental Protection Agency, State attorneys general, and environmental organizations that our Federal facilities have historically had one of the worst compliance records with respect to the Resource Conservation and Recovery Act. In fact, Energy Secretary Watkins stated that:

> The underlying operating philosophy and culture of DOE was that adequate production of defense nuclear materials and a healthy, safe environment were not compatible objectives.

It is time that the Federal Government is held fully accountable for environmental violations just as private industry and municipalities are. In 1976, Congress enacted section 6001 of the Resource Conservation and Recovery Act [RCRA] with the intent of holding Federal facilities subject to the same requirements as private industry, State agencies, and municipalities. Some State courts, however, in cases involving civil penalties against Federal facilities, have ruled that Congress did not clearly waive the sovereign immunity of the United States with respect to civil penalties.

H.R. 2194 would make it clear that Federal facilities are subject to requirements of Federal, State, and local government under the Resource Conservation and Recovery Act, including administrative orders and civil and criminal penalties. This bill is extremely important to the States and their ability to assess penalties against Federal facilities for environmental violations. I am a cosponsor of this legislation and I urge my colleagues' support.

Mr. RITTER. Mr. Speaker, I yield back the balance of my time.

Mr. SWIFT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Washington [Mr. SWIFT] that the House suspend the rules and pass the bill, H.R. 2194, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ALLOWING CITY OF POCATELLO, ID, TO USE CERTAIN LANDS FOR A CORRECTIONAL FACILITY

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1448) to amend the act of May 12, 1920 (41 Stat. 596), to allow the city of Pocatello, ID, to use certain lands for a correctional facility for women, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1448

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF USE OF LAND FOR ADDITIONAL PUBLIC PURPOSE.

(a) MODIFICATION.—The first section of the Act entitled "An Act to grant certain lands to the city of Pocatello, State of Idaho, for conserving and protecting the source of its water supply," approved May 12, 1920 (41 Stat. 596), is amended by striking "city:", and by inserting in lieu thereof "city, and for use for the construction and operation of a correctional facility for women on no more than 40 acres in the west half of section two that are contiguous with Fore Road (as such road existed on June 11, 1991), provided that neither the city nor any other entity allows the construction after June 11, 1991, of any temporary or permanent road across City Creek or within the area 300 feet on each side of the centerline of such creek (but any road existing within such area on such date may be maintained to the same standard as existed on such date), and (with respect to the remainder of such lands) for use for outdoor recreational purposes consistent with the maintenance of natural open space, wildlife habitat purposes, and other public purposes consistent with water storage or utility transmission purposes by such city or other governmental entity. The city of Pocatello may convey or lease to a governmental entity established under the laws of the State of Idaho such portion of the lands conveyed to such city under this Act as may be used for a correctional facility, but may not transfer any of the city's right, title, or interest in any other portion of such lands:"

(b) The first section of said Act is further amended by the addition of the following paragraphs at the end thereof:

"(b)(1) Notwithstanding any other provision of this Act, if any land, or portion thereof, granted or otherwise conveyed to the city of Pocatello under this Act is or shall become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)), or if such land, or portion thereof, has been used for purposes that the Secretary of the Interior finds may result in the disposal, placement, or release of any hazardous substance, such land shall not, under any circumstance, revert to the United States.

"(2) If lands granted or conveyed to the city of Pocatello by or pursuant to this Act shall be used for purposes that the Secretary of the Interior finds: (A) inconsistent with the purposes for which such lands were granted or conveyed and not authorized by the Secretary pursuant to this Act, and (B) which may result in the disposal, placement, or release of any hazardous substance, the city of Pocatello shall be liable to pay to the Secretary of the Interior, on behalf of the United States, the fair market value of the land, including the value of any improvement thereon, as of the date of conversion of the land to such nonconforming purpose. All amounts received by the Secretary of the Interior pursuant to this subsection shall be retained by the Secretary of the Interior and used, subject to appropriations, for the management of public lands and shall remain available until expended."

(c) AMENDMENT OF PATENTS.—Upon the request of the city of Pocatello, the Secretary of the Interior shall amend any patents issued pursuant to the Act of May 20, 1920, so as to conform to the amendments to such Act made by this Act.

SEC. 2. MODIFICATION OF REPORTING REQUIREMENT.

The first section of the Act of May 12, 1920 (41 Stat. 596) is amended by designating the existing text of such section as section 1(a) and by striking out "of each year after the expiration of said two years," and inserting in lieu thereof "every five years beginning in 1996,".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 1448, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1448 is a bill introduced by Representative STALLINGS and by my Interior Committee colleague, Representative LAROCCO.

The bill would amend a 1920 act that allowed the city of Pocatello, ID, to acquire certain Federal lands. Under that act, the lands can be used only for conservation and protection of the city's water supply. The State of Idaho is now in the process of deciding where to locate a new correctional facility, and the city would like to be able to make a portion of these lands available for that purpose. But that cannot be done under the existing law. The bill is intended to allow this additional use of these lands.

After the subcommittee hearing on H.R. 1448, the bill's sponsors worked with the committee, with Pocatello city officials, and with interested groups in Idaho to develop an amendment to respond to some concerns raised at the hearing, including the concerns of the administration. As a result, a substitute was developed that was approved by the committee and is now before the House.

The bill as reported would allow a correctional facility to be built on a 40-acre tract in the part of the lands where there are an existing road and city water-supply facilities, and would allow the city to transfer the site of the correctional facility to another governmental entity. It would preclude any new roads in the most sensitive riparian area near City Creek.

It would explicitly authorize compatible recreational use of the remainder of the lands, a use that occurs now but whose permissibility is questionable under the 1920 act, and would require the city to retain ownership of the lands except those used for a correctional facility.

It would also add to the 1920 act language to protect the United States against liability arising from possible contamination of the lands with hazardous materials, as requested by the administration.

Finally, the bill, as amended, would replace the current requirement for an annual report to the Secretary of the Interior about the use of the lands with a requirement for reports every 5 years, as is typical in similar situations involving the Recreation and Public Purposes Act.

I understand that the bill as reported by the committee is fully supported by the city of Pocatello and the citizens groups who have expressed concerns about the bill. It was approved in the committee without controversy.

Mr. Speaker, as reported from the Interior Committee this is a good bill that appropriately allows for possible location of a new correctional facility on the affected lands while still protecting sensitive areas and safeguarding the National Government from possible liability. The gentleman from Idaho, Mr. STALLINGS, deserves congratulations on working out a compromise that evidently is acceptable to all concerned, and the bill deserves the approval of the House.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1448 which has been ably explained in detail by Chairman VENTO. I note that this bill as amended is supported by both the city of Pocatello, ID, and a group of local Idaho citizens who had objections to the bill as introduced.

I note that H.R. 1448 is also supported by the administration. I commend Chairman VENTO and the Idaho delegation for their fine work on this bill.

□ 1350

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we appreciate the cooperation of the gentleman from California [Mr. LAGOMARSINO] and his staff, both the minority and majority staffs who have worked so hard on this legislation. I especially want to thank the gentleman from Idaho [Mr. STALLINGS] for the work that he has done on this measure. It is a small matter to most of us in terms of an issue, but I believe it is of tremendous importance to the State of Idaho and this particular community.

Mr. Speaker, I yield such time as he may consume to the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. I thank the gentleman for yielding.

Mr. Speaker, I rise today to urge passage of H.R. 1448. I also want to express my appreciation to the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO], his staff, and the gentleman from Montana [Mr. MARLENEE], and his staff on the other side of the aisle for their expeditious and thoughtful handling of this bill. I also would like to commend the chairman of the full Committee on Interior and Insular Affairs, the gentleman from California [Mr. MILLER], and my colleague, the gentleman from Idaho [Mr. LAROCCO].

Mr. Speaker, the bill before us is the result of a compromise hammered out at the local level by members of both parties, by city and State officials and by conservation and homeowner groups. Mr. Speaker, I think the process that led to this compromise is an example of participatory decision-making at its best, and I would like to extend my congratulations to all the participants in the process.

This bill would enable Pocatello, ID, in cooperation with the Idaho Department of Corrections, to use certain land for construction of a correctional facility for women.

The land is already owned by Pocatello, but remains subject to use restrictions imposed by Congress when it authorized the sale of the land to the city in 1920. These restrictions preclude construction of the facility. This bill would permit use of 40 acres of the land for construction of the prison.

The bill also clarifies that the remaining 2,200 acres of the land may be used for recreational or other purposes provided they are compatible with the conservation and protection of the city water supply—the purpose for which the land was originally sold to Pocatello.

A consent decree and related court actions arising out of recent litigation require Idaho to build the women's correctional facility promptly. The Pocatello site has the support of the Governor, both political parties on the local level, the mayor, the county commission, the entire congressional delegation here and in the Senate.

In addition, I believe it is important and significant that the bill does not require the prison to be built on this site, it merely makes it possible for Pocatello to offer this site for such a use if it decides to do so.

Mr. Speaker, this bill is a good, responsible piece of legislation and I urge its passage.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume for the purpose of commending the gentleman from Idaho for his work on this bill. It is a good measure. It provides, I think, another demonstration of the use of public lands for public purposes and still maintaining the intent of the 1920 law, and it meets the needs of the State of Idaho, the city of Pocatello.

So I certainly am pleased to have worked with the gentleman toward this end. These correctional facilities are hard to locate. This particular community is taking on that responsibility, under some duress, in the State of Idaho. It is a difficult task, but I am certain that they are going to respond and end up with a very positive facility.

Again I commend the gentleman from Idaho for his work.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 1448, as amended.

The question was taken; and (two thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MANZANAR NATIONAL HISTORIC SITE

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 543) to establish the Manzanar National Historic Site in the State of California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 543

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MANZANAR NATIONAL HISTORIC SITE

SEC. 101. ESTABLISHMENT.

(a) IN GENERAL.—In order to provide for the protection and interpretation of historical and cultural resources associated with the relocation of Japanese-Americans during World War II, there is hereby established the Manzanar National Historic Site (hereinafter in this title referred to as the "site").

(b) AREA INCLUDED.—The site shall consist of the lands within the area generally depicted as Alternative 3 on map 3, as contained in the Study of Alternatives for Manzanar War Relocation Center, map number 80,002 and dated February 1989. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") may from time to time make minor revisions in the boundary of the site.

SEC. 102. ADMINISTRATION.

(a) IN GENERAL.—The Secretary shall administer the site in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

(b) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this title.

(c) COOPERATIVE AGREEMENTS WITH STATE.—In administering the site, the Secretary is authorized to enter into cooperative agreements with public and private entities for management and interpretive programs within the site and with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) WATER.—The water rights of the city of Los Angeles shall not be affected by the conveyance of lands under section 103, except that the Secretary shall not acquire such lands until such time as the Secretary has entered into an agreement with the city of Los Angeles which includes provisions to provide water sufficient to fulfill the purposes of the site and to protect the cultural, visual, and natural resources of the site as these resources might be affected by the exercise of such rights.

(e) TRANSPORT OF LIVESTOCK.—Any person who holds a permit from the Department of Water and Power of the city of Los Angeles, California, to graze livestock on city lands located contiguous with the site may move livestock across the Federal lands managed by the Bureau of Land Management located contiguous with the site for the purpose of transporting such livestock from one such parcel to the other.

SEC. 103. ACQUISITION OF LAND.

(a) IN GENERAL.—In order to carry out the purposes of this Act, the Secretary may acquire all lands referenced in section 101(b) through donation by or exchange with the city of Los Angeles.

(b) AUTHORITY.—Notwithstanding any other provision of law, in event of exchange under this section, the Secretary shall utilize the Secretary's authority under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) to exchange public lands within Inyo County, California, identified as suitable for disposal by the Bureau of Land Management. Priority for such exchange shall be given to lands identified for disposal in the Bishop Resources Area Resource Management Plan and lands immediately adjacent to the site.

(c) FACILITY.—The Secretary may contribute up to $1,100,000 in cash or services for the relocation and construction of a maintenance facility to replace the facility located on the land to be acquired under this section.

SEC. 104. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established an 11-member advisory commission to be known as the Manzanar National Historic Site Advisory Commission (hereinafter in this title referred to as the "Advisory Commission"). The Advisory Commission shall be composed of former internees of the Manzanar relocation camp, local residents, representatives of Native American groups, and the general public appointed by the Secretary to serve for terms of 2 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairman.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, acting through the Director of the National Park Service, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development, management, and interpretation of the site, including the preparation of the general management plan.

(c) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the site. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(d) EXPENSES.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this title on vouchers signed by the Chairman.

(e) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to the Advisory Commission.

(f) TERMINATION.—The Advisory Commission shall terminate 10 years after the date of enactment of this title unless the Secretary determines that it is necessary to continue consulting with the Advisory Commission in carrying out the purposes of this Act.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this title.

TITLE II—JAPANESE AMERICAN NATIONAL HISTORIC LANDMARK THEME STUDY

SEC. 201. SHORT TITLE.

This title may be cited as the "Japanese American National Historic Landmark Theme Study Act".

SEC. 202. THEME STUDY.

(a) STUDY.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized and directed to prepare and transmit to the Congress no later than two years after the date of enactment of this title a National Historic Landmark Theme Study on Japanese American history (hereinafter in this title referred to as the "Theme Study"). The purpose of the Theme Study shall be to identify the key sites in Japanese American History that illustrate the period in American history when personal justice was denied Japanese Americans. The Theme Study shall identify, evaluate and nominate as national historic landmarks those sites, buildings, and structures, that best illustrate or commemorate the period in American history from 1941–1946 when Japanese Americans were ordered to be detained, relocated or excluded pursuant to Executive Order Number 9066, and other actions. The study shall include (but not be limited to) the following sites:

(1) Internment or concentration and temporary detention camps where Japanese Americans were relocated, detained and excluded pursuant to Executive Order Number 9066, issued on February 19, 1942. The internment camps include: Tule Lake, California; Rohwer, Arkansas; Gila River, Arizona; Poston, Arizona; Granada, Colorado; Jerome, Arkansas; Heart Mountain, Wyoming; Minidoka, Idaho; and, Topaz, Utah. The temporary detention camps include Pomona, California; Santa Anita, California; Fresno, California; Pinedale, California; Tanforan in San Bruno, California; Sacramento, California; Marysville, California; Mayer, Arizona; Salinas, California; Turlock, California; Merced, California; Stockton, California; Tulare, California; Puyallup, Washington; and, Portland, Oregon.

(2) Angel Island, California, the port of entry for many Japanese Issei.

(3) Camp Shelby, Mississippi, the training ground for the 442nd Infantry Regimental Combat Team.

(4) Camp Savage and Fort Snelling, Minnesota, locations for the Military Intelligence Service Language School where Japanese Americans received Japanese language instruction, enabling the Japanese Americans to translate Japanese war plans into English.

(5) Camp McCoy, Wisconsin where the 100th Infantry Batallion was trained.

(6) Terminal Island, California the first location where Japanese Americans were forced to evacuate.

(7) Bainbridge Island, Washington where Japanese Americans were evacuated pursuant to Exclusion Order Number 1.

(8) Immigration and Naturalization Service internment camps at Crystal City, Kennedy and Seagoville, Texas, Missoula, Montana, and Bismarck, North Dakota.

(b) IDENTIFICATION AND LIST.—On the basis of the Theme Study, the Secretary shall identify possible new National Historic Landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for National Historic Landmark designation.

SEC. 203. CONSULTATION.

In carrying out the study, the Secretary shall consult with Japanese American citizens groups, and scholars of Japanese American history, and historic preservationists. The Secretary shall receive permission from Indian tribes to obtain access to Indian lands.

SEC. 204. COOPERATIVE AGREEMENTS.

The Secretary may enter into cooperative agreements with one or more Japanese American citizens organizations knowledgeable of Japanese American history, especially the relocation and internment period during World War II, to prepare the Theme Study and ensure that the Theme Study meets current scholarly standards.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as are necessary to carry out this title.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on this measure.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 543 was introduced by Representative MEL LEVINE of California. As reported by the Committee on Interior and Insular Affairs, the bill would designate the Manzanar War Relocation Center located in eastern California as a national historic site, and provide for a landmark theme study of Japanese-American history during the period of 1941–46.

The wartime relocation of persons of Japanese descent is an extraordinary and tragic event in American history. Over 120,000 people were forcibly removed to relocation camps located mostly in desolate areas of the West. Forced to take with them only what they could carry, these citizens had to endure not only the loss of property and liberty but the stigma of suspected disloyalty. Congress recently recognized the injustice of this policy by passing the Civil Liberties Act which apologized and provided restitution to Japanese-Americans interned during World War II.

H.R. 543 would designate the 500-acre Manzanar War Relocation Center as a national historic site. Manzanar was the first of the 10 relocation centers and it held 10,000 people from the spring of 1942 to the end of 1945. Manzanar is already a national historic landmark and was recommended by the National Park Service for designation as a national historic site in 1989. I would like to commend Mr. LEVINE for his leadership and hard work on this important piece of legislation which will remind present and future generations of this sad chapter in American history when our Government unjustly treated an entire group of U.S. citizens simply because of their ancestry.

The Subcommittee on National Parks and Public Lands held a hearing on H.R. 543 in late May of this year. Testimony in support of the bill was presented by the National Park Service, Japanese-American citizen groups, Inyo County, CA, the city of Los Angeles, CA and other public witnesses. An amendment in the nature of a substitute was adopted in the Interior Committee which addresses several issues raised at the hearing. This amendment was developed in close consultation with the author of the bill, the chairman of the full committee, the administration, Representative BILL THOMAS in whose district the Manzanar camp is located and the various parties which will be affected by this legislation.

As reported by the Committee on Interior and Insular Affairs, H.R. 543 provides that land for the historic site could be acquired by donation or exchange only. The Manzanar site is owned entirely by the Los Angeles Department of Water and Power. Although normal policy is to authorize land acquisition from governmental bodies by donation only, the department has stated that it is prohibited by its charter from donating land to another governmental entity. It is unclear if this is in fact the case, since the city's position is based on a 50-year-old departmental legal opinion and has never been tested. Given this shakey legal position and considering the city's large land holdings on the Owens Valley, their ability to retain water rights to the Manzanar site and the considerable public benefit which would result from the establishment of the historic site, the committee has included report language in the committee report accompanying H.R. 543 directing the Department of Water and Power and the National Park Service to fully explore the possibility of donating the land to the National Park Service before considering the possibility of a land exchange. The bill provides for the retention of water rights on the site by the city of Los Angeles and provides for a cooperative agreement between the city and the National Park Service for the supply of an adequate amount of water for park operations.

Additionally the bill includes a provision worked out with Representative BILL THOMAS to authorize the replacement of the Inyo County maintenance facility which is currently housed in the building that was used during the World War II internment as a camp auditorium. This is the only major building which remains intact from the World War II Japanese-American internment period and would be used by the National Park Service as a visitor facility at the site.

Finally, H.R. 543, as reported contains the text of H.R. 2351, legislation introduced by Interior Committee Chairman George Miller to authorize the National Park Service to conduct a landmark theme study on Japanese-American history during the period 1941–46. This study will determine the significance and integrity of a number of sites related not only to the internment camps but the lesser known history of the participation and contributions of Japanese-American citizens in the war effort as combatants or as intelligence gatherers. I believe this landmark theme study complements the establishment of the Manzanar historic site by providing for the consideration of sites related to the contributions of many Japanese-Americans during the war and commend Chairman MILLER for introducing this bill.

Mr. Speaker, 3 years ago this body passed legislation which acknowledged the injustice of the internment policy and apologized on behalf of the people of the United States. Our willingness to make restitution when we departed from our founding principles of freedom and civil liberties is a sign of our humility and greatness as a nation. Today we have a unique opportunity to build on that record by establishing a national historic site which will serve as a permanent reminder of a time when our country denied its own citizens rights guaranteed in the Constitution and Bill of Rights. I urge all of my colleagues to vote for this proposal today.

□ 1400

Mr. Speaker, I ask my colleagues to support this outstanding measure, and I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of title I of H.R. 543 which provides for the establishment of Manzanar National Historic Site in Inyo County, CA. This act would recognize and commemorate an important aspect of American history, the internment of over 110,000 Japanese-Americans during World War II without charges or a trial. It is appropriate that this important story be broadly interpreted to the American people, so that we can be sure to learn from our past actions.

Mr. VENTO has adequately described the historic significance of the events which took place at Manzanar and explained the details of the bill language we are considering today. I would like to briefly point out the significance of several features of this measure, which represent some new thinking in the creation of park areas.

With this bill comes a recognition that we cannot expect that as a matter of course, new park areas will be created on the backs of State and local government agencies. If the Congress wants to create a new park area or expand an existing one, it will have to consider the full cost of its actions. In the case of Manzanar, we are creating a park from lands owned exclusively by the Los Angeles Department of Water and Power and facilities owned by Inyo County.

Under existing law, and in accord with past practices, Congress would have insisted on donation of the lands and limited acquisition costs to the fair market value of the facilities acquired, since after all creation of the park was for the benefit of the American people. Indeed, based on press reports, there was substantial pressure brought upon the agencies to donate their interests so that the cost of Federal park establishment to the American taxpayer could be minimized. While I would certainly not object to a donation of property interests on behalf of other Government agencies, such donations are something that Congress should reward with distinction, not insist upon as standard operating procedure. These non-Federal agencies are often in no better financial condition than the Federal Government.

In this particular case, we have added language to the bill which authorizes the department of water and power to be compensated for their land interests through exchange. We have placed language into the bill, which will allow for replacement of the county maintenance facility at a cost of up to $1.1 million, which may be as much as four or five times the actual fair market value of the facility the Federal Government is acquiring.

I applaud the chairman for recognizing the true costs of establishing such a park.

I would also like to recognize the efforts of Mr. BILL THOMAS of California who has done an excellent job of representing the interests of his constituents during the development of this measure.

I also note that this bill includes as title II, a Japanese-American landmark study. While the study process outlined in this measure is far preferable to that passed by the House earlier this session, I note that the administration is opposed to this title. Their opposition is based on the very narrow focus of this study and the fact that much of the work called for has already been accomplished. I hope that the concerns of the administration can be addressed in the Senate.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, I would like to begin by thanking the chairman of the subcommittee, the gentleman from Minnesota [Mr. VENTO], as well as his staff, for their great help in working with the various parties who are interested in this legislation and in expediting the movement of this legislation, and I also want to thank the gentleman from California [Mr. MILLER], who chairs the full committee, for moving this bill so swiftly through the full committee and for including his important provisions which now comprises title 2 of this legislation. In addition, I would like to thank and commend my colleagues, the gentleman from California [Mr. THOMAS] in whose district this site resides, as well as my close friend, the gentleman from California [Mr. MINETA], and the gentleman from California [Mr. MATSUI] for their support and assistance in the development of this legislation. Finally, I would like to thank Mayor Tom Bradley of the city of Los Angeles for his support and his leadership in terms of bringing the city of Los Angeles to a position to support this legislation, as well as Sue Embry and Rose Ochi of the Manzanar Committee for their outstanding work in building the coalition of support that made this bill a reality.

Mr. Speaker, as the gentleman from Minnesota [Mr. VENTO] has already indicated, the internment of Japanese Americans during World War II will undoubtedly be remembered as one of the great blots on American history, one of the great tragedies, one of the great injustices to any people and, particularly, to citizens of this country, citizens who were loyal and patriotic Americans, but who nevertheless were forcibly interned because of false and unfair suspicions with regard to their loyalty during World War II. Mr. Speaker, 120,000 persons of Japanese ancestry were held against their will from 1942 to 1945, 10,000 at the Manzanar camp alone.

The 100th Congress engaged in an historic and overdue debate with regard to this stain on our history and passed historic and, obviously, very significant legislation both to apologize to the internees and to compensate them. I think the debate in that Congress eloquently and appropriately put to rest some of the outrageous suggestions and assumptions that attended this tragic situation during World War II. In the context of that debate, the Government, through the Congress, formally apologized to the former internees for the grave injustices which they suffered.

Now, Mr. Speaker, we are faced with the task of preserving a record of the experiences of the Japanese-American internees so that this type of wholesale violation of civil rights is never again repeated.

It has been almost 50 years since the internment camp was closed.

Regrettably, vandals and souvenir hunters have taken their toll on the physical remains of the camp. Now, two buildings, some foundations, and some gardens are the only signs of the terrible tragedy that occurred at Manzanar during World War II. We need to protect the site from further deterioration.

As time passes, it will become increasingly difficult to find people who were old enough to remember being interned, much less those who were old enough to understand the significance of the internment as they experienced it.

If we act quickly, we can preserve both the memories and the camp itself, to establish a lasting record of the internment of Japanese-Americans, and of the conditions they endured.

Mr. Speaker, this historic site will be the foundation for the preservation of a historic record of the Japanese-American community's experiences during this tragic period in American history. Hopefully, it will help to ensure that no one else will be forced to endure inhumane policies internees faced at Manzanar and nine other sites around the country.

I want to mention briefly, Mr. Speaker, that the Los Angeles Department of Water and Power has expressed concern about the impact that this legislation might have on Los Angeles' water rights. As the chairman indicated, that concern has been fully addressed. This will not impact Los Angeles' water rights. This will not compromise Los Angeles' water in any regard, nor cost Los Angeles one drop of water.

It is my hope, Mr. Speaker, that Manzanar will serve as a reminder of the grievous errors, and inhumane policies we pursued during World War II.

We must never allow such actions to occur again.

Mr. Speaker, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska [Mr. YOUNG], the ranking member of the Committee on Interior and Insular Affaris.

Mr. YOUNG of Alaska. First, Mr. Speaker, let me congratulate the gentlemen from California, Mr. MATSUI and Mr. MINETA for their work on this legislation in addition to the gentleman from California [Mr. LEVINE].

We have to remember one thing, that in 1941 Hitler had the Jews, and Franklin Delano Roosevelt had the Japanese. It was a dark time in our history. It was dark in many ways, and many people recited this on the floor in the last Congress, but we actually passed legislation to apologize, and to rehabilitate and to compensate the American-Japanese, and I want to compliment the people that sponsored this bill to again bring it to light that we must not forget this happened in our democracy. This happened in other parts of the world, in the same era of time, and these types of memorials must be set aside.

However, Mr. Speaker, I would be remiss if I did not also remind those that recognize the American-Japanese that we also had the same thing happen in Alaska with the Aleuts of the Pribilof Islands where they were removed from their homes forcibly, put into concentration camps and into work camps around Alaska and the lower 48 at a great loss of life and property, not because they were American-Japanese, but because they had last names that were Russian names.

I do not think this Nation ever, ever again should ever have the opportunity again, just becasue one has a last name that happens to coincide with our enemy or a racial identity that coincides with the enemy, if they are Americans, to be set aside in concentration camps and interned.

This is good legislation. It should be voted on. I compliment the sponsors, and let us not ever have this again in American history.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MINETA], a sponsor of the measure.

□ 1410

Mr. MINETA. Mr. Speaker, I rise today in strong support of H.R. 543, which will designate the former Manzanar internment camp as a national historic site and will study other locales important to the experience of Americans of Japanese ancestry during the Second World War.

H.R. 543 will educate all Americans about the injustices endured by Americans of Japanese ancestry during the Second World War while commemorating their incomparable achievement toward winning that war for freedom and democracy.

More than accomplishing those goals, though, this bill will help ensure that no other Americans again suffer the injustices of internment.

Mr. Speaker, when the Congress passed the Civil Liberties Act of 1988, the U.S. Government apologized for denying basic constitutional rights to its own citizens.

But to avoid another such contravention of our rights, we must continue to remind ourselves of the lessons of the internment. We must remember the circumstances that enabled the Government to suspend its own bill of rights because of war hysteria and prejudice.

That is why the Civil Liberties Act called for a fund to promote continuing education about the internment.

Awareness, discussion, and self-examination are the keys to maintaining a vigilant and active society.

For many people who were interned, the names and places contained in this bill are living history. My family and I were imprisoned in Santa Anita Racetrack. We were later interned in the camp at Heart Mountain, WY.

The 442d Regimental Combat Team was formed by volunteers who left their families in the camps and went on to become the most highly decorated combat unit of the war in Europe. They trained at Camp Shelby, MS.

Indeed, every site named in this legislation has great personal meaning for those who were interned, and for American history.

Along with the people who lived at Lexington and Concord, Gettysburg, and Council Bluffs, those who were interned are a part of our national heritage.

Eventually, the men, women, and children who lived these times will be gone as well. But by adopting this legislation today, we can ensure that the memory of their experience lives on.

Mr. Speaker, the internment of Americans of Japanese ancestry during the Second World War is not a Japanese-American issue. It is not an Asian-American issue. It is an American issue.

In 1988, the Congress and the President said that the United States made a great mistake in 1942. And together, we pledged that it would never again occur.

This bill will help ensure that the full story of the internment will be told and remembered. And by doing so, it will help ensure that the internment will never be repeated.

I commend the chairman of the Subcommittee on National Parks and Public Lands, Mr. VENTO, and the ranking minority member, Mr. MARLENEE for their support.

I would like to thank Chairman GEORGE MILLER and the ranking Republican DON YOUNG of the full Interior Committee.

I would like to extend my special thanks to the gentleman from Los Angeles, Mr. LEVINE, who has continued to demonstrate his dedication to civil rights over the years, and to my fellow Californians BOB LAGOMARSINO and BILL THOMAS, whose efforts on behalf of the bill have been invaluable.

I urge my colleagues to support the bill.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to one of the sponsors of a major title of this bill, the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 543. Title I designates the Manzanar National Historic Site in California. Title II is identical to H.R. 2351, legislation I introduced to direct the Secretary of the Interior to conduct a national historic landmark theme study on Japanese-American history.

The Japanese-American internment period from 1941–46 was a tragic period in history. On February 19, 1942, President Roosevelt issued Executive Order No. 9066 which gave the Secretary of War permission to exclude any person from designated areas in order to secure national defense objectives against sabotage and espionage. The order was used to remove persons of Japanese ancestry, including American citizens and resident aliens, from the west coast.

Within a few months more than 100,000 people were ordered to give up their homes, farms, and businesses and forced to move to relocation centers and temporary detention camps in the western United States. The 10 relocation centers were Manzanar, CA; Tule Lake, CA; Poston, AZ; Gila River, AZ; Granada, CO; Jerome, AR; Rohwer, AR; Heart Mountain, WY; Minidoka, ID; and, Topaz, UT. Assembly centers were located in California, Arizona, Washington, and Oregon. In addition, the Immigration and Naturalization Service held Japanese-Americans at internment camps in New Mexico, Texas, Montana and North Dakota.

H.R. 543, introduced by Congressman MEL LEVINE, would designate Manzanar a national historic site in California. Manzanar was the first of 10 relocation camps where American citizens and resident aliens because of their Japanese heritage were sent against their will. Approximately 10,000 persons were relocated to Manzanar which now holds a special meaning to many Americans, especially those of Japanese descent.

Today, many visitors traveling in the Owens Valley along Highway 395 in California stop at Manzanar. Unfortunately, the historic resources at Manzanar are not well protected. Vandalism frequently occurs on the site. H.R. 543 would help protect Manzanar by authorizing the Secretary of the Interior to enter into cooperative agreements with public and private entities in California to manage the site and institute interpretive programs.

Manzanar is located on lands owned by the Los Angeles Department of Water and Power. H.R. 543 authorizes the Secretary of the Interior to accept by donation or exchange the land. The city of Los Angeles would retain the water rights. It is my hope that the city will see fit to donate the approximately 550-acre Manzanar site. If the Los Angeles Department of Water and Power refuses, we will have lost a grand opportunity to teach others about the history of Manzanar and the importance of protecting civil liberties and the Constitution.

As my colleagues may recall, many Japanese-Americans, despite Executive Order No. 9066, participated in the defense of this country during World War II. Some were trained at such sites as Camp Shelby, MS and Camp McCoy, WI. Other Japanese-Americans were giving Japanese language lessons at the Military Intelligence Service language schools at Fort Savage and Fort Snelling, MN. Title II of H.R. 543 directs the Secretary of the Interior to study these sites and others for possible designation as national historic landmarks.

Scattered throughout the United States, the sites tell the story of a time when we allowed American citizens to be denied personal justice. This legislation will help future generations understand that humiliation and injustice suffered as a result of hysteria and racism, even during war time, should not be tolerated.

H.R. 543 complements the apology we made to Japanese-Americans in the Civil Liberties Act of 1988 by further recognizing the mistakes we made during World War II, and reinforcing our commitment to civil liberties and the Constitution.

Mr. Speaker, I thank Congressmen VENTO and LEVINE, as well as the Japanese-American Citizens League for their contributions in this important legislation. I encourage my colleagues to support H.R. 543.

Mr. THOMAS of California. Mr. Speaker, I rise to offer my comments in support of the bill before us today, H.R. 543, to establish a Manzanar National Historic Site in Inyo County, CA, within the 20th Congressional District which I represent.

I realize there are some who oppose the establishment of any sort of National Park Service unit to officially commemorate the U.S. internment of thousands of Japanese-Americans during World War II. The belief is that we should let the past be past, that an episode such as this is an embarrassment to the United States that should be allowed to be forgotten. I disagree, obviously, with such sentiments, but I do understand the reluctance to come face to face with an unfortunate piece of our not-too-distant past. It is uncomfortable, it is painful, to remember that time. But it is incumbent upon us to do so, because only through a diligent preservation of those memories can we hope to avoid their repetition in the future.

One of the best ways to ensure that we, as a nation, remain mindful of the precious rights and privileges with which we are blessed but which we all too often take for granted, is to formally commemorate a time when many of these same rights and privileges were suspended for many of our fellow citizens. Just such a commemoration would be appropriately served by the establishment of a national historic site at Manzanar. I urge my colleagues to support the passage of H.R. 543.

Mrs. MINK. Mr. Speaker, I rise in strong support of H.R. 543, a bill to designate Manzanar internment camp as the Manzanar National Historic Site. One of the greatest American traditions is the preservation of historic sites so that future generations may fully appreciate the lessons this Nation has learned in the years our country has existed.

The internment of Japanese-Americans during World War II is not a proud chapter in our history and it is certainly not a pleasant memory for those who survived the ordeal, but it is nonetheless a part of the American experience that must be preserved so that those whose lives were shattered by this great injustice will not have suffered in vain.

Mr. Speaker, this Nation has realized the mistake that was made in unfairly imprisoning Japanese-American families during the war because of their ancestry. This Congress has taken steps to try and make up for the damage done by giving reparations to those who were subjected to internment. But above all apologies and compensations, the victims of this crime and their families wish that their sacrifices be remembered, honored, and most of all, that this type of injustice against one group of Americans never be repeated.

I commend Chairman VENTO and the committee for their fine work in bringing this bill forward. The acquisition of the Manzanar site and the establishment of the Japanese-American internment study will go a long way toward healing the wounds of this tragic period of our history.

Perhaps the time has come to forgive the terrible mistakes made by misguided Government officials during the Second World War. But while we can forgive, we must never forget. Manzanar and the other internment sites will always be remembered as the places where our Government ignored at home the very freedoms we were fighting to uphold around the world. It is not a pleasant memory but it is most definitely an American memory.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I have no further request for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McDERMOTT). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill (H.R. 543), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING ESTABLISHMENT OF A MEMORIAL AT CUSTER BATTLEFIELD NATIONAL MONUMENT

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 848) to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn, and for other purposes, as amended.

The Clerk read as follows:

H.R. 848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. REDESIGNATION OF MONUMENT.

The Custer Battlefield National Monument in Montana shall, on and after the date of enactment of this Act, be known as the "Little Bighorn Battlefield National Monument" (hereafter in this Act referred to as the "monument"). Any reference to the Custer Battlefield National Monument in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the Little Bighorn Battlefield National Monument.

SEC. 102. CUSTER NATIONAL CEMETERY.

The cemetery located with the monument shall be designated as the Custer National Cemetery.

TITLE II

SEC. 201. FINDINGS.

The Congress finds that—

(1) a monument was erected in 1881 at Last Stand Hill to commemorate the soldiers, scouts, and civilians attached to the 7th United States Cavalry who fell in the Battle of the Little Bighorn;

(2) while many members of the Cheyenne, Sioux, and other Indian Nations gave their lives defending their families and traditional lifestyle and livelihood, nothing stands at the battlefield to commemorate those individuals; and

(3) the public interest will best be served by establishing a memorial at the Little Bighorn Battlefield National Monument to honor the Indian participants in the battle.

SEC. 202. ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall establish a committee to be known as the Little Bighorn Battlefield National Monument Advisory Committee (hereafter in this Act referred to as the "Advisory Committee").

(b) MEMBERSHIP AND CHAIRPERSON.—The Advisory Committee shall be composed of 11 members appointed by the Secretary, with 6 of the individuals appointed representing Native American tribes who participated in the Battle of the Little Bighorn or who now reside in the area, 2 of the individuals appointed being nationally recognized artists and 3 of the individuals appointed being knowledgeable in history, historic preservation, and landscape architecture. The Advisory Committee shall designate one of its members as Chairperson.

(c) QUORUM; MEETINGS.—Six members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall act and advise by affirmative vote of a majority of the members voting at a meeting at which a quorum is present. The Advisory Committee shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the monument. Advisory Committee meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(d) ADVISORY FUNCTIONS.—The Advisory Committee shall advise the Secretary to ensure that the memorial designed and constructed as provided in section 203 shall be appropriate to the monument, its resources and landscape, sensitive to the history being portrayed and artistically commendable.

(e) TECHNICAL STAFF SUPPORT.—In order to provide staff support and technical services to assist the Advisory Committee in carrying out its duties under this Act, upon request of the Advisory Committee, the Secretary of the Interior is authorized to detail any personnel of the National Park Service to the Advisory Committee.

(f) COMPENSATION.—Members of the Advisory Committee shall serve without compensation but shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5 of the United States Code.

(g) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776), are hereby waived with respect to the Advisory Committee.

(h) TERMINATION.—The Advisory Committee shall terminate upon dedication of the memorial authorized under section 203.

SEC. 203. MEMORIAL.

(a) DESIGN, CONSTRUCTION, AND MAINTENANCE.—In order to honor and recognize the Indians who fought to preserve their land and culture in the Battle of the Little Bighorn, to provide visitors with an improved understanding of the events leading up to and the consequences of the fateful battle, and to encourage peace among people of all races, the Secretary shall design, construct, and maintain a memorial at the Little Bighorn Battlefield National Monument.

(b) SITE.—The Secretary, in consultation with the Advisory Committee, shall select the site of the memorial. Such area shall be located on the ridge in that part of the Little Bighorn Battlefield National Monument which is in the vicinity of the 7th Cavalry Monument, as generally depicted on a map entitled "Custer Battlefield National Monument General Development Map" dated March 1990 and numbered 381/80,044–A.

(c) DESIGN COMPETITION.—The Secretary, in consultation with the Advisory Committee, shall hold a national design competition to select the design of the memorial. The design criteria shall include but not necessarily be limited to compatibility with the monument and its resources in form and scale, sensitivity to the history being portrayed, and artistic merit. The design and plans for the memorial shall be subject to the approval of the Secretary.

SEC. 204. DONATIONS OF FUNDS, PROPERTY, AND SERVICES.

Notwithstanding any other provision of law, the Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing for the memorial.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Alaska [Mr. YOUNG] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 115 years ago today the Battle of the Little Bighorn was fought in Montana. A Native American victory that occurred as this country was celebrating its centennial, the Battle of the Little Bighorn has long aroused strong passions. The U.S. 7th Cavalry, led by Lt. Col. George Armstrong Custer, was defeated by the assembled Sioux, Cheyenne, and Arapaho Indians who were fighting to save their traditional ways of life.

H.R. 848 was introduced by my colleague on the Interior committee, Representative BEN NIGHTHORSE CAMPBELL. As amended by the Interior Committee, the legislation accomplishes two things. First, it changes the name of the battlefield to Little Bighorn Battlefield National Monument. This name change, sought for many years, is consistent with our national tradition and policy of naming battles for the place where they were fought rather than for those who fought in them and its existing name is an anomaly within the National Park System. Indeed, General Custer's widow, Elizabeth Custer, was among many who referred to the battle as the "Little Bighorn" and the official Army name is also "Little Bighorn." Naming the battlefield for the individual who was defeated there has always been a matter of some contention, an accident of history really because the cemetery was named for Custer and was transferred to the National Park Service in 1940 and the monument when established in 1946. While there are some individuals who dislike the name change, the committee received extensive testimony supporting it from such diverse sources as the National Congress of American Indians, the Governor of Wyoming, the Montana-Wyoming Tribal Chairman's Association, and the Big Horn County, MT, Board of Commissioners. The National Park Service first considered changing the name in 1972. For greater accuracy, and greater justice that recognizes all who fought in the battle, this national park unit should be named the Little Bighorn Battlefield National Monument.

H.R. 848 also contains important provisions directing the Secretary of the Interior to design, construct, and maintain a memorial to the Indians present at the Battle of the Little Bighorn. This battle was the clash of two cultures, each trying very hard to ensure that it could pursue its way of life. The memorial is intended to be a healing memorial for those of us living today as well as a remembrance of those who fought and who died near the banks of the Little Bighorn River 115 years ago. It is important we recognize all who fought at this battle, as well as what they fought for. I endorse this legislation, as amended, and urge its passage by the House.

□ 1420

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation, with some reservation. The reservation comes from the gentleman from Montana [Mr. MARLENEE]. We, jointly with the gentleman from Montana [Mr. MARLENEE] and the gentleman from Colorado [Mr. CAMPBELL], supported the legislation, and there has been some discussion possibly that maybe local involvement might have come out better. But, overall, I suggest that the gentleman from Colorado [Mr. CAMPBELL], is absolutely correct in sponsoring this legislation.

Mr. Speaker, we have to recognize the history and background of this moment. I, very frankly, have watched and listened many times about the history of Lt. Col. George Custer, and many times he got the recognition and not those other people involved in this conflict.

The other people, it was on their land, they conducted a great battle, a battle strategy that still goes down in the annals of battlefield strategy. I can tell you that this monument should be erected. This is an attempt to do it, and I think it should be done, not only in recognition of Mr. Custer, but the American Indians that fought in this battle.

Mr. Speaker, it is indeed a pleasure to speak on behalf of this legislation with the gentleman from Colorado [Mr. CAMPBELL] and the gentleman from Montana [Mr. MARLENEE], and I hope this body sees the wisdom to pass this legislation.

Mr. VENTO. Mr. Speaker, I mentioned the gentleman from Colorado [Mr. CAMPBELL] and his work on this, along with the gentleman from Montana [Mr. WILLIAMS]. They both have worked very hard. The gentleman from Colorado [Mr. CAMPBELL] introduced two bills, both of them I believe cosponsored by the gentleman from Montana [Mr. WILLIAMS]. I would like to thank the gentleman for his work on this. He went out to Montana and did a field hearing on the topic a couple of weeks ago, and it was very helpful in processing and addressing the concerns of this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado [Mr. CAMPBLELL].

Mr. CAMPBELL of Colorado. Mr. Speaker, it is indeed an honor for me to stand before this body as the only American Indian in the U.S. Congress in support of House Resolution 848, a bill to authorize an Indian memorial at the Custer Battlefield National Monument, and to redesignate the battlefield as the "Little Bighorn Battlefield National Monument."

As the gentleman from Minnesota [Mr. VENTO] mentioned, it has been 115 years since the 7th Cavalry, led by George Armstrong Custer, encountered the seven bands of the Teton Sioux and the Northern Cheyenne camped along the banks of the Little Bighorn River in what we now call Montana. My own great-grandfather was in that battle.

The Indian people who were attacked by General Custer fought valiantly for their way of life, their families, as they knew it, and their very survival.

The soldiers, I believe, fought bravely, too, believing that their battles would make the West safe for settlers, miners, trappers, and others who sought fortunes and their futures during our Nation's westward expansion.

Shortly after that battle, the War Department began referring to that battle site as "Custer's Battlefield," and his name will always be identified with the battlefield. Perhaps, if Indian people had been allowed to participate in the naming of the battlefield at that time, we would not be here today, but the political climate of those times absolutely would not allow it. History, as we know, is written by those who have a written language, and Indians did not.

But as Dr. Barney Old Coyote, a member of the Crow Nation and a decorated veteran who flew 50 bomber missions in World War II noted recently in Billings, it does not seem appropriate that this battlefield be named for an individual who spent only 2 days at that site, while Indians have been there for generations.

I agree with Dr. Old Coyote. It has always been hard for Indian people to accept this site as it is currently known, and even today, many Indian people are reluctant to visit that site.

This bill does not attempt to revise history, Mr. Speaker, and I do not believe we are revising history by building an Indian memorial at the battlefield or by redesignating the battlefield to denote its geographic location.

This designation is consistent with present day National Park Service policy. In fact, as early as 1972, the National Park Service recommended a name change.

It was also even referred to in Libby Custer's will, General Custer's widow, as the Little Bighorn Battlefield, and not the Custer Battlefield, and at no time did she ask for it to be named the Custer Battlefield.

I, along with my distinguished colleagues from Montana, Mr. MARLENEE and Mr. WILLIAMS, had the pleasure of holding a hearing in Billings on June 10. I want to thank my chairman, Mr. VENTO, for the good work that his staff did on that hearing, particularly Heather Huyck, who spent so much time at the last minute making arrangements for that bill.

As it stands now, the Governor of Montana and the Governor of Wyoming, the Montana State Legislature, and the Bighorn County Commissioners, have all submitted testimony for the Record in support of both the name change and the monument.

In addition, a hearing was held here in Washington this year, and one, in fact, was held last year, to gather testimony from the tribes affected, and they fully support this bill.

Both Montana Senators supported this bill in its present form last year, as they have indicated they will again this year.

The gentleman from Montana [Mr. MARLENEE] did have some concerns that I believe have been met by maintaining the name of the Custer National Cemetery within the monument boundaries. I believe people have had an ample opportunity to comment on this proposed change.

Mr. Speaker, if this body stands for anything, it stands for justice, and if this bill speaks to anything, it speaks to justice. Each day we end our Pledge of Allegiance with the sentence, "with liberty and justice for all." It does not end with a sentence that says, "liberty and justice for some, at the expense of others." Yet for over a century, 2 million American Indians have been denied equal and just treatment in the single most visible symbol of the tragic movement of westward expansion. We have seen fit to tell the world that we made a mistake in dealing with black people in the days of slavery, and he have seen fit to tell the world that we made a mistake in World War II in incarcerating Japanese-Americans. We just spoke to that again in passing the Manzanar bill.

Mr. Speaker, it is now time to tell the world that we made a mistake in denying the American Indians equal and fair honor on the battlefield at the Little Bighorn.

Mr. VENTO. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. DINGELL]

Mr. DINGELL. Mr. Speaker, I thank the distinguished gentleman for yielding me this brief amount of time.

Mr. Speaker, I would like to begin by observing that there is no real strong or compelling reason for the adoption of this legislation, aside from the fact that we should permit the native American peoples to construct a proper monument to those amongst their number who died at the Battle of the Little Bighorn in 1876.

It must be observed that those who died in the uniform of the United States at the Battle of the Little Bighorn did so as persons serving their Nation, honestly believing in the justice and rightness of their cause, and carrying out orders which were issued to them by proper authorities. To now rewrite history and say in some fashion that it is improper that we should name that battlefield after General Custer, or that in some way he or the men who served here and died there were behaving improperly, is indeed to distort history in a curious, and I believe a seriously improper way.

Like all other Americans, I have great admiration for the Indian peoples of this Nation. I believe they have a great tradition, a great history, and they have enriched the lives of the people of this Nation by their contributions. But to say that in some way it is a carrying out of an act of justice to rename the Custer Battlefield after some other title, is, I believe, to stretch the truth.

Mr. Speaker, justice is something which we will all learn about in the hereafter, but I do not believe that anyone can say that there is injustice in naming this battlefield after Gen. George Custer and those who died with him.

□ 1430

A monument for the Indians who died there? Certainly. A monument for the soldiers of the United States who died there is indeed appropriate. A battlefield monument named after General Custer, regardless of whether he stayed there 2 days or 2 years or 200 years, is fully appropriate. After all, he died there, as did a large number of American soldiers carrying out their appropriate and proper duty.

I believe that if the question were put to them, it can be fairly said that they would say that the naming of this site was entirely appropriate. It has been so called for many years. There is no strong reason to change it.

My constitutents who live in the hometown and the home county of General Custer, the city of Monroe, and the county of Monroe do not support this. I believe that those who have descended from the soldiers who served and suffered and died at this battlefield have similar feelings.

Again, I reiterate, we can have a monument to and for the native Americans who died there. That is fully fitting and appropriate. But I see no reason to go beyond that point, and I think that calling the change of name some act of justice which is affecting the Indian people one way or another is not only to distort but to stretch the truth well beyond any level of believability or credibility.

I urge my colleagues to reject this legislation. It is unnecessary. It is unwise. It is offensive. It demeans the American soldiers who died at Little Bighorn and in some way it makes it appear that their behavior was improper, unjust, or that by renaming them in some way we are righting some kind of wrong which those men who suffered and died there have committed.

I say no wrong was committed there. I say no impropriety was committed by the American soldiers who died there. And so to rush out to correct some wrong which may or may not have existed in the minds of someone else is hardly the way that we should preserve the memories of those American soldiers who served their Nation right to the last moment of their life.

I urge my colleagues to reject the legislation.

CITY OF MONROE,
June 7, 1991.

Hon. JOHN D. DINGELL,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN DINGELL: On or about May 13, 1991, the City Council of Monroe, Michigan adopted the attached resolution provided by the Monroe County Historical Society. As Mayor of the City of Monroe, I am forwarding this resolution to you so that you may act upon legislation affecting the Custer Battlefield National Monument in the State of Montana.

Monroe is Custer's hometown. We have signs posted on all major entrances to the City which denote this fact. The Custer name is known world wide and any student of Custer history knows about Monroe, Michigan. The name should be preserved on the Montana Battlefield where so many Monroe men gave their lives on June 25, 1876.

Respectfully yours,
SAMUEL J. MIGNANO, JR.
Mayor, City of Monroe.

RESOLUTION OF THE MONROE COUNTY CITY COUNCIL

Whereas the name of George Armstrong Custer has assumed legendary proportions; and

Whereas the City and County of Monroe, Michigan, claim Custer as their own; and

Whereas national recognition was bestowed on the site of "Custer's Last Stand" in 1881 by naming it after him; and

Whereas a granite memorial weighing 18 tons took nearly three years to erect on the Battlefield; and

Whereas the names of those soldiers from Monroe who perished on June 25, 1876 are inscribed thereon along with those of the Custer boys, George, Boston and Tom

Therefore be it solemnly resolved, that forever after this site in the state of Montana should be known as the Custer Battlefield National Monument; and

Be if further resolved, that the Monroe County Historical Society petitions the City of Monroe, the County of Monroe, the Michigan Historical Society and such legislators as may be empowered to act on H.R. 770, H.R. 847 and H.R. 848 to offer resolutions opposing any legislation that would alter the conventions and decrees of 1881. Let the memory of "Custer's Last Stand" live on.

RESOLUTION

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Whereas the names of those soldiers from Monroe who perished on June 25, 1876 are inscribed thereon along with those of the Custer boys, George, Boston and Tom;

Therefore, be it solemnly resolved, that forever after this site in the state of Montana should be known as the Custer Battlefield National Monument; and

Be if further resolved, that the Monroe County Board of Commissioners petitions the Michigan Historical Society and such legislators as may be empowered to act on H.R. 770, H.R. 847 and H.R. 848 to offer resolutions opposing any legislation that would alter the conventions and decrees of 1881. Let the memory of "Custer's Last Stand" live on.

RESOLUTION OF THE MONROE COUNTY HISTORICAL SOCIETY

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Be if further resolved, that the Monroe County Historical Society petitions the City of Monroe, the County of Monroe, the Michigan Historical Society and such legislators as may be empowered to act on H.R. 770, H.R. 847 and H.R. 848 to offer resolutions opposing any legislation that would alter the conventions and decrees of 1881. Let the memory of "Custer's Last Stand" live on.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of the legislation. After all these years it is appropriate that we honor the memory of both sides and not just one side who fought in the Battle of the Little Bighorn. I urge my colleagues to support the legislation.

Mr. VENTO. Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Speaker, I rise in strong support of H.R. 848, legislation to redesignate the Custer Battefield National Monument as the Little Bighorn Battlefield National Monument and to direct the design and construction of a memorial to honor and recognize the American Indians who fought there. The cemetery which is currently located at the monument would be designated as the Custer National Cemetery.

Today's bill is supported by a majority of the Montana congressional delegation, the Governors of both Wyoming and Montana, the Montana State Legislature, the Little Big Horn County Commissioners and many other Indian and non-Indian organizations. The Bush administration has taken a position in favor of this bill.

It is important to note that symbolism can be important and that a monument acknowledging the American Indians who fought during the Battle of the Little Bighorn is needed. This monument will reflect the fact that America is not afraid to acknowledge an unpleasant part of its history and the complex events that went into the western expansion of the dominant American culture. It is fitting and appropriate that we memorialize the bravey of all parties to this important event in American history.

General Custer's legacy will live on with the designation of the Custer National Cemetery, and the entire bill will at last allow this event in western history to be considered in its full context and complexity by all generations of Americans forever after.

I want to thank Chairman VENTO and especially my colleague, the gentleman from California, Mr. BEN NIGHTHORSE CAMPBELL, who has worked hard on this legislation and has become an outstanding leader for native American issues.

Mr. VENTO. Mr. Speaker, I yield 4 minutes to the gentleman from Montana [Mr. WILLIAMS], a member of the committee and a sponsor of this legislation, who has worked long and hard on his native Montana's monument to this event, the Little Bighorn Battle.

Mr. WILLIAMS. Mr. Speaker, in 1866, a military district for Montana was created with Fort Shaw as regimental headquarters. Gen. Philip Sheridan was commander of the Division of the Missouri. General Sherman was General of the Army, and General Sherman believed that the principal problem for the U.S. Army lay on the high plains in the West. He believed that the Indians were a great danger. His intelligence told him they were mobile, well armed and, as I say, very dangerous. And General Sheridan believed that conflict and perhaps war was inevitable. Indeed, there were numerous encounters.

It is no wonder. By 1899 there were a dozen forts in Montana alone. In 1874, Gen. George Armstrong Custer entered the Black Hills. He found that about 11,000 Indians were on reservations then and 3,000 Indians were not on their reservations, as ordered, and it was believed that they were resentful and intransigent.

In February of 1876, the matter was removed from the Department of the Interior, and this problem with the American Indians, the native Americans, was given to the Department of War. Custer and Terry, Gibbon, and Reno and Benteen, brave men all, moved with vengeance into Montana. Custer was dispatched up the Rosebud with orders to stay well back from the Indians so that an attack could be made by the entire force.

It was reported that on that morning of June 25, the regiment was excited. Colors were flying. The horses danced and the troopers laughed. Tomorrow, June 25, is the 115th anniversary of the Battle of the Little Bighorn, Custer's last stand. This year marks 112 years since this country established a memorial to honor the 7th Cavalry soldiers and scouts who fought and died that morning. Each 7th Cavalry person who died on June 25, 1876, is listed by name at the national monument. There are no names for the Indians who fought and died there simply defending their homeland and village.

Of the Cheyenne, we know that the dead included Black Cloud, Left Hand, Black Bear, and the Cheyenne chief, Chief Lame White Man.

We know that Sioux warriors fell—White Buffalo, Swift Bear, Long Road, The Oglalas, too, gave up some of their men, White Eagle and Black White Man among them.

This legislation reaches back 115 years and builds a bridge between the races, builds a bridge and properly recognizes both the vanquished and the victors. It is time now, almost exactly 115 years later, for this Nation to recognize all of its people, all of its heroes and all of those who won at this battle as well as those recognized at this battle who lost.

□ 1440

Mr. VENTO. Mr. Speaker, to conclude the debate on our side, I yield such time as he may consume to our colleague and friend, the gentleman from Colorado [Mr. CAMPBELL], one of those whose ancestors did fight in this event with the other native Americans.

Mr. CAMPBELL of Colorado. Mr. Speaker, I have already spoken once on this and submitted my testimony, but I was somewhat surprised at the testimony of my friend, the chairman, the gentleman from Michigan [Mr. DINGELL]. I am sorry he has left the room, because I was jotting down a few notes that I wanted to bring up in closing, some things that really kind of stuck with me.

He mentioned that there was no strong or compelling reason for changing the name. I submit that 2 million Americans who have lived in, you might say, the shadow of American history are strong and compelling reasons, and those are 2 million American Indians.

He mentioned that the soldiers of the time were only carrying out their orders. How many times have we heard that? How many times in the war crimes of World War II, for instance, did we hear, "Well, they were only carrying out their orders," as if somehow that made it all right to do anything, to attack women, children, peaceful camps, made it OK, because they were only doing what they were ordered?

I submit there is a much higher calling than that, and it is a moral calling. There are times when we cannot hide behind that, "They were only carrying out their orders" rhetoric.

It was not right. As my friend, the gentleman from Montana [Mr. WILLIAMS] mentioned, there were a lot of deaths. It was not just the soldiers. Seven Cheyenne, over 160 Sioux, and the fact is that they carried their dead off. They were not left there, and so nothing has been written much about them.

I understand the Custer family's concern. You might say they have a vested interest. They do not want the name changed. I recognize it is important to their family. But it seems to me I have a family, too, and that is the 2 million American Indians I spoke about.

I would like to point out one last thing, and that is that American Indians have fought in every war since the Civil War. In fact, in Iraq, we had 12,750 American Indians in that battle. Two of the first six who died in Iraq were American Indians, and one had a very poetic name. He was a Sioux youngster by the name of Came from the Stars. Some of us think perhaps that those who died, regardless of whether they were Indian or not, in Iraq have been returned to the stars.

Some have told us that this is only symbolic, a monument and a name change. It is only symbolic. But I submit that if symbolism is not important, what does that flag mean that is behind the Speaker's podium? And what does that Statue of Liberty mean that we are all so proud of? Symbolism is important, and tomorrow I hope that we will be able to tell all Americans that we are 115 years late this June 25, but we have recognized the importance of building that monument and changing that name.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in support of this bill to develop a monument to recognize all of the persons who fought in the Little Big Horn.

Now, although it is in Montana, it is very close to Wyoming, and it is very much a part of our background, very much a part of our culture in Wyoming.

I agree with the notion that this monument ought to express concern not only for Custer but also for the native Americans who fought and died there.

Mr. Speaker, I urge support for this bill.

Mr. VENTO. Mr. Speaker, I think I have used up my time. But I just want the Members to support this bill. It is taking a little bit of the glory and putting a little realism in what is going on. It is consistent with the Park Service and the military policy and other guidelines we follow. So we need not get into this type of argument.

I urge my colleagues to support this measure. It is an important measure to all Americans.

Mr. MARLENEE. Mr. Speaker I am here today to voice both my support, and my displeasure to H.R. 848 a bill to authorize the establishment of a memorial to honor the Indians who fought in the Battle of the Little Bighorn and to rename the battlefield.

I have no cause with erecting a monument, we are long past the time for constructing a memorial, which will be a long step forward in healing the wounds which have lingered for over a century since the battle which was the closing act in the 400-year contest between the native American peoples and European settlers over this country's lands, and how they were to be divided and utilized.

Although the battle fought 115 years ago tomorrow on the Little Big Horn River was a decisive victory for the Sioux, Cheyenne and other warrors who fought the 7th Calvary, it was truly an instance in which you could apply the old axom about winning a battle but losing a war. Fighting continued for some years after this date, but there were to be no more encounters of this magnitude and consequence between the Army and native American tribes. Because of this, it is particularly fitting that the battlefield should contain a memorial to the Indian warriors who fought and died to protect their lands and families. In a larger sense, such a memorial will symbolize the sacrifices made by nature Americans in defense of their lands and values over the long years of the settling of America. This memorial will bring recognition to the courageous Indian warriors who fought and died at the Battle of the Little Big Horn.

I am displeased that we are moving ahead to change the name of the battlefield at this time. I preferred to have the Secretary of Interior and a study commission hold more extensive hearings on just what, if any, a name change should be.

During subcommittee hearings in Billings, MT earlier this month, I proposed that if the members of the committee were insistent on changing the name that they should at least consider retaining the Custer name on the cemetery, and I note that the other members have written this into their substitute amendment. Again I state that I would have preferred section 5 of H.R. 770 as my solution to the name change, and that I remain displeased with any name change at this time, while at the same time I am in favor of the monument at this time.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYES of Illinois). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 848, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

The title of the bill was amended so as to read: "An Act entitled "Little Bighorn Battlefield National Monument.".

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
June 21, 1991.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 12:35 p.m. on Friday June 21, 1991 and said to contain a message from the President, whereby he transmits the first six month follow-up report concerning chemical and biological weapons proliferation to the Congress.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

EXPORT CONTROLS ON COMPONENTS OF CHEMICAL WEAPONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–104)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed.

(For message, see proceedings of the Senate of Friday, June 21, 1991, page S 8456.)

WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 179 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 179

Resolved, That all points of order against consideration of the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, for failure to comply with the provisions of clause 2(l)(6) of rule XI and clause 7 of rule XXI are hereby waived. During consideration of the bill, all points of order against the provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived except against the following provisions: beginning with "*Provided*" on page 10, line 10 through page 12, line 11; beginning with "*Provided*" on page 24, line 9 through line 11; beginning with "*Provided*" on page 25, line 10 through line 15; beginning with "*Provided*" on page 27, line 6 through line 20; beginning with "*Pro-*" on page 28, line 9 through "95–87:" on page 30, line 1; beginning on page 60, lines 15 through 22; beginning on page 62, lines 11 through 13; beginning on page 94, lines 10 through 17; and beginning on page 95, lines 11 through 25. In any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph. It shall be in order to consider the amendments printed in the report of the Committee on Rules accompanying this resolution and all points of order against the amendments in the report for failure to comply with the provisions of clause 2 of rule XXI are hereby waived. All points of order against amendment number 3 for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. Debate on amendment number 3 and all amendments thereto shall not exceed one hour.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of the resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, I yield the customary 30 minutes for the purposes of debate only to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

(Mr. GORDON asked and was given permission to revise and extend his remarks.)

□ 1450

Mr. GORDON. Mr. Speaker, House Resolution 179 provides for the consideration of H.R. 2686, the fiscal year 1992 Interior and related agencies appropriation bill.

House Resolution 179 waives against consideration of the entire bill clause 2 (l)(6) of rule XI, requiring a 3-day layover, and clause 7 of rule XXI, requiring relevant printed hearings and reports to be available for 3 days prior to consideration of a general appropriation bill.

The rule also waives clause 2 of rule XXI against all provisions of the bill with the exception of specific provisions.

Where the rule protects only a portion of the paragraph, points of order may be made only against unprotected provisions of the paragraph, and not against the entire paragraph.

Mr. Speaker, House Resolution 179 makes in order three amendments: two offered by Mr. ROE and one by Mr. SYNAR. Each amendment is printed in the report which accompanies this rule. The rule waives all points of order against all three amendments for failure to comply with provisions of clause 2 of rule XXI. The rule further waives clause 7 of rule XVI against the Synar amendment.

Chairman ROE'S first amendment will limit expenditures for the acquisition of land at the Smithsonian Institution's environmental research center until an authorization is in effect. Mr. ROE'S second amendment would limit expenditures for the construction of the National Museum of Natural History's east court building project until authorization language is in place.

Mr. SYNAR'S amendment is similar to an amendment he offered last year to the fiscal year 1991 Interior appropriations bill which passed the House by a vote of 251 to 155. Representative SYNAR'S amendment would establish a grazing fee structure for western ranchers who graze cattle on Department of the Interior, Bureau of Land Management and U.S. Forest Service land. Debate on the Synar amendment, and all amendments thereto, is limited to 1 hour.

Mr. Speaker, H.R. 2686 is the product of hard work and careful consideration. Subcommittee Chairman YATES and the ranking Republican RALPH REGULA should be commended for crafting a bill which addresses the policy issues and funding needs of a wide and varied constituency.

Mr. Speaker, I urge my colleagues to adopt this rule.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am beginning to sound like a broken record, but I am very troubled by this rule. In my view, it makes a mockery of clause 2 of rule XXI which prohibits authorizing in an appropriations bill. My concerns are directed at the way this rule treats section 313 of H.R. 2686 regarding fees for grazing rights on Federal lands and an alternative amendment on the same issue.

Mr. Speaker, I do not need to get into a discussion of the relative merits of these two grazing fee proposals at this point in time. Many of my colleagues will certainly do that when the debate on this bill is considered. My comments are directed to the way this rule sets up a double standard and undermines the committee process.

The rule before Members does not waive clause 2, rule XXI with respect to section 313, thus allowing a point of order to be raised against that section. I believe that we should generally avoid granting such waivers and denying a waiver to section 313 makes particular sense.

It is my understanding that the chairman of the Committee on Interior and Insular Affairs, the gentleman from California [Mr. MILLER], has agreed to take up the issue in the authorizing committee where it should be considered. Consequently, the chairman of the Subcommittee on Interior, the gentleman from Illinois [Mr. YATES], did not request a waiver for section 313. Had this been the end product, I would not hesitate to support the rule so that we could move on with consideration of H.R. 2686.

Unfortunately, the Committee on Rules muddled the process by waiving points of order against an alternative grazing fee formula contained in an amendment that will be offered by the gentleman from Oklahoma [Mr. SYNAR].

On the one hand, Mr. Speaker, by doing this, the Committee on Rules is saying, "We don't like section 313, so it cannot be debated or voted on until it goes through the formal committee process," which is appropriate. On the other hand, the Committee on Rules is saying, "We like the Synar amendment, so we will circumvent the committee process and give it special treatment on the House floor." Somehow the Committee on Rules came to the determination that it is the proper forum for addressing the grazing fee issue, even though the initial legislation was not referred to our committee, nor did our committee ever hold any hearings on the issue.

I did not disagree that the grazing fee formula needs to be restructured. However, I believe it should be done in the context of the normal committee process.

Mr. Speaker, this is an unorthodox rule and one which I believe will have negative future consequences for the legislative process. I hope this will be the last time that we consider such an ill-conceived rule here.

STATEMENT OF ADMINISTRATION POLICY

This Statement of Administration Policy expresses the Administration's views on the Department of the Interior and Related Agencies Appropriations Bill, FY 1992, as reported by the Committee.

Although the Committee restored $213 million in funding for firefighting costs eliminated by the Subcommittee, the Administration strongly objects to the approach taken in the amendment. The bill, as amended, would preclude use of the funds unless the President declares an emergency, thus exempting all expenditures from applicable funding caps. Because these costs can be reasonably anticipated and funded in advance, the Office of Management and Budget would not recommend to the President that he designate appropriations for his purpose as "emergency." Extensive experience with firefighting costs exists, and the President's request reflects the average of annual firefighting costs over the past decade. The scorekeeping gimmick adopted by the Committee is designed to evade the spending caps contained in the budget agreement and is therefore a violation of the Budget Enforcement Act (BEA).

Furthermore, the Committee amendment would require the depletion of the entire $213 million before the use of existing authorities to transfer funds from accounts to meet firefighting costs, should they exceed estimated levels. This provision would prevent the Departments of the Interior and Agriculture from borrowing from other accounts for firefighting activities. The effect of these two provisions is to provide no funding for firefighting activities in FY 1992. This is not responsible in light of the fact that such funds will clearly be needed.

The Committee amendment violates the spirit and intent of the budget agreement with a directed scorekeeping provision. Firefighting appropriations were expliciting included within discretionary limits of the BEA. The proposal to fund firefighting costs as "emergency" is a change in the concepts used to construct the BEA. The Administration strongly objects to this violation of the budget agreement.

The Administration urges the House to fund firefighting operations at the level of anticipated firefighting needs and to do so within the domestic discretionary spending limits established by the BEA.

The Administration strongly objects to the transfer of $123 million of the proceeds from the test sale of Strategic Petroleum Reserve (SPR) oil in the SPR Petroleum account to the Strategic Petroleum Reserve account. The Administration believes that the SPR facilities account should be fully funded at the level requested in the President's Budget and that the test sale receipts should be used for the acquisition of oil. The receipts from the sale are scored as a mandatory and should not be used to offset discretionary spending under the cap.

The Administration strongly opposes any restrictions on Federal funding for the mandatory Sport Fish Restoration Program, otherwise known as the Wallop-Breaux Program. This program is entirely self-financing—those who benefit from it are assessed excise taxes and import duties. The Committee bill would cap all spending for restoring and developing fish habitats at $190 million, which is well below the $208 million in anticipated receipts. The President has stated previously that all these funds should be used for the purpose intended.

The Administration strongly objects to inadequate funding for the President's America the Beautiful (PAB) initiative for Interior and Agriculture. The House Committee mark is about $150 million below the needed amounts. At a time when visits to our national parks and forests are reaching record levels and placing them under increasing stress, the Administration strongly opposes cuts in funds designed to protect these valuable resources in order to fund low-priority earmarked projects.

The Committee has reduced funding for nationally significant resource protection programs. These include Stewardship incentives (−$55 million), American Battlefield Protection (−$13 million), Targeted Parks (−$5 million), and Coastal America (−$5 million). These reductions in the Committee bill would significantly impair the agencies' ability to protect and restore key natural and historic resources and to meet the President's goal of planting one billion trees per year.

These inappropriate reductions and transfers were made at the same time the Appropriations Committee added millions of dollars for construction of new facilities such as the Palau water and sewer systems, a no-bid contract to a local Washington, DC arts agency, and repair of non-Federal buildings such as the Chicago Public Library. In addition, the Committee added hundreds of millions of dollars for low-priority or unneeded energy research.

Attached is a table that summarizes changes approved by the Committee to the Administration's funding requests for our national parks, forests, and other public lands.

Attachment.

FY 1992 Interior Appropriations Bill: House Appropriations Committee Changes to the President's Request

[In millions of dollars]

Reductions:	
America the Beautiful natural/historical resource programs	(−150)
Stewardship initiative	−55
American battlefield protection	−13
Targeted parks	−5
Coastal America (zero-funded)	−5
Other Interior and Forest Service recreation and wildlife initiatives	−70
Forest firefighting	−213
Funding Cap on Wallop-Breaux sport-fish restoration	−18
White House visitor center rehab	−4
North American wetlands conservation (zero-funded)	−15
OCS Environmental studies and management system	−20
Full Funding of Fish and Wildlife payments in lieu-of-taxes	−3
Total	−423
Increases:	
Interior Department construction (much for unneeded new buildings and other facilities) (est.)	+230

Palau water and sewer system ..	(+8)
Chicago Public Library restoration: non-Federal	(+2)
New "Gateway Park" (IL)	(+4)
America's Industrial Heritage (PA)	(+13)
Non-competitive grants for local Washington, DC art and cultural organization	+7
Grants for non-Federal responsibilities and/or build-up of unused Federal Funds	+32
State/rural abandoned nine grants	(+22)
Energy Department low-priority R&D activities	+200
Total	+469

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I rise today in support of the rule for consideration of H.R. 2686, the Interior appropriations measure for fiscal year 1992. This is a fair rule, a good rule, and I urge all my colleague to support it.

I am particularly moved to speak in favor of this rule, because it makes it order an amendment to increase Federal grazing fees and ensure multiple use of our 250 million acres of public rangeland. Passage of the Synar-Darden-Atkins fair market grazing fees and multiple-use amendment will be good for both the taxpayers and the environment.

This year, public land grazing permit holders—who represent only 2 percent of all cattle ranchers—will pay a fee of only $1.97 per animal unit month [AUM]. This is far below the private lease rates in those same States, which average $9.22 per AUM, and contrasts with fees ranging as high as $20 per AUM on certain other Federal and State lands. Ironically, the Bureau of Land Management currently charges a fee of $8.70 per AUM as the "value of forage consumed as a result of nonwillful unauthorized grazing use," in other words, for trespass on public land.

I think it is time for a change. Over the past 6 fiscal years, the taxpayers have lost more than $650 million, because grazing fees were lower than fair market value. As much as $150 million may be lost during fiscal year 1991 alone, because the administration will not charge fair market value for the privilege of grazing cattle on 307 million acres of Federal lands in Western States.

Each year the Federal Government loses billions of dollars selling, leasing, renting, and exchanging taxpayer assets. That's right, the Federal deficit is growing in part because the Federal Government refuses to operate as a prudent seller.

Every year during the budget debate, there is a never ending search for the fiscal equivalent of the Holy Grail—the funds to reduce the deficit.

As chairman of the Government Operations Subcommittee on Environment, Energy, and Natural Resources, I have been faced with more and more of these practices and have many fire sales under investigation. But, there are others. In fact, the General Accounting Office, the Congressional Budget Office, the Office of Management and Budget, the inspectors general, and numerous private reports have detailed monumental sums of lost Federal reserves attributed to fire sale pricing for disposal of Federal assets.

Lost revenues from these programs means fewer dollars to restore the capital costs of the grazing program, to provide recreation opportunities for all Americans, or to reduce the Federal deficit.

While there may be justifiable and sound reasons for certain Federal subsidies, such is not the case with the current grazing fee structure. Many of these decisions have not been reviewed for years. The Synar-Darden-Atkins amendment will enable the Congress to determine if such continued subsidies for public rangeland grazing are in the public interest.

This is the fourth time I have asked the Rules Committee for assistance in correcting this crisis in public lands management. Until 1990, I was asked to await action by the House Committee on Interior and Insular Affairs. But the Interior Committee failed to do so.

Unfortunately, the House Interior and Insular Affairs Committee has not yet acted. On May 22, 1991, the Interior Committee reported H.R. 1096, the Bureau of Land Management Reauthorization Act, which ignored the clear evidence supporting a change of the grazing fee formula. Those of us who support a grazing fee increase believe the House must have an opportunity to work its will and improve management of public rangelands.

The Interior Committee's inaction is even more troubling in light of full House action in the 101st Congress. As you know, on October 11, 1990, the Rules Committee reported House Resolution 505 (Rept. 101-853), which waived points of order pursuant to clause 2 of rule XXI, making in order our grazing fee amendment to H.R. 5769, Interior and related agencies appropriation, 1991. Subsequently, the House passed House Resolution 505 on October 12, 1990, by a vote of 245 to 160.

Then on October 15, 1990, the House approved the Synar-Darden-Atkins amendment to the fiscal year 1991 Interior appropriations measure, H.R. 5769, by an overwhelming vote of 251 to 155. Although that provision was dropped by the House-Senate conference committee, adoption by the House of a grazing amendment was an enormously important first step toward improving management of 250 million acres of Federal rangelands administered by the Department of Interior's Bureau of Land Management and the Department of Agriculture's U.S. Forest Service.

My argument to the Rules Committee this year—like my argument to you—is simple: Let the Members of Congress decide on the merits.

After 5 years inaction—I think it is time for a change. Fortunately, the Rules Committee has agreed and have made this amendment in order.

Here is what is at stake: Over the past 6 fiscal years, the taxpayers have lost more than $650 million, because grazing fees on their public rangelands were lower than fair market value. These losses occurred as a direct consequence of a 1986 Executive order by President Reagan fixing Federal grazing fees far below the Government's direct cost of operating Federal range management and range improvements programs.

As much as $150 million may be lost during fiscal year 1992 alone, unless we pass the Synar-Darden-Atkins grazing fees amendment.

Mr. Speaker, we must move as quickly as possible to end the abuse of our public lands and to save the taxpayer from unfairly subsidizing livestock production on public lands. Adopting this rule is the first step.

Unless grazing fees are increased, the Government will continue to encourage overgrazing of our public lands, the costs of the grazing program will continue to exceed receipts, and the taxpayer will continue to subsidize livestock that represents only 3 percent of total U.S. meat production.

Vote for this rule and vote for the Synar-Darden-Atkins grazing fees amendment. They are votes which are good for both the taxpayers and the environment.

Mr. DREIER of California. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. REGULA], the hard-working ranking member of the Subcommittee on Interior.

Mr. REGULA. Mr. Speaker, I am going to oppose this rule because it is unfair. It is an interesting circumstance. The Subcommittee on Interior came to the Committee on Rules and said, "Let the authorizing committee address this problem on grazing fees," which is the correct way to approach this responsibility. The Committee on Rules decides that this is the right policy, because the bill that came out of our appropriations subcommittee and full committee did have a responsible increase in the grazing fee which should be an authorizing jurisdiction.

We all recognize, or at least most Members recognize, that there should be some adjustments, but we deferred to the Committee on Rules and to the authorizing committee and said, in effect, "OK, responsibility does rest with the authorizing committee, and at their request we will not protect our language."

□ 1500

Strangely then, suddenly we get another proposal on grazing fees and the Rules Committee then decides to play the role of the authorizing committee.

You might have noted, the statement was made that the Rules Committee decided that this was a good thing that we increase the grazing fees, so what you have in effect is the Rules Committee substituting its jurisdiction for that of the authorizing committee.

Now, I cannot understand the inconsistency of saying on the part of the Rules Committee and the authorizing committee that we cannot protect the language in the bill that came out of the Interior Appropriations Committee where we have direct responsibility, but there can be an amendment protected that did not come from any committee of the Congress. It was just offered as an amendment on grazing fees without any hearings.

So I think this rule is very unfair and should be rejected because we should treat all these amendments or proposals involving grazing fees on an equal basis, rather than to have the Rules Committee exercise its judgment in place of the proper committee, namely the authorizing committee.

I am surprised that that authorizing committee did not request that the Synar amendment also not be protected, since that was the request on the language that was in the original appropriations bill.

For that reason, Mr. Speaker, I think the rule should be rejected.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Speaker, I want to thank my good friend, the gentleman from Tennessee, for yielding this time to me to speak a few minutes in support of this rule.

This is a good bill we will be considering, Mr. Speaker. I think the Appropriations Committee deserves our support here for this legislation. It is a fine piece of legislation and I would be for the bill even if it did not make the amendment of the gentleman from Oklahoma [Mr. SYNAR], in order; however, because the amendment of the gentleman from Oklahoma [Mr. SYNAR], is made in order, I think the legislation becomes even more effective and more relevant to the needs of our society today.

Mr. Speaker, I think it is essential that we adopt this rule as passed by the Rules Committee due to the fact that for many, many years, Western cowmen have been able to raise their cattle practically free on public lands at virtually no cost at all. To quote the National Taxpayers Union, Mr. Speaker, in a letter dated June 24, 1991:

> Taxpayers have had about all they can stomach of government waste, yet special interest legislation continues to chew up billions of taxpayer dollars. These interests have powerful providers in Congress who make sure that programs back home are well fed.

For those Western ranchers with access to public lands, the grass looks a lot greener on the Government side of the fence, and with good reason. Every year hundreds of millions of federally owned and managed acres are made available for grazing by privately owned livestock at a fraction of the cost to the Government.

America's taxpayers, according to the National Taxpayers Union, Mr. Speaker, have lost $650 million over the last 6 years because Federal grazing fees are far below the fair market price. Unless this inadequate grazing fee formula is changed, the taxpayers could lose another $150 million next year and probably a similar or even greater amount in subsequent years.

Mr. Speaker, we have just been provided with the results of a GAO briefing report to the chairman, the gentleman from Oklahoma [Mr. SYNAR], of the Environment, Energy, and National Resources Subcommittee of the Committee on Government Operations of the House of Representatives. We have been shocked to learn that the grazing fee is 15 percent lower now than it was 10 years ago. This contrasts with a 17-percent increase in private grazing fees over the same period.

We have heard the sanctimonious talk, Mr. Speaker, about the committee process and what goes on in the authorizing committees. The only safe thing here in the House of Representatives is that the majority rules and that the will of the majority be worked, and the majority of the House of Representatives last year by almost a majority of 100 votes, Mr. Speaker, said that it is time to end the grazing subsidy, and it is time, Mr. Speaker, to put an end to the free ride.

Mr. DREIER of California. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New York [Mr. SOLOMON], the distinguished ranking member of the Rules Committee, from Glens Falls, NY.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for his distinguished introduction.

Mr. Speaker, I guess I am one of the most recognized fiscal conservatives in this House, according to the National Taxpayers Union, but I cannot support this kind of a rule. Even though I support the gentleman from Georgia [Mr. DARDEN] in his position and have voted for his position, we must be fair to every single Member of this House at all times, not just on Mondays and Tuesdays, but every day of the week, every day of the year.

I agree fully with my colleague, the gentleman from California [Mr. DREIER] about the unusual nature of this rule. On the one hand, the rule provides for eliminating the Appropriations Committee's grazing fee increase on a point of order, yet on the other hand the rule turns around and protects a larger grazing fee increase amendment against the same point of order. What kind of sense does that make, Mr. Speaker?

You might call this a high diddle-diddle rule, since the cow has somehow jumped over the Moon and this rule makes about as much sense as that little nursery rhyme.

I appreciate that a similar rule protected a similar Synar grazing amendment last year, though it did not simultaneously eliminate an Appropriations Committee alternative. But I would remind my colleagues that last year's rule was also contentious. Only 14 Members on this side of the aisle supported it last year, and I hope not even that many do this year.

While it is true that Chairman WHITTEN specifically requested that the grazing fee language not be protected against a point of order, it apparently was not at the request of the chairman of the Interior Committee. His letter of June 20 to the Rules Committee only mentioned certain provisions relating to mining and national parks, which he felt should not be protected.

We were nevertheless informed that the Interior Committee chairman did not object to protecting the Synar amendment, but I do not think that necessarily reflected a consensus of the rest of the Interior Committee. I would ask members of that committee to stand up here and enlighten us on that.

It is little wonder then that this rule is more than a bit confusing and contradictory. I, frankly, find it extremely baffling.

Even though the Appropriations Committee supports eliminating its own grazing fee language, it is still counting on those receipts to keep this bill within the subcommittee's section 602(b) allocation under the budget agreement; and we all should be trying to stick to that budget agreement.

To top that off, the committee has restored some $213 million in firefighting funds that would put it over its discretionary cap, but it has avoided actually exceeding that ceiling by making the expenditure of these funds subject to the President's declaration of an emergency. What kind of legislation is that?

The administration strongly objects to this little budgetary loophole game that is being played on us, and says the money should be scored as part of the domestic discretionary spending pot, as well it should.

The SPEAKER pro tempore (Mr. HAYES of Illinois). The time of the gentleman from New York has expired.

Mr. DREIER of California. Mr. Speaker, I yield the gentleman from Glens Falls an additional 2 minutes, and I hope that he will be able to yield to the gentleman from Ohio in just a moment.

Mr. SOLOMON. In summary, Mr. Speaker, this little rule and the bill it makes in order are full of more games than are played at a Sunday school picnic, only they are not as innocent or as much fun. I, for one, cannot associate myself with this rule which is a masterpiece of creative gamesmanship.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. Mr. Speaker, I yield to a gentleman whom I respect as much as anyone in this House, the gentleman from Illinois.

Mr. YATES. Mr. Speaker, I thank the gentleman for his kind words.

With respect to the point made by the gentleman on firefighting, in the past the OMB and the CBO both agreed that the firefighting appropriation should not be among the discretionary funds but should be mandatory, because it was money that had to be paid. This year both the OMB and the CBO decided that they were going to change their minds and make it discretionary. We were able to persuade the CBO that it really ought not to be totally discretionary, and the idea was to give the President the right to determine whether the firefighting was an actual emergency and the funds would then be made available. So that is the background.

I think firefighting funding should be mandatory, because the fires happen every year and it should be in the nature of a permanent appropriation.

Mr. SOLOMON. Well, Mr. Speaker, I certainly agree with the chairman. He makes a lot of sense.

My point is that if we do not make this a part of the discretionary pot, because we know these fires happen every year and probably this amount of money is not even enough as it is, we just are going to end up coming back with a supplemental budget request. And here we are going to increase the deficits further, and that is what we have got to get a handle on. I certainly do agree with the chairman. It makes a lot of sense.

□ 1510

Mr. REGULA. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Speaker, I ask the gentleman from New York, is there any reason you could not have protected the language of the committee, as well as the Synar amendment, in the rule?

Mr. SOLOMON. There is no reason at all.

Mr. REGULA. Then the majority would have had a choice.

Mr. SOLOMON. The House would have been able to work its will. That is the point I was making about gagging certain Members, it does not matter which side of the aisle they are on.

Mr. DREIER of California. Mr. Speaker, may I inquire how much time remains on both sides?

The SPEAKER pro tempore (Mr. HAYES of Illinois). The gentleman from California [Mr. DREIER] has 19 minutes remaining, and the gentleman from Tennessee [Mr. GORDON] has 21 minutes remaining.

Mr. GORDON. Mr. Speaker, my friend from New York [Mr. SOLOMON] made a plea for fairness in this rule. It seems that the ultimate fairness is to allow a majority of this House to work its will.

Last year a similar rule allowed the Synar amendment to be in order. It passed 251 to 155. That amendment was later taken out in conference. It seems that in fairness, this body should allow itself the opportunity to once again pass that amendment.

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. I thank the gentleman for yielding.

Mr. Speaker, I think there is very little, or no, confusion why this rule—no confusion about this rule. You cannot argue it both ways.

When the attempt in the Interior authorizing committee, which I chair, was made to bring up the Darden amendment, we were put on notice by the Republican members of that committee that they would obstruct every effort to bring that to a vote in the committee. They did not want the bill to come up if the Darden amendment was going to be proposed, which is similar to the Synar amendment, to deal with grazing fees.

We were unable to deal with that bill in a comprehensive fashion because of those objections and the intent to obstruct the rest of the bills on the calendar of that bill if in fact grazing fees were going to be argued.

So they did not want to argue it in committee, now they argue here that you cannot argue it here because they did not argue it in committee.

You can pick your poison, but you cannot have it both ways.

We are not going to deny this House the ability to address this issue in this forum when we engage in those kinds of activities in the committee. It is very unusual for a chairperson of the authorizing committee to go along with the waiving of the rules with respect to legislation. But that is the choice that the minority made. That is the choice the minority made in the committee some many weeks ago.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I am delighted to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

How many Members does the gentleman have on his side of the aisle?

Mr. MILLER of California. I have a majority.

Mr. YOUNG of Alaska. A big majority, yes.

Mr. MILLER of California. Yes.

Mr. YOUNG of Alaska. We all——

Mr. MILLER of California. Mr. Speaker, reclaiming my time, we understand the tactics that can be used to delay the agenda and the workings of the committee. The reason the rule is being waived on the mining law is because we believe we have an opportunity to work on that in a comprehensive fashion, and that should be done in that fashion on a bipartisan basis.

Mr. DREIER of California. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

Mr. Speaker, with all due respect to my chairman, that is the biggest bunch of whatever the cow leaves behind on him on this public lands that I ever heard in my life. You have the majority of that committee, you have the majority of the committee. You use your proxies. If you wanted to vote that thing, we would have——

Mr. MILLER of California. The gentleman——

Mr. YOUNG of Alaska. I will not yield.

The SPEAKER pro tempore. The gentleman from Alaska controls the time.

Mr. YOUNG of Alaska. That is right, it is my time. You in fact did not want to have a vote on this because members on your side of the aisle did not want it. Do not lay the blame on our side, do not lay the blame on our side. You are circumventing that committee, of which I am the ranking member and you are the chairman, because you know good and well that if you had the hearing, you had the public input, the testimony would have been in favor of not raising those fees.

Mr. MILLER of California. Why did the gentleman not ask for a vote?

Mr. YOUNG of Alaska. The committee itself is being circumvented. So do not lay the blame on our side. Stand up like a man and say that your members did not want to vote it themselves. Your members did not want to vote on it. That is what it is all about. You did not want to vote on it. You are the chairman of that committee. Make your members vote on it.

Now we have a rule, a rule today that is absolutely wrong, Mr. Speaker. You know it, I know it, and besides that, read the Washington Post today.

You say you are frustrated because you are not in the majority because the President will veto the bill. I tell you, Mr. Speaker, this President will veto this bill if this Synar-Darden amendment is not eliminated.

I say to the gentleman from Georgia: You want to talk about the taxpayers.

Let us throw out the Georgia peanuts and the timber industry subsidies and all those farm subsidies that we get in Georgia. That is the next thing.

Mr. GORDON. Mr. Speaker, for the purpose of debate only, I yield 2 minutes to the gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Speaker, I would like to respond to the gentleman: The gentleman may not like the results of the threats made in the authorizing committee, but those are the results. There is no question we have the votes. But there is no question——

Mr. YOUNG of Alaska. Then use your votes.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] controls the time.

The gentleman from California will proceed.

Mr. MILLER of California. The choice was very simple, Mr. Speaker, either our committee could have its work for many, many weeks obstructed through the activities threatened by the gentleman's party with respect to the raising of the amendment in committee, or we could proceed. We chose to proceed, and if this amendment has to be addressed in this committee, it is very unfortunate that this is the only avenue that is available to us. But it is quite proper, it is within the rules; the rules have been waived. We will have a debate on this floor today on the Synar amendment. The Synar amendment will either win or lose. That is the nature of this body.

Mr. DREIER of California. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Speaker, in addition to this problem which has been debated so hotly so far, the fact of the matter is we are waiving points of order again. And as a result, in opposition to the rules of the House, we are going to be able to legislate on an appropriations bill. And what that means very simply is we are going to be able to put pork into this bill that otherwise could be taken out by simply raising the point of order up here.

I know of two amendments that I intend to propose that is going to cost the taxpayers over $5.5 million in pork that could be taken out strictly on a point of order, but you are waiving it. That is wrong. That is wrong. We should not be waiving points of order in these bills.

The gentleman from Ohio [Mr. TRAFICANT] raised a lot of points of order a couple of weeks ago, and everybody got upset about that because he took a lot of pork out and made a lot of people mad. But the fact of the matter is that is why we have that in the procedure. We should not be waiving points of order. It is wrong. There is an awful lot of waste going on in this Government, and this contributes to that waste.

We are going to face a $350 billion to $400 billion deficit this year, and you are contributing to it with this kind of a rule.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Speaker, I rise in support of the rule. This is a simple and fair rule.

I think the importance of the rule is indicated by the vehemence of the other side claiming that this rule allows us to hide pork in this budget. The answer is a question of when is pork beef? In this case, pork is beef when we are talking about the outrageous $650 million subsidy for some of the richest corporations in America.

Talk about pork, that is pork right on that cattle, and it is all fat. And this bill, this rule will allow us to turn that fat into something useful, to end the subsidy and to begin to protect our public lands.

The issue on this rule is very simple: It is an issue of whether the House is going to be able to work its will.

A small minority of people who have constituents who have benefited enormously from the $650 million subsidy will stop at nothing to prevent the issue from coming to the floor.

Last year the amendment, the Synar amendment, passed 251 to 155. I cannot see what objection anybody could possibly have to voting on the Synar amendment, to eliminating this outrageous subsidy for a handful of very wealthy individuals.

One of the cattlemen who is receiving this subsidy has a ranch that is bigger than my entire State of Massachusetts. At some point we need to say enough, enough to this kind of subsidy.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. ATKINS. I yield to the gentleman from Kansas.

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Speaker, I know the gentleman is concerned about, I guess, an alleged subsidy to fat cat livestock operators, but most of the stockmen, 80 percent who do graze livestock on public lands, these are operators of small, independent businesses, most of whom make $28,000 or less per year. To be economically viable, they must utilize public lands.

Mr. ATKINS. Reclaiming my time, I might suggest that Union Oil Co., Getty Oil, Texaco, Texaco, Inc., Zenchiku Co. of Japan, those are not small operators.

□ 1520

Mr. Speaker, Mr. Daniel H. Russell of Santa Barbara, CA: 5 million acres; that is not a small operator. These are some of the wealthiest people in corporations, not only in this country, but in the world, who are getting an outrageous subsidy.

Mr. DREIER of California. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Speaker, I rise in strong opposition to the Synar amendment. The magnitude of the proposed fee increase is ludicrous, over 400 percent. Furthermore, as a member of both the Appropriations and Interior and Insular Affairs Committees, I take exception to the gentleman from Oklahoma's procedural tactics.

Last year Mr. SYNAR prevailed here on the floor with this same amendment. Fortunately, the Senate deleted the measure. The Interior Committee took to heart Mr. SYNAR's shot across the bow, and we have been working on this issue.

On March 12 of this year, the National Parks and Public Lands Subcommittee, of which I am a member, held a hearing on Mr. SYNAR's proposal, as well as other related legislation. Further, it is my understanding that the House Agriculture Committee plans to hold field hearings this year. So why this clear violation of authorizing committee jurisdiction? We on the authorizing committees are working on this issue. What is Mr. SYNAR's real agenda here? To end grazing on the public lands?

Both the Nevada cattlemen and the Nevada Farm Bureau have made numerous invitations to Mr. SYNAR to come to Nevada and see public-lands ranching first hand, only to be rebuffed. Why? What is the real agenda here?

Mr. Speaker, Secretary of Agriculture Madigan, and BLM Director Jamison, have both sent letters in opposition to the amendment. Yet, the gentleman from Oklahoma is closing his eyes to the opinions of those who work with the land, and is attempting to circumvent the authorizing committees. There is simply not enough time to fully explore the merits of the issue on the House floor. However, I will say this, the amendment is ridiculous on its face—no fee or tax has ever been increased by more than 400 percent in one fell swoop. Public-lands ranching deserves more than only 1 hour of debate. What about the fact-finding responsibility of the authorizing committees?

Is this legislative body ready to leave hanging the fate of an entire industry in one man's hands?

The gentleman from Oklahoma has been waving around and quoting from a brandnew—not even a week old—GAO report, which no one had seen until last Friday. Now, my question is this: If Mr. SNYAR's case is as strong as he makes it out to be while citing this GAO report, why will he not bring his case to the authorizing committees? Why is he not letting the Interior and Agriculture Committees do their jobs? What is the real agenda here?

Mr. Speaker, I urge the defeat of the Synar amendment and this rule.

Mr. DREIER of California. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding, and I want to, Mr. Speaker, reemphasize the fact that this bill properly was sent by the Speaker to the authorizing committees of Agriculture and Interior, as has been stated here accurately. Both those committees of jurisdiction held hearings. The Committee on Interior and Insular Affairs did not act because there were not votes enough to get this bill out after the hearing, and this is this year, not last year. The Committee on Agriculture is going to hold hearings.

Mr. Speaker, the process is wrong here. The Committee on Appropriations viewed this issue and determined that there could be a point of order held against a Synar amendment because it was legislating on an appropriations bill, and correctly so. Now suddenly the Committee on Rules has decided that we should hear this bill on the floor, which absolutely violates, in my opinion, the rules of the House.

The premise is wrong in this bill because simply the grazing fee is not a subsidy, Mr. Speaker, and I will prove that in my debate later on. The BLM charges more money, Mr. Speaker, for grazing on public lands than is actually necessary to range cattle on the public lands, $1.66 versus $1.97. Second, it costs more to operate on public ranges than it does on private ranges, and I will explain that later.

So, the process is wrong here, the premise is wrong, and we ought not to support this rule, and we surely ought not to throw 31 families off the public ranges in the West because of the amendment of the gentleman from Oklahoma [Mr. SYNAR].

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2½ minutes to the gentleman from Colorado [Mr. CAMPBELL].

Mr. CAMPBELL of Colorado. Mr. Speaker, I rise today to protest what I consider to be an end run around the proper legislative process, and I tell my colleagues that it makes me and some of the others from the West a little bit sick that this thing gets boiled down to partisanship and bickering every year. I am on the left side of the aisle here, but I think I am on the right side of this issue, and the right side of this issue for me is to let the committee process do its work the way it was supposed to be. We are continually told, "Don't try to legislate on an appropriations bill," and yet we continually do it when we talk about raising the grazing permits.

I heard some talk by one of my colleagues a few minutes ago about the millionaire ranchers that are, if I can paraphrase it, ripping off taxpayers with their large holdings, but I want to tell my colleagues that for every one like that there are literally thousands of very small ranchers dependent upon the public lands to use those grazing permits, and it just seems to me that, if we are going to correct the problem, we ought to do it in some manner that we can weed the abusers out and not throw the whole system out and thereby throw a lot of very small ranchers and farmers off the public lands.

I would urge my colleagues not to support this rule and would say that we did have one hearing, and we have a couple of others scheduled in committee. I have a bill in with about 25 cosponsors. It seems to me that we should not just lock out those 25 people. Most of them are from the West, are Democrats and Republicans both. If we are really going to be a House of fairness, we have to bring it through the committee process and let those 25 cosponsors of that bill be heard and deal with it in its proper fashion.

Mr. Speaker, I also want to mention my friend and colleague, the gentleman from Oklahoma [Mr. SYNAR], did come to Colorado at my request to talk to some of the ranchers in my part of the State. Apparently we did not teach him very well, but I promise, if he will come back, we will teach him.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, I rise in opposition to the rule, and I apologize for the voice quality, but it is the best I can do under the circumstances.

Mr. Speaker, there is an old song Willie Nelson sings, and that is:

> Momma, don't let your babies grow up to be Congressmen . . . because they'll try to cross a pig with a cow, and they come out with these grazing fees.

Mr. Speaker, we fought this issue time and time again, and I appreciate the gentleman from Oklahoma, and the gentleman from Massachusetts and the gentleman from Georgia for their dedication and their distortion. It is absolutely marvelous. I do want to say that, as a member of the Interior Appropriations Subcommittee, I testified before the Committee on Rules last week against making the Synar grazing-fee amendment in order, and the Committee on Rules did not protect from a point of order the section of the bill that increased grazing fees by one-third, and I appreciate my chairman playing that straight with me, as he did, very much.

□ 1530

But then the committee makes in order an amendment increasing the fees by over 400 percent. Mr. Speaker, where is the consistency in that?

The SPEAKER pro tempore. (Mr. HAYES of Illinois). The time of the gentleman from New Mexico [Mr. SKEEN] has expired.

Mr. DREIER of California. Mr. Speaker, I yield 30 additional seconds to the gentleman from New Mexico [Mr. SKEEN].

Mr. SKEEN. Mr. Speaker, I thank the gentleman from California [Mr. DREIER]. I believe my voice is getting better. I think I am warming to the subject.

Where is the consistency in that? How can the actions of the Appropriations Committee not be made in order and the capricious amendment of one Member be made in order? Where is the logic in that?

I have heard the arguments about this being offered to the authorizing committee, but there seems to be some problem in getting it through the authorizing committee, even with this majority of support it had the last time.

I cannot in good honesty let an issue so important to the livelihoods of 38,000 small ranchers in the West be determined through this sort of a parliamentary maneuver. We should not let one Member undermine our beef production and throw these families out of business.

Mr. Speaker, I ask the Members to defeat the rule and support the rules of the House.

Mr. Speaker, I rise in opposition to the rule. As a member of the Interior Appropriations Subcommittee, I testified before the Rules Committee last week against making the Synar grazing fee amendment in order. The Rules Committee did not protect from a point of order the section in the bill increasing grazing fees by one-third, but then the committee makes in order an amendment increasing the fees by over 400 percent.

Mr. Speaker, where is the consistency? How can the action of the Appropriations Committee not be made in order and the capricious amendment of one Member be in order? Where is the logic here?

I could certainly understand making this amendment in order if the authorizing committees were unwilling to act. But that is not the case. Chairman MILLER on the Interior and Insular Affairs Committee is holding hearings on the Synar bill and the Agriculture Committee has legislation before it now. Let an issue so important to the livelihood of 38,000 small ranchers in the West be determined in the proper channel. Do not let one Member undermine our beef production and throw families out of business.

Defeat the rule and support the rules of the House.

Mr. GORDON. Mr. Speaker, at this time I have no further requests for time, and I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, for the purposes of debate only, I yield 2 minutes to a hard-working member of the Committee on Appropriations, the gentleman from Tucson, AZ [Mr. KOLBE].

Mr. KOLBE. Mr. Speaker, the gentleman from Georgia said that the subcommittee of the Appropriations Committee did good work on this bill, and I agree with him, but that is not the issue we are debating here today. We are debating the rule, and the rule makes in order an amendment that is not a good amendment. It makes in order an amendment that ought not to be considered by this body. It makes in order an amendment that should be considered by the authorizing committee.

I find it ironic indeed that here we are again acting as members of the Appropriations Committee and we are harkening back to just 3 weeks ago when we went through this before, when the authorizing committee tried to do an end run around itself because it could not deal with the problem, so it comes to the Appropriations Committee.

How many times have we heard members of the authorizing committee stand up and wring their hands over the Appropriations Committee doing something against the authorizing committee? But here we are with the authorizing committee not only standing up and saying it is good but it is endorsing the idea of what we are doing here. The fact is, the authorizing committee did have debate on this bill. The fact is, they did not get this amendment out. The fact is, there is no support in the authorizing committee for this, and we ought not to be considering this on the floor today. This simply reduces the authorizing committee to some kind of irrelevancy.

We have heard a good deal about the GAO report. It took me an arm and a leg, it took me knocking some teeth together on Friday to get copies of that GAO report, and here we are the next legislative day and we are going to consider the GAO report as being some kind of a bible on this issue. We ought to have time for the authorizing committee to consider it. There are many arguments that we will have a chance to consider during the course of the debate against the Synar amendment itself, but for the moment we ought to consider that this is a violation of the process.

Mr. Speaker, we ought not make this in order. We ought to defeat the rule.

Mr. DREIER of California. Mr. Speaker, for the purposes of debate only, I yield 3 minutes to the gentleman from Utah [Mr. HANSEN], a hard-working member of the Committee on Interior and Insular Affairs and the ranking member of the Subcommittee on Water, Power and Offshore Energy Resources.

Mr. HANSEN. Mr. Speaker, again, this issue has made an end run around the Interior Committee. We in the Interior Committee have shown a willingness to properly deal with this issue. A vote on this measure should have taken place during debate on BLM authorization several weeks ago in the committee and not here on the House floor on an appropriations bill. Without any votes within the committee of jurisdiction over grazing fees, Congress will vote to raise fees from $1.97 per AUM to over $8.70 per AUM. This is an unfair tactic that should be rejected.

For many of you who think that this is a free environmental vote, let me tell you what the consequences would be if this measure were to be passed into law. If grazing fees were raised from $1.97 per AUM to over $8.70 per AUM the effect in the West would be as if we in Congress outlawed cattle stockyards and oil wells in Oklahoma. It would be as if we voted to do away with football in Norman, OK.

Many of you remember this debate from previous years. The arguments for raising the grazing fees are many, but the bottom line is to force cattle off of the public lands. Raising the fees by five times would no doubt have the effect that proponents of "Cattle Free in '93" are trying to achieve.

Over 80 percent of the land in my State is owned by the public. In some of the counties in my district, only 2 percent of the land area is privately owned. Livestock growers in my State and throughout the West are highly dependent on public lands for animal forage. Well over 50 percent of the livestock in Utah depend on public land forage at some time of the year. The majority of rural communities in the West are economically dependent on the use of public lands for grazing livestock. The loss of the livestock industry would threaten the existence of schools, businesses, and public services.

I am deeply concerned about rhetoric that would have you believe that there is an enormous amount of savings to be achieved by this measure. Where is the savings? In March of this year, Cy Jamison, Director the BLM appeared before the Interior Committee. He estimated that revenues from BLM land grazing would plummet from $18 million per year to not more than $1 million per year if this measure was adopted. The proposed fee increase would price all livestock off the Federal lands resulting in a loss of grazing fee revenue. A loss of $17 million does not constitute much savings.

Many argue that rich Western ranchers are profiting from subsidies from the Federal Government. The truth is that according to the BLM, 87 percent of ranchers who graze public lands are considered small, family farmers. In fact, statistics show that the average ranch family earns less than $28,000 and many earn much less than that.

I ask you to take a look at the environmental effect that grazing on the public lands has had. According to the BLM, today the public ranges of this Nation are in the best condition that they have been in this century. Ranchers have worked hard to be a part of this. Farmers and ranchers are the true environmentalists. It is in their own self-interest to improve the land. Grazing promotes plant vitality, increases wildlife, and overall benefits the management of the public lands.

Livestock producers have built tens of thousands of watering sites, roads, and fences. They have also utilized erosion control methods and improved Western watersheds that have helped increase the big game populations dramatically.

In "State of the Public Rangelands 1990," the BLM states that public rangelands are in better condition now than at any time in this century, and continue to improve. I have been with countless land management experts who have told me time and time again of the benefits of controlled grazing to promote plant vigor and diversity.

All we are asking for is fairness. This issue deserves to be properly debated in the committee of jurisdiction. I strongly urge you to vote against this measure. Bringing this issue up on an appropriations bill, without proper consideration in the committee of jurisdiction is the wrong approach.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the very patient gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in strong opposition to allowing the amendment offered by the gentleman from Oklahoma [Mr. SYNAR].

Fifty percent of the land in Wyoming is owned by the Federal Government. The majority of this land is not withdrawn for special purposes such as wilderness or national parks but is rather mandated by the Federal Government for multiple use. I can recall reading that in our State in the early years there was practically no wildlife. Multiple use has brought forth waterholes, it has brought forth fencing, and it has brought forth a great deal more opportunity for hunting than we had before, and cattle and grazing contribute to this.

We also asked Cy Jamison at one of our meetings what it would cost to manage the lands without livestock, and he indicated it would be more than half of what it costs with livestock. Therefore, the fee being paid has reduced the cost to the Federal Government, not increased it, by having livestock there.

Mr. Speaker, I think this is a terribly important issue to those in the West whose economic futures depend on the multiple use of public lands. The Synar amendment is a bad idea, and I urge the Members of this House to vote against the measure.

Mr. DREIER of California. Mr. Speaker, for the purposes of debate only, I yield 1 minute to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Speaker, this Nation has a choice to make. It is a choice of whether we are going to harvest a renewable resource. There has been a prevalent attitude in this body to throw the cowboys off the range, to drag the miners out of the hills, and, while we are at it, to close down the timber industry with the Endangered Species Act. We as a Nation must decide whether we will secure that revenue from harvesting a renewable resource that is environmentally sound from our public lands.

The great tragedy we face is that if we pass the Synar-Darden amendment, we will mandate by turning our public range land over to the very wealthy, those who can spread the cost of grazing across vast tracts of land, fee land and public land, and thereby recapture that investment that they make in grazing on public land.

☐ 1540

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I obviously join Members in opposing this rule, in opposing the Synar amendment, and oppose having it come before the floor on an appropriations bill, when it has not been considered by the authorizing committee.

Mr. Speaker, on the off chance I may not be able to address the House during consideration of the amendment itself, I simply want to take this opportunity to make one point: Last year in debate on this particular measure the gentleman from Oklahoma [Mr. SYNAR] emphasized the fact that those who lease State public lands for grazing purposes pay substantially more than those who lease Federal public lands for grazing purposes, and use a specific example of a fee of some $5.50 per animal unit per month on Arizona State public lands.

Mr. Speaker, that figure was incorrect then, and, if the gentleman from Oklahoma [Mr. SYNAR] chooses to use that figure again this year, I want to make the point right now, in case I cannot make it later, that the Arizona State grazing fee for grazing on State public lands is $1.50 per animal per month, not $5.50.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is apparent that we have witnessed a fascinating debate on the issue of grazing fees here. But that is really only part of the question. The fact of the matter is we have seen a blatant violation of clause 2 of rule XXI. We have not only seen legislating in an appropriation bill, we have also seen legislating in the Committee on Rules itself.

Mr. Speaker, because of the fact that we do not treat this issue fairly all the way around, I urge a no vote on this rule in the name of fairness, and yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to remind Members that last year a similar piece of legislation came before us and it passed 251 to 155. Certainly this House should have the right to work its will on this issue. For that reason, I urge adoption of this rule.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered

The SPEAKER pro tempore (Mr. HAYES of Illinois). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. GORDON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 200, nays 168, answered "present" 1, not voting 63, as follows:

[Roll No. 188]

YEAS—200

Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (MI)
Conyers
Cooper
Costello
Cox (IL)
Cramer
Darden
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Engel
Erdreich
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Frank (MA)
Gaydos
Gejdenson
Geren
Gibbons
Glickman
Gonzalez
Gordon
Gray
Green
Hall (OH)
Hamilton
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Hutto
Jefferson
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Mrazek
Murtha
Natcher
Neal (NC)
Nowak
Obey
Olver
Ortiz
Pallone
Panetta
Patterson
Pease
Pelosi
Perkins
Pickett
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Scheuer
Schroeder
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (IA)
Solarz
Spratt
Staggers
Stark
Studds
Swett
Swift
Synar
Tanner
Thomas (GA)
Thornton
Torricelli
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Weiss
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—168

Allard
Archer
Armey
AuCoin
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Boehlert
Boehner
Brewster
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CO)
Coleman (MO)
Combest
Condit
Coughlin
Crane
Cunningham
de la Garza
DeFazio
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gilchrest
Gilman
Gingrich
Goodling
Goss
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Horton
Houghton
Hubbard
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (CT)
Johnson (SD)
Johnson (TX)
Kasich
Kolbe
Kyl
Lagomarsino
LaRocco
Laughlin
Leach
Lehman (CA)
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nagle
Nichols
Nussle
Olin
Oxley
Penny
Peterson (FL)
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Savage
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stallings
Stenholm
Stump
Sundquist
Tallon
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Williams
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Traficant

NOT VOTING—63

Abercrombie
Beilenson
Bliley
Boxer
Campbell (CA)
Chandler
Clay
Coble
Collins (IL)
Cox (CA)
Coyne
Dannemeyer
Davis
DeLay
Dymally
Espy
Ford (TN)
Frost
Gallo
Gekas
Gephardt
Gillmor
Gradison
Guarini
Holloway
Hopkins
Jenkins
Klug
Kopetski
Lancaster

Lent
Levine (CA)
Machtley
Martinez
Mavroules
Mfume
Murphy
Neal (MA)
Oakar
Oberstar
Orton

Owens (NY)
Owens (UT)
Packard
Parker
Paxon
Payne (NJ)
Payne (VA)
Peterson (MN)
Pickle
Ridge
Russo

Schumer
Serrano
Smith (FL)
Stearns
Stokes
Tauzin
Torres
Towns
Washington
Waxman
Weber

□ 1606

The Clerk announced the following pairs:

On this vote:

Mr. Lancaster for, with Mr. Owens of Utah against.

Mr. Dymally for, with Mr. Orton of Utah against.

Mr. Guarini for, with Mr. Packard against.

Mr. BOEHNER and Mr. EDWARDS of Texas changed their vote from "yea" to "nay."

Mr. KOLTER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. TORRES. Mr. Speaker, I was unavoidably absent on official business during rollcall vote No. 188. Had I been present on the House floor I would have cast my vote as follows:

Roll No. 188—Yea on passage of House Resolution 179, the rule regarding consideration of H.R. 2686, the Department of Interior and related agencies appropriations bill for fiscal year 1992.

PERSONAL EXPLANATION

Mr. DANNEYEYER. Mr. Speaker, I was unavoidably away from the House. I was unable to vote on one rollcall vote. Please let the record stand that would have voted "no" on rollcall 188, the rule for the Interior appropriation bill.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE ON TUESDAY, JUNE 25, 1991

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be permitted to sit during proceedings under the 5-minute rule on Tuesday, June 25, 1991.

The SPEAKER pro tempore (Mr. HAYES of Illinois). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2686 which we are about to consider, and that I may be permitted to include tables, charts, and other material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Ohio [Mr. REGULA] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois [Mr. YATES].

The motion was agreed to.

□ 1610

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, with Mr. GORDON in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous-consent agreement, the gentleman from Illinois [Mr. YATES] will be recognized for 30 minutes, and the gentleman from Ohio [Mr. REGULA] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. YATES].

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we bring before the House for consideration today, the Committee on Appropriations' recommendations for funding for the Department of the Interior and Related Agencies for fiscal year 1992. The general theme of this appropriations bill is the continued operation, with no frills, of the many essential activities this bill supports. Those programs include most of the Department of the Interior, including all our national parks and wildlife refuges; essential energy research on conservation and fossil fuels in the Department of Energy; Forest Service programs; the Indian Health Service; the National Foundation on the Arts and the Humanities; the Smithsonian; and a wide range of smaller advisory agencies. The bill emphasizes the operational needs of our national wildlife refuges, parks and forests, the educational and health needs of American Indians and Alaskan Natives, and the continuation of needed energy research.

The activities in this bill are expected to generate receipts to the Treasury of approximately $7.3 billion in fiscal year 1992, which goes a long way toward offsetting the recommended new budget authority.

The Interior bill is within the budget allocation put forward under section 602(b) with respect to both budget authority and outlays. I would point out the outlay amount in this bill is below our outlay level for fiscal year 1991. The discretionary budget authority, including scorekeeping adjustments, will be $13.2 billion. The discretionary budget authority for fiscal year 1991 is $12.7 billion. The growth between 1991 and 1992 is $500 million or approximately 3.9 percent.

This modest increase was quickly eaten into by an increase of $66.4 million over 1991 to meet the terms of compulsory Indian settlements, and $45 million for the Tongas National Forest in Alaska, which used to be a permanent appropriation.

The fixed costs of items in the Department of the Interior such as pay raises, Federal employee retirement system costs, space charges, telephone bills, and other similar non-flexible expenses, have gone up by approximately $190 million.

The costs from previous appropriations associated with the Clean Coal Program go up in 1992 by $74 million while budget authority for oil acquisition for the strategic petroleum reserve will be up approximately $290 million.

So you can see that little or no money overall went for increases to ongoing programs in the bill.

We have, to the best of our ability, incorporated in this bill the interests expressed by Members. Roughly 370 Members either testified before the subcommittee or sent in written requests for consideration. We received over 3,000 individual program or project-specific requests from Members.

Many of you are interested in the land and water conservation fund. We have provided $320,462,000 in this bill for the land and water conservation fund. Of this amount, $23,500,000 is for State grants with the balance allocated among the four land managing agencies under our jurisdiction.

In order to stay within our allocation, we were unable to fund any of the

40 new starts for visitors centers which were requested by members. We also generally were unable to fund program expansions. Several of the accounts in the bill are recommended for funding below current levels. They include the Fish and Wildlife Service, the Bureau of Mines, the Office of Surface Mining, the Territories, fossil energy research and development, and the Pennsylvania Avenue Development Corporation.

The bill establishes an emergency firefighting fund in both the Department of the Interior and the Forest Service, and provides the amounts requested by the administration for emergency purposes. These amounts are $100 million for the Department of the Interior and $112 million for the Forest Service.

The bill conditions the use of these firefighting funds on a determination by the President that these funds are an emergency requirement according to the Balanced Budget and Emergency Deficit Control Act of 1985, and does not allow the use of other funds for firefighting until this is done and these funds are spent. This arrangement prevents borrowing from important appropriations accounts to pay for emergency firefighting. Such emergency borrowing has been necessary constantly over the years, and inhibits important programs including land acquisition and construction in the Department of the Interior for the Bureau of Land Management, the National Park Service and the Fish and Wildlife Service, and reforestation in the Forest Service. I would point out that these funds are not for the normal operation of fire prevention programs or for the basic personnel that support those ongoing programs. Rather, they are for emergency measures required during firefighting.

Moratoria on OCS leasing and related activities are continued in the bill this year, with an expanded area in the Atlantic, from Rhode Island south into Florida, recommended for protection from any new leasing efforts. The entire Pacific and Atlantic coasts are covered by these moratoria, as is the Eastern Gulf of Mexico and Bristol Bay in Alaska.

We have included funds to continue hospital and clinic construction to service Indian health needs. The administration, again this year, included no funding in its budget request for Indian hospital construction. The recommendations before you increase funding for Indian health services as well. The unmet need for these services is still estimated to be in excess of $500,000,000. An additional $360,000,000 would be needed to complete construction of the hospitals and clinics on the current IHS priority list and another $500,000,000 for the backlog of needed water and sewer systems for existing Indian homes.

Funding is included for a special initiative on the Pacific yew, including $1,750,000 for research and $1,100,000 for reforestation and cooperative efforts with the National Cancer Institute. The Pacific yew is the only known source of the drug taxol, which has shown significant activity against ovarian cancer, as well as promising results against breast cancer. It is projected that 50,000 women will die from these diseases this year. Taxol is in short supply, and this initiative will help ensure that taxol will be more readily available for continued experimentation while also recognizing the value and importance of the Pacific yew as a significant environmental resource in and of itself.

Staying within the budget agreement has not been easy. We all are faced with the long-term ramifications of the belt tightening we have begun to feel in earnest this year. Under the budget agreement, the prospects for our programs only get gloomier next year and the year after. We cannot place on hold indefinitley many of the needed program expansions and improvements. In this bill those needs involve the operation of our national parks and other land management programs; improved services to Indians and Alaskan Natives, especially in the education and health areas; expansions to existing energy research to enable cleaner and more efficient use of limited resources and to develop alternatives which will decrease our dependence on non-renewable and imported sources; and investments in the cultural resources represented by historic preservation, arts, and museum programs. We have a responsibility to preserve these resources for our children and grandchildren and for generations to come.

It has come to the committee's attention that the General Accounting Office has recently taken the position that funds appropriated for the operation of Indian programs are available to pay for claims against the Government. The specific case in point is the Navajo Tribe, et al. versus Lujan. The case involves the use of funds previously held in the Indian moneys proceeds of labor account and the settlement amount is $749,500.

It is the opinion of the committee that funds appropriated for the operation of Indian programs are not available for the payment of judgments against the Secretary, but rather are available only to carry out those activities specified in the bill and report language accompanying the annual appropriations act.

Congress has provided for the payment of judgments against the United States by the adoption of legislation for a permanent judgement appropriation. This is the proper source of funds to pay the award and the committee believes the General Accounting Office should move expeditiously to transfer such funds as are required for the settlement from the fund to the Bureau of Indian Affairs in satisfaction of the claim.

Before closing, I feel compelled to address the question of potential points of order against the bill. The Interior Committee has complained about certain provisions in the bill that have been in law for many years and without which the smooth operation of programs will be impeded. As an example, the language, questioned by the authorizing committee, for the Office of Surface Mining has been carried for years.

In the OSM Regulation and Technology account the language with respect to civil penalties permits the use of these funds for needed coal mine reclamation by the Federal Government or by the States. This provision is consistent with the intent of the AML reauthorization as expressed in section 402(g)(4)(D). The agency lawyers have said the language as it currently exists needs to be continued to allow them to continue to use these funds. Likewise, the proviso on OSM paying for travel of State and tribal representatives attending OSM-sponsored training has been a tremendous help to getting these people trained and to improving individual programs managed by the States and tribes. Deleting these longstanding provisions would hurt the program.

In the abandoned mine reclamation fund account the provisos that would be struck also are longstanding and essential to the continued smooth operation of the OSM program. In particular, the first two provisos in question should be retained. The first involves allowing the OSM to use up to 20 percent of delinquent debt recoveries to pay for contracts to collect these debts. The second limits administrative expenses for the rural abandoned mine program [RAMP] to 15 percent of the funds available, therby ensuring that the vast majority of these funds go to actual reclamation work.

It should be noted that the committee, to a great extent incorporated the provisions in the AML reauthorization including: a $2 million minimum program for certain States; funding of emergencies separate from State grants; and increased funding for the Small Operator Assistance Program.

I would point out that there is a printing error on page 118 of the report that accompanies the bill. The fifth direction to the Indian Health Service on that page should read: "The IHS will include in future budget requests funds sufficient to provide services to new tribes at the average level of services IHS-wide."

Mr. Chairman, I want to commend all the members of the subcommittee for their contributions to this bill, especially the ranking minority member, RALPH REGULA. All the members should be recognized for their efforts. So my thanks go to JOHN MURTHA, NORMAN DICKS, LES AUCOIN, TOM BEVILL, CHET ATKINS, JOE MCDADE, BILL LOWERY and JOE SKEEN.

I also want to thank the committee staff, including the Director Neal Sigmon and his associates Bob Kripowicz, Kathleen Johnson, Loretta Beaumont, Angie Perry, and Tom Barnes. On my personal staff credit goes to Adrianne Moss and Eric Puchala.

This is a reasonable bill within the very tight restrictions imposed on the committee by the budget agreement. It is a diverse, complex and good bill. I believe it is worthy of your full support.

Tables detailing the accounts in the bill follow:

Department of the Interior and Related Agencies Appropriations Bill (H.R. 2686)

	FY 1991 Enacted	FY 1992 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - DEPARTMENT OF THE INTERIOR					
Bureau of Land Management					
Management of lands and resources	497,491,000	525,578,000	516,865,000	+19,374,000	-8,713,000
Firefighting	167,880,000	222,879,000	122,010,000	-45,870,000	-100,869,000
Emergency Department of the Interior Firefighting Fund			(100,869,000)	(+100,869,000)	(+100,869,000)
Construction and access	15,305,000	8,534,000	12,503,000	-2,802,000	+3,969,000
Payments in lieu of taxes	104,450,000	105,000,000	105,000,000	+550,000	
Land acquisition	15,567,000	47,530,000	33,640,000	+18,073,000	-13,890,000
Oregon and California grant lands	84,033,000	84,094,000	93,074,000	+9,041,000	+8,980,000
Range improvements (indefinite)	10,188,000	10,687,000	10,687,000	+499,000	
Service charges, deposits, and forfeitures (indefinite)	7,968,000	8,000,000	8,000,000	+32,000	
Miscellaneous trust funds (indefinite)	7,130,000	7,285,000	7,285,000	+155,000	
Total, Bureau of Land Management	910,012,000	1,019,587,000	909,064,000	-948,000	-110,523,000
United States Fish and Wildlife Service					
Resource management	473,776,000	517,137,000	509,891,000	+36,115,000	-7,246,000
Construction and anadromous fish	92,625,000	50,147,000	71,102,000	-21,523,000	+20,955,000
Land acquisition	100,620,000	62,030,000	87,722,000	-12,898,000	+25,692,000
National wildlife refuge fund	10,942,000	14,066,000	11,000,000	+58,000	-3,066,000
Rewards and operations	995,000	1,201,000	1,201,000	+206,000	
North American wetlands conservation fund	14,921,000	15,021,000		-14,921,000	-15,021,000
Natural resource damage assessment fund		5,000,000	3,740,000	+3,740,000	-1,260,000
Cooperative endangered species conservation fund		5,705,000	6,705,000	+6,705,000	+1,000,000
Total, United States Fish and Wildlife Service	693,879,000	670,307,000	691,361,000	-2,518,000	+21,054,000
National Park Service					
Operation of the national park system	876,699,000	970,526,000	969,047,000	+92,348,000	-1,479,000
National recreation and preservation	18,302,000	28,949,000	23,420,000	+5,118,000	-5,529,000
Historic preservation fund	34,483,000	35,931,000	35,931,000	+1,448,000	
Construction	270,446,000	115,896,000	237,506,000	-32,940,000	+121,610,000
(Liquidation of contract authority)	(22,143,000)			(-22,143,000)	
Urban park and recreation fund	19,895,000		10,000,000	-9,895,000	+10,000,000
Land and water conservation fund (rescission of contract authority)	-30,000,000	-30,000,000	-30,000,000		
Land acquisition and state assistance	136,792,000	117,645,000	108,365,000	-28,427,000	-9,280,000
John F. Kennedy Center for the Performing Arts	21,039,000	22,945,000	22,945,000	+1,906,000	
Illinois and Michigan Canal National Heritage Corridor Commission	249,000		250,000	+1,000	+250,000
Total, National Park Service (net)	1,347,905,000	1,261,892,000	1,377,464,000	+29,559,000	+115,572,000
Geological Survey					
Surveys, investigations, and research	570,698,000	563,100,000	589,499,000	+18,801,000	+26,399,000
Minerals Management Service					
Leasing and royalty management	195,995,000	233,514,000	208,090,000	+12,095,000	-25,424,000
Payments to States from receipts under Mineral Leasing Act		610,000			-610,000
Total, Minerals Management Service	195,995,000	234,124,000	208,090,000	+12,095,000	-26,034,000
Bureau of Mines					
Mines and minerals	181,227,000	156,123,000	175,890,000	-5,337,000	+19,767,000
Office of Surface Mining Reclamation and Enforcement					
Regulation and technology	109,351,000	112,458,000	110,250,000	+899,000	-2,208,000
Receipts from performance bond forfeitures (indefinite)	1,492,000	1,500,000	1,500,000	+8,000	
Total	110,843,000	113,958,000	111,750,000	+907,000	-2,208,000
Abandoned mine reclamation fund (definite, trust fund)	198,958,000	158,035,000	190,200,000	-8,758,000	+32,165,000
Total, Office of Surface Mining Reclamation and Enforcement	309,801,000	271,993,000	301,950,000	-7,851,000	+29,957,000
Bureau of Indian Affairs					
Operation of Indian programs	1,320,044,000	750,657,000	1,283,630,000	-36,414,000	+532,973,000
Construction	167,653,000	79,879,000	212,856,000	+45,203,000	+132,977,000
Education construction		50,998,000			-50,998,000
Indian education programs		418,616,000			-418,616,000
Miscellaneous payments to Indians	56,135,000	87,617,000	87,617,000	+31,482,000	
Navajo rehabilitation trust fund	2,984,000		4,000,000	+1,016,000	+4,000,000
Indian loan guaranty and insurance fund	11,725,000			-11,725,000	
Indian direct loan program account		3,094,000	4,059,000	+4,059,000	+965,000
(Limitation on direct loans)		(10,735,000)	(15,735,000)	(+15,735,000)	(+5,000,000)
Indian guaranteed loan program account		8,022,000	9,532,000	+9,532,000	+1,510,000
(Limitation on guaranteed loans)		(46,432,000)	(56,432,000)	(+56,432,000)	(+10,000,000)
Technical assistance of Indian enterprises		1,000,000	1,000,000	+1,000,000	
Total, Bureau of Indian Affairs	1,558,541,000	1,399,883,000	1,602,694,000	+44,153,000	+202,811,000

Department of the Interior and Related Agencies Appropriations Bill (H.R. 2686)—Continued

	FY 1991 Enacted	FY 1992 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Territorial and International Affairs					
Administration of territories	75,586,000	38,073,000	74,130,000	-1,456,000	+36,057,000
Interest rate differential	30,237,000	29,047,000	29,047,000	-1,190,000	
Total	105,823,000	67,120,000	103,177,000	-2,646,000	+36,057,000
Trust Territory of the Pacific Islands	48,452,000	19,451,000	27,951,000	-20,501,000	+8,500,000
Compact of Free Association	14,722,000	7,910,000	16,010,000	+1,288,000	+8,100,000
Mandatory payments	10,000,000	10,000,000	10,000,000		
Total	24,722,000	17,910,000	26,010,000	+1,288,000	+8,100,000
Total, Territorial Affairs	178,997,000	104,481,000	157,138,000	-21,859,000	+52,657,000
Departmental Offices					
Office of the Secretary	58,428,000	70,314,000	66,414,000	+7,986,000	-3,900,000
Oil spill emergency fund		7,800,000	3,900,000	+3,900,000	-3,900,000
Office of the Solicitor	26,742,000	33,902,000	30,525,000	+3,783,000	-3,377,000
Office of Inspector General	22,040,000	26,933,000	24,244,000	+2,204,000	-2,689,000
Construction Management	2,086,000	2,399,000	2,243,000	+157,000	-156,000
National Indian Gaming Commission	1,247,000	2,490,000	1,890,000	+643,000	-600,000
Total, Departmental Offices	110,543,000	143,838,000	129,216,000	+18,673,000	-14,622,000
Total, title I, Department of the Interior:					
New budget (obligational) authority (net)	6,057,598,000	5,825,328,000	6,142,366,000	+84,768,000	+317,038,000
Appropriations	(6,087,598,000)	(5,855,328,000)	(6,172,366,000)	(+84,768,000)	(+317,038,000)
Definite	(6,060,820,000)	(5,827,856,000)	(6,144,894,000)	(+84,074,000)	(+317,038,000)
Indefinite	(26,778,000)	(27,472,000)	(27,472,000)	(+694,000)	
Rescission	(-30,000,000)	(-30,000,000)	(-30,000,000)		
(Liquidation of contract authority)	(22,143,000)			(-22,143,000)	
(Limitation on direct loans)		(10,735,000)	(15,735,000)	(+15,735,000)	(+5,000,000)
(Limitation on guaranteed loans)		(46,432,000)	(56,432,000)	(+56,432,000)	(+10,000,000)
TITLE II - RELATED AGENCIES					
DEPARTMENT OF AGRICULTURE					
Forest Service					
Forest research	167,629,000	163,230,000	183,572,000	+15,943,000	+20,342,000
State and private forestry	182,416,000	215,582,000	205,041,000	+22,625,000	-10,541,000
National forest system	1,298,333,000	1,377,393,000	1,280,947,000	-17,386,000	-96,446,000
Forest Service firefighting	297,937,000	302,203,000	189,803,000	-108,134,000	-112,400,000
Emergency Forest Service Firefighting Fund			(112,000,000)	(+112,000,000)	(+112,000,000)
Construction	277,133,000	286,148,000	350,420,000	+73,287,000	+64,272,000
Timber receipts transfer to general fund (indefinite)	(-96,280,000)	(-94,872,000)	(-94,872,000)	(+1,408,000)	
Timber purchaser credits	(110,000,000)	(113,000,000)	(113,000,000)	(+3,000,000)	
Land acquisition	88,696,000	123,069,000	90,735,000	+2,039,000	-32,334,000
Operation and maintenance of recreation facilities		7,500,000			-7,500,000
Acquisition of lands for national forests, special acts	1,097,000	1,148,000	1,148,000	+51,000	
Acquisition of lands to complete land exchanges (indefinite)	1,099,000	1,246,000	1,246,000	+147,000	
Range betterment fund (indefinite)	4,554,000	5,507,000	5,507,000	+953,000	
Gifts, donations and bequests for forest and rangeland research	30,000	97,000	97,000	+67,000	
Tongass timber supply fund (limitation on permanent appropriation)	(42,887,000)	(47,749,000)		(-42,887,000)	(-47,749,000)
Early Winters land exchange (sec. 317)	497,000			-497,000	
Total, Forest Service	2,319,421,000	2,483,123,000	2,308,516,000	-10,905,000	-174,607,000
DEPARTMENT OF ENERGY					
Clean coal technology	-565,000,000			+565,000,000	
Transfer to Fossil energy research and development		-150,000,000			+150,000,000
Fossil energy research and development	458,750,000	77,005,000	453,989,000	-4,761,000	+376,984,000
Rescission			-8,000,000	-8,000,000	-8,000,000
Transfer from Clean Coal		150,000,000			-150,000,000
Total	458,750,000	227,005,000	445,989,000	-12,761,000	+218,984,000
Alternative fuels production (indefinite)	-9,600,000		-9,500,000	+100,000	-9,500,000
Naval petroleum and oil shale reserves	223,135,000	222,300,000	238,200,000	+15,065,000	+15,900,000
Energy conservation	495,177,000	325,934,000	559,661,000	+64,484,000	+233,727,000
Economic regulation	16,728,000	14,428,000	15,114,000	-1,614,000	+686,000
Emergency preparedness	7,080,000	8,300,000	8,300,000	+1,220,000	
Strategic Petroleum Reserve	200,576,000	185,858,000	63,173,000	-137,403,000	-122,685,000
SPR petroleum account			203,000,000	+203,000,000	+203,000,000
Energy Information Administration	68,940,000	76,454,000	77,908,000	+8,968,000	+1,454,000
Total, Department of Energy:					
New budget (obligational) authority	895,786,000	910,279,000	1,601,845,000	+706,059,000	+691,566,000
DEPARTMENT OF HEALTH AND HUMAN SERVICES					
Indian Health Service					
Indian health services	1,411,167,000	524,047,000	1,432,712,000	+21,545,000	+908,665,000
Federal Indian health administration		887,120,000			-887,120,000
Indian health facilities	166,402,000	12,444,000	295,211,000	+128,809,000	+282,767,000
Total, Indian Health Service	1,577,569,000	1,423,611,000	1,727,923,000	+150,354,000	+304,312,000

Department of the Interior and Related Agencies Appropriations Bill (H.R. 2686)—Continued

	FY 1991 Enacted	FY 1992 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
DEPARTMENT OF EDUCATION					
Office of Elementary and Secondary Education					
Indian education	75,365,000	77,400,000	77,547,000	+2,182,000	+147,000
OTHER RELATED AGENCIES					
Office of Navajo and Hopi Indian Relocation					
Salaries and expenses	33,572,000	33,572,000	31,634,000	-1,938,000	-1,938,000
Institute of American Indian and Alaska Native Culture and Arts Development					
Payment to the Institute	5,447,000	6,087,000	8,187,000	+2,740,000	+2,100,000
Smithsonian Institution					
Salaries and expenses	272,883,000	292,450,000	286,269,000	+13,386,000	-6,181,000
Construction and improvements, National Zoological Park	6,636,000	8,000,000	8,000,000	+1,364,000	
Repair and restoration of buildings	31,191,000	31,600,000	27,710,000	-3,481,000	-3,890,000
Construction	15,407,000	25,100,000	20,100,000	+4,693,000	-5,000,000
Total, Smithsonian Institution	326,117,000	357,150,000	342,079,000	+15,962,000	-15,071,000
National Gallery of Art					
Salaries and expenses	46,033,000	49,900,000	48,236,000	+2,203,000	-1,664,000
Repair, restoration and renovation of buildings	3,487,000	7,600,000	6,850,000	+3,363,000	-750,000
Total, National Gallery of Art	49,520,000	57,500,000	55,086,000	+5,566,000	-2,414,000
Woodrow Wilson International Center for Scholars					
Salaries and expenses	5,047,000	5,744,000	5,819,000	+772,000	+75,000
National Foundation on the Arts and the Humanities					
National Endowment for the Arts					
Grants and administration	146,230,000	143,583,000	147,700,000	+1,470,000	+4,117,000
Matching grants	27,853,000	30,500,000	30,500,000	+2,647,000	
Total, National Endowment for the Arts	174,083,000	174,083,000	178,200,000	+4,117,000	+4,117,000
National Endowment for the Humanities					
Grants and administration	142,997,000	147,750,000	153,150,000	+10,153,000	+5,400,000
Matching grants	27,008,000	30,450,000	25,050,000	-1,958,000	-5,400,000
Total, National Endowment for the Humanities	170,005,000	178,200,000	178,200,000	+8,195,000	
Institute of Museum Services					
Grants and administration	25,864,000	26,949,000	27,344,000	+1,480,000	+395,000
Total, National Foundation on the Arts and the Humanities	369,952,000	379,232,000	383,744,000	+13,792,000	+4,512,000
Commission of Fine Arts					
Salaries and expenses	634,000	705,000	722,000	+88,000	+17,000
National Capital Arts and Cultural Affairs					
Grants	6,217,000		7,000,000	+783,000	+7,000,000
Advisory Council on Historic Preservation					
Salaries and expenses	2,226,000	2,535,000	2,623,000	+397,000	+88,000
National Capital Planning Commission					
Salaries and expenses	3,430,000	4,500,000	4,500,000	+1,070,000	
Franklin Delano Roosevelt Memorial Commission					
Salaries and expenses	28,000	28,000	33,000	+5,000	+5,000
Pennsylvania Avenue Development Corporation					
Salaries and expenses	2,353,000	2,807,000	2,807,000	+454,000	
Public development	4,780,000	5,026,000	4,491,000	-289,000	-535,000
Land acquisition and development fund	4,974,000	14,000,000		-4,974,000	-14,000,000
Total, Pennsylvania Avenue Development Corporation	12,107,000	21,833,000	7,298,000	-4,809,000	-14,535,000
United States Holocaust Memorial Council					
Holocaust Memorial Council	7,514,000	7,300,000	10,605,000	+3,091,000	+3,305,000
Total, title II, Related Agencies:					
New budget (obligational) authority	5,689,952,000	5,770,599,000	6,575,161,000	+885,209,000	+804,562,000
Appropriations, fiscal year 1992	(5,689,952,000)	(5,770,599,000)	(6,575,161,000)	(+885,209,000)	(+804,562,000)
Definite	(5,693,899,000)	(5,763,846,000)	(6,585,908,000)	(+892,009,000)	(+822,062,000)
Indefinite	(-3,947,000)	(6,753,000)	(-2,747,000)	(+1,200,000)	(-9,500,000)
(Timber receipts transfer to general fund, indefinite)	(-96,280,000)	(-94,872,000)	(-94,872,000)	(+1,408,000)	
(Timber purchaser credits)	(110,000,000)	(113,000,000)	(113,000,000)	(+3,000,000)	

Department of the Interior and Related Agencies Appropriations Bill (H.R. 2686)—Continued

	FY 1991 Enacted	FY 1992 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Grand total:					
New budget (obligational) authority (net)	11,747,550,000	11,595,927,000	12,717,527,000	+969,977,000	+1,121,600,000
Appropriations, fiscal year 1992 (net)	(11,747,550,000)	(11,595,927,000)	(12,717,527,000)	(+969,977,000)	(+1,121,600,000)
Appropriations	(11,777,550,000)	(11,625,927,000)	(12,747,527,000)	(+969,977,000)	(+1,121,600,000)
Definite	(11,754,719,000)	(11,591,702,000)	(12,730,802,000)	(+976,083,000)	(+1,139,100,000)
Indefinite	(22,831,000)	(34,225,000)	(24,725,000)	(+1,894,000)	(-9,500,000)
Rescissions	(-30,000,000)	(-30,000,000)	(-30,000,000)		
(Liquidation of contract authority)	(22,143,000)			(-22,143,000)	
(Timber receipts transfer to general fund, indefinite)	(-96,280,000)	(-94,872,000)	(-94,872,000)	(+1,408,000)	
(Timber purchaser credits)	(110,000,000)	(113,000,000)	(113,000,000)	(+3,000,000)	
TITLE I -DEPARTMENT OF THE INTERIOR					
Bureau of Land Management	910,012,000	1,019,587,000	909,064,000	-948,000	-110,523,000
United States Fish and Wildlife Service	693,879,000	670,307,000	691,361,000	-2,518,000	+21,054,000
National Park Service	1,347,905,000	1,261,892,000	1,377,464,000	+29,559,000	+115,572,000
Geological Survey	570,698,000	563,100,000	589,499,000	+18,801,000	+26,399,000
Minerals Management Service	195,995,000	234,124,000	208,090,000	+12,095,000	-26,034,000
Bureau of Mines	181,227,000	156,123,000	175,890,000	-5,337,000	+19,767,000
Office of Surface Mining Reclamation and Enforcement	309,801,000	271,993,000	301,950,000	-7,851,000	+29,957,000
Bureau of Indian Affairs	1,558,541,000	1,399,883,000	1,602,694,000	+44,153,000	+202,811,000
Territorial and International Affairs	178,997,000	104,481,000	157,138,000	-21,859,000	+52,657,000
Secretarial Offices	110,543,000	143,838,000	129,216,000	+18,673,000	-14,622,000
Total, Title I - Department of the Interior	6,057,598,000	5,825,328,000	6,142,366,000	+84,768,000	+317,038,000
TITLE II - RELATED AGENCIES					
Forest Service	2,319,421,000	2,483,123,000	2,308,516,000	-10,905,000	-174,607,000
Department of Energy	895,786,000	910,279,000	1,601,845,000	+706,059,000	+691,566,000
Indian Health	1,577,569,000	1,423,611,000	1,727,923,000	+150,354,000	+304,312,000
Indian Education	75,365,000	77,400,000	77,547,000	+2,182,000	+147,000
Office of Navajo and Hopi Indian Relocation	33,572,000	33,572,000	31,634,000	-1,938,000	-1,938,000
Institute of American Indian and Alaska Native Culture and Arts Development	5,447,000	6,087,000	8,187,000	+2,740,000	+2,100,000
Smithsonian	326,117,000	357,150,000	342,079,000	+15,962,000	-15,071,000
National Gallery of Art	49,520,000	57,500,000	55,086,000	+5,566,000	-2,414,000
Woodrow Wilson International Center for Scholars	5,047,000	5,744,000	5,819,000	+772,000	+75,000
National Endowment for the Arts	174,083,000	174,083,000	178,200,000	+4,117,000	+4,117,000
National Endowment for the Humanities	170,005,000	178,200,000	178,200,000	+8,195,000	
Institute of Museum Services	25,864,000	26,949,000	27,344,000	+1,480,000	+395,000
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National Capital Arts and Cultural Affairs	6,217,000		7,000,000	+783,000	+7,000,000
Advisory Council on Historic Preservation	2,226,000	2,535,000	2,623,000	+397,000	+88,000
National Capital Planning Commission	3,430,000	4,500,000	4,500,000	+1,070,000	
Franklin Delano Roosevelt Memorial Commission	28,000	28,000	33,000	+5,000	+5,000
Pennsylvania Avenue Development Corporation	12,107,000	21,833,000	7,298,000	-4,809,000	-14,535,000
Holocaust Memorial Council	7,514,000	7,300,000	10,605,000	+3,091,000	+3,305,000
Total, Title II - Related Agencies	5,689,952,000	5,770,599,000	6,575,161,000	+885,209,000	+804,562,000
Grand total	11,747,550,000	11,595,927,000	12,717,527,000	+969,977,000	+1,121,600,000

□ 1620

Mr. REGULA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we sing the song, "America the Beautiful", and we think of the words. Certainly if there is a bill or an appropriation that comes before the House that keeps America beautiful, it is the Interior bill. It covers a wide range of responsibilities, a wide range of the aspects of "America the Beautiful."

Let me say, though, before I describe this bill, that it has been a real joy to work with Chairman YATES. He is very fair and this committee is totally nonpartisan. As was pointed out by the chairman, we had 370 Members from both sides of the aisle, with something like 3,000 items that they requested on behalf of their constituents. If there is a bill that is a people's bill that comes before us, this would be it.

Also, I want to say as to the chairman, that he is very patient. The first amendment of the U.S. Constitution states that it is "the right of the people peaceably to assemble and to petition the Government for a redress of grievances." Well, they certainly petition our committee. We have literally hundreds of people who come before the subcommittee and the chairman gives each one an opportunity to be heard. He is very patient in listening to their concerns for America the Beautiful, and I think that is a wonderful quality. It is a pleasure to work with the gentleman and the staff. The staff is just as nonpartisan as the chairman.

I want to also mention Kathleen Wheeler, who is working with me on this bill. She has done a terrific job in helping to put this bill together and to bring to my attention all of the concerns of our colleagues, as well as the public.

Most people do not realize that one-third of the United States is owned by the Government. Federal lands managed by the Park Department, the BLM, the Bureau of Land Management and the Forest Service, and our subcommittee has the responsibility for appropriating the funds to operate these 750 million acres of land.

To give you an idea of why this is a people's bill, last year in the national parks we had the equivalent of 336 million visitor days. Now, that is a lot of days and a lot of usage of our parks. In the Forest Service, we had 263 million visitor days.

Most people do not think of the Forest Service as being part of our recreation assets in this Nation, and yet there is a vast flow of visitors into the national forests.

The Bureau of Land Management had 518 million visitor days, in part because they have a lot of land under their jurisdiction.

I might mention as a side comment that some of this BLM land is leased for grazing and, of course, one of the burdens that goes with grazing on public lands is that you have to allow the public in. So part of the visitor days on the BLM land were people using the lands on which individuals are paying grazing fees, using it to hunt, to fish, to camp or a multitude of other things that they might enjoy doing. So that is one dimension of this bill, providing for the visitors to our lands.

Secondly, we deal with the nonnuclear portion of the Department of Energy. We know so well how important our fossil resources are, how important energy is to this Nation's future.

We manage the Bureau of Indian Affairs, spending over a billion dollars spent on insuring that the Indians have adequate educational facilities, and that they have adequate health facilities. We make a great effort to encourage the Bureau of Indian Affairs to develop activities that make economic sense that will allow these people to manage their own affairs, to have jobs, and to plug into the economy of America.

We also deal with the cultural dimension of our society. We have the appropriations for the Kennedy Center, the Smithsonian, the National Galley of Art, the NEA and the NEH, and many other cultural activities. Many of you have the Civil War tapes. I think every Member had an opportunity to get a set of those. They were in part financed by funds provided by the National Endowment for the Humanities, which is part of this bill. That is an example of the kind of productive activity that results from the bill that is before us today.

We also are responsible for funding the President's initiative on stewardship and tree planting which is part of the administration's "America the Beautiful" program.

Unfortunately, because of fiscal constraints, we could not put in all the money that the administration would have liked, but we do have $35 million for these programs. This is an increase of 75 percent over last year.

Again we are recognizing that the preservation of the natural resources and assets of this Nation is a vital responsibility of this committee and this Congress, and we have tried to address that in this bill.

We must, of course, deal with the problem of maintenance of our parks, of our forests and of our Bureau of Land Management lands. This is a difficult challenge because, as I mentioned earlier, of the heavy usage that these facilities receive, there is a great impact on roads, on sanitation facilities, on camping facilities. Unfortunately, we cannot do as much as we would like in maintaining the quality of the experience of the public. For that reason it was a difficult challenge to allocate our funds in a way that would insure that every person using the Federal lands has an experience, a worthwhile experience, has an experience that they will find a joy, that will give them a feeling of satisfaction as they use the national public lands facilities.

I have a concern as to what we are doing on moratoria on the Outer Continental Shelf. Each year incrementally we take out a little more. It is not available to those who own it; namely, the people of the United States.

I am troubled a little bit by the fact that there is an attitude which prevails that Outer Continental Shelf lands belong to the States or belong to the people who live in the States adjacent to them. Those are lands that belong to all the people in this Nation. Therefore, the oil and gas resources under those lands are the property of all the people in the United States.

I think under the conditions of environmental restraints, under the conditions that we protect the fragile areas, that we should have an orderly program of developing these resources.

□ 1630

I have a concern that at some point when we get a recurrence of the experience of the late 1970's, when we were in late-night sessions here trying to deal with gasoline lines, trying to deal with shortages of energy, that when that recurs, we will have a crash program to drill the Outer Continental Shelf without any regard to environmental concerns.

I think it would be far better if this were done on an orderly basis. Certainly, we just came through a war, Desert Storm, and part of the reason for that was the oil resources of the Persian Gulf, and understandably because 26 percent of our imports come from that area of the world. That figure was only 7 percent in 1985. It is a continuing-escalating problem. We are close to 50 percent of our oil resources that we consume in the United States being imported.

I think an orderly and environmentally safe development of the Outer Continental Shelf would be a more responsible approach. But I recognize the votes are not there to support that program and, therefore, will not attempt to change the moratoria restrictions we have put in the bill.

I might add that the clean-coal program has been restored. The administration had taken out some of the funding for the fifth round. We put it back in because, if we are to have a total energy program that will meet the needs of the people of this Nation in the years to come, we must use our coal resources. We have one of the most abundant supplies of energy in the world, and it is called coal. We have demonstrated that it can be burned in an environmentally safe way.

We have committed billions of dollars of both public and private funds to the development of clean-coal programs that will allow this to happen.

I think not only will this be of great value to the United States but to the rest of the world. Many countries, particularly in Eastern Europe, and the Soviet Union, have an abundance of coal, and they need this technology. I believe that once clean-coal technology is brought to fruition, as it will with the programs that we support, that there will be a big market around the world for clean-coal technology that will be important to our exports, our balance of payments.

But also, more importantly, it will reduce the impact on the world's air quality. Certainly, you cannot ignore what happens in other parts of the world, since we all have to live on this same planet.

I therefore feel that the clean-coal program is a vital part of our bill.

I am pleased that we are getting an enormously positive response from the private sector. The law requires a 50-percent match. As a practical matter, we are getting a match somewhere in the neighborhood of 60 percent private and 40 percent Federal.

I think that clearly says there is confidence on the part of the private sector that these programs will work. They are willing to put their money into the development of the clean-coal technologies.

I recommend this bill to my colleagues, I think it is a good bill. We worked valiantly with the limited number of dollars we had to try to meet the enormous needs that exist to serve the people of this Nation well, to preserve the resources, to continue to make America beautiful, in fact more beautiful, for future generations.

Mr. Chairman, we benefit from the vision and wisdom of those who in the past have preserved the Yellowstones, the Yosemites, the Central Park in New York City, who have preserved these magnificent resources that we have. We have the responsibility to future generations to give them good stewardship of what those who went before us have given to us. This bill accomplishes that to the greatest extent possible, given the financial constraints that were part of our budget allocation.

Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in strong support of this bill.

Mr. Chairman, today's approval of the Interior appropriations bill would have important consequences for the San Francisco Bay area. Included in this bill is $4 million to purchase wetlands for the San Francisco Bay National Wildlife Refuge, as well as $1 million for the purchase of Marin Islands, which is also found in the San Francisco Bay.

I would particularly like to thank my colleagues who made this funding possible: the chairman of the Subcommittee on Interior, the gentleman from Illinois, SID YATES, and the distinguished chairman of the full Committee on Appropriations, the gentleman from Mississippi JAMIE WHITTEN. Wetlands provide a unique habitat upon which many species threatened with extinction depend. The funds that we approve today will increase the chances that species such as the California clapper rail, of which fewer than 500 remain, will be able to survive.

The destruction of wetlands in the San Francisco Bay is taking place at an alarming rate, despite increased attempts to end this trend. In purchasing these lands for inclusion in the wildlife refuges of the bay, wetlands can be protected by the most effective means available. By approving these funds today, we will make this strategy possible.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the distinguished chairman of the full Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. I thank the gentleman for yielding.

Mr. Chairman, the chairman of the subcommittee, the gentleman from Illinois [Mr. YATES], and I have served here together on the Committee on Appropriations and on this subcommittee for a long time, and I welcome this chance to compliment him and the other members of the subcommittee, especially the gentleman from Ohio, the ranking minority member [Mr. REGULA], for the great job they have done. It was not easy because of budget limitations which made it impossible to do many things which were sound.

This bill provides investments in America—our public lands, wildlife refuges, fish hatcheries, national parks, and national forests. It provides funds for energy conservation and fossil energy development programs. It provides funds for Indian schools and hospitals. These programs are vital to the development and support of our country, for the only thing behind our currency is our currency.

Mr. Chairman, our paper money is in bad shape, and I want to compliment the chairman of the subcommittee and the other members of the subcommittee for looking after our own country, because it is not what we spend here that causes our problems, but it is is what we spend here that is going to enable us to handle our national financial problems if they are going to to be handled.

Our problems have not arisen from what we have spent on our own country. We have a big country. We have diverse interests. Our country itself is our wealth; thus, it is imperative that we protect, preserve, and develop all our country.

Examples of the national programs for which we have provided funds in this bill that are of special interest to my area and State include funds to continue construction of the Natchez Trace Parkway, the Natchez Historical Park, a Vicksburg park study, the Pvt. John Allen National Fish Hatchery, Marine Minerals Institute, forest research at Stoneville, Starkville, Gulport, and Oxford, magnetohydrodynamics research, and the Choctaw Tribal Department of Education.

Mr. Chairman, as the gentleman from Illinois has stated, this bill contains important programs, similar to these, located all over our country, and I urge it be adopted.

Again, the gentleman from Illinois [Mr. YATES] and from Ohio [Mr. REGULA] and the other members of the subcommittee have done a great job.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. MCDADE], the ranking member of the full Committee on Appropriations.

Mr. MCDADE. Mr. Chairman, I rise in strong support of H.R. 2686, the Department of the Interior and related agencies appropriations bill for fiscal year 1992. I take this brief moment to express my appreciation to the distinguished gentleman from Illinois [Mr. YATES] for the terrific job that he has done on this bill, and also to my friend, the gentleman from Ohio [Mr. REGULA]. Both of them have presented a bill that is eminently respectable in taking care of the stewardship of the natural resources of this Nation. It is, I think, one of the most finely crafted and bipartisan bills to come before us.

So, my compliments to the chairman of the subcommittee and its ranking Republican, and to their staffs, for a job very well done.

Mr. Chairman, I hope this bill will pass overwhelmingly.

The bill they drafted is within the 602(b) allocation for both budget authority and outlays.

They were tireless in their open-minded consideration of the proposals put forth by the administration and the requests of the House membership. They were always cognizant of their responsibilities to adequately fund the Department of Interior, the Forest Service, Indian education and health, conservation and research programs of the Energy Department, and a number of arts and cultural programs. This bill touches the lives of nearly every American as it provides for the stewardship of our public lands, responds to our energy needs, preserves our cultural heritage and protects our natural resources.

In considering this appropriation, it should be remembered that the Interior bill, unlike most other appropriations bills, in large part pays for itself through revenues generated by the Interior Department and other agencies represented in the bill. Receipts to the Treasury from timber leases, mineral and oil development, and other programs are estimated to reach over $7.3 billion during the coming fiscal year.

As usual, the programs funded in the Interior bill are not without controversy. The subcommittee had the difficult job of putting together a bill that reflects the will of the House on such heated issues as offshore drilling, mining patents, the threatened spotted owl, the National Endowment for the Arts, and grazing fees. I am confident that the subcommittee's positions will be affirmed by the full House when some of these issues are debated today as amendments.

The subcommittee did somewhat reorder the budget requests put forth by the President, but much of the increase over the administration request was to compensate for ill-advised proposals to cut needed funds for energy conservation, clean coal and fossil energy research activities of the Department of Energy, and Indian health services and facilities.

The administration's objections to the bill are relatively minor. One of the major objections, bill language to prohibit the implementation of the Chief Financial Officers Act of 1990, was removed with passage of an amendment I offered in full committee.

Other items objected to by the administration are the special account for emergency firefighting for the Department of the Interior and the U.S. Forest Service, and reduced funding for the Sport Fish Restoration Program and the North American Wetlands Conservation Fund. I look forward to addressing their concerns as the bill works its way through the process.

I am particularly gratified that the legislation provides for the redesignation of the Tinicum National Environmental Center in Philadelphia as the John Heinz National Wildlife Refuge at Tinicum. This is a fitting tribute to a man who earned a national reputation for his tireless efforts in environmental protection. In particular, he worked to include Tinicum in the national system and drafted the law that established the Tinicum Marsh Wildlife Center.

Senator Heinz was the victim of a tragic aircraft accident last April. The redesignation will be one small way that we can commemorate his environmental achievements and insure that his contributions will not be forgotten.

I urge favorable consideration of H.R. 2686. It is a bill which meets our obligations to our environment and natural and cultural resources and fulfills our mandate for fiscal restraint.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, today's bill includes a provision of great interest to North Carolinians. It appropriates $2.5 million to the National Park Service to expand the Fort Raleigh National Historic Site on Roanoke Island.

Last year, Congress enacted Public Law 101-603 to expand Fort Raleigh by 335 acres. Today, we begin to provide funds to carry out the expansion.

Fort Raleigh and Roanoke Island occupy a special place in the history of North Carolina and our Nation. Here, Sir Walter Raleigh sought to plant an English colony, 25 years before Jamestown. Here, the first child of English parents was born in North America. These events are dramatized each summer in the play, "The Lost Colony," the oldest outdoor drama in the United States; this production attracts thousands of visitors to Fort Raleigh every year.

Because the property is in a coastal resort area, development pressures are intense. It is critical for Congress to provide sufficient funding swiftly so that we can preserve this special area and protect the existing historic site from incompatible development.

Chairman YATES, I want to say Thank you for responding to my request for funding. This is a significant start. I know how difficult it is for you to find funds for new acquisitions, and I am truly grateful to you and your subcommittee.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE], a member of the Committee on Appropriations.

Mr. KOLBE. Mr. Chairman, last Friday the President signed into law a bill to expand the boundaries of the Saguaro National Monument. Mr. Udall and I, joined by all members of the Arizona delegation, sponsored this important legislation.

There is an urgency to this project. The lands are at risk. The monument is at risk. And, if the NPS acts promptly, the cost of acquisition will be significantly lower. Finally, the landowners are willing sellers.

Although funding is tight this year, I might point out that, according to the National Park Service, Arizona has not had a project funded from the land and water conservation fund in more than 15 years.

I recognize that consideration by the House Appropriations Committee could not be undertaken until the bill was authorized and only after all the necessary and required steps for implementation were followed. Now that we have the necessary authorizing legislation, we urge the National Park Service to review the legislation and make recommendations to Congress as early as possible as to the desired means of acquisition.

It is my understanding that the Senate may consider adding funds for the implementation of the Saguaro National Monument bill. If funds are added, I would ask for the committee's support in conference.

Arizona takes great pride in the effort to protect the Saguaro National Monument, a national ecological treasure.

□ 1640

Mr. AUCOIN. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Chairman, I rise in support of the bill reported by the Subcommittee on Interior Appropriations. I believe the hard work of the members and staff is reflected in this balanced and responsible legislation. I especially want to thank Chairman YATES for his consideration in including several projects which directly affect my district.

These are basic research programs which will be a good investment of public funds and should ultimately return money to the Treasury.

Our Nation's metal casting industry will benefit greatly from the technology research program funded by this bill. The program has a requirement for matching funds from industry, which in this time of tight Federal funds is a good policy and certainly a litmus test of any group's commitment to a project. In this project the Government, industry and our leading universities will combine their efforts to increase the efficiency and competitiveness of this most basic of industries.

Also included in this bill is a provision for aquaculture research to be performed by the Fish and Wildlife Service. This is a matter of special interest to me because of the rapid growth of the catfish industry in my State. Unlike poultry, livestock or row crops, aquaculture has not benefitted from basic research on genetics, nutrition and disease control. Yet this is our best hope for new sources of protein and is deserving of Federal assistance.

Mr. Chairman, there are two energy-related projects, one involving eastern oil shale and the other involving coal liquefication, which have real potential for lessening our dependence on foreign sources of energy. All of these provisions are good, sound research projects and I urge my colleagues to support both them and the bill as a whole.

Lastly, I am disappointed that the Fire Forces Mobilization Act was not funded for the coming year. This measure has much to recommend it and I hope we can find adequate funding in the near future.

Mr. REGULA. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I will not take my full time; however I rise in strong support of the House Interior appropriations bill.

Mr. Chairman, after extensive negotiations and many roadblocks, the citizens of Salamanca, NY are nearing their final hurdle. A 40/40 lease arrangement has been signed by the majority of City and Congressional villages residents. In addition, an agreement has been reached for a $25 million payment by New York State to the Seneca Nation of Indians. Thanks to the Committee on Appropriations—full funding of the Seneca Nation Settlement Act of 1990 was maintained. Passage of the bill firmly establishes the most important piece of this puzzle—Federal payment of $35 million to the Seneca Nation. This corrects Congress's failure to uphold its trust responsibility of nearly one century ago. One time funding is essential. New leases for present residents are binding on the Seneca Nation only after full payment by the Federal government. This payment is included in the bill. Today, we will vote to revive an economically depressed region of the southern tier. The city of Salamanca may now look to the future—one which we hope to be a bright future.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 2686, the Department of the Interior and Related Agencies appropriations bill for fiscal year 1992. This is the 9 of the 13 annual appropriations bills to be considered by the House.

The bill provides $13.198 billion in discretionary budget authority and $12.042 billion in discretionary outlays, which is $7 million in budget authority and $8 million in estimated outlays below the 602(b) spending subdivisions for this subcommittee.

I want to commend the chairman and the ranking member of the subcommittee for the job they done in adhering to the limits set forth in the budget agreement and the budget resolution.

As chairman of the Budget Committee, I will continue to inform the House of the status of all spending legislation, and will be issuing a "Dear Colleague" on how each appropriations measure compares to the 602(b) subdivisions.

I look forward to working with the Appropriations Committee on its remaining bills.

COMMITTEE ON THE BUDGET,
Washington, DC, June 20, 1991.

DEAR COLLEAGUE: Attached is a fact sheet on H.R. 2686, the Department of the Interior and Related Agencies Appropriations bill for Fiscal Year 1992, scheduled to considered on Monday, June 24, subject to a rule being adopted.

This is the ninth regular fiscal year 1992 appropriations bill to be considered. The bill is $7 million below the discretionary budget authority 602(b) spending subdivision and $8 million below the outlay subdivision.

I hope this information will be helpful to you.

Sincerely,

LEON E. PANETTA,
Chairman.

[Fact Sheet]

H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS BILL, FISCAL YEAR 1992 (H. REPT. 102-116)

The House Appropriations Committee reported the Department of the Interior and Related Agencies Appropriations bill for Fiscal Year 1992 on Wednesday, June 19, 1991. Floor consideration of this bill is scheduled for Monday, June 24, 1991, subject to a rule being adopted.

COMPARISON TO THE 602(b) SUBDIVISION

The bill, as reported, provides $13,198 million of discretionary budget authority and $12,042 million in estimated discretionary outlays, which is $7 million in budget authority and $8 million in estimated outlays below the 602(b) subdivision for this subcommittee. A comparison of the bill with the funding subdivisions follows:

COMPARISON TO DOMESTIC SPENDING ALLOCATION

[In millions of dollars]

	Interior and related agencies appropriations bill		Appropriations Committee 602(b) subdivision		Bill over (+) under (−) committee 602(b) subdivision	
	BA	O	BA	O	BA	O
Discretionary	13,198	12,042	13,205	12,050	−7	−8
Mandatory [1]	78	78	78	78		
Total	13,276	12,120	13,283	12,128	−7	−8

[1] Conforms to the Budget Resolution estimates for exisitng law.

Note: BA—New budget authority; O—Estimated outlays.

Following are major program highlights for the Department of the Interior and Related Agencies Appropriations Bill for fiscal year 1992, as reported:

PROGRAM HIGHLIGHTS

[In millions of dollars]

	Budget authority	New outlays
Department of the Interior:		
Bureau of Land Management	910	749
U.S. Fish and Wildlife Service	691	471
National Park Service	1,377	910
Geological Survey	589	560
Office of Surface Mining Reclamation	302	118
Minerals Management Service	208	135
Bureau of Mines	176	114
Bureau of Indian Affairs	1,603	884
Territorial and International Affairs	157	111
Related agencies:		
Forest Service	2,308	1,731
Strategic Petroleum Reserve	266	−72
Energy Conservation	560	137
Fossil Energy R&D	446	178
Naval Petroleum and Oil Shale Reserves	238	143
Indian Health Service	1,728	1,208
Indian Education	78	11
Smithsonian Institution	403	324
National Foundation on the Arts and Humanities	356	132

The House Appropriation Committee reported the Committee's subdivision of budget authority and outlays in House Report 102–81. These subdivisions are consistent with the allocation of spending responsibility to House committees contained in House Report 102–69, the conference report to accompany H. Con. Res. 121, Concurrent Resolution on the Budget for Fiscal Year 1992, as adopted by the Congress on May 22, 1991.

Mr. Speaker, I rise in strong support of H.R. 2686, the fiscal year 1992 Department of Interior and Related Agencies appropriations bill. In particular, I rise in support of the bill's provision to defer offshore oil and gas leasing and related activities off the coast of California for fiscal year 1992.

This provision is consistent with the President's Outer Continental Shelf [OCS] June 26, 1990, policy statement which deferred the California coast from being made available for leasing consideration until after the year 2000, with the exception of 87 tracts in southern California which may be leased after January 1, 1996. Last year Congress established a precedence of legislatively concurring with the President's OCS policy statement by including a similar provision in the fiscal year 1992 Interior appropriations bill. In the absence of authorizing legislation to codity the President's OCS policy, I am very pleased that the committee is continuing this moratoria.

As such, I would like to commend Chairman SIDNEY YATES for including this provision in the committee's fiscal year 1992 bill and, for his invaluable and consistent support for the preservation of the sensitive areas of our Nation's coastline. His insistence on proper stewardship for our coastal resources has brought us to a point where we have achieved long-term protection for the California coast and other sensitive areas. The gentlemen's role in achieving this goal cannot be overstated and I am deeply grateful for his support.

There are other geographic areas that were not addressed by the President's OCS policy statement which are worthy of protection and I am pleased to note that these areas have received similar protections under this bill.

While the President's OCS deferral has given us some much-needed breathing room on this issue, the battle is not over yet. Two particular issues remain of grave concern to me. First, Congress still has the responsibility to codify the President's OCS policy statement into law to ensure that this policy is strictly adhered to by this and future administrations. I will continue my efforts in the Congress to achieve that goal. Second, I, along with many of my colleagues in the California delegation, strongly object to the President's unfair and unjustified targeting of 87 tracts in southern California which may be offered for leasing in 1996. This divide-and-conquer approach to the California coastline is unacceptable and will not be tolerated. Clearly, this area in the Santa Maria Basin and the Santa Barbara Channel warrants the same 10-year delay afforded the rest of the west coast. I am confident, however, that the short-term protection afforded this area will give us the time needed to obtain permanent protection for this important coastal area.

In closing, Mr. Speaker, I would like to again commend Chairman YATES and the members of the committee for their hard work in bringing forth this legislation. I urge my colleagues to support its adoption.

Lastly, Mr. Chairman, I would like to engage the chairman of the subcommittee in a brief colloquy.

Mr. Chairman, I would like to thank the gentleman and the committee members for their tremendous work in bringing forth this legislation. I am acutely aware of the budgetary constraints the gentleman was working under and commend him for completing a difficult job admirably. I would like to engage the gentleman in a colloquy regarding a Forest Service study in the Los Padres National Forest.

Mr. Chairman, is it correct to state that under the funds expended for the operation of the Forest Service in this act, it is expected that the Forest Service will conduct the archeological mapping and survey of the lands within the Los Padres National Forest?

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman is correct. Under the funds expended in this act for the operation of the Forest Service, it is expected that the Forest Service will conduct the archeological mapping and survey within the Los Padres National Forest.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for clarifying this matter and again commend him for his excellent work in developing this legislation.

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. JAMES].

Mr. JAMES. Mr. Chairman, I rise today to commend the gentleman from Illinois [Mr. YATES], the ranking Republican member, the gentleman from Ohio [Mr. REGULA], and the members of the Appropriations Subcommittee on the Interior for including a comprehensive moratorium on offshore oil development. Over the last 2 years, Americans have been shocked by the scenes of destruction that have been on their television sets. First the tragic oilspill in Alaska, then the horrible oilspill that occurred in the Persian Gulf war, have shown the American people what kind of damage can be done to the environment when an oilspill occurs.

Mr. Chairman, our coastal ecological system is very fragile, and cannot withstand the kind of damage that an oilspill would cause. The oil development moratorium in this bill will put vital protections for our coastline in place, protections that will benefit every American. I again commend the Interior Committee for its good work, hope that it will continue, and urge my colleagues to support this provision.

Mr. YATES. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. AUCOIN], a distinguished member of our committee.

Mr. AUCOIN. Mr. Chairman, I would like to commend our chairman, Mr. YATES, and the ranking minority member, Mr. REGULA for the fine work they have done in bringing this bill to the floor today.

As former Congressman Mike Kerwin used to say, and as the chairman has often reminded this body, this is truly a bill for all America. And increasingly a bill for all Americans.

From the arts to our spectacular national parks and majestic national forests the public demand for the opportunities which our Interior appropriations bill sustains and enhances continues to grow beyond our fiscal ability to keep pace.

That was the most difficult reality which the members of our committee had to face as we marked up our bill this year. Our committee heard testimony from over 1,100 witnesses, and over 370 Members of Congress, all of whom had worthy requests for additional funding needs. Regrettably, not everyone could be accommodated.

And that is why I am particularly grateful to the chairman and my colleagues on the committee for working with me to address those issues which are absolutely vital to my State of Oregon and the Pacific Northwest.

While this may be a bill for all America, it provides the lifeblood for Oregon and the Northwest. We Oregonians are at the mercy of the Federal land managers who control over half the land base of the State of Oregon. Because of this, Oregonians must rely on those who watch over and shape policy for those Federal land managers.

And that role is filled in great measure by our Interior Appropriations Committee. I believe it has been with great wisdon and foresight that the committee has met its responsibilities for fiscal year 1992.

We are struggling through a very difficult time in the Pacific Northwest. Our national forests and pubic lands are being managed, essentially, by the Federal courts. Over 8,000 jobs have been already lost in the wood products industry.

Despite this adversity, I am convinced that we are on the right track in bringing about a legislative solution which breaks the gridlock and puts us back on a sound economic and ecological footing.

That is why I am pleased that our bill allows for a balanced timber sale program to go forward in fiscal year 1992 and one that will be sustainable once we get out from under the thumb of the Federal judges.

Our bill lays the foundation for future dividends for the woods products industry by funding initiatives in the areas of value added manufacturing and red alder utilization.

We have provided additional research funding to develop the baseline data we need to support ecological diversity, sensitive species habitat, and the technical data we must have to determine how we can protect these important ecological values and continue supplying timber for community stability and continued employment opportunity.

I believe the committee has exercised great foresight in providing an additional $7.5 million for Columbia River anadromous fish habitat management and, most significantly, an additional $1.8 million to begin implementing habitat improvements which were identified at the recently concluded salmon summit to begin recovery of those Chinook and Coho runs most likely to be listed as threatened or endangered.

And this bill makes great contribution to our cultural, recreational, and environmental resources. We continue the renovation of the historic Crater Lake lodge. We are moving forward with an innovative wetlands acquisition project for the city of Eugene, OR, which has the promise to become a national model of how wetland preservation can work in tandem with economic development. We allow the city of Portland to continue with its wetland inventory. And we provide a spectacular addition to the Oregon Islands National Wildlife Refuge which was of critical interest to the city of Bandon.

Lastly, I am happy to report that, thanks to your help and the work of my colleague, Mr. DICKS, we have once again added language which will provide a revenue floor for those counties in Oregon, Washington, and northern California affected by decisions relating to the spotted owl beyond which receipts which they receive as a result of timber harvests will not fall. We had to change the formula somewhat in response to the concerns expressed by the chairman over revenue losses to the Treasury. But even with a changed formula, we will be saving Oregon counties an additional $27 million over what they would have received if the language were not included in this bill.

In short, Mr. Chairman, this bill provides for sound and balanced stewardship of our public lands, resources, and natural treasures not just for Oregon but for the Nation as well.

This is a good bill, a bipartisan bill in which our disagreements were worked out through accommodation rather than confrontation and I urge my colleagues on both sides of the aisle to give us your support.

□ 1650

Mr. REGULA. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the Synar language and this is one of those, "I did not intend to make a speech, speeches". We hear these speeches when Members get their particular ox gored, in this case the 38,000 cowboys who run small, family-owned operations and who make less than $28,000 a year.

Now, what got my dander to the sound-off level is when I tried to point out that most folks involved here are not corporate operations or cattle barons ripping off the public, but again, small family-owned operations, the gentleman from Massachusetts went into a virtual canniption fit of taxpayer concern and mentioned some corporations who benefit from current grazing fee policy.

And then he said some outfit out west had an operation bigger than his whole State. Well, I have a district larger than the State of Virginia, let alone Massachusetts. I have more cows than people—and for the record, I have no grazing on public lands. This is not my parochial issue! I might add that one cowboy with an outfit larger than the State of Massachusetts is doing a better job running his operation than is being done in Massachusetts.

If we are going to revise the grazing fee formula, let's follow the advice of the gentleman from Oregon [Mr. SMITH] and let the House Agriculture Committee work out a compromise. It may well be corporations should not ride and graze the range at public expense, but eliminating the economic livelihood of 38,000 producers in one fell swoop under the Synar banner of reform seems a bit harsh.

So, Mr. Chairman, I rise in opposition to the Synar language to raise the grazing fees on lands managed by the Bureau of Land Management. Aside from the fact this effort is an attempt to authorize changes to the BLM grazing fee formula on an appropriations bill, there are several facts regarding public lands grazing the House needs to be aware of:

As I said, most of the stockmen, 80 percent, grazing livestock on public lands are operators of small, family-owned enterprises. For their operations, most of which make $28,000 or less per year, to be economically viable, they must utilitze public rangelands.

"Why are public grazing fees less than those on private pastures?" The answer is simple. Public land fees do not include amenities. A stockman leasing public lands is responsible for all costs associated with fencing, water improvement, and road maintenance. In addition, these stockmen serve as stewards of public rangeland by investing their resources to control erosion, maintain water sources, used by wildlife as well as their domestic stock, and assist in wildlife and vegetation management efforts.

The BLM's director not the GAO has stated that significant increases in fees would result in a devastating impact on the western States where the ranching areas have historically low base values. More to the point, the fees generated from public grazing are used by hundreds of counties for schools, roads and local efforts to improve rangeland conditions.

BLM grazing programs largely pay their own way through the user fees charged producers. By keeping these fees at reasonable levels, we can ensure that this Nation's rangeland continue to benefit from the hard work and dedication of men and women who depend on public grazing to put food on their families' tables.

Now, just a few short weeks ago, we got into debate as to the merits of a cut in the funding of the General Accounting Office. If we ever had a case that reflected that concern and frustration, this is it. This GAO report and grazing fee review, dated June 11, was made available to minority members, whose constituents future is at stake, just this past Friday and the report is supposed to be the tablet brought down from the mountain on this subject.

We apparently have six people, three from Washington, DC and three from Seattle who have concluded in 18 lines that 38,000 cowboys and their families should find other work and ride off into the sunset.

I tell you what, if there ever was an outfit that deserved the title of Majority Party Tennis Backboard, it is the GAO. You ride with the GAO posse; they ride for the most part, in the direction that the chairman of the committee wants to ride. You want to know about downside risk regarding their 20-20 hindsight observations and they say they can't comment on that. You ask about the law of practical effect on one hand; they come up with a repeat of the obvious on the other hand. Goodness knows, we need a one-handed GAO analyst with just a little prospective common sense.

And, who rides with this posse and has access to the wanted posters? People crawl out of train wrecks faster than the minority can get access. Not all of the reports by the GAO fall into this category to be sure but too many fall into the category of TV script or fodder for the majority's legislative agenda.

This is not right, and it does the many fine people within GAO a disservice.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise to speak in support of the fiscal year 1992 budgets of our Nation's Federal arts agencies and their continued viability. I must begin by expressing my great admiration and respect for the commitment which Chairman YATES, ranking member REGULA, and indeed the entire subcommittee and full committee have shown in protecting and promoting the arts in our Nation. It is in no small measure due to their wisdom that the arts have been able to flourish throughout the country and that the arts and cultural agencies have been able to fundamentally change the country's cultural landscape.

Today the Nation's cultural community is at risk of losing permanently theaters, dance companies, opera companies, and a multitude of arts organizations. Economic downturn and the assault on the arts which took place last year have already begun to take their toll. We are all aware of the realities of a downturn in the economy. But what we must be aware of is the devastating effect which a tightening of resources, pullback of contributions and shrinking Federal percentage has had on the artistic community: 42 percent of nonprofit theatres ended their seasons with operating deficits, while seven theatres, an unusually high number according to the theatre communications group, ceased operations in 1990 due to financial adversity; 24 of 50 dance companies surveyed by Dance/USA posted deficits while six of the Nation's finest companies came dangerously close to the brink of financial disaster this year; 47 percent of recently surveyed opera companies surveyed, had losses; and, of the 40 largest orchestras in the United States, 27 posted operating deficits at the close of the 1989-90 season.

Meanwhile, as a result of last year's reauthorization legislation, five NEA program categories have been eliminated and $12 million shifted from the program discipline grants—money already spread extremely thin—to the States. There have also been severe repercussions at State and local levels and in the philanthropic world.

For the first time in 13 years, State arts appropriations and State per capita spending on the arts have decreased. Due to fiscal woes, State governments are slashing budgets. While arts groups realize that these are difficult times and are willing to carry their load, they have been targeted for disproportionate cuts. Not only in New York, but also in Virginia, Missouri, Massachusetts, Michigan, and other States.

Those who oppose government funding of the arts by alleging that the private sector and private contributions will absorb any pullback or dissolution of Federal and other government funding are simply not in touch with reality. Their argument could not be further from the truth. One corporate representative of the philanthropic community made the point very succinctly: "If the Government feels that the arts are in important priority, we're going to follow suit. If it cuts back, we're also going to think twice." Simply put, where the Federal Government leads, State and local governments and other sectors of the country follow.

The truth of the matter is that these are catalytic and effective funds. For fiscal year 1991, NEA programs grants totaling approximately $122.4 million generated $1.47 billion in nonfederal funds. That is a greater than 10:1 impact and a wallop of an effect.

Mr. Chairman, I would also like to praise the many and fine activities of the NEH and IMS, which, through aid to museums and other humanities organizations, help educate and engage our citizens.

The subcommittee and full committee have wisely taken these factors into account and, while weighing budgetary concerns, have included increases for the Federal arts agencies. This commitment to our national culture is nothing less than a commitment to our Nation's soul. It is through our art and culture that we educate our children, develop the humanity and understanding of all of our citizens, and write the living history of our national heritage.

I urge full support for this bill and for maintainment of funding levels for our Nation's Federal arts agencies.

□ 1700

Mr. REGULA. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, in previous years I have raised some concerns about elements of the bill that related to activities of the Committee on Science, Space, and Technology. I want to rise in support of what the committee has done in these areas this year.

Mr. Chairman, I think the committee has done an excellent job of staying within the authorization levels as reported by the Committee on Science, Space, and Technology last month. There are a few technical places where there are some differences between the authorization and the appropriation, but, in total, in the fossil fuels account the committee is $25 million under the total fossil fuel authorization of $471 million in 1992, and I think the committee deserves to know that we on the Committee on Science, Space, and Technology appreciate your concern with our priorities.

In fact, the appropriation tracks many of the areas that the administration and the Committee on Science, Space, and Technology have established as priorities in conservation and R&D, especially in the electrical vehicle area.

Mr. Chairman, of particular concern, Members may remember last year I spoke about the fact that there had been an earmarking within the metal castings account. This year I see that $3 million is appropriated, but we do properly compete with them under the authorization process within the bill, and I am thankful for that. I think that that moves in the right direction.

Mr. Chairman, I would point out one other thing which I think is very favorable about this bill. The bill is below the level of outlays that would be required to keep it within the balanced budget amendment. Therefore, the balanced budget amendment will not be offered to this bill, since the committee has already brought it below the level that would be seen as appropriate under the balanced budget.

Mr. YATES. Mr. Chairman, I yield 1 minuted to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I rise today in support of H.R. 2686, especially the energy conservation measures. If this Nation learned one thing from its recent Middle East entanglements, it is that oil is a slippery basis for national security. In that light, I would congratulate Mr. YATES on the energy conservation appropriations which show tremendous forsight and commitment to energy efficiency. Energy conservation is a vital component of any effort to wean this nation from its addiction to foreign oil.

The administration's recent national energy strategy pays homage to energy efficiency. But when it comes to conserving the resources we have and taking concrete steps, it is woefully lacking.

H.R. 2686 would allocate approximately eight times the amount the President has proposed for conservation grants and low-income weatherization. It would provide significantly more funding for institutional conservation programs and other state conservation programs. Most importantly, research and development will not be left out in the cold. The bill authorizes $59 million, or 28 percent, more for conservation R&D than in fiscal year 1991. These funds cover research on energy conservation in buildings, industrial facilities, transportation, and utilities.

As chairman of the Environment Subcommittee and a member of the Energy and Power Subcommittee, I have had a chance to see the wonders of energy efficiency. For example, high-efficiency light bulbs use 75 percent less energy than conventional bulbs. DOE research funding into double glazed windows has yielded a payoff of 6,500 to 1. Not a bad investment. I want to commend Chairmen BROWN, DINGELL, and SHARP for their commitment to energy efficiency as well.

Improving energy efficiency is a vital component of any energy plan. H.R. 2686 recognizes this and I congratulate Mr. YATES for his commitment to energy efficiency.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I want to thank the chairman very much for yielding this time, and congratulate him and the ranking member, the gentleman from Ohio [Mr. REGULA], for a job well done.

Mr. Chairman, I would like to just devote a few seconds to talk about an element of this bill which might be overlooked, and that is the matter of historic preservation. I am advised that some $36 million is recommended for appropriation in this bill for that very important function of historic preservation. That is up $1.5 million from fiscal year 1991.

Historic preservation is not only good for the country, it preserves our traditions, our history, our national patrimony, but it makes very good sense. It is good for the environment, that we do not tear down in order to build up. It makes good sense from the cost effectiveness of preserving America's beautiful scenery and beautiful structures.

Mr. Chairman, I want to thank the gentleman from Illinois [Mr. YATES] for a job well done, on behalf of those who are very much interested in historic preservation, and salute my friend from Ohio [Mr. REGULA] for his consultative work in this area.

Mr. FAZIO. Mr. Chairman, I rise in strong support of the bill, H.R. 2686, making appropriations for the Department of the Interior and related agencies for fiscal year 1992.

I commend the chairman of the subcommittee, Mr. YATES, and the ranking minority member, Mr. REGULA, as well as the subcommittee's fine staff, for producing this fair and balanced bill.

In particular, Mr. Chairman, I would like to thank the subcommittee for including $7 million to continue willing-seller acquisitions within the Sacramento River National Wildlife Refuge.

The $5.15 million that the Congress, with the committee's leadership, has provided thus far has allowed for the acquisition of six tracts totalling 1,865.34 acres. The $7 million recommended by the committee in fiscal year 1992 will permit the acquisition of a large portion of the appraised or optioned parcels, including efforts to continue to the acquisition of the 14,000 acre Parrott Ranch, the largest remaining private parcel in the Sacramento Valley and a great expanse of relatively undisturbed natural habitat.

The acquisition of these parcels will significantly benefit the protection of Federal and State listed endangered, threatened, and candidate species; assist in spawning opportunities for California's most productive anadromous fisheries—7 out of 10 salmon caught off the California coast spawn along the Sacramento River—and, contribute to saving one of the most endangered habitat types in California, the Sacramento River's jungle-like riparian forests were once about 800,000 acres, but today are down to 14,000 acres, or less than 2 percent.

I would also like to thank the chairman of the subcommittee for providing an additional $5 million to the Forest Service to implement the Santini-Burton single family lot acquisition program at Lake Tahoe. The funding provided by the committee will permit the continued purchases of up to 400 highly sensitive and small parcels, which pose a particular threat to continuing decline in water quality at the lake. With the committee's continued leadership, we can sustain public confidence in this program to encourage lot owners to rely on it economically. Otherwise, the pressure will build to overdevelop the lake, and overdevelopment will resume.

We are at a critical time in the efforts to correct the environmental problems at Lake Tahoe. The number of vacant, sensitive lots in private ownership has been dramatically reduced. In 1980, there were more than 8,000 lots that had been identified for acquisition. The inventory is now down to approximately 4,000.

I also thank the subcommittee, in general, for its responsiveness to the many natural resource needs of the State of California. The subcommittee members faced enormous constraints in putting together this bill, and I greatly appreciate the subcommittee's receptiveness to the concerns of those who live in our region of the country.

Mr. Chairman, I urge adoption of the bill.

Mr. SLATTERY. Mr. Chairman, first of all, I want to thank Chairman YATES and his staff for the excellent work they have done on this bill. This bill represents a difficult task and I want to personally commend Chairman YATES and the committee for their efforts.

I specifically would like to speak in support of the funding in this bill which recognizes the importance of native American higher education.

Haskell Indian Junior College, which is one of the only two national colleges for native Amercians in the country and which is located in Lawrence, KS, has an important mission for native Americans across the country.

In the past Haskell has survived severe budgetary setbacks and has provided quality education to native Americans across the country in spite of efforts by the previous administration to shut it down.

I am pleased the Appropriations Committee, under Chairman YATES' leadership realized the importance of adequately funding Haskell, and I am especially pleased the committee agreed to restore $777,000 to Haskell's budget that President Bush had requested be cut.

This funding will bring Haskell's fiscal year 1992 instructional budget to the same level as the 1991 budget. More importantly, it will allow the popular and successful summer school and natural resources programs to continue next year.

Both the Summer School and Natural Resources Program are proven and effective. Cutting these programs, as proposed by the Bush administration, would have been a tragic mistake and posed a severe setback for Haskell.

The sum of $200,000 was approved for necessary program development at Haskell. This funding will help Haskell implement its Vision 2000 plan, a comprehensive blueprint for improving the teaching and library facilities at Haskell so that it will be possible for the school to achieve its goal of offering baccalaureate degrees in elementary education.

The ability to offer teaching degrees is critically important to the native American community given the well documented shortage of native American teachers, particularly on the reservation.

Finally, I would like to commend the committee for including $3 million which would allow Haskell to finance the construction of much-needed on-campus housing. Housing is a top priority for Haskell as overcrowding has become a serious problem.

Haskell has been attempting to deal with a serious housing shortage for several years. The Bureau of Indian Affairs Office of the Inspector General issued reports in 1987 and 1990 which stated that Haskell needed to reduce its on-campus enrollment in order to comply with dormitory occupancy standards.

Thanks to the committee's recommendation providing for construction of a new dormitory, young native Americans will no longer be turned away from the educational opportunities Haskell has to offer.

If self-determination and independence from government are to remain the benchmark of Federal efforts toward native Amercians, then we must do all we can to see that this population has access to quality education. Haskell Indian Junior College provides the tools for such an endeavor.

I am grateful to my colleagues on the Appropriations Committee for recognizing that it would be a tragic mistake to jeopardize the quality of education at the single most important institution of higher learning in the native American community.

I urge my colleagues to support H.R. 2686.

Mr. LOWERY of California. Mr. Chairman, I rise in support of H.R. 2686, the Interior and related agencies appropriations bill for fiscal year 1992 and request permission to revise and extend my remarks. Mr. Chairman, this is a sound bill and I would like to commend Chairman YATES and Mr. REGULA for all their work and leadership in bringing this measure to the floor.

As the chairman of the subcommittee stated earlier this bill is well within all the guidelines as far as budgetary constraints are concerned.

Certainly, the subcommittee had to make some hard decisions to produce a bill within these rigid fiscal standards. I commend the chairman's leadership in crafting a bill that meets these tough standards and also properly addresses the needs of the various agencies and programs funded by this bill.

I am also pleased to note H.R. 2686 contains bill language, consistent with the President's decision with respect to OCS leasing restrictions in areas covered by the President's statement last June. There have been several large strides this past year in developing a comprehensive and reasoned long-term OCS policy for the Nation. A year ago the President released his long-term policy proposal for OCS and earlier this year the Minerals Management Service released a draft proposal of the comprehensive OCS 5-year plan. However, neither of these proposals have been formalized. The moratorium in this bill provides an instrument to ensure we do not lose these positive cautious steps toward protecting our resources and environment.

Again, Mr. Chairman I commend Chairman YATES and the subcommittee staff for their diligence in bringing this fine bill to the floor and urge my colleagues to support it.

Mr. WELDON. Mr. Chairman, I rise today to thank those who have supported me in my efforts to rename Tinicum National Environmental Center in honor of our late colleague John Heinz. In particular, I would like to thank 20 of my Pennsylvania colleagues who joined me in writing to the Subcommittee on Interior Appropriations urging them to include language in the Interior bill that renames Tinicum as the John Heinz Wildlife Refuge at Tinicum. It was through the help of both Mr. MCDADE and Mr. MURTHA that an amendment was offered to the Interior appropriations bill that renames this unique wildlife refuge in Pennsylvania. Finally, I would also like to thank both Mr. YATES and Mr. REGULA for their support in this effort.

Mr. Chairman, I rise today to recognize Senator Heinz's tireless dedication and committment to the environment. Not only was Senator Heinz one of Congress' most innovative environmental thinkers, but he was an active advocate of workable environmental solutions. It is because of his outstanding commitment to the environment that I rise in support today of renaming the Tinicum National Environmental Center in Philadelphia, PA to the John Heinz National Wildlife Refuge at Tinicum.

John Heinz cared passionately about the environment. Among his many environmental achievements was the idea that market forces should be harnessed to work for the environment instead of against it. This idea was transformed into a study titled Project 88, which provided the inspiration for key elements in the landmark clean air legislation which was enacted last year. In addition, the study provided the basis for bills that Senator Heinz introduced to encourage the recycling of motor oil, lead batteries, and newspapers.

Established in 1972, Tinicum National Environmental Center is one of three national urban wildlife refuges. Under the legislation passed by Congress in 1972, authority was given to the Secretary of the Interior to acquire 1,200 acres to establish Tinicum National Environmental Center.

Each year, Tinicum hosts over 47,000 visitors who participate in bird watching, environmental education programs, photography, bicycling, and fishing. In addition, Tinicum is home to 208 avian species and to countless other wildlife species including opossums, brown bats, muskrats, and white tailed deer. Tinicum also serves as an environmental educational resource for the residents of the area and for local teachers and students.

Finally, Mr. Chairman, I urge my colleagues to support the Interior appropriations bill which contains the provision renaming the Tinicum National Environmental Center as the John Heinz Environmental Center at Tinicum. It seems only appropriate to rename this unique wildlife refuge after a truly dedicated environmentalist, and I hope my colleagues will join in support of this fitting tribute.

Mr. BEREUTER. Mr. Chairman, this member would like to take this time to thank the chairman of the Appropriations Subcommittee on the Interior, the gentleman from Illinois [Mr. YATES] and the ranking Republican on that subcommittee, the gentlemen from Ohio [Mr. REGULA] for their interest and concern in the health needs of the Winnebago Indian Tribe of Nebraska. The Winnebago Indian Health Service Hospital is over 50 years old and in dire need of replacement. The chairman and ranking Republican and their staff have taken much time to consider the different problems that the tribe is facing as they work with Indian Health Service to determine the type of health care facility that would best meet the needs of the Winnebago and Omaha Tribes and the other Indian people who reside in northeast Nebraska. This Member appreciates that the subcommittee approved report language that urges the Indian Health Service to work with the Winnebago Tribe to reach consensus on an appropriate health facility for the tribe.

In addition, this Member would like to thank the subcommittee for including report language to earmark $100,000 for an evaluation of the highly effective drug dependency unit at the Winnebago Hospital. This is the only inpatient drug dependency unit for adults in the Indian Health Service System.

Although there are many desperate needs in Indian country, especially in the area of health care, this Member is impressed to see the care and compassion shown by the gentleman from Illinois [Mr. YATES] and the gentlemen from Ohio [Mr. REGULA] as they considered the needs of the Indian people of Nebraska.

Mr. REGULA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. YATES. Mr. Chairman, I have no further requests for time, I yield back the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MAZZOLI) having assumed the Chair, Mr. GORDON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER DURING CONSIDERATION OF H.R. 2699, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, FISCAL YEAR 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–129) on the resolution (H. Res. 181) waiving certain points of order during consideration of the bill (H.R. 2699) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

JOHN SUNUNU—A VICTIM OF POLITICAL CANNIBALISM

The SPEAKER pro tempore (Mr. MAZZOLI). Under a previous order of the House, the gentleman from Florida [Mr. MCCOLLUM] is recognized for 5 minutes.

Mr. MCCOLLUM. Mr. Speaker, John Sununu is the victim of political cannibalism.

It happens here in Washington, every once in a while, usually in the heat of summer.

In Rome, they threw Christians to the lions. Our bloodsport today is much more civilized. We feed people like John Sununu to the sharks.

Does it make you sick, Mr. Speaker, to see the compulsive glee that pokes through the masks of self-righteous indignation worn by those throwing stones at the White House chief of staff?

Does the foul stench of envy that permeates each fevered meeting of the bash Sununu cabal fill you with disgust?

Today, the Washington Post ran two stories side by side on page A–5. On the left, reporter Thomas Edsall characterized the Democratic Party as being "unable to develop an agenda backed by strong popular support." Next to this ran the daily Associated Press coverage of the Sununu summer sports. I include these stories for the RECORD.

To me the message of these side by side stories was typical: "If you can't find something nice to say for yourself—malign your neighbor."

There is no nastier side to politics, Mr. Speaker, than what happens when people in this city smell blood. And there is no nastier time for that to happen than when the news is slow, there is a shortage of ideas, and people have a sense that their constituents are unhappy.

I pray that John Sununu will be able to withstand all of the thousands of cuts and stabs he is receiving at the hands of men less worthy than he.

John Sununu has broken no law. John Sununu has served his President and his country fully and ably—and he has done so at tremendous personal sacrifice, especially financial.

Let the Sununu summer sports end.

The First Slice Is Out of Sununu

(By Wesley Pruden)

George Bush is a nice guy, and he pays the price.

So does John Sununu, and if the governor goes—there is no indication that The Washington Post is even close to winning this vendetta—the president and whoever replaces the governor will continue to pay.

This current episode about Mr. Sununu's travels is not actually about his travels, as everyone in Washington knows, but about The Post's pique and the governor's politics.

Nobody in Washington, where waste was invented, cares how much Mr. Sununu or anyone else spends on airplanes or cars or trains, or even steamships, if his tastes should run to the open sea.

If anyone did, Air Congress, the world's most luxurious airline, would have been shut down years ago. Mr. Sununu is a rustic stay-at-home compared with any one of a dozen congressmen who give new meaning to the term "frequent flier." The Air Force has put lots of wear and tear on its planes hauling Les Aspin's girlfriend around the country, for example, and while this may or may not lift the lucky Mr. Aspin's spirits, it doesn't do much for the rest of us.

Dozens of congressmen signed up this year for free rides to the Paris Air Show, many with indulged spouses and spoiled children, and they might be there yet, ordering $25 pickled-herring sandwiches from room service for delivery to $300-a-night suites at the Meriden Hotel, if this newspaper had not reported the looting.

None of this is of any interest to The Post, naturally, because it's not chicanery they're after, but George Bush. The Post was mightily angry when the first round of cannonading at Mr. Sununu began, and instead of congressional Democrats piling on, as expected, the courageous and principled congressmen, with Air Congress suddenly under scrutiny here, ran like the Yankees at First Manassas.

The president knows that Mr. Sununu did nothing bad, or even wrong, when he went to a stamp show in New York City in his government car. He understands that's why the chief of staff has a government car. But The Post, ever mindful of the resentments and frustrations of a constituency that may not live long enough to see another Democratic president, imagines it can portray taking a ride in a government car, which would otherwise be idling in the driveway waiting for Mr. Sununu's return, as the greatest crime since Teapot Dome.

Mr. Sununu makes the argument, which sounds sensible to most of us, that his government travel arrangements to New York were necessary because he must have access to immediate, secure communications with the White House.

"That whole morning I was on the phone constantly to Cabinet members, House and Senate members, White House staff," he says of his drive to New York.

Mr. Bush's weakness is that he's an earnest believer in the Sunday-school maxim that if you treat a fellow right, he'll treat you right.

Washington, alas, ain't Sunday school. What President Bush is looking at is the Great Washington Media Baloney-Slicing Machine, which destroys one minuscule cut at a time. The headline and lead paragraphs of The Post's Page One story reporting how angry the president was at Mr. Sununu was littered with weasel qualifiers like "said to be," "reportedly," "sources said," "apparently," and "believed to," which is the aroma of baloney suddenly in the sun.

The only way Mr. Bush can stop this is to tell The Post to shut up, and hunker down. The capital graveyards are full of Republicans who lie beneath headstones inscribed: "Here lies a fool, who thought amiable reason would appease The Post." (Apologies to R. Kipling.)

Otherwise the attack on John Sununu (and whoever succeeds him) will happen again and again. Someone will see him use a quarter in a pay phone that looks a lot like the quarter that someone thinks he saw in the petty cash drawer, and it won't matter that he's using the quarter to call the fire department to put out the fire at the orphanage for homeless Third World crippled children. The attack will only intensify.

[From the Washington Post, June 24, 1991]

Sununu Bashed

(By Rowland Evans and Robert Novak)

A new wave of bashing that has left an exhausted and bitter John Sununu provides a case study of how Washington operates and where George Bush is vulnerable.

It would seem ludicrous in imperial Washington that an unglamorous limousine ride to New York City would bring the White House chief of staff to a point where a close political associate privately refers to him as an "albatross" around President Bush's neck. The reason lies in Sununu's style and ideology.

After yet another transportation flap involving a trip to Chicago, Sununu over the weekend issued his first partial admission of error. But more than travel regulations are at issue.

Sununu's day off would not have produced week-long front page stories in the nation's great newspapers had it not been for Bush's ambiguity. Although no other subordinate is so critical to the administration's domestic program, the president could not bring himself to give Sununu a totally clean bill of health but instead mused about the need to keep up "appearances."

Actually, concern for appearances shaped Sununu's latest mode of travel. During the previous transportation furor, aides say Bush was most concerned by the chief of staff's use of military aircraft to attend political events. It was decided that like many congressmen, he would use corporate jets for such events—including a pending Republican fund-raiser in New Jersey.

Sununu, an inveterate hobbyist who unlike other Washington power brokers is not consumed by affairs of state, told the president that former Delaware governor Pete du Pont's rare German Zepelin stamps were being sold in Manhattan and that he was tempted to drop by before the Jersey event. Bush urged Sununu to take the day off.

It was then Sununu made two mistakes based on hubris and self-confidence. First, he turned down a colleagues's advice to ride the Amtrak Metroliner to Manhattan, with news media filming his departure. "That would be a concession I should not make," he said. He took a White House limo instead, insisting he should have 24-hour secure communications access to the president. Second, after News-week reported the trip, Sununu went on ABC's David Brinkley program.

Even after Sam Donaldson's blistering, Sununu did not envision the fire-storm. Nor did Republican political wise man Charley Black, who was called on for advice. Why in fact the stamp-buying trip devastated Sununu is more interesting than the trivial incident itself.

The deluge confirmed Sununu's view that The Washington Post is out to get him for non-cooperation. What makes him so discouraged, he tells friends, is that he feels the rest of the news media follow the leader. White House aides most supportive of him see a media vendetta seeking to get even for both Sununu's contemptuous treatment and his ideology.

There is no question Sununu's right-wing views have built a coalition against him never arrayed against James Baker, Howard Baker, Kenneth Duberstein or even Donald Regan. He has antagonized the civil rights, environmental and school lobbies. Perhaps most important is Sununu's suspicion that attacks from sources that might be expected in his corner have come because he is a second-generation Lebanese-American who is not fully supportive of Israel's demands on the United States.

But ideology does not explain all. Sununu has tromped on so many toes the past 2½ years that any petty indiscretion is widely welcomed. He can count on vengeful associates to disclose details of a day off in Manhattan. Even conservatives who ought to be in his cheering section are muted.

Consider one congressman and one administration official, staunch ideological allies who have been engaged in nasty personal confrontations with Sununu. Although the congressman views Sununu as "an instinctive conservative there to remind Bush when he gets off the reservation as no one else would or could," he adds "there is a limit to how dumb a man can be." The administration official regards Sununu as "indispensable to everything we are working for" but cannot forget his hard feelings over personal conflicts.

One colleague who never has exchanged an unpleasant word with Sununu is George Bush. But what transformed the New York incident into a crisis is the perception of incomplete support from the president, who declared "nobody likes the appearance of impropriety." Naturally, the news media reported this and played down presidential comments that "I back him up on this" and critics are "piling on."

Bush uses Richard Nixon as a presidential model, including deployment of hard-nosed chief of staff. But while Nixon defended H.R. Haldeman at his own cost, Bush is seen moving toward possible willingness to throw Sununu over-board if need be for the sake of appearances. In an environment where players constantly seek signs of weakness in their adversaries, that is duly noted.

[From the Washington Times, June 24, 1991]

How the Driving Game Is Played

(By Patrick Buchanan)

Last week, two friends, walking by the White House, were held up by police as a quarter-mile-long motorcade roared out of the main driveway onto Pennsylvania Avenue, police sirens blaring.

Mused one, "Must be Sununu going to lunch."

"George Bush has taken up jogging again," jokes late night comic Jay Leno, "Sununu's taken his car."

There is blood in the water here. Regular mention in Jay Leno or Johnny Carson's monologue means big trouble. The next (often final) scene for an appointed official is the appearance, at 6 a.m., at the end of the driveway, of the "death watch"— a camera crew set up for a shot of the soon-to-be-deceased, as he departs for work. Few survive after a death watch begins.

Why is Mr. Sununu in trouble? In part, because he has asked for it.

After those 70 or 80 trips on military jets surfaced in the press, unsettling President Bush, John Sununu should have realized he was cut and bleeding, and the sharks had a scent. Using a White House car to drive to New York, on a weekday, to make $5,000 in buys for a stamp collection, opened a major artery, persuading the sharks to go in for the kill. As for soliciting corporations for company jets to fly him to speaking engagements, well, that borders on the suicidal. (Mr. Sununu admitted Saturday that "some mistakes were made" regarding his travels and he would now pay more attention to the rules.)

One more deep cut, and Mr. Sununu becomes a liability Democrats will exploit in 1992. His enemies who are legion, and Mr. Bush's friends who are looking to better the Nixon and Reagan 49-state landslides, will move. At which point, Mr. Sununu belongs to the ages.

That would be regrettable, because John Sununu has not only been a portrait in loyalty, he has been an excellent White House chief of staff.

The loyalty was exhibited early on when the New Hampshire governor stomped up to a closed TV station, the Saturday before the Tuesday primary, demanding it open its doors and run a weekend of new attack ads on Bob Dole's tax stand that guaranteed a big win and the Republican presidential nomination for Mr. Bush.

No one but Barbara Bush did more to make George Bush president.

Together with the president, John Sununu has made this White House a place where, until recently, the back-stabbing leak was an uncommon event. That Mr. Bush has defied predictions and emerged with an approval rating Dwight Eisenhower or John Kennedy would have envied is in part a tribute to the engineer who runs his staff.

Mr. Sununu, however, shares several attitudes and attributes with his predecessors H.R. Haldeman and Donald T. Regan. First is total loyalty to the man he serves. Second is that he refuses to feed the press those delicious scraps that fall from the Oval Office and Cabinet tables. Third, he relishes the role of tough customer, does not take pains to make himself popular, and engages from time to time in that most dangerous of local sports, press-baiting.

But an unfed press is an unhappy press; and those who keep it unfed ought to make certain they do not come within biting distance of the beasts. In conversation with The Washington Times' Paul Bedard, three colleagues admitted they would like to take Mr. Sununu out: "I'd like to get that fat—." said one affectionately.

Is the press being neutral, objective and fair? Of course not. Journalists are human beings, too. They take care of those who take care of them, and they take care of those who do not take care of them.

Illinois Rep. Dan Rostenkowski, for example, is one of the best-liked men in Washington. The morning we read of John Sununu's $300 car ride to New York, it was revealed that Danny had raked in—in 1990 alone—$310,000 in speaking fees. Though he gave nine-tenths to charity—(Are the Catholics building a St. Danny's Cathedral in Chicago?)—no one is on Mr. Rostenkowski's case. Nor were they on Pennsylvania Rep. Bill Gray's case, who reported $60,000 in speaking fees, four trips to the Caribbean at taxpayers' expense, and four more to Florida.

Danny Rostenkowski is part of the permanent city; and the media know there is nothing they can do. He is, after all, elected. But if the press can make Mr. Sununu into an albatross—as they did Earl Butz, Bert Lance, Jim Watt and Don Regan—to the Oval Office, they can take him out. That's the game now.

Another sign Mr. Sununu has begun to bleed is the White House mice, silent for two years, have begun squealing to the press. Mr. Sununu's decision to run a frugal White House—not conferring the high salaries, fancy titles and White House mess privileges on all speechwriters, for example—may be coming back to bite him.

One aide told The Washington Post that Mr. Bush himself was "upset, angry and perplexed" over the stamp-collecting expedition. As that is the kind of leak that enrages a president, unless he wants it leaked, this does not bode well.

My own hope is that Mr. Sununu survives. First, because his lapses in judgment do not justify the capital punishment this city imposes on politicians it does not like. Second, because the press is indeed "piling on," as Mr. Bush says. (Sometimes you have to root for the bull to unhorse and gore a few picadors). Third, whenever the press brands someone arrogant, obnoxious and snooty, usually the fellow has let the press know of his contempt. Folks who do that are often the gutsiest and most interesting people in a city that demands obeisance and conformity, especially of its new arrivals.

But were I Big Bad John, I would cancel most speeches, back out of all those presidential photos, fly American or Delta, and if there is a stamp auction, take Trailways or Greyhound, and leave the driving to us.

☐ 1710

GENERAL LEAVE

Mr. McCOLLUM. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Florida?

There was no objection.

H.R. 2730, PENSION ACCESS AND SIMPLIFICATION ACT OF 1991

The Speaker pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing a very important piece of legislation, H.R. 2730, the Pension Access and Simplification Act of 1991. This bill is designed to address a major problem that we face in the delivery of adequate retirement benefits to America's workers. The rules have become so complex that employers—particularly small employers—are discouraged from establishing and maintaining qualified pension plans for their employees.

The Pension Access and Simplification Act addresses this problem by establishing a simplified retirement plan designed specifically for small business. This bill would allow small employers to set up a plan that encourages employees to take an active role in saving for their retirement without imposing on the employer the significant administrative costs generally associated with pension plans. In addition, the bill would maintain the underlying policy goal of assuring that all employees, and not just highly compensated employees, have adequate retirement benefits when they retire.

The bill would expand access to qualified pension plans by permitting State and local governments and tax-exempt organizations to maintain qualified cash or deferred arrangements [404(k) plans] for their employees.

In addition to improving access to qualified pension plans, the Pension Access and Simplification Act would significantly simplify the Federal rules applicable to qualified pension plans. These provisions not only would reduce the administrative burdens on employers who maintain qualified plans, but they also would reduce complexity faced by individual taxpayers. The provisions of the bill that simplify the rules relating to the taxation of distributions from qualified pension plans would benefit the 16 million individual taxpayers who currently receive benefits from such plans, as well as those who will receive benefits in the future.

Mr. Speaker, I am fully committed to the pay-as-you-go financing requirements enacted in last year's budget agreement. Thus, it is my intention to ensure that any simplification bill or, for that matter, any bill that is reported by the Committee on Ways and Means will not increase the Federal budget deficit. I have worked hard to make sure that this bill satisfies that requirement. Difficult decisions were required to ensure that the bill does not lose revenue over the budget period or in any year of the budget period. The Pension Access and Simplification Act would accomplish the goals of improving access to qualified pension plans and simplifying the rules relating to these plans in a manner that does not violate the pay-as-you-go requirements of last year's budget agreement.

Mr. Speaker, as with any revenue-neutral simplification effort, there will be winners and losers under this bill. Some people will criticize this bill because they are being asked to finance increased pension access and simplification. But, Mr. Speaker, in order to achieve significant simplification in this area, we must be ready to make the tough decisions. This bill will test the resolve of those who say they are committed to simplification of our Nation's private pension system.

Mr. Speaker, the Pension Access and Simplification Act will take a major step toward the simplification and rationalization of our private pension system. I have asked the Subcommittee on Select Revenue Measures to hold hearings on this bill next month. I hope that we will receive useful input from employers and practitioners who are forced to deal with the many layers of Federal regulation of pension plans on a daily basis.

For the record, I am including the following summary and technical explanation of the provisions of H.R. 2730, the Pension Access and Simplification Act.

SUMMARY OF THE PENSION ACCESS AND SIMPLIFICATION ACT OF 1991

I. SIMPLIFIED DISTRIBUTION RULES

1. Liberalization of rollover rules—The bill would allow an employee or surviving spouse to roll over any portion of a distribution he or she receives from a qualified retirement plan, unless the distribution is (1) a minimum distribution required under the Internal Revenue Code or (2) part of a stream of annuity payments payable over a period of 5 years or more, or over the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and his or her beneficiary.

2. Repeal of rules for lump-sum and other distributions that are no longer necessary—The bill would repeal (1) 5-year forward income averaging for lump-sum distributions, (2) the $5,000 death benefit exclusion, and (3) the exclusion of net unrealized appreciation of employer securities. These rules would no longer be necessary because of the liberalization of the rollover rules under the bill. Effective in 1993, the bill would also repeal the grandfather rule under the Tax Reform Act of 1986 that allowed certain individuals to elect 5- or 10-year averaging. Under a special transition rule, taxpayers could elect to apply the grandfather rule with respect to 50 percent of a lump-sum distribution received in 1992. The other 50 percent would be subject to the new rules under the bill and could, for example, be rolled over tax free under the rollover provisions of the bill.

3. Simplified basis recovery rules—The bill would provide a simplified rule under which employees can determine the portion of a pension distribution that represents nontaxable return of basis.

4. Elective trustee-to-trustee transfers—The bill would require plans to allow participants to elect to have distributions transferred directly to another qualified plan rather than receiving the distribution themselves. To give employers sufficient time to implement this rule, the requirement would not take effect until 1993.

II. INCREASED ACCESS TO PENSIONS

1. Simplified salary reduction plan for small employers—The bill would establish a new simplified retirement program for employees of small businesses. Employers with 100 or fewer employees and no other retirement plan would be relieved from testing for nondiscrimination if they make a base contribution of 3 percent of pay (up to $100,000) for each eligible employee, (Employers who terminate another plan to establish a simplified plan would be required to contribute 5 percent of pay). Employees could elect to contribute additional amounts to the plan up to $5,000 on a pre-tax basis. Also, employers could match up to 50 percent of each employee's contribution. These programs would be available to qualifying private employers, State and local governments, and tax-exempt organizations.

2. Cash or deferred arrangements for State and local governments and tax-exempt employers—The bill would make cash or deferred arrangements available to tax-exempt employers beginning in 1992, and to State and local governments beginning in 1995.

3. Preapproved master and prototype plans—The bill would permit the Internal Revenue Service to prescribe rules defining the duties and responsibilities of sponsors of preapproved master and prototype retirement plans. These plans can be adopted by employers to relieve them of the burden of keeping abreast of changes in retirment plan law and amending their plans to conform with such changes.

III. MISCELLANEOUS SIMPLIFICATION

1. Simplified definition of leased employee—The bill would narrow the application of the employee leasing rule by repealing the present-law "historically performed" test and replacing it with a "direction or control" test.

2. Simplified testing for section 401(k) plans.—The bill would replace the present-law two-prong nondiscrimination test for elective contributions under cash or deferred arrangement with a single test that would be applied at the beginning of each year. Under the test, each highly compensated employee could defer up to 200 percent of the average deferral percentage of eligible nonhighly compensated employees for the prior year. A similar rule would apply to employer matching and employee after-tax contributions.

3. Simplified definition of highly compensated employee—The bill would narrow the definition of highly compensated employee by defining a highly compensated employee as someone who makes more than $65,000 (indexed) or is a 5 percent owner. The bill would also eliminate the family aggregation rules for employees who are not 5 percent owners and would reduce the number of family members that must be aggregated.

4. Timely publication of cost-of-living adjustments—The bill would require that the cost-of-living increases to qualified plan dollar limits be published before the beginning of the plan year, and that such limits be rounded to the nearest $1,000 or $100.

5. Elimination of half-year requirements—The bill would change the rules under present law that are keyed to ages 59½ and 70½ to ages 59 and 70, respectively.

6. Conform plans covering self-employed individuals—The bill would conform most of the rules governing Keogh plans to those applicable to other qualified plans.

7. Establish alternative full funding limitation—The bill would permit certain employers to elect an alternative full funding limitation with respect to any defined benefit plan based solely on the accrued liability under the plan. The Secretary would be required to adjust the 150-percent of current liability full funding limit for other plans so than the provision is revenue neutral.

8. Permit distributions after age 59 from rural cooperative plans—The bill would conform the rules for distributions from cash or deferred arrangements by providing that a rural cooperative plan that includes a qualified cash or deferred arrangement will not be disqualified merely by reason of a distribution to a participant after the attainment of age 59.

9. Allow separate nondiscrimination testing for nonunion air pilots—The bill would treat certain nonunion air pilots as a separate class of employees for nondiscrimination testing purposes.

10. Conform vesting schedules of multiemployer plans—The bill would require multiemployer plans to comply with the vesting schedules applicable to other qualified plans, by eliminating the special 10-year cliff vesting schedule available to such plans under present law. This provision would apply to plan years beginning after the expiration of the collective bargaining agreement pursuant to which the plan is maintained, but not later than the 1994 plan year.

11. Expanded definition of retirement age—The bill would provide that the social security retirement age (not age 65) is generally the maximum normal retirement age.

IV. EFFECTIVE DATE

Except as otherwise indicated above, the provisions of the bill generally would be effective for years beginning after December 31, 1991.

TECHNICAL EXPLANATION OF THE BILL

A. Title I—Simplified Distribution Rules (secs. 101–103 of the bill and secs. 72, 101(b), 401, 402, and 403 of the Code):

PRESENT LAW

In general

Under present law, a distribution of benefits from a tax-favored retirement arrangement generally is includible in gross income in the year it is paid or distributed under the rules relating to the taxation of annuities. A tax-favored retirement arrangement includes (1) a qualified pension plan (sec. 401(a)), (2) a qualified annuity plan (sec. 403(a)) and (3) a tax-sheltered annuity (sec. 403(b)). Special rules apply in the case of lump-sum distributions from a qualified plan, distributions that are rolled over to an individual retirement arrangement (IRA), distributions of employer securities, and employer-provided death benefits.

Rollovers

Under present law, a total or partial distribution of the balance to the credit of an employee under a qualified plan, a qualified annuity plan, or a tax-sheltered annuity may, under certain conditions, be rolled over tax free to an IRA or another qualified plan or annuity (secs. 402(a), (403(a), and 403(b)). A rollover of a partial distribution is permitted if (1) the distribution equals at least 50 percent of the balance to the credit of the employee, (2) the distribution is not one of a series of periodic payments, (3) the distribution is made on account of death, disability, or separation from service, and (4) the employee elects rollover treatment. A partial distribution may only be rolled over to an IRA and not to another qualified plan.

The maximum amount of a distribution that can be rolled over is the amount of the distribution that would otherwise be taxable. That is, after-tax employee contributions cannot be rolled over. In addition, minimum required distributions (sec. 401(a)(9)) may not be rolled over. The rollover must be made within 60 days after the distribution is received.

Lump-sum distributions

Under present law, lump-sum distributions from qualified plans and annuities are eligible for special 5-year forward income averaging (sec. 402(e)). In general, a lump-sum distribution is a distribution within one taxable year of the balance to the credit of an employee which becomes payable to the recipient (1) on account of the death of the employee, (2) after the employee attains age 59½, (3) on account of the employee's separation from service, or (4) in the case of self-employed individuals, on account of disability. In addition, a distribution is treated as a lump-sum distribution only if the employee has been a participant in the plan for at least 5 years before the year of the distribution. Lump-sum treatment is not available for distributions from tax-sheltered annuity contracts (sec. 403(b)).

A taxpayer is permitted to make an election with respect to a lump-sum distribution received on or after the employee attains age 59½ to use 5-year forward income averaging under the tax rates in effect for the taxable year in which the distribution is made. However, only one such election on or after age 59½ may be made with respect to any employee.

Special transition rules adopted in the Tax Reform Act of 1986 are available with respect to an employee who attained age 50 before January 1, 1986. Under these rules, an individual, trust, or estate may elect to use 5-year forward averaging (using present-law tax rates) or 10-year forward income averaging (using the tax rates in effect prior to the Tax Reform Act of 1986) with regard to a single lump-sum distribution, without regard to whether the employee has attained age 59½. In addition, an individual, trust, or estate receiving a lump-sum distribution with respect to such employee may elect to retain the capital gains character of the pre-1974 portion of the lump-sum distribution (using a tax rate of 20 percent).

Net unrealized appreciation

Under present law, a taxpayer is not required to include in gross income amounts received in the form of a lump-sum distribution to the extent that the amounts are attributable to net unrealized appreciation in employer securities (sec. 402(a)). Such unrealized appreciation is includible in gross income when the securities are sold or exchanged. The special treatment of net unrealized appreciation applies only if a valid lump-sum distribution election is made, but disregarding the 5 plan years of participation requirement for lump-sum distributions.

In addition, gross income does not include net unrealized appreciation on employer securities attributable to employee contributions, regardless of whether the securities are received in a lump-sum distribution. Such appreciation is includible in income when the securities are disposed of.

Employer-provided death benefits

Under present law, the beneficiary or estate of a deceased employee generally can exclude up to $5,000 in benefits paid by or on behalf of an employer by reason of the employee's death (sec. 101(b)).

Recovery of basis

Qualified plan distributions other than lump-sum distributions generally are includible in gross income in the year they are paid or distributed under the rules relating to taxation of annuities (sec. 402). Amounts received as an annuity generally are includible in income in the year received, except to the extent they represent the return of the recipient's investment in the contract (i.e., basis) (sec. 72). Under present law, a pro-rata basis recovery rule generally applies, so that the portion of any annuity payment that represents nontaxable return of basis is determined by applying an exclusion ratio equal to the employee's total investment in the contract divided by the total expected payments over the term of the annuity. The total expected payments depends on the form of the payment, e.g., a single-life annuity, an annuity with payments guaranteed for a specified number of years, or a joint and survivor annuity. For example, if benefits are paid in the form of an annuity during the life of the employee, the expected payments are calculated by multiplying the annual payment amount by the employee's life expectancy on the annuity starting date. If benefits are paid in the form of a joint and survivor annuity, then the total expected return depends on the life expectancies of both the primary annuitant and the person who is to receive the survivor annuity. The IRS has issued tables of life expectancies that are used to calculate expected returns.

Under a simplified alternative method provided by the Internal Revenue Service (IRS) (Notice 88-118) for payments from or under qualified retirement arrangements, the taxable portion of qualifying annuity payments is determined under a simplified exclusion ratio method. Under the simplified method, the portion of each annuity payment that represents nontaxable return of basis is equal to the employee's total investment in the contract (including the $5,000 death benefit exclusion under section 101(b), to the extent applicable), divided by the number of anticipated payments listed in a table published by the IRS. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. The simplified method is available if (1) the annuity payments depend on the life expectancy of the recipient (or the joint lives of the recipient and his or her beneficiary), and (2) the recipient is less than age 75 on the annuity starting date or there are fewer than 5 years of guaranteed payments under the annuity.

Under both the pro rata and simplified alternative methods, in no event will the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

REASONS FOR CHANGE

In almost all cases, the burden of determining the extent to which and how a distribution from a qualified plan, tax-sheltered annuity, or IRA is taxed rests with the individual receiving the distribution. Under present law, this task can be burdensome. Among other things, the taxpayer must consider (1) whether special tax rules (e.g., 5- or 10-year income averaging or the special treatment of net unrealized appreciation) apply that reduce the tax that otherwise would be paid, (2) whether the distribution is eligible to be rolled over to another qualified plan, tax-sheltered annuity, or IRA, (3) the amount of the taxpayer's basis in the plan, annuity, or IRA and the rate at which such basis is to be recovered, and (4) whether or not a portion of the distribution is excludable from income as a death benefit. Simplifying these rules could benefit as many as 16 million individual taxpayers.

The number of special rules for taxing pension distributions makes it difficult for taxpayers to determine which method is best for them and also increases the likelihood of error. In addition, the specifics of each of the rules create complexity. For example, the present-law rules for determining the rate at which a participant's basis in a qualified plan is recovered often entail calculations that the average participant has difficulty performing. These rules require a fairly precise estimate of the period over which benefits are expected to be paid. The IRS publication on taxation of pension distributions (Publication 939) contains over 60 pages of actuarial tables used to determine total expected payments.

The complexity of the restrictions on rollovers under present law (e.g., the 60-day rule) lead to numerous inadvertent failures to satisfy the rollover requirements. The rules relating to net unrealized appreciation in employer securities create recordkeeping and basis-tracking problems for participants and the IRS and treat distributions of employer securities more favorably than other distributions from qualified plans.

Results similar to those under present law can be obtained without the complexity added by the special tax rules of present law. For example, liberalization of the rollover rules will increase the flexibility of taxpayers in determining the timing of the income inclusion of pension distributions and eliminate the need for special rules such as 5- and 10-year averaging and the special rules for unrealized appreciation on employer securities.

EXPLANATION OF PROVISIONS

In general

The bill expands the circumstances in which a distribution may be rolled over tax free and, in conjunction with such expansion, repeals 5- and 10-year averaging for lump-sum distributions from qualified plans, the special rules for unrealized appreciation in employer securities, and the $5,000 death benefit exclusion. The bill also simplifies the basis recovery rules applicable to distributions from qualified plans and requires that qualified plans give participants the option of having a distribution transferred directly to an IRA.

Rollovers

Under the bill, any portion of any distribution to the employee or the surviving spouse of the employee (other than a minimum required distribution (sec. 401(a)(9)) may be rolled over tax free to an IRA or another qualified plan or annuity, unless the distribution is part of a series of substantially equal payments made (1) over the life (or life expectancy) of the participant or the joint lives (or joint life expectancies) of the participant and his or her beneficiary, or (2) over a specified period of 5 years or more. The present-law prohibition on rolling over employee contributions is retained due to recordkeeping concerns.

Lump-sum distributions

The bill repeals the general 5-year forward averaging rule, as well as the transition rules under the Tax Reform Act of 1986 relating to 5- and 10-year averaging and capital gains treatment.

Net unrealized appreciation

The bill also repeals the exclusion from income of net unrealized appreciation of employer securities. Distributions of employer securities are taxed the same as other distributions.

Employer-provided death benefits

Under the bill, the exclusion from gross income of up to $5,000 in employer-provided death benefits is repealed.

Recovery of basis

Under the bill, the portion of an annuity distribution from a qualified retirement plan, qualified annuity, or tax-sheltered annuity that represents nontaxable return of basis generally is determined under a method similar to the present-law simplified alternative method provided by the Internal Revenue Service. Under the simplified method provided in the bill, the portion of each annuity payment that represents nontaxable return of basis generally is equal to the employee's total investment in the contract as of the annuity starting date, divided by the number of anticipated payments determined by reference to the age of the participant listed in the table set forth in the bill. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. If the number of payments is fixed under the terms of the annuity, that number is to be used instead of the number of anticipated payments listed in the table.

The simplified method does not apply if the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity. If in connection with commencement of annuity payments, the recipient receives a lump-sum payment that is not part of the annuity stream, such payment is taxable under the rules relating to annuities (sec. 72) as if received before the annuity starting date, and the investment in the contract used to calculate the simplified exclusion ratio for the annuity payments is reduced by the amount of the payment. As under present law, in no event will the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Direct transfers to IRAs or other eligible transferee plans

Under the bill, a qualified retirement or annuity plan must permit participants to elect to have any distribution that is eligible for rollover treatment transferred directly to an eligible transferee plan specified by the participant. An eligible transferee plan is an IRA, a qualified retirement plan, or a qualified annuity plan (sec. 403(a)). Amounts transferred to an eligible transferee plan are includible in income when distributed from the transferee plan in accordance with the rules applicable to that plan.

Before making an eligible rollover distribution, the plan administrator is required to provide a written explanation to the participant of the direct transfer option. When making a distribution not in the form of a direct transfer, the administrator must provide a written explanation of the 60-day rollover limitation period.

EFFECTIVE DATE

The provisions are generally effective for years beginning after December 31, 1991.

The grandfather rules under the Tax Reform Act of 1986 and the present-law 5-year averaging provision apply to 50 percent of any lump-sum distribution received in taxable years beginning in 1992. The other 50 percent of such a distribution is subject to the rules of the bill regarding taxation of distributions and may, for example, be rolled over tax free under the rollover provisions of the bill. The repeal of the grandfather rules under the Tax Reform Act of 1986 applies to amounts distributed in a taxable year beginning after December 31, 1992.

The provision relating to trustee-to-trustee transfers is effective for years beginning after December 31, 1992.

B. Title II—Increased Access to Pension Plans:

1. Simplified salary reduction arrangements for small employers (sec. 201 of the bill and sec. 408(k)(6) of the Code)

PRESENT LAW

Under present law, certain employers (other than tax-exempt and governmental employers) can establish a simplified employee pension (SEP) for the benefit of their employees under which the employees can elect to have contributions made to the SEP or to receive the contributions in cash (sec. 408(k)(6)). If an employee elects to have contributions made on the employee's behalf to the SEP, the contribution is not treated as having been distributed or made available to the employee. In addition, the contribution is not treated as an employee contribution merely because the SEP provides the employee with such an election. Therefore, an employee is not required to include in income currently the amounts the employee elects to have contributed to the SEP. Elective deferrals under a SEP are to be treated in the same manner as elective deferrals under a qualified cash or deferred arrangement and, thus, are subject to the $8,475 (indexed) cap on elective deferrals.

The election to have amounts contributed to a SEP or received in cash is available only if at least 50 percent of the employees of the employer elect to have amounts contributed to the SEP. In addition, such election is available for a taxable year only if the employer maintaining the SEP had 25 or fewer eligible employees at all times during the prior taxable year.

Under present law, elective deferrals under SEPs are subject to nondiscrimination standards. The amount eligible to be deferred as a percentage of each highly compensated employee's compensation (i.e., the deferral percentage) is limited by the average deferral percentage (based solely on elective deferrals) for all nonhighly compensated employees who are eligible to participate. The deferral percentage for each highly compensated employee (taking into account only the first $222,220 (indexed) of compensation) cannot exceed 125 percent of the average deferral percentage for all other eligible employees. Nonelective SEP contributions may not be combined with the elective SEP deferrals for purposes of this test. An employer may not make any other SEP contributions conditioned on elective SEP deferrals. If the 125-percent test is not satisfied, rules similar to the rules applicable to excess contributions to a cash or deferred arrangement is to apply.

If any employee is eligible to make elective SEP deferrals, all employees satisfying the participation requirements must be eligible to make elective SEP deferrals. Employees satisfying the participation requirements are those employees who (1) have attained age 21, (2) have performed services for the employer during at least 3 of the immediately preceding 5 years, and (3) received at least $363 (indexed) in compensation from the employer for the year. An employee can participate even though he or she is also a participant in one or more other qualified retirement plans sponsored by the employer. However, SEP contributions are added to the employer's contribution to the other plans on the participant's behalf in applying the limits on contributions and benefits (sec. 415).

REASONS FOR CHANGE

Although generous, the tax incentives for pension plans under present law have not significantly improved pension coverage for employees of small businesses. One of the reasons small employers may fail to establish pension plans for employees is because of the administrative costs and burdens attributable to such plans.

While present-law SEPs already provide a low-cost retirement savings option to employers, it is believed that further simplification and broadening of the SEP rules will encourage more small employers to establish plans for their employees. In particular, it is believed that making salary deferral SEPs available to a larger number of employers and providing a design-based qualification test for such SEPs (in lieu of applying nondiscrimination standards) will encourage small employers to establish plans for their employees.

The exemption from nondiscrimination standards for small employer salary deferral SEPs is a departure from the rule that tax-favored retirement plans must be tested for prohibited discrimination in favor of highly compensated employees. In general, nondiscrimination rules are critical to both sound tax and retirement policy. However, because of the complexity of the present-law rules and the resulting burden they place on small employers, a targeted exception to the general rule is appropriate for small employers. In all other cases, nondiscrimination testing will continue to apply.

EXPLANATION OF PROVISIONS

The bill repeals the present-law rules applying to salary reduction arrangements under a SEP and replaces them with new rules that simplify the administration of such arrangements.

Under the bill, employers (including tax-exempt and State and local government employers) who do not maintain a qualified plan and who had no more than 100 employees eligible to participate in a SEP on each day of the preceding plan year can maintain a qualified salary reduction arrangement for their employees. The arrangement must satisfy the following requirements to be a qualified arrangement. First, the employer must contribute to each eligible employee's SEP an amount equal to 3 percent of the employee's compensation for the year (not in excess of $100,000 (indexed)). This percentage is increased to 5 percent if the employer or any predecessor employer maintained a qualified plan (other than a SEP) during either of the 2 years preceding the year in which the salary deferral SEP is established.

Second, each eligible employee must be permitted to make salary reduction contributions to the SEP of up to a maximum of $5,000 (indexed) per year.[1]

Third, the employer may make matching contributions to each employee's SEP equal to no more than 50 percent of the elective contributions made on behalf of the employee. The level of the employer's matching contribution may not increase as an employees elective contribution increases, and may not be greater for any highly compensated employee at any level of compensation than for any nonhighly compensated employee at that level.

If these conditions are satisfied, the arrangement is a qualified salary reduction arrangement that can be maintained under a SEP. The qualified arrangement is not subject to nondiscrimination testing requirements. In addition, it is intended that a qualified salary reduction arrangement will be deemed to satisfy the minimum benefit requirements of the top-heavy rules (sec. 416(c)(2)).

Under the bill, an employer maintaining a salary reduction SEP is required to provide a description of the SEP to eligible employees.

EFFECTIVE DATE

The provision is generally effective with respect to years beginning after December 31, 1991.

Under a transition rule, salary reduction SEPs established before the date of enactment are not subject to the new rules contained in the bill regarding qualified salary reduction arrangements unless the employer elects to have the new rules apply for any year and all subsequent years. Employers who do not make such an election are subject to the rules in effect for years beginning before January 1, 1992.

2. Repeal of limitation on ability of State and local governments and tax-exempt employers to maintain cash or deferred arrangements (sec. 202 of the bill and secs. 401(k) and 408(k)(6) of the Code).

PRESENT LAW

Under present law, if a tax qualified profit-sharing or stock bonus plan meets certain requirements, then an employee is not required to include in income any employer contributions to the plan merely because the employee could have elected to receive the amount contributed in cash (sec. 401(k)). Plans containing thie feature are referred to as cash or deferred arrangements. State and local governments and tax-exempt organizations are generally prohibited from establishing qualified cash or deferred arrangements. Because of this limitation, many of such employers are precluded from maintaining broad-based, funded elective deferral arrangements for their employees.

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[1] Of course, the employer may limit contributions to the extent necessary to ensure compliance with the limits on contributions and benefits (sec. 415).

REASONS FOR CHANGE

State and local governments and tax-exempt entities should be permitted to maintain cash or deferred arrangements for their employees on the same basis as other employers.

EXPLANATION OF PROVISION

The bill allows State and local governments and tax-exempt organizations to maintain cash or deferred arrangements. As under present law, the limitation on the amount that may be deferred by an individual participating in both a cash or deferred arrangement and another elective deferral arrangement applies.

EFFECTIVE DATE

The provision applies to tax-exempt organizations with respect to plans established after December 31, 1991, and to governmental employers with respect to plans established after December 31, 1994.

3. Duties of master and prototype plan sponsors (sec. 203 of the bill)

PRESENT LAW

The Internal Revenue Service (IRS) master and prototype program is an administrative program under which trade and professional associations banks, insurance companies, brokerage houses, and other financial institutions can obtain IRS approval of model retirement plan language and then make these preapproved plans available for adoption by their customers, investors, or association members. Rules regarding who can sponsor master and prototype programs, the prescribed format of the model plans, and other matters relating to the program are contained in revenue procedures and other administrative pronouncements of the IRS.

The IRS also maintains related administrative programs that authorize advance approval of model plans prepared by law firms and others, i.e., the regional prototype plan program and volume submitter program.

REASONS FOR CHANGE

As the laws relating to retirement plans have become more complex, employers have experienced an increase in the frequency and cost of amending plans and of the burdens of administering the plans. Master and prototype plans reduce these costs and burdens, particularly for small- to medium-sized employers, and improve IRS administration of the retirement plan rules. Today, the majority of employer-provided qualified retirement plans, including qualified cash or deferred arrangements (sec. 401(k) plans), simplified employee pensions (SEPs) and individual retirement arrangements (IRAs) are approved master and prototype plans. The Treasury and the IRS believe that the further expansion of the master and prototype program is desirable, but that statutory authority authorizing the IRS to specifically define the duties of master and prototype sponsors should be obtained before the program becomes more widley utilized.

EXPLANATION OF PROVISION

The bill authorizes the IRS to define the duties of organizations that sponsor master and prototype regional prototype, and other preapproved plans, including mass submitters. These duties would become a condition of sponsoring preapproved plans. The bill is not intended to be interpreted as diminishing the IRS's administrative authority with respect to the master and prototype, regional prototype, or similar programs, including the authority to define who is eligible to sponsor prototype plans, or to create other rules relating to these programs. Rather, it is intended to create a system of sponsor accountability, subject to IRS monitoring, that will give adopters of master and prototype and other preapproved plans a level of protection, comparable to that in the regional prototype plan program, against failure by master and prototype and other plan sponsors to fulfill certain obligations.

The bill thus authorizes the IRS to prescribe duties of sponsors of prototype and other preapproved plans that include, but are not limited to, maintaining annually current lists of adopting employers and providing certain annual notices to adopting employers and to the IRS. While reflecting the IRS's own requirements in its regional prototype plan procedure, the bill does not require the IRS to mandate a master and prototype accountability system that is identical to the regional prototype plan procedure. The bill also authorizes the IRS to prescribe such other reasonable duties that are consistent with the objective of protecting adopting employers from a sponsor's failure to amend a plan in a timely manner or to communicate amendments or other notices required by the IRS's procedures.

The bill authorizes the IRS to define the duties of preapproved plan sponsors that relate to providing administrative services to the plans of adopting employers. This is not intended to obligate sponsors to undertaken the complete day-to-day administration of the plans they sponsor (although it does not preclude the IRS from mandating the performance of specific functions), but to protect employers against loss of qualification merely because of ignorance of the possible need to arrange for such services or the unavailability of professional assistance from parties familiar with the sponsor's plan.

It is thus intended that, at a minimum, sponsors should (1) advise adopting employers that failure to arrange for administrative services to the plan may significantly increase the risk of disqualification and resulting sanctions, and (2) furnish employers with the name of firms that are familiar with the plan and can provide professional administrative service. Of course, this would not preclude the sponsor from providing that service itself.

The bill should not be construed as creating fiduciary relationships or responsibilites under Title I of ERISA that would not exist in the absence of the provision.

To the exent he deems reasonably necessary to carry out the purposes of this provision of the bill, the Secretary is authorized to issue regulations that permit the relaxation of the anti-cutback rules contained in ERISA (Sec. 204(g)) and the Code (sec. 411(d)(6)) when employers replace an individually designed plan with an IRS mode plan, provided that the rights of participants to accured benefits under the individually designed plan are not significantly impaired. This will facilitate the shift by employers from individually designed plans to IRS model plans.

C. TITLE III—MISCELLANEOUS SIMPLIFICATION

1. Definition of leased employee (sec. 301 of the bill and sec. 414(n) of the Code)

PRESENT LAW

An indivdual (a leased employee) who performs services for another person (the recipient) may be required to be treated as the recipient's employee for various employee benefit provisions if the services are performed pursuant to an agreement between the recipient and a third person (the leasing organization) who is otherwise treated as the individual's employer (sec. 414(n)). The individual is to be treated as the recipient's employee only if the individual has performed serivces for the recipient on a substnatially full-time basis (i.e., at least 1500 hours under regulations) for a year, and the services are of a type historically performed by employees in the recipient's business field.

An indvidual who otherwise would be treated as a recipient's leased employee will not be treated as such an employee if the individual participates in a safe harbor plan maintained by the leasing organization meeting certain requirements. Each leased employee is to be treated as an employee of the recipient, regardless of the existence of a safe-harbor plan, if more than 20 percent of an employer's nonhighly compensated workforce are leased.

REASONS FOR CHANGE

The leased employee rules are complex and have unexpected and sometimes indefensible results, especially as interpreted under regulations proposed by the Secretary. For example, under the "historically performed" standard, the employees and partners of a law firm may be the leased employees of a client of the firm if they work a sufficient number of hours for the client and if it is not unusual for employers in that business field to have in-house counsel. While arguably meeting the present-law leased employee definition, situations such as this are outside the originally intended scope of the rules.

EXPLANATION OF PROVISION

Under the bill, the present-law "historically performed" test is replaced with a new rule defining who must be considered a leased employee. Under the bill, an individual is not considered a leased employee unless the services are performed under any significant direction or control by the Service recipient. As under present law, the determination of whether someone is a leased employee is made after determining whether the individual is a common-law employee of the service recipient. Thus, an individual who is not a common-law employee of the service recipient may nevertheless be a leased employee of the service recipient. Similarly, the fact that a person is or is not found to perform service under the significant direction or control of the recipient for purposes of the employee leasing rules is not relevant in determining whether the person is or is not a common-law employee of the recipient.

Whether a service recipient has significant direction or control over the services performed by an individual depends on the facts and circumstances. Factors that are relevant in determining whether significant direction or control exists include whether the individual is required to comply with instructions of the service recipient about when, where, and how he or she is to work, whether the services must be performed by a particular person, whether the individual is subject to the supervision of the service recipient, and whether the individual must perform services in the order or sequence set by the service recipient. Factors that would generally not be relevant in determining whether such direction or control exists include whether the service recipient has the right to hire or fire the individual, whether the individual works for others, and whether the individual has a significant investment in facilities or equipment used by the individual in performing the services.

For example, an individual who works under the direct supervision of the service recipient would be considered to be subject to the significant direction or control of the service recipient even if another company hired and trained the individual, had the ultimate (but unexercised) legal right to control the individual, paid his wages, withheld his employment and income taxes, and had exclusive right to fire him.

On the other hand, an individual who is a common-law employee of Company A who performs services for Company B on the business premises of the Company B under the supervision of Company A would generally not be considered to be under the direction or control of Company B. The supervision by Company A must be more than nominal, however, and not merely a mechanism to avoid the literal language of the direction or control test.

Under the direction or control test, clerical and similar support staff (e.g., secretaries and nurses) generally would be considered to be subject to the direction or control of the service recipient and would be leased employees provided the other requirements of section 414(n) are met.

In many cases, the present-law "historically performed" test is overbroad, and results in the unintended treatment of individuals as leased employees. One of the principal purposes for adopting the significant direction or control test is to relieve the unnecessary hardship and uncertainty created for employers in these circumstances. However, it is not intended that the direction or control test enable employers to engage in abusive practices. Thus, it is intended that the Secretary interpret and apply the leased employee rules in a manner so as to prevent abuses. This ability to prevent abuses under the leasing rules is in addition to the present-law authority of the Secretary under section 414(o). For example, one potentially abusive situation exists where the benefit arrangements of the service recipient overwhelmingly favor its highly compensated employees, the employer has no or very few nonhighly compensated common-law employees, yet the employer makes substantial use of the services of nonhighly compensated individuals who are not its common-law employees.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 1991. In applying the leased employee rules to years beginning before such date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse. The changes to the leasing rules are not intended to affect grandfather rules granted under prior legislation.

2. Nondiscrimination rules relating to qualified cash or deferred arrangements, matching contributions, and after-tax employee contributions, (sec. 302 of the bill and secs. 401 (k) and (m) of the Code)

PRESENT LAW

Nondiscrimination rules relating to qualified cash or deferred arrangements

In General

A profit-sharing or stock bonus plan, a pre-ERISA money purchase pension plan, or a rural cooperative plan may include a qualified cash or deferred arrangement (sec. 401(k)). Under such an arrangement, an employee may elect to have the employer make payments as contributions to a plan on behalf of the employee, or to the employee directly in cash. Contributions made at the election of the employee are called elective deferrals. The maximum annual amount of elective deferrals that can be made by an individual is $8,475 for 1991. This dollar limit is indexed annually for inflation. A special nondiscrimination test applies to cash or deferred arrangements.

The special nondiscrimination test applicable to elective deferrals under qualified cash or deferred arrangements is satisfied if the actual deferral percentage (ADP) for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement, or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points. The ADP for a group of employees is the average of the ratios (calculated separately for each employee in the group) of the contributions paid to the plan on behalf of the employee to the employee's compensation.

Excess Contributions

If the special nondiscrimination rules are not satisfied for any year, the qualified cash or deferred arrangement will not be disqualified if the excess contributions (plus income allocable to the excess contributions) are distributed before the close of the following plan year. In addition, under Treasury regulations, instead of receiving an acutal distribution of excess contributions, an employee may elect to have the excess contributions treated as an amount distributed to the employee and then contributed by the employee to the plan on an after-tax basis.

Excess contributions mean, with respect to any plan year, the excess of the aggregate amount of elective deferrals paid to the cash or deferred arrangement and allocated to the accounts of highly compensated employees over the maximum amount of elective deferrals that could be allocated to the accounts of highly compensated employees without violating the nondiscrimination requirements applicable to the arrangement. To determine the amount of excess contributions and the employees to whom the excess contributions are to be distributed, the elective deferrals of highly compensated employees are reduced in the order of their actual deferral percentages beginning with those highly compensated employees with the highest deferral percentage.

Excise Tax on Excess Contributions

An excise tax is imposed on the employer making excess contributions to a qualified cash or deferred arrangement (sec. 4979). The tax is equal to 10 percent of the excess contributions (but not earnings on those contributions) under the arrangement for the plan year ending in the taxable year. However, the tax does not apply to any excess contributions that, together with income allocable to the excess contributions, are distributed or, in accordance with Treasury regulations, recharacterized as after-tax employee contributions no later than 2½ months after the close of the plan year to which the excess contributions relate.

Excess contributions (plus income) distributed or recharacterized within the applicable 2½ month period generally are to be treated as received and earned by the employee in the employee's taxable year in which the excess contributions would have been received as cash, but for the employee's deferral election. For purposes of determining the employee's taxable year in which the excess contributions are includible in income, the excess contributions are treated as the first contributions made for a plan year. Of course, distributions of excess contributions (plus income) within the applicable 2½ month period are not taxed a second time in the year of distribution.

Nondiscrimination rules relating to employer matching contributions and after-tax employee contributions

In General

A special nondiscrimination test is applied to employer matching contributions and after-tax employee contributions under qualified defined contribution plans (sec. 401(m)) that is similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements.[2] The term "employer matching contributions" means any employer contribution made on account of (1) an employee contribution or (2) an elective deferral under a qualified cash or deferred arrangement.

The special nondiscrimination test is satisfied for a plan year if the contribution percentage for eligible highly compensated employees does not exceed the greater of (1) 125 percent of the contribution percentage of all other eligible employees, or (2) the lesser of 200 percent of the contribution percentage for all other eligible employees, or such percentage plus 2 percentage points. The contribution percentage for a group of employees for a plan year is the average of the ratios (calculated separately for each employee in the group) of the sum of matching and employee contributions on behalf of each such employee to the employee's compensation for the year.

Under Treasury regulations, multiple use of the second (or "alternative") limitation cannot be used to satisfy both the special nondiscrimination test in section 401(k) and the special nondiscrimination test in section 401(m) in the case of a plan that includes both a qualified cash or deferred arrangement and matching contributions.

TREATMENT OF EXCESS AGGREGATE CONTRIBUTIONS

As under the rules relating to qualified cash or deferred arrangements, if the special nondiscrimination test is not satisfied for any year, the plan will not be disqualified if the excess aggregate contributions (plus income allocable to such excess aggregate contributions) are distributed before the close of the following plan year. Generally, the amount of excess aggregate contributions and their allocation to highly compensated employees is determined in the same manner as with respect to excess deferrals.

EXCISE TAX ON EXCESS AGGREGATE CONTRIBUTIONS

An excise tax is imposed on the employer with respect to excess aggregate contributions (sec. 4979). The tax is equal to 10 percent of the excess aggregate contributions (but not earnings on those contributions) under the plan for the plan year ending in the taxable year for which the contributions are made.

However, the tax does not apply to any excess aggregate contributions that, together with income allocable to the excess aggregate contributions, are distributed (or, if nonvested, forfeited) no later than 2½ months after the close of the plan year in which the excess aggregate contributions arose.

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[2] These rules also apply to certain employee contributions to a defined benefit pension plan.

REASONS FOR CHANGE

The sources of complexity generally associated with the special nondiscrimination test for qualified cash or deferred arrangements are the recordkeeping necessary to monitor employee elections, the calculations involved in applying the test, and the correction mechanism, i.e., what to do if the plan fails the test. The correction mechanism can create problems because the employer often will not know until the end of the year whether or not the test has been satisfied. The need to make corrections at the end of the year can create confusion on the part of employees who receive a return of their excess contributions. Although perhaps more a question of fairness rather than complexity, it has also been pointed out that the way in which excess contributions of highly compensated employees are reduced under present law may reduce the contributions of the lower-paid highly compensated employees more than the contributions of higher-paid highly compensated employees.

The sources of complexity commonly associated with the special nondiscrimination test for matching and employee contributions are generally the same as those associated with the ADP tests for elective contributions to a cash or deferred arrangement. In a plan that includes both a cash or deferred arrangement and matching contributions, the prohibition on multiple use of the alternative limitation adds to the complexity.

The special nondiscrimination tests are designed to ensure that the tax benefits for qualified plans are not accruing only to highly compensated employees and that rank-and-file employees actually benefit under the plan. These concerns are particularly acute in the case of elective retirement arrangements. The special nondiscrimination tests for qualified cash or deferred arrangements, matching contributions, and after-tax employee contributions can be modified to reduce complexity without undermining the purposes of the tests.

EXPLANATION OF PROVISION

Nondiscrimination rules relating to qualified cash or deferred arrangements

The bill replaces the present-law two-prong ADP test applicable to qualified cash or deferred arrangements with an single test that is applied at the beginning of the plan year. The bill reduces the complexities associated with present law by (1) reducing the number of calculations that must be performed in order to determine if the test is satisfied, and (2) reducing the need for correction mechanisms by modifying the test so that the maximum possible deferrals by highly compensated employees is known at the beginning of the plan year. In addition, under the bill, the present-law method for reducing excess deferrals and the restriction on multiple use of the alternative limitations are repealed. They are not necessary under the nondiscrimination tests as modified by the bill.

Under the bill, the maximum amount each eligible highly compensated employee can defer is 200 percent of the average deferral percentage of nonhighly compensated employees for the preceding plan year.[3] The average deferral percentage of nonhighly compensated employees is determined the same way as the ADP for such employees under present law. For example, if the average deferral percentage for eligible nonhighly compensated employees is 4 percent, then, under the bill, each eligible highly compensated employee could elect to defer 8 percent of compensation (subject to the dollar limitation on elective deferrals).

In the case of the first plan year of a qualified cash or deferred arrangement, the average deferral percentage for nonhighly compensated employees for the previous year is deemed to be 3 percent or, at the election of the employer, the average deferral percentage for that plan year.

The bill also modifies the permissible correction mechanisms by eliminating the recharacterization method. The number of permissible correction mechanisms increases complexity under present law. In addition, under the bill, correction will be necessary infrequently compared to present law, so that a variety of correction mechanisms is unnecessary.

Nondiscrimination rules relating to employer matching and after-tax employee contributions

The bill conforms the special nondiscrimination test for employer matching and after-tax employee contributions to the rules under the bill regarding qualified cash or deferred arrangements. Thus, under the bill, a plan meets the special nondiscrimination test if the actual contribution percentage of each eligible highly compensated employee for such plan year does not exceed 200 percent of the average contribution percentage of nonhighly compensated employees for the preceding plan year. The actual contribution percentage for an employee is the percentage which the sum of matching contributions and after-tax employee contributions contributed under the plan on behalf of such employee is of such employee's compensation. The average contribution percentage for nonhighly compensated employees for a year is the average of the actual contribution percentages of eligible nonhighly compensated employees for that year.

EFFECTIVE DATE

The provision is effective for plan years beginning after December 31, 1991.

3. Definition of highly compensated employee, cost-of-living adjustments, half-year requirements, and plans covering self-employed individuals (secs. 303–306 of the bill and secs. 72, 219, 401, 403, 408, 411, 414(q), and 415(d) of the Code)

PRESENT LAW

Definition of highly compensated employee

In General

For purposes of the rules applying to qualified retirement plans under the Code, an employee, including a self-employed individual, is treated as highly compensated with respect to a year if, at any time during the year or the preceding year, the employee: (1) was a 5-percent owner of the employer; (2) received more than $90,803 in annual compensation from the employer; (3) received more than $60,535 in annual compensation from the employer and was one of the top-paid 20 percent of employees during the same year; or (4) was an officer of the employer who received compensation greater than $54,482. These dollar amounts are adjusted annually for inflation at the same time and in the same manner as the adjustments to the dollar limit on benefits under a defined benefit pension plan (sec. 415(d)). If, for any year, no officer has compensation in excess of $54,482 (indexed), then the highest paid officer of the employer for such year is treated as a highly compensated employee.

An employee is not treated as in the top-paid 20 percent, as an officer, or as receiving $90,803 or $60,535 solely because of the employee's status during the current year, unless such employee also is among the 100 employees who have received the highest compensation during the year.

Election To Use Simplified Method

Employers are permitted to elect to determine their highly compensated employees under a simplified method. Under this method, an electing employer may treat employees who received more than $60,535 in annual compensation from the employer as highly compensated employees in lieu of applying the $90,803 threshold and without regard to whether such employees are in the top-paid group of the employer. This election is available only if at all times during the year the employer maintained business activities and employees in at least 2 geographically separate areas.

Treatment of Family Members

A special rule applies with respect to the treatment of family members of certain highly compensated employees. Under the special rule, if an employee is a family member of either a 5-percent owner or 1 of the top 10 highly compensated employees by compensation, then any compensation paid to such family member and any contribution or benefit under the plan on behalf of such family member is aggregated with the compensation paid and contributions or benefits on behalf of the 5-percent owner or the highly compensated employee in the top 10 employees by compensation. Therefore, such family member and employee are treated as a single highly compensated employee. An individual is considered a family member if, with respect to an employee, the individual is a spouse, lineal ascendant or descendant, or spouse of a lineal ascendant or descendant of the employee.

Similar family aggregation rules apply in applying the $222,220 limit on compensation that may be taken into account under a qualified plan (sec. 401(a)(17)) and for deduction purposes (sec. 404(l)). However, under such provisions, only the spouse of the employee and lineal descendants of the employee who have not attained age 19 are taken into account.

Cost-of-living adjustments

The rules relating to qualified plans contain a number of dollar limits that are indexed annually for cost-of-living adjustments (e.g., the dollar limit on benefits under a defined benefit plan (sec. 415(b)), the limit on elective deferrals under a qualified cash or deferred arrangement (sec. 402(g)), and the dollar amounts used in determining highly compensated employees (sec. 414(q)). The Secretary publishes annually a list of the amounts applicable under each provision for the year. Due to the timing of the cost-of-living adjustments, the dollar amounts for each year are not known until after the start of the calendar year.

Half-year requirements

Under present law, a number of employee plan rules refer to the age of an individual at a certain time. For example, distributions under a qualified pension plan are generally required to begin no later than the April 1 following the year in which an individual attains age 70½ (sec. 401(a)(9)). Similarly, an additional income tax on early withdrawals applies to certain distributions from qualified pension plans and IRAs prior to the time the participant or IRA owner attains age 59½ (sec. 72(t)).

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[3] This test is similar to the special nondiscrimination test applicable to salary reduction simplified employee pensions (SEPs) under present law.

Plans covering self-employed individuals

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) different rules applied to retirement plans maintained by incorporated employers and unincorporated employers (such as partnerships and sole proprietors). In general, plans maintained by unincorporated employers were subject to special rules in addition to the other qualification requirements of the Code. Most, but not all, of this disparity was eliminated by TEFRA. Under present law, certain special aggregation rules apply to plans maintained by owner-employees that do not apply to other qualified plans (sec. 401(d) (1) and (2)).

REASONS FOR CHANGE

Under present law, the administrative burden on employers to comply with some of the basic rules applying to qualified retirement plans outweighs the small potential benefit of the rules. For example, the various categories of highly compensated employees require employers to perform a number of complex calculations that for many employers have largely duplicative results. Similarly, rules triggered by the attainment of fractional ages are difficult to remember and apply but of insignificant benefit to plan participants.

Under present law, adjusted dollar limits are generally not published until after the beginning of the calendar year to which the limits apply. This creates uncertainty for plan sponsors and participants who must make decisions under the plan that may be affected by the limits.

The remaining special rules for plans maintained by unincorporated employers are unnecessary and should be eliminated. Applying the same set of rules to all types of plans would make the qualification standards easier to apply and administer.

EXPLANATION OF PROVISIONS

Definition of highly compensated employee

The bill replaces the present law test for determining who is a highly compensated employee with a simplified test. The bill provides that an employee is highly compensated for a year if the employee (1) was a 5-percent owner of the employer during the year or the preceding year, (2) received compensation in excess of $65,000 during the preceding year, or (3) received compensation in excess of $65,000 during the year and was one of the top 100 most highly compensated employees of the employer for the year. As under present law, the $65,000 threshold is adjusted for cost-of-living increases in the same manner as the limitations on contributions and benefits (sec. 415(d)), except that the base period taken into account is the calendar quarter beginning October 1, 1990.

Under the bill, if no employee is treated as being highly compensated under the rules described above, then the employee with the highest compensation for the year is treated as a highly compensated employee. The bill applies the present-law family member aggregation rule only in the case of family members of a 5-percent owner, and conforms the aggregation rule to the other family aggregation rules by taking into account only the spouse of the employee and lineal descendants of the employee who are under age 19.

Cost-of-living adjustments

The bill provides that the cost-of-living adjustment with respect to any calendar year is based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year. Thus, adjusted dollar limits will be published before the beginning of the calendar year to which they apply.

In addition, the bill provides that the dollar limits determined after application of the cost-of-living adjustments are generally rounded to the nearest $1,000. Dollar limits relating to elective deferrals and elective contributions to simplified employee pensions (SEPs) are rounded to the nearest $100.

Elimination of half-year requirements

The bill changes the half-year requirements to birth date requirements. Those rules under present law that refer to age 59½ are changed to refer to age 59, and those that refer to age 70½ are changed to refer to age 70.

Plans covering self-employed individuals

The bill eliminates the special aggregation rules that apply to plans maintained by self-employed individuals that do not apply to other qualified plans.

EFFECTIVE DATES

The provisions are effective for years beginning after December 31, 1991.

4. Modification of full funding limitation (sec. 307 of the bill and sec. 412 of the Code).

PRESENT LAW

Under present law, subject to certain limitations, an employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the actuarial value of the plan's assets (sec. 412(c)(7)).

The Secretary may, under regulations, adjust the 150-percent figure contained in the full funding limitation to take into account the average age (and length of service, if appropriate) of the participants in the plan (weighted by the value of their benefits under the plan). In addition, the Secretary is authorized to prescribe regulations that apply, in lieu of the 150 percent of current liability limitation, a different full funding limitation based on factors other than current liability. The Secretary may exercise this authority only in a manner so that in the aggregate, the effect on Federal budget receipts is substantially identical to the effect of the 150-percent full funding limitation.

REASONS FOR CHANGE

The Secretary has not yet exercised his authority with respect to the full funding limitation. It is appropriate to specify a revenue-neutral way of exercising such authority.

EXPLANATION OF PROVISION

The bill allows certain employers to elect to apply the present-law full funding limitation without regard to the 150 percent of current liability limitation. The Secretary is required under the provision to adjust the full funding limitation in a specified manner for all plans (other than those subject to such an election) in response to employer elections under the proposal so that the provision is revenue neutral.

EFFECTIVE DATE

The provision is effective on the date of enactment.

5. Distributions from qualified cash or deferred arrangements maintained by rural cooperatives (sec. 308 of the bill and sec. 401(k) of the Code).

PRESENT LAW

Under present law, a qualified cash or deferred arrangement can permit withdrawals by participants only after the earlier of (1) the participant's separation from service, death, or disability, (2) termination of the arrangement, (3) in the case of a profit-sharing or stock bonus plan, the attainment of age 59½, or (4) in the case of a profit-sharing or stock bonus plan to which section 402(a)(8) applies, upon hardship of the participant (sec. 401(k)(2)(B)). In the case of a rural cooperative qualified cash or deferred arrangement, which is part of a money purchase pension plan, withdrawals by participants cannot occur upon attainment of age 59½ or upon hardship.

REASONS FOR CHANGE

It is appropriate to permit qualified cash or deferred arrangements of rural cooperatives to permit distributions to plan participants under the same circumstances as other qualified cash or deferred arrangements. Rural cooperatives could achieve the same results by modifying the structure of their plans. There is no justifiable reason to require rural cooperatives to incur the administrative costs of plan conversion when the same result can be achieved without imposing such costs.

EXPLANATION OF PROVISION

The bill provides that a rural cooperative plan that includes a qualified cash or deferred arrangement will not be treated as violating the qualification requirements merely because the plan permits distributions to plan participants after the attainment of age 59.

EFFECTIVE DATE

The provision is effective for distributions after the date of enactment.

6. Treatment of nonunion airline pilots for coverage purposes (sec. 309 of the bill and sec. 410(b) of the Code)

PRESENT LAW

Under present law, for purposes of determining whether a qualified pension plan satisfies the minimum coverage requirements, in the case of trust established pursuant to a collective bargaining agreement between airline pilots and one or more employers, all employees not covered by the collective bargaining agreement are disregarded (sec. 410(b)(3)(B)). This provision applies only in the case of a plan that provides contributions or benefits for employees whose principal duties are not customarily performed aboard aircraft in flight. Thus, a collectively bargained plan covering only airline pilots is tested separately for purposes of the minimum coverage requirements.

REASONS FOR CHANGE

Present law treats airline pilots covered by a collective bargaining agreement separately for purposes of testing whether a pension plan satisfies the minimum coverage requirements, but requires nonunion airline pilots to be considered with an employer's other employees for coverage purposes. This disparity of treatment can adversely affect the decision of airline pilots to unionize.

In addition, present law may prevent employers who provide pension benefits to nonunion airline pilots from providing benefits to such pilots that are comparable to the benefits provided to airline pilots covered under a collective bargaining agreement. Thus, present law may make it more difficult for employers employing nonunion airline pilots to compete for qualified pilots.

EXPLANATION OF PROVISION

The bill provides that, in the case of a plan established by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States government, all employees who are not air pilots are excluded from consideration in testing whether the plan satisfies the minimum coverage requirements. In addition, the bill provides that this exception does not apply in the case of a plan that provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight.

EFFECTIVE DATE

The provision is effective for years beginning after December 31, 1991.

7. Vesting rules for multiemployer plans (sec. 310 of the bill and sec. 411 of the Code)

PRESENT LAW

Under present law, except in the case of multiemployer plans, a plan is not a qualified plan unless a participant's employer-provided benefit vests at least as rapidly as under 1 of 2 alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the particpant's completion of 5 years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 20 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent at the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100 percent vested no later than upon the participant's completion of 10 years of service. This special rule applies only to employees covered by the plan pursuant to a collective bargaining agreement.

These same vesting rules also apply under title I of the Employee Retirement Income Security Act of 1974 (ERISA).

REASONS FOR CHANGE

The present-law vesting rules for multiemployer plans add to complexity because there are different vesting schedules for different types of plans, and different vesting schedules for persons within the same multiemployer plan. In addition, the present-law rule prevents some workers from earning a pension under a multiemployer plan. Conforming the multiemployer plan rules to the rules for other plans would mean that workers could earn additional benefits.

EXPLANATION OF PROVISION

The bill conforms the vesting rules for multiemployer plans to the rules applicable to other qualified plans.

EFFECTIVE DATE

The provision is effective for plan years beginning on or after the earlier of (1) the later of January 1, 1992, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates, or (2) January 1, 1994, with respect to participants with an hour of service after the effective date.

8. Definitions of retirement age (sec. 311 of the bill and secs. 401(a)(14) and 411 of the Code)

PRESENT LAW

A qualified plan is required to provide that, unless the participant elects otherwise, the payment of benefits under the plan is to begin no later than the 60th day after the latest of the close of the plan year in which (1) the participant attains the earlier of age 65 or the normal retirement age specified under the plan, (2) occurs the 10th anniversary of the year in which the participant commenced participation in the plan, or (3) the participant terminates service (sec. 401(a)(14)). Under the Code and title I of ERISA, for purposes of the rules relating to vesting and accrual of benefits, normal retirement age means the earlier of (1) the time a participant attains normal retirement age under the plan, or (2) the later of the time a participant attains age 65 or the 5th anniversary of the time a plan participant commenced participation in the plan.

For purposes of the limits on contributions and benefits (sec. 415) the retirement age under social seurity (with certain modifications) is generally used as normal retirement age.

REASONS FOR CHANGE

Some employers would like to use social security retirement age as the normal retirement age under their qualified plan. The present-law definitions of normal retirement age may prevent them from doing so. Allowing employers to use social security retirement age would simplify plan administration, and would also conform the definition to the rule in effect for purposes of the limits on contributions and benefits.

EXPLANATION OF PROVISION

The bill amends the definitions of normal retirement age by replacing age 65 with the social security retirement age (as determined under sec. 415(b)(8)).

EFFECTIVE DATE

The provision is effective for years beginning after December 31, 1991.

A CALL TO LIFT ECONOMIC SANCTIONS AGAINST IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ], is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, today I have introduced a resolution, House Resolution 180, that expresses a sense of the House that the economic embargo of Iraq should be lifted.

Hundreds of thousands of young children are dying, and we are doing nothing. Hundreds of thousands have died. They have not been reported, but if I could show some of the films that were taken by the cameras during the action, it would show our helicopter cannons shooting, cutting in half fleeing Iraqi soldiers. Over 100,000 of those died, most of them while they were running away.

It is still not precisely known how many civilians, but the estimates that have reached us from European sources indicate that there were approximately that many. So the war is supposed to be over, and yet we have thousands of our soldiers there. At this point hundreds of thousands of young children are dying. The United Nations, the International Red Cross, the Physicians for Human Rights, a Harvard study team, and Catholic Relief Services have all documented the fact that unless the economic sanctions imposed against Iraq are lifted immediately, tens of thousands, if not hundreds of thousands of Iraqi civilians will die in the next few months.

Is this our great military success? Is this what we sent hundreds of thousands of our troops halfway around the world to accomplish? Is the death of 60,000 Iraqi children under age 5 since the supposed end of the war a tremendous victory?

The most cynical part of this tragedy is that it is going on right now, and the U.S. Government is doing nothing about it, not even acknowledging that it happened, which has been censorship at its worst except that finally today, on the front page of the New York Times we have this story.

Mr. Speaker, I include that article for the RECORD at this point.

The article, dated June 24, 1991, referred as follows:

DISEASE SPIRALS IN IRAQ AS EMBARGO TAKES ITS TOLL

(By Patrick E. Tyler)

BAGHDAD, IRAQ, June 23—The 11-month-old international embargo on trade with Iraq is threatening the country with severe malnutrition and spiraling disease, American and other Western doctors inspecting hospitals this month say.

Some senior officials of relief agencies here have begun to criticize the prolonged trade sanctions because of their devastating effect on the general population and the burden they place on humanitarian organizations.

Thousands of Kurdish refugees returning to their homes from Iranian and Turkish border areas have found an economy besieged by accelerating inflation because of the embargo. Many of those Kurds are wearily bringing their malnourished and sick children to hospitals, saying they cannot afford the black-market prices for infant formula and high-protein foods.

THOUSANDS WITHOUT ELECTRICITY

In southern Iraq, where the forces of President Saddam Hussein crushed a Shiite Muslim rebellion at the end of the Persian Gulf war, ten of thousands of people are still without running water or electricity. Stagnant ponds of sewage and heaps of garbage are a common sight in their neighborhoods, and the surge in prices has made their plight even more desperate.

It is not clear whether an end to sanctions, including a decision to let Baghdad generate oil revenue, would immediately or dramatically improve the lot of ordinary Iraqis, given uncertainties like inflation and the Government's spending priorities.

But recent investigations suggest that trade sanctions are hurting the Iraqi people far more than is perceived in Washington, where President Bush has sought to maintain the embargo to force Mr. Hussein from power.

An examination of the public health system of Iraq, including visits by this reporter and a New York physician, Joseph Thomas, to 15 major hospitals across the country over the last week, indicated that an earlier epidemic of cholera is now under control.

But other infectious diseases, including typhoid, hepatitis, meningitis and gastroenteritis, have surged to what Western doctors and relief officials call epidemic levels. The course of those diseases in a population struggling to recover from a devastating war is complicated by the Iraqis' generally poor health and nutrition, experts say.

The Government-subsidized rations of flour, rice and sugar that had previously sustained many Iraqis have been drastically cut back, and open-market prices for food have leaped more than tenfold. The only Iraqis spared from deprivation appear to be the country's political leadership and the wealthiest members of the merchant and professional class, who are drawing down their savings.

Although the United Nations lifted its embargo on humanitarian shipments of food to Iraq on March 22, Iraqi officials say that the embargo on foreign financial transactions, the freezing of assets and the ban on Iraqi sales of crude oil have made it extremely hard to import all but a small amount of food and special medicine. Oil is Iraq's principal source of income.

RETURNING REFUGEES ARE SUFFERING ANEW

Last month, a Harvard University medical team surveyed Iraqi hospitals and concluded that the mortality rate of Iraqi children under 5 years old could double this year because of disease compounded by malnutrition.

In March, more than two million Kurdish and Shiite refugees fled after their unsuccessful rebellions in the north and south. The West responded with a delayed but vigorous effort to save them from starvation, exposure and disease. The Bush Administration then sought to coax those refugees to return to their homes in Iraq, where the pressure of trade sanctions and inflation has led to new suffering.

Observations by doctors and relief officials during visits to hospitals across the country seem to bear out Iraqi Health Ministry figures showing a 25 percent increase in the admission of patients suffering from gastroenteritis in the last two months. Iraqi hospital workers say that figure significantly understates the rise in intestinal infections, since many cases do not reach hospitals.

Health Ministry figures also confirm what many Iraqi doctors reported in interviews—that more patients are dying from infectious diarrheal disease, largely because of their weakened state. While death from such infections was rare in 1990, the death rate for patients suffering from those diseases in the last two months has been about 32 per 1,000 cases admitted to hospitals. More than 17,000 people suffering from infectious diarrheal diseases were admitted to hospitals in April and May, ministry data indicate.

AFTER THE BOMBING, SEWAGE EVERYWHERE

The death rate in reported typhoid cases has jumped this year from statistical insignificance to 60 to 80 deaths per 1,000, according to Health Ministry figures.

The allied bombing attack on Iraq's national electric power grid severely disabled the country's water-purification and sewage pumping and treatment system. The system's failure caused raw waste to fill city streets and flow untreated into the rivers where millions of Iraqis turned for drinking water during the war. Poor sanitation ignited an epidemic of cholera, typhoid, gastroenteritis and other water-borne diarrheal diseases.

Dominique Dufour, the head of a 90-member team sent here by the International Committee of the Red Cross, said, "I am absolutely sure that no Pentagon planner calculated the impact bombing the electrical plants would have on pure drinking water supplies for weeks to come, and the snowball effect of this on public health."

Health Ministry officials allowed a reporter and Dr. Thomas, who was born in Iraq to make impromptu visits to hospitals throughout the country. Dr. Thomas, who has previously operated a medical supply company in Iraq, is trying to organize a private group of doctors who would donate equipment and medical services to Iraq.

Iraqi officials also allowed Westerners to visit Baghdad's main hospital for infectious diseases for the first time since the war. Some physicians in the United States suspected that Iraq was "hiding" cholera cases at that hospital in April and May. But during a visit, the staff of the severely rundown hospital readily acknowledged that they had treated many suspected cholera cases, as well as typhoid meningitis and hemorrhagic fever.

"I think they were just embarrassed by the place," said Dr. Michael Viola, a professor of medicine and microbiology at the State University of New York at Stony Brook, who also visited Iraq to study the war's effects on public health. "It's a disgrace. They ought to close it."

FEW RELIABLE DATA, BUT PLENTY OF PROOF

Dr. Viola, along with two other physicians from New York who represent a group called Medicine for Peace, said that although no reliable statistics are available from Western organizations, a severe epidemic of several diseases is in progress and is being aggravated by malnutrition.

"You don't need statistics," he said. "It's everywhere."

The national supply of pure water is in a precarious state. Most Iraqi cities are pumping one-tenth of the chlorinated water they were a year ago, and Government stocks of chlorine have dwindled to a 30-day supply in Mosul and Erbil, two major northern cities.

Patched-up generating plants are struggling to meet the demand for electricity as average daytime temperatures rise above 100 degrees. Blackouts of 12 hours or more a day have been common in the last two weeks.

A reporter traveling through dozens of pediatric- and infectious-disease wards across the country saw more than 100 cases of marasmus, or progressive emaciation from advanced malnutrition. Typical symptoms are a gaunt skeletal look and distended stomach. There were also many obvious cases of kwashiorkor, an advanced form of protein deficiency in toddlers that is seldom seen outside drought-stricken areas of Africa.

HOSPITALS REJECT THE MALNOURISHED

Under Iraqi Government policy, advanced malnutrition alone does not entitle one to admission to a hospital; a patient must also have contracted a disease or developed other complications before admission is allowed.

"If we admitted all the marasmus cases, the hospitals would be full in one day,' said Dr. Amera Ali, a physician at Ibn Baladi Hospital in Baghdad.

A severe shortage of infant formula has put the price of that basic nourishment beyond the means of many poor families. The price of one can of powdered infant formula has skyrocketed from about $1 to nearly $50. Poor families are allowed three cans per month from Government stocks at the lower, subsidized price, but the minimum nutritional need of an infant is 10 cans per month, doctors said.

A reporter saw dozens of mothers diluting infant formula to half strength to stretch out their precious supplies. Even in hospitals, most patients are receiving only half the normal ration of food because of cutbacks by the Health Ministry in hospital food budgets. Food rations of doctors and nurses have also been halved.

In Washington, Bush Administration officials have recently questioned whether Mr. Hussein is funneling any of Iraq's scarce hard-currency resources to the health sector. In interviews, the officials suggested that Mr. Hussein was effectively allowing relief organizations to assume the public-health burden in Iraq, even though such aid is inadequate.

But Western relief officials and Iraqi medical officials here indicated that the Government has allocated hard currency to imports of some medicines and infant formula that are not being provided by the relief agencies.

SEVERE INTERRUPTIONS OF KIDNEY DIALYSIS

This month, all Iraqis are being issued new medical cards that forbid them to take their health problems directly to the hospital system. Each Iraqi is assigned to a district health center where primary care will be dispensed, with only serious cases referred to the hospitals.

In hospital wards, doctors said they had been unable to supply adequate amounts of insulin to patients with diabetes. Medication for hypertension is unavailable in many cities. Kidney patients are going without drugs to fight rejection of the organs after transplants, and there have been serious interruptions of dialysis treatment.

A nephrologist in Mosul said that 28 of the 50 patients who were being treated in northern Iraq's only kidney dialysis program died during the gulf war or shortly after it ended because of a lack of transportation, electrical power or clean water for the delicate machinery. Physicians said that women with breast cancer and other cancer patients were going without adequate medication and treatment.

A senior relief agency official confirmed that the priority in humanitarian shipments of medicine had been antibiotics, which were urgently needed to fight outbreaks of cholera, typhoid and other infectious diseases.

AN AFRICAN FAMINE WOULD SIPHON AID

"We are not in the chronic-disease business," the relief official said. "We cannot become the pharmacists for 18 million people. We take the Africa approach—vaccination, basic antibiotics, and feeding."

One senior relief official said the cost of relief efforts in Iraq could exceed $500 million by next year.

"And who will that be paid by?" he said. "Not by Iraq, but by the taxpayers of the United States and Western Europe."

Within Iraq's medical establishment, there is a powerful current of resentment against the Bush Administration for seeking to topple Mr. Hussein by inflicting pain on the Iraqi population. Citizens have little hope of changing the Government in a police state protected by layers of security forces.

"Last year Bush made a speech at the United Nations about the children of the world, but look what he is doing to Iraqi children," the Deputy Health Minister, Dr. Shawki Murqos, said. "Nobody here will forget that."

This misery is a direct result of the so-called allies or United States-led imposition of U.N. sanctions against Iraq and the massive destruction of Iraq's infrastructure by United States-led allied bombing, and still we do nothing. The United States must act now to lift these economic sanctions to save thousands upon thousands of innocent Iraqi civilians, especially children, by death from starvation and disease.

On May 30, 1991, I called on the President, via a letter, to initiate an immediate and massive international effort to establish a fund to provide food and medical relief for this dire situation resulting from the imposition of an international embargo on Iraq. I have as yet to have any substantive response. As a matter of fact, I must report that I am deeply troubled by the fact that President Bush, who on a personal basis is a very wonderful person, very admirable, very kind, and very outgoing and gregarious in his own way, but has followed the same principle as his predecessor, President Reagan.

President Reagan was the first President that did not reply to a Congressman's letter. Even Richard Nixon would. But not President Reagan. Instead you get a reply from some unknown apparatchik somewhere, probably in the White House, saying that they acknowledge receipt of the letter and that is it. So that I have no idea of what it is that we in the United States must wait before our level of consciousness is penetrated at this shocking situation that we have foremost been responsible for.

We cannot escape this. Fate, destiny cannot be escaped. It is the result of actions in which we are exalting in victory celebrations that now have lasted over 2½ times the length of the entire war. In fact, the President has asked the United Nations to continue to reinforce the sanctions which are killing the children of Iraq.

Now, we are speaking of children, babies, under age 5, dying at the rate of 500 to 1,000 a day. We cannot wait on the President until he is embarrassed into taking humanitarian action.

I think today's New York Times front page centerpiece showing this baby with the familiar swollen abdomen, like we have seen these pictures of the Africans and the other very unfortunate countries where we have had these terrible situations in which, in effect, whether we like it or not, we are perpetrating genocide.

The plight of the Kurds was ignored until the overwhelming compassion of the American people, but not until after the European press, particularly, and the French, who had physicians that had volunteered and had flown over and worked with the Kurds, compelled some action. But the whole story is not being told, as there are still thousands of innocent people starving and in dire need of medical attention in Iraq due to the failure of the United States and its allies—so-called allies—to bring about some action.

It took many deaths, the threat of many more before the administration acted on behalf of the Kurds. How many Iraqi women, children, elderly people will have to die before our leadership takes basic humanitarian action on their behalf as well? Are the Iraqi babies any less innocent than the Kurds, any less deserving of life?

A Harvard University study team just completed the first comprehensive survey of public health in postwar Iraq, and they project that at least 17,000 Iraqi children under 5 years of age will die in this coming year from the delayed effects of the Persian Gulf crisis—or war—whatever one wants to call it. This is in addition to the tens of thousands of children who have already died in Iraq in recent months. Widespread and severe malnutrition exists in Iraq. Cholera, typhoid, gastroenteritis are epidemic throughout this country.

□ 1720

There is a breakdown in the medical care system with acute shortages of medicine, equipment, and staff, water purification, sewage-disposal plants, and electrical power. All of these are in a state of incapacitation.

The war has contributed directly to this crisis. It is a consequence of the war. The destruction of Iraq's electrical infrastructure has made it almost impossible to treat sewage or purify water which means waterborne diseases flourish, and hospitals cannot treat crucial diseases.

At this point I wish to place in the RECORD a copy of the letter that I mailed to the President on May 30 of this year.

WASHINGTON, DC,
May 30, 1991.

Hon. GEORGE W. BUSH,
President, United States of America, The White House, Washington, DC.

DEAR MR. PRESIDENT: I am outraged over the current situation in Iraq, and I write to demand immediate action by your Administration. You called upon our allies for contributions to help pay for our war effort—you called on them to fund death and destruction. I demand that you call immediately on our allies, and our own resources, to pay for food and medical relief for all those who continue to suffer from the effects of the war—to fund life.

The bankrupt nature of your Administration's policy in the Middle East is becoming more and more evident, as the massive starvation, widespread unrest, and disintegration of the so-called Arab unity—witness the recent withdrawal of Egypt from the coalition forces—are further exacerbating the instability worsened by the Persian Gulf War. Further, the situation in Kuwait with extended martial law makes is clear that this war had nothing to do with democracy, with justice, or with freeing the oppressed, and it had everything to do with greed—spelled o-i-l. There is a worldwide revulsion of the United States' actions of greed in the Middle East, as many innocents have suffered and died, and are suffering and dying still.

Mr. President, do not wait until you are embarrassed into taking humanitarian action, as you were in the tragic situation of the Kurds. The plight of the Kurds was ignored by your Administration until the overwhelming compassion of the American public compelled action. But the whole story is not being told, as there are still thousands of innocent people starving and in dire need of medical attention in Iraq due to U.S. and allied actions. It took many deaths and the threat of many more before your Administration acted on behalf of the Kurds; how many Iraqi women, children, and elderly people will have to die before this Administration takes basic humanitarian action on their behalf as well? A Harvard University study team just completed the first comprehensive survey of public health in postwar Iraq, and they project that at least 170,000 Iraqi children under five years of age will die in the coming year from the delayed effects of the Persian Gulf Crisis.

This is in addition to the tens of thousands of children who have already died in Iraq in recent months. Widespread and severe malnutrition exists in Iraq; cholera, typhoid, and gastroenteritis are epidemic throughout Iraq, there is a breakdown in the medical care system with acute shortages of medicines, equipment, and staff; and water purification, sewage disposal plants, and electrical power plants have been incapacitated. The Harvard report states, "There is a link in Iraq between electrical power and public health. Without electricity, water cannot be purified, sewage cannot be treated, waterborne diseases flourish, and hospitals cannot treat curable illness."

The economic embargo levied against Iraq has thwarted the availability of the most basic food stuffs and medicine to the general population. Iraq has historically been dependent on the importation of food, and before the embargo three quarters of the total calcoric intake in Iraq was imported. Moreover, 96% of Iraqi revenue to pay for imports, namely food and medicine, was derived from the exportation of oil.

The embargo enacted by United Nations Resolution 661 and strengthened by U.N. Resolution 666 has not only made food and medicine more scarce, it has led to an inflationary spiral that has priced many Iraqis completely out of the food market. The embargo has also led to the scarcity of all medicines throughout the country. The situation has only been exacerbated by the massive destruction of the entire nation's infrastructure by U.S. bombing. The destruction of the water and electrical systems means that ever greater numbers of Iraqis, especially children, will continue to die as disease spreads throughout the summer. Without the revenue from the exportation of oil, Iraq will not be able to meet the basic needs of its own population.

Therefore, an immediate and massive international effort is required to establish a fund and with it provide food and medical relief to this dire situation resultant from the imposition of an international embargo of Iraq. The most fundamental effect of the war has been the deaths of children. The most fundamental responsibility we have is to prevent more children from dying when we and our allies have the ability to help.

Sincerely,

HENRY B. GONZALEZ,
Member of Congress.

Mr. Speaker, the economic embargo levied against Iraq has, I repeat, thwarted the availability of the most basic foodstuffs and medicines to the general population. Iraq's historical dependence on the importation of food has made its people especially vulnerable to sanctions. Before the embargo, three-quarters of the total caloric intake in Iraq was because of imported food. Moreover, 96 percent of Iraq's revenue to pay for imports, namely, food and medicine, was derived from the exportation of oil.

The combined effect of the destruction of the U.S.-led war and the embargo is a tragedy that will only increase in exponential proportions. Therefore, the United States must act now to lift the economic embargo of Iraq.

Hundreds of millions of dollars were spent and millions of lives were disrupted to supposedly come to the aid of Kuwait when it suffered the aggression of Saddam Hussein. It is a stomach-turning irony that we can come to the aid of hundreds of thousands of innocent Iraqis who must live under the rule of Saddam every day without spending one red cent, yet, we refuse to do so.

The sanctions against Iraq must be lifted to save tens of thousands of lives. If we do not, the blood of these Iraqi children will be on our consciences and hands.

Mr. Speaker, I urge my colleagues to join me in this effort to save the children of Iraq.

I am also placing in the RECORD at the point four articles that, again, appeared in yesterday's Washington Post.

ALLIED AIR WAR STRUCK BROADLY IN IRAQ

(By Barton Gellman)

The strategic bombing of Iraq, described in wartime briefings as a campaign against Baghdad's offensive military capabilities, now appears to have been broader in its purposes and selection of targets.

Amid mounting evidence of Iraq's ruined infrastructure and the painful consequences for ordinary Iraqis, Pentagon officials more readily acknowledge the severe impact of the 43-day air bombardment on Iraq's economic future and civilian population. Their explanations these days of the bombing's goals and methods suggest that the allies, relying on traditional concepts of strategic warfare, sought to achieve some of their military objectives in the Persian Gulf War by disabling Iraqi society at large.

Though many details remain classified, interviews with those involved in the targeting disclose three main contrasts with the administration's earlier portrayal of a campaign aimed solely at Iraq's armed forces and their lines of supply and command.

Some targets, especially late in the war, were bombed primarily to create postwar leverage over Iraq, not to influence the course of the conflict itself. Planners now say their intent was to destroy or damage valuable facilities that Baghdad could not repair without foreign assistance.

Many of the targets in Iraq's Mesopotamian heartland, the list of which grew from about 400 to more than 700 in the course of the war, were chosen only secondarily to contribute to the military defeat of Baghdad's occupation army in Kuwait. Military planners hoped the bombing would amplify the economic and psychological impact of international sanctions on Iraqi society, and thereby compel President Saddam Hussein to withdraw Iraqi forces from Kuwait without a ground war. They also hoped to incite Iraqi citizens to rise against the Iraqi leader.

Because of these goals, damage to civilian structures and interests, invariably described by briefers during the war as "collateral" and unintended, was sometimes neither. The Air Force and Navy "fraggers" who prepared the daily air-tasking orders in Riyadh, Saudi Arabia, took great care to avoid dropping explosives directly on civilians—and were almost certainly more successful than in any previous war—but they deliberately did great harm to Iraq's ability to support itself as an industrial society.

The worst civilian suffering, senior officers say, has resulted not from bombs that went astray but from precision-guided weapons that hit exactly where they were aimed—at electrical plants, oil refineries and transportation networks. Each of these targets was acknowledged during the war, but all the purposes and consequences of their destruction were not divulged.

Among the justifications offered now, particularly by the Air Force in recent briefings, is that Iraqi civilians were not blameless for Saddam's invasion of Kuwait. "The definition of innocents gets to be a little bit unclear," said a senior Air Force officer, noting that many Iraqis supported the invasion of Kuwait. "They do live there, and ultimately the people have some control over what goes on in their country."

"When they discuss warfare, a lot of folks tend to think of force on force, soldier A against soldier B," said another officer who played a central role in the air campaign but declined to be named. Strategic bombing, by contrast, strikes against "all those things that allow a nation to sustain itself."

For the Air Force, the gulf war finally demonstrated what proponents of air power had argued since Gen. Billy Mitchell published "Winged Defense" in 1925: that airplanes could defeat an enemy by soaring over his defensive perimeter and striking directly at his economic and military core.

For critics, this was the war that showed why the indirect effects of bombing must be planned as discriminately as the direct ones. The bombardment may have been precise, they argue, but the results have been felt throughout Iraqi society, and the bombing ultimately may have done as much to harm civilians as soldiers.

Pentagon officials say that military lawyers were present in the air campaign's "Black Hole" planning cell in Riyadh and emphasize that bombing followed international conventions of war. Defense Secretary Richard B. Cheney, at a recent breakfast with reporters, said every Iraqi target was "perfectly legitmate' and added "If I had to do it over again, I would do exactly the same thing."

A growing debate on the air campaign is challenging Cheney's argument on two fronts.

Some critics, including a Harvard public health team and the environmental group Greenpeace, have questioned the morality of the bombing by pointing to its ripple effects on noncombatants.

The Harvard team, for example, reported last month that the lack of electrical power, fuel and key transportation links in Iraq now has led to acute malnutrition and "epidemic" levels of cholera and typhoid. In an estimate not substantively disputed by the Pentagon, the team projected that "at least 170,000 children under five years of age will die in the coming year from the delayed effects" of the bombing.

Military officials assert that allied aircraft passed up legitimate targets when the costs to Iraqi civilians or their society would be too high, declining for instance to strike an Iraqi MiG–21 parked outside an ancient mosque. Using the same rationale, the critics argue that the allies should not have bombed electrical plants that powered hospitals and water treatment plants.

"I think this war challenges us to ask ourselves whether or not the lethality of conventional weapons in modern urban, integrated societies isn't such that . . . what is 'legitimate' is inhumane," said William M. Arkin, one of the authors of the Greenpeace report.

A second line of criticism, put forth by some outside analysts of air power and prevalent in not-for-quotation interviews with Army officers, questions the relevance of some forms of "strategic" bombing to a campaign in which the enemy will not have time to regenerate military strength.

Historians Robert A. Pape Jr. and Caroline Ciemke, noting that the U.S. Central Command planned for only 30 days of bombing, say the vital targets were existing stocks of supply and the system of distribution. A campaign to incapacitate an entire society, they say, may be inappropriate in the context of a short war against a small nation in which the populace is not free to alter its leadership.

"If you're refighting World War I or II, where literally years of combat are required to defeat your adversary, then destroying industrial infrastructure makes some sense," Pape said. "When you destroy the industrial infrastructure, the effects on the opponent's military power don't show up for quite a while. What shows up immediately is losses to the civilian sector, because that's what states sacrifice first."

Among the remaining questions about the air strategy is the extent of the administration's top civilians' participation in planning the bombardment. President Bush stressed during the war that he left most of the fighting decisions to the military.

Cheney, for his part, rejects any talk of second thoughts on the bombing.

"There shouldn't be any doubt in anybody's mind that modern warfare is destructive, that we had a significant impact on Iraqi society that we wished we had not had to do," he said. Once war begins, he added, "while you still want to be as discriminating as possible in terms of avoiding civilian casualties, your number one obligation is to accomplish your mission and to do it at the lowest possible cost in terms of American lives. My own personal view is that there are a large number of Americans who came home from the war . . . who would not have come home at all if we had not hit the strategic targets and hit them hard."

Preliminary planning for the bombing campaign began before Iraq even invaded Kuwait last Aug. 2. A war game last July at Shaw Air Force Base in South Carolina, based on a notional "Southwest Asia contingency" with Iraq as the aggressor, identified 27 strategic targets in Iraq, according to a senior intelligence official, Revisions by analysts beginning five days after the invasion built the lists to 57 and then 87 strategic targets, not including the Iraqi forces in Kuwait.

By the time the gulf war started on Jan. 17, according to sources with access to the target list, slightly more than 400 sites had been targeted in Iraq. They were heavily concentrated in a swath running northwest to southeast between the Tigris and Euphrates rivers.

With the benefit of additional intelligence gathered during the war and additional bombing capacity—the number of B-52 bombers was increased twice and the number of F-117A "stealth" fighters grew to 42—the list expanded to more than 700 targets. They were divided into 12 sets: leadership; command, control and communications; air defense; airfields; nuclear, biological and chemical weapons; railroads and bridges; Scud missiles; conventional military production and storage facilities; oil; electricity; naval ports; and Republican Guard forces.

Most of those target sets were not controversial. Recent questions have centered on two categories: electrical and oil facilities.

Of the 700 or so identified targets, 28 were "key nodes" of electrical power generation, according to Air Force sources. The allies flew 215 sorties against the electrical plants, using unguided bombs, Tomahawk cruise missiles and laser-guided GBU-10 bombs.

Between the sixth and seventh days of the air war, the Iraqis shut down what remained of their national power grid. "Not an electron was flowing," said one target planner.

At least nine of the allied attacks targeted transformers or switching yards, each of which U.S. analysts estimated would take about a year to repair—with Western assistance. In some cases, however, the bombs targeted main generator halls, with an estimated five-year repair time. The Harvard team, which visited most of Iraq's 20 generating plants, said that 17 were damaged or destroyed in allied bombing. Of the 17, 11 were judged total losses.

Now nearly four months after the war's end, Iraq's electrical generation has reached only 20 to 25 percent of its prewar capacity of 9,000 to 9,500 megawatts. Pentagon analysts calculate that the country has roughly the generating capacity it had in 1920—before reliance on refrigeration and sewage treatment became widespread.

"The reason you take out electricity is because modern societies depend on it so heavily and therefore modern militaries depend on it so heavily," said an officer involved in planning the air campaign. "It's a leveraged target set."

The "leverage" of electricity, from a military point of view, is that it is both indispensable and impossible to stockpile. Destroying the source removes the supply immediately, and portable backup generators are neither powerful nor reliable enough to compensate.

Attacks on some electrical facilities, officers said, reinforced other strategic goals such as weakening air defenses and communications between Baghdad and its field army.

But two weeks into the air campaign, Army Gen. H. Norman Schwarzkopf, who commanded allied forces during the gulf war, said "we never had any intention of destroying 100 percent of all the Iraqi electrical power" because such a course would cause civilians to "suffer unduly."

Pentagon officials declined two written requests for a review of the 28 electrical targets and explanations of their specific military relevance.

"People say, 'You didn't recognize that it was going to have an effect on water or sewage,'" said the planning officer. "Well, what were we trying to do with [United Nations-approved economic] sanctions—help out the Iraqi people? No. What we were doing with the attacks on infrastructure was to accelerate the effect of the sanctions."

Col. John A. Warden III, deputy director of strategy, doctrine and plans for the Air Force, agreed that one purpose of destroying Iraq's electrical grid was that "you have imposed a long-term problem on the leadership that it has to deal with sometime."

"Saddam Hussein cannot restore his own electricity," he said. "He needs help. If there are political objectives that the U.N. coalition has, it can say, 'Saddam, when you agree to do these things, we will allow people to come in and fix your electricity.' It gives us long-term leverage."

Said another Air Force planner: "Big picture, we wanted to let people know, 'Get rid of this guy and we'll be more than happy to assist in rebuilding. We're not going to tolerate Saddam Hussein or his regime. Fix that, and we'll fix your electricity.'"

Lt. Gen. Charles A. Horner, who had overall command of the air campaign, said in an interview that a "side benefit" was the psychological effect on ordinary Iraqi citizens of having their lights go out.

Attacks on Iraqi oil facilities resulted in a similar combination of military and civilian effects.

Air Force sources said the allies dropped about 1,200 tons of explosives in 518 sorties against 28 oil targets. The intent, they said, was "the complete cessation of refining" without damaging most crude oil production.

Warden, the Air Force strategist, said the lack of refined petroleum deprived Iraq's military of nearly "all motive power" by the end of the war. He acknowledged it had identical effects on civilian society.

Among the targets were: major storage tanks; the gas/oil separators through which crude oil must pass on its way to refineries; the distilling towers and catalytic crackers at the heart of modern refineries; and the critical K2 pipeline junction near Beiji that connects northern oil fields, an export pipeline to Turkey and a reversible north-south pipeline inside Iraq.

Of Iraq's three large modern refineries, the 71,000 barrel-a-day Daura facility outside Baghdad and the 140,000 barrel-a-day Basra plant were badly damaged early in the war, according to a forthcoming report by Cambridge Energy Research Associates. But James Placke, the report's author, said in an interview that the 300,000 barrel-a-day refinery at Beiji in northern Iraq—far from the war's main theater of operations—was not bombed until the final days of the air campaign.

Horner, the three-star general who was ultimately responsible for the air campaign, said the bombing's restraint was evidenced by the decision not to destroy crude oil production, "the fundamental strength of that society." Even so, he said, the impact of the war on Iraqi civilians was "terrifying and certainly saddening."

"To say it's the fault of the United States for fighting and winning a war, that's ludicrous," he said. "War's the problem. It's not how we fought it or didn't fight it. I think war's the disaster."

[From the Washington Post, June 23, 1991]

IRAQI DEATH TOLL REMAINS CLOUDED—BAGHDAD PROMISES FIGURES

(By Caryle Murphy)

BAGHDAD, Iraq, June 22—In the early hours of Jan. 17, when Operation Desert Storm broke over Baghdad's sky, pandemonium also broke out in Saddam Central Teaching Hospital. According to hospital director Qassim Ismail, panicked mothers grabbed their infants and children from incubators and intravenous drips and fled to the basement.

"Most mothers left their hospital beds in a panic way," Dr. Ismail recalled in an interview. "You know, they were afraid. They took their babies from incubators, from the drips, to the basement, which is a great mistake. We couldn't stop them. It was very cold. We lost so many premature [babies]." Pressed for numbers, Ismail said "about 45" babies died "in the first eight hours." Two children brought in that night with head injuries both died, Ismail said.

After that first night, mothers fled the hospital out of fear. "We couldn't stop them from leaving, . . . even the critically ill," he added.

The first night's chaos—and the resulting confusion about casualties—illustrates one of the enduring mysteries of the Persian Gulf War. Nearly four months after the war ended, there still is uncertainty about how many Iraqis died during the fighting and in the brief internal revolts that followed.

The Iraqi death toll is a mystery that neither Washington nor Baghdad has seemed eager to solve.

The Pentagon has estimated that 100,000 Iraqi soldiers were killed in the war, but has issued no estimate of Iraqi civilian deaths. A preliminary estimate by Iraqi officials was that 7,000 civilians died during the air campaign. Iraqi opposition groups' estimates of fatalities during the month-long fighting between Shiite Muslim rebels and government forces in southern Iraq after the war ranged from 30,000 to 100,000. Thousands more died in the suppression of a Kurdish revolt in northern Iraq.

Although there are few statistics and little hard information to go on, some foreign observers here and Iraqi specialists abroad have come to some tentative conclusions about the death toll:

The revolts by Shiite Muslims in the south and by Kurds in the north may have resulted in more military and civilian deaths than the allied air and ground war against Iraqi forces known as Operation Desert Storm, these sources suggest. And most agree that the largest number of casualties were in the south, where fighting between Iraqi troops and the rebels were bloodiest.

There are suspicions that Iraqi military deaths in Operation Desert Storm were much lower than the U.S. estimate. These suspicions rest on several factors.

First, the lists of identified Iraqi bodies buried on the battlefield, presented to the Iraqi government by U.S. and British military officials, contained only 458 names. And a list of burial sites in the Kuwaiti and Iraqi deserts that hold unidentified Iraqi remains named only a few locations.

One observer, who asked not be identified, said he takes this to mean that either six weeks of air attacks did not kill a large number of Iraqi soldiers, or that the Iraqis—under relentless bombing—were able to transport home thousands of bodies. The exact number of Iraqi war dead, he said, "may turn into an American secret" if indeed very few were killed.

Second, although civilian hospitals in Baghdad had been readied to receive an overflow of military casualties from the Iraqi military medical system during the war, an overflow did not materialize until mid-March, according to one source. This was when Iraqi troops were violently suppressing the Shiite rebellion in the south.

[In late March, U.S. military officials announced that American forces had buried 444 Iraqi soldiers at 55 sites on the battlefield. They would not say how many Iraqis were buried by British or Saudi forces, including Saudi "burial teams" operating under U.S. and allied command, staff writer R. Jeffrey Smith reported.

[Pentagon spokesman Pete Williams said Friday that the number of Iraqis buried by American forces has risen to 577.

[Five major burial sites were used by the Saudis, according to the Pentagon's announcement in March. Saudi officials, like the Americans, supplied such details as grid coordinates, number of bodies, and as much personal data as possible to the International Committee of the Red Cross, which forwarded it to the Iraqi government.

[The estimate of 100,000 Iraqi soldiers killed during Desert Storm was announced May 22 by the Defense Intelligence Agency. The DIA said, however, that the "error factor" in this estimate was 50 percent or higher, meaning that fewer than 50,000 or more than 150,000 may have been slain.]

Measuring the death toll's impact on Iraqi society is also difficult, partly because of the constraints Iraqis feel in speaking to foreigners. Accustomed to the secrecy of their government, Iraqi residents of this capital city appear to accept the missing casualty figures as something they can do little about.

Morever, many Iraqis seem more preoccupied with a daily battle to survive in the face of rising food prices and shortages as the economic embargo on their country continues to squeeze supplies.

The deaths "certainly affected them very much," said one foreign observer here. "But now they are suffering more from other things. Prices are crazy. I don't know how people can live here."

A reporter's attempt to gather information on war-related deaths yields few certainties or facts, though it offers some revealing glimpses of the emotional events in recent months here.

Qusay Khayat, 43, a renal specialist trained in England, is director of Baghdad's Yarmouk Medical Office, which includes two large teaching hospitals.

On Jan. 17, Khayat said, "I left the hospital about 12:30 a.m. I went home. I was exhausted and tired from preparing for the war. I had no appetite. My daughter said, 'Why don't you sit with us?' I said 'No, I will go to bed because I'm expecting an early wakeup tonight.'

"At 2:30 a.m., again my daughter came and said, 'Daddy, wake up. The war had started.' So I went outside the house. Really the war had started. I saw anti-aircraft missiles and I heard them. All the sky was full of missiles and you didn't know which [ones were] coming down and which were going up."

Khayat said his hospital, some of whose staff members walked to work, received between 120 and 130 wounded civilians that first night, mostly women and children. He said he was not allowed to say how many Iraqis died at his hospital during the six-week air war.

"I lived in this room during the war. My bed was there," he said, pointing to a corner. "And nearly every day, with every air raid, this whole hospital was shaking and every time I was saying, 'The hospital will fall down.' It's an old one."

The first deputy minister at the Ministry of Health, Shawqui Sabri Murqus, said "thousands and thousands" of civilians died in hospitals during the war months. But he declined to give the exact figure, saying he expects it to be released soon.

"I hope in a few days we can announce [the civilian death toll]. I think we will do [so]. You know, the actual number should be a correct one, based on correct data. . . . We will announce that for sure."

But Murqus, like most Iraqi officials, portrayed the rebellions that followed Desert Storm as a continuation of a foreign attack on his country. The uprisings, he said, were the "third page of the aggression." Given this, it is not clear whether the civilian death figures will distinguish between Desert Storm and the uprisings.

Amariya: Where One Raid Killed 300 Iraqis

(By Caryle Murphy)

BAGHDAD, Iraq, June 22—The thick, windowless walls of the Amariya air raid shelter bake in the hot, dusty wind of Baghdad's summer, and the squat building sits silent and brooding as a tomb in a neighborhood of mourners.

Here, on Feb. 13, more than 300 Iraqis were killed, most of them instantly incinerated, when U.S. bombers struck what U.S. officials maintain was a military command post. Many Iraqis, particularly those who lost relatives, angrily disagree, saying they believe the Americans knew it held civilians and struck anyway.

"If you talk all the days, it is not enough to express our feelings about this problem," said 17-year-old Ahmed Diaya, who was burned on his back but survived the explosion. His sister, Shayma, 18, died. Diaya and his mother say they don't believe the American version.

By Iraqi standards, Amariya is a middle-class neighborhood populated mostly by civil servants. The shelter is a rock of a building. Externally, one can only tell it has been damaged by looking closely at the roof.

Around it, scores of homes are decked with black bunting that lists the family members who died. One house is locked shut, all its occupants perished in the bombing. On one street, 50 people were killed. One man who lost his whole family is said to have committed suicide.

One foreigner who asked not to be identified said he was awake from a previous air raid when the shelter attack occurred at 4:30 a.m. on Feb. 13. The blast, he said, "was seismic. It didn't produce a flash, [as other explosions normally did]. My bed shook . . . . moments later, I heard the second bomb."

Unlike other air attacks, he said, this one drew no sirens or antiaircraft fire, leading him to suspect that radar-evading Stealth planes were used.

Ahmed Joodi, 17, lost his parents, a niece and three sisters in the bombing. He said the shelter "wasn't open" to the public the first two nights of the U.S. air campaign. But another Baghdad resident said several Iraqis told him the shelter had been used by civilians since the beginning of the air war.

After two days of the air war, Joodi's family fled Baghdad for the countryside, and only returned about two weeks later when his father called him back, Joodi said, adding "life in Baghdad was normal." Find the shelter open, they stayed there just to be sure, even though homes in the neighborhood were not being targeted by the Americans, he said.

Air Force Hunted Motor Home In War's "Get Saddam" Mission

(By Patrick J. Sloyan)

Military commanders conducted a massive search during the Persian Gulf War for an American-made motor home used by Iraqi President Saddam Hussein, according to U.S. military officials.

"We really went after him," one general said of the search for Saddam's forest-green "Wanderlodge," a type of luxury vehicle favored by celebrities such as country singer Johnny Cash and movie star Tom Cruise.

What the military called an intense "Get Saddam" operation is at odds with statements by President Bush and his top aides that the United States was really after Iraq's military leadership—not Saddam, the individual. But the wily, often baffling Iraqi leader escaped death at least twice while a top-priority target for missiles and warplanes hunting for the $350,000 motor home Saddam used as a mobile command center.

In the opening hours of the war on Jan. 17, Tomahawk cruise missiles and F–117A "stealth" fighter-bombers destroyed command bunkers Saddam was using in Baghdad. American hopes soared when he failed to appear in public for three days.

"Close, but no cigar," said one Pentagon planner of the bunker strikes.

After most command bunkers were destroyed, U.S. Air Force planes were divided into hunter-killer teams and patrolled areas likely to be traveled by Saddam's mobile command center. According to one Air Force officer, the search at one point rivaled allied efforts to destroy Scud missiles sites in Iraq.

While the search for the Wanderlodge failed, Saddam had a brush with death midway in the war, according to military officials. Two F–16 Falcon pilots on a routine patrol unwittingly strafed his motorcade between Baghdad and Basra, Iraq. "It was at night and we had spotted a 50-vehicle convoy," a senior U.S. officer said.

The fighter strafed the front and rear of the motorcade but Saddam's vehicle was in the middle and went undamaged.

The luxury bus was identified by U.S. intelligence before the war from a photograph of Saddam being briefed inside cramped quarters. The Baghdad government, which released the photo Jan 11, identified the location as an underground operations room in southern Iraq. But the Fort Valley, Ga., builders of the motor home identified the room as the stripped-down interior of a Wanderlodge. The company sold nine of the vehicles to Iraq during the 1980s.

Eventually, two Wanderlodges used by Iraqi generals were destroyed by U.S. troops during the ground war.

I am also submitting the Talk of the Town article from the New Yorker, in the week before last edition, and I am going to quote significantly from it, because it was a very insightful article, very brief, but very incisive.

It says:

Three months after United States Marines liberated Kuwait City, the victors of Operation Desert Sortm are still being honored across the country. By July 4th, which President Bush has declared a special day to honor the troops, the ceremonies will have lasted twice as long as the hostlities. During these months, the war has become domesticated; Desert Storm seems now to have had less to do with Kuwait or Iraq than with America's resurgence—how Americans "kicked the Vietnam syndrome once and for all,"—

And that is a quote from President Bush's speech—

and learned to pull together once again. Meanwhile, the real aftermath of the war—its effects on Iraq and Kuwait and parts of the Middle East—has steadily receded from our view. On the day when judges in Kuwait City sentenced a young Iraqi man to fifteen years in prison for wearing a Saddam Hussein T-shirt, Hollywood was congratulating the victorious American troops and parading an M–1 Abrams tank and a Patriot missile alongside Roseanne Barr and Jimmy Stewart.

The war—or, rather, the victory—gained the Prsident enormous popularity, and for most of the country the entire event has become an occasion for patriotic good feeling. Desert Storm has been reduced to a single, simple plot line, acted out by a few stock characters: the mad dictator, the resolute President, the heroic soldiers, the grateful citizenry. Details—the former intimate relations between the United States and Saddam Hussein's Iraq.

And I brought that out in several expositions on the financing through the United States banking system of millions of dollars for Iraq's war capacity. It is really a schizophrenic history of our country's comportment, so this man is absolutely right.

Unfortunately, the muddled world our of which the Gulf crisis spring last summer has gained little in clarity since the Marines marched into Kuwait City. United States policy in the Gulf has not fundamentally changed: its goal is to maintain at all costs "a secure and stable Gulf" (in Mr. Bush's phrase), in order to shelter the fragile, oil-producing, conservative Sunni regimes of the Arabian peninsula. That goal led President Nixon to anoint the Shah of Iran America's "policeman of the Gulf," and, after the Shah was overthrown, it drove Presidents Reagan and Bush to support Saddam Hussein's Iraq, which they saw as a bulwark against the ideological threat posed by the Ayatollah Khomeini and by the possibility that his Shiite revolution might spread through the Gulf. That same goal subsequently led President Bush to stand politely aside while Saddam Hussein—who he had denounced as worse than Hitler—crushed the Shiite and Kurdish uprisings in his country.

Increasingly, the victory of Desert Storm seems to be leading not so must to a secure and stable Gulf as to an Americanized one. While twelve thousand American troops protect the Kurds in Saddam's Iraq, and five thousand work to keep the Emir's Kuwait functioning, American officials have begun murmuring about establishing a new United States base in Bahrain, about a "prepositioning" of equipment in Saudi Arabia and elsewhere, about regular "joint exercises" involving American troops in the Arabian desert. But many of the threats to "stability" in the Gulf hinge on the weaknesses of the rigid, undemocratic regimes there, and regular visits from the United States Marines, far from removing those threats, might well heighten them.

[From the New Yorker]

THE TALK OF THE TOWN

NOTES AND COMMENT

Three months after United States Marines liberated Kuwait City, the victors of Operation Desert Storm are still being honored across the country. By July 4th, which President Bush has declared a special day to honor the troops, the ceremonies will have lasted twice as long as the hostilities. During these months, the war has become domesticated; Desert Storm seems now to have had less to do with Kuwait or Iraq than with America's resurgence—how Americans "kicked the Vietnam syndrome once and for all," in President Bush's phrase, and learned to pull together once again. Meanwhile, the real aftermath of the war—its effects on Iraq and Kuwait and other parts of the Middle East—has steadily receded from our view. On the day when judges in Kuwait City sentenced a young Iraqi man to fifteen years in prison for wearing a Saddam Hussein T-shirt, Hollywood was congratulating the victorious American troops and parading an M-1 Abrams tank and a Patriot missile alongside Roseanne Barr and Jimmy Stewart.

The war—or, rather, the victory—gained the President enormous popularity, and for most of the country the entire event has become an occasion for patriotic good feeling. Desert Storm has been reduced to a single, simple plot line, acted out by a few stock characters: the mad dictator, the resolute President, the heroic soldiers, the grateful citizenry. Details—the former intimate relations between the United States and Saddam Hussein's, Iraq, for example—remain unexplored. Congress, which might have been expected to investigate the dubious American diplomacy that preceded Iraq's invasion of Kuwait, largely abdicated its responsibility in the face of Desert Storm's high ratings. The roots of the war—why it actually happened—now attract the interest only of specialists and spoilsports.

Unfortunately, the muddled world out of which the Gulf crisis sprang last summer has gained little in clarity since the Marines marched into Kuwait City. United States policy in the Gulf has not fundamentally changed: its goal is to maintain at all costs "a secure and stable Gulf" (in Mr. Bush's phrase), in order to shelter the fragile, oil-producing, conservative Sunni regimes of the Arabian peninsula. That goal led President Nixon to anoint the Shah of Iran America's "policeman of the Gulf," and, after the Shah was overthrown, it drove Presidents Reagan and Bush to support Saddam Hussein's Iraq, which they saw as a bulwark against the ideological threat posed by the Ayatollah Khomeini and by the possibility that his Shiite revolution might spread through the Gulf. That same goal subsequently led President Bush to stand politely aside while Saddam Hussein—whom he had denounced as worse than Hitler—crushed the Shiite and Kurdish uprisings in his country.

On March 6th, a week after the ceasefire, the six Gulf states met in Damascus with Syria and Egypt and issued a call for "a new Arab order to boost joint Arab action." The essence of the new order was a plan to maintain Egyptian and Syrian troops "in the Saudi territories and other Arab countries in the Gulf," so as to "guarantee the security and peace of Arab countries in the Gulf region." The presence of Egyptians and Syrians, it was hoped would eliminate any need for substantial American forces, with the political damage that their continued presence would entail. More important, the structure of the new Arab order—with Egypt and Syria sending troops to the Gulf, and the Gulf countries sending some of their wealth to Cairo and Damascus—might help to bridge the most dangerous fault line in the Arab world: that between the overpopulated, impoverished nations of the north and the underpopulated, oil-rich nations of the south. (Iraq, the source of the region's most recent upheaval, stands astride this fault line—as well as that between the Sunnis and the Shiites—and it's no accident that Saddam Hussein, after invading Kuwait, hoped to attract Arab sympathies by pointing to this basic inequality as his reason for doing so; he was very well aware that the fabulous wealth of the Gulf states and the greed and arrogance perceived as accompanying it engender great resentment in the rest of the Arab world.)

On May 8th, however, President Mubarak announced that he was pulling Egyptian troops out of the Gulf. The decision, Egyptian political and military officials told the Washington Post, reflected "Egypt's impatience with Saudi and Kuwaiti foot-dragging." Now that the war was over, the Gulf states were not so eager to play host to their Arab brothers from the north, and were still less eager to pay for their presence. Besides, a Gulf diplomat was quoted in the Post as saying, "who's going to attack you if they know the United States will come and protect you?" The Gulf states, an Arab journalist said in the same story, "want blue-eyed soldiers to protect them." The comment recalls that of a "senior Gulf official" quoted in the Wall Street Journal just before the war began. "You think I want to send my teen-aged son to die for Kuwait?" he asked, then chuckled. "We have our white slaves from America to do that."

Increasingly, the victory of Desert Storm seems to be leading not so much to a secure and stable Gulf as to an Americanized one. While twelve thousand American troops protect the Kurds in Saddam's Iraq, and five thousand work to keep the Emir's Kuwait functioning, American officials have begun murmuring about establishing a new United States base in Bahrain, about a "prepositioning" of equipment in Saudi Arabia and elsewhere, about regular "joint exercises" involving American troops in the Arabian desert. But many of the threats to "stability" in the Gulf hinge on the weaknesses of the rigid, undemocratic regimes there, and regular visits from the United States Marines, far from removing those threats, might well heighten them. And for the United States, barely a year after the end of the Cold War seemed to offer the promise of a reduced military budget and a greater attention to domestic problems, the Gulf War has brought a greater burden abroad and the strong likelihood of further entanglements in the Middle East. Beyond the parades and the celebrations of national self-renewal, this is the real legacy of Desert Storm.

And at that, I will close my reading from this very insightful article and say this, that there were some fundamental principles to American constitutional government involved in that war. They were chosen to be overlooked by the people's representatives.

I introduced two resolutions. I directed two letters to the leaders of the Congress in August, not later, but in August, because it was obvious that the President had made a quick, almost a snap-judgment decision at Camp David on August 2 and 3.

I felt that it was going to be a repeat of Panama. Where are we there?

We have General Manuel Antonio Noriega over there in Florida. It is going to be embarrassing to us all before that is over with, but more importantly: Do the American people realize the hundreds of children maimed, blinded, halt, lame that we caused by the pointless bombing of the Chorillo district? It was 100 percent black, you know, so that the 10 percent of the upper class of the Panamanians could care less.

□ 1730

They are the ones we have reinstalled in power. We have two-thirds of the American troops at the height of the invasion still in Panama. Do not let anybody delude Members. That is two-thirds of the top complement at the height of the invasion of American troops. We are occupying Panama and our military are governing Panama. If that is democracy, then we have made a mockery of that word.

Why? I belive for the same reason that we still have thousands of troops in Arabia, not counting those in Kuwait and in North Iraq, and not counting those on the seas. No thought was given to what do we do afterwards. As this article points out, the Middle East is far from stabilized. In fact, it has been so terribly destabilized, that even the alliance is coming apart. Egypt has withdrawn from the alliance. That was not reported until weeks after the occurrence in the American press, and only, I am sure, because the European press has been full of it.

So that when we go to war this way, where a President on his own, without consultation with the Congress and in the Congress, by the time it decides to even discuss, not pass on the constitutionality, not discuss its own laws which were passed specifically to govern in these instances, but merely either to vote loyalty to the President or not. That was the issue, the so-called great debate we had, on whether to go to war. It was not a debate on that, but it was a debate on whether we were going to support the President or not. The President had already committed the troops. He committed twice the number on November 8 that he had announced on August 2 and 3.

So the issue has escaped, and I think with grave consequences to this country. Perhaps it is like Shakespeare says, when a nation becomes arrogant and blinded to itself in its arrogance, it has its eyes sealed by the gods, and struts to its own confusion and becomes a laughing stock to the world.

Mr. Speaker, at this point I insert for the RECORD a resolution expressing the sense of the House of Representatives that the House should act on an emergency basis to lift the economic embargo of Iraq.

H. RES. 180

Whereas reports from the United Nations, the Physicians for Human Rights, the International Red Cross, a Harvard study team, other independent organizations, and private U.S. citizens have documented the fact that unless the economic sanctions imposed against Iraq are immediately lifted and Iraq is allowed to buy and import food, medicine and equipment, especially for power generation, tens of thousands if not hundreds of thousands of Iraqi civilians will die in the upcoming months;

Whereas a Harvard study team estimates that at least 170,000 Iraqi children under the age of five will die within the next year from the delayed effects of the war in the Persian Gulf if the imposition of the sanctions continues;

Whereas this is a conservative estimate and does not include tens of thousands of Iraqi civilians above the age of five who are expected to die from similar causes;

Whereas the Catholic Relief Service estimates that more than 100,000 Iraqi children will die from malnutrition and disease in the upcoming months due to the economic embargo and destruction of the war, and the United Nations Children's Fund estimates that 80,000 Iraqi children may die from these causes;

Whereas malnutrition has become severe and widespread in Iraq since imposition of the embargo and the war due to severe food shortages and the inflation of food prices of up to 1000%, which has effectively priced many Iraqis, especially the poor and disadvantaged, out of the food market;

Whereas cholera, typhoid, and gastroenteritis have become epidemic throughout Iraq since the war due to the critical scarcity of medicine and the inability of Iraq to process sewage and purify the water supply;

Whereas the system of medical care has broken down in Iraq, resulting in the closure of up to 50% of Iraq's medical facilities due to acute shortages of medicines, equipment, and staff;

Whereas the incapacitation of 18 of Iraq's 20 power plants during the war is a principal cause of the deterioration in public health due to the resultant inability of Iraq to process sewage, purify its water supply, and supply electricity to health facilities;

Whereas the health care crisis cannot be addressed without the reconstruction of electrical facilities that enable the purification of water and treatment of sewage;

Whereas before the economic embargo of Iraq, three quarters of the total caloric intake in Iraq was imported and, moreover, 96% of Iraqi revenue to pay for imports, namely food and medicine, was derived from the exportation of oil now prohibited under the embargo;

Whereas Iraq's historic dependence on the importation of food and medicine financed by revenue from the sale of oil has made Iraq particularly vulnerable to the deleterious effects of the sanctions;

Whereas the onset of the summer heat in Iraq will both accelerate the spread of disease and impede its treatment due to the lack of refrigeration facilities even in hospitals;

Whereas the acute shortages in food in Iraq, the inflation of up to 1000% in food prices caused by these shortages, the critical scarcity of medicine, and the essential need to reconstruct Iraq's capacity to generate electricity to enable sewage treatment and water purification, cannot be addressed or rectified without Iraq's re-entry into global commerce, at present effectively prohibited by the economic sanctions;

Whereas the immediate lifting of the sanctions would drastically reduce the number of Iraqi children who will die in the upcoming months from malnutrition and disease and would relieve the suffering of the innocent Iraqi population which is now bearing the burden of the embargo: Now therefore, be it

Resolved by the House of Representatives, That the United States should act on an emergency basis to lift the economic embargo of Iraq to save innocent Iraqi civilians, especially children, from death by disease and starvation.

POSTCOLD WAR ERA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I did a special order last Thursday which was somewhat truncated because the Committee on Banking, Finance and Urban Affairs, so ably and conscientiously chaired by the previous speaker, was having a markup, and I wanted to get back to it. I will be doing this today and several other times this week and I want to explain, Mr. Speaker, that I have not suddenly been seized by an urge to make speeches to empty chairs.

I think we are at a very important point in American history. The dominant event of the past 45 years was the cold war, the effort of the United States to defend itself and much of the rest of the world against the Soviet Union and its allies. People can differ as to who was right and who was wrong and all of that. My view is that the United States was on the correct side of that fundamental issue and of most of the specific disputes that grew out of it. However, I do not think there is room for dispute about the fact that it is over.

On the other hand, what we have got is an insufficient recognition of what the ending of the cold war means to this country. What I want to do today and for the next couple of times when I am at this microphone during this period, is to address that.

As a Member of this House primarily because I think the opportunities we have in public policy to do a number of things that we have long left undone is enormous, because of the victory of the United States in the cold war, but also as a Democrat, one of the valid, relevant functions of this institution is to present to the American people, Mr. Speaker, competing views of the two parties. I think there is an agenda that the Democratic Party has had for some time which has a great deal of appeal, both in terms of substance and politically, it has been deferred by other claims on resources. That agenda now becomes realistic. The ending of the cold war need not have engendered partisan differences about what it has to do.

I think the response of President Bush, which is in line with the approach of his predecessor, Ronald Reagan, and the support President Bush gets for that approach from the overwhelming majority of Members of his party in both this body and the other body, they differ very much, I believe, with the viewpoint that will come from a majority of Democrats. Members can already begin to see this in some votes. We voted earlier this year when we had burdensharing day in the House, in which, during the consideration of the Committee on Armed Services bill, the gentlewoman from Colorado, the gentleman from North Dakota, the gentleman from Connecticut [Mr. GEJDENSON], the gentleman from Illinois [Mr. DURBIN], the gentleman from Texas [Mr. BRYANT], the gentlewoman from New York [Ms.

SLAUGHTER], myself and others presented a variety of amendments in which we said, essentially, that the American taxpayer should no longer have to pick up the tab for wealthy allies in western Europe and Japan, that the ending of the cold war ought to have some financial relief in it for America, that the American taxpayer was entitled not to a peace dividend but a victory dividend, not a peace dividend that celebrates a world totally at peace because as greatly as I would like to see that, we are not there, but a world where America has succeeded overwhelmingly, indisputably, in the major task we had set ourselves internationally for the past 45 years. The question was, could we make some changes in the degree of sacrifice we were asking the American people to make in that regard.

On one of the key votes, an amendment that I offered, which would have saved $8 billion, to be made up by our allies if necessary, but was to come at the President's choosing, not the amount of $8 billion, but how we reached it in western Europe, Japan, South Korea, areas where we have been spending a great deal for a very long time, where the allies are wealthy and the threat substantially diminished, particularly in Europe and Japan. This amendment lost, Mr. Speaker, but it got a significant majority of Democratic votes in this House.

It was the recipient of less than 10 percent of the votes on the Republican side. That is, we lost because a significant majority of Democrats was defeated by an overwhelming majority of Republicans. That issue is not going away. It is coming back. That is what I want to talk about today and for the next few days, the extent to which America's victory in the cold war has transformed the situation, the extent to which President Bush refuses to act on that, and the opportunity that it offers, both to the country in terms of responses to important problems and to the Democratic Party in light of the President's refusal to take advantage of it.

The United States has been spending vast sums on its military budget for many years. In percentage of our gross national product, we have greatly exceeded that of our allies on the whole. We have not spent as much of our gross national product on the military as the Russians have of theirs, but given the enormous disparity between the size of the American economy and the size of the Russian economy, a smaller percentage of ours came out to more dollars than theirs, certainly more useful dollars. People will argue about why the cold war ended as it did. That is the secondary argument. I will be glad to engage in it, but it is secondary to the fact that the cold war is over and that the United States can now, and in this has got to be the starting point for the next decade of political debate, the recognition that the United States can now substantially reduce the amount of money it spends on military defense without jeopardizing by an iota—whatever an "iota" is, I am not sure, but I know it is not very much—without jeopardizing by an iota, America's security.

□ 1740

There is a great disparity between the military spending policy that President Bush continues to advocate and reality. The President is in a bit of intellectual dilemma. On the one hand, he wants to take credit for the victory America has won in the cold war, and as the leader of this country he is entitled to do that because this country, I believe on a bipartisan basis, with the executive and legislative support and a good luck to you from the judiciary, I believe that we are together entitled to claim that victory from a series of policies which began in the late forties and with great continuity in their essentials carried on until fairly recently; but at the same time the President wants to claim credit for the ending of the cold war and indeed for America's victory in the cold war, he wants to deny the logical consequences of that, because the logical consequences are that we need not spend as much money as we have been spending.

Let us look specifically at America's military needs. The single biggest part of America's military spending for much of this past period has been in NATO. We have spent tens and tens of billions of dollars a year. We do not know exactly how much, but thanks to an amendment that was sponsored by members of that coalition I referred to earlier and the House voted for it over the administration's objection, we are starting to get some accounting of how much of the spending we are doing is on behalf of our allies.

We have spent the largest single piece of American defense spending in a mission division of that spending on protecting Western Europe against a ground attack in which the Russians led the Warsaw Pact westward.

Today, as Poland, Hungary, Czechoslovakia, now even Albania struggle to try to bring to their citizens simultaneously democracy and a decent standard of living, as nations like Poland, Czechoslovakia and Hungary grapple painfully, visibly and courageously with the terrible problems of leaving behind a totalitarian regime that has been imposed on them from the outside, debilitated their economy and degraded their societies, as they work on that struggle, we are doing as a nation very little to help them financially.

Why? Because we cannot afford today to help Poland reach democracy. We are too busy spending money protecting France and Denmark from a Polish invasion.

Now, that sounds ludicrous, except for the fact that we are doing it. The United States continues today to have in Western Europe nearly 300,000 fully armed fighting men and women. We have one of the most impressive overseas military forces in the history of the world in firepower in Western Europe today.

Why did it go there in the first place? To keep Russia, Poland, Czechoslovakia, Hungary, East Germany, Bulgaria, Albania, Romania and originally, but not for very long, Yugoslavia from attacking the West.

Why is it still there? There is no more Warsaw Pact. There is no more East Germany. It is part of Germany.

In fact, Mr. Speaker, there are Russian troops still, we are told, in Europe. That is true. They are in Germany and they are being paid for in part by the German taxpayers.

Understandably, the Russians could not take their troops out of East Germany so quickly because they have nowhere to live in Russia, given the state of the Russian economy, an economy which was disabled in civilian terms so that the Russians could compete with us militarily, and I can understand the Russians' reluctance to bring home these troops when they have nowhere to live. It is a problem for any society when you have homeless people, heavily armed homeless people running around with Kalashnikov's probably more than anybody could be asked to bear. So the Russians brought them to Germany and the Germans are paying to support those Russian troops.

Now, there are also American troops in Germany. We put the American troops in Germany to protect the Germans from the Russian troops. But who is paying for the American troops? Mostly the Americans.

So the situation today in the world is that there are American and Russian troops in Germany. The Russian troops in Germany are being supported substantially by German taxpayers. The American troops that are in Germany to protect the Germans against the Russian troops that the Germans are paying for are being paid for by American taxpayers. That is not very smart, Mr. Speaker. That is not a very good use of money.

I do not think those Russian troops who are in Germany because they have got nowhere to live back home in Russia are a terrible threat to Western Europe. I know the Polish troops are not and the Czech troops and the Hungarian troops, and in fact if at any time during the last five or seven years you had said to the people in the Pentagon, "Look, I can guarantee you that there will be no Polish, Hungarian, Czechoslovakian, East German, Bulgarian participation in any military action. If the Russians want to invade Western Europe, they will have to do it by themselves." The Pentagon would have told you, as they have told me, "Well, that's the end of that. We have nothing to worry about."

But we still have 300,000 troops there. We still have on this very wealthy continent of Western Europe, these thriving prosperous democracies, one of the largest overseas military forces any nation has ever maintained for a sustained period of time. The only thing that has changed is that the threat against which they serve has disappeared, and I stress disappeared. Nobody believes there is a threat of a Russian-led invasion on the ground of Western Europe.

People have said, "Well, is that irreversible?"

Yes, this part is for any foreseeable future; that is, it is inconceivable that the Russians would succeed in reharnessing the Poles, Czechs, Hungarians, Bulgarians, East Germans, et cetera, into a military alliance which they would lead. Nobody thinks that is going to happen.

We are not talking now about the relative balance of power of the right and the left in Russia. For there to need to be a NATO as of old, there would have to be a Warsaw Pact as of old, and there cannot be, so that is gone.

As to irreversibility in Russia, I do not know if anybody can say. It is hard for us to predict what will go on in the Soviet Union because it is hard for them to predict. Things have gotten more democratic, but efforts to predict exactly what is going to happen with Gorbachev, you recall the story that was told in 1964 of the CIA high-ranking official who was criticized because the CIA had not predicted the very rapid overthrow of Khrushchev. He was criticized. Someone said, "You probably don't have very good sources in the Kremlin."

He said, "Yes, we do. Why do you say that?"

So they said, "Well Khrushchev got overthrown and you didn't see it coming."

His response was, "Well, Khrushchev had great sources in the Kremlin. He didn't see it coming either." Some things are not always predictable, because nobody knows, and I do not think Gorbachev can tell you exactly what is going to happen.

But whether or not Gorbachev stays in power, the degree of democracy in Russia is important to the Russian people. We should be doing what we can to influence that in the democratic direction.

But it is one thing to say that we cannot predict whether or not there will be more or less repression in Russia. It is another to say therefore there may be a return to full-blown military strength of the Warsaw Pact. That is simply nonsense. That cannot happen, and that is why we have NATO.

Remember, NATO exists generally outside the strategic balance. NATO was not to deter the strategic war between America and Russia. It was to protect our European allies against an attack by the Warsaw Pact. There is no more Warsaw Pact.

And of course, we have European allies now which are collectively, the European NATO countries, larger than the United States, as wealthy as the United States and fully capable of defending themselves.

Then let us look at the military balance in the United States vis-a-vis the Soviet Union. We have not yet reached a point where we can completely relax vis-a-vis the Soviet Union. I think we are rapidly approaching it, but nations are entitled to a margin of safety, and I think we should maintain that. I think we should maintain our nuclear submarines which prowl the oceans undetected by the Russians, with their MIRV warheads, a B-1 bomber set with a cruise missile, a Minuteman missile in the silo, that is more than enough to deter any rational Russian, especially today, from starting a nuclear war, a nation of the Soviet Union which has been weakened substantially by a degree of internal dissention that is far worse than anything we have seen in this country for 125 or 135 years.

□ 1750

So, realistically, we can reduce by a very substantial amount the tens of billions we spend every year to protect Western Europe against a ground attack. We can also jettison things like the B-2 bomber, the MX, and Midgetman missiles, those weapons which were intended to continue to expand our nuclear delivery capacity vis-a-vis a Soviet Union which was arguably expanding its nuclear capacity.

We can scale down substantially the SDI, the strategic defense initiative that was to protect us against thermonuclear attack which was, frankly, never realistic. That notion of the overarching shield in the sky was the product of one of the few genuinely creative moments Ronald Reagan ever had when he made that thing up. George Bush says he still wants an SDI because, for political reasons, he has to keep faith with that concept of the President. But if you look at George Bush's as opposed to Ronald Reagan's SDI, they are very different. The Bush one is more realistic, except for the money they want to spend.

So we can save substantially in that area. Let us look at the rest of the world.

Let us look at Japan. Today, as we stand here, the United States is spending, according to the latest figures I have seen, $5 billion a year over and above what the Japanese reimburse us for to defend Japan. As against what? Nobody thinks that Japan today faces any substantial military threat, and that includes in the "nobody" the Japanese. The Japanese are more afraid of an invasion of Mutant Ninja Turtles than they are of an attack by the Soviet Union or China.

All the Japanese are afraid of with regard to the Soviet Union and China is that somebody might beat them to the punch in developing the markets.

If the Japanese were really frightened of that, then I would expect them fully to fund the American military presence there because I think that is what the solution ought to be. We ought to say to our friends, as they are a friend, the Japanese, and I think one of the things about which America can be very proud is the role America played in the evolution of Japan to the position it has today.

After World War II the United States occupied Japan and, in a very, very generous set of policies, helped the Japanese find themselves economically and politically. Japan is today an extraordinarily prosperous and successful nation with a functioning democracy of which the Japanese are entitled to be fully proud. And is it they who are entitled most of all to be proud; nations do not have that done for them, they do it themselves. The Japanese have done it for themselves.

But to the extent that America can have an influence, it is in the right direction.

We should nuture that relationship.

But to subsidize the Japanese by $5 billion a year on our military against nonexistent threats to them is, again, very stupid. This is a policy that dates from 1960.

NATO was from 1949. The fundamental fact in the American national security today is cultural lag. We cannot get adjusted to current realities.

NATO, in 1949 we started it, and it was a very good idea then, and it was necessary for most of its life. It has outlived its usefulness. In fact, in 1989, when NATO had its 40th anniversary, I wanted to send all of our NATO allies telegrams that said, "Happy Birthday. Now why don't you get out of the house and live on your own? Uncle is getting tired of picking up all these tabs." With regard to the Japanese, what made sense in 1960, a heavy American subsidy of their defense against the Communist menace is no longer sensible, for two reasons: First, they are not menaced by the Communists; second, they can afford to pay for whatever defense they need.

I do not mean by this to urge the Japanese to rearm. I do not believe they should rearm.

If I lived in Japan, I would not vote for that.

I also think that would be destabilizing. I also think the Japanese are too smart to rearm. They understand one of the great advantages thay have had in the world is that the United States was spending six times its GNP on the military than they were, in percentage terms. That has been one of the reasons the Japanese have been able to do so well in the civilian economic area. Having your No. 1 economic competitor bogged down by a need to spend six times as much as you in a relatively unproductive form of expenditure, that is, national defense, unproductive in terms of your ability to compete in the world with civilian goods, that is a great boon. The Japanese are not about to give that away.

So, I think it is a false argument to say, "Well, if we cut back the Japanese, they will rearm." What the Japanese should do instead is compensate us dollar for dollar for every bit of defense we provide for them.

Now, people said, "you know, we can't have that, that would make America into mercenaries." Well, I disagree with that. Fundamentally, a mercenary is someone who puts his gun out for hire to the highest bidder. Mercenaries need no common moral purpose. When you read Soldier of Fortune magazine—I am told—there are people who hire themselves out. They do not always inquire into the moral purposes of the people who are going to hire them. Certainly, that is not the role of mercenaries through history. I do not know that the Hessians preferred King George to George Washington on philosophical terms. I do not know that they were monarchists as opposed to Lockeans.

He had more money to pay them. It does not make America mercenaries if we put our military might at the service of people with whom we share a moral purpose but ask them to help pay for it. I do not think the American troops in the gulf were mercenaries because in the end the rest of the world, for once and what I hope will be a precedent, deferred or defrayed the cost, so it did not cost the American taxpayers disproportionate amounts.

Besides which those who say we should not be mercenaries are not saying that the Americans, American forces, should not go to the defense of other nations. The choice is not between being a mercenary and staying home. The choice is between being a mercenary and being stupid. Because what they say is, "Well, we can't accept money for doing that. Let's do it for nothing."

I do not understand the moral superiority of borrowing money to do it rather than asking very wealthy nations to pay for it if they can. And the Japanese can, if they feel threatened.

My guess is that if we said to the Japanese, "We would like you to pay us dollar for dollar for the military protection we are supplying to you on the islands of Japan," they would suddenly feel less threatened. I am using good conservative economics here.

When people get a good for free, they will use a lot more of it than if they have to pay for it.

My guess is the Japanese feel a lot more threatened when they get Americans for virtually nothing than if they were going to have to pay for the Americans they were getting for nothing.

Now, the Japanese are paying something. By vote of this House a year ago in an amendment sponsored by the gentleman from Michigan, the chief deputy whip, we forced them to increase some. And they have increased it. It was over the objection of the President, who thought it unseemly of us to ask a very wealthy nation to help defray the cost we incur in protecting them. Fortunately, the President's position was not agreed to, and we are getting some more.

But the Japanese say, "Well, we are paying what the 1960 treaty requires." But that was 1960, this is 1991. Russia, China, Japan, they were all very different in 1960. We were different. We did not have such enormous deficits.

That also applies to South Korea. The South Koreans have 43,000 American troops. They do face more of a threat. The North Korean Government is run by people of a sort whom I would feel safe to say they could not even drive cars much less run countries.

But South Korea is bigger than North Korea, has a better economy than North Korea. There is no reason why 43,000 American ground troops should be there. The promise of American air and sea support if they were to be attacked by North Korea, I am all for that. A couple of thousand ground troops, as an earnest of that, very good idea.

But 43,000 troops and all that costs us year after year? We got it down to 36,000 after a lot of pressure from here, over the President's reluctant agreement.

By the way, the North Koreans used to be more threatening, it seems to me, when they had Russian and Chinese support. They do not have it any more.

The Russians and the Chinese have largely backed away from the North Koreans, who continue to be brutal and unattractive and threatening people.

But their capacity to overwhelm South Korea on their own without Chinese and Russian support is not what it used to be. And there is no need for us to keep 43,000 troops there.

Now, we have bases in the Philippines. I am prepared to offer American economic assistance to the Philippines. My argument is not that America should not be providing aid to other countries. We do not do enough to help the Latin American countries with their debt problem in a way that would help democracy. We contribute to the discrediting of democracy now because we identify democracy with the degree of very unpleasant austerity in the minds of some people.

We ought to do a great deal more to help the starving people of Africa. Let me say in this context that I am proud of the statements that were made—I do not agree with all of them—but proud of the thrust of the statements the gentleman from Texas, who preceded me, made when he talked about the terrible problems of starvation, malnutrition, and hunger in Iraq. And, yes, I think we should be doing more to alleviate the plight of innocent human beings, young children and others in that country.

So this is not a plea for isolationism, but it is a plea for in fact saving money on our national security expenditures so that we have more to help among others in the foreign policy field.

□ 1800

The Philippines, if they need some money, let us talk about that. But we are in this unseemly fight now in which we are insisting that the Philippines; let us protect them, and let us pay them for the privilege. It destabilizes Filipino politics, and it makes no sense.

What are they out there for? We used to be out in the Philippines because the Russians had this major base in Vietnam. They do not have it anymore.

Cultural lag, Mr. Speaker; that is the hallmark of American military policy today. We were so successful at defending so much of the world against the Communist threat that the fact that that threat has substantially diminished, in large part because of our successes, does not persuade the people in the White House that the time has come to save the money, and that can be talked about elsewhere.

Mr. Speaker, I do not say we should pull back entirely the United States. I want us to have the nuclear deterrent I described before. I want us to have air and sea power stationed in various parts of the world so that we can help South Korea deter attacks from North Korea. I think we ought to continue to have a continued military presence in the Persian Gulf. We ought to have the capacity to send a couple hundred thousand troops places. But we do not need what we have today.

Mr. Speaker, what we have today gives us the capacity to do that plus station large fixed forces in western Europe, and Japan, and in South Korea, and in the Philippines and elsewhere. Let us diminish that capacity.

If the Pentagon will come in and say, "Here's what we need in terms of some forces stationed overseas, air and sea power dispersed, some central forces in reserve so that we can meet these trouble spots," that is fine. Now let us keep a deterrent. I am convinced we can do it for half of what we are now spending, $50 billion rather than $300 billion.

It cannot be, Mr. Speaker, that the collapse of the central military enemy of the United States during the postwar period, the collapse of that enemy, has virtually no fiscal consequences to the United States. Either we were spending way too little a few years ago, but we are spending way too much now, and those who want to argue that we are spending way too little have to explain how come then we were so successful. Because we have not only been successful in persuading that Soviet Union to change, but in the one test of arms with an enemy after the Soviet Union, Iraq, we were overwhelmingly successful, beyond anybody's explicit predictions.

Mr. Speaker, we were told Iraq was the fourth largest army in the world. But the fourth largest army in the world did not last 2 or 3 days with the United States. Our air superiority was total. The United States, which is capable of doing what it did in Iraq, is one that can cut its military spending in half over the next 3-year period and not be in any way, shape or form threatened.

Now let me address here the argument, Mr. Speaker, of those who said, "Oh, yeah, but how did we get that way? By all that we spent in the 1980's," and I want to particularly address those who say that the very victory in Iraq and the victory in the cold war demonstrates how correct some of these military spending policies were. Some of them, yes. Remember there has been a consensus in the United States since the days of Harry Truman in NATO. There was a consensus that the United States should be doing what it has been doing. Overwhelmingly both parties, Presidents, Members of Congress of both parties, supported NATO. NATO was not controversial except early on among some of the isolation wing on the Republican side, but that is a phase of the Republican Party that has long since been left behind in history.

From NATO through the decision by Jimmy Carter to respond in Afghanistan there has generally been a very high degree of consensus when it came to an American military response against the Soviet Union. We argued over the margins. I will say, yes, that I think during the 1980's some people on the other side, and President Reagan in particular, and then George Bush, overspent. I do not think we ever needed the B-2 bomber, the mobile missiles. Those were the days of the six-sided triad, the triad of land, sea and air. We have nuclear submarines in the sea, the best place for submarines. We have a land-based missile of considerable accuracy. We have intercontinental nuclear bombers, the B-52 replaced by the B-1 with cruise missiles. We never needed, it seemed to me, strategically all the extras.

In fact, Mr. Speaker, those who argue that Iraq showed that big spenders of the Pentagon were absolutely right are in fact wrong. The big-ticket items over which we argued in the 1980s were not used in Iraq. Not only did we not use the B-2, obviously in Iraq we did not even use the B-1. We used the obsolete B-52. We were told how obsolete it was. We needed the B-1, the B-2. God knows how many B's they would have argued for if we had not won the cold war before they could reach it, and the B-52 turned out to be perfectly serviceable in Iraq.

The weapons used in Iraq, the high-tech, nonnuclear weapons were weapons that were overwhelmingly supported on both sides, in the House and in the Senate, during the 1970s and 1980s. The Patriot missile was not something that was fought by the left and supported by the right, killed by the Democrats, saved by the Republicans. The fighters that we used; that is simply not reality. What we used to win the war in Iraq represented the noncontroversial consensual parts of America's military budget. The parts over which we fought, Ronald Reagan's pie in the sky in the Strategic Defense Initiative, B-2, the MX, those very expensive weapons; those were not relevant to Iraq, as they are not relevant in other ways to the Soviet Union.

So, the argument, I think, is fairly clear. One can read the President's own speeches when he has been here a couple of times this year. He has talked about our victory in the cold war.

The question is: If we have won the cold war, as we have, how come we cannot save very much money? How come it turned out that we have to spend the same amount of money, having won the cold war, as we spent before?

Well, there are a couple of arguments. One, as I said, was that we cannot be sure the Russians will not revert once again to that level of threat.

Well, my conservative friends have always told me, and I did not argue, "You have to look at the capability of your enemy, not your intentions."

A little bit of a logical problem there because we have got to look at their intentions to decide if they are the enemy. I mean, when we looked at the rest of the world, decided on our military needs, we never assumed that the British and the French were going to attack us, so the British and the French we judged on their intentions, not their capabilities. I guess once one has bad enough intentions, we sort of swing into capability judgment.

Well, let us look at the Russians' capabilities. They "ain't" much today. This is a country that is in severe difficulty. An army of Russians, which includes people from the Baltic States, Assyris, and Armenians who hate each other, Georgians, Moldavians, people in revolt against central authority; it is not a great threat to a superpower like us. It is for a small nation, but not to a superpower, and we are the only superpower today. So, the likelihood that the Russians are going to be able to come back seems to me to quite slender, especially since nobody believes that what happened in eastern Europe is reversible.

People have said, "Oh, you're saying this is irreversible." Yes, let us proclaim the defection of the nations of the Warsaw Pact from Soviet military allegiance is irreversible. I am prepared, as I said before, to concede that given one reading of the history of Transylvania. The Ceausescus might come back to live in a particularly unattractive form. But I do not think that will be a military matter, and so the argument that we have got to keep up roughly the same level of spending because the cold war may come back is nonsense.

But then we were told, "Well, gee, you've got to deal with situations like Iraq." Well, the answer is that we dealt with an Iraq situation very swiftly while we were still dealing with the rest of the world.

The fact is that an America ready to deal with trouble spots the equivalent of Iraq is an America that can cut its military spending prudently in half over 3 years and still be the largest nation in the world partly, Mr. Speaker, because we have a right to say that one thing has changed, and here is one of the major attitudinal differences between the Democrat and Republican Parties. It was not inherent in the nature of ideology that this be the case, but that is the way it has worked. I would suggest later that I think there were some ideological situations for it. It is generally the Republican position that it is the United States obligation to do all this. If the rest of the world wants to chip in, that is fine. But we will promise them that we will do it whether they are there or not, that America will take it on, that America will spend the money, that the American taxpayers will be there. They call it, Mr. Speaker, the price of leadership, and it is the highest price in the world today. The price of leadership for the United States apparently is well over $100 billion a year on military expenditure to make the rest of the world feel better because, if one looks at our allies in Europe, if we look at our allies in Asia, if we ask them to make a 10- or a 15-percent increase in what they have been spending militarily, they can make up for our own losses. Instead, of course, they intend to cut even further than we do, and that is the funamental question: Is there an obligation on the part of the United States, now that we have helped nurture our allies to full strength, to continue to shoulder the burden for them?

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Do we have some obligation to continue to spend six times as much as the Japanese on military defense because it is a defense that includes them and us? Do we have an obligation to spend twice as much as our European allies on the average? Do we have that obligation?

Now, I have said the first potential argument for our keeping up our spending militarily was that, well, we might have a resurgence of the Communist threat. That really is not what anybody seriously thinks.

The second argument, the one that I think is what really motivates the President and his Republican allies, is that this is the price of leadership; the price of leadership is to say to the American taxpayer, "You have got to continue to borrow and borrow and put your tax earnings behind that borrowing so that America can maintain this worldwide military network in which we spend far more than nations of a comparable degree of wealth so that we can be their leader."

Mr. Speaker, I think that fails as rational policy on a number of grounds. In fact, as we continue to spend unnecessarily militarily, we hinder our society from achieving far more important goals today. We have won the military race. We have not been doing nearly as well in the civilian race, and to continue this policy is to continue to lose leadership.

Let me say that leadership as a concept is one that I am a little distrustful of in the abstract. I would like America to be the leader in health. I would like us to be the leader in reducing childhood mortality. I would like us to be the leader in affordable housing. I do not think I agree with the kind of leadership the President is talking about as the primary goal, a leadership in which other nations defer to us in some foreign policy questions, in return for which we spend vast amounts of money and disable ourselves from dealing at home.

With that, Mr. Speaker, I will wind this up now and return to it tomorrow. That is the attitudinal question I want to address, because I think it is fairly clear that militarily there is no justification for us to be spending at the level we are now spending and project what we are going to spend. That is especially the case if we factor in the need for our allies to contribute.

In other words, Mr. Speaker, I think we can afford to spend less and still be secure and have our allies still be secure. If they doubt us, they can still spend. I am not telling them they cannot spend more. I think we can spend less. I think they could spend more if they have to. I predict that they will not because they are not really so afraid of the great unknown out there. They just figure that if we are going to pick up the tab, why not? If we think that is the way we can be the leader, they will play along with that. They will even insist that we do that. The Japanese see no inconsistency in telling us on the one hand to reduce our deficit and on the other hand insist that we continue to spend money to subsidize their defense against threats that they no longer fear, because they would rather have it than not have it if it does not cost them anything.

So the question then is, In the absence of military necessity, why do we continue to spend? I think if we look at the Reagan and Bush policies, not just in military spending but in trade and other areas, what we see is the decision by them that the most important goal is for the United States to continue to buy a leadership role in the world, primarily through military spending, but also by putting our own economic interests second in other areas. That, I think, is becoming the defining difference between the parties. It has not yet reached fruition, but I think it is there. If we look at the votes on burden-sharing, if we look at questions like most-favored-nation treatment for China, we may ask, why is the President so insistent on most-favored-nation treatment for China? Does anyone think it is because of trade? I do not think so. The Chinese do not believe in buying things. This is hardly a free enterprise economy. They have a very mercantilistic approach. George Bush believes that it will enhance America's political influence in the world if we give most-favored-nation treatment to China, but it will undoubtedly result in great economic advantage to the Chinese and no great economic advantage to us. In fact, on the whole, for a while it will result in economic disadvantage to America as a society. But that is an example of the approach they take.

So this is the approach both with trade, where America's economic interests are really put somewhat second to our political interests in the world, and in the military area, where we continue to spend at a level unjustified by military necessity to make our allies happy. And that is what we are told, by the way, about Europe, that we have to spend this money to reassure our allies. We are told that we have to keep the troops in Japan to reassure the Japanese, that we have to keep our troops in South Korea to reassure the South Koreans.

Mr. Speaker, how come nobody ever reassures us? How come we always reassure everybody else, and how come, when we reassure them, it always costs us billions of dollars? Why can we not be friends? Why can we not reassure each other mutually and inexpensively?

We hear the argument that America must continue to spend at virtually our current levels and only gradually reduce, and reduce to a level that will still be too high. George Bush says, "OK, I don't need that many troops in Europe. I need 200,000 troops in Europe."

Mr. Speaker, I do not know an adult who can tell me what 200,000 American troops are going to be doing there in 2 years or 3 years or next month. But George Bush wants to keep them there because they will help enhance America's leadership.

I will return later this week, Mr. Speaker, and that is a prospect I know you can bear with equanimity since you will not be in the chair, and I will elaborate on what I think the answers are to these questions.

COMMEMORATING THE 10TH ANNIVERSARY OF THE "I HAVE A DREAM" PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York [Mrs. LOWEY] is recognized for 60 minutes.

Mrs. LOWEY of New York. Mr. Speaker, I rise today to pay tribute to an enormously successful education program which has made a real difference in the lives of thousands of American youngsters: The "I Have a Dream" Program founded by Eugene Lang.

The "I Have a Dream" program combines a comprehensive early intervention program to ensure that disadvantaged youngsters remain in school and succeed at their studies, and an early guarantee of student aid to provide them with the means of attending college. It has been recognized around the Nation as a uniquely successful approach to motivating students and ensuring that they complete their studies. In fact, at this point, almost 200 individuals are sponsoring 141 projects in 41 cities.

The program was founded in 1981 when Eugene Lang adopted the entire sixth grade of his original alma mater, P.S. 121 in Harlem. He promised to send these youngsters to college if they stayed in school and earned their high school diplomas. However, recognizing that the odds were stacked against many of these inner city youths, Mr. Lang also developed and implemented a comprehensive early intervention program to assist them in overcoming the many obstacles they faced.

This early intervention program proved uniquely successful in large part because of the intensive personal attention to students by their highly motivated and caring sponsor, Mr. Lang. In fact, 10 years later, more than 90 percent of those who began the program have achieved high school diplomas or GED certificates, and more than half of them are attending college.

Across the Nation, other concerned individuals have joined in showing youngsters this same type of caring and personal attention. As a result, almost 10,000 children have benefited from this invaluable program, which helps them to become productive citizens and gives them the strength to make their dreams realities.

Today, in New York City, more than 300 "I have a Dream" sponsors and program participants have convened for their annual convention—which is also a 10th anniversary celebration. On this occasion, I believe it is extremely important for Congress to express its congratulations to the program's founder, Mr. Lang, and to its many participants. They are true foot soldiers in the battle to save our Nation's children—and our Nation's economy.

In this spirit, I would like to enter into the RECORD at this point a letter which was recently sent by 20 members of the Education and Labor Committee to Mr. Lang, commending him on his extraordinary accomplishments in creating this program and replicating it around the Nation.

I know that all Members of Congress—and all concerned citizens—join in wishing the "I Have a Dream" Foundation the very best on this very important occasion. Certainly, if our Nation is to help our Nation's children transform their dreams into realities, it will be through the good works of enormously effective groups such as the "I Have a Dream" Program.

It will also be through the generosity and commitment of leaders such as Eugene Lang. I have known Eugene Lang personally for many years and he is deeply compassionate, visionary, and hardworking. Our Nation must not only replicate the "I Have a Dream" Program, but we must also find more leaders who are as forward-looking and results-oriented as Eugene Lang.

Mr. Speaker, I submit the full letter sent by the Education and Labor Committee to Eugene Lang and the "I Have a Dream" Foundation for printing in the RECORD at this point.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 20, 1991.

Mr. EUGENE LANG,
"I Have a Dream" Foundation, 100 East 42nd Street, New York, NY.

DEAR MR. LANG: As Members of the House Education and Labor Committee, we are writing to commend you for your outstanding work to increase the educational opportunity for disadvantaged students in the United States.

We are deeply grateful to you for creating the "I Have a Dream" program, which will shortly celebrate its tenth anniversary. This program has been uniquely successful in offering newfound hope to our nation's disadvantaged students. As a result of this program, more than 10,000 children in 41 cities have beaten the odds by completing high school and using an "I Have a Dream" scholarship to attend college and pursue their dreams.

Your concern and generosity, as well as that of the other special people who are involved in the "I Have a Dream" program, is exemplary and has helped this program achieve its enormous success. It is the personal intervention of caring individuals such as yourself which has helped the "I Have a Dream" program make a lasting difference in the lives of so many young people.

The unique success of this program has been an inspiration not only to the many children you have helped, but to all of us. You have demonstrated how one citizen can make an enormous contribution to the lives of countless others. Your creativity, commitment, and perseverance has significantly expanded opportunities for our youth. Further, it is helping our nation create the skilled workforce we need to remain competitive in the 21st Century.

The "I Have A Dream" program has also demonstrated the important role of private sector initiatives in improving education and increasing opportunity for our young people. We are hopeful that the comprehensive program will inspire other members of the business community to develop similar programs.

Again, we wish to congratulate you on 10 years of remarkable success. You, along with everyone else involved in "I Have a Dream," should be very proud of all the good work you have accomplished. We hope that "I Have a Dream" program will continue to grow and flourish.

Sincerely,

Nita M. Lowey, Tom Sawyer, Charles A. Hayes, Robert E. Andrews, Dale E. Kildee, Jack Reed, William D. Ford, Pat Williams, Tim Roemer, Patsy T. Mink, Tom Petry, Carl C. Perkins, Jolene Unsoeld, Major Owens, Bill Clay, Steve Gunderson, Donald M. Payne, Tom Coleman, Susan Molinari, and George Miller.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS (at the request of Mr. MICHEL), for today, on account of illness in the family.

Mr. KLUG (at the request of Mr. MICHEL), for today, on account of official business.

Mr. SKELTON (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ROSTENKOWSKI, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mrs. LOWEY of New York, for 60 minutes, today.

Mr. FRANK of Massachusetts, for 60 minutes each day, on June 26, 27, and 28.

Mr. FALEOMAVAEGA, for 60 minutes, on June 25.

Mr. ANDREWS of New Jersey, for 5 minutes, on June 26.

Mr. LIPINSKI, for 5 minutes each day, on July 9, 16, 23, and 30, and for 60 minutes each day, on July 10, 17, 24, and 31.

Mr. GONZALEZ, for 60 minutes each day, on July 8, 11, 15, 18, 19, 22, 25, and 26.

Mr. OWENS of New York, for 60 minutes each day, on July 22, 23, 24, 25, and 26.

(The following Members (at the request of Mr. THOMAS of Wyoming) to revise and extend their remarks and include extraneous material:)

Mr. LEWIS of California, for 60 minutes each day, on June 24, 25, 26, and 27.

Mr. MCCOLLUM, for 5 minutes, today.

Mr. BURTON of Indiana, for 60 minutes each day, today and on July 10, 11, 16, 17, and 18.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. THOMAS of Wyoming) and to include extraneous matter:)

Mr. DAVIS.

Mr. BROOMFIELD.

Mr. LAGOMARSINO.

Mr. HORTON.

Mr. PORTER in two instances.

Mr. DICKINSON.

Mr. MCEWEN in two instances.

Mr. COUGHLIN.

Mr. MCDADE.

Mr. FAWELL in two instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. ROSTENKOWSKI.

Mr. DE LUGO.

Mr. NEAL of Massachusetts in two instances.

Mr. SOLARZ.

Mr. LANTOS.

Mr. SCHEUER.

Mr. VENTO.

Mr. MATSUI.

Mr. STOKES.

Mr. MCCURDY.

Mr. TORRICELLI.

Mr. FAZIO in two instances.

Mr. ROE.

Mr. JONES of North Carolina.

Mr. FORD of Michigan.

Mr. MURTHA.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 249. An act for the relief of Trevor Henderson; to the Committee on the Judiciary.

ADJOURNMENT

Mr. FRANK of Massachusetts. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Tuesday, June 25, 1991, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1601. A letter from the Chairman, Prospective Payment Assessment Commission, transmitting a report on reimbursement for blood clotting factor for hemophilia patients under part B of title XVIII of SSA, pursuant to Public Law 101-239, section 6142 (103 Stat. 2225); to the Committee on Ways and Means.

1602. A letter from the Chief of Legislative Liaison, Department of the Army, transmitting notification that a cost-comparison study of the training and audiovisual services at Fort Rucker, AL, has resulted in a decision that contract performance is more cost effective, pursuant to Public Law 100-

463, section 8061 (102 Stat. 2270–27); to the Committee on Armed Services.

1603. A letter from the Chief of Legislative Liaison, Department of the Army, transmitting notification that a cost-comparison study of the commissary storage and warehousing function at Fort Rucker, AL, has shown that an in-house operation is the most cost efficient, pursuant to Public Law 100–463 section 8061 (102 Stat. 2270–27); to the Committee on Armed Services.

1604. A letter from the Chief of Legislative Liaison, Department of the Army, transmitting notification that a cost-comparison study of the Commissary and storage warehousing function at Fort Jackson, SC, has shown that an in-house operation is the most cost efficient, pursuant to Public Law 100–463, section 8061 (102 Stat. 2270–27); to the Committee on Armed Services.

1605. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1606. A letter from the Chairman (Pension Committee), Federal Intermediate Credit Bank of Jackson, transmitting the annual pension plan report for the plan year ending December 31, 1990, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1607. A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend the Federal Property and Administrative Services Act of 1949 to authorize executive agencies to establish more than one supply source for a particular commodity or service; to the Committee on Government Operations.

1608. A letter from the Inspector General, General Servcies Administration, transmitting a copy of the audit report register, including all financial recommendations, for the 6-month period ending March 31, 1991; to the Committee on Government Operations.

1609. A letter from the Secretary, Smithsonian Institution, transmitting a copy of the annual report entitled "Smithsonian Year 1990"; to the Committee on House Administration.

1610. A letter from the Chief Justice, Supreme Court of the United States, transmitting a copy of the report of the Proceedings of the Judicial Conference of the United States held on March 12, 1991, pursuant to 28 U.S.C. 331; to the Committee on the Judiciary.

1611. A letter from the Director of the Office of Personnel Management, transmitting a draft of proposed legislation to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes; to the Committee on Post Office and Civil Service.

1612. A letter from the Chairman, Interstate Commerce Commission, transmitting a draft of proposed legislation to amend Title 49, United States Code, to impose a 1-year moratorium on rate tariff filing requirements for motor common carriers of property, and for other purposes; to the Committee on Public Works and Transportation.

1613. A letter from the Chairman, Interstate Commerce Commission, transmitting a draft of proposed legislation to amend the Interstate Commerce Act to modify the Interstate Commerce Commission's regulatory responsibilities over the trucking industry, and for other purposes; to the Committee on Public Works and Transportation.

1614. A letter from the U.S. Trade Representative, transmitting a report entitled "Year-End Review, 1990" of the Defense Policy Advisory Committee on Trade; to the Committee on Ways and Means.

1615. A communication from the President of the United States, transmitting the annual report on international activities in science and technology for fiscal year 1990, pursuant to Public Law 101–339, (104 Stat. 384); jointly, to the Committees on Foreign Affairs and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on the Judiciary. H.R. 1998. A bill to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities. (Rept. 102–122). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 2332. A bill to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans; with an amendment (Rept. 102–123). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLAY: Committee on Post Office and Civil Service. H.R. 1341. A bill to amend title 5, United States Code, to require that a Federal employee be given at least 60 days' written notice before being released due to a reduction in force; with an amendment (Rept. 102–124). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 543. A bill to establish the Manzanar National Historic Site in the State of California, and for other purposes; with an amendment (Rept. 102–125). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 848. A bill to authorize the establishment of a memorial at Custer Battlefield National Monument to honor the Indians who fought in the Battle of the Little Bighorn, and for other purposes; with amendments (Rept. 102–126). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 1448. A bill to amend the Act of May 12, 1920 (41 Stat. 596), to allow the city of Pocatello, ID, to use certain lands for a correctional facility for women, and for other purposes; with an amendment (Rept. 102–127). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROE: Committee on Public Works and Transportation. H.R. 14. A bill to amend the Federal Aviation Act of 1958 to provide for the establishment of limitations on the duty time for flight attendants; with an amendment (Rept. 102–128). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 181. Resolution waiving certain points of order during consideration of H.R. 2699, a bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102–129). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. EVANS:

H.R. 2729. A bill to authorize the Secretary of Transportation to redesignate the numerical designation of certain Interstate System highway routes, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. ROSTENKOWSKI:

H.R. 2730. A bill to amend the Internal Revenue Code of 1986 to simplify provisions applicable to qualified retirement plans and to expand access to such plans; to the Committee on Ways and Means.

By Mr. FRANK of Massachusetts (for himself and Mr. SCHIFF):

H.R. 2731. A bill to amend section 2680(c) of title 28, United States Code, to allow Federal tort claims arising from certain acts of customs or other law enforcement officers, and to amend section 3724 of title 31, United States Code, to extend to the Secretary of the Treasury the authority to settle claims for damages resulting from law enforcement activities of the Customs Service; to the Committee on the Judiciary.

By Mr. HEFLEY:

H.R. 2732. A bill to extend until January 1, 1995, the suspension of duties on certain glass fibers; to the Committee on Ways and Means.

By Ms. KAPTUR:

H.R. 2733. A bill to provide for immediate delivery of small denomination U.S. savings bonds available to the public at the point of purchase; to the Committee on Ways and Means.

H.R. 2734. A bill to provide for immediate delivery of U.S. savings bonds available to the public at the point of purchase; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself, Mr. ANDREWS of Texas, Mr. MCGRATH, Mr. ANTHONY, Mrs. KENNELLY, Mr. ARCHER, and Mr. THOMAS of California):

H.R. 2735. A bill to amend the Internal Revenue Code of 1986 to repeal the 30-percent gross income limitation applicable to regulated investment companies, and for other purposes; to the Committee on Ways and Means.

By Mr. MCDADE:

H.R. 2736. A bill to authorize additional appropriations for the purposes of the Steamtown National Historic Site in Scranton, PA; to the Committee on Interior and Insular Affairs.

By Mr. MCDERMOTT (for himself, Mr. MILLER of California, Mr. CAMPBELL of Colorado, Mr. RHODES, and Mr. JOHNSON of South Dakota):

H.R. 2737. A bill to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program; jointly, to the Committees on Interior and Insular Affairs and Ways and Means.

By Mr. MACHTLEY:

H.R. 2738. A bill to amend title 38, United States Code, with respect to benefits for individuals who may have been exposed to ionizing radiation during military service, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MANTON:

H.R. 2739. A bill to amend the Coastal Zone Management Act to prohibit the authorization of, or to operate any vessel on, the coastal waters to provide criminal detention or imprisonment facilities; to the Committee on Merchant Marine and Fisheries.

By Mr. VENTO:

H.R. 2740. A bill to amend the Internal Revenue Code of 1986 to provide for a simplified method of allocating expenses in case of use of a residence in providing day care services; to the Committee on Ways and Means.

By Mr. VISCLOSKY:

H.R. 2741. A bill to direct the Attorney General to establish in Lake County, IN, an office of the Immigration and Naturalization Service; to the Committee on the Judiciary.

By Mr. HOYER (for himself, Mr. WOLF, and Mrs. BENTLEY):

H. Con. Res. 173. Concurrent resolution authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby; to the Committee on Public Works and Transprotation.

By Mr. SOLARZ:

H. Con. Res. 174. Concurrent resolution concerning relations between the United States and the People's Republic of China; jointly, to the Committee on Ways and Means and Foreign Affairs.

By Mr. GONZALEZ:

H. Res. 180. Resolution expressing the sense of the House of Representatives that the United States should act on an emergency basis to lift the economic embargo of Iraq; to the Committee on Foreign Affairs.

By Mr. STUDDS (for himself, Mr. YOUNG of Alaska, Mr. JONES of North Carolina, and Mrs. UNSOELD):

H. Res. 182. Resolution to express the sense of the House of Representatives that the Secretary of State should encourage the European Commission to vote to ban all large-scale drift net fishing by all European Community fishing fleets; to the Committee on Merchant Marine and Fisheries.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

197. By the SPEAKER: Memorial of the Legislature of the State of Minnesota, relative to the crisis in the Midwest dairy industry; to the Committee on Agriculture.

198. Also, memorial of the House of Representatives of the State of Florida, relative to Homestead Air Force Airbase; to the Committee on Armed Services.

199. Also, memorial of the House of Representatives of the State of Maine, relative to Loring Air Force Base; to the Committee on Armed Services.

200. Also, memorial of the House of Representatives of the State of Michigan, relative to the automotive industry; to the Committee on Energy and Commerce.

201. Also, memorial of the House of Representatives of the State of Illinois, relative to Social Security benefits; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 46: Mr. BEILENSON, Ms. KAPTUR, and Mr. CAMPBELL of Colorado.

H.R. 47: Mr. JEFFERSON and Mr. CAMPBELL of Colorado.

H.R. 112: Mr. HEFLEY.

H.R. 179: Mr. JONES of Georgia.

H.R. 194: Mr. TOWNS.

H.R. 318: Ms. MOLINARI, Mr. GUARINI, Mr. HORTON, and Mr. WOLPE.

H.R. 583: Mr. WISE.

H.R. 650: Mr. GIBBONS.

H.R. 673: Mr. PERKINS, Mr. SMITH of Florida, Mr. MARTIN, Mr. LIPINSKI, Mr. BREWSTER, Mr. VENTO, Mr. CONYERS, and Mr. WASHINGTON.

H.R. 776: Mr. WISE.

H.R. 777: Mr. WISE.

H.R. 778: Mr. WISE.

H.R. 779: Mr. WISE.

H.R. 780: Mr. WISE.

H.R. 830: Mr. ESPY.

H.R. 951: Mr. BENNETT, Mr. ECKART, Mrs. JOHNSON of Connecticut, and Mr. GEJDENSON.

H.R. 967: Mr. GAYDOS.

H.R. 1022: Mr. BRYANT, Mr. ENGEL, and Mr. MRAZEK.

H.R. 1092: Mr. RAHALL and Mr. MCEWEN.

H.R. 1110: Mr. HUGHES.

H.R. 1130: Mr. YATES.

H.R. 1147: Mr. YATES, Mr. FROST, Mr. TORRICELLI, Mr. HYDE, and Mr. ARMEY.

H.R. 1367: Mr. WEISS, Mr. TAYLOR of Mississippi, Mr. HOCHBRUECKNER, and Mrs. BOXER.

H.R. 1400: Mr. GILLMOR, Mr. LEWIS of Florida, Mr. NICHOLS, Mr. HAMMERSCHMIDT, Mr. SCHAEFER, Mr. STEARNS, Mr. CHANDLER, and Mr. JOHNSON of Texas.

H.R. 1429: Mr. MCCRERY, Mr. SUNDQUIST, and Mr. LAGOMARSINO.

H.R. 1453: Mr. MATSUI and Mr. ENGEL.

H.R. 1472: Mr. LIGHTFOOT, Mr. TRAFICANT, Mr. CRAMER, Mr. TAUZIN, Mr. STALLINGS, Mr. OXLEY, and Mr. SOLOMON.

H.R. 1489: Mr. JONES of North Carolina.

H.R. 1527: Mrs. UNSOELD, Mr. DICKS, Mr. SKEEN, and Mr. SAWYER.

H.R. 1556: Mr. MOODY.

H.R. 1557: Mr. ZIMMER, Mr. MARTIN, Mr. VANDER JAGT, Mr. FORD of Tennessee, Mr. HOUGHTON, Mr. STUDDS, Mr. HEFLEY, and Mr. FOGLIETTA.

H.R. 1601: Mr. MAVROULES.

H.R. 1677: Mr. ESPY.

H.R. 1703: Mr. LEVIN of Michigan and Mr. WHEAT.

H.R. 1883: Mr. WYLIE.

H.R. 1958: Mr. MRAZEK, Mr. LAFALCE, Mr. GREEN of New York, and Mr. NOWAK.

H.R. 2030: Mr. DWYER of New Jersey.

H.R. 2059: Ms. NORTON, Ms. KAPTUR, Mr. WALSH, Mr. LAGOMARSINO, and Mr. YOUNG of Alaska.

H.R. 2115: Mr. DOOLITTLE.

H.R. 2235: Mr. ESPY.

H.R. 2242: Mr. RICHARDSON, Mr. BRYANT, Mr. DELLUMS, Mr. DURBIN, Mr. SWETT, Mr. WILLIAMS, Mr. FROST, and Mr. BRUCE.

H.R. 2280: Mr. INHOFE.

H.R. 2336: Mr. PETERSON of Florida, Mr. WOLPE, Mr. ROHRABACHER, Mr. ANDREWS of Maine, and Mr. WASHINGTON.

H.R. 2361: Mr. SOLOMON.

H.R. 2393: Mr. DWYER of New Jersey.

H.R. 2394: Mr. DWYER of New Jersey.

H.R. 2452: Mr. LAFALCE and Mr. LEVIN of Michigan.

H.R. 2460: Mr. HOUGHTON, Mr. LENT, Mr. WALSH, and Mr. GALLEGLY.

H.R. 2470: Mr. DOOLITTLE, and Mr. CAMP.

H.R. 2488: Mr. VISCLOSKY.

H.R. 2503: Mr. DUNCAN and Mr. POSHARD.

H.R. 2525: Mr. INHOFE.

H.R. 2553: Mr. SANTORUM, Mr. JONES of Georgia, Mr. WELDON, Mr. CRAMER, Mr. CAMP, and Mr. GILLMOR.

H.R. 2560: Mr. WISE.

H.R. 2566: Mr. TRAFICANT.

H.R. 2578: Mr. JONTZ.

H.R. 2584: Mr. LAGOMARSINO, Mr. ROEMER, Mr. PETERSON of Florida, and Mr. LANTOS.

H.R. 2675: Mr. SAXTON.

H.J. Res. 9: Mr. BEILENSON and Mr. CAMPBELL of Colorado.

H.J. Res. 11: Mr. CAMPBELL of Colorado.

H.J. Res. 23: Mr. ECKART, Mr. GUARINI, Mr. HOBSON, Ms. HORN, Mr. JEFFERSON, and Mr. MOORHEAD.

H.J. Res. 95: Mr. PAYNE of New Jersey, Mr. KOPETSKI, Mr. DICKS, Mr. CALLAHAN, Mr. MARKEY, Mr. MONTGOMERY, and Mr. WISE.

H.J. Res. 188: Mr. HANSEN, Mrs. MORELLA, Ms. LONG, Mr. WILSON, Mr. MARKEY, and Mr. SPRATT.

H.J. Res. 226: Mr. DERRICK, Mr. MOAKLEY, Mr. STUDDS, Mr. MCDERMOTT, Mr. SYNAR, Mr. SLATTERY, Mr. WHEAT, Mr. SPRATT, Mr. ECKART, Mr. CAMPBELL of Colorado, Mr. PENNY, Mr. BORSKI, Mr. TAYLOR of Mississippi, Mr. GONZALEZ, Mr. DIXON, Mr. DARDEN, Ms. SLAUGHTER of New York, Mr. SOLOMON, Mr. MCEWEN, Ms. DELAURO, Mr. WOLPE, Mr. GLICKMAN, Mr. MCMILLAN of North Carolina, Mr. SOLARZ, Mr. PALLONE, Mr. OLVER, Mr. ROE, Mr. PANETTA, Mr. HOCHBRUECKNER, Mr. BROOKS, Mr. REED, Ms. PELOSI, Mr. ANDERSON, Mr. RICHARDSON, Mr. BILBRAY, Mr. CARR, Mr. CONYERS, Mr. DEFAZIO, Mr. MAZZOLI, Mr. ANDREWS of Maine, Mr. ATKINS, Ms. MOLINARI, Mr. ENGEL, Mr. CARPER, Mr. DELLUMS, Mr. TRAXLER, Mr. KANJORSKI, and Mr. DONELLY.

H.J. Res. 228: Mrs. LOWEY of New York, Mr. JOHNSON of South Dakota, Mr. MAZZOLI, Mr. DICKINSON, Mr. YATRON, Mr. ECKART, Mr. HUBBARD, Mr. KOLTER, Mr. GAYDOS, Mr. THOMAS of California, Ms. KAPTUR, Mr. WYLIE, Mr. STARK, and Mr. BUNNING.

H.J. Res. 255: Mr. CONYERS, Mr. KLUG, Mr. BOUCHER, Mr. HUGHES, Mr. GRANDY, Mr. FRANKS of Connecticut, Mr. LAGOMARSINO, Mr. GUNDERSON, Mrs. BOXER, Mr. ACKERMAN, Mr. BACCHUS, Mr. VALENTINE, Mr. DE LUGO, Mr. HUTTO, Mr. HANSEN, Mr. LANCASTER, Mr. MARTIN, Mr. LIPINSKI, Mr. LEVIN of Michigan, Mr. MCDADE, Mr. LOWERY of California, Mr. MCGRATH, Mr. MILLER of Ohio, Mr. MOAKLEY, Mr. OBERSTAR, Mr. MURPHY, Mr. GAYDOS, Mr. OWENS of Utah, Mr. BLILEY, Mr. GUARINI, Mr. MOORHEAD, Mr. HASTERT, Mr. LENT, Mr. TRAFICANT, Mr. HEFNER, Mr. HAYES of Louisiana, Mr. RAVENEL, Mr. ROBERTS, Mr. ROE, and Mr. MAVROULES.

H. Con. Res. 43: Mr. WHEAT.

H. Con. Res. 170: Mr. LIPINSKI and Mr. HORTON.

H. Con. Res. 171: Mr. MILLER of Washington, Mr. MACHTLEY, Mr. DELLUMS, Mr. SCHUMER, Mr. OWENS of Utah, and Mr. HORTON.

H. Res. 131: Mr. RANGEL.

H. Res. 134: Ms. NORTON.

H. Res. 152: Mr. CAMP and Mr. GILLMOR.

H. Res. 167: Ms. PELOSI, Mr. VANDER JAGT, Mr. LEVINE of California, Mr. FORD of Tennessee, and Mr. ESPY.

EXTENSIONS OF REMARKS

A SPECIAL SALUTE TO ROBERT E. HUGHES

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. STOKES. Mr. Speaker, those of us who are involved in the business of politics have found that although we belong to one political party, we often form friendships with members of the other party. During my political career, I have come to know and respect a man who does not belong to my political party. That man is Robert E. Hughes, who has just stepped down as the chairman of the Cuyahoga County Republican Party in Cleveland, OH, following 23 years of service. Just recently friends, family, and colleagues gathered to pay tribute to Bob Hughes for his significant contributions to the Republican Party and our community. I rise today to join in this salute to my good friend. At this time, I would like to share with my colleagues some of the highlights of Bob Hughes' career.

Bob Hughes grew up in Warren, OH, graduating from Harding High School. He earned a journalism degree from Ohio State University, while writing for three Columbus newspapers. Upon graduation, Bob Hughes was called to active duty with the U.S. Marine Corps. He served as a platoon leader and a company commander.

Mr. Speaker, following his military service, Bob returned to Ohio where he became a reporter for a small Ohio newspaper, and statehouse reporter for the Associated Press before going to work for General Electric.

In 1961, Bob Hughes was selected as vice chairman of the Cuyahoga County Republican Party in Cleveland. Later, he became cochairman of the Cuyahoga County GOP, chairman of the executive committee, and finally, chairman of the board of elections. In 1975, Bob Hughes was elected chairman of the central committee and was made sole GOP chairman. His contributions to the Republican Party are immeasurable and will certainly be missed.

Mr. Speaker, Bob Hughes has also worked diligently to improve the quality of education in northeastern Ohio. He devoted his efforts to Cleveland State University; expanding the campus, bringing it into the State university system, and serving 8 years on the board of trustees. In addition, he contributed to the development of Cuyahoga Community College.

Bob Hughes has also played an integral role in Cleveland's downtown development. He is credited with assisting in the improvement of Cleveland's lakefront; the renovations of Public Square and Playhouse Square in downtown Cleveland, and financing the expansions of Mount Sinai, University and Hillcrest Hospitals, and the Cleveland Clinic.

Lastly, Bob Hughes has donated his time and talents to several banking institutions. He has served on the board of directors for Ohio Savings Association and American National Bank.

Mr. Speaker, Bob Hughes is a committed individual, a talented politician, and a good friend. I am certain that members of his family, including his wife, Marguerite, and their children—Tim, David, Jon, and Robin—share our pride in Bob's accomplishments over the years. His devotion to Cleveland and Cuyahoga County is unsurpassed, and I am proud to extend my best wishes to him for the future.

RECOGNIZING HUMAN RIGHTS VIOLATIONS WITHIN THE REPUBLIC OF VIETNAM

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. PORTER. Mr. Speaker, as this Nation continues to heal from the scars of our involvement in the Vietnam war, we must not disregard the ongoing battle over human rights violations within the Socialist Republic of Vietnam. Our hasty withdrawal from this conflict back in 1975 ushered in a Communist Government which has repeatedly violated the rights of its southern military captives. We must not attempt to bury this painful and turbulent period in this Nation's history by turning our backs on the plight of our former allies. Instead, we must operate through diplomatic vehicles to undertake initiatives such as those used during the Persian Gulf crisis concerning the fate of the Kuwaitis and Kurdish refugees.

In a recent edition of the Chicago Tribune, columnist David Evans emphasizes the mistreatment of the Vietnamese people through the experience of a former South Vietnamese officer, Tran Duat. Mr. Evans makes a powerful argument that our upcoming diplomatic relations with the Vietnam Government should place human rights at the top of the agenda. He cites Vietnam's need for economic aid and Western investment as a leverage tool to compel this ignoble regime to recognize the basic fundamental rights of its citizens.

Accordingly, Mr. Speaker, I submit for the RECORD David Evans' account of Tran Duat's 16-year endeavor as a prisoner of war which surely serves as an example of the numerous atrocities committed by this Government and as a cue for the United States to rectify them.

The article follows:

[From the Chicago Tribune, May 31, 1991]

HUMAN RIGHTS SHOULD TOP U.S. AGENDA ON VIETNAM

(By David Evans)

WASHINGTON.—Abraham Lincoln's postwar policy of "malice toward none" has been turned on its head by the communist victors of the Vietnamese civil war. To this day, their policy is one of extreme malice toward those who fought for South Vietnam, especially the officers.

The tale of Tran Duat, a former major in the South Vietnamese marines, is ample reason for the U.S. government to put equal treatment for all Vietnamese, regardless of the side on which they fought in the war, on the agenda in its discussions about re-establishing diplomatic relations with this self-proclaimed "proletarian dictatorship."

Duat, who now lives in the Washington area, was a stout-hearted and fearless fighter, to say the least. It was a reputation that doubtless marked him for an extended eight-year stay in the so-called re-education camps that the communists established throughout Vietnam after their triumph.

The son of a midlevel Saigon bureaucrat, Duat was commissioned in 1966, and his combat tour lasted nine years. He was promoted meritoriously twice for heroic leadership under fire. The list of major battles in which he fought includes the great 1968 Tet offensive battles around Saigon and in Hue city. In the formidable North Vietnamese Easter Offensive of 1972, he led his company of troops to retake the citadel at Quang Tri city.

Duat accumulated a chestful of medals, including the National Medal of Honor (equivalent to the U.S. Medal of Honor) and various Gallantry Orders with gold, silver and bronze stars.

He was wounded three times, twice by AK-47 bullets and once by shrapnel from a B-40 rocket grenade.

In the final, tragic hours of the war, Duat kept his battalion together, fighting in their positions east of Saigon until the last moment. They learned on the radio that the Saigon government had surrendered.

"We went back to our barracks, and I dismissed the battalion," Duat recalled. "One of our sergeants shot himself in the head right then and there.

"I took off my uniform and walked home. My mother just cried and cried," he said.

Later that day, April 30, 1975, a North Vietnamese Army official came to the door and informed Duat that he was under house arrest. On June 14, loudspeaker trucks in the streets called for all former officers of the Saigon regime to assemble, and they were deported to re-education camps.

Duat and 2,000 other officers were placed in the former camp of the U.S. Army's Black Horse regiment, the 11th Armored Cavalry.

"We were ordered to cut trees, build roads and clear mines. Some were killed trying to remove the mines," Duat said.

They were given absurdly small rations of noodles, Duat said, and the North Vietnamese Army ordered the inmates' families to send food.

"Every night, after work, we were forced to sit and listen to talk about politics," Duat said.

The indoctrination sessions were thoroughly unconvincing. "They said [North Vietnamese] troops used rifles to shoot down B-52s," Duat recalled derisively.

They were shipped to a former French prison northwest of Hanoi. The days were spent clearing trees. Duat used some of the survivial training he had received from the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

U.S. Marines to find edibles in the forest. Even so, he lost weight, dropping to 76 pounds.

"I became so weak. I had to use my hands on my knees, like this, to stand up," he gestured.

There were beatings. It was obvious to Duat that the policy was one of extermination of the weak through forced labor and neglect.

"About 15 percent died from starvation. My battalion commander died in my arms," he said, making a cradling motion with his arms.

Duat and the thinned ranks of fellow survivors were moved south in 1983. His release on March 11, 1983, was the beginning of two more years under house arrest.

As a former South Vietnamese officer, he was only permitted to engage in menial labor such as pedaling a bicycle taxi.

"I wanted to work," he said, and so on March 11, the eighth anniversary of his last day in prison, Duat departed Vietnam for the U.S., where he is studying English in order to go to school.

Duat's saga of survival should put human rights smack on the U.S. agenda for establishing diplomatic relations with this vile regime. The communists won the war, but they haven't been able to run the country and are desperate for aid and investment. We've got leverage. Yet our State department is taking the position that personal freedoms will follow the establishment of economic and political ties. This policy, we might note, has failed spectacularly right up the road, in China.

NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. MARKEY. Mr. Speaker, for years, thousands of dedicated, professional public safety telecommunicators have answered our calls for police, fire, and emergency medical services. They have dispatched assistance to put out fires, catch burglars breaking into our homes and provide emergency medical help to families in every one of our districts. These public safety people are truly dedicated professionals, although the public usually never sees them because they are not physically at the scene.

Public safety telecommunicators are behind the scenes doing their work competently and accurately. Without them, police officers, firefighters, and emergency medical personnel would lack the high quality communications services which are necessary for the variety of public safety services which are vital to the well-being of communities throughout the United States.

The Nation's public safety telecommunicators also work to improve emergency response capabilties through their leadership and participation in training programs and other activities provided by the Associated Public Safety Communications Officers [APCO]. APCO is an association of nearly 9,000 people engaged in the operation, design and installation of emergency response communications systems, including 911, for Federal, State, and local government agencies.

For far too long public safety telecommunicators have gone without proper recognition. Their job is one the public seldom notices, but one that saves lives every day. The joint resolution I have introduced today will establish a National Public Safety Telecommunicators Week for the second week of April each year. It is time that we show our appreciation for the people who work in this essential and growing field.

I believe that it wold be most appropriate for us to establish a National Public Safety Telecommunicators Week to honor telecommunicators as the true professionals and lifesavers that they are. As an example of the type of services provided by telecommunicators through the United States, I commend to my colleagues' reading a recent article describing the efforts of Susan Nealsey-Kratz, a police technician in Maryland. The article vividly illustrates the crucial role played by telecommunicators in difficult emergency situations. I urge my colleagues to join me in cosponsoring this legislation.

D.C. GAY AND LESBIAN PRIDE FESTIVAL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Ms. NORTON. Mr. Speaker, I rise today to commend to this body the 16th annual Washington, DC Gay and Lesbian Pride Festival. This past Sunday, June 23, members of the local and area gay and lesbian community joined "Together in Pride." As many as 35,000 Latinos, African-Americans, Arabs, Asians, Catholics, Protestants, Christians, Jews, and veterans of our Armed Forces celebrated themselves and their contributions to our society as gay and lesbian people.

Mr. Speaker, I also take this time to remind this body that last week we passed legislation to protect the civil rights of women, members of religious groups, and of members of all racial and ethnic groups. Our work will not be finished until the protections of the Civil Rights Act of 1964 are extended to our gay and lesbian brothers and sisters. I am pledged to that fight to the finish.

Finally, Mr. Speaker, the D.C. Gay and Lesbian Pride Festival is a wonderful volunteer effort. The volunteers who have contributed to the festival are too numerous to mention, but I would like to commend the admirable voluntarism of those who serve on the Pride Board and committees: Garrett Haylett, Dane D'Alessandro, Kevin O'Keife, George Woods, Leonard Green, Jeff Simpson, Juan Vegega, Greg DuRoss, Adam Ebbin, Richard Sweeting, Mark deLevie, Greg Greeley, Marcy Blair, Jeffrey Pendleton, Deb, and especially Scott Friedman. Thanks to them and to all who are carrying on the struggle for human rights for all without invidious exceptions that have no place in a great democracy.

TRUTH ABOUT THE NATIONAL REPUBLICAN INSTITUTE FOR INTERNATIONAL AFFAIRS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. LAGOMARSINO. Mr. Speaker, allegations of improper actions by the National Republican Institute for International Affairs [NRIIA] have been circulated by several Members of this body and, since those allegations are not true, I wish to set the record straight.

The following points must be emphasized regarding NRIIA's activities in Costa Rica:

First, the Republican Institute has never funded any of the political activities or the campaigns of the United Social Christian Party [USCP] in Costa Rica. All of NRIIA's reports, budgets, proposals, and financial statements have been made public under the Freedom of Information Act. There is no basis whatsoever to charges that the NRIIA was involved in political activities or campaign activities in Costa Rica.

Second, despite the fact that the NRIIA believed its activities in Costa Rica were totally proper and in keeping with its charter, the institute decided in July 1989 to suspend the domestic operations with its grantee—the Association for the Defense of Costa Rican Liberty and Democracy. The NRIIA is puzzled that allegations about its activities should be made again after it has withdrawn from Costa Rica.

Third, the accusation that neither the National Endowment for Democracy [NED] nor the NRIIA knew precisely what was happening with the program in Costa Rica is absurd. NRIIA had a full-time professional program officer resident in Costa Rica working with the grantee during the time the NRIIA was supporting the project.

Fourth, allegations that the NRIIA was involved in a grudge match against Costa Rican President Oscar Arias is equally absurd. In fact, President Arias and several members of his cabinet participated in seminars and meetings sponsored by the NRIIA grantee.

Fifth, some of the allegations imply that neither NED nor the Republican and Democratic party institutes are permitted to associate with political parties; this is not the case. The clear prohibitions are against activities which support a candidate for public office. The Republican Institute and the Democratic Institute [NDIIA] were established to give NED a capability to work with political parties. As long as the work does not involve campaign activity, it is well within the NED, NRIIA and NDIIA Charters.

Sixth, regarding the involvement of Costa Rican President Rafael Angel Calderon with the former NRIIA grantee, it must be pointed out that during the period in which he was executive director of the grantee, Calderon was not an active candidate. In fact, Calderon had blessed the candidacy of another individual Miguel Angel Rodriguez, and Calderon had stated he would not be a candidate for the Presidency. When he reversed this decision, Calderon immediately resigned from the position of executive director of the grantee association.

Seventh, some of the allegations accuse Calderon of accepting funds from Panamanian strongman Gen. Manuel Noriega. This accusation was made by Jose Blandon and is not substantiated by any other source. Additionally, the period in which the alleged donation took place was 1 year before the NRIIA started its grant program in Costa Rica.

Eighth, finally, the question of why NRIIA chose to work in Costa Rica is often raised in the allegations. The Republican Institute believes that no democratic system can be taken for granted, and that Costa Rica, in particular, is worthy of effort to sustain its democratic system given its difficult geographic location between Nicaragua and Panama. It is not uncommon for officials of both parties in Costa Rica to make reference to threats to Costa Rica's democratic system posed by the international debt crisis, Nicaragua, Panama, and internatiónal drug trafficking.

It seems somewhat hypocritical that allegations have been raised against one party in Costa Rica—with the alleged complicity of the NRIIA—when the government party itself was engaged in much the same thing. The Liberation Party of former President Arias maintained a substantial educational and training facility of its own—CEDAL—which was funded from European sources.

This type of training and educational work is the rule, not the exception in Latin America, and support for these types of activities is not considered inappropriate by most reasonable observers and participants. Indeed, the work of the NRIIA in Costa Rica has been public for more than 4 years. NRIIA's work in Costa Rica has been carefully considered and carefully monitored, and it is not—and has not been—in violation of any of the restrictions which govern its activities. The NRIIA has been sensitive to the types of accusations that could be raised and has taken clear and unequivocal steps to address such concerns before they were ever raised. That these charges are being made now, when the information about the institute's work has been public for 4 years suggests a clear political motivation on the part of those making these false allegations.

PUBLIC HEALTH APPROACH TO CRIME AND VIOLENCE IN AMERICA

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. STOKES. Mr. Speaker, last year America set a new national record. The Federal Bureau of Investigation recently reported that violent crime—murder, rape, robbery, and aggravated assault—increased by 10 percent in the United States last year, the largest annual increase since 1986. In particular, homicide records were broken in many of our Nation's large cities.

The homicide rate in young, African-American males is particularly distressing—death from homicide is the single greatest cause of death. But even more disturbing, young people in our inner cities killed for tennis shoes and other items of clothing, for drugs, for love, for hate, and in many cases, for no apparent reason at all.

Mr. Speaker, I am convinced that unless we deal with the underlying rage and violence which precipitates murder and other violent behavior, we will not solve America's crime problem. We must take action to tackle the root causes which fuel the violence plaguing our nation. Dr. Deborah Prothrow-Stith, assistant dean of Harvard University School of Public Health, has written a book called "Deadly Consequences," which will be published soon, and contains insight on the public health approach to combating crime. "As a physician," Dr. Prothrow-Stith states,

> I wanted to find ways to intervene before blame was necessary—before a homicide was committed. Violence must be treated partly as a public health problem, handled with the same techniques that are used to combat smoking, drinking, and other behaviors that cause ill health.

In her book, Dr. Prothrow-Stith provides information on a path-breaking approach to combating violence, based on the view that violence is a learned behavior. I would like to share with my colleagues an excerpt from her book.

Mr. Speaker, every 24 minutes, someone is murdered in America. I urge my colleagues to take just a few moments to read about a violence prevention project and public health approach to resolving our Nation's crime problem.

DEADLY CONSEQUENCES

(By Deborah Prothrow-Stith, M.D., with Michaele Weissman)

The list of homicide victims is endless. Endless names. Endless tragedies. An endless stream struck down in barrage after barrage of gun fire. Grandmothers and college students, prowling street kids and small babies in their walkers, neighbors chatting on city streets, young mothers getting ready for work. Sometimes bullets kill those at whom they are aimed; sometimes victims are annihilated by bullets meant for others.

As a public health educator, as the former public health commissioner of Massachusetts, as a physician, as a parent, as a black American, and as an inner city resident, I have attended scores of community meetings called to discuss the epidemic of homicide in our cities. At these meetings, distraught and angry citizens call out for more police on patrol, for more arrests, for more judges to hear cases, for more jail cells to house convicted criminals, for more teenagers in jail. I share my neighbors' concerns. I share their fear; the fear we all feel for our children. However, I am convinced that more police will not solve the problem of homicide in America. More police in patrol cars, more street lights, stiffer sentences, and new prisons will not, I believe, prevent two young people from settling their differences with a firearm.

Many of my colleagues in public health and many police officials around the nation have come to believe that in order to reduce violence we must design imaginative new strategies; strategies that will augment, not replace police work. As Boston's Police Commissioner Francis M. Roache, a former patrolman, says often, violence is bigger than the police. What he means is this: The impulse to hurt others cannot be controlled by a police officer called to the scene after a crime has been committed. This same conviction was expressed most forcibly by the premier police department in the United States, the FBI, in a 1981 report on homicide. "Criminal homicide is primarily a societal problem over which law enforcement has little or no control".

I am convinced we can change public attitudes toward violence and that we can change violent behavior. What is required is a broad array of strategies; strategies that teach new ways of coping with anger and aggressive feelings. I believe we can and we must mobilize schools, the media, industry, government, churches, community organizations, and every organized unit within our society to deliver the message that anger can be managed and aggressive impulses controlled. We must also redefine the physician's role and the role of the emergency room. We need to use the health care system to create an early warning network that will identify young people at risk for violence and offer them treatment before they become victims or perpetrators. Until we begin to teach physicians' and emergency room patients that they have choices besides "finding the guy who did this to me and doing worse to him," I fear our homicide rate will not decline.

Not surprisingly, when I began to think about violence in a medical context, I saw this problem not as one that, say, required better surgical techniques, but one that required the creation of public health strategies such as health education in the classroom; health education via the mass media; community awareness; hospital-based screening for risk determination. I was impressed by the way these strategies were being used to combat smoking, heart disease, lead poisoning, child abuse, and other menaces to the public health. I wanted these same strategies to be applied and evaluated to reduce adolescent violence as well.

Most violence, it was discovered, occurs not between strangers, but between people who know each other, or who are related to each other, at least one of whom is unable to tolerate frustration or resolve conflict. When relationships explode, terrible injury or death is often the result. Long before the most extreme expressions of violence occur, a history of hitting, beating, fighting, and abusing often exists. Underlying each of these violent acts is a human failure. One or perhaps both persons caught in a violent relationship cannot relate non-violently. A history of family violence is often to blame for this inability.

Public health doctrine asserts that large national problems require multiple solutions. Multi-tiered strategies that address different segments of the population are used routinely. These interventions, known as primary, secondary, and tertiary prevention strategies, speak to the needs of specific groups of citizens.

Primary prevention strategies are designed to reduce health problems in the general population. This form of prevention involves educational and public information campaigns aimed at teaching the mass of American citizens about risk factors. Primary prevention strategies to combat heart disease, for example, include programs that raise the consciousness of the general public to the dangers of eating fatty foods, or smoking, or having a high cholesterol count.

Secondary prevention strategies are interventions aimed at people who are at risk. For heart disease secondary prevention includes efforts targeted to those who are at risk for developing heart disease because they smoke, have high blood pressure or high cholesterol, or have a family history of the disease.

Tertiary prevention encompasses all the strategies designed to prevent those who are already ill with heart disease from becoming sicker. Tertiary strategies are more intimate than the others. They usually involve some form of one-on-one, group, or self-help counseling.

In the years since Dr. Spivak and I established the Violence Prevention Project, a national movement to prevent adolescent violence has been born. Physicians, epidemiologists, nurses, community workers, teachers, criminologists, probation officers, police officers, social scientists from all over the nation have clambered aboard. Hundreds of school systems and community agencies in every state have become interested in the public health approach to prevention of adolescent violence. Many of them are using the violence prevention curriculum. Thousands of teachers and community agency "providers" have been trained to use the curriculum to teach adolescents about violence prevention. In cities as diverse as Little Rock, Arkansas and Seattle, Washington the violence prevention curriculum is being used as part of comprehensive, community-wide efforts to provide teenagers with alternatives to violence. In many instances communities have shown a great deal of imagination in the ways in which they have adapted the curriculum to their own needs. A number have scaled the material down to meet the needs of primary and middle school children. Some communities have devised their own interventions.

We who are committed to using public health strategies to reduce violence cannot do the job alone. We need the anger, the energy, and the moral power of ordinary people demanding that we engage in this most important fight. There is no force on earth more powerful, more persuasive than that of plain people who have had enough. I think ordinary Americans have had enough violence, enough killing, enough crippling injury, enough dead children endlessly mourned. It is time now for all those weary of the violence to rise up and take a stand. We need to begin turning back the ugly tide of violence.

REPRESENTATIVE PORTER CONGRATULATES FUJISAWA FOR PRICE DECREASE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. PORTER. Mr. Speaker, I rise today to commend the Fujisawa Pharmaceutical Co., for its recent decision to cut the price of the aerosol and injectable forms of pentamidine. Injectable pentamidine was approved by the U.S. Food and Drug Administration in 1984 for the treatment of AIDS-related pneumocystis carnii pneumonia [PCP], and in 1989 aerosolized pentamidine was approved for the prevention of PCP.

Effective June 1, Fujisawa reduced the price of pentamidine by 20 percent—from $99.45 to $79.00 per vial. This price-cutting measure means significant cost savings for PCP patients and reduces the cost of preventative care to both individuals and the government at a time when the benefits of early intervention in the management of HIV-related conditions are being increasingly recognized.

As my colleagues may know, Fujisawa is the innovator drug division of Fujisawa USA Inc., whose corporate and division headquarters are located in my congressional district in Deerfield, IL. Pentamidine was developed by Lyphomed, Inc., which became part of Fujisawa USA Inc., in 1990.

Over the last year, I have had several discussions with representatives of the pharmaceutical company about their pentamidine product and the cost of the drug. In those conversations, company officials indicated their desire to effectuate a price decrease, yet found it difficult to do so in the face of ongoing research commitments. Now, with capital made available by its parent company, Fujisawa USA Inc. is able to take this price-cutting action without adversely impacting its research programs.

For many years, the company has been committed to the battle against AIDS. In 1983, Lyphomed was recruited by the U.S. Centers for Disease Control [CDC] to manufacture pentamidine for the American market after European suppliers terminated supplies and other U.S. pharmaceutical companies declined to produce the drug. Lyphomed accepted the CDC's challenge and brought the injectable drug and, after considerable research, the aerosolized product to U.S. consumers. Pentamidine has come to be recognized as a highly effective drug for the treatment and prevention of PCP, extending the lives of many persons at risk for that terrible disease.

The company's commitment to the AIDS community also includes an indigent program—which supplies free pentamidine to community-based nonprofit clinics for provision to indigent patients—and an 800 telephone number to answer inquiries about pentamidine reimbursement by the government and third-party insurers.

The recent price reduction decision is a very positive step and is yet another example of the company's commitment to combating AIDS. I congratulate Fujisawa for its decision, and I urge my colleagues to take note of this important action.

TRIBUTE TO STUDENTS OF STUART-HOBSON MIDDLE SCHOOL

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Ms. NORTON. Mr. Speaker, it gives me great pleasure to pay special tribute today to eight very exceptional, talented, and hardworking young people, students from the Stuart-Hobson Middle School in the northeast sector of my district, who recently won second place in the classics category of an international academic competition called Odyssey of the Mind.

The seven team members, all eighth-graders at Stuart-Hobson, are Sara Rimensnyder, Beth O'Brien, Kara Fenske, Sarah Raimo, Vash Carter, Taledia Banks, and Alexander King. Their teacher and coach is Ms. Sarah Hill.

As their team project, these students created and presented an original performance depicting a scene in ancient Pompeii prior to and during its destruction by the eruption of Mount Vesuvius. After winning regional and State-level competitions, the Stuart-Hobson Middle School students competed in Knoxville, TN against 648 teams from the United States and eight other countries; when they returned home to Washington, they brought with them the first-runner-up trophy in this universally acclaimed competition which had attracted participation this year by 15,000 students from around the world.

I want also to commend all Stuart-Hobson administration and faculty members who were involved in this award-winning effort, along with the families and classmates of the team members for their support and encouragement throughout the competition. I am proud and privileged to recognize and pay tribute to such an exceptional accomplishment.

THE METHOD OF ALLOCATING THE EXPENSES

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. VENTO. Mr. Speaker, today I am introducing legislation that would simplify the method of allocating the expenses of running a child care business in the home for the purposes of filing Federal income tax.

Section 280(c)(4)(C) of the Internal Revenue Code currently provides for the specific needs of child care providers in terms of allocating the expenses associated with operating a business in the home. Recently, however, due to the broad nature of the statute, an interpretation of section 280(c)(4)(C) by IRS counsel in Washington, DC could lead to a de facto recordkeeping nightmare for child care providers, who, in order to favorably withstand an audit, could be required to keep records of how many hours each child uses a room every day.

Certainly, this interpretation, delivered in a technical advice memorandum [TAM] to the St. Paul IRS, would have a devastating effect on child care providers nationwide. Providers not keeping hourly logs would be worried they would fail an audit. Providers keeping logs could find that they spend more time keeping records than taking care of children.

The controversy surrounding this interpretation has turned the heat up to a degree that has forced the IRS to suspend the TAM pending reconsideration of their interpretation. In order to stave off an unfavorable reinterpretation or future interpretation that can only breed uncertainty for providers at tax time, I am introducing legislation to simplify and clarify the code regarding the allocation of expenses for child care providers recognizing the unique situations and considerations they face in providing care to the developing children of our Nation.

My legislation would establish a "standard deduction" of expenses for child care providers who operated for an entire year—49 weeks—on a 40-hour workweek. Providers who qualified would be able to deduct 35 percent of currently allowable expenses, including utilities, house insurance, mortgage interest, house depreciation, property tax, and major home improvements depreciation. My legislation would not reinstate telephone expenses as an allowable expense.

As an alternative for providers who do not qualify for the above or for one reason or another choose to pursue a more itemized deduction, my legislation recreates a more simplified and specified "time-space" formula as follows:

Number of square feet used in the business divided by total number of square feet in the home times number of hours home used in business divided by total number of hours in a year.

This formula would yield a "time-space" percentage to apply to the same expenses I have already listed. To determine how many square feet in the home are used in business, the provider would look at each room or area and ask the question: "Is this room used exclusively for personal or other business use nonday care?" If the answer is "no," then 100 percent of that area would be counted for day care use. If the answer is "yes," then that space cannot be counted for day care use.

To determine how many hours the home is used in business, the provider would count hours that the home is open for business, plus other hours the provider is spending in the home on business activities, including cleaning, cooking, activity preparation, recordkeeping, phone calls with parents, parent interviews, menu planning, licensing visits, and other activities.

Mr. Speaker, ultimately, if the IRS TAM of March 15 were to be reinstated, it could unnecessarily complicate the reporting needs of child care providers and possibly force some providers to leave the business. Instead, Congress must search for methods to continue to make child care more affordable and more available. I urge my colleagues to cosponsor this legislation and hope that the Committee on Ways and Means is able to include it in its consideration of this issue.

TRIBUTE TO KENNETH A. ROE

HON. ROBERT G. TORRICELLI

OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Monday, June 24, 1991

Mr. TORRICELLI. Mr. Speaker, it is with great respect and admiration that I address my colleagues in the House today to pay tribute to Dr. Kenneth A. Roe, who passed away this month. Dr. Roe was a great American who contributed much to this country. His lifelong dedication to the field of engineering, as well as his tireless commitment to education and community service was exemplary.

Dr. Roe graduated from Columbia College in 1938, earned a degree in chemical engineering from MIT in 1941, and a masters degree in mechanical engineering from the University of Pennsylvania in 1946. He received a certificate in naval architecture from the U.S. Naval Academy and honorary doctorals from Stevens Institute of Technology and Manhattan College.

Dr. Roe served as an engineer in the U.S. Navy during World War II. After the war, he returned to Burns & Roe, working as a mechanical and chemical engineer, later becoming the firm's executive vice president, president, and eventually, chairman and chief executive officer.

Dr. Roe led the firm in designing innovative and advanced technology. Under his management Burns & Roe was involved in many advanced projects such as the Mercury and Gemini space programs and numerous conventional and nuclear powerplants.

Dr. Roe's lifelong dedication to engineering is also illustrated by his involvement in various professional societies. He served as president of the American Society of Mechanical Engineers, chairman of the Engineers Joint Council, and was the founding chairman of the board of governors of the American Association of Engineering Societies.

Additionally, Dr. Roe was committed to higher education. He traveled throughout the United States to meet and address student groups. He served on the board of trustees of Stevens Institute of Technology and played a critical role in the activities of Columbia University and Manhattan College.

Also involved in community activities, Dr. Roe was a member of the board of overseers, the Sons of the American Revolution, Society of Colonial Wars, and was governor of the Founders and Patriots. He also actively served in church and scouting activities.

I was particularly saddened to hear of Dr. Roe's passing, but we can all gain inspiration in his accomplishments and service to this Nation. Dr. Roe's tireless commitment to engineering, education, and the community should serve as a model for us all. He is indeed a man who deserves our respect and admiration.

E. ROGER AMODIO—A LEADER FOR CATHOLIC CHARITIES

HON. EDWARD F. FEIGHAN

OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Monday, June 24, 1991

Mr. FEIGHAN. Mr. Speaker, the passing of E. Roger Amodio, executive director of Catholic Charities Corp. in Greater Cleveland, marked the end of a remarkable career in fundraising for Catholic Charities.

Raising funds for charitable purposes is no easy task. But Roger Amodio pursued this task with vigor and determination. He became executive director of Catholic Charities in 1978 and remained in this position until his untimely death. The organization which he headed solicited contributions from 243 participating parishes and uses the funds to pay operating, maintenance, and capital costs for 37 Catholic agencies and institutions in the diocese. In the 21 years Roger directed the Catholic Charities Corp., he raised nearly $100 million.

A native of Brooklyn, NY, Roger attended Catholic elementary and high schools in Brooklyn and received his bachelor's degree from St. John's University in New York. While in college and 1 year after army service, he was a baseball pitcher on several minor league teams in the Philadelphia Phillies system. In 1956, he began his career as a fundraiser, working initially for the Salvation Army in Queens and subsequently for community counseling services and the Police Athletic League in New York City.

Mr. Speaker, Roger Amodio was a man of numerous talents and was quite active in community affairs. He served on the board of the National Catholic Stewardship Council, the board of the diocesan central purchasing office and on the human services planning committee for the Cleveland diocese. As if he did not have enough to do, Roger also was active in his own parish, St. Clarence in North Olmsted, as a religion teacher for youngsters who did not attend daytime parochial school and as chairman of the church's building committee.

Mr. Speaker, there is no better way to sum up Roger Amodio's contributions to the diocese than to quote the respectful words of Bishop Anthony Pilla who said:

> Every once in a while you have the good fortune to be associated with special people who are a blessing for you and others, and Roger was that kind of person. He was a competent professional, dedicated to his work, and deeply committed to the Church and to gospel values, which he lived in an admirable way.

INTRODUCTION OF A BILL RELATING TO TAX TREATMENT OF MUTUAL FUNDS

HON. DAN ROSTENKOWSKI

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Monday, June 24, 1991

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing H.R. 2735, legislation to simplify and make more rational the tax treatment of mutual funds and their shareholders.

Mutual funds have experienced dynamic growth since their inception in this country in the 1920's. In the last decade alone, the combined assets of all mutual funds have increased from about $130 billion to over $1 trillion. They have become the Nation's third largest type of financial institution, behind only commercial banks and life insurance companies. This dynamic growth is expected to continue into the foreseeable future.

Unfortunately, the tax treatment of mutual funds and their shareholders has not kept pace with changes in the industry. The bill that I am introducing today would be a major step toward rectifying that situation. The bill would simplify the tax treatment of mutual funds and their shareholders, but it would also go beyond simplification. In the spirit of the Tax Reform Act of 1986, it would also seek to make the tax laws more neutral with respect to the financial decisionmaking processes of mutual funds. To these ends, the bill contains three significant amendments to the tax laws.

First, the bill would repeal the so-called short-short rule, which restricts, for tax purposes, the ability of mutual funds to derive income from stocks, options, and certain other assets held for less than 3 months. While the rule has long been defended as protecting investors and restraining churning, it appears that the securities laws are adequately serving these purposes. Repeal of the rule will reduce tax compliance burdens for mutual funds and bring the tax laws in line with the realities of present-day securities markets and investment strategies. This amendment should prove in the best interests of shareholders by reducing the costs of mutual funds and by removing disincentives for mutual funds to use prudent investment strategies.

Second, the bill would require mutual funds and brokers to report basis information to mutual funds investors upon sales or exchanges of mutual fund shares. The reported basis would be determined based upon the average basis of stock in the investor's mutual fund account. This provision will make it easier for mutual fund investors to calculate gain or loss from mutual fund redemptions—a task that is presently complicated by the necessity for investors to retain records for long periods of time in order to keep track of account activity affecting their tax basis.

Finally, the bill would eliminate uncertainty under current tax laws as to the effect upon a mutual fund when its manager reimburses the mutual fund for expenses already incurred. The bill would clarify that such reimbursements do not count toward the so-called 90-percent test so as to disqualify the mutual fund under the requirements of the tax law with respect to the sources from which the fund may derive its income.

In developing this bill, consideration has also been given to another proposal regarding the tax effects of the conversion of common trust funds to mutual funds. The proposal has not been included in this bill at this time, however, since it is currently being considered in the context of H.R. 1505, the Financial Institutions Safety and Consumer Choice Act of 1991.

Mr. Speaker, it is my intention to refer H.R. 2735—along with the issue regarding conversions of common trust funds, if that issue is not addressed as part of the pending banking reform legislation—to the Subcommittee on Select Revenue Measures for hearings in the near future. Since there is likely to be a modest revenue loss associated with this bill, I also intend that a revenue offset will be provided before this legislation moves forward in the legislative process, so that the reported bill fully complies with the pay-as-you-go financing requirements.

A brief explanation of the bill accompanies this statement.

DESCRIPTION OF H.R. 2735

1. Repeal the short-short test for regulated investment companies (sec. 1 of the bill and sec. 851(b)(3) of the Code)

PRESENT LAW

In general, a regulated investment company ("RIC") is a domestic corporation which, at all times during the taxable year, is registered under the Investment Company Act of 1940 as a management company or as a unit investment trust, or has elected to be treated as a business development company under that Act.

In addition, in order to be considered a RIC for Federal income tax purposes, a corporation must elect such status and must satisfy certain qualification tests. In particular, a corporation generally must derive less than 30 percent of its gross income from the sale or disposition of certain investments (including stock, securities, options, futures, and forward contracts) held less than 3 months (the "short-short" test).

The tax rates for qualifying RICs are the same as those for corporations generally. The Federal income tax, however, is computed only on "investment company taxable income," which is determined by allowing a deduction for dividends paid to shareholders (but not permitting deductions normally allowed corporations such as the deduction for net operating loss and the dividend received deduction).

Thus, if a RIC pays a sufficient dividend, it generally avoids any corporate level tax. The shareholders are subjected to tax on the dividends that they receive.

REASONS FOR CHANGE

The short-short test significantly restricts the investment flexibility of RICs. The test can, for example, limit a RIC's ability to engage in conservative "hedging" strategies (based on options to protect unrealized gains from adverse market moves).

In order to comply with the rule, a RIC also must keep track of the holding periods of assets and the relative percentages of short-term and long-term gain that it realizes throughout the year. The short-short test thereby burdens RICs with significant recordkeeping, compliance and administration costs.

The securities laws can protect investors and restrain "churning" adequately. Moreover, the rule is not necessary to ensure that RICs do not engage in other types of activities normally conducted in corporate form.

EXPLANATION OF PROVISION

The bill repeals the short-short test.

EFFECTIVE DATE

The provision is effective for taxable years ending after the date of enactment.

2. Require mutual funds/brokers to report basis to customers (sec. 2 of the bill and secs. 1012 and 6045 of the Code)

PRESENT LAW

Information returns

Brokers (which include mutual funds) must report to the Internal Revenue Service the gross proceeds from sales and exchanges by customers (sec. 6045). Mutual funds/brokers must also give each customer a written statement with that information by January 31 of the year following the calendar year the transaction occurred. Mutual funds/brokers may use Form 1099–B, Statement for Recipients of Proceeds From Broker and Barter Exchange Transactions, or an IRS-authorized substitute, for these reporting purposes.

In a sale or exchange where there are multiple brokers, only the broker responsible for paying the customer is required to report the sale (Treas. Reg. sec. 5f.6045–1(c)(3)(ii)). For example, a mutual fund that is instructed to redeem shares by another broker (who is responsible for paying the customer) is not obligated to report the sale; the other broker must provide the report. In addition, information returns are not required with respect to the sale of shares in a money market fund (Treas. Reg. sec. 5f.6045–1(c)(3)(v)).

Gain/loss from the sale of mutual fund shares

A taxpayer who sells or exchanges open-end mutual fund shares must report the gain or loss on his Schedule D (Form 1040) along with any other capital gains or losses. Such a sale or exchange may take the form of a redemption of shares of a fund, a check written on a fund, or exchanges from one fund into another fund.

The amount of gain or loss is the difference between the taxpayer's adjusted basis in the shares and the amount the taxpayer realized from the sale or exchange (sec. 1001). A taxpayer's adjusted basis is his original cost (including any sales charges or "load") or other basis adjusted for such things as wash sales and return of capital distributions. The amount a taxpayer realizes from a disposition of shares is the money and value of any property received for the shares minus expenses (such as sales commissions, sales charges, or exit fees).

A taxpayer who sells only a portion of his shares may choose one of three methods to determine the adjusted basis of the shares that were sold (Treas. Reg. secs. 1.1012–1 (c) and (e)):

(1) the First-In, First-Out (FIFO) method requires the taxpayer to assume that the first shares sold were the first ones purchased by the taxpayer;

(2) the Specific Identification method lets the taxpayer identify exactly which shares the taxpayer sold—but the method is available only if, at the time of sale, the taxpayer specified to the broker the particular shares to be sold and the broker confirms such specification in a written document within a reasonable time after the sale;

(3) the Average Cost method permits the taxpayer to calculate his gain or loss based on the average price he paid for his shares. The Average Cost method may be determined either by the single category method (which uses the average cost of all of the taxpayer's shares and determines the holding period for the shares that are sold on a first-in first-out basis) or the double category method (which separates the taxpayer's shares into long-term and short-term holdings and provides a separate average cost for each category). A taxpayer may elect the Average Cost method by attaching a statement to his return. Once the taxpayer elects the Average Cost method, the taxpayer must use that same method for all of his accounts in that fund.

REASONS FOR CHANGE

Many taxpayers investing in mutual funds engage in a large number of transactions in mutual fund shares. For example, some taxpayers purchase mutual fund shares periodically through participation in dividend reinvestment plans or in payroll deduction or other types of investment plans. Other taxpayers, such as retired individuals, may frequently sell shares to pay living expenses. Because of the many purchases or sales or both in different amounts, at different times and at different prices, taxpayers frequently have difficulty in calculating gain or loss each time they sell mutual fund shares. Calculating gains and losses correctly may require taxpayers to retain accurate records for many years.

EXPLANATION OF PROVISION

Information returns

The bill requires mutual funds/brokers that are presently required to report gross proceeds on sales or exchanges of mutual fund shares to report basis information on the same information return. For each sale or exchange, a mutual fund/broker must report the basis of the shares that have been sold and the portion of the gross proceeds for the shares that are held for more than 1 year, using a first-in, first-out method. A mutual fund/broker may aggregate reports for all sales and exchanges for the year in a form and manner specified by the IRS.

The bill requires the mutual fund/broker to report basis using the average basis of all of the shares of the account from which the disposition was made. Average basis is intended to be the single-category Average Cost basis, and not the double-category. The bill also provides the Secretary authority to determine the manner in which basis and holding period are to be reported. Such authority would include the authority to require mutual funds/brokers to take into account wash sales, return of capital distributions, and other events that might affect a basis calculation.

The bill requires the basis calculation to be done on an account-by-account basis. An account is considered to be the shares of one mutual maintained by the mutual fund or by a broker. Thus, with respect to a mutual fund, an account would be each account it maintains. With respect to another broker, an account would be the shares in any one mutual fund, whether or not they are reported together with the shares of another mutual fund, other stock, or other items. Thus, for example, when a customer holds shares in two mutual funds through a broker (rather than directly through the mutual funds themselves), the shares for each separate mutual fund would constitute a separate account for purposes of these rules.

Information returns would be required to be sent to shareholders by January 31, which is the same date by which all other information returns must be provided to taxpayers. Some shareholders may redeem shares at a loss in December and repurchase shares in January. If those transactions occur within 30 days of each other, the wash sale rules could apply (and change the basis of some of the shares sold in December). In these instances a mutual fund/broker cannot reasonably be expected to incorporate the change by the time that the information return must be sent. For these cases, it is intended that a mutual fund/broker send amended information returns reflecting these wash sales during February. It is also intended that the reasonable cause exception (sec. 6724) to the penalty for failure to file accurate information returns apply if the mutual fund/broker supplies to the shareholder a corrected information return reflecting the wash sale computation no later than the last day of February (which is also the day by which the information must be filed with the IRS).

If a broker that holds stock in a mutual fund as a nominee for another person transfers such stock to another broker, the old broker also must furnish the new broker the information necessary for the new broker to meet the information reporting requirements.

Gain/loss from the sale of mutual fund shares

The bill generally requires a taxpayer to calculate basis and adjustments to basis as under present law. However, unless a taxpayer elects otherwise, a taxpayer must determine basis for mutual fund shares by using the average basis of all of the stock of the amount from which a sale or exchange was made. The bill also requires the taxpayer to determine holding period on a first-in, first-out basis. Average basis is intended to be the single-category Average Cost basis, and not the double-category.

A taxpayer may elect a method other than average basis (i.e., FIFO or specific identification) only by making such an election on his or her return for the first taxable year in which a sale from the account occurs. A taxpayer may elect different methods for different accounts in the same fund.

EFFECTIVE DATE

The provision is effective for mutual fund shares held in accounts opened on or after January 1, 1993. An account would be considered opened when, for example, a customer purchases shares through a broker in a fund not previously owned in an account maintained for the customer by that broker, notwithstanding that the customer might own shares in the fund directly with the fund or through another broker.

The provision is not applicable, however, to shares in an account that includes shares not acquired by purchase. Thus, the provision would not apply, for example, to shares in an account opened after January 1, 1993 that includes shares that had been acquired by gift. The basis in such shares must be determined as under present law.

3. Modify the 90-percent test for regulated investment companies (sec. 3 of the bill and sec. 851(b)(2) of the Code).

PRESENT LAW

In order to qualify as a regulated investment company ("RIC"), a corporation must dervice at least 90 percent of its gross income from certain specified sources, generally investments in stocks, securities or currencies (the "90-percent test").

REASONS FOR CHANGE

Mutual fund advisors occasionally agree to limit the fees they charge a RIC. If negotiated in advance, such limitation generally does not result in gross income and therefore does not affect application of the 90-percent test. In other instances, an advisor may reimburse the RIC for costs already incurred. Because the reimbursement may be treated as gross income to the RIC, it may affect application of the 90-percent test. Treating a reimbursement the same as a fee limitation simplifies the tax treatment of substantially equivalent commercial transactions.

EXPLANATION OF PROVISION

The bill provides that any amount included in income by reason of any reimbursement or any other payment in respect to the expenses of a corporation is not treated as gross income under the 90-percent test. No inference is intended with respect to the treatment of such expenses under present law.

EFFECTIVE DATE

The provision applies to taxable years ending after the date of enactment.

TRIBUTE TO ADA DITO

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. FAZIO. Mr. Speaker, I would like to commemorate Ada Dito who will be recognized for her outstanding efforts as an employee of the Nut Tree, which is celebrating its 70th anniversary.

Seventy years ago, on July 3, 1921, a young woman sat beneath a black walnut tree that shaded the only two-lane road from the bay to Sacramento. Beside her was a prune tray set up as a counter, a staff with an American flag and a copy of the Saturday Evening Post. This was the birth of the world-renowned Nut Tree.

In 1941, war raged in Europe, the price of a cup of coffee was 10 cents and Vacaville High School graduate Ada Dito began her career as a Nut Tree waitress.

The first bona fide miniature loaf of Nut Tree bread appeared on the Nut Tree table when the new bakery was built in 1948. The idea of reducing the size of the American loaf of bread to individual-sized loaves is a Nut Tree innovation that has been duplicated throughout the industry. Ada has served this culinary treat since its inception.

The Nut Tree concept and philosophy of dining was coined in the phrase "Western food." Western food is inventive, tasty, and appealing to the eye as well as to the palate. The idea is to be unique and to use products that have a special link to location, both geographically and historically. Ada has offered the full range of Western food to guests throughout her career at the Nut Tree.

In 1955, the Nut Tree Airport, then a dirt landing strip, was opened to the public. Ada was one of several waitresses who took an orientation flight when the airport opened. The strip was later paved in the late 1950's.

In the 1960's, the grandchildren of Nut Tree's founders, Helen and Bunny Power, ate breakfast in the dining room before school every morning. Ada made sure that they ate a healthy breakfast and picked up their lunch money before she shooed them off to the bus.

The Nut Tree was a pioneer in the restaurant industry, serving fresh fruits and vegetables. During the 1960's, the Nut Tree had space booked on a United Airlines flight twice a week from Hawaii to San Francisco to bring in fresh pineapples. Over the years, Ada has served countless pineapples to Nut Tree guests.

A few years ago, Ms. Dito reduced her schedule to 2 days a week, but she continues to arrive, as scheduled, at 6 a.m., every Thursday and Friday.

Mr. Speaker, on this anniversary celebration of the Nut Tree, I hope my colleagues will join me today in recognizing Ada Dito for her distinguished service. I also wish her continued success at the Nut Tree for many years to come.

AMERICAN LIVING TREASURES

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. McEWEN. Mr. Speaker, as the people of New Zealand set aside the opening year of this decade to honor the document and the men that founded their nation 150 years before, our own countrymen recognized this significant event with the investment of America's "Living Treasures."

Now I am honored to rise in recognition of a group of young Americans who recently visited New Zealand as representatives of the "Living Treasures" of our youth. These young men and women from throughout the United States visted New Zealand from April 18 through 28, 1991, and met with members of Parliament from New Zealand, as well as government leaders from other Pacific rim nations.

Mr. Speaker, I urge my colleagues to join with these "Living Treasures" of American youth by extending best wishes to the people of New Zealand. The young Americans that traveled to New Zealand are:

Stephen Alexander (California).

Brian Anderson (Pennsylvania).
LeeAnn Andersen (Minnesota).
Annie DuBreuil (Illinois).
Janna DePue (South Carolina).
John Derr (Oregon).
Nils Engen (Washington).
Christopher Fleming (Georgia).
Heather Gawin (Wisconsin).
Thomas Greco (California).
Sharla Hallett (Wisconsin).
Titus Heard (Oklahoma).
Joy Hensley (Florida).
Jennifer Kurtz (California).
James Linn (Texas).
Dawn Marshall (Michigan).
Jeremy McAllister (Oregon).
Mark McNair (Illinois).
Shannon O'Rourke (Tennessee).
Christina Pinkston (Georgia).
Daniel Steele (Minnesota).
Brett Swank (Michigan).
Jarrett Swank (Michigan).
Misty-Dawn Treadwell (California).

I would like to express my best wishes for continued learning and success as these young people return from the New Zealand national capitol and serve in our own country and other nations around the world.

STEFANIE CLARKE ESSAY CONTEST WINNER

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. FAWELL. Mr. Speaker, today I would like to recognize an outstanding student from my congressional district. Stefanie Clarke is this year's winner of the Heritage Essay Contest.

Stefanie's essay focuses on the essential aspects in a great modern nation. Her essay entitled, "The Essential Components of a Modern Nation" follows:

THE ESSENTIAL COMPONENTS OF A MODERN NATION

The essential components of a modern nation include those elements which allow a country to survive all catastrophies and challenges. I believe that these essential parts are: (1) A healthy economy, (2) a democratic leadership, and (3) law and order.

Education and free enterprise play an ultimate role in the formation of a healthy economy. Education is the foundation for generation upon generation of educators, scientists, engineers, doctors, lawyers, and so forth. An economy has to offer the freedom to cultivate new ideas, businesses, inventions, and so on. Greater achievements arise from a free enterprise system where varied products are produced by many different people or cultures. It seems logical to believe that an educated, happy, and highly productive society will produce a rich, independent, and stable economy.

I feel that a fair, honest, and democratic leadership is fundamental to the survival of a modern nation. The people of a nation must know that their opinion counts. A leadership that allows freedom of speech and one that "listens" to its people is very important to a nation's success. The modern nation's leadership must be honest and dedicated about its goals and always focus its goals so that its people benefit. Goals and attitudes that will benefit only a single or a few individuals will not work.

Law and order is also a key ingredient to a modern nation. I believe that a nation must have rules and regulations to control the behavior of its people, its governments, its businesses, and so forth. Without law and order only chaos can result. The rules must treat people equal and fair despite race, or creed. Freedom from discrimination, is a must! If the same crime is committed by two different people, one rich and one poor, each must be tried equally. Just as children, a nation must be disciplined by the 3 R's —rules, rights, and regulations.

A healthy economy comprised of material riches, advance technologies, free enterprise and educated individuals, a free and stable leadership, and fair law and order are paramount to the strength and survival of a nation. These items are absolutely the essential components of the modern nation; and I believe that free America has dedicated itself to having them all!

A TRIBUTE TO RABBI DR. HERMAN ELIOT SNYDER

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, I have the privilege today to pay tribute to a man who has reached a momentous milestone in his long and illustrious life. On July 7, 1991, Dr. Herman Eliot Snyder will turn 90 years old. When speaking of a man of Rabbi Herman Eliot Snyder's stature, it is difficult to know where to begin. Throughout his prestigious career Rabbi Snyder has been honored time and again. Upon his arrival in Springfield, MA, in 1947, Rabbi Snyder immediately became an active member of the Springfield area Jewish community. One of his most notable achievements is the founding of the Sinai Temple and his nurturing which allowed it to grow from a congregation of 50 families to a community of over 450.

Because it would be impossible to enumerate all of Rabbi Snyder's accomplishments in these Chambers I mention only a few highlights. Both the prestigious Pynchon Award and the National Conference of Christians and Jews Award have been bestowed upon Rabbi Snyder. In addition to these, he is also the honorary president for life of local B'nai B'rith and he was elected chief rabbi for life of Sinai Temple, emeritus since 1970.

Perhaps more than anything else, what has characterized Rabbi Snyder's career has been his devotion to reaching out to the different communities in Springfield. Through his understanding and intellect he has sought to resolve divisions both within the Jewish community and with the world surrounding it. He has been adept at intertwining the best of both the old world and the new. He has been able to accomplish the delicate feat of reinstating some of the traditional Jewish practices, which had come into neglect, while never losing sight of modernity and the needs of the present. Rabbi Snyder forged links within the Springfield community more so than any of his predecessors. Although he is an urbane and scholarly man, his home, family, and community have always been his primary source of strength and purpose.

Rabbi Snyder is a man that I am proud to call a friend. On more than one occasion I have turned to him for his advice. He has proven his devotion to his brothers and sisters both within and outside of the Jewish community. His work has never been a self-seeking pursuit but one distinguished by his sense of commitment. I ask you, my colleagues in the House of Representatives, to join me in paying tribute to this most deserving man, Rabbi Dr. Herman Eliot Snyder, on this his 90th birthday. All the best to you, Rabbi Snyder, and I wish you many more.

1991 IRISH FESTIVAL

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. ANDREWS of New Jersey. Mr. Speaker, this weekend many of New Jersey's Irish-American citizens will celebrate their heritage and remember the 75th anniversary of the Easter Uprising at the 21st Annual Irish Festival to be held at the Garden State Arts Center.

This celebration will include a bagpipe competition in which 16 teams from throughout the Northeast will entertain the crowd with traditional Celtic music. Gaelic arts and crafts as well as traditional ethnic foods will be displayed and offered for sale. Many local youth will also participate in a soccer tournament, a very popular sport in Ireland.

The day will culminate with a prayer service in remembrance of the Easter Uprising of 1916, a protest of English rule which marked the beginning of Ireland's struggle for independence from the crown.

Proceeds from the 21st Annual Irish Festival will benefit the Garden State Cultural Fund. The fund offers cultural awareness programs to children, senior citizens, the disabled, and disadvantaged persons throughout New Jersey.

JOHN HUARD, COAST GUARD HERO

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. JONES of North Carolina. Mr. Speaker, I rise to commend Coast Guard PO John P. Huard for his courageous actions on the night of September 18, 1990—actions that saved the lives of seven fishermen. For his bravery, Petty Officer Huard was recently awarded the Gold Medal by the Association for Life Saving at Sea. Additionally, the Coast Guard has awarded Petty Officer Huard the Coast Guard Commendation Medal.

Last week, at a ceremony in the Merchant Marine and Fisheries Committee hearing room, I had the privilege of meeting Petty Officer Huard. He truly represents the best attributes of the men and women who serve their Nation by volunteering to join the U.S. Coast Guard.

I will briefly outline the details leading up to Officer Huard's courageous rescue on the night of September 18 of last year. The fishing vessel *Aristocrat* had been operating in the waters off the Nantucket, MA and had been experiencing severe problems. While the Coast Guard vessel *Tamaroa* was escorting the vessel to shore, it was noted that the *Aristocrat* was riding low in the water and it appeared to be in danger of capsizing. A rescue boat, coxswained by Petty Officer Huard, was then sent alongside the *Aristocrat* to assist in the evacuation of the fishing vessel. Within minutes, the *Aristocrat* has begun to take on a significant amount of water and there was panic on board the fishing vessel. As the *Aristocrat* began to roll over, one fisherman jumped on to the rescue boat. At this point, to use the words of the report describing the incident, "it seemed to rain people." At the same moment the *Aristocrat* rolled over perilously close to the Coast Guard small boat, four fishermen were thrown into the water and were quickly rescued.

The officer recommending Petty Officer Huard for a Coast Guard commendation declared:

> This sinking and rescue was the most remarkable event I have experienced in my Coast Guard career and the courageous and skillful performance of BM3 Huard was the key element in rescuing survivors. The lifesaving effort he executed was flawless and is deserving of significant personal recognition.

Petty Officer Huard is a splendid example of the brave men and women who volunteer to serve in the Coast Guard. They risk their lives each day to assure safety at sea. While the gold medal awarded to Petty Officer Huard recognized his pivotal role in the rescue of fishermen on the *Aristocrat*, it is also a symbolic recognition of the role played by the U.S. Coast Guard in protecting life at sea.

As Officer Huard received the award, he mentioned that the rescue was a team effort and he accepted the medal on behalf of all the brave persons that participated in the rescue. I note that this medal recognizes only one event, among many in which members of the Coast Guard family strive to assure a safe environment for fishermen, mariners, and indeed all persons who go to sea.

TRIBUTE TO EVA BACIARINI

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. FAZIO. Mr. Speaker, I rise today to acknowledge the 70th anniversary of the Nut Tree and to honor a long-time employee, Eva Baciarini.

Seventy years ago, on July 3, 1921, a young woman sat beneath a black walnut tree that shaded the only two-lane road from the bay to Sacramento. Beside her was a prune tray set up as a counter, a staff with an American flag, and a copy of the Saturday Evening Post. This was the birth of the world-renowned Nut Tree.

Seven years later, in 1928, Eva Baciarini began her career with the Nut Tree. She worked summers as a waitress in the restaurant. In those days, waitressing meant more than serving customers. It also meant shelling nuts or washing windows, wrapping gifts at Christmas and filling in as hostess or cashier when needed.

In the 1920's, Nut Tree spearheaded the revolutionary fancy packaging of fresh and glace fruits. Eva was there to help package candy and fancy fruits during the busy summer season.

During her tenure at Nut Tree, Eva has served people from all walks of life. The early 1930's saw many limousines pulling off the old Lincoln Highway for refreshment at the Nut Tree. The occupants were probably motoring to or from a resort such as Richardson Springs at a time when such retreats were in their heyday. The Nut Tree and Eva's smile were a welcome respite from this dusty travel.

Through the years, Eva has also served Herbert Hoover, sports great Dick Bartel, Fred MacMurray, Bing Crosby, as well as Presidents Hoover, Nixon, Ford, and Reagan. She remembers the day when Will Rogers came for lunch.

In 1944, the newly formed chapter of the Vacaville Rotary Club began meeting at the Nut Tree. Eva was their first waitress and has continued to serve Rotary members every Thursday for 47 years. For her devoted service, she is an honorary member of the organization.

The Nut Tree concept and philosophy of dining was coined in the phrase western food. Western food is inventive, tasty, and appealing to the eye as well as to the palate. The idea is to be unique and to use products that have a special link to location, both geographically and historically. Eva has offered the full range of western food to Nut Tree guests throughout her career at the Nut Tree.

Eva has been a part of Nut Tree growth and expansion every year during her employment. In 1971, the dining room underwent a major expansion. The aviary, with its brilliantly colored birds, was added and the new atmosphere met with overwhelming approval by the restaurant industry.

In 1979, Nut Tree partner Robert Power was named president of the National Restaurant Association. Mr. Power honored Eva by asking her to serve as Nut Tree's ambassador in Chicago at the annual meeting of the National Restaurant Association.

Eva has dedicated 63 years to maintaining the award-winning standards of Nut Tree and has continued to be a vital part of the Nut Tree. I salute her for all she has given to her community and to bettering the lives of all who have stopped by the Nut Tree. She, like the restaurant, is an institution.

BIBLES FOR RUSSIA

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. McEWEN. Mr. Speaker, for over 70 years, the people of the Soviet Union have lived under the doctrines of communism, without the freedom of hope and faith in God.

With perestroika, the leader of the Soviet Union has recently requested that men and women from other nations bring Bibles and character training back among the Russian people. As explained by the Supreme Court in its *Vidal* v. *Girard's Executors*, 43 U.S. 127 (1844) decision, morality and character cannot be taught apart from the Bible; and the Russian people have experienced the consequences of a lack of this character-focus.

I am pleased to rise today in recognition of a group of 44 young men and women who just returned from meeting with Government leadership at the Center for Human Values in Moscow and visiting with the schoolchildren and the people of Leningrad.

They traveled there from May 9–17 to deliver Bibles and to discuss with Government officials ways to restructure the Russian school system around a character-focus. A delegation of four of these Russian educators will be visiting the United States from June 28 to July 9 for further discussions, and they have already requested that 1,000 more of these young people travel to Russia this November.

The advance team which just returned includes the following young men and women from across the United States:

Christine Armstrong (Washington).
Kristine Banker (Georgia).
Pamela Brown (Texas).
Holly Cannon (Oklahoma).
Nathanael Caproni (Washington).
Tracey Collins (Ohio).
Jeffrey Cummings (Washington).
Tiffany Drake (California).
Terri Ellison (Texas).
Loren Elms (Michigan).
Stephanie Flynn (Illinois).
Sheri Hallett (Wisconsin).
David Hill (Oklahoma).
Clifford Holifield (Mississippi).
Prem Jacob (Illinois).
Nicholas Lancette (Montana).
Michael LeFebvre (Ohio).
Joel Mattix (Idaho).
Sarah McFee (Washington).
Melisa McKim (Texas).
Kristyn Meade (Texas).
Laura Morgan (Delaware).
Nathan O'Bryon (Wisconsin).
Patrick Oja (Michigan).
Roxanne Olsen (Louisiana).
Erica Panipinto (New York).
Marc Perry (Washington).
Joel Robbins (California).
Robert Robbins (California).
Christiane Quick (North Carolina).
Kent Schmidt (Illinois).
Christopher Smith (North Carolina).
William Starks (Florida).
Joel Steege (Oregon).
Michael Stoltzfus (Ohio).
Misty-Dawn Treadwell (California).
Michael Vause (Texas).
Kathleen Voyer (California).
Winston Walls (Texas).
Rachel Watson (Texas).
Deleese Weldon (Texas).
Julie Wilhite (California).
Lori Wilkerson (Missouri).
Sara Zorbas (Virginia).

I would like to express my best wishes for continued learning and success as these young people return from the Soviet Federated Socialist Republic of Russia and begin preparations to go back this fall.

MEGAN LAUTERBACH ESSAY CONTEST WINNER

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. FAWELL. Mr. Speaker, today, I would like to recognize an outstanding student from my congressional district. Megan Lauterbach is this year's winner in my Heritage Essay Contest. Over 350 eighth graders submitted essays for this competition.

Megan's essay stresses the key components of what she feels make up a modern nation. The text of Megan's essay, "The Essential Components of a Modern Nation" follows:

THE ESSENTIAL COMPONENTS OF A MODERN NATION

How a nation functions in the modern world is determined by many factors. Location, climate, waterways, topography, and natural resources all help chart the course of a country's development. However, to succeed in the twenty-first century, I believe a modern nation will need these components: A democratic government, extensive and available educational systems, a free-market economy, and patriotism and support from the nation's people.

A modern nation needs an organized and fair government which gives the right of freedom of speech and expression to its people and allows them to choose their rulers. A democracy seems to be the closest governmental system to being "ideal." Democracy doesn't give all power to just one person or group of people, but spreads out responsibilities to many people. The president of a democracy is chosen by a majortiy vote of the people. Many people living in countries all around the world dream of some day living within a democracy. The students who revolted against the Chinese government in Tiananmen Square were fighting to gain democracy.

Education is another key component for a great nation to advance and be a successful society. Education should be offered freely, publicly, and unconditionally in a modern nation. Thomas Jefferson, a very educated and innovative man, knew that an educated society would be able to make better decisions, produce top-quality leaders, and increase the advancement of technology. When the people of a nation are educated, they know the importance of their opinions and their votes. Racial differences can be understood and appreciated. Prejudices would decrease, and men would look at one another's heart and soul and not at their religion or the color of their skin.

The absence of a free market economy in some nations makes us realize how important this factor is. A free market economy gives buyers a choice of purchases. Business owners can decide which products to make and sell. The supply and demand for these products keeps prices stable and affordable.

In a nation today, people need to have a feeling of patriotism and loyalty to their country. The people must have interest in their country and its welfare. Culture and difference in customs should be nourished because new cultures can bring in new ideas and help to make the nation more understanding of other nations throughout the world.

The United States of America has had these four essential components since it became independent in 1776. Our country has a strong foundation and is in the position to help other countries develop democracy, good educational systems, a free market economy, and a pride in their country. I feel it is our obligation to help other nations less fortunate than we are and bring all nations of the world together in peace and harmony.

TRIBUTE TO MR. JOSEPH J. SWIATLOWSKI

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. NEAL of Massachusetts. Mr. Speaker, today I pay tribute to an individual who has dedicated over 55 years of service to the city of Chicopee in the Commonwealth of Massachusetts. Mr. Speaker, that individual is Joseph J. Swiatlowski, retired superintendent of the Chicopee Water Department.

Joseph Swiatlowski was born on September 8, 1908 in Three Rivers, MA. From 1928 to 1932, he attended the University of Rhode Island where he received his bachelor's degree in civil engineering.

In 1933, Joe Swiatlowski worked for the Federal Government CCC in the city of Chicopee. He surveyed the area of what is now Westover Air Force Base. He also surveyed and designed the Cooly Brook watershed or what is now the Chicopee State Park on Burnett Road.

On February 10, 1936, he was appointed water department engineer. Then from 1937 to 1938, Joe Swiatlowski designed and built what is now the water department's offices on Tremont Street. Joe was an early pioneer of recycling in Chicopee whereas much of the material used to construct the offices were obtained from the old mills that were being dismantled at what is now the Cabotville Industrial Park. During the same year, Joe actually saw the Chicopee Falls Bridge wash out due to the now famous Hurricane of 1938.

In 1939, under Mayor Anthony J. Stonina and upon a recommendation of Congressman Charles R. Classon, Joe brought major generals, George Veassey, Delos C. Emmons, and George Turner, to survey the Chicopee Falls tobacco fields called the flat plains in order to evaluate the area as to its potential use as an Army airfield. On April 6, 1940, dedication and groundbreaking took place at the airfield. On October 10, 1940, the first airplane, a B–10 bomber, landed at Westover Air Force Base.

During the 1940's, Joe was instrumental in negotiating our existing water supply contract with the metropolitan district commission. This took place under the leadership of Mayor Bourbean and Frank Driscoll, who was the water superintendent at the time.

In 1950, the city of Chicopee's water supply was changed from the Cooly Brook to the Quabbin Reservoir.

On April 10, 1961, Joe Swiatlowski was appointed as the superintendent of the water department.

In 1970, Joe was instrumental in the siting and construction of a new water treatment plant on Burnett Road.

In 1975, the city of Chicopee set up a new laboratory for the water department to comply with the newly promulgated Safe Drinking Act. The laboratory is certified by the Commonwealth of Massachusetts for microbiology.

In the late 1970's, Joe was instrumental in redesigning the water system at Westover Industrial Park to accommodate the industrial expansion of the area.

From 1988 to 1989, Joe participated in the engineering and the funding process to allow the construction of the elevated tank on Royal Street to address the pressure problem in the Fairview area.

On April 10, 1991, 30 years to the day that Joseph J. Swiatlowski was appointed as the superintendent of the water department, he retired.

Mr. Speaker, this is an impressive record that spans over 55 years of service to the citizens of the city of Chicopee. I ask all of my colleagues in the House to join with me in wishing Joseph J. Swiatlowski much happiness in the years to come.

PERSONAL EXPLANATION

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I want to inform my colleagues and the public that I was mistakenly added as a cosponsor of House Joint Resolution 219. The bill had already passed the Congress when I learned of my supposed cosponsorship and, therefore, I could not have removed my name from the House of Representatives bill. I did not authorize my name to be added to this bill and wish the RECORD to reflect this fact.

CONGRATULATIONS TO JUNIOR DIAL

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. POSHARD. Mr. Speaker, not long ago this country formally welcomed home the men and women of Operation Desert Storm with days of thanksgiving, highlighted by a parade in Washington, DC.

The parade included a young man from my district, Machinists Mate Third Class Junior Dial, who is stationed aboard the U.S.S. *South Carolina*. Out of 600 men serving on that ship, Junior was selected to be one of 24 to march in the welcome home parade, representing his shipmates, the Navy, and proudly I say, southern Illinois.

"I was shocked at being selected to be in the parade. It was quite an experience and something I'll never forget. I marched the parade route with a deep sense of pride, and everyone was so friendly and pleasant. You could feel people coming together, and it was just very impressive to be a part of that," Junior said.

As for being a hero, Junior observed, "I feel we carried out our responsibilities, that we're not really heroes but people fulfilling our obligation to service."

A graduate of Sesser-Valier High School, Junior will complete a 4-year term in the Navy this September, then continue his education at Southern Illinois University. When he enlisted he could not anticipate being part of Operation Desert Shield and Desert Storm, but when called upon, he served without hesitation.

The U.S.S. *South Carolina* is a nuclear powered guided missile cruiser, and as a machinists mate, Junior helps keep the systems running. During hostilities in the Persian Gulf the *South Carolina* helped enforce the trade embargo against Iraq, firing warning shots and boarding other ships in the Red Sea in violation of that policy. The cruiser was also involved in search and rescue missions to assist disabled ships and their crews. Junior tells me the most difficult part of all of this was the uncertainty of what would come next.

After spending December 6 through March 28 out on patrol, Junior was able to return for a brief homecoming with family and friends in southern Illinois. He tells me it was, "Very exciting, because it seemed like an eternity until I could get home, and it was a great feeling to finally make it."

I am pleased to welcome Junior home and thank him for his contributions on behalf of the United States of America.

A CONGRESSIONAL SALUTE TO CAPT. LARRY D. JOHNSON, COMMANDER, LONG BEACH NAVAL SHIPYARD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. ANDERSON. Mr. Speaker, during the early days of World War II, Congress recognized the need for an additional naval shipyard on the west coast and authorized construction of what is now the Long Beach Naval Shipyard, located on Terminal Island in Long Beach, CA. This is one of eight naval shipyards performing top-quality ship repair overhaul, maintenance, repair, and modernization for the U.S. Navy's ships. This work is truly essential to our defense posture and to maintenance of a fleet that is ready for all conceivable types of duty at sea.

As the older types of ships that Long Beach Naval Shipyard has historically worked on have been released from active fleet service by retirement and decommissioning, and as some of the remaining active ship types have been made the subject of competitive procurement procedures for overhaul and repair, Long Beach Naval Shipyard has been confronted with a need to drastically reduce the size of its work force. The management team of Long Beach Naval Shipyard affirmatively chose to do that in a fiscally responsible way, by reducing overhead and other expenses at approximately the same rate at which direct revenues were falling and by maintaining a sound business basis for continued service to the U.S. Navy.

In 1984, Long Beach Naval Shipyard employed over 7,000 persons; by the end of 1989, the employment level had been reduced to just over 4,000, a reduction of more than 40 percent. The financial performance of the Long Beach Naval Shipyard has, however, improved such that the accumulated operating results account—similar to a private corporation's retained earnings account—now stands at a positive balance of more than $53 million. Over this time, Long Beach Naval Shipyard has set new records in ship overhaul completions which meet or beat established delivery schedules, has demonstrated improvement after improvement in the execution of new threat upgrade weapons system major modernization packages on U.S.S. *Leahy*—CG–16—and U.S.S. *Belknap*—CG–26—class ships, and has set unbeatable time and cost performance records in head-to-head competition with the private ship repair industry on U.S.S. *Spruance*—DD–963—and U.S.S. *Kidd*—DD–993—class ships. In congressionally mandated public/private competition for surface ship overhauls since 1985, eight ships have been awarded to public shipyards in what has become a fierce competitive environment among providers in a rapidly declining industry. Seven of those ships were won by Long Beach Naval Shipyard.

On completion of the regular overhaul of the competition ship U.S.S. *Callaghan*—DDG–994—the innovative comprehensive project management concept applied resulted in the shipyards receiving a performance rating in excess of 98 percent from the Performance Fee Board, which is the highest rating ever assigned any ship at any shipyard for a complete overhaul. The reorganization of Long Beach Naval Shipyard is recognized in the industry as a quantum leap toward increased efficiency and is now being used by the Naval Sea System Command as the model to review for potential restructuring and downsizing of the seven other naval shipyards in response to the declining fleet size of the future. The achievement record of Long Beach Naval Shipyard was especially recognized when the Secretary of the Navy awarded it the Navy Meritorious Unit Citation in January 1991, making it the only west coast naval shipyard to receive that honor.

The credit for these successes belongs to the determined work force of Long Beach Naval Shipyard and to the inspirational leadership of the shipyard commander, Capt. Larry D. Johnson. As the shipyard commander for 4 years, he has provided the strong direction and dedicated leadership which has enabled the Long Beach Naval Shipyard to complete exceedingly complex assignments with high output quality, cost-effective work procedures, and increasing productivity. Included in these accomplishments was successful completion of 26 scheduled ship repair periods—overhauls, restricted availabilities, et cetera—one post-shakedown availability on a newly-built ship, and 26 emergency availabilities for ships of the Pacific Fleet for repair of damaged major equipment on extremely short notice, as well as three weapons systems upgrade availabilities on Coast Guard ships.

Capt. Larry D. Johnson was born in McPherson, KS, and attended the University of New Mexico. He graduated in 1960 with a bachelor of science degree in electrical engineering and was commissioned through the Naval Reserve Officers' Training Corps [ROTC] Program. Following commissioning, he served on board U.S.S. *Blue*—DD–744—as damage control assistant, on U.S.S. *Boyd*—DD–544—as chief engineer, on U.S.S. *Halsey*—CG–23—as hull officer, and on U.S.S. *Joseph Strauss*—DDG–16—as chief engineer. Larry Johnson later continued his formal education at the U.S. Naval Postgraduate School in Monterey, CA, where he earned a master of science degree in mechanical engineering in 1968. Following his professional designation as an engineering duty officer, Larry Johnson served on the staffs of: Commander in chief U.S. Pacific Fleet; commander, Naval Surface Force, U.S. Atlantic Fleet. He also had tours of duty at both Puget Sound Naval Shipyard and Long Beach Naval Shipyard before assignment as the chief staff for maintenance and engineering for the commander, Naval Surface Force, U.S. Pacific Fleet.

On June 29, 1987, Capt. Larry D. Johnson returned to Long Beach Naval Shipyard to assume the duties of shipyard commander. At each step in his Navy career, Larry Johnson has been recognized for diligent, dedicated, enthusiastic, and outstanding performance. He has been honored numerous time and wears the Legion of Merit Medal with gold star in lieu of second award, the Meritorious Service Medal with gold star in lieu of second award, the Navy Commendation Medal, the Navy Achievement Medal, the Meritorious Unit Commendation with bronze star, the National Defense Service Medal with bronze star, the Armed Forces Expeditionary Medal, the Vietnam Service Medal, and the Republic of Vietnam Campaign Medal. His personal tradition of exemplary service has continued while serving as shipyard commander, where he has applied his knowledge and experience to improve the operations of the Long Beach Naval Shipyard and to successfully increase its abilities to complete all shipyard and other assignments. As a direct result of his visionary leadership and overall management goals and supporting objectives, the shipyard's military and civilian management team has become fully fused into a dynamic entity.

The progressive management style Larry Johnson has brought to the Long Beach Naval Shipyard assures its continuation as an active industrial facility and thus maintains it as a welcomed source of thousands of jobs and millions of dollars in income to the south bay area. The people of Long Beach and the surrounding communities will long benefit from this man's efforts. Upon his retirement from active military service, we are compelled to recognize that his personal achievements and contributions to Long Beach Naval Shipyard operations will have left long-lasting strengthening impacts on a profession vital to the security of the United States. My wife, Lee, joins me in congratulating Capt. Larry Johnson on the culmination of a most successful and rewarding career in military service. We hope that he and his wife, Vivian, will enjoy a prosperous and happy future. We are certain that he will continue to make highly beneficial contributions to both his country and his immediate community.

TRIBUTE TO REAR ADM. THOMAS A. BROOKS, USN

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. McCURDY. Mr. Speaker, on August 16, Rear Adm. Thomas A. Brooks, the 54th Director of Naval Intelligence, will complete a career which spanned the entire spectrum of intelligence disciplines and which contributed greatly to the Navy and to national security. Admiral Brooks' intellect and integrity have earned him widespread respect and admiration in Congress.

Admiral Brooks' career reflects a record of unmatched leadership and achievement: In fleet tours ranging from assistant intelligence officer on an amphibious group staff to the 2d Fleet intelligence officer; in operational intelligence tours ranging from junior analyst at Navy Field Operational Intelligence Office to its commanding officer; in counterintelligence tours as commanding officer, Naval Investigative Service Office, Vietnam, and at Naval Investigative Service headquarters; in human intelligence tours as officer in charge, CTF 157.1 and as Assistant Naval Attaché, Turkey; and in senior intelligence management tours as U.S. Atlantic Command intelligence officer, as deputy director, DIA for JCS Support and ultimately as Director of Naval Intelligence.

Admiral Brooks strove to ensure that the fleet commanders and operators received coherent, relevant intelligence products of value to military planning and operations. His experiences in war and in various world crisis drove him to maintain the Navy's preeminence in operational intelligence.

While serving as Director of Naval Intelligence from July 1988 to August 1991, Admiral Brooks brilliantly and tirelessly supported and executed national policy, provided enlightened advice and counsel to Navy and national leadership, and developed and directed a number of programs which provided invaluable intelligence to national and fleet commanders and operators, thereby greatly enhancing national security. Throughout his tenure as the Director, he improved the quality, productivity, efficiency, and responsiveness of Naval Intelligence. As a direct result of his leadership, innovation, and management and organizational initiatives, he saved the Navy and the Nation millions of dollars.

Rear Admiral Brooks is one of the most articulate professional intelligence specialists in the national intelligence community, and he has established himself as an internationally recognized authority on foreign military, political and intelligence matters. He is a national asset, unsurpassed in the impact he has had on intelligence community reform and the creative management of intelligence resources. His advice on the foreign military threat and counterintelligence is sought at the highest levels of the U.S. Navy and has influenced many decisions made by the Navy, the Department of Defense and the Congress.

Admiral Brooks will be sorely missed, but his contributions to the professionalism and spirit of the intelligence community will be an enduring legacy. I want to wish him every success as he turns his attention to new opportunities and new challenges.

CONGRESSIONAL SALUTE TO THE DAUGHTERS OF MIRIAM CENTER FOR THE AGED UPON THE 70TH ANNIVERSARY OF ITS FOUNDING

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. ROE. Mr. Speaker, this year the Daughters of Miriam center for the Aged, which is located in the city of Clifton, my congressional district and State of New Jersey, is celebrating its 70th anniversary of providing outstanding services dedicated to the pursuit of happiness and security for people, and particularly our senior citizens. I know that you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations and best wishes to the distinguished officers, trustees, staff, and community leaders who have actively participated in the organization and administration of one of the most prestigious care and activities centers for serior citizens in our Nation, the Daughters of Miriam Center for the Aged.

Mr. Speaker, the exemplary leadership and outstanding efforts of our citizens so important to our quality of life are in the vanguard of the American dream. As we commemorate this 70th anniversary celebration, we express our appreciation to the officers and trustees of the Daughters of Miriam Center for the Aged, composed of business and professional men and women, who through their fidelity, devotion, and personal commitment over the years have provided intelligent direction and dedication toward achieving the goals and purposes of the Center—to help our elderly attain the best possible quality of life in their golden years.

The current officers and members of the board of trustees are as follows:

OFFICERS AND EXECUTIVE COMMITTEE

The Honorable Milton Kleinman, president; H. Louis Chodosh, M.D., senior vice president; Philip E. Sarna, vice president; Monroe Potash, vice president; Jack Birnberg, vice president; Peter Rosenthal, vice president; George Kramer, treasurer; Morris Yamner, assistant treasurer; Norman Koch, secretary; Stephen Wener, assistant secretary; Samuel S. Schwartz, honorary president; Milton Werksman, honorary president; Melvin Opper, past president; Joel J. Steiger, past president; Arthur Bodner, past president; Arnold H. Goodman, past president; Leonard Kohl, past president; Helen G. Deich, past president; Alexander E. Rosenthal, past president; Harvey Adelsberg, MPA, FACHE, executive vice president; Paul H. Abrams, Richard Abramson, William Adler, Steven Alexander, M.D., Jerry Atkins, Stanley Berenzweig, Claire Blazer, Marge Bornstein, Samson Bosin, Lawrence S. Boss, Louis Brawer, William Brawer, Benson J. Chapman, Irving B. Cohen, Sylvia Cohen, Stephen Cohen, M.D., Stuart Coven, Hy Derfler, Murray Deutsch, Eva Feld, Benjamin Friedman, Sandor Garfinkle, Dr. Solomon Geld, Benjamin Geller, Mel Gerstein, Merrill Gitkin, Lawrence Goldman, Lawrence Gurtman, Howard Honigfeld, Lewis L. Immerman, M.D., Rabbi Dr. Leon Katz, Martin S. Kenwood, Herbert C. Klein, Peter Kolben, Sanford Komito, Arthur R. Kramer, Paul Kramer, Richard Lane, Susan Lane, Ronald S. Mack, Leonard Marcus, Diane Milrod (ex officio), Mollie Nalanbogen, Harold Peimer, Howard Phillips, Alan S. Prell, Sylvia Richman (ex officio), Jerry Rosenblum, Ruth Rosner (ex officio), Eugene Rosensweet, Richard Rosenthal, Irving K. Ruttenburg, Helen Sanders, Sidney Shelov, Rose Shulman, Minerva Stark (ex officio), Julius M. Sucoff, D.D.S., Martin Sukenick, Robert J. Topchik, David Waldman, Sidney Wein, M.D., Ruth Weisenfeld, Ben Weiner, Naomi Wilzig, Siggi Wilzig, Samuel Wolff, Norman Zelnick.

I particularly commend to you the administrator and executive vice president of the Daughters of Miriam Center for the Aged, Harvey Adelsberg, a fellow of the American College of Hospital Administrators, who has responded with the highest standards of excellence in helping to improve the lives and services of the people entrusted to his care.

Mr. Speaker, the Daughters of Miriam Center for the Aged is a nonprofit organization, governed by a philanthropic board of trustees, supported through the generosity of the Jewish communities of Paterson, Passaic, Clifton, Fair Lawn, and environs.

The center was established in 1921 through a gift from the Honorable Nathan Barnert, two-term mayor of Paterson and well-known philanthropist, in memory of his wife, Miriam. It has progressed over the years from a shelter for aged persons and orphaned children, Home for the Aged and Orphans, through its gradual transition to Home and Infirmary for the Aged, and its ultimate expansion and transformation to one of the leading facilities of excellence in the field of care for the elderly—The Daughters of Miriam Center for the Aged. It is licensed by the New Jersey State Department of Health, accredited by the Joint Commission on Accreditation of Hospitals and the Commission on Accreditation of Rehabilitation Facilities, and approved by the American Dental Association. The facility and its programs comply with the Civil Rights Act of 1964 in admission and personnel policies. Daughters of Miriam is college and university affiliated as a teaching and in-service training center.

The facilities and services included in this complex are a 340-bed medical and nursing care center located in the Rothenberg Building and the Eva and Morris Feld Tower, a respite care program, the Brawer Building and the Esther and Sam Schwartz Building which are apartment residences consisting of 270 units which provide congregate services to older persons capable of independent living; the Rita & Samuel Brodie Adult Day Care Program for the Elderly with an Alzheimer's disease and related disorders unit and the Fred Ables memorial sheltered workshop. In total they serve 700 aged persons in a given day.

Mr. Speaker, the original purpose of the center was to give sheltered care to both the aged and to orphaned children. The first location was in a converted house in Paterson, and after the initial 5 years, in a 50-bed capacity building on an estate in Clifton. This dual program for the underprivileged at both extremes of the age spectrum remained unchanged for over 20 years. In the following 45 years, the program for dependent children was relinquished to a professional casework agency which placed them in foster or adoptive homes. The Daughters of Miriam merged with the B'nai Israel Home for the Aged in Passaic, and a growing partnership of government and philanthropy in the funding of care through the introduction of Medicare and Medicaid and Federal loans for major structures evolved. The high standards of care at Daughters of Miriam have a direct connection with the philosophy of its professional and lay leaders. They believe that a geriatric facility must approximate as closely as possible a client's former home environment. It must provide skilled nursing and medical services but, even more urgently, it must offer a congenial atmosphere in which the residents can carry on the activities of daily living which are so important to the senior citizens.

A unique establishment within the Daughters of Miriam community is the Fred Ables memorial workshop. In effect, this sheltered work activities program is s self-contained industry, the purpose of which is to provide occupational threrapy for many of the aged residents on assembly jobs for contracting commercial companies. The workshop also employs certain handicapped community members. It is licensed by the U.S. Department of Labor and workers are paid at rates approved by the Department, but more important, the participants are given the self-assurance that comes with still being able to do useful work and to make an independent contribution toward their own maintenance.

According to their capabilities and interests, residents take part in a broad variety of daily living and social activities—arts and crafts in special rooms or in rooms on the infirmary floors; cooking and baking programs; bingo games; music programs; religious observances; watching television; relaxing in the solarium overlooking the busy Garden State Parkway; and walking or visiting with friends in the gardens. Local groups such as the Passaic-Clifton, Paterson, Friends of Day Care and Fair Lawn women's auxiliaries come to visit residents and volunteer in a number of departments. Parties are held in the auditorium for residents on their special anniversaries. Cookouts and picnics in the center grounds are regular features of the summer months. Frequent tours to the larger community are arranged for the more active apartment tenants.

Considerable time is given, of course, to therapy sessions and medical checkups. A qualified staff of approximately 500 people, including resident and attending physicians, are available 24 hours a day, 365 days a year. Also on the staff are a psychiatrist, physiotherapist, pharmacist, medical technicians, registered graduate and licensed practical nurses, nurses' aides, and orderlies. Over half of the numbers of the staff are specialists in medical and nursing care. The full program of intensive care for residents is rounded out by specialists in podiatry, optometry, dentistry, physical therapy, speech therapy, and audiology.

Mr. Speaker, it is a great pleasure to call this 70th anniversary celebration to your attention and seek this national recognition of the outstanding services provided by the officers, trustees, staff, and professional men and women of the Daughters of Miriam over the past decades. Their dedication and devotion in helping our seniors to maintain their dignity and help find happiness and independence in their golden years have truly enriched our community, State, and Nation. We do indeed salute the Daughters of Miriam on their 70th anniversary and extend our best wishes for their continued good works and success in all of their future endeavors.

RESULTS OF QUESTIONNAIRE SENT TO CONSTITUENTS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. FORD of Michigan. Mr. Speaker, I would like to take this opportunity to share with my colleagues the results of a survey I sent at the end of March to my constituents in the 15th Congressional District of Michigan. The 20 communities that make up the 15th Congressional District are Augusta Township, Belleville, Canton Township, Dearborn Heights, Garden City, Huron Township, Livonia, Milan, Romulus, Saline, Southgate, Sumpter Township, Superior Township, Taylor, Van Buren Township, Wayne, Westland, York Township, Ypsilanti, and Ypsilanti Township.

The survey asked 10 questions about some of the most important issues facing the Congress this year, and asked my constituents to list the 3 areas where they support increased Federal spending as well as the 3 places they would like Federal spending reduced. I have already received over 8,000 responses to my survey with more coming in daily. This is the 27th survey I have conducted since I first came to Congress in 1965. I am truly gratified that so many people took the time to answer and send back the questionnaire. I was also impressed with the number of constituents who took the time to make additional comments on the survey questions as well as other issues of concern.

The first question on my survey concerned the proposed free-trade agreement between the United States and Mexico. My constituents are overwhelmingly opposed to such an agreement. By a nearly 4-to-1 margin they opposed not just the fast track procedure for considering such an agreement in Congress, but the whole notion of a North American free-trade zone that would permit duty-free entry of goods into the United States from Mexico and Canada. Their letters and calls to me make clear that their opposition is based on a strong belief that a free-trade agreement threatens their jobs, that it will encourage United States companies to relocate their operations to Mexico in order to exploit the low wages and minimal environmental enforcement below the border.

When Congress voted at the end of May on extending fast track authority to the President I voted against it. Like my constituents, I have no faith that this administration will negotiate an agreement that protects good jobs in the United States. The free trade we have had so far with Mexico—the maquiladora zones—has cost 76,000 Big Three auto jobs in the United States already. I intend to do everything I can to prevent the expansion of that kind of free trade.

Sixty percent of my constituents support H.R. 5, legislation that would prohibit employers from firing or permanently replacing workers who engage in a lawful economic strike. Since 1981, the use of permanent replacements has expanded dramatically, and hundreds of thousands of workers have effectively been fired for exercising their lawful right to strike. Labor disputes over wages and health benefits have been turned into bitter battles over the continuing existence of the workers' union and the workers' right to a job. The result has been violence, divided communities, bankruptcies, and a serious erosion of the collective bargaining rights of American workers. As chairman of the Committee on Education and Labor, I intend to move H.R. 5 as quickly as possible. If Congress does not act, the right to strike will become nothing more than the right to quit.

Eighty-three percent of my constituents favor the Family and Medical Leave Act, H.R. 2, which would require businesses with 50 or more employees to permit up to 12 weeks of unpaid leave to employees who request it after the birth or adoption of a child, to care for a seriously ill child, spouse, or dependent parent, or during a period of medical disability. Their level of support for the bill is in line with national surveys that consistently show more than 80 percent of all Americans favor H.R. 2.

That support should not be surprising. At little or no cost to employers, the act would provide job security to workers at times of family crises, when their children and loved ones need them most.

A recent study by the Small Business Administration found that the cost of providing family leave is substantially less than the cost of terminating an employee and hiring a replacement. It confirms an earlier study by the nonpartisan General Accounting Office that estimated the cost of providing family and medical leave to be less than $10 per employee per year.

I hope that when Congress passes the Family and Medical Leave Act again, as it did last year, President Bush will sign it into law. There is no reason for ideology to stand in the way of a law that can do so much good for America's families at so little cost.

An overwhelming 83 percent of those responding to the survey agree that the Federal student aid programs should be expanded to serve students from working-class and middle-class families. It is clear that the incomes of working and middle-income families have not grown to keep pace with inflation, while college costs have increased faster than inflation during the last 10 years. Therefore, students and their families see the opportunity for a college education slipping out of their reach.

The Subcommittee on Postsecondary Education, which I chair, is considering legislation to revise and extend the Higher Education Act, the law which includes the Federal student aid programs. There is a broad consensus among the members of the subcommittee and among the many witnesses who have testified before the subcommittee in recent weeks that working and middle-income families are unfairly excluded from access to the Federal programs that provide loans and grants to help students pay for college. I want to be certain that, when we finish work on this legislation, we can assure working and middle-class families of substantial financial help when they send their kids to a college or university.

My constituents care about the environment. Eighty-three percent of those responding to the survey support passage of H.R. 300, the Recyclable Materials Technology and Markets Development Act. I have agreed to cosponsor this bill, which would promote a public-private sector effort to develop recycling technologies and open new markets for recyclable consumer products. I have also agreed to cosponsor a bill to offer the first-ever Federal grant program to support individuals, nonprofits, corporations, or localities to fund research in new recycling techniques. Recipients will report the results of their research so that the rest of the Nation can duplicate the successes.

The next two questions on the survey dealt with proposals to tax the windfall profits of American oil companies resulting from Iraq's invasion of Kuwait. Eighty-seven percent supported a windfall profits tax, and 68 percent said that the proceeds of such a tax should be used to cover the U.S. share of the costs of the Persian Gulf war. Like my constituents, I was outraged over the profits domestic oil companies accumulated during the war in the Persian Gulf. Profiteering during a national crisis is an outrage. Several bills to impose a windfall profits tax were introduced in the House. I would support a windfall profits tax, especially if the proceeds were used to reduce the Federal deficit or increase spending on important domestic programs such as education.

I also asked my constituents whether they supported the President's proposal to triple the Medicare taxes of individuals with incomes exceeding $125,000—$150,000 for a couple—who participate in the voluntary part B program, which covers necessary medical services such as physician visits. If enacted, the cost of the tax would rise from $32.80 a month to $95. Eighty percent of those responding believed that these individuals should indeed pay higher taxes. The Congress approved a budget resolution for fiscal year 1992 on May 22. I supported passage of this resolution, which instructs the committees of jurisdiction to look at proposals to increase the Medicare taxes for these individuals.

The final question of the survey addressed the issue of parents in combat. The issue of single parents and military couples with children serving in combat split the Congress and split my constituents during the Persian Gulf war. Over 16,000 single parents and 1,200 military couples with children served in Operation Desert Storm. The potential that a number of these children could become orphans led me to support a bill that would have exempted single parents or the mother or father of military couples from combat duty. Forty-nine percent of my constituents support such a measure; 51 percent oppose it.

The Congress passed, and the President signed, the Persian Gulf Conflict Authorization Act to address the issue of parents in combat. The law requires the Secretary of Defense to study departmental policies related to reservists and active-duty personnel who have children. The Secretary is asked to report back to Congress with his conclusions by March 1992. In addition, the bill included a sense-of-Congress resolution that the Pentagon should not deploy reservists or active-duty personnel who are mothers of children under the age of 6 months.

The final section of the survey provided an opportunity for my constituents to list the three areas the Federal Government should spend more on, and three areas on which we should spend less money. I am pleased to report that education was named as my constituents' highest priority for Federal action. In my mind, no other domestic priority is more important than education. As chairman of the House Committee on Education and Labor, I will work to assure that funding for education receives the high priority that it deserves.

Earlier this year I proposed a home front budget initiative for fiscal year 1992, which originally allocated $4.4 billion above the level spent for education and related programs in 1991. The budget resolution reported by the House Budget Committee assumed only $3.1 billion for these programs. During House consideration of the budget resolution I offered an amendment to increase education spending by $400 million to a total of $3.5 billion. The amendment was approved by a vote of 261 to 158. The Senate's budget resolution provided the full $4.4 billion for the home front budget initiative. The final conference agreement fully funded my initiative.

Health care was the second most important issue that my constituents believe Congress and the President should address. Once again, my constituents have identified one of the most critical issues facing our Nation. Increasingly, access to quality health care has become a luxury. This isn't right, and we must do something to address this problem. The Committee on Education and Labor, which I chair, will play a significant role in the formulation of national health care policy during the 102d Congress. I hope that we can develop a bill that will not only address the needs of the 37 million uninsured Americans but which also responds to the costs of health care coverage, which many who are insured cannot afford.

Environment ranked third in deserving more attention by the Federal Government. I share my constituents' concerns for the environment and have agreed to cosponsor a number of bills that will address some of our more serious environmental problems. Among them, I have agreed to cosponsor a bill to require Federal facilities to comply with the same strict environmental laws as the private sector. For years the Pentagon and the Department of Energy have operated facilities without regard for the law. Refusal to adhere to critical waste disposal regulations has left nearby communities with a legacy of contamination and the taxpayers with the staggering costs of cleaning it up. We need to pass legislation that will ensure that these facilities comply with our environmental laws.

Mr. Speaker, for years my constituents have listed defense spending and foreign aid as the areas where they would like to see reduced Government spending. This year is not different. Government salaries and pensions were a distant third in areas where we should cut spending.

While the new budget agreement no longer allows us to shift spending from defense and foreign aid to domestic programs, it does allow us to set spending priorities. During House consideration of the fiscal year 1992 Pentagon authorization bill, I supported efforts to cut spending for high-dollar strategic weapons systems such as the B-2 Stealth bomber and star wars, and, instead, focus on conventional weapons systems such as the Patriot missile, which proved effective in the Persian Gulf war. In all, the House was able to shift $5 billion from the B-2 and star wars to conventional weapons and personnel.

The actions of the House with respect to foreign aid reflect the feelings of my constituents in Michigan's 15th District. The House, with my support, rejected President Bush's request for a $12 billion increase in foreign aid. The bill we approved funds foreign affairs and assistance at $15.3 billion, about $400 million less than last year.

Mr. Speaker, I have always found the questionnaire to be a useful tool in learning my constituents' thoughts and views on the important issues of the day. I would like once again to thank my constituents for taking the time to participate in this survey.

A TRIBUTE TO JOSEPH KOSTMAN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of my colleagues the courage and strength of Mr. Joseph Kostman. Mr. Kostman is a Holocaust survivor who testified against former Lt. Josef Schwammberger for war crimes during World War II. The Miami Herald recently published an article describing this noble man's suffering.

HOLOCAUST SURVIVOR TELLS VISITING COURT OF ATROCITY

A Holocaust survivor who saw a pregnant woman shot down 50 years ago testified last Wednesday to a traveling German court that came to Miami to hear war crimes evidence against former Lt. Josef Schwammberger.

Joseph Kostman, 66, now of North Bay Village, said he watched from a basement window in the Przemysl ghetto in Poland when Schwammberger shot a pregnant woman in the street.

Kostman thinks it happened in late 1941 or early 1942. He is more certain of what he saw than when.

"I saw it myself, with my own eyes. He killed her because she was a Jewish woman, and pregnancy was a death penalty," Kostman said after testifying at Germany's consulate in downtown Miami. A judge, prosecutor and defense lawyer, all from Germany, are traveling in the United States and Canada to hear witnesses unable or unwilling to attend the trial in Germany later in the summer.

> Schwammberger, 79 now, was captured in Argentina in 1987. He is charged with killing 50 people and held responsible for 3,377 others murdered from 1941 to 1944, when he was in charge of ghettos and forced-labor camps in occupied Poland.
>
> "It's the greatest day of my life, although I paid a big price," Kostman said Wednesday. His parents and sister perished in the Holocaust, but he said he does not wish Schwammberger dead:
>
> "I want him to live a long time, but behind bars, and get one meal a day like we got—a bowl of potato soup and a piece of bread."

Mr. Speaker, the horrors of the Holocaust must never be forgotten. Joseph Kostman's testimony makes us realize the danger and reality of all forms of racism.

J. RAYMOND JONES: THE PASSING OF AN ERA

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. DE LUGO. Mr. Speaker, a most famous Virgin Islander, J. Raymond Jones, the man known as the "Harlem Fox," died this month in a New York City hospital at the age of 91, leaving behind a legacy that spanned two generations and an entire continent.

His achievements are legend in New York City where he enabled many, many disenfranchised African American men and women to become a part of the systems of politics and government. At the national level, he was instrumental in the civil rights movement and subsequent legislation which will long stand as a landmark in our Nation's history.

But I rise, Mr. Speaker, on behalf of the people of the Virgin Islands, to laud the accomplishments of J. Raymond Jones during his final years when he returned home to his native islands.

Acutely aware of the importance of education and the critical role it plays in determining success or failure, J. Raymond Jones established the Jones-Holloway-Bryan Foundation to promote excellence in science and mathematics among Virgin Islands students.

Shortly after the death of his wife, Ruth, in 1985, J. Raymond Jones donated considerable funds to what is today the University of the Virgin Islands to boost education programs for students from the Eastern Caribbean.

A man of deep compassion, it was his strong conviction that, with a helping hand and proper guidance, there is in each of us the potential for greatness.

J. Raymond Jones left his mark on the people of a nation, yet, as he showed so well upon his return to his native Virgin Islands, he always remembered the needs of the individual.

It is fitting that the spirit this great man brought will live on, both for what he accomplished in life and for what the foundation he created will build in years to come. Our country is proud of J. Raymond Jones, and Virgin Islanders are particularly proud and thankful that this great man touched so many of us in so many ways.

USING FORCE AGAINST AIRBORNE DRUG TRAFFICKERS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. COUGHLIN. Mr. Speaker, drug interdiction is a very important and very expensive element of our national drug control strategy. In recent years the Department of Defense has joined the fight by contributing its substantial expertise and numerous national assets to drug interdiction. The men and women of the Coast Guard and the Customs Service have for many years now distinguished themselves in defending this Nation from an invasion of illicit narcotics. We have certainly made progress, but there remains much to be done.

It is for this reason that last week I introduced two bills on the use of force against airborne drug traffickers. I believe strongly that we must fight this war against drugs in a manner which makes it possible to win it. Just monitoring drug traffickers is not enough, we must stop them.

The first bill, H.R. 2712, which I initially introduced last year, gives the U.S. Coast Guard limited authority to use force against airborne drug traffickers. It is designed to combat a common means of trafficking whereby airborne drug traffickers fly to the coast of the United States or to a nearby island, drop drugs to cohorts below, and then turn around and fly away without ever stopping. Frequently we capture the whole thing on tape. Our interdiction agencies, with their multimillion dollar assets and expertly trained personnel, do not have the authority to do anything more.

There are 21 safety features in the bill to ensure that only drug traffickers are targeted. The most important are the requirements that prior to the use of force: First, U.S. authorities recover the test positive drugs dropped from the plane's hold; and second, repeated warnings, by various means, are presented to the trafficking plane.

The second bill, H.R. 2711, would provide the U.S. military explicit authority to train foreign nationals how to shoot down drug trafficking planes, and to assist them in the process with intelligence and technical assistance. It prohibits the actual use of such force by U.S. personnel—except in self-defense. Our allies in the drug war, including Peru, Colombia, and Mexico are already using force against drug trafficking planes. It is only prudent that U.S. authorities, who are already providing military training and assistance, advise them on how to do it properly so that force is used only when absolutely necessary.

In most of the coca growing areas, air transport is the only way processing chemicals can be brought in and cocaine can be brought out. Thus, this bill, if enacted, could dramatically increase the effectiveness of our overall interdiction effort. Assistance in this area would only be provided at the request of the host nation.

I would welcome my colleagues' support of this legislation.

STEAMTOWN NATIONAL HISTORIC SITE

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. MCDADE. Mr. Speaker, I am introducing legislation today that will authorize the completion of the Steamtown National Historic Site.

The original authorization, which was passed by the House in 1986, officially designated Steamtown as a national historic site and authorized the appropriation of $20 million for its administration. Hearings were held on September 30 of that year by the Subcommittee on Public Lands under the chairmanship of John Seiberling.

I am pleased to report that Steamtown is currently being developed for the enjoyment and education of millions of Americans. The Interior Appropriations Subcommittee has included funds in fiscal years 1987, 1989, 1990, and 1991 for operation and construction.

Progress on developing the site has been excellent, but it will be necessary to authorize an additional $26 million in appropriations to complete the project. The initial appropriations were used for planning and emergency stabilization of the site as well as renovation of a historic roundhouse and locomotive turntable.

The funds that would be authorized with the legislation I am introducing today would allow for the continued construction of a core complex, new roundhouse, museum, visitors' center, and the renovation of a historic repair building. Future visitors to Steamtown will be able to see how a working steam locomotive railyard operated in an earlier American era which saw tremendous industrial growth and the dominance of rail as a form of transportation.

The natural and cultural resources of Steamtown, which is located in the Lackawanna Valley, represent the development of anthracite coal, one of North America's great natural resources. From early in the 19th century, northeastern Pennsylvania was the source of more than 80 percent of the world's anthracite coal. This resource provided an extraordinary source of energy which fueled the growth of American cities and industry for almost 150 years. The unprecedented scale and integration of anthracite mining, manufacturing, and rail transportation made the region a crucible for innovations in technology, industrial institutions, labor, and city form in 19th century America.

Between 1830 and 1860, anthracite began to provide a reliable alternative to both charcoal and imported British and Nova Scotian soft coal. The availability of a high quality, inexpensive fuel source allowed the development of larger scale factories and the relocation of small rural industry to urban areas. These innovations generated profound changes in the institutional structure of American industry, the American work force, and the urban development of the United States.

The Steamtown railyard has unique potential as an interpretive historic resource. The site offers the opportunity for visitors to interpret onsite not only the locomotives and rolling stock but also the greater story of steam railroad operations. The Comprehensive Management Plan for Steamtown points out that "the Steamtown site and collection represents topics or themes in the National Park System Plan that are worthy of commemoration and currently unrepresented or underrepresented. Those themes generally relate to America's industrial heritage."

Steamtown has proven itself as a learning experience and popular attraction. Even though the Park won't officially open until 1994, visitation has exceeded 125,000 people and has been increasing by 75 percent each year. It is an easily accessible experience for millions of Americans living on the east coast who can't travel to the western national parks. The overwhelming response of the visitors to this historic site has been enthusiastic and positive.

The Steamtown National Historic Site also involves a large level of private contributions and State and local cooperation. The Park Service has been the recipient of nearly $30 million in land donations, a collection of 40 historic locomotives, 100 pieces of rolling stock, original buildings from the 1800's and over 500 acres of rail lines. The Commonwealth of Pennsylvania and the people of the Scranton area have enthusiastically backed this project with enormous community support and over $8 million in contributions.

I believe that Steamtown is a wise national investment. I look forward to working with Chairman BRUCE VENTO and the other members of the House Subcommittee on National Parks and Public Lands in the consideration of this reauthorization.

A TRIBUTE TO DR. JACK POLLACK: AN OUTSTANDING EDUCATOR FOR OVER 40 YEARS

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute to a distinguished educator, Dr. Jack M. Pollack, principal of Abraham Lincoln High School located in my congressional district. On June 20, Dr. Pollack attended his 20th commencement ceremony as principal of Abraham Lincoln High School where he was honored by his students and colleagues for his great contribution to his community. I am proud to take this opportunity to salute this individual for his achievements and fine deeds.

Dr. Pollack entered the educational field in 1949 as a substitute English teacher 2 years after his graduation from Brooklyn College. Education became a part of his future when he became an English teacher in 1954, and then the assistant principal of a junior high school in Manhattan in 1959. Dr. Pollack continued his outstanding work as an educator, becoming chairman of the English department at Eastern District High School in Brooklyn and then in 1966 transferring to Lincoln High School, where he has been principal ever since.

Dr. Pollack assumed the position of principal at Abraham Lincoln High School in 1971, receiving his Ph.D. from New York University that same year. He has emphasized improving the quality of education in his school and in New York City. As principal of Abraham Lincoln High School he has been an innovator, establishing programs to aid students.

As an energetic member of the New York City educational system, Dr. Pollack has held numerous positions including president of the New York City High School Principals Association and president of the board of education at the Yeshiva of Flatbush. In his leisure time, Dr. Pollack contributes his energies to other important causes. He was appointed president of the New York City Alzheimer's disease Association in 1987 and has received national acclaim for his work with Alzheimer's Disease and clearly deserves praise for these contributions.

Most recently, Dr. Pollack was honored as "Principal of the Year for 1990" by Dr. Joseph Fernandez, chancellor of the New York City Public Schools. After receiving this honor, Dr. Pollack represented New York City at a 4-day excellence in education symposium in Washington, DC. Dr. Pollack was selected for this honor for his 40 years of outstanding dedication to education.

This highly respected educator is also a loving husband and father of three children. He is an individual who has demonstrated his concern for both family and his community. Dr. Pollack is truly a great educator who has devoted his life's work to educating our young people. We depend on people like him to mold our youth and create a brighter future for all.

It gives me great pleasure to pay tribute to Dr. Jack M. Pollack, a dedicated and tireless educator. I am proud to recognize him before my colleagues and fellow citizens.

A TRIBUTE TO ALVARO SOLIS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to bring to the attention of the House and the American public the loss of one of my constituents from Hialeah, FL, Alvaro Solis, Jr. This bright young man was the victim of a violent crime and died from a bullet wound.

Before he died, Alvaro was pursuing a bachelor degree in business administration at Florida International University in Miami. He was the recipient of several academic honors including being named "Faculty Scholar" at FIU as well as attaining a level of distinction from the National Forensics League. His parents, Carmen and Alvaro Solis, Sr., and his sister Maribel, recently accepted a diploma on his behalf at the FIU graduation ceremonies.

On campus, Alvaro was always an optimist. He was the fundraising chairman of his fraternity, Sigma Phi Epsilon, and a senator for student government. He continuously came to the aid of his community in his role on the city of Hialeah Youth Advisory Board and in his membership in the Young Republicans Club.

Alvaro was also interested in promoting change for his community. He worked on many campaign staffs on both local and State government. Even while taking classes, Alvaro found time to work as an intern in the risk management office of Metro Dade, as a sales representative for Sears Roebuck & Co., and as an English instructor for audio visual languages.

In short, Alvaro Solis, Jr., was a highly motivated and caring individual who worked hard for his family as well as his community. He will be deeply missed by all who knew him.

A CONGRESSIONAL SALUTE TO DOWNEY CHAMBER OF COMMERCE PRESIDENT DAVID R. GAFIN

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to an outstanding leader in Downey, CA. On Friday, June 28, 1991, David R. Gafin will be honored for his year of service as president of the Downey Chamber of Commerce. This occasion gives me the opportunity to express my deep appreciation for his committed service to the chamber of commerce and the citizens of Downey.

The position of president of the Downey Chamber of Commerce is a difficult and demanding one. The time invested by the president in business promotion programs is tremendous. Finding a dedicated candidate is of utmost importance. In David Gafin, the chamber found an ideal president. The commitment shown throughout his year in office proves David's dedication to Downey, its business owners, and its citizens.

During this tenure, the chamber was extremely successful at fostering commerce in the community. With the help of David's expert leadership, the chamber was able to amass an impressive list of accomplishments. Through utilizing radio advertising for the first time, they promoted and reopened the Stonewood Mall. The group also cosponsored the Annual Downey Business Expo, produced a small business conference, and offered business seminars and workshops for the business community. In addition to establishing these programs, which were new to the Downey Chamber of Commerce, the 1990–91 staff continued chamber traditions by resuming the annual golf tournament, and by organizing the Annual Holiday Lane Parade.

David has had a tremendously positive impact on the chamber of commerce and the community of Downey. He is a tireless servant who expects no recognition in return. Mr. Speaker, I submit to my colleagues today this most deserving congressional salute in his honor. My wife, Lee, joins me in extending our heartfelt thanks and congratulations. We wish David, his wife Brenda, and his stepson Brent Gabriel, all the best in the years to come.

SOUTHERN ILLINOIS TEACHER TAKING AMERICA INTO THE FUTURE

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. POSHARD. Mr. Speaker, I rise to recognize a man from my district, who each day faces one of the toughest jobs in America and comes out on top.

Ronald Nagrodski is a high school teacher, and he's one of the best in the Nation at motivating his students and working with them to achieve great things. I am especially proud to say he teaches in my district, at Johnston City High School, where he is dedicated to reviving what appears to be a lost art for American students; mastering the equations of mathematics. For his efforts, Ron was recently selected by Fortune magazine as 1 of 25 Americans making a difference, helping to prepare the United States for competition in the year 2000 and beyond.

I have previously called to your attention the success of Ron Nagrodski and his students, and I'm doing so again because good news from our classrooms is sorely lacking. The magazine article which I am including in this RECORD tells the story well, but I want to add my support for Ron's efforts, and the many other classroom teachers in my district and around the country, who are working hard to motivate and invigorate our students. They must be assured they have our support, encouragement, and respect, because they are making an invaluable contribution to the future of our society.

RONALD NAGRODSKI: HIS STUDENTS GET HIGH MARKS IN MATH AND IN THE WORK ETHIC

In the small Illinois farming and coal-mining community where he lives, Nagrodski, 36, is waging a campaign against low math skills among American youngsters—and winning. Last year 11 of his 87 graduating students at Johnston City High School (enrollment: 372) took the College Board advanced-placement exam, and four attained top scores—almost one in eight, compared with a national average of one in 15. Says Nagrodski, who won a presidential award for teaching excellence last year: "We don't have the academic talent of big schools. We don't have any selective gene pool. We just grind it out on hard work."

A native of Johnston City, Nagrodski learned the value of hard work from his grandparents, immigrants from Italy and Lithuania, and his father, who worked in a factory and ran a family farm. Returning home to teach in Johnston City High in 1985, he persuaded administrators to let him launch honors courses in algebra, trigonometry, geometry, and calculus. Fellow teachers argued that the old curriculum was good enough. Says Nagrodski: "They didn't realize that using methods of 20 years ago means that you are preparing a kid real well for the job market of 1972." Now his ninth-graders are learning from the textbook previously used by seniors.

In addition to beefing up his school's course work, he coaches a team that captured the State's Class A championship last year in math. It competes in a variety of events, from written tests to oral analyses of problems. He believes the math team instills discipline and ambition. Before big matches, Nagrodski drills some students in the early mornings, others during lunch break, and all 32 team members for three hours a night. Nagrodski tells them, "'I can' is more important than IQ."

The burly, bearded martial arts practitioner (he says he never encounters behavior problems) earns about $30,000 a year. Nagrodski's wife, Jeanie, teaches at another high school, and they have a 9-month-old daughter, Ashley. He winds up every day at the family farm, feeding the cattle that provide extra income. Says he: "The only thing you get out of working hard as a teacher is the gratitude of your students and the feeling of doing a good job."

REPRESENTATIVE WILLIAM NATCHER'S 17,000TH CONSECUTIVE VOTE

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. HORTON. Mr. Speaker, it is indeed a great personal honor and privilege for me to call to the attention to the House of Representatives a nearly inconceivable achievement of one of our most distinguished colleagues—and my good friend—the most honorable gentleman from the Bluegrass State, Congressman BILL NATCHER.

Thursday, when we approved the Walker substitute to the Burton amendment, BILL cast his 17,000th consecutive vote—rollcalls and quorum calls. This, is an alltime record in the House of Representatives. In addition, he has never missed a single vote or day since he was sworn in on January 3, 1954.

We all revere BILL's unequaled commitment and dedication to public service, and many have attempted to emulate it. Yet, like Joe DiMaggio's 56 game hitting streak, I doubt that this incredible milestone will ever be broken, only extended each and every day by BILL NATCHER himself.

So, on this momentous occasion, I would like to extend my heartfelt congratulations to you BILL. It has been my personal privilege and, indeed, an honor to serve with you for all of my 29 years in the House of Representatives. I have enjoyed working closely with you for many years and look forward to continuing to do so for many more years and many more votes to come.

WHAT'S GOING ON IN CHINA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. BROOMFIELD. Mr. Speaker, one by one, the old hard-line Communist monoliths are falling.

Albania is a country that might have well been on Mars for the last four decades. Yet, just this past weekend, it gave a rousing welcome to an American Secretary of State.

That is why I find the behavior of the Chinese leadership so puzzling. They want to enjoy the benefits of their contacts with the West. Yet they insist on running their country like a vast torture chamber.

On June 11, the Chinese Government threw a 73-year-old Roman Catholic bishop, Giuseppe Fan Zhong Liang, in prison. His crime? He is loyal to the Pope.

Congress is currently considering the President's decisions to renew normal trade privileges for China. It can be reasonably argued that such openings serve to promote human rights.

But frankly, the Chinese Government is making it harder and harder to sell that argument.

If they want to persuade many in this body to vote for MFN and other such measures, they could take a step in that direction by releasing Bishop Fan.

Surely a government that controls millions of soldiers, thousands of tanks, planes, missiles and other weapons cannot be afraid of the sermons of a 73-year-old man.

A TRIBUTE TO MR. TOM Y. FUJIMOTO

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. MATSUI. Mr. Speaker, I rise today to invite my fellow colleagues to join me in paying tribute to my dear friend and a member of my congressional district, Mr. Tom Y. Fujimoto on the occasion of his retirement from civil service. Next Tuesday, his family and friends will be gathered together to recognize Tom's many contributions to the California Department of Water Resources and our community at large.

Born and raised in Sacramento, Tom Fujimoto's dedication to our country and the State of California has given new meaning to civil service. Tom's long and distinguished career began when he served as a military intelligence officer during World War II. After Tom's faithful service to our country, he returned home to work for the California Department of Water Resources. His career with the CDWR has spanned over 40 years and includes 18 years as the assistant executive officer of the California Water Commission. During his tenure, Tom has dutifully represented our country by leading foreign engineers on tours of the California State Water Project.

In addition to his excellent record of accomplishment with the military and the water commission, Tom is a model citizen who proudly displays his dedication and love for this country while never forgetting his roots and heritage. This is demonstrated by his service to the local chapter of the Military Intelligence Service as well as his service to the Japanese-American community. As president of Sacramento's Kumamoto Kenjinkai, Tom has strived to preserve Japanese traditions which are so dear to him. He is also a longstanding member of the Sacramento Japanese American Citizens' League. Tom's commitment truth and justice has inspired him to play an active role in educating today's youth about the injustices of the World War II internment of American citizens of Japanese ancestry.

Mr. Speaker, please join me today in saluting a distinguished civil servant, my friend, Tom Fujimoto.

HARRY VAN ARSDALE AND LOCAL NO. 3 APPLAUDED FOR "ELECTCHESTER"

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. SCHEUER. Mr. Speaker, I rise today to applaud an innovative idea which has grown, in 40 years, into an important part of my home borough of Queens.

The return of our soldiers precipitated a severe housing shortage in New York City after World War II. Although housing construction took place at a staggering rate, New Yorkers still had to look for creative solutions to the shortage. None were more creative than the idea crafted by Harry Van Arsdale, and the rest of local union No. 3 of the International Brotherhood of Electrical Workers.

Van Arsdale reasoned that local No. 3 could build their own housing complex. His idea was not without precedent: The Amalgamated Clothing Workers had operated their own complex for 30 years at the time. However, the clothing workers union numbered over 300,000, while the electrical workers barely topped 26,000 members. Local No. 3's plans were greeted with a high degree of skepticism.

But with an innovative approach to financing, and some old-fashioned hard work, their plans became reality in the spring of 1951. In that year, the first families moved into Electchester, as the new complex was called. They enjoyed a high standard of living, which included their own public schools and a community playground.

Today, Electchester has expanded to 2,300 units in 38 buildings over 75 acres in Flushing. It boasts of ethnic diversity and an extremely low crime rate. It is an example of what a housing cooperative can and should be.

I applaud the vision of Harry Van Arsdale, and the rest of local No. 3's members, past and present. Electchester is a truly wonderful asset to our community.

TRIBUTE TO WILLIAM C. CHANDLER

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. DICKINSON. Mr. Speaker, today I would like to pay tribute to an outstanding citizen from Montgomery, AL. William C. Chandler has committed his life to promoting well-being around the world.

Bill has been the Montgomery YMCA general director since 1953. He was the Montgomery YMCA youth program and physical director from 1948–53, and was also the YMCA youth program director in Athens, GA, from 1946 to 1948.

Bill served as the president of Lions Clubs International in 1980–81, and as president of the Montgomery Lions Club. He is chairman of the Board of Education Committee for Better Schools, and the Bi-Racial Committee, "One Montgomery." He also serves on the Gift of Life Foundation, and is past president of Blue-Gray Association and the Hitchcock Committee.

Bill has been recognized worldwide for his sincere service. The Lions Clubs International named him chairman of Lions Foundation International, and honored him with their Ambassador of Good Will Award. He received a Medal of Honor from the President of Italy in 1981, and was named Order of the Knight of the Lion by the President of Finland in 1989.

In 1990, he received the Lewis Hine Award, an NCLC national award for work with youth. This award is sponsored by Time-Warner and is one of five in the United States. He received the Alabama Bar Association Liberty Bell Award, the Optimist Club Friend of Youth Award, and the Rotary Service Award. As a young man he received the Jaycees Distinguished Service Award and Outstanding Young Man Award.

Bill has a B.S. degree in naval science and mathematics from Rice University, and a B.A. degree in sociology and religion from the University of Georgia. His graduate degree in sociology and religion is from the University of Georgia. He also studied as an undergraduate at Georgia School of Technology.

Bill married Martha Spidle in May 1953. They have three children and four grandchildren, and attend First Baptist Church in Montgomery where he serves as chairman of the board of deacons and as an adult Sunday school teacher.

He has been a consultant at DRAVO Basic Products since 1978. He was the president of Montevallo Limestone Co. from 1958 to 1971, and president of Montevallo Limestone Sales from 1971 to 1978.

His unselfish devotion to youth is more than commendable. The aforementioned honors and awards do not convey the real meaning of his work. Bill Chandler's selfless devotion and generosity have enriched not only the city of Montgomery, but have touched the lives of countless people throughout the world. His life is a fine example of Christian leadership, and one that deserves the recognition of the U.S. Congress.

SUPER BOWL MVP

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. MURTHA. Mr. Speaker, last January, more than 70,000 football fans in Tampa Stadium cheered as the quarterback of the New York Giants led his team to victory in Super Bowl XXV. Next Saturday, the people of Jeff Hostetler's hometown, Jerome, PA, will honor the Most Valuable Player of the Super Bowl with a motorcade and community celebration.

Jeff's story is the story of a talented, dedicated individual who has worked hard to be prepared to take advantage of any opportunity that might arise. Throughout his football career at East Conemaugh Township High School and the University of West Virginia, Jeff exhibited the hard-working attitude so typical of our area of western Pennsylvania. Over the past few years he has been the backup quarterback for the Giants, watching as Phil Simms led the team to one of the best records in pro football. When Simms suffered an injury late in the 1990 season, many skeptics and football experts wrote off the Giants' chances in the playoffs. But they forgot about the talent and leadership abilities of Jeff Hostetler. Jeff led the Giants throughout the playoffs, as they defeated the San Francisco 49ers in the NFC championship game, and then beat the Buffalo Bills in perhaps the most exciting Super Bowl game ever played.

The people of Jerome have followed Jeff's NFL career closely. When their native son moved into the starting role for the Giants, they were confident that Jeff would lead the team to the NFL Championship, despite the opinion of many NFL insiders. Their faith was rewarded in his outstanding performance in Tampa. I'd like to join the people of Jerome in saluting Jeff Hostetler, and we all look forward to his further accomplishments on the football field.

A TRIBUTE TO COL. JOSEPH M. WAGOVICH

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 24, 1991

Mr. MORAN. Mr. Speaker, today I rise to congratulate Lt. Col. Joseph M. Wagovich on his retirement from the Air Force and commend him for his many years of dedicated and devoted service to our country.

On June 28, Colonel Wagovich will be retiring from his position as the public affairs officer for the On-Site Inspection Agency, a joint Department of Defense organization responsible for coordinating inspections for arms control agreements. Through his years of service, Colonel Wagovich has displayed an undying commitment to the Air Force that has taken him across the United States as well as abroad.

Colonel Wagovich's career included a variety of positions and carried him from Texas to Ohio, from Hawaii to Washington, DC, and at one point across the Atlantic to Greenland. His unique expertise in the fields of communications and publicity necessitated his presence in such various locales. The demands of his career prove that he has not faltered in his dedication to the Air Force and his country. Colonel Wagovich's outstanding service did not go unrecognized. His decorations include the Defense Superior Service Medal, Air Force Meritorious Service Medal with two oak leaf clusters, and Air Force Commendation Medal with two oak leaf clusters. These decorations accented appropriately his fine career. The On-site Inspection Agency will suffer a great loss with his retirement.

I would like to extend to Colonel Wagovich and his family my congratulations and best wishes. Given his notable achievements in service to our country, I am certain that Colonel Wagovich will continue to ably serve his country and community in his retirement.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 25, 1991, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 26

9:00 a.m.
Labor and Human Resources
Business meeting, to mark up S. 911, to revise the Public Health Service Act to expand the availability of comprehensive primary and preventative care for pregnant women, infants, and children, and to provide grants for home-visiting services for at-risk families, and to revise the Head Start Act to provide Head Start services to all eligible children by 1994.
SD–430

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Governmental Affairs
Permanent Subcommittee on Investigations
To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.
SD–342

Veterans' Affairs
Business meeting, to mark up pending calendar business.
SR–418

10:00 a.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the District of Columbia court system.
SD–138

Banking, Housing, and Urban Affairs
To hold hearings on the semi-annual report of the Oversight Board of the Resolution Trust Corporation.
SD–538

Judiciary
Patents, Copyrights and Trademarks Subcommittee
To hold hearings on S. 473, to revise the Lanham Trademark Act of 1946 to protect the service marks of professional amateur sports organizations from misappropriation by State lotteries, and S. 474, to prohibit a State from participating in betting, gambling, or wagering schemes based on any game connected to any professional or amateur sports organization.
SD–226

2:00 p.m.
Foreign Relations
To hold hearings on the nominations of John E. Bennett, of Washington, to be Ambassador to the Republic of Equatorial Guinea, Gordon S. Brown, of California, to be Ambassador to the Islamic Republic of Mauritania, and Johnnie Carson, of Illinois, to be Ambassador to the Republic of Uganda.
SD–419

Select on Indian Affairs
To hold hearings on S. 362, to provide Federal recognition of the Mowa Band of Choctaw Indians of Alabama.
SR–485

3:00 p.m.
Foreign Relations
African Affairs Subcommittee
To hold hearings on S. 985, to assure the people of the Horn of Africa (Ethiopia, Somalia, and Sudan) the right to food and other basic necessities of life and to promote peace and development in the region.
SD–419

JUNE 27

9:30 a.m.
Environment and Public Works
Superfund, Ocean and Water Protection Subcommittee
To hold hearings on proposed legislation to expand the Federal Right to Know program, which requires industries to report routine emissions into the environment.
SD–406

Labor and Human Resources
Children, Family, Drugs, and Alcoholism Subcommittee
To hold hearings to examine economic pressures on working families.
SD–430

Select on Intelligence
Closed business meeting, on proposed legislation authorizing funds for fiscal year 1992 for intelligence programs.
SH–219

10:00 a.m.
Finance
To hear and consider the nominations of Desiree Tucker Sorini, of Colorado, to be an Assistant Secretary of the Treasury, Janet A. Nuzum, of Virginia, and Carol T. Crawford, of Virginia, each to be a Member of the United States International Trade Commission.
SD–215

Foreign Relations
To hold hearings to examine U.S. relations with China; and to hold a business meeting, to consider pending calendar business.
SD–419

Governmental Affairs
Business meeting, to consider pending calendar business.
SD–342

Judiciary
Business meeting, to consider pending calendar business.
SD–226

1:00 p.m.
Appropriations
District of Columbia Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the government of the District of Columbia.
SD–192

2:00 p.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 979, to provide for strong Department of Energy support of research and development of technologies identified in the National Critical Technologies Report as critical to U.S. economic prosperity and national security.
SD–366

Judiciary
Courts and Administrative Practice Subcommittee
To hold hearings on individual debtors as related to the bankruptcy code.
SD–226

JUNE 28

9:00 a.m.
Joint Economic
To hold hearings on the allocation of resources in the Soviet Union and China.
SD–628

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 1324, to revise the Public Health Service Act to generate accurate data necessary for maintenance of food safety and public health standards, and to protect employees who report food safety violations.
SD–430

JULY 9

9:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Research and General Legislation Subcommittee
To hold oversight hearings on implementation of the research title of the 1990 farm bill (P.L. 101–624).
SR–332

2:00 p.m.
Select on Indian Affairs
Business meeting, to mark up S. 668, to authorize consolidated grants to Indian tribes to regulate environmental grants to Indian tribes to regulate environmental quality on Indian reservations; to be followed by an oversight hearing on the Navajo-Hopi relocation program.
SR–485

JULY 10

9:30 a.m.
Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 471, to protect consumers by regulating certain providers of 900 telephone services, and S. 1166, to provide for regulation and oversight of the development and application of the telephone technology known as pay-per-call.
SR–253

2:00 p.m.
Commerce, Science, and Transportation
Foreign Commerce and Tourism Subcommittee
To hold hearings to examine national tourism policy.
SR–253

JULY 11

9:30 a.m.
Select on Indian Affairs
To hold oversight hearings on employment on Indian reservations.
SR–485

JULY 15

2:00 p.m.

Energy and Natural Resources

Energy Research and Development Subcommittee

To hold hearings to review the Department of Energy's role in math and science education.

SD-366

JULY 16

9:30 a.m.

Commerce, Science, and Transportation

Surface Transportation Subcommittee

To hold hearings on proposed legislation authorizing funds for rail safety programs.

SR-253

Governmental Affairs

Oversight of Government Management Subcommittee

To resume oversight hearings on the administration and enforcement of the Federal lobbying disclosure laws.

SD-342

JULY 17

9:00 a.m.

Select on Indian Affairs

To hold hearings on S. 754, to provide that a portion of the income derived from trust or restricted land held by an individual Indian shall not be considered as a resource or income in determining eligibility for assistance under any Federal or federally assisted program.

SR-485

JULY 19

9:30 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine efforts to combat fraud and abuse in the insurance industry.

SD-342

JULY 23

9:30 a.m.

Rules and Administration

To hear and consider a report from the Architect of the Capitol on current projects, and to consider other pending legislative and administrative business.

SR-301

2:00 p.m.

Energy and Natural Resources

To hold hearings on Senate Joint Resolutions 22 through 34, to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.

SD-366

JULY 24

9:30 a.m.

Joint Printing

To resume hearings to examine the technological future of the Government Printing Office.

B-318 Rayburn Building

HOUSE OF REPRESENTATIVES—*Tuesday, June 25, 1991*

The House met at 12 noon.

Imam Siraj Wahaj, member, American Muslim Council, Washington, DC, offered the following prayer:

In the name of God, most gracious, most merciful:

Praise belongs to Thee alone, Oh God, Lord, and Creator of all the worlds;

Praise belongs to Thee who shaped us and colored us in the wombs of our mothers; colored us black and white, brown, red, and yellow;

Praise belongs to Thee, who created us from males and females and made us into nations and tribes that we may know each other;

Most gracious, most merciful, all knowing, all wise, just God;

Master of the day of judgment, Thee alone do we worship and from Thee alone do we seek help;

Guide the leaders of this Nation, who have been given a great responsibility in worldly affairs, guide them and grant them righteousness and wisdom;

Guide them and us on the straight path, the path of those whom Thou hast bestowed Thy favors, the path of Your inspired servants, the path of Noah, Abraham, Moses, Jesus, and Muhammad;

Guide them and us not on the path of the disobedient ones who have earned Your wrath and displeasure. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The gentleman from South Carolina [Mr. TALLON] will please come forward and lead the House in the Pledge of Allegiance.

Mr. TALLON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1106. An act to amend the Individuals with Disabilities Education Act to strengthen such Act, and for other purposes,

S. 1204. An act to amend title 23, United States Code, and for other purposes; and

S. Con. Res. 49. Concurrent resolution authorizing the use of the rotunda of the Capitol for the unveiling of the portrait bust of President George Bush on June 27, 1991.

WELCOME TO THE LEADER OF MASJID AL-TAQWA, SIRAJ WAHAJ, IMAM

(Mr. RAHALL asked and was given permission to address the House for 1 minute.)

Mr. RAHALL. Mr. Speaker, it is an honor for me to welcome to the House Chamber as guest chaplain, the Imam of Masjid al-Taqwa, Siraj Wahaj, of Brooklyn, NY.

He is the first Muslim leader to work in cooperation with the New York City Police Department, and he is nationally known for his leadership in establishing a drug-free zone in his drug-laden neighborhood of Bedford-Stuyvesant in Brooklyn. Siraj Wahaj works well within the community in which he was born, and where he has lived for 41 years.

Siraj Wahaj's leadership extends far beyond his local community. In addition to being a member of the Masjid al-Shura, the consultative committee of New York City, he serves on the advisory board of the Islamic Society of North America, and is a member of the board of directors of the American Muslim Council in Washington, DC.

Siraj Wahaj was one of the first Muslims to address Christians from the pulpit. His weekly radio program on WWRL–AM is popular with non-Muslims as well as with Muslims.

As he prayed for the Members of this body today, and the people we represent, I know his words entered the minds and will remain in the hearts of all those within the sound of his voice and the reading of his words.

WHOSE OCTOBER SURPRISE?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, yesterday a Member of the other body called for an investigation of charges about an alleged deal between Reagan campaign aides and Iran in 1980. This alleged deal would have kept American hostages in Iran until Ronald Reagan was elected President. The junior Senator from Tennessee said: "Some deals should never be made * * * whether arms for hostages or hostages for elections."

Based on information currently available, I know of no reason such an investigation should be undertaken. But if an investigation of an "October surprise" is held in the House, I am going to insist that the first matter to be investigated is the secret arms deal with Iran that President Jimmy Carter attempted on October 11, 1980.

Mr. Gary Sick, formerly a National Security aide to President Carter, has provided interesting, if incomplete, details about the arms-for-hostages swap attempted by the Carter administration during Carter's ultimately futile bid for reelection. Much more needs to be known.

To my knowledge, no Member of Congress was informed or consulted about this secret deal, and I do not recall President Carter telling the American people the specific details of the deal during the campaign. Why? Are there some facts about that secret deal the Carter administration still does not want to be made public?

In summary, Mr. Speaker, every single aspect of the Carter secret arms deal should be investigated if the House is intent upon looking into the "October surprise" issue.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will receive nine more requests on each side for 1-minute statements.

MEDICAL WORKERS SHOULD BE TESTED FOR AIDS

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, Saturday's New York Times carried an article and excerpts of a letter from Kimberly Bergalis of Fort Pierce, FL, to Florida State health authorities. It was a poignant letter because Kimberly in that letter describes how she is dying of AIDS contracted from her dentist. She describes how she has lost weight and developed sores, blisters, and fungus in her mouth.

Beyond the poignancy of the letter, it is also an angry letter, because her dentist, Dr. Acer, did not tell Kimberly he had AIDS, nor did he tell at least four other people who contracted AIDS from him. He did, however, tell Florida health authorities who, also, did not inform his patients of his condition.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, it appears to me that all medical personnel, dentists, physicians, or any people who provide health care to us, ought to be tested periodically for the HIV virus. If they are infected, they should not perform any invasive medical procedures, and if they are infected, they should tell their patients and let their patients decide if they wish noninvasive procedures performed upon them.

Mr. Speaker, it is terrible to have AIDS. It is even worse to convey it to unsuspective people without their having notice.

A TRIBUTE TO LEONARD MILLER ON HIS 86TH BIRTHDAY

(Mr. McEWEN asked and was given permission to address the House for 1 minute.)

Mr. McEWEN. Mr. Speaker, life is lived with happiness by the givers, and one of the things that makes this Congress function as well as it does is the giving people that we have here.

Tomorrow we celebrate the 86th birthday of Leonard Miller. Leonard works in the House dining room downstairs very faithfully. He and his wife, Hilda Jane, raised 2 children, but above and beyond that, throughout a lifetime of giving, they were foster parents to over 112 young Washingtonians.

Leonard was born in Charlotte, NC, on June 26, 1905. He continues to serve his country and us with distinction. On behalf of grateful Members of Congress, to Leonard Miller, we say, "Happy Birthday."

□ 1210

JAPANESE BURNT RICE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, on one hand, Japan reached into TRW and fired Pat Choate, the author of the book, "Agents of Influence." On the other hand, two crooked Japanese businessmen resigned because of a scandal.

Now, think about it: a scandal in Tokyo, and Wall Street takes a bath. Think about it: When Japan wants to silence a Japan basher, they reach into corporate American and have him fired.

Listen here, folks: It has gotten so bad that when corporate Japan stirs its wok, Wall Street begins to smell the burn rice. But it is not just the smelling of burnt rice on Wall Street that has me worried; it is that the American worker, and people like Pat Choate, have to eat that burnt rice.

To the Members of Congress the American workers are saying, nothing tastes worse or smells worse than that burnt rice.

THANK YOU, JOHN SUNUNU

(Mr. GALLEGLY asked and was given permission to address the House for 1 minute.)

Mr. GALLEGLY. Mr. Speaker, on May 16 of this year—after I had spent an increasingly frustrating week trying to persuade the INS to follow its own rules and allow two of my constituents to bring home their adopted baby from Romania—I called Gov. John Sununu for help.

The very next day, the INS relented and approved the visa, and within a week, my constituents, George and Shirley Suffern, were at home with their new baby, Alyssa.

Mr. Speaker, the media can say what they will, but George, Shirley and Alyssa join me in thanking John Sununu from the bottom of our hearts for his compassion and his belief that our Government exists to help American citizens, not to hinder them.

REMARKS CONCERNING HOLOCAUST OFFENSIVE

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, during the debate on the rule before we took up the Foreign Operations bill, remarks were made by the distinguished gentleman from Pennsylvania, the chief deputy whip of the House Republicans, Mr. WALKER, to which I took great offense. I am sure he didn't make these comments maliciously, but they were offensive nonetheless.

In protesting the content of the rule, Mr. WALKER read from a famous passage by Rev. Martin Niemuller, written during the time of the Holocaust, as if to say the House Republicans are being treated like the victims of Nazi Germany.

Please understand: The Jews and Catholics, the gypsies and the partisans of freedom and the innocents who were just in the way—when they were marched to the ovens, they were cold, they were naked, and they were hungry. They couldn't vote, and they had no motion to recommit. Words that compare the status of the House Republicans to those who were killed by an ogre do not sit well for those of us who carry with them the memories of the dead.

I understand that politics and political rhetoric is for tough guys, and I think I am pretty tough. But not tough enough to hear the words of Mr. WALKER without wincing, and not so tough that I can let them pass without mentioning how much those words hurt.

SMALL BUSINESS WORKERS NEED BASIC SKILLS

(Mr. IRELAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. IRELAND. Mr. Speaker, small businesses provide 67 percent of the first jobs for our Nation's workers. As such, it is not surprising to find that they are responsible for most of the on-the-job training of those workers in basic skills.

My colleagues, small business owners are finding it more and more difficult to find not only trained workers, but simply trainable workers, to perform basic, entry-level tasks.

And there is no end to this problem in sight. In fact, things are getting worse.

A math test recently given to eighth-graders around the country illustrates the point: American students are clearly deficient in problem-solving skills and in creative thinking. Their performance remains inferior to that of students in other industrialized countries.

My colleagues, we must act now to develop and enforce standards that will raise the quality of education in our Nation's schools. This country's 20 million small business employers are looking to us for no less.

Saying you are all for small business is easy. It is how you vote that really counts.

BIG BROTHER IS WATCHING

(Mr. ANDREWS of Maine asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDREWS of Maine. Mr. Speaker, Big Brother is watching. That was the warning to the citizens in George Orwell's novel, "1984," where individual rights fell victim to Big Brother government.

Big Brother is listening, is the warning to the citizens of George Bush's America in 1991, where the individual rights of women and the basic right to free speech are being victimized by a government-dictated gag rule.

The gag rule over what physicians can and cannot say to women in the privacy of a family planning clinic is an outrage. It says that government, not an individual patient, should decide what is in her best interest.

Big Brother got even bigger a few weeks ago, when the U.S. Supreme Court gave the thumbs up to this outrageous practice. It is now up to the Congress of the United States, whether Big Brother will be listening to family planning clinics across this country. Let us tell the President and the Supreme Court that it is none of their business what is said between the physician and a patient, that the individual rights of women and free speech mean something in America.

Mr. Speaker, let us lift the administration's gag rule, and let us cut Big Brother government down to size.

IT'S TIME TO LIFT THE 1986 SANCTIONS ON SOUTH AFRICA

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, 5 years ago, Congress imposed trade and investment sanctions on the South African Government.

We told that Government that we would lift them only if they met five conditions. Those conditions were specific and they were tough.

Today, it is my view and the view of many others that those conditions have been met. It's time to lift the sanctions.

I should remind my colleagues that the sanctions we lift would involve primarily trade and investment. Tough sanctions in such areas as arms trade, IMF support, and intelligence cooperation would remain in place.

To lift the sanctions covered by the 1986 act, there is no requirement for congressional review—formal or informal. The only requirement is for the President to sign an executive order.

Yet some in this House want to stall. They want to move the goalposts, to make the conditions tougher than those mandated by law.

That is downright unfair. It violates the very sense of fair play and honest dealing that should characterize our foreign policy. We should deal honestly with the South African Government and lift the sanctions now.

END DISCRIMINATION BECAUSE OF SEXUAL PREFERENCE IN MILITARY

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, today Capt. Greg Greeley was to start a new chapter in his life. With a new job and an honorable discharge from the U.S. Air Force, he was looking forward to civilian life. But these plans were put to an abrupt halt by the Air Force when they learned that Captain Greeley had participated in the Lesbian and Gay Pride Parade here in Washington on Sunday. Leave it to the Pentagon with the capacity to bomb enemy nations back to the stone age to exhibit thinking from the same era.

There has never been any evidence that Captain Greeley was ever less than courageous or served his country less than admirably. The fact that he is gay does not change that.

This witch hunt being conducted by high officials at the Pentagon fails any test of logic or common sense. Mr. Speaker, our brave men and women do not take a vow of celibacy when they join the military. So, how is it that a soldier who is gay is more of a security risk than a soldier who is straight and jumping from bed to bed.

We do not tolerate discrimination in the military because of race. We should not tolerate discrimination because of sexual preference. It is time to give gay and lesbian men and women the opportunity to serve this country openly without fear of recriminations or retribution.

BUDGET RESPONSIBILITY ACT OF 1991

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, today I will be introducing a proposed constitutional amendment called the Budget Responsibility Act of 1991. I believe that this is the strongest and most comprehensive budget control legislation ever introduced in the House.

Thomas Jefferson warned the American people not to put too much faith in the good intentions of their elected officials. Rather, he advised us to bind them down for mischief by the chains of the Constitution.

Mr. Speaker, this is exactly what my proposed constitutional amendment would do. In addition to mandating annual balanced budgets, my amendment would require two-thirds of the Members of both houses to agree to raise taxes or to increase the Federal debt. It would furthermore give the President line item veto authority.

Mr. Speaker, I urge Members to listen to their constituents. Taxpayers have tightened their belts. It is time for the Government to do the same. Please join me in answering the American people's call for responsible and limited Government spending.

THE SOVIETS CAN AID THEMSELVES

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, President Bush and Congress are being asked these days to give financial aid to the Soviet Union. Let me be clear: I support President Bush's decision to extend credit for the Soviets to buy grain, and I want Mikhail Gorbachev to succeed in his campaign for openness in the Soviet Union.

But financial aid from the United States to the Soviets? The Soviet Union, a country that spends $300 billion a year on defense, needs us to send them financial aid or foreign aid?

□ 1220

Well, not many people in this country could or should swallow that line. If the Soviets want aid, they can aid themselves quickly and effectively. The Soviets can help themselves by cutting their military spending, by building a few less bombers, a few less missiles, a few less warships.

The Soviets should cut their military spending and aid themselves. As for America it is time for us to invest again here at home for our future.

SUPPORT FOR JOHN SUNUNU

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, I rise today to pay tribute to a friend and ally, who is under attack from the pack of media wolves, John Sununu. It is no secret to my fellow Members that it was John Sununu, who convinced this local businessman that I had an obligation as Winston Churchhill so eloquently said "to get involved in government or to be prepared to be governed by others less able than ourselves."

I can remember when John Sununu, in his three terms as Governor of New Hampshire, worked 7 days a week, tirelessly covering 234 towns with car and driver, always available at beck and call.

But the issue isn't really John Sununu. The issue is whether or not the sharks in the media will drive another able public servant from Government service. As Pat Buchanan said today, John Sununu is totally loyal to the man he serves. He relishes the role of tough customer, he does not take pains to make himself popular, and he engages from time to time in that most dangerous of local sports, press baiting. I hope that John Sununu survives.

His lapses in judgment do not justify the capital punishment that Washington imposes on politicians that it does not like. Second, because the press is piling on as President Bush says. Third, whenever the press brands someone arrogant, obnoxious, and snooty, usually the fellow has let the press know of his contempt. Folks who do that are often the gutsiest and most interesting people in a city that demands conformity of its new arrivals.

I am proud of my friend John Sununu's exemplary service to our country. America is a better place because we have people like John Sununu at the President's side.

TRIBUTE TO STEVE SHEHANE

(Mr. RAY asked and was given permission to address the House for 1 minute.)

Mr. RAY. Mr. Speaker, this week hundreds of young high school artists will converge on the Nation's Capitol to observe their winning art to be displayed in the corridor of the Nation's Capitol. I am doing this 1 minute because an outstanding young man who is here right now to observe his art being displayed, it was lost in shipment, and he is greatly disappointed, one of these artists, this artist is Steven Shehane, an 18-year-old graduate of Jordan High School in Columbus, GA. He is very talented. He recently received a $1,000 art scholarship for Columbus College and plans to attend school there in the fall.

He plans on pursuing a career in commercial art. His winning art was a colored pencil drawing of a young man in overalls and a straw hat. It is entitled "Billy."

Steve has allowed the arts caucus to display another of this beautiful works in the Capitol for this year. This piece is entitled "Running Leopard."

Mr. Speaker, in closing let me just say, it is talented artists such as Steve Shehane that keep creativity and culture alive in America today.

JOHN SUNUNU'S CAR TRIP

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, opponents of President George Bush finally have an issue, John Sununu's car trip. Some might not think it is enough to win the White House next year, but when it is all one has got, I guess one rides it hard.

What I do not understand, however, is why all the outrage about practices which are admittedly legal, but absolute silence about the wave of illegal activities terrorizing law-abiding citizens around this country.

When criticizing the President's Chief of Staff, opponents are righteously vocal, but when it comes to the President's crime bill, nothing but silence.

Why will they not take up the President's crime bill? That is what the American people want. That is what they care about.

It is time to get serious about crime in America. If my colleagues are concerned about flying, get the crime bill to the floor and see how fast it flies out of here with our approval.

LACK OF LEADERSHIP HURTING AMERICA'S FAMILIES

(Mr. DURBIN asked and was given permission to address the House for 1 minute.)

Mr. DURBIN. Mr. Speaker, when the Secretary of the Treasury said he needed billions of dollars to bail out the S&L's, the President said we have an obligation. When the Secretary of State said he needed a billion to save the Soviet Union, the President said it is only right. But when the National Commission on Children said America's families need a helping hand, the White House reminded us we are facing a deficit.

This same White House, which defends the billions we spend overseas defending Japan and Europe, cannot find the money to buy vaccine for America's kids. This President who dreams of spending billions of dollars on research into outer space cannot support a plan to help American families send their kids to college. It may be too much to expect leadership from this White House on bread and butter issues for working families in this country, but if the President cannot find it in his heart to lead in giving America's working families a helping hand, then he should have the good grace to let others do so.

MANDATED LEAVE HURTS FAMILIES

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, yesterday the National Commission on Families released their report. The Commission has the wrong name. They should call themselves the National Commission on Socialism. Let me just give a few examples.

The Commission claims that mandated leave is good for families. Why would the mandated leave bill, which is touted as family leave, be harmful to families? The bill uses a one-size-fits-all approach by mandating to business that they must give 12 weeks of unpaid leave to employees for births, adoptions, or serious illness. The bill totally ignores the employee who may want to stay with her newborn for 6 months or 1 year or 5 years or have a couple of children close together and then return to her job.

Since the leave is unpaid, it discriminates against single moms or lower income families who cannot take 12 weeks off with no pay. It really only applies to high wage earners who could afford to take this benefit.

There is no evidence that family leave is the specific benefit that most employed mothers would choose. Mandated leave is bad for families and bad for business.

PERMISSION FOR COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS TO SIT TUESDAY, JUNE 25, WEDNESDAY, JUNE 26, AND THURSDAY, JUNE 27, 1991, DURING THE 5-MINUTE RULE

Mr. TORRES. Mr. Speaker, I ask unanimous consent for the Committee on Banking, Finance and Urban Affairs to sit today, tomorrow, June 26, and Thursday, June 27, 1991, for the consideration of the Financial Institution Safety and Consumer Choice Act of 1991 while the House is sitting for amendments under the 5-minute rule.

The ranking minority member of the subcommittee, the gentleman from Ohio [Mr. WYLIE], concurs in this request.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from California?

There was no objection.

SUPPORT FOR SECESSIONISTS

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, I know that those who win the wars write the histories. However, I must take exception to a remark made by Mr. SOLARZ last week wherein he said,

> Abraham Lincoln made the point that once the Southern States joined the Union, they were part of it permanently.

The fact was and still is that no constitutional prohibition of secession exists. Faced with this dilemma, Mr. Lincoln provoked the infant Confederacy into foolishly attacking Fort Sumter. He then declared the departing States to be in rebellion and called for 75,000 volunteers to suppress it. North Carolina, Tennessee, Arkansas, and Virginia refused the call and joined their southern sisters. I join those who applaud todays secessions in the Soviet Union and around the world. But where were they in 1861? We're content, but we still stand when the bands play Dixie!

□ 1230

GENERAL LEAVE

Mr. YATES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2686, the bill we are about to consider, and that I be allowed to include tables, charts, and other material.

The SPEAKER pro tempore (Mr. MAZZOLI). Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

Mr. YATES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. YATES].

The motion was agreed to.

□ 1231

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2686, with Mr. GORDON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, June 24, 1991, all time for general debate had expired.

The Clerk will read.

The Clerk read as follows:

H.R. 2686

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, namely:

Mr. YATES. Mr. Chairman, I ask unanimous consent that the remainder of the bill be read by title and that title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The text of title I is as follows:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $516,865,000 of which the following amounts shall remain available until expended: not to exceed $1,400,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-6a(i)), and $27,000,000 for the Automated Land and Mineral Record System Project: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors; and in addition, $12,300,000 for Mining Law Administration program operations: *Provided further,* That the sum herein appropriated shall be reduced as mining claim holding fees are received during fiscal year 1992 so as to result in a final fiscal year 1992 appropriation estimated at not more than $516,865,000: *Provided further,* That in addition to funds otherwise available, not to exceed $5,000,000 from annual mining claim holding fees shall be credited to this account for the costs of administering the mining claim holding fee program, and shall remain available until expended: *Provided further,* That none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to accept or process applications for a patent for any mining or mill site claim located under the general mining laws or to issue a patent for any mining or mill site claim located under the general mining laws unless the Secretary of the Interior determines that, for the claim concerned: (1) a patent application was filed with the Secretary on or before the date of enactment of this Act, and (2) all requirements established under sections 2325 and 2326 of the Revised Statutes (30 U.S.C. 29 and 30) for vein or lode claims and sections 2329, 2330, 2331, and 2333 of the Revised Statutes (30 U.S.C. 35, 36, and 37) for placer claims, and section 2337 of the Revised Statutes (30 U.S.C. 42) for mill site claims, as the case may be, were fully complied with by that date.

FIREFIGHTING

For necessary expenses for fire management, emergency rehabilitation, firefighting, fire presuppression, and other related emergency actions by the Department of the Interior, $122,010,000, to remain available until expended: *Provided,* That such funds also are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND

For the purpose of establishing an "Emergency Department of the Interior Firefighting Fund" in the Treasury of the United States to be available only for emergency rehabilitation and wildfire suppression activities of the Department of the Interior, $100,869,000, to remain available until expended: *Provided,* That all funds available under this head are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That funds appropriated under this head shall be made available only after submission to Congress of a formal budget request by the President that includes a designation of the entire amount of the request as an "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That all funds included in any budget request made pursuant to this paragraph shall be made available one day after submission to Congress: *Provided further,* That notwithstanding any other provision of law, enactment of this section shall not constitute a change in concept or definition under section 251(b)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 and shall not cause a negative budget authority or outlay adjustment to be made to any discretionary spending limit for the domestic category established by Public Law 101-508.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $12,503,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interests therein, $33,640,000 to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $93,074,000, to remain available until expended: *Provided,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,687,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided*, That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further*, That appropriations herein made may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska: *Provided further*, That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further*, That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards: *Provided further*, That notwithstanding any other provisions of law, effective upon the date of enactment of this Act for the fiscal year 1992 and every year thereafter, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28(e)), the filing requirements contained in section 314(a) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1744(a)) and the related requirements of section 314(c) of FLPMA (43 U.S.C. 1744(c)), the claimant shall pay an annual holding fee of $100.00 to the Secretary of the Interior or his designee on or before August 31 of each year in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the following year beginning on September 1: *Provided further*, That the fee established by this Act in lieu of the assessment work requirements for the assessment year ending at noon on September 1, 1992, shall be due and payable to the Secretary on or before June 30, 1992, except that such fee otherwise due and payable for this period shall be waived by the Secretary or his designee if the claimant files an affidavit of assessment work by June 30, 1992, showing the labor required by 30 U.S.C. 28 was completed for the assessment year ending at noon September 1, 1992, before the effective date of this Act: *Provided further*, That such fee otherwise due and payable for the assessment year ending at noon on September 1, 1992, for mill and tunnel sites shall be waived by the Secretary or his designee if the claimant files a notice of intention to hold the site by June 30, 1992: *Provided further*, That for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act, the locator shall pay $100.00 to the Secretary of the Interior or his designee at the time the location notice is recorded with the Bureau of Land Management to hold such claim for the year in which the location was made: *Provided further*, That the co-ownership provision of 30 U.S.C. 28 will remain in effect except that the annual holding fee shall replace the assessment work requirements and expenditures: *Provided further*, That failure to make the annual payment of the holding fee required by this Act shall constitute conclusively an abandonment of the unpatented mining claim, mill or tunnel site by the claimant: *Provided further*, That nothing in this Act shall change or modify the requirements of section 314(b) of FLPMA (43 U.S.C. 1744(b)) or the requirements of section 314(c) of FLPMA (43 U.S.C. 1744(c)) related to filings required by section 314(b), which shall remain in effect: *Provided further*, That the Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this section as soon as practicable after the effective date of this Act.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $509,891,000 of which $10,306,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $1,000,000 shall be for contaminant sample analysis, and shall remain available until expended.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $71,102,000 to remain available until expended, of which $300,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a–757g).

NATURAL RESOURCE DAMAGE ASSESSMENT FUND

To conduct natural resource damage assessments by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and the Act of July 27, 1990 (Public Law 101–337); $3,740,000 to remain available until expended: *Provided*, That notwithstanding any other provision of law, in fiscal year 1991 and thereafter, sums provided by any party, including sums provided in advance or as a reimbursement for natural resource damage assessments, may be credited to this appropriation and shall remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $87,722,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended by Public Law 100–478, $6,705,000 for Grants to States, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $11,000,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $1,201,000, to remain available until expended.

SPORT FISH RESTORATION ACCOUNT

(LIMITATION ON OBLIGATIONS)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $190,000,000 for the Sport Fish Restoration Account, Payments to States, for fiscal year 1992.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 145 passenger motor vehicles, of which 129 are for replacement only (including 43 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United

States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided*, That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further*, That hereafter the Tinicum National Environmental Center in Philadelphia, Pennsylvania, shall be known as the John Heinz National Wildlife Refuge at Tinicum.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $566,000 for the Roosevelt Campobello International Park Commission, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $969,047,000 without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $59,500,000 to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100-203: *Provided*, That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further*, That of the funds provided herein, $700,000 is available for the National Institute for the Conservation of Cultural Property: *Provided further*, That hereafter appropriations for maintenance and improvement of roads within the boundary of the Cuyahoga Valley National Recreation Area shall be available for such purposes without regard to whether title to such road rights-of-way is in the United States.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $23,420,000: *Provided*, That no funds appropriated under this head for the Calumet Historic District may be obligated until funds provided for the Calumet Historic District under construction planning are specifically authorized.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $35,931,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1993: *Provided*, That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further*, That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $237,506,000, to remain available until expended: *Provided*, That not to exceed $11,200,000 shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989: *Provided further*, That none of the funds under this head may be expended for the Calumet Historic District unless specifically authorized: *Provided further*, That of the funds provided under this heading, $1,500,000 shall be available for site acquisition for the Lincoln Center in Springfield, Illinois: *Provided further*, That of the funds provided under this heading, $2,000,000 shall be available for a grant to restore the Chicago Public Library, Central Building as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)): *Provided further*, That of the funds provided under this heading, up to $100,000 shall be available to assist the Town of Provincetown, Massachusetts with planning and construction of a solid waste transfer station on town-owned land provided that the Town and the National Park Service enter into an agreement for shared use of the facility for its lifetime at a rate based on actual operating costs and percentages of total contribution of solid waste by the National Park Service: *Provided further*, That of the funds provided under this heading, $3,650,000 shall be available for construction of a Gateway Park associated with the Illinois and Michigan Canal National Heritage Corridor.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (title 10 of Public Law 95-625) $10,000,000, to remain available until expended.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $108,365,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $23,500,000 is for the State assistance program including $3,500,000 to administer the State assistance program: *Provided*, That of the amounts previously appropriated to the Secretary's contingency fund for grants to States $14,000 shall be available in 1992 for administrative expenses of the State grant program.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1992 by 16 U.S.C. 4601–10a is rescinded.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $22,945,000, of which $16,000,000 shall remain available until expended.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 465 passenger motor vehicles, of which 322 shall be for replacement only, including not to exceed 355 for police-type use, 11 buses, and 5 ambulances; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided*, That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further*, That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further*, That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further*, That notwithstanding any other provision of law, the National Park Service may recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further*, That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $589,499,000, of which $62,058,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided*, That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 26 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided*, That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95–224: *Provided further*, That the Geological Survey (43 U.S.C. 31(a)) shall hereafter be designated the United States Geological Survey.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $208,090,000, of which not less than $66,784,000 shall be available for royalty management activities: *Provided*, That $1,500,000 for computer acquisitions shall remain available until September 30, 1993: *Provided further*, That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further*, That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further*, That notwithstanding any other provision of law, $10,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due: *Provided further*, That notwithstanding any other provision of law, $136,400,000 shall be deducted from Federal onshore mineral leasing receipts prior to the division and distribution of such receipts between the States and the Treasury and shall be credited to miscellaneous receipts of the Treasury.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $175,890,000, of which $101,382,000 shall remain available until expended: *Provided*, That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, other contributions and, heretofore and hereafter, fees to be deposited in the contributed funds account from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies. *Provided*, That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles, of which 11 shall be for replacement only; $110,250,000 and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, from performance bond forfeitures in fiscal year 1992: *Provided*, That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1992 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further*, That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 22 passenger motor vehicles, of which 16 shall be for replacement only, $190,200,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended of which, notwithstanding any other provision of law, the following amounts shall be available to carry out the various provisions of section 402(g) of Public Law 95–87, as amended (30 U.S.C. 1232 (g)): $130,000,000 to carry out section 402(g)(1) and 402(g)(5), $12,000,000 to carry out section 402(g)(2) and $48,200,000 to carry out sections 402(g) (3) and (4): *Provided*, That pursuant to Public Law 97–365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further*, That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95–87, administrative expenses may not exceed 15 per centum: *Provided further*, That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further*, That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95–87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further*, That expenditure of moneys as authorized in section 402(g)(4) of Public Law 95–87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95–87: *Provided further*, That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $1,283,630,000, including $302,025,000 for school operations costs of Bureau-funded schools and other education programs which shall become available for obligation on July 1, 1992, and shall remain available for obligation until June 30, 1993, and of which, funds obligated as grants to schools pursuant to Public Law 100–297 shall be made on July 1 and December 1 in lieu of the payments authorized to be made on October 1 and January 1 of each calendar year, and of which not to exceed $74,912,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1993; and the funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1992 as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee; and of which $2,021,000 for litigation support shall remain available until expended, $5,000,000 for self-governance tribal compacts shall be made available on completion and submission of such compacts to the Congress, and shall remain available until expended; and of which $1,139,000 for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), shall remain available until expended: *Provided*, That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further*, That $200,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further*, That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for all such tribes or individuals have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the affected tribe or individual has been provided with an accounting of such funds: *Provided further*, That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds: *Provided further*, That $300,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further*, That not more than $3,218,000 shall be made available for the Federal Financial System in fiscal year 1992: *Provided further*, That none of the funds provided in this Act may be used to prepare a reprogramming proposal to reorganize the Bureau of Indian Affairs until a task force consisting of tribal, Bureau and departmental representatives reviews any proposal to reorganize the Bureau and provides a final report to the Committees on Appropriations regarding consultation and a review of the proposal: *Provided further*, That none of the funds provided in this Act may be used to undertake a reorganization pursuant to 64 Stat. 1262 or any other provision of law: *Provided further*, That income received by the Bureau of Indian Affairs as a deduction from timber sale receipts shall remain available until expended.

CONSTRUCTION

(INCLUDING RESCISSION)

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; maintenance of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $219,856,000, to remain available until expended: *Provided*, That of the funds previously provided under this head for construction contract support, $7,000,000 is hereby rescinded: *Provided further*, That $1,000,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further*, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further*, That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further*, That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation: *Provided further*, That nothing herein shall prevent the Bureau of Indian Affairs or tribes from using, on a case-by-case basis, the technical expertise of the Bureau of Reclamation: *Provided further*, That none of the funds provided for the Safety of Dams program are available for transfer pursuant to sections 101 and 102 of this Act.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, 100-580, 101-618, 101-602, 101-628, 101-486, and 100-585, including funds for necessary administrative expenses, $87,617,000, to remain available until expended: *Provided*, That income earned on funds appropriated by Public Law 101-121, October 23, 1989, 103 Stat. 701, 715 for the purposes of section 6(b) of the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41, June 21, 1989, 103 Stat. 83, may be utilized by the Permanent Trust Fund Board of Trustees to secure necessary and appropriate financial, auditing, accounting, insurance and other administrative services to fulfill the Board of Trustees' fiduciary and administrative responsibilities: *Provided further*, That no more than 5 per centum of the income in any year may be utilized for such purposes: *Provided further*, That of the funds included for Public Law 101-602, $12,000,000 shall be made available on September 30, 1992; of the funds included for Public Law 101-628, $23,000,000 shall be made available on September 30, 1992; and of the funds included for Public Law 101-618, $12,500,000 shall be made available on September 30, 1992.

NAVAJO REHABILITATION TRUST FUND

For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93-531, as amended (25 U.S.C. 640d-30), including necessary administrative expenses, $4,000,000, to remain available until expended.

TECHNICAL ASSISTANCE OF INDIAN ENTERPRISES

For payment of management and technical assistance requests associated with loans and grants approved under the Indian Financing Act of 1974, as amended, $1,000,000.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of expert assistance loans authorized by the Act of November 4, 1963, as amended, and the cost of direct loans authorized by the Indian Financing Act of 1974, as amended, $3,039,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $15,735,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $1,020,000, which may be transferred to and merged with the appropriations for Operation of Indian Programs to cover the common overhead expenses associated with implementing the Credit Reform Act of 1990.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of guaranteed loans authorized by the Indian Financing Act of 1974, as amended, $8,512,000: *Provided*, That these funds are available to subsidize total loan principal any part of which is to be guaranteed not to exceed $56,432,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan program, $1,020,000, which may be transferred to and merged with the appropriations for Operation of Indian Programs to cover the common overhead expenses associated with implementing the Credit Reform Act of 1990.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, the Technical Assistance of Indian Enterprises account, the Indian Direct Loan Program account, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 188 passenger carrying motor vehicles, of which not to exceed 147 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $103,177,000, of which (1) $99,194,000 shall be available until expended for technical assistance, including maintenance assistance, drug interdiction and abuse prevention, and brown tree snake control and research; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $3,983,000 shall be available for salaries and expenses of the Office of Territorial and International Affairs: *Provided*, That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further*, That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further*, That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further*, That $1,025,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further*, That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets).

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), and grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $27,951,000 to remain available until expended including $17,651,000 for operations of the Government of Palau, to be expended as determined by the Government of Palau: *Provided*, That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further*, That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further*, That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1992, shall be credited as an offset against fiscal year 1992 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented before October 1, 1992: *Provided further*, That not less than $300,000 of the grants to the Republic of Palau, for support of governmental functions, shall be dedicated to the College of Micronesia in accordance with the agreement between the Micronesian entities.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, $26,010,000, to remain available until expended, as authorized by Public Law 99-239: *Provided*, That the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101 of Public Law 101-219: *Provided further*, That the language in the third proviso under this head in Public Law 100-446 is amended by striking the word "Ejit" and inserting the word "Majuro": *Provided further*, That of the amount appropriated, $2,000,000 shall be available ex gratia for the relocation and resettlement of the people of Rongelap on Rongelap Atoll: *Provided further*, That such sum shall be paid to a trustee selected by the Rongelap Atoll Local Government Council subject only to the disapproval of the Secretary of the Interior to be held in trust pursuant to the provisions of a trust agreement approved by the Rongelap Atoll Local Government Council subject only to the disapproval of the Secretary: *Provided further*, That such fund and the earnings and distribution therefrom shall not be subject to any form of Federal, State, or local taxation: *Provided further*, That the Secretary may approve expenditures of up to $500,000 in fiscal year 1992 for projects on Mejatto: *Provided further*, That the Government of the United States shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds: *Provided further*, That of the amount appropriated, $1,000,000 shall be available for studies on Rongelap Atoll.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $66,414,000, of which not to exceed $7,500 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $30,525,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $24,244,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $2,243,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100-497, $1,890,000, subject to authorization.

OILSPILL EMERGENCY FUND

For necessary expenses for contingency planning, response, natural resource damage assessment and restoration activities related to any discharge of oil in waters of the United States upon a determination by the Secretary of the Interior that such funds are necessary for the protection or restoration of natural resources under his jurisdiction; $3,900,000, which shall remain available until expended.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 11 aircraft, 7 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided*, That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided*, That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further*, That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: *Provided further*, That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further*, That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided*, That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 108. Notwithstanding any other provisions of law, in fiscal year 1992 and thereafter, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 109. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 137 or for Sale 151 in the February 1991 draft proposal for the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 113. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 145 in the February 1991 draft proposal for the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 114. None of the funds made available by this Act may be used for the implementation or financing of agreements or arrangements with entities for the management of all lands, waters, and interests therein on Matagorda Island, Texas, which were purchased by the Department of the Interior with federally appropriated amounts from the Land and Water Conservation Fund.

SEC. 115. The provision of section 114 shall not apply if the transfer of management or control is ratified by law.

SEC. 116. Notwithstanding any other provision of law, in fiscal year 1992 and thereafter, any appropriations or funds available to the Department of the Interior in this Act may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Department of the Interior programs.

SEC. 117. Appropriations under this title in fiscal year 1992 and thereafter, may be made available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work for units of the Department of the Interior.

The CHAIRMAN. Are there any points of order against title?

POINTS OF ORDER

Mr. RAHALL. Mr. Chairman, on behalf of myself, the gentlewoman from Nevada [Mrs. VUCANOVICH], and the gentleman from Wyoming [Mr. THOMAS], I raise points of order against the following provisions on the grounds that they violate clause 2, rule XXI, of the rules of the House:

Beginning with "Provided" on page 10, line 10 through page 12, line 11;

Beginning with "Provided" on page 24, line 9 through line 11;

Beginning with "Provided" on page 25, line 10 through line 15; and

Beginning with "Provided" on page 28, line 9 through "95–87:" on page 30, line 1.

The CHAIRMAN (Mr. GORDON). Does any member wish to be heard on the points of order?

Mr. YATES. Mr. Chairman, I concede the points of order.

The CHAIRMAN. The points of order are conceded, and sustained, and those provisions are stricken.

AMENDMENTS OFFERED BY MR. ROE

Mr. ROE. Mr. Chairman, I ask unanimous consent that I be permitted to offer my amendments at this time and that they be considered en bloc notwithstanding the fact that we have not come to that point in the reading. This request has been cleared by the minority.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ROE. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. ROE: On p. 83, insert before the period on line 20 the following: "; *Provided further*, That none of the funds appropriated herein shall be made available for acquisition of land of the Smithsonian Environmental Research Center before the date of the enactment of an act authorizing the use of funds for that purpose."

On p. 84, insert before the period on line 25 the following: "; *Provided*, That none of the funds appropriated herein shall be made available for construction of the East Court Building project, National Museum of Natural History before the date of the enactment of an act authorizing the use of funds for that purpose."

Mr. ROE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. ROE. Mr. Chairman, my amendments are straightforward and noncontroversial.

Assumed within the general appropriation of approximately $286 million for salaries and expenses of the Smithsonian Institution is $300,000 for acquisition of land at the Smithsonian Environmental Research Center.

Also assumed within the appropriation of $20.1 million for construction is $10 million for continued renovation and construction of the East Court Building project of the National Museum of Natural History. Both programs have not been authorized.

My en bloc amendment simply provides that the funds for both programs would not be made available before enactment of an act authorizing the use of funds for those purposes.

My amendment does not strike the $300,000 for land acquisition or the $10 million for the East Court project or reduce the Smithsonian's overall appropriation. It simply limits the funds to enactment of authorizing legislation.

Mr. Chairman, tomorrow our Subcommittee on Public Buildings and Grounds has scheduled a hearing on these matters. This hearing is a result of several meetings that have been held with representatives of the Smithsonian to discuss authorization of the necessary land acquisition and the East Court project. Thus, pursuant to the normal legislative process, these matters are being considered by the Public Works Committee. Circumventing that process means that these issues escape the scrutiny normally afforded other proposals.

My amendment is intended to protect and insure the prerogatives of the authorization process and I urge its adoption.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. ROE. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, we accept the amendments.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I support the gentleman's amendments.

Public Law 101–455 appropriated in fiscal year 1991 $30 million for the design and construction of approximately 80,000 square feet of space within the East Court of the National Museum of Natural History. The $20,100,000 appropriated in H.R. 2686 for fiscal year 1992 has yet to be authorized. The House Public Works and Transportation Committee should review and authorize this request for fiscal year 1992 moneys prior to any appropriation. I urge my colleagues to support the gentleman's amendment.

I rise in strong support of the gentleman's amendment. Clearly the proposed acquisition of three parcels of land for the Smithsonian's Environmental Research Center should be reviewed and authorized by the Public Works and Transportation Committee prior to any funds being appropriated. I urge my colleagues to support the gentleman's amendment.

Mr. SAVAGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, without any less respect for my distinguished colleague from Illinois and chairman of the committee, I just want to point out that I rise in strong support of this amendment. As the record shows, I have before supported this simple concept: Projects subject to the jurisdictional authority of the Committee on Public Works and Transportation or any other authorizing committee should not be funded without proper authorization.

The committee feels so strongly about this concept that already this year, on this floor, we have been compelled on two occasions to make points of order against appropriations bills that sought to override our jurisdiction; and both objections were duly upheld, of course.

My Subcommittee on Public Buildings and Grounds plans to hold hearings on these projects tomorrow. Surely, the Appropriations Committee could have let the normal legislative process be followed.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. SAVAGE. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, this gentleman from Illinois has conceded the points of order and, in effect, stated the gentleman is correct.

Mr. SAVAGE. If I may, I just want though to proceed to make this point with regard to the Smithsonian because, as chairman of the Subcommittee on Public Buildings and Grounds of the Committee on Public Works, I specifically—in my office privately and in subcommittee hearing publicly—have respectfully, clearly and firmly advised the Smithsonian to cease its practice of circumventing the authorizing process; and amending these provisions in this legislation will, I hope, convince all that the prerogatives of this body's diligent and knowledgeable authorizing committees must be protected; and, to this end, I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from New Jersey [Mr. ROE].

The amendments were agreed to.

Mr. GUNDERSON. Mr. Chairman, I move to strike the last word in order that I may enter into a colloquy.

I would like to take this opportunity to request assistance from the chairman of the Appropriations Subcommittee on Interior, Mr. YATES, and from the ranking member on this side of the aisle, Mr. REGULA, to address a critical funding shortfall at the National Fish Laboratory in La Crosse, WI.

Mr. Chairman, you will recall my testimony over the past 3 years before the committee in which I have requested additional operations and maintenance funds for the La Crosse lab. I wish to express my appreciation for the committee's efforts.

The problem is this: First, last year the committee directed $500,000 in zebra mussel research funds to the lab. Unfortunately, the research funds cannot be applied to meeting maintenance needs; second, 2 years ago the committee provided $175,000 for the lab's maintenance account, but the Fish and Wildlife Service interpreted congressional intent as requiring only a 1-year infusion of funds.

Given that the lab has realized less than a 3-percent funding increase since 1983, and given that the lab will receive no increase in either research or operations and maintenance funding this year, I would like to ask the chairman or the ranking member how we might further address this funding shortfall?

Mr. YATES. I appreciate the gentleman's further efforts to obtain needed maintenance funds for the National Fish Laboratory in La Crosse. Our next step in this effort can best be achieved in three ways.

First, before the House-Senate conference on this bill, I will request that the Fish and Wildlife Service assess the critical maintenance needs at the La Crosse Fish Lab and report back to the committee within 30 days. This same request was made in 1989, though the Service failed to incorporate any of its findings in its subsequent budget request. This assessment will then allow us to consider further funding in conference to meet the needs of the La Crosse lab.

Second, I will make it clear that congressional intent in the fiscal year 1990 report was that increased funding for the lab's operations and maintenance account should be directed at base funding, not at cyclical maintenance funding.

Third, I will also direct the Service to include a detailed list of the La Crosse lab's maintenance needs to accompany its funding request next year.

□ 1240

Mr. GUNDERSON. Mr. Chairman, I deeply appreciate the remarks of the gentleman.

Mr. REGULA. Will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I concur in the remarks of the gentleman from Illinois [Mr. YATES], and I think we will be able to address the problem.

Mr. GUNDERSON. Mr. Chairman, I simply want to thank both the chairman and ranking member of the committee for their continued interest and efforts over the past 3 years.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on behalf of the Committee on Merchant Marine and Fisheries, I rise to clarify the committee's intent with respect to a provision in the bill that attempts to place a cap on expenditures from the sport fish restoration account, which is more commonly known as the Breaux-Wallop fund. It is financed entirely through contributions from sport fishermen and boaters and is spent exclusively on sport fish restoration projects.

The Committee on Merchant Marine and Fisheries has strongly opposed attempts to withhold or divert funds from this account in the past and believes that we would be setting a terrible precedent if we begin to use these funds for purposes unrelated to the restoration of sport fisheries.

We also believe that this provision does not have the intended effect of capping expenditures from the Breaux-Wallop fund. If we are correct, the provision will be without legal effect. We nevertheless believe it should be struck from the bill because its inclusion would create a great deal of confusion about congressional intent and complicate the administration of the Breaux-Wallop program.

In closing, I simply want to ask the chairman if he is willing, in light of these arguments, to assure me of his intention to reconsider this provision in conference.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. STUDDS. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I want to assure the gentleman that we are very much interested in the proper administration of the sport fisheries account, and that I will do everything I can to review and reconsider this provision.

Mr. STUDDS. Mr. Chairman, I thank the chairman. Sports fishermen and unsports fishermen have no greater friend than he.

Mr. GRADISON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as the ranking Republican member of the Budget Committee, I must inform the House that this emergency firefighting provision and a similar one elsewhere in the bill for the Forest Service violate the budget agreement we worked so hard to forge last fall.

Section 250(c)(4)(A) of the Deficit Control Act of 1985, as amended by OBRA 1990, states:

> For fiscal years 1991, 1992, and 1993 * * * Discretionary appropriations * * * shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990.

The statement of managers designates the firefighting accounts under the Interior Subcommittee as discretionary spending. It is clear that firefighting funds were intended to be included under the spending caps and not as emergencies.

The committee has created these new emergency accounts for the explicit purpose of avoiding spending restrictions imposed by the Budget Enforcement Act. They simply had too many requests for special projects. Rather than exclude their colleagues' projects, they resorted to budgetary slight of hand in order to exceed their allocation.

I am not against funding firefighting. The firefighting accounts should be fully funded to the level requested by the President. What I am protesting is the way in which the committee has chosen to fund this activity. Rather than make the hard choice between protecting our national parks, forests, and public lands or funding low priority special interest programs and projects, the committee chose to create an "emergency fund" so that they could legally spend more than their allocation.

Frankly, this is all a little too clever by half. They are trying to have their cake and eat it too. The subcommittee chairman has said that fire suppression funds should be mandatory. Maybe so, but they were included under the discretionary caps of the budget agreement. If fire suppression funds are to be moved to the mandatory category, then the discretionary cap should be reduced.

My real concern is the trend toward creating new emergencies in order to avoid budgetary constraints. Two weeks ago, we had $14 million in the veterans appropriation. Today, we have $213 million for firefighting. Later this week we will have a $600 million emergency fund for LIHEAP.

If firefighting is an emergency, why not FEMA disaster loans? How about farm disaster payments? The committee is deliberately confusing the issue and violating the spirit if not the letter of the Budget Enforcement Act. Of course forest fires are emergencies, but like FEMA and other disaster-related programs, they are emergencies that are routinely planned for and which are normally funded in appropriations. They are explicitly recognized as such in the Budget Enforcement Act.

It is plain to see where this all ends; before long everything will become an emergency and we will have no more budget discipline. The proper course is to draw the line, make the hard political choices and get the budget under control.

Mr. Chairman, I want to, in closing, call Members' attention to a statement issued by the administration on this subject, which expresses concern about this bill; so serious that the statement of administration policy indicates that if these items are not corrected, the President's senior advisers will recommend that the bill be vetoed.

On the subject of firefighting scorekeeping, I would like to just read three short paragraphs from the administration's statement, so at least the committee can take these views into account as it proceeds to consider this issue:

> Although the Committee restored $213 million in discretionary funding for firefighting costs eliminated by the Subcommittee, the Administration strongly objects to the approach taken in the amendment. The bill, as amended, would preclude use of the funds unless the President declares an emergency, thus exempting all expenditures from applicable spending limits. This appears to be a gimmick designed to force the President to declare an emergency for clearly anticipated costs and thereby evade the domestic discretionary caps. As such, it is a violation of the budget agreement.
>
> Because these costs can be reasonably anticipated and funded in advance, the Office of Management and Budget would not recommend to the President that he designate appropriations for this purpose as "emergency requirements." The President's request reflects the average of annual firefighting costs over the past decade. The approach adopted by the Committee is inconsistent with the spirit and intent of the "emergency" exception in the Budget Enforcement Act (BEA).
>
> The Administration urges the House to fund firefighting operations of the level of anticipated firefighting needs and to do so within the domestic discretionary spending limits established by the BEA.

Mr. Chairman, let me just complete this by saying to my colleagues I have no amendment to offer at this stage. I simply wanted to, in my capacity as a member of the Committee on Budget, to call the attention of the House to this Member's opinion, that there is a problem here that needs to get fixed. If it cannot be fixed on the floor, perhaps it can be done in the conference.

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I ask unanimous consent to offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. VENTO: On page 19, line 23, strike the period and insert the following: "*Provided further*, That until March 1, 1992, none of the funds appropriated under this head may be expanded for the Steamtown National Historic Site unless specifically authorized."

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, I just want to make sure I have this clarified; that section pertains to construction of a gateway park associated with the Illinois and Michigan Canal and National Heritage Quarter?

Mr. VENTO. Mr. Chairman, will the gentleman yield under the reservation?

Mr. BURTON of Indiana. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, no, that is another matter. This does not deal with that matter. This is a unanimous consent request, really, in lieu of offering an amendment to strike this, an agreement has been worked out between myself and the gentleman from Pennsylvania [Mr. MCDADE] whose district is contained therein.

Mr. BURTON of Indiana. This does not pertain to the Illinois and Michigan Canal and National Heritage Quarter?

Mr. VENTO. If the gentleman will yield, no, it does not.

Mr. BURTON of Indiana. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. The gentleman from Minnesota [Mr. VENTO] is recognized for 5 minutes in support of his amendment.

□ 1250

Mr. VENTO. Mr. Chairman, as I indicated, I was prepared to offer an amendment to strike $14 million from the National Park Service construction appropriations account because it represents unauthorized funding for the Steamtown National Historic Site. However, after discussions with Representative MCDADE, who represents the area in question, he and I have come to agreement on bill language that is embodied in the amendment I am now offering. This amendment, which I understand Chairman YATES will also support, allows the authorization process to proceed in an orderly fashion before further funds are spent on Steamtown National Historic Site.

To his credit, the gentleman from Pennsylvania [Mr. MCDADE] has indicated his willingness to introduce an authorization bill to provide funding for Steamtown National Historic Site. I, in turn, have indicated my willingness to work with the gentleman to address this matter. The gentleman from Pennsylvania has also agreed to accept my amendment that prohibits expenditures of funds for Steamtown National Historic Site from October 1, 1991 to March 1, 1992, unless specifically authorized. I expect a full review of the situation and proper authorization to take place before that time.

Mr. Chairman, we have all heard that we should not look a gift horse in the mouth. The railroad yards and rolling stock at Steamtown National Historic Site are such a gift horse. Steamtown National Historic Site in Scranton, PA, consists of the Delaware, Lackawanna, and Western Railroad yard and the Steamtown collection assembled by the late F. Nelson Blount which includes a significant number of non-American engines and trains. Donated to the National Park Service, the collection of 35 locomotives and 82 pieces of rolling stock includes locomotives and cars with an appraised value of $1.2 million and railroad yards with an appraised value of $1 million. To date, the National Park Service has spent $39 million there. That $39 million has gone to a variety of projects.

In 1986 the Congress authorized the site and with it appropriations of $20 million for Steamtown. In less than 5 years the funds spent on the site have nearly doubled the authorized level. Furthermore, I understand that the total development costs at Steamtown are expected to exceed $65 million. Steamtown National Historic Site well illustrates some of the difficulties we encounter when appropriations precedes authorization. This year's appropriation bill includes an additional $14 million for Steamtown. This is the single largest item in the National Park Service construction appropriation.

In an era of very tight budgets when parks all over the Nation cry for essential funding to prevent further deterioration of their precious resources. Unless my amendment is adopted, we would be spending $14 million without the checks and balances of the normal authorization/appropriations process.

There are other problems as well. The park's comprehensive management plan states:

> The National Park Service will not accept donation of any properties unless and until they have been cleared of toxic substances and hazardous materials.

I understand that the National Park Service is paying thousands of dollars to clean up the rail yard, to remove the asbestos, toxic substances including PCB's and mercury, to clean up contaminated soils on lands that they technically do not own.

The comprehensive management plan also calls for reconstruction of the partial roundhouse, coal tipple, water cranes, sand tower, passenger shelter, and cinder pit for a total construction cost of these items of $13,451,000. National Park Service policies strongly discourage reconstruction of missing historic structures. In a park with 258,000 square feet of buildings and 1 million objects including 35 locomotives and 82 other rolling stock, the National Park Service is here proposing spending over $13 million to reconstruct additional structures when existing ones will cost millions to keep up each year. At $13 million for reconstruction, Steamtown National Historic Site is a major reconstruction project.

Mr. Chairman, these are the types of questions that deserve review, especially when coupled with the necessary change in authorization from $20 million to $65 million in less than 5 years. It is time to stop and examine these expenditures carefully. It is time to decide if the plans envisioned for Steamtown National Historic Site are really in keeping with its legislative purposes and national park policies. My amendment is quite simple: stop and look and listen—just as it says at railroad crossings: and make sure that Steamtown is really on the right track and not a runaway engine.

Mr. Chairman, I also want to bring to the attention of Members that there are other projects in this appropriations bill which are being funded under the color of the 1935 Historic Sites Act. As chairman of the Subcommittee on National Parks and Public Lands, I intend to look very carefully at that law and develop legislation so that it is not used to circumvent the authorization process. I believe that the Historic Sites Act, now 56 years old, has been used to allow financial assistance to various projects that have not been subject to the checks and balances of the authorization/appropriation process. It is a loophole I expect to examine carefully and act upon accordingly. Such an approach will ensure that our parks and other nationally significant areas are properly authorized and funded.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, we accept the amendment on this side.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we also accept the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. BURTON of Indiana: Page 18, line 24, strike "$237,506,000" and insert "$235,506,000".
>
> Page 19, line 7, strike the following: ": *Provided further*, That of the funds provided under this heading, $2,000,000 shall be available for a grant to restore the Chicago Public Library, Central Building as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e))".

Mr. YATES. Mr. Chairman, I reserve a point of order on the amendment.

Mr. BURTON of Indiana. Mr. Chairman, over the past several weeks I and others in this body have made it kind of a holy crusade to try to attack pork and wasteful spending in the various appropriation bills. Once again today we see some real pork barrel projects. I think the American people want to know about these things. They want to see them cut from these spending proposals. We are facing a $350 billion to $400 billion deficit this year alone, the largest in U.S. history, and yet the Appropriations Committee continues to put pork barrel project after pork barrel project in these bills. I think the American people want this waste and abuse to be stopped.

Recently, I think two weeks ago or a week and a half ago we had an experimental fish farming project in Arkansas that was about half a million dollars. We had an underwater research center in Florida for about $350,000 to $400,000, and then of course we had the real king of the boondoggles, the pork barrel projects, the extra $700 million for the renovation of the U.S.S. *Kennedy*, in addition to the $500 million that the Navy Department wanted added to one of the appropriation bills, and that was $700 million in pork.

Well, today, Mr. Chairman, we have a couple extra pork barrel projects added to this bill. The administration has said that there is not enough money in this bill for the national park facilities, but in this section we find that we are spending money on areas that are totally unrelated to the National Park Service.

For instance, this amendment of mine that I am offering now would cut $2 million in a grant for restoring the Chicago Public Library. Well, on the surface, helping a public library sounds like a laudable objective, but the fact of the matter is that this was not requested by the administration and it was not included by the Appropriations Committee.

The National Park Service is not responsible for maintaining municipal libraries. That is a function of the Chicago city government, not the Federal Government or the National Park Service.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the Chicago Public Library is a national landmark and has been so designated in this way.

I am reading from the National Register: "The Chicago Public Library, 78 East Washington Street," and the Register lists its architects and a description of the building. As it happens, the building is one of the most beautiful buildings in Chicago, let alone in the country. It is a national landmark and for that reason qualifies for appropriations under the bill.

Mr. BURTON of Indiana. Well, as I understand it, Mr. Chairman, according to my staff, the national park construction section of this bill is not for that purpose. I am very concerned about that. We have other areas in this country that are significant historical landmarks that are wanting. For instance, right now the Independence Hall project, a park project in Philadelphia, I understand several of those buildings have been closed down at least temporarily because there are not enough funds to take care of them.

The Independence Hall itself is in serious need of repair and there are no funds in here for that, and we are going to spend $2 million for the city of Chicago for a project there that is not of national significance.

Mr. YATES. Mr. Chairman, will the gentleman yield.

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman would appreciate knowing, I am sure, the fact that we put money in for Independence Hall reconstruction last year. There was no request for it this year, and that was the reason we did not put money in for it.

We are just as interested as is the gentleman in maintaining the integrity, the construction integrity of Independence Hall, and had the request been made, we would have put it in.

Mr. BURTON of Indiana. Well, the fact of the matter is, Mr. Chairman, this is a special project for the city of Chicago. I do not think it has any place in this bill. It was not requested by the administration. It was not included by the Appropriations Committee.

We have got a lot of other projects that are very important that are going without funding. This is a pork barrel project for the city of Chicago pure and simple.

We are facing a $350 billion to $400 billion deficit this year, the largest in U.S. history, and we do not need to be spending money for this purpose.

Mr. YATES. Mr. Chairman, will the gentleman yield further?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, let me say that with respect to Independence Hall, I was in error and the staff has corrected me.

I think the facts are these, as shown by the budget which is a part of our hearings. On page 1424, in 1991, the current fiscal year, Independence Hall received $8,210,000 for construction.

In this budget, a request was made. I was in error when I said it was not made. In this budget a request was made for funds for reconstruction of Independence Hall in the amount of $8,971,000, which is more than last year, and we approved it.

Mr. BURTON of Indiana. Well, I thank the gentleman for that information, but that does not alter the fact that we are going to be appropriating if this passes, if my amendment fails, $2 million for a municipal library in Chicago, and it seems to me, Mr. Chairman, that with the deficit problems we have we should not be appropriating that money. There are a lot of other public libraries in this country that would like to have Federal funds that are not getting them and I do not think that Chicago should be singled out for a pork barrel project like this when these other areas of the country are in need and we have this huge national deficit. It is pork pure and simple.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Does the gentleman from Illinois insist on this point of order?

Mr. YATES. No, Mr. Chairman. I withdraw my reservation of a point of order.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I respect the activity and the thrust of the amendment of the gentleman from Indiana, but in this event the gentleman is totally wrong.

One person's pork is another person's public project, and that is true in this case.

We have provided funds for construction by the Park Service of historic structures throughout the country and to maintain the intergrity of national landmarks as well.

In that vein, Mr. Chairman, we have provided funds for historical monuments, such as Faneuil Hall in Boston, the Old State House of Boston, for Independence Hall in Philadelphia, and we will continue to do so, because these are a part of the history of the Government of our country.

We have as well recognized the necessity for conserving national landmarks. The Chicago Public Library which sits in one of the most prominent places in the city of Chicago is a beautiful structure. It is designated as a national landmark, and as such qualified for assistance by the Congress through the National Park Service.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. YATES. Of course, I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I just have one question.

First of all, was this requested by the administration? And second, is this a high priority project or any kind of a priority project of the National Park Service?

Mr. YATES. Well, let me say first, Mr. Chairman, in response to the gentleman's question, the administration did not request it, but that in itself does not mean that the Congress should not consider it. We had 370 Members of Congress either appear before our committee or write to us to call the attention of our committee to their requests for appropriations for particular projects or items of concern in their own districts.

□ 1300

We approved some of those, we did not approve others. Most of them did not have the approval of the administration. But that does not mean that Congress cannot act on them.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

If the gentleman will answer the second part of that.

Did the National Park Service indicate in any way that was one of their priority items? Or did they even indicate they wanted the money?

Mr. YATES. There are a number of projects that the National Park Service did not request. But that does not mean that the Congress in its wisdom cannot set aside or accept their request and say, "This is a necessary project and deserved."

Mr. BURTON of Indiana. If the gentleman would yield further, does not the National Park Service give the gentleman's committee a list of priorities and items that they think are in urgent need of Federal funds and ask for his support on those projects?

Mr. YATES. That is their budget request. We review their budget request and decide which of the projects the Congress should support.

Mr. BURTON of Indiana. And this was not on that?

Mr. YATES. And this was not on that list.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Ohio.

Mr. REGULA. I thank the gentleman for yielding.

Mr. Chairman, I think it should be pointed out to the gentleman from Indiana that many times the Park Service requests are scrubbed out by OMB. The Park Service is under the requirement that whatever it might want has to clear with OMB. We found many times that priorities of the Park Service and the Forest Service and others will be different from those of OMB, and certainly they will be different from ours.

Therefore, we have the responsibility, as a policymaking body, to make the judgment as to what is important.

Mr. YATES. In line with what the gentleman from Ohio has said, OMB did not request, nor did the administration request, that we appropriate funds for Fisk University, for example, or Tuskegee University or for a parking lot at the Martin Luther King Center.

We thought they were worthy additions to those institutions, and we provided funds for that.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield further?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Chairman, I just wanted to point out that we have these huge deficits facing us, and the administration, OMB, and the National Park Service lets the gentleman know their priorities because they know the limitations on spending. So these other projects are over and above those. I just wonder if the gentleman takes those into consideration when he thinks about the great deficit we are facing this year and what kind of an obligation that is going to impose on future generations of Americans?

Mr. YATES. The committee does do that. This bill, as it came into this Hall, was well within the 602(b) allocation of the budget agreement, and I would tell the gentleman that there is a requirement that we have and that is to meet the 602(b) allocation, and we have done that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently, a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 189]

Ackerman
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schulze
Schumer
Sensenbrenner
Serrano
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

☐ 1323

The CHAIRMAN. Four hundred and fifteen Members have answered to their names, a quorum is present, and the committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Indiana [Mr. BURTON] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Members will have 5 minutes on this vote.

The vote was taken by electronic device, and there were—ayes 104, noes 318, not voting 10, as follows:

[Roll No. 190]

AYES—104

Allard
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Fawell
Fields
Gallegly
Gekas
Gilchrest
Gingrich
Glickman
Gradison
Hamilton
Hancock
Hansen
Hefley
Henry
Herger
Holloway
Hunter
Inhofe
James
Johnson (TX)
Johnston
Kasich
Klug
Kolbe
Kyl
Leach
Lewis (FL)
Luken
Martin
McCandless
McCollum
McCrery
McEwen
McMillen (MD)
Meyers
Moorhead
Morella
Nichols
Nussle
Oxley
Packard
Pallone
Paxon
Penny
Petri
Ramstad
Ridge
Riggs
Rinaldo
Roberts
Rohrabacher
Ros-Lehtinen
Roukema
Santorum
Saxton
Schiff
Schulze
Sensenbrenner
Shuster
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Stallings
Stearns
Stump
Taylor (NC)
Upton
Walker
Weber
Weldon
Young (AK)
Zeliff
Zimmer

NOES—318

Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay

Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McNulty
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ritter
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spence
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

NOT VOTING—10

Abercrombie
Chapman
Hopkins
Horton
Levine (CA)
Lloyd
Orton
Owens (UT)
Rhodes
Schroeder

□ 1333

Messrs. SWETT, MILLER of Washington, WHITTEN, and SHAYS changed their vote from "aye" to "no."

Messrs. CUNNINGHAM, GLICKMAN, STALLINGS, LEWIS of Florida, and GEKAS changed their vote from "no" to "aye."

Mr. KANJORSKI changed his vote from "present" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. PICKLE. Mr. Chairman, I move to strike the last word.

I rise to engage the distinguished chairman of the Interior Appropriations Subcommittee in a colloquoy regarding the language in the committee's report regarding a new Fish and Wildlife Service ecological field office for Austin, TX.

As the committee is aware, central Texas has had two birds and several cave-dwelling invertebrates—bugs really—placed on the endangered species list. Any endangered species listing creates a great deal of uncertainty for landowners in a region, and central Texas is no exception. To help deal with inquiries from landowners and to work with the community on a plan to protect the endangered species, the U.S. Fish and Wildlife Service has recommended that an ecological field office be opened in Austin, TX. The Fish and Wildlife Service has already spent approximately $380,000 on the office and needs to spend another $500,000 in fiscal year 1992 to get the office fully staffed and functioning properly.

The committee has included report language supporting up to $500,000 for the ecological field office in Austin. I am pleased that the committee has seen fit to support the office, but want to clarify the committee's language.

Is it the intent of the report language that the Fish and Wildlife Service should spend an additional $500,000 on the Austin Ecological Field Office for fiscal year 1992, and that the language does not represent a cap on the total amount the Fish and Wildlife Service can spend on the Austin office?

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman is correct. The $500,000 that is stated in the report refers to fiscal year 1992.

Mr. PICKLE. Mr. Chairman, I thank the gentleman.

Mr. BROWN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 2686, the Interior and Related Agencies appropriations bill for fiscal year 1992. Specifically, I am pleased with the actions taken by the Appropriations Committee in its energy research and development funding for programs under the jurisdiction of the House Science, Space, and Technology Committee. I realize the constraints that the Appropriations Committee has been under this year and, while I take minor exception with some of the funding levels contained in the bill, I support the proposal before the House today.

The House Science, Space, and Technology Committee has approved legislation which authorizes the various research and development [R&D] programs at the Department of Energy [DOE]. Our bill, H.R. 2399, is the first comprehensive energy R&D authorization bill voted out by the committee in many years and represents a careful examination of all of our Federal energy R&D programs. The Interior appropriations bill before us today contains funding for the conservation and fossil fuels R&D programs under our committee's jurisdiction and it is on those programs that I would like to make a few comments.

I am especially pleased to see that the committee has provided needed funding for the Electric and Hybrid Propulsion Development Program. This research effort is directed at developing commercially viable electric vehicle technology and includes a major research and development effort on advanced battery development. This latter research is being carried out with a consortium of private sector companies, assuring a multiplier effect on any Federal funding investment made in this area. The strong emphasis on electric vehicle R&D is welcome and I thank the committee for taking this needed initiative.

The remainder of the energy conservation R&D programs which we have authorized were treated fairly by the committee. As I mentioned before, I can take exception to the funding levels provided, since the committee authorization levels are above those contained in H.R. 2686. But the balance and relative priorities track very closely the program authorizations set forth in our bill. So, I am not going to take issue with the fine work done by the Appropriations Committee.

The same can be said for the fossil R&D programs contained in H.R. 2686. We have slightly higher authorization levels in H.R. 2399, for some of these programs, but the priorities follow very closely on ours. The coal R&D funding for fuel cells and magnetohydrodynamics [MHD] are the same as the Science, Space, and Technology Committee authorized levels.

In summary, I would like to thank the members of the Subcommittee on Interior and the full House Committee on Appropriations for their work on H.R. 2686. In the areas where we have authorization interests, the bill is a good effort to fashion a sound program of energy R&D. I think that this bill is the start of a productive relationship between our two committees in the critical area of energy research and development.

□ 1340

AMENDMENT OFFERED BY MR. HOAGLAND

Mr. HOAGLAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOAGLAND: Page 17, line 21, insert before the period the following: ": *Provided further*, That none of the funds appropriated to the National Park Service in this Act may be used to construct horse stables or any other facilities for the housing of horses at the Manassas National Battlefield Park.".

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. HOAGLAND. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I have discussed the amendment with the gentleman from Nebraska and with my ranking member, and we accept the amendment.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. HOAGLAND. I am happy to yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, we accept the amendment.

Mr. HOAGLAND. Mr. Chairman, I am offering amendments today to prohibit the National Park Service from using funds to build additional horse stables at Manassas National Battlefield Park in Virginia.

The Park Service's estimates for the project appear to be fluid. One estimate several months ago was $80,000. Another in April was $42,000. Basically, I question whether this is a proper expenditure of taxpayer funds and ask that the funds be cut or used for other purposes.

According to an April 1991 Department of Interior briefing paper, the National Park Service has plans to add new stables and the memo states that Vice President QUAYLE and his family ride at Manassas. The Vice President and his family are entitled to access to recreation like any American family, but not at this cost to the taxpayer.

What are the facts? Quite frankly, they are hard to ascertain. I wrote Secretary Lujan on April 5 requesting clarification of their plans, but I have not received an answer. I do have a letter signed by Secret Service special agent in charge, Joseph T. Petro, in which he urges additional stables and work space at the park for "training for the Vice Presidential Protective Division." He states, "The Vice President, Mrs. Quayle and their children often horseback ride" at Manassas and Rock Creek parks.

The letter describes a special 3-day training session for Vice Presidential Protective Division involving over 40 people in "extensive horseback riding exercises at Rock Creek and Manassas Battlefield Parks. These are two of the locations where Vice President, Mrs. Quayle and their children often horseback ride. The training * * * included horsemanship and practical riding problems with an emphasis on emergency medical care and evacuation. In order to make these exercises as realistic as possible, the fire and rescue units from Washington, DC, and Prince William County and a Vice Presidential helicopter from the U.S. Marine Corps were utilized."

The letter goes on to talk about the coordination involved, about the three long, hot physically demanding days, all the patience and professionalism needed, and all the "complex, practical exercises" involved. It stated they provided a "valuable and very necessary horsemanship training for our agents."

Then, the letter states:

"This training has also demonstrated the continuing necessity for additional horse stalls and work space at the Manassas Battlefield Park. In order to conduct this training in the future, the addition to the existing structure is essential. We appreciate your support in approving the construction of this facility which is to begin on October 1, 1990."

I ask unanimous consent to make this document part of the RECORD.

Obviously, the $42,000 to build the stalls is just a drop in the bucket. Is it that important to go horseback riding? Most Americans do quite well without it.

Even the $42,000 is a lot; $42,000 may not sound like a lot of money in terms of this bill, but most Americans would love to earn $42,000 per year. In terms of Federal expenditures, we should look at what $42,000 would provide: 17 college student Pell grants; 24,034 school lunches; 1 month of nursing home stay for 16 elderly people. In my home district of Omaha, $42,000 would educate 11 elementary students in 1 year and pay for 2,333 polio shots.

I have basically two objections to this proposed construction. The first relates to the National Park Service's many needs and limited funds. As a member of the Subcommittee on National Parks, I have participated in budget hearings on the National Park Service's backlog of millions of dollars in restoration and maintenance of visitors' centers and trails. Because of budget constraints throughout the system, visitor center hours have been reduced and seasonal positions have been scaled back and in some areas entirely eliminated. Management plans—including the one for Manassas—are delayed. There are many needs that more directly serve the public. The administration requested zero funds for urban parks and zero funds for the rivers and trails conservation program. It just does not seem right to find extra money for the horse riding activities by high governmental officials when the administration tells us they cannot fund the pressing needs of the public's parks.

My second concern is for the integrity of the Manassas National Battlefield Park. The construction of horse stables is inconsistent with the inherent purpose of the park—to preserve history—and with NPS's plans to restore the park to the way it was during the Civil War. In fact, former National Park Service Director William Penn Mott rejected a 13-stall, $500,000 equestrian center in 1987 because it would violate the historic character of the Manassas National Battlefield Park. New horse stables are not a fitting part of a Civil War battlefield.

Mr. Speaker, our national parks should be national parks enjoyed by all people on an equal basis. They should not serve the private needs of top administration officials at extra expense to the public.

I urge my colleagues to support this amendment in the interest of the wise expenditure of limited taxpayer dollars.

Mr. Chairman, I am including for the RECORD the letter from special agent in charge Joseph T. Petro, as follows:

DEPARTMENT OF THE TREASURY,
U.S. SECRET SERVICE,
June 8, 1990.

Mr. JAMES M. RIDENOUR,
Director, National Park Service, Department of the Interior, Washington, DC.

DEAR DIRECTOR RIDENOUR: On June 4, 5, and 6, 1990, the Vice Presidential Protective Division participated in extensive horseback riding exercises at Rock Creek and Manassas Battlefield Parks. These are two of the locations where Vice President, Mrs. Quayle and their children often horseback ride. The training, which involved more than 40 people, included horsemanship and practical riding problems with an emphasis on emergency medical care and evacuation. In order to make these exercises as realistic as possible, the Fire and Rescue units from Washington, D.C. and Prince William County and a Vice Presidential helicopter from the U.S. Marine Corps were utilized.

Whenever a training exercise involves so many people and separate organizations, coordination becomes essential. In this regard, I would like to commend to you the outstanding work performed by the U.S. Park Police Horse Mounted Training Unit and the National Park Service Rangers at Manassas. Both units endured three long, hot and physically demanding days to make these exercises meaningful for us. The success of this training was the result of the competence, professionalism and patience of Sergeant Alex Wynnyk and his staff along with Rangers Carl Hanson, Denis Ayers and Barbara Mauller. They not only coordinated the complex practical exercises, but also provided valuable and very necessary horsemanship training for our agents. We are grateful to them for their contributions.

This training has also demonstrated the continuing necessity for additional horse stalls and work space at the Manassas Battlefield Park. In order to conduct this training in the future, the addition to the existing structure is essential. We appreciate your support in approving the construction of this facility which is to begin on October 1, 1990.

Again, please express our gratitude to all the National Park Service and U.S. Park Police personnel who were involved in this training. It was most beneficial in helping us to maintain a safe environment for the Vice President and his family when they participate in horseback riding activities. We look forward to working with the outstanding individuals of both organizations in the future.

Sincerely,

JOSEPH T. PETRO,
Special Agent in Charge.

Mr. REGULA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think we need to get the facts out on this.

Manassas is a large battlefield national park. There are many miles of horse and walking trails. Because of the nature of the trails they are not subject to being policed by motor vehicle.

They are used by thousands of people in the Virginia-Washington area who like to ride and hike. The Park Service, to ensure the safety of all who use these trails, does maintain at the present time three horses at Manassas. It is the objective of the barns and the horses housed therein to provide for the safety of all park visitors. The trails are used by some Members of Congress. They are used by the public. They are used by foreign dignitaries. They are occasionally used by the children of the Vice President. Each of these uses is a very proper function. The security of all children is extremely important. The Vice President's children are as much entitled to live a normal life as other children.

I think this is reasonable, but we are willing to accept the amendment, because there has been no request from the Vice President's office, there has been no request to have this expenditure, and our side is perfectly willing to take this amendment and maintain the present numbers of the stables there.

However, it is a security problem for the public that uses the trails at Manassas, and I think it is important that everyone understand that.

I think that what we have here is an effort perhaps to take a crack at something that is totally unfair. Let us keep in mind that these facilities are for the benefit of everyone, and that it is absolutely essential that there be some horses at Manassas if the trails are to be policed in this very large park.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I think the distinguished gentleman from Nebraska has brought up an interesting point. I think that perhaps the gentleman from Illinois [Mr. YATES] would consider having his committee study the use of Secret Service to protect the children of the Vice President. That may be an extravagance that we can no longer afford.

The question of the children of the Vice President having recreation seems to me to be an extravagance, and so I think we ought to look into all of that, and while we are doing it, let us look into the use of limousines and chauffeurs around this body, and I am delighted that in looking into Mr. Sununu's travel, the travel of this body is being subjected to minute scrutiny.

I think we are doing a marvelous job of explaining just how cheap a shot can get.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I think the gentleman from Illinois has made a good suggestion, and we will be glad to look into it in our next year's hearings.

Mr. KANJORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Nebraska [Mr. HOAGLAND] and I are on the Committee on Banking, Finance and Urban Affairs together, and, of course, we are in the midst of a markup to bail out the FDIC which may cost the taxpayers only $100 billion or so. We are trying to reform the Deposit Insurance Program in the United States, which may mean that we reduce coverage to certain people on their deposits in banks.

But when I heard that the gentleman from Nebraska [Mr. HOAGLAND] was going to be offering this amendment, it struck me that it was so important that we both had to leave the committee and rush over to the floor.

I have given this matter a great deal of thought over the weekend. I know that we are only talking about $42,000 but I asked myself, what happens if the Vice President has to ride with the Queen and he cannot properly sit a horse? Certainly the people's republic, a democratic republic like ours, would be terribly embarrassed. It could cause the United States embarrassment throughout the Free World.

□ 1350

There are a couple of ways to avoid this embarrassment. If we could get the Vice President to discontinue two rounds of golf on two Saturdays in Augusta at $27,000 a round, that would be $54,000, and that would leave $12,000 for the horseback lessons. Maybe we should do that.

To be safe, however, I decided to poll my district, where the average Social Security recipient makes an amazing $416 a month. That is what they get to keep and eat on, pay their rent with, and keep the lights on. So I sent a mass mailing letter that cost Congress $16,000. Amazingly enough, 42,000 of these people said they would contribute a dollar to the horses.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. I am happy to yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I have great respect for my colleague. We have worked together on a number of projects.

However, I want to ask him one question. Has the gentleman ever taken any trips at taxpayers' expense or gone anyplace on an Air Force jet?

Mr. KANJORSKI. I think in the course of my 7 years in the Congress, I plead guilty to one trip to Eastern Europe for 7 days. Although it is off the subject at hand, I am glad that my colleague has brought this matter to the attention of the House. I happen to be the Member of Congress who has introduced the only junket bill.

If some of my responsible colleagues, whether they be on the Republican side or the Democratic side, really looked at the problem this bill addresses, in addition to the $400 billion in deficits this year, the fact that we are worrying about the horses for the Vice President's children indicates that there is something wrong with America.

People do not send Members to this Congress to support this type of ridiculous expenditure. I compliment my friend from Nebraska that he picked it up, and I compliment also my friends on the Republican side that are willing to strike this ridiculous expenditure.

Mr. BURTON of Indiana. If the gentleman will continue to yield, how did the gentleman vote on the last amendment that would have stricken $2 million in pork from this appropriation bill, since the gentleman is attacking the pork barrel?

Mr. KANJORSKI. Reclaiming my time, I voted for a library, and I will vote for a library any day of the week.

Mr. BURTON of Indiana. It was not authorized.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. KANJORSKI. Certainly I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, let Members keep in mind that the issue here is the security of the people that use Manassas Park. It is the public. It is some of the Members of this body. It is foreign dignitaries that visit this country. But mostly, the public. There are miles and miles of horse trails at Manassas Park. They must be policed.

Mr. KANJORSKI. Reclaiming my time, if we start and continue making expenditures like this we will all need Secret Service coverage because our constituents will start shooting.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nebraska [Mr. HOAGLAND].

The amendment was agreed to.

Mr. AUCOIN. Mr. Chairman, I move to strike the last word. I am amazed we took almost as much time on the last discussion as we took on the entire defense bill of this Government.

Mr. Chairman, I rise to take this time to speak to one section of this bill that I am particularly proud of. That is the section that gives major financial relief to families in hard-pressed timber communities in the Pacific Northwest who are innocent victims of the spotted owl crisis, the spotted owl dispute, and the shutdown that that dispute has caused to the forests of the Pacific Northwest.

This section of the bill that I referred to says that in the next year timber counties in the Northwest shall get 90 percent of the timber receipts they received on average since 1986. Let me tell Members why this is so important. Court actions virtually stopping timber harvests have led to mill closures and have put even more mills at risk. Economic activity in many of these communities has taken a nosedive. Few banks are making loans to families or businesses in these areas. Property values are beginning to plunge because no one can tell what the future is or will be until the spotted owl crisis is solved.

The last thing we need now in my region is for schools and roads and municipal services to be choked off, and that would happen were it not for this amendment which preserves receipts to those communities, that they depend upon for those schools, roads, and services.

It seems to me that denial of that would be the cruelest twist of all for honest hard-working families in these timber communities who are being put through enough fear and enough agony already because of this crisis that I have referred to.

This section of the bill is one of the first solid things that the Federal Government has done to show sympathy for the human beings who are caught now in this controversy over the forests of the Pacific Northwest. It is the least we can do. It was the Federal Government's executive department agencies who, in refusing to comply with the law, got this whole question thrown in the court in the first place. Then there was the Federal courts who issued the injunctions that have proved so staggering economically.

It seems simple justice would dictate in this one place in Federal Government, in this Congress, in this people's house, we would recognize, respond, and come to the rescue of people who do need this help.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I am delighted to yield to the gentleman from Washington [Mr. Dicks] who worked this language out with me.

(On request of Mr. Dicks, and by unanimous consent, Mr. AuCoin was allowed to proceed for 2 additional minutes.)

Mr. AUCOIN. I am happy to yield to my friend, the gentleman from Washington [Mr. Dicks].

Mr. DICKS. Mr. Chairman, I want to compliment my friend from Oregon [Mr. AuCoin] for his steadfast leadership and his sensitivity, not only to the old growth issue and spotted owls, but most importantly, to people of the Pacific Northwest who will be hurt by the series of administration mistakes and court decisions that have tied the area in an economic knot in the Pacific Northwest over important environmental issue.

I am pleased that we have been able to craft this amendment. I want to work with the gentleman because I know of his concern for those counties, those communities who are going to pay the price, the brunt of this economic downturn.

It is going to be something of great pain and anguish in those rural communities in northern California and southern Oregon, through Oregon, and in Washington State as well. I think this amendment is a life line to those local communities trying to hang in there, as they cope with the human problems associated with this situation.

We are going to need these educational services. We will need the road money. However, we will also need a humane social policy to help these people who are a victim of decisions which they have had no part in causing.

Again, I want to compliment my friend. We worked together on this committee for many years. I also want to thank the gentleman from Illinois [Mr. Yates], the gentleman from Pennsylvania [Mr. McDade], the gentleman from Ohio [Mr. Regula], and the committee members for going along with this and for helping Members in getting this amendment again in this bill.

We will continue to fight this fight. We hope our colleagues in the other body will again agree with this side of this effort.

Mr. AUCOIN. Mr. Chairman, I wish to say to the gentleman from Washington [Mr. Dicks] that his help and leadership in this has been absolutely indispensable for this provision.

With regard to the overall problem, passing legislation in the absence of a lot of help from other branches of the Government, passing regulation here within the Congress to provide to real people solutions to the crisis I referred to, his leadership there is also indispensable. I look forward to continuing to work with the gentleman on that problem, and embodied in what we do here should be some of this in that.

Mr. DICKS. If the gentleman will continue to yield, I will make one final point. We have also put resources in this bill that in timber stand improvement, trail construction, park work, things that will create alternative jobs out there, in the forests, because we know that our people want to work. They are not interested in sitting on the sidelines. They want to be an active part of the community. This bill will also help in that respect.

(By unanimous consent, Mr. AuCoin was allowed to proceed for 2 additional minutes.)

□ 1400

Mr. AUCOIN. Mr. Chairman, I appreciate the gentleman's last statement. I absolutely agree with that. The people of the Pacific Northwest are not looking for a welfare program. They are looking for ways to work. They want to work. They are very distressed. The gentleman well knows about their inability under these injunctions.

One of the other things I think we should mention, since the gentleman has mentioned some additional provisions of this bill, which will help them obtain work is the initiative that the subcommittee has accepted and has folded into its bill which gives encouragement and initiative to some value added initiatives to create more use out of underutilized species in the Pacific Northwest, to add value added to wood products that are going virtually underutilized today; so that, too, is folded into this bill and that will mean jobs. That is not the whole answer. None of these things is the whole answer, but we are working on it.

Mr. DICKS. Mr. Chairman, if the gentleman will yield further, again working together we want to get these sales prepared. We want to have a pipeline full of sales so that once we fight our way through this legal morass and Congress gets itself in a position to pass a law to deal with this crisis in the Northwest, we will be in a position to have those mills operating.

Frankly, every Member of this House has a stake in this, because without an answer to this problem we are going to see a tremendous escalation in the price of lumber that goes into housing all over this country. You cannot have this kind of a devastating economic impact in the Northwest and not have this entire Congress and this entire Nation face these problems, because we will face them. That is why I think the work of the subcommittee this year has been crucial in trying to get a handle on these overall problems.

The CHAIRMAN. The time of the gentleman from Oregon has expired.

(By unanimous consent, Mr. AuCoin was allowed to proceed for 1 additional minute.)

Mr. AUCOIN. Mr. Chairman, I wish to direct an inquiry to the manager of the bill, the distinguished gentleman from Illinois [Mr. Yates].

Under soil, water and air management, within the national programs of the Forest Service, in fiscal year 1991, some $500,000 was included to continue water quality monitoring in the Bull Run watershed on the Mount Hood National Forest, to be undertaken cooperatively with the city of Portland.

Is it the intention of the committee that this vital activity continue at the current level, which adds no new money to the budget but merely continues an ongoing function between the Forest Service, on the one hand, and the city of Portland on the other?

Mr. YATES. Mr. Chairman, if the gentleman will yield, the gentleman's statement is correct.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BURTON of Indiana: Page 18, line 24, strike "$237,506,000" and insert "$233,856,000".

Page 19, line 20, strike the following: ": *Provided further*, That of the funds provided under this heading, $3,650,000 shall be available for construction of a Gateway Park associated with the Illinois and Michigan Canal National Heritage Corridor".

Mr. BURTON of Indiana. Mr. Chairman, yesterday I objected to the rule in that it waived points of order. What that meant simply, I am sure my colleagues all know this, is that there are several areas of this bill where they are legislating on an appropriations bill in violation of the rules of the House, but those points of order where waived, so the only way we could try to strike this pork is by amendment.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, does the gentleman contend that this appropriation is subject to a point of order?

Mr. BURTON of Indiana. No, I am saying this is not subject to a point of order.

Mr. YATES. That is right. The corridor has been authorized.

Mr. BURTON of Indiana. Not by an authorizing committee, it has not.

Mr. YATES. Yes, it has.

I would point out to the gentleman that Public Law 98–398, dated August 24, 1984, is an act that establishes the Illinois and Michigan Canal National Heritage Corridor in the State of Illinois.

Mr. BURTON of Indiana. And it was requested by the administration, correct?

Mr. YATES. In 1984.

Mr. BURTON of Indiana. Was this requested by the administration?

Mr. YATES. The administration signed the act into law; did not veto it. They signed this act into law.

Mr. BURTON of Indiana. Has the administration asked for this appropriation?

Mr. YATES. No. I thought the gentleman was maintaining that this appropriation is subject to a point of order.

Mr. BURTON of Indiana. No. I said it is not subject to a point of order because of the rule yesterday which waived points of order.

Mr. YATES. But I mean, the gentleman was complaining about the rule. The point I am making is that even if the rule had not waived points of order, you still could not have cited a point of order to this appropriation.

Mr. BURTON of Indiana. Is the Gateway Park authorized? I could not find any authorization for it.

Mr. YATES. Gateway Park is a part of the national heritage corridor.

Mr. BURTON of Indiana. This is specifically for construction of Gateway Park.

Mr. YATES. Apparently the gentleman's advisor is telling him that this is not a park, but the fact is that according to the definition contained in the park corridor——

Mr. BURTON of Indiana. Well, if I may reclaim my time, Mr. Chairman, the fact of the matter is this was not requested by the administration, and I do not believe it was authorized this year by the authorizing committee, this $3.65 million, and the gentleman can correct me if he would like. It was not authorized this year. It is $3.65 million for construction of the Gateway Park associated with the Illinois and Michigan Canal National Heritage Corridor.

We have a $350 billion to $400 billion deficit staring us in the face this year. This was not requested by the administration. It was not asked for by the authorizing committee this year, and yet here is $3.65 million. It is an earmark that was not requested.

This is another pork barrel project, very clear and simple. We have a lot of very important historical landmarks around the country that are going wanting this year, while at the same time we are coming up with a new project that is going to cost $3.65 million.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Yes, I am happy to yield to my colleague, the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, the gentleman mentioned that it was not requested by the administration. I have to tell the gentleman that there are a lot of things in this bill that were not requested by the administration, and there are a lot of things that are not in the bill that were requested by the administration. However, I do think in fairness that it is the responsibility of this body of 435 Members representing all the people, establish priorities as to the things that are important to them. I think we bring to the responsibility, and I am talking about the entire House of Representatives, a better judgment on priorities than a handful of people in the administration.

I am not discussing the merits of this, just the policy question. The administration asked for $90 million for America the Beautiful, and this is a part of making America beautiful, just as their programs are. We reduced it to $35 million, because speaking on behalf of the 370 Members who requested projects that were not in the administration's package, we had a different set of priorities; so I think that is an important point to clarify.

Mr. BURTON of Indiana. Mr. Chairman, I thank the gentleman for his comments. That makes my point.

My point is, we have more and more projects that seem to be worthwhile, but when you add them up collectively, they add a huge amount of liability that is being saddled on the backs of the American taxpayers.

The national debt is $3.3 trillion, and going up rapidly. This year we are going to have a $350 billion to $400 billion deficit, the largest in U.S. history. Every man, woman, and child has $12,000 in debt saddled on their backs because of this national debt, and we are not doing anything about it. We keep coming up with these laudable projects that sound very laudable that are being saddled on the backs of the American people, and they are not called pork. But what are they?

I will tell you, the American people think they are pork.

This is a copy of Regardie's magazine. They have a great big hog eating the U.S. Capitol.

Mr. Chairman, that is the perception of this body and the other body to the American people, because we are not controlling our appetite for spending.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. BURTON of Indiana was allowed to proceed for 2 additional minutes.)

Mr. BURTON of Indiana. Mr. Chairman, a few weeks ago we had a dire emergency supplemental. I have a lot of good friends from Pennsylvania, but in that bill you will recall the Navy asked for $500 million for an overhaul of the U.S.S. *Kennedy*. Because they want to preserve the Naval Shipyard facility at Philadelphia, they added another $700 million that was not requested by the Defense Department or the Navy Department, but they got it through, $700 million.

That was important to Philadelphia, and it probably was, because it created more jobs and was going to try to preserve that facility from being cut and done away with, but the fact of the matter is it was almost a billion dollars in pure pork. So where do we draw the line?

The American people want to know when we are going to come to grips with spending. The deficit this year is going to be $350 to $400 billion.

This was not requested by the administration. It was not authorized by the authorizing committee, and it is $3.65 million in my opinion in pure pork, and I think the American people would agree to that.

I believe we have got to come to grips with it. I understand my colleagues on the Appropriations Committee, what you are going through. I know what you have to deal with, but we are going to have to be a little harder nosed about this if we are going to control this huge deficit that is completely out of control.

Mr. Chairman, I yield back the balance of my time.

Mr. YATES. Mr. Chairman, I rise in opposition to the amendment.

Let me say to the gentleman that I am certainly not interested in pork, but I am interested in worthy projects.

□ 1410

This is a worthy project. The national heritage corridor has been authorized. I read to the gentleman the authorization statute.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I thank the gentleman for yielding.

Mr. Chairman, did the authorizing committee this year ask for $3.65 million? Was it in the authorization request this year?

Mr. YATES. I do not know whether it did.

Mr. BURTON of Indiana. Well, it was not.

Mr. YATES. Very well.

Mr. BURTON of Indiana. Did the administration ask for it?

Mr. YATES. I would accept the gentleman's word that the authorizing committee did not ask for it and the administration did not ask for it. There are many projects in our bill the administration did not request. I thought the gentleman from Ohio [Mr. REGULA] made a very perceptive statement that we are not bound to accept only the projects that are recommended by the administration. The administration is not the end-all and be-all of what is correct and proper here. Congress has a voice in this as well. That is why we are debating this bill today. The fact that the administration recommends it or does not recommend it is not the ultimate test of the worthiness of a project.

Mr. BURTON of Indiana. I think the point has to be made that when I hear Congress talking about they are not responsible for the deficit and I hear a lot of my colleagues blaming the administration for it, I think this is a perfect example of where the administration wants to reduce spending and control it and they do not want money authorized or spent for this project, and Congress says, "We are not bound by the administration. We have to deal with the people across the country and Congressmen who represent special districts."

So we have to weigh everything. As a result, we do not accept responsibility for it. Yet we are the problem. We have a problem with the spending in this country, not the administration.

We have the power of the purse.

Mr. YATES. I will tell the gentleman exactly what the gentleman from Ohio told him: The administration, for example, requested an America the Beautiful project for $95 million. It did not define what would beautify America. This project qualifies for beautifying America.

It is a park in the heart of the city of Chicago. I am interested in such projects. And when the administration does request us to support projects that do beautify America, we have got to find the money with which to carry out that purpose. This is such a project. This is a park that would be established at the entrance to the national heritage corridor. It is a part of a total construction project that the State of Illinois has already appropriated $150 million for, at the other side of this park.

I think it is a very worthy project, and I ask the House to support our appropriation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 92, noes 323, not voting 17, as follows:

[Roll No. 191]

AYES—92

Allard
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bilirakis
Broomfield
Bunning
Burton
Camp
Campbell (CA)
Clinger
Coble
Combest
Cox (CA)
Crane
Dannemeyer
Doolittle
Dornan (CA)
Dreier
Duncan
Fawell
Fields
Gallegly
Gekas
Gilchrest
Gingrich
Gradison
Hamilton
Hancock
Hansen
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
James
Johnson (TX)
Johnston
Kasich
Klug
Leach
Lewis (FL)
Luken
Marlenee
McCollum
McEwen
McMillen (MD)
Meyers
Miller (OH)
Miller (WA)
Moorhead
Morella
Nichols
Nussle
Oxley
Packard
Paxon
Pease
Penny
Petri
Pursell
Ramstad
Riggs
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Santorum
Saxton
Schulze
Sensenbrenner
Shays
Shuster
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Swett
Taylor (MS)
Taylor (NC)
Upton
Walker
Weber
Weldon
Zeliff
Zimmer

NOES—323

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Barnard
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hastert
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McNulty
Mfume
Michel
Miller (CA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rogers
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Sundquist
Swift
Synar
Tallon
Tanner
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—17

Alexander
Bacchus
Byron
Chapman
Cooper
Geren
Hatcher
Hayes (LA)
Kleczka
Lancaster
Levine (CA)
Lloyd
Ortiz
Orton
Owens (UT)
Rhodes
Tauzin

□ 1443

Messrs. ESPY, HERGER, HEFLEY, HUTTO, and CUNNINGHAM changed their vote from "aye" to "no."

Mr. McMILLEN of Maryland changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I?

Mr. McMILLAN of North Carolina. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the bill has $213 million in it designated as emergency funds for firefighting purposes in clear violation of the budget agreement.

It is important to make certain that this bill adheres to the spending caps established in the Budget Enforcement Act of 1990. That is a crucial issue.

I would prefer to have offered an amendment with reductions in other discretionary accounts to fund the $213 million under the caps, but House rules prohibit offering such increases. The Penny-Upton amendment for a 1.7-percent across-the-board cut could be used to fund firefighting and still remain under the overall discretionary caps.

That, in my judgment, is what the Appropriations Committee should have done. Instead, they created what is, in effect, an anticipatory emergency supplemental so that the $213 million would have to be designated as an emergency by the President, and therefore not subject to the caps we passed last fall. That way, they could, and did, appropriate the money elsewhere to make everyone relatively more happy up to the maximum cap for interior function. This creates a sure-fire violation of the caps by calling what we know to be a certain outlay for firefighting an emergency before it even happens.

The chairman of the subcommittee has argued that firefighting should be mandatory. The Budget Enforcement Act does not say that. The budget agreement clearly and explicitly designates firefighting accounts in the Department of the Interior as domestic discretionary accounts. That is now the law, whether we like it or not.

Section 250(c)(4)(A) of the Budget Enforcement Act specifically defined which accounts are included in domestic discretionary accounts subject to the caps and firefighting accounts are included.

If there are those who want to make firefighting mandatory, then they should abide by the Budget Enforcement Act and introduce a bill to make firefighting a mandatory program and either offer a $213 million tax increase that will pay for the new entitlement, or cut another entitlement to conform to the paygo rules of the law. Is firefighting important enough to raise taxes for it? You bet it is. Is it important enough to reduce other entitlements by $213 million to pay for it? You bet it is. Those are tough choices to be made but they should be made here under this Capitol dome.

The President requested $525 million for firefighting accounts, based on the past 10 years of experience. In 1990, we spent $1,055 million for firefighting. The committee has correctly appropriated $311 million in firefighting spending but designated $213 million as emergency funds, which must be requested by the President before it can be used. If it is requested, then it would not count against the caps. But it would count against the taxpayers.

This appropriations maneuver reminds me of the old lonesome end trick play in football. You send a man as if he is going off the field so the defense will forget about him and leave him uncovered. This bill is trying to make the firefighting funds the lonesome end of fiscal responsibility, so that the bill can be loaded up with other spending.

The basic problem is that it is an illegal formation under the budget agreement law, which I hope will be corrected in conference.

Mr. Chairman, the real issue is adhering to the spirit and the letter of the Budget Enforcement Act.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, over the last few minutes we have had a rather instructive exercise on the whole issue of pork barrel, and I think a couple of things that I have learned might be useful to get into the RECORD.

I learned in the course of the debate, for example, that 370 Members of the House had requested projects from this subcommittee to be put into the bill. That is a fairly phenomenal number. That is three-quarters of the House of Representatives that evidently has asked at some point for projects to be included in the bill. I do not know, I may even be among them, with that kind of number. But it is a fairly big number.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I think that figure reflects the fact that we are designated as "Representatives." We represent some 550,000 people, more or less, and it is understood that a Member of the House would be more sensitive to what is an important project in his or her district, and how it serves the national interests.

For the Yosemites and the Yellowstones and all of the national parks, the Member from that district would carry the message of the needs of that particular facility. But it does have a national significance in many instances.

□ 1450

Mr. WALKER. Let me just make certain though that I understand. I just want to clarify one other figure. Is it also true that those 370 Members requested of your subcommittee 3,000 projects?

Mr. REGULA. Approximately. There are duplications in that process, but it illustrates that this is a big country. Obviously there are many worthwhile projects.

Mr. WALKER. That really does give members of the subcommittee a very, very difficult situation to deal with, if there are three-quarters of the House of Representatives coming to them suggesting that there are projects they want, and they are suggesting over 3,000 projects at a time that there is very little money. As the gentleman from North Carolina has just pointed out, we even have to use smoke and mirrors to accomplish what we do in the bill now.

Mr. REGULA. There are tough priority choices.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. YATES. It should be pointed out as well that with respect to a number of programs and projects that are in this bill, there were as many as 50 to 100 Members speaking for the same program or the same project.

For example, we had as many as 50 Members speaking in favor of a certain appropriation for the National Endowment for the Humanities. For the National Endowment for the Arts, we had 100 Members asking the committee to support that appropriation.

So while we had the 370 that did come and ask for our consideration, some of those, as the gentleman from Ohio points out, were duplicative to a very great extent.

Mr. WALKER. I understand, but nevertheless the committee was presented with the situation where 370 Members of Congress asked the committee to find some project or another and the total number of projects that they evidently asked the committee to spend money on was 3,000 or so. Are those correct figures?

Mr. YATES. Yes, I would say so. That is why I thought this committee, this subcommittee did a very good job in culling out the ones we thought that needed the particular appropriation.

Mr. WALKER. I think that it tells a lot of Members, myself included, how difficult the process is. I am wondering if we might be able to get the committee, since this information is obviously available, to get the committee to publish, as a part of the proceedings of the

House today in the CONGRESSIONAL RECORD, that list of 370 Members as well as the 3,000 projects that they wanted the money spent on. There should be no problem with the Members on this. I know of no Member, as I say myself included, if I was part of that list, who should be embarrassed about the fact that they asked for a project.

Mr. YATES. Mr. Chairman, here is volume 12 of our hearings which is testimony of Members of Congress. It contains all of the requests about which the gentleman and I are speaking. It is in this volume.

Mr. WALKER. All 370 Members are in the volume and the 3,000 projects that they requested are in the volume?

Mr. YATES. Are in this volume.

Let me point out also that 370 Members did not appear in person. About 97 Members appeared in person and the remainder of the requests were either in statements that were filed with us or in letters that were written.

Mr. WALKER. Again, I thank the gentleman.

Is a copy of the hearings available through the document room?

Mr. YATES. It is indeed. It is available right now.

Mr. WALKER. So I could request a copy of that yet today and get that from the document room?

Mr. YATES. The gentleman may have this copy.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

(On request of Mr. BURTON of Indiana, and by unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. REGULA. I do not know if the gentleman was here on general debate, but when one takes the BLM, the Forest Service and the parks, we have in excess of a billion visitor days in these facilities. That encompasses a vast majority of the American people and to meet their needs in terms of safety and in terms of their experience in the public facilities is very difficult. It is quite a challenge for the committee to sort out the priorities also we put in over $1 billion just to meet the needs of the Bureau of Indian Affairs.

Mr. WALKER. I do understand that the gentleman faces a real challenge on this.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. I would like to make one brief comment. I think that the Appropriations Committee does their very best and by and large does a pretty good job. The problem is we have 3,000 requests for various projects around the country. Over 300 Members have requested projects from various parts of the country. There is, whether we like it or not, an intimidation factor. If a Member votes against some project, it might hurt them later on when their project comes up for a vote. So we see a lot of Members voting for projects they might not otherwise support. That makes the case for something we have not even talked about today that I would just like to mention briefly.

That is, somebody has to be the final decider or arbiter of what should be or should not be spent. And for that reason, we ought to give the President of the United States what 430 other governors have, and that is a line item veto so we can cut through this and cut a lot of pork out of the process.

I thank the gentleman for yielding.

Mr. WALKER. I thank the gentleman. I would simply like to make the point that the gentleman from Indiana, I think, did the House a service by offering his amendment and allowing Members to focus on some of these issues. I support him. I was disappointed others did not.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. We had quite a discussion out here over an amendment that saved $42,000 by taking protection away from the Vice President's children. But when it came to voting on $5.6 million, then some of the Members who spoke so movingly about $42,000 found it impossible to vote to save $5.6 million.

Those are some of the things that I think the American people need to look at, but I do not think as Members of the House and particularly Members who are attempting to save money, as the gentleman from the Indiana did earlier, we ought to ignore the fact that the committee is under a very, very difficult situation when they are getting 3,000 requests for projects by over three-quarters of the Members of the House. That presents them with a very difficult task.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Ohio.

Mr. REGULA. For the record, on the $42,000, that was for the protection of thousands, tens of thousands of people that use Manassas horse and hiking trails.

Mr. WALKER. The reason I made that reference is because I think the gentleman has made it very clear that they were targeting the Vice President's family.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(On request of Mr. DORGAN of North Dakota, and by unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. I have listened with interest to the discussions, and listened to some of the discussion of the gentleman from Indiana earlier. Frankly, I share his concern.

The budget deficit is not $280 billion and getting better. The real budget deficit is around $350 to $360 billion, and we have a very serious problem. I do not dispute that.

I think that the points that are made are useful. But I do think that to suggest somehow the litmus test is, was this in the President's budget, it suggests there is not an alternative set of priorities that could or should be devoted, as Mr. REGULA suggested, to the priorities that represent the priorities of the people who serve in this body as well.

Mr. WALKER. If I may reclaim my time, I think just to point out to the gentleman, some of the Members here have decided that that is exactly what should be done, and we have attempted to put together a bill that would give Members a basis on which to make judgments about whether or not a project does have worth. And one of the criteria to that is, is the project authorized, rather than simply having these come to the floor. And so we are setting, trying to set a kind of criteria, I would hope the gentleman would have joined in that effort, because some criteria for determining which projects are the most worthwhile, it seems to me, is useful.

Mr. DORGAN of North Dakota. Mr. Chairman, I would just say that we all have different priorities.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has again expired.

(On request of Mr. DORGAN of North Dakota, and by unanimous consent, Mr. WALKER was allowed to proceed for 30 additional seconds.)

Mr. DORGAN of North Dakota. If the gentleman would continue to yield, I would just say that we all have priorities. The gentleman from Pennsylvania feels very strongly about the space program. I respect that. That is a priority of his. Some of my colleagues believe that we feel more strongly about a library or an education program than we do a space program. That is a priority of ours. So that difference of priorities blended together in the compromise of the legislative process represents what this Congress wants to do in the areas of public spending.

Mr. WALKER. The way the rules of the House are structured, those priority decisions are supposed to be made by authorizing committees, and the Appropriations Committee is supposed to function with the priorities that are given them by the authorizing committees.

That is one of the processes that we think should work a little better in the House of Representatives.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore. (Mr. HOYER) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Kalbaugh, one of his secretaries.

The SPEAKER pro tempore. The Committee will resume its sitting.

□ 1500

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1992

The Committee resumed its sitting.

The CHAIRMAN. Are there any other amendments to title I? If not, the Clerk will read.

The Clerk read as follows:

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $183,572,000 to remain available until September 30, 1993.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $205,041,000, to remain available until expended, as authorized by law.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Forest Service Firefighting", and "Land Acquisition", $1,280,947,000 to remain available for obligation until September 30, 1993, including $30,968,000 for wilderness management, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)).

FOREST SERVICE FIREFIGHTING

For necessary expenses for firefighting on or adjacent to National Forest System lands or other lands under fire protection agreement, and for forest fire management and presuppression, and emergency operations on, and the emergency rehabilitation of, National Forest System lands, $189,803,000, to remain available until expended: *Provided*, That such funds are also to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

EMERGENCY FOREST SERVICE FIREFIGHTING FUND

For the purpose of establishing an "Emergency Forest Service Firefighting Fund" in the Treasury of the United States to be available only for emergency rehabilitation and wildfire suppression activities of the Forest Service, $112,000,000, to remain available until expended: *Provided*, That all funds available under this head are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That funds appropriated under this head shall be made available only after submission to Congress of a formal budget request by the President that includes a designation of the entire amount of the request as an "emergency requirements" for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all funds included in any budget request made pursuant to this paragraph shall be made available one day after submission to Congress: *Provided further*, That notwithstanding any other provision of law, enactment of this section shall not constitute a change in concept or definition under section 251(b)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 and shall not cause a negative budget authority or outlay adjustment to be made to any discretionary spending limit for the domestic category established by Public Law 101–508.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $350,420,000, to remain available until expended, of which $78,607,000 is for construction and acquisition of buildings and other facilities; and $271,813,000 is for construction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided*, That funds becoming available in fiscal year 1992 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further*, That not to exceed $113,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers: *Provided further*, That $5,000,000 of the funds provided herein for road repairs shall be available for the planned obliteration of roads which are no longer needed.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $90,735,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,148,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $97,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 207 passenger motor vehicles of which 17 will be used primarily for law enforcement purposes and of which 176 shall be for replacement only, of which acquisition of 137 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 68 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Forest Service Firefighting appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction: *Provided*, That no funds shall be made available under this authority until funds appropriated to the

"Emergency Forest Service Firefighting Fund" shall have been exhausted.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

All funds received for timber salvage sales may be credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93-153 (30 U.S.C. 185(1)) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals to continue the Challenge Cost-Share Program.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting or other forms of even-age management in hardwood stands in the Shawnee National Forest, Illinois: *Provided*, That none of the funds available in this Act shall be used to administer timber sales, including timber sales under contracts entered into prior to fiscal year 1992, which involve clear cutting or other forms of even-age management.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided*, That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further*, That landscape architects shall be used to maintain a visually pleasing forest.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100-202 have been submitted to the Congress: *Provided*, That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Rock Creek, Madera County, California.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

The Forest Service shall conduct a below cost timber sales test on the Shawnee National Forest in Illinois in fiscal year 1992.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Projects selected pursuant to the fifth general request for proposals to be issued not later than March 1, 1992, shall be subject to all provisos contained under this head in previous appropriations Acts unless amended by this Act.

Notwithstanding the provisos under this head in previous appropriations Acts, projects selected pursuant to the fifth general request for proposals shall advance significantly the efficiency and environmental performance of coal-using technologies and be applicable to either new or existing facilities: *Provided*, That budget periods may be used in lieu of design, construction, and operating phases for cost-sharing calculations: *Provided further*, That the Secretary shall not finance more than 50 per centum of the total costs of any budget period: *Provided further*, That project specific development activities for process performance definition, component design verification, materials selection, and evaluation of alternative designs may be funded on a cost-shared basis up to a limit of 10 per centum of the Government's share of project cost: *Provided further*, That development activities eligible for cost-sharing may include limited modifications to existing facilities for project related testing but do not include construction of new facilities.

With regard to funds made available under this head in this and previous appropriations Acts, unobligated balances excess to the needs of the procurement for which they originally were made available may be applied to other procurements; (1) for use on projects for which cooperative agreements are in place, within the limitations and proportions of Government financing increases currently allowed by law, or (2) for which requests for proposals have not yet been issued: *Provided*, That hereafter, the Department of Energy, for a period of up to five years after completion of the operations phase of a cooperative agreement may provide appropriate protections, including exemptions from subchapter II of chapter 5 of title 5, United States Code, against the dissemination of information that results from demonstration activities conducted under the Clean Coal Technology Program and that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a Clean Coal Technology project: *Provided further*, That hereafter, in addition to the full-time permanent Federal employees specified in section 303 of Public Law 97-257, as amended, no less than 90 full-time Federal employees shall be assigned to the Assistant Secretary for Fossil Energy for carrying out the programs under this head using funds available under this head in this and any other appropriations Act and of which 35 shall be for PETC and 30 shall be for METC: *Provided further*, That hereafter reports on projects selected by the Secretary of Energy pursuant to authority granted under this heading which are received by the Speaker of the House of Representatives and the President of the Senate less than 30 legislative days prior to the end of each session of Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate or at the end of the session, whichever occurs later.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING RESCISSION)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $453,989,000, to remain available until expended, of which $438,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909) and of which $3,100,000 is available for the fuels program: *Provided further*, That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $40,800,000 is for implementation of the June 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided*, That 35 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1992, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expended in normal business practice: *Provided further*, That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further*, That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

Funds in the amount of $8,000,000 provided under this head in Public Law 101-512 to initiate a ten-year industry/government cooperative agreement to design, construct, and operate a proof-of-concept oil shale facility employing modified in-situ retorting and surface processing of mined shale and waste at Federal Prototype Oil Shale Lease Tract Cb near Meeker, Colorado, are rescinded.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1991, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury: *Provided*, That the Department of Energy may not agree to modifications to the Great Plains Project Trust Agreement, dated October 31, 1988, that are not consistent with the following criteria: (1) for the purpose of financing a sulfur control technology project using Government contributions from the Trust, the cost of such project shall not include costs of plant downtime or outages; (2) the Government contribution to such project shall not exceed 50 per centum of the amount of remaining project costs after the disbursement of funds from the Environmental Account established in section 2(b) of the Trust Agreement, shall be in the form of a loan, and shall not exceed $30,000,000; (3) no disbursements from either the Reserve Account established in section 2(b) of the Trust Agreement or the Environmental Account shall be made without written assurance from the Environmental Protection Agency that the project technology is proper and that more restrictive emissions constraints over those in current permits will not be imposed; and (4) repayment of any loan shall be from revenues not already due the Government as part of the Asset Purchase Agreement, dated October 7, 1988, and at least in proportion to the Government contribution to the costs of the project net of the disbursement from the Environmental Account for any increased revenues or profits realized as a result of the sulfur control project.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $238,200,000, to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $559,661,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1992 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided*, That $247,893,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided further*, That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same proportion for each program as in fiscal year 1991: *Provided further*, That of the sums for weatherization assistance for low-income persons, $3,000,000 shall be for the incentive program authorized by section 415d of the Energy Conservation and Production Act, as amended by Public Law 101-440: *Provided further*, That $3,000,000 of the amount under this heading shall be for metal casting research consistent with the provisions of Public Law 101-425: *Provided further*, That $17,968,000 of the amount provided under this heading shall be available for continuing research and development efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190), and implementation of steel and aluminum research authorized by Public Law 100-680: *Provided further*, That existing facilities, equipment, and supplies, or previously expended research or development funds are not accepted as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further*, That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds: *Provided further*, That $27,000,000 of the amount provided under this head is for electric and hybrid vehicle battery research to be conducted on a cooperative basis with non-Federal entities, such amounts to be available only as matched on an equal basis by such entities: *Provided further*, That section 303 of Public Law 97-257 is further amended by changing the number for the Office of the Assistant Secretary for Conservation and Renewables from "352" to "397".

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $15,114,000, to remain available until expended.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $8,300,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $185,858,000, to remain available until expended, including $122,685,000 to be derived by transfer from funds deposited in the "SPR petroleum account" as a result of the test sale of the Strategic Petroleum Reserve begun on September 26, 1990, as authorized under 42 U.S.C. 6241(g)(1): *Provided*, That the provisions of 42 U.S.C. 6241(g)(6)(B) shall not apply to the use of these funds: *Provided further*, That appropriations herein made shall not be available for leasing of facilities for the storage of crude oil for the Strategic Petroleum Reserve unless the quantity of oil stored in or deliverable to Government-owned storage facilities by virtue of contractual obligations is equal to 750,000,000 barrels.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses as authorized under 42 U.S.C. 6247, $203,000,000, to remain available until expended: *Provided*, That notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided further*, That no funds made available by this or any other Act may be used for leasing, exchanging, or otherwise acquiring except by direct purchase crude oil from a foreign government, a foreign State-owned oil company, or an agent of either, except pursuant to the procedures of section 174, part C, title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.), as contained in section 6 of Public Law 101-383: *Provided further*, That the running of the 12 month period described in section 161(g)(6)(B) of the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6241(g)(6)(B)), shall be suspended during fiscal year 1992: *Provided further*, That outlays in fiscal year 1992 resulting from the use of funds in this account other than those deposited as a result of a test sale or drawdown of the Reserve shall not exceed $139,000,000.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $77,908,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided*, That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further*, That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further*, That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Notwithstanding any other provision of law, the Secretary of Energy may enter into a contract, agreement, or arrangement, including, but not limited to, a Management and Operating Contract as defined in the Federal Acquisition Regulations (17.601), with a profit-making or non-profit entity to conduct activities at the Department of Energy's research facilities at Bartlesville, Oklahoma.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVI and section 208 of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $1,432,712,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa-2 for services furnished by the Indian Health Service: *Provided*, That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act): *Provided further*, That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further*, That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further*, That $294,551,000 for contract medical care shall remain available for expenditure until September 30, 1993: *Provided further*, That of the funds provided, $5,990,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $35,000 per year of obligated service in return for full-time clinical service: *Provided further*, That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further*, That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further*, That of the funds provided, $2,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further*, That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for expenditure until September 30, 1993: *Provided further*, That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act and Public Law 100-713 shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $295,211,000, to remain available until expended: *Provided*, That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities: *Provided further*, That the Secretary of Health and Human Services may accept ownership of the buildings offered at no cost by the Standing Rock Sioux Tribe for use solely as the Aberdeen Area's Youth Regional Treatment Center, and may use funds appropriated to the Indian Health Service to renovate the buildings for that purpose.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided further*, That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Services facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further*, That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further*, That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further*, That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further*, That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further*, That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: *Provided further*, That the appropriation structure for the Indian Health Service may not be altered without the advance approval of the House and Senate Committees on Appropriations.

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act of 1988, $77,547,000, of which $57,692,000 shall be for subpart 1 and $16,596,000 shall be for subparts 2 and 3: *Provided*, That $1,570,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1993.

OTHER RELATED AGENCIES

Office of Navajo and Hopi Indian Relocation

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, $31,634,000, to remain available until expended: *Provided*, That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further*, That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further*, That no relocatee will be provided with more than one new or replacement home: *Provided further*, That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

Institute of American Indian and Alaska Native

Culture and Arts Development

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99-498, as amended (20 U.S.C. 56, part A), $8,187,000, of which not to exceed $350,000 for Federal matching contributions, to remain available until expended, shall be paid to the Institute endowment fund: *Provided*, That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress: *Provided further*, That the Institute shall act as its own certifying officer.

Smithsonian Institution

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $286,269,000, of which not to exceed $26,679,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, and the repatriation of skeletal remains program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided*, That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

MUSEUM PROGRAMS AND RELATED RESEARCH

(SPECIAL FOREIGN CURRENCY PROGRAM)

Funds previously appropriated in this account for the American Institute of Indian Studies Forward Funded Reserve may be invested in India by the United States Embassy in India in interest bearing accounts with the interest to be used along with other funds in the account to support the ongoing programs of the American Institute of Indian Studies.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $8,000,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $27,710,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $20,100,000, to remain available until expended.

National Gallery of Art

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; purchase of one passenger motor vehicle for replacement only; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $48,236,000, of which not to exceed $2,870,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized $6,850,000, to remain available until expended: *Provided*, That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

Woodrow Wilson International Center for Scholars

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $5,819,000.

National Foundation on the Arts and the Humanities

National Endowment for the Arts

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $147,700,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $30,500,000, to remain available until September 30, 1993 to the National Endowment for the Arts, of which $13,000,000 shall be available for purposes of section 5(1): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

National Endowment for the Humanities

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $153,150,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, of which $8,200,000 for the Office of Preservation shall remain available until September 30, 1993.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $25,050,000, to remain available until September 30, 1993, of which $12,050,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided*, That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $27,344,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b).

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided*, That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $722,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $7,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $2,623,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $4,500,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $33,000, to remain available until September 30, 1993.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,807,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $4,491,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, as amended, $10,605,000: *Provided*, That none of these funds shall be available for the compensation of Executive Level V or higher positions.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any points of order against title II?

If not, are there any amendments to title II?

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 86, strike line 23 through page 87, line 20.

Mr. YATES. Mr. Chairman, I ask unanimous consent that all time on this amendment and all amendments thereto be limited to 20 minutes, the proponents to be granted 10 minutes, and 10 minutes to be granted to our side.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE] will be recognized for 10 minutes, and the gentleman from Illinois [Mr. YATES] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Chairman, in the classic words of Yogi Berra, this is deja vu all over again.

My amendment would move to strike all funding for the National Endowment for the Arts. We had a lengthy debate, you will recall, last year on this subject, and most of it focused on trying to provide guidelines to the Chairman of the National Endowment.

My amendment, however, went to the heart of the problem, and that is the propriety of a national government being involved in the arts in the first place. Now, this is not a time-honored tradition. Quite the contrary, the NEA was created at the height of the guns-and-butter era in 1965 when Americans thought that anything was permissible and anything was fundable.

The Founding Fathers raised this question at the Philadelphia Convention in 1787, and on that occasion Charles Pinckney from South Carolina proposed funding by this new national government of arts and the humanities and sciences, and he was overwhelmingly rejected by those gentlemen who crafted that precious document known as our Constitution, on the grounds that that was not a legitimate function of a national government.

The fact of the matter is that when we get elected the first order of business is for all of us to stand here on this floor and raise our right hand and swear to uphold that Constitution, so help us God, and the fact of the matter is while some may not have read James Madison's notes of the exchanges that took place that hot summer in Philadelphia, as I say, this is an issue readily referenced for anyone in doubt. The Founding Fathers were very explicit, very clear on their view of the Pinckney amendment.

In the intervening years, we pursued that historic constitutional position until the height of the Depression when the New Deal chose to put unemployed artists on welfare rolls and let them engage in the practice of painting and sculpting and what have you in their attics and getting welfare benefits for that. That terminated, however, at World War II.

As I say, it has only been since 1965 that we have embarked on this course.

Some argued during the debate last year, implied, rather, that we would not have funding of the arts if we did not have a precious National Endowment for the Arts. To put that into some perspective, that logical fallacy of either/or, last year $124 million went to fund the arts through the NEA. During that same year, the private sector anted up $7.5 billion. It dwarfs into total insignificance that portion that the national government is pouring into this area.

In addition to this, there are questions that were raised in the debate last year about censorship. Does the Congress have the right to censor, in effect, by giving guidelines as to what is proper art versus improper art?

The truth is that whenever you have any Government bureaucracy such as the NEA, inevitably you are going to get censorship.

In fact, one of the points raised by a delegate to the Philadelphia Convention, from Virginia, John Page, is that if you were to have Government funding of the arts, "Congress might," he said, "like many royal benefactors, misplace their munificence and neglect a much greater genius of another." Well, the truth is that last year there were 17,400 requests that were made to the Commission, of which only 4,400 requests were accepted. Who died and gave those people the omniscience who sit on the panel to render those vital judgments as to what is art versus what is not art?

There is, also, another aspect of this debate, and it is one that was brought forth in an article by James Kilpatrick in the Washington Post in April of this year. He, through the Freedom of Information Act, got information about the awards by dance panels. He pointed out, that Chairman Frohnmayer named eight panels in the field of dance, and they were to look over the various recommendations for funding. One of these panels, panel No. 2, he notes, had six members, and it reviewed requests, and it made grants. It, however, was comprised of members of dance groups. That panel 2 managed to secure in grants over $1 million from the NEA. Now, to be sure, they did not vote themselves grants. Panel 3 and panel 4 voted the grants for panel 2. Then he reviewed panel 3. They got over a half-million dollars in grants. And where did they get their panels? Not from themselves, of course. It was panel 4, panel 5, and panel 6 that voted the grants for panel No. 3. He concluded:

> Have you ever looked at the tangled roots of a mangrove tree? Same thing. Artist A is on panel B that awards a grant to artist C, who serves on panel D. Artist E's panel awards a grant to artist A, and so it goes, so it goes, so it goes.

When you look at the breakdown of where the money went last year, that is also quite interesting, because the State of New York got more money total than the States of California, Texas, Florida, Illinois, Michigan, and Ohio combined. It seems to me that there is some evidence, at least based on the Kilpatrick evidence out of the Freedom of Information Act, coupled with the allocation of the funding, that there is, indeed, a good-old-boy network working within the bureaucracy of the NEA.

I would urge Members, in the interests of, first, upholding that constitutional oath that they took for openers, but, second, recognizing that the freest exchange has always existed in the marketplace, not through Government munificence and bureaucracy, to support my amendment.

Finally, to avoid any possibility, whether it is true or not, that this network does, in fact, exist within the bureaucracy, eliminate that apprehension.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I am happy to yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I have long ago, when Nancy Hanks was the Administrator of the NEA, looked at the distribution, and I asked Miss Hanks, "Why is New York getting such a preponderant share of the money? Why is not more money going to Illinois? Why is not more money going to California?" She said, "Congressman, that is where the arts companies are."

You know, I look at the bill that we have before us today. California gets one-third of the land acquisition money in the President's budget, one-third. It gets that money because most of the acquisitions are for the resources in California. That is where they are located.

Much as I would like to see more of that money coming to Illinois or to other States, the money has to follow where the material is.

Mr. CRANE. Reclaiming my time, in response to that, I have heard that argument that we are a cultural, artistic wasteland outside of New York City. In effect, that is the argument that is advanced, and that is why they get roughly 40 percent of the total NEA budget.

I can understand any New Yorker defending his proprietary interest in getting the lion's share of the money appropriated by this body.

Mr. YATES. If the gentleman will yield further, Nancy Hanks was not a New Yorker. She was from North Carolina.

Mr. CRANE. And she is implying that North Carolina is a cultural wasteland, too. That is her prerogative as a North Carolinian. Any Tarheel can view his State any way he wishes.

Mr. YATES. I would correct one point. The cultural wasteland was a phrase of Newt Minow about television.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I am happy to yield to the gentleman from Ohio.

Mr. REGULA. In last year's authorization for a 3-year period, we did reform the rules so that the States receive a larger share of the money to accomplish the very objective the gentleman mentioned.

Mr. CRANE. To be sure. I know there was a concern, and I raised it last year during that debate, and there was better distribution. But for all of that, the figures I just gave are for last year's distribution, and the most recent.

Let me mention one other thing about these cultural wastelands. Mark Twain never got a penny of any Government funding. He did not come from that Mecca of art in New York City. Ernest Hemingway came from our great city of Chicago, Mr. Chairman, and he was outside of that Mecca of all cultural and artistic taste. The fact of the matter is that before we ever had Government involvement, some of the greatest artists that will be recognized down through the years of history into the future, some of the greatest not only prospered without a dime of Government involvement, long before the creation of the NEA, but achieved immortality.

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Second, they did not come out of New York City.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Ohio.

Mr. REGULA. Ken Burns, who did one of the great projects with the production of the Civil War tapes received some Federal money from NEH and that was an example of Federal assistance. I do not know how the gentleman feels about the National Endowment for the Humanities. Would the gentleman keep the funding for that agency?

Mr. CRANE. Any time there is a target-of-opportunity to save the taxpayer a dollar and get Government out of the unwarranted and unconstitutional areas, that would fall into the same category. What the gentleman is suggesting, again, is the either/or argument. That is the logical fallacy, viz if we did not have an NEA or NEH we could not find funding from alternative sources.

I urge Members to support my amendment to strike the NEA funding.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. ATKINS], a member of our committee.

Mr. ATKINS. Mr. Chairman, this amendment strikes and destroys not only the National Endowment for the Arts but indeed America's cultural preeminence in the world.

The arguments made in favor of this amendment are some of the most spurious arguments that we have heard in a long time in this Chamber. Claims that the great problem is that somehow a large portion of the money goes to New York City, well, of course, the money goes to New York City, and throughout the modern history of this country, artists have congregated in New York City from all over the country. People like Tom Wolfe, coming from North Carolina, going to New York City because that is where the publishing center is; dance companies and so forth. Willie Sutton, when asked, "why do you rob banks?" said, "Because that is where the money is." Why does art funding go to New York? Because that is where the artists are.

It comes back to the rest of America. The funds that go to institutions in New York are going back to all parts of this country in tours as they go around the country.

Then the gentleman claims that somehow on the panels for the NEA that there is some kind of distortion, the potential that there could be the good old boy network. Indeed, those panels are clearly balanced so there are both men and women on the panels. The panels really are above reproach. it has been clear that those panels have supported, just by the results of the things that have come through the NEA, the finest creative geniuses in the country.

This NEA amendment would absolutely destroy what we have built, and the reforms which have been made which have really made art the No. 2 export for this country, and the greatest success story in our exports, a major part of our economy, a major part of our educational system.

Mr. YATES. Mr. Chairman, I yield 20 minutes to the distinguished gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise in strong opposition to the amendment offered by Representative CRANE. This amendment seeks to end Federal funding for art and culture in America by abolishing the National Endowment for the Arts [NEA]. Eliminating the NEA would deprive millions of Americans, rich and poor, urban and rural, of the many artistic and cultural programs that this agency makes possible.

Our constituents recognize the merits of Government subsidy for the arts. In a 1990 nationwide poll, 68 percent of the American public stated their strong support for Government funding of arts. These people want the NEA to continue to preserve the cultural heritage of the United States, make the arts accessible to millions who might otherwise not enjoy them, and foster creativity in our society. Our constituents are willing to spend a mere 69 cents a year to reap them benefits—and more.

Remarkably, three out of the four of last year's Tony nominees in the best play category, including the winner, were developed at NEA-funded nonprofit theaters. So were the last 13 Pultizer prize-winning plays.

Mr. CRANE has argued that "the NEA is not the cornerstone of American art." I agree that it is not the only cornerstone, but it is certainly one of the important cornerstones of American art.

When the National Endowment of the Arts was founded in 1965, there were 100 local arts agencies; now there are over 2,000. In 1965 there was 1 full-time professional chorus in the country, 60 professional orchestras, 37 professional dance companies, and 56 nonprofit professional theaters. Now, there are at least 57 professional choruses, 210 orchestras, 250 dance companies, and 400 theaters eligible for endowment support. The audience for all of these activities has grown exponentially.

While Federal support through the NEA is not the principal source of funding for the arts, they are important and catalytic funds. Funds given by the endowment generate sizable donations from private sources.

According to the New York Times, $119 million in grants made by the NEA in 1988 encouraged citizens corporate and individual, to contribute $1.3 billion more.

Although members of the private sector do contribute their funds, we cannot leave it to them alone to support art and culture in Amercia. The Government, through the NEA, supports projects that would not get the attention they deserve without public money. For instance, the NEA funds hundreds of educational projects and projects that increase the access to art for inner-city and rural areas. The private sector might not do this.

Abolishing the NEA would eliminate national coordination of arts funding. From its broad national perspective the Endowment can coordinate Government funding with the development of artistic programs and projects, and the growth of institutions throughout the country.

Abolishing the NEA would not save us much money either. Its 1991 appropriation is the paltry sum of $180 million. Total Federal spending on culture this year comprises just one five-hundreths of the $1.57 trillion budget.

We have an agency that has successfully subsidized the arts in our country for the last 25 years. I strongly urge you to defeat the Crane amendment and support H.R. 4825 unamended. Let's not let one or two controversial grants define our national attitude toward art, culture, and progress.

Mr. CRANE is incorrect in suggesting, as he has in urging support for this amendment, that Government funding of art guarantees censorship because some artists are funded and others are not. The Federal Government has a limited amount of money for grants and cannot fund every person or agency that applies for a grant. Choices must be made in arts funding as they must in funding science and technology research.

Funding choices in the NEA are particularly democratic. The NEA has and continues to base funding decisions on artistic excellence as determined by highly diverse and experienced peer panels, the Presidentially appointed National Council on the Arts, and the NEA Chairman. Every NEA panel now also includes educated laypeople, and the NEA has implemented many other procedures as a result of last year's reauthorization to further ensure fairness.

Finally, Mr. CRANE has asserted that, and I quote, "History argues against Federal funding of the arts." Certainly, world history belies this statement. Every advanced and civilized nation has supported and nurtured its artists. Throughout American history there has been an evolution of Federal support for the arts and humanities. President John Adams wrote:

> I must engage in war in order that my sons may engage in commerce, industry, agriculture and science; in order that their children might engage in painting, ceramics, porcelain, tapestry * * * and the arts.

In 1891, the first National Conservatory of Music was established. Congress first proposed a National Office of the Arts in 1897, and, in 1910, President Taft established the National Fine Arts Commission with a peer panel to "advise generally upon questions of art when required to do so by the President, or by Congress."

Since then, every Presidential administration has offered support for arts programs, from President Franklin Delano Roosevelt's WPA programs to President Eisenhower's advocacy of a Federal Advisory Commission on the Arts, from President Kennedy's proposal for a Federal Advisory Council on the Arts to President Johnson's work in creating the current Federal arts agencies.

We have now evolved to having a National Endowment for the Arts which has changed the cultural landscape of the United States, which has supported groups and individuals in every corner of the Nation and which has supported programs from arts education to design arts to folk arts.

The NEA has been one of our Nation's outstanding successes. It deserves not only the present level of support as contained in the Interior appropriations bill, but greater support in the future so that it can continue its work touching the lives of all of our citizens.

Mr. YATES. Mr. Chairman, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN], a distinguished member of our committee.

Mr. AUCOIN. Mr. Chairman, I urge the Members to defeat the Crane amendment.

I am strongly opposed to this amendment. It kills the National Endowment for the Arts. If anyone really pays attention to what is happening in America in terms of access to the arts, not in the elite centers of New York City, or Chicago, or Los Angeles, but in small towns, throughout Oregon and throughout each of our States, they will find that it is because of the leveraging that a grant from the NEA has done that makes that possible.

I am really amazed at the argument that the private sector can do this. We have gone through hearings, hour after hour after hour of hearings, which I doubt that the gentleman from Chicago who offers this amendment has done, and we have found from corporate gift managers, testimony that they make additional contributions when they see the NEA moving in and giving encouragement by their own grants. The corporate community will tell Members that this is a way to leverage private sector funds. It should not be in lieu of public sector funds.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I would just like to point out that I think that the argument made by the gentleman from Illinois is important. That is, that the bulk of funding for the arts in this country comes from the private sector.

We have had many witnesses that have come before our committee that say, "Why do we not do like England or Germany or France, and have 100-percent Government support for the arts?" They point out to Members that we spend vastly less per capita than those countries. I have responded that if we take into account the tax credits that people receive for making private donations, if we take into account the effort at the State and local communities, we do spend as much, if not more, per capita.

However, the important thing is that we have approached it by saying the Federal Government's contribution should be very modest, that the vast majority of support should come from the private sector. The point that was made by the gentleman from Illinois, and I think it is good, and I agree with him also, that there is historically some maldistribution, and in last year's authorizing bill, the gentleman from Montana [Mr. WILLIAMS] and the gentleman from Missouri [Mr. COLEMAN] tried to redress that problem by giving larger amounts to the States, and in turn, getting responsibility back into the local communities.

There are more than artists that are funded. There are ensembles that go to schools, that work with schoolchildren. That has happened in the 16th District.

A lot of very worthwhile projects are stimulated by small amounts of Federal money. This results in a large amount of local support, not only money but voluntarism. Most of the communities in America have large organizations of volunteers that support the symphonies, the ballets, and many other activities that add to the quality of life in the United States. Much of it is triggered by the NEA's modest funding.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I just want to compliment the gentleman for his statement. I think we ought to remember the history here.

The CHAIRMAN. The time of the gentleman is expired.

Mr. YATES. Mr. Chairman, I will be yielding 2 minutes to the gentleman from Missouri [Mr. COLEMAN]; perhaps the gentleman from Missouri [Mr. COLEMAN] will yield 10 seconds to the gentleman from Washington [Mr. DICKS] so he may finish his statement.

Mr. COLEMAN of Missouri. I yield to the gentleman from Washington.

☐ 1520

Mr. DICKS. Mr. Chairman, I just would say that I rise in strong support of the Endowment. The Endowment has triggered vast amounts of private donations to the arts all over this country.

I think the Crane amendment would be a tragic mistake, and I would urge my colleagues to vote against it.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, I rise in opposition to the Crane amendment. We have gone through this before. Last year, when the NEA was under severe attack, there was a similar amendment and the House rejected it out of hand, but I think it is important to look back and see what reforms we did place on this Endowment.

Last fall, Congress approved the Arts, Humanities and Museum Amendments of 1990, which reauthorized the National Endowment for the Arts for 3 years. As ranking Republican on the Subcommittee on Postsecondary Education—the subcommittee with authorizing jurisdiction over this agency—I was deeply involved in the development and passage of this legislation.

Our aim in enacting this legislation was to bring greater accountability to the way that the Endowment functions, to broaden the availability of the arts in all parts of the country, and to ensure that the Endowment would be fully accountable to the American taxpayer.

The 3-year reauthorization was adopted in the House on a vote of 349-76. The bill included several significant changes to the Endowment's authorizing statute. Principal among them are provisions which:

Modify the Endowment's grantmaking procedures;

Increase the amount of Endowment funds that are allocated directly to State arts agencies and create a new program for States to assist arts organizations in rural, inner-city, and other communities that are underserved artistically; and

Earmark 50 percent of appropriated funds in excess of $175 million to the Endowment's arts education activities.

I am most satisfied by the progress that the NEA and its Chairman, John Frohnmayer, have made in implementing this new legislation. In the last 9 months, the Endowment has taken seriously the Congress' mandate that its grantmaking process be reformed. This is evidenced by the Endowment's implementation of:

New conflict of interest standards;

Limits on the number of times any one person can serve on an NEA panel;

Naming a lay person to every NEA panel; and

Greater diversity on grant advisory panels. This has been accomplished through: First, balanced geographic representation from each geographic region of the country.

Second, increased ethnic and minority representation. As of May 1, 1991, NEA reported that for fiscal year 1991 it projected that total minority representation on its advisory panels would be over 33 percent.

Third, inclusion of diverse points of view. The NEA appears to be casting a broad net to allow for greater diversity in points of view on its advisory panels. I, along with all other Members of Congress, received a letter from the NEA in January of this year soliciting names of potential panelists. The Endowment also published a similar solicitation in the Federal Register in March.

It should be noted that in 1990, 780 panelists served on Endowment panels; under the new legislation, approximately 1,200 panelists will serve in fiscal year 1991, an increase of 54 percent. In fiscal year 1990, there were 116 panel meetings; 143 such meetings are projected for 1991. I believe that the use of more panelists and panel meetings will have the effect of enhancing and broadening the work of the Endowment, including:

Standard procedures for all panel reviews;

Increased use of site visits to review the work of applicant organizations;

Requiring all applicants to submit detailed project descriptions;

Use of interim reports for all seasonal support grants; and

Withholding one-third of the grant award until the submission and approval of the interim report.

H.R. 2686 recognizes the burden of these increased administrative requirements by appropriating a modest increase over the fiscal year 1991 level for NEA's administrative budget.

Consistent with the legislation, the Endowment has acted quickly to place a greater emphasis on their arts education programming. H.R. 2686 supports the objective by increasing the amount of money spent on arts education by appropriating $7.6 million for this program, a $1.6 million increase for the Endowment's Arts in Education Program in fiscal year 1992.

Also, as mandated by the legislation, the Endowment developed a new State Arts Agency Program, Grants to Underserved Areas, to provide support to rural, inner-city, and other underserved areas to enable greater access to the arts. I am pleased that H.R. 2686 makes over $6.2 million available for this important program in fiscal year 1992.

I congratulate my colleagues, Chairman YATES and the ranking member, the gentleman from Ohio [Mr. REGULA], for the fine work they have done on this bill.

Mr. YATES. Mr. Chairman, I yield 30 seconds to the gentleman from Montana [Mr. WILLIAMS].

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this issue was considered last year and the House turned it down then by a vote of 361 against and only 64 in favor. I urge my colleagues to do so again, remembering that the National Endowment for the Arts has contributed greatly to the creative genius of Americans. Let us continue that contribution.

Mr. YATES. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I thank the gentleman for his excellent statement.

Mr. Chairman, this is the annual attempt by Members who do not agree with the purposes of the NEA to kill the NEA. Last year it was the gentleman from California [Mr. ROHRABACHER]. This year it is the gentleman from Illinois [Mr. CRANE].

Last year the House overwhelmingly rejected the effort of the gentleman from California [Mr. ROHRABACHER] and I trust that the House this year will overwhelmingly reject the effort by the gentleman from Illinois [Mr. CRANE].

Mr. Chairman, I yield back the balance of my time.

Mrs. LLOYD. Mr. Chairman, I rise in opposition to the Crane amendment to strike the bill's appropriations for the National Endowment for the Arts [NEA].

During the 101st Congress protracted discussion occurred over the reauthorization of funding for the NEA because of objections which were raised over certain projects partially funded by the NEA. I shared the concerns expressed by many of my constituents who did not want tax dollars used for offensive projects and I voted for language to make the NEA more representative and accountable to the taxpayer for their grant selections.

During the course of this debate I supported language to prohibit the NEA from funding child pornography, obscenity or material which is prohibited from being broadcast under the FCC definition of indecency. I also voted for language which makes it clear that the NEA may not fund obscene art, specifying that obscenity is without artistic merit and is not protected speech. This language recognizes the concerns of many Americans who do not want their tax dollars used for offensive projects.

Because the NEA also funds projects which greatly enhance the cultural activities of our Nation, I feel it is important to bring some of the projects funded by the NEA in my area to the attention of my colleagues. For example, to support writers' fees to bring eight writers to Chattanooga, the NEA awarded the University of Tennessee-Chattanooga a literature grant of $4,000. In collaboration with three local writers groups—the artists and writers guild—and two local high schools—Notre Dame and Hixson High School, the University will send writers to read and lecture to a variety of audiences in the community. Over 500 people are expected to attend each part of the series.

A list of some of the worthy projects follows:

Without doubt, our Nation would be poorer without the vast array of music, dance, theater, visual and media arts, literature, design, folk art, museum activities, research studies, and classes that have been nurtured by the NEA. Funding for the NEA will allow organizations like the Chattanooga Symphony, the Chattanooga Ballet and the Hunter Museum of Art to continue their work. I urge my colleagues to oppose the Crane amendment.

ALLIED ARTS OF GREATER CHATTANOOGA; ARTS BUILD COMMUNITIES GRANTEES, FISCAL YEAR 1990–91

Organization	Project	Number served
Arts & Education Council	Conference on Southern literature.	1,500
Do	Tivoli Theatre for Young Audiences.	12,000
Association for Visual Artists	Artists in residency	12,000
Ballet Tennessee	Summer workshop	200
Bessie Smith Hall	Citywide Gospel music workshop.	500
Do	Blues artistry series	10,000
Chattanooga Downtown Alliance.	Art Stravaganza	10,000
Chattanooga Public Schools	Artists residency	1,800
Chattanooga Symphony & Science.	Enhancing artistic vision	1,500
Chattanooga Symphony & Opera Assoc.	Operas tell stories	6,640
Do	Youth Orchestra	7,000
East Tennessee Foundation	Wolftrap project	1,994
Fellowship of Southern Writers.	Fellowship of Southern writers.	1,500
Girls Club of Chattanooga	Improvisational music	1,000
Hamilton County Nursing Home.	Life enrichment thru the arts	800
Houston Museum of Decorative Arts.	Web of Life	3,500
Hunter Museum of Art	Educational video	60,000
Jewish Community Center	Chatt-Israel cultural connection.	750
Little Theatre	Guest artist program	24,500
Miller Plaza	Cajun series	7,500
PACE, Inc	Peforming arts festival	4,000
Senior Neighbors of Chattanooga.	Ripe & Ready Players	4,000
Do	Visual arts access	700
Shaking Ray Levi Society	Emerging artists series	1,475
University of Tennessee at Chattanooga.	Cadek Conservatory fall celebration.	250
UTC	Dorothy Patten fine arts series.	5,000
UTC	Meacham writers' workshop	800
UTC	Theatre in the schools	1,800
Association Visual Artists	Artists in residence	12,000
Ballet Tennessee	N.Y. ballet stars dance with Ballet TN.	6,200
Bessie Smith Hall	Traditional blues mamas	3,500
Chattanooga African-American Museum.	The Africian-American image in America.	2,500
Do	New world Africans	3,000
Chattanooga Ballet	Children's Co. repertary support.	1,240
Chattanooga Girls Choir	Cantilena Singers	2,000
Chattanooga Symphony & Opera Assoc.	Mozart celebration concert	1,200
Do	Family concert	1,700
Choral Arts Society	Pops concert	300
Dance-Theatre Workshop	Performing arts seminar	3,000
Friends of the Festival	Expansion of entertainment for Bessie Smith Strut.	60,000
Hamilton County Parks & Recreation D.	Riverpark Memorial Day weekend concert.	25,000
Hunter Museum of Art	Civil War exhibit	800
The Little Theatre of Chattanooga.	Summer drama day camp	1,200
Mary Walker Historical & Educational Foundation.	Dr. Martin Luther King and the Southern Christian Leadership Conference.	15,000
Miller Plaza	New projects	10,000
Shaking Ray Levi	Womens works in modern dance.	225
SE Center Education In Arts	Forum for improving arts education for students with disabilities.	3,385
Senior Neighbors of Chattanooga.	Ripe & Ready Players	3,000
WSMC–FM 905	Chattanooga Symphony broadcasts.	15,000
WTCI–TV 45	Chattanooga and its music	600,000
Total number served		952,969

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 66, noes 361, not voting 5, as follows:

[Roll No. 192]

AYES—66

Archer
Armey
Baker
Barton
Bennett
Bilirakis
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Condit
Cox (CA)
Crane
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Fields
Gekas
Gingrich
Hall (TX)
Hancock
Hansen
Hayes (LA)
Hefley
Herger
Holloway
Hunter
Hutto
Hyde
Inhofe
James
Johnson (TX)
Kyl
Laughlin
Lightfoot
Livingston
Luken
Marlenee
McCandless
McEwen
Miller (OH)
Moorhead
Nichols
Packard
Parker
Petri
Quillen
Rohrabacher
Roth
Sarpalius
Sensenbrenner
Shuster
Slaughter (VA)
Smith (TX)
Solomon
Stearns
Stenholm
Stump
Tanner
Taylor (MS)
Vucanovich
Walker

NOES—361

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Camp
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Gray
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hastert
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Ireland
Jacobs
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martin
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Oxley
Pallone
Panetta
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)

Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Levine (CA)
Matsui
Orton
Owens (UT)
Rhodes

□ 1546

Messrs. ALEXANDER, DAVIS, CUNNINGHAM, and YOUNG of Alaska changed their vote from "aye" to "no."

Mr. HANSEN and Mr. HALL of Texas changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: Page 90, strike lines 7 through 13.

Mr. GLICKMAN. Mr. Chairman, I raised this issue about 10 years ago in an amendment on the floor, and I lost, and at that time I was told that the Franklin D. Roosevelt Memorial would be built soon and there would be no reason for this Commission to keep in existence for a long period of time.

Mr. Chairman, the purpose of the amendment is to strike $33,000 in the bill for the Franklin D. Roosevelt Memorial Commission.

Now my colleagues might ask why I would take out this time to strike a, quote, mere $33,000. I raised this issue about 10 years ago on an amendment on the House floor. I recall it to this day because I lost on a voice vote, and, when it came to a rollcall vote, I think the gentleman from California [Mr. DANNEMEYER] called for it, and the machines broke down, and we took an hour to vote on this thing, and somebody said, "The ghost of FDR was on your back, Mr. GLICKMAN."

However, Mr. Speaker, I want to raise this again because in my judgment this is an example of what happens when we appoint these commissions and they last forever and ever.

□ 1550

In the late 1950's Congress created a Franklin D. Roosevelt Commission to study and implement the creation of a memorial to this great man, a great leader, one of the greatest Presidents in history. That Commission has been in existence for nearly 37 years. We have spent nearly three-quarters of a million dollars on it. The fact is that the Commission was authorized in 1955 to formulate a plan for the site and for construction of the FDR memorial. Here we are in 1991, 36 years later, approximately $800,000 later, for a commission, and finally a memorial is being built. But for the past 36 years Congress has funded this Commission.

Now, do we need a memorial to FDR? There is a memorial in this bill. There is $6 million authorized and appropriated for FDR, so I am not talking about that particular issue. The question is that this advisory Commission pays a part-time employee who was appointed by the chairmen, two of our colleagues from the other body, Senators INOUYE and HATFIELD, whose job it is to keep the correspondence going between the chairmen and the designers of the memorial. The National Park Service and the staff of the chairmen's office, the two Senators I mentioned, could easily provide the administrative support for the logistics of this memorial.

For the past 36 years Congress has funded close to $1 million for this advisory Commission. Again I say to my colleagues, that is an example of how these things run awry. It starts out very small. For the past 36 years the Congress has funded close to $1 million for an advisory Commission. This Commission has an office in House Annex No. 2, which is almost always locked. I have checked it myself. The door is rarely open. It basically serves as a storage place for the records of the memorial. That is quite a lot of money for rental space. It may not sound like a great deal of money here in Washington, but back in Kansas that $33,000 in this appropriation, plus the hundreds of thousands we have appropriated before, strikes me as an awful lot of money.

My point is that here is an example for a little bit of money that gets into an appropriation bill that just keeps on going forever and ever and ever, and nobody ever stops it. Again, this is not to cut the funds for the memorial. It is going to be built. My point is that the Park Service can do it. We do not need an advisory commission to do it any longer.

Mr. Chairman, that is the reason for my offering the amendment to strike the $33,000.

Mr. GREEN of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise as one of the House members of the Franklin Roosevelt Memorial Commission, and first I should like to correct the gentleman from Kansas. This is not an advisory commission. It is a commission which has the responsibility for seeing that the memorial is built and completed. It is only because of the work of the Commission that that memorial is now about to go into construction.

I went with the late distinguished chairman of the Commission, Claude Pepper, to OMB in late 1988, and it was only because of our pleas that President Reagan included the first construction money for the monument in the budget request that he sent to Congress in January 1989 for fiscal year 1990. The Subcommittee on the Interior of the Appropriations Committee approved the funding and continues to approve the funding for the memorial, and that is occurring under the supervision of this Commission.

In addition, because there was a recent action on the part of the National Arts Commission which in essence required some scaling back of the design for the Commission quite recently, the Commission has to approve new working drawings. In addition to that, there is the question of final approval of the statuary which will go in the memorial, and, in addition to that, the Commission still has to select the quotations which will go on the wall of the memorial. In addition to that, the Commission is seeking nongovernment funds for the groundbreaking ceremony, which will take place on September 16.

Those of us who are on the Commission, as the gentleman has pointed out, do have a part-time employee helping us with this. We procure stationery so we can send communications. Sometimes we convene meetings, and we pay those members of the Commission who are not in Washington travel expenses to attend Commission meetings. In short, for a very small amount of money, a total of $33,000, the Commission is performing its duty to see through the final details of the design of the memorial and to supervise its construction.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I heard the same story 10 years ago, and I guess my point is that it has been 36 years times the amount paid out every year. Is my colleague telling me that this Commission will end this year?

Mr. GREEN of New York. I will not tell the gentleman that it will end this year, but my hope is that the memorial will be completed in a few years and the Commission can then go out of business.

At the time the gentleman first initiated his effort to disband the Commission, there was in fact a project that was dead in the water and the gentleman at that time was certainly within his rights to suggest that perhaps we ought to give up on having a Franklin Roosevelt Memorial and to have disbanded the Commission. But since then we have moved through the authorization of the appropriation of funding for the construction, we have moved through the Presidential request for funding for construction at the urging of the Commission, and we are now about to start construction and putting the final details on the plans. So, since the gentleman initially questioned the Commission's funding, it seems to me the Commission has sprung to life. Whether it is because of his prodding or otherwise, I do not know.

Mr. GLICKMAN. I appreciate the honor.

Mr. GREEN of New York. But we are now in a very active phase of our life.

Mr. GLICKMAN. Mr. Chairman, will my colleague yield further?

Mr. GREEN of New York. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, does my colleague believe that without the Commission this memorial can still be built, that the Park Service can continue to supervise and build this memorial?

Mr. GREEN of New York. Mr. Chairman, at present this Commission is charged with completing the final details of the statues, the plans, and the quotations that are to come within the memorial. If the gentleman wants to offer new authorizing legislation to give that responsibility to the National Park Service, I suppose that would be another way to proceed. But that is not the legislation that authorizes the appropriation for the construction at the present time, and the Commission is simply proceeding on a very modest scale, $33,000 per year, to do what it is charged with doing under the authorizing legislation. I hope, after all this time, now that the memorial is about to go into construction and the funds are there, thanks to the leadership of the gentleman from Illinois [Mr. YATES], the chairman of the Subcommittee on the Interior of the Appropriations Committee, that the gentleman from Kansas would not insist on throwing a monkey wrench into the works and grinding this whole effort to a halt by abolishing this Commission.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. GREEN of New York. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I would like to add my support to everything that the gentleman from New York [Mr. GREEN] has said.

The CHAIRMAN. The time of the gentleman from New York [Mr. GREEN] has expired.

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from New York [Mr. FISH].

Mr. FISH. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would simply like to say that I wish to add my support to everything that my colleague, the gentleman from New York [Mr. GREEN] has said. To the gentleman from Kansas I would say that I think I have done my penance in serving for two-thirds of the number of years the Commission has been in existence. I would also say that perhaps his criticism may have been very valid 10 years ago, or maybe even more recently than that.

□ 1600

But we now have a groundbreaking scheduled. We have gone well into completing our role in this capacity.

One of the things we have yet to approve are the actual quotations from President Roosevelt that appear as part of the memorial. We look forward to this movement in September. I cannot tell you whether we will be out of business in a year or two, but we do want to see this matter completed. But we are well along, and I think it would be the worst of all choices, to stop now.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I am not going to call for a rollcall vote on this, because the vote will probably cost more than the amount I am trying to cut out. But I would say this: This is another example of how things get into the law and just stay forever, and, if nothing else, that what I have tried to show, and I know a lot of Members on both sides of the aisle have tried to show, is that some things are useful, and some things are not. But this was a kind of thing that just perpetuated itself, took on a life of its own, and I just hope we can avoid these kinds of examples in the future.

Mr. Chairman, I will not ask for a rollcall vote.

Mr. YATES. Mr. Chairman, reclaiming my time, I would hope the gentleman from Kansas [Mr. GLICKMAN] would withdraw his amendment. I can agree with the gentleman, that for many years the Commission was in existence and nothing was done. Now something is actually being done. There is work, not only for the Park Service, but there is work for the Commission as well. The Commission has the task of supervising the selection of the sculptors, for example, and the sculptures that are a part of the memorial. It has the task of doing a number of things as construction proceeds.

Mr. Chairman, I agree with the gentleman from Georgia [Mr. RAY], who is a member of the Commission, and the gentleman from New York [Mr. FISH], who is also a member of the Commission, and the gentleman from New York [Mr. GREEN], who is the secretary of the Commission. This is really a memorial not only to FDR, but to Claude Pepper as well, because it was his initiative and his aggressiveness that finally began to take hold and made this memorial possible.

Mr. RAY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Georgia.

Mr. RAY. Mr. Chairman, I rise in opposition to the amendment by the gentleman from Kansas. After 50 years of stalemate, the FDR Memorial is beginning to move. Now is not the time to eliminate funding for the Franklin Delano Roosevelt Memorial Commission.

The Commission has a great deal of important work to do over the next year. The distinguished chairman of the subcommittee, Mr. YATES, has been a careful steward of the taxpayer's money with regard to the Memorial Commission. The Commission has not received an increase in several years. The modest increase of $5,000 brings total spending for the Commission to $33,000. In my opinion, the Commission is a bargain at that price.

FDR died on April 12, 1945, at the Little White House in Warm Springs, GA. Since that time, Congress has agonized and delayed over the type of memorial that would pay proper tribute to this outstanding American. In this regard the Commission has done considerable work over the years. The Commission has organized the groundbreaking ceremony for the memorial, architectural plans appear to be completed, and construction work will soon begin.

The Commission has served to bring the skills and creative efforts of various individuals together to construct a monument which will be a fitting tribute to this great American. I will remind my colleagues that in all of Washington, DC, there is only one, small 4 foot by 8 foot marble marker on Pennsylvania Avenue which commemorates or gives any indication that this great American, with the stature of men such as Washington, Jefferson, or Lincoln, even existed.

Mr. Chairman, for almost 50 years Claude Pepper sat on this Commission and was its chairman until his death on May 30, 1989. As you may recall, Claude Pepper was the driving force behind the Commission. In continuation of his work, the Commission has plans to solicit private contributions to offset the cost once construction begins. However, operating money is necessary for fundraising to continue. Congressman GLICKMAN's amendment would prevent the important work of the Commission from proceeding, and further delay the project.

Despite my high regard for my good friend from Kansas, I must recommend that my colleagues vote down this amendment.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. YATES] has expired.

(By unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, I thank the gentleman from Illinois for yielding.

Mr. Chairman, let me just point out that I want to express appreciation for the amendment at least having been introduced, for helping us understand that sometimes in the Government the right hand does not know what the left hand is doing.

I have no objection to this monument. Obviously the late President was one of the formative Chief Executives in the history of this Nation and ought to be recognized appropriately.

Mr. Chairman, 2 years ago I had the opportunity for the first time to visit the Hyde Park National Area, which is administered by the National Park Service. I have to point out to the chairman and the ranking member that it was in terrible disarray.

As I met with the national park officials, they had gone on as to how for several years the requested allotment through the Park Service had been cut back, and the serious problems that they were facing.

Mr. Chairman, I just throw this out in a constructive effort to say as we go forward for a national memorial of national significance, we ought not at the same time inadvertently overlook an existing asset of our National Park Service System.

Mr. YATES. Mr. Chairman, reclaiming my time, the gentleman from Michigan [Mr. HENRY] is correct. We will attempt to take care of that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. GLICKMAN].

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 10, noes 27.

So the amendment was rejected.

Mr. SHARP. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, this committee, under the leadership of the gentleman from Illinois [Mr. YATES] and the gentleman from Ohio [Mr. REGULA], deserves a great deal of credit for having over the years guaranteed that our country has stored crude oil in salt domes in Louisiana and Texas called the strategic petroleum reserve.

That policy this past year was put to the test and has proved how extremely important it is to our economy and to our foreign policy.

Last August, when the President of the United States, in conjunction with our European allies, decided to use oil as a weapon against Saddam Hussein, really only had the flexibility to do that because he knew he had a reserve and backup and that we could afford to take the risk of shutting off 4 million barrels of production from the world market.

In January, when the President of the United States decided it was time to march against Saddam Hussein, one of his first acts was to open up the strategic petroleum reserve and sell 13 million barrels of oil. Overnight that brought down a dramatic spike in the price of world oil. It had shot up to $40 a barrel in a matter of a few hours, but when the smoke cleared in the morning, when the news spread that the United States, Germany, and Japan were ready to sell out their reserves, we saw that price come right back down to the level it was before the war began.

Mr. Chairman, this saved our economy and consumers untold millions, if not billions, of dollars.

This year the committee, as so often has been the struggle, is faced with the proposition that no longer are we able to borrow from somewhere or rob Peter to pay Paul. Basically the administration and the committee have had to come to the conclusion that we cannot move aggressively ahead in adding to the strategic petroleum reserve for tough financial reasons. It does not make any sense for us to borrow from our grandchildren to pay for this, and it does not make any sense to take it from other critical priorities.

Mr. Chairman, it also makes no sense for us to stop building the strategic petroleum reserve. There are two things we need to understand very clearly. One is, on a bipartisan basis, the President signed into law last year a commitment we would take this reserve to 1 billion barrels, because we recognize we will need a larger reserve in the future.

That goes to the second reason as to why we did this and why we must continue to fill it, and that is that our imports of foreign oil are going to grow, not diminish.

□ 1610

Much as many Members would wish and many in this House and the President are going to work to try to send the increase in the flow of oil imports into this country, the hard realities are that unless we have a severe recession, we are scheduled to go from 8 million barrels a day imports to 10 or to 12 within the next 15 years. We are on the way up to more dependency. We are going to be in need to respond to other crises, and so we must continue to build the reserve.

We hope to give Members an opportunity to vote on a proposal later in the session on energy legislation in which we will require the oil companies to store a small percentage of their oil in the Government reserve. This is akin to policies adopted in Europe.

My colleagues and I, as consumers, if the prices are passed through in terms of product cost, would come off with no more and probably less than a half a cent per gallon of gasoline or a half a cent on home heating oil. That is more than worth paying. It is lost in the fluctuations of price every day or every week in the normal marketplace. But it can build this reserve.

If we are in error, if this is not a wise course to go, it is no big loss. Indeed, it is the opposite of almost every other Government program we engage in because Mother Nature created the salt domes. Mother Nature created the oil, and it will outlive all of us and our children and our grandchildren. And so when and if the Congress decides it is not smart policy, it can sell that oil and get a good price for it and retrieve money for the Treasury.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Ohio.

Mr. REGULA. What does the gentleman think of the policy of having the producers of the oil put the oil in the storage but retain ownership and, in effect, we lease the access to it?

Mr. SHARP. There are two variations as a part of that. What we plan to do in our legislation is first give the administration the chance to hopefully make work the leasing option that the gentleman is addressing. We hope to have this as a backup option which, if in 2 years we are not able to make leasing work and we will help make it work to the extent the administration can do it, that is a cheaper way to go than the current system, is that we will simply require that they will retain ownership under our proposal. And they will reap the benefit of it if it is ever sold, but we will maintain the control in the U.S. Government.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

(By unanimous consent, Mr. SHARP was allowed to proceed for 1 additional minute.)

Mr. SHARP. It is not a matter of whether it is the marketplace that controls or not in a crisis. It will be a matter of whether Saudi Arabia or a collection of other foreign producing governments controls what happens in that marketplace, and our destiny depends on our Government's ability to have an influence. And this is the main and really the only way to do it.

Mr. REGULA. I think the gentleman can make a great case for an orderly development of the OCS.

Mr. SHARP. There are many options and actions, and we are going to have plenty of opportunity to vote on a lot of them. But the reserve is the one that we ought to all be able to get into the same tent and march forth with.

Mr. TAUZIN. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Louisiana.

Mr. TAUZIN. Just to emphasize the gentleman's point to the House, there were all the economic experts and oil experts who predicted that oil would go to $65 a barrel the moment the war started in the Persian Gulf. The President had the good judgment to announce a million-barrel release per day of the SPR and that not only stopped the price from going to $65 as predicted, but the price of oil actually fell and kept this economy whole. That is how critical the SPR is and how critical the bill we are proposing is going to be.

Mr. SHARP. I thank the gentleman.

AMENDMENT OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STEARNS: On page 87, line 1, strike "$147,700,000" and insert $140,300,000.

Mr. YATES. Mr. Chairman, I ask unanimous consent that all time on this amendment and any amendments thereto close in 20 minutes, 10 minutes to be controlled by the gentleman from Florida [Mr. STEARNS] and 10 minutes by myself.

Mr. STEARNS. Mr. Chairman, that is acceptable.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Florida [Mr. STEARNS] is recognized for 10 minutes.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in our previous vote, the vote of the gentleman from Illinois to do away with the funding for the NEA, there were 66 individuals that voted to do away with the NEA funding. I think a lot of Members felt that was strong. I think a lot of Members wanted to cut back and reduce the funding.

My amendment is basically reducing the funding by 5 percent, a mere 5 percent, turns out to be a little over $7 million.

I think some of the projects and productions in the arts that were funded recently last year has made a lot of Members uneasy, particularly the one that was titled "By Poison." I do not have to go into the details of this particular funding, but I think a lot of Members think that the deficit that continues has to be stopped and a modest reduction in NEA funding is called for.

So I think a lot of Members would like to have the opportunity to vote by electronic means on this to reduce it by 5 percent, and so I have this amendment at the desk and I would ask all my colleagues to consider this modest reduction.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from Illinois.

Mr. CRANE. I thank the gentleman for yielding to me. While I wish the percentage figures he had employed had been in the magnitude of 10, 20, 50, 100, on the other hand I think especially when we are staring at a $350 billion deficit, a record in the history of this country, that this modest attempt at making some economies is totally in order.

I wholeheartedly support the gentleman, and I urge my colleagues to do likewise.

Mr. STEARNS. Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I thank the gentleman from Illinois for yielding time to me since I intend to speak on behalf of the amendment. I had filed an amendment similar to this, but it would have been on the order of 10 percent and would have focused the reductions on those programs where there continue to be grants approved for arts programs which cannot be supported under the standards adopted by this body in last year's reauthorization. I have elected not to offer my amendment in deference to my friend and colleague, the chairman of this subcommittee.

However, I do speak in support of this reduction and will vote for it. As a long time supporter of the arts and a former chairman of the North Carolina Arts Council, I have gone on the line time and time again on behalf of the National Endowment only to have them come back and dash the hopes that I have had that they would become a responsible and sensitive organization that would respond to the political realities of arts funding by taxpayers dollars.

They have continued to disappoint me in that regard and have in fact disappointed many others who voted with those who last year worked on a reauthorization which attempted to place some restrictions on the funding of programs by the National Endowment, which would be in accordance with the wishes of the American people and with responsible Members of this body.

They have continued to disregard those standards which I believe the American people support and which were a part of the reauthorization last year.

I believe that a 5-percent reduction is in fact appropriate to send the message to the National Endowment that it will not be business as usual, that arts funding is not an entitlement, that any artist who applies for a grant is not entitled to it without regard to their previous history and without regard to the manner in which they have used previous grants. I would hope that with a reduction of this type, the National Endowment will reexamine their policies and will become the responsible agency that it should be. Only then will it enjoy the full support of the American people and this body.

I urge my colleagues to support the amendment.

Mr. ATKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. YATES], the distinguished chairman of the subcommittee.

Mr. YATES. Mr. Chairman, I am sorry I find myself on opposite sides of my good friend, the gentleman from North Carolina, MARTIN LANCASTER. I believe NEA is a responsible organization.

I think the gentleman, of all people in the House, knows how responsible NEA is because he was chairman of the State's Art Council before he was elected to this body. But he is overlooking the fact that NEA does not only make grants for visual arts, NEA does not only make grants for exhibitions, and it seems that those are the only two fields of applications that the gentleman is concerned with.

NEA makes grants for music. NEA makes grants for symphonies.

☐ 1620

The NEA makes grants for chamber music. The NEA makes grants for dance. NEA makes grants for operas. NEA makes grants for theater. NEA makes grants for folk music and for the folk arts. No complaints have been filed with respect to any of those fields.

Because of two or three or four exhibitions, and usually cited are the Serrano exhibition and the Mapplethorpe exhibition, there are still complaints even though they were on exhibit 2 years ago. Those are still being used as examples.

NEA is far above that. The authorizing committee established standards last year, standards for judgment, and the NEA is adhering to the standards of the authorizing committee. It is a responsible organization. It deserves our support, and I trust this amendment will be rejected.

Mr. STEARNS. Mr. Chairman, I yield back the balance of my time.

Mr. ATKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment cuts the funding for the National Endowment for the Arts by 4.1 percent.

We have already had one amendment to zero fund the National Endowment for the Arts, and now we have an amendment to nick a teeny piece out of it. I would hope that this amendment is rejected.

This amendment is an attempt somehow, and the previous amendment was to cut the throat of the National Endowment, and this one is to just slap them on the wrist. For what purpose?

We have been through this in a very contentious process, been through reauthorization. We adopted a number of reforms which I think most of us believe in and which passed overwhelmingly in this House, resolved problems that had existed in some of the grants that were made that were not appropriate.

This particular amendment is an amendment that is simply designed in some way to send a message, but the message is an unnecessary message. It was already sent with the authorization process, and it is a message that will not get at anything other than grants to school groups, grants to major cultural institutions. It will wind up hurting the very programs in the NEA that all of us have supported, or the vast majority of us, indicated by the last vote, have supported in the past.

I would urge the rejection of this amendment.

Mrs. BOXER. Mr. Chairman, I rise today in strong support of the Interior appropriations bill, and urge my colleagues to reject any amendments which would reduce or restrict funding for the National Endowment for the Arts.

Future historians will no doubt mark the bitter irony that forces who would undermine freedom of the arts in this country, encourage the Europeans to lift the heavy shackles of government intrusion and censorship.

The best interests of the American public are served by an endowment that is free to select projects strictly on the basis of artistic merit. For 2 years, the endowment and the arts community were buffeted by attacks from all directions. Now, with many States contemplating draconian cuts in arts funding, it is critically important for us to stand up and be counted in support of the NEA. We tore the NEA apart last year; let's allow it to move on this year.

Across the country, State arts programs are sustaining heavy blows. Projected cuts include 98 percent for Michigan, 72 percent for Massachusetts, 63 percent for Virginia, 56 percent for New York, 49 percent for Tennessee, and 16 percent for Louisiana. The fine work that the NEA has done for 25 years in nurturing the small dance companies, the symphony orchestras, the artists spaces, all across America, has been placed in jeopardy. Some of you may have seen the grim article in the New York Times last week entitled, "Brooklyn Institutions Say Cuts Will Kill."

I'd like to cite some concrete examples of the value of the endowment's work. These examples were discussed in the context of an oversight hearing held last week by the Subcommittee on Government Activities and Transportation, of which I am the Chair.

Although the NEA was given a new education mandate as part of last year's reauthorization, the endowment has for years conducted terrific, cost-effective education programs. One example that leaps to mind is San Francisco Symphony's Adventures in Music. This program is offered free to fourth and fifth grade classes in every San Francisco public school. Each class receives specially prepared classroom lessons, three professional in-school multicultural performances, and a trip to a special performance in Symphony Hall.

Another witness who testified before the subcommittee, Henry Taylor, winner of the 1986 Pulitzer Prize for Poetry, delivered moving testimony on the value of the Poetry-in-the-Schools Program. The education programs of the NEA, programs that bring the students to the art and bring the artists into the schools, have had many triumphs over the years.

It is ironic that even as the NEA is being instructed to set aside half of any increase in funding for education, theaters and museums are eliminating education programs in desperate triage efforts. The Brooklyn Museum is one of many institutions that may be forced to scrap an exemplary education program as it struggles to keep its doors open.

Many of you recognize that while the arts endowment's budget is modest—it comprises less than one-tenth of 1 percent of the total Federal budget—the funds that it distributes have a multiplier effect, generating matching support from corporations, institutions, and foundations. This effect is further multiplied as NEA-supported exhibits draw patrons who spend money in local hotels, restaurants, and shops. However, it appears that the constant attacks on the NEA have a reverse multiplier effect—they encourage State and local arts agencies to cut their support.

I think it is fair to say that an amendment to cut funds to artists while we are in a recession will only worsen the economic problems facing our cities and towns. One of the foremost industries in this country is tourism, and one of the foremost lures for tourists is our broad menu of cultural attractions; the NEA provides seed money that is matched over and over by private foundations, State agencies, individual benefactors, corporations, and the general public. Remove the foundation provided by the endowment and the entire structure is at risk.

An amendment to cut funding for NEA fellowship would strike the NEA right at its core. If such an amendment were to succeed, it would mean that the NEA would not be able to provide grants to the next John Irving, the next Isaac Bashevis Singer, or the next Alice Walker, to cite some past recipients. And by the way, John Irving, author of "The World According to Garp", repaid his NEA grant after he made it big.

The NEA must be able to seek out and nurture fine artists. It seems to me that the price we pay to help these artists is infinitesimal compared to the wonderful cultural benefits we have reaped and will reap again.

This amendment represents a reproach to the NEA, which has navigated a political minefield in a good faith effort to implement a complex law imposed only 7 months ago by Congress. Members should keep in mind that a grant application must survive tough competition and searching scrutiny before it is approved. A successful application must be approved by a grant review panel, then by the national council, then by the chairman. The panels must be composed chiefly of persons with expertise in the applicable discipline. Panels are assembled with diversity as the guiding principle, and each panel must now include a layperson. I believe that this system more than adequately addresses the concerns raised by some Members. Mr. Frohnmayer has vetoed some projects that got unanimous support from the peer panels. Surely he is mindful of controversy.

The NEA has probably given the taxpayer more for her dollar than any other Federal agency. I urge my colleagues to support the committee's bill with no changes.

Mr. GOSS. Mr. Chairman, throughout last year's debate on the highly controversial issue of funding for the arts, my commitment to preserving the integrity of Federal support for the arts remained strong. My view has always been that responsible Federal funding decisions regarding the use of taxpayers money has led to many positive arts projects in our communities—and especially in southwest Florida. For that reason, my judgment has been to support the NEA in all its endeavors except those where projects clearly violated community standards of decency.

But I must say that this commitment is being sorely tested. The people of southwest Florida remain troubled about the decisionmaking at the NEA that allows tax dollars to find their way into projects that are clearly offensive and oftentimes just plain outrageous. Although my constituents believe in the arts and generally favor some measure of Federal support, they are adamantly opposed to using our precious Federal resources to promote and encourage activity they consider to be obscene and disgusting. This is not a matter of censorship or freedom of expression—this is a matter of common sense and responsibility for managing public funds in an appropriate manner. It is my sincere hope that the leadership at the NEA will take the necessary steps to restore their credibility with the public—and to restore the integrity of an agency that has long had the support of the American people. Otherwise, they will lose everyone's support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. STEARNS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. STEARNS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 228, not voting 8, as follows:

[Roll No. 193]

AYES—196

Allard
Andrews (TX)
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bennett
Bentley
Bevill
Bilirakis
Bliley
Boehner
Brewster
Browder
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Carper
Chapman
Clement
Coble
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cramer
Crane
Dannemeyer
Davis
de la Garza
DeLay
Dickinson
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Edwards (TX)
Emerson
English
Erdreich
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gingrich
Goodling
Gordon
Goss
Gradison
Guarini
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Holloway
Hopkins
Horn
Hubbard
Huckaby
Hughes
Hunter
Hutto

Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (TX)
Kasich
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Laughlin
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Luken
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Montgomery
Moorhead
Myers
Natcher
Neal (NC)
Nichols
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Petri
Pickett
Porter
Poshard
Pursell
Quillen
Riggs
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Santorum
Sarpalius
Saxton
Schaefer
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skelton
Slaughter (VA)
Smith (NJ)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Sundquist
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Upton
Valentine
Volkmer
Vucanovich
Walker
Weber
Weldon
Wilson
Wolf
Wylie
Young (AK)
Young (FL)
Zimmer

NOES—228

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Beilenson
Bereuter
Berman
Bilbray
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Broomfield
Brown
Bruce
Bryant
Bustamante
Cardin
Carr
Chandler
Clay
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cox (IL)
Coyne
Cunningham
Darden
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Engel
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Grandy
Green
Gunderson
Hall (OH)
Hatcher
Hayes (IL)
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lowery (CA)
Lowey (NY)
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Nagle
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Owens (NY)
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Price
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (OR)
Solarz
Staggers
Stark
Stokes
Studds
Swett
Synar
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Walsh
Washington
Waters
Waxman
Weiss
Wheat
Whitten
Williams
Wise
Wolpe
Wyden
Yates
Yatron
Zeliff

NOT VOTING—8

Bateman
Gray
Levine (CA)
Owens (UT)
Rhodes
Savage
Swift
Vander Jagt

☐ 1643

Mr. ZELIFF changed his vote from "aye" to "no."

Messrs. ERDREICH, ROWLAND, HEFNER, and NATCHER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title II?

If not, the Clerk will read.

The Clerk read as follows:

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided*, That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 307. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 308. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 309. Notwithstanding any other provision of law, in fiscal year 1992 and thereafter, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 310. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 311. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves will be done only to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

SEC. 312. Such sums as may be necessary for fiscal year 1992 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 313. Notwithstanding any other provision of law and Executive Order 12548 of February 14, 1986, the Secretaries of Agriculture and the Interior shall establish annual fees for domestic livestock grazing on the public rangelands formerly subject to the Public Rangelands Improvement Act of 1978 (Public Law 95-514) for the grazing season which commences on March 1, 1992, at a level equal to $2.62 per animal unit month.

SEC. 314. None of the funds made available by this or any other Act with respect to any fiscal year may be used by the Department of the Interior or the Forest Service, Department of Agriculture to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oilspill.

SEC. 315. None of the funds provided in this Act may be expended by the Forest Service or the Bureau of Land Management to increase fees charged for communication site use of lands administered by the Forest Service or Bureau of Land Management by more than 22 per centum per user in fiscal year 1992 over the levels in effect on January 1, 1989.

SEC. 316. None of the funds appropriated by this Act may be used to ensure that hardwood saw timber harvested from Federal lands east of the 100th meridian is marked in such a manner as to make it readily identifiable at all times before its manufacture.

SEC. 317. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale made of unprocessed timber from Federal lands which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided*, That the Secretaries of the Interior and Agriculture shall follow only the statutory provisions on substitution as directed by Public Law 101-382 when addressing substitution on lands under their jurisdiction west of the 100th meridian in the contiguous United States: *Provided further*, That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 318. Notwithstanding any other provision of law, payments to States pursuant to 16 U.S.C. 500 for national forests affected by decisions relating to the Northern Spotted Owl from fiscal year 1992 receipts shall not be less than 90 per centum of the average annual payments to States, based on receipts collected on those national forests during the five-year baseline period of fiscal years 1986 through 1990: *Provided*, That in no event shall these payments exceed the total amount of receipts collected from the affected national forests during fiscal year 1992.

SEC. 319. Notwithstanding any other provision of law, the payment to be made by the United States Government pursuant to the provision of subsection (a) of title II of the Act of August 28, 1937 (50 Stat. 876), to the Oregon and California land-grant counties in the State of Oregon from fiscal year 1992 receipts derived from the Oregon and California grant lands shall not be less than 90 per centum of the average annual payment made to those counties of their share of the Oregon and California land-grant receipts collected during the five-year baseline period of fiscal years 1986 through 1990: *Provided*, That in no event shall these payments exceed the total amount of receipts collected from the Oregon and California grant lands during fiscal year 1992.

Mr. YATES (during the reading). Mr. Chairman, I ask unanimous consent that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any points of order against title III?

POINTS OF ORDER

Mr. VOLKMER. Mr. Chairman, I make a point of order against section 317 of the bill, H.R. 2686, on the grounds that section 317 constitutes legislation in an appropriations bill in violation of clause 2 of rule XXI of the Rules of the House.

Mr. Chairman, section 317 would impose additional duties on the Secretaries of Agriculture and the Interior by requiring them to make new determinations not already required by law regarding the disposition of unprocessed timbers sold from Federal lands, and the substitution of timber from private lands which is exported by the purchaser.

The CHAIRMAN. Does the gentleman from Illinois care to be heard on the point of order?

Mr. YATES. I concede the point of order, Mr. Chairman.

The CHAIRMAN (Mr. GORDON). The point of order is conceded and sustained, and the section is stricken.

Are there other points of order?

Mr. SKEEN. Mr. Chairman, I raise a point of order against section 313 on page 94.

I cite clause 2 of rule XXI, prohibiting legislating on an appropriations bill as justification for my point of order, and I ask that this section be stricken from the bill.

The CHAIRMAN. Does the gentleman from Illinois desire to be heard on the point of order?

Mr. YATES. I concede the point of order, Mr. Chairman.

The CHAIRMAN (Mr. GORDON). The point of order is conceded and sustained, and the section is stricken.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: On page , after line , insert the following:

SEC. . None of the funds appropriated or made available in this Act shall be used to purchase or acquire items from a foreign country if the Secretary of Interior, after consultation with the United States Trade Representative, determines that a foreign country which is party to a reciprocal trade agreement has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement: *Provided*, That a reciprocal trade agreement is any agreement between the United States and a foreign country pursuant to which the Secretary of Interior has prospectively waived title III of the Act of March 3, 1933 (43 Stat. 1520; 41 U.S.C. 10a–10c) as amended by the Buy American Act of 1988 (Public Law 100–418; 102 Stat. 1545) : *Provided further*, That the Secretary of the Interior responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committee on Appropriation of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Interior requirements on a timely basis of the cost of compliance would be unreasonable compared to the costs of purchase from a foreign manufacturer.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objections to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is language that has been agreed to by the minority and the chairman.

Mr. Chairman, I yield to the ranking member, the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, I have no problem with this amendment. I think it is important that wherever possible in the expenditure of public funds that we buy America.

I tried to get this amendment made in order at the Rules Committee and it was rejected, but I think it addresses a serious problem. I have always been upset with the fact that we spend a lot of money in the trust territories on contracts. Many times these contracts are let to firms other than American firms. It would seem to me that if it is American taxpayer dollars, it ought to be spent with American firms on American products.

Mr. TRAFICANT. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MORAN

Mr. MORAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MORAN: Page 93, line 19, insert before the period the following: "or on the Mason Neck Wildlife Refuge".

POINT OF ORDER

Mr. SCHULZE. Mr. Chairman, I make a point of order that the Moran amendment is not germane under clause 7 of rule XVI. Clause 7 of rule XVI states:

> No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

Clearly, the Moran amendment is on a subject different from that under consideration under section 310 of the bill, and therefore should be ruled as nongermane.

Mr. Chairman, I insist on my point of order.

□ 1650

The CHAIRMAN. Does the gentleman from Virginia [Mr. MORAN] desire to be heard on the point of order?

Mr. MORAN. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized.

Mr. MORAN. Mr. Chairman, this is a perfecting amendment to section 310 that would preclude open deer hunting on the Loxahatchee National Wildlife Refuge. My amendment would extend that to the Mason Neck Wildlife Refuge in the same manner and for the same reasons.

Mason Neck Wildlife Refuge is in a very densely populated area where open deer hunting is inappropriate. The solution is the same as is applied to the Loxahatchee National Wildlife Refuge, which is to have professional marksmen cull the deer herd in a way that is safe and does not present an immediate threat to the 600 families who live on the border of this wildlife refuge, including over 600 children who attend an elementary school on its border.

Mr. SCHULZE. Mr. Chairman, let me just state this is an individual proposition amending an individual proposition, and under that it is not germane.

The CHAIRMAN (Mr. GORDON). The Chair will rule that the test of germaneness is the relationship of the amendment to title III as a whole and not necessarily just to section 310, because the title is open at any point by unanimous consent. The amendment is germane to the title which includes an identical limitation on deer hunting in another area and other miscellaneous provisions relating to funding in the bill. The Chair is required to look beyond the subject matter of section 310. Otherwise the point of order would be correct.

The point of order is overruled.

POINT OF ORDER

Mr. SCHULZE. Mr. Chairman, I have a further point of order.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. SCHULZE] will state his point of order.

Mr. SCHULZE. Mr. Chairman, I make the point of order that it is not germane under rule XXI, clause 2.

The CHAIRMAN. Does the gentleman make a germaneness point or order?

Mr. SCHULZE. No. Mr. Chairman, I make the point of order that it is legislating on an appropriation bill, clause 2, rule XXI.

The CHAIRMAN. Does the gentleman from Virginia desire to be heard?

Mr. MORAN. Mr. Chairman, my response would be that this is a perfecting amendment to preclude open deer hunting on Mason Neck Wildlife Refuge in the same manner and for the same reasons as it is precluded on the Loxahatchee National Wildlife Refuge.

There are two refuges for which open deer hunting is appropriately precluded; Mason Neck is the other one.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. SCHULZE] desire to be heard further?

Mr. SCHULZE. Mr. Chairman, if I may be heard, the Department of the Interior has determined that this is a proper way to limit the numerical growth of deer in this area, that it is safe. They have taken every precaution necessary, and therefore they are not similar.

The CHAIRMAN. Does the gentleman from Indiana desire to be heard?

Mr. BURTON of Indiana. Yes.

Mr. Chairman, I very rarely take issue with my good friend from Pennsylvania, but the gentleman from Virginia stopped me a while ago and went into this in some detail with me. If I might have the attention of my colleague from Pennsylvania, if I might have the gentleman's attention for a moment, I wish he would think about maybe reconsidering his point of order.

As I understand it, children get off of school buses in this area, and there is a great deal of hunting that goes on. And if some precautions are not taken, there might inadvertently be some hunter who fires a gun and kills a child.

Mr. SCHULZE. The Department of the Interior has looked this over extensively, they have their experts who have done this and feel that it is entirely safe and that no children will be threatened or will be in jeopardy. They have total control over this, and I insists on the point of order.

Mr. YATES. Mr. Chairman, may we have a ruling on the point of order?

The CHAIRMAN (Mr. GORDON). The Chair will rule that the amendment is in the form of a limitation on funds in the bill, and must await disposition of the motion to rise and report. Under rule XXI, clause 2, cited by the gentleman from Pennsylvania, the amendment is not in order at this time.

Mr. MORAN. I thank the Chairman.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. SYNAR

Mr. SYNAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYNAR: At the end of the bill add the following new section:

SEC. . GRAZING ON THE PUBLIC RANGELANDS.

(a) FEE STRUCTURE.—(1) Notwithstanding any other provision of law, the Secretary of Agriculture with respect to public domain lands (except for the National Grasslands) administered by the United States Forest Service where domestic livestock grazing is permitted under applicable law, and the Secretary of the Interior with respect to public lands administered by the Bureau of Land Management where domestic livestock grazing is permitted under applicable law, shall establish the following domestic livestock grazing fee structure for such grazing:

(A) For fiscal year 1992, the grazing fee on such lands shall not be less than $4.35 per animal unit month.

(B) For fiscal year 1993, the grazing fee on such lands shall not be less than $5.80 per animal unit month.

(C) For fiscal year 1994, the grazing fee on such lands shall not be less than $7.25 per animal unit month.

(D) For fiscal year 1995, and each fiscal year thereafter, the grazing fee on such lands shall not be less than $8.70 per animal unit month or fair market value, whichever is higher.

(2)(A) For purposes of this subsection, the term "fair market value" is defined as follows:

Fair market value equals the appraised base value times forage value index divided by 100.

(B) For the purposes of subparagraph (A)—

(i) the term "Forage Value Index" means the Forage Value, Index computed annually by the Economic Research Service, United States Department of Argiculture; and

(ii) the term "Appraised Base Value" means the 1983 Appraisal Value conclusions by animal class (expressed in dollars per head or pair month) for the pricing area concerned, as determined in the 1986 report prepared jointly by the Secretary of Agriculture and the Secretary of the Interior entitled "Grazing Fee Review and Evaluation", dated February 1986.

(3) Executive Order No. 12548, dated February 14, 1986, shall not apply to grazing fees established pursuant to this Act.

(b) GRAZING REFORMS.—(1) Section 309(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739(d)) is amended by adding at the end the following new sentence: "The grazing advisory boards established pursuant to Secretarial action, notice of which was published in the Federal Register on May 14, 1986 (51 Fed. Reg. 17874), are hereby abolished, and the advisory functions exercised by such boards shall, after the date of enactment of this sentence, be exercised only by the appropriate councils established under this section.".

(2) Section 5(c) of the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1904(c)) is amended to read as follows:

"(c) Funds appropriated pursuant to this section or any other provision of law related to disposition of the Federal share of receipts from fees for grazing on public lands or National Forest lands in the 16 contiguous western States shall be used for the restoration and enhancement of fish and wildlife habitat, for restoration and improved management of riparian areas, and for implementation and enforcement of applicable land management plans, allotment management plans, and regulations regarding the use of such lands for domestic livestock grazing. Such funds shall be distributed as the Secretary concerned deems advisable after consultation and coordination with the advisory councils established pursuant to section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739) and other interested parties.".

Mr. SYNAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. SYNAR. Mr. Chairman, I ask unanimous consent that 30 minutes of the 1 hour allocated for debate on this amendment be allocated to the gentleman from New Mexico [Mr. SKEEN].

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. The gentleman from Oklahoma [Mr. SYNAR] will be recognized for 30 minutes, and the gentleman from New Mexico [Mr. SKEEN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, first of all let me tell my colleagues that we come today on what has become one of the most contentious issues that this body deals with on a regular basis, and it is my hope as a Member of Congress from the great State of Oklahoma that this is not engraved on my tombstone that this was my only contribution to this institution.

What I would like to do is talk about what this debate in the next hour is not about. This is not a debate about whether or not we are going to have cattle-free grasslands throughout our Federal property. It is not about no moo in 1992, or any other kind of movement throughout this country.

This debate is not about vegetarians, not about animal rights advocates, it is not about eco-terrorists. It is not a debate about Members of Congress authorizing legislation who have no experience in ranching and farming because Mr. DARDEN, Mr. ATKINS, and I are all former 4-H'ers. Mr. DARDEN and I are active ranchers and farmers presently in business. This is not about procedural jockeying or gamesmanship.

This is about giving our colleagues, after so long a time, an opportunity to vote on the merits of whether or not we can continue one of the gross subsidies throughout this Nation's history.

This debate is about recognizing that when Members of Congress, through their committees, recognize and analyze a problem and then provide a solution to that problem, that we as an institution consider solving that problem.

This debate is about leadership; it is about accountability; and most of all it is about fairness.

The facts are irrefutable. Only 2 percent of our Nation's cattle ranchers, 26,000 out of 1.6 million, enjoy a grazing subsidy that no other rancher in this country enjoys. That is a fact.

It is a fact that they are chewing their way through $150 million a year of taxpayers' money. That is a fact.

It is a fact that they have chewed their way through $650 million of subsidies over the last 5 years because of Congress' failure to do something about this subsidy.

And finally, it is an irrefutable fact that 60 to 70 percent of our rangelands in this country are in poor or unsatisfactory condition.

When we debated this topic 1 year ago, there was a debate about whether or not the statistics that I was using, or those who were opponents of this issue, were correct.

Since last year, I asked the General Accounting Office to review all the studies and all the major papers that had literally been written throughout this country for the last 10 years on this subject.

And last week, in June, and also on May 16 when we revealed this GAO report, the GAO came to the same conclusion that we did last year.

I offered that GAO report for two reasons: First of all, in an attempt to show that those of us who believe in this cause were willing to go the extra mile to review the facts that were presented on this floor and by the ranchers throughout the Western United States, to give them the benefit of the doubt in the last year to make their case.

Ladies and gentlemen, they have not made their case; in fact, they have proven our case to be even more potent than ever.

□ 1700

However, Mr. Chairman, what this report also says is that it is long overdue to correct this imbalance, this unfairness, that exists in the United States. As my colleagues know, as we sit here as Members of Congress, and even today as I visited with constituents throughout my own district and throughout this country, I am reminded of how many of them come forward each year and tell me, "Congressman, the one thing I'd like to see about this Government is that it runs itself like a business." Well, my colleagues, in less than 1 hour we are going to have an opportunity to do exactly that, because the Synar-Darden-Atkins amendment will ensure that we will begin to run the grazing program of this country like a business. We are going to give these ranchers, who have literally lived off the receipts of our taxpayers, to the tune of almost a billion dollars, we are going to give them the opportunity to enjoy the free market system which they so vigorously advocate.

I look forward to this debate. Let us keep it on the facts, and I think, if we do, the country will be served.

Mr. Chairman, I reserve the balance of my time.

AMENDMENT OFFERED BY MR. SKEEN TO THE AMENDMENT OFFERED BY MR. SYNAR

Mr. SKEEN. Mr. Chairman, I offer an amendment to the amendment

Mr. SYNAR. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

> Amendment offered by Mr. SKEEN to the amendment offered by Mr. SYNAR: Page 3, after line 21, add the following new paragraph:
>
> (3) The Secretary of the Interior and the Secretary of Agriculture, as appropriate, shall annually pay the holder of a permit or lease for domestic livestock grazing under applicable law for the following costs incurred by the holder in operating under such lease or permit: improvements made to rangelands, losses incurred from vandalism and harassment, fencing, water improvements, damages caused by flood or drought, supplemental feeding, veterinary costs, predator and noxious weed control, and herd care.

The CHAIRMAN. Does the gentleman from Oklahoma [Mr. SYNAR] reserve his point of order?

Mr. SYNAR. I do reserve my point of order, Mr. Chairman. Under the rule an amendment to the amendment is not in order.

The CHAIRMAN. Is the gentleman insisting upon his point of order?

Mr. SYNAR. Mr. Chairman, I will reserve my point of order until the gentleman from New Mexico [Mr. SKEEN] makes a statement.

Mr. SKEEN. Mr. Chairman, I thank the gentleman from Oklahoma [Mr. SYNAR].

Mr. Chairman, the reason I introduced this amendment is to highlight and emphasize the wholehearted distortion that has been laid before us time and time again, that this grazing system constitutes a subsidy. Nothing could be further from the truth because to have one of these permits requires a tremendous investment, a tremendous production, a tremendous dedication in time, management, and skill and so forth, investment of one's own money in this system to be able to cooperate with the Federal Government in managing a huge amount of western lands, and the Government gets its money's worth because it gets day-in, day-out service. It gets management acumen that they do not have in the BLM or any other agency. They get an investment from an individual who takes on as a partner the Federal Government and discharges all of the duties that must be done as an investor and a manager, and then pays the Government for the privilege as well. Now if that is a subsidy, I do not know the definition of subsidy.

However, Mr. Chairman, the reason I ask for this amendment to be offered is to highlight the fact that these are all services that permitees pay for day in, day out, year in and year out. On private grazing leases the lessor pays for all of this. So, if we want this thing to be equitable, let us talk about putting it on the same basis or on a level playing field. It certainly is not, and the GAO report admits this as well.

Mr. Chairman, I have read all three GAO reports, and I say this: It is a wonderful job in statistics, but it does not necessarily bear out the truth of the real operation of this matter.

Mr. Chairman, I will ask unanimous consent that my amendment to the amendment of the gentleman from Oklahoma [Mr. SYNAR] be withdrawn.

Mr. LEWIS of California. Before the gentleman from New Mexico [Mr. SKEEN] does that, Mr. Chairman, will the gentleman yield?

Mr. SKEEN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from New Mexico [Mr. SKEEN] that are long overdue on this floor.

Mr. Chairman, I rise today in opposition to the grazing amendment offered by the gentleman from Oklahoma. While I do not object to a debate on the merits of the current permit system, I am very much opposed to efforts to use the appropriations process to bypass the authorizing committee.

We took that course last October because Mr. SYNAR argued that he could not get a hearing on the merits of his grazing-fee revisions in the Interior Committee. Let us not do this again today because the gentleman has received such a hearing but could not win a vote on such an amendment.

One can debate whether the 31,000 ranchers in 16 Western States pay a reasonable fee for access to public lands. We should not argue about the fact that they are one of the few groups who have long paid what amounts to a user fee for this privilege. Furthermore, grazing fees have not stood still. In the last 4 years, they have increased by 46 percent.

We will hear that the failure to adequately manage grazing has destroyed crucial habitat for endangered species throughout the West. Let us be sure that the ranching community is not held entirely responsible for these declines. In the high desert of southern California, ranchers have maintained water guzzlers which have proved to be critical to the recovery of the bighorn sheep. The ranchers I know personify something which I have long said. Those who live and work in the desert are its best conservationists.

In the Interior Committee process, all affected parties can work together to accomplish a compromise. That is not something which we can do today here on the floor. This amendment violates our process for legislating. I urge my colleagues to see it in that light and oppose it as I do.

Mr. SKEEN. Mr. Chairman, I thank the gentleman from California [Mr. LEWIS] for his support.

Mr. Chairman, I ask unanimous consent to withdraw my amendment to the amendment of the gentleman from Oklahoma [Mr. SYNAR].

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from New Mexico [Mr. SKEEN] to the amendment offered by the gentleman from Oklahoma [Mr. SYNAR] is withdrawn.

The CHAIRMAN. Does the gentleman from Oklahoma [Mr. SYNAR] withdraw his point of order?

Mr. SYNAR. Yes, it is withdrawn, Mr. Chairman.

The CHAIRMAN (Mr. GORDON). The point of order of the gentleman from Oklahoma is withdrawn.

Mr. SYNAR. Mr. Chairman, I yield 5½ minutes to my good friend, the gentleman from Georgia [Mr. DARDEN], a cosponsor of this amendment.

Mr. DARDEN. Mr. Chairman, to my friend from Oklahoma—the American people owe you a great debt of gratitude for your taking the initiative on this critical economic and environmental issue—it takes a lot of courage to fight to end this wasteful subsidy for a few of your fellow westerners, and I am pleased to support you. As the son of a cattleman and dairy farmer, I believe a vast majority of cattlemen will benefit when our amendment becomes law.

Mr. Chairman and colleagues, this is not our first attempt to end the grazing subsidy. I have for the past several years, introduced legislation to increase grazing fees, and as many of you remember, last year, Mr. SYNAR and I were successful in offering a similar amendment to charge fair market value for grazing rights on Federal lands. The House spoke decisively on this issue, and I believe it is time to end this grazing giveaway once and for all. The taxpayers continue to lose as much as $150 million per fiscal year to provide subsidies for only 2 percent of the Nation's cattle ranchers, and the lands used for grazing continue to deteriorate. With many worthy programs, such as national parks, suffering damaging reductions because of our budget crisis, I believe we can no longer afford to forgo these revenues to protect a small group of wealthy ranchers.

I have for some time been concerned about the effect of these incredibly low fees on both our Federal deficit and the Bureau of Land Management's efforts to maintain these public lands. Given the relative increases in fees charged for use of private lands, and the increasing costs of maintaining these lands, I believe we can no longer justify these ridiculously low fees.

A recent GAO report confirms that the current fee structure is technically flawed and produces a fee which neither covers the Government's cost of managing the grazing program nor funds an adequate level of source protection nor follows the rise in forage value paid by ranchers on private lands.

I do not wish to eliminate the grazing program, nor do I wish to place unnecessary burdens on ranchers. As the son of a dairy farmer and cattleman, I am not insensitive to the legitimate needs of farmers and ranchers. However, I believe if ranchers wish to participate in this program, they must also bear the costs of its operation and maintenance. The American people, and their representatives in Congress, are tired of our failure to address this costly inequity.

We have proposed what we believe is a reasonable and responsible solution; the gradual increases called for in our bill are neither drastic nor unwarranted. I urge your support of our effort to return fairness to the cattle industry. The present fee does not even cover the cost of managing the rangelands under Federal control.

The Government charges $1.97 per animal unit month for grazing rights worth at least three times that amount. Even the Bureau of Land Management estimates $8.70 per animal unit month as the value of forage consumed when charging trespassers on public lands. And, State universities in Western States charge far more for similar privileges on their grazing lands.

Unfortunately, a small but vocal minority continues to insist on their right to benefit from artificial controls on grazing fees while the vast majority of hardworking ranchers remain subject to the fluctuations of free market forces. Thus, current Federal grazing fee policy amounts to an arbitrary and unfair subsidy for the few western cattlemen with access to these Federal lands, while others must pay the full market rate.

I first became acquainted with the grazing giveaway when I began serving on the Subcommittee on National Parks and Public Lands. The Grace Commission, a group whose purpose was to identify areas of Government waste, pointed out that the taxpayers are losing millions of dollars each year by subsidizing the activities of a few livestock producers who had virtually free rein to graze on public lands. All Members have received a letter from a group known as Citizens Against Government Waste supporting our amendment. The National Taxpayers Union also favors these provisions.

A vote for our amendment is a vote to protect the environment. A vote for our amendment is a vote for fiscal responsibility. A vote for our amendment is a vote for fairness and free enterprise.

□ 1710

Mr. Chairman, this contrasts with a 17-percent increase in private grazing lease rates over the same period. So we have now a 27-percent differential here, and it is time, Mr. Chairman, to put this on a pay-as-you-go basis.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Georgia [Mr. DARDEN] has expired.

Mr. SYNAR. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, the gentleman from Georgia [Mr. DARDEN] made the statement that it is the same as the States. Do the States require multiple use on their lands?

Mr. DARDEN. Mr. Chairman, if the gentleman will yield, I am not familiar with whether the States require multiple use or not, and I would have to refer to my notes. I am not aware of whether they do or whether they do not.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, I rise in opposition to the amendment offered by my friend, the gentleman from Oklahoma [Mr. SYNAR]. I am from a Western State, a Mountain State, but I represent an urban area, and I would say that I have not one single vote from ranchers or miners coming from a new reapportionment. However, I would note that this is bad legislation.

Mr. Chairman, the subject of grazing fees is an important issue to the State of Nevada. The present grazing fees are based on a complex set of variables. Any significant change to this formula necessitates a studied approach within the authorizing committee. As an amendment to the Interior appropriations bill, this measure disallows significant, rational debate. Sixty minutes on the floor of the House will not provide the adequate debate to allow for an equitable solution to a complex problem.

In the name of fair debate, I advocate a different approach other than the Synar amendment, to the subject of grazing fees. Due to the complexity of this program, I would like to see legislative action affecting grazing fees go through the appropriate, legislative process. Oppose the Synar amendment.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in strong opposition to the Synar amendment.

While reading the GAO report the gentleman from Oklahoma has been touting as gospel, I came across something very, very interesting. I quote, "the soundness of the formula must be viewed in the context of the primary objective to be achieved. The current formula meets [the] objective of promoting the economic stability of western livestock grazing operators. * * *" With this in mind, is the gentleman from Oklahoma seeking to destabilize the western livestock industry?

Further, it is interesting to note Mr. SYNAR's liberal use of the Grace Commission report. Upon a close examination of the Commission's recommendations, one learns that raising grazing fees is the least desired of the two recommendations. The more desirable suggestion is, and I quote, "the task force concluded that transfer of the rangeland to private ownership could save an estimated $93.1 million over three years." That's right, Mr. Chairman, private ownership will save the Government money. So, again I ask, what is the real agenda here, to end ranching on the public lands?

In addition, Mr. Chairman, the claim has been made that the current system benefits only a few wealthy ranchers. That is simply not true. In my State, Nevada, 85 percent of the ranches are family and Indian owned. Raising the grazing fees will do exactly the opposite of what Mr. SYNAR claims is the desired effect. Only the few large ranchers will be able to pay the increase, and the family ranchers will be put off the range and competition will be diminished.

Unfortunately, the Grace Commission Report, the GAO report, and the economics of the proposal will never be fully investigated because the two authorizing committees are being completely sidestepped. It is truly a tragedy that this body is even considering such as debilitating proposal to the western ranching family.

Mr. Chairman, I urge defeat of Mr. SYNAR's antifamily ranch amendment.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado, Mr. BEN NIGHTHORSE CAMPBELL.

Mr. CAMPBELL of Colorado. Mr. Chairman, like my colleagues, the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Georgia [Mr. DARDEN], who are offering this amendment, I believe it is time that Congress addresses this critical issue. Unlike them, however, I believe this issue needs to be addressed through the appropriate process, through the Committee on Interior and Insular Affairs and the Committee on Agriculture. The Synar amendment prevents 25 of our colleagues from having a bill which I introduced heard in the normal committee process.

Beyond the issue of inappropriately distorting the House rules, the Synar amendment is patently unfair to western communities. The present grazing fee formula, established by the Public Rangelands Improvement Act of 1978, was worked out after long years of debate and negotiations involving agriculture, environmental groups, Congress, and the executive branch. It is fair and equitable to all concerned and has worked well for government, agriculture, the environment, and consumers. It is by no means, as some in this body have claimed, a fiscal disaster.

For example, because of recent favorable conditions in the livestock market, fees have increased by 10 percent this year, and that is per animal, per month. And that was supported by the agriculture industries which are willing to pay higher prices when market conditions permit it.

The PRIA formula has allowed the state of the public rangelands to steadily improve. Grazing is an important tool used to maintain and restore both plant and animal communities and allow range grasses to thrive.

I know that my words will not be heard well by many of my colleagues from the big urban areas, but I would like to say very simply that it is an extremely important issue to small rural communities throughout the American West. I want my colleagues to know and I want to make it clear that no money is lost by current public rangelands management practices, contrary to those claims by some who wish to raise the fees. We can certainly in this situation mandate an increase in fees, but we cannot collect them if we drive ranchers out of business. I think that would not be in keeping with what we want to do in this measure.

Mr. Chairman, I urge my colleagues to oppose the Synar amendment.

Mr. SYNAR. Mr. Chairman, I yield 5 minutes to the gentleman from Massachusetts [Mr. ATKINS], one of the cosponsors of the amendment.

Mr. ATKINS. Mr. Chairman, I rise in support of the Synar amendment.

I think we ought to be very clear about what the Synar amendment does and what motivates this amendment. It simply deals with the question that has been raised here: Is the grazing fee structure a subsidy, a public taxpayer subsidy? The answer to that is, very clearly, yes. It is yes, first of all, because the revenues from the grazing fees from the use of this public resource are less, in this year less by $60 million than the simple cost of maintaining the program.

In the Interior appropriations bill for last year, it cost $60 million more just simply to monitor the permittees, to administer it, to do the programs that determine the quality of the grass—no environmental work, but simply the work of putting in wells and putting in fences, and so forth.

So taxpayers are paying $60 million simply to allow people to graze cattle and sheep on public lands.

The second reason it is a subsidy is because this land and the value of being able to graze cattle or sheep on this land has indeed a market price. The market price on average in the country is $9.22 per animal unit month, and we charge in the Federal Government only $1.97 per animal unit month. This amendment simply says we should put all of the 1.6 million people in this country who raise cattle on the same footing and have them compete in the free market system and not subsidize a tiny percentage of those people, 26,000 of those people who are raising cattle, less than 2 percent of the total number, that we should not subsidize them.

The claim has been made that by doing this, by forcing these 25,000 people into the free market system, as all of the 98 percent of the other people who are raising cattle are, somehow this will be terribly unfair to very small individuals and small ranchers. But when we look at the total acreage that is involved in the Bureau of Land Management and in the Forest Service, the total acreage involved in these permittees, we find that 90 percent of that acreage is controlled by wealthy individuals, by hobby farmers, by corporations, by conglomerates and syndicates.

Who are we talking about? We are talking about companies like Union Oil, which controls thousands and thousands of acres. We are talking about Getty Oil and Texaco. Texaco is a corporation with over $8 billion. They control a huge allotment of public lands. We are talking about Zenchiku Company, Ltd. from Montana and Japan, which controls 41,000 acres of United States tax-subsidized Federal rangeland. There are also wealthy individuals and real estate developers, like Mr. Daniel Russell of Santa Barbara, CA, who controls 5 million acres of public rangelands, according to Bureau of Land Management records. That is a land area larger than my State of Massachusetts. It is not some small rancher. This is 10 percent of that acreage, 10 percent of this program that legitimately is involved in small family ranching. So it is 10 percent of the acreage in a program that affects only 2 percent of the people in this country who are raising cattle.

□ 1720

For this privilege, we have lost $650 million over the past 6 years because of this subsidy. This is a subsidy which is unlike every other agricultural subsidy the Federal Government has. Because unlike other subsidies, which are either specifically targeted to small individuals and to family farms, this one goes 90 percent to the wealthiest individuals and corporations.

Mr. Chairman, I would hope that we could pass the Synar amendment and end this abuse of taxpayer money.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS].

Mr. SYNAR. Mr. Chairman, I yield 1 minute to the gentleman from Montana.

The CHAIRMAN. The gentleman from Montana [Mr. WILLIAMS] is recognized for 3 minutes.

Mr. WILLIAMS. Mr. Chairman, I appreciate both gentlemen yielding this time to me.

Mr. Chairman, we can call it "pay as you go," or "administrative efficiencies," or "businesslike government," but I think it is "toll road government," when we begin to say, for the first time in half a century, that this little bit of Federal help that is given to either timber companies in the form of helping to build roads to harvest, or this little bit of help that is given to our cattle people for the purpose of grazing, or all the other bits of help, whether they are to our merchant marine seamen, to our fishermen and hunters, our tobacco people, or to our textile people, all of those have served this country well for more than half a century. They have in large part made the West bloom, kept food prices down, and made America's harvest the envy of the world.

Now, suddenly we are told apparently it did not work, and we have to go back to the old days in America of a toll road mentality, toll road Government, where the user pays. We are no longer going to have a central system that will help to make America flourish in its far corners.

The inconsistency on this issue, however, is really what bothers me. I see many, particularly our friends on this side, who wonder how it is this idea of raising the grazing fees ever came to fruition.

Well, it was in the Grace Commission report, which so many, particularly on this side, supported 10 years ago. The Grace Commission, which was endorsed by former President Reagan, says this:

> Grazing fees should be increased. It appears that this program could, if the right changes are made, be a break-even situation, and, after that point the Government could concentrate its efforts on developing an actual return for this valuable grazing asset. The Government could sell this land to private owners.

Mr. Chairman, there is the dilemma. The chickens have come home to graze. The Grace Commission report is now on the floor of this House as an amendment, and many who thought that the Grace Commission ideas were good, many who liked the toll road mentality brought to us by the Reagan administration, are, thankfully, finally having second thoughts. The problem is some of my friends on this side have now begun mistakenly to embrace it.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in strong opposition to the Synar amendment to the fiscal year 1992 Interior appropriations bill.

Is it any wonder that the public has lost faith in the ability of their elected officials to lead this country? Whether it is pulling us out of an economic slump or establishing a needed program, or setting an example of integrity and ethical behavior, the public no longer believes we can get the job done. Now here we are again considering raising grazing fees 400 percent and showing that the public's mistrust and dismay appear to be well placed.

The issue of grazing fees is complex and warrants full consideration by the House committee with jurisdiction over this subject. Yet, that committee has not passed the amendment before us today. So why is this amendment being considered on an appropriations bill after it failed to pass out of the committee with direct responsibility over this issue? And how can the public trust Congress when it violates its own rules any time it wants.

Worse than the procedural sleight of hand that this amendment represents, the grazing fees amendment would increase fees by a whopping 400 percent. If you listen carefully you can hear the sound of the family ranching businesses in my State and through the West going out of business. You can hear these small family ranchers, most of whom earn $28,000 per year or less for a family of four, boarding up their homes and packing up their belongings. And there will be many people packing. In Arizona alone, the cattle industry accounts for almost 5,000 jobs. You can also hear the sound of deflating local and State economies. In Arizona, the cattle industry accounts for $44 million of personal income, 23 percent of the State's entire agricultural output, $500 million in cattle production revenue, and provides over $300 million annually to the State's economy.

Then there is the impact on the Federal Treasury. In fact, according to the BLM estimates, if public lands grazing ended tomorrow, the range program budget could increase as much as 50 percent. And finally, even the environment stands to lose if this amendment passes. Controlled grazing promotes plant diversity, aerates soil, diminishes fire risk, improves riparian conditions, and enhances watersheds. Ranchers are good stewards of the public land because they have a vital self-interest in protecting the land upon which their livelihood depends. Unlike the recreational user, for example, the rancher's economic survival depends on the condition of the lands. It comes as no surprise, then, that the BLM found that "public rangelands are in a better condition than at any time in this century."

Not only is the current grazing fee good public policy, it is equitable, too. Ranchers pay a fair price to graze on public lands. The current practice of levying grazing fees is fairly based on prevailing market conditions. In fact, the fee has recently risen considerably, almost 46 percent in the past 4 years due to increased market variables.

The current fee was determined using a formula devised by this body—a formula supported by the Carter, Reagan, and now Bush administrations—and a formula that has withstood challenge in Federal court.

Proponents of this amendment compare Federal and private lease rates as though they were similar. This just simply is not the case. Most Federal rangeland is not lush meadows, but sparse desert or mountainous terrain. Federal permittees bear additional costs of transportation, herding, and predator and death losses. In addition, these permittees must pay for and upkeep water systems development on public lands that benefit grazing livestock as well as wildlife. Further, the Federal permittee has the right to the grass only, yet must pay for all maintenance and improvements. When these costs are tolled, the differences between Federal and private lease rates, not surprisingly, disappear. Or, in many cases, final costs to Federal permittees surpass private lease rates. Perhaps this is why over 20 percent of public grazing permits and allotments remain unused.

Mr. Chairman, now is not the time to address the substantive merits of this amendment. The House National Parks and Public Lands Subcommittee has separately considered measures on this issue a number of times during the past few years. On no occasion have any of these measures passed out of that subcommittee—the very subcommittee charged with oversight of this matter.

Doesn't that tell us all something? Yes, it tells us about the relative merits of the legislation. It also tells me that the Synar amendment is unfair, unwarranted, and ill conceived. I urge my colleagues to defeat it soundly and send a message to the public that they can trust us to at least follow our own rules.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, what this amendment does is strike out the medium and small operators on public land. It favors huge operators who can spread their costs over vast areas of private and public land. What this amendment does is strike out the opportunity to harvest a renewable resource.

Mr. Chairman, as ranking member of the subcommittee with exclusive legislative jurisdiction over grazing fees, I rise in vehement opposition to the Synar amendment which is legislation on an appropriations bill and makes an end run around the authorizing committee.

On March 12 of this year the Subcommittee on National Parks and Public Lands held an exhaustive hearing on three bills dealing with grazing fees—including the bills introduced by Mr. SYNAR and Mr. DARDEN. Proponents of changing the PRIA formula have had over 3 months to schedule a markup and report a bill out of my subcommittee and the full Interior Committee as a freestanding measure.

In addition, they also had an opportunity 1 month ago to offer an amendment to the BLM reauthorization bill to increase grazing fees at both the subcommittee and full committee level. Mr. DARDEN, who is an able and active member of the National Parks and Public Lands Subcommittee, chose not to do so at that time.

The reason that proponents of higher grazing fees are making this sneak attack and end run around the authorizing committee is quite simple. They did not have the votes on either the subcommittee or full committee to get their proposal passed.

The reason is simple. We do have some people on those committees on both sides of the aisle who understand the issue.

It is interesting to note that although the House Interior Committee is one of the most partisan and polarized committees in the entire Congress, a rare bipartisan consensus has been formed in support of the PRIA grazing formula. After hours of testimony from witnesses on all sides of this issue, a bipartisan majority of committee members have determined that the existing fee structure best serves all parties involved.

I urge my colleagues not to legislate willy-nilly on an appropriations bill but defer this decision to the authorizing committee which has conducted hours of hearings on the issue and is best able to make the most prudent decision.

The Synar amendment, which helps achieve the radical environmental agenda of "livestock free by 93" must be defeated.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from South Dakota [Mr. JOHNSON].

Mr. JOHNSON of South Dakota. Mr. Chairman, I rise in opposition to the Synar amendment. I think all Members here share the same goal, and that is to arrive at a level playing field for producers of livestock, whether on public lands or private. The question is, How do we arrive at that goal, how do we find that kind of fine balance in a very complex circumstance.

Mr. Chairman, we can legislate on an appropriations bill, as is proposed here, a proposal which would take the existing bill which already raises the grazing fee from $1.97 per animal unit/month, to $2.62, and instead raises it from $1.97 to $4.35, and ultimately to $8.70, a 400-percent increase, and abolishes the grazing advisory boards, the panels of private citizens, who advise the BLM on the use of fee receipts.

We can go about it that way. Or, we can have this very difficult and complex legislation considered by the committee of authorization, the House Committee on Interior, which it ought to be noted is as oriented toward consumer and environmental concerns as any committee that can be found in the Congress.

□ 1730

It would seem to me that we ought to be addressing very aggressively the question of fairness in grazing fees. I do not think the status quo is necessarily where we ought to be, but I think that rather than coming down here on the floor and engaging in this kind of radical changes, proposed radical changes in the grazing fee, that we ought to be more deliberate. We ought to be addressing this issue, I think, in a more comprehensive, more deliberate manner.

So I opposed the Synar amendment with the goal that this entire matter be taken up by the Committee on Interior and Insular Affairs, by the authorization committee where a full debate and a give and take that really is needed for this issue to be resolved properly can take place.

Mr. SYNAR. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I expect that any of us who had already absorbed rent increases of 46 percent since 1987 would consider it heavy handed if the landlord said our rent is now to be quadrupled in the next 4 years. Such increases would seem especially arbitrary and capricious if the landlord gave no good reason for the increases.

This is precisely the situation in which most of our ranchers who rent public lands find themselves today as we consider an ill-begotten amendment to hike rental rates by about 340 percent.

The ranchers who rent Bureau of Land Management rangeland in North Dakota are paying rent 46 percent higher than they did in 1987. This rental rate is set by a formula created by Congress in 1978 with bipartisan support. It was supported by the Carter administration, and extended by Executive order of the Reagan administration.

The formula may not be perfect but it is a good formula from the perspective of the landlord, which in this case is the U.S. Government. The formula makes the rent increase, for example, when livestock market prices increase. Those market prices have been strong in recent years, so the rent has increased.

And, our ranchers have not fought those increases. They struck a deal on a rent formula and they are living with the increases. Our ranchers do not have Government programs to guarantee them a price or supplement their income when market prices are low. They do not ask for such protection from the Government. All they ask us for is a fair deal, and that is what we tried to provide here when we established the grazing fee formula.

Just a word about what has been happening in North Dakota while the rent on BLM land rose 46 percent and the rent on the national grasslands, managed by the U.S. Forest Service, shot up by 145 percent. In these same years, beginning in 1988, most of my State has been in an extended and severe drought.

The long drought scorched the rangeland. It burned the grass off the land. It unleashed clouds of grasshoppers that are what little the drought did not destroy. It drained the small lakes, ponds, and other livestock water sources. It forced the water table down, leaving thousands of wells dry.

Let me tell you that the value of grazing land under these conditions does not increase. You don't have to be a real estate expert to understand that. When the land produces little or no grass and the water sources dry up, the value for grazing purposes evaporates.

But, our ranchers were paying rent increases through those drought years. And now a few members propose to push the rental rates up much farther, far beyond our ranchers' ability to pay.

This amendment is an extremely unwise move for the Federal Government that its author could not sell to the committee of jurisdiction. The proponents say these rent increases will increase income to the U.S. Treasury and improve conditions of public rangeland, but it will do just the opposite in both cases.

If you took a 46-percent hit on rent in 4 years, and then got a notice for another 340 percent, you would probably decide the rent is more than you can afford and you would give up your tenancy. That is exactly what ranchers in the West will do in nearly all cases if this outrageous increase is imposed. The public rangelands will be abandoned. Not only will the Government lose its rental income from millions of acres of rangeland, but the Government will be left to do the necessary maintenance on the land.

The ranchers who fenced both domestic animals and wildlife away from highway right-of-ways, the ranchers who provided water sources for both cattle and wildlife, the ranches who reseeded grasses after drought or weed infestations ruined the grass stands, will be gone and the Government will have to take over those costs. This amendment is a detriment to ranchers, taxpayers, and our natural resources in the West, and I hope we will soundly defeat it.

Mr. SYNAR. Mr. Chairman, I yield myself 30 seconds.

I just might point out in 1980 the grazing fee was $2.41 on Forest Service. It went down in 1981 to $2.31; $1.86 in 1982. In 1983 to $1.40, down to $1.37 and down to $1.35 in 1985.

That is the same it did in BLM and other places. So it has been going down.

So that 46-percent increase is not really relative.

Second, in North Dakota, where the gentleman who just spoke is from, the average AUM rate is $5 to $10, which is five times what we are presently charging. So I think that shows the perspective we are dealing with here.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Utah [Mr. HANSEN].

Mr. HANSEN. Mr. Chairman, at the opening of this debate we heard the comment that this entire debate is about fairness. I wonder where we find fairness when we are going to destroy the western cattle business. I wonder where we might find fairness when we are going to cost the Government money, and I wonder where we find fairness where we possibly would destroy the environment in these particular areas.

We talk about who is going to benefit from this, and I have great respect for the gentleman from Massachusetts who talks about the big companies. However, I would like to point out to him that 87 percent of these cattlemen make under $28,000 a year.

What did these guys say to you? My colleagues ought to go down to southern Utah, Arizona, or Colorado and some of those areas, and they look you in the eye and they say, "I am a fifth-generation cattleman." He said, "I have been on this ranch all this time. I have taken good care of it and now why is it these people want to put me out of business?"

They have a very marginal, marginal business. It is not like the East, believe me. We had sometimes 20 acres per cow compared to you folks that have put 100 acres on a square foot, it seems to me, when I look at your areas.

Where is the great savings we are talking about? When Cy Jamison, the Director of BLM, comes before the Interior Committee and he makes his statement, he says that we are going to lose money on this.

Now what about the environmental side of it? Let us be honest about this thing. Multiple use has worked for a long, long, long time. In multiple use, we pay for the cows on the range. That is true, but what about the other people. If we are going to be totally honest about this, take those who backpack, take those who fish, those who hunt, those who camp, we all should pay for the public ground.

So I say to my colleagues, if this debate is about fairness, we are barking up the wrong tree. I do not see any fairness in killing a good little industry, in ruining the environment and losing the Government money.

For many of you who think that this is a free environmental vote, let me tell you what the consequences would be if this measure were to be passed into law. If grazing fees were raised from $1.97 per AUM to over $8.70 per AUM the effect would be devastating; 30,000 small family farms would be put out of business. Many argue that rich western ranchers are profiting from subsidies from the Federal Government. The truth, according to the BLM, is that 87 percent of ranchers who graze public lands are considered small, family farmers. In fact, statistics show that the average ranch family earns less than $28,000 and many earn less than that. By voting for this measure you are voting to put a vital industry out of business. The loss of the livestock industry would threaten the existence of schools, businesses, and public services.

I am deeply concerned about rhetoric that would have you believe that there is an enormous amount of savings to be achieved by this measure. Where is the savings? In March of this year, Cy Jamison, Director of the BLM appeared before the Interior Committee. He estimated that revenues from BLM land grazing would plummet from $18 million per year to not more than $1 million per year if this measure was adopted. The proposed fee increase would price all livestock off the Federal lands resulting in a loss of grazing fee revenue. A loss of $17 million does not constitute much savings.

I ask you to take a look at the environmental effect that grazing on the public lands has had. According to the BLM, today the public ranges of this Nation are in the best condition that they have been in this century. Ranchers have worked hard to be a part of this. Farmers and ranchers are the true environmentalists. It is in their own self-interest to improve the land. Grazing promotes plant vitality, increases wildlife, and overall benefits management of the public lands.

On the other hand, the loss of livestock from the public lands would have a detrimental effect on the environment of the range. Without grazing the grasses of the range will create a fire hazard that will make the fires of Yellowstone look tame. Livestock producers have built tens of thousands of watering sites, roads, and fences. They have also utilized erosion control methods and improved western watersheds that have helped increase the big game populations dramatically. This will all be lost.

In "State of the Public Rangelands 1990," the BLM states that public rangelands are in better condition now than at any time in this century, and continue to improve. I have been with countless land management experts who have told me time and time again of the benefits of controlled grazing to promote plant vigor and diversity.

Before voting, all I ask is that you examine the real effects of this vote.

Mr. SYNAR. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MILLER], chairman of the Committee on Interior and Insular Affairs.

Mr. MILLER of California. Mr. Chairman, the amendment of the gentleman from Oklahoma is the right thing to do and this House should overwhelmingly and enthusiastically support it.

The theory of multiple use of the public lands cannot be made real when one use is heavily subsidized to the detriment of others. It is not real when one group of privileged users is afforded an extraordinary means of officially sanctioned control over Federal revenues and Federal land management decisions. Yet that is exactly what has been happening on the public rangelands of the American West for many years.

I personally do not know precisely what a fair grazing fee should be. But I do know that the gentleman from Oklahoma has made an absolutely persuasive case that the current fee formula cannot be justified for any reason other than to keep fees as low as possible.

The recent analysis of the General Accounting Office devastates any intellectual underpinnings of the current fee formula. Ranchers' ability to pay is at least double-counted. Factors highly favorable to ranchers are included and then computed in a way to maximize their impact while less favorable factors are left out of the calculation.

So when you hear public land ranchers defending this formula as fair, what they are really saying is that this formula gives them the best possible deal and they want to keep it.

The formula is not fair if you are a taxpayer trying to get a decent return for the use of a public resource. The formula is not fair if you believe that the grazing program should at least cover its costs. The formula is not fair if you believe that other range resources, such as wildlife and riparian habitat, matter, too. The GAO report is crystal clear on that point.

This year, Mr. SYNAR's amendment goes on to address two other closely linked aspects of the very sweet grazing fee deal.

Each year, 50 percent or about $10 million of the revenues generated by the fees go to a Federal fund for wildlife, watershed management, and grazing-related range improvements. The management of this fund is nothing short of a scandal.

BLM can't even account for more than half of this money. From what can be documented, it appears that more than 96 percent of it has gone to build exactly the kind of range improvements—fences, stockponds, and the like—that public land ranchers complain are not provided by the Federal Government and form a basis for the abnormally low Federal grazing fee. A piddling 3.5 percent of the accountable funds were spent for the other multiple uses of the range.

Mr. SYNAR's amendment will direct this money toward the fish, wildlife, and riparian habitat needs of the range—needs that my committee, Mr. YATES' subcommittee and even the BLM will readily agree are not even close to being met. At a time when it is apparent that last year's budget agreement dims all hope of funding even the existing neglected statutory responsibilities of Federal land managers, I cannot imagine why Congress would not make this obvious and wise reform.

How is it that current spending can be so distorted? It's simple.

The ranchers who pay these low fees tell BLM how to spend the money they generate. The organs for doing this are the grazing advisory boards which are made up solely of public land ranchers. Congress terminated the advisory boards in 1986 but they have continued to function under the authority of an executive order.

Presumably, these boards are only advisory but in actual fact, BLM does precisely what they are told to do by the boards. Often, the projects funded on the advice of the boards go to benefit board members and their friends and associates. And often, the boards advise BLM on public land management matters over which they have no authority whatsoever. In fact, some grazing advisory boards have taken it upon themselves to advise the Congress not only on matters such as grazing fee legislation but also on matters completely beyond their scope like oil and gas development of the Arctic National Wildlife Refuge.

Mr. Chairman, I am not arguing that public land ranchers should not have their say in matters that affect them. But Mr. SYNAR's amendment will not deny them their say. They will still have a place on the Multiple-Use Advisory Boards that Congress has set up by law. Then they will enjoy the appropriate status as one of many legitimate and competing users of the public range instead of a privileged and dominant elite enjoying special influence and control over the public's resources.

The House now has before it an historic opportunity to right several wrongs that have plagued the public lands of the American West for many years. I urge my colleagues to do the right thing and support this amendment.

Mr. SKEEN. Mr. Chairman, I yield such time as he may consume to the gentleman from Arizona [Mr. STUMP].

Mr. STUMP. Mr. Chairman, I rise in strong opposition to the Synar amendment.

Mr. Chairman, "grazing" is not a dirty word.

Unfortunately, the desperate attempt to rush through a fourfold increase in grazing fees on public lands by attaching the provision to an appropriations bill, rather than going through regular legislative channels, gives the impression that grazing has run amok and ruined our public lands.

Appreciate the opportunity to set the record straight.

"Grazing" is not a dirty word. The ranching industry has a proud legacy throughout the West and in Arizona. In Arizona's Third District, some 350,000 head of cattle graze on public lands, generating nearly $200 million for the State economy.

The vast majority of the grazing permittees in our State are small family operators. At no cost to the American taxpayer, the permittees have contributed to the conservation of our natural resources and the management of our public lands by helping to reduce illegal activities, theft and vandalism, reduce the cost of fire suppression and encourage healthy wildlife populations through the construction and maintenance of water catchments.

The permittees contribute to a healthy economy by adding millions of dollars to the State and local tax base, and providing employment in their own and related industries. The importance of a viable ranching industry cannot be understated, especially in the small rural communities in our State.

In Arizona, land patterns frequently intermingle Federal lands with State trust lands and private lands. Any increase in grazing fees on the Federal lands will have a direct related impact on grazing on adjacent and intermingled State lands.

If permittees are priced off public lands, the American taxpayer will have to pick up where the ranchers leave off. The tax base will be lost, agribusiness loan defaults will escalate, crippling the State economy, unemployment will increase and the economic base for rural communities will be devastated. Additionally, more Federal dollars will be required for range and public lands management.

I challenge my colleagues to identify any industry in our Nation that can absorb a fourfold increase in operating costs and continue to be viable. If we do not expect other business to absorb such costs, why should we be led to believe that ranchers could absorb increased grazing fees?

The present grazing fee formula was worked out after many years of debate and negotiations involving agriculture, environmental groups, Congress and the executive branch. It is a fair formula which adjusts grazing fees up or down according to livestock prices, forage values, and production costs. It is an equitable formula to all concerned, and has worked well for government, agriculture, the environment, and consumers.

Mr. Chairman, I have seen first hand the benefits to our State of grazing on public lands, and urge my colleagues to oppose the grazing fee increase.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. Mr. Chairman, I thank the gentleman for yielding time to me.

I guess we have about grazed this issue fairly clean. About all that needs to be said has been said. Let me just review a couple of the grazing leases as compared to the private leases. That is not a comparison, and anyone that is taking a look at it knows that is the case.

We have talked about large corporations using most of the public land. That is not the case, certainly in my State of Wyoming. We talked about the cost to taxpayers. We have had hearings where it has been indicated that if there was no grazing at all, the cost would be half, at least with no income the taxpayers would pick all of that up.

Let me just say that if my colleagues like multiple use, if they have the notion that public resources ought to be used for more than one reason, then grazing has been good for wildlife.

□ 1740

Grazing has helped the range. Hunters have much more of an opportunity now than they did before this was used.

We have simply got to stop this annual dance of insecurity for public land users. They will not make investments in water. They will not make investments in fencing. They will not make investments in the range as long as each year they do not know where they will be.

I oppose the amendment strongly.

Mr. SYNAR. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. VENTO], the chairman of the subcommittee.

Mr. VENTO. Mr. Chairman, I rise in strong support of the Synar-Darden amendment. I want to commend the gentlemen and the gentleman from Massachusetts [Mr. ATKINS] for offering this amendment.

Everybody argues about the process. Well, the process here has been really one since the passage of FLPMA in 1976. In 1976, they held, that is, those that did not favor an overhaul and reform of the grazing fees, held the Federal Land Management Practices Act hostage until they were able to exclude it from that particular act in 1976.

What it has been since 1976 is avoidance of the issue, avoidance of the issue in favor of, of course, maintaining a lower cost grazing fee.

I cannot blame my colleagues from the West for that. They have been very talented in their efforts to deal with and to provide benefits to their constituents that have these grazing permits, but the fact of the matter is the end result is that very often because of the types of management practices that are used, improved from 1930, but then I think they should have been improved from what was really an outrage and really significant damage to the range, but there needs to be more improvement, and there needs to be a fair basis in terms of assessing costs.

I might say that we had hearings in the 100th Congress, hearings in the

101st Congress, and we have had hearings this year, and the fact of the matter is that issue is not going to be addressed under the context of what has been going on in the past.

Mr. REGULA. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I am happy to yield to the gentleman from Ohio.

Mr. REGULA. Mr. Chairman, what I do not understand is why the authorizing committee opposed our 30 percent increase that we put into the bill originally. It seems like a reasonable amount, and yet the authorizing committee objected before rules on the basis that this was legislating on an appropriation, but it was a way of addressing the problem.

Mr. VENTO. Reclaiming my time, I do not favor necessarily in terms of legislating on appropriation measures. The fact of the matter is that this measure is here, and I think the Members ought to vote on the merits of it. They ought to vote for this amendment. I hope that then we will be able to work out the issue and address the issue in a comprehensive manner.

Mr. Chairman, I rise in support of this amendment.

This is the second consecutive year in which this issue has arisen in connection with the Interior appropriations bill. As I said last year, I would have preferred that debate about grazing fees and range management occur in connection with an authorization bill, instead of this appropriations measure, because this amendment, if it is adopted, obviously will constitute legislation in an appropriations measure, contrary to the normal rules of the House.

The subject of this amendment is a matter within the jurisdiction of the Interior Committee, and in fact our committee has ordered reported a bill to which this amendment would be germane. That is H.R. 1096, a bill I introduced to reauthorize appropriations for the Bureau of Land Management. The commitee intends to seek an open rule for that bill, so that this amendment or any other germane amendment could be offered to it. That would allow the House to work its will on this important aspect of public lands management.

However, Mr. Chairman, since by adopting the rule the House has decided to make it in order to consider this amendment to raise grazing fees, I do support it and urge its adoption.

Mr. Chairman, the question of grazing fees is far from a new subject. The Forest Service has been charging fees for grazing on national forest lands since 1906. Fees for grazing on public lands now managed by the Bureau of Land Management date from enactment of the Taylor Grazing Act in 1934. There never has been complete agreement about how these fees should be set.

At least since the late 1950's some have argued that the Government should attempt to realize the fair market value of the forage consumed by grazing on Federal lands. And in fact fees are set that way now in certain places.

Debates over grazing fees threatened to prevent the enactment of the Federal Land Policy and Management Act of 1976. As a compromise, section 401 of that act called for a joint study of the issue by the Agriculture and Interior Departments, and froze grazing fees for the 1977 grazing year pending that study.

After the study was completed, a further moratorium on changes was imposed by Public Law 95-321, signed by President Carter in July 1978. That was followed by enactment of the Public Rangelands Improvements Act in October 1978.

The Public Rangelands Improvement Act, or PRIA, established a formula for setting grazing fees, to be used during a 7-year trial period. It also mandated a further study and a report to Congress, with recommendations for future grazing fees, by December 31, 1985.

The expectation was that the 99th Congress then would act on this subject.

The study was done and the report was submitted, but the Reagan administration did not make any recommendations about how grazing fees should be established once the PRIA formula expired.

Despite extensive discussions involving members of the Interior Committee and also Members of the other body, the 99th Congress did not complete action on grazing fees, and the PRIA fee formula expired with no legislation in place to govern grazing fees in 1986 and subsequent years.

After the expiration of the PRIA formula, President Reagan, in February 1986, issued an Executive order which called for continued use of that formula, with a floor fee of $1.35 per animal unit month, which was the fee at that time. That Executive order is still in effect.

In both the last Congress and this one, the gentleman from Georgia [Mr. DARDEN] introduced a bill to replace the Reagan Executive order with a new statutory basis for setting grazing fees. Other bills on this subject have also been introduced this year by the gentleman from Oklahoma [Mr. SYNAR] and the gentleman from Colorado [Mr. CAMPBELL]. All of these were referred to the Subcommittee on National Parks and Public Lands, and in March we held a hearing on them, as we held more extensive hearings on similar bills in previous Congresses.

The Darden bill is based squarely on the 1986 report from the Interior and Agriculture Departments. It would put into effect one of the alternatives—known as the "modified market value fee system"—identified in that report. The Synar amendment now before us would adopt that method of setting the minimum fee for 1995 and subsequent years. For 1992 through 1994, the Synar amendment would phase in BLM's current fee for trespass grazing.

The issue of grazing fees is so divisive within the Interior Committee that the committee would be unlikely to report any bill dealing with those fees that would represent any type of committee consensus or agreement.

Under these circumstances, Mr. Chairman, I think it appropriate for the House to have an opportunity to respond on this subject, preferably in connection with an authorization measure but if necessary in the context of this bill.

On the merits of the amendment, I am convinced that the present formula for setting grazing fees is fatally flawed.

It inevitably results in keeping fees at levels that do not enable the land-managing agencies even to recover the costs of managing the range.

It keeps grazing fees lower than the prices private parties are able to obtain, through the open market, for forage.

It has resulted in fees that are far below what many States or other governmental bodies receive for grazing on their lands—lands which in many cases are indistinguishable in character and quality from the Federal lands with which they are intermixed.

As the General Accounting Office has noted in a recent report, the present fee formula begins with an intentionally very low base. That base is then adjusted in ways that double count factors related to ranchers' costs and that so magnify those factors that they dominate the outcome of calculations under the formula.

The result of this is to artificially depress the fees, as shown by GAO's calculation that in constant dollars the current Federal grazing fee has decreased by 15 percent over the last 10 years while private grazing prices have increased by 17 percent.

The current formula should have been allowed to die at the end of 1985, as originally provided by PRIA, and Congress should have enacted a formula producing fees more equitable as compared with prices paid for grazing on other lands, and more fair to the taxpayers who are the owners of the public lands.

Unfortunately, by issuing his Executive order on Valentine's Day, February 14, 1989, President Reagan gave artificial respiration to the formula, and allowed it to outlive its time.

Certainly, the time has come to give it a decent burial and to replace it with something better, as this amendment would do.

As has been mentioned, the amendment between now and fiscal 1995 would phase in minimum fees based on the fees the Bureau of Land Management now charges in cases of trespass grazing; and for fiscal years after 1995 it would set fees based on the modified market formula identified by the Agriculture and Interior Departments, in the "Grazing Fee Review and Evaluation" report of February 1986.

Of course, this is not the only possible way to replace the current fee formula with a better one. The recent report by the General Accounting Office identifies several other alternatives, any one of which would be better than the present formula as embodied in President Reagan's 1986 Executive order. But this amendment is certainly far better than the current formula.

Furthermore, the amendment would make some other desirable changes in the current situation. It would abolish the grazing advisory boards, and transfer their functions to the existing multiple-use advisory councils provided for by the Federal Land Policy and Management Act of 1976, or FLPMA, which is BLM's Organic Act.

The grazing advisory boards were first established to assist with the implementation of the Taylor Grazing Act shortly after its enactment in 1934. FLPMA provided for them to continue in existence until December 31, 1985, when they were to end along with the PRIA fee formula. However, again the executive branch took it upon itself to thwart congressional intent, this time by issuance of secretarial orders continuing the boards.

Unlike the multiple-use advisory councils mandated by law, these grazing boards represent only one user group, namely grazers. They have been the embodiment of political influence that this user group has too often been able to exert over decisions about public rangeland management.

Furthermore, these boards have been provided with funding derived from a share of the very grazing fees that their members pay. Ostensibly, these are to be used for bettering range conditions—to the benefit of the grazers, among others—but in fact at least some of these funds have gone for other purposes, including lobbying Congress about grazing fees. Yes, some of the money the grazers pay the Government for the taxpayers' forage goes to lobby us to keep down the price.

As if that weren't bad enough, under current law the part of the grazing fee receipts that the national Government keeps is earmarked for funding range improvements—that is, things like fencing or stock-watering ponds that are for the direct benefit primarily of the grazers.

The amendment now before us would broaden the purposes for which these receipts could be used, to include restoration and enhancement of fish and wildlife habitat, for restoration and improved management of riparian areas, and for better grazing management through implementation of applicable land management plans and such activities as range monitoring and enforcement of grazing allotment requirements.

All of these are areas in which there is a demonstrated need for increases in agency resources, and where investments can and should be made for the benefit of all parties, including grazers. For example, better management of riparian areas often means increases in grazable forage, as well as in fish and wildlife resources, water quantity and quality, and environmental values.

These changes are just as important as the changes in the fees, and they are important reasons for supporting this amendment.

Mr. Chairman, there are serious problems on the range and in the management of the public lands generally. The GAO and others have documented these problems repeatedly. Inadequate funding and personnel has hampered the BLM in particular, and the Forest Service as well, in their efforts to solve these problems.

The Interior Committee has repeatedly urged improvements in both applicable laws and in the resources available to the BLM and the Forest Service for range management.

To their credit, the Appropriations Committee has worked hard to provide the needed resources. But in this area, as in so many others, the realities of the budget have put serious limits on what can be made available.

As a result, this appropriation bill does not include all the funds that are really needed for proper management of the public lands and for improvement of the riparian areas and other sensitive parts of those lands. Both an increase in grazing fees and the other changes that this amendment would make are essential if we are to have any chance to make such improvements.

In my opinion, the best way to make a decision about this matter would be for the House to act in the context of H.R. 1096, the BLM Reauthorization Act which has been reported by the Interior Committee and then, if necessary, for our committee to go into conference with Members of the other body to attempt to resolve not only these questions but a variety of other important issued related to management of the public lands, like those addressed in the BLM reauthorization bill.

But in any event it is imperative that the grazing fee formula be changed, that the special status of the grazing advisory boards be ended, and that the uses of grazing fee receipts be broadened.

This amendment would make those changes, and so I support it and I urge its approval.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, I rise in opposition to the Synar grazing fee amendment.

Under the guise of raising grazing fees to market rates, the amendment will really have just one result: It will drive grazing off of public lands altogether because the rates will be raised so high that they will neither be realistic in the marketplace, nor affordable.

If this House is going to make such a significant change in multiple-use policy, then the people who are most affected should at least be given the opportunity to make their case in the appropriate committee, the Interior Committee. This amendment is nothing more than an end-run of the process that denies people—people who stand to lose their livelihoods—a fair and full opportunity to make their case.

Mr. Chairman, the fact is, cattlemen make a valuable contribution to the stewardship of public lands. Wildlife populations are positively impacted when they construct and maintain water developments. Land management agencies would be hard pressed to provide such improvements for wildlife on their own.

People in the cattle industry are hard-working and productive members of our community, adding over $95 million in gross income to the economy of my congressional district in Arizona alone. They pay their fair share of taxes. They are not looking for a handout.

Moreover, if public lands are put off-limits to grazing—as will surely happen if the language of this amendment is enacted—we should not kid ourselves that we will be saving taxpayers money. We will cost the Treasury money because ranchers will neither be paying grazing fees nor taxes when they are put out of business.

I urge my colleagues to reject this end-run of the process. Let the people have the chance to make their case to the Interior Committee. Don't put them out of business without at least giving them a fair chance.

Mr. SKEEN. Mr. Chairman, I yield 30 seconds to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I do not agree with either side here, there are those who think there should be zero-increase, those who in the Synar amendment want 400-percent increase.

I think the subcommittee had a reasonable beginning of 30 percent, and that, along with the 46 percent already in effect, makes sense.

I would hope that in the conference we can come out with a reasonable number that will allow the cattle industry to be treated fairly, but also the Government. I think the 30 percent was a fair amount as a beginning but the authorizing committee objected to it in the Committee on Rules and turned around and did not object to a 400-percent increase. To me that is not a fair amount either.

Mr. SYNAR. Mr. Chairman, I yield 30 seconds to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Chairman, I would like to say to my good friend, the gentleman from Ohio, that I think his point is well taken. I want to thank him for his support for this same amendment last year and would respectfully ask that he continue to support us this year.

Mr. REGULA. If the gentleman will yield, I supported Synar last year in an effort to get the issue of grazing fees to conference. However this year the subcommittee provided a 30-percent increase in our bill which is a reasonable amount.

I cannot support a 400-percent increase when we had what was correct, and that was 30 percent. I would hope in conference we can moderate whatever is done to reach a fair number of 30 percent.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from Idaho [Mr. LAROCCO].

Mr. LAROCCO. Mr. Chairman, when I came to this body, like most Members here, I saw committees that were germane to the areas that I represent.

My district in the State of Idaho is owned 66 percent by the Federal Government, so we have a lot of land management problems. We interface every day with the land management agencies in this country, and I wanted to come to this body, and I wanted to work on the forestry issues, the water issues, the grazing issues, the nuclear waste issues, and, yes, on the spotted owl and the endangered species issues and the salmon issue that is facing us right now.

I am working hard on these issues. I want to work hard in committee. I have not been given a chance to work on this grazing fee issue.

My former boss, Senator Frank Church, helped put together the Public

Rangelands Improvement Act back in the 1970's. Why did they do that at that time? Why did they forge a coalition of conservationists and ranchers? Because they needed to improve the deteriorating rangeland situation.

It has not been proven in any of the debate that we have heard at this time on the floor in the well of this House that the rangelands in the United States are deteriorating. So that the program that we set into place in the late 1970's is, indeed, working, and nobody has made that point, that PRIA, as it is now known, is working, and that it is a market-oriented price structure.

I now hear on the floor of this House, yesterday during the rule debate, and today, when you go to the debate tab, you pull out the big-oil argument. I cannot believe it, and I say to my colleagues on this side of the aisle that if you want to take a shot at big oil, you are going to take a shot at my neighbors in Idaho, and I can tell you that the only stock that they have is not traded on the New York Stock Exchange. It is what they raise on the public lands of Idaho in a very responsible way.

I would say reject the Synar amendment, which is a meat-ax approach. Let us go back to the committee where it belongs. Let us discuss this in open debate.

I would say that if we really want to take meaty matters to the floor of the House, let us take the Endangered Species Act, as much as this really impacts the people of Idaho. I say let us vote no on the Synar amendment. Let us bring common sense to this formula.

Mr. Chairman, like many Members in this body, one of the first things I did as a new Member was to gain seats on committees relevant to the special concerns of my district. I was fortunate to be elected to the Interior Committee. The Interior Committee plays an important role in my State of Idaho, where 66 percent of the State is owned by the Federal Government. Two out of every three acres is under Federal control.

Federal land grazing is a vital part of the economy of Idaho and the West. Nearly 90 percent of the beef cows raised in Idaho spend at least part of the year on Federal land. Livestock represents a $570 million industry to Idaho and a $9.2 billion industry for the 13 Western States. As a matter of fact, until last year, cattle pumped more money into Idaho's economy than its most famous product, potatoes.

Currently, there are a number of bills before the Interior Committee addressing the management of our Federal rangelands and the fee structure charged to grazers. The committee is in the process of sorting through this legislation and arriving at the best solution that balances protection of our rangelands with the need to provide economic stability for our rural communities.

One of the commonsense solutions being considered would codify the Public Rangelands Improvement Act, or PRIA. This legislation was originally proposed by my mentor, the late Senator Frank Church and ultimately signed into law. In creating a practical solution that addressed the problem of deteriorating rangelands, Senator Church and the Congress relied on the best tool of all, common sense. In fact, PRIA was such a good solution that it enjoyed the support of groups as diverse as the Wyoming Sierra Club and Wilderness Society, in addition to the Farm Bureau and the National Cattlemen. The truth is PRIA works and has been working for the past 13 years for two reasons:

First, the PRIA formula is market oriented. It creates a fair market value for livestock grazing on public lands that is variable on a yearly basis according to production costs, market prices, and private land lease rates. Thus, when beef prices are high and ranchers can afford to pay higher fees, the fee increases. It offers cattle and sheep grazers, and the rural communities that depend on them, economic stability.

Second, PRIA has accomplished exactly what it was designed to do when it was created in 1978. The Public Rangelands Improvement Act has been instrumental in improving the Nation's public rangelands. This fact is demonstrated by a 1990 Bureau of Land Management study that found that the current trend is stable to improving on more than 87 percent of the public rangelands. Clearly, under PRIA, our rangelands are in better shape now than they have been in a very long time.

Unfortunately, Mr. Chairman, this debate is not being considered in objective terms. Some are falsely claiming that Federal land grazing constitutes a Government subsidy. I disagree. If you have ever been out West and have seen the differences in quality between public and private land, you will see the saying "you get what you pay for" certainly applies. The current Federal fee is $1.97 per animal unit month or AUM, compared to $8 to $12 per AUM on private land. Yes, on the face of it, it appears to be a subsidy. However, a careful examination of the differences between public and private rangeland makes it clear that no subsidy is involved. To better illustrate this, I am enclosing with my statement a copy of a study by Dr. Darwin Nielsen of Utah State University that shows the total breakdown of fee and nonfee costs.

As one can determine from the study, the principal difference is that the public land grazer is faced with many more obstacles than his private grazing counterpart. He must deal with higher animal, water, herding, and travel costs. In addition, he must share the BLM land with others who take advantage of the recreational opportunities of public land. In fact, if the total costs are taken into consideration, the public land grazer often ends up paying more than the private land grazer.

The point is, Mr. Chairman, we are being asked today to vote on a 400-percent increase in the Federal grazing fee. We are being asked to radically alter the entire management procedures of our public rangeland. These issues will have far-reaching consequences that affect our public rangeland, Western rural economies, and ranchers. This is being done without hearings, without committee or subcommittee consent, without any authorizing language at all.

I oppose the Synar amendment as a Westerner and a Member of Congress vitally interested in the legislative process. I ask that Congress let the Interior Committee—the authorizing committee—hold hearings, gather data, and produce thoughtful, credible legislation that will solve this issue. Please vote no on the Synar amendment and let the Interior Committee do its job.

Exhibit 3

Comparison of Operating Costs Per AUM on Public Land Ranch Versus Private Land Ranch Units

This table, following the Federal Standards established in the 1966 Fee Study, updates the 1966 results to 1990 values.

TOTAL GRAZING COSTS ON OPERATIONS USING FEDERAL GRAZING PERMITS & PRIVATE LEASES

Operation	Federal grazing permits	Private leases
Lost animals	$1.82	$1.12
Association fees	.27	
Veterinary	.45	.53
Moving livestock to and from	1.11	1.16
Herding within operation	1.86	.77
Salt and feed	2.32	3.09
Travel to and from operation	1.49	1.19
Water (production items)	.27	.20
Horse	.50	.31
Fence maintenance	.89	.92
Water maintenance	.69	.55
Development depreciation	.37	.10
Other	.44	.47
Total	12.48	10.41
Federal grazing fee: 1990	1.81	
Private forage value (includes lessor's overhead and risk): 1990		4.35
Total operating costs P/AUM	14.29	14.79
Capitalized cost of grazing permit [1]	3.25	
Total costs	17.54	14.79

[1] Internal Revenue Service valuation of grazing permit at $850 per animal unit month; Montana, 1980. Capitalized cost is calculated using 8 percent as the long term rate of return as in the 1988 fee study. (850/12×8 percent=3.25)

Note.—Actual out of pocket cost equals ranch unit purchase price divided by 12 months, and multiplied by the long term cost of money. That is, ($1,000/12=$83.33×10%=$8.3 per UAM; Dr. Fowler, NMSU).

Source: Dr. Darwin Nielsen, Utah State University.

Mr. SYNAR. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. BREWSTER].

The CHAIRMAN. The gentleman from Oklahoma [Mr. BREWSTER] is recognized for 2 minutes.

Mr. BREWSTER. Mr. Chairman, I guess it is kind of unusual to get a minute from each side, but I certainly appreciate my colleague, the gentleman from Oklahoma [Mr. SYNAR], for allowing that, and the gentleman from New Mexico as well.

But I feel like I have something to offer on this particular amendment. I have been in the cattle business since 1968. Oklahoma has less than 2 percent of our land that is Federal land.

Oklahoma is not involved in this. But I understand the issue. I understand it completely. I have sold a lot of cattle to the people in the Western States, and I know a lot of them and how they operate.

As you might guess, $1.97 per month figures out to be $23.64 a year, I say to the gentleman from Georgia [Mr. DARDEN] that cattlemen in the Western States pay on their cows. I called a bunch of realtors in Oklahoma today and did some checking around.

You can run a cow on private land in Oklahoma for $25-$40 a year, so I can tell you that the fairness question is not there.

It is fair now. So it is not something that we have to worry about.

In addition, on private land you do not have multiple use. You do not have trespassers. You do not have people in there, and you frequently have good fences and very good sheds.

I would hope that we did not look at it any other way than the fact that is is fair now.

Twenty percent of the Federal land goes unused today because people cannot make money on it at the $1.97 level.

I am not sure what the intent of the amendment is. I cannot say the intent is "Cattle free by 1993" or any of those things. I do not know. But I can tell you what the result will be. The result will be there will not be cattle grazed on that land. The result will be about 30 percent of the cow herd of this Nation will be gone. The result will be an increase in the price of food. The result will be a loss of about $150 million a year that cattlemen are paying now for the use of that property.

□ 1750

I would hope that we could consider the consumer in this. I would hope we would consider we do not want to import food as we import oil today. I think it is important that we do that.

I urge Members to vote "no" on the Synar amendment. It certainly makes sense to vote that way.

Mr. Chairman, the amendment offered by my good friend and fellow Oklahoman, MIKE SYNAR, would prove to be a disaster not only to those ranchers and their families who utilize the grazing program, but in the long run this amendment would be detrimental to the beef industry throughout the country.

While the present permit fee may be lower than the average leasing fee for private rangelands, the other attendant costs incurred by permittees to actually utilize the grazing resource—to provide water, fencing, transportation, and so forth—pushes the overall costs of public grazing well in excess of those involved in leasing private rangelands. Having been in the cattle business most of my life, I can tell you those costs are substantial, and a significant increase in grazing fees would result in large numbers of cattle either going to market or a large number of producers competing for private pasture. Either result is detrimental to the beef industry through decreased prices or higher production costs. You don't have to be an economist to realize that those reasons alone would drive current permittees off the public lands and, in many cases, out of the livestock business.

My colleague raises the issue of comparing various State fees to the current Federal grazing fees. That is certainly unfair since in most all of those cases better rangelands exists, better services are provided by the States, and there are greater availabilities of water to the producers. Let's not compare apples and oranges. If the real driving force behind this effort is to achieve "Cattle free by 93" on public rangelands for environmental purposes, then we should consider every cattleman in America, whether they graze on public or private rangelands, under indictment for choosing to produce livestock as their livelihood and that of their families.

The U.S. Forest Service maintains that 20 percent of public grazing permits and allotments go unused by ranchers, in part because of the high costs associated with their use. If this is the case, I don't think we want to turn that number into 50 or 60 percent. In a time when we are looking at significant trade deficits, and a budget deficit growing out of control, I feel as though we should be looking toward utilizing our resources here at home to increase our market strength worldwide. How can this be achieved by continually gouging our own producers, and especially the American beef producer, the largest producer of beef in the world?

Mr. Chairman, the present grazing fee formula was worked out after long years of debate and negotiations involving agriculture, environmental groups, Congress, and the executive branch. It is fair to all concerned and has worked well for the Government, agriculture, the environment, and the consumer, and I urge my colleagues to look beyond regional differences, look to those beef producers who make a considerable contribution to the U.S. economy, and vote "no" on the Synar amendment.

Mr. SYNAR. Mr. Chairman, I yield myself 30 seconds not to take issue with my dear freshman colleague from Oklahoma [Mr. BREWSTER]. It will have to be more than 2 percent of an industry that could potentially be eliminated if everything were to happen as they predict, to have an impact on the cattle industry in this country.

Second, to run cattle in our great State of Oklahoma is not $23 per year. It averages out to $109.93 based on the appraisal that our Federal Government does throughout our country.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. DE LA GARZA], chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, I thank my distinguished colleague for yielding me this time.

I rise in opposition to the Synar amendment for one simple reason, Mr. Chairman. Members can point out to the millionaire that got some money from the Government in housing, in transportation, in the airlines, and everything, but here I am speaking for the consumer. Members will disrupt the line or the chain of supply to the consumer.

We have been there before. We have to go begging to Australia, to New Zealand, to send beef. It is not only the beef, but it is the multiplicity of the other parts of the beef, the hides and everything else.

Even as unimportant as this may sound, just to say that we will charge them a little more, that is not necessarily it, because some of them are at the breaking point. They are really taking care of the patrimony, and we will disrupt the chain of supply to the consumer. So as a consumer vote on this issue, vote "no."

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from Idaho [Mr. Stallings].

Mr. STALLINGS. Mr. Chairman, I rise in opposition to the Synar amendment. I oppose this amendment for two reasons.

First, I believe it represents an end-run around the authorizing process. The National Parks and Public Lands Subcommittee has held a number of hearings on this issue over the last few years. It has not passed this legislation and the full House should not do so now by legislating on an appropriations bill. Second, this amendment would be an onerous burden to western permittees, who view it as a raise of some 500 percent over the current price.

I have long maintained that the current fee system that was first mandated by Congress as part of the Public Rangelands Improvement Act of 1978 is fair to both the grazing permittees and the Federal Government.

The Federal grazing fee is determined by a formula set by Congress in 1978 with bipartisan support, including that of the Carter administration. The formula was later extended by President Reagan by Executive order and has since been upheld in Federal court.

The current fee is based on market conditions, and goes up or down depending on three market variables that are measured by the Government each year: Private lease rates, beef cattle prices, and production costs in 11 Western States.

It is a reflection of market value because of the additional costs incurred by a producer in running cattle on public lands. Federal permittees must bear many additional nonfee costs not borne by private lessees. Public rangelands are less productive for feed, allowing lower carrying capacities. Transportation costs are greater, water hauling, fence repair, doctoring of sick animals, and protection from predators all are costs paid by the producer and must be recognized in any comparison of fees for public versus private grazing costs.

Studies show that when these additional costs are added to the Federal grazing fee, the cost of grazing on public lands equals or surpasses private lease rates.

Western States, including my own State of Idaho, can offer substantial proof that the public grazing system is a vital part of their economic vitality, as well as being an organized program to manage public lands.

Mr. Chairman, the vast majority of the 31,000 ranchers who graze cattle and sheep on western public lands run small, family owned operations. They simply cannot afford this kind of increase. These are not corporations; these are ranches which have been in the family for generations, and this amendment will put them out of business. Let's keep that in mind when we vote to increase the Federal fees more than 500 percent.

Mr. Chairman, I appreciate this opportunity to speak today and I encourage my colleagues to reject this amendment.

The CHAIRMAN. The gentleman from Oklahoma [Mr. SYNAR] has 5 minutes remaining and the gentleman from New Mexico [Mr. SKEEN] has 7½ minutes remaining.

Mr. SKEEN. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. DOOLITTLE].

Mr. DOOLITTLE. Mr. Chairman, this amendment undermines multiple use of the public lands, reduces revenue to the Treasury, and puts thousands of hardworking people out of business.

The proponents of this amendment have admitted that there is a 32-percent differential over the last 10 years between the price of grazing on private land and what is being charged for the public lands. Why, then, are we charging a 400-percent increase, 12½ times what the differential is? It smacks of mathematics that we see around here in other pieces of legislation that this House passes.

Mr. Chairman, the recognized authorities have indicated even a 100-percent increase in the grazing fees will result in 50 percent less land being leased from the public.

This amendment is antipeople. It is anti-multiuse of the public lands, and it is detrimental to the Treasury. I urge its defeat.

Mr. SYNAR. Mr. Chairman, I would like to notify the chairman and the gentleman from New Mexico [Mr. SKEEN] that we are down to the last three speakers, including the gentleman from Georgia [Mr. DARDEN], the gentleman from Massachusetts [Mr. ATKINS], and myself. We will close with these speakers dividing the remaining 5 minutes among us.

Mr. SKEEN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise in strong opposition to this amendment. This drastic measure would raise grazing fees by over 400 percent, which would devastate our rural economies in the West which are already suffering high unemployment.

This proposal purports to save taxpayer dollars by raising grazing fees for a few supposedly large western ranchers. In fact, an estimated 31,000 small, family ranchers depend on access to public lands for their economic survival. Moreover, the current grazing fee system already covers the cost of our range program for livestock, and our Federal agencies estimate that we will actually lose revenue if grazing fees are drastically raised, and grazing on Federal land is reduced.

It is important to note that livestock grazing has numerous environmental benefits for public lands. Controlled grazing helps manage and prevent wildfires, and also provides open space for many species of wildlife. In fact, the Bureau of Land Management has stated that public rangelands are in better condition today than at any time since the beginning of this century.

The current grazing fee structure is designed to raise or lower the fees according to economic conditions, such as market prices for livestock, production costs, and forage values. In the last 4 years, this formula has actually raised grazing fees on its own by 46 percent. As such, current law is working, and as the old saying goes, "if it ain't broke, don't fix it."

I strongly urge my colleagues to vote against the Synar amendment.

Mr. SKEEN. Mr. Chairman, I yield 4 minutes to the gentleman from Oregon [Mr. SMITH].

Mr. SMITH of Oregon. Mr. Chairman, I thank the gentleman for yielding me this time.

I want to answer some of what I think are distortions and outright exaggerations about this whole issue. First of all, I am going to argue the point that there is no subsidy here, and there is nothing to argue about.

I will call my first witness, and I will call Cy Jamison from the Bureau of Land Management, the Director who testified before our committee that, in fact, it only costs $1.66 per annual unit month to cover the cost of grazing livestock on public ranges.

Now, the permittee pays $1.97. That means that the cattleman are paying the Treasury $1.5 million more than necessary to cover the costs of operating the range for livestock. Where is the subsidy? Here is exactly the proof in this chart: $1.66 and $1.97.

Second witness. If there is a subsidy, that means that the private people are paying much less than the public people, grazing on Federal ranges, and somehow there is a subsidy. If we look at this, obviously in the sense of $1.97 per annual unit month on public lands, and $10.41 on private lands, we would say that there is a great subsidy here. Where do they get $60, $90, $150 million? That is what we are doing.

Let me suggest to Members that when we add all the costs of renting on public ranges, adding only $1.81 which was last year's charge, by the way. It costs $14.29 to run on public range, and it costs $10.41 to run on private ranges. Therefore, it costs more to run on public range at $1.81, not $1.97.

□ 1800

Where, my friends, is the subsidy? There is no subsidy here.

Then 73 percent of the land is going downhill, is deteriorating, of our public lands? Just the opposite. The Bureau of Land Management estimates that 73 percent of the public range is either increasing in its forage program or it is in average to excellent condition.

In fact, last year 7 million acres were added, reclassified as good to excellent in the BLM categories. Therefore, the graph is up. Range lands are improving in the West and have been for 30 years.

If that is not enough of an example for you, what would be the test of improving public ranges? A lot of us are wildlife enthusiasts. A lot of people enjoy the public lands. What is happening on public lands in the last 30 years? Let me tell you. Here are the details of wildlife increases:

Antelope are up 112 percent.

Bighorn sheep are up, 435 percent increases.

Deer are up, 30 percent increase in numbers.

Elk are up 782 percent. I love to hunt elk.

Moose are up 476 percent.

Does that indicate deteriorating public lands? These are numbers of wildlife on public lands only.

That kinds of record performance, coming from decimated public lands? I do not think so.

I want to answer some of these questions about the Grace Commission. In 1984 the Grace Commission indeed said that we ought to raise grazing fees to recover the cost to the Government for grazing animals on public lands. We do have at $1.97 the costs and more of raising cattle on public lands.

In 1984 the Grace Commission did not see a $1.97 grazing fee. They saw $1.41. The grazing fee has come up 40 percent.

Mr. Chairman, I ask you to analyze these facts, to vote against the Synar amendment, because it does not make any sense. This is not a subsidy and do not let anybody fool you about it.

Mr. SYNAR. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. DARDEN].

Mr. DARDEN. Mr. Chairman, again I want to commend the primary sponsor of this amendment, the gentleman from Oklahoma [Mr. SYNAR] for his statesmanship and courage in bringing this issue forward today, as unpopular as it might be in the Western States.

I would say to answer my friend, the gentleman from Oregon, that if this grazing fee situation is so good for wildlife, why does the National Wildlife Federation, the National Audubon Society and all wildlife groups support a raise in grazing fees?

A vote for our amendment is a vote to protect the environment. It is supported by the League of Conservation Voters, the Sierra Club, the Public Lands Action Network.

A vote for our amendment is a vote for fiscal responsibility. Our amendment is supported by the National Taxpayers Union, the Council for Citizens Against Government Waste, and Citizens for a Sound Economy.

Finally, a vote for our amendment is a vote for fairness and free enterprise.

Mr. Chairman, let us put an end to the subsidy. Vote for the Synar amendment.

Mr. SYNAR. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Chairman, I rise in favor of the Synar amendment.

Mr. Chairman, we have heard quite a vision this afternoon in this debate, a vision of a bovine apocalypse. This horrendous situation, and we have just seen the charts, if this amendment passes the deer and the antelope will no longer roam.

Well, Mr. Chairman, what we are talking about here is the most sacred of sacred cows. We are talking about 1.6 million people who raise cattle in this country, only 26,000 of them, less than 2 percent, get the special advantage of this subsidy, this multimillion-dollar subsidy, and of that group 90 percent of the benefit goes to the largest corporations in America. It goes to the oil companies. It goes to hobby farmers and very wealthy individuals.

Now, we have heard that if we raise this fee, it is 400 percent. Of course, it is 400 percent, because for 50 years they have kept it well below market value.

Mr. Chairman, I would hope that the Synar amendment does pass.

Mr. SKEEN. Mr. Chairman, I yield the remaining 30 seconds that I have to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise in opposition to the Synar amendment to increase grazing fees on Forest Service and Bureau of Land Management [BLM] lands. As with many States in the West, New Mexico is very rural and comprised of a great amount of public lands.

However, the ranchers that use public lands in my district and across the State are mostly small family operators with fewer than 100 head of cattle. My constituent mail has run 336 to 5 in opposition to increasing grazing fees. Most of those people run subsistence operations, with slim profit margins that are greatly affected by market forces and production and improvement costs. As a result, we have witnessed many farms and ranches go bankrupt in recent years. Changes in the grazing fee formula cannot be absorbed by small operators in my district.

As you know, the Interior Subcommittee on National Parks and Public Lands, of which I am a member, has held hearings on grazing fees. I believe the overriding issue at stake here is how to better protect and perpetuate our public rangelands. This cannot be accomplished through a massive increase in grazing fees which provides no assurance of increased protection or better management of public lands. Instead, we must focus on strict enforcement of regulations against unauthorized grazing, watershed improvements, and providing adequate control of deer, elk, and other wildlife species where it is warranted. Like all natural resources, our range resources must be conserved so that they can provide multiple uses now and in the future.

Mr. Chairman, this will take innovative management—not a drastic increase in the grazing fee formula. I urge my colleagues to oppose the Synar amendment.

Mr. SYNAR. Mr. Chairman, I yield myself the remaining time.

Mr. Chairman, first of all, let me congratulate all my colleagues for the excellent and high level of debate we have had today. I think it has improved substantially from last year.

During the last 60 minutes we have heard really basically three arguments in respect to why you should oppose the Synar amendment.

The first is that these are family-owned operations and that we are going to hurt the family farms and ranches in the Western United States. I think my colleague, the gentleman from Massachusetts, addressed that directly when he pointed out, without refuting evidence, that 10 percent of all the grazing permittees in this country control about 90 percent of the grazing land in this country. He pointed to the oil companies, the foreign interests, the insurance companies and the large landowners who are really benefiting from this grazing subsidy which we address today.

The second argument we heard in opposition to the Synar amendment is that we will run people out of business and we will run them off the land.

Well, if it means running off oil companies and insurance companies and multimillionaires and doctors and lawyers, maybe it is long overdue; but the fact of the matter is that in the State of New Mexico they doubled the grazing fee on their State lands from $2 to $4 and they did not lose one grazing permittee because of that raise.

As recently as last month in the great State of Montana, a farmer and rancher bid $29 per AUM for a piece of land on State property and was defeated at the auction. So I think this scare is not legitimate.

The final argument I heard, and that was from the gentleman from Texas, the chairman of the Agriculture Committee, was that it will disrupt the market and it will destroy the chain of supply for customers. Let us be real. If 2 percent of an industry which is in its best shape and health is going to destroy an industry, I would like to know what the other 98 percent is going to do.

You know, for the last 9 years I have had the privilege of serving as the chairman of the Subcommittee on Environment, Energy and Natural Resources of the Committee on Government Operations. For 9 years I have studied every report, from BLM, from the Forest Service, from the GAO, from professors, from everyone in these United States, and not once in those 9 years have they ever come to the conclusion that the opponents of the Synar amendment have come to. They have come on exactly the opposite.

Even with that, I was not satisfied. I went one more time back to the scholars to find out, to accumulate all the information, so that we could make a final decision based on the facts.

The facts are clear. Two percent of the cattle industry benefit from a subsidy of $150 million a year; 650 million dollars' worth of taxpayer money has been lost subsidizing this industry in this small form. It is time for reform. Vote "yes" on the Synar amendment.

Mr. OWENS of Utah. Mr. Chairman, I find myself, in this instance, opposing people with whom I normally agree and agreeing with some people I normally oppose. I do so because I believe the question of raising grazing fees or adjusting the Public Rangelands Improvement Act formula is best addressed in the Interior Committee and the Agriculture Committee, and not incorporated as an amendment on the floor. If adjustments to the PRIA formula are necessary, they should be developed through informed debate and hearings before the appropriate committees—not the Appropriations Committee.

There are aspects of the amendment which make some sense to me. For example, the amendment calls for the abolition of grazing boards, which currently serve primarily as spokesmen for the cattle industry and rarely emphasize other values of the public lands. But I cannot support the accompanying draconian raise in grazing fees. Quadrupling grazing fees within 5 years would unnecessarily and unfairly put ranchers out of business—people whose livelihoods and culture depend on the land, and whose contributions to the American economy are very important.

If cattle or sheep are overgrazing the land, and they are, in places, it is intellectually more honest, not to mention better legislative process, to address the problem through additional protective regulations instead of simply pricing ranchers out of existence. We have taken steps in that direction already with our work in the Interior Committee on Reauthorization of the Bureau of Land Management.

If we are really concerned, as has been implied during this debate, with corporate ranchers and wealthy ranchers who are accused of abusing the system, why don't we craft a response which protects the small family rancher and eliminates the alleged subsidy for the wealthy or corporate ranchers, much as we have done with subsidies for public water in our recent debate over reclamation reform? But this kind of rational solution will take time and hearings and cannot be dealt with summarily on the House floor during debate on an appropriations bill. The Synar amendment, although well-intended, is the wrong approach to a very complicated issue and I urge its defeat.

Mr. ORTON. Mr. Chairman, I rise in opposition to the Synar amendment to H.R. 2686, the Interior appropriations bill.

There is a notion now gaining currency amongst my colleagues that the Federal policy of permitting grazing of cattle on public lands represents a subsidy to ranchers. However attractive, this notion is simply untrue.

Consider the case of Utah where 69 percent of the State is under Federal ownership and livestock production is the largest single agricultural enterprise. There, as proponents of the Synar amendment are quick to point out, the average fee for one animal unit month [AUM] on public lands is $1.97. On private lands the grazing fee may be as high as $8 or $9 per AUM. On this one comparison hangs the whole argument that grazing fees on public lands constitute a subsidy to ranchers.

Well, as any rancher will tell you the real story runs much deeper than that. First, the true cost to a rancher includes fee as well as nonfee costs. Nonfee costs, including lost animals, veterinarian costs, herding, travel, salting, and feeding, are typically much higher on public lands. Whereas on private land the rancher is usually provided with many of these services when he pays the fee, on public land the rancher bears these costs himself. As a result, the fee costs are not strictly comparable. Moreover, the rancher who grazes on public lands must accommodate a number of other public lands uses and must comply with a welter of Federal regulations. The private rancher generally enjoys exclusive use of the land and faces none of these Federal regulations.

In the case of Utah then, the average nonfee costs for public land grazing through January 1990 totaled $12.48 per AUM, for a total fee and nonfee cost to the rancher of $14.45 per AUM. In contrast, the average nonfee costs for private land grazing in Utah are $10.41, for a combined fee—exclusive of nonfee services provided by private landowners—and nonfee cost of $14.76. Per AUM then, the value of grazing fees on public and private land are roughly equivalent. As a result, on Utah BLM lands approximately 250,000 AUM's are regularly in voluntary nonuse out of the total active preference AUM's of 1,324,746. Who ever heard of a government subsidy that was undersubscribed? On this basis alone I would urge my colleagues to reject the Synar amendment to raise grazing fees over 400 percent.

On procedural grounds too, the Synar amendment is ill-considered. The framers of the amendment would have this body think that the issue is a simple one—in fact, it's far from that. The issue itself is far broader than the fee or even nonfee costs. There are broad issues of public policy for the cattle industry and the nature of our public lands. The Interior Committee is the proper forum for these discussions. The committee held hearings on this issue this year and has not seen fit to move legislation to increase grazing fees. An hour of debate on an appropriations bill is a poor substitute for the Interior Committee's judgment, and I urge my colleagues to reject the Synar amendment on these grounds as well.

Mr. RHODES. Mr. Chairman, what the proponents of this proposed massive increase in the public land grazing fees consistently fail to acknowledge, is the fact that the private land grazing fees to which they so readily compare the public land fees, incorporate other costs which the public land permittee advances out of his own pocket for additional grazing necessities, but which are not provided by the Federal Government. However, on private grazing lands, these additional services are normally figured into what then becomes the logically higher fee for private lands.

Were these additional costs not calculated in the private land grazing fee, and left to the permittee to provide, the price of the private versus public lands fees would be essentially the same.

Mr. Chairman, I would like to include in my remarks for the RECORD, an article written by Darwin Nielsen, an economist at Utah State University, that shows clearly the specific additional costs that are borne by the public land permittee, but not borne by the private land permittee. Mr. Nielsen's article appeared in the January 14, 1991, Western Livestock Journal.

This analysis demonstrates clearly that if the public land grazing fee portion of a ranchers' total grazing costs is increased to $8.70/AUM, as proposed by Mr. SYNAR, the livestock will surely be driven from the public lands. Of course, that is the true end result of what the supporters of this amendment seek to achieve in such a cavalier manner.

[From the Western Livestock Journal, Jan. 14, 1991]

TOTAL COST OF GRAZING PUBLIC LANDS

(By Darwin B. Nielsen)

Most discussions of grazing fees only consider the amount of money actually transferred from one party to another in the transaction. This is especially true in the politics of federal land grazing fees. For example, those who want fees increased compare the $1.81 (1990 fee) per AUM (Animal Unit Month) with $10–$12 per AUM for some private leases they have heard about. Thus, the argument that western ranchers are being subsidized by the government. There is no one "perfect grazing fee" that all sides are searching for that will solve the problem. Each ranch has a unique amount it can afford to pay for an AUM of grazing depending on how efficient the ranch is and how much forage is needed to round-out the feed requirements (MVP of grazing). There is a wide assortment of lease arrangements that are entered into by buyers and sellers of range forage. At one extreme the landlord provides all land and livestock management services. At the other extreme the landlord requires the tenant to do all the land and livestock management services. The high fees quoted are associated with situations where the landlord provides most services plus the forage required. A lower fee is paid where the tenant must pay the fee plus incur the nonfee costs associated with the use of the leased land. The important point is that rancher decisions are made on the total cost of grazing (fee and nonfee costs). Political decisions on federal land grazing should be based on the total cost of grazing to the permittee and the total cost of grazing comparable private leased rangeland. Public grazing is characterized by rather low fees and high nonfee costs.

In the 1966 study, fee and nonfee costs (total cost) were compared for public and private grazing lands that could substitute for one another. A study was undertaken at Oregon State University to update the nonfee costs of using public lands. However, this study did not cover all of the public land states. Another approach will provide a minimum estimate of the magnitude of nonfee costs of using public lands. This can be done by updating the nonfee cost estimates made in 1966 by using index numbers. This methodology is valid if the assumption is made that the government does not require more management services of the permittee now than in 1966. Most public land permittees are required to perform more intensive levels of management in 1990 than in 1966; therefore, these costs have gone up in absolute terms. Since the exact cost of the increased requirement for more fences, herding, moving, etc., is not known the indexed nonfee costs will be lower than actual current costs.

In order to index the 1966 nonfee costs up to 1990, a two-stage system must be used since USDA has two base periods—1967=100 and 1977=100. The 1966 nonfee costs were indexed to reflect 1977 values, these costs were then indexed up to 1990 using the 1977=100 base. The results of this process is shown in Table 1.

If the proposed fee presented to the 1990 Congress is imposed in 1991 the total cost to public land permittees would be:

$8.70/AUM fee cost.

$12.29/AUM nonfee cost.

$20.99/AUM total cost.

If a Utah sheep rancher was faced with this total cost of grazing and used public land all year it would cost: 12 months × $21/month = $252/AU; 252/AU divided by 5 sheep/AU = $50.40 per ewe. Assume a 100 percent lamb drop, a 100 pound average weaning sales weight, and 1990 lamb price of $50 per cwt. The total value produced per ewe lamb is less than the cost of grazing the animal for a year. The rancher would have the value of wool to pay all other costs. Cattle producers would be in better shape because of the higher calf prices but could not afford to pay the total cost of grazing at these rates.

(Mr. Nielsen is an economist at Utah State University and is considered a leading authority on federal lands issues.)

TABLE 1.—SUMMARY OF PUBLIC LAND FEE AND NONFEE COSTS FEE AND NONFEE COSTS OF GRAZING FEDERAL LANDS

[Updated with January 1990 index numbers]

Item	1966	1977 index	1990 index	Nonfeed cost	Amount
Lost animals	$0.60	$1.01 (1.68)	[1]1.80	Meat animals/prices received	$1.82
Association fees	.08	.16 (2.00)	1.68	Production items	.27
Veterinarian	.11	.25 (2.26)	1.79	Wage rates	.45
Moving livestock	.24	.55 (2.30)	2.02	Autos & trucks + Wage rates	1.11
Herding	.46	1.04 (2.26)	1.79	Wage rates	1.86

TABLE 1.—SUMMARY OF PUBLIC LAND FEE AND NONFEE COSTS FEE AND NONFEE COSTS OF GRAZING FEDERAL LANDS—Continued

[Updated with January 1990 index numbers]

Item	1966	1977 index	1990 index	Nonfeed cost	Amount
Salting and feeding	.56	1.18 (2.10)	1.77	Auto and truck + feed	2.09
Travel	.32	.70 (2.18)	2.18	Auto and truck + Fuel and energy	1.53
Water	.08	.16(2.00)	1.68	Production items	.27
Fence maintenance	.24	.55 (2.28)	1.61	Wages + building and fencing	.89
Horse cost	.16	30 (1.68)	1.68	Feed	.50
Water maintenance	.19	.43 (2.28)	1.61	Wages + building and fencing	.69
Devel. depreciation	.11	.22 (2.00)	1.68	Productions items	.37
Other costs	13	.26 (2.00)	1.68	Production items	.44
Total nonfee cost					12.29

[1] Indices taken from USDA, "Agricultural Prices," Washington, DC, Economic and Statistics, and Cooperatives Service, Feb. 29, 1990.

Note.—1990 fee costs: Forest Service, $1.81/AUM; BLM, $1.81;AUM. Total 1990 costs: Forest Service, $12.29+$1.81=$14.10; BLM, $12.29+$1.81=$14.10

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. SYNAR].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SYNAR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 192, not voting 8, as follows:

[Roll No. 194]

AYES—232

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Archer
Aspin
Atkins
Bacchus
Barnard
Beilenson
Bennett
Berman
Boehlert
Bonior
Borski
Boucher
Boxer
Brooks
Brown
Bruce
Bryant
Byron
Campbell (CA)
Cardin
Carper
Clay
Clement
Clinger
Collins (IL)
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Crane
Darden
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Downey
Dreier
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Engel
Erdreich
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Gallo
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gordon
Goss
Gradison
Green
Guarini
Hall (OH)
Hamilton
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Hughes
Ireland
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnston
Jones (GA)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Lowey (NY)
Luken
Machtley
Manton
Markey
Matsui
Mavroules
Mazzoli
McCloskey
McCrery
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Moakley
Moody
Morella
Mrazek
Murphy
Neal (MA)
Neal (NC)
Nowak
Oakar
Obey
Olver
Owens (NY)
Pallone
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Petri
Pickett
Poshard
Price
Rahall
Ramstad
Rangel
Ravenel
Rinaldo
Ritter
Roemer
Rohrabacher
Ros-Lehtinen
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Sensenbrenner
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith (NJ)
Smith (TX)
Snowe
Solarz
Solomon
Spratt
Stark
Stokes
Studds
Swett
Synar
Tanner
Tauzin
Torres
Torricelli
Towns
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Walker
Washington
Waters
Waxman
Weiss
Weldon
Wheat
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Zeliff
Zimmer

NOES—192

Alexander
Allard
Andrews (NJ)
Anthony
Armey
AuCoin
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Brewster
Broomfield
Browder
Bunning
Burton
Bustamante
Callahan
Camp
Campbell (CO)
Carr
Chandler
Chapman
Coble
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Coughlin
Cramer
Cunningham
Dannemeyer
Davis
de la Garza
DeFazio
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Duncan
Dymally
Edwards (OK)
Edwards (TX)
Emerson
Espy
Fields
Franks (CT)
Frost
Gallegly
Gaydos
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Gonzalez
Goodling
Grandy
Gunderson
Hall (TX)
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Johnson (SD)
Johnson (TX)
Jones (NC)
Klug
Kolbe
Kopetski
Kyl
Lagomarsino
LaRocco
Laughlin
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Long
Lowery (CA)
Martin
Martinez
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Michel
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morrison
Murtha
Myers
Nagle
Natcher
Nichols
Nussle
Oberstar
Olin
Ortiz
Orton
Owens (UT)
Oxley
Packard
Panetta
Parker
Paxon
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickle
Quillen
Ray
Reed
Regula
Richardson
Ridge
Riggs
Roberts
Roe
Rogers
Rose
Roth
Santorum
Sarpalius
Schaefer
Schiff
Schulze
Shaw
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (OR)
Spence
Staggers
Stallings
Stearns
Stenholm
Stump
Sundquist
Swift
Tallon
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Vander Jagt
Volkmer
Vucanovich
Walsh
Weber
Whitten
Williams
Wolf
Wylie
Young (AK)

NOT VOTING—8

Gray
Kolter
Levine (CA)
Porter
Pursell
Rhodes
Thornton
Young (FL)

□ 1830

Mr. STEARNS changed his vote from "aye" to "no."

Messrs. JEFFERSON, McCRERY, SKAGGS, GALLO, and DIXON, Ms. OAKAR, Mr. GLICKMAN, and Mr. SLATTERY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there other amendments to title III?

AMENDMENT OFFERED BY MR. UPTON

Mr. UPTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UPTON: Page 96, after line 25, add the following:

SEC. 320. Notwithstanding any other provision of this Act, each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is reduced by 1.67 percent.

Mr. YATES. Mr. Chairman, I ask unanimous consent to limit debate on this amendment to 10 minutes, 5 minutes for the gentleman from Michigan [Mr. UPTON] and 5 minutes for our side.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. UPTON. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, we have heard a lot today about how this bill does not pay for the firefighting activities of the Department of the Interior Forest Service.

Mr. Chairman, I am one more Member who thinks this bill seriously undermines last fall's budget agreement. Basically what our amendment does is this: Traditionally we have spent about one-half billion dollars every year on firefighting activities. It is my understanding that the committee has decided to fund only about $300 million in the firefighting account, leaving the balance of the $200 million to be left for an urgent supplemental.

As we looked at CBO and other agencies that have tried to predict what we will be spending on firefighting, they all agree we are going to spend about one-half billion dollars. So why not put that one-half billion dollars into this agreement, rather than playing hocus-pocus and various shell games? Why do we not say up front that in fact we are going to spend half a billion dollars, rather than transferring some of that money into other accounts within the bill?

Mr. Chairman, the gentleman from Minnesota [Mr. PENNY] and I have therefore offered an amendment to have an across-the-board cut of 1.6 percent. We hope those savings will later be used in the conference committee to in fact restore the firefighting accounts that otherwise have been reduced.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise today to express grave concerns with the fiscal year 1992 Interior appropriations bill currently before the House. This legislation contains several provisions related to firefighting that clearly circumvent the letter and the spirit of the 1990 Budget Act. The committee has created emergency firefighting accounts in the Bureau of Land Management and the Forest Service, and the committee-reported bill has legislative language restricting the ability of the Secretaries of Agriculture and Interior to transfer appropriated funds to fight fires until the President declares an emergency—thereby freeing up a total of $213 million for firefighting activities that the committee refuses to directly appropriate.

Historically, the Congress has appropriated $500 million for firefighting. This year, however, rather than face tough choices, the committee reduced the firefighting appropriation to $311 million, and they rigged the process to ensure the rest of the money—$213 million—will be spent. First, they set up emergency accounts, then the committee restricts the ability of BLM and the Forest Service to use funds appropriated for other purposes to fight fires, then the committee says to the President, in effect: If you want to spend the other $213 million appropriated to fight fires you must declare an emergency. So, in effect, the committee's bill breaches the discretionary caps under the Budget Act. This is the worst kind of game playing. The committee takes funds from firefighting and spreads it around in the bill.

Overall, the fiscal year 1992 Interior appropriation is up 9 percent from current-year spending. There certainly is room to find $213 million for firefighting given this level of increase.

Mr. Chairman, this is the second emergency declaration in an appropriation measure this year. Two weeks ago, a $14.1 million item was included in the VA-HUD appropriation. Like the so-called emergency contained in the VA-HUD bill, the emergency provision in the Interior bill is phony and a blatant subversion of the budget agreement.

The amendment I am cosponsoring with Mr. UPTON would impose a 1.67 percent across-the-board reduction in discretionary accounts in this bill in order to free the needed funds for firefighting. This amendment, if adopted, would end the charade of requiring an emergency declaration for firefighting. We know the funds will be spent, so let us be honest, let us not play games, let us not sidestep the budget process, let us pass this amendment. It is the right thing to do.

□ 1840

Mr. UPTON. Mr. Chairman, I reserve the balance of my time.

Mr. YATES. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding time to me.

I would simply point out that these are emergency funds that we are talking about. There may or may not be an emergency.

Second, the 1.6-percent will be cut on all the programs, such as the Indian programs, the Park Service, the BLM, and all the various projects that are in this bill. They are already short funded. In addition, there is absolutely no assurance that the funds resulting from the 1.6-percent reduction would go to firefighting.

There is nothing in this amendment that says that this cut in funding for some essential services for the agencies such as parks, BLM, and Forest Service would necessarily go into the firefighting. The funds would be generally available.

What we have tried to do in constructing this bill is to be as careful as possible in meeting the needs of the programs funded by the bill. I would point out that in outlays, we are actually under last year's number. We are outlaying less money in this bill than was outlayed in the fiscal 1991 bill, and that is again part of the responsible approach we tried to take in constructing this year's appropriation.

Mr. UPTON. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. MCMILLAN].

Mr. MCMILLAN of North Carolina. Mr. Chairman, I spoke earlier on this issue of firefighting funds, which clearly creates a scenario in which we automatically are going to bust budget caps the first time the President makes an emergency request for funds, which he surely will do, possibly before the end of this week. So I think this amendment has very little negative effect on any other aspect of the budget.

It would provide the wherewithal for the conference to do two things; that is, adequately fund the firefighting request by the President of $525 million, which is consistent with the pattern over the past 10 years, and at the same time enable us to stick with the budget cap agreement which is absolutely essential that we do if we are ever going to bring this budget into balance.

Mr. YATES. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a good bill. Not only does this bill provide for reasonable levels, this bill is below levels from fiscal year 1991 for several agencies.

Mr. Chairman, the level for the Bureau of Land Management is below that for 1991. It is below the amount recommended by the President. The U.S. Fish and Wildlife Service is below the level for 1991. The Bureau of Mines is below the level for 1991.

The Office of Surface Mining is below the level of 1991. Territorial and International Affairs is below the level for 1991. Forest Service is below the level for 1991. It is below the level recommended by the President.

Fossil energy research is below the level for 1991. Economic regulation is below the level for 1991. The strategic petroleum reserve operations account is below the level for 1991. The Office of Navajo-Hopi Relocation is below that level, as is the Pennsylvania Avenue Development Corporation.

The Smithsonian is below the level recommended by the President. The National Gallery of Art is below the level recommended by the President. The Pennsylvania Avenue Development Corporation is below the level recommended by the President.

How much lower do Members want this committee to bring this bill in for? We are below all those levels.

The gentleman wants to cut it even more.

I would urge the committee to look at reality. We have tried to take care of the needs of all of the national resources of this country. We have placed money in this bill in order to meet those needs and yet the amount that we have made available has been below the current levels for many accounts.

Those offices are going to be really crippled in their operations unless more money is put in by the Senate. So I would hope that the committee turns down this amendment and sustains the action of the committee.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Michigan [Mr. UPTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. UPTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 169, noes 249, not voting 14, as follows:

[Roll No. 195]

AYES—169

Allard
Andrews (NJ)
Applegate
Archer
Armey
Ballenger
Barnard
Barrett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Clement
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Fawell
Fields
Ford (TN)
Franks (CT)
Gallegly
Gekas
Geren
Gilchrest
Gillmor
Gingrich
Glickman
Goodling
Goss
Gradison
Grandy
Hall (OH)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hoagland
Hobson
Hopkins
Horn
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kasich
Klug
Kyl
Lagomarsino
Laughlin
Leach
Lewis (FL)
Long
Luken
Machtley
Martin
McCandless
McCollum
McCrery
McCurdy
McEwen
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Neal (NC)
Nichols
Nussle
Orton
Oxley
Packard
Parker
Patterson
Paxon
Payne (VA)
Penny
Peterson (FL)
Petri
Porter
Quillen
Ramstad
Ravenel
Ridge
Riggs
Ritter
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roukema
Santorum
Saxton
Schaefer
Sensenbrenner
Shaw
Shays
Shuster
Skelton
Slaughter (VA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Zeliff
Zimmer

NOES—249

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clay
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gonzalez
Gordon
Green
Guarini
Gunderson
Hall (TX)
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lowery (CA)
Lowey (NY)
Manton
Markey
Marlenee
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McDermott
McGrath
McHugh
McNulty
Miller (CA)
Mink
Moakley
Mollohan
Moody
Moran
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Richardson
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Washington
Waters
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOT VOTING—14

Baker
Bustamante
Gray
Holloway
Levine (CA)
Livingston
Mineta
Pursell
Rhodes
Rinaldo
Sarpalius
Stark
Waxman
Young (FL)

☐ 1906

Mr. MFUME and Mr. HOAGLAND changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. MICHEL was allowed to proceed out of order.)

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Chairman, I rise for the purpose of inquiring of the distinguished majority leader the program for the balance of this evening, and conceivably how we will proceed tomorrow.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Missouri.

Mr. GEPHARDT. I thank the gentleman for yielding. We believe we are about to move to a final passage vote on this bill. We will then take up the rule on the District of Columbia appropriation bill, and we will have the general debate, but no further votes on that bill tonight.

We will then take up three suspension bills, but the votes, if any are required, will be tomorrow.

On tomorrow, we will then go back and finish the District of Columbia bill. We then have the Labor-HHS appropriation bill, and if timing is right, we could move to the Agriculture bill as well. We cannot end the week until all of the appropriation bills that are scheduled, these three, are finished.

Mr. MICHEL. Could I inquire, then, if there are votes ordered on the suspensions that would be taken up later this evening, would those votes be the first votes tomorrow?

Mr. GEPHARDT. That is correct.

Mr. MICHEL. Before completing the District of Columbia bill?

Mr. GEPHARDT. Correct.

Mr. MICHEL. It is my understanding that on the rule for the District of Columbia measure tonight, there is no controversy on that rule, and we would not anticipate a vote?

Mr. GEPHARDT. That would be our hope, but we never know.

Mr. MICHEL. I have been asked how late would we go tonight, but I think if I might interpose my own feeling, if, as the majority leader suggests, we make the kind of progress that could be made, the expectation is such that we can wrap it up. His answer was that we must simply finish all the appropriation bills. That is the goal.

Mr. GEPHARDT. Let me say to the gentleman that all obviously hinges on our ability to move the business and get it done in a timely manner.

☐ 1910

The CHAIRMAN. If there are no other amendments, the Clerk will read.

The Clerk read as follows:

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1992".

Mr. DE LUGO. Mr. Chairman, the bill before us, H.R. 2686, would meet a number of needs in insular areas associated with the United States.

The territorial and international affairs section would make appropriations for many of the purposes for which the authorizing subcommittee, which I am privileged to chair, recommended Interior Department funding next fiscal year.

The distinguished chairman of the appropriations subcommittee, our colleague, SIDNEY YATES, should be commended for crafting provisions to do so. The assistance he received in this regard from Kathy Johnson of the subcommittee staff should be recognized as should the cooperation of the distinguished ranking Republican of the subcommittee, our colleague RALPH REGULA.

As the representative of the people of the U.S. Virgin Islands, I am pleased that the bill contains further funding to enable the islands to rebuild after the enormous devastation caused by Hurricane Hugo. A delegation led by our colleague who now chairs the full Interior and Insular Affairs Committee, GEORGE MILLER, found—after inspecting the disaster at my request—that the destruction was so pervasive that it justified extraordinary measures being taken to enable the territory to recover.

This bill would provide $23.5 million to repair health and educational facilities.

Federal disaster assistance provided already has been significant. Still, even Federal relief officials have admitted that although great strides have been made in restoring the Virgin Islands to normalcy * * * much still needs to be done before full physical, economic, environmental, and psychological recovery is a reality.

Providing the funding contained in this bill would accomplish much of what still needs to be done.

One of the most important provisions of the bill would restore the authority of the elected government of the Trust Territory islands of Palau to determine the islands' budget under its constitution. The provision would prevent the Interior Department's Territorial and International Affairs Office [OTIA] from effectively dictating Palau's budget by earmarking the basic Federal support for operating the government of those western Pacific islands which comprises such a substantial portion of the insular budget.

The need for this provision was created late last year when OTIA unilaterally limited the purposes for which the grant could be spent. Amazingly, it issued this order after the grant was appropriated, so that it effectively limited the purposes for which the Congress had approved funding. Even more amazingly, OTIA issued its order in spite of the intent clearly expressed in the conference report on last year's appropriations bill that Palau have the flexibility to determine spending priorities.

The rewriting of Palau's budget that OTIA required resulted in a number of problems.

One of the most critical was a budget crisis that left substantial portions of Palau's government unfunded for a significant period of time. The crisis ended when a compromise between OTIA and Palau's government was reached after Chairman YATES, other Members and I exerted pressure on OTIA with the intervention of our former colleague who is now Secretary of the Interior, Manuel Lujan, Jr.

Some OTIA personnel tried to justify the agency's actions in this matter as being necessary to ensure that U.S. responsibilities under the trusteeship agreement with the United Nations Security Council for the Territory of the Pacific Islands are met. Yet, OTIA's order failed to fund some responsibilities under the trusteeship agreement as well as under Palau's federally sanctioned constitution. It also underfunded some functions of government. Further, it certainly was contrary to the primary U.S. trusteeship responsibility, which is to promote increasing self-government in Palau.

I believe that OTIA was sincerely trying to respond to problems made abundantly clear by investigations of Palau initiated by the Insular and International Affairs Subcommittee. Unfortunately, its solution to the problems was not the one recommended by the subcommittee. The subcommittee has consistently urged OTIA to provide Palau with the help it needs to tackle the serious problems it faces, rather than by reimposing Federal authority in areas where decisions should be made locally.

In any case, OTIA's timing was curious. The problems to which the earmarking responded primarily related to a previous administration in Palau which was tainted with corruption. Executive branch officials had supported this administration and even ignored the very serious problems that Palau faced under it until our investigation made those problems apparent to all.

Some of the problems continue; but the earmarking was imposed after Palau's government came to be dominated by capable reformers who are themselves addressing many of these problems.

They deserve the Federal Government's support and their people should not be denied self-government because of problems involving their predecessors.

There was another timing problem with OTIA's action. It hindered action in Palau on the island's future political status.

This is because the action was interpreted as pressure on Palau to approve the Compact of Free Association approved by the United States; but not approved by the people of Palau in seven referenda to date. Under this theory, OTIA's order was intended to be a message to Palau's people that, if they want to make decisions such as those involved in writing a local budget, they should approve the Compact.

I am confident that this was not OTIA's intent. But anyone who understands Palau would understand that the Palauan people wouldn't bow to such pressure.

OTIA officials now appear to be more aware than they were last year that they should try to work out how Federal support for Palau's government will be used with Palau's leaders * * * and this is the intent of this legislation. In particular OTIA's head, Assistant Secretary Stella Guerra, is an astute individual who, I think, will want to work cooperatively with Palau rather than confrontationally. So, I hope that the policy of this bill will be consistent with the approach that OTIA will begin to practice.

In terms of funding for Palau, instead of continuing funding for the operations grant at the current level, as proposed by the President, this bill would increase it, as recommended by the Interior and International Affairs Subcommittee.

Some of the $1 million increase would be used to operate the new hospital in Palau. The Insular and International Affairs Subcommittee has been able to get this tremendously needed facility funded with the help of the Interior Appropriations Subcommittee over the opposition of the executive branch. The bill includes the final $2 million needed to complete construct and equip the hospital.

The Insular and International Affairs Subcommittee also recommended funding for additional capital improvements in Palau. The Interior Appropriations Subcommittee bill would provide $7.5 million for essential infrastructure in the islands.

A U.S. nuclear test in 1954 exposed Rongelap Atoll in the Marshall Islands to a high level of radiation. A 1982 Energy Department study concluded that Rongelap was safe for its people to live on; but contained information that caused the islanders to evacuate their homeland in 1985 because of doubts about this conclusion.

The people of Rongelap now live on an island in Kwajalein Atoll under grim conditions and uncertainty about their health and the safety of their homeland and their own health.

The Compact of Free Association Act of 1985 included a provision which originated in the Interior and Insular Affairs Committee—in spite of some objections—that commits the United States to take any necessary measures to make Rongelap safe and requires a study.

The Insular and International Affairs Subcommittee recommended funding for the study and the people of Rongelap. The Interior Appropriations Subcommittee bill includes $1 million for the study, and $2 million more to make it possible for the people to return to their atoll, including up to $500,000 to improve living conditions while they have to live away from their homeland, pending its cleanup and resettlement.

It was obvious that the immigration provisions of the Compact of Free Association with the Federated States of Micronesia and the Marshall Islands would impost costs on Guam and the Northern Mariana Islands. So, the 1985 Compact Act included a provision which originated in the Interior and Insular Affairs Committee—again in spite of some objections—which requires the executive branch to identify compact costs to United States insular areas and authorizes any funds necessary to cover the costs.

The administration has not submitted the required information; but the governments of Guam and the Northern Mariana Islands have identified education, health care, law enforcement, and other costs. The Insular and International Affairs Subcommittee recommended funding—noting that benefits from the compact migration should also be considered in calculating the bottom line costs. This bill would provide $1.5 million for Guam and $500,000 for the Northern Mariana Islands in initial funding for this purpose. It is intended that these amounts be supplemented by technical assistance funding from OTIA, as may be justified.

As in the case with Palau, the Insular and International Affairs Subcommittee believes that the President's proposal to continue support for the operations of the government of American Samoa at the current level—effectively decreasing it by the factor of inflation—is unrealistic. We recommended an increase and this bill would provide an additional $1 million.

The subcommittee also disagreed with the President's proposal to decrease capital improvements in American Samoa, a U.S. territory that faces severe constraints to development and lacks many of the basic facilities needed for a decent quality of life. It recommended an increase and this bill would provide an additional $5.3 million.

There has been no doubt about the need for a new air traffic control tower at the airport in Saipan in the Northern Mariana Islands. The only real question has been how to pay for it.

For a few years, the issue was caught in a 'Catch-22' predicament. The Federal Aviation Administration proposed funding because of the dangerous situation. The Appropriations

Committee denied it, proposing that it come, instead, from the primarily Japanese users of the airport. The State Department blocked Japanese interest in funding it because of a shortsighted unwillingness to let any member of the American political family receive needed assistance from another nation. The end result was no funding for the tower until we succeeded in having initial funds appropriated last year. The bill includes $2.5 million for most of the balance.

We also succeeded last year in obtaining initial funding to improve facilities of the College of Micronesia authorized before the Compact of Free Association with the Federated States and the Marshall Islands was approved. Last year's funding initiated by the Congress began to fulfill a commitment that the executive branch made in implementing the Compact with Federated States in 1986.

The additional $4 million authorized, which was recommended by the Insular and International Affairs Subcommittee, is included in this bill.

Enewetak Atoll in the Marshall Islands was also contaminated by U.S. nuclear testing. The 1985 Compact Act inlcuded a provision which originated in the Interior and Insular Affairs Committee—once again in spite of some objections—that committed the United States to help support the nutritional needs of the people of Enewetak until their atoll could once again safely provide an adequate amount of food.

The executive branch has continued to oppose funding; but the Insular and International Affairs Subcommittee has supported it. This bill contains $1.1 million for it.

The Insular and International Affairs Subcommittee recommended in 1988 the OTIA assist insular governments in operating and maintaining essential infrastructure and a program was initiated to do so. The President proposed halving funding for the program in this bill to $2.5 million; but the Insular and International Affairs Subcommittee disagreed. This bill would provide an additional $2.5 million to continue the program at the current level.

Mr. Chairman, the Interior Appropriations bill does not include all of the funding recommended by the Insular and International Affairs Subcommittee; but it does include most of it. I have detailed some of what it contains to indicate why it should be supported and why our colleague from Illinois, Mr. YATES, and the subcommittee that he chairs should be appreciated from developing it.

We are particularly appreciative of this legislation's insular provisions because of the tremendous constraints on the budget. According to one publication, Chairman YATES said that the limitations on discretionary spending forced the subcommittee to ignore needs that are overwhelming.

I urge the House to approve the bill.

Mr. LEHMAN of California. Mr. Chairman, I rise in support of the bill H.R. 2686, the Interior and Related Agencies appropriations bill for fiscal year 1992.

As a result of the Budget Enforcement Act of 1990, I know Chairman YATES had to turn down many worthy requests for funding, some of which were mine. However, I feel the bill does include money for some very important projects in my district.

Among those projects is the $1.1 million in research money which would protect forests from the devastating bark beetle infestation which has affected nearly all of the forests in my district. In addition, $500,000 was approved for special bark beetle initiatives to be used by the State and private forests. Three hundred thousand forty-five dollars has been directed to the U.S. Department of Agriculture's Fresno research facility for old growth forest research.

I view the establishment of the new emergency Forest Service firefighting fund which contains $112 million as a new recognition by the Federal Government that firefighting must have its own fund, instead of the yearly borrowing from other needy programs which has been the norm.

Additionally, California will receive approximately $10.9 million for the Federal Payment-in-Lieu of Taxes [PILT] Program. This program provides funding to help local governments provide basic services that it might otherwise forgo because of an abundance of federally-owned lands that prevents a reliable tax base. Yosemite National Park will receive $2 million for much needed maintenance of roads in the park.

Finally, I am pleased that language to prohibit further degradation of our stream system was included by disallowing the issuance of special use permits for two ill-advised and unnecessary hydroelectric projects on the Lewis Fork Creek and on Rock Creek, both located in Madera County in my congressional district. This prohibition is a no-cost preventative measure which will save untold sums of money later by preventing the loss of fisheries habitat and mitigation costs.

Mr. BENNETT. Mr. Chairman, I rise in support of this bill for the Interior appropriations, and specifically to thank the committee and its fine and able chairman, Mr. YATES, for including much needed funds for the Timucuan Preserve. This historic and ecological preserve contains 10 important historic sites going back to a 1598 Spanish mission and many French, Spanish, English, Confederate, and United States forts. Land acquisition is under way and thus the funds furnished by this bill are very timely. I am deeply grateful to the committee for its help in this.

Mr. ESPY. Mr. Chairman and other distinguished members of this committee, I rise today to express my support of the Department of the Interior and related agencies appropriations bill for fiscal year 1992. I would like to take this opportunity to highlight several programs which are of significant interest to my constituents.

I extend a special note of gratitude to the committee for their inclusion of an appropriation in the amount of $200,000 for the Mississippi River Corridor Study Act. The Mississippi River Corridor Study Act stands to set a new standard for ensuring that the mighty Mississippi can be used and preserved for generations. Forty-one percent of the Nation's surface water drains down the Mississippi River—it is a resource of national significance, a living, working river that has created folklore, culture, and commerce for generations. By funding this program in fiscal year 1992, this committee has taken steps to ensure that this great river will continue to thrive.

I am also appreciative of the committee's recognition of the Grand Bay National Wildlife Refuge, located on the Mississippi gulf coast, as demonstrated through an appropriation of $1,000,000. The Grand Bay Savanna is the largest and least disturbed wet savanna in the United States. Its land features are characterized by pine and cypress savannas, brackish and salt marshes, shell middens, and marsh islands.

The Grand Bay Savanna serves as a critical ground water recharge area for the local communities that are now facing potential potable water shortages due to increased usage and higher salinity levels in the aquifer. The fresh water produced from this area supplies one of the most productive estuaries in the world, which, in turn, supports both Mississippi and Alabama's commercial and sport fishing industries. In addition, this once vast region serves as the habitat for 21 rare or endangered species in Mississippi and Alabama, and is currently being studied as a potential reintroductory nesting site for bald eagles.

Tourists from our region and the rest of the Nation will benefit from the highway improvements provided in the appropriations made to the Natchez Trace Parkway and Natchez National Historical Park, which total $13,000,000 and $470,000, respectively. The Natchez Trace Parkway will receive an additional $5,500,000 in funds from the Federal Highway Lands Program, as requested by the administration, which will be used for resurfacing existing sections of the parkway and for improvements to the shoulders of the highway.

The Natchez Trace Parkway is a major historical asset to my region of the country, which runs from Natchez, MS, to Nashville, TN. This 8,000-year-old "line of footprints" was first used by buffalo and Indians, followed by trappers, settlers, and missionaries. From 1800 to 1820, the trace was considered the busiest highway in the South. The Natchez National Historic Park, located 60 miles south of Vicksburg, MS, depicts much of the region's history as it relates to Natchez, the first colonial settlement along the Mississippi River.

The city of Vicksburg, MS, will benefit greatly from the continuation of the comprehensive study of the area resources, which received an appropriation of $165,000. This study seeks to help the community protect and promote its significant cultural, historical, and natural resources. The study area includes the Mississippi riverfront and Yazoo Canal adjacent to the city, the downtown business district, Vicksburg National Military Park, and areas to be evaluated for possible inclusion in the park. The Vicksburg riverfront and cultural landscape study provides an opportunity to look at all of Vicksburg's resources, historic and contemporary, and chart a course for the future that includes the whole community. This study offers Vicksburg the opportunity to move progressively toward the 21st century, and I thank the committee for the inclusion of this project in this appropriations bill.

Again, I would like to thank the committee for recognizing these important projects and for including them in this appropriations bill. The environmental and economic impact of these projects will be of benefit to Mississippians throughout the State.

Mr. KOSTMAYER. Mr. Chairman, I rise to commend the chairman of the Appropriations Subcommittee on Interior, Mr. YATES, for his outstanding effort in bringing to the floor today a bill that makes great strides in protecting the natural and historic heritage of our country.

I would like to express my appreciation to the chairman and the subcommittee for granting my request for the support of four projects in the fiscal year 1992 Interior appropriations bill that have special significance for citizens in eastern Pennsylvania.

First, the subcommittee has continued funding of the Delaware and Lehigh Navigation Canal National Heritage Corridor, first established in 1988 as a result of legislation introduced by my colleague, Representative DON RITTER, and myself. The $350,000 the Subcommittee has provided for fiscal year 1992 will enable the Heritage Corridor Commission created by our 1988 legislation to continue its important efforts at preserving and restoring this vital 150 mile historic corridor.

Second, the subcommittee has provided $100,000 for the National Park Service to continue to assist the coalition I have organized in the Philadelphia metropolitan area to protect farmland and other important open space areas in southeastern Pennsylvania. The goal to save vanishing green spaces around the city of Brotherly Love will move a step closer this year as conservation groups, private businesses, local governments, and concerned citizens begin to implement plans to advise communities on the mechanisms available to save open space and the importance of linking these open spaces throughout the Delaware Valley. The funds appropriated for the National Park Service will enable that agency to help community leaders find ways to preserve some of our most threatened natural areas and resources. I am truly excited about making the Philadelphia greenbelt a reality, and the provision of funds for this effort for the second time will bring us very close.

Third, the subcommittee has seen fit to establish a field office of the U.S. Fish and Wildlife Office in eastern Pennsylvania. I have been seeking such an office for more than 18 months in an effort to improve agency responsiveness on wetland protection and permit processing, protection of endangered species and open space, implementation of Superfund cleanup strategies, and protecting waterfowl habitat along the Delaware River and in the Delaware estuary.

Fourth, the subcommittee has agreed to provide more than $1 million for increased protection at the Gettysburg National Military Park. This money comes at a very important time. Though Representative GOODLING and I were successful in enacting legislation in the 101st Congress to expand the boundaries and the protections afforded the battlefield, already new pressures to invade the sanctity of this great national monument are upon us. A 321,000-square-feet shopping center is now being proposed to be built within sight of the battlefield and actually inside the Gettysburg historic district. The funds being made available today will be utilized in an effort to expand the park by acquiring properties identified in our recently-passed legislation. An additional $75,000 is also being provided for technical assistance to the community relating to land use planning and zoning.

I look forward to working with the subcommittee again in the future to protect and enhance the scenic and recreational values of the Commonwealth of Pennsylvania.

Mrs. VUCANOVICH. Mr. Chairman, I wish to thank the chairman of the Subcommittee on Interior and Related Agencies of the Appropriations Committee, Mr. YATES, and the ranking Member, Mr. REGULA, for their consideration on the point of order raised by Chairman RAHALL of the Mining Subcommittee of the Interior and Insular Affairs Committee, of which I am the ranking Member.

I also serve on the full Appropriations Committee, and I had sought unsuccessfully to keep the administration's proposal for a $100 annual holding fee on each and every mining claim held under the act of May 10, 1872, as amended, from being included in the subcommittee's markup. Chairman YATES would have been willing to oblige me on this issue were it not for the scoring that the Congressional Budget Office gave to this measure, $40 million of revenue to the Federal Treasury.

Mr. Chairman, this revenue estimate is without foundation. The CBO and OMB are simply guessing at the elastic response the mining community would have to this new tax. The proposal is that mining claimants simply send the money that they are now required to spend on development of their claims to Washington, DC, instead. This will do nothing to aid in finding ore deposits or in cultivating mines on the public lands of the West where the mining law operates. In fact it would devastate the economies of rural areas in Nevada, and elsewhere, which are dependent upon miners spending their exploration and development dollars locally.

Chairman RAHALL and I both agree that diligent development of the mineral lands in the public domain is in the Nation's best interest. Our Mining and Natural Resources Subcommittee is currently considering legislation to reform the mining law of 1872, as amended. While we may disagree on reform issue, we do agree that the Interior Committee should be given proper opportunity to act and that the appropriators ought not to legislate actions that would undo the deliberations of the authorizers.

For these same reasons, I have sought to strike the moratorium in this bill on BLM's issuance of patents under the mining law. Unfortunately, Chairman RAHALL does not agree with me on this issue and the patenting moratorium will remain in the bill to be sent to the Senate.

Likewise, although the Rules Committee issued a rule allowing a point of order to rest against the 33⅓ percent grazing fee increase in the Appropriations Committee reported bill, they also saw fit to make the amendment to be offered by Mr. SYNAR in order. This amendment, which would invoke a much higher grazing fee increase, also constitutes legislating in an appropriations bill. Furthermore, the authorizing committees of jurisdiction, Interior and Insular Affairs, and Agriculture, both are looking at the grazing issue. There simply is no justification for this appropriations bill to be a vehicle to legislate an outrageous fee increase without proper hearings and opportunity for debate.

Mr. GOSS. Mr. Chairman, first, I would like to thank the appropriators for, once again, indulging the Florida delegation in our annual pilgrimage to the committee seeking a moratorium on leasing and drilling activities in the most sensitive portions of the eastern Gulf of Mexico. Most of the residents of my district can breathe a sigh of relief that their coastline will be protected from drilling activities for 1 more year. But there is still much work to be done, especially since there are more than 200 existing leases in the panhandle of the State that do not fall under any moratorium.

The Florida coastline is a treasure trove of fragile ecosystems. The west coast of Florida contains scenic estuaries and coral reefs, spectacular beaches, sparkling waters, habitats for endangered species, and abundant fisheries. In addition to these wonders of nature, the Florida mangroves are one of the most productive natural ecosystems in the world. Introducing oil and gas into this environment could be devastating, not just to the resources, but to the State's entire economy, which relies heavily on tourism and seafood production.

I would not be surprised if the appropriators are as frustrated as we are with our yearly efforts to keep oil and gas activities away from our coasts. Frankly, I do not find these yearly extensions of a drilling ban to be the most efficient, sensible way of doing business. A 100-mile buffer zone and a permanent ban in these areas, coupled with a comprehensive national energy strategy that reduces our dependence on oil through increased conservation and successful development of alternative, sustainable fuels, would make much more sense.

As pleased as I am for the State of Florida, I am somewhat disappointed with the bill's overall policy toward Outer Continental Shelf activities. The message is easy to understand, mainly because the message never changes—increased oil and gas production will continue to be encouraged.

In the aftermath of the Persian Gulf war, the rhetoric about reducing our dependence on oil through increased conservation and successful development of alternative, sustainable fuels is louder than ever. But from what I see, the rhetoric has yet to translate into action.

Mr. GINGRICH. Mr. Chairman, I direct your attention to the legislation before us—H.R. 2686, the Interior appropriations bill for fiscal year 1992. In particular, Mr. Chairman, I direct your attention to what's missing from it.

In 1986, the United States and Canada entered into an historic agreement called the North American Waterfowl Management Plan. This agreement, which is designed to arrest the recent dramatic decline in mirgratory waterfowl, establishes 15-year goals toward habitat restoration and enhancement. In 1989, Congress showed its strong support for the plan by approving the North American Wetlands Conservation Act.

For this current fiscal year 1991, we appropriated an additional $15 million for the plan over the amount available from its permanent appropriation. This funding, which is matched by private, State, and Canadian moneys, has enabled us to take the first steps toward realizing the goals of the Waterfowl Management Plan.

For fiscal year 1992, however, the bill before us does not include this additional $15 million, despite a request for the funding from our President.

Mr. Chairman, now is not the time to renege on our commitment to conservation. This $15-million appropriation must be included in the final version of the Interior appropriations bill. The conferees should take notice of the environmental significance of restoring North America's critical migratory waterfowl habitat.

Mr. ESPY. Mr. Chairman, I rise today to express my support of the Department of the Interior and related agencies appropriations bill for fiscal year 1992. I would like to take this opportunity to highlight several programs which are of significant interest to my constituents.

I extend a special note of gratitude to the committee for their inclusion of an appropriation in the amount of $200,000 for the Mississippi River Corridor Study Act. The Mississippi River Corridor Study Act stands to set a new standard for insuring that the mighty Mississippi can be used and preserved for generations. Forty-one percent of the Nation's surface water drains down the Mississippi River—it is a resource of national significance, a living, working river that has created folklore, culture, and commerce for generations. By funding this program in fiscal year 1992, this committee has taken steps to ensure that this great river will continue to thrive.

I am also appreciative of the committee's recognition of the Grand Bay National Wildlife Refuge, located on the Mississippi gulf coast, as demonstrated through an appropriation of $1 million. The Grand Bay Savanna is the largest and least disturbed wet savanna in the United States. Its land features are characterized by pine and cypress savannas, brackish and salt marshes, shell middens, and marsh islands.

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Again, I would like to thank the committee for recognizing these important projects and for including them in this appropriations bill. The environmental and economic impact of these projects will be of benefit to Mississippians throughout the State.

Mr. SHAW. Mr. Chairman, I rise in reluctant opposition to the amendment to H.R. 2686, the Interior and Related Agencies appropriations bill for fiscal year 1992. Congressman CRANE'S amendment would strike funding for the National Endowment for the Arts [NEA] for this fiscal year.

Although I generally support funding for the NEA, my support for the NEA is growing tepid because of the regional funding inequities seemingly inherent in the way the NEA distributes funds to the States. I refer specifically to the gross discrepancy between the amount of NEA funds distributed to the State of New York, as compared to the amount given to the 17 States which comprise the Sun Belt region.

For example, according to NEA fiscal year 1989 statistics, New York State along received a whopping $11.1 million more in NEA grant money than all of the Sun Belt States combined. New York garnered an incredible $39.9 million in NEA funds, while the 17 Sun Belt States, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Mississippi, Alabama, Louisiana, Texas, New Mexico, Arizona, Missouri, Oklahoma, Tennessee, Kentucky, and Arkansas, received only $28.8 million.

Overall, New York easily led the Nation in NEA grant money in 1989. California ranked a distant second with $16.2 million, getting less than half of New York's share. Texas, the third largest State in the Nation, led the Sun Belt region, ranking eighth nationally and receiving $4.7 million. My home State of Florida, the 4th largest State in the Nation, received a paltry $1.9 million and ranked 17th. Arkansas was ranked dead last among the 50 States, receiving only $51,950 from the NEA in 1989.

New York's take from the NEA is so large, that not even the Sun Belt, combined with the NEA funds given to Idaho, Alaska, Delaware, Kansas, Maine, Montana, North Dakota, New Hampshire, Nevada, Rhode Island, South Dakota, Vermont, Wyoming, Iowa, and Nebraska can equal New York's share. I find it incredible that 1 State can receive more funds than 32 States from a Government agency that ostensibly is interested in all regions of the country.

As cochairman of the congressional Sun Belt caucus, I wrote an article for the caucus' newsletter, hoping to alert the 154 members of the Sun Belt caucus to this disturbing fact. I was hoping that by bringing this fact to light, the NEA would correct this inequity for fiscal year 1990. Unfortunately for artists in the Sun Belt, this was not to be the case.

For fiscal year 1990, I found that the funding discrepancy still existed between New York and the 17 Sun Belt States, although the difference was not as dramatic as fiscal year 1989's figure. According to NEA statistics, New York garnered $33.65 million in NEA funds, compared to the Sun Belt's share of $28.9 million, for a difference of $4.75 million, last year. New York easily led the Nation again in NEA funding, receiving more than double the amount of funding received by California, which at $15.96 million was a distant second. New York's share from the NEA is still so large that not even the 17 Sun Belt States, combined with NEA funds given to Delaware, Idaho, North Dakota, New Hampshire, Nevada, South Dakota, Wyoming, and Hawaii can equal New York's huge share.

This regional funding inequity is obscene, a work with which I am sure the NEA is familiar. I voted against the Crane amendment this time; I did however, support the Stearns amendment, which would have cut $7.4 million from the NEA. I voted for the Stearns amendment mainly to register my displeasure over the meager funds the Sun Belt receives from the NEA.

Mr. Speaker, I realize that New York is considered by many to be the cultural center of the Nation. However, I wonder how many aspiring artists in the rest of the country simply lack the resources to develop their artistic potential. The National Endowment for the Arts is a national program—not a New York program. I will continue to follow this issue closely, and I plan to become more active on this issue in my role as cochairman of the congressional Sun Belt caucus, especially when the NEA is due for reauthorization. This funding inequity is unfair and must be changed, either internally by the NEA, or if the NEA is unwilling, by the Congress.

Mr. YATES. Mr. Speaker, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GEPHARDT) having assumed the chair, Mr. GORDON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2686) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER pro tempore (Mr. GEPHARDT). Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. REGULA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 345, nays 76, not voting 11, as follows:

[Roll No. 196]

YEAS—345

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cooper
Costello
Coughlin
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
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Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sawyer
Saxton
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Weber
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Zimmer

NAYS—76

Allard
Andrews (NJ)
Archer
Armey
Ballenger
Barrett
Barton
Bilirakis
Boehner
Broomfield
Bunning
Burton
Camp
Coble
Combest
Condit
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Fawell
Fields
Gekas
Gingrich
Gradison
Hancock
Hefley
Henry
Herger
Holloway
Hunter
Inhofe
Jacobs
Johnson (TX)
Kasich
Kolbe
Kyl
Marlenee
Martin
McCrery
McMillan (NC)
Moorhead
Nichols
Nussle
Orton
Packard
Paxon
Payne (VA)
Penny
Petri
Roberts
Rohrabacher
Roth
Santorum
Sarpalius
Schaefer
Sensenbrenner
Skeen
Skelton
Smith (OR)
Smith (TX)
Solomon
Stenholm
Stump
Sundquist
Taylor (MS)
Thomas (WY)
Upton
Vucanovich
Walker
Zeliff

NOT VOTING—11

Baker
Cox (CA)
Gray
Hastert
Ireland
Levine (CA)
Livingston
Rhodes
Savage
Waxman
Young (FL)

□ 1928

Mr. SERRANO changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. COX of California. Mr. Speaker, I was unavoidably detained during the last vote on final passage of H.R. 2686. Had I been present, I would have voted "nay."

AUTHORIZING THE CLERK TO MAKE TECHNICAL CORRECTIONS IN H.R. 2686, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATION ACT, 1992

Mr. YATES. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 2686, the Clerk shall be authorized to make any and all necessary technical corrections.

The SPEAKER pro tempore (Mr. TAUZIN). Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1930

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2510

Mr. HERGER. Mr. Speaker, I ask unanimous consent to have the name of the gentleman from California [Mr. MATSUI] removed as a cosponsor from my bill, H.R. 2510.

The SPEAKER pro tempore (Mr. TAUZIN). Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, JUNE 26, 1991

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be permitted to sit during the proceedings under the 5-minute rule on Wednesday, June 26, 1991.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WALKER. Mr. Speaker, reserving the right to object, I will ask the gentleman from Michigan [Mr. CONYERS] whether this has been cleared by the minority. We have no information on this side that it has been cleared.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I am happy to advise the gentleman from Pennsylvania [Mr. WALKER] that it has been cleared.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Michigan [Mr. CONYERS].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1991

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 181 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 181

Resolved, That all points of order against consideration of the bill (H.R. 2699) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes, for failure to comply with the provisions of clause 2(1)(6) of rule XI and clause 7 of rule XXI are hereby waived. During consideration of the bill, all points of order against the provisions in the bill for failure to comply with the provisions of clause 2 of rule XXI are hereby waived.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 181 is a rule waiving points of order against provisions of H.R. 2699, making appropriations for the Government of the District of Columbia for fiscal year 1992, and for other purposes.

House Resolution 181 provides waivers of clause 2 (1)(6) of rule XI and clause 7 of rule XXI to allow immediate consideration of the bill. The rule also waives clause 2 of rule XXI against all provisions in the bill. Both the chairman of the House Committee on the District of Columbia and the ranking minority member on the District of Columbia Subcommittee on Appropriations have expressed their support of this waiver.

Mr. Speaker, continuing in the spirit of cooperation that produced this appropriations bill and that approved the formula for the Federal payment to the District of Columbia, I urge adoption of the rule so the House may proceed to timely consideration of H.R. 2699.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Missouri [Mr. WHEAT] has fully explained the provisions of the rule. Since general appropriations bills are privileged, this legislation will be considered under the normal legislative process for appropriations bills. The bill will be open to amendment under the 5-minute rule and any amendment which does not violate the rules of the House will be in order.

Mr. Speaker, H.R. 2699, the bill making appropriations for the District of Columbia for the fiscal year 1992, provides a total of $700 million in Federal funds. This amount includes a $630.5 million payment to the District government to compensate the city for lost taxes and other costs associated with the District's role as the Nation's Capital.

I would like to point out, Mr. Speaker, that the administration does have a concern about the legislation. It strongly objects to language in section 114 of the committee bill which would permit the use of congressionally appropriated local funds to finance abortions. According to the administration's policy statement, this would substantially weaken current law.

The administration urges the House to adopt language concerning abortion that was included in the last three District of Columbia appropriations bills. That language prohibited the use of both Federal and local funds to perform abortions, except where the life of the mother would be endangered if the fetus were carried to term. The statement of administration policy notes that the President will veto any District of Columbia appropriations bill that does not contain this language.

Mr. Speaker, I am hopeful that the concern the administration has can be worked out here on the floor and in conference. I urge adoption of the rule so that the House can complete its action promptly on the bill.

Mr. WHEAT. Mr. Speaker, I thank the gentleman from Tennessee [Mr. QUILLEN] for his support of this rule.

Mr. Speaker, I have no requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. DIXON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2699) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New Jersey [Mr. GALLO] and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. DIXON].

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentlewoman from Connecticut [Mrs. KENNELLY] as Chairman of the Committee of the Whole, and requests the gentleman from Kentucky [Mr. MAZZOLI] to assume the chair temporarily.

☐ 1937

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2699, with Mr. MAZZOLI (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN pro tempore. Under the unanimous consent agreement, the gentleman from California [Mr. DIXON] will be recognized for 30 minutes, and the gentleman from New Jersey [Mr. GALLO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased this evening to present to my colleagues the District of Columbia appropriations bill for fiscal year 1991.

Mr. Chairman, I want to thank the members of the subcommittee for their support and assistance—especially the gentleman from New Jersey [Mr. GALLO] the ranking member.

Let me point out that this bill is different from the other 12 appropriations bills in the sense that it includes the appropriation of 3 separate kinds of funding: It includes Federal funds of $700 million; it includes local funds of $2.8 billion; and it includes capital borrowing authority of $363 million.

These amounts from three different sources total $3.9 billion which is the total amount in the this bill.

The other 12 appropriation bills the House considers are all funded from the Federal Treasury. This bill is not.

It is important that Members keep this difference in mind as we debate this bill this evening.

This bill also includes a net reduction of $44 million in supplemental appropriations and rescissions for fiscal year 1991 consisting of $250 million in rescissions and $206 million in increases.

These are all District funds—there are no Federal funds involved in the District's fiscal year 1991 supplemental.

For fiscal year 1992, the $700 million in Federal funds is $48 million above last year's appropriation and $17 million above the request.

This $700 million in Federal funds falls into three major categories: $630.5 million represents the Federal payment to the general fund; $52.1 milion is the Federal contribution to the police, fire, teachers and judges retirement funds; and $17.3 million is for special health and education programs.

I will take a moment to explain each of these three categories briefly.

COMMENDATION OF MARY PORTER

Before I explain those three items, Mr. Chairman, let me take a moment to congratulate the staff that worked on this bill. Although compared to the other 12 bills, relatively speaking the sum of money involved here is not large, but it is of great importance to the District of Columbia. And one of the employees of the District government who works with our Committee staff is Mary Porter. She has worked for and advised our consultants for the past 30 years. She is the one professional and knowledgeable person in the District government that follows the bill from its inception in the Mayor's office to the City Council, to the House, to the other body, to conference and to the Committee on the District of Columbia. And she has done a yeoman's job. She is thorough and her technical competence is second to none. Whatever Mary does, you can rest assured it is correct. She is always pleasant, always dependable, and always punctual. She is a true professional.

□ 1940

Many times as chair of the committee I have not had the opportunity, nor the foresight, to say thank you, but I would like to say thank you to Mary Porter.

Madam Chairman, as you know, this is a committee that really acts in a bipartisan way. There is a new young lady who has done, if I may say so to the gentleman from New Jersey [Mr. GALLO], a great job. She comes up with the right questions at the right time. In a short period of time, she has demonstrated a thorough knowledge of the operations of the District government. That person is Donna Mullins.

Of course, I would be neglectful if I did not say that Americo Miconi, who I know many Members call upon for questions about the District and who has served with me for 12 years and has been here some 20 years, has done an outstanding job as my chief counsel on the committee. Not only is he a walking encyclopedia of District government matters, but he is always a gentleman and takes whatever time is necessary to assist Members and their staffs as well as officials of the District government.

FEDERAL FUNDS

First, we recommend a Federal payment of $630.5 million.

Legislation was passed by this House earlier this month authorizing a Federal payment of $630 million for fiscal year 1992.

The Federal payment authorization was last increased by Public Law 98-316, approved June 12, 1984.

Second, we have included in the bill $52.1 million as the Federal contribution to the police officers, fire fighters, teachers, and judges retirement funds. This is the 13th of 25 annual payments which will total $1.3 billion and was authorized by Public Law 96-122.

Third, we recommend additional Federal funds of $17 million above the request primarily for special health and education programs. Let me touch briefly on each of these items; 12 million is for D.C. General Hospital to improve and expand services to ease the financial burden placed on private hospitals who provide medical care to uninsured and are not compensated—this $12,000,000 will also provide for physicals and immunizations for preschool and school age children; $1 million is for the D.C. Institute for Mental Health to provide professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia; $50,000 is for the police department to be used at the chief's discretion for community patrol activities; $25,000 also for the police department is for an accreditation study; $1.1 million is for the public schools for renovations to athletic and recreation facilities and for maintenance and repairs; and $3 million is for children's Hospital for a cost-shared National Child Protection, Trauma, and Research Center estimated to cost $50 million with most of those funds being raised from the private sector.

DISTRICT FUNDS

Mr. Chairman, we recommend $930 million for public safety and justice programs which include fire and police protection, ambulance service, and support for the city's criminal justice system.

Bill language is included that requires the fire department to reduce overtime and make other improvements before it changes the staffing of its engine companies.

In the area of human support services, the bill includes $877 million for programs such as drug treatment and education, foster care, mental health programs, and the operation of senior citizen programs.

For public education, the bill includes $706 million which includes $519 million for the public schools and $21 million for the District's library system.

For the various public works activities which include the Metrorail and Metrobus operations as well as the taxicab commission and funds for the city's streets and highways, we recommend $234 million.

The bill includes $219 million for the water and sewer enterprise fund which is used to provide safe drinking water and to collect, treat, and dispose of waste water as well as solid waste for the District.

The construction program is funded at a level of $363 million and includes $101 million for the Department of Public Works and $140 million for the Department of Corrections.

GENERAL PROVISIONS

Under general provisions, we recommend language under section 114 of the bill that restricts the use of Federal funds for abortions except to save the life of the mother.

We have included language in section 134 of the bill allowing the District to accept and use, with the mayor's approval, donations received for public purposes authorized by law. The language also requires that accurate records be maintained and that the records be made available for audit and public inspection.

Mr. Chairman, it is the clear intent of the committee that nothing in section 134 is to be construed to override, alter, or replace in any way section 132 of this bill. There is no disagreement on the committee with respect to the meaning of section 134.

Section 134 is included in the bill at the request of District officials to allow the city to raise private contributions to replace local revenues for summer jobs and other programs normally funded with appropriations. The city's local revenues are increasing at a much lower rate than in previous years resulting in the curtailment of many programs which the mayor expects to continue with private funds.

COMPLIANCE WITH BUDGET RESOLUTION

As far as the budget resolution is concerned, this bill is within the 602(b) allocations of $700 million in both budget authority and outlays.

APPRECIATION TO MEMBERS

In closing, I want to thank all of the members on our subcommittee for their assistance in bringing this bill to the floor today; Mr. NATCHER of Kentucky, Mr. STOKES of Ohio, Mr. SABO of Minnesota, Mr. AUCOIN of Oregon, Mr. HOYER of Maryland, Mr. GALLO of New Jersey, the ranking member of our subcommittee, Mr. REGULA of Ohio, and Mr. DELAY of Texas.

I want to especially thank Mr. NATCHER who has been on the subcommittee for 38 years—17 as chairman—and who continues to serve with me.

Mr. Chairman, this is a good bill, and I recommend to the Members that they approve this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. GALLO. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, first, let me commend Chairman DIXON for his leadership on the D.C. Subcommittee. I also want to thank the other members of the subcommittee, including Mr. REGULA and our new Republican member, Mr. DELAY, for their contributions.

Also, the staff deserves recognition for their hard work.

The gentleman from California, has provided a detailed summary of H.R. 2699 which provides the federal payment to the District of Columbia for fiscal year 1992 and approves the District's budget.

Our subcommittee worked very hard to respond to the real needs of the District.

Mayor Dixon promised to streamline District operations and I am convinced that her administration and the council are starting to make these hard decisions. I am encouraged by the Mayor and council's efforts to reduce spending and have been very impressed with the new team that now represents the District of Columbia.

Also, our colleague, the delegate to the House for the District of Columbia, ELEANOR HOLMES NORTON, has contributed greatly to restoring faith and credibility in the D.C. government.

Our bill is consistent with the authorization bill passed by the House.

And, according to the Office of Management and Budget, our bill meets the requirements of the budget resolution and is within our 602(b) allocation.

I will submit the letter from OMB for the RECORD.

The District's budget plan for fiscal year 1992 reflects their commitment to make the hard choices and to get the District of Columbia back on the right track.

For the most part, officials of the District government who testified before our subcommittee have only been on the job a short time and are still trying to cope with the problems left by the last administration.

This is why I support the increase in the Federal payment today.

There are many areas in the District government that need complete overhauling. When the Mayor appears before us next year our subcommittee will be looking for real progress in a number of areas.

We will be looking for real reductions in the bloated District work force, real improvements in the condition of the District school system, and real improvements in the management of all critical agencies.

For now, I ask the Members of the House to join me and the other members of our subcommittee in supporting this budget request during this important time of transition for the D.C. government.

Madam Chairman, I reserve the balance of my time.

Mr. DIXON. Madam Chairman, I yield 7 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Madam Chairman, the District appropriation request before you today is best understood as an earned increase. It has been earned in two ways. First, the District, almost alone among federally funded entities, took an extraordinary decrease in its appropriation during the past 5 years. While the overall Federal budget increased 56 percent, the payment to the District decreased 18 percent. All the while, the District continued to deliver services to the Federal Government, including police and other vital services, at increased cost to the residents of the District, absorbed by them almost alone. As a consequence, our residents did what, I dare say, no jurisdiction in the country did. We raised local taxes by 50 percent over a period of only 5 years. We are one of the most expensive cities in the United States. With a declining population, more than 20 percent elderly at one end and a Third World infant mortality rate at the other, the District took on additional costs properly charged to the Federal Government. The city now asks for only partial reimbursement as it embarks on a period of what all concede is already one of extraordinary reform under the brave and determined leadership of Mayor Sharon Pratt Dixon.

There is a second sense in which the proposed increase has been earned—and is being earned as we speak. The increase that the District is requesting is currently being matched by corresponding self-help and sacrifices that will save millions of dollars.

First, the District has already made dramatic cuts. Under a new reform-minded administration, the District might have come to the Congress seeking to close its budget deficit by calling upon Federal funds denied and owed for services rendered in the past and tax and development opportunities denied by congressional legislation. Instead, D.C. residents are currently absorbing more than $200 million in self-inflicted cuts and pay raise deferrals in fiscal year 1991 and another $200 million of the same for fiscal year 1992—a $400 million cumulative cut. Mayor Dixon, City Council chair John Wilson, and the D.C. City Council proceeded upon a painful processes of absorbing two-thirds of an inherited budget deficit, asking Congress to take on only one-third. This self-help and self-reliance so impressed the Congress that the District's self-mandated cuts became an important factor in the decision of this body and of the Senate to grant Mayor Dixon's request for a $100 million dire emergency supplemental. Our decision was received with great enthusiasm by gratified District residents, and I believe that, in turn, the supplemental has been a factor in the willingness of our people to accept and absorb additional sacrifices—financial burdens that will have a special impact during the current recession, which shows no sign of let up in the District economy.

These sacrifices include additional taxes for a city that is already second per capita in the United States in taxes paid. Last month, even after the dire emergency supplemental, Mayor Dixon had to ask the city council for emergency legislation that would increase the already high 6.7 percent gross receipts tax imposed on public utility services and commodities to 9.7 percent. Mindful of the extraordinarily high D.C. taxes residents already pay, the Mayor's bill would exempt residential customers from the increase and reduce their share of these taxes by 3 percent. However, we all know that businesses may yet find a way to charge customers for all or part of the increase, especially considering that D.C. business also pays extraordinarily high taxes.

Further, the Mayor has embarked on an extremely difficult and controversial downsizing of the D.C. government that will ultimately yield millions of dollars in savings. She is seeking emergency legislation from our city council allowing layoffs of up to 2,000 midlevel management employees without bumping out frontline service delivery workers. I know that I do not need to tell the Members of this body that this action is fraught with political risk that demonstrates an especially determined efforts.

In point of fact, the District is requesting only $33.5 million more than the fiscal year 1991 amount, considering the $100 million supplemental and additional amounts already approved by Congress. Even with the requested increase, the Federal payment will be worth only $420 million—a decrease from the 1977 payment of $445 million, in 1982 dollars.

The District incurred incredible hardship for almost 6 years of no increases in the Federal payment. It is time that the host city of the free world enjoyed the relationship with the Congress that the Congress wants and that the new administration has demonstrated that the District also desires. We want to become a proud jewel in our country's crown, as Paris is to France and as London is to England. We are enormously grateful to Congress for your support thus far. We want particularly to thank Mr. JULIAN DIXON who has skillfully worked miracles to help us now and through the years, Mr. DEAN GALLO, the ranking minority member who has been a skillful friend and statesman when it wasn't easy, and the members of the D.C. Appropriations Committee, whose fairness to the District has been distinctive. The Congress has helped us get part of the way toward the reform you desire and that the District is striving to achieve. Approve the D.C. appropriations as presented unanimously by the appropriate committees. Please do not shortchange reform just as it has begun.

□ 1950

Mr. GALLO. Madam Chairman, I yield 3 minutes to the distinguished gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Madam Chairman, I rise today to join the distinguished chairman of the District of Columbia Subcommittee in supporting the increase in the Federal payment contained in H.R. 2699. The Appropriations Committee has raised the level of funding for the Federal payment as envisioned in H.R. 2123, which passed the House on June 11, 1991, in unanimous vote.

I am proud of H.R. 2123 and the strong bipartisan support it enjoyed both in the Committee on the District of Columbia and in the House where is passed. I am pleased that the Appropriations Committee saw fit to fully fund the authorized payment, when it was able to find the funds to do this.

Madam Chairman, there may be attempts tomorrow to reduce this payment. I would only urge my colleagues to resist this.

The District has a difficult road to hoe. It is not going to be easy to turn around what has occurred in the last number of years. The Mayor has begun in a courageous manner to face up to the awesome task. She is going to need all of the help that we can give.

Those of us who reside permanently elsewhere but who work here have a responsibility, too. This is our city. It is a Federal city. It belongs to indeed all Americans and indeed is the most important city in the world. And we have 18 million visitors a year, countless heads of state, and we need to make sure that we present the best possible image we can.

We have been tough. This bill is no giveaway. The Mayor had requested 30 percent, and there are strong arguments that can be made that she might have been entitled to that. The fact is we compromised at 24 percent and that we should not go below.

If we do, we are going to invite another repeat of the Mayor having to come back and ask for a supplemental. I do not think any of my colleagues want to do that, any of them want to have to receive that. And if we do this bill, I do not think we will have to.

□ 2000

Mr. GALLO. Madam Chairman, I yield 5 minutes to the gentleman from California [Mr. ROHRABACHER].

Mr. ROHRABACHER. Madam Chairman, I think we all are very happy that there have been changes for the better in Washington, DC, and that in the District of Columbia today there is a spirit of hope and opportunity that just was not here a year ago and certainly was not here in the years before that. This is due, perhaps, to the fact that in Washington, DC, we have a new Mayor, and all of us wish the Mayor our very best wishes, and I, too, would like to officially go on record here on the floor of the House making sure that I wish her the very best.

Washington, DC, however, should not necessarily be outside of our other budget considerations. I support a major increase in what we are providing the District of Columbia, and as well as I support a structure which will ensure that the District of Columbia can count on a certain percentage of support every year. I think that is justifiable. I think that the efforts to work out exactly what that percentage would be have been long and arduous, and I certainly applaud those people who participated in this.

Tonight I just would like to suggest that we face a major challenge in this country that also has to be considered, and that challenge is something that unless we come to grips with this particular challenge it will overwhelm this country, and that any commitment that we choose to look at in the future and any type of problems that we face and solutions we would like to offer will be just overwhelmed by a huge wave of red ink that is heading in our direction.

Today we are spending $1 billion a day more than we are taking in, which means we have to make some decisions today on how we can cut down that red ink.

The District of Columbia is not going to be spared from the tough decisions that we have to make, and tomorrow I will be proposing that we keep the increase in the funds that are being delivered to the District of Columbia to a 2.4-percent increase as is consistent with the other pieces of legislation that are being presented before this Congress, because if we keep the percentage of increase down to 2.4 percent, which will, of course, stress that the importance of reforms and stress the importance of making every dollar count, if we do that over a 10-year period with every piece of legislation that comes through this House, by the end of the decade we will have some control over this Federal deficit. I can assure you if we do not get control of the Federal deficit that the Federal deficit will have control of us, and we will not be able to obtain and to move forward and to secure many of the other goals that we have laid down for ourselves, whether in the District ot Columbia or anywhere else, because we have got to be responsible.

Tomorrow my proposal is more aimed at trying to be responsible across the board in the Federal budget, and this happens to be how it affects the District of Columbia and our debate here on this particular issue.

I guess I am just alerting the House today that we will be voting on this tomorrow. I will have more to say. I, again, would like to make sure that no one takes this in the wrong way, and that everyone knows that we are behind the new Mayor, and we hope and wish her the very best.

Mr. GALLO. Madam Chairman, I yield 3 minutes to my colleague, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Madam Chairman, I thank my good friend, the gentleman from New Jersey, for yielding me this time.

Madam Chairman, I want to join my colleagues and associate myself with the remarks of many who have applauded Mayor Dixon and our fondest hopes that she has a very effective tenure as the new Mayor in what is truly a troubled city. She certainly inherited a mess, and we do wish her well, and I think many have expressed that, and I feel the same way.

Madam Chairman, lest there be any misunderstanding, I just want to point out to my colleagues that the legislation before us, while containing a number of important provisions, contains language that effectively reverses current law and permits the District of Columbia to pay for abortion on demand.

While it is true that no Federal funds can be used for abortion except to save the life of the mother, taxpayer funds over which Congress has clear jurisdiction are used to subsidize abortion on demand.

Madam Chairman, the current law, the current policy, I believe, appears to be having some very positive effect. Taxpayer-funded abortion in the District of Columbia declined, for example, from 3,139 in fiscal year 1988 to 1 in fiscal year 1989. Also of significance and of importance, the number of the repeat abortions, the repeat abortion rate which is still terribly high in the District, declined from 55 percent to 50 percent, while the overall number of abortions declined by 847. That is potentially 847 kids who now have life because of the policies that have been put into place.

Let me just, finally, say to my colleagues that the President has made it abundantly clear that he will veto this bill. It is coming back. And I trust that at that time when it comes back, when there is an attempt to override the President's veto, that we will have a full-blown debate on that issue before the House, and hopefully the President's veto will be sustained.

Mr. GALLO. Madam Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. DUNCAN].

Mr. DUNCAN. Madam Chairman, I rise in opposition to this appropriation.

The bill calls for a 19-percent increase over last year for a $630 million Federal payment to the District of Columbia.

If we gave every Department in the Federal Government a 19-percent increase, we would be in even worse financial shape than now, if that is possible. As the gentleman from California [Mr. ROHRABACHER] just pointed out, the Federal Government is losing approximately $1 billion a day. Our Federal Government is broke, and not only broke, but over $4 trillion in debt. We are spending money that we do not have.

This city benefits greatly from the presence of our Federal Government. We should not have to pay for the privilege of being here.

The fact that the Congress and all of our Federal departments and agencies are here means hundreds of millions of dolalrs to the local economy.

Senator BYRD was criticized last year for getting an FBI fingerprint lab in West Virginia. He said at the time something that is true of my home State of Tennessee as well. He said that a $16,000-a-year job might not be a good job in Washington, but it was a very good job in West Virginia. Actually we need to move more of our Federal agencies out into the country where the land costs and building costs and rental costs and cost of living are much less than here.

Then our Government would be closer to the people it serves, and we would save money to boot.

I urge a no vote on this appropriation.

Mr. GALLO. Madam Chairman, I yield 1 minute to the distinguished gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Madam Chairman, I just wanted to underscore some of the remarks of my colleague, the gentleman from New Jersey [Mr. SMITH], and to give heart to the prolife forces across this country, because I am proud to say it is the Dornan language that is being stripped out of the bill that is going to cause the President to veto it.

I have always had a great working relationship with my distinguished colleague, the gentleman from California [Mr. DIXON], and I assume that we will follow the same reasonable pattern that we did last year, not the year before, when the gentleman from California [Mr. DIXON] had some suspicion that the President would not protect the Dornan language by back-to-back Presidential vetoes. He did. This was 2 years ago.

So last year the gentleman from California [Mr. DIXON] ran through this drill which he is constrained to do that I am not allowed to have life-of-the-mother language in my amendment and get a vote on that on the floor, so we have decided to save our fight for the Presidential veto which will be No. 4, protecting my language, protecting human life. During that time there will be a vigorous debate.

I would suggest to my colleagues in the other party who are proabortion that they are going to have to take the White House to reverse this history. We do have way more than a third in each House to protect human life.

Mr. DIXON. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, the gentleman from California who just addressed the House is absolutely correct. We have been through this drill before, but I do not think there is anyone on the floor of this House now or any Member of this House who can intellectually rationalize a veto that, yes, the President has given on two or three different occasions on this bill.

The Supreme Court in the Webster decision has said that States have the right to promulgate reasonable rules and regulations as they relate to abortions. And the prolife movement, as I have read and understood that movement, believes that that was a step forward in their cause.

The District of Columbia is likened to a State and should be because it is a separate governmental entity. The gentleman from New Jersey [Mr. SMITH] talked about the Congress having jurisdiction over District matters, and because of the uniqueness of the Federal payment and the fact that the District does not have complete home rule, there is an appropriations committee through which the money for the operators of the District, their own revenues, as well as the Federal payment, must flow.

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In that narrow sense, we have this jurisdiction, but if we are to live up to the law and if the President is to address the Supreme Court decision fairly, he could not intellectually come to the conclusion that he has the right—the moral right—to disallow the District from doing something that the Supreme Court has said the 50 States can do. And that is, to promulgate reasonable rules and regulations concerning abortions.

So for that reason, Madam Chairman, I continually send this bill down to him. I cannot think of any good intellectual reason why he continues to veto this bill, but I can continually think of political reasons why he does. I think it is politically wrong for him to appeal to one group of our society, at the expense of the citizens of the District of Columbia. I think he does great damage to the District and he does great damage to the institution of the Presidency.

Yes, he has the jurisdiction to do something to the District that he cannot do to any other State in this Nation. It is for that reason that we will send this bill back down to him, to let him veto it again if he so desires.

Mr. GALLO. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DIXON. Madam Chairman, I have no further requests for time, I yield back the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committtee rose; and the Speaker pro tempore (Mr. MAZZOLI) having assumed the chair, Mrs. KENNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2699) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1992, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, June 26, 1991.

AMENDING THE IMMIGRATION ACT OF 1990

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2332) to amend the Immigration Act of 1990 to extend for 4 months the application deadline for special temporary protected status for Salvadorans, as amended.

The Clerk read as follows:

H.R. 2332

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. 4-MONTH EXTENSION OF APPLICATION DEADLINE FOR SPECIAL TEMPORARY PROTECTED STATUS FOR SALVADORANS.

Section 303(b)(1)(C) of the Immigration Act of 1990 is amended by striking "June 30, 1991" and inserting "October 31, 1991".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from Florida [Mr. MCCOLLUM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2332, and I wish to commend the distinguished Chairman of the Rules Committee, Mr. MOAKLEY, for sponsoring this worthwhile legislation.

Last year in the 1990 Immigration Act, Congress created a program called Temporary Protected Status. This program gives the Attorney General the authority to allow foreign nationals of specified countries to remain in the United States temporarily if, because of war or other life-endangering situations, it would be inhumane to require them to go back to those countries. Congress then specified in the 1990 act that the Attorney General was required to provide temporary protected status to nationals of El Salvador.

The President signed the 1990 Immigration Act into law last November 29, but it took the Department of Justice a full 6 months to issue final regulations regarding the program. By that time—May 22—there were only 5 weeks left in the application period.

Congress did not intend that the Salvadoran Temporary Protected Status Program would have, in effect, a five week application period. We expected the program to be up and running early in the year. That is the principle reason why H.R. 2332, which extends the application period until October 31, 1991, is deserving of our support.

The simple fact is that even with a 4-month extension, the Salvadoran Temporary Protected Status Program will have one of the shortest application periods of any immigration program in memory. The 1986 Legalization Program had a 1-year application period; the 1986 Cuban-Haitian Program had a 2-year application period; the 1986 Seasonal Agricultural Worker Program had an 18-month application period; the 1990 Filipino World War II Veterans Citizenship Program has a 2-year application period; and the application period for Liberians, Lebanese, and Kuwaitis who wish to apply for temporary protected status—the same status the Salvadorans receive—is one full year.

When Congress creates a program—any program—it intends that it be implemented to the fullest and fairest extent possible. When those charged with implementing the program have been unable to meet that goal, Congress has an obligation to step in and to get matters back on track. That is precisely what H.R. 2332 does, and I urge my colleagues to give this measure their full support.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Kentucky [Mr. MAZZOLI], chairman of the Subcommittee on International Law Immigration, and Refugees, who shepherded the major immigration bill through the committee last year and who, I hope, will not do that again this year.

Mr. MAZZOLI. Mr. Speaker, I think I thank the chairman for yielding me this time.

Mr. Speaker, I do appreciate the words of the gentleman from Texas [Mr. BROOKS], and I appreciate his leadership on the bill.

Mr. Speaker, briefly stated, this bill extends for 4-months a period within which Salvadorans who are in the United States today might apply for the program called temporary protected status.

This bill, it should be noted, Mr. Speaker, does not extend the benefit period. The benefit period ends next June 30. This simply extends until October 31 of this year, 1991, the period within which again these people can apply for this temporary status.

As the chairman of the committee, the gentleman from Texas [Mr. BROOKS], our full committee chairman, has explained, this simply allows the people of El Salvador and four nations of the world to remain in the United States until the conditions in their country abate, whether those conditions are because of war or because of national disaster or famine or whatever.

This simply says the time period for application will be extended. Mr. Speaker, the reason for the extension is that when the program began under terms of the 1990 act, it began January 2. There was confusion about the amount of money which would be charged to the applicants. In those days, in January, it was in the several hundred dollar range. There was quite a bit of objection to that. That objection was heeded by Commissioner Gene McNary of the Immigration Service. In May, revised standard and schedule of fees were issued, which were much more acceptable and much more responsible and reasonable.

That was a 4-month gap, 4-month period during which there was this confusion and uncertainty. What our bill does is just reestablishes this 4-month period in the form of an extension, until October 31 of the time which people can apply for these benefits.

Once again, come next June 30, they have to either begin the process of going back home and there has to be a decision made of whether or not further extensions are in order. This bill, which came from the pen of the gentleman from Massachusetts, chairman of the Committee on Rules [Mr. MOAKLEY] is, we think, a reasonable bill, and I urge its adoption.

Mr. Speaker, the bill before us is simple and straightforward. Quite simply, it extends for 4 months the application period for those Salvadorans in the United States who may wish to apply for a program created by Congress last year, known as temporary protected status or "TPS."

There was a hearing on H.R. 2332 held on May 15, and the full Judiciary Committee reported H.R. 2332 favorably on June 18.

TPS is a statutorily created program designed to fill the middle ground between full-fledged refugee status and undocumented immigration status. Essentially, temporary protected status allows nationals from war-torn or otherwise dangerous countries to remain in the United States temporarily until conditions in the home country stabilize. It codifies and supersedes an administrative practice known as extended voluntary departure, which existed since 1959 and which the Attorney General has exercised in the past for nationals of such countries as Afghanistan, Cuba, and Poland.

H.R. 2332 does not extend the TPS benefits period. That is to say, it does not lengthen the period of temporary protected status. Under the terms of the 1990 Immigration Act, TPS for Salvadorans will expire on June 30 of next year.

The temporary protected status application period—as opposed to the benefits period—is due to expire on June 30, just 5 days from now. Under H.R. 2332 the application period would be extended until October 31, 1991—in effect a 4 month extension. H.R. 2332 does nothing else.

The registration period for the Salvadoran temporary status began on January 2, 1991. From the beginning there was confusion and controversy regarding the registration fee. The Salvadoran TPS Program authorizes the Immigration and Naturalization Service to establish a reasonable fee, taking into account their costs in running the program. Interim Regulations published by INS on January 7 set the fee at $330 per person for the life of the program, namely 18 months. This fee was per individual, with no family fee cap.

After numerous concerned parties complained that the fee was unaffordable for many persons, Immigration Service Commissioner Gene NcNary agreed on February 6 that the fees had been set too high. Unfortunately, regulations to lower the fees were not promulgated until May 22, just 5 weeks before the end of the program.

Currently, the Salvadoran temporary protected status fee is $75 for registration and $60 for an employment authorization card. These fees are one-time only. Moreover, a family cap of $225 has been established.

As of today, approximately 85,000 Salvadorans have applied for temporary protected status. Although no one knows how many Salvadorans may in theory be eligible for TPS, a safe guess is somewhere between 300,000 and 500,000. When legislation was marked up last Congress, the Congressional Budget Office estimated that 60 percent of the eligible Salvadoran population would register. As we can see, the current total of some 85,000 comes nowhere near that percentage.

By way of comparison, it is interesting to note that in designating nationals of Kuwait, Lebanon, and Liberia for temporary protected status, the Attorney General established application periods that are coterminous with the benefits periods. For each group, benefits are provided until March 27, 1992 and the application period runs until that date as well. Thus, the Salvadoran Program, even under H.R.

2332 will have a registration period and a benefits period shorter than those of the other states I have mentioned which qualify for temporary protected status.

Mr. Speaker, I commend the gentleman from Massachusetts, the distinguished chairman of the Rules Committee, Mr. MOAKLEY, for introducing H.R. 2332 and I urge my colleagues to support this meritorious bill.

Mr. McCOLLUM. Mr. Speaker, I yield myself such time as I may consume and rise in opposition to the bill. I rise reluctantly in opposition to this bill because it is a relatively short extension of time. It appears on its face to be innocuous in that regard, but it has hidden impacts that were, unfortunately, not addressed in the full committee.

The extension requested is and has been correctly portrayed by the distinguished chairman of my subcommittee and my committee chairman as being in respect to the fact that earlier this year the Immigration Service did not get the program off the ground as early as they expected to do and there were some glitches.

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But I am advised by the Immigration Service, and I think it is quite accurate, that indeed the time delay involved in this because of notice requirements and that sort of thing and the question of the fees being determined really as a practical matter only amounted to 2 months, not 4 or 6 or any other figure, and yet this bill extends the time to 4 months, or at least 2 months more than I think it should be.

I offered an amendment which was not accepted in the full Judiciary Committee before this bill came out under suspension that would have reduced the time from 4 months to 2 months, in which case I could have supported the bill.

Well, one can say what is the difference between 4 months and 2 months when you are extending some of this time? But it is very significant because the Immigration Act of 1990 is effective the first day of October. The first day of October is the day after which the immigration authorities need all the resources they can possibly muster in order to begin the administration of the law that we enacted last year in many broad ways. It is a very dramatic change in lots of the laws, and the needs for personnel are very, very strong. These same personnel right now who are working on this particular application process for the Salvadoreans and the others who get this temporary stay will need to be used in October, and after October for quite a while in a very intense way to handle the major immigration bill.

It seems to me that it is foolish, if it is not absolutely necessary, for us to take these personnel away from the job that they are supposed to do in October of this year and delay in essence or hamper the carrying out of the main act that we were passing, and it does not seem at all necessary. Two months would have done this.

Unfortunately, again the bill is out here on suspension, no opportunity for amendment, and we are dealing with the fact that it is 4 months and it does carry us from June to October 31.

I would submit that the reasonable thing to do, and whether it can be done here, obviously we cannot amend the bill under suspension if it passes, is that somewhere along the way in a conference with the Senate or however it might be, the reasonable thing to do is to arrive at a compromise of a 2-month period rather than a 4-month period that is currently written into this particular bill. That way you free up the immigration personnel and you do not have them doing the kind of work they will be doing at the end of this period, and it is very important in the sense that it is the most intense time at the end of any application period where more personnel are needed. More applications are processed at that time than they are at any other time.

So, for example, right now the sense is if this comes to a conclusion, we have more people applying this week than we would normally have had or we would expect to have throughout the entire rest of the period of time involved in the application opening. That is true for any immigration program. That is a historical fact.

So if you end this program in October, it is October that you are going to have all the need for the personnel to be involved and all the time of the Immigration Service personnel. If you end this program instead in August, which would be 2 months instead of 4 months from now, you would get at the end of August all this time and resources being used.

So I say, I oppose the bill reluctantly.

I understand that the nature of this is not to extend the program itself, which the gentleman from Massachusetts has been very sincere and very straightforward about his desire to maintain the agreement that was made in the Congress last year over the whole question of the Salvadoreans and their status, and I respect him for that; but it is a question of trying to make fairness apply here with some rules that were promulgated a little late, some fees that might have been overstated, somewhat overstated at one point early in the application process, but at the same time putting some balance and understanding into the fact that we have a problem with personnel being taken away from the enforcement process that they are supposed to be engaged in, which I do not think frankly we need to do by extending this for the full 4 months and into the month of October, to the 31st of October, which the bill does; so that is the reason for my opposition and the only reason for it.

Mr. BROOKS. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], the author of the bill, the father of the Salvadorans.

Mr. MOAKLEY. Mr. Speaker, I thank the illustrious chairman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 2332—legislation to extend the application period by 4 months for the Salvadoran Temporary Protected Status Program.

As you know, temporary protected status—better known as TPS—merely provides Salvadoran refugees, who have fled the violent civil war in their homeland, 18 months of protection with work authorization. It is a modest—yet very vital—relief which could impact as many as 500,000 Salvadorans who are currently here in the United States in an undocumented status.

I want to thank both Chairman MAZZOLI and Chairman BROOKS for moving this bill so expeditiously through both the Subcommittee on International Law and Refugees and the full Judiciary Committee. The matter before us today is quite urgent—and needs immediate action—since the current application period for TPS expires on June 30.

Congress intended that Salvadorans be granted 6 months to register for this protection. Unfortunately, due to the inherent difficulties in implementing the program, it took more than 4 months for the administration to issue final regulations, including long-promised fee reductions.

During those first 4 months, there was a great deal of confusion and apprehension among many of the Salvadorans whom Congress intended to help.

The bottom line is this: Although this Congress promised Salvadorans 6 months to apply for the TPS Program—in reality, we have only given them 2 months. That, Mr. Speaker, is simply not enough time.

Mr. Speaker, very simply, all this legislation does is provide Salvadorans with the 6 months to apply for TPS that we promised—nothing more. It does not even extend the 18-month period of protection—that can only be done by the Attorney General.

The more people who apply, the better for everyone, including INS and local communities where Salvadorans reside. The more Salvadorans who can obtain work permits and have the ability to work legally in this country, the more who will be eligible to pay taxes—both local and Federal. And the more Salvadorans who can obtain this temporary legal status, the less likely that they will be subjected to exploitation by unscrupulous employers and landlords.

Mr. Speaker, I am told that since the new regulations governing this program were released, the numbers of Salvadorans coming forward have increased dramatically. I have been told that long lines are developing and that unless the application period is extended, many will be unable to register.

Mr. Speaker, this bill should not be controversial. I am told that even the White House supports an extension. I urge my colleagues to support H.R. 2332.

Mr. MCCOLLUM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SAWYER). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 2332, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

SEMICONDUCTOR INTERNATIONAL PROTECTION EXTENSION ACT OF 1991

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1998) to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities, as amended.

The Clerk read as follows:

H.R. 1998

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Semiconductor International Protection Extension Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) section 914 of title 17, United States Code, which authorizes the Secretary of Commerce to issue orders extending interim protection under chapter 9 of title 17, United States Code, to mask works fixed in semiconductor chip products and originating in foreign countries that are making good faith efforts and reasonable progress toward providing protection, by treaty or legislation, to mask works of United States nationals, has resulted in substantial and positive legislative developments in foreign countries regarding protection of mask works;

(2) the Secretary of Commerce has determined that most of the industrialized countries of the world are eligible for orders affording interim protection under section 914 of title 17, United States Code;

(3) no multilateral treaty recognizing the protection of mask works has come into force, nor has the United States become bound by any multilateral agreement regarding such protection; and

(4) bilateral and multilateral relationships regarding the protection of mask works should be directed toward the international protection of mask works in an effective, consistent, and harmonious manner, and the existing bilateral authority of the Secretary of Commerce under chapter 9 of title 17, United States Code, should be extended to facilitate the continued development of protection for mask works.

(b) PURPOSES.—The purposes of this Act are—

(1) to extend the period within which the Secretary of Commerce may grant interim protection orders under section 914 of title 17, United States Code, to continue the incentive for the bilateral and multilateral protection of mask works; and

(2) to clarify the Secretary's authority to issue such interim protection orders.

SEC. 3. AUTHORITY TO ISSUE PROTECTION ORDERS.

Section 914 of title 17, United States Code, is amended—

(1) in subsection (a)(1)(B) by inserting "or implementing" after "enacting"; and

(2) in subsection (e) by striking "July 1, 1991" and inserting "July 1, 1995".

SEC. 4. REPORT TO CONGRESS.

Section 914(f)(2) of title 17, United States Code, is amended in the last sentence by striking "July 1, 1990" and inserting "July 1, 1994".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 2 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, a little over 6 years ago, the Congress passed the Semiconductor Chip Protection Act of 1984. The act broke new ground in the field of intellectual property law by establishing a free-standing form of protection, a mixture of patent and copyright law principles, to protect the mask works used to create semiconductor chip products. The act, which conferred 10 years of protection on mask works, has been termed a great success by most observers. It has reduced the piracy of a unique form of American ingenuity.

Today, chips are used to operate everything from computers to telephones, from industrial automation to automobiles, from Patriot missiles to smart bombs. A healthy American semiconductor industry is vital to U.S. economic and military security.

H.R. 1998 extends a transitional provision in the 1984 act, section 914, that was designed to stimulate worldwide protection for chip designs. Section 914 of the Chip Act provides the Secretary of Commerce with authority to issue interim protection to foreign mask works provided that certain conditions are met, including a finding that foreign countries are making good faith efforts and reasonable progress toward reciprocal protection of chip designs owned by U.S. nationals. This carrot-and-stick approach has allowed the United States to develop bilateral relations with 19 foreign countries which produce virtually all of the world's semiconductor chips.

The Secretary's authority commenced on the date of enactment of the act, November 8, 1984, and is scheduled to terminate on July 1, 1991. Congress extended the Secretary's authority in 1987. H.R. 1998 extends the authority of the Secretary for 4 more years, until July 1, 1995. The proposed legislation also requires the Secretary to file a report to Congress on the effectiveness of section 914. This report provision and the temporary extension of the Secretary's authority will assist the Committee on the Judiciary in exercising its legislative oversight responsibilities.

The Subcommittee on Intellectual Property and Judicial Administration, under the able leadership of BILL HUGHES, has done a superb job on this important piece of legislation. I also commend the ranking minority member of the subcommittee, CARLOS MOORHEAD, and the gentlemen from California, Mr. EDWARDS and Mr. MINETA, for their contributions.

We can pass this bill and send it to the White House for a signature by President Bush before the authority of the Secretary of Commerce expires on July 1. I urge the Members' support.

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Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to indicate my strong support for H.R. 1998, the Semiconductor International Protection Extension Act of 1991. This legislation would extend for 4 years, until July 1, 1995, the authority of the Secretary of Commerce to issue orders providing interim protection for semiconductor chips under the terms of section 914 of the Semiconductor Chip Protection Act. The legislation, which does not have any opposition, is strongly supported by the Semiconductor Industry Association and the administration.

I would like to commend the chairman of the Intellectual Property and Judicial Administration Subcommittee, BILL HUGHES, for his leadership on this issue. Also to be commended are my colleagues from California, DON EDWARDS and NORM MINETA as well as our former colleague Dan Lungren, for their longstanding interest and contributions in this area. Finally, I would like to recognize the efforts of the former chairman of the Intellectual Property Subcommittee, Bob Kastenmeier, who was instrumental in passage of the original Chip Act.

By all accounts the U.S. Semiconductor Chip Protection Act has worked well since its enactment in 1984. To date bilateral relationships have been established with 19 countries under section 914 of the act. Clearly, section 914 has proven to be an important catalyst for the protection of semiconductor chips in the international community and should be extended. And while efforts to date at achieving a multilateral agreement have not proven successful, they have helped identify in the World Intellectual Property Organization a consensus as to the appropriate standards for protection among nations which have legislated on chip protection. This is important, for while a multilateral agreement is a worthy goal we do not want to do anything that would in any way diminish current levels of protection that are afforded by our existing laws.

In closing, Mr. Speaker, I would like to commend the Secretary of Commerce, the Patent and Trademark Office, and the Copyright Office for the way they have performed their respective roles in implementing and administering the act. H.R. 1998 is sound legislation and I urge my colleagues' support for it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. HUGHES], the distinguished chairman of the Subcommittee on Intellectual Property and Judicial Administration.

Mr. HUGHES. Mr. Speaker, I thank the chairman for yielding time to me.

Mr. Speaker, the House should vote to extend an experimental law—section 914 of the Semiconductor Chip Protection Act of 1984—that is aimed at developing worldwide protection for semiconductor chip designs. My bill, H.R. 1998, accomplishes this goal.

Semiconductor chips represent a new and very important kind of intellectual property, a type of property of crucial importance to the United States. Chips fuel the modern day electronics industry and provide the enabling technology for this country's defense and communications capabilities. Semiconductor chips served this country well in the gulf war.

The 1984 act drew on the richness of both our copyright and patent laws and addressed the unique needs of both the semiconductor industry and the public. It conferred 10 years of protection on the mask works used to design semiconductor chips.

The 1984 act was the result of 6 years of hard work by the House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, the subcommittee I now chair. The subcommittee had much help: Former subcommittee Chairman Kastenmeier and the ranking minority member, Mr. MOORHEAD, authored the final version of the bill; Congressmen EDWARDS and MINETA were the chief sponsors; in the Senate, Senators LEAHY and MATHIAS likewise played leading roles.

As was shown in testimony before my subcommittee at a recent oversight hearing, the 1984 act has been successful both domestically and internationally. In a world of shrinking borders, a level playing field is necessary. When multilateral treaties are not available, the United States may resort to bilateralism with incentives similar to those found in section 914 of the Chip Act. We will treat foreign countries essentially as they treat us. Section 914 has allowed the United States to develop bilateral relations with 19 foreign countries which collectively comprise most of the world's chip producing nations. The net result is that American chips are now being protected overseas and foreign chips are protected here.

I am pleased that a consensus has developed in favor of H.R. 1998 which received the unanimous endorsement of the House Committee on the Judiciary and has the support of the administration, the Copyright Office and the Semiconductor Industry Association among others.

On June 12, the Senate passed virtually identical legislation in the form of S. 909, which we will take up assuming passage of H.R. 1998.

I commend the Secretary of Commerce and the Assistant Secretary of Commerce for Patents and Trademarks for a job well done in administering section 914.

I also would like to thank the sponsors of H.R. 1998 including the ranking minority member of the subcommittee, Mr. MOORHEAD, Mr. EDWARDS of California, Mr. FRANK of Massachusetts, Mr. KOPETSKI, and Mr. MINETA. In the other body, Senators LEAHY and HATCH are to be applauded for their leadership.

It is essential that we extend an important provision of the original 1984 act before it expires on July 1, 1991. Passage of this bill today will ensure a signature by President Bush before the sunset date, thereby preserving and promoting the rule of law worldwide for the semiconductor industry.

I urge your undivided support for the proposed legislation.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. SAWYER). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 1998, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 909) to amend chapter 9 of title 17, United States Code, regarding protection extended to semiconductor chip products of foreign entities, and ask for its immediate consideration in the House.

The clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Semiconductor International Protection Extension Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) section 914 of title 17, United States Code, which authorizes the Secretary of Commerce to issue orders extending interim protection under chapter 9 of title 17, United States Code, to mask works fixed in semiconductor chip products and originating in foreign countries that are making good faith efforts and reasonable progress toward providing protection, by treaty or legislation, to mask works of United States nationals, has resulted in substantial and positive legislative developments in foreign countries regarding protection of mask works;

(2) the Secretary of Commerce has determined that most of the industrialized countries of the world are eligible for orders affording interim protection under section 914 of title 17, United States Code;

(3) no multilateral treaty recognizing the protection of mask works has come into force, nor has the United States become bound by any multilateral agreement regarding such protection; and

(4) bilateral and multilateral relationships regarding the protection of mask works should be directed toward the international protection of mask works in an effective, consistent, and harmonious manner, and the existing bilateral authority of the Secretary of Commerce under chapter 9 of title 17, United States Code, should be extended to facilitate the continued development of protection for mask works.

(b) PURPOSES.—The purposes of this Act are—

(1) to extend the period within which the Secretary of Commerce may grant interim protection orders under section 914 of title 17, United States Code, to continue the incentive for the bilateral and multilateral protection of mask works; and

(2) to clarify the Secretary's authority to issue such interim protection orders.

SEC. 3. AUTHORITY TO ISSUE PROTECTION ORDERS.

Section 914 of title 17, United States Code, is amended—

(1) in subsection (a)(1)(B) by inserting "or implementing" after "enacting"; and

(2) in subsection (e) by striking "July 1, 1991" and inserting "July 1, 1995".

SEC. 4. REPORT TO CONGRESS.

Section 914(f)(2) of title 17, United States Code, is amended in the last sentence by striking "July 1, 1990" and inserting "July 1, 1994".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 1998) was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 1998 and H.R. 2332, the two bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DEPARTMENT OF VETERANS AFFAIRS CODIFICATION ACT

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2525) to amend title 38, United States Code, to codify the provisions of law relating to the establishment of the Department of Veterans Affairs, to restate and reorganize certain provisions of that title, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Department of Veterans Affairs Codification Act".

(b) REFERENCES.—Except in sections 3 and 6 and as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. CODIFICATION, REORGANIZATION, AND REVISION OF LAWS RELATING TO ESTABLISHMENT, ORGANIZATION, AND AUTHORITY OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) IN GENERAL.—Part I is amended by striking out chapter 3 and inserting in lieu thereof the following:

"CHAPTER 3—DEPARTMENT OF VETERANS AFFAIRS

"Sec.
"301. Department.
"302. Seal.
"303. Secretary of Veterans Affairs.
"304. Deputy Secretary of Veterans Affairs.
"305. Chief Medical Director.
"306. Chief Benefits Director.
"307. Director of the National Cemetery System.
"308. Assistant Secretaries; Deputy Assistant Secretaries.
"309. Chief Financial Officer.
"310. Chief Information Resources Officer.
"311. General Counsel.
"312. Inspector General.
"313. Availability of appropriations.
"314. Central Office.
"315. Regional offices.
"316. Colocation of regional offices and medical centers.

"§301. Department

"(a) The Department of Veterans Affairs is an executive department of the United States.

"(b) The purpose of the Department is to administer the laws providing benefits and other services to veterans and the dependents and the beneficiaries of veterans.

"(c) The Department is composed of the following:

"(1) The Office of the Secretary.

"(2) The Veterans Health Administration.

"(3) The Veterans Benefits Administration.

"(4) The National Cemetery System.

"(5) The Board of Veterans' Appeals.

"(6) The Veterans' Canteen Service.

"(7) The Board of Contract Appeals.

"(8) Such other offices and agencies as are established or designated by law or by the President or the Secretary.

"(9) Any office, agency, or activity under the control or supervision of any element named in paragraphs (1) through (8).

"§302. Seal

"(a) The Secretary of Veterans Affairs shall cause a seal of office to be made for the Department of such device as the President shall approve. Judicial notice shall be taken of the seal.

"(b) Copies of any public document, record, or paper belonging to or in the files of the Department, when authenticated by the seal and certified by the Secretary (or by an officer or employee of the Department to whom authority has been delegated in writing by the Secretary), shall be evidence equal with the original thereof.

"§303. Secretary of Veterans Affairs

"There is a Secretary of Veterans Affairs, who is the head of the Department and is appointed by the President, by and with the advice and consent of the Senate. The Secretary is responsible for the proper execution and administration of all laws administered by the Department and for the control, direction, and management of the Department.

"§304. Deputy Secretary of Veterans Affairs

"There is in the Department a Deputy Secretary of Veterans Affairs, who is appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe. Unless the President designates another officer of the Government, the Deputy Secretary shall be Acting Secretary of Veterans Affairs during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

"§305. Chief Medical Director

"(a)(1) There is in the Department a Chief Medical Director, who is appointed by the President, by and with the advice and consent of the Senate.

"(2) The Chief Medical Director shall be a doctor of medicine and shall be appointed without regard to political affiliation or activity and solely—

"(A) on the basis of demonstrated ability in the medical profession, in health-care administration and policy formulation, and in health-care fiscal management; and

"(B) on the basis of substantial experience in connection with the programs of the Veterans Health Administration or programs of similar content and scope.

"(b) The Chief Medical Director is the head of, and is directly responsible to the Secretary for the operation of, the Veterans Health Administration.

"(c) The Chief Medical Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Medical Director before the completion of the term for which the Chief Medical Director was appointed, the President shall communicate the reasons for the removal to Congress.

"(d)(1) Whenever a vacancy in the position of Chief Medical Director occurs or is anticipated, the Secretary shall establish a commission to recommend individuals to the President for appointment to the position.

"(2) A commission established under this subsection shall be composed of the following members appointed by the Secretary:

"(A) Three persons representing clinical care and medical research and education activities affected by the Veterans Health Administration.

"(B) Two persons representing veterans served by the Veterans Health Administration.

"(C) Two persons who have experience in the management of veterans health services and research programs, or programs of similar content and scope.

"(D) The Deputy Secretary of Veterans Affairs.

"(E) The Chairman of the Special Medical Advisory Group established under section 7312 of this title.

"(F) One person who has held the position of Chief Medical Director (including service as Chief Medical Director of the Veterans' Administration), if the Secretary determines that it is desirable for such person to be a member of the Commission.

"(3) A commission established under this subsection shall recommend at least three individuals for appointment to the position of Chief Medical Director. The commission shall submit all recommendations to the Secretary. The Secretary shall forward the recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request the commission to recommend additional individuals for appointment.

"(4) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this subsection.

"§306. Chief Benefits Director

"(a) There is in the Department a Chief Benefits Director, who is appointed by the President, by and with the advice and consent of the Senate. The Chief Benefits Director shall be appointed without regard to political affiliation or activity and solely on the basis of demonstrated ability in—

"(1) fiscal management; and

"(2) the administration of programs within the Veterans Benefits Administration or programs of similar content and scope.

"(b) The Chief Benefits Director is the head of, and is directly responsible to the Secretary for the operations of, the Veterans Benefits Administration.

"(c) The Chief Benefits Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Benefits Director before the completion of the term for which the Chief Benefits Director was appointed, the President shall communicate the reasons for the removal to Congress.

"(d)(1) Whenever a vacancy in the position of Chief Benefits Director occurs or is anticipated, the Secretary shall establish a commission to recommend individuals to the President for appointment to the position.

"(2) A commission established under this subsection shall be composed of the following members appointed by the Secretary:

"(A) Three persons representing education and training, real estate, mortgage finance, and related industries, and survivor benefits activities affected by the Veterans Benefits Administration.

"(B) Two persons representing veterans served by the Veterans Benefits Administration.

"(C) Two persons who have experience in the management of veterans benefits programs or programs of similar content and scope.

"(D) The Deputy Secretary of Veterans Affairs.

"(E) The chairman of the Veterans' Advisory Committee on Education formed under section 3692 of this title.

"(F) One person who has held the position of Chief Benefits Director, (including service as Chief Benefits Director of the Veterans' Administration), if the Secretary determines that it is desirable for such person to be a member of the Commission.

"(3) A commission established under this subsection shall recommend at least three individuals for appointment to the position of Chief Benefits Director. The commission shall submit all recommendations to the Secretary. The Secretary shall forward the recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request the commission to recommend additional individuals for appointment.

"(4) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this subsection.

"§307. Director of the National Cemetery System

"There is in the Department a Director of the National Cemetery System, who is appointed by the President, by and with the advice and consent of the Senate. The Director is the head of the National Cemetery System as established in section 2400 of this title and shall perform such functions as may be assigned by the Secretary.

"§308. Assistant Secretaries; Deputy Assistant Secretaries

"(a) There shall be in the Department not more than six Assistant Secretaries. Each Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Secretary shall assign to the Assistant Secretaries responsibility for the administration of such functions and duties as the Secretary considers appropriate, including the following functions:

"(1) Budgetary and financial functions.

"(2) Personnel management and labor relations functions.

"(3) Planning, studies, and evaluations.

"(4) Management, productivity, and logistic support functions.

"(5) Information management functions as required by section 3506 of title 44.

"(6) Capital facilities and real property program functions.

"(7) Equal opportunity functions.

"(8) Functions regarding the investigation of complaints of employment discrimination within the Department.

"(9) Functions regarding intergovernmental, public, and consumer information and affairs.

"(10) Procurement functions.

"(c) Whenever the President nominates an individual for appointment as an Assistant Secretary, the President shall include in the communication to the Senate of the nomination a statement of the particular functions of the Department specified in subsection (b), and any other functions of the Department, the individual will exercise upon taking office.

"(d)(1) There shall be in the Department such number of Deputy Assistant Secretaries, not exceeding 18, as the Secretary may determine. Each Deputy Assistant Secretary shall be appointed by the Secretary and shall perform such functions as the Secretary prescribes.

"(2) At least two-thirds of the number of positions established and filled under paragraph (1) shall be filled by individuals who have at least five years of continuous service in the Federal civil service in the executive branch immediately preceding their appointment as a Deputy Assistant Secretary. For purposes of determining such continuous service of an individual, there shall be excluded any service by such individual in a position—

"(A) of a confidential, policy-determining, policy-making, or policy-advocating character;

"(B) in which such individual served as a noncareer appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5; or

"(C) to which such individual was appointed by the President.

"§309. Chief Financial Officer

"The Secretary shall designate the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department. The Chief Financial Officer shall advise the Secretary on financial management of the Department and shall exercise the authority and carry out the functions specified in section 902 of title 31.

"§310. Chief Information Resources Officer

"(a) The Secretary shall designate the Assistant Secretary whose functions include information management functions (as required by section 3506 of title 44) as the Chief Information Resources Officer of the Department.

"(b) The Chief Information Resources Officer shall advise the Secretary on information and management activities of the Department as required by section 3506 of title 44.

"(c) The Chief Information Resources Officer shall develop and maintain an information resources management system for the Department that provides for—

"(1) the conduct of, and accountability for, any acquisitions made pursuant to a delegation of authority under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759);

"(2) the implementation of all applicable Governmentwide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resources management functions;

"(3) the periodic evaluation of and (as needed) the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained within Department information systems; and

"(4) the development and annual revision of a five-year plan for meeting the Department's information technology needs.

"(d) The Chief Information Resources Officer shall report directly to the Secretary in carrying out the duties of the Chief Information Resources Officer under this section and under chapter 35 of title 44.

"§311. General Counsel

"There is in the Department the Office of the General Counsel. There is at the head of the office a General Counsel, who is appointed by the President, by and with the advice and consent of the Senate. The General Counsel is the chief legal officer of the Department and provides legal assistance to the Secretary concerning the programs and policies of the Department.

"§312. Inspector General

"(a) There is in the Department an Inspector General, who is appointed by the President, by and with the advice and consent of the Senate, as provided in the Inspector General Act of 1978 (5 U.S.C. App. 3). The Inspector General performs the functions, has the responsibilities, and exercises the powers specified in that Act.

"(b)(1) The Secretary shall provide for not less than 40 full-time positions in the Office of Inspector General in addition to the number of such positions in that office on March 15, 1989.

"(2) The President shall include in the budget transmitted to the Congress for each fiscal year pursuant to section 1105 of title 31 an estimate of the amount for the Office of Inspector General that is sufficient to provide for a number of full-time positions in that office that is not less than the number of full-time positions in that office on March 15, 1989, plus 40.

"(3) The Secretary shall provide the number of additional full-time positions in the Office of Inspector General required by paragraph (1) not later than September 30, 1991.

"§313. Availability of appropriations

"(a) Funds appropriated to the Department may remain available until expended.

"(b) Funds appropriated to the Department may not be used for a settlement of more than $1,000,000 on a construction contract unless—

"(1) the settlement is audited by an entity outside the Department for reasonableness and appropriateness of expenditures; and

"(2) the settlement is provided for specifically in an appropriation law.

"§314. Central Office

"The Central Office of the Department shall be in the District of Columbia.

"§315. Regional offices

"(a) The Secretary may establish such regional offices and such other field offices within the United States, its Territories, Commonwealths, and possessions, as the Secretary considers necessary.

"(b) The Secretary may maintain a regional office in the Republic of the Philippines until September 30, 1991.

"§316. Colocation of regional offices and medical centers

"(a) To provide for a more economical, efficient, and effective operation of such regional offices, the Secretary shall provide for the colocation of at least three regional offices with medical centers of the Department—

"(1) on real property under the jurisdiction of the Department of Veterans Affairs at such medical centers; or

"(2) on real property that is adjacent to such a medical center and is under the jurisdiction of the Department as a result of being conveyed to the United States for the purpose of such colocation.

"(b)(1) In carrying out this section and notwithstanding any other provision of law, the Secretary may lease, with or without compensation and for a period of not to exceed 35 years, to another party at not more than seven locations any of the real property described in paragraph (1) or (2) of subsection (a).

"(2) Such real property shall be used as the site of a facility—

"(A) constructed and owned by the lessee of such real property; and

"(B) leased under subsection (c)(1) to the Department for such use and such other activities as the Secretary determines are appropriate.

"(c)(1) The Secretary may enter into a lease for the use of any facility described in subsection (b)(2) for not more than 35 years under such terms and conditions as may be in the best interests of the Department.

"(2) Each agreement for such a lease shall provide—

"(A) that the obligation of the United States to make payments under the agreement is subject to the availability of appropriations for that purpose; and

"(B) that the ownership of the facility shall vest in the United States at the end of such lease.

"(d)(1) The Secretary may sublease any space in such a facility to another party at a rate not less than—

"(A) the rental rate paid by the Secretary for such space under subsection (c); plus

"(B) the amount the Secretary pays for the costs of administering such facility (including operation, maintenance, utility, and rehabilitation costs) which are attributable to such space.

"(2) In any such sublease, the Secretary shall include such terms relating to default and nonperformance as the Secretary considers appropriate to protect the interests of the United States.

"(e) The Secretary shall use the receipts of any payment for the lease of real property under subsection (b) for the payment of the lease of a facility under subsection (c).

"(f)(1) Subject to paragraph (3)(A), the Secretary shall, not later than April 18, 1990, issue an invitation for offers with respect to three colocations to be carried out under this section. The invitation shall include, with respect to each such colocation, at least the following:

"(A) Identification of the site to be developed.

"(B) Minimum office space requirements for regional office activities.

"(C) Design criteria of the facility to be constructed.

"(D) A plan for meeting the security and parking needs for the facility and its occupants and visitors.

"(E) A statement of current and projected rents and other costs for regional office activities.

"(F) The estimated cost of construction of the facility concerned, the estimated annual cost of leasing space for regional office activities in the facility, and the estimated total annual cost of leasing all space in such facility.

"(G) A plan for securing appropriate licenses, easements, and rights-of-way.

"(H) A list of terms and conditions the Secretary has approved for inclusion in the lease agreement for the facility concerned.

"(2) Subject to paragraph (3)(B), the Secretary shall—

"(A) not later than one year after the date on which the invitation is issued under paragraph (1), enter into an agreement to carry out one colocation under this subsection; and

"(B) within 180 days after entering into the agreement referred to in subparagraph (A), enter into agreements to carry out two additional colocations,

unless the Secretary determines that it is not economically feasible for the Department to undertake them, taking into consideration all of the tangible and intangible benefits associated with such colocations.

"(3) The Secretary shall—

"(A) at least 10 days before the issuance or other publication of the invitation referred to in paragraph (1), submit a copy of the invitation to the Committees on Veterans' Affairs of the Senate and House of Representatives; and

"(B) at least 30 days before entering into an agreement under paragraph (2), submit a copy to the Committees on Veterans' Affairs of the Senate and House of Representatives of the proposals selected by the Secretary from those received in response to the invitation issued under paragraph (1).

"(g) The authority to enter into an agreement under this section shall expire on September 30, 1992.

"CHAPTER 5—AUTHORITY AND DUTIES OF THE SECRETARY

"SUBCHAPTER I—GENERAL AUTHORITIES

"Sec.
"501. Rules and regulations.
"502. Judicial review of rules and regulations.
"503. Administrative error; equitable relief.
"505. Opinions of Attorney General.
"510. Authority to reorganize offices.
"511. Decisions of the Secretary; finality.
"512. Delegation of authority; assignment of functions and duties.
"513. Contracts and personal services.
"515. Administrative settlement of tort claims.
"SUBCHAPTER II—SPECIFIED FUNCTIONS
"521. Assistance to certain rehabilitation activities.
"522. Studies of rehabilitation of disabled persons.
"523. Coordination and promotion of other programs affecting veterans and their dependents.
"525. Publication of laws relating to veterans.
"527. Evaluation and data collection.
"529. Annual report to Congress.
"SUBCHAPTER III—ADVISORY COMMITTEES
"541. Advisory Committee on Former Prisoners of War.
"542. Advisory Committee on Women Veterans.

"SUBCHAPTER I—GENERAL AUTHORITIES

"§ 501. Rules and regulations

"(a) The Secretary has authority to prescribe all rules and regulations which are necessary or appropriate to carry out the laws administered by the Department and are consistent with those laws, including—

"(1) regulations with respect to the nature and extent of proof and evidence and the method of taking and furnishing them in order to establish the right to benefits under such laws;

"(2) the forms of application by claimants under such laws;

"(3) the methods of making investigations and medical examinations; and

"(4) the manner and form of adjudications and awards.

"(b) Any rule, regulation, guideline, or other published interpretation or order (and any amendment thereto) issued pursuant to the authority granted by this section or any other provision of this title shall contain citations to the particular section or sections of statutory law or other legal authority upon which such issuance is based. The citation to the authority shall appear immediately following each substantive provision of the issuance.

"(c) In applying section 552(a)(1) of title 5 to the Department, the Secretary shall ensure that subparagraphs (C), (D), and (E) of that section are complied with, particularly with respect to opinions and interpretations of the General Counsel.

"(d) The provisions of section 553 of title 5 shall apply, without regard to subsection (a)(2) of that section, to matters relating to loans, grants, or benefits under a law administered by the Secretary.

"§ 502. Judicial review of rules and regulations

"An action of the Secretary to which section 552(a)(1) or 553 of title 5 (or both) refers (other than an action relating to the adoption or revision of the schedule of ratings for disabilities adopted under section 1155 of this title) is subject to judicial review. Such review shall be in accordance with chapter 7 of title 5 and may be sought only in the United States Court of Appeals for the Federal Circuit. However, if such review is sought in connection with an appeal brought under the provisions of chapter 72 of this title, the provisions of that chapter shall apply rather than the provisions of chapter 7 of title 5.

"§ 503. Administrative error; equitable relief

"(a) If the Secretary determines that benefits administered by the Department have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, the Secretary may provide such relief on account of such error as the Secretary determines equitable, including the payment of moneys to any person whom the Secretary determines is equitably entitled to such moneys.

"(b) If the Secretary determines that a veteran, surviving spouse, child of a veteran, or other person has suffered loss as a consequence of reliance upon a determination by the Department of eligibility or entitlement to benefits, without knowledge that it was erroneously made, the Secretary may provide such relief on account of such error as the Secretary determines is equitable, including the payment of moneys to any person whom the Secretary determines is equitably entitled to such moneys.

"(c) Not later than April 1 of each year, the Secretary shall submit to Congress a report containing a statement as to the disposition of each case recommended to the Secretary for equitable relief under this section during the preceding calendar year.

"§ 505. Opinions of Attorney General

"The Secretary may require the opinion of the Attorney General on any question of law arising in the administration of the Department.

"§ 510. Authority to reorganize offices

"(a) Except to the extent inconsistent with law, the Secretary may—

"(1) consolidate, eliminate, abolish, or redistribute the functions of the Administrations, offices, facilities, or activities in the Department;

"(2) create new Administrations, offices, facilities, or activities in the Department; and

"(3) fix the functions of any such Administration, office, facility, or activity and the duties and powers of their respective executive heads.

"(b) The Secretary may not in any fiscal year implement an administrative reorganization described in subsection (c) unless the Secretary first submits to the appropriate committees of the Congress a report containing a detailed plan and justification for the administrative reorganization. No action to carry out such reorganization may be taken after the submission of such report until the end of a 90-day period of continuous session of Congress following the date of the submission of the report. For purposes of the preceding sentence, continuity of a session of Congress is broken only by adjournment sine die, and there shall be excluded from the computation of such 90-day period any day during which either House of Congress is not in session during an adjournment of more than three days to a day certain.

(c) An administrative reorganization described in this subsection is an administrative reorganization of a covered field office or facility that involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

(1) by 15 percent or more; or

(2) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 25 percent or more.

"(d)(1) Not less than 30 days before the date on which the implementation of any administrative reorganization described in paragraph (2) of a unit in the Central Office is to begin, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization.

"(2) Paragraph (1) applies to an administrative reorganization of any unit of the Central Office that is the duty station for 30 or more employees if the reorganization involves a reduction in any fiscal year in the number of full-time equivalent employees with permanent duty station in such unit by 50 percent or more.

(e) For purposes of this section, the term 'administrative reorganization' does not include a consolidation or redistribution of functions at a covered field office or facility, or between components of the Veterans Benefits Administration and the Veterans Health Administration at a Department medical and regional office center, if after the consolidation or redistribution the same number of full-time equivalent employees continues to perform the affected functions at that field office, facility, or center.

"(f) For purposes of this section:

"(1) The term 'covered field office or facility' means a Department office or facility outside the Central Office that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic.

"(2) The term 'detailed plan and justification' means, with respect to an administrative reorganization, a written report that, at a minimum, includes the following:

"(A) Specification of the number of employees by which each covered office or facility affected is to be reduced, the responsibilities of those employees, and the means by which the reduction is to be accomplished.

"(B) Identification of any existing or planned office or facility at which the number of employees is to be increased and specification of the number and responsibilities of the additional employees at each such office or facility.

"(C) A description of the changes in the functions carried out at any existing office or facility and the functions to be assigned to an office or facility not in existence on the date that the plan and justification are submitted pursuant to subsection (b).

"(D) An explanation of the reasons for the determination that the reorganization is appropriate and advisable in terms of the statutory missions and long-term goals of the Department.

"(E) A description of the effects that the reorganization may have on the provision of benefits and services to veterans and dependents of veterans (including the provision of benefits and services through offices and facilities of the Department not directly affected by the reorganization).

"(F) Estimates of the costs of the reorganization and of the cost impact of the reorganization, together with analyses supporting those estimates.

"§ 511. Decisions of the Secretary; finality

"(a) The Secretary shall decide all questions of law and fact necessary to a decision by the Secretary under a law that affects the provision of benefits by the Secretary to veterans or the dependents or survivors of veterans. Subject to subsection (b), the decision of the Secretary as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

"(b) The second sentence of subsection (a) does not apply to—

"(1) matters subject to section 502 of this title;

"(2) matters covered by sections 1975 and 1984 of this title;

"(3) matters arising under chapter 37 of this title; and

"(4) matters covered by chapter 72 of this title.

"§ 512. Delegation of authority; assignment of functions and duties

"(a) Except as otherwise provided by law, the Secretary may assign functions and duties, and delegate, or authorize successive redelegation of, authority to act and to render decisions, with respect to all laws administered by the Department, to such officers and employees as the Secretary may find necessary. Within the limitations of such delegations, redelegations, or assignments, all official acts and decisions of such officers and employees shall have the same force and effect as though performed or rendered by the Secretary.

"(b) There shall be included on the technical and administrative staff of the Secretary such staff officers, experts, inspectors, and assistants (including legal assistants) as the Secretary may prescribe.

"§ 513. Contracts and personal services

"The Secretary may, for purposes of all laws administered by the Department, accept uncompensated services, and enter into contracts or agreements with private or public agencies or persons (including contracts for services of translators without regard to any other law), for such necessary services (including personal services) as the Secretary may consider practicable. The Secretary may also enter into contracts or agreements with private concerns or public agencies for the hiring of passenger motor vehicles or aircraft for official travel whenever, in the Secretary's judgment, such arrangements are in the interest of efficiency or economy.

"§ 515. Administrative settlement of tort claims

"(a)(1) Notwithstanding the limitations contained in section 2672 of title 28, the Secretary may settle a claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 7316 of this title to the extent the authority to do so is delegated to the Secretary by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

"(2) For purposes of this subsection, the term 'settle', with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.

"(b) The Secretary may pay tort claims, in the manner authorized in the first paragraph of section 2672 of title 28, when such claims arise in foreign countries in connection with Department operations abroad. A claim may not be allowed under this subsection unless it is presented in writing to the Secretary within two years after the claim accrues.

"SUBCHAPTER II—SPECIFIED FUNCTIONS

"§ 521. Assistance to certain rehabilitation activities

"(a) The Secretary may assist any organization named in or approved under section 5902 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

"(1) the activities are available to disabled veterans on a national basis; and

"(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

"(b) The Secretary may accept from any appropriate source contributions of funds and of other assistance to support the Secretary's provision of assistance for such activities.

"(c)(1) Subject to paragraph (2), the Secretary may authorize the use, for purposes approved by the Secretary in connection with the activity involved, of the seal and other official symbols of the Department and the name 'Department of Veterans Affairs' by—

"(A) any organization which provides an activity described in subsection (a) with assistance from the Secretary; and

"(B) any individual or entity from which the Secretary accepts a significant contribution under subsection (b) or an offer of such a contribution.

"(2) The use of such seal or name of any official symbol of the Department in an advertisement may be authorized by the Secretary under this subsection only if—

"(A) the Secretary has approved the advertisement; and

"(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Department of Veterans Affairs.

"§ 522. Studies of rehabilitation of disabled persons

"(a) The Secretary may conduct studies and investigations, and prepare reports, relative to the rehabilitation of disabled persons, the relative abilities, aptitudes, and capacities of the several groups of the variously handicapped, and how their potentialities can best be developed and their services best used in gainful and suitable employment including the rehabilitation programs of foreign nations.

"(b) In carrying out this section, the Secretary (1) may cooperate with such public and private agencies as the Secretary considers advisable; and (2) may employ consultants who shall receive a reasonable per diem, as prescribed by the Secretary, for each day actually employed, plus necessary travel and other expenses.

"§ 523. Coordination and promotion of other programs affecting veterans and their dependents

"(a) The Secretary shall seek to achieve (1) the maximum feasible effectiveness, coordination, and interrelationship of services among all programs and activities affecting veterans and their dependents carried out by and under all other departments, agencies, and instrumentalities of the executive branch, and (2) the maximum feasible coordination of such programs with programs carried out under this title. The Secretary shall actively promote the effective implementation, enforcement, and application of all provisions of law and regulations providing for special consideration, emphasis, or preference for veterans.

"(b) The Secretary shall seek to achieve the effective coordination of the provision, under laws administered by the Department, of benefits and services (and information about such benefits and services) with appropriate programs (and information about such programs) conducted by State and local governmental agencies and by private entities at the State and local level. In carrying out this subsection, the Secretary shall place special emphasis on veterans who are 65 years of age or older.

"§ 525. Publication of laws relating to veterans

"(a) The Secretary may compile and publish all Federal laws relating to veterans' relief, including laws administered by the Department as well as by other agencies of the Government. Such compilation and publication shall be in such form as the Secretary considers advisable for the purpose of making currently available in convenient form for the use of the Department and full-time representatives of the several service organizations an annotated, indexed, and cross-referenced statement of the laws providing veterans' relief.

"(b) The Secretary may maintain such compilation on a current basis either by the publication, from time to time, of supplementary documents or by complete revision of the compilation.

"(c) The distribution of the compilation to the representatives of the several service organizations shall be as determined by the Secretary.

"§ 527. Evaluation and data collection

"(a) The Secretary, pursuant to general standards which the Secretary shall prescribe in regulations, shall measure and evaluate on a continuing basis the effect of all programs authorized under this title, in order to determine their effectiveness in achieving stated goals in general, and in achieving such goals in relation to their cost, their effect on related programs, and their structure and mechanisms for delivery of services. Such information as the Secretary may consider necessary for purposes of such evaluations shall be made available to the Secretary, upon request, by all departments, agencies, and instrumentalities of the executive branch.

"(b) In carrying out this section, the Secretary shall collect, collate, and analyze on a continuing basis full statistical data regarding participation (including the duration thereof), provision of services, categories of beneficiaries, planning and construction of facilities, acquisition of real property, proposed excessing of land, accretion and attrition of personnel, and categorized expenditures attributable thereto, under all programs carried out under this title.

"(c) The Secretary shall make available to the public, and on a regular basis provide to the appropriate committees of the Congress, copies of all completed evaluative research studies and summaries of evaluations of program impact and effectiveness carried out, and tabulations and analyses of all data collected, under this section.

"§ 529. Annual report to Congress

"The Secretary shall submit annually, at the close of each fiscal year, a report in writing to Congress. Each such report shall—

"(1) give an account of all moneys received and disbursed by the Department for such fiscal year;

"(2) describe the work done during such fiscal year; and

"(3) state the activities of the Department for such fiscal year.

"SUBCHAPTER III—ADVISORY COMMITTEES

"§ 541. Advisory Committee on Former Prisoners of War

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Former Prisoners of War (hereinafter in this section referred to as the 'Committee').

"(2)(A) The members of the Committee shall be appointed by the Secretary from the general public and shall include—

"(i) appropriate representatives of veterans who are former prisoners of war;

"(ii) individuals who are recognized authorities in fields pertinent to disabilities prevalent among former prisoners of war, including authorities in epidemiology, mental health, nutrition, geriatrics, and internal medicine; and

"(iii) appropriate representatives of disabled veterans.

"(B) The Committee shall also include, as ex officio members, the Chief Medical Director and the Chief Benefits Director, or their designees.

"(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that the term of service of any such member may not exceed three years.

"(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits under this title for veterans who are former prisoners of war and the needs of such veterans with respect to compensation, health care, and rehabilitation.

"(c)(1) Not later than July 1 of each odd-numbered year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to veterans who are former prisoners of war. Each such report shall include—

"(A) an assessment of the needs of such veterans with respect to compensation, health care, and rehabilitation;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers to be appropriate.

"(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted to the Congress pursuant to that section.

"§ 542. Advisory Committee on Women Veterans

"(a)(1) The Secretary shall establish an advisory committee to be known as the Advisory Committee on Women Veterans (hereinafter in this section referred to as 'the Committee').

"(2)(A) The Committee shall consist of members appointed by the Secretary from the general public, including—

"(i) representatives of women veterans;

"(ii) individuals who are recognized authorities in fields pertinent to the needs of women veterans, including the gender-specific health-care needs of women; and

"(iii) representatives of both female and male veterans with service-connected disabilities, including at least one female veteran with a service-connected disability and at least one male veteran with a service-connected disability.

"(B) The Committee shall include, as ex officio members—

"(i) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

"(ii) the Secretary of Defense (or a representative of the Secretary of Defense designated by the Secretary of Defense after consultation with the Defense Advisory Committee on Women in the Services); and

"(iii) the Chief Medical Director and the Chief Benefits Director, or their designees.

"(C) The Secretary may invite representatives of other departments and agencies of the United States to participate in the meetings and other activities of the Committee.

"(3) The Secretary shall determine the number, terms of service, and pay and allowances of members of the Committee appointed by the Secretary, except that a term of service of any such member may not exceed three years. The Secretary may reappoint any such member for additional terms of service.

"(b) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee with respect to the administration of benefits by the Department for women veterans, reports and studies pertaining to women veterans and the needs of women veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department.

"(c)(1) Not later than July 1 of each even-numbered year, the Committee shall submit to the Secretary a report on the programs and activities of the Department that pertain to women veterans. Each such report shall include—

"(A) an assessment of the needs of women veterans with respect to compensation, health care, rehabilitation, outreach, and other benefits and programs administered by the Department;

"(B) a review of the programs and activities of the Department designed to meet such needs; and

"(C) such recommendations (including recommendations for administrative and legislative action) as the Committee considers appropriate.

"(2) The Secretary shall, within 60 days after receiving each report under paragraph (1), submit to the Congress a copy of the report, together with any comments concerning the report that the Secretary considers appropriate.

"(3) The Committee may also submit to the Secretary such other reports and recommendations as the Committee considers appropriate.

"(4) The Secretary shall submit with each annual report submitted to the Congress pursuant to section 529 of this title a summary of all reports and recommendations of the Committee submitted to the Secretary since the previous annual report of the Secretary submitted pursuant to such section.

"CHAPTER 7—EMPLOYEES

"Sec.
"701. Placement of employees in military installations.
"703. Miscellaneous authorities respecting employees.
"705. Telephone service for medical officers and facility directors.
"707. Benefits for employees at overseas offices who are United States citizens.
"709. Employment restrictions.
"711. Grade reductions.

"§ 701. Placement of employees in military installations

"The Secretary may place employees of the Department in such Army, Navy, and Air Force installations as may be considered advisable for the purpose of adjudicating disability claims of, and giving aid and advice to, members of the Armed Forces who are about to be discharged or released from active military, naval, or air service.

"§ 703. Miscellaneous authorities respecting employees

"(a) The Secretary may furnish and launder such wearing apparel as may be prescribed for employees in the performance of their official duties.

"(b) The Secretary may transport children of Department employees located at isolated stations to and from school in available Government-owned automotive equipment.

"(c) The Secretary may provide recreational facilities, supplies, and equipment for the use of patients in hospitals and employees in isolated installations.

"(d) The Secretary may provide for the preparation, shipment, installation, and display of exhibits, photographic displays, moving pictures, and other visual educational information and descriptive material. For the purposes of the preceding sentence, the Secretary may purchase or rent equipment.

"(e) The Secretary may reimburse employees for the cost of repairing or replacing their personal property damaged or destroyed by patients or domiciliary members while such employees are engaged in the performance of their official duties.

"(f)(1) The Secretary, upon determining that an emergency situation exists and that such action is necessary for the effective conduct of the affairs of the Department, may use Government-owned, or leased, vehicles to transport employees to and from their place of employment and the nearest adequate public transportation or, if such public transportation is either unavailable or not feasible to use, to and from their place of employment and their home.

"(2) The Secretary shall establish reasonable rates to cover the cost of the service rendered under this subsection, and all proceeds collected therefrom shall be applied to the applicable appropriation.

"§ 705. Telephone service for medical officers and facility directors

"The Secretary may pay for official telephone service and rental in the field whenever incurred in case of official telephones for directors of centers, hospitals, independent clinics, domiciliaries, and medical officers of the Department where such telephones are installed in private residences or private apartments or quarters, when authorized under regulations prescribed by the Secretary.

"§ 707. Benefits for employees at overseas offices who are United States citizens

"(a) The Secretary may, under such rules and regulations as may be prescribed by the President or the President's designee, provide to personnel of the Department who are United States citizens and are assigned by the Secretary to the Department offices in the Republic of the Philippines allowances and benefits similar to those provided by the following provisions of law:

"(1) Section 905 of the Foreign Service Act of 1980 (relating to allowances to provide for the proper representation of the United States).

"(2) Sections 901(1), (2), (3), (4), (7), (8), (9), (11), and (12) of the Foreign Service Act of 1980 (relating to travel expenses).

"(3) Section 901(13) of the Foreign Service Act of 1980 (relating to transportation of automobiles).

"(4) Section 903 of the Foreign Service Act of 1980 (relating to the return of personnel to the United States on leave of absence).

"(5) Section 904(d) of the Foreign Service Act of 1980 (relating to payments by the United States of expenses for treating illness or injury of officers or employees and dependents requiring hospitalization).

"(6) Section 5724a(a)(3) of title 5 (relating to subsistence expenses for 60 days in connection with the return to the United States of the employee and such employee's immediate family).

"(7) Section 5724a(a)(4) of title 5 (relating to the sale and purchase of the residence or settlement of an unexpired lease of the employee when transferred from one station to another station and both stations are in the United States, its territories or possessions, or the Commonwealth of Puerto Rico).

"(b) The authority in subsection (a) supplements, but is not in lieu of, other allowances and benefits for overseas employees of the Department provided by title 5 and the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.).

"§ 709. Employment restrictions

"(a)(1) Notwithstanding section 3134(d) of title 5, the number of Senior Executive Service positions in the Department which are filled by noncareer appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

"(2) For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

"(b) The number of positions in the Department which may be excepted from the competitive service, on a temporary or permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

"(c)(1) Political affiliation or activity may not be taken into account in connection with the appointment of any person to any position in or to perform any service for the Department or in the assignment or advancement of any employee in the Department.

"(2) Paragraph (1) shall not apply—

"(A) to the appointment of any person by the President under this title, other than the appointment of the Chief Medical Director, the Chief Benefits Director, and the Inspector General; or

"(B) to the appointment of any person to (i) a Senior Executive Service position as a noncareer appointee, or (ii) a position that is excepted from the competitive service, on a temporary or permanent basis, because of the confidential or policy-determining character of the position.

"§ 711. Grade reductions

"(a) The Secretary may not implement a grade reduction described in subsection (b) unless the Secretary first submits to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing a detailed plan for such reduction and a detailed justification for the plan. The report shall include a determination by the Secretary (together with data supporting such determination) that, in the personnel area concerned, the Department has a disproportionate number of employees at the salary grade or grades selected for reduction in comparison to the number of such employees at the salary levels involved who perform comparable functions in other departments and agencies of the Federal Government and in non-Federal entities. Any grade reduction described in such report may not take effect until the end of a period of 90 calendar days (not including any day on which either House of Congress is not in session) after the report is received by the committees.

"(b) A grade reduction referred to in subsection (a) is a systematic reduction, for the purpose of reducing the average salary cost for Department employees described in subsection (c), in the number of such Department employees at a specific grade level.

"(c) The employees referred to in subsection (b) are—

"(1) health-care personnel who are determined by the Secretary to be providing either direct patient-care services or services incident to direct patient-care services;

"(2) individuals who meet the definition of professional employee as set forth in section 7103(a)(15) of title 5; and

"(3) individuals who are employed as computer specialists.

"(d) Not later than the 45th day after the Secretary submits a report under subsection (a), the Comptroller General shall submit to such Committees a report on the Secretary's compliance with such subsection. The Comptroller General shall include in the report the Comptroller General's opinion as to the accuracy of the Secretary's determination (and of the data supporting such determination) made under such subsection.

"(e) In the case of Department employees not described in subsection (c), the Secretary may not in any fiscal year implement a systematic reduction for the purpose of reducing the average salary cost for such Department employees that will result in a reduction in the number of such Department employees at any specific grade level at a rate greater than the rate of the reductions systematically being made in the numbers of employees at such grade level in all other agencies and departments of the Federal Government combined.

"CHAPTER 9—SECURITY AND LAW ENFORCEMENT ON PROPERTY UNDER THE JURISDICTION OF THE DEPARTMENT

"Sec.

"901. Authority to prescribe rules for conduct and penalties for violations.
"902. Enforcement and arrest authority of Department police officers.
"903. Uniform allowance.
"904. Equipment and weapons.
"905. Use of facilities and services of other law enforcement agencies.

"§ 901. Authority to prescribe rules for conduct and penalties for violations

"(a)(1) The Secretary shall prescribe regulations to provide for the maintenance of law and order and the protection of persons and property on Department property.

"(2) In this chapter, the term 'Department property' means land and buildings that are under the jurisdiction of the Department and are not under control of the Administrator of General Services.

"(b) Regulations under subsection (a) shall include—

"(1) rules for conduct on Department property; and

"(2) the penalties, within the limits specified in subsection (c), for violations of such rules.

"(c) Whoever violates any rule prescribed by regulation under subsection (b)(1) shall be fined in accordance with title 18 or imprisoned not more than six months, or both. The Secretary may prescribe by regulation a maximum fine less than that which would otherwise apply under the preceding sentence or a maximum term of imprisonment of a shorter period than that which would otherwise apply under the preceding sentence, or both. Any such regulation shall apply notwithstanding any provision of title 18 or any other law to the contrary.

"(d) The rules prescribed under subsection (a), together with the penalties for violations of such rules, shall be posted conspicuously on property to which they apply.

"(e) The Secretary shall consult with the Attorney General before prescribing regulations under this section.

"§ 902. Enforcement and arrest authority of Department police officers

"(a)(1) Employees of the Department who are Department police officers shall, with respect to acts occurring on Department property, enforce—

"(A) Federal laws;

"(B) the rules prescribed under section 901 of this title; and

"(C) subject to paragraph (2), traffic and motor vehicle laws of a State or local government within the jurisdiction of which such Department property is located.

"(2) A law described in subparagraph (C) of paragraph (1) may be enforced under such subparagraph only as authorized by an express grant of authority under applicable State or local law. Any such enforcement shall be by the issuance of a citation for violation of such law.

"(3) Subject to regulations prescribed under subsection (b), a Department police officer may make arrests on Department property for a violation of a Federal law or any rule prescribed under section 901(a) of this title.

"(b) The Secretary shall prescribe regulations with respect to Department police officers. Such regulations shall include—

"(1) policies with respect to the exercise by Department police officers of the enforcement and arrest authorities provided by this section;

"(2) the scope and duration of training that is required for Department police officers, with particular emphasis on dealing with situations involving patients; and

"(3) rules limiting the carrying and use of weapons by Department police officers.

"(c) The Secretary shall consult with the Attorney General before prescribing regulations under paragraph (1) of subsection (b).

"(d) Rates of basic pay for Department police officers may be increased by the Secretary under section 7455 of this title.

"§ 903. Uniform allowance

"(a) The Secretary may pay an allowance under this section for the purchase of uniforms to any Department police officer who is required to wear a prescribed uniform in the performance of official duties.

"(b) The amount of the allowance that the Secretary may pay under this section—

"(1) may be based on estimated average costs or actual costs;

"(2) may vary by geographic regions; and

"(3) except as provided in subsection (c), may not exceed $200 in a fiscal year for any police officer.

"(c) The amount of an allowance under this section may be increased to an amount up to $400 for not more than one fiscal year in the case of any Department police officer. In the case of a person who is appointed as a Department police officer on or after January 1, 1990, an allowance in an amount established under this subsection shall be paid at the beginning of such person's employment as such an officer. In the case of any other Department police officer, an allowance in an amount established under this subsection shall be paid upon the request of the officer.

"(d) A police officer who resigns as a police officer less than one year after receiving an allowance in an amount established under this section shall repay to the Department a pro rata share of the amount paid, based on the number of months the officer was actually employed as such an officer during the twelve-month period following the date on which such officer began such employment or the date on which the officer submitted a request for such an allowance, as the case may be.

"(e) An allowance may not be paid to a Department police officer under this section and under section 5901 of title 5 for the same fiscal year.

"§ 904. Equipment and weapons

"The Secretary shall furnish Department police officers with such weapons and related equipment as the Secretary determines to be necessary and appropriate.

"§ 905. Use of facilities and services of other law enforcement agencies

"With the permission of the head of the agency concerned, the Secretary may use the facilities and services of Federal, State, and local law enforcement agencies when it is economical and in the public interest to do so.".

(b) VETERANS BENEFITS ADMINISTRATION.—Part V of title 38, United States Code, is amended by inserting after chapter 76 the following new chapter:

"CHAPTER 77—VETERANS BENEFITS ADMINISTRATION

"SUBCHAPTER I—ORGANIZATION; GENERAL

"Sec.

"7701. Organization of the Administration.
"7703. Functions of the Administration.

"SUBCHAPTER II—VETERANS OUTREACH SERVICES PROGRAM

"7721. Purpose; definitions.
"7722. Outreach services.
"7723. Veterans assistance offices.
"7724. Outstationing of counseling and outreach personnel.
"7725. Use of other agencies.
"7726. Annual report to Congress.

"SUBCHAPTER I—ORGANIZATION; GENERAL

"§ 7701. Organization of the Administration

"(a) There is in the Department of Veterans Affairs a Veterans Benefits Administration. The primary function of the Veterans Benefits Administration is the administration of nonmedical benefits programs of the Department which provide assistance to veterans and their dependents and survivors.

"(b) The Veterans Benefits Administration is under the Chief Benefits Director, who is directly responsible to the Secretary for the operations of the Administration.

"§ 7703. Functions of the Administration

"The Veterans Benefits Administration is responsible for the administration of the following programs of the Department:

"(1) Compensation and pension programs.

"(2) Vocational rehabilitation and educational assistance programs.

"(3) Veterans' housing loan programs.

"(4) Veterans' and servicemembers' life insurance programs.

"(5) Outreach programs and other veterans' services programs.

"SUBCHAPTER II—VETERANS OUTREACH SERVICES PROGRAM

"§ 7721. Purpose; definitions

"(a) The Congress declares that the outreach services program authorized by this subchapter is for the purpose of ensuring that all veterans (especially those who have been recently discharged or released from active military, naval, or air service and those who are eligible for readjustment or other benefits and services under laws administered by the Department) are provided timely and appropriate assistance to aid and encourage them in applying for and obtaining such benefits and services in order that they may achieve a rapid social and economic readjustment to civilian life and obtain a higher standard of living for themselves and their dependents. The Congress further declares that the outreach services program authorized by this subchapter is for the purpose of charging the Department with the affirmative duty of seeking out eligible veterans and eligible dependents and providing them with such services.

"(b) For the purposes of this subchapter—

"(1) the term 'other governmental programs' includes all programs under State or local laws as well as all programs under Federal law other than those authorized by this title; and

"(2) the term 'eligible dependent' means an 'eligible person' as defined in section 3501(a)(1) of this title.

"§ 7722. Outreach services

"(a) In carrying out the purposes of this subchapter, the Secretary shall provide the outreach services specified in subsections (b) through (d). In areas where a significant number of eligible veterans and eligible dependents speak a language other than English as their principal language, such services shall, to the maximum feasible extent, be provided in the principal language of such persons.

"(b) The Secretary shall by letter advise each veteran at the time of the veteran's discharge or release from active military, naval, or air service (or as soon as possible after such discharge or release) of all benefits and services under laws administered by the Department for which the veteran may be eligible. In carrying out this subsection, the Secretary shall ensure, through the use of veteran-student services under section 3485 of this title, that contact, in person or by telephone, is made with those veterans who, on the basis of their military service records, do not have a high school education or equivalent at the time of discharge or release.

"(c) The Secretary shall distribute full information to eligible veterans and eligible dependents regarding all benefits and services to which they may be entitled under laws administered by the Department and may, to the extent feasible, distribute information on other governmental programs (including manpower and training programs) which the Secretary determines would be beneficial to veterans.

"(d) The Secretary shall provide, to the maximum extent possible, aid and assistance (including personal interviews) to members of the Armed Forces, veterans, and eligible dependents with respect to subsections (b) and (c) and in the preparation and presentation of claims under laws administered by the Department.

"§ 7723. Veterans assistance offices

"(a) The Secretary shall establish and maintain veterans assistance offices at such places throughout the United States and its territories and possessions, and in the Commonwealth of Puerto Rico, as the Secretary determines to be necessary to carry out the purposes of this subchapter. In establishing and maintaining such offices, the Secretary shall give due regard to—

"(1) the geographical distribution of veterans recently discharged or released from active military, naval, or air service;

"(2) the special needs of educationally disadvantaged veterans (including their need for accessibility of outreach services); and

"(3) the necessity of providing appropriate outreach services in less populated areas.

"(b) The Secretary shall establish and carry out all possible programs and services, including special telephone facilities, as may be necessary to make the outreach services provided for under this subchapter as widely available as possible.

"§ 7724. Outstationing of counseling and outreach personnel

"The Secretary may station employees of the Department at locations other than Department offices, including educational institutions, to provide counseling and other assistance regarding benefits under this title to veterans and other persons eligible for benefits under this title and to provide outreach services under this subchapter.

"§ 7725. Use of other agencies

"In carrying out this subchapter, the Secretary shall do the following:

"(1) Arrange with the Secretary of Labor for the State employment service to match the particular qualifications of an eligible veteran or eligible dependent with an appropriate job or job training opportunity, including, where possible, arrangements for outstationing the State employment personnel who provide such assistance at appropriate facilities of the Department.

"(2) In consultation with the Secretary of Labor, actively seek to promote the development and establishment of employment opportunities, training opportunities, and other opportunities for veterans, with particular emphasis on the needs of veterans with service-connected disabilities and other eligible veterans, taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

"(3) Cooperate with and use the services of any Federal department or agency or any State or local governmental agency or recognized national or other organization.

"(4) Where appropriate, make referrals to any Federal department or agency or State or local governmental unit or recognized national or other organization.

"(5) At the Secretary of Veterans Affairs discretion, furnish available space and office facilities for the use of authorized representatives of such governmental unit or other organization providing services.

"(6) Conduct and provide for studies in consultation with appropriate Federal departments and agencies to determine the most effective program design to carry out the purposes of this subchapter.

"§ 7726. Annual report to Congress

"The Secretary shall include in the annual report to the Congress required by section 529 of this title a report on the activities carried out under this subchapter. Each such report shall include an appraisal of the effectiveness of the programs authorized in this subchapter and recommendations for the improvement or more effective administration of those programs.".

(c) CROSS-REFERENCES TO PREVIOUS CHAPTER 3 SECTIONS.—

(1) Section 621 is amended by striking out "section 210(c)(1)" and inserting in lieu thereof "section 501(a)".

(2) Section 1685(a)(1) is amended by striking out "subchapter IV of chapter 3" and inserting in lieu thereof "subchapter II of chapter 77".

(3) The following sections are amended by striking out "section 214" and inserting in lieu thereof "section 529": sections 618(c)(3), 654, 1521(c), 1833(c)(2), and 7101(c)(3).

(4) Section 2003A(b)(2) is amended by striking out "section 242" and inserting in lieu thereof "section 7723".

(5) Section 2014(g) is amended by striking out "section 241" and "section 243" and inserting in lieu thereof "section 7722" and "section 7724", respectively.

(6) Section 5701(g)(2)(A)(ii) is amended by striking out "section 219" and inserting in lieu thereof "section 527".

(7) Section 7455(a)(2)(C) is amended by striking out "section 218" and inserting in lieu thereof "section 902".

(d) TABLES OF CHAPTERS.—

(1) The table of chapters before part I is amended—

(A) by striking out the item relating to chapter 3 and inserting in lieu thereof the following:

"3. Department of Veterans Affairs	**301**
"5. Authority and Duties of the Secretary	**501**
"7. Employees	**701**
"9. Security and Law Enforcement on Property Under the Jurisdiction of the Department	**901".**

and

(B) by inserting after the item relating to chapter 76 the following new item:

"77. Veterans Benefits Administration	**7701".**

(2) The table of chapters at the beginning of part I is amended by striking out the item relating to chapter 3 and inserting in lieu thereof the following:

"3. Department of Veterans Affairs	**301**
"5. Authority and Duties of the Secretary	**501**
"7. Employees	**701**
"9. Security and Law Enforcement on Property Under the Jurisdiction of the Department	**901".**

(3) The table of chapters at the beginning of part V is amended by inserting after the item relating to chapter 76 the following new item:

"77. Veterans Benefits Administration	**7701".**

SEC. 3. CONFORMING REPEALS TO DEPARTMENT OF VETERANS AFFAIRS ACT.

The following provisions of the Department of Veterans Affairs Act (Public Law 100-527) are repealed:

(1) The second and third sentences of section 2.

(2) The second sentence of section 7.

(3) Sections 3, 4, 5, 8(a), 9(b), 12, and 16.

SEC. 4. ADDITIONAL CONFORMING AMENDMENTS TO TITLE 38, UNITED STATES CODE, TO REFLECT THE ESTABLISHMENT OF THE DEPARTMENT OF VETERANS AFFAIRS .

(a) REFERENCES TO VETERANS' ADMINISTRATION.—

(1) Title 38 is amended by striking out "administered by the Veterans' Administration" each place it appears and inserting in lieu thereof "administered by the Secretary".

(2)(A) The following provisions are amended by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary":

(i) Subsections (d) and (e) of section 103.

(ii) Section 620(f)(1)(B) (in the second sentence).

(iii) In chapter 19—

(I) subsection (a) and the first sentence of subsection (b) of section 707;

(II) section 710;

(III) section 718(a);

(IV) subsections (a) and (b) (in two places) of section 722;

(V) section 746;

(VI) section 747 (in the last sentence);

(VII) section 784(a) (in each of the four places "Veterans' Administration" appears); and

(VIII) section 784(b) (in the sixth sentence).

(iv) Section 1810(e)(2).

(v) Paragraphs (4)(B) and (5)(B) of section 1812(a).

(vi) Section 5110(n).

(vii) Section 5301(e)(2).

(viii) Section 5305 (in the last sentence).

(ix) Subsection (a)(2) (in the first place "Veterans' Administration" appears), subsection (d) (in the last sentence), and subsection (e) (in the first place "Veterans' Administration" appears) of section 5502.

(x) Section 5503(b)(1)(A).

(xi) Paragraph (1) (in the first place "Veterans' Administration" appears), paragraph (2), and paragraph (3) of section 5701(c).

(xii) Section 5702(a) (in two places).

(xiii) Section 5703 (in each place "Veterans' Administration" appears).

(xiv) Section 6105(a) (in the second sentence).

(B) The following provisions are amended by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs":

(i) Section 113(b)(2)(A).

(ii) Section 725(d)(3) (the second place "Veterans' Administration" appears).

(iii) Section 777(g).

(iv) Section 1814(d).

(v) Section 1849(a).

(vi) Sections 7601(a), 7611, and 7621.

(C) The following provisions of chapter 19 are amended by striking out "in the Veterans' Administration" and inserting in lieu thereof "by the Secretary":

(i) The second sentence of section 707(b).

(ii) Section 712(b).

(iii) Section 742(c).

(D) The following provisions of chapter 19 are amended by striking out "in the Veterans' Administration" and inserting in lieu thereof "with the Secretary":

(i) Section 722(b)(3).

(ii) Section 784(b) (in the third sentence).

(E) Section 601(4) is amended by striking out "Veterans' Administration facilities" and inserting in lieu thereof "facilities of the Department".

(F) Section 5705(b) is amended—

(i) by striking out "Veterans' Administration patient or employee," in paragraph (2) and inserting in lieu thereof "patient or employee of the Department,"; and

(ii) by striking out "Veterans' Administration patients or employees" in paragraph (6) and inserting in lieu thereof "patients or employees of the Department,".

(3) Such title is further amended by striking out "Veterans' Administration" each place it appears (other than as amended under paragraphs (1) and (2) and as specified in paragraph (4)) and inserting in lieu thereof "Department".

(4) Paragraph (3) does not apply to the following provisions:

(A) Section 532(c).

(B) Section 1000(b) (each place the term "Veterans' Administration" appears).

(C) Section 1004(c)(2)(A).

(D) Section 5311.

(5) Such title is further amended by striking out "non-Veterans' Administration" each place it appears and inserting in lieu thereof "non-Department".

(6) Section 111(b)(3)(B) is amended by striking out "Veteran's Administration facility" and inserting in lieu thereof "Department facility".

(b) REFERENCES TO ADMINISTRATOR.—

(1) Title 38 is further amended by striking out "Administrator" and "Administrator's" each place they appear (except as provided in paragraphs (2) and (9) and including where they appear in section headings and tables of sections) and inserting in lieu thereof "Secretary" and "Secretary's", respectively.

(2)(A) Section 422 is amended—

(i) in subsection (a), by striking out "Administrator" both places it appears and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(ii) in subsection (b)—

(I) by striking out "Upon the basis of" and all that follows through "shall pay to the Secretary" and inserting in lieu thereof "The Secretary shall pay to the Secretary of Health and Human Services"; and

(II) by striking out "as the Secretary and the Administrator may prescribe" and inserting in lieu thereof "as the two Secretaries may prescribe, with the amount of such payments to be made on the basis of estimates made by the Secretary of Health and Human Services after consultation with the Secretary".

(B) Section 613(b)(1) is amended—

(i) by striking out "Administrator" and inserting in lieu thereof "Secretary of Veterans Affairs";

(ii) by striking out "the Secretary" the second and third places it appears and inserting in lieu thereof "that Secretary"; and

(iii) by striking out "the Secretary" the last place it appears and inserting in lieu thereof "the Secretary of Defense".

(C) Section 723(c) is amended by striking out "the Administrator and Secretary" at the end of the first sentence and inserting in lieu thereof "the two Secretaries".

(D) Section 8153(d)(2) is amended by striking out "the Secretary and the Administrator" and inserting in lieu thereof "the two Secretaries".

(E) Paragraph (1) does not apply to the following provisions:

(i) Section 101(1).

(ii) Section 111 the second place "Administrator" appears in subsection (g)(1) of that section.

(iii) Section 1652(b).

(iv) Section 5105.

(v) Section 7267(e) the second place "Administrator" appears.

(vi) Section 8111A(d).

(3)(A) The heading of section 423 is amended to read as follows:

"§423. Certifications with respect to circumstances of death".

(B) The item relating to that section in the table of sections at the beginning of chapter 13 is amended to read as follows:

"423. Certifications with respect to circumstances of death.".

(4) The following provisions are amended by striking out "the Secretary" and inserting in lieu thereof "that Secretary":

(A) Section 560(b) (the second place "the Secretary" appears).

(B) Section 5110(j) (the second place "the Secretary" appears).

(C) Section 5301(c)(2) (the second, third, and fourth place "the Secretary" appears).

(5) Section 612(j) is amended by striking out "the Secretary" in the second and third sentences and inserting in lieu thereof "the Secretary of Health and Human Services".

(6) Section 612A(h) is repealed.

(7) Section 1004(c)(2)(A) is amended by striking out "Secretary" the first place it appears and inserting in lieu thereof "Administrator of Veterans' Affairs".

(8) Section 2012 is amended by striking out "Secretary" each place it appears in subsections (c) and (d) and inserting in lieu thereof "Secretary of Labor".

(9) Section 5105 is amended—

(A) by inserting "(a)" at the beginning of the text of the section;

(B) by striking out "Administrator" in the first sentence and inserting in lieu thereof "Secretary";

(C) by striking out "; and" in the second sentence and inserting in lieu thereof a period;

(D) by striking out "when an application on such form has been filed with either the Administrator" and inserting in lieu thereof the following (indented so as to make the following text a new subsection):

"(b) When an application on such a form is filed with either the Secretary";

(E) by striking out "filed with the Administrator" and inserting in lieu thereof "filed with either Secretary";

(F) by striking out "received by the Administrator" and inserting in lieu thereof "received by that Secretary";

(G) by striking out "needed by the Secretary" and inserting in lieu thereof "needed by the other Secretary";

(H) by striking out "by the Administrator to the Secretary;" and inserting in lieu thereof "by the Secretary receiving the application to the other Secretary.";

(I) by striking out "and a copy" and all that follows through "to the Administrator."; and

(J) by striking out "the Secretary and the Administrator" in the last sentence and inserting in lieu thereof "the Secretary and the Secretary of Health and Human Services".

(c) REFERENCES TO CHIEF LAW OFFICER.—Section 7104(c) is amended by striking out "chief law officer" and inserting in lieu thereof "chief legal officer of the Department".

SEC. 5. REDESIGNATION OF SECTIONS OF CHAPTERS 11 THROUGH 42.

(a) REDESIGNATION OF SECTIONS TO CONFORM TO CHAPTER NUMBERS.—Each section contained in any of chapters 11 through 23 is redesignated by replacing the first digit of the section number with the number of the chapter containing that section. Each section contained in any of chapters 24 through 42 is redesignated so that the first two digits of the section number of that section are the same as the chapter number of the chapter containing that section.

(b) TABLES OF SECTIONS AND CHAPTERS.—(1) The tables of sections at the beginning of the chapters referred to in subsection (a) are revised so as to conform the section references in those tables to the redesignations made by that subsection.

(2) The table of chapters before part I and the tables of chapters at the beginning of parts I, II, and III are revised so as to conform the section references in those tables to the redesignations made by subsection (a).

(c) CROSS-REFERENCES.—(1) Each provision of title 38, United States Code, that contains a reference to a section redesignated by subsection (a) is amended so that the reference refers to the section as redesignated.

(2) Any reference in a provision of law other than title 38, United States Code, to a section redesignated by subsection (a) shall be deemed to refer to the section as so redesignated.

(d) RULE FOR EXECUTION.—The redesignations made by subsection (a) and the amendments made by subsections (b) and (c) shall be executed after any other amendments made by this Act.

SEC. 6. CONFORMING AMENDMENTS TO OTHER VETERANS LAWS TO REFLECT THE ESTABLISHMENT OF THE DEPARTMENT OF VETERANS AFFAIRS.

(a) PUBLIC LAW 94–581.—Section 105(b) of the Veterans Omnibus Health Care Act of 1976 (Public Law 94–581; 38 U.S.C. 619 note) is amended—

(1) by striking out "Administrator is authorized to" and inserting in lieu thereof "Secretary of Veterans Affairs may";

(2) by striking out "Veterans' Administration" the first place it appears and inserting in lieu thereof "Department of Veterans Affairs";

(3) by striking out "Veterans' Administration facilities and personnel" and inserting in lieu thereof "facilities and personnel of the Department";

(4) by striking out "Veterans' Administration health care facilities" and inserting in lieu thereof "health care facilities of the Department";

(5) by striking out "Administrator deems" and inserting in lieu thereof "Secretary considers"; and

(6) by striking out "Administrator" both places it appears in paragraph (2) and inserting in lieu thereof "Secretary".

(b) PUBLIC LAW 95–202.—Section 401 of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note) is amended by striking out "laws administered by the Veterans' Administration" in subsections (a)(1) and (b)(2) and inserting in lieu thereof "laws administered by the Secretary of Veterans Affairs".

(c) PUBLIC LAW 95–588.—Section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (38 U.S.C. 521 note) is amended—

(1) by striking out "Administrator" in subsection (a)(1)(A) and inserting in lieu thereof "Secretary of Veterans Affairs (hereinafter in this section referred to as the 'Secretary')";

(2) by striking out "Administrator of Veterans' Affairs" in subsections (a)(3), (b)(2)(A), and (e) and inserting in lieu thereof "Secretary"; and

(3) by striking out "Administrator" in subsection (b)(4) and inserting in lieu thereof "Secretary".

(d) Public Law 96-22.—Section 103(b) of the Veterans' Health Care Amendments of 1979 (Public Law 96-22; 38 U.S.C. 612A note) is amended by striking out "the date of the enactment of this Act, the Administrator of Veterans' Affairs" and inserting in lieu thereof "June 13, 1979, the Secretary of Veterans Affairs".

(e) Public Law 96-128.—Section 502 of the Veterans' Disability Compensation and Survivors' Benefits Amendments of 1979 (Public Law 96-128; 93 Stat. 987) is amended—

(1) by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs";

(2) by striking out "such Administrator" both places it appears and inserting in lieu thereof "such Secretary"; and

(3) by striking out "Veterans' Administration" and inserting in lieu thereof "Department of Veterans Affairs".

(f) Public Law 98-160.—Section 302 of the Veterans Health Care Amendments of 1983 (Public Law 98-160; 38 U.S.C. 601 note) is amended—

(1) by striking out "The Administrator of Veterans' Affairs" and inserting in lieu thereof "The Secretary of Veterans Affairs";

(2) by striking out "the Administrator" and inserting in lieu thereof "the Secretary"; and

(3) by striking out "Department of Medicine and Surgery" and inserting in lieu thereof "Veterans Health Administration".

(g) Public Law 99-238.—Section 202 of the Veterans' Compensation Rate Increase and Job Training Amendments of 1985 (38 U.S.C. 1516 note) is amended—

(1) by striking out "Administrator of Veterans' Affairs" in subsection (a) and inserting in lieu thereof "Secretary of Veterans Affairs"; and

(2) by striking out "Administrator" in subsection (b) and inserting in lieu thereof "Secretary of Veterans Affairs".

(h) Public Law 99-576.—Section 232 of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (38 U.S.C. 354 note) is amended as follows:

(1) Subsection (a) is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Secretary of Veterans Affairs".

(2) Subsection (b) is amended by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department of Veterans Affairs".

(3) Subsection (c) is amended by striking out "before the date of the enactment of this Act, the Administrator" and inserting in lieu thereof "before October 28, 1986, the Secretary".

(4) Subsection (d) is amended—

(A) by striking out "Administrator" both places it appears and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department of Veterans Affairs";

(C) by striking out "the Department of Veterans' Benefits and the Department of Medicine and Surgery" in paragraph (1)(A) and inserting in lieu thereof "the Veterans Benefits Administration and the Veterans Health Administration"; and

(D) by striking out "after the enactment of this Act" and inserting in lieu thereof "after October 28, 1986".

(5) Subsection (e) is amended by striking out "Administrator" both places it appears and inserting in lieu thereof "Secretary of Veterans Affairs".

(i) Public Law 100-198.—Section 9 of the Veterans' Home Loan Program Improvements and Property Rehabilitation Act of 1987 (38 U.S.C. 1823 note) is amended—

(1) by striking out "Administrator of Veterans' Affairs" in subsections (a)(1) and (b)(1) and inserting in lieu thereof "Secretary of Veterans Affairs";

(2) by striking out "Administrator" each additional place it appears in subsections (a) and (b) and inserting in lieu thereof "Secretary of Veterans Affairs";

(3) by striking out "Veterans' Administration's ability" in subsection (a)(3)(A) and inserting in lieu thereof "ability of the Department of Veterans Affairs"; and

(4) by striking out "Veterans' Administration" in subsections (a)(3)(A)(i) and (a)(3)(C) and inserting in lieu thereof "Department of Veterans Affairs".

(j) Public Law 100-322.—The Veterans' Benefits and Services Act of 1988 (Public Law 100-322) is amended as follows:

(1) Section 115 (38 U.S.C. 612 note) is amended—

(A) by striking out "Administrator" in subsection (a)(1) and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) by striking out "Administrator" each place it appears in subsections (a)(2), (b), and (c) and inserting in lieu thereof "Secretary"; and

(C) by striking out "Veterans' Administration" each place it appears (other than in subsection (e)) and inserting in lieu thereof "Department of Veterans Affairs".

(2) Section 123 (38 U.S.C. 210 note) is amended—

(A) by striking out "Administrator" in subsection (a) and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) by striking out "Administrator" each place it appears in subsections (b) and (c) and inserting in lieu thereof "Secretary"; and

(C) by striking out "Veterans' Administration" each place it appears and inserting in lieu thereof "Department of Veterans Affairs".

(3) Section 124 (38 U.S.C. 4133 note) is amended—

(A) by striking out "Administrator" in subsection (a) and inserting in lieu thereof "Secretary of Veterans Affairs";

(B) by striking out "Administrator" each place it appears in subsection (b) and inserting in lieu thereof "Secretary";

(C) by striking out "Veterans' Administration" the first two places it appears and inserting in lieu thereof "Department of Veterans Affairs"; and

(D) by striking out "Veterans' Administration" the last place it appears and inserting in lieu thereof "Department".

(k) Public Law 100-687.—The Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687) is amended as follows:

(1) Section 1203 (102 Stat. 4125) is amended by striking out "laws administered by the Veterans' Administration" and inserting in lieu thereof "laws administered by the Secretary of Veterans Affairs".

(2) Section 1204 (102 Stat. 4125; 38 U.S.C. 241 note) is amended—

(A) by striking out "The Administrator" in subsections (a) and (b) and inserting in lieu thereof "The Secretary of Veterans Affairs";

(B) by striking out "Veterans' Administration" in subsection (b) and inserting in lieu thereof "Department of Veterans Affairs"; and

(C) by striking out "the Administrator" both places it appears in subsection (b) and inserting in lieu thereof "the Secretary".

(3) Section 1404 (102 Stat. 4131; 38 U.S.C. 210 note) is amended—

(A) by striking out "Veterans' Administration" both places it appears in subsection (a) and inserting in lieu thereof "Department of Veterans Affairs";

(B) by striking out "the Administrator" the first place it appears in subsection (a) and inserting in lieu thereof "the Secretary of Veterans Affairs";

(C) by striking out "the Administrator and the Secretary" in subsections (a) and (b) and inserting in lieu thereof "the Secretary of Veterans Affairs and the Secretary of Labor";

(D) by striking out "the Administrator" the first place it appears in subsection (b) and inserting in lieu thereof "the Secretary of Veterans Affairs"; and

(E) by striking out "the Administrator or the Secretary" in the third sentence of subsection (b) and inserting in lieu thereof "the Secretary of Veterans Affairs or the Secretary of Labor".

SEC. 7. GENERAL SAVINGS PROVISIONS.

(a) References to Replaced Laws.—A reference to a provision of title 38, United States Code, replaced by a provision of that title enacted by section 2 (including a reference in a regulation, order, or other law) shall be treated as referring to the corresponding provision enacted by this Act.

(b) Savings Provision for Regulations.—A regulation, rule, or order in effect under a provision of title 38, United States Code, replaced by a provision of that title enacted by section 2 shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(c) General Savings Provision.—An action taken or an offense committed under a provision of title 38, United States Code, replaced by a provision of that title enacted by section 2 shall be treated as having been taken or committed under the corresponding provision enacted by this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. Montgomery] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. Stump] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Montgomery].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 2525, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill makes some overdue changes to the laws governing the Department of Veterans Affairs. The changes are technical, and do not have any substantive effect. Provisions included in the bill reorganize and restate the laws relating to the authority of the Department and the Secretary. In doing so, we have been careful not to change the meaning or intent of existing law. I know sometimes people try to argue that a word change indicates a significant change in the meaning of a law. However, that type of argument should not prevail on the basis of the technical changes made by this law. We just want to make the law easier to read and understand, and to organize it into what we hope is a more logical order.

When this measure is signed into law, it will complete a major revision to title 38, United States Code, which contains all of the major laws providing assistance to veterans. It has been a difficult and sometimes thankless task, but I believe it will make title 38 a more readable and understandable document. I want to express the committee's appreciation for all of the effort put into this revision. In particular, the Office of the General Counsel in the Department of Veterans Affairs and the House Office of Legislative Counsel did great work in reviewing and checking this legislation for technical accuracy.

I urge my colleagues to support this legislation.

For the benefit of my colleagues, there follow two tables showing the source of new sections of title 38, United States Code, proposed to be enacted by H.R. 2525, and the proposed disposition of existing provisions of title 38 and Public Law 100-527.

New Title 38	Source section
Provision	(Title 38 Unless DVA Act)
Ch. 3—Department of Veterans Affairs	
301(a)	2 of DVA Act.
301(b)	201.
301(c)	New.
302	202.
303	2 of DVA Act; 210 (b)(1).
304	3(a) of DVA Act; 210(d).
305	3(b) of DVA Act.
306	3(c) of DVA Act.
307	3(d) of DVA Act.
308(a)	4(a) of DVA Act.
308(b)	4(b) of DVA Act.
308(c)	4(e) of DVA Act.
308(d)	5 of DVA Act.
309	4(c) of DVA Act.
310	4(d)of DVA Act.
311	8 of DVA Act.
312	9 of DVA Act.
313	203.
314	230.
5	230.
317	230(c).
Ch. 5—Authority and Duties of the Secretary	
Subch. I—General Authorities:	
501(a)	210(c)(1).
501(b)	210(c)(1).
501(c)	223(a).
501(d)	223(b).
502	223(c).
503(a)	210(c)(2).
503(b)	210(c)(3)(A).
503(c)	210(c)(3)(B).
505	211(b)
510	210(b)(1), (2).
511	211(a).
512	212.
513	213.
515(a)	224.
515(b)	236
Subch. II—Specified Functions:	
521	216.
522	217.
523	220.
525	215.
527	219.
529	214.
Subch. III—Advisory Committees:	
541	221.
542	222.
Ch. 7—Employees	
701	231.
703	233.
705	234.
707	235.
709	12 of DVA Act.
711	210(b)(3).
Ch. 9—Security and Law Enforcement, etc.	
901	218(a).
902	218(b).
903	218(c).
904	218(d).
905	218(e).
Ch. 77—Veterans Benefits Administration	
Subch. I—Organization: General:	
7701	new.
7703	new.
Subch. II—Veternas Outreach Services Program:	
7721	240.
7722	241.
7723	242.
7724	243.
7725	244.
7726	245.

SECTIONS OF DEPARTMENT OF VETERANS AFFAIRS ACT

[Public Law 100-527]

Section	New Title 38 provision
2	301(a).
2	303.
3(a)	304.
3(b)	305.
3(c)	306.
3(d)	307.
4(a)	308(a).
4(b)	308(b).
4(e)	308(c).
4(c)	309.
4(d)	310.
5	308(d).
8	311.
9	312.
12	709.

SECTIONS FROM TITLE 38, UNITED STATES CODE

Old Section	New Title 38 Provision
Chapter 3—Veterans' Administration; Officers and Employees	
Subchapter I—Veterans' Administration:	
201	[none.]
202	302.
203	313.
Subchapter II—Administrator of Veterans' Affairs:	
210(b)(1) (first sentence	303.
210(b)(1) (second sentence), (2)	510.
210(b)(3)	711.
210(c)(1)	501(a).
210(c)(1)	501(b).
210(c)(2)	503(a).
210(c)(3)(A)	503(b).
210(c)(3)(B)	503(c).
210(d)	304.

SECTIONS FROM TITLE 38, UNITED STATES CODE—Continued

Old Section	New Title 38 Provision
211(a)	511.
211(b)	505.
212	512.
213	513.
214	529.
215	525.
216	521.
217	522.
218(a)	901.
218(b)	902.
218(c)	903.
218(d)	904.
218(e)	905.
219	527.
219(b)(1)	303.
220	523.
221	541.
222	542.
223(a)	501(c).
223(b)	501(d).
223(c)	502.
224	515(a).
Subchapter III—Veterans' Administration Regional Offices; Employees:	
230	314.
230	315.
230(c)	317.
231	701.
233	703.
234	705.
235	707.
236	515(b).
[None]	301(c).
Subchapter IV—Veterans Outreach Services Program:	
240	7721.
241	7722.
242	7723.
243	7724.
244	7725.
245	7726.

□ 2040

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2525, the Department of Veterans Affairs Codification Act.

While this Codification Act would make no substantive changes to title 38 of the United States Code, it does make important technical improvements to the title which have long been needed. The bill would better organize certain of title 38's provisions and enhance its usefulness for all who refer to it.

I commend our chairman, SONNY MONTGOMERY, for advancing yet another improvement to our veterans laws. Also, I want to commend the legislative counsel, Bob Cover, who so diligently and ably drafted this bill. Such codifications require many long hours of painstaking effort which is anything but glamorous, but which is essential to having logically arranged and readable laws.

Mr. Speaker, I urge my colleagues to approve H.R. 2525.

Mr. MONTGOMERY. Mr. Speaker, having no requests for time, I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I, too, have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SAWYER). The question is on the motion offered by the gentleman from

Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2525, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS' HEALTH CARE AND RESEARCH AMENDMENTS OF 1991

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2280) to amend title 38, United States Code, to extend and improve veterans' health care programs, as amended.

The Clerk read as follows:

H.R. 2280

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE, AND TO SECRETARY OF VETERANS AFFAIRS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Health Care and Research Amendments of 1991".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code. Sections of that title redesignated by section 402 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 are referred to in this Act by their section number before such redesignation.

(c) REFERENCES TO SECRETARY.—Except as otherwise expressly provided, any reference in this Act to "the Secretary" is a reference to the Secretary of Veterans Affairs.

TITLE I—HEALTH-CARE BENEFITS

SEC. 101. CONTRACT HOSPITAL CARE FOR VETERANS WITH PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITIES.

Section 603(a)(1) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) any disability of a veteran who has a total disability permanent in nature from a service-connected disability.".

SEC. 102. DENTAL BENEFITS.

(a) VETERANS ELIGIBLE.—Section 612(b)(1) is amended—

(1) by striking out "or" at the end of subparagraph (F);

(2) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(H) which is medically necessary (i) in preparation for hospital admission, or (ii) for a veteran otherwise receiving care or services under this chapter.".

(b) DOLLAR CEILING.—Section 612(b)(3) is amended—

(1) by striking out "$500" and inserting in lieu thereof "$1,000"; and

(2) by adding at the end the following: "The Secretary may periodically review the cost of dental care to determine whether the dollar ceiling contained in this paragraph remains appropriate to carry out the purposes of this paragraph. Based upon such review, the Secretary may, from time to time, adjust that ceiling in such amount as the Secretary determines necessary.".

SEC. 103. EXTENSION OF ANNUAL REPORT ON FURNISHING HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health Care Amendments of 1986 (38 U.S.C. 610 note) is amended by striking out "each of" and all that follows through "1989" and inserting in lieu thereof "each fiscal year through fiscal year 1992".

SEC. 104. INCREASE IN LIMIT ON CERTAIN GRANTS FOR HOME STRUCTURAL ALTERATIONS FOR DISABLED VETERANS.

(a) INCREASE.—Section 617(a)(2) is amended by striking out "$2,500" and "$600" and inserting in lieu thereof "$3,300" and "$1,200", respectively.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 105. EXTENSION OF AUTHORITY TO CONTRACT WITH VETERANS MEMORIAL MEDICAL CENTER, REPUBLIC OF THE PHILIPPINES.

Effective as of October 1, 1990, section 632(a) is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

SEC. 106. HOMELESS CHRONICALLY MENTALLY ILL VETERANS.

(a) EXPANSION OF PROGRAM.—Subject to section 107, the Secretary shall expand the program of outreach and community-based residential care for homeless chronically mentally ill veterans established by section 115 of Public Law 100–322 (38 U.S.C. 612 note) by—

(1) increasing the number of employees of the Department of Veterans Affairs who are providing services under that section, with particular emphasis on those geographic areas with the greatest need for such services; and

(2) providing services authorized under that section in at least four cities in which there is a significant unmet need for assistance for homeless chronically mentally ill veterans.

(b) PILOT PROGRAM OF ASSISTANCE FOR HOMELESS VETERANS.—Subject to section 107, the Secretary may enter into agreements with public or nonprofit entities for the provision of services to homeless veterans under this subsection. Such services may be provided only if the Secretary enters into an agreement under which another public entity, or a nonprofit entity, will provide (directly or by reimbursement to the Secretary) not less than 25 percent of the cost of such services. Any amount received by the Secretary under such an agreement shall be credited to accounts available for the Department facility through which the services were provided. The services that may be provided under this subsection are—

(1) outreach services through the use of vans or other means of transportation;

(2) provision of medical and rehabilitative services; and

(3) provision of transitional housing.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated to the Department of Veterans Affairs for the program under section 115 of Public Law 100–322 the amount of $3,250,000 for fiscal year 1992 and such sums as necessary for subsequent fiscal years.

(2) There is authorized to be appropriated to the Department of Veterans Affairs for the program under subsection (b) the amount of $300,000 for fiscal year 1992 and such sums as necessary for subsequent fiscal years.

(d) CONFORMING AMENDMENTS.—Section 115 of Public Law 100–322 is amended—

(1) by striking out "Administrator" in subsection (a)(1) and inserting in lieu thereof "Secretary of Veterans Affairs";

(2) by striking out "Administrator" each additional place it appears in such section and inserting in lieu thereof "Secretary";

(3) by striking out "Veterans' Administration" the first place it appears in subsection (c) and inserting in lieu thereof "Department of Veterans Affairs"; and

(4) by striking out "Veterans' Administration" each additional place it appears in subsection (c) and inserting in lieu thereof "Department".

SEC. 107. LIMITATION.

The Secretary may carry out subsections (a) and (b) of section 106 and section 403(b)(1) only if the amount appropriated for fiscal year 1992 for the medical care account of the Department of Veterans Affairs is not less than $100,000,000 greater than the amount requested in the President's budget for fiscal year 1992 for that account.

TITLE II—HEALTH-CARE PERSONNEL

SEC. 201. LICENSURE OF SOCIAL WORKERS.

(a) IN GENERAL.—Subsection (a) of section 4105 is amended by adding at the end the following new paragraph:

"(10) SOCIAL WORKER.—Hold a master's degree in social work from a college or university approved by the Secretary and, if the law of the State of employment so requires, be licensed, certified, or registered as a social worker, except that to allow completion of requirements for such licensure, certification, or registration, the Secretary may waive the requirement in any case for a period not to exceed three years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to any person employed as a social worker by the Department of Veterans Affairs on or before the date of the enactment of this Act.

SEC. 202. MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS.

(a) MINIMUM SERVICE REQUIREMENT.—Section 4312(c)(1) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", but for not less than two years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to scholarship agreements entered into after the date of the enactment of this Act.

SEC. 203. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

Section 4108 is amended by adding at the end the following new subsection:

"(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe guidelines for the administration of the preceding sentence.".

TITLE III—ADMINISTRATIVE PROVISIONS

SEC. 301. AUTHORIZATION REQUIREMENT FOR CONSTRUCTION OF NEW MEDICAL FACILITIES.

(a) AUTHORIZATION REQUIREMENT.—(1) Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds (other than for advance planning and design), for any major medical project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.".

(2) Paragraph (3)(B) of that section is amended—

(A) by inserting "new" before "medical facility" the second place it appears; and

(B) by striking out "$500,000" and inserting in lieu thereof "$300,000".

(3) Subsection (c) of section 5004 is amended by striking out "resolution" both places it appears and inserting in lieu thereof "law".

(b) APPLICABILITY.—The amendments made by subsection (a) shall not apply with respect to any project for which funds were appropriated before the date of the enactment of this Act or for which funds were requested in the President's budget for fiscal year 1992.

SEC. 302. SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE.

Subparagraph (C) of section 4101(f)(2) is amended to read as follows:

"(C)(i) The Committee shall submit to the Secretary, through the Chief Medical Director, such reports as the Committee considers appropriate with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such reports shall include the following:

"(I) Descriptions of the operations of the centers of geriatric research, education, and clinical activities established pursuant to paragraph (1) of this subsection.

"(II) Assessments of the quality of the operations of such centers.

"(III) An assessment of the extent to which the Department, through the operation of such centers and other health-care facilities and programs, is meeting the needs of eligible older veterans for geriatric and extended-care and other health-care services.

"(IV) Assessments of, and recommendations for correcting any deficiencies in, the operations of such centers.

"(V) Recommendations for such other geriatric, extended-care, and other health-care services as may be needed to meet the needs of older veterans.

"(ii) Whenever the Committee submits a report to the Secretary under division (i) of this subparagraph, the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under division (i) of this subparagraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.".

SEC. 303. PILOT PROGRAM OF RESEARCH TO IMPROVE CLINICAL CARE.

(a) PROGRAM.—Subject to subsection (e) and in order to improve the quality of clinical care at health care facilities of the Department of Veterans Affairs, the Secretary shall carry out a pilot program for the conduct of medical research at Department medical centers for the purposes described in subsection (b).

(b) TYPES OF RESEARCH.—Under the pilot program, the Secretary shall provide for the conduct of research projects that are applicable to clinical care in the areas of (1) mental illness, (2) alcohol and substance abuse, or (3) neurologic, psychiatric, and geriatric rehabilitation.

(c) COOPERATIVE AGREEMENTS.—Research under the program may only be carried out at a medical center (or other health-care facility) of the Department at which the Director has entered into an agreement with a medical school or other institution described in section 4101(b) of title 38, United States Code, under which that medical school or institution agrees to provide partial funding or in-kind support for the proposed research.

(d) PROPOSALS.—In establishing procedures for the distribution of funds for research under the pilot program, the Secretary shall solicit from Department employees at Department health-care facilities proposals for research projects to be carried out under the program. Such proposals shall be subject to a peer review process. In determining which proposed projects to approve for funding under the program, the Secretary shall give priority to those projects that offer the greatest opportunity for improving the quality of clinical care at the facility where the research is to be conducted.

(e) FUNDING LIMITATIONS.—(1) The Secretary may carry out the research program under this section during fiscal year 1992 only if the amount appropriated for fiscal year 1992 for the medical and prosthetic research account of the Department of Veterans Affairs is at least $43,000,000 greater than the amount requested for that account in the President's budget for fiscal year 1992.

(2) The Secretary may carry out that program during fiscal year 1993 only if the amount appropriated for that account for fiscal year 1993 is $58,000,000 greater than the amount requested for that account in the President's budget for fiscal year 1992. The Secretary may carry out the research program during fiscal year 1994 only if the amount appropriated for that account for fiscal year 1994 is $73,000,000 greater than the amount requested for that account in the President's budget.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $6,000,000 for each of fiscal years 1992, 1993, and 1994 for the clinical care research program under this section.

SEC. 304. STANDARDS OF PERFORMANCE IN DEPARTMENT LABORATORIES.

(a) REGULATIONS.—(1) Within the 120-day period beginning on the date on which the Secretary of Health and Human Services promulgates final regulations to implement the standards required by section 353 of the Public Health Service Act (42 U.S.C. 263a), the Secretary of Veterans Affairs, in accordance with the Secretary's authority under title 38, United States Code, shall prescribe regulations to assure consistent performance by medical facility laboratories under the jurisdiction of the Secretary of valid and reliable laboratory examinations and other procedures. Such regulations shall be prescribed in consultation with the Secretary of Health and Human Services and shall establish standards in accordance with the requirements of section 353(f) of the Public Health Service Act.

(2) Such regulations—

(A) may include appropriate provisions respecting waivers described in section 353(d) of such Act and accreditations described in section 353(e) of such Act; and

(B) shall include appropriate provisions respecting compliance with such requirements.

(b) REPORT.—Within the 180-day period beginning on the date on which the Secretary of Veterans Affairs prescribes the regulations required by subsection (a), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on those regulations.

(c) DEFINITION.—As used in this section, the term "medical facility laboratories" means facilities for the biological, micro-biological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

SEC. 305. ACQUISITION OF REAL PROPERTY.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new section:

"§ 115. Acquisition of real property

"For the purposes of sections 230 and 1006 of this title and subchapter I of chapter 81 of this title, the Secretary may acquire and use real property—

"(1) before title to the property is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the property will be held in other than a fee simple interest in a case in which the Secretary determines that the interest to be acquired is sufficient for the purposes of the intended use.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"115. Acquisition of real property.".

SEC. 306. RESEARCH CORPORATIONS.

(a) PERIOD FOR OBTAINING RECOGNITION AS TAX-EXEMPT ENTITY.—Section 4161(b) is amended by striking out "three-year period" and inserting in lieu thereof "four-year period".

(b) EXTENSION OF AUTHORITY FOR ESTABLISHMENT OF CORPORATIONS.—Section 4168 is amended by striking out "September 30, 1991" and inserting in lieu thereof "September 30, 1992".

SEC. 307. CHILD CARE SERVICES.

(a) REVISED CHILD CARE AUTHORITY.—Chapter 81 is amended by inserting after section 5016 the following new section:

"§ 5017. Child care centers

"(a) The Secretary may provide for the operation of child care centers at Department facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Secretary determines, based on the demand by employees of the Department for the care involved, that such operation is in the best interest of the Department and that it is practicable to do so. In offering child care services under this section, the Secretary shall give priority, in the following order, to employees of (1) the Department of Veterans Affairs, (2) other departments and agencies of the Federal Government, and (3) affiliated schools and corporations created under section 4161 of this title. To the extent space is available, the Secretary may provide child care services to members of the public if the Secretary determines that to do so is necessary to assure the financial success of such center.

"(b)(1) The Secretary shall establish reasonable charges for child care services provided at each child care center operated under this section.

"(2) In establishing charges at a center, the Secretary shall ensure that the sum of all charges for child care services is sufficient to meet the staffing expenses of the child care center and may consider the expenses of constructing or acquiring space for the center, the expenses of converting existing space into the center, and the expenses of equipment and services furnished to the center under subsection (c)(2) of this section.

"(3) Proceeds from charges for child care services shall be credited to the applicable Department of Veterans Affairs account and shall be allotted to the facility served by the child care center and shall remain available until expended.

"(c) In connection with the establishment and operation of a child care center under this section, the Secretary—

"(1) may construct or alter space in any Department facility, and may lease space in a non-Department facility for a term not to exceed 20 years, for use as a child care center;

"(2) may provide, out of operating funds, other items and services necessary for the operation of the center, including furniture, office machines and equipment, utility and custodial services, and other necessary services and amenities;

"(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

"(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

"(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child care centers.

"(d) The Secretary shall prescribe guidelines to carry out this section.

"(e) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.".

(b) CONFORMING REPEAL.—Section 4209 is repealed.

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 5016 the following new item:

"5017. Child care centers.".

(2) The table of sections at the beginning of chapter 75 is amended by striking out the item relating to section 4209.

SEC. 308. AUTHORITY TO HOLD JOINT TITLE TO MEDICAL EQUIPMENT.

(a) IN GENERAL.—(1) Chapter 81 is amended by adding at the end of subchapter IV the following new sections:

"§ 5057. Joint title to medical equipment

"(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section 5053(a) of this title for the joint acquisition of medical equipment.

"(b)(1) The Secretary may not pay more than one-half of the purchase price of equipment acquired through an agreement under subsection (a).

"(2) Any equipment to be procured under such an agreement shall be procured by the Secretary. Title to such equipment shall be held jointly by the United States and the institution.

"(3) Before equipment acquired under such an agreement may be used, the parties to the agreement shall arrange by contract under section 5053 of this title for the exchange of use of the equipment.

"(4) The Secretary may not contract for the acquisition of medical equipment to be jointly purchased under an agreement under subsection (a) until the institution which enters into the agreement provides to the Secretary its share of the purchase price of the medical equipment.

"(c)(1) Notwithstanding any other provision of law, the Secretary may transfer the interest of the Department of Veterans Affairs in equipment acquired through an agreement under subsection (a) to the institution which holds joint title to the equipment if the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of the Department. Any such transfer may only be made upon agreement by the institution to pay to the Department the amount equal to one-half of the depreciated purchase price of the equipment. Any such payment when received shall be credited to the applicable Department medical appropriation.

"(2) Notwithstanding any other provision of law, the Secretary may acquire the interest of an institution in equipment acquired under subsection (a) if the Secretary determines that the acquisition would be justified by compelling clinical considerations or the economic interests of the Department of Veterans Affairs. The Department of Veterans Affairs may not pay more than one-half the depreciated purchase price of the equipment.

"§ 5058. Deposit in escrow

"(a) To facilitate the procurement of medical equipment pursuant to section 5057 of this title, the Secretary may enter into escrow agreements with institutions described in section 5053(a) of this title. Any such agreement shall provide that—

"(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section 5057(b)(4) of this title;

"(2) the Secretary, as escrow agent, shall administer those funds in an escrow account;

"(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all accrued interest or other earnings on the escrowed funds to the institution.

"(b) As escrow agent for funds placed in escrow pursuant to an agreement under subsection (a), the Secretary may—

"(1) invest the escrowed funds in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(2) retain in the escrow account interest or other earnings on such investments;

"(3) disburse the funds pursuant to the escrow agreement; and

"(4) return undisbursed funds to the institution.

"(c)(1) If the Secretary enters into an escrow agreement under this section, the Secretary may enter into an agreement to procure medical equipment if one-half the purchase price of the equipment is available in an appropriation or fund for the expenditure or obligation.

"(2) Funds held in an escrow account under this section shall not be considered to be public funds.".

(2) The table of sections at the beginning of chapter 81 is amended by adding at the end the following new items:

"5057. Joint title to medical equipment.

"5058. Deposit in escrow.".

(b) REPORT.—Not later than November 1, 1991, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's plans for implementation of this section. The report shall include identification and discussion of—

(1) the instructions the Secretary proposes to issue to medical facilities to guide the development of proposals for procurement of medical equipment under this section, including instructions for assuring equitable arrangements for use of the equipment by the Department and the co-purchasers of the equipment;

(2) the criteria by which the Secretary plans to evaluate proposals to procure medical equipment under this section;

(3) the means by which the Secretary will integrate the process of procuring equipment under this section with the policies and procedures governing health care planning for the Veterans Health Administration; and

(4) the criteria by which determinations to transfer title to equipment under section 5057(c) of title 38, United States Code, as added by subsection (a), would be made.

SEC. 309. QUALITY ASSURANCE ACTIVITIES.

Effective on October 1, 1991, programs and activities which (1) the Secretary carries out pursuant to section 4151(a) of title 38, United States Code, or (2) are described in section 201(a)(1) and 201(a)(3) of Public Law 100-322 shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities.

SEC. 310. REDESIGNATION OF POSITIONS OF CHIEF MEDICAL DIRECTOR AND CHIEF BENEFITS DIRECTOR AS UNDER SECRETARIES.

(a) REDESIGNATION.—The positions in the Department of Veterans Affairs of Chief Medical Director and Chief Benefits Director are hereby redesignated as the Under Secretary for Health and the Under Secretary for Benefits Administration, respectively.

(b) REFERENCES.—Any reference in any law, Executive order, regulation, or other document or paper of the United States to either of the positions redesignated by subsection (a) shall be deemed to refer to the position as so redesignated.

(c) CONFORMING AMENDMENTS TO TITLE 38.—Title 38, United States Code, is amended—

(1) by striking out "Chief Medical Director" each place it appears and inserting in lieu thereof "Under Secretary for Health"; and

(2) by striking out "Chief Benefits Director" each place it appears and inserting in lieu thereof "Under Secretary for Benefits Administration".

(d) CONFORMING AMENDMENTS TO OTHER LAWS.—Section 5314 of title 5, United States Code, is amended by striking out

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs." and inserting in lieu thereof

"Under Secretary for Health, Department of Veterans Affairs.

"Under Secretary for Benefits Administration, Department of Veterans Affairs.".

TITLE IV—POST-TRAUMATIC STRESS DISORDER

SEC. 401. SHORT TITLE.

This title may be cited as the "Post-Traumatic Stress Disorder Treatment Act of 1991".

SEC. 402. FINDINGS.

The Congress finds—

(1) that a study carried out pursuant to Public Law 98-160 on the readjustment of Vietnam-era veterans estimated that approximately 479,000 Vietnam theater veterans were suffering from Post-Traumatic Stress Disorder;

(2) that such study found that, as of 1988, only one-fifth of all male Vietnam theater veterans with Post-Traumatic Stress Disorder had sought and used Veterans Admin-

istration services for mental health problems since separating from military service, and that half of those had received such services in the preceding year;

(3) that, despite the increases in amount, array, and availability of treatment programs administered by the Department of Veterans Affairs, the number and distribution of those programs do not fully meet the needs of veterans suffering from Post-Traumatic Stress Disorder;

(4) that the experience of the Department of Veterans Affairs has demonstrated that specialized treatment can assist in rehabilitating veterans who suffer from Post-Traumatic Stress Disorder;

(5) that the conflict in the Persian Gulf may result in an increased demand by veterans for treatment for Post-Traumatic Stress Disorder, particularly for those suffering acute stress reactions resulting from service in the war zone;

(6) that expansion of the current programs of the Department of Veterans Affairs to provide a continuum of services to veterans suffering from Post-Traumatic Stress Disorder would help assure access to needed treatment;

(7) that the recommendations of the Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder provide important guidance to the Secretary and the Congress for establishing an effective national program to meet the needs of veterans in need of, and mandated by Congress to receive, care for Post-Traumatic Stress Disorder;

(8) that available funding for the Department of Veterans Affairs has not kept pace with the growth in responsibilities of that Department or with the increased needs of its beneficiaries; and

(9) that needed expansion of programs should not come at the expense of providing ongoing services.

SEC. 403. EXPANSION OF SPECIALIZED PROGRAMS FOR CARE OF POST-TRAUMATIC STRESS DISORDER.

(a) POLICY.—(1) The Secretary shall seek to implement the recommendations of the Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder with respect to specialized inpatient and outpatient programs of the Department of Veterans Affairs for the treatment of Post-Traumatic Stress Disorder.

(2) The specialized inpatient and outpatient programs referred to in paragraph (1) include (A) specialized inpatient post-traumatic stress disorder units, (B) post-traumatic stress disorder clinical treatment teams, and (C) programs established to treat patients suffering from both post-traumatic stress disorder and substance abuse problems.

(b) FISCAL YEAR 1992 PROGRAM EXPANSION.—(1) Subject to section 107, the Secretary during fiscal year 1992 shall establish and operate, at such locations as the Secretary considers appropriate, new Post-Traumatic Stress Disorder programs as follows:

(A) Not less than five new specialized inpatient Post-Traumatic Stress Disorder units.

(B) Not less than 10 new Post-Traumatic Stress Disorder clinical treatment teams.

(C) Not less than five outpatient programs for the treatment of veterans suffering from both Post-Traumatic Stress Disorder and substance abuse problems.

(2) There is authorized to be appropriated $7,400,000 for fiscal year 1992, and such sums as necessary for subsequent fiscal years, to carry out the purposes of this subsection.

SEC. 404. POST-TRAUMATIC STRESS DISORDER RESEARCH PROGRAMS.

(a) FUNDING AND PRIORITY.—In carrying out research and awarding grants under chapter 73 of title 38, United States Code, the Secretary shall designate a level of funding support for, and shall assign a priority to, the conduct of research on mental illness, including research regarding (1) Post-Traumatic Stress Disorder, (2) Post-Traumatic Stress Disorder in association with substance abuse, and (3) the treatment of those disorders.

(b) DISTRIBUTION OF FUNDS.—Funds for the conduct of research in subjects described in subsection (a) that is to be carried out through Department medical centers shall be distributed by the Secretary in accordance with procedures prescribed by the Chief Medical Director. Such procedures shall include provisions for the consideration of research proposals submitted by Department employees at Department medical centers and for the evaluation of such proposals through a peer review process.

(c) IMPLEMENTATION REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than December 1, 1992, a report on the implementation of this section.

SEC. 405. POST-TRAUMATIC STRESS DISORDER PROGRAM PLANNING.

(a) ASSESSMENT.—The Secretary shall assess the needs for treatment and rehabilitative services of veterans believed to be suffering from Post-Traumatic Stress Disorder. The Secretary, based on—

(1) the Secretary's estimate of the numbers of veterans who suffer from Post-Traumatic Stress Disorder, are likely to seek care from Veterans Administration, and are entitled by law to be furnished such care;

(2) current and projected capacity to provide services; and

(3) the Secretary's evaluation of existing programs,

shall develop a plan for providing treatment and rehabilitative services for such veterans and for expanding and refining the services available for the treatment of Post-Traumatic Stress Disorder.

(b) CONSULTATION.—The Secretary shall carry out subsection (a) in consultation with the Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder.

(c) REPORT.—Not later than August 30, 1992, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan developed pursuant to subsection (a).

SEC. 406. DEFINITION.

In this title, the term "Chief Medical Director's Special Committee on Post-Traumatic Stress Disorder" means the committee established pursuant to section 110 of Public Law 98-528.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter on the bill, H.R. 2280, the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2280, as amended, contains many provisions that will enhance the ability of the Secretary of Veterans Affairs to improve the quality of care to our veterans and their eligible dependents. Some of the provisions of H.R. 2280 are identical to those contained in H.R. 5740, which passed the House last year. Unfortunately, the Senate failed to act on that measure.

Several other provisions of the bill are the result of oversight hearings held by our committee last fall and earlier this spring.

I want to thank the distinguished gentleman from Arkansas, the ranking minority member of the Subcommittee on Hospitals and Health Care, JOHN PAUL HAMMERSCHMIDT, for his very able leadership in putting this bill together. H.R. 2280 will not only enhance veterans' health care but will do so in a very cost effective way.

Let me briefly highlight the major provisions of the bill.

The bill recognizes that the VA health care system has not been adequately funded during the past decade and that additional appropriations must be made to support the core system before authorizing new programs. Fortunately, the House has recognized the problem and on June 6, 1991 passed an appropriations bill that would add more than $300 million to the Administration's budget for medical care and research. Again, I want to commend the distinguished chairman of the VA, HUD and Independent Agencies Subcommittee on Appropriations, BOB TRAXLER, and the ranking minority member, BILL GREEN, for their support of veterans. They really came through for them this year.

There are many veterans who suffer from post-traumatic stress disorder, commonly referred to as PTSD. This bill would authorize VA to expand the PTSD program. In addition, the bill would call for VA to expand programs we have already established for the care of homeless veterans. However, the bill provides that both these expansions shall not occur until additional appropriations are made to support existing programs. The point is to assure that on-going programs do not suffer at the expense of new or expanded ones. As I said a few moments ago, the House has appropriated a substantial increase in the veterans medical care account.

Mr. Speaker, a former member of our committee JIM JONTZ, has worked hard to make certain that we assist veterans suffering from PTSD. He has expressed concern that there is no expansion of PTSD treatment programs in this bill beyond fiscal year 1992.

H.R. 2280 does contain a provision which requires the Department to assess the anticipated needs of veterans for PTSD treatment services and its projected capacity to deliver such services. The gentleman from Indiana feels it appropriate for the committee to consider legislation upon completion of the assessment to ensure that the VA has the capacity to treat all veterans suffering from PTSD who are eligible for treatment.

The gentleman from Indiana [Mr. JONTZ] is correct that uncertainty over the future funding is a major reason why H.R. 2280 does not provide for expansion of PTSD treatment programs beyond fiscal year 1992. I agree that treatment of PTSD is important and we will take a serious look at the assessment of need done by the VA. If, in future years, the Appropriations Committee meets the funding level requirements for expansion of existing programs, then I would have no problem supporting expansions in programs such as PTSD. However, we cannot continue to expand authority for existing programs without new money.

This year we authorized a substantial increase in the VA's PTSD programs subject to specific, new funding levels which the Appropriations Committee met. I believe that this approach is the way to go. However, I strongly believe that VA should provide some direction. If the Department cannot meet the demand for PTSD treatment, then the VA should submit a budget which gives PTSD the priority it needs.

I appreciate the leadership the gentlman from Indiana has provided on the issue of PTSD, and his good work is reflected in this section of the bill.

In a similar way, H.R. 2280 encourages VA to expand research into several new areas, but only if Congress appropriates specific new levels of funding for that purpose. This provision of the bill generally follows the recommendations of Secretary Derwinski's blue ribbon research advisory committee.

Mr. Speaker, the Committee's report to the Budget Committee highlighted VA's critical need for additional funds to replace old medical equipment. The VA, HUD and Independent Agencies Appropriations bill which recently passed the House recognized the problem. The bill contained $90 million more than the administration requested for new and replacement equipment.

This bill would also help VA with its equipment problem. It would give VA specific authority to share the cost and use of medical equipment with community hospitals.

Over the years, our committee has worked hard to get VA adequate health care staffing. The committee has initiated many recruitment and retention incentives which have become law.

We've passed important physician and nurse pay bills. Several years ago we established a nurse scholarship program. One area that would boost VA's ability to recruit and retain critical health care staff is child care services. This bill would give greater flexibility to VA to develop child care facilities at its medical centers. A distinguished member of the committee, LIZ PATTERSON, was the chief sponsor of the committee's first child care legislation. She was very instrumental in making VA one of the first agencies of the Government to provide child care in Government facilities. I want to thank the gentlelady from South Carolina for her leadership in this area.

There are provisions in the bill that would strengthen the Secretary's ability to provide quality of care. The committee held hearings on quality assurance last year and again earlier this spring. At these hearings we learned from Secretary Derwinski that the Chief Medical Director lacks the tools to effectively monitor quality of care at many hospitals. Congress cannot expect the Chief Medical Director to do the job expected of him without the proper staff and resources to conduct aggressive oversight in the area of quality assurance no matter how comprehensive the law may be.

H.R. 2280 would help with this problem. It would allow the Secretary to fund quality assurance and oversight as a medical care function.

Finally, the bill contains a provision that would prohibit the VA from spending funds for any construction project in excess of $2 million or for any real property lease in excess of $300,000, unless such project or lease has been authorized by law. This provision will ensure that priorities for all major construction projects are set by the Congress.

This provision is most important given the limited amount of construction funds in the fiscal year 1992 budget.

The bill, as amended, aims to assure high quality work in VA clinical laboratories. It would require that the quality of work done in VA labs meets strict standards set by the Secretary of Veterans Affairs.

Mr. Speaker, I want to thank the distinguished chairman of the Committee on Energy and Commerce for his cooperation on this issue. An amendment to the bill reflects the understanding we have reached. As amended, the bill now makes the VA's responsibilities in the area clear.

VA is to prescribe regulations to assure the quality of work done in VA medical laboratories.

The Secretary of Veterans Affairs is to issue those regulations within 120 days after the Secretary of Health and Human Services [HHS] promulgates final regulations to implement the Clinical Laboratory Improvement Amendments of 1988 [CLIA], Public Law 100-578. VA is to consult with HHS in prescribing the regulations, and those regulations are to establish standards in accord with the requirements for standard setting in section 353(f) of the Public Health Service Act. Thus, the modified version of the bill assures the application to VA laboratories of standards required by statute to apply nationally to clinical laboratories. The provision also recognizes the desirability of vesting the Secretary of Veterans Affairs with authority for applying those requirements to VA laboratories.

We expect, and are requiring a report by, VA to assure that the standards VA adopts and the compliance it requires will provide a level of quality in its laboratories as high or higher than any other laboratories. Finally, it is important to note that this measure frees VA of certification, fee-paying, inspection, audit, or other oversight or supervision of VA laboratories by the Secretary of Health and Human Services. It does, at the same time, explicitly acknowledge the important role played by independent review of VA laboratories through accrediting bodies, and the committee anticipates that VA will continue to seek accreditation of its clinical laboratories.

The second amendment to the reported bill would designate the position of Chief Medical Director as the Under Secretary for Health and the position of Chief Benefits Director as the Under Secretary for Benefits Administration. The VA believes this would be desirable in order to signify that the persons who hold the positions of Chief Medical Director and Chief Benefits Director are equal in rank and stature to similar officials in other Federal departments.

Mr. Speaker, again I want to thank the ranking minority member of the Subcommittee on Hospitals and Health Care, JOHN PAUL HAMMERSCHMIDT, and the very able ranking minority member of the full committee, BOB STUMP, for their leadership and hard work on this important legislation.

This is an extremely important bill that will greatly improve the delivery of health care to our Nation's veterans and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2280, the Veterans' Health and Research Amendments of 1991 and note the strong bipartisan support of the entire Committee on Veterans' Affairs. This legislation represents a compilation of provisions covering a range of services under the jurisdiction of the Veterans Health Administration. At the same time, the legislation is not subject to the pay-as-you-go mandate of the Budget Act.

It is a low cost bill and it does not contain all that the committee recognizes as needed improvements on behalf of veterans because quite simply, there is insufficient funding to pay for program enhancements. All in all H.R. 2280 represents the best efforts of the committee to improve veterans' programs while maintaining a responsibility to Federal budget deficit control.

In fact, the only provisions which would increase expenditures—improvements to PTSD and Homeless Veterans Programs—are subject to additional appropriations so they will not result in a further erosion of existing health care program funding. This method of exercising the authorizing responsibility of the committee was crafted out of a strong recognition of the current financial constraints under which the Department of Veterans Affairs must now operate.

Many of the provisions contained in H.R. 2280 were already passed by this body during the 101st Congress as contained in H.R. 5740, but did not receive final action in the other body. The committee believes these provisions merit final approval this Congress.

The issue of quality medical care is also addressed in this measure. The committee has held many hearings on the topic of quality of care and have included two provisions which would help the Department exercise its responsibility in providing high quality health care services.

The first provision would allow the Department of Veterans Affairs greater flexibility in its funding of quality of care oversight functions. The second provision will assure that the Secretary of Veterans Affairs prescribe regulations which result in consistent high quality performance by medical facility laboratories. Such regulations will be prescribed in consultation with the Secretary of Health and Human Services.

Finally, the bill contains a provision to redesignate the Chief Medical Director [CMD] and the Chief Benefits Director [CBD] as under secretaries. At the present time, the CMD and CBD like under secretaries are appointed at executive level III but, unlike other under secretaries do not share the title. The titles of CMD and CBD are confusing since no comparable title exists in other departments of Government. This disparity is thought to lessen both the effectiveness and visibility of the CMD and CBD.

Mr. Speaker, it is my belief that these two individuals hold the most important operational positions in the entire Department of Veterans Affairs. These individuals are directly responsible for the service rendered to the veterans of our Nation.

Since the debate on elevation of the VA to a Cabinet level department began, it has always been the opinion of the House Committee on Veterans' Affairs that the CMD and CBD be designated as under secretaries, however, we were unable to achieve concurrence with the other body. Now that the VA has experienced elevation to a Cabinet level department for some time, it is more apparent than ever that the CMD and CBD would function more effectively among the circles of government if they were to obtain the titles befitting their important stature.

Mr. Speaker, I want to thank the distinguished chairman of the committee, SONNY MONTGOMERY and the ranking member of the Subcommittee on Hospitals and Health Care, Mr. HAMMERSCHMIDT for their leadership and expertise on these important issues. I want to acknowledge as well the support of the chairman and ranking member of the Committee on Energy and Commerce, Mr. DINGELL and Mr. LENT, for their input on section 304 of the bill.

I urge the support of my colleagues on H.R. 2280.

Mr. HAMMERSCHMIDT. Mr. Speaker, as ranking member of the Subcommittee on Hospitals and Health Care, I join my colleagues today in strong support of H.R. 2280, the Veterans' Health Care and Research Amendments of 1991.

It is important to point out that H.R. 2280 is not subject to the pay-as-you-go provision of the Budget Act.

It is a low-cost measure that is drafted to ensure that the provisions which authorize program expansion are based on an appropriation level above the administration's request. The Committee on Veterans' Affairs takes seriously its responsibility to Federal budget control. This bill ensures that the program expansion contained in H.R. 2280 will not further erode core medical care funding.

Several provisions in this bill are designed to improve the quality, delivery and administration of medical care for our Nation's veterans. The bill enhances existing programs and extends expiring programs.

In particular, I support section 304, which requires the VA to prescribe standards, in consultation with the Department of Health and Human Services [HHS] in order to ensure that VA labs be subject to stringent standards of quality, comparable or exceeding those set under the Clinical Laboratory Improvement Amendments of 1988 [CLIA].

This provision provides that the Department of Veterans' Affairs would be subject to the same standards as required by section 353 of the Public Health Service Act and that the Secretary shall prescribe regulations to assure consistent performance by medical facility laboratories.

Section 304 will simply allow the Secretary of Veterans Affairs to continue to meet the mandate of establishing internal controls over VA labs, while strengthening external controls. Section 304 is necessary to allow the VA to maintain jurisdiction over its own clinical labs while working with HHS to achieve and maintain valid and reliable performance.

Quality assurance programs play a critical role in providing veterans with confidence in the VA medical care system. Our goal is to make certain that veterans can continue to have faith in the system designed to serve them.

Finally, I want to emphasize my support for a provision in H.R. 2280 which will redesignate the titles of the Chief Medical Director [CMD] and the Chief Benefits Director [CBD] as Under Secretaries. The title of Under Secretary more properly reflects the expertise and responsibility of these individuals and enhances their access to the top circles of Government management. The Committee on Veterans' Affairs worked hard to elevate the VA to a Cabinet level Department of improve the visibility of this important Agency of Government. Top officials of the Department deserve no less.

I want to thank Chairman MONTGOMERY and the ranking member, Mr. STUMP, for their hard work on this legislation and urge the support of my colleagues on H.R. 2280.

Mr. JENKINS. Mr. Speaker, I rise today to support the measure and to commend the chairman and members of the Committee on Veterans' Affairs for their attention to the needs of the veterans in the Nation and in my district.

In 1989, a veteran in my home State informed me that veterans with a 100 percent permanent and total service-connected disability seeking emergency medical care at non-VA health care facilities were not having these legitimate claims paid if they filed within 72 hours. Ironically, had the veteran waited for more than 72 hours to file the claim, it would have been honored.

This discrepancy was the result of a recent revision to the law and an unintended result. I appreciate the work the chairman and committee members have done to ensure that this situation does not continue by including language in this measure which clarifies the law and corrects the situation. I also wish to express the gratitude of the many veterans in my district who will now be able to have these legitimate claims paid.

Mr. DINGELL. Mr. Speaker, it has been my privilege as chairman of the Committee on Energy and Commerce to work with Chairman MONTGOMERY in revising section 304 of H.R. 2280 as that section was ordered reported. We shared the objective of assuring that patients relying on laboratories within the veterans' health care system enjoy the same high quality care as all other Americans. The two committees have together fashioned an alternative section which achieves that end.

The Committee on Energy and Commerce has a longstanding interest in proper operation of the Nation's clinical laboratories. The Clinical Laboratory Improvement Amendments of 1988 [CLIA] originated in the Commerce Committee. The committee has also maintained strict oversight of laboratory operations. CLIA's requirements were made to apply to all the Nation's laboratories under the 1988 amendments in order to assure that all Americans could be confident of the accuracy of their lab results.

Section 304 of H.R. 2280, as ordered reported by the Committee on Veterans' Affairs, raised concerns for this committee because it could have upset the basic operation and application of CLIA and would have created ambiguity in the law. In its report on that section as ordered reported, the Veterans' Committee explained its original provision by taking exception to the administration's application of the provisions of CLIA to the Department of Veterans Affairs. As chairman of the Committee on Energy and Commerce and an author of CLIA I respectfully expressed disagreement with the Veterans' Committee's narrow interpretation of CLIA and objected to the inclusion of section 304 in H.R. 2280. In order to expedite the consideration of this bill by the House, the Committee on Energy and Commerce chose to forego requesting a sequential referral of H.R. 2280; instead we sought to work with the Committee on Veterans' Affairs to replace section 304 with a provision that did not disturb the intent of CLIA, but which addressed that committee's concern over administration of laboratory regulation.

I am pleased that the two committees were able to find alternative language for section 304; that language is reflected in the bill as amended for floor consideration today. The appendix to the report to accompany H.R. 2280 contains an exchange of letters between the chairmen of the two committees. They reflect the substance of the agreement between the two committees and correct any erroneous statements contained in the committee report language accompanying the original section 304.

Those two letters, constituting the appendix to the committee report, are appended to this statement and I would ask that they be included here as part of my remarks.

COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, June 24, 1991.
Hon. G.V. MONTGOMERY,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to our agreement of the past week to revise section 304 of H.R. 2280 as ordered reported, the Committee on Energy and Commerce will not seek a sequential referral of H.R. 2280. This determination does not constitute a waiver of any jurisdiction which this committee may have over the subject matter in question.

As you know, following committee consideration of H.R. 2280, the Committee on Energy and Commerce, which under Rule X of the Rules of the House of Representatives has jurisdiction over public health, health, and health facilities, expressed jurisdictional and substantive objections to the section as ordered reported.

As a result of the discussions between the two Committees, the Committees agreed to a modified version of section 304. The modified version assures the application of the standards required by section 353(f) of the Nation's laboratories, including Veterans laboratories. It also recognizes the desirability of vesting the Secretary of Veterans' Affairs with authority for applying those requirements to Veterans laboratories by requiring the Secretary to prescribe regulations in accordance with the requirements of section 353(f) and to establish appropriate compliance measures.

The Committees have agreed that this modified version will be included as an amendment to the bill as ordered reported in a vehicle to be considered under suspension of the House rules. In light of the committees' ability to work together in fashioning this revised language, the Committee on Energy and Commerce agrees not to seek a sequential referral of the bill.

I understand that you have agreed to include this letter reflecting the substance of our agreement in the report to accompany H.R. 2380.

Sincerely,
JOHN D. DINGELL,
Chairman.

COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC, June 24, 1991.
Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter on June 24, 1991, regarding H.R. 2280. Your letter accurately reflects our discussions and agreement of the past week.

I will be happy to include your letter in the report to accompany H.R. 2280.

Sincerely,
G.V. (SONNY) MONTGOMERY,
Chairman.

In 1988 Congress chose to apply the requirements of CLIA to all the Nation's clinical laboratories. As implementation of the law has proceeded, some have expressed concern about the need to establish an appropriate role for the Secretary of Veterans Affairs in carrying out those requirements. The new section 304 reaffirms the application of the requirements of CLIA to all clinical laboratories, including Department of Veterans Affairs laboratories. However, it recognizes the desirability of vesting in the Veterans Secretary the requirement of prescribing regulations to carry out those requirements. Such regulations, the revised section specifically states, must be in accordance with the requirements of section 353(f) of the Public Health Service Act. Finally, the revised section directs the Secretary of Veterans Affairs to establish appropriate enforcement measures to assure compliance with the requirements of CLIA.

Again, I thank the chairman and look forward to working with him in future.

Mr. JONTZ. Mr. Speaker, I rise today in support of H.R. 2280 and specifically its provisions addressing post/traumatic stress disorder treatment.

PTSD still affects an estimated 15 percent of Vietnam veterans, as well as a significant number of veterans of other conflicts, too. Numerous studies have shown that PTSD is directly related to a veteran's exposure to combat, and not the result of any preexisting condition that may make a veteran more susceptible to the disorder. The failure of the VA to address PTSD treatment reflects our society's general stigma with mental health problems. We would never ignore a veteran who returned from combat with a physical problem such as a lost limb. PTSD is a similar, combat-related injury. Unfortunately, many veterans with PTSD still find themselves ignored.

The VA's existing programs are far from adequate to meet the need which exists for treatment of PTSD. With more than 479,000 Vietnam veterans suffering from the disorder, the VA's PTSD service delivery system consists of 22 inpatient units, 43 clinical teams, and a network of 195 Vet Centers which provide outreach and counseling services. Waiting lines at some inpatient units exceed 1 year, and veterans often have to travel hundreds of miles to receive treatment.

H.R. 2280 would expand the existing service delivery system for PTSD by adding at least 10 clinical teams, 5 inpatient units, and 5 PTSD-substance abuse units. These provisions are consistent with the recommendations of the Chief Medical Director's Special Committee on PTSD, which has been calling for the expansion of PTSD treatment programs for the past 7 years. Regrettably, the recommendations have been consistently ignored by the VA in its budget request to the Congress.

If the provisions included in H.R. 2280 are enacted into law and the $7.5 million in the fiscal year 1992 VA Appropriations bill passed by the House earlier this month is retained, these actions would amount to a 27 percent increase in current funding for PTSD treatment programs. But much more needs to be done.

The legislation I introduced earlier this year, H.R. 841, contains a blueprint for expansion of PTSD programs over the next 4 years. The bill we are considering today includes virtually identical program expansions as H.R. 841 for fiscal year 1992, but it does not go beyond the next fiscal year. While thankful for the improvements in PTSD treatment which are included in this legislation, I am nonetheless concerned that the Congress continue to provide guidance and resources until all the needs of veterans who need care for PTSD are met.

Before I yield back my time, I want to also express my concern that the legislation we are considering today does not contain any proposed expansion of the Vet Center Program, which I believe to be worthwhile. Vet Centers are cost-effective and have many outreach capabilities that hospital-based care units don't, and cities as large as Toledo, OH, and Nashville, TN, are not yet provided services by these centers. I'm hopeful that the Vet Center issue can be addressed in an appropriate forum at a later date.

Mr. Speaker, I urge my colleagues support for H.R. 2280, which is a great step forward for veterans awaiting treatment for PTSD. Thank you and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 2280, Veterans Health Care and Research Amendments of 1991.

I would like to commend the chairman of the Veterans' Committee, the gentleman from Mississippi [Mr. MONTGOMERY] for introducing this important measure, and the ranking minority member, the gentleman from Arizona [Mr. STUMP] for his unceasing efforts on behalf of our Nation's veterans.

H.R. 2280 authorizes treatment of veterans who have a permanent service-connected total disability on a fee basis or by contract with a hospital. This important legislation also authorizes outpatient dental treatment to veterans receiving Department of Veterans Affairs treatment.

Mr. Speaker, 30 to 40 percent of our Nation's homeless are veterans. H.R. 2280 takes the necessary steps needed to help our Nation's homeless veterans by authorizing $3.3 million in fiscal year 1992 and such sums in subsequent years to expand the outreach and community-based residential care for homeless, chronically mentally ill veterans, as well as authorizing $300,000 in fiscal year 1992 and such sums in subsequent years for the establishment of a pilot program to assist homeless veterans.

Many of our Nation's veterans suffer daily from recurring nightmares of their days in combat. H.R. 2280 establishes at least 5 new posttraumatic stress disorder [PTSD] units and at least 10 PTSD clinical treatment teams. Additionally, the Chief Medical Director's Special Committee on PTSD will develop a plan for providing services for those suffering from PTSD.

This important measure also includes the establishment of a Medical Research Pilot Program. This program will be jointly funded by VA and a medical school or other public or nonprofit institution. The pilot program will focus on clinical care at VA facilities for mental illness, alcohol and substance abuse, or neurological, psychiatric, and geriatric rehabilitation.

Mr. Speaker, our support of this measure confirms the support in Congress for our veterans through making important changes in the veterans health care system to meet our Nation's veterans needs.

Accordingly, Mr. Speaker, I support H.R. 2280, and urge my colleagues to vote in favor of it.

Mr. STUMP. Mr. Speaker, I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2280, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PANAMA CANAL COMMISSION AUTHORIZATION ACT FOR FISCAL YEAR 1992

Mr. TAUZIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1775) to authorize expenditures for fiscal year 1992 for the operation and maintenance of the Panama Canal, as amended.

The Clerk read as follows:

H.R. 1775

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1992".

SEC. 2. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1992.

(b) LIMITATION ON RECEPTION AND REPRESENTATION EXPENSES.—Of amounts available to the Panama Canal Commission for fiscal year 1992, not more than $52,000 may be used for official reception and representation expenses, of which—

(1) not more than $12,000 may be used for expenses of the Supervisory Board of the Commission;

(2) not more than $6,000 may be used for expenses of the Secretary of the Commission; and

(3) not more than $34,000 for fiscal year 1992 may be used for expenses of the Administrator of the Commission.

(c) PURCHASE OF PASSENGER MOTOR VEHICLES.—Funds available to the Panama Canal Commission for fiscal year 1992 may be used for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport personnel of the Commission across the Isthmus of Panama. Such vehicles may be purchased without regard to price limitations prescribed by law or regulation.

SEC. 3. GENERAL PROVISIONS.

(a) PAY INCREASES.—Notwithstanding section 1341 of title 31, United States Code, funds available for use by the Pamana Canal Commission for fiscal year 1992 may be obligated to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the United States in comparable positions.

(b) EXPENSES IN ACCORDANCE WITH LAW.—Expenditures authorized under this Act may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 4. EXECUTIVE PAY SCHEDULE: ADMINISTRATOR.

(a) Section 5315 of title 5, United States Code, is amended by inserting at the end "Administrator of the Panama Canal Commission,".

(b) Section 5316 of title 5, United States Code, is amended by striking "Administrator of the Panama Canal Commission.".

SEC. 5. EFFECTIVE DATE.

This Act is effective on October 1, 1991.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana [Mr. TAUZIN] will be recognized for 20 minutes, and the gentlewoman from Maryland [Mrs. BENTLEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on March 19, 1991, the Coast Guard and Navigation Subcommittee held its first hearing of the 102d Congress under its new oversight authority over the Panama Canal Commission. This responsibility, previously held by the Panama Canal Subcommittee, has this year been incorporated into our current agenda. The members of the subcommittee are honored to receive this additional oversight and are pleased to present the Panama Canal Commission Authorization Act for Fiscal Year 1992.

Mr. Speaker, as you know, funding for the canal's operation is derived fully from its tolls and other revenues. However, the Commission is still subject to oversight and authorization by the U.S. Congress.

H.R. 1775 authorizes the Panama Canal Commission to spend from its tolls and revenues that amount necessary to fund the continued operation of the canal and authorizes the Commission to continue its capital improvement projects. Although the Commission has never had to resort to borrowing funds for operations, this bill grants the Commission the necessary emergency borrowing authority.

H.R. 1775 was amended in subcommittee markup to raise the pay of the canal Administrator to equal that of similar Government jobs with comparable responsibilities. This pay increase has been judged by the chairman of the Post Office and Civil Service Committee, the Honorable BILL CLAY, as noncontroversial and well justified.

Mr. Speaker, H.R. 1775 has the limited scope and purpose of continuing the operation and improvement of the Panama Canal. The uninterrupted operation of the Panama Canal over the past 75 years is due to the hard work and dedication of this international work force. Its current success is a credit to the persistence of the Panama Canal Commission under the direction of Administrator Gilberto Guardia and the good people of Panama.

Mr. Speaker, let me say that it is an honor again to chair the subcommittee with oversight of the Panama Canal. It is equally an honor to share this responsibility again with my colleague JACK FIELDS. JACK and I made great strides in our previous tenure as subcommittee chair and ranking minority member of the Panama Canal/Outer Continental Shelf Subcommittee and, as we have shown with this authorization, we can and will continue to work together in a bipartisan manner.

I look forward to working with Mr. FIELDS and the subcommittee members to assist in the efforts of the Canal Commission to insure the safety and well-being of the region for the benefit of the international maritime community.

I urge your support and ask for the adoption of H.R. 1775, the Panama Canal Commission Authorization Act for Fiscal Year 1992.

Mr. Speaker, I reserve the balance of my time.

Mrs. BENTLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the Committee on Merchant Marine and Fisheries, I am speaking both for myself and the gentleman from Texas [Mr. FIELDS] who is the ranking minority member of the Subcommittee on Coast Guard and Navigation, under whose jurisdiction falls the Panama Canal.

As a cosponsor of H.R. 1775, Mr. Speaker, I rise in strong support of this legislation which will authorize the expenditure of funds by the Panama Canal Commission [PCC].

Mr. Speaker, the Panama Canal Commission is a unique Federal agency. It operates entirely on those moneys it raises from the users of the canal and it is charged by U.S. law with the responsibility of operating on a break even basis. In fact, if the Commission miscalculates in its assessment of future revenues then any profit that it may generate does not go to the U.S. Treasury but to the Government of Panama.

H.R. 1775 is a simple, straightforward 1-year authorization which does not make any permanent changes in law. It does not propose any contingency or profit payments to the Republic of Panama and, most importantly, like previous authorizations, it does not include any United States taxpayer money. All revenues raised by the Commission are the direct result of tolls or other charges levied on those who transit the Panama Canal.

Mr. Speaker, this is the seventh PCC budget that I have reviewed and the 11th for the gentleman from Texas [Mr. FIELDS] and it is my firm belief that the Panama Canal Commission has once again accurately projected their financial needs for the upcoming fiscal year.

In addition, this is the fourth such authorization request since Congress changed the Commission's financial structure from an appropriated fund to a revolving fund agency.

It is clear that this change has been a tremendous success and that it has allowed the Commission to respond more effectively to changing shipping patterns such as those caused by the recent Middle East turmoil.

While canal traffic levels have declined somewhat since the end of the Persian Gulf conflict, the Commission did a great job, throughout the crisis, of handling the increased number of transits and it ensured that oceangoing cargo moved through the Panama Canal in a most expeditious manner.

Mr. Speaker, for their tireless efforts, I would like to compliment the multinational work force of the Panama Canal Commission and, in particular, publicly acknowledge the outstanding leadership of Mr. Gilberto Guardia and Mr. Ray Laverty. Mr. Guardia became the first Panamanian national to serve as Administrator and Mr. Laverty became the first Deputy Administrator on September 20, 1990, and both have done a superb job.

Finally, it is my hope that we will soon bring to the House of Representatives, an additional bill to further streamline the financial management of the Panama Canal Commission which will provide that agency with greater financial flexibility to respond to unpredictable events, such as landslides, major marine accidents, and future international conflicts.

Mr. Speaker, I compliment my distinguished subcommittee chairman, BILLY TAUZIN, for his outstanding leadership in moving this legislation forward. This is a noncontroversial authorization bill which every member can support for it recognizes our nation's responsibility to ensure the safe and efficient operation of the Panama Canal.

I urge an "aye" vote on H.R. 1775.

□ 2050

Mr. TAUZIN. Mr. Speaker, I yield myself such time as I may consume.

First, I would like to thank the gentlewoman from Maryland [Mrs. BENTLEY] for her comments and for standing in for the ranking minority member, the gentleman from Texas [Mr. FIELDS], tonight. I wish she would extend to him my heartfelt thanks for his work on this bill.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Speaker, I rise to ask Chairman TAUZIN to participate in a brief colloquy to clarify aspects of the Panama Canal Commission's vessel damage claims procedure.

I have recently been contacted by a cooperative of Hawaiian sugar producers which operates in the sugar transport trade between Hawaii and the continental United States.

On April 21, 1988, one of the vessels owned by the cooperative, a Hawaiian transportation company, was involved in an accident while being piloted through the canal by the Canal Commission's pilot.

The accident caused extensive damage to the vessel. The local board of inspectors determined that the accident was due to error by the pilot, and the Commission has accepted liability for the damage.

The Hawaiian transportation company has brought to my attention its concern about the delay in processing the claim, and I request, Mr. Chairman, some explanation of that process.

Mr. TAUZIN. Mr. Speaker, I want to commend the gentlelady for her concern and would be pleased to clarify and explain the process which was established with the passage of the Panama Canal Act of 1979 and enhanced and further developed in the 100th Congress while I served as chairman of the Panama Canal Subcommittee.

The Panama Canal Act of 1979 provides for the settlement and payment of claims for damages to vessels transiting the Panama Canal due to any error of Commission employees.

Because vessels transiting the canal are under the full control of a canal employee, the Commission is duly held responsible for accidents resulting from Canal Commission pilot error.

Claims resulting from damages that occur to vessels inside the canal locks due to Commission employee error may be adjusted and paid by the Panama Canal Commission and if the claimant is not satisfied with the payment, he may sue in the U.S. district court.

Consideration by the Commission of any claim must be prompt and within a reasonable amount of time.

All vessel damage claims must be filed with the Commission within 2 years following the accident.

Prior to the Panama Canal Act Amendments of 1985, all claims in excess of $120,000 had to be referred to Congress for consideration, however, the act of 1979 included no instructions for congressional consideration and the process became very time consuming and confusing. The Panama Canal Amendments of 1985 removed the $120,000 maximum and made all claims subject to Commission consideration and granted all certified claimants the right to protest an award amount in court.

The Panama Canal Act Amendment of 1985 requires that all claims must be based upon proven fault.

I will add that neither the Commission nor Congress ever has denied that accidents due to pilot or other Commission employee error are the Commission's responsibility. I have found no deliberate attempts by the Commission to delay a claim or go beyond its congressional mandate.

As to the accident and claim which the gentlelady spoke of, I have talked to Panama Canal officials responsible for processing claims and they assure me that the matter is being handled as expeditiously as possible and in accordance with the law. I would add that the Panama Canal Commission has an enviable record for prompt and fair adjudication of vessel damage claims and I am confident they will continue to maintain that record.

Mrs. MINK. Mr. Speaker, I thank the gentleman from Louisiana [Mr. TAUZIN] for his clarification on the process and actions the Commission has taken in this particular case. Let me be perfectly clear that my concern in this matter is that there has been considerable delay in the handling of this claim. But I have been assured by the Commission and by the remarks of the gentleman this evening on this matter that the claim will go forward and there will be full and just consideration.

I appreciate the confidence in the Commission's process on the part of the gentleman from Louisiana [Mr. TAUZIN] and his assurance that this matter will be dealt with in an expedient manner.

Mr. TAUZIN. Mr. Speaker, let me again congratulate the gentlewoman from Hawaii [Mrs. MINK] for her vigilance on behalf of her constituent, and assure not only the gentlewoman, but this Congress, that our oversight of the canal indeed requires us to continue to maintain that record of prompt settlement, and we will continue that vigilant effort.

Mr. Speaker, I thank the gentlewoman again for her interest.

Mr. Speaker, I yield such time as he may consumer to the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. Mr. Speaker, I would like to compliment the gentleman from Louisiana [Mr. TAUZIN] on the fine work he has done on this piece of legislation, and just say how important it is in terms of not only our country, but that of Panama. It is certainly in our country's best interests.

Mr. TAUZIN. Mr. Speaker, reclaiming my time, while the gentleman from Texas [Mr. FIELDS] is present in the body, I again want to congratulate him for the sterling work he has done on this bill and for the excellent cooperative relationship the ranking minority member has always maintained with this member and the committee, and thank all members for their help.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SAWYER). The question is on the motion offered by the gentleman from Louisiana [Mr. TAUZIN] that the House suspend the rules and pass the bill, H.R. 1775, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TAUZIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 1775, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

REPORT ON U.S. GOVERNMENT ACTIONS IN SUPPORT OF PEACEFUL RESTORATION OF INDEPENDENCE FOR BALTIC STATES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-106)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed.

(For message, see proceedings of the Senate of today, Tuesday, June 25, 1991.)

OFFICE OF FEDERAL MANAGEMENT ACT OF 1991

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. I rise today to introduce the Office of Federal Management Act of 1991.

This Office would coordinate, audit, oversee, and improve management practices within the Federal Government. There has literally been a breakdown in effective management at the Federal level, the S&L debacle, the HUD scandal, the mismanagement at Medicare, the examples go on every day.

There is a clear and growing frustration among the American people that Government has lost its ability to effectively manage itself. While the public largely accepts the need for Government to play a vital role in a democratic society, they do not and should not support Government that is bloated, poorly organized, or incompetent.

The fact is that the United States needs a competent government. Ineffective management is extremely costly to the taxpayers. Moreover, nations with competently managed governmental sectors supporting innovative private sectors will outperform and outcompete nations whose governmental sectors are ineffective and poorly managed. Today there is a sense that no one is really managing the basic government apparatus in a coherent manner or in a discernible direction. In addition, although complete breakdowns are few in number, when they do occur they tend to be dramatic and expensive. Surely, the savings and loan debacle and the HUD scandal are instances where inadequate management, organization, and oversight contributed to the costly impact upon our political system. And even when warnings of problems have been given, the response has generally been to impose additional financial control mechanisms—after-the-fact-management—rather than to invest in better management systems, practices, and personnel—prospective management. For present purposes, I have listed several areas where the absence of adequate management capacity has been particularly costly to our Nation.

Savings and loan debacle;

HUD scandal;

Emerging financial concerns about the safety and soundness of government-sponsored enterprises, for example, "Fannie Mae," and the adequacy of regulation;

Ongoing problems related to the procurement process in the Department of Defense and the civilian agencies;

Nuclear weapons complex deterioration;

Inadequacy of comprehensive intermodal transportation planning at the national, State, and local levels;

Management problems associated with the Federal Aviation Administration;

Inadequacy of U.S. basic research and development programs,

Inability of Government to compete for its fair share of managerial talent because of restrictive salary policies;

Growing disparity between demands placed upon incarceration systems and available resources;

Growing dependence upon third parties to perform fundamental governmental functions without administrative supervision;

Growing dependence upon third parties to perform fundamental governmental functions without administrative supervision;

Proliferation of quasigovernmental institutions designed to avoid accountability to executive branch central managerial agencies and in some instances accountability to Congress;

The excessive administrative overhead charges in university research grants and the administration of the Superfund by the EPA; and

The vulnerability of the enormous Medicare Program to large losses to the taxpayer through mismanagement, waste, and abuse.

For the most part, both successes and failures in the management of agencies and programs are not readily observable to the public or even interested legislators. Successes are taken for granted and failures are not highlighted unless the situation results in a scandal or in large financial costs. America does not often place a high premium on effective public sector services or performance. Thus, long-term investments in improving the capacity of agencies to perform their statutory functions is rarely a stated goal of Congress.

Although the President is generally charged with management responsibility for the executive branch, recent Presidents have not exhibited much interest or commitment to this responsibility. Lack of concern by Congress and the President in management of complex social programs and agency performance in the past has often been compensated for by the activities of central management agencies, principally the Bureau of the Budget and more recently the Office of Management and Budget. To many observers, however, the Office of Management and Budget has devoted its principal strength and attention to current budget issues with the result being little central direction or support to the management executives in the executive branch.

The truth is that budget priorities will always tend to displace management priorities. For one thing, their timetables are at odds. Budgetary timetables of necessity tend to be rigid, short term, and almost exclusively bottom-line oriented. Management priorities, on the other hand, tend to be flexible, long term, with success generally measured in nonfinancial terms. Both budget and management functions have suffered from this forced marriage.

The bill I am introducing today proposes a solution to the organizational deficiencies documented by numerous congressional, General Accounting Office, and private research studies. This bill would split organizationally the budget and management functions between two equal agencies in the Executive Office of the President; an Office of Federal Budget [OFB] and an Office of Federal Management [OFM]. The Directors of these two Offices would be principal advisers to the President at Cabinet rank. The intent is to assist both the President and Congress to better perform their respective responsibilities by recognizing the fundamental distinctions that exist between the budgetary and management functions of government. Ultimately, the objective of this bill is to improve the capacity of our Government to serve our domestic needs more effectively.

Stated differently, it serves the interests of Congress well to recognize that management functions and budget functions are best implemented when performed by separate agencies. The Director of OMB is frequently criticized by Congress for not spending sufficient time and resources on management issues. On the other hand, the time he does spend on these issues is time away from meeting his budgetary responsibilities. As chairman of the Budget Committee, I can assure the Members of this body that the development and implementation of the annual budget is a full-time responsibility and the Director should spend his full time at this task.

The Director of the Office of Federal Management would be assigned by law responsibility to ensure that the generic management laws, for example, Government Corporation Control Act, are implemented throughout the Government and to ensure that the several elements, for example, financial management systems, procurement policy, of the President's management responsibilities are fully overseen by competent managers with governmentwide perspective.

There is no more complex organization than the Federal Government. Its responsibilities are enormous and the demands it faces insatiable. It is fashionable today, even among those who consider themselves scholars of the Presidency, to say that the Government is essentially unmanageable and that the President should stay clear of management problems as much as possible. This argument is false. Presidents do not really have a choice. They are "hired" by the people of the United States to manage the Government and should be judged politically in large measure on how well they have met this stewardship responsibility.

The Congress, as a coequal branch, also has responsibilities and deserves to be judged on how well it is meeting its responsibilities. Many persons who suggest that the President is well advised not to become too involved in domestic management—because it is not politically lucrative—also criticize Congress for micromanaging the executive branch. As recent Presidents have retreated from their managerial responsibilities, Congress has tended to fill the resultant void by passing laws with extraordinarily detailed regulations and requirements. Many of these laws are passed without the question ever being raised: "Is this law administrable?" Certainly, much of the current financial institutions crisis can be laid to both OMB—which never involved itself seriously on the organizational and management issues—and the Congress—which did involve itself but in an inconsistent manner—which passed arguably the longest and most detailed bill in American history—the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

A separate Office of Federal Management would be charged by both the President and the Congress with designing the organization and management systems most likely to manage properly such complex problems areas as our current financial institutions crisis. Both the President and Congress would certainly have their inputs and final say, but the original proposal would be reasonably sound in management terms.

There are some lessons to be learned from the history of OMB. The decline in OMB's capacity to manage the executive branch has been a 20-year process. Ironically, the decline of management oversight within the executive branch began at the very moment that management received its symbolic equality with the budget responsibilities of the President. In 1970, the Bureau of the Budget became the Office of Management and Budget, a name change designed to reflect a new and enhanced commitment to managing the executive branch.

Prior to 1970, the top leadership of the Bureau of the Budget had been largely drawn from the career civil service, a cadre that took "neutral competence" seriously as its ideal. The objective of the agency had been to protect the institutional interests of the Presidency, not the immediate political interests of the incumbent President. The latter was the responsibility of the White House staff.

This ideal was gradually displaced in the 1970's and 1980's by the introduction of numerous noncareer management positions in OMB occupied by short-term appointees with a politically motivated agenda. The political agenda included deliberate disinvestment in management functions not only at the OMB level but at the departmental and agency level as well. Management became increasingly defined in "control" terms rather than as "capacity building." These trends had consequences, consequences graphically evident to the Senate Banking Committee's Subcommittee charged with investigating the HUD scandal and recommending solutions. The subcommittee report stated:

> Given the mismanagement and abuse of certain HUD programs during the 1980s, it is important to inquire why OMB oversight of HUD management failed to uncover or prevent it. The answer has been evident since OMB's creation in 1970. OMB's management efforts have been largely unable to compete for resources or attention with the high-priority budget process, and have therefore been minimal. Even when certain management oversight strategies have received attention and resources from OMB, their effects have been adversely influenced by the short-term budget mindset and highly politicized nature of that organization. (U.S. Congress, Senate, Committee on Banking, Housing and Urban Affairs, HUD/HOD Rehab Investigation Subcommittee, Final Report and Recommendations, Com. print 123, 1990, p. 194.)

The weakness of OMB as a central management agent was well documented prior to the emergence of the HUD problems. As early as 1983, the National Academy of Public Administration issued a scathing commentary on the declining capacity of OMB to perform its functions. The commentary stated:

> In its earlier years, agencies came to rely on BOB/OMB as a key source of government-wide intitiatives for keeping Federal management modern and up-to-date. In recent years, however there has been a growing concern that, even while OMB continues to be capable of occasional excellent performance, it has irretrievably lost its overall effectiveness as government-wide leader in management matters. (National Academy of Public Administration, Revitalizing Federal Management: Managers and Their Overburdened Systems, 1983, p. 11.)

Critical assessments of OMB's management role and philosophy have become almost regular in their appearance. It is difficult for a congressional committee to study a management problem and not conclude that OMB has been unduly preoccupied with immediate budgetary requirements.

In 1986, Senator William Roth, then chairman of the Senate Governmental Affairs Committee, introduced and held hearings on a bill which would have, among other things, created a separate Office of Federal Management within the executive branch. The committee offered the following conclusion:

> The development of managerial resources at the agency level through the annual review process has, often as not, been overtaken by OMB's urge to micro-manage agency initiatives. Little attention has been accorded human resource management, for example, except in the context of agency outbacks and reductions in force. So long as OMB's predominant motivation is to achieve 'scorable savings' in the budget process, however, it seems likely that the exercise of central administrative controls—regulations, directives, and reporting requirements—will be far more compelling than the

> development of managerial capacity. (U.S. Congress, Senate, Committee on Governmental Affairs, Federal Management Reorganization, Cost Control, and Loan Accounting Reform, Hearing 879, 1986.)

The General Accounting Office has issued numerous reports highly critical of executive branch management philosophy and activities. In 1989, the Comptroller General issued an extensive report detailing the eroding capacity of OMB to perform its management mission. In part it read:

> OMB's 378 professional staff play a key role in assisting the President oversee the activities of the government's 5 million employees and over $1 trillion budget. OMB's institutional culture has been dominated by its budget responsibilities, which consume most of its resources and top management attention. Currently, about 230 of OMB's professional staff compile, examine, and produce the Federal budget (leaving about 148 professional staff to perform the management responsibilities of the Office).
>
> OMB's preoccupation with the budget has been growing. It is increasingly involved in Congressional budget deliberations and is under constant pressure to meet deficit reduction mandates. However, while OMB's budget workload has intensified and Federal management has become more challenging, OMB is about 15 percent smaller now than it was in 1970.
>
> In the management area, resources devoted to management divisions have been cut almost in half during the last several years. Moreover, OMB's management improvement efforts have been affected over the years by continually changing initiatives and approaches. (U.S. Comptroller General, Managing the Government: Revised Approach Could Improve OMB's Effectiveness (GAO Management Review), GAO/GGD-89-65, 1989, p. 2.)

The National Academy of Public Administration, reviewing the years after its 1983 report, concluded in its 1989 report to President-elect George Bush, that the situation had become even more threatening than was the case when it issued its earlier report. The Academy called for the establishment of a separate Office of Federal Management as the first step toward rebuilding the President's capacity to manage the domestic side of the executive branch. The Academy stated:

> OFM's role should be to facilitate; to instigate, promote, and assist; and not primarily to regulate, control, or audit. The Federal Government has more than enough audit/regulatory mechanisms and overseers. What it suffers from is not the lack of ability to evaluate itself; it suffers from an inability to take action and to implement change. It has all too few agents that can create sustained and coherent action, and therefore the OFM role in designing and directing action is too precious to be allowed to dissipate into that of another regulator or 'watchdog.' A serious failure of the central agencies in recent years has been that, in their preoccupation with their regulations, they have been a force for rigidity, entrenchment, and stultification, instead of loosening up the system, dislodging entrenched interests, promoting innovation, and creating the capacity and the will to experiment. (National Academy of Public Administration, Standing Panel on Executive Organization and Management, Strengthening Presidential Leadership by Establishing an Office of Federal Management, 1988, p. 11.)

In late 1990, the Senate Governmental Affairs Committee held hearings on the state of OMB's management response to various continuing problems. Witnesses tended to be quite critical. At one point, Dwight Ink, the official at the old Bureau of the Budget who in 1970 had been responsible for drafting reorganization plan No. 2, which established the Office of Management and Budget and for defending the proposal to a skeptical Congress, recanted his earlier support for linking the budget and management responsibilities in one agency. He said that the experiment has been a failure and that the linkage is detrimental to management.

> Experience has shown that a high level of integration of management and budget in OMB leads to heavy domination by the budget process and the rapid erosion in its management role. I found time-after-time that the effectiveness of my management staff in OMB was in direct proportion to the extent to which we could distance ourselves from control of the budget process. (Statement of Dwight Ink before the U.S. Senate, Committee on Governmental Affairs, OMB: Response to Government Management Failures, Hearings 1152, 1991.)

The most systematic indictment of management failure is to be found, however, in the 1990 Senate Banking Subcommittee Hearings and Report on the HUD scandal. The report is thorough and spreads the blame widely. While much of the report deals with the internal mismanagement of HUD, the strongest criticism are assigned to OMB's inability to oversee and detect HUD's managerial problems in advance. The report pointed out:

> By all accounts, OMB's specific oversight of HUD programs during the past decade consisted of five budget examiners developing HUD's budget, and, in their spare time, reviewing HUD programs. Not surprisingly, those examiners spent almost all their time reviewing very general aggregate program data and addressing major budget policy issues. They claim they had no knowledge that HUD projects were being improperly awarded by officials in the Pierce administration—a fact which is not surprising given that the average examiner spends only two days per year in the field reviewing how the particular programs under his or her jurisdiction are administered. (HUD/MOD Report, p. 194-5).

This Senate Banking Subcommittee report concluded, as have many others, that the situation at OMB cannot be remedied within the existing structure of the organization. The subcommittee recommended, therefore, that "OMB should be split into an Office of Budget and a separate Office of Management."

As recently as June 20, the Congressional Budget Office cited the failure of regulators to close thrift institutions when they first went broke. Over the past 10 years the cost to the Federal Government was $66 billion more than it should have been. Regulatory forbearance permitted the thrift industry to continue to waste money.

The current leadership of OMB itself recognizes the weaknesses of its overall management record. As the recently resigned Deputy Director of OMB, William Diefenderfer, described the "big picture" management view of OMB, it was "moribund, we had one person looking at the management side for all government." (HUD/MOD; Hearings vol. II, p. 129.)

What OMB officials do argue, through the testimony of Director Richard Darman and others, is that they are aware of the problem and are doing something to correct it. They argue that management must be linked to the budget process if it is to have any clout. They also argue that budget and management examiners should work together and that general management problems are best handled within the context of the budget process.

Is OMB taking its management oversight responsibilities more seriously as a result of the HUD scandals? The answer is "Yes." They supported a congressionally inspired Chief Financial Officers Act of 1990—Public Law 101-576—one provision of which creates a new Deputy Director for Management. This second Deputy, in Director Darman's view, symbolizes the renewed commitment of OMB to management. Although as of June 25, 1991, the President has yet to submit a nomination for this Deputy Director position. Skeptics, however, question the scope and duration of this commitment. They see the approach as not being substantially different from the approach of the last 20 years. Reliance will continue to be placed on financial management control mechanisms rather than on building management capacity both within OMB and the various departments and agencies.

The management side of OMB has requested and received approximately 40 new positions. The majority of these new hires will be assigned financial management responsibilities. In former Deputy Director Diefenderfer's plan, "the management component of OMB will continue to work on cross-cutting issues, but the assignment of management examiners for specific agencies should, working with budget examiners, provide the needed help in conducting Federal management oversight." These new management examiners are to become agency oriented, like their budget examiner counterparts. The objective is to make them specialists, not generalists, and tie the budget review process even more closely to the management concerns.

The philosophy of the management side of OMB remains oriented toward control and investigation, not increased capacity. The emphasis continues to be problem specific. Indeed, the major new management initiative has been to list 114 high-risk programs and to assign their modest resources toward reducing this number.

To build a competent government, the central management agency must have the philosophy, financial resources, personnel, and political support to do its job in a professional manner. It requires a long-term commitment, one lasting over several Presidencies and one transcending partisanship and ideology. It must be oriented toward the future, not investigating and punishing the past. Rather than simply having better financial management systems to keep track of the Government-sponsored enterprises, say, as they fall into the financial abyss, the central management agency should be designing organizations and management systems which will prevent, or at least discourage, the financial crises before the fact.

What will be the source of clout in this new OFM, if created? The basic source for management authority and leverage is to be found in the administration of the approximately 150 or so generic management laws. Generic management laws are those cross-cutting laws regulating the activities, procedures, and administration of all agencies of Government save those exempted by law. Examples of generic management laws include the Government Corporation Control Act, Paperwork Reduction Act, and the Freedom of Information Act.

In addition to a substantial legal basis for the agency, the OFM would be a professional organization dedicated to building managerial capacity and accountability within the executive branch agencies themselves. The small size of OFM ensures that it will be concerned with cross-cutting issues and with the implementation of generic management laws rather than getting into the details of managing agenices themselves.

It does not take great numbers of persons to be alert to the big management picture as long as they are the best and most experienced people available and as long as they can be overseeing in the name of the President. I am listing here the areas specifically provided in the bill to be the responsibility of the new OFM. This means that the laws, regulations, and directives pertinent to these areas will become the responsibility of this new Office: Organizational design and planning, central legislative review and advice, regulatory review and clearance, procurement policy, human resources planning, financial management systems, government corporations and enterprises, real and personal property management, information and statistical policy, advisory committee management, intergovernmental relations, program evaluation practices, productivity enhancement, government capital investment management, travel and transportation services, paperwork management and control, grants-in-aid management systems and techniques, Freedom of Information Act compliance, Privacy Act compliance, and printing, reproduction policies, and oversight.

The key question raised by this legislation is whether this central management responsibility is best left immersed in the dual role of the Office of Management and Budget or whether it requires a specifically defined role. The clear experience of the last few years, including my own experience in budget issues, is that OMB will always be consumed by the budget.

With an Office of Federal Management, Congress would know where responsibility lies for addressing problems currently dispersed among many agencies or, more likely, not covered at all. The irony is that good management is also good budgeting and even good politics. People expect the President and the Congress to manage properly their business. Good public sector management may not be politically attractive, but it is the fundamental building block for a competent Government and a competitive America.

□ 2100

NATIONAL COMMISSION ON AMERICAN LABOR LAW AND COMPETITIVENESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. GUNDERSON] is recognized for 5 minutes.

Mr. GUNDERSON. Mr. Speaker, today I am introducing legislation to establish a National Commission on American Labor Law and Competitiveness.

The Nation's labor laws are rooted in the early 1900's, designed then to address the unique economic turmoil facing American businesses and American workers. The laws were designed to carry the Nation through the Great Depression and into the unchartered economic expansion which followed. Successive laws have been piled on through the years, mostly in reaction to individual or industry specific problems. Today, the Nation faces economic challenges and competition from abroad not envisioned during the beginning of the century. It is important that the Nation begin now to structure a new era of labor law.

The Commission established by the bill would examine the relationship between the Nation's labor laws and competitiveness in both foreign and domestic markets, and would make recommendations to enhance the growth and competitiveness of American businesses, protect the rights and conditions of American workers, and improve the general welfare of the American public.

THE COMMISSION

The bipartisan Commission would be made up of 16 members, 8 to be selected by the Democratic leadership and in Congress, the other 8 to be selected by the President and Republican leaders in Congress.

The Commission would conduct the first comprehensive review of the Nation's labor laws to determine whether and how they might be modified, expanded, deleted, or consolidated. The Commission would then focus on the relationship between the Nation's body of labor laws and the growth and competitiveness of U.S. businesses.

Based on its findings, the Commission would make recommendations to ensure that the Nation has an integrated policy which promotes the growth and competitiveness of business, addresses the current and future needs of American workers, and improves the general welfare of the American public.

THE NEED FOR A COMMISSION

Since the last comprehensive labor law review in 1959, the Nation has witnessed a period of remarkable social and economic change, both at home and abroad. Demographic shifts have had, and will continue to have a significant impact on workers and businesses. Much of the overall population has moved south and west, employment growth has moved from manufacturing to the service sector, and more women and minorities are entering the work force.

The social and economic changes abroad have been even more dramatic. Many nations which were remote and impoverished before World War II have become dynamic economic competitors. These nations and others have overcome our previous competitive advantages. Changes in Europe will mean even more competition from abroad, as will multilateral and bilateral free trade agreements between nations.

In order to remain competitive into the future, the Nation must modernize its labor laws. According to the Department of Labor's report, "Work Force 2000: Work and Workers for the 21st Century";

> (M)ost of the policies that guide today's economy and labor markets were originally devised in the 1930's or 1960's in response to the conditions and problems of those decades. . . . As times have changed, the relevance of these programs from earlier eras must increasingly be called into question. As change continues to unfold between now and the year 2000, many of the policies from past decades are likely to become irrelevant to the needs of the 1990's and beyond.

There is a wide range of labor law in the United States, from laws governing labor-management relations to laws protecting the civil rights of workers, ensuring workplace health and safety, establishing wages and benefits, and governing worker training and retraining. These myriad laws have been enacted over the course of more than 50 years, and in response to numerous different concerns and crises.

THE FOCUS OF THE COMMISSION

Throughout the next several weeks, I will be discussing the history of the Nation's major labor laws, and will outline the problems facing the Nation in carrying these laws into the next decade and beyond. It is my hope that a bipartisan Commission would make recommendations to improve labor laws in the following areas:

LABOR-MANAGEMENT RELATIONS LAWS

While no comprehensive changes have been made to the NLRA since 1959, major labor-management disputes since that time have demonstrated both that the ability of the NLRB to respond, and the focus of the NLRA itself could be greatly improved.

First, the commission should focus on improving the National Labor Relations Board process to eliminate delays. Because the current process often prevents timely NLRA intervention to resolve labor-management disputes, procedural, and structural improvements should be made in a manner that balances quicker resolution of cases with adequate due process protections.

Second, the Commission should offer suggestions to improve the balance of the National Labor Relations Act [NLRA] between labor and management. In general, employers argue that the collective-bargaining process is too inflexible under present law, causing polarization in negotations. Employees argue that, while the law defines an employer's minimum legal responsibilities to his or her employees, it offers no guidance in promoting moral and social responsibilities. Changes to the NLRA reflecting new focuses in labor-management relations could emphasize the common elements both parties share in maintaining productivity and improving competitiveness.

EQUAL EMPLOYMENT OPPORTUNITY LAWS

Today, equal employment opportunity laws hinder American competitiveness, first, by providing uncertainty to employers eager to avoid litigation; and second, by failing to adequately address the concerns of workers who are victims of discrimination.

First, the Commission should look for ways to eliminate duplication and inconsistency in equal employment opportunity laws. Employers and employees both complain that each of the antidiscrimination laws is applied differently and entails different administrative filing deadlines, statutes of limitations, and administrative and court-ordered remedial procedures.

Second, the Commission should propose alternative dispute resolution methods that will adequately protect victims of discrimination while easing the increasing litigation in this area.

HEALTH AND SAFETY LAWS

Problems with health and safety laws are due, in part, to the fact that they were enacted as a result of individual accidents or events, in the case of the Mine Safety and Health Act [MSHA], or in response to the politics of the moment, in the case of Occupational Safety and Health Act [OSHA].

First, the Commission should suggest ways to eliminate duplication of OSHA and MSHA regulations, both between the two laws, and among other Federal laws.

Second, the Commission should review the effectiveness of the current focus under both MSHA and OSHA on enforcement of laws over education efforts and conformance assistance.

WAGE LAWS

Maintaining the prevailing wage standards without review and improvement will continue the trend in Federal contracting of inefficient allocation of labor resources, increased costs, and reduced employment opportunity, especially for semi-skilled and entry-level employees. The evolution of other worker protection laws, and of a more flexible workplace over the last 50 years would make a review of prevailing wage laws appropriate today.

First, the Commission should promote methods to eliminate duplication and overlap among the many wage laws, including the Service Contract Act, Davis-Bacon Act, Walsh-Healy Act, and Fair Labor Standards Act [FLSA].

Second, the Commission should make suggestions as to how these wage laws can better reflect market wage rates over government-imposed wage rates and still protect workers' rights to fair labor rates.

Third, the Commission should suggest an alternative to the current compliance mechanisms employers face in conforming with the overlapping and duplicative requirements established by the numerous wage laws.

Fourth, the Commission should make recommendations on ways to eliminate current barriers to apprenticeships, including the nonportability of my apprenticeship programs, and the limitations placed on apprenticeship programs on Federal projects.

EMPLOYEE BENEFIT AND PENSION LAWS

Improved competitiveness is reliant in large part on the degree to which a labor force is motivated and mobile. As industries change, often requiring workers to learn new skills, relocate, and change jobs, all employees should have greater confidence that their needs will be met through benefit and pension plans.

First, the Commission should make recommendations for improving pension funding standards, which would give employees greater assurance their retirement pensions will be secure when they are needed.

Second, the Commission should propose a system to better protect workers' health and benefit plans in a comprehensive way, making benefit guarantees made to workers in collective bargaining more meaningful, thereby promoting the confidence employees will put in labor-management negotiations.

Third, the Commission should suggest changes to improve the portability of workers' benefit packages, which would match the trend of worker movement among jobs, and would help America's small businesses to compete both nationally and internationally.

EMPLOYMENT AND TRAINING LAWS

Unlike most of its major competitors, the United States lacks a comprehensive system for worker training. The primary Federal training programs, JTPA and apprenticeship, address the fringes of worker training needs.

First, the Commission should propose improvements for Federal worker training assistance to increase the access of all Americans to training programs, and to establish greater national attention on addressing workers' needs in the transition from formal education to the workplace.

Second, the Commission should propose changes to improve the lack of uniform definitions and requirements workers face when enrolling in current Federal training programs.

Third, the Commission should suggest guidelines to transfer the focus on our Federal training programs from providing minimal income maintenace to providing skills building opportunities.

THE GOAL OF THE COMMISSION

Most changes to the Nation's original labor laws have simply been piled upon the original laws, without any comprehensive review of the workplace needs of the day. The compilation of these laws has resulted in complexity, overlap, and duplication.

Today, the Nation faces the challenge of remaining competitive in an increasingly competitive world economy. In order to respond to the challenge, the very foundation upon which the Nation's labor laws are laid must be updated. A Commission, set apart from the partisanship that has pervaded past efforts at reform, can best guide this process.

With the completion of the Commission's work, the Nation's ability to establish a national consensus for labor law reform, and to evaluate, debate, and develop labor proposals in a comprehensive manner will be greatly enhanced.

IN SUPPORT OF INTERIOR APPROPRIATIONS MEASURE—H.R. 2686

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. ECKART] is recognized for 5 minutes.

Mr. ECKART. Mr. Speaker, today I rise to express my support for the Interior Appropriations measure, H.R. 2686. It contains necessary funding for many historically significant and technologically important programs, two of which are in my home State of Ohio.

One such allowance is for the James A. Garfield National Historic Site, popularly known as Lawnfield. James A. Garfield, as you all know, was the 20th President of the United States. To commemorate President Garfield, Congress passed a law designating his home in Mentor, OH, as a national historic site. Since 1990, the Appropriations Committee, and the Congress, has recognized the historical significance of Lawnfield and has provided the necessary funds to preserve and maintain this site for future generations.

Second, the bill funds advanced short- and long-term battery research for electric vehicles. In my district, there is a small company called Eltech, which has been the lead researcher in the field of aluminum-air batteries.

Aluminum-air research is important in that it is one of the few systems presently under development that would be capable of powering an electric vehicle for more than 300 miles between charges. Even then, only water need be added.

General Motors, Ford, and Chrysler have formed the U.S. Advanced Battery Consortium to develop a practical battery to meet the short term requirements of the Los Angeles Air Quality Board [AQB] initiative. The AQB initiative requires the use of electric vehicles to comply with strict smog control laws. Starting in 1998, 2 percent of all new cars sold in the State must be electric—roughly 40,000 electric vehicles, that year alone. This requirement grows to 10 percent of all new vehicle sales being electric by 2003—about 200,000 a year.

The cumulative number of electric vehicles, roughly 520,000, constitutes a real, effective market for the electric vehicle industry. In fact, New York, the second largest auto market after California, has also effectively adopted the California standards as of 1993.

The Interior appropriations measure funds advanced battery research at $55 million. This is a worthwhile endeavor in that the report language allows small business, such as Eltech in Ohio, to compete with the big three in Michigan for scarce Federal dollars for worthwhile research and development projects.

Eltech's aluminum-air research is near commercial application. I continue to believe the program has excellent long-mission applications. Furthermore, aluminum-air does not produce any environmentally detrimental emissions.

This appropriation is a good bill. I wish to thank the chairman of the Interior Appropriations Subcommittee, Chairman YATES, for all the hard work both he and his staff have put in on this measure, and I urge my colleagues to vote for passage of this legislation.

CRISIS IN YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY], is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I come to the floor tonight to share with my colleagues my continuing concern about the political crisis in which the nation of Yugoslavia finds herself, and which threatens even within hours to push that nation to the brink of collapse.

As my colleagues know, the Republic of Slovenia has announced its intention to formally secede from Yugoslavia tomorrow. The Republic of Croatia has announced its intention to follow suit within several days.

Mr. Speaker, I cannot emphasize enough how important it is that Yugoslavia remain united during these very difficult and unstable times in Eastern Europe.

As the nations of Western Europe throw down barriers within the context of the EEC, and as the nations of Eastern Europe pull further away from their legacies of economic ruin and political repression under their former Communist overlords, Yugoslavia tonight is moving in a backward direction.

Rather than tearing down barriers and pulling closer together, Yugoslavias republics have come to the brink of cutting even the tenuous ties which continue to bind that nation.

Both the Bush administration, through the personal visit to Belgrade last week of Secretary of State James Baker, and the members of the European Community have warned Slovenia and Croatia that they will find neither diplomatic recognition nor economic assistance following a unilateral decision on their part to quit the Yugoslav system and declare themselves independent.

I credit all those who have been working feverishly over the past several hours and days to impress on the leaders of Slovenia and Croatia just how important a unified Yugoslavia is at this time.

Certainly President Bush and the administration are to be commended for the very firm position that they have taken on this issue and their valuable contribution to those voices which are calling for Yugoslavia to remain united for the benefit of all of the citizens of that nation.

Also deserving great credit for his leadership and statesmanship during this very difficult period is Yugoslav Prime Minister Ante Markovic. His arguments on behalf of the continued unity of his nation have been both eloquent and persuasive, and certainly his efforts have been one of the few positive signs on the horizon that give many of us hope that Yugoslavia will indeed be able to weather this latest storm.

The fact that Mr. Markovic's ethnicity is Croatian also gives credence to the fact that the issue of the unity of Yugoslavia is not one of Serb interests versus Croat interests or Slovenian interests versus Macedonian interests.

All the people of Yugoslavia, in my opinion, have very high stakes in the nation of Yugoslavia, and perhaps no one has expounded the reasons for this as persuasively as Prime Minister Markovic, and I commend him for his leadership role during this time of crisis.

Because the stakes are indeed so high, I would like to take a brief period of time this evening to share with my colleagues some of the reasons why I think it is so important for Yugoslavia to remain united at this time.

I also will discuss why I strongly believe that the destruction of Yugoslavia at this very crucial time in the history of Eastern Europe is very dangerous, not only for the citizens of Yugoslavia, but for the stability of the entire region as well.

Mr. Speaker, it always has been my personal belief that it is in the best interests of the United States and the West, as well as the people of Yugoslavia, for that nation to remain united in some type of federal structure.

I would note that in addition to this being the strong position of the Bush administration, this view has been shared by United States administrations since the end of World War I actually, which is when the Kingdom of Slovenes, Croates, and Serbs was founded. And it was founded on a voluntary basis, when the Slovenes and the Croates said they wanted to join up then with the Kingdom of Serbia. And also it has been true that this view has been shared since World War II by the European Community as well.

But it is also a view that has come under increasing attack, not only within certain of the Republics of Yugoslavia, but in some international circles as well, especially as the most recent political crisis has worsened.

With the collapse of Communist hegemony in Eastern Europe, a nonaligned Yugoslavia serving as a buffer between Western Europe and the Warsaw Pact nations no longer has the military and political significance that it once did.

It is my opinion, however, that as Eastern Europe and the Balkans begin to rebuild themselves after more than four decades of Communist mismanagement, the stabilizing force of a united Yugoslavia in the region will be a significant factor to overall stability in that part of the world.

This view is not one which I alone share. In a recent visit to Washington, the speaker of the Greek Parliament shared with me the concerns of his country about how the breakup of Yugoslavia could negatively impact upon the entire region of the world that is already strained from the massive changes it has undergone in such a short period of time.

But even if it were not for the West's security and stability interests in a continued united Yugoslavia, I very much believe that it is very important to the interests of Yugoslavia's citizens to remain united under a single umbrella.

This is true first for economic reasons. An often told joke around Washington is that in 2 years there will be seven nations in Europe; the ECC and the six Republics of Yugoslavia. This joke illustrates a very serious point.

As I mentioned earlier, while the nations of Europe are tearing down barriers and becoming closer economic partners, for the Republics of Yugoslavia to tear ties and move further apart would only work against all of their economic interests.

But the Yugoslav people's interests in a continued united Yugoslavia runs deeper than economic interests. Peoples of the various ethnic groups which comprise Yugoslavia do not all live neatly in territories and republics in which they are the exclusive ethnic group.

Rather, Yugoslavs of various ethnicities are scattered throughout each and every republic that comprises Yugoslavia. Serbs live in Croatia and Bosnia, Croats live in Slovenia and Macedonia, Albanians and Hungarians live in Serbia, and the list goes on.

A mere separation of the various republics will not end the ethnic controversies that plague Yugoslavia at the moment. Rather, it only will worsen the situation for all minorities, since any institution with competence to intervene on their behalf will no longer exist.

Mr. Speaker, it is very clear to me that while there is no easy solution to Yugoslavia's current crisis, one option that is simply no solution at all; namely, the destruction of that country.

Now is the time for all concerned parties who have the future interests of the Yugoslav people at heart, as well as those of us who see Western interests in the region tied to the continued existence of Yugoslavia, to join Prime Minister Markovic, President Bush, and the leaders of the European Community in giving the Yugoslavs signs of our confidence and support.

This body took a very important step in that direction last week during our consideration of the 1992–93 foreign assistance authorization bill. As my colleagues will recall, we included in that bill very strong language expressing the support of this body for Yugoslavia as a nation and as a federal system.

In that same bill this House rejected amendments offered with the intent of weakening United States commitment to the Yugoslav system and in essence directing the United States to deal with the Yugoslav republics on an individual basis.

This amendment when introduced caused great concern overseas, and I can tell you that the leaders whose efforts President Bush and many of us are supporting in the hopes of keeping Yugoslavia together were truly bolstered by this body's action in rejecting that language.

Again, Mr. Speaker, the House showed great wisdom in rejecting, overwhelmingly rejecting, language labeling the Serbians as the oppressors in Yugoslavia's troubled Province of Kosovo, and that that would appear to be the only area where there are ethnic problems.

This vote, in addition to a similar one during the last Congress, was a clear sign that in this body campaigns of various kinds, including distortion and questionable statement cannot override the truth on issues of historic and human rights significance.

In the final analysis, our actions last week provided the strongest possible support this House could express for Yugoslavia, and I do know that our actions are appreciated by Prime Minister Markovic and are a positive step along this very treacherous road that Yugoslavia is walking in the fight for its survival.

Mr. Speaker, I thank my colleagues for allowing me to share my thoughts on this matter with the House. I know this is a subject about which many of us are concerned, as many personally have expressed those concerns to me.

I am very pleased to have had the opportunity this evening to go on record in reaffirming my support for a decades-old venerable American policy of support for Yugoslavia, a nation which has been a longtime friend of the United States.

INTRODUCTION OF LEGISLATION TO HONOR AND ASSIST AMERICAN INDIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 60 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, today I have taken out this special order to provide information concerning three pieces of legislation that I have introduced designed to honor and assist the American Indians. I have introduced House Joint Resolution 182 to set aside the month of November to honor the American Indian people. The resolution is a recognition of the achievements of the native Americans as well as their contributions to the foundation and development of America. I have also introduced H.R. 1690 to establish a native American university where young native Americans can pursue a higher education in an environment that is sensitive to their culture and tradition. Mr. Speaker, I have also introduced H.R. 1996 which will provide for the election of four American Indian delegates to the House of Representatives. It will correct an error that has been perpetuated for 200 years and provide the native Americans with direct representation in Congress.

Mr. Speaker, House Joint Resolution 182, a bill designating November 1991, as National American Indian Heritage Month will not make up for the hardships suffered by the American Indians of the past or placate the Indians of the present, and it does not presume to do so. The time is long past for accusations and finger pointing. Our country can never undo the damage it has done to the Indians. We cannot expect to repay the debts of our forefathers. Instead we should focus on establishing a relationship with the Indians based on mutual trust, understanding and acceptance.

The American Indians have much to be honored for. Had it not been for the American Indians, the first Pilgrims would not have survived those first few years. It was through the Indians' knowledge of hunting, fishing, and farming that the first settlers learned to exist in this land, and it was through the generous nature of the Indians that those people were able to make a home on this continent. Our children are taught about the Indians teaching the early settlers how to grow corn and squash, how to fertilize the ground to make it more productive, and how to utilize their crops in many different ways. Many of the social events of the early colonists can be traced to the Indian tribes in the area. Even the first Thanksgiving dinner was a tradition that the Indians had been practicing for many years.

Mr. Speaker, the Revolutionary War would have been much different without the assistance of the Indians. They generously and uninhibitedly shared their knowledge of the land and freely gave advice concerning tactical and military strategies. Without this the Revolutionary War would have been much bloodier and much more tragic than it is recorded.

It was the American Indians who led many troops through the woodlands and forests. It was their knowledge of the terrain that safely guided many of our soldiers through battles over unfamiliar ground. It was the aid and assistance of the American Indians that helped Gen. George Washington and his troops through that terrible winter at Valley Forge; it was the American Indians who brought those men food and medicine to help them survive. It was the American Indians who taught our soldiers warfare tactics and the art of ambush; the American Indians gave us that extra element of surprise that helped us win the War for Independence. It is time to give credit where credit is due, and I hope this bill takes a step in that direction.

Mr. Speaker, the Indians are also largely responsible for many of the principles that founded the Government of our great Nation. The Declaration of Independence and the Constitution contain several of the principles that governed the great Indian confederacies. They believed in a balance of power, a separation of powers as well as government by representation. The American Indian held dear the idea of freedom of speech and the right to peaceably assemble. All of these ideas and principles were incorporated into the political and social systems of various American Indian nations.

In the 1500's an Indian of the Huron Tribe named Deganawidah had a dream about a wonderful tree, the tree of "great peace." The roots of the tree were made up of the Mohawk, Onondaga, Cayuga, Seneca, and Oneida Tribes. Deganawidah traveled among the tribes and told them of his dream. Although the tribes were not on friendly terms they all realized the wisdom behind the tree of "great peace." Because each of these tribes had fallen victim to larger neighboring tribes, they recognized the protection that could be found in unifying their powers. Thus, almost 300 years before the establishment of the U.S. Constitution, the Iroquois Nation was formed. This nation was a democracy with an oral constitution and a governing council made up of representatives from each individual tribal state.

In 1744, at a meeting of the Iroquois council. The great Chief Cansatego advised the Virginia Colonial Governor:

> Our wise forefathers established union and amity between five nations. This has given us great weight and authority with our neighboring nations and by observing the same methods our wise forefathers have taken. You will acquire such strength and power.

This democracy that we as Americans take so much pride in is a direct result of the previously successful model of the Iroquois confederacy. American ideals are rooted deeply in the ideas of the enlightenment with philosophers the like of John Locke and John Stuart Mill. Let us give credit to the Indian people who had parallel ideas hundreds of years before. Let us give them a part of the homage we pay to the European and Greek philosophers credited with developing the idea of democracy.

Mr. Speaker, the American Indian can lay claim to many of the medicinal cures in modern medicine. Many of the herbs and roots used by Indian healers are still used as the basis of some of the medical advancements to our modern world.

Mr. Speaker, American Indians have played a key role in the defense of this Nation. Since the time of the Revolutionary War the Indians have served this country. Whenever the call has gone out to help defend this Nation and all that it stands for. American Indians have answered that call in a far greater percentage than most other segments of our country. In World War II the Navajo Code Talkers were used to transmit messages in their own language which contributed to the secrecy of American military operations. Jack Montgomery, a Cherokee, and Ernest Childers, a Creek, both of the famous Thunderbird Division, were awarded the Congressional Medal of Honor in Europe. Ira Hayes, a marine from the Pima Tribe, helped raise the flag at Iwo Jima. An Osage from the Army Air Corps, Gen. Clarence Tinker, died in the Pacific, and Brummett Echohawk from the Pawnee used his expertise to train commandos in hand-to-hand combat.

The American flag that symbolizes freedom and hope, the emblem of all we cherish as a nation, has covered countless caskets containing the remains of American Indians who have died to protect the land that was once theirs. American Indians have died to defend the rights and freedoms that they held so dear in the hope that those rights and freedoms would one day be extended without hesitation to them. Can we continue to deny them the honor they deserve?

Mr. Speaker, the Indians today are faced with a generation of youth dealing with a serious identity crisis. Young American Indians are having difficulty defining who and what they are. They are faced with a culture that is slowly being overtaken by the modern world yet they can find no acceptance in a world that has for so long ignored them. Young Indians today are faced with declining cultures and a stereotype of all Indians as savage and bloodthirsty. Designating November as National American Indian Heritage Month will help to restore some measure of pride and identity to these young people. It will provide the recognition that every young child is hungry for.

By setting aside a special time to honor American Indians and their culture. We will be letting the young Indians of today know that we as a nation honor their heroes and their accomplishments. We can help provide the young people with the hope to aspire to higher and more ambitious goals. We can help them find the courage to achieve their goals and in turn add their contribution to the needs of mankind.

Mr. Speaker, I firmly believe that by doing this we will be able to let future generations of American Indians know that we respect who they are. That we take pride in their contributions and we can give back to them what history has tried to deny them. Their great cultural heritage and history.

National American Indian Heritage Month will also provide an opportunity for non-Indians to better understand these people who have been a mystery for so long. It is time we faced up to our conscience and recognize the American Indians for what they are: an honorable people who have long been misunderstood, a people who desire to partake of the same freedoms we enjoy, a people who want to live in peace with the land and their surroundings, a people who are humble and are struggling to retain the identity that has been taken away from them, and above all a people who laugh and love just as we do.

In a book entitled,"Custer Died for Your Sins," Mr. Vine Deloria, Jr., explains the Indian dilemma. Mr. Speaker, I would like to share a quote from this book:

> The deep impression made upon American minds by the Indian struggle of the last century has made the contemporary Indian somewhat invisible compared with his ancestors. * * * Indians are probably invisible because of the tremendous amount of misinformation about them. Most books about Indians cover some abstract and esoteric topic of the last century. Contemporary books are predominantly by whites trying to solve the "Indian problem". Between the two extremes lives a dynamic people in a social structure of their own, asking only to be freed from cultural oppression.

Mr. Speaker, it is time that we recognize that the American Indian is different, not inferior or superior, but different. Once again quoting from Mr. Deloria's book:

> One of the foremost differences separating white and Indian was simply one of origin. Whites derived predominately from western Europe. The earliest settlers on the Atlantic seaboard came from England and the low countries. For the most part they shared the common experiences of their people and dwelt within the world view which had dominated western Europe for over a millennium.
>
> Conversely Indians had always been in the Western Hemisphere. Life on this continent and views concerning it were not shaped in a post-Roman atmosphere. The entire outlook of the people was one of simplicity and mystery, not science or abstraction. The Western Hemisphere produced wisdom: Western Europe produced knowledge.
>
> Perhaps this distinction seems too simple to mention. It is not. Many is the time I have sat in congressional hearings and heard the chairman of the committee crow about "our" great Anglo-Saxon heritage of law and order. Looking about the hearing room I saw row after row of full-blood Indians with blank expressions on their faces. As far as they were concerned, Sir Walter Raleigh was a brand of pipe tobacco that you got at the trading post.
>
> When we talk about European background, we are talking about feudalism, kings, queens, their divine right to rule their subjects, the Reformation, Christianity, the Magna Carta and all of the events that make up European history.
>
> American Indians do not share that heritage. They do not look wistfully back across the seas to the old country. The Apache were not a Runnymede to make King John sign the Magna Carta. The Cherokee did not create English common law. The Pima had no experience with the rise of capitalism and industrialism. The Blackfeet had no monasteries. No tribe has an emotional, historical, or political relationship to events of another continent and age.
>
> Indians have had their own political history which has shaped the outlook of the tribes. There were great confederacies throughout the country before the time of the white invader. The eastern Iroquois formed a strong league because as single tribes they had been weak and powerless against larger tribes. The Deep South was controlled by three confederacies: The Creeks with their town system, the Natchez, and the Powhattan confederation which extended into tidelands Virginia. The Pequots and their cousins the Mohicans controlled the area of Connecticut, Massachusetts, Rhode Island, and Long Island.
>
> True Democracy was more prevalent among Indian tribes in pre-Columbian days than it has been since. Despotic power was abhorred by tribes that were loose combinations of hunting parties rather than political entities.
>
> Conforming their absolute freedom to fit rigid European political forms has been every difficult for most tribes, but on the whole they have managed to make the change with varying degrees of success. Under the Indian Reorganization Act. Indian people have generally created a modern version of the old tribal political structure and yet have been able to develop comprehensive reservation programs many of which compare favorably with governmental structures anywhere.

Mr. Speaker, before we can coexist peacefully we need to recognize and accept the fact that the Indians have a different origin and realize that this difference does not make their customs and beliefs wrong. Once we can accept this fact we can come to the point where we realize that we are all members of the human race. Let us give the American Indian a reason to hold on to the hope that they will one day live in peace and harmony with themselves and with their non-Indian brothers and sisters. The Indian culture is one that we have not understood and it is time that we acknowledge that fact.

The proposed Native American Indian Heritage Month is an attempt to acknowledge the Indians and their contributions to the legacy that is America. It is an attempt to restore the Indian heritage to its rightful place in

American history. House Joint Resolution 182 proposes to set aside the month of November to commemorate the achievements of the Indians, both past and present. November is the month that concludes the traditional harvest season of the American Indians and was generally a time of celebration and thanksgiving. With the approach of the 500th anniversary of the arrival of Columbus in the Western Hemisphere, National American Indian Heritage Month provides an opportunity for the people of the United States to consider and reflect upon our Nation's relationship with the American Indians of today.

Mr. Speaker, it is time that we pay attention to the educational needs of the American Indians. It is time to notice the 43-percent high school graduation rate and the underrepresentation of American Indians in institutions of higher education. It is time for this country to do something about it.

American Indians have a 45-percent poverty rate and a 35-percent unemployment rate. They have chronic problems with drugs and alcohol. The rate of teen-age pregnancy in many Indian communities exceeds the rate at the national level. How much longer can we let this tragedy continue? I firmly believe that the American Indians can pull themselves out of their problems if given the right opportunities. Higher education is the most important of these opportunities.

Currently there are 24 tribally operated community colleges in the United States. These 24 colleges have a population of approximately 2 million native Americans to educate. By contrast the black community in this country has at its disposal over 160 colleges and universities.

Mr. Speaker, we often hear that Indians have a negative attitude toward education, and indeed to many they would seem to be apathetic at best. I submit that the educational needs of American Indians are different from those of mainstream society because of their cultural background. Most of the efforts being made today to educate the American Indians compromise or contradict traditional cultural values. Many students of BIA-funded schools do not speak English as their first language. Many come from some environments where poverty and joblessness are pervasive.

Mr. Speaker, with a history like this there is little incentive for native American youth to pursue an education. A more positive perspective toward education needs to be created. The American Indians need to have access to an educational system that conforms to and enhances their way of life. Increased autonomy over the tribal schools is one step toward realizing this goal. The establishment of a national American Indian university is another.

The American Indians need direct control over educational institutions serving their children. They want some method of strengthening the partnership between communities and educational systems. We need to encourage the continuing education of native Americans by establishing a link between native American culture and education. In every instance where this link has been established. The results have been successful. A 1989 issue of education week provides the following:

> In the mid-1800's * * * the Choctaws of Mississippi and Oklahoma had supervised a system of about 200 schools and academies. The Cherokee of Oklahoma, using an alphabet developed by the tribal leader Sequoyah, achieved a literacy rate of 90 percent during the 1850's.
>
> In 1979, the Zuni Tribe in New Mexico concluded a decade-long study that found more than 40 percent of school-age children were not enrolled in school. That same year, Zuni high school graduated recorded average scores just above the 8th grade level on the State's comprehensive test of basic skills.
>
> Ten years later, Superintendent Hayes Lewis of the Zuni Public Schools proudly cites an annual dropout rate of only 3 percent and a 34-percent college-attendance rate among 1988's high school graduates.
>
> He attributes the turnabound to the tribe's decision to break away from a large public-school district and establish its own reservationwide district.

Mr. Speaker, the combination of culture and education really do work; however, the native Amerians need the proper funding to institute such changes. Although there exist 24 tribally operated colleges, they are grossly underfunded and are struggling to meet the educational needs of native American students.

By establishing a national American Indian university we can encourage native Americans to further their education by offering a unique program of study that will not only enhance their self-esteem but break through the barriers and social obstacles that they have been faced with.

Mr. Speaker, I believe that the native American university would also help promote America's appreciation of native American cultural and social values. An institution of this kind would give young native Americans a place to learn without giving up their identities and would help them develop pride in their rich and unique cultural heritage. A native American university would help to correct the underrepresentation of the American Indians in the arena of higher education.

To this end, I have introduced legislation to establish a native American university. H.R. 1690 is an attempt to ameliorate the problems faced by the native American youth. A board of trustees is to be appointed by the Secretary of the Interior to staggered 4-year terms. The university is to provide a focal point at which native Americans could pursue higher degrees within the context of a system which would promote a strong cultural identity. The autonomy of the board of directors will contribute to an educational curriculum that takes into account the unique cultural background of its students.

The Secretary of the Interior shall designate a site that meets with the consent of the board of directors. The land shall be located within the continental United States in an area that provides the maximum opportunity for native Americans to attend. I am proposing that $30 million be appropriated for fiscal year 1993 and $20 million for each of the 5 succeeding fiscal years.

Mr. Speaker, I believe that we have come to the point where we need to address the issue of Indian representation in Congress. The great Indian confederacies utilized the principle of representation in their governing bodies. The larger nations were made up of a union of smaller States. Each State had representatives in the governing council. For 200 years the native American people have not had direct representation in Congress and it is time that this mistake was rectified.

Since 1794 there have been many nonvoting delegates to Congress from various territories or possessions. Arthur St. Clair, former president of the Continental Congress and Governor of the Northwest Territory in 1799, described the role of these delegates.

> This is, gentlemen, a right of no small consequence. For there are many matters of considerable importance to the people that must come before and be decided on by Congress, and can only be advantageously brought forward and managed by their delegate, who although he will have no vote, will not be without influence. And, for the members unaquainted with our circumstances, will naturally be resorted to: and he will have an equal right with the members of the States that compose the Union to propose for their consideration any law that may appear to be useful to the Nation or to the territory.
>
> In the treaties with the Delaware Nation in 1778 and with the Cherokee people in 1785, provisions were made for Indian delegates to Congress. These provision were never implemented. The native Americans need to be provided with a voice in this venerable body. They need to be provided with the means to have their concerns heard and their needs met.

Mr. Speaker, H.R. 1996 will provide for the election of four American Indian delegates to the House of Representatives. These representatives shall be selected on a basis as determined by the Secretary of the Interior. The individuals shall meet all the qualifications necessary for being a Member of this body as well as being enrolled members of an Indian tribe recognized by the Federal or a State Government. With representation in Congress, I believe that the Congress will be better able to provide more appropriate legislation to meet the needs of this long neglected society. We need to involve the Indians more before we legislate to solve their problems.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RHODES (at the request of Mr. MICHEL) for today and the balance of the week on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 60 minutes each day, on July 8, 9, 12, 15, 19, 22, 23, 24, 25, 26, 29, 30, and 31.

Mr. GUNDERSON, for 5 minutes, today.

Mr. MCEWEN, for 5 minutes, today.

Mr. MACHTLEY, for 60 minutes, on July 9.

Mrs. BENTLEY, for 60 minutes each day on July 9, 10, 11, 16, 17, and 18.

(The following Members (at the request of Mrs. MINK) to revise and extend their remarks and include extraneous material:)

Mr. ECKART, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MARTINEZ, for 60 minutes, on June 26.

Mr. OBERSTAR, for 60 minutes, on June 28.

Mr. RUSSO, for 60 minutes each day, on July 9, 10, 16, 17, 23, 24, 30, and 31.

Mr. FALEOMAVAEGA, for 60 minutes each day, on June 26 and 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. DE LUGO, during debate on H.R. 2686 in the Committee of the Whole today.

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. GILMAN.

Mr. WELDON in two instances.

Ms. ROS-LEHTINEN.

Mr. BROOMFIELD in two instances.

Mr. GOODLING.

Mr. RHODES.

Mr. GINGRICH.

Mr. YOUNG of Alaska.

Mr. WYLIE.

Mr. LEWIS of California.

Mr. THOMAS of California.

Mr. FAWELL.

Mr. SOLOMON in two instances.

Mr. BLAZ.

Mr. RITTER.

Mr. SMITH of New Jersey.

Mr. MILLER of Washington.

(The following Members (at the request of Mrs. MINK) and to include extraneous matter:)

Mr. MATSUI in four instances.

Mr. KILDEE in two instances.

Mr. MARKEY.

Mr. RAHALL in two instances.

Mr. VISCLOSKY.

Mr. EDWARDS of California.

Mr. SIKORSKI.

Mr. LEHMAN of California.

Mr. DOWNEY.

Mr. HOYER.

Mr. HOCHBRUECKNER.

Mr. RICHARDSON.

Mrs. BOXER.

Mr. KOSTMAYER.

Mr. WEISS.

Ms. NORTON.

Mrs. COLLINS of Illinois.

Mr. DONNELLY.

Mr. PEASE.

Mr. HUBBARD.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1106. An Act to amend the Individuals With Disabilities Education Act to strengthen such act, and for other purposes; to the Committee on Education and Labor.

ADJOURNMENT

Mr. FALEOMAVAEGA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 40 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 26, 1991, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1616. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the act of August 30, 1890 and the act of March 4, 1907 to eliminate the provisions for permanent annual appropriations to support land grant university instruction in the food and agricultural science; to the Committee on Agriculture.

1617. A letter from the Department of Defense, transmitting an assessment by an organization outside the Department of the staff requirements of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict; to the Committee on Armed Services.

1618. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-46, "Closing of Public Alleys in Square 569, S.O. 89-22, Act of 1991", and Report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1619. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-45, "Real Property Clarification Temporary Amendment Act of 1991", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1620. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-44, "Sursum Corda Cooperative Association, Inc., Temporary Act of 1991", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1621. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-43, "Omnibus Budget Support Temporary Act of 1991", pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1622. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Frank G. Wisner, of the District of Columbia, career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of the Philippines, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1623. A letter from the Department of State, transmitting a report pursuant to 22 U.S.C. 4831; to the Committee on Foreign Affairs.

1624. A letter from the Western Farm Credit Bank, transmitting the annual report for the Eleventh Farm Credit District Employee's Retirement Plan, including the financial report, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1625. A letter from the Administrator, General Services Administration, transmitting a copy of a prospectus for the proposed leasing of One Judiciary Square, 441 Fourth Street NW, Washington, DC, for the Department of Justice, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1626. A letter from the Administrator, General Services Administration, transmitting copies of prospectuses proposing building projects, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

1627. A letter from the Acting Under Secretary, Department of Defense, transmitting the report on Department of Defense Procurement from Small and Other Business Firms for the period October 1990 through March 1991, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

1628. A communication from the President of the United States, transmitting a copy of a proclamation that extends nondiscriminatory treatment to the products of the Mongolian People's Republic; also enclosed is the text of the "Agreement on Trade Relations Between the Government of the United States of America and the Government of the Mongolian People's Republic, pursuant to 19 U.S.C. 2437(a) (H. Doc. No. 102-104); to the Committee on Ways and Means and ordered to be printed.

1629. A communication from the President of the United States, transmitting a copy of a proclamation that extends nondiscriminatory treatment to the products of the Republic of Bulgaria; also enclosed is the text of the "Agreement on Trade Relations Between the Government of the United States of America and the Government of the Republic of Bulgaria, pursuant to 19 U.S.C. 2437(a) (H. Doc. No. 102-105); to the Committee on Ways and Means and ordered to be printed.

1630. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to amend the Social Security Act and the Internal Revenue Code of 1986 to make changes related to the old-age, survivors, and disability insurance program and the supplemental security income program, and for other purposes; to the Committee on Ways and Means.

1631. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend section 3413 of title 12, United States Code, to add an exception authorizing financial institutions to disclose to the Department of Veterans Affairs the names and current addresses of their customers who are receiving payments, by direct deposit of electronic funds transfer into their accounts, of compensation, dependency and indemnity compensation, or pension benefits under title 38, United States Code; jointly, to the Committees on Banking, Finance and Urban Affairs and Veterans' Affairs.

1632. A letter from the Director, Office of National Drug Control Policy, transmitting a draft of proposed legislation to expand the Nation's drug treatment capacity, promote drug-free and safe schools, require statewide drug abuse prevention and treatment plans, and ensure that new Federal grant dollars provided for treatment services do not displace State dollars; jointly, to the Committees on Energy and Commerce and Education and Labor.

1633. A letter from the Secretary of State, transmitting the administration's views on China's human rights, proliferation and trade practices; jointly, to the Committees on Ways and Means and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 2280. A bill to amend title 38, United States Code, to extend and improve veterans' health care programs; with amendments (Rept. 102–130). Referred to the Committee of the Whole House of the State of the Union.

Mr. BROWN: Committee on Science, Space, and Technology. H.R. 2282. A bill to amend the National Science Foundation Authorization Act of 1988, and for other purposes; with an amendment (Rept. 102–131). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARDIN:

H.R. 2742. A bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes; to the Committee on Ways and Means.

By Mr. GILMAN (for himself, Mr. SOLOMON, Ms. PELOSI, and Ms. SLAUGHTER of New York):

H.R. 2743. A bill to amend the Tariff Act of 1930 to require the Secretary of the Treasury to impose civil penalties for the importation or transportation of goods made in a foreign country with the use of forced labor, and for other purposes; jointly, to the Committees on Ways and Means, the Judiciary, and Energy and Commerce.

By Mr. GILMAN (for himself, Mr. SOLOMON, Ms. PELOSI, and Ms. SLAUGHTER of New York, and Mr. HALL of Ohio):

H.R. 2744. A bill to prohibit the entry into the United States of items produced, grown, or manufactured in the People's Republic of China with the use of forced labor; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. BURTON of Indiana:

H.R. 2745. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize reimbursement of certain expenditures by operators of privately owned reliever airports; to the Committee on Public Works and Transportation.

By Mrs. COLLINS of Illinois (for herself, Mr. KOSTMAYER, and Mr. TORRES):

H.R. 2746. A bill to develop, assist, and stabilize recycling markets; to the Committee on Energy and Commerce.

By Mr. GONZALEZ (for himself and Mr. WYLIE (both by request), and Mrs. ROUKEMA):

H.R. 2747. A bill to improve the supervision and regulation with respect to financial safety and soundness of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. DONNELLY:

H.R. 2748. A bill to amend the Internal Revenue Code of 1986 to require recomputations of depreciation determined under the income forecast method, and for other purposes; to the Committee on Ways and Means.

By Mr. GOODLING:

H.R. 2749. A bill to amend the Urban Mass Transportation Act of 1964 to authorize the Secretary of Transportation to make grants for the provision of transportation to individuals with disabilities who hold jobs or are seeking jobs in typical work environments; to the Committee on Public Works and Transportation.

By Mr. PANETTA:

H.R. 2750. A bill to improve the management of the Federal Government by establishing an Office of Federal Management in the Executive Office of the President, and for other purposes; to the Committee on Government Operations.

By Mr. GUNDERSON:

H.R. 2751. A bill to establish the National Commission on American Labor Law; to the Committee on Education and Labor.

By Mr. JONES of North Carolina:

H.R. 2752. A bill to transfer certain lands placed within the Cape Hatteras National Seashore because of an erroneous survey to those individuals claiming the lands; to the Committee on Interior and Insular Affairs.

By Mr. KOLTER:

H.R. 2753. A bill to amend the Motor Vehicles Information and Cost Savings Act to require that passenger motor vehicle repair businesses supply customers with information respecting the origin of parts installed and the cost of available parts, and for other purposes; to the Committee on Energy and Commerce.

By Mr. LEACH (for himself and Mr. PENNY):

H.R. 2754. A bill to amend the Agricultural Act of 1949 to modifying its haying and grazing provisions; to the Committee on Agriculture.

By Mr. MARKEY (for himself, Mr. SOLOMON Mr. WOLPE, and Mr. STARK):

H.R. 2755. A bill to amend the Atomic Energy Act of 1954 to restrict exports of nuclear items to nonnuclear weapon states, and for other purposes; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. MINETA (for himself, Mr. WHITTEN, Mr. MCDADE, and Mr. CLAY):

H.R. 2756. A bill to authorize the Board of Regents of the Smithsonian Institution to plan and design and extension of the National Air and Space Museum to be located at Washington Dulles International Airport, and for other purposes; to the Committee on House Administration.

By Mr. MINETA (for himself, Mr. WHITTEN, and Mr. MCDADE):

H.R. 2757. A bill to authorize the Board of Regents of the Smithsonian Institution to acquire land for watershed protection at the Smithsonian Environmental Research Center, and for other purposes; to the Committee on House Administration.

H.R. 2758. A bill to authorize the Board of Regents of the Smithsonian Institution to acquire an administrative service center, and for other purposes; jointly, to the Committees on House Administration and Public Works and Transportation.

By Mr. MOODY (for himself, Mrs. JOHNSON of Connecticut, Mr. OBEY, Mr. FRANK of Massachusetts, and Mr. ATKINS):

H.R. 2759. A bill to condition the extension of nondiscriminatory [MFN] treatment to China in 1992 upon the determination that the Government of that country does not support or administer programs of coercive abortion or involuntary sterilization; to the Committee on Ways and Means.

By Mr. MOODY (for himself and Mr. GUNDERSON):

H.R. 2760. A bill to amend the Internal Revenue Code of 1986 to provide an exception from the early distribution penalty for any qualified retirement plan distribution which is required on account of financial hardship; to the Committee on Ways and Means.

By Mr. MRAZEK (for himself and Mr. TORRICELLI):

H.R. 2761. A bill to establish a National Magnetic Levitation Design Program, and for other purposes; jointly, to the Committees on Public Works and Transportation, Energy and Commerce, and Science, Space, and Technology.

By Mr. PEASE:

H.R. 2762. A bill to direct the Secretary of Defense to give priority to the Federal Bureau of Prisons in transferring real property or facilities at military installations being closed or realigned; jointly, to the Committees on Armed Services, Government Operations, and the Judiciary.

By Mr. RAHALL (for himself, Mrs. VUCANOVICH, Mr. BREWSTER, and Mr. MCCURDY):

H.R. 2763. A bill to enhance geologic mapping of the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RAMSTAD:

H.R. 2764. A bill to amend the Fair Labor Standards Act of 1938 to provide that an employee shall not be paid overtime compensation for overtime hours worked without authorization; to the Committee on Education and Labor.

By Mr. RAMSTAD (for himself, Mr. DUNCAN, Mr. BARNARD, Mr. HORTON, Mr. RITTER, Mr. CAMP, Mr. MACHTLEY, Mr. TAYLOR of Mississippi, Mr. REGULA, Mr. HOCHBRUECKNER, and Mr. SANTORUM):

H.R. 2765. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate $1 of their income tax liability and some or all of their income tax refunds, and to contribute additional amounts, to be used for purposes of financing drug abuse education programs; to the Committee on Ways and Means.

By Mr. SENSENBRENNER:

H.R. 2766. A bill to amend the Internal Revenue Code of 1986 to exclude from the Social Security tax on self-employment income certain amounts received by insurance salesmen after retirement; to the Committee on Ways and Means.

By Mr. SMITH of New Jersey (for himself, Mr. Dreier of California, and Mr. Saxton):

H.R. 2767. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [Superfund] to provide that municipalities and other persons shall not be liable under that act for the generation or transportation of municipal solid waste; to the Committee on Energy and Commerce.

By Mr. THOMAS of California (for himself, Mr. Matsui, Mr. Herger, Mr. Mineta, Mr. Jacobs, Mr. Vander Jagt, Mr. Sundquist, and Mr. McGrath):

H.R. 2768. A bill to amend the Internal Revenue Code of 1986 to provide for fair treatment of small property and casualty insurance companies; to the Committee on Ways and Means.

By Mr. WALKER:

H.R. 2769. A bill to suspend temporarily the duty on certain mounted television lenses; to the Committee on Ways and Means.

By Mr. BROWN (for himself, Mr. Montgomery, Mr. Hammerschmidt, Mr. Hunter, Mr. Mavroules, Mr. Horton, Mr. Bilirakis, Mr. Jontz, Mr. Perkins, Mr. Harris, Mr. Abercrombie, Mr. Reed, Mr. Bevill, Mr. Poshard, Mr. Swett and Mr. Guarini):

H.J. Res. 280. Joint resolution to designate the week beginning November 10, 1991, as "Hire a Veteran Week"; to the Committee on Post Office and Civil Service.

By Mr. GEPHARDT (for himself and Mr. Michel) (both by request):

H.J. Res. 281. Joint resolution approving the extensions of nondiscriminatory treatment with respect to the products of the Mongolian People's Republic; to the Committee on Ways and Means.

H.J. Res. 282. Joint resolution approving the extension of nondiscriminatory treatment with respect to the products of the People's Republic of Bulgaria; to the Committee on Ways and Means.

By Mr. HYDE:

H.J. Res. 283. Joint resolution to designate the week beginning June 21, 1992, as "Child Support Enforcement Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. MARKEY:

H.J. Res. 284. Joint resolution to designate the second week in April as "National Public Safety Telecommunicators Week"; to the Committee on Post Office and Civil Service.

By Mr. ZIMMER (for himself, Mr. Allard, Mr. Armey, Mr. Goss, Mr. Hobson, Mr. Holloway, Mr. Livingston, Mr. Ramstad, Mr. Santorum, Mr. Saxton, and Mr. Zeliff):

H.J. Res. 285. Joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation and to allow an item veto of appropriation bills; to the Committee on the Judiciary.

By Mr. SOLOMON:

H. Res. 183. Resolution providing for the consideration of the bill (H.R. 1400) the "Comprehensive Violent Crime Control Act of 1991"; to the Committee on Rules.

H. Res. 184. Resolution commending the Reserve components of the U.S. Armed Forces who were called to active duty within the United States during the Persian Gulf conflict; to the Committee on Armed Services.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

202. By the SPEAKER: Memorial of the Senate of the State of Maine, relative to the Centers for Disease Control's surveillance definition of AIDS be revised and expanded; to the Committee on Energy and Commerce.

203. Also, memorial of the Senate of the State of Maine, relative to Federal funding for family planning; to the Committee on Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 25: Mr. Espy, Mr. Morrison, and Mr. Olin.

H.R. 50: Mr. Abercrombie, Mr. Anderson, Mr. AuCoin, Mr. Berman, Mr. Bonior, Mrs. Collins of Illinois, Mr. Cox of Illinois, Mr. DeFazio, Mr. Dellums, Mr. Dixon, Mr. Dymally, Mr. Fazio, Mr. Foglietta, Mr. Frank of Massachusetts, Mr. Glickman, Mr. Gonzalez, Mr. Johnston of Florida, Mr. Lehman of Florida, Ms. Norton, Mr. Panetta, Ms. Pelosi, Mr. Rahall, Mr. Rangel, Mr. Studds, Mr. Towns, Mrs. Unsoeld, Mr. Waxman, Mr. Wolpe, and Mr. Yates.

H.R. 74: Mr. Bonior, Mr. Dwyer of New Jersey, and Mr. Wilson.

H.R. 118: Mr. Lehman of Florida and Mr. Kostmayer.

H.R. 148: Mr. Feighan, Mr. Hoyer, and Mr. Wolf.

H.R. 150: Mr. Shaw.

H.R. 261: Mr. Luken, Mr. Oberstar, Mr. Machtley, Mr. Coleman of Texas, Mr. Hall of Ohio, Mr. Sharp, Mr. McMillen of Maryland, Mr. Goss, Mr. Wylie, Mr. Saxton, Mr. Bryant, Mr. Lewis of Florida, Mrs. Mink, Mr. Pease, Mr. Andrews of Maine, Mrs. Schroeder, Mr. Gilman, Mr. Gejdenson, and Mr. Smith of New Jersey.

H.R. 319: Mr. Bonior.

H.R. 330: Mr. Frank of Massachusetts and Mr. Clay.

H.R. 415: Mr. Gingrich.

H.R. 446: Mr. Neal of North Carolina and Mr. Markey.

H.R. 585: Ms. Norton.

H.R. 710: Mr. Jefferson, Mr. Duncan, Mr. Reed, Mr. Jacobs, Mr. Hyde, Mr. Paxon, Mr. Chapman, and Mr. Peterson of Florida.

H.R. 763: Mr. Espy and Mr. Foglietta.

H.R. 793: Mr. Mavroules, Mr. Wilson, Mr. Solarz, Mr. Kolbe, Mr. de la Garza, Mr. Young of Alaska, Mr. Towns, Mr. McEwen, Mr. Oberstar, Mr. Houghton, Mr. Cardin, Mr. Annunzio, and Mr. Kildee.

H.R. 800: Mr. Rangel, Mr. Dellums, Mr. Serrano, Mr. Waxman, Mr. Synar, Mr. Owens of New York, Mr. Dwyer of New Jersey, Mr. Wise, Mr. Roe, Mr. Torres, Mr. Lancaster, Mr. Ravenel, Mrs. Lloyd, Mrs. Lowey of New York, Mr. Chapman, and Mr. Fascell.

H.R. 840: Mrs. Collins of Illinois, Mr. Wise, Mr. Sawyer, Mr. Eckart, Mr. McEwen, Mr. AuCoin, Mr. Gordon, and Mr. Mollohan.

H.R. 888: Mr. Dellums.

H.R. 944: Mr. Kanjorski and Mr. Zimmer.

H.R. 1031: Mr. Ramstad.

H.R. 1084: Ms. Norton and Mr. Cox of California.

H.R. 1115: Mr. Kopetski and Mr. Lipinski.

H.R. 1145: Mr. Miller of California.

H.R. 1184: Mr. Hansen.

H.R. 1188: Mr. Wolpe.

H.R. 1197: Mr. Coleman of Texas, Mr. Derrick, Mrs. Lowey of New York, Mr. McGrath, Mr. Ray, Mr. Reed, Mr. Rose, and Ms. Slaughter of New York.

H.R. 1216: Mr. Markey.

H.R. 1241: Mr. Baker, Mr. Traficant, Mr. Washington, and Mr. Wylie.

H.R. 1277: Mr. Jones of North Carolina, Mr. Rose, Mr. Campbell of Colorado, Mr. Valentine, Mr. Stallings, Mr. Coble, Mr. Alexander, Mr. Bustamante, Mr. Pursell, Mr. Laughlin, Mr. Lehman of California, Mr. Gaydos, and Mrs. Mink.

H.R. 1300: Mr. Rahall.

H.R. 1348: Mrs. Morella, Mr. Espy, Mr. Packard, Mr. Gallegly, Mr. Berman, Mr. Nagle, Mr. Barnard, Mr. Hatcher, Mr. Lewis of Georgia, Mr. Kopetski, and Mr. Schiff.

H.R. 1406: Mr. Mrazek, Mr. Staggers, Mr. Marlenee, Mr. Morrison, Mr. Hobson, Mr. Young of Florida, Mr. Shaw, Mr. Fish, Mr. Natcher, Ms. Oakar, Mr. Kostmayer, and Mr. Murphy.

H.R. 1430: Mr. Moran and Mr. Olver.

H.R. 1450: Mr. Walsh, Mr. LaRocco, Mr. Smith of Texas, Mr. Price, and Mr. Flake.

H.R. 1515: Mrs. Lowey of New York, Mr. Evans, Ms. Slaughter of New York, Mr. Machtley, Mr. Zimmer, Mr. Miller of Washington, Mr. Grandy, Mr. de Lugo, Mr. Carper, Mr. Owens of New York, Mr. Dornan of California, Mr. Horton, Mr. Nagle, Mr. Fascell, Mr. Jacobs, Mr. Richardson, Mr. Stallings, Mr. Lancaster, Mr. Lightfoot, and Mr. Bonior.

H.R. 1516: Mr. Wilson and Mr. Peterson of Florida.

H.R. 1523: Mr. Marlenee and Mr. Broomfield.

H.R. 1531: Mr. Eckart, Mr. Young of Alaska, and Mr. Costello.

H.R. 1570: Mr. Fish, Mr. Scheuer, Mr. Wise, Mr. Wilson, Mr. Geren of Texas, Mr. Solomon, and Mr. Gingrich.

H.R. 1608: Mr. Gunderson, Mr. Schiff, Mr. Hochbrueckner, Mr. Richardson, Mr. Smith of New Jersey, Mr. Shaw, Mr. Dymally, and Mr. Wilson.

H.R. 1663: Mr. McCloskey.

H.R. 1719: Mr. Price and Mr. Armey.

H.R. 1771: Mr. Annunzio, Mr. Bryant, Mr. Gilchrest, Mr. Gradison, Mr. Machtley, Mr. Pallone, Mr. Pease, Mr. Price, Mr. Valentine, and Mr. Wylie.

H.R. 1779: Mr. Serrano and Mr. Natcher.

H.R. 1802: Mr. Upton.

H.R. 1820: Mr. Kolter, Mr. Ford of Tennessee, Mr. Abercrombie, Mr. Dicks, Mr. Rangel, Mr. Miller of Washington, and Mr. Wolpe.

H.R. 1840: Mr. Baker.

H.R. 1968: Mr. Campbell of California.

H.R. 2008: Mr. Zimmer and Mr. Cox of California.

H.R. 2011: Mr. Kildee.

H.R. 2029: Ms. Norton.

H.R. 2030: Mr. Rangel.

H.R. 2076: Mr. Ackerman, Mr. Stark, Ms. Kaptur, Mr. Espy, Mr. Boehner, Mr. Torres, and Mr. Serrano.

H.R. 2188: Mr. Hunter.

H.R. 2212: Ms. DELAURO and Mr. RAMSTAD.

H.R. 2222: Mr. SANTORUM, Mr. COX of California, Mr. ARMEY, and Mr. KOLBE.

H.R. 2243: Mr. JEFFERSON, Mr. TOWNS, and Mr. DELLUMS.

H.R. 2279: Mr. OLVER, Mr. GEJDENSON, and Mr. LANTOS.

H.R. 2298: Mr. JONTZ, Mr. BERMAN, Mr. DELLUMS, Mr. HAYES of Illinois, Mr. LEHMAN of Florida, Mr. STARK, Mr. EMERSON, and Mr. TRAFICANT.

H.R. 2305: Mr. PETRI.

H.R. 2315: Mr. BEILENSON, Mr. SLATTERY, and Mr. LEVINE of California.

H.R. 2333: Mr. BUSTAMANTE, Mr. LEACH, and Ms. KAPTUR.

H.R. 2363: Mr. MINETA, Mr. MARTIN, Mr. BILBRAY, Mr. SAXTON, Mr. ALLARD, and Mr. MFUME.

H.R. 2380: Mr. KOSTMAYER and Ms. KAPTUR.

H.R. 2391: Mr. BLAZ.

H.R. 2392: Mr. BLAZ.

H.R. 2452: Mr. PENNY, Mr. MILLER of California, and Mr. WILSON.

H.R. 2499: Mr. KYL, Mr. JEFFERSON, Mr. MARTIN, Mr. BROWN, and Mr. SMITH of Florida.

H.R. 2511: Mr. KOLTER, Mr. KLUG, Mrs. LOWEY of New York, and Mr. ESPY.

H.R. 2513: Mr. ECKART and Mr. MURTHA.

H.R. 2515: Mr. COSTELLO, Mr. NEAL of North Carolina, Mr. KILDEE, Mr. HUGHES, Mr. NOWAK, and Mr. KANJORSKI.

H.R. 2542: Mr. DWYER of New Jersey and Mr. LAGOMARSINO.

H.R. 2553: Mr. RANGEL.

H.R. 2578: Mr. MCCLOSKEY.

H.R. 2579: Mr. GILLMOR.

H.R. 2584: Mrs. LLOYD and Ms. KAPTUR.

H.R. 2598: Mr. SCHAEFER, Mr. SKEEN, Mr. ZIMMER, Mr. SAXTON, Mr. ROTH, Mr. Jefferson, Mr. MCMILLAN of North Carolina, Mr. JOHNSON of Texas, and Mr. TRAFICANT.

H.R. 2629: Mr. RAVENEL, Mr. RAMSTAD, Mr. HORTON, Mr. ANNUNZIO, Mr. TOWNS, Mr. LIPINSKI, Mr. FRANK of Massachusetts, Mr. SCHEUER, Mr. MAVROULES, and Mr. BRUCE.

H.R. 2630: Ms. ROS-LEHTINEN, Mr. MCGRATH, Mr. RANGEL, Mr. MANTON, Mr. HOCHBRUECKNER, Mr. WEISS, Mr. BERMAN, Mr. HORTON, Mr. GREEN of New York, Mr. LAGOMARSINO, Mr. SCHUMER, and Mr. HYDE.

H.R. 2737: , Mr. DORGAN of North Dakota.

H.J. Res. 1: Mr. BONIOR, Mr. CAMPBELL of California, Mr. CARPER, Mr. COX of Illinois, Mr. HOCHBRUECKNER, Mr. MORRISON, Mr. PANETTA, Mr. PRICE, and Mr. WISE.

H.J. Res. 152: Mr. LEWIS of California, Mr. LIPINSKI, and Mr. COX of California.

H.J. Res. 212: Mr. HUGHES, Mr. MACHTLEY, Mr. MCCLOSKEY, Mr. SYNAR, Mr. HUBBARD, Mr. BROOMFIELD, Mr. SUNDQUIST, Mr. WOLF, Mr. MCDADE, Mr. KANJORSKI, Mr. KENNEDY, Mr. PURSELL, Mr. MFUME, Mr. GUARINI, Mr. MCMILLEN of Maryland, Mr. MCNULTY, Mr. BACCHUS, Mr. SPRATT, Mr. PICKETT, Mr. ROBERTS, Mr. ANTHONY, and Mr. DWYER of New Jersey.

H.J. Res. 239: Mr. MCMILLEN of Maryland, Mr. COX of Illinois, Mr. ASPIN, Mr. TOWNS, and Mr. WILLIAMS.

H.J. Res. 241: Mr. STAGGERS, Mr. FISH, Mr. KENNEDY, Ms. NORTON, and Mr. MFUME.

H.J. Res. 263: Mr. JONES of Georgia, Mr. CONYERS, Mr. LIPINSKI, Ms. NORTON, Mr. BUSTAMANTE, Mr. BALLENGER, Mr. JEFFERSON, Mrs. SCHROEDER, and Mr. SPRATT.

H.J. Res. 264: Mr. BEILENSON, Mr. BUSTAMANTE, Mr. DWYER of New Jersey, Mr. FUSTER, Mr. GEPHARDT, Mr. GOODLING, Mr. LAGOMARSINO, Mr. MOODY, Mrs. MORELLA, Mr. MRAZEK, Mr. ORTON, Mr. PAYNE of Virginia, Mr. SHAYS, and Mr. CARPER.

H. Con. Res. 96: Mr. FISH.

H. Con. Res. 146: Mr. BREWSTER, Mr. WEBER, and Mr. ESPY.

H. Con. Res. 150: Mr. DORGAN of North Dakota, Mr. EDWARDS of California, Mr. JONTZ, Mr. KILDEE, Mr. OWENS of Utah, Ms. PELOSI, Mr. SLATTERY, Mr. TOWNS, and Mr. TRAFICANT.

H. Con. Res. 168: Mr. DORGAN of North Dakota, Mr. EMERSON, Mr. GLICKMAN, Mrs. SCHROEDER, Mr. COX of Illinois, Mr. PETERSON of Florida, Mrs. MORELLA, and Mr. TOWNS.

H. Con. Res. 170: Mr. BALLENGER and Mr. SCHAEFER.

H. Res. 87: Mr. JACOBS.

H. Res. 167: Mrs. LLOYD, Mr. PALLONE, and Mr. SANGMEISTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2510: Mr. MATSUI.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

94. By the SPEAKER: Petition of Fraternos Del Torito, relative to the conflict in the Persian Gulf; to the Committee on Foreign Affairs.

95. Also, petition of Robert William Peters of Florida, relative to a common law petition for a writ of habeas corpus; to the Committee on the Judiciary.

SENATE—*Tuesday, June 25, 1991*

(Legislative day of Tuesday, June 11, 1991)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The Senate will come to order. In our prayer this morning to the supreme lawgiver of the world, the Senate will be led by the Chaplain, the Reverend Dr. Richard C. Halverson. Dr. Halverson, please.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

Gracious Lord who knows all things, thank You for the words of King David in the Psalms: "* * * thou hast searched me, and known me. * * * thou understandest my thought afar off. * * * and art acquainted with all my ways. For there is not a word in my tongue, but, lo, O Lord, thou knowest it altogether."—Psalm 139:1–4.

As Your servants struggle with complicated issues which demand competent decisions, help them remember they have no secrets from You. Their lives, past, present, and future, are an open book to You. May they find in these words of a great Ruler encouragement and confidence. Inspire them in their deliberations to think the right way and to make the right decision. When there is doubt or ambivalance, lead them in the way of truth and justice and righteousness. Comfort them, gracious Father, with the assurance of the Psalm, "How precious also are thy thoughts unto me, O God! how great is the sum of them!"—Psalm 139:17.

In His name who is the way, the truth, and the life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning there will be a period for morning business not to extend beyond 10 a.m., during which Senators may speak for up to 5 minutes each.

The Senate will resume consideration of the crime bill at 10 a.m., at which time Senator THURMOND or his designee will be recognized to offer a second-degree amendment to the Inouye amendment regarding the death penalty in Indian tribal lands. The Thurmond amendment will be debated under a 30-minute time limitation.

Under a previous order, at 10:30 a.m., following the debate on that amendment, the Senate will return to debate the Thurmond amendment regarding the exclusionary rule, that is amendment No. 368, for 1 final hour of debate on that amendment, previous debate having occurred on that amendment on Friday.

At 11:30 a.m. this morning, the Senate will begin what could be as many as four rollcall votes on amendments which were debated Friday and yesterday, and will be debated this morning. The first vote will be on the Thurmond amendment regarding the exclusionary rule. The second vote will be on the amendment by Senator THURMOND or his designee, the second-degree amendment to the Inouye amendment to which I have previously referred. The third vote will be on the Inouye amendment as amended, if amended. And then the fourth vote would be on an amendment by Senator BIDEN regarding the death penalty for drug kingpins.

Once the vote on the Biden amendment has concluded, the Senate will stand in recess until 2:30 p.m., to accommodate the party conference luncheons. When the Senate reconvenes at 2:30 p.m., Senator SIMON will be recognized to offer an amendment relating to mandatory life imprisonment, on which there will be 1 hour of debate under a previous order. A vote then on the Simon amendment will occur when all time is used or yielded back.

Upon disposition of the Simon amendment, Senator HATFIELD will be recognized to offer an amendment regarding the televising of executions. That amendment will be considered under a 90-minute time limitation, under a previous order. Under the agreement, Senator HATFIELD may withdraw his amendment if he so chooses.

Mr. President, that is the schedule for the early part of today's session. So Senators are on notice, and have been since Friday, that a vote will occur at 11:30 a.m. this morning and it will be followed by as many as three others immediately, and at least one or two others following the party luncheons. We will then continue on the bill following the disposition of all of the amendments to which I have referred and Senators may expect rollcall votes throughout the day and into the evening. The Senate is going to be in session well into the evening as we attempt to make further progress on this important bill.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the order the Senate will now transact morning business.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Maryland, [Ms. MIKULSKI], is recognized for not to exceed 5 minutes.

Ms. MIKULSKI. I thank the Chair.

(The remarks of Ms. MIKULSKI pertaining to the introduction of S. 1361 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. MIKULSKI. Mr. President, I yield back such time as I requested and have not consumed. I also suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator is recognized for up to 5 minutes.

THE SHIPBUILDING INDUSTRY

Ms. MIKULSKI. Mr. President, while I was speaking, I noted a page brought a note to me that I would like to just bring to the Senate's attention. The note says: "Forty-eight years ago, I was a welder in your Baltimore shipyard. Bob Byrd."

That is Mr. BYRD, the distinguished Senator from West Virginia, who is the Presiding Officer today. So, Mr. President, you know exactly what I am talking about. Forty-eight years ago, we had over 45,000 people working at both Bethlehem Steel yard and Maryland shipyard. As I recall, when you were there, I was a little girl—actually I was about 7 years old, Mr. President—

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

and not much shorter than what I am today.

Mr. President, I recall the great effort the shipbuilding industry made during World War II. As I understand it, because of dedicated people like you in the yard, we turned out Liberty ships about one every 2 weeks, those gallant ships that we loaded with cargo and personnel and sailed the North Atlantic with the merchant seamen fleet, and we showed that we could outwork, outproduce, outwit any foe in the world because we were the Americans. And people like yourself were part of that significant war effort.

So, Mr. President, I did not know that you were once a Maryland constituent. I knew there were some things special about that yard. And you know of what I speak.

So I just wanted the Senate to note that when we are working on this legislation, if they want to know about shipyards, they cannot only talk with Senator BARBARA MIKULSKI but they can talk with Senator BOB BYRD who knew what it was like to work with his hands, put his heart in it, and then go on to do other great things for this country.

Mr. President, I yield back the floor and suggest the absence of a quorum.

The PRESIDENT pro tempore. The point of no quorum having been raised, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PETER GREGERSON, SR., GADSDEN, AL

Mr. HEFLIN. Mr. President, the week of June 23 is National Grocers Week, a time to recognize the entrepreneurial contribution America's retail and wholesale grocers make to keep our economy viable, while providing friendly, hometown service to their customers.

These representatives of our great food distribution industry will be in Washington, DC, during this week, making their concerns and contributions known. "Grocers Care" is the theme of the conference, recognizing their support of "A Healthy America" with involvement in charitable organizations such as the American Cancer and Heart Associations; "A Clean America" with contributions to recycling and the environment; and "A Proud America" with grocers' civic and patriotic endeavors.

I am proud to recognize and include in today's RECORD the activities of Alabama's member:

Mr. Peter Gregerson, Sr., of Gregerson's Foods, Inc., in Gadsden is truly committed to his community. Consider these undertakings:

Joining with other local businesses to set up a recycling center, including a special program to encourage recycling by all local schools; founding president of the clean and beautiful commission, the results of which earned all American city recognition; contributions of a sales percentage to support local schools, as well as percentage rebate programs for senior citizens; support to literacy and scholarship programs; United Way and American Heart Association commitments.

Mr. Gregerson deserves our recognition and the support of investing ourselves in our communities, as is his example.

STARS AND STRIPES OVER JACKSON COUNTY, AL

Mr. HEFLIN. Mr. President, I rise to pay tribute to the excellent Memorial Day celebration in Jackson County, AL, where about 5,000 people participated in "Stars and Stripes Over Jackson County" at Trammel Stadium in Scottsboro, AL. This celebration was in honor of the deceased of all wars in which the United States had participated. It was a heart-warming event and one in which I was proud to participate.

Mrs. Libby Franklin was the outstanding chairman of this celebration which centered around welcoming home the veterans of Operation Desert Shield and Operation Desert Storm. However, the celebration was not limited to honoring those veterans, but was in honor of all veterans that participated in military activities of the United States from World War I up to the present time. It was also, of course, a memorial service. Former Congressman Robert E. (Bob) Jones was present and added much to the celebration as he always does to patriotic events, especially in his hometown of Scottsboro.

The main speech was delivered by Judge Robert L. Hodges, circuit judge of Jackson County, who made one of the most outstanding Memorial Day speeches that I have ever heard. Therefore, I ask unanimous consent that this speech entitled "Stars and Stripes Over Jackson County" be printed in the CONGRESSIONAL RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

STARS AND STRIPES OVER JACKSON COUNTY BY JUDGE ROBERT L. HODGES

One hundred and twenty-seven years ago, a president of this country stood on a platform at a cemetery in Pennsylvania at the site of one of this country's bloodiest battles, where thousands who had gone to war were buried. He spoke for two and one-half minutes, but the words he uttered on that occasion have lived a century past his death. One phrase of that address comes to me this evening more than any other. He said:

"The world will little note, nor long remember what we say here, but it can never forget what they did here."

Those few words express so clearly what I feel here and now, looking out at this great and glorious gathering to commemorate those who bore arms for this country: those who came back and are here among us, those who came back and have since passed away, and those who never came back. We honor them all this evening. The most powerful feeling I have at this moment, when I contemplate the faces of you who have recently returned, and the faces of those who went before you in this century, is that what you and they have done for my country speaks so clearly and so profoundly and so eloquently that anything I can say, or anyone else upon this platform can say, is like unto the sounding of brass and the tinkling of a cymbal. We come together this evening because we are Americans and because we wish to remember together. Despite the diverse religious convictions represented here, despite the color of skins gathered at this field, and the diversity of racial origins they represent, despite the distance between wealth and proverty that may be present here, despite all our differences, we are all here a part of a majestic homespun quilt, where all those differences are stitched together in a glorious patchwork we call America. And is there anyone tonight who does not, when these flags are flying in the wind of this free country, is there anyone who does not feel the moistening of an eye, the tightening of a throat and a beating in his breast that says to the rest of the world, "I am an American!"

We come to remember what all of you have done, and what those who went before you have done, and some of the remembering is joyous, the little bits of human comedy that alwyas endure in any war, and which make it more bearable for those who fight it, and the joy of coming home. But for those of you who went to war, or whose fathers, mothers, sons and husbands went to war, some of the remembering is painful. And there is something about coming together and remembering together that makes those painful moments easier to bear by sharing them. I have chosen to let you who have shouldered arms do the talking tonight, and those who have gone before and are no more here do the talking, by those deeds you have accomplished, those sacrifices you have given, and they have given, and which, as Abraham Lincoln said, will never be forgotten. And those sacrifices are not only the known ones, the ones recorded in our history books, our family Bibles, and the silent gray marble of our nation's tombstones, but also those sacrifices that are unknown and unrecorded. Those who went into battle unhearalded, unnamed to us now, unwitnesses, and unafraid. You and they speak to us in the names of those places you fought, those which live in the memory of the oldest among you here, the ninety-five year old World War I veteran, and the youngest among you who have just returned to us from the desert. Those places of sacrifice were perhaps unknown to you and them when you went to battle there—perhaps only at the time a tiny village, or a hill numbered on a map, or an unmarked intersection of latitude or longitude on the open sea, or a beach strewn with barbed wire, or perhaps just some jungle clearing known only by a compass bearing and a number of kilometers from the last base camp. But on this night, you speak to all of us, and you call us back to the memory of what you have done for us in just the names of those places that now live in our nation's history. How important it is for America to listen to its sons and daughters who went to war. Hear what they speak to us:

The Argonne Forest and
Verdun and
Chateau Thierry and
Belleau Wood;

Pearl Harbor and
Bataan and
Wake Island and
Kwajalein and Guadalcanal and
Iwo Jima and
Midway and the Coral Sea and
Normandy Beach and
Cherbourg
Saint Mere Eglis,
The Bulge and
Bastogne and Remagen
And Anzio.

Seoul and
Heartbreak Ridge and
Pork Chop Hill and
The 38th Parallel and
Inchon and
The Yalu River and
The Chosin Reservoir and
Hagaru and Koto-ri.

Pleiku and
Da Nang and
Hue and
The Mekong Delta and
Haiphong Harbor.

And now
The Persian Gulf and
The Euphrates River Valley and
Baghdad,
Dahran,
Rhyiyad, and
Basra and
Kuwait City.

For those and thousands of other sacrifices you have given for us, we thank you, but we can never repay you. Your reward, I think is a welcome home to a land you had a hand in preserving. Welcome home, to purple mountain majesties above a fruited plain, to brotherhood from sea to shining sea. To a land where surely God has shed his grace. What do we mean to each other, this land of ours and those of us who live upon it who call themselves Americans? I think it was best said on July 4, 1939 by a young man who stood for his last time in Yankee Stadium in a Yankee baseball uniform. Lou Gehrig, the great Yankee first baseman, at age 36, standing there with the full knowledge that he was dying of an incurable illness, captured in a few words what it means to be an American. He said at that moment:

"I consider myself the luckiest man on the face of the earth."

What more can we say to you who came home from our wars than that? Tonight, when we ponder these flags unfurled in the air of a free country, let us pause together and say: "And so are we, Lou Gehrig, and so are we—the luckiest people on the face of the earth."

God bless each of you, and welcome home.

THE BATTLE OF LITTLE BIGHORN

Mr. BURNS. Mr. President, I rise today to give tribute to a well-known and often controversial historical battle site in my home State of Montana. Today marks the 115th anniversary of the Battle of the Little Bighorn, better known as Custer Battlefield.

Today, this hardy local community relived this famous battle in a reenactment on the Little Bighorn site that is managed by the National Park Service. I applaud the participants that so loyally keep this memory alive by reliving that fateful day in history.

Custer Battlefield National Monument is a living contradiction of heroism. It is the only National Park Service battlefield that was named for the loser of the battle.

Just yesterday the House passed H.R. 848, a bill that renames this historical battle. In addition, this bill calls for the establishment of an honorable monument in memory of the Northern Plains Indians that fought and won that historical battle. The legislation for this monument is embarrassingly long overdue.

Today, Custer Battlefield National Monument is the fourth most-visited Indian battlefield in the United States. In Montana as well as 36 other States in the Union, tourism is the first, second, or third leading industry.

Publicly owned sites such as Custer Battlefield and others provide significant opportunities for communities to develop tourism related economic endeavors that create a positive relationship between public and private sectors.

In every rural community, attention should be paid to the preservation of this country's colorful history. Custer Battlefield is no exception.

Again, I applaud the community members of Hardin, Crow Agency, and the Crow and Northern Cheyenne Tribes, as well as the many others that recreated this famous historical event of June 25, 1876.

Mr. President, I yield the floor.

MAYOR ROBERT STEWART AND THE GREAT HOOSIER CITY OF COLUMBUS

Mr. COATS. Mr. President, I rise today to pay tribute to Mayor Robert Stewart and to the great city of Columbus, IN. On Monday, June 17, Mayor Stewart and Columbus were honored with the 1991 Outstanding City Livability Award by Waste Management of North America Inc., and the U.S. Conference of Mayors. Columbus was 1 of only 10 cities in the United States to be selected for this distinguished award.

Widely noted for its architectural wonders, Columbus is well deserving of national praise. Currently, it ranks fourth behind New York, Los Angeles, and Chicago in contemporary achievement by world famous architects, as attested to by the New York Times and National Geographic magazine.

With a population of just under 33,000, this small community is rich in family tradition and a deep-rooted sense of the American work ethic. Its residents have come together with heartened spirit to aspire to and achieve great things.

Mayor Stewart has been lauded for his leadership in creating outstanding improvement programs for the city which are characterized by a progressive tone aimed at promoting expansion, modernization, and livability. With a bipartisan effort, Mayor Stewart incorporated public, private, and rural components into a working partnership that has become a model for Hoosier cities.

One of the mayor's award-winning efforts is the revitalization of the downtown, including streetscape. This program has been supported by the purchase of bricks for the main street by its citizens, a further example of the community spirit embodied in this extraordinary town. In addition, renovation of the local hospital, city street beautification, restoration of the historic Central Fire Station and Bartholomew County Courthouse, and a new interchange from Interstate 65 to the downtown are joint efforts by the mayor and Columbus residents.

While Mayor Stewart has been in office, the city of Columbus has welcomed the expansion and development of 42 companies. In the same period, the city has added to its local economy $370 million in investments, 3,817 new jobs, and over $3 million in project grants. Already the home of two Fortune 500 companies, Columbus is an example of what is best about the heartland and about America.

On behalf of my fellow Hoosiers, I congratulate Mayor Stewart and the people of Columbus. They are an exceptional group which has enriched our American heritage. Their successful efforts extend beyond the boundaries of Columbus and touch all Americans who are inspired by their dedication and unity.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 2,292d day that Terry Anderson has been held captive in Lebanon.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. ROBB). The period for morning business is now closed.

VIOLENT CRIME CONTROL ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 1241, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1241 to control and reduce violent crime.

The Senate resumed consideration of the bill.

Pending:

Thurmond amendment No. 368, to permit exceptions to the exclusionary rule in searches where there was no search warrant if conforming to the fourth amendment, and to permit the admission into evidence of a firearm however it is seized or found.

Inouye amendment No. 370, to accord Indian Tribal governments a right similar to state governments to determine whether the death penalty should apply to offenses committed by Indians within their jurisdiction.

Biden amendment No. 371, to modify the application of the death penalty with respect to drug kingpins in which no murder has been the direct result of the crime.

The PRESIDING OFFICER. Under the previous order the Senator from South Carolina is recognized.

AMENDMENT NO. 373 TO AMENDMENT NO. 370

(Purpose: To provide for uniform application of the death penalty on Indian lands)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 373 to amendment No. 370.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment, add the following:

"However, the right of the governing body to make an election shall not be allowed if the Indian reservation and its dependent communities are located in a state that provides for a death sentence."

The PRESIDING OFFICER. Under the previous order, the time will be equally divided and controlled by the Senator from South Carolina. The Senator from South Carolina has a total of 30 minutes equally divided.

Mr. THURMOND. Fifteen minutes to the side.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. Mr. President, my amendment narrows the amendment offered by the Senator from Hawaii. Briefly, let me explain my amendment. The Inouye amendment would allow an Indian tribe to choose whether to have the Federal death penalty apply to members of that tribe if the murder occurred on Indian country. My amendment provides that the governing body of an Indian tribe will not be allowed to elect to have the death penalty apply if the Indian reservation is located in a State that provides for a death sentence.

I believe a Federal death penalty should apply uniformly to those who commit heinous murders without regard to ethnic background. This amendment will ensure that the death penalty applies uniformly to all vicious killers. Unfortunately, the Inouye amendment, if adopted, will lead to a lack of uniformity. Under the Inouye amendment, Indians who commit murder on Indian land will not be covered by the death penalty even in those States which have the death penalty. Yet, if a non-Indian commits the same murder on Indian land, he would be subjected to the State's death penalty. My amendment elimintates this discrepancy.

Mr. President, the Inouye amendment is the result of the jurisdictional issues surrounding the operation of Federal criminal law on Indian reservations. His amendment would have the effect of exempting Indians who commit heinous, vicious murders from the death penalty simply because their tribe does not like it even in States which provide for the death penalty. My amendment simply prohibits such as exemption if the Indian reservation is located in a State which has the death penalty.

Mr. President, my second-degree amendment recognizes that if a State has a death penalty, then it is fair that it apply to everyone in that State. If a Federal death penalty is put in place, it makes no sense to allow Indians living on Indian lands to be excluded, especially in a State where a death penalty is in place.

Mr. President, supporters of the Inouye amendment argue that if an Indian kills an Indian on Indian land, in a State where there is no death penalty, he could face the death penalty. Whereas, if someone commits a murder outside Indian land in that same State, he would not face the death penalty. My second-degree amendment will permit Indians in those States which do not have the death penalty to forgo Federal jurisdiction. However, if the State in which the Indian reservation is located does have a death penalty, the Indian tribes will be bound by Federal law. This will allow the death penalty to apply and operate fairly and uniformly on everybody.

In summary, those who commit henious, depraved murders should face the death penalty. The death penalty should apply to these vicious murderers. This legislation will help ensure that this is in fact the case.

For these reasons, I strongly urge my colleagues to support my amendment.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. Mr. President, this is an area that we discussed at length yesterday. But may I just briefly summarize the matter of sovereignty.

Over 200 years ago our Founding Fathers gathered and decided in their wisdom that the Constitution of the United States should recognize four different types of governments, the national Government of the United States, the State governments, tribal governments, and foreign governments. These are listed in the Constitution of the United States. This sovereign-to-sovereign, government-to-government relationship existed from the earliest days of our Republic.

Eleven days ago the President of the United States, George Bush, issued the following declaration. I will quote part of that, and I ask unanimous consent that the whole statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On January 24, 1983, the Reagan-Bush Administration issued a statement on Indian policy recognizing and reaffirming a government-to-government relationship between Indian tribes and the Federal Government. This relationship is the cornerstone of the Bush-Quayle Administration's policy of fostering tribal self-government and self-determination.

This government-to-government relationship is the result of sovereign and independent tribal governments being incorporated into the fabric of our Nation, of Indian tribes becoming what our courts have come to refer to as quasi-sovereign domestic dependent nations. Over the years the relationship has flourished, grown, and evolved into a vibrant partnership in which over 500 tribal governments stand shoulder to shoulder with the other governmental units that form our Republic.

This is now a relationship in which tribal governments may choose to assume the administration of numerous Federal programs pursuant to the 1975 Indian Self-Determination and Education Assistance Act.

This is a partnership in which an Office of Self-Governance has been established in the Department of the Interior and given the responsibility of working with tribes to craft creative ways of transferring decision-making powers over tribal government functions from the Department to tribal governments.

An Office of American Indian Trust will be established in the Department of the Interior and given the responsibility of overseeing the trust responsibility of the Department and of insuring that no Departmental action will be taken that will adversely affect or destroy those physical assets that the Federal Government holds in trust for the tribes.

I take pride in acknowledging and reaffirming the existence and durability of our unique government-to-government relationship.

Within the White House I have designated a senior staff member, my Director of Intergovernmental Affairs, as my personal liaison with all Indian tribes. While it is not possible for a President or his small staff to deal directly with the multiplicity of issues and problems presented by each of the 510 tribal entities in the Nation now recognized by and dealing with the Department of the Interior, the White House will continue to interact with Indian tribes on an intergovernmental basis.

The concepts of forced termination and excessive dependency on the Federal Government must be relegated, once and for all, to the history books. Today we move forward toward a permanent relationship of understanding and trust, a relationship in which the tribes of the nation sit in positions of dependent sovereignty along with the other governments that compose the family that is America.

Mr. INOUYE. The statement reads as follows:

> On January 24, 1983, the Reagan-Bush Administration issued a statement on Indian policy recognizing and reaffirming a government-to-government relationship between Indian tribes and the Federal Government. This relationship is the cornerstone of the Bush-Quayle Administration's policy of fostering tribal self-government and self-determination.
>
> This government-to-government relationship is the result of sovereign and independent tribal governments being incorporated into the fabric of our Nation, of Indian tribes becoming what our courts have come to refer to as quasi-sovereign domestic dependent nations.

Every President has recognized the sovereignty of Indian nations. After all, they are the first Americans of this land. We conveniently forget that, Mr. President.

In 1953, this Congress and this U.S. Senate acted to delegate Federal criminal jurisdiction in Indian country in several States. They were California, Oregon, Washington, Alaska, and Minnesota.

In 1968, our beloved colleague, the late Senator Sam Ervin, a paragon on constitutional law, led the Senate in amending this act to require tribal government consent before a State could assume a Federal delegation of criminal jurisdiction in Indian country.

What the amendment submitted by my dear friend from South Carolina proposes would effect a sweeping change in the laws of our land in a practice that has now been in effect for over 25 years.

If we are going to have State criminal law apply in Indian country, this should be only with the consent of tribal governments. For over 200 years, the findings of our Founding Fathers have stood as to sovereignty and law of our land, the supreme law of our land.

Again, Mr. President, if the premise is that a sovereign government should be afforded the same status as State governments to elect whether or not the death penalty would apply, then the same rationale extends to the application of State penalty law as it applies to Federal death penalty. Tribal governments should be able to elect to have the State penalty law apply for crimes committed within their jurisdiction, consistent with the Sam Ervin amendment, which is now the law of the land.

Mr. President, just to give you an example of the chaos it will cause in this land, North Dakota has no death penalty. South Dakota has a death penalty. If the Thurmond amendment becomes law, if an Indian living in the Sioux reservation—which is located in both States, North Dakota and South Dakota—happens to be in the North Dakota section of his reservation and commits a crime, he will not be subjected to capital punishment. But if he happens to be in the same reservation under the same tribal government, but in South Dakota, then he will be subjected to the death penalty.

If you happen to be a Navajo, and the Navajo Nation covers four States, and you are at the juncture, some court is going to have difficulty deciding whether the law of Utah, or the law of New Mexico, the law of Arizona, or the law of Colorado, will apply.

Currently, defendants convicted of crimes under Federal law are subject to the penalties described in the Federal sentencing guidelines. The only time under current law the State law is currently consulted is when the Federal law fails to specify the penalty that will be associated with the violation of the specific crime.

However, this crime bill—and I am certain the crime bill will become the law of the land—will provide the specificity to Federal law; namely, the penalty of death will be attached to certain Federal crimes. So, therefore, there is no need to have State law apply to determine the penalty for crimes prescribed under Federal law.

Mr. President, there is simply no need for this amendment, because we are here to consider the penalties that will now be specified in Federal law. The effect of this amendment results in the same discrimination that was the subject of debate yesterday.

This amendment provides that of all Federal defendants that would otherwise be tried in Federal court under the application of Federal law and the U.S. sentencing guidelines, only Indians will be singled out for the application of State death penalty laws. This is precisely the discriminatory treatment that my friend from South Carolina, is, unfortunately, advocating that we eliminate.

For example, if a non-Indian kills a non-Indian in an Indian reservation, State laws will apply. That is the law. This amendment will not change that. If a non-Indian kills an Indian in a Federal Indian reservation, Federal law will apply. However, if an Indian kills an Indian in a reservation, under the amendment of the Senator from South Carolina, State law will apply, if that State law has a death penalty. If an Indian kills a non-Indian, which presently under Federal jurisdiction, under this amendment, State law would apply.

It is not only confusing; it is not only redundancy; it is discriminatory. The State of Hawaii, together with 13 other States, has decided by ballot that capital punishment will not be the law of our State. Yes, Mr. President, citizens of 36 other States have decided that capital punishment should be the law of that State, but we in Hawaii, together with our brothers and sisters in other States, have decided against that.

We are sovereign. That is why we have the right to elect. The Constitution says Indian governments are sovereign, equally sovereign. Why are we denying them all these years? From President George Washington to President George Bush, we have declared a recognition of their sovereignty. And now, by this amendment—it sounds very simple—we are going to turn back the pages of our history.

I think it is about time we joined the President of the United States to reaffirm and restate our belief in Indian sovereignty. It will overturn 200 years of history where our Government, as I said, from the days of George Washington until today, and through the days of George Bush, recognizes tribal sovereignty without regard to State law.

So I hope that my collegues will look upon the Thurmond amendment with great seriousness and, hopefully, vote against it.

The PRESIDING OFFICER. Who yields time?

Mr. INOUYE. Mr. President, how much time is left?

The PRESIDING OFFICER. The Senator has 3 minutes 46 seconds remaining.

Mr. INOUYE. I yield the remainder of my time to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wonder if it would be in order, since Senator THURMOND is here, if I might ask that the Senator from New Mexico have 5 minutes, and then leave the 3 minutes for the distinguished chairman to wrap up the issue?

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from New Mexico is recognized for up to 5 minutes, with time not chargeable to the Senator from Hawaii

Mr. DOMENICI. I thank you, Mr. President.

Mr. President, I want to first take 30 seconds of my few minutes to indicate, as a Senator from Indian country—and that is what the Senator from New Mexico is; I have a higher percentage of Indians and more Indian reservations in my State than any Senator here—I thank the distinguished Senator from Hawaii.

He has taken more time in the last 2 years on Indian issues than any Senator in all the years I have been here. And not only has he taken time, but he has become a leader and someone that the Indian people know is concerned that their problems. I compliment him for his presentation here today.

Mr. President, I want to talk directly to the Chair because I believe many Senators are wondering about this issue because of some things that have been said over the last few hours. Let me try to convince the distinguished Presiding Officer, as I look at him, that Senator INOUYE and Senator DOMENICI have a just and fair amendment and it should not be changed.

The pending Thurmond amendment would change it. I am against the second-degree amendment. First, in this new crime bill, the Judiciary Committee specifies Federal crimes for which death is a penalty. Let me tick off a few: Attempting to kill the President. Crimes like espionage concerning nuclear weaponry. Kidnaping resulting in the death of any person continues to be subject to the death penalty. There are a number of violent crimes which could now invoke the death penalty, including a Federal law enforcement officer being killed.

Mr. President, all of those crimes have nothing to do with situs of the crime, nothing. If these crimes I just named are committed in Albuquerque, NM; Charlottesville, VA; Phoenix, AZ; or the Navajo Nation reservation, the death penalty can be applied to any person, Indian or non-Indian. So we are not trying to immunize the Indian people if they commit a first-degree murder violent crime that we have included in this bill. These are violent crimes committed against the people of the United States of America. Any American is liable for that. So any comments on the Senate floor that we are trying to immunize Indians from the death penalty for such crimes are just not so.

Second point: Our basic amendment is a very simple proposition. Either the Indian tribes are sovereign or they are not sovereign. Mr. President, they are either sovereign or they are not sovereign. As the Thurmond amendment tries to do, we cannot say they are not sovereign in some States—those that have capital punishment—sovereign in the remainder of States. Instead, the Inouye-Domenici amendment affirms that an Indian man or woman who is charged with any of the crimes specified in this bill and found to be guilty of murder, could have death as a penalty just as anyone else found guilty of such crimes. Indians are not exempt from these specific nonsitus crimes. But for all other forms of first-degree murder, where State law normally applies to non-Indians, we are saying as to those types of crimes, if an Indian commits them on Indian reservations, you cannot impose the death penalty unless the sovereign Indian government, like the State legislature, has consented to murder being subject to the death penalty. Very simple. We think that is fair, that is equitable, it is nondiscriminatory.

Let me suggest if that is discriminatory, then as to the 14 States that do not punish by death, why are they not being discriminatory? One can argue, as they have about Indians, if you want to commit murder and do not want the death penalty, move to one of these States. There are 14 that do not have the death penalty. Are these discriminating because their legislature chose no death penalty? We do not think so. We are saying the Indian reservation with a proper legislative body that can say "yes" or "no" as most State legislatures have.

I say again, if I were an Indian leader, I would be saying, let us vote for a death penalty, because it might be an inhibition to murder on the reservation. But I think Indian governments are mature and they will vote according to their laws and they ought to have the authority to decide. We do not have sovereignty sometimes and nonsovereignty other times. That is what the az Thurmond amendment will do. It says the Indians are sovereign, but only in the 14 States that do not have the death penalty. If they happen to live in the other 36 States with some form of capital punishment, their sovereignty does not count. Under the Thurmond amendment, these Indians cannot vote and decide whether to allow the death penalty. For those crimes not covered in this bill, Indians should decide for Indians over whom they have jurisdiction. Why should we say that the States should decide for them? That is what the Thurmond amendment attempts to do. If Indian leaders and Indian-elected governments are so fortunate to be in one of the 14 States that do not have the death penalty, you could say we do not want the Federal death penalty in those States. Is that not a great concession? On the other hand, if an Indian tribe is within one of the States allowing capital punishment, you cannot vote, your vote does not count, your legislative sovereignty is wiped out by the Thurmond amendment.

I do not think we ought to adopt the Thurmond amendment. I think we ought to adopt the Inouye-Domenici amendment, as we did last year. It is a better amendment. It gives Indians the rights we give to other Americans.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, as I stated yesterday, we have an unusual situation under the Inouye amendment. An Indian can kill another Indian. He can rape a woman. He can kill her. He can burn her body. If the crime is committed on a reservation he would not get the death penalty. If it occurred just 3 feet off the reservation, any point off the reservation, then if the State allowed a death penalty, he could get it.

All we are proposing here is to allow the death penalty where the State allows it. If a State does not allow the death penalty, nobody would get the death penalty, Indians or anybody else. But if a State does have a death penalty, then Indians, like everyone, should be subject to the death penalty. We are still saying that in any State that does not have a death penalty, nobody would get the death penalty, including Indians.

Again, I repeat what I said yesterday on this point. Indians are American citizens. Why do you want to discriminate against them? If they have all their rights as Americans under the Constitution, why are they not subject to the same responsibilities as other people? Treat everybody alike. Do not pick Indians out as a group. Why not pick out Asians as a group? Why not pick out Vietnamese as a group, or some other group? Why pick out Indians and say, you can kill whom you please, you can rape whom you please, you can commit any violation, and under no condition can you get the death penalty even though everybody else does? Everybody gets the death penalty but the Indians; is that right? I do not think the American people, regardless of what this Congress does, approve of that. We believe in equality of the law, the majesty of the law, treat everyone alike. That is the Constitution of the United States.

Mr. President, I think if this Congress and this Senate carefully considers this situation, they will realise that they are discriminating in allowing an exception here for Indians. We are saying, if a State has the death penalty, it will apply to the Indians, too. If it does not have the death penalty, it will not apply. Is not that fair? Is not that just? Is not that Americanism? Is not that according to the Constitution? I think so.

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes exactly.

Mr. INOUYE. Mr. President, the citizens of Hawaii are Americans. The citizens of those 14 States that decided not to have death penalties are Americans also. We have decided no death penalty in our States. We did so because our Government was sovereign; it is so recognized in the Constitution of the United States. And the Constitution of the United States also states that Indian governments are sovereign. Every President has so declared that.

What is so strange about that? If you are in North Dakota, there is no capital punishment. When you cross the border to South Dakota, as my distinguished friend from South Carolina says, 3 feet away, you are in a death penalty State. Does that make North Dakota less American than South Dakota? Does that make the State of Hawaii less American than the State of South Carolina? Mr. President, I believe not.

What the people of these 14 States have done was just to exercise their constitutional right as sovereigns. And, as my friend from New Mexico stated, this amendment would simply say, if you happen to live in those 36

States with capital punishment, then you are not sovereign. But, if you happen to live in the 14 States without capital punishment, then you are sovereign.

As my friend from North Carolina, Sam Irvin, would say, we have to either fish or cut bait, and in this case, Mr. President, I would harp for sovereignty for tribal government because I believe in the wisdom of our Founding Fathers, I believe in the wisdom of our Presidents from George Washington to George Bush, and I hope that my colleagues will uphold the beliefs of our Founding Fathers, will uphold the beliefs of our Presidents,

I thank the Chair.

The PRESIDING OFFICER. All time controlled by the Senator from Hawaii has expired.

Who yields time?

Mr. THURMOND. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina controls 1 minute 25 seconds.

Mr. THURMOND. Mr. President, I just want to say in closing that if a State has a death penalty, it should apply to Indians as well as everybody else. If a State does not have a death penalty, then that law should apply equally to everybody else.

Now what my friend would like is that the Indians would have no death penalty under any condition if they are on a reservation. If you are on a reservation, you do what you please: You can shoot up the town, you can set buildings on fire, you can kill people, you can rob people, you can rape people. If it is off the reservation, it is a different situation.

All we are saying is that if a State has a death penalty, it should apply to Indians, too. If a State does not have the death penalty that will apply to the Indians, too. The Indians are not a separate State. The Senator talks like they are a separate State. They are not a separate State. They reside in every State in the Nation, and we are proud to have them. We are proud of them. But I say do not discriminate one way or the other. Treat everybody alike.

The PRESIDING OFFICER. All time allotted to debate on amendment No. 373 has expired.

AMENDMENT NO. 368

The PRESIDING OFFICER. Under the previous order, the Senate will now return to 1 hour to debate on amendment No. 368, equally divided and controlled by the Senator from South Carolina [Mr. THURMOND] and the Senator from Delaware [Mr. BIDEN].

Who yields time?

Mr. BIDEN. Mr. President, I yield time to the Senator from New Hampshire [Mr. RUDMAN].

The PRESIDING OFFICER. The Senator from New Hampshire [Mr. RUDMAN] is recognized for time chargeable to the Senator from Delaware.

Mr. RUDMAN. I thank the Chair and I thank my friend from Delaware.

Mr. President, here we are again debating an issue which, if people would pay close attention to the Constitution and to what the U.S. Supreme Court has said about this issue, I really do not think we would be debating it again.

What we are debating is whether or not we should allow a new, broad and sweeping exception to the exclusionary rule as it was promulgated under the fourth amendment of the Constitution to allow something that is referred to by the sponsors of it as a good-faith, warrantless search. In other words, a search of one's home or business pursuant to the good faith of the law enforcement authorities and without a warrant.

In order to fully understand the issue, one must first go back to the Constitution. And since I think it is probably appropriate that that part of the Constitution we are debating be understood, I am going to simply read it into the RECORD.

Amendment 4 of our Constitution reads as follows:

> The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Mr. President, in those days when that was written the law enforcement authorities did not wear blue. They wore red. It was the feeling of the Founding Fathers, after having been abused by the king's soldiers and marshals, that the one thing that Americans would be secure in would be unreasonable searches and seizures.

Pursuant to that amendment of the Constitution, the U.S. Supreme Court, in the landmark case of Mapp versus Ohio, which is known to every law school student, fashioned the exclusionary rule which took the incentive out of abuse by law enforcement authorities. What Mapp versus Ohio did was to say that if you seize evidence, no matter how probative, how important that evidence, and it is done not in accordance with the requirements of the fourth amendment, then you will lose the ability to use that evidence in your prosecution.

The reason the court did this, of course, was a long history of abuse by law enforcement authorities of their prerogatives and their rights.

Let me be the first to say, as one who had the privilege of serving as my State's chief law enforcement officer, as attorney general of New Hampshire, I have the highest regard for the overwhelming number of our police in this country. They are professionals. They want to do the job right and they care. But, Mr. President, one need only recall the events of the last several months on national television to understand that even within police departments there are those who we could proverbally call bad apples. We have had all sorts of television exposure of police brutality. I personally am aware, during my career as attorney general of my State, of police abuse, not by a majority of police, but by those officers who exceeded their authority.

Thus the U.S. Supreme Court decided that to take the incentive away from the kind of abuse, that the game would get very important, the price would be high. If you seize evidence in a murder case, rape case, a drug case, whatever, and that was very important evidence, if you did not do it properly, you might lose the ability to prosecute the case.

As a matter of fact, one of the most fascinating cases ever decided pursuant to the fourth amendment was a case called Coolidge versus New Hampshire, a case in which a horrible rape-murder of a young woman took place in my State prior to the time that I was attorney general. That man, Coolidge, was convicted. The search warrant was signed by the attorney general of New Hampshire, who is also the State's chief law enforcement officer. And I found myself in a position some years later of having that case overturned by the U.S. Supreme Court on the theory and the law that the attorney general was not a neutral and detached magistrate to sign that search warrant. Thus we were forced with having to go back and try the case again. It was difficult, but that is another story for another time, and we succeeded.

Now what are we doing here? What my good friend from South Carolina—and he is my friend and I have great admiration for him—but what he is proposing here is that we now go one step beyond where the courts are today and adopt a good-faith—whatever that means—warrantless search. That means that the police can search your home without a warrant and then prove to a court that they had good faith. Now why is that necessary? That is a good question. It is a rhetorical question. I do not think it is necessary.

Let me go through, for the benefit of my colleagues who have not appeared before the bar of a criminal court in a while, and outline a few of these items. I notice my good friend from New Mexico, Senator DOMENICI, is on the floor. He was a very able prosecutor at one time. But on the theory that he probably has been away from that for a very long time, I would like to refresh his and others' recollections.

The U.S. Supreme Court finally, several years ago, adopted what is a major exception to the exclusionary rule as set forth in Mapp versus Ohio. That case is called United States versus Leon. It is that case which the Senator from Delaware [Mr. BIDEN] has essentially codified in the bill that is before us. Let me read to you a synopsis of United States versus Leon, and then I think everybody will understand what the Supreme Court did.

In that case, a confidential informant told a Burbank, CA police officer that two persons were selling cocaine and other drugs from their residence. Acting on this information, the officers initiated a drug trafficking investigation involving surveillance of the residence.

During that surveillance, the officers identified one car at the scene as belonging to a person previously arrested for drug arrest. The officers also witnessed people coming and going from the residence, with small packages. At least one person at the scene had a prior drug conviction, and another visitor was identified as an associate of the defendant, Leon. Mr. Leon has a prior drug arrest.

Before the investigation began, the officers had independent information that the defendant Leon had stored large quantities of drugs in his home. Based on the results of all of that surveillance and that information, based on informants and otherwise, the officers prepared an affidavit, which they should have done. They summarized these observations. An application for a warrant to search the three residences, including Mr. Leon's residence, and some automobiles was prepared and reviewed by several deputy district attorneys. It was, in the words of a court, facially—meaning "on its face"—a valid search warrant. And it produced large quantities of drugs and other evidence. That warrant was issued by a State court judge.

After the indictments were filed, the defense counsel challenged the search warrant on the basis that the evidence was stale and that the informant had information which was not entirely correct. Up until the Leon case, had the motion to suppress the evidence would have been suppressed and the case probably not prosecuted. That is the problem that all of us were concerned about for many years, that these so-called technicalities were being used to throw out perfectly good arrests.

The district court in California granted the motion and the appellate courts affirmed on the grounds of Mapp versus Ohio, I am sure, that the affidavit failed to establish the informant's credibility, and the information was stale.

Along came the U.S. Supreme Court and fixed what many of us thought ought to have been fixed for a long time. They said that the officers acted in good faith; that the State court judge had before him a number of important disclosures. Although some of them were defective, since everybody acted in good faith, this would now be an exception to the exclusionary rule and the evidence allowed, and the defendant, I believe, subsequently convicted.

In addition to that case which is extraordinarily important, there are now at least eight and probably after last week nine specific U.S. Supreme Court-created exceptions to the exclusionary rule. Let me go over them.

First, a search incident to a lawful arrest; second, the automobile exception—which I think most people are aware of; consent searches; stop and frisk searches; plain view seizures; exigent circumstances—that is a very interesting one, when you read the case law, meaning in those cases where obviously the police are in danger, that the crime has just been committed or maybe is about to be committed and it is an exigent circumstance, then the police may search without the warrant—border searches, to protect our borders; and, finally, inventory searches. If you have the right to look in the car and seize it, then you can check everything that is there.

What is the Senator from South Carolina proposing? He is proposing that the police, under circumstances such as I have described in the Leon case, may, after the fact, justify the reasons for their search or seizure, and bootstrap that into a good-faith exception.

I do not know whether people around here call themselves liberal, or conservative, or whatever, but it seems to me that if there is one thing that Americans ought to be secure in it is the knowledge that errant and misbehaving law enforcement officials cannot, on the basis of whim or slight suspicion, invade the very sanctity that the fourth amendment was intended to create. Under this proposal the police would have a powerful incentive to, to use a polite word, customize and shape their good faith after the fact.

I know it is probably not considered politic to criticize law enforcement. But I think I have credentials sufficient to do that.

Let me repeat what I said at the beginning. The overwhelming number of police officers in this country are honest, hardworking, and professional. But Lord only knows that the textbooks of criminal law are replete with misconduct on the part of police who, in their zeal and their competitiveness to get a conviction, will often go one step beyond what the Constitution required.

I hope that my colleagues will think long and hard before adopting the amendment offered by my friend from South Carolina. It will open the door to the very kind of abuse that the Founding Fathers were concerned about.

Let me end where I began. The fourth amendment says "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants"—I emphasize—"no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Mr. President, this amendment would make the warrant that is set forth in this Constitution unnecessary in certain cases. I believe that would be a serious mistake.

Mr. GORTON. Will the Senator from New Hampshire yield for a question or series of questions?

Mr. RUDMAN. I am pleased to yield to my friend from Washington.

Mr. GORTON. As the Senator from New Hampshire knows, he and I were State attorneys general at the same time. As he also knows, the offices which we held were quite different. Mine was solely directed at the civil law. He was, in effect, the prosecuting attorney for the entire State of New Hampshire, and thus has far more familiarity with this field than I have.

Nevertheless, I am troubled by some of the implications of the debate over this amendment, and over the provision on search and seizure which the Senator from Delaware has in his bill.

My first question, I guess: Is it not true that whatever the scope of the amendment proposed by the Senator from South Carolina, it obviously cannot infringe upon the fourth amendment? The Supreme Court, I presume, would find unconstitutional any application which a majority of the Supreme Court found to infringe upon the fourth amendment, is that not the case?

Mr. RUDMAN. The Senator from Washington is precisely correct and I am glad he asked the question. Because one of the things I had discussed with the Senator from Delaware just before we came to the floor is my strong held belief that the proposal offered here on the floor today on its face unconstitutional.

Mr. BIDEN. Will the Senator yield for me to also make a comment about that as well?

The fact is, what the Senator from Delaware did in the underlying bill here, by making the good-faith exception for searches with warrants, was to try to put to rest this debate so that we do not continue to have uncertainly pervade this area—uncertainly in terms of what we should and should not do and what the court might and might not rule; No. 1. We codified the present Court decision. But, whether we should do that or not is a separate question from the first question the Senator asked, and that is, is this unconstitutional and would it be declared unconstitutional by the Court?

I believe it is; the proposal by the Senator from South Carolina is unconstitutional. But rather than us continue to pass laws in this body on the hope that the Court will declare what we believe unconstitutional to be unconstitutional, it seems to me we should step up to the ball. We should step up to the ball. If we think something is unconstitutional we should not pass it. And if we know there is a lot of debate about a subject matter or an area that relates to the Constitution, we should put it to rest if we can.

So, there are two purposes here. One, I am proposing people vote against the Thurmond proposal because I believe it is unconstitutional and we should not pass things we think are unconstitutional using the Supreme Court as a backstop. That is not their function, if we can avoid having it be their function. And, No. 2, by codifying the good-faith exception for police officers who are executing a search warrant, we, it seems to me, codify this present law, and put an end to further debate about whether or not it should or could be extended beyond that.

Mr. GORTON. I thank both the Senator from Delaware and the Senator from New Hampshire.

I have a followup question for the Senator from New Hampshire. Perhaps I fall halfway between the two contending parties in expressing certain reservations about whether or not this amendment is unconstitutional on its face. I am convinced that it could be unconstitutional in many of its specific applications to specific situations.

But perhaps the opposite side of the coin, indicated by my first request, as to whether or not the Supreme Court would be in any way restricted in enforcing the fourth amendment to which the Senator from New Hampshire answered, as is obvious, no, the other half of that question might be this one: The Supreme Court itself in the development of law, I believe the Senator from New Hampshire pointed out, has set certain exceptions to the requirement for a warrant. The Supreme Court, I assume—and I ask this question of the Senator from New Hampshire—may at some future time in a particular fact situation find that a warrantless search conducted in good faith under those specific circumstances also did not violate the Constitution; is that not correct?

Mr. RUDMAN. The Senator is not only correct, but that is precisely what has happened in some of the cases that I listed the numerous exceptions for. The Senator is correct, they certainly can and might. The point being, however, that the amendment offered on the floor would open the floodgates to all sorts of, in my view, shaping of evidence.

Let me quote from one case, which the Senator is familiar with because we have talked privately about it, the case of Coolidge versus New Hampshire. That case is a case on the fourth amendment. It had to do with actions of police before a warrant was executed.

Listen to what they said—and this is a brief quote:

> Prosecutors and policemen simply cannot be asked to maintain the requisite neutrality with regard to their own investigation—"the competitive enterprise"—that must rightly engage their single-minded attention.

Of course, that is the concern about good faith, warrantless searches, that after the search is accomplished, the competitive nature will allow a certain shaping of the evidence that might not be forthright.

Mr. GORTON. One final question, if I may, Mr. President.

Under the circumstances, this Senator is puzzled as to why we are dealing either with this amendment or with the proposal which the Senator from Delaware has in his bill.

Mr. RUDMAN. Could I answer that?

Mr. GORTON. I will sit down and be silent after I have set up the entire question. But I would like answers from those two Senators and from either the Senator from South Carolina or the Senator from Utah, as well.

Let me say what troubles me in connection with this debate. I am convinced, as is the Senator from New Hampshire, that there are many applications of this amendment to which it will be found to be unconstitutional. I suspect there are a number of applications of this amendment to which it would be found to be reasonable and not to be unconstitutional.

My question is: Is the Supreme Court not very likely to rule in all that latter set of cases that the searches are reasonable in any event without this amendment?

The second half of my question—and there is even more; I would like the comments of the true proponents of this amendment—is why we attempt in the bill, as has been reported by the committee and defended by the chairman of the committee, to codify this area at all?

It seems to me that what the Senator from Delaware is doing is by implication to prohibit some searches and seizures, the use of some valid evidence which the Supreme Court itself would allow under the fourth amendment, and that he is, therefore, providing a greater degree of restriction upon the police and law enforcement officers by codifying and freezing the law in its present status if, indeed, that is what he does, that the court itself would do, and is there any social utility in that? Would we not be better off to allow the Supreme Court to develop the constitutional law in this field as it will with the eight exceptions that our dear colleague speaks to and a ninth exception which took place just on Friday of last week, that to agree to either this amendment or include the provisions which the Senator from Delaware would have? I invite all three to anwer.

The PRESIDING OFFICER. The Senator from New Hampshire retains the floor under time chargeable to the Senator from Delaware.

Mr. BIDEN. I did not think I yielded the floor or control of time.

The PRESIDING OFFICER. The Senator yielded the floor to the Senator from New Hampshire such time——

Mr. BIDEN. I hope he will husband our 6½ minutes that are left.

Mr. RUDMAN. Mr. President, I am going to save the chairman's time and answer the question in less than a minute.

I will say to my friend from Washington, he is very perceptive. As far as this Senator was concerned, I was not particularly enthralled or enchanted by the fact that the bill of the Senator from Delaware includes codification of Leon. It does not make too much difference to me because Leon is there, it is the law of the land, and, quite frankly, whether we do or do not, I do not think it will inhibit the U.S. Supreme Court as to what they want to do, which brings me to your second question.

I do not think it is going to make much difference whether the part of this bill of the Senator from Delaware on Leon is codified or not. It probably will be if we defeat this amendment. If that occurs—and that is my hypothetical—the U.S. Supreme Court comes along in 6 months and looks at a case and says we want to go a step beyond it. There is nothing in this codification that could restrain the U.S. Supreme Court from carving out still another exception.

So the answer is I do not think it makes a great deal of difference. The Senator from Delaware felt strongly that he wanted to codify Leon. I do not have any strong objections to that. I do not think it is that important, but I can understand his point of view.

On that, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. RUDMAN. I yield 30 seconds to my friend from Delaware.

Mr. BIDEN. Mr. President, there is a simple answer, I say to my friend from Washington. Obviously, the amendment of the Senator from South Carolina does nothing to cure your concern, none, zero. So you should vote no, I respectfully suggest, and then offer an amendment to strike from the bill the language of the Senator from Delaware relative to the exclusionary rule so there is no language in the bill, and I am not being facetious when I say that because, clearly, the amendment of the Senator from South Carolina does nothing to help your concern and it is a legitimate concern you raise. You may very well have enough votes to strike the provision of the Senator from Delaware from the bill as well.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Will the distinguished Senator yield time to me?

Mr. THURMOND. Mr. President, I yield half my time, 15 minutes, to the able Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for up to 15 minutes.

Mr. HATCH. I thank my colleagues. I hope I do not have to take 15 minutes.

I hope I can answer some of the questions raised by my two distinguished colleagues, great lawyers, former attorneys general who have special insights in this area that I think have to be listened to. And, I still choose to align myself with the distinguished Senator from South Carolina because I believe a vote for the Thurmond amendment is a vote to put more murderers, rapists, robbers, drug dealers behind bars. A vote against the Thurmond amendment is to let those same rapists, robbers, murderers and drug dealers go free on the streets.

This amendent is supported by President Bush, and the Attorney General who believes it is constitutional, and by every law enforcement officer in this country, to the best of my knowledge.

The problem search may be found illegal, but if the officer had an objectively reasonable belief that he was acting in good faith, then the evidence should come in and the murderer, rapist, robber, drug dealer should have to face that evidence. That is what we are talking about. We are not talking about a lot of the things that have been raised in a collateral way.

The amendment does not alter the fourth amendment search and seizure law, as the Senator from Delaware erroneously claimed last week. Moreover, the exclusionary rule is not a constitutional right. It is a judicially made rule of evidence created in 1914 for the Federal courts and applied to the States courts in 1961 in the Mapp case.

This amendment will allow the admission in court of probative evidence obtained by police officers in a warrantless search if the search was carried out in circumstances justifying an objectively reasonable belief that it conformed to the fourth amendment. In effect, this amendment logically extends the Supreme Court's current objective good faith exception in warrant cases to warrantless searches.

I believe even supporters of the exclusionary rule acknowledge its high cost to society. Guilty persons are left unpunished to return to the streets to do more harm. There is no dispute about that. I think even those who oppose this amendment have to admit that.

The purpose of the exclusionary rule is to deter—and I emphasize "deter"—illegal police conduct. Some people believe the deterrent function is important enough to pay this very heavy price, that is, to let murderers, rapists, robbers and drug dealers go free.

But if a police officer honestly believes a search would be legal without a warrant, he or she will make that search every time—every time—whether we adopt this amendment or not. Why? Because the exclusionary rule has no deterrent value whatsoever in such a case.

The fact that the evidence is later thrown out by a judge cannot deter even the very same officer who, at the time he or she is about to undertake a future search, honestly believes that the search is lawful. The evidence is going to be seized whether this amendment is adopted or not.

The only real question before the Senate is, do we let the evidence in at trial or do we let the murderers, rapists, robbers, drug dealers, go free?

That is a very important point, Mr. President. The Thurmond amendment does not even allow evidence into court in all cases I just described, that is, where a police officer honestly believes the search is lawful. The evidence is admitted under this amendment only in circumstances justifying an objectively reasonable believe that the search was in conformity with the fourth amendment to the Constitution. Thus, it is not simply a matter of the police officer's own subjective believe that the search is lawful. That is not enough to admit evidence under this amendment. We are talking about a case where a judge determines that circumstances justify an objectively reasonable belief in the lawfulness of the search.

In other words, the Senator from Delaware and I, for example, could agree that a particular search was made in objective good fatih. Where he and I disagree is whether to admit at trial the evidence seized in that search, a search that is always going to take place anyway. There will not be any deterrent in that type of objective good-faith search. I would admit the evidence. The Senator from Delaware would not. Neither would the Senator from New Hampshire, I take it.

The only remotely serious argument against the Thurmond amendment is, in my opinion, the one that Senator RUDMAN has advanced, and I want to respond to it.

I believe his argument boils down to one sentence, where the Senator from New Hampshire set out his argument and said, "To be blunt, a good-faith exception for warrantless searches creates an incentive for prosecutors and police officers to lie."

There it is in a nutshell. Police will have an incentive to abuse the exception by lying about the circumstances of a warrantless search.

Mr. President, there are tens of thousands of police and prosecutors in this country. Unfortunately, not every one of them is an honest and moral person. Some will abuse the law, with or without this amendment. I believe that the overwhelming majority of our police officers in this country are good, decent, law-abiding public servants trying to protect society from vicious criminals. Indeed, I question whether this amendment provides any real incentive for police to lie since a truthful account by the police officer will usually show that he acted reasonably. Rather, it is the near blanket application of the exclusionary rule itself that creates incentives to lie in order to get around the rule and its inflexibility.

Law enforcement officers have operated under many restraints since one Warren Court decision after another expanded the rights of criminal suspects and restricted law enforcement officers. Even propolice decisions since then, for the most part, merely chip away at these Warren Court rulings.

If the Senate fears or mistrusts law enforcement officers and prosecutors so much that it can vote down this amendment, letting violent criminals and drug dealers, who would otherwise be convicted as a result of this amendment, go free, then I think it is unlikely the Senate will produce anything that smacks of being a worthwhile crime bill.

I stress that the amendment does not in any way change the law of search and seizure. What is an illegal search and seizure today will remain an illegal search if the Thurmond amendment is enacted. This amendment only addresses whether to admit evidence seized in certain of these searches. And while the Supreme Court has created exceptions to the need to obtain a search warrant in cases of exigent circumstances, exceptions left untouched by this amendment, I want to emphasize another point. The lower courts do not always agree on what constitutes an exigent circumstance.

There are close cases where a police officer has to make very quick decisions. The law may not always be crystal clear. A police officer can always make an honest mistake. So long as it was objectively reasonable to undertake this search, the fact that the search is later ruled illegal should not preclude the use of the evidence. We should not let the criminal go free.

On this point of police abuse, I would like my colleagues from New Hampshire and Washington and from Delaware to think of two related issues and questions. The objective good faith exception to the exclusionary rule in warrantless searches has been the law in the States of the fifth and the eleventh circuits for over 10 solid years. Have these Senators noticed or heard of abuses of the exception in Texas, Louisiana, Mississippi, Alabama, Georgia, or Florida? Do they feel less safe from the police when they travel to these States?

Is there a Senator from Texas, Louisiana, Mississippi, Alabama, Georgia, or Florida who believes the police in his State are out of line in their warrantless searches or who have had persuasive complaints from law-abiding constituents? I would be happy to yield right now or when that Senator arrives on the floor from that State for that Senator to so advise the rest of the Senate.

Mr. President, on one last point, the Senator from New Hampshire has also argued that an objective good-faith standard in warrantless searches would be difficult to establish or enforce in contrast to the good faith exception in warrant cases. Perhaps it is more difficult, but it is far from impossible. It seems to be readily workable in two circuits already. Moreover, all courts currently apply the same objective good faith standard, in warrant and nonwarrant cases, in determining whether police officers will be held personally liable in suits for damages. Look at *Anderson* v. *Creighton*, 483 U.S. 635 (1987).

I should note that it is also pretty difficult sometimes to apply the law or Supreme Court precedent which favors criminal suspects, to the detriment of the rest of society, but the courts do it.

Many constraints have been placed on the police in the last 35 years. I think we can take this modest extension of current law and make it work successfully. Let us give law-abiding citizens a break and put more criminals away by adopting this amendment.

Almost everybody who is really concerned about crime has been concerned about the runaway force of the exclusionary rule. It is time to look at how we can refine it and not just wait for the Supreme Court to do it for us. If they will, that is great, and they look to be moving in that direction. But they may have to wait for an appropriate case to be brought before it. Let us do it now.

I do agree the distinguished Senator from South Carolina has a good amendment that helps solve some of these problems and I think it should be voted up today in our vote at 11:30.

Mr. BIDEN. Will the Senator yield for a very brief question and since I have no time, will he do it on his time?

Mr. HATCH. Sure.

Mr. BIDEN. The Senator mentioned the fifth and eleventh circuits have been operating under the proposal that the Senator from South Carolina is putting forward today for a long time. As I read those cases which the Senator cited, my understanding, as I see them, is that notwithstanding the fact that they have made a different ruling, they still require that a search warrant must be gotten by a police officer, if they have time to get the warrant, good faith or not.

Mr. HATCH. This would not change that requirement.

Mr. BIDEN. So, let us say, for history purposes, the Senator is suggesting that the Thurmond amendment would require a search warrant——

Mr. THURMOND addressed the Chair.

Mr. BIDEN. I yield the floor.

Mr. THURMOND. To interrupt the Senator——

Mr. BIDEN. I do not have any more time. I was just trying to be accommodative.

Mr. THURMOND. Mr. President, I cannot yield any more time.

Mr. BIDEN. Forget it. I thank the Chair very much.

The PRESIDING OFFICER. If the Senators will withhold, the Senator from Utah was allocated 15 minutes and that time has not expired. So the Senator from Utah has the floor.

Mr. HATCH. Let me take the latter part of my time. I have to say that in many cases the Senator would be right. There would be other cases where if it was objectively reasonable for the officer to act, this amendment would apply and let the evidence in. I think that is important. After all, if what we want to do is get criminals, put them away, and we want to protect the public, there should not be some rule which stops us from doing that, in least where the deterrent value of the rule no longer exists.

But in this case, the deterrence is not going to be in effect because the policemen is going to go ahead and do what he thinks is objective and reasonable. If the search is ruled illegal and the evidence comes in under the Thurmond amendment, at least the defendant does not get off scot-free.

It is a reasonable approach, and a reasonable fine tuning of the exclusionary rule, and I think in the longrun will work very well in the best interests of the public.

Mr. President, I yield back my time to the distinguished chairman from South Carolina.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina.

Mr. THURMOND. Mr. President, shortly, the Senate will vote on my exclusionary rule amendment. It provides for a "good faith" exception to the exclusionary rule.

The exclusionary rule is a judicially created remedy for violations by law enforcement officers of the fourth amendment prohibition against improper searches and seizures. More simply, if evidence is obtained by a law enforcement officer in violation on the fourth amendment, that evidence will be excluded at trial. However, there are exceptions to this rule and the amendment I have offered codifies and expands one of these exceptions recognized by the Supreme Court in the case of United States versus Leon. This decision provided that evidence obtained pursuant to a warrant which is later found to be defective will not be excluded if the law enforcement officer, acted in objective good faith. The Thurmond amendment—which is the President's amendment—also extends this "good faith" exception to warrantless searches. When law enforcement officers act in good faith, whether there is a warrant or not, is a distinction without a difference.

Mr. President, despite claims to the contrary, this vital amendment neither authorizes, nor encourages, law enforcement officers to disregard the fourth amendment. Nor does it alter our fourth amendment rights to be free from reasonable searches and seizures. Nor does it encourage prosecutors and officers to perjure themselves in order to have evidence admitted at trial. What this measure does do is address the legal loophole—and here is a legal loophole—that often allows a criminal to go free, irrespective of guilt or innocence, when evidence crucial to a criminal proceeding is suppressed even though an officer acted in good-faith conformance with the fourth amendment.

The goal of the exclusionary rule is to deter law enforcement conduct which violates the fourth amendment. Therefore, if a law enforcement officer acts in objective good-faith conformance with the fourth amendment, applying the exclusionary rule does not serve as a deterrent. It should be noted that the determination as to whether a law enforcement officer acted in good faith is made by the Court based upon the circumstances surrounding the case. Those opposed to this amendment will have the Senate believe that the propriety of a search will rest on the police officer's judgment. This is not the case. A law enforcement officer's subjective belief, or testimony, that he acted in good faith is simply not enough. The amendment requires that the officer must show that his search was objectively reasonable. Failure to satisfy this objective standard will result in a suppression of the evidence.

Opponents of this amendment have argued that the eight exceptions to the warrant requirement, recognized by the Supreme Court, provide law enforcement officers with sufficient leeway to conduct searches without a warrant. My amendment does not change these exceptions to the warrant requirement. Rather, it recognizes that when an officer acts in objective good faith conformance with this complicated area of the law, and conducts a search pursuant to one of these exceptions, evidence obtained therefrom should not be suppressed if a court later determines he innocently violated a technicality—whether there is a warrant or not.

Opponents of my amendment have made much of the fact that the Leon decision only covered searches where a warrant is involved. Their argument is that the Supreme Court decided not to extend the good-faith exception to warrantless searches. Yet, the Supreme Court was not called upon, in the Leon case, to decide the question of warrantless searches.

In closing, this amendment is an important law enforcement measure which will apply in all Federal cases and ensure that criminals will not go free on technicalities. It is a reasonable extension of an important exception to the exclusionary rule. A vote in favor of this amendment is a vote in favor of law enforcement and a vote to keep guilty criminals off the streets due to technicalities.

For these reasons, I strongly urge my colleagues to support this vital amendment.

Mr. President, the distinguished Senator from New Hampshire [Mr. RUDMAN] argues that the current exception to the exclusionary rule are sufficient. Yet, I would like to cite an example where the current exception to the warrant requirement are not always adequate.

In Utah, a police officer pulled over a car for speeding. Before the officer returned the driver's license, he asked the driver if he could search his car. The driver consented, and the police officer found over 80 kilos of cocaine. A court later determined that the officer did not have consent, since he failed to return the drug trafficker's license before he sought consent.

This is an example of where an officer acted in objectively reasonable conformance with the fourth amendment. However, the evidence in this case was suppressed by the court. Under my amendment, which is the President's amendment, if the court determines that the officer acted objectively and in reasonable conformance with the fourth amendment, the evidence would have been admissible.

Mr. President, I want to mention this. There is a lot of talk about constitutionality of this amendment, and so forth. I would like to say that two Federal circuits, the fifth circuit and the eleventh circuit, have recognized this good-faith exception. Have you heard of police officers breaking down doors in those circuits? Of course not.

In other words, the two circuits have already held this constitutional, and those circuits have determined that it is proper under the circumstances.

Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 10 minutes and 20 seconds remaining.

Mr. THURMOND. Mr. President, I want to say this: Is this a good amendment? Should it be adopted? It is in the President's crime bill. The President has come forth with a crime bill to help solve the crime situation in this country. This is one of the key provisions in that bill.

The President of the United States feels that we must do more to take criminals off the street. This amendment has been approved by four different categories of people here that I think are important.

First, the Attorney General of the United States. The Attorney General of the United States will not come here and ask this Senate to pass a bill that is unconstitutional. He would not come forth and ask this Senate to pass a bill unless it is going to help the people. The Attorney General of the United States and the Justice Department approve of this amendment. They favor this amendment. They want it passed.

Another cateogry: The district attorneys of the Nation favor this bill, The National District Attorneys Association, nationwide. This is an association of all the district attorneys in the Nation, prosecuting attorneys, the people that prosecute criminals. Do they favor this bill? Yes, they favor it. They want it passed. They need it. They said it will help them to convict these criminals and not let them go free on technicalities. The Conference of District Attorneys is part of that. The National District Attorneys Association favor this bill.

A third category of people who favor this bill are the victims groups, those who have suffered from criminals and families who have suffered from criminals. The victims groups of this country favor this bill.

The Citizens Against Violent Crime, these are victims associations, Memories of Victims Everywhere, Survival, Inc., Justice for Murder Victims, the Victim Assistance Network, Justice for Homicide Victims, the League of Victims and Empathizers, Citizens for Law and Order. All of these are victims assistance groups.

Are we going to listen to the victims here or are we going to listen to the criminals? Here is what the victims who have suffered from crimes say; they want this bill passed. The associations favor it, the families favor it. They want this bill passed. The President of the United States says he needs it. The Attorney General of the United States says he needs it. The Justice Department says we need this bill, we need this provision. The League of Victims and Empathizers, Citizens for Law and Order, they all favor this bill.

Mr. President, what about the law enforcement people nationwide? We spoke about the President, the Justice Department, and we spoke about the district attorneys over the Nation, and we spoke about the victims. How do the police officers of the Nation stand? Here is how they stand. The National Law Enforcement Council favors this bill; the Federal Criminal Investigators Association favors this bill; the International Narcotic Enforcement Officers Association favors this bill; the Association of Italian-American Police Officers favor this bill; the Crime Prevention Officers Association favors this bill; the Correctional Peace Officers Association favors this bill; the Airborne Law Enforcement Officers Association favors this bill; the Federal Investigators Association favors this bill.

Mr. President, who is the Order of Fraternal Police? That is the police association of the United States. That is not one State, that is not here in Washington. That is the whole Nation, Fraternal Order of Police. How do they stand? They want this bill passed; they have endorsed this bill. They have not endorsed the position of the Senator from Delaware. They have endorsed this provision. They want it passed. The Society of Former Special Agents of FBI. This is the agents of the FBI who are now retired, they are not connected presently with law enforcement officers. They have come forward and studied this bill and they say they favor this bill, they favor this provision which the President has asked for. They have no interest otherwise now. The National Troopers Coalition, and that is the people who wear uniforms on the highways and enforce the laws along the highways of the Nation, every State in the Nation; what is their position? They favor this bill. They do not favor the amendment by the Senator from Delaware. They favor the President's position here on this bill.

The National Sheriffs Association. Every county in the United States has a sheriff. How do they feel? The sheriffs have come forward and studied this bill, and they say it is a good bill, they want it passed, they think it will help law enforcement, they think it will help catch criminals and not let them loose on technicalities.

Are we going to tie the hands of the police? Are we going to turn down the Fraternal Order of Police? Are we going to turn down the sheriffs? Are we going to turn down the troops and say there is no merit in what you are saying, what you are saying does not amount to a roll or pins, we do not believe it, we are just not going to do anything, we are not going to pass this bill?

Mr. President, it is hard for me to believe this Senate will take that position. The Commission on Accredition for Law Enforcement Agencies, the Hotel Security Directors Association, every law enforcement agency in this country favors this bill. I do not know of any of them who do not favor it. Not a one. Are we going to listen to them? They are the people who have to catch the criminals. They are the people who have to decide whether or not it is proper under the circumstances to pass this amendment.

So, Mr. President, I say to you, when the President of the United States, the Attorney General of the United States, all the prosecuting attorneys of the United States, all the victims assistance associations, and all the law enforcement people come forward and say this ia a good bill, it ought to be passed, are we going to deny them?

Here they want to enforce the law to help the citizens, they want to protect this country, they want to protect the people from violation of the law. I say to you we should pass this bill, and we should give the President what he needs, the Attorney General what he needs to enforce the law and take these criminals off the streets and do not let them get off on technicalities.

Mr. President, how much more time remains?

The VICE PRESIDENT. The Senator has 3 minutes remaining.

Mr. THURMOND. Mr. President, I yield the remainder of my time to the able and distinguished Republican leader.

Mr. BIDEN addressed the Chair.

The VICE PRESIDENT. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I have a unanimous-consent request. It is unrelated to this amendment. I do not like to use my time that remains on this amendment. I ask unanimous consent, maybe it is automatic, that my unanimous-consent request not be charged against my time remaining on this amendment.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that Senator SIMON be recognized to offer his amendment regarding life imprisonment without parole immediately following the disposition of Senator THURMOND's exclusionary rule amendment; that Senator SIMON's amendment be subject to the same time limits and restrictions previously agreed to. I further ask unanimous consent that the Senate stand in recess until 2:30 p.m. at the conclusion of the debate on the Simon amendment; that at 2:30 p.m. the Senate, without any intervening action or debate, vote on the Thurmond perfecting amendment No. 373 to the Inouye amendment No. 370, to be followed immediately by a vote on the Inouye amendment, as amended, if amended, to be followed immediately by a vote on the Biden amendment No. 371, with the vote on the Simon amendment occurring immediately upon disposition of the Biden amendment No. 371, and that Senator HATFIELD then be recognized, under the same terms and conditions as previously agreed to, upon the disposition of the Simon amendment, and that all other provisions of the previous consent agreement remain in force.

The VICE PRESIDENT. Is there objection?

Mr. DOLE. I do not understand it, but I have no objection.

The VICE PRESIDENT. The unanimous-consent request is agreed to.

Mr. BIDEN. I am delighted to see the leader shows good judgment once again.

The VICE PRESIDENT. The Republican leader is now recognized for a total of 3 minutes.

Mr. DOLE. I commend the distinguished Senator from South Carolina, the ranking member of the Judiciary Committee, for his outstanding work with reference to the exclusionary rule amendment.

Mr. President, lawyers have their own language, and when we use the term exclusionary rule, we run the risk of confusing many Americans. Someone said the other day how many Americans on Main Street understand habeas corpus and the exclusionary rule, but they know crime is really going on.

So let me get straight to the bottom line here.

There are no two ways about it. A vote for the Thurmond amendment is a vote to punish criminals. It is a vote to make our cities, our streets, and our homes safer. It is not going to wipe everything out, but it is going to make them safer. It is a vote to put more murderers, more vicious criminals, more rapists, and more drug dealers, behind bars, just that simple. That is what this vote is all about.

A vote against the Thurmond amendment is a vote to punish law-abiding citizens. It is a vote to let obviously guilty murderers, rapists, and drug dealers, back on the street because of a legal technicality or a small error.

The U.S. Supreme Court ruled in 1984 that evidence seized with a faulty warrant can still be introduced, if the police officer is acting in good faith and with a reasonable belief that the warrant is correct.

Five months before that decision was announced, this body overwhelmingly approved a good-faith exception. The chairman of the Senate Judiciary Committee was 1 of only 18 Democrat members who opposed the good-faith exception.

Now, he has seen the light. His legislation codifies the good-faith exception as announced by the Supreme Court—but it goes no further. And as the distinguished Senator from Utah [Mr. HATCH] pointed out last Friday, there is no need to codify a Supreme Court precedent.

What Senator BIDEN's bill might actually do is preclude the Supreme Court from expanding the good-faith exception; thereby letting more criminals go free.

For several years, the Fifth Circuit Court of Appeals has applied the good-faith exception to searches without a warrant. Senator THURMOND's amendment would apply this exception across the Federal courts, and it should be passed.

Mr. President, let me return to the bottom line: If this body is serious about reducing crime, if we are serious about winning the war against drug dealers who pollute our society and poison our children, then we must do all we can to see that individuals are held responsible for their actions, and that the guilty are punished.

The VICE PRESIDENT. The Senator from Delaware.

Mr. BIDEN. How much time do I have remaining?

The VICE PRESIDENT. Four minutes and three seconds.

Mr. BIDEN. Mr. President, I yield the remainder of the time to myself.

Mr. President, we have heard phrases today like "technicality." I have never viewed the Constitution as a technicality. I do not think the fourth amendment is a technicality. The notion that someone has to have a search warrant to knock down the door of a house, good faith or not, seems to me not to be a technicality. That seems to me to be pretty basic; it is not a technicality. The Constitution is not a technicality. The fourth amendment is not a technicality. We can have a very tough crime bill without sacrificing the fourth amendment as is being proposed here.

I hear today a great deal of the following logic applied. You know, the fourth amendment, regarding illegal search and seizures, if we just change the way we apply it, like the Senator from South Carolina wants to, we will get more criminals. That is true. Just like if I said, the second amendment, the right to bear arms, if we just change it a little bit we would stop crime. If we made a law that no guns, no guns, could be owned in this country by private citizens and police could arrest anyone with a gun, we would stop crime. We would not stop it all, but we would stop a lot of it.

But I do not imagine my friend from South Carolina would say, well, the Biden proposal is trying to overcome a technicality. He would stand and say, the second amendment, the right to bear arms—I promise you if we eliminate the second amendment, crime will go down in America. But no one is proposing that.

If we eliminate the fourth amendment, crime will go down in America. In totalitarian states crime is always less; you take away citizens' rights and protections. And when you give a citizen a right, you tend to give that right as well to criminals and bad guys. When you give a responsible person a right to own a gun, you give a right to an irresponsible person to own a gun. When you give a responsible person a right to exercise free speech, irresponsible people can exercise free speech.

We have not divined, Mr. President, how to pass a test, to say, give me a little litmus test, give me a little blood and I can tell whether or not you will responsibly exercise free speech, you will responsibly exercise the second amendment, you will responsibly exercise the fifth amendment.

So this is not a technicality, Mr. President. This is a basic, fundamental right to say, a policeman, God love them, no matter how well-intentioned they are, if their actions would otherwise violate the fourth amendment, he should not be able to do it. We hear all these horror stories. I do not have time to mention them. I will just give you one case, the case where a police officer sees a person commit a traffic violation, chases him into his house, a traffic violation, knocks down the door, starts shooting the guy. Now, other police get the call. They reasonably assume, in good faith, this must be a serious crime, the fellow officer is out there shooting.

So what do they do? They come in, they grab the guy and his wife, they search and ransack their home. They had no right to do that, but in good faith, they were following an irresponsible stupid police officer. They, in good faith, thought he was acting responsibly.

But in the meantime what happens? You have innocent people, in another case, an innocent woman sitting in the privacy of her own home, never a suspect of a crime, has a body cavity search. Is that right? Do we say, guess what, they made a mistake. "Golly; sorry. We didn't mean to do that to you."

We should not expect police to be able to interpret the Constitution to the degree that we take out the impartial magistrate. This is not a technicality, I would suggest to my friends here on the floor. It is well intended what the Senator is saying. It is, in fact, true we will get more people, but you will also catch in the net an awful lot of innocent people, an awful lot of people in this country who believe their home is their castle and no one has a right to come into that home unless they have gone to a judge and said, "Judge, I have probable cause and here it is; let me list it for you," to think that we should be able to go in that person's house.

I thank the Chair. I hope we get a "no" vote on the Thurmond amendment. I thank my colleague for his courtesy.

The VICE PRESIDENT. All time for the Senator from Delaware has expired. The Senator from South Carolina has 1 minute and 1 second remaining.

Mr. THURMOND. Mr. President, this amendment simply provides that when law enforcement officials act in good faith criminals do not go free. Innocent victims have rights, too. If police act in bad faith, this provision will not apply. This provision requires police to act in good faith.

This amendment does not make one change to our fourth amendment rights. This amendment has been recognized in two Federal circuits. The Federal judges in two circuits have approved this amendment. They would not have approved it if they felt it was unconstitutional. It takes away no fourth amendment rights. It merely unties the hands of police and lets the police protect the public.

The police are there to help the public. They want to help the public. The attorneys general want to help the public; the district attorneys want to help the public; the sheriffs' organizations want to help the public; the troopers want to help the public, the Fraternal Order of Police wants to help the public. Now let us let them do it. Let us untie the hands of the police and protect the public in this country.

Mr. President, I ask for the yeas and nays on this amendment.

The VICE PRESIDENT. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that I be permitted to use 3 minutes of my leader time at this time.

The VICE PRESIDENT. Is there objection? Without objection, the majority leader is recognized for 3 minutes.

Mr. MITCHELL. Mr. President, the American Bill of Rights, the first 10 amendments to the American Constitution, are the most concise, most eloquent, most effective statement of individual rights ever written. Across the whole sweep of human history, no one has better captured the right of individual citizens to be free from the oppressive power of Government than have the authors of the American Bill of Rights.

One of the great ironies of 20th-century American politics is the way in which those who describe themselves as conservatives seek to chip away at the right of individual liberty as proscribed in the American Bill of Rights and to enhance the power of Government, the very opposite of what true conservatism is and has meant throughout American history.

Every American should understand what we are talking about here. We are talking about the power of Government as against the power and right of individuals not to be oppressed by their Government. The Bill of Rights had as its fundamental purpose to restrain the power of Government as against individual citizens. Every one of those amendments that comprise the Bill of Rights is important. And this amendment by the distinguished Senator from South Carolina is one more in a series of efforts by persons who describe themselves as conservatives to enshrine what is an approach that is the exact opposite of conservatism: To enhance the power of Government, to diminish the individual liberty of the citizen, to reduce to a very significant degree the right of every American to be free of the oppressive power of Government.

We ought not to be saying in this country—America, the land of the free, the home of the Bill of Rights—that police officers, agents of the Government, can enter an American's home without a search warrant. That is the stuff of totalitarianism. That is communism. That is China. That is not America. In America, we prize above all else the individual liberty of the individual citizen and we protect those liberties by enforcing the American Bill of Rights.

I urge my colleagues to stand up for the Bill of Rights. Do not be stampeded by the siren appeals of this amendment.

I thank my colleagues.

The VICE PRESIDENT. All time has expired.

Mr. THURMOND. Mr. President, I ask unanimous consent for 2 minutes to respond to the distinguished majority leader. He comes in at the last minute and has time on leader time.

The VICE PRESIDENT. Is there objection to the request of the Senator from South Carolina for an additional 2 minutes? If not, the Senator from South Carolina is recognized for 2 minutes.

Mr. THURMOND. Mr. President, I want to say now to the Senate that in my opinion the President of the United States would not be asking us here to pass this provision, and the Attorney General of the United States would not, unless they felt it was in the interest of the people of this country.

I do not believe that the prosecuting attorneys all over this Nation—and they have endorsed this amendment—would ask for it unless they felt it was to protect the public.

I do not believe the sheriffs' associations in this Nation—there is a sheriff in every county of this Nation, and they have endorsed this amendment. They want it passed.

I do not believe the National Troopers Association—you see them on the highways in every State of this Nation trying to protect the public, protect them against drugs, protect them against other crimes—would approve this amendment unless they felt it was going to help the public, Mr. President.

And the poor victims, those who have suffered crimes, and there are a whole lot of victims' organizations, they have all endorsed this amendment.

They say, for goodness sake, help us. In some cases it may be necessary, under the peculiar circumstances—and it would have to be under unusual circumstances—when they act without a warrant. But it has to be in good faith. And it does not violate the fourth amendment, the fifth and eleventh circuits of this Nation have already decided. They have decided cases, that it does not violate the Constitution.

Why does somebody in this body say it violates the Constitution when the judges of two circuits have held it does not violate the Constitution? I say this amendment should be agreed to. This amendment is good for the country. It is good for law enforcement. It is good for our citizens. It is good to protect the public.

Untie the hands of the police and let the police do what is reasonable. And if they do not act in good faith they can be punished. But they will act in good faith in my judgment, in most cases.

Mr. SPECTER. Mr. President, I am opposed to the amendment to modify the exclusionary rule because I believe it is preferable that Congress leave this area to the courts, which have crafted the proper balance in rules to exclude evidence obtained from illegal searches and seizures.

It is my view, Mr. President, that law enforcement has accommodated to the exclusionary rule. Were this debate to have been held in 1961, immediately after the decision in *Mapp* v. *Ohio*, 367 U.S. 643 (1961), it would have been a timely debate and a timely addressing of this issue. I was an assistant district attorney in 1961 and I remember well the day that Mapp came down. It caused widespread consternation in the criminal courts on a daily basis. As I noted in an article which I published in the University of Pennsylvania Law Review, volume 111, No. 1 of November 1962:

> [T]he police have been seriously handicapped by the exclusionary rule in the first year after Mapp. The right to privacy has not been significantly promoted during that time since the police have not fully understood and hence not fully complied with the Mapp rule. Initially, the only beneficiary has been the acquitted criminal. But in the future it is probable that altered police practices will enhance the right of privacy and the police should learn to function reasonably well within the confines of the exclusionary rule.

It is my judgment now, some 30 years later, that the police have learned to function within the confines of the exclusionary rule.

Seven years ago, when a measure similar to the pending amendment was before the Senate, I stated that, in an area like this, where the Congress has deferred to the Court for so long, and the Court has engaged in such extensive discussions and analysis on the exclusionary rule, it is better practice at this time to leave this issue to the Court. My view is made all the stronger by judicial developments since then. In *United States* v. *Leon*, 468 U.S. 897 (1984), the Supreme Court found a good faith exception to the exclusionary rule for searches and seizures made in good faith reliance on a warrant later found defective and, in a companion case, *Massachusetts* v. *Sheppard*, 468 U.S. 981 (1984), the Court extended that exception to situations where the police made considerable efforts to comply with the dictates of the fourth amendment despite a defective warrant.

Since then, courts have been continuously refining the reach of both Leon and Sheppard. My concern with the provision in S. 1241 is that it would freeze the State of the law by codifying Leon and ignore the equally important holding in Sheppard, and, in doing so, potentially undermine recent court cases concerning the reach of both decisions. (See, e.g., *United States* v. *Burke*, 718 F. Supp. 1130, 1141-46 (S.D.N.Y. 1989) (detailing many of the recent differing lower court interpretations of Leon and Sheppard).)

I therefore would urge my colleagues to vote against any legislation in the area of the exclusionary rule and leave this issue for the courts, which have the best perspective to continue to mold that rule to the practical realities of the day.

Mr. SIMPSON. Mr. President, I rise this morning in support of the Thurmond amendment. I believe we have been led astray with some of the passion from those of my colleagues who oppose this amendment.

We are not talking about some form of secret police marching into your homes at their whim and conducting indiscriminate searches of your possessions. That absolutely could not happen. Police have been, and always will be, subject to the constraints of probable cause.

What this amendment does is recognize the fact that our police forces are among the most educated in the world. They are not lawyers, however. They do not have the time, in most cases, to engage in some form of esoteric exercise in legal-speak to debate among themselves the philosophies of fourth amendment case law.

The underlying proposal—which my colleague seeks to amend—necessarily requires that there be a precise and refined legal argument behind each on-the-spot police decision. I think this does a grave injustice to our fine police forces in this country.

Frankly, Mr. President, we do not pay our police officers enough. We do not give them enough money to go to law school at night and learn the intricate legal defenses surrounding search and seizure law. These officers are highly trained professionals—in many cases, they attend classes on this subject given by practicing attorneys and prosecutors. They are versed in the state of the law.

However, they are not briefed daily on the daily expansions and contractions of the case law. They just do not have the time for that.

Police officers are just kept too busy out chasing crooks and doing their level best to protect our people, our families, our neighbors.

And they do a good job.

We all can think of the rare exceptions—but they are, indeed, rare.

It is one thing to just say we are going to be tough on crime and it is quite another thing to get tough on crime. All the underlying bill does is say it's getting tough on crime when, in reality—at least with this particular provision of the underlying bill—we are just getting tough on the cops.

That's wrong.

That's dishonest and that is why the Thurmond amendment is absolutely necessary to make this crime bill one that really works instead of just talking.

I urge all my colleagues to take the time to consider what message they will be sending to our police officers if they vote against this amendment and I strongly urge them to support its adoption.

The VICE PRESIDENT. All time has expired. The question is on agreeing to the amendment of the Senator from South Carolina, amendment No. 368. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from New Hampshire [Mr. SMITH] are necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 43, nays 54, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—43

Bond
Breaux
Brown
Burns
Coats
Cochran
Craig
D'Amato
Danforth
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Johnston
Kassebaum
Kasten
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Seymour
Shelby
Simpson
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—54

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Byrd
Chafee
Cohen
Conrad
Cranston
Daschle
Dodd
Durenberger
Fowler
Glenn
Gore
Gorton
Graham
Harkin
Hatfield
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NOT VOTING—3

Garn
Pryor
Smith

So the amendment (No. 368) was rejected.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. Under the unanimous-consent agreement, the Senator from Illinois is recognized.

AMENDMENT NO. 374

(Purpose: To provide for the sentence of mandatory life imprisonment without release)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 374.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

SEC. . MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE.

Notwithstanding any amendment made to this Act or any other provision of this Act that authorizes the imposition of a sentence of death, such amendment or provision shall be construed to authorize only the imposition of a sentence of mandatory life imprisonment without possibility of release.

The PRESIDING OFFICER. Under the previous order, there is 1 hour of debate on this amendment divided in the normal fashion.

The Chair recognizes the Senator from Illinois [Mr. SIMON].

Mr. SIMON. Mr. President, I yield myself a total of 8 minutes.

Mr. President, this amendment is a very simple amendment. It imposes mandatory life imprisonment without possibility of release for capital offenses.

I recognize the mood of the public and the mood of Senate, but I also recognize that we are now in a bidding war, each side trying to come up with more excuses for capital punishment, and the net result is going to be a lot of innocent lives taken in this country.

Lafayette, one of the great American heroes, wrote well over a century ago, "Till the infallibility of human judgments shall have been proved to me, I shall demand the abolition of the penalty of death."

One of the things that we clearly ought to understand in our society today is that violence breeds violence. The lesson of foreign policy, the lesson of domestic policy, is that violence breeds violence, and that is true whether that is State-imposed violence or other violence. In my opinion, the big, unrefutable argument is that capital punishment is a punishment we reserve for people of limited means. There is no question about it; if you have enough money to hire good attorneys, you do not get capital punishment in our society today. That is the simple reality.

The Stanford Law Review published a study of cases between 1900 and 1985: 350 people were falsely convicted of capital crimes and 23 of these innocent people were executed. My friends, we simply should not be continuing this.

The GAO studies indicate, as Senator KENNEDY pointed out very eloquently on this floor the other day, we particularly reserve the death penalty for members of minority groups.

In modern times, it is apparently true, as was pointed out by one of my colleagues on the floor, no white has ever been executed for killing a black. It is just one of a number of illustrations. The GAO report on my State says that in Illinois those who kill whites are six times as likely to get the death penalty as those who kill blacks.

As far as the deterrent effect, the deterrent for crime is the sureness and the swiftness of the punishment. Capital punishment makes it less sure, less swift, because there are endless appeals.

I want to be tough on crime. I am pleased to say that this crime bill has some amendments of mine in it that will make it tougher on crime in a realistic fashion, saying that people before they get out of Federal prison have to pass a drug test. They have to pass it twice while they are out on parole.

There will be no bail for convicted drug dealers and violent offenders. Mandatory sentences are given to a variety of people.

I have another amendment that I am not sure is going to be adopted. But I am going to offer an amendment if we cannot get an agreement, and if you post bond for more than $10,000, that has to be reported to the law enforcement authorities and the IRS.

I want to be tough on crime, but capital punishment is not a genuine way to be tough on crime. That is the clear evidence.

What about other coutries? What kind of company are we keeping? Does Canada have capital punishment? No. Does Mexico have capital punishment? No. Does any Western European country have capital punishment? No. Who has capital punishment? The Soviet Union, China, Iraq, Iran. That is the kind of company we are keeping when we vote for capital punishment.

My hope is that we will do the sensible thing. I hope we can surprise the Members of the Senate; I hope we can surprise and please a lot of people who understand this issue. Let me read two cases here.

Clarence Lee Brandley of Texas was convicted and sentenced to death for a 1980 murder. He had worked as a janitor at a local high school, and was accused and convicted of the rape and murder of a female student. After spending 9 years on death row, two witnesses testified that another person had committed the crime, and it was shown that the police had thrown away evidence which would have exonerated Mr. Brandley.

Let me give you another example. David Vasquez was pardoned in 1989 for a murder he did not commit. In 1984, a woman was raped and brutally murdered in her home in Virginia. Mr. Vasquez was convicted and sentenced to death. DNA tests of the blood and semen taken from the victim conclusively showed 5 years after his conviction that David Vasquez was not guilty.

And we have had a host of people who have come very close to death——22 cases where they were at the gallows, within 3 days, strapped in the chair, head shaven, and whatever.

I ask unanimous consent to have printed in the RECORD these 22 cases.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 9.—CLOSE CALLS (N=22)[1]

Year of conviction	Defendant	Proximity to execution
1901	J.B. Brown	At gallows.
1907	Zajicek	3 days.
1907	Sherman	A few days.
1915	Stielow	Strapped in chair.
1925	Larkman	10 hrs.
1925	Reno	7 hrs.
1926	Vargas	Head shaved.
1927	Cero	4 hrs.
1927	Weaver	A few days.
1931	Hollins	30 hrs.
1932	Langley	25 min.
1933	Bernstein	Within Min.
1936	Jones	5 hrs.
1937	Zimmerman	2 hrs.
1942	Wellman	Seated in chair.
1949	Irvin	2 days.
1950	Bailey	2 days.
1953	Morris	3 days.
1953	Labat & Poret	3 hrs.
1956	Miller	7 hrs.
1957	Bundy	3 days.

[1] Reprieved within 72 hours of execution.

Mr. SIMON. Simply confirming what I said before: Case after case after case, you see people executed where they did not have adequate counsel. In one case, after someone was executed, his lawyer was disbarred. That is small comfort to the family of the person who was executed.

Let me give a few of the many cases. Willy McGee, 1945, Mississippi—he happened to be black—executed in 1951. The all-white jury deliberated for only 2½ minutes. The chief evidence against Mr. McGee was a coerced confession he gave after being held incommunicado for 32 days after his arrest.

I retain the rest of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself 10 minutes.

Mr. President, I oppose this amendment. This amendment would require that capital defendants be given a sentence of mandatory life rather than a possible death sentence. In other words, it would eliminate the death penalty in the Federal system.

Mr. President, I agree that society must address some of the underlying causes of crime. In fact, the Federal Government has taken great steps to assist those less fortunate than ourselves. However, notwithstanding our Nation's efforts, the fact remains that there are vicious, heinous murders occurring on our streets every single day.

The underlying question this amendment asks the Senate is, Does the death penalty have a legitimate role in our efforts to punish vicious criminals? I believe that it does.

I am convinced that the death penalty is an effective deterrent. The threat of capital punishment does deter violent crime. Not only does it deter individual behavior, it also has value in terms of general deterrence as well. By associating the penalty with the crimes for which it is inflicted, society is made more aware of the horror of those crimes, and there is instilled in the citizens a need to avoid such conduct and appropriately punish those who do not.

In addition, capital punishment serves the society's legitimate interest in retribution. Justice requires that criminals get what they deserve. Justice demands that such inhuman action not be tolerated. The death penalty recognizes society's belief that there are some crimes which are so vicious, heinous, and brutal that no penalty lesser than death will suffice.

Mr. President, the American people favor the death penalty. A recent Gallup poll shows that public support for the death penalty is at the highest point recorded in more than half a century, with 79 percent favoring the death penalty for murder. The public opinion on the issue of capital punishment must not be ignored.

I might say when I first came to the Senate, I believe at that time the polls showed only about 40 percent of the people favored the death penalty. Now almost 80 percent, double the number then, favor the death penalty.

Briefly, I want to discuss a few specific cases where the death penalty is clearly warranted. I believe a discussion of these cases will help my colleagues to understand why we need a Federal death penalty.

In Ogden, UT, Pierre Selby and William Andrews robbed a hi-fi shop and in the course of their armed robbery, forced five bound victims—three of whom were teenagers—to drink cups of poisonous liquid drain cleaner. Selby also tried to force Orren Walker, the father of one of the teenagers, to pour the drain cleaner down his own son's throat. When Walker refused, Selby attempted to strangle him to death with an electrical cord and then repeatedly kicked a ballpoint pen deep into his ear. Selby then proceeded to shoot each one of his victims in the head.

Another case which was truly heinous and depraved occurred in January of 1988 in a Landover, MD, apartment. Kirk Bruce and two alleged accomplices, in an orchestrated plan, shot and killed four men and a woman. Bruce's victims were shot execution style with close range shots to the head. Some were shot as many as eight times. Other were chased into rooms of the apartment and gunned down. One victim, who survived to testify at Bruce's trial, was hiding beneath a bed, but was discovered and also shot in the head. She laid there critically wounded when one of the murderers came back into the room, told her he knew she was still alive, and shot her again.

Finally, the case of Robert Alton Harris should be mentioned. We must not forget the heinous crime Harris committed. On July 5, 1978, just 6 months after he completed a 2½-year prison term for beating a man to death, Harris decided to rob a bank in San Diego. Looking first for a getaway car, he spotted two teenage boys parked at a fast-food restaurant. Harris forced the youths at gunpoint to drive to a nearby reservoir, where he shot and killed them as they begged God to save them. Later, he ate their unfinished hamburgers.

These cases truly provide examples of individuals who should face imposition of the death penalty. In all of these cases, the defendants received the death penalty. However, under current Federal law, were these cases to occur on Federal land, the death penalty could not even be considered.

In closing, this amendment would prohibit juries from even considering the death penalty of the types of crimes I outlined above. Instead, it would provide for a mandatory life sentence. There are people walking the streets today who were sentenced to a life sentence. For example, Roy Dale Chatterton was recently paroled by the State of Georgia. In 1964 he robbed and beat to death a man with a two-by-four timber. He was originally sentenced to death but the sentence was commuted to life. Now he walks the streets a free man and the victim's 72-year-old widow now fears for her own safety.

Mr. President, the law-abiding citizens of this Nation demand action on Federal death penalty legislation, not life imprisonment legislation. They deserve to have a death penalty which will deter violent action against them and will provide swift, appropriate punishment for individuals who choose to commit heinous crimes.

For these reasons, I oppose this amendment and hope the Senate will defeat it.

The PRESIDING OFFICER (Mr. KERRY). Who yields time?

Mr. SIMON. Mr. President, I yield 7 minutes to the Senator from Michigan [Mr. LEVIN].

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I thank my friend from Illinois and congratulate him for again leading the effort to make a mandatory life-imprisonment provision in this bill instead of the possibility of capital punishment provision which is in the bill.

We have had many debates in the Chamber on the death penalty, and it is possible that no minds were changed by those debates. Indeed, it is possible that no minds will be changed by the debate we are having today. But this is in name and fact a matter of life and death, and it is important, regardless of the likely outcome, that we debate the issue again in the Senate floor today.

Let me just emphasize the point of the Simon amendment. The bill before us, yes, provides for the possibility of a death sentence for certain crimes. But it also continues to allow the possibility that a person convicted of those crimes will walk out of prison a free man without even serving a life term.

Whereas, under the Simon amendment, we have for persons convicted of these crimes a mandatory life sentence without the possibility of release. History shows that this will provide to be the stronger, more consistent, and more reliable deterrent. When you get life without release under the Simon amendment, that means what it says; whereas, under the bill before us, although there is a possibility of capital punishment, there is, history shows, the more likely possibility that persons will be out jail, out of prison, before a life sentence is served.

There is another reason that the Simon amendment is the better way to go, and that is that, under the Simon amendment, you can correct your mistakes. And, Mr. President, we make mistakes. I know from personal experience that we make mistakes because I represented someone who had spent decades in prison convicted of a crime that he did not commit. We ultimately, decades later, were able to prove that, and, because we did not have the death penalty in Michigan, he was able to leave prison.

This is true in case after case after case. Senator SIMON has put in the RECORD dozens of cases where mistakes have been made in capital cases. The headlines jump out at us across the years from January 16, 1988, the Washington Post, "Pair Freed After Years on Death Row; Half-Brothers Once Neared Execution;" from the August 31, 1986, Washington Post, "Death Row Inmate Free on Bond Amid Doubts in Murder Case, Supreme Court has Evidence Suggesting Oklahoma Man Innocent." The man was subsequently released. Another headline: Chicago Tribune, December 1985, "Nicrico Case Lights Up the Wrongful Execution Issue." St. Petersburg Times, March 1987, "Freed Prisoner Talks of Brush With Death." In January 1985, "When the State is Wrong" described a case where a man almost went to the electric chair for a murder that he did not commit in the State of New York, a man by the name of Issy Zimmerman.

Or, we can look to "Jerry Banks: An Innocent Man and a Sentence of Death." Banks was on death row for 6 years for a crime he did not commit in Georgia. On and on, we have cases in this system of mistakes. We are imperfect, we are human, our judicial system is human and we make mistakes, and, if we do impose the death penalty, we cannot correct those mistakes.

One of the most interesting cases that we had was a case of a man named David Vasquez. This is a man that Senator SIMON placed in the RECORD. What is really unusual about this is that this is a man who pleaded guilty to a murder he did not commit. People sometimes ask me, when they hear about my opposition to the death penalty, what about a real clear case where there is no doubt that a person committed the murder? In the David Vasquez case, Virginia 1989, a man pleaded guilty, I repeat, to a murder that he did not commit. The reason that he did was because they had a death penalty possibility, and he was afraid that, if he went to trial, he might in fact be put to death, and to avoid that possibility, he pleaded guilty to second degree murder. That is the kind of distortion which the death penalty provides in our system.

The Simon amendment strikes the appropriate balance. It recognizes that there are some crimes that are so heinous, some crimes that so strike to the core of civilized society that the penalty for their commission must be extremely severe. It recognizes that society has the right to be protected from the perpetrators of those crimes forever. And in these two respects it seeks to achieve the same goals as the death penalty. But, again, the Simon amendment recognizes something else. It recognizes that the judicial system, for all of its moral underpinnings and aspirations to do justice, is still a human institution administered by human beings and subject to the flaws and potential for error which afflict all human enterprises. By not imposing the death penalty, the Simon amendment allows the system to correct for its errors and for innocent lives to be spared.

I have to believe that the proponents of the death penalty recognize the possibility that it will, on occasion, be imposed erroneously. If that is the case, then they must believe that even if an individual is erroneously executed, that individual is an unfortunate—but acceptable—casualty in the larger war on crime.

But let me ask this: Would anyone who might argue that erroneous executions are regrettable—but acceptable—failings of our judicial system make that same argument if they or a member of their family were the victim of a judicial error which could cost them their life. If we would find this risk unacceptable for ourselves or loved ones, then how can we pass legislation which would subject others to that same risk. But, on the other hand, if we approve the Simon amendment, we will be able to express society's outrage at despicable crimes—we will throw away the key—without running the risk of committing an irreversible injustice in the process.

Mr. President, I started my remarks by doubting whether any minds would be changed by this debate. Given the past votes on this issue, I hope that I will be proven wrong. But, in any event, the gravity of this issue always merits debate. I urge my colleagues in weighing the pros and cons to be mindful not only of our desire for justice but of our human limitations in achieving it.

The PRESIDING OFFICER. Who yields time?

The Senator from Illinois.

Mr. SIMON. Mr. President, I yield 8 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 8 minutes.

Mr. METZENBAUM. I thank the distinguished Senator from Illinois, my good friend.

I rise in support of the Simon amendment to substitute a mandatory life penalty for all the death penalty provisions in the crime bill.

Mr. President, this is one of those instances in which you come out on the floor and you know you are going to lose, but you should not lose because the Simon position is the right position.

The bill before us contains the broadest death penalty provisions to ever come before this body. It authorizes the death penalty for over 50 Federal crimes. Will it not be a wonderful day when we pass this bill? We can go out and politic all over the country and say that we passed a bill to increase capital punishment.

These numerous death penalty provisions are in this bill more out of a lust for death than a concern for deterrence; more out of a concern for politics than a concern for justice. There is no evidence that the death penalty stops people from killing.

Look at Florida. Governor Martinez, during his tenure, signed 133 death warrants. Florida has executed more people than any other State but one, and yet Florida has one of the highest murder rates in the country. According to the most recent FBI report, the national average for murder is 8.7 per 100,000. But in Florida that average is over 11 murders per 100,000. So much for the death penalty and its impact upon the question of how many people are murdered in a community.

I think we all know why so many death penalty provisions are in this bill. It is not because we think the death penalty is a crime-fighting success. The death penalty is all over this bill because it sounds so tough. It is the Senate's way of showing the American people that we mean business.

I say, hogwash. It does not prove anything at all. It just shows that some Senators are going to go out here and try to send a message to their constituents that they are tough on crime.

In fact, however, we are practicing the politics of avoidance. By seizing on the death penalty, the Senate is admitting we want to avoid the really tough question of what to do about crime in this country. Instead of dealing with the complex causes of crime, the Senate seeks to satisfy the frustrations of the American people by raising criminal penalties, adding more mandatory minimums, and passing more death penalties.

We should be ashamed of ourselves for trying to compete with the President on who is tougher by adding more death penalties. That may sound good on the political stump, but it will not solve the problem of crime.

Listen to how ludicrous some of these death penalty provisions are that are in this bill that Senator SIMON's amendment would take out. And I am pleased to be a cosponsor of his amendment.

Among the 50 death penalties in this bill, we have the death penalties for killing horse inspectors, poultry inspectors, egg products inspectors and meat inspectors. Of course, I do not condone the murder of these people, but telling the American people we are tough on crime by passing these death penalties is literally absurd. It makes us look pretty silly, pretty foolish.

Even if you agree that murderers should be put to death, the fact is the death penalty is not used only against murderers. The unfortunate truth is that the death penalty is—and will be—used against innocent people.

Since the turn of the century, there have been over 350 instances in which defendants in this country were wrongly convicted of homicide and rape and sentenced to death. I once stood on the floor of the Senate and read the names of these innocent victims of our Government's errors. I could do that again today, but the names alone do not convey what it would mean to have killed these innocent people.

Last week I rose to oppose removing the Racial Justice Act from this bill. At that time I told the story of Clarence Brandley, a black man who was sent to death row because of blatant racism. He was innocent. Luckily, Clarence lived long enough to be released.

Let me relate another example of an innocent man almost sent to his death. This example occurred in Texas. It involved a death row inmate, Randall

Adams. Mr. Adams is a lucky man, in part because his story has been told to millions of Americans who have seen the award-winning movie, "The Thin Blue Line." Thanks to that movie, Mr. Adams has finally won his release from prison, but not before he became extremely close to being executed for a crime he did not commit.

Randall Adams had the misfortune of being in the wrong place at the wrong time. A policeman was shot by a young man who later testified that Adams was the murderer. Adams was sentenced to death on the basis of the actual murderer's testimony. A week before the execution, the Supreme Court overturned the death sentence. It was overturned not because Adams was found innocent—that only came to light many years later—but because of improper jury selection.

Because his death sentence was commuted to life imprisonment, Adams was still alive and able to walk away a free man 12 years after his original trial.

Thanks to a skilled and curious filmmaker, Adams' story has been heard and seen by millions of people, but there are many other similar stories—far too many.

Since the turn or the century, at least 23 innocent people have been executed by our Government. We know this in retrospect, but once the death sentence is carried out, that knowledge is worthless. Once a person is dead at the hands of the State, there is no way to bring that person back to life.

Too often we have realized after the fact that we were wrong in imposing a death sentence. Because death is an irrevocable penalty, I believe it is too awesome to use except where we have done everything possible to be sure that the innocent will not be convicted.

I do not believe that this crime bill represents our best effort. There is no protection against erroneous convictions other than prosecutorial discretion in complex legal procedures to protect against court error.

History shows that these safeguards are insufficient. The death penalty is final and obviously irreversible. We must be sure that the innocent will not be executed. We must be sure that the Randall Adams' of this world will live long enough to have their innocence proven. We must do what is just.

For that reason I urge that we adopt the Simon amendment to require life imprisonment instead of death as the ultimate penalty.

And I say to my colleague in the Senate, Senator SIMON, you are going to lose this amendment because too many are going to be worried about the politics of it, as to whether or not it will play well on television or in the newspapers and whether they can stand up on the political stump and say that they were against capital punishment. But you are right. This amendment should pass. I commend you for your leadership.

Mr. SIMON. Mr. President, I want to thank my colleague from Ohio and just add to what he has said. There are areas where public opinion does sway here. But when it comes to what is right and wrong and life and death, there we should not be swayed by public opinion polls. And that is what we are dealing with here.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized for 15 minutes.

Mr. HATCH. Mr. President, I would first like to remind my colleagues of a simple historical fact: There has always been a Federal death penalty. No bill now before this body creates a Federal death penalty where none previously existed. Instead, the main purpose of the pending legislation is only to adopt procedures to allow the death penalties already on the books to be constitutionally carried out. There has always been a death penalty.

The death penalty may be justified on several bases. First, there is retribution: It is consistent with most people's sense of justice that the most serious crimes be punished with the most severe punishment. That is also my personal view. In a democracy, it is right that the people's view on this fundamental question be followed. After all, this is not some arcane question of tax policy or nuclear physics; it is, instead, a question of elemental justice, of life and death, as to which each citizen is every bit as competent as we to say what is right and what is just.

The people of America have clearly spoken on the question of the death penalty. Although the Supreme Court invalidated 37 existing State death penalties in 1972, in the years following the Furman decision 40 State legislatures voted to adopt death penalties. That exceeds the number of States that have had the death penalty at any other time in our history. The overwhelming margins by which death penalties have been adopted by referendum in California, Illinois, and other States are also testament to the current sense that this punishment is needed.

I would also note that the role of retribution in justifying the death penalty has been recognized by a majority of the Supreme Court in *Gregg* v. *Georgia*, 428 U.S. 153, 183 (1976).

As a second basis for supporting the death penalty, I believe that the penalty is both a general deterrent and a specific deterrent to crime. No one has ever disputed the penalty's effectiveness as a specific deterrent. Murderers who are executed will clearly never murder again. Several prison guards have been murdered by criminals originally sentenced to death, but for various reasons not executed. Had their death sentences been carried out, we know as a matter of undeniable fact, that those brave prison guards would be alive today.

I also believe that the death penalty is a general deterrent to crime. For some capital offenses, this proposition is undeniable. Consider treason, espionage, murder for hire—it is clear that the crime will not be committed if the potential punishment includes the ultimate sanction. That is the price some potential criminals will not want to risk. In these crimes of calculation, the criminal has a price and considers the penalties to be encountered in deciding whether or not to commit the crime.

Finally, some scholars think the mere existence of the death penalty deters the commission of capital crimes generally. This view is also in accord, I believe, with the natural instincts of most persons. It is common for death penalty opponents to dismiss this basis for having the penalty, but I believe that deterrence does provide an additional reason for retaining the death penalty.

Still, I do not place my support for the death penalty on that basis alone, or on any other single basis. One's innate sense of justice and the appropriateness of a certain penalty cannot be so neatly categorized, nor may it always be defended in words that will convince others. It is enough for me that I believe the punishment to be right, and that so many of my fellow citizens, each of them as competent as I to decide, also agree.

I am reminded, in this context, of the great philosopher Kant's example. He hypothesized the situation where there may be only two men alive in the world or on a desert island. Should one kill the other, without justification and with malice aforethought, Kant believed that justice ultimately required punishment commensurate with the crime, in this case death. No lesser punishment would be just.

More attention is given to the establishment of the truth in death penalty cases than in any other area of human endeavor. Most death penalty cases involve no assertion of innocence on the part of the criminal—many confess their criminal actions and their crimes and never withdraw or dispute their confession. Would those who say they oppose the death penalty because of the possibility of error, not oppose the penalty in those cases where the defendants admit the crimes? I doubt it.

Some other death penalty issues should be dealt with briefly. First, no one should be fooled by the claims of some that the death penalty is carried out on innocent persons. It is not. While one recent study has made that claim, the Judiciary Committee recently held hearings on this subject in which Assistant U.S. Attorney Paul

Cassell conclusively demonstrated that no alleged instance of an innocent person's being executed has ever been accurately proved. Mr. Cassell is the coauthor, with U.S. Attorney Stephen Markman, former member of our Judiciary Committee staff, of the leading study in this area, published in the Stanford Law Review. This study entirely refutes each alleged instance of mistaken execution.

As I say, each of the mythical 23 cases of innocent executions mentioned by my colleagues from Ohio has been conclusively shown to be the figment of someone's overactive imagination. I do not think there is any question about it.

I would like to show this with respect to one of the cases from my own home State of Utah. It is claimed that Joe Hill, the celebrated union organizer and songwriter, was put to death by the State of Utah, despite being innocent of any crime. He is 1 of the 23 that they claim were put to death though innocent.

Whatever Joe Hill's accomplishments as a labor leader may have been, he was eventually convicted of a sordid murder that was not motivated by any high purpose whatsoever. He robbed a grocery store on West Temple Street in Salt Lake City, leaving the store owner and his son dead.

For that reason, and no other reason, he was convicted of murder, sentenced to death, and executed.

Yet scholars have asserted that Joe Hill was innocent and wrongfully executed. Now, what is the authority for their assertion?

The principal source cited to establish the innocence of Joe Hill is a book by Wallace Stegner entitled "Joe Hill: A Biographical Novel." Mr. Stegner is a great and esteemed Utah novelist and one of my favorites, but he is a novelist, not a historian.

The foreword to his book clarifies this. He notes that the book, "is a fiction, with fiction's prerogatives and none of history's limiting obligations. Joe Hill as he appears here—is an act of the imagination."

That is the foreword to his book. Let me repeat it: "An act of the imagination." That is the basis for these scholars' conclusion that an innocent man was executed in Utah.

While citing a work of fiction is bad enough, even more startling is the fact that the novel strongly suggests that its protagonist, Joe Hill, is in fact a guilty murderer. This is not surprising since Wallace Stegner had previously published two magazine articles in the New Republic in which he gave his view that the real life Joe Hill was in fact a killer.

Yet that is the example that these social scientists give of an innocent man being executed in Utah. That is research? Citing a novel? And one that even finds the man guilty as charged, according to the novelist?

I urge my colleagues who have had the criminal justice systems of their own States besmirched by this irresponsible research to carefully examine the supposed instances of wrongful execution that are so casually thrown around. Cassell and Markman just devastate those arguments and that is in the Stanford Law Review. Anybody can read it.

I am convinced that no innocent man or woman has been executed in Utah. I further believe on the basis of the available evidence that each of you is entitled to make the same claim for your own State.

Finally, I turn to the question of whether the death penalty is applied disproportionately with regard to the race of the perpetrator or the victim. We have heard a great deal on this subject but I would simply note at this point that no one has ever established this alleged disparity in an individual case, nor is this statistical approach to achieving racial justice likely to produce anything except paralysis in our criminal justice system.

I would like to make just one last observation about the death penalty itself. Capital punishment is our society's ultimate recognition of the sanctity of human life. We can either say that a life in terms of criminal sanction is inestimably valuable or we can say that a life is worth life imprisonment with the possibility of parole after several years. Only one of these options grants to human life the sanctity it deserves.

I can give you cases where habeas corpus petitions have been filed over and over again, in Federal courts and State courts; some for parole. In every case the families of those victims have to show up and relive the murders that their families went through. It is pathetic. I just want to make these points.

The distinguished Senator from Illinois is very sincere. He simply does not believe in capital punishment. I can accept that. I believe that anybody who is sincere about that ought to be respected.

But I do want to call his attention to some of Illinois' history. Richard Speck single-handedly murdered eight nurses. That was in 1966. He was sentenced to death.

John Wayne Gacy, murdered 33 young men—in Illinois. He was sentenced to death.

Henry Brisbon, the I–57 murderer. He was first let off death row on a technicality—a ruling much like the one those who voted against changing the exclusionary rule would still allow. Then he turned around and murdered a prison guard. That is after having murdered others on I–57 in Illinois.

Gervies Davis, and Ricky Holman, in rural central Illinois, 12 murders of good farmers, 12 of them. One an 89-year-old man, in a wheelchair. They were just plain robbers but they did not want any witnesses. They knew what they were doing. They murdered these people in cold blood, every one of these people.

Hernando Williams, he kidnaped a woman teacher off the streets of Chicago, just one block from the American Bar Association headquarters.

And he drove around with her in the trunk of his car for 3 days. He drove to his bail hearing on an unrelated rape charge with the still live body of his victim pounding on the inside of his car trunk. Then after forcing her to call home to say goodbye forever to her husband and children, he turned around and murdered her in cold blood.

I just ask all of my colleagues, what punishment is fitting for these crimes? And yet every one of these heinous murderers is alive today because of habeas corpus excess. Everyone. Not one has had to undergo the punishment that the Constitution allows, that Federal laws have allowed for years from the beginning.

We are not adding capital punishment as a form of punishment to this bill. It is there in the law now. We are trying to resolve the procedures that put these families through unlimited hell, those who are survivors of this type of heinous conduct year after year after year. That is all we are trying to do.

I have to tell my colleagues, I respect everybody who believes capital punishment is wrong, but it is difficult for me to understand anybody who believes it is wrong. And I have only given five cases in Illinois that have to irritate everybody in society. I can give some in Utah. We have a man there now in his 17th year of appeals—17th year and 27th judicial review of his sentence. He just had his latest one decided just recently.

It is time for us to face up to the fact that it is a deterrent to this type of conduct to have human life recognized to such a degree that those who heinously take it have to suffer themselves.

I would very seldom use the death penalty. It would be only in the most heinous cases like Richard Speck, 8 nurses; John Gacy, 33 young men; Henry Brisbon, a murderer of others.

I ask for 1 more minute, if I could, from the distinguished Senator.

Mr. THURMOND. I yield such additional time as he requires.

Mr. HATCH. Henry Brisbon who murdered a prison guard after having been released as a murderer on a technicality. Davis and Ricky Holman, murderers of farmers in rural central Illinois. Hernando Williams killed this woman in cold blood after having her call her family and say goodbye. Come on. It is time, it seems to me, to do what is right and that is all the distinguished Senator from South Carolina and I are asking for.

I yield back whatever time the distinguished Senator from South Carolina has remaining.

Mr. GRASSLEY addressed the Chair.

Mr. THURMOND. Mr. President, I yield 4 minutes to the distinguished Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to oppose the amendment that is before us; this amendment effectively removes the Federal death penalty provision from this crime bill.

The use of society's ultimate criminal sanction is not something that any of us take lightly.

Societies are created for the mutual protection of the individuals who are the elements of any given society.

Where the safety of its citizenry can no longer be guaranteed, a society can no longer justify its reason for existence.

In providing its individual members protection, society must do what is necessary within its legal framework to deter those who would break its laws and to punish, in an appropriate manner, those who choose to do so.

Along with controlling behavior, a criminal law structure must promote respect for life, moral integrity, and property rights.

A society makes a moral statement when it punishes, whether it is imprisonment or whether it is the death penalty. Therefore, to be successful, a society must establish punishments appropriate to what has been offended.

It is not enough to proclaim the sanctity and importance of innocent life.

Innocent life must be—and can only be—secured by a society that is willing to impose its severest penalty upon those who threaten such life.

The death penalty reflects the fact that criminals have not simply inflicted injury upon particular individuals; they have also weakened the sometimes tenuous bonds that hold communities together.

Individuals who commit the most heinous and abominable acts against other individuals are deserving of the most serious punishment society can impose.

Our tradition of criminal sanctions does not depend solely upon what some social scientists tell us about deterrence and rehabilitation.

Our criminal laws have always recognized the legitimacy of retribution. Our Criminal Code provides for the punishment to fit the crime: The worse the crime, the more severe the punishment.

While rehabilitation must remain a goal of our penal system, there are some in our society who will never choose to become contributing members.

So justice requires that criminals receive what they deserve; and what they deserve depends on what actions they have taken against society.

To advocate the use of society's ultimate criminal sanction is not something I take lightly.

But the Constitution permits us the option to end a convicted criminal's life if certain prescribed procedures are followed—including appropriate and constitutional due process procedural safeguards—all to ensure that mitigating and aggravating factors are taken into account during the sentencing portion of a criminal proceeding.

Life imprisonment without parole, although at first it may be appealing to some to be a reasonable answer, it only creates another victim: Our whole society.

Individuals who are incorrigibly antisocial, extremely dangerous, and who will remain potentially dangerous to society for the rest of their lives should have to face more than mere imprisonment or worse, for the rest of us, to escape.

It is because of these principles that I support a death penalty within our criminal justice system.

A term of life imprisonment is simply not the toughest, most severe sentence we can impose. Certain crimes require criminals should suffer death for their crimes.

The Simon amendment, then, should be defeated.

I yield the floor.

Mr. SIMON. Mr. President, I yield 5 minutes to the Senator from Massachusetts [Mr. KERRY].

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I listened with great interest to the words of the Senator from Utah who, I think, aptly described the various reasons given for supporting a death penalty. I must say, this is something as a former prosecutor that I have thought about a great deal, as well as a citizen and a Senator. I am troubled by his explanations, at least most of them.

It seems to me that after sober reflection, there is only one rationale that can conceivably carry the day for the death penalty, and that rationale is retribution, because that is what it comes down. The notion that there is deterrence in the death penalty is simply to mislead the American people about what this penalty could do or can do.

I know from talking to people who have been on death row or prisoners that there are many in the course of history who have said, please kill me, end my agony of being in prison. There are people who have actually petitioned to be put to death rather than remain in prison for the rest of their life.

The judgment here is a judgment about what is, in fact, big punishment. I personally believe that if you put somebody behind bars for the rest of their life without the chance of parole so that every day of their life they have to live with the loss of freedom and the penalty of what they did, you are, in fact, committing people to death by incarceration. As one person once said in prison, the day you kill me, my agony is over, my pain is ended, I have ceased to think about it, I cease to exist.

It is cheaper, Mr. President, to actually keep people in prison for the rest of their life than it is to go through the appellate process and death row process on an annual basis. We would save money by putting them in jail for the rest of their life than by killing them.

As to the deterrence issue, that is the most amusing of all. To be a deterrent, you are assuming that somebody is rational and thinking about a penalty. To be deterred, you have to say, if I do this, I am going to be killed or I am going to be imprisoned. Most people who commit a crime, Mr. President, particularly murder, are not thinking about the penalty. They are thinking they are not going to get caught, which is why they commit the crime, or they are thinking in a totally faulty fashion which is why most murders are committed by people who know each other. Almost all the murders in this country are people who knew each other in one fashion or another. People who are rational, who would indeed be deterred from committing a crime, would be rational enough to be deterred from life imprisonment without parole.

Now, I visited some of the prisons when I had either to talk to a defendant or to investigate something, and I will tell you, Mr. President, I would not want to spend 1 week there, let alone the rest of my life, subject to the violence and the extraordinary living conditions and the overcrowding. That is punishment. That ought to be enough to deter any rational person from committing a crime. But the point is that no one is deterred from committing these crimes, as we see from the statistics in Florida and elsewhere. They go out and kill more and do whatever they want to do.

I have to tell you, when I hear the Senator from Utah say we are going to kill people in order to prove the ultimate sanctity of life, I am really troubled. The average child in America, by the time they are 18 years old, has already seen 16,000 violent deaths on television. That is part of what is wrong in America today.

Now we are going to pretend to people that by killing more people we are going to somehow do away with violence. I do not believe that.

That is where I resolve the issue of retribution, because retribution is the one issue that is most troubling. I have found myself at times saying I am ready to pull the trigger on a Sirhan Sirhan or pull the trigger on an Abu Nidal because these are human beings without one redeeming value whatsoever who have committed the most heinous of crimes. The instinct is to say I want to strangle them myself; I want to kill them.

But since when has one death voided another, since when has organized State killing improved matters? And if you measure things in this country today, this does nothing to fight crime in America, because we are raising savages in this country and we raise them because they do not get Head Start, because they do not have families, because they do not have food, because they are raised on violence, and now we are promising them more.

Mr. President, I respectfully suggest that the way to resolve this is to be really tough. Let them pay for their crime all of their days by never letting them have freedom again and by living with the results of their criminal activity.

I yield the remaining time to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I have how much time remaining?

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. SIMON. I will reserve my 30 seconds.

Mr. THURMOND. I think we are ready to yield back our time if the Senator is.

Mr. SIMON. OK. I will just use my 30 seconds, Mr. President. Very briefly, first of all, the evidence of deterrence is nonexistent. Look at the States that have capital punishment, impose capital punishment; you see no relationship. Those States have a higher rate of murder, as a matter of fact.

Finally—and this is the bottom line—we reserve capital punishment for people of limited means. Those people in the gallery there who do not have a lot of income; if they are charged, they may get capital punishment. If there is anybody in the gallery who is a millionaire, let me tell you that person is never going to get capital punishment. That is the reality I hope we face.

Mr. THURMOND. Mr. President, I believe I have 2½ minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMOND. Very briefly, Mr. President, I just want to cite one case which I think illustrates the need for the death penalty. I could cite many—50, 100 or more. Just one case. Several years ago in this area a young teenager was driving down the highway. She had tire trouble. Two men stopped on the pretense of helping her. Instead of helping her, they put her in their car, went down the road, turned off into the woods where they raped her, they killed her, and then they burned her body.

Mr. President, in a case like that, I believe the jury ought to have the option of deciding whether such a defendant gets the death penalty or not. The jury would have to decide; 12 people would have to decide it; all 12 would have to agree.

But are you going to deny the death penalty altogether when facts such as those exist? There are many cases like that. That is just one case I wanted to cite which clearly shows we ought to have the death penalty. So I say if you favor the death penalty, then vote against the amendment of the distinguished Senator from Illinois. If you are against the death penalty, then you vote for him.

Mr. WELLSTONE. Mr. President, I rise today to support the Simon amendment which would substitute life imprisonment for all of the death penalty provisions in Senator BIDEN'S crime bill. I support the Simon amendment because I believe that the death penalty is wrong.

Let me begin by setting the argument straight, because being for or against the death penalty has nothing to do with being hard or soft on crime. Life imprisonment is not being soft on crime. There is no way you can argue that.

With the Simon amendment we are not talking about imprisonment with parole after a few years. We are not talking about imprisonment with any chance of release. We are not talking about a punishment that will not be an effective deterent.

We are talking about criminals who are found guilty of heinous crimes never being free again. That is not being soft on crime. This amendment is not about being soft on crime, Mr. President. It is about life and death.

We all grieve and condemn the violence and brutality that takes place on our streets, in our neighborhoods and communities every day, but as much as we grieve we cannot accept the Government taking a life in the name of justice. The death penalty is wrong; it is wrong because it is immoral in principle and unfair and discriminatory in practice. It results in the death of innocent people and there is absolutely no compelling reason why life imprisonment cannot be substituted for the death penalty.

Mr. President, I am opposed to the death penalty for other reasons and I repeat what I said the other day: Capital punishment is for those without the capital. What I do not need to repeat is all of the statistic that we heard during our debate on the Racial Justice Act. They all said the same thing, the death penalty is not applied in a fair and just manner. To the contrary it is biased, racist, and corrupt. It is discriminatory by race and by Socio-economic status, and this is just the tip of the iceberg, Mr. President because not only is the death penalty applied discriminatorily but it is applied incorrectly.

There is no room for error when it comes to the death penalty. The death penalty is irrevocable, Mr. President, irrevocable, and this is the true tragedy because the facts show that there have been 23 executions involving innocent people and an even larger number of innocent people have come close to being executed. Is this justice?

With life imprisonment these innocent people would be alive and free today. The criminals would be in jail for life and the innocent people would be free. This sounds more like justice to me, Mr. President. The death penalty just does not make sense because there is no conclusive evidence that capital punishment acts as a deterrent. There are now more than 2,400 people on death row. To date there have been 146 executions since 1977; yet the crime rate and the fear of crime remains largely unchanged.

The death penalty is nothing more than an illusory promise of more safety. The death penalty does not deter, does not stop crime. Our choice is clear, Mr. President: The Simon amendment is about moving away from death as an acceptable solution, moving away from a sentencing that is too often based on hatred, racism, emotion. The Simon amendment is about strict, swift, enforceable punishment. The Simon amendment is about mandatory life imprisonment without the possibility of parole.

Mr. President, this is a moral question. It is a question that I have long agonized over a question that each one of us must agonize over. This is a question of life and death and in this question of life and death let me repeat that my opposition to the death penalty is because I deeply believe that it is wrong.

In closing, Mr. President, I would like to echo the words of Clarence Darrow in his closing argument in the Leopold-Loeb case in 1924. Darrow said:

> I am pleading for the future; I am pleading for a time when hatred and cruelty will not control the hearts of men, when we can learn by reason and judgment and understanding and faith that all life is worth saving. * * *

That is what I am pleading for, Mr. President, when I ask for support for the Simon amendment.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. I ask for a recorded vote.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMON. Mr. President, if this is disposed of now, I do have another request that I understand is agreed to on both sides.

The PRESIDING OFFICER. All time has expired on the amendment.

Mr. SIMON. Mr. President, my understanding is that we will vote after the recess, luncheon recess.

The PRESIDING OFFICER. That is correct.

Mr. SIMON. Mr. President, on another matter, I ask unanimous consent that upon disposition or the withdrawal of the Hatfield amendment regarding public execution, Senator GRASSLEY be recognized to offer an amendment regarding victim impact statements on which there be a time limit of 1 hour equally divided and controlled in the usual form, with no amendment to the amendment in order; that when all time is used up or yielded back, the Senate, without intervening action or debate, vote on or in relation to the Grassley amendment. My understanding is that is cleared on the Republican side also.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

RECESS UNTIL 2:30 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:30 p.m.

Thereupon, at 1:07 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. AKAKA].

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question occurs on amendment No. 373 offered by the Senator from South Carolina to amendment 370.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 373

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 29, nays 69, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—29

Baucus
Bond
Brown
Burns
Coats
Craig
Dole
Gorton
Gramm
Grassley
Hatch
Helms
Hollings
Lott
Lugar
McConnell
Nickles
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Symms
Thurmond
Wallop
Warner

NAYS—69

Adams
Akaka
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
McCain
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Stevens
Wellstone
Wirth
Wofford

NOT VOTING—2

Garn
Pryor

So, the amendment (No. 373) was rejected.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 370

The PRESIDING OFFICER. The question is on agreeing to amendment No. 370 offered by the Senator from Hawaii [Mr. INOUYE].

So the amendment (No. 370) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I ask unanimous consent that if a rollcall vote is to be ordered on amendment No. 371, that it be 10 minutes in duration and that the vote ordered on the Simon amendment No. 374 also be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON AMENDMENT NO. 371

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware [Mr. BIDEN].

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] is necessarily absent.

The PRESIDING OFFICER (Mr. REID). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 30, nays 68, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—30

Akaka
Biden
Burdick
Chafee
Cohen
Cranston
Danforth
Daschle
Durenberger
Glenn
Gore
Harkin
Hatfield
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wofford

NAYS—68

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Conrad
Craig
D'Amato
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Fowler
Gorton
Graham
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Jeffords
Johnston
Kassebaum
Kasten
Kerrey
Kohl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth

NOT VOTING—2

Garn
Pryor

So, amendment No. 371 was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 374

The PRESIDING OFFICER. The question is now on agreeing to amendment No. 374 offered by the Senator from Illinois [Mr. SIMON]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Arkansas [Mr. PRYOR] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] is necessarily absent.

The result was announced—yeas 25, nays 73, as follows:

[Rollcall Vote No. 107 Leg.]

YEAS—25

Akaka
Burdick
Chafee
Cohen
Cranston
Danforth
Durenberger
Fowler
Glenn
Harkin
Hatfield
Inouye
Kennedy
Kerry
Kohl

Lautenberg
Leahy
Levin
Metzenbaum
Mitchell
Moynihan
Pell
Sarbanes
Simon
Wellstone

NAYS—73

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Conrad
Craig
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Exon
Ford
Gore
Gorton
Graham
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Jeffords
Johnston
Kassebaum
Kasten
Kerrey
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sasser
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wirth
Wofford

NOT VOTING—2

Garn
Pryor

So the amendment (No. 374) was rejected.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is now recognized to offer an amendment on which there is 90 minutes debate equally divided, and to be in the usual form.

ORDER OF PROCEDURE

Mr. BIDEN. Mr. President, I ask unanimous consent while the Senator from Oregon is making his way here that we go out of order, to morning business, and yield 5 minutes to the Senator from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I thank the Senator from Delaware, as well as the Senator from Oregon, and the Senator from South Carolina.

THE CASE FOR RENEWAL OF SUPER 301: CHINA, KOREA, AND JAPAN

Mr. BAUCUS. Mr. President, as many in this body will recall, the Senate spent a great deal of time and energy crafting the 1988 Trade Act.

The heart of the Trade Act was a market opening provision known as Super 301.

Unfortunately, Super 301 expired last year. It is now time for the Congress to consider reviving Super 301.

DESCRIPTION OF SUPER 301

Super 301 required the U.S. Trade Representative to identify each year the countries that maintain the most significant trade barriers to U.S. exports. Once identified, USTR was required to initiate section 301 cases against the major trade barriers in these countries. Depending upon the nature of the barrier, Super 301 gave USTR 12 to 18 months to negotiate an agreement to eliminate the barriers.

If an agreement could not be reached, USTR was directed to retaliate against the exports of the countries maintaining the barriers.

Unfortunately, the 1988 Trade Act authorized Super 301 for only 2 years. It expired in 1990.

RECORD OF SUPER 301

In 1989, USTR identified three countries as priorities under Super 301: Japan, Brazil, and India.

In Japan, USTR identified barriers blocking United States exports of forest products, satellites, and supercomputers. In Brazil, the system of import licenses was cited. And in India, barriers to insurance sales and investment were cited.

Within 12 months, all of the 1989 cases with Japan and Brazil had been successfully concluded. New markets had been opened for U.S. exporters.

No agreement was reached with India.

But Super 301's story does not end there. To avoid being listed under Super 301, Taiwan and Korea both concluded significant agreements to open their markets to United States exports and investment.

Overall, Super 301 chalked up an impressive record.

But the administration did not vigorously implement Super 301. In 1990, for example, the administration declined to identify any new countries under Super 301—though there were deserving candidates.

More disturbingly, the administration chose not to retaliate against India even though it refused to even negotiate with the United States to lower its trade barriers.

I believe this undermined the credibility of U.S. trade law in the world's eyes. If we are going to identify India's trade barriers as among the most significant in the world, we must be willing to back our words with deeds.

SUPER 301 SHOULD BE EXTENDED

The United States still needs the big stick that Super 301 provides. We need a policy to address countries that adopt sweeping, protectionist policies. Three countries provide excellent case studies: China, Korea, and Japan.

CHINA

The best current example is the People's Republic of China. China wasn't really on the scope when the initial round of Super 301 determinations were made.

But under the guise of an austerity campaign, China has greatly raised its trade barriers in the past few years. China now blocks United States exports with import licenses, discriminatory testing requirements, quotas, and outright import bans. China also allows widespread piracy of United States intellectual property.

Largely because of these trade barriers, the United States trade deficit with China is expanding while virtually all other bilateral deficits are shrinking. This year, the United States trade deficit with China is likely to be second only to that with Japan.

China would be an ideal candidate for Super 301. If the statute were in effect today, the United States could have responded to China's protectionism in a forceful and timely manner. Without Super 301, the administration has chosen to respond merely by launching broad negotiations without deadlines. No action has been taken under the Trade Act against China's market access barriers.

KOREA

Korea would be another likely candidate for action under a renewed Super 301 statute. Shortly after the final round of Super 301 determinations, Korea targeted foreign products under the guise of an austerity campaign.

Korea eventually relented in its campaign against imports. But a group of United States businessmen based in Korea told me a few months ago that they felt a new Super 301 law was the only way to prevent Korea from backsliding.

JAPAN

The original Super 301 provision was written with Japan in mind. We have made considerable progress toward opening the Japanese market. But major barriers remain. For example, we have only scratched the service in addressing the collusive business arrangements in Japan that work to exclude imports.

Further, even in sectors where we have made progress, such as beef and semiconductors, barriers remain. For example, Japan's strict beef quota has been replaced with a 70-percent tariff. That is progress, but we are still a long way from free trade.

One lesson is clear from our long history of negotiating with Japan: Japan does not respond to United States concerns unless we keep up the pressure. By creating an annual review process, Super 301 does precisely that.

CONCLUSION

Mr. President, the United States maintains the most open market in the world. The citizens of other countries can sell their goods and services to a U.S. market of 250 million consumers.

The United States expects equivalent opportunities for Americans doing business abroad.

In its short history, Super 301 succeeded in breaking down unfair foreign barriers to U.S. goods, and creating new opportunities for Americans. It is time that the Congress consider reauthorizing Super 301.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon is now allowed to offer an amendment if he desires, the time to be divided between the proponents in the usual form and manner for 90 minutes.

Mr. HATFIELD. Mr. President, on June 10, a Federal judge in San Francisco upheld the ban on cameras at executions in California denying station KQED of San Francisco, a public broadcast station, from being able to tape the execution that was to occur in the Federal prison. The judge ruled that there are risks in permitting cameras to tape an execution. He said those possible risks include a prison riot, harm to the guards whose identities might be revealed, and heavy camera equipment crashing into the shield surrounding the gas chamber.

Station KQED's current affairs director said, "The warden, who is paid by the State to manage executions, is actually making decisions to censor what the public learns about executions."

Mr. President, I offer an amendment today to provide for the public to participate in viewing the executions that are to take place, and the various and sundry methods that are used throughout this country.

We have had a vote just now on the Simon amendment. I commend my colleague from Illinois for offering his amendment to have this body face up to the fact that we really do not want to know about the grizzly, barbaric manner in which the death penalty actually is carried out.

The judge in this case said it was a safety factor. The manager of KQED, indicated that it was actually an act of censorship for the warden to prevent this from occurring, because, bear in mind, most executions are reported by the written press. One can choose not to read, and one can ignore the printed word, but the visual communication of an execution can be the ultimate exposure to barbarism—that is, legally sanctioned murder by the State.

Mr. President, I want to say that this is the most repugnant, repulsive, obnoxious action that I have ever taken in my 40 years of politics in offering such an amendment. The amendment on the face of it is absolutely abominable. I can only think of something worse, and that is the executions that are provided under the laws which this body, by an overwhelming vote, wants to expand.

But we do want to see it happen; we do not want to be participants in the sense that we have possibly to view it on television. Why does the American public—which this body probably very accurately reflects by that vote—accept the death penalty in vote after vote, or poll after poll? I submit, because the meaning of life has changed in this country and in our society.

I think there are many reasons why the meaning of life has changed, but this is not the moment to try to explain all of them. Life in our society has been reduced to a factor to be controlled and manipulated, from my perspective. Every day we practice a selective value that we call the sanctity of life. We discuss it in the abortion debates. Every single debate that has occurred on this floor stressed the sanctity of life for those of us who have not supported abortion on demand. We discuss it time after time. And I only have one question to ask: Is life in the womb any less important than life that is born?

Where are all these prolife people when it comes to the question of executions, and the issue of sanctity of life? Is it just a woman's right to choose the ultimate liberty? The courtrooms and intensive care units are making decisions regarding the timing of death for gravely ill patients and premature newborns. We are selectively practicing the great fundamental value of the sanctity of life. We go to great lengths to save our babies and the premature newborn, a practice that seems so at odds with the ease with which this body endorses the death penalty, and those who want to expand it to the mentally retarded.

Mr. President, during the noon hour, I met with a group called CURE, a small citizens group, who oppose the death penalty and have committed their lives to the rehabilitation of prisoners, convicts, criminals. I met with a mother and father who said that they had the experience of taking their 19-year-old son to a medical facility and asked for his examination, and they told me that he had been examined and found that he had mental problems. But he was not violent. The facility could only keep him for 30 days, because they needed the bed. They then took him to a veterans hospital where they asked for, again, an examination, and the same diagnosis was made. He had mental problems. He was diagnosed as schizophrenic, but he was not violent. And they could only keep him for 30 days. But they said, if he becomes violent, we could give him long-term care.

Mr. President, this mother and father said he was only violent once, and in that time, he murdered five people. But long-term care was not the option at that point. They also showed family records that his natural father died of a brain tumor. He had two siblings that had been diagnosed as mentally ill people. With all this record, the court found him guilty, sentenced him to death, and he was put on death row.

The court of appeals then found that there had not been an accurate trial. On a technicality, they retried him with additional medical records from other members of the same family. And, again, the court found him guilty and sentenced him to death.

Does this in any way excuse his crime? Of course not. Those of us who oppose the death penalty are often identified as the "sob sisters" that are more concerned about the criminal than about the victims. That is totally untrue—at least as far as this Senator is concerned. But I also am concerned about the sanctity of life. We do not like to talk about it, this selective sanctity of life. Also, in our practice of foreign policy, only 5 months ago, Mr. President, our country made the decision to end the lives of thousands of Iraqis, because the world's oil supply was made vulnerable through the acts of a single madman. If nothing else, this body should recognize the crying need for a consistent ethic of life and that, as Federal officers, we ought to define our role in protecting the individual from sickness, harm, and death. Instead, we play the dangerous game of picking and choosing our own interpretation of each life's value. Too many individuals come up short or lose out altogether.

In my view, life—any life, all life—is much too precious for this cavalier agreement. We have consciously chosen a narrow definition of what it means to be prolife, making it synonymous with antiabortion.

Abortion has become, on the one hand, the ultimate symbol of individual rights; and on the other, it is the ultimate example of violence by legally sanctioning the taking of innocent life. But abortion is not the only campaign against life that runs headlong into our professed desires for life, peace, and justice. I believe that continued use of the electric chair, the willingness to wage deadly war against our enemies, and the blind eye turned to the sick and suffering of the world, all cheapen the value of human life. The awful truth is that we, as a nation, are completely at home with violence.

We defend the right of abortion. Millions of unborn children are being taken. We urge the death penalty for the guilty. Our children flock to the local video stores for movies which glorify death and violence. What were the favorite movies of the past few months anyway? "Total Recall," where Arnold Schwarzenegger joked as he shoots his wife; "Good Fellas" where a child is shot for disturbing a card game.

At what point do we recognize that we are so comfortable with violence that we seek it as a solution to our most difficult problems: Crimes, war, unwanted pregnancy, and population control?

In too many cases lives are an acceptable price to pay for this illusive peace of mind we seek.

I have served in the Senate since the height of the Vietnam war and year after year during that war we saw the body count on the nightly news, watched the sons, brothers, nephews, and husbands returned from Asian jungles without limbs and too often in body bags. And we learned of the secret bombing in Cambodia and the sick rampage at My Lai.

Finally we cried—most of the American people, at least—cried "enough." We said never again to unjustified, undeclared war. And yet when Saddam Hussein turned his tank turrets on Kuwait we were willing to airlift troops, to airlift our Army. Our sailors and our Army were there before we even had a policy in place.

And the two sides of the aisle at that time, Mr. President, raced to see who could give the resolution to support the President's announced policy. The Democrats did not put a time factor on theirs; the Republicans put a time factor on theirs. That was the only difference. Both of them were resolutions to support the war.

As the months progressed, our Nation again slid into war. We were comfortable with war. The U.S. Senate voted for what we embraced: violence. The human toll was acceptable in attaining our goal. And instead of considering effects of our actions, the deaths of Iraqi soldiers, civilians, and bombing of a nation held hostage by a tyrant, bringing epidemic and suffering, we thought only of our own mission and we were, by the standards of most Americans, successful.

I, with all other Americans, stood with pride for the kind of discipline and action that our young men and women carried out under orders of a policy that I disagreed with, but applauded the response of our military organizations as individuals.

Mr. President, the effort to expand the dealth penalty in this bill lacks both a mission and a recognition of capital punishment's utter failure. Capital punishment is bankrupt. The death penalty is easy. It is easier to resort to violence than it is to deal with the moral dimensions of crime and to practice real deterrence.

Many believe it is easier to put murderers to death than it is to lock them up for the rest of their lives. But the reality of the death penalty fails our Nation in so many ways that I find it unconscionable we should even consider it. But here we are again.

Why do not we want to televise it? Well, I think too many of us have read the stories or accounts of the executions. Listen to a few descriptions in the New Republic:

> Eighty-three people have been electrocuted since the Supreme Court reinstated capital punishment in 1976, making the method the most common one now in use. It is probably the most gruesome to watch. After being led into the death chamber, the prisoner is strapped to the chair with belts that cross his chest, groin, legs, and arms. Two copper electrodes are then attached: one to his leg, a patch of which will have been shaved bare to reduce resistance to electricity, and another to his shaved head. The electrodes are either soaked in brine or treated with gel (Electro-Creme) to increase conductivity and reduce burning. The prisoner will also be wearing a diaper.
>
> The executioner gives a first jolt of between 500 and 2,000 volts, which lasts for thirty seconds. Smoke usually comes out of the prisoner's leg and head. A doctor then examines him. If he's not dead, another jolt is applied. A third and fourth are given if needed to finish the job. It took five jolts to kill Ethel Rosenberg.

U.S. Supreme Court Justice Brennan gave this description:

> * * * the prisoner's eyeballs sometimes pop out and rest on [his] cheeks. The prisoner often defecates, urinates, and vomits blood and drool. The body turns bright red as its temperature rises, and the prisoner's flesh swells and his skin stretches to the point of breaking. Sometimes the prisoner catches on fire, particularly if [he] perspires excessively. Witnesses hear a loud and sustained sound like bacon frying, and the sickly sweet smell of burning flesh permeates the chamber.

That is a Supreme Court Justice's description.

> An electrocuted corpse is hot enough to blister if touched.

Mr. President, I have five others, but I shall skip them. I have no pleasure, nor do I have any other feeling but revulsion that I feel in reading the actions that are taken in the name of the State.

Mr. President, we live in an imperfect world, and we are imperfect. But one thing is certain: The death penalty is very final. There is no room for correcting, once applied.

In this century alone, according to a study published in 1987, 350 persons have been erroneously convicted of capital crimes in the United States, 116 sentenced to death and 23 were actually executed. No room for correction; 23 innocent lives taken under the authority of the State. Twenty-three families left to mourn innocent loved ones wrongly taken from them, and 23 victims' families who have seen the horrible nightmare. In exchange for what?

In that same study, from 1987 to 1989 alone, 12 people received the death sentence and were later determined to be innocent. In 19 months, 12 people received the death sentence.

We have heard in the past in this Chamber the wrongful conviction of Isidore Zimmerman, a young man about to be admitted to Columbia University on a football scholarship, an aspiring lawyer, in 1938, arrested, tried, and convicted, participating in the murder of a New York policeman. He was sent to death row and at one point even finished his last meal before the execution was to take place, when the Governor commuted his sentence to life in prison.

It was not until 1962, 24 years later, that Zimmerman was found innocent. His lawyer had produced a sworn statement by one of Zimmerman's accusers that stated Zimmerman was innocent; the prosecutor suppressed the testimony because Zimmerman had refused to cooperate in unrelated cases. It is this type of human fallibility that makes the death penalty an untenable option.

Mr. President, I am also disturbed by the arbitrary manner in which the sentence of death is handed out and again, to quote Justice Brennan. Justice Brennan stated:

> When the punishment of death is inflicted in a trivial number of the cases in which it is legally available, the conclusion is virtually inescapable that it is being inflicted arbitrarily. Indeed, it smacks of little more than a lottery system.

Mr. President, for a Supreme Court Justice to refer to it as a lottery system is certainly a bizarre way and yet a very accurate way to describe it. What a cruel and undignified game. And who are the losers? I will tell you who the losers are. Test after test, study after study, shows it is the poor, the ignorant, the criminals, who are usually also a minority ethnic racial status, who are the ones that play this game and lose in this death lotto, this lottery. They are the ones that overwhelmingly face the State-sanctioned killing.

Blacks, other minorities, the poor, cannot afford expensive, well-trained lawyers.

When I was Governor of Oregon, I think it was about seven that I had on death row. I have shared the experience with my colleagues before, and it is not a pleasant one to repeat. Some of the most heinous crimes committed in the State of Oregon were represented by these convicts, appropriately sentenced under State law, tried under the courts of our State, found guilty, and faced the gas chamber.

One of those seven cases that first came to my desk had no question about guilt: The killing of a mother and a daughter, a child—a heinous crime. No one could condone the crime; no one could in any way justify the man being other than guilty. There was no error in his court trial. There was no new evidence. There was nothing that I had set as a criteria to exercise a commutation.

Mr. President, at that time in my life, I was very strongly convinced that a person in public office should exercise every public authority and responsibility that is his under a criteria of measurements and not on the basis of his personal viewpoint. And just in that sort of direct, very personal, intimate relationship they had to put a special phone line into my home. We did not have a Governor's residence at that time in our State. And it had to be a red phone, wouldn't you know. The other end of that phone was at the gas chamber. The only other person who would lift that phone would be the warden of the penitentiary.

And all through that grisly, macabre kind of experience, I sat until the hour of midnight. At 10 minutes to 12, a knock at the door, a last minute plea. At the same time, I held to the principle that I was elected to uphold the will of the people and not my conscience. I know I would not do it at this time in life. The man was executed. The only call I got on that red phone was from the warden, who reported to me that the execution had been completed.

Now that was my duty, that was my responsibility to make that decision, and I bear full responsibility for that decision. Nevertheless, what I am saying, Mr. President, is that we had it so broadly and so completely and comprehensively reported that the people of Oregon became enlightened and repealed the death penalty and I commuted the rest of the sentences. Now, those people deserved life in prison, and I would have supported, as I know I did with my vote on the Simon amendment, to substitute a true life imprisonment.

Do you know why, in part, the public is supportive of the death penalty? Because they read about some grisly crime and they read about the court action and the sentencing to life in prison and then 5 or 6 or 7 years later they note the people have been paroled or are out of prison. Life imprisonment does not mean life imprisonment. And I can understand why a lot of the public feels the way they do. Retribution or vengeance, or whatever it is, the sanction of life is the only way to go.

I still feel, if we had a mandatory life imprisonment, that it would certainly then change at least a part of that body of public opinion.

Now, I have had people say to me, "Oh, well, you cannot afford to keep those people for life. My goodness, it is so costly. Execute them. Get rid of them. Put them down the tube, and then you do not have to pay for their keep."

Again, study after study, as Senator SIMON indicated, shows that the cost to the taxpayer is anywhere between two to six times more to execute a person than to lock him up for life. People do not realize the safeguards put around the death penalties and the costs, and, like most of life, the lawyers are making the money in a lot of those things in terms of those increased costs. But we have study after study showing that the costs to execute are indeed much greater.

Here is a study from New York. It costs $660,000 to jail a man for 40 years, but it costs in New York State $1.8 million to execute him. So for those who are cost conscious, the costs are on the side of life imprisonment.

But, Mr. President, there are other costs to be paid beside the dollar costs. Amnesty International, which is a highly respected global human rights organization, has targeted the United States for human rights violations in connection with the death penalty. In 1987, the organization sent an international team to the United States to study our primitive practice. The group pointed out the extremely selective process that falls disproportionately on minorities and the poor.

And are we content, I might ask the question, to continue this obscene practice even if it means being criticized for human rights violations along with Syria, Libya, Iraq, Iran, Cuba, and China? We are going to argue the China policy soon, and we are to have a lot of arguments about the human rights problems in China, and indeed they are there.

Let me tell you, the vote on that Simon amendment represents a human rights problem in this country. But, again, we are very selective. The vast majority of the free world has rejected this barbaric form of physical punishment. The United States stands virtually alone in retaining the death penalty. In this regard we are hopelessly out of touch with the human rights attitudes that prevail in the world today and particularly in the Western World.

Well, some would say, I am very philosophical, but we are living in a real pragmatic world. Indeed, we are, and the first bit of pragmatism is the last vote.

I am a realist. But I must say, Mr. President, I could not be in good conscience and not raise the issue to try to demonstrate that we are very comfortable here today in this air-conditioned Chamber, far removed from any death chamber. We have found it very comfortable to vote for increased violence, and we again have applied our selective judgment on the sanctity and the value of human life by the ease with which we have voted this and under the false assumption that capital punishment is a deterrent.

I would suggest that if one really believes that, if those 70-some colleagues of ours voted to sustain the death penalty really believe that the deterrence was a valid reason for having the death penalty, let them support this amendment.

It is our duty to maximize the deterrence. Maximize it. Force the Americans, at least if they care to turn on the television to watch it, it witness it. Then that should turn them all away from crime very quickly, promising themselves to never think about committing a crime. I have no guarantee that viewing this on television would turn the American public opinion around against capital punishment, but I think it would cause an awful lot of people to understand just truly how barbaric it is. And now especially that we have the injection. That is so clean.

That is like that clean surgical war in the Persian Gulf. I am grateful to God that we had so few lost in casualties on our side. But by the same token, to call it a clean, surgical war is about as rational as trying to say an injection makes it a painless, clean execution.

The fact of taking a life is a crime that we are dealing with here, sanctions, supported, advocated, expanded by this body. This is not one of our shining moments. I do not think there will be great accolades of historians writing the history of this Senate around this action.

But, Mr. President, I make my appeal only by saying I have had my day, I have had my say, and I treasured the freedom of this institution. I say it against all odds and to have the right to say it.

Mr. President, I shall not send this amendment to the desk. Very frankly, it makes me want to vomit. I do not want to force the American public to watch this barbaric act. But most of all I want this practice stopped.

I hope the point has gotten across, at least to a few. I yield the floor.

The PRESIDING OFFICER (Ms. MIKULSKI). The Senator from South Carolina.

Mr. THURMOND. Madam President, I strongly oppose this amendment. This amendment would require that all Federal executions be televised.

Although this amendment has been called the "maximum deterrance" amendment it is simply an attempt by death penalty opponents to eliminate the death penalty by sensationalizing the execution. The advocates of televised executions hope the sight will stir passions and revulsion of capital punishment. Yet, televising executions might have the opposite effect. Such a step could accelerate the desensitization of Americans to death.

This amendment's attempt to shock America into opposition of the death penalty is obvious. This is evidenced by the fact that the bill fails to require that the viewing public be told about the heinous acts these individuals committed. The amendment also fails to permit the victim's family to make a statement.

This issue has recently risen in the State of California where a public television station has brought a suit asserting the right to film the execution of Robert Alton Harris. Syndicated columnist George Will recently wrote a column on this case in which he wrote:

> Televised executions would transmit peculiar information and for a problematic purpose. Information is normally valued as nourishment for reason. [However,] many advocates of televised executions hope the horrifying sight would stir passions, particularly revulsion.

This is not a "maximum deterrence" amendment. Rather, it is an attempt to eliminate the death penalty by showing the end result of what brutal, vicious murderers brought upon themselves without providing society with the facts surrounding the case.

The constitutionality of the death penalty is clear. Death penalty opponents, faced with the fact and society's strong support for capital punishment, are trying to eliminate the death penalty by other means. This amendment is just such an attempt.

For these reasons, I strongly oppose this amendment.

Madam President, I ask unanimous consent for the George Will column to be printed in the RECORD following these remarks

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CAPITAL PUNISHMENT AND PUBLIC THEATER

(By George F. Will)

SAN FRANCISCO.—State-inflicted death used to be public theater with didactic purposes, and it may be again if KQED, the public television station here, wins its suit asserting a right to film executions.

Reporters have always attended California executions. A press sketch was made of the most recent one, in 1967, But before KQED filed suit, prison policy was changed to require reporters to be empty-handed (no note or sketch pads, tape recorders or cameras). After the suit was filed, the rules were revised again to ban all reporters from any executions.

This comprehensive ban may protect San Quentin's warden against KQED's original contention that he was unconstitutionally discriminated against graphic journalism because of its content. However, the ban opens him to another charge: He is unconstitutionally infringing the newsgathering right by abolishing a historic access to a government function without serving a compelling government interest.

The First Amendment is not a blanket freedom of information act. The constitutional newsgathering freedom means the media can go where the public can, but enjoys no superior right of access. Courts have recently protected press access to particular government functions when there is a history of openness and when openness would facilitate the function. Journalists claim no right to witness, say, Federal Reserve meetings or Supreme Court conferences. But executions are scripted rituals, not deliberate processes. Every other aspect of California's criminal justice system—trials, parole and clemency hearings, press conferences by condemned prisoners—can be televised.

The warden's real concerns, for the dignity of the occasion and for society's sensibilities, are serious. Solemnity should surround any person's death, and televised deaths might further coarsen American life.

There has not been a public execution since 1937 (a hanging in Galena, Mo.). At the time the Constitution was adopted, public executions were morality pageants, featuring civil and clerical orators, designed to buttress and celebrate justice. But by the 1830s most states, alarmed by "animal feelings" aroused by public executions, moved executions behind prison walls, inviting representatives of the proliferating penny newspapers to be society's surrogate witnesses.

KQED says television conveys an "immediacy and reality" that is lost when events are "filtered through a reporter and conveyed only in words." It would be more accurate (and less obnoxious to writers) to say pictures have unique saliency and increasing importance in a decreasingly literate society. (California's Department of Education estimates that one in four California adults is functionally illiterate.) No camera can make capital punishment more troubling than Orwell ("A Hanging," just six pages long) and Camus ("Reflections on the Guillotine") did while working "only in words." Still, KQED could argue that Orwell and Camus are rarities and public understanding should not depend on literary genius being common in journalism.

It is dismaying but undeniable: Most Americans get most of their information, such as it is, from television. But televised executions would transmit peculiar "information," and for a problematic purpose. Information is normally valued as nourishment for reason. Many advocates of televised executions hope the horrifying sight would stir passions, particularly revulsion.

Attempts to proscribe capital punishment as unconstitutionally "cruel and unusual" have foundered on two facts: The Founders did not consider it so (the Constitution assumes its use) and society's "evolving standards of decency" have not made it so. Society's elected representatives continue to enact capital punishment.

KQED says it would not exercise a right to broadcast an execution live or without permission of the condemned. But although a court can affirm the journalistic right KQED asserts, it cannot mandate KQED's scrupulousness. Whether broadcast executions would be in bad taste or excite prurient interests are editorial concerns beyond the proper purview of government.

Televised executions might accelerate the desensitization of America. However, much death has been seen on American television; foreign executions (of the Ceausescues; a Saudi beheading), the Zapruder film of President Kennedy's exploding skull, Robert Kennedy bleeding onto a hotel kitchen floor, the explosion of the shuttle Challenger, Hank Gathers's death on a basketball court. Would tape of an execution be more lacerating to the public's sensibilities than the tape of Los Angeles police beating a motorist nearly to death?

There have been 143 executions since capital punishment was resumed in 1977. They have lost their novelty, (hence much of their new value: A recent Texas execution (by lethal injection) did not even draw the permitted number of reporters. Perhaps this distresses those who support capital punishment for its deterrent power. If KQED prevails, publicity will be ample, at least for a while.

However, the dynamics of the public mind, and hence the consequences of a KQED victory, are unpredictable. Perhaps the unfiltered face of coolly inflicted death would annihilate public support for capital punishment. But perhaps society values capital punishment because of its horribleness, from which flows society's cathartic vengeance. All that is certain is that the constitutionality of capital punishment is linked to the public's values, which are malleable.

Mr. THURMOND. I might say the distinguished Senator from Oregon has talked mostly about the objections to the death penalty from his standpoint. However, my statement centers more on the nature of his amendment. I just wanted to make that explanation.

Madam President, if there are no other remarks on this subject at this time, I presume we are ready to go forward with some other amendment and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Madam President, I yield back my time on this amendment. I presume the able Senator from Oregon cares to do the same?

Mr. HATFIELD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Madam President, having checked on both sides of the aisle as to any other comments that anyone wishes to make, I, at this time, ask unanimous consent to vitiate my unanimous consent order, since I did not send the amendment to the desk.

The PRESIDING OFFICER. Without consent, it is so ordered.

Mr. HATFIELD. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. SPECTER. Mr. President, in light of the fact we were in a quorum call and the distinguished Senator from Iowa is waiting to offer an amendment, I ask unanimous consent to speak as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

NAVAL AIR DEVELOPMENT CENTER AT WARMINSTER, PA

Mr. SPECTER. Mr. President, I have sought the floor to comment about the pending activities of the Base Closure Commission as they relate to the Naval Air Development Center at Warminster, PA. That center, Mr. President, is an excellent naval air research center which ought not be closed because it has very highly specialized and skilled technical research personnel with advanced degrees, personnel which have done an outstanding job in developing naval air strength.

Beyond that, it has unique physical facilities in what is called a centrifuge which is a mechanism for testing pilots revolving around as if in flight conditions within, say, 20 feet of granite on a very unique spot in Warminster, PA. It has an ejector system which is highly unique and was used by the Air Force during the gulf war to test personnel with chemical warfare protection equipment. The Air Force with all its facilities does not have this type of ejection system which is why they chose to use this Navy testing facility.

The issue has arisen, Mr. President, as to whether the Defense Base Closure Commission on July 1, 1991, should take action to support the view of the Department of Defense to down size the Naval Air Development Center at Warminster. This matter is being considered in a context where there is a statutory provision, Mr. President, which refers to action by an advisory commission which is not to submit its report until September 30, 1991.

As a matter of congressional intent, Mr. President, I would suggest it is apparent on its face that the Advisory Commission on Consolidation and Conversion of Defense Research and Development Laboratories which, according to the fiscal year 1991 Defense Authorization Act shall "not later than September 30, 1991 * * * submit to the Secretary a report containing the Commission's recommendations regarding the matters considered and determined by the Commission." The report is to involve the recommendations as to closure or consolidation and conversion of defense research and development laboratories.

On the other hand, the mandate of the Base Closure Commission, Mr. President, requires "the Commission shall by no later than July 1" submit recommendations to the Secretary relating to closure.

Therefore, on its face when the Advisory Commission on Laboratories is not supposed to submit its conclusions until September 30, as a matter of obvious congressional intent these laboratories should not be considered by the Base Closure Commission on July 1 when the corollary statute calls for the advisory committee's recommendations on September 30.

If the Base Closure Commission proceeds to act by July 1 without taking into account the recommendations of the advisory committee, there will be a flat-out violation of the provisions of the statute which call for the advisory commission's conclusions. Obviously, when they are not submitted until September 30, they cannot be considered by the Base Closure Commission on July 1.

Mr. President, on this subject, a group of members from a number of States with interests in the Naval Air Development Center and other laboratories met with the chairman of the Defense Base Closure Commission last Thursday, the Honorable James A. Courter. The suggestion was made that if the Members of Congress withdrew a challenge as to jurisdiction of the Base Closure Commission, then there might be an inclination on the part of the Defense Base Closure Commission to act after the September 30 report by the advisory commission.

Pursuant to that meeting last Thursday, where Chairman Courter stated that he could only speak for himself and not other members of the Base Closure Commission, I wrote this letter dated yesterday, June 24 to the Base Closure Commission.

> GENTLEMAN: I urge the Defense Base Closure Commission not to act on the Naval Air Development Center at Warminster, Pennsylvania until the Advisory Commission on the Consolidation and Conversion of Defense Research and Development has an opportunity to make its recommendations by September 1, 1991.
>
> As a matter of basic Congressional intent, it is clear that the Defense Base Closure Commission should not act, and in fact does not have jurisdiction to act, until the Advisory Commission makes its recommendation.
>
> If the Defense Base Closure Commission takes no action on the Naval Air Development Center, as illustrative of RDT&E laboratories, it would be my position not to challenge the jurisdiction of the Defense Base Closure Commission to consider laboratories in the FY93 process.
>
> Thank you very much for your consideration of this important matter.
>
> Sincerely,
>
> ARLEN SPECTER.

Today, Mr. President, at 8 a.m., a group of Members who are interested in this laboratory commission met with two other commissioners, James C. Smith II and Robert D. Stuart, Jr., in order to outline our position that a reconciliation of these conflicting views might be accommodated by having the Base Closure Commission hold off until the advisory commission has made its recommendation.

I put this on the record, Mr. President, because it is the hope of this Senator that we will be able to work out in an orderly process the important considerations of national defense. Aside from the jobs which are involved in Warminster, PA, I submit that the Naval Air Development Center is very vital for national defense, and the advisory commission's views ought to be taken into account.

If the Base Closure Commission will await the views of the advisory commission, then I think a good accommodation of all of the competing interests would be realized; the Naval Air Development Center would stay open beyond July 1, 1991, and perhaps permanently. I think such an action would be in the national interest, at least until the advisory commission had submitted its recommendations in September of this year. And then beyond that point, we would have those facts before us and the Base Closure Commission could act in due course, perhaps in the fiscal year 1993 timeframe, as referred to in my letter.

Mr. President, I would add just one other addendum, very briefly, and that is a concern which I have about the process before the Base Closure Commission. When materials are received from so many collateral sources and Members of Congress do not know what is being considered by the Commission, as a matter of basic fairness and due process every sort of proceeding that I know about, administrative law procedures, commission procedures, judicial proceedings, matters that come before the Congress, the facts are all on the table for all of the interested parties to comment upon.

Before this Commission, however, the Naval Air Development Center and other installations, including the Philadelphia Navy Yard, there are so many matters being presented where Members do not know precisely what the Commission has before it. I raise this issue because it did come up in this morning's meeting. But as I say, it is my hope that this will be an accommodation which will enable the Naval Air Development Center to stay open beyond July—or perhaps permanently—until the advisory commission's recommendations are received. This would move reconsideration of this issue until at least fiscal 1993.

I notice now the distinguished chairman of the committee is on the floor. I thank the Senator from Iowa.

I yield the floor.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa is recognized.

AMENDMENT NO. 376

(Purpose: To require preparation of victim impact statements in connection with hearings to determine whether a sentence of death is justified)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration. The amendment is for myself and Senator NICKLES.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. NICKLES, proposes an amendment numbered 376.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, in section 202(a) of amendment No. 369, in proposed section 3593(a) of title 18, United States Code, strike the period at the end of the sentence following paragraph (2) and insert ", and shall be based on a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, describes the necessary course of treatment for the victim and the victim's family, and contains any other information related to the impact of the offense on the victim and the victim's family that the court may require.".

Mr. GRASSLEY. Mr. President, we have spent a great deal of time debating the rights of criminals, and there is no doubt in anybody's mind that these constitutional rights in every respect deserve to be protected. We are dealing with death penalty procedures and we have dealt with the exclusionary rule limits, et cetera. So I want to draw my colleagues' attention away from the rights of the convicted at this point, and bring attention of this body—obviously not for the first time, and I am not the only Member interested in this, maybe every Member is interested in it—but to think in terms of the plight and the rights of the victims of crime.

At the outset of the debate on this amendment, I need to commend Senators THURMOND and BIDEN for recognizing that victims have rights and need protection in our criminal justice system. The death penalty provisions that the chairman and the ranking member of our Judiciary Committee agreed upon they—meaning Senator BIDEN and Senator THURMOND—have included a provision about victims of crime.

The current provision states that the Government must notify the defense that it will seek the death penalty, and in its notice the Government must specify the factors that it will try to prove as a basis for the death penalty. Those factors must include the effects of the offense on the victim and the victim's family.

This is a very important development. So I thank everybody who is involved in getting this provision included because now the courts will be required to have direct information about the impact of the crime on the victim and on the victim's family.

You might ask, if this is the case, then why my amendment? Well, the amendment simply clarifies the provisions already agreed to.

First, it gives a title to the information that the court would hear about the victim. And the obvious answer to what that title is, the title is Victim Impact Statement.

Second, the amendment specifies more clearly the type of information included in the Victim Impact Statement. For instance, the identity of the victim; next, the extent and scope of the injury and the loss suffered by the victim and the victim's family; next, the course of treatment that the victim and the victim's family underwent as a result of the crime; and any other information that the court may require.

Under the provisions agreed to by Senators THURMOND and BIDEN, and the addition of this amendment, a victim would have the right to communicate about the impact of the crime directly to the court.

With this provision, we are going to, in a sense—give a victim somewhat equal consideration in the court with the criminal. I think that it is entirely appropriate that we have the courts consider victims' rights and give some consideration—I would like to say some parity. Parity may be asking for too much, but at least some rights that victims presently do not have.

As the Justice Department has noted, the effect on the victim may include the suffering of the victim in the course of the crime, and the loss of the opportunity to consider his characteristic activities and enjoyments, and to realize his plans and aspirations that have all been set aside because of a criminal act against this person. The effects on the victims' families may also include emotional anguish, and distress, and economic hardships.

I want to note that under this provision and under my amendment the prosecution would not be required to introduce mitigating evidence from the victim. In other words, if the victim, for whatever reason, felt that the criminal should not have the death penalty imposed, the prosecution would not be required to include this information as part of the victim impact statement. These effects of the crime are relevant to the court's consideration of the appropriate penalty that ought to be issued if a person is convicted.

The amount of harm an individual causes does in fact bear upon the extent of his personal responsibility. A defendant's personal responsibility and moral guilt are relevant in determining whether or not that defendant should receive the death penalty.

Most Americans agree, I believe. The law-abiding citizens of our Nation believe that in their sentencing decisions courts have failed to take into account not only the factors aggravating a defendant's moral guilt but also the amount of harm caused to innocent members of society.

Mr. President, the Supreme Court has a case pending right now that has already been argued, and we would expect a decision to be coming down before the end of this term, regarding this whole issue victim impact statements.

The High Court narrowly rejected the use of victim impact statements, in two decisions in 1987 and 1989. But I believe the Supreme Court is going to be reassessing its view and possibly those cases will be modified or overturned, and the Court will come down in support of victim impact statements. We are going to know soon.

But regardless of the Court's view, we should not be deterred at this stage of the legislative process. The use of victim impact statements by courts will go a long way to help reestablish some needed balance in the criminal justice system between a convicted defendant and the victim of his heinous actions. The concept of a victim impact statement is supported by numerous victims' rights groups across the country and many have written in support of this provision.

I ask at this point in the RECORD that some of these letters be printed in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, let me conclude by reminding my colleagues that we who spend so much time in this capital city—unfortunately, it is the crime capital of the Nation—cannot allow our senses to be dulled by an increase in violent crime; we cannot lose our capacity to feel emotion for the pain that the bloodshed causes victims and their families. That anguish must be made a part of the criminal justice record, something to be taken into consideration by a court.

This amendment, I believe, will ensure that. I offer it with a feeling that not only is my approach constitutional but I feel I have every reason to believe—after our Court earlier this term had rejected review of two other cases from two other States, but ultimately agreed to review a third case from the State of Tennessee—that the Supreme Court of the United States felt very strongly about their previous decisions and are going to modify it to some extent. It is my hope that they overturn their earlier decisions and that we will be then ahead of the curve by the adoption of this amendment, and that we will essentially be codifying a Supreme Court decision.

Mr. President, I yield the floor.

EXHIBIT 1

THE STEPHANIE ROPER COMMITTEE, INC.,
Upper Marlboro, MD, June 19, 1991.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: On behalf of the Stephanie Roper Committee, and especially for the crime victims we serve, I would like to extend our strong support for your proposed victim impact statement amendment. The Stephanie Roper Committee was founded in 1982 after the murder of Stephanie Ann Roper and has been one of the most effective voices for the innocent victims of crime in our nation. The Committee has been active and successful in advocating for the rights of victims of crime in the Maryland General Assembly.

The Committee has endeavored to change laws to allow victims the opportunity to have meaningful and appropriate participation throughout the criminal justice system.

The Stephanie Roper Committee wholeheartedly supports the concept of requiring judges and juries to consider the effect of the crime on the victim and the victim's family. This Committee has never, and does not at this time, take any position on capital punishment. We believe that victim impact evidence should be admissible in all federal and state crimes.

We encourage you to broaden your proposed amendment so that it would, in fact, cover all federal crimes.

Therefore, we urge the full Senate and House of Representatives to concur in your proposed victim impact statement amendment.

Sincerely,

ROBERTA R. ROPER,
Director.

CITIZENS FOR LAW AND ORDER, INC.,
Springfield, VA, June 21, 1991.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: I am delighted to offer you the support of our organization with regard to the amendment you are offering to S. 1241 relating to Victim Impact Statements.

For too long, the criminal justice system has been out of balance—favoring the defendant and felon over the innocent victim. An outrageous example of this skewed concern for the defendant has been the prohibition against the victim's representative offering an impact statement at the sentencing phase of capital cases. All of us who are survivors and/or victims know this proscription to be terribly unfair and wrong. We feel that *Booth* v. *Maryland* was wrongly decided and that *South Carolina* v. *Gaithers* was equally erroneous. We are hopeful that *Payne* v. *Tennessee* will right these terrible injustices.

In the interim, your initiative to include within S. 1241 a provision authorizing victim impact statements in Federal capital cases is a welcome event and truly a breath of fresh air. It returns reason and fairness to Federal capital litigation from the viewpoint of the victim. It sends, too, the message that victims are an integral element in the judicial process and that their concerns must be afforded a position of centrality—equal to those of the defendant.

I and all the members of CLO applaud this wise and caring and equitable amendment which you are offering. We hope that the other members of the Senate recognize its merit and approve it overwhelmingly.

Please accept our best wishes for your continued professional success in your service to your state and nation.

Sincerely,

JOHN A. COLLINS,
Eastern Regional Director.

COUNCIL FOR COURT EXCELLENCE
Washington, DC, June 21, 1991.

Hon. CHARLES E. GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: I am writing in my capacity as President of the Council for Court Excellence to offer our support of your victim impact statement amendment to S. 1241 which would ". . . require preparation of victim impact statements in connection with hearings to determine whether a sentence of death is justified."

The Council for Court Excellence has a long history of supporting crime victims' rights in both the federal and state court systems. We applaud your leadership in this important area of judicial reform and look forward to early passage of S. 1241.

Sincerely,

CHARLES MCC. MATHIAS, Jr.,
President.

CONCERNS OF POLICE SURVIVORS,
Upper Marlboro, MD, June 21, 1991.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: The National Board, staff, and membership of Concerns of Police Survivors extends its full support to your amendment to S. 1970 which would insure victims the right to present a victim impact statement during capital cases.

The survivors of fallen law enforcement officers are not different than any other victims; they, too, are pleading for the right to be heard in cases that involve the death of their loved ones. And we firmly believe that a *national* law must be in place to insure all victims their rights in each and every state of our nation.

We would urge your colleagues in the Congress to support this amendment and insure that the voices of America's victims are heard.

Sincerely yours,

SUZANNE F. SAWYER,
Executive Director.

NATIONAL VICTIM CENTER,
June 24, 1991.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington DC.

DEAR SENATOR GRASSLEY: For victims of violent crime, victim impact statements represent what may be their only opportunity to tell the court how their victimization has effected their lives and the lives of those around them. For many it is their only opportunity to be heard—their only chance to have their "day in court".

For sentencing juries and judges, victim impact statements may represent their only opportunity to learn the true nature and extent of the human suffering of those whose lives have been shattered by the offender's violent crime. However, the Supreme Court's decisions in *Booth* v. *Maryland* and *South Carolina* v. *Gather* have effectively denied judges and juries the opportunity to hear and consider such information in capital cases.

Convicted murders are allowed to parade weeping family and friends, not to mention an endless line of coaches, clergymen, psychologists and other witnesses in front of the court to attest to the offender's good character and what a tragic loss his demise would be to his family and community. All this in an attempt to solicit sympathy and mercy from the jury. Yet the court is not allowed to hear one word about the character of the innocent victim or the horrific consequences their death has had on surviving family members.

The practice of presenting sentencing judges and juries with only half the story when charged with making such grave decisions is not only unjust but illogical on its face. The ultimate punishment is reserved for only the most heinous crimes and the despicable offenders as judged by society through sentencing juries. But how are juries to judge the heinousness of the crime or culpability of the offenders unless they are allowed to hear the gruesome details of the crime along with its tragic consequences?

The Supreme Court's rulings have worked to frustrate the laws in forty eight states and the constitutions of four more. In a recent public opinion survey nearly 70% of Americans feel this information should be made available in capital cases.

Even the Supreme Court seems to be indicating that it recognizes the patent inequity its previous rulings have engendered, as is evidenced by their willingness to revisit this issue in the case of *Payne* v. *Tennessee*, currently pending before the courts.

Your bill (S. 1241), is the first federal legislation which seeks to remedy this gross miscarriage of justice. It will help restore a voice to those who cry out for justice on behalf of those whose voices were permanently silenced by the most vicious acts of society's most dangerous criminals.

The Board of Directors and staff of the National Victim Center wholeheartedly endorses S. 1241, and strongly urge your colleagues to support this important legislation.

Sincerely,

DAVID BEATTY,
Director of Public Policy.

NATIONAL ORGANIZATION
FOR VICTIM ASSISTANCE,
Washington, DC, June 25, 1991.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: The opportunity of crime victims to consult with the criminal justice authorities, if only to convey information about injuries done to them, has become the bedrock reform victim advocates seek of our public policy-makers. We therefore commend you for once again proposing to give victims a limited, indirect voice in the sentencing phase of Federal capital punishment prosecutions.

In reaffirming our long-standing support for the use of "Victim Impact Statements" in sentencing procedures, we appreciate that, in this instance, we seem to be challenging due process rights of convicted defendents, as articulated by the Supreme Court in the *Booth* and *Gathers* cases. We have done so for three reasons.

First, a Congressional effort to create something like a rehearing on a closely-divided issue is a time-honored and respectful tool of communication between the branches of government.

Second, the Supreme Court has itself, through *Payne* v. *Tennessee*, caused a reargument of the *Booth* decision; indeed, its ruling in the *Payne* case may come this week or next.

Thus, third, your amendment may be mooted by a decision upholding *Booth* in its entirety, or, more likely, will give a framework for presenting in a clinical fashion some limited information about the impact of the crime on the victim's surviving relatives. It is noteworthy that your amendment would not authorize the introduction of information as to the victim's character, which a number of commentators believe is the key, and meritorious, holding in *Booth*.

So we applaud your latest initiative and hope that it receives broad support from your colleagues.

Sincerely,

MARLENE A. YOUNG, Ph.D., J.D.,
Executive Director.

VICTIMS' CONSTITUTIONAL
AMENDMENT NETWORK,
Fort Worth, TX, June 25, 1991.

Hon. CHARLES E. GRASSLEY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GRASSLEY: A year ago I provided courtroom support to the parents of a

14-year-old girl who was abducted, raped and murdered. Until Kenneth Reed Smith, a previously convincted felon, abducted Amy Lynn Thatcher as she walked to school, her family's life had been fairly normal. They lived, worked and played together in their pursuit of the ultimate American dream—life, liberty and happiness. In less than an hour, the American dream was destroyed for Amy and her family forever.

Ultimately, the jury never heard how Amy's death impacted the lives of her father, mother, brothers, grandparents and others who loved her. However, Smith's family and friends begged the jury to spare his life because he was a very valuable member of their family—even using his newborn twin sons in an effort to solicit sympathy. Believing that "life in prison" meant he would serve his entire life behind prison walls, the jury chose to spare his life. Many jurors expressed outrage when they discovered that Smith would be eligible for parole in 14.3 years.

The U.S. Supreme Court's decisions in *Booth v. Maryland and South Carolina v. Gaither* striking down the victim's right to present a victim impact statement in capital cases were major disappointments to those who believe in equality within our system of justice. *Booth v. Maryland and South Carolina v. Gaither* demonstrate that equality eludes the innocent victim of crime and that those who are convicted of a heinous murder are protected by omitting pertinent information during the penalty phase of a capital murder trial.

In seven states, victims and their supporters have sought and successfully achieved constitutional guarantees for crime victims; four of those states guarantee the right to victim impact statements at the time of sentencing. Victims believe the right to be heard during critical criminal justice proceedings, including the penalty phase of a capital murder trial, is imperative to their recovery process.

The Grassley amendment to S. 1240 will reinstate the victim's right to be heard by means of a victim impact statement during the penalty phase of a capital murder trial. The Victims' Constitutional Amendment Network strongly supports the Grassley amendment to S. 1241, and urges members of the U.S. Congress to likewise support this critical legislation.

Sincerely,

LINDA BARKER-LOWRANCE,
Chairperson.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise to compliment Senator GRASSLEY. He has been a leader in the area of victims' rights since he came to the Senate. I commend him for that. I am not being solicitous. It has been one of his great concerns. As a matter of fact, if I am not mistaken, he was even supportive of raising the cap on the money available to compensate victims in the Victims' Compensation Fund, which was not particularly popular on his side of the aisle and with the administration.

The current amendment he puts forward permits victim impact statements to be introduced in capital cases. As pointed out on two previous occasions, in Booth versus Maryland, in 1987, and Gaithers versus South Carolina, in 1989, the Supreme Court ruled that such a statement cannot be constitutionally admitted into evidence in capital sentencing.

So, currently, as we speak, as pointed out by the Senator, the Supreme Court has this issue under consideration. It is expected—I would ask to be corrected if I am wrong—as early as this Thursday, the day after tomorrow, the Supreme Court may hand down a decision on the very issue that the Senator is proposing changes in. And it may very well overrule or at least distinguish the Booth and Gaithers cases.

Many legal experts predict the Court is going to reverse itself and reverse Booth and Gaithers and permit such statements to be admitted in trial. I have enough trouble predicting what the U.S. Senate is going to do, and I live with these men and women 15 hours a day, several hundred days a year, and I am not sure what we are going to do. Far be it for me to predict what the Supreme Court will do.

Here is what I propose to the Senator from this side of the aisle, as manager of the bill on the Democratic side. I suggest that we accept the Senator's amendment for now, with the understanding that between now and the conference, assuming we get a bill—and I am anticipating and hoping we are going to get a crime bill passed out of here very shortly—we will sit down with the Senator and myself and anybody else who wishes to do so and examine what the Supreme Court decides this week on this issue. And if the Court strikes down victim impact statements, we will remove the Grassley language at the conference, if the court strikes it down. But even if the Court permits such statements, we will look at the Court's opinion closely and see if any changes have to be made to comport with the Court's decision. But in all probability that would not occur if they rule the way people are predicting they will rule.

In other words, I argue that we would accept the language conditioned on conforming the language to whatever the Supreme Court does rule. If it rules they are not admissible, then the language is out. If it rules they are admissible under certain circumstances, we conform the Grassley language. If it rules they are admissible across the board, we accept fully the Grassley language.

So the victim impact statement issue, as we know, although a tricky one, and it raises many difficult issues, if a victims' good qualities can be admissible in sentencing, what about the bad qualities of the victim, for example? It raises those kinds of issues. It raises the issue of someone who is a victim who is, you know, a dirty, no good so and so and, for example, in the case where a man repeatedly victimizes and beats his wife, that does not give a wife the automatic right to shoot that man in his sleep. That is murder. But if, in fact, the victim is a no good, rotten son of a gun, should that be admissible at the sentencing phase on behalf of the murderer?

We hear about—and we should, and I understand it—all the heinous crimes committed by a defendant found guilty. But there are a number of crimes committed by defendants found guilty that are not so heinous, that are directed against people who are awful, rotten, no good people, but because that no good victim is nonetheless protected under the law from allowing someone to take the law into his own hands, someone can be found guilty. For example, the husband goes home and the wife shoots the husband who has beaten her the day before, calls her on the telephone from work and says, when I get home, I am going to beat you again, and I am going to beat you within an inch of your life, and he walks in the door and she says, "Hello, Honey," and blows him away, she is not allowed to do that. Maybe we should admit into evidence the fact that he is a no good so and so, too.

So it is a complicated issue. I am sympathetic to the admission of the evidence of what a positive, decent, good person a victim was, which is usually in the vast majority of the cases.

Let me suggest again that I think we are better off accepting the Senator's amendment and reexamining the matter after the Court rules. And he has my word that we will conform, if need be, the language the Senator has to the Court's ruling. I make that good-faith assurance. If that is something the Senator is willing to live with—and he and I have worked together a long time, and we have always kept our words to one another—I am prepared to accept the amendment.

Mr. GRASSLEY. Mr. President, if the Senator will yield.

Mr. BIDEN. Yes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, to answer the question, first of all, I think that is very fair, obviously, to get the amendment adopted under those circumstances, because we do not know exactly what the Court is going to do. I am very happy to have my amendment adopted under those circumstances. I would expect that even if the Court would reaffirm what they have already stated on victim impact statements, that we try to seize the opportunity to legislative within that Supreme Court decision. I would like to have the Senator's statement broadened to include that opportunity.

Mr. BIDEN. Mr. President, in response to the Senator's question, I give him my assurance that we will look at it and try our best to do exactly what he has said. It is obviously difficult to fashion precisely what we do in a vacuum.

Mr. GRASSLEY. Mr. President, I thank the chairman for accepting my amendment, and I ask unanimous consent that Senator THURMOND be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I urge acceptance of the amendment of the Senator from Iowa.

I yield the floor.

Mr. THURMOND. Will the Senator yield me about 4 minutes?

Mr. GRASSLEY. I yield whatever time the Senator from South Carolina needs.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the Grassley amendment. This amendment clarifies the provisions contained in the pending bill which permit victim impact evidence in death penalty cases. The Grassley amendment spells out the types of victim impact evidence which can be offered during the sentencing phase of a death penalty case.

This issue is nothing new to the Senate. In fact, this proposal is similar to an amendment which passed the Senate last year.

The Grassley amendment builds upon the underlying bill which addresses a flaw in our current criminal justice system. It makes clear that the suffering experienced by a crime victim is indeed a factor to be considered by the court. This measure reaffirms that violent crimes are committed against law-abiding people who will be affected for life. Senator GRASSLEY's amendment recognizes that all too often the victim has been ignored.

This amendment does nothing to erode the rights of the accused. In fact, under current law, courts are required to consider as mitigating evidence any aspect of the defendant's character. Rather, it expands the rights of victims and simply reminds our Federal courts that violent crimes result in suffering and pain—not only to the victims, but to their loved ones and society in general.

In closing, the Supreme Court is expected to decide a case this week—we thought it was going to be decided today but it was not—which will affirm the constitutionality of victim impact statements. It is a time for Congress to provide victims with this useful tool.

For these reasons, I strongly support this amendment.

My distinguished colleague, the chairman of the Judiciary Committee, left the Chamber, but I want to make a statement to correct a statement he made, so he can read it since he is not in here.

Senator BIDEN has suggested that the Republicans and the Bush administration have opposed lifting the cap on the crime victims fund. This is incorrect. I want to repeat. It is incorrect. I want him to hear that. My comprehensive crime amendment which was defeated last week would have lifted the cap in fact. I just want him to know that the Republicans are not opposed to lifting the cap. In fact, we tried to lift the cap. My bill last week would have done that if it had not been defeated by the bill of the Senator from Delaware.

I yield the floor.

Mr. NICKLES. I rise as an original cosponsor of the Grassley victim impact statement amendment. This amendment was passed by the Senate last year along with the Victim Rights and Restitution Act amendment offered by this Senator and the Senator from Iowa. Unfortunately the impact statement provision, along with the mandatory restitution provision of last year's amendment, was dropped in conference. I am pleased to see the mandatory restitution language I reintroduced this Congress has been made a part of both the Biden and Thurmond crime bills. I firmly believe restitution should be ordered for every victim in the full amount of the losses they have suffered. It is also vital that we include a victim impact statement in the criminal justice process.

All to often, the innocent victims of crime get lost in the shuffle of the judicial system. The legislation I introduced last year which became law as part of the omnibus crime bill made great advances in the area of victim rights by ensuring victims would be involved in the process and informed of developments in the case against their attackers. Also, the Victim Rights and Restitution Act eliminated a loophole which allowed criminals to dsicharge restitution orders under bankruptcy proceedings.

The inclusion of a victim impact statement is yet another step we should take on behalf of crime victims. It is essential that information about the victim and the impact of a crime on the victim be included in the trial proceedings. This opportunity to inform judges and juries of the pain and suffering the victim has endured may be the only day in court the victims get. While criminals can parade endless character witnesses and family members in front of the court, the innocent victims of his criminal actions must remain silent. This is outrageous and must be changed.

The Grassley amendment would require sentencing judges and juries to learn about the victim, the extent of the victim's injuries and the losses he and his family have suffered as a result of the offender's activities. This information is essential to a fair and just sentence being handed down. I urge my colleagues in the Senate to support his amendment.

Mr. GRASSLEY. Mr. President, I am prepared to yield back the time on my amendment and I assume that the other side is prepared to yield back their time also.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BIDEN. Mr. President, I want to make one point of clarification. It is correct, and I did not mean in any way to mislead, that the Senator from South Carolina has in his crime bill proposal he offered the other day a much more generous treatment of victims.

By that I mean the Senator from South Carolina and myself, and several others, several years ago decided that victims were not being treated very well, and we decided that there should be a fund when a criminal defendant was fined, that that fine would go into a fund, that money accumulated, and that victims of violent crime be able to go before a board in their home States and/or federally, and say, hey, look, I lost my leg, I lost my time at work, I had these medical bills, I need help; and that out of those fines, money would be paid to that victim after a board, not unlike a compensation board, would look at it. This was one of the ideas of the Senator from South Carolina; he was an original sponsor of it, and so on.

What I was referring to was, for several years now I have been arguing that we should not have a cap on that, that it is capped. Only a certain amount of those fines can be used to compensate victims, the rest of it goes back into the General Treasury. I have been saying we should lift that cap off. If there is $1,000, $1 million, $1 billion in there it should go to any victim who needs it even if they use it all. There are no taxpayers dollars.

The administration has opposed that. President Bush's bill was silent on this point. They were not prepared to lift the cap. The Senator from South Carolina was. So if I in any way misrepresented his position, I did not mean to. The Bush administration was silent on it. They have silently also told us in other contexts they did not want to lift it. But the Senator did want it lifted in his bill and he did propose it be lifted.

Mr. THURMOND. Mr. President, if the Senator will yield, because he is silent does not mean he opposes it.

Mr. BIDEN. Let me be very precise. There was no attempt, as the Senator from South Carolina wished to do and the Senator from Delaware wished to do, to affirmatively lift the cap. In my experience with this administration when it wants something it has never been reluctant to say it wants it.

Mr. THURMOND. I did not want the statement to stand that the Republicans have opposed it, because the Republicans have not opposed it. And as a Republican I favored lifting the cap.

Mr. BIDEN. That is true.

I hope we have straightened it out.

Now I would be delighted to accept the amendment of the Senator from Iowa.

Mr. GRASSLEY. I yield back my time.

Mr. BIDEN. I yield back my time.

The PRESIDING OFFICER (Mr. SIMON). The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 376) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that we the Senate go into morning business until the hour of 6 o'clock, with Senators permitted to speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

DON'T DESERT THE KURDS

Mr. PELL. Mr. President, for more than 2 months, United States and coalition forces have been saving lives in northern Iraq. These service men and women have fed the hungry, ministered to the sick, and sheltered the homeless. Most important, our troops have protected the Kurdish, Assyrian, and Chaldean peoples from wholesale slaughter by Saddam Hussein's defeated but still murderous army.

Now, however, the allied mission in northern Iraq appears to be drawing to a close. And without adequate arrangements to protect the peoples of the region, we are likely to see a reprise of the tragedies that got us into northern Iraq in the first place.

For the last 2 months, Kurdish leaders have been negotiating in Baghdad with Saddam Hussein. These negotiations seem to be producing an agreement for substantial Kurdish autonomy. According to press reports, the Kurds are to have democratic elections in the autonomous region within 3 months, will obtain a portion of the revenues from Kirkuk oil fields, and will be allowed to operate their own press, radio, and television stations. Within 6 months to a year, democratic elections are to be held in all of Iraq.

It is a deal, in short, that seems too good to be true, and it almost certainly is. In earlier periods of weakness, such as in the early 1970's and during the Iran-Iraq War, Saddam Hussein entered into comparable negotiations with the Kurdish leaders. However, as his regime regained strength, agreements were discarded and the killing resumed.

There is no reason to believe anything different of the current situation. For the moment, Saddam Hussein is likely to adhere to at least part of his deal, although it defies belief that he would have truly democratic elections in Iraq.

Not only does Saddam want to get the foreign forces out of Iraq, he also wants the international community to turn its attention away from Iraq. This he knows will not happen as long as the international community is seized with the Kurdish issue. Therefore, he has adopted a very transparent strategy: conclude a deal with the Kurds, get the international forces out of Iraq, let international opinion move from the Kurds to other issues, and then settle scores with the Kurdish rebels and the people that backed them.

There is no reason why we should play into Saddam's strategy. We must recognize that no deal with a man who our President has said is worse than Adolf Hitler can be trusted not to resume persecution of the Kurdish people. Protection of the Kurdish people must be the guiding principle of our policy in northern Iraq.

The Kurds are at risk because of the action the international community took against Iraq. By decimating Saddam's army, we created a situation that made the Kurdish rebellion inevitable. More than this, however, we actively encouraged the Kurdish rebellion in the public statements of President Bush calling for the Iraqi people to overthrow Saddam Hussein, in the promise of military support—"You fly, you die"—and in the broadcasts of a clandestine United States-supported radio station. We cannot and must not walk away from our responsibility to people who are at risk because of our actions. The rebellions following the ground war are direct consequences of the war, and we cannot escape our responsibility.

The Kurdish people rebelled en masse against Saddam Hussein. In 1988, a much smaller rebellion provoked extensive chemical weapons attacks against more then 60 villages. This time, whole cities were part of the rebellion and whole cities are at risk for retribution. The Kurds will be at risk as long as Saddam Hussein and his regime are in power. This fact presents the United States with some very unpleasant choices: Either we find a way to keep an international presence in Iraq indefinitely or we abandon the Kurds to a cruel fate. Because the second alternative is, in my view, inhumane and immoral, we have little choice but to stay in northern Iraq.

Ideally, we should be working with the other members of the Security Council to establish an international force with a mandate to protect the Kurdish population. This force must go far beyond the 500 lightly armed U.N. police who are there at the sufferance of the Iraqi regime and whose mandate is limited to the protection of the international relief workers. It will take time to create the appropriate kind of international force.

In the meantime, we should not be so eager to get out of northern Iraq. Our troops are quite literally lifesavers. As much as we want them home, I do not believe they would want to leave knowing all they accomplished will be quickly undone. The parades we will hold this July 4 will honor the great achievements of our men and women in Operation Desert Shield and Desert Storm. Let us not besmirch this triumph by a premature withdrawal from northern Iraq.

ANTARCTIC ENVIRONMENTAL PROTECTION FOUNDERS ON THE SHOALS OF ADMINISTRATION OPPOSITION

Mr. PELL. Mr. President, this past weekend in Madrid efforts to protect the Antarctic environment foundered on the shoals of administration opposition. Alone among the 26 nations present at the meeting, the United States could not accept a draft agreement sometimes referred to as Madrid I—that had been negotiated earlier this year to significantly strengthen protection of the Antarctic environment.

What was the reason for this debacle? At the 11th hour, the administration decided that it could not accept the draft agreement's provision on commercial minerals activities which could have the effect of permanently banning such activity in the Antarctic. Instead, the administration proposed a fundamental change in the agreement which would allow countries to withdraw from the mining moratorium under certain conditions.

The administration's proposal is a dramatic step backward from the Madrid I agreement. It lays bare claims that it is not United States policy to hold open the opportunity to exploit minerals in Antarctica. The administration's proposals makes abundantly clear that preserving a mining option in Antarctica is a key component of the administration's Antarctic policy.

Moreover, the administration's proposal flies in the face of past U.S. policy. For years, the United States opposed proposals for a moratorium on mining partially on the grounds that, after the moratorium ended, unregulated mining. In a hearing before the Foreign Relations Committee last year, Assistant Secretary of State Bohlen noted that without an agreement to govern mining:

> * * * we could have a chaotic situation where nations, in response to pressures from development interests would begin to determine unilateral approaches to Antarctica.

With its current proposal, the administration would create precisely the situation it claims it wants to avoid.

There appears to be little reason for the administration's position. In its report "Polar Prospects," the Office of Technology Assessment concluded:

> (s)cientists have discovered occurrences (small amounts) of several minerals in Antarctica, but there are no known mineral deposits of commercial interest.

Mr. President, June 23 marked the 30th anniversary of the Antarctic Treaty. Since its inception, the treaty has preserved Antarctica as a place of peace and international cooperation. To quote the administration:

> (t)his remarkable cooperative legal regime of nations has worked and has proved to be resilient, as it has met a variety of challenges . . . Consensus is the key, because it ensures that national interest can be accommodated within the cooperative international system.

By rejecting the international consensus on mining, the United States has placed the future of the Antarctic Treaty System in doubt. It is now incumbent on the administration to try to restore that consensus. The best way to do that would be to accept the Madrid I agreement.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that we proceed as if in morning business until 6:30, with Senators permitted to speak therein for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I suggest the absence of a quroum.

The PRESIDING OFFICER. (Mr. BRYAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VIOLENT CRIME CONTROL ACT

The Senate continued with the consideration of the bill.

Mr. BIDEN. Mr. President, before the Senator proceeds, and I will yield the floor back immediately, I would like to alert Senators that the Senator from Idaho, who has been very gracious withholding offering his amendment for the better part of the last hour, has an amendment relating to capital punishment in the District of Columbia. I would like to see if we can enter into a time agreement in which case he would be allowed to have a vote and I would like to seek and shop immediately on my side the fact it not be amendable and we get an up-or-down vote on that amendment. I wonder whether without making that request the Senator from Idaho would be amenable with that.

Mr. SYMMS. I am not sure that is up to me to accept. I was told there was an objection to that on our side. I have not talked to the Senators. I have been waiting to offer this amendment. I will be happy to cooperate with the managers of the bill.

Mr. BIDEN. Fire away.

AMENDMENT NO. 377

(Purpose: To impose the death penalty for drug-related homicides in the District of Columbia)

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 377.
>
> At the appropriate place, add the following:
>
> "SEC. . (a) It shall be unlawful in the District of Columbia to intentionally kill, or counsel, command, induce, procure, or cause the intentional killing of an individual during the commission of an offense involving a controlled substance.
>
> "(b) A person who commits an offense described in subsection (a) shall be sentenced to any term of imprisonment which shall not be less than 20 years, and which may be up to life imprisonment and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be eligible for parole prior to serving the minimum sentence, or may be sentenced to death.
>
> "(c) A person shall be subjected to the penalty of death for an offense under this section only if a hearing is held in accordance with the procedures provided in section 408 of the Controlled Substances Act.".

Mr. SYMMS. Mr. President, this week's Washington Post documented the sad death of Troy Brown, gunned down in the streets of Washington in another senseless drug-related killing. Unfortunately, this killing will not be the only killing of the week, or probably not even the only killing of the day. Rather, it is just another grisly statistic in a succession of statistics which will produce over 500 such statistics by the end of the year. Collectively, these tragic deaths have helped turn our Nation's Capital into what is referred to as the murder capital of the United States. This fine Capital of the United States is referred to as the murder capital of the United States.

Mr. President, it is about time Congress did something to put a halt to this gruesome calvalcade of violence which daily takes place in the shadow of the Capitol Building. There is no doubt about it, the buck stops here. These crimes fall within the purview because the Constitution gives Congress legislative authority over the District of Columbia, and if I might just digress for a moment, Mr. President, the buck stops here.

It was only as recently as about 1949 and 1950 when then President Truman, who had that sign on his desk, "the buck stops here," used to take nightly strolls out around the District of Columbia as President of the United States with one aide with him. Basically, it was safe enough then that the President himself would go on strolls in the Capital. This violence which has turned the Nation's streets into sewers of blood is our constitutional responsibility and, if we are going to win back the streets of our Capital, we must start here.

Mr. President, the language of the Constitution is very simple. Let me just remind my colleagues what it says. Article I, section 8, clause 17 gives Congress the power to "exercise exclusive legislation in all cases whatsoever" over the District of Columbia.

My amendment would exercise this constitutional responsibility by establishing a constitutionally viable death penalty for drug-related murders in the District of Columbia. In the last 4 years, the number of murders in the District have risen at a remarkable rate. The number of homicides jumped 62 percent from 1987 to 1988, another 66 percent from 1988 to 1989, and 45 percent from 1989 to 1990. The number of homicides in 1991 are more than twice the number committed in 1987 and the carnage is not stopping. Troy Brown's tragic death this week has raised the 1991 homicide count to 223—223, Mr. President, 9 deaths ahead of the 214 homicides at this point in 1990. In other words, as bad as 1990 was, 1991 is appearing to be worse.

Mr. President, let me make this point absolutely clear. The number of murders in the District after 6 months in 1991, 223 to date, almost equals the total number of murders for the whole year in 1987—229. Think about it. Think about what is happening. We are not even to the 4th of July. We have had 223 people killed in the District of Columbia. It is a pathetic display of indifference when the Congress of the United States cannot even slow the epidemic of murder on the streets of our Nation's Capital. It is our responsibility to do something about crime in the District and this amendment would constitute an important first step. It would allow the District of Columbia courts to impose the death penalty in cases where the defendant deliberately kills or causes the death of a person in connection with an offense involving a controlled substance.

Mr. President, I am the first to say that this amendment is no panacea. It is no panacea. But it will send an important signal that drug-related violence will no longer be tolerated in the District. This amendment is the exact same language which was offered by Senator GRAMM of Texas last year that overcame a tabling motion by a vote of 60 to 27. The Senate recognized the gravity of the situation in April of 1990 and the situation is all the more urgent now.

Mr. President, it is no mystery why the District tops the murder lists. As a matter of fact, the District's problems are the logical consequence of the toleration of drugs and violent crime which have, unfortunately, characterized District governance. Too frequently crime has been greeted with lame rationalizations—rationalizations which, far from being humane, have only made it much worse for the residents of the seat of the Federal Government. It is time that we stop all this rationalization. This amendment would represent the first step in that process.

Mr. President, I yield the floor.

Mr. BIDEN. Mr. President, it seems to me I have spent a good deal of time on the floor, as has the distinguished manager from South Carolina, discussing the death penalty, and that is not inappropriate. I do not say that in any way of criticism, but I say it only to evidence the fact that I have clearly demonstrated, I expect, that I support capital punishment.

What we are about to have is a vote that replicates the vote we had a little bit earlier relating to Indian lands. We debated not the utility of the death penalty, not the gravity of the situation on Indian reservations and on Indian lands or the gravity of the situation in Washington, DC, not whether or not the reason the murder rate is so high is because of the success or failure of a drug policy of the administration that targeted this area under former Secretary Bennett to demonstrate that this was going to take care of drugs. That is not the debate.

The debate is, once again, one of home rule, basically. Should we tell the District of Columbia, where citizens are denied representation in the U.S. Senate, they are denied full representation in the House of Representatives, they are in a position where the only thing they have is home rule relative to those police and public service activities that occur within the District of Columbia, by the way, you, local legislators, not only cannot have your people represented in the House and the Congress, you cannot have that right, we, in the Congress, are going to tell you what we will not tell native Americans, what we will not tell American Indians, what we will not tell people on Indian lands, what we will not tell anyone else. We will not tell any State in the Union. We are going to tell you that you must have a death penalty.

Were I in the District of Columbia, were I the Mayor of the District, God forbid—I say that not because of the District. I would not want to be the mayor anywhere. It is a much tougher job. Were I on the City Council, as I was a councilman, I would be willing to support the death penalty, but I am not.

Just as I think we should not tell people on Indian lands what they should not do on the death penalty, just as I think we should not tell people in Delaware what they should not do on the death penalty, I respectfully suggest we should not tell the people of the District of Columbia they must or must not have a death penalty.

To conclude, Mr. President, if this body was composed of individuals as it was when I first got here, where the majority of individuals were against the death penalty, I think it would be equally inappropriate to say to the District of Columbia, if they had a death penalty, do not have one.

Mr. President, this is a matter of home rule. This is not a matter of the death penalty.

I am prepared to vote, and I urge my colleagues to vote against the amendment of my distinguished friend from Idaho. I yield the floor.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina [Mr. HELMS].

AMENDMENT NO. 378 TO AMENDMENT NO. 377

(Purpose: To amend title VII of the Civil Rights Act of 1964 to reflect the original intent of the authors of such Act by prohibiting preferential treatment on the basis of race)

Mr. HELMS. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 378 to amendment No. 377:

At the end of the pending amendment add the following:

SEC. . PROHIBITION OF PREFERENTIAL TREATMENT ON BASIS OF RACE.

Subsection (j) of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 200e-2(j)) is amended to read as follows:

"(j) It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment with respect to selection, compensation, terms, conditions, or privileges of employment or union membership to any individual or to any group on account of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e).".

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina, Mr. HELMS.

Mr. HELMS. I thank the Chair.

Mr. President, the second-degree amendment at the desk obviously is very simple. It prevents Federal agencies and the Federal courts from interpreting title VII of the Civil Rights Act of 1964 to permit an employer to grant preferential treatment in employment to any group or individual on account of race. The Helms amendment, if you want to call it that, prohibits the use of racial quotas in employment once and for all and clearly gets the Federal Government out of the quota business.

During the past few months, almost every Member of this Senate has proclaimed that he or she looks with disfavor on quotas. This amendment will give Senators an opportunity to reinforce their statements with a clear-cut vote against quotas.

Now, then, Mr. President, title VII of the Civil Rights Act of 1964 prohibits racial discrimination in employment, period. Taken on its face, and as understood by the Members of the House and Senate who drafted the 1964 legislation, the law prohibits an employer from considering race when making an employment decision. But, as the distinguished economist Paul Craig Roberts put it—and I quote him—"27 years of racial privileges have produced a gap between the 1964 law and reality."

The Government-imposed and Government-encouraged quotas are a fact of life. According to the June 3 issue of Newsweek magazine, a substantial number of Fortune 500 companies have very clear minority hiring goals which they treat as quotas. In a survey of CEO's of Fortune 500 companies, 72 percent acknowledged that they used some form of quota hiring system. Only 14 percent of those CEO's claimed that they hire solely on merit.

There is nothing more destructive to the notion of fair play than racial quotas. Whether you call it "benign discrimination" or "affirmative action," there is scarcely anything more un-American than a system that discriminates against one worker in order to promote another simply because of the color of his or her skin. No discrimination based on race is benign, Mr. President. And so system which creates an advantage for an individual based on race is affirmative.

The so-called Civil Rights Act of 1991—the legislation which recently passed the House of Representatives—would codify into law the racial spoils system which now demeans Americans of all races, all colors, and all creeds.

Mr. President, nobody was more emphatic in making the goals and limitations of law absolutely clear than the author of the Civil Rights Act of 1964, our late colleague, Hubert Humphrey.

Senator Humphrey declared on more than one occasion his opposition to quotas and preferential treatment based on race. At one point during the contentious 1964 debate on his civil rights legislation, this is what Senator Hubert Humphrey said:

> [O]ur standard of judgement in the last analysis is not some group's power * * * but an equal opportunity for persons. Do you want a society that is nothing but an endless power struggle among organized groups? Do you want a society where there is no place for the independent individual? I don't.
>
> * * * if there is any language [in the Civil Rights Act of 1964] which provides that any employer will have to hire on the basis of percentages or quotas related to color, race, religion, or national origin, I will start eating the pages one after another because it is not in there.

Mr. President, I will parenthetically say that if that is not emphatic language, I cannot imagine what would be.

But despite those assertions by Senator Hubert Humphrey and other authors of the 1964 act, my friend and colleague from North Carolina, Sam J. Ervin, Jr., feared that it would eventually be interpreted by liberal courts and particularly by Federal bureaucrats to, as Senator Ervin put it, "make the members of a particular race special favorites of the laws."

Senator Ervin, God rest his soul, knew that the law would fall into the hands of people who saw the total abolition of racial discrimination as too limited a goal and who saw proportional representation by race in all walks of life as a more desirable outcome.

Anybody who knew Sam Ervin or anything about him realizes that he never made a prediction without careful reflection and consideration. I wonder what Sam Ervin would say today if he could see just how right he was 27 years ago.

Mr. President, if you doubt that Sam Ervin was totally on the mark, just take a look at how the judges and the Federal agencies turned the 1964 act on its head, just as Sam Ervin predicted they would.

For example, according to Hubert Humphrey the Civil Rights Act of 1964 made the busing of children illegal. In fact, the current President pro tempore of this Senate, the distinguished Senator from West Virginia [Mr. BYRD] demanded during the debate in 1964 that Senator Humphrey provide assurances that the Civil Rights Act would not take—and I quote Senator BYRD—"school children from one end of the community to the other end of the community at taxpayers' expense to relieve so-called racial imbalance in the schools."

Do you know what? The legislative history shows that Hubert Humphrey assured ROBERT C. BYRD that the bill would not require a racial balance in the schools. Yet a few years later what happened? The Office of Education, eventually backed by the Supreme Court, ignored the clearly stated intent and legislative history of the 1964 Civil Rights Act. And guess what happened? The big yellow school buses began rolling, hauling children miles away from their neighborhoods, and leaving behind a trail of misery and wrecked schools for Americans of all races.

Although every title of the Civil Rights Act of 1964 purports to prohibit racial quotas and preferences, the Federal Government and the courts have systematically and deliberately destroyed those prohibitions. That is why I am on this floor this evening at 7 minutes past 7 p.m.

In 1979 the Supreme Court decided the case of Steelworkers versus Weber. In Weber, a steel factory, as part of collective bargaining agreement, created an apprenticeship training program in which no fewer than one minority applicant was to be admitted to the program for every nonminority applicant until the percentage of minorities in craft positions equaled the percentage of minorities in the local work force.

It turns out that the plant and the union created this quota program under pressure from an agency of the U.S. Government, the Office of Federal Contract Compliance, which found that minorities were being under utilized at the plant.

This case arose after a nonminority applied for an apprenticeship training program. He was told that the quota for nonminorities had already been met. "Sorry about that," they said, "but you cannot have this training program."

Consequently, he sued the union and the company, alleging that he had in fact been discriminated against in violation of the Civil Rights Act of 1964.

The Court held, get this, that even though section 703(j) of the Civil Rights Act of 1964 does not require employers to take race into consideration when hiring workers, it does allow employers to take race into consideration.

What is that, Mr. President? That is establishing quotas. The Court upheld the validity of the plant's quota program.

In reaching this decision, the majority on the Court blatantly ignored the clear purpose and wording of the Civil Rights Act of 1964. In his dissent, to his credit, then Justice Rehnquist explained it pretty well. Let me quote him:

> * * * by a tour de force reminiscent not of jurists such as Hale, Holmes, and Hughes, but of escape artists such as Houdini, the Court eludes the clear statutory language, uncontradicted legislative history, and uniform precedent in concluding that employers are, after all, permitted to consider race in making employment decisions. It may be that one or more of the principal sponsors of Title VII would have preferred to see a provision allowing preferential treatment for minorities written in the bill. Such a provision, however, would have to be expressly or impliedly excepted from Title VII's explicit prohibition on all racial discrimination in employment. There is no such exception in the Act.

Justice Rehnquist pointed out that Senator Everett Dirksen, then the Senate Republican leader, had specifically drafted section 703(j) to the 1964 act to address the concerns of Senator Ervin and others.

Section 703(j) specifically prevents the Federal Government and the courts from imposing a preferential quota system to eliminate a statistical racial imbalance in a work force. In Weber, the case I just referred to, however, the prohibition added by Senator Dirksen was ignored, and for the first time, the Supreme Court approved the use of preferential classifications on the basis of race in the absence of any proven constitutional or statutory violations.

Mr. President, I am convinced that this Congress must take the lead in reversing the trends set by the Federal courts and the Federal bureaucracy, and restore some semblance of fair play and common sense for all Americans. That is what this amendment now pending is all about.

The Helms amendment clarifies section 703(j) of title VII of the Civil Rights Act of 1964 to make it consistent with the intent of the authors. Let me read what the clerk has just read for the purpose of emphasis:

> It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor committee that is subject to this title to grant preferential treatment, with respect to selection, compensation, terms, conditions, or privileges of employment or union membership, to any individual or to any group of individuals on account of the race, color, religion, sex, or national origin of such individual or group for any purpose, except as provided in subsection (e) of this section. (42 U.S.C. 2000e-2(j))

Why is this amendment necessary? It is necessary because in the 27 years since the passage of the Civil Rights Act of 1964, the Federal Government and the courts have corrupted the spirit of the act and created a tolerance for the very evil which Hubert Humphrey and Everett Dirksen fought so strongly against: the racial quota.

That is why we have all of the obfuscation, debate, and rhetoric, when the law in the beginning was very clear. This amendment will, once again, make the law clear. And it also will expose the kind of tactics that have been used in the past 27 years. This amendment simply makes part (j) of section 703 of the 1964 Civil Rights Act consistent with subsections (a) and (d) of that section. It contains the identical language used in those sections to make preferential treatment on the basis of race, that is quotas, an unlawful employment practice.

I say again that I have heard no Senator say other, than that he is opposed to quotas. This amendment would give all Senators a chance to back up those words with their votes.

This amendment will prevent the Federal Government from ever again—ever—terrorizing the small business people of this country with threats and fines for not meeting some bureaucrat's vision of a proportionalized and racially correct society.

I imagine that a number of Senators, if not all, are familiar with the Daniel Lamp Co., which was a small Chicago lamp factory, which was recently visited by the investigators of the Equal Opportunity Employment Commission, which is known by its initials, EEOC.

On March 24, the CBS news program "60 Minutes," which, by the way, is a program not particularly known for its conservative bias, blew the cover off of the EEOC's attempt to impose its quota mentality on one defenseless businessman. Morley Safer did that section of that March 24 "60 Minutes" program. He put it this way. He said the Daniel Lamp Co. "is guilty of not playing the numbers game." How right Morley Safer was.

You see, Mr. President, the EEOC found the owner of the Daniel Lamp Co. to be a practitioner of racial discrimination and leveled a fine of $148,000 against him. He had a small plant making lamps. What was interesting about the charge was the fact that the Daniel Lamp Co. had 28 employees; the only 2 who were not black or Hispanic were the owner and his father, who—and I am speaking of the father—by the way, is a survivor of Auschwitz.

There were 18 Hispanics and 8 blacks on the payroll when "60 Minutes" began its investigation of the inquisition conducted by the EEOC against Daniel Lamp Co.

The trouble began when one disgruntled job applicant filed an EEOC racial discrimination complaint against Daniel Lamp Co. The EEOC demanded the records of the company. You know how it goes with the bureaucrats. They demand all of your papers, and they disrupt your business.

This owner of the Daniel Lamp Co., who hired only minorities, was proud of his work force. He was happy to allow the Federal Government to inspect the ledger. He thought he might be commended for providing jobs for minorities. How wrong he was, because in its investigation, CBS found that the only information that EEOC was using against Daniel Lamp Co. was the agency's computerized quota numbers.

The EEOC's computer told the agency that based on the employment statistics of Chicago businesses with over 100 employees—which was a fascinating comparison because the Lamp company never had more than 30 employees—the Daniel Lamp Co. had to employ—get this—the Daniel Lamp Co. had to employ exactly 8.45 blacks.

That sounds like a quota to me, and it sounded like a quota to Morley Safer who was puzzled as to why the agency was disobeying the law which, as Mr. Safer put it, "says the EEOC can't set quotas."

Do you see why I am trying to draw the delineation here so there will be no mistake about the way this Senate feels about quotas and the abuse of the law by Federal judges and courts? That is what this amendment is all about.

Despite the denials by the EEOC, Mr. Safer concluded that "* * * it"—meaning the EEOC—"did set numbers by telling Mike," who was the owner of the company, "that based on other larger companies' personnel, Daniel Lamp should employ 8.45 blacks."

When the Daniel Lamp Co. stood up to the intimidation of the EEOC, the agency tightened the noose. Not only did the company have to meet the quota and not only did the company have to pay an enormous fine, the EEOC directed Daniel Lamp Co.—and get this—to spend $10,000 more to advertise in newspapers to tell other job applicants that they might have been discriminated against and to please contact the Daniel Lamp Co. for a potential financial windfall. If that is not an outrage, I cannot think of one.

Do you see what is going on here, Mr. President? This is not one of those Fortune 500 companies that can afford a gaggle of lawyers and can placate the various special interest groups by hiring according to quotas. The Daniel Lamp Co. is a small, struggling enterprise which can afford to pay its few employees a scant $4 an hour. This company hired only minorities, but that was not good enough for the quota bureaucrats in Washington, DC. They said the company did not hire enough of the right minorities.

This amendment now pending will put an end to this disgraceful power play by the quota crowd in the Federal bureaucracy.

You are bound to think and ponder, Mr. President, where is America heading? America quo vadis? Do we want a nation where privilege and employment are handed out on the basis of group identity rather than on merit? Already police and firemen in our major cities are clashing over who can be classified as black or Hispanic to ensure that they will receive What? Job preference, because of their minority status. There comes your friend the quota system. Check the newspapers in San Francisco, Chicago, Boston, and see if I am not correct. You will find that I am.

The Helms amendment protects the Daniel Lamp Co. and the firemen and the policemen, of whatever race, who are out there working hard at their jobs in the belief that they will be rewarded for their diligence, their competence, and their hard work, not judged on the basis of the color of their skin.

This amendment also includes an important safeguard which will protect those businesses and institutions whose special needs will require personnel qualified for the job on the basis of religion, sex, or national origin. Like the other sections of title VII, this amendment protects the religious school or institution which grants preferences in hiring or admission to those of its own religion. It protects those ethnic-based enterprises which require special language skills and familiarity with the particular customs.

Let me point out once again, Mr. President, just how far the so-called civil rights establishment has traveled from the goals which originally inspired the civil rights movement back in the 19th century. The current civil rights leadership now engages in an open battle for social and economic benefits to be conferred on the basis of race and other invidious classifications rather than campaigning for equal justice under law for all Americans, regardless of race.

In 1871, the abolitionist Frederick Douglass was the first to respond to the cries for a racial and ethnic spoils system. Mr. Douglass stated that "equality of numbers has nothing to do with equality of attainment." And in a startling rebuke of an advocate of the system we now refer to as quotas or "affirmative action," Frederick Douglass went on to say this:

> The mulattoes, on a solid census basis, ought to have so many offices, the blacks so many, and the whites so many, the Germans so many, the Irish so many, and other classes and nationalities should have offices according to their respective numbers. Upon your statistical principle, the colored people ought, therefore, not only to hold one-eighth of all offices in the country, but they should own one-eighth of all the property, and pay one-eighth of all the taxes of the country. Equal in numbers, they should, of course, be equal in every thing else. They should constitute one-eighth of the poets, statesmen, scholars, authors, and philosophers of the country.

That was Frederick Douglass speaking. And he was mocking the person who then was advocating what we today call the quota system.

Let us come a little closer to the present time. In 1963, even Martin Luther King echoed the sentiments of Douglass and others by rejecting the notion of preferential treatment. He stated clearly that the only "civil right" is the right to live in a nation where persons are judged by the content of their character, not the color of their skin. On that point, Martin Luther King was absolutely right.

The Civil Rights Act of 1964, in short, was intended to outlaw racial discrimination on all fronts. In matters of employment, title VII of the act declared that no employer shall be permitted to "fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual * * * because of such individual's race, color, religion, sex, or national origin."

The plain meaning of the Constitution is more emphatic than any legislation Congress has ever passed on the issue of civil rights. Even the late Mr. Justice William O. Douglas, hardly a pillar of conservative legal thought, argued that the Constitution prohibited any legislatively mandated racial or ethnic quota system. After the 1964 Civil Rights Act passed, Mr. Justice Douglas observed, and listen to what he said:

> The equal protection clause commands the elimination of racial barriers, not their creation in order to satisfy our theory as to how society ought to be organized. * * * So far as race is concerned, any state-sponsored preference to one race over another * * * is in my view "invidious" and violative of the equal protection clause.

The distinguished professor of constitutional law at Yale University, Alexander Bickel, agreed with Justice Douglas by adding this:

> The lessons of the great decisions of the Supreme Court and the lesson of contemporary history have been the same for at least a generation: discrimination on the basis of race is illegal, immoral, unconstitutional, inherently wrong, and destructive of democratic society. * * * Having found support in the Constitution for equality, [proponents of racial preferences] now claim support for inequality under the same Constitution.

In 1989, the Supreme Court finally acted to make enforcement of the 1964 Civil Rights Act compatible with the wishes of those who, like Hubert Humphrey, said that quotas are an affront to the American way of life. In the case of Ward's Cove versus Antonio, the court declared that a mere statistical imbalance in the racial makeup of a work force will no longer create a presumption that the employer has practiced discrimination.

That was a step in the right direction. But, now the civil rights establishment wants to reverse that ruling, and take a step back in the direction of codifying into law racial quotas.

Let me say again, we have had 27 years of social engineering masquerading in this country under the guise of advancing civil rights. During that time, millions and millions of Americans have become more isolated from the economic mainstream than ever before. The race conscious policies of the last quarter century have done a great deal to benefit a few of the most advantaged in certain minority groups, while the many more have been left further and further behind.

Mr. President, Robert Woodson, the president of the National Center for Neighborhood Enterprise—an organization promoting urban black progress through the free market—calls the Civil Rights Act of 1991 a fraud and he is everlastingly correct about that. Mr. Woodson told President Bush that by focusing on so-called white racism as the major problem facing black Americans, this legislation—the Civil Rights Act of 1991—siphons off attention from the true crisis affecting the poor and disadvantaged.

Mr. Woodson explained that quotas do not do a thing for the one-third of black Americans who are really in trouble in this country. Not one bit of help. It is only the one-third of blacks who are highly professional or unionized who will benefit from this legislation. As Robert Woodson added, "the elimination of the last racist thought from the last mind would do nothing to change the plight of the inner cities one whit."

When asked to lay out an equal opportunity program to fall in line with the spirit of the original civil rights movement, Woodson declared:

> We'd have economic empowerment for the poor, exemption of poor people from laws and regulations that discourage employment and enterprise formation, a streamlining of social service delivery systems, an amendment to the 1964 Civil Rights Act to enhance penalties for intentional discrimination and the expansion of the Dependent Care Tax Credit—for starters. But no progress is possible until we acknowledge that racism is no longer the central problem for blacks.

Bob Woodson is right on target. Racial preferences do little for the average person and much for the hate mongers of this country. Most people find quotas, preferences, and the assumptions of cultural inferiority hidden in the Civil Rights Act of 1991 to be offensive—despite the civil rights establishment's adherence to them.

Mr. President, Thomas Jefferson boasted that the United States of America was the world's first meritocracy, the first society in history without castes or preferential treatment for anyone who had not succeeded by his own sweat and perseverance. Nothing could be further from his vision of America than the quota system and those who promote them in the name of social justice.

So, in conclusion, Mr. President, the Helms amendment puts America back on the course that Thomas Jefferson, Hubert Humphrey, Sam Ervin, Everett Dirksen, and so many others envisioned. It offers Senators this evening an opportunity to back up all of their rhetoric and all of their speeches and all of their press releases in which they look with disfavor upon quotas. It gives Senators an opportunity to vote against quotas.

By this vote, Mr. President, we could say what we mean and mean what we say. I ask unanimous consent that a series of articles from the Washington Times, Human Events, and "60 Minutes" be included in the RECORD at the conclusion of my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, Apr. 18, 1991]

"WHATEVER HAPPENED TO CIVIL RIGHTS?"

(By Paul Greenberg)

Viewers who saw the televised version of Brown vs. Board of Education, with Sidney Poitier as the young Thurgood Marshall and Burt Lancaster as the distinguished defender of a brittle old order, may have wondered about something: Whatever happened to civil rights?

Once upon a time, civil rights meant something clear and sharp—like justice. The cause sent people into the streets, the courtroom, the voting booth—black and white together, marching against something that was so clearly wrong it could not stand. Slowly it dawned: It was not the agitation over civil rights that had divided the American people but the cause of that agitation—racial segregation. It had set race against race, North against South, those who believed in the Constitution and the rule of law against those who still clung to a racial standard. A new national consensus formed in law and, more important, in the American mind: Jim Crow had to go. It was unjust. It was irrational. Most of all, it was un-American.

The unanimous ruling of the Supreme Court in 1954, politically astute and constitutionally necessary as it was, didn't so much inspire such feelings as confirm them. And the rest, however unsettling, was history. How could it have been otherwise?

Well, it could have been. Suppose Brown vs. Board of Education had not been argued as a matter of justice, of constitutional principle and undeniable common sense, but instead had been fought over technical issues. Its moral grandeur would have been reduced to another quarrelsome little contest between high-paid lawyers. Suppose, in other words, that the issues had been those now raised by the proposed Civil Rights Act of 1991:

Do employment tests have a disparate impact on different races or ethnic groups or the sexes and, if so, does that mean the tests are sufficient proof of unlawful discrimination? Should the burden of proof fall on plaintiff or defendant? Should damages be only compensatory or punitive? And if punitive, should they be limited to $150,000? Should legal fees remain unlimited? Should claims be settled by private arbitration or federal commissions? What is the difference between a quota and a numerical goal? Might a bill that formally outlaws quotas informally encourage employers to adopt them rather than risk being judged guilty of invidious discrimination? What is the proper proportion of racial and ethnic groups in a company's labor force—should it be determined by the complexion of the community in general, the skilled labor pool, the national population or all of the above? Should an employer have to prove that his tests and other "employment practices" bear a "significant relationship to successful performance" in order to escape damages? And so eternally, pettifoggingly on.

Can you imagine basing great law or a great cause on the outcome of such a debate? Think of trying to fit all these points into the sweeping appeal of a Rev. Dr. Martin Luther King Jr. at the Lincoln Memorial, let alone on a picket sign. Are these reasons for young people to march and old folks to undergo a crisis of conscience?

These are not issues that rally a great people; they're the stuff of special-interest politics and legal maneuvers. This is not the core of a great movement; it is the detritus of a moral cause that has become one more lobby. Now civil rights can be found somewhere on the national agenda between airline deregulation and farm subsidies.

Whether Americans come down on one side or the other of a civil rights bill is no longer a moral test; it is more of a legal and economic preference. There is no longer a national consensus on civil rights because there is nothing great, decisive and historic here to have a consensus on. Civil rights has become—dare I say it—a bore. It has become a contest between ethnic groups and economic interests, not over the rights of the individual. And when that happens, it isn't very interesting or very American.

To quote Cornel West of the African-American Studies Program at Princeton: "The power of the civil rights movement under Martin Luther King was its universalism. Now, instead of the civil rights movement being viewed as a moral crusade for freedom, it's become an expression for a particular interest group. Once you lose that high moral ground, all you have is a power struggle, and that has never been a persuasive means for the weaker to deal with the stronger."

The stultified leadership of what's left of the civil rights movement insists on replaying the themes of the 1960s in the 1990s. But that old battle was fought and won; the times they have changed. Words that were once stirring and relevant are now reduced to empty ritual. Meanwhile, dangers that cut across racial lines go neglected: the deterioration of the family, the absence of community, unequal education, the emphasis on group entitlements rather than civil rights . . . even as the annual posturing over civil rights begins.

[From the Washington Times, May 24, 1991]

THE GOALS LINE . . . CODIFIED

(By William Murchison)

When is a quota not a quota? When it's a hiring goal, silly. Or an objective. A hope. A dream. Or when it's part of any linguistic smoke screen masking the machinations of the civil rights establishment.

Congress and the White House have been hung up all year over a civil rights bill intended to bypass several Supreme Court decisions that restrict in minor ways the operation of the quota system. President Bush vetoed the bill last year, objecting that it would necessitate racial and sexual quotas in hiring. This was because the bill required work forces to reflect community demographic makeup. How could this be achieved without strict quotas?

Backers of the bill naturally are horrified at the imputation that they—they!—have job quotas in mind. They point to language specifying that the act shouldn't "be construed to require to encourage" quotas. House Democrats, to get the bill through, say they'll toughen the language.

Oh! That's a good story! Tell me another please Mommy.

In the real world—the world on the other side of the microphones—you can't write language explicit enough to outlaw schemes for racial balance. Experience supports this view.

Return with us now to those thrilling days of yesteryear—1964—when Congress passed the Civil Rights Act, a sledgehammer blow at racial discrimination.

The bill wasn't supposed to require racial balance. In "Disaster by Decree: The Supreme Court Decisions of Race and the Schools," University of Texas law professor Lino A. Graglia writes: "every title of the [civil rights] act, indeed, was defended by its proponents, with what proved to be irrresistible force, on the ground that it did no more than prohibit racial discrimination. The possibility that a requirement of racial discrimination to achieve integration or racial balance might somehow result from the act was the strongest argument of its opponents and was repeatedly and emphatically denied by its proponents."

Sen. Hubert Humphrey, liberal of the liberals, declared that two amendments to the bill had ruled out "the busing of children." Sen. Robert C. Byrd of West Virginia rose to his feet. Could his distinguished friend, the senator from Minnesota, assure him that "schoolchildren may not be bused from one end of the community to another end of the community at the taxpayers' expense to relieve so-called racial imbalance in the schools"? His distinguished friend was happy to relieve the senator's anxiety. No, the bill wouldn't require racial balance

All this notwithstanding. Mr. Graglia notes, a racial balance requirement in school attendance "was soon imposed by the Office of Education and upheld by the courts." The big yellow school buses started rolling.

We should excuse the leeriness of the White House—speaking for the majority of Americans, if polls are an indication—concerning hiring "goals." Once bitten, twice, shy, is folk wisdom of the highest order.

"Goals," whatever Congress may have intended, have over the past 20 years solidified into quotas. Today we discriminate in order to fight discrimination. White applicants, especially white males, passed over for promotion or hiring can't see the fairness in blatant acts of unfairness. More and more take their objections to court. None of this exactly reinforces racial bonhomie.

What use, playing around with the language of this mischievous piece of legislation? No new civil rights bill is a better idea than a civil rights bill that merely fuels existing tensions.

Government-imposed quotas—or quotas imposed in order to stay out of trouble with government—are intolerable and unfair not least to the employee unlucky enough to get tagged the affirmative-action hiree.

The guardians of enlightened opinion went bananas last year when Sen. Jesse Helms, North Carolina Republican, running against a black Democrat, ran anti-quota ads on television. The ads were said to embody the new racism or something.

Mr. Helms, in truth, spoke for a silent majority sick of hearing that to do a good thing we must do a bad thing. Federal judges, bureaucrats and civil rights lobbyists may think thus. Much larger numbers know we don't operate that way in America—or at least we didn't used to.

[From the Washington Times, May 24, 1991]

CIVIL RIGHTS

(By Paul Craig Roberts)

Soon every American may have to carry a racial ID card for use when taking an employment test, applying for a job, admission to university or a federal loan or contract. That would be the result of the 1991 Civil Rights Act, whether it is the White House's version, the Congress or a compromise between the two.

The various versions of the bill are fraudulently advertised as anti-job-discrimination bills. If that is what they were, the bills would be redundant, because discrimination based on an "individual's race, color, religion, sex or national origin" has been illegal since the Civil Rights Act of 1964.

The problem with the 1964 Civil Rights Act is that it gives equal protection to everyone—even white males. This puts the law out of step with the affirmative action quota spoils system.

Today whites routinely suffer reverse discrimination in employment, promotion, university admissions where they must meet substantially higher standards, and even in employment testing where scores are "race normed" in order to enhance favored minorities chances of getting jobs. This discrimination suffered by whites is illegal under the 1964 Civil Rights Act.

Whites have lost equal protection of the law, because federal bureaucrats and judges decided to jump-start minority integration by implementing a policy of minority racial preferences. Mere color blindness in keeping with the 1964 Act, they thought, would allow economic and occupation differences among races to continue for more generations while blacks worked their way up educational and career ladders.

Many of the federal officials who favored quotas also assumed ill will toward minorities by whites. They argued that the federal government could not prove an employer or university was discriminating against blacks except on the basis of black representation in the work force and student body. Thus, the test of racial discrimination became whether blacks comprised the same percentage of the work force and student body as they do of the general population.

For example, if statistical balance requires blacks to have 50 slots and they only have 40, it is considered proof that the employer is discriminating. No one ever explained why a prejudiced employer would hire 40 blacks but not 50.

To push more blacks along than were ready required additional discrimination against whites. Since the 1964 Act permits employment testing and since we have a merit-based educational system, employment tests were "race normed" to elevate black scores, and university admission standards were lowered for blacks. In addition, blacks are provided special financial incentives denied to whites.

With whites on a merit system and blacks on a quota system, antagonisms naturally arose, and officials, sensitive to black pride, permitted blacks to segregate themselves into their own student organizations, thus defeating the purpose of integration that affirmative action was supposed to achieve. Everyone knows that all-white fraternities are taboo, but all-black fraternities are permitted, making the civil rights double standard even more glaring.

Twenty-seven years of racial privileges have produced a gap between the 1964 law and reality that is too pronounced to continue in 1989, the Supreme Court showed its unease when it ruled that statistical imbalance alone could no longer be considered proof of racial discrimination. Moreover, liberals who had implemented "temporary" quotas became alarmed at their permanence. Former Secretary of Health and Human Services Joseph Califano spoke out that preferential treatment for blacks "was never conceived as a permanent program and its time is running out."

However, after 27 years, many blacks regard racial quotas as an entitlement like Social Security, and it is not easy all of a sudden to begin enforcing the 1964 Civil Rights Act. In 1990, Sen. Ted Kennedy introduced a new civil rights bill that would in effect overturn the 1964 bill by legalizing the present discrimination against whites. In 1991, Rep. Jack Brooks, Texas Democrat, reintroduced the Kennedy bill, and the Bush administration has its own version.

If any of these bills become law, racial privileges in testing, employment, promotion and university admission will be codified in the law. Since these privileges would be economically valuable, everyone's racial status would have to be legally defined to prevent those not entitled to the privileges from claiming them. Already policemen in New York and firemen in Boston and San Francisco are disputing who is black and who is Hispanic. If the Civil Rights Act of 1991 becomes law, we will end up with our own Nuremberg Laws under which a person's racial status will determine his legal standing.

[From the Washington Times, June 5, 1991]

TERMS REDEFINED

(By Patrick Buchanan)

"Can civil rights be legislated?" was how "Good Morning America" host Charlie Gibson put the question to me—and to Jesse Jackson.

Well, as Socrates used to say: First, define your terms.

What do we mean by civil rights? If we mean federal laws to prohibit racial discrimination in hiring and promotion, in assigning children to public schools, in public accommodations, the answer is yes. That civil rights revolution is over: It won.

And it won ultimately because it appealed to the conscience of the country, to beliefs about how we ought to treat one another.

In the '40s, '50s and early '60s, the term civil rights brought to mind the picture of a small black girl being led through a crowd of abusive whites to a public school. Of black youths sitting at a lunch counter having ketchup dumped on their heads as they tried to buy a sandwich. Of Jackie Robinson being given a chance to prove his ability. Of Rosa Parks refusing to give up her seat on a bus. The movement had about it magnanimity, dignity, nobility.

Today, civil rights has come to mean something different.

It has come to mean an "affirmative action" program at Georgetown Law School, where blacks are admitted with average test scores far below the lowest score of any white student.

It has come to mean white cops being denied a lifelong dream of becoming a sergeant or detective, because some court has ordered the next 10 open slots be set aside for blacks and Hispanics.

It has come to mean busing white children across town to meet some judge's notion of an acceptable racial balance.

It has come to mean young men born in El Salvador or Mexico getting preferential treatment at the state college over Polish and Italian kids whose fathers fought in Vietnam.

It has come to mean brazen boodling by politicians who suddenly turn up owning radio and TV stations worth millions—for an investment of a few thousand bucks.

A quarter century ago, we were able to see the faces of the victims of discrimination; now we see the faces of the victims of reverse discrimination.

To Jesse Jackson, black Americans, at 12 percent of the population, are doing fine in athletics, the armed forces and the popular culture. But blacks do not yet have 12 percent of the posts at our most prestigious law firms, corporations and universities. Hence, they are being cheated of what is theirs by right; and only bigotry explains the disparity.

Had it not been for white injustice, Mr. Jackson will tell you, black folks would already have a proportional share of the income, wealth and prestigious posts in American life. Therefore, justice requires affirmative action, reparations for past discrimination, until blacks reach parity.

Sound plausible. But what is wrong with Mr. Jackson's vision is that it is profoundly, deeply, un-American. It collides directly with the older vision where every citizen was free to pursue his dream, but no man was guaranteed more than what he earned or produced. When the Irish got off the boat, they were not immediately entitled to a share of the Brahmin's bank. Nowhere in the founding documents is there anything about ethnic or racial entitlements.

Indeed, the only way to redistribute the nation's wealth, income, property, power and prestige proportionately is to remake America. To give each group a "fair share" of the Nations wealth would require a government with the power to take away everything from those who have—to give to those who have not. Perfect equality would require absolute tyranny.

Upon the altar of that tyranny would have to be sacrificed all those things that make America unique: property rights, freedom of association, the idea of excellence, the American dream.

White Americans are not some monolith. They are of English and Irish decent, German and Jewish, Polish and Scottish, Italian and French. Are "overrepresented" Irish on the police forces of our major cities to be held back to make room for blacks? Are Asian-Americans who outperform on math tests to give up their slots at Cal Tech and the Massachusetts Institute of Technology? Are Jewish professors and journalists to give up their positions to black teachers and writers?

Perhaps if the senators pushing such remedies would only, 12 of them, march into the well, resign, and ask their governors to appoint black legislators in their place, one might respect them more. But, as always, it is others who must sacrafice for their noble vision and their high ideas.

The new civil rights law has failed to attract the support of Americans because it is not about equal rights as most Americans understand the term. It is about stacking the deck in civil suits where black plaintiffs and lawyers confront white businessmen.

What the Supreme Court ruled in 1989 is that, if you charge a businessman with bigoted standards of hiring, the burden is on you to prove his guilt, not on him to prove his innocence. Is that not the American way, the constitutional tradition?

The Democrats seek to tilt the case against the businessman, to create a situation where he faces loss of income, ruin of reputation, and a stacked deck in court—so that he will cave in rather than fight.

This bill is yet another act of pandering to the militant minorities in the Democratic coalition, and it is because Democrats cannot say no that voters are saying no to them.

[From the Washington Times, June 5, 1991]

TITLE VII UPENDED

(By Terry Eastland)

This week's legislative struggle over employment discrimination actually began in 1964 when Congress deliberated over the proposals enacted as Title VII of the Civil Rights Act.

Opponents worried that the anti-job bias legislation might lead to . . . quotas. So a new provision was added: Nothing in Title VII "shall be interpreted to require any employer . . . to grant preferential treatment to any individual or to any group" on account of racial balance in the workplace.

Did that prevent preferential treatment, i.e., quotas? No. Title VII proscribed intentional discrimination only. But the newly created Equal Employment Opportunity Commission had other ideas in guidelines purporting to interpret Title VII, the agency defined discrimination in statistical terms. Thus employment practices having a disparate impact upon minorities—including job testing—were suspect; these practices had to be validated or else modified or eliminated. Disparate impact was the seed that soon would produce quotas galore.

The EEOC knew that its own theory of discrimination was at odds with Title VII. In the agency's "Administrative History" for 1969, one discovers that the EEOC thought Congress would have to change Title VII to suit the new regulations, or else the EEOC would have to change the regulations to fit the original law.

Neither had to happen. In 1971, the Supreme Court in Griggs vs. Duke Power Co. ruled that under Title VII practices having a disparate impact upon minorities now had to be justified by "business necessity," a term found nowhere in Title VII or prior court opinions. Thanks to Griggs, few employers whose numbers were not "right" could avoid attack under the disparate impact version of Title VII. Because it proved easier to hire by the numbers than face costly litigation, employers discreetly resorted to the very practices the law originally proscribed.

The court in Griggs justified its interpretation of Title VII by citing the EEOC guidelines—they expressed "the will of Congress," said the credulous justices. The mating of the EEOC and the court to the will of the people was the modern administrative state at work. Although there were congressional efforts to rein in the EEOC they failed Government by bureaucracy and judiciary supported by the civil rights lobby proved strong, even during Ronald Reagan's anti-quota presidency.

Arguably, the best hope for altering judicial government has in the court itself, and in the Wards Cove case of 1989 the court reformed disparate impact theory by lessening its pro-quota force. This is what the Democrats who now swear so loudly against quotas in fact object to. They have an almost obsessive desire to recover the law of disparate impact written by the EEOC approved in Griggs, and further expanded by lower courts. They want the industrial-strength version of Griggs.

Democrats were first to propose overturning Wards Cove. The Bush administration initially accepted Wards Cove, only to change course when it seemed politically useful. The limits to administrative pragmatism, however, are themselves pragmatic, related to the public's hostility to quotas. Hence the president's vow last year to sign a civil rights bill but not a quota bill, even though his own bill, while refusing to go as far as the Democrats' in rehabilitating and strengthening the law of disparate impact, is a quota bill. Any legislation that accepts the basic framework of Griggs will foster preferential treatment.

Democrats obviously cannot change Mr. Bush with hypocrisy without admitting the truth of their own project. Instead, they want to out-Bush Mr. Bush in bashing quotas, and they want to abolish "race-norming"—"adjusting" the employment test scores of certain minorities so that they rank ahead of better scoring whites—because they know that otherwise they are vulnerable to pro-quota charges. Of course, they also propose to get rid of most tests. An arm is broken, so kill the patient. Democrats thus propose to overturn Title VII's original insistence that an employer may use "any professionally developed ability test" so long as it is "not designed, intended or used to discriminate".

The political truth today is what it has been since 1964, namely that it is very hard to make pro-quota statutory law, precisely because quotas have little public support. It is far easier to make pro-quota law through agency and judicial rulings, so long, of course, as the executive branch and the Supreme Court are in your possession. At the moment, it is the politically dangerous lot of the Democratic Party to be reduced to advancing the cause of preferential treatment in the one forum closest and most visible to the American people. They are doing so through deception, because that is the only way they might succeed.

And if they do succeed, note well, it will not be just a 1989 Supreme Court decision that will be overturned, but the original Title VII itself. Democrats have made a complete turn from historic days of 1964, when they were the party of high principle, of colorblind equal opportunity.

[From the Washington Times, June 19, 1991]

RACIAL ARITHMETIC, CALIFORNIA STYLE

(By John Leo)

A good many Washington Commentators are convinced that the quota debate is "Willie Horton II," i.e., a basically irrelevant nonstarter that is nevertheless useful for distracting and inflaming impressionable voters. This seems to be yet another curious case of that familiar Washington eye ailment known as inside-the-beltway myopia. In America, the large country just outside the Capital Beltway, quotas are a live issue indeed. Even if the Republicans should somehow manage to exorcise the spirit of Lee Atwater and shed all cynicism and manipulation by noon tomorrow, quotas would still be a major issue in the 1992 elections.

On my desk is a minor example of the growing quota mentality, a report to the U.S. Forest Service from its Task Force on Work Force Diversity. Twenty years ago, a report like this would simply have said, in effect, it isn't right for the service to be almost all white and male; let's open it up. But this report, infected by current notions of multiculturalism (there are many cultures or tribes that have to be appeased as groups), says that by 1995, the service "must have percentages in recognized groups equal to the percentages in the Civilian Labor Force in 1990." Quota time. Though momentarily stumped on what would be a proper quota for the disabled, the report says, "We think the appropriate number will be about 5.9 percent." Yeah, that's about right.

The Forest Service says that this report, a wellspring of odd but doctrinally correct multiculturalism, has been accepted "in spirit." This probably means that the leadership, being basically sane, will try to bury it if it can and just try to hire people from both sexes and all races. But here is the problem. To buy some peace, administrators often tell the multiculture believers to go off and make a report. When the report arrives, all thunder and lightning, it sometimes takes on a scary life of its own, raising so much fuss that administrators are tempted to buy peace once again by adopting it, even if it involves quotas, or as in the case of schools, ceding control of the curriculum to various pressure groups. In the worst-case scenario, this report enters and then polarizes partisan politics, with the Democrats trapped by angry constituents into defending assorted zanniess and quotas, thus putting the future of the party at risk.

This is roughly the dynamic at work in California, where the most serious quota drama is currently being played out. In brief (and I am not making this up), the Democratic majority in the state legislature is attempting to establish, by law, that California state universities and colleges will grant degrees to ethnic and racial groups in direct proportion to their share of the state's high-school graduates. This astonishing plan, pushed by Assembly Speaker Willie Brown and ex-Fonda husband Tom Hayden, is an explicit rejection of what used to be called civil rights and affirmative action (openness, giving everyone an equal chance, removing obstacles to individual freedom and advancement).

We are way beyond that. Now we are in the arena of group entitlements, bringing the colleges under political control and dividing up university degrees and jobs as part of a spoils system run from Sacramento. Since the Democrats vote as a bloc on this, only the good fortune of a last-minute veto by a retiring Republican governor saved California from this quota plan last year, just as the likelihood of another veto by the current Republican Governor, Pete Wilson will save the state this year or next.

To its great credit, California has been deeply concerned for two decades with the low rate of college graduation among some minorities. The disheartening news is that graduation rates for Hispanics and blacks are still very low. With frustration over this rising, the ideal of getting as many blacks and Hispanics as possible ready for college changed to the ideal of proportional representation in freshman admissions, then to the ideal of graduating roughly equal numbers of each group and finally to Willie Brown's favorite kind of ideal, one with legislative teeth.

The quota provision is in Willie Brown's bill, No. 2150, which has been temporarily shelved because of the budget crisis. Perhaps wisely, the bill is presented in a fog of euphemisms. Proportional representation in admissions and graduation is "educational equity," described as a central priority that California universities "shall strive to approximate, by 2000." If that sounds like the soothing language of goals, not quotas, don't be lulled: The "shall strive" is backed by tough provisions of reports, impact statements and the reminder that "governing boards shall hold faculty and administrators accountable" for all this legislated equity (i.e., their jobs are on the line). Since the bill neglects to provide funding for remedial help that unprepared minority students really need, I assume that if the bill passes, the universities would quickly capitulate and grant as many worthless political degrees as the legislature wants. Even now, voices are being raised around the system that every student has a "right" to graduate and that a "privileged elite" (administrators and faculty) is arbitrarily withholding a desirable good (automatic diplomas) from "under-represented minorities." This is the language of pork-barrel politics, not education, and that is what the Brown bill is all about.

[From the Washington Times]

THE ANTI-QUOTA QUOTA BILL

(By Paul Greenberg)

When it came time to consider civil rights this year, the U.S. House of Representatives obviously couldn't decide whether to pass a quota or an anti-quota bill. So it did both.

The resulting bill is a mystifying monstrosity even by the usual warped congressional standards. One section of the bill declares job quotas unlawful; another encourages them. One section says employers may not set aside jobs for certain groups; but if they don't, and their work force turns up short of these groups (a "disparate impact"), they'd better have a good reason ("business necessity") or they face stiff penalties. Who wrote this bill—Casey Stengel as edited by Yogi Berra?

This bill, whose significance is cloudy and whose provisions are anything but manifest, requires businesses accused of wrongful discrimination to prove that their requirements for a job have some "significant" and "manifest" relationship to the work involved. Washington remains a feast for connoisseurs of irony. The surest sign of a bad bill, like the surest sign of a bad idea, is bad language. If a bill can't make its intentions clear, the odds are they aren't.

One opponent of this bill—Rep. John A. Boehner, Ohio Republican—went too far when he said this "is not a civil rights bill. It is a quota bill, plain and simple." If only it were, it might not be nearly so mischievous. At least employers and workers would then understand precisely what arbitrary injustices and constitutional affronts were being decreed by Washington. Alas, there is nothing plain and simple about this bill. It is neither a quota nor an anti-quota bill; it is a charter for confusion and an invitation to strike out into the verbal fog and sue.

The upshot: Under this bill, businessmen could find themselves sued simultaneously by (a) white males who claim they're the victims of unfair quotas that lock them out of employment or promotion, and by (b) litigants of another color or sex who claim they're not fairly represented in the company's work force. Maybe both could combine their grievances in a class-action suit. Perhaps they could be joined by workers already on the payroll who feel they've been denied advancement because they are too (a) white, (b) black, (c) Hispanic, (d) male or female, (e) something else, (f) all of the above or any combination thereof, or (g) one from List A and two from List B.

The only interests clearly protected, nurtured and encouraged by this bill are those of trial lawyers. That's always the way with murky legislation designed to be passed, rather than to be clear. Lazy legislators have left the meaning of this bill, if any, up to legions of lawyers and layers of courts. Should the courts read some strange meaning into all this strange language, the same legislators will describe themselves as shocked—shocked!—to discover that there was anything like that in this legislation, and proceed to correct the court's interpretation by passing another and even murkier bill next year.

How to remedy this pattern, other than by repeated presidential vetoes that divide the country and reduce Americans to questioning one another's motives?

One way would be to make such laws apply to Congress. Now members of Congress tend to exempt themselves from civil rights bills—convincing evidence of how much real confidence they have in their own botched handiwork. They're not about to accept the burden of proof when their own staffs reveal a "disparate impact" that must be justified by "significant" and "manifest" job requirements. Maybe if congressmen had to live with their work, it might get better.

Another improvement would be to allow any business, faculty, union or other outfit that hires and fires to do so strictly by merit so long as its work force did not exceed the racial, sexual or ethnic imbalance demonstrated by teams in the National Basketball Association. That would be a sign that Americans were taking merit, competitiveness, and performance in the workplace as seriously as we take the same qualities in professional sports—which would be a gigantic step up.

This latest "civil rights" bill, with its capacity for collecting civil wrongs for every conceivable kind of American, is but one more sign of a sad fad—the culture of victimization. Its motto: Whatever happens, it's not our fault. It's only because we belong to a victimized race, class, religion, ethnic group or some other subspecies of citizen that we're not uniformly successful and ecstatically happy all the time. And the way to bring about that happy state is to include more and more Americans in the category of victim, which now includes white Anglo-Saxon Protestant male—by grace of the U.S. House of Representatives.

The definition of equality in this country has come to mean giving every American a separate grievance, his own lawyer, and a civil-rights law sufficiently vague to justify almost any result, however bizarre. That's how wacky bills like this get past the House of Representatives with the support of lawmakers like Democratic Reps. Beryl Anthony Jr., Ray Thornton, and Bill Alexander. (The only vote against it from Arkansas was cast by GOP Rep. John Paul Hammerschmidt.)

As for actual injustices that may exist in hiring—like racism and other evils—they are almost lost in the expensive legal folderol and the rush of grievance collectors heading for the courts. The distinction between justice and mischief is soon lost. It happens every time some hopelessly vague and contradictory theory of group entitlement replaces the idea of individual rights—and responsibilities. That is what has just happened in the U.S. House of Representatives.

[From Human Events, Apr. 6, 1991]

"60 MINUTES" STUNS CIVIL RIGHTS SUPPORTERS

The Democrats are not only back with their so-called "civil rights" bill that President Bush successfully vetoed last year because it would force businesses to hire and promote workers based on quotas, but they've actually added new provisions that would make the bill even more onerous and intrusive to employers.

Thus, in the name of broadening the bill's appeal to women, the House Education and Labor Committee, chaired by liberal Michigan Democrat William D. Ford, has added another feature that is every bit as abhorrent to conservatives as quotas: "pay equity" or "comparable worth."

Under this dangerous concept, the government, rather than the free market, would determine that a job heavily dominated by women—say, working in a sewing factory—should be compensated at the same rate as some other job largely held by men, such as working in a steel mill.

As reported by the Education and Labor panel, the bill would require the Department of Labor to establish a program to put out information about wage disparities based on sex and race and to provide technical assistance to employers to eliminate those disparities. While this may sound like a voluntary program, it is but a short step, once government studies conclude that certain jobs are underpaid, for regulators to use this as evidence that employers are discriminating—whether intentionally or not doesn't matter—and impose harsh penalties.

Supporters such as Sen. Ted Kennedy (D.-Mass.) deny that the Democratic measure would lead to quotas and pooh-pooh the concerns of opponents as little more than a cover for bigotry. Yet even under existing law—which people like Kennedy say isn't sweeping enough—federal bureaucrats are already enforcing what many consider to be a de facto quota system and inflicting harsh punishments on those employers who fail to comply with the system's rigorous requirements.

Why many believe the civil rights laws even as presently enforced to be excessively burdensome for businessmen—let alone enforced in the much more stringent way that the Democrats are now pushing—was dramatically illustrated by CBS' March 24, "60 Minutes" program in its segment on the plight of Mike Welbel, owner of a small Chicago lamp factory.

Though a spokesman for the Equal Employment Opportunity Commission disputes CBS' coverage of the Welbel case, it is clear that CBS—not known for its liberal bias—proved to its own satisfaction that Welbel is the victim of a quota mentality and that the penalties inflicted on him are highly unreasonable. (And even many Democrats are conceding that the "60 Minutes" program has undermined the civil rights drive in the Congress.)

Welbel, noted correspondent Morley Safer, is a former traveling salesman who decided nine years ago to start his own business; so he borrowed $3,000 on his Chevy station wagon and started the Daniel Lamp Co., which he named after his son. "The business didn't exactly prosper," said Safer, "but Mike Welbel was doing okay until last July when the federal government told Mike '$148,000, please, and we want it now.' "

The program then cut to Welbel, who described his reaction. "I froze. I froze in my chair," he said. "I—I—I was—I—I got—I started feeling my chest bouncing around. I don't—I don't think it was a heart attack, but I'll tell you something. It was the next thing to it. I just was frozen with shock."

"What caused that shock," Safer told his nationwide audience," was the EEOC, the Equal Employment Opportunity Commission. It found Mike guilty of racial discrimination." Which made no sense, said Safer, since the only two employees of the whole company who weren't either black or Hispanic were Mike and his father, who was a survivor of Auschwitz.

"As for the rest of the company," Safer continued, "Welbel hires only minorities. Eighteen Hispanics and eight blacks now work there."

So what prompted the EEOC to single out Welbel's company? As detailed by Safer, "Mike's troubles began in February 1989 when a black woman named Lucille Johnson who'd applied for a job was not hired. She filed a complaint with the Chicago office of EEOC. She claimed she didn't get the job because she was black."

Asked if he remembered Johnson, Welbel told Safer: "No, as a matter of fact, I've never met her, nor do I know who she is. I know her only from the paperwork that's involved."

Asked why Johnson wasn't hired, Welbel responded: "Well, we don't know on that particular day why she wasn't hired. When one is not hired it's because they don't qualify for the job or we don't have an opening or somebody else was better qualified for the job. So one of those reasons, that's the reason she didn't get hired.

"60 Minutes" found that Welbel's company, located in a poor, predominantly Hispanic section on the southwest side of Chicago, hires unskilled labor at a starting salary of only $4 an hour.

In good times he has had as many as 30 workers, but when business slackens, the work-force dwindles to as few as 12. With the low wages and the lack of job security, turnover is high. Under the circumstances, it is hardly surprising that Welbel wouldn't remember everyone who might have applied for a job.

At any rate, it wasn't long before a pair of investigators from the EEOC showed up at the Daniel Lamp Co. to check out Johnson's complaint, demanding access to Welbel's records. Welbel, who hired only minorities, invited the investigators to help themselves.

"And to be perfectly frank," the factory owner was shown telling Safer, "it was a very cordial relationship while they were investigating us. I certainly felt I had nothing to hide. You know, we've got all minority, a combination of black and Hispanic. Frankly, I took the matter very lightly."

CBS interviewed several of Welbel's employees, each of whom was either black or Hispanic, and they all said they were happy there and had never seen any hint of racial discrimination. A black woman named Zina, who drives the delivery truck and also assembles lamps, told Safer:

"I got the job right off the—you know, right off the top."

She added: "I know discrimination when I see it and would tell them [the government], believe me."

Another employee, a woman of Hispanic background, told Safer:

"I've been with the company for eight years and I have never seen Mike being discriminating against anybody. And it seems all that time, I've been seeing Hispanic and black people working here."

Yet, Safer reported, the EEOC claims that during three inspections in 1989 and 1990, "it found no blacks working there. Mike says that may be true from time to time because of his transient workforce. Jim Lafferty, director of legislative affairs for the EEOC, says he is not impressed by that argument."

Interviewing Lafferty, Safer asked: "So what's his [Welbel's] sin?"

Lafferty: "His sin is that he discriminated against someone who applied for a job there. Lucille Johnson, who's a very qualified worker, applied for a job there and she was denied the job and it was given to someone who was less qualified."

Safer: "But that's a curious business, because people sometimes only work a couple of days and just don't show up again."

Lafferty: "If there was such a great movement of employees in and out of there, why didn't there happen to be any black employees who moved in and out of there during that time?"

Safer: "Well, there were."

Lafferty then replied that the EEOC doesn't know that and that there are no records that indicate that blacks were employed at the company during the period covered by the three inspections.

Safer reported, however, that there are such records; that the company's own records show that 11 blacks worked there—some for a few days, some longer—during the period of the EEOC investigation. Moreover, he said, "60 Minutes" was able to inpendently confirm that these blacks had in fact worked at Daniel Lamp during the relevant period.

"But quite apart from records," Safer asked the EEOC official, "doesn't your nose tell you that this really isn't much of a case and that Mike Welbel is probably not a racist? He's a little guy trying to—trying to make a living and he loses—he hires people some weeks, he lays people off the next week. Don't you take the human factor into account, not just these cold statistics?"

In effect, Lafferty's reply was that, no, the EEOC does not take the human factor into account: that small businessmen like Welbel should worry first about meeting all the government's bureaucratic requirements and only then, if any time is left over, should they worry about making a living for themselves and their workers.

"Well, unfortunately," Lafferty said, "we have to rely on not only the statistics but on the word of Lucille Johnson and seven other people who've come forward since then telling us that they had also experienced discrimination during that period at Daniel Lamp."

While Lafferty played down the importance of statistics, CBS found that statistics were a key part of the EEOC's case against Welbel.

What helped to make Lafferty's case, Safer reported, "was the EEOC's computer. It told the agency that based on 363 companies employing 100 or more people and located within a three-mile radius of Daniel Lamp, Daniel Lamp should employ at any given moment exactly 8.45 blacks, which to Mike Welbel sounded like a quota. And the law says the EEOC can't set quotas."

Lafferty's response: "We really haven't said that. What we've said is, 'These are what the companies around you are doing. You've discriminated against this' "—

Safer: "Stop being a federal bureaucrat for a minute and tell me what you're really telling him. What are you really telling him?"

Lafferty: "Don't discriminate. Obey the law."

Safer: "But if he has three black employees and doesn't hire a fourth for whatever reason, and that fourth accuses him of discrimination, do you prosecute?"

Lafferty: "Yes, we do. It's not that there's a magical number. Please believe me. We don't set magical numbers for people like Mr. Welbel to meet."

But Safer found this unconvincing. "That's what Mr. Lafferty says," he reported, "but in a sense it [the EEOC] did set numbers by telling Mike that based on other larger companies' personnel, Daniel Lamp should employ 8.45 blacks."

The program then cut to an exchange between Welbel and Safer.

Welbel: "Any way you slice the pie, it's a quota system."

Safer: "But if they say, 'Look, Mike, you've got to have eight blacks working for you,' could you live with that?"

Welbel: "Could I live with it? Yes. Is it more difficult than hiring by qualification? Yes. What the government is asking me to do is hire by color.

They're saying, 'Look, this black individual may not be as qualified, but that's who we want to see in your workplace.' What they've become is—they do the hiring and I run the place under their direction. I no longer decide who's good and who's bad."

Safer agreed, noting: "That, in effect has already happened, for beyond Lucille Johnson, the Feds told Welbel there were seven other people he should have hired."

And this despite the fact that, in Welbel's view, most of the seven clearly were not qualified. "[M]aybe one or two people were as good as somebody else who was hired. Three and four were not. They weren't even—not even close."

The EEOC, according to "60 Minutes," initially demanded that Welbel pay $148,000 in back wages to blacks he didn't hire but later reduced that to $124,000.

But the agency also has another demand, according to the program. It wants Welbel to spend an additional $10,000 to put ads in area publications telling people who had applied to Daniel Lamp Co. in 1989 and 1990 that they might have been discriminated against, and to please contact Welbel's office for a possible financial windfall.

"Do you know what would happen out here?" Welbel told "60 Minutes." "There'd be a mob scene. I would need 25 per cent of the Chicago police department to come and monitor the crowds. Really what I have to do is pay people for work they haven't done. Frankly, that's absurd. It just doesn't make any sense."

Safer was then shown interviewing the EEOC's Lafferty: "You also want him to spend, I believe, $10,000 to advertise for unknown blacks who he never hired. Correct?"

Lafferty: "Right. That's right."

Safer: "Explain the logic."

Lafferty: "Well, to find if there were other applicants who had been denied jobs on the basis of their race."

Safer: "So there could be 1,000 people turning up, right?"

Lafferty: "It could be any number of people."

Safer: "Claiming that they had been discriminated against by the Daniel Lamp Company."

Lafferty: "That's right."

Safer went on to report that the "government's position is firm. All companies, regardless of size, must conform. Daniel Lamp says it hires mainly Hispanics because it's on the Hispanic side of the tracks in this part of town in which ethnic demarcations are clearly defined. Mary Lou Gonzalez runs a social service group in the community. She says the whole fuss is good intentions gone haywire."

Gonzalez: "I live in that neighborhood. I know what goes on in that neighborhood and I certainly know that if Daniel Lamp Company closes its doors, what we're going to end up with is 28 people probably on public aid, probably on unemployment and then going for food stamps.

"The government wants people to be substantially sustaining their own, and Daniel Lamp Company does not only have Hispanics. It has black employees who are also going to end up in the same line. Now, does that make sense? I don't think so."

Safer then reported: "Welbel's main source of employees is the Spanish Job Coalition, a group that tries to find jobs for minorities, blacks as well as Hispanics. Carlos Ponce, its director, says Mike Welbel does not discriminate."

Ponce: "This is a mistake. I think too often we expect government and our elected officials never to make mistakes. What's wrong with just saying 'This wasn't our best effort'?"

Speaking to the EEOC's Lafferty once again, Safer asked: "Is there going to be a last-minute reprieve for him, where you can make some kind of deal to just let him be and he'll hire his—the 'correct' number of blacks and you'll let him off the hook? Any chance of that?"

To which Lafferty replied, in effect, fat chance. "There's no correct number and we're not—we're not in the position of letting people off the hook."

"Every day," Safer concluded, "Mike Welbel delays paying the penalty, the amount he owes the government goes up a couple of hundred dollars. Meantime, the government has filed a lawsuit to collect."

When Human Events initially contact Lafferty's office in Washington for his answer to the "60 Minutes" broadcast, the only response was to refer us to a press release on the case issued back on January 16.

Later, when we were near deadline, an EEOC spokesman agreed to discuss the case but said that the agency had no written response—detailed or otherwise—to the CBS segment. The spokesman issued the agency's stock disclaimer about quotas, saying that the agency considers individual complaints regardless of the numbers of minority workers employed by a firm.

He also said that the blacks who were shown working at Daniel Lamp Company on the program were all hired after Welbel knew that his company was being investigated. He said there were no black employees at Daniel Lamp when the EEOC began its investigation in February 1989 and that only one black had been hired by the time the agency concluded its investigation around June 1990.

"60 Minutes" reported, however, that it had been able to independently establish that 11 blacks had worked for the company during that same period of time.

In the meantime, Welbel insists that he does not discriminate against any group and certainly not blacks. "We started in 1982," he told Human Events, "and we have had black employees in that year and every year since."

Welbel added that he has evidence to back this up, which is now in the hands of his lawyers, and that it will eventually be made public, possibly in court.

Welbel noted that, when one of his former black employees named Joe W. Smith, whom he had lost track of, learned of his problems with the government, Smith sent him an unsolicited and notarized letter attesting that he had been employed by Daniel Lamp Co. from Noevember 14, 1985, through March 6, 1987—a time well before the company came under federal surveillance—and that he "was never discriminated against nor treated unfairly." At our request, Welbel faxed us a copy of his letter.

Welbel expressed anger at being accused of discrimination, "I'm on the road a lot," he told Human Events, "and do you think people say, 'I don't want to buy that lamp because it was made by a black'? What do I care who makes it?" He added: "As the son of two Holocaust survivors, I probably know as much about discrimination as any white person."

Because the small-business owner has protested his innocence publicly, the EEOC seems determined to go especially hard on him. For Welbel, it has been a nightmare. It cost his accuser nothing to file a complaint against him. The taxpayers, including Welbel himself, are forced to pay for the prosecution. But for Welbel, even if he is vindicated in court—which is never a certainty—the costs of attorneys, not to mention the emotional trauma of being subjected to a federal vendetta, will take a catastrophic toll.

"For me," he said, "it's a lose-lose proposition."

But for Ted Kennedy and his ilk, the victims of the government's Civil Rights gestapo—businessmen struggling to make an honest living like Mike Welbel—have it too easy. Kennedy admits that the purpose of his legislation, which the Democratic leadership is preparing to ram through the Congress, is to stack the legal deck even further against those accused of discrimination than it already is.

The injustice of such legislation is astounding. It's enough to make decent people puke.

[From 60 Minutes, Mar. 24, 1991]

THE NUMBERS GAME

SAFER. Mike Welbel of Chicago is guilty of not playing the numbers game. We'll explain in a moment. Mike's been a traveling salesman pitching everything from shoes to furniture. Nine years ago, he decided to start his own business. He borrowed $3,000 on his Chevy station wagon and started the Daniel Lamp Company, named after his son. The business didn't exactly prosper, but Mike Welbel was doing OK until last July when the Federal Government told Mike "$148,000, please, and we want it now."

MIKE WELBEL. I froze. I froze in my chair. I—I—I was—I was—I—I got—I started feeling my chest bouncing around. I don't—— I don't think it was a heart attack, but I'll tell you something. It was the next thing to it. I just was frozen with shock.

SAFER. [voice-over] What caused that shock was the EEOC, the Equal Employment Opportunity Commission. It found Mike guilty of racial discrimination. It just didn't make sense. The only two employees who are not Hispanic or black are Mike and his father, Leon [sp?], a survivor of Auschwitz. As for the rest of the company, Welbel hires only minorities. Eighteen Hispanics and eight blacks now work there.

Mr. WELBEL. Our track record with minority hiring I would challenge 3M, Pillsbury. Nobody has the profile of hiring minorities as the Daniel Lamp Company.

SAFER. [voice-over] Mike's troubles began in February, 1989, when a black woman named Lucille Johnson who'd applied for a job was not hired. She filed a complaint with the Chicago office of the EEOC. She claimed she didn't get the job because she was black.

[interviewing] Do you remember her?

Mr. WELBEL. No, no. As a matter of fact, I've never met her, nor do I know who she is. I know her only from the paperwork that's involved.

SAFER. So she filled out an application?

Mr. WELBEL. Yes, she filled out an application and she sought employment. And for one reason or another, she wasn't—she wasn't—she wasn't hired. [It was] certainly not because she's black.

SAFER. You say "for one reason or another." That sounds ominous, when somebody says "for one reason or another."

Mr. WELBEL. OK.

SAFER. Why wasn't she hired?

Mr. WELBEL. Well, we don't know on that particular day why she wasn't hired. When one is not hired it's because they don't qualify for the job or we don't have an opening or somebody else was better qualified for the job. So one of those reasons, that's the reason she didn't get hired.

SAFER. [voice-over] It wasn't long before two investigators from the EEOC showed up at the door of the Daniel Lamp Company to check out Lucille Johnson's complaints. They wanted to go through Welbel's records. He said, "Help yourself."

Mr. WELBEL. And to be perfectly frank, it was a very cordial relationship while they were investigating us. I certainly felt I had nothing to hide. You know, we've got all minority, a combination of black and Hispanic. Frankly, I took the matter very lightly.

SAFER. [voice-over] Daniel Lamp Company is not exactly IBM in is record-keeping, its personnel department or, for that matter, in its benefits. It's about as small a manufacturing company as you'll find in Chicago. It's in an old building on the southwest side, broken into so many times that Mike has had to bar every window in the place. He employs 26 people. Starting salary: $4 an hour. They assemble cheap to medium-priced lamps.

There are a few people who've been with Mike for years, but mainly people come and go. In good times, Mike will have as many as 30 people working. In bad times, as few as 12. It seems a happy enough shop, if a bit noisy, with everyone's radio tuned to a different station.

Jonathan Poe [sp?] is a packer in the shipping department. Christine Castillo [sp?] is the floor manager of the assembly line, where she deals with everything from production output to color coordination.

Mr. WELBEL. This mauve may clash with that cranberry.

SAFER. [voice-over] Lou Perales [sp?] is the general manager. Zina [sp?] drives the delivery truck and also assembles lamps.

[interviewing] What happened when you applied for a job here?

ZINA, Daniel Lamp Company Employee. I got the job right of the—you know, right off the top.

SAFER. So what's——

You think the government just crazy or what?

CHRISTINE CASTILLO, Daniel Lamp Company Employee. Yeah.

SAFER. Zina?

ZINA. I know discrimination when I see it and I would tell them, believe me.

SAFER. Jonathan, any problem?

JONATHAN POE, Daniel Lamp Company Employee. As long as I've been here, you know, it's like, everybody's one happy family.

Ms. CASTILLO. I've been with the company eight years and I never seen Mike being discriminating against anybody. And it seems all that time, I've been seeing Hispanic and black people working here.

SAFER. *[voice-over]* But that's not what the EEOC says it saw during three inspections in 1989 and 1990. It says it found no blacks working there. Mike says that may be true from time to time because of his transient work force. Jim Lafferty [sp?], director of legislative affairs for the EEOC, says he is not impressed by that argument.

[interviewing] So what's his sin?

JIM LAFFERTY, Director of Legislative Affairs, Equal Employment Opportunity Commission. His sin is that he discriminated against someone who applied for a job there. Lucille Johnson, who's a very qualified worker, applied for a job there and she was denied the job and it was given to someone who was less qualified.

SAFER. But that's a curious business, because people sometimes only work a couple of days and just don't show up again.

Mr. LAFFERTY. If there was such a great movement of employees in and out of there, why didn't there happen to be any black employees who moved in and out of there during that time?

SAFER. Well, there were.

Mr. LAFFERTY. We don't know that.

SAFER. Some stayed a few days and some stayed longer.

Mr. LAFFERTY. We really don't know that and unfortunately, there are no records that'll indicate that to us.

SAFER. *[voice-over]* But Mike's records show, and we were able to independently confirm, that 11 blacks worked at Daniel Lamp during the period of the EEOC investigation.

[interviewing] But quite apart from records, doesn't your nose tell you that this really isn't much of case and that Mike Welbel is probably not a racist? He's a little guy trying to—trying to make a living and he loses—he hires people some weeks, he lays people off the next week or the people leave of their own accord. Don't you take the human factor into account, not just these cold statistics?

Mr. LAFFERTY. Well, unfortunately, we have to rely on not only the statistics but on the word of Lucille Johnson and seven other people who've come forward since then telling us that they had also experienced discrimination during that period at Daniel Lamp.

SAFER. *[voice-over]* What helped to make Lafferty's case against Mike Welbel was the EEOC's computer. It told the agency that based on 363 companies employing 100 or more people and located within a three-mile radius of Daniel Lamp, Daniel Lamp should employ at any given moment exactly 8.45 blacks, which to Mike Welbel sounded like a quota. And the law says the EEOC can't set quotas.

Mr. LAFFERTY. We really haven't said that. What we've said is, "These are what the companies around you are doing. You've discriminated against this"—

SAFER. Stop being a federal bureaucrat for a minute and tell me what you're really telling him. What are you really telling him?

Mr. LAFFERTY. Don't discriminate. Obey the law.

SAFER. But if he has three black employees and doesn't hire a fourth for whatever reason, and that fourth accuses him of discrimination, do you prosecute?

Mr. LAFFERTY. Yes, we do. It's not that there's a magical number. Please believe me. We don't set magical number for people like Mr. Welbel to meet.

SAFER. [voice over] That's what Mr. Lafferty says, but in a sense it did set numbers by telling Mike that based on other larger companies' personnel, Daniel Lamp should employ 8.45 blacks.

Mr. WELBEL. Any way you slice the pie, it's a quota system.

SAFER. But if they say, "Look, Mike, you've got to have eight blacks working for you," could you live with that?

Mr. WELBEL. Could I live with it? Yes. Is it more difficult than hiring by qualification? Yes. What the government is asking me to do is hire by color. They're saying, "Look, this black individual may not be as qualified, but that's who we want to see in your workplace." What they've become is——They do the hiring and I run the place under their direction. I no longer decide who's good and who's bad.

SAFER. [voice over] That, in effect, has already happened, for beyond Lucille Johnson, the feds told Welbel, there were seven other people who he should have hired.

Mr. WELBEL. And by no stretch of the imagination could the applicant qualify. Now, I shouldn't say all of them. And so maybe one of two people were as good as somebody else who was hired. Three and four were not. They weren't even—not even close.

SAFER. [voice over] As we said, the EEOC demanded that Mike pay $148,000 in back wages to blacks he didn't hire. They've since reduced that to $124,000, but they want Mike to go even further.

Mr. WELBEL. What the government wants us to do is they want us to come up with a fund of $10,000 and put an ad in publications in the area saying more or less "If you applied to the Daniel Lamp Company in 1988 and 1989, you may have been discriminated against. Please contact our office." Do you know what would happen out here? There'd be a mob scene. I would need——I would need 25 percent of the Chicago police department to come and monitor the crowds. Really what I have to do is pay people for work they haven't done. Frankly, that's absurd. It just doesn't make any sense.

SAFER. You also want him to spend, I believe, $10,000 to advertise for unknown blacks who he never hired. Correct?

Mr. LAFFERTY. Right. That's right.

SAFER. Explain the logic.

Mr. LAFFERTY. Well, to find if there were other applicants who had been denied jobs on the basis of their race.

SAFER. So there could be 1,000 people turning up right?

Mr. LAFFERTY. It could be any number of people.

SAFER. Claiming that they had been discriminated against by the Daniel Lamp Company.

Mr. LAFFERTY. That's right.

SAFER. *[voice-over]* So far, the only person to be offered money at all was the person who filed the original complaint, Lucille Johnson.

Mr. WELBEL. By their determination, by EEOC standards, she was to get $340.01. In my own mind I said, "It's not fair, but Mike, you can live with that. It's not so terrible.

SAFER. *[voice-over]* He rounded that amount off to $350 and sent it to Lucille Johnson for lost wages, but he also offered her a job. She refused the money and never opened the letter with the job offer. She also didn't want to talk to us. Welbel told the EEOC he could live with all of its demands except for that big one, the $124,000 one.

Mr. WELBEL. At that time I said, "You've just put me out of business. I'm no longer around. I'm no longer here. "I'm out." And that's what I told them. There's not this kind of money here. We're dealing in a small business. It's a tiny nickel, dime business and there's no way we can meet that. We would have to liquidate what we have. I may or may not have to sell the property itself, too, but we would be out of business. As surely as I'm standing here, we'd be out of business.

SAFER. Why do you think the government went after this company, after his 26 people working here?

LOU PERALES, Daniel Lamp Company Employee. [?] Well, my opinion is they probably didn't have anything else better to do. We're not AT&T. We're Not IBM. We're a little 30-employee lamp shop on the west side of Chicago. Who are we bothering?

SAFER. *[voice-over]* The government's position is firm. All companies, regardless of size, must conform. Daniel Lamp says it hires mainly Hispanics because it's on the Hispanic side of the tracks in this part of town in which ethnic demarcations are clearly defined. Mary Lou Gonzalez [sp?] runs a social service group in the community. She says the whole fuss is good intentions gone haywire.

MARY LOU GONZALEZ, Community Social Service Group Director. I live in that neighborhood. I know what goes on in that neighborhood and I certainly know that if Daniel Lamp Company closes its doors, what we're going to end up with is 28 people probably on public aid, probably on unemployment and then going for food stamps. The government wants people to be substantially sustaining their own and Daniel Lamp company does not only have Hispanics. It has black employees who are also going to end up in the same line. Now, does that make sense? I don't think so.

SAFER. *[voice-over]* Welbel's main source of employees is the Spanish Job Coalition, a group that tries to find jobs for minorities, for blacks as well as Hispanics. Carlos Ponce [sp?], its director, says Mike Welbel does not discriminate.

CARLOS PONCE, Director, Spanish Job Coalition. This is a mistake. I think too often we expect government and our elected officials never to make mistakes. What's wrong with just saying "This wasn't our best effort"?

SAFER: [voice-over] Carlos Ponce feels the government should forget about small companies like Daniel Lamp in the inner city and take a look at the suburbs.

Mr. PONCE: Where do they draw the line? There's these corporate sanctuaries in the suburbs, with their little lakes and ponds around them and they've moved out there and blacks and Hispanics certainly can't buy into the housing market out there. So where's the equity there?

SAFER: Is there going to be a last-minute reprieve for him, where you can make some kind of deal to just let him be and he'll hire his—the "correct" number of blacks and you'll let him off the hook? Any chance of that?

Mr. LAFFERTY: There's no correct number and we're not—we're not in the position of letting people off the hook.

Mr. WELBEL: It's very hard to work under these conditions, but I'm trying as best as I can to assure the people that everything'll be all right. I really don't know that everything'll be all right, but how can somebody work knowing that every day he may be out of a job? So we take it day by day. I say, "Don't worry, Somehow it'll work out." I don't know that it will.

SAFER: Every day, Mike Welbel delays paying the penalty, the amount he owes the government goes up a couple of hundred dollars. Meantime, the government has filed a lawsuit to collect.

[From the Washington Times, June 13, 1991]

AGENTS PROTEST QUOTAS IN FBI

(By Frank J. Murray)

Washington FBI agents mounting efforts against an "unfair" quota system for hiring new agents will decide tonight whether to join their national association in trying to halt the practice.

They charge that minorities and women are recruited with minimum test scores five points lower than those white men must achieve, then are assigned to classes by quotas that include eight minorities, eight women and 16 others.

"I don't know what you want to call it, but it's a quota by the president's definition," said one FBI activist here who asked that he not be identified and said he was hoping news coverage would change the policy.

He called it ironic that President Bush chose an FBI Academy graduation in Quantico on May 30 to attack quota hiring, which Mr. Bush says will bring a veto of the civil rights bill passed by the House and pending in the Senate.

"Even the section that supposedly outlaws quotas endorses quotas. It defines the Q-word so narrowly that it would allow employers to establish personnel systems based on numbers, not on merit," Mr. Bush said at Quantico.

White House Press Secretary Marlin Fitzwater said yesterday that the White House had been informed before the speech of such a system but that FBI officials were "looking at it." He said as so-called "race-norming system at the Labor Department also was under examination.

Opposition to job quotas was endorsed by Larry Langberg, national president of the FBI Agents Association, a non-governmental organization that includes 5,800 of the bureau's 9,500 agents.

"I'm with the president on this one. We are not in favor of special promotion systems, special hiring systems or any other favorable system like that based on race," Mr. Langberg said in an interview from Los Angeles. "Doors should open based on merit. I assure you that's personally where I stand and where I believe the association stands, as a spokesman for the association."

In a newsletter to Washington Field Office members, FBIAA Washington chapter representative Chris Kerr supported the resolution to be voted on tonight among four to be presented at the association's national convention in Orlando June 30.

"My personal view is that any distinctions based on race and sex have no place in the FBI," Mr. Kerr wrote in the letter, which suggested that Mr. Bush could not know about the policy and still argue at Quantico against "hiring quotas and unfair job preferences."

The FBI would not discuss the issue yesterday.

"I have to respectfully decline to provide anybody for you to interview, said Sharon Smith, an FBI spokeswoman.

Mr. Kerr would not speak on the record about the campaign or his newsletter comments other than to confirm their accuracy and to point out that they opposed both reverse-discrimination quota hiring and white-favoritism discrimination alleged to occur in Washington within the FBI Career Development Program.

"The 'old boy network" has long been a frequent source of complaints," Mr. Kerr said in his newsletter.

Mr. Langberg, a 22-year agent, said the issue was one that was controversial among association members, all of whom are FBI agents.

The quota resolution due for a vote tonight says the Special Agent Selection System "is unfair to applicants not born of a preferred race or sex" probably a violation of civil rights law and not in the FBI's best interest.

Two of the other resolutions also relate to alleged discrimination with one asking for equal opportunity and calling for severe action against any employee who acts "in an unprofessional manner motivated by racism or sexism." The fourth resolution asks for changes in drug testing to protect agents against mistakes in handling lab samples.

All 350 special agent assigned to the Washington Field Office were invited by Mr. Kerr to tonight's meeting, but only the 55 percent who are members may vote.

Mr. HELMS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. HELMS. Mr. President, in that case, I suggest the absence of a quorum until we can get enough Senators here to raise their hands.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MITCHELL. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue with the call of the roll.

The bill clerk continued with the call of the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LEVIN). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that Senator GRAHAM be recognized to offer an amendment relative to habeas corpus, to which the only second-degree amendment in order be one offered by Senator THURMOND or HATCH, and that there be 2 hours of debate this evening, and 1 hour of debate tomorrow on both the Thurmond or Hatch amendment and the Graham amendment, debated at the same time, and with the time equally divided and controlled between myself and Senator HATCH or THURMOND; that a vote on the Hatch or Thurmond amendment occur following the conclusion or yielding back of time tomorrow, followed by a vote on the Graham amendment, as amended, if amended; that immediately following the disposition of the Graham amendment, if the Graham amendment has not been agreed to, Senator SPECTER be recognized to offer an amendment with respect to habeas corpus, and that there be 1 hour for debate on the Specter amendment, with no amendments to the amendment in order; that at the conclusion or yielding back of time, the Senate proceed to vote without any intervening action on the Specter amendment, and that notwithstanding the adoption of any of these amendments, title XI be subject to further amendment.

I ask further unanimous consent that it be in order to now request the yeas and nays on both the Helms perfecting amendment No. 378, and the Symms amendment No. 377, with one show of seconds.

Mr. HATCH. Reserving the right——

The PRESIDING OFFICER (Mr. WIRTH). Is there objection?

Mr. HATCH. Reserving the right to object, and I do not believe I will object——

The PRESIDING OFFICER. The Senator from Utah is recognized on his reservation.

Mr. HATCH. As I understood it, if the Thurmond or Hatch amendment is voted up, the Helms amendment will immediately become the pending business?

Mr. BIDEN. That is correct.

Mr. HATCH. That is not quite the way it was said, but that is correct.

Mr. BIDEN. That is precisely what I showed the Senator from North Carolina, and it is——

Mr. HATCH. With that clarification, I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS addressed the Chair.

Mr. SPECTER. Reserving the right to object, I could not hear all the distinguished Senator from Utah said.

The PRESIDING OFFICER. The distinguished Senator from Pennsylvania is recognized on his reservation.

Mr. SPECTER. I thank the Chair. If the amendment to be offered by Senator HATCH or Senator THURMOND is adopted, is it the intent of the propounder of the unanimous-consent request that Senator GRAHAM'S amendment not be offered?

Mr. BIDEN. Correct. Senator GRAHAM'S amendment would then have been amended, and the Graham amendment as amended by Senator THURMOND or HATCH would then be voice voted and become part of the bill and the controlling habeas corpus language. We would then return to Senator HELMS and Senator SYMMS. After the disposal of Helms and Symms, the Biden crime bill, as amended by Graham as amended by Hatch or Thurmond, would be amendable.

Mr. SPECTER. Parliamentary inquiry, Mr. President. At that juncture, on that state of the record, would it be subject to further amendment by the so-called Specter amendment?

Mr. BIDEN. If he is asking me the question, Mr. President, the answer is "yes."

Mr. SPECTER. That is what I thought the answer would be. I am just wondering why the sequence would not be then followed through and permit my amendment to be offered at that time without returning to the amendment by the distinguished Senator from North Carolina.

Mr. BIDEN. Because we are attempting to accommodate the Senator from North Carolina, who is attempting to accommodate us, and that is what we had agreed to, I thought, before the principal understanding at the moment.

Mr. SPECTER. If the Senator will yield to me, when we discussed it in the Cloakroom, my understanding was exactly the contrary, that Senator HATCH raised a question about whether my amendment would come up, and Senator HELMS said he would be willing to have mine come up for an additional hour at that time.

Mr. BIDEN. If the Senator from North Carolina will agree to that, I have no objection.

Mr. HELMS. I will be glad to accommodate the Senator. I think he makes a point that it is part and parcel of that.

Mr. SPECTER. I thank the distinguished Senator from North Carolina. That was my understanding. So that, if the understanding is clear, my amendment would be in order to follow even if the Graham amendment is agreed to or even if the Hatch amendment is agreed to.

Mr. BIDEN. Mr. President, I amend my unanimous-consent request to suggest the following: that at the conclusion of the debate on the Graham amendment, as amended by Hatch, if amended, or the Graham amendment, as adopted, that it be in order for the Senator from Pennsylvania to offer the Specter amendment with 1 hour debate preceding the vote on the Specter amendment.

Mr. SPECTER. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Reserving the right to object, Mr. President, I regret that I apparently have caused heartburn in the Senate. I do not regret it very much, with my amendment. We have, I think, taken about 2 hours, I guess——

Mr. BIDEN. Will the Senator yield? I am told by the Parliamentarian I misspoke. I want to make sure I am correct that the Senator's amendment be in order after the vote is taken on the Graham amendment.

I yield the floor.

Mr. HELMS. Mr. President, let the record show that I would have acceded to this even earlier if the provision had been included that no motion to recommit with instructions had been included. But in order to move this legislation along, I am going to not raise that question, and I have no objection to the unanimous-consent request as propounded.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none. It is so ordered.

The text of the agreement is as follows:

Ordered, That on Wednesday, June 26, 1991, when the Senate resumes consideration of S. 1241, a bill to control and reduce violent crime, that there be one hour of debate on both Amendment No. 379, offered by the Senator from Florida, (Mr. Graham) and the second degree amendment thereto, Amendment No. 380, offered by the Senator from Utah, (Mr. Hatch), with the time equally divided and controlled by the Senator from Delaware, (Mr. Biden) and the Senator from Utah (Mr. Hatch). That no other second degree amendments be in order to Amendment No. 379.

Ordered further, That a vote on Amendment No. 380 occur following the conclusion or yielding back of time, followed by a vote on the Amendment No. 379, as amended if amended.

Ordered further, That immediately following the disposition of the Amendment No. 379, the Senator from Pennsylvania (Mr. Specter) be recognized to offer an amendment with respect to habeas corpus and that debate on the amendment be limited to one hour, with no amendments to the amendment in order.

Ordered further, That at the conclusion or yielding back of time, the Senate vote without intervening action on the Specter Amendment and that notwithstanding the adoption of the aforementioned amendments, Title XI be subject to further amendment.

Mr. HELMS. I ask for the yeas and nays under the UC.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 379

(Purpose: To reform habeas corpus procedures)

Mr. MITCHELL. Mr. President, on behalf of Senator GRAHAM, of Florida, and pursuant to the agreement just reached, I send an amedment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Mr. MITCHELL], for Mr. GRAHAM, proposes an amendment numbered 379.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 124, strike beginning with line 14, through line 5 on page 136 and insert the following:

TITLE XI—HABEAS CORPUS REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 02. SPECIAL HABEAS CORPUS PROCEDURE IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new title:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Application of chapter to prisoners in State custody subject to capital sentence and appointment of counsel
"2257. Mandatory stays of execution and successive petitions
"2258. Filing of habeas corpus petition
"2259. Certificate of probable cause inapplicable
"2260. Counsel in capital cases
"2261. Limitation periods for determining petitions

"§ 2256. Application of chapter to prisoners in State custody subject to capital sentence and appointment of counsel

"(a) APPLICABILITY OF CHAPTER TO CASES.—This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsection (b) is satisfied.

"(b) APPLICABILITY OF CHAPTER TO STATES.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2260 of this title.

"(c) RULE FOR PREVIOUS COUNSEL.—No counsel appointed pursuant to subsection (b) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(d) INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel appointed under this chapter during State or Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stays of execution and successive petitions

"(a) IN GENERAL.—Upon the entry in the appropriate State court of record of an order pursuant to section 2260(a)(2) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application shall recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) DURATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title—

"(A) before a court of competent jurisdiction;

"(B) in the presence of counsel; and

"(C) after having been advised of the consequences of his decision.

"(c) SUCCESSIVE PETITIONS.—If one of the conditions provided in subsection (b) is satisfied, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt of the offense or offenses for which the death penalty was imposed, or in the validity of the sentence of death.

"§ 2258. Filing of habeas corpus petition

"(a) FILING OF PETITIONS.—Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 180 days after the date of filing in the appropriate State court of record of an order issued appointing collateral counsel in compliance with section 2260 of this title.

"(b) TIME REQUIREMENTS.—The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction (if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort); and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 180-day period established by this section.

The tolling rule established by this subsection shall not apply during the pendency of a petition for certiorari before the Supreme Court following such State post-conviction review.

"§ 2259. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2260. Counsel in capital cases

"(a) IN GENERAL.—A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter shall—

"(1) provide for counsel to—

"(A) indigents charged with offenses for which capital punishment is sought;

"(B) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(C) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; and

"(2) provide for the entry and filing of an order in an appropriate State court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that—

"(A) the prisoner is not indigent; or

"(B) the prisoner knowingly and intelligently waives the appointment of counsel.

"(b) STANDARDS FOR COUNSEL.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), at least one attorney appointed pursuant to this chapter before trial, if applicable, and at least one attorney appointed pursuant to this chapter after trial, if applicable, shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibilities set forth in subparagraph (B).

"(B) The certification authority for counsel at any stage of a capital case shall be—

"(i) a special committee, constituted by the State court of last resort or by State statute, relying on staff attorneys of a defender organization, members of the private bar, or both;

"(ii) a capital litigation resource center, relying on staff attorneys, members of the private bar, or both; or

"(iii) a statewide defender organization, relying on staff attorneys, members of the private bar, or both.

"(C) The certification authority shall—

"(i) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death;

"(ii) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

"(iii) periodically review the roster of certified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case to which the attorney is appointed, or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

"(2) EXCEPTION FOR STATES WITHOUT STATE SYSTEMS.—In a State that has a publicly-funded public defender system that is not organized on a statewide basis, the requirements of paragraph (1) shall be deemed to have been satisfied if at least one attorney appointed pursuant to this chapter before trial shall be employed by a State funded public defender organization, and if the highest court of the State finds on an annual basis that the standards and procedures established and maintained by such organization (which have been filed by such organization and reviewed by such court on an annual basis) insure that the attorneys working for such organization demonstrate continuing competence to represent indigents in capital litigation.

"(c) NONCOMPLYING STATES.—

"(1) BEFORE TRIAL.—If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) AFTER TRIAL.—If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in the State courts in felony cases.

"(d) DIFFERENT ATTORNEY.—Notwithstanding any other provision of this section, a court, for good cause, and upon the defendant's request, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(e) PAYMENT FOR ADDITIONAL SERVICES.—Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of reasonable fees and expenses therefor, under subsection (f). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nunc pro tunc.

"(f) ATTORNEY COMPENSATION.—Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.

§ 2261. Limitation periods for determining petitions

"(a) IN GENERAL.—The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) The district court shall determine such a petition or motion within 180 days of the filing of the petition or motion.

"(2) The court of appeals shall determine an appeal relating to such a petition or motion within 180 days of the filing of the record in the court of appeals. If the court of appeals grants en banc consideration, the en banc court shall determine the appeal within 180 days of the decision to grant such consideration.

"(b) APPLICATION.—The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.".

(b) AMENDMENTS TO TABLE OF CHAPTERS.—The table of chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases .... 2256".

SEC. 03. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2255A. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable.".

AMENDMENT NO. 380 TO AMENDMENT NO. 379

(Purpose: Substitute habeas corpus reform title)

Mr. HATCH. Mr. President, on behalf of myself and Mr. THURMOND, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. THURMOND, proposes an amendment numbered 380.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "SEC." and insert the following:

TITLE —HABEAS CORPUS REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 02. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 03. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause."

SEC. 04. AMENDMENT OF RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate or probable cause is not required.".

SEC. 05. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(3) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(4) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. 06. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by striking the second paragraph and the penultimate paragraph thereof and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

Mr. MITCHELL. I wonder if the Senator will yield for an announcement.

Mr. HATCH. I am happy to yield.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, in view of the agreement just reached, which contemplates 2 hours of debate this evening on the subject of habeas corpus and then further debate tomorrow morning, there will be no further rollcall votes this evening. Senators should be aware that there will be rollcall votes tomorrow pursuant to this order commencing 1 hour after the Senate resumes consideration of the bill.

I now anticipate that the Senate will resume consideration of the bill at approximately 10:30 a.m.

So Senators should be aware that a vote will occur approximately 1 hour thereafter. Then, depending on what happens under that vote, there may be others on this subject at that time.

I thank my colleagues for their cooperation. I especially thank the distinguished manager for his persistence in this effort. I thank the Senator from Utah for his persistence.

Mr. HATCH. I thank the majority leader.

Mr. President, I yield 10 minutes to the distinguished Senator from Pennsylvania.

The PRESIDING OFFICER (Mr. DASCHLE). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank my distinguished colleague from Utah.

We have just reached a unanimous-consent agreement under which there will be consideration of a series of amendments, all of which are designed to provide for rational procedures for judicial review of cases where the jury has imposed the death penalty. The expression "habeas corpus" is a Latin term meaning "have the body." Habeas corpus is ancient writ which is used to test the legality and constitutionality of any sentence, including the death penalty.

There are at the present time approximately 2,500 inmates on death row. Some of the cases have been there for as long as 17 years, and the average length of time is about 8½ years.

Mr. President, it is my view that the death penalty is an effective deterrent, although I realize that there is disagreement on the appropriateness of the death penalty with many people opposing it on grounds of conscientious scruples. But there are some 36 States which have the death penalty, and what we seek to accomplish on this so-called habeas corpus reform is to find a rational way to guarantee a fair trial so that the death penalty is determined after there has been a fair trial and then to have a determination by appropriate judicial review.

One of the difficulties has been, Mr. President, a difficulty that I saw in some 8 years as district attorney of Philadelphia. After the death penalty is imposed by jury and has been upheld by the State supreme court, there is a collateral attack, State habeas corpus proceedings or proceedings denominated under the Post-Conviction Hearing Act, which can take a matter of years, during which time more constitutional rights are created, thereby necessitating the courts to the case back for additional hearings. Then, finally, the cases go to the Federal courts for habeas corpus consideration, and again there are lengthy legal proceedings. During those lengthy legal proceedings new decisions are frequently handed down by the Supreme Court of the United States establishing new constitutional rights. And the process becomes virtually endless.

The suggestion which I have, Mr. President, on legislation which was introduced last year by the distinguished Senator from South Carolina [Mr. THURMOND] and myself, would provide a guarantee of adequacy of counsel at the outset and then would streamline the proceedings so that the matter could be determined in the course of approximately 2 years.

The first step on the procedure which I suggest is that all issues involved in the—Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

Mr. SPECTER. Mr. President, the procedures which were encompassed in the legislation that Senator THURMOND and I introduced last year, with the collaboration of Senator HATCH, Senator SIMPSON, and others, would have provided for a streamlined procedure in the States so that all issues were determined during the first appeal to the State supreme court, where the competency of counsel could be challenged. This was the so-called unitary procedure, which is now utilized in California, under which there is a hearing after conviction and after the imposition of the death penalty, there is a hearing to determine the adequacy of counsel at trial.

That issue and all others would be resolved by the State supreme court in one proceeding. There would then be jurisdiction for Federal habeas corpus proceedings and the legislation which, I suggest, would call for that proceeding to be initiated within 90 days after the final decision by the Supreme Court of the United States in denying certiorari. The realistic time would really be 180 days, because it ordinarily takes at least 90 days for the case to go on petition for cert. Such petitions are customarily denied.

My legislation would call for a time limit in the district court, 20 days to file an answer, and 90 days for adjudication, then 90 additional days in the court of appeals, and 90 days beyond that in the Supreme Court of the United States.

So that in the aggregate, this entire appellate process, after the imposition of the death penalty, would take approximately 2 years. By abbreviating the period of time from as long as 17 years, which we have at the present time, or from as long as 8½ years, which is now the average, to a 2-year span, there would be less time for appellate decisions to intervene to create new rights, and create the constant merry-go-round of having the case sent back for reconsideration, more hearings, more appeals, and a virtually never-ending process.

So that adequacy of counsel would be assured at the outset, there would be a fair procedure for the determination of whether the death penalty is properly imposed and the review procedures, judicial review procedures, would be rational and would be calculated to lead to a reasonable conclusion at the end of that 2-year period.

That, in essence, is the key which I hold and which will be encompassed in the amendment that I ultimately will offer. Or if the Hatch-Thurmond amendment is accepted, or the Graham amendment No. 789 is accepted, then I may follow the procedure of offering these amendments piecemeal. I thank my colleague from Utah.

I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, the provisions of the Graham amendment, which is now before this body, may purport to reform the habeas corpus system, but I think they are just as much of a sham masquerading as an anticrime measure as are the provisions of S. 1241. Because this amendment of Senator GRAHAM's contains the wholly unacceptable attempt to involve Congress in the business of determining the meaning of the Supreme Court cases, I find this amendment entirely unacceptable.

For 2 years now, the President has said he will veto any attempt to overturn the Supreme Court's opinion in Teague versus Lane. That is the obvious, sole, and undeniable aim of the Graham amendment's language on retroactivity. So an overturning of Teague versus Lane would lead to an automatic veto.

This retroactivity provision was one of the principal reasons that led President Bush last Congress to label S. 1970 as a "Trojan Horse waiting at the gates of Congress." Here it is wheeled out again.

Last year, both Houses of Congress rejected this attempt to increase the opportunities for State prisoners to repetitively and endlessly appeal their sentences. I hope this Congress will reject it just as emphatically.

We have a strong, effective habeas bill before us in S. 635, the President's bill. We do not need last-minute substitutes for the fine provisions of that bill. It is clear that S. 635 will result in fewer, not more, habeas cases in the Federal courts. I have not heard anyone contend otherwise.

But Senator GRAHAM's amendment, like S. 1970 last year and S. 1241 in this Congress, is likely, if not indeed certain, to increase the flood of frivolous and repetitious suits by inmates in this country. It must be rejected, if we want to make headway on this disgrace of repetitive habeas corpus petitions and appeals. S. 635 is the bill that virtually every State attorney general supports—Democratic attorneys general and Republican attorneys general alike. They know true habeas reform.

Just this morning the National Association of Attorneys General met in Seattle, WA. It is my understanding that they passed a resolution opposing any bill that would "repeal, restrict, or weaken the nonretroactivity doctrine of Teague versus Lane." That is the Biden bill, and that is the Graham amendment that the attorneys general oppose.

Attorney General Thornburgh wrote in a letter to the chairman of the Judiciary Committee dated May 14, 1991, that the habeas provisions of S. 1241 are "far worse than the current rules in permitting unjustified delay, authorizing the belated presentation of claims in habeas corpus petitions, and facilitating the overturning of capital convictions and sentences."

Those remarks are fully applicable to the substitute habeas provision now being offered by Senator GRAHAM. It authorizes the belated presentation of claims—some as late as 30 or 40 years—in habeas cases. By so doing, it will, if enacted, without doubt, allow the overturning of convictions and sentences, not just for death row inmates, but for all prisoners in America.

Reasonable limits on a prisoner's opportunity to relitigate his case simply must be recognized in order that the judgment of the court and jury not be trivialized. The President's habeas provides those reasonable limits: Issues that have been fully and fairly litigated in the State court will no longer be relitigated in Federal Court, unless a genuine issue relating to the guilt or innocence of the prisoner is presented. That is a good standard. It is fair, and it should be adopted. Only the Hatch-Thurmond amendment contains this language.

The problems inherent in our present system of postconviction review are most clearly apparent in death penalty cases. One does not need to know anything about habeas corpus to know that when it takes 10 years, or more, to carry out a death sentence, something is terribly wrong with the system. During each of those 10 years, the victims' families of those murders have to go through excruciating pain, because of the delays.

I have to say, when one considers convicted Utah murderer, William Andrews—nobody doubts that he did the murders, or that he was convicted justly; he does not even argue that, I do not believe—he has received more than 25 separate judicial reviews of his death sentence; and when one considers John Wayne Gacy, convicted of murdering 33 young men in Illinois, has only reached the half-way point in his appeals after 12 years on death row, then there is no other conclusion possible, except to conclude that the system has become deadlocked.

Let me talk about the Graham bill. The habeas corpus provisions of the proposed amendment will compound the problems that exist today. They will not reduce them. Instead of enacting the reform, which everyone seeks, less delay and more finality in resolving criminal cases, the proposed Graham amendment will do exactly the opposite. It will, if enacted without amendment, overrule some of the most significant Supreme Court cases in recent years, cases that have had significant effect in stemming the habeas corpus hemorrhage. It will, moreover, introduce new avenues of delay and postponement to be exercised by prisoners on death row, as well as by the prison population at large.

Mr. President, the retroactivity provisions of this amendment are a dangerous innovation in the criminal law. The amendment of Senator GRAHAM proposes to set up criteria by which judges not on the Supreme Court can determine that the decisions of the Court should have an effect directly contrary to that which the Court has concluded they should have. This is, frankly, one of the most dangerous innovations ever proposed in Congress.

If we have the power to determine when certain Supreme Court decisions shall apply and when they shall not—despite the Court having determined otherwise—then we surely have the corollary power to determine who shall be bound by those decisions, what precedential effect they have, shall have, and what the amount of damages shall be, or any other aspect of the holding with which we might disagree.

I cannot state, Mr. President, how strongly I believe that Congress has none of those powers. If the separation of powers doctrine means anything at all, it means that opinions of the Supreme Court interpreting the Constitution must be given the effect the Court says they must be given, not what Congress may wish to give to them.

Congress simply has no power to create article III courts that can overrule the decisions of the Supreme Court. The Supreme Court is established by the Constitution. Its decisions are the supreme law of the land. We have no power to create by statute courts that can overrule the Supreme Court.

The question of whether a decision of an appellate court shall have prospective or retroactive effect is intimately connected with the question of whether a criminal conviction can ever be final. Under current law, a defendant whose appeal is pending can generally take advantage of any recent or new court decision that is favorable to him or her. However, once his or her direct appeal is finished, and his or her case is considered final, he or she cannot avail himself or herself of newly announced court decisions that are designed to govern the proceedings in future cases.

This sensible rule is the only one that allows a criminal case to achieve any degree of finality. As the Attorney General has recently observed, the proposed attempt to have Congress set retroactivity standards would overrule several leading Supreme Court cases and would "resurrect the chronic problems of unpredictability and lack of reasonable finality of judgments" which those decisions put to rest.

There is value in affirming that a criminal judgment is final and correct. Only then can a defendant begin to come to terms with his crime, recognize his debt to society, and begin the process of rehabilitation. Constant relitigation of purely procedural issues, entirely apart from questions of guilt or innocence, can only be counterproductive to the goals of incarceration. But the Graham amendment provides new incentives for relitigation throughout the length of a prisoner's confinement. We can expect, if this amendment passes, that every prisoner in America will want to subscribe to U.S. Law Week, so that he or she can see if there is anything in the Court's rulings this week that can provide the basis for a new appeal, and that will go on ad infinitum if we go with the Graham amendment.

The current practice is a salutary one, because it encourages the courts to develop new and more fair rules of criminal procedure free from the fear that a newly prescribed rule will have the effect of opening the jailhouse doors.

The Miranda case is a good example of how these principles work in action. When the Supreme Court laid down new rules which all future defendants could claim, the Court specifically held that the rules would only apply prospectively. How could they have held otherwise? To say that the specific Miranda rules must have been given before the Miranda case had even been decided would have meant that virtually every prisoner in America woud have had to be let out of prison. Had the Supreme Court not have possessed the power to specify that its decision would apply only prospectively, we can certainly assume that it would never have decided Miranda as it did. The same is true of Escobedo versus Illinois and any number of other leading cases in the field of criminal procedure.

But the Graham amendment if it is passed would take this power away from the Supreme Court. It would instead give to an individual Federal district court hearing a habeas petition the power to overrule the holding of the Court on this question of retroactivity. In other words, the question of retroactivity would become a loophole to escape having the sentence fully executed and, of course, it would just lead to another habeas corpus appeal. It would moreover allow the district court to apply cases retroactively to criminal convictions that have already become final—thus opening up for review cases that may have been settled for literally decades.

No efficient system of criminal justice can function under such an arrangement. If nothing else, the proposed retroactivity rule would encourage prisoners to file repetitious petitions simply on the hope that their petition may be heard by a new district judge—one who may decide the retroactivity issue differently than the previous judge.

The retroactivity provision contained in the Graham amendment is not designed to achieve justice—it's only purpose is to prevent the execution of persons who have been otherwise unsuccessful in preventing the carrying out of their death sentences and to open the courthouse doors to prisoners whose cases have long been considered final.

The Supreme Court decisions on retroactivity have not been unanimous—they are often 6-3 or even 5-4 decisions. These are matters as to which reasonable persons can disagree. That is precisely why we need one Supreme Court, and not 700 Federal trial judges, deciding the fundamental question of whether Supreme Court decisions apply prospectively or retroactively.

If the Federal trial judges are told that they need not follow Supreme Court precedent on retroactivity—which is what the Graham amendment says—then it is entirely foreseeable that the same minority of trial judges—three out of nine, or four out of nine—will decide the issue differently from the majority of the Supreme Court.

Those are pretty good odds for a convicted prisoner. Even though the Supreme Court has already ruled that he cannot obtain the benefit of a new case, the Graham amendment will allow him to take his chances with the more than 700 Federal trial judges out there. A third of 700 is 237. If anything near the same minority of trial judges agrees with the dissenting judges on the Supreme Court, then anyone can see that it will certainly be worth a prisoner's while to file a new habeas petition on the hope that he or she gets one of the more liberal judges.

Let us look at who precisely the prisoners are who stand most to benefit from having Supreme Court decisions applied retroactively to their cases. In the first instance, of course, the primary beneficiaries will be the prisoners who have been incarcerated for the longest times—the law has changed so much since they were imprisoned that there will be manifold opportunities for them to argue that they are being unconstitutionally confined.

There is William Heirens in Illinois. He has been serving a life sentence for a brutal mutilation murder of a child since the late 1940's. He continues to file petitions in Federal court, even after 40 years. When does it end? Habeas corpus petitions over a 40-year period—guess who pays for all that—the taxpayers. And all of them have been considered frivolous.

I imagine he would like nothing better than to be able in his next petition to argue that the 1966 Miranda decision or the 1986 Batson versus Kentucky decision on preemptory jury strikes applies to his case and requires a new trial—a new trial after 45 years.

How could Heirens argue this when the Supreme Court has emphatically stated that Miranda and Batson announce new rules to be applied only in future cases? He will be able to make just such an argument if the Graham amendment passes, because the retroactivity provisions of this amendment make the Supreme Court's determinations as to the prospective effect of their decisions subject to contrary determinations by individual Federal district court judges—and there are over 700 of them—who hear habeas petitions in the first instance.

Let us consider the case of Richard Speck, also imprisoned in Illinois, the murderer of a half-dozen nurses in the mid-1960's. Speck is illustrative of a large number of former death row inmates who were spared execution by the Supreme Court's 1972 decision in Furman versus Georgia. That group also includes many of the most notorious criminals in the history of this country, such as Charles Manson, Sirhan Sirhan, the "Onion Field" murderer Gregory Powell, and many others. No doubt each of these vicious killers would like to have the standards now recognized in 1991 as appropriate for a criminal trial to be applied in reviewing their convictions from the mid-1960's. And that is just what the Graham amendment will give them if we are so unwise as to vote for it.

Before any Senator votes for this provision, he or she should ask their State's Governor or their State's attorney general just who are the prisoners currently incarcerated in their State who will be the beneficiaries if Congress enacts this new standard of retroactivity. I think that the answers will shock and astound you.

Convictions obtained long before our criminal justice system had even begun to consider many of the current issues of debate will be subjected to review. Because hindsight is always 20/20, we can be sure that many of these convictions will be overturned, and the criminals released—because anyone can see that it will be impossible to find the witnesses to reestablish a 25-year-old case.

Let us consider also some of the death row inmates whose cases are still being processed through the courts even after 10, 15, or 17 years. Utah prisoner William Andrews is in his 18th year of appeals. Under present law, Andrews can only claim the benefit of Court decisions rendered after October 1978 when his conviction became final. Still, he has been able to construct 17 years' worth of appeals, just relying on the pre-1978 cases. Imagine how much longer, and much more successfully, he will be able to string out his appeals if he is given the potential benefit of another 13 years of Supreme Court cases, as the Graham amendment provides.

Consider the Gacy case again. Here it is over 11 years since he was convicted on 33 counts of murder, murdering 33 boys, but he has only recently begun to exhaust his Federal habeas remedies. Mr. President, there is absolutely no possible way that Gacy's death sentence can ever be carried out if the Graham amendment is passed and a prisoner such as Gacy is given the right to argue in Federal court that 12 years of Supreme Court decisions rendered after his conviction became final are somehow applicable to him. This amendment makes a mockery of our criminal justice system. Those are strong words, but I believe that they are fully and justly applied to the retroactivity provisions of this amendment.

Other provisions of the proposed habeas substitute deserve mention as well. The amendment differs from the President's habeas proposal in its expansion of the right of appeal from adverse rulings on habeas petitions. Under present law, most unsuccessful habeas petitioners may only appeal the dismissal of their petitions where the district judge issues a certificate of probable cause, asserting that the legal issues presented by the case are not entirely frivolous. The Graham amendment creates, for the first time, an absolute right to have habeas decisions reviewed on appeal. That is in proposed section 2259. This will further aggravate the current overload being experienced by the Federal courts of appeals. Moreover, the new appeals allowed by the Graham amendment will, by definition, be frivolous cases which would not previously have been litigated beyond the trial level.

These are the principal reasons why any Senator who truly favors reform of the habeas corpus system should oppose the habeas corpus provisions of the proposed amendment. The Graham amendment is not habeas reform, it is habeas even further out of control. The habeas provisions of S. 635, the amendment we filed to the Graham amendment, by contrast, are designed to establish a true time limitation—1 year after exhaustion of State remedies—for instituting habeas cases and to preserve and codify the important Supreme Court rulings in this area.

Mr. President, a very strong case can be made for abolishing statutory habeas corpus entirely in this country. That is what we debated in earlier Congresses—and that is what Congress has already done in the District of Columbia. Total abolition is what previous Attorneys General such as William French Smith and Ed Meese have advocated in well-researched and convincingly argued articles. Attorney General Thornburgh when he last testified on this subject admitted that there was merit in the idea.

More importantly, I know of no case—not one—that has been cited to the Judiciary Committee in its years of study of this issue in which Federal habeas corpus review has been successfully employed to release an innocent individual from an erroneous State court conviction. And I have asked many witnesses this same question: Where is the case of an innocent person needing Federal habeas corpus in order to prove his or her innocence? Take Randall Dale Adams, the Texas death row inmate who was the subject of the documentary "The Thin Blue Line." How did he establish his innocence years after his conviction? Not through Federal habeas corpus, but through Texas State court procedures—procedures similar to those available in virtually every State today.

No other country in the world—not even England from which we got habeas corpus—provides any postconviction review at all. Once direct appeals are over, the case is final except for executive clemency. In America, we provide not one, but two, complete avenues of postconviction review, in the State courts and in the Federal courts. One should be enough. Since all States, except Arkansas, provide postconviction review, there is no need for the duplicative Federal habeas corpus system.

Even if Federal habeas review were abolished, America would still provide more postconviction review than any other country in the world: The State courts and the Supreme Court would always be available, as would the various State executives and pardons boards, to hear any claim of improper imprisonment.

But I do not today advocate abolition of Federal habeas corpus. I simply wish to provide some perspective on this issue—to counter those who would view the President's habeas corpus provisions as somehow regressive or insufficiently protective of legitimate constitutional rights. Make no mistake about it, the President's bill ensures that every inmate in America receives a full and fair opportunity to raise every possible claim of constitutional error that he or she believes may have occurred at trial. Surely, that is enough.

Over 20 years ago, in an article entitled "Is Innocence Irrelevant?", Judge Henry Friendly of the Second Circuit stated that:

> The proverbial man from Mars would surely think we must consider our system of criminal justice terribly bad if we are willing to tolerate such efforts at undoing judgments of conviction.—38 U. of Chicago L. Rev. 142, 145 (1970).

I, for one, do not think that our criminal justice system is so bad. It is beyond question the best in the world, and, I would submit, it is, with regard to its ability to prevent the conviction of an innocent defendant, the best in the recorded history of the world. I think most Americans are aware of this and are not willing to tolerate the manifold efforts at undoing judgments of conviction that would result if we were to pass the habeas substitute which is the underlying amendment.

We in the Senate, whose duty it is to enact into law the community's legitimate interest in seeing justice done, within the parameters of the Constitution, should soundly reject the habeas corpus provisions of the underlying amendment before us. And the way to do that is to vote for the amendment that is currently pending. The provisions of the underlying Graham amendment are not necessary to any true aim of the criminal justice system or to preserve any constitutional right. The amendment would, if enacted, only ensure that justice be further delayed if not entirely thwarted.

Mr. President, I hope that our colleagues will look at the amendment that we have filed. Yes, it is the President's amendment, but I believe it is a bipartisan amendment. I think it is an amendment that will be supported in a bipartisan way. I think it is an amendment that really would bring to an end to the injustice of the repetitive habeas corpus petitions, the unjustified habeas corpus petitions, the repetitive habeas corpus petitions, the frivolous habeas corpus petitions that have cost the taxpayers billions of dollars. I think it would bring that to an end. But the only way we can do that is to pass this particular amendment.

Mr. President, I have taken enough time this evening and I know we all want to go home. Let me end with that. I yield the floor.

Mr. BIDEN. Mr. President, I realize the hour is late but the issue is grave, and what is at stake are the lives of individuals. Let me try to summarize as rapidly, succinctly, and as accurately as I can what I think is at stake.

In all the cases that the Senator from Utah named, all of the individuals who committed those heinous crimes—and they were and are—they are all in jail. None of them were set free, notwithstanding the fact the process was abused.

So let us get one thing straight. These people are still in jail, and although they have delayed unnecessarily and beyond the comprehension of what anybody anticipated habeas corpus would do, although they have delayed their execution, they have not delayed the inevitability of their execution.

No. 2, the debate here is not about whether or not we should reform the habeas corpus system. The bill, the Biden crime bill, that is before us provides that there only be one petition by a prisoner and that it be done within a year, with notable exceptions, such as the person being innocent after that one bite out of the apple passes, or there is a change in the Constitution.

I heard, as I was off the floor, my distinguished friend from Utah saying, this retroactivity is not about justice. Well, that is all it is about. Put it in stark terms. You commit a crime. I commit a crime. I am alleged to have committed a crime. You are alleged to have committed a crime. We are convicted, the Senator from Utah and I. He is convicted; 3 days later than I am convicted. We engaged in the same conduct. The U.S. attorney withheld information that might have proved our innocence, either one of us. The U.S. attorney or the witnesses lied, any number of things occurred. And the Supreme Court later on comes down and rules, after I have been convicted but before he has been convicted, that the evidence used against me was perjured evidence and, under a new interpretation of the Constitution, that particular evidence cannot be admitted in a trial.

Or they rule that, because no black people were allowed on a jury, you could not get a fair trial. Or they ruled that, because women were denied the opportunity to serve on a jury, that was an unconstitutional denial of my right to be judged by my peers, or because no men were allowed on the jury.

So that rule comes down, and 3 days later my friend from Utah is found guilty under the same circumstances.

All I am saying is, if they are not going to put him to death, they should not put me to death. If they say there is a violation of the Constitution, or there is a constitutional principle here that should prevent my friend from Utah from getting a fair trial, why should it not apply to me as well? I am still alive. I have not been put to death yet. They have ruled it is unfair to put someone to death under these sets of circumstances. So what do they do?

Under the President's bill they put me to death and they let my friend from Utah go. They let him out of jail because he was not guilty.

I call that justice, that we are seeking. If a constitutional principle, enunciated by the Supreme Court, going to the ability to introduce evidence on innocence—or any set of circumstances—is going to be applied to one man or woman and give them their freedom because the Constitution, under the Supreme Court's interpretation, said that something did not allow them to get a fair trial, why, if I am still alive, should you, just because it is expeditious, put me to death when in fact the Supreme Court says it is wrong to put somebody to death under those circumstances?

I think my friends on the Republican side have become too much of the bureaucrats. They have become very bureaucratic. They say, "Wait a minute. There are procedures. Procedures should be followed here. Smith was convicted 2 days before Jones, same set of circumstances: Put Smith to death and save Jones because the Constitution says you cannot put Jones to death." And poor old Smith, although he is alive, he got found guilty 2 days earlier, so let us put him to death.

I call that simple justice; if it is important enough for the Supreme Court to say: "Hello out there, this is a violation of the Constitution." Why should it fall on deaf ears for Smith's executioners and not on Jones'?

You open the jail door and let Jones go free because the court rules that he did not get a fair trial. But you let Smith go to death, even though he did not get a fair trial either.

Have we become so much a product of the desire to reach results, that, like Mussolini, we want the trains to run on time whether or not they run over people? Whether or not we have to institute a system that is inimicable to human rights? But the trains will run on time. We have to get these deaths going on time here, get it done.

What we are talking about here is a provision in the bill. As I said, again, all the examples my friends will give you are outrageous delay. That is what the Biden bill is attempting to correct and the amendment of my friend from Florida is attempting to correct. We are saying in the process do not do it in a way that prevents people from being able to have the benefit of whatever the Supreme Court says, assuming they are still alive.

That is all we are asking. They get one bite out of the apple, assuming they are still alive. Before they get put to death, and the Supreme Court says people do not get fair trials when that happens therefore try them again, if they are still alive they should be tried again and not put to death.

Again, we hear all these examples, as I said, of Gacy and others who are still alive. It bothers me, angers me, to the point it brought me to the writing of a law saying that Gacy should have been put to death a long time ago, if my law had been in effect.

But let me give a few examples of what happens when we take away the right of Federal habeas corpus, which is essentially what this bill does, the

President's bill, and that of my friend from Utah. Let me give the case of Joseph G. Brown. He was sentenced for murder in 1974.

Brown's accomplice in a burglary falsely accused Brown of murder. The prosecution in the course of the trial deliberately withheld facts that Brown's accuser had failed a polygraph test. And Brown came within hours of being executed. He was actually measured for his burial suit, literally.

But, guess what? In the case of Brown versus Wainwright, the 11th Circuit case in 1986, Brown was set free on the murder charge because it turned out that he did not do it. And the prosecution did not let anyone know that the person who accused him was a liar.

The case of Rubin Carter. He was convicted of a triple murder in 1967. New Jersey convicted him of that. It affirmed that conviction on direct appeal in the State court.

The prisoner's claim was the jury was permitted to draw inferences of guilt based solely on the prisoner's race and the prosecution concealed reports showing that key witness, placing the defendant at the scene of the crime, had failed lie detector tests, and the credibility of the key witness was essential to the conviction.

Guess what? Because of Federal habeas corpus, because of his ability to file that little piece of paper, it turned out that the court ruled that the evidence against Carter did not warrant even a retrial; he should be let out of jail; he was innocent. He did not die.

This is not like the question of whether there is a death penalty or not a death penalty. I support the death penalty. This is the question of, if someone is convicted and sentenced to death, should they have at least one clear opportunity to slip a little piece of paper through the bar and say: "Hey, I did not do it, and here is why," or, you know, "facts have come to light since I was tried showing that, proving that I did not do it."

The Senator from Florida and the Senator from Delaware, we both say, look, we both understand that cannot go on for 18 years. We say there is a time limit in which you can file that little piece of paper, but you should be able to file it. You should get that one bite out of the apple.

In 1985, the district court reversed, in Carter versus Rafferty, because the defendant was denied his due process right because the prosecution withheld exculpatory evidence and focused argument on improper racial inferences. The evidence against Carter did not warrant retrial and the defendant was released.

It is kind of interesting to note that, notwithstanding all the abuse, and keep in mind what the abuse is: The abuse relates to time; the delay in the ability of the Government to execute the sentence of death because of frivolous and repeated appeals and bastardization of the process by a criminal defendant and/or his or her attorney.

That is what we are trying to deal with. Not people being let free. So the Senator from Florida and I say: Hey, look; they should have an opportunity to make their case greatly restricted in time and in scope, and essentially only get to make the case once.

But my friends from the other side have a provision that says full and fair adjudication. If the State, as I read it, and as was testified to before my committee, the Judiciary Committee, by expert witnesses, that if, in fact, the prosecution meticulously goes forward and meets all the procedural requirements of the State law, they will have met the full and fair test.

What that means is, as a practical matter, as a number of witnesses told this committee, that in effect we would have eradicated habeas corpus and prevented Federal courts from enforcing constitutional guarantees. This full and fair language goes much further than former Justice Powell recommended, and further than even the present Chief Justice of the Court has publicly stated is wise.

Under this provision, originally drafted by the Meese Justice Department, no Federal court may review a habeas corpus claim that has been fully and fairly litigated in State court. As I said, what this means is that if a State court squarely decides a constitutional question, even if the decision is totally wrong, there is no Federal review if the State followed the right procedures in reaching the wrong decision.

The administration's proposal, I think, can lead to very serious abuse. For example, if a State court clearly decided that to deny a prisoner a right to a lawyer at trial, as the bill reads, no Federal petition could be filed, notwithstanding the State court said you did not need a lawyer at trial.

Similarly, if a State court decided that a coerced confession was constitutionally proper, no Federal judge could interfere to stop the execution. We are no longer talking about one bite out of the apple, as the Senator from Florida and I are proposing. We are talking about no bites out of the apple.

If a State's court judgment about the constitutionality of a sentence cannot be overturned by a Federal court, there is no more habeas corpus review. Unless this full and fair language is stricken from the administration's bill, our system of the Federal constitutional supremacy, in my view, will be severely damaged. If the Federal court can no longer be the court of last resort on Federal constitutional claims, it seems to me we forsake a cherished principle that binds this Nation together, that one law, in the end, one Constitution governs.

Further, the court goes on in great length in cases where they decided to talk about the deterrent effect of Federal habeas corpus. They say that one of the reasons why it is important to have Federal habeas corpus, the review in Federal courts which this full and fair language would eliminate, is because knowing it is there, State courts are much more inclined to impose the Constitution even where it is politically difficult to do so, and judges are elected, not there for life.

All those of us who are elected officials know that sometimes it takes a little bit to stand against the winds that blow in the heat of passion even when, on reflection, it turns out they were wrong.

We find, for example, the cases where the heat of passion overtakes State courts, and other courts in the past have occurred in our history. And a Federal judge is there for life, not accountable for reelection. That is why the Founding Fathers made it that way. A Federal judge is usually in a little better position to resist those winds of passion when they blow. That is one of the reasons for Federal habeas corpus.

Another reason for Federal habeas corpus, which I believe the full and fair language would eliminate, is the fact that States do not always have the protections built in to see to it that innocent people get fair trials if they are poor. For example, one-fourth of all of Kentucky's death row inmates and one-tenth of Alabama's and 13 percent of Louisiana's death row inmates were represented at their trials by lawyers who have since been disbarred, have been suspended, or put in prison. Not a lot of people that you would necessarily like representing you.

I doubt whether there is any woman or man, as much as they support capital punishment, as much as they are offended by the notion that persons found guilty beyond a reasonable doubt are still in jail 15 years later and not having been put to the death penalty. I wonder how many of them doubt the following proposition: Do you think any American fails to understand that the quality of the lawyer you have impacts significantly on whether you, as an innocent person, are likely to be found innocent in a court of law?

I wonder how many people sitting in the gallery or watching this on television would say: Oh, do not worry; I am innocent. Notwithstanding the fact I have been charged with a crime, I am innocent. I know it, and I do not care if I have, like one-fourth of the people in Kentucky who represented death row inmates, I do not care whether my lawyer is going to be disbarred tomorrow, suspended or imprisoned, or is just plain stupid. It does not bother me; I am innocent.

How many Americans doubt whether the quality of their lawyer impacts on the outcome of the case? What we are talking about is people in some States who do not have even a remote possibility of having someone remotely competent represent them. The six of the seven States in America that lead the country in executions have no statewide public defender system.

Is that just purely coincidence; just purely coincidence? Six of the seven States that lead in executions do not have a public defender system so that a poor woman or man accused of a capital crime has representation through a public defender system.

Oh, they will get a lawyer. You know how that works, by the way. All of us who are lawyers in this place know. What happens is they say: Gee, we have this capital case; someone is accused of murder. Some poor sucker cannot afford a lawyer, and we are going to have the Bar Association be responsible for assigning a lawyer.

So it gets sent to a big corporation, a law firm. The law firm has 100 members. It charges 300 bucks an hour. How many of you think that case gets sent to and handled by the senior partner? How many of you think the senior partner says: "Give me, give me that one; I'll take that. I'll do my duty. I'll represent that person, and we'll put on hold the representation of Exxon"? Or how many of you think it works like this?

Let me see, the partners meeting: We have to assign this case by the bar association. What is that new kid's name that just came in that we have down there? You know.

But he has not tried a case yet.

Do not worry. What is his name?

He has not even been in the courtroom, sir.

Well, what is his name?

His name is Smith.

Give it to Smith.

But, sir, Smith has not ever handled a case like this. He does not know the law. We all know that when we graduate we are competent only to know we are to go in the library.

Do not worry about it; Smith can handle it.

You are not worried about Smith representing you, Madam. You are innocent. You got Smith.

That is how it works. In Alabama and Mississippi, they say to you, by the way, if you are going to represent somebody who cannot afford a lawyer that is accused of a capital offense, we are going to compensate you, Mr. Lawyer, at a maximum of $1,000. We are going to want you to go to the prison. We are going to want to make sure that you interview the defendant because he has a right to be interviewed. We are going to want you to go out and gather evidence because the guy says he is innocent.

And guess what, a lot of people accused of a capital offense are innocent—not on technicalities. They did not do it. We have a funny system. The system says you are innocent until someone proves you are guilty beyond a reasonable doubt. You say to the lawyer, "I wasn't there." The lawyer goes out and he is going to investigate the case. So now he has run up probably 10, 20 hours just interviewing and investigating. Then he goes to trial. And he is in trial for 2 days, 3 days, a week, 2 weeks. Good, so far so good.

Now, after the trial, if you are convicted, you say, "I want to appeal; they withheld evidence" in this, that. You appeal. He works hours and hours on a brief that he is going to file. When it is all said and done, the State of Mississippi says, for handling this case, we will pay you $1,000.

We all know there is not a lawyer in America that is not altruistic. We all know that. We all know every lawyer in America, like every other American, will sacrifice everything for his fellow man. We know that a lawyer will do that. But there may be just one or two who might not.

Now, if we say to that same lawyer, by the way, we are going to ask you to handle an uncontested divorce, where you take out a piece of paper; you pull it out of a form book; you have your secretary file it; and the court, without your being there, gives a divorce to your client, we say in Louisiana, we will pay you $1,000 for that. In South Dakota, the home State of the Presiding Officer, we will pay you $1,000. In Illinois it is $1,250. In South Carolina, it is $1,500. But if you are going to handle the case of an innocent man accused of murder, we will only pay you, no matter how much work you do on it, $1,000.

Now, in case you have not figured it out, not a lot of the best lawyers run to take those cases. They do not usually line up and say, hey, give me that one. I will work for weeks to prove the innocence of this man or woman. I know you will only pay me $1,000. I know I am going to lose all that money I was making otherwise, but I want to do that instead of handling those 27 uncontested divorce cases we are going to file this week.

The point I try to make to you here is this provision for habeas corpus does not even provide for competent counsel to represent people. Again, balance this off against what we are trying to correct. We are trying to correct not bad guys getting out of jail but bad guys wasting our money staying in jail longer than they should before we kill them.

The Senator from Florida has an answer to that: If they are bad guys, if they have been convicted beyond a reasonable doubt, found guilty by a jury of their peers, if they have made their appeals on the merits of their case and been turned down, they get one shot to go out and try once again to prove that they should not be in that jail. And they have to do it within a year. We are going to balance that off against—by the way, we do not need to provide counsel. Four out of ten habeas corpus petitions filed on behalf of death row prisoners have been granted by Federal courts. They have been granted because Federal courts have concluded that there was a constitutional error.

Now, folks, the Constitution is not a technicality. It is the single greatest bulwark man has ever created to sustainn the prospect of individual freedom. I am talking about cases where the Constitution says, guess what, you cannot beat people with a rubber hose and get a confession and convict them. The Constitution says you have to have a jury. The Constitution says you have to do things like make sure by implication that people on the jury are likely to be a representation of your peers so you cannot say no black folks on this jury, no women on this jury.

Mr. President, the administration bill is a fundamental change from the bill they produced last year. The debate and the rhetoric have change. The administration has announced this new proposal that departs starkly from what they proposed last year. I want to make it clear that the administration's sudden change of position is no tougher on crime than their earlier proposals.

Do not let all the talk about crime control confuse you. This proposal will not get criminals off the streets. Habeas corpus reform, whether it is mine, the Senator from Florida or the Senator from Utah, will make Americans no safer or no less safe than they were the day before we pass whichever one we pass, for all the people who file habeas corpus petitions are in jail. They are not out on the streets committing crimes. The only debate here is how do we come up with a reasonable proposal to keep them from being able to abuse the procedural safeguards to which every American should be entitled, and that is the essence of the great writ which is 800 years old. To do that—and I will yield the floor now to my friend from Florida—I respectfully suggest we should not conclude that with regard to Federal habeas corpus we say it is no longer really applicable. Let us just lay that aside.

I respectfully suggest that what we should do is say to the States, these folks will only get one chance to have a habeas corpus petition filed. But you have to, in return, promise they will be represented by competent counsel, and you have to make sure that if a constitutional decision is made which goes to their innocence or guilt, and it is handed down before they are executed and before they file that one petition, they should have the benefit of it just as someone who was convicted 2 days or 2 weeks later should have the benefit of it.

Let me conclude by reminding you of one little bit of history, if I can find it here, to make sure I am completely accurate.

They are ready to make State courts the final arbiters of the Constitution. They are ready to stake constitutional rights on the political fortunes of elected judges and they are ready to execute prisoners in violation of the Bill of Rights.

This is not hyperbole. We all know what will happen should this country adopt the administration's proposal. For a brief period at the turn of the century the Supreme Court adopted the rule the administration has now proposed, the full review by State court. That full review by State courts was enough and the results were tragic.

Leo Frank, an innocent man, tried by an antisemitic mob, died because the Supreme Court refused his habeas petition. Frank was charged with the rape-murder of a "Christian woman" in Atlanta in the year 1913. The trial was so violent the judge ordered Frank and his lawyer out of the courtroom for their own safety.

Years later, after the habeas petition was denied, the habeas petition that asked that you review—you, the Federal court, please review how the State court applied the Constitution to me—after the Supreme Court refused to do that, years later an eyewitness who had been intimidated by the mob in the year 1913 came forward and cleared Mr. Frank's name after he was dead, cleared it in a way that established his innocence, Frank's innocence, beyond a reasonable doubt. But before the witness could come forward, and after the Supreme Court had ruled, Mr. Frank had been executed, lynched by a mob who literally wrested him from his death row cell.

So before we vote on a bill that, had it been in effect, would send future Leo Frank's to their deaths, let us remember the words of Chief Justice Marshall at the opening of this Republic. He said:

> The Constitution imposes on Congress the obligation of providing efficient means by which this great constitutional privilege, the writ of habeas corpus, should receive life and activity.

Today is not the day to sound the death knoll for a remedy that the very first Congress and the postwar Congresses, post-Civil War Congresses, gave life and activity—in the words of Justice Marshall, gave life and activity to.

What we should do is reform the system, limit the habeas corpus petitions, tightly proscribe how it can be executed, provide for reasonable access to counsel, and let the Federal court decide on the law—be able to review the application of the Constitution as applied by State courts, at least one time.

Do we want blood so badly that we will have it at the expense of justice? Do we want it so badly that we will deny individuals one chance to go to Federal court prior to their execution, if that is what it is to be, and say, please, look this over?

We do not want 20 petitions. We do not want two. We do not want seven. We say one. That is what this issue is about, not about whether or not Gacy will go free, not whether Gacy is going to ever receive his punishment, but about giving anyone, including the innocent people that I spoke to who have been convicted, a chance to make one last cry that they should not be where they are.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, if the distinguished Senator from Florida wants to speak, I will yield to him.

Approximately how long does he wish to speak?

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. I yield the remainder of the time that I have under my control to the Senator from Florida.

Mr. GRAHAM. I anticipate speaking approximately 15 minutes.

I thank Senator BIDEN and the distinguished ranking member of the Judiciary Committee, Senator THURMOND.

Mr. President, few topics have engaged the American Bar, the American judicial system, academics on jurisprudence, as has the question of habeas corpus reform. In the last few months a major study by the American Bar Association has analyzed this issue. The Chief Justice of the U.S. Supreme Court established a panel chaired by former Supreme Court Justice Lewis Powell, to review habeas corpus as applied in the Federal courts to capital cases.

Why has there been so much interest in this relatively arcane, esoteric area of American law? This interest has been the result of the fact that the current manner in which habeas corpus is implemented in the Federal courts as it applies to capital cases, specifically capital cases of State prisons, has brought the concept of justice into disrepute.

Americans cannot understand why it takes so many years, why it takes so many petitions, why it takes so much of the energy of our legal system in order to not only arrive at truth, not only to arrive at justice, but then to have the consequences of prudent justice executed.

Delay, exasperating and convoluted legal procedures, have come in the way of the legitimate search for truth, which should be a fundamental purpose of our justice system.

What is the problem, Mr. President? What has brought us to this position? The problem is not the existence of a procedure for Federal habeas corpus review. There is a legitimate reason why from the earliest days of our nationhood the Federal courts have recognized the concept of a collateral review, a review subsequent to the trial, subsequent to the direct appeal, outside the State court system, a collateral review by the Federal courts of Federal constitutional issues.

The Federal courts are the experts in Federal constitutional law. That is their essential reason for being, to interpret and apply the Federal Constitution. Their involvement in this issue, as in other areas of the law, has assured us of an evolution of a body of Federal constitutional law applied with consistency on a nationwide basis. Those reasons, in addition to the reasons given by the Senator from Delaware, are the strong, clear justification for 200 years of a Federal habeas corpus.

The problem is not the existence of Federal habeas corpus; rather, it is the abuse of Federal habeas corpus.

I fear that my friend, the Senator from South Carolina, however, has defined the problem as being the existence of Federal habeas corpus, because it is clear that the provisions in his amendment—particularly, the provision which calls for full and fair review being sufficient review—would have the practical effect of terminating two centuries of Federal court involvement in the collateral review of State sentences.

The amendment offered by the Senator from South Carolina provides that the Federal court shall not grant relief from a judgment of conviction or sentence on the basis of a claim that was fully and fairly adjudicated in State proceedings. Effectively this provision says, Mr. President, if the court is satisfied that the State court gave the inmate a fair trial, regardless of whether the Federal court believes the constitutional issue is at stake in the State court's findings, the Federal court is barred from reviewing the case.

Our goal is the reform of habeas corpus, not the elimination of Federal habeas corpus. If the Federal courts are barred from hearing cases fairly litigated in the State court, we will have effectively ended Federal court review of habeas petitions.

In debate this year on habeas corpus reform, the distinguished Senator from South Carolina and his colleague, the distinguished Senator from Utah, have suggested that the goal of reform is to give inmates one bite at the apple, one full review by State and Federal courts of their petition. The full and fair provision does not give the death row inmate one bite as the apple. The full and fair provision closes the door to Federal review of habeas petitions.

We should eliminate stale and frivolous habeas petitions in Federal court, but not eliminate habeas petitions in Federal court altogether. The Federal court has a special charge to see that

Federal law and Federal constitutional rights are afforded to every citizen.

The amendment by the Senator from South Carolina takes away that opportunity for Federal review. If the problem is not the existence of Federal habeas corpus, what is the problem? Mr. President, the problem is the abuse of Federal habeas corpus, particularly, in the area of State capital cases.

There is a special quality, a common sense distinction between capital cases and every other case, as it relates to the potential for abuse in collateral appeals. What is that distinction? If you are a person who has been sentenced for a serious crime, but a noncriminal crime, such as armed robbery, you are facing an extended sentence in a State court, you have been sentenced by a State court, and you are facing an extended period of incarceration in a State prison, then you have every motivation to want to bring any possible claim of constitutional deprivation as quickly as possible to the attention of a judge who might be able to grant you relief. You have an interest in bringing to that judge all of the claims that you might have that could lead to your relief. If your petition is successful, you might be released from jail; you might get a new trial. If your petition fails, you are no worse off than you were yesterday.

The special quality of a capital case, Mr. President, is that the incentives are reversed, incentives to bring the case as expeditiously as possible; the prisoner under a sentence of death wants to procrastinate, because that person understands that once final judgment is entered in his last collateral appeal, he faces execution. So he wants to delay, to raise as many obstacles as possible to that final day of reckoning. That special quality of capital cases has led to innovative gamesmanship in how the Federal habeas corpus process is utilized.

Mr. President, for 8 years I served as Governor of the State of Florida, a State which has the death penalty; a State which had, when I arrived in the Governor's office and on the day I left, a significant number, well in excess of 100—now approximately 300 persons—on death row. As Governor, I had the responsibility of hearing clemency cases, and where clemency was not appropriate, in signing death warrants.

I will give a hypothetical which is the essence of a number of the cases I dealt with as Governor. An alleged murder was committed in 1975. A trial has held in 1976, and the accused was found guilty. Under our procedures of a bifurcated trial, there was a second hearing on the issue of sentence. The jury recommended, and the judge imposed, the death penalty.

That sentence was appealed to the Florida Supreme Court and cert was requested and denied in the U.S. Supreme Court. Those proceedings concluding in 1978.

Then nothing happened. The prisoner waited until a clemency hearing was held in 1979. He waited until the Governor signed a death warrant in 1980, a death warrant that had 30 days to run. On the 25th day, the prisoner goes into a State court with his first request for State habeas corpus. The State judge issued a writ staying the execution, while a hearing was held. That led to subsequent appeals to the State supreme court, which resulted in no relief. It is now 1982. The Governor signs a second death warrant. Twenty-five days into that death warrant, a habeas corpus petition was taken to the Federal court, alleging Federal deprivation of rights. Again, a series of hearings at the district court and appellate levels are held on that. It is now 1985, 10 years after the murder, and relief has been denied. The Governor signs the third death warrant. Twenty-five days into that, the petitioner brings another Federal habeas corpus, raising an issue which had not been raised in his previous habeas corpus petition.

Mr. President, as this hypothetical, but too real, example indicates the process is one which has become a process of obfuscation and procrastination, not a legitmate search for the truth. That is the problem.

What are the solutions that we recommend? We recommend, first, that there be a statute of limitations as to how long a Federal court can be held in abeyance awaiting a State prisoner's petition for Federal habeas corpus relief.

We suggest that that period be 6 months, 6 months from the exhaustion of State remedies and the appointment of counsel. Within that 180-day period, we believe the prisoner has a sufficient time with counsel to develop and present to the Federal district court his or her petition for relief.

Second, restriction on successive petitions. Under our amendment, Mr. President, once there had been a full hearing on the first Federal habeas corpus petition, no Federal court would have the authority to enter a stay of execution or grant relief in a capital case on the basis of any subsequent petition, unless the following tests were met:

The basis for the stay and request for relief is a claim not previously presented by the prisoner in State or Federal court, and the failure to raise the claim is a result of, A, State action in violation of the Constitution or laws of the United States; B, the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or, C, based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal postconviction review.

And, second, the facts underlying this claim would be sufficient that if proven to undermine the court's confidence in the jury's determination of guilt of the offense or in the validity of the sentence of death. Those would be the standards that the prisoner would have to meet in order to be able to bring a second petition.

Finally, we are suggesting that there should be a statute of limitations on the court itself, that within 6 months of the time a petition is filed with the court, the court would have to decide on appropriateness of that petition.

These three changes, Mr. President, I submit go to the heart of the abuse of the system: No long delay in bringing that first appeal, no fragmentation of appeals so as to have a series of successive petitions, and the courts would have to give these cases priority attention.

Mr. President, we have also recognized that as we expedite the procedure, as we eliminate some of the gamesmanship, that there are some things that should be done, should be done in the cause of justice to protect the legitimate rights of the petitioner. One of those is counsel. The U.S. Supreme Court has not required counsel for collateral appeals as they have through the Gideon case for the trial of the original case.

We propose, Mr. President, that a State, in order to get the benefit of these expedited procedures applied to its State prisoners, will be required to provide counsel at both the trial and the appeals as well as in the collateral review phase. We also propose that either through the highest judicial tribunal, typically the supreme court of a State, or the State legislature that standards for those who can be assigned to these important positions be established.

We want to deal with this issue in a constructive way of the incompetent counsel by providing that from the highest source in the State, either the legislature or the Supreme Court, that there would be standards for counsel. This is one of the issues that distinguishes our amendment from that of the Senator from South Carolina, which would provide for the appointment of counsel, but the counsel to be appointed would be strictly at the discretion of the court making the appointment, with no standards.

Second, we would propose that the successive petitions, under the very strict limitations which I have just stated, would be available both for the issues of guilt or innocence and for the question of the appropriateness of the sentence. This is another distinction between the amendment which I have offered and the amendment of the Senator from South Carolina.

His successive petition provisions would only be applicable to the issue of guilt or innocence. The Thurmond amendment does not allow successive petitions on the appropriateness of the death sentence itself.

A person sentenced to death would be able to raise new facts that could not have been raised in the sentencing hearing. If you could meet one of the strict standards or conditions under which a successive petition would be possible, under the Thurmond amendment this would be barred from the opportunity to do so relative to the sentence itself.

A person sentenced to death but able to show that the State violated their constitutional rights in the sentencing trial is barred from the opportunity for resentencing under the Thurmond amendment.

Even if the U.S. Supreme Court issues a new right for inmates and states that it shall be applied retroactively, the death row inmate is barred from resentencing under the Thurmond amendment.

The critical issue in capital cases is the sentence of death itself, the ultimate sentence. Guilt or innocence is rarely the issue in a collateral review but rather the issue is predominantly the appropriateness of the death sentence.

Barring from Federal court review of the appropriateness of the death sentence basically amounts to not allowing Federal review of State action in capital cases.

As an example, in Deutscher versus Whitley, the trial counsel knew the defendant had severe mental problems caused at birth and was repeatedly beaten as a child.

Trial counsel did not offer this information as a mitigating factor in either the original trial or during the first habeas corpus proceeding.

New counsel brought this information to the court's attention in a successive petition, and the Federal court overturned the inmate's death sentence.

Under the Thurmond amendment, this issue could not have been raised in the successive petition.

Under the Thurmond amendment, the Federal court would be barred from considering this mitigating factor that incompetent counsel failed to raise.

Mr. President, I believe that Federal habeas corpus has served the cause of justice in our land and should be preserved. I believe that Federal habeas corpus has been abused, particularly abused, by State prisoners and their representatives under sentence of death.

Mr. President, I believe that we can accomplish our purposes by surgically diagnosing those sources of abuse and excising them from the process. It is the process of careful analysis and action that is the basis of the amendment which I offer.

The adoption of this amendment, in my opinion, would result in what we all seek—one full review by a Federal judge of the appropriateness of actions by a State court in the context of Federal law and Federal constitutional protections. If it is determined that no relief is appropriate, then the sentence of the State court would be carried out.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. Mr. President, if we move forward in the manner which I have suggested, I believe that we will have taken a significant step in restoring public confidence in our criminal justice system, while maintaining one of the great rights that we, as Americans, have taken as part of our heritage of freedom, liberty, and justice.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from South Carolina.

(Mr. GRAHAM assumed the chair.)

Mr. THURMOND. Mr. President, today I rise in strong support of the President's habeas corpus amendment offered by my able colleague from Utah, Senator HATCH and myself. This amendment embodies the same habeas reform proposal contained in the President's comprehensive antiviolent crime bill.

Mr. President, this amendment embodies what is, without a doubt, the toughest and most effective habeas corpus reform proposal before the Senate. It will minimize Federal judicial interference with State criminal convictions and deal with common abuses typical of habeas prisoner petitions, particularly in death penalty cases. Currently, there are over 2,400 people on death row in the United States. Yet, only 147 vicious murderers have been executed since 1972. One of the most recent executions involved a murderer who had been on Texas' death row for more than 17 years. There was a man in my State of South Carolina who was on death row for over 11 years before he was finally executed. Our colleague from Utah has a man on his State's death row who has been there for over 17 years. The tool these individuals use to delay the imposition of their just sentence is our Federal habeas corpus statute. It is time to change the system with a fair, yet workable proposal.

Habeas corpus petitions have grown by vast numbers in recent years. In 1941, State prisoners filed 127 habeas corpus petitions in the Federal district courts. By 1961, that figure had risen to 1,020. Over the years, that number has continued to rise with Federal district courts receiving an incredible 12,790 habeas petitions last year.

Several bills have been introduced seeking to reform the habeas corpus system. The proposal contained in the President's habeas reform, is the most substantial reform proposal before the Senate. It combines the most valuable provisions of the major reform measures before the Senate—the Powell committee proposals which passed the House last year, my bill which passed the Senate in 1983, and the habeas provisions which passed the Senate last year as part of S. 1970.

The measure curbs the abuse of Federal habeas corpus proceedings by establishing a more appropriate role for the Federal courts in habeas cases by according deference to the results of State collateral adjudications which are "full and fair" when resolving issues of Federal law. Further, each death row petitioner would be entitled to only one Federal habeas petition with a subsequent petition only allowed when the new claim addresses the underlying guilt or innocence of the defendant. Strict time limits would be placed on the time for consideration of habeas petitions by Federal district courts and courts of appeals. Furthermore, the bill places a 6-month statute of limitations for the filing of habeas petitions in death penalty cases. Finally, the measure also requires that these cases be made a priority over other cases by all Federal courts.

It is important to note, that the time limits on review, the priority, and the limitation to one petition are, however, conditional. These changes in law would only apply if the State establishes an effective system for providing defendants under sentence of death with competent counsel in State habeas proceedings. This counsel requirement responds to the claim of capital defense attorneys that a major culprit in the inexcusable delay and excessive litigation which plagues the current system is incompetent counsel. The counsel requirement which the bill establishes goes well beyond the constitutional requirements spelled out by the Supreme Court. In summary, the bill provides that in exchange for the States going to the additional expense of providing death row inmates with competent counsel on habeas, the States will benefit by being accorded the probability of having to litigate only one habeas petition and a priority on the Federal dockets in addition to having their decisions being accorded greater deference.

Mr. President, the President's amendment recognizes that Federal statutes have been used to effectively halt the execution of a death sentence in the States. As a result of court decisions, Federal courts now have the power to review de novo issues of Federal law, even if those issues have been fully and fairly litigated in State court. Unable to abolish capital punishment as a matter of law, lawyers who are opposed to the death penalty are attempting to eliminate the death penalty de facto by making the process so protracted that the States will actually abandon it. This costs our Nation greatly. The Federal courts are overburdened as are the States. Victims are not accorded swift justice. Another price we pay, according to Justice San-dra Day O'Connor, is a "denigration of federalism." In a speech given at the Attorney General's crime summit, Justice O'Connor stated that "When a Federal court decides independently a question that has been decided by several State courts, it shows a lack of respect for those State proceedings."

The judiciary is not alone in calling for reform. Perhaps the most poignant voices for habeas reform have come from the victims of crime. John Collins, whose daughter was brutally murdered, in testifying before the Judiciary Committee stated that no single legislative initiative is more vital than habeas corpus reform. Nothing will afford the criminal justice system more force, more credibility, more integrity, than putting an end to the interminable succession of appeals.

The President's bill would condition the granting of Federal relief on a showing by the petitioner that the State process was not full and fair. The full and fair standard is presently employed in defining the standard of review in a number of areas, including the review of fourth amendment exclusionary rule claims. Those who criticize the full and fair standard state that it would amount to an elimination of Federal habeas corpus review. This is untrue. When the Senate accepted the full and fair standard in 1983, it was a matter of legislative history that this standard would only apply if:

First, the claim presented was decided on the merits in the State proceeding;

Second, the State determination was a reasonable interpretation of Federal law and the facts as well as a reasonable application of the law to the facts; and

Third, the adjudication was conducted in a manner consistent with the procedural requirements of Federal law.

In addition, readjudication would also be permitted if new evidence of substantial importance to the decision of the claim is produced which could not have been obtained through reasonable diligence at the time of the State adjudication. Similarly, a subsequent retroactively applicable change of Federal law would permit readjudication of the claim.

It is very important to note that, under this proposal, a Federal court makes the determination as to whether a State court finding was full and fair. Simply stated, the full and fair standard is not a bar to Federal court review but, rather, a test which a State court's decision must pass before being accorded deference. The notion that someone will be executed due to an unconstitutional sentencing procedure or some other unconstitutional act is rebutted by the fact that the full and fair standard will only apply where the State courts have made a reasonable interpretation of Federal law and accurately applied the law. If a State court misinterprets, misapplies, or makes an unreasonable finding of fact, the Federal court is free to hear the claim raised. This standard of review and the Federal courts' required determinations that the State adjudication was full and fair, in and of itself, serves as a check upon the States to ensure that Federal law is being appropriately interpreted and applied while furthering the interest of finality. The President's proposal, embodied in the President's amendment, is truly the most comprehensive and effective proposal.

Unfortunately, the Biden bill and the Graham bill contain a habeas corpus provision which would have the effect of increasing both the number of cases in Federal court and the cost of litigation to the Government. The Biden habeas provisions would, according to Justice Lewis Powell, the Attorney General, a majority of the State attorneys general, and the chief judges of the Fifth and Eleventh Circuit Courts of Appeals, increase, not decrease, the number of habeas corpus cases—the overwhelming majority of which would be stale, frivolous, and repetitious. This is due to the fact, that the bill provides for numerous exceptions to the ban on subsequent habeas cases; one of which allows subsequent review when the convicted defendant alleges that he is the victim of a miscarriage of justice—no matter how many times he has previosuly been in Federal court.

The Biden bill would also overturn leading Supreme Court precedent which have had the effect of limiting habeas abuse. It is, without a doubt, more prermissive than current law in allowing prisoners under sentence of death to bring second a successive habeas corpus petitions. For example, it overturns the recent Supreme Court decision in McCleskey versus Zant which narrowed death row inmates' ability to bring successive petitions. As Justice Powell and Attorney General Thornburgh have noted, the Biden bill would overrule the leading habeas corpus case of Wainwright versus Sykes. This 1977 case, held that a Federal court should not entertain a claim in Federal habeas proceedings which would not be entertained by the State courts because of the failure to raise the claim in accordance with State procedural default rules. The procedural default rule, because it enforces and gives effect to state procedural rules, has the effect of making the State trial on the merits the main event, so to speak, rather than an undercard for what will later be the determinative habeas hearing. The Biden bill overturns this important decision.

Both the Biden bill and the Graham bill would reverse the case of Teague versus Lane which recently clarified the complicated area of law surrounding the retroactivity of law in habeas cases. Both of these bills reverse this decision by allowing a prisoner to take advantage of interim changes in the law—no matter how insignificant. This provision ignores the fact that every prisoner will file a petition which will claim that he or she would benefit from the new law. This change alone, according to the Attorney General, would fully restore the chronic problems of unpredictability and lack of reasonable finality of judgments that existed prior to the Teague decision. It makes better sense to continue to allow the Supreme Court to determine when a particular decision ought to be retroactively applied especially since the Supreme Court has done so since its creation.

As late as today, the National Association of Attorneys General have approved a resolution opposing any legislation that would repeal the Teague versus Lane decision.

Further, rather than allowing each State to determine the competency of counsel, the Biden bill and the Graham bill mandate minimum standards which would apply not only to habeas proceedings, but to trial as well. The effect of this is that both of these bills would not effect any of the over 2,400 murderers on death row. Both bills are prospective in their effect.

In summary, if the Biden or Graham habeas corpus proposals were to become law, the only people who would be celebrating in this Nation would be death row inmates. Both bills are a death row inmate's wish list.

The adoption of the President's proposal, however, will significantly enhance the fairness to the States, the victims of crime, and the prisoner while still providing for counsel in habeas cases.

In closing, the need to pass the President's habeas bill is clear. I stated earlier that the American people demand action on the President's reform proposal. This is evidenced by the list of endorsements of the President's habeas bill. These same organizations oppose both the Biden and Graham habeas reform proposal.

Attorneys General: The Attorney General of the United States, the National Association of Attorneys General, and a majority of the State attorneys general—Alabama, Alaska, Arizona, California, Colorado, Connecticut, Florida, Georgia, Hawaii, Idaho, Indiana, Kansas, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Oregon, Pennsylvania, South Dakota, Texas, Utah, Washington, West Virginia, Wyoming, and even the attorney general of Guam.

The following prosecutors have expressed their support—National District Attorneys Association; California District Attorneys Association; the Conference of District Attorneys, Raleigh, North Carolina; Louisiana District Attorneys Association; Alabama's

Wetumpka Circuit; Georgia's Cobb County; the State District Attorneys Associations of Mississippi; Englewood Colorado's D.A.

The following law enforcement organizations have expressed their support: The Fraternal Order of Police, the National Troopers Coalition, the National Sheriffs Association, the Federal Investigators Association, the Federal Criminal Investigators Association, the National Law Enforcement Council, the International Narcotic Enforcement Officers Association, the Airborne Law Enforcement Association, the FBI National Academy Associates, the Law Enforcement Assistance Foundation, Society of Former Special Agents of the FBI, the Commission of the Accreditation of Law Enforcement Agencies, the Massachusetts Association of Italian-American Police Officers, Massachusetts Crime Prevention Officers Association, and the California Correctional Peace Officers Association.

Victims groups, the National Victims Center, Citizens for Law and Order, Memories of Victims Everywhere [MOVE], the Joey Fournier Anti-Crime Committee, Survival, Inc., Justice for Homicide Victims, Justice for Murder Victims, Citizens Against Violent Crime, the North Carolina Victims Assistance Network, and the League of Victims and Empathizes, Inc.

Mr. President, the decision on how to vote for this amendment is clear. A vote for this amendment is a vote for the President's habeas reform proposal which is supported by law enforcement organizations, the Attorney General of the U.S., the State attorney general, by prosecutors, and victims. A vote for the President's amendment is a vote to eliminate the abuse and delay in habeas corpus. A vote for the President's amendment is a vote for law enforcement and victims everywhere.

Mr. HATCH. Mr. President, the chairman of the Judiciary Committee claims that the people of America do not care about habeas corpus reform; that the President is somehow selling them a bill of goods when he makes habeas reform a centerpiece of his crime package.

Let me first observe that the person making those remarks—belittling the need for habeas reform—is himself the sponsor of the competing habeas reform bill. I think this says much about how tough we can expect the habeas reforms of S. 1241 to be. After all, the sponsor of the bill thinks that the habeas system is not really much of a problem. The provisions of his bill reflect that—they don't do much, and what they do makes things worse, not better.

But returning to the question of whether the American people care about habeas reform, I have to disagree with the chairman. Maybe the citizens of Delaware are not worried about endless appeals, but the mail I receive from Utah and other parts of the country contains letter after letter from concerned Americans. True, they do not often quote the Latin phrase habeas corpus, but they get the same message across. They say when are the endless appeals going to stop in so many cases? They ask how is it possible that someone can be sentenced to death in 1974 and still not be executed? They ask why Federal judges are releasing State prisoners on technical, procedural arguments entirely divorced from any consideration of guilt or innocence?

The answer to all these questions is the same. These abuses of the criminal justice system will not be cured until some reasonable limitations are placed on the current unrestricted availability of the habeas corpus remedy.

The chairman says that Americans do not think that because of habeas corpus reform their streets will be safer. Again, this point is misleading because of the language chosen by the chairman. Ask the American people if returning convicted felons to the streets because of procedural arguments unrelated to guilt or innocence and I think you will find, all of a sudden, that Americans are going to be very concerned with the habeas corpus system.

Mr. President, I cannot believe how often this same fundamental misreading of the American people is committed. Let no one be mistaken on this simple point: Americans do not like it when dangerous criminals are released from jail without serving their sentences. They do care.

It doesn't matter what reason the politicians may give for it—call it parole, call it probation, call it a furlough, or call it habeas corpus—but the end result is the same. People do not want dangerous felons released from jail before their sentences have been served. Is this so hard to understand?

The American people are not confused on this point. Let me restate it one more time, they do not want dangerous felons released from prison. The people will not forgive us if we fail to reform habeas corpus to close this outrageous loophole—they certainly will not forgive us if we pass the Biden habeas provisions to expand the existing loopholes. There is no reason they should forgive judges or politicians who would place the safety and security of law-abiding citizens at risk in this manner.

The chairman of the Judiciary Committee also makes much of the fact that people, by and large, do not know what habeas corpus means. He ridiculed the concern—and it is a deep concern—of those of us who view habeas reform as the principle criminal law reform now before Congress.

The distinguished chairman may be correct when he claims that most Americans have no idea what the habeas corpus statute provides. But I cannot agree with the implication of his remarks—the idea that because Americans may not know how bad, how outrageous, the habeas corpus system is, for that reason we in Congress should do nothing.

It is common for the public not to know of a serious threat to our national security at a time when the CIA or we in Congress may know of it. Would that justify us in doing nothing? Because the American people were unaware of the threat to them?

The same is true with regard to habeas corpus. Each of us know about the more than 11,000 habeas petitions filed each year—none better than those of us who serve on the Judiciary Committee. Each of us know that the vast majority of these petitions are stale, frivolous, and repetitious. Each of us know that every habeas petition represents one more convicted felon who seeks to be released from prison rather than serving his or her sentence. Each of us knows that there are more than 700 Federal trial judges out there who can hear these petitions. Each of us know that the greater number of opportunities a prisoner has to appeal his sentence the greater the chances that that prisoner will be mistakenly released. And everyone knows—everyone—that the more dangerous felons who are prematurely or mistakenly released the more dangerous are the streets and homes of America. That cannot be denied.

Because we as Senators know all of these things, we have a duty to act on our knowledge. We have a duty to protect the American public from this threat to their safety and well-being. We have a duty to act precisely because we do know something that others may not know.

There is one more thing that we each should know and know well: the Biden habeas bill provides no limit on the number of times that a prisoner can claim he has been the victim of a "miscarriage of justice." No limit on the numbers of times he can try to convince 1 of 700 Federal judges that he should be released. The President's bill would stop this travesty in its tracks.

Mr. President, I must give the chairman of the Judiciary Committee credit for one thing. His habeas corpus title does reflect the perspective of someone who thinks that habeas corpus is something we don't really need to worry much about. S. 1241 does reflect the views of someone who might mistakenly believe that increasing the number of times a prisoner can appeal his sentence will have no effect on crime in the streets. S. 1241 is also consistent with the utterly mistaken idea that increasing the number of issues that a prisoner can raise is something that should not concern anyone very much.

So if you do think that prisoners currently do not get enough opportunities to appeal their sentence, then by all means vote for S. 1241, or for the Graham amendment.

If you think that the judgment in a criminal case should never be considered final, but should, instead, be reopened whenever a new Supreme Court decision is decided, then by all means vote for S. 1241 or for the Graham amendment. The President's bill will not appeal to you.

If you think that 18 years is not enough time for the courts to decide whether the sentence should be carried out in a death penalty case where the defendant has admitted his guilt, then by all means vote for S. 1241, or for the Graham amendment.

I would also like to address the charge that someone could be convicted on perjured testimony if the Thurmond/Hatch habeas amendment were enacted.

We've heard this argument for months. It doesn't improve with age. It remains as false now as it was when first asserted. No habeas bill before this body would affect the ability of an innocent person convicted on the basis of perjured testimony to obtain release from confinement.

What is the authority for the claim? Just the opinion of one Senator. No judge, scholar, or other authority has stated that a prisoner in the position of this hypothetical would be without a remedy if Federal habeas were not available to them.

To the contrary, consider the remarks of Judge Charles Clark, chief judge of the Fifth Circuit Court of Appeals, who was asked this very question by me:

> Question: Senator Biden raised the hypothetical case of a state conviction being based on perjured testimony discovered after the exhaustion of direct appeals and the first round of federal habeas corpus proceedings. Is there any state in your circuit in which a prisoner in that hypothetical situation would have no means of challenging his sentence—or execution, in capital cases.
>
> Answer: There is none. The only restriction would be on the further use of federal habeas corpus proceeding to make this hypothetical challenge. In the highly unlikely event that adequately counseled trial, direct appeal, U.S. Supreme Court certiorari review, state collateral proceedings appeal, U.S. District Court habeas corpus, U.S. Court of Appeals appeal, and a second Supreme Court certiorari review fail to develop the existence of such perjury, correction would still remain available but under the Powell Committee proposal it should, at that point, be left to procedures available in the state courts.
>
> In my forty-one years of experience as a lawyer who tried capital cases and as an appellate judge who has sat on as many such cases as any other judge in the federal court system, I have never encountered a single member of any state judicial system who would not correct such an error. The elaborate procedures provided by the Powell Committee proposal ought to ensure detection; if they don't, the state protection which remains available is more than sufficient. Federal courts have no monopoly on justice, judgment, or good judges. More justice is done for more people in the courts of the fifty states in a day than is done in all the federal courts in a month.

Finally, I would like to address the claim that 40-50 percent of habeas cases result in the reversal of sentence.

This is the most irrelevant and misleading of all the statistics that have been cited on this subject. It means nothing more than that 40 percent, or even more, of the criminal trials in this country are not 100-percent free from technical error and that American courts have been so concerned for the absolute fairness of our criminal procedures that we are willing to try the entire case over again—even though no question of innocence has usually been raised—rather than let a technical flaw go uncorrected.

The significant statistic, the one you won't hear the soft-on-crime forces cite, is the number of habeas petitions that have been granted because it was revealed that someone was innocent and had been unfairly convicted. How many cases of innocence are there? None so far as our hearings in the Judiciary Committee have beeen able to determine.

I specifically raised this issue with one of our most distinguished witnesses, who was invited to testify by the chairman. Justice Jimmy Robertson of the Mississippi Supreme Court told the Judiciary Committee about a number of regrettable miscarriages of justice which had been corrected by his court, a State court. But when I asked him if he knew of any case in his State—even one case—in which a prisoner had failed in all of his State appeals to establish his innocence and had somehow later been able to establish it through filing a Federal habeas corpus petition. His answer? None. There was not one case in Mississippi, or in any other State with which the witness was familiar, in which Justice Robertson knew of any innocent prisoner establishing his innocence through a retrial ordered by a Federal court.

The fact that so many habeas petitions do result in technical reversals in which prosecutors have to retry or resentence prisoners does not reflect any deficiency in our State criminal justice systems. It is, instead, the most eloquent indictment imaginable of the current system by which a number of Federal judges have attempted to impose their own theories of justice on the States. No better example of this can be found than in the dissents of Justices Brennan and Marshall. In every single death penalty case heard by the Supreme Court, and in every single petition for review, those two Justices have dissented, stating that they would vote to reverse a death penalty case in all instances—regardless of the points of error raised by the petitioner, regardless of the explanation by the State, and regardless of the precedents of the Supreme Court.

Unfortunately, there are a number of district and intermediate Federal court judges who view the law in exactly this manner. And why shouldn't they, when two of the Justices of the Supreme Court have established such a model of judicial behavior? Is it surprising then that a prisoner on death row, who can file an unlimited number of habeas petitions, in numerous different courts, can often succeed in finding a judge who, like Justice Marshall and retired Justice Brennan, will grant the petition regardless of its merits simply because the prisoner has been sentenced to death?

So do not be fooled by this 40-percent figure. The only relevant figure as to the success of habeas corpus petitions is zero. That is the apparent percentage, for all the records in the Judiciary Committee reveal, of habeas petitioners who have been able to establish that they were innocent and should not have been incarcerated.

Mr. THURMOND. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 8 minutes 3 seconds.

Mr. THURMOND. Eight minutes? Can this be carried over to tomorrow, or not?

The PRESIDING OFFICER. No. The time will expire upon recess this evening.

Mr. THURMOND. I yield the time back, then.

The PRESIDING OFFICER. The time remaining is yielded back. No time remains on either side.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF THE DEATH PENALTY PROVISIONS

Mr. KENNEDY. Mr. President, we have done much over the past 20 years to help law enforcement officers across the country do a more effective job of fighting crime in our society. These steps have made a difference. We have strengthened literally hundreds of criminal laws—some 232 new penalties in the past three years alone. We have reformed our sentencing statutes.

We have strengthened our narcotics laws. We have appropriated additional resources for law enforcement.

Since so much of the crime in most communities is drug-related, we have also put into place a number of reforms, ranging from law enforcement improvements to enhanced drug education and drug treatment programs to help the Nation win the war on drugs. But the tens of thousands of Americans who fall victim to crime each day know that more must be done.

The central focus of the Bush administration proposal is the death penalty.

In my view, that focus is a sham, designed to address the politics, not the substance, of the crime issue in communities across America. Clamoring loudly for the death penalty and doing so little else is unacceptable, when we ought to be helping local police and all other aspects of the law enforcement and criminal justice system obtain the resources and other support they needed.

The Bush alternative proposes little more than further enhancements of existing Federal penalties, many of which we have previously increased and which will have no effect on the vast majority of crime at the State and local level. Even the administration's proposal to expand the death penalty is largely toothless. Its principal impact will be largely confined to murders committed on Indian reservations.

Habeas corpus reforms in the Bush proposal may achieve the administration's goal of speeding executions, but make no mistake. The inevitable result will be to increase the numbers of individuals who are executed in violation of their constitutional rights.

Most of the victims of these misguided reforms will be citizens without sufficient means to obtain decent legal representation.

We are fighting a war on drugs in which one of the principal weapons is bankrupt policy for prevention, education, and treatment of drug abuse, and those priorities are unacceptable.

Getting tough on crime means more than increasing penalties three or four times in as many years. It means equipping our law enforcement system with enough police, prosecutors, and judges.

It means investing in programs that are proven capable of preventing crime. To build a new prison costs the Federal Government as much as $85,000 per inmate. A place in a Head Start facility costs only about 5 percent as much, and it cuts the teenage arrest rate by nearly half.

It is penny wise and dollar foolish for Congress and the administration to pay vast sums for new prison cells, yet refuse to allocate a fraction of that amount for new places in preschool classrooms.

It is time to get our priorities straight on crime, and this Senate legislation is the place to begin.

Excessive reliance on the criminal law to solve deeply rooted social problems is not only doomed to failure—it threatens to distort our criminal justice system. We are willing to spend vast resources to build prisons and warehouse drug offenders.

We are willing to ask clogged courts to administer assembly line justice to a mushrooming ragtag army of addicts. Yet we are unwilling to invest needed resources in the treatment and education programs that could stop these crimes from happening in the first place and reduce the overwhelming logjam in the courts.

I oppose the death penalty because it is wrong in principle and wrong in practice. Government should not have the awesome law enforcement power to put a human being to death. No matter how brutal the crime a person has committed, the infliction of death at the hands of Government brutalizes our society.

The death penalty is wrong as a matter of constitutional principle, because it violates the eighth amendment's prohibition against cruel and unusual punishment. It is true that the Supreme Court has not yet concluded that capital punishment is unconstitutional. But I am sure that someday the Court will recognize that the death penalty is cruel and unusual.

The death penalty is also wrong because of the likelihood that innocent people will be executed. No system of justice, however wise or resourceful its judges and juries may be, can eliminate this risk.

That is a risk we accept when the punishment is imprisonment, because a jailed defendant can always be set free when innocence is proved. But it is a burden we cannot tolerate when the punishment is death.

The risk of executing innocent persons is no theoretical, hypothetical, proposition. A study published in the Stanford Law Review lists 350 cases in which defendants convicted of capital or potential capital crimes in this century have later been found innocent—350 defendants.

I challenge any member of the Senate to examine that study and then tell us that if the Senate adopts this death penalty legislation, there is only a small chance that an innocent person will be put to death.

If we enact this death penalty bill, innocent men and women will be executed as a result of our actions.

That is not just a risk; it is a fact. All of the headlines—and all of the votes—that the President and Members of this body hope to gain as a result of their action on this bill are not worth that price. Is it really better that 10 or 100 or 1,000 murderers shall die, if the price is that even 1 innocent person will be put to death?

Perhaps our answer would be different if there was convincing evidence that the death penalty deters crime. True, some statistical studies purport to show some marginal deterrent effect from capital punishment. But for every scant study claiming deterrence, there are other, more convincing studies that the death penalty is no deterrent whatsoever.

Some of the most convincing evidence that the death penalty does not deter is found in the experience of other Western democracies. Not one of those countries has capital punishment for peacetime crimes, and yet every one of them has a murder rate less than half that of the United States.

The death penalty is also fundamentally flawed in practice. Our long experience with capital punishment demonstrates that it is applied in an arbitrary and discriminatory manner. The Constitution requires that courts and juries be given discretion, within limits, in deciding whether or not a death sentence is appropriate for a particular defendant. The inevitable result is that persons who commit similar crimes are treated differently. All too often, that discretion has been abused in a racially discriminatory fashion.

Racial discrimination in the application of capital punishment is intolerable in a country dedicated to equal justice under law. It is a blight on the good name of this great land, and it is a wrong that cries out to be remedied in Congress. The pervasive evidence of race discrimination should cause every Member of the Senate to oppose the death penalty.

Every Member of this body has taken a solemn oath to uphold the Constitution of the United States. And we should not sweep aside the obligations of that oath in this unseemly stampede to reassure our constituents that we are getting tough on crime.

In 1976, Justice Stewart reviewed the relevant literature and stated:

> Statistical attempts to evaluate the worth of the death penalty as a deterrent to crimes by potential offenders have occasioned a great deal of debate. The results simply have been inconclusive.

The situation has not changed in the years since Justice Stewart wrote those words. Indeed, one 1980 study of executions in New York State from 1907 through 1963 actually concluded that rather than having a deterrent effect on murders, executions actually increased the murder rate by an average of two additional homicides in the month after an execution is carried out. That suggests that capital punishment has a brutalizing effect on would-be murderers, conveying the message that killing is an appropriate way to exact vengeance.

While many death penalty statutes have been adopted in recent years, none of them has been able to eliminate the arbitrariness that is inherent whenever courts and juries have discretion to decide whether or not to impose capital punishment.

Congress should recognize this truth, reject the death penalty, and do what is fair and right to win the war on crime.

MORNING BUSINESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate proceed as in morning business for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

A. PHILIP RANDOLPH—THE 50TH ANNIVERSARY OF A HISTORIC STEP AGAINST DISCRIMINATION

Mr. KENNEDY. Mr. President, today we commemorate a landmark step in the ongoing struggle for equality in all phases of our society. Fifty years ago today, on June 25, 1941, as he was preparing our Nation to enter World War II, President Franklin Delano Roosevelt issued Executive Order 8802, which banned racial and other forms of discrimination by the Federal Government and the defense industry.

This was no small step. As America prepared for war, racism was an all too pervasive part of national life. Black workers were routinely turned away at the hiring hall and the plant gate.

A. Philip Randolph, the president of the Brotherhood of Sleeping Car Porters, was a visionary leader in the labor movement and the effort to secure equal rights for black Americans. He recognized that if America was to commit itself to a war to secure justice abroad, it must assure justice for all at home.

In 1941, Randolph's considerable skills were put to perhaps their greatest test. With other black leaders, Randolph enlisted Eleanor Roosevelt in their cause, and she was instrumental in arranging two meetings with the President to discuss discrimination.

When these meetings proved unproductive, Randolph conceived the idea of a protest march on Washington, a strategy that became the cornerstone of the modern civil rights movement in the 1960's. A March on Washington Committee was organized, with support from many areas of the country. But the march was canceled when President Roosevelt agreed to sign the Executive order, which "reaffirm[ed] the policy of the United States that there shall be no discrimination in the employment of workers in defense industries or Government because of race, creed, color, or national origin."

A. Philip Randolph was right on target when he said:

> Freedom is never granted; it is won. Freedom and justice must be struggled for by the oppressed of all races, and the struggle must be continuous.

Half a century later, we take great pride that this Nation's Armed Forces are now a leading example of what men and women of all races, religions, and ethnic backgrounds can accomplish by working together, free from the barriers of bigotry. As we work to eliminate prejudice and discrimination from all other aspects of national life, it is important to recognize the giants of the past who have brought us to the threshold of a better future. In honoring the leadership of A. Philip Randolph, we honor the best in our Nation and ourselves.

Mr. President, I ask unanimous consent that the text of President Roosevelt's Executive order and an article from the New York Times describing it may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE ORDER 8802

(Reaffirming Policy of Full Participation in the Defense Program by All Persons, Regardless of Race, Creed, Color, or National Origin, and Directing Certain Action in Furtherance of Said Policy)

Whereas it is the policy of the United States to encourage full participation in the national defense program by all citizens of the United States, regardless of race, creed, color, or national origin, in the firm belief that the democratic way of life within the Nation can be defended successfully only with the help and support of all groups within its borders; and

Whereas there is evidence that available and needed workers have been barred from employment in industries engaged in defense production solely because of considerations of race, creed, color, or national origin, to the detriment of workers' morale and of national unity:

Now, therefore, by virtue of the authority vested in me by the Constitution and the statutes, and as a prerequisite to the successful conduct of our national defense production effort, I do hereby reaffirm the policy of the United States that there shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin, and I do hereby declare that it is the duty of employers and of labor organizations, in furtherance of said policy and of this order, to provide for the full and equitable participation of all workers in defense industries, without discrimination because of race, creed, color, or national origin;

And it is hereby ordered as follows:

1. All departments and agencies of the Government of the United States concerned with vocational and training programs for defense production shall take special measures appropriate to assure that such programs are administered without discrimination because of race, creed, color, or national origin;

2. All contracting agencies of the Government of the United States shall include in all defense contracts hereafter negotiated by them a provision obligating the contrator not to discriminate against any worker because of race, creed, color, or national origin;

3. There is established in the Office of Production Management a Committee on Fair Employment Practice, which shall consist of a chairman and four other members to be appointed by the President. The Chairman and members of the Committee shall serve as such without compensation but shall be entitled to actual and necessary transportation, subsistence and other expenses incidental to performance of their duties. The Committee shall receive and investigate complaints of discrimination in violation of the provisions of this order and shall take appropriate steps to redress grievances which it finds to be valid. The Committee shall also recommend to the several departments and agencies of the Government of the United States and to the President all measures which may be deemed by it necessary or proper to effectuate the provision of this order.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 25, 1941.*

[From the New York Times, June 26, 1941]

PRESIDENT ORDERS AN EVEN BREAK FOR MINORITIES IN DEFENSE JOBS

WASHINGTON, June 25.—President Roosevelt took action today to prevent discrimination of defense jobs because of race, creed, color or national origin, asserting that "the democratic way of life within the nation can be defended successfully only with the help and support of all groups."

The President issued an executive order instructing official agencies to play their part in eliminating discrimination against Negroes and members of other minority groups and establishing a committee on fair employment practice in the Office of Production Management to deal with violations.

The Executive gave these instructions:

"All departments and agencies of the government of the United States concerned with vocational and training programs for defense production shall take special measures appropriate to assure that such programs are administered without discrimination.

"All contracting agencies of the Government of the United States shall include in all defense contracts hereafter negotiated by them a provision obligating the contractor not to discriminate against any worker.

"There is established in the Office of Production Management a committee on fair employment practice, which shall consist of a chairman and four other members to be appointed by the President."

The order was issued principally because the government's attention had been called to cases of discrimination against Negroes in some defense industries and labor unions.

"There is evidence available that needed workers have been barred from industries engaged in defense production solely because of considerations of race, creed, color or national origin, to the detriment of workers' morale and of national unity," the President revealed. "It is the duty of employers and of labor organizations to provide for the full and equitable participation of all workers in the defense industries without discrimination."

The new unit of the OPM created to deal with the situation was instructed "to receive and investigate complaints of discrimination in violation of the provisions of this order" and to take "appropriate steps to redress grievances which it finds to be valid."

"The committee shall also recommend to the several departments and agencies of the government and to the President all measures which may be deemed necessary or proper to effectuate the provisions of this order," the President said.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a nomination which was referred to the Committee on Labor and Human Resources.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON GOVERNMENT ACTIONS IN SUPPORT OF PEACEFUL RESTORATION OF DEMOCRACY IN THE BALTIC NATIONS—MESSAGE FROM THE PRESIDENT—PM 57

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with Public Law 101-309 (104 Stat. 265), I am submitting to you this report on U.S. Government actions in support of the peaceful restoration of independence for the Baltic States.

In 1940, the Soviet Union forcibly occupied the independent Baltic States of Estonia, Latvia, and Lithuania. Following sham elections, the three countries were incorporated into the U.S.S.R. The United States has never recognized the incorporation of the Baltic States into the U.S.S.R. The United States maintains diplomatic relations with representatives of their last free governments and is in close touch with the new democratically elected governments in each of the three Baltic States.

The United States has consistently stood with the majority of Baltic who never lost hope that they would one day regain their freedom. In the late 1980s, pro-democracy movements in the three Baltic States emerged and began to grow in strength. Among the most active were Sajudis in Lithuania, the Latvian Popular Front, and the Estonian Popular Front and Estonian Citizens' Committees. In largely free elections in early 1990, pro-democracy forces gained a majority in all three legislatures and formed pro-independence governments.

On March 11, 1990, the Lithuanian legislature proclaimed the full and immediate restoration of Lithuanian independence. Eight days later, on March 19, President Gorbachev declared the Lithuanian proclamation invalid and insisted that the Lithuanians restore the status quo that existed prior to March 11 and recognize the supremacy of Soviet law. The Soviet government followed up this decree with intimidating troop movements in Vilnius and later an economic embargo on the supply of key products, including oil and natural gas. Undeterred, Estonia and Latvia subsequently issued their own proclamations espousing restoration of independence as their goal following a transitional period.

In response to the Soviet embargo against Lithuania, I conveyed to President Gorbachev my deepest concern and regret over Soviet actions and urged him to begin a peaceful dialog with the Lithuanian government. Secretary Baker pressed the same points in exchanges with Foreign Minister Shevardnadze. Finally, in late June 1990, the Soviet government lifted its embargo when the Lithuanian Supreme Council agreed to a formula whereby the independence proclamation would be suspended during the course of negotiations with Moscow on Lithuania's future.

Thereafter, Moscow and the three Baltic States began to inch toward talks, but these broke off after only a few sessions with each side accusing the other of being unwilling to negotiate in good faith.

At the end of 1990, pro-Moscow forces in the three Baltic States stepped up their pressure on the popularly elected governments there. In January, pro-Moscow forces—including local Communist Party members, Black Beret special Interior ministry troops, and Soviet Army paratroops—attacked and occupied communications and other facilities in Vilnius, Riga, and other cities, leaving at least 21 dead.

In the wake of this Soviet pressure against the Baltic States, our Government has undertaken a vigorous diplomatic effort designed both to help avert future violent confrontations in the Baltic States and to enable the Baltic peoples to realize their legitimate but long-denied aspirations. We have held lengthy exchanges with our NATO Allies, neutral countries, and central European democracies on this issue. We have succeeded in forging a strong, common position among CSCE signatories rejecting violence and intimidation and calling for peaceful dialog among the parties. The United States currently supports giving the Baltic States observer status at CSCE meetings and will support full membership once these nations regain independent statehood.

Also this spring, the United States took a leading role in the U.N. Human Rights Commission's [UNHRC] discussion of the January violence in the Baltic States. The United States successfully worked for consensus on the UNHRC resolution calling on the Soviet Union to review the January events and provide a full report to the Commission.

In numerous contacts with Soviet President Gorbachev and other Soviet officials since mid-January, both Secretary Baker and I have repeatedly raised the matter of the Baltic States. There can be no doubt that the Soviet leadership understands this issue's importance to the United States and our unwavering support for the cause of Baltic freedom. We have underscored the unacceptability of the use of force and intimidation and the urgent need for dialog and negotiations with the freely elected representatives of the Baltic States, which will lead to an outcome that respects Baltic aspirations for self-determination. Each of the Baltic States began negotiations with the Soviet Union on a broad range of issues in April. We are following these talks closely and hope they will be conducted in good faith, free of threats and intimidation by all sides.

Secretary Baker and I have met with representatives of the Baltic States on numerous occasions. I met with Lithuanian President Landsbergis, Estonian Prime Minister Savisaar, and Latvian Prime Minister Godmanis in May; with Estonian President Ruutel in March; with President Landsbergis in December 1990; Prime Minister Savisaar in October 1990; Prime Minister Godmanis in July 1990; and then-Prime Minister Prunskiene in May 1990. Secretary Baker has met with the three Baltic permanent representatives in Moscow and with the foreign ministers of all three Baltic States in Washington, New York, and Paris. Our Consulate General in Leningrad also maintains a nearly continuous diplomatic presence in the Baltic States and is in close contact with the governments there. We have used these and other contacts with Baltic leaders to keep current on the state of affairs in the Baltic States and to convey U.S. support for legitimate aspirations of the Baltic peoples.

In addition, the Department of State maintains regular contact with the Chargés d'Affaires of the three Baltic diplomatic legations accredited to the United States. The radio services of Radio Free Europe and the Voice of America have also played an important role in conveying and explaining U.S. policy on the Baltic States.

The Administration has also attempted to express our support for the Baltic people in new ways. Working through Project Hope, we shipped medical aid directly to the Baltics on February 28 to meet basic medical needs. We are now following up with a second shipment of medical supplies this month. We provided U.S. technical help to Latvia after a chemical spill in the Daugava River in November 1990. The Department of Agriculture began a program to assist Lithuanian agriculture and support U.S. agriculture sales there by modernizing a feedgrain mill. Visits by a number of Members of Congress and Administration officials have also underscored the American people's support for the Baltic self-determination.

These extensive contacts reflect our recognition of the fact that these governments are democratically elected, represent the will of the Baltic peoples, and deserve our support.

The United States has stood and will continue to stand in solidarity with the Baltic peoples in their striving for freedom and self-determination. Our intensified diplomatic efforts over the past year have played a critical role in galvanizing global support for the cause of the Baltic peoples and for a peaceful, negotiated outcome that takes proper account of legitimate Baltic interests. We strongly encourage the Soviet government and the three Baltic governments to progress in talks begun in early April on the issues that divide them.

GEORGE BUSH.

THE WHITE HOUSE, *June 25, 1991.*

MESSAGES FROM THE HOUSE

At 2:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 470. An act to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, IN;

H.R. 848. Little Bighorn Battlefield National Monument;

H.R. 2132. An act to authorize the Fort Smith Airport Commission to transfer to the city of Fort Smith, AR, title to certain lands at the Fort Smith Municipal Airport for construction of a road; and

H.R. 2194. An act to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.

At 8:09 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House had passed the bill (S. 674) to designate the U.S. Post Office located at 304 West Commercial Avenue in Monterey, TN, as the "J.E. 'Eddie' Russell Post Office"; with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 429. An act to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes;

H.R. 1006. An act to authorize appropriations for fiscal year 1992 for the Federal Maritime Commission, and for other purposes; and

H.R. 1448. An act to amend the Act of May 12, 1920 (41 Stat. 596), to allow the City of Pocatello, ID, to use certain lands for a correctional facility for women, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 429. An act to amend certain Federal Reclamation laws to improve enforcement of acreage limitations, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 470. An act to authorize the Secretary of Transportation to release the restrictions, requirements, and conditions imposed in connection with the conveyance of certain lands to the city of Gary, IN; to the Committee on Commerce, Science, and Transportation.

H.R. 848. Little Bighorn Battlefield National Monument; to the Committee on Energy and Natural Resources.

H.R. 1006. An act to authorize appropriations for fiscal year 1992 for the Federal Maritime Commission, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 1448. An act to amend the act of May 12, 1920 (41 Stat. 596), to allow the city of Pocatello, ID, to use certain lands for a correctional facility for women, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2132. An act to authorize the Fort Smith Airport Commission to transfer to the city of Fort Smith, AR, title to certain lands at the Fort Smith Municipal Airport for construction of a road; to the Committee on Commerce, Science, and Transportation.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2194. An act to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1504. A communication from the President of the United States, transmitting, pursuant to law, a copy of a proclamation that extends nondiscriminatory treatment to the products of the Republic of Bulgaria; to the Committee on Finance.

EC-1505. A communication from the President of the United States, transmitting, pursuant to law, a copy of a proclamation that extends nondiscriminatory treatment to the Mongolian People's Republic; to the Committee on Finance.

EC-1506. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on Cambodia's Humanitarian and Development Assistance Priorities; to the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-148. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Energy and Natural Resources.

SENATE JOINT RESOLUTION NO. 17

"Whereas the Public Rangeland Improvement Act of 1978 established a formula for determining grazing fees on public lands; and

"Whereas this formula has proven to be equitable and fair to permittees who use the public land for grazing their livestock and the Federal Government because it is based upon the economics of the livestock industry and the changing conditions of the public rangeland; and

"Whereas the livestock industry suffers at times from economic recession and the opportunity to allow its livestock to graze on public lands is critical to the continued success of most livestock operations in the West; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of Nevada, jointly,* That the members of the Nevada Legislature support the imposition of a grazing fee on public lands based upon the formula proposed in the Public Rangeland Improvement Act of 1978 because it is fair and equitable to both the permittees using the public land and the Federal Government; and be it further

"*Resolved,* That the Nevada Legislature urges the members of Congress to adopt H.R. 1292 which would make permanent the Public Rangeland Improvement Act of 1978 that requires the use of a formula to set schedules for grazing fees that are equitable, prevent economic disruption and harm to the livestock industry and reflect annual changes in the costs of production; and be it further

"*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Vice President of the United States as President of the Senate, the Speaker of the House of Representatives, each member of the Nevada Congressional Delegation, the Department of the Interior and the Secretary of the Department of Agriculture; and be it further

"*Resolved,* That this resolution becomes effective upon passage and approval."

POM-149. A joint resolution adopted by the Legislature of the State of Nevada; to the Committee on Environment and Public Works.

SENATE JOINT RESOLUTION NO. 22

"Whereas, the Mine Waste Task Force of the Western Governors' Association has, in cooperation with the Environmental Protection Agency, sought to establish a policy for the regulation of waste from mines that would protect public health and the environment through continued emphasis on state programs for the regulation of such waste; and

"Whereas, the Environmental Protection Agency is in the process of studying and developing regulations governing waste from mines pursuant to a congressional reauthorization plan carried out pursuant to the Resource Conservation and Recovery Act (42 U.S.C. §§6901 et seq.); and

"Whereas, proposed standards for the regulation of waste from mines fail to incorporate recommendations made by the Western Governors' Association in Resolution 88-004, adopted by the Association in 1988; and

"Whereas, any standards adopted by the Federal Government relating to waste from mines shouild take into account the unique geographic and demographic conditions existing in the West; and

"Whereas, regulations of waste from mines is a matter best addressed at the state level; and

"Whereas, any federal regulation of waste from mines should preserve the primacy of the states in this area instead of supplanting state-based programs; now, therefore, be it

"*Resolved by the Senate and Assembly of the State of Nevada, Jointly.*—That the Legislature of the State of Nevada hereby urges the Environmental Protection Agency to undertake a complete review of its proposed standards for the regulation of waste from mines; and be it further

"*Resolved,* That the Environmental Protection Agency is urged to renew its cooperative effort with the Western Governors' Association to develop a scheme of regulation that recognizes and incorporates the goals of Resolution 88-004; and be it further

"*Resolved*, That copies of this resolution be transmitted by the Secretary of the Senate to the Administrator of the Environmental Protection Agency and to each member of the Nevada Congressional Delegation; and be it further

"*Resolved*, That this resolution becomes effective upon passage and approval."

POM-150. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Environment and Public Works:

"HOUSE RESOLUTION 351

"Whereas in recent years, the number of federal "riders" or conditions attached to federal funds earmarked for the states has increased dramatically; and

"Whereas these riders threaten the states with subsequent loss of the federal funds if they do not adopt certain policies or laws; and

"Whereas although the number of riders has increased, the amount of federal funds has decreased proportionately; and

"Whereas the use of conditional funding greatly diminishes the states' ability to manage their own affairs; and

"Whereas according to the National Governors Association, states currently face 13 different financial penalties under which they can lose from five to 100 per cent of their highway funds for failure to comply with federal requirements; and

"Whereas the latest federal mandate requires states to suspend the driver's license of all convicted drug offenders or risk losing part of their federal highway funds; and

"Whereas the mandate contains a nullification clause that provides that federal funds would not be withheld if both the Governor and the State Legislature provide written certification that they are opposed to the enactment of a mandatory driver's license revocation law; now, therefore,

"*Be it Resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991*, That the federal mandate requiring states to revoke the driver's license of drug offenders or suffer the loss of part of their federal funds is specifically rejected as an unwelcome and offensive intrusion of the rights of the states to manage their own affairs; and

"*Be it further resolved*, That the adoption of this Resolution serve as written certification that the Legislature is opposed to the federal mandate; and

"*Be it further resolved*, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of Hawaii's Congressional delegation."

POM-151. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Finance:

"ASSEMBLY RESOLUTION 259

"Whereas the unemployment insurance system was established during the 1930's to set aside funds accumulated during periods of low unemployment for distribution to laid-off workers during recessionary periods of high unemployment, thus helping to counteract a recession's downward cycle in which the reduced purchasing power of laid off workers leads to reduced demand, further layoffs, further reductions in demand and so forth; and

"Whereas unemployment insurance benefits further serve a countercyclical function by also indirectly helping to stabilize the incomes of employed workers during recessions and thus the economy as a whole by curbing the tendency for jobless workers without incomes to exert downward pressure on the wages of employed workers; and

"Whereas at present, only one third of all unemployed American workers receive unemployment insurance benefits; and

"Whereas this represents a dramatic reduction in the proportion of unemployed workers receiving unemployment benefits, which exceeded 75% as recently as 1975; and

"Whereas this reduction has not only caused great personal hardship for millions of American workers and their families but has severely undermined the countercyclical function of the unemployment insurance system and therefore puts the nation's economy at risk in a period of economic slowdown like the present recession; and

"Whereas a major reason for the declining portion of laid off workers receiving unemployment benefits is the reduced availability of extended unemployment benefits for workers suffering from long-term joblessness; and

"Whereas the 1982 changes in the Federal Unemployment Tax Act (26 U.S.C. §3301 et seq.) contributed to that reduced availability by raising the "trigger" for any State to receive federally-supported extended benefits to an insured unemployment rate of at least 5%; and

"Whereas to attain the required 5% insured unemployment rate, a state which, like the nation as a whole has only one third of its unemployed workers receiving unemployment benefits would need a total unemployment rate of 15% to be eligible for federally supported extended unemployment benefits; and

"Whereas very few states have had total unemployment rates exceeding 15% even during the worst recessions of recent decades; and

"Whereas with the increasing number of long-term layoffs during the present recession, a growing number of long-term unemployment workers, usually unable to get extended benefits, will increase the proportion of unemployed workers not receiving benefits, thus making it even more difficult to attain the present "trigger" level based on the insured unemployment rate; and

"Whereas it is a valid public purpose to strengthen the unemployment insurance system's capacity to ameliorate the economic, social and human impact of a recession by setting a more realistic "trigger" for the availability of federally supported extended benefits; now, therefore,

"*Be it resolved by the General Assembly of the State of New Jersey:*

"1. The Congress and President of the United States are respectfully memorialized to enact legislation amending the Federal Unemployment Tax Act (26 U.S.C. §3301 et seq.) to modify the existing federal "trigger" which requires a state to have an insured unemployment rate of at least 5% for the state to receive federal support for extended unemployment benefits by basing that "trigger" on the total unemployment rate, instead of on the insured unemployment rate.

"2. Duly authenticated copies of this resolution, signed by the Speaker of the General Assembly and attested by the Clerk, shall be transmitted to the President of the United States, the presiding officers of the United States Senate and House of Representatives and to every member of Congress elected from the State of New Jersey."

POM-152. A concurrent resolution adopted by the legislature of the State of Hawaii; to the Committee on Governmental Affairs:

"HOUSE CONCURRENT RESOLUTION NO. 343

"Whereas the federal government has the power to eminent domain to take private property for public use; and

"Whereas that power to deprive an individual of ownership of private property has been described as a power that can be used to terrorize and oppress the owner of property unless that power is kept in check by clear and specific limitations which are designed to protect the property rights of the individual; and

"Whereas inherent in the reason for the power of eminent domain is the dedication of the property to the public use for which the property is condemned; and

"Whereas if the property so condemned is no longer utilized or required for the public use initially intended under the condemnation, the reason for the condemnation no longer obtains; and

"Whereas the original private landowners of such condemned properties should have a right to regain ownership of their properties which are no longer being used for the particular public use for which it was originally condemned under the federal government's eminent domain powers; now, therefore,

"*Be it resolved* by the House of Representatives of Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the Senate concurring, that it is the sense of this body that all lands originally condemned by the federal government for particular public uses and which are no longer used for such particular public uses should be returned to the original landowners on mutually acceptable terms and conditions with the federal government; and

"*Be it further resolved*, That the Congress of the United States be and is hereby requested to fashion, consider, and ennact appropriate legislation to provide for the return of lands originally condemned by the federal government for public uses and which are no longer used for such public uses to the original landowners on equitable terms, and compensation; and

"*Be it further resolved*, That certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House and Representatives, and Hawaii's congressional delegation."

POM-153. A concurrent resolution adopted by the legislature of the State of Hawaii; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION NO. 317

"Whereas the people of the State of Hawaii come from diverse ethnic and national backgrounds and live in harmony because of mutual respect and the Aloha spirit; and

"Whereas the history of our State shows that the road to harmony requires elimination of practices which foster discrimination in all areas of life; and

"Whereas the 1988 Legislature, in creating the Hawaii Civil Rights Commission, declared that "the practice of discrimination because of race, color, religion, age, sex, marital status, national origin, ancestry, or handicapped status in employment, housing, or public accommodations is against public policy"; and

"Whereas Congress is presently considering H.R. 1, the Civil Rights Act of 1991, which is intended to restore civil rights protections which were dramatically limited by recent

Supreme Court decisions and to strengthen existing protections and remedies available under federal civil rights laws in order to provide more effective deterrence and adequate compensation for victims of discrimination; and

"Whereas persons suffering from employment discrimination need the protection of strong laws at both the state and federal levels in order to ensure that factors unrelated to job performance are not considered in employment decisions; and

"Whereas enforcement of strong state laws against discrimination may be impeded by federal cases which changed the burden of proof from that established in earlier precedents and created procedural roadblocks which may allow discriminatory practices to continue; and

"Whereas the promise of equality embodied in our Constitution and the Declaration of Independence needs to be clearly stated in our laws guaranteeing civil rights protection to all persons; now, therefore,

"*Be it resolved* by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, the Senate concurring, that the Legislature expresses its strongest support for the passage of the Civil Rights Act of 1991; and

"*Be it further resolved,* That certified copies of this Concurrent Resolution be transmitted to the President of the United States; the President of the United States Senate; the Speaker of the United States House of Representatives; the Chairs of the Senate Committees on Judiciary, and Labor and Human Resources; the Chairs of the House Committees on Judiciary, Education, and Labor; the Chair of the Congressional Black Caucus; the Chair of the Congressional Hispanic Caucus; United States Senator Daniel K. Inouye, United States Senator Daniel K. Akaka, United States Representativae Patsy T. Mink, and United States Representative Neil Abercrombie."

POM-154. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Labor and Human Resources:

"HOUSE RESOLUTION NO. 340

"Whereas major concerns for every individual are the individual's health and the availability and affordability of proper health care; and

"Whereas the high cost of health care, escalating insurance rates, and discriminatory factors used by insurance companies to deem an insured a "high risk" make it increasingly difficult to afford proper health care; and

"Whereas many uninsured individuals fail to prevent catastrophic illness by taking measures such as regular check-ups; and

"Whereas catastrophic illness can bring financial ruin to those who are not insured; and

"Whereas after a nine-month study on catastrophic illness expenses, the United States Secretary of Health and Human Services recently reported that there are about thirty million Americans who lack health insurance and another ten million who have insurance coverage that is inadequate to protect against the costs of catastrophic illness; and

"Whereas in contrast to Europe, the Orient, the U.S.S.R., and the Commonwealth nations, the United States does not have some form of national health care insurance; and

"Whereas through the State Prepaid Health Care Act, Medicaid programs, and the State Health Insurance Program (SHIP), the State of Hawaii has taken a leadership role in assuring health insurance coverage to its residents; and

"Whereas for more than fifty years, Congress has been considering legislation that would address the issue of nationalized health care; now, therefore,

"*Be it resolved* by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that the United States Congress is urged to resolve the issue of escalating health care costs by establishing a comprehensive national health insurance program which would make proper health care available to and affordable for all American citizens; and

"*Be it further resolved,* That the United States Congress is urged to recognize the role of individual states in solving the health insurance problem and that a national health policy should provide flexible implementation authority giving the option for states to offer coverage above national standards.

"*Be it further resolved,* That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Health and Human Services, and the members of Hawaii's congressional delegation."

POM-155. A resolution adopted by the city council of Boston, MA; to the Committee on Labor and Human Resources.

POM-156. A resolution adopted by the House of Representatives of the State of Hawaii to the Committee on Labor and Human Resources.

"HOUSE RESOLUTION NO. 285

"Whereas the Department of Education, for a long time has employed persons in temporary positions and incumbents in those positions are not eligible for tenure;

"Whereas as a result of this practice, educational programs suffer repeated loss of experienced staff and disruptions in services as vacancies occur, there is constant need to recruit and train new staff, and the quality of services to students is negatively impacted; and

"Whereas these temporary positions which provide services of a permanent nature, are all funded through state general funds, consequently, it will not cost any more to convert temporary positions to permanent status since the salaries and most of the fringe benefits will remain the same; and

"Whereas there is, at present, a serious labor shortage that makes it most difficult for the schools and libraries to recruit and retain qualified staff and the temporary nature of the positions adds to the problem; and

"Whereas most of the temporary positions have been temporary for over five years and a Legislative Reference Bureau report published in 1986 underscored the problems caused by temporary positions and the need to resolve these problems; and

"Whereas incumbents in temporary positions are treated unfairly when, although they have the same responsibilities and duties as those in permanent positions and have served in the same position for many years, they cannot obtain tenure; now, therefore,

"Be it resolved by the House of Representatives of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1991, that the Department of Education is requested to initiate the process to convert all general-fund temporary positions to permanent status; and

"Be it further resolved, That the Department of Education is requested to submit a listing of positions to be converted by position number, position title, and program area to the Legislature no later than twenty days prior to the convening of the Regular Session of 1992; and

"Be it further resolved, That the Department of Education, in conjunction with the Hawaii State Teachers Association, the Hawaii Government Employees Association, the United Public Workers, the Governor, the Legislature, the Department of Budget and Finance, and the Department of Personnel Services, develop a mechanism to convert temporary positions to permanent positions; and

"Be it further resolved, That certified copies of this Resolution be transmitted to the Chairperson of the Board of Education, the Superintendent of Education, the Executive Director of the Hawaii State Teachers Association, the Executive Director of the Hawaii Government Employees Association, the State Director of the United Public Workers, the Governor, the Senate President, the Speaker of the House of Representatives, the Director of Finance, and the Director of Personnel Services."

POM-157. A joint resolution adopted by the legislature of the State of Colorado; to the Committee on Rules and Administration:

HOUSE JOINT RESOLUTION 91-1045.

"Whereas The Smithsonian Institution's National Air and Space Museum, which houses treasures of national significance, requires additional facilities for its collection; and

"Whereas The citizens of the western United States comprise twenty-two percent of the nation's population and pay their proportionate share of the taxes used to maintain the Smithsonian's facilities in Washington, D.C.; and

"Whereas The citizens of the western United States comprise ony two percent of the visitors to the Washington, D.C., area, deserve the opportunity to share more equally in the enjoyment of our national treasures by making such treasures more accessible to them; and

"Whereas Stapleton International Airport, located within the City and County of Denver, Colorado, is scheduled to close upon the completion of a new airport for the Denver area in late 1993; and

"Whereas The projected costs of constructing the total facilities necessary to accommodate the extension of the museum at Stapleton International Airport are substantially less than the projected costs of constructing such facilities at Dulles International Airport; and

"Whereas The City and County of Denver is committed to completing phase I of the extension of the Smithsonian Air and Space Museum at no cost to the federal government or the Smithsonian Institution; and

"Whereas After the closing of Stapleton International Airport, the City and County of Denver is willing to donate or lease, to the federal government, land, terminal buildings, a parking garage, hangars, and other facilities of the airport as well as defray construction costs of such facilities to accommodate the extension of the National Air and Space Museum; and

"Whereas Several major Colorado foundations, including the Coors Foundation, Gates Foundation, Boettcher Foundation, and El Pomar Foundation, have agreed to establish, on very short notice, an endowment in the minimum amount of 8 million dollars to help defray the operating costs of such facilities and have indicated that additional moneys can be raised for such purpose if such facilities are located at Stapleton International Airport; and

"Whereas The Park Hill community, which is located adjacent to Stapleton International Airport, fully supports locating such facilities at the airport site; and

"Whereas If such facilities are located at Stapleton International Airport, 1 million of the 2.3 million projected visitors to the facilities are expected to be visitors who would not travel to Colorado if such facilities are located elsewhere; and

"Whereas The location and operation of such facilities at Stapleton International Airport would provide the citizens of the City and County of Denver, the surrounding communities, the state of Colorado and other western states with substantial economic, educational, and cultural benefits; now, therefore,

"*Be It resolved by the House of Representatives of the fifty-eighth General Assembly of the State of Colorado, the Senate concurring herein:*

"That the general assembly of the state of Colorado urges Congress to select the lands and facilities of Stapleton International Airport in the City and County of Denver, Colorado, as the site for the extension of the National Air and Space Museum.

"*Be it further resolved*, That the general assembly fully supports, praises, and encourages the efforts of public officials, private citizens, and various organizations to bring the extension of the National Air and Space Museum to Stapleton International Airport.

"*Be it further resolved*, That copies of this Resolution be sent to the President of the United States, the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States, the secretary of the Smithsonian Institution, and each member of Congress from the state of Colorado."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Ann M. Veneman, of California, to be Deputy Secretary of Agriculture; and

Ann M. Veneman, of California, to be a Member of the Board of Directors of the Commodity Credit Corporation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. MIKULSKI (for herself, Mr. Lott, Mr. Johnston, Mr. Seymour, Mr. Rockefeller, Mr. Cochran, Mr. Breaux, Mr. Warner, Mr. Shelby, Mr. Specter, Mr. Hollings, Mr. Cohen, Mr. Graham, Mr. Thurmond, Mr. Simon, Mr. Brown, Mr. Kasten, Mr. Sarbanes, and Mr. Riegle):

S. 1361. A bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships; to the Committee on Finance.

By Mr. KERRY:

S. 1362. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for fees for sewer and water services to the extent such fees exceed 1 percent of adjusted gross income, and for other purposes; to the Committee on Finance.

By Mr. PACKWOOD:

S. 1363. A bill to ensure the stability of communities dependent on outputs of timber and other resources from national forests and public lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN (for Mr. Pryor (for himself, Mr. Bentsen, Mr. Packwood, Mr. Baucus, Mr. Danforth, Mr. Boren, Mr. Durenberger, Mr. Riegle, Mr. Grassley, Mr. Rockefeller, Mr. Daschle, Mr. Breaux, Mr. Akaka, Mr. Bryan, Mr. Bumpers, Mr. Burdick, Mr. Cochran, Mr. DeConcini, Mr. Dixon, Mr. Ford, Mr. Gorton, Mr. Harkin, Mr. Hatch, Mr. Hollings, Mr. Jeffords, Mr. Johnston, Mr. Kerry, Mr. Levin, Ms. Mikulski, Mr. Sarbanes, Mr. Sasser, Mr. Shelby, Mr. Stevens, and Mr. Roth)):

S. 1364. A bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. Biden, Mr. D'Amato, Mr. Hollings, Mr. Coats, Mr. Brown, Mr. Smith, Mr. Pressler, Mr. Shelby, and Mr. Grassley):

S. 1365. A bill to amend the Tariff Act of 1930 to require the Secretary of the Treasury to impose civil penalties for the importation or transportation of goods made in a foreign country with the use of forced labor, and for other purposes; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. D'Amato, Mr. Hollings, Mr. Brown, Mr. Smith, Mr. Coats, Mr. Pressler, Mr. Shelby, and Mr. Grassley):

S. 1366. A bill to prohibit the entry into the United States of items produced, grown, or manufactured in the People's Republic of China with the use of forced labor; to the Committee on Finance.

By Mr. MITCHELL (for himself, Mr. Bentsen, Mr. Pell, Mr. Cranston, Mr. Biden, Mr. Moynihan, Mr. Kennedy, Mr. Wallop, Mr. Inouye, Mr. Sarbanes, Mr. DeConcini, Mr. Glenn, Mr. Leahy, Mr. Dixon, Mr. Sasser, Mr. Dodd, Mr. Kerry, Mr. Wirth, Mr. Akaka, and Mr. Metzenbaum):

S. 1367. A bill to extend to the People's Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met; to the Committee on Finance.

By Mr. HATFIELD:

S. 1368. A bill to amend the Rehabilitation Act of 1973 to establish a hearing impairment research grant, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KERRY:

S. 1369. A bill to establish a foundation to conduct activities which are complementary to and are for the benefit of the programs and activities of the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

By Mr. BURNS (for himself and Mr. Baucus):

S. 1370. A bill to authorize the Secretary of the Interior in cooperation with the Secretary of Energy to make available Pick-Sloan Missouri River Basin Program project pumping power to non-Federal irrigation projects in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON:

S. 1371. A bill to enhance the national effort to improve the education of elementary and secondary school students by establishing an institute to promote urban education restructuring, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GORE (for himself, Mr. Levin, and Mr. Lieberman):

S. 1372. A bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service; to the Committee on Commerce, Science, and Transportation.

By Mr. BREAUX (for himself and Mr. Johnston):

S. 1373. A bill to redesignate the Vacherie Post Office located at 2747 Highway 20 in Vacherie, Louisiana, as the "John Richard Haydel Post Office"; to the Committee on Governmental affairs.

By Mr. JOHNSTON (for himself and Mr. Wallop) (by request):

S. 1374. A bill to provide for increases in authorization ceilings for land acquisition and development in certain units of the National Park System and for operation of the Volunteers in Parks Program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 1375. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges in Pennsylvania; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. Lieberman):

S. 1376. A bill to amend the Federal Employees Pay Comparability Act of 1990 to make certain areas eligible for interim geographic adjustments and to make law enforcement officers in certain areas eligible for special pay adjustments; to the Committee on Governmental Affairs.

By Mr. GORE:

S.J. Res. 167. A joint resolution to establish an independent Select Commission to investigate whether contacts by United States citizens during the 1980 presidential election campaign interfered with or affected in any way the release of the United States hostages held by Iran as well as subsequent relations with Iran; to the Committee on Foreign Relations.

By Mr. MITCHELL (for himself and Mr. Dole) (by request):

S.J. Res. 168. A joint resolution approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of the Mongolian People's Republic; to the Committee on Finance.

S.J. Res. 169. A joint resolution approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of the Republic of Bulgaria; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 143. Resolution reconstituting and reauthorizing the Senate World Climate Convention Observer Group; considered and agreed to.

By Mr. KERRY (for himself, Mr. PACKWOOD, Mr. HOLLINGS, Mr. STEVENS, Mr. ADAMS, Mr. GORTON, Mr. GORE, and Mr. MURKOWSKI):

S. Res. 144. Resolution to encourage the European Commission to vote to ban driftnets for all European Community fishing fleets on July 8, and for other purposes; to the Committee on Foreign Relations.

By Mr. GORTON (for Mr. DOLE):

S. Res. 145. Resolution to make a minority party change in committees; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself, Mr. LOTT, Mr. JOHNSTON, Mr. SEYMOUR, Mr. ROCKEFELLER, Mr. COCHRAN, Mr. BREAUX, Mr. WARNER, Mr. SHELBY, Mr. SPECTER, Mr. HOLLINGS, Mr. COHEN, Mr. GRAHAM, Mr. THURMOND, Mr. SIMON, Mr. BROWN, Mr. KASTEN, Mr. SARBANES, and Mr. RIEGLE):

S. 1361. A bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships; to the Committee on Finance.

SHIPBUILDING AND REPAIR INDUSTRY FREE TRADE ACT

Ms. MIKULSKI. Mr. President, this morning I rise to indroduce legislation to really generate more jobs in the American private sector, to protect the United States of America from unfair competition in the global market, and to focus on the shipbuilding industry.

Mr. President, today the state of our shipbuilding industry is quite grim. Day by day, we are watching a once proud and still vital industry die a slow death. We must, as Members of the U.S. Congress, reverse that decline. We must give our shipyards the chance to compete in the international market.

Today, Senator LOTT and I are introducing legislation to counter the massive subsidies that foreign governments give to their shipyards, subsidies that have made U.S. shipyards virtually noncompetitive. There are 11 other Senators who feel the same way and are cosponsoring this bill.

My legislation is about fair trade in jobs. It requires a foreign shipyard to pay back any Government subsidy that he gets from its Government before it is allowed to either set sail for a U.S. port or dock in a U.S. port. If a shipyard fails to repay that subsidy, it would not be allowed to enter into our port unless they pay their subsidy to the U.S. Coast Guard.

This bill sends a strong message to countries that are propping up their shipbuilding and stealing American jobs. Right now in countries like Japan, Korea, Taiwan, Brazil, and even allies like Germany, France, and countries like Norway subsidize their shipbuilding industry, so that when our own shipbuilding industry in Baltimore goes out to bid for contracts it is not competing against another company, it is competing against another country. No matter how good Bethlehem Steel is, no matter how reliable the workers, no matter how accurate the bid, no matter how fine the quality, you cannot, if you are a company, compete against another country.

The facts speak for themselves. Mr. President, since 1978, 55 of our shipyards have closed; 60,000 workers have lost their jobs; 10,000 of them are in Baltimore alone. Last week, I was down at the Baltimore shipyard at Bethlehem Steel. I saw men and women who worked in the yard ready to build a fine product, now unable to build either new ships and even having a tougher time getting repair work.

When we talk about the 10,000 people in Baltimore, these are not numbers; these are not statistics; these are American families. These are men and women who get up every day, put on their socks, put on their hard hats and ready to go to work.

I want to make sure that they keep on doing their work. I do not want to see a world where foreign built ships are the only ones in our ports. What are we going to do in the event the President responds to another 911 around the world? Rent from these countries? General Schwarzkopf himself said that one of the most fragile aspects of our Desert Storm operation was our skimpy military sealift capacity. We did not have enough ships and then we had to go out and rent them. Now that we want to buy more roll-ons, roll-offs, we even have the U.S. military that wants to buy 40 of them from foreign governments. Hey, I think that is not fair.

So I am advocating this legislation because I do think it is important to generate jobs in this country. I think it is important for national security reasons, as well as for economic competition. We won the battle in the desert, but we have to win the war for America's future. We have to make products in this country. We cannot be a society that only produces transactions. We cannot be a society where the only thing we make are memos. We have to have real jobs that real ordinary people can have and raise their families.

This legislation, the Mikulski-Lott legislation—because it is on a bipartisan basis—is the best chance we have to keep our remaining shipyards open. It might be the last chance we have.

Mr. President, I want to make sure that we have done our part. The shipbuilding industry is a source of strength to a nation. It means jobs, it means trade, it means combat readiness. Let us save our shipbuilding industry and our repair industry. We cannot afford not to do otherwise.

By Mr. KERRY:

S. 1362. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for fees for sewer and water services to the extent such fees exceed 1 percent of adjusted gross income, and for other purposes; to the Committee on Finance.

SEWER AND WATER FEE DEDUCTIBILITY ACT

Mr. KERRY. Mr. President, today I am reintroducing legislation to ease the tax burden of middle-class homeowners throughout the Nation by providing an income tax deduction for water and sewer service user fees. Last year I, along with Congressman DONNELLY in the House, introduced legislation very similar to this bill.

The bill I introduce today provides relief to middle-income families. It also is revenue neutral. It pays for itself by closing a loophole in the present income tax code.

Across the Nation, the cost of cleaning up polluted bodies of water and providing clean drinking water and environmentally efficient sewer has dramatically increased, challenging local governments with harsh financial burdens.

Many State and local governments are faced with massive cleanup efforts like the one now facing my home State of Massachusetts. Under a Federal court mandate, Massachusetts has begun the task of cleaning up Boston Harbor. Revenue raised through the traditional means of local property taxes has been insufficient to fund the immense job of cleanup, and despite its rhetoric during the campaign of 1988, the Bush administration has failed to demonstrate any commitment to the cleanup of Boston Harbor.

Traditionally, the funds raised for such cleanup efforts have come from local real property taxes, which are Federal income tax deductible. However, many local and State governments including those in Massachusetts have exhausted their ability to increase property taxes. Consequently, to respond to the demands of cleaning up polluted water while continuing to provide residents with efficient and high-quality water and sewer services, many local governments or agencies have instituted user fees. These user fees have increased dramatically over the past few years and have hit middle-class homeowners particularly hard. In Massachusetts, the costs of water and sewer services have increased by 70 percent over the past 3 years. In the city of Boston, for example, a household of 4 now pays over $600 a year in water and sewer user fees, and the rates are expected to reach well over $1,000 within 5 years.

I believe the Tax Code should reflect this metamorphosis, and permit deduction of local water and sewer fees in the same manner as local real property taxes.

Massachusetts is not the only State facing the financial problems of complying with Federal water standards. Sioux Falls, SD, and parts of New York State face similar problems. As America faces the challenge of cleaning up polluted rivers and contaminated water supplies, user fees on water and sewer services appear virtually certain to increase throughout the Nation. Therefore, I believe this legislation is critically important if we are to meet the challenges of environmental cleanup while easing the tremendous burden it places on middle-class homeowners.

Because this legislation has been estimated to result in a loss to the Treasury totaling $100 million per year, the proposed legislation includes a section obtaining offsetting revenue by subjecting total itemized deductions by persons with adjusted gross income in excess of $100,000—$50,000 in the case of married couples filing separate returns—to a tax-exempt interest proportionate disallowance rule. A similar pro rata disallowance will also apply to all corporations, financial and non-financial. The rule will effectively require a disallowance on a percentage of tax deductions attributable to tax-exempt interest.

This bill has been introduced in the House by Congressman DONNELLY. I urge my colleagues to support this legislation. It will promote consistency and fairness in the Tax Code for all Americans, regardless of differing methods of taxation in different geographic locations, while simultaneously providing significant tax relief for middle-class homeowners in many areas of the Nation, and maintaining our commitment to cleaning our environment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1362

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sewer and Water Fee Deductibility Act of 1991".

SEC. 2. DEDUCTION FOR LOCAL SEWER AND WATER FEES.

(a) IN GENERAL.—Subsection (b) of section 164 of the Internal Revenue Code of 1986 is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) DEDUCTION ALLOWED FOR LOCAL SEWER AND WATER FEES.—

"(A) IN GENERAL.—To the extent that the amount of local sewer and water fees paid or accrued during any taxable year exceeds 1 percent of adjusted gross income, such fees shall be allowed as a deduction under subsection (a) in the same manner as local real property taxes.

"(B) DEFINITION.—The term 'local sewer and water fees' means any amount imposed by a local government, State government (or any agency or instrumentality thereof), or by the District of Columbia as a charge for sewer or water service. Such term shall not include any amount allowable as a deduction without regard to this paragraph."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 3. PRO RATA ALLOCATION OF CORPORATE INTEREST EXPENSE.

(a) GENERAL RULE.—So much of subsection (b) of section 265 of the Internal Revenue Code of 1986 (relating to pro rata allocation of interest expense of financial institutions to tax-exempt interest) as precedes paragraph (3)(B) is amended to read as follows:

"(b) PRO RATA ALLOCATION OF CORPORATE INTEREST EXPENSE TO TAX-EXEMPT INTEREST.—

"(1) IN GENERAL.—In the case of a corporation, no deduction shall be allowed for that portion of the taxpayer's interest expense which is allocable to tax-exempt interest.

"(2) ALLOCATION.—For purposes of paragraph (1), the portion of the taxpayer's interest expense which is allocable to tax-exempt interest is an amount which bears the same ratio to such interest expense as—

"(A) the taxpayer's average adjusted bases (within the meaning of section 1016) of tax-exempt obligations issued after the date of the enactment of the Sewer and Water Fee Deductibility Act of 1991, bears to

"(B) such average adjusted bases for all assets of the taxpayer.

"(3) EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS.—

"(A) GENERAL EXCEPTION AND LIMITATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), any qualified tax-exempt obligation shall be treated for purposes of paragraph (2) as if it were issued before the date of the enactment of the Sewer and Water Fee Deductibility Act of 1991.

"(ii) LIMITATION.—Clause (i) shall not apply for any taxable year to the extent that the application of such clause for such taxable year would reduce the amount determined under subparagraph (A) of paragraph (2) by an amount in excess of 0.5 percent of so much of the amount determined under subparagraph (B) of paragraph (2) as is attributable to tangible United States assets."

(b) QUALIFIED TAX-EXEMPT OBLIGATIONS.—

(1) IN GENERAL.—Clause (i) of section 265(b)(3)(B) of such Code is amended to read as follows:

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified tax-exempt obligation' means any tax-exempt obligation acquired by the taxpayer at original issue if—

"(I) such obligation has a fixed maturity date not more than 1 year from the date of issue, or

"(II) such obligation was issued by a qualified small issuer, is not a private activity bond (as defined in section 141), and is designated by the issuer for purposes of this paragraph."

(2) QUALIFIED TAX-EXEMPT OBLIGATION NOT TO INCLUDE QUALIFIED 501(C)(3) BONDS.—

(A) Clause (ii) of section 265(b)(3)(B) of such Code is amended by striking out "bond—" and all that follows through "(II) any obligation" and inserting "any obligation".

(B) Subclause (I) of section 265(b)(3)(C)(ii) of such Code is amended to read as follows:

"(I) a private activity bond,".

(c) OTHER RULES.—Paragraphs (5) and (6) of section 265(b) of such Code are amended to read as follows:

"(5) SPECIAL RULES.—

"(A) COORDINATION WITH SUBSECTION (a).—If interest on any indebtedness is disallowed under subsection (a) with respect to any tax-exempt obligation—

"(i) such disallowed interest shall not be taken into account for purposes of applying this subsection, and

"(ii) for purposes of applying paragraph (2), the adjusted basis of such tax-exempt obligation shall be reduced (but not below zero) by the amount of such indebtedness.

"(B) COORDINATION WITH SECTION 263A.—This section shall be applied before the application of section 263A (relating to capitalization of certain expenses where taxpayer produces property).

"(C) TREATMENT OF FINANCIAL INSTITUTIONS.—In the case of a financial institution (as defined in paragraph (5) of this subsection as in effect on the day before the date of the enactment of the Sewer and Water Fee Deductibility Act of 1991)—

"(i) paragraph (2) shall be applied by substituting 'acquired after August 7, 1986' for 'issued after the date of the enactment of the Sewer and Water Fee Deductibility Act of 1991', and

"(ii) any qualified tax-exempt obligation (as defined in paragraph (3) of this subsection as so in effect) acquired after August 7, 1986, and on or before the date of the enactment of the Sewer and Water Fee Deductibility Act of 1991 shall be treated for purposes of paragraph (2) and section 291(e)(1)(B) as if it were acquired on August 7, 1986.

"(6) EXCEPTIONS.—This subsection shall not apply to—

"(A) an insurance company taxable under subchapter L, and

"(B) an S corporation."

(d) ALLOCATION IN CASE OF INSURANCE COMPANIES OTHER THAN LIFE INSURANCE COMPANIES.—

(1) IN GENERAL.—Paragraph (5) of section 832(b) of such Code is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) REDUCTION OF DEDUCTION.—The amount which would (but for this paragraph) be taken into account under subparagraph (A) shall be reduced by the sum of—

"(i) 15 percent of the following amounts which are attributable to any obligation or stock acquired after August 7, 1986, and before the date of the enactment of the Sewer and Water Fee Deductibility Act of 1991 (or acquired on or after such date of enactment if issued before such date)—

"(I) tax-exempt interest received or accrued during the taxable year, and

"(II) the aggregate amount of deductions provided by sections 243, 244, and 245 for dividends (other than 100 percent dividends) received during the taxable year, and

"(III) the aggregate amount of deductions provided by such sections for 100 percent dividends received during the taxable year to the extent attributable (directly or indirectly) to prorated amounts, plus

"(ii) the policyholders' share of the amounts referred to in subclauses (I), (II), and (III) of clause (i) which are attributable to any obligation or stock issued after the date of the enactment of the Sewer and Water Fee Deductibility Act of 1991.

In the case of a 100 percent dividend paid by an insurance company, the portion attributable to prorated amounts shall be determined under subparagraph (E)(ii).

"(C) POLICYHOLDERS' SHARE.—For purposes of subparagraph (B), the policyholders' share, with respect to any taxable year, is a fraction (not greater than 1)—

"(i) the numerator of which is the amount determined by applying the annual rate determined under section 846(c) to the sum of—

"(I) the average of the unearned premiums on outstanding business at the end of the taxable year and at the end of the preceding taxable year, plus

"(II) the average of the unpaid losses on life insurance contracts and all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and at the end of the preceding taxable year, and

"(ii) the denominator of which is the gross investment income (as defined in section 812(b)) for the taxable year."

(2) CONFORMING AMENDMENT.—Subparagraph (D) of section 832(b)(5) of such Code is amended by adding at the end thereof the following new clause:

"(iii) SPECIAL RULE FOR 100 PERCENT DIVIDENDS.—For purposes of subparagraph (B), the portion of any 100 percent dividend which is attributable to prorated amounts shall be treated as received with respect to stock acquired on the later of—

"(I) the date the payor acquired the stock or obligation to which the prorated amounts are attributable, or

"(II) the 1st day on which the payor and payee were members of the same affiliated group (as defined in section 243(b)(5))."

(e) CONFORMING AMENDMENT.—Clause (v) of section 291(e)(1)(B) of such Code is amended by striking "section 265(b)(3)" and inserting "section 265(b)(5)(C)(ii)".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4. PRO RATA ALLOCATION OF ITEMIZED DEDUCTIONS.

(a) GENERAL RULE.—Section 265 of the Internal Revenue Code of 1986 (relating to expenses and interest relating to tax-exempt interest) is amended by adding at the end thereof the following new subsection:

"(c) PRO RATA ALLOCATION OF ITEMIZED DEDUCTIONS.—

"(1) IN GENERAL.—In the case of an individual, no deduction shall be allowed for the portion of the taxpayer's itemized deductions which is allocable to tax-exempt interest.

"(2) ALLOCATION.—For purposes of paragraph (1), the portion of the taxpayer's itemized deductions which is allocable to tax-exempt interest is an amount which bears the same ratio to the amount of such itemized deductions as—

"(A) the amount of interest on obligations issued on or after the date of the enactment of the Sewer and Water Fee Deductibility Act of 1991 which is received or accrued by the taxpayer for the taxable year and which is exempt from tax, bears to

"(B) the sum of the amount of such interest and the adjusted gross income for the taxable year.

"(3) COORDINATION WITH OTHER LIMITATIONS.—The provisions of this subsection shall be applied—

"(A) before the application of sections 67 and 68, but

"(B) after the application of any other limitation on the allowance of itemized deductions.

"(4) SPECIAL RULE FOR ESTATES AND TRUSTS.—Rules similar to the rules of section 67(e) shall apply for purposes of this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. PACKWOOD:

S. 1363. A bill to ensure the stability of communities dependent on outputs of timber and other resources from national forests and public lands, and for other purposes; to the Committee on Energy and Natural Resources.

COMMUNITY STABILITY ACT

• Mr. PACKWOOD. Mr. President, I rise today to introduce the Community Stability Act of 1991. A companion bill has been introduced in the House by Oregon Representative BOB SMITH. Senator CONRAD BURNS joins me today in introducing the bill in the Senate. The goal of this legislation is to protect communities that depend on grazing, timber harvesting, recreation, and other uses of public lands.

Under this legislation, national forests or other public lands are to be managed in such a way as to promote community stability. The Community Stability Act requires that a community assessment be prepared for each resource-dependent community before the publication of draft alternative management plans for national forests or other public lands. Community assessments must take into account timber production, mining, livestock, recreation, employment, local government receipts, and other critical factors. Furthermore, the bill would require that reductions in resource outputs such as timber, grazing, and mining be implemented gradually, not to exceed a reduction of 10 percent per year below the average output of that commodity for the preceding 5 years.

Mr. President, our hard-working communities must be assured of some stability and certainty. The Oregon Lands Coalition, a highly motivated and effective grassroots alliance of local groups around the State, is to be commended for its part in developing this much-needed legislation and for bringing broad-based support to this approach. In fact, recently, the Oregon State Legislature unanimously adopted the Community Stability Memorial, marking a major milepost in the grassroots crusade for balanced environmental decisions. The memorial urges Congress to ensure predictability to communities that depend on grazing, timber harvesting, recreation, and other uses of public lands.

Mr. President, the bill we are introducing here today is an out-growth of the need for natural resource-dependent communities to be recognized as special and important. We simply cannot allow lives to be ruined and a way of life to be trampled for lack of a rational, balanced policy, a policy that puts people back into the equation.

The Community Stability Act dovetails nicely with the Federal Lands and Families Protection Act recently introduced by myself and other Senators. The Federal Lands and Families Protection Act is a comprehensive bill that addresses the old growth and timber supply problems facing Oregon, Washington, and northern California. It, too, has a strong community stability component.

Mr. President, communities and families dependent on commodity outputs, such as timber, grazing, and recreation, are in jeopardy because of the uncertainty of resource supply.

Since the listing of the northern spotted owl as a threatened species under the Endangered Species Act, the harvesting of timber on Forest Service and BLM lands has come to a virtual standstill. Our communities are suffering; people whose livelihoods depend on natural resources are suffering. It is imperative that we provide some mechanism for returning predictability to the management of our public lands and deal with the inevitable consequences of devoting greater attention to the protection of endangered species and ecosystem values.

The Community Stability Act recognizes human needs and a way of life. I urge my colleagues to throw their support behind this legislation and avert what has become a crisis situation in the Northwest.

Mr. President, I ask that the provisions of the Community Stability Act of 1991 be inserted in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1363

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be known as the "Community Stability Act of 1991".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) COMMUNITY.—The term "community" means a local governmental unit of general jurisdiction that is recognized by the State in which it is located.

(2) NATIONAL FOREST.—The term "national forest" means land included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(3) PLAN.—The term "plan" means—

(A) a land or resource management plan required by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(B) a land use plan required by section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712); or

(C) an amendment or revision to a plan.

(4) PUBLIC LANDS.—The term "public lands" has the same meaning as provided in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)).

(5) RESOURCE-DEPENDENT.—The term "resource dependent", when used in conjunction with "community", means a community whose economy, in terms of private employment, public revenues, and other relevant factors, is substantially dependent on outputs or resources of a national forest or unit of the public lands.

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture with re-

gard to national forests and the Secretary of the Interior with regard to public lands.

SEC. 3. POLICY.

It is the policy of Congress that national forests and public lands be managed and utilized in such a manner so as not to—

(1) create instability in the resource-dependent communities associated with each particular national forest or unit of public land;

(2) create barriers to access to any area of the national forests or public lands by persons who are disabled, or limited in personal mobility by reason of age; or

(3) create disadvantages to minority groups through reduction of employment, housing, or career opportunities.

SEC. 4. PLANNING.

The Secretaries shall ensure that in order to achieve the policy of section 3, each plan prepared and implemented after January 1, 1992, shall satisfy the following additional requirements:

(1) COMMUNITY ASSESSMENTS.—

(A) IN GENERAL.—A community assessment for each affected resource-dependent community shall be prepared and published prior to the preparation and publication of draft alternative plans for the particular national forest or unit of the public lands.

(B) CONTENTS.—Each community assessment shall document and analyze the nature and extent of community dependence on the national forest or unit of the public lands, during at least the previous 10 years, in terms of—

(i) available and achieved outputs for timber, mining, livestock, motorized and non-motorized recreation, and other community-related uses;

(ii) community and market demands and capabilities;

(iii) employment;

(iv) local government receipts; and

(v) other relevant economic, social, and environmental factors.

(2) INTERIM MINIMUM MANAGEMENT REQUIREMENTS.—After the completion of the community assessments and prior to the publication of draft alternative plans, the Secretary shall establish for each national forest or unit of the public lands a minimum management requirement for timber, mining, livestock, motorized and non-motorized recreation, and other community-related outputs, sufficient to ensure the successful achievement of the policy established in section 3 during the maximum period that the pending plan will be in effect.

(3) PLAN JUSTIFICATIONS.—The justification for the selection of a preferred draft alternative and of a final plan shall include an analysis of the impacts on community stability in light of the policy of section 3 and the relevant community assessments.

(4) DEFERRAL OF OUTPUT REDUCTIONS.—If any plan reduces the output of a commodity by more than 10 percent below the average output of that commodity for the 5 years preceding the year in which the plan is adopted, the Secretary shall phase in through four equal annual increments the reduction in the output of the commodity under the plan.

(5) MAXIMIZATION OF OPPORTUNITIES FOR GROUPS.—Each community assessment plan shall detail how the agency has maximized opportunities for the groups of individuals identified in section 3.

SEC. 5. REPORTS.

(a) ANNUAL REPORT.—The Secretaries shall report annually to Congress on—

(1) the steps they have taken to achieve the policy of section 3; and

(2) their success in achieving that policy.

(b) EVALUATIONS.—During the 4th and 7th years that each final management plan for a national forest or unit of the public lands is in effect, the Secretary shall prepare and publish an evaluation—

(1) assessing whether the plan has achieved the policy of section 3;

(2) giving reasons for any failure to achieve the policy; and

(3) including any updates of community assessments that are appropriate.

SEC. 6. REGULATIONS.

Not later than January 1, 1992, the Secretaries shall issue such regulation as are necessary to carry out this Act, including jointly developed regulations—

(1) more specifically defining "resource-dependent community"; and

(2) establishing procedures for the preparation of community assessments.

SEC. 7. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall become effective on January 1, 1992.

(b) REGULATIONS.—Section 6 shall become effective on the date of enactment of this Act.•

• Mr. BURNS. Mr. President, I rise in support of the bill offered by the Senator from Oregon [Mr. PACKWOOD]. I believe that we need to take into account the small communities that dot the west when we make decisions governing our public lands. The Community Stability Act will provide that accounting. The measure will require national forests and other public lands to be managed in a way that would promote community stability.

Nearly 35 percent of the land in Montana is federally owned and many of our communities depend on grazing, mining, timber harvesting, recreation, and other activities.

Montanans have proven themselves to be good stewards of our public lands, and they deserve to have some stability and certainly when it comes to their livlihoods. This legislation represents a balanced approach to preserving our natural resources while protecting the very life of resource-dependent communities.

The Community Stability Act would require that a community assessment be prepared for resource-dependent communities before draft alternative management plans for national forests or other public lands are published. The community assessment must take into account timber production, mining, livestock, recreation, employment, local government receipts, and other critical factors.

The bill would also require that reductions in resource use such as grazing, timbering and mining be implemented gradually, not to exceed a reduction of 10 percent per year below the average output of that commodity for the preceding 5 years.

A companion of this bill has been introduced by Congressman BOB SMITH of Oregon in the House of Representatives in March.

Mr. President, I yield the floor.•

By Mr. BENTSEN (for Mr. PRYOR, for himself, Mr. BENTSEN, Mr. PACKWOOD, Mr. BAUCUS, Mr. DANFORTH, Mr. BOREN, Mr. DURENBERGER, Mr. RIEGLE, Mr. GRASSLEY, Mr. ROCKEFELLER, Mr. DASCHLE, Mr. BREAUX, Mr. AKAKA, Mr. BRYAN, Mr. BUMPERS, Mr. BURDICK, Mr. COCHRAN, Mr. DECONCINI, Mr. DIXON, Mr. FORD, Mr. GORTON, Mr. HARKIN, Mr. HATCH, Mr. HOLLINGS, Mr. JEFFORDS, Mr. JOHNSTON, Mr. KERRY, Mr. LEVIN, Ms. MIKULSKI, Mr. SARBANES, Mr. SASSER, Mr. SHELBY, Mr. STEVENS and Mr. ROTH):

S. 1364. A bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes; to the Committee on Finance.

EMPLOYEE BENEFITS SIMPLIFICATION AND EXPANSION ACT

Mr. BENTSEN. Mr. President, I rise today to introduce legislation for my colleague on the Finance Committee, Senator PRYOR. I am pleased to report that Senator PRYOR is recuperating nicely back in Arkansas, and we all anxiously await his return to Washington.

I have worked with Senator PRYOR, who is chairman of the Finance Subcommittee on Private Retirement Plans, on pension simplification for several years now. I am introducing the Employee Benefits Simplification and Expansion Act of 1991 on his behalf and am cosponsoring the bill.

This legislation takes a significant step toward reducing the costs associated with providing pension benefits. The bill peels back some of the layers of regulation and creates new simplified methods for complying with the law. The bottom line is that it encourages pension plans for more American workers.

Over 80 percent of the employees of big businesses participate in pension plans, but only 30 percent of the employees of small businesses have any type of pension whatsoever. That means that 26 million workers in small businesses have no pension coverage. One provision in the bill would help change that by enabling small employers to set up a new kind of simplified employee pension—a SEP—that is similar to an IRA. Employers with fewer than 100 employees could set up SEP's for their employees through financial institutions. If certain simple conditions are satisfied from the start, the small employer could avoid most of the complex requirements of current law.

The bill also contains a large number of changes in the pension rules to make it easier to administer retirement plans. These changes range from simplification of definitions, to simplified testing, to repeal of complex rules governing the size of a pension plan and distributions from plans. No one change will make the pension system simple. But taken as a whole, the series of changes in this bill should help make significant progress in the direction of simplification.

Another provision will make it easier for workers who change jobs to roll over pension funds from qualified plans directly into an IRA. Our pension system is leaking. Money that was set aside for retirement is being distributed from plans before retirement and an astonishing percentage is being spent instead of transferred into other savings plans. The Department of Labor estimates that lump sum distributions of about $12 billion per year are distributed from qualified plans prior to retirement but, the Employee Benefits Research Institute has found, only about 1 out of 10 of these distributions are rolled over into IRAs. One reason is that many pension distributions do not qualify for rollover and even those that do have to jump through a complex series of hoops. This rollover provision should result in more retirement savings and will certainly make pension decisions easier for many workers.

Pension simplification is no easy process. Like Senator PRYOR, I have been committed to protecting workers' pension benefits throughout my career in the Senate. Upon joining the Finance Committee in 1973, I asked the chairman, Senator Russell Long, to establish a Subcommittee on Pensions, which he did. We passed the Employee Retirement Income Security Act of 1974, and I was chairman of the conference committee on the Pension Protection Act of 1987 that set tough requirements on how much money has to be contributed to pension funds. Those bills helped enhance the retirement security of millions of American workers.

Now we need to take another step and promote the establishment of new pension plans by both large and small employers and by encouraging workers to preserve their retirement savings when they change jobs.

By simplying the complex pension laws we can lessen the oppressive burden on employers wanting to maintain retirement plans. I look forward to working with Senator PRYOR as we consider this important legislation.

Mr. President, I ask unanimous consent that a statement by Senator PRYOR be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

• Mr. PRYOR. Mr. President, I want to thank Senator BENTSEN, chairman of the Finance Committee, for introducing the Employee Benefits Simplification and Expansion Act on my behalf while I am recuperating in Arkansas from a recent heart attack. Also, I would like to thank Representative BEN CARDIN for introducing the companion bill in the House of Representatives.

Senator BENTSEN and I are joined in support of this bill by 32 of our fellow Senators, including a majority of our fellow Finance Committee members, Senators PACKWOOD, BAUCUS, DANFORTH, BOREN, DURENBERGER, RIEGLE, GRASSLEY, ROCKEFELLER, DASCHLE, and BREAUX.

This bill simplifies some of our most needlessly complex pension rules. These burdensome rules have discouraged employers from establishing pension plans, have diverted money from retirement savings to plan administration, and in some cases have encouraged plan terminations.

Further, I believe the bill will promote the establishment of new pension plans, especially in the small business sector where the need is acute, and encourage workers to preserve their retirement savings when they change jobs.

In sum, the bill takes a significant step toward simplification of the pension system and encourages increased retirement savings.

During the 101st Congress, I introduced the Employee Benefits Simplification Act, S. 2901. In my floor statement introducing S. 2901, I stated that the bill was a first step toward simplification, and that the difficult subject of simplification would best be served by strong and thorough debate. The debate which followed has spawned several new legislative initiatives in this area, and I welcome these parties to this debate.

The Employee Benefits Simplification and Expansion Act of 1991 is substantially similar to last session's bill with two very important additions. First, the bill will include a provision allowing tax exempt organizations access to cash or deferred arrangements under section 401(k) of the Internal Revenue Code. Second, the bill will extend the same safe harbor rules applicable to section 401(k) plans under the bill to simplified employee pensions [SEP's]. I believe these provisions will provide attractive vehicles to tax exempt organizations and small businesses for the creation of pension plans for their employees.

Included in the bill from last year's legislation are changes which would:

Simplify the definition of highly compensated employees;

Eliminate the need to perform complicated and expensive tests by providing safe harbors for section 401(k) deferred compensation plans;

Repeal the current "historically performed" test on leased employees and create a "control" test based on common law;

Clarify the present law treatment of national Voluntary Employee Beneficiary Associations [VEBAs];

Replace complex distribution rules with a rule that allows the employee to rollover any portion of a distribution, provided the rollover is accomplished within 60 days;

Require a plan to transfer preretirement distributions of over $500 to either another retirement plan or to an individual retirement account. This provision does not preclude distributions from IRA's after the rollover has occurred;

Modify the minimum participation requirements to focus rules on the areas where abuses are more likely to occur;

Clarify the manner in which the benefit limit rules apply to State and local government plans;

Clarify that disability benefits will not be adversely affected by the pension limits; and

Increase the number of allowable participants for salary reduction SEP's from 25 to 100 and make the participation rules for SEP's more consistent with the general rules governing pensions.

In addition, there are a number of other provisions designed to simplify and improve the consistency of the law.

In drafting this bill, we have attempted to juggle the often conflicting policy goals of simplification, flexibility, and worker protection. I believe we have arrived at the proper balance. However, I anticipate that we will receive some criticism for not doing enough or maybe doing too much. I look forward to and welcome the debate in the coming months upon my return.

Mr. President, I ask unanimous consent that the text of the bill and a summary description of the bill be included in the Record.

S. 1364

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Employee Benefits Simplification and Expansion Act of 1991".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—NONDISCRIMINATION PROVISIONS

SEC. 101. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) has compensation for the year from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d)."

(b) SPECIAL RULE WHERE NO EMPLOYEES TREATED AS HIGHLY COMPENSATED.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—If no employee is treated as a highly compensated employee under paragraph (1), the highest paid officer for the year shall be treated as a highly compensated employee. The preceding sentence shall not apply for purposes of section 401 (k) or (m) and shall not apply with respect to employees of an employer described in section 457(e)(1)."

(c) TREATMENT OF FAMILY MEMBERS.—Section 414(q)(6)(A) is amended—

(1) by striking "or of a highly compensated employee in the group consisting of the 10 highly compensated employees paid the greatest compensation during the year", and

(2) by striking "or highly compensated employee" in clause (ii) thereof.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to years beginning after December 31, 1991.

(2) ELECTION FOR 1992.—An employer may elect not to have the amendments made by this section apply to years beginning in 1992.

SEC. 102. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) IN GENERAL.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) METHOD.—

"(A) IN GENERAL.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) PERIODS FOR ADJUSTMENT OF DOLLAR AMOUNT.—For purposes of paragraph (1)(A)—

"(i) IN GENERAL.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) BASE PERIOD.—For purposes of clause (i), the base period is the calendar quarter beginning October 1, 1986.

"(C) BASE PERIOD FOR SEPARATIONS.—For purposes of paragraph (1)(B), the base period is the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) ROUNDING.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1) and 408(k)(2)(C) shall be rounded to the nearest $100."

(b) EFFECTIVE DATE.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1991.

SEC. 103. ELECTION TO TREAT BASE PAY AS COMPENSATION.

(a) IN GENERAL.—Section 414(s) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) ELECTION TO USE BASE PAY.—An employer may elect to determine an employee's compensation solely by reference to that portion of the employee's compensation attributable to such employee's base pay. Such election shall apply for purposes of all applicable provisions and to all employees and, once made, may be revoked only with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1991.

SEC. 104. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 25 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee)."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to years beginning after December 31, 1991.

(2) ELECTION.—A plan may elect to have the amendment made by this section apply as if such amendment was included in the amendment made by section 1112(b) of the Tax Reform Act of 1986. Such election shall be made at such time, and in such form, as the Secretary of the Treasury may prescribe.

SEC. 105. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

"(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount not less than—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph

(B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to employer contributions.

"(ii) Social security and similar contributions not taken into account.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) Other plans.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(b) Alternative Methods of Satisfying Section 401(m) Nondiscrimination Tests.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) Alternative method of satisfying tests.—

"(A) In general.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) Limitation on matching contributions.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(c) Distribution of Excess Contributions.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(d) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1991.

TITLE II—DISTRIBUTIONS

SEC. 201. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

(a) In General.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) Taxability of Beneficiary of Exempt Trust.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) Taxability of Beneficiary of Nonexempt Trust.—

"(1) Contributions.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends within or with a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) Distributions.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amount not received as annuities).

"(3) Grantor trusts.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) Failure to meet requirements of section 410(b).—

"(A) Highly compensated employees.—If one of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under this subsection, include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) Failure to meet coverage tests.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), this subsection shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) Highly compensated employee.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) Taxability of Beneficiary of Certain Foreign Situs Trusts.—For purposes of subsections (a) and (b), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(d) Rules Applicable to Rollovers From Exempt Trusts.—

"(1) Exclusion from income.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to either the employee or the employee's spouse,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) Maximum amount which may be rolled over.—Paragraph (1) shall not apply to any amount transferred to the extent such amount exceeds the fair market value of all the property the distributee receives in the distribution, reduced by the portion of the distribution which is allocable to employee contributions (other than accumulated deductible employee contributions within the meaning of section 72(o)(5)).

"(3) Transfer must be made within 60 days of receipt.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) Transfer treated as rollover contribution under section 408.—For purposes of this title, a transfer resulting in any portion of a distribution being excluded from gross income under paragraph (1) to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(C) shall be treated as a rollover contribution described in section 408(d)(3).

"(5) Required distributions not eligible for rollover treatment.—Paragraph (1) shall not apply to any distribution to the extent such distribution is required under section 401(a)(9).

"(6) Sales of distributed property.—For purposes of this subsection—

"(A) Transfer of proceeds from sale of distributed property treated as transfer of distributed property.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) Proceeds attributable to increase in value.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) Designation where amount of distribution exceeds rollover contribution.—In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

"(i) the portion of the money or other property which is to be treated as attributable to employee contributions, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) Treatment where no designation.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under subparagraph (C) within the time provided therein, then—

"(i) the portion of the money or other property which is to be treated as attributable to employee contributions, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis.

"(E) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in subparagraph (A), to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1), neither gain nor loss on such sale shall be recognized.

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE CONTRIBUTIONS.—The term 'employee contributions' means—

"(i) the excess of the amounts considered contributed by the employee (determined by applying section 72(f)), over

"(ii) any amounts previously distributed to the employee which were not includible in gross income (determined without regard to this paragraph).

"(B) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(C) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If—

"(i) any amount is paid or distributed to an alternate payee by reason of any qualified domestic relations order (within the meaning of section 414(p)),

"(ii) the recipient transfers any portion of the property the recipient receives in such distributions to an eligible retirement plan described in clause (i) or (ii) of subsection (d)(8)(C), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed.

then the portion of the distribution so transferred shall be treated as a distribution to which subsection (d) applies.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(4) NET UNREALIZED APPRECIATION.—

"(A) AMOUNTS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subsection (a) and section 72, the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any net unrealized appreciation in securities of the employer corporation attributable to amounts contributed by the employee (other than deductible employee contributions within the meaning of section 72(o)(5)). This subparagraph shall not apply to a partial distribution to which subsection (d) applies.

"(B) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—In the case of any lump sum distribution which includes securities of the employer corporation, subparagraph (A) shall apply to the net unrealized appreciation attributable to that part of the distribution which consists of securities of the employer corporation attributable to amounts other than the amounts contributed by the employee. In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a lump sum distribution is required to be included, not to have this subparagraph and subparagraph (A) apply to such distribution.

"(C) DETERMINATION OF AMOUNTS AND ADJUSTMENTS.—For purposes of subparagraphs (A) and (B), net unrealized appreciation and the resulting adjustments to basis shall be determined in accordance with regulations prescribed by the Secretary.

"(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under subparagraph (A)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) Securities.—The term 'securities' means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

"(ii) Securities of the employer.—The term 'securities of the employer corporation' includes securities of a parent or subsidiary corporation (as defined in subsections (e) and (f) of section 425) of the employer corporation.

"(f) Written Explanation to Recipients of Distributions Eligible for Rollover Treatment.—

"(1) In general.—The plan administrator of any plan shall, when making an eligible rollover distribution, provide a written explanation to the recipient of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution.

"(2) Definitions.—For purposes of this subsection—

"(A) Eligible rollover distribution.—The term 'eligible rollover distribution' means any distribution any portion of which may be excluded from gross income under subsection (d) of this section or subsection (a)(4) of section 403 if transferred to an eligible retirement plan in accordance with the requirements of such subsection.

"(B) Eligible retirement plan.—The term 'eligible retirement plan' has the meaning given such term by subsection (d)(8)(C)."

(b) Conforming Amendments.—

(1) Paragraph (1) of section 55(c) is amended by striking "shall not include any tax imposed by section 402(e) and".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is hereby repealed.

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(d)".

(4) Subparagraph (B) of section 101(b)(2) (relating to nonforfeitable rights) is amended by striking "section 402(e)(4)" and inserting "section 401(k)(10)(B)(ii)".

(5) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(d)".

(6) Paragraph (20) of section 401(a) is amended by striking "qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "distribution to a distributee on account of a termination of the plan of which the trust is a part".

(7) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(8) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(9) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions must be lump-sum distributions) is amended to read as follows:

"(ii) Lump sum distribution.—For purposes of this subparagraph, the term 'lump sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(10) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(11) Section 402(i) is amended by striking ", except as otherwise provided in subparagraph (A) of subsection (e)(4)".

(12) Section 402(j) is amended by striking "(a)(1) or (e)(4)(J)" and inserting "(e)(4)".

(13) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) Certain rules made applicable.—Rules similar to the rules of section 402(d) shall apply for purposes of subparagraph (A)."

(14) Subparagraph (B) of section 403(b)(8) (relating to special rules for partial distributions) is hereby repealed.

(15) Subparagraph (C) of section 403(b)(8) is amended to read as follows:

"(C) Certain rules made applicable.—Rules similar to the rules of paragraphs (2), (3), (4), (6), and (7) of section 402(d) shall apply for purposes of subparagraph (A)."

(16) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(17) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(18) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(d)".

(19) Clause (ii) of section 408(d)(3)(A) is amended by striking "of a qualified total distribution (as defined in section 402(a)(5)(E)(i))" and inserting "(as defined in section 402(d)(1))".

(20) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(21) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(d)(7)".

(22) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(23) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(24) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(25) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(d)".

(26) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(d)".

(27) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(d)".

(28) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(29) Section 691(c) (relating to deduction for estate tax) is amended by striking paragraph (5).

(30) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(31) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(32) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(33) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(34) Subsection (b) of section 1441 (relating to income items) is amended by striking "section 402(a)(2), 403(a)(2), or".

(35) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "section 402(a)(2), 403(a)(2), or".

(36) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(37) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(38) Subsection (a) of section 3405 is amended by striking "Pensions, Annuities, Etc.—" from the heading thereof and inserting "Periodic Payments.—".

(39) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(40) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(41) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) Maximum amount withheld.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than securities of the employer corporation) received in the distribution. No amount shall be required to be withheld under this section in the case of any designated distributions which consists only of securities of the employer corporation and cash (not in excess of $200) in lieu of financial shares. For purposes of this paragraph, the terms 'securities' and 'securities of the employer corporation' have the meanings given such terms by section 402(e)(4)(E)."

(42) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(d)".

(43) Section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended by striking paragraph (4).

(44) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(c) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to distributions after December 31, 1991.

(2) Retention of certain transitional rules.—Notwithstanding any other provisions of this section, the amendments made by this section shall not apply to distributions to employees described in section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986.

SEC. 202. QUALIFIED PLANS MUST PROVIDE FOR TRANSFERS OF CERTAIN DISTRIBUTIONS TO OTHER PLANS.

(a) Qualification Requirement.—Section 401(a) (relating to requirements for qualification) is amended by adding after paragraph (30) the following new paragraph:

"(31) Certain distributions must be made in form of transfer to other plan.—A trust shall not constitute a qualified trust under this section unless the plan of which it is a part meets the requirements of section 417A."

(b) Transfer Requirements.—

(1) In general.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) is amended by adding at the end thereof the following new section:

"SEC. 417A. REQUIRED TRANSFERS OF CERTAIN PLAN DISTRIBUTIONS.

"(a) General Rule.—A plan meets the requirements of this section only if all applicable distributions from the plan are made in the form of a direct trustee-to-trustee transfer to an eligible transferee plan.

"(b) Applicable Distribution.—For purposes of this section—

"(1) In general.—The term 'applicable distribution' means any distribution from a plan in excess of $500 which, without regard to this section, would be distributed directly to a participant or to the beneficiary of a participant.

"(2) Exceptions.—The term 'applicable distribution' shall not include any of the following:

"(A) Any distribution described in section 72(t)(2)(A) (other than clause (i) or (ii) thereof) or section 72(t)(2)(C).

"(B) Any distribution on or after the date the employee attains age 55.

"(C) Any distribution on or after the death of the employee other than to the surviving spouse of the employee.

"(D) In the case of a profit-sharing or stock bonus plan, a distribution upon hardship of the employee.

"(E) Any distribution of any employee contribution other than accumulated deductible contributions (within the meaning of section 72(o)(5)).

"(F) Any distribution the proceeds of which are used to repay any loan to the employee from the plan with respect to which the employee is in default.

"(c) Eligible Transferee Plan.—For purposes of this section—

"(1) In general.—The term 'eligible transferee plan' means an individual retirement plan designated by the employee in such form, and at such time, as the transferor plan may prescribe.

"(2) Designation by plan.—

"(A) In general.—Each plan shall provide a method for the designation of an eligible transferee plan if an employee does not designate a plan under paragraph (1).

"(B) Designation by trustee.—The trustee shall designate the eligible transferee plan under the method prescribed under subparagraph (A) in cases—

"(i) where the employee does not designate, or

"(ii) where the transfer in accordance with an employee's designation is not practicable.

"(3) Transfers to qualified trusts.—Except as otherwise provided in regulations, an eligible transferee plan shall include an employee's trust described in section 401(a) and exempt from tax under section 501(a) which is designated as provided in paragraph (2) and which—

"(A) is part of a defined contribution plan, and

"(B) provides for the acceptance of the distribution from the transferor plan.

"(d) Special Rules for Treatment of Transfers.—

"(1) Withdrawals before due date.—

"(A) In general.—For purposes of this title, if, during the distribution period with respect to any applicable distribution, the employee receives a distribution from the eligible transferee plan of any portion of the applicable distribution (and any income allocable thereto), the distribution from the eligible transferee plan shall be treated as if it were a distribution from the transferor plan in the taxable year of receipt by the employee.

"(B) Distribution period.—For purposes of this paragraph, the term 'distribution period' means the period beginning on the date of the transfer and ending on the due date (including extensions) for the return of tax for the taxable year of the employee in which the date of transfer occurs.

"(2) Spousal beneficiaries.—For purposes of this section, in the case of an applicable distribution to the surviving spouse of an employee, the surviving spouse shall be treated in the same manner as an employee.

"(e) Reports.—

"(1) Notice to employees.—The trustee of a plan shall notify each employee before any applicable distribution of the requirements of this section, including the time and manner of making a designation under subsection (c)(1).

"(2) Amounts transferred.—The trustee of a transferor plan shall notify the employee of the amount of any direct trustee-to-trustee transfer."

(2) Conforming amendment.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 417 the following new item:

"Sec. 417A. Required transfers of certain plan distributions."

(c) Exclusion From Income.—

(1) In general.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 201, is amended by adding at the end the following new paragraph:

"(5) Direct trustee-to-trustee transfers.—In the case of a plan described in section 401(a) to which the requirements of section 417A apply, any amount transferred in a direct trustee-to-trustee transfer in accordance with section 417A shall not be includible in gross income for the taxable year of such transfer."

(2) Direct transfers from employee annuities.—

(A) Qualified annuity plans.—

(i) Paragraph (2) of section 404(a) (relating to employees' annuities) is amended by striking "(27)" and inserting "(27), and (31)".

(ii) Subsection (a) of section 403 (relating to taxability of beneficiary under a qualified annuity plan) is amended by adding at the end the following new paragraph:

"(5) Direct transfers to individual retirement plans.—Rules similar to the rules of sections 402(e)(5) and 417A shall apply with respect to annuity contracts described in paragraph (1), and such contracts shall, for purposes of section 417A(c)(3), be treated in the same manner as a trust described in such section."

(B) Annuity contracts purchased by section 501(c)(3) organizations or public schools.—Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end the following new paragraph:

"(13) Direct trustee-to-trustee transfers.—Rules similar to the rules of sections 401(a)(31) and 417A and section 402(e)(5) shall apply with respect to annuity contracts described in paragraph (1), and such contracts shall, for purposes of section 417A(c)(3), be treated in the same manner as a trust described in such section."

(d) Other Amendments.—

(1) Certain transfers not treated as reductions in benefits.—Section 411(d)(6)(B) (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following new sentence: "Except as otherwise provided in regulations, the requirements of clause (ii) shall not be treated as violated solely by reason of a direct trustee-to-trustee transfer required by section 417A."

(2) Service disregarded where distribution is permitted.—

(A) In general.—Subparagraph (B) of section 411(a)(7) (relating to effect of certain distributions) is amended—

(i) in the matter preceding clause (i), by striking "he has received";

(ii) in clause (i), by inserting "the employee has received" after "(i)", and by striking "or";

(iii) in clause (ii), by inserting "the employee has received" after "(ii)", and by striking "receive." and inserting "receive, or";

(iv) by inserting after clause (ii) the following:

"(iii) a direct trustee-to-trustee transfer described in section 417A has been made from the plan."; and

(v) in the last sentence, by striking "Clause (ii)" and inserting "Clauses (ii) and (iii)".

(B) Buyback rules.—Subparagraph (C) of section 411(a)(7) (relating to repayment of subparagraph (B) distributions) is amended by adding at the end the following new sentence: "For purposes of this subparagraph, a direct trustee-to-trustee transfer referred to in subparagraph (B)(iii) with respect to a participant shall be treated as a distribution received by the participant."

(3) Notice to recipients of distributions eligible for rollover treatment.—Paragraph (1) of section 402(f) (relating to written explanation to recipients of distributions eligible for rollover treatment) is amended—

(A) by striking "when making an eligible rollover distribution, provide a written explanation to the recipient" and inserting "when making an eligible rollover distribution or a direct trustee-to-trustee transfer, provide to the recipient of the distribution or the person with respect to whom the transfer is made a written explanation of"; and

(B) by inserting ", or the income tax consequences of a direct trustee-to-trustee transfer provided in accordance with the applicable requirements of sections 417A, 403(e)(5), and 403(b)(13), respectively" before the end period.

(e) Effective Date.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1992.

SEC. 203. REQUIRED DISTRIBUTIONS.

(a) In General.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) Required beginning date.—For purposes of this paragraph—

"(i) In general.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70, or

"(II) the calendar year in which the employee retires.

"(ii) Exception.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70, or

"(II) for purposes of section 408(a)(6) or (b)(3).

"(iii) Actuarial adjustment.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70 in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization) as defined in section 3121(w)(3)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1991.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. TREATMENT OF LEASED EMPLOYEES.

(a) REPLACEMENT OF HISTORICAL TEST WITH CONTROL TEST.—Subparagraph (C) of section 414(n)(2) is amended to read as follows:

"(C) such services are performed by such person under the control of the recipient."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1983.

SEC. 302. ELIMINATION OF HALF-YEAR REQUIREMENTS.

(a) IN GENERAL.—Each of the following provisions are amended by striking "age 59½" and inserting "age 59":

(1) Section 72(q)(2)(A).

(2) Section 72(q)(3)(B)(i).

(3) Section 72(q)(3)(B)(ii).

(4) Section 72(t)(2)(A)(i).

(5) Section 72(t)(4)(A)(ii)(I).

(6) Section 72(t)(4)(A)(ii)(II).

(7) Section 72(v)(2)(A).

(8) Section 403(b)(7)(A)(ii).

(9) Section 403(b)(11)(A).

(10) The heading for section 403(b)(11).

(11) Section 4978(d)(1)(B).

(b) OTHER PROVISIONS.—Each of the following provisions is amended by striking "70½" and inserting "70":

(1) Section 219(d)(1).

(2) The heading for section 219(d)(1).

(3) Section 401(a)(9)(B)(iv)(I).

(4) Section 408(b).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 303. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) AGGREGATION RULES.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) CONTRIBUTION LIMIT ON OWNER-EMPLOYEES.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 304. FULL-FUNDING LIMITATION OF MULTIEMPLOYER PLANS.

(a) FULL-FUNDING LIMITATION.—Section 412(c)(7)(C) (relating to full-funding limitation) is amended—

(1) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(2) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(b) VALUATION.—Section 412(c)(9) is amended—

(1) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(2) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(c) CONFORMING AMENDMENTS.—

(1) Section 302(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)) is amended—

(A) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(B) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(2) Section 302(c)(9) of such Act (29 U.S.C. 1082(c)(9)) is amended—

(A) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(B) by striking "ANNUAL VALUATION" in the heading and inserting "VALUATION".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 305. AFFILIATION REQUIREMENTS FOR EMPLOYERS JOINTLY MAINTAINING A VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATION.

(a) IN GENERAL.—For purposes of Treasury Regulations §1.501(c)(9)–2(a)(1), employers meeting the requirements of subsection (b) shall be treated as affiliated.

(b) REQUIREMENTS.—The requirements of this subsection are met with respect to employers if such employers—

(1) are in the same line of business,

(2) act jointly to perform tasks which are integral to the activities of each of the employers, and

(3) act jointly to such an extent that the joint maintenance of a voluntary employees' beneficiary association is not a major part of the employers' joint activities.

(c) EFFECTIVE DATE.—Effective for years beginning before, on, or after date of enactment.

SEC. 306. TREATMENT OF GOVERNMENTAL PLANS.

(a) DEFINITION OF COMPENSATION.—

(1) LIMITATIONS ON BENEFITS AND CONTRIBUTIONS UNDER QUALIFIED PLANS.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding at the end the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3), any amount which is contributed by the employer pursuant to a salary reduction agreement and which is not includible in the gross income of an employee under section 125, 402(e)(3), 403(b), 414(h)(2), or 457."

(2) OTHER USES.—Paragraph (2) of section 414(s) of such Code (defining compensation) is amended—

(A) by inserting "subsection (h) or" before "section 125", and

(B) by striking ", or 403(b)" and inserting ", 403(b), or 457".

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding at the end the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account.

"(2) INCOMING ACCRUING TO PLAN.—For purposes of section 115, income accruing to a governmental plan in respect of a qualified governmental excess benefit arrangement (or to a trust maintained solely for the purpose of providing benefits under such arrangement) shall be treated as income derived from the exercise of an essential governmental function.

"(3) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(4) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit (otherwise payable under the terms of the plan) in excess of the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting ", and", and by inserting at the end thereof the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by inserting at the end the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentence: "If all employers maintaining a plan consent, a plan may revoke an election under the preceding sentence if such revocation is filed with the Secretary not later than the last day of the 3rd plan year beginning after the date of the enactment of the Employee Benefits Simplification Act. Such revocation shall apply to all plan years for which the election was in effect, except that the limitations under this section for any amount paid by the plan in a taxable year ending after revocation of such election with respect to benefits attributable to a preceding taxable year during which such election was in effect shall be determined as if such amount had been received in such preceding taxable year."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning after the date of enactment. The amendments made by subsection (e) shall apply with respect to revocations adopted after the date of enactment of this section.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of such Code), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 307. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) MODIFICATION OF PARTICIPATION REQUIREMENTS.—Section 408(k)(2)(B) is amended to read as follows:

"(B) has at least 1 year of service (as determined under section 411(a)(5)) with the employer, and".

(c) REPEAL OF PARTICIPATION REQUIREMENT.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(d) ALTERNATIVE TEST.—Clause (iii) of section 408(k)(6)(A) is amended by adding at the end thereof the following new flush sentence: "The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 308. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) ALL DISABLED PARTICIPANTS RECEIVING CONTRIBUTIONS.—Section 415(c)(3)(C) is amended by adding at the end thereof the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1991.

SEC. 309. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER AGE 59.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1011(k)(9) of the Technical and Miscellaneous Revenue Act of 1988.

SEC. 310. REPORTS OF PENSION AND ANNUITY PAYMENTS.

(a) AMENDMENTS RELATED TO DEFINITION OF INFORMATION RETURN.—

(1) Subparagraph (A) of section 6724(d)(1) is amended—

(A) by redesignating clauses (iv) through (vii) as clauses (vi) through (ix),

(B) by inserting after clause (iii) the following new clause:

"(v) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating clauses (i) through (iii) as clauses (ii) through (iv), and

(D) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (1) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of clauses (i) and (v) of subparagraph (A), such term shall include only those statements filed with the Secretary with respect to information required to be supplied to both the Secretary and the recipient of the payment.".

(b) AMENDMENTS RELATED TO DEFINITION OF PAYEE STATEMENT.—

(1) Paragraph (2) of section 6724(d) is amended—

(A) by redesignating subparagraphs (H) through (S) as subparagraphs (J) through (U),

(B) by inserting after subparagraph (G) the following new subparagraph:

"(I) section 6047(d) (relating to reports by employers, plan administrators, etc.),",

(C) by redesignating subparagraphs (A) through (G) as subparagraphs (B) through (H), and

(D) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

"(A) section 408(i) (relating to individual retirement account and simplified employee pension reports),".

(2) Paragraph (2) of section 6724(d) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraphs (A) and (I), such term shall only include statements with respect to information required to be supplied to both the Secretary and the recipient of the payment.".

(c) AMENDMENTS RELATED TO REPORTS OF DESIGNATED DISTRIBUTION.—

(1) Subsection (i) of section 408 is amended by inserting "aggregating $10 or more" after distributions".

(2) Section 6047(d)(1) is amended by adding at the end thereof the following sentence: "However, no returns or reports shall be required with respect to payments of designated distributions aggregating less than $10 to any person in any year.".

(d) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 6047(f) is amended by striking "section 6652(e)" and inserting "sections 6652(e), 6721, and 6722".

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following: "However, failures to file returns and statements also described in section 6724(d)(1) or 6724(d)(2) shall be subject to penalties under part II of chapter 68B of this subtitle, and not under this section.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to returns and statements required to be filed after December 31, 1991.

SEC. 311. TAX-EXEMPT ORGANIZATIONS ELIGIBLE FOR SECTION 401(k) PLANS.

(a) IN GENERAL.—Subparagraph (B) of section 401(k)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is a part of a plan maintained by a State or local government, or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1989.

SEC. 312. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1993, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

EMPLOYEE BENEFITS SIMPLIFICATION AND EXPANSION ACT OF 1991

TITLE I—NONDISCRIMINATION PROVISIONS

Section 101—Definition of Highly Compensated Employee

Present law

An employee is treated as a highly compensated employee ("HCE") if during the current or the preceding year, the employee (1) was a 5-percent owner of the employer, (2) received more than $75,000 (indexed at $90,803 for 1991) in annual compensation from the employer, (3) received more than $50,000 (indexed at $60,535 for 1991) in annual compensation from the employer and was a member of the top 20 percent of employees by compensation, or (4) was at any time an officer of the employer and received compensation greater than 50 percent of the limit under section 415(b)(1)(A) (indexed at $108,963 for 1991). If no officer received compensation in excess of 50 percent of the section 415(b)(1)(A) limit, then the highest paid officer is treated as a HCE.

Under a special family member aggregation rule, if an employee is a family member of a 5-percent owner or of 1 of the top 10 HCEs, then all compensation of the family members is aggregated and treated as compensation of one HCE.

Employee Benefits Simplification and Expansion Act

An employee is a HCE if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year, or (2) has compensation in excess of $50,000 (indexed at $60,535 for 1991) during the preceding year. If no employee is a HCE under the above tests, then the highest paid officer is treated as a HCE. This one-HCE rule, however, does not apply to nondiscrimination testing for purposes of sections 401(k) and 401(m) or to tax-exempt employers, including state and local governments.

The bill applies the family member aggregation rule only in the case of family members of a 5-percent owner.

This provision is effective for years beginning after December 31, 1991. However, an employer may elect to have the provision effective for years beginning in 1992.

Section 102—Modifications of Cost-of-Living Adjustments

Present law

Cost-of-living adjustments to the limitations on contributions and benefits under qualified plans made early in the year in which they become effective and are not rounded off.

Employee Benefits Simplification and Expansion Act

The bill requires that the cost-of-living adjustments be based on data from the quarter ending on the preceding September 30, so the new limitations would be announced before the beginning of the year in which they are effective.

In addition, the bill requires the amounts, as adjusted, to be rounded to the nearest $1,000 (or to the nearest $100 in the case of elective deferrals and elective contributions to simplified employee pensions (SEPs)).

This provision applies to adjustments with respect to calendar years beginning after December 31, 1991.

Section 103—Modification of Additional Participation Requirements

Present law

A plan is not a qualified plan unless it benefits no fewer than the lesser of (1) 50 employees or (2) 40 percent of all employees of an employer (Sec. 401(a)(26)). In case of an employer with only 2 employees, a plan satisfies the minimum participation rule if the plan covers 1 employee.

Employee Benefits Simplification and Expansion Act

The bill provides that the minimum participation rule applies only to defined benefit pension plans. The rule is satisfied if a plan benefits no fewer than the lesser of (1) 25 employees, or (2) the greater of (a) 40 percent of all employees of the employer, or (b) 2 employees (or 1 employee if there is only 1 employee). Thus, the bill lowers the 50-employee threshold to 25, and requires that an employer with 2 employees cover both employees.

The provision is effective for years beginning after December 31, 1991. However, an employer may elect to apply the provision as if it were included in section 1112(b) of the Tax Reform Act of 1986 ("TRA '86").

Section 104—Nondiscrimination Rules For Qualified Cash or Deferred Arrangements and Matching Contributions

Present law

Elective deferrals to a profit sharing plan or a stock bonus plan including a cash or deferred arrangement ("CODA") must satisfy the actual deferral percentage (ADP) test to prevent deferrals from discriminating in favor of HCEs. A similar average contribution percentage (ACP) test applies to employer matching contributions and employee contributions.

Elective deferrals, employee contributions, and matching contributions made in excess of the ADP or the ACP limits, must (1) be distributed (using a leveling method) to those affected HCEs, regardless of the size of their contributions, or (2) in the case of elective deferrals may be recharacterized as aftertax employee contributions.

Employee Benefits Simplification and Expansion Act

The bill provides design-based safe harbors for CODAs that would treat contributions as nondiscriminatory if the plan provides a minimum level of matching or nonelective contributions. If a plan meets the safe harbor requirements, the testing of actual contributions to the plan would not be required.

The ADP and the ACP tests (other than with respect to employee contributions) are deemed satisfied if the plan (or another plan) provides either that (1) non-HCEs receive at least a 100-percent match on elective deferrals up to 3 percent of compensation, and at least a 50-percent match on elective deferrals of 3 to 5 percent of compensation, or (2) non-HCEs receive nonelective employer contributions of at least 3 percent of compensation. In addition, the tests will be deemed satisfied only if (1) the level of matching contributions does not increase as the employee's elective deferrals or employee contributions increase; (2) the matching contribution with respect to any HCE at any level of compensation is not greater than that of any non-HCE; and (3) matching contributions are not made with respect to employee contributions or employee elective deferrals in excess of 6 percent of compensation.

Under the safe harbors, matching contributions and nonelective contributions used to meet the contribution requirements must (1) be 100 percent vested, and (2) satisfy the restrictions on withdrawals that apply to qualified nonelective contributions under a qualified CODA (See. 401(k)(2) (B) and (C)).

The employer must give written notice to each employee eligible to participate in the arrangement within a reasonable period before one year. This notice must be sufficiently accurate and comprehensive to apprise the employee of his or her rights and obligations and must be written in a manner calculated to be understood by the average employee eligible to participate.

Matching contribution and nonelective contribution requirements must be satisfied without regard to social security integration. Also, matching contributions and nonelective contributions can not be used to meet the social security integration rules in section 401(l).

The total amount of contributions in excess of the ADP and the ACP limits is determined in the same manner as under present law, but the reduction of excess contributions per HCE is required to be made on the basis of the amount of the excess deferral, employee contribution, and/or matching contribution, rather than on the highest percentage.

These provisions are applicable to years beginning after December 31, 1991.

TITLE II—DISTRIBUTION RULES

Section 201—Taxation of Plan Distributions

1. Rollovers

Present law

A total or partial distribution to an employee under a qualified plan, a qualified annuity plan, or a tax-sheltered annuity may, under certain circumstances, be rolled over, tax free, to an individual retirement arrangement ("IRA") or another qualified plan or annuity. A rollover of a partial distribution is permitted if (1) the distribution equals at least 50 percent of the balance to the credit of the employee, (2) the distribution is not one of a series of periodic payments, (3) the distribution is made on account of the employee's separation from service or disability, and (4) the employee elects rollover treatment. Employee contributions and minimum required distributions may not be rolled over.

Employee Benefits Simplification and Expansion Act

The bill eliminates most of the rollover restrictions, so that any distribution to the employee or the surviving spouse of the employee, other than an after-tax employee contribution or a minimum required distribution under section 401(a)(9), may be rolled over.

2. Lump-Sum Distributions

Present law

A taxpayer may elect to have 5-year forward averaging apply to a lump-sum distribution.

TRA '86 replaced 10-year averaging with the current 5-year averaging and phased out capital gains treatment for contributions made prior to January 1, 1974; however, TRA '86 provided transition rules which preserved prior law treatment in the case of certain distributions with respect to individuals who attained age 50 before January 1, 1986.

In addition, a taxpayer is not required to include in gross income amounts received in the form of a lump-sum distribution to the extent that the amounts are attributable to net unrealized appreciation ("NUA") in employer securities. NUA is not subject to tax until the securities are sold.

Employee Benefits Simplification and Expansion Act

This bill repeals the special 5-year forward averaging rule. The original intent of the income averaging rules for pension distributions was to prevent a bunching of taxable income because a taxpayer would receive all of the benefits in a qualified plan in a single taxable year. Liberalization of the rollover rules increases the flexibility of taxpayers in determining the time of the income inclusion of pension distributions and eliminates the need for special rules to prevent bunching of income.

The bill preserves the transition rules, adopted in TRA '86. Also, the bill retains the present law treatment of NUA on employer securities and generally retains the definition of lump-sum distribution solely for such purpose.

The provisions are effective with respect to distributions after December 31, 1991.

Section 202—Transfers of Pre-Retirement Distributions to IRAs and Other Qualified Plans

Present law

Pre-retirement distributions from qualified plans are includible in income and may be subject to an additional 10-percent penalty if not properly rolled over.

Employee Benefits Simplification and Expansion Act

The bill provides for transfer of distributions to an IRA or to a qualified defined contribution plan that provides for the acceptance of the transfer. The transfer is to be made to the IRA or qualified plan designated by the distributee within a reasonable period of time before the transfer. The plan is to provide a method by which the plan trustee is to designate the transferee plan where the distributee does not make a designation or where transfer to the designated plan is not practicable. In addition, the transfer requirement applies after other rules relating to distributions, such as joint and survivor rules, have been applied.

The plan trustee is required to notify employees of the requirements of the transfer rules and of the amount of any transfer. Once the transfer is made to the transferee trust, the employer is relieved of all responsibility for the amounts transferred.

A plan is not treated as violating the prohibition on reduction of accrued benefits in Section 411(d)(6) solely by reason of the transfer. For purposes of determining years of service and the buy-back rules in Section 411(a)(7), a transfer is treated as a distribution.

Similar rules apply to distributions from qualified annuities in Section 403(a) and tax-sheltered annuities in Section 403(b).

The provisions apply to distributions in plan years beginning after December 31, 1992.

Section 203—Required Distributions From Qualified Plans

Present law

Distributions under most tax-favored retirement arrangements are required to begin no later than April 1 of the calendar year following the calendar year in which the participant attains age 70½, regardless of the actual retirement date. In the case of church plans and governmental plans, distributions are required to begin no later than April 1 of the calendar year following the later of the calendar year in which the participant (1) attains age 70½, or (2) retires.

Employee Benefits Simplification and Expansion Act

Distributions would be required to begin no later than April 1 of the calendar year following the later of the calendar year in which the employee (1) attains age 70 or (2) retires. However, defined benefit plans would have to make certain actuarial adjustments to the benefit of active participants who continue to work beyond age 70. Present law would continue to apply to 5-percent owners and IRAs. The actuarial adjustment rule and the rule requiring 5-percent owners to begin distributions after attainment of age 70 does not apply in the case of a governmental plan or church plan.

This provision applies to years beginning after December 31, 1991.

TITLE III—MISCELLANEOUS PROVISIONS

Section 301—Treatment of Leased Employees

Present law

For purposes of certain employee benefit provisions, a leased employee is teated as an employee of the organization receiving the employee's services. An individual performing services is treated as a leased employee of a service recipient if (1) the individual is not a common law employee of the service recipient, (2) the services are provided pursuant to an agreement between the recipient and any other person, (3) the individual performs services for the recipient on the substantially full-time basis for a period of at least one year, and (4) the services are of a type of historically performed in the business field of the recipient by employees.

Employee Benefits Simplification and Expansion Act

The bill replaces the "historically-performed" test with a "control" test. Thus, an individual will not be considered a leased employee of a service recipient unless the services are performed by the individual under the control of the recipient.

The provision is effective for taxable years beginning after December 31, 1983.

Section 302—Elimination of Half-Year Requirements

Present law

A number of rules, primarily relating to distributions from retirement plans, are based on attainment of age 59½ or age 70½.

Employee Benefits Simplification and Expansion Act

The bill simplifies plan calculations by changing the half-year requirements to birthdate requirements. For example, the provisions that refer to age 59½ are changed to 59 and those that refer 70½ are changed to 70.

The provision applies in years beginning after December 31, 1991.

Section 303—Plans Covering Self-Employed Individuals

Present law

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), different rules applied to retirement plans maintained by incorporated employers and unincorporated employers. In general, plans maintained by unincorporated employers were subject to special rules in addition to the other qualification requirements of the Code. Most, but not all, of this disparity was eliminated by TEFRA.

Under present law, certain special aggregation rules apply to plans maintained by owner-employees that do not apply to other qualified plans (Sec. 401(d) (1) and (2)).

Employee Benefits Simplification and Expansion Act

The bill eliminates these special aggregation rules and treats unincorporated employers the same as incorporated employers.

The provision applies to years beginning after December 31, 1991.

Section 304—Full Funding Limitation of Multi-Employer Plans

Present law

A deduction is allowed (within limits) for employer contributions to a qualified pension plan. No deduction is allowed for contributions in excess of the full funding limit. The full funding limit is the excess of (1) the lesser of (a) 150 percent of a plan's current liability or (b) the plan's accrued liability over (2) the value of the plan's assets.

Employee Benefits Simplification and Expansion Act

The bill eliminates the 150-percent-of-current-liability full funding limit for multi-employer plans. Consistent with this change, the bill also repeals the present law annual valuation requirement for multi-employer plans and applies the prior law requirement that valuations be performed at least every 3 years.

The provision applies to years beginning after December 31, 1991.

Section 305—Affiliation Requirements for Employers Jointly Maintaining a VEBA

Present law

Treasury regulations limit membership in a voluntary employees' beneficiary association ("VEBA") to individuals who share an employment-related common bond. Such a bond is deemed to exist among employees employed by a "common employer (or affiliated employers)". The regulations do not provide guidance, however, with respect to the determination of when a group of employers is considered to be "affiliated".

Employee Benefits Simplification and Expansion Act

The bill is intended as a clarification of present law regarding the affiliated-employer rule. Employers are considered affiliated for purposes of a VEBA is such employers (1) are in the same line of business, (2) act jointly to perform tasks that are integral to the activities of each of the employers, and (3) such joint activities are sufficiently extensive that the maintenance of a common VEBA is not a major part of such joint activities.

This bill is not intended to create any inference as to whether any part of the Treasury regulations affecting VEBAs, other than the affiliated employer rules, is or is not present law.

Section 306—Treatment of Certain Governmental Plans

Present law

Section 415 of the Code limits pension benefits to the lesser of (1) 100 percent of the participant's high 3-year average compensation, or (2) a specified dollar amount ($108,963 for 1991).

State and local governments who offer benefits in excess of the Section 415 limitations are subject to limitations imposed by Section 457 on nonqualified deferred compensation.

Employee Benefits Simplification and Expansion Act

The bill exempts governmental plans from (1) the 100 percent-of-high-3-year average compensation limitation on benefits in defined benefit plans imposed by Section 415, (2) certain limits applicable to disability and survivor benefits in defined benefit plans imposed by Section 415, (3) Section 415 limits with respect to "qualified" excess benefit plans, and (4) with respect to qualified excess benefit plans, section 457 rules applicable to plans that exceed the limits imposed by section 457.

The provision is effective for taxable years beginning after December 31, 1986.

Section 307—Modifications To Simplified Employee Pensions

Present law

Under present law, employer contributions to a simplified employee pension ("SEP") are generally required to be made for (1) each employee who has reached age 21, (2) performed service for the employer during at least 3 of the 5 immediately preceding years, and (3) received $300 in compensation.

Generally, employers with 25 or fewer employees may provide that contributions to a SEP are made on a salary reduction basis if at least 50 percent of eligible employees participate in the SEP. Such a SEP must also meet a 125 percent deferral percentage test to avoid discrimination in favor of HCEs.

Employee Benefits Simplication and Expansion Act

The bill encourages small businesses to offer pension coverage to their employees by simplifying several rules dealing with SEPs. The bill conforms the eligibility requirements for SEP participation to the rules applicable to pension plans generally by providing that contributions to a SEP must be made with respect to each employee who has at least one year of service with the employer.

The bill provides that SEPs which provide for contributions made on a salary reduction basis may be established by employers with 100 or fewer employees and repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

Also, the bill allows the employer to meet the nondiscrimination requirements applicable to salary reduction and matching contributions in a SEP by adopting the design-based safe harbor rules applicable to 401(k) and 401(m) plans (See Section 104 herein).

The provision applies to years beginning after December 31, 1991.

Section 308—Contributions On Behalf of Disabled Employees

Present law

Special limitations on contributions to a defined contribution plan apply in the case of certain disabled participants. In particular, the compensation of a disabled participant in a defined contribution plan is treated, for purposes of the limitations on contributions and benefits, as the compensation the participant received before becoming disabled if (1) the participant is permanently and totally disabled within the meaning of Section 22(c)(3), (2) the participant is not a HCE, and (3) the employer elects to have this special rule apply.

Employee Benefits Simplification and Expansion Act

The bill makes requirements (2) and (3) inapplicable if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and total disabled.

It is not intended, however, that an employer be able to provide contributions on behalf of all disabled participants only during certain years so as to favor HCEs over non-HCEs.

The provision applies to years beginning after December 31, 1991.

Section 309—Distributions From Rural Cooperative Plans

Present law

Present law generally prohibits State or local governments or tax-exempt organizations from maintaining section 401(k) plans. This prohibition does not apply to "rural cooperative plans." In order to be a rural cooperative plan, a plan must be a pension plan. Thus, in-service distributions from a rural cooperative plan are not permitted prior to normal retirement age. This means, in turn, that unlike all other section 401(k) plans (other than certain pre-ERISA plans), rural cooperative plans are not permitted to make in-service distributions after age 59½.

Employee Benefits Simplification and Expansion Act

Under the bill, rural cooperative plans are permitted to make distributions after age 59, effective for plan years beginning after December 31, 1986.

Section 310—Reports of Pension and Annuity Payments

Present law

Under Section 6652(e), failure to report certain pension and annuity payments is subject to a $25 per day penalty, up to a maximum of $15,000 for each failure to file. A separate penalty structure governs the general penalties applicable to failure to file returns and failure to correct erroneous returns.

In addition, there is no exemption for reporting of small pension and annuity distributions. Similar exemptions exist for interest and dividend payments of less than $10 to a person in one year. Also, miscellaneous income need not be reported unless it exceeds $600.

Employee Benefits Simplification and Expansion Act

The bill eliminates the special provisions applicable to failure to report certain pension distributions. The bill incorporates the pension failure to report into the general penalty structure in Sections 6021 through 6024.

The bill also provides that distributions of less than $10 need not be reported.

The provision applies to returns and statements required to be filed after December 31, 1991.

Section 311—Tax Exempt Organizations Eligible for 401(k) Plans

Present law

Under present law, tax-exempt organizations are not eligible to establish a 401(k) plan.

Employee Benefits Simplification and Expansion Act

The bill allows tax-exempt organizations to offer 401(k) plans to their employees.

The provision applies to years beginning after December 31, 1991.

Section 312—Date for Adoption of Plan Amendments

The bill provides that any plan amendments required by the bill are not required to be made before the first plan year beginning on or after January 1, 1992, if the plan is operated in accordance with the applicable provision and the amendment is retroactive to the effective date of the applicable provision.•

By Mr. HELMS (for himself, Mr. BIDEN, Mr. D'AMATO, Mr. HOLLINGS, Mr. COATS, Mr. BROWN, Mr. SMITH, Mr. PRESSLER, Mr. SHELBY, and Mr. GRASSLEY):

S. 1365. A bill to amend the tariff Act of 1930 to require the Secretary of the Treasury to impose civil penalties for the importation or transportation of goods made in a foreign country with the use of forced labor, and for other purposes; to the Committee on Finance.

By Mr. HELMS (for himself, Mr. D'AMATO, Mr. HOLLINGS, Mr. BROWN, Mr. SMITH, Mr. COATS, Mr. PRESSLER, Mr. SHELBY, and Mr. GRASSLEY):

S. 1366. A bill to prohibit the entry into the United States of items produced, grown, or manufactured in the People's Republic of China with the use of forced labor; to the Committee on Finance.

ANTI-FORCED LABOR LEGISLATION

Mr. HELMS. Mr. President, well over a year ago public attention in the free world began to turn to the fate of those brave young men and women who survived the massacre at Tiananmen Square. Such an inquiry inevitably points to the prisons and labor camps. Ultimately the trail leads to forced labor.

We have discovered three things: First, the Communist Chinese manage and control a vast gulag of prisons and forced labor camps. The General Accounting Office estimates that perhaps as many as 20 million persons are imprisoned.

Second, again according to the General Accounting Office—"Forced labor is an integral part of the political, judicial, penal, and economic systems in the PRC and is practiced throughout the country."

Further, Asia Watch has determined, "The government of China is systematically exploiting the labor of prisoners to make cheap products for export—and specifically targeting the United States, Germany and Japan."

Third, we have found that our Nation's laws against the importation of slave labor produced goods are not being enforced. In effect, American consumers are subsidizing the imprisonment of liberty-loving people in China.

Today, Senators BIDEN, D'AMATO, HOLLINGS, COATS, BROWN, SMITH, PRESSLER, SHELBY, and I are introducing legislation designed to end this subsidy. The Anti-Forced Labor Act of 1991 contains three major elements. First, it grants human rights groups legal standing to enforce U.S. forced labor laws in the same way that environmental groups have access to the courts in environmental cases. Second, it gives American companies and their unions a private right of action for damages from slave labor imports. A similar private right of action is the centerpiece of our antitrust enforcement system. Finally, it prohibits Americans from investing in slave labor enterprises abroad. In other words, you can't enter into a joint venture with a prison.

The Anti-Forced Labor Act of 1991 is generic legislation. While Communist China is by far the major offender, our legislation would apply to any regime found to follow this practice.

Senators D'AMATO, HOLLINGS, BROWN, SMITH, COATS, PRESSLER, SHELBY, and I are also introducing companion legislation, which applies specifically to the People's Republic of China. It contains two provisions: The first would require importers to certify that imports from mainland China are free of forced labor inputs and the second would encourage the Communists to open their prisons and slave labor camps to inspection by international human rights groups such as the International Red Cross.

Mr. President, one long-time prisoner of the Communist Chinese had this to say about their system: "China surely must be the only country in the world whose prisons turn a profit." I see no reason why the American people should provide that profit. Clearly, forced labor is something we want to discourage, not encourage.

Finally, Mr. President, in the interest of promoting a deeper understanding of this menace to liberty, I have asked the Republican staff of the Senate Foreign Relations Committee to prepare a selected bibliography of congressional actions and written materials relative to forced labor. I have also asked the staff to compile a list of products produced by forced labor in Communist China.

Mr. President, I ask unanimous consent that these items be printed at the conclusion of my remarks along with the texts of the two bills.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Forced Labor Act of 1991".

SEC. 2. AMENDMENT TO TARIFF ACT OF 1930.

Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended to read as follows:

"SEC. 307. PROHIBITION ON IMPORTATION OR TRANSPORTATION OF PROHIBITED PRODUCTS.

"(a) FINDINGS AND POLICY.—(1) The Congress finds that—

"(A) some states in the international community employ various forms of convict labor, forced labor, indentured labor, and involuntary labor;

"(B) these forms of labor are used for several purposes, including political coercion, education or punishment, economic development, labor discipline, or racial, social, national, or religious discrimination;

"(C) goods, wares, articles, and resources produced or extracted by these forms of labor are exported, directly or indirectly, to other states in the international community, including the United States;

"(D) the use of forced or compulsory labor constitutes disrespect for basic human rights and fundamental freedoms, as set forth in the Universal Declaration of Human Rights, the Charter of the United Nations, and other international covenants;

"(E) the Universal Declaration of Human Rights recognizes the 'right to work, to free choice of employment, to just and favorable conditions of work' and prohibits slavery and the slave trade 'in all their forms';

"(F) the United States, as a sovereign state in the international community, has pledged itself to protect and defend human rights within its territory and to protect and promote human rights, including the rights of individuals, to be free from forced labor and involuntary servitude, throughout the world; and

"(G) this commitment to human rights, generally, and to the termination of forced labor and involuntary servitude, specifically, is consistent with the basic principles on which the United States was founded, as embodied in such documents as the Declaration of Independence and the Bill of Rights, with the prohibition against slavery in the Thirteenth Amendment to the Constitution of the United States, and with the historical traditions of the United States as a humanitarian nation; and

"(H) the Senate demonstrated the commitment of the United States to the termination of forced labor and involuntary servitude on May 14, 1991, when the Senate gave its advice and consent to the ratification of the Convention Concerning the Abolition of Forced Labor (Convention No. 105), adopted by the International Labor Conference (40th session) at Geneva, Switzerland, on June 25, 1957.

"(b) It is the policy of the United States to—

"(A) take measures, to the maximum extent practicable, to protect the rights of individuals to be free from forced labor and involuntary servitude;

"(B) enable the citizens of the United States to be free from unknowingly supporting or subsidizing the policies of states in the international community which employ forced labor and involuntary servitude; and

"(C) deny United States economic support, by consumer purchase, investment, lending, or otherwise, to states in the international community which use forced labor.

"(b) PROHIBITION ON IMPORTATION OR TRANSPORTATION OF PROHIBITED PRODUCTS.—(1)(A) Except as provided in paragraph (2), no prohibited product shall be entitled to entry at any of the ports of the United States, and the importation or the transportation in interstate commerce thereof is hereby prohibited.

"(B) The Secretary of the Treasury shall prescribe such regulations as may be necessary for the enforcement of this subsection.

"(2) The provisions of paragraph (1) shall not apply to items vital to national security.

"(3) No United States national or any person subject to the jurisdiction of the United States may invest in, or make loans to, a foreign joint venture involving the use of forced labor.

"(4) For purposes of this subsection—

"(A) the term 'forced labor' means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily;

"(B) the term 'prohibited product' means any goods, wares, articles, merchandise, natural resources and services produced, mined, extracted, manufactured or provided wholly or in part in any foreign country by forced labor; and

"(C) the term 'United States national' means—

"(i) a natural person who is a citizen of the United States; and

"(ii) a corporation or other legal entity which is organized under the laws of the United States or of any State, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

"(c) PENALTIES.—(1) With respect to any violation of paragraph (1) or (3) of subsection (b), an order under this section shall require the person or entity to pay a civil penalty of—

"(A) $10,000 for one violation;

"(B) $100,000 in the case of a person or entity previously subject to one order under this section; or

"(C) $1,000,000 in the case of a person or entity previously subject to more than one order under this section.

"(2)(A) Before imposing an order described in paragraph (1) against a person or entity for a violation of paragraph (3) of subsection (b), the Secretary of the Treasury shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Secretary of the Treasury) of the date of the notice, a hearing respecting the violation.

"(B) Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Secretary of the Treasury's imposition of the order shall constitute a final and unappealable order.

"(C) If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity named in the complaint has violated paragraph (1) or (3) of subsection (b), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (1).

"(3) The decision and order of an administrative law judge shall become the final agency decision and order of the Secretary of the Treasury unless, within 30 days, the Secretary of the Treasury modifies or vacates the decision and order, in which case the decision and order of the Secretary of the Treasury shall become a final order under this subsection. The Secretary of the Treasury may not delegate his authority under this paragraph.

"(4) A person or entity adversely affected by a final order respecting an assessment may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(5) If a person or entity fails to comply with a final order issued under this subsection against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate circuit court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.

"(d) ENFORCEMENT BY PRIVATE PERSONS.—(1) The prohibitions contained in section 403 may be enforced by civil actions in appropriate United States district courts without regard to the amount in controversy and in appropriate State or local courts of general jurisdiction. A civil action shall be commenced within 1 year after plaintiff obtains knowledge of the alleged violation of subsection (b)(1)(A) has occurred, or reasonably should have obtained knowledge, except that the court shall continue such civil case brought pursuant to this section from time to time before bringing it to trial if an administrative hearing pursuant to subsection (c)(2) has commenced and is being diligently conducted so as to reach an expeditious conclusion.

"(2)(A) Except as provided in paragraph (3)—

"(i) any person to whom any prohibited product has been offered for purchase or in reasonable likelihood will be offered for purchase, or

"(ii) any public interest group or human rights organization,

may commence a civil suit on behalf of that person, group, or organization—

"(I) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the 11th Amendment to the Constitution), who is alleged to be in violation of any provision of this title or regulation issued under the authority of this title;

"(II) to compel the Secretary of the Treasury to enforce, pursuant to paragraphs (1) and (3) of subsection (b), the penalties set forth in or authorized pursuant to subsection (c); or

"(III) against the Secretary of the Treasury where there is an alleged failure of the Secretary to perform any act or duty under paragraph (1) or (3) of subsection (b) which is not discretionary with the Secretary.

"(B) The district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, or to order the Secretary to perform such act or duty, as the case may be.

"(3) No action may be commenced under paragraph (2)(A)(3)—

"(A) prior to 60 days after written notice of the violation has been given to the Secretary, and to any alleged violator of this title or any regulation issued hereunder;

"(B) if the Secretary of the Treasury has commenced an action to impose a penalty pursuant to section 404 of this section; or

"(C) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or State to address a violation of any such provision or regulations.

"(e) Treble Damages.—Any person in competition with a person importing or transporting items, or investing or loaning funds, in violation of paragraph (1) or (3) of subsection (b), who is injured as a result of such violation, may bring an action in a court of the United States and shall recover three-fold the amount of the damages sustained by such violation.".

SEC. 3. REPEALS.

Sections 1761 and 1762 of title 18, United States Code, are repealed.

S. 1366

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. PROHIBITION OF ARTICLES USING FORCED LABOR.

(a) In General.—Notwithstanding any other provision of law, no product, growth, or manufactured article of the People's Republic of China shall enter or be imported into the United States unless—

(1) the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") determines that such product, growth, or manufactured article is not the product, growth, or manufacture of forced labor; and

(2) such determination is based on consultations described in subsection (b) and a certification submitted to the Secretary in accordance with subsection (c).

(b) Right of Inspection and Consultation.—The United States shall use all diplomatic efforts to persuade the People's Republic of China to permit representatives of international humanitarian and intergovernmental organizations, such as the International Labor Organization and the International Committee of the Red Cross, to periodically inspect all camps, prisons, and other facilities holding detainees and the Secretary shall consult with representatives of such organizations to assure that products of the People's Republic of China which are for export are not being produced with the use of forced labor.

(c) Certification.—The Secretary shall prescribe the form and content of the certification (including documentation) for submission in connection with any product, growth, or manufactured article of the People's Republic of China that satisfies the Secretary that the importer has taken steps to ensure that such product was not produced, grown, or manufactured with the use of forced labor.

(d) Penalties.—

(1) Unlawful acts.—It is unlawful to—

(A) bring or import into the United States any product or article if such importation is prohibited under subsection (a), or

(B) make a false certification under subsection (c).

(2) Civil penalties.—Any person or entity who violates paragraph (1) shall be subject to a civil penalty of—

(A) not more than $10,000 for the first violation,

(B) not more than $100,000 for the second violation, and

(C) not more than $1,000,000 for more than two violations.

(3) Construction.—Except as provided in paragraph (2), the unlawful acts described in paragraph (1) shall be treated as violations of the customs laws for purposes of applying the enforcement provisions of the Tariff Act of 1930 (19 U.S.C. 1581 through 1641).

(e) Definitions.—For purposes of this section:

(1) Forced labor.—The term "forced labor" means all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

(2) Product, growth, or manufactured article.—A product, growth, or manufactured article shall be treated as being a product, growth, or manufacture of forced labor if—

(A) the article was fabricated, assembled, or processed, in whole or in part;

(B) contains any part that was fabricated, assembled, or processed in whole or in part; or

(C) was grown, harvested, mined, quarried, pumped, or extracted,

with the use of forced labor.

(3) Enter or be imported.—The term "enter or be imported" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

Products Produced by Forced Labor in the People's Republic of China

AGRICULTURAL PRODUCTS

Canned goods—Manchuria Prisons [The Observer (London), February 27, 1990].

Corn—Xinjiang Province Prisons [Central Daily News (International Edition), June 13, 1991].

Cotton—Xinjiang Province Prisons [Central Daily News (International Edition), June 13, 1991].

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Processed milk—Manchuria Prisons [The Observer (London), February 27, 1990].

Sugar—Manchuria Prisons [The Observer (London), February 27, 1990].

Sugar beets—Unknown [The Observer (London), February 27, 1990].

Sugar cane—Yunnan Province Prisons [Yunnan Nianjian 1986, December 1986].

Tea—Guangxi Prison [Yunnan Nianjian 1986, December 1986].

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Tea—Red Star Tea Farm (Guandong Province) [Asia Watch: Prison Labor in China, April 19, 1991].

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Tea—Zhejiang Prison [PRC Forced Labor Camps Export Goods to the West. Library of Congress, Far Eastern Law Division. April 19, 1991].

Wine ("Dynasty Dry Rose" brand)—Tuanhe Labor Camp. Beijing [Financial Times, April 4, 1990].

AUTOMOBILES, OTHER VEHICLES AND AUTOMOTIVE PARTS

Automobiles—Yunnan Province Prisons [Yunnan Nianjian 1986, December 1986].

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I-beams for automobiles—Yaan Prison (Sichuan Province) [Asia Watch: Prison Labor in China, April 19, 1991].

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CONSTRUCTION MATERIALS

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Bricks—Unknown [The Observer (London), February 27, 1990].

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High Carbon Graphite—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Iron pressure welded steel pipe—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Marble slabs—Guandong Province Prisons [Asia Watch: Prison Labor in China, April 19, 1991].

Nails—Sun Garden Processing Factory [Central Daily News (International Edition), June 13, 1991].

Plate glass—Hebei Prison [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Siliconit—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Terrazzo—Guangdong Province Prisons [Asia Watch: Prison Labor in China, April 19, 1991].

Tiles—Unknown [The Observer (London), February 27, 1990].

CONSUMER GOODS

Artificial Flowers—Canton Number One Detention Center [China Post, May 7, 1991].

Arts and crafts—Qinghe "Clean River" Farm [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Ceramics—Qinghe "Clean River" Farm [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Circuit boards assemblies for televisions and radio cassette players—Guangzhou Prison [Cable from U.S. Consulate Guangzhow (Canton). January 26, 1990].

Electric fans—Sichuan Province No. 2 Prison [Asia Watch: Prison Labor in China, April 19, 1991].

Flashlights—Guangdong Province Prisons [Asia Watch, Prison Labor in China, April 19, 1991].

Garden shears—Sun Garden Processing Factory [Central Daily News (International Edition), June 13, 1991].

CONTAINERS

Cardboard containers—Shanghai Number 1 Prison [Businessweek, April 22, 1991].

FERTILIZERS

Phosphate fertilizers—Yunnan Province Prisons [Yunnan Nianjian 1986, December 1986].

Water chestnut fertilizers—Yunnan Province Prisons [Yunnan Nianjian 1986, December 1986].

HARDWARE

Galvanized wire—Sichuan Province No. 2 Prison [Asia Watch: Prison Labor in China, April 19, 1991].

Hardware—Guangdong Province Prisons [Businessweek, April 22, 1991].

Three-sided book cutter—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Hand wrenches ("Work" or "Gong" brand)—Shanghai Prison Factory [Letter from Tao-tai Hsia and Wendy I. Zeldin, Library of Congress, Far Eastern Law Division to Sen. Jesse Helms Regarding Material on China's Labor Reform Products. June 20, 1991.]

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ZY 5140 column shaped vertical drill—Sichuan Province No. 2 Prison (Zigong Detachment). [Asia Watch: Prison Labor in China, April 19, 1991].

HEAVY EQUIPMENT

3L–10/8 Air Compressors—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

BC6060 Shapers—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Bench clamps—Guangdong Province Prisons [Asia Watch: Forced Labor in China, April 19, 1991].

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Clamps—New Birth Machinery Factory (Hebei Province) [Forced Labor in the People's Republic of China, Library of Congress, April 2, 1990].

Clamps—Xinsheng Machinery Factory (Cangzhou) [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Clay clinkers—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Conveyor belts—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Cylindrical piston pumps—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Diesel engines—Guangxi Prison [Yunnan Nianjian 1986, December 1986].

Diesel engines—Gold Horse Diesel Factory (Hebei Province) [Forced Labor in the People's Republic of China, Library of Congress, April 2, 1990].

Diesel engines—Gold Horse Diesel Factory (Yunnan Province) [Yunnan Nianjian 1986, December 1986].

Diesel engines—Xinsheng Machinery Factory (Cangzhou) [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Electric spark forming machine tools—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Gasoline electric generators—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Graphite electrodes—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Machine parts—Beijing area prisons [The Observer (London), February 27, 1990].

Mine tools—Hebei Province Prisons [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Narrow gauge mine tubs—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Power transformer—The Deng Fong Co. Ltd. (Shenzhen) (Guandong Province) [Asia Watch: Prison Labor in China, April 19, 1991].

Reciprocating cylindrical piston pumps—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Rubber aquatic products—Shandong Province Prisons [Yunnan Nianjian 1986, December 1986].

Shaping machines—Shandong Qingdo Life Building Factory [PRC Forced Labor Camps Export Goods to the West, Library of Congress, Far Eastern Law Library, April 19, 1991].

Sprayers ("Clouded Mountain" brand)—Yunnan Province Prisons [Yunnan Nianjian 1986, December 1986].

Thread roller—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

Turbo Generator—Shandong Province Prisons [Shandong Nianjian 1987, April 1988].

MEDICINES

Medicinal materials—Yunnan Province Prisons [Yunnan Nianjian 1986, December 1986].

RAW AND SEMI-PROCESSED MATERIALS

A carbon and calcium chemical—Sunshan Chemical Industry Factory (Chungching) [Central Daily News (International Edition), June 13, 1991].

Coal—Jinpu mountain region prisons (Changye, Shanxi Province) [Central Daily News (International Edition), June 13, 1991].

Coking coal—Wanjia Detachment Chengdu (Sichuan Province) [Asia Watch: Prison Labor in China, April 19, 1991].

Lead—Gujiu City Prisons [Central Daily New (International Edition), June 13, 1991].

Pig Iron—Sichuan Province No. 2 Prison (Wangcang Detachment) [Asia Watch: Prison Labor in China, April 19, 1991].

Smokeless coal—Jiangouxigu mine (Taiyuan Shanxi Province) [Central Daily News (International Edition), June 13, 1991].

SANDALS AND SHOES

Children's running shoes—Guangdong Province Prisons [Businessweek April 22, 1991.]

Sandals—Guangdong Province Prisons [Businessweek April 22, 1991.]

Shoelace tips—Unknown [Businessweek April 22, 1991].

Shoes—Guangdong Province Prisons [Businessweek, April 22, 1991].

Sneakers—Guangdong Province Prisons [Businessweek April 22, 1991].

Sneakers—Beijing No. 1 Prison [Central Daily News (International Edition), June 13, 1991].

Vinyl Slippers—Wanjia Labor Camp [Businessweek April 22, 1991].

TEXTILES AND GARMENTS

Assembled garments—Guangdong [Unclassified cable from U.S. Consulate Guangzhou (Canton). January 26, 1990].

Cotton—Hebei Province Prisons [Dr Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Cotton cloth—New Life Cotton Cloth Mill (Nantong County, Jiangsu) [Asia Watch: Prison Labor in China, April 19, 1991].

Cotton t-shirts—New Life Cotton Cloth Mill (Nantong County, Jiangsu) [Asia Watch: Prison Labor in China, April 19, 1991].

Denim—New Life Cotton Cloth Mill (Nantong County, Jiangsu) [Asia Watch: Prison Labor in China, April 19, 1991].

Denim Wool Fabric—New Life Cotton Cloth Mill (Nantong County, Jiangsu) [Asia Watch: Prison Labor in China, April 19, 1991].

Dye products—Xinsheng Dye Factory (Jin Zhou Prison) [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Knit grey—New Life Cotton Cloth Mill (Nantong County, Jiangsu) [Asia Watch: Prison Labor in China, April 19, 1991].

Knitted cloth—New Life Weaving Factory [Businessweek, April 22, 1991].

Knit underwear—New Life Cotton Cloth Mill (Nantong County, Jiangsu) [Asia Watch: Prison Labor in China, April 19, 1991].

Knitwear—Quinghe "Clean River" Farm [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Leather goods—Pigskin Export (Sichuan Province) [PRC Forced Labor Camps Export Goods to the West. Library of Congress, Far Eastern Law Library. April 19, 1991].

Leather work gloves—Anshun City Prisons (Guizhou Province) [Letter from Tao-tai Hsia and Wendy I. Zeldin, Library of Congress, Far Eastern Law Division to Sen. Jesse Helms Regarding Material on China's Labor Reform Products. June 20, 1991].

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Silk—Hebei Province Prisons [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Stockings—Beijing area prisons [The Observe (London), February 27, 1990].

Textiles—Qinghe "Clean River" Farm [Dr. Stephen Mosher, testimony before the Senate Foreign Relations Committee, June 6, 1990].

Towels—Beijing area prisons [The Observer (London), February 27, 1990].

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[All information comes from open sources].

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Dalian Quartz Products Factory.
Hebei Cangzhou Machinery Plant.
Hebei New Life Chemical Plant.
Magang Pipe Works (Tianjin).
Lianoning Shenyang New Life Chemical Plant.
Qingdao Life Building Machine Plant.
Shanghai Labor Machinery Plant.
Sichuan Huidong Lead and Zinc Mine.
Sichuan New Health Asbestos Mine.
Yunnan Agricultural Machinery Plant.

OTHER PRODUCTS PRODUCED IN "REFORM-THROUGH-LABOR" PRISONS[1]

Live Animals.
Meat and Edible Meat Offal.
Dairy Products and other products of animal origin.
Fish, Crustaceans and Aquatic Vertebrae.
Live Trees, Plants.
Vegetables and Fruits.
Coffee, Tea and Spices.
Cereals and Grains.
Sugar, Cocoa and Cocoa products.
Beverages and Vinegar.
Tobacco and Tobacco substitutes.
Printed Books.
Silk, Wool, Woven Fabric, Textile Fabric and Apparel Articles.
Ceramics, Glass, Iron, Steel, Copper, Nickel, Aluminum, Lead, Zinc, Tin, Base Metals.
Tools, Cutlery, Boilers, Electric, Machinery Vehicles.
Coal, Precious and Semi-precious Stones, Earth Metals.
Cosmetics Oils, Soaps, Candles.
Chemicals.
Nuclear Reactors, Boilers, Machinery and Parts.
Metal for satellites.

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By Mr. MITCHELL (for himself, Mr. BENTSEN, Mr. PELL, Mr. CRANSTON, Mr. BIDEN, Mr. MOYNIHAN, Mr. KENNEDY, Mr. WALLOP, Mr. INOUYE, Mr. SARBANES, Mr. DECONCINI, Mr. GLENN, Mr. LEAHY, Mr. DIXON, Mr. SASSER, Mr. DODD, Mr. KERRY, Mr. WIRTH, Mr. AKAKA, and Mr. METZENBAUM):

S. 1367. A bill to extend to the Peoples' Republic of China renewal of nondiscriminatory (most-favored-nation) treatment until 1992 provided certain conditions are met; to the Committee on Finance.

MFN TRADE STATUS TO CHINA

Mr. MITCHELL. Mr. President, the bill we're proposing today reflects a consensus on the appropriate course of action our government should take with respect to the extension of most-favored-nation trading status to the Peoples' Republic of China.

This bill addresses fairly the very serious divisions between our nations. Those divisions hinge on serious matters of trade and weapons policy as well as on the very fundamental issues of human rights which are the bedrock of American policy abroad.

The bill would extend MFN status to China until July 1992, a full year, with a requirement that the President report to the Congress on the Chinese Government's responses and actions during the intervening year.

The bill lists the issues on which the President must report when he seeks renewal of MFN status again in 1992. It asks that China's leaders have taken the following steps:

Accounted for those citizens detained, accused, or sentenced because of the nonviolent expression of their political beliefs;

Released those citizens who have been imprisoned for such nonviolent expression;

Ceased the export of products produced by forced labor to the United States of America;

Adhered to the Joint Declaration on Hong Kong;

Made significant progress in ceasing and preventing the violation of internationally recognized human rights and correcting unfair trade practices; and

Adopted a national policy of adhering to limits and controls on nuclear, chemical, and biological arms proliferation.

Because of the intense and well-justified concerns raised by the continued Chinese sales of ballistic missiles to developing nations, the bill also specifies that the President certify to Congress that the Peoples' Republic of China has not transferred certain ballistic missiles or launchers to Syria, Iran or Pakistan.

The gulf war this year demonstrated that the proliferation of ballistic missile technology is not in the interests of world or regional peace.

No nation can or should seek to enhance its foreign earnings with an export policy that puts peace at risk. Yet that is what China is doing.

Our Nation should not tolerate such a policy. For that reason, this legislation would require the immediate termination of MFN status for China if the President finds that such sales have taken place.

This legislation is not an intrusive effort to micromanage the relations between our Nation and China. We have seen that the Administration's policy has had no effect on the policies of the Chinese Government. Clearly, the Bush administration's China policy has failed.

It hasn't produced improved human rights conditions in China. It hasn't improved China's trade record with the United States. And it has not made China a more responsible world citizen with respect to arms proliferation.

The bill will give the President a year to work with China's leaders to change this situation.

In fact, the bill gives the President a negotiating tool with which he can seek to persuade the Chinese leaders that the people of the United States take seriously our commitment to human rights and world peace.

I hope the President chooses to use the tool with which we want to equip him.

The goal of sound bilateral United States-Chinese relations will enjoy broad American public sympathy as soon as China's treatment of its own people improves.

This legislation is one means to that end, and I urge the President to reconsider his own policy, which has made no progress, and instead take up the alternative and much more appropriate approach we offer in this bill.

By Mr. HATFIELD:

S. 1368. A bill to amend the Rehabilitation Act of 1973 to establish a hearing impairment research grant, and for other purposes; to the Committe on Labor and Human Resources.

HEARING IMPAIRMENT RESEARCH ACT

• Mr. HATFIELD. Mr. President, an estimated 13.4 million persons, or nearly 1 in every 20 Americans suffer from hearing impairments. Hearing loss, whether from excesive noise, the aging process, disease, or some other cause, imposes a serious hardship—not only upon the affected person, but also upon family, loved ones, and all those who come in contact with that person.

While the medical and scientific communities have developed an arsenal of treatments for many disorders, research into hearing problems has been relatively limited. Most research on deafness and other hearing impairments in this country is aimed at prevention. This emphasis has arisen because most hearing problems involve damage to the inner ear, a complex and delicate mechanism that is as yet poorly understood. Consequently, the research funding agencies have taken the position that the primary need is for greater understanding of the mechanisms responsible for the hearing loss. While I fully support ongoing research efforts, I am troubled by the tremendous gap that exists between basic research and the development of clinical treatments.

Therefore, Mr. President, I rise today to introduce the Hearing Impairment Research Act of 1991. My legislation will go a long way toward bridging that gap. This bill will provide $6 million to the Oregon Hearing Research Center [OHRC] at the Oregon Health Sciences University. Researchers at this center are dedicated to studying the inner ear, with the primary objective of producing clinical methods that physicians and the medical products industry can incorporate into practical treatments for hearing problems. Over the past two decades, OHRC has been credited with a long line of accomplishments—the first to identify interactions between certain classes of drugs which can produce marked or permanent hearing loss; the establishment of the only medical clinic devoted exclusively to the treatment of tinnitus; and, a tinnitus data registry to foster new testing and treatment methods. Researchers at OHRC have contributed to the development of the implantable hearing aid which is showing promise for previously untreatable patients. The OHRC also plans to expand the clinical training and research assistance that the center currently provides to the medical community and the medical products industry.

Mr. President, the progress being made at OHRC is of great importance to this Nation's hearing impaired and I urge my colleagues to support this legislation to ensure that the important work being done at the Oregon Hearing Research Center is sustained.●

By Mr. KERRY:

S. 1369. A bill to establish a foundation to conduct activities which are complementary to and are for the benefit of the programs and activities of the National Oceanic and Atmospheric Administration; to the Committee on Commerce, Science, and Transportation.

NOAA FOUNDATION ESTABLISHMENT ACT

Mr. KERRY. Mr. President, I am pleased today to introduce the NOAA Foundation Establishment Act. This bill would create a foundation to allow greater public participation to achieve the goals of the National Oceanic and Atmospheric Administration.

The NOAA Foundation would be a charitable nonprofit corporation. It is modeled after the Fish and Wildlife Foundation, which was established by Congress to conserve and manage fish and wildlife resources and now provides funding for 135 projects a year with a $17 million annual budget. The NOAA Foundation would be administered by a 13-member board of directors who are knowledgeable of ocean and atmospheric sciences, natural resources management, or NOAA programs. Because of the international nature of ocean and atmospheric issues, two of the board members may be non-U.S. citizens.

The foundation would encourage, accept, and manage private donations to benefit NOAA and the oceans and atmospheric user community. This community includes everyone who listens to weather forecasts. It includes fishermen and seafood consumers, whale-watchers and beach-goers, and boaters and air travelers. NOAA is charged with forecasting hurricanes, managing coastal land use, charting the oceans and skies and protecting fish, marine mammals, and wetlands.

With one-third of our shellfishing waters closed to harvest, our fish stocks declining, our atmosphere polluted and our climate changing, we must expand the resources we bring to bear to address these problems. The bill I am introducing today recognizes the need for greater public understanding and involvement in NOAA's many activities. The foundation would forge a partnership between the private, and public sectors to help promote conservation, protection, management, and research of our oceans and atmosphere. These are broad goals that all Americans should work to achieve.

Mr. President, I hope my colleagues will join me in support of the NOAA Foundation Establishment Act and I ask unanimous consent that the full text of the bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "NOAA Foundation Establishment Act".

SEC. 2. ESTABLISHMENT AND FUNCTIONS.

(a) ESTABLISHMENT.—There is established a charitable and nonprofit corporation to be known as the NOAA Foundation (hereafter in this Act referred to as the "Foundation"). The Foundation is not an agency or establishment of the United States.

(b) FUNCTIONS.—The functions of the Foundation are—

(1) to encourage, accept, and administer private gifts for the benefit of, or in connection with, the programs and activities of the National Oceanic and Atmospheric Administration, and for the benefit of, or in connection with, the activities of the Foundation;

(2) to undertake activities to enhance, support, or complement the research, analysis, measurement, assessment, conservation, management, regulatory, and service programs and activities of the National Oceanic and Atmospheric Administration;

(3) to participate with and otherwise assist international organizations, foreign governments, entities, and individuals in undertaking and conducting activities of a type conducted by the National Oceanic and Atmospheric Administration or which complement its programs and activities; and

(4) to conduct education, demonstration, outreach and training (including the convening of symposia and the presentation of public exhibitions and displays) to foster understanding of the mission of the National Oceanic and Atmospheric Administration and its programs and activities, and to stimulate and encourage appropriate cooperation and participation in its activities by regional, State and local agencies, and private organizations and individuals.

SEC. 3. BOARD OF DIRECTORS.

(a) MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereafter referred to in this Act as the "Board"). The Board shall consist of thirteen voting members, of whom—

(1) at least eleven shall be United States citizens;

(2) nine shall be knowledgeable with respect to one or more of the research, analysis, measurement, assessment, conservation, management, regulatory, or service programs and activities of the National Oceanic and Atmospheric Administration; and

(3) four shall be educated and experienced in a scientific, technical, or professional field relating to one or more of the programs or activities of the National Oceanic and Atmospheric Administration.

The membership of the Board shall, in aggregate, possess a broad understanding of the range of programs and activities of the National Oceanic and Atmospheric Administration, and to the extent practicable, shall represent diverse points of view relating to those programs and activities. The Administrator of the National Oceanic and Atmospheric Administration shall be an ex-officio nonvoting member of the Board. Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(b) APPOINTMENT AND TERMS.—By July 1, 1991, the Secretary of the Commerce shall appoint the voting members of the Board. The voting members shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint four members to a term of two years, four members to a term of four years, and five members to a term of six years. A vacancy on the Board shall be filled, within sixty days after such vacancy, in the manner in which the original appointment was made. No individual may serve more than two consecutive terms as a member.

(c) CHAIRMAN.—From among its voting members the Board shall elect a chairman, who shall have a two-year term.

(d) QUORUM.—A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transition of business at that time.

(e) MEETINGS.—The Board shall meet at the call of the chairman at least once a year. If an individual serving as a voting member misses three consecutive regularly scheduled meetings, the Secretary of Commerce may remove that individual from the Board as a voting member and fill the vacancy in accordance with subsection (b).

(f) REIMBURSEMENT OF EXPENSES.—Voting members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) GENERAL POWERS.—(1) The Board may complete the organization of the Foundation by—

(A) appointing officers and employees;

(B) adopting a constitution and by-laws consistent with the functions of the Foundation and the provisions of this Act; and

(C) undertaking such other acts as may be necessary to carry out the provisions of this Act.

(2) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(A) Officers and employees may not be appointed until the Foundation has sufficient funds to pay them for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(B) The first officer or employee appointed by the Board shall be the secretary of the Board who (i) shall serve, at the direction of the Board, as its chief operating officer and (ii) shall be knowledgeable and experienced in matters relating to the functions and programs of the National Oceanic and Atmospheric Administration.

SEC. 4. RIGHTS, OBLIGATIONS, AND POWERS OF THE FOUNDATION.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(3) shall have its principal offices in the District of Columbia; and

(4) and shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The serving of notice to, or service or process upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its functions under section 2, the Foundation shall have, in addition to the powers otherwise given it under this Act, the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, device, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein;

(2) to acquire by purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(4) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that neither the members of the Board nor the officers or employees of the Foundation shall be personally liable, other than for gross negligence;

(5) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make and receive such payments as may be necessary to carry out functions of the Foundation;

(6) to engage in joint projects with the National Oceanic and Atmospheric Administration under any law authorizing the Secretary of Commerce or the Administrator of the National Oceanic and Atmospheric Administration to engage in joint projects with private, non-profit organizations; and

(7) to do any and all acts necessary and proper to carry out the functions of the Foundation.

For purposes of this Act, an interest in real property shall be treated as including, among other things, easements or other rights for preservation, conservation, protection, or enhancement by and for the public of natural, scenic, historic, scientific, educational, inspirational, or recreational resources. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

SEC. 5. ADMINISTRATIVE SERVICES AND SUPPORT.

(a) PROVISION OF SERVICES.—The Secretary of Commerce may provide personnel, facilities, and other administrative services and assistance to the Foundation, including reimbursement of expenses under section 3(f) not to exceed current Federal Government per diem rates, for a period of up to five years after the date of enactment of this Act.

(b) REIMBURSEMENT.—The Foundation may reimburse the Secretary of Commerce for any administrative service provided under subsection (a). The Secretary shall deposit any reimbursement received under this subsection into the Treasury to the credit of the appropriation then current and chargeable for the cost of providing such services.

SEC. 6. VOLUNTEER STATUS.

The Secretary of Commerce may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Department of the Commerce, as volunteers in the performance of the functions authorized under this Act, in the manner provided for under section 7(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f(c)).

SEC. 7. AUDITS, REPORT REQUIREMENT, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—The Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101 et seq.), is amended by adding at the end the following new paragraph:

"(75) NOAA Foundation.".

(b) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF WITH RESPECT TO CERTAIN FOUNDATION ACTS OR FAILURE TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with its functions set forth in section 2(b); or

(2) refuses, fails, or neglects to discharge its obligations under this Act, or threatens to do so,

the Attorney General of the United States may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

SEC. 8. UNITED STATES RELEASE FROM LIABILITY.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of Commerce to enable the National Oceanic and Atmospheric Administration to provide administrative services to the Foundation under section 5, $200,000 for fiscal year 1992.

By Mr. BURNS (for himself and Mr. BAUCUS):

S. 1370. A bill to authorize the Secretary of the Interior in cooperation with the Secretary of Energy to make available Pick-Sloan Missouri River Basin Program project pumping power to non-Federal irrigation projects in the State of Montana, and for other purposes; to the Committee on Energy and Natural Resources.

PICK-SLOAN IRRIGATION

Mr. BURNS. Mr. President, I rise to introduce legislation to authorize two small irrigation projects in my State of Montana. My colleague, Senator BAUCUS, is a cosponsor of this legislation.

Mr. President, in response to the navigation and flooding needs of the downriver States, Montana and other Upper Missouri States saw much of their bottomland along the Missouri River inundated under such massive flood control projects as Fort Peck Dam and Reservoir. In exchange, the upper States were promised funds to construct irrigation projects to replace those lands lost under the impounded water.

Well Mr. President, the reservoirs were built, the water impounded, but the irrigation projects were never built. A promise was broken Mr. President.

What Senator BAUCUS and I are introducing today is only a small project to allow two eastern Montana irrigation projects to receive electrical power at the Pick Sloan firm power rate. In a small way this may allow some of the irrigation denied to Montana.

At least, Mr. President, it is a beginning. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PICK-SLOAN PROJECT PUMPING POWER.

The Secretary of the Interior, in cooperation with the Secretary of Energy, will make available, as soon as practicable after the date on enactment of this Act, project pumping power from the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 891) (commonly known as the "Flood Control Act of 1944")) to two existing non-Federal irrigation projects known as the—

(1) Haidle Irrigation Project, Prairie County, Montana; and

(2) Hammond Irrigation District, Rosebud County, Montana.

SEC. 2. POWER RATE.

Power made available under section 1 shall be at the firm power rate.

By Mr. SIMON:

S. 1371. A bill to enhance the national effort to improve the education of elementary and secondary school students by establishing an institute to promote urban education restructuring, and for other purposes; to the Committee on Labor and Human Resources.

PARTNERSHIPS FOR CHICAGO SCHOOLS ACT

• Mr. SIMON. Mr. President, I rise to introduce the Partnerships for Chicago Schools Act of 1991.

The goal of much of the education legislation introduced this session has been to support innovation and creativity at the local level. Both Congress and the President have sought to foster a restructuring of our schools and bring together parents, teachers and local community members to improve education at the grass roots level. This is necessary if real school reform is to happen.

Mr. President, there is one local community where this has already begun. In 1989, Chicago began implementing one of the most rapid and ambitious efforts in the country to restructure its education system and give significant authority to each neighborhood school. This has sparked widespread participation by parents, school leaders, businesses, colleges and community members to confront the problems of Chicago's public schools. It is helping to change attitudes about education, because leadership is coming from the "bottom, up," and not only from the "top, down."

While many of the preliminary results are encouraging, this reform effort needs help if it is to succeed, and if we are to learn from it. The legislation I am introducing today would fund an Institute for Chicago School Reform Partnerships, to provide training to the parents and teachers in running their schools, and to encourage more and improved linkages between the schools and the businesses, colleges, and community organizations interested in improvement in education. Perhaps most important, the institute will enable other communities to learn more about how partnerships have worked to enhance the Chicago program, so that Chicago school reform can truly serve as a laboratory for the Nation and a model for other communities.

THE ROLE OF PARTNERSHIPS IN CHICAGO

Each of Chicago's 610 public schools is run by a local school council composed of six elected parents, two elected teachers, two elected community members and the principal. According to statistics from the group Designs for Change, the Chicago local school council elections nearly doubled the number of African-Americans and Hispanics making educational policy decisions in the United States.

Local school councils are the focus of the reform effort. Parents have a majority voice on the councils, which are authorized to hire their principal, help develop and approve a school improvement plan and a school budget, and expend certain discretionary funds. Under school reform, principals no longer have lifetime tenure, but their voice in selecting and supervising staff has been heightened, as has teachers' participation in developing school policies.

Many of the early successes in the Chicago school reform have involved partnerships. For example, let me tell you about some of the 1990 award winners in a program sponsored by Illinois Bell and the Ameritech Foundation, in partnership with the Chicago Public Schools Alumni Association, to encourage and stimulate excellence among the councils:

The Davis Development Center has an 82 percent low-income enrollment and serves children with physical disabilities and children who are developmentally delayed. Its local school council formed a "Friends of Davis" support group which helped the school in various ways and arranged for visits from medical and police personnel.

The Richard Henry Lee Elementary School serves a 34-percent low-income population. Through a social service organization, its council developed a partnership with a certified public accountant and former college mathematics professor, to give teachers refresher courses in mathematics, start a math club and establish an algebra program.

The James McCosh Elementary School's low-income enrollment is almost 90 percent. The McCosh local school council arranged with social service groups to give parents growth and development programs.

The William H. Prescott Elementary School, which serves an 87-percent low-income enrollment, recruited tutors from its Adopt-A-School Program, hired tutors for bilingual students from local universities, and worked with local universities to improve test scores and develop a resource network.

The George W. Tilton Elementary School, which serves a 64-percent low-income enrollment, secured university assistance for teacher and parent training to launch a new curriculum.

The low-income enrollment at the George H. Corliss High School is 33 percent. Its local school council has worked with a local university and other agencies to develop a master plan for its curriculum, coordinating teaching materials, learning objectives and incorporating systematic monitoring.

Christian Fenger High School, with a 38-percent low-income enrollment, established linkages with community agencies to address the problems of truancy and dropouts and also developed programs for counseling and tutoring services.

The O.W. Wilson Occupational High School, with 88-percent low-income enrollment, provides job preparation, training and placement for students with mental disabilities. There, they have established a transition center to help disabled graduates make better use of public agencies. The school shares its building with several public service groups, and coordinates its transition services with a social service agency.

ALL EYES ARE ON CHICAGO

Chicago schools reform has achieved national recognition for its boldness, and the business involvement in the early successes. For example, David Kearns, the new deputy secretary of education, has commented on the Chicago business community's critical role in school reform and has observed that Chicago has moved beyond the "adopt a school" model to pursue systemic change.

In comparing Chicago's program to other decentralization efforts, a Washington Post editorial on May 30, 1991, stated that "The Chicago model is by far the boldest of the lot—unprecedented, in fact." While discussing the efforts to correct a legal problem with the school reform statute, the paper editorialized:

> Attendance at council meetings is pretty good; coalitions crank out ideas and debate approaches; local newsletters have sprung up to monitor the goings-on. The interest and determination are notable among citizens long disaffected from their school. The general enthusiasm may even be a leading indicator of some success with the two year old initiative. It's not that the schools have been turned around—far from it. But there are now more people, particularly parents, truly looking to turn them around.

Three professors from the University of Pennsylvania have been studying Chicago school reform, and perhaps they have best described the Chicago program. This is how those researchers summed it up in a commentary in the Chicago Tribune:

> Whatever the difficulties, Chicago persist! What you're doing is historic. For more than a century most urban school reform has been about moving the furniture around in a room without redesigning its walls. That's one reason reform hasn't worked very well. You're the first to start with the walls. You have to show it can be done, and why it's important. You're off to a great start.

Mr. President, I ask unanimous consent that the full text of the March 7, 1991, commentary by Michael B. Katz, Michelle Fine, and Elaine Simon appear in the RECORD following my remarks.

INSTITUTE FOR CHICAGO SCHOOL REFORM PARTNERSHIPS

Despite several examples of promising starts, there are still significant obstacles to overcome in Chicago. Not all local school councils function at a high level. Some need more help than others in effectively governing their schools. In addition, the current process for selecting school council members was found to be constitutionally flawed. And, like other large urban school districts, Chicago faces fiscal and social problems that pose challenges for raising student achievement.

Mr. President, Chicago school reform still needs help to meet these challenges, and the Federal Government has a role to play in providing assistance. Local school council members must be trained to generate the skills necessary to manage their schools and carry out the mandate they were given. They need assistance in developing skills in leadership, budgeting, discerning problems and setting priorities, dispute resolution and personnel management, and increasing the motivation of parents, students and community members. Public and private organizations in the community are well-placed to play a major role in providing such assistance. The bill I introduce today would foster this collaborative process.

The legislation authorizes $5 million per year, for 6 years, for an Institute for Chicago School Reform Partnerships run by a partnership between public or private organizations and the Chicago Public Schools. With Federal and outside funds provided to the partnership, the institute would provide needed training for local school council members, parents and others in how to manage their schools and improve student learning. The institute would also help school councils identify the types of outside assistance their schools need and how to work in collaboration with public and private organizations to get that assistance. In short, under this approach, the institute would teach local school council members how to help themselves and how to establish connections to the many individuals and entities in the community that are interested in education.

This institute would not only help Chicago schools, but would benefit the Nation as well by serving as a resource center on the Chicago reform efforts, and by providing models for developing partnerships for education. The bill requires that the partnership's plan of operation justify the national importance of the institute and suggest ways it could be replicated or adapted in other communities.

The funds authorized by this bill would go to the institute, a cooperative venture. In addition to being run by a partnership, the institute must be coordinated with other community organizations, businesses and nonprofit institutions. Perhaps most important, the Federal share of the institute's costs is limited to 50 percent, ensuring a commitment to, and confidence in, the institute from other entities.

Mr. President, a few years ago former Secretary of Education William Bennett called the Chicago Public Schools the worst school system in the country. Now, because of school reform, Chicago has taken the first steps toward becoming the America 2000 community that the President has called for—a place where businesses, community-based organizations, colleges, school leaders, parents, and community members come together to help make learning happen. Nothing could be better than for the Federal Government to play a role in supporting this example of local innovation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1371

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Partnerships for Chicago Schools Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) as set forth in the National Education Goals, it is essential to the economic well-being of the United States that all Americans be educated to their fullest potential;

(2) to accomplish the goal described in paragraph (1), it is necessary to—

(A) increase participation in postsecondary education by all United States students, especially minority, low-income, and first-generation-in-college students, many of whom are being educated in urban school districts; and

(B) enhance the capacity of postsecondary institutions to recruit and retain such students;

(3) the achievement of the goal described in paragraph (1) is undermined if students are not adequately prepared for postsecondary education;

(4) partnerships administered by entities (including businesses, institutions of higher education, or community-based organizations) or consortia of such entities, in conjunction with local educational agencies, are well qualified to assist in projects to prepare students for the successful completion of postsecondary education;

(5) some such partnerships are significantly engaged in efforts to increase student achievement;

(6) such partnerships, projects, and efforts promote the development of high performance schools, as called for in the National Education Goals, and could be facilitated through the establishment of a School Reform Institute;

(7) the Chicago Public Schools district is the only urban school district in the Nation that—

(A) has undergone a significant restructuring; and

(B) is engaged in cooperative efforts with businesses and nonprofit entities to improve urban education;

(8) the school restructuring and cooperative efforts provide the Nation with a laboratory to—

(A) measure the effectiveness of such partnerships; and

(B) assess—

(i) the concepts of school-based management, decentralization, parental empowerment, and community control; and

(ii) the ways in which the concepts correspond to student achievement; and

(9) an institute in Chicago could—

(A) provide a model for other such partnerships and for other school-based management and shared decisionmaking initiatives; and

(B) strengthen student achievement, which would enhance student preparation for the work force and for postsecondary education.

SEC. 3. PURPOSE.

It is the purpose of this Act to establish an Institute for Chicago School Reform Partnerships, administered by an entity (such as a business, institution of higher education, or community-based organization) or a consortium of such entities, in partnership with the local educational agency for Chicago, to promote the development of partnerships that will improve urban education, and postsecondary education preparation, and serve as a model for reform efforts throughout the Nation.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) INSTITUTE.—The term "Institute" means the Institute for Chicago School Reform Partnerships described in section 5(a).

(2) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(3) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given the term in section 1201(g) of the Higher Education Act of 1965 (20 U.S.C. 1141(g)).

(4) SECRETARY.—The term "Secretary" means the Secretary of Education.

SEC. 5. ESTABLISHMENT.

(a) GRANT.—From funds appropriated under section 7, the Secretary of Education may make one grant to an eligible partnership to pay for the Federal share of establishing and administering an Institute for Chicago School Reform Partnerships to improve the preparation of students for the work force and for postsecondary education.

(b) USE OF FUNDS.—In administering the Institute, an eligible partnership may use the grant made available under subsection (a) within the Chicago Public School District to—

(1) assess the assistance needs of school communities and recommend priorities;

(2) educate members of local school councils and other educational governing units regarding ways of identifying, assessing, and obtaining assistance from providers;

(3) facilitate the expansion of cooperative efforts between—

(A) institutions of higher education;

(B) business, nonprofit, and community groups; and

(C) the schools;

(4) disseminate information and research regarding effective education reform efforts;

(5) establish a parent education unit that provides instruction to parents in literacy and habits that result in improved student learning; and

(6) provide training in school-based management for local school council members, administrators, teachers, parents, and community members.

(c) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a partnership shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including, at a minimum, a plan—

(A) specifying a strategy for designing and implementing an Institute to provide services described in subsection (b) to the Chicago Public School District;

(B) justifying the national importance of the strategy; and

(C) suggesting methods for replicating or adapting the strategy in other communities.

(2) CONTENTS.—At a minimum, the plan described in paragraph (1) shall contain—

(A) a statement of specific, measurable goals;

(B) a strategy for achieving the goals;

(C) information identifying the credentials of the proposed staff responsible for implementing the activities of the Institute;

(D) a description of a system for measuring and evaluating the activities undertaken by the Institute;

(E) a description of the costs of the activities to be undertaken;

(F) information demonstrating that the individual members of the partnership administering the Institute have, in the past, effectively provided services to school certificated personnel, staff, local school council members, or community members involved in public education; and

(G) assurances that the partnership will—

(i) to a significant degree, utilize and coordinate with other providers of educational assistance, community-based organizations, and businesses and nonprofit institutions in the community, in administering and implementing the programs undertaken by the Institute;

(ii) obtain matching funds for such programs in cash or in kind at least equal in amount to the amount of funds provided under this Act;

(iii) continue to operate such programs after expiration of funding under this Act;

(iv) provide the information described in section 6(a);

(v) meet the requirements of section 501(c)(3) of the Internal Revenue Code of 1986; and

(vi) organize a policy advisory committee including representatives from postsecondary institutions, business, nonprofit organizations, private foundations, and local and State educational agencies not affiliated with the Institute.

(d) Eligible Partnerships.—Partnerships eligible to receive the grant described in subsection (a) shall include partnerships composed of—

(1)(A) a business;

(B) an institution of higher education;

(C) a community-based organization;

(D) another entity; or

(E) a consortium of the entities described in subparagraphs (A) through (E); and

(2) the local educational agency for Chicago.

(e) Gifts and Donations.—The Institute may solicit, accept, use, and dispose of, grants, gifts, bequests, or devises, of services or property, both real and personal, for the purpose of aiding and facilitating the work of the Institute.

(f) Federal Share.—The Federal share of the costs of establishing and administering the Institute shall be 50 percent.

SEC. 6. EVALUATION.

(a) Information.—The Institute shall annually submit to the Secretary such information as the Secretary shall require, to permit the Secretary to conduct the evaluation described in subsection (b).

(b) Evaluation and Report.—

(1) Evaluation.—The Secretary shall reserve not more than 2 percent of the appropriation under section 7 to independently evaluate the effectiveness of the program carried out by the Institute with respect to improving school performance, including replicability or adaptation of such program.

(2) Report.—The Secretary shall submit to the appropriate committees of Congress a report containing—

(A) the results of the evaluation described in paragraph (1); and

(B) recommendations for legislative reform based on the evaluation.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $5,000,000 for each of the fiscal years 1992 through 1997.

[From the Chicago Tribune, Mar. 7, 1991]

School Reform: A View From Outside

(By Michael B. Katz, Michelle Fine, and Elaine Simon)

Chicago school reform receives surprisingly little attention in other big cities. Newspapers and national magazines hardly mention it, and what they write isn't very accurate or fair. School administrators and teacher unions often point to Chicago as a "disaster" they might face if public dissatisfaction with schools continues to grow. Even liberal academics, when told about it, dismiss Chicago school reform because they think "machine politics" will absorb it and that "parents won't be able to manage schools."

Chicago is proving these outside alarmists and critics wrong. The national media are missing a great domestic story. This is the conclusion reached by the three of us, periodic visitors to Chicago school reform.

Intrigued by what little we'd heard about Chicago school reform by fall 1990, we wanted to see it in action for ourselves. Each of us had a professional interest and relevant experience. Michelle Fine is a social psychologist who writes about school reform and works on a project restructuring Philadelphia's comprehensive high schools. Elaine Simon is an urban anthropologist who uses ethnographic methods to evaluate curriculum reform projects. Michael Katz is a social historian who has written about urban schools as well as about social welfare and poverty. As a team, we hoped to interpret Chicago school reform for an audience outside the city. We came to think our outsiders' perspective also might be useful for the school reform community in Chicago.

Over the past few months, we have visited schools and interviewed principals, teachers, parents and community members. What we've seen so far excites us. School reform has mobilized a segment of this city around education. Whereas pessimism and depression pervade discussions of public education in most big cities, in Chicago school reform has rekindled optimism, unleashed energy and activated coalitions across race, class, gender and politics.

We're not trying to pretend that Chicago school reform lacks problems. Nor do we want to minimize them. We've heard a long list, and lots of them are serious. But none of them are insurmountable. Given the continued commitment of its participants and a few good breaks, Chicago school reform will grow continually stronger and more effective.

In Chicago, school reform is more than educational change. Here it's a social movement that embraces and reflects the city's diversity. Nowhere have we encountered gatherings as integrated—by race, gender, age, occupation and relation to the school system—as at the events sponsored by the Citywide Coalition for School Reform.

The energy and time invested by participants in school reform overwhelm us. Your collective and individual commitment has carried school reform triumphantly over its inescapably rocky first year. We use "triumph" advisedly. This radical reform passed from legislation to implementation with remarkably few misadventures. Chicago created close to 600 new community-based units of government with, as far as we can tell, virtually no whiff of corruption and no interruption of service. At worst, some schools seem to be working at about the same level as before, and we've heard many tales of success. Reform not only survived its first constitutional crisis; it emerged politically stronger with a nearly unanimous endorsement in the state legislature. The question, now, is how to keep the momentum up, how to keep all constituents engaged and how to make it better, not whether to dismantle it. In little more than a year, all effective opposition to the core principles of reform has vanished.

It would be naive to expect overnight transformations in large urban schools. Nor do test scores adequately measure the early successes of school reform. The successful creation and operation of Local School Councils in most schools is itself a major achievement. We're impressed, too, by the stories of small victories we have heard over and over again: a new roof, a refurbished gym, an adequate copy machine for teachers, safe school corridors. We're encouraged by discussions of multicultural curricula, innovations in teaching methods, and teachers and parents exchanging views of education. All these not only bring an immediate, energizing sense of accomplishment; they create conditions for effective teaching and learning; they establish contexts for the public to be back in public schools.

Even more, Chicago school reform is one of the great adult education movements in American history. At what other times have so many people had to master the complex combination of legislative, financial, administrative, educational and parliamentary issues that confront each LSC? We will never forget the grandmother who met us at one school with questions about Whole Language Learning or the discussions of constitutional issues by LSC members on the bus to Springfield on the day in January that the state legislature was to legitimize school reform. The sophistication of the LSC members whom we've met testifies to the competence of citizens to learn quickly and to manage their own affairs with intelligence and good sense.

In fact, much of the conflict in Chicago around school reform is healthy and appropriate. Indeed, we admire the openness of the debate. People are arguing about the relations between race and education and other issues often fought over only in private elsewhere. In a democracy, there's much to contest about the content and structure of schooling, and the debate should be open, continuing and accessible to everyone.

Whatever the difficulties, Chicago, persist! What you're doing is historic. For more than a century most urban school reform has been about moving the furniture around in a room without redesigning its walls. That's one reason reform hasn't worked very well. You're the first to start with the walls. You have to show it can be done, and why it's important. You're off to a great start.•

By Mr. GORE (for himself, Mr. Levin, and Mr. Lieberman):

S. 1372. A bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service; to the Committee on Commerce, Science, and Transportation.

AMATEUR RADIO SPECTRUM PROTECTION ACT

• Mr. GORE. Mr. President, I rise today to introduce legislation to protect the amateur radio spectrum. My colleagues Senators Levin and Lieberman join me as cosponsors of this legislation. Recently, I have been contacted by numerous ham radio operators in Tennessee asking for my help to prevent any further loss of radio spectrum by the amateur radio community. There are nearly 10,000 amateur radio licensees in Tennessee—part of nearly half a million hams across the United States.

This bill is simple and direct. It would ensure that ham operators can continue to use all of the spectrum they now use. If the FCC proposes to use amateur radio channels for some other use, the bill would require that amateur operations be transferred to eqivalent replacement frequencies. By equivalent, this legislation ensures that the replacement bands be equal in both size and characteristics. The bill is designed to protect the existing spectrum allocations to all amateur-satellite service and the radio amateur civil emergency service.

The bill addresses a real and growing problem for amateur operators. More than 100 megahertz of their spectrum has been reallocated since 1982, a trend that should be halted.

Mr. President, probably the best known aspect of amateur radio in the public eye is its ability to provide lifesaving emergency communications when normal means of contact are down. In hurricanes, earthquakes, tornadoes, airplane crashes, missing person cases, and other accidents and disasters affecting the civil population, amateur radio is often the first contact with the outside world available to an affected area. Red Cross and civil preparedness agencies often rely heavily on amateur operators.

For example, in Tullahoma, TN, the Office of Emergency Services has halted the work of local ham operators as invaluable. These are only a few of the thousands of local officials throughout the country who enthusiastically support this legislation. These Tullahoma officials have told me, for example, about the assistance ham operators gave the public when a dense fog caused a tragic, huge traffic pileup on Tennessee Interstate 75.

I wish to point out to my colleagues that amateur radio is noncommercial in nature—operators are prohibited from receiving any form of payment from their stations. This means that amateur radio operators—whether they are assisting a search-and-rescue operation in the high Sierras, relaying health and welfare messages during Hurricane Hugo or the California earthquake or providing communications assistance at the New York City marathon—make available their services free of charge to insure the safety of the public. They operate their stations for the benefit of the public, and for their own personal training. The Amateur Radio Service is strictly nonbusiness, which leads me to believe that a statutory safeguard is needed to guarantee its survival.

Mr. President, I am concerned that with current trends, amateur radio spectrum is too easy a target, and ham operators have already given up more than their fair share of frequency. In the coming weeks, I hope to work with my colleagues on the Commerce, Science, and Transportation Committee to develop a way to bring about the kind of efficiency in the use of the spectrum that is so critical to our Nation's telecommunications infrastruture. And I hope we can accomplish this without putting an unfair burden on amateur radio enthusiasts.

I want to thank the American Radio Relay League [ARRL], which represents amateurs, for their valuable assistance in developing this legislative proposal. I urge our colleagues to give their ham operators our support by ensuring their bright future with swift passage of this bill.

Mr. President, I ask unanimous consent that the text of my bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Amateur Radio Spectrum Protection Act of 1991."

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) more than 490,502 Radio Amateurs in the United States are licensed by the Federal Communications Commission after a thorough examination in radio regulations, technical principles of radio communications as required by international regulations;

(2) by international treaty and Federal Communications Commission regulation, the amateur is authorized to operate stations in a radio service of intercommunications and technical investigations solely with a personal aim and without pecuniary interest;

(3) among the basic purposes for the Amateur Radio Service is to provide voluntary non-commercial radio service, particularly emergency communications;

(4) emergency communication services by volunteer radio amateurs have consistently and reliably been provided before, during and after floods, tornadoes, forest fires, earthquakes, blizzards, train wrecks, chemical spills, and other disasters;

(5) the Federal Communications Commission has taken actions which resulted in the loss of over 100 MHz of spectrum to Amateurs.

SEC. 3. FEDERAL POLICY REGARDING REALLOCATION OF AMATEUR RADIO SPECTRUM.

(a) AMENDMENT.—Section 303 (c) of the Communications Act of 1934 is amended—

(1) by redesignating subsection (c) as subsection (c)(1);

(2) by adding at the end of such subsection (c)(1) the following new sentence:

"(2) The Federal Communications Commission shall not diminish existing allocations of spectrum to the Amateur Radio Service after January 1, 1991. The Federal Communications Commission shall provide equivalent replacement spectrum to the Amateur Radio Service for any frequency reallocation after January 1, 1991."•

By Mr. BREAUX (for himself and Mr. JOHNSTON):

S. 1373. A bill to redesignate the Vacherie Post Office located at 2747 Highway 20 in Vacherie, LA, as the "John Richard Haydel Post Office"; to the Committee on Governmental Affairs.

JOHN RICHARD HAYDEL POST OFFICE

• Mr. BREAUX. Mr. President, I rise today to introduce legislation which would redesignate the Vacherie Post Office in Vacherie, LA, as the "John Richard Haydel Post Office."

Vacherie, LA, is a small town in St. James Parish on the banks of the Mississippi River. The post office was originally named "St. Patrick Post Office" after the name of the small railroad community where it was located. Following growth in the town associated with a new saw mill, little St. Patrick, LA eventually became incorporated into a bigger growing Vacherie and became known as the "Vacherie Post Office." The legislation which I now propose seeks to honor the long time postmaster of Vacherie by redesignating the Vacherie Post Office after his name.

The late Mr. John Richard Haydel began his Vacherie postal service in 1934 at the age of 18 years. On September 27, 1940, after 6 years at the post office, he was commissioned as its postmaster. Following a decorated tour of duty in World War II, Mr. Haydel returned to Vacherie as postmaster. In 1961 he was selected to serve as a postmaster counselor for the Dallas region which include Texas and Louisiana. In 1967 he received the "Superior Accomplishment Award" in recognition for notable performance contributing to outstanding economy, efficiency and improved postal services. On January 9, 1991, Mr. Haydel retired from the Postal Service with approximately 47 years of service.

In recognition of Mr. Haydel's outstanding contributions to the Vacherie community as postmaster, I am happy to introduce this bill and urge each of you to support this worthy redesignation legislation.•

By Mr. JOHNSTON (for himself and Mr. WALLOP) (by request):

S. 1374. A bill to provide for increases in authorization ceilings for land acquisition and development in certain units of the National Park System and for operation of the Volunteers in the Parks Program, and for other purposes; to the Committee on Energy and Natural Resources.

LAND ACQUISITION AND DEVELOPMENT IN CERTAIN UNITS OF THE NATIONAL PARK SYSTEM

• Mr. JOHNSTON. Mr. President, I am introducing today for myself and Senator WALLOP, at the request of the Department of the Interior, a bill "to provide for increases in authorization ceilings for land acquisition and development in certain units of the National Park System and for operation of the Volunteers in Parks Program, and for other purposes."

I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Department of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION CEILING INCREASES.

The limitations on appropriation for the acquisition of lands and interests therein within units of the National Park System contained in the following Acts are amended as follows:

(a) Channel Islands National Park, California: section 208 of the Act of March 15, 1980 (94 Stat. 77), is amended by striking out "$30,100,000" and inserting in lieu thereof "$46,790,338;"

(b) Ebey's Landing National Historical Reserve, Washington: section 508(f) of the National Parks and Recreation Act of 1978 (92 Stat. 3509), is amended by inserting the following after the period: "Effective October 1, 1991, there is authorized to be appropriated an additional $2,000,000 for acquisition of lands and interests in land."

SEC. 2. DEVELOPMENT CEILING INCREASES.

The limitations on appropriations for development of units of the National Park System contained in the following Acts are amended as follows:

(a) Chattahoochee River National Recreation Area, Georgia: section 105(b) of the Act of August 15, 1978 (92 Stat. 477) is amended by striking out "$500,000" and inserting in lieu thereof "$2,280,000;"

(b) Cuyahoga Valley National Recreation Area, Ohio: section 6(b) of the Act of December 27, 1974 (88 Stat. 1788), is amended by striking out "$13,000,000" and inserting in lieu thereof "$33,035,000;"

(c) Delaware Water Gap National Recreation Area, Pennsylvania and New Jersey: section 8 of the Act of September 1, 1965 (79 Stat. 614), is amended by striking out "$18,200,000" and inserting in lieu thereof "$18,632,000;" and

(d) John D. Rockefeller, Jr., Memorial Parkway, Wyoming: section 4 of the Act of August 25, 1972 (86 Stat. 620), is amended by striking out "$3,092,000" and inserting in lieu thereof "$5,199,000."

SEC. 3. VOLUNTEERS IN PARKS INCREASE.

Section 4 of the Volunteers in the Parks Act of 1969 (84 Stat. 472), is amended by striking out "$1,000,000" and inserting in lieu thereof "$1,250,000."

DEPARTMENT OF THE INTERIOR,
Washington, DC, June 3, 1991.

Hon. J. DANFORTH QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To provide for increases in authorization ceilings for land acquisition and development in certain units of the National Park System, for operation of the Volunteers in Parks Program, and for other purposes."

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The President's budget estimate for fiscal year 1992 for the National Park Service includes funds for land acquisition at two units of the National Park System, and for development at four units, which exceed the statutory limitation on appropriations for those purposes. In addition, the budget estimate for the Volunteers in Parks Program for fiscal year 1992 exceeds the statutory appropriation ceiling for this program. The enclosed draft bill would amend the enabling Act of each of the six specific units of the National Park System, and the Volunteers in the Parks Act, to increase the appropriation ceiling by an amount sufficient to accommodate the President's budget estimate.

Land acquisition ceiling increases are recommended for two areas. At Channel Islands National Park in California, an increase of $16,690,338 is needed to accommodate $3,690,338 already appropriated over the current ceiling and $13,000,000 in the fiscal year 1992 budget. At Ebey's Landing National Historical Reserve in Washington, an increase of $2,000,000 is needed to accommodate the fiscal year 1992 budget.

Development ceiling increases are recommended for four areas. At Chattahoochee River National Recreation Area in Georgia, $1,780,000 is needed to accommodate $895,000 already appropriated over the current ceiling and $885,000 in the fiscal year 1992 budget. At Cuyahoga Valley National Recreation Area in Ohio, $20,035,000 is needed to accommodate $16,497,000 already appropriated over the current ceiling and $3,538,000 in the fiscal year 1992 budget. At Delaware Water Gap National Recreation Area in Pennsylvania and New Jersey, $432,000 is needed to accommodate $747,000 in the fiscal year 1992 budget ($315,000 remains unappropriated under the existing ceiling). At the John D. Rockefeller, Jr. Memorial Parkway in Wyoming, $2,107,000 is needed to accommodate $141,000 already appropriated over the current ceiling and $1,966,000 in the fiscal year 1992 budget.

Finally, we recommend the ceiling for the Volunteers in Parks Program be increased by $250,000 to accommodate the fiscal year 1992 budget.

The Office of Management and Budget has advised that enactment of this legislation would be in accord with the program of the President.

Sincerely,

J.F. SPAGNOLE,
Deputy Assistant Secretary.●

By Mr. SPECTER:

S. 1375. A bill to amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges in Pennsylvania; to the Committee on the Judiciary.

APPOINTMENT OF ADDITIONAL BANKRUPTCY JUDGES IN PENNSYLVANIA

Mr. SPECTER. Mr. President, I am introducing today legislation to authorize creation of two new bankruptcy court judgeships for the eastern district of Pennsylvania. Although I am a cosponsor of S. 646, a bill which would add one new bankruptcy judge to the eastern district of Pennsylvania, I believe that the dire circumstances in the eastern district warrant provision for two new judgeships.

There are currently three bankruptcy judges in the eastern district of Pennsylvania. In 1961, when the eastern district of Pennsylvania was authorized a third bankruptcy judge, 510 cases were filed. In 1990, 8,821 cases were filed in the eastern district of Pennsylvania. Thus, from 1961 to 1990, bankruptcy filings increased 1,630 percent while no new bankruptcy judges were appointed. During the same period, however, New Jersey's caseload grew only 1,393 percent and they were given four additional bankruptcy judges. Clearly, a dire need exists in the eastern district of Pennsylvania to authorize two additional bankruptcy judgeships in order to rectify this disparity.

Mr. President, I ask for unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL BANKRUPTCY JUDGES IN PENNSYLVANIA.

Section 152(a)(2) of title 28, United States Code, is amended in the item relating to the eastern district of Pennsylvania by striking out "3" and inserting in lieu thereof "5".

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 1376. A bill to amend the Federal Employees Pay Comparability Act of 1990 to make certain areas eligible for interim geographic adjustments and to make law enforcement officers in certain areas eligible for special pay adjustments; to the Committee on Governmental Affairs.

INTERIM GEOGRAPHIC ADJUSTMENTS FOR FEDERAL EMPLOYEES

● Mr. DODD. Mr. President, I rise today to introduce legislation to correct two shortcomings of last year's Federal Employees Pay Comparability Act. I am pleased to be joined in this effort by my distinguished colleague from Connecticut, Senator LIEBERMAN.

This law, enacted as part of the 1991 Treasury-Postal Service Appropriations Act, made significant and much-needed changes in the way we pay Federal employees. It recognizes the reality that if we are to attract high-caliber individuals to Government service, we need to pay them competitive salaries.

Prior to 1978, Presidents had routinely granted Federal employees the fully recommended amount of cost of living adjustments. Starting in 1978, however, Presidents granted less than the recommended increases, claiming that economic conditions and fiscal imbalances prevented them from acting otherwise. The result was that by January 1990, the pay gap between Federal and private employees stood at a substantial 28.62 percent.

To close this gap, and to ensure that a civil servant's pay reflects the cost of living of the area in which he or she is posted, last year's law set in place a locality based pay system. Starting in 1994, and lasting over a period of 9 years, the pay of Federal employees within each locality will be gradually increased until it matches salaries received by their local private-sector counterparts. While many of us would have preferred this equalization to come more quickly, it is significant and welcome that it is coming about at all.

Between now and 1994, the law authorizes the President to grant interim locality pay to Federal employees living in high cost metropolitan areas. Pursuant to this, the President granted civil servants stationed in New York, San Francisco, and Los Angeles interim increases beginning this past January 1. Last year's law also provided Federal law enforcement officers in Boston, Chicago, Los Angeles, New York, Philadelphia, San Francisco, San Diego, and Washington, DC, with special pay adjustments.

The bill that I am introducing today would deal with two of the shortcomings of the interim pay system.

In the first place, one provision of last year's law makes metropolitan areas with fewer than 5,000 Federal employees completely ineligible for interim locality pay adjustments. This restriction makes no sense. There is no reason why the President should have discretion to grant interim pay increases for Federal employees stationed in Cleveland, Denver, or Buffalo, as is now the case, but not for civil servants in Hartford or Milwaukee.

The legislation we are introducing today would repeal this discriminatory provision of the law. While not mandating that the President grant further interim pay increases, it would send a clear message to Federal employees in dozens of smaller metropolitan areas across the country that they are entitled to the same treatment under the law as are their colleagues in larger cities.

Second, while last year's law gave the administration discretion in some cases to make interim locality payments for general schedule Federal employees, it authorized no similar flexibility with respect to Federal law enforcement officers.

The problem here is that the boundaries of metropolitan statistical areas do not always coincide with the divisional boundaries of Federal law enforcement agencies. In one case in my State of Connecticut, for example, two FBI agents live next door to each other. While one is posted within the New York CMSA, and therefore will receive a special pay adjustment starting next January, the other is posted outside of the New York CMSA, and therefore will not. Similar problems occur in California, and as my colleagues might imagine, these disparities have a devastating effect on morale at affected agencies.

The measure we introduce today addresses this problem by authorizing the Attorney General and the Secretary of the Treasury, after consultation with the Office of Personnel Management, to authorize special pay adjustments in cases in which serious pay inequities exist.

I urge my colleagues to give serious consideration to this legislation. While last year's law was a giant leap forward for pay equity for Federal employees, I believe that the provisions in this bill would make the system even fairer.●

ADDITIONAL COSPONSORS

S. 55

At the request of Mr. METZENBAUM, the names of the Senator from Illinois [Mr. SIMON], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

S. 140

At the request of Mr. WIRTH, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 140, a bill to increase Federal payments in lieu of taxes to units of general local government, and for other purposes.

S. 359

At the request of Mr. BOREN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 359, a bill to amend the Internal Revenue Code of 1986 to provide that charitable contributions of appreciated property will not be treated as an item of tax preference.

S. 367

At the request of Mr. METZENBAUM, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 367, a bill to amend the Job Training Partnership Act to encourage a broader range of training and job placement for women, and for other purposes.

S. 420

At the request of Mr. SARBANES, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 420, a bill to increase to $50,000 the maximum grant amount awarded pursuant to section 601 of the Library Services and Construction Act.

S. 448

At the request of Mr. SYMMS, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 474

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 474, a bill to prohibit sports gambling under State law.

S. 514

At the request of Ms. MIKULSKI, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 514, a bill to amend the Public Health Service Act, the Social Security Act, and other Acts to promote greater equity in the delivery of health care services to women through expanded research on women's issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes.

S. 581

At the request of Mr. BOREN, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. COATS], the Senator from Connecticut [Mr. DODD], the Senator from Mississippi [Mr. LOTT], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 581, a bill to amend the Internal Revenue Code of 1986 to provide for a permanent extension of the targeted jobs credit, and for other purposes.

S. 651

At the request of Mr. GARN, the name of the Senator from South Dakota [Mr. DASCHLE], was added as a cosponsor of S. 651, a bill to improve the administration of the Federal Deposit Insurance Corporation, and to make technical amendments to the Federal Deposit Insurance Act, the Federal Home Loan Bank Act, and the National Bank Act.

S. 747

At the request of Mr. PRYOR, the names of the Senator from Kansas [Mr. DOLE], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 747, a bill to amend the Internal Revenue Code of 1986 to clarify portions of the Code relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 844

At the request of Mr. DOMENICI, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of S. 844, a bill to provide for the minting and circulation of one dollar coins.

S. 878

At the request of Mr. DODD, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 878, a bill to assist in implementing the Plan of Action adopted by the World Summit for Children, and for other purposes.

S. 882

At the request of Mr. SARBANES, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 882, a bill to amend subpart 4 of part A of title IV of the Higher Education Act of 1965 to mandate a 4-year grant cycle and to require adequate notice of the success or failure of grant applications.

S. 985

At the request of Mr. SIMON, the names of the Senator from Ohio [Mr. METZENBAUM], the Senator from Maine [Mr. MITCHELL], the Senator from Tennessee [Mr. SASSER], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of S. 985, a bill to assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

S. 1102

At the request of Mr. MOYNIHAN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 1102, a bill to amend title XVIII of the Social Security Act to provide coverage of qualified mental health professionals services furnished in community mental health centers.

S. 1195

At the request of Mr. DODD, the names of the Senator from Florida [Mr. GRAHAM], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1195, a bill to authorize the establishment of a memorial on Federal land in the District of Columbia to honor individuals who have served as volunteers in the Peace Corps.

S. 1249

At the request of Mr. KENNEDY, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of S. 1249, a bill to amend title 28 of the United States Code to prohibit racially discriminatory capital sentencing.

S. 1257

At the request of Mr. BOREN, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Louisiana [Mr. JOHNSTON], the Senator from California [Mr. SEYMOUR], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses form passive activities.

S. 1261

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 1261, a bill to amend the Internal Revenue Code of 1986 to repeal the luxury excise tax.

S. 1270

At the request of Mr. MCCAIN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 1270, a bill to require the heads of departments and agencies of the Federal Government to disclose information concerning United States personnel classified as prisoners of war or missing in action.

S. 1333

At the request of Mr. SASSER, the names of the Senator from Wyoming [Mr. WALLOP], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of S. 1333, a bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the Administrator of General Services to make available for humanitarian relief purposes any nonlethal surplus personal property, and for other purposes.

SENATE JOINT RESOLUTION 8

At the request of Mr. BURDICK, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Joint Resolution 8, a joint resolution to authorize the President to issue a proclamation designating each of the weeks beginning on November 24, 1991, and November 22, 1992, as "National Family Week."

SENATE JOINT RESOLUTION 18

At the request of Mr. SIMON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution relating to a Federal balanced budget.

SENATE JOINT RESOLUTION 95

At the request of Mr. PELL, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Joint Resolution 95, a joint resolution designating October 1991 as "National Breast Cancer Awareness Month."

SENATE JOINT RESOLUTION 131

At the request of Mr. LUGAR, the names of the Senator from Texas [Mr. BENTSEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from California [Mr. CRANSTON], the Senator from Arizona [Mr. DECONCINI], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KERRY], the Senator from New York [Mr. MOYNIHAN], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 131, a joint resolution designating October 1991 as "National Down Syndrome Awareness Month."

SENATE JOINT RESOLUTION 165

At the request of Mr. CRANSTON, the names of the Senator from Pennsylvania [Mr. WOFFORD], the Senator from South Dakota [Mr. DASCHLE], the Senator from Washington [Mr. ADAMS], the Senator from Hawaii [Mr. AKAKA], the Senator from New Mexico [Mr. BINGAMAN], the Senator from North Dakota [Mr. CONRAD], the Senator from New York [Mr. D'AMATO], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Florida [Mr. GRAHAM], the Senator from Hawaii [Mr. INOUYE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Ohio [Mr. METZENBAUM], the Senator from Michigan [Mr. RIEGLE], the Senator from Tennessee [Mr. SASSER], the Senator from Illinois [Mr. SIMON], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Joint Resolution 165, a joint resolution to prohibit the proposed sale to the United Arab Emirates of AH-64 APACHE attack helicopters.

SENATE RESOLUTION 82

At the request of Mr. SMITH, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Resolution 82, A resolution to establish a Select Committee on POW/MIA Affairs.

SENATE RESOLUTION 116

At the request of Mr. ROTH, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of Senate Resolution 116, a resolution to express the sense of the Senate in support of Taiwan's membership in the General Agreement on Tariffs and Trade.

SENATE RESOLUTION 143—RECONSTITUTING THE SENATE WORLD CLIMATE CONVENTION OBSERVER GROUP

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 143

Resolved,

SHORT TITLE

SECTION 1. This resolution may be referred to as the "World Climate Convention Observer Group Resolution".

RECONSTITUTION; REAUTHORIZATION

SEC. 2. (a) There is reconstituted and reauthorized a bipartisan group of Senators to be known as the Senate World Climate Convention Observer Group (hereafter in this resolution referred to as the "Observer Group"), which was previously constituted and authorized by Senate Resolution 110 of the One Hundred Second Congress (agreed to on April 23, 1991).

(b) The Observer Group shall be composed of thirteen Senators as follows:

(1) The majority leader and minority leader of the Senate, each serving ex officio; and

(2) Eleven Senators appointed as follows:

(A) six Senators appointed by the majority leader from among the Members of the majority party;

(B) five Senators appointed by the minority leader from among the Members of the minority party.

(c)(1) There shall be two Cochairmen and two Vice Chairmen of the Observer Group.

(2) The Cochairmen of the Observer Group shall be designated by the majority leader from among the individuals recommended for appointment under subsection (b)(2)(A).

(3) The Vice Chairmen of the Observer Group shall be designated by the minority leader from among the individuals recommended for appointment under subsection (b)(2)(B).

(d) Any vacancy occurring in the membership of the Observer Group shall be filled in the same manner in which the original appointment was made.

DUTIES

SEC. 3. The duties of the Observer Group shall be to monitor the World Climate Convention process.

FOREIGN TRAVEL

SEC. 4. (a) All foreign travel of the Observer Group shall be authorized jointly by the majority and minority leaders, upon the recommendation of both the Cochairmen and Vice Chairmen of the Observer Group.

(b) In the event that either the majority leader or minority leader of the Senate does not travel on an official trip of the Observer Group, then that leader may designate one other Senator of his party who is not a member of the Observer Group to travel and participate in the activities of the Observer Group in his stead.

TERMINATION DATES

SEC. 5. (a) The provisions of this resolution shall terminate on July 31, 1992.

(b) Upon the adoption of this resolution, Senate Resolution 110 of the One Hundred Second Congress (agreed to on April 23, 1991) shall have no force or effect.

SENATE RESOLUTION 144—URGING THE EUROPEAN COMMISSION TO BAN DRIFTNET FISHING

Mr. KERRY (for himself, Mr. PACKWOOD, Mr. HOLLINGS, Mr. STEVENS, Mr. ADAMS, Mr. GORTON, Mr. GORE, and Mr. MURKOWSKI) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 144

Whereas the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, also known as the Wellington Convention, prohibits the use of a net or combination of nets longer than 2.5 kilometers in length which drifts on or in the water;

Whereas the United States domestic law prohibits the use of large-scale driftnets, which are defined as a gillnet or series of gillnets that have a total length of 1.5 miles (2.5 kilometers) or more;

Whereas United Nations Resolution 44/225 specifically calls for immediate cessation of expansion of large-scale driftnet fishing on the high seas;

Whereas the European Community cosponsored United Nations Resolution 45/197, which reaffirms United Nations Resolution 44/225;

Whereas the damage caused by the use of large-scale driftnets (2.5 kilometers or longer) on the high seas can be crippling to efforts to conserve fisheries within the exclusive economic zones of coastal States;

Whereas there are currently no effective conservation and management measures that will make large-scale driftnet fishing an acceptable fishing technology;

Whereas votes in the European Community and other regional fora to ban large-scale driftnet fishing are critical to the global effort to accomplish that goal;

Whereas the expansion of large-scale driftnet fishing by certain European Community fishing fleets on the high seas is in direct contravention of U.N. Resolutions 44/225 and 45/197;

Whereas approval of the European Commission proposal to ban large-scale driftnets (2.5 kilometers or longer), which is scheduled to be voted on July 8, is critical to the success of the global fight to ban large-scale driftnets, and is therefore of extreme importance to the United States Government: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of State, in cooperation with the Congress and other federal agencies with competence over large-scale driftnet fishing, should communicate to members of the European Commission the support of the United States for an immediate ban on the use of all large-scale driftnets or a combination of driftnets of 2.5 kilometers or longer by European Community fishing fleets.

Mr. KERRY. Mr. President, I rise today with several of my colleagues to introduce a resolution urging the European Commission at its upcoming meeting on July 8 to vote to ban the use of large-scale driftnets of 2.5 kilometers or longer by the European Community's fishing fleet.

Driftnet fishing is one of the most egregious fishery practices plaguing our seas. Entire marine ecosystems are being thrown out of balance because of the selfish, shortsighted fishing exploits of a handful of nations. At a time when many countries are attempting to halt this destruction in the North and South Pacific Oceans, a new generation of driftnet vessels is showing up in the Atlantic and Indian Oceans. In the past, driftneting was attributable to the greed of the South Koreans, Taiwanese, and Japanese which far outweighed any conservation ethic. Today other fishing nations such as France, Britain, and Ireland have decided they were missing out on a golden fishing opportunity and are expanding driftnet fishing into the Atlantic. The number of vessels deploying driftnets in the European Exclusive Economic Zone has increased from 16 in 1988 to 37 in 1989. Last year two Irish vessels and four vessels from the United Kingdom joined the fleet, and we can anticipate more in the future unless they are stopped.

Two years ago the United Nations passed resolution 44/225 which Senator STEVENS and I helped develop. This resolution specifically calls for the immediate cessation of the expansion of driftnet fishing on the high seas. The European Community, including France, Ireland, and Great Britain, was supportive of the resolution and in fact cosponsored U.N. Resolution 45/197 which reaffirmed the need for U.N. Resolution 44/225.

Mr. President, for France, Great Britain, and Ireland to suddenly expand their driftnet fleets, flies in the face of this U.N. resolution.

France and Britain argue that they are not violating the U.N. General Assembly resolution on driftnet fishing because in their view, the driftnets they use are not "large scale." Mr. President this could not be further from the truth. Officially these vessels use nets ranging from 2.5 to 7 kilometers in length. In my view that is certainly "large scale," but, more importantly, under U.S. law, a large scale driftnet is defined as a gillnet or series of gillnets that has a total length of 1.5 miles which is approximately equal to 2.5 kilometers. And furthermore, under the Wellington Convention the use of driftnets or combinations of nets longer than 2.5 kilometers is prohibited. So for these European nations to contend that their nets are not "large scale" is basically absurd.

This assertion only serves to reinforce the notion that we need a global convention with uniform definitions specifying that using nets longer than 2.5 kilometers or 1.5 miles is unlawful.

On July 8 the European Commission Fisheries Council of Ministers will meet to vote on a resolution banning the use of high seas driftnets by all members of the European Community fishing fleet. It is my hope that the EC will adopt such a ban. An EC ban will strengthen the global effort to eradicate driftnets worldwide. And the resolution that we are introducing today seeks to send a message to the European Community that Congress feels very strongly about this issue.

In the past, driftnet fishing occurred in the North and South Pacific. These curtains of death have literally been strip mining our seas. The Wellington Convention has sought to eradicate driftnets beginning in the South Pacific and similar efforts are being made in the North Pacific. The reason for this is simple. During the fishing season today, more than 1,000 driftnet vessels from Japan, Korea, and Taiwan are deploying over 30,000 miles of nets each night in the North Pacific, totaling more than 1 million miles each year.

In the end, I am afraid this flagrant abuse to our fish stocks is going to remedy itself, because if the world continues along this wasteful course eventually there will be no fish left to catch. Scientists estimate that the oceans can only supply 100 million tons of fish a year. The world's fishermen already take over 85 million tons and continue to increase their harvests. The need for overall international fisheries management could not be more important than it is today.

Driftnets are indiscriminate, ensnaring thousands of dolphins, whales, and sea lions and other marine mammals as well as killing hundreds of thousands of sea birds and nontargeted fish. Thirty to fifty percent of the catch is lost when the nets are hauled in, and one-third of the fish brought aboard the vessel has no commercial value. This is a fundamental pirating of our seas.

The world's fishing nations have been irresponsible in permitting this wasteful and destructive fishing practice to continue. We must develop a world ethic to restore and manage valuable ocean resources and promote their sustainable harvest. Nations spanning the globe must regard our oceans as one single ocean resource for all to share. That means sharing in the responsibility to conserve this resource, by enforcing fishing treaties and international efforts.

Mr. President, this resolution is designed to convey to the European Community our strong belief that driftnets must be banned worldwide.

SENATE RESOLUTION 145—MAKING A MINORITY PARTY CHANGE IN COMMITTEES

Mr. GORTON (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 145

Resolved, That the following Senator shall be added to the minority party's membership on the Committee on Finance and removed from the minority party's membership on the Committee on Foreign Relations for the One Hundred Second Congress or until their successors are appointed:

Mr. Hatch.

AMENDMENTS SUBMITTED

VIOLENT CRIME CONTROL ACT

THURMOND AMENDMENT NO. 373

Mr. THURMOND proposed an amendment to amendment No. 370 proposed by Mr. INOUYE to the bill (S. 1241) to control and reduce violent crime, as follows:

At the end of the amendment, add the following:

"However, the right of the governing body to make an election shall not be allowed if the Indian reservation and its dependent communities are located in a state that provides for a death sentence."

SIMON AMENDMENT NO. 374

Mr. SIMON proposed an amendment to the bill S. 1241, supra, as follows:

At the end of the bill add the following:

SEC. . MANDATORY LIFE IMPRISONMENT WITHOUT POSSIBILITY OF RELEASE.

Notwithstanding any amendment made to this Act or any other provision of this Act that authorizes the imposition of a sentence of death, such amendment or provision shall be construed to authorize only the imposition of a sentence of mandatory life imprisonment without possibility of release.

KENNEDY AMENDMENT NO. 375

(Ordered to lie on the table.)

Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 1241, supra, as follows:

At the appropriate place, insert the following:

SEC. . INCREASED PENALTIES FOR TRAFFICKING IN COUNTERFEIT GOODS AND SERVICES.

(a) IN GENERAL.—Section 2320(a) of title 18, United States Code, is amended—

(1) in the first sentence by—

(A) striking "$250,000 or imprisoned not more than five years" and inserting "$2,000,000 or imprisoned not more than 10 years"; and

(B) striking "not more than $1,000,000" and inserting "not more than $5,000,000; and (2) in the second sentence by—

(A) striking "$1,000,000 or imprisoned not more than fifteen years" and inserting "$5,000,000 or imprisoned not more than 20 years"; and

(B) striking "not more than $5,000,000" and inserting "not more than $15,000,000".

(b) LAUNDERING MONETARY INSTRUMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking "or section 2319 (relating to copyright infringement)," and inserting "section 2319 (relating to copyright infringement), or section 2320 (relating to trafficking in counterfeit goods and services),".

GRASSLEY (AND OTHERS) AMENDMENT NO. 376

Mr. GRASSLEY (for himself Mr. NICKLES, and Mr. THURMOND) proposed an amendment to the bill S. 1241, supra, as follows:

On page 13, in section 202(a) of amendment number 369, in proposed section 3593(a) of title 18, United States Code, strike the period at the end of the sentence following paragraph (2) and insert ", and shall be based on a victim impact statement that identifies the victim of the offense and the extent and scope of the injury and loss suffered by the victim and the victim's family, describes the necessary course of treatment for the victim and the victim's family, and contains any other information related to the impact of the offense on the victim and the victim's family that the court may require.".

SYMMS AMENDMENT NO. 377

Mr. SYMMS proposed an amendment to the bill S. 1241, supra, as follows:

At the appropriate place, add the following:

"SEC. . (a) It shall be unlawful in the District of Columbia to intentionally kill, or counsel, command, induce, procure, or cause the intentional killing of an individual during the commission of an offense involving a controlled substance.

"(b) A person who commits an offense described in subsection (a) shall be sentenced to any term of imprisonment which shall not be less than 20 years, and which may be up to life imprisonment and the imposition or execution of such sentence shall not be suspended nor shall probation be granted nor shall the person be or may be sentenced to death.

"(c) A person shall be subjected to the penalty of death for an offense under this section only if a hearing is held in accordance with the procedures provided in section 408 of the Controlled Substances Act.".

HELMS AMENDMENT NO. 378

Mr. HELMS proposed an amendment to amendment No. 377 proposed by Mr. SYMMS to the bill S. 1241, supra, as follows:

At the end of the pending amendment add the following:

SEC. . PROHIBITION OF PREFERENTIAL TREATMENT ON BASIS OF RACE.

Subsection (j) of section 703 of the Civil Rights Act of 1964 (42 U.S.C. 200e-2(j)) is amended to read as follows:

"(j) It shall be an unlawful employment practice for any employer, employment agency, labor organization, or joint labor-management committee subject to this title to grant preferential treatment with respect to selection, compensation, terms, conditions, or privileges of employment or union membership to any individual or to any group on account of the race, color, religion, sex, or national origin of such individual or group, for any purpose, except as provided in subsection (e).".

GRAHAM (AND BRYAN) AMENDMENT NO. 379

Mr. MITCHELL (for Mr. GRAHAM for himself and Mr. BRYAN) proposed an amendment to the bill S. 1241, supra, as follows:

On page 124, strike beginning with line 14, through line 5 on page 136 and insert the following:

TITLE XI—HABEAS CORPUS REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 02. SPECIAL HABEAS CORPUS PROCEDURE IN CAPITAL CASES.

(a) IN GENERAL.—Part IV of title 28, United States Code, is amended by inserting immediately following chapter 153 the following new title:

"CHAPTER 154—SPECIAL HABEAS CORPUS PROCEDURES IN CAPITAL CASES

"Sec.
"2256. Application of chapter to prisoners in State custody subject to capital sentence and appointment of counsel
"2257. Mandatory stays of execution and successive petitions
"2258. Filing of habeas corpus petition
"2259. Certificate of probable cause inapplicable
"2260. Counsel in capital cases
"2261. Limitation periods for determining petitions

"§ 2256. Application of chapter to prisoners in State custody subject to capital sentence and appointment of counsel

"(a) APPLICABILITY OF CHAPTER TO CASES.—This chapter shall apply to cases arising under section 2254 of this title brought by prisoners in State custody who are subject to a capital sentence. It shall apply only if subsection (b) is satisfied.

"(b) APPLICABILITY OF CHAPTER TO STATES.—This chapter is applicable if a State establishes by rule of its court of last resort or by statute a mechanism for the appointment, compensation, and payment of reasonable fees and litigation expenses of competent counsel consistent with section 2260 of this title.

"(c) RULE FOR PREVIOUS COUNSEL.—No counsel appointed pursuant to subsection (b) to represent a State prisoner under capital sentence shall have previously represented the prisoner at trial or on direct appeal in the case for which the appointment is made unless the prisoner and counsel expressly request continued representation.

"(d) INEFFECTIVENESS OF COUNSEL.—The ineffectiveness or incompetence of counsel appointed under this chapter during State or Federal collateral post-conviction proceedings shall not be a ground for relief in a proceeding arising under this chapter or section 2254 of this title. This limitation shall not preclude the appointment of different counsel at any phase of State or Federal post-conviction proceedings.

"§ 2257. Mandatory stays of execution and successive petitions

"(a) IN GENERAL.—Upon the entry in the appropriate State court of record of an order pursuant to section 2260(a)(2) of this title, a warrant or order setting an execution date for a State prisoner shall be stayed upon application to any court that would have jurisdiction over any proceedings filed pursuant to section 2254 of this title. The application shall recite that the State has invoked the postconviction review procedures of this chapter and that the scheduled execution is subject to stay.

"(b) DURATION OF STAY.—A stay of execution granted pursuant to subsection (a) shall expire if—

"(1) a State prisoner fails to file a habeas corpus petition under section 2254 of this title within the time required in section 2258 of this title;

"(2) upon completion of district court and court of appeals review under section 2254 of this title the petition for relief is denied and—

"(A) the time for filing a petition for certiorari has expired and no petition has been filed;

"(B) a timely petition for certiorari was filed and the Supreme Court denied the petition; or

"(C) a timely petition for certiorari was filed and upon consideration of the case, the Supreme Court disposed of it in a manner that left the capital sentence undisturbed; or

"(3) a State prisoner under capital sentence waives the right to pursue habeas corpus review under section 2254 of this title—

"(A) before a court of competent jurisdiction;

"(B) in the presence of counsel; and

"(C) after having been advised of the consequences of his decision.

"(c) SUCCESSIVE PETITIONS.—If one of the conditions provided in subsection (b) is satisfied, no Federal court thereafter shall have the authority to enter a stay of execution or grant relief in a capital case unless—

"(1) the basis for the stay and request for relief is a claim not previously presented by the prisoner in State or Federal courts, and the failure to raise the claim is—

"(A) the result of State action in violation of the Constitution or laws of the United States;

"(B) the result of the Supreme Court recognition of a new Federal right that is retroactively applicable; or

"(C) based on a factual predicate that could not have been discovered through the exercise of reasonable diligence in time to present the claim for State or Federal post-conviction review; and

"(2) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the jury's determination of guilt of the offense or offenses for which the death penalty was imposed, or in the validity of the sentence of death.

"§ 2258. Filing of habeas corpus petition

"(a) FILING OF PETITIONS.—Any petition for habeas corpus relief under section 2254 of this title must be filed in the appropriate district court not later than 180 days after the date of filing in the appropriate State court of record of an order issued appointing collateral counsel in compliance with section 2260 of this title.

"(b) TIME REQUIREMENTS.—The time requirements established by this section shall be tolled—

"(1) from the date that a petition for certiorari is filed in the Supreme Court until the date of final disposition of the petition if a State prisoner seeks review of a capital sentence that has been affirmed on direct appeal by the court of last resort of the State or has otherwise become final for State law purposes;

"(2) during any period in which a State prisoner under capital sentence has a properly filed request for post-conviction review pending before a State court of competent jurisdiction (if all State filing rules are met in a timely manner, this period shall run continuously from the date that the State prisoner initially files for post-conviction review until final disposition of the case by the State court of last resort); and

"(3) during an additional period not to exceed 90 days, if counsel for the State prisoner—

"(A) moves for an extension of time in the United States district court that would have proper jurisdiction over the case upon the filing of a habeas corpus petition under section 2254 of this title; and

"(B) makes a showing of good cause for counsel's inability to file the habeas corpus petition within the 180-day period established by this section.

The tolling rule established by this subsection shall not apply during the pendency of a petition for certiorari before the Supreme Court following such State post-conviction review.

"§ 2259. Certificate of probable cause inapplicable

"The requirement of a certificate of probable cause in order to appeal from the district court to the court of appeals does not apply to habeas corpus cases subject to this chapter except when a second or successive petition is filed.

"§ 2260. Counsel in capital cases

"(a) IN GENERAL.—A mechanism for the provision of counsel services to indigents sufficient to invoke the provisions of this chapter shall—

"(1) provide for counsel to—

"(A) indigents charged with offenses for which capital punishment is sought;

"(B) indigents who have been sentenced to death and who seek appellate or collateral review in State court; and

"(C) indigents who have been sentenced to death and who seek certiorari review in the United States Supreme Court; and

"(2) provide for the entry and filing of an order in an appropriate State court of record appointing one or more counsel to represent the prisoner except upon a judicial determination (after a hearing, if necessary) that—

"(A) the prisoner is not indigent; or

"(B) the prisoner knowingly and intelligently waives the appointment of counsel.

"(b) STANDARDS FOR COUNSEL.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), at least one attorney appointed pursuant to this chapter before trial, if applicable, and at least one attorney appointed pursuant to this chapter after trial, if applicable, shall have been certified by a statewide certification authority. The States may elect to create one or more certification authorities (but not more than three such certification authorities) to perform the responsibilities set forth in subparagraph (B).

"(B) The certification authority for counsel at any stage of a capital case shall be—

"(i) a special committee, constituted by the State court of last resort or by State statute, relying on staff attorneys of a defender organization, members of the private bar, or both;

"(ii) a capital litigation resource center, relying on staff attorneys, members of the private bar, or both; or

"(iii) a statewide defender organization, relying on staff attorneys, members of the private bar, or both.

"(C) The certification authority shall—

"(i) certify attorneys qualified to represent persons charged with capital offenses or sentenced to death;

"(ii) draft and annually publish procedures and standards by which attorneys are certified and rosters of certified attorneys; and

"(iii) periodically review the roster of certified attorneys, monitor the performance of all attorneys certified, and withdraw certification from any attorney who fails to meet high performance standards in a case to which the attorney is appointed, or fails otherwise to demonstrate continuing competence to represent prisoners in capital litigation.

"(2) EXCEPTION FOR STATES WITHOUT STATE SYSTEMS.—In a State that has a publicly-funded public defender system that is not organized on a statewide basis, the requirements of paragraph (1) shall be deemed to have been satisfied if at least one attorney appointed pursuant to this chapter before trial shall be employed by a State funded public defender organization, and if the highest court of the State finds on an annual basis that the standards and procedures established and maintained by such organization (which have been filed by such organization and reviewed by such court on an annual basis) insure that the attorneys working for such organization demonstrate continuing competence to represent indigents in capital litigation.

"(c) NONCOMPLYING STATES.—

"(1) BEFORE TRIAL.—If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made before trial, at least one attorney appointed under this chapter must have been admitted to practice in the court in which the prosecution is to be tried for not less than 5 years, and must have not less than 3 years' experience in the trial of felony prosecutions in that court.

"(2) AFTER TRIAL.—If a State has not elected to comply with the provisions of subsection (b), in the case of an appointment made after trial, at least one attorney appointed under this chapter must have been admitted to practice in the court of last resort of the State for not less than 5 years, and must have had not less than 3 years' experience in the handling of appeals in the State courts in felony cases.

"(d) DIFFERENT ATTORNEY.—Notwithstanding any other provision of this section, a court, for good cause, and upon the defendant's request, may appoint another attorney whose background, knowledge or experience would otherwise enable the attorney to properly represent the defendant, with due consideration of the seriousness of the possible penalty and the unique and complex nature of the litigation.

"(e) PAYMENT FOR ADDITIONAL SERVICES.—Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or issues relating to sentence, the court shall authorize the defendant's attorney to obtain such services on behalf of the defendant and shall order the payment of reasonable fees and expenses therefor, under subsection (f). Upon finding that timely procurement of such services could not practically await prior authorization, the court may authorize the provision of any payment of services nunc pro tunc.

"(f) ATTORNEY COMPENSATION.—Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to an attorney appointed under this subsection (other than State employees) and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under subsection (c), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of this subsection.

§ 2261. Limitation periods for determining petitions

"(a) IN GENERAL.—The adjudication of any petition under section 2254 of title 28, United States Code, that is subject to this chapter by a person under sentence of death, shall be given priority by the district court and by the court of appeals over all noncapital matters. The adjudication of such a petition or motion shall be subject to the following time limitations:

"(1) The district court shall determine such a petition or motion within 180 days of the filing of the petition or motion.

"(2) The court of appeals shall determine an appeal relating to such a petition or motion within 180 days of the filing of the record in the court of appeals. If the court of appeals grants en banc consideration, the en banc court shall determine the appeal within 180 days of the decision to grant such consideration.

"(b) APPLICATION.—The time limitations under subsection (a) shall apply to an initial petition or motion, and to any second or successive petition or motion. The same limitations shall also apply to the re-determination of a petition or motion or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings, and in such a case the limitation period shall run from the date of the remand.

"(c) CONSTRUCTION.—The time limitations under this section shall not be construed to entitle a petitioner or movant to a stay of execution, to which the petitioner or movant would otherwise not be entitled, for the purpose of litigating any petition, motion, or appeal.".

(b) AMENDMENTS TO TABLE OF CHAPTERS.—The table of chapters for part IV of title 28, United States Code, is amended by inserting after the item for chapter 153 the following:

"154. Special habeas corpus procedures in capital cases .... 2256".

SEC. 03. LAW APPLICABLE IN CHAPTER 153 PROCEEDINGS.

(a) IN GENERAL.—Chapter 153 of title 28, United States Code, is amended by adding at the end the following:

"§ 2255A. Law applicable

"(a) Except as provided in subsection (b) of this section, each claim under this chapter shall be governed by the law existing on the date the court determines the claim.

"(b) In determining whether to apply a new rule, the court shall consider—

"(1) the purpose to be served by the new rule;

"(2) the extent of the reliance by law enforcement authorities on a different rule; and

"(3) the effect on the administration of justice of the application of the new rule.

"(c) For purposes of this section, the term 'new rule' means a sharp break from precedent announced by the Supreme Court of the United States that explicitly and substantially changes the law from that governing at the time the claimant's sentence became final. A rule is not new merely because, based on precedent existing before the rule's announcement, it was susceptible to debate among reasonable minds.".

(b) CHAPTER ANALYSIS.—The chapter analysis of chapter 153 of title 28, United States Code, is amended by adding at the end thereof the following:

"2255A. Law applicable.".

HATCH (AND THURMOND) AMENDMENT NO. 380

Mr. HATCH (for himself and Mr. THURMOND) proposed an amendment to amendment No. 379 proposed by Mr. GRAHAM (and Mr. BRYAN) to the bill S. 1241, supra, as follows:

Strike all after the word "SEC." and insert the following:

TITLE —HABEAS CORPUS REFORM

SEC. 01. SHORT TITLE.

This title may be cited as the "Habeas Corpus Reform Act of 1991".

SEC. 02. PERIOD OF LIMITATION.

Section 2244 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of the following times:

"(1) the time at which State remedies are exhausted;

"(2) the time at which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, where the applicant was prevented from filing by such State action;

"(3) the time at which the Federal right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.".

SEC. 03. APPEAL.

Section 2253 of title 28, United States Code, is amended to read as follows:

"§ 2253. Appeal

"In a habeas corpus proceeding or a proceeding under section 2255 of this title before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

"There shall be no right of appeal from such an order in a proceeding to test the validity of a warrant to remove, to another district or place for commitment or trial, a person charged with a criminal offense against the United States, or to test the validity of his detention pending removal proceedings.

"An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, or from the final order in a proceeding under section 2255 of this title, unless a circuit justice or judge issues a certificate of probable cause."

SEC. 04. AMENDMENT OF RULES OF APPELLATE PROCEDURE.

Rule 22 of the Federal Rules of Appellate Procedure is amended to read as follows:

"RULE 22

"HABEAS CORPUS AND SECTION 2255 PROCEEDINGS

"(a) APPLICATION FOR AN ORIGINAL WRIT OF HABEAS CORPUS.—An application for a writ of habeas corpus shall be made to the appropriate district court. If application is made to a circuit judge, the application will ordinarily be transferred to the appropriate district court. If an application is made to or transferred to the district court and denied, renewal of the application before a circuit judge is not favored; the proper remedy is by appeal to the court of appeals from the order of the district court denying the writ.

"(b) NECESSITY OF CERTIFICATE OF PROBABLE CAUSE FOR APPEAL.—In a habeas corpus proceeding in which the detention complained of arises out of process issued by a State court, and in a motion proceeding pursuant to section 2255 of title 28, United States Code, an appeal by the applicant or movant may not proceed unless a circuit judge issues a certificate of probable cause. If a request for a certificate of probable cause is addressed to the court of appeals, it shall be deemed addressed to the judges thereof and shall be considered by a circuit judge or judges as the court deems appropriate. If no express request for a certificate is filed, the notice of appeal shall be deemed to constitute a request addressed to the judges of the court of appeals. If an appeal is taken by a State or the Government or its representative, a certificate of probable cause is not required.".

SEC. 05. SECTION 2254 AMENDMENTS.

Section 2254 of title 28, United States Code, is amended by redesignating subsections "(e)" and "(f)" as subsections "(f)" and "(g)", respectively, and is further amended—

(1) by amending subsection (b) to read as follows:

"(b) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the applicant. An application may be denied on the merits notwithstanding the failure of the applicant to exhaust the remedies available in the courts of the State.";

(2) by redesignating subsection "(d)" as subsection "(e)", and amending it to read as follows:

"(e) In a proceeding instituted by an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court, a full and fair determination of a factual issue made in the case by a State court shall be presumed to be correct. The applicant shall have the burden of rebutting this presumption by clear and convincing evidence.";

(3) by adding a new subsection (d) reading as follows:

"(d) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that has been fully and fairly adjudicated in State proceedings."; and

(4) by adding a new subsection (h) reading as follows:

"(h) In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a petitioner who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

SEC. 06. SECTION 2255 AMENDMENTS.

Section 2255 of title 28, United States Code, is amended by striking the second paragraph and the penultimate paragraph thereof and by adding at the end thereof the following new paragraphs:

"A two-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of the following times:

"(1) the time at which the judgment of conviction becomes final;

"(2) the time at which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, where the movant was prevented from making a motion by such governmental action;

"(3) the time at which the right asserted was initially recognized by the Supreme Court, where the right has been newly recognized by the Court and is retroactively applicable; or

"(4) the time at which the factual predicate of the claim or claims presented could have been discovered through the exercise of reasonable diligence.

"In all proceedings brought under this section, and any subsequent proceedings on review, appointment of counsel for a movant who is or becomes financially unable to afford counsel shall be in the discretion of the court, except as provided by a rule promulgated by the Supreme Court pursuant to statutory authority. Appointment of counsel under this section shall be governed by the provisions of section 3006A of title 18, United States Code.".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for my colleagues and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The purpose of the hearing is to receive testimony on S. 1018, legislation to establish and measure the Nation's progress toward greater energy security.

The hearing will take place on July 18, 1991, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the printed hearing record should send their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC. 20510, Attention: Leslie Black Cordes.

For further information, please contact Leslie Black Cordes of the committee staff at 202/224-9607.

Mr. President, I would like to announce for my colleagues and the public that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources, to receive testimony on the resettlement of Rongelap, Marshall Islands.

The hearing will take place on July 30, 1991, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building, First and C Streets, NE, Washington, DC.

Those wishing to submit written testimony for the printed hearing record should sent their comments to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC. 20510, Attention: Allen Stayman.

For further information, please contact Allen Stayman of the committee staff at 202/224-7865.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding an oversight hearing on July 11, 1991, beginning at 9:30 a.m., in 485 Russell Senate Office Building on employment on Indian reservations.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a hearing on July 7, 1991, beginning at 9 a.m., in 485 Russell Senate Office Building on S. 754, treatment of individual Indian income derived from trust land.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, June 25, 1991, at 9:45 a.m., for a hearing on S. 1306, the ADAMHA Reorganization Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., June 25, 1991, to receive testimony on S. 1269, the Renewable Hydrogen Energy Research and Development Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 25, at 2:30 p.m., to hold a hearing on four ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 25, at 11 a.m., to hold a hearing on an ambassadorial nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, June 25, 1991, at 2 p.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate, Tuesday, June 25, 1991, at 10 a.m., to conduct a hearing on the administration's request for an IMF quota increase.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on June 25, 1991, at 2 p.m., on spectrum revenues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate Committee on Agriculture, Nutrition, and Forestry, be allowed to meet during the session of the Senate on Tuesday, June 25, 1991, after the first vote of the afternoon, in the Presidents Room, to report out Ann Veneman as Deputy Secretary of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURE RESEARCH AND GENERAL LEGISLATION

Mr. BIDEN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry's Subcommittee on Agricultural Research and General Legislation be allowed to meet during the session of the Senate on Tuesday, June 25, 1991, at 2:30 p.m., to hold a hearing on the research title of the 1990 farm bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON JUVENILE JUSTICE

Mr. BIDEN. Mr. President, I ask unanimous consent that the Subcommittee on Juvenile Justice of the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 25, 1991, at 10 a.m., to hold a hearing on minority representation in the juvenile justice system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Tuesday, June 25, at 9:30 a.m., for a hearing on the subject: "IRS Computer Modernization and Procurement."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Tuesday, June 25, 1991, at 9 a.m. The committee will hold a full committee hearing on Government-sponsored paperwork and information collection requirements.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A TRIBUTE TO MILITARY RECRUITERS

• Mr. KOHL. Mr. President, recently a member of my staff told me about a visit he had with Mr. Edmund Bartt. Mr. Bartt wanted to call to my attention the important role that military recruiters play in our Nation's defense. Mr. Bartt is absolutely right: With the advent of the All-Volunteer Force, we need recruiters in the front lines to find the high quality young people to fill its ranks.

I believe that recent events have demonstrated the quality of our Armed Forces. We have paid tribute to everyone from the manufacturers who make the weapons to the men and women who used those weapons. And those tributes were justified. But without recruiters, we may not have had the number of volunteers we need—and we certainly would not have the quality of volunteers we now depend on.

It is the individual recruiter who identifies the talented people who are looking for, and can profit from, the challenge of military service. It is the recruiter who listens and matches an individual's interests with our national needs. It is the recruiter who helps walk potential soldiers and sailors and airmen through the maze of redtape and confusion that they face. It is the recruiter who ultimately builds the forces that we rely upon to defend the country.

Unfortunately, it is all too easy to overlook the contributions that recruiters make. In fact, I am afraid that all too often the military itself does not recognize the role that recruiters play. So I would like to take this opportunity to tell Mr. Bartt that this is one Senator, one citizen, who does recognize the work that military recruiters do. I would like to take this time to recognize the efforts of all recruiters, especially those in my home State of Wisconsin. I salute their efforts, their dedication, and the results they achieve. It is due to their efforts that our military has remained strong and effective. I thank them for all they have done.•

THE 50TH ANNIVERSARY OF EXECUTIVE ORDER 8802 FAIR EMPLOYMENT PRACTICES IN DEFENSE INDUSTRIES AND FEDERAL GOVERNMENT

• Mr. PACKWOOD. Mr. President, I rise today to commemorate the 50th anniversary of a landmark event in U.S. labor history and civil rights history. On June 25, 1941, President Franklin Delano Roosevelt signed Executive Order 8802, calling for fair employment practices in the defense industries and in the Federal Government generally. This was the first U.S. law aimed specifically at equal employment opportunity.

The backdrop against which the signing of the Executive order took place illustrates its historical significance. The defense industry boom of World War II left black workers literally standing at the factory gates. While a proliferation of jobs resulted from the massive buildup of ships, planes, and tanks, blatantly discriminatory company policies kept black workers out, regardless of training. Shamefully, the Federal Government did virtually nothing to enforce antidiscrimination clauses in defense contracts. And blacks who enlisted in the military were sent to segregated "Jim Crow" units or assigned servant duties in white units.

Bleak as the situation was, history provided a leader who was up to the challenge: A. Phillip Randolph, who is widely regarded as the father of the modern civil rights movement. Randolph, along with other black leaders, submitted to the White House on September 27, 1940, a memorandum calling for the immediate and complete desegregation of all defense operations. It should surprise no one familiar with Washington politics or civil rights history that Randolph's proposal was not met with glad cries.

But Randolph's persistence and ingenuity won out in the end. While on a train trip to visit the divisions of the Brotherhood of Sleeping Car Porters, Randolph began putting out the word that 10,000 blacks would be marching on Washington to demand jobs in the defense industry. The press learned of Randolph's idea, and shortly thereafter the NAACP and Urban League pledged their support. A March on Washington Committee was formed, consisting of black leaders from across the country.

Official Washington was alarmed. The White House prevailed upon New York Mayor La Guardia to convince Randolph that there might be a better way to present the concerns of black workers than marching on Washington. Ultimately President Roosevelt invited Randolph and other black leaders to the White House. After discussion, Roosevelt agreed to sign an order prohibiting discrimination by defense contractors. Randolph countered that the order must cover all Federal employers. On June 25, 1941, 6 days before the black workers' march on Washington was scheduled to take place, President Roosevelt signed Executive Order 8802, declaring it to be the policy of the United States:

> That there shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin.

Mr. President, I give my congratulations to the civil rights community and the labor community on this very important anniversary. May we in this Congress continue to move forward toward equal opportunity for all in the workplace.•

TRIBUTE TO COL. RAY E. McCANN

• Mr. DIXON. Mr. President, I rise today to honor Col. Ray E. McCann, USAF, Medical Service Corps, upon his retirement on July 1, 1991, after 33 years of dedicated service. Colonel McCann served as an outstanding officer and as a committed health-care manager.

Colonel McCann was born in Cooter, MO, and now resides in Illinois. He received his B.S. from Arkansas State University and an MBA from the University of Utah.

Upon entering active duty in 1962, Colonel McCann worked on behalf of the Nation's defense by helping manage the delivery of military medical services. For the integrity and skill that he brought to his job, Colonel McCann has been awarded numerous military decorations, including: The Air Force Commendation Medal with two Oak Leaf Clusters, the Air Meritorious Service Medal with one Oak Leaf Cluster, and the Legion of Merit. In 1985, Colonel McCann was awarded the honorary Chief Master Sergeant denomination.

Today, I not only acknowledge the contributions that Colonel McCann has given to the Armed Forces and to military health care management, but I also applaud his exemplary character. The people of the United States are indebted to Col. Ray E. McCann's service.•

TRIBUTE TO MSGR. WILLIAM J. LINDER, NEWARK, NJ

• Mr. BRADLEY. Mr. President, one of the most remarkable people I have the pleasure of knowing is Msgr. William J. Linder, the pastor of St. Rose of Lima Church in Newark, NJ. But Monsignor Linder's mission is much broader than his parish. He has devoted nearly the last quarter of a century to rebuilding homes and lives in Newark. It is for these latter efforts, as founder and leader of the New Community Corp., that Monsignor Linder was recognized and bestowed the MacArthur Foundation fellowship, more informally known as the MacArthur "genius grants."

Monsignor Linder has provided a remarkable service to the people of the Newark area. Monsignor Linder founded the New Community Corp some 25 years ago and since then has built 2,400 housing units, a transitional housing facility for the homeless, a 180-bed nursing home, 5 day care centers, medical offices, and a shopping center. He has effectively rebuilt 22 blocks in Newark's Central Ward and provided jobs for 1,150 people there.

Out of the ashes of the 1967 riots, Monsignor Linder vowed to rebuild. But his work has gone far beyond the bricks and mortar. I have visited the day care centers and talked with the mothers who have been helped to find real jobs. I have seen the bright shiny faces of the young children who have been challenged to become the best they can be.

Monsignor Linder has shown the people of Newark that the impossible is sometimes possible. He has touched the lives of the people of Newark's Central Ward and provided them with a model of hard work and community service that is unsurpassed. I am delighted that the MacArthur Foundation has taken note of his efforts.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35 for Mike Tongour, a member of the staff of Senator ALAN K. SIMPSON, to participate in a program in France, sponsored by the German Marshall Fund and the Franco-American Foundation, from June 30 to July 5, 1991.

The committee has determined that participation by Mr. Tongour in the program in France, at the expense of the German Marshall Fund and the Franco-American Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Terri Claffey, a member of the staff of Senator GORTON, to participate in a program in China, sponsored by the Chinese Government, from August 3 to 18, 1991.

The committee has determined that participation by Ms. Claffey in the program in China, at the expense of the Chinese Government, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 for Jan Campbell-Miller, a member of the staff of Senator BAUCUS, to participate in a program in Taiwan, sponsored by the Chinese Culture University, from June 30 to July 7, 1991.

The committee has determined that participation by Ms. Miller in the program in Taiwan, at the expense of the Chinese Culture University, is in the interest of the Senate and the United States.•

A CIVIL RIGHTS ANNIVERSARY

• Mr. SIMON. Mr. President, today is the 50th anniversary of Executive Order 8802—an event that marked the beginning of the modern civil rights era. In 1941, A. Philip Randolph threatened a 100,000-person march on Washington to demand an end to segregation of African-Americans in the Armed Forces and exclusion from jobs in the defense industry. Just 6 days before the march was scheduled to take place, President Franklin Roosevelt signed the Executive order that led to a measure of job equality for African-Americans in defense industries and in Government. This historic step in turn led to the Executive order desegregating the armed services and ultimately to the 1964 Civil Rights Act to desegregate our society.

One of the things that makes our country great is the opportunity promised to all Americans. Today we are at risk of forgetting that equality is as sacred as liberty, for liberty is a hollow word to those excluded by practice or by law from society's benefits.

Dr. Martin Luther King, Jr., said:

> In our society, it is murder, psychologically, to deprive a man of a job or an income. You are in substance saying to that man that he has no right to exist.

Yet 50 years later, we see an administration determined to make race a political issue. I urge President Bush to put the politics of 1992 aside, to work in good faith with Congress on a civil rights bill, and then to sign the bill into law so that all Americans can enjoy the employment opportunities they deserve.

There will always be forces at work to detour us from the path toward justice and equality under the law. As we recall with pride the great step forward our Nation took 50 years ago, let us also press forward to complete this difficult journey.•

TRIBUTE TO JOHN P. FRANK, PHOENIX, AZ

• Mr. DECONCINI. Mr. President, I rise today to applaud the accomplishments of a very distinguished constituent from the State of Arizona, Mr. John P. Frank. Mr. Frank is an attorney in Phoenix with the law firm of Lewis & Roca. He is recognized throughout the legal community as an outstanding lawyer and legal scholar. From time to time, he has testified before the Senate Judiciary Committee on important constitutional issues. Mr. Frank has recently completed a book which I want to laud and recommend to my colleagues in the Senate. Entitled "Clement Haynsworth, the Senate, and the Supreme Court," it traces one of the first Supreme Court nominees to be rejected by the Senate, as Mr. Frank contends, for purely political reasons.

Mr. Frank's book is much more than a historical account. It examines the Nixon administration's lobbying efforts for its Supreme Court nominee, Clement Haynsworth. Frank contends that Haynsworth was one of the few qualified nominees rejected by the Senate because of intense lobbying and strong opposition by various labor unions and civil rights organizations and was based on ideology rather than lack of qualifications. Frank asserts that passing an examination of ideology is the standard that judges, as nominees, must face rather than determining whether they are an outstanding and well-respected jurist. The book provides an educational and insightful look into the confirmation process.

The book begins with the events leading up to this controversial nomination. The year was 1968 and Justice Abe Fortas had just resigned under pressure from the press and the Attorney General's office for some alleged financial impropriety. Many of my distinguished colleagues remember the events well. What follows is an engaging account of the battles which were fought over this nominee. It is rich with historical detail and is as fine a work on the nomination process as I've read. To those who have been a part of the confirmation process, the book is insightful and enjoyable; to those who haven't participated directly in the process the book is educational, and rich with history and colorful details of the process.

The author examines the timeless debate of whether the selection of Justices is or should be political. His conclusion captures the essence of this debate:

> Senator Cook surely expressed what had been a majority spoken view for many years, that the criteria for a Senator voting on a nomination should be the competence, integrity, distinction, and ability of the nominee,

> but not his point of view. Senator Baker, with his counter that the Court had become so large a part of the policy-making machinery of the country that a nominee's point of view must be considered as well. * * * As an aftermath of these events, it may be that the approach which stresses only the quality of a Court nominee has become an exercise in lip service, an invocation of a world which we once lived but do not now. It may also be that Baker was right, that just as war is too important to be left to generals, so Supreme Court judging is too important to be left to the professionally able.

Mr. Frank has a gift as a scholar and a writer. I commend him for this book and for his outstanding contributions to the legal profession. I highly recommend this book to my colleagues, constituents, and all who take an interest in the judicial nominating process.•

TRIBUTE TO JUDITH LEIBER

• Mr. GRAHAM. Mr. President, I rise today to offer a tribute to one of America's top business leaders, Ms. Judith Leiber. The story of Judith Leiber is the story of America; she personifies tenacity, creativity, innovation, and entrepreneurial spirit.

Like millions of Americans, Judith Leiber was an immigrant who endured hardship to come to this great land and who prospered in freedom.

Some advance the argument that America has reached its peak, and is ceding its strength to other nations. But I submit, Mr. President, that Judith Leiber and people like her have been and will be the fundamental strength of this Nation.

Judith Leiber was born in Budapest and grew up with the backdrop of anti-Semitism. The synagogue in Vienna where her mother was married was destroyed during Crystal Nacht in November 1938. In Budapest, she became an apprentice in the handbag industry, advancing to journeyman and then to master.

Surviving the Nazi occupation of Hungary, Judith Leiber emigrated to America after the war with her husband, whom she credits with encouragement and support.

In the 1991 edition of Fortune magazine's special report on "The New American Century," Judith Leiber's company, which makes handbags, is listed as one of America's top 100 manufacturing concerns. She is on a roster with Corning, Levi Strauss, Hewlett-Packard, Polaroid, and Honeywell.

Mr. President, ours is a nation where newcomers can combine skill with hard work and make dreams come true. As long as this is true, we are destined to remain strong.•

HONORING DR. WILLIAM COTTINGHAM

• Mr. RIEGLE. Mr. President, today I rise to pay tribute to Dr. William Cottingham, an outstanding and very valued member of my hometown community, Flint, MI. Dr. Cottingham is retiring as president of GMI Engineering and Management Institute, a prestigious, independent private college in Flint.

Born in Chicago, Dr. Cottingham earned bachelor's, master's, and doctoral degrees from Purdue University, where he later became a full professor, as well as head of mechanical engineering. Dr. Cottingham holds a patent and is the author or coauthor of more than 200 technical and educational publications and presentations.

Dr. Cottingham came to Flint and joined GMI in 1975, when it was known as General Motors Institute, and was named its fourth president a year later. As president of General Motors Institute, Dr. Cottingham had total responsibility for all institutional activities, 360 employees, and fiscal responsibility for a budget in excess of $25 million.

In 1982, General Motors Corp. announced it was ceasing its sponsorship of the engineering school. As president of GMI Engineering and Management Institute, Dr. Cottingham led the transition of the college from a highly subsidized, wholly owned subsidiary of General Motors to a nonsubsidized independent institution. GMI now has more than 3,400 undergraduate and graduate students and a budget of $30 million.

Dr. Cottingham has also contributed greatly to the community of Flint and Genesse County. He is a longtime volunteer with the Boy Scouts and has served on its board of directors. He is also on the board of directors of the Flint Urban Coalition and National Bank of Detroit, and the Community Foundation of Greater Flint. Recognizing the potential of higher education as a focus for economic redevelopment efforts in Flint, Dr. Cottingham and other Flint area college presidents founded the greater Flint Educational Consortium, a forum for all education leaders to explore ways to pool scarce resources for the enhancement of all in the community.

In addition to his community activities, Dr. Cottingham is a dedicated family man. He is married and has seven adult children.

In conclusion, I would like to commend Dr. Cottingham for his tremendous commitment and contribution to higher education and for his efforts and leadership in Flint and Genesse County. I am happy to join with his family, friends, and colleagues in wishing him well in his retirement.•

SPOTTED OWL/DWYER OPINION

Mr. GORTON. Mr. President, today's Washington Post contains a partial reprint of an opinion issued by a Federal judge in Seattle, WA. Judge William Dwyer has halted practically all timber sales in the national forests of the Pacific Northwest until the Forest Service produces an owl conservation plan and completes an environmental impact statement. The Post editorialized that the Dwyer decision is sound.

Judge Dwyer may well be correct about the requirements of Federal land management laws. When he ventures into unproven factual assertions about northwest forestry and then makes judgments on policy and economic grounds, however, he exceeds the mandate of any judge and he is dead wrong. So is the Washington Post. Their arguments can be refuted point by point. But first, let us briefly consider how far spotted owl protection has already gone in the Northwest.

On May 6, the U.S. Fish and Wildlife Service announced a proposed rule to set aside 11.6 million acres for the spotted owl. These 11.6 million acres are in addition to the more than 3.5 million acres of old growth forests already protected in such areas as national parks and wilderness areas. That 11.6 million acres—18,000 square miles, including some of the world's most productive timber producing land—is a land mass as large as New Jersey, Massachusetts, Delaware, and Rhode Island combined.

This huge set-aside is not designed simply to save the existing 6,000 spotted owls from extinction, it is intended dramatically to expand the range of spotted owls. It will prevent the harvesting of 9 million dollars' worth of timber per spotted owl.

If the proposed 11.6 million acre set-aside is adopted, more than 40,000 direct jobs will be lost in the Pacific Northwest. These are the jobs and careers of people who work to produce the wood for our homes and the paper to print today's Washington Post. Tens of thousand of indirect jobs, in grocery stores, service stations, schools, and banks, will also disappear.

This debate is not about saving the last of our old growth forests. Nor is it primarily about spotted owls. Last year, the Wilderness Society argued that spotted owls relied on old growth forests, but that, tragically, only about 2 million acres of old growth forests remain. Today, the Fish and Wildlife Service has proposed, in essence, a wildlife refuge for owls that would take in more than 9 million acres that is not old growth forest that even the Audubon Society, a year ago, did not claim to be necessary for spotted owls. Those 9 million acres are reforested and even cleared and settled land. This debate has obviously moved far beyond old growth and spotted owls.

Allow me to illustrate the incremental impacts of all of the spotted owl restrictions of the last several years. During the early and mid-1980's, region 6 of the Forest Service, consisting of the States of Washington and Oregon, was an immensely productive timber harvesting region. During those years, the Forest Service sold more than 5 billion board feet of Forest Service timber per year in the Pacific Northwest. Under the Forest Service plans for this fiscal year, 1991, which call for extensive old growth, spotted owl preserves, the Forest Service would have sold 3.4 billion board feet. After applying the Thomas Committee recommendations for the owl, the region's timber sale program was to have been reduced to 2.6 billion board feet. Then, after consulting with the Fish and Wildlife Service, as required by the Endangered Species Act, planned sales were reduced to 2.2 billion board feet. The critical habitat designation I have already described will limit the sale program to 1.3 billion board feet and Judge Dwyer's injunction further reduces the program to only 1 billion board feet. Of this billion board feet, 800 million will come from forests that are almost uninhabited by spotted owls. From 5 billion board feet to 1 billion board feet—the numbers speak for themselves, especially when you understand that each billion board feet supports 18,000 jobs. It is no wonder the region is expected to lose a minimum 40,000 jobs by reason of owl restrictions.

Now, let us consider the arguments presented by Judge Dwyer and endorsed by the Post. Judge Dwyer first attempts to downplay the impact of his decision by claiming that jobs in the Northwest will be lost anyway to automation and increased productivity. This simply is not the case. A great deal of automation has taken place in Northwest sawmills, but it occurred primarily in the early 1980's. At that time millowners were impelled to retool their facilities in order to remain competitive so they installed upgraded machinery. This industrial retooling, a natural stage in the life of any heavy manufacturing industry, made the milling process far more efficient and, as a result, reduced the labor force. But, this retooling occurred slowly, over the course of the 1980's and has already left its primary impact on the industry.

Automation, of course, has almost no impact on timber jobs in the woods, such as those of loggers and truck drivers. Simply stated, automation will not cause thousands of additional jobs to disappear in our timber communities. Those jobs are being lost to spotted owls.

The judge implies, and the Post and many preservationists claim, that timber job losses are inevitable because we are running out of timber anyway. Again, these arguments are dead wrong. University of Washington forestry faculty members have studied Northwest timber supply thoroughly. They have convincingly demonstrated that, in a worst case scenario, the Northwest will face a downturn in timber supply of between 8 and 12 percent in the 1990's while a new generation of reforestation matures. By the turn of the century our sustainable timber supply will be greater than it is today—and today the ratio of timber growth to removals in volume per acre in the Pacific Northwest on all forest lands is growing by 38 percent per year.

The point is this: The Pacific Northwest is not running out of timber and massive layoffs are not inevitable. Timber shortages and massive job losses are the inevitable result of decisions by Federal judges and the Fish and Wildlife Service acting under statutes passed by the Congress halting the harvest of timber throughout the region. Once again, these decisions affect millions of acres of public and private land which are not old growth and which support no spotted owls. Most of it is in tree farms that many environmentalists claim contribute nothing to a varied ecosystem, but which contribute greatly to community stability and to the American economy.

Judge Dwyer claims that supply shortages have been "exacerbated by the export of raw logs." Wrong! The export of logs from Federal lands has been prohibited for more than a decade. Last year, Congress passed a law that almost completely eliminated the export of logs from State forests. The only remaining question, then, is the effect of the export of logs from private lands. Even if we supplemented the regional supply of timber manufactured in Northwest mills with the logs exported from private lands, we would not recover more than a modest fraction of the volume of logs removed from the supply by the imposition of spotted owl restrictions. To claim that the export of raw logs is the cause of the kind of upheaval we see in northwest timber communities is irresponsible.

Finally, both the judge and the Post, with a sweep of logic and compassion rivaling the famous phrase attributed to Marie Antoinette—"Let them eat cake"—claim that the Federal Government, through welfare and unemployment compensation, can replace the productive jobs and careers lost by forest products workers.

Relocation and retraining will require a great deal more than just a moving van and 6 months at the local community college. Without a productive forest products industry dozens of towns and small cities will literally die. To replace the productive jobs and careers of unemployed workers the Government will be forced literally to buy homes, build new public schools, pave new roads, transplant businesses and provide millions of dollars in new services. Are Federal taxpayers ready to pay those costs? Is the Washington Post ready to support taking billions from the Federal Treasury to replace the lost jobs and possessions of unemployed workers?

None of the proposals I have seen accounts for the billions of dollars needed to accomplish this. Our Government simply cannot and will not finance these massive efforts at social engineering.

Decisionmakers must come to grips with the full impact of their decisions. Judges, government agencies, newspapers editorialists and environmental organizations have supported policies creating a human disaster rivaling that of Iraqi Kurdistan. They cannot now escape the consequences of their decisions by prattling about log export bans, unemployment compensation and retraining to replace these lost jobs.

Judge Dwyer's opinion is a perfect example of antihuman decisionmaking. The Federal courts, along with wildlife biologists in the U.S. Fish and Wildlife Service, continue to make public policy designed to protect spotted owls while ignoring people and the same communities in which they live and work, while in the same breath denying that their deliberate decisions are responsible. But they at best can claim that their hands are tied by the law, unjust as it may be. We in Congress made and can change the law. We have no such refuge.

Mr. President, decisionmakers at U.S. Fish and Wildlife Service, in Federal courts, in Congress and the administration, and those who support expansive spotted owl protection like the Washington Post have a clear duty. They have a duty to stare the real human consequences of their policies in the face without resort to blaming others and raising red herrings such as "these job losses were inevitable anyway," or "we'll just relocate or retrain these workers with some Federal welfare money."

Let us now look at some of the brutal human consequences of spotted owl protection now becoming apparent. Real working people are suffering. They are living and even dying in pain and grief. I do not exaggerate. The Seattle Post-Intelligence reported yesterday from Forks, the very small town that is now part of spotted owl critical habitat.

Here are the cold facts. The number of victims of domestic violence in Forks has jumped 45 percent this year. The community's mental health center has seen an increase of 22 percent in its caseload. The number of juveniles charged with assault in Clallam County has increased 148 percent. Welfare grants for single-parent households in Forks increased 137 percent and food stamp grants increased 27 percent, in just 1 month. The children at Forks Elementary School are in extreme danger. Last month, two children made serious attempts at suicide. The counselor at that school says her children are "just burnt out and crying for no reason. They don't know if they are staying or going. They don't know if they are leaving home, leaving their roots. All the kids are talking about it, and they are scared. The anger—its incredible. We have had kids in the office who have never been there before. Kids hurting other kids, breaking things, cursing."

A particularly poignant tragedy from this massive social upheaval is the story of Jeff King. On June 5, Jeff, a 31-year-old logger, sat down on the couch of his family room, placed a 9 millimeter handgun to his chest and pulled the trigger, taking his own life. Jeff King's livelihood was taken away by the deliberate actions of Fish and Wildlife Service workers, judges, biologists, and scientists. It would be easy to lable Jeff's death simply as a tragic casualty of the war between spotted owls and timber communities. Jeff is, of course, responsible for his actions. But, those who make important decisions that affect the lives of innocent Americans, however, must confront the fact that their decisions breed despair and pain and, yes, suicide.

Forks is not alone. Throughout timber communities in Washington and Oregon similar scenes are being enacted. These scenes are not a result of normal economic downturns or changes in demands for forest products. These scenes are caused by deliberate, calculated Federal policies designed to accomplish one objective—the stopping of productive timber harvesting in the Pacific Northwest.

Mr. President, this Northwest crisis has reached the boiling point. And this crisis will continue to take its toll. Workers wil continue to be laid off. Families will crack. Children face a hopeless future. There will be more suicides. No, Mr. President, this crisis is not over. It has only begun.

If my colleagues from around the country and their constituents cannot find compassion in their hearts for their fellow human beings in these stories, they need not search far for other reasons to oppose the sweep of spotted owl protection. For example, since the proposal of an 11.6-million-acre spotted owl setaside, wholesale prices for lumber have skyrocketed. Economists link this steep increase directly to spotted owl restrictions in the Pacific northwest. Consumers across America are already paying a premium for this year's remodel project or the nursery addition they plan. Reductions in timber supply resulting from spotted owl restrictions this year alone account for enough lumber to build nearly 200,000 single-family American homes. A recent Post article estimated that the average price for a new home in the Washington, DC, area will increase by $3,000 because of the loss of timber supply due to spotted owl restrictions. We need no reminder that affordable housing is a crying national goal.

A reduction in timber supply from Northwest forests will not reduce worldwide demand for wood products. Economists predict absolutely no slowdown in worldwide demand for wood products and, in fact, foresee a steady increase in demand through the coming decades. A reduction in Northwest timber supply only means that demand will be met from other parts of the world, including the tropical forests of South America and Southeast Asia. If we seek to avoid the destruction of tropical rain forests, the last thing we should do is to shift a greater demand to those forests.

And for those who harvest crops elsewhere around the Nation—cotton farmers in Alabama, corn producers in Indiana, and wheat growers in Kansas—they should know that they and the tree farmer in the Pacific Northwest are kindred souls. In the Northwest, the replanting of harvested forest acreage is both economically logical and legally mandated. Unlike Brazil, or Southeast Asia, we in the Northwest have been producing timber for more than a century because we replant and regenerate our forests.

All those whose jobs are in agriculture, mining, fishing, or other productive uses of resources must beware. Today it is spotted owls in the Northwest. Next year it may be a mole in a farmer's field or a bird in an Eastern tree that will demand protection. Those who believe they are safe from the reach of the radical enforcement of wildlife laws should tell their tales to the logger in Washington. He too was skeptical when someone first told him that he would lose his job, his family, and his livelihood because the USFWS, Federal judges, and the Washington Post decided that expanding the range of 6,000 spotted owls was more important than people, jobs, families, and communities.

Three million acres of the current proposed habitat for spotted owls is on private timberland. If 3 million acres of private land is set off limits to timber production, in most cases its only productive use, you can be absolutely assured that Federal taxpayers will be forced to pay billions of dollars to those property owners as the Government "takes" their right to productively use their private property. I ask my colleagues, are people in your States ready to pay this bill for expanded spotted owl protection? It will be far from free.

Mr. President, this debate is a fight between conservation and preservation. The two sides of the debate have fundamentally different values. Preservationists seek to lock up the productive and renewable forests. One preservationist, Paul Ehrlich, proclaims that:

> We've already had too much economic growth in the United States. Economic growth in rich countries like ours is the disease, not the cure.

The group Ecotage, an offshoot of Earth First, has promised to:

> Make this an insecure and uninhabitable place for capitalists and their projects. This is the best contribution we can make towards protecting the earth and struggling for a liberating society.

And the founder of Earth First, David Foreman, claims that:

> We must * * * reclaim the roads and the plowed land, halt dam construction, tear down existing dams, free shackled rivers, and return to wilderness millions and tens of millions of [acres of] presently settled land.

There is a danger in the radical enforcement of laws written to protect wildlife. Radical enforcement of those laws, causing massive human suffering, will generate a backlash against the adoption or enforcement of important laws that protect the health and safety of people, like the Clean Water Act, the Clean Air Act, and RCRA. When the pendulum of public policy swings too far in one direction, that pendulum will naturally swing back in the opposite direction. That natural reaction can be avoided, however, by reducing the initial swing to a reasonable balance. It is this balance that must be sought in this case.

I hold a different view from that of the preservationists. I endorse the theory of sane environmentalism eloquently advocated in Charles Krauthammer's essay earlier this month in Time magazine. This sane environmentalism "does not sentimentalize the earth. It does not ask people to sacrifice in the name of other creatures." Unlike the earth worship of contemporary environmentalism, sane environmentalism is founded on Protagoras' maxim that "Man is the measure of all things." As Krauthammer explains:

> Nature is our ward. It is not our master. It is to be respected and even cultivated. But it is man's world. And when man has to choose between his well-being and that of nature, nature will have to accommodate. Man should accommodate only when his fate and that of nature are inextricably bound up. The most urgent accommodation must be made when the very integrity of man's habitat * * * is threatened.

Whether it is the most urgent accommodation or a lesser accommodation, the principle is the same: Protect the environment, because it is our environment.

Mr. President, our productive citizens and their families and communities deserve our consideration in at least a measure equal to that lavished on the spotted owl. If that is not possible under the law as it is written today—and our courts have told us that it is not—then we in this Congress must change the law. We cannot—we must not—avoid our responsibility.

EXECUTIVE SESSION

EXECUTIVE CALENDAR UNANIMOUS CONSENT

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to executive session and that the Committee on Commerce, Science, and Transportation be discharged of the following nominations:

Dennis A. Yao, to be a Federal Trade Commissioner;

Martha Buchanan, to be a member of the Board of Directors of the Corporation for Public Broadcasting;

Sheila Tate, to be a member of the Board of Directors of the Corporation for Public Broadcasting;

John A. Hammerschmidt, to be a member of the National Transportation Safety Board;

Carolyn R. Bacon, to be a member of the Borad of Directors of the Corporation for Public Broadcasting; and

James H. Quello, to be a member of the Federal Communications Commission.

I further ask unanimous consent that the Senate proceed to their immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

Dennis A. Yao, to be a Federal Trade Commissioner;

Martha Buchanan, to be a member of the Board of Directors of the Corporation for Public Broadcasting;

Sheila Tate, to be a member of the Board of Directors of the Corporation for Public Broadcasting;

John A. Hammerschmidt, to be a member of the National Transportation Safety Board;

Carolyn R. Bacon, to be a member of the Board of Directors of the Corporation for Public Broadcasting; and

James H. Quello, to be a member of the Federal Communications Commission.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

TO MAKE A MINORITY PARTY CHANGE IN COMMITTEES

Mr. GORTON. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 145) to make a minority party change in committees.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. If there is no objection, the resolution is agreed to.

The resolution (S. Res. 145) was agreed to; as follows:

S. RES. 145

Resolved, That the following Senator shall be added to the minority party's membership on the Committee on Finance and removed from the minority party's membership on the Committee on Foreign Relations for the One Hundred Second Congress or until their successors are appointed:

Mr. Hatch.

SOAPBOX DERBY RACES

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 173, a concurrent resolution regarding soapbox derby races just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 173) that, the Greater Washington Soap Box Derby Association ("Association") shall be permitted to sponsor a public event, soap box derby races, on the Capitol Grounds on July 13, 1991.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 173) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

H.R. 749, H.R. 904, H.R. 1143

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed, en bloc, to the consideration of Calendar Nos. 128, 129, and 130, and that the committee amendments, where appropriate, be agreed to; that the bills be deemed read three times and passed, and that the motion to reconsider be laid on the table; that the consideration of these calendar items appear individually in the RECORD; and that any statements appear at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

DONATION OF LAND FOR ADDITION TO OCMULGEE NATIONAL MONUMENT

The bill (H.R. 749) to authorize the Secretary of the Interior to accept a donation of land for addition to the Ocmulgee National Monument in the State of Georgia, was considered, deemed ordered to a third reading, read the third time, and passed.

AFRICAN-AMERICAN HISTORY LANDMARK THEME STUDY ACT

The Senate proceeded to consider the bill (H.R. 904) to direct the Secretary of the Interior to prepare a national historic landmark theme study on African-American history, which had been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 904

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "African American History Landmark Theme Study Act".

SEC. 2. THEME STUDY.

[(a) Not later than 3 years after the date of enactment of this Act, the**]** *(a) The* Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall prepare and transmit to the Congress a national historic landmark theme study on African American history (hereafter in the Act referred as the "theme study").

(b) The purpose of the theme study shall be to identify the key sites in the history and experience of those Americans who trace their origins to Africa so that all Americans will gain better understanding of American history.

(c) In the theme study, the Secretary shall identify, evaluate, and nominate as national historic landmarks the districts, sites, buildings, and structures and landscapes that illustrate or commemorate African American history.

(d) On the basis of the theme study, the Secretary shall—

(1) identify possible new park units appropriate to the theme of African American history; and

(2) prepare a list of the most appropriate sites, including a discussion of the feasibility and suitability of their inclusion in the National Park System.

(e) The theme study shall be completed not later than 3 years after the date funds are made available for such study.

SEC. 3. CONSULTATION.

The Secretary shall prepare the theme study in consultation with scholars of African American history and historic preservationists.

SEC. 4. COOPERATIVE AGREEMENT.

(a) The Secretary shall enter into a cooperative agreement with one or more scholarly and public historic organizations to—

(1) prepare the theme study; and

(2) ensure that the theme study is prepared in accordance with generally accepted scholarly standards.

(b) The scholarly and public historic organization or organizations described in subsection (a) shall be—

(1) knowledgeable of African American history; and

(2) recognized in the scholarly community as adhering to generally accepted scholarly standards.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $500,000 to carry out this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed, the bill was deemed read the third time, and passed.

STUDY OF NATIONALLY SIGNIFICANT PLACES IN AMERICAN LABOR HISTORY

The Senate proceeded to consider the bill (H.R. 1143) to authorize a study of nationally significant places in American labor history, which has been reported from the Committee on Energy and Natural Resources, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

H.R. 1143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THEME STUDY.

[Within 3 years after enactment of this Act, the Secretary**]** *(a) The Secretary* of the Interior (hereafter in this Act referred to as the "Secretary") shall prepare and transmit to the Congress a National Historic Landmark Theme Study on American Labor History (hereafter in this Act referred to as the "Theme Study"). The Theme Study shall be prepared in consultation with the Secretary of Labor and pursuant to the guidelines prepared under section 2. The purpose of the Theme Study shall be to identify the key sites in American labor history, including the history of workers and their work, of organizing, unions and strikes, of the impacts of industrial and technological change, and of the contributions of American labor to American history. The Theme Study shall identify, evaluate, and nominate as national historic landmarks those districts, sites, buildings, and structures that best illustrate or commemorate American labor history in its fullest variety. On the basis of the Theme Study, the Secretary shall identify possible new park units appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites. The list shall include a discussion of the feasibility and suitability of such sites.

(b) The theme study shall be completed not later than 3 years after the date funds are made available for such study."

SEC. 2. CONSULTATION.

The Secretary shall consult with workers, workers' representatives, scholars of labor history, and historic preservationists for technical assistance and for the preparation of guidelines for the Theme Study.

SEC. 3. COOPERATIVE AGREEMENTS.

The Secretary shall enter into cooperative agreements with one or more major scholarly and public historic organizations knowledgeable of American labor history to prepare the Theme Study and ensure that the Theme Study meets scholarly standards.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated $250,000 to carry out this Act.

The amendments were agreed to.

The amendments were ordered to be engrossed, the bill was deemed read the third time, and passed.

S. 1325 SEQUENTIALLY REFERRED TO COMMITTEE ON ARMED SERVICES

Mr. BIDEN. On behalf of the chairman of the Armed Services Committee, Senator NUNN, I ask unanimous consent that S. 1325, the intelligence authorization bill, now on the calendar, be sequentially referred to the Committee on Armed Services for up to 30 days pursuant to the provisions of section 3(b) of Senate Resolution 400 of the 94th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 143, submitted earlier today by the majority and minority leaders.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 143) reconstituting and reauthorizing the Senate World Climate Convention Observer Group.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the purpose of this resolution is to reconstitute and reauthorize the Senate World Climate Convention Observer Group which was originally authorized by Senate Resolution 110 of this Congress.

The resolution which I submit today will supersede Senate Resolution 110 and make two changes affecting the observer group. The first change is to extend the group's termination date from the end of this session of Congress to July 31, 1992. The second change is to replace the positions of chairman and cochairman of the group with positions for two cochairmen and two vice chairmen.

The remaining provisions of the resolution are identical to those of Senate Resolution 110, including the duties of the group, which are to monitor the World Climate Convention Process.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 143) was agreed to, as follows:

S. RES. 143

Resolved,

SHORT TITLE

SECTION 1. This resolution may be referred to as the "World Climate Convention Observer Group Resolution".

RECONSTITUTION; REAUTHORIZATION

SEC. 2. (a) There is reconstituted and reauthorized a bipartisan group of Senators to be known as the Senate World Climate Convention Observer Group (hereafter in this resolution referred to as the "Observer Group"), which was previously constituted and authorized by Senate Resolution 110 of the One Hundred Second Congress (agreed to on April 23, 1991).

(b) The Observer Group shall be composed of thirteen Senators as follows:

(1) The majority leader and minority leader of the Senate, each serving ex officio; and

(2) Eleven Senators appointed as follows:

(A) six Senators appointed by the majority leader from among the Members of the majority party;

(B) five Senators appointed by the minority leader from among the Members of the minority party.

(c)(1) There shall be two Cochairmen and two Vice Chairmen of the Observer Group.

(2) The Cochairmen of the Observer Group shall be designated by the majority leader from among the individuals recommended for appointment under subsection (b)(2)(A).

(3) The Vice Chairmen of the Observer Group shall be designated by the minority leader from among the individuals recommended for appointment under subsection (b)(2)(B).

(d) Any vacancy occurring in the membership of the Observer Group shall be filled in the same manner in which the original appointment was made.

DUTIES

SEC. 3. The duties of the Observer Group shall be to monitor the World Climate Convention process.

FOREIGN TRAVEL

SEC. 4. (a) All foreign travel of the Observer Group shall be authorized jointly by the majority and minority leaders, upon the recommendation of both the Cochairmen and Vice Chairmen of the Observer Group.

(b) In the event that either the majority leader or minority leader of the Senate does not travel on an official trip of the Observer Group, then that leader may designate one other Senator of his party who is not a member of the Observer Group to travel and participate in the activities of the Observer Group in his stead.

TERMINATION DATES

SEC. 5. (a) The provisions of this resolution shall terminate on July 31, 1992.

(b) Upon the adoption of this resolution, Senate Resolution 110 of the One Hundred Second Congress (agreed to on April 23, 1991) shall have no force or effect.

APPOINTMENTS BY THE MAJORITY AND REPUBLICAN LEADERS

The PRESIDING OFFICER. The Chair on behalf of the majority leader and Republican leader, pursuant to Senate Resolution 143, 102d Congress, 1st session, announces the appointment of the following Senators as members of the World Climate Convention Observer Group:

The Senator from Colorado, Mr. WIRTH; and the Senator from Tennessee, Mr. GORE, as cochairmen.

The Senator from Rhode Island, Mr. CHAFEE; and the Senator from Oklahoma, Mr. NICKLES, as vice chairmen.

The Senator from Washington, Mr. ADAMS; the Senator from Montana, Mr.

BAUCUS; the Senator from New Mexico, Mr. DOMENICI; the Senator from Georgia, Mr. FOWLER; the Senator from Florida, Mr. GRAHAM; the Senator from Kentucky, Mr. MCCONNELL; and the Senator from Wyoming, Mr. WALLOP.

ORDERS FOR TOMORROW

Mr. BIDEN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m. Wednesday, June 26; that following the prayer, the Journal of the proceedings be approved to date, and that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 10:30 a.m., with Senators permitted to speak therein, with the time until 9:30 a.m. under the control of the majority leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 8:30 A.M.

Mr. BIDEN. If there is no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess, as under the previous order, until 8:30 a.m., Wednesday, June 26, 1991.

There being no objection, the Senate, at 11:44 p.m., recessed until Wednesday, June 26, 1991, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 25, 1991:

DEPARTMENT OF EDUCATION

DIANE S. RAVITCH, OF NEW YORK, TO BE ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT, DEPARTMENT OF EDUCATION, VICE CHRISTOPHER T. CROSS, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 25, 1991:

FEDERAL TRADE COMMISSION

DENNIS A. YAO, OF PENNSYLVANIA, TO BE A FEDERAL TRADE COMMISSIONER FOR THE TERM OF 7 YEARS FROM SEPTEMBER 26, 1989.

CORPORATION FOR PUBLIC BROADCASTING

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR TERMS EXPIRING MARCH 26, 1996:

MARTHA BUCHANAN, OF TEXAS, VICE DANIEL L. BRENNER, TERM EXPIRED.

SHEILA TATE, OF VIRGINIA. (REAPPOINTMENT)

NATIONAL TRANSPORTATION SAFETY BOARD

JOHN A. HAMMERSCHMIDT, OF ARKANSAS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE TERM EXPIRING DECEMBER 31, 1995.

CORPORATION FOR PUBLIC BROADCASTING

CAROLYN R. BACON, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING MARCH 26, 1996.

FEDERAL COMMUNICATIONS COMMISSION

JAMES H. QUELLO, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF 5 YEARS FROM JULY 1, 1991.

EXTENSIONS OF REMARKS

END SOUTH AFRICAN SANCTIONS NOW

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. BROOMFIELD. Mr. Speaker, now is the time for President Bush to lift sanctions on South Africa. Recent developments make it legally and morally right to end the sanctions imposed in the 1986 Comprehensive Anti-Apartheid Act. The President should heed the words spoken by sanctions supporters on this floor almost exactly 5 years ago.

On June 18, 1986, my colleague from Pennsylvania, Majority Whip BILL GRAY made it clear that the time to lift sanctions would come:

> [The Comprehensive Anti-Apartheid Act] is not simply a bill that throws up its hands and has penalties. It is a bill that also has incentives. We say to the South Africans: If you begin to dismantle apartheid, if you free the thousands of political prisoners locked in your jails, if you begin to negotiate with the majority leadership there in South Africa, we say we will lift all the sanctions.

Note that Mr. GRAY said "begin to dismantle apartheid" and "begin to negotiate." Clearly he envisioned the start of the process, not the finished product. Likewise, with the words of my colleague from Michigan and former chairman of the Foreign Affairs Subcommittee on Africa, Mr. WOLPE, who said the same day:

> We today consider the Anti-Apartheid Act of 1986, legislation that would impose new economic sanctions on South Africa, sanctions that would be lifted * * * when the South African Government has at least freed Nelson Mandela and all political prisoners, and has entered into good faith negotiations with representative leaders of the black majority.

Because they never envisioned a South African Government willing and able to dismantle apartheid, many supporters of sanctions are now scrambling to rewrite legislative history to continue sanctions at any cost. They cannot be allowed to succeed. U.S. law is clear, and U.S. policy should follow the letter and the spirit of the law. Public Law 99–440, the Comprehensive Anti-Apartheid Act of 1986 [CAAA], contains five explicit conditions that must be met for sanctions to be lifted. Section 311(a) of the act states that sanctions shall terminate if the Government of South Africa meets the following five conditions: Release of political prisoners; repeal of the state of emergency and release of detainees; unbanning of political parties and allowing political expression; repeal of the group areas and Population Registration Acts; and agreeing to enter into negotiations without preconditions. It is my view that all five of the conditions have now been met, and the CAAA sanctions should be lifted.

The conditions are clear and the legislative history is clear—despite the efforts of some to engage in intellectually dishonest revisions. To try to shift the goalposts after 5 years would make us, in the words of former United States Ambassador to South Africa Herman Nickel, "useful idiots" for the African National Congress. A brief review of the CAAA conditions illustrates that the Government of South Africa has met all five and that sanctions should be lifted.

Section 311(a)(1) addresses the issue of the release of political prisoners, those detained unduly without trial, and Nelson Mandela. Nelson Mandela was released on February 11, 1990—on that much all sides agree. On June 21, 1991, the South African Parliament passed amendments to the Internal Security Act limiting detention without trial to 10 days—a major improvement over the previously unlimited detention period. More importantly, the amendments establish a clear rule of law with the right of access to legal counsel for all detainees.

While there remains a dispute between the Government and the ANC over the definition of political prisoners, it is my view that all political prisoners as defined in the CAAA have been released. Section 311(a) does not address individuals imprisoned for violent acts allegedly performed for political reasons. It states that "all persons persecuted for their political beliefs" must be released. It does not state that all persons persecuted for actions related to or stemming from their political beliefs must be released. Beliefs—not actions—is the standard laid out in the 1986 law and it is the standard we should use in 1991. I believe that any objective measurement under the "beliefs" standard demonstrates that the condition has been fulfilled with the release of more than a thousand prisoners since February 1990. We should not be held politically captive to an ever-changing ANC count of political prisoners which has little to do with the condition in section 311(a)(1).

A related, and equally specious, issue is the debate over the right of exiles to return to South Africa. Many exiles have returned—and many have not. The South African Government cannot force exiles to return, it can only make the opportunity available. There are many reasons South Africans may choose to remain in exile, including a desire to avoid the black on black violence plaguing their home or a desire to enjoy a more comfortable life abroad. The South African Government has fulfilled its commitment to allow exiles who wish to return the chance to do so.

Section 311(a)(2) addresses the issue of repealing the state of emergency and releasing detainees. The state of emergency was repealed in June 1990 nationwide, with the exception of the Province of Natal. The state of emergency was lifted in Natal in October 1990. According to the South African Human Rights Commission, detainees under the states of emergency have been released.

Section 311(a)(3) addresses the issue of unbanning political parties and permitting political expression. The African National Congress, the Pan-African Congress and even the South African Communist Party can all now operate as legal political parties. They can—and have—held rallies, recruited members and otherwise expressed their views. Some revisionists are now attempting to argue that the requirement for South Africans of all races to form parties, express political opinions, "and otherwise participate in the political process" will not be met until all South Africans can vote. This argument is wrong, and is not supported by the law or by legislative history. If section 311(a)(3) was meant to require the right to vote before it was fulfilled, it would say so. It does not and we should not be misled by those who want to change the law by rhetoric. We should stick to the reality of the law and legislative history which deals with political participation, not with "one man, one vote." Participation in the political process means holding rallies, expressing views and, most importantly, participating in discussions about a new constitution—which is exactly what the Government wants the ANC to do.

Section 311(a)(4) addresses the repeal of the Group Areas Act and the Population Registration Act. The Group Areas Act was repealed on June 5, 1991, and the Population Registration Act was repealed on June 17, 1991. The repeals will go into effect on June 30, 1991. In addition, the Separate Amenities Act was repealed last year and the Land Act was repealed earlier this month. None of these legislative pillars of apartheid has been replaced with measures having the same effect. In a fashion that other heads of government may envy, President de Klerk has decisively moved his agenda through Parliament and demolished the legal foundation of apartheid.

Section 311(a)(5) adresses entering into good faith negotiations with representative members of the black majority without preconditions. President de Klerk's government has repeatedly and emphatically stated its desire and intention to begin discussions with representative black organizations immediately and without any preconditions. The landmark Pretoria Minute of August 6, 1990, with the ANC laid out the foundation for continued dialog. However, it takes at least two to negotiate. To date, it has been the ANC that has placed deadlines, preconditions and terms on its willingness to negotiate. While I hope that the ANC will clarify whether—and when—it is willing to begin good faith negotiations without preconditions after its party congress next month, the willingness of the government cannot be in doubt.

Just as there seems to be confusion about the legislative history surrounding the five conditions, there now appears to be some mis-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

understanding about the process and the effects of a decision to lift sanctions under section 311(a). I would like to highlight the terms of the law and the effect of lifing sanctions for my colleagues.

First, if the conditions in section 311(a) are met, the only action required by the CAAA is for the President to sign an executive order. There is no formal or informal congressional review required for those sanctions to be lifted. While I am confident the Bush administration would continue to keep communications regular and open with Congress, Public Law 99–440 does not require such communication if all five conditions in section 311(a) are met. Any congressional opposition to a sanction-lifting decision would have to be expressed through the regular legislative process of bill introduction, committee action, floor consideration, and conference committee.

Second, even with a determination that the conditions in section 311(a) have been met, a number of tough sanctions would remain in place against South Africa. Some of the sanctions that would still remain include: the prohibition on IMF support for South Africa; the prohibition on Export Import Bank support; the ban on exports to the South African military and police; the bans on export and import of lethal military equipment to or from South Africa; the denial of tax credits for United States firms operating in South Africa; and the prohibition on intelligence cooperation. All of these sanctions would remain unaffected by a Presidential decision that the five conditioins in section 311(a) in the CAAA have been met.

Finally, and most importantly, lifting of the CAAA sanctions would not be the end of United States leverage in South Africa—on the contrary, it would herald the renewal of United States efforts to encourage positive change rather than merely punishing that which we abhor. Lifting sanctions would show that the United States is willing to respond to far-reaching—and irreversible—changes in South Africa. It would show that we are willing to support President de Klerk's historic vision of a democratic future for South Africa.

As Inkatha Chief Buthelezi told our committee last week: "I call for the scrapping of sanctions because if they ever had any utility, they have none now." For too long, blacks in South Africa have suffered from the impact of sanctions. It is blacks that have borne the brunt of unemployment, lack of opportunity, and economic stagnation. All South Africans will benefit from a decision to lift CAAA sanctions. We should contribute to the economic rebuilding of the "New South Africa" and quit punishing the victims of apartheid. To end sanctions would signal a United States willingness to abide by our law and honor our commitment to those South Africans—black and white—who are striving for a nonracial democratic future.

I urge President Bush to take the supporters of sanctions at their word and end sanctions. I urge President Bush to heed the calls of such liberal voices as the Washington Post and Richard Cohen and end sanctions. I ask that editorials from the Washington Post, the Chicago Tribune and the Fort Worth Star-Telegram, and articles by Herman Nickel and Richard Cohen be printed in the RECORD at this point.

[From the Washington Post, June 24, 1991]

FORMULA FOR CHAOS—CONTINUED SANCTIONS WILL MAKE POST-APARTHEID SOUTH AFRICA UNGOVERNABLE

(By Herman W. Nickel)

Pauline Baker's plea to President Bush to put off lifting the Comprehensive Anti-Aparthied Act of 1986 ["South Africa: When to Lift Sanctions" op-ed, June 18] demonstrates the lengths to which the sanctions movement will go to move the goalposts in order to stay in business.

By twisting the facts to impugn the good faith of F. W. de Klerk's commitment to negotiate a new democratic order, she builds a case that adds up to bad law and worse policy.

By signaling to Pretoria that solemn undertakings by both the legislative and executive branches of the U.S. government are subject to constant reinterpretation—and are thus meaningless—the effect of her advice would be to undermine U.S. credibility and influence on the de Klerk government during the critical negotiations ahead.

By sending the African National Congress and its ally, the South African Communist Party, the message that Washington has become their "useful idiot," the effect would be to make them more intransigent just when more flexibility is called for.

Perhaps most damaging, by leaving in place artificial obstacles to the recovery of South Africa's economy, Baker's recommendations would further reduce the chances for a successful transition to a democratic "New South Africa." If there is one thing ANC and government economists can agree on, it is that unless the South African economy resumes growth very soon (after 15 years of stagnation) that transition is doomed. Without a resumption of vigorous growth, there is little chance that any constitutional compromise will withstand the wave of instant expectations of an angry, ever-growing underclass of undereducated, unemployed young blacks. To them, liberation has as much economic as political meaning.

While South African business has been remarkably resourceful in replacing export markets closed by sanctions, the denial of access to the IMF and the negative effect on normal bank lending have made it impossible for Pretoria to pursue growth-oriented economic policies. The longer this situation drags on, the more likely it becomes that measures taken in the name of fighting apartheid will make post-apartheid South Africa ungovernable.

When will it finally sink in that the real victim of continued economic sanctions is not the present South African government, but the one that succeeds it? (Not to mention the rest of the region, which depends on the South African economy for its own recovery.)

In fact, the pressure on President de Klerk to negotiate a new democratic constitution for South Africa does not come from sanctions, but from his political imperative to have the new constitution in place before his present term expires, which will be early 1955 at the very latest. De Klerk cannot hope to reach this target unless the ANC agrees, and that requires good will and good faith on everyone's part.

A prime reason for de Klerk's remarkable success in keeping his National Party caucus so solidly behind his radical reform course is their awareness that its right wing rival, the Conservative Party, no longer stands a chance once a non-racial franchise comes into effect. To imply that it is de Klerk who has been dragging his feet on the convening of a multiparty conference is to turn the truth on its head. It is the ANC that has been adding new preconditions. No one has been keener to get the talks started than de Klerk.

It was precisely this entry into negotiations by all the parties that the 1986 sanctions law sought to encourage. Once the U.S. Embassy certifies that the South African government has released "all persons persecuted for their political beliefs" (as distinct from acts of violence), de Klerk will have met all of the five objective conditions of the law, after which, under section 311(a), the act automatically terminates.

Sanctions campaigners are thus faced with the awkward task of coming up with new legal constructions to keep the law alive. The one Baker comes up with is as ingenious as it disingenuous. Not only does the law require the South African government to enter into negotiations, she argues, it must do so in "good faith." Giving the concept of negotiations a novel meaning, she then proceeds to define "good faith" in terms of de Klerk's willingness to do exactly as the ANC says.

This applies to various new preconditions with which the ANC has dragged out the start of multiparty talks, including some the ANC later dropped, like the firing of the ministers of Defense and Law and Order. She puts the onus for the continuing bloody turf fights between the ANC and Inkatha on de Klerk's "limp" reaction, but she signals how negatively she would react to sterner measures by expressing her indignation over a hamhanded paratrooper exercise in Soweto.

But even if de Klerk satisfied these preconditions, Baker would keep the sanctions in place on the theory that only the actual course of negotiations, not their start, can test de Klerk's bona fides. Once again, compliance with ANC demands is the test.

Specially, she would lift the most consequential sanction—denial of access to the IMF—only after de Klerk has agreed that his cabinet step aside in favor of an interim government and that the job of drafting a constitution be moved from the multiparty conference to an elected constituent assembly. There the ANC and its allies hope to impose their views by their superior numbers rather than first having to establish a consensus on essentials in a multiparty conference.

In as ethnically and racially divided a society as South Africa, such a simplistic majoritarian approach is a certain prescription for continued conflict. Nevertheless, as recently as June 16, Nelson Mandela vowed that the ANC would not compromise on these demands and threatened de Klerk with "mass action" if de Klerk does not comply. It would appear that, under pressure from radicals, Mandela now agrees with his wife, Winnie's, dictum that there can only be negotiations about the transfer of power, not the sharing of power.

For the United States to sign on to this agenda would be a disaster. It would fan the very fires of racial antagonism in South Africa that Baker warns against. It would violate not only the plain language of the Anti-Apartheid law but its spirit—which was to push not only the South African government but also the ANC toward negotiation and compromise.

[From the Washington Post, June 25, 1991]

SANCTIONS: WHO'S BEING HURT?

(By Richard Cohen)

In a discussion of South Africa and the question of sanctions, some statistics are worth noting. The first is that well over 1,000 people have been killed this year in fighting between blacks. The second is that 40 percent of the country's people are 15 or under. The third is that unemployment among the young averages over 40 percent. And the last is no statistic at all but a fact nonetheless: Many of the nation's young people haven't attended school in years.

These are not the usual figures trotted out when South Africa sanctions are discussed. Those have to do with race—numbers of whites, numbers of blacks and numbers of people of other races. But South Africa is fast moving to the time when those figures will become less important. Apartheid has been officially junked. What matters now is not—or not only—the sort of nation South Africa used to be, but what it will become.

That ought to be at the heart of the coming debate over whether the United States should lift the sanctions imposed in 1986. Chances are, though, that won't happen. Instead, liberals and conservatives will scurry to their traditional battle stations on matters of race and fight it out with sound-bites. Already, Sen. Edward M. Kennedy (D-Mass.) has called for the retention of sanctions while President Bush says he wants to junk them.

The African National Congress wants the Bush administration to retain sanctions. It has its reasons. Blacks have yet to be given the vote. Political prisoners remain in jail—although they soon will be released. The country has huge income disparities between blacks and whites, and much power remains in the hands of the white minority—much power and most of the wealth. Apartheid wasn't built in a day, and it won't end overnight either.

But those arguments tell only part of the story—not that it will matter any to some people. The Congressional Black Caucus is likely to do what the ANC wants, and most other Democrats will fall into line. But the awful statistics mentioned above are a powerful argument for the removal of sanctions. Unless the South African economy is revitalized, there's going to be hell to pay in a very short time. No black majority—especially one in which the socialist and communist-leading members of the ANC have any influence—will be able to withstand calls for a radical redistribution of wealth.

Already such calls have been sounded by the South African Communist Party. Like the French kings of old, it has learned nothing and forgotten nothing. Joe Slovo, a Communist member of the ANC's hierarchy, explains the collapse of Eastern European communism with a catchy analogy. It's not the plane that failed, he says, but the pilot.

But in his terms the pilot of South Africa's economy is the white community. It not only runs the economy, it also makes the economy run. If too much is taken from it—no matter how justified the policy—whites will flee the country.

Already, it takes a cockeyed optimist to have much faith in South Africa's future. Where are the jobs for the increasingly radicalized "comrades" of the townships? There are few—and anyway, by edict of the ANC, they are an uneducated lot, told not to attend school but to participate instead in the revolution. These are the very people who, in American terms, consider Nelson Mandels a "Tom." Comes the new constitution and one-man, one-vote, it will be hard to restrain them.

If South Africa is going to have any chance of success, if it is not to follow the awful example set by the rest of Africa, its economy must be expanded—and fast. Sanctions of all kinds have cost South Africa plenty, shrinking its economy by an estimated 20 to 35 percent, and hurting those who can least afford it—poor blacks. (That accounts for why public opinion polls find most South African blacks opposed to sanctions.) Lifting sanctions would by no means solve South Africa's economic problems. Without it, though, things will only get worse. The bloody battles of the townships will be about jobs.

The government of President F.W. de Klerk has satisfied four of the five conditions imposed by the United States for the lifting of sanctions. The aparthied apparatus has been dismantled. Now only political prisoners need be freed. For de Klerk, for white South Africa in general, there is no turning back. Of course, more needs to be done. But if U.S. sanctions, once a needed statement of moral revulsion at apartheid, result in a South Africa that is both free and impoverished, it will not remain free very long.

[From the Washington Post, June 25, 1991]

ENDING SOUTH AFRICA SANCTIONS

With repeal of the last apartheid legislation in South Africa, the United States is within sight of the policy goals for which it imposed economic sanctions five years ago. Not that these sanctions alone, or even all international sanctions together, made the difference. The valor of South Africans, of different races, made the difference. Partly because of sanctions, however, the oppressive state of emergency is no more. Once-illegal opposition parties have been unbanned. The hated apartheid laws have been stricken. Negotiations to establish a nonracial democracy are being launched. It remains only for Pretoria to see to the release of the remaining political prisoners for the fifth and final condition of the law to be met. This is expected to be worked out over the summer, and the Bush administration intends to lift sanctions at that time.

In doing so, the United States will be doing more than fulfilling the explicit terms of the sanctions law. It will be making itself a useful patron of the constitutional talks that offer South Africans their one hope of becoming a free society. It will also be turning its influence to expand the South African economy rather than to choke it. Economic pressure, even if it hurt blacks, had a role while the ruling white minority stood firm against power sharing. With whites now moving to empower the black majority, the American interest becomes enabling the economy to grow. South Africa's own interest in growth to serve not only privileged whites but a desperate black population is recognized by important black leaders, including Nelson Mandela, leader of the moderate wing of the African National Congress, and Chief Mangosuthu Buthelezi of the Inkatha Freedom Party.

The Bush administration's view on sanctions is contested by some in the United States and South Africa, including (in the latter place) representatives of the more militant wing of the ANC. Fearful that, freed of sanctions, the de Klerk government will shrink from fairly sharing power, they favor extending the restrictions until the results of constitutional talks are actually in hand. But there is no firm basis in the sanctions law to justify this after-the-fact revision of its terms. Nor does such a reversal take into account the damage that would be done to American credibility in the negotiating process. Least of all does this position respect South Africa's urgent need to move from a wartime footing into a stage in which the country can tend to the pent-up economic and social as well as political requirements of the mass of its people.

[From the Chicago Tribune, June 20, 1991]

TIME TO SANCTION SOUTH AFRICA GROWTH

"Now it belongs to history."

So said President F.W. de Klerk after the South African Parliament on Monday scrapped the Population Registration Act, the racial classification law that was the last and most essential pillar of apartheid.

It wasn't clear whether De Klerk was referring only to the law or to the entire system of racial separation that it underpinned. It actually didn't matter, since he was wrong in either case.

The Population Registration Act and other statutory props of apartheid may have been erased from the books, but it will be years before they are erased from the minds and hearts of South Africa's people.

Likewise, the economic and social distortions engendered by this pernicious adventure in social engineering will persist, confronting South Africans with the kind of dilemmas of racial equity already familiar in the United States and other multiracial societies.

For the moment, however, De Klerk's actions present the United States with a dilemma: Whether to maintain economic sanctions or lift them. Those who are genuinely interested in fostering progress in South Africa ought to favor lifting them.

Apart from the necessity for a non-racial, democratic constitution and government, South Africa's greatest need at the moment is for economic development and growth. With the exception of the artificially advantaged whites, who are less than 20 percent of the population of 37.5 million, most South Africans live Third World lives. For much of the black population—77 percent of all South Africans—unemployment is a chronic condition of life.

It turns out that both sides in the American sanctions debate of the mid-1980s were right. Sanctions did prod the South African government toward liberalization, as proponents insisted. But the burden did fall most heavily on black South Africans, as well as on black residents of neighboring countries who had been accustomed to trekking to relatively prosperous South Africa to earn a living.

Since the U.S. imposed sanctions in 1986, economic growth has fallen to zero or less. Annual population growth, on the other hand, has been about 2.5 percent overall, virtually all of it accounted for by South Africa's blacks and none by the whites.

Black South Africans insisted that they were willing to bear the burden of sanctions to eliminate apartheid. But now, with the legal structure of apartheid dismantled and the white government committed, apparently irreversibly, to genuine democracy, the justification for sanctions would seem to have disappeared.

Perhaps more important, political conditions within South Africa are more critical to investors now than a sanctions law. Investors demand stability; a reversal of course by De Klerk would trigger cataclysmic instability. He has no real choice except to move forward.

At best, continuing sanctions would only reinforce the message of the marketplace. At worst, it would strengthen the hands of De Klerk's far right-wing white opponents, who would take the continuation as evidence that nothing will satisfy the Americans.

Only South Africans—black, white, mixed race and Asian—can give themselves the non-racial democracy that leaders like the African National Congress' Nelson Mandela say they desire.

But repairing the social and economic disfigurements of apartheid is a task in which the United States and the rest of the world can help. The way to start is to lift sanctions and make trade and economic growth possible again.

[From the Fort Worth Star Telegram, June 20, 1991]

SANCTIONS—REWARD RACIAL PROGRESS IN SOUTH AFRICA

Apartheid lost its venomous head with the voiding of the Population Registration Act, but its serpentine coils still have a chokehold on the social, political and economic life in South Africa.

The loathsome system of white supremacist domination and repression will not be dead until the country has a new constitution that guarantees full civil and political rights to all its citizens. Even then, it could take years to free the country completely from the grasp of its racist past.

Nevertheless, it must now be acknowledged that under the leadership of F.W. de Klerk, South Africa has made dramatic progress toward the establishment of a free equitable and just society. The speed at which that progress has been made has exceeded most realistic expectations, although it has not been occurring quickly enough for most active opponents of apartheid.

When the last of the anti-apartheid political prisoners are freed in a few weeks, South Africa will have met all the conditions to justify this country's lifting of the economic sanctions imposed upon it five years ago. That should be done despite the opposition of some anti-apartheid lobbyists and members of Congress.

The sanctions have worked. They were instrumental in moving the South African government in the direction of reform. Continuing them after the specified conditions for their removal have been satisfied would likely prove counterproductive.

Indeed, keeping them in place until agreement has been reached on a new constitution would be unrealistic. That will be a tedious and protracted process, and the main impediment to accomplishing that now is intertribal warfare among the black population.

Until the African National Congress and the Zulu Inkatha movement settle their differences and their bloody strife ceases, negotiations on a new constitution can go nowhere. Sanctions can have no effect on that problem.

Lifting the sanctions would at least keep the de Klerk government honest by showing it what it has to gain by staying on its progressive course and what it could lose again by reversing it.

A TRIBUTE TO MARIETTA DANTONIO

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. WELDON. Mr. Speaker, I rise today to commend Marietta Dantonio for her patriotic support and unwaivering dedication to the United States military during Operation Desert Storm.

Ms. Dantonio created and pursued the idea of Operation Desert Art, a program that involved shipping over 7,000 pounds of art and craft supplies to our men and women in the gulf. She developed this program believing that art could provide a creative and healthy medium through which the troops could release stress. Operation Desert Art proved successful because of the limited range of recreational activities available to the troops.

Marietta Dantonio, who is an art teacher with a school and shop in Wilmington, DE, derived the idea for Operation Desert Art after putting together a portable art kit for a customer's son stationed in Saudi Arabia. She realized that all of the military could benefit from the recreational, creative, and therapeutic value of art, and began to organize Operation Desert Art.

Thanks to her tireless time and effort, Ms. Dantonio was able to successfully coordinate the entire operation in just a few short months. Initially, this involved contacting Members of Congress and NAMTA [National Art Materials Trade Association], as well as many other helpful sources of information for suggestions about how to make her idea a reality. With the help of many volunteers, she then mailed direct appeals to over 5,000 organizations and small businesses within the art industry.

Since January 1991, Operation Desert Art has received over 7,000 pounds of art supplies with a value in excess of $125,000. In addition to these supplies, many people not connected with the art industry have generously donated storage space and means by which to transport the materials, as well. However all of this would not have been possible without Ms. Dantonio's commitment and immeasurable dedication to Operation Desert Art.

Mr. Speaker, Marietta Dantonio was able to brighten the lives of our men and women in the gulf through many months of dedication and hard work. Therefore, all of us in the House of Representatives should commend the efforts of Marietta Dantonio and the success of Operation Desert Art for its patriotic support of our troops.

NUCLEAR PROLIFERATION PREVENTION ACT OF 1991

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. MARKEY. Mr. Speaker, today I am joining with Senator WIRTH and Representatives SOLOMON, WOLPE, and STARK in introducing the Nuclear Proliferation Prevention Act of 1991.

The purpose of this bipartisan legislation is to create more effective domestic and international controls on the proliferation of nuclear explosives. The bill we are introducing offers a five point program for accomplishing this objective:

First, it would prevent any U.S. export of goods or technology relevant for nuclear explosive purposes from falling into the hands of nonweapons countries which do not maintain full-scope, International Atomic Energy Agency [IAEA] safeguards and do not have an agreement for nuclear cooperation with the United States.

Second, it would bar exports of highly enriched uranium, subject to a limited exception for those few reactors which cannot feasibly convert to use of low-enriched uranium.

Third, it would provide for international negotiations leading to the adoption of multilateral controls restricting all nuclear exports to nonweapons states that do not accept full-scope safeguards.

Fourth, it would provide for negotiations to improve the effectiveness of the International Atomic Energy Agency's safeguard system.

Finally, it would subject individuals, companies, or countries violating the international proliferation controls agreed to by the Nuclear Suppliers' Group to trade sanctions affecting both nuclear exports from the United States and a wide range of nonnuclear imports into the United States.

In the aftermath of Operation Desert Storm, the need for a tougher nuclear nonproliferation regime has become clear. With the end of the cold war, we're less worried about the possibility of Soviet nuclear missiles than about Moscow's ability to repay Western loans and absorb economic aid.

Desert Storm should serve as a wake up call to the world that if we do not act forcefully now, time soon will run out on the nuclear proliferation clock. If it does, the country using the next nuclear bomb will not be the United States or the Soviet Union, but another country that has built the bomb using materials and technology that we, our allies, the Soviets or the Chinese have supplied them. It will be Iraq, Iran, Pakistan, or North Korea.

We now know that Iraq was able to make substantial progress toward acquiring nuclear explosives while remaining a signatory in good standing to the Nuclear Non-Proliferation Treaty and allowing IAEA inspections of its declared nuclear facilities. The fact that Iraq was able to get close to developing a bomb while remaining within the confines of the existing nuclear nonproliferation regime raises serious questions about the fundamental efficacy of the current regime.

While Allied air strikes against Iraq's nuclear facilities may have delayed temporarily Iraq's quest for a nuclear bomb, they did not halt it. Stealth fighters and Tomahawk cruise missiles are no replacement for an effective nuclear nonproliferation regime that denies countries like Iraq access to dangerous weapons technologies. Already, press reports indicate that an Iraqi defector is telling United States officials that Allied air strikes failed to destroy all of Iraq's nuclear capabilities. As a consequence, Allied military action may have only dealt a temporary setback to Iraq's effort to get the bomb, much as the Israeli raid against Iraq's Osirak reactor did a decade earlier.

If we are to establish a long-term mechanism for preventing countries like Iraq, Iran, North Korea, and Libya from acquiring nuclear explosives, we can not continue to rely on air strikes and the threat of military action to serve as a substitute for a tough nuclear nonproliferation policy. What we need is an international nuclear nonproliferation regime that provides an effective technological stranglehold on the spread of nuclear explosives, and tough sanctions against those who aid proliferators.

The bill we are introducing today would help achieve this goal; it would for the first time link all U.S. nuclear-related exports to non-weapons states to a requirement for full-scope safeguards and existence of nuclear cooperation agreement. It would toughen up the existing international safeguards system and extend its coverage, phase out exports of highly enriched uranium, and exact strict penalties for those individuals, companies or countries which continue to export goods and materials that could be used for building nuclear weapons.

I want to thank Senator WIRTH, and Representatives SOLOMON, WOLPE, and STARK for their leadership in cosponsoring this important piece of legislation, and I look forward to working with them to secure its passage.

SECTION-BY SECTION ANALYSIS OF NUCLEAR PROLIFERATION PREVENTION ACT OF 1991

SECTION 1. SHORT TITLE

This section sets forth the short title of the Act, the "Nuclear Proliferation Prevention Act of 1991".

SECTION 2. PURPOSE

This Section states the purpose of the Bill is to strengthen both domestic and international controls over the transfer of facilities, materials, equipment, and technology which may contribute to nuclear proliferation by:

1. prohibiting nuclear commerce by the U.S. with non-nuclear-weapons states that do not maintain international safeguards on all of their nuclear facilities and have not entered into a formal agreement for cooperation with the United States;
2. curbing U.S. exports of weapons-usable highly-enriched uranium;
3. mandating the negotiation of a multilateral mechanism for assuring that no facilities, materials, equipment, or technology which may contribute to nuclear proliferation are transferred to any non-nuclear-weapons state that does not maintain international safeguards on its nuclear facilities, that exports of highly enriched uranium are curtailed, and that all nuclear commerce is halted with those non-nuclear-weapon states which pose significant threats to regional or global peace and security;
4. assuring that meaningful and appropriate trade sanctions are imposed by the U.S. on any foreign entity that engages in nuclear trade in contravention of the principles in this Act, and on any nation or group of nations which does not subscribe to such principles or which otherwise authorizes nuclear trade found by the President to be inimical to the common defense and security; and,
5. providing for the United States to enter into negotiations with other nations and groups of nations to improve significantly the effectiveness of the safeguards of the International Atomic Energy Agency.

SECTION 3. RESTRICTIONS ON NUCLEAR EXPORTS

This section amends Chapter 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2151 and following) by adding a new section 134. The new section 134 contains a number of provisions which are intended to create a more effective international nuclear non-proliferation regime, both by upgrading U.S. export requirements and providing for the imposition of trade sanctions where nuclear goods and technology are exported from other countries under less stringent criteria.

Subsection a: The purpose of subsection a of the bill is to establish the principle across-the-board that no U.S. goods or technology relevant for nuclear explosives purposes and/or likely to be used in nuclear facilities should be exported to non-weapons states unless those states maintain full-scope IAEA safeguards and have signed a nuclear cooperation agreement with the United States. Since these requirements currently apply only to nuclear fuel and facility exports (and not to exports of nuclear components, technology, and dual-use items on the nuclear referral list), its effect is to make U.S. nuclear export controls uniform.

Section a. (1) lists the existing export licensing activities which are to be subjected to the restrictions established under paragraph 2, as follows: A.) dual-use items controlled under the nuclear referral list established pursuant to the Export Administration Act of 1979 because their significance for nuclear explosive purposes or the likelihood of their being diverted for such purposes; B.) nuclear materials (e.g., plutonium) or nuclear facilities (e.g., nuclear powerplants) whose export is licensed by the NRC; C.) retransfers to any non-nuclear weapons state of dual-use items, nuclear materials, or nuclear facilities; and D.) nuclear technology transfers requiring the authorization of DOE.

Section a. (2) sets forth the conditions which must be met before the activities listed in paragraph (1) are permitted, as follows: A.) the non-nuclear-weapon state involved maintains International Atomic Energy safeguards on all its peaceful nuclear activities; B.) the export is under the terms of an agreement for cooperation arranged pursuant to the terms of Section 123 of the Atomic Energy Act of 1954; C.) notice of the proposed export, retransfer, or activity is published in the Federal Register not less than 15 days before the license, approval, or authorization becomes effective.

Section a. (3) provides that nothing in this subsection shall preclude an export, retransfer, or activity for which a general license or general authorization has been granted.

Section a. (4) defines "non-nuclear-weapon state" to mean a non-nuclear-weapon state within the meaning of the Nuclear Non-Proliferation Treaty.

Subsection b: prohibits the issuance of any NRC license for the export of highly-enriched uranium (defined as uranium enriched to greater than 20 percent U-235), subject to a limited exception that until the end of 1995, the NRC allow such exports for use in reactors which the NRC has determined cannot feasibly be converted to use low-enriched uranium. This prohibition is particularly important because, as exemplified in the case of Iraq, possession of HEU pose immediate and high proliferation risks. The exception allows a temporary grace period for continued exports to reactors that cannot convert to use of low-enriched uranium.

Subsection c: provides that the President shall, as soon as possible after the enactment of this Act, undertake international negotiations with those foreign nations which participate in the Nuclear Suppliers Group. These negotiations would be aimed at the adoption of multilateral controls restricting nuclear exports (including dual-use nuclear items or related technical data, nuclear materials, nuclear facilities, and nuclear technology transfers and retransfers of nuclear materials, facilities or dual-use nuclear items or related technical data) to countries which do not adhere to the full-scope safeguards requirement, prohibiting commerce in highly-enriched uranium, and halting all nuclear trade with countries which pose significant risks to regional and/or global peace and security. It also provides for negotiations to assure that the London Suppliers Group is an adequate forum in which to raise and resolve questions concerning the consistency of proposed exports with such principles. This initiative recognizes that international cooperation is essential to the ultimate effectiveness of nonproliferation efforts.

Subsection d: This Subsection would subject foreign persons (e.g., foreign individuals or companies) who knowingly export nuclear facilities, materials, equipment or technology in contravention of the international nuclear non-proliferation controls adopted pursuant to subsection d to trade sanctions for a period of not less that 2 years. These sanctions would bar them from receiving any nuclear exports from the U.S. and from shipping any goods (either nuclear or non-nuclear) to the U.S. Such provisions will ensure that, for the first time, international sanctions for violation of nuclear non-proliferation norms will be meaningful.

Subsection d(1) directs the President to prohibit the export from the U.S. to foreign individuals or companies of all nuclear facilities, materials, equipment, and technology and to prohibit the importation into the U.S. of all products produced by that foreign person (both nuclear or non-nuclear) if that foreign person knowingly exports, transfers, or otherwise engages in, conspires to engage in, or facilitates the export transfer or trade of any nuclear facilities, materials, equipment, or technology in contravention of the international nuclear non-proliferation controls established pursuant to subsection d.

Subsection d(2) specifies that the sanctions provided for in subsection e(1) do not apply to any export, transfer, or trading activity that is authorized by the laws of a nation participating in the Nuclear Suppliers Group and adhering to all measures adopted pursuant to the Group's international proliferation controls, unless such an authorization was obtained by misrepresentation or fraud.

Subsection d(3) prevents the sanctions provided for in subsection e(1) from being applied in cases where a nation participating in the Nuclear Suppliers Group is taking judicial or other enforcement action against that person with respect to their activities or if that person has been found to be innocent of wrongdoing by the government of a nation participating in the Nuclear Suppliers Group.

Section d(4) allows agencies to issue, in consultation with the Secretaries of Defense and State, advisory opinions to any person who requests such an option as to whether a proposed activity by that person would subject that person to sanctions. The section further provides that any person who relies in good faith upon such an advisory opinion (indicating that the proposed activity would be permissible) would not be subjected to sanctions for engaging in the activity.

Section d(5) requires the President to notify the Congress not later than 15 days before imposing the sanctions required under this subsection.

Section d(6) provides definitions of the terms "foreign person", "United States person", "person", and "otherwise engaged in the trade of".

Section e provides for trade sanctions against any foreign nation or group of nations (as opposed to individuals or companies), whether or not they are participants in the Nuclear Suppliers Group, if the President determines that the foreign nation or group of nations has: 1.) permitted any nuclear-related export or retransfer to, or activity in, any non-nuclear-weapon state which had failed to accept full-scope IAEA safeguards as a condition of nuclear supply, authorized the export of highly-enriched uranium under conditions less stringent than those imposed by the U.S., or 3.) has permitted any nuclear-related export or retransfer to any non-nuclear-weapon state which the President determines to be inimical to the common defense and security. The trade sanctions to be imposed would bar both nuclear trade with the offending nation and the importation into the U.S. of some or all of the articles produced or grown in the offending nation.

SECTION 4. NEGOTIATIONS.

This section amends Section 203 of the Nuclear Non-Proliferation Act of 1979, which directed the President to undertake nuclear non-proliferation negotiations with other nations to mandate negotiations to significantly upgrade the International Atomic Energy Agency (IAEA) safeguards system to assure that it provides an effective mechanism for detection and deterrence of nuclear proliferation. In the wake of the Iraq war, it is clear that such an enhancement of the international safeguards regime is necessary to avoid situations in which nominal NPT parties may effectively pursue a nuclear weapons program without being subject to meaningful restraint under the IAEA system.

Section 4(1) makes certain technical and conforming changes in Section 203.

Section 4(2)(b) provides that in order to improve significantly the effectiveness of the safeguards of the IAEA, the United States shall seek to negotiate with other nations and groups of nations, including the IAEA Board of Governors and the Nuclear Suppliers Group to: 1.) end the unnecessary secrecy of inspection arrangements and results; 2.) improve the access of the IAEA within nuclear facilities that are capable of producing, processing, or fabricating weapons-capable nuclear materials; 3.) facilitate the exercise by the IAEA of its right to conduct special inspections of facilities that are capable of producing, processing, or fabricating nuclear weapons materials, including facilities in which nuclear materials may not have been introduced and declared to the IAEA; 4.) facilitate the IAEA's efforts to meet and maintain its goals for detecting diversion of nuclear materials; 5.) apply IAEA safeguards to tritium and natural uranimum concentrate and increase the scope of such safeguards on heavy water; and, 6.) provide the IAEA with the additional funds, technical assistance, and political support needed to carry out this subsection.

Section 4(c) requires the President to submit a report to Congress six months after the date of enactment of this Act, and annually thereafter, on the progress that has been made and the obstacles that have been encountered in seeking to meet the objectives set forth in subsection (b).

THE 50TH ANNIVERSARY OF EXECUTIVE ORDER BANNING EMPLOYMENT DISCRIMINATION

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. EDWARDS of California. Mr. Speaker, on June 25, 1941, 50 years ago today, President Franklin Delano Roosevelt took the historic step of signing Executive Order 8802, banning employment discrimination by the Federal Government and in defense industries.

President Roosevelt signed the Executive order following intense lobbying led by labor leader A. Philip Randolph, the founder and long-time president of the Brotherhood of Sleeping Car Porters, and other civil rights leaders.

The Executive order proclaimed:

> That there shall be no discrimination in the employment of workers in defense industries or government because of race, creed, color, or national origin * * * [and] it is the duty of employers and of labor organizations * * * to provide for the full and equitable participation of all workers in defense industries, without discrimination. * * *

Signing of the Executive order was the first significant breakthrough against discrimination since Reconstruction. In the years that followed, our Nation took further steps to make America a fairer and more just place, with additional Executive orders, then by enacting the great omnibus Civil Rights Act of 1964, the Voting Rights Act of 1965, and the Fair Housing Act of 1968. But it was with the stroke of the mighty Presidential pen that President Roosevelt began our Nation on the path toward providing civil rights for all Americans.

Our civil rights laws are the shining jewels in the American crown, admired and emulated by countries and people throughout the world. Fifty years ago today, President Roosevelt's Executive order marked the first step of the modern civil rights era.

I hope that by year's end, that Congress will enact the Civil Rights Act of 1991, to restore much of the strength of the 1964 Civil Rights Act. By doing so, Congress will honor the legacy of A. Philip Randolph and the Executive order of President Roosevelt.

BRAVE AND COURAGEOUS ACT

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. COSTELLO. Mr. Speaker, I rise today to make my colleagues aware of a brave and courageous act which took place along the Mississippi River near St. Louis, MO, earlier this month.

Officer Jim Cavins, a policeman and volunteer fireman from O'Fallon, IL, acted above and beyond the call of duty to save the life of another human being.

As a man stood on the Poplar Street Bridge and threatened to jump into the fast-moving current of the Mississippi River, local police were able to talk him down from the bridge. While backing down the structure, he accidently slipped and fell into the Mississippi.

A media helicopter heard the call for police assistance and flew to the area to assist in any way possible. Officer Cavins was aboard. The helicopter was able to successfully hover over the man as Cavins reached into the river and pulled him to safety.

Because of this act of bravery, Officer Cavins has received a Medal of Valor. I ask my colleagues to join me in recognizing this hero today as we salute the efforts of Jim Cavins.

RAHALL APPLAUDS THE "TOP 12"

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. RAHALL. Mr. Speaker, the season for graduation has arrived once again. It gives me great joy to see the fine, young graduates who are the future leaders of West Virginia and this country. I would personally like to commend the top 12 students of the 1991 Class of Man High School.

This group of 12 is composed of 10 valedictorians, one salutatorian, and one historian. I praise these students for their remarkable achievements in academia, as well as their various extracurricular activities. I also compliment the strong leadership qualities that they posses, qualities which are essential to our country's future.

The 10 valedictorians, all with 4.0 grade point averages, were Sabrina Lynn Duba, Crystal Lea Heatherman, Lori Nicole Justice, Robert Lee Lewis II, Beverly Lynn Nutter, Anna Marie Perry, Randi Renee Samson, Panaithep Albert Srichai, Panayu Robert Srichai, and David Shelby Williams.

Salutatorian Leah Michelle Elkins and Historian Elbert Davis completed the array of honor students.

Congratulations to each one of these graduates, and I wish them much success with all their future goals and aspirations.

IN SUPPORT OF THE MANZANAR NATIONAL HISTORIC SITE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. MATSUI. Mr. Speaker, I urge my fellow Members to add their support to establish a national historic site at Manzanar, one of the World War II Japanese-American relocation camps. All that remains at this barren site are an auditorium, a sentry house, and other minor buildings.

But the memory remains for over 100,000 Japanese-Americans who were imprisoned at Manzanar and other internment camps. No historical basis has ever been found to justify the charges of sabotage and espionage. Yet these Americans suffered this unfair treatment and dishonor gracefully. In the arid desert, gardens and trees were planted to try and make this prison into a home. These internment camps became the microcosm of American society at large. Japanese-American internees organized baseball teams, Boy and Girl Scout troops, dance orchestras, and followed the news of the war with the same concern as other Americans.

As leaders of this country, we cannot forget the mistakes of our past. The memory of this horrible injustice should not be allowed to fade, and we should honor the memory of the internment by allowing future generations to visit the Manzanar Camp site and cherish the value of freedom.

CONGRESSMAN KILDEE HONORS BILL SKREPNEK

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. KILDEE. Mr. Speaker, I rise today to bring to the attention of my colleagues in the House of Representatives a reception and banquet that will be held on Saturday, June 29, in Flint, MI, to honor Brother Bill Skrepnek. Brother Skrepnek has been elected most worshipful grand master by his fellow members of the Michigan Grand Lodge of Free and Accepted Masons.

Historically, the Masonic organization arose from the guild of practicing stone masons. Masons of today need not be stone workers, but must possess the spirit of good will inherent in the Masonic organization. In modern times, the Masons' tradition of pride in craftsmanship has translated into a desire to build a better community. The Free and Accepted Masons compose a fraternal organization which advances philosophical ideals such as patriotism and equality. Brother Skrepnek certainly exemplifies the Masons' humanitarian goals.

Brother Skrepnek has resided in the Flint area since 1945 and has worked for Buick Motor Co. since 1954. He has served both his State and his country in the Michigan National Guard and the U.S. Air Force. Brother Skrepnek's involvement in numerous civic and youth groups has made him a well-respected community figure. In addition to his 28 years of membership in Flushing Lodge 223 F&AM, Brother Skrepnek has participated in countless groups affiliated with the Masons. The Flushing lodge is honored to have one of its members selected as grand master of the 441 lodges and 81,000 Masons in the State of Michigan.

Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me in commending Brother Bill Skrepnek on the occasion of his election as worshipful grand master. Brother Skrepnek has garnered tremendous respect through his admirable dedication to the Masons and his selfless involvement in community work. I believe the Free and Accepted Masons of Michigan made a fine choice when they appointed a grand master who truly embodies the ideals for which their organization stands.

SALUTE TO FATHER JUBANI, A BRAVE SURVIVOR OF ALBANIAN DEATH CAMPS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. BROOMFIELD. Mr. Speaker, recently I had the opportunity to meet with Fr. Simon Jubani, a Catholic priest imprisoned for many years under the Communist dictatorship in Albania. As that once closed nation sets sail on the rising tide of democracy, the sacrifices and dedication of men like Father Jubani in the face of terrible oppression must not be forgotten.

For 26 years Fr. Simon Jubani was held in an Albanian prison because he refused to deny his religion. Confined to a small room with other victims of the repressive regime, he was beaten and endured horrible conditions. His brother, also a Catholic clergyman, was poisoned by prison officials. Father Jubani survived and was finally freed in 1989. Today, Albania is also being freed from communism.

Last week, Secretary of State Baker visited Albania, which had been isolated from the outside world for over four decades. A cheering crowd of 300,000 welcomed him with open arms and swarmed over his motorcade. Mr. Baker urged Albania to move forward toward democracy and offered $6 million in assistance. I encourage the administration to continue to help Albania move toward democracy.

Just as Father Jubani's long nightmare ended, let us hope that Albania's long, sad night will pass this year with the victory of freedom over the forces of darkness.

I commend the following May 17 Michigan Catholic article about Father Jubani's ordeal to my colleagues.

[From the Michigan Catholic, May 17, 1991]

HERO'S WELCOME FOR JAILED ALBANIAN PRIEST: HE SURVIVED 26 YEARS OF TORTURE, HARDSHIPS

(By Robert Delaney)

BIRMINGHAM.—Fr. Simon Jubani, who was imprisoned 26 years and repeatedly beaten for his faith by Albania's Communist rulers, received a hero's welcome from metro Detroit's Albanian-American community last weekend.

Thousands of Albanian immigrants and Americans of Albanian descent turned out to hear the priest who last November celebrated Albania's first public Mass in decades.

And they responded to his call for financial help to rebuild the church in their homeland by contributing more than $170,000 during the two-day visit.

Fr. Jubani was feted at a Saturday night banquet in Warren and then said Mass on Sunday to capacity crowds at both St. Paul Albanian Parish in Warren and Our Lady of Albanians Parish in Birmingham.

Imprisoned in January 1964 by the hard-line Communist regime for his defiant insistance on practicing his faith, Fr. Jubani spent 26 years in a cell measuring almost 12 feet by 24 feet with about 30 other men.

"Conditions were under the treatment of an animal. We were packed in one room, as the sardines in the can. We were without beds, and had only the bare floor on which to sleep. Many people killed themselves in despair," explained Fr. Jubani, who taught himself English in prison.

He and his fellow prisoners were allowed out of the cell three times a day to shave and take care of their personal hygiene, but otherwise "in the same chamber we slept, ate and went to the restroom, he said.

Yet, despite the certain knowledge that any act of defiance was met by beatings, he persevered—saying Mass in his cell for his fellow prisoners every Sunday and protesting the regime's oppression of the Albanian people.

"I spent my time writing letters to the president of Albania, Enver Hoxha, and for that I was singled out hundreds of times," Fr. Jubani said.

The dictator's response was to extend his sentence and order harsher treatment. Still, though he would be bound hand and foot and beaten, Fr. Jubani survived. Many of his fellow prisoners did not, due to the brutality of the guards.

"Around the prison, there were 400 graves of people they'd killed," father said.

And his own brother, who was poisoned in 1982, was among the dozens of Catholic priests murdered.

Of all the Communist regimes of Eastern Europe, the Albanians were the most thorough in their attempt to stamp out religion. In 1967, at the urging of the Chinese, the Hoxha regime forbade all religious observances and went so far as to conduct house-to-house searches for religious objects.

"To explain how we preserved our faith, I remind you that we survived five centuries under the Muslim Turks by living in caves and mountains. When the Communists arrived, we were almost immune against persecution," Fr. Jubani said.

After Hoxha died in 1985, there was hope that conditions would improve, but change was slow in coming. Then came April 1989—the year of perestroika—and the pleas of Pope John Paul II, Mother Teresa and Amnesty International were finally heeded by the Albanian regime.

Fr. Jubani, who still had almost 20 years of his sentence left to serve, was freed along with other imprisoned Albanian priests. As he put it, "Perestroika interrupted my prison term."

At 65, Fr. Jubani is the youngest of the remaining Catholic priests in Albania.

Perhaps fearing an uprising like the one that toppled the Ceausescu regime in Romania, the Albanian Communists have eased up on many of their harshest laws and now allow religious freedom. Fr. Jubani played a major role in this breakthrough when last fall he said Mass for some 50,000 people in a devasted Catholic cemetery protected by thousands of Catholic youth.

Fr. Jubani says Albanian Catholics should forgive those who persecuted them, but must never forget what happened or it may happen again. He is skeptical of the motives of Albania's rulers and urges the United States to only agree to better relations with his country if certain conditions are met.

It's not that Ramiz Alia and the others in charge now had a change of heart, but once the rest of Eastern Europe began dismantling its Communist system, Albania could no longer survive without trade and contacts with the West, Fr. Jubani said.

Fr. Jubani urged that America link improved diplomatic and trade relations to four conditions: open borders, restoration of full freedom of religion, introduction of a free-market economy, and full renunciation by the Albanian government of its programs and methods of education, economic controls and political controls.

NATIONAL PUBLIC SAFETY TELECOMMUNICATORS WEEK

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. MARKEY. Mr. Speaker, for years, thousands of dedicated, professional public safety telecommunicators have answered our calls for police, fire, and emergency medical services. They have dispatched assistance to put out fires, catch burglars breaking into our homes, and provide emergency medical help to families in every one of our districts. These public safety people are truly dedicated professionals, although the public usually never sees them because they are not physically at the scene.

Public safety telecommunicators are behind the scenes doing their work competently and accurately. Without them, police officers, firefighters, and emergency medical personnel would lack the high quality communications services which are necessary for the variety of public safety services which are vital to the well-being of communities throughout the United States.

The Nation's public safety telecommunicators also work to improve emergency response capabilities through their leadership and participation in training programs and other activities provided by the Associated Public-Safety Communications Officers [APCO]. APCO is an association of nearly 9,000 people engaged in the operation, design, and installation of emergency response communications systems, including 911, for Federal, State and local government agencies.

For far too long public safety telecommunicators have gone without proper recognition. Their job is one the public seldom notices, but one that saves lives every day. The joint resolution I have introduced today will establish a National Public Safety Telecommunicators Week for the second week of April each year. It is time that we show our appreciation for the people who work in this essential and growing field.

I believe that it would be most appropriate for us to establish a National Public Safety Telecommunicators Week to honor telecommunicators as the true professionals and lifesavers that they are. As an example of the type of services provided by telecommunicators throughout the United States, I commend to my colleagues' reading a recent article describing the efforts of Susan Nealsey-Kratz, a police technician in Maryland. The article vividly illustrates the crucial role played by telecommunicators in difficult emergency situations. I urge my colleagues to join me in cosponsoring this legislation.

[From the Montgomery County (MD) Journal, Apr. 5-7, 1991]

DIALING BEYOND THE CALL OF DUTY—DISPATCHER WINS HONORS FOR TALK WITH RAPE VICTIM

(By Mary-Ellen Phelps)

The sounds on the tape are chilling.

They are of two women talking on the telephone—talking, it would seem, about ordinary things. But what an outside listener would not know about this taped conversation is that it is a matter of life and death.

It is a call between a police dispatcher and a rape victim whose attacker is sitting in the room with her.

And it is now a call that has won the dispatcher a state award.

On the night of Dec. 26, 1990, a Silver Spring man called home to discover that his wife was in trouble when she gave him the impression she was not alone. He called the county Emergency Communications Center in Rockville.

The victim's quick thinking and a police technician's level-headedness played vital roles in the arrest of Harry Baker, 28, of Landover, communications officials said. County police charged Baker with raping the victim, whose identity is being withheld to protect her, in front of her young son, robbing her and burglarizing her apartment.

Although Police Technician II Susan Neafsey-Kratz already had dispatched police to the home at the husband's request and did not need to talk with the victim after the husband's call that night, she decided to check on the woman anyway.

During a five-minute call, she learned that the woman, her son and her attacker were in the living room, that the attacker had a gun and was alone. The victim answered Neafsey-Kratz's calmly placed questions as if she were answering a friend's queries.

"Is it someone you know" in the apartment? the dispatcher asks.

"No, yeah, the flight was good."

"Are they armed?"

"Yeah, we had a great trip."

"Do they have a gun?"

"Yes—yeah, he got so many presents . . . Did you have a nice holiday?

"Listen to me, you hear those sirens?"

"Yes."

"They're coming to your house."

Neafsey-Kratz, 33, said she did not know what was happening to the woman while she was talking to her. She spent the time trying to think of "yes-no" questions to ask her. She also had her describe the room she was sitting in so police would know where the suspect was.

I don't think I had time to be nervous. I knew that something was going on," Neafsey-Kratz said yesterday. After she hung up, "I turned and looked at the person next to me and said, 'Bonnie, I don't believe this.'"

Later this month, Neafsey-Kratz will go to Dover, Del., to pick up her award as Maryland Telecommunicator of the Year for her performance on the Dec. 26 call.

Neafsey-Kratz, who has worked at the Emergency Communications Center since December 1988, was selected for the Associated Public-Safety Communications Officers telecommunicator award from a field of 911 nominees of about 14 or 15.

Neafsey-Kratz's performance was "absolutely outstanding," said Sharon Lechowicz of APCO's Mid-Eastern Chapter.

She won the award for her "level of professionalism, the manner in which she handled an extremely stressful situation and talked the victim through it, never compromised the victim."

The information she obtained was "essential of officer safety," Neafsey-Kratz said.

County Police Communications Director Theodore I. Weintraub praised both Neafsey-Kratz and the victim.

Neafsey-Kratz "shouldn't only be considered as telecommunicator of the year, but telecommunicator of the decade," Weintraub said. "She would have fulfilled her responsibilities after having talked to the husband and just sent a police car," Weintraub said.

The victim, he added, "did a better job than Miss Kratz and I love the job Miss Kratz did."

Neafsey-Kratz also praised the woman who was followed into her apartment by the man police say attacked her.

"She's a very, very brave woman . . . she's the reason she and her son are alive," Neafsey-Kratz said. She said she has not spoken to the woman since Dec. 26.

Baker is being held in the county Detention Center without bond, a jail spokeswoman said. He is scheduled for a June 17 county Circuit Court trial.

FIGHT CRIME, NOT LIBERTY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. EDWARDS of California. Mr. Speaker, very soon, this body will be considering crime legislation. I want to call to the attention of every member the lead editorial in today's New York Times, which urges us to "Fight crime not liberty." In our legitimate desire to create safer streets, we must not repeal the Bill of Rights.

[From the New York Times]

FIGHT CRIME, NOT LIBERTY—THE EXCLUSIONARY RULE NEEDS PROTECTION

Senators are competing with each other and with the Bush Administration to see who can pose as toughest on crime. In coming days the Senate faces a series of separate votes on everything from the Federal death penalty to gun control. Today's scheduled vote is one the so-called exclusionary rule, a bulwark for liberty that is under attack by those waving the tough-on-crime banner most fiercely.

The exclusionary rule was devised by the Supreme Court back in 1941 as the best way to enforce the Fourth Amendment's ban on unreasonable searches and seizures. Crude but never improved upon, the rule requires the courts to throw out illegally seized evidence as a deterrent to misconduct by law officers enforcing the law.

With increasing success, and with increasing danger to the Bill of Rights, the Reagan and Bush Administrations have argued in court and in Congress to water down the rule.

This year's Administration crime bill would allow the use of illegally seized evidence when Federal agents have conducted searches without a warrant in the "good faith" though mistaken belief in the legality of their conduct. Not content with the Supreme Court's recent exception for honest reliance on a warrant that later proves technically defective, the Administration now wants the exception broadened to searches where Federal agents didn't even bother to seek a warrant.

That's encroachment enough on Fourth Amendment safeguards, but the Administration hasn't finally ruled out asking for even more: a "firearms" exception that would admit weapons in evidence even when seized without a trace of honest belief that probable cause existed for the search.

The best hope for liberty is the plan by Joseph Biden, chairman of the Judiciary Committee, to codify recent Court alternatives to the rule.

Encouraging random searches might solve a few more crimes but at an unacceptable price for personal liberty. The exclusionary rule has forced police to raise their standards, for the safety and privacy of everyone. Faith in the police is fine, but liberty and law are best preserved by reliance on the Constitution and the vigilance of courts to see that police closely adhere to it precepts.

TRIBUTE TO SKIP HENNESSY

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. COSTELLO. Mr. Speaker, I rise today to pay tribute to a constituent of mine, Mr. Thomas Francis Patrick Hennessy, Jr., of Belleville, IL, known to many of his friends as "Skip."

Skip Hennessy was born on June 25, 1916 in Kirkwood, MO, to Thomas F. Hennessy and Anita Griffin Hennessy. When Skip was 5, the family moved to East St. Louis, IL, in my congressional district, following his father's death. It was there that Skip was raised by his mother, his grandparents, and his uncle, Emmett P. Griffin.

In East St. Louis, Skip attended elementary school at St. Patrick School, and high school at Central Catholic. After graduating from high school, Skip bravely served his country as a Navy pilot in World War II.

After his service in the Navy, Skip married Helen Jean Sims on January 29, 1949. Skip and Helen have two successful children: Thomas P. Hennessy III, an attorney for the firm of Thompson and Mitchell in Belleville, IL; and Carole Sims Hennessy Martz, who is a nurse in Chicago. Carole, and her husband Michael, have two daughters which adore Skip as well: Caroline, 9, and Brigid, 7.

In addition to being a life-long member of the Democratic Party, Skip has also been active in a variety of community service organizations, including the Exchange Club, the Veterans of Foreign Wars, the Moose Lodge, the Hybernians, and the Knights of Columbus. Skip was also the first president of the East St. Louis Junior Chamber of Commerce.

Recently, Skip has served St. Clair County as a member of the St. Clair County Public Building Commission, serving on that board since his appointment on October 1, 1990.

My colleagues, throughout his life Skip Hennessy has been a good and trusted friend to many, and has tried to make his community a better place to live. On this day, I want to recognize how much we appreciate Skip Hennessy's kindness and generosity, and wish him and his family the very best.

VOLUNTEERS: MAKING IT ALL POSSIBLE AT THE BECKLEY, WV, MUSEUM

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. RAHALL. Mr. Speaker, Beckley residents Sue Soto and Bettie Harmon both deserve congratulations from all of us who enjoy the many joys of museums. Both were recently awarded the New River Park's second annual Volunteers of the Year Award. These two generous women realize that to keep certain functions in operation, such as the Southern West Virginia Youth Museum to which they both donate their time, it is necessary for people to lend a hand.

Sue Soto, a former school teacher, works mostly at conducting tours and promoting the museum, although she also volunteers for other tasks when needed. Bettie Harmon is retired from Eastern Associated Coal Corp., and uses her valuable secretarial skills to help keep track of membership records at the museum.

These two volunteers, along with the rest of the nonpaid work force performing similar roles, have helped to increase the appeal of the Beckley, WV, museum and the city of Beckley as a whole. But neither Mrs. Soto nor Mrs. Harmon think of their efforts at the museum as work. They both enjoy what they do and are glad to help out. As Mrs. Soto said, "I feel if I can touch somebody's life today, and they touch somebody else's life tomorrow, I can sort of live forever." If only we all approached life with this attitude, what a different world this would be.

Congratulations Sue Soto and Bettie Harmon for being admirable citizens and for stepping forward to volunteer when needed. I commend you and all other volunteers—role models for us all.

CALIFORNIA NUTS GO TO SOVIET UNION

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. MATSUI. Mr. Speaker, almond exports from California are a major source of revenue for the United States and for California. Almonds have been exported to the Soviet Union for over 20 years now, and in fact during that time the Soviet Union has often ranked as one of the top five export destinations from California.

The people in the Soviet Union have obviously long enjoyed almonds from California. Most notably, almonds are exported to the Soviet Union for Christmas trade and are a traditional holiday treat. I would like to think that the ongoing purchase of almonds from California, and particularly for good cheer at Christmas time, has brought the Soviet people and the American people closer together.

The President has recently used the GSM–102 Program to extend $1.5 billion in credit to the Soviet Union. The Soviet Union is an important buyer of American agricultural products and this credit extension will enable the Soviets to continue making their purchases from the United States.

It is my understanding that, of the $1.5 billion, the Soviets will request to use $50 million of this credit to purchase almonds. It is very much hoped that the Soviets will proceed with this purchase and that the $50 million in credit will be granted to them for it. Not only do I support the continued export of almonds, but I also hope that through an overall successful trading relationship with the Soviet Union, both our countries can achieve a lasting peace.

A POEM IN HONOR OF OUR VIETNAM VETERANS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. KILDEE. Mr. Speaker, I would like to take this opportunity to share with my colleagues in the U.S. House of Representatives this moving poem by Ms. Jackie Hallett of Birch Run, MI. Ms. Hallett's poem to our Nation's Vietnam veterans was read at the recent dedication ceremony for the new Vietnam Veterans Memorial Park in downtown Flint, MI. Although the park itself is dedicated to the memory of those who fought in Vietnam, the dedication ceremony was an opportunity to honor veterans of all America's wars, as well as to welcome home our most recent veterans from the Desert Storm conflict.

Mr. Speaker, I am very pleased that those who served so well and bravely in the Persian Gulf have not had to wait years for the public expression of our Nation's gratitude for their efforts and suffering. I only regret that our veterans from the Vietnam war had to wait so long for the proper recognition of their sacrifices:

AN OPEN LETTER OF APOLOGY—VIETNAM VETS

(By Jackie Hallett)

Let's go back and remember another war, another time,
Where all of our Vietnam heroes are suspended in time.
How much do we owe them, our heroes, who fought, and those who died?
They fought another war when they came home,
Because of hurt feelings and pride.
With your one hand tied behind you,
You fought bravely, followed orders, and yet,
No arms were ever held open, to Welcome Home our Vietnam Vets.
We were all so very young back then, not realizing the "Hurt" the war caused you.
Little did we understand, the "Hell" that you went through.

How long would it take to say we Love You,
And how sorry we all are?
Multiply eternity by forever, and let us line up and count each and every star.

Give us time to empty the oceans, so blue,
One drop at a time,
And move the sands from all the deserts,
One grain at a time.
We'd only be just beginning, to give back what we owe you.
You showed America you Loved her,
Fighting to keep Communism from our shores.
You fought a very brave fight,
And this we Thank You for.
America will grieve forever, because of the hurts and hostilities you met.
She is holding her arms out to you now,
As she would for her child's first steps,
And cries with the anguish of a mother, embracing her Vietnam Vets.
We all have to remember, and we do with much regret,
Knowing your hearts are forgiving.
We Love and Thank You, our Heroes, our Vietnam Vets.

With Love, America.

THE UNIVERSAL HEALTH CARE ACT OF 1991

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. DOWNEY. Mr. Speaker, I would like to add my voice to the growing chorus of support for H.R. 1300, the Universal Health Care Act of 1991, which was introduced by my respected colleague on the Ways and Means Committee, and a good friend, the Honorable MARTY RUSSO of Illinois. As an original cosponsor of this landmark proposal, I want to applaud my colleague for his vision and his determination to make good health care a reality for all Americans.

The goal of Mr. RUSSO's proposal is a simple one: To provide quality health care at a reasonable cost. His legislation will accomplish this by substituting a single, publicly administered program for the more than 1,500 private insurance programs that now exist. Under this bill, every American would be entitled to hospital and physician care, long-term care, prescription drugs, preventative care, dental care, and mental health services with no copayments or deductibles. Individuals would still be able to choose their own physician or source of care.

Most importantly, the overall savings for average Americans would be dramatic. It is estimated that senior citizens will save $33 billion, while nonelderly will save $25 billion.

Why is the Russo universal health care proposal so important? The answer is that the United States is currently spending more on health care than any other country. Yet despite this unparalleled expenditure, the United States ranks 13th in life expectancy and an appalling 24th in preventing infant mortality. This means that a child born in Singapore has a better chance for survival than a child born in the United States. In other words, we are paying more for less health care and this simply does not make sense.

The human consequences of this are apparent. More than 35 million Americans are without health insurance and millions more are underinsured. As a result, many Americans are denied care or they are forced to delay care. Others will face a financial catastrophe because of unexpected health costs.

There are those who will argue that universal health care is unrealistic and will never happen in the United States. To these critics I simply say, come to Long Island. Everywhere I travel in my district I find people who have no health insurance or inadequate coverage. I meet unemployed workers, victims of the Bush recession, who are out of work without health insurance. Barely able to make ends meet, they are unable to afford health care coverage for their families. I have talked to older Americans whose greatest fear and concern is not having adequate health care if faced with a long-term illness.

And when I tell them about MARTY RUSSO's legislation, they listen carefully and they want to know more about it. They want me to thank Congressman RUSSO for understanding their problems and they want to believe that the Russo proposal will become a reality.

Mr. Speaker, I share the concern of my fellow Long Islanders that the health of our Nation should not have a price tag on it. How long must we wait, and how bad must the situation get, before we catch up with the rest of the industrialized world and adopt a plan for adequate and affordable health care? I join with Congressman RUSSO in responding that we have already waited too long. Now is the time for action. Now is the time to adopt the Russo health care proposal.

Infant mortality rates in selected countries, 1988

[Infant deaths per 1,000 live births]

Japan	4.8
Finland	5.3
Sweden	5.8
Netherlands	6.8
Switzerland	6.8
Singapore	7
Canada	7.2
Hong Kong	7.4
Fed. Rep. of Germany	7.5
Denmark	7.6
France	7.7
Norway	8
Austria	8.1
German Dem. Republic	8.1
United Kingdom	9
Australia	9.2
Spain (1986)	9.2
Italy	9.2
Belgium (1987)	9.7
Israel	10
New Zealand (1987)	10
United States	10

Source: National Commission to Prevent Infant Mortality based on data from United Nations Statistical Office.

NO TERROR COURT FOR THE UNITED STATES

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. EDWARDS of California. Mr. Speaker, I want to bring to the attention of my colleagues an editorial from the June 20, New York Times. The editorial criticizes the section of the President's crime bill called "Terrorist Alien Removal." The section allows for a blatant violation of due proces rights in the name of combating terrorist activity. Under the section, an alien in this country, even one here legally, could be arrested, detained, and deported without being able to see the evidence used against him.

If passed, this provision will bring about serious injury to individual lives and our constitutional right of due process. There is no way the notion of secret evidence can be made consistent with fundamental American values. The best response to terrorists is to arrest them and try them in a public trial for criminal acts, not to deport them on the basis of secret evidence, allowing them to commit terrorist acts elsewhere.

I commend the editorial to my colleagues.

[From the New York Times, June 20, 1991]

NO TERROR COURT FOR THE UNITED STATES

If President Bush seriously wonders why Congress hasn't passed his crime bill in 100 days, he might refer to the bill's contents. Tucked away in its 166 pages is a section called "Terrorist Alien Removal," one of many proposals that Congress is wisely ignoring. It would create a flagrantly unjust system for deporting foreigners deemed to have terrorist connections—using secret charges and secret evidence.

Consider how loose is the definition of "terrorist." An alien who raised money for the African National Congress or the Palestine Liberation Organization could be deported without seeing more than a bare outline of the charges, if the Justice Department wanted to call those organizations terrorist. Justice could make a secret arrest and secretly detain the alien while applying secretly for a court hearing.

That hearing would be open, but the Government could offer its evidence in secret and say what parts of it, if any, could be disclosed to the accused. The Government could, if it wished, give the accused a written outline of the evidence—or a document saying that for national security reasons no summary was possible. Should the judge, one of five Federal judges picked for this terror court by the Chief Justice, happen to rule against the Government on any point, the Justice Department could make a swift, secret appeal.

All this is needed, says the Justice Department because the Government must keep its secrets while guarding against terrorism. But Justice hasn't even begun to explain to Congress, in public or private, how giving an accused person the rudiments of due process, as our courts have required, would threaten national safety.

This bill would make the United States look as foolish and unjust as Kuwait does with its postwar kangaroo courts. A hundred days to enact this law? Not in a hundred years.

NATIONAL GEOLOGIC MAPPING ACT OF 1991

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. RAHALL. Mr. Speaker, today I am introducing the National Geologic Mapping Act of 1991. This legislation is desperately needed if our Nation is serious about environmental protection and land-use planning.

It was back in 1963 when a low-level nuclear waste repository was sited in east Kentucky. This was a time when no geologic maps of the area were available. The Maxey Flats nuclear waste site now has been declared a Superfund site with estimated cleanup costs of more than $150 million. The Kentucky geological survey believes that if geologic maps had been available prior to the selection of the site, it is highly probable that this particular area would not have been chosen, and Kentucky and the Nation would have been spared this environmental and economic catastrophe.

The reason for the National Geologic Mapping Act of 1991 is twofold: Congress should not allow a repeat performance of Maxey Flats and State-level demands for geologic maps are not being met by the U.S. Geological Survey, the agency charged with geologically mapping the Nation. The Associaton of American State Geologists, an organization representing the geological surveys of all 50

States, notes that less than 20 percent of the Nation has been mapped at the scale that is appropriate for site-specific requirements, such as land-use planning, utilization and assessment, and environmental protection. This scale, commonly referred to as 1:24,000, enables Federal agencies, State and local governments, private industry and the general public to consider the impact of their activities on the area before the project is initiated. The goal of the National Geologic-mapping effort is to provide complete map coverage of the Nation at a scale of 1:24,000, or appropriate for a specific need, by the year 2010.

For example, the State of West Virginia would benefit greatly from this legislation. The West Virginia geological survey already has identified its geologic mapping priorities should additional funds from the Survey become available. Although West Virginia has been mapped at a variety of scales, less than 10 percent of the State has been mapped at a scale of 1:24,000. The West Virginia geological survey has indicated that the 1:24,000 scale would be most useful to them for purposes of coal resource evaluation in the southwestern part of the State and for preparing for the various needs of the rapidly growing Eastern Panhandle.

Geologic maps are the principal sources of geologic information for nearly all basic and applied earth-science research and decisionmaking. Geologic maps provide data essential to assessing mineral, energy, and water resources; screening and characterizing sites for toxic and nuclear waste disposal; land-use planning; earthquake-hazard reduction; predicting volcanic hazards; the exploration for and development of minerals; environmental protection; design and construction of infrastructure requirements such as utility lifelines, transportation corridors, and surface-water impoundments, among many other uses. It has been documented that many of the Superfund sites may never have been created had the States possessed and the EPA required geologic mapping of the bedrock, and subsurface contour of these areas.

Although there is a National Geologic Mapping Program in the U.S. Geological Survey, funding for State geologic mapping surveys is a small percentage of the program's total budget. Cooperative funding for the States enables the States to work jointly with the Survey to initiate and complete geologic mapping of the Nation. According to a report issued by the National Academy of Sciences, mapping by the U.S. Geological Survey is very much on the decline. For example, the Survey mapped approximately 400,000 square miles in the 1960's, 250,000 square miles in the 1970's, and 120,000 square miles in the 1980's.

This legislation would establish a National Cooperative Geologic Mapping Program within the Survey. The Survey will be responsible for developing a geologic-map data base which will meet the needs of the States. This data base will be developed in consultation with an advisory committee which will be composed of representatives of the Survey, State geologic surveys, private sector, and academia. The National Cooperative Geologic Mapping Program will include a State geologic mapping component, a Federal geologic mapping component, a geologic mapping support component and a geologic education mapping component. These components, individually funded, will enable the Survey to work with the States and academia to accomplish the goals of the legislation. The authorization levels provided by this legislation are $36.5 million for fiscal year 1992; $42.75 million for fiscal year 1993; $48.50 for fiscal year 1994; and $55.50 for fiscal year 1995.

Mr. Speaker, I am confident that the short-term costs of the National Geologic Mapping Act of 1991 will result in long-term protection of our environment and natural resources. Each State, with few exceptions, stands to benefit from geologic mapping and the program established by this legislation. I urge my colleagues to support the National Geologic Mapping Act of 1991.

TRIBUTE TO DOMINION MIDDLE SCHOOL'S ENERGY EXPO 91 PROJECT

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. WYLIE. Mr. Speaker, the eighth-grade science students of Dominion Middle School of Columbus, OH recently received State and national honors as part of the 1991 National Energy Education Development [NEED] Project Youth Awards Program. Dominion Middle School was chosen as the 1991 School of the Year for having the most outstanding energy education program in Ohio and has been named national champion for having the most outstanding energy program on the junior level in the Nation.

Faculty adviser Hannah Meseroll and eighth-grade student directors, Sacha Rammon and Scott Trinter provided the extraordinary leadership, initiative, and creativity to complete their award-winning project entitled "Energy Expo 91," in the spirit of this year's NEED theme, "Educating For An Effective Energy Strategy."

The Energy Expo 91 project was an interactive endeavor to educate the students and the public on energy technology through the use of well-planned workshops, classroom activities, various student exhibits, and the performance of an evening play for parents entitled "The Incredible Energy Tales." As a part of their project, the students made rock videos by changing the lyrics of popular songs to highlight facts about an energy topic. The songs included "Oil Wells" and "Take Me Out to the Coal Mines," both of which are takeoffs on Jingle Bells and Take Me Out to the Ball Game, respectively. They also developed "The Name Game" which required their fellow students to identify and research an aspect of science beginning with the letter of their first name.

By participating in the NEED Project, the eighth-grade students at Dominion Middle School have had the chance to express their individual talents and creativity and develop their analytical abilities. At the same time, they sought to make us all aware of the need to efficiently utilize our Nation's energy resources and focus on such important issues as conservation and recycling.

May I commend these industrious students and their dedicated adviser for this truly exceptional achievement. They serve as an inspiration of all students and teachers that hard work and diligence does indeed payoff.

LEGISLATION CLOSING TAX LOOPHOLES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today to close two tax loopholes taken advantage of by the movie industry. For too long, movie producers have benefited from tax breaks available to no other taxpayer, and it's time to put an end to these loopholes for those multiplus million dollar corporations.

Loophole No. 1 centers around the use of the income forecast method of depreciation. Taxpayers are able to manipulate their estimate of future income to increase their allowable depreciation deductions in the current tax year. Under present law, there is no method of recapturing the foregone tax revenue.

Mr. Speaker, if any of our constituents ever, in their wildest imagination, underestimated their income and then tried to avoid paying interest on the outstanding tax liability, the IRS would come after them with a vengeance. Not so with movie producers; there is no requirement that interest be paid on tax underpayments based on use of the income forecast method of depreciation. My bill would change that.

Loophole No. 2 deals with movie producers which set up foreign subsidiaries to control distribution rights to a film in a foreign market. Because of the complex set of foreign tax rules defining foreign personal holding company income, the royalties paid to the foreign subsidiary may escape current U.S. taxation. My legislation ends this abuse as well, by treating such royalties as subpart F income subject to current U.S. tax. I might add, Mr. Speaker, that this provision was adopted by the Committee on Ways and Means and the full House of Representatives as part of the Tax Reform Act of 1986.

Mr. Speaker, we have an obligation to our constituents to assure tax fairness. My legislation takes an important step in that direction, and I urge support for it.

TECHNICAL DESCRIPTION OF TAX LEGISLATION CLOSING TAX LOOPHOLES AFFECTING MOVIE PRODUCERS

SECTION 1. RECOMPUTATION OF DEPRECIATION COMPUTED UNDER INCOME FORECAST METHOD

Present Law

Taxpayers may claim depreciation deductions for the costs of assets used in a trade or business, or for the production of income. In general, the costs of producing intangible assets (such as a film or video tape) may not be depreciated using the accelerated cost recovery system method of depreciation.

The Internal Revenue Service has ruled that films and videotapes may be depreciated using the "income forecast" method of depreciation (*see, e.g.,* Rev. Rul. 60-358, 1960-2 CB 68, amplified by Rev. Rul. 64-273, 1964-2 CB 62). The Courts have generally upheld this depreciation method (*see e.g., Abramson* v. *Commissioner,* 86 T.C. 360).

Under the income forecast method, the cost of producing an intangible asset is multiplied by a fraction, the numerator of which is the income for the year from the asset, and the denominator of which is the total estimated income to be derived from the asset. If a taxpayer (such as a motion picture producer) under-estimates total income, depreciation deductions may be artificially high.

Present law does not contain a "recapture" or "look-back" method for the income-forecast method of depreciation.

Explanation of Proposal

Under the bill, taxpayers determining a depreciation deduction using the income forecast method of depreciation would be required to pay (or receive) interest based upon a look-back method of re-calculation of depreciation.

The look-back method would be applied in any "recomputation year" by comparing depreciation deductions which would have been claimed using the actual income from the property plus estimated future income from the property, determining the underpayment or overpayment of tax, and applying the overpayment rate of section 6221 of the Internal Revenue Code of 1986.

The term "recomputation year" means the third taxable year after the property is placed in service and any subsequent year if the actual income from the property exceeds the sum of the estimate of future income used in the prior recomputation year plus 5% of the actual income used in such prior year.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1991.

SECTION 2. TREATMENT OF CERTAIN ROYALTY PAYMENTS UNDER SUBPART F OF THE INTERNAL REVENUE CODE OF 1986

Present Law

The United States exerts jurisdiction to tax all income, whether derived in the U.S. or elsewhere, of U.S. citizens, residents, and corporations. In the case of income earned by a U.S.-owned foreign corporation, no tax is generally imposed until the income is distributed to U.S. shareholders. This principle of deferral does not apply, however, to "subpart F" income.

Subpart F income is generally passive income of a controlled foreign corporation, and is taxed currently to U.S. shareholders (regardless of whether it is distributed). Subpart F income includes foreign base company income, which in turn includes foreign personal holding company income.

Foreign personal holding company income includes dividends, interest, rents, royalties, and annuities. However, rents and royalties derived by the taxpayer in the active conduct of a trade or business, received by a person not related to the controlled foreign corporation, are not treated as foreign personal holding company income. Thus, under present law, rents and royalties earned from the active conduct of a trade or business is not subpart F income, and not subject to current U.S. taxation.

Under current law, it may be possible for a controlled foreign corporation (CFC) to avoid current U.S. taxation by conducting business in a country outside of the country under the laws of which the CFC is controlled or organized. An example might include a corporation established in the Netherlands to control European distribution rights to a movie produced by a U.S. movie producer. Royalties earned by such a corporation in France, for example, would escape U.S. taxation unless and until the income was repatriated to U.S. shareholders.

Explanation of Proposal

Under the bill, only "same country rents and royalties" derived in the active conduct of a trade or business would be excluded from the definition of foreign personal holding company income. A rent or royalty would only be a "same country rent or royalty" if it was derived from property not developed or produced by, or acquired from, a related person outside the country in which the CFC is organized or received by the CFC for the use of such property within the country of organization.

Effective Date

The provision would be effective for taxable years beginning after December 31, 1991.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECOMPUTATION OF DEPRECIATION DETERMINED UNDER INCOME FORECAST METHOD.

(A) GENERAL RULE.—Section 167 of the Internal Revenue Code of 1986 (relating to depreciation) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) RECOMPUTATION OF DEPRECIATION DETERMINED UNDER INCOME FORECAST METHOD.—

"(1) IN GENERAL.—If the depreciation deduction allowable under this section to any taxpayer with respect to any property is determined under the income forecast method, such taxpayer shall pay (or be entitled to receive) interest computed under the look-back method of paragraph (2) for any recomputation year.

"(2) LOOK-BACK METHOD.—The interest computed under the look-back method of this paragraph for any recomputation year shall be determined by—

"(A) first determining the depreciation deductions under this section with respect to such property which would have been allowable for prior taxable years if the determination of the amounts so allowable had been made on the basis of the sum of the following (instead of the estimated income with respect to such property)—

"(i) the actual income from such property for periods before the close of the recomputation year, and

"(ii) an estimate of the future income with respect to such property for periods after the recomputation year,

"(B) second, determining (solely for purposes of computing such interest) the overpayment or underpayment of tax for each such prior taxable year which would result solely from the application of subparagraph (A), and

"(C) then using the overpayment rate established by section 6621, compounded daily, on the overpayment or underpayment determined under subparagraph (B).

"(3) RECOMPUTATION YEAR.—For purposes of this subsection, the term 'recomputation year' means, with respect to any property—

"(A) the third taxable year beginning after the taxable year in which the property was placed in service, and

"(B) any subsequent taxable year if the actual income from the property for periods before the close of such subsequent taxable year exceeds the sum of—

"(i) the estimate referred to in paragraph (2)(A)(ii) for the most recent recomputation year with respect to the property, plus

"(ii) 5 percent of the amount referred to in paragraph (2)(A)(i) for the most recent recomputation year with respect to the property.

"(4) SPECIAL RULES.—

"(A) COLLECTION OF INTEREST.—For purposes of subtitle F (other than sections 6654 and 6655), any interest required to be paid by the taxpayer under paragraph (1) for any recomputation year shall be treated as an increase in the tax imposed by this chapter for such year.

"(B) DETERMINATIONS.—For purposes of this subsection, determinations of the amount of income from any property shall be determined in the same manner as for purposes of applying the income forecast method; except that any income from the disposition of such property shall be taken into account.

"(C) TREATMENT OF PASS-THRU ENTITIES.—Rules similar to the rules of section 460(b)(4) shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to property placed in service after December 31, 1991.

SEC. 2. TREATMENT OF CERTAIN ROYALTIES UNDER SUBPART F.

(a) GENERAL RULE.—Subparagraph (A) of section 954(c)(2) of the Internal Revenue Code of 1986 (relating to rents and royalties derived in active business) is amended to read as follows:

"(A) CERTAIN RENTS AND ROYALTIES DERIVED IN ACTIVE BUSINESS.—

"(i) IN GENERAL.—Foreign personal holding company income shall not include same country rents and royalties which are derived in the active conduct of a trade or business and which are received from a person other than a related person (within the meaning of subsection (d)(3)).

"(ii) SAME COUNTRY RENTS AND ROYALTIES.—For purposes of clause (i), a rent or royalty shall be treated as a same country rent or royalty if—

"(I) such rent or royalty is not attributable to property developed or produced by, or acquired (directly or indirectly) from, a related person outside the country under the laws of which the controlled foreign corporation is created or organized, or

"(II) such rent or royalty is received by the controlled foreign corporation for the use of, or the privilege of using, such property within the country under the laws of which the controlled foreign corporation is created or organized."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1991.

IN SUPPORT OF THE SMALL PROPERTY AND CASUALTY INSURANCE COMPANY EQUITY ACT OF 1991

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. MATSUI. Mr. Speaker, I am today joining with my colleague Mr. THOMAS of California in introducing the Small Property and Casualty Insurance Company Equity Act of 1991.

As a Californian, I am painfully aware of the personal and financial hardships that were caused by the massive earthquake in my State in 1989. I also sympathize with those who have been harmed by hurricanes, tornados, floods, and other natural disasters.

While I realize that we cannot control mother nature, we can at least ameliorate some of the financial costs of natural disasters and accidents through property and casualty insurance. We should strive, therefore, for a system where property and casualty insurance is available to those that want it at competitive and reasonable prices.

Competition in the property and casualty insurance industry is clearly enhanced by small insurance companies. Small companies often provide much needed coverage which is otherwise unavailable, particularly in periods of coverage shortages as were experienced in the mid-1980's. Unfortunately, it is often difficult for small companies to earn the surpluses necessary to allow them to grow so as to play their crucial role in the overall insurance market.

The legislation introduced today provides a mechanism to allow small companies to compete. The bill extends to small property and casualty insurance companies the same tax treatment that has been available to small life insurance companies since 1984. Under the bill, small companies with assets of less than $500 million could deduct from insurance company income 60 percent of the first $3 million of insurance company income earned each year. That deduction would decrease by 15 percent of every insurance dollar earned in excess of $3 million until the deduction phased out when insurance income reached $15 million. In determining eligibility for the deduction, small property and casualty insurance companies would be subject to the same rules for determining insurance income and assets as are small life insurance companies.

I am pleased to cosponsor this legislation, and I strongly encourage my colleagues to work for its enactment.

INTRODUCTION OF THE NATIONAL RECYCLING MARKETS ACT

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mrs. COLLINS of Illinois. Mr. Speaker, all across the United States we are running out of places to put our trash. In recent years, 83 percent of our Nation's annual 160 million tons of municipal solid waste has been stuffed in landfills, half of which are expected to be closed by the mid-decade. Landfilling also carries steep economic costs, such as transporting expenses and per-truck disposal fees, with no return on investment.

Recycling, after waste minimization, offers a way out of this crisis. It is rapidly becoming recognized as the most effective, cost efficient and sensible of our municipal solid waste options, with great untapped potential. Among the many benefits of recycling are:

The creation of a cheap source of quality materials to serve as feedstocks for a wide variety of products and packaging;

The effficient utilization of many of our resources;

The avoidance of unnecessary costs to local governments and taxpayers, such as waste truck tipping fees;

The avoidance of substantial amounts of pollution, pollution control costs, and energy consumption;

A reduction of offensive waste facilities near residences; and

The opportunity for America to gain a competitive edge in the international marketplace for recovered materials, recycling technology, and recycled goods, which are still in their infancy.

Unfortunately, obstacles to widespread recycling remain. Principal among these are the dilemma between supply and demand. Much of what is currently collected for recycling winds up in warehouses and even in landfills, due to a lack of buyers. Manufacturers often claim that they would use more recovered materials if only adequate, reliable supplies of high-quality, uncontaminated materials could be found. Waste managers, meanwhile, claim that they would institute more programs to recover recyclable materials if only they could find regular buyers for them. Although many collection programs have been initiated and more manufacturers are utilizing recovered materials, the net result is that recycling is only crawling forward. The key to stimulating demand for recovered materials—for example, paper, plastic, glass, metals, tires, oil, and batteries—is bolstering and stabilizing recycling markets.

Consequently, today, I am introducing the National Recycling Markets Act of 1991—NRMA. The NRMA aims to promote, assist, develop, and stabilize markets for recovered materials—principally paper, plastic, glass, aluminum, and steel—in a variety of ways. It would standardize definitions and grades of materials, increase the flow of information about market prices and opportunities, direct monitoring and reporting on the status of markets, and facilitate the export of nonhazardous recovered materials. It would also offer technical and financial assistance to State and local governments and recycling efforts.

Additionally, the NRMA embraces some of the effective, strong proposals put forth by State and local governments, waste managers, and environmentalists, with variations developed together with industry. Most notably, the bill includes minimum content standards for packaging and certain products which most commonly find their way into the waste stream.

These standards would set a single national standard stipulating that covered items are to be manufactured from specified percents of postconsumer recovered materials. Their principal thrust would be to ensure that packaging and products such as building materials and newsprint incorporate the valuable recyclables that are routinely discarded. This would ensure that recyclable materials would not only be collected and separated, through curbside and other programs, but used as well. These provisions aim to set reasonable, attainable requirements, phased in over a number of years, which industry would find manageable. They could be satisfied through companywide averaging, rather than an item-by-item basis.

The bill's labeling provisions would reduce consumer confusion from, and manufacture misuse of, environmental marketing claims. The right to label a product or package as "recycled" would be conditioned upon complying with the minimum content standards described above. The right to label an item as "recyclable" or "compostable" would be limited to those for which the recycling rate at least meets the recycling rate goals.

The procurement section of the bill is another of its most substantial features. This section calls upon Federal funds, when used to procure items that are able to be made from recovered materials, to give preference to those made from the highest percent of recovered materials. Guidelines would establish the recycled content specifications that procuring offices would be directed to set and a 10-percent price preference for recycled goods would be allowed.

The bill would give the Commerce Department authority over the provisions which primarily involve good business sense or manufacturer-government interaction, while giving EPA authority over the points which require good environmental sense.

Mr. Speaker, in short, the National Recycling Markets Act of 1991 is needed to make the system work. Without strong, effective, stable recycling markets, our cities' recycling programs will be hard-pressed to be more than garbage separators, and we will continue to bury valuable resources.

CONVERT CLOSED MILITARY BASES TO PRISONS

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. PEASE. Mr. Speaker, today I am reintroducing legislation that directs the Department of Defense to transfer—free of charge—closed military facilities to the Federal Bureau of Prisons.

I was pleased that last year, an amendment to the comprehensive Crime Control Act directed that the Bureau of Prisons be given priority in the disposition of four closed military facilities each year—exclusive of the first wave of bases to be closed—and that such transfers take place free of charge.

However, I feel strongly that this amendment did not go far enough, which is why I have reintroduced my bill. With the epidemic of drug abuse and violent crime reaching into homes and communities across this Nation, we need legislation to provide more prison space for convicted criminals.

If this Nation is serious about its war on drugs, we have to come up with sufficient prison space for those convicted of drug-related crimes, both for incarceration and for treatment. Right now, we just don't have the facilities to house these criminals.

My bill simply mandates an existing option, giving the Bureau of Prisons first priority to obtain closed military bases free of charge.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF PROPERTY AND FACILITIES AT CLOSED OR REALIGNED MILITARY INSTALLATIONS.

(a) Property at Bases Closed or Realigned Under Existing Special Base Closure Laws.—(1) Section 204(b)(3) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended to read as follows:

"(3)(A) Before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title—

"(i) the Secretary shall notify all departments and other instrumentalities (including nonappropriated fund instrumentalities) within the Department of Defense of the availability of the property or facility, or portion thereof, and may transfer the property, facility, or portion, without reimbursement, to any such department or instrumentality; and

"(ii) after adequate notification under clause (i), the Secretary shall—

"(I) notify the Attorney General of the availability of the property or facility, or portion thereof; and

"(II) transfer (without reimbursement) the property, facility, or portion to the Bureau of Prisons if the Attorney General certifies that the property, facility, or portion will be used primarily in the incarceration of prisoners convicted of controlled substances offenses and is essential to the program objectives of the Bureau of Prisons.

"(B) In carrying out subparagraph (A)(i), the Secretary shall give a priority, and shall transfer, to any such department or other instrumentality that agrees to pay fair market value for the property or facility, or portion thereof. For purposes of subparagraph (A)(i), fair market value shall be determined on the basis of the use of the property or facility on December 31, 1988.

"(C) This paragraph shall take precedence over any other provision of this title or other provision of law with respect to the disposal or transfer of real property or facility located at a military installation to be closed or realigned under this title.".

(2) Section 2905(b)(2)(D) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following new sentences: "The Secretary shall notify these departments and entities of the availability of property or facilities at military installations to be closed or realigned under this part. After such notification and an adequate opportunity for transfer of the property or facilities to these departments or facilities, the Secretary shall—

"(i) notify the Attorney General of the availability of the property or facility; and

"(ii) transfer (without reimbursement) the property or facilities, or a portion thereof, to the Bureau of Prisons if the Attorney General certifies that the property, facilities, or portion will be used primarily in the incarceration of prisoners convicted of controlled substances offenses and is essential to the program objectives of the Bureau of Prisons.".

(b) Disposal or Transfer of Property under Other Authority.—(1) Before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned other than under title II of the Defense Authorization Amendments and Base Closure and Realignment Act or the Defense Base Closure and Realignment Act of 1990, the Secretary of Defense shall notify all departments and other entities (including nonappropriated fund instrumentalities) within the Department of Defense or the Coast Guard of the availability of the property or facility and may transfer (without reimbursement) the property or facilities, or a portion thereof, to any such department or instrumentality.

(2) After adequate notification under paragraph (1), the Secretary shall—

(A) notify the Attorney General of the availability of the property or facility; and

(B) transfer (without reimbursement) the property or facility, or a portion thereof, to the Bureau of Prisons if the Attorney General certifies that the property, facility, or portion will be used primarily in the incarceration of prisoners convicted of controlled substances offenses and is essential to the program objectives of the Bureau of Prisons.

QUALITY IS THE ANSWER

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. GINGRICH. Mr. Speaker, I would like to share with my colleagues an article entitled, "Hapeville: Winning With Quality, Not Quotas," which appeared as an editorial in The Atlanta Constitution on Monday, June 24, 1991. This article shows how success can happen in all American plants and factories. For this reason, I would like to reprint the article in the Congressional Record to remind my colleagues of this important message.

Hapeville: Winning With Quality, Not Quotas

From near death to distinction—what a turnaround for the Hapeville Ford plant.

The 44-year-old assembly plant nearly shut down in the early 1980s because American-made autos were losing ground to Japanese competitors and the recession.

But Ford decided not to give up on Hapeville. By investing $250 million to renovate the 2.3 million-square-foot plant in 1985, Ford gave its workers a chance to compete.

The 2,800 employees responded with pride and intelligence to the company's effort to improve labor-management relations. Blue-collar workers and pinstriped bosses joined forces to focus on quality.

And Ford's engineers made success possible by giving the workers outstanding products to assemble—the Taurus and Sable wagons and sedans.

The combination of new equipment, co-operative labor relations and smart engineering paid off. Recently, the plant received the Q1 Award, making it only the third Ford plant to receive the honor since the company created it in 1986. To win it, a plant must meet very high standards for quality.

Earlier this year, industry analysts Harbour and Associates ranked Hapeville as the most productive of U.S. auto plants.

Because of the operation's success, Ford is continuing its commitment. Next month, the plant will become the first to begin manufacturing the 1992 Taurus models, the first substantial modification of the car since it was introduced six years ago.

The Hapeville story is important because it is so simple: Workers and managers combined brains, skills and capital to make a car that can beat the Japanese. In its June issue, Consumer Reports said Taurus "offers more wagon for less money" than Honda Accord. Taurus succeeded because of quality, not because of quotas barring competition.

Recent efforts by some auto executives to get the government to limit not just imports but cars made by Japanese companies on U.S. soil are an embarrassment to the industry. American executives would do well studying the lessons at Hapeville, not whining about what the Japanese are doing.

CORRECTING AN INJUSTICE TO INDIANS

HON. JAMES A. McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. McDERMOTT. Mr. Speaker, I have introduced H.R. 2737, a bill to correct an injustice in the treatment of certain Indian trust income under our need-based programs that help low-income individuals. I am grateful to Mr. Miller of California, Mr. Campbell of Colorado, Mr. Rhodes, and Mr. Johnson of South Dakota for joining me in sponsoring this legislation.

A century ago, our Government's policy was to split up Indian reservation land among the individual Indians—a policy that weakened their tribal and cultural ties by taking nearly one-fifth of all Indian land out of tribal ownership. Now we are denying to their 30,000 descendants, many of them impoverished, the benefits to which others are entitled under supplemental security income and other need-based Federal programs.

This is both an injustice in itself and a violation of the Government's trust responsibility to manage Indian lands solely for the benefit of their owners. Congress has a duty to resolve the conflict between our trust responsibilities to native Americans and the purposes of our low-income entitlement programs.

H.R. 2737 would correct that injustice and resolve the conflict by treating minimal income from individually allotted lands the same as income from tribal lands or claims settlements. Senator Tom Daschle has introduced this legislation in the Senate, and I hope we can enact it in this Congress. I intend to work with my colleagues to see that the small cost of correcting this injustice is appropriately financed, as required under the Budget Enforcement Act.

A summary of provisions and text of bill follow:

H.R. 2737: Summary of Provisions

H.R. 2737 exempts up to $4,000 of annual income, derived from trust lands held by individual Indians, from consideration under means-tested federal benefit programs. Other types of Indian trust income are already exempt from consideration under these benefit programs.

The Allotment Act of 1887 and related federal policies divided 10 million acres trust lands on many Indian reservations into 160-acre parcels, giving them to individual tribal members. Ownership of these parcels was divided among the heirs of the original owners, and is now shared by some 30,000 descendants (about 2% of the total Indian population) after several generations of fractionated inheritance.

Because these lands remain in trust status, managed by the Bureau of Indian Affairs for the benefit of the descendants of the original owners, they cannot be sold or mortgaged without BIA consent and the agreement of all heirs. Typically these lands are leased for agricultural purposes, and the income is often pledged to repay BIA loans for necessities. The annual income individuals receive, often irregularly, averages $420. A 1988 study on the Rosebud Reservation in South Dakota found that half the owners recieved less than $50 a year, and that 70% of those receiving any income received less than $ 200 a year.

Minimal income from lands held in trust for tribes, rather than for individual Indians, is not taken into consideration under means-tested programs like Supplemental Security Income. Income from settlements under the Alaska Native Claims Settlement Act and other Indian claims legislation is similarly exempt. The purpose of H.R. 2737 is to treat minimal income from individually held trust lands in the same way.

Those affected are primarily Indian elders on SSI, living at recalculation, interruption, and recoupment when they occasionally receive small amounts of trust land income. Calculating these changes often costs the BIA, the Social Security Administration, and state agencies more than the benefit amounts involved.

The Congressional Budget Office has estimated the annual federal cost of this legislation at $2 million, principally to the SSI program. This cost will diminish over time as individual ownership in trust lands is further fragmented.

H.R. 2737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION.

Section 8 of the Act of October 19, 1973 (25 U.S.C. 1408) is amended—

(1) by inserting immediately after "lands" the following: ", and income (including interest) up to $4,000 per year derived therefrom,"; and

(2) by inserting immediately after "resource" the following: "or income".

GOVERNMENT-SPONSORED ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1991

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. GONZALEZ. Mr. Speaker, today I join with Congressman WYLIE to introduce by request the administration's legislative proposal to reform the regulatory structure for the Government sponsored enterprises under the jurisdiction of the Banking Committee, the Federal National Mortgage Association [Fannie Mae], the Federal Home Loan Mortgage Corporation [Freddie Mac], and the Federal home loan banks.

The large losses incurred by the Federal Government in connection with the insolvent savings and loans associations has raised concerns about the scope of other potential liabilities of the United States; including the liabilities of Fannie Mae, Freddie Mac, and the banks. These entities are privately owned federally chartered enterprises established to meet certain credit needs. Together they have more than $800 billion in mortgage related liabilities.

While these entities have no explicit backing by the Federal Government, the public perception that should one of these entities fail, the Federal Government would step in and bailout its investors requires us to ensure that the risk that these entities would require a Government bailout is minimal.

Congress began this process of reviewing Fannie, Freddie, and the banks with the enactment of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 which mandated two annual studies from both the Department of Treasury and the General Accounting Office. These studies were to assess the risks to the Government presented by these enterprises. The 1990 Budget Reconciliation Act called for two additional studies, one from Treasury and one from the Congressional Budget Office. Further, the Office of Management and Budget was required to include information on these enterprises in the President's 1992 budget and the Department of Housing and Urban Development provided reports last summer on the financial status of Fannie and Freddie.

The conclusion of these studies was unanimous, currently Fannie Mae, Freddie Mac, and the Federal home loan banks pose minimal risk to the Federal Government and the taxpayers. However, Treasury, CBO, and GAO all agree that certain changes need to be made in the regulatory structure for these enterprises to ensure that the Federal Government has the power to protect its interests in the future.

To this end, the Budget Act required the Department of Treasury to submit legislative proposals to Congress and it is this proposal that we are introducing today. I must say, Mr. Speaker, that I have reservations about the Treasury proposal which I am introducing today by request. Consequently, I will soon be introducing my own proposal for regulatory reform that will form the basis of the committee's action in this area and which, I hope, will have the bipartisan support. I intend to move expeditiously on this legislation and I am confident that the committee will report out legislation by the September 15, 1991, statutory deadline set forth in the Omnibus Budget Reconciliation Act of 1990.

A WORLD CLASS COMPANY OF THE 1990'S: SATELLITE TRANSMISSION SYSTEMS

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. HOCHBRUECKNER. Mr. Speaker, today I would like to share with our colleagues and with the American people the quality of products and service of a world class company of the 1990's, Satellite Transmission Systems, Inc. [STS], located in the technology-rich industrial community of Hauppauge on Long Island, NY. STS offers a successful corporate profile which U.S. firms in any industry can look upon as a model to follow. Its high rate of customer satisfaction and product quality has set STS at the top of the satellite communications industry.

STS is dedicated to the design, supply, and turnkey installation of satellite ground stations. It is a leader in the communications industry, competing domestically and internationally. The company continuously improves the quality of the service it provides through Vision 90's total quality management [TQM], STS' education and improvement program. The main priority of this program is to maximize the skills of employees.

One aspect which puts STS at the forefront of successful companies is its goal to continuously educate 100 percent of its 490 employees. In 1990, STS through Vision 90's TQM invested over $1.2 million in employee education programs such as program management education, workmanship training, organization and management development education, among others. At STS, employees at all levels spend at least 10 percent of their time at the workplace in training. Most U.S. companies provide training for only 10 to 20 percent of employees while 100 percent of STS employees are continually being educated.

Field failures and product support costs are major concerns to any satellite communications company. STS has minimized failures and increased quality. One way to gauge STS' product evaluation is through warranty cost percentages. Japanese companies, on the whole, rate at the top in this category with under 1 percent, an average of 0.6 percent warranty costs. STS, in comparison, holds approximately 0.4 percent in the percentage of warranty costs. Other U.S. companies average at best a 2.0-percent rating.

In a recent customer satisfaction evaluation, STS was rated near excellent in eight different performance areas including reliability, equipment, tech services, and support. Customers which rated areas good were contacted immediately by a customer representative from the president's office. STS takes their customers' remarks with the utmost respect and uses them to increase satisfaction and product quality.

STS' success has propelled it to be the major supplier to companies such as AT&T, MCI, British Telecom, and some U.S. Government agencies. STS has been involved in both domestic and international projects. The sale of a completed Earth station to KDD—Japan—the supply of 14 television uplinks for the 1988 Olympics, the Washington-Moscow hot-line upgrade, and the field terminals used in Operation Desert Storm are just some of STS' well respected jobs. Also, in 1988, STS was the first American company to be selected MCI "Vendor of the Year."

Mr. Speaker, it is companies like Satellite Transmission Systems, Inc. that keep the United States at the peak of technology. STS is a growing company in a declining market. Its corporate work ethic and product quality are exemplary and should be emulated by all U.S. companies. In a time when foreign competition is strong, American companies should look for new and innovative ways for success through education. STS has done just that. I ask my colleagues to join me in saluting STS and all of its dedicated employees. I wish them continued success in providing advanced satellite systems.

GOVERNMENT-SPONSORED ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1991

HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. WYLIE. Mr. Speaker, today, the distinguished chairman of the Banking Committee, Mr. GONZALEZ and I, along with the ranking member of the Housing Subcommittee, Mrs. ROUKEMA, are introducing by request the administration's proposal to assure GSE safety and soundness.

Government-sponsored enterprises [GSE's] are financial institutions chartered by the Federal Government to achieve the public purpose of facilitating the flow of funds to housing, agriculture or higher education. Within the Banking Committee's jurisdiction are the Federal National Mortgage Corporation—Fannie Mae—Federal Home Loan Mortgage Corporation—Freddie Mac—and the Federal Home Loan Bank System. Together, these housing-related GSE's have incurred outstanding debt of over $885 billion. Therefore, in light of the 1987 farm credit bailout and the S&L crisis, the Congress has grown concerned over the significant obligations of these federally-chartered organizations.

The Congress responded to these concerns by mandating in FIRREA several separate reports: one to be conducted by the Treasury and the other by GAO. The primary objective of these reports was to examine the contingent liability of the Federal Government which arises from the implicit guarantee for the GSE's obligations. Last year's Budget Reconciliation Act required the Treasury and CBO to submit studies on the GSE's and recommended legislation by April 30, 1991.

All total, Mr. Speaker, the Congress has received seven reports by five different Government agencies over the last 2 years. Treasury, CBO, GAO and others have examined the GSE's in exhaustive detail. Each has produced reports with regard to the current state of health of the GSE's, and has made proposals with regard to the future of the GSE's. With specific regard to the housing-related GSE's, the Treasury indicates—"Fannie Mae and Freddie Mac are healthy, well-managed companies that currently do not pose a risk to the taxpayer." However, the reports also are unanimous in their view that there is insufficient Government oversight of the GSE's.

In this regard, committees with GSE oversight, such as the Banking Committee, are required by last year's Budget Reconciliation Act to report, by September 15, 1991, legislation to ensure the financial soundness of the GSE's and to minimize the possibility that a GSE might require Government assistance.

Mr. Speaker, I believe most Members would agree that the housing-related GSE's continue to fulfill their public mission in an exemplary manner. Without the link between housing markets and capital markets which has been forged by these GSE's, there would be far fewer homeowners in the United States today. The GSE's have been a true success story in providing liquidity, efficiency and access to the housing finance system for low, moderate, and middle-income Americans at no cost to the Federal Government. I, nor any Member of this body, would want that capability impaired in any way in the future.

Since the release of the two required studies, under the able leadership of Chairman GONZALEZ, the Housing Subcommittee has held two comprehensive hearings on the financial conditions of and the risks associated with GSE's. Two major issues will shape the debate: Who the appropriate regulator will be, and what the appropriate capital levels are for these two GSE's? It would seem to me, therefore, that we should proceed with caution in terms of making any radical changes to these crucially important housing-related organizations. By the same token, however, the great importance of these GSE's and the tremendous size of their borrowings makes it incumbent upon our committee to consider carefully the need for increased Government oversight.

Three factors must be balanced when considering the appropriate manner in which to regulate Fannie Mae and Freddie Mac. First, financial safety—an absolute minimum capital standard must be established to protect the taxpayer under any circumstances, as well as to provide a cushion during which time the regulator is required to intervene. Above and beyond this minimum capital standard, a risk-based system must be set up to provide for reasonably adequate additional capital. Second, housing mission—in setting up a framework for regulating the housing-related GSE's, care must be taken to avoid jeopardizing their ability to perform their public mission of linking the capital and housing markets. Third, investment needs—in providing for financial safety and soundness and ensuring fulfillment of their housing mission, the final consideration must include recognition that Fannie Mae and Freddie Mac are private companies which must compete in the private sector capital markets by providing a competitive return on investment.

Mr. Speaker, it is clear to me that the process establishing safety and soundness standards for the housing-related GSE's will not be a political one, in part, because of the complicated subject matter. More importantly, these GSE's serve such a vital public purpose, that of facilitating homeownership. Given the track record of cooperation established during last year's Cranston-Gonzalez National Affordable Housing Act, I look forward to working in a bipartisan manner with the administration, and with the distinguished chairman of the Banking Committee, HENRY GONZALEZ.

Mr. Speaker, the Government-Sponsored Enterprises Safety and Soundness Act of 1991 is one proposal which the Banking Committee will use to craft reasonable and practical capital standards and an improved regulatory structure for Fannie Mae and Freddie Mac. The Banking Committee has a full agenda this year. We are well along in the process of bank insurance reform. I am confident that the Banking Committee will meet its responsibility under last year's Budget Reconciliation Act and report out legislation by September 15 of this year.

The administration's section-by-section analysis of the Government-Sponsored Enterprises Safety and Soundness Act of 1991 follows:

SECTION-BY-SECTION ANALYSIS OF GOVERNMENT-SPONSORED ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1991

The primary purpose of the Government-Sponsored Enterprises Financial Safety and Soundness Act of 1991 (the "Act") is to establish a system of regulation of the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC") that embodies the following principles developed in the 1991 Report of the Secretary of the Treasury on Government-Sponsored Enterprises—

(1) financial safety and soundness should be given primacy over other public policy considerations in the regulation of FNMA and FHLMC;

(2) the regulator should have sufficient stature to maintain independence from FNMA, FHLMC and special interest groups;

(3) private market risk assessment mechanisms can help the regulator assess the financial safety and soundness of FNMA and FHLMC; and

(4) the basic statutory authorities for financial safety and soundness regulation should be consistent across all Government-sponsored enterprises; therefore, the regulator should have the authority, among others, to establish capital standards; require financial disclosure; if necessary, prescribe adequate standards for books and records and other internal controls; conduct examinations; and enforce compliance with the standards and rules so established.

Title I creates a new separate, arms-length bureau within the Department of Housing and Urban Development ("HUD") that will be responsible for assuring the financial safety and soundness of FNMA and FHLMC. The new bureau, to be known as the Office of Government-Sponsored Enterprise Financial Oversight (the "Office"), will become effective January 1, 1992.

Section 101 is a definitional section. The term "Director" is defined to mean the Director of the Office. The term "enterprise" means the FNMA and FHLMC and any affiliates they may be authorized to establish. The term "Secretary" means the Secretary of HUD. The terms "capital", "capital distribution", "compensation", "executive officer", and "new program" are also defined.

Section 112 provides for the appointment of the Director by the President with the advice and consent of the Senate. The Director serves for a term of five years. Vacancies are to be filled in the same manner as appointments. The Director is authorized to designate who shall act as Director if the Director dies, resigns, or is sick or absent. If the Director does not make such a designation, the Secretary of HUD shall make the designation.

Section 113 amends section 5314 of Title 5 of the United States Code to provide that the Director shall be compensated at Level III of the Executive Service.

Section 114 provides that certain actions of the Director shall be within the exclusive authority of the Director. These actions include case-specific determinations and actions regarding the denial for reasons of safety and soundness of any request for approval of the Director under applicable law or regulations, examinations, decisions to appoint a conservator, and any enforcement action. The Director may nevertheless consult with the Secretary on any matter, including those described above. All other authority vested in the Director, including the authority to adopt rules and regulations, shall be exercised by the Director subject to the review and approval of the Secretary. The section also expressly provides that the Director may delegate any of the Director's authority to any employee, representative or agent of the Office.

Section 115 authorizes the Director to appoint all employees of the Office and fix their compensation.

Section 116 provides the Director with broad authority to issue such regulations and orders as are necessary or appropriate to carry out any law within the Director's jurisdiction. Any regulations promulgated by the Director are to be exempt from the provisions of section 3535(o) of title 42 of the United States Code, which requires the Secretary of HUD to notify certain Congressional committees prior to publication of any proposed or final rules.

Section 117 contains certain conforming amendments to the Federal National Mortgage Association Charter Act (the "Charter Act") to reflect the new grant of authority to the Director to supervise the safety and soundness of FNMA and to coordinate such authority with certain programmatic authority retained by the Secretary. Section 117 amends section 303 of the Charter Act to delete the requirement that the Secretary approve any requirement imposed by FNMA on mortgage sellers to make capital contributions to FNMA. Since the purpose of such a requirement is to accumulate funds for FNMA's capital surplus, this requirement relates to financial safety and soundness and therefore should be taken into account by the Director in establishing and enforcing capital standards for FNMA.

Section 304(b) of the Charter Act is amended by deleting language that limits FNMA outstanding unsecured debt to 15 times FNMA's capital, capital surplus, general surplus, reserves and undistributed earnings unless the Secretary of HUD sets a higher ratio. A sentence limiting unsecured debt to an amount equal to the amount of unencumbered mortgages and certain other liquid investments is also deleted. Both of these provisions impose capital restraints on FNMA that should no longer be necessary given the authority granted to the Director to establish relevant capital measures for FNMA.

Section 304(b) of the Charter act is further amended to require FNMA also to obtain the approval of the Director whenever it must under current law obtain the approval of the Secretary of the Treasury in connection with the issuance of obligations. Since the issuance of obligations, especially new instruments with unknown risk characteristics, can have a significant effect on the safety and soundness of FNMA, the Director needs to be able to disapprove the issuance of particular obligations to carry out the Director's functions. It is not, however, intended that the Director micromanage FNMA's funding operations; therefore, this amendment provides that any obligation issued or being issued by FNMA on the date of enactment of this Act, or any obligation of a substantially identical type, is deemed approved by the Director. This provision does not override the Director's authority under section 131 as set forth below to limit liabilities of FNMA. These amendments are not intended to affect in any way the existing authority of the Secretary of the Treasury.

Section 309(h) of the Charter Act is amended to reflect the responsibility given to the Director for assuring the financial safety and soundness of FNMA. As amended, the subsection will provide that the Secretary of HUD shall have regulatory and rulemaking authority over FNMA, except for the authority to ensure safety and soundness that is vested in the Director as described above.

Section 311 of the Charter Act is amended to delete a requirement that the Secretary of HUD approve all issuances of stock and convertible debt by FNMA.

All of these amendments except the amendment deleting the statutory capital ratio shall become effective on January 1, 1992, the date the Office is established. The amendment deleting the statutory capital ratio becomes effective three years after the date of enactment, which is the effective date for the minimum risk-based capital levels described below.

Any rules and regulations adopted by the Secretary pursuant to provisions of the Charter Act will be effective and enforceable by the Secretary to the extent they are not inconsistent with the duties and authorities of the Director.

Section 118 contains similar conforming amendments to the Federal Home Loan Mortgage Corporation Act (the "FHLMC Act"). Section 303(b) of the FHLMC Act is amended to reflect the responsibility given to the Director for assuring the financial safety and soundness of FHLMC. As amended, the subsection will provide that the Secretary of HUD shall have regulatory and rulemaking authority over FHLMC, except for the authority to ensure safety and soundness that is vested in the Director as described above.

Section 303(b) of the FHLMC Act is also amended by eliminating a provision authorizing the Secretary of HUD to limit the amount of dividends paid by FHLMC. This authority is included in the more detailed supervisory and enforcement powers granted to the Director as described below. A statutory capital rule similar to the one described above for FNMA is also deleted as unnecessary in view of the explicit authority granted the Director to establish relevant capital measures for FHLMC.

Section 118(b) amends section 306(j) of the FHLMC Act to give the Director concurrent approval authority with the Secretary of the Treasury over the issuance of notes, debentures, and substantially identical types of unsecured obligations. This amendment is intended to have the same effect as the parallel amendment to section 304(b) of the Charter Act in section 177(b) (3)–(4).

The various amendments to the FHLMC Act have the same effective dates as the parallel amendments to the Charter Act, as described above. Any rules and regulations adopted by the Secretary pursuant to provisions of the FHLMC Act will be effective and enforceable by the Secretary to the extent they are not inconsistent with the duties and authorities of the Director.

Section 119 requires the Director to make an annual report to Congress setting out steps taken to implement this Act, the safety and soundness of each enterprise, and any recommended amendments to any law affecting the safety and soundness of the enterprises. These reports will be in addition to reports of the Secretary required under current law. It is intended that the Secretary will report separately on programmatic matters not included in the report of the Director.

Section 120 authorizes the Secretary to assess the enterprises an amount equal to the costs associated with carrying out the Director's responsibilities and the Secretary's regulatory responsibilities with respect to the enterprises. These funds are to be deposited into a new separated fund of the Treasury from which they will be immediately available to carry out the responsibilities of the Secretary and the Director without regard to fiscal year limitations.

Section 131 sets out the new authority granted to the Director to ensure the capital adequacy of the enterprises and to take prompt corrective action in the event an enterprise falls below a relevant capital measure. Under section 131(a), the Director is required to establish relevant capital measures for the enterprises and to establish minimum risk-based capital levels for each measure that meet certain criteria. The minimum risk-based capital levels must exceed the leverage limit set forth in section 131(a)(2) and they must equal, in the Director's opinion, the sum of—

(1) an amount of capital sufficient, when considered in conjunction with guarantee fees paid to the enterprise, to enable the enterprise to maintain positive capital to cover interest rate risk and credit risk, independently, under stressful economic circumstances determined by the Director;

(2) an amount of capital sufficient to protect against management risk, operations risk, and business risk; and

(3) an amount of capital sufficient to provide capital coverage at the margin for proposed new programs or lines of business whose risk characteristics are uncertain.

In assessing the impact of the stressful economic environments determined by the Director, the Director will use the most recent generally accepted analytical methodologies to measure the interest rate risk and credit risk presented by the enterprise's method of conducting business.

Section 131(a)(2) sets forth a leverage limit which is equal to the sum of—

(1) 2.50 percent of total on-balance sheet assets,

(2) 0.45 percent of the total face value of outstanding mortgage-backed securities issued or guaranteed by the enterprise, and

(3) such other percentage of other off-balance sheet obligations as the Director shall establish by regulation.

The Director is given the authority to establish by regulation a leverage limit above the specified level.

Finally, section 131(a)(3) provides for a critical capital level that is intended, as a general matter, permit resolution of an enterprise's problems from its own resources. This level shall be the sum of 1.25 percent of total on-balance sheet assets, .25 percent of outstanding mortgage-backed securities, and such other percentage of other off-balance sheet obligations as the Director shall establish by regulation.

"On-balance sheet assets" and "off-balance sheet obligations" are to be determined in accordance with generally accepted accounting principles.

Based on the three capital levels just described, section 131 establishes four different levels into which an enterprise may fall and sets forth specific actions that may be taken by the Director depending upon which level an enterprise is in. The Director is required to promulgate the regulations establishing the minimum risk-based capital levels within one year from the date of enactment. Beginning three years from the date of enactment, the Director may take any action authorized under section 131 (as described in greater detail below) for failure to meet the minimum risk-based capital level. The Director may take any action authorized under section 131 based upon failure to meet the statutory leverage limit beginning one year after the date of enactment. The Director may take any action authorized under section 131 based upon failure to meet the critical capital level beginning January 1, 1992.

Level I is defined to include an enterprise that maintains capital that is below the minimum risk-based capital level for any relevant capital measure and is not within Levels II, III, or IV as described below.

Level II is defined to include an enterprise that maintains capital that is significantly below the minimum risk-based capital level for any relevant capital measure but that is at or exceeds the leverage limit, or an enterprise that is otherwise classified within Level II under other provisions of section 131.

Level III is defined to include an enterprise that maintains capital that is below the leverage limit but that is at or exceeds the critical capital level, or an enterprise that is otherwise classified within Level III under other provisions of section 131.

Level IV is defined to include an enterprise that maintains capital below the critical capital level.

Section 131(a)(7) provides that the Director may reclassify any enterprise in Level I or Level II to Level III if the Director determines that the enterprise is in an unsafe and unsound condition or is engaging in an unsafe and unsound practice.

Section 131(b) provides that the Director shall promulgate regulations and take such other actions as are necessary to implement the provisions of section 131. It further provides that the Director is authorized to issue such orders and take such other actions as are necessary or appropriate to carry out the purposes of section 131. Section 131(b) also provides that the Director shall by regulation specify the applicable capital levels for each relevant capital measure to delineate Levels I through IV as described above.

Finally, section 131(b) provides that an enterprise that falls below the minimum risk-based capital levels may engage in an activity otherwise subject to programmatic approval of the Secretary only if it obtains in addition the approval of the Director as specified in section 131. This amendment combined with section 114 as described above gives the Director the exclusive authority to deny permission to engage in such investments for reason of financial safety and soundness. The Secretary of HUD retains the authority to approve or deny such investments for programmatic reasons.

Section 131(c) sets forth the mandatory actions that may be taken with respect to an enterprise within Level I. The mandatory actions include restrictions on expansion and capital distributions that would cause the enterprise to fall below Level I. The Director shall also refuse any expansion if the Director determines that the enterprise is engaging in an unsafe and unsound practice or is in an unsafe and unsound condition.

Section 131(d) sets forth the mandatory and discretionary supervisory actions that may be taken with respect to an enterprise within Level II. The mandatory actions include a requirement to submit and implement an acceptable capital plan that will restore the capital of the enterprise to a level sufficient to meet the minimum risk-based capital levels established by the Director, restrictions on capital distributions, restrictions on expansion that are otherwise subject to approval by the Director, and reclassification to Levell III for failure to submit an acceptable capital plan or to implement it in good faith to the satisfaction of the Director.

The discretionary supervisory actions include the authority to limit any increase in, or order the reduction of, any liabilities; to restrict or require contraction of the enterprise's assets; to restrict capital distributions; to restrict activities; and to limit executive compensation.

Section 131(e) includes the mandatory and discretionary supervisory actions applicable to enterprises within Level III. The mandatory actions include a requirement to submit and implement an acceptable capital plan if one has not already been filed; a prohibition on capital distributions; a prohibition on expansion; a limitation on asset growth; and a limitation on compensation. The discretionary actions include the ability to impose further limits on executive compensation as well as authority to dismiss officers and directors and the authority to appoint a conservator for the enterprise.

Section 131(f) provides that the Director shall, within 30 days after determining that an enterprise is within Level IV, appoint a conservator for the enterprise. The conservator shall have the authority to take any mandatory or discretionary supervisory actions available for enterprises in Level II or III and shall also have the powers of a conservator as set forth in section 164.

The Director is given the authority to modify, defer, or remove any mandatory supervisory action applicable to any enterprise if the Director determines it to be in the public interest.

Section 131(q) sets forth the requirements of the capital restoration plan that is required as described above. The Director is generally required to act on a capital plan within 30 days after submission, but the Director is authorized to extend this time period.

Section 131(h) provides that any person aggrieved by an action of the Director under this section may obtain judicial review in the United States Court of Appeals for the District of Columbia Circuit or the United States Court of Appeals for the circuit in which the concerned enterprise maintains its home office. An aggrieved person includes the enterprise that is the subject of a mandatory or discretionary supervisory action under Level I, II, or III; a person who has been dismissed as provided in this section; or a person whose compensation has been limited as provided in this section.

An action of the Director may be modified, terminated or set aside only if the reviewing court finds, on the record on which the Director acted, that the Director's action was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. No court shall have jurisdiction to enjoin or otherwise delay agency action pending judicial review. However, petitions under this section will be given expedited review.

Section 132 amends Title 28 of the United States Code to grant the United States Claims Court jurisdiction over claims for damages against the United States where an action of the Director has been modified, terminated or set aside by a reviewing court.

Section 133 establishes a safe harbor for enterprises that receive the highest investment grade from two nationally-recognized statistical rating organizations ("NRSRO"). If the Director determines, after receiving ratings from two NRSROs, that an enterprise merits the highest investment grade rating, the enterprise shall be deemed to meet the minimum risk-based capital levels described above for one year following the effective date of the Director's determination. If the Director fails to make such a determination, the Director shall make a written finding setting forth the reasons. The safe harbor will be terminated prior to the end of the one-year period if either NRSRO notifies the Director, and the Director determines, that an enterprise no longer merits the highest investment grade. The cost of the ratings will be covered by an assessment on the enterprise seeking to qualify for the safe harbor. The Director máy seek a rating of an enterprise from an NRSRO at any time to assist in carrying out the Director's responsibilities.

Section 134 imposes various reporting requirements on each enterprise that are similar to the reporting requirements imposed on banks under the Federal Deposit Insurance Act ("FDI Act"). Section 134 requires each enterprise to make annual reports of condition to the Director and authorizes the Director to call for such additional other reports as the Director determines to be necessary. The reports of condition shall be certified by an officer of the enterprise as true and correct to the best of his or her knowledge and belief and shall also be attested by at least three directors of the enterprise.

Section 134(c) imposes three tiers of penalties for failure to make reports as required under this section. Section 134(d) also requires each enterprise to make such reports to the Director on the payment of capital distributions as the Director deems necessary.

Section 135 authorizes the Director to appoint examiners who shall have the power to examine either enterprise whenever the Director determines that an examination is necessary to determine the condition of the enterprise.

Sections 141 through 144 grant the Director authority to issue cease-and-desist orders or to remove or suspend officers or directors of an enterprise that parallels the authority of the appropriate Federal banking agencies under section 1818 of the FDI Act. Section 147 contains authority to impose civil money penalties under three different tiers. These penalties, like the penalties in the FDI Act on which they are modeled, are intended to be compensatory of costs and damages to the Government that are not readily susceptible to measurement. Nonetheless, since the imposition of these civil penalties may potentially preclude a subsequent criminal prosecution based on the same facts under the Double Jeopardy clause of the U.S. Constitution, *see United States V. Halper*, U.S. , 109 S. Ct. 1892 (1989), the Congress intends the Director and the Attorney General to work together to develop procedures to avoid undesired preclusion of subsequent criminal prosecutions.

Sections 161 through 167 contain conservatorship provisions that parallel provisions of the Bank Conservation Act (12 U.S.C. 200 et seq.). Section 161 provides the Director with the authority to appoint a conservator to take possession and control of an enterprise whenever one or more of several circumstances exists, including classification in Level III or Level IV as described above. Section 161 also provides for judicial review of the appointment of a conservator. Section 162 authorizes examinations of enterprises in conservatorship. Section 163 provides for termination of a conservatorship. Section 164 sets forth the powers and duties of a conservator. Section 165 provides limits on the liability of a conservator and permits the Director to indemnify a conservator.

Title II contains an amendment to section 2A of the Federal Home Loan Bank Act which makes financial safety and soundness of the Federal Home Loan Banks ("FHLBks"). the primary duty of the Federal Housing Finance Board ("FHFB"). The other duties of FHFB, which include ensuring that the FHLBks carry out their housing finance missions, although important, are to be secondary to ensuring that the FHLBks operate in a financially safe and sound manner.

INTRODUCTION OF PENSION HARDSHIP RELIEF ACT

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. MOODY. Mr. Speaker, today I am introducing legislation with my colleague STEVE GUNDERSON that will make a small change in the tax law, but create an enormous benefit to thousands of American workers facing economic hardships due to plant closings, layoffs, or other unforeseen hardships.

I am acting in behalf of the over one thousand workers that will be thrown out of work by the closing of the Uniroyal plant in Eau Claire, WI, and many thousands of others now and in the future who may lose their jobs for myriad reasons. These workers, the middle income, working people who form the very backbone of our communities, should not be forced to sell their homes, take their children out of college, or reduce themselves to poverty simply to maintain a basic, decent standard of living.

This legislation allows those that are forced to dip into pension funds to meet a limited number of crucial expenses avoid the 10 percent penalty tax on early withdrawals of such funds. This is not a tax shelter scheme—pension funds could be used for very narrow purposes only, and all disbursements would be taxed as regular income. Only the penalty would be waived.

The legislation mirrors the hardship exception that already exists for 401(k) pension plans. Regulations governing section 401(k)(2)(B)(i) allows for a hardship distribution in two cases:

First, the distribution must be made on account of immediate and heavy financial need of the employee; and

Second, the distribution must be necessary to satisfy that need.

The expenditures for which penalty free withdrawals could be made are very limited in order to prevent abuse. These include medical expenses, tuition payments for children or a spouse, and rent or mortgage payments to prevent being thrown out of one's home.

I recognize the concern many of us have with creating early access to pension funds. The whole reason for creating tax incentives for pensions is to defer consumption to ensure a comfortable retirement. This is an important goal; access to these funds prior to retirement should not be easy.

But there are clearly circumstances where such access is warranted, as the rules governing 401(k) plans recognize. This legislation extends the same logical benefits to other qualified pension plans, including both defined benefit and defined contribution plans. We owe it to the productive working men and women of America to give them every consideration in coping with unpredictable difficulties that adversely affect them and their families.

ENVIRONMENTALISTS URGE PIPELINE THROUGH ANWR

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. YOUNG of Alaska. Mr. Speaker, most of us have heard from constituents responding to environmental fundraising groups about the coastal plain of Arctic National Wildlife Refuge [ANWR], in my State of Alaska. Claims are made that this area is unique, pristine, and priceless; even against a 50–50 chance that at least 3 billion barrels of oil will be found there. This would make ANWR the second and third largest oil field ever discovered in America.

What the leaders of these groups aren't saying—and aren't telling their readers—is that back when Congress was debating the construction of the Alaska pipeline, which is currently responsible for delivering 25 percent of America's daily oil production, they were urging that the pipeline should be built right through ANWR. There was even a proposal to build a railroad through the ANWR.

In a revealing article in the Houston Chronicle May 23, Michel T. Halbouty, chairman of the board and chief executive officer of Michel T. Halbouty Energy Co., details this flip-flop on ANWR.

I ask that the article be reprinted in the RECORD in its entirety.

[From the Houston Chronicle, May 23, 1991]

FORKED TONGUES SPEAK AGAINST ARCTIC OIL SEARCH

(By Michel T. Halbouty)

When analyzed rationally, it becomes clear that there can be no question that the development of Alaska's Arctic National Wildlife Refuge oil resources is essential to the security of the United States. This need is made all the more pressing when we consider the fact that oil imports are again rising, having topped 8.3 million barrels per day for the first week of May.

Despite this telling evidence, however, the environmental lobby remains intransigent. Part of the reason is that opposition to oil exploration on ANWR has grown to mythic proportions in the environmentalists' pantheon of issues, becoming in effect their Holy Grail. As with any group's quintessential issue, they have come to pursue opposition to drilling on ANWR with a virtually religious fervor.

For example, holding the line on ANWR became the environmental lobby's litmus test in last year's congressional election, with the groups threatening active opposition to any candidate who dared refuse to pledge unqualified support for keeping oil explorationists out. But it was not always so. In fact, at one time, the very groups that are so adamant about ANWR's unique ecological value today were singing quite a different tune. It is interesting to read on and see just how they condoned and even suggested various heavy activities to be conducted in ANWR.

Between 1969 and 1973, the Department of the Interior held an exhaustive series of hearings examining the environmental consequences of building the Trans-Alaskan Oil Pipeline System. The record of these hearings comprises tens of thousands of pages, many of which are taken up by testimony from various members of the environmental lobby, which saw blocking the TAPS pipeline's construction as a way to block Alaskan oil development.

Although in most respects the arguments they put forward against the TAPS line are virtually identical to those offered in opposition to ANWR today, they differ in one important respect their attitude toward ANWR.

The testimony they presented in these hearings provided a valuable insight for today's debate, because it shows how facile the environmental lobby is at tailoring its arguments to the cause of the moment. Indeed, the testimony clearly reveals the flimsy fabric of their current position, bringing to mind the old Indian expression of "speaking with forked tongues."

At the May 4, 1972, TAPS hearing, Thomas J. Cade, testifying on behalf of the Wilderness Society, Friends of the Earth and Environmental Defense Fund, stated:

"The Arctic National Wildlife Range has practically no exception or unique natural values in its northern foothills and narrow coastal plain sections."

Sierra Club representative Lloyd Tupling stated at the same hearing:

"An all-land route through Canada, with a spur running to Prudhoe Bay south of the Arctic Wildlife Range (in which is now ANWR), would have several advantages over the North Slope-Valdez route."

Nor was this position new to the environmental lobby. A year earlier, at a hearing on May 16, 1971, Chris Hartwell, another environmentalist, had stated:

"It is far better to run the pipeline through the wildlife range."

Richard Rice, a professor at Carnegie-Mellon University, even went so far as to suggest building a railroad across ANWR to ship Prudhoe Bay oil!

And what about the most basic issue, the importance of Alaskan oil production?

At the Feb. 4, 1971, hearing on TAPS held in Washington, D.C., David Wayburn, vice president of the Sierra Club, turned his crystal ball to the future, noting that development of Alaskan oil "suggests an increasing need for oil at a rate of 4 percent a year at the very time the internal combustion engine may be becoming obsolete."

Since Wayburn offered this opinion, the number of cars, trucks, buses and motorcycles on the road in the United States has risen by nearly 72 million from the 1971 level.

At the Feb. 17, 1971, hearing, Berkeley Professor Richard B. Norgaard said: "The North Slope oil does not particularly add to our security."

As noted earlier, the North Slope contributes 20 percent of all the oil produced in the United States today.

Most revealing of all, however, in terms of the real goals of the environmental movement was May 4, 1972, New York Times article, later included in testimony by David Brower of Friends of the Earth. His summary of the environmentalist attitude presented one of the clearest revelations of its real objectives when he stated at one point:

"There is a hope our population will not increase over the next years. Furthermore, new generations may find the quest for more material goodies a less satisfactory way to spend their lives than relating to more permanent systems of value."

And what might these "more permanent systems of value" be? Obviously, whatever

Brower and his friends think they should be. What Brower's comment so clearly reveals is there is actually a hidden agenda behind the environmental lobby's opposition to virtually every effort to produce additional domestic energy, whether it is in ANWR or offshore, or anywhere else.

Their much vaunted concern over the environment, it seems, is merely a subterfuge to permit them to accomplish their genuine goal: the restructuring of society to conform with their own narrow concept of what it should be.

While they are certainly free to advocate whatever societal structure they want, their failure to be more forthright about their true aims is simply disingenuous.

So, following their dream might permit an elitist few to live well, but would condemn the masses in most nations to the status of a permanent underclass. In short, theirs is an elitist vision that would benefit only a chosen few.

The above quotes of the environmentalists on their early attitude on ANWR clearly reveal that they will tailor their actions to whatever suits their fancy at the moment.

Passing up the opportunity ANWR presents is a luxury the nation cannot afford. It is our last best chance to stem the rising tide of imports. Let the environmental lobby have its self-absorbed dreams of restructuring society, but let the explorationists have ANWR for the benefit of the nation. To do otherwise can only aggravate our import dependence without justification, and we have seen all too graphically over the last 10 months just how costly that dependence can be.

SUPPORT FOR THE HIGHWAY 610 CORRIDOR

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. SIKORSKI. Mr. Speaker, this week I had the pleasure of meeting with many of my constituents from the Sixth District of Minnesota regarding transportation needs. Particularly, the North Metro Crosstown Coalition has been working hard to procure much needed Federal and State assistance for the Highway 610 corridor in my district. I am pleased to support them in this effort because it will do a great deal to ease congestion for the region as well as provide an intermodal model for the rest of America. I understand the fine bipartisan work of the House Public Works and Transportation Committee will result in legislation in the not too distant future, and I support them in their diligent efforts to set a new direction for transportation funding into the 21st century.

I would like to submit for the RECORD a letter from the Minnesota Commissioner of Transportation John H. Riley, expressing support for the Highway 610 project and its funding in the Federal transportation bill. I commend Mr. Riley for his commitment to this project and note that 18 mayors and thousands of their constituents represented by the North Metro Crosstown Coalition also note his support for their project. Just as the Public Works Committee, we in Minnesota also work in a bipartisan fashion when it comes to much needed transportation needs. I hope we can continue this bipartisan effort right through final passage and enactment.

MINNESOTA DEPARTMENT
OF TRANSPORTATION,
St. Paul, MN, May 31, 1991.

Hon. PATRICK D. MCGOWAN,
Senator, District 48, State Office Building, St. Paul, MN.

DEAR SENATOR MCGOWAN: I appreciate your statement of support for the Trunk Highway 610/10 improvement project.

While this project is not in the Mn/DOT five year construction plan, it is impossible to question it's value. I expect 610 to be one of the projects competing for designation in this year's programming cycle. Approximately 550 projects from around the state will compete for designation in that process, and I have no doubt that 610 will make Mn/DOT's programming list either in this cycle or within the next several years. I have had the opportunity to tour the corridor myself, and the need for the project is very clear.

As you know, Mn/DOT had identified the Bloomington Ferry Bridge as the State's number one federal appropriation priority. That designation results from the fact that the bridge has outlived its useful life, and must be closed repeatedly when river levels rise above their normal stage. However, I have discussed the 610 project with a number of our delegation members, and informed them that Mn/DOT considered it a worthy project, and would be happy to receive funding to commence it.

This is an unusual year, in that our latitude in project programming will depend to a significant extent on the final dollars and language in the new federal highway bill. But I want to assure you that we do consider Highway 610 a worthy project. While it will have to compete with other worthy projects from other areas of the state in the annual programming competition. I have no doubt that it will be programmed and constructed within the foreseeable future.

Yours very truly,

JOHN H. RILEY,
Commissioner.

A TRIBUTE TO MR. DENNIS E. BENNETT

HON. ELEANOR HOLMES NORTON

OF DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Ms. NORTON. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a distinguished member of the Washington Metro community, Mr. Dennis E. Bennett, who is being honored tonight by the Shaw Community Center in ward 2 of my district for his exceptional civic contributions to our community. Tonight's salute/dinner is a fundraising event held annually by the Shaw Community Center Food Committee to provide money for Thanksgiving food baskets for needy families throughout our area.

In his quarter of a century with Allstate Insurance Co., Dennis Bennett has risen from supervisor trainee to regional vice president. His present position gives him responsibility for his firm's insurance operations in Maryland, Virginia, and the District of Columbia. But Mr. Bennett is far more than a hardworking and talented professional; he is a considerate husband, a caring father, a good neighbor, and a selfless community leader.

I know that my colleagues in this House will join me in saluting a man who has given so generously of his time and energy to worthy causes in my district.

GAY PRIDE MONTH

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. WEISS. Mr. Speaker, 22 years ago, following a riot at a bar named Stonewall, a tradition was born. This tradition has evolved into a yearly proclamation by the mayor of New York City declaring the month of June Gay and Lesbian Pride and History Month. This month of events culminates on the final Sunday, Gay Pride Day, when tens of thousands of gay men and lesbians, joined by their friends and families, fill the streets in celebration.

I am pleased to note that in the past 22 years the gay and lesbian community has made significant strides. As gays and lesbians have come out of the closet and organized, they have emerged as a formidable political force. Their lobbying efforts were instrumental in securing passage of the Ryan White Aids Care bill and the Hate Crimes Statistics Act of 1990. Their diligent work also has been pivotal in garnering broad support for H.R. 1430, the Civil Rights Amendments Act of 1991, which amends the Civil Rights Act of 1964 and the Fair Housing Act to prohibit discrimination on the basis of affectional or sexual orientation. As lead sponsor of H.R. 1430, I particularly am proud to announce that this legislation has an alltime high 91 House cosponsors in the 102d Congress.

Sadly, though, the AIDS epidemic has led to increased discrimination against homosexuals and those who are perceived to be homosexual. As violence against this community rises dramatically and many States, including New York, grapple to pass hate crime laws, it is ironic that this celebration of gay and lesbian dignity arose from an incident of bias-related violence.

As gays and lesbians across the country commemorate this symbolic month of pride, it is time for Congress to join that celebration by finally extending civil rights protections to the approximately 25 million Americans which our Government has systematically overlooked.

TRIBUTE TO GEREON RIOS

HON. RICHARD H. LEHMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. LEHMAN of California. Mr. Speaker, I would like to take this opportunity to commend an outstanding constituent of mine, Mr. Gereon Rios, for his efforts on behalf of the Tuolumne County Vietnam Veterans Memorial Project. Mr. Rios has selflessly donated his time and artistic talents to make this memorial possible.

As a Vietnam veteran, Gereon Rios has designed and cast six bronze works of art which will grace the Tuolumne County Vietnam Veterans Memorial. Each bronze sculpture pays tribute to those who made sacrifices during the Vietnam war and furthers the continuing healing process for our nation.

Born in Mexico City, Mr. Rios moved to the United States as a child and studied art when not working in the fields. Over the years, he has continued his studies and taught art at various institutions in both the United States and his native Mexico. However, his latest work may be his most powerful as Mr. Rios acknowledges the suffering of his fellow soldiers and others who have felt the pain of war.

As a recipient of the Bronze Star, Mr. Gereon Rios continues to demonstrate his dedication to the United States through his contributions in Tuolumne County. I congratulate him on his achievement and thank him on behalf of the community for his service.

A TRIBUTE TO RICK PIERCY

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding community service of my good friend Rick Piercy of Apple Valley, CA. Rick will be honored in July by the Boy Scouts of America, California Inland Empire Council, Serrano District, as the inaugural recipient of their Distinguished Citizen of the Year Award.

Rick attended Southern California College, California State University-San Bernardino, and Azusa Pacific University receiving his B.A. in physical education/recreation and M.A. in special education. Following 9 years of service as a California State park ranger and State peace officer, Rick is now in his ninth year with the Apple Valley Unified School District.

Rick is a model of professional achievement and community service. Among his many qualifications, Rick is an advanced first aid and CPR instructor through the American Red Cross, a cliff and mountain rescue instructor through the California State Park System, and a police defense tactics instructor through the U.S. Karate Association. He is a member of the National Science Teachers Association, the Inland Technology Consortium, and the Apple Valley Chamber of Commerce. He also serves on the National Space Science Education Advisory Board, and was named the Apple Valley Citizen of the Year for 1988–89.

Rick's greatest contribution to date is his service as the program director for the Apple Valley Science and Technology Center. Five years ago, the Science and Technology Center was only Rick's dream. Today, it is a fantastic demonstration of his commitment to promoting math and science among young people. Through a great deal of hard work and determination, Rick raised the necessary funds for construction and the center was built at no expense to the taxpayer. Today, staffed by volunteers, the center provides state-of-the-art instruction training to the students of Apple Valley and other area school districts.

Several months ago, I had the opportunity to fly a T–40 airplane in the science and technology center's simulator with several young pilots. That experience demonstrated the wonderful hands-on experience provided to students with the simulator, two telescopes, and a computer and telecommunications center.

Mr. Speaker, I ask that you join me and our colleagues as we honor the many fine contributions of Rick Piercy. As a model educator, Rick continues to make a difference through his wonderful commitment to our young people and our community. I want to personally thank Rick for his service and wish him my very best in the coming months and years.

WATER POLLUTION PENALTY FUND

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. VISCLOSKY. Mr. Speaker, the district I represent in northwest Indiana is part of the Great Lakes "water belt" on the southern tip of Lake Michigan. As a member of the Water Resources Subcommittee, which is focused on the reauthorization of the Clean Water Act, I am keenly aware of the importance of protecting northwest Indiana's, and the Nation's, water quality for environmental preservation and economic development.

On June 20, I introduced legislation, H.R. 2724, to expedite the cleanup of our Nation's waters. My bill, the Water Pollution Penalty Fund Act of 1991, would create a trust fund established from fines, penalties, and other moneys collected through enforcement of the Clean Water Act to help alleviate the problems for which the enforcement actions were taken. Currently, there is no guarantee that fines or other moneys that result from violations of the Clean Water Act will be used to correct water quality problems. Instead, the money goes into the general fund of the Treasury without any provision that it be used to improve the quality of our Nation's waters.

I am concerned that the Environmental Protection Agency [EPA] enforcement activities are extracting large sums of money from industry and others, while ignoring the issue of how to pay for the cleanup of the water pollution problems for which the penalties were levied. If we really want to ensure the successful implementation and enforcement of the Clean Water Act, we should put those enforcement funds to work and actually cleanup our waters. It does not make sense for significant resources to go into the bottomless pit of the Treasury's general fund, especially if we fail to solve our serious water quality problems.

Specifically, my bill would establish a water pollution penalty fund within the U.S. Treasury into which all fines, penalties, and other moneys, including consent decrees, obtained through enforcement of the Clean Water Act would be placed. Under my proposal, the EPA Administrator would be authorized to prioritize and carryout projects to restore and recover waters of the United States using the funds collected as a result of violations of the Clean Water Act.

The bill further specifies that remedial projects be within the same EPA region where enforcement action was taken. Northwest Indiana is in EPA region 5, and there are 10 EPA regions throughout the United States. Under my proposal, any fine collected from enforcement of the Clean Water Act in region 5 would go into the water pollution penalty fund and, ideally, be used to clean up the specific problem for which the fine was levied.

My bill also instructs EPA to consult with the States in prioritizing specific cleanup projects. Finally, to monitor the implementation of the water pollution penalty fund, I have included a reporting requirement in my legislation. One year after enactment, and every 2 years thereafter, the EPA Administrator would make a report to Congress regarding the establishment of the trust fund.

To illustrate how a water pollution penalty fund would be effective in cleaning up our Nation's waters, I would like to highlight the magnitude of the fines that have been levied through enforcement of the Clean Water Act. In fiscal year 1990, EPA assessed over $16 million in civil, judicial, and administrative penalties for violations of the Clean Water Act. These penalties represented 27 percent of all penalties assessed by EPA under various environmental statutes.

In region 5 alone, it is estimated that EPA will assess $12 to $15 million in penalties for violations of the Clean Water Act in fiscal year 1991. So far this year, EPA region 5 has collected $6.2 million for violations of the Clean Water Act.

Although I introduced this legislation less than 1 week ago, I have already garnered the endorsement of the Lake Michigan Federation. Indeed, I am encouraged by the initial support within the environmental community for the concept of a water pollution penalty fund.

In reauthorizing the Clean Water Act, we have a unique opportunity to improve the quality of our Nation's waters. The establishment of a water pollution penalty fund is an innovative step in that direction. By targeting funds accrued through enforcement of the Clean Water Act, we can put scarce resources to work to facilitate the cleanup of problem areas throughout the Great Lakes and across this country.

MILTON D. STEWART IS A FRIEND OF SMALL BUSINESS

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. IRELAND. Mr. Speaker, I have frequently visited the well of the House to remind our colleagues that what we do here in Congress directly affects the success and vitality of our Nation's small businesses and the wellbeing of their workers.

I have taken these opportunities to emphasize that it is easy to say we are for small business, but it is how we vote that really counts.

What also counts—dramatically—are the efforts of individuals across our great Nation who have dedicated their energies and passions to the cause of small business.

Over the next 4 days, I will be sharing some of their inspiring stories. I hope that my colleagues will join me in applauding the invaluable contributions these individuals are making to the entrepreneurial spirit that is America.

Mr. Speaker, it would be easy for Milton D. Stewart to just say he is for small business, but, thankfully, he offers more than mere words. From 1978 to 1981, Milt served with distinction as our country's first Chief Counsel of Advocacy for the Small Business Administration. There, Milt set the standard for promoting the interests of small business among the Federal agencies, and for collecting information about our Nation's entrepreneurs.

Mr. Stewart served as presiding officer and counsel to the 1980 White House Conference on Small Business and was appointed by President Reagan to serve as a delegate to the 1986 conference as well.

In his spare time, Milt Stewart worked to protect our entrepreneurs as the elected head of the National Small Business Association and the National Association of Small Business Investment Companies; as a partner in a Wall Street law firm; and as chairman of the board of two small businesses.

Currently, Milt is president of the Small Business High Technology Institute, which promotes cooperation among small businesses, universities, and governments to improve our Nation's standing in the world of basic science and applied technology.

Mr. Speaker, Milton Stewart has set an example for all of us who care about small businesses through his devotion to the idea and the realities of small enterprises in America. Milt has dedicated his life's work to helping entrepreneurs, and in doing so, he has improved the quality of life for all Americans.

My colleagues, I ask that we all keep Milton Stewart's example in mind today and for many days to come as we go about our legislative business. And most important, let us remember his example when we are asked to vote on issues affecting our Nation's entrepreneurs. It's easy to say you are for small business. But it's how you vote that really counts.

TRIBUTE TO THE BRAZORIA COUNTY NEWS

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. LAUGHLIN. Mr. Speaker, I submit today a declaration of recognition for the Brazoria County News in Brazoria, TX. This newspaper, located in the 14th Congressional District, recently earned the "Texas' Best" award from the distinguished organization Keep Texas Beautiful. The award was given in appreciation of the paper's continued support of environmental issues.

A fine honor indeed, and no publication more worthy than the Brazoria County News. I take personal pride in honoring the News because it resides in my hometown of West Columbia. I have had the pleasure of knowing and working with its managing editor, Richard Kotrla II, and the paper's publisher David Toney.

I can attest to their commitment to honest and conscientious news reporting. At a time when it is easier to sell a paper on gossip and cheap headlines, the News has admirably and consistently prioritized environmental concerns.

Barbara Engberg, chairwoman of the West Columbia Clean Team, stated that "the 'News' has been the most influential tool that the West Columbia Clean Team has had to help our program. The editorials and coverage of its managing editor, Richard Kotrla II, have consistently put our message before the public whether it be a picture or an article or his opinions stated in his weekly column, 'Browsing the Brazos'."

This award recognizes the Brazoria County News and its staff for its devotion to keeping America beautiful. I am truly honored to know the people who make this fine publication what it is.

THE SMALL PROPERTY AND CASUALTY INSURANCE COMPANY EQUITY ACT OF 1991

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. THOMAS of California. Mr. Speaker, I am pleased to be introducing the Small Property and Casualty Insurance Company Equity Act of 1991 in order to correct an obvious inequity that exists between the tax treatment of small property and casualty insurance companies and the current tax treatment of small life insurance companies.

Small casualty and property insurance companies play an essential function in the insurance industry by enhancing the level of competition within the industry and providing coverage in areas where other companies often fear to tread. However, small property and casualty companies are more at risk than are the large diversified companies to the vagaries of nature—massive earthquakes and damaging hurricanes, such as those suffered recently by California and our Southeastern States. Small property and casualty insurance companies are also subject to surplus requirements that limit the amount of premiums they can write, thus making it difficult for such companies to grow.

Instead of imposing an impediment to the existence of small property and casualty companies, the tax law should at least provide a level playing field for such companies in relation to small life insurance companies.

Life insurance companies have the benefit of actuarial tables to aid in the prediction of losses, which makes the life insurance business inherently less risky than the property and casualty business. Small life insurance companies—those with total assets of less than $500 million—are entitled to the small life insurance company deduction under section 806 of the Internal Revenue Code, a provision which has been available to them since 1984.

The bill would put small property and casualty insurance companies and small life insurance companies on an equal footing for tax purposes. Under the bill, the small company deduction now applicable to life insurance companies would be made available to property and casualty companies of similar size. Thus, a small property and casualty company with assets of less than $500 million would be entitled to exclude from its insurance company income 60 percent of the first $3 million of insurance company income earned each year. The special deduction would be decreased by 15 percent for every insurance dollar earned in excess of $3 million. Thus, the small company deduction would phase out once insurance income reached $15 million for the year.

The same limitations that currently apply to small life insurance companies, for purposes of determining their assets and their insurance income, would apply to the deduction allowable to small property and casualty companies.

I strongly encourage my colleagues to cosponsor this important legislation and to work for its prompt enactment so that small property and casualty companies and small life insurance companies will be subject to equal tax treatment.

TRIBUTE TO THE CONTINENTAL SOCIETIES, INC.

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. DELLUMS. Mr. Speaker, I rise today to honor and celebrate the continuing contributions of the Continental Societies, Inc., a public service organization dedicated to the socioeconomic and cultural welfare of underprivileged children and youth.

As the final decade of the 1990's unfolds before us, I wish to extend my continued support of the Continentals in their work with the youth of this country.

As they begin their 36th annual conclave in this, our Nation's Capital, I am again reminded of the importance of our youth. They are a true natural resource. The theme, "Continentals in Action: Building Bridges for Children and Youth in the 90's," reflects the desire and need for organizations which have as their focus children and youth, and for organizations which continue to redefine their plans to encompass all of the new needs which are constantly rising up in our society.

With the resurgence of racism in our Nation and the battle we face against drugs and violence in our communities, the need for organizations like the Continentals is more important than ever.

I believe that committed men and women are the tools which we must use to reshape the world for a better future for our children and youth.

I salute the Continental Societies and wish them continued success as they continue to make this a better place in which we want our children to live.

I believe that organizations like the Continental Societies hold the key that we must use to reshape our world for a better future for our children and grandchildren.

FLORIDA CHILD'S WISH COMES TRUE, MAKES DREAMS HAPPEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Ms. ROS-LEHTINEN. Mr. Speaker, for more than 5 years, Florida Child's Wish Come True has been working to grant the wishes of terminally ill children throughout the State. This nonprofit, charity organization has made possible such wishes as visits with celebrities Bill Cosby and Tony Danza to trips to Disneyworld. The charity also provides much needed emotional support for the families of these terminally ill children.

Florida Child's Wish Comes True depends entirely upon corporate and individual donations for the resources to grant these most important wishes. The charity recently held a press conference to kick off its latest fund-raising drive, the Holiday Cruise with the Stars 1991. In September of this year, several well-known stars of daytime soap operas will set sail with a boat load of fans on a one-week cruise on Carnival Cruise Lines. The proceeds from this special event will be donated to the Florida Child's Wish Come True.

Mr. Speaker, Florida Child's Wish Come True gives each terminally ill child a wonderful gift—the assurance that they are significant. I commend the leadership of this charity for making so many precious wishes come true. These include: Robert Kozyra, chairman of the board; Frances T. Keefe, founder and executive administrator; Walter Huston, Jr., treasurer; and the directors J. Douglas Moseley, Gordon Solie, Larry Mock, David Wood, Mel Abrahams, and Ross Goodman. I encourage these leaders and the many Florida Child's Wish Come True volunteers to continue their good work.

RECENT EVENTS IN POLAND

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. HOYER. Mr. Speaker, 2 years ago, agreement was reached to hold a Conference on Security and Cooperation in Europe [CSCE] meeting on cultural heritage in the historic city of Cracow. At that time, we believed the meeting would take place in the Peoples Republic of Poland. But the 2-week meeting which just concluded took place in a completely different country: The Republic of Poland, a democratic country which has joined the community of nations. That country has not merely transformed its name, but its entire political and economic structure.

The magnitude of this reform process can not be overestimated. Indeed, the legacy of devastation which Poland must now overcome dates back more than 50 years, to the Nazi invasion in 1938. But Poland's troubles did not end with the war; after her industry was cannibalized by Soviet liberators, 45 years of Communist mismanagement all but finished off the economy. No wonder then, that in his opening speech at the Cracow meeting, Polish Prime Minister Bielecki called communism "a 40-year aberration," an "insane experiment." Fortunately, that experiment could not quash the spirit of the Polish people. And it is that spirit which is forging a democratic Poland today.

The United States has actively sought to support the reform process in Poland, through such efforts as the SEED Program spearheaded by Congress and the loan forgiveness plan recently announced by the President. These efforts, it should be underscored, are not merely quixotic gestures in Poland's direction. They are based on a few fundamental principles.

First, Poland has made the political changes necessary to demonstrate a full commitment to the 1975 Helsinki accords. This should be the essential prerequisite for any significant aid package offered to any CSCE country. In this respect, economic aid is designated to bolster and encourage democracy. Second and equally important, Poland has developed, in close consultation with concerned Western governments and the IMF, a comprehensive economic reform program. That program cannot work miracles, and it may take decades to undo the damage left by the Communist experiment, but Poland's Balcerowicz plan is already producing positive, concrete results.

Mr. Speaker, Poland is embarking on a new experiment—the transformation from a centrally planned to a free-market economy. It is particularly important that we underscore our commitment to Poland's political and economic reforms at a time when so many other nations are considering the same path. The demonstrated commitment of the new Polish Government to the Helsinki accords, combined with its commitment to a comprehensive economic reform plan developed in close consultation with interested Western parties, should carry a lesson far beyond its own borders.

AFFORDABLE TRANSPORTATION FOR DISABLED WORKERS

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. GOODLING. Mr. Speaker, today I am introducing legislation which would provide critically needed transportation services to individuals with disabilities holding jobs or seeking employment.

Workers who are disabled and choose to compete in the marketplace are often at a disadvantage when it comes to locating affordable transportation to their jobs. For these individuals, the cost of transportation consumes a large portion of their paycheck and creates a disincentive for them to seek employment. A recent rate increase for shared ride van service in Pennsylvania's 19th Congressional District is a good example of the problem individuals with disabilities face.

My legislation would provide grants to States, local public bodies and agencies, and private nonprofit groups to provide transportation services for the disabled. The transportation services would be to and from work on a regular and continuing basis. Those covered would include individuals with disabilities holding or seeking jobs in typical work environments whose mental or physical disabilities prevent them from using available transportation. In addition, services can be provided to individuals with disabilities who live in areas where there is no fixed route public transportation.

I developed this bill with the support of the York County Association of Retarded Citizens, the Association for Retarded Citizens of the United States, and a number of national and local disability and transportation groups. The bill will add a new section to the Urban Mass Transit Act of 1964.

As you know, last year we enacted landmark legislation providing for fair and equal treatment for Americans with disabilities. But, if these citizens are unable to get to work, it makes little difference whether or not jobs are available.

Mr. Speaker, these citizens want to work. They want to consider themselves in the mainstream of society, working and paying taxes and supporting themselves to the largest degree possible. It is in their interest—and ours—to help them find affordable transportation. I urge my colleagues to support this important legislation.

MRS. AUSTINE HEARST, WRITER, PHILANTHROPIST: REST IN PEACE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. SOLOMON. Mr. Speaker, this week we note sadly the passing of a truly remarkable woman.

Austine Hearst, wife of William Randolph Hearst, Jr., editor in chief of Hearst Newspapers, finally succumbed to a long illness on June 23.

Mrs. Hearst added her own luster to a remarkable family. She was a talented and gracious woman, beloved by people of all stations in life, an active philanthropist for over 40 years, and herself an accomplished journalist.

There is much that could be said about such a full and productive life. It was expressed well in an Albany Times-Union obituary. I enter the article in today's RECORD, while expressing on behalf of the entire House our condolences to Mr. Hearst and the rest of the family:

AUSTINE HEARST, 72; WRITER, PHILANTHROPIST

NEW YORK.—Austine McDonnell Hearst, wife of the editor in chief of the Hearst newspapers, died Sunday at Memorial Hospital in New York City.

Mrs. Hearst, 72, died of heart failure following a long battle against lymphoma. Her husband, William Randolph Hearst, Jr., and their two sons were at her bedside.

Mrs. Hearst has long been known for her charitable work, knowledge of U.S. history, love of horses and interest in languages.

For the past 40 years, Mrs. Hearst supported and worked for such charitable causes as the Girl Scouts, the Endowment Fund of

Mount Vernon (in support of George Washington's Virginia estate) and the Abigail Adams Smith Museum in New York. She also contributed other charitable support and services that she never made public.

She wrote, "The Horses of San Simeon," a book about the breeding and raising of Arabian horses at San Simeon, Calif., location of the Hearst Castle, now one of the most famous tourist sites in the nation. She continued to raise Arabian horses there until her death.

The San Simeon castle and grounds were developed by William Randolph Hearst, Sr., who founded one of the largest media companies in the United States. That company, which has remained private, is now involved in about 135 different businesses in the United States and abroad. Capital Newspapers, publisher of The Times Union and Sunday Times Union, is a division of the Hearst Corp.

Mrs. Hearst was elected to the list of the World's Best Dressed Women in 1948. She remained for 14 years on the list until she was made a permanent member in 1962.

Mrs. Hearst also was a long-time globetrotter, accompanying her husband for some 35 years on his trips covering big stories and interviewing international leaders.

She thus met many famous world figures. At the same time, she had an earthy earthy wit that made her friends in all walks of life, from stable hands to Girl Scouts to reporters.

Mrs. Hearst had been riding for some 60 years. She was Joint Master of the Golden's Bridge Hunt in upstate New York, where the Hearsts maintained a weekend retreat, since 1978. Despite her illness, she rode regularly until the time of her passing.

Mrs. Hearst began riding as a child at her parents' home in Warrenton, Va., where she was born on Nov. 22, 1918. Her father, a retired Army officer and gentleman farmer, taught her to ride from a young age.

Her ancestors were Virginians before the American Revolution and Mrs. Hearst was a member of the Daughters of the American Revolution. She also was a member of the Colonial Dames of America, Daughters of the Society of the Cincinnati, Society of Descendants of William I the Conqueror and his companions-at-arms, and Dames of the Magna Carta. She also was a member of the American Fox Hound Club.

Her lifetime love of horses and other animals led Mrs. Hearst into the nation's conservation movement. She was a staunch supporter of a healthier, cleaner, safer environment and a longtime member of the National Audubon Society.

Mrs. Hearst's first professional position was as a reporter on the Washington Times-Herald newspaper. She also wrote a society column, "Under My Hat," for the Times-Herald. Later, she wrote a syndicated column, "From the Capital," for 10 years.

While writing this column, she met her husband in Washington. They were wed at her home in Warrenton and lived in Washington for several years after their marriage.

Mrs. Hearst had her own radio program in Washington and regularly appeared on a national television panel show.

She left the newspaper business in 1956 to take care of her growing family. That year she accompanied her husband, who was then publisher of the New York Journal-American, on a round-the-world trip and wrote articles based on her interviews with the wives of world leaders and women of all classes in the nations they visited.

Mrs. Hearst, who was called "Bootsie" by her friends, was active in the 1950s in support of the National Jewish Hospital at Denver.

Mrs. Hearst was educated in Fauquier County schools, King-Smith Junior College in Washington, D.C., and the College of Notre Dame of Maryland. She received an honorary Doctor of Humane Letters from Notre Dame in 1989 for her charitable works, concern for animals and land preservation, and her longtime contributions to journalism.

Mrs. Hearst was a member of three clubs, the National Press Club, the Sulgrave Club in Washington and the Cosmopolitan Club in New York. She is survived by her husband, two married sons—William Randolph Hearst III and Austin—and two grandchildren.

Will Hearst is publisher of the San Francisco Examiner. Austin Hearst is vice president of Hearst Entertainment and Syndication, a division of the Hearst Corp. in New York.

TRIBUTE TO LESLIE A. "BARNEY" BARNHART

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. HUBBARD. Mr. Speaker, I take this opportunity to pay tribute to Leslie A. "Barney" Barnhart of Owensboro, KY, who died on March 20, 1991, at Mercy Hospital in Owensboro at the age of 67.

Barney Barnhart was born in Olney, IL, and had a long and distinguished career as a public school teacher. He retired from his teaching position at Owensboro High School in 1981.

In addition, he was a member of the local business community. He owned and operated Skinner's Corner at Consumers Mall in Owensboro.

Barney Barnhart, well-liked and admired by those of us who knew him, was a member of the Settle Memorial United Methodist Church in Owensboro and was an Army Air Corps veteran of World War II.

He is survived by his lovely wife, Ferne Holman Barnhart of Owensboro. Other survivors include his son, James H. Barnhart of Louisville, KY; four daughters, Rebecca Barnhart, of Arlington, VA, who served as a press and projects assistant on my congressional staff, Debbie Keelin and Amanda Howell, both of Madisonville, KY, and Diana Whitecar of Mountain View, CA; his brother, George N. Barhart of Peoria, IL; and three grandchildren.

My wife Carol and I extend our sincere sympathy to the family of the late Leslie A. "Barney" Barhart.

TOXIC POLLUTION RESPONSIBILITY ACT OF 1991

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. SMITH of New Jersey. Mr. Speaker, today I am introducing the Toxic Pollution Responsibility Act of 1991, which will prevent industrial polluters from avoiding the costs of cleaning up Superfund sites. In the last couple of years, clever corporate attorneys have found a loophole in the Superfund law which they are exploiting to force municipalities, small businesses, and now even individual homeowners to bear the brunt of cleaning up toxic pollution generated by industry.

In New Jersey, at the GEM's Landfill Superfund site, over 100 municipalities and school boards are being sued by the industrial polluters to pay for the cleanup. At the Lone Pine Landfill site, hundreds of small businesses and municipalities face legal action if they don't agree to pay for most of the estimated $50 million cleanup. In California, at the Operating Industries Superfund site, 64 industrial polluters are suing 29 municipalities for up to 90 percent of a cleanup estimated at $800 million. In Connecticut, 25 municipalities are being sued by the industrial polluters for cleanup costs in excess of $70 million and now the industrial polluters are even suing individual homeowners.

Mr. Speaker, these industrial polluters, many of whom are guilty of dumping chemical wastes, acids, and PCB's into landfills, have been forced to pay the cost of cleaning up these toxic sites by EPA. However they are now turning around and suing municipalities and businesses who have only sent common household trash to the same landfill. The lawsuits allege that because household waste contains at least small amounts of hazardous substances—such as mothballs, furniture polish, and flea collars—municipalities and small businesses can be sued to repay the expenses of the industrial polluters.

Mr. Speaker, this is an obvious perversion of the Superfund law which was designed to make the polluter pay. In the cases cited above, the EPA has already made the judgment that the industrial polluters who dumped highly toxic waste into the landfill are responsible for creating these Superfund sites. Furthermore, the EPA has a municipal settlement policy in which they have made the judgment that municipalities or other entities whose only contribution to a landfill is common household trash should not be held liable for cleanup costs. Unfortunately, however, EPA does not have the statutory authority to extend their own policy to prevent industrial polluters from suing generators of common household trash.

In order to remedy this situation, I am introducing the Toxic Pollution Responsibility Act of 1991. This legislation will codify the EPA's current policy of not pursuing generators or transporters of common household trash. My legislation will prevent industrial polluters from circumventing EPA's policy and suing small towns who have had their garbage sent to the same landfill where toxic waste was dumped.

Mr. Speaker, this legal maneuver by industrial polluters threatens the entire Federal system of cleaning up toxic waste sites. A June 16 story in the New York Times describes the real intentions of the industrial polluters:

> The long-term goal of the corporate defendants, say the environmentalists and other groups, is to spread the pain of Superfund so widely that pressure builds to abandon the polluter-pays standard altogether. In the shorter term, the presence of financially strapped but politically potent parties like cities adds to the pressure on E.P.A. to select less expensive cleanup plans.

The legal strategy employed by industrial polluters will slow cleanup efforts and could severely undermine the Superfund law itself. The disastrous consequences of the third-party lawsuits are threefold.

First, industrial polluters are looking to recoup the costs of the cleanup from municipalities and other small businesses which is simply unfair and unjust. And even if the municipalities beat the industrial polluters in court, the costs of the legal battle is still passed along to the taxpayer. Second, industrial polluters have admitted that by enlisting municipalities in the cost of the cleanup they hope to be able to pressure EPA to scale back the scope of the cleanup. And third, threatening innocent parties into threatening, expensive, and lengthy legal battles, industrial polluters hope to turn the public against the entire Superfund cleanup program.

Mr. Speaker, we must not allow this loophole to threaten the integrity of the Superfund law. The Toxic Pollution Responsibility Act would insure that Superfund cleanups continue and that the polluter pays.

A TRIBUTE TO DOROTHY J. HANN

HON. HARRIS W. FAWELL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. FAWELL. Mr. Speaker, I rise today with great pride to honor a vivacious member of my staff, Dorothy J. Hann, better known as "Dodie," who will be retiring after 23 years of faithful service to the 13th Congressional District of Illinois. I am pleased to come before the House today to tell you about this woman's incredible career.

Dodie started working for the 13th District in June 1968 for former Congressman John Erlenborn. In the beginning she had no thought of working full time for the Congressman, but her love of politics and desire to help her community could not keep her at part-time for long. Dodie was the backbone of the office. From clipping newspapers and answering the phone, to helping constituents, Dodie lent her expertise and humor to her responsibilities. It is hard to imagine how different the office must have been before computers, fax machines, and copiers. Yet, with her determination and skill, Dodie came up with creative ways to keep track of the growing constituency using index cards instead of a data base and manual typewriters instead of word processors.

The computer era, however, did not catch Dodie by surprise. She came to Washington to learn the new system and returned to Illinois to teach the rest of the staff. From that point on, she was the primary computer operator in Illinois for John Erlenborn's office, as well as mine when I was first started serving in 1985.

Leading the smooth transition after John Erlenborn's retirement, Dodie was a key factor in keeping the office running efficiently. Her wit and enthusiasm helped us through the rough waters. For the 6 years that I have been in office, Dodie's responsibilities have included computer maintenance and operations, constituent requests, supervision of the intern program, and casework. She has played a very important role in my Illinois office and it just will not be the same without her. Dodie will be missed for her love of life, strength of character, and sense of humor. I wish her the best of luck in every adventure she encounters and hope that her hours are filled with tennis games, golf, and more African safaris.

SECRETARY BAKER'S HISTORIC VISIT TO ALBANIA

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. BROOMFIELD. Mr. Speaker, I want to salute the good work of Secretary of State James Baker during his historic visit to Albania. Last Saturday, he was warmly received by more than 300,000 Albanians who welcomed him to Tirana.

For four decades, the Albanian people have been isolated from the outside world. As the winds of change swept through Eastern Europe in 1989, Albania began to slowly open its doors and set sail on the rising tide of democracy. Elections were held there last March and the United States resumed diplomatic ties during the same month. This month, the Communist cabinet was replaced by an interim government in which half of the ministers were drawn from newly formed opposition parties and half from the Communist Party. While the democratic forces in that nation are still in their infancy, Dr. Sali Berisha, the leader of the opposition Democratic Party, believes that his party will win next spring's multiparty elections.

Secretary Baker offered Albania a $6 million humanitarian aid program, stressed to the Albanian people that freedom does work, and urged them to continue to work hard to build a true democracy. I commend the Secretary for taking the visionary step of visiting a country that is slowly emerging from a terrible nightmare that has lasted for 50 years. I also want to salute the Albanian-American community and the officials in the United States Government for their faith and confidence in the freedom-loving Albanian people and in the democratic movement in that country.

It is a rare occasion when one can witness the creation of a democracy. Those of us who have watched the slow emergence of freedom in Albania believe that we have seen that nation transformed from a closed and bizarre police state to a country moving toward democracy.

I want to share the Secretary's comments in Albania with my colleagues in the Congress.

REMARKS BY SECRETARY OF STATE JAMES A. BAKER III

Free citizens of Albania: On behalf of President Bush and the American people, I come here today to say to you: Freedom works. At last, you are free to think your own thoughts. At last, you are free to speak your own mind. At last, you are free to choose your own leaders. At last, you are free to worship in your own way.

We meet here today at a historic moment. Albania has chosen to join the ranks of free nations. Albania has chosen to join in the building of a Europe whole and free. Albanians have chosen to join the company of free men and women everywhere.

I have come from a meeting in Berlin of the Conference on Security and Cooperation in Europe. We did many things there. Among the most important was to welcome Albania to membership. And we did so because we heard your call, your wish to be part of Europe. And now I am here to tell you: Albania is part of Europe, and Albania will not be left behind as the new Europe is built.

Your presence here today reaffirms your choice—the choice of freedom for a nation, freedom for a people, freedom for each and every one of you.

But I have not come here today to instruct you on the virtues of freedom or democracy. You know how inhuman are the ways of totalitarianism. You know how difficult it is to lift the yoke of tyranny. And you know how it is to be cut off from the wider world.

For almost half a century, "from Stettin in the Baltic to Trieste in the Adriatic," an Iron Curtain tore an ugly scar across this continent. Now it is gone, gone like the hollow dictators that lowered it across Europe.

Gone because the people have acted. The people—ordinary men and ordinary women of extraordinary hope and extraordinary courage—have lifted that curtain of tryanny.

And in its place, the people have built and are building bridges of tolerance and trust, bridges built on freedom and democracy and the universal rights of man.

This work of the people has not been and will not be easy—but I want you to know we understand how hard you have toiled and we are anguished by the pain you have endured. But your own words convey these feelings in a way I never could. Let me read a letter I have received from the people of Berati:

"To Mr. James Baker, American Embassy: The democratic soul of the peoples of Berati, with a twenty-four-hundred-year heritage of civilization, finds in you a citizen of honor long expected. During this half century of Stalinist hell, our people have experienced deep pain. Nevertheless, they have always struggled, they have never been subdued, and they have always hoped. You and your country are the temple of freedom and democracy, that very soon will fill this gap and give new wings to the wearied hope. * * * Blessed be your day."

To this I reply: Blessed be the people of Berati. Blessed be the people of Tirana. Blessed be the people of Albania.

As I stand with you in this square at this historic time, I want for a moment to remember those of your countrymen who endured Albania's long winter, but did not live to see the spring. Your long march to freedom owes a great debt to their suffering and their courage.

Today every Albanian can repay that suffering and courage by banishing old fears and by seizing the hopes of a new generation.

For you have embarked on a new journey away from the darkness of the tragic past toward the sunlight of a shining future. It will not always be easy to travel this road. You know that. But President Bush wants you to know this, too: You will not be alone as you travel freedom's road.

For I have come here today to bring you a message from another free people—the American people. And my message is welcome.

Welcome to the assembly of free peoples building a Europe whole and free. You are with us, and we are with you.

Welcome to the community of democracies, building the future on the choice of each and every citizen. You are with us, and we are with you.

Welcome to the company of free men and women everywhere, the way our Creator intended us to be. You are with us, and we are with you.

Welcome, free citizens of Albania, to freedom.

Freedom works!

Thank you very much.

THE EMPLOYEE BENEFITS SIMPLIFICATION ACT

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. CARDIN. Mr. Speaker, today I am introducing the Employee Benefits Simplification Act. In so doing, I join the Senator from Arkansas [Mr. PRYOR], who sponsored similar legislation last year and is introducing this legislation in the other body.

Over the past decade, America's private pension system has suffered from growing complexity. The rules have become so complex that in many cases, employers and employees, especially of small businesses, have been closed out of the system.

The result is that the private pension system is being undermined. The purpose of the legislation I introduce today is to remove some of the layers of regulation and complexity and to encourage increased participation in pension plans.

In proposing design-based safe harbors for qualified plans under section 401(k), the legislation seeks to ease the administrative burden on plan sponsors. These burdens have discouraged many small businesses from sponsoring plans, and have added greatly to the costs of plan administration for big businesses.

The safe harbors have been designed to balance these concerns against the need to encourage workers to save and plan for their retirement. Chairman ROSTENKOWSKI, who yesterday introduced pension simplification legislation, has indicated that hearings will be held next month on this issue. I am hopeful that those hearings will provide an opportunity to examine the likely impact on plan sponsors and participants of the safe harbors proposed in my bill.

In addition to provisions affecting the nondiscrimination rules, the bill also takes much-needed steps to liberalize the distribution rules. I have been particularly concerned that under existing law, employees face numerous restrictions if they seek to roll distributions over into an individual retirement account or other qualified plan. It makes no sense to provide tax-favored treatment for retirement savings and then impose severe penalties on workers who seek to move their savings from one retirement plan to another.

Mr. Speaker, these and other proposed changes made in this legislation seek to make the private pension system in this country more user friendly. We need to encourage businesses to sponsor retirement plans, and we need to give Americans incentives to save for their retirement. I am hopeful that this legislation will advance both those goals. I look forward to coming debate on these important issues.

H.R. 2332, TO EXTEND SALVADORAN IMMIGRATION STATUS DEADLINE

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Ms. PELOSI. Mr. Speaker, I rise today in support of H.R. 2332, a bill to extend the deadline for Salvadoran immigrants to apply for temporary protected status from June 30, 1991 to October 31, 1991.

Last year in the immigration bill, we established a temporary protected status [TPS] immigration category to protect aliens in the United States whose lives would be endangered if they returned to homelands plagued to armed conflict, natural disaster or other circumstances. Recognizing the strife and dangers in war-torn El Salvador, we specifically designated Salvadorans for TPS. This designation was the result of years of work by Chairman MOAKLEY, and I commend him for his commitment and dedication to improving the lives of Salvadorans.

Unfortunately, the Immigration and Naturalization Service [INS] moved agonizingly slowly in developing and publishing regulations on how to apply for TPS. Problems with fees set at unreasonably high levels by the INS further slowed the application process. The final regulations were not established until last month, and the deadline for Salvadorans to apply is June 30, 1991, less than a week away.

Many of the Salvadorans who came to this country illegally did so because they rightly feared that if they remained in their country, they would be killed. Given the brutality of the Salvadoran civil war, their concerns are justified. We passed TPS for Salvadorans because we wanted to grant some measure of protection. The Salvadorans who qualify for TPS should have a full opportunity to apply for it.

When we passed the TPS program with a series of application deadlines, we believed that the INS would and could implement the program rapidly enough to make the deadlines realistic. This has not been the case. Now that the final regulations have been released, we should extend the application deadline in order for the program to be given a chance to succeed. I urge my colleagues to support H.R. 2332 to extend for 4 more months.

THE COMMON MARINE WITH AN UNCOMMON TOUCH

HON. BEN GARRIDO BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. BLAZ. Mr. Speaker, when President George Bush finished his victory speech before a joint session of the Congress on March 6, 1991, with the whole Nation viewing and probably half the free world, he left the podium and headed toward the Joint Chiefs of Staff to thank each warmly and profusely; but for one in particular, he had a bear hug of an embrace much like winning team members would do after a hard fought championship game or a coach for his star athlete.

Little note was made of the incident by the news media, and, yet, those of us who know the President immediately recognized that much more was being communicated than mere words could convey. This was a special expression of gratitude and appreciation being delivered to a singular individual.

The embrace was done on behalf of a grateful nation, and it reaffirmed the old adage that great followers make great leaders; for both men were great followers when they needed to be and from that experience honed the qualities to make them great leaders when their time arrived.

The President of the United States as Commander in Chief, without uttering a single word, said, in effect, thousands in embracing this particular general officer. It was a fitting tribute to a man who has given almost 40 years of service in the name of his country. It was made even more fitting since this is a man who avoids ostentation in all things. He is a common man, a common marine, true, but one with an uncommon touch. He is Al Gray, Commandant of the Marines, who will be retiring from active duty next week.

In a city like Washington, DC, where the uniform of power is the dark business suit or pin stripes, Al Gray came to town in a camouflage utility uniform. This was not an affectation but rather an affirmation, a reminder, that above all else, Al Gray is not a bureaucrat, not a politician, but an American warrior. He could have worn on his uniform row upon row of ribbons and medals. He could have worn, with no accusation from anyone of pretentiousness, his many medals for heroism and valor: his Silver Star, his two Legions of Merit, his three Purple Hearts, his four Bronze Stars. He chose to wear instead only one insignia over his left pocket—the Marine Corps emblem.

In a city all too easily impressed by dashing personalities, he is a man known for his daring ways. He is one who defies convention in favor of pure common sense.

Most importantly, he is a guy with whom I was proud to have soldiered with in war and to have walked shoulder to shoulder with in peace. He is one who invariably ends his remarks and presentations with words like "Take care of yourselves, take care of your families, and take care of your fellow marines." In doing so, he leaves no doubt in the minds of his listeners that he, in turn, will take care of them. It is said that one of the yardsticks for measuring a person's worth is whether we are better for having known him. As far as Al Gray is concerned, our country and the international community are the better for having been served by him.

The highest tribute when a warrior enters a room is for someone to say, "Ladies and gentleman, please rise. This officer has served heroically in such and such a place and such and such a battle." In the case of this man, he would not have to be introduced and neither would he want such a lofty announcement. Today, I rise in his Chamber of the House of the people to salute this common marine with an uncommon touch whose leadership and inspiration have touched us all. With a few simple phrases and reassuring grin, he could express his sentiments and convey his messages better than others could with a 1,000 words. With his great wit and more than ordinary ration of good sense, he could convert a crisis into a challenge. With his unwavering grasp of strategy and tactics, politics and geopolitics, national and international issues, he could project his thoughts, not unlike a master billiard player so adept at what he is doing that he thinks not so much of his imminent shot as the positioning of the cue ball for the shot that follows.

Al Gray excels not ony in war as a warrior but in peace as a peacemaker, and he does both with equal dignity and aplomb. He does not hold the dubios title of being one of the characters of the Corps; but he holds the one that says he is a man of great character. As Gen. Lemuel C. Shepherd, Jr., one of General Gray's beloved predecessors, liked to say: "The relationship of the officer to the enlisted man is much like the relationship of teacher to student. If the student fails to learn, it is because the teacher failed to teach." Al Gray has excelled both as an enlised man and as an officer; as a student and as a teacher.

For those of us who know personally both George Bush and Al Gray, that embrace given by the President on the night of one of his greatest triumphs, though totally unexpected, nevertheless came as no surprise. It was a very personal, emotional, and magnanimous gesture, totally befitting the occasion. It was a salute from the Commander in Chief, I, for one, will never receive; it was one extended to a great American patriot in a moment in history I will always remember.

WELCOME TO PRESIDENT ROH TAE WOO OF THE REPUBLIC OF KOREA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. SOLOMON. Mr. Speaker, his Excellency Roh Tae Woo, the President of the Republic of Korea, will be received in Washington next week for a 3-day State visit. He is coming at the invitation of President Bush, and his trip will mark the first State visit of a Korean President since Syngman Rhee came to Washington in 1956.

President Roh's visit comes at a most auspicious time. The alliance between the United States and the Republic of Korea has endured through 43 years of war and peace, and now is the time to reaffirm that partnership and to strengthen the ties that bind our two great nations.

During the past 2 years the entire world has witnessed the collapse of Communist totalitarianism in Europe. Regrettably, there are places in Asia where Communists still hold sway, but their days are numbered.

The first great tests of the containment doctrine—whose inexorable triumph we are seeing today—came in Berlin and Korea. The Berlin Wall is now gone and Germany is reunited, but the Korean Peninsula remains divided. The Korean Peninsula remains as the one place on Earth where the forces of the free world are arrayed face to face against the forces of communism.

But just as the Berlin Wall came down, so the division of Korea will inevitably end, and the forces of freedom will prevail.

Throughout his life, Roh Tae Woo has contributed mightily to the progress his country has made. Aside from his active involvement in building a strong economy and prosperity for all free Koreans, it was his leadership in 1987 that broke the political impasse and paved the way for a direct election by the Korean people of their President.

As President, he has extended the full protection of civil rights, along with unrestricted freedom of press and speech, to all citizens in the Republic of Korea. Expansion and liberalization of the Korean economy has continued, and the Republic of Korea's diplomatic success in the world community will be recognized this fall when the ROK becomes a full-fledged member of the United Nations.

The United States can take justifiable pride in the tremendous successes that have been achieved by our close friend and ally, the Republic of Korea. The relationship between our two great countries is consecrated by the lives of more than 1 million Koreans and more than 50,000 Americans who made the supreme sacrifice in the 1950's so that the lamp of freedom would remain burining on the Korean Peninsula. That war began 41 years ago today.

The threat from Communist North Korea still remains, but the tide of history is running only one way: toward the freedom and prosperity that is enjoyed by the citizens of the Republic of Korea. It is only a matter of time before the last vestiges of communism in North Korea go the way of their failed counterparts in Europe.

And so I salute President Roh on the occasion of his State visit to Washington. I hope and trust that he will have a productive and enjoyable visit.

THE UNIFORM PRODUCT LIABILITY ACT OF 1991 AND THE PROFESSIONALS' LIABILITY REFORM ACT OF 1991

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. RITTER. Mr. Speaker, the litigation explosion has had a negative impact on practically every sector of our society. Liability insurance premiums increase expenses for all Americans. Courts are jammed with frivolous lawsuits, delaying the consideration of legitimate suits. Small businesses are closing their doors because they cannot afford insurance protection. Doctors trained to deliver babies are leaving the profession in some parts of the Nation. Technological innovation along many fronts is stifled for fear of being sued. Sometimes, insurance is unavailable to engineers who work in cleaning up the Nation's hazardous waste sites or who work to remove asbestos from schools and other public facilities. Everyone pays for the exorbitant costs paid by American institutions, public as well as private, to defend themselves against liability suits.

Federal reform of the myriad State product and professional liability laws is not a new idea. Bills have been introduced since 1980, yet to date there has been no action on these bills other than committee action. I, personally, am a veteran of the battles waged in the Energy and Commerce Committee's Subcommittee on Commerce, Consumer Protection and Competitiveness. In 198 – , we actually got a bill through the full Energy and Commerce Committee to provide for uniform product liability.

In a book authored by Peter Huber in 1988, "Liability: The Legal Revolution and its Consequences," it is estimated the total cost of America's preoccupation with suing at $300 billion. In Bruce K. Maclaury's forward to the book, "The Liability Maze: The Impact of Liability Law on Safety and Innovation," he says, the authors reasoned that "when the legal costs of certain kinds of accidents are prohibitively high and unpredictable, entire sectors of enterprise shut down."

Peter Huber is a senior fellow at the Manhattan Institute for Policy Research in New York and counsel to Mayer, Brown & Platt in Washington, DC. Robert E. Litan is a senior fellow in the Economic Studies Program at Brookings, where he is also the director of the Center for Economic Progress and Employment.

In the more recent compilation of articles edited by Huber and Litan, the forword goes on to note "the authors focus on five key sectors of the economy where liability appears to have had the greatest effects: The automobile, chemical, general aviation, and pharmaceutical industries and the delivery of medical services. They find that the impact of liability trends has been highly uneven across those sectors. In some, such as general aviation, liability trends seem to have had devastating effects on innovation. In others, such as chemicals, tort litigation seems to have had little influence on innovation, though arguably it may also have failed to provide sufficient incentives for safety. The other sections fall in the middle, with some examples in which the publicity generated by adverse liability verdicts has enhanced safety by reducing the demand for potentially dangerous products, and other examples in which just the threat of tort litigation may have dampened research and innovation. Despite the diversity of the findings, the project coeditors suggest that policy actions are warranted. Among other things, they point to the need for more certainty in liability doctrines, positive rather than negative incentives in the tort law for private actors to improve safety, and more systematic efforts to weigh the costs and benefits of liability doctrines themselves before they are unleashed on the private sector.

But there's more than meets the eye.

America's litigation climate is a boon to our foreign competitors. It is ironic that the European Economic Community [EEC] also initiated consideration of minimum, uniform product liability standards in 1980. Already, the EEC has a uniform code directive on product liability, and the member countries began its implementation in 1990. I believe it is time that Congress and the administration provide similar leadership for our manufacturers which sell their products across State lines and national borders, our researchers who develop and improve products, and our professionals who serve enterprise and the public.

But it is not only our manufacturers and professionals that deserve this legislation. Consumers would benefit from tort reform because it will go a long way in eliminating frivolous suits and clearing the courts for real issues. Consumers will also benefit by the elimination of often irrational laws that deter product quality improvement and innovation or deter professionals from providing services that have some risk or encourage doctors to order expensive and sometimes unnecessary or duplicative tests to provide themselves with protection against litigation.

Under the current piecemeal tort laws of our 51 jurisdictions, the competitiveness of U.S. companies, services and jobs is reduced. America cannot be the litigation capitol of the world without loss of significant global competitiveness. I believe it is time to start again on uniform Federal product and professional liability reform.

My bills are modest proposals which set out a limited agenda. These bills do not attempt to address every unique aspect of each State's tort system. If enacted, they would not create sweeping new Federal strict liability or negligence standards. Instead, they would fix the myriad State product and professional liability laws only in the most critical areas that need fixing. I offer these bills as a starting place for discussion and look forward to working with my colleagues on useful, viable, Federal product liability reform legislation.

In the 100th Congress, the Energy and Commerce Committee passed a product liability bill out of committee aimed at helping manufacturers, distributors, and sellers of products. Similar legislation has been introduced in the other body and will soon be introduced again this year in that House to be considered. But that help extends to only one sector of our economy, manufacturers.

The growth industry that is litigation is not confined only to manufacturing. Professionals who provide necessary services to consumers, government, and business need the same fair treatment that Congress has been considering for manufacturers.

SPECIFICS OF THE UNIFORM PRODUCT LIABILITY ACT (H.R. 2700)

The Uniform Product Liability Act of 1991 will not hold a manufacturer liable for risks that could not have been known at the time of manufacture.

It includes the Federal standards defense and the alcohol and drug defense from H.R. 1115 as originally introduced in the 100th Congress.

It will however hold the seller liable if the seller is negligent or if the manufacturer cannot be reached—for example in the case of importing defective or unsafe products.

Defendants will only be liable for the percentage of the plaintiff's damages that correspond to the defendant's percent of responsibility for the cause of the harm abolishing joint and several liability.

It establishes a standard for liability for punitive damages of conduct manifesting a conscious and flagrant indifference to safety and constituting an extreme departure from accepted standards of conduct.

It establishes clear and convincing evidence as burden of proof.

It directs the court, rather than the trier of fact, to set the amount of punitive damages.

It also provides protection from punitive damages for drugs, medical devices, and aircraft approved by the Federal Government.

This proposal establishes a 2-year statute of limitation from date of discovery and prohibits claims arising out of capital goods to be filed more than 12 years after the first delivery of the capital good.

It also directs the courts to make alternative dispute resolution mechanisms available to the parties. Other than requiring that the potential penalties assessed for failure to accept a unanimous arbitration award be the same for both plaintiffs and defendants, leaves the details of the system up to the States.

But as I stated earlier, manufacturing is not the only concern. Apart from products, professionals in all fields—doctors, dentists, nurses, midwives, accountants, engineers, architects, surveyors, and even lawyers—are being subjected to overlitigation and its concomitant high costs and depressive effect on work and innovation.

For example, consulting engineers—who apply their talents to design our Nation's needed infrastructure, our roads, bridges, and buildings—are paying two to three times more for professional liability insurance coverage than they were just 5 years ago, according to the American Consulting Engineers Council. Some firms pay over 10 percent of their gross revenue for liability protection. That's the margin at which a business lives or dies. Every time a lawsuit is brought against a consulting engineering firm, it costs the firm an average of $8,000 of its own money to defend itself, whether or not the plaintiff prevails.

In other words, once sued, an engineer loses, even if the case is resolved in his favor. And in 40 percent of the suits brought against engineers, there is no payment whatsoever to the plaintiff—indicating that those suits should never have been brought in the first place. Consulting engineering firms are typically small businesses, and the cost of insurance and legal defense is practically wiping them out. That has got to change.

This is the kind of scenario that makes the Professionals' Liability Reform Act of 1991 necessary. The legislation sets a negligence standard for lawsuits against professionals, which simply means that a professional should not be found liable unless his/her services were in some way or another, negligently rendered. Today, a professional runs the risk of being included in a lawsuit just by being involved in a project which results in harm.

This issue demands Federal attention because of implications for interstate commerce. Whether it's increased medical expenses paid through reimbursements that M.D.'s receive from Medicare and Medicaid, or the vulnerability of CPA's, engineers, or brokers who work for companies active in interstate commerce, the situation is getting worse. The need to be covered for worst-case scenarios, which translates into peak premiums. Through this legislation, uniform Federal standards would be established to reduce the uncertainties and heightened costs of liability exposure caused by different standards in the 51 separate court jurisdictions.

SPECIFICS OF THE PROFESSIONAL LIABILITY ACT (H.R. 2701)

The professional liability bill bases awards on fault or wrongdoing, not on who has the deepest pockets—abolishing "joint and several" liability. Defendants would be required to pay only the amount of any judgment for which they are responsible;

It encourages alternative procedures to resolve disputes, expedite adjudication, and compensate for harm. Rather than bringing every case to the courts, both money and time may be saved by alternative mechanisms;

It provides periodic payments for damages. Structured settlements would provide for payment of awards in a timely manner to avoid the burden of a lump sum payment;

It limits plaintiff's attorneys' fees based on a sliding scale with the ability to petition the court in extreme cases. Currently, twice as much money goes to attorneys' fees and litigation expenses as to compensate victims;

It prohibits duplicate payments for damages. Awards would be reduced by insurance, wage continuation programs, workers' compensation, and other payments and benefits intended to compensate the plaintiff for the same injury;

It sets limits on punitive damage awards to plaintiff. Amounts of awards over three times the compensatory damages will be given to the State to offset court and other expenses;

And, it also holds claimant's attorney liable for frivolous suits. Attorneys would be liable for costs when they bring suits without reasonable basis strictly to achieve a monetary settlement as determined by the court;

These two pieces of legislation introduced today will not let any manufacturer or professional off the hook if there was negligence that caused injury or damages to an innocent party. No one, including manufacturers or professionals themselves, would want a system that does not require persons who make mistakes to pay for them. The provisions of the Professionals' Liability Reform Act simply puts professionals on an equal footing when they are sued—it requires that they are liable if negligent, but does not allow them to be the targets of people who are trying to win the lottery from companies, individuals, nonprofits, or governments who have deep pockets.

I urge my colleagues to join me in supporting both these legislative proposals. Until the problem, that of America's propensity to right all wrong—and then some—with lawsuits, is addressed, our competitiveness and our productivity as a nation will suffer. Our jobs will suffer. American enterprise, labor, governments, consumers, and the courts deserve relief from this sad state of affairs.

The Uniform Product Liability Act of 1991 (H.R. 2700) and the Professionals' Liability Reform Act of 1991 (H.R. 2701) will go a long way to provide that relief.

If you would like more information or would like to cosponsor this bill, please contact Jean Perih in my office.

KILDEE PAYS TRIBUTE TO DESERT STORM FORCES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 25, 1991

Mr. KILDEE. Mr. Speaker, I rise today to pay tribute to the brave men and women that have served in Operation Desert Storm. On July 4, 1991, the official "Welcome Home" day, there will be parades and rallies in communities across America as families and friends gather to honor members of the military that have returned safely home and to remember those that perished in service to their Nation. One such ceremony will take place in the village of Holly, MI. I would like to take this opportunity to personally thank the service members listed below for a job well done.

In depending upon a smaller all voluntary force, the military has become extremely selective in accepting only our Nation's best and brightest. The fact that these men and women were chosen to be a part of this mission is an indication to all that they are exceptionally talented people. They are living proof that the military organization of the United States is the best in the world.

Throughout their enlistment, they will gain many experiences which will prepare them for greater responsibilities later in their lives. However, none will be more important than defending every human being's right to dignity and peace. These are the principles on which our great Nation was founded and unfortunately, for which it must sometimes fight. I am sure that we will continue to prevail as long as our Armed Forces are comprised of people such as these.

The following men and women will be honored in Holly on the Fourth of July with a red, white, and blue salute and parade:

Michael Lee Adams, Allen Aleksa, Robert Belbek, Jeremy J. Berggren, Cris L. Bigelow, Doug Blumenschein, Kevin J. Brown, Lenny Carrette, Jeff Coryell, Bruce DeNise, Bert DeNise, Philip Donovan, Michael Edwards, Michael L. Felkner, Tony R. Femminineo, Jack Flewelling II, MIchael R. Ford, Allen Fry, George C. Goers, Gregory Goodall, Dennis E. Hall, Billy Hamilton, Jeffrey R. Hawley, Frank J. Hanson, Robert L. Hester, Brian Hobby, Joseph L. Horton, Walter Hoornstra, F.G. Humphries, Michale B. Kane, David Killowald, John King, Jr., William Koerber, Douglas Kramer, Dean A. Krantz, Cary A. Larson, Mark A. Ledford, Alex E. Lloyd, Teresa Mason, Donald K. McCombs, Wm. D. McCormick, William Minock, Steven Moore, Michael Morris, Mark D. North, Kurt Oldaugh, Mark Oliver, John Pailthorpe, Rodney Parke, Charles H. Randall, Jean Paul Roy, Jerome Schaar, Lloyd Schillinger, D. Schoenherr, Darwin Schreib, Terry Scowden, Wade Shafer, Jeffery F. Single, Dennis H. Snyder, Daniel P. Soward, Richard R. Suvanto, Mark Syswassink, Kevin Trimbath, Chris Trollman, Tracey Trollman, Andrew Turner, Jr., Sid Turner, Craig Van Aelst, John R. VanAvery, Chris Vaughan, Daniel Watson, Andrew Weakley, Rick A. Wilson, and Robert J. Wrotny.

Mr. Speaker, I ask that you and the 102d Congress join me in paying tribute to these brave men and women of the military. Their victory has rekindled our Nation's pride in its Armed Forces. We will be forever in their debt.